

VOLUME ONE OF FOUR

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Charleston County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

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DEC 29 2015

S.C. Supreme Court

DAVID ROCQUEMORE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001213

APPENDIX

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INDEX

INDEX.....i

TRIAL TRANSCRIPT (JULY 9, 10, 11, 12, 13, 17, 18, 19, 2007)1

FINAL BRIEF OF APPELLANT (DATED JUNE 4, 2009).....1412

FINAL BRIEF OF RESPONDENT (DATED JUNE 1, 2009).....1435

COURT OF APPEALS’ UNPUBLISHED OPINION NO. 2010-UP-331 (FILED
JUNE 28, 2010)1458

PETITION FOR REHEARING (DATED JULY 7, 2010)1461

COURT OF APPEALS’ ORDER DENYING PETITION FOR REHEARING (DATED
AUGUST 27, 2010)1464

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS (DATED
SEPTEMBER 23, 2010)1465

RETURN TO PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS
(DATED NOVEMBER 24, 2010).....1479

SUPREME COURT ORDER (DATED DECEMBER 1, 2011).....1497

BRIEF OF PETITIONER (DATED APRIL 4, 2012)1498

BRIEF OF RESPONDENT (DATED JUNE 1, 2012).....1515

SUPREME COURT MEMORANDUM OPINION NO. 2012-MO-051 (FILED
DECEMBER 12, 2012)..... 1537

APPLICATION FOR POST-CONVICTION RELIEF (FILED FEBRUARY 1, 2013).....1539

RETURN (FILED MAY 20, 2014)1547

APPLICANT’S AMENDED APPLICATION FOR POST-CONVICTION RELIEF
(FILED DECEMBER 1, 2014)1553

MOTION TO QUASH SUBPOENA OF DANIEL PIEPER (FILED DECEMBER 5, 2014).....1556

APPLICANT’S RETURN TO DANIEL PIEPER’S MOTION TO SQUASH SUBPOENA
(FILED DECEMBER 8, 2014) 1566

FORM 4 (JUDGMENT IN A CIVIL CASE, FILED DECEMBER 12, 2014)..... 1591

POST-CONVICTION RELIEF HEARING TRANSCRIPT (JANUARY 14, 2015)..... 1592

APPLICANT’S EXHIBIT NO. 1 (AFFIDAVIT OF LAUREN WILLIAMS)..... 1680

MEMO IN SUPPORT OF DENYING POST-CONVICTION RELIEF (FILED
MARCH 9, 2015) 1682

MEMO IN SUPPORT OF POST-CONVICTION RELIEF (FILED MARCH 23, 2015)..... 1697

ORDER OF DISMISSAL (DATED MAY 12, 2015)..... 1707

INDICTMENTS 1718

State of South Carolina) The Court of General Sessions
County of Charleston) The Ninth Judicial Circuit
State of South Carolina,)
vs.) Case No. 05-GS-10-8601
David Michael Rocquemoire,) 05-GS-10-8602
Defendant.)
_____)

VOLUME I of V

TRANSCRIPT OF RECORD

July 9 and July 11, 2007

Charleston, South Carolina

B E F O R E:

The Hon. Daniel F. Pieper, Judge, and a Jury

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Pages 1-257

Brenda Cooley
Circuit Court Reporter

I N D E X
 VOLUME I OF V
MONDAY, JULY 9, 2007

	PAGE
Exhibits	2.3
Batson List	Appendix A
Proceedings	3
Defendant's Motion - Sequestration	3
Defendant's Motion - Military Uniform	4
Court's Ruling	7
Defendant's Motion - Suppress Evidence or In the Alternative Motion for Continuance	7, 22
Defendant's Bond	21
Defendant's Motion (Continued)	22-45
Arraignment Waived	46
Jury Voir Dire	47
Jury Selection	77
Court's Instruction to the Jury	89
Foreperson of the Jury	89
Defendant's Motion (Continued) - Scheduling	90
Court's Instruction to the Jury	95

TUESDAY, JULY 10, 2007

(Trial not in session on Tuesday, July 10, 2007.)

WEDNESDAY, JULY 11, 2007

Proceedings	97
Note from Juror and Examination	103-106
Defendant's Motion	107
Court's Ruling	108
Jury Sworn	110
Court's Instruction to the Jury	111
Opening Statement by Ms. Kneese-Shealy	117
Opening Statement by Mr. Savage	124
 STATE'S WITNESSES:	
<u>DETECTIVE JEFFREY PRINDLE</u>	
Direct Examination by Mr. Durant	129
Cross-Examination by Mr. Savage	135
Redirect Examination by Mr. Durant	145
 <u>DEPUTY KEVIN FORD</u>	
Direct Examination by Mr. Durant	147
Cross-Examination by Mr. Savage	160
Redirect Examination by Mr. Durant	184
Defendant's Motion for Mistrial	186
Court's Ruling	192
Court's Instruction to the Jury	193

STATE'S WITNESSES:

DEPUTY KEVIN FORD

Redirect Examination (Continued)	194
Re-Cross-Examination by Mr. Savage	199

DEXTER BROWN

Direct Examination by Ms. Kneese-Shealy	201
Cross-Examination by Mr. Savage	226
Redirect Examination by Ms. Kneese-Shealy	250

Court's Instruction to the Jury	254
---------------------------------	-----

Certificate of the Court Reporter	257
-----------------------------------	-----

E X H I B I T S

STATE'S	DESCRIPTION	I.D.	REC'D
1	Photo - aerial photo	97	102
2	Photo - police car front	97	102
3	Photo - police car rear	97	102
4	Photo - gun in trunk	97	102
5	Photo - closeup of gun	97	102
6	Photo - bullet from gun	97	102
7	Photo - closeup of bullet	97	102
8	Photo - magazine from gun	97	102
9	Photo - defendant	97	102
10	Photo - [REDACTED]	97	102
11	Photo - [REDACTED]	97	102
12	Photo - truck at [REDACTED]	98	102
13	Photo - [REDACTED] daytime	98	102
14	Photo - [REDACTED] daytime	98	102
15	Photo - [REDACTED] daytime	98	102
16	Photo - area of crime scene	98	102
17	Photo - Dodge Stratus	98	102
18	Photo - defendant's vehicle	98	102
19	Photo - three vehicles	98	102
20	Photo - defendant's vehicle front	98	102
21	Photo - defendant's vehicle rear	98	102
22	Photo - numbered evidence placards	98	102

STATE'S	DESCRIPTION	I.D.	REC'D
23	Photo - numbered evidence placards	99	102
24	Photo - numbered evidence placards	99	102
25	Photo - closeup of placard #4	99	102
26	Photo - placard #6	99	102
27	Photo - placard #8	99	102
28	Photo - placard #9	99	102
29	Photo - placards #10, 11, 13	99	102
30	Photo - closeup of placard #10	99	102
31	Photo - closeup of placard #11	99	102
32	Photo - closeup of placard #13	99	102
33	Photo - placard #12	99	102
34	Photo - defendant's face	99	102
35	Photo - defendant, right profile	99	102
36	Photo - defendant, left profile	100	102
37	Photo - defendant, back left hand	100	102
38	Photo - defendant, left palm	100	102
39	Photo - defendant, back right hand	100	102
40	Photo - defendant, right palm	100	102
41	Photo - defendant's truck, driver's seat	100	102
42	Photo - defendant's truck, center console	100	102
43	Photo - defendant's truck, back seat	100	
44	Photo - Taurus catalogue	101	

STATE'S	DESCRIPTION	I.D.	REC'D
45	Photo - defendant's truck, interior rear	101	103
46	Photo - bullet hole in shirt	101	103
47	Photo - autopsy, victim (black-and-white photo)	101	
48	Photo - projectiles A and B	101	103
49	Gun	150	
50	Officer's in-car video on CD disk	154	154
51	Photo - skid marks	224	225
52	Photo - skid marks	224	225

DEFENDANT'S	DESCRIPTION	I.D.	REC'D
-------------	-------------	------	-------

(There were no defendant's exhibits in Volume I.)

COURT'S	DESCRIPTION	I.D.	REC'D
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1	Note from Juror No. 99, Ruth Green	103	
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* * *

(The exhibits were retained by the clerk of court.)

1 (On Monday, July 9, 2007, the defendant
2 being present with counsel, the trial convenes at
3 approximately 12:10 p.m., and the following
4 proceedings were had:)

5 THE COURT: All right. Let's see what we
6 can do before we break. Do you have any witnesses in
7 here that you need out sequestration-wise?

8 MR. DURANT: I don't believe I have any
9 witnesses here, Your Honor. His motion to sequester
10 witnesses, Your Honor. My investigator, Matt Casey,
11 may testify briefly, strictly as a chain of custody
12 witness. Mr. Savage has agreed to allow him to
13 remain in the courtroom.

14 THE COURT: All right. Is that correct?

15 MR. SAVAGE: Yes, Your Honor. He's not
16 material. It's just as to the chain of custody, and
17 he's here.

18 THE COURT: All right. Do you want to go
19 ahead and take up a few of these motions? There's a
20 motion in limine about the uniform; is that still an
21 issue?

22 MR. SAVAGE: Yes, it is, Judge.

23 THE COURT: Do you want to take that up
24 now?

25 MR. DURANT: That will be fine, Your

1 Honor.

2 THE COURT: All right. We'll go ahead
3 and take it up.

4 MR. SAVAGE: Judge, we understand from
5 the state that one or more of their witnesses was in
6 Iraq and that was the reason for the delay in the
7 trial. We don't think it's appropriate to try to
8 bolster the credibility of any of their witnesses by
9 cloaking themselves in the flag or in their military
10 uniform.

11 The military had nothing to do with the
12 incident. At the time this occurred, all witnesses
13 were in civilian clothing. No one was acting as a
14 military member, a member of the military. It would
15 be inappropriate and prejudicial to allow that one or
16 more witnesses to cloak themselves in the United
17 States government, bolstering their credibility.

18 This is a credibility issue. This is a
19 case of self-defense. This is a case that clearly is
20 going to be decided by the jury on the basis of the
21 credibility of the witnesses we would give them as to
22 the series of events that night.

23 THE COURT: Yes, sir.

24 MR. DURANT: Your Honor, one of the
25 witnesses, a Mr. Ron Gibbs, is, of course, a career

1 military serviceman in the Army as Mr. Savage has
2 stated. Your Honor, as long as he is dressed
3 appropriately for court, I certainly don't see it as
4 prejudicial to the defendant one way or another which
5 way. How he dresses, I don't know how he may dress
6 when he comes to court, but as long as it's not
7 disrespectful to the Court, I don't really think it's
8 in the Court's province to tell a witness how to
9 dress.

10 THE COURT: I don't know that -- do you
11 have any basis for -- any basis suggesting that,
12 Mr. Savage? I've not ever really seen that as a
13 problem.

14 MR. SAVAGE: It's a matter of 403, and
15 it's basic prejudice to the defendant, Your Honor.

16 This is a case that is not related in any
17 way to the military. This is a case that is going to
18 be decided on the credibility of the witnesses. We
19 don't believe that the military, his occupation, what
20 he was doing, how many ribbons he has on his chest,
21 what acts of valor and bravery he may submit on the
22 battlefield should be spilled over to how he and
23 others acted on his behalf that night.

24 THE COURT: But nothing would stop him
25 from the general course of introductory questions to

1 a witness, asking him what he does for a living,
2 anyway, so...

3 MR. SAVAGE: But they can't lace that,
4 Judge, with bravery and the battlefield bravery and
5 how he reacts in his profession to how he reacted and
6 what he did this night.

7 THE COURT: Well, I don't know that the
8 state plans on bringing out those types of questions.

9 MR. SAVAGE: But the uniform itself
10 cloaks him with that authenticity of bravery.

11 THE COURT: Is that any different than a
12 police officer testifying?

13 MR. SAVAGE: Yes, because a police
14 officer acts in his profession as it relates to this
15 case. If a police officer who wears a uniform was
16 off duty and unrelated to his primary duties as his
17 employment, then maybe I would object to him coming
18 in with his police uniform on, for the same reason,
19 the prejudicial effect to the defendant and added
20 authenticity to the credibility of the witness's
21 testimony. But police officers are different. It's
22 part of their job and it's -- it's relevant to their
23 testimony in most cases.

24 THE COURT: But, still, I don't
25 understand how the uniform is going to change their

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1 -- their ability to ask the witness what they do for
2 a living. I mean, that would say to the jury ignore
3 what they hear versus what they see.

4 MR. SAVAGE: But it's the aura of
5 cloaking themselves in the flag and the ribbons on
6 the chest and all the other indicia of how they act
7 in a battlefield situation. There was a battlefield
8 situation that night that he was acting in, and we
9 think it is undue prejudice to the defendant and adds
10 credibility and believability.

11 THE COURT: Well, I'm not going to tell
12 him exactly how to dress, but I will ask that he not
13 wear his ornamental garb.

14 MR. DURANT: I don't think he intends to,
15 Your Honor.

16 THE COURT: All right. Nothing in that
17 regard. Next matter.

18 MR. SAVAGE: Your Honor, the key matter,
19 the dispositive matter at least for today, is an
20 accumulation of the discovery motions. In our
21 discovery motion notebook, they are A, B, C, D, E,
22 and F, and the one I'm going to focus on is F.

23 "A" through "E" are a series of discovery
24 motions that were filed by prior counsel within a
25 month of the incident and a series of discovery

1 motions that were filed by the current counsel for
2 the defense following the Court's approval of our
3 representation of the defendant.

4 In those prior motions, we asked
5 specifically for specific evidence that the state
6 had. When we became involved in the case, it was
7 clear that it was an issue of self-defense. That was
8 made known to law enforcement. You'll see in the law
9 enforcement reports that reflected our theories of
10 self-defense and how they were addressing them.

11 A meeting with the pathologist and a
12 reading of the autopsy protocol reveals on three
13 separate occasions in that written report that one of
14 the wounds was a close -- close to contact wound, not
15 a contact wound but a close wound which, of course,
16 is favorable for the defense.

17 The shot to the decedent was in the
18 belly. It was a frontal assault at the time of the
19 firing of the shot, and there was one -- the fatal
20 shot is in the abdomen area.

21 In my meeting with the pathologist, the
22 forensic pathologist, he reiterated and showed me
23 photographs that were taken at the time of autopsy,
24 to show me why he determined to put in his report on
25 three occasions that it was a close firing.

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1 He then met with the solicitor, and the
2 solicitor questioned him about his opinion of the
3 close wound. The opinion then was further questioned
4 because they took the shirt of the decedent that had
5 been in their possession for 21 months and sent it to
6 SLED.

7 Now, no one else had that shirt. No one
8 else had access to it. They had access to it, and
9 they were on notice on at least three or four prior
10 occasions that we were interested in the results of
11 any chemical analysis on that particular piece of
12 evidence.

13 This case had previously been set for
14 trial in February or March -- March. And even prior
15 to that date certain that was scheduled that was
16 continued by the state because one of their witnesses
17 was in Iraq, one or more of their witnesses, we had
18 asked for that.

19 March goes on, April goes on, May goes
20 on, and two to three weeks before trial they take
21 this piece of evidence, they send it to SLED, and
22 they report an adverse finding to the defendant which
23 is in conflict with the pathologist's testimony and
24 in conflict with what they reported. The interview
25 of the pathologist was in our office on two

1 occasions.

2 As soon as we heard that they were doing
3 that, our office contacted two expert witnesses as
4 related in the affidavit. We did not look to
5 continue the case because we have spent exhaustive
6 hours not only preparing for the merits of the case,
7 but I daresay 50 or more office hours in trying to
8 get information about this current panel of jurors.

9 So it wasn't our idea this is how we
10 would have the case pending, and the proof of that is
11 that in the last three weeks the state has provided
12 other evidence that should have been turned over two
13 years ago or 18 months ago, but it doesn't -- it's
14 not the type of evidence that would cause us to
15 stumble and fall.

16 This is an issue of credibility and
17 believability. It's an issue of self-defense. No
18 one is going to say that Mr. Rocquemore didn't shoot
19 the deceased that night. It's all about why did he
20 shoot, how did he feel, and what were the mechanics
21 of the shooting at that time.

22 Gunshot residue is absolutely critical.
23 It's not only material, but it's critical to our
24 defense. And being caught by surprise on June 27th
25 and being given a written report on June 30th, which

1 we did not have in hand when we contacted our
2 experts, and not having access to the bench sheets
3 from Mr. Powell's -- Lieutenant Powell's examination
4 of the shirt, and now Mr. Powell today within the
5 last 30 minutes has provided an affidavit that we
6 have not seen that says that the examination that he
7 performed was destructive in nature of the evidence
8 so that no further examination can be held, I kind of
9 question why, number one, we weren't put on notice at
10 the time of the examination if we knew that it was
11 going to be a destructive examination so we could
12 have had our representative present, because they
13 knew we were looking for this information; and, two,
14 that doesn't change the fact that we want our expert
15 to go back and analyze where that shirt has been
16 since August 13th, what may have spoiled that
17 evidence, if it did -- and I'm not saying it did,
18 because I don't know -- what spoliation may have
19 occurred between August 13th, 2005 and June 27th of
20 2007.

21 And we've not only been harmed by this,
22 we've been derailed by this, because this independent
23 scientific analysis of the evidence is going to
24 either support or discredit the credibility of one or
25 more witnesses.

1 We think that given Rule Five, given our
 2 exercise of Rule Five on repeated occasions, in which
 3 we're entitled to any scientific report of
 4 examination or specificity in which we asked for
 5 analysis of the particular evidence in question,
 6 repeatedly, and the late provision of that evidence
 7 in that report, and our inability for -- for not make
 8 believe reasons but for sworn reasons of why our
 9 witnesses are not available, number one, to consult
 10 with them and, two, to testify, not even available to
 11 consult with prior to the trial, that that -- and in
 12 light of Judge Dennis's order, ordering the solicitor
 13 to provide in an orderly fashion and a timely fashion
 14 the evidence, we believe that it ought to be
 15 suppressed or in the alternative that this case be
 16 continued until such time as we can consult with an
 17 expert to analyze what the state has done.

18 Now, Judge, they have provided in the
 19 last week or so diagrams and photographs and other
 20 bits of evidence they may or may not use, but that's
 21 not stuff we're taken by surprise by.

22 You know, they have provided in Rule Five
 23 a document of ten or eleven pages that says "close
 24 wound." Then when I talk with the pathologist, the
 25 pathologist told me that the state talked him out of

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1 it. That's what he said. The pathologist said he
2 talked him out of his position when they told him
3 about the report from SLED.

4 I don't think that pathologist did the
5 autopsy, the more I look into it. I believe that
6 that pathologist who we're relying on as being the
7 prosector was an observer.

8 THE COURT: Well, it sounds to me like
9 that would be a great witness for you, Mr. Savage.

10 MR. SAVAGE: He would be, but I want to
11 examine him on that.

12 THE COURT: If a pathologist changes his
13 opinion just because a prosecution person tells him
14 to, you know, that's going to call into question the
15 credibility of the pathologist.

16 MR. SAVAGE: If I said told him to,
17 that's too strong. Suggestion. Clearly, what he
18 told me was that he was provided with the information
19 about the shirt and that's when he changed his
20 opinion. So it's a critical piece of evidence.

21 THE COURT: What did you do to have it
22 straightened out?

23 MR. SAVAGE: Pardon me?

24 THE COURT: What did you do to have it
25 investigated?

1 MR. SAVAGE: Well, prior to this passing
2 off the shirt to SLED, I contacted on repeated
3 occasion Detective Owens. Detective Owens would not
4 meet with me. On multiple requests, he did not want
5 to meet with me, did not give me a reason why, that
6 he did not want to meet with me because of the fire
7 in West Ashley, then he said he did not want to meet
8 with me without the Solicitor's Office present.

9 On the day we met with the Solicitor's
10 Office was the day that the shirt went off to SLED.
11 That is the day I was given an opportunity by the
12 Solicitor's Office, assuming I had no other
13 obligations that day, to come down and chat with
14 Detective Owens.

15 So we put them on notice under Rule Five.
16 We attempted to meet with the crime scene people-to
17 see why they hadn't had it examined. They would not
18 meet with us. When they met with us, that day the
19 shirt was taken to SLED. When we heard that the
20 shirt was taken to SLED, we contacted not one but two
21 credible, reputable experts in the State of South --
22 one in the State of South Carolina, one out of state,
23 neither one of whom was available, and we've provided
24 that affidavit to the Court.

25 THE COURT: All right. Let me hear from

1 the state.

2 MR. DURANT: To begin with, Your Honor,
3 there is no discovery violation here. As much as
4 Mr. Savage may like to, Rule Five does not require us
5 to have anything tested at his request. Rule Five
6 requires us to turn over the results of anything we
7 have tested, and promptly, which we did in this case.

8 THE COURT: What about his request to
9 have the case continued to allow him to conduct his
10 own -- obtain his own expert?

11 MR. DURANT: So it's not a Brady
12 violation, it's not a Rule Five violation, to start
13 with.

14 And, Your Honor, I think it's important
15 that you are aware of the time line in this case, as
16 well.

17 The case, as he said, was originally
18 scheduled for trial in March. It was continued.
19 Mr. Savage was advised that it was going to be
20 rescheduled for this week at that time.

21 I had the pathology report, as did
22 Mr. Savage, and I was aware that the pathologist had
23 said that there was -- one of these was a close
24 gunshot wound.

25 I met with the pathologist on the

1 afternoon of June the 21st of this year at 2:30. I
2 questioned him concerning his finding that one was a
3 close gunshot wound, because there was nothing about
4 either wound that indicated there was a close gunshot
5 wound. I asked him what he was basing that opinion
6 on. He said he thought that he saw soot on the shirt
7 around one of the gunshot wounds.

8 So I said, do you have pictures of that?

9 He said, yes, I do.

10 We looked at the pictures. I disagreed
11 with the pathologist. I said it did not look like
12 soot, that I intended to have the shirt tested.

13 I returned to the office that day,
14 contacted SLED. Joe Powell had done the GSR kits in
15 this case. And they will not allow two different
16 trace analysts to work the same case. I talked to
17 Ila Simmons, found out that Joe Powell was out of the
18 office Thursday and Friday, would be back Monday
19 morning which would be June 25th. I called Joe
20 Powell first thing Monday morning, June the 25th, and
21 he agreed to take a look at the shirt for me.

22 I talked to the crime scene office the
23 next day, the 26th, and made arrangements for them to
24 take the shirt up to Columbia; parenthetically, the
25 same date that I made them available for Mr. Savage

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1 to come talk to if he wanted to.

2 Also parenthetically, his office had been
3 advised, Heather had been advised that we were
4 willing to arrange a meeting with Owens, and on no
5 occasion did they ever get back with us on that.

6 But anyway, I made arrangements on the
7 25th to take it up there on Tuesday -- excuse me --
8 the 26th. It was taken up there first thing in the
9 morning on the 27th of June.

10 I received a call at about eleven o'clock
11 that morning, the 27th of June, at my office. Lauren
12 Williams was in the office, Mr. Savage's co-counsel.
13 She heard the results of that test as soon as I did.
14 I put him on the speaker phone. She heard it as well
15 as I did. She found out just as soon as I did, as a
16 matter of fact. Two days later when we received the
17 written report, they were -- the written report was
18 e-mailed to them.

19 So this isn't a situation, Your Honor,
20 where I'm sandbagging anybody. I did not have any
21 reason to cull into the medical examiner's opinion
22 regarding that until I saw the photograph on the 21st
23 of -- on the 21st of June, and upon seeing that, I
24 worked promptly to try to get that shirt tested.

25 Now, the shirt was tested, and Joe Powell

1 said that there's no evidence of gunpowder residue on
2 either bullet hole on that, on that shirt.

3 I talked to him Friday of this -- this
4 past week, this past Friday which would be the 6th,
5 and that's when I found out that this test that he
6 had performed was a destructive test.

7 He says there's only two tests that you
8 can perform -- I mean, the only two things you can do
9 with a test like that is a visual inspection and a
10 chemical test, and he says that the chemical test
11 that he has to perform to determine the presence of
12 these substances he's looking for would have the
13 effect of destroying those substances if they existed
14 on the clothing.

15 So at this point, the test has not been
16 repeated. I will state to this day they've never
17 asked for the shirt, have not asked for the shirt
18 since they knew -- and I would also point out,
19 Your Honor, they knew the shirt was going up for
20 testing prior to getting the results back.

21 THE COURT: Is that correct you never
22 asked for the shirt, Mr. Savage?

23 MR. SAVAGE: Judge, I've asked
24 specifically in my discovery motions for examinations
25 of the shirt. I asked repeatedly, and I say under

1 oath, on at least a dozen occasions we tried to meet
2 with Detective Owens, that he refused to meet with us
3 and gave reasons not to meet with us, including the
4 fire which I understand and I'm not objecting to
5 that. The reason why it wasn't necessary to meet
6 with him when Mr. Durant called is because they had
7 the shirt and they were sending it off to SLED. The
8 question that I had for Mr. Owens was why they had
9 not done that.

10 This autopsy report has been available to
11 the Solicitor's Office for 18 months. This is not
12 something that showed up on June 20th. They've had
13 it since September of 2005.

14 THE COURT: Well, let me ask you. You
15 made reference in the brief in a place or two about
16 the availability of an expert to review this. Is no
17 one available?

18 MR. SAVAGE: Let me tell you, Judge, so
19 that we know what the dates are.

20 This is the last week in June: That week
21 I was ostensibly on vacation, ostensibly, but I was
22 in the office, and I had over 30 family members here.
23 That came to our attention on a Wednesday.

24 I said, Lauren, don't take any action
25 because we don't have a written report. We're

1 entitled to a written report because that's what the
2 experts have to see.

3 That report came to us late on Friday,
4 June 27th, the Friday before the Fourth of July
5 holiday.

6 We immediately -- we didn't wait till we
7 got the written report, but we lined up not one but
8 two expert witnesses. And we have the names. I
9 think they've been provided in the report. If they
10 haven't, I'll ask Ms. Williams to address that. Both
11 were competent, worthy, credible, good backgrounds,
12 good witness people to evaluate the shirt, what
13 spoliation might have occurred between April --
14 August 13th of 2005 and June 25th and June 27th of
15 2007 and what procedures did Mr. Powell find, because
16 they were inconsistent with the prior expert witness
17 that the government provided to us in the protocol
18 for the autopsy.

19 Now, what Mr. Durant says about what the
20 pathologist says, I don't doubt that at all, but
21 that's not what he said to us. And those are not the
22 pictures that he showed us, the stippling that he
23 showed us to support his -- his opinion that it was a
24 close wound.

25 THE COURT: All right. Well, as I

1 indicated, we needed to stop at noon. We'll have to
2 finish the motion after we return from the break.
3 We'll be adjourned until 1:30. We'll take it back up
4 then. Thank you.

5 MR. DURANT: Thank you, Your Honor.

6 MR. SAVAGE: Judge, this is in
7 anticipation of -- the jury hasn't been sworn yet,
8 but the bailiff is asking about Mr. Rocquemore. We
9 have a written statement from the bondsman that he's
10 willing to continue him on bond if there's no
11 objection by the state.

12 THE COURT: State, any opposition to
13 that? Any opposition to his bond, remaining on bond?

14 MR. DURANT: No, Your Honor.

15 THE COURT: All right. He may remain on
16 his bond. Thank you.

17 (A lunch break is taken at approximately
18 12:15 p.m.)

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AFTERNOON SESSION

(The trial reconvenes at approximately 1:30 p.m., the defendant being present with counsel, and the following proceedings were had:)

THE COURT: All right. Did you have any other arguments you wanted to make?

MR. DURANT: And just to kind of summarize, I don't exactly remember where I was when we broke for lunch, Your Honor, but I certainly do not believe that there is any basis for excluding this evidence, and I don't think there was any discovery violation shown.

I would like to point out to the Court that two of our critical witnesses are here from out of the country, one from Iraq and one was in Japan at the time, which is why we tried to schedule this trial on this particular date.

I did want to reiterate the fact that I'm not trying to sandbag anyone here nor is the state. This really did not become an issue to me until I met with the medical examiner on the 21st of June. I was just assuming at that point that -- I mean, I had his report and I knew what the report said, but until I actually met with him and saw the picture, I had no reason to question what -- what his opinion was with

1 regard to the trace evidence.

2 I would reiterate that Mr. Savage has
3 never asked for the shirt nor has he ever
4 specifically asked for this shirt to be tested. He
5 has basically asked for the results of any forensic
6 tests, which we provided to him promptly.

7 As I said, we did find out Friday that
8 this is a destructive test, and the chemical portion
9 of the test cannot be repeated.

10 We have yet to be asked for the shirt.
11 I'm willing to have it Fed Ex'd to him or anyone that
12 he would like to see it. I'm willing to get Agent
13 Powell's notes to his expert as soon as possible, and
14 I'm willing to take the testimony of anyone further
15 that Mr. Savage feels is necessary, by telephone if
16 necessary.

17 THE COURT: Well, that's what I was
18 getting at. Mr. Savage, when is your expert
19 available?

20 MR. SAVAGE: Judge, as you'll see from
21 the dates ---

22 THE COURT: I saw the dates for the
23 conference, but...

24 MR. SAVAGE: I think I need to supplement
25 the record just a little bit. Judge, on March 6th of

1 this year, we filed a motion. Among other things
2 that we asked for, the description and results of
3 examination conducted on the clothing of Herschel
4 Demar Denson and David Rocquemore, said clothing
5 being listed and we gave the evidence number.

6 There can be no miscommunication on the
7 fact that we asked for that, going back to June of
8 2006.

9 And as soon as we found out that there
10 was a problem, that Mr. Durant made us aware of the
11 further examination of the shirt, we immediately
12 contacted not one but two experts who have been made
13 known to us as being competent and credible and who
14 have testified in this jurisdiction.

15 There is this week the 59th annual
16 meeting, July 9th through the 13th, in Chicago,
17 Illinois, of the group that these parties all go to.
18 I didn't schedule that. It's the McCrone,
19 M-C-C-R-O-N-E, Research Institute -- McRI is the
20 abbreviation -- 59th Annual Inter/Micro Conference.

21 I have not spoken personally to those
22 experts, but Lauren Williams at my request did that
23 immediately, not today or yesterday but the very day
24 that we were put on notice. The proof of that is, is
25 that we filed our motion for a hearing immediately.

1 And that was on that Tuesday. We were made known on
2 Friday. Monday we tried to get somebody so we would
3 not delay the trial again. See, there's great
4 expense to us, as well, to have a case delayed. But
5 on Tuesday when it was now possible, it was the
6 Fourth of July week, and they were both going to this
7 conference in Illinois and they're not going to be
8 available.

9 Now, is that the extent of their...

10 (Mr. Savage and Ms. Williams confer.)

11 THE COURT: Well, I mean, are they
12 available next week? If we start the trial this
13 week, nothing says we can't roll into the next week
14 when your expert's available.

15 MR. SAVAGE: Well, that's true, except
16 that how would I know how to cross-examine their
17 experts if I don't have an opportunity to consult
18 with my expert to see what problems there are?

19 THE COURT: All right. I didn't
20 understand that you didn't have the ability to
21 consult with them as opposed to you just couldn't get
22 them here for trial.

23 MR. SAVAGE: No, sir. They're not
24 available. One's from Virginia, and one's from --
25 Spartanburg?

1 MS. WILLIAMS: Greenville.

2 MR. SAVAGE: Greenville. And neither one
3 -- I would have done anything to talk to them last
4 week if they were available. Again, we've gone to
5 tremendous -- not tremendous -- we've gone to
6 significant expense preparing for today. You know,
7 everything else was closed down. We worked July
8 Fourth. We worked all this weekend.

9 THE COURT: Well, is there any other
10 solution then?

11 MR. SAVAGE: If there wasn't ---

12 THE COURT: Is he available at any point
13 this week?

14 MR. SAVAGE: No.

15 THE COURT: Is there anyone else?

16 MR. SAVAGE: Those are the two that we
17 researched and found. I don't know if there are
18 others. They're the only ones -- I mean, it's not
19 that we didn't make a good faith effort.

20 Judge, you know, it's interesting, on
21 July the 2nd, the Supreme Court issued that ruling on
22 the Department of Corrections in a civil case in
23 which the Department of Corrections was sanctioned in
24 a case that involved money, not involved with life
25 imprisonment, for the failure to disclose. I'm not

1 saying anything bad faith about the Solicitor's
2 Office, but there could be no misunderstanding that
3 this is a self-defense case, always been a case
4 involving credibility and believability. And the
5 pathologist up until two weeks ago or ten days ago
6 said that it was a close wound. Thank God we went
7 back and saw him again.

8 You know, we have exercised due diligence
9 from the very beginning of June of 2006 when we took
10 over the representation of Mr. Rocquemore to be
11 prepared for trial and talk to all the parties
12 involved.

13 THE COURT: Well, after you talked to the
14 pathologist again, do you feel -- do you still feel
15 there's a need to have someone?

16 MR. SAVAGE: Oh, I'm going to have a ball
17 with him in cross-examination, but the problem I have
18 now is Lieutenant Powell's examination. I need to
19 find out those things we've identified in our motion;
20 that is, spoliation, testing.

21 You know, if you read this test, it
22 doesn't say what the state today says it says. Have
23 you looked at that test?

24 THE COURT: Well, if it doesn't...

25 MR. SAVAGE: Well, it's just, you know, I

1 need to have somebody interpret that. What it says
2 is, if you read this, this report literally -- it's
3 attached to the motion. If I may approach,
4 Your Honor. The language -- may I approach?

5 THE COURT: Yes, sir.

6 MR. SAVAGE: The language on page two of
7 the report, I spent a lot of time reading that, all
8 those 25 words or so, and I can't understand what it
9 means.

10 The abdomen shots reports information --
11 the abdomen shot, which this report does not even
12 acknowledge was examined, is the shot that the
13 pathologist says was the close contact.

14 This report says that no gunpowder
15 residue or lead was detected around the hole of the
16 left side of the shirt near the armpit. Well, that's
17 not the wound in question. The wound in question in
18 the pathology report -- may I have it? The wound in
19 question in the pathology report...

20 (Mr. Savage reviews document.)

21 THE COURT: Was there gunpowder residue
22 on the hole to the abdomen?

23 MR. DURANT: No. And that -- and this is
24 the ---

25 MR. SAVAGE: Can you do me a favor and

1 don't talk ---

2 MR. DURANT: This is ---

3 THE COURT: Hold on, hold on.

4 MR. SAVAGE: I'm addressing the Court,
5 and I'd like to finish my thought process.

6 The pathology report says as to the left
7 chest wound soot is not visualized.

8 The wound designated "B" at the left
9 upper abdominal quadrant -- that is the wound in
10 question which was not examined by SLED, by reading
11 their report -- the bullet pathway was through the
12 skin and subcutaneous skeletal muscles and fascia,
13 left renal. That is the wound that was described as
14 being the close wound. No soot is identified.

15 What the pathologist explained to me is
16 that there are two different types of ingredients
17 that are found at the site of a wound. One is a gray
18 material that he believed he saw on the photograph of
19 that wound.

20 And, again, on three separate occasions
21 in the report he identifies it as a close wound:
22 "Significant findings at autopsy include a single
23 close range penetrating gunshot wound to the
24 abdomen." The other wound is a single intermediate
25 range penetrating gunshot wound to the left

1 auxiliary, left chest.

2 That's all I have, Your Honor.

3 THE COURT: Yes, sir.

4 MR. DURANT: If I may respond to that.

5 THE COURT: Yes, sir.

6 MR. DURANT: The only thing he says about
7 -- he characterized it, the medical examiner,
8 characterized it as a close gunshot wound. The only
9 thing he has in his report backing up that position
10 is "two defects were seen." And he's inspecting --
11 inspecting the clothing here because there was
12 nothing as to either wound in the body that indicated
13 any of this.

14 He said two defects were seen in the
15 front. The first defect is designated "A" and
16 corresponds to the gunshot wound designated on the
17 left chest. The second defect designated "B" has
18 eccentric gray pigmentation from three to eight
19 o'clock.

20 That eccentric gray pigmentation is what
21 he was basing his opinion on that -- that it was
22 soot. He never even calls it soot in the report.

23 He said, when I talked to him, that he
24 thought it might be soot, and that's when I made the
25 decision that the shirt needed to be sent up there

1 and tested.

2 I find it hard to believe in these days
3 and times where you have e-mail and telephones and
4 video conferencing that his experts are out of
5 pocket. They have had -- they have been aware of
6 this since the 27th of June, and Lauren Williams was
7 in my office and heard the results of this report.
8 That's twelve days.

9 And the reason he doesn't understand
10 Mr. Powell's report is because he hasn't talked to
11 Mr. Powell.

12 Mr. Powell will explain that the -- that
13 the gunshot under the left arm has nothing, no lead,
14 no gunpowder, nothing.

15 This gunshot has that little -- that
16 little border, the pigmentation border that the
17 medical examiner talked about. He says it's lead
18 from the bullet passing through the fabric. It comes
19 -- actually, it's wiped off of the bullet itself as
20 it passes through the fabric. But the chemical
21 testing around the wound itself revealed -- did not
22 reveal the presence of gunpowder on either of them.

23 THE COURT: At what point is your witness
24 going to testify?

25 MR. DURANT: He would testify -- I was

1 thinking about at the end, the end of my case, you
2 know.

3 THE COURT: At the end of your case?

4 MR. DURANT: I was thinking about
5 actually -- I would usually put up -- would put up
6 him and put up the medical examiner. I may end up
7 putting him up as the last, the last witness in this
8 case.

9 THE COURT: Mr. Savage, why don't I just
10 give you the opportunity to find somebody else before
11 I allow his witness to testify?

12 MR. SAVAGE: Well, Judge, that would be
13 fine, except I'm telling you ---

14 THE COURT: If we have to run into the
15 next week, we have to run into the next week, that's
16 just all there is. But there's got to be someone
17 who's out there who can offer an opinion about that.

18 MR. SAVAGE: Well, if there is, we
19 haven't found him. I mean, I don't know of any other
20 than one from the State of South Carolina who then
21 left the State of South Carolina and went to
22 Virginia. I'm not going to hire somebody from
23 California or, you know, Hawaii or something that we
24 don't have a reputation about him, know who he is and
25 how he testifies and what their reputation is.

1 THE COURT: But is your person available
2 next week?

3 MR. SAVAGE: I don't know. Lauren is
4 shaking her head yes. I can't say that. I don't
5 know whether they are or they're not.

6 THE COURT: Okay. It says the 17th, so
7 they're available on the 18th?

8 MS. WILLIAMS: Yes, Your Honor. He tells
9 me he is available, and he -- we have sent him the
10 reports, Judge. You know, he's available by cell
11 only while he's at this conference.

12 THE COURT: He does have the report?

13 MS. WILLIAMS: I've e-mailed them to him
14 last week. I don't have any opinion, any review. He
15 said he'd read them on the plane when he was on the
16 way to Chicago.

17 THE COURT: Well, have you since talked
18 to him about whether he can render some opinion or
19 report?

20 MS. WILLIAMS: That was on Saturday,
21 Judge, and I did leave a message, but I haven't heard
22 back from him today.

23 THE COURT: If he's capable of rendering
24 an opinion and ---

25 MR. SAVAGE: Judge, I ---

1 THE COURT: --- being here for trial...

2 MR. SAVAGE: There is no way that based
3 on the document that I provided to the Court, which
4 is what we provided to the expert, that anyone could
5 render an opinion.

6 That's the result of an examination
7 consisting of very few words. It doesn't say
8 anything about a spoliation factor. It doesn't say
9 where it was kept, who kept it, under what conditions
10 was it kept. You know, was it dry, was it wet, was
11 it -- you know, all the other ingredients that go in
12 to the knowledge of how that test was performed and
13 the possible spoliation before that.

14 It's not just the test; it's the custody
15 of the shirt.

16 THE COURT: But all of that is already on
17 the table as far as what you could ask his witness.
18 That's all...

19 MR. SAVAGE: To adequately represent
20 Mr. Rocquemore in a murder case, I ought to be well
21 prepared in advance, to avoid a PCR, to cross-examine
22 every state witness. That's why we're not
23 stipulating to the chain of custody, because I'm not
24 going to let go of that until I know who had it,
25 where they had it, under what conditions, if that

1 becomes an issue.

2 THE COURT: Well, I mean, I don't see why
3 the Court's suggestion does not solve that problem,
4 because you've both spent a lot of time and money to
5 start this trial today, and if we have to roll over,
6 we have to roll over, but I'm not going to -- I'll
7 stop if his -- if we haven't gotten anything, any
8 feedback from your expert before you have to do your
9 cross-examination of his witness.

10 MR. SAVAGE: It's not -- I agree with
11 you, Judge. Honest to God, I bent over backwards to
12 be prepared for this. It's not cross-examination of
13 the expert. If that was the issue, that would be
14 limited in scope.

15 This is a spoliation issue of all the
16 evidence and technicians who were involved from the
17 crime scene, to the hospital, to the evidence locker,
18 to Mr. Casey, how it was held at the Solicitor's
19 Office, how it was handled.

20 I mean, so anyone who testifies, I
21 think -- I don't know until I talk to my expert -- is
22 going to be subject to that line of
23 cross-examination.

24 THE COURT: Well...

25 MR. SAVAGE: Now, is the state saying

1 that the two witnesses who they had to get from Japan
2 and Iraq are going back to Iraq and Japan, or are
3 they here, and what is the -- in balancing the rights
4 of the defendant to the inconvenience of the state in
5 a murder case?

6 THE COURT: Do you have his agenda?

7 MR. DURANT: I know the person is going
8 back to Iraq, Your Honor. I haven't asked
9 specifically. I know the other guy is from San Diego
10 -- San Diego, and he was in Japan right before he
11 came back on leave this time. He's in the Naval
12 Sealift Command or something like that. He's a
13 civilian employed with the Navy, and basically his
14 job is working as a merchant marine on ships that
15 supply the ammunition and supplies to Naval bases all
16 over the world. So, you know, he's a real problem.
17 He's a real problem, as well.

18 But once again, Your Honor, I don't see
19 how -- why your solution wouldn't solve the problem.
20 I mean, he can cross-examine the witnesses on the
21 chain of custody all he wants. That information can
22 be supplied to his expert before, before and until
23 and if he decides to have an expert testify.

24 I know what my expert says on the issue,
25 because I've asked him, and he says it's not an

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1 issue. And I suspect his expert, if he's a credible
2 person, will tell him the same thing when he asks the
3 question.

4 THE COURT: I mean, is your expert --
5 what does your expert tell you differently about
6 spoliation that would not be generally available to
7 an expert?

8 MR. SAVAGE: I really don't like being
9 put in this position, but I think the Court has
10 forced me to be put in this position. Not only does
11 the state's witness of late, a midnight witness,
12 contradict the state's pathologist, but they also
13 contradict the state's GSR results.

14 They have provided me with a GSR report
15 that says the right hand of the deceased was covered
16 with gunshot residue on the back of his hand. Now,
17 they didn't provide or you could ask Mr. Durant
18 whether the state provided that information to the
19 pathologist. And I regret that I have to bring this
20 out prior to trial, because I would much rather
21 prefer to bring this up in cross-examination if this
22 document wasn't provided to him.

23 THE COURT: Well, the Court didn't force
24 you to bring that out, Mr. Savage, and it's not
25 mentioned in your motion.

1 MR. SAVAGE: But to give you the full
2 range of what I'm dealing with here.

3 THE COURT: Yes, sir.

4 MR. SAVAGE: They have given me at the
5 eleventh hour and fifty-ninth minute evidence that
6 contradicts their evidence and both the pathologist
7 and the prior GSR report. Now, that gives me a lot
8 of cross-examination, I agree with you.

9 THE COURT: That helps you.

10 MR. SAVAGE: Oh, it absolutely does, and
11 I'm going to have a good time on that; but it doesn't
12 allow me to do my due diligence on this
13 newly-discovered information that I think I'm
14 entitled to by having my own expert tell me the type
15 of questions that I should be asking, tell me the
16 type of underlying reports, tell me the type of
17 custody information that's required for further
18 examination.

19 THE COURT: That was the question that I
20 was -- well, that was what I was alluding to. Is not
21 that type of general generalized information
22 available by virtue of a conference with him on the
23 telephone?

24 Spoliation is spoliation insofar as this
25 type of situation is concerned. He's going to tell

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1 you "I'm looking at A, B, C, D, or E" and whatever it
2 may be, and he's going to say that for any similar
3 type of situation; is he not?

4 MR. SAVAGE: If we knew what that
5 situation was.

6 THE COURT: Well, I mean, but is he not
7 capable of answering those types of questions on the
8 telephone?

9 MR. SAVAGE: I just don't think that that
10 is -- Mr. Rocquemore is facing life imprisonment -- a
11 fair trial, and I think that he requires me to go
12 talk to witnesses, I need to evaluate this witness,
13 and does he -- do I, does Andy think he's credible,
14 does Andy think that's he's going to have a good
15 demeanor on the witness stand?

16 THE COURT: Which witness are you talking
17 about now?

18 MR. SAVAGE: Any expert, any witness that
19 I would ---

20 THE COURT: Are you talking about the
21 state's witness?

22 MR. SAVAGE: No. Any witness that I
23 would present, I think that Rocquemore is entitled
24 for me to evaluate that witness not only for the
25 information he provides but his history, his ability

1 to testify, his ability to communicate with the jury,
2 and all those other indicias of credibility. And
3 this is a credibility case.

4 I think I'm required to say, Rocquemore,
5 this is your man, he's a good guy, he's honest, he's
6 forthright, and he can communicate well with the
7 jury.

8 I haven't had that opportunity, and it's
9 not because of my indifference or my laziness. It's
10 because the matter wasn't brought to my attention
11 till the Fourth of July week.

12 This is not something you can have a
13 casual conference with a witness at a piano bar.
14 This is something where I'd have to look him in the
15 eye, go over the reports, what are the underlying --
16 what are the bench sheets that I'm missing, what am I
17 going to look for in the bench sheets, what am I --
18 you know, how does this compare to their prior report
19 that there was gunshot residue on the hand, is that
20 consistent, is it inconsistent, is it consistent with
21 what the pathologist was saying, is it inconsistent
22 with that, what's the explanation for it, all those
23 questions that Rocquemore deserves an answer to
24 before I question the first witness.

25 THE COURT: Yes, sir.

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1 MR. DURANT: With all due respect, he's
2 had twelve days to do that.

3 MR. SAVAGE: Including holidays and
4 weekends.

5 MR. DURANT: Twelve days to do that. And
6 he's talking -- what he's doing is talking about
7 talking to the witness to assess him.

8 Now, whether his plan is to hire this
9 expert and have him sit in a four-day trial to listen
10 to every bit of testimony, I don't think he's going
11 to pay to do that either. He's going to do the same
12 thing regardless if he hires the expert or not. He's
13 going to tell him what goes on in this courtroom and
14 what is said, and his expert's going to give him an
15 opinion based on that. I don't think he's going to
16 pay an expert to fly down here and sit through this
17 entire trial.

18 THE COURT: Do you have any means of
19 contacting him now?

20 MS. WILLIAMS: I'm sorry, Judge?

21 THE COURT: Do you have a way of
22 contacting him now?

23 MS. WILLIAMS: Yes, Judge. Actually, I
24 just left a message on his cell phone right before
25 court went back into session, but I can call him back

1 if you'll let me do that.

2 THE COURT: Well, we'll take a short
3 break and let y'all hear from him about exactly what
4 type of time he would need to convey that and what
5 type of information and whether it could be done in
6 an appropriate way, then we'll -- I'll further
7 consider your motion. I'm not going to rule it out
8 until I hear back.

9 Let's go ahead and take a break. See if
10 we can get ahold of him.

11 MS. WILLIAMS: Thank you, Your Honor.

12 (A break is taken at approximately
13 1:55 p.m.)

14 (The trial reconvenes at approximately
15 2:10 p.m., the defendant being present with counsel,
16 and the following proceedings were had:)

17 THE COURT: Did y'all hear back anything?
18 Please be seated.

19 MS. WILLIAMS: Your Honor, if it please
20 the Court, I have not heard back. I spoke with his
21 secretary who is going to attempt to contact him
22 through the hotel where the conference is currently.
23 I've left a couple of messages myself and called her
24 and requested her to get in touch with him. That's
25 as far as we have gotten, Judge.

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1 THE COURT: All right. Did she give you
2 any feedback on when she'd respond?

3 MS. WILLIAMS: I'm sorry, Judge?

4 THE COURT: Did you get any feedback from
5 her how long she thought it would take?

6 MS. WILLIAMS: Judge, I actually talked
7 with her after I left him a cell phone message. Then
8 I called her back to get the hotel information and
9 make sure we had the right one. She had left him a
10 message on his cell phone. In the meantime, she is
11 just sort of waiting to hear from him. Unless they
12 can page him at the hotel, which she -- I just walked
13 in about four minutes ago, Judge -- and they have my
14 cell phone number. My office is aware it's a very
15 important call.

16 THE COURT: All right. Does anybody have
17 anything else?

18 MR. DURANT: No, sir, Your Honor.

19 MR. SAVAGE: No, Your Honor.

20 (The Court and the law clerk confer.)

21 THE COURT: Mr. Savage, where did you say
22 the other expert was?

23 MR. SAVAGE: Apparently they're both at
24 the same conference. The expert that Ms. Williams
25 addressed with the Court is a gentlemen from -- I

1 said Spartanburg, but Greenville, South Carolina.
2 He's the one that we know of who has testified in
3 this circuit and has been approved. He's testified
4 numerous times. I think he's a former SLED agent.

5 The other witness is from Virginia. I
6 have less information about him and his background,
7 but he apparently is at the same conference.

8 Is that correct?

9 MS. WILLIAMS: Judge, my understanding is
10 he was going to be attending the same conference in
11 Chicago, but I don't know if he's there now or if
12 he's just going later in the week. I think he was
13 slated as a speaker, but he -- nonetheless, he told
14 me he was going to be out of town. I didn't get as
15 many details from him.

16 This expert was very responsive and he
17 and I have been in more contact, but I haven't spoken
18 with the other one. I do know the dates that he's
19 unavailable this week. All of that's in our
20 affidavit report.

21 THE COURT: But you don't know whether
22 he's available by telephone or not?

23 MS. WILLIAMS: Judge, I also left him a
24 message from my office during the lunch break. I've
25 not heard back from him, as well, so...

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1 THE COURT: What was the -- the state's
2 position on starting next week, what was that? Do
3 you have some conflict with starting next week?

4 MR. DURANT: I don't have any problem
5 with starting next week. I believe Mr. Savage has a
6 problem starting...

7 MR. SAVAGE: Judge, there's a matter I
8 have to address privately with Mr. Durant and the
9 Court if the Court would allow us to approach.

10 THE COURT: All right.

11 (There was an off-the-record bench
12 conference. Said bench conference being concluded,
13 the following proceedings were had:)

14 THE COURT: All right. So for the
15 record, we have discussed a preliminary schedule that
16 resolves the matter, to my understanding. Is that
17 correct?

18 MR. SAVAGE: Yes, Your Honor.

19 MR. DURANT: I believe that would work,
20 Your Honor.

21 THE COURT: All right. So we can talk
22 about that more when I get back. Apparently they
23 want me to qualify the grand jury.

24 We'll go ahead and select the jury today,
25 and then we'll make some more decisions -- decisions

1 about scheduling after we do that. All right?

2 MR. SAVAGE: Thank you, Your Honor.

3 MR. DURANT: Thank you, Your Honor.

4 (A break is taken at approximately
5 2:20 p.m.)

6 (The trial reconvenes at approximately
7 3:20 p.m., the defendant being present with counsel,
8 and the following proceedings were had:)

9 THE COURT: Are y'all ready to proceed?

10 MR. SAVAGE: Defense is ready.

11 MR. DURANT: Yes, Your Honor.

12 THE COURT: Where is the jury panel?

13 THE CLERK: Upstairs.

14 THE COURT: Bring them down.

15 MR. DURANT: I guess we're going to be
16 inquiring from them, qualify about being available
17 for next week.

18 THE COURT: Does the defendant request
19 arraignment?

20 MR. SAVAGE: The defendant waives
21 arraignment.

22 THE COURT: All right.

23 (Whereupon, the jury panel enters the
24 courtroom at approximately 3:25 p.m.)

25 THE COURT: Is that everyone?

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1 THE BAILIFF: Yes, sir.

2 THE COURT: All right. Ladies and
3 gentlemen, I apologize for the delay. That's
4 generally not the standard procedure, but some things
5 came up and they had to be addressed, just as I
6 indicated, so I apologize for that.

7 And also, it does look like that once
8 this case -- we're not going to actually start this
9 trial today. It may start later, so there is -- it
10 does look like it will run over into next week. If
11 you have any issues about next week if your name is
12 called for jury selection, then approach the bench
13 and let me know about that, and I'll resolve that.

14 Go ahead and call your case,
15 Mr. Solicitor.

16 MR. DURANT: Your Honor, the state calls
17 the State vs. David Michael Rocquemore, indicted by
18 the Charleston County grand jury, 2005-GS-10-8602 for
19 murder and 8601 for possession of a firearm during
20 the commission of a violent crime.

21 THE COURT: All right. In this regard,
22 ladies and gentlemen, I'm going to ask you some
23 questions. Should any of these questions be
24 applicable to you, again, please stand and identify
25 yourself by name and number.

1 First, I'll ask the defendant to please
2 stand and face the panel.

3 (The defendant complies.)

4 THE COURT: Are any of you related by
5 blood, connected by marriage, or have any social,
6 business, or professional dealings with
7 Mr. David Rocquemore? If so, please stand.

8 (There was no response.)

9 THE COURT: Thank you. You may be
10 seated, sir.

11 (The defendant complies.)

12 THE COURT: Defense Counsel, please
13 introduce yourself to the panel.

14 MR. SAVAGE: Good afternoon. I'm
15 Andy Savage, and I practice with Savage and Savage,
16 P.A., here in Charleston.

17 With me during this trial will be
18 Lauren Williams who is an attorney who came to us as
19 a result of Katrina, been with us about a year and a
20 half. You've already met Mr. Rocquemore. My wife
21 Cheryl will be working with me, as well.

22 We may have an investigator who is...

23 THE COURT: All right. I'll just
24 introduce counsel at this point.

25 Are any of you related by blood or

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1 connected by marriage or have any social, business,
2 or professional dealing with Mr. Savage or
3 Ms. Williams or any dealings or connections to the
4 firm or anyone in that firm? If so, please stand.

5 (There was no response.)

6 THE COURT: Thank you.

7 Prosecuting the case on behalf of the
8 state is the Solicitor's Office. If you'll please
9 introduce yourself to the panel.

10 MR. DURANT: Thank you, Your Honor.

11 My name is Bruce Durant. I'm deputy
12 solicitor here in Charleston. I'll be trying this
13 case together with Jennifer Shealy. Assisting from
14 our office, as well, is Bryan Alfaro who is seated
15 down there at the other end of the table.

16 THE COURT: Are any of you related by
17 blood, connected by marriage, or have any social,
18 business, or professional dealings with Mr. Durant,
19 Ms. Shealy, or Mr. Alfaro, or any dealings or
20 connections with the Solicitor's Office? If so,
21 please stand.

22 (There was no response.)

23 THE COURT: At this point I'm going to
24 call out a list of names of individuals who may or
25 may not testify in the case. If any of you are

1 related by blood, connected by marriage, or have any
2 social, business, or professional relationship with
3 any of these individuals, please stand:

4 Ronald Gibbs, Rodney Gibbs, Troy Len
5 Eason, Christopher Thomas, Dexter Brown, Keith Brown;

6 Jeff Prindle with the sheriff's office,
7 Kevin Ford of that office, John Moniz of that office,
8 Sheri Church of that office, Donald Stanley of that
9 office, Paul Tittle of that office, Derek Boyd of
10 that office, Scott Rywelski of that office, David
11 Owen of that office, Brian Hodge of that office, Paul
12 McManigal of that office, David Willoughby of that
13 same office, John Scarborough of that office, Angie
14 Palmer of that office, Christina Moyer-Smith of that
15 office;

16 Joe Powell of SLED, Dan DeFreese of SLED,
17 Dr. Russell Harley of MUSC, Diana Jenkins, Dilethia
18 Washington, Betty Butler from SLED, Christine
19 Barrickman of SLED, Nikki Perry of SLED;

20 Brent Roy of the sheriff's office, Greg
21 Robinson of the sheriff's office, Louise Juricek of
22 St. Francis Hospital, Michel Powe, Mark Kelly,
23 Monique Frazier, Doris Tucker, Allison Ford of the
24 sheriff's office;

25 Alma Boone, Tisha Brown, Richard Deyerle,

1 Deputy Reeves of the sheriff's office -- do you have
2 his first name?

3 MR. DURANT: I don't have his first name,
4 Your Honor.

5 THE COURT: Do y'all know the first time?
6 (There was no response.)

7 THE COURT: Geoffrey Renk, Don -- Dion
8 Rocquemore, Lamar Rocquemore, Mark Rocquemore, Ramona
9 Rocquemore, Rahshan Rocquemore, Rhema Rocquemore,
10 Deanna Simmons, Michael Shirey -- Shirey, I'm sorry.

11 Any names I may have omitted?

12 MR. DURANT: I don't believe so, Your
13 Honor.

14 THE COURT: Do you know of any?

15 MR. SAVAGE: I don't think so.

16 THE COURT: All right. If you're related
17 by blood, connected by marriage, or have any social,
18 business, or professional dealings with any of those
19 individuals, please stand.

20 Yes, ma'am. Your name and number. You
21 first, yes.

22 A POTENTIAL JUROR: Oh. I'm Deborah
23 Field (phonetic).

24 THE COURT: Your number?

25 MS. FIELD: Juror number 60.

1 THE COURT: What's your connection and to
2 whom?

3 MS. FIELD: Paul McManigal who is with --
4 I guess it's the sheriff department.

5 THE COURT: All right.

6 MS. FIELD: I used to do -- I used to
7 hand off sexual assault forensic evidence kits as an
8 agent of MUSC to specific people in the crime scene
9 departments.

10 THE COURT: Would that in any way affect
11 your ability to give everyone in this case a fair and
12 impartial trial?

13 MS. FIELD: No.

14 THE COURT: Thank you.

15 Yes, ma'am.

16 A POTENTIAL JUROR: Marie Godley, juror
17 95, and I've worked side by side with Sheri Church.
18 The last two years, she was our SRO at the park. And
19 I really feel kind of...

20 THE COURT: All right.

21 MS. GODLEY: --- personally attached to
22 her. I don't know that I would be ---

23 THE COURT: If she testified in this case
24 do you think it would...

25 MS. GODLEY: I think it would affect me,

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1 yes.

2 THE COURT: All right. You may take your
3 seat. I'll excuse you, ma'am.

4 Yes, ma'am.

5 A POTENTIAL JUROR: Debbie Dechene, juror
6 311. And I'm a counselor, and I've had some past
7 client relationships with two people that I can't
8 really name.

9 THE COURT: Off the list that I just
10 called out?

11 MS. DECHENE: Yes, sir. They're -- both
12 of them are police officers.

13 THE COURT: All right. You don't
14 remember their names?

15 MS. DECHENE: I do, but I can't say.
16 It's confidential.

17 THE COURT: So you're saying you have
18 dealings -- you've had dealings with the sheriff's
19 office?

20 MS. DECHENE: Yes, sir.

21 THE COURT: All right. Would that affect
22 your ability to give everyone in this case a fair and
23 impartial trial?

24 MS. DECHENE: No, sir.

25 THE COURT: Were any of those dealings

1 have anything to do with this case?

2 MS. DECHENE: No, sir.

3 THE COURT: All right. Thank you, ma'am.

4 A POTENTIAL JUROR: My last name is
5 Gibbs, and I heard you call out some last names, but
6 that was from a marriage, and I'm divorced out of
7 that marriage.

8 THE COURT: Okay. Your name and number,
9 please?

10 MS. GIBBS: Georgetta Gibbs.

11 THE COURT: Okay.

12 MS. GIBBS: It's number juror 87.

13 THE COURT: And you're saying -- would
14 that affect you in any way whatsoever in giving a
15 fair and impartial trial to everyone?

16 MS. GIBBS: No, sir.

17 THE COURT: Thank you.

18 Anyone else?

19 (There was no response.)

20 THE COURT: Were any of you a member of
21 the grand jury which returned any of the indictments
22 in this case?

23 (There was no response.)

24 THE COURT: Has any member of the panel
25 expressed or formed any opinion about this case or as

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1 to the guilt or innocence of this defendant?

2 (There was no response.)

3 THE COURT: Have you or anyone in your
4 family been in the military? If so, please stand.

5 All right. What I'm going to do is, I'm
6 just going to start on one side, and if y'all will
7 just keep it flowing and let the next person go.

8 Please remain standing at all times. I
9 need for you to tell me whether it was you or your
10 family member, tell me whether they were -- if
11 they're still in the service or not and what the job
12 was and then remain standing. After everyone has
13 given me their answer, I'll ask the follow-up
14 question about whether it affects you.

15 MS. GODLEY: Marie Godley, juror ---

16 THE COURT: I've already excused you,
17 ma'am, so you don't have to start. You can take your
18 seat. Thank you.

19 Yes, ma'am. Just keep it flowing. Yes,
20 ma'am. Right here, ma'am.

21 MS. FIELD: Okay. Deborah Field, juror
22 number 60. My dad was a career Army officer and now
23 works for basically Homeland Security as a civilian
24 employee.

25 THE COURT: All right. Next. Remain

1 standing.

2 A POTENTIAL JUROR: David McQueeney,
3 juror 330. My dad was in the Army and worked for the
4 NSA for a few years, and my uncle served under
5 Schwarzkopf in Desert Storm.

6 THE COURT: Next.

7 A POTENTIAL JUROR: Tom Owens, juror 200.
8 I was in the military, draftee, Vietnam.

9 THE COURT: All right. Next.

10 A POTENTIAL JUROR: I'm Georgetta Gibbs,
11 87. I have a sister, retired military.

12 THE COURT: All right. Which military?

13 MS. GIBBS: Air Force.

14 THE COURT: All right. Next.

15 A POTENTIAL JUROR: John Carter, 307.
16 Air Force, active duty four years.

17 THE COURT: All right. Go ahead.

18 A POTENTIAL JUROR: 314. My
19 brother-in-law was in the Air Force.

20 THE COURT: Next.

21 A POTENTIAL JUROR: Ashley Parks, juror
22 202. And my husband is in the Navy. He's active
23 right now.

24 A POTENTIAL JUROR: Debbie Dechene, 311.
25 And my father was in the Korean War, and my

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1 father-in-law served in the Navy.

2 THE COURT: Next.

3 A POTENTIAL JUROR: Juror number 109,
4 Leslie Haywood. My father was a career Navy, and my
5 husband was Air Force Reserve.

6 THE COURT: Next.

7 A POTENTIAL JUROR: Jarrett Lindon, 161.
8 My father was in the Air Force for several years.

9 THE COURT: Next.

10 A POTENTIAL JUROR: Sheryl Ransom, juror
11 number 337. My father was a Marine. He served in
12 the Korean War. My ex-husband was in the Navy, and
13 my niece is currently in the Marines.

14 THE COURT: Next.

15 A POTENTIAL JUROR: Greg Eaton, number
16 65, six years in the Air Force.

17 THE COURT: Next.

18 A POTENTIAL JUROR: Charles Shapiro,
19 number 344. I served four years in the Marine Corps.

20 THE COURT: Next.

21 A POTENTIAL JUROR: Suzanne Morton, 331.
22 My father was Navy, World War II. My older brother
23 was Army, Korea. And my other brother was Air Force,
24 Vietnam.

25 A POTENTIAL JUROR: Jannie Elam, 315. My

1 husband served in the Air Force. He's Air Force
2 Reserve. My father-in-law, my two brother-in-laws
3 served in the Navy, and I have a nephew that served
4 in the Navy.

5 THE COURT: All right. Is that everyone
6 on this side of the room? All right. Go ahead.

7 A POTENTIAL JUROR: I guess this is my --
8 my father was in the Navy.

9 THE COURT: Your name and number first.
10 Thank you.

11 A POTENTIAL JUROR: Oh. 333. And my
12 father was in the Navy, enlisted for two years, but
13 he's a retired federal marshal.

14 THE COURT: All right.

15 A POTENTIAL JUROR: Amy Matlaga, juror
16 326. My father served in the U.S. Navy about 30
17 years ago.

18 THE COURT: Next.

19 A POTENTIAL JUROR: My name is Ruth
20 Green, juror number 99. My father is retired Navy.
21 I also have a brother-in-law retired Air Force, and
22 another brother-in-law retired Army.

23 THE COURT: Next.

24 A POTENTIAL JUROR: Fayrine Brown, juror
25 number 22, and my dad served in World War II.

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1 A POTENTIAL JUROR: Elizabeth Weeks. I'm
2 juror number 349. My husband was in the Air Force
3 for four years.

4 A POTENTIAL JUROR: Belinda Shumpert,
5 juror number 240. My father was Army in Vietnam, my
6 brother was a Marine, and two other brothers that
7 were Army.

8 A POTENTIAL JUROR: Delman MacPherson,
9 169, two years, Army.

10 THE COURT: Next.

11 A POTENTIAL JUROR: Yes, sir. My name is
12 John Gross, juror 320. Both grandfathers were in the
13 Army, my father was in the National Guard, and my
14 uncle was in the Navy.

15 A POTENTIAL JUROR: Pierre Jennings, 130.
16 My father was in the Navy. My brother was in the
17 Navy. My other brother was in the Army.

18 A POTENTIAL JUROR: I'm Kathleen
19 MacMillan, 325. My nephew is currently serving in
20 Iraq.

21 A POTENTIAL JUROR: I'm Millie Martin,
22 number 175. My father was a Marine in World War II,
23 three uncles in the Army in World War II, three
24 brother-in-laws in the Navy, career Navy, and my
25 husband served 36 years in the Navy.

1 A POTENTIAL JUROR: My name is Jennifer
2 Jones, juror number 135. My uncle was a Four Star
3 General, and then my cousin also was in the Army.

4 THE COURT: Can you repeat that, please?

5 MS. JENNIFER JONES: My uncle was a Four
6 Star General, and my cousin was in the Army.

7 THE COURT: Thank you. Next.

8 A POTENTIAL JUROR: Do you want me to
9 start?

10 THE COURT: Yes, ma'am.

11 A POTENTIAL JUROR: Sandra McLean, number
12 178. My husband was active Air Force for four years.

13 A POTENTIAL JUROR: Bill McLean. My
14 father was in the Army in World War II.

15 THE COURT: Your number, please.

16 MR. MCLEAN: I'm sorry. 328.

17 THE COURT: Thank you.

18 A POTENTIAL JUROR: Jim Pearson, 206. My
19 father and father-in-law were retired from the Army.
20 My brother served in the Army. My brother-in-law
21 served in the Navy. I'm retired from the Air Force.

22 A POTENTIAL JUROR: 209, Kimberley
23 Porter. My father was a pilot in the Air Force, and
24 my brother...

25 THE COURT: We're having a hard time

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1 hearing you, ma'am.

2 MS. PORTER: All right. My father was a
3 career pilot in the Air Force. My brother was in the
4 Air Force for four years. My uncle was a career Army
5 Intelligence at the Pentagon. My two cousins are
6 currently serving in Afghanistan and Iraq.

7 THE COURT: Next.

8 A POTENTIAL JUROR: Willie Brown, 305.
9 My uncle was in the Navy, World War II, and my
10 brother-in-law was in Vietnam, and I have my brother
11 served in the Marine Corps, two brothers served in
12 the Army, and my son served eight years in the -- in
13 the Air Force.

14 THE COURT: All right. Is there anyone
15 left that has not given me their information?

16 (There was no response.)

17 THE COURT: All right. Now, if that --
18 if that fact in any way would affect your ability to
19 give everyone in this case a fair and impartial
20 trial, I need for you to remain standing. If it
21 would not affect you in any way, please take your
22 seat.

23 (Members of the jury panel comply.)

24 THE COURT: All right. Let the record
25 reflect that everyone took their seat, that it would

1 not affect them in any way whatsoever.

2 Have you ever had a family member or
3 relative who is employed in law enforcement or
4 retired from law enforcement? If so, please stand.

5 Yes, sir.

6 A POTENTIAL JUROR: My grandfather was a
7 police officer.

8 THE COURT: Your name and number, please.

9 A POTENTIAL JUROR: Oh, I'm sorry.
10 Hunter Bowie, juror number 20.

11 THE COURT: Would that in any way affect
12 your ability to give everyone a fair and impartial
13 trial?

14 MR. BOWIE: No, sir.

15 THE COURT: Thank you. Yes, ma'am.

16 A POTENTIAL JUROR: Deborah Field, juror
17 60. My dad was also a police officer for a few
18 years.

19 THE COURT: Would that in any way affect
20 your ability to have a fair and impartial trial?

21 MS. FIELD: No.

22 THE COURT: Thank you.

23 A POTENTIAL JUROR: Tom Owens, juror
24 number 200. I have a brother who is a sheriff with
25 the sheriff's department for about seven or eight

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1 years, and it would not affect me.

2 THE COURT: All right.

3 A POTENTIAL JUROR: Jarrett Lindon, 161.
4 I have a cousin who's a state trooper, and it would
5 not affect me.

6 THE COURT: Go ahead.

7 A POTENTIAL JUROR: Sheryl Ransom, 337.
8 My husband was a U.S. Border Patrol agent, and it
9 would not affect me.

10 THE COURT: All right.

11 A POTENTIAL JUROR: Greg Eaton, 65. I
12 was six years in the Air Force as a law enforcement
13 specialist and a police officer in the State of
14 Illinois for a year.

15 THE COURT: Would that in any way affect
16 your ability to give everyone a fair and impartial
17 trial?

18 MR. EATON: No, it would not.

19 THE COURT: Thank you. Yes, ma'am.

20 A POTENTIAL JUROR: 315, Jannie Elam. My
21 grandfather is a retired state patrolman.

22 THE COURT: All right. Would that in any
23 way affect your ability to give everyone a fair and
24 impartial trial?

25 MS. ELAM: No.

1 THE COURT: Thank you. Yes, ma'am.

2 A POTENTIAL JUROR: 333, Laura Papagoda.
3 My father is a retired federal marshal.

4 THE COURT: Would that in any way affect
5 your ability to give everyone a fair and impartial
6 trial?

7 MS. PAPAGODA: No.

8 THE COURT: Thank you. Next.

9 A POTENTIAL JUROR: Ruth Green, juror
10 number 99. I have an ex-sister-in-law who is a
11 detective with the police department.

12 THE COURT: Would that in any way --
13 which police department?

14 MS. RUTH GREEN: Charleston police
15 department.

16 THE COURT: All right. Would that in any
17 way affect your ability to give everyone in this case
18 a fair and impartial trial?

19 MS. RUTH GREEN: No.

20 THE COURT: Thank you.

21 A POTENTIAL JUROR: I'm Karolea Lucas,
22 juror number 165. Two uncles and an aunt were career
23 police officers, and my sister was a police officer
24 for a number of years in Florida.

25 THE COURT: All right. All of them were

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1 in Florida?

2 MS. LUCAS: No. My aunts and uncles were
3 in Ohio.

4 THE COURT: Okay. Would that in any way
5 affect your ability to give everyone a fair and
6 impartial trial?

7 MS. LUCAS: No.

8 THE COURT: Thank you. Yes, sir.

9 A POTENTIAL JUROR: 305, Willie Brown.
10 My son was a patrolman in Atlanta, Georgia, three
11 years, and now he's -- he's in Tennessee, and he's a
12 security -- a security guard for some part of NASA.
13 He is with NASA. He is a security guard.

14 THE COURT: All right. Would that in any
15 way affect your ability to give everyone a fair and
16 impartial trial?

17 MR. WILLIE BROWN: No, sir.

18 THE COURT: I can't hear you, sir.

19 MR. WILLIE BROWN: No, sir.

20 THE COURT: Thank you. What was your
21 number again?

22 MR. WILLIE BROWN: 305.

23 THE COURT: Thank you. Anyone else?

24 (There was no response.)

25 THE COURT: Has anyone been involved on a

1 jury or as a witness in any civil or criminal case?
2 If so, please stand.

3 A POTENTIAL JUROR: Sir, would you repeat
4 the question again?

5 THE COURT: Have you been involved as a
6 juror or as a witness in any civil or criminal case?

7 Yes, ma'am. Your name and number.

8 A POTENTIAL JUROR: Deborah Field, juror
9 number 60. I was a witness for a -- for the
10 prosecution for a rape case.

11 THE COURT: All right. Would that in any
12 way affect your ability to give everyone in this case
13 a fair and impartial trial?

14 MS. FIELD: No.

15 THE COURT: Thank you. Yes, sir.

16 A POTENTIAL JUROR: Tom Owens, juror
17 number 200. I was on a jury criminal case five or
18 six years ago.

19 THE COURT: All right. And would that
20 experience in any way affect your ability to give
21 everyone a fair and impartial trial in this case?

22 MR. OWENS: Absolutely not.

23 THE COURT: Thank you. Yes, sir.

24 A POTENTIAL JUROR: John Carter, 307. I
25 was a juror several years ago, a civil case.

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1 THE COURT: Would that experience in any
2 way affect your ability to give everyone a fair and
3 impartial trial?

4 MR. CARTER: No, sir.

5 THE COURT: Thank you.

6 A POTENTIAL JUROR: Debbie Dechene, 311.
7 And several years ago I was also in a jury in a civil
8 case.

9 THE COURT: Would that in any way affect
10 your ability to give everyone a fair and impartial
11 trial?

12 MS. DECHENE: No, sir.

13 THE COURT: Thank you. Next.

14 A POTENTIAL JUROR: 109, Leslie Haywood.
15 I was a juror for a civil case.

16 THE COURT: Would that in any way affect
17 your ability to give everyone a fair and impartial
18 trial?

19 MS. HAYWOOD: No.

20 THE COURT: Thank you. Yes, ma'am.

21 A POTENTIAL JUROR: Sheryl Ransom, 337.
22 I was a juror on a criminal case over ten years ago.

23 THE COURT: Would that in any way affect
24 your ability to give everyone a fair and impartial
25 trial?

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MS. RANSOM: No.

THE COURT: What kind of case was it?

MS. RANSOM: It was a drug case.

THE COURT: All right. Thank you.

Yes, ma'am.

A POTENTIAL JUROR: Ruth Green, juror number 99. About five years ago I was a juror, and I'm not sure whether it was civil or criminal.

THE COURT: Would that experience in any way affect your ability to give everyone a fair and impartial trial?

MS. RUTH GREEN: No.

THE COURT: Thank you, ma'am.

A POTENTIAL JUROR: Belinda Shumpert, juror 240. I was on a jury for a criminal case.

THE COURT: Would that in any way affect your ability to give everyone a fair and impartial trial?

MS. SHUMPERT: No, sir.

THE COURT: What kind of case was it?

MS. SHUMPERT: I believe it was like resisting arrest.

THE COURT: All right. Thank you.

Yes, ma'am.

A POTENTIAL JUROR: Karolea Lucas, juror

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1 165. I was a witness for a prosecution for a trial
2 29 years ago.

3 THE COURT: Would that in any way affect
4 your ability to give everyone a fair and impartial
5 trial?

6 MS. LUCAS: No.

7 THE COURT: What kind of case was it?

8 MS. LUCAS: It was attempted bank
9 robbery.

10 THE COURT: All right. Thank you.

11 Yes, sir.

12 A POTENTIAL JUROR: Bill McLean, 328.

13 I've been deposed in a civil case.

14 THE COURT: All right. Would that
15 experience in any way affect your ability to give
16 everyone a fair and impartial trial?

17 MR. MCLEAN: No, Your Honor.

18 THE COURT: Thank you. Yes, sir.

19 A POTENTIAL JUROR: Jim Pierson, 206. I
20 was a juror in a civil trial.

21 THE COURT: Would that in any way affect
22 your ability to give everyone in this case a fair and
23 impartial trial?

24 MR. PIERSON: No, sir.

25 THE COURT: Thank you.

1 Have you or any family member or relative
2 been the victim of a crime? If so, please stand.

3 All right. And I'm going to ask you
4 about it. If you prefer to tell me about it at the
5 bench, you're welcome to approach the bench.

6 Yes, sir. Your name and number.

7 A POTENTIAL JUROR: I'm John Carter, 307.
8 I was the victim of an armed robbery for three times
9 in Atlanta, Georgia.

10 THE COURT: All right. Would that
11 experience in any way affect your ability to hear
12 everything in this case and give everyone a fair and
13 impartial trial?

14 MR. CARTER: No, sir.

15 THE COURT: Thank you.

16 A POTENTIAL JUROR: Jason Gianoukos, 85.
17 I was the victim of a home robbery.

18 THE COURT: All right. Would that
19 experience in any way affect your ability to hear
20 everything in this case and give everyone a fair and
21 impartial trial?

22 MR. GIANOUKOS: No.

23 THE COURT: Thank you. Yes, ma'am.

24 A POTENTIAL JUROR: 209, Kimberley
25 Porter. I lived downtown, and I was a victim...

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1 THE COURT: All right. Hold on just a
2 minute. Were you involved as a victim of a crime?

3 MS. PORTER: No.

4 THE COURT: Pardon me?

5 MS. PORTER: They took...

6 THE COURT: What type of crime was it?

7 Approach the bench. Approach the bench, please.

8 Approach the bench, Counsel.

9 (The following on-the-record bench
10 conference was had in the presence of the jury panel
11 but out of the hearing of the jury panel:)

12 THE COURT: Yes, ma'am.

13 MS. PORTER: Stolen property, living
14 downtown, and then stolen identity.

15 THE COURT: All right. Would that in any
16 way ---

17 MS. PORTER: No.

18 THE COURT: --- affect your ability to
19 give everyone a fair and impartial trial in this
20 case?

21 MS. PORTER: Uh-uh.

22 THE COURT: All right. Now, you made a
23 comment about downtown. Would that in any way affect
24 your ability to give everyone a fair and impartial
25 trial if downtown were involved in any way?

1 MS. PORTER: No. I couldn't comment that
2 people are ripped off often in downtown.

3 THE COURT: I'm just asking you about
4 your statement. Would it affect you in any way ---

5 MS. PORTER: No.

6 THE COURT: --- whatsoever? All right.
7 Okay. Thank you.

8 (Said bench conference being concluded,
9 the following proceedings were had:)

10 THE COURT: Are any of you or your family
11 members associated with any group or that -- crime
12 advocacy group or a victim's rights group or any
13 criminal or law enforcement organization, Citizens
14 Against Violent Crime, People Against Rape, anything
15 of that nature? If so, if you participate or
16 contribute to any organization like that, please
17 stand.

18 Yes, sir. Your name and number.

19 A POTENTIAL JUROR: Jim Pierson, 206.
20 I'm a member of Amnesty International.

21 THE COURT: All right.

22 MR. PIERSON: I do volunteer work for
23 them.

24 THE COURT: Would that in any way affect
25 your ability to give everyone in this case a fair and

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1 impartial trial?

2 MR. PIERSON: I'm not sure, sir.

3 THE COURT: All right. I'll excuse you
4 from this case, sir. Thank you. Please -- you can
5 take your seat.

6 Yes, ma'am. Your name and number.

7 A POTENTIAL JUROR: Deborah Field, juror
8 number 60. I worked as a victim advocate for years
9 and am still peripherally involved with the
10 South Carolina Advocacy Against Domestic Violence.
11 Essentially, it's all -- I do a lot of work with
12 crime victims in my current job.

13 THE COURT: Would that in any way affect
14 your ability to give everyone in this case a fair and
15 impartial trial?

16 MS. FIELD: The same as ---

17 THE COURT: I need to ask you every time,
18 ma'am. I'm sorry.

19 MS. FIELD: I'm sorry.

20 THE COURT: This is kind of a mechanical
21 process.

22 MS. FIELD: I understand. I could say
23 no. I don't know.

24 THE COURT: Would it affect you in any
25 way in giving everyone a fair and impartial trial,

1 ma'am? The truth is all I want.

2 MS. FIELD: All right. Honestly, I
3 can't.

4 THE COURT: All right. I'll excuse you,
5 ma'am.

6 MS. FIELD: Okay.

7 THE COURT: Thank you.

8 Ladies and gentlemen, all of my
9 questions, I want the truth. It doesn't hurt my
10 feelings if something affects you.

11 Take your seat, please, ma'am.

12 MS. FIELD: Okay.

13 THE COURT: That's all we're after, to
14 make sure that we receive a jury that can keep an
15 open mind, consider everything that's presented in
16 this case, and give everyone a fair and impartial
17 trial. Obviously, we've all had experiences in our
18 life, and that's what we ask about to make sure that
19 everyone can keep an open mind and not transfer those
20 experiences to affect how you decide the case at
21 hand. So that is what we're after.

22 Has anyone on the panel read or heard
23 anything in the news about this case?

24 (There was no response.)

25 THE COURT: Has anyone discussed this

1 case in any way whatsoever?

2 (There was no response.)

3 THE COURT: Does any member of the panel
4 have any bias or prejudice in connection with this
5 case or any of the individuals involved herein?

6 (There was no response.)

7 THE COURT: Does any member of the panel
8 have a family member or close friend incarcerated at
9 a state penitentiary?

10 Yes, sir. Your name and number.

11 A POTENTIAL JUROR: Jim Pierson, 206.

12 THE COURT: You've already been excused.

13 Thank you, sir. Appreciate it.

14 Anyone else? Yes, ma'am. Your name and
15 number.

16 A POTENTIAL JUROR: Frances Jordan, 139.

17 THE COURT: All right. Is it a family
18 member or a close friend?

19 MS. JORDAN: Nephew. Nephew.

20 THE COURT: All right. And would that
21 fact in any way affect your ability to give everyone
22 in this case a fair and impartial trial?

23 MS. JORDAN: No.

24 THE COURT: Thank you. Anyone else?

25 (There was no response.)

1 THE COURT: Does anyone on the panel have
2 any family member or close friend who is, being, or
3 was prosecuted by the Ninth Circuit Solicitor's
4 Office?

5 (There was no response.)

6 THE COURT: Has anybody on the panel had
7 any experiences with law enforcement, good or bad,
8 that would affect your ability to give everyone in
9 this case a fair and impartial trial?

10 (There was no response.)

11 THE COURT: Does any member of the panel
12 know of any reason why you could not give everyone in
13 this case a fair and impartial trial, whether it's
14 some group you belong to, some belief you have,
15 religious, moral, or otherwise, something you've read
16 or heard? Anything that I need to know about that
17 would affect your ability to keep an open mind and
18 give everyone in this case a fair and impartial
19 trial, because that's what we're after, this is your
20 opportunity to tell me.

21 (There was no response.)

22 THE COURT: All right. Are you ready to
23 proceed with jury selection, State?

24 MR. DURANT: Yes, sir, Your Honor.

25 THE COURT: Defense?

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1 MR. SAVAGE: Defense is ready,
2 Your Honor.

3 THE COURT: All right. Ten and five,
4 Mr. Clerk. We'll draw two alternates.

5 THE CLERK: Yes, sir.

6 Ladies and gentlemen, if I call your
7 name, if you'll please gather your belongings, come
8 up to this podium, turn and face the parties. I'll
9 be asking the parties questions, and then I'll direct
10 you either to have a seat in the jury-box or have a
11 seat back in the audience.

12 Juror number 329, Donna McNeill.

13 MR. SAVAGE: 29?

14 THE CLERK: 329, Donna McNeill.

15 (White female approaches.)

16 MS. MCNEILL: Turn and then face out?

17 THE CLERK: Yes, ma'am.

18 What say you for the state?

19 MR. DURANT: Please present Ms. McNeill.

20 THE CLERK: What say you for the
21 defendant?

22 MR. SAVAGE: Swear the juror.

23 THE CLERK: Ms. McNeill, if you'll please
24 have a seat in the jury-box. You've been selected as
25 a juror in this case.

1 Juror number 202, Ashley Parks Gallagher.

2 (White female approaches.)

3 THE CLERK: What say you for the state?

4 MR. DURANT: Please present

5 Ms. Gallagher.

6 THE CLERK: What say you for the

7 defendant?

8 MR. SAVAGE: Swear the juror.

9 THE CLERK: Ms. Parks Gallagher, please
10 have a seat in the jury-box. You've been selected as
11 a juror in this case.

12 Juror number 320, John Gross.

13 (White male approaches.)

14 THE CLERK: What say you for the state?

15 MR. DURANT: Please present Mr. Gross.

16 THE CLERK: What say you for the

17 defendant?

18 MR. SAVAGE: Swear the juror.

19 THE CLERK: Mr. Gross, please have a seat
20 in the jury-box. You've been selected as a juror in
21 this case.

22 Juror number 58, Kelly Dudley.

23 (White female approaches.)

24 THE CLERK: What say you for the state?

25 MR. DURANT: Please present Ms. Dudley.

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1 THE CLERK: What say you for the
2 defendant?

3 MR. SAVAGE: Excuse the juror.

4 THE CLERK: Ms. Dudley, please have a
5 seat back in the audience. You've been excused from
6 the trial of this case.

7 Juror number 333, Laura Papagoda.

8 (White female approaches.)

9 THE CLERK: What say you for the state?

10 MR. DURANT: Please present Ms. Papagoda.

11 THE CLERK: What say you for the
12 defendant?

13 MR. SAVAGE: Excuse the juror.

14 THE CLERK: Ms. Papagoda, please have a
15 seat back in the audience. You've been excused from
16 the trial of this case.

17 Juror number 240, Belinda Shumpert.

18 (White female approaches.)

19 THE CLERK: What say you for the state?

20 MR. DURANT: Please present Ms. Shumpert.

21 THE CLERK: What say you for the
22 defendant?

23 MR. SAVAGE: Swear the juror.

24 THE CLERK: Ms. Shumpert, please have a
25 seat in the jury-box. You've been selected as a

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juror in this case.

Juror number 314, Cecelia Dunleavy.

(White female approaches.)

THE CLERK: What say you for the state?

MR. DURANT: Please present Ms. Dunleavy.

THE CLERK: What say you for the
defendant?

MR. SAVAGE: Excuse the juror.

THE CLERK: Ms. Dunleavy, please have a
seat back in the audience. You've been excused from
the trial of this case.

Juror number 130, Pierre Jennings.

(White male approaches.)

THE CLERK: What say you for the state?

MR. DURANT: Please present Mr. Jennings.

THE CLERK: What say you for the
defendant?

MR. SAVAGE: May I approach, Your Honor?

THE COURT: Yes.

(There was an off-the-record bench
conference in the presence of the jury panel but out
of the hearing of the jury panel.)

(Said bench conference being concluded,
the following proceedings were had:)

THE CLERK: What say you for the

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1 defendant?

2 MR. SAVAGE: Excuse the juror.

3 THE CLERK: Mr. Jennings, please have a
4 seat back in the audience. You've been excused from
5 the trial of this case.

6 That's four strikes for the defendant.

7 Juror number 309, Austin Davey.

8 (White male approaches.)

9 THE CLERK: What say you for the state?

10 MR. DURANT: Please present Mr. Davey.

11 THE CLERK: What say you for the

12 defendant?

13 MR. SAVAGE: Swear the juror.

14 THE CLERK: Mr. Davey, please have a seat
15 in the jury-box. You've been selected as a juror in
16 this case.

17 Juror number 337, Sheryl Ransom.

18 (White female approaches.)

19 THE CLERK: What say you for the state?

20 MR. DURANT: Please present Ms. Ransom.

21 THE CLERK: What say you for the

22 defendant?

23 MR. SAVAGE: Excuse the juror.

24 THE CLERK: Ms. Ransom, please have a
25 seat back in the audience. You've been excused from

1 the trial of this case.

2 Juror number 330, David McQueeney.

3 (White male approaches.)

4 THE CLERK: What say you for the state?

5 MR. DURANT: Please present

6 Mr. McQueeney.

7 THE CLERK: What say you for the

8 defendant?

9 MR. SAVAGE: Beg the Court's indulgence
10 one moment.

11 (Mr. Savage and Ms. Savage confer.)

12 MR. SAVAGE: Swear the juror.

13 THE CLERK: Mr. McQueeney, please have a
14 seat in the jury-box. You've been selected as a
15 juror in this case.

16 Juror number 236, William Shannon.

17 (Black male approaches.)

18 THE CLERK: What say you for the state?

19 MR. DURANT: Please present Mr. Shannon.

20 THE CLERK: What say you for the

21 defendant?

22 MR. SAVAGE: Swear the juror.

23 THE CLERK: Mr. Shannon, please have a
24 seat in the jury-box. You've been selected as a
25 juror in this case.

1 Juror number 335, Cynthia Peeples.

2 (White female approaches.)

3 THE CLERK: What say you for the state?

4 MR. DURANT: Please present Ms. Peeples.

5 THE CLERK: What say you for the
6 defendant?

7 MR. SAVAGE: Swear the juror.

8 THE CLERK: Ms. Peeples, please have a
9 seat in the jury-box. You've been selected as a
10 juror in this case.

11 Juror number 99, Ruth Green.

12 (Black female approaches.)

13 THE CLERK: What say you for the state?

14 MR. DURANT: Please present Ms. Green.

15 THE CLERK: What say you for the
16 defendant?

17 MR. SAVAGE: Swear the juror.

18 THE CLERK: Ms. Green, please have a seat
19 in the jury-box. You've been selected as a juror in
20 this case.

21 Juror number 109, Leslie Haywood.

22 (White female approaches.)

23 THE CLERK: What say you for the state?

24 MR. DURANT: Please present Ms. Haywood.

25 THE CLERK: What say you for the

1 defendant?

2 MR. SAVAGE: Excuse the juror.

3 THE CLERK: Ms. Haywood, please have a
4 seat back in the audience. You've been excused from
5 the trial of this case.

6 That's six strikes for the defendant.

7 Juror number 61, Jessica Durham.

8 (White female approaches.)

9 THE CLERK: What say you for the state?

10 MR. DURANT: Please excuse Ms. Durham
11 from the trial of this case.

12 THE CLERK: Ms. Durham, please have a
13 seat back in the audience. You've been excused from
14 the trial of this case.

15 Juror number 139, Frances Jordan.

16 (Black female approaches.)

17 THE CLERK: What say you for the state?

18 MR. DURANT: Please excuse Ms. Jordan
19 from the trial of this case.

20 THE CLERK: Ms. Jordan, please have a
21 seat back in the audience.

22 That's two strikes for the state.

23 Juror number 200, Thomas Owens.

24 (White male approaches.)

25 THE CLERK: What say you for the state?

1 MR. DURANT: Please present Mr. Owens.

2 THE CLERK: What say you for the
3 defendant?

4 MR. SAVAGE: Swear the juror.

5 THE CLERK: Mr. Owens, please have a seat
6 in the jury-box. You've been selected as a juror in
7 this case.

8 Juror number 259, Andrew Tash.

9 (White male approaches.)

10 THE CLERK: What say you for the state?

11 MR. DURANT: Please present Mr. Tash.

12 THE CLERK: What say you for the
13 defendant?

14 MR. SAVAGE: Swear the juror.

15 THE CLERK: Mr. Tash, please have a seat
16 in the jury-box. You've been selected as a juror in
17 this case.

18 Juror number 311, Debbie Dechene.

19 (White female approaches.)

20 THE CLERK: What say you for the state?

21 MR. DURANT: Please excuse Ms. Dechene
22 from the trial of this case.

23 THE CLERK: Ms. Dechene, please have a
24 seat back in the audience.

25 Juror number 349, Elizabeth Weeks.

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(White female approaches.)

THE CLERK: What say you for the state?

MR. DURANT: Please present Ms. Weeks.

THE CLERK: What say you for the
defendant?

MR. SAVAGE: Excuse the juror.

THE CLERK: Ms. Weeks, please have a seat
back in the audience. You've been excused from the
trial of this case.

Juror number 305, Willie Brown.

(Black male approaches.)

THE CLERK: What say you for the state?

MR. DURANT: Please excuse Mr. Brown from
the trial of this case.

THE CLERK: Mr. Brown, please have a seat
back in the audience.

That's four strikes for the state.

Juror number 87, Georgetta Gibbs.

(Black female approaches.)

THE CLERK: What say you for the state?

MR. DURANT: Please present Ms. Gibbs.

THE CLERK: What say you for the
defendant?

MR. SAVAGE: Beg the Court's indulgence
one moment.

1 (Mr. Savage and Ms. Savage confer.)

2 MR. SAVAGE: Excuse the juror.

3 THE CLERK: Ms. Gibbs, please have a seat
4 back in the audience. You've been excused from the
5 trial of this case.

6 That's eight strikes for the defendant.

7 Juror number 20, Hunter Bowie.

8 (White male approaches.)

9 THE CLERK: What say you for the state?

10 MR. DURANT: Please present Mr. Bowie.

11 THE CLERK: What say you for the
12 defendant?

13 MR. SAVAGE: Swear the juror.

14 THE CLERK: Mr. Bowie, please have a seat
15 in the jury-box. You've been selected as a juror in
16 this case.

17 Now, picking for alternate, first
18 alternate. The strikes are one and two.

19 Juror number 161, Jarrett Lindon.

20 (White male approaches.)

21 THE CLERK: What say you for the state?

22 MR. DURANT: Please present Mr. Lindon.

23 THE CLERK: What say you for the
24 defendant?

25 MR. SAVAGE: Swear the juror.

1 THE CLERK: Mr. Lindon, please have a
2 seat in the jury-box. You've been selected as a
3 juror in this case.

4 Picking for the second alternate. Juror
5 number 301, Baloglu -- Carol Baloglu. I apologize.

6 MS. BALOGLU: That's okay.

7 (White female approaches.)

8 THE COURT: What's the number?

9 THE CLERK: 301.

10 What say you for the state?

11 MR. DURANT: Please present the juror.

12 THE CLERK: What say you for the
13 defendant?

14 MR. SAVAGE: Swear the juror, please.

15 THE CLERK: Ma'am, please have a seat in
16 the jury-box. You've been selected as a juror in
17 this case.

18 Your Honor, the jury has been selected
19 and are seated.

20 THE COURT: Any matters or motions
21 pertaining to the jury selection process or the
22 selected jury? State?

23 MR. DURANT: No, sir.

24 THE COURT: Defense?

25 MR. SAVAGE: No, sir.

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1 THE COURT: All right. Ladies and
2 gentlemen, what I'm going to do at this point is send
3 you to the jury room. While you're over there, the
4 clerk will get a couple of contact numbers from you,
5 your cell phone number and whatever good contact
6 number. As I indicated, we've got some scheduling
7 matters that we have to resolve about the case, and
8 we're not going to start the case tomorrow, so we
9 need some good numbers to make sure we can just
10 personally notify you about when the case will start
11 back.

12 So if you'll go to do that with the
13 bailiffs now, and they're going to show you where you
14 actually report back when you do come to court. You
15 will not come back to court through these doors. You
16 will come through a side door. They'll show you
17 that.

18 Also, you must not discuss this case in
19 any way whatsoever with anyone. If you're exposed to
20 any type of coverage, it's your duty to immediately
21 report that matter to me.

22 So, Mr. Tash, I'm going to designate you
23 as the foreperson. So when you come back in, you
24 will actually sit in the first seat as the
25 foreperson.

1 So at this time if you'll go with the
2 bailiff, the clerk will be back with you momentarily
3 to get all your contact numbers.

4 Thank you very much and have a good day.

5 (Whereupon, the jury goes to the jury
6 room at approximately 4:12 p.m.)

7 THE COURT: Please be seated.

8 All right. Ladies and gentlemen, the
9 rest of you on the panel, you are excused. If you'll
10 call back after 6:00 p.m. for any instructions about
11 appearing tomorrow. Thank you very much. Have a
12 good day. Sorry we kept you late.

13 (Whereupon, the jury panel is excused at
14 approximately 4:12 p.m.)

15 THE COURT: All right. Where does that
16 leave us in terms of scheduling? Any word back from
17 your witness?

18 MR. SAVAGE: Yes, we do, Your Honor.

19 Contact has been made with the witness. A list of
20 the documents that they're going to try to get to him
21 in Chicago will be provided by Mr. Durant.

22 And if necessary, I'll go to Chicago, so
23 I'm not looking to get this thing delayed. And I can
24 do that because I was scheduled to be here this week,
25 so my schedule is open.

1 There are some documents that he needs to
2 have. Once he has those in his hands, then he'll
3 consult with us and tell us the next step after that.
4 So if I can get that, then I can know my
5 cross-examination, we're good to go on Wednesday or
6 Thursday.

7 THE COURT: All right. I'll tell you
8 what. Can you let me know by 2:30 tomorrow?

9 MR. SAVAGE: He's supposed to call us
10 back tonight.

11 MS. WILLIAMS: I'll call him this
12 evening, Your Honor.

13 MR. SAVAGE: "Mr. SLED Man" is supposed
14 to be -- we put them directly in touch so we're not
15 filtering through the lawyers. They're first going
16 to talk to each other.

17 THE COURT: Okay.

18 MR. SAVAGE: So that they're going to try
19 to make it seamless.

20 THE COURT: Just so I need to know the
21 time when y'all will report back so I can make sure
22 the jury is notified if we do start Wednesday this
23 case.

24 MR. SAVAGE: Tomorrow is out definitely.
25 And do you want us to inform you by noon tomorrow?

1 THE COURT: That's fine.

2 (There was off-the-record discussion
3 regarding contact numbers.)

4 THE COURT: All right. So the game plan
5 is you'll let us know by noon tomorrow so that --
6 Mike is going to do the calling. He'll need to know
7 the time slot.

8 (There was off-the-record discussion by
9 the Court and the clerk.)

10 THE COURT: Just let him know, so Mike
11 can notify the panel.

12 MR. SAVAGE: What we intend to do, if
13 it's suitable to the Court and Mr. Durant, is notify
14 everybody by e-mail so there's no *ex parte*.

15 THE COURT: That's fine. I just need to
16 make sure the clerk notifies the jurors when to
17 start. So we're shooting hopefully for Wednesday,
18 possibly Thursday?

19 MR. DURANT: Hopefully Wednesday.

20 THE COURT: Depending on what he tells
21 you?

22 MR. SAVAGE: Yes, sir.

23 MR. DURANT: I've already left
24 instructions about getting stuff to their expert, but
25 I need to follow up on that when we get out of here

1 today.

2 THE COURT: All right. Well, y'all get
3 back to me tomorrow. I just want to let you tell the
4 jury or tell them anything further.

5 MR. DURANT: The other scheduling matter,
6 Your Honor, would be we have probably a one-day case
7 you could do tomorrow if you want.

8 THE COURT: That's fine.

9 MR. DURANT: We could call it out, call
10 that case in the morning, and so you won't be sitting
11 idle all day tomorrow.

12 THE COURT: That's fine.

13 MR. DURANT: Okay.

14 THE COURT: All right. Bring the panel
15 back in at 9:30 tomorrow. Not this panel, the jury
16 panel.

17 Should I say anything further to this
18 jury, or do you want to leave it...

19 MR. DURANT: Just instruct them not to
20 discuss it with anybody.

21 THE COURT: All right. I did that.

22 MR. SAVAGE: I think we ought to tell
23 them they don't have to worry about tomorrow.

24 THE COURT: Bring the jury back in if
25 they've written down all their numbers.

1 THE CLERK: They're still putting their
2 numbers down.

3 THE COURT: All right. Do you have that
4 bond form?

5 MR. SAVAGE: Yes, Your Honor. This is
6 the letter from the bondsman.

7 THE COURT: You'll have to sign this,
8 please, Mr. Savage. Just sign it.

9 MR. SAVAGE: Yes, sir.

10 THE COURT: We'll just get Mike to file
11 it.

12 MR. SAVAGE: Thank you, Judge.

13 THE COURT: Do you want to see it before
14 we file it? It's just my form bond order.

15 MR. DURANT: No, sir. I don't object at
16 this point.

17 (There was off-the-record discussion by
18 the Court and the clerk.)

19 THE COURT: All right. Bring the jury
20 in, please.

21 (Whereupon, the jury returns to the
22 courtroom at approximately 4:21 p.m.)

23 THE BAILIFF: All jurors are seated.

24 THE COURT: All right. Thank you.
25 Please be seated.

1 All right. Ladies and gentlemen, again,
2 once we resolve the issue about scheduling as far as
3 some witnesses are concerned and make sure everyone
4 can be here at certain times, we'll know more.
5 Shooting for Wednesday, so you don't have to worry
6 about being here tomorrow. So you can go ahead and
7 do whatever you have planned normally for tomorrow,
8 but we will call you once we get a time for Wednesday
9 if we are able to start on Wednesday. Otherwise, it
10 will be Thursday.

11 And, remember, there is going to be that
12 -- it's going to run over into the next week. We
13 just had a scheduling glitch that came up at the last
14 minute. It's no one's fault. It's just sometimes
15 those things happen, and it's important that
16 everything be presented to you so you can make a
17 complete, informed decision in the case. So please
18 bear with us a little bit in that regard and don't
19 hold it against anyone.

20 And you'll be excused for the day.
21 Again, remember do not discuss this case in any way
22 whatsoever with anyone, including yourselves. And
23 have a good night. See you later.

24 (Whereupon, the jury leaves the courtroom
25 at approximately 4:23 p.m.)

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THE COURT: All right. Thank you. See
y'all later.

MR. DURANT: Thank you, Your Honor.

MR. SAVAGE: Thank you, Your Honor.

(Whereupon, at approximately 4:25 p.m.,
the trial is recessed to 1:30 p.m., Wednesday, July
11, 2007.)

1 (On Wednesday, July 11, 2007, the
2 defendant being present with counsel, the trial
3 reconvenes at approximately 1:30 p.m., and the
4 following proceedings were had:)

5 (State's Exhibit No. 1, aerial photo, is
6 marked for identification.)

7 (State's Exhibit No. 2, photo - police
8 car front, is marked for identification.)

9 (State's Exhibit No. 3, photo - police
10 car rear, is marked for identification.)

11 (State's Exhibit No. 4, photo - gun in
12 trunk, is marked for identification.)



13 (State's Exhibit No. 5, photo - closeup
14 of gun, is marked for identification.)


15 (State's Exhibit No. 6, photo - bullet
16 from gun, is marked for identification.)

17 (State's Exhibit No. 7, photo - closeup
18 of bullet, is marked for identification.)

19 (State's Exhibit No. 8, photo - magazine
20 from gun, is marked for identification.)

21 (State's Exhibit No. 9, photo -
22 defendant, is marked for identification.)

23 (State's Exhibit No. 10, photo - 
24 , is marked for identification.)

25 (State's Exhibit No. 11, photo - )

1 [REDACTED], is marked for identification.)
2 (State's Exhibit No. 12, photo - truck at
3 [REDACTED] is marked for identification.)
4 (State's Exhibit No. 13, photo - [REDACTED]
5 [REDACTED], daytime, is marked for identification.)
6 (State's Exhibit No. 14, photo - [REDACTED]
7 [REDACTED] daytime, is marked for identification.)
8 (State's Exhibit No. 15, photo - [REDACTED]
9 [REDACTED], daytime, is marked for identification.)
10 (State's Exhibit No. 16, photo - area of
11 crime scene, is marked for identification.)
12 (State's Exhibit No. 17, photo - Dodge
13 Stratus, is marked for identification.)
14 (State's Exhibit No. 18, photo -
15 defendant's vehicle, is marked for identification.)
16 (State's Exhibit No. 19, photo - three
17 vehicles, is marked for identification.)
18 (State's Exhibit No. 20, photo -
19 defendant's vehicle, front, is marked for
20 identification.)
21 (State's Exhibit No. 21, photo -
22 defendant's vehicle, rear, is marked for
23 identification.)
24 (State's Exhibit No. 22, photo - numbered
25 evidence placards, is marked for identification.)

1 (State's Exhibit No. 23, photo - numbered
2 evidence placards, is marked for identification.)

3 (State's Exhibit No. 24, photo - numbered
4 evidence placards, is marked for identification.)

5 (State's Exhibit No. 25, photo - closeup
6 of placard #4, is marked for identification.)

7 (State's Exhibit No. 26, photo - placard
8 #6, is marked for identification.)

9 (State's Exhibit No. 27, photo - placard
10 #8, is marked for identification.)

11 (State's Exhibit No. 28, photo - placard
12 #9, is marked for identification.)

13 (State's Exhibit No. 29, photo - placards
14 #10, 11, 13, is marked for identification.)

15 (State's Exhibit No. 30, photo - closeup
16 of placard #10, is marked for identification.)

17 (State's Exhibit No. 31, photo - closeup
18 of placard #11, is marked for identification.)

19 (State's Exhibit No. 32, photo - closeup
20 of placard #13, is marked for identification.)

21 (State's Exhibit No. 33, photo - placard
22 #12, is marked for identification.)

23 (State's Exhibit No. 34, photo -
24 defendant's face, is marked for identification.)

25 (State's Exhibit No. 35, photo -

1 defendant, right profile, is marked for
2 identification.)

3 (State's Exhibit No. 36, photo -
4 defendant, left profile, is marked for
5 identification.)

6 (State's Exhibit No. 37, photo -
7 defendant, back left hand, is marked for
8 identification.)

9 (State's Exhibit No. 38, photo -
10 defendant, left palm, is marked for identification.)

11 (State's Exhibit No. 39, photo -
12 defendant, back right hand, is marked for
13 identification.)

14 (State's Exhibit No. 40, photo -
15 defendant, right palm, is marked for
16 identification.)

17 (State's Exhibit No. 41, photo -
18 defendant's truck, driver's seat, is marked for
19 identification.)

20 (State's Exhibit No. 42, photo -
21 defendant's truck, center console, is marked for
22 identification.)

23 (State's Exhibit No. 43, photo -
24 defendant's truck, back seat, is marked for
25 identification.)

1 (State's Exhibit No. 44, photo - Taurus
2 catalogue, is marked for identification.)

3 (State's Exhibit No. 45, photo -
4 defendant's truck, interior rear, is marked for
5 identification.)

6 (State's Exhibit No. 46, photo - bullet
7 hole in shirt, is marked for identification.)

8 (State's Exhibit No. 47, photo - autopsy,
9 victim (black-and-white photo), is marked for
10 identification.)

11 (State's Exhibit No. 48, photo -
12 projectiles A and B, is marked for identification.)

13 THE COURT: While we're waiting, are all
14 the exhibits that you've marked in evidence by
15 agreement?

16 MR. DURANT: No, Your Honor. All but
17 three.

18 THE COURT: All but three?

19 MR. DURANT: Yes, sir.

20 THE COURT: Are you still marking
21 exhibits?

22 MR. DURANT: Pardon me?

23 THE COURT: Are you still marking some
24 exhibits?

25 MR. DURANT: Well, there will be some

1 other exhibits and physical evidence that's going to
2 be marked probably during the trial.

3 THE COURT: Are you done for now?

4 MR. DURANT: Pardon me?

5 THE COURT: You're done for now?

6 MR. DURANT: I'm done for now.

7 THE COURT: What are the numbers of the
8 ones that are in by agreement?

9 MR. DURANT: I have a group of
10 photographs, Your Honor, numbered state's exhibits 1
11 through 48. We're agreed that all of them will come
12 into evidence except for 43, 44, and 47.

13 THE COURT: Those are just I.D.?

14 MR. DURANT: Those are for I.D. purposes,
15 yes, Your Honor.

16 THE COURT: Is that correct, Mr. Savage?
17 By agreement, everything from 1 through 48 will be in
18 evidence without objection except for 43, 44, and 47
19 which are for I.D.?

20 MR. SAVAGE: That's correct.

21 THE COURT: All right. So there's no
22 need to put them into evidence during the trial
23 again. All right.

24 (State's Exhibits No. 1 through 42,
25 previously marked for identification, are received in

1 evidence.)

2 (State's Exhibits No. 45 and 46,
3 previously marked for identification, are received in
4 evidence.)

5 (State's Exhibit No. 48, previously
6 marked for identification, is received in evidence.)

7 THE COURT: Go ahead and bring Ms. Green
8 in. I just want Ms. Green, not the jury.

9 THE BAILIFF: Ms. Green.

10 (The bailiff complies.)

11 (Court's Exhibit No. 1, note from Juror
12 No. 99, Ruth Green, is marked for identification.)

13 (Ms. Green enters the courtroom.)

14 THE COURT: Please be seated.

15 Madam Juror, I received your note, and
16 you've indicated that you had worked with
17 Mr. Savage's wife before they were married.

18 MS. GREEN: Probably.

19 THE COURT: Counsel can approach. It's
20 hard to hear.

21 (The following on-the-record bench
22 conference was had:)

23 THE COURT: And when I asked at jury
24 qualification if y'all had any connection to the
25 Savages or anybody ---

1 MS. GREEN: I didn't hear you. I didn't
2 hear you say that, I'm sorry.

3 THE COURT: You missed that?

4 MS. GREEN: (Nods head up and down.)

5 THE COURT: Okay.

6 MS. GREEN: And I just thought I should
7 mention it just in case. And I'm not trying to get
8 out. I'm just mentioning it to you because I didn't
9 bring it up before.

10 THE COURT: All right. When did you know
11 her?

12 MS. GREEN: When I worked at
13 South Carolina National in the early 1970's.

14 THE COURT: But that's where she was
15 working, too?

16 MS. GREEN: She was working there, but
17 she came after, a little after I did. We didn't work
18 in the same department.

19 THE COURT: You were in different
20 departments?

21 MS. GREEN: Different departments, just
22 at the same bank.

23 THE COURT: So you're telling me you just
24 recognize her?

25 MS. GREEN: Oh, yeah.

1 THE COURT: Did you have any kind of
2 social relationship with her in any way?

3 MS. GREEN: Just whenever we would take a
4 break, if we saw each other in the lounge, that's
5 all.

6 THE COURT: All right. Would that in any
7 way affect your ability to give everyone in this case
8 a fair and impartial trial?

9 MS. GREEN: I don't think so. I don't
10 think it would.

11 THE COURT: I need to know one way or
12 another.

13 MS. GREEN: No, sir.

14 THE COURT: Just because she's involved
15 with this case, would that affect your ability to
16 assess both sides and give everyone a fair and
17 impartial trial?

18 MS. GREEN: No, it would not.

19 THE COURT: Thank you. You may return to
20 the jury room.

21 MS. GREEN: Thank you, Judge. Thank you.

22 (Ms. Green returns to the jury room.)

23 (Said bench conference being concluded,
24 the following proceedings were had:)

25 MR. SAVAGE: Your Honor, if I may

1 approach the Court on that issue?

2 THE COURT: Yes, sir.

3 MR. SAVAGE: I've never seen that lady.
4 I don't know her name. My wife obviously had a
5 different name before we were married. I have no
6 relationship, contact, social, business, anything at
7 all.

8 THE COURT: All right.

9 MR. SAVAGE: I don't have any
10 relationship with that lady at all.

11 THE COURT: Anything further on that?

12 MR. DURANT: Your Honor, I would just ask
13 that the alternate be seated out of an abundance of
14 caution, but I'll leave it to your discretion.

15 THE COURT: No, I'm going to -- since she
16 said she could give a fair and impartial trial and
17 because this case is going to, you know, extend into
18 next week, also, but she -- but having said that, the
19 real inquiry is whether or not she can give a fair
20 and impartial trial, and she has no connection to
21 Mr. Savage's law firm other than working in the same
22 building with her several years ago.

23 All the jurors here?

24 THE BAILIFF: All present.

25 THE COURT: Anything we need to take up

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1 before we get started?

2 MR. SAVAGE: Judge, I had filed an
3 additional motion this morning, and I didn't know
4 whether we should put that on the record and address
5 that before we begin this trial.

6 THE COURT: Yes, sir, go ahead.

7 MR. SAVAGE: Just that our motion, Judge,
8 is that the state has always taken the position that
9 they sit at the left-hand side of the courtroom and
10 the defense traditionally sits on the right-hand side
11 of the courtroom, by practice, not by rule.

12 The inhibitions to the defendant is
13 during the state's direct examination, defense
14 counsel's table is not able to properly observe the
15 testifying witness; therefore, we can't see their
16 demeanor on the stand and their affect.

17 There is a location at defense table on
18 the far right-hand side. We think, however, the
19 better solution is that following the state's case we
20 just switch sides, and that way both sides have an
21 opportunity to observe the demeanor of the witnesses.

22 While the state is presenting their
23 witnesses, I could sit on the left-hand side. And
24 while the defense is presenting their witnesses,
25 we'll switch and the prosecution could have full

1 visibility. That's all it is, Judge.

2 THE COURT: Well, I think your point is
3 well taken because of the way the courtroom's
4 constructed; however, I would prefer that you just
5 kind of swap ends and perhaps get a better angle from
6 over there.

7 As indicated, I do think that we do have
8 that problem in this building. I wish -- the
9 original plan for that lectern was it was supposed to
10 be totally mobile and could be removed more easily,
11 and that just is not the case.

12 However, having said that, I've had that
13 presented before and so at times have people swap
14 around.

15 I went ahead and researched it, and
16 historically the reason that is there is that it
17 seems to be an accepted proposition that whichever
18 party had the burden of proof would be the party
19 closest to the jury, and that's the only thing I
20 could find on the subject.

21 But I think I'll leave that as it is, and
22 I'll allow you to switch around any way you want. If
23 you want to move the defendant down, that's fine. It
24 is my understanding from over there you can see the
25 witness, right?

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LASER BOND FORM B

1 MR. SAVAGE: And that is correct.

2 THE COURT: All right.

3 MR. SAVAGE: From where Ms. Williams is
4 sitting.

5 Judge, I would like to give some
6 consideration, perhaps not right now but during the
7 trial, if we're jumping up and moving around, I'd
8 like for an independent party, the Court, to advise
9 the jury why we're doing that and put it all ---

10 THE COURT: What do you mean if you're
11 jumping up and moving around?

12 MR. SAVAGE: If I am sitting in a place
13 where I can observe the witness, I don't want the
14 jury to think I'm not paying attention or whatever if
15 I'm sitting on the end and I return to my regular
16 seat. I don't know that that's a problem, but I'd
17 like to think through that.

18 THE COURT: All right. If you want to
19 bring that back up, if you think it's presenting an
20 issue, you're welcome to do so. But if you stay over
21 there, I'm not sure they would think that, you know.
22 If everyone would just kind of slide down one slot,
23 you should be okay.

24 MR. SAVAGE: Thank you, Your Honor.

25 THE COURT: All right. Anything further?

1 MR. DURANT: Nothing from the state,
2 Your Honor.

3 THE COURT: Defense, anything further?

4 MR. SAVAGE: Nothing further.

5 THE COURT: Are y'all ready to proceed?

6 MR. DURANT: Yes, sir, Your Honor.

7 THE COURT: Bring the jury in, Mr. Brown.

8 (Whereupon, the jury enters the courtroom
9 at approximately 2:00 p.m.)

10 THE COURT: They're standing for y'all,
11 ladies and gentlemen. Y'all can be seated.

12 THE BAILIFF: All seated, Your Honor.

13 THE COURT: Thank you. Please be seated.

14 Good afternoon, ladies and gentlemen.

15 We're ready to proceed with the trial. The first
16 order of business is I need you to stand so we can
17 swear you in.

18 THE CLERK: Please have the defendant
19 stand.

20 (The defendant complies.)

21 THE CLERK: Ladies and gentlemen of the
22 jury, please raise your right hand. After I've given
23 you this oath, please respond back to me verbally.

24 (Whereupon, the jury is duly sworn by the
25 clerk.)

1 THE CLERK: Thank you. Be seated.

2 THE COURT: All right. All right, ladies
3 and gentlemen, as we begin the actual trial of the
4 case, generally I like to give you some just brief
5 opening remarks on just how the trial will proceed.

6 First each side will make an opening
7 statement. Now, the opening statement is not
8 evidence. It's simply an outline to help you
9 understand what that party expects the evidence will
10 show.

11 Following those opening statements,
12 you'll hear the actual testimony and see the evidence
13 in this case. This may consist of evidence from the
14 witnesses as well as any physical exhibits or
15 stipulations which may be introduced into evidence
16 during the course of the trial.

17 Now, there are rules of evidence which
18 control what can be received into evidence. If a
19 lawyer asks a question and a lawyer -- or offers an
20 exhibit into evidence and the lawyer on the other
21 side does not think that it's permitted by our rules
22 of evidence or procedure, that lawyer may object.

23 If I overrule the objection, that means I
24 do not believe there is a legal basis for that
25 objection. Then the question may be answered or the

1 exhibit may be received into evidence.

2 If I sustain the objection, that means I
3 agree there is a basis under our rules for that
4 objection. Then the question cannot be answered or
5 the exhibit cannot be received into evidence.

6 Whenever I sustain an objection to a
7 question or deny a motion to admit an item into
8 evidence as an exhibit, you must not guess or
9 speculate what the answer would have been or what the
10 exhibit would have shown.

11 If during the process of a question and
12 answer part of an answer is heard and an objection is
13 made and I ultimately sustain that objection, then,
14 of course, you must disregard any such part of the
15 answer as you may have heard and must not consider it
16 in any way whatsoever during your deliberations.

17 Now, this is not any attempt to hide
18 anything from you, ladies and gentlemen, and don't
19 hold it against an attorney or a party because an
20 objection is made. That's the formal mechanism they
21 must use to seek my guidance on a particular matter,
22 and our rules have been tested over and over and over
23 again to make sure that everyone participating in
24 this trial receives a fair and impartial
25 determination by you as the jurors.

1 Now, there may be times when I call the
2 attorneys up to the bench and we whisper amongst
3 ourselves. Usually what that will mean is that it's
4 something that we all think can be resolved in a few
5 brief moments up here at the bench. It might be a
6 scheduling matter, it might be something to do with
7 the evidence, or something of a nature that I can
8 dispose of it very briefly, and that saves me from
9 sending you to the jury room and just bringing you
10 right back in. If it's anything that's going to take
11 any great period of time, then I'm going to send you
12 to the jury room so you can at least take a break
13 while we take a particular matter up on the record.

14 Now, following the completion of the
15 testimony, the attorneys will again have an
16 opportunity to address you, to make what's called a
17 closing statement or closing argument. This is an
18 opportunity for counsel to summarize the evidence
19 from their respective points of view, to put the
20 pieces of the puzzle together so to speak. Again,
21 these arguments by counsel are not to be considered
22 as evidence.

23 Following those closing statements, I
24 will then instruct you on the law of South Carolina
25 as it pertains to the issues in this case. When I've

1 completed my instructions to you, at that point I'll
2 release you to begin your deliberations in order to
3 reach a verdict.

4 Now, as indicated, I will instruct you on
5 the law at the conclusion of the case. As a
6 preliminary matter, I now instruct you that a
7 defendant is presumed in law innocent of any charge
8 contained in an indictment.

9 An indictment is not evidence. The fact
10 that a grand jury returned an indictment is of no
11 consequence to you. It is merely the method by which
12 the state brings the case to court for your review.

13 The state has the burden of proving this
14 case and must prove the defendant's guilt beyond a
15 reasonable doubt. Consistent with the state's
16 burden, the presumption of a defendant's innocence is
17 sufficient to compel a verdict of not guilty unless
18 the jury concludes that the state has satisfied its
19 obligation to prove the defendant guilty beyond a
20 reasonable doubt, which is a doubt that would cause a
21 reasonable person to hesitate to act.

22 Now, as I've indicated to you before,
23 it's very important for you to pay close attention as
24 the case is presented to you. It's your job to
25 decide what the facts are in this case, who to

1 believe, what to believe, etc. I do not sit up here
2 and answer questions about, well, did this person do
3 this or what did this person do or how do I see the
4 evidence. I'm prohibited from doing that, ladies and
5 gentlemen.

6 I've provided you with note pads to take
7 notes if you so desire. You're not obligated to take
8 notes, but they're there for your use if you deem
9 that you would like to do so.

10 Now, should you need a break or you
11 cannot hear something, please raise your hand. I'll
12 be happy to accommodate you in any way. Especially
13 if you don't hear something, you raise your hand and
14 I'll make sure it gets repeated to you because,
15 again, you have that fact finding function in this
16 case.

17 Throughout the trial, please remember
18 some of my instructions that I actually gave you at
19 qualification.

20 Also, you must not discuss this case in
21 any way whatsoever with anyone, including amongst
22 yourselves, until that time comes in the case that I
23 direct you to begin your deliberations.

24 Also, you must not conduct any type of
25 independent research on your own. That would be

1 inappropriate. You can't go to the library, the
2 internet, or go out wherever you deem appropriate to
3 do your own research. Ladies and gentlemen, that
4 would be a violation of your oath.

5 Also, from time to time we do have media
6 coverage. If you start to see -- if you see a
7 headline or you start to hear something on the news,
8 disregard it. Don't listen to the news or don't read
9 the news story.

10 If for some reason you're exposed to any
11 type of coverage or someone attempts to talk to you
12 in any kind of way, it's your duty to immediately
13 report that matter to me.

14 Regarding coverage, remember you have
15 front row seats in this -- in this situation. You
16 get to see and hear everything that's presented. A
17 little 60-second sound bite on the news or some
18 little clip in the paper is not what you're seeing
19 here every day in court. So please keep that in mind
20 as the case is presented.

21 With those brief instructions, we're
22 ready to proceed with your opening arguments. Go
23 ahead.

24 MS. KNEESE-SHEALY: May it please the
25 Court. Mr. Savage, Ms. Williams.

1 OPENING STATEMENT

2 BY MS. KNEESE-SHEALY:

3 Good afternoon. I was introduced to you
4 the other day. My name is Jennifer Shealy, and I
5 along with the deputy solicitor Bruce Durant and
6 Bryan Alfaro represent the State of South Carolina.

7 You were told the other day when we were
8 selecting the jury that this is a murder trial.

9 David Rocquemore is charged with murder of
10 Herschel Demar Denson. I want to tell you a little
11 bit about the people who will be coming into the
12 courtroom to testify and to introduce you to their
13 names because there are several young men.

14 Demar Denson grew up in the Ladson area
15 of Charleston. His father still lives over in the
16 same neighborhood which is Woodside Manor.

17 The gentlemen involved in the case who
18 are state's witnesses are friends of Demar Denson.
19 They had been childhood friends. They're all adults
20 now, and several people have gone their own way, one
21 being in the Army and stationed in Iraq. That's
22 Ronald Gibbs.

23 Rodney Gibbs, his older brother, who is a
24 merchant seaman and has traveled the world with his
25 job, is currently stationed in San Diego.

1 Troy Eason who still lives in the
2 neighborhood just as Demar Denson's father does.

3 And there is another gentleman named
4 Dexter Brown who wasn't quite as close to these other
5 guys, but he'd grown up with them and still lived in
6 the neighborhood.

7 These events took place in August of
8 2005, August 13th, the evening of August 13th,
9 spilling into the morning of August 14th.

10 It was a rare occasion for both Ronald
11 Gibbs and Rodney Gibbs to be in town. And they had
12 plans that evening. They were going to go with Troy
13 and Demar to a young lady's house in Summerville for
14 a party. Some of them had gone to the mall to get
15 something new to wear to go to the party.

16 And all of that stemmed from a party that
17 occurred the weekend before at Dexter Brown's house.
18 And Demar Denson, the victim in our case, had been
19 the cook there. He did such a nice job, the girl at
20 the party said "I'm having a housewarming next
21 Saturday, y'all come on and go."

22 So on Saturday, August 13th, Troy Eason,
23 Ronald Gibbs, Rodney Gibbs, and Demar Denson all go
24 to the party in Summerville at the lady's house, a
25 family party, a housewarming party. Food was there.

1 Alcoholic drinks were there.

2 And Dexter Brown came. He came with his
3 supervisor, Chris, who came with Chris's friend,
4 Chris Thomas's friend, David Rocquemore.

5 Prior to August 13th, those four guys I
6 told you about, Troy, Demar, Ronald, and Rodney, they
7 had never seen David Rocquemore before. They met him
8 at the girl's party.

9 And that was a housewarming party, and
10 children were there, and parents were there. It
11 didn't last very long. And at the conclusion of that
12 party, they decided they still want to hang out some.
13 It's a Saturday night.

14 So, first, a few of them stop by Troy's
15 house, but Troy can't get his stereo to work. So
16 they say "let's go back to Dexter's, he had a good
17 party last weekend," but Troy stays behind at his
18 house.

19 When they get to Dexter's, Rodney,
20 Ronald, Troy, and Demar were all there. Chris Thomas
21 and David Rocquemore come, and there's some young
22 ladies, some of the young ladies who were at the
23 party earlier in the evening.

24 Well, Dexter realizes he needs more beer,
25 because he hadn't been planning to have a party that

1 evening, and Dexter and David Rocquemore leave that
2 party and go get some beer.

3 Well, while they were gone, the other
4 guys were left behind, Chris, Rodney, Ronald, Troy,
5 and Demar. And they had some things to drink there,
6 and some people were having more than others to
7 drink, and there was a young lady in the house who
8 was quite intoxicated, and her friend took her out of
9 the house.

10 Well, Rodney Gibbs doesn't like to be
11 around cigarette smoke very much and walks outside.
12 He begins talking to the girl who escorted her
13 intoxicated friend out, but the intoxicated girl
14 starts mouthing off at Rodney and using profanity.

15 Rodney tries to calm that down, but the
16 girl keeps going. And he did something he's not
17 proud of. He took his drink, his alcoholic drink,
18 and tossed it on her.

19 That event caused the party to end. The
20 girls get upset. They're getting in their cars.
21 They want to leave.

22 Rodney, Ronald, and Demar say "let's go,"
23 and they head on back to Troy's.

24 Well, Dexter and David Rocquemore come
25 back from getting beer, thinking that the young

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1 ladies are still going to be there and that the party
2 is going to continue, and the girls are gone or
3 leaving.

4 Dexter calls Troy Eason and says, "What
5 happened? What happened to the party? Why did y'all
6 leave my house unattended?"

7 And Troy, along with Ronald and Rodney
8 and Demar, who had gone over to Troy's house after
9 they left Dexter's, said "let's go back and smooth
10 this over."

11 So they come back, those four guys in a
12 car driven by Ronald. They park their car near
13 Dexter's.

14 And if I'm standing in Dexter's driveway,
15 Dexter's house is behind me. Over to the left of the
16 driveway is Chris Thomas's vehicle, a little bit
17 further down is David Rocquemore's vehicle, and over
18 to my right is where Ronald pulls in.

19 Now, as I told you, these guys grew up in
20 Woodside Manor. Their parents have lived there, and
21 some of them continue to live there. And one of the
22 practices over there is to be courteous when you're
23 approaching a house. You cut your lights off right
24 before you park so you don't shine the lights in on
25 the house.

1 Well, David Rocquemore, I guess irritated
2 because the girls had left, looking for the party and
3 not appreciating the lights being turned off for some
4 reason, is upset. Chris Thomas is upset.

5 Those four guys get out of the car, and
6 there's arguing. Arguing. And at some point, David
7 Rocquemore tries to go at Demar to put his hand in
8 his face, and Demar says "don't get in my face."

9 I invite you to listen carefully to the
10 testimony about what happens then as it relates to
11 Chris Thomas, but I'll tell you this: David
12 Rocquemore slips off to his vehicle. And because of
13 what else had happened right when that car drove up
14 with the four guys, these guys are worried why is
15 Rocquemore going to his car:

16 The next thing those guys see is David
17 Rocquemore armed with a pistol, pointing it at
18 Demar Denson and backing him up the street. David
19 Rocquemore's car, Dexter's house, Dexter's driveway
20 down that way, backing Demar Denson, backing him up,
21 takes a swing at him with the pistol.

22 The pistol drops. All the guys dive for
23 it then, the ones that are right near there.

24 David Rocquemore, he picks up that gun,
25 and standing a distance from Demar Denson -- there'll

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1 be testimony to that effect -- shoots him not once
2 but twice. And those other guys go for Rocquemore.
3 They want that weapon.

4 And at this point, they're not down there
5 by David Rocquemore's car. They are in front of
6 Dexter's driveway in a ditch. Demar Denson lies
7 there, taking shallow breaths, and these guys are
8 struggling to get that gun back. He won't let it go.

9 Ronald, whose attention was elsewhere, on
10 Chris Thomas, the one that's in the Army, he comes
11 over and he does a maneuver to release David
12 Rocquemore's grasp on that gun.

13 And what does he do with the gun? Does
14 he point it at anybody? Does he shoot David
15 Rocquemore? He takes the gun, he tries to disengage
16 the magazine, can't get it removed, and then takes it
17 where it can be safe in an automobile away from all
18 the ruckus.

19 Now, does David Rocquemore get kicked?
20 Does he get kneed? Does he get punched? Absolutely.
21 But not until he took two shots at Demar Denson.

22 And once they get that gun, have those
23 guys calmed down from it? They continue to knee him
24 and punch him and ask him "why did you have to kill
25 Demar?" until the police drive up. The police will

1 tell you who those guys were.

2 On August 13th, 2005, Demar Denson had
3 plans to go to a party. On August 14th, he was
4 murdered. He was murdered by David Rocquemore.

5 MR. SAVAGE: Please the Court.

6 THE COURT: Yes, sir.

7 MR. SAVAGE: Mr. Durant, Ms. Shealy,
8 Mr. Alfaro.

9 OPENING STATEMENT

10 BY MR. SAVAGE:

11 Mr. Foreman, ladies and gentlemen of the
12 jury, good afternoon. I'm Andy Savage. I met you on
13 Monday.

14 Thank you for your patience from the
15 delay that occurred since Monday. The reason I say
16 that is because I'm going to ask you to continue that
17 patience.

18 I will try to be as brief as I can, but
19 if Ms. Shealy's witnesses spoke to us prior to today,
20 I would probably be in a better position to tell you
21 what happened that night.

22 But, you know, they were spoken to by the
23 cops at four or five o'clock in the morning on August
24 14th. They certainly would say that.

25 And that's why the judge, not a lawyer,

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1 will tell you that what Ms. Shealy said is not fact.
2 It's her position, but the only position that counts
3 is your position. And I'm sure, unlike Ms. Shealy,
4 you will listen to both sides of the story and to see
5 and test and to believe and not believe based on the
6 credibility of the witnesses.

7 David Rocquemore has never been in
8 trouble in his life. He had lawful possession of a
9 weapon that night. And he will explain that. He is
10 going to testify. And the judge will tell you he has
11 no burden to testify. But he wants to testify
12 because he wants you to know what happened from his
13 perspective that night.

14 The Court is going to tell you, not a
15 lawyer, but the Court is going to tell you that the
16 law in South Carolina is that one may protect
17 themselves and one may protect themselves with lethal
18 force, even when one doesn't want to use lethal
19 force, when one is seriously threatened by others and
20 he's placed in imminent danger, not necessarily of
21 death but of substantial bodily harm.

22 Stand up, Mr. Rocquemore. Stand up.

23 (The defendant complies.)

24 MR. SAVAGE: That's one big Hoss. And
25 when he stands up next to me or -- stand up, Cheryl

1 -- or my wife...

2 (Ms. Savage complies.)

3 MR. SAVAGE: Take a look at this guy.
4 He's a Hoss, and he can certainly -- sit down. Thank
5 you.

6 (The defendant and Ms. Savage comply.)

7 MR. SAVAGE: He can certainly defend
8 himself, if he has to defend himself, by his sheer
9 strength and size.

10 What happened that night? I thought it
11 was interesting what the solicitor told you happened.
12 She told you three or four fellows went to the party
13 together. Where was the fourth one? Why did he have
14 to come back if he had already left? At five o'clock
15 in the morning, drunk people are concerned with
16 whether their neighbor's lights shine in the
17 driveway? Are you kidding me?

18 Take a look at the pictures on the street
19 where it happened. Take a look at the pictures that
20 the cops show you, the law enforcement people that
21 testify, and look at the 50 or 60 feet of skid marks
22 on these pictures. Now, that doesn't show -- and
23 you're going to see this -- they were being courteous
24 to their neighbors at that time of the morning?

25 What I ask you to do is to stay focused.

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1 You know, this case is going over a week,
2 unfortunately, for matters beyond the control of
3 Ms. Shealy, the Court, and everybody else, and there
4 is no more important thing going on today than
5 deciding whether this man will spend the rest of his
6 life in prison. There's nothing more important.

7 So what I ask you to do is to pay close
8 attention to those who testify from the witness
9 stand, those who testify under oath who have the
10 obligation not to commit perjury but to tell the
11 truth, and observe them, look them in the eye.

12 Now, it's funny, you'll see me jump
13 around, you'll see me move my chair. I can't see the
14 witness stand from where I'm sitting. So I'm going
15 to jump, I'm going to move over to Ms. Williams' so
16 that I can look at them and I can see what their
17 affect is and their believability and credibility is.

18 That's what I ask you to do. Something's
19 not right here, and I'd like for you to answer that
20 question.

21 The one question you don't have to answer
22 is: David Rocquemore did shoot his weapon that
23 night, and he shot across that night, and as a result
24 of him shooting that weapon somebody died.

25 He's not happy about that. He lives with

1 that every day. His conscience lives with the fact
2 that his actions caused the death of someone else.
3 That can't be changed.

4 The question for you, however, is not
5 whether he shot and killed somebody. He did that.
6 You don't have to question or worry about the
7 truthfulness of that. What you do have to worry
8 about is what you would have done in that position,
9 what would you expect another reasonable person to do
10 in that position, and whether he had any options at
11 that time.

12 And until you hear the case, I ask you to
13 reserve judgment, just as the Court has asked you not
14 to talk among yourselves. Think it out as you go
15 through it. When you go home at night, you can think
16 through what you heard that day and analyze it and
17 review it, but just don't make a decision. Wait
18 until you hear everything, including the law that the
19 judge will give you as to the criteria of the actions
20 of Mr. Rocquemore that night.

21 Thank you.

22 THE COURT: Call your first witness,
23 Solicitor.

24 MR. SAVAGE: The state would call Jeff
25 Prindle.

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1 (Detective Prindle enters the courtroom.)

2 DETECTIVE JEFFREY PRINDLE,
3 being first duly sworn by the clerk, is examined and
4 testifies as follows:

5 THE CLERK: Thank you. Be seated.
6 Please speak into the mike and state your full name
7 and spell your last name.

8 THE WITNESS: Detective Jeffrey Prindle,
9 P-R-I-N-D-L-E.

10 THE COURT: Before you get started,
11 Counsel.

12 Ladies and gentlemen, I neglected to tell
13 you, obviously it's a public courtroom, there'll be
14 people in and out the whole time, but if it gets to
15 be too distracting, if you'd let me know.

16 I only ask that you keep your attention
17 up here. I know it's human nature to want to keep
18 looking every time someone comes in and out of the
19 doorway, but please keep your attention on what's
20 going on on this half of the courtroom.

21 Go ahead.

22 MR. DURANT: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. DURANT:

25 Q. Good afternoon, Detective Prindle. Could you

1 please tell the jury where you're employed?

2 A. Charleston County sheriff's office.

3 Q. How long have you been employed by the
4 sheriff's office?

5 A. I've been employed there just over six years.

6 Q. And what do you currently do at the sheriff's
7 office?

8 A. Currently I'm assigned to the metro major case
9 unit where I'm a detective.

10 Q. And is that principally the drug unit?

11 A. Yes. Narcotics and narcotics investigations.

12 Q. What were you doing in August of 2005?

13 A. Sir, I was assigned to the uniform patrol
14 division.

15 Q. And in what district were you in the patrol
16 division?

17 A. The north division, sir.

18 Q. Now, does the north division include the area
19 of Woodside Manor subdivision?

20 A. Yes, sir, it does.

21 Q. And specifically the area of Berrywood and
22 Mixedwood Streets?

23 A. Yes, sir, it does.

24 Q. Could you just tell the jury where in
25 Charleston County that is, what area it's in?

1 A. It's off of Highway 78 in the Ladson area of
2 Charleston County.

3 Q. And so it is located in Charleston County; is
4 that correct?

5 A. Yes, sir, it is.

6 Q. Did you have an occasion to be dispatched to
7 the area of Berrywood and Mixedwood in the early
8 morning hours of August the 14th of 2005?

9 A. Yes, sir, I did.

10 Q. In reference to what?

11 A. It was a shots fired call, sir.

12 Q. And do you recall what time you were
13 dispatched to that area?

14 A. Yes, sir. 4:05 in the morning.

15 Q. And how long did it take you to arrive? What
16 time did y'all actually arrive on the scene?

17 A. Approximately seven minutes, sir. We arrived
18 at 4:12.

19 Q. Were you the only unit to respond?

20 A. No, sir, I was not.

21 Q. Were there other deputies on the scene?

22 A. Yes, sir, there was. Deputy Ford, Deputy
23 Church, and Reserve Deputy Moniz.

24 Q. What did you observe when you arrived on the
25 scene?

1 A. Sir, when I arrived on the scene, I noticed
2 some individuals that appeared to be restraining a
3 gentleman that was on the ground. I also observed
4 another individual that was laying on the ground
5 motionless in close proximity to them.

6 Q. And did you later obtain that person's
7 identity?

8 A. Yes, sir, both of them.

9 Q. Okay. And the injured party was
10 Herschel Denson; is that correct?

11 A. Yes, sir, it was Mr. Denson.

12 Q. And who was the person being restrained?

13 A. Mr. Rocquemore.

14 Q. Did you have the occasion -- and where were
15 they, Mr. Denson and Mr. Rocquemore, when you arrived
16 on the scene?

17 A. They were by a shallow ditch in the yard of
18 [REDACTED] Drive.

19 Q. Okay. Did you have an occasion to attend to
20 the victim, Mr. Denson?

21 A. Yes, sir, I did.

22 Q. And what did you do exactly?

23 A. Sir, I checked for vitals, breathing and a
24 pulse.

25 Q. Was he breathing at the time?

- 1 A. Faintly.
- 2 Q. Were you able to detect a pulse?
- 3 A. A faint pulse, yes, sir.
- 4 Q. Was he responsive?
- 5 A. No, sir, he was not.
- 6 Q. Was he conscious?
- 7 A. No, sir, he was not.
- 8 Q. Did you observe any wounds?
- 9 A. No, sir, I did not, not at that time.
- 10 Q. Did you observe some wounds later?
- 11 A. I did after EMS arrived, sir.
- 12 Q. And what did you observe after EMS arrived?
- 13 A. What appeared to be a small entry wound from a
- 14 handgun, with very little bleeding, very little
- 15 exterior bleeding.
- 16 Q. Was EMS dispatched to the scene?
- 17 A. Yes, sir.
- 18 Q. And do you know how long it took them to
- 19 arrive?
- 20 A. Approximately five minutes, sir.
- 21 Q. Did Mr. Denson appear to be still alive when
- 22 the -- when the ambulance people got there?
- 23 A. He appeared to be, sir.
- 24 Q. Did the crime scene unit respond to the scene?
- 25 A. Yes, sir, they did.

1 Q. And did you take any further part in the
2 investigation that night?

3 A. No, sir, I did not. After my supervisor
4 arrived on the scene and the detectives, I was placed
5 in a patrol car to begin writing my incident report.

6 Q. Detective Prindle, I'd like you to take a look
7 at state's exhibit number one in evidence if you
8 would. And do you recognize that aerial photograph?

9 A. Yes, sir. It's Woodside Manor, Mixedwood and
10 Berrywood Drive.

11 MR. DURANT: May I approach the witness,
12 Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. DURANT:

15 Q. I'm going to hand you a laser pointer. If I
16 ask you anything that needs to -- you need to point
17 out, just hit that red star.

18 A. Okay.

19 Q. And referring to state's exhibit number one,
20 could you please point out to the jury where [REDACTED]
21 [REDACTED] is?

22 A. I believe this is it right here, sir.

23 Q. Okay. And which direction did you respond to
24 the scene? Which direction were you coming from?

25 A. I was coming down Berrywood in this direction.

1 Q. And was Deputy Ford there ahead of you? Was
2 his cruiser ahead of yours?

3 A. I'm not sure of the order of vehicles, but we
4 were all driving together, three cruisers.

5 Q. And where did you find Mr. Denson?

6 A. Approximately in this area here, sir.

7 Q. Okay. Where was the defendant being
8 restrained?

9 A. In the same area, there in pretty close
10 proximity.

11 MR. DURANT: Okay. Please answer any
12 questions that Mr. Savage may have for you.

13 THE WITNESS: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. SAVAGE:

16 Q. Good afternoon, sir.

17 A. Good afternoon.

18 Q. And congratulations, you apparently have been
19 promoted or transferred or in some way. I know it
20 speaks well of you. You're in a different position
21 than you were on this night.

22 A. Yes, sir. Thank you.

23 Q. And are you now, did you say, with the
24 narcotics unit?

25 A. Yes, sir.

1 Q. And how long have you been with narcotics?

2 A. Just over a year, sir.

3 Q. And I guess you're familiar then with the
4 neighborhood in which this activity took place?

5 A. Yes, sir.

6 Q. And this neighborhood is a -- I don't want to
7 characterize it. Good people live in that
8 neighborhood, but it's a high crime neighborhood?

9 A. I have responded to a variety of calls in that
10 neighborhood, sir.

11 Q. Including a lot of drug calls?

12 A. I have, sir.

13 Q. So -- well, we'll just leave it at that.

14 A. Yes, sir.

15 Q. Now, at the time of this incident on August
16 13th, you were, as I understand it, a member of the
17 uniform patrol in the north area county sheriff's
18 department; is that correct?

19 A. On the 13th and 14th, yes, sir.

20 Q. Now, this may be something that's familiar
21 with you and the prosecutors and the Court, but I
22 would like the jury to get a feel for how law
23 enforcement works, and if you could instruct them and
24 tell them how the county is divided up. The
25 prosecutor was asking you about crime scene and

1 detectives and all that sort of stuff. Those of us
2 in the business are familiar with it. Let's talk to
3 the jury.

4 The uniform patrol is the street officer who
5 is the immediate responder to traumatic events,
6 whether they're criminal or accidental. Is that
7 correct?

8 A. Yes, sir. We respond to all calls for
9 service.

10 Q. You make the house calls?

11 A. Yes, sir.

12 Q. And then if the house call turns out to be
13 something that you need additional help, you call in
14 the crime scene?

15 A. Yes, or a supervisor.

16 Q. And the crime scene then would do the "C.S.I."
17 type stuff; is that correct? The fingerprinting,
18 looking for evidence at the scene, photographing,
19 measuring, all that sort of stuff?

20 A. Yes, sir.

21 Q. You don't do that?

22 A. No, sir, I do not.

23 Q. The detectives then would come and interview
24 witnesses. Is that correct?

25 A. Yes, that is correct.

1 Q. And on occasion, the uniform officers, the
2 first responders, interview witnesses to assess what
3 kind of situation you have going on?

4 A. They do the initial investigation, yes, sir.

5 Q. Now, when you arrived, I believe you said that
6 Deputy Ford came with you, basically, either right
7 before you or right after?

8 A. It was three vehicles traveling together, sir.

9 Q. And does that mean that you staged before you
10 went to the area, or you just happened to --
11 happenstance, you just happened to get there at the
12 same time?

13 A. We just happened to get there at the same
14 time. It's not uncommon for two deputies to travel
15 together for reasons of officer safety.

16 Q. And, of course, before you got to the scene,
17 you had some information that shots were fired?

18 A. That's the way the call was dispatched, yes,
19 sir.

20 Q. And when you respond to shots have been fired,
21 that's an elevated sign of trouble, and when you went
22 there, you knew that there was a problem. It wasn't
23 a cat in a tree or a stolen vehicle or something of a
24 minor non-threatening situation.

25 A. Yes, sir. Personally, my senses were

1 heightened that there could be perceived danger, yes.

2 Q. Now, when you arrived at the scene, if you
3 would, tell the members of the jury the lighting that
4 was there.

5 A. It was dark. It was approximately -- it was
6 4:05 in the morning when we were dispatched, it was
7 4:12 when we arrived, so it was dark.

8 Q. So there wasn't any natural light. Correct?

9 A. No, there was not.

10 Q. I mean, the sun wasn't up in August at four
11 o'clock in the morning?

12 A. No natural lighting, no, sir.

13 Q. And do you recall the ambient lighting, that
14 is, the electric lights in the neighborhood or houses
15 or whatnot? Were there lights on at all?

16 A. I do not recall on that specific date.

17 Q. But before you came here -- I know your memory
18 was terrific -- you've had a lot of cases, I assume,
19 in the last two years. But do you remember
20 specifically it took five minutes for EMS and seven
21 minutes for this and whatnot? Were you able to
22 review your notes?

23 A. I have a copy of the incident report which I
24 wrote.

25 Q. Did you get to see the photographs?

1 A. Which photographs, sir?

2 Q. Of this case.

3 A. I saw a few details, the videotape from Deputy
4 Ford's cruiser.

5 Q. All right. Well, then from the videotape, you
6 knew it was pretty much pitch black driving up?

7 A. Yes. The videotape was in black-and-white, so
8 the incident generally...

9 Q. And there was such difficulty in seeing
10 because of lighting, Deputy Ford actually used a
11 searchlight, looking for house numbers and whatnot,
12 going up the street?

13 A. Deputy Ford may have done that. I can't
14 answer.

15 Q. But it would be shown on the video?

16 A. I cannot answer that, sir.

17 Q. Now, did you interview anyone that night?

18 A. No, sir, I did not.

19 Q. And were you present when anyone was
20 interviewed that night?

21 A. I'm sure I was present, but I was in Sergeant
22 Palmer's vehicle.

23 Q. So you didn't participate in interviewing?

24 A. I did not participate in any interviewing, no,
25 sir.

1 Q. In reviewing your report, the notes that you
2 made that night, do you recall saying as you
3 approached the scene you saw a group of men fighting?

4 A. Yes.

5 Q. So there was actually a fight going on when
6 you got there?

7 A. It appeared to be some sort of altercation.

8 Q. In the old days they called it a fracas. Was
9 it a fracas?

10 A. I'm not familiar with that term, sir.

11 Q. A bunch of people flailing at each other?

12 A. I'm not familiar with that term, either, sir.

13 Q. Did the disturbance, if you will, continue
14 after you were there?

15 A. No, sir. The individuals were compliant from
16 the orders the deputies gave, from my understanding.

17 Q. So in reviewing the video, if the jury got to
18 see the video, they wouldn't see anybody flailing
19 away, punching, kicking somebody when they were down
20 on the ground? Of course, that wouldn't be on the
21 video if it stopped before you got there?

22 A. They would see that, yes.

23 Q. Did you see it?

24 A. Yes, I did.

25 Q. And, in fact, you were standing right next to

1 them when they did it?

2 A. I was standing in the general area.

3 Q. And did anybody attempt to stop that?

4 A. I did not, sir.

5 Q. When you approached the people who were
6 fighting and the people who were on the ground in the
7 ditch, was there an odor of alcoholic beverages in
8 the air?

9 A. Not that I can recall.

10 Q. In assessing the situation, as a uniform
11 officer or as a detective, does alcohol consumption
12 tend to inflate the threatening environment?

13 A. Sir, it's been my experience that alcohol has
14 different effects on different people. I can't
15 assertively say that it does or does not.

16 Q. So you don't have an opinion whether somebody
17 who's drinking and a bunch of fellows who have been
18 drinking all nightlong, whether that would tend to
19 make them a little bit more aggressive?

20 A. I have encountered individuals like that in
21 the course of my duties, sir.

22 Q. Have you ever noticed that people who aren't
23 consuming alcohol are generally not as aggressive
24 as people who have been partying and drinking all
25 night?

1 A. I can -- don't think I can -- I can give my
2 personal opinion on that, but I think emotions are
3 what affect people, sir.

4 MR. SAVAGE: Beg the Court's indulgence
5 for one moment.

6 BY MR. SAVAGE:

7 Q. Ms. Williams pointed out that I omitted to ask
8 you some questions.

9 A. Yes, sir.

10 Q. When you arrived, there were multiple parties
11 fighting. Is that correct?

12 A. I believe there was three people involved.

13 Q. And is that three people on one side and then
14 one on the other side?

15 A. From what I can remember, sir, there was, I
16 believe, two people, or what I remember, two people
17 that were involved with Mr. Rocquemore.

18 Q. And were you around when they were
19 photographed, that is, all the parties who were
20 present when they were photographed?

21 A. I may have been there, sir, but I don't
22 recall. After I was finished with the incident
23 report, I went home.

24 Q. While you were there, did you know whether the
25 vehicle in which the deceased and his friends were

1 traveling in was examined?

2 A. No, sir, I do not know.

3 Q. Do you know whether the vehicle in which the
4 deceased and his friends were traveling in was
5 secured?

6 A. Sir, I do not know.

7 Q. Do you know whether the vehicle in which the
8 deceased was traveling in with his friends was
9 accessible to the friends of the deceased while the
10 police officers were present?

11 A. I don't know, sir.

12 Q. They certainly weren't restrained from going
13 back to their vehicle?

14 A. After we arrived?

15 Q. Yes, sir.

16 A. No, sir.

17 Q. And the vehicle that the deceased and his
18 friends came to the party in was not examined?

19 A. I don't know, sir. I primarily dealt with the
20 victim himself -- or Mr. Denson. I'm sorry.

21 MR. SAVAGE: Thank you, sir.

22 THE WITNESS: Yes, sir.

23 MR. DURANT: Just a couple on redirect.

24 THE COURT: Yes, sir.

25 MR. DURANT: Can we have state's exhibit

1 number one, please.

2 REDIRECT EXAMINATION

3 BY MR. DURANT:

4 Q. Could you turn around, Detective Prindle?

5 A. Yes, sir.

6 Q. Do you know what that shows right there?

7 A. Yes, sir.

8 Q. Do you know whether or not that's a
9 streetlight?

10 A. I don't know, sir.

11 Q. Okay. And like you say, alcohol affects
12 people -- different people differently, correct?

13 A. Yes, sir.

14 Q. He wants you to say that it makes them
15 aggressive. It also makes people happy, too, doesn't
16 it?

17 A. Yes, sir.

18 MR. DURANT: I have no further questions.

19 THE WITNESS: Yes, sir.

20 THE COURT: Anything else?

21 MR. SAVAGE: No, sir.

22 THE COURT: You may step down, sir.

23 Thank you.

24 MR. DURANT: Your Honor, I'd ask that
25 Detective Prindle be excused.

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THE COURT: Any objection?

MR. SAVAGE: I think the detective is accessible. We don't have any problem with him...

THE COURT: All right. You'll be excused for now, sir.

MR. DURANT: May we approach?

THE COURT: Yes, sir.

(There was an off-the-record bench conference in the presence of the jury but out of the hearing of the jury.)

(Said bench conference being concluded, the following proceedings were had:)

THE COURT: All right. You may be excused for now, sir. Thank you.

(The witness is excused from the witness stand and leaves the courtroom.)

MR. DURANT: The state would call Kevin Ford.

(Deputy Ford enters the courtroom.)

DEