

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Darlington County

Honorable Roger E. Henderson, Circuit Court Judge

THE STATE,

RECEIVED

OCT 11 2017

SC Court of Appeals

RESPONDENT,

V.

JOEY LATWAN GIBSON,

APPELLANT

APPELLATE CASE NO 2016-001585

RECORD ON APPEAL

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State of South Carolina)
 County of Darlington)

In Circuit Court of the
 Fourth Judicial Circuit
 2015-GS-16-00421
 2015-GS-16-00422

The State,

Plaintiff,

vs.

Joey Latwan Gibson,

Defendant.

Transcript of Record

Darlington, South Carolina
 July 18, 2016

B E F O R E:

The Honorable Roger E. Henderson

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

Mrs. Patti Parker, Esquire
 Mr. Kernard Redmond, Esquire
 Attorney's for Plaintiff

Mr. Jamie Scruggs, Esquire
 Mr. Nathan Scales, Esquire
 Attorney's for Defendant

Lisa Carter
 Circuit Court Reporter

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1 **September 18, 2016- Day 1**

2 THE COURT: You may be seated. The selection of
3 the jury for the case of the State of South Carolina versus
4 Joey Gibson. If Mr. Gibson would stand and face the jury
5 panel please. If you'll turn and face the jury panel
6 please.

7 (Whereupon, the defendant complies)

8 All right. You may be seated. I caution you, jury
9 panel, that you are still under oath from having been sworn
10 earlier this morning as I ask these various questions.

11 **VOIR DIRE**

12 Mr. Gibson who is the defendant in this case is
13 charged under the indictment 2015-GS-16-421 with murder and
14 also his charge under indictment 2015-GS-16-422 with
15 possession of a weapon during the commission of a violent
16 crime. All right. Mr. Scruggs, are you defending this
17 case, you and Mr. - - -

18 MR. SCRUGGS: That's correct, Your Honor. With me on
19 the case also is Mr. Nathan Scales and Ms. Rachel Gainey.

20 THE COURT: Okay. Ms. Gainey, you didn't stand
21 earlier. If you'll stand so - - I did not - - so they can
22 see who you are. All right. This is Rachel Gainey and
23 Nathan scales and Jamie Scruggs, they'll be representing
24 the defendant in this case.

25 (Whereupon, all three attorneys stand)

1 tomorrow when you come. Have your buttons on when you get
2 on the courthouse grounds.

3 THE COURT: Remember to leave your cell phones in
4 your car.

5 (Whereupon, the jury exits the courtroom at 11:57 a.m.)

6 THE CLERK: Ms. Wheeler, if you would stand.

7 THE COURT: Ms. Wheeler, all right, we will resume
8 or begin the trial of this case tomorrow morning at 9:30.
9 I'll expect you to be here at 9:30 seated out in the
10 audience so you can observe how our judicial system work
11 since you have an issue standing in judgment of someone but
12 I want you to participate because you need to satisfy your
13 services as a juror in this way you can do that.

14 MS. WHEELER: Do I get an excuse for work?

15 THE COURT: Yeah. We'll give you an excuse for
16 work. I mean, you'll be considered fulfilling your jury
17 duty obligations so you'll be given an excuse, yes, ma'am.
18 But be here tomorrow morning in the seats at 9:30.

19 THE CLERK: You can leave today just be back here
20 in the morning out here at 9:30.

21 MS. WHEELER: All right.

22 THE CLERK: Thank you.

23 THE COURT: All right. Counsel, I understand we
24 have some motions in this matter. Are you ready to take
25 those up now or do you want to take them up later?

1 MR. SCRUGGS: What ever is the Court's convenience.
2 I know one of the motions we have, a portion of the video,
3 I mean, a videotape we would like to play, it's
4 approximately five to ten minutes so we probably need just
5 a second to get that hooked up to something but we're ready
6 to proceed at the Court's convenience.

7 THE COURT: Let me see counsel again please.
8 (Whereupon, a bench conference was held off the record)
9 (Whereupon, the Court took a lunch break)
10 (Whereupon, the Court proceed back on the record at 1:40
11 p.m.)

12 THE COURT: Counsel, are you ready?

13 MR. SCRUGGS: Yes, sir, Your Honor.

14 THE COURT: All right, sir.

15 MR. SCRUGGS: May it please the Court?

16 THE COURT: Yes, sir.

17 MR. SCRUGGS: Your Honor, we filed, I guess, the main
18 motion we're going to address this afternoon is a motion
19 that has been filed by the defense to suppress the results
20 of a gunshot residue kit that was performed on Mr. Joey
21 Gibson shortly - - well, after the incident on August 19,
22 2014. Your Honor, what we are of eventually claiming is,
23 number one; I don't think it's going to be disputed by the
24 state that there was no search that was done by law
25 enforcement to conduct the search of Mr. Gibson's body.

1 Secondly, we don't believe that at that time sufficient
2 probable cause existed for them to perform the search of
3 Mr. Gibson's body. As the Court is aware and I'll save
4 most of my comments for after the testimony portion. There
5 are exceptions to search requirement under the Fourth
6 Amendment. We don't believe the state will be able to show
7 that these particular set of circumstances fit any of the
8 exceptions to the search warrant requirement under the
9 Fourth Amendment. I believe the state intends to call two
10 witnesses, investigator Flowers and investigator Valazack,
11 and I would just ask the Court to reserve the rest of my
12 comments and arguments until after the testimony has been
13 submitted. Thank you.

14 THE COURT: All right. Solicitor?

15 MRS. PARKER: Thank you, Your Honor. If it pleases
16 the Court? I'd also like to reserve my comment until after
17 the witnesses have testified and at this time the
18 statement, Lieutenant Maureen Valazack.

19 THE COURT: All right.

20 MR. SCRUGGS: And Your Honor, I hate to interrupt. I
21 forgot to mention this. I don't know if there are any
22 other potential witnesses out here in the audience or
23 anywhere else in the courtroom. If they are, I would ask
24 that they be sequestered. I don't have a problem with the
25 two investigators being in here but just any other

1 potential witnesses, I'd ask that they leave the courtroom.

2 THE COURT: All right. Is there anybody in the
3 courtroom that is expected to be called as a witness in the
4 case of the State versus Joey Gibson? Anybody in the
5 courtroom?

6 (Whereupon, no one appears to be in the courtroom)

7 THE COURT: All right. If you are in the courtroom
8 and your name is called later to testify, you will not be
9 allowed to testify if you do not leave at this point in
10 time.

11 (Whereupon, no one appears to be in the courtroom)

12 THE COURT: All right. Let the record reflect no
13 one is responding. All right. Mrs. Parker?

14 MR. REDMOND: Your Honor, if the Court would indulge
15 us for just one moment.

16 THE COURT: Yes, sir.

17 (Whereupon, there were some defendants left in the
18 courtroom that were there to plea later in the week and the
19 solicitor needed to get them in a different location)

20 THE CLERK: Place your left hand on the Bible and
21 raise your right. You swear the testimony you give this
22 court to be the truth, the whole truth, and nothing but the
23 truth so help you God?

24 MS. VALAZACK: So help me God. I do.

25 THE COURT: Have a seat please.

1 MAUREEN VALAZACK, first being
2 duly sworn, testified as follows:

3 Direct Examination by Mrs. Parker:

4 Q. State your full name for the record?

5 A. Maureen Kathryn Valazack.

6 Q. And where you employed?

7 A. Darlington City Police Department.

8 Q. What's your position there?

9 A. Lieutenant over investigations.

10 Q. Was that your position in August of 2014?

11 A. Yes.

12 Q. And did you have an occasion to respond to a scene on
13 the night of August 19, 2014?

14 A. Yes.

15 Q. Tell us about arriving on the scene there? What was
16 that address?

17 A. I don't have my - - -

18 THE COURT: Ma'am, you have speak up please.

19 A. It was Kirven street. I can't recall the numeric
20 right now.

21 Q. That's fine. And when you arrived on the scene, what
22 was going on?

23 A. Officers were on the scene. They had set up a
24 perimeter, tape off the area. There was Mr. Walker laying
25 in front of the address that we were responding to on the

1 roadway.

2 Q. Okay.

3 A. He had been shot several times.

4 Q. What was his condition?

5 A. He was dead.

6 Q. Were y'all able to determine who lived in the house
7 where Mr. Walker's body was directly in front of - - -

8 A. Yes.

9 Q. - - - in the street?

10 A. Yes. We were familiar with the address. It was the
11 Gregg residence.

12 Q. And you don't - - is that [REDACTED] Street?

13 A. Yes.

14 Q. And who were you able to determine lived there?

15 A. Joey Gibson was staying there at the time, his
16 grandmother, I think, her boyfriend in a couple of other
17 family members as I recall.

18 Q. When you got on the scene, what did you do first?

19 A. First thing I did was kind of got with the officers to
20 see who they all talked to, any witnesses, and I noticed
21 that at [REDACTED] was like all of the other neighbors were
22 outside. At [REDACTED] Street all the lights were out.
23 no one was on the porch, nobody was outside of that
24 resident which I thought was kind of strange because the
25 officers say, officers had talked to Joey earlier when they

1 first got there.

2 Q. Were you briefed on that, had another officer made
3 contact with him when you got there?

4 A. Yes.

5 Q. And what information did you get from that officer
6 concerning that?

7 A. They had asked if he had seen any, if Joey had seen
8 anything or heard anything and I believe his response - - I
9 can't say hearsay - - he heard some shots and he saw two
10 males walk from it.

11 Q. Do you know which officer that information was
12 provided to?

13 A. I want to say Melton or Rodriguez.

14 Q. When you got there you got briefed on all of that?

15 A. Yes.

16 Q. Were you also briefed on any information that
17 responding officers out there had gotten from witnesses in
18 the neighborhood?

19 A. Yes. The information I received was that Joey was
20 observed outside in the front yard of the residence just a
21 few feet from where the defendants body was laying on the
22 roadway almost in front of the yard, [REDACTED] Street.
23 And was also observed minutes after the - - shortly after
24 the shots were fired he was witnessed in the yard.

25 Q. So how close, I guess, how soon was he observed in the

1 yard prior to the shooting from the information you got
2 from the witnesses?

3 A. Moments. Not even two minutes.

4 Q. Did you encounter the defendant - - -

5 A. Yes.

6 Q. - - - that night? Please describe your first
7 encounter with him.

8 A. When the officers told me they had talked to him I
9 thought it was kind of strange that he wasn't outside as
10 all the other neighborhood because there was something
11 going on and usually it draws a crowd anytime something
12 happens in that area or that neighborhood. And I knocked
13 on the door and he came to the door and all the lights were
14 off and I asked him why were all the lights off and he made
15 a comment that he was, because there was a shooting and
16 that he was afraid, something to that effect, that, you
17 know, he didn't want to get shot. And I said, well, the
18 police are out here now so, you know, why are you the only
19 one in the house of the whole neighborhood and why are the
20 lights off? And he just said I'm not coming out there and
21 getting shot.

22 Q. Was that the extent of y'all's encounter at that
23 point?

24 A. At that point, it just kind of raised a flag - - it
25 just kind of raised a red flag in my head because something

1 just didn't seem right and I asked - - of course, the
2 officer asked, he asked him if he knew the gentleman, Mr.
3 Walker, if he knew the gentleman laying in the roadway and
4 he immediately said, "no I don't know him."

5 Q. When he came to the door, did he have anything on his
6 person or was he carry anything?

7 A. He was carrying a blue washcloth in his hand and he
8 kept, like, rubbing this washcloth.

9 Q. All right. Tell us, a little bit later, at some point
10 did you decide - - tell us at what point you decided the
11 path forward would be to get a gunshot residue kit from the
12 defendant? Was that your call?

13 A. That was my call. Because some of the witness they
14 observed Joey in the front yard at the time of the shooting
15 and they observed him right after the shooting running to
16 the back of the house and they described him wearing, I
17 believe, I believe it was a purple or a dark blue shirt.
18 And when he came to the door he was wearing a purple shirt.

19 Q. Were there other suspects described in this time too?

20 A. Yes.

21 Q. And what was their location at this point in time,
22 were you aware of their location?

23 A. I actually had officers go and pick them up. They
24 were - - they had ran from the scene.

25 Q. So you had two defendants run from the scene and Mr.

1 Gibson still at the [REDACTED] Street address, is that
2 correct?

3 A. Yes, that's correct.

4 Q. Now, did you personally get the gunshot residue kit
5 from the defendant?

6 A. No. I was still interviewing officers and other
7 witnesses and I asked investigator Flowers if he could get
8 that for us.

9 Q. And did he do that?

10 A. Yes.

11 Q. And were you aware of what Joey Gibson had told the
12 officers his whereabouts were during the time of the
13 incident when the shots were fired? Were you aware where
14 he told officers he was, like officer Melton? You
15 previously testified, went to the door and spoke with him,
16 are you aware of where he said he was?

17 A. Yes. He actually told me that he was inside watching
18 TV when he heard the shots.

19 Q. And tell the Court, do you have any knowledge with
20 your position in investigation about gunshot residue?

21 A. Yes.

22 Q. And have you collected gunshot residue same as before?

23 A. Yes.

24 Q. And what's the protocol for gunshot residue? Can you
25 attempt to collect the gunshot residue anytime after a

1 shooting or does sled provide a frame for it?

2 A. There is a time frame.

3 Q. What's that time frame?

4 A. I believe it six hours.

5 Q. And why is that? You know why that is?

6 A. Because it can - - you can actually get rid of - - I
7 mean, it will come off of your hand. It's only going to
8 last so long. They want you to try to get it as soon as
9 possible.

10 Q. Did sled - - -

11 A. It could sweat off. You can, you know, it can sweat
12 off. You can wipe it off. It's just over time it loses
13 it, it will lose the GSR.

14 Q. Do you remember the weather that night? Was it hot?

15 A. It was actually in the nineties that day, it was
16 extremely hot. It was very humid.

17 Q. Would sled even test the kit if y'all didn't get the
18 GSR within that four to six hour time frame?

19 A. No. One of the questions on the GSR kit is, I
20 believe, has the sample been taken within so many hours.

21 MRS. PARKER: Please answer any question the defense
22 may have.

23 THE COURT: Mr. Scruggs?

24 MR. SCRUGGS: Thank you, Your Honor. May it please
25 the Court? Lieutenant, I am going to go ahead and

1 apologize now because I am going to probably butcher your
2 last name several times - - -

3 MS. VALAZACK: That's fine.

4 MR. SCRUGGS: - - - during this hearing and during
5 the trial.

6 **Cross Examination by Mr. Scruggs:**

7 Q. How are you doing?

8 A. Fine, sir.

9 Q. All right. So it was your decision to get the gunshot
10 residue kit done on Mr. Gibson?

11 A. Yes.

12 Q. Do you recall what time dispatch received the call in
13 this case?

14 A. I believe it was 21:45 which would have been around
15 9:45 - - -

16 Q. Um, 9:45.

17 A. - - - that evening.

18 Q. Would you agree with me that first officers on the
19 scene arrived at 9:50?

20 A. Pretty sure, yeah - - well, I think they were there
21 within twenty seconds if I'm not mistaken.

22 Q. So they were there very quick?

23 A. Mmm, hmm.

24 THE COURT: Say yes or no please.

25 A. Yes.

1 MR. SCRUGGS: Excuse me?

2 THE COURT: I told her to say yes or no to the
3 questions.

4 MR. SCRUGGS: Okay, sorry.

5 Q. And this was immediately after the incident occurred,
6 right?

7 A. I'm sorry. What was the -- are you talking about the
8 GSR kit?

9 Q. Excuse me, let me rephrase. The shooting happened and
10 then someone called law enforcement pretty quickly
11 thereafter, right?

12 A. Yes.

13 Q. Would you agree that it was probably within fifteen to
14 twenty minutes max?

15 A. No, it was seconds.

16 Q. So you will agree with me then that the incident
17 occurred around 9:45 p.m.?

18 A. That's what time the officers were dispatched, yes,
19 sir.

20 Q. Do you know much about the neighborhood that the
21 incident occurred in?

22 A. Yes.

23 Q. There's a lot of shootings there, isn't there?

24 A. No. On that particular street?

25 Q. Neighborhood in general?

1 A. Not really.

2 Q. Is there a lot of criminal activity there?

3 A. Not in that area.

4 Q. Law enforcement searched [REDACTED] Street that night,
5 correct?

6 A. Yes.

7 Q. Would you agree with me that the search warrant was
8 executed about 12:30 in the a.m.?

9 A. I think it was before 12:30.

10 Q. That search warrant was signed by magistrate judge?

11 A. The city court judge.

12 Q. Judge Causey, correct?

13 A. Yes.

14 Q. In addition to you and investigator Flowers there was
15 also a third investigator on scene that night, correct?

16 A. Correct.

17 Q. And that investigators, his name is Rickey William,
18 correct?

19 A. Yes.

20 Q. You stated that a witness or some witnesses placed
21 Joey Gibson outside in the front yard moments before the
22 crime happened, is that correct?

23 A. That's correct.

24 Q. Can you tell me who those witnesses are?

25 A. Well, actually I spoke with his mother. I spoke with

1 his brother. I spoke with neighbors. Passers-by, people
2 that were driving by.

3 Q. So Barbara Sparks?

4 A. Mmm, hmm.

5 THE COURT: Say yes or no.

6 A. Yes.

7 Q. Quinton Gibson?

8 A. Yes.

9 Q. Passers-by you said?

10 A. Shone Smalls.

11 Q. Shone Smalls.

12 A. Harry James, I believe was one of them.

13 Q. Okay. So Barbara Sparks, Quinton Gibson, Shone
14 Smalls, Harry James?

15 A. And Ivory Stevenson.

16 Q. Ivory Stevenson. What time did you speak with Quinton
17 Gibson approximately?

18 A. I spoke with him probably twelve something.

19 Q. Okay.

20 A. After twelve. After midnight.

21 Q. What time did you speak with Barbara Sparks again,
22 approximately?

23 A. I believe I spoke with Barbara the following day.

24 Q. So on 8/20?

25 A. Yes, sir.

1 Q. Where did you speak with Quinton Gibson at? Was it at
2 the police department?

3 A. Yes.

4 Q. So the scene had already been processed?

5 A. Quinton was actually taken to the station along with
6 Antonio Gregg while, I believe, some of the officers were
7 still on scene doing the search warrant.

8 Q. Would you agree with me that Rickey Williams took
9 Quinton to the police station?

10 A. Yes.

11 Q. When did you speak with Shone Smalls again,
12 approximately?

13 A. The following day, I believe, it was before the
14 afternoon.

15 Q. So also on 8/20?

16 A. Yes.

17 Q. And afternoon. Now, would you agree with me that
18 Harry James and Ivory Stevenson were kind of clustered
19 around the crime scene parameter?

20 A. No. Ivory Stevenson wasn't on the scene.

21 Q. When did you - - -

22 A. She had left.

23 Q. Did you speak with her then?

24 A. The following day on the 20th.

25 Q. And when did you speak that Harry James?

1 A. Actually interviewed him the following day.

2 Q. Did any witness tell you that they saw Joey Gibson
3 with the gun?

4 A. No.

5 Q. Not one person?

6 A. Not that evening.

7 Q. Okay. Let me rephrase. Did anyone tell you that they
8 saw Joey Gibson at the time of the incident with a gun?

9 A. No.

10 Q. Would you agree with me that no one is ever told you
11 that?

12 A. At the time of the incident?

13 Q. At the time of the incident?

14 A. Correct.

15 Q. Who got search warrant for [REDACTED] Street?

16 A. As far as the officer?

17 Q. Yes.

18 A. I think it might've been Williams. He may contact - -
19 I may have done the search warrant. I can't quite recall.
20 I know we got it that evening though.

21 Q. Let me go back to the five witnesses you said you
22 spoke to the next day. You spoke with them the next day,
23 how did you have that information to make the decision
24 whether to do a GSR kit in Joey Gibson?

25 A. Talking to - - I personally talked to them the next

1 day but other officers on scene had talked to them and gave
2 me that information - - -

3 Q. Okay.

4 A. - - - When I arrived.

5 Q. So for example, officer Melton or officer Rodriguez
6 would have told to witnesses on the scene and then reported
7 their findings to you?

8 A. Right. They started gathering information as soon as
9 they got there from the witnesses.

10 Q. So your hearing that secondhand?

11 A. Yes.

12 Q. Witnesses also told you they saw two men, I think your
13 words were, running from the scene, is that correct?

14 A. Yes.

15 Q. Most people identify - - would you agree with me that
16 those two men are Quinton Gibson and Antonio Gregg?

17 A. Yes.

18 Q. Quinton Gibson was charged with murder and possession
19 of a weapon during the commission of a violent crime as
20 part of this incident as well, wasn't he?

21 A. Yes, he was.

22 Q. And Antonio Gregg was charged with obstruction of
23 justice, is that correct?

24 A. Yes, that's correct.

25 Q. A GSR kit on both, is that correct?

1 A. All three, yes, sir.

2 Q. The Darlington County Sheriff's Office Bloodhound Team
3 was called to find those two men, is that correct?

4 A. Yes.

5 MR. SCRUGGS: Your Honor, if I may have just a
6 moment?

7 THE COURT: Yes, sir.

8 MR. SCRUGGS: No further questions. Thank you.

9 THE COURT: Mrs. Parker?

10 MRS. PARKER: Briefly.

11 **Redirect Examination by Mrs. Parker:**

12 Q. Lieutenant Valazack, throughout the course of this
13 investigation did you interview several witnesses yourself?

14 A. I did.

15 Q. And when did you do that?

16 A. Immediately the following morning as many as I could
17 get in early.

18 Q. Would it be safe to say that was after the scene was
19 cleared, after you cleared the scene?

20 A. After the scene was cleared and everything, all of the
21 evidence and stuff was gathered up, yes.

22 Q. Let me direct you back to when you first arrived on
23 the scene. What information were you getting about the
24 defendant and the sources of that information?

25 A. That the defendant was outside in the front yard prior

1 to, immediately prior to, victim being shot.

2 Q. What's the source of that information that you relied
3 on?

4 A. Neighbors. The officers, the information that they
5 had gathered. The clothing description. The physical
6 description of these - - I was advised that there were
7 three subjects standing in the roadway by one of the
8 witnesses he was driving up to, in that area, who was
9 coming up towards that house, that residence, actually on
10 the other side of the road. But as he was approaching the
11 residents he saw, as he described Petey, that they used to
12 call Joey Gibson. I suppose they still do. He observed
13 him and another subject and the victim. As they were
14 coming onto the street from South Main Street, heading in
15 that direction, they thought they heard firework but as
16 they were approaching they saw the flashing gun fire. They
17 could not tell me who had the weapon but they did see the
18 victim fall back and observe Petey and another subject run
19 on each side of the house.

20 Q. Now, the witnesses that you got that information from
21 when did you speak with them?

22 A. I spoke to them the following day.

23 Q. I'm going to limit your testimony to where you
24 gathered information from, prior to asking investigator
25 Flowers to get the GSR and what source of information was

1 it and let's just clarify that for the record?

2 A. Ivory Stevenson told one of the officers that she had
3 just dropped her cousin off, Cecilia, her cousin off who
4 lives across the street. As she was dropping her off - -
5 when she dropped her off she was driving by the [REDACTED]
6 Street, she looked over and she saw Joey Gibson and another
7 subject in the front yard. As soon as she got to, not even
8 a block away, she made a right, I mean, a left onto King
9 Edwards Street, which is just around the corner. If you
10 drove it, it would probably take, I don't know, maybe
11 twenty something second to get to the end of the street, to
12 the turn and as she was coming around to another street
13 which is kind of this like a U-turn that she made, she
14 heard the gunshot.

15 Q. Well when you arrived on the scene, what information -
16 - who are you getting information from with respect to the
17 defendant's whereabouts at the time of the shooting?

18 A. Harry James. Cecilia Green.

19 Q. And did you personally talk with them or their other
20 officers talking them and then they reported back to you?

21 A. The officer had told me what they had talked, what
22 they had told him and I actually went and talked them
23 myself.

24 Q. So it was both ways?

25 A. Yes.

Maureen Valazack- Re-cross Examination by Mr. Scruggs 67

1 Q. And did that, couple with your interaction with the
2 defendant, is that why you decided to go ahead and get the
3 GSR?

4 A. Yes. I did, you know, I saw the rag in his hand and I
5 knew well - - I knew either way I was going to end up
6 getting GSR off of him at this point because he had the
7 towel in his hand and it just seemed strange that he kept
8 rubbing it and in my mind I was thinking if he was involved
9 in this, then that potential evidence could be gone.

10 MRS. PARKER: No further questions.

11 MR. SCRUGGS: Just briefly re-cross. I want to
12 clarify.

13 Re-cross Examination by Mr. Scruggs:

14 Q. So you did speak to Harry James and Cecilia Green the
15 night of the 19th yourself?

16 A. Yes. Those two were - - because they both lived
17 across the street.

18 Q. All the other information - - and do you recall around
19 what time you spoke to them?

20 A. I can't recall what time I arrived on the scene but it
21 was not long after I arrived on the scene and could like
22 get everything in my head situated what was going on. Once
23 I spoke with the officers and make sure everything was
24 taped off and all the evidence was secure.

25 Q. And all of the other information came to you from

1 patrol officers who were already on the scene, is that
2 correct?

3 A. Yes, that's correct.

4 MR. SCRUGGS: Nothing further.

5 THE COURT: All right. You and step down, ma'am.

6 MRS. PARKER: At this time the state calls
7 investigator Tony Flowers.

8 THE CLERK: If you'll put your left in the Bible
9 and raise right please. Do you swear the testimony you give
10 this court be the truth, the whole truth and nothing but
11 the truth so help you God?

12 MR. FLOWERS: I do.

13 TONEY FLOWERS, first being
14 duly sworn, testified as follows:

15 **Direct Examination by Mrs. Parker:**

16 Q. Please state your full name for the record?

17 A. My name is Tony Patrick Flowers.

18 Q. And where you employed?

19 A. I am currently employed with the Marion Police
20 Department.

21 Q. And what's your position there?

22 A. I'm lieutenant over investigations.

23 Q. And what was your position in August of 2014?

24 A. I was an investigator for Darlington Police
25 Department.

1 Q. And did you respond to Kirven Street on the night of
2 August 19, 2014?

3 A. I did.

4 Q. And tell us a little bit about what happened when you
5 got in the scene?

6 A. I arrived on the scene, I mean, I was coming from
7 Marion probably about thirty minutes after everybody else
8 did, twenty to thirty minutes. When I got on the scene the
9 first thing I did, was seek out Lieutenant Valazack because
10 she was my supervisor and ask her what did she need me to
11 do. She was talking to somebody else and she goes to speak
12 with them, she asked me to go ahead and perform a GSR kit
13 on Mr. Joey Gibson.

14 Q. And did you go about doing that?

15 A. I did.

16 Q. Where was the defendant, where was he at when you
17 arrived?

18 A. I didn't see him when I arrived. I know when I went
19 to report to Lieutenant Valazack she pointed towards him,
20 he was sitting on the front porch of [REDACTED] Street.

21 Q. And was anyone else with him?

22 A. He was by himself. And when I say the front porch, I
23 think he was sitting, actually, on the steps.

24 Q. On the steps, okay. When you first approached him,
25 tell me about that?

1 A. I first approached him, introduce myself and told him
2 that I needed to perform a GSR kit or collect, I can't
3 remember the wording, the GSR kit on him if he could walk
4 over to the car with. He, I believe, said okay. We walked
5 over and as we were walking to the car I explained to him
6 exactly what a GSR kit was and what the purpose of
7 performing it was.

8 Q. And did he seem to understand that?

9 A. He did.

10 Q. Did he ever verbalize any objection to you at that
11 time?

12 A. No. He asked me one time, I believe, when I first
13 started, what did that do.

14 Q. Okay.

15 A. And I explained to him what it did.

16 Q. And we'll get there but before we get to the point
17 where you actually start in the GSR and walking over, where
18 did you perform it at? Where did y'all walk over to?

19 A. I walked over to my patrol car. I had the kits in the
20 trunk of my car. It was in the roadway in Kirven Street
21 approximately two houses down from where Mr. Gibson lived
22 live.

23 Q. Did anybody else from the department accompanied you
24 along with Joey Gibson to your car?

25 A. Yeah, officer Melton did.

1 Q. And officer Melton, was he outfitted with - - -

2 A. In a body cam - - -

3 Q. I don't know if you call them body cameras, is that
4 what you call them?

5 A. Yeah. He did have a body camera and it was on, it was
6 activated.

7 Q. Now, when you got your car - - tell us a little bit
8 about how that GSR is actually performed? How do you do
9 it?

10 A. The kit that we use we receive from sled. They're
11 sealed up. So I get it and we unseal it. Inside it has
12 the equipment you need for performing the test. It also
13 has instructions on how to do it as well as a pair of black
14 gloves - - -

15 Q. Did you put - - -

16 A. - - - to use. It has a form you kind of fill out in
17 it also. Gives you instructions.

18 Q. And how is the sample actually collected off the
19 hands?

20 A. It's - - I have - - it's got a like little screwed
21 plastic with a little magnet on it and you dab it on the
22 hands. It tells you it's got one for each hand and that's
23 how you collect it.

24 Q. So you take the magnet and you kind of dab it or rub
25 it across the hands?

1 A. Yeah. Like in the palm of the hand, on the back of
2 the hand, both sides.

3 Q. Is there a separate one for each - - -

4 A. Yes.

5 Q. - - - area of the hands so the left, left front, left
6 back.

7 A. Yes.

8 Q. Right front, right back?

9 A. Yes.

10 Q. And did you perform that on the defendant, Joey
11 Gibson?

12 A. I did.

13 Q. Did he have any questions about it?

14 A. When we first started, he asked what they do. I was
15 just explaining to him, you know, what the purpose of the
16 GSR kit was while I was doing it. He was - - because I
17 told him before hand on the way over there but then
18 actually when we were doing the hands on he just asked me
19 one more time, "okay, what does that do again?"

20 Q. Okay.

21 A. I explained it to him. He never objected to anything
22 I was telling.

23 Q. Would you agree with me that the purpose of performing
24 a GSR kit is to figure out if a subject has fired in the
25 vicinity of a firearm that's been shot? Either shot a fire

1 on or been in the vicinity?

2 A. Yeah. Well, the reason you would do it, if they had
3 done it recently.

4 Q. Recently.

5 A. Is not something that if they shot, you know, twelve
6 hours ago that we believe it would serve no purpose to do
7 one.

8 Q. Is it protocol to ask, the procedure to ask the
9 defendant have they fired a firearm?

10 A. Yeah. You would ask them had they fired a firearm or
11 when was the last time you fired one? Knowing generally
12 enough that it can tell you anything specific.

13 Q. And all that is notated on a form, is that right?

14 A. It is.

15 Q. That you submit to sled?

16 A. It is.

17 Q. Did you ask the defendant, Joey Gibson, had he fired a
18 firearm?

19 A. I did.

20 Q. And what was - - -

21 A. I think I asked him when's the last time you fired a
22 firearm.

23 Q. And when you pose that question to him, what was his
24 response?

25 A. He said earlier that day I believe it was or earlier

1 that morning.

2 Q. Did it leave you with the impression that it was
3 within the last couple of hours or....

4 A. Can you rephrase - - can you say that again?

5 Q. Did he - - he told you earlier in the day, did you
6 have the impression that it was recently or was it like way
7 earlier in the day?

8 A. I didn't really think about it at the time. I was
9 just doing what Lieutenant Valazack me to get one. I
10 wasn't trying to pinpoint, hey did he just shoot this gun.
11 It was just, basically, what I've done before is the
12 process of elimination. I did what - - -

13 Q. But he indicated to you that he is shot a gun earlier-
14 - -

15 A. Yeah. He did say he had shot a gun earlier that day.

16 Q. And did you indicate that in the form you filled out?

17 A. I remember I indicated that yeah, he had fired an arm
18 earlier that day.

19 Q. And tell me this, was the defendant, Joey Gibson,
20 under arrest at this time when you perform the GSR? Was he
21 under any kind of arrest?

22 A. No, he was not.

23 Q. Was he in investigative detention?

24 A. No, he was not.

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

1 we burning out into the computer but have you had an
2 opportunity to review a portion or excerpt from officer
3 Melton's body cam video?

4 A. Yes. Yes.

5 Q. And does that caption the encounter you had with the
6 defendant in getting this GSR kit performed?

7 A. Yes.

8 Q. And has it been altered or changed in any way?

9 A. No.

10 MRS. PARKER: Your Honor, at this time the state
11 would like to play that portion of the officer's body cam
12 video that shows the GSR being done.

13 MR. SCRUGGS: I have no objection and I'll help you
14 get it started because it's actually on my computer.

15 (Whereupon, the video is being played)

16 Q. Officer Flowers, on the video you ask him had he
17 washed his hands?

18 A. Yes.

19 Q. What was - - I couldn't understand his response to
20 that. What was his response?

21 A. I don't - - I think - - I don't think he said he
22 washed his hands.. I can't really remember. The reason I
23 asked that is to make sure that if anybody had washed their
24 hands before performing the kit, I mean, I'd like to think.

25 Q. Did you observe him to have anything in his hand? Did

1 he have anything on him?

2 A. He had - - when I walked up to him I think he had a
3 blue washcloth or a rag of some type, it was like he was
4 holding in his hands or wiping his hands with.

5 MRS. PARKER: Please answer any questions the defense
6 may have.

7 **Cross Examination by Mr. Scruggs:**

8 Q. Investigator Flowers, what time approximately did you
9 arrive on the scene?

10 A. I would say somewhere between - - around 10:30, I
11 can't tell you the exact time. They call me in the house,
12 it was probably about ten minutes to ten, five minutes to
13 ten, by the time I got dressed and got here from Marion it
14 probably took about thirty minutes.

15 Q. How soon after arriving did you perform the GSR kit on
16 Mr. Joey Gibson?

17 A. Probably within ten minutes, ten to fifteen minutes.

18 Q. And Lieutenant Valazack told you to do that GSR test,
19 is that correct?

20 A. Yes, she did.

21 Q. Have you - - and you said he was not under arrest?

22 A. No.

23 Q. He's not in police custody?

24 A. No.

25 Q. He is not detained?

1 A. No.

2 Q. He was free to go?

3 A. Yes.

4 Q. Has an investigator I'm sure you have been in a
5 situation where you had to interview someone being
6 suspected of a crime?

7 A. Yes, sir.

8 Q. Before speaking with them you would advise them of
9 their Miranda rights, is that correct?

10 A. If I'm questioning about the crime and if they been
11 detained but if you're not being detained.

12 Q. If someone is in custody, they are a suspect and you
13 want to ask them questions about a crime - - -

14 A. Yes, we do Mirandized them.

15 Q. You do Mirandized them. You understand that their
16 constitution and protected right?

17 A. Yes.

18 Q. You have a Miranda waiver form that you use?

19 A. Yes, we do.

20 Q. Was any consent form given to Mr. Gibson before
21 performing a GSR kit?

22 A. No.

23 Q. Did you ask for his consent?

24 A. I asked him, I think, I asked him did he mind, did he
25 mind. I didn't come and say, do I have your consent. But

1 I asked him did he mind if I performed on him but he did
2 not object to it.

3 Q. When did you ask him that?

4 A. When we were walking back to the car.

5 Q. Would you agree when you approached Mr. Gibson he was
6 sitting on the front steps?

7 A. Yeah, front steps, front porch, you know, I can't - -
8 I want to say the front steps but I'm not hundred percent
9 sure. I know it's the front porch area.

10 Q. The front porch area?

11 A. Yeah.

12 Q. The front step?

13 A. Yeah.

14 Q. Either one of those in front of [REDACTED] Street?

15 A. Yes.

16 Q. Officer Melton was standing next to him?

17 A. Yes, sir.

18 Q. That's where we had the body cam footage from?

19 A. Yes, sir.

20 Q. He told you that he had not washed his hands, correct?

21 A. Yes, sir.

22 Q. Did you observe him trying to wash his hands?

23 A. When I was - - I observed him when he was sitting on
24 the porch kind of wiping his hands with a rag.

25 Q. Okay.

1 A. Or pulling at the rag and wiping his hands.

2 Q. Was he also kind of slinging the running around?

3 A. I don't recall.

4 Q. And what were really talking about is you are
5 concerned that he may try and what the GSR off of his
6 hands, is that correct?

7 A. Yes.

8 Q. Did you ask him to hand you the blue rag?

9 A. No, I actually think I asked him just to kind of leave
10 it there and walk up here with me.

11 Q. So he left it on the front porch when he walked over
12 to the patrol car?

13 A. I believe so. I'm not hundred percent sure. I
14 believe he did leave it, left on the front porch.

15 Q. He didn't try to run away?

16 A. No.

17 Q. Followed you back there?

18 A. Yeah.

19 Q. Let me ask you this also, you ask him what he did for
20 a living, correct?

21 A. Yes.

22 Q. Said he worked with steel?

23 A. Yes, sir.

24 Q. And did you include that fact on the form that you
25 submitted to sled?

1 A. I believe there's a place on there that ask what they
2 do for employment and stuff and it's just to give a general
3 idea. I can't remember if I wrote that on there. I'm not
4 hundred percent sure what I wrote as far as - - I would
5 have to look at it and see as far as occupation.

6 Q. And I'm not saying exactly, quote, per quote but
7 didn't you say something to the effect on video that you
8 were asking him about steel because some of those particles
9 may show up in his hands?

10 A. Yes. And I may have wrote in there that he handles
11 metal or handle steel. I can't remember exactly what I
12 wrote.

13 Q. Did I hear correctly that Mr. Gibson asked why is it
14 stinging when you were performing the gunshot residue kit -
15 - -

16 A. I think - - -

17 Q. - - - for burning?

18 A. Yeah - - no - - I think probably - - what happened
19 when I was with him I wasn't going to make it tense or
20 anything I was just kind of joking around with him and I
21 think I may have said or ask him, just messing around, you
22 know, was it stinging just to make him feel at ease, you
23 know, because it doesn't. It's nothing. It's a magnet
24 that's all it is.

25 Q. How long would you - - do you estimate it took you to

1 perform the gunshot residue kit?

2 A. On him, probably, five minutes.

3 Q. And when you approach Mr. Gibson you identified
4 yourself as investigator Flowers?

5 A. Yes, I did.

6 Q. He knew you were a law enforcement officer?

7 A. Yes.

8 Q. You said come on over here with me?

9 A. I said, will you walk - - I can't remember exactly
10 what I said. I said, will you walk over here with me to
11 the car. As we were walking over to the car I was
12 explaining to him everything.

13 Q. And when you got to the back of the patrol car you
14 said something to the effect of, let me see your hand?

15 A. Yeah, I'd have to say, let me see your hands so I can
16 perform the kit.

17 MR. SCRUGGS: One moment, Your Honor.

18 THE COURT: Okay.

19 MR. SCRUGGS: Nothing further.

20 THE COURT: Mrs. Parker?

21 MRS. PARKER: Nothing further from the state.

22 THE COURT: Okay. You may step down. Thank you,
23 sir.

24 (Whereupon, the witness complies)

25 THE COURT: Anymore witnesses?

1 MRS. PARKER: Your Honor, the state doesn't have
2 anymore witnesses. That would be all from the state.

3 THE COURT: All right. Mr. Scruggs, I'll here your
4 arguments.

5 MR. SCRUGGS: Thank you, Your Honor. May it please
6 the Court? I want to start out by, kind of, establishing
7 what, and the state can correct me if I'm wrong, but from
8 my perspective looking at the state's case there's three
9 main pieces of evidence in this case. One are the GSR
10 results which found particles of GSR on Mr. Gibson's hands.
11 Secondly, as you heard Mr. Gibson told investigators he
12 shot a gun earlier in the day, out in the country. During
13 the course of the investigation, the investigators go to
14 that point in the country and retrieve one .9 mm shell
15 casing. That shell casing is sent to sled to be analyzed
16 along with the shell casings found at the crime scene and
17 sled has determined that, that those bullets were fired by
18 the same firearm. The last, a piece of evidence in my
19 mind, is there is a witness who may potentially be called
20 by the state who claims that Mr. Gibson admitted some
21 involvement or admitted to being involved in this case
22 while they were at the same jail in Marion. Now, those
23 three big pieces of evidence were not known to law
24 enforcement when they did the GSR kit on 8/19. As
25 investigator Valazack testified she had heard from her

1 officers on the scene and also Harry James and Cecilia
2 Green, she testified that Mr. Gibson was in the front yard
3 moments before the incident occurred and I believe she may
4 have testified that somebody saw him in the yard
5 afterwards. That is the sole evidence that was available
6 to law enforcement at the time was present at the crime
7 scene. No one saw Mr. Gibson with a gun at the time of the
8 incident. Of course, there will be several witnesses
9 throughout the trial who will probably testified that he
10 shot a gun earlier in the day but no one can tell you that
11 he had a gun the night of the incident at this hearing or
12 throughout the trial. This is not going to come up. The
13 two men seen fleeing the scene, one of them was charged as
14 a co-defendant in this case. The other one was charged
15 with obstruction of justice. They also had GSR kits
16 performed but at that time when Lieutenant Valazack made
17 the decision to get a GSR kit, the only thing that was
18 known was presence at the crime scene, potential presence
19 at the crime scene. That's it.

20 Your Honor, this motion is made pursuant to the Fourth
21 Amendment to the United States Constitution and we're also
22 moving under the parallel clause of the South Carolina
23 Constitution which is Article I, Section 10, warrantless
24 searches under the Fourth Amendment are per se unreasonable
25 and are subject to only a few specifically established and

1 well delineated exceptions. Those being, number one,
2 search incident to a lawful arrest; Number two, hot
3 pursuit; Number three, stop risk; Number four, automobile
4 exception; Number five, plain view doctrine; Number six,
5 consent; and, Number seven, abandonment. The only other,
6 in researching this, Your Honor, the only other exception
7 would be the exigent circumstances doctrine but for it to
8 fit in that it has to be shown for an objective standard a
9 compellingly official action and no time to secure a search
10 warrant exist. And I'm quoting from State v. Abdullah,
11 A-b-d-u-l-l-a-h, that citation is 357 S.C. 344. Your
12 Honor, under the exigent circumstances exception, law
13 enforcement has to have probable cause to believe that
14 evidence of an illegal activity was present and too,
15 reasonably believed that evidence may be destroyed or
16 removed before they could obtain a warrant. Lieutenant
17 Valazack testified that they believe the incident occurred
18 approximately at 9:45 p.m. that night. Law enforcement was
19 on scene by 9:50. Tony Flowers, investigator Flowers,
20 testified that he arrived on scene approximately 10:30 and
21 did the GSR kit ten or fifteen minutes later. There was
22 also a third investigator on the scene, investigator
23 Williams who I assume will also be testifying throughout
24 the trial of this case. Three investigators were on the
25 scene. A search warrant was issue that night signed by

1 Judge Causey and was executed shortly after midnight, less
2 than three hours after the incident allegedly occurred. I
3 believe investigator Valazack testified that the time limit
4 for GSR testing is somewhere between three or four hours to
5 six hours. Your honor, what we're essentially arguing is
6 this is a search of a person's body, investigator Flowers,
7 said it took roughly five minutes to do, where someone's
8 hand is, you know, searched and an instrument is used
9 together evidence that could be used against him in a case.
10 It took about five minute. It's a constitutionally
11 protected search. They had time to go get a search
12 warrant. They had plenty of time. They got one for the
13 house within three hours or around three hours later to
14 search the house. Again, we at the same time, we
15 challenged that the state even have probable cause at that
16 time, as I stated earlier. Mere presence at the scene of
17 the crime at this point. They don't find those three other
18 pieces of evidence until days later.

19 As to consent, what the state is basically asking this
20 court to accept is that not objecting people's consent. As
21 this court is aware, you waive another constitutionally
22 protected right, the right against self-incrimination under
23 the Fifth Amendment as investigator Flowers concurred.
24 They explained those rights to people. They get a Miranda
25 waiver. Nothing of the sort was done here. So again, we

1 do not believe the Fourth Amendment was complied with. We
2 don't think an exception existed for the search warrant
3 requirements and we asked the court to suppress any and all
4 evidence from the GSR test results ultimately obtained by
5 the state. Thank you.

6 THE COURT: Thank you, Mr. Scruggs. Mrs. Parker?

7 MRS. PARKER: Thank you, Your Honor. I am going to
8 try to be brief and try to keep my comments to the combines
9 of the three parts or three different ways I'm going to
10 argue this. I think first of all, the state would contend
11 and I believe the defenses has failed to show any
12 precedence that shows performing a GSR kit is a search.
13 This is just simply rubbing a magnet on the hands. There
14 is no intrusion into the body and I think there's an
15 expectation of privacy, not an expectation of privacy
16 there. Although, the court may find that there is but I
17 can't find any precedence on point that says that
18 performing a GSR kit is a search.

19 Now, there's a lot of cases on point when you start
20 talking about blood and DNA and hair and if you look at the
21 language in Schmerber v. California and State v. Register,
22 it talks about an intrusion into the body and there being
23 an intrusion beyond the skin or the surface of the body and
24 that's simply not the case here. So first of all, there's
25 no intrusion and the state would assert that it is not a

1 search. Secondly, I guess, in the alternative if the court
2 finds that this isn't a search and there is some
3 expectation of privacy, I guess, on your hands, then we
4 would point to two exceptions to getting the search
5 warrant. First would be, consent. I know Mr. Scruggs is
6 saying that, not objecting, we're trying to say not
7 objecting is equivalent to consent but I feel like the
8 court has reviewed the video, it's been provided by DPD
9 because of these officers wearing body cameras now,
10 everybody can see in the video that was a very friendly
11 exchange, walked up to them, hey, man how are you doing?,
12 I'm investigator Flowers. Hey, man you mind walking over
13 here with me. I mean, he consent the whole way through.
14 They walked several yards to investigator Flowers car. He
15 never had a problem with it. Didn't say anything. At that
16 point, he was out of the house. He was answering
17 questions. Law enforcement had knocked on the door and he
18 had come out. He had talked with him. He had spoke with
19 them. And then he walks over there and he seems on video,
20 I think, his demeanor and his behavior shows that this is a
21 consensual encounter. I know expressed wasn't, I mean,
22 consent wasn't expressed, we don't have a form with his
23 signature on it and I don't believe we have audio that's
24 real, that you can understand on the video where it was
25 given when you can clearly hear it, but I feel like under

1 the totality of the circumstances the entire exchange
2 between investigator Flowers and Joey Gibson, the
3 defendant, was very friendly, appeared to be consensual and
4 he went along with everything that officer asked and at
5 that point was not under arrest. So all the things that
6 would apply under Miranda would not apply as far as reading
7 him his rights. He was not under arrest at this point. He
8 was not being detained. And at that point was a suspect.

9 And I want to go back and touch a little bit on
10 probable cause. The probable cause existed for them to get
11 the GSR kit from the defendant because the main thing is
12 when they showed up on the scene officers were gathering
13 information from eyewitnesses that had just seen him prior
14 to the shooting in the front yard, sitting on the porch, he
15 was in the yard. There was one eyewitness that saw him
16 just very briefly after the shooting. Although, the state
17 would agree there is abundance of witnesses that saw two
18 other suspects running. And I don't think the state's
19 gonna say that neither one of them were Joey, okay. But
20 there was a witness that give information to an officer who
21 in return relayed that to Lieutenant Valazack that she saw
22 him, she was being dropped off, she saw him in front of his
23 house, she went inside and before she could to the
24 bathroom, bam, bam, bam, she heard the shots, okay. She
25 looks outside the door, goes outside and she sees two

1 running and she also sees him very briefly, then doesn't
2 see him anymore. Police respond and at that point the
3 defendant is in the house. I believe that statement had
4 been given to police and then you culpable that with the
5 fact that the police knocked on his door, you know, what's
6 up man, - - there's a dead body literally in front of the
7 house where he lives, he's hunkered down in the house with
8 the lights on and then he comes to the door and tells them
9 he's been watching TV, he doesn't know anything about it.
10 And so I think under the totality of the circumstances
11 there was probable cause. You base what the eyewitnesses
12 were saying that he was seen just prior to the shooting and
13 then the fact that he puts himself in the house watching TV
14 I think that's enough right there for probable cause.

15 And the last thing I wanted to point on was the
16 exigent circumstances exception to the search warrant rule,
17 if the court finds that this was a search and the defendant
18 didn't consent, lastly, I want to argue, that to get this
19 GSR evidence wasn't exigent circumstance. Lieutenant
20 Valazack testified that sled won't even test a kit if so
21 much time has passed since the alleged shooting. GSR is
22 very fungible in nature. It can be wiped off. You can rub
23 it off. You can wash it off. He comes to the door and the
24 initial contact with DPD has with this defendant is that
25 he's got a rag in his hand and that's testified to both

1 officers that took the stand and I just feel like the
2 exigencies of this particular case when they were out there
3 that night on Kirven from August 19th just warranted them
4 going on ahead and getting the GSR kit even if, you know,
5 under all of these circumstances when you take everything
6 into account, I mean, yeah, they got a warrant from Judge
7 Causey a little later on to search the house but had they
8 delayed getting this evidence, you know, from the defendant
9 that evidence could have been gone. It's highly fungible
10 and can easily be transferred or washed off or removed.
11 And I would remind the court it was an August night, very
12 hot. I feel like with the humidity and the sweat it just
13 adds to that concern and that's all Judge. We would ask
14 that you would allow that evidence in.

15 THE COURT: Okay.

16 MRS. PARKER: And deny the defense's motion.

17 THE COURT: Anything, Mr. Scruggs?

18 MR. SCRUGGS: Just briefly, Your Honor. Just to
19 touch on whether this was a search or not. As the court is
20 aware, Terry Frisk or those pat down searches cases where
21 they analyze, whether taking somebody's fingerprints is a
22 search, I think this was a search of Mr. Gibson's person.
23 I think it is constitutionally protected. The only case
24 that I have found analyzing a motion to suppress in the a
25 context of a GSR analyze it through a factual situation

1 where the defendant was under arrest and it was analyzing
2 in a context of a search incident to arrest which, as the
3 court is aware, is an exception to the form requirement.
4 Secondly, regarding the consensual in nature of the
5 encounter, I don't think it's correctly characterizes that
6 what you have is a police officer showing up making a show
7 of authority, identifying himself as a police officer, and
8 asking someone to go follow him, says, let me see your
9 hands. In my mind, that is not a consensual encounter with
10 law enforcement. So that's all I have, Your Honor.

11 THE COURT: You don't have to say anything else.

12 MRS. PARKER: I just wanted to on touch on about
13 fingerprints and DNA that's always there later. The court
14 can get an order -- the state can move before the court to
15 get an order to get those things, DNA and fingerprints, but
16 the nature of GSR is going to be gone quickly.

17 THE COURT: All right. I don't think this matter
18 perturbs on whether it was a search or not, quite frankly.
19 That's really not the issue. If I had to rule on that I
20 probably would rule that it is a form of search but that's
21 really not before me right now. What is before me is
22 whether we have an exception to the Fourth Amendment
23 protections. One of those exceptions clearly pointed out
24 is that of consent and we look at the totality of
25 circumstances that were alluded to by Mrs. Parker. Consent

1 doesn't have to be expressed it can be implied. And in
2 this particular case even though there was no specific
3 question, you know, can you do this or you know that you
4 can refuse because the officer doesn't have to tell him he
5 has the right to refuse in a situation such as this. He
6 very casually almost asked him, are you willing to perform
7 the GSR, and the defendant, yeah, the best we can tell from
8 that tape, went over that way. There's nothing to indicate
9 to me that it was not consented to. And in the this
10 particular situation I do find that there was probable
11 cause as you said Mr. Scruggs the only thing we can say was
12 presence, it goes beyond presence in this case, as it was
13 pointed out by Mrs. Parker. We've got people, you know,
14 we've got him saying I was inside watching TV, he's in the
15 house with the lights off which is a little bit strange,
16 quite frankly. Some people watch TV with the lights off
17 but apparently all the lights were off. If I understood
18 the testimony correctly, the entire house was dark. It
19 just doesn't make a lot of sense. So that raises the
20 question with regards to law enforcement. That lends to
21 the probable cause because we got people saying he was
22 there, him denying he was there. And we do have the
23 exigent circumstance destruction of the potential evidence.
24 As testified by two people, first officer said he had a
25 blue washcloth, I wrote down her testimony, he was rubbing

1 his hands with it. That makes you awfully suspicious it's
2 going to the probable cause in addition to it being an
3 exigent circumstance. And then we have the other officer
4 as well, Mr. Flowers, said he's still got the rag with him,
5 after he had been confronted by one officer, he's still got
6 the rag. I do agree a hot, muggy, August night, you sweat.
7 I mean, you move around and you sweat. That adds to the
8 destruction of the evidence. It makes it easier to wipe
9 off with the rag, quite frankly.

10 I find that the exception through the protection has
11 been met here. I find that there was probable cause. I
12 find that the search was consensual and I find that it
13 should be admitted into evidence during the trial of this
14 case. Okay.

15 MRS. PARKER: Thank you, Your Honor.

16 MR. SCRUGGS: Thank you, Your Honor.

17 THE COURT: We need to address the evaluations?

18 MRS. PARKER: Yes, Your Honor. We like to go ahead
19 and do that.

20 THE COURT: You want to go ahead and do those now?

21 MR. SCRUGGS: Sure, Your Honor. Yes, sir.

22 MRS. PARKER: Your Honor, for the record there was an
23 order for competency to stand trial of the State v. Blair,
24 there was an order that was signed by the Honorable Paul
25 Burch on November 13th this was by consent, Sherrie Baugh,

1 with our office consented along with Rick Jones and the
2 defendant was evaluated and we have that evaluation back
3 and that was marked as State's Exhibit Two and he was
4 evaluated on April 8, 2015 and that report was made
5 available on April 13, 2015. In that report he was found
6 to be competent to stand trial. Also, again this year, in
7 2016 after some concerns that was expressed by Jamie
8 Scruggs after he took over the case, after Rick Jones, on
9 the part of Darlington County he expressed some concerns to
10 the court about this defendant's mental health. I believe
11 there's been some suicide attempt along with hearing voices
12 and so another, since there's been so much time had lapsed
13 from April, 2015, a new evaluation under State v. Blair,
14 this was also or a mental health - - Department of Mental
15 Health pursuant to State v. Blair was ordered in May 19,
16 2016 and that evaluation is back. He was evaluated and
17 that, of course, was filed last month and the date of that
18 report was June 20, 2016. The actual evaluation was on the
19 15th, June 15, 2016. And this evaluation was also
20 performed by Dr. Rozanna Tross, if I'm not mistaken she did
21 both. She did. Rozanna Tross with the Department of
22 Mental Health, both times found the defendant competent.
23 I've had conversations with Mr. Scruggs and he's indicated
24 to me that, I guess, he's in consent - - he's in agreement
25 with these evaluations and will consent. He believes his

1 client is competent at this time.

2 THE COURT: Mr. Scruggs?

3 MR. SCRUGGS: Yes, sir, that's correct. I've had a
4 chance to review the report. As solicitor Parker indicated
5 when I took over the case has some concerns. We were
6 before Your Honor and an examination was done and yes, we
7 do agree with the conclusion that he is competent.

8 THE COURT: Okay. The court reporter has stated to
9 me that these exhibits are Court's Exhibits rather than
10 State's Exhibits - - -

11 MRS. PARKER: They are. I misspoke.

12 THE COURT: I need the record to be clear.

13 MRS. PARKER: Court's Exhibits two and three.

14 THE COURT: Two and three. The evaluation of April
15 15, 2015 and the letter dated that day is marked as Court's
16 Exhibit two. The report of June 20, 2016 is marked as
17 Court's Exhibit Number Three and after having reviewed the
18 report myself I find that Mr. Gibson is competent to stand
19 trial and he is capable of assisting his attorney and his
20 defense.

21 (Whereupon, the SC Department of Mental Health Evaluation
22 4/15/15 has been marked and entered into evidence as
23 Court's Exhibit No. 1)

24 (Whereupon, the SC Department of Mental Health Evaluation
25 of June has been marked and entered into evidence as

1 Court's Exhibit No. 2)

2 THE COURT: All right. Any other motions we need
3 to take up before we start in the morning?

4 MR. SCRUGGS: Your Honor, I believe this will be a
5 lot faster than the motion we just took up. The defense
6 has also file to other motions, one, being a motion to
7 exclude character evidence. Obviously, the solicitor
8 doesn't disagree with me about character evidence not
9 relevant but what I was mainly concerned about were any
10 witnesses testifying that he may act strange or stuff of
11 that nature and in reviewing some of the evidence that has
12 come up in some of the video statements. So really I
13 believe this is one we are able to consent to. I just like
14 the state to tell their witnesses to refrain from any
15 comments like that.

16 THE COURT: Mrs. Parker?

17 MRS. PARKER: We will certainly try to accommodate
18 that. I've already - - there's a lot of witnesses in this
19 case, I mean, mostly that will apply to, I guess, citizen
20 witnesses out in the community. I think law enforcement
21 knows that we'll just try and not - - I mean, the state
22 will try not - - we don't intend in any way offend any
23 character evidence in and certainly we reserve the right,
24 his normal character but I'll try to warn my - - -

25 THE COURT: I mean, if you have - - -

1 MRS. PARKER: - - - witnesses of that not to get into
2 anything that's, you know, because there were a couple of
3 suspicion events before this happened, some drama going on
4 with the defendant and his family and I'll try to talk to
5 them about not getting into any of that.

6 THE COURT: Well, the drama that was going on
7 before that, that's not going to be character - - -

8 MRS. PARKER: It's not relevant.

9 THE COURT: - - - so I don't have a problem with
10 that but I mean if you would just caution each witness
11 before they take the stand if you don't get a chance to
12 talk to them collectively before the trial starts in the
13 morning, I mean, you certainly can take - - I'll give you
14 time to take each one aside to tell them, you know, we're
15 not talking about - - don't say he was acting weird or this
16 or that or whatever. Caution each one of them before they
17 take the stand.

18 MRS. PARKER: We may want to - - -

19 THE COURT: Realizing were dealing with lay
20 witnesses and it may fly right over their heads to some of
21 them.

22 MRS. PARKER: I mean, that's what I was trying to
23 say. It's not our intention. I can't control everything
24 that comes out of their mouth but will certainly give them
25 a warning in the morning. It won't take but a minute.

1 THE COURT: If they start that, you just steer them
2 away from that. Tell him we're not interested in that and
3 go to another question.

4 MRS. PARKER: Yes, sir.

5 THE COURT: And that's all I wanted. Just a brief
6 point. The other motion we had filed is a motion to
7 disclose and we're asking the court to order the state to
8 disclose or produce or inform us of any agreements that
9 they've reach with any of their potential witnesses
10 regarding their testimony, immunity agreements, promises,
11 plea bargains or any other deals. We believe that this
12 implicates Mr. Gibson's Sixth Amendment Right to confront
13 witnesses and also implicates Rule 608 (c) to show potential
14 bias on the part of the witnesses. And we would ask the
15 court to order the state to disclose any of those. We'd
16 also ask and I believe the state routinely does this but we
17 would like to have the rap sheets or NCIC's of any
18 witnesses that may testify.

19 MRS. PARKER: We'll work on preparing the rap sheets
20 of the witnesses and I'll get those to him in the morning.
21 To my knowledge right now, there aren't any deals that have
22 been made to any witnesses and he may be referencing
23 Cecilia Green who was an eyewitness to this but while this
24 matter was pending she picked us in charges of her own and
25 there's been no discussions about her charges or promises

1 or any deals made. With respect to Quinton Gibson, I think
2 Kernard and I are working on that today. As soon as that
3 final decision is made about his charges and it is signed
4 off on, I will, I will be happy to disclosed to Jamie.

5 THE COURT: Okay. I grant you motion.

6 MR. SCRUGGS: Okay.

7 THE COURT: This information should be disclosed
8 via counsel so....

9 MR. SCRUGGS: The other person I'm concerned about is
10 Corey Rowell who - - -

11 MRS. PARKER: No deal.

12 MR. SCRUGGS: No deal.

13 MRS. PARKER: No, Your Honor. There's been no
14 promises of a deal or discussions of anything of that
15 nature with Corey Rowell. The state has had no discussions
16 about that.

17 THE COURT: It's a blanket rule, if there are any
18 agreements or any discussions you are to provide him with
19 that information.

20 MRS. PARKER: Yes, sir.

21 MR. SCRUGGS: There was also - - I promise I'm almost
22 done, 8/19 Quinton Gibson was interviewed at the Darlington
23 Police Department, I think I've gone through every disc I
24 have, I can't find it. I talked to Ms. Parker about it.
25 My understanding is possibly inadvertently the record

1 button was not set. If that's true, I would like the state
2 to stipulate that, that interview happened and no videotape
3 or summary exist for that.

4 THE COURT: That's with who? That's with - - -

5 MRS. PARKER: Quinton Gibson.

6 MR. SCRUGGS: Quinton Gibson.

7 THE COURT: Quinton Gibson.

8 MR. SCRUGGS: On August 19th. And the reason why I
9 believe that happened is a have a Miranda waiver form from
10 that night from 8/19.

11 MRS. PARKER: Your Honor, that is true there is a
12 Miranda waiver form for Quinton Gibson, 8/19, 11:20 p.m.,
13 it was signed officer Rickey Williams. Lieutenant Valazack
14 tells me that they have, I guess, they have a system or a
15 computer program like where all the interviews would be and
16 she searched all the interviews for this particular case
17 and there's not an interview on 8/19 for Quinton. He
18 received Miranda warnings and I believe Lieutenant Valazack
19 told me that she has, evidently has a memory of Rickey
20 interviewing them that night. She interviewed Quinton the
21 next day. But we do not, but we do not have that video. I
22 mean, investigator Williams, if attempted to record it, it
23 did not record on their system as I don't have it either.
24 Again I can stipulate that - - -

25 THE COURT: The interview the next day wasn't

1 interviewed either?

2 MRS. PARKER: Oh, the one the next day was recorded
3 and the next week and the next month, we have several
4 videos - - -

5 THE COURT: Okay. You got that video. Okay.

6 MRS. PARKER: - - - of Quinton Gibson given
7 statements. There are several. But we just don't have
8 this one and I'll stipulate it happened, I mean, according
9 to what I'm relying on is what Lieutenant Valazack has told
10 me.

11 MR. SCRUGGS: I just don't want on cross to mention
12 something and mislead a witness or something, I just want
13 to make sure I'm not missing something because like I said
14 I had that Miranda waiver and I believe in one of
15 Lieutenant Valazack's interviews on the 20th, Quinton
16 mention something about talking to them the night before.
17 So I believe an interview happened I just don't have the
18 videotape of it. I just didn't want to make any incorrect
19 statement on cross or any point during the trial.

20 THE COURT: Mrs. Parker stipulates that - - -

21 MRS. PARKER: Yes, Your Honor.

22 THE COURT: - - - there was an interview on the
23 19th, the evening of the 19th.

24 MRS. PARKER: Yes, sir.

25 THE COURT: All right. Anything else, Mr. Scruggs?

1 MR. SCRUGGS: The last thing is, I believe, Director
2 Coe, is on the state's potential witness list and the state
3 can correct me if I am wrong but I believe as part of the
4 investigation, Mr. Gibson denied knowing the victim. As
5 part of the investigation the investigators went to the
6 jail to see if they had been at the jail at any time
7 previously. I will go ahead and warned the court if the
8 state intends to call, Director Coe, I will object to his
9 testimony because I believe that line of questioning starts
10 us down a slippery slope when we start talking about prior
11 bad acts, prior charges, time spent in jail, and it
12 implicates those issues that I think are prejudicial to Mr.
13 Gibson. So I do want to give the court a heads up if the
14 state intends to do that. There will be an objection from
15 the defense.

16 THE COURT: What do you intend to call him for?

17 MRS. PARKER: To show that the defendant and the
18 victim were housed together at the jail previously, a few
19 months prior to this incident. That they knew each other.

20 THE COURT: That's it?

21 MRS. PARKER: There's some allegations -- the
22 victim's aunt, Ms. Catherine Walker, is a CO, is a
23 correction officer at the jail and somewhere in this
24 investigation it came up that, that night -- it was the
25 understanding that Gary Walker was shot just walking down

1 the street. And we believe through some testimony - - we
2 believe it's going to come in through some witnesses that
3 there was some exchange of words between the victim and the
4 defendant, Joey Gibson. And from my understanding part of
5 the investigation is the beef between the defendant and the
6 victim was; a, the defendant said something, you know,
7 disrespectful about the victim's aunt that worked at the
8 jail. Some beef at the jail. I don't know if some comment
9 was made when he was at the jail but the victim's aunt does
10 work at the jail. I was not going to call her as a witness
11 because I questioned her and she has no independent
12 recollection of Joey Gibson, you know, previously to this
13 incident. If he was at the jail she doesn't remember
14 dealing with him. But it just came up somewhere in the
15 investigation that, you know, number one, the defendant
16 deny knowing the victim. We know that they were in jail
17 together at some point. I believe it's going to come in
18 through one if not two witnesses the beef might have been
19 he said something disrespectful about Gary's aunt that work
20 at the jail. That they had some argument at the jail that
21 originates from the time they were incarcerated together.

22 THE COURT: If you have other independent witnesses
23 that can testify about words being exchanged then you don't
24 need Mr. Coe, do you? I mean, you can establish it just
25 through some of the witnesses that, that they had words.

1 MRS. PARKER: And that - - we are looking into that.

2 THE COURT: That creates the conflict between the
3 two of them.

4 MR. SCRUGGS: And let me be a little bit broader than
5 that. It's not Director Coe of telling this it's the
6 substance of that testimony of Mr. Gibson being in jail and
7 whether that comes from him or any other witness, motive is
8 not a required element that has to be proved by the state.
9 I think that type of testimony is not relevant under Rule
10 401 and its prejudicial. We'll see how that testimony
11 comes out but I want to give the court a heads up about
12 that.

13 THE COURT: Okay.

14 MRS. PARKER: I think it would be Wednesday before we
15 got into those issues in the state may want to proffer
16 Major Coe and argue at that time, proffer him outside the
17 presence of the jury and maybe will have a more firm
18 understanding of what - - I have one witness in mind that
19 would testifying to - - -

20 THE COURT: Okay. Thanks for the heads up.

21 MR. SCRUGGS: Thank you.

22 MRS. PARKER: Thank you, judge.

23 THE COURT: Anything Mr. Scruggs?

24 MR. SCRUGGS: No, sir.

25 THE COURT: Anything else from the state?

1 MR. SCRUGGS: None from the state.

2 THE COURT: Okay.

3 (Whereupon, court is adjourned for the day at 2:37 p.m.)

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1 correct?

2 MR. SCRUGGS: That's correct.

3 THE COURT: State's two and State's three through
4 twenty-eight are admitted into evidence.

5 (Whereupon, the Disc-Joeey Gibson-Consent has been marked
6 and entered into evidence as State's Exhibit No. 2)

7 (Whereupon, the Photos has been marked and entered into
8 evidence as State's Exhibits No. 3 thru 28)

9 THE COURT: Now, one other thing I need to clear up
10 as far as exhibits are concerned. We need to remark two
11 exhibits from yesterday. The first court exhibit that was
12 Court's Number Two should have been Court's Number One and
13 the one marked Court's Number Three should have been
14 Court's Number Two so those will be remarked by the clerk.
15 No objection, I would presume. They were the two - - -

16 MRS. PARKER: Those were the eval's, right?

17 THE COURT: Those were the two reports.

18 MRS. PARKER: Those two reports, no problem.

19 MR. SCRUGGS: Okay.

20 THE COURT: You've arguing state's in - - that's
21 your - - -

22 MR. SCRUGGS: That was the body cam.

23 THE COURT: The body cam video - - -

24 MRS. PARKER: Just to be clear, that's not in
25 evidence. That was just for the purposes of that hearing

1 only. If we may move to put an excerpt back, disc, in but
2 the state by no means is trying to uphold - - -

3 THE COURT: Right. Yesterday it was marked as
4 State's Exhibit One - - -

5 MRS. PARKER: Yes, sir.

6 THE COURT: - - - and then erroneously the others
7 were marked two and three, court ones, when it should be
8 Court's One and Court Two. The court reporter will take
9 care of marking those.

10 MRS. PARKER: Yes, sir. Because they were Court's
11 Exhibits and that was my fault, I called them state's when
12 I got up and spoke. I'm sorry. I'm going to go and stick
13 my head in to give them that warning and I'll be right
14 back.

15 (Whereupon, the solicitor had to take a moment)

16 MRS. PARKER: We're ready, judge.

17 THE COURT: All right. Before we begin are there
18 any witnesses in the case of the State versus Joey Gibson
19 that are still present in the courtroom, other than those
20 that need to assist the solicitor, the investigating
21 officers and others?

22 MRS. PARKER: No, Your Honor, I don't see any left.

23 THE COURT: Because if there's any witness in the
24 courtroom and you are present during the testimony and you
25 remain in the courtroom if you're called to testify as a

1 the law by the Court, you would then be in a position to
2 determine what the true facts are and to apply the law to
3 those facts and; thus, render a true and just verdict.

4 It is your added duty, Madam Foreperson, as I told you
5 earlier to preside in the jury room. You will be the
6 spokesperson for the jury here in court. It will be your
7 duty later to write the verdict and I'll explain that and
8 give you instructions on that at the conclusion of the
9 trial.

10 Now, in order to preserve everyone's rights, I at this
11 point in time will give the parties an opportunity to
12 object to anything I have said. Are there any exceptions
13 to what I've said from the state?

14 MRS. PARKER: None from the state, Your Honor.

15 THE COURT: Any exceptions by the defendant?

16 MR. SCRUGGS: No, sir, Your Honor

17 THE COURT: All right. We will now begin the
18 trial, ladies and gentlemen. Mrs. Parker?

19 MRS. PARKER: Thank you, Your Honor. May it please
20 the Court?

21 **OPENING STATEMENT- MRS. PARKER**

22 Good morning. Excuse me, just a minute. I apologize
23 for that disruption a lot myself out of my own laptop. I
24 forgot the password and so the IT guy is on the way.
25 Anyway, good morning. We are here today because the

1 defendant, Joey Gibson, is on trial for murder. And this
2 is a case about a senseless act of violence that occurred
3 right here in the city limits of Darlington in your home
4 county. Not many miles from right here from where we sit,
5 today, on Kirven Street. It's a street that you can turn
6 right off of 52, it sits literally between here in the
7 courthouse in the big intersection down there the bypass
8 where McDonald's and Walgreens is. Right there on Kirven
9 Street on August 19, 2014 at about, somewhere between 9:30
10 and 10:00 o'clock that night the victim, Gary Walker, was
11 just walking down the street and on that night he took his
12 last walk down the street. He had stopped by his father's
13 house, a man that raised him, Mr. Curtis Bacote, and he
14 stopped by there and visited with his father. He lives at
15 the top of Kirven Street right on South Main Street. He
16 left Mr. Bacote's residence and said, "I'll see you later."
17 "I'm gonna head home." And his dad said, "all right, I'll
18 see you later." And he took his final walk home that
19 night. Gary Evans Walker was forty-three years old and he
20 was gunned down in the street right here not even two or
21 three miles from where we sit today. It was just a regular
22 Tuesday night before 10 p.m. And what the state intends to
23 prove in this case that the defendant, Joey Gibson, is the
24 one that shot him. Took his life. The victim was shot
25 five times. He had five bullet wounds in his body. Chest;

1 back; he was shot in the groin area; a bullet also hit
2 him on his backside; and then on his hand. Five times he
3 was shot. This is a serious case. I mean, this case it's
4 important to the state and it's important to the victim's
5 family and, likewise, in all fairness it is important to
6 the defendant, I mean, he's here on trial and this is his
7 constitutional right to have a trial by his peers and the
8 role that you play is very important here today. Because
9 you stand here as the judge instructed you and your duty
10 and your role here is to weigh all this evidence and to
11 listen to everything and that's what the state is asking
12 you to do here today. We know that, that night, the state
13 intends to prove that the victim was on his way home. He
14 had left his father's house. He gets to the resident at
15 [REDACTED] Street. Who lives at [REDACTED] Street, and
16 you're going to hear that address a lot this week? The
17 defendant. The defendant lived, Joey Gibson, at [REDACTED]
18 Street with his grandmother. That was his grandmother's
19 house. Witnesses and eyewitness testimony is going to put
20 him there at the house. He was seen shortly before the
21 victim was shot and he was, I mean, it was just a matter of
22 seconds when I say right before. I mean, we're talking
23 moments if not seconds, before the victim was shot and he
24 was seen shortly after the victim was shot. Then there
25 were two other individuals that were also seen and they

1 left that residence, [REDACTED] Street, running up Kirven
2 Street towards Main Street and you're going to hear from
3 them as well. But I ask you to keep an open mind and
4 consider all of the evidence and all the testimony as you
5 hear it and don't be quick to jump to any conclusions.

6 Now, the defendant as I've already said is charged
7 with murder and murder is the intentional unlawful killing
8 of another with malice aforethought and you'll hear a lot
9 about that especially as we get to the close of this case.
10 The judge will instruct you on the law and he'll tell you
11 in South Carolina what murder means and what has to be met.
12 But it's the unintentional killing - - excuse me, it's the
13 intentional killing of another with malice aforethought and
14 that malice aforethought just means that just prior to the
15 killing that the defendant had that intent to kill, that he
16 knew what he was doing and that he meant to fire that gun.

17 Now, there are five things that the state intends to
18 prove by the close of this trial. I talked about the
19 victim - - that number five again, the victim had five
20 gunshot wounds. And there are five things that I want to
21 bring your attention to that the state intends to prove by
22 the close of this trial. Number one, Gary Evans was on his
23 way home, he had to walk down Kirven Street to get to his
24 house on Grove Street. So number one, the victim, Gary
25 Evans, was on his way home. Number two, the defendant,

1 Joey Gibson, was seen in his front yard, and I've already
2 said that, moments if not second before the shots were
3 fired. Three, immediately after the shots were fired he
4 was seen running towards the back of the house. Four, when
5 the police arrived, and it was a very quick response, the
6 defendant was inside his house with all the lights off,
7 okay, in his house. And five - - the fifth thing, the
8 victim, and the state intends to prove at the close of this
9 case after all the evidence comes in, that the victim was
10 shot by a .9 mm handgun that the defendant had recently
11 purchased and that, that was the gun that was used to kill
12 the victim.

13 Now, I've already mentioned the other two individuals
14 that were also running from the residence and you're
15 probably going to hear a lot about them this week. And
16 that's kind of Joey Gibson's attorneys, that's their job is
17 to try to, you know, pick holes in our case. They'll try
18 to divert your attention here and divert your attention
19 there. But I just want to remind you that you've taken an
20 oath to listen to all the evidence and then to apply the
21 law to what you've heard. I just want to ask you to not
22 jump to any quick conclusions. An example I thought of
23 this morning on the way here about jumping to conclusions,
24 if you were to meet me and you might see my left hand, I
25 don't have a wedding then on, okay, on my left hand. But

1 on the right hand I wear my wedding ring, okay. So you
2 could make two assumptions. One, that I'm not married and
3 I'm singled or; two, that if I wearing my diamond on my
4 right hand that my husband is deceased when, in fact, it's
5 neither, okay. Because I'm married and once you get all
6 the facts and you hear all the facts, I am married. I had
7 some health problems and my right finger swole up and so I
8 wear my wedding band on, I meant, my left swole up so I
9 wear it on my right and so when you get all the facts you
10 realize, oh, well she is married. So sometimes when we see
11 things and we hear thing it might be easy to jump to
12 conclusions and I guess what I'm prompting you to do here
13 this morning is to listen to all of the facts, listen to
14 all the evidence, don't jump to conclusions, listen to the
15 states case in total. And at the end of this case we
16 believe that you will find that the defendant, Joey Gibson,
17 is guilty of murder and that he took the life of Gary Evans
18 on August 19, 2014. Thank you.

19 THE COURT: Mr. Scruggs?

20 **OPENING STATEMENT- MR. SCRUGGS**

21 MR. SCRUGGS: Thank you, Your Honor. May it please
22 the Court? Opposing counsel? Ladies and gentlemen of the
23 jury, good morning. I don't know how many of y'all are
24 familiar with Sir Arthur Doyle's fictional character,
25 Sherlock Holmes. I haven't read many of the books but I do

1 love the movies. There have been two that have come out so
2 far and I'm hoping that somehow they'll come up with the
3 third film. I've just got my fingers crossed about that.
4 If you don't know who Sherlock Holmes is, he's a detective
5 over in England. And he is able to make just these amazing
6 deductions about facts that he gathers and solves the
7 unsolvable crimes. One thing he says, that Sir Arthur
8 Doyle attributes to him, is I think is very relevant to the
9 case that you're about to hear this week. Sherlock Holmes
10 said that it is a capital mistake to theorize before one
11 has data. Insensibly one begins to twist facts to suit
12 theories instead of theories to suit the facts. This case
13 against Joey Gibson is a perfect illustration of that
14 capital mistake. It involves our most basic simplistic and
15 fundamental ideas about fairness. In this case we believe
16 the evidence will show that from the very moment law
17 enforcement arrived on the scene Joey Gibson became a
18 target of convenient, the target of convenience. You heard
19 the solicitor say in her opening statement not once but
20 twice don't be quick to jump to conclusions. That's
21 exactly the problem in this case and you're going to see
22 time and time again that problem come to light. I can tell
23 you on behalf of Joey, we have been eagerly anticipating a
24 trial in this case. We're thrilled to be here and were
25 thrilled to have each one of you as our jurors. Today

1 marks 700 days since August 14, 2014, excuse me, since
2 August 19, 2014. From that night to today Joey Gibson
3 story has never changed. At the time of the incident Joey
4 Gibson was inside of his grandmother's house at [REDACTED]
5 Street watching TV. He heard gunshots and stayed in the
6 house. He was the only one home at the time. His
7 grandmother and the rest the family had left earlier that
8 night to take grandma to the hospital for a medical
9 emergency. Just a few hours later he is arrested, charged
10 with murder and possession of a weapon during the
11 commission of a violent crime. Joey Gibson didn't run. He
12 didn't run away from the scene. You will hear about others
13 who did, though. Two others, in fact. They're described
14 by witnesses on scene. They're later identified by law
15 enforcement as Quinton Gibson and Antonio Gregg. They were
16 later charged with crimes as well. In fact, Quinton Gibson
17 was charged with murder and possession of a weapon in the
18 death of Gary Walker, the victim. You've heard from the
19 state about their side and you may notice that they're
20 seated at the table closest to you. This is a tradition of
21 our courtroom and it's meant to serve as a constant
22 reminder that they have the burden of proving this case
23 beyond a reasonable doubt.

24 Ladies and gentlemen, at the close of this case, we
25 believe the evidence will show that Joey Gibson did not and

1 could not have committed this murder and we're going to ask
2 to return a verdict of not guilty. Thank you very much.

3 THE COURT: Solicitor?

4 MRS. PARKER: Your Honor, at this time the state
5 would call Mr. Curtis Bacote.

6 CLERK: If you'll come forward. If you'll put your
7 left on the Bible and raise your right please. You swear
8 the testimony you give this court be the truth, the whole
9 truth, and nothing but the truth so help you God?

10 MR. BACOTE: Yes, ma'am.

11 CLERK: If you'll have a seat right here in this
12 chair. Scoot up close to that mic.

13 CURTIS BACOTE, first being
14 duly sworn, testified as follows:

15 **Direct Examination by Mrs. Parker:**

16 Q. Good morning.

17 A. Good morning.

18 Q. Mr. Bacote, would you please state your full name for
19 the court's record?

20 A. My name is Curtis Lee Bacote.

21 Q. Mr. Bacote, where do you live?

22 A. 812 South Main Street.

23 Q. Is that at the corner of Kirven Street?

24 A. Yes, ma'am.

25 Q. And would you please tell the court what was your

1 relationship to Mr. Gary Evans Walker?

2 A. That was my son.

3 Q. And do you recall the last night of his life, August
4 19, 2014?

5 A. Yes, ma'am.

6 Q. And what were you doing that evening?

7 A. Sitting in the yard talking to the two ladies and
8 after a while or a while there we was talking and Smiley
9 came by and started talking to us too.

10 Q. And you just said, Smiley, and just so the jury will
11 be aware - - -

12 A. Oh, Okay. Okay.

13 Q. - - - and that's okay, that's okay. Was, Smiley,
14 Gary's nickname?

15 A. Yes, ma'am.

16 Q. And that's what you call him?

17 A. Yes, ma'am.

18 Q. So Smiley came by, you just said that?

19 A. Yes, ma'am.

20 Q. About what time did Smiley get to your house?

21 A. It was before dark. At that time, you know, it was
22 probably about 8:30 between 8:30 and 9:00 or something like
23 that. I was told that was what it was.

24 Q. It's about that time before usually get start, is that
25 what you said?

1 A. Yes, ma'am. But I know it was before dark.

2 Q. So he stopped by before dark?

3 A. Yes, ma'am.

4 Q. What did y'all do?

5 A. Sit in the barn and talked, me and him and the two
6 ladies. We just sit there and talk. And he was telling me
7 some things about him, about he had a bad back and he was
8 trying to get disability. He was limping. So I said sit
9 down. So he sat down and talked.

10 Q. So y'all visited a while, would that be safe to say?

11 A. Yes, ma'am.

12 Q. And tell us about, at some point did Mr. Walker leave
13 your house?

14 A. Well, after we got through talking for a while that
15 day, you know, he said well, "I guess I better go." I told
16 him you ain't got to hurry, you know, you can stay for a
17 while. The ladies said sit down and talk with us so he
18 maybe sit for another ten, twenty minutes. And then he
19 said, "well, pop I got to go." I told him, "okay." I
20 said, "where are you going?" He said, "I got to go on
21 home."

22 Q. And I am going to stop you right there. This time
23 where did your son live?

24 A. Ma'am?

25 Q. Where did he live? What was -- where did he live?

1 A. On Grove Street.

2 Q. On Grove Street.

3 A. Right.

4 Q. Is that in the City of Darlington?

5 A. Yes, ma'am.

6 Q. So he left. He said, "pop, I'm going to go home."

7 Okay. About how long in total you think his visit was?

8 A. His visit?

9 Q. How much time had elapsed while he was at your house?

10 Like how long do you think he was there?

11 A. He'd been there I would say it was forty-five minute I
12 know. Forty-five minutes to an hour.

13 Q. And tell us what happened after your son left?

14 A. Well, after he left me in the two ladies kept on
15 talking, you know. And by we sitting there and it was all
16 quiet and everything we heard some shots. One of the
17 ladies said, "somebody is shooting firecrackers." And the
18 other one said, "no, that ain't no firecrackers that's a
19 gun." And we just sit on talking, you know.

20 Q. And you said -- and to clarify what you said, did you
21 say shout or shots?

22 A. Shots. Shots. Right.

23 Q. Shots. Okay.

24 A. Firecrackers. One ladies that was firecrackers. I
25 said, no that's gunshot.

1 Q. And how long did you hear this noise? How long had it
2 been since Gary left?

3 A. Within ten to fifteen minutes. He had just left about
4 fifteen minutes at least.

5 Q. Tell us what happened - - do you recall what happened
6 after you're the shots?

7 A. After I heard the shot, we just sit there and was
8 talking some more. And the next thing I know, somebody
9 came running down the street right there in front of the
10 church right across from the house, in the next thing I
11 know the policeman went down there and then somebody came
12 up and said, um, I'm going down there to see. One ladies
13 that I'm going down there and see what happened. And she
14 left, after the policeman went down, she left and went down
15 there. And then she came back and said, somebody got shot
16 because he's laying there in the street. I said, oh, who
17 that is. Ain't know. I didn't know anything. So, the
18 other lady said, "well, I ain't going." And so after the
19 policemen went down there, I said I might as well go on
20 there too them. When I came down there - - -

21 Q. So at some point you decided to go down there?

22 A. Yes.

23 Q. And how far down was it from your house? And you live
24 on the corner of Main and Kirven and he was - - -

25 A. It was in a block.

1 Q. Okay.

2 A. And about midway of the street.

3 Q. So you went down to the scene but it was further down
4 the street?

5 A. Right. Everything - - -

6 Q. And what was going on? And what did you see when you
7 got down there?

8 A. One lady said, "hold up, wait a minute," she said,
9 "ain't that, um, he just left your house." I said, "what?"
10 I said, "that's Smiley." And you know I couldn't do
11 anything, I couldn't go over there and he was laying over
12 there in the street. He was already dead.

13 Q. Did Gary, did Smiley walk with a walking stick?

14 A. Yes, ma'am.

15 Q. Did he have - - -

16 A. Yes, ma'am. He had it that night.

17 Q. He had it that night. Okay. Why did he walk with a
18 walking stick?

19 A. Because he said he had back problems. Something was
20 wrong with his back so he had to have that.

21 MRS. PARKER: Please answer any questions that the
22 defense may have at this time. Thank you, Mr. Bacote.

23 A. Yes, ma'am.

24 MR. SCRUGGS: No questions for Mr. Bacote, Your
25 Honor.

1 THE COURT: All right. You can step down, Mr.
2 Bacote.

3 MR. BACOTE: Thank you.

4 MRS. PARKER: Your Honor, this time we would ask that
5 Mr. Bacote the release from his subpoena and may join the
6 others in the courtroom?

7 MR. SCRUGGS: No objection.

8 THE COURT: If he's not subject to being recalled
9 then he can sit in the courtroom. Thank you, Your Honor.
10 Your Honor, at this time the state calls Trooper Jovan
11 Cauthen.

12 CLERK: Come forward to be sworn. But your left
13 hand on the Bible and raise your right. You swear the
14 testimony you give this court be the truth, the whole
15 truth, and nothing but the truth so help you God?

16 MR. CAUTHEN: I do.

17 JOVAN CAUTHEN, first being
18 duly sworn, testified as follows:

19 **Direct Examination by Mrs. Parker:**

20 Q. Trooper Cauthen, would you please state your full name
21 for the record?

22 A. Jovan Cauthen.

23 Q. And where are you from?

24 A. Originally from New York.

25 Q. Where do you currently reside?

1 A. In Florence.

2 Q. And what's your current occupation?

3 A. I work for the South Carolina Highway Patrol.

4 Q. And where were you employed in August of 2014 about
5 two years ago?

6 A. Darlington City Police Department.

7 Q. And what was your position with Darlington City?

8 A. I was a sergeant supervisor on patrol.

9 Q. Supervisor on patrol. All right. Did you respond to
10 an incident on Kirven Street on the night of August 19,
11 2014?

12 A. Yes, ma'am.

13 Q. And what time did that call come through for you to
14 respond? What time did you hear from dispatch to go out
15 there?

16 A. Approximately about 9:45 p.m.

17 Q. And where were you when you got that call?

18 A. I was actually riding on a street, North Main. I was
19 actually parked in the old cleaners parking lot typing a
20 report when the call came out.

21 Q. And how long did it take you to respond to Kirven
22 Street?

23 A. Maybe thirty to forty second. I wasn't that far away
24 from it so it didn't take long at all. Maybe a minute or
25 so.

1 Q. A minute or so. Okay. And describe the scene when
2 you got down to [REDACTED] Street, what you for saw?

3 A. Once I got there to the scene I noticed the victim, he
4 was laying in the roadway in front of the residence. I got
5 out of my vehicle and I told my two patrolmen there on the
6 scene to go ahead and tape the scene off.

7 Q. Okay. Let's stop there. You said two other patrolmen,
8 what are their name?

9 A. Officer Rodriguez and officer Milton.

10 Q. Did they get there - - when did they arrive? How soon
11 - - let me rephrase that. How soon would you say they
12 arrive behind you?

13 A. Maybe a couple of seconds after me, ten or fifteen
14 seconds after me.. Not that many.

15 Q. But you were the first thing?

16 A. I was.

17 Q. Now, what was - - did you go to the victim?

18 A. I did.

19 Q. What was his condition that you can proceed at that
20 time?

21 A. It wasn't breathing. Unresponsive.

22 Q. Unresponsive. Did you notice anything else at the
23 scene?

24 A. I did, right beside him, the shell casings what I
25 noticed. He had a cane and he had a bag, brown, black bag

1 I believe. That was it.

2 Q. Where was the cane and the bag?

3 A. Right beside his body.

4 Q. And where did you say his body was again, what was the
5 position? I don't know if you said. But what was position
6 the position the body was in? Was he face down or face up?

7 A. He was actually, he was face up.

8 Q. And where was the body located?

9 A. In the middle of the roadway right in front of the
10 address [REDACTED] Street.

11 Q. Now, you stated you were a shift supervisor. I'm
12 going to ask you a little bit about what all is your role
13 is as a shift supervisor, what all does that entail at that
14 time?

15 A. Just supervising two other guys on patrol. You know,
16 making sure they are checking property and stuff like that.
17 That's pretty much it.

18 Q. Melton and Rodriguez responded behind you, I mean, did
19 they - - they were there to kind of do what you directed
20 them to do, is safe to say?

21 A. Yes, ma'am.

22 Q. And what did you direct them to do at that time?

23 A. Actually, at that point I told them to go ahead and
24 grab the yellow tape out of the vehicles and go ahead and
25 tape the scene off so that way nobody else, you know, can

1 come into the scene. I asked Rodriguez, officer Rodriguez,
2 to go ahead and start a crime scene log while I made
3 contact with the lieutenant.

4 Q. And what's the purpose of making contact with the
5 lieutenant?

6 A. Anytime we have a serious incident, something like
7 that, we're supposed to notify our investigators. That's
8 the first thing were supposed to do.

9 Q. Did investigators come out?

10 A. Yes.

11 Q. Who was that?

12 A. Lieutenant Valazack, she came out. Actually, all of
13 the investigators came out. Lieutenant, I mean,
14 investigator Williams and investigator Flowers came out as
15 well.

16 Q. Did EMS respond as well?

17 A. Yes. I asked dispatch to go ahead send EMS because he
18 was unresponsive.

19 Q. And you've already mentioned this briefly and I will
20 probably show you some pictures, what evidence did you
21 locate, if any, at the same that you saw, that you are able
22 to find?

23 A. I located the shell casings and I didn't have any,
24 anything I would say with, you know, letters on it to go
25 ahead and label it so I took the cone down in my patrol

1 vehicle and laid them over the top of the shell casings so
2 I could advise the investigators when they got there where
3 they were.

4 Q. And what's the purpose of doing that?

5 A. That way so they would be able to locate them and so,
6 you know, the body, get them or try and move them or
7 anything like that.

8 Q. How many shell casing did you mark or flag with the
9 cone?

10 A. Four. I located four of them.

11 Q. I am going to show you some pictures that have already
12 been marked and entered into state's evidence. I am
13 showing you State's Exhibit Six, is that picture accurate
14 depiction of the scene when you arrived as far as the
15 placement of the victim's body and with the shell casings
16 were located?

17 A. Yes, ma'am.

18 Q. State's Exhibit Five. Describe State's Exhibit Five,
19 what's that picture showing?

20 A. It's the victims cane.

21 Q. And State's Exhibit Seven?

22 A. Also his cane as well.

23 Q. Does that one show anything else other than the cane?

24 A. Shell casing.

25 Q. Shell casing?

1 A. Yes, ma'am.

2 MRS. PARKER: Your Honor, Court's permission to show
3 the jury just briefly?

4 THE COURT: Yes, ma'am.

5 MRS. PARKER: I'm just going to hold them up. I
6 don't have my projector going yet.

7 (Whereupon, the solicitor's publishes the pictures to the
8 jury)

9 Q. The shell casings that you saw that night that she
10 marked with cones you said, were they, did you collect
11 those shell casings yourself?

12 A. I did.

13 Q. Going to show you what's been marked State's Exhibit's
14 Twenty-nine, Thirty, Thirty-one and Thirty-two, that's
15 twenty-nine through thirty-two in numerical order. I'm
16 going to show you these four exhibits. Do you recognize
17 them? If you need to open the bag I understand and look at
18 any writing or markings that may be on the inside of the
19 bag, that's fine.

20 A. Yes.

21 Q. Are those the shell casings and you collected from
22 around the body and in the vicinity of the victim that
23 night in front of [REDACTED] Street?

24 A. Yes, ma'am.

25 MRS. PARKER: Your Honor, the state would move to

1 have Exhibits Twenty-nine, Thirty, Thirty-one and Thirty-
2 two admitted into evidence.

3 MR. SCALES: Without objection.

4 THE COURT: All right. They are received into
5 evidence.

6 (Whereupon, the Shell Casing has been marked and entered
7 into evidence as State's Exhibit No. 29)

8 (Whereupon, the Shell Casing has been marked and entered
9 into evidence as State's Exhibit No. 30)

10 (Whereupon, the Shell Casing has been marked and entered
11 into evidence as State's Exhibit 31)

12 (Whereupon, the Shell Casing has been marked and entered
13 into evidence as State's Exhibit 32)

14 Q. And you collected those - - what did you do with them
15 after bagged them and collected them? What's the
16 procedure?

17 A. Once you're done picking them up or collect rather,
18 you're supposed to go ahead and log them into evidence and
19 drop them into evidence.

20 Q. Did you collect any other items that belong to the
21 victim?

22 A. I collected the, I know his cane, and he had a
23 prescription bottle with the medication in. I did collect
24 that as well. It was in a black plastic bag.

25 Q. And what did you do with those items?

1 A. I dropped those, as well, into evidence.

2 Q. I'm showing you what's been marked for identification
3 purposes State's Exhibit Thirty-five, do you recognize this
4 item?

5 A. Yes, ma'am.

6 Q. And tell the jury what it is?

7 A. It's a walking cane.

8 Q. Do you recognize it as the one you collected that
9 night?

10 A. Yes.

11 MRS. PARKER: At this time the state would move
12 State's Exhibit Number Thirty-five into evidence.

13 MR. SCALES: No objection, Your Honor.

14 THE COURT: All right. Received with out
15 objection. It will be admitted into evidence.

16 (Whereupon, the Walking Cane has been marked and entered
17 into evidence as State's Exhibit No. 35)

18 Q. What did you do with the bag, you said - - you
19 mentioned a bag with a prescription in it, did you also
20 drop that into evidence as well?

21 A. Everything that was there on the scene, yes. The bags
22 with the prescription, the pills in it, just dropped into
23 evidence, it was in the bag, I left everything as it was.

24 Q. As it was into evidence?

25 A. Yes.

1 Q. Okay.

2 MRS. PARKER: I think the Court's indulgence just a
3 moment. Please answer any questions that the defense may
4 have at this time. Thank you, Trooper Cauthen.

5 Cross Examination by Mr. Scales:

6 Q. Sargent Cauthen, upon receiving that call you, again,
7 were in close proximity to the incident area?

8 A. Yes.

9 Q. You said you were there within thirty or forty-five
10 seconds around 9:45?

11 A. Yes.

12 Q. And you were the first officer on the scene?

13 A. I was.

14 Q. And when you drove up to the scene you were coming
15 from the area of South Main Street?

16 A. Correct.

17 Q. And you along with other officers for wearing body
18 cameras, correct?

19 A. Correct.

20 Q. In those other officers being Melton and Rodriguez?

21 THE COURT: Answer yes or no please.

22 A. Yes. Yes, sir.

23 Q. Just to briefly review your background, how long have
24 you been a law enforcement officer?

25 A. I've been in law enforcement now seven and half years.

1 Q. And how long were you with DPD?

2 A. I was with - - at the time, I was with them five going
3 on six years.

4 Q. And you already said your rank was sergeant supervisor
5 on patrol?

6 A. Correct.

7 Q. That makes you the highest ranking officer on scene at
8 that point until you gave it over to investigator Valazack,
9 Lieutenant investigator Valazack?

10 A. Yes, sir.

11 Q. Being the highest ranking officer at that time leaves
12 you in charge of that scene until somebody else takes over,
13 is that correct?

14 A. Yes, sir.

15 Q. And at that time - - at the time of this incident,
16 this was your second homicide you've ever worked?

17 A. Yes.

18 MR. SCALES: I beg the Court's indulgence.

19 Q. Before we talk about what you found on the actual
20 scene, I just want to go over some procedural omits with
21 the jury. When you arrived on the crime scene or when you
22 arrive on any crime scene can you explain what are some
23 procedures you take?

24 A. What you're supposed to do is actually once you arrive
25 on the scene, you assess the scene. Once you assess the

1 scene, the first thing you do you go ahead, you know, rope
2 off the scene so that way, you know, everybody knows not to
3 come in, you know. And in this case, you know, walk up and
4 check the victim and see if he's responsive or anything
5 like that. If he's not, go ahead and advise EMS and get in
6 contact with investigators. The investigators come on the
7 scene and the investigators take over the scene once they
8 arrive once they get the information from the officer.

9 Q. Start, just to add to that, start a crime scene log?

10 A. Correct.

11 Q. You said you set up a perimeter with the yellow tape,
12 you know, basically, what you're doing is securing the
13 scene?

14 A. Correct.

15 Q. And that's also trying to gather evidence to preserve?

16 A. Correct.

17 Q. And that's to protect the integrity of that crime
18 scene, is it not?

19 A. Correct.

20 Q. You also see if there are any witnesses to any crime
21 that you come across, correct?

22 A. Correct.

23 Q. And if multiple witnesses, you would separate those
24 witnesses?

25 A. Correct.

1 Q. And that's to account for individual differences and
2 stories potential biases or admissions?

3 A. Correct.

4 Q. Basically, so they can influence each other one way or
5 the other?

6 A. Correct. I guess, you can say that.

7 Q. And after you're done collecting witnesses statement,
8 securing the scene and noting any potential evidence, you
9 often report any and all information that you've gathered
10 to your supervising officer, is that correct?

11 A. Repeat the question.

12 Q. After you gathered all the evidence, secured the
13 scene, gotten the information from the officers that you
14 supervise, you then take that information and present that
15 to a supervising officer?

16 A. All that information is all put the report.

17 Q. Okay.

18 A. And once the report is completed, I looked over the
19 report and approve it and that's when he gets pushed to
20 investigation.

21 Q. Okay. So let's go to the scene in the incident, when
22 you heard the call go over the radio you were advised by
23 dispatch that two black males were seen running away from
24 that scene heading toward the South Main Street?

25 A. Correct.

1 Q. And you previously said that's where you were coming
2 from?

3 A. Right.

4 Q. When you answered the call?

5 A. Correct.

6 Q. And, at no point, were there any mention of names at
7 that point of the investigation, was there, it was just two
8 black males?

9 A. Two black males, correct.

10 Q. When you are approaching the scene, you are
11 immediately flagged down by some people?

12 A. Correct.

13 Q. And after speaking with them you went on to speak with
14 a person later identified as Harry James?

15 A. I believe so, yes. I don't remember the names very
16 well but, yes.

17 Q. Well he was the person who called 911.

18 A. Okay.

19 Q. He was a witness to at least part of what happened, is
20 that right?

21 A. Yes, I believe so.

22 Q. And he pointed you in the direction that the shooters
23 were headed?

24 A. He said that they - - -

25 MRS. PARKER: Objection, Your Honor.

1 THE COURT: All right. I'll sustain the objection
2 to characterization, the witness was asking.

3 MR. SCALES: Withdrawn, Your Honor.

4 Q. Mr. James went on to say, went on to tell you that a
5 guy with dreads came out of the house, is that right?

6 A. I don't recall a guy with dreads coming out..

7 Q. No, I'm saying is that what Mr. James told you as he
8 reported to dispatch?

9 A. I don't know what he told dispatch over the phone
10 because I wasn't at dispatch at the time.

11 Q. What did he tell you?

12 A. I don't remember what he told me.

13 Q. I have your body cam, would you like for me to play it
14 to refresh your memory?

15 A. That's fine.

16 Q. Okay.

17 MR. REDMOND: And, Your Honor, at this point based on
18 maintaining the integrity as it relates to what is and what
19 is not admissible that may be on that video, we
20 respectfully ask for a proffer outside the jury's presence
21 to make sure that we maintain integrity of the trial.

22 THE COURT: All right. Ladies and gentlemen, this
23 is one of those points in times that I instructed you
24 earlier that may rise as far as legal issue. I'm going to
25 have to ask you to retire to the jury room while we go over

1 this bit of evidence and we will bring you back in as soon
2 as we've gone over this proffer.

3 (Whereupon, the jury exits the courtroom at 11:06 a.m.)

4 MR. SCRUGGS: And just for purpose of the record we
5 are playing from a CD which is been marked for ID purposes
6 as Defendant's Exhibit One. Within that CD we're playing
7 the play set that ends in 840. We're going to started at
8 1:04, excuse me, 810.

9 THE COURT: 810?

10 MR. SCALES: 810.

11 (Whereupon, video is being played for review between the
12 lawyers)

13 (Whereupon, more discussions amongst the lawyers and judge
14 about playing more clips of the video from the same CD)

15 THE COURT: Are we ready for the jury?

16 MR. SCRUGGS: The defense is ready.

17 THE COURT: Is the state ready?

18 MRS. PARKER: Yes, Your Honor.

19 THE COURT: Bring the jury in.

20 (Whereupon, the jury enters the courtroom at 11:34 a.m.)

21 THE COURT: Mr. Scales?

22 MR. SCALES: Thank you, judge. Sargent Cauthen,
23 just to reiterate what we were just going over you arrived
24 on the scene, you were dispatched at two black males were
25 seen running away from the scene heading towards South

1 Main?

2 A. Correct.

3 Q. And there were no mention of names at that point?

4 A. Correct.

5 Q. And you just came from that direction?

6 A. Correct.

7 Q. In approaching the scene, you were flagged down by
8 some people?

9 A. Correct.

10 Q. One of which, turned out to be, Harry James the person
11 who called 911?

12 A. Yes, sir.

13 Q. He pointed you in the direction of which those people
14 ran, correct?

15 A. Correct.

16 Q. And that was towards South Main again?

17 A. Yes.

18 Q. And Mr. James went on to say that a guy with dreads
19 came out of the house, correct?

20 A. Correct.

21 Q. And that the guy who came out of the house with dreads
22 ran around the back of the house, correct?

23 A. Correct.

24 Q. And you would also agree that he said that he was the
25 one, one of the ones running down the street?

1 A. Correct.

2 Q. Mr. James never gave you a name of either of the two
3 guys running down the street, did he?

4 A. Nah.

5 Q. And certainly not mention the name Joey Gibson, did
6 he?

7 A. No.

8 Q. And after speaking with Mr. James you then radioed out
9 your location, right?

10 A. Correct.

11 Q. You said into your radio that you were in front of [REDACTED]
[REDACTED] Street where we met with Joey Gibson that day, isn't
13 that right?

14 A. Correct.

15 Q. [REDACTED] Street is Joey's grandmother's house?

16 A. Correct.

17 Q. And after ready radioing out to dispatch you ordered
18 officer Melton and Rodriguez to go speak with people in the
19 surrounding area who could be potential witnesses?

20 A. Correct. And tape off the scene.

21 THE COURT: I'm sorry. I didn't hear what you
22 said.

23 A. After I told them to go ahead and secure the scene.
24 Correct.

25 Q. And those officers were instructed to go gather any

1 potential witness information, names, anything that they
2 may have seen?

3 A. Yes, sir.

4 Q. So those officers go away for a while to gather that
5 information and as you explained earlier, you explained to
6 paramedics about the information that you knew at the time?

7 A. Correct.

8 Q. At that point you said all I know is they took off
9 running that way, is that right?

10 A. Correct.

11 Q. In the direction of South Main?

12 A. Right.

13 Q. And you said they described Joey Gibson?

14 A. Correct.

15 Q. You went on to say, dude with dreads took off running
16 that way, they described him?

17 A. Okay. Correct.

18 Q. But you had your reservations on it being Joey Gibson,
19 didn't you?

20 A. I did make any reservations on anything, just what I
21 was told.

22 Q. But you didn't know how it could've been him?

23 A. I said they described him. I didn't necessarily say
24 it was him.

25 Q. But you said you were coming up South Main in the

1 direction that the two witnesses were running so you
2 would've seen them, isn't that what you said on your body
3 cam?

4 A. If I would've seen them running - - if I had seen the
5 subjects running I would've have see them, yeah.

6 Q. And when you arrived at the scene Joey was in the
7 house, wasn't he?

8 A. Correct.

9 MR. SCALES: No further questions.

10 THE COURT: Solicitor?

11 MR. REDMOND: I beg the Court's indulgence.

12 THE COURT: Yes, sir.

13 MRS. PARKER: Just briefly, Your Honor. I apologize
14 for the delay.

15 THE COURT: Certainly.

16 **Redirect Examination by Mrs. Parker?**

17 Q. Trooper Cauthen, there's no doubt that two individuals
18 ran from the scene, did you receive information on who
19 those individuals were?

20 A. At the time, no. I just - - they described the
21 subjects and they said they were running toward South Main
22 Street at the time.

23 Q. But I'm saying later on through the course of this
24 investigation, did you come to learn who the two were that
25 ran the scene?

1 A. Yes.

2 Q. What are their names?

3 A. Joey Gibson and Quinton Gibson.

4 Q. That ran from the scene?

5 A. That ran from the scene?

6 Q. Yes, sir.

7 A. I don't recall. I don't remember.

8 Q. You don't recall?

9 A. No.

10 Q. But you did mention Quinton Gibson?

11 A. Yes.

12 Q. Are you aware of any relationship he has to the
13 defendant?

14 A. That's his brother.

15 Q. So Quinton Gibson is the defendant's brother?

16 A. Yes.

17 Q. And are you aware of what kind hairstyle he has, do
18 you know?

19 A. I'm not sure. I can't remember at the time. I just
20 know him because I dealt with him Joey several times in the
21 past - - -

22 Q. Well, don't get into that.

23 A. Right but I - - -

24 Q. Quinton - - how did the witnesses describe one of the
25 individuals that ran from the scene?

1 A. With dreads, yes.

2 Q. With dreads?

3 A. Yes.

4 Q. And does Quinton Gibson have dreads, to your
5 knowledge?

6 A. No. Not that I can remember.

7 Q. Not that you can remember?

8 A. No.

9 MRS. PARKER: No further questions.

10 THE COURT: Mr. Scales?

11 MR. SCALES: Nothing further, Your Honor.

12 THE COURT: All right. You can step down.

13 MR. SCRUGGS: Your Honor, may we approach?

14 THE COURT: Yes, sir.

15 (Whereupon, a bench conference was held off the record)

16 MRS. PARKER: Your Honor, at this time the state
17 calls Michael Rodriguez. Your Honor, at this time we would
18 ask that officer Cauthen the release from his subpoena.

19 MR. SCALES: No objection, Your Honor.

20 THE COURT: All right. You may be released, sir.

21 CLERK: If you'll come forward to be sworn. If you
22 would put your left in the Bible and raise right. You
23 swear the testimony you give this court be the truth, the
24 whole truth, and nothing but the truth so help you God?

25 MR. RODRIGUEZ: Certainly.

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1 MICHAEL RODRIGUEZ, first being
2 duly sworn, testified as follows:

3 **Direct Examination by Mrs. Parker:**

4 Q. Thank you officer Rodriguez. Would you please state
5 your full name for the court?

6 A. Michael Rodriguez.

7 Q. Where you currently employed?

8 A. Darlington Police Department.

9 Q. And what's your position there?

10 A. Police officer.

11 Q. And how long have you been a police officer?

12 A. About three years now, a little over three years.

13 Q. And were you working the night of August 19, 2014?

14 A. Yes, I was.

15 Q. Do you recall responding to the scene on Kirven Street
16 that night?

17 A. I do.

18 Q. About what time did you arrive on Kirven Street?

19 A. Arrived on scene at approximately 9:50 p.m.

20 Q. And what officers were already there?

21 A. Officer Cauthen and officer Melton.

22 Q. And what was going on when you got there?

23 A. We were dispatched there in reference to a subject
24 that had been shot that was laying in the street. When we
25 arrived on the scene there was a subject that was shot in

Michael Rodriguez- Direct Examination by Mrs. Parker 156

1 laying in the street.

2 Q. And you personally observed that?

3 A. I did.

4 Q. And what did you do when you first got there?

5 A. As soon as I got there we started securing the scene
6 with crime scene tape.

7 Q. And why was that? What's the purpose of that?

8 A. To keep anyone that's not relevant to what's the
9 situation or law enforcement to keep them out of the crime
10 scene so no crime scene evidence is, you know, tampered
11 with.

12 Q. Tampered with, okay. And is that important to do in a
13 neighborhood when folks kinda come out to see what's going
14 on?

15 A. Absolutely.

16 Q. Was that the case this night?

17 A. There was quite a bit of people outside, yes.

18 Q. So there was somewhat more of a crowd?

19 A. Yeah.

20 Q. And you've already mentioned the two other officers
21 that were there when you got there. What condition did the
22 victim appear to be in from your understanding?

23 A. He looked deceased.

24 Q. In his body, where was it actually located [REDACTED]

25 A. It was on the right side of the road which is the same

1 side the house is on, [REDACTED] Street. He was just at
2 the edge of the roadway but more towards in the roadway.
3 His feet were right at the edge where his head was more
4 facing the other side of the street.

5 Q. So would it be correct to say that his feet were
6 pointing towards that residence [REDACTED] Street?

7 A. Correct.

8 Q. Now, did you personally - - I don't know if I ask you
9 this already, how quickly were you able to respond when the
10 call came out?

11 A. I believe we were there in less than a minute, I
12 believe.

13 Q. Did you see any individuals or anything that looked
14 out of character as you - - let me ask you this, did you
15 arrive on Kirven Street by turning on South Main?

16 A. Yes, I did.

17 Q. Because I know there's some back streets in some other
18 ways you might can get there. So you went by turning off
19 of South Main onto Kirven Street?

20 A. Correct. I came south, down by South Main and took a
21 right onto Kirven Street.

22 Q. Did you notice anything out of the ordinary or
23 anything that got your attention?

24 A. Not in route to the Kirven Street, no.

25 Q. So when you arrived on the scene, did you personally

Michael Rodriguez- Direct Examination by Mrs. Parker 158

1 locate any witnesses? Were there any witnesses there that
2 had any information to give?

3 A. I did.

4 Q. Do you remember who you spoke with?

5 A. I do.

6 Q. And please give me those - - give the court those
7 names or name?

8 A. I did speak with Ms. Cecilia Green who lived across
9 the street of 123 B. Kirven. She was - - she had a stray
10 bullet go through her window. As far seeing anything, she
11 did not see anything. I also did have Mr. Harry James
12 approach me in regards to what had taken place.

13 Q. So you spoke to Cecilia Green and you spoke with Harry
14 James?

15 A. Correct.

16 Q. Now Cecilia, in respect to her seeing anything, did
17 you - - is it possible she could have talked to other
18 officers about what she saw, is that possible?

19 MR. SCRUGGS: Objection. That's speculation.

20 MRS. PARKER: I'll rephrase it.

21 THE COURT: Yeah, rephrase your question.

22 Q. I guess what I'm trying to ask, what did you deal with
23 Cecilia on? What subject matter did you deal with her on?

24 A. I dealt with her in reference to the bullet that have
25 went through her window. And as far as her seeing

1 anything, as far as I can recall, she did not, actually,
2 did not see anything. So I just dealt with her in
3 reference to the bullet going through her window.

4 Q. You didn't get any information from her about what you
5 saw, about what she saw, if anything, you dealt with the
6 bullet hole?

7 A. Correct.

8 Q. And where was that bullet hole located, precisely?

9 A. It was in the, I believe in that apartment, if I can
10 remember correctly, like I said it was across the street
11 from where the victim was laying. In the apartment that
12 she lived in was on the right side if you're facing the 123
13 in the window was on the far right of the house. So it's
14 the doorway and then the window and then the bullet had
15 went through, I don't recall exactly what part of the
16 window it was a large window that's in the front of her
17 house.

18 Q. So the bullet went through the window?

19 A. Correct.

20 Q. Did you go through -- did you go into her house?

21 A. I did and attempted to find the round that went in.

22 Q. Did you find it?

23 A. I did not.

24 Q. Let me show you what's marked State's Exhibit
25 Fourteen, do you recognize that picture?

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1 A. It looks like the bullet hole from the window of that
2 night.

3 Q. Does that look like the screens window?

4 A. I can't tell, as close as it is.

5 Q. It's too close up?

6 A. Yeah.

7 Q. That's fine. Would you know if any of the individuals
8 at her residence that were home when the bullet hole went
9 through her window, that when the bullet went through her
10 window that you are aware of?

11 A. I do know she had some juveniles at her house.

12 Q. Children?

13 A. Correct. Yes.

14 Q. Now, when you are out on the scene did you make any
15 contact with the defendant, Joey Gibson?

16 A. I did.

17 Q. In tell us about where he was located?

18 A. He was inside of his residence, inside of his
19 residence of [REDACTED] to see if anyone was in the
20 residence.

21 Q. So you personally went to the door at [REDACTED]

22 A. I did.

23 Q. Did you knock?

24 A. I did.

25 Q. Who came to the door?

1 A. Mr. Gibson. Mr. Joey Gibson came to the door.

2 Q. Did you have a conversation with him?

3 A. I did. I asked him if he knew what was going on, he
4 stated he did not know what was going on. He then said he
5 heard three shots. He looked out the window and saw two
6 guys running that way and pointed towards South Main
7 Street. And I said okay. We're trying to figure out who
8 he is, I pointed to the subject laying in the roadway. Mr.
9 Gibson stated I can see from here - - I'm sorry. He said,
10 I don't know that guy. I don't know who he is. I then
11 told Mr. Gibson he can't see him from here. In Mr. Gibson
12 stated I can see him from here that I don't know who he is.
13 I then told Mr. Gibson someone else may come back and speak
14 with him.

15 Q. So you had a short exchange with him and then he went
16 back in the house and you left?

17 A. Correct.

18 Q. I mean, you were still on the scene but that was the
19 extent of your exchange with him at that time?

20 A. It was very brief, yes.

21 Q. Very brief, okay. Is your department equipped or
22 officers with your department equipped with body cameras?

23 A. We are.

24 Q. And was that on when you responded that night?

25 A. It was.

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1 Q. Did your body camera, you know, capture this
2 interchange, this exchange briefly, I don't know maybe it
3 was brief, with the defendant?

4 A. Yes, it did.

5 Q. I'm in a show you what's been marked as State's
6 Exhibit Thirty-six, is that - - do you recognize that item?

7 A. It's marked with the case number from this incident
8 and with my name and the type of camera, body camera we
9 use, yes.

10 Q. Is it Axon?

11 A. Axon.

12 Q. Axon?

13 A. Yes.

14 Q. Is that the software that the Darlington Police
15 Department uses with the body cameras? Is that the
16 software that's affiliated - - -

17 A. Axon is the name of the body camera that we actually
18 use and it has its own software with it.

19 Q. And your encounter with the defendant would've been
20 captured on this disc?

21 A. Correct.

22 Q. On this disc from your body camera?

23 A. Yes.

24 MRS. PARKER: Your Honor, at time the state would
25 move to enter Thirty-six only with respect to officer

Michael Rodriguez- Direct Examination by Mrs. Parker 163

1 Rodriguez encounter with the defendant. It begin at
2 sixteen minutes and ten seconds.

3 MR. SCRUGGS: I have no objection. I would just like
4 so that the record would be clear what play list this is
5 being played from and minutes that are being admitted into
6 evidence.

7 MRS. PARKER: It's - - I apologize, Your Honor. Your
8 Honor, just be clear for the record, State's Exhibit
9 Thirty-six is it - - I don't move this into evidence, if I
10 have, I apologize. It was the wrong disc. I am going to
11 mark Thirty-seven.

12 THE COURT: I don't believe I ever stated - - -

13 MRS. PARKER: I don't know if you stated - - okay.
14 All right.

15 THE COURT: So it's not in evidence.

16 MRS. PARKER: Yeah. Thirty-six is not in evidence.

17 Q. Officer Rodriguez, I'm going to show you what's
18 Thirty-seven, you recognize that disc?

19 A. Correct. It shows the arrival time so is not shortly
20 after I arrived is when I spoke with, Mr. Gibson, so it
21 should be on this.

22 MRS. PARKER: Your Honor, at this time we would move
23 State's Exhibit Thirty-six into evidence and it's going to
24 be set 22:19 - - -

25 THE COURT: Thirty-six or thirty-seven?

Michael Rodriguez- Cross Examination by Mr. Scruggs 164

1 MRS. PARKER: Thirty-seven.

2 THE COURT: Thirty-seven.

3 MRS. PARKER: And it's going to be set 22:19 and it's
4 at sixteen minutes - - sixteen minutes, ten seconds.

5 THE COURT: Any objection?

6 MR. SCRUGGS: No, sir, Your Honor.

7 THE COURT: That will be admitted into evidence.

8 (Whereupon, the Disc has been marked and entered into
9 evidence as State's Exhibit No. 37)

10 (Whereupon, video was played for the jury)

11 Q. Officer Rodriguez, when the defendant came to the door
12 did you notice he have anything in his hands?

13 A. He did. He had what I believe to be a rag in his
14 right hand.

15 Q. Okay.

16 MRS. PARKER: I beg the Court's indulgence for one
17 moment. At time please answer any questions that the
18 defense may have, okay.

19 Cross Examination by Mr. Scruggs:

20 Q. Good afternoon officer Rodriguez.

21 A. Good afternoon.

22 Q. How are you?

23 A. Good. How are you?

24 Q. Good. You stated you arrived on the scene about 9:50
25 p.m.?

1 A. That's correct.

2 Q. You started taping off the crime scene?

3 A. Correct.

4 Q. So you began a crime scene log?

5 A. That's correct.

6 Q. You were the first officer to make contact with Joey
7 Gibson, is that correct?

8 A. Yes.

9 Q. And as we just saw on the video he was wearing a
10 purple shirt?

11 A. I couldn't see the video from here but

12 Q. Would you agree with me that he was wearing a purple
13 shirt you may contact with him?

14 A. I can't agree with you. I haven't reviewed the video
15 in a few days.

16 Q. Would it refresh your recollection if we show the
17 portion of the video just played to the jury?

18 A. Sure.

19 Q. Okay.

20 THE COURT: You can step down if you need to,
21 officer Rodriguez.

22 A. Sure. Okay.

23 MR. SCRUGGS: And, Your Honor, just so the record can
24 be complete I'm going to be playing what's has been
25 admitted into evidence as State's Thirty-seven, starting at

Michael Rodriguez- Cross Examination by Mr. Scruggs 166

1 16:09 minute time on Axon video 2219.

2 THE COURT: All right, sir.

3 MR. SCRUGGS: Okay.

4 (Whereupon, video was played for the jury)

5 Q. Officer, does that refresh your recollection?

6 A. It does. It looks to be a blue or purple shirt.

7 Q. So when you first made contact with Mr. Gibson, he was
8 wearing a purple shirt?

9 A. Blue or purple.

10 Q. Would you agree with me that he had his hair up,
11 pulled up?

12 A. I would.

13 Q. I'm going to ask what seems as an obvious, what seems
14 to have an obvious answer from the video but he was inside
15 the house when you arrived, is that correct?

16 A. That is correct.

17 Q. And that's at [REDACTED] Street?

18 A. That's correct.

19 Q. While you're on the scene, you also speak to some
20 witnesses, is that correct?

21 A. Correct.

22 Q. Those are people who have kind of gathered around the
23 crime scene tape, you and officer Melton put up, is that
24 correct?

25 A. Correct.

1 Q. You're told that two men were seen leaving the I'm
2 crime scene, is that correct?

3 A. Correct.

4 Q. You were given descriptions of those two men, is that
5 correct?

6 A. Was given a very small description of red shirt and
7 dreads.

8 Q. Were you also advised that the other subject was tall
9 and skinny?

10 A. If I was advised that, I don't have it documented.

11 Q. But these men were heading in the direction of South
12 Main Street, is that correct?

13 A. We were advised that they were going toward South Main
14 Street.

15 Q. So two men heading toward South Main Street, correct?

16 A. Correct. Is what we were advised.

17 Q. And as you stated in your direct examination you talk
18 to a woman later identified as Cecilia green, is that
19 correct?

20 A. Correct.

21 Q. On direct you said she told you she didn't see
22 anything, is that correct?

23 A. At that point we spoke with, we spoke about the bullet
24 hole that went through, that bullet that went through her
25 house. I can't say I can recall her mentioning anything.

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1 about if she did observe anything or not.

2 Q. Okay.

3 A. I don't have that documented.

4 Q. Let me point you back to your direct testimony today.
5 You said she told you that she didn't see anything, is that
6 correct?

7 A. That's what I said, yes.

8 Q. But she did, in fact, tell you some details, didn't
9 she?

10 A. If she did, I don't have it documented, myself, no.

11 Q. Would it refresh your recollection if we show you that
12 exchange between you and Ms. Green on your body cam?

13 A. Sure.

14 MR. SCRUGGS: Your Honor, at this time we would like
15 to publish to the jury a portion from the same body cam
16 tape. This is from the CD that has been marked as State's
17 Exhibit Thirty-seven, the same play list 2219.

18 THE COURT: Do you know what in point in time on
19 the - - -

20 MR. SCRUGGS: Yes, sir, I do. And we will start at
21 26:15.

22 MRS. PARKER: Is that where it begins, his
23 conversations - - -

24 MR. SCRUGGS: Well, I'm not sure. I can't - - -

25 MRS. PARKER: Well, we need to review it then.

1 MR. REDMOND: Your Honor, because there some
2 uncertainty, we might need to review it just again to make
3 sure that, that there aren't any issues that could
4 compromise the integrity of the trial.

5 THE COURT: All right. Ladies and gentlemen, I'm
6 going to have to ask you to step back into the jury room
7 again for a few minutes. Hopefully it won't take very long
8 and can get you back in here shortly.

9 (Whereupon, the jury exits the courtroom at 12:10 p.m.)

10 MR. SCRUGGS: The only thing we want to get out of
11 this is that this is a conversation between him and Ms.
12 Green.

13 (Whereupon, there was a lot of stop and go being played by
14 the defense off the record)

15 MRS. PARKER: All right. We are ready.

16 THE COURT: You ready for the jury?

17 MR. SCRUGGS: Yes, sir.

18 THE COURT: Bring them in.

19 (Whereupon, the jury enters the courtroom at 12:29 p.m.)

20 MRS. PARKER: And Your Honor, I just wanted to put on
21 the record the state has not objection to this video being
22 played on time frames twenty-five minutes through this
23 portion sometime after twenty-sevens minutes. Mr. Scruggs
24 can play that straight through without stopping it.

25 Twenty-five minutes through twenty-seven. I'm not sure of

Michael Rodriguez- Cross Examination by Mr. Scruggs 170

1 the seconds on that. And then he's also going to play a
2 portion of fifteen, it starts at fifteen minutes and
3 thirty-nine seconds. The state has no objection to that as
4 well.

5 MR. SCRUGGS: And just to clarify the portion we're
6 about to start, starts at twenty-five and then there's
7 another portion that starts at 27:20.

8 MRS. PARKER: We're going play straight through
9 those, is that correct?

10 MR. SCRUGGS: We can.

11 MRS. PARKER: Because I prefer instead of it chopping
12 up, just play straight through.

13 THE COURT: That's fine.

14 MRS. PARKER: It's just two minutes.

15 Q. Officer Rodriguez, just to kind of go back to where we
16 were, you were advised that two suspects or two men are
17 heading in the direction of South Main, is that correct?

18 A. That's correct.

19 Q. You speak to a woman who was later identified as
20 Cecilia Green?

21 A. Correct.

22 Q. She tells you that the mother of one of the subjects
23 fleeing toward South Main Street lives beside the
24 Washerette, is that correct?

25 A. I have to finish watching the video.

1 Q. Okay. Would you like me to refresh your recollection
2 by showing your body cam footage from that night?

3 A. That's fine.

4 MR. SCRUGGS: And again let the record reflect that I
5 am starting at minute, twenty-five on play list 2219.

6 (Whereupon, video was played for the jury)

7 Q. Does that refresh your recollection, officer?

8 A. That does.

9 Q. She tells you that they live, one of the subjects
10 fleeing toward South Main Street his mother lives beside
11 the Washerette on Chestnut, is that correct?

12 A. Correct. Or not -- no, not Chestnut on South Main.
13 What they were speaking about on Chestnut was apartments
14 and I believe what they said the laundry facility on South
15 Main is what they're referring to.

16 Q. Okay. So lives beside the Washerette, is that
17 correct?

18 A. Correct. On South Main.

19 Q. Okay.

20 A. You originally said Chestnut.

21 Q. Okay. I'm sorry. And then you walked into Sargent
22 Cauthen who is the kind of the supervisor on scene until
23 the investigators get their, is that correct?

24 A. Correct.

25 Q. And you tell him that a witness has one hundred

Michael Rodriguez- Cross Examination by Mr. Scruggs 172

1 percent identify Joey Gibson as one of the men running
2 towards South Main, is that correct?

3 A. I would have to see that as well.

4 MR. SCRUGGS: And just for the record this is the
5 portion starting at 27:20 on the same video and I can just
6 hit play right here because we're at 27:12, if that's okay.

7 MRS. PARKER: No objection.

8 (Whereupon, video was played for the jury)

9 A. I would agree.

10 Q. And you said she said his mama is the one who lives
11 next to the washer, is that correct?

12 A. Correct.

13 Q. Officer Rodriguez, let me ask you a question about [REDACTED]
14 Kirven Street, would you agree with me that the only way in
15 and out of that house is through the front door?

16 A. I can't agree with you this time that I recall.

17 Q. Would it refresh your recollection if I played a
18 portion from your body cam?

19 A. Sure.

20 MR. SCRUGGS: And for the record I am playing an
21 excerpt from the same CD, a different play list which is
22 2320 and it is at the very beginning of the video through,
23 I believe, second ten.

24 (Whereupon, video was played for the jury)

25 Q. Okay. Officer, is that you speaking on the tape?

1 A. That is.

2 Q. So, now, would you agree with me the only way in and
3 out of that house is through the front door?

4 A. I could not. I don't know what house I was speaking
5 about or what building I was speaking about at that time.
6 I do not recall.

7 Q. Okay.

8 A. And the video does not state that I was speaking about
9 [REDACTED]

10 Q. What other house is any way relevant in this case?

11 A. I couldn't tell you at this time this was almost two
12 years ago. I don't recall.

13 Q. What - - so you don't recall any other house playing
14 any role in the investigation of this case?

15 A. I mean, I can't say what we were speaking about was
16 relevant to this case at that time.

17 Q. Had you ever been to [REDACTED] Street before?

18 A. If I have, I do not recall.

19 Q. So your testimony is here today that you don't know
20 which house you're talking about?

21 A. In that ten second clip, I don't.

22 Q. Well, the only house that is relevant in this case is
23 [REDACTED]

24 A. Correct. But that doesn't mean I was speaking about
25 the house.

Michael Rodriguez- Cross Examination by Mr. Scruggs 174

1 Q. So you could have been talking about any house in
2 America?

3 A. Could have.

4 Q. Cecilia Green told you that there were people standing
5 on the corner of her house shooting across the street, is
6 that correct?

7 A. I don't recall that.

8 Q. Would it refresh your recollection if I showed you a
9 portion of your body cam?

10 A. Sure.

11 MR. SCRUGGS: Let the record reflect this is the same
12 CD play list 2320, starting at minute sixteen, excuse me,
13 we said 15:39. Starting at 15:39.

14 (Whereupon, video was played for the jury)

15 Q. Would you agree with me that, that is your body cam?

16 A. Yes.

17 Q. That is Cecilia Green?

18 A. Yes.

19 Q. She is telling you that people were shooting across
20 the street?

21 A. I had a hard time understanding what she was saying.
22 I did hear her state that somebody was shooting and they
23 heard some shots but that's all I could make out.

24 Q. Would you like me to play it again for you?

25 A. No, I would hear the same thing.

1 Q. Did you see her gesturing?

2 A. I did.

3 Q. Was she gesturing across the street?

4 A. She was.

5 Q. Whose house is across the street?

6 A. That's where Mr. Joey Gibson lived, I believe.

7 Q. That's where Joey Gibson's grandmother resides,
8 correct?

9 A. Correct.

10 MR. SCRUGGS: One moment, Your Honor. Your Honor,
11 when may we approach briefly?

12 THE COURT: All right.

13 (Whereupon, a bench conference was held off the record)

14 MR. SCRUGGS: Defense is ready, Your Honor.

15 THE COURT: All right.

16 Q. Officer Rodriguez, I want to go back to the question
17 we were having earlier. You stated that you did not know
18 which house you were talking about when you stated that the
19 only way in and out is through the front door, is that
20 correct?

21 A. That's correct.

22 Q. Would it refresh your recollection for me to show you
23 an earlier portion of that tape, of that conversation to
24 refresh your recollection about what house you were talking
25 about?

Michael Rodriguez- Cross Examination by Mr. Scruggs 176

1 A. Sure.

2 MR. SCRUGGS: Let the record reflect I'm going to
3 show Officer Rodriguez from the same CD but a different
4 play list ending in 2249, starting at minute twenty-eight,
5 second, thirty-two (28:32).

6 (Whereupon, video was played for the jury)

7 Q. Officer, does that clip show an earlier portion of
8 that conversation?

9 A. It does.

10 Q. You were talking about Joy Gibson, is that correct?

11 A. That's correct.

12 Q. That Joey Gibson was in the house, is that correct?

13 A. Correct.

14 Q. And that night when you arrived Joey Gibson was in the
15 house, is that correct?

16 A. Correct.

17 Q. And that house is [REDACTED] Street?

18 A. Correct.

19 Q. So would you agree with me when you said the only way
20 in and out of the house is through the front door, you were
21 referring to [REDACTED] Street?

22 A. No. I was referring to Joey Gibson's mother's house
23 that was on South Main beside the Laundromat.

24 MR. SCRUGGS: One moment, Your Honor. No further
25 questions for Officer Rodriguez.

Michael Rodriguez- Redirect Examination by Mrs. Parker 177

1 THE COURT: Mrs. Parker?

2 MRS. PARKER: Briefly, Your Honor.

3 **Redirect Examination by Mrs. Parker:**

4 Q. Officer Rodriguez, you were just play back a portion
5 of the video talking about the defendant's mom's house, why
6 were y'all at the defendant's mom's house recently right
7 before this happened?

8 A. There had been some type of, I believe, electrical
9 fire either a night or a few nights not long before this
10 incident occurred. When we were advised there was a fire
11 there that's when we went to the house and that's when I
12 was speaking about his mother's house and how the door was
13 nailed shut, about if was an actual serious fire, just
14 ended up being a minor fire but everyone was out front.
15 But there was no way - - if there was an actual fire
16 there's no way for them to get out the back of the door is
17 what I was referring to.

18 Q. And which house was that?

19 A. That was the house beside the Laundromat on South
20 Main. I don't know the - - -

21 Q. Don't worry about the address. Who lives at the house
22 beside the Laundromat on South Main?

23 A. Mr. Gibson's mother.

24 Q. What's her name?

25 A. I couldn't - - -

Michael Rodriguez- Redirect Examination by Mrs. Parker 178

1 Q. That's okay.

2 A. I couldn't tell you.

3 Q. And in reference to a fire that y'all have responded
4 to a fire, do you remember what was on fire?

5 A. It was, I believe, it was some type of electrical
6 fire, I don't recall.

7 Q. But it was the house not the - - was it a car?

8 A. No. It was the interior of the house.

9 MRS. PARKER: Thanks. No further questions.

10 THE COURT: Any other, Mr. Scruggs?

11 MR. SCRUGGS: No, sir, Your Honor.

12 THE COURT: All right. You can step down. Thank
13 you. All right. It's time to break for lunch. Ladies and
14 gentlemen, I am going to let you leave and go eat lunch.
15 We'll reconvene at 2 o'clock. It gives you about an hour
16 and five minutes to get a lunch. I think we can all get
17 lunch and be back in that period of time. And I'll caution
18 you about this every time we leave the courtroom so all
19 caution you now like I did yesterday, you can't talk about
20 the case, can't discuss it with one another. You may go to
21 lunch, some of you together or some of you may go
22 separately, whatever, don't talk about it with anybody at a
23 restaurant or place you go eat or anywhere. As I said, you
24 can't discuss this until you have all of the evidence in
25 and the deliberations began at the conclusion of the case.

Maureen Valazack- Direct Examination by Mrs. Parker 179

1 Have a nice lunch. We'll see you back at 2 o'clock.

2 (Whereupon, the jury exits the courtroom at 12:53 p.m.)

3 THE COURT: We will recess until 2 o'clock.

4 (Whereupon, the court broke for lunch)

5 (Whereupon, the court started back at 2:06 p.m.)

6 THE COURT: Bring the jury in.

7 (Whereupon, the jury enters the courtroom at 2:08 p.m.)

8 THE COURT: All right. Solicitor?

9 MRS. PARKER: Thank you, Your Honor. The state would
10 call Lieutenant Maureen Valazack.

11 CLERK: Place your left hand on the Bible and raise
12 right. You swear the testimony you give this court be the
13 truth, the whole truth, and nothing but the truth so help
14 you God?

15 MS. VALAZACK: I do.

16 MAUREEN VALAZACK, first being
17 duly sworn, testified as follows:

18 **Direct Examination by Mrs. Parker:**

19 Q. Good afternoon.

20 A. Good afternoon.

21 Q. Would you please state your full name for the court's
22 record?

23 A. I'm Maureen Valazack.

24 Q. And where are you employed?

25 A. Darlington City Police Department.

Maureen Valazack- Direct Examination by Mrs. Parker 180

1 Q. And what's your position with the police department?

2 A. I'm lieutenant over investigations.

3 Q. And did you work on this case involving the shooting
4 on Kirven Street on August 19, 2014?

5 A. Yes.

6 Q. Tell the court about when you arrived on the scene?

7 A. When I arrived on scene the officers that arrived on
8 the scene first had already taped off the crime scene.
9 They started marking the bullet casings around the victim's
10 body. I did observe the body of a black male laying on the
11 roadway in front of [REDACTED] Street. The victims head
12 was like on the roadway and his feet were, he was laying
13 straight across the road. His feet was approximately two
14 feet from the front yard of [REDACTED] Street.

15 Q. I'm going to fire this up.

16 A. I did also observe bullet holes in his chest, one in
17 his left hand, I believe it was around the thumb area on
18 his left hand.

19 Q. So the victim was unresponsive when you arrived?

20 A. Yes.

21 Q. Had EMS already cleared?

22 A. EMS was there when I got there.

23 Q. And what's - - -

24 A. He was deceased.

25 Q. He was deceased, okay. Did the coroner come out at

1 some point?

2 A. Yes.

3 Q. I'm going to show you - - can you see on the wall
4 right here, I'm going to put some pictures up.

5 A. Yes, ma'am.

6 Q. State's Exhibit - - -

7 THE COURT: You can move the chair if you need to.

8 A. Okay.

9 Q. This is already in evidence, State's Exhibit Six. Is
10 that what you just were describing for the jury - - -

11 A. Yes.

12 Q. - - - about the - - -

13 A. You can see where his feet are that is the front yard
14 of [REDACTED] Street that they're facing.

15 Q. And what are the orange cones again?

16 A. That's where the bullet casings were located and some
17 of the other evidence. I believe, this right here was a
18 plastic bag. If you can see where the two cones are, not
19 the bottom one but the one up above it, I think that was
20 the plastic bag that contained the medication belonging to
21 the victim.

22 Q. That was identified as belonging to the victim?

23 A. Yes.

24 Q. Through the course of your investigation, did you
25 determine who lived that [REDACTED] Street?

Maureen Valazack- Direct Examination by Mrs. Parker 182

1 A. Yes. I was also familiar with that residence. It was
2 the Gregg residence. I know Joey Gibson was staying there
3 with his grandmother and I believe her boyfriend or her
4 husband.

5 Q. Now, just to speak a little bit on the victim, I'm
6 going to ask you some follow up questions about that, did
7 you - - how was the victim identified, initially?

8 A. He actually had the wallet, his wallet was still in
9 his back pocket.

10 Q. Who found his wallet?

11 A. I did.

12 Q. Let me show you what's been marked as State's Exhibit
13 Forty-three. This is Forty-three, it has been marked for
14 identification. It's not into evidence. You can open it
15 if you need to and see if you can identify that item.

16 A. Yes, that's his wallet. That was the victim's wallet.

17 Q. So that's his wallet that you bagged?

18 A. Yes.

19 Q. And what was inside?

20 A. His identification. I think it was a South Carolina
21 ID card with the victim's name.

22 MRS. PARKER: Your Honor, at this time we move
23 State's Forty-three into evidence.

24 MR. SCRUGGS: Without objection.

25 THE COURT: All right. Received without objection.

1 It's admitted into evidence.

2 MRS. PARKER: Thank you, Your Honor.

3 (Whereupon, the Wallet has been marked and entered into
4 evidence as State's Exhibit No. 43)

5 Q. So you went into his pockets and retrieved the wallet,
6 is there anything else on the body or around the body that
7 you observed?

8 A. He also had cash in one of his pockets. I'm not sure,
9 it might have been a total of twenty dollars, I can't
10 recall exactly how much it was but it was a different
11 denomination of bills.

12 Q. Was there anything found under his body?

13 A. Under his body when the coroner went to move it there
14 was a bullet fragment.

15 Q. And was that collected?

16 A. Yes.

17 Q. Let me show you what's been marked as State's Exhibit
18 Forty-one. And if you need to open the inside to look at
19 any - - -

20 A. No, that's it.

21 Q. - - - markings - - okay. And that's the bullet
22 fragment collected from under the body?

23 A. Yes.

24 MRS. PARKER: Your Honor, at this time the state
25 would move Forty-one into evidence, State's Forty-one.

Maureen Valazack- Direct Examination by Mrs. Parker 184

1 MR. SCRUGGS: Without objection.

2 THE COURT: Again received without objection.
3 Admitted into evidence.

4 MRS. PARKER: Thank you, Your Honor.

5 (Whereupon, the Slug has been marked and entered into
6 evidence as State's Exhibit No. 41)

7 Q. Tell us a little bit about how the course of your
8 investigation went right after you arrived on the scene?

9 A. First - - -

10 Q. Let's talk about some things you collected. Let's
11 talk about kind of the direction things were headed in even
12 when you got on the scene?

13 A. Well, when I arrived on scene, of course, there were a
14 lot of bystanders. It's just human nature. It's just
15 curiosity. So there were a lot of bystanders outside of
16 the roped off area where the crime scene was being
17 protected. And I did notice that in front of where the
18 victim was laying, [REDACTED] Street, there were no lights
19 on in the house. No one was outside. I had talked to some
20 officer earlier and they did state that Joey Gibson was at
21 the residence, inside the residence which I thought was
22 kind of strange because there were no lights on and he
23 wasn't outside. There was no one outside of that residence
24 where everyone else in the neighborhood was outside, you
25 know, curious to see what was going on, I mean, this man

1 was laying dead on the road and, of course, they're going
2 to be out wanting to know what happened, this is their
3 neighborhood. I also talked with a couple of witnesses
4 that were in the area that were neighbors that lived across
5 the street. One in particular was Cecilia Green because a
6 bullet had actually gone through her front window.

7 Q. Let's talk about that. I believe you have a picture
8 that's already been admitted into evidence, two pictures
9 actually, State's Exhibit Fourteen. It's already entered
10 into evidence. I'm showing you that photograph. Did you
11 take that photo?

12 A. Yes, I did.

13 Q. And what does that depict?

14 A. That is Ms. Cecilia Green's front window of her house.
15 It was a huge windowpane and she live diagonal. From, [REDACTED]
16 would be here, she was diagonal to, if you're facing the
17 residence, to the right, would be her house across the
18 street.

19 Q. And this is in evidence and I'll show it to you, this
20 is just a follow up picture. What does that show?

21 A. That was the inside of the window frame.

22 Q. Did you get any information about -- was there anyone
23 in that residence, in Ms. Green's residence?

24 A. There were actually, a gentleman and some children
25 were in that front living room and they heard the shots

Maureen Valazack- Direct Examination by Mrs. Parker 186

1 fired and they actually started running down the hall.
2 They told me when they heard, when the shot came through
3 the window he took the kids and started running down the
4 hallway.

5 Q. Was anyone who was inside that home injured?

6 A. No.

7 Q. The [REDACTED] Street you mentioned, there was no
8 lights on, I'm going to show you, we talked about it so
9 much, I'm going to show you a picture just so the jury can
10 see, of that residence. I'm showing you for the record
11 State's Exhibit Eighteen, please describe what that picture
12 shows?

13 A. That's [REDACTED] Street and that was taken the next
14 morning. There were some plastic lawn chairs that were
15 there that night but they were kinda sitting in the yard.

16 Q. All right. I'm going to show you what's marked
17 fifteen.

18 A. And that's the residence that night of the shooting on
19 August 19th.

20 COURT REPORTER: I'm sorry I can't hear you.

21 A. That was the night of the shooting, August 19th.

22 MRS. PARKER: You may need to look Lieutenant
23 Valazack and then maybe turn back and speak into the
24 microphone because when you turn your head it's kind of a
25 little hard to hear you.

1 Q. So the first picture we saw, was that one taken during
2 the daytime?

3 A. Yes.

4 Q. And when was that photograph taken?

5 A. The following day.

6 Q. State's Exhibit Fifteen, was that the night of?

7 A. Yes.

8 Q. But there's a line through my picture, did they have
9 Christmas lights hanging out there or is that a glare or
10 imperfection in the photo?

11 A. That's some type of glare.

12 Q. In the lawn chairs you described, is that how you saw
13 them that night?

14 A. Yes.

15 Q. You see them, okay. All right. After you arrived on
16 the scene, you said there were some witnesses there, what
17 information were you gathering as far as your understanding
18 at that point?

19 A. I was gathering that there were three people at [REDACTED]
20 Kirven Street that were outside of the residence. One
21 would have been Quinton Gibson, Joey Gibson and Antonio
22 Gregg which is the cousin to Quinton and Joey and, yeah,
23 Quinton and Joey.

24 Q. What's the relationship between Quinton and Joey?

25 A. They are brothers.

Maureen Valazack- Direct Examination by Mrs. Parker 188

1 Q. And what information did you get about two of the
2 suspects?

3 A. Two of the suspects that took off running down the
4 street - - well, one of the witness - - excuse me, let me
5 back up. One of the witnesses stated that he observed two
6 subjects - - -

7 MR. SCRUGGS: Your Honor, can we - - excuse me. Can
8 we have her state which witness is saying this?

9 THE COURT: Yes, ma'am.

10 A. Cecilia Green and Harry James.

11 Q. Okay.

12 A. Observed two subjects, also Shone Smalls was another
13 witness, that I interviewed later on. But two of the
14 subjects one was wearing a red shirt and had dreads of the
15 two that started walking and then all of a sudden they
16 started running, came from the side of the yard of [REDACTED]
17 Kirven Street. They saw another subject run behind the
18 residence wearing a purple or blue shirt. The other two
19 subjects, the one with the red shirt and the dreads, the
20 shoulder length dreads, I believe is how they described it,
21 and a taller male with a white shirt with short hair were
22 the ones that went down towards South Main Street.

23 Q. And who - - and just to clarify, who were the two
24 individuals from your investigation that went running down
25 the street on South Main?

1 A. That was gonna be Quinton Gibson and Antonio Gregg.
2 Which I actually had investigators go pick them up at their
3 residence on South Main Street. Quinton, at South Main
4 Street next to the Laundromat and bring him back to the
5 crime scene and also Antonio was advised that he needed to
6 come back and he came back.

7 Q. And where did they come back to?

8 A. They came back to [REDACTED] Street.

9 Q. To the scene?

10 A. Yes.

11 Q. And what happened later on that night, did y'all speak
12 with them?

13 A. Well, after - - when they brought them back to the
14 scene I asked investigator Williams to take them up to the
15 police department and get statements from them.

16 Q. Was that done?

17 A. Yes.

18 Q. Now, back to Joey Gibson. It is your understanding
19 when you arrived on the scene he was in the house, is that
20 correct?

21 A. That's correct.

22 Q. Did you personally have contact with him?

23 A. I did.

24 Q. Tell the jury about that.

25 A. When I knocked on the door, as I said all of the

Maureen Valazack- Direct Examination by Mrs. Parker 190

1 lights were off and that just seem weird to me because this
2 all happened right in front of the residence. When I
3 knocked on the door he came to the door and the lights were
4 off in the house and I asked him if he could turn a light
5 on so I could see, I mean, I didn't know what was going on
6 at that point. He turned the light on. He was wearing a
7 purple shirt. He had a washrag, a blue washrag, in his
8 hand and he was kind of wiping his hands and I asked him if
9 he saw anything or heard anything and he said he was in the
10 house watching TV. He heard some gunshots, looked out the
11 window and saw two subjects running down the street towards
12 South Main. And I asked him, well, can you describe them
13 and he said, no. And I said, were they black males or
14 white males. He said, they're black males, there's no
15 white males in this neighborhood.

16 Q. Is that the extent of that conversation?

17 A. To my knowledge - - -

18 Q. That's okay.

19 A. Yeah.

20 Q. At some point did you decide - - let me ask you this,
21 did you ask investigator, Tony Flowers, to do anything for
22 you in response or to follow up with this conversation with
23 Joey?

24 A. I did. When I - - with everything we were getting
25 from witnesses and just everything going on at that time,

1 and him wiping his hands and the lights off and it was like
2 nobody was home I asked Tony, investigator Tony Flowers, to
3 do a GSR kit on Mr. Gibson, Joey.

4 Q. And what is a GSR kit?

5 A. It's just a kit that will test for gunshot residue.
6 And if a firearm - - if you shot a firearm or one was shot
7 and close in your vicinity it will pick up those fragment.

8 Q. And was that GSR kit done?

9 A. Yes.

10 Q. Was there anything else you did out at the scene
11 before you cleared, that you can think of?

12 A. I made sure that all the officers got any potential
13 witnesses that observed anything or saw anything or heard
14 anything, got all their information so that the following
15 day we could follow up with that because it was getting
16 late and I wanted to get the statements from Joey, Quinton
17 and Antonio, get those done since this all occurred in
18 front of that resident.

19 Q. You said it was getting late, it was approaching
20 midnight, was there time to interview every single witness
21 that might have seen or heard something that night?

22 A. No, in fact, a few of the witnesses had already left.

23 Q. Did anyone get their information so you could contact
24 them and follow up with the statements?

25 A. Yes.

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1 Q. And did you do that?

2 A. I did.

3 Q. Later that night, you mentioned that after you cleared
4 the scene that y'all did want to get a statement from Joey,
5 did y'all, in, fact do that?

6 Q. We did. He was the - - after we got a statement from
7 Quinton and Antonio, investigator Flowers or actually
8 Williams got the statements from Antonio and Quinton. I
9 was still on the scene. And then Joey was the third one to
10 be interviewed.

11 Q. And were you present for that interview?

12 A. Yes.

13 Q. All right. I apologize, I'm going to backtrack a
14 little bit. This was the picture I was looking for
15 earlier. It has been admitted into evidence, State's Three
16 and what does that show?

17 A. The front of [REDACTED] Street, the house.

18 Q. The interview with Joey Gibson, that's already in
19 evidence by agreement State's Two?

20 MR. SCRUGGS: That's correct.

21 MRS. PARKER: That's correct. State's two.

22 Q. When y'all take people down to the police department
23 do y'all record the statements?

24 A. Yes.

25 Q. And was his statement that night recorded?

1 A. It was.

2 MRS. PARKER: Your Honor, at this time, I'd ask for
3 permission to publish the defendant's statement.

4 THE COURT: All right.

5 (Whereupon, video was played for the jury)

6 Q. Lieutenant - - -

7 THE COURT: All right. Ladies and gentlemen, if
8 you feel like you need to stand up and stretch a minute you
9 may do so.

10 (Whereupon, the jury complies)

11 Q. Lieutenant Valazack, I guess, after this interview and
12 response to this did y'all determine the location out in
13 the country where the defendant was referring to?

14 A. Yes.

15 Q. Where was that?

16 A. Willow Tree Road.

17 Q. And whose residence was that?

18 A. Dacoula James which was their cousin, Joey's cousin.

19 Q. Did y'all go out there and look for any evidence that
20 a gun had been fired out there that day?

21 A. We did. We did speak with Quinton again and he did
22 admit that they did go out there and Joey did shoot a gun
23 one time. So we did go out there with Quinton along with
24 the other two investigators and recovered the casing.

25 Q. Was that several days later?

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1 A. Yes.

2 Q. And Joey's clothes, it's on the video, you took his
3 shirt or was his clothes that he was wearing that day taken
4 into evidence?

5 A. Yes.

6 Q. I'm going to show you what's marked, what's marked as
7 State's Exhibit Forty-seven. You have to open it up to see
8 what's in it. So identify that item or those items for me
9 please.

10 A. The purple T-shirt that he was wearing and his blue
11 jeans that he had on during the interview.

12 MRS. PARKER: Your Honor, at this time we would offer
13 State's Exhibit Forty-seven into evidence.

14 MR. SCRUGGS: Without objection.

15 THE COURT: All right. Received without objection.
16 It's admitted into evidence.

17 (Whereupon, the Clothing of Joey Gibson has been marked and
18 entered into evidence as State's Exhibit No. 47)

19 Q. What's the significance of collecting the shell
20 casing? You said y'all did go out to Willow Tree Road, the
21 resident, he referred to many times out in the country and
22 a shell casing was found, what's the significant of that?
23 What can be done with that?

24 A. Well, it was August, in August it was ninety some
25 degrees, probably like the weather were having now, it was

1 hot and humid. And so the reason we went to go get that
2 shell casing was because the shell casings at the scene we
3 wanted to see, since he said he fired a gun, we wanted to
4 see if that shell casing matched the shell casings found at
5 the scene of the crime.

6 Q. And who has capability to do that? Can y'all do that
7 down at the department?

8 A. No. We send it to sled, to the ballistics and they do
9 the analysis on it.

10 Q. Was that done in this case, were all the shell casings
11 sent? The ones found at the scene, around the body of the
12 victim, and the one found at the residence in the country?

13 A. Yes.

14 Q. And I wanted to ask you about the two other suspects
15 that were involved in this. I mean, Obviously, there were
16 two other subjects that ran from the residence, they were
17 ID by witnesses and y'all identified them as Quinton
18 Gibson, the defendant's brother and Antonio Gregg, were
19 they eventually, were they at any point charged in this
20 crime?

21 A. Yeah. Quinton was charged with the murder also and
22 Antonio was charged with, I can't think of what it was
23 called, um, basically - - I can't remember what the charge
24 was now but it was in city court.

25 Q. And what information did you rely on in making that

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1 decision to charge them as well?

2 A. To speaking with witnesses that were there and
3 interviewing people the next day, they can put the two
4 brothers in the front yard with the victim. I - - the GSR
5 that we got back from sled showed that there was GSR on
6 both Joey, more so on Joey, than Quinton.

7 MR. SCRUGGS: Objection, Your Honor. She doesn't
8 have the confidence to testify - - -

9 MRS. PARKER: I was just trying - - I wasn't trying
10 to elicit that - - -

11 THE COURT: I'll sustain.

12 MR. SCRUGGS: I move to strike that testimony, Your
13 Honor.

14 THE COURT: It's stricken from the record. Just
15 ignore that statement that was just made, ladies and
16 gentlemen.

17 Q. Without talking about the sled analysis result or
18 anything like that, what information will you relying on in
19 making the decision to charge?

20 A. Just all the victims statements that we gathered from
21 that night and talking with Quinton, interviews with
22 Quinton and Antonio.

23 MRS. PARKER: At this time, please go ahead and
24 answer any questions the defense may have.

25 THE COURT: Mr. Scruggs?

1 MR. SCRUGGS: Thank you, Your Honor.. May it please
2 the Court?

3 **Cross Examination by Mr. Scruggs:**

4 Q. Good afternoon, Lieutenant.

5 A. Good afternoon.

6 Q. How many years have you been in law enforcement?

7 A. Fourteen years.

8 Q. How many of those years have you served as
9 investigator?

10 A. The last six years.

11 Q. At the beginning of your career did you go to the
12 Criminal Justice Academy?

13 A. Yes.

14 Q. And you learn things there that you probably used
15 every day of your career, is that correct?

16 A. Yes.

17 Q. Stuff like firearms, criminal investigation, writing
18 incident reports, taking witness statements, criminal and
19 constitutional laws, do you agree with me?

20 A. That's basic law enforcement, yes.

21 Q. You learn with your incident reports to be truthful,
22 accurate and complete, is that correct?

23 A. That's correct.

24 Q. Is your current rank lieutenant?

25 A. Yes.

1 Q. On August 19, 2014 the night of the incident, with the
2 exception of the chief of police, were you the highest
3 ranking officer from DPD on the scene?

4 A. Except one.

5 Q. Who was?

6 A. My captain, Jimmy Davis.

7 Q. Who?

8 A. Jimmy Davis.

9 Q. Does he go by James Davis?

10 A. Yes.

11 Q. Were you the lead investigator on this case?

12 A. Yes.

13 Q. And in that role I assume you reviewed all the
14 evidence that was collected during the investigation?

15 A. Yes.

16 Q. Let's talk a little bit about Quinton Gibson. Isn't
17 it true that Quinton Gibson wasn't arrested on August 19,
18 2014?

19 A. That's correct.

20 Q. You saw Quinton that night, correct?

21 A. Yes.

22 Q. He was wearing a red shirt?

23 A. He was.

24 Q. He had shoulder length dreads, correct?

25 A. Yes.

1 Q. Which is the description the witnesses gave of the two
2 men leaving the scene, correct?

3 A. Correct.

4 Q. Or one of them, excuse me. Didn't Quinton give an
5 interview to law enforcement that night?

6 A. He did.

7 Q. We don't have a videotape of that interview though, do
8 we?

9 A. No, we don't.

10 Q. He was allowed to leave the police station that night?

11 A. Yes.

12 Q. In the following weeks he was interviewed by
13 investigators, six additional times, would you agree with
14 me?

15 A. I would agree with that.

16 Q. And you were present for most of those?

17 A. On most of them, yes.

18 Q. Would you agree with me that he was interviewed twice
19 on August 20th?

20 A. I believe he was, yes.

21 Q. Then again on August 21st?

22 A. Yes.

23 Q. Then again on August 25th?

24 A. Yes.

25 Q. Then again on September 15th?

1 A. I believe so.

2 Q. Then again on September 16th?

3 A. I believe so. I don't have those notes in here.

4 Q. As I mentioned - - -

5 A. I'm sorry, I was going to say one of those interviews
6 he requested to speak with an investigator.

7 Q. But one of the investigators involved in this case
8 spoke with him?

9 A. Yes.

10 Q. Your first interview with him was the morning of the
11 20th, is that correct?

12 A. That's correct.

13 Q. But you believe that he knew more than he was telling
14 you on that day?

15 A. I did.

16 Q. In fact, you had to threaten him with an arrest that
17 they, didn't you?

18 A. I don't remember threatening him with an arrest.

19 Q. You didn't threaten him with an arrest and then allow
20 him to call Antonio Gregg to come up to the station?

21 A. I would have to - - I can't recall that. I would have
22 to look at the video again of the interview.

23 Q. But, ultimately, he, Quinton Gibson, is charged for
24 murder and the possession of a weapon during the commission
25 of a violent crime, I believe, on September 15th, do you

1 agree?

2 A. Correct.

3 Q. And just so were clear, he's being charged - - he was
4 charged for the murder of Gary Walker?

5 A. That is correct.

6 Q. The victim in this case?

7 A. Yes.

8 Q. When you arrive - - do you remember about what time
9 you arrived on scene on 8/19?

10 A. I received the call shortly after Sargent Cauthen got
11 there. I think I got there roughly around 10:00.

12 Q. And by the time you arrived the crime scene tape is
13 already been set up, is that correct?

14 A. Yes, sir.

15 Q. The crime scene tape, roughly, goes around the back of
16 [REDACTED] Street around the side and it encompasses the
17 section of the street in front of the house, would you
18 agree?

19 A. I don't remember it going behind [REDACTED] Street, I
20 can't recall that. I know that it was pretty much that
21 whole two blocks, I'm sorry, almost half of the block right
22 there.

23 Q. The crime scene tape extends almost to the yard of the
24 houses across the street, do you agree?

25 A. Yes.

1 Q. Do you know how far the distance is from the road to
2 the front door of [REDACTED]

3 A. On which road? The front road?

4 Q. Yes, ma'am.

5 A. Kirven Street?

6 Q. Yes, ma'am.

7 A. I don't know exactly, I would say it's probably less
8 than fifty feet.

9 Q. And no one was allowed past the crime scene tape into
10 the crime scene, were they?

11 A. I'm sorry, repeat that.

12 Q. Let me rephrase. No one but law enforcement was
13 allowed inside the crime scene?

14 A. Authorized personnel such as the coroner but there was
15 a crime scene log. They had to log in with the officer.

16 Q. Do you agree with me that the only people outside of
17 their house were on the opposite side of the street?

18 A. Yes.

19 Q. Meaning that there was no one who was outside of their
20 house on the side of the street that Joey lived on?

21 A. I know on both sides of Joey were some elderly females
22 that lived and they were not out.

23 Q. They were not outside?

24 A. No. There were people, however, across the roadway
25 just past their house going towards the school, there were

1 people on that side.

2 Q. But that's a ways down the street, right?

3 A. No, it's just on the other side of the one neighbor's
4 house where he was blocked off.

5 Q. So you're talking about right in front of Cecilia
6 Green's house?

7 A. No. I'm talking the other direction.

8 Q. Towards the intervention school?

9 A. Yes. There's a street up from, like, there's [REDACTED]
10 Kirven then there's [REDACTED] Kirven and then there's a street
11 that runs on the side and I can't think of the name of it
12 right now, I want to say Hickory but I'm not sure if that's
13 right.

14 Q. Okay.

15 A. So if crime scene tape went to that little
16 intersection - - -

17 Q. Okay.

18 A. - - - of that direction.

19 Q. Would you agree with me that if Joey Gibson had
20 stepped outside he would've been in the middle of a crime
21 scene?

22 A. Not, at that time. The house itself wasn't a crime
23 scene. The roadway was the crime scene.

24 Q. But crime scene tape was all around the house,
25 correct?

1 A. The crime scene tape had to block off the sides of the
2 road, yeah.

3 Q. Okay.

4 A. It wasn't in around the house. It was only fence, on
5 the neighbor side of Joey's house, and on the other side of
6 the house. So that whole front section and down a little
7 bit from it and probably that whole block area in front of
8 that residence was blocked off.

9 Q. When you arrived on the scene Mr. Gibson is inside his
10 grandmother's house [REDACTED] correct?

11 A. Correct.

12 Q. Where he lives?

13 A. Correct.

14 Q. And he's wearing a purple shirt and blue jeans?

15 A. Yes, sir.

16 Q. And he has his hair pulled up?

17 A. He does.

18 Q. Would you agree with me that he's approximately 5'7,
19 5'8?

20 A. Yes.

21 Q. And you speak with him on the scene, correct?

22 A. I did, yes.

23 Q. Ultimately, you tell investigator Flowers to perform a
24 gunshot residue kit on Mr. Gibson, is that correct?

25 A. That's correct.

1 Q. And shortly after that you place him and investigative
2 detention, is that correct?

3 A. That's correct.

4 Q. And when somebody is placed in investigative detention
5 they're detain, right?

6 A. They're being detained for questioning, yes, pending
7 an investigation.

8 Q. And you advised officer Melton to handcuffed him,
9 correct?

10 A. I don't recall if I did. I may have.

11 Q. But Joey Gibson was handcuffed then, correct?

12 A. I can't recall that.

13 Q. I'm sorry.

14 A. Most, I can say that, in investigative detention
15 sometimes we will handcuff people because it's a detention
16 of an investigation.

17 Q. Okay.

18 A. There being detained for investigations.

19 Q. So investigative detention means you can't leave?

20 A. It's not an arrest. No, it does not mean that.

21 Q. So he was free to leave if he wanted to?

22 A. If he wanted to leave I believe he could've left, yes,
23 sir. In fact, they're always advised that you are not
24 under arrest, you are being detained pending an
25 investigation.

1 MR. SCRUGGS: Your Honor, may I have moment?

2 THE COURT: Yes, sir.

3 Q. Investigator?

4 A. Yes, sir.

5 Q. Going back to investigative detention, do you recall
6 telling Joey, I'm going to put you in to an investigative
7 detention now?

8 A. I don't remember telling him that.

9 MR. SCRUGGS: Your Honor, may we approach?

10 THE COURT: Yes, sir.

11 (Whereupon, a bench conference was held off the record)

12 MRS. PARKER: Your Honor, at this the state will
13 stipulate that Lieutenant Valazack ordered that the
14 defendant be placed in an investigative detention. He was
15 handcuffed and placed in said detention.

16 THE COURT: Okay. The stipulation has been made.

17 MR. SCRUGGS: Thank you, Your Honor.

18 Q. Lieutenant, would you agree with me that after Mr.
19 Gibson is placed in investigative attention, he is then
20 transported from the scene to the Darlington Police
21 Department?

22 A. Yes.

23 Q. As we just saw, you investigator Williams participate
24 in the interview?

25 A. Correct.

1 Q. We saw investigator Williams informed Mr. Gibson of
2 his Miranda rights?

3 A. Right.

4 Q. And then Joey immediately ask for an attorney?

5 A. He did.

6 Q. You then tell him he's not under arrest, is that
7 correct?

8 A. That's correct.

9 Q. During the course of the interview, do you agree with
10 me, that Joey mentions a lawyer several times?

11 A. A couple of times, he did, yes..

12 Q. By several, I mean three or four?

13 A. He was not under arrest. I reminded him of that.

14 Q. Okay. So he could have walked out of the police
15 department?

16 A. Yes, he could have.

17 Q. Joey tells you that he shot a gun earlier in the day
18 in the country, is that correct?

19 A. He did.

20 Q. He didn't know what caliber it was?

21 A. He did not.

22 Q. Shortly after he tells you that, you reemphasize his
23 Miranda rights and tells him, now he's the prime suspect?

24 A. Correct.

25 Q. At the same time Joey is being interviewed, do you

1 recall if his brother is being interviewed then?

2 A. His brother had already been interviewed.

3 Q. At the end of the interview you arrest Mr. Gibson, is
4 that correct?

5 A. Yes, sir.

6 Q. You inform him that he's being arrested for murder?

7 A. Yes.

8 Q. Following the interview you exit the room and have a
9 discussion with other officers involved in the case about
10 what evidence have been collected to this point, is that
11 correct?

12 A. I didn't hear -- I couldn't hear that. I heard a
13 conversation going on but I couldn't tell you what that
14 was.

15 Q. Would you like me to play that portion to refresh your
16 memory?

17 A. Not really.

18 Q. Okay. Well, would you agree with me that following
19 the interview you said, you mentioned that you did not have
20 much evidence?

21 A. I may have said that.

22 Q. Okay.

23 A. And this was a freshly committed crime so we, you
24 know, we were processing everything. We didn't have all of
25 our evidence at that time.

1 Q. Would you agree with me that, excuse me, go ahead.

2 A. I just cleared my throat.

3 Q. I'm sorry. Would you agree with me, your words you
4 said, you didn't have a whole hell've of a lot?

5 A. I don't recall saying - - I may have said that. I
6 don't know I didn't hear that.

7 MR. SCRUGGS: Your Honor, I - - -

8 A. That wasn't on video - - that was like in another room
9 so it's possible.

10 MR. SCRUGGS: Your Honor, I would like to publish
11 that portion of the tape to the jury at this time.

12 THE COURT: All right, sir.

13 MR. SCRUGGS: For the record I am playing what has
14 been admitted into evidence as State's Exhibit Two. I am
15 starting the video, this is the interview with Joey Gibson,
16 I am starting at minute fifty-nine and second thirteen
17 (59:13).

18 (Whereupon, the video was played for the jury)

19 Q. Investigator, does that refresh your recollection?

20 A. I still didn't hear what you were talking about, I'm
21 sorry.

22 Q. Would you like me to turn the speaker towards you?

23 A. You can.

24 (Whereupon, the vide was played for the jury)

25 Q. Is that loud enough?

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1 A. It is loud. I just can hear - - I can't really
2 understand what I'm saying. I hear something about, I
3 don't - - I don't know I don't understand it. I heard him
4 say evidence. But if you - - but if everyone hears it then
5 I just am deaf and I didn't hear it but

6 Q. Okay.

7 A. Would you agree with me that the sheriff's department
8 bloodhound team was called to the crime scene on August
9 19th?

10 A. Yes, sir.

11 Q. They were going to search for the two men seen leaving
12 the scene, correct?

13 A. They were. Of course, they were a lot of people up
14 and down that road at that time as soon as, shortly after
15 we arrived so but they were called to do that, yes.

16 Q. That was the reason they were called out there,
17 correct?

18 A. Yes. Yes, sir.

19 Q. Would you agree with me that bloodhound teams are used
20 to search for suspects and not witnesses?

21 A. I don't understand your question.

22 Q. Well, would you agree with me that bloodhound teams
23 are used to try and find somebody who's trying to evade law
24 enforcement?

25 A. Among other things, yes, sir.

1 Q. Ultimately, and as you stated, it was confirmed that
2 Joey Gibson had indeed gone out to the country that morning
3 and shot a firearm, correct?

4 A. Yes, sir.

5 Q. On August 21st, you and investigator Flowers, went to
6 that area to try and find the shell casing from that gun,
7 is that correct?

8 A. That's correct.

9 Q. You recovered two shell casings, correct?

10 A. I recall one which is a .380.

11 Q. The shell - - that's my point, the shell casing was
12 from a .380 caliber, correct?

13 A. Correct. And it was in the back of the woods father
14 from where we located the other, the actual .9mm shell
15 casing.

16 Q. And as you stated earlier, you interviewed Quinton
17 Gibson on August 25th, is that correct?

18 A. Which time? We interviewed Quinton several times.

19 Q. Right. That would've been the fifth time he had been
20 interviewed. Would you agree with me you interviewed him
21 between the first time he went out to the country and the
22 second time he went out to the country?

23 A. I didn't go to the country the second time.

24 Q. Okay.

25 A. But I interviewed him quite a few times, yes, sir.

1 Q. Is it correct that investigator Flowers and
2 investigator Williams went to the country on August 26th
3 and recovered a .9mm shell casing?

4 A. Along with Quinton Gibson, yes, sir.

5 Q. Quinton Gibson went with them?

6 A. Yes, sir.

7 Q. To show them where the gun had been fired?

8 A. Correct.

9 Q. On the night of August 19th, a search warrant was
10 issued for [REDACTED] correct?

11 A. Correct.

12 Q. There was no gun found there, was there?

13 A. That's correct.

14 Q. Sometime in January, 2016, you interviewed a man by
15 the name of Corey Rowell, is that correct?

16 A. Yes, sir.

17 Q. Who was at the Marion County Detention Center?

18 A. Correct.

19 Q. He gave a statement, is that correct?

20 A. He did, sir.

21 Q. And he essentially told you that he had information on
22 where a gun might be, is that correct?

23 A. He got information about the shooting and where the
24 gun might be, yes, sir.

25 Q. And you then obtain a second search warrant and search

1 the backyard area of [REDACTED] correct?

2 A. That's correct.

3 Q. You didn't find the gun there either, did you?

4 A. Mr. Rowell stated that the conversation - - -

5 Q. I - - hold

6 A. - - - was that it was under a dog - - -

7 MR. SCRUGGS: Object - - Your Honor, that's hearsay
8 testimony. Mr. Rowell may be called as a witness later on
9 and the state can get into what he said then but I'm not
10 trying to elicit hearsay testimony.

11 A. Do you - - -

12 THE COURT: Hang on. Don't say anything. Let the
13 lawyers finish their statements.

14 MRS. PARKER: He elicit it by the nature of the
15 question is the state's position

16 MR. SCRUGGS: Just for the record, I ask you didn't
17 find the gun there either, correct, did you?

18 THE COURT: Is Mr. Rowell going to be called as a
19 witness?

20 MRS. PARKER: Yes, sir. And yes, Your Honor, he's on
21 cross.

22 THE COURT: I realize he's on cross. It is your
23 question in reference to the conversation she had with Mr.
24 Rowell. I realized it would, in fact, be a hearsay
25 statement. Let's wait and hear from the best witness. I'm

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1 going to sustain your objection to your own question, quite
2 frankly, is what it is Mr. Scruggs, a little bit unusual.
3 Don't tell us what Mr. Rowell told you, okay?

4 A. Yes, sir.

5 Q. And am I correct in saying, that law enforcement to
6 this day has not found the gun that was used in this crime?

7 A. That would be correct.

8 Q. And would you agree with me that the charge that
9 Antonio Gregg or the crime that he was ultimately charged
10 with was obstruction of justice?

11 A. Yes, sir.

12 MR. SCRUGGS: Can I have just a moment, Your Honor?

13 THE COURT: Yes, sir.

14 MR. SCRUGGS: I don't have anything further.

15 THE COURT: Mrs. Parker?

16 MRS. PARKER: Briefly, Your Honor.

17 **Redirect Examination by Mrs. Parker:**

18 Q. Lieutenant Valazack, was Joey Gibson in handcuffs when
19 y'all interviewed him on the video that was just on?

20 A. No, ma'am.

21 Q. And he wasn't in handcuffs during the course of that
22 interview?

23 A. No, ma'am.

24 Q. And you stated, supposedly there's some statement
25 about you don't have a whole lot and I'm going to ask you

1 again, do you expect to have all of the evidence within a
2 couple of hours of a shooting or a murder incident taking
3 place?

4 A. It would be nice, but, no.

5 Q. A little bit - - how does that usually work with
6 evidence coming in and things being processed?

7 A. You have to have probable cause to make an arrest. I
8 felt like we had that in this case by interviewing all of
9 the suspects or the witnesses at the scene. The
10 descriptions of the subjects that were involved, his own
11 statements, saying that there was nobody at the house with
12 him when clearly the other statement said there were,
13 Quinton and Antonio were there when the shooting took
14 place. He was unclear of which way the subjects ran. He
15 didn't see them and then he did see them and then there was
16 a car at the same time. So everything that he was saying
17 it was just, like, he was contradicting, there was too much
18 contradiction in his statements. And then when he, then
19 stated that he shot a gun that morning when I asked him
20 would there be any reason GSR would be on his hands and he
21 stated he shot a gun earlier that morning. Even if he had
22 shot a gun earlier that morning, that wouldn't mean that
23 there would still be GSR on his hands.

24 Q. In about bloodhounds, were there any other purposes
25 you can think of the bloodhounds were used for, is it

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1 always suspects?

2 A. Oh, no, ma'am. They find missing people. They're
3 called out for different things, missing children, missing
4 adult, you know, the fate they're scent dogs. They go back
5 scent. So if they're needed to track someone, they're
6 tracking dogs for whatever purpose they need to track
7 someone.

8 MRS. PARKER: That's all.

9 THE COURT: Mr. Scruggs?

10 MRS. PARKER: No further questions.

11 MR. SCRUGGS: Just briefly, Your Honor.

12 **Re-cross Examination by Mr. Scruggs:**

13 Q. You say that Mr. Gibson gave you several
14 contradictions in his statement?

15 A. Yes, on the video you can hear those.

16 Q. Right. And he told you he has shot a gun earlier in
17 the day. Initially, y'all didn't believe him, correct?

18 A. I did not, not believe him I just thought it was awful
19 strange that, you know, now you're telling me that you
20 would have gunshot residue because that reason which
21 wouldn't be the reason.

22 Q. But, ultimately, you determined that he was, in fact,
23 telling the truth?

24 A. Yes, he did shoot a gun one time. Yes, sir.

25 Q. And you ask him if there was anyone else with him at

1 the house, correct?

2 A. Correct.

3 Q. He said, no, correct?

4 A. He said Antonio and Quinton had already left.

5 Q. Right. They had all gone their separate ways.

6 A. They had all gone their separate ways, yes.

7 Q. And when law enforcement got there he was the only one
8 in the house, correct?

9 A. Yes, sir. Mmm, hmm.

10 MR. SCRUGGS: Nothing further, Your Honor.

11 THE COURT: You can step down.

12 MS. VALAZACK: Thank you, sir.

13 THE COURT: All right. Let's take about a ten
14 minute coffee break. Everybody back here about ten
15 minutes. Everybody remained seated while the jurors go
16 out.

17 (Whereupon, the jury exits the courtroom at 4:04 p.m.)

18 THE COURT: All right. We are down for ten
19 minutes.

20 (Whereupon, the court took a ten minute break)

21 THE COURT: All right. Counsel, are you ready to
22 bring the jury in?

23 MRS. PARKER: Yes, sir.

24 MR. SCRUGGS: Yes, sir, Your Honor.

25 THE COURT: Bring them in. I plan to run until

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1 about 5:30 if time works out.

2 MRS. PARKER: Okay.

3 MR. SCRUGGS: Yes, sir.

4 (Whereupon, the jury enters the courtroom at 4:19 p.m.)

5 THE COURT: All right. Call your next witness.

6 MRS. PARKER: Kendrick Gregg. The state call
7 Kendrick Gregg.

8 THE COURT: Raise your right hand. Do you swear or
9 affirm the testimony about to get this quote will be the
10 truth so help you God?

11 MR. GREGG: Yes, sir.

12 THE COURT: All right. Have a seat up here please,
13 sir.

14 KENDRICK GREGG, first being
15 duly sworn, testified as follows:

16 **Direct Examination by Mrs. Parker:**

17 Q. Please state your full name for the record?

18 A. My name is Kendrick Gregg.

19 Q. Kendrick, where do you live?

20 A. 115 Jackson Street, Darlington, South Carolina.

21 Q. Do you know the defendant in this case?

22 A. Yes. He's my cousin.

23 Q. And I want to ask you about the summer of 2014,
24 specifically about a gun, about a .9mm, did you have a .9mm
25 gun at that time?

1 A. Yes, ma'am.

2 Q. What happened to that gun?

3 A. I sold it.

4 THE COURT: Speak up now so we can all hear you..

5 A. I'm sorry.

6 THE COURT: So the jurors can hear you.

7 A. Okay. I sold it.

8 Q. And who did you sell that gun to?

9 A. To my cousin, Joey, Joey Gibson.

10 Q. Around what time - - around when do you think you sold
11 him the gun, I mean, when was it?

12 A. I can't remember all that but I know it was during the
13 daytime. I can't member the date and the time but I know
14 it was in the daytime.

15 Q. Did you sell it to him before this incident that he's
16 on trial for now?

17 A. Yes. Before the incident. Way before the incident.

18 Q. How long before the incident?

19 A. Probably about two weeks, two weeks before.

20 Q. So two weeks prior to the incident you sold him a gun.
21 What kind of gun was that can you tell that again for the
22 jury?

23 A. I think it was a .9, .9mm.

24 Q. And how much did you sell that gun for?

25 A. Ninety-eight dollars.

1 Q. Did the defendant give you the money?

2 A. Yes, ma'am.

3 Q. And who initiated the purchase of the gun?

4 A. He did.

5 Q. How did he know you had a gun?

6 A. I showed it to him.

7 Q. And do you remember when you showed it to him?

8 A. No, ma'am.

9 Q. Not specifically when but did you make a comment when
10 you showed him the gun, about the gun, what your intentions
11 were with the gun?

12 A. Yes. I was going to get rid of it. I had the
13 intentions of getting rid of it because I didn't want.

14 Q. And so did you sell it to him that day when you first
15 showed him the gun and y'all talk about how you wanted to
16 get rid of it, did you sell it that day?

17 A. No, ma'am.

18 Q. How long after that was it that you sold it to him?

19 A. Probably, like, a couple of days later.

20 Q. Did he ask you about the gun again?

21 A. Probably one more time after we talked about me
22 selling it to him.

23 Q. So in total, how many times did y'all talk about the
24 gun?

25 A. Probably about one or two times.

1 Q. Was it two times?

2 A. Yeah.

3 Q. And you eventually sold it to him?

4 A. Yes, ma'am.

5 Q. I'm going to go ahead and ask you, where did this gun
6 come from? I mean, it was a .9mm you had - - -

7 A. I found it.

8 Q. You found the gun.

9 A. Mmm, hmm.

10 Q. Where did you find it?

11 A. At the projects.

12 Q. How long had you had it?

13 A. I had it probably, like, a couple of weeks. Probably
14 a month or so.

15 Q. Before you sold it?

16 A. Mmm, hmm.

17 THE COURT: Say yes or no please when you answer
18 these questions.

19 Q. Yes, sir.

20 MRS. PARKER: Please answer any questions that the
21 defense may have. Before I turn it over, one more
22 question. Was there any bullets that went with the gun?

23 A. It was about three, three bullet.

24 Q. Did you sell those to him separately or were they in
25 the gun?

Ahmod Bruce- Direct Examination by Mrs. Parker

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1 A. They was already in the chamber, I mean, in the clip.

2 Q. In the clip?

3 A. Yes, ma'am.

4 Q. What color was this .9mm handgun?

5 A. It was black.

6 MRS. PARKER: Please answer any questions the defense
7 may have.

8 MR. SCRUGGS: No questions for Mr. Gregg, Your Honor.

9 THE COURT: All right. You can step down Mr.
10 Gregg. Thank you, sir.

11 MRS. PARKER: Your Honor, can Mr. Gregg be released
12 from his subpoena?

13 THE COURT: Any objection?

14 MR. SCRUGGS: No objection.

15 THE COURT: All right. Mr. Gregg you are released
16 from your subpoena.

17 MRS. PARKER: At this time the State would call Ahmod
18 Bruce.

19 CLERK: You swear the testimony you give this court
20 be the truth, the whole truth, and nothing but the truth so
21 help you God?

22 MR. BRUCE: Yes, ma'am.

23 AHMOD BRUCE, first being duly
24 sworn, testified as follows:

25 Direct Examination by Mrs. Parker:

1 Q. Good afternoon. Would you please state your name for
2 the record?

3 A. Ahmod Bruce.

4 Q. Ahmod, you have a nickname that you commonly go by?

5 A. Yes, ma'am.

6 Q. And what is that?

7 A. Shrek.

8 Q. Shrek. I'm gonna call you Ahmod. I just wanted the
9 jury to know that you do go by Shrek, is that correct?

10 A. Yes, ma'am.

11 Q. And where do you live? Were you currently reside?

12 A. Now?

13 Q. Yes, sir.

14 A. Oh, I stay in Columbia now.

15 THE COURT: I'm going to ask you to speak up
16 please.

17 A. Oh, I stay in Columbia now.

18 THE COURT: The jurors need to be able to hear you
19 everything you say.

20 Q. Where were you living in the summer of 2014?

21 A. 308 Plum Street, Darlington.

22 Q. In Darlington. Do you know the defendant in this
23 case, Joey Gibson?

24 A. Yes, ma'am.

25 Q. Do you know his brother, Quinton Gibson?

1 A. Yes, ma'am.

2 Q. And what's your relationship to them?

3 A. Friends.

4 Q. Just friends. I didn't know if you were family or
5 anything. Y'all are just friends?

6 A. Yeah, just friends.

7 Q. Did you have any contact with the defendant on the
8 date of incident in question that we're talking about today
9 which is August 19, 2014, did you see the defendant that
10 day?

11 A. Yes.

12 Q. Did you see his brother that day?

13 A. Yes.

14 Q. About - - tell us about that encounter, about what
15 time did you see them?

16 A. Somewhere between eleven and twelve around that,
17 between eleven and twelve.

18 Q. Where did you first run into them at?

19 A. At they house.

20 Q. At their house?

21 A. Yeah.

22 Q. Did they go with you somewhere?

23 A. Yes.

24 Q. And where did y'all go?

25 A. They went with me to drop somebody off at Darlington,

1 at Tech?

2 Q. At Tech. And who we are dropping off at Tech?

3 A. One of my friends.

4 Q. It was that a male or a female?

5 A. Female.

6 Q. It was a female. What was her name?

7 A. Tierra.

8 Q. So y'all drop Tierra off, did she have class?

9 A. Yes.

10 Q. You know what time her class started?

11 A. I think at 11:30.

12 Q. And where did y'all go after y'all dropped her off?

13 A. After we dropped her off, we went to the country.

14 Q. Did 'all come back by - - to get there, did y'all have
15 to come back by from Darlington?

16 A. Oh yeah, we did, yes. We came through Darlington to
17 go to the country.

18 Q. Did you make any stops in Darlington?

19 A. No. No.

20 Q. And who was with you?

21 A. Quinton and Joey.

22 Q. Were they in your car?

23 A. Yes.

24 Q. And y'all headed out to the country, where exactly
25 were y'all going?

1 A. We was going to his cousin, Dacoula's house.

2 Q. And so when you got to Dacoula's house, who was there?

3 A. It was Dacoula, his sister, both of his sisters, I
4 don't really know where his mama lives that.

5 Q. What time did you arrive there? About what time do
6 you think you got to Dacoula's house approximately?

7 A. I would say about eleven, 11:35, around that. I don't
8 really know.

9 Q. So you're saying you got there around 11:30 that
10 morning?

11 A. Yeah.

12 Q. You had previously drop Tierra off at Florence
13 Darlington Tech, so do you think that was a little earlier
14 - - -

15 A. Yeah.

16 Q. - - - than 11:30?

17 A. Probably so. I'd say about - - I know it back
18 somewhere around eleven.

19 Q. So y'all knew you had to get her there by eleven and
20 you think you got to Dacoula's house maybe shortly after
21 11:30?

22 A. I'd say about 11:20, 11:25. It usually doesn't take
23 that long to get to the country.

24 Q. So you're talking about from Tech to Willow Tree
25 Drive? Is that where to Dacoula's lives, Willow Tree?

1 A. I do not know.

2 Q. That's okay if you don't know the name of the street.

3 And when you got there it was Dacoula and his sisters, what
4 did you do when you got there?

5 A. Well, I stayed in the car.

6 Q. Whose idea was it to go to this house?

7 A. I think it - - I think Quinton said something about
8 it.

9 Q. And when you got there what did Quinton and Joey do?

10 A. They got out of the car.

11 Q. And did you see where they went?

12 A. I know they went behind the house, up behind the
13 trailer.

14 Q. And you said you stayed in the car, why did you stay
15 in the car?

16 A. Because, um, Dacoula's sister got into the car with me
17 and me and her was talking in the car.

18 Q. And Dacoula's sister's name is Sierra.

19 A. Yeah. Sierra.

20 Q. So that was, like maybe, a romantic interest?

21 A. Yeah, we was dating.

22 Q. Dating? Okay. So y'all talked in the car?

23 A. Yeah. We stayed - - yeah, we were in the car.

24 Q. How long do you think y'all were in the car?

25 A. We wasn't in the car that long. I'd say about fifteen

1 minutes.

2 Q. And where were Quinton and Joey that entire fifteen
3 minutes? Were they behind the house?

4 A. Yeah, they was still behind the house.

5 Q. And did you hear anything?

6 A. I heard a gunshot.

7 Q. So you heard a gunshot?

8 A. I did.

9 Q. And was it just one?

10 A. Yeah, just one.

11 Q. And what direction was that gunshot coming from?

12 A. I didn't know it was coming - - behind the house.

13 Q. Behind the house. And so after you talk to Sierra for
14 fifteen minutes in your car, what prompted y'all to leave?
15 I mean, did you have somewhere to go, I mean, what point
16 did you decide we're going to leave?

17 A. Because after the gunshot Sierra and them they started
18 fussing.

19 THE COURT: I'm sorry I didn't hear what you said.

20 A. Oh, after the gun shot Sierra and them started fussing
21 so we just left.

22 Q. And Sierra and them, whose them?

23 A. Her sister.

24 Q. Her sister?

25 A. Yeah. Well, Sierra - - Sierra and her sisters start

1 fussing at Quinton, Quinton and his brother.

2 Q. They were fussing at Quinton?

3 A. Yeah, and his brother.

4 Q. And his brother, okay. Were they not happy about the
5 gunshot?

6 A. No. No they wasn't.

7 Q. So tell us about how long were you there total at
8 Dacoula's house?

9 A. A total would be twenty minutes.

10 Q. And when you left, did you leave in your car?

11 A. Yeah, we left in my car.

12 Q. And did anybody leave with you?

13 A. Yes.

14 Q. Who left the house with you?

15 A. Quinton and Joey.

16 Q. And after you left the Dacoula's house, where did
17 y'all come back to? Where did y'all go from there?

18 A. Oh, we came back to Darlington. Then we came back to
19 Darlington. I drop both of them off over there by Cain
20 Elementary.

21 Q. Was that the last time you saw them that day?

22 A. Yeah. That's when I saw them that day.

23 MRS. PARKER: Please answer any questions that the
24 defense may have.

25 MR. SCRUGGS: I have no questions of this witness,

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1 Your Honor.

2 THE COURT: All right. You can step down Mr.
3 Gregg. Thank you. May he be relieved from his subpoena?

4 MRS. PARKER: Yes, Your Honor. We would ask - - -

5 MR. SCRUGGS: No objection.

6 THE COURT: All right. You may be relieved from
7 your subpoena, sir.

8 MR. REDMOND: May it please the Court, Your Honor?

9 THE COURT: Yes, sir.

10 MR. REDMOND: I guess I finally get to do some work
11 today. The state would next call, Rickey Williams.

12 Darlington Police Department.

13 CLERK: You swear the testimony you give this court
14 be the truth, the whole truth, and nothing but the truth so
15 help you God?

16 MR. WILLIAMS: I do.

17 RICKEY WILLIAMS, first being
18 duly sworn, testified as follows:

19 **Direct Examination by Mr. Redmond:**

20 Q. By whom are you employed?

21 A. The City of Darlington Police Department.

22 Q. And in what capacity are you employed with the
23 Darlington PD?

24 A. Investigator, also clerk of evidence.

25 Q. And, in fact, have you handled evidence in this case?

1 A. Yes, sir, I have.

2 Q. And we will get to that in a little while. What is
3 your rank with the police department?

4 A. Investigator.

5 Q. All right. As it relates to this particular case,
6 before we get into your role as an evidence custodian,
7 let's just talk about your role in this case. Did you
8 respond to [REDACTED] Street here and Darlington on the
9 night of August 19, 2014?

10 A. Yes, sir, I did.

11 Q. And at that time, just tell us generally -- well, let
12 me ask you this, were you the lead investigator at that
13 time?

14 A. No, sir, I was not.

15 Q. What did you do what she responded to the scene, what
16 did you observe? What did you do?

17 A. When I got to the scene I got with Lieutenant
18 Valazack, my lieutenant just ask her what did she need me
19 to help her with. At that time I just helped her around
20 the evidence scene, take photos and also locate a couple of
21 subjects that had left the location, Mr. Gibson, to carry
22 back to the scene and also to the police department to do
23 an interview with him.

24 Q. And before that, and I forgot to ask you some
25 background and I apologize, but how long have you been in

1 law enforcement?

2 A. A total of going on I think sixteen years.

3 Q. And has all that time been at the Darlington Police
4 Department?

5 A. No, sir.

6 Q. And just briefly tell you law enforcement - - -

7 A. I started out in Florence County, I worked there
8 several years as a deputy. I also went to Lynchburg,
9 worked there for about four years as patrolman before
10 coming to Darlington as the investigator.

11 Q. And how long have you been in Darlington?

12 A. About five years.

13 Q. Now, you talked about, I guess, some of your role in
14 that, let me ask you more specifically, did you, in fact,
15 help interview Quinton Gibson?

16 A. Yes, sir, I did.

17 Q. And did you also interview Antonio Gregg?

18 A. Yes, sir, I did.

19 Q. And Kendrick Gregg?

20 A. Yes, sir.

21 Q. And also the defendant, were you actually involved, we
22 saw the video where you involved to some degree in the
23 interview of the defendant?

24 A. Yes, sir, I was.

25 Q. Now, as it relates to evidence, which of course is - -

1 is that your main purpose for being here as it relates to
2 the, I guess, the storage of evidence?

3 A. Correct.

4 Q. Let me show you what has been marked State's Exhibit
5 Number Thirty-nine. Do you recognize State's Thirty-nine?

6 A. Yes, sir. It's a GSR kit from Mr. Quinton Gibson.

7 Q. And, in fact, who took that GSR kit from Quinton
8 Gibson?

9 A. I did.

10 Q. When did you take that?

11 A. It was taken on the night of the incident which was,
12 actually, was taken the next morning which was early that
13 morning of the 20th.

14 Q. And when - - just in general, we've heard a little bit
15 about the GSR process, we see in that container could you
16 briefly tell the jury when you do a GSR kit, what does that
17 entail?

18 A. They have several little items in it. What you have
19 to do, you have to do the front and back of the hands and
20 also the fingers. And once you take all of that you seal
21 it back into this container and also you have to fill out
22 paperwork on the inside, who it's from, where the incident
23 happened at, also the subject may have did any type of work
24 after shooting a gun or you think you may have shot a gun.

25 Q. And with that, also based on your training, include

1 being in the proximity of a gun being fired?

2 A. That is correct.

3 Q. Now - - and again you took that particular sample.

4 And I guess this is going to address all of the evidence
5 that I'll be showing you but, I'm putting the cart before
6 the horse but I'm going to do that for the sake of time.

7 With all the evidence we're going to get into, at least
8 most of it, there may be a couple of items that didn't go
9 to sled, could you tell us about your role as an evidence
10 custodian first once it's brought to you by the officers,
11 how is it stored here in the City of Darlington?

12 A. Yes, sir. The evidence is - - normally when an
13 officer gathers up evidence and they bring it to the police
14 department, we have a locked drop box, there's only one way
15 the items can go inside and I am the only person at the
16 police department that has a key to that box, myself. I
17 think the chief may have an extra key just in case. But I
18 have a key and I come in the next day or the next working
19 day after evidence is placed into the box. I get the
20 evidence out, I carried into my office, assign it a control
21 number and what needs to be carried to sled, I have to go
22 on the sled computer and do a I-lab entry to send it to
23 sled and then I carry it to sled.

24 Q. And is that what you did in this case?

25 A. Yes, sir.

1 Q. And is that your standard operating procedure as it
2 relates to the handling of evidence?

3 A. Yes, sir, it is.

4 Q. And just know for the sake of this, that's actually -
5 - does that apply to all of the exhibits that will be
6 getting into that you handled in this case?

7 A. Yes, sir.

8 Q. Okay. Now, let's talk about some other evidence in
9 particular and I'll start with the shell casings that have
10 already been alluded to. For the record, State's Thirty -
11 - State's Twenty-nine, Thirty, Thirty-one, and Thirty-two,
12 if you could take a look at those and tell me whether or
13 not those are items, that were in fact collected and stored
14 with you in reference to this case?

15 A. Yes, sir, it is.

16 Q. And could you tell the ladies and gentlemen of the
17 jury what those items are?

18 A. It is shell casings from a .9mm.

19 Q. And would that apply to each of those exhibits?

20 A. Yes, sir, it does.

21 Q. And who, and I know have - - well, let me ask you
22 this, do you have forms where an officer when they collect
23 evidence, is there a form that is utilized by Darlington
24 Police Department to help track the chain of custody as we
25 call it?

1 A. Yes, there is.

2 Q. As it relates to those particular items, who collected
3 those?

4 A. Hold on one second. The shell casings right here were
5 collected by investigator Tony Flowers and also Jovan
6 Cauthen.

7 Q. And were they - - where were they collected according
8 to the form?

9 A. They were collected from, in front of [REDACTED]
10 Street.

11 Q. Okay.

12 A. On 8/20/2014.

13 Q. Now, and, obviously, with those officers follow those
14 protocols that we listed earlier as it relates to the
15 storage of the evidence?

16 A. Yes, sir, they did.

17 Q. Now, as it relates to State's Exhibit Numbers Thirty-
18 three and Thirty-four, let me show you these particular - -
19 let me know if you recognize those two exhibits based upon
20 your records?

21 A. Yes, sir, I do.

22 Q. And can you tell the ladies and gentlemen of the jury
23 what those two exhibits are?

24 A. They're also two .9mm shell casings.

25 Q. And where and when were they recovered?

1 A. They were recovered from in front of, actually, in the
2 area of [REDACTED] and 126 Kirven Street on 8/20/2014.

3 Q. And again was proper protocol followed?

4 A. Yes, sir, it was.

5 Q. And by who were they found by?

6 A. Actually the same two officers, investigator Flowers
7 and officer, I'm sorry, Sargent Jovan Cauthen.

8 Q. Now, let me show you State's Exhibit, I guess I'm
9 skipping State's Forty-one, I'm going to take these and put
10 them right here so as not to create too big of a mess, and
11 could you let me know once you have a chance to identify
12 State's Forty-one? And the forms, are those forms the
13 chain of custody forms we alluded to that you're cross
14 checking with?

15 A. Yes, sir, it is.

16 Q. Okay. And take your time please.

17 A. Okay. This is going to be a bullet rag meant that was
18 located in the roadway next to, she had bloodstream in
19 front of [REDACTED] Street and it was collected by the
20 Lieutenant Maureen Valazack.

21 Q. Okay.

22 A. And the date on this was 8/20/2014 at 9:58 a.m.

23 Q. I'm going to show you what's been -- well, let me
24 just ask you this before I show you, I'm going to go ahead
25 and show you State's Forty-two and Forty-three.

1 A. Okay.

2 Q. But I'm going to ask you as it relates to the exhibits
3 that we've gone over up to this point, were those exhibits
4 taking to sled for further analysis?

5 A. Yes, sir, they were.

6 Q. Now, State's, I think that was Forty-two and Forty-
7 three, if you could tell us what those items were and when
8 and by whom they were collected?

9 A. Forty-three is going to be a black wallet and a flip
10 cell phone which was collected by Lieutenant Valazack and
11 also myself and it was collected off of Mr. Gary Walker at
12 [REDACTED] Street and it was on 8/19/2014.

13 Q. Now, were those items actually ever submitted to sled
14 to the best of your knowledge?

15 A. No, sir, they were not.

16 Q. Thank you. I show you State's Forty-four.

17 A. Forty-four is also going to be a bullet fragment that
18 was collected during the autopsy that was sent to sled by
19 the coroner's office

20 Q. And who actually went to the autopsy from Darlington
21 PD and brought those back based on your records?

22 A. I think investigator Flowers went for that autopsy.

23 Q. And let me show you State's Forty-five and let me know
24 when you're ready to answer a couple of questions.

25 A. Okay.

1 Q. What is State's Forty-five based on your records?

2 A. State's Forty-five is going to be a one blue in color
3 washcloth.

4 Q. And that was collected by whom?

5 A. Give me one second.

6 Q. Oh, sure, take your time.

7 A. It was recovered by investigator Tony Flowers.

8 Q. Okay. Let me show you State's Forty-Six.

9 A. This is going to be a red shirt.

10 Q. And who - - does it indicate who that shirt belong to?

11 A. I'm sorry give me one second.

12 Q. Oh, sure, take your time. It's a lot of stuff we have
13 to go through. Take your time.

14 A. One red in color T-shirt with multicolored designs on
15 the front belong to one Mr. Quinton Gibson.

16 Q. And that's State's, I think is that Forty-seven?

17 A. Forty-seven, yes, sir.

18 Q. And what is State's Forty-seven?

19 A. It's going to be jeans and a purple shirt.

20 Q. In those belong to whom?

21 A. Jeans and purple shirt belongs to one Mr. Joey Gibson.

22 Q. And I forgot to ask you on Exhibit Forty-six, the
23 shirt, who collected that shirt?

24 A. The red shirt was collected by myself.

25 Q. And who collected State's Forty-seven?

1 A. It was collected by Lieutenant Maureen Valazack.

2 Q. I am going to show you State's forty, State's Thirty-
3 eight and State's Forty. If you'll take a look at those
4 and tell me if you recognize those two?

5 A. Forty is going to be a GSR kit from Mr. Joey Gibson
6 and it was collected by investigator Flowers.

7 Q. And when was that collected?

8 A. It was collected on 8/19/2014.

9 Q. And State's, I guess, Forty-one?

10 A. Thirty-eight.

11 Q. I'm sorry, State's Thirty-eight?

12 A. Thirty-eight was a GSR kit collected from Mr. Gary
13 Walker.

14 Q. And is he the victim in this case?

15 A. Yes, he is.

16 Q. In was that - - it was that collected by?

17 A. Investigator Flowers.

18 Q. And last, thankfully, State's whatever number that is,
19 what numbers that?

20 A. Forty-eight.

21 Q. State's Forty-eight. Tell us what State's Forty-eight
22 is?

23 A. This is a .9 mm shell casing that was collected from
24 Willow Tree Road, actually [REDACTED] Willow Tree Road in
25 Darlington.

1 Q. Willow Tree Road. And who is that collected by?

2 A. It was collected by investigator Tony Flowers and
3 myself.

4 Q. And when was it collected?

5 A. This was collected on date 8/20/2014. I'm sorry,
6 8/26.

7 Q. Okay. Thank you.

8 A. The 26th.

9 Q. And so were you present on Willow Tree at the time
10 this was collected?

11 A. Yes, sir, I was.

12 Q. We'll get to that in the second but let me ask you
13 this, as it relates to all of the evidence I've gone
14 through the exhibit numbers and their record with the
15 exception of the wallet and money, were these items all
16 transported to sled for further testing?

17 A. Yes, sir. Everything was transported to sled by
18 myself.

19 Q. And tell us when you go to sled - - we've talked about
20 the process with Darlington PD but when you get to sled,
21 tell the ladies and gentlemen of the jury, how that process
22 works when you deposit evidence at sled for further
23 testing?

24 A. When evidence is carried to sled, first of all, - - -

25 Q. And let me be clear, when we say sled is that forensic

1 laboratory on Broad River Road in Columbia?

2 A. Yes, sir, it is.

3 Q. Okay. Go ahead.

4 A. When items are collected and carried, first of all I
5 have to do a, go on the computer and go to what they call
6 I-Lab Program. I-Lab is where I go in and pre-program
7 everything in that I'm going to be caring to sled. Once I
8 get to sled I have to enter the building and meet one of
9 the evidence custodian's there and what they do is process,
10 look at everything and make sure it's in the pack,
11 whatever's they are and they give me a receipt which I have
12 right here of everything I carry to sled. And what they do
13 they look back over it, I signed it to what location in
14 their building it goes to, and then they make sure it goes
15 to the proper channels to get whatever need to be taking
16 care of as far as the gun trace, as far as fingerprints or
17 whatever, off of it. They do it like that.

18 Q. Now, and again did you follow their protocol as it
19 relates to depositing evidence at sled?

20 A. Yes, sir.

21 Q. And with all of these exhibits that we've gone
22 through?

23 A. Yes, sir. If their protocol is not followed they will
24 not accept them.

25 Q. Okay. And does that include the packaging, how it's

1 packaged - - -

2 A. That is included too - - -

3 Q. - - - to avoid tampering?

4 A. Yes, sir. If it's not packaged correctly, sealed
5 correctly they will not take it.

6 Q. And to your knowledge was all the evidence in this
7 case accepted?

8 A. Yes, sir, it was.

9 Q. Now, I kind of skipped but the last thing that I want
10 to get into with you is the 26th of August on Willow Tree
11 Road.

12 A. Yes, sir.

13 Q. Were you present at the time y'all were looking for
14 another shell casing?

15 A. Yes, sir, I was.

16 Q. And did you find the shell casing, I think we alluded
17 to it, State's Forty-eight - - -

18 A. Forty-eight. Yes, sir.

19 Q. Who was with you at the time that actually - - well,
20 did someone actually show you where that shell casing
21 would be located?

22 A. Yes, sir. Myself and investigator Flowers carried Mr.
23 Quinton Gibson back to the location who kind of lettuce in
24 the right direction where investigator Flowers eventually
25 found the shell casing.

1 MR. REDMOND: I beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 MR. REDMOND: At time the state would move to
4 introduce the, oh gosh, I guess I'll go through each
5 number. Just out of abundance of caution, I don't know if
6 Twenty-nine, Thirty, Thirty-one, Thirty-two have already
7 been entered into evidence, Thirty-three, Thirty-four, and
8 then we skip to Thirty-eight, Thirty-nine, Forty, Forty-
9 one, Forty-two, Forty-three, Forty-four, Forty-five, Forty-
10 six, Forty-seven and Forty-eight, at this time we would ask
11 that these items be introduced into evidence at this time.

12 MR. SCRUGGS: Your Honor, just to preserve the issue
13 I raised yesterday, I renew my motion with regard to item
14 Forty which is the GSR kit for Mr. Gibson.

15 THE COURT: All right, sir. And my ruling would be
16 the same as yesterday that it is admissible after hearing
17 yesterday. All of these exhibits, any other objection
18 other than that one?

19 MR. SCRUGGS: No, sir, Your Honor.

20 THE COURT: All right. All the others are not
21 objected to and they all can be received into evidence.
22 (Whereupon, the Shell Casing has been marked and entered
23 into evidence as State's Exhibit No. 33)
24 (Whereupon, the Casing has been marked and entered into
25 evidence as State's Exhibit No. 34)

1 (Whereupon, the GSR Kit- Gary Walker has been marked and
2 entered into evidence as State's Exhibit No. 38)

3 (Whereupon, the GSR Kit- Quinton Gibson has been marked and
4 entered into evidence as State's Exhibit No. 39)

5 (Whereupon, the GSR Kit- Joey Gibson has been marked and
6 entered into evidence as State's Exhibit No. 40)

7 (Whereupon, the Money and Cigarettes has been marked and
8 entered into evidence as State's Exhibit No. 42)

9 (Whereupon, the Bullet Fragment has been marked and entered
10 into evidence as State's Exhibit No. 44)

11 (Whereupon, the Wash Cloth (rag) has been marked and
12 entered into evidence as State's Exhibit No. 45)

13 (Whereupon, the Red Shirt- Q. Gibson has been marked and
14 entered into evidence as State's Exhibit No. 46)

15 (Whereupon, the Shell Casing has been marked and entered
16 into evidence as State's Exhibit No. 48)

17 MR. REDMOND: Thank you, Your Honor. At this time
18 please answer any questions that the defense may have.

19 **Cross Examination by Mr. Scruggs:**

20 Q. How are you doing investigator?

21 A. I'm doing good.

22 Q. On the night of August 19th, you and officer Melton
23 were the first officers to make contact with Quinton
24 Gibson, is that correct?

25 A. That is correct.

1 Q. Do you agree with me that y'all went to his mother's
2 house on 111 South Main Street?

3 A. That is correct.

4 Q. When y'all first arrived there he wasn't there?

5 A. That is correct.

6 Q. He arrives a few minutes later?

7 A. Yes, the mother actually make contact with him by
8 phone and then he walked up a few minutes later.

9 Q. When he gets there he's wearing a red shirt?

10 A. That is correct.

11 Q. And at the time he had shoulder length dreads?

12 A. That is correct.

13 Q. You ask him to go back to the police department to
14 answer a few questions?

15 A. Actually, I first carry back to the incident location
16 where Lieutenant Valazack ordered me to return him to.

17 Q. Okay.

18 A. And then he went to the police department.

19 Q. So you go to the crime scene but then you take him to
20 the police department to ask a few questions?

21 A. That is correct.

22 Q. You -- is it correct that you did not handcuff him or
23 take him into custody that night?

24 A. No, sir, he was not.

25 Q. Did you interview him that night?

1 A. Yes, sir. But for some reason our system did not
2 record that interview that night.

3 Q. Okay. The same night you also participated in an
4 interview of Mr. Joey Gibson, is that correct?

5 A. That is correct.

6 Q. In fact, we just watched it an hour or two ago, is
7 that correct?

8 A. Yes, sir.

9 Q. After about twenty-five minutes of questioning, you
10 tell Mr. Joey Gibson that you're going to cut him loose, is
11 that correct?

12 A. That is correct.

13 Q. Then you ask him if he had shot a gun earlier that
14 day, is that correct?

15 A. That is correct.

16 Q. He tells you earlier that morning?

17 A. That is correct.

18 Q. In the country, is that correct?

19 A. Yes, sir.

20 Q. A little later in the interview, you leave the room
21 and come back and tell Joey that his brother Quinton has
22 said he didn't shoot a gun earlier that day, is that
23 correct?

24 A. Eventually, father investigation can terms that Joey
25 did indeed go out that morning and shoot a gun?

Toney Flowers- Direct Examination by Mr. Redmond

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1 A. That is correct.

2 Q. And as you stated earlier, on August 26th you and
3 investigator Flowers go to the area of [REDACTED], [REDACTED] Willow Tree
4 Road, is that correct?

5 A. That is correct.

6 Q. Quinton Gibson was there?

7 A. Yes, sir, we actually carried him with us.

8 Q. And as you stated on direct, he showed you where you
9 can find the .9 mm shell casing?

10 A. He put us in the general location, yes.

11 Q. Then you and investigator Flowers then seized .9 mm,
12 .9 mm shell casing?

13 A. That is correct.

14 MR. SCRUGGS: One moment, Your Honor?

15 THE COURT: Yes, sir.

16 MR. SCRUGGS: Nothing father, Your Honor.

17 THE COURT: Anything else, Mr. Redmond?

18 MR. REDMOND: Yes, sir, Your Honor. One last witness
19 for today. That would be Tony Flowers.

20 THE COURT: You may be excused. You can step down.

21 CLERK: You swear the testimony you give this court
22 be the truth, the whole truth, and nothing but the truth so
23 help you God?

24 MR. FLOWERS: I do.

25 TONEY FLOWER, first being

1 duly sworn, testified as follows:

2 **Direct Examination by Mr. Redmond:**

3 Q. And I'm referring to you as sergeant and that was your
4 rank at Darlington PD but where are you employed at this
5 time?

6 A. At the Marion Police Department.

7 Q. And in what capacity there?

8 A. I'm lieutenant over investigations.

9 Q. And at the time of August, in August of 2014 were you
10 a sergeant at the Darlington Police Department?

11 A. Yeah, I was an investigator with the Darlington Police
12 Department.

13 Q. And at that time - - well, even before then could you
14 give us your law enforcement background?

15 A. I've been in law enforcement since 2002. I started
16 off at Florence Police Department. I worked there for
17 about five years as a patrolman. Went to Marion Police
18 Department. I started off there as patrolman and went to
19 training officer and then work investigation for about five
20 years. I was over there for a total of eight years. Being
21 from Darlington, I had the opportunity to come back to
22 Darlington and I came back for about a year and due to a
23 family situation I had to go back to Marion and I've been
24 in Marion since 2015.

25 Q. And, of course, you were with Darlington PD in August

1 of 2014?

2 A. Yes, I was.

3 Q. And did you respond to [REDACTED] Street here in the
4 City of Darlington?

5 A. I did.

6 Q. And could you tell us what did you do, at the time you
7 responded, what was your role at that particular time?

8 A. When I responded I was the last of the three
9 investigators to get there. I went to Lieutenant Valazack
10 who was my supervisor and I said what you need me to do.
11 She said I need you to go get with Joey Gibson who was
12 sitting over there on the porch, see if you can do a GSR
13 kit on him, go to a GSR kit on him. So that's what I did.

14 Q. So you are actually the one that collected the GSR kit
15 and I'll just show you that one since you actually, State's
16 Exhibit Forty, is that the kit that you were referring to
17 that was taken from the defendant?

18 A. Yes, sir.

19 Q. And were you the one that took that?

20 A. I was.

21 Q. And where again did you take that particular sample?

22 A. It was roughly about, address wise, if probably would
23 have been 120 Kirven Street in the roadway due to cars and
24 everything being around the crime scene and I had the kit
25 in the trunk of my car.

1 Q. Now, did you also recover and this is already in
2 evidence so a lot of this I'm not going to have to get into
3 to save time but I do want to talk to you about State's
4 Forty-five. Can you tell what that is, officer?

5 A. Yeah. It is what I wrote on the bag, a washcloth, I
6 believe it was, or a rag of some sort that Mr. Gibson had
7 in his hands when I approached him to discuss doing a GSR
8 kit which is a gunshot residue collection kit. He had this
9 in his hand, I believe, kinda of twisting it like he was
10 wiping his hands with it, maybe.

11 Q. And did - - and you observe this at the time you took
12 the GSR did you then decide that it would be best to also
13 take that cloth that he had?

14 A. Yeah. When I approached him I asked him, you know,
15 could you lay that down on the porch there, we just, you
16 know, went over to my car. And then later we did the
17 search warrant on the house I did collect it being that it
18 was part of, I mean, he had in his hand wiping, there may
19 be some gunshot residue may be on that.

20 Q. And just based on your investigation and in your
21 background, you told us about your law enforcement
22 background, based on that, what significance did you attach
23 to the fact that he was rubbing his hands with the cloth in
24 the context of a shooting investigation?

25 A. Doing my career I've dealt with a number of shootings.

1 Gunshot residue you will stay on your hands, it's best to
2 get it within the first two or three hours. After that,
3 sweating, raining, washing your hands or whatever can make
4 it, you know, you could lose it. You won't get it. So
5 it's important to get it as soon as possible. When he had
6 the rag, I mean, he could have been wiping his hands with
7 it. It was hot and humid that night, sweaty, so he easily
8 could have wiped anything off of his hands with that rag
9 and that's why I got the rag to see if anything was on the
10 rag that he may have wiped off on his hands.

11 Q. And was that, of course, those items that we've shown
12 you - - -

13 A. Yes.

14 Q. - - - did you, pursuant to Darlington PD's policy on
15 evidence collection, then store them for the purposes of
16 being sent to the sled lab?

17 A. Yes, I did.

18 Q. Now, and I can just I guess, in a courtesy way ask
19 about your other roles because the items are already in
20 evidence but did you collect several, to the best of your
21 recollection in the investigation, did you collect several
22 sample, I mean, several shell casings involved in this
23 case?

24 A. Yes, I did.

25 Q. And can you tell us, to the best that you can recall,

1 about how that process works?

2 A. I think the next day I went back to the scene, I can't
3 remember what officer I was with, I can't remember exactly
4 how it transpired, he found it, I found it or what but I
5 remember there was one 9 mm shell casing that was laying
6 along the fence line between, in the front yard of [REDACTED]
7 Kirven Street and I guess the next address would be [REDACTED]
8 Kirven Street. There was a spent shell casing that had
9 already been fired. And then also I found one, myself and
10 investigator Williams, found one in the county. I don't
11 remember if it was a family member or a friends house,
12 where Mr. Gibson had been shooting at earlier that morning.
13 It was the same gun, a .9 mm shell casing that someone had
14 taken us out there to show us where they were shooting at
15 earlier that day.

16 Q. Now, interestingly, let's talk about that. Let's go
17 back a day, was that the first time that you were out at
18 Willow, I guess, Willow Tree Road, looking for evidence,
19 particularly a shell casing?

20 A. No, that wasn't the first time.

21 Q. Okay. Tell us without saying what anybody said - - -

22 A. Yeah.

23 Q. - - - but did you go out there, I believe, on the 25th
24 also looking for any evidence particularly a shell casing?

25 A. I can't remember exactly what day it was. It was

1 somewhere along the 25th. Yes, myself and Lieutenant
2 Valazack went out to that location looking for shell
3 casings.

4 Q. And did you find a .9 mm shell casing at that time?

5 A. The first time I went out there, I did not.

6 Q. What kind of shell casing - - -

7 A. I think it was a .380 I believe it was.

8 Q. And, of course, based on your investigation and
9 involved in the investigation, were you looking for a .380
10 shell or .9 mm shell?

11 A. A .9 mm shell.

12 Q. Now, the next day, who went with you too, I guess,
13 help in the search for a .9 mm shell casing?

14 A. Investigator Williams.

15 Q. And was there a layperson/defendant suspect that also
16 went out with you?

17 A. Yes, there was.

18 Q. And who was that?

19 A. That was Mr. Quinton Gibson.

20 Q. And was he able to direct you to the general location
21 of that shell casing?

22 A. Yes, he was. I'm not sure if his name was Quinton or
23 Quincy. I can't remember. I remember it began with a Q.

24 Q. Quinton.

25 A. Okay.

1 Q. Now, and of course, were you able to find and recover
2 the shell casing?

3 A. Yes. After he showed us the area that they were
4 standing in, after a few minutes, myself and investigator
5 Williams did locate a .9 mm shell casing.

6 Q. Now, when - - and subsequently you leave Darlington -
7 - let me ask you this, was that, basically, the extent of
8 your role in this investigation?

9 A. Yes.

10 Q. Let me back up, I forgot to ask you something else.
11 Was there a search one, I think there was an allusion to
12 it, was there a search executed on [REDACTED] Street right
13 there near the time of the murder between the 20th, I think
14 around the 20th?

15 A. Yeah. It was probably, I was so roughly about three
16 hours after the incident occurred. We did a search warrant
17 on [REDACTED] Street.

18 Q. And was there anything of evidentiary value located at
19 that time?

20 A. The only thing I located was this rag/washcloth.
21 That's the only thing I could locate.

22 Q. Now, moving on, moving way forward to, I guess,
23 probably about January of this year, had you already left
24 Darlington PD to work in Marion?

25 A. I had.

1 Q. And did you encounter a gentleman by the name of Corey
2 Rowell, I think I'm announcing it right?

3 A. I did.

4 Q. And again, without getting into what he said, did you
5 know Mr. Rowell previously?

6 A. I did.

7 Q. And tell us the circumstances leading you into having
8 discussion with Mr. Rowell in reference to this particular
9 case? Well let me ask -- let me back up, was Mr. Rowell --
10 -- where was he housed?

11 A. He was incarcerated in the Marion County Detention
12 Center.

13 Q. And where you again, now, working in Marion?

14 A. I believe when I first noticed he was over there, I
15 think, it was right before I left Darlington maybe
16 September, mid September, early September.

17 Q. Okay. And at what point did you, I guess, reach out
18 to him? How did you end up making contact with him that
19 led to information regarding this case?

20 A. I looked on the Marion County Detention Center website
21 and so where Mr. Rowell and Mr. Gibson were actually cell
22 mates.

23 Q. And based on that, did you -- at that point, did you
24 reach out to Mr. Gibson, I mean, excuse me, Mr. Rowell to
25 inquire as to any information he had?

1 A. A few days later - - -

2 Q. And without getting into what was said.

3 A. Yeah, I did.

4 Q. And as a result of that, did Lieutenant Valazack at
5 some point, I believe in January of this year, come over to
6 Marion County and conduct an interview with Mr. Rowell?

7 A. Yeah, it was several months after but, yeah, she did
8 come over.

9 Q. And, just to be clear so the record's clear, did you
10 at any time promise Corey Rowell anything in exchange for
11 information that he might have in this case?

12 A. No.

13 Q. Did - - was he promised, coerced, or in any way
14 influenced to give you information regarding this case?

15 A. No.

16 Q. And again I believe this was around January when you
17 and, I believe, Lieutenant Valazack actually interviewed
18 Mr. Rowell, is that correct?

19 A. It was sometime, I remember it was during the winter
20 months. I don't remember the exact time.

21 MR. REDMOND: I beg the Court's indulgent.

22 THE COURT: Yes, sir.

23 MR. REDMOND: Please answer any questions that the
24 defense may have.

25 **Cross Examination by Mr. Scales:**

1 Q. Just briefly investigator. You previously mentioned
2 that you weren't sure about that date on which you
3 collected two .380 spent shell casings?

4 A. Yeah. I wasn't sure exactly the date of that.

5 Q. Would that be the 21st?

6 A. I'm not sure, I would have to look at my report.

7 Q. Okay.

8 MR. SCALES: May I approach, Your Honor?

9 THE COURT: Yes, sir.

10 Q. Do you recognize that report?

11 A. That's the one I logged into evidence so that was
12 August 24th, 21st, 2014, 11:45 a.m. is when I logged into
13 the evidence so that should be the same day.

14 Q. Okay. Thank you. And you said, just to reiterate,
15 you're part of both search teams on both search warrants
16 conducted at [REDACTED] Street?

17 A. There was only one search warrant conducted at [REDACTED]
18 Kirven Street.

19 Q. Was there not a second search after you had gained
20 more information from Mr. Rowell?

21 A. I wasn't over here then so I didn't conduct so I don't
22 know.

23 MR. SCALES: I beg the Court's indulgence.

24 Q. But to your knowledge, no gun was ever found?

25 A. No.

1 Q. The murder weapon was never - - -

2 A. No.

3 MR. SCALES: One second, Your Honor.

4 THE COURT: Yes, sir. Nothing further, Your Honor.

5 MR. REDMOND: I beg the Court's indulgence. No
6 redirect at this time, Your Honor.

7 THE COURT: All right. You can step down. Thank
8 you, sir.

9 MR. REDMOND: And, Your Honor, I need to recall
10 investigator Williams real briefly.

11 THE COURT: That's fine. Yes, sir.

12 MR. REDMOND: On a matter I forgot to ask him about.

13 THE COURT: Yes, sir. No problem.

14 CLERK: You're still under oath.

15 THE COURT: You're still under oath.

16 **Redirect Examination by Mr. Redmond:**

17 Q. Let's go back to State's Forty-eight.

18 A. Okay.

19 Q. And I forgot to ask you this in out of abundance of
20 caution I wanted to recall you just to cover this. Was
21 State's Forty-eight actually taken at the same time that
22 the other exhibits were taken to sled for examination?

23 A. No, sir, it was not. It was carried at a later date.
24 What happened is, you carry the other stuff, all the other
25 items on the actually, the next day which is the 21st in

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1 this item was carried at a later date.

2 Q. And was that sent to sled, I believe, last Thursday if
3 I'm not mistaken. I think. Did you personally carry it to
4 sled last Thursday?

5 A. It was personally carried by myself to sled on
6 7/14/2016.

7 Q. Last Thursday?

8 A. Yes, sir.

9 Q. And again without getting into the contents of the
10 report, was that based on your knowledge of the case, was
11 that item able to be tested and was a report generated,
12 without getting into the contents of the report?

13 A. Yes, sir. And the report was sent back and should be
14 at your office.

15 Q. Okay. Thank you.

16 MR. REDMOND: That would be all the questions I have.
17 Please answer any question they may have.

18 THE COURT: Mr. Scruggs?

19 **Re-cross Examination by Mr. Scruggs:**

20 A. Just so I'm clear, State's Number Forty-eight is the
21 .9 mm shell casing down out in the country?

22 A. Yes, sir, it is.

23 Q. That was found on August 26, 2014?

24 A. That is correct.

25 Q. And it was not transported to sled until last week?

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1 A. That is correct.

2 MR. SCRUGGS: Nothing further.

3 **Redirect Examination by Mr. Redmond:**

4 Q. And just real quick and I meant to ask you this, we
5 deal with the human system, right?

6 A. Yes, sir.

7 Q. Was this an oversight? Was there anything malicious
8 in not going to sled or was it just a simple oversight?

9 A. A simple oversight.

10 Q. And does that happen from time to time?

11 A. Yes, sir, it does.

12 Q. But again was it packaged in such a way that it was,
13 it would not have been accepted at sled had it been
14 tampered?

15 A. It was, still packaged, sealed, signed and it still had
16 to be that way for sled to accept it. Yes, sir.

17 Q. Was it stored in evidence pursuant to your procedures
18 up until the time it was taken last week?

19 A. It was stored in evidence and nobody could not get
20 into it.

21 Q. And bottom line, was the evidence, was the seal
22 broken, the evidence tampered or anything?

23 A. No, sir, it was not.

24 Q. And if it was sealed - - if the seal was tampered with
25 or the package was tampered with, what would've happened to

1 sled?

2 A. We would be bringing it right back. They would not
3 accept it.

4 Q. Thank you.

5 MR. REDMOND: That would be all the questions I have.

6 THE COURT: Mr. Scruggs?

7 MR. SCRUGGS: Nothing further.

8 THE COURT: Thank you, sir. You can may go.

9 MR. WILLIAMS: Thank you.

10 MR. REDMOND: And, Your Honor, I think that will
11 conclude our witnesses for today.

12 THE COURT: We don't have anything scheduled for in
13 the morning, do we? The reason I ask, I don't want to
14 bring this jury in like I did this morning, they had to sit
15 there for an hour.

16 MR. REDMOND: May we approach? I just became aware
17 of something.

18 (Whereupon, a bench conference was held off the record)

19 THE COURT: All right. We do have a couple of
20 matters we have to deal with tomorrow morning. This
21 happens all the time when there is only one judge. If we
22 were in Charleston, Greenville, or Columbia there would be
23 another judge here and could be dealing with these other
24 matters that I'm having to deal with now, the nature of the
25 beast. That all being said, I want you back in the jury

1 room at 9:45. I hate to start that late but 9:45, we'll
2 try to get started promptly at 10:00. We'll try to get all
3 of these matters disposed of ahead of time so we can start
4 at 10:00. Again, I have to caution you not to talk about
5 the case to anybody, when you leave here or when you go
6 home, anybody on the street. I haven't seen any reporters
7 here, newspaper, or radio or TV, you probably won't have a
8 problem with that issue as far as seeing it on TV but for
9 some reason if somebody did say something about it, turned
10 the TV off and don't pay attention to it, if that is the
11 case. Don't let anybody talk to you about, hey, how is
12 jury duty going, you know, what are y'all doing up there.
13 It's nobody's business but yours as to what's going on.
14 You can talk to them all about it when the cases is all
15 over and the case is decided but while we're in the middle
16 of the trial, you cannot discuss this with anybody and do
17 not begin any deliberation, again, until we have concluded
18 the trial. All right. I hope you have a good evening, see
19 you tomorrow morning. Thank you.

20 (Whereupon, the jury exits the courtroom at 5:22 p.m.)

21 THE COURT: We are off the record.

22 (Whereupon, we have adjured for the day)

23 (Whereupon, once again we went back on the record)

24 THE COURT: We are back on the record.

25 MR. REDMOND: I apologize, judge. We have an issue -

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- -

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THE COURT: We have to go back on the record. Have a seat. Be quiet, Mr. Gibson, please.

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THE COURT: Do we have it? I mean, it's here?

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MR. REDMOND: It's here. And I was just looking through the list that the court reporter, Mrs. Carter, was showing me and it doesn't appear that exhibit was actually or formally introduced or admitted. But it was published as a defense exhibit.

19

20

MR. SCRUGGS: Your Honor, we would just move to enter it into evidence.

21

MR. REDMOND: That solves that.

22

23

THE COURT: No objection. It is admitted into evidence.

24

MR. REDMOND: Thank you, judge.

25

THE COURT: Thank you, gentlemen.

1 COURT REPORTER: Do you remember if it was Thirty-
2 six?

3 MR. SCRUGGS: What exhibit number is that?

4 MR. REDMOND: I think that was one.

5 COURT REPORTER: Thirty-six or number one?

6 THE COURT: Thirty-six or number one was never
7 admitted.

8 COURT REPORTER: Number Thirty-six was never
9 admitted but number One is - - -

10 THE COURT: So Thirty-six, is that the one I just
11 admitted?

12 MRS. PARKER: That's the one - - no, you're admitting
13 - - Thirty-six is the one I marked in error.

14 MR. REDMOND: That's right. That's the one we marked
15 in error and we picked number Thirty-seven.

16 MRS. PARKER: And so then I marked Thirty-seven.

17 MR. SCRUGGS: Thirty-seven?

18 MR. REDMOND: So number Thirty-six we're not going to
19 worry about.

20 THE COURT: So it's the one we just did.

21 MR. SCRUGGS: Yeah.

22 MRS. PARKER: So Defense one.

23 MR. REDMOND: Yeah.

24 MR. SCRUGGS: Defense One is the one we just talked
25 about, right?

1 MRS. PARKER: Yes.

2 MR. SCALES: It's just with Cauthen.

3 MRS. PARKER: That's the one I marked into error,
4 Thirty-six.

5 COURT REPORTER: This is not Thirty-six. This is
6 number one.

7 MRS. PARKER: I had you marked with but then he
8 didn't even testify so it's not in. State's One is not in.

9 COURT REPORTER: So what is in number Thirty-six or
10 number One?

11 MRS. PARKER: Thirty six is not in either. One is
12 not in. Thirty-six is not in?

13 COURT REPORTER: But - - -

14 MR. SCRUGGS: Thirty-seven is in.

15 COURT REPORTER: Okay. That one is already in
16 evidence. Right.

17 CLERK: So One and Thirty-six are not in?

18 MRS. PARKER: State's Thirty-six and One are not in.

19 CLERK: I don't even know which ones are in the
20 right envelopes.

21 MRS. PARKER: I keep them straight. I've got the
22 mark. If I play them I put them back.

23 (Whereupon, the Disc- Cauthen has been marked and entered
24 into evidence as Defendant's Exhibit No. 1)

25 (Whereupon, court is adjourned for the day at 6:03 p.m.)

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(Whereupon, the Court is back on the record at 10:00 a.m.)

THE COURT: Mrs. Parker, were you inquiring about witnesses?

MRS. PARKER: Yes, Your Honor. Just to make sure there was none in the office.

THE COURT: Are there any witnesses in the courtroom in the trial of the State versus Joey Gibson, if so, stand up please.

(Whereupon, no one is standing)

THE COURT: If you are a witness and you do not leave the courtroom and wait to be called in later you will not be allowed to testify the time you are called.

(Whereupon, the defense waiting on the defendant to enter the courtroom)

THE COURT: Yes, sir, Mr. Scruggs.

MR. SCRUGGS: May it please the Court? Your Honor, we're joined in the courtroom by Mr. Gibson now. We would like to put on the record something that occurred this morning. When Mr. Scales and I arrived we were walking past the holding cell where Mr. Gibson is being held before court begins and during breaks and other things, we noticed another detention guard sitting out there who was not familiar to us. We did not think anything of it. We knew that there was a scheduled hearing this morning involving

1 the Department of Mental Health and thought that, that
2 person was detained or something like that. Came out to
3 the courtroom and we were discussing the case with
4 solicitor Foard. Somehow it came up that we all realized a
5 potential state's witness who is also an inmate was placed
6 in the same cell as Mr. Gibson. His name is Corey Rowell.
7 And all three of us immediately rushed to the holding cell
8 and separated both of them. Your Honor, we're not exactly
9 sure verbatim what was discussed. We do believe there were
10 some discussions about the case and about what Mr. Rowell
11 may say. I don't believe there were any threats made but
12 it is obviously a big error that a state's witness was
13 placed in the same cell as the defendant. I believe this
14 was just an oversight. It was an intentional but obviously
15 raises huge concerns because we believe that this person
16 will testify that our client admitted to being involved in
17 the crime he's being tried for today. This Court has
18 ordered the sequestration of all witnesses. This obviously
19 is a huge concern to the defense and addition to putting
20 all this on the record, we would ask the Court to exclude
21 any and all testimony by Mr. Corey Rowell. Thank you.

22 THE COURT: Thank you, Mr. Scruggs. Anything from
23 the Solicitor?

24 MR. REDMOND: Yes, Your Honor. May it please the
25 Court? I actually talk with Mr. Rowell and as counsel, Mr.

1 Scruggs has indicated, it was inadvertent, shouldn't have
2 happened. It is one of those things that, unfortunately,
3 happens. Thankfully, there was not, from talking with the
4 witness, there was not an adversarial exchange. It
5 actually was, and just for the record, make sure the record
6 is clear, he informs me that the defendant indicated
7 something along the lines that they're trying to use this
8 statement against him. That's what he told Mr. Rowell.
9 But they didn't, and I asked Mr. Rowell, there wasn't any
10 threats or anything communicated and by that time - - it
11 was not a long engagement, and then by that time as Mr.
12 Scruggs indicated, they had them separated. We would
13 submit that there is no prejudice, obviously, we have no
14 intentions of using even that much that was said between
15 the two of them because I think that raises a clear mesne
16 issue so I would not even seek to mention to this jury that
17 they even had any encounters with one another. The state
18 would not even get into that. But as it relates to the
19 encounter, as it actually took place, we would submit that
20 one, it's not prejudicial. Two, that because the
21 sequestration is more or less to keep witnesses from being
22 able to hear other witnesses in the trial. I don't think
23 this is the sequestration issue, per se, because he didn't
24 hear any testimony during the course of the trial. It has
25 been remedied. Mr. Rowell is now in the probation office

1 with the Marion County guard so that, obviously, during
2 breaks these two will not be, will not able to encounter
3 each other. And I would go a step further and I'm sure the
4 staff, the security staff are aware that they don't even
5 need to be in the same hallway at the same time, it needs
6 to always be, make sure it's clear, from each of them. But
7 with that, Your Honor, I submit that there isn't any
8 prejudiced that occurred in this case that would cause us
9 not to be able to call him as a witness on everything that
10 he has given a statement to on previously. Obviously, as I
11 said, no intention of even mentioning it to them.

12 THE COURT: Well, this is unfortunate. I don't
13 know how it happened. The term inadvertently was used but
14 it shouldn't have ever happened. I hope this will be a
15 lesson to the detention facilities and personnel, they need
16 to make sure in the future not to house or putting the same
17 people in a holding cell that are involved in an
18 adversarial position to one another. That being said, it's
19 more of a security issue to me than anything else, what
20 took place.

21 MR. REDMOND: And not to interrupt, but in earnest to
22 the security staff, and you know, Your Honor, I'll fall on
23 the sword when the need arises. I was just asking Mrs.
24 Parker, is not the security staff's fault, it's our fault
25 because they were not aware of the fact that this potential

1 problem was coming in today. I just want to make that
2 clear. That's actually on us.

3 THE COURT: I understand that but they also need to
4 double check any time they got somebody coming from another
5 county, bringing somebody over, they need to double check
6 and make sure it's not the situation.

7 MR. REDMOND: Yes, sir.

8 THE COURT: I mean, I caution everybody about that.

9 MR. REDMOND: Yes, sir.

10 THE COURT: Your office will and I appreciate you
11 falling on the sword but it's a concern, is a security
12 concern for to me more than anything else. I mean, you
13 know these two are in an adversarial position. It could
14 have been trouble in there and it could've spilled out for
15 everybody else so that's why I'm concerned about it, from
16 the security standpoint. Now, as far as the trial of this
17 case I don't see any problem with any violation of this is
18 sequestration order, that's to keep witnesses from hearing
19 other witnesses testify. Mr. Rowell doesn't know what
20 anybody testified to in again and I appreciate your
21 recognizing that, Mr. Redmond, that we're not going to get
22 into anything about that they were together this morning.
23 But I don't see that the defendant has been prejudiced in
24 any way, quite frankly, by the fact they were put in the
25 same room inadvertently. If anybody was prejudiced it

1 might be you, the state, if anybody. 'So I'm going to deny
2 your motion to exclude any testimony of Mr. Rowell, Mr.
3 Scruggs, I do caution the state, let's don't get into the
4 fact and I caution the defendant too, we're not going to
5 get into the fact that they were together this morning, all
6 right?

7 MR. REDMOND: Yes, sir, Your Honor.

8 THE COURT: With that said, are y'all ready to
9 proceed?

10 MR. SCRUGGS: Just one more thing briefly, Your
11 Honor. I believe the state is about to call a witness by
12 the name of Cecilia Green. My understanding by looking at
13 the public index, she has pending charges one of which is a
14 felony that's being prosecuted by the solicitor's office.
15 Obviously, this is not, it's not a conviction yet or may
16 never be, but we believe that it is relevant that the
17 defendant should have the opportunity to cross her on the
18 fact that she has a pending charge that is being prosecuted
19 by the state in this case. It's relevant to show any bias
20 or prejudice under Rule 608(c). We believe that we should
21 have the opportunity to cross-examine her about that.

22 MR. REDMOND: And, Your Honor, under the rules and
23 all candor having been on both sides of the table in my
24 career, we cannot contest that he's entitled to that and I
25 think he hit it on the head when he, when Mr. Scruggs,

1 mentioned the fact that it goes to bias. I think for me to
2 stand here and argue what kind of waste the Court's time
3 and be setting us up possibly pending on the outcome of the
4 case, Your Honor, we contend to stipulate that he is
5 entitled to do that.

6 THE COURT: All right. I appreciate the state
7 doing that but I will certainly allow him to go into that,
8 okay.

9 MR. SCRUGGS: Can I - - I'm going to give the state
10 the warrant numbers we have, that we looked up, and make
11 sure those are correct.

12 THE COURT: Okay. Anything else before we bring
13 the jury in?

14 MRS. PARKER: No, Your Honor.

15 MR. SCRUGGS: No, sir.

16 THE COURT: All right. Bring in the jury.

17 (Whereupon, the jury enters courtroom at 10:22 a.m.)

18 THE COURT: Good morning, ladies and gentlemen. We
19 didn't keep you back there quite as long as we did
20 yesterday but we had some legal issues to deal with in the
21 actual trial of this case which may have prevented you from
22 being sent out later on in the trial. We weren't wasting
23 your time, anyway. With that being said, you are ready to
24 presume the trial of the case. Solicitor, you may call
25 your next witness.

1 MRS. PARKER: Your Honor, this time the state calls
2 Ms. Cecilia Green.

3 THE COURT: Cecilia Green.

4 CLERK: If you'll come forward to be sworn. You
5 swear the testimony you give this court be the truth, the
6 whole truth, and nothing but the truth so help you God?

7 MS. GREEN: I do.

8 THE COURT: Speak into the microphone, ma'am so
9 we'll be able to hear you.

10 MS. GREEN: Yes.

11 CECILIA GREEN, first being
12 duly sworn, testified as follows:

13 **Direct Examination by Mrs. Parker:**

14 Q. Good morning.

15 A. Good morning.

16 Q. Would you please state your full name for the Court
17 please?

18 A. Cecilia Green.

19 Q. And tell us, where do you live?

20 A. 414 North Main Street.

21 Q. Is that in the town of Darlington?

22 A. Yes, ma'am.

23 Q. And where were you living in August of 2014, two
24 summers ago, about two years ago?

25 A. Kirven Street.

1' Q. What was your address on Kirven Street?

2 A. I don't remember.

3 Q. Let me ask you this, did you live right across the
4 street from the defendant's grandmother?

5 A. Yes, ma'am.

6 Q. And what was her name?

7 A. The defendant's grandma?

8 Q. Yes, ma'am.

9 A. I think Ms. Christine.

10 Q. Ms. Christine. Okay. In August of 2014, was anybody
11 else living with Ms. Christine?

12 A. I'm not sure.

13 Q. Was the defendant living with Ms. Christine back in
14 August of 2014 at the time this incident took place?

15 A. I'm not sure.

16 Q. Do you remember what you were doing on the night of
17 August 14, 2014?

18 A. I was attending my friend Grandma's setting up.

19 Q. And where was that setting up at?

20 A. On 151.

21 Q. And approximately what time did y'all go to the
22 setting up?

23 A. I would say around two in the afternoon.

24 Q. And what time, and I don't know what all you did
25 between then and when you went home, but what time did you

1 get home that night?

2 A. I don't remember.

3 Q. Do you remember how you got home?

4 A. My cousin, Ivory.

5 Q. So Ivory gave you a ride home, is that correct?

6 A. Yes, ma'am.

7 Q. Was it still daylight out or was it dark?

8 A. It wasn't on the way dark. It was just the dark.

9 Q. First dark. Now, I want you to tell me when Ivory --
10 you said Ivory took you home, would you tell the jury about
11 that, about what you did as soon you got out the car,
12 anything you saw or observed?

13 A. When I got home the me and Ivory stood outside and
14 talked probably about five minutes. And she was supposed
15 to take me to go get my baby milk but she was already gone.
16 So when I got in the house and use the bathroom I was
17 coming back down the hallway and my brother was meeting me
18 down the hallway --

19 Q. I'm going to pause you right there. Did you see
20 anybody, I want to ask you this, did you see anybody in the
21 yard, the house across the street, Ms. Christine's house,
22 did you see anybody in the front yard when Ivory brought
23 you home?

24 A. Yes, ma'am.

25 Q. Tell the court who you saw in the front yard?

1 A. Joey.

2 Q. And is that the defendant that seated at the table
3 here in the courtroom?

4 A. Yes.

5 Q. Do you see him here today?

6 A. Yes, ma'am.

7 Q. What was he doing in the front yard?

8 A. He was just sitting outside by himself.

9 Q. All right. And you stated that you and Ivory y'all
10 talk for approximately five minutes, then he went inside -
11 - -

12 A. Yes, ma'am.

13 Q. - - - your home. Okay. Pick back up there. Tell the
14 jury what happened when you got inside your home.

15 A. I use the bathroom and after I finish using the
16 bathroom I was walking down the hall and my brother was
17 with my baby and he said somebody to shot through the
18 window. And I was like, what, somebody just shot through
19 the window? So I bypassed him and he went straight to the
20 back and when I got to the window I looked out the window,
21 my cousin was pulling up. And he was like, open the door
22 somebody shooting. So when I open the door, they came in
23 and I went out. When I got to the end of the street
24 Quinton and Antonio was coming towards me and I was like,
25 what happened? Was somebody shooting at y'all? They was

1 like, they didn't know and they took off running down the
2 street.

3 Q. Let me stop you right there. When you first saw
4 Quinton and Antonio when you step out of your house, what
5 direction were they coming from? Where were they coming
6 from?

7 A. Out of the backyard.

8 Q. All right. Go ahead and continue. When you first
9 stepped outside the front yard, when you stepped out, - -
10 is your house real close to the street?

11 A. You can say that.

12 Q. So when you walk out your front door and you just
13 stated that you saw Quinton and Antonio run from the
14 backyard, from the direction of the back yard, did you see
15 anybody else in the front chart at that time?

16 A. Joey.

17 Q. In what was Joey doing?

18 A. Just standing there. And when they took off running,
19 he took off running.

20 Q. When the defendant took off running, which direction
21 did he run?

22 A. To my left, around the backyard.

23 Q. Now, what else did you see after you saw - - you said
24 you seen them run, you saw Joey run around the left side of
25 the house, what else did you see?

1 A. When I turned to go back into the house I seen Mr.
2 Smiley's body in the middle of street. I went to his body
3 and he was, you know, gasping for air and I was like, okay,
4 hold on-I'm calling 911. And I was like, don't move, don't
5 move, the ambulance is on their way. He took three breaths
6 and that was it.

7 Q. And where approximately was he located in the street
8 with respect to - - -

9 A. His body was in the street and his feet was still in
10 Ms. Christine yard.

11 Q. With his feet right there in the yard?

12 A. (Shaking of the head, yes)

13 Q. Was he face up or face down?

14 A. Face up. On his side.

15 Q. He was on his side, okay. And who do you know - - did
16 anybody call for help?

17 A. If I'm not mistaken his name was Mr. Harry.

18 Q. So you also saw him out there as well?

19 A. He walked up to me. He was like, you call the
20 ambulance? I said, yeah, I done called them already.

21 Q. And I want to - - did you see anyone else when you
22 stepped outside? How long did the police - - how long did
23 it - - let me ask you this, disregard that question.
24 Strike that question. How long was it before the police
25 got there?

Cecilia Green- Direct Examination by Mrs. Parker

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1 A. I would say about ten minutes, maybe.

2 Q. I'm going to show you photographs.

3 MRS. PARKER: I beg the Court's indulgence just a
4 moment.

5 THE COURT: Yes, ma'am.

6 MRS. PARKER: Your Honor, permission to approach the
7 witness?

8 THE COURT: Yes, ma'am.

9 MRS. PARKER: Your Honor, may I asked the witness to
10 step down so we can show this photograph to the jury?

11 THE COURT: Yes, ma'am. Ms. Green, you may step
12 down.

13 MRS. PARKER: For the record I'm showing her what's
14 marked State's Exhibit Three.

15 Q. Do you recognize the residence in this photograph?

16 A. Yes, ma'am.

17 THE COURT: You have to speak up now please, ma'am,
18 Ms. Green.

19 A. Yes, ma'am.

20 Q. And whose residences that?

21 A. Ms. Christine.

22 MRS. PARKER: Can everybody hear?

23 COURT REPORTER: She said Christine?

24 THE COURT: Can you hear Madam Court Reporter?

25 MRS. PARKER: Repeat yourself.

1 A. Ms. Christine.

2 THE COURT: You've got to speak up. This lady's
3 got to hear everything you say, okay. She's taking down
4 what we say. So speak loudly and clearly.

5 Q. Where is your house with respect to this house?

6 A. Right across the street.

7 Q. And I want you show the jury, I'm going to hold this
8 photograph, the defense can see, when you stepped out your
9 front door where did you see Quinton and Antonio running
10 from?

11 A. Quinton and Antonio was coming from the right and Joey
12 was standing right here.

13 Q. And what direction - - -

14 A. On the outside of the porch.

15 Q. What direction did he go?

16 A. He went this way to the left and ran in the back.

17 THE COURT: Can y'all see? Wait a minute. Mrs.
18 Parker, you're going to have to move around so everybody,
19 these jurors can't see.

20 MRS. PARKER: Okay.

21 THE COURT: You may have to do it more than once.
22 Can you do it on the overhead?

23 MRS. PARKER: No, sir, I can't get into my computer
24 again this morning. They reset the password. I apologize.

25 THE COURT: You need to show it to everybody - - -

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1 MRS. PARKER: If Mr. Foard, can he come - - he might
2 get us on. He spoke with him yesterday morning, if that's
3 not too much of a disruption.

4 THE COURT: I the jury to be able to see.

5 MRS. PARKER: Because it would be, if I could get it
6 up there, would be better.

7 (Whereupon, the solicitor took a moment to get her computer
8 straight)

9 MRS. PARKER: We're going to put it up on the wall,
10 Your Honor.

11 THE COURT: Okay. Good. She still may need to
12 point to it on that picture.

13 MRS. PARKER: Yes, Your Honor.

14 THE COURT: Do we have a pointer or a laser thing
15 or something?

16 MRS. PARKER: I do, Your Honor.

17 (Whereupon, the solicitor explains to the witness how to
18 use the laser)

19 Q. Now, I'm going to go back to my questions, when you
20 stepped outside after you the shots, where did you see the
21 two - - where did you see Antonio and Quinton running from?

22 A. To my right, coming from this side.

23 Q. And where did you see the defendant?

24 A. Standing right here.

25 COURT REPORTER: Okay, you have speak up for me.

1 MRS. PARKER: Speak up a little bit, Ms. Green.

2 THE COURT: You've got your back to the court
3 reporter that's why you've got to speak loudly and clearly
4 so she can hear what you're saying.

5 A. Quinton and Antonio were coming from the side. And
6 Joey was standing right here, he was going around the
7 house, to the left.

8 Q. Thank you, Ms. Green. That's all. And I understand
9 you called - - you called Quinton and Antonio here by name,
10 did you know them?

11 A. Yes, ma'am.

12 Q. And you also knew the defendant?

13 A. Yes, ma'am.

14 Q. Had you had any interaction and I warn you I'm not
15 trying to get into anything about the defendant, I'm just
16 asking had you had any prior interaction with the
17 defendant, neighborly interaction with him being across the
18 street?

19 A. Every now and then we would talk or speak each other.
20 That would be it.

21 Q. And I'm a go back to when you first walk into the
22 house, you stated you walked - - Ivory was dropping you
23 off, y'all spoke for a minute and then you walk into the
24 house. How long was it, you think, you were in your house?
25 You stated to the jury that you went to the restroom, how

1 long do you think you were in the restroom?

2 A. Not even two minutes.

3 Q. And what happened as soon as you got done using the
4 restroom?

5 A. My brother was bypassing me with my baby in his hands.

6 Q. Let's talk a little bit about that, how old is your
7 baby?

8 A. He's three now.

9 Q. How old was the baby at that time?

10 A. Nine months, I want to say.

11 Q. Was there anyone else at the residence other than your
12 brother and your baby at that time?

13 A. My mother and my other children.

14 Q. How many other children were in your residence?

15 A. Five at the time.

16 Q. And did you have any damage to your residence as a
17 result of the shooting?

18 A. Yes, ma'am.

19 Q. Tell the jury what happened?

20 A. It was a big bullet hole in the window.

21 Q. And what window, to what room was this window in?

22 A. The living room window.

23 Q. Was that on the front of your house?

24 A. Yes, ma'am.

25 MRS. PARKER: I beg the Court's indulgence just a

1 moment.

2 THE COURT: Yes, ma'am.

3 Q. Ms. Green, I'm going to go ahead and ask you this, do
4 you currently have criminal charges pending in Darlington
5 County?

6 A. Yes, ma'am.

7 Q. In that stems from some trouble you got in a few
8 months ago, is that correct?

9 A. Yes, ma'am.

10 Q. Have you had any discussions with me or any employee
11 or representative of my office about any deal we promise
12 you anything here today to testify?

13 A. No, ma'am.

14 Q. And is this matter pending, the one you're in trouble
15 with fore now? Was that matter pending at the time that
16 all this happened in August of 2014?

17 A. No, ma'am.

18 Q. Those just happen in the last few months?

19 A. Yes, ma'am.

20 MRS. PARKER: Please answer any question the defense
21 may have.

22 **Cross Examination by Mr. Scales:**

23 Q. Ms. Green, you said that your sister drove you home
24 that night?

25 A. My cousin.

1 Q. Your cousin. And that's Ivory?

2 A. Yes, sir.

3 Q. So you were in the house for, I think you said on your
4 previous testimony, for approximately, or my correction,
5 you were standing outside for five minutes and then you
6 went into the house?

7 A. Mmm, hmm.

8 Q. And you said you were in the bathroom for not even to
9 minute?

10 A. Correct.

11 Q. So you ran back outside the house when you heard
12 gunshots, isn't that right?

13 A. Yes, sir.

14 Q. So you didn't actually see the shooting?

15 A. No, sir.

16 Q. And you spoke with officers that night, do you
17 remember that?

18 A. Yes, sir.

19 Q. An officer, Melton or Rodriguez, maybe?

20 A. I don't know their name.

21 Q. Do you remember telling them when you pulled up that
22 Petey was the only one sitting in the yard?

23 A. Yes, sir.

24 Q. And when you came outside and I'm using your words, "I
25 didn't see Petey no more." Do you remember saying that?

1 A. No more, when?

2 Q. I'm just saying what we have on body camera.

3 A. Oh, okay.

4 Q. Do you remember telling an officer that?

5 A. After they ran down the street I didn't see them no
6 more. When Petey ran in the backyard I didn't see him no
7 more.

8 Q. You said, when you came outside you didn't see Petey.
9 no more, is that correct?

10 A. No.

11 Q. Would you like me to play that footage to refresh your
12 memory?

13 A. It doesn't matter.

14 MR. SCALES: Your Honor, I'd like to - - -

15 THE COURT: Sure.

16 MR. SCALES: - - - play that. Has that been marked
17 as defense exhibit?

18 MR. SCALES: Yes.

19 MRS. PARKER: Because we have Mr. Melton's in.

20 MR. SCALES: This is marked as Defense Exhibit Three
21 and this is a body cam off officer Melton.

22 (Whereupon, the video was played for the jury)

23 Q. I'm just pausing that the second, Ms. Green. Is that
24 you in the orange shirt talking?

25 A. Yes, sir.

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1 MRS. PARKER: When you started it's like she's
2 talking.

3 MR. SCALES: Yeah.

4 MRS. PARKER: Let me back it up a little bit. Just a
5 hair.

6 MR. SCALES: Just tell me when..

7 MRS. PARKER: That's good. Just a hair more. I
8 don't think she's talking yet. No. No. Forward.

9 MR. SCALES: Okay.

10 MRS. PARKER: You went to far back. I apologize.
11 Right there. I mean, at the end of that.

12 MR. SCALES: Okay.

13 MRS. PARKER: That's good.

14 (Whereupon, the video was played for the jury)

15 Q. Cecilia, the person who was just talking in the yellow
16 shirt, do you know who that is?

17 A. The girl?

18 Q. Yeah.

19 A. Yes, sir.

20 Q. Who is that?

21 A. My sister, Cadaver.

22 THE COURT: Speak up please.

23 A. Cadaver.

24 Q. Cadaver. What's her last name?

25 A. Abraham.

1 (Whereupon, the jury was played for the jury)

2 Q. Ms. Green, so when I just ask you about you saying,
3 when I pulled in Petey was the only one sitting in the
4 yard. When I came outside I didn't see Petey no more.
5 Isn't that what you just said?

6 A. (Shaking of head, yes)

7 THE COURT: Say yes or no.

8 A. Oh, yeah.

9 (Whereupon, the vide was played for the jury)

10 Q. And then you went on to repeat that statement again to
11 officer Melton, that when you came outside you didn't see
12 Petey no more, isn't that right?

13 A. I said that but I should have said, after he ran I
14 didn't see him no more.

15 Q. So you acknowledge meeting with officers and talking
16 about this incident the night of, right?

17 A. Mmm, hmm.

18 Q. And then you also met with them a couple of days
19 later, right, you went down to the station?

20 A. Oh, yes, sir.

21 Q. Is that on the 22nd?

22 A. I don't remember when it was.

23 Q. The 20th, the day after?

24 COURT REPORTER: Did you answer?.

25 THE COURT: Wait a minute. Not sure if she

1 answered.

2 MR. SCALES: I'm sorry. Did she answer?

3 THE COURT: She didn't answer.

4 Q. You met with them the day after?

5 A. Yes.

6 Q. And then at that point, you say when you ran outside
7 again, you saw Quinton and Antonio Gregg running, is that
8 correct?

9 A. Yes, sir.

10 Q. And then you say you saw Joey run around the right
11 side of the house, is that right?

12 A. The left side, it would be my left side.

13 Q. Okay. And then you say - - you go on to say that he
14 must've went in the back door because you didn't see him
15 come back to the front door, is that right?

16 A. Correct.

17 Q. And then when you go on - - further you go on to say,
18 that he was in the house because you were outside watching
19 the whole thing from behind the yellow tape, right? And
20 you said that - - I'm sorry, answer that question.

21 A. Can you repeat that please?

22 Q. You said you view the aftermath of Petey coming to the
23 door when officers came to the door, right?

24 A. Yes, sir.

25 Q. And that's why you say he went back in the house

1 through the back door?

2 A. Yes, sir.

3 Q. And then - - -

4 MR. SCALES: I beg the Court's indulgence.

5 Q. - - - and you give all these statements you said
6 earlier, the police were there in ten minutes?

7 A. Yes, sir.

8 Q. Is that what you said? Okay. So this was fresh in
9 your mind, right?

10 A.. The night of?

11 Q. Yep.

12 A. Yes, sir.

13 Q. You also said as you're questioned by the solicitor's
14 office that you have some pending charges?

15 A. Yes, sir.

16 Q. One being petty larceny?

17 A. Yes, sir.

18 Q. Assault and battery in the third degree?

19 A. Yes, sir.

20 Q. Strong arm robbery?

21 A. Yes, sir.

22 Q. And that's a felony, do you know that?

23 A. I was told.

24 Q. And you can face up to fifteen years for that, right?

25 A. Yes, sir.

1 Q. And you weren't offered anything for your testimony
2 here today?

3 A. No, sir.

4 Q. But you're being prosecuted by the same office,
5 Darlington County, right?

6 A. Yes, sir.

7 MR. SCALES: I beg the Court's indulgence.

8 THE COURT: Yes, sir.

9 MR. SCALES: Nothing further.

10 THE COURT: Mrs. Parker?

11 MRS. PARKER: Briefly, Your Honor.

12 **Redirect Examination by Mrs. Parker:**

13 Q. Ms. Green, when you gave that statement on the streets
14 out there and that statement you gave officers at the
15 police department the next day, were the charges you have
16 now pending at that time?

17 A. No, sir. I mean, no, ma'am.

18 Q. That's all right. So, basically, when you came
19 forward and you let officers know what you saw and gave
20 information about this case, the trouble you have pending
21 now, was not pending, was it not?

22 A. No, sir. No, ma'am.

23 Q. The charges you have now?

24 A. Okay. I just wanted to clarify that you had given a
25 statement and you were helping the police with this

1 incident way before, long before, you were ever in any
2 trouble yourself, is that right?

3 A. Yes, ma'am.

4 Q. And I'm going to ask you again about going to - - -

5 MRS. PARKER: I beg the Court's indulgence just a
6 moment.

7 Q. - - - going to the Darlington Police Department the
8 day following this incident but I heard you say on the
9 video something about a written statement, did not want to
10 write a statement that night?

11 A. No, ma'am.

12 Q. And would you tell the jury why?

13 A. I did feel the need to write nothing.

14 Q. Were your nerves bad that night?

15 A. I was very upset.

16 Q. What kind state of mind were you in?

17 A. I was shocked.

18 Q. And for what reasons?

19 A. A man just died in front of me.

20 Q. Did you think - - was it your testimony earlier you
21 believe he took his last breaths in front of you?

22 A. Yes, ma'am.

23 Q. And were you concerned for your children safety with
24 that bullet that went through your window?

25 A. Yes, ma'am.

1 Q. But you did give information, we all heard it on the
2 video, you said, I'll talk with them later. You can get my
3 information and I'll come in and talk with them later,
4 isn't that what you said?

5 A. Yes, ma'am.

6 Q. And so did you do that? Did you talk to the police
7 later?

8 A. Yes, ma'am.

9 Q. And where was that at?

10 A. Darlington County - - city hall.

11 Q. City hall, the police department?

12 A. Yes, ma'am.

13 Q. Do you remember who you met with?

14 A. Moe.

15 Q. Moe, okay. Lieutenant, they call her Moe, that's
16 Lieutenant Valazack, and did she question you about what
17 you saw and what you observed on the night of the incident?

18 A. Yes, ma'am.

19 Q. And do you feel like what you told her on August 20th
20 is what you're telling us here today?

21 A. Yes, ma'am.

22 Q. You told her - - did you tell her that you felt like
23 you identified seeing Joey, seeing the defendant that's on
24 trial here today, prior to the shooting when Ivory was
25 dropping you off, is that correct?

1 A. Yes, ma'am.

2 Q. And you also saw him and placed him in the yard and
3 running around the house directly after the shooting?

4 A. Yes, ma'am.

5 Q. Is that what you told Lieutenant Valazack?

6 A. Yes, ma'am.

7 Q. And that's also your testimony here today?

8 A. Yes, ma'am.

9 Q. Now, in the video and Mr. Scales played that back for
10 you because there was one little blur where you said, "I
11 didn't see Petey no more", would you give the court a
12 little bit of context, when you made that statement, "I
13 didn't see Petey no more," first of all, who is Petey?

14 A. Joey.

15 Q. Is that his nickname?

16 A. Yes, ma'am.

17 Q. So when you made that statement, "I didn't see Petey
18 no more", I mean, in your mind what were you thinking at
19 that time he made that statement?

20 A. When I said that, I said that because I didn't see him
21 no more. After he ran wherever he went I didn't see him no
22 more.

23 Q. Who did you see again? Who in your mind, garnered the
24 most attention after the shooting incident by running down
25 the street, who was that?

Cecilia Green- Cross Examination by Mr. Scales

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1 A. Antonio and Quinton.

2 Q. And you even had an exchange with them, is that right?

3 A. Yes, ma'am.

4 Q. And what was it again that you said, you ask them?
5 What did you ask them?

6 A. I asked them was somebody shooting at them and what
7 happened and they said, they didn't know.

8 Q. And then they just took off down the street?

9 A. Yes, ma'am.

10 MRS. PARKER: Thank you, Your Honor. No more
11 questions.

12 THE COURT: Mr. Scales?

13 MR. SCALES: Your Honor, just briefly I do believe I
14 forgot to move to place Defense Exhibit Three into
15 evidence.

16 MRS. PARKER: No objection.

17 THE COURT: All right. It's received into
18 evidence.

19 MR. SCALES: Nothing further.

20 (Whereupon, the Disc- Body Cam- Melton has been marked and
21 entered into evidence as Defendant's Exhibit No. 3)

22 THE COURT: All right. You can step down, ma'am.

23 MRS. PARKER: And, Your Honor, we would ask that Ms.
24 Green be released from her subpoena.

25 THE COURT: Any objection.

1 MR. SCALES: No objection.

2 THE COURT: Ms. Green, you are released from your
3 subpoena.

4 MRS. PARKER: Your Honor, if it pleases the Court,
5 the state would next call Ms. Ivory Stevenson.

6 THE COURT: Ivory Stevenson.

7 CLERK: You swear the testimony you give this court
8 be the truth, the whole truth, and nothing but the truth so
9 help you God?

10 MS. STEVENSON: Yes.

11 THE COURT: All right. Ms. Stevenson, please speak
12 loudly and clearly when you're answering these questions
13 and speak into that microphone. You can adjusted up and
14 down.

15 MS. STEVENSON: Okay.

16 IVORY STEVENSON, first being
17 duly sworn, testified as follows:

18 **Direct Examination by Mrs. Parker:**

19 Q. Ms. Stevenson, you please state your full name for the
20 court's record?

21 A. Ivory Stevenson.

22 Q. And where do - - where do you reside?

23 A. [REDACTED] Joseph Hill Road.

24 Q. Is that in Darlington?

25 A. Darlington, South Carolina, yes.

1 Q. And where were you living back in the summer of 2014,
2 in August of 2014?

3 A. [REDACTED] West McIver Road.

4 Q. So were you living on McIver Road at that time. Do
5 you recall what you were doing on the night of August 19,
6 2014?

7 A. My grandma had just passed that morning so we was at
8 her house.

9 Q. Friends and family gathered there?

10 A. Yes, ma'am.

11 Q. And how long would you say y'all were over there?

12 A. From that morning, about nine that morning until that
13 night about seven or eight. I can't really remember.

14 Q. It's okay if you don't know precisely. And was Ms.
15 Cecilia Green with you there? Did she go by to pay her
16 respects and check on?

17 A. Yeah, she was with me all morning, that morning.

18 Q. Was she with you into the evening?

19 A. All night, yes.

20 Q. And when you left, I mean, at some point did you take
21 Cecilia home?

22 A. Yes, I took her home. We left grandmother's house.
23 We were trying to decide if we were going to get something
24 to eat or not but we went straight to her house Kirven
25 Street.

1 Q. Is Kirven Street where Cecilia was living at that
2 time?

3 A. Yes, ma'am.

4 Q. And to get to Kirven Street which route the y'all
5 take, did you turn off 52?

6 A. Yeah, I turn off 52.

7 Q. Well, did you notice anything when y'all were driving
8 down Kirven Street?

9 A. No, just like any other night, you know.

10 Q. And tell me what happened you got to Cecilia's house?

11 A. I always part of the side of the road and we was
12 sitting in the car for a minute, we was talking. She was
13 wanting to get in touch with her baby daddy, Daniel. So we
14 called him, he never answered. So then she got out of the
15 truck and she came on the driver side that's when I seen, I
16 think we spoke to Petey, you know, he was - - -

17 Q. You say you spoke to him?

18 A. Yeah.

19 Q. Just kind of like a wave?

20 A. A little wave, that was it.

21 Q. And where was Petey located?

22 A. He was on his grandmother's porch, light, sitting, her
23 door right here, he was sitting on the this side of the
24 porch.

25 Q. Let me show you this picture that's been art as

Ivory Stevenson- Direct Examination by Mrs. Parker 300

1 State's Exhibit Three, is that the house you referring to?

2 A. Yes, ma'am.

3 Q. So he was sitting near that little stoop and then that
4 little porch?

5 A. It's, like, he was sitting on the side of the porch.

6 Q. On the right side?

7 A. On the right side where it looks like a stick or
8 something right there.

9 Q. Yes, ma'am.

10 A. He was sitting right there. And he had his chair,
11 light, leaning back against, that's how he was sitting.

12 Q. And let me ask you this, do you know the defendant,
13 Joey Gibson?

14 A. I know him. My uncle been - - my uncle been with his
15 aunt for twenty years. He's got kids by his aunt, his
16 mother sister so that's how I really

17 Q. So you know who he is?

18 A. Yes, ma'am.

19 Q. Would you also know his brother?

20 A. Yes, ma'am.

21 Q. What's his brother's name?

22 A. Quinton.

23 Q. And would you say you could distinguish, tell the
24 difference between the two?

25 A. Yes, ma'am.

1 Q. So, I didn't mean to interrupt your story, you said
2 you waved - - -

3 A. Yeah, we threw our hand up at him and he threw his
4 hand back at us.

5 Q. What happened after you said y'all spoke for about
6 five minutes - - -

7 A. Yeah, we talked. Me and her talk for a minute and she
8 said she had to go in the house use the bathroom. I left.

9 Q. Where were you headed?

10 A. I was headed up Kirven but I made a left on King
11 Edwards.

12 Q. But at the end of your journey, where were you headed?

13 A. I was headed home, yeah.

14 Q. So would it be safe to say you were, you were making
15 your way back out to 52?

16 A. Yeah, going back around on 52. I turn on - - I went
17 on Kirven. I made a left on King Edwards. I made another
18 left on the Bacote Street.

19 Q. So would it be accurate to say that instead of
20 reversing, you're going back up Kirven Street to South Main
21 and you were going to do, what I would call, cut loop?

22 A. Cut, yeah.

23 Q. You were going to cut back around?

24 A. Yes, ma'am.

25 Q. By the PVC, these sides streets?

1 A. Yes, ma'am.

2 Q. So tell us what happened after you left Cecilia's
3 house?

4 A. Like I say, I pull off. I haven't seen no one in
5 sight. Like I say, he was the only one who I seen - - -

6 Q. Who was the only one you saw?

7 A. Petey.

8 Q. Okay.

9 A. So when I left, like I say I made a left on King
10 Edwards and they got to the stop sign, made another left on
11 Bacote Street and I got right beside the PVC, the Pineville
12 Project Office, as soon as I passed by it that's when I
13 heard the gunshots. And see where I - - -

14 Q. You are the gunshots with your own ears?

15 A. Yes.

16 Q. From inside your car?

17 A. From inside my.

18 Q. How many did it sound like?

19 A. At first I - - well, I'm going to say I heard like
20 three or four at the time.

21 Q. Okay.

22 A. That's when I got my phone and called Ceil but she
23 didn't answer. So where I was when I passed by, it's like
24 a playground in the complex over in the project thing. So
25 when I look over I seen light sparks like somebody was

1 shooting firecrackers. That how it look to me.

2 Q. It looked like firecrackers?

3 A. Yes.

4 Q. I'm going to show you what's marked State's Exhibit
5 Forty-nine - - -

6 MRS. PARKER: And, Your Honor, I meant to put this on
7 the record earlier. I believe this will be entered as
8 State's Forty-nine without objection, is that correct?

9 MR. SCALES: That's correct.

10 MRS. PARKER: Okay.

11 THE COURT: It admitted without objection.

12 MRS. PARKER: Yes, sir, forty-nine.

13 (Whereupon, the Map (1sheet) has been marked and entered
14 into evidence as State's Exhibit No. 49)

15 Q. Which is a map I'm going to try to get you to show the
16 jury your path that night that you took on the way home. I
17 have a laser pointer, press the top and on the pin, and
18 then I'm going to ask you at this time, would you show the
19 jury on this map how the path you took from - - let's just
20 start from the point where you drop Cecilia off - - -

21 A. Okay.

22 Q. - - - and you left her house. If you need to stand
23 up, that's okay but just make sure you speak loudly.

24 THE COURT: You can stand up if you want too.

25 A. Okay, I was here. That's Cecilia's house. When I

1 pulled off I came here, made a left on King Edwards.

2 Q. Okay.

3 A. And there's a stop sign, like, right here and I made a
4 left on Bacote. Like, right up in here is the Pineville
5 Office. So when I passed the Pineville Office is like a
6 clear little spot you can look through there and look on
7 Kirven Street. Like I said it was kinda of like it was
8 getting like fall so half of the leaves, you know, you
9 could still see through the woods. So when I got there
10 that's when I seen the spark, like, I was like, I said I
11 thought it was firecrackers. Somebody was just playing
12 with, you know, I never thought it was like actually what -
13 - -

14 Q. So you knew you saw sparks somewhere - - -

15 A. Yeah. Like - - -

16 Q. Somewhere on that street that you were going up
17 because that street is parallel Kirven?

18 A. Mmm, hmm.

19 Q. And you saw something through the woods that kinda of
20 looked like sparks?

21 A. Yeah.

22 Q. I understand. And once again, the end purpose of that
23 was to cut back up to 52 - - -

24 A. Come back up 52 and hit McIver.

25 Q. Thank you.

1 MRS. PARKER: I beg the Court's indulgence.

2 THE COURT: Yes, ma'am.

3 MRS. PARKER: Please answer any questions that the
4 defense may have at this time.

5 MS. STEVENSON: Okay.

6 MR. SCALES: I beg the Court's indulgence, Your
7 Honor.

8 THE COURT: Yes, sir.

9 **Cross Examination by Mr. Scales:**

10 Q. Ms. Ivory, just to reiterate, you are driving down,
11 you said the road behind Kirven, I think it was Bacote?

12 A. Bacote Street.

13 Q. And you were unable to see what was going on, correct?

14 A. Yes.

15 Q. You just saw flashes?

16 A. I just saw flashes.

17 Q. So you didn't see any shooting?

18 A. I heard - - I heard it but I never seen it. I just
19 seen the flash through the woods part.

20 Q. So by not seeing the shooting you didn't see the
21 person who did it?

22 A. No, I haven't. No.

23 Q. You didn't, is that correct?

24 A. No, sir.

25 MR. SCALES: Nothing further, Your Honor.

Shelton Ham- Direct Examination by Mrs. Parker

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1 THE COURT: Anything else from the state?

2 MRS. PARKER: Nothing, Your Honor. Nothing further.

3 THE COURT: All right. You can step down. Thank

4 you, ma'am.

5 MRS. PARKER: We would ask that Ms. Stevenson be

6 released from her subpoena at this time.

7 THE COURT: Any objection.

8 MR. SCALES: No objection.

9 THE COURT: All right. You are released from your
10 subpoena, Ms. Stevenson.

11 MRS. PARKER: Your Honor, at this time the state
12 would call Shelton Ham.

13 CLERK: You swear the testimony you give this court
14 be the truth, the whole truth, and nothing but the truth so
15 help you God?

16 MR. HAM: I do.

17 SHELTON HAM, first being
18 duly sworn, testified as follows:

19 **Direct Examination by Mrs. Parker:**

20 Q. Good morning.

21 A. Good morning.

22 Q. Mr. Hamm, would you state your full name for the
23 court's record?

24 A. Shelton Reynard Ham.

25 Q. And where do you live?

1 A. 133 Jefferson Street, Darlington.

2 Q. And do you recall what you were doing on August 19,
3 2014?

4 A. Mmm, hmm.

5 Q. Tell us what you were doing that evening?

6 A. I was with my friend Shone Smalls. We was together
7 and he was like can you give me a ride to like my cousin's
8 house. I said, sure I give you a ride and we turnt on - -
9 -

10 Q. Let me stop you right there. Who's his cousin?

11 A. I can't remember his cousin's name. I think his name
12 was Shone too.

13 Q. Does he is cousin live on Kirven Street?

14 A. Mmm, hmm.

15 Q. He stayed on Kirven Street. And when we got on Kirven
16 Street, I think I passed like two houses, two or three
17 houses, and once I passed two or three houses I saw
18 gunfire. Once I saw gunfire, I quickly slammed on brakes.
19 So I slowed down, I'm coming down the road real slow at
20 least about 10 mph and when I see the gunfire or whatever,
21 I asked him, I was like, which house do he stay at because
22 I didn't know where exactly where he stayed at but I know
23 it was on Kirven Street.

24 Q. You're talking about his cousin, you didn't know
25 exactly - - -

1 A. Yeah, his cousin.

2 Q. - - - where his cousin stayed at?

3 A. Right. And, I think, probably like two houses before
4 we got there, two or three houses before we got there
5 that's when I seen the man fall. That's when he hit the
6 ground. I turnt in the yard. So when I turnt in the yard,
7 I sat in the car, for light, probably like a minute because
8 I was real hesitant about getting out the car.

9 Q. Who's yard did you turn into?

10 A. The cousins.

11 Q. The cousins house?

12 A. Mmm, hmm. Yeah, I turn into his yard. And then after
13 sitting in the car, being hesitant, being in the car - -
14 getting out the car, I got out the car and once I came
15 around the car, I see somebody walk pass the car, it was
16 like they had on a white shirt but I couldn't really see
17 they face.

18 Q. Okay. Did you see anyone else?

19 A. Then after that Shone knocked on the door, his people
20 came. His people came out, I guess his cousin was
21 frustrated about the window or whatever because they had a
22 hole - - they shot through the window and we were just
23 standing there or whatever. Then I see somebody come
24 around the house, the back of the house. I don't know - -
25 I think it was like a red shirt, somebody in a red shirt.

1 I couldn't see they faced either because it was dark and
2 they just went walking off and after that I just sat there
3 for a minute and then the police came.

4 Q. Did you see where the individual in the white shirt
5 came from?

6 A. Not really because when I came out my car and when I
7 came around the car he, I guess, he just passed my car and
8 he was walking that way that's why I couldn't get his face.

9 Q. And the other individual, where was he coming from
10 again?

11 A. From the back of the house.

12 Q. Did you see anyone else?

13 A. No. That was it.

14 Q. Could you see - - could you see who was in the yard or
15 identify anybody when the victim fall? You said you saw
16 the victim fall?

17 A. Yeah, I saw the victim fall. I seen when he fell, I
18 was like, - - right before I pulled in the yard good. He
19 was probably like to houses before I pulled in the yard.

20 Q. Did you see who was standing in front of him, if
21 anybody?

22 A. Nah, I couldn't see him. I couldn't see him it was so
23 dark and my mind was kind of wondering anyway - - I wasn't
24 really trying to look at that because I was really trying
25 to prevent myself from getting shot. I was real hesitant

Shelton Ham- Cross Examination by Mr. Scales

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1 about a lot of stuff at that time.

2 Q. Did you see one individual or several individuals or
3 in front of the victim?

4 A. Not really. It was just - - -

5 Q. You can't recall?

6 A. No.

7 Q. Okay.

8 MRS. PARKER: Please answer any questions the defense
9 may have.

10 THE COURT: Mr. Scales?

11 **Cross Examination by Mr. Scales:**

12 Q. Shelton, you say you were driving up Kirven Street - -
13 -

14 A. Mmm, hmm.

15 Q. - - - the night?

16 COURT REPORTER: You have to say yes or no.

17 Q. You were the one driving the car?

18 A. Yes, sir.

19 Q. Did you have anybody in the car with you?

20 A. My friend Shone.

21 Q. As you were driving on Kirven, you say you saw a
22 gunfire?

23 A. Mmm, hmm.

24 THE COURT: Say yes or no please when you answer
25 these questions.

1 A. Yes, sir. Yes, sir.

2 Q. And then you parked at 123-B Kirven Street?

3 A. Yes, sir.

4 Q. And that is Cecilia Green's house, correct?

5 A. Yes, sir.

6 Q. Let me take you back to the shooting, you said after
7 the shooting the next thing you know you saw a guy come
8 running from around the house?

9 A. Yeah, once I -- after I got out of the car.

10 Q. And you said you couldn't see his face?

11 A. I couldn't see his face.

12 Q. But you could see he had long dreads?

13 A. Yeah -- I don't know if his hair was long, I know it
14 was like dread -- I know it was dreads. I think it was
15 dreads.

16 Q. Okay.

17 A. One dude had dreads but I couldn't see their face like
18 that. I just seen --

19 Q. And you said he had a red shirt on?

20 A. Mmm, hmm. One had a red shirt on and one had, I
21 think, a white shirt on.

22 Q. And then he ran down the street?

23 A. Yeah, it's like they paced. They didn't really like
24 run, run. It was, like they speed walk.

25 Q. So when you got out of the car you heard no more shot,

1 right?

2 A. Right.

3 Q. And you said, and again, that you saw those two guys
4 coming from around the house?

5 A. Yes.

6 Q. Okay.

7 A. One came from around the house.

8 Q. Okay.

9 A. And the other one had walked pass my car before the
10 other one came around the house.

11 Q. Do you remember meeting Lieutenant Valazack at the
12 police department in giving a statement?

13 A. Yes. Yes, I do.

14 Q. She's in the black jacket.

15 A. Yeah. Mmm, hmm.

16 Q. So in your own words, in that interview did you say
17 those guys were walking like nothing happened?

18 A. Well, yeah, basically. I wasn't sure who - - I wasn't
19 sure if they was because when I got out the car I was so
20 shocked I didn't know who did what. It was just blank to
21 me. I just see the dude laying there and when I get out
22 the car these two dudes just walking down the street, you
23 know, I was thinking I don't know who it was.

24 Q. Did you go on to say that you could tell something
25 happened? That one of the guys was out of breath and

1 breathing hard?

2 A. Yeah, they just kind of, you know, they was pace
3 walking, like, something, like they were panicking or
4 something.

5 Q. Okay. And in your own words in that interview and I
6 know it's been a long time ago but you said, "like he just
7 got finished doing something."

8 A. Right. It's like a panic motion or some.

9 Q. And then you went to go look and check on the victim,
10 the gentleman in the street?

11 A. Well, I was basically across the street. I didn't go
12 nowhere near the body. But I was still standing across the
13 street looking, you know, directly at the body but I didn't
14 go nowhere near it.

15 Q. But when you looked up those two guys were gone?

16 A. Right. Right.

17 Q. And then you went on to say in that recorded
18 interview, "that made you feel like they were the ones that
19 did it."

20 A. Well, I mean, they were the only ones there at the
21 time. That's the only two I seen.

22 Q. Did you say that?

23 A. I can't - - I probably did. I probably - - I mean,
24 they was the only two I seen after that.

25 Q. Okay.

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1 A. After everything went down. That was it

2 Q. All right. And I can play that for you if you'd like
3 me to refresh your memory?

4 A. You can.

5 MR. SCALES: Your Honor, I would like to mark this
6 as State's Exhibit or Defendant's Exhibit Five. And this
7 an interview between Lieutenant Valazack and Shelton Ham.
8 Correction, that's four, Defense.

9 THE COURT: Do y'all need a break. I see people
10 turn around talking to each other. You don't need to be
11 talking to each other during the course of the trial
12 please. Does anybody need a break? If you do, raise your
13 hand?

14 (Whereupon, no one responds)

15 THE COURT: Okay. We'll proceed on.

16 MR. REDMOND: And Judge, while he's doing that the
17 next witness, well actually, the next witness, the next
18 couple of witnesses are probably going to be lengthy so I'm
19 thinking if we can get through this that might be a good
20 time for a morning break.

21 THE COURT: Okay. Thank you, solicitor.

22 (Whereupon, the video was played for the jury)

23 MR. REDMOND: Your Honor, at this point - - stop.
24 The question was had you heard anything else? I think we
25 need to cut it off right there.

1 THE COURT: I agree. I agree.

2 Q. So Mr. Smalls, or Mr. Ham, to reiterate you said,
3 "that made you feel like they were the ones that did it",
4 correct?

5 A. Right. Yes, sir.

6 Q. You were talking about the two that took off running?

7 A. Yes, sir.

8 Q. And then you said, "that let me know right there that
9 nine times out of ten they did it," right?

10 A. Right.

11 THE COURT: Yes or no.

12 A. Yes.

13 MR. SCALES: No further questions, Your Honor. At
14 this time we would like to move Defense Exhibit Number Four
15 into evidence.

16 THE COURT: Any objection.

17 MRS. PARKER: No, Your Honor.

18 THE COURT: All right. Defendant's Four is
19 admitted into evidence.

20 (Whereupon, the Disc- Interview with Mr. Shelton Ham has
21 been marked and entered into evidence as Defendant's
22 Exhibit No. 4)

23 THE COURT: Anything else?

24 MRS. PARKER: Briefly redirect, Your Honor.

25 Redirect Examination by Mrs. Parker:

1 Q. When you said earlier in your testimony, when you saw
2 what you described as gunfire or looked like firecrackers
3 or sparks?

4 A. Yeah, from a distance it did.

5 Q. From a distance - - -

6 A. Right.

7 Q. - - - when you turned on Kirven Street?

8 A. Right.

9 Q. And then earlier you testified that when you got up,
10 and you turn into your friend's cousins driveway, you kinda
11 of sat in your car for a minute?

12 A. Yes, ma'am.

13 Q. To gather or collect your thoughts or whatever?

14 A. Mmm, hmm.

15 THE COURT: Say yes or no.

16 Q. let me ask you this, did you - - -

17 THE COURT: Hang on a minute. Say yes or no when
18 you answer these questions.

19 A. Right.

20 Q. Did you actually see the shooting when it took place?
21 Did you see - - -

22 A. Well, coming down the road, you know, - - -

23 Q. Coming down the road you saw sparks - - -

24 A. I saw sparks, right.

25 Q. Did you see who shot the victim?

1 A. No.

2 Q. Would you agree that you jumped to conclusions, the
3 two fellas that run, did you see them shoot the victim, the
4 two guys that ran?

5 A. No. I didn't see them.

6 Q. Did you see a gun?

7 A. I just seen the gunfire.

8 Q. You saw the sparks?

9 A. Right.

10 Q. And that was - - -

11 A. By the time I got in the yard they was (the witness
12 clapped his hands) everybody just split up.

13 Q. Scattered?

14 A. Right.

15 Q. How - - how far were y'all down Kirven, between like,
16 Main Street and where [REDACTED] is?

17 A. I'd say, distance wise, probably about, about forty
18 feet.

19 Q. And how many houses up towards 52 when you first saw
20 the gunfire that look like sparks?

21 A. I'd say like three houses. Like, time you turn, like
22 three - - I passed like three houses on Kirven.

23 Q. Three houses down - - -

24 A. Yeah, three houses down.

25 Q. - - - is probably when you started seeing the gunfire?

1 A. Right.

2 Q. And so you don't know -- you don't know precisely if
3 the two individuals that ran actually shot --

4 A. Right.

5 Q. -- the victim?

6 A. Yeah.

7 MRS. PARKER: That's all.

8 THE COURT: Mr. Scales?

9 MR. SCALES: Nothing further, Your Honor.

10 THE COURT: All right. You can step down, sir.

11 MR. REDMOND: My next witness is going to be Antonio
12 Gregg so that's why I said it might be a little lengthy.

13 THE COURT: All right. Ladies and gentlemen, let's
14 take a short comfort break. We'll call you back in, in a
15 few minutes. Remember don't discuss the case.

16 (Whereupon, the jury exits the courtroom at 11:44 a.m.)

17 MR. SCRUGGS: Your Honor, just briefly can I put
18 something on the record about the --

19 THE COURT: Hang on just a minute. Hang on a
20 minute, y'all. Have a seat. Everybody have a seat.

21 MR. SCRUGGS: Just briefly on the record on the
22 exhibit that was just introduced into evidence we do want,
23 and we have the time frames specified, we would like some
24 portions of that tape redacted because there some hearsay
25 statements some of which the solicitor objected to 12:42

1 on. We also have starting at four minutes (4:00) to 4:35
2 investigator Valazack stating what another witness said and
3 then minute eight, second ten (8:10) to minute nine,
4 second nineteen (9:19) investigator Valazack also mentions
5 what Ms. Green had said I believe.

6 MR. REDMOND: And, Your Honor, I think the cure for
7 that would be if the jury requests to hear a portion of the
8 videos, we get those to time stamps rather than sending the
9 computer back to them I think we would have to bring them
10 back out and that problem would cure itself - - -

11 MR. SCRUGGS: Yeah.

12 MR. REDMOND: - - - because will know where it's to
13 be - - -

14 THE COURT: I agree. I'm not going to turn that
15 computer loose with them - - -

16 MR. SCRUGGS: That's perfectly fine. I just wanted
17 to address it now rather than later.

18 THE COURT: Right and I appreciate you, doing that
19 Mr. Scruggs. Well take care of that in the courtroom.

20 MR. SCRUGGS: Okay.

21 MR. REDMOND: Thank you, Your Honor.

22 MR. SCRUGGS: Thank you, Your Honor.

23 THE COURT: Thank you.

24 (Whereupon, the court takes a short break)

25 THE COURT: Are y'all ready for the jury?

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1 MR. REDMOND: Yes, we're ready, Your Honor. The
2 state is ready.

3 THE COURT: Is the defense ready?

4 MR. SCRUGGS: Yes, Your Honor.

5 THE COURT: Bring the jury back.

6 (Whereupon, the jury enters the courtroom at 11:59 a.m.)

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

8 THE COURT: Yes, sir.

9 MR. REDMOND: The state would next call Mr. Antonio
10 Gregg

11 CLERK: You swear the testimony you give this court
12 be the truth, the whole truth, and nothing but the truth so
13 help you God?

14 MR. GREGG: I do.

15 THE COURT: Speak loudly and clearly when you
16 answer these questions, sir. Speaking to that microphone.

17 MR. GREGG: Yes, sir.

18 ANTONIO GREGG, first being
19 duly sworn, testified as follows:

20 **Direct Examination by Mr. Redmond:**

21 Q. Antonio, state your full name for the record?

22 A. Antonio McCoy Gregg.

23 Q. Okay. That's a good tone to your voice. If you can
24 hold that everybody can definitely hear you. And where do
25 you live, Antonio?

1 A. I stay on [REDACTED] Street.

2 Q. Is that here in Darlington?

3 A. Yes, sir.

4 Q. And were you staying there in August of 2014?

5 A. Yes, sir.

6 Q. In fact, were you working on the car, I believe at
7 some time during the course of this incident?

8 A. Yes, sir.

9 Q. And we'll get to that in a little while. Are you
10 employed anywhere at this time?

11 A. Yes, sir.

12 Q. And where you employed?

13 A. Darlington Veneer.

14 Q. How long have you been employed there?

15 A. About two and half years.

16 Q. Were you employed there at the time of this incident?

17 A. Yes, sir.

18 Q. Now, are you related to the defendant?

19 A. Yes, sir.

20 Q. And how are you related to the defendant?

21 A. That's my cousin.

22 Q. And was he also residing on Kirven Street at that time
23 of the incident?

24 A. Yes, sir.

25 Q. Now, do you know Quinton Greg?

1 A. Yes, sir.

2 Q. And how is he related to you?

3 A. That's my cousin.

4 Q. And is that the defendants brother?

5 A. Yes, sir.

6 Q. Now, let me direct your attention to 19th, August of
7 2014, let's just talk generally over the course of the day
8 before we get to the incident itself, what had you been
9 doing that day?

10 A. I was at work and then by the time I got off - - -

11 Q. And about what time did you get off?

12 A. I would say probably after five.

13 Q. And then, go ahead. Continue.

14 A. I mean, we was chilling right there, you know, at my
15 aunt's house.

16 Q. Now where does your aunt stay?

17 A. [REDACTED] Street.

18 Q. And, go ahead.

19 A. So, I mean, later on, I mean, we had got a couple of
20 drinks, you know, just chilling, basically, like - - -

21 Q. Now, when you say we, who is we?

22 A. Me and my cousin.

23 Q. Which cousin?

24 A. Quinton.

25 Q. Okay. Then go ahead. Continue.

1 A. I mean, we were just sitting in the yard, you know,
2 like just chilling basically, and then, that's when
3 everything happened with my aunt.

4 Q. Now, tell us about that, what happened with your aunt?
5 Did the ambulance have to come?

6 A. Yeah, the ambulance had to come.

7 Q. Tell us about that.

8 A. She was shaking real bad, I mean, I really don't know
9 what was going on. That was my first time witnessing it.
10 And then the ambulance came and then that's when my uncle
11 and them had went to the hospital and everybody started to
12 leave and that's when me and Quinton said we was about to
13 go but that's when my cousin had asked me, Joey, - - Joey
14 had asked me did I crank up the car today and I was like,
15 no. So that's when we made our way to the backyard to
16 crank up the car.

17 Q. Now, what kind of car was it?

18 A. A 1983 Oldsmobile, Delta.

19 Q. And who's car was it?

20 A. Mine

21 Q. Okay. And so go ahead.

22 A. So we went to go crank up the car. I mean, lift up
23 the hood, I gave my cousin Quinton WD-40, he was spraying
24 on the little pulley.

25 Q. Now, let me back up just a second. Who was back there

1 with you to the best that you can recall?

2 A. Quinton.

3 Q. And do you remember or can you say for sure whether or
4 not the defendant was back there with you at some point
5 when you went to the car the first time?

6 A. I'm not sure, my back was turned.

7 Q. But that's fine. So go ahead tell us what happened.

8 A. Okay, so by the time I cranked up the car Quinton was
9 spraying the WD-40, I was revving the motor a little bit
10 because the pulley it gets stuck, it be freezing up
11 sometimes.

12 Q. Now, at that point when you're describing the pulley
13 and the WD-40 and Quinton helping you with the car, was the
14 defendant back there with y'all?

15 A. I'm not sure.

16 Q. Okay. But go ahead.

17 A. Okay. Then that's when while we was messing with the
18 car, all of a sudden Quinton say, "did you heard that?"
19 And, I was, "like, heard what?" And then it was like some
20 shots going off.

21 Q. Okay.

22 A. And that's when we had went around the side of the
23 house. Once I seen the dude laying down, I said oh my God,
24 you know what I'm saying, I ain't want to be around that.
25 So that's when Quinton say, I'm going to my mama's house

1 and I was like please don't leave me. So that's when we
2 went out and it was like going down the road a little bit
3 but then I was like what are we running for, we ain't did
4 nothin but at the same time we still was scared - - -

5 Q. Let me stop you there, at that point when you said
6 were not running, we ain't did nothing, you know, we should
7 be running, did y'all actually stop and walk for a little
8 while - - -

9 A. Yes, sir.

10 Q. And then what happened?

11 A. And then when, I mean, by the time we made it down the
12 road his mama was pulling in her house and she was like,
13 what's going on and then we was like, somebody just had got
14 shot and that's when she went down the road and we sat at
15 her house for a second again, by the time we sat at her
16 house for a second, then that's what we walked down the
17 road to my other cousin's house. And then by the time we
18 walked to my other cousin's house I think somehow Barbara
19 had came and got Quinton and took Quinton up to city hall
20 and then somehow, I was up there that night too.

21 Q. Now, let's go back just a minute, when the shooting
22 happened were you - - you were inside the car, cranking the
23 car, weren't you?

24 A. Yes, sir.

25 Q. So as it relates to - - now, let me ask you this, do

1 you know for sure and are you telling this jury for sure
2 that Quinton was back there with you?

3 A. Yes, sir.

4 Q. But you can't say whether or not anybody else was back
5 there but you know that Quinton was back there?

6 A. Not, really, it was, basically, like, about the car.

7 Q. But you were inside the car cranking it?

8 A. Yes, sir.

9 Q. Were you and Quinton talking during that time?

10 A. Yeah, because he was telling me about the pulley and
11 telling me if it was moving because it was kind of slowing
12 down and sometimes it freeze up so he was, basically, like,
13 telling me it was moving and was spraying the WD-40 on it.

14 Q. And who alerted you that there had been shots?

15 A. Quinton.

16 Q. Who told you there had been shots?

17 A. Quinton, has said, did you heard that. I didn't hear
18 it at first, but then that's when, he said, did you heard
19 them and then I heard some shots going off and that's when
20 I jumped out the car and went around the side of the house
21 and I seen the dude laying them.

22 Q. Now, at that point, and I guess the question that's
23 going to be asked and it probably needs to be answered, why
24 did - - I guess, why y'all start running, initially?

25 A. I was scared to be real. Ain't want to be around

1 nothin like that because I ain't know what was going on, it
2 happened so fast.

3 Q. And did you ever make it to the front of the house or
4 did you actually turn back and do something else with the
5 car - - -

6 A. Turn back, shut the hood down, and shut the door.

7 Q. Now, at that point was your back turned - - in other
8 words, at that point your back was turned you don't know
9 what Quinton was doing during that time?

10 A. Yes, sir, my back was - - yeah.

11 Q. Now, you indicated that y'all ran and then you started
12 walking and did you jog, I guess, jog or start running
13 again at some point?

14 A. Yes, sir.

15 Q. And did y'all run until y'all got to, I think you
16 said, your aunt's house?

17 A. Yeah, his mama.

18 Q. His mama, Quinton's mother's house. And where did you
19 go once you - - once you left - - how long did you stay at
20 the Quinton's mother's house, do you remember, the best
21 that you can recall?

22 A. Uh, uh. I really can't say.

23 Q. Was it long?

24 A. I would say around I think fifteen, twenty.

25 Q. Minutes?

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1 A. Yes, sir. It wasn't probably that long.

2 Q. And then where did you go after that?

3 A. We walked down to the road to the projects where my
4 other aunt stay.

5 Q. And that's where you were and now, you said that
6 Quinton's mom came - - tell us about that again, you said,
7 I think, that Ms. Barbara came and tell us about that one
8 more time what happened?

9 A. She, I guess, she came and got him, like I said, took
10 him to city hall. Then that's when they came to my aunt's
11 house where I was and got me and I had walked back down the
12 road but I guess the officers who were over there, they was
13 already gone so somehow, I had to go up there that night.

14 Q. And did you give them a statement?

15 A. Yes, sir.

16 Q. And did you tell them what you've told us here today?

17 A. Yes, sir.

18 Q. And I'll just ask you, were you, in any way, involved
19 in this murder?

20 A. No, sir.

21 Q. However, we agree and do you understand that because
22 of the running y'all's name got dragged into it as possible
23 suspects?

24 A. Yes, sir.

25 Q. But, despite all of that, are you telling the ladies

1 and gentlemen of this jury, that you were not involved in
2 the shooting and you were not present at the time of the
3 shooting?

4 A. Yes, sir.

5 Q. And, additionally, are you tell the ladies gentlemen
6 of the jury, that Quinton was with you at the time the
7 shots were fired?

8 A. Yes, sir.

9 Q. With that being the case, put two and two together is
10 there any way that Quinton could have fired the shots?

11 A. No, sir.

12 Q. And why is that?

13 A. Because he was right there in front of me?

14 Q. And where were y'all at?

15 A. In the backyard.

16 Q. Doing what?

17 A. Working on the car.

18 Q. Now, moving forward, were you arrested on a city court
19 charge for obstruction of justice?

20 A. Yes, sir.

21 Q. Do you know what the outcome of that case was?

22 A. No, not really.

23 Q. Does that - - I guess, does that have anything to do
24 with what you've testified to today?

25 A. No, sir.

1 Q. In fact, did you again, get a video statement to law
2 enforcement detailing what transpired that night?

3 A. Yes, sir.

4 Q. And is that what you're testifying to hear today?

5 A. Yes, sir.

6 Q. And, lastly, and I'm just going to ask you quite
7 frankly, do you understand that, I guess, with the running
8 away from the scene, is it your opinion that's why you got
9 charged with obstruction of justice? Or are you even sure
10 why you were charged?

11 A. I'm not sure.

12 Q. Fair enough.

13 MR. REDMOND: I beg the Court's indulgence. That
14 would be all the questions I have. Please answer any
15 questions the defense may have.

16 THE COURT: Mr. Scales?

17 **Cross Examination by Mr. Scales**

18 Q. Antonio, you said that you remember giving statement
19 or a statement to Lieutenant Valazack and Rickey Williams
20 of the Police Department.

21 MR. SCALES: I introduce this as Defense's Exhibit
22 Five.

23 MR. REDMOND: Without objection, Your Honor.

24 THE COURT: Are you going to admit it into
25 evidence.

1 MR. SCALES: I move to introduce.

2 THE COURT: All right. It's admitted into evidence
3 as Defendant's Number Five.

4 (Whereupon, the Disc-Interview with Mr. Antonio Gregg has
5 been marked and entered into evidence as Defendant's
6 Exhibit No. 5)

7 COURT REPORTER: He shook his head because I didn't
8 see him. Can you ask that question again for me please?

9 MR. SCALES: Okay.

10 Q. Just so were cleared on the record, you do remember
11 giving a statement?

12 A. Yes, sir.

13 Q. At the police department?

14 A. Yes, sir.

15 Q. And that was in the early morning hours of the 20th -

16 - -

17 A. Yes, sir.

18 Q. - - - not too long after this incident?

19 MR. SCALES: I would like to play a portion of that
20 statement.

21 Q. Antonio, can you see that?

22 A. Yes, sir.

23 Q. You recognize yourself?

24 A. Yes, sir.

25 THE COURT: Sir, you got to speak up, now.

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1 A. Yes, sir.

2 THE COURT: This lady is taking down everything
3 you're saying.

4 A. Okay.

5 THE COURT: When you turn your head it's hard for
6 her to hear you so speak loudly and clearly.

7 A. Oh, okay.

8 (Whereupon, the video was played for the jury)

9 Q. All right, Antonio, so in that statement you said they
10 were a lot of people sitting in the front yard, like, when
11 your grandma was taken to the hospital, right?

12 A. Yes, sir.

13 Q. Or your aunt?

14 A. Yes, sir.

15 Q. And then people left except for you, Quinton and Joey,
16 right?

17 A. Yes, sir.

18 Q. Then when you were sitting out front you said that
19 there were, nobody got into an argument or anything?

20 A. No, sir.

21 Q. And you wanted to go work on your car and then Joey
22 said he was going to go into the house, right?

23 A. Yes, sir.

24 Q. And you also said just now that when Joey went into
25 the house he turned everything off, talking about all the

1 lights in the house, right?

2 A. Yes, sir.

3 Q. That's before you heard the gunshots?

4 A. Yes, sir.

5 Q. And then you and Quinton went in the backyard, right?

6 A. Yes, sir.

7 Q. And then you say that Joey had to be in the house?

8 A. Yes, sir.

9 Q. You didn't see him outside after the shooting, did
10 you?

11 A. No, sir.

12 MR. SCALES: Nothing further.

13 THE COURT: Solicitor?

14 MR. REDMOND: Just briefly.

15 **Redirect Examination by Mr. Redmond:**

16 Q. And just to make sure we put this in context, the
17 defendant is your cousin?

18 A. Yes, sir.

19 Q. And he was actually living there, y'all were living
20 there together at that time?

21 A. Yes, sir.

22 Q. And as it relates to you running away, if you had
23 stayed after the shooting - - well, let me ask you this, as
24 far as you know your cousin was, physically, on the
25 premises at the time of the shooting, is that correct?

1 A. Yes, sir.

2 Q. If you had stayed after what had just transpired,
3 would it stand the reason that the police would want to
4 talk to you?

5 A. Yes, sir.

6 Q. And if they're three people at the residence, you were
7 in the back, you didn't see the shooting. Quinton was with
8 you so he couldn't have seen the shooting. If you had to
9 talk to the police when they pulled up, wouldn't you have
10 had to told them that Joey was still at the residence at
11 the time of the shooting?

12 A. Yes, sir.

13 Q. And that's your cousin, isn't it?

14 A. Yes, sir.

15 Q. And let's just be real for a minute, at that time when
16 you took off, you did want to be involved in this, did you?

17 A. No, sir.

18 Q. Because you would've had to given them information to
19 implicate your cousin?

20 A. I'm not sure what you're saying.

21 Q. In other words, if you had stayed there, the police
22 came up, you had to tell them that you and Quinton were in
23 the back and that, in fact, Joey still was at the
24 residence, physically, somewhere at the residence, right?

25 A. Yes, sir.

1 Q. So if you and Quinton didn't do it, and they are three
2 people on the residence, then you would've had to have told
3 them, basically, what you knew at that point, right?

4 A. Yes, sir.

5 Q. And, in essence, that would be implicating your
6 cousin/roommate, correct?

7 A. Yes, sir.

8 MR. REDMOND: That's be all the questions I have,
9 judge.

10 THE COURT: Mr. Scales?

11 MR. SCALES: Your Honor, just briefly.

12 **Re-cross Examination by Mr. Scales:**

13 Q. Antonio, did they, after you spoke with law
14 enforcement that night, did they perform a GSR or a gunshot
15 residue kit on you?

16 A. Yes. Yes, sir.

17 Q. Okay.

18 MR. SCALES: Thank you.

19 MR. REDMOND: Nothing further. No.

20 THE COURT: All right. You can step down.

21 MR. REDMOND: I think we've got time for Mr. Quinton
22 Gibson. And we'd ask that Mr. Gregg, I know he has to
23 work, if he could be excused from his subpoena.

24 THE COURT: Mr. Gregg, how about pull your pants up
25 while you're in this courtroom.

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1 MR. SCALES: No objection.

2 THE COURT: You may be release from your subpoena.

3 CLERK: You swear the testimony you give this court
4 be the truth, the whole truth, and nothing but the truth so
5 help you God?

6 MR. GIBSON: Yes, ma'am.

7 QUINTON GIBSON, first being
8 duly sworn, testified as follows:

9 Direct Examination by Mr. Redmond:

10 Q. Please state your name for the record, Quinton?

11 A. Quinton Jasper Gibson.

12 Q. And I know you're soft-spoken but if you could pull
13 the microphone down and inch up a little bit closer to the
14 microphone and speak as loudly as you can and I'm going to
15 get you to repeat your name again.

16 A. Quinton Jasper Gibson.

17 Q. Perfect. Keep that tone and we'll be all right. The
18 ladies and gentlemen of the jury will be able to hear you.
19 Is the defendant your brother?

20 A. Yes, sir.

21 Q. * And is Antonio Gregg your cousin?

22 A. Yes, sir.

23 Q. And what kind of work do you do?

24 A. I do landscaping and I work in a tobacco field - -
25 well, not a tobacco, a cotton field, sir.

1 Q. And how often - - how often do you go to work?

2 A. Every day. Every day but Saturday and Sunday.

3 Q. Now, let's get to the incident on the 19th - - well,
4 let's get to the 19th of August, 2014, was your brother
5 staying at the same residence that you were living in?

6 Where do you live? I didn't ask you that. Where do you
7 live?

8 A. 1101 South Main Street.

9 Q. And who resides in the house with you?

10 A. My mother and my stepfather.

11 Q. And in August of 2014, was the defendant living in the
12 residence with y'all or was he living at [REDACTED] Street?

13 A. He was staying with my grandmas on Kirven Street.

14 Q. Tell me about the - - let's go to the 19th of August,
15 2014, and let's go to the early part of the day. Just tell
16 us, you know, you wake up in the morning, what did you do?

17 A. I went to work with my cousin, Tony, we was doing
18 landscape work.

19 Q. Okay.

20 A. Basically, we went to work and by the time I came home

21 - - -

22 Q. Now, let me ask you this, did you go to work early in
23 the morning or was it still, was still late morning by the
24 time you finish doing your landscaping work?

25 A. We probably started about 8:30, 9:00. We finished

1 about eleven something.

2 Q. After then you finish, what did you do?

3 A. I went home like I usually do.

4 Q. And then take us through what occurred next?

5 A. I went home, I couldn't have been home two minutes and
6 a knock came at the door. So my brother, he asked for some
7 pants. We both have the similar pants, you know what I
8 mean, so I went to give him the pants, my mama had already
9 told me the day before don't let my brother in the house or
10 you're going to get kick out too. So I can't get kick out
11 because I have nowhere to go, you know what I mean - - -

12 THE COURT: You've got to speak more clearly.

13 MR. REDMOND: Yes.

14 A. Oh, excuse me. Excuse me.

15 THE COURT: I can't understand you and neither can
16 the court reporter.

17 A. I apologize. My mama had already told me not to let
18 my brother in the house but he came to get some pants. So
19 I had gave him the pants or whatever and he asked me for a
20 cigarette. You know, I had a pack but I ain't, I just
21 worked hard for it, you can work just like me, so I told
22 him I save - - I was short, I mean, I told him I didn't
23 have that many. I lied him or whatever. So we sitt'in on
24 the porch smoking a cigarette and that's when a friend of
25 mine came through.

1 Q. And who was that?

2 A. His name, um, Admod.

3 Q. Bruce?

4 A. Yes, sir.

5 Q. And then what?

6 A. He came through and I threw my hands up at him, like,
7 'what up'. So he turned around and came back and pick me
8 up and he was like, bruh, I'm about to go, I'm about to go
9 drop this girl off at Florence-Darlington Tech. So I was,
10 like, I ride with you or whatever because I had to get my
11 daughter some pampers.

12 Q. And how old was your daughter at the time?

13 A. How old was she then?

14 Q. How old was she then, yes?

15 A. She was born July 17, 2014.

16 Q. So she was less than a month old - - well, right
17 around a month old?

18 A. She was less - - yeah.

19 Q. Right around. Go ahead, I interrupted you. Go ahead.

20 A. So we drop the girl off at Tech, went and got my baby
21 pampers. And so Shrek, that's what we call Admod, Shrek,
22 he wanted to go get some - - -

23 Q. Just to be clear because you're real soft-spoken and
24 whatnot, you said y'all call Abmod, Shrek?

25 A. Yes, sir.

1 Q. Go ahead.

2 A. So he took me to get my baby pampers. We left there
3 and we went to McDonald's. He orders him some food and he
4 said he want to go talk to my cousin, Sierra. And so we
5 rode out to the country, my cousin's house. I don't know
6 the exact address but I know it's on Willow Tree Road. So
7 we went out there and we was out there not even ten minute
8 - - -

9 Q. What did y'all - - who went out there with you? Who
10 was with you? Was the defendant with you?

11 A. Yes, sir.

12 Q. Now, go ahead. Continue.

13 A. It was just me - - when we went out there, it was only
14 me, Admod, and my brother in the car. I mean, my brother
15 fired a gun one time - - -

16 Q. All right. Let's stop there. Is this Willow Tree
17 Road we're talking about?

18 A. Yes, sir.

19 Q. And what kind of gun was it?

20 A. I think it was a .9 mm.

21 Q. Do you remember what color it was?

22 A. Black.

23 Q. And so, he fired a gun. Tell us about where y'all
24 were as it relates to when the defendant fired the gun - -
25 well, let me ask - - let me back up a minute, whose gun was

1 it?

2 A. His, I guess.

3 Q. Did he - - was he the one - - did he have the gun with
4 him - - did he bring the gun out there to Willow Tree Road?

5 A. Yes, sir.

6 Q. And so y'all were out there, tell us again about where
7 it was on this property where the gun was fired, where the
8 defendant fired the gun?

9 A. Well, on the property on Willow Tree there's a trailer
10 slanted, and one, like, one facing the road and one, like,
11 right beside it, like, going longways or whatever, it's
12 behind the first trailer in front of the second trailer.

13 Q. How many times did he fire?

14 A. One time.

15 Q. And after the gun was fired, I guess, were there some
16 people not happy about the gun being fired?

17 A. Yeah, my cousin, Catherine James. I called her my
18 aunt, I mean, because she's a whole lot older than me but
19 she's actually my cousin. She actually came outside to
20 say, "oh, Quinton and Petey, y'all better get out my yard
21 shooting a gun." I was, like, "man, I ain't shooting
22 nothin but I'm about to leave, though." So we ended up
23 leaving from out there. ?

24 Q. And then where did y'all go - - well, let me ask you
25 this, for a matter that will be important later on today,

1 about how close were you standing when he fired that gun?

2 A. Probably two to three feet away from him.

3 Q. So y'all were, basically, standing right next to each
4 other when y'all fired the gun, when he fired the gun?

5 A. Yeah. Probably the same distance from these people
6 sitting in chairs.

7 THE COURT: I'm sorry what did you say.

8 Q. And did you fire - - -

9 THE COURT: Wait a minute I didn't hear what he
10 said.

11 A. Probably about the same distance of these people in
12 the chairs over there.

13 Q. When you say the same distance, you mean the distance
14 between each other, that they are between each other?

15 A. Yes, sir.

16 Q. So did you ever fire that gun?

17 A. No, sir.

18 Q. So then y'all leave. There were some people are not
19 happy. Y'all end up leaving and then where did y'all go
20 from there?

21 A. I got drop off on Second Street right by Cain
22 Elementary School. I was meeting my cousin, Tony, the one
23 who I work with, Tyrone or whatever. I was meeting him to
24 go and do more work.

25 Q. And did you, in fact, do more work, Tony?

1 A. Yes, sir.

2 Q. And about what time did you finish working that day,
3 the best that you can remember, if you can remember?

4 A. Probably around one or two.

5 Q. And so then, what did you do the rest of the day? Did
6 you go back home after you finish working with Tony, just
7 tell us what you did?

8 A. I went back home. I sat home for little while. I was
9 waiting on Antonio to get off. That's who I chill with
10 every day. I was waiting on him to get off.

11 Q. Antonio Gregg?

12 A. Yes, sir. And so - - -

13 Q. And did - - let me back up, did you say, that's who
14 you chill with everyday?

15 A. Every day.

16 Q. So go ahead. I'm sorry.

17 A. So I was waiting for him to get off. He probably got
18 off, I think that day he got off about 4:30, 5 o'clock. So
19 I called him and say, "where he was" and he said, "man, I
20 was on the way to the store to get some cigarettes, tell me
21 you got one." I was, "like, yeah I got one." So we met
22 up, went and bought us a couple of beers. I thought we was
23 going back to the projects but we ended up going to Kirven
24 Street. Everybody over there was chilling, like, my whole
25 family, not my whole family but a bunch of my family

1 members was there.

2 Q. Was the defendant there?

3 A. Yes.

4 Q. Go ahead, I'm sorry.

5 A. So we all was just sitt'in in the yard drinking,
6 chilling, goofing around or whatever and, like, my little
7 cousin he came up to me, he came out the back door, he was,
8 "like, Quinton! Quinton! Your grandma in they shaking."
9 And the way he said it, I thought he was playing so I
10 laughed at him. I mean, so after that he was, "like, no
11 your grandma in they shaking for real." So I walks in the
12 house to see my grandma, I was, "like, grandma was wrong
13 with you", she was shaking bad, I guess, her sugar went
14 down or something. So I call my mom or whatever and told
15 her, "like, grandma ain't want to go to the hospital. She
16 talking about don't call the ambulance for her." So by the
17 time the ambulance had actually got there to take her to
18 the hospital, like, most of the people done left by then.

19 Q. So who was left there? By the time the ambulance
20 comes and takes her, who's left at [REDACTED] Street?

21 A. It was me, Antonio, my brother, my cousin, Yasmal, her
22 kids, Wallace, and my home boy, Squirrel.

23 COURT REPORTER: I'm sorry. I didn't get that.

24 THE COURT: I didn't - - the last thing you said.

25 A. Squirrel. I don't know his government name. That's

1 why I call him, Squirrel.

2 Q. Now, with - - and so these folks are here after the
3 ambulance leaves?

4 A. Yes, sir.

5 Q. At some point did some of those remaining folks leave
6 the house?

7 A. Yes, sir. Not long after the ambulance leave, my
8 cousin, Yasmal left with all the kids that was in the yard
9 which was her three kids and my little cousin, Chasity,
10 which is my cousin, Whitney's, daughter.

11 Q. And so who did that leave at the residence?

12 A. Well, after Mal left, Wallace, ask Mal for her
13 Margarita. After he drunk the margarita, him and Squirrel
14 left. That only left me, Antonio, and my brother.

15 Q. So starting from there, you and - - and again - -
16 well, to the best that you can remember, if you can since
17 it's been a couple of years, but, do you remember about
18 what time it was when it was just the three of you that was
19 left there in the house?

20 A. I can't recall the exact time but I know it was dark.

21 Q. Fair enough. So then tell us what took place.

22 Everybody's left, tell us about what took place next?

23 A. Well, me and Antonio, we had another beer, we had a, I
24 think it was a Bud Ice, I'm not sure, but I think it was a
25 Bud Ice that we usually drink. So we were drinking a beer

1 and I think he got a phone call and walked around the
2 house.

3 Q. Where y'all were at when y'all were drinking the beer?

4 A. We were sitting in the front yard. After my grandma
5 went to the hospital, like, nobody was in the backyard, all
6 of us was in the front yard. We just - - we was in the
7 front yard.

8 Q. And, I interrupted you, so pick up from where you
9 were.

10 A. All right. So Antonio got the phone call, he went, I
11 guess to the side or the back of the house, I wasn't really
12 paying him no attention where he walked to. So, like, I
13 had my head down because, you know, I really ain't watching
14 people, I can't stand, you know what I mean, eye contact
15 with people that drank, drunk rather, excuse me. So, like,
16 I had my head down or whatever and I remember a dude, my
17 brother saying something to a dude. I can't remember
18 exactly what he said to him. I think it was, like, "yo I
19 know you" or something like that, you know what I mean. So
20 I looked up - - I looked up, like, they was behind me, I
21 have been facing the house, my brother was at the fence by
22 the road. So when he said, I looked up, like, who are you
23 talking to, you know what I mean, I ain't said that but
24 that's how I looked up or whatever. So the dude was,
25 "like, man, I know you." They shook hands. After they

1 shook hands, I just put my head down. I was like, ain't no
2 problem, they shook hand, like, I don't know, if you want
3 to fight my brother you have no other choice but to fight
4 me. I mean, I'm just being honest but - - -

5 Q. But was there anything at that point in time that made
6 you think that anything was about to go on?

7 A. The way he said it.

8 Q. The way who said it?

9 A. My brother, the way my brother spoke to the dude that
10 put me on alert, basically, you know what I'm saying. But
11 after the dude, "man I know you", and they shook hands, I
12 let everything go. I just put my head back down and that's
13 when a, like, a thought came to my head, like, you need to
14 go home. You need to go home because I wasn't -- you know
15 how you get a bad vibe and your conscious will tell you, do
16 this or do that. Like, I felt like mine was telling me to
17 go home that night.

18 Q. So then what did you start to do?

19 A. I started to get up and go home.

20 Q. Then tell us what happened.

21 A. So, like, I walked towards my grandmother's mailbox
22 and fire hydrant and that's when I see my cousin Antonio
23 coming from around the house. He was like, "bruh, where
24 you about to go?" I said, "man, I'm about to go home." He
25 said, "nah, man, come with me in the backyard and help me

1 work on the car." So, like, all of us went to the
2 backyard, me, my brother, - - well, before I even got up,
3 like, the dude that my brother shook his hand, he tap me on
4 the shoulder and I look up at him, like, what the world,
5 you close, like, out of nowhere, so he had his hand out, I
6 shook the man hand, like, you shook my brother hand, you
7 can't be violent, you know what I mean. So I shook the
8 dude hand.

9 Q. So at that point, you didn't - - he didn't do anything
10 threatening toward either one of y'all?

11 A. No.

12 Q. So then - - so then go back to when you're, I guess,
13 you were talking with Antonio.

14 A. Oh, when I was about to leave Antonio came around the
15 house, like, he was coming from around the house. He was,
16 "like, bruh, let's go, help me work on the car." I mean,
17 because, I told him I was about to go. Excuse me, I said,
18 I was about to go. He said, help me work on my car. So I
19 went back in the backyard with him or whatever. He cranked
20 his car up. When he cranked the car up he had some WD-40
21 because one of his pulleys, like, the car he had got is an
22 old-school car, I think - - -

23 Q. Do you remember what kind of car it was?

24 A. A Delta '88.

25 Q. Okay.

1 A. So, like, one of the pulleys in the car wouldn't spin
2 so he took WD-40 and he sprayed it on it. So, you know
3 what I mean, I knew this is how he do the car because he
4 didn't, that wasn't the first time it didn't spin, do you
5 know what I mean. So I got the WD-40 from him and I start
6 spraying it on the pulley and I had my phone in this hand
7 but my light was dim so I got his phone and use his light
8 because it was dark, you know what I mean, the only light
9 we had was the nightlight. And so - - -

10 Q. And so then you were using the phone, his phone as a
11 nightlight?

12 A. Yes, sir.

13 Q. And so did something happen that interrupted y'all
14 working on the car?

15 A. Yeah, I heard three gunshots.

16 Q. Tell us about that.

17 A. When I heard the three gunshots I lifted my head from
18 up under the hood of the car, Antonio, was sitt'in in the
19 car. So when I heard three gunshots, I looked at him I was
20 "like, bruh, that was close." I mean, so he was, "like, so
21 you heard that." I was, "like, no, did you hear that." By
22 the time I said that I heard, boom, boom, boom, boom, boom,
23 about five or six more gunshots.

24 Q. So after that and you said it was close, tell the
25 ladies and gentlemen of the jury what you did?

1 A. Well, Antonio - - -

2 Q. And just let me put things in a context here. Did
3 everything that we're about to discuss happen pretty fast
4 in succession, in other words, it was not like in slow
5 motion, I mean, things were moving pretty fast once those
6 shots got fired?

7 A. Oh, yeah, like, - - -

8 Q. Now, - - -

9 A. My adrenaline was pumping extra fast.

10 Q. Tell us what happened to the best that you can recall.

11 A. So, like, Antonio put his back to the side of the
12 house, like, Ms. Lois, the lady that stays next-door to my
13 grandma, her fence is not too far away from my
14 grandmother's house. So Antonio put his back on the side
15 of the house. I was about to jump the back fence behind my
16 grandmama's pear tree and leave him, right, but I thought
17 about my aunt. I say, she would really kill me if I leave
18 her son, I mean, if something happened to him. So when he
19 put his back to the house, I followed his lead, I put my
20 back to the house. But as we got closer towards the front
21 of the house, I peeked around him and that's when I seen
22 the guy laying on the ground and I was, like, you know, ran
23 back around the house. I ran from that side all the way
24 back around the back and by the time I got by the back
25 porch Antonio said, "bruh, please don't leave me, please

1 don't leave me." So, my brother had, - - I got back
2 towards the front of the house and that's when, like,
3 what's the girl's name, Cecilia or Cecilia Green?

4 Q. Yeah.

5 A. Her and probably about four, five other people was
6 outside at that time.

7 Q. Well, let me stop you there. You may have said it but
8 I need, and I understand this is your brother but I need to
9 ask you this, at some point with everything going on, did
10 you - - did you look inside the house?

11 A. Yes, sir.

12 Q. Tell us about that and about when that happened? In,
13 just like I said, with everything going on I want to make
14 sure that that's clear.

15 A. Yeah, I was getting into it, like, when I was coming
16 around the house - - -

17 Q. Well, go ahead and finish what you were saying and get
18 to it in the manner that you need to so go ahead.

19 A. Okay. When I was coming around the house, like, I
20 seen Cecilia and those standing across the yard, like, they
21 stay across the road from my grandma in the brick house or
22 whatever. So when I was coming around the house I seen the
23 guy laying on the ground, I had a better view of him, so I
24 was like, no. I put my foot on my grandma bottom step and
25 I looked up that's when I seen a purple shirt and I

1 remember my brother had on a purple shirt on that day, I
2 mean, it was my shirt. I know the shirt.

3 Q. And what did you see him doing inside the house?

4 A. He had a chain on the door so nobody can get in the
5 room because the door did not have a knob on it. So he had
6 a chain through the door through the wall and he had a lock
7 on it, so he was trying to get into the room.

8 Q. And did you stay there long enough to see whether he
9 got in the room or anything else?

10 A. No.

11 Q. What did you do?

12 A. When I put my foot on that step, the first thought
13 came to my head was, no, I was, like, no, no, no, because
14 there's a man on this ground shot. I mean, I knew he was
15 shot because I heard eight, nine gunshots. This man is
16 shot. You trying to get in a room and I said no, like
17 three times, and that's when him turn and look at me. I
18 wasn't going to give nobody, like, I love me. I just had a
19 daughter, I love me. I got to be here for her. I'm not
20 about to give nobody a chance to hurt me, so I ran.

21 Q. Now, - - and again - - so when you - - tell us what
22 you did after that? You see your brother right there
23 trying to get into the house - - and again, did this take a
24 long time or was this literally in a matter of second?

25 A. Everything happened quick.

1 Q. So now, what did you do, to the best that you can
2 recall, you started talking about running, did you and
3 Antonio continue leaving the area?

4 A. When I - - when I turn around to run, like, I made it
5 back to the same exact spot that I was when Antonio called
6 me to go to the backyard and by that same time, he was
7 coming back from the backyard, you know what I mean, so,
8 like, we met up in the same spot twice.

9 Q. And then - - -

10 A. And the girl, Cecilia, that's how I remember, Cecilia
11 because she asked me she was like, "what happened, what
12 happened." "I don't know." She said, "I'm about to call
13 the police." I said, "please do." That's when I just, me
14 and Antonio both just ran on straight to my house.

15 Q. Would it be fair to say that you were pretty freaked
16 out?

17 A. Yeah, I was scared. Honest, I was scared.

18 Q. And you get to your house and I didn't ask you this,
19 so you get to your house and then, tell us what happened to
20 the best that you can recall?

21 A. Once I get home?

22 Q. Yeah, once you got home.

23 A. Once I was crossing the street to go home, like, I see
24 my mama she was pulling up, and that's the first person I
25 thought to call, you know what I mean. So by the time I

1 made it there I called her and she was, like, - - -

2 Q. Well, no, don't say what she said. Don't say what she
3 said. But you and your mom had a conversation?

4 A. Yes.

5 Q. What took place - - what happened after you and your
6 mom had that conversation?

7 A. After we had our conversation she went to my
8 grandmama's house, like, by then the police was already
9 coming and all so.

10 Q. And did you, eventually, I guess, did somebody come
11 and ether get you or were you taking to the scene down to
12 the residence?

13 A. Detective Williams,

14 Q. Okay.

15 A. He came to my house and pick me up from there. He
16 took me to the scene. I couldn't really see nothing
17 because there were so many cars there, like, tons of cars,
18 police cars, like, - - -

19 Q. And let me be clear on something, you called your mom?

20 A. Yes.

21 Q. So afterwards, you run away but - - let me ask you
22 like this, so you ran away, where's the first place anybody
23 look to try to find you?

24 A. Home. My mama house.

25 Q. And is that where you ran?

1 A. Yes.

2 Q. And did you call your mom?

3 A. Yes.

4 Q. And did you tell her something had happened?

5 A. Yes.

6 Q. And did your mom come home?

7 A. Yes.

8 Q. And did she leave and go to the scene?

9 A. Yes.

10 Q. And did you stay at home while this was happening?

11 A. No. No.

12 Q. And so then what happened?

13 A. Once my mama left, by the time she made it back, she
14 came back in the car. Then she said, "no, your brother he
15 be - - -

16 Q. All right. Don't say - - -

17 THE COURT: Don't say what your mother said.

18 Q. Do not say what your mother said.

19 A. But anyway, like, when she came back, she jumped out
20 the car and she talked to me and then she went walking back
21 towards the scene. By then, like, my nerves are bad. I
22 smoked cigarettes very heavy. I run through a pack a day.
23 I have bad nerves.

24 Q. I run through two so I must be in even worse shape,
25 but go ahead.

1 A. I have bad nerves, so, you know what I mean, like, I
2 ain't had no cigarettes, like, I been done smoked all of
3 them earlier that day from drinking. I smoke even worse
4 than I do not drinking.

5 Q. So where did you - - where did you - - where did the
6 police end up getting? Where did they - - -

7 A. From home.

8 Q. From home. So you were at your mom's house. So they
9 get you, carry you down to the police department and during
10 the course of a month, I think, you gave, what, several
11 statements, I'm not sure exactly how many, but did you give
12 several statements?

13 A. Yes.

14 Q. Were you truthful in all of those statements?

15 A. Not all of them.

16 Q. Did you, just to kinda go through a few things, did
17 you fail to tell them about actually seeing the defendant,
18 your brother, after the shooting? Did you, initially, fail
19 to tell them about that?

20 A. Yes.

21 Q. But did you eventually, I believe, in September, the
22 middle of September, tell them about that aspect that
23 you've testified to?

24 A. Yes, sir.

25 Q. Did you fail to tell them about - - well, I think you

1 might have mentioned in your first statement or at some
2 point, that you had turned your back when he fired the shot
3 but, in fact, that wasn't true. You actually saw when he
4 fired the shot?

5 A. Yes.

6 Q. When I say fire the shot, I'm talking about earlier
7 that day at Willow Tree. Did you, initially, lie about him
8 having fired the gun at all, when they interviewed you that
9 first time, did you fail to tell them that he had even
10 fired a gun that day?

11 A. No, I didn't tell them.

12 Q. And, the last thing is -- well, I say the last thing
13 but, one of the things I want to highlight is that --
14 well, actually that was it. Well, there is one other thing
15 I want to ask you as far as what you failed to tell them
16 and the information you failed to give them, why is it that
17 you didn't tell them these things initially? Why did it
18 take you, I guess, over the course of several interviews
19 leading up to September, I think around the 15th or 16th of
20 September of 2014, to tell them what you've testified to
21 today?

22 A. Because that's my brother. Like, I ain't want to see
23 my brother locked up for no murder charge.

24 Q. Now, in 2013, just because, you know, and with full
25 disclosure to the jury, in 2013, were you put on probation

1 for a burglary in the third degree, I guess, a YOA
2 suspended to probation?

3 A. Yes, sir.

4 Q. And are you still currently on probation?

5 A. Yes, sir.

6 Q. Now, that was in 2013, had that occurred before this
7 incident?

8 A. Sir?

9 Q. Had that occurred before the murder?

10 A. Yes, sir.

11 Q. And did that have anything to do with what you've
12 testified to today?

13 A. No, sir.

14 Q. You were running from the scene?

15 A. Yeah. I was scared, man.

16 Q. But, now, in September of 2014 and I forgot to get in
17 to this with you, did you give - - well, did you give a
18 gunshot residue test back, I guess, on the 19th or 20th, on
19 the 19th of August, 2014 - - -

20 A. Yes.

21 Q. - - - did they swab your hands? Without saying what
22 the results were, we're not getting into hearsay, were you
23 arrested after you became aware that the results of that
24 gunshot residue test were in?

25 A. I mean - - -

1 Q. In other words, when you were arrested, at the time
2 you were arrested, were you informed that the results of
3 the testing that you had done that the police had the
4 results?

5 A. Yes, sir.

6 Q. Okay. At the time you were arrested. And again,
7 we'll get into that with other witnesses this afternoon.
8 Now, I skipped the part but I want to go back to it and
9 that's Willow Tree. At some point around between the 19th
10 and 26th, had you given law enforcement information about,
11 had you finally come clean about the fact that your brother
12 had fired the gun?

13 A. Yes, sir.

14 Q. And, in fact, that gun was a .9 mm gun that was fired?

15 A. Yes, sir.

16 Q. Did you tell them where the shell casing would
17 probably be found?

18 A. Yes, sir.

19 Q. The first time they went out, you didn't go with them.
20 Were they able to find it the first time, to your
21 knowledge?

22 A. No, sir.

23 Q. So then on the 26th of August of 2014, were you
24 actually - - did you actually take them out to, take them
25 out to Willow Tree and show them the area where the shot

1 were fired?

2 A. Yes, sir.

3 Q. And to the best of your recollection from that time,
4 were they able to recover a shell casing?

5 A. Yes, sir.

6 Q. And I think it was investigator Williams and - - -

7 A. Flowers.

8 Q. - - - Flowers that went with you, is that - - -

9 A. Yes, sir.

10 Q. Thank you. But at that time you did this, were you
11 actually in custody or had you been arrested?

12 A. No, sir.

13 Q. When did you actually get arrested?

14 A. I got locked up September 15th.

15 Q. So almost a month later. Again you were arrested
16 almost a month later?

17 A. Yes, sir.

18 Q. And that was after or around the time that you were
19 informed about some results from a gunshot residue?

20 A. Yes, sir.

21 MR. REDMOND: I beg the Court's indulgence.

22 THE COURT: All right.

23 Q. I do need to highlight this. You are running from the
24 scene, do you understand that people would think that you
25 were involved because you ran from there?

1 A. I mean, I can see how it was. You can say that but -
2 - -

3 Q. But, and I'm going to get to the but, but tell the
4 ladies and gentlemen of the jury again, were you involved
5 in this murder?

6 A. No.

7 Q. And why, again, did you run?

8 A. I was scared. Somebody just got killed. I don't want
9 to die. I love me.

10 Q. And you made that determination after you had seen
11 whatever you saw, looking into the house?

12 A. Yes, sir.

13 MR. REDMOND: I beg the Court's indulgence.

14 THE COURT: All right.

15 Q. I forgot to ask you and this is important as far as
16 full disclosure. Now, you were charged and we explained, I
17 guess, the last round of questions I ask you about you
18 being charged a whole month later. You're actually charged
19 with murder and possession of a weapon, did you ever
20 possess a weapon?

21 A. No, sir.

22 Q. You kill anybody?

23 A. No, sir.

24 Q. And have you been advised that your charges, even
25 though you were charged initially by Darlington Police

1 Department in the case, after, I guess further
2 investigation, have you been informed that your charges
3 were dismissed?

4 A. Yes, sir.

5 Q. But how long did you stay in jail?

6 A. Fifteen months.

7 Q. So you stayed in the jail for fifteen months, you had
8 a one month old daughter?

9 A. Yes, sir.

10 Q. Despite all of that, again, with what you're
11 testifying to today, is there any reason or is there any
12 thing that you are not being truthful about with what
13 you've testified today?

14 A. No, sir.

15 Q. And, in fact, does your case - - the fact that your
16 case was dismissed, had you already given the information
17 that you provided back in August and September, 2014?

18 A. Yes, sir.

19 Q. So you had actually given this information before you
20 were arrested?

21 A. Yes, sir.

22 Q. Then you were told about GSR test results?

23 A. Yes, sir.

24 Q. You got arrested. But later on you, of course, were
25 informed that your charges had been dismissed?

1 A. Yes, sir.

2 Q. Is that any way connected to the testimony today?

3 A. No, sir.

4 Q. Because, again, had you not given at least, in peace,
5 at least finally told what happened up until September of
6 2014?

7 A. Yes, sir.

8 MR. REDMOND: That would be all the question I have.
9 Please answer any question - - -

10 MR. SCRUGGS: Your Honor, may we approach real, just
11 briefly?

12 THE COURT: Yes, sir.

13 (Whereupon, a bench conference was held off the record)

14 **Cross Examination by Mr. Scruggs:**

15 Q. That afternoon, Mr. Gibson.

16 A. How are you doing?

17 Q. Good. How are you?

18 A. I'm all right.

19 Q. As Mr. Redmond stated you were interviewed several
20 times by law enforcement?

21 A. Yes, sir.

22 Q. You were interviewed the night of the incident on the
23 19th, correct?

24 A. Yes, sir.

25 Q. You were interviewed twice on the 20th, correct?

1. A. Yes, sir.

2. Q. You were interviewed once on the 21st, correct?

3. A. I'm not positive.

4. Q. Did you meet with investigator Flowers on August 21st?

5. A. I remember meeting with Flowers, I'm not sure the date
6. though.

7. Q. Would you agree with me that it's right around the
8. same time?

9. A. Yeah, it's pretty close.

10. Q. You met with investigator Valazack on the 25th, is
11. that correct?

12. A. I don't know who that is, sir.

13. Q. Would you agree with me that, you met with her again
14. around that time?

15. A. You mean, Lieutenant Moe?

16. Q. Yes, sir.

17. A. Oh, yes, sir.

18. Q. On the 25th, correct?

19. A. Yes, sir.

20. Q. You were arrested on September 15th, correct?

21. A. You also speak to law enforcement that day, correct?

22. A. Yes, sir.

23. Q. You speak law enforcement the next day, on the 16th,
24. correct?

25. A. Sir? Yes, sir.

1 Q. But you speak to law enforcement that day, correct?

2 A. Yes, sir.

3 Q. Do you agree with me that's seven times?

4 A. Yes, sir.

5 Q. You are then incarcerated until December 21, 2015, is
6 that correct?

7 A. Yes, sir.

8 Q. Where were you held?

9 A. In Dillon County.

10 Q. In Dillon County. What pod were you in?

11 A. E pod.

12 Q. Were you in the same pod the entire time?

13 A. Yes, sir.

14 Q. Did you have a roommate?

15 A. No, sir.

16 Q. You were in there by yourself?

17 A. Yes, sir.

18 Q. Were you in there twenty-three hours a day?

19 A. No, sir.

20 Q. How many hours did you get out?

21 A. We came out at eleven, eleven in the morning and we
22 went back up at eight at night.

23 Q. Okay. I know this is somewhat obvious, but you're
24 stuck there, aren't you?

25 A. Yes, sir.

- 1 Q. You're told what to do?
- 2 A. Yes, sir.
- 3 Q. You were told what to eat?
- 4 A. Yes, sir.
- 5 Q. It's not fun?
- 6 A. At all.
- 7 Q. You don't want to go back?
- 8 A. No.
- 9 Q. You've got a daughter?
- 10 A. Yes, sir.
- 11 Q. How old is she now?
- 12 A. She's two now.
- 13 Q. She was just a month old at the time of this incident?
- 14 A. Yes, sir.
- 15 Q. Now, on the night of the incident - - let me back up
- 16 to that morning, you went out to the countryside, correct?
- 17 A. Yes, sir. That morning.
- 18 Q. With your brother?
- 19 A. Yes, sir.
- 20 Q. And Shrek?
- 21 A. Yes, sir.
- 22 Q. Mr. Gibson shot a gun out there?
- 23 A. Yes, sir.
- 24 Q. Your brother, excuse me. And the next day on the
- 25 20th, you speak with investigator Valazack, correct?

1 A. Yes, sir.

2 Q. This is after the incident, correct?

3 A. Now, what you told this jury here this morning over
4 this afternoon is that Joey shot a .9 mm that morning,
5 correct?

6 A. Yes, sir.

7 Q. However, the day after the incident you tell
8 investigator Valazack it could've been a 380 or a .9 mm, is
9 that correct?

10 A. Yes, sir. I have seen 380's shaped the same way.

11 Q. But you told law enforcement that it could've been a
12 380, is that correct?

13 A. Yes, sir.

14 Q. Okay. On August 19th, you were wearing a red shirt,
15 his right?

16 A. Yes, sir.

17 Q. You had dreads then, correct?

18 A. Yes, sir.

19 Q. Like you do now?

20 A. Yes, sir.

21 Q. You weren't arrested by law enforcement that night,
22 were you?

23 A. No, sir.

24 Q. You went to the police station?

25 A. Yes, sir.

1 Q. You gave a statement to investigator Williams, is that
2 correct?

3 A. Yes.

4 Q. He question you at the station, correct?

5 A. Yes, sir.

6 Q. Did you see your brother at the police station that
7 night?

8 A. Yes, sir.

9 Q. As I mentioned earlier, you were arrested September
10 15th, correct?

11 A. Yes, sir.

12 Q. For murder?

13 A. Yes, sir.

14 Q. For the murder of Gary Walker, correct?

15 A. Yes, sir.

16 Q. Those charges have now been dismissed, correct?

17 A. Yes, sir.

18 Q. You had an attorney representing you on those charges,
19 correct?

20 A. Yes, sir.

21 Q. When with those charges dismissed?

22 A. Monday, I think. Monday.

23 Q. Monday?

24 A. Yes, sir.

25 Q. This Monday?

1 A. Yes, sir.

2 Q. So these charges that have been pending for almost two
3 years for the murder of Gary Walker are dismissed this
4 Monday?

5 A. Yes, sir.

6 Q. The Monday of the week that you're testifying against
7 your brother in a murder trial?

8 A. Yes, sir.

9 Q. July 18, 2016, correct?

10 A. Yes, sir.

11 Q. I assume that you have discussed your case with your
12 attorney?

13 A. Yes, sir.

14 Q. A lot, probably?

15 A. Yes, sir.

16 Q. I assume that you would've discussed the penalties you
17 would've been facing if you had been convicted of this
18 crime?

19 A. I wasn't, like, I wasn't worried about being convicted
20 of a crime I didn't commit, sir.

21 Q. So your attorney did not advise you of the - - -

22 MR. REDMOND: Your Honor, I'm going to object. I
23 think were getting a little too deep into the attorney-
24 client - - -

25 THE COURT: Attorney-client privilege, yes.

1 Q. Okay. Well, I don't want to ask you about any of the,
2 any of the privilege information but were you aware of the
3 penalties that you were facing if you were convicted of
4 murder?

5 A. Yeah. Your Honor

6 Q. You were?

7 A. Yes, sir.

8 Q. So you knew that if you were convicted of murder you
9 could be facing thirty years to life in prison?

10 A. Yes, sir.

11 Q. An additional five years for possession of a weapon,
12 is that correct?

13 A. Yes, sir.

14 Q. Mr. Gibson, do you remember on August 20th, you were
15 interviewed by Lieutenant Valazack, is that correct?

16 A. Yes, sir.

17 Q. Do you remember her threatening to arresting you then?

18 A. Yes, sir.

19 Q. Do you remember what happened next?

20 A. I remember she asked me she said, if you don't have a
21 witness than you better have your alibi come up here in ten
22 or twenty minutes or you're going to jail.

23 Q. Exactly. Who came up there - - who did you call to
24 come up there?

25 A. Antonio.

1 Q. Antonio who?

2 A. Gregg.

3 Q. Antonio Gregg. And you were arrested a month later
4 once law enforcement had received the results of the
5 gunshot residue tests, is that correct?

6 A. Yes, sir.

7 Q. Law enforcement obtained or performed that gunshot
8 residue test on you the night of the incident, correct?

9 A. Yes, sir.

10 Q. They swabbed your hands, correct?

11 A. Yes, sir.

12 Q. They also took your shirt into evidence, is that
13 correct?

14 A. Yes, sir.

15 Q. Your red shirt, correct?

16 A. Yes, sir.

17 Q. Now, from August 19th to September 15th of 2014, you're
18 not under arrest, are you?

19 A. No, sir.

20 Q. You're free to come and go as you please?

21 A. Yes, sir.

22 Q. You can essentially do whatever you want, correct?

23 A. Yes, sir.

24 Q. Law enforcement does not have you in detention?

25 A. No, sir.

1 Q. But you are - - you still have contact with law
2 enforcement then, correct?

3 A. Yes, sir.

4 Q. And you still have contact with other people who are
5 involved in this case, correct?

6 A. What you mean by other people?

7 Q. Did you see Antonio Gregg during that time?

8 A. Every day.

9 Q. And just to be clear the main law enforcement officers
10 you dealt with Lieutenant Valazack, Moe, correct?

11 A. Yes, sir.

12 Q. Investigator Toney Flowers?

13 A. Yes, sir.

14 Q. Investigator Rickey Williams, correct?

15 A. Yes, sir.

16 Q. They were all at Darlington Police Department at that
17 time, correct?

18 A. Yes, sir.

19 Q. On August 26, 2014, you go with investigator Flowers
20 and investigator William out to the country, correct?

21 A. They had call me and they asked me to meet them there.

22 Q. You meet them out in the country, correct?

23 A. Yes, sir.

24 Q. I believe the address is [REDACTED] Willow Tree Road, [REDACTED],
25 something like that?

1 A. I don't know the numbers but I remember it was Willow
2 Tree Road.

3 Q. It's Dacoula James' house?

4 A. Yes, sir.

5 Q. Okay. And you show them where they can find a .9 mm
6 shell casing, is that correct?

7 A. Yes, sir.

8 Q. It was you who show them the spot, right?

9 A. No, I showed them where we was standing when the gun
10 was fired.

11 Q. You showed law enforcement where Mr. Gibson was
12 standing when he shot the gun?

13 A. Yes, sir.

14 MR. SCRUGGS: One moment, Your Honor. Just briefly.

15 Q. As the solicitor stated, Mr. Gibson, you in 2013 were
16 convicted of a felony, burglary, correct?

17 A. Yes, sir.

18 Q. And you were placed on probation, correct?

19 A. Yes, sir.

20 Q. Are you still on probation now?

21 A. Yes, sir.

22 Q. Would you agree with me that if you were convicted of
23 another crime could possibly face a probation revocation?

24 A. Yes, sir.

25 MR. SCRUGGS: Nothing further, Your Honor.

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1 THE COURT: All right, sir.

2 MR. REDMOND: Just briefly, Your Honor, for redirect.

3 I know it's about lunchtime. Just a couple of minutes.

4 **Redirect Examination by Mr. Redmond:**

5 Q. First of all, I forgot to ask you this and I think
6 it's important to put this out there for the jury. At any
7 time before, during, or after this incident had you ever
8 had your hands on that gun?

9 A. No, sir.

10 Q. And so who is the only person you ever saw with that
11 gun with the 9 mm that you described?

12 A. I seen that gun that morning.

13 Q. And who had it?

14 A. My brother.

15 Q. And just to be clear, you never had possession of that
16 gun at any time?

17 A. No, sir.

18 Q. And the second thing I want to get into is, he was
19 asking you about your case being dismissed and I hate to
20 beat a dead horse but I want to reiterate, the information
21 you testified to today you had provided that information
22 between August and September of 2014, is that correct?

23 A. Yes, sir.

24 MR. REDMOND: That would be all the questions I have.

25 THE COURT: Mr. Scruggs?

1 MR. SCRUGGS: No, sir, Your Honor.

2 THE COURT: All right. You can step down. You
3 want to release him from his subpoena?

4 MR. REDMOND: Yes, Your Honor, we do.

5 MR. SCRUGGS: Without objection.

6 THE COURT: You may be released then.

7 MR. REDMOND: And with that, Your Honor, I think
8 we've about three more witnesses after lunch so the state
9 anticipates concluding it's portion of the trial.

10 THE COURT: Good. All right. Is in our enough
11 time for all of you folks to eat yesterday.

12 (Whereupon, the jury agrees)

13 THE COURT: All right. We'll give you an hour now
14 too. So we'll be back in here at 2:15 p.m.

15 MR. REDMOND: I might have said three witness but
16 four witnesses but we'll still be able to finish.

17 THE COURT: All right. Everybody remained seated
18 while the jury goes out.

19 (Whereupon, the jury exits the courtroom at 1:15 p.m.)

20 THE COURT: All right. We'll recessed for lunch.

21 MR. REDMOND: Thank you, Your Honor.

22 (Whereupon, the Court breaks for lunch)

23 (Whereupon, the Court is back on the record)

24 THE COURT: You ready?

25 COURT REPORTER: I'm ready.

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1 THE COURT: All right. Counsel, you for the jury?

2 MR. REDMOND: The state's ready.

3 MRS. PARKER: Yes, Your Honor.

4 MR. SCRUGGS: Yes, sir, Your Honor.

5 THE COURT: All right. Bring them in.

6 (Whereupon, the jury enters the courtroom at 2:18 p.m.)

7 THE COURT: All right. Solicitor?

8 MR. REDMOND: May it please the Court? Your Honor,
9 the state would next call Mr. Carey Rowell. Corey Rowell.
10 I keep saying Carey.

11 CLERK: You swear the testimony you give this court
12 be the truth, the whole truth, and nothing but the truth so
13 help you God?

14 MR. ROWELL: I do.

15 THE COURT: All right. Mr. Rowell, speak loudly
16 and clearly in response to any questions now, all right?

17 MR. ROWELL: Yes, sir.

18 THE COURT: Speak into that microphone.

19 COREY ROWELL, first being
20 duly sworn, testified as follows:

21 **Direct Examination by Mr. Redmond:**

22 Q. Actually, if you could lean forward and speak into the
23 microphone and again, state your name for the record, your
24 full name?

25 A. Corey Rowell. Perfect. Perfect. Keep it right

1 there. That's perfect.

2 Q. And Mr. Rowell, where are you from?

3 A. Marion County.

4 Q. And are you currently in the Marion County Detention
5 Center?

6 A. No, sir.

7 Q. Currently in the Department of Corrections?

8 A. Yes, sir.

9 Q. Are you being - - are you a trustee at the Marion
10 County Detention Center?

11 A. No, sir.

12 Q. I'm sorry. Let me back up. You were being housed at
13 the Marion County Detention Center back in, I believe that
14 was in 2015, and we'll get into that, is that correct?

15 A. Yes, sir.

16 Q. And since that time did you validate your probation
17 and get sent to the Department of Corrections?

18 A. Yes, sir.

19 Q. All right. And let's back up for a moment. In 2015,
20 were you sent to the - - I'm sorry, in 2014 you placed on
21 probation for a burglary second degree?

22 A. Yes, sir.

23 Q. Five year suspended to three years probation?

24 A. Yes, sir.

25 Q. And did you violate that probation?

1 A. Yes, sir.

2 Q. And in August of 2015, did you get a conviction for
3 failure to stop for a blue light?

4 A. Yes, sir.

5 Q. And before that, I believe, in 2011 did you get a
6 petty larceny conviction?

7 A. Yes, sir.

8 Q. Now, with that in 2015, were you house at the Marion
9 County Detention Center?

10 A. Yes, sir.

11 Q. And when were you housed at the Marion County
12 Detention Center?

13 A. In 2015.

14 Q. Yes, 2015, and when were you at the detention center
15 in Marion County?

16 A. Like from May 3rd to August 15th, something like that.

17 Q. And while you were at the Marion County Detention
18 Center, did you have a chance to have any contact with the
19 defendant, Joey Gibson?

20 A. Yes, sir.

21 Q. Were y'all - - do you remember what pod y'all were
22 housed in?

23 A. A pod.

24 Q. And this is in Marion - - was the defendant housed
25 there for safe keeping from Darlington County?

1 A. Yes, sir.

2 Q. Did you have a chance to interact and talk with the
3 defendant?

4 A. Yes, sir.

5 Q. Now, in January of 2016, did Toney Flowers make
6 contact with you and ask you about the defendant?

7 A. Yes, sir.

8 Q. To be clear for the record, had anybody ask you to get
9 any information from the defendant prior to you talking to
10 Mr. Flowers?

11 A. No, sir.

12 Q. Now, in January of 2016, this year, did Toney flowers
13 meet with you at Marion County Detention Center?

14 A. Yes, sir.

15 Q. And did he ask you about any information you have
16 regarding the defendant?

17 A. Yes, sir.

18 Q. And subsequent in talking to him, did you do a
19 recorded statement with Lieutenant Valazack from the
20 Darlington Police Department?

21 A. Yes, sir.

22 Q. Going back, when you got to the jail in Marion in May
23 of 2015, was the defendant already there?

24 A. Yes, sir.

25 Q. And were y'all there the entire time that you were

1 there?

2 A. Yes, sir.

3 Q. Did you come to have any discussions with the
4 defendant regarding his charges here in Darlington County?

5 A. Yes, sir.

6 Q. And could you tell us how that came about? How it
7 came about that Joe engaged in this discussion?

8 A. It was me and my roommate, he really got him to really
9 talk about it. He ask him, like, did he go up for a bond.
10 He said, yeah, he went up for a bond but he said they never
11 gave it to him. So we ask him did he do it and he shook
12 his head, like, no, and dropped his head and gave us a
13 funny look and then he be, like, if I did, do we think they
14 gonna burn him. So we told him it all depends. And then
15 after that he started talking about he regretted it and
16 stuff like that. He was having dreams about it. He said
17 they had gotten into a little argument and he shot him and
18 he never said how many times.

19 Q. Did he ever mention as far as where the victim, you
20 know, where the victim was physically located when he got
21 shot?

22 A. In front of his house.

23 Q. Now, let me ask you do you recall about when the
24 conversation y'all had took place, was it all at one time
25 or was it over a course of time?

1 A. It was all at one time.

2 Q. And do you remember about when, if you can y'all had
3 this discussion?

4 A. I'm not too sure.

5 Q. Now, what else did he tell you - - did he tell you
6 anything else regarding the incident?

7 A. As far as him going into the house, he turned the
8 lights off because he never knew what happened.

9 Q. And then what else did he tell you, if you can
10 remember?

11 A. About the gun being somewhere around the dog house or
12 something like that.

13 Q. But did he give you any details about where or which
14 doghouse or whose house it was?

15 A. No, sir.

16 Q. But, to be clear - - and as that the extent of the
17 information that he gave you?

18 A. Yes, sir.

19 Q. But, to be clear, did the defendant initially deny
20 having engaged in the shooting of the victim - - in other
21 words, did he shake his head, no, like you indicated?

22 A. Yes, sir.

23 Q. But, as you went on - - -

24 A. It came out.

25 Q. Tell us again, what exactly did the defendant said

1 happened regarding the shooting?

2 A. That basically they got into an argument, he shot him.
3 He never said how many times he shot him. It happened in
4 front of the house. And after that he went in the house
5 and act like it never happened, turned on the light off.

6 Q. And you actually indicated he said - - part of the
7 way it came out because he talked about - - did he talk
8 about having dreams and regretting what had happened?

9 A. Yes, sir.

10 Q. Now, have you been promised anything - - did Toney
11 Flowers promise you anything in exchange for you giving
12 this information?

13 A. No, sir.

14 Q. Have I promise you anything in exchange for this
15 information?

16 A. No, sir.

17 Q. And, in fact did you give a recording, again, a
18 recorded statement January of 2016?

19 A. Yes, sir.

20 Q. And I didn't ask you this, or all of your charges from
21 Marion County?

22 A. Yes, sir.

23 Q. Marion County is a different district, a different
24 circuit than where we are now? Darlington and Marion
25 aren't even in the same circuit?

1 A. No, sir.

2 Q. So, you - - your charges came out of the twelfth
3 circuit solicitor's office, is that correct?

4 A. Yes, sir.

5 Q. Not the forth circuit solicitor's office where we are
6 now?

7 A. No, sir.

8 Q. But you gave this - - you gave this information when
9 you were asked by Toney Flowers?

10 A. Yes, sir.

11 Q. And you agreed to do a statement?

12 A. Yes, sir.

13 Q. And again, nobody has promised you anything?

14 A. No, sir.

15 Q. How much time do you have left on your sentence?

16 A. Eight months.

17 Q. So you've only got eight months left?

18 A. Yes, sir.

19 Q. Could you tell the ladies and gentlemen of the jury
20 what was it that made you, when Toney Flowers ask you, what
21 made you tell him what the defendant had told you?

22 A. It was wrong. It was wrong.

23 MR. REDMOND: I beg the Court's indulgence. That
24 would be all the questions I have. Please answer any
25 questions the defense may have.

1 Cross Examination by Mr. Scruggs?

2 Q. Mr. Rowell, you said you're currently being held in
3 Marion County jail?

4 A. Yes, sir.

5 Q. And that was for a probation violation?

6 A. Huh, huh.

7 THE COURT: Say yes or no please.

8 A. Yes.

9 Q. What charges were you being held on back in 2014?

10 A. I'm not too sure.

11 Q. But you've got multiple prior convictions, correct?

12 A. Somewhat.

13 Q. Let me help you out. A felony burglary first, for
14 burglary second in 2014?

15 A. That's what I got on probation for.

16 Q. Failure to stop for a blue light in 2014?

17 A. That's what I got convicted for.

18 Q. Two petty larcenies in 2015?

19 A. I'm not sure about them. I ain't never seen those.

20 Q. And then another failure to stop for blue light in
21 2015?

22 A. It should've been just one.

23 MR. SCALES: I beg the Court's indulgence.

24 THE COURT: Yes, sir.

25 Q. But you say that Toney Flowers, the investigator on

1 this murder case, contacted you?

2 A. Yes, sir.

3 Q. You didn't contact him?

4 A. No, sir.

5 Q. He came to you?

6 A. Yes, sir.

7 Q. And you remember giving a statement later with
8 Lieutenant Valazack?

9 A. Yes, sir.

10 MR. SCALES: I would like to play that statement,
11 Your Honor.

12 MR. REDMOND: No objection from the state.

13 MR. SCALES: All right. And that is marked as
14 Defense Exhibit Two.

15 THE COURT: Is it already admitted into evidence?

16 MR. SCALES: Yes.

17 (Whereupon, the Disc-Interview of Corey Rowell has been
18 marked and entered into evidence as Defendant's Exhibit No.
19 2)

20 (Whereupon, the video was played for the jury)

21 Q. That was you on the tape, correct?

22 A. Yes, sir.

23 Q. And you said you had been offered anything for your
24 testimony here today?

25 A. No, sir.

1 Q. But you know how the system worked, right?

2 A. What you mean by that?

3 Q. You give law enforcement or the solicitor's office
4 information, your sentence could get potentially better,
5 couldn't it?

6 A. I don't know nothing about it.

7 Q. Is this the first time you snitched on somebody?

8 A. You say what?

9 MR. REDMOND: Your Honor, I would object to
10 characterization of snitch.

11 THE COURT: I agree. Rephrase the question.

12 MR. SCALES: Withdrawn, Your Honor.

13 Q. This is the first time that you come forward to law
14 enforcement with information?

15 A. Yeah.

16 Q. So, let's talk about what you talking about in that
17 interview, so Joey told you about this incident, right?

18 A. Yeah, he did.

19 Q. The shooting, he said he did it?

20 A. Yeah.

21 Q. And then he hid the gun?

22 A. Somewhere around the dog, the dog house.

23 Q. Did he say where that doghouse was?

24 A. No, he didn't.

25 Q. And then he went back inside?

1 A. In his house and turnt off all the lights.

2 Q. And you don't know whether he come in through the
3 front door or the back door?

4 A. No.

5 Q. Okay.

6 MR. SCALES: I beg the Court's indulgence.

7 THE COURT: Yes, sir.

8 MR. SCALES: Nothing further, Your Honor.

9 MR. REDMOND: No redirect.

10 THE COURT: All right. You can step down.

11 MR. REDMOND: And I would ask that Mr. Rowell be
12 release from his subpoena.

13 MR. SCALES: No objection.

14 THE COURT: All right. He may be excused and
15 returned back to his quarters.

16 MRS. PARKER: May it please the Court, Your Honor?
17 At this time, the state Whitney Berry.

18 CLERK: You swear the testimony you give this court
19 be the truth, the whole truth, and nothing but the truth so
20 help you God?

21 MS. BERRY: I do.

22 WHITNEY BERRY, first being
23 duly sworn, testified as follows:

24 **Direct Examination by Mrs. Parker:**

25 Q. Good afternoon.

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1 A. Good afternoon.

2 Q. Could you please state your full name for the court's
3 record?

4 A. My name is Whitney Berry.

5 Q. Ms. Berry, where are you employed?

6 A. I employed with the South Carolina Law Enforcement
7 Division also refer to a sled.

8 Q. And what is sled? What do sled do?

9 A. I work for the sled forensics lab. We're a full-
10 service forensic laboratory. We're an assisting agency for
11 the state so any other agencies or police departments that
12 need assistance in investigations they can come to us for
13 help.

14 Q. And specifically which department are you employed?

15 A. I work in the trace evidence department.

16 Q. And what your position there?

17 A. I am a forensic scientist and I specialize in gunshot
18 residue analysis.

19 Q. And tell the jury a little bit about your educational
20 background.

21 A. I have a bachelors in a science degree from the
22 University of South Carolina. When I was hired at sled I
23 completed a nine month in-house gunshot residue training
24 program which included multiple or practical hand long test
25 as well as written examinations, readings of journal

1 articles and courtroom testimony observation. I've also
2 gone to the College of Applied Sciences in Illinois and I
3 have taking their scanning electron microscopy course as
4 well as their gunshot residue analysis course.

5 Q. And your time at sled, how many gunshot residue kits
6 have you processed would you say just a guesstimate?

7 A. My last count I think we were up to about eight
8 hundred cases which averages about two and half kits per
9 case so somewhere in the ballpark of sixteen hundred GSR
10 kits.

11 Q. Sixteen hundred. And have you been qualified as an
12 expert in Circuit Court in South Carolina before?

13 A. Yes, ma'am.

14 Q. How many times would you say?

15 A. Thirty-four.

16 MRS. PARKER: Your Honor, at this time I would move
17 to have Ms. Berry qualified as an expert in the field of
18 trace evidence.

19 MR. SCRUGGS: Without objection.

20 THE COURT: All right. I find her to be so
21 qualified.

22 Q. Ms. Berry, before we get into the specific kits that
23 were analyzed for this test, would you just tell the jury a
24 little bit about what gunshot residue is and the science
25 behind what you do?

1 A. Yes, ma'am. Gunshot residue is the three component
2 primer residue that comes out of the cartridge on a gun
3 when it's fired. So the cartridge is the container that
4 holds the bullet. A lot of people refer to the whole thing
5 as the bullet. There's a primer capsule on the bottom,
6 when the trigger is pulled, normally a firing pin would hit
7 the bottom primer, it will cause a rapid explosion on
8 contact. This rapid explosion combustion of the gases
9 inside and it causes the metal primer components to turn
10 into molten metal. So they go from, what you would think
11 of metal shavings into spheroid round molten pieces. They
12 come out in the air because they vaporize and then as they
13 cool in the air they'll land on things such as hands,
14 clothing other objects around the gun and that is the
15 gunshot residue that were looking for. These are
16 microscopic particles. They're between one and then
17 microns in size. So if you pull a hair out of your head
18 across the diameter of about one hundred GSR particles will
19 fit there. They're very small. Gunshot residue is very
20 fine, very - - it doesn't - - it's very easy to remove,
21 transfer. If you can think like flour in your kitchen on
22 your hands every time you clap your hands a little bit of
23 that can come off. Its very much how gunshot residue is.
24 It's very easily removed. Any sort of normal every day
25 activity can remove it. So what we have is when we go and

1 when we're taking a gunshot residue kit off of someone who
2 has suspected to have shot, the officers getting kit, it
3 has for little vials in it like this they contain what is
4 called a particle lift which is a little black dot in the
5 center. That's kind of like a sticker. So you would press
6 it on the hands in the different area and it would pick up
7 any sort of dirt and debris or particular matter that is on
8 the area. You may not necessarily see anything on the hand
9 but it will pick it up. What we do then so we put it on a
10 scanning electron microscope and it's going to scan back
11 and forth, kind of like a science fiction radar, and every
12 time it see something it's going to take a picture. So
13 then we can see physically what's on the particle lift.
14 We'd also have an x-ray detector that's hooked up to it so
15 it would do an x-ray and that would tell me what it's made
16 of. So for it to be gunshot residue, we want a molten
17 particle and it's going to be composed of lead, barium, and
18 antimony. Because those are the three metallic elements in
19 the primary that are going to vaporize. So whenever we're
20 looking at gunshot residue, that's what were looking at.
21 Samples off of the hands or off clothing that is submitted
22 to us to find these tiny microscopic particles.

23 Q. Can you explain to the jury, you said in the kit there
24 will be four - - -

25 A. Mmm, hmm.

1 Q. - - - little vials like that, can you explain the
2 reasons behind that?

3 A. Yes. So the State of South Carolina, we work with
4 Under sure - - we've designed our own GSR kits. We have
5 four lifts so they are for the right palm, right back, left
6 palm, left back of the hand. So that would be the palm
7 area and the back area of each hand. And we do one lift
8 for each area because that can help us get a better
9 distribution of particles. The tackiness of the sticker
10 might wear off if you start on one side and you might not
11 get something on the other if we only have one left so we
12 have the four. With those four, we analyze those four
13 areas of the hand whenever we analyze the GSR kit. That
14 will tell us where on the hand we found something, what we
15 found and we can look at the quantities and pull our
16 conclusions from that.

17 Q. And did you analyze any samples taken to you from the
18 Darlington Police Department and Darlington Police
19 Department case number was 14080258?

20 A. Yes, ma'am.

21 MRS. PARKER: Permission to approach the witness,
22 Your Honor?

23 THE COURT: Yes, ma'am.

24 Q. I'm showing you what's marked State's Thirty-nine
25 that's already in evidence, I was going to see do you

1 recognize this kit?

2 A. Yes, I do.

3 Q. And tell the jury how you can recognize it?

4 A. Every case that's login at sled is given a unique lab
5 identifier number. That would be in this case L14-10476.

6 Every item within that case is given its own number so this
7 would be item number one and we have a bar code with that.

8 This bar code allows us to track the chain of custody for
9 this piece of evidence from the time it comes into our lab

10 until the time it leaves our lab so it's all tracked by

11 computer and electronically. I know that I handled this k

12 thanks it because my initials are here as well as the date

13 that I opened it and I know that it hasn't been tampered

14 with because of up here are my initials and the date that I

15 sealed it with tampered evidence tape.

16 Q. And is the item still taped?

17 A. Yes, it is.

18 Q. In that particular kit, and I may need to reference

19 the exhibit number again was Thirty - - State's Exhibit

20 Number Thirty-nine, which was the GSR kit from Quinton

21 Gibson and let's go over the results on his kit first.

22 Before I get into that, I will ask you this, did you issue

23 a report on your findings?

24 A. Yes, ma'am.

25 Q. And did you analyze samples from Quinton Gibson's GSR

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1 kit and Joey Gibson, the defendant on trial here today his,
2 GSR kit?

3 A. Yes, ma'am.

4 Q. I will him get this out the way. I'll show you
5 State's Exhibit Fifty-two, it's been marked for
6 identification purposes. Do you recognize this item and
7 tell the jury what it is?

8 A. This is a copy of the gunshot residue report that I
9 issued for sled lab number L14-10476.

10 Q. Okay.

11 MRS. PARKER: Your Honor, at this time the state
12 would move to have her report admitted into evidence.

13 MR. SCRUGGS: Your Honor, again to preserve this
14 issue I object to item Fifty-two, the GSR report being
15 admitted into evidence as well as any testimony from Ms.
16 Berry regarding the results of the State's evidence Forty
17 which is the GSR kit for Mr. Joey Gibson?

18 THE COURT: All right, sir. Any response?

19 MRS. PARKER: (Shaking of the head, no)

20 THE COURT: I've - - we've - - I've already ruled
21 on this so I find it to be admissible so overrule your
22 objection.

23 MR. SCRUGGS: Thank you.

24 MRS. PARKER: Thank you, Your Honor.

25 (Whereupon, the Sled GSR Report has been marked and entered

1 into evidence as State's Exhibit No. 52)

2 Q. Would you like that or do you have, did you bring your
3 copy?

4 A. I have my own copy.

5 Q. I'll take this one. Right before I show you this, you
6 identified the GSR sample or kit that was taken from
7 Quinton Gibson and I wanted to go over the results from
8 that - - -

9 A. Yes, ma'am.

10 Q. - - - first.

11 A. The GSR kit submitted from Quinton Gibson for the
12 right palm, the right back, the left palm, we found no
13 primer or gunshot residue. So that means, is what we would
14 say, is a negative. There was no gunshot residue. No
15 primer residue on any of those three areas of his hand.
16 For the left back of Quinton Gibson's hand, one particle of
17 gunshot residue was found. That was one round or molten
18 particle that contained lead barium and antimony.

19 Q. And explain to the jury, did you also test Quinton
20 Gibson's clothes?

21 A. Yes, I did test a T-shirt that was submitted it was
22 said to have belong to Quinton Gibson. I tested that
23 because one particle of GSR by itself is not concrete of a
24 result as you can get if you had more if you had a
25 population of particles. For example, if you have the

1 three component particles, that's great, Those are gunshot
2 residue. There's nothing else that's going to make a three
3 component particle like that. But if you have to component
4 particles so a lot of antimony are lead barium those can
5 also be in the gunshot residue you because it's two of
6 those elements together. And then if you have a single
7 component of round lead or round antimony or barium, in
8 addition to all of that, then it's very, very, strong
9 evidence that the person in question was very, very, close
10 to the discharge of a firearm. So, ideally, we want all
11 three of those kinds of particles when we're looking for
12 GSR on something or someone. So in this case, only one
13 particle of GSR was found on Quinton Gibson's left back of
14 his hand so I went ahead and looked at his clothes since
15 they had been submitted to see if we could find more of
16 that population.

17 Q. So what did you find when you looked at his clothes?

18 A. On his T-shirt that was submitted we found multiple
19 particles of gunshot residue and multiple round particles
20 consistent with gunshot residue. So that would be your
21 three component particle that your round or molten, that's
22 your gunshot residue and then your consistent particles
23 would be your two component particles. So they're also
24 round and they have two of those elements in them together.
25 So together that's a little bit more of a stronger positive

1 than one by itself.

2 Q. So it would be safe to say, there was definitely GSR
3 on his clothes?

4 A. Yes, ma'am.

5 Q. Tell me a little bit about the nature of the GSR, does
6 it - - would GSR stay on clothes longer than skin?

7 A. Yes, ma'am. On a living person the scientific
8 community expects that gunshot residue you will not stay on
9 the living persons hands more than four to six hours. This
10 is because it's fragile like I mentioned before, you can
11 sweat it off, you can wipe it off by just touching your
12 pants or putting your hands in your pockets, you can wash
13 it off with soap and water, if it's, especially rainy or
14 windy and you're outside, of course, it has the potential
15 to be removed that way, it can absorb your pores. So after
16 four to six hours we don't expect to find gunshot residue
17 on the hands of a living person and if we do, we can't
18 really tie it to an incident after six hours. On clothes,
19 on the other hand, or any other inanimate object, it's not
20 movable, it's not breathing, it's just there. So the
21 gunshot residue especially on clothes because it's molten,
22 when it lands, it kind of embeds itself into the fibers of
23 the clothing and it stays there until it's removed. So it
24 can be removed by being washed in the laundry or it can be
25 removed by me sampling it with another one of those

1 particle lifts.

2 Q. And laissez for example, if someone was wearing a
3 shirt and they were in the vicinity of a gun being fired,
4 would it be possible that it could be longer than four to
5 six hours and a hand could be re-contaminated with gunshot
6 residue by transfer? Can gunshot residue transfer if you
7 already have it on your clothes if you're wearing that same
8 shirt, just say you take your hands and it rubs up against
9 that shirt?

10 A. Yes, ma'am.

11 MR. SCRUGGS: Your Honor, I'm going to object on
12 speculation grounds on this question.

13 THE COURT: This is an expert witness. She can
14 offer her opinions to that. She's been qualified. You can
15 answer the question, ma'am. Do you need for her to ask it
16 again?

17 A. No, sir.

18 THE COURT: You can answer the question.

19 A. Okay. Yes, ma'am. On clothing it's going to stay
20 indefinitely. So the limitation with clothing as we can't
21 give you a time frame of when it was deposited, if you have
22 a favorite hunting jacket that you take every year and you
23 go hunting and you never wash it because you don't want to
24 scare the deer away, there's going to be GSR on that coat.
25 It's hanging up in your closet it's going to stay there

1 until you wash it until you get it clean. So that's the
2 same with if you're wearing a shirt out and you go to the
3 gun range or something it's going to stay on your clothes
4 until you wash your clothes.

5 Q. Is it possible for, say, your hand brushes up against
6 the clothes, would the hand leave the GSR on the clothes?

7 A. Yes, ma'am. Any item and any object to keep the GSR
8 until it's removed. Removal could be wiping it, washing it
9 away or just touching it.

10 Q. And on the item of Quinton Gibson, I sort of hit on it
11 again as you discussed, you found one particle with gunshot
12 residue, is that correct?

13 A. Yes, ma'am.

14 Q. I want to continue and let's talk about the kit from
15 the defendant is here today, Joey Gibson, let's talk about
16 his result.

17 A. Yes, ma'am. The right palm of Joey Gibson, we found
18 one particle of gunshot residue and one particle consistent
19 with gunshot residue. On the back of the right hand from
20 Joey Gibson we found multiple particle of gunshot residue.
21 On the left palm we found one particle of gunshot residue
22 and one round particle consistent with gunshot residue.
23 And on the left back we found multiple particles of gunshot
24 residue and one round particle consistent with gunshot
25 residue.

1 Q. And I wanted to ask you in your opinion is this a
2 positive for gunshot residue on the hands?

3 A. Yes, ma'am.

4 Q. And is this more concrete population is what you
5 discussed about when you're looking for the multiple types
6 of particles and various particles?

7 A. Yes, ma'am. Due to the volume of gunshot residue
8 particles that were found it was a high population. Our
9 protocol say that we only need to find two particles, two
10 of these microscopical particles to call a positive. In
11 most cases I look for four or more of them. So when it
12 says multiple particles of gunshot residue were found were
13 talking like at least four or five round GSR particles were
14 found. In addition to that, we have consistent particles
15 so those are the two component particles that are also
16 indicative of GSR.

17 Q. So another way to put this, you found a high-volume of
18 gunshot residue particles on his hands?

19 A. Yes, ma'am.

20 Q. And you already kind of touched on this briefly, you
21 said GSR on a living human being, you expected to last how
22 long?

23 A. Four to six hours. Some of the scientific
24 communities, different forensic labs across the country
25 have different time limits. Some will not accept a gunshot

1 residue kit that's collected after four hours. South
2 Carolina is a little bit more lenient with that. We won't
3 accept it if it's collected after six. So if it's
4 collected after six hours we will analyze it because we can
5 no longer connected to a specific incident. This one was
6 collected within the time frame so we would expect any
7 gunshot residue on the hands to be attached to the incident
8 time that we were given.

9 Q. Let's say for example, someone said they fired a
10 firearm ten hours prior and that a gunshot residue was
11 collected so let's say the window of time was ten hours
12 prior, would you expect to have a positive result?

13 A. No, I wouldn't.

14 Q. In fact Mr. Gibson's results from his kit, is there
15 any way possible that he had fired a gun ten hours prior to
16 the alleged incident that this amount of gunshot residue
17 could be on his hands?

18 A. I would not expect to find this amount of gunshot
19 residue on someone's hands after ten hours, no.

20 Q. And does the time of the year even kind of aggravate
21 that even further as far as in August when it's hot and
22 humid?

23 A. When it's hot and humid actually are going to sweat
24 more so that sweat does have the potential to remove
25 gunshot residue. I wouldn't know how much could be

1 removed. There's never been a study on it but it could
2 potentially remove more in the summer than in the winter.

3 Q. In this case, Joey Gibson's clothes, the defendants
4 clothes, were also taken to sled along with the blue
5 washcloth with those items analyzed?

6 A. No, ma'am.

7 Q. And would you explain to the jury a little bit about
8 sled's policy and why you didn't look at those items?

9 A. Yes, ma'am. When we get gunshot residue kids the
10 absolute best evidence comes from the hands because the
11 hands have that time frame. Clothing doesn't have a time
12 frame so we have no ideal of when those particles of
13 gunshot residue would have been deposited. In this
14 instance, generally it's our policy to run gunshot residue
15 from the hands before clothing. If we get a positive on
16 the hands then we're not going to open and look at the
17 clothing because we already have the most concrete positive
18 that we can have on the hands. So to open up the clothing
19 if it's there, then it could've been there from something
20 else, we can't really associated with the incident but when
21 it's on the hands, we can associated with the incident.

22 Q. So in other words, like you said, the hands is the
23 best evidence?

24 A. Yes, ma'am.

25 Q. And in this case was Joey Gibson's with the presence

1 on his hands so strong, like you said, there was no need to
2 look at the clothes?

3 A. Yes, ma'am.

4 Q. Or the washcloth?

5 A. No, ma'am, no reason to.

6 Q. And I want to ask you this, the GSR that's on the
7 defendants hands, would you say, in your opinion, is it
8 more probable that Joey Gibson fired a firearm or was
9 within the vicinity and close by someone that fired a
10 firearm? With the amount that was on his hands, what would
11 you say, in your opinion, is more likely and we're talking
12 about a .9 mm?

13 MR. SCRUGGS: Your Honor, I have to object to this
14 question. I don't believe even the nature of gunshot
15 residue and what you're able to tell from the results that
16 even as an expert witness you wouldn't be able to answer
17 that question posed?

18 MRS. PARKER: Your Honor, I think she's an expert
19 witness. She's been qualified and I think it is an opinion
20 testimony and I think she can render her opinion to the
21 question.

22 THE COURT: If she has knowledge with regards to
23 that, it falls within her expertise so I think she can in
24 her best opinion. Can you answer that question?

25 A. To the best of my ability.

1 THE COURT: All right, answer it to the best of
2 your ability.

3 A. With the quantity of gunshot residue that was found
4 and it's also got the associated particles and everything
5 else with that, I would say that it was either from a
6 person who fired a weapon, like they were the person firing
7 or they were so close to the person firing that they
8 would've been touching. I mean, there's, with just where
9 it is on the hands and how much there is I would say that
10 it's more likely that in this case that it came from
11 someone firing than someone's standing a few feet away.

12 Q. So you think it's more likely that the scenario would
13 be this person fired as opposed to standing beside?

14 A. I would say it's more likely this person fired just
15 because of where the GSR was on the hands.

16 MRS. PARKER: Thank you, Ms. Berry. Please answer
17 any questions that the defense may have.

18 MR. SCRUGGS: Thank you.

19 Cross Examination by Mr. Scruggs:

20 Q. Ms. Berry, let me point your attention back to your
21 report which is exhibit Fifty-two, State's Exhibit Fifty-
22 two. At the top, the top right-hand corner under incident
23 date it list four names, is that correct?

24 A. Yes, sir.

25 Q. Quentin Gibson, Antonio Gregg, Joey Gibson, and Gary

1 Walker, correct?

2 A. Yes, sir.

3 Q. With regards to the first three names there is a
4 bracket with the letter S, correct?

5 A. Yes, sir.

6 Q. What does S mean?

7 A. S is a designation in our computer system for a
8 subject in a crime to differentiate our subjects, from our
9 victims, from our officers, from witness. It's just a
10 designation.

11 Q. You received a GSR kit from four individuals, correct?

12 A. Yes, sir.

13 Q. And those are those four individuals who just named,
14 correct?

15 A. Yes, sir.

16 Q. Is it correct, that no GSR analysis was performed on
17 the GSR kit from Antonio Gregg, Item Two?

18 A. Yes, sir, that is correct.

19 Q. But one was performed on Mr. Joey Gibson, correct?

20 A. Yes, sir.

21 Q. In one was performed for Mr. Quinton Gibson, right?

22 A. Yes, sir.

23 Q. On direct you said is possible for GSR to remain on
24 clothing longer than the persons, correct?

25 A. Yes, sir.

1 Q. And you also stated that it's possible that GSR can be
2 transferred from shirt to hands, correct?

3 A. Yes, sir.

4 Q. With regard to the particles of GSR found on the left
5 and right back of Mr. Joey Gibson's hands, all you are able
6 to tell us that this indicates one of three things. First,
7 that he discharged a firearm. Second, that he was in the
8 vicinity of someone who discharged a firearm or third, he
9 came into contact with the surface that had GSR on it,
10 correct?

11 A. And are we just talking about the back of the hands,
12 sir?

13 Q. Yes, sir, yes, ma'am.

14 A. Of those three things for gunshot residue to be on the
15 back of somebody's hands it would be most likely that they
16 were either firing a weapon or very close of the vicinity
17 of someone to firing a weapon. It would not be likely that
18 they got the quantity on their hands from transfer.

19 Q. But you'll agree with me, for example, Item 3.2, right
20 back from Joey Gibson, correct?

21 A. Yes, sir.

22 Q. Your report reads particles of gunshot residue was
23 found, right?

24 A. Yes,⁷ sir.

25 Q. And then goes on to say gunshot residue can come from

1 discharging a firearm being in the vicinity to the
2 discharge of a firearm or coming into contact with a
3 surface that has gunshot residue on it, correct?

4 A. Yes, sir. That is a statement we put on all of our
5 results regardless of what's found, additionally, on each
6 hand. It's a general statement that we have. For us to
7 draw our conclusions we look at the population of all the
8 particles on all the areas in the hands.

9 MR. SCRUGGS: Thank you very much, Ms. Berry.

10 THE COURT: Anything else, Mrs. Parker?

11 MRS. PARKER: No redirect, Your Honor.

12 THE COURT: All right. You can step down. Thank
13 you, ma'am.

14 MRS. PARKER: Your Honor, we would just ask - - -

15 THE COURT: May this witness be excused?

16 MRS. PARKER: Yes, Your Honor.

17 MR. SCRUGGS: No objection.

18 THE COURT: You may be excused.. All right.
19 Solicitor?

20 MR. REDMOND: Thank you, Your Honor. May it please
21 the Court? The state would next call Chad Smith from sled.

22 CLERK: You swear the testimony you give this court
23 be the truth, the whole truth, and nothing but the truth so
24 help you God?

25 MR. SMITH: I do.

1 MR. REDMOND: If it pleases the Court?

2 THE COURT: Yes, sir.

3 MR. REDMOND: Before I begin if I could, to save
4 time, approach with State's Twenty-nine through Thirty-four
5 and those are already in evidence and I'm going to hand him
6 State's Fifty and Fifty-one, they're marked or ID purposes
7 at this time but I will be seeking to introduce at the
8 appropriate time.

9 CHAD SMITH, first being
10 duly sworn, testified as follows:

11 **Direct Examination by Mr. Redmond:**

12 Q. Could you state your name for the record please?

13 A. Chad Smith.

14 Q. And by whom are you employed?

15 A. I'm employed by sled. Specifically, I work in sleds
16 forensic services laboratory in Columbia and I work in the
17 firearms department.

18 Q. And how long have you worked there?

19 A. It will be eight years in November.

20 Q. And just by way of background, could you give us your
21 educational background?

22 A. I attended Clemson University, where I earned a
23 bachelors of science degree in biological sciences. I came
24 on board with sled in November of 2008 and began my
25 training as a firearm examiner. The training program last

1 between three to five years. It is supervised by the court
2 qualified examiners of the firearms department. There's
3 multiple examinations and tests involved in the training.
4 A lot of reading and studying. I've also helped other
5 examiners with their case work. At the end of the training
6 program, I received a comprehensive multi-part examination
7 which I successfully passed and then begin to receive my
8 own case work.

9 Q. And I know you didn't hear me boo, I am a die hard
10 gamecock fan but I look past that for the purpose of your
11 testimony today. Now, I need to ask about your
12 professional training, what training's or certifications
13 have you received?

14 A. During the training process at sled we received or
15 went to a lot of different courses and classes on the field
16 of firearm identification. There's also a professional
17 organization called the Association of Firearms and Tool
18 Mark Examiners which I am a member of and every year there
19 is a training seminar that's hosted by this organization
20 and I've attended this seminar several times during my
21 employment at sled.

22 Q. And how many times have you been qualified as an
23 expert in the field of firearms analysis?

24 A. Twenty-seven times

25 MR. REDMOND: With that, Your Honor, I would

1 respectfully move that Mr. Smith be qualified as an expert
2 in the field of firearm analysis.

3 MR. SCRUGGS: No objection.

4 THE COURT: I find him to be qualified in that
5 field.

6 Q. Now, let's in layman's terms, talk about what is
7 firearm analysis. Could you in layman's terms explained to
8 the jury what it is you do?

9 A. Generally, my job consists of analyzing firearms,
10 ammunition and ammunition components. Typically, what I'm
11 supposed to do is to determine if a firearm fired a
12 specific ammunition component such as a bullet or a
13 cartridge case. And how I am able to do that is, during
14 the manufacturing process of a firearm the tool machines
15 that are making the firearm leave various little marks on
16 parts of the firearm and what happens is, those marks
17 impart onto the bullet or the cartridge case during firing
18 and we can use those little marks, they are very small, can
19 use a microscope to see them. Use those marks to help
20 determine if that specific ammunition opponent was fired by
21 that firearm.

22 Q. Now, let's say you don't have a murder weapon, but you
23 have shell casings or you have bullets that are intact
24 enough that you can make an identification, is it possible
25 without a murder weapon to examine the cartridges to

1 determine whether they were fire by the same weapon?

2 A. Right. And that is an analysis that we do, do. We
3 can determine or attempt to determine how many guns were
4 involved. If all of the cartridge cases were fire by one
5 gun or if there's multiple guns involved, we do, do that
6 without a firearm.

7 Q. And how would you go about doing the testing?

8 A. What we would do is use our microscope, is called a
9 comparison microscope. It's, basically, two microscopes
10 that's connected by optical bridge system and we compare
11 two samples simultaneously. And we can compare, for
12 instance, two shell casings or cartridge cases with each
13 other, look for those markings that are created by the
14 firearm and ry to determine if they were fired by the same
15 firearm.

16 Q. Now, in reference to the case at hand, I guess, your
17 lab number L14-10476 and I am first starting in November of
18 2015, did you conduct an analysis of shell casings and fire
19 bullets in this case?

20 A. Yes, I did.

21 Q. Let me talk about the fire bullets. I'm not going to
22 actually hand those to you, I'm going to ask you to
23 reference your report and before I do that, did you
24 generate a report.

25 A. Yes, sir.

Chad Smith- Direct Examination by Mr. Redmond

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1 Q. And did you generate that report on the 4th of
2 November, 2015?

3 A. Yes, sir.

4 Q. And is that, State's Exhibit Number Fifty, I believe,
5 that I handed to you?

6 A. Right now I'm just comparing my report with the
7 state's exhibit report.

8 Q. Absolutely.

9 A. Yes, sir. This is a copy of that report that was
10 generated on November 4th.

11 MR. REDMOND: And at this time, I'd move to introduce
12 State's Fifty into evidence if there is no objection?

13 MR. SCRUGGS: None, Your Honor.

14 THE COURT: All right. Received into evidence.
15 Fifty.

16 (Whereupon, the Firearm Report-11/4/2015 has been marked
17 and entered into evidence as State's Exhibit No. 50)

18 MR. REDMOND: And actually I'm going to go ahead and
19 do Fifty-one as well.

20 Q. If you could examine that and see if it's an accurate
21 and true copy. I'm not going to move that in just yet but
22 go ahead. I can knock out two birds with one stone.

23 A. Yes, this is the supplemental report that was
24 generated on July 15th of this year.

25 Q. Of this year?

1. A. Yes, sir.

2 Q. And will get to that one in the little while. Let's
3 go back to your November of 2015 test, I'm going to ask you
4 to look at what's before you State's Exhibit Twenty-four
5 through Thirty - - Twenty-nine through Thirty-four, excuse
6 me.

7 A. Twenty - - yes, sir.

8 Q. And in looking at those, are those the and take as
9 much time as you need but are those the shell casings that
10 were submitted to you for examination in this case?

11 A. Yes, those are the six fire cartridge cases that were
12 submitted the first time.

13 Q. And on your report from November of 2015, they're
14 listed as five through ten?

15 A. Yes, sir.

16 Q. Now, before we get into those, were there, I think
17 additionally items, I believe there was some either fired
18 bullets or fragments of fired bullets submitted to you?

19 A. Yes. I had a one fired bullet and then there were
20 several actually bullet fragments that were also submitted.

21 Q. And were you able to make any determinations off of
22 those fragments?

23 A. Yes, sir. With the fired bullet I was able to
24 determine what caliber it was most consist with. It was
25 most consist with being a .9mm Luger caliber and with

1 regards to the fragments, there was not much I could do
2 with the fragments. They were so badly damaged I couldn't
3 determine what sort of caliber and when I compared them to
4 each other to try to determine if they were fired by the
5 same gun, I could not determine that either.

6 Q. Now, let's turn to the shell casings, the six set up
7 before you State's Twenty-nine through Thirty-four, were
8 you able to make any findings regarding those exhibits?

9 A. Yes, sir. They were - - -

10 Q. Could you explain your findings to the ladies and
11 gentlemen on the jury?

12 A. Sure. I was able to determine that all of the
13 cartridge cases were fired by the same firearm.

14 Q. And again does your report from November of 2015,
15 reflect that?

16 A. Yes, sir.

17 Q. Now, let's move on to State's Exhibit Fifty-one, that
18 report, but I'm specifically going to show you what's been
19 marked as State's Forty-eight. And take a second to
20 examine that exhibit and then I'll ask you a few questions.

21 A. Yes, this was the additional cartridge case that was
22 submitted for analysis with these cartridge cases up here.
23 This was submitted on a later date for examination with
24 these cartridge cases.

25 Q. And I believe your report was issued on the 15th on

1 this past Friday, is that correct?

2 A. Yes, sir.

3 Q. I believe they were actually submitted to you Thursday
4 by the Darlington Police Department for comparison?

5 A. Yes, sir.

6 Q. And were you able to make a - - were there any
7 findings that you able to come to?

8 A. Yes. This cartridge case, State's Exhibit Forty-
9 eight, was fired by the same firearm that fired State's
10 Exhibits Twenty-nine through Thirty-Four.

11 Q. And on the packaging, could you tell the ladies and
12 gentlemen, they've heard it before, but could you tell them
13 what address is indicated on there as it relates to where
14 that firearm was actually located?

15 A. Well, the packaging it says, [REDACTED] Willow Tree Road,
16 Darlington, South Carolina.

17 MR. REDMOND: And I'd moved to introduce State's
18 Fifty-one at this time.

19 MR. SCRUGGS: State's - - that is the July 15th?

20 MR. REDMOND: Yes.

21 MR. SCRUGGS: No objection.

22 THE COURT: All right. Received into evidence.
23 Fifty-one.

24 (Whereupon, the Firearm Report- 7/15/2016 has been marked
25 and entered into evidence as State's Exhibit No. 51)

1 Q. And so to be clear, - - oh, I didn't ask you this,
2 were the other six resubmitted for comparison?

3 A. Yes, sir. Yeah, in order to try to determine if that
4 cartridge case was fired by the other ones, I'd have to
5 actually look at the microscope, compare these cartridge
6 cases with this cartridge case to determine that.

7 Q. And so all seven, there would be seven shell casing,
8 were they all fired by the same weapon?

9 A. Yes, sir.

10 MR. REDMOND: Please answer any questions the defense
11 may have. Thank you so much.

12 **Cross Examination by Mr. Scruggs:**

13 Q. Mr. Smith, just to clarify State's Exhibit Forty-eight,
14 which is the .9 mm shell casing recovered from [REDACTED] Willow
15 Tree Road, is that - - -

16 A. Right. Yes, sir.

17 Q. And just to clarify, you didn't receive that until
18 last Wednesday?

19 A. Thursday.

20 Q. Thursday, last Thursday?

21 A. Yes, sir.

22 MR. SCRUGGS: Thank you. No further questions.

23 MR. REDMOND: No redirect, Your Honor. We'd ask that
24 Mr. Smith excused from his subpoena.

25 MR. SCRUGGS: That's fine, Your Honor. He can be

1 released.

2 THE COURT: Mr. Smith, you may be excused and
3 released from your subpoena.

4 MR. SMITH: Thank you.

5 THE COURT: Thank you, sir.

6 MR. REDMOND: And, Your Honor, we have one more
7 witness and we don't know if she's arrived - - -

8 DEPUTY: She's here.

9 MR. REDMOND: She's is here. And so we've got one
10 more witness and that is Dr. Janice Ross. I was just
11 querying to the court as it relates to whether or not this
12 was a time to have a mini break or however, the court wants
13 to see fit and the jury?

14 THE COURT: What's the pleasure of the jury? Short
15 break?

16 (Whereupon, one jurors indicates to move forward and there
17 was laughter)

18 THE COURT: My sentence.

19 MR. REDMOND: I need to take care of a matter, of
20 course, this is Mrs. Parkers witness so I could just step
21 out for just a moment. I might slip in during the course
22 and I apologize. Thank you.

23 MRS. PARKER: Your Honor, at this time the state
24 calls Dr. Patricia Ross, excuse me, Janice Ross. I
25 apologize, Dr. Ross.

1 CLERK: You swear the testimony you give this court
2 be the truth, the whole truth, and nothing but the truth so
3 help you God?

4 DR. ROSS: I do.

5 JANICE ROSS, first being
6 duly sworn, testified as follows:

7 **Direct Examination by Mrs. Parker:**

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. Would you please state your full name for the record?

11 A. Janice Edwards Ross.

12 Q. And what is your occupation?

13 A. I'm a forensic pathologist.

14 Q. And where are you employed?

15 A. Newberry Pathology Associates in Newberry, South
16 Carolina.

17 Q. And Dr. Ross, how long have you been in that position?

18 A. Since May of 2000.

19 Q. Tell us a little bit about your educational background
20 and training?

21 A. Yes, I received a bachelor degree at the University of
22 South Carolina and my MD, doctor of medicine, from Upstate
23 Medical Center in Syracuse, New York where I did further
24 the training in the field of pathology. Pathology, is
25 opposed to surgery of pediatrics is a field in medicine,

1 where we learn how to identify diseases by using the
2 microscope, for using the laboratory in the hospital. We
3 also - - we also learn how to do an autopsy to find a cause
4 of death. I've gotten further training in the medical
5 examiners office there. In the field of forensic pathology
6 in which we do autopsies for legal purposes to identified a
7 cause of death and a manner of death. Forensic pathologist
8 is taught how to identify patterns of injury, document them
9 for the court of law, and take specimens for toxicology and
10 other purposes.

11 Q. Yes, ma'am. How many autopsies would you say you've
12 performed during your career?

13 A. Over ten thousand

14 MRS. PARKER: At this time, I'm going to go ahead and
15 offer Dr. Ross up as an expert in the field of forensic
16 pathology.

17 MR. SCRUGGS: Without objection.

18 THE COURT: I think with ten thousand under her
19 belt she qualifies as an expert in the area of forensic
20 pathology.

21 DR. ROSS: Thank you.

22 MRS. PARKER: Yes, sir. No further questions after
23 that about her qualifications.

24 Q. Dr. Ross, did you have an opportunity to perform an
25 autopsy on the victim in this case, one Gary Walker?

1 A. Yes.

2 Q. And what was the date of that autopsy, what was the
3 date?

4 A. August 20, 2014.

5 Q. And did you issue a report in this case?

6 A. Yes.

7 Q. I'm going to show you what's been marked State's
8 Exhibit Fifty-three, can you identify that item?

9 A. This is my autopsy report on Gary Walker.

10 Q. Has it been changed or altered in any way?

11 A. No.

12 MRS. PARKER: Your Honor, at this time the state
13 would offer Exhibit Fifty-three into evidence.

14 MR. SCRUGGS: Without objection.

15 THE COURT: All right. Fifty-three is received
16 into evidence.

17 (Whereupon, the Autopsy Report- Dr. Ross has been marked
18 and entered into evidence as State's Exhibit No. 53)

19 Q. Dr. Ross, on August 20, 2014, you say you perform this
20 autopsy, what did you - - what we're your initial
21 observation of the body?

22 A. We open the body bag and take pictures, we saw that he
23 was clothed and there was a lot of blood staining and holes
24 in the clothing over gunshot wounds. Then we take clothes
25 off and we found the gunshot wounds which I will describe

1 later. Because they were gunshot wounds we do x-rays and
2 did not find that there was any bullet left in the body but
3 we found five, a total of five gunshot wounds.

4 Q. So they were five total and probably - - through the
5 course I want to take the questioning in let's just take
6 them one at the time. Through your report, gunshot wound
7 number one, where was that located?

8 A. That - - we number these not in the order of there
9 occurrence of when they happen but just as organization we
10 go from top to bottom. The first one, went into the right
11 chest. It went through the chest through the right lung
12 causing a lot of bleeding internally and went out the right
13 back. So it went front to back, basically, straight.

14 Q. This one perforated through lung?

15 A. Yes.

16 Q. Gunshot number two, where was that located?

17 A. Gunshot wound number two, entered the left back so it
18 was going back to front. It went slightly towards the
19 middle of the body and slightly downward and hit the left
20 lung and the heart which caused more internal bleeding.

21 Q. Okay.

22 A. I'm sorry, it came out through the left chest.

23 Q. So that one did enter the back?

24 A. It entered the back came out the front.

25 Q. Gunshot wound number three?

1 A. Gunshot wound number three, went into the base of the
2 penis. It went through and came out the left buttocks. It
3 did not go into to the abdomen but it did some internal
4 damage to the blood vessels.

5 Q. Gunshot wound number four?

6 A. Gunshot wound number four, went into the right
7 buttock. It went downward and went from back to front and
8 downward and came out the front of the right thigh.

9 Q. So that one did enter the back?

10 A. Correct.

11 Q. Okay. Gunshot wound number five?

12 A. Gunshot wound number five, went through the back of
13 the left-hand. It went, kind of across the hand, the top
14 of the hand.

15 Q. In your opinion, could gunshot wound number five have
16 been defensive in nature?

17 A. Yes.

18 Q. Can you describe sometimes what a defensive wound is
19 that y'all commonly see?

20 A. A defense move is just like it says, if you see
21 something coming at you, you automatically put your hands
22 up. So any kind of wound on the back of the hands or the
23 forearms could be a defense wound.

24 Q. And I notice there's a notation in your report, did
25 you recover any bullet fragments from gunshot one number

1 two?

2 A. Yes. Well, - yes, we did, yes.

3 Q. And we can just go back and then talk about that the
4 fragments of gunshot wound number two.

5 A. Yes.

6 Q. Where were those located?

7 A. They were found near the exit wound so it would be
8 near the be the right, the left chest.

9 Q. All right, let's talk about all five gunshot wounds.
10 Gunshot wound number one to the chest, was that - - would
11 that shot alone be fatal?

12 A. Yes.

13 Q. And gunshot wound number two to the back, would that
14 wound alone be fatal?

15 A. Yes.

16 Q. And then three, the one that entered the base of the
17 penis, would that be fatal?

18 A. Potentially it hit some blood vessels but

19 Q. And four and five?

20 A. Four and five were not fatal.

21 Q. And did you determine the cause of death in this case?

22 A. Yes. It's called insanguination which means to bleed
23 out due to laceration of lungs and heart due to gunshot
24 wounds of the chest and back.

25 MRS. PARKER: Please answer any questions that thee

1 defense may have. Thank you, Dr. Ross.

2 MR. SCRUGGS: No questions for Dr. Ross. Thank you.

3 THE COURT: Thank you, Dr. Ross. You may step
4 down. You may be excused and released from your subpoena,
5 correct?

6 MR. SCRUGGS: No objection.

7 THE COURT: All right. You may be released. Thank
8 you.

9 MR. REDMOND: And, Your Honor, at this time I think
10 we've reached the end of the of state's case. However, if
11 the Court will indulge me just to double check and make
12 sure all of the exhibits are in, if we could take a brief
13 break so we can do that and then we may be resting.

14 THE COURT: All right. I am going to ask that the
15 jury to retire to the jury room while we try to - - the
16 state can cleanup and make sure they're complete. Again
17 don't discuss the case yet. You're not ready to
18 deliberate.

19 (Whereupon, the jury exits the courtroom at 3:35 p.m.)

20 THE COURT: How about approach the bench counsel.

21 (Whereupon, a bench conference was held off the record)

22 THE COURT: Bring me the jury.

23 (Whereupon, the jury enters the courtroom at 3:46 p.m.)

24 THE COURT: All right. Ladies and gentlemen, I am
25 going to release you for the rest of today. We've got a

1 THE COURT: All right. And my ruling will be the
2 same. I respectfully deny your motion.

3 MR. SCRUGGS: Okay.

4 THE COURT: All right.

5 MR. SCRUGGS: And at this time, the defense rests.

6 THE COURT: All right, then, as I've already
7 explained to the jury we reached the point of the trial
8 that we're ready for the closing argument. Is the State
9 ready?

10 MRS. PARKER: Yes, Your Honor.

11 THE COURT: You may proceed.

12 MRS. PARKER: Your Honor, just briefly the matter we
13 discussed this morning I believe the defense has conceded
14 that State gets last - - -

15 MR. SCRUGGS: That's correct, Your Honor.

16 THE COURT: Yesterday we had talked otherwise.

17 MRS. PARKER: Yes, Your Honor.

18 THE COURT: All right.

19 MR. SCRUGGS: Thank you, Your Honor. May it please
20 the Court?

21 THE COURT: Yes, sir.

22 **CLOSING ARGUMENTS- MR. SCRUGGS:**

23 MR. SCRUGGS: Mrs. Parker, Mr. Redmond. Good morning
24 ladies and gentlemen.

25 (Whereupon, the jury responds)

1 MR. SCRUGGS: This case, as I believe you've seen
2 played out this week, has become a prosecution of pure
3 desperation. Pure desperation. Joey Gibson has become the
4 target of convenience for theories that cannot fit the
5 facts that we've heard this week. There's just no way.
6 This is the critical mistake that I refer to in the opening
7 statements. Do not let the state of South Carolina trick
8 you into believing that gunshot residue is important in
9 this case. It's not. Why do I say this? Well the state
10 wants you to allow them to have their cake and eat it too.
11 They want to have it both ways. They want you to focus on
12 the GSR results when it comes to Joey Gibson. But
13 disregarded completely when it comes to Quinton Gibson.
14 They'd love for you to forget that Quinton Gibson was
15 arrested on September 15, 2014. The day that they found
16 out what the GSR report showed. That it showed a particle
17 of GSR on Quinton's hand, particles of GSR on the red shirt
18 he was wearing the night of the incident. And they want to
19 claim that the particle found on the back of Quinton's left
20 hand may have come of rubbing on his shirt but at the same
21 time claim that Joey has way too many particles on his
22 hands that come from doing the same thing. They may make
23 that argument and they can make it because Quinton's shirt
24 was tested for GSR. But conveniently Joey Gibson's purple
25 shirt that he was wearing the night of the incident wasn't

1 tested by sled for GSR. As you heard Ms. Berry state the
2 specialist from sled, GSR stays on clothing a lot longer
3 than it does on a living human being. And now because of
4 sled's policies of not testing clothes if GSR is found on
5 person's hand, Joey has been effectively robbed of the
6 opportunity to show how he got GSR on his hands. Take a
7 good look at the GSR report, it's an evidence. You'll have
8 it to look at. It says exactly what I asked Ms. Berry on
9 the witness stand. Gunshot residue particles can come from
10 three different things. All that means is either number
11 one, a person discharge a firearm. Number two, they were
12 in the vicinity of someone who discharge a firearm or
13 three, they came into contact with the surface that had GSR
14 on it.

15 The next thing I want to talk about is about the piece
16 of evidence that was almost forgotten about. Almost
17 forgotten about until last week, the week for trial when
18 DPD rushes a .9 mm shell casing to sled in Columbia for it
19 to be tested. You heard testimony from Mr. Chad Smith
20 yesterday regarding .9 mm shell casing found at the scene
21 and a separate .9 mm shell casing found out in the country.
22 That address [REDACTED] Willow Tree Road. His report
23 completed just last week claims that these shell casings
24 were fired by the same type of firearm. I certainly don't
25 disagree at all with his report. Let's talk a little bit

1 more about how we got the shell casings, okay? There were
2 six .9 mm shell casings found at the crime scene. Four
3 were seized on the night of the incident on August 19th.
4 Two were found the next morning. Then on August 21, 2014,
5 two days after the incident, investigators Flowers and
6 Valazack go to the country to look for shell casings from
7 the gun that Joey fired the morning of the incident. But
8 what did they find? They find a 380 shell casing. You may
9 remember yesterday when Quinton Gibson testified on cross-
10 examination he admitted that he talked to investigator
11 Valazack on August 20th the day before she and investigator
12 Flowers went out to the country. And he told her that the
13 gun Joey shot out in the country that morning could have
14 been a .9 mm or a 380. What's the significance of this?
15 Well, the 380 shell casing doesn't match the shell casings
16 found at the crime scene. Huge problem. This doesn't fit
17 law enforcement's theory that the gun Joey shot earlier in
18 the day was used to kill Gary Walker. They're missing the
19 silver bullet. Their solution, Quinton Gibson. On August
20 26th, investigator Flowers and Williams meet Quinton in the
21 country at [REDACTED] Willow Tree Road and he leads them
22 directly to a .9 mm shell casing. He is the goose that has
23 laid the golden egg. All of this happens while he is under
24 investigation by the same investigators for the murder of
25 Gary Walker. Coincidence? I don't think so.

1 You may remember a man by the name of Cory Rowell. He
2 was seated over here yesterday in blue. He claims he was
3 cellmates with Joey at the Marion County Detention Center.
4 I want you to take a moment and think about what he said.
5 He said that Joey and Mr. Walker got into an argument.
6 Joey killed him. Ran and put the gun where the dog was,
7 whatever that means. And then somehow got back in the
8 house. Think about that timeline. He said Joey buried the
9 gun in the backyard. Who would Joey have run into if he
10 had ran into the backyard? Quinton and Antonio. How would
11 Joey have been able to have buried that gun running back
12 into the house and be back in the house by the time law
13 enforcement arrives. As you heard on Tuesday law
14 enforcement was there in seconds. Witnesses are in their
15 yards even before law enforcement gets there. It's
16 impossible for Joey to have done what Cory Rowell says he
17 did. You cannot get in that house through the back door.
18 And Mr. Rowell claims that he got all this information in
19 one conversation, come on. What this really boils down to
20 is that this man is a snitch. He is trying to help himself
21 out by giving false information. He's got eight months
22 left to serve, and the state may want you to believe that,
23 that's not much time, but let me tell you this I don't know
24 how many of y'all have ever been in a jail but people who
25 are in jail who have their freedom restricted, who are told

1 what to do every day, the only thing they can think about
2 is getting out and they are willing to do whatever they can
3 to cut down on their time. And another thing, think about
4 how we found out about Cory Rowell. Investigator Tony
5 Flowers who was an investigator with Darlington Police
6 Department at the time of the incident transfers to Marion
7 to their Police Department. He happens to look at the
8 Marion County Detention website and sees that Cory Rowell
9 is cell mates with Joey Gibson. He leads Darlington, but
10 he can't just let this case go. We're talking about almost
11 a year and a half after this incident occurred. The state
12 was desperate to find more than they can pin to Joey Gibson
13 because they didn't have a whole hell'va lot. Tony Flowers
14 gets in contact with Rowell and then gets him to do
15 interview with Lieut. Valazack in January of this year and
16 poof, they've got the evidence they need sixteen months
17 after starting to investigate this case. The only problem
18 even after talking with Rowell, they do a second search
19 warrant on [REDACTED] there's no gun there. Even after
20 talking to Rowell saying that Joey buried the gun.

21 Quinton Gibson plays a bigger role in this case than
22 the state wants to admit. Roughly a month after the crime
23 he is arrested and charged with the murder of Gary Walker
24 in possession of a weapon during the commission of a
25 violent crime. He spends approximately fifteen months in

1 the county detention center. He's indicted by the
2 Darlington County grand jury. GSR is found on his shirt
3 and on the left back of his hand. He lies to law
4 enforcement. But he and Joey are treated very differently
5 if you haven't noticed. On the night of the incident, Joey
6 is handcuffed and taken to the police station. Quinton is
7 not handcuffed. Joey is arrested that night and charged
8 with murder. Quinton leaves the police department a free
9 man. Quinton is interviewed seven different times by law
10 enforcement. Joey is interviewed once and is arrested.
11 Quinton withholds facts from law enforcement. Everything
12 Joey tells law enforcement checks out even in the middle of
13 his interview Rickey Williams comes in and says, "your
14 brother say you didn't shoot a gun this morning," well,
15 guess what, he did. I mean he had several people to
16 confirm that. And I assume that when investigator Williams
17 leaves the room during that interview with Joey that he
18 goes to talk to Quinton. The reason I say I assume is
19 because conveniently we don't have the videotape from that
20 interview with Quinton. We know an interview happened that
21 night we just don't know exactly what was said. Gunshot
22 residue is found on both Quinton and Joey. Joey stands
23 trial for murder this week. Quinton's charges are
24 dismissed the Monday the trial begins, July 18, 2016.
25 Ladies and gentlemen, Quinton Gibson was comforted, conned,

1 and cultivated for his role in this case.. When he first
2 came to meet with law enforcement on August 19th, they
3 assured him that he was not going to be arrested. They let
4 him go. The next day Lieut. Valazack threatened to arrest
5 him unless he could provide a witness who said he was in
6 the backyard. He was allowed to stay out until the GSR
7 report essentially forced law enforcement to arrest him.
8 And finally he gives them the bullet from the country and
9 he comes in here and testifies this week that he saw Joey
10 trying to scramble to get into his room shortly after the
11 shooting. Quinton, in this case, has to produce. He has
12 to give them something. If he doesn't, he wouldn't be
13 sitting over there.

14 I know that probably all of you are sick and tired of
15 hearing the word "body cam". I am too. It's messy. It's
16 confusing. But that's exactly the point. As I stated in
17 opening, this case is about a capital mistake of allowing
18 theories about what happened to guide facts instead of
19 allowing the facts gathered on the ground to develop and
20 inform the investigation. What do these tapes really show?
21 They show us something that is familiar to all of us. You
22 may remember a game that we used to play as children when
23 we would all sit around in a circle on the ground. The
24 first person would be told a sentence, for example, "the
25 sky is blue" and the first person leans to the next person

1 and whispers that sentence in that person's ear and it goes
2 around in a circle each person whispering into the others
3 ear and it gets back to the beginning. Well, what's
4 happened in the meantime? That statement, "the sky is
5 blue", has turned into something totally different. If I
6 recall correctly, that game used to be called "telephone".
7 How does that apply to this case? Well, you may remember
8 the that witnesses on scene describe two men fleeing. One
9 who had dreads wearing a red shirt. And another that was
10 tall, skinny and wearing a white shirt. Antonio Gregg's
11 name gets mentioned. Law enforcement says, when they're
12 talking amongst themselves, Antonio Gregg's name has come
13 up as one of the shooters. Cecilia Green says the other
14 guy who was running his mama lives beside the washerette.
15 This information is to patrol officers Rodriguez who
16 testified this week and also Melton who is not here this
17 week. What is ultimately told to Sgt. Cauthen is that a
18 witness hundred percent ID Joey Gibson is one of the two
19 guys who took off running. This information makes its way
20 up to Lieut. Valazack who orders a GSR kit for Joey Gibson.
21 The only problem is, Joey Gibson is in the house at [REDACTED]
22 Kirven Street. Nobody mentions a purple shirt. If he was
23 one of the two guys seen running away, how does he get back
24 in the house when law enforcement got there as fast as they
25 did coming down from South Main the same way the two men

1 fled. Again, this is a capital mistake I refer to. Joey
2 Gibson is targeted from the beginning and this
3 investigation is tainted. There were essentially three
4 eyewitnesses you heard from who testified about the
5 aftermath of the incident that I want to discuss. Cecilia
6 Green, Antonio Gregg, Shelton Ham. Cecilia Green testified
7 that when she came outside she saw Joey running around the
8 left side of the house after she heard gunshots. And you
9 may recall her house is right across the street from Joey's
10 and she is looking out and seeing him run up the left side
11 of the house. But as you may recall from the body cam
12 footage, what she told officers that night within just
13 minutes after the incident was that when she came back
14 outside, she didn't see Petey no more. Petey is Joey
15 Gibson. When this event is fresh in her mind, when she has
16 no incentive to lie, she confirms exactly what we've been
17 saying the whole time, Joey Gibson is not outside. And she
18 says it twice. And we know she can't be right about what
19 she testified to on direct examination. Again, how do we
20 know this? If Joey was running up the left side of the
21 house and she's looking out across the street and Antonio
22 Gregg says he's in the backyard of the house and he sneaks
23 around the right side to take a peak of what happened, they
24 would've ran smack dab into each other. But that isn't
25 what Antonio Gregg testified to. As you may recall on

1 cross-examination, Antonio admitted that when he gave an
2 interview to law enforcement the day after the incident, he
3 said that when he and Quinton went in the backyard to work
4 on his car, Joey went in the house and turned off all the
5 lights just like Joey said. And they want you to think
6 that it is so strange to turn off all the lights in your
7 house. You also heard from Shelton Ham. He was riding
8 down Kirven Street when he saw the gunfire. Does he ever
9 mention seeing someone with a purple shirt? No. All he
10 mentions are two guys running who are in a panic motion and
11 breathing heavy, running like they just did something.
12 That let him know nine times out of ten, they did it.
13 Everyone else including Cecilia Green and other people in
14 front of her house are standing out in the front yard but
15 these two guys are running because they did something.
16 Guilty people run.

17 What accounts for these differences in these
18 eyewitnesses? I think we all know, you heard it from
19 Cecilia Green. Cecilia has a pending strong armed robbery
20 charge that is being prosecuted by the same prosecutor's
21 office that's prosecuting Joey Gibson. Another
22 coincidence?

23 Let's talk also a little bit about what Quinton says
24 happens after the shooting. He testifies he ran around the
25 house ran from the backyard, ran back around the house and

1 looked in the front door and saw Joey fumbling with his
2 keys trying to get in his room. Not only does this
3 directly contradict the state's witness, Cecilia Green, but
4 this version of the story comes out after Quinton has
5 already been interviewed by law enforcement three times.
6 Why does he say this then? Like I said, Quinton has to
7 produce. He's got to give them something. Otherwise, he's
8 in the same bucket as Joey is. And if you haven't figured
9 it out by now as you can probably tell from looking at him
10 on the witness stand yesterday, Quinton is all about
11 Quinton. He's only concerned about himself. He lies to
12 law enforcement about Joey shooting the gun earlier in the
13 morning of August 19th because he doesn't want to get in
14 trouble with probation. And he concocts the story that he
15 told you on direct examination yesterday to avoid spending
16 any more time in prison. He doesn't want to go back to
17 prison, ladies and gentlemen. He's already spent fifteen
18 months. He does not want to do a single day more and he's
19 willing to do whatever it takes and whatever they want him
20 to do to avoid doing that. Every part of Joey's story has
21 checked out. When they didn't believe him that he had shot
22 a gun earlier that day, other witnesses confirmed that he
23 had, in fact, shot a gun. Nothing he said during that
24 interview has been proven wrong. He mentioned in his
25 statement, you can't get in the back door from the outside.

1 The only way in that house from the outside is through the
2 front door. The state has tried to make a big deal about
3 this blue rag that Joey had in his hand after the incident.
4 This is just a desperate attempt to sway you into thinking
5 he was trying to wipe GSR off his hands. That he had
6 something to hide. If he had, had something to hide why
7 would he have told them about shooting the gun earlier that
8 day? He told them he saw two men running. Let me ask you
9 a very important question. If Joey is lying about his
10 involvement in this case, when he's the one who killed Gary
11 Walker, how does he know that two men were seen running
12 away? All the witnesses who saw those two men are on the
13 other side of the street. He hasn't talked with them. And
14 that's what those witnesses tell law enforcement and then
15 that's what Joey who hasn't heard any of this tells law
16 enforcement that same night. Perhaps the only thing he
17 withheld in that interview was that it was his brother and
18 his cousin he saw running away and that they could have
19 been involved. That just goes to show you in contrast to
20 Quinton, Joey Gibson isn't just concerned about himself.
21 What happens after he tells the truth? He is arrested and
22 locked up for murder. Even when just minutes later you can
23 hear the lead investigator say "they don't have much
24 evidence on him". They don't have a whole hell'va lot.
25 What more candid admission of the evidence in this case can

1 you ask for? None of the states theories have checked out.
2 In fact, some of them are contradictory. Let's say Joey
3 did shoot Gary Walker and then ran inside the house and was
4 fumbling trying to get into his room like Quinton said he
5 was. If you think that, ask yourself this, where's the
6 gun? The state turned that house upside down and don't
7 find a thing except for a blue washrag. No gun. And,
8 ladies and gentlemen, this house isn't a mansion. Law
9 enforcement would have found it if it was there. None of
10 the witnesses, even Cecilia Green, ever say that they saw
11 Joey with a gun the night of the incident. How do you kill
12 someone if you don't have a gun? How can you in possession
13 of a weapon when the state has failed to produce any
14 witnesses who said they saw Joey with a gun the night of
15 the incident? Nobody can say that because he didn't. And
16 if you want to know with a gun is, then I suggest you ask
17 Quinton Gibson. Now, let's say you believe Cecilia Green
18 that Joey ran into the backyard. Antonio didn't see Joey.
19 And Joey can't get in through the back door. But then you
20 might say, Cory Rowell said he buried the gun. How? Law
21 enforcement was there in seconds. And after they spoke
22 with Rowell, they search the backyard again, no gun. They
23 found nothing.

24 Ladies and gentlemen, the state, the case the state
25 has presented to you is inherently self contradictory. As

1 we said to you in our opening statement, the evidence will
2 show that Joey did not and could not have killed Mr.
3 Walker, that's exactly what is been shown. Let me take a
4 moment to say this, we all grieve for the senseless act
5 that took Mr. Walker's life. What I can't do, however, is
6 allow another tragedy to occur to Joey Gibson who has
7 nothing to do with this case.

8 Ladies and gentlemen, I want to thank you so much for
9 being here this week. As I stated earlier we have been
10 excited about this case. We are glad that each one of you
11 are members of our jury. You may have been wondering
12 during jury selection on Monday why it took us a little
13 while discussing amongst ourselves to decide who we wanted
14 on our jury. Well that's because we were talking about
15 your backgrounds, what you told us during the voir dire,
16 your questioning part. Let me tell you something, we
17 wanted each and every one of you as jurors in our case
18 because we believe in you. I know this case is been
19 arduous at times. It's been frustrating sitting in here
20 and having to take a break because we've got technical
21 difficulties and all the stuff, I want to thank you.
22 You've been here since Monday. You've answered lots of
23 questions during the qualification process. You've been
24 told when to be here. You've been told when you can take a
25 break, when you can go to lunch, when you can leave and the

1 judge has told you at the end of each day that you can't
2 talk about this case with anyone. And I know for some of
3 you especially for ones of you who has a spouse at home or
4 have children that, that's probably been hard because think
5 about it when we come home each day, we tell our family
6 what our days been like. You haven't been able to do that
7 these past three days. Let me tell you this, after your
8 verdict in this case you will be able to tell. You'll be
9 able to tell your family about what you heard and saw this
10 week. You'll be able to tell them about the evidence in
11 this case. What I want you to do when you're back in that
12 jury room is I want you to imagine your family's reaction
13 when you tell them about the evidence in this case. And
14 even more importantly, what you did with this information.
15 Will you be proud of the verdict you decide when you're
16 telling people about this case later. I don't want to over
17 dramatize this case or try sensationalize it but I think
18 this is very true, not a lot of people get to perform jury
19 service. It's probably something that many of you may only
20 do once, you may never do it again in your life, you may do
21 it a few more times but I want to say this you will
22 remember this for the rest of your life. This is something
23 that you'll talk about with family and friends at cookouts
24 the summer, over Labor Day, Thanksgiving, Christmas,
25 whenever something comes on TV about the criminal justice

1 system, you'll be reminded of this. You may not remember
2 me, you may not remember Mr. Scales, you may not remember
3 the prosecutors, investigators, or other witnesses in this
4 case, but I think you will remember the defendant, Joey
5 Gibson. I think you'll remember his face. And I hope that
6 you can imagine him in the future back home and moving past
7 this tragic nightmare that he's had to endure for almost
8 two years.

9 Ladies and gentlemen, if you have any doubts at all
10 about this case, right now is the time to have them because
11 after you render your verdict in this case it will be too
12 late. Thank you very much for your attention in this case.

13 THE COURT: All right. The people leaving the
14 courtroom, that's fine. While people are arguing, nobody
15 else is going to come in and out. Make sure the doors are
16 manned. Y'all got that? Back here too. Okay?

17 **CLOSING ARGUMENTS- MRS. PARKER:**

18 MRS. PARKER: Thank you, Your Honor. May it please
19 the Court, ladies and gentlemen of the jury, Mr. Scruggs,
20 Mr. Scales? Good morning.

21 (Whereupon, the jury responds)

22 MRS. PARKER: I wanted to take a moment to introduce
23 myself this morning. I realized on Tuesday I jumped right
24 in talking about the victim and talking about the facts.
25 My name is Pattie McKenzie Parker. I work here for the

1 elected solicitor in the Fourth Circuit here in Darlington
2 County. I have prosecuted cases here in Darlington for
3 eight years now. I work with Deputy solicitor, Kernard
4 Redmond. I just wanted to take this time to thank him this
5 week for being my co-counsel. He's been a tremendous help
6 through all of this. And I want to take the time to thank
7 you for your attention throughout this case. I've noticed
8 that you been one of the most attentive jurors, jury that
9 we've had down through the years paying attention to all
10 the different exhibits and evidence and testimony and I
11 know it's kind of been a strenuous task but I'd like to
12 thank you for your attention to this case just because I
13 believe everyone here knows that it's of the up most
14 importance. And despite our flaws we have with our justice
15 system, I believe it still the best in the free world that
16 a defendant who has been charged has a right to a jury
17 trial by his or her peers and that's why we been here today
18 that's what it's about. But despite those flaws, this is
19 still the best system in the world.

20 My role here this morning is to try to tie this thing
21 together and to tie it all together and that's what I
22 intend to do. You'll hear a lot about reasonable doubt in
23 my role is to prove the case beyond a reasonable doubt and
24 I feel like the state has done that here this week. Now,
25 beyond a reasonable doubt is not beyond every doubt and

1 you'll hear the judge define what reasonable doubt is,
2 he'll tell you that in a few minutes when he charges you on
3 the law.

4 Beyond a reasonable doubt is not beyond every single
5 doubt. It's a doubt for which you can assign a reason.
6 It's not advance able doubt. It's not a fleeting doubt.
7 And so I believe here, you know, Mr. Scruggs earlier stated
8 beyond every doubt and that's not true. There may still be
9 some doubt. And I want to talk a little bit about
10 reasonable doubt and kind of give an analogy that it's kind
11 of like putting together a puzzle. If you ever got a
12 puzzle, and I'm not talking about looking at a puzzle where
13 the pictures on the box and then you put it together and
14 try to match the picture and you know what you're putting
15 together. I'm talking about a puzzle where if you got it
16 in a Ziploc bag and you didn't know what it was and you
17 started gathering pieces and you start forming pieces
18 together and you start seeing how this thing is coming
19 along, at some point, why you're putting that puzzle
20 together and connecting the pieces it's going to begin to
21 come apparent to you what the image is on the puzzle.
22 Let's say for example your putting together a puzzle that's
23 a horse running through a meadow. And so you might have
24 ears, legs, you might see a brown animal, you might see a
25 grass and you start putting it together and at first you

1 maybe not sure what you're looking at. But at some point
2 it clicks in the image becomes clear this is a horse and
3 this is green grass. And so what I want to say is, I think
4 that the reasonable doubt standard is when you get to that
5 point. But you're firmly convinced of what happened of
6 what the basic picture, the basic image of what happened
7 even if you don't have every single piece of the puzzle.
8 And ladies and gentlemen, the state will be honest, we
9 don't have every single piece of the puzzle. And you've
10 heard over and over again in Mr. Scruggs's closing
11 statement that we don't have the gun. And there may be
12 some things that we don't have but I believe beyond a
13 reasonable doubt is when you get to that point that you're
14 firmly convinced that this is what happened even despite
15 the fact that you may not have every piece.

16 I want to talk a little bit about the law. The
17 defendant is charged - - maybe I've missed it. Anyway the
18 defendant is charged with two indictments. They are just
19 two pieces of paper, I can wave them up here and their
20 charging documents, okay. He's charged with murder and
21 he's charged with possession of a weapon during commission
22 of a violent crime and that's because it's alleged that he
23 possessed that gun during the commission of the murder and
24 the murder is classified as a violent crime in South
25 Carolina. Those pieces of paper is just a charging

1 document. But the law contains therein is murder and
2 murder has elements and the judge charged you on the law
3 and what the elements of murder are. And to touch on that
4 briefly, murder is the intentional killing of another with
5 malice aforethought. You have to have that intent to kill.
6 It has to be there. And I don't think there's any doubt in
7 this case after y'all heard Dr. Ross testify yesterday.
8 This victim had five bullet holes in his body. Somebody
9 lit him up with a bunch of bullets. There's no doubt that
10 there was an intent to kill and you need malice. And
11 malice, and the terms go together, malice aforethought but
12 I'm going to describe what malice is first. Malice is just
13 that ill will that intended to do evil. And then
14 aforethought means that you had to possess that malice
15 prior to pulling the trigger, prior to committing the
16 killing. So what may come to mind is premeditation and
17 certainly an example would be, if you plan a murder. If
18 you planned it. If you planned it for weeks. You have
19 planned that would certainly be premeditation but you don't
20 have to have that sort of premeditation to have malice
21 aforethought. It's just possessing that ill will and that
22 evil intent to take someone's life just prior to the moment
23 of pulling the trigger that, that's what you intended to
24 do.

25 I wanted to bring to your attention that motive in

1 South Carolina is not an element of murder. And I believe
2 we heard a lot of testimony here today and I think motive
3 would still be a piece that is missing as far as what
4 actually happened as far as what any kind of argument was
5 about, if there was an exchange of words there's really not
6 a whole lot in the record about motive and I'll be honest
7 with that I'll tell you is not an element of murder in
8 South Carolina.

9 And I want to jump in and let's start talking about
10 the evidence in this case. I want to bring your attention
11 to the gun. Okay? And there's one witness that testified
12 on Tuesday that the defense really hadn't talked much
13 about, didn't bring it up in his closing argument and
14 that's Kendrick Gregg. And he took the stand and that's
15 the cousin of Joey Gibson. And he testified in this
16 courtroom and his testimony was uncontradicted that he sold
17 the defendant a .9 mm gun in a matter of maybe a week or
18 two or days prior to this incident. He sold it for \$98.00
19 and he sold it to him. He said the defendant wanted the
20 gun. And so we know that the defendant at some point he
21 had in his possession a .9 mm gun, owned that black 9 mm
22 gun. The defendant himself admits to shooting after he's
23 confronted with the issue of "is there any reason they
24 would be GSR on your hands." And so he says, "yeah I was
25 shooting a gun out earlier in the country." But - - and

1 will talk about his statement in just a few minutes. He's
2 real sketchy about that gun. The defendant really don't
3 want to talk much about that gun. We'll talk about that in
4 a few minutes. The shell casings, I know y'all've heard
5 testimony to get all these exhibits in and all the evidence
6 in the shell casings that were recovered from around the
7 body of the victim and on the scene of [REDACTED] Street.
8 Law enforcement was able to recover I believe every single
9 bullet that was shot that night. We can account six shell
10 casings. There were five in the body of the victim. I
11 believe one bullet went through the window of Cecilia
12 Green's house. They got all six. Now, according to the
13 defendant he had shot a gun in the country earlier that
14 day. They went out to the country and they found the shell
15 casing. And because of the technology we have and the
16 expert from sled came in testified yesterday, even though
17 we don't have the gun they can say all of those shell
18 casings were fired by the same gun. The same gun fired all
19 of those bullet. There were identify markers on each one
20 where they can say even though we don't have a gun to match
21 it to we know the same gun fired all of these bullets and
22 that's real important. And we believe that these two
23 things combined together, the fact that we know Kendrick
24 Gregg said he sold him the gun and the fact that we know
25 all of the shell casings were found was shot by the same

1 gun should leave you firmly convinced that was the
2 defendant's gun that was used when Gary Walker was shot
3 that night and that he, himself, shot the victim.

4 Mr. Scruggs hit on his closing argument about the late
5 arrival of that shell casing from sled. I think, Kernard
6 Redmond, when he direct examined I believe it was
7 investigator Rickey Williams, they talked about that but
8 nonetheless that does not change the final - - that does
9 not change the significance of that report of Chad Smith
10 from sled that although shell casings matched.

11 I want to talk a little bit about Cecilia Green. She
12 was the witness for the state. She was one of the first
13 eyewitnesses that we put up and it's important because she
14 puts Joey in the front yard just prior to the shots being
15 fired. She hears - - she's being taken home by her friend
16 Ivory. They speak to the - - they speak to the defendant.
17 She goes in the house. She uses the bathroom. So not much
18 time elapsed and she hears those gunshots. It becomes
19 apparent to her that one of those shots actually had been
20 fired through her window, her children are in the house,
21 and then she runs outside of the house. She says she sees
22 Petey right after the shooting. Now, I know the defense
23 has made a big stink about that one little blur on the body
24 camera where she saying I come out the house I didn't see
25 Petey no more. But I feel like, Cecilia, yesterday when

1 she took the stand was able to testify and kinda give you a
2 little bit of context about what you meant, about what she
3 meant. Because the thing is little statements like that
4 and blurs can be taken out of context. And she said she
5 didn't see Petey no more, she saw the other two run. And
6 let's be clear the other two individuals, Quinton Gibson
7 and Antonio Gregg, they ran from the residence. Everybody
8 saw them. Everybody saw them running. And the fact that
9 they were running garnered a lot of attention. They got a
10 lot of attention because they were running and it got
11 everybody's attention. Every eyewitness all them running.
12 I mean, that's just the truth. But if you look at
13 Cecilia's statement the one that the defense plays because
14 they wanted to confront her with what she had said. If you
15 look around 17:35, that's seventeen minutes and thirty-five
16 seconds in she's on that video camera identifying all
17 three. She calls Petey's name. She saw him when she came
18 out of her house. And she saw him run around the left side
19 of the house. And I'm going to revisit that issue again in
20 the minute. She's able to identify the defendant. He's
21 been her neighbor. She knows him. She testified she
22 wouldn't confused him with Quinton. She's able to tell the
23 difference between them she really doesn't have a dog in
24 this fight. Now, I know they want to make a big deal that
25 she's got pending charges but she cooperated with law

1 enforcement and gave statements not of and went down to the
2 police department and gave a statement the next day all
3 before she encountered any trouble about herself,
4 concerning herself. I mean, she's testified that she's
5 been promised nothing for her testimony.

6 Now, I want to talk about Ivory Stevenson because
7 again the defense wants you to forget about Ivory. Ivory
8 was dropping Cecilia off and she really doesn't have a dog
9 in this fight. She knows the defendant. She can clearly
10 ID him because she said something about her uncle got some
11 kids by his aunt, I mean, there's a family connection. But
12 she doesn't know him, know him, I'm using her words. She
13 said, "I don't know him, know him but I know who he is."
14 And she dropped her friend, Cecilia, off because they will
15 come about from the sitting up. And she sees Petey on the
16 front stoop and she even waves and speaks to him and she
17 leaves the residence. She doesn't even get a block over,
18 she's cutting the loop, and she hears the gunshot and she
19 sees the sparks, the gunfire because it's nighttime,
20 through - - because the street that she went down to cut
21 over is parallel with Kirven Street and so she was able to
22 look over and she saw, she saw the sparks. And that's
23 important because of the time line and because of the
24 timing because she saw Petey on that front porch not even a
25 moment, imagine how long it would take to drive up the

1 street and its not even one block. I mean, she's cutting a
2 block, literally.

3 Antonio testified for the state and the state will
4 concede and let's just be up front about it, he ran from
5 the scene, I talked about that earlier. The two that run
6 got a lot of attention. And I just go ahead and put this
7 out there, there were some people on the scene that jumped
8 to conclusions that the ones who ran were the shooters.
9 And we heard that language and that body cam video that was
10 played, "they looked real guilty running," okay. Like I
11 said they got a lot of attention. And people jump to
12 conclusions. And they ran off but they willingly came back
13 and they both gave statement. And Antonio, at the time,
14 was living at [REDACTED] and his aunt is Joey's
15 grandmother. But what's important about his testimony is,
16 is that his story never changed. He put himself in the
17 backyard. They're working on the pulley of that car. He
18 says Quinton is with him. And that never changed. That
19 they're working on that car in the backyard when they hear
20 those shots fired. And he had - - and he cannot deny the
21 fact that at the time of this incident there were three on
22 the premises, him, Quinton, and the defendant and he said
23 that he was with Quinton. And Quinton always, likewise,
24 also said in every statement that he gave that he was with
25 Antonio in the backyard. He cannot deny that his own

1 cousin, you can tell he didn't really, probably was not too
2 happy about testifying here in trial against his cousin.
3 He can't deny that his cousin wasn't on the premises that
4 night.

5 Quinton, I want to talk a little bit about the brother
6 of the defendant. And it's hard when we call witnesses
7 that are that closely related and that of family. And I
8 think everybody that listened to Quinton's testimony
9 yesterday could sense that there was a little bit, there's
10 a little tinge, a little bit of sadness about him. I don't
11 think he was real happy about being here. I think there's
12 a little bit of raw emotion and he's a little bit sad about
13 the predicament with his brother but I believe that he came
14 across as forthright, incredible. He owned inconsistencies
15 from prior statements that he had made. He told Deputy
16 Solicitor Redmond that, "yeah initially I lied about us
17 shooting the gun out of the country, I lied about that."
18 And he was up front and honest about that yesterday. And
19 what I want to point out is that some of the things that he
20 wasn't truthful about initially in the investigation was
21 one, that they had shot out in the country and he had lied
22 about that initially. In the second and that he omitted
23 initially was that he didn't see his brother after the
24 shooting. But he told us on direct that he didn't want to
25 get his brother in trouble and that's why he initially had

1 lied about - - that's why he initially lied about they
2 didn't shoot a gun in the country and that's why he
3 initially omitted that he didn't see Joey right after the
4 shooting because he didn't want to get his brother in
5 trouble. But everybody here yesterday heard him go through
6 a series of facts that really seemed to flow with ease
7 about how they were working on the car, and it was an
8 Oldsmobile and the pulley wouldn't do right and he was
9 holding the light and Quinton was in, you know, cranking it
10 and he had the WD-40 and they were working on that when
11 they heard the shots and Quinton, Antonio was able to
12 corroborate that for Quinton with the same detail about the
13 pulley, about the WD-40, about how he was in the car trying
14 to crank it up and Quinton was under the hood. But every
15 statement, every statement, every single statement that
16 Quinton Gibson gave the meat of it as far as they were in
17 the backyard working on the car and then they ran was the
18 same. Now, the defense wants to talk about how Quinton
19 gave six or seven different statements and he wants to
20 throw that up like they were all different or they were all
21 inconsistent but they were not. Because had those
22 statements been different or inconsistent we would've heard
23 them played yesterday and if you recall when Quinton
24 testified on cross-examination they weren't any videos up
25 here played for him to try to refresh his recollection of

1 something he had previously said that's inconsistent and
2 that's because there's not. That's the same story Quinton
3 told the whole time and he owned what those prior
4 inconsistencies were about information that he omitted and
5 about shooting the gun in the country. But his story never
6 changed and I think what's most important, what's most
7 important about Quinton's testimony is when he testified
8 that they heard the shots and he came around the corner of
9 the house and he saw the body, he saw the man laying in the
10 road, and then he goes up to the porch and he looks - -
11 y'all saw that rickety door that was in one of those body
12 cam videos and it looked like it didn't even close, he goes
13 up to the porch and he looks in the door and he sees in the
14 hallway his brother fumbling with the lock. And I don't
15 believe there was anybody in this courtroom yesterday that
16 had any doubt as to why Quinton ran because Quinton said it
17 himself on the stand. He said, "I love me too much. Man,
18 I got a daughter." There was something that scared him.
19 There was something that made him fear for his life when he
20 looked at his brother fumbling with that lock and he saw
21 that dead man in the street he took off running. Maybe - -
22 and he shouldn't have. Maybe he shouldn't have. And
23 Quinton - - Quinton ran with him. "Hey, man don't leave
24 me." That's a quote from the testimony yesterday, excuse
25 me, that Antonio said that. Antonio said that, "Hey, man

1 don't leave me." Because Quinton took off in a hurry.
2 Quinton took off in a hurry and when he took off Quinton
3 went with him and they ran. I think they ran for different
4 reasons. Antonio really didn't want anything to do with
5 this. Quinton ran because he was scared. What's my
6 brother capable of? "I love me, man. I just had a
7 daughter. Man, I had to go. I had to go." And he said
8 that. He said that here yesterday.

9 And I'm going to talk a little bit about the backdoor
10 issue that Mr. Scruggs brought up in his close, in his
11 closing argument. Is not in the record that, that backdoor
12 was now shut. Officer Rodriguez was able to clarify that.
13 The door that was now shut was the door on Ms. Barbara's
14 house that lived beside the Washerette. He said they had
15 been out there the night before, two nights before, in
16 reference to a fire and they were talking about her home
17 was unsafe because the way that backdoor was nailed up. I
18 don't believe it's in the record that door was completely
19 sealed up and I just wanted to briefly bring your attention
20 to that.

21 I also wanted to hit on the direction of the left and
22 right with the running and I know there's a lot of details
23 here and at times the case can seem a little bit messy when
24 you have different witnesses give an account and you have
25 to understand that everybody has different vantage point

1 but if I'm not mistaken Cecilia Green said that she saw
2 Petey when she came out the house and that he ran to the
3 left. And she even stood up here and use the laser pointer
4 and showed you what side of the house that was. And Mr.
5 Scruggs and his closing argument made a deal about was it
6 Quinton or Antonio but he made a big deal about how they
7 said, I believe it was Antonio, about how Antonio said that
8 he went to the right and how that is inconsistent. But if
9 I'm not mistaken, if Ms. Green is across the street and
10 she's facing the house, if Joey ran to the left, that's her
11 left. She's looking at it from the front of the house. If
12 Antonio - - let's just say this is the front of the house,
13 the table, if Antonio is in the backyard and they've been
14 working on the car and he says they ran to the right, his
15 right, that's the same side of the house. There's no
16 inconsistency there. I have trouble with left and right
17 sometimes when I took my drivers test when I was fifteen.
18 The instructor told me to turn left and I turned right and
19 she flunked me. And I think I've gotten that figured out.
20 I mean, I know - - I think that's just clearly erroneous.

21 I want to hit on the gunshot residue, okay? The
22 gunshot residue in this case and the defense talked about
23 that earlier and I know they don't like it and they don't
24 like it because it's the most incriminating evidence
25 against their client. Now, that GSR expert appear

1 yesterday, make no mistake, she talked about the high
2 volume of gunshot particles that was on the defendant's
3 hand. They do four sides, I mean, it's four sections.
4 It's his front, right front, right back, left front, left
5 back. He had gunshot particles on all sides. He had
6 multiple particles. He had different various types of
7 particles. She talked about the three particles that were
8 required. He had a lot of gunshot residue on his hand.
9 Make no mistake about it and I want you to remember in
10 those body cam videos and it's in the testimony when he
11 came to the door, what's he doing, he's rubbing his hands
12 with that washcloth. They got a lot of gunshot residue off
13 his hands so much so that she was even
14 to testify to her opinion that in her opinion he had fired
15 a firearm. She said that it was more likely than not that
16 he was the person that actually fired a gun as opposed to
17 someone standing two or three - - beside someone who fired
18 and I thought that was pretty strong. And you can't deny
19 that. He had a lot of gunshot residue on his hands. She
20 explained why they didn't test Joey's clothes. She
21 explained why they didn't test the washcloth because the
22 hands is the best evidence of if you've actually fired a
23 firearm. Now, he wanted to hit on Quinton like Quinton had
24 a large amount of gunshot residue. But it was one
25 particle, ladies and gentlemen, it was one particle. He

1 had one particle on the backside of one hand. And so she
2 said that so little, that's such a small amount, that it's
3 inconclusive and so then they took the next step to test
4 his clothes. They didn't have to test the defendants
5 clothes because there was nothing inconclusive about what
6 was on his hands. And she was clear, she was crystal
7 clear, there is no way that the gunshot residue on his hand
8 could have been from when he fired the gun earlier in the
9 day out in the country. There's no way. In the fact that
10 they had fired the gun out in the country earlier that
11 morning and the time line on that was corroborated by
12 several witnesses and even the defendant, himself. What he
13 didn't count on, see, he wanted to explain, why he would
14 have GSR on his hands because he knew they would be GSR on
15 his hands when Lieutenant Valazack asked him that. He
16 wanted to explain why. And he thought that his explanation
17 would suffice but what he didn't count on, what he did not
18 count on, was that was the science of gunshot residue
19 mandates that you're not going to find gunshot residue four
20 to six hours after a gun has been fired. So in ten hours
21 is just not going to work. That does not fly. He didn't
22 count on that they would be able to say that. Just like
23 you told them he had fired a gun, he didn't count on that
24 they would go out there and find a that shell casing and
25 match it to the shell casings that were found around the

1 body.

2 I want to talk about Cory Rowell's statement. And he
3 was hear and he testified yesterday. And you saw what he
4 was wearing. He came from SCDC. He's in custody. He's in
5 the Department of Corrections. He's got eight months left
6 on his sentence. I mean, he's about to ride this thing
7 out. That's not much time left it all. But Mr. Scruggs is
8 trying to say that his testimony will be bias because, you
9 know, apparently we made some promise that we're going to
10 help him out and that's simply not true. He testified that
11 he had been promised anything. He testified that he had a
12 conversation with the defendant while at the Marion County
13 jail. How would he know some of the details that he knew
14 about this murder, how would he know that the victim was
15 shot right in front of Joey Gibson's house? And y'all seen
16 the pictures, ladies and gentlemen, his feet were almost in
17 the front yard. How would he know that the defendant went
18 in the house and turned off the lights and act like nothing
19 happened? And that sound real familiar, didn't it?
20 Because we heard that over and over again. But how did
21 this gentleman from Marion County know that? How would he
22 know that the police never recovered a gun? How would he
23 know a gun was used? Murder is not always with the gun.
24 That's another detail he had. He knew it was a shooting.
25 He knew the victim was shot right in front of the

1 defendant's house. He knew the defendant then went inside
2 and turned off the lights and acted like nothing happened.
3 And then he knew that the state didn't have the gun.
4 That's true too. That's a lot of detail to me. It's more
5 than just a coincidence. And when he testified he didn't
6 have any discussion with Tony Flowers other than Tony had
7 asked him, "hey, has Joey said anything to you about what
8 happened?" And he was forthright and came forward and you
9 heard him tell Deputy solicitor, Kernard Redmond, he
10 thought it was the right thing to do. He thought it was
11 the right thing to do. He came here and got called a
12 snitch. And he's a Marion County boy. He doesn't run with
13 these boys in Darlington. He don't know Joey Gibson. He
14 did hear that on the street. How did he know that?

15 I want to talk a little bit about the defendant's
16 statement that he gave. We watched it. Everybody seen it.
17 It certainly was not a confession, it was not. It was not
18 a confession. He didn't confess. He didn't confess to
19 this. We all know that. And he's telling his story that
20 it was freely and voluntary - - voluntarily given and you
21 can hear him discuss it with the investigators a little bit
22 about himself, where he was living at the time, you know,
23 what he did, what he was doing earlier that day and it
24 really is his story. Its his story of the events of that
25 night. And it's not a confession so you might be wondering

1 why did we even play it? Well, it's valuable to the state
2 because there certain things within the context of that
3 video, if you look at it as a whole, that are red flags.
4 If you look at it! Number one, if you look at his
5 statement there are certain things that flow. They're
6 certain things that just have a flow to them, okay? He's
7 talking about his grandma getting sick and EMS having to
8 come and her being taken off on ambulance and their hanging
9 out front of the house and his friends are over and his
10 brothers over there and all that flows. But I want to ask
11 you what doesn't flow. Which parts don't flow? When he
12 says he was watching TV. Joey, what were you watching on
13 TV? What were you watching? He stumbles all over that and
14 something came to mind when I watched his video for the
15 first time and it still comes to my mind every time I see
16 it, it's like, its like taking a multiple-choice test. On
17 things that he was really not being truthful about it
18 seemed like every time Lieutenant Valazack gave him an
19 option, he chose one. And it was like that when they
20 discussed what he was watching on TV. He couldn't tell her
21 what he was watching on TV. But when she pushed the issue
22 and said was it a show or a movie? He went with show.
23 What kind of show was it? Was it this kind of show or that
24 kind of show? And once again some options. It was a funny
25 show. Couldn't tell us the name of the show. I mean, it's

1 just like playing multiple-choice. And it went the same
2 way with the gun. He was real uncomfortable talking about
3 that gun. Now he wanted to be forthright about how he shot
4 one now because he knows there's going to be GSR on his
5 hands. So he wants to be forthright to try to explain that
6 away but he fumbled all over about where that gun came
7 from. If you look at his statement and she asked him y'all
8 got out to the country to shoot the gun, well who's gun was
9 it? "I don't know." Did you take the gun out there?
10 "No." Well who's gun was it? "I don't know." Where did
11 it come from? Who handed it to you? "I don't know."
12 Well, where did it come from? "Oh it was just that they're
13 laying behind the trailer." Really? Like people just
14 leave guns outside, I guess, in the rain, the weather and
15 the humidity as were people store guns these days it just
16 happened to be back there. That's because discussing that
17 gun makes him real uncomfortable and that's part of his
18 statement where he's clearly, clearly being dishonest. And
19 we know that Kendrick sold him the gun. And we know that
20 Quinton testified that Joey took the gun out there that
21 day. But he don't know who the gun belong to that he
22 shot. He knows he shot a gun but he don't know who it
23 belonged to.

24 I want to end on this note and I'm about to wrap this
25 up. A lot of times a person's behavior and their demeanor

1 can tell us more about what happened than their words more
2 than anything else if you look at how a person acts. And
3 it sticks out in my mind and since day one it's stuck out
4 in my mind that there was a man shot in the front yard of
5 his residence. His feet practically in the front yard of
6 [REDACTED] and the defendant is inside the house with the
7 lights off. Everybody's come out to see what's going on
8 and it's human nature, people are curious. What happened?
9 Oh my gosh, who is this? Do we need to call 911? Does he
10 need medical attention? All those thoughts would go
11 through a normal person's mind but he's in the house with
12 the lights off. And I want to - - when we saw the body cam
13 video of one of the officers, they had to knock and he
14 comes out the house. He comes out the house and they just
15 real briefly ask him, you know, did you see anything? "No,
16 I didn't see anything." You know, do you know who the guy
17 is? And he's real adamant. "No. I don't know who he is.
18 Nah, I don't know him. I don't know him." I want to take
19 you back to Quinton's testimony when Quinton testified that
20 the victim walked up and that there was a conversation and
21 he said, "hey, man, I know you." One of them said that,
22 "hey, man I know you." And he testified that when Joey
23 addressed the victim, and I don't know if y'all caught this
24 or not, he said it made him nervous. It raised a red flag.
25 There was some that about the tone of his brothers voice

1 that raised a red flag for him, an aggressiveness, I don't
2 know, he sensed that it wasn't kosher. And he said he went
3 on back to help - - actually he was going to leave and then
4 Antonio called him back to go help with the car, okay. But
5 the defendant, when they knock on his door because he's in
6 there with the lights off, first thing out of his mouth, "I
7 don't know him. Nah, I don't know him." Does it strike
8 any of you why did he ask who's that man? Who is he? Is
9 he all right? Did he ever asked that? And when he went
10 down to the police division down to the office and gave his
11 statement later that night the one that we watched, did he
12 ever ask Lieutenant Valazack who that man was? He knew him
13 but he didn't ask who he was and I'll tell you what the
14 defendant, Joey Gibson, didn't care who he was. He was
15 Gary Evans Walker. He was forty-three years old. He lived
16 forty-three years on this earth and he did not have to die
17 like that to be shot down like a dog in the street, five
18 bullet wounds in his body. For what? I don't know. It's
19 senseless. It's senseless violence. He never even asked
20 who he was.

21 Ladies and gentlemen, I'm going to ask you here today
22 to weigh all this evidence, to consider everything you've
23 heard and everything you've seen and I believe when you
24 take all the evidence in totality, all of it, that it
25 creates that clear picture of what I was talking about

1 earlier. Yeah we don't have every puzzle piece. We don't
2 have every piece of the puzzle but you got enough that you
3 got a clear picture of what happened here. And I am going
4 to ask you to render a verdict that speaks the truth. The
5 word verdict comes from a term in Latin that means to speak
6 the truth. And I am going to ask you to render a verdict
7 that speaks the truth and I'm going to ask you to render a
8 verdict that speaks justice and find this man guilty of
9 murder in the death of Gary Walker and I thank you.

10 THE COURT: All right. Ladies and gentlemen, I
11 am going to give you a very short break before I charge you
12 on the law. You have been sitting here very patiently
13 listening. I got some additional time to spend with you
14 myself but I'm going to give you a short break before we go
15 into that. Everybody remain seated while the jury goes
16 out.

17 (Whereupon, the jury exist the courtroom at 11:29 a.m.)

18 THE COURT: All right. We're going to take a very
19 short break. When I get back in here and get on the bench,
20 if you're not in the courtroom you're not going to be let
21 in the courtroom while I charge the jury. And I don't want
22 any up and down or in and out while I'm charging the jury.

23 (Whereupon, the Court took at short break 11:31 a.m.)

24 (Whereupon, the Court return to the courtroom at 11:38
25 a.m.)

1 THE COURT: Is there anything before we bring the
2 jury back in?

3 MRS. PARKER: No, Your Honor.

4 MR. SCRUGGS: No, Your Honor.

5 (Whereupon, the jury enters the courtroom at 11:40 a.m.)

6 **THE JURY CHARGE:**

7 THE COURT: All right. Madam, foreperson, and
8 ladies and gentlemen of the jury I appreciate your
9 patience, your diligence, and your conscientious that you
10 have shown this week. I've got to put you through one more
11 bit of time on listening to me. Sometimes it's rather
12 tedious and sometimes it's described as rather boring the
13 jurors but it's very important because at this point in
14 time I am going to charge you on the law and as difficult
15 as it may be, I ask you to please pay close attention to
16 what I tell you and what I explained to you at this point
17 in time. I remind you that, during the trial, you and I
18 have certain duties to perform. As the trial judge, it is
19 my responsibility to preside over the trial and I also have
20 the duty to rule on the admissibility of the evidence
21 offered during the trial that you have seen. You are to
22 consider only the competent evidence before you which is
23 presented this week. If there was any testimony ordered
24 stricken from the record in this case during this trial,
25 you must disregard that testimony. You are to consider

1 only the testimony which has been presented from this
2 witness stand, any exhibits which have been made a part of
3 the record in this case, and any stipulations of counsel.

4 I have the additional duty to charge you the law
5 applicable to this case. As the presiding judge, I am the
6 sole judge of law of this case and it is your duty as
7 jurors to accept and apply the law as I now stated to you.
8 If you already have any idea as to what the law is or what
9 the law ought to be and it does not agree with what I now
10 tell you the law is, you must abandon this idea because you
11 are sworn to accept the law and apply the law exactly as I
12 stated to you.

13 In every case tried in this courtroom before jury, the
14 jury becomes the sole and exclusive judge of the facts in
15 the case. A trial judge cannot intimate, state, comment
16 on, or make any statement to a trial jury about the facts
17 in the case. Since you, the jury, are the sole judge of
18 the facts in this case, you are not to infer from what I
19 have said during the progress of this trial in ruling upon
20 the miss ability of evidence, or otherwise, or anything
21 that I say now during this course, during the course of
22 this instruction to you, that I have any opinion about the
23 facts in this case because I do not. The law does not
24 allow me to have an opinion about the facts in this case.
25 This is a matter solely for you, the jury, to determine.

1 As jurors, it is your duty to determine the effect, value,
2 weight, and truth of the evidence presented during this
3 trial.

4 The indictments that I referred to on the first day of
5 this trial, the paperwork that charges the defendant with
6 murder and possession of a weapon during the commission of
7 a violent crime. As I did earlier in the trial, I remind
8 you that the fact that the defendant was arrested, charged
9 and indicted in this case, is not evidence in this case and
10 cannot be considered by you as evidence of guilt in this
11 case, nor does it create any presumption or inference of
12 guilt. These documents are simply the formal written
13 instrument which contains the charge made against the
14 defendant. It is the formal document or they're the formal
15 documents by which these cases were brought into this
16 court.

17 Now, the indictments in this case have alleged several
18 different offenses against the defendant. The charges are
19 indictment one, murder. Indictment number two, possession
20 of a weapon during the commission of a violent crime. Each
21 indictment charges a separate and distinct offense. You
22 must decide each indictment separately on the evidence and
23 the law applicable to it, uninfluenced, by your decision as
24 to any other indictment. You will be asked to write a
25 separate verdict of guilty or not guilty for each

1 indictment. If the defendant is found not guilty on the
2 murder charge he cannot be found guilty of possession of a
3 weapon during the commission of a violent crime and
4 therefore must be found not guilty of possession of a
5 weapon, if he's found not guilty of murder.

6 The defendant has pled not guilty to this indictment,
7 and that plea puts the burden on the state to prove the
8 defendant guilty. A person charged with committing a
9 criminal offense in South Carolina is never required to
10 prove himself innocent. I charge you that it is an
11 important rule of the law that the defendant in a criminal
12 trial, no matter what the seriousness of the charge may be,
13 will always be presumed to be innocent of the crime which
14 the indictment was issued unless guilt has been proven by
15 evidence satisfying you of that guilt beyond a reasonable
16 doubt. This presumption of innocence does not end when you
17 begin your deliberations, but it accompanies the defendant
18 throughout the trial until you reach a verdict of guilt
19 based on evidence satisfying you of that guilt beyond a
20 reasonable doubt. The presumption of innocence is like a
21 robe of righteousness placed about the shoulders of the
22 defendant which remains with the defendant until it has
23 been stripped from the defendant by evidence satisfying you
24 of the defendant's guilt beyond a reasonable doubt. The
25 presumption of innocence is like not mere legal theory. It

1 is not just a legal phrase. It is a substantial right to
2 which every defendant is entitled unless you, the jury, are
3 satisfied from the evidence of the defendant's guilt beyond
4 a reasonable doubt.

5 Reasonable doubt. The state has the burden of proving
6 the defendant guilty beyond a reasonable doubt. Some of
7 you may have served as jurors in civil cases, where you
8 were told that it is only necessary to prove that a fact is
9 more likely true than not true, such as by the greater
10 weight or preponderance of the evidence. In criminal
11 cases, the states proof must be more powerful than that.
12 It must be beyond a reasonable doubt.

13 Proof beyond a reasonable doubt is proof that leads
14 you firmly convinced of the defendant's guilt. There are
15 very few things in this world that we know with absolute
16 certainty, and criminal cases the law does not require
17 proof that overcomes every possible doubt. If, based on
18 your consideration of the evidence, you are firmly
19 convinced that the defendant is guilty of the crime or
20 crimes charged, you must find the defendant guilty. If on
21 the other hand, you think there is a real possibility that
22 the defendant is not guilty, you must give him, the
23 defendant, the benefit of the doubt and find him not
24 guilty. What is a reasonable doubt of the law? A
25 reasonable doubt is the kind of doubt that would cause a

1 reasonable person to hesitate to act. /

2 There are two types of evidence which are generally
3 presented during a trial, direct evidence and
4 circumstantial evidence. Direct evidence is the testimony
5 of a person who claims to have actual knowledge of a fact,
6 such as an eyewitness. It is evidence which immediately
7 establishes the main factor to be proved. Circumstantial
8 evidence is proof of a chain of facts and circumstances
9 indicating the existence of a fact. It is evidence which
10 immediately establishes collateral facts from which the
11 main fact may be inferred. Circumstantial evidence is
12 based on inference and not on personal knowledge or
13 observation. The law makes absolutely no distinction
14 between the weight or value to be given to either direct or
15 circumstantial evidence. Nor is a greater degree of
16 certainty required of circumstantial evidence than of
17 direct evidence. You should weigh all of the evidence in
18 this case. After weighing all the evidence, if you are
19 not convinced of the guilt of the defendant beyond a
20 reasonable doubt, you must find the defendant not guilty.
21 I have sometimes use this example as the difference between
22 direct evidence and circumstantial evidence. Imagine you
23 go outside for lunch today or sometime this afternoon when
24 we're all finished and you look up at the sky and you see a
25 jet plane going across the sky. Well, that's direct

1 evidence. You're directly looking at plane crossing the
2 sky. What if you go back out a little bit later, and you
3 look up and all you see is that white vapor. You don't see
4 a plane anywhere, you see that trail that was left. That's
5 an example of circumstantial evidence. You know there's
6 been a plane up there that's flown across the sky. In the
7 direct evidence case, you actually saw it flying. In the
8 circumstantial case, you saw the vapor that indicates to
9 you that a plane had just passed by or gone over in the
10 sky. That's somewhat a simple explanation of one that I
11 use before.

12 Now, necessarily, in this case, you must determine the
13 credibility of witnesses who have testified in this case.
14 Credibility simply means believability. It becomes your
15 duty as jurors to analyze and to evaluate the evidence
16 and determine which evidence convinces you of its truth.
17 In determining the believability of witnesses who have
18 testified in this case, you may believe one witness over
19 several witnesses or several witnesses over one witness.
20 You may believe a part of a testimony of a witness and
21 reject the remaining part of the testimony of that same
22 witness. You may believe the testimony of a witness in its
23 entirety or reject the testimony of a witness in its
24 entirety. You may consider whether any witness has
25 exhibited to you any interest, bias, prejudice, or other

1 motive in this case. You may also consider the appearance
2 and manner of a witness while on the witness stand.

3 The rules of evidence ordinarily do not permit
4 witnesses to testify to opinions or conclusions. An
5 exception to this rule exists for witnesses we call "expert
6 witnesses." A witness who, by education and experience,
7 has become expert in some art, science, profession, or
8 calling may state an opinion as to relevant and material
9 matter, in which the witness claims to be an expert, and
10 may also state the reasons for the opinion.

11 You should consider any expert opinion received in
12 evidence in this case and like any other evidence, give it
13 the weight you think it deserves. If you decide that the
14 opinion of an expert witness is not based on sufficient
15 education and experience, or if you can conclude that the
16 reasons given in support of the opinion are not sound, or
17 that the opinion is outweighed by other evidence, you may
18 disregard the opinion entirely. An expert witness's
19 testimony is to be given no greater weight than that of
20 other witnesses simply because the witness is an expert.
21 Further, you are not required to accept an expert's
22 opinion, even though it is not contradicted.

23 I instruct you and emphasize that the fact that the
24 defendant, Mr. Gibson, did not testify in this case is not
25 a factor to be considered by you in any way in your

1 deliberation and in your consideration on the question of
2 the guilt or the innocence of the defendant. It must not
3 be considered by you in any manner whatsoever. A defendant
4 has the constitutional right to remain silent, and the
5 assertion of this right must not be considered by you in
6 your deliberations. I repeat, under your oath, you are to
7 draw no conclusion whatsoever from the fact that the
8 defendant in this case did not testify. The fact that this
9 defendant did not testify should not even be discussed in
10 the jury room. The burden of proof, as I have stated to
11 you, is on the state of South Carolina. The defendant is
12 not required to prove his innocence. The burden of proof
13 remains on the state to prove guilt beyond a reasonable
14 doubt.

15 An issue in this case is the identification of the
16 defendant as the person who committed the crime charged.
17 The state has the burden of providing identity beyond a
18 reasonable doubt. You must be satisfied beyond a
19 reasonable doubt of the accuracy of the identification of
20 the defendant before you may convict the defendant.
21 Identification testimony is an expression of belief or
22 impression by a witness. You must determine the accuracy
23 of the identification of the defendant. You must consider
24 the believability of each identification witness in the
25 same way as any other witness. You may consider whether

1 the witness had an adequate opportunity to observe the
2 offender at the time of the offense. This will be affected
3 by things like how long or short a time was available, how
4 far or close the witness was, the lighting conditions, and
5 whether the witness had the chance to see or know the
6 person in the past. Once again, I instruct you, the burden
7 of proof on the state extends to every element of the crime
8 charge, and this specifically includes the burden of
9 proving beyond a reasonable doubt the identity of the
10 defendant as the person who committed the crime. If, after
11 examining the testimony, you have a reasonable doubt as to
12 the accuracy of the identification, you must find the
13 defendant not guilty.

14 In order to establish criminal liability, criminal
15 intent is required. For example, the mental state required
16 to be proven by the state for a particular crime might be
17 purpose, intent, knowledge, recklessness, or criminal
18 negligence. Criminal intent must be proven by the state
19 beyond a reasonable doubt. Criminal intent is always a
20 matter that must be determined by the jury from the
21 circumstances surrounding the situation. There is no way
22 to prove intent to a mathematical certainty. There is no
23 way medical science can dissect a person's brain and
24 determine what the person had in mind, so the law says that
25 criminal intent may be inferred from the circumstances

1 shown to have existed. This is how you make a
2 determination of whether or not the element requiring
3 intent was present. It is not necessary to establish
4 intent by direct and positive evidence, but intent may be
5 established by inference in the same way as any other fact
6 by taking into consideration the acts of the parties and
7 all the facts and circumstances of the case. Criminal
8 intent is a mental state, a conscious wrongdoing. It is up
9 to you to determine what the defendant intended to do based
10 on the circumstances shown to have existed.

11 Mere presence at the scene is not sufficient to prove
12 someone guilty of a crime. A defendant's presence where a
13 crime is being committed or mere association with the
14 person who commits a crime does not make a defendant an
15 accomplice or an aider and abettor of the person committing
16 the crime.

17 The burden is on the state to prove every element of
18 the crime charged. If you find, after reviewing all the
19 evidence, that the state has proved that the defendant was
20 only present at the scene of a crime, and that they had not
21 prove, beyond a reasonable doubt, any other participation
22 in the crime, then you must find the defendant not guilty.
23 The law is that proof, excuse me, the law is that proof of
24 at the scene of the crime is not sufficient to find someone
25 guilty.

1 Now, there's been evidence presented that witnesses
2 have made prior statements which are not consistent with
3 the witnesses present testimony. You may use this evidence
4 to decide whether to believe the witness. You may also use
5 evidence of the earlier contradictory statements to
6 determine the truth of those statements. It is up to you
7 to decide whether to believe the earlier statements or the
8 testimony given at trial.

9 If a witness is shown to have knowingly testified
10 untruthfully concerning any material matter, you may
11 consider this in determining whether to trust the witness'
12 testimony as to other matters. You may reject all
13 testimony of that witness or give all or part of the
14 testimony the weight you think it deserves.

15 A person who has a past criminal history is competent
16 to testify during a trial. A past record does not affect
17 the ability of that witness to testify. The past record
18 may only be considered by you, if at all, in determining
19 the witness' credibility.

20 Remember, you are the sole judges of the facts in the
21 case and of the believability of any and all of the
22 witnesses.

23 You have heard testimony concerning the penalty a
24 person can serve for the crimes alleged in the indictments.
25 In determining the guilt or innocence of the defendant, you

1 cannot consider any possible penalty for any particular
2 crime. The punishment for the crimes is a matter for me to
3 determination and should never be considered by you in any
4 way whatsoever in arriving at an impartial verdict as to
5 the guilt or innocence of the defendant.

6 A statement alleged to have been made by the defendant
7 has been admitted into evidence in this case. While the
8 court has determined that the statement is admissible, I
9 instruct you that you make the ultimate decision of whether
10 or not the defendant made the statement. If the defendant
11 ~~did not -- if the defendant did make the statement, you~~
12 must determine whether the statement was made by the
13 defendant voluntarily and of his own free will. This means
14 that the statement was not caused by pressure, force, fear,
15 threats, coercion, or intimidation, or by hope or a promise
16 of leniency or a reward of any kind. In determining
17 whether the statement was voluntary, you should consider
18 both characteristics of the defendant and the details of
19 the questioning. Some of the factors that you must
20 consider or: (1) the age of the defendant; (2) the
21 defendant's education or lack of education; (3) the
22 defendant's mental ability or capacity; (4) the defendant's
23 IQ or intelligence; (5) the defendant's background and
24 environment; (6) the place and length of detention; (7) the
25 nature of the questioning; (8) and the advice, or lack

1 thereof, to the defendant of his or her constitutional
2 rights including, but not limited to, the right to remain
3 silent; that any statement could be used against him in a
4 court of law; the right to have a lawyer present; that if
5 he could not afford a lawyer, a lawyer would be appointed
6 to represent him without any cost; and that he could stop
7 making a statement at any time. You must carefully
8 consider all of the surrounding circumstances before you
9 give any weight to an alleged statement.

10 The state has the burden of proving beyond a
11 reasonable doubt that the alleged statement was voluntary.
12 If you determined it was, you may give the statement any
13 further consideration that you deem proper. You must
14 decide what weight, if any, should be given to the alleged
15 statement. If you determined the alleged statement was not
16 the free and voluntary statement of the defendant, you
17 should not consider the statement at all.

18 Now, the defendant has been charged as we said
19 earlier, with the offense of murder. The defendant is
20 charged with murder. The state must prove beyond a
21 reasonable doubt that the defendant killed another person
22 with malice aforethought. Malice is hatred, ill will,
23 or hostility towards another person. It is the intentional
24 doing of a wrongful act without just cause or excuse and
25 with an intent to inflict an injury or under circumstances

1 that the law will infer an evil intent.

2 Malice aforethought does not require that malice exist
3 for any particular time before the act is committed, but
4 malice must exist in the mind of the defendant just before
5 and at the time of the act is committed. Therefore, there
6 must be a combination of the previous evil intent and the
7 act.

8 Malice aforethought may be expressed or inferred.
9 These terms, "express" and "inferred" do not mean different
10 kinds of malice but merely mean the manner in which malice
11 may be shown to exist. That is either by direct evidence or
12 by inference from the facts and circumstances to which are
13 proved. Express malice is shown when a person speak words
14 which express hatred or ill will for another or when the
15 persons prepared beforehand to do the act which was later
16 accomplished; for example, lying in wait for a person or
17 any other acts of preparation going to show that the deed
18 was within the defendants mind would be expressed malice.

19 Malice may be inferred from conduct showing a total
20 disregard for human life. Inferred malice may also arise
21 when the deed is done with a deadly weapon.

22 A deadly weapon is any article, instrument, or
23 substance which is likely to cause death or great bodily
24 harm. Whether an instrument has been used as a deadly
25 weapon depends on the facts and circumstances of each case.

1 The following are examples of instruments which may be a
2 deadly weapons: a pistol, a shotgun, a rifle, a dirt, a
3 dagger, a knife, a slingshot, metal knuckles, a razor,
4 gasoline, a firebomb or molotov cocktail, and lighter
5 fluid. A gun may be a deadly weapon even if it is not
6 operating. Of course, we know in this particular case we
7 are talking about a handgun.

8 The defendant is charged with possession of a weapon
9 during the commission of a crime, or attempt to commit, a
10 violent crime. The state must prove beyond a reasonable
11 doubt that the defendant was in possession of a firearm or
12 visibly displayed what appeared to be a firearm during the
13 commission of a violent crime.

14 A firearm means any machine gun, automatic rifle,
15 revolver, pistol, or any weapon which will, is designed to,
16 or may be readily converted to expel a projectile.

17 You all know what a knife is. Since we only have in
18 this case, the pistol I'm not going to define what a knife
19 is. We all know what a knife is.

20 In order to find the defendant guilty of possession of
21 a weapon during the commission of a violet crime, you must
22 first find the defendant guilty of either committing a
23 violent crime or attempting to commit a valid crime.

24 Murder is a violent crime.

25 The state must prove beyond a reasonable doubt that

1 the weapon furthered, advance, or helped in the commission
2 of the crime.

3 Now, ladies and gentlemen, in this particular case
4 there are four possible verdicts which you may find.
5 Guilty of murder or not guilty of murder as well as guilty
6 of possession of a weapon during the commission of a
7 violent crime or not guilty of possession of a weapon
8 during the commission of about crime. There is no
9 significance whatsoever in the order in which I state these
10 possible verdicts; it is simply that one must be stated
11 first. However, if you find the defendant not guilty of
12 murder, then you cannot find him guilty of possession of a
13 weapon during the commission of a violent crime. If you do
14 find the defendant guilty of murder, then you must consider
15 whether the defendant is guilty or not guilty of possession
16 of a weapon during the commission of a violent crime.

17 Ladies and gentlemen, your verdict must be a unanimous
18 one. Madam foreperson, when the jury agrees on the verdict
19 you will indicate the verdict on the form that I have
20 prepared for you and then you will sign your name as
21 foreperson. You will then knock on the jury room door and
22 inform the bailiff that you have reached a verdict. At
23 that time we will receive you back into the courtroom and
24 take the verdict that you decide.

25 All right, at this point in time I'm going to asked

1 you to retire to the jury room but you do not begin your
2 deliberations yet. I have to let the lawyers bring up any
3 issues, final issues of law, and concerns before we can
4 start the deliberations. Also you'll be provided with
5 exhibits, everything in the jury room as well.

6 Madam foreperson, you will be given this and I think
7 it's pretty self-explanatory when you see it. It has with
8 regards to the murder charge, states, we the jury find the
9 defendant, Joey Lawton Gibson not guilty of murder. Then
10 there's a blank, we find, we the jury find the defendant,
11 joy Lawton Gibson, guilty of murder, you sign whichever one
12 y'all decide.

13 Also with regards - - if you find him guilty of
14 murder, then you would have to make a decision concerning
15 the use of the weapon during the commission of a violent
16 crime and again there's a blank that states not guilty and
17 you sign under that or you find him guilty and sign under
18 that. This will be presented to you when we bring all of
19 the evidence into you. So I'm going to asked as you retire
20 at this point in time. We'll bring in the evidence and
21 you'll be told to begin your deliberations by the bailiff
22 at that time.

23 THE BAILIFF: If you'll come this way.

24 THE COURT: Thank you. Everybody remained seated.

25 (Whereupon, the jury exits the courtroom at 12:04 p.m.)

1 deliberate we within substitute one of you for that
2 individual. That will take a few minutes to find out and
3 discover so we're going to ask you to hang around just for
4 a short period of time than I release you. Before you ever
5 leave, I do want to thank you, if I don't see you again, I
6 do want to thank you both for what you've done here this
7 week. You've done your civic duty. As you've seen, our
8 system of justice wouldn't work without folks like you
9 willing to serve. It is just not mere words when I say
10 thank you. I mean it sincerely on behalf of the State of
11 South Carolina. Thank you.

12 (Whereupon, the solicitor and court reporter has checked
13 all exhibits before taken to the jury)

14 (Whereupon, the judge has allowed the jury to start
15 deliberations at 12:14 p.m.)

16 (Whereupon, the jury has reached a verdict)

17 THE COURT: Is everybody in?

18 MRS. PARKER: Yes, Your Honor.

19 THE COURT: All right. Ladies and gentlemen, we
20 are about ready to receive the verdict from the jury. I
21 don't want there to be any type of emotional outbreak,
22 comments, or statements or anything made after the jury
23 delivers its verdict, is that clear?

24 MR. REDMOND: Yes, Your Honor.

25 THE COURT: If anybody thinks that they can't

1 handle the verdict, they need to step out now. If there is
2 any outburst, I am going to have you taken into custody.

3 All right, you've been warned. Bring them in.

4 (Whereupon, the jury enters the courtroom at 1:32 p.m.)

5 **VERDICT:**

6 THE COURT: All right. Madam foreperson, have you
7 reached a verdict?

8 MADAM FOREPERSON: We have.

9 THE COURT: All right. If you will hand it up to
10 the clerk please.

11 (Whereupon, the foreperson complies)

12 THE COURT: If you'd publish the verdict, Mr.
13 Clerk?

14 THE CLERK: Yes, sir, Your Honor. Your Honor, this
15 - - -

16 THE COURT: Would the defendant stand please.

17 THE CLERK: Your Honor, this is case number 2015-
18 GS-16-0421, the State of South Carolina versus Joey Latwan
19 Gibson, the defendant, the verdict, we the jury find the
20 defendant, Joey Latwan Gibson, guilty of murder. Sign the
21 foreperson, Barbara Belin, July 21, 2016. If this is your
22 verdict would you so signify by raising your right hand
23 please.

24 (Whereupon, all the jurors raised their right hand)

25 THE CLERK: All twelve jurors have raised their

1 right hand.

2 THE COURT: I believe that Ms. Bynum, the
3 foreperson, correct?

4 THE CLERK: Belin or Bynum?

5 MS. BYNUM: Bynum.

6 THE CLERK: Bynum.

7 THE COURT: Bynum.

8 THE CLERK: Thank you. Case number 2015-GS-16-
9 0422, the State of South Carolina versus Joey Latwan
10 Gibson, the defendant, the verdict, is we the jury find the
11 defendant, Joey Latwan Gibson, guilty of possession of a
12 weapon during a violent crime. Sign the foreperson, Teresa
13 Bynum, July 21, 2016. If this is your verdict would you so
14 signify by raising your right hand please?
15 (Whereupon, all the jurors raised their right hand)

16 THE CLERK: All twelve jurors have raised their
17 right hand.

18 THE COURT: Anything from the state before we
19 discharge the jury?

20 MRS. PARKER: No, Your Honor. Nothing from the
21 state.

22 THE COURT: Anything from the defendant?

23 MR. SCRUGGS: No, sir, Your Honor.

24 THE COURT: All right. You may be seated for a
25 moment. All right, ladies and gentlemen, I've already

1 thanked you several times but I do want to thank you again
2 and I'm not just saying words when I say that, I truly mean
3 it. I'm saying on behalf of the state of South Carolina.
4 You've done a valuable service to your state. You have
5 performed your civic duty. You've done, as I said earlier,
6 you're part in helping our democracy work and our system of
7 justice work. Serving on a jury is not an easy job. I
8 don't take it lightly and I understand that you haven't
9 taken it lightly. You've been conscientious. You've have
10 been diligent in what you've done - - I think one of the
11 lawyers made a comment, as far as a jury is concerned
12 you're one of the best jury's I have ever seen as far as
13 paying attention throughout a trial. You were all diligent
14 in what you did and the Court certainly appreciates that.
15 I want to tell you now that the trial is over. That you
16 have the right to discuss this with anyone if you want to
17 or you have the right to not discuss it with anybody if you
18 want to. That's anybody on the street or anywhere. If
19 somebody comes up to you whether it's a lawyer who may be
20 involved in the case or somebody else, if they come up to
21 you and you want to talk to them, that's fine. If you
22 don't want to talk to them you can say I don't won't to
23 talk about it or if you do start talking about it and
24 halfway through the conversation and you decide that you
25 don't want to talk anymore, you can stop that. If you

1 decide that you don't want to talk about this to anybody
2 and somebody continues to press you or push you, you let
3 the clerk of court no who in turn will let me know and will
4 take care of that situation. So we're here to protect you
5 because you've done your service. Again, I thank you very
6 much for what you've done. Do any of you have any
7 questions about anything? I don't know if I can answer it
8 but if you do I would try.

9 (Whereupon, no one has any thing to ask)

10 THE COURT: With not, thank you very much. You are
11 free to leave if you wish. You may remain if you want to
12 for sentencing or you can leave. It's up to you.

13 THE BAILIFF: Come this way please.

14 (Whereupon, the jury exits the courtroom at 1:42 p.m.)

15 THE COURT: Okay.

16 MR. REDMOND: Your Honor, we are preparing the
17 sentencing sheets and will present them to the defense for
18 the appropriate signatures.

19 (Whereupon, the state is preparing sentencing sheets for
20 the Court)

21 THE COURT: Yes, ma'am.

22 MRS. PARKER: Your Honor, the state has prepared the
23 appropriate sentencing sheets in the conviction for the
24 murder and possession of a weapon during the commission of
25 a violent crime. I'll hang those forward.

1 THE COURT: All right. Counsel are you ready for
2 sentencing?

3 MRS. PARKER: Yes, Your Honor.

4 MR. SCRUGGS: Yes, sir, Your Honor. Would you like
5 for us to approach?

6 THE COURT: Yeah, I want you to come forward
7 please.

8 MR. SCRUGGS: Any family that he may have here can
9 stand with him?

10 THE COURT: Yes, sir. Certainly.

11 MR. SCRUGGS: Thank you, Your Honor.

12 THE COURT: Your Honor, if it pleases the Court?

13 On behalf of the state we would just like to thank the
14 Darlington Police Department for their work and their
15 efforts who weren't at home at night they're out on the
16 streets dealing with situations such as this and all the
17 work they put into this case. I'm not going to say too
18 much about the facts. Your Honor, has heard all the fact
19 in great detail and the jury has spoken. On behalf of the
20 family, I did want to introduce a few folks that have been
21 here all week. Ms. Catherine Walker, was the aunt - -
22 there she is - - was the aunt of Gary Walker and his mother
23 died at the young age and she raised him. Mr. Curtis
24 Bacote as we heard and he testified at trial is the father.
25 Ricardo Walker was Mr. Gary's brother and he's been here

1 this week and Stacy Hayes was the victim's fiancé. She's
2 been here this week as well. I'm not sure - - we may want
3 to - - they don't want to speak. Okay. In Lieutenant Kim
4 Nelson with the police department has been with them all
5 week long. She's the victim's advocate and has worked with
6 them and she states that they do not wish to address the
7 Court. But with the respect to the defendant's prior
8 record, I'll give that to you at the appropriate time.

9 THE COURT: All right. Mr. Scruggs?

10 MR. SCRUGGS: Thank you, Your Honor. May it please
11 the Court? Mr. Gibson is twenty-six years old, Your Honor,
12 and I believe and I haven't looked at his rap sheet in a
13 few weeks but I don't think it's that substantial.

14 MRS. PARKER: It's not.

15 MR. SCRUGGS: May be misdemeanors on his record.
16 Your Honor, I can just tell the court that from dealing
17 with Mr. Gibson since I was appointed to his case in March
18 of this year, Your Honor, he's been very cooperative with
19 me. We have had long discussions about his case. He has
20 spent 702 days in detention and we asked that the court
21 give him credit for that. The jury has spoken, Your Honor,
22 and we just request leniency from the court. And his step
23 father is behind him, Jeffrey Sparks, who may wish to speak
24 at the appropriate time. And I don't have much more to add
25 other than that at this time.

1 THE COURT: Does the defendant wish to speak? Let
2 the record reflect that he shook his head, no, that he did
3 not wish to speak. Now, he's changed his mind.

4 MR. GIBSON: Nah, I have a question. Like how I be
5 able to, like, get this time back to start - - I'm an
6 innocent guy. I'm really an innocent party.

7 THE COURT: That's not - - that's not to be dealt
8 with here today. Do any of the family members wish to
9 speak, Mr. Scruggs? If you would identify yourself for the
10 record please, sir?

11 MR. SPARKS: My name is Jeffrey Sparks. I'm the
12 / step father of Mr. Joey Gibson, here. First of all, I'd
13 like to say I'm apologize for the family because like I say
14 I don't know - - I can't say - - I don't know if these
15 guilt or innocence but I know in life is lost on their side
16 and there's nothing I can say or do to bring him back but I
17 just apologize. But on behalf of my son here, again, as
18 the lawyer say, I'd just ask for leniency, you know, we do
19 things in life and we make mistakes, we make - - sometimes
20 we may choose the wrong path or whatever but like I say,
21 it's tough on me right now because I had two kids in here,
22 family here that was kind of on opposite side, you know,
23 that I got a wife at home, his mother, which - - just wish
24 - - I mean, by her presence not being here doesn't mean
25 that she doesn't love him, is just that she didn't want to

1 be here for this penalty of this phase. So I do got to let
2 him know that his mother is concerned and that she loves
3 him. It's just that this is going to be hard for her - -
4 this is going to be hard for her. Again, I just asked the
5 court for leniency or whatever. Like he says, he doesn't
6 have any prior - - he doesn't have anything prior nothing
7 to this extent or whatever, they're just misdemeanors.
8 That's, basically, all I've got to say.

9 THE COURT: Anybody else?

10 MR. SCRUGGS: No, sir, Your Honor.

11 THE COURT: What is his record, solicitor?

12 MRS. PARKER: In 2010, he was just convicted for
13 simple possession of marijuana. And in 2011, he was
14 convicted of public disorderly conduct. In 2013, he was
15 convicted of trespassing and petty larceny. And in 2000 -
16 - that was in October of 2013. In November of 2013, he was
17 convicted of public disorderly conduct.

18 THE COURT: You're twenty-six, Mr. Gibson?

19 MR. GIBSON: Yes, sir.

20 THE COURT: All right. The jury has spoken in this
21 matter and has found Mr. Gibson guilty of the offense of
22 murder and possession of a weapon during the commission of
23 a violent crime. The victim, if I recall the testimony,
24 was shot five times. It would've been six if one hadn't
25 missed and apparently gone into Ms. Green's home. All

1 right. Anybody else have anything they want to say before
2 I sentence him?

3 MR. SCRUGGS: No, sir, Your Honor.

4 THE COURT: All right. - - -

5 MR. REDMOND: Briefly, Your Honor. Just real quickly
6 the lawyers involved in the case I just wanted to
7 complement the defense on the job they did. I've been on
8 that side of the rail. This is a challenge for them. And
9 also to complement my colleague, Mrs. Parker, on the job
10 she did. She prepared this case and I think she deserves
11 to be recognized for that. Thank you, Your Honor.

12 **SENTENCING:**

13 THE COURT: All right. The Court recognizes that
14 all counsels did a good job in this matter. The Court
15 appreciates the manner in which it was presented.
16 Everybody was very professional. Very ethical so I
17 appreciate. All right. Again, I don't want any outburst
18 when I announce sentence. Joey Latwan Gibson as to the
19 indictment for murder the sentence of this court is you be
20 committed to the to the State Department of Corrections for
21 a term of fifty years. As to the indictment concerning the
22 possession of a weapon during the commission of a violent
23 crime, you are sentenced to the State Department of
24 Corrections for a term of five years. These sentences will
25 run consecutively which is a total of fifty-five years.

1 MR. REDMOND: Thank you, Your Honor.

2 THE COURT: Thank you. Good luck.

3 (Court is adjured at 1:55 p.m. on July 21, 2016)

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CERTIFICATE

I, the undersigned Lisa S. Carter, Official Court Reporter for the Fourth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fourth Circuit Court for Darlington County, South Carolina, on the 18th day of July through 21st of July, 2016.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

Lisa S. Carter

Lisa S. Carter

Circuit Court Reporter

October 6, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DARLINGTON COUNTY
Court of General Sessions

ROGER E. HENDERSON, Circuit Court Judge

Case Nos. 2015-GS-16-0421; 2015-GS-16-0422

RECEIVED

JUL 29 2016

SC Court of Appeals

The State,

Respondent,

v.

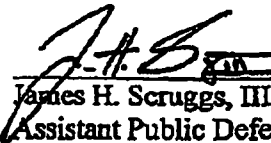
Joey Latwan Gibson,

Appellant.

NOTICE OF APPEAL

Joey Latwan Gibson appeals his conviction in this case. The sentence was imposed by the Honorable Roger E. Henderson on July 21, 2016 following a jury trial.

FILED
2016 JUL 27 PM 2:37
JUL 27, 2016
SCOTT B. SUGGS
CLERK OF COURT/RMO
DARLINGTON COUNTY, S.C.


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DARLINGTON COUNTY, SC

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DARLINGTON COUNTY
Court of General Sessions

ROGER E. HENDERSON, Circuit Court Judge

Case Nos. 2015-GS-16-0421; 2015-GS-16-0422

RECEIVED

JUL 29 2016

SC Court of Appeals

The State,

Respondent,

v.

Joey Latwan Gibson,

Appellant.

PROOF OF SERVICE

I, Holly E. Wright, an employee of the Fourth Circuit Public Defender's Office, on behalf of Assistant Public Defender James H. Scruggs, III, do hereby certify that on July 27, 2016, I served the Solicitor for the State of South Carolina with a Notice of Appeal in the above-referenced case by personally hand-delivering a copy of the same to:

Patti M. Parker, Assistant Solicitor
Fourth Circuit Solicitor's Office
1 Public Square, Room 410
Darlington, South Carolina 29532

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SCOTT B. SUGGS
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

Holly E. Wright
Holly E. Wright
Legal Assistant
Fourth Circuit Public Defender's Office

TRUE CERTIFIED COPY.

Scott B. Scruggs
CLERK OF COURT/RMC
DARLINGTON COUNTY

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Maureen Valazak
Darlington Police Department
P.O. Box 164
Darlington, SC 29540



TRACE EVIDENCE

September 15, 2014
SLED LAB: L14-10476
Your Case No: 14080258
Incident Date: 08/19/2014
[S] Quentin Gibson
[S] Antonio Gregg
[S] Joey Gibson
[V-Deceased] Gary Walker

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

INTERPRETATION OF RESULTS:

Gunshot residue particles are considered characteristic of primer residue. These particles are microscopic and molten, non-crystalline, particles that contain the elements lead, barium, and antimony.

Particles that are consistent with primer residue are spheroidal/spherical (round) particles with the following compositions:

- Barium, calcium, and silicon
- Antimony and barium
- Lead and antimony
- Lead and barium
- Barium and aluminum
- Lead, barium, calcium, and silicon

Particles that are associated with primer residue are spheroidal/spherical (round) particles with the following compositions:

- Lead
- Antimony
- Barium



ITEMS OF EVIDENCE:

Item: 1 One GSR kit from Quintin J. Gibson

Item 1 was analyzed using Scanning Electron Microscopy with an Energy Dispersive X-Ray Detector (SEM-EDX) for morphology and elemental composition.

Item: 1.1 Right palm

RESULTS:

No primer (gunshot) residue found.

The absence of gunshot residue on the hands is consistent with an individual not having discharged a firearm. A negative result could also occur from circumstances such as washing the hands, wiping the hands, wearing gloves, sweating profusely, environmental factors including wind and rain, bloody hands, excessive debris on the sample, normal physical activity within four (4) to six (6) hours passing between firing and sampling, or the firearm not producing gunshot residue on the hands when discharged.

Item: 1.2 Right back

RESULTS:

No primer (gunshot) residue found.

The absence of gunshot residue on the hands is consistent with an individual not having discharged a firearm. A negative result could also occur from circumstances such as washing the hands, wiping the hands, wearing gloves, sweating profusely, environmental factors including wind and rain, bloody hands, excessive debris on the sample, normal physical activity within four (4) to six (6) hours passing between firing and sampling, or the firearm not producing gunshot residue on the hands when discharged.

Item: 1.3 Left palm

RESULTS:

No primer (gunshot) residue found.

The absence of gunshot residue on the hands is consistent with an individual not having discharged a firearm. A negative result could also occur from circumstances such as washing the hands, wiping the hands, wearing gloves, sweating profusely, environmental factors including wind and rain, bloody hands, excessive debris on the sample, normal physical activity within four (4) to six (6) hours passing between firing and sampling, or the firearm not producing gunshot residue on the hands when discharged.



Item: 1.4 Left back

RESULTS:

One particle of gunshot residue was found. Gunshot residue can come from discharging a firearm, being in the vicinity to the discharge of a firearm, or coming into contact with a surface that has gunshot residue on it.

Item: 2 One GSR kit from Antonio M. Gregg

RESULTS:

No primer (gunshot) residue analysis performed.

Item: 3 One GSR kit from Joey Latwan Gibson

Item 3 was analyzed using Scanning Electron Microscopy with an Energy Dispersive X-Ray Detector (SEM-EDX) for morphology and elemental composition.

Item: 3.1 Right palm

RESULTS:

One particle of gunshot residue was found. Gunshot residue can come from discharging a firearm, being in the vicinity to the discharge of a firearm, or coming into contact with a surface that has gunshot residue on it.

One round particle consistent with gunshot residue was found. This particle is found in gunshot residue, but may originate from additional sources. Thus, the possibility that the individual discharged a firearm, was in the vicinity to the discharge of a firearm, or came into contact with a surface that has gunshot residue on it cannot be eliminated.

Item: 3.2 Right back

RESULTS:

Particles of gunshot residue were found. Gunshot residue can come from discharging a firearm, being in the vicinity to the discharge of a firearm, or coming into contact with a surface that has gunshot residue on it.



Item: 3.3 Left palm

RESULTS:

One particle of gunshot residue was found. Gunshot residue can come from discharging a firearm, being in the vicinity to the discharge of a firearm, or coming into contact with a surface that has gunshot residue on it.

One round particle consistent with gunshot residue was found. This particle is found in gunshot residue, but may originate from additional sources. Thus, the possibility that the individual discharged a firearm, was in the vicinity to the discharge of a firearm, or came into contact with a surface that has gunshot residue on it cannot be eliminated.

Item: 3.4 Left back

RESULTS:

Particles of gunshot residue were found. Gunshot residue can come from discharging a firearm, being in the vicinity to the discharge of a firearm, or coming into contact with a surface that has gunshot residue on it.

One round particle consistent with gunshot residue was found. This particle is found in gunshot residue, but may originate from additional sources. Thus, the possibility that the individual discharged a firearm, was in the vicinity to the discharge of a firearm, or came into contact with a surface that has gunshot residue on it cannot be eliminated.

Item: 4 One GSR kit from Gary Evan Walker

RESULTS:

No primer (gunshot) residue analysis performed.

Item: 12 One box said to contain one "blue washcloth (taken from subject Joey Gibson)"

RESULTS:

No primer (gunshot) residue analysis performed.

Item: 13 One box said to contain one "purple (short sleeve) short subject was wearing inside out from Joey Gibson"

RESULTS:

No primer (gunshot) residue analysis performed.



Item: 14 One red T-shirt with yellow, blue, and white details

Item: 14.1 Particle lifts collected from one red T-shirt with yellow, blue, and white details

Item 14.1 was analyzed using Scanning Electron Microscopy with an Energy Dispersive X-Ray Detector (SEM-EDX) for morphology and elemental composition.

RESULTS:

Particles of gunshot residue were found. Gunshot residue can come from being in the vicinity to the discharge of a firearm, or coming into contact with a surface that has gunshot residue on it; however, no information can be provided as to the time frame in which these particles were deposited.

Round particles consistent with gunshot residue were found. These particles are found in gunshot residue but may originate from additional sources. Thus, the possibility that this item was in the vicinity to the discharge of a firearm, or came into contact with a surface that has gunshot residue on it cannot be eliminated. No information can be provided as to the time frame in which these particles were deposited.

Item: 15 One box said to contain "a pair of blue jeans with multi color design on back pockets (taken from subject Joey Gibson)"

RESULTS:

No primer (gunshot) residue analysis performed.

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.



Whitney K. Berry
Forensic Scientist



WITNESSES

Maureen Valazak

Darlington Police Department

Law Enforcement Case #: 1408-0258



836

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

 Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

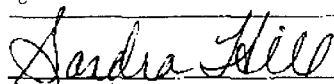
 Defendant

ARREST WARRANT NUMBER

2014A1620100135

ARRESTED ON: 2014-08-20

ACTION OF GRAND JURY



Grand Jury Foreperson

Date MAR 19 2015

VERDICT

 Petit Jury Foreperson

 Date

DOCKET NUMBER:

2015-GS-16-0421

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:

March 2015

THE STATE

vs.

Joey Latwan Gibson

INDICTMENT FOR

Murder / Murder

§16-03-0010; 16-03-0020

CDR Code: 0116

 William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Murder / Murder

§16-03-0010; 16-03-0020

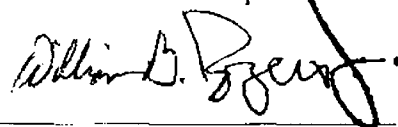
At a Court of General Sessions, convened on March 19, 2015, the Grand Jurors of Darlington County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Joey Latwan Gibson did in Darlington County, on or about August 19, 2014, willfully, feloniously, and intentionally kill the victim, Gary Evans Walker, with malice aforethought, either express or implied, by means of shooting the victim, and the victim did die as a proximate result thereof on or about August 19, 2014 in Darlington County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Maureen Valazak

Darlington Police Department

Law Enforcement Case #: 1408-0258



836

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

 Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

 Defendant

 ARREST WARRANT NUMBER
2014A1620100138

ARRESTED ON: 2014-08-28

 ACTION OF GRAND JURY



Grand Jury Foreperson

Date MAR 13 2015

 VERDICT

 Petit Jury Foreperson

 Date
DOCKET NUMBER:
2015-GS-16-0422

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

 Term:
March 2015

THE STATE

vs.

Joey Latwan Gibson

INDICTMENT FOR

Weapons / Poss. weapon during violent crime, if
not also sentenced to life without parole or
death

§16-23-0490

CDR Code: 0549

 William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Weapons / Poss. weapon during violent crime, if not
also sentenced to life without parole or death

§16-23-0490

At a Court of General Sessions, convened on March 19, 2015, the Grand Jurors of
Darlington County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

CDR: 0549 16-23-0490

That Joey Latwan Gibson did in Darlington County, on or about August 19, 2014, possess a
firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the
commission or attempted commission of a violent crime, to wit: Murder, in violation of Section
16-23-0490, S. C. Code of Laws, 1976, as amended.

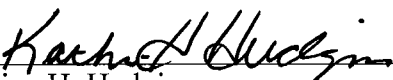
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLIAM B. ROGERS, JR.
SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589,
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 11th day of October, 2017.

RECEIVED
OCT 11 2017
SC Court of Appeals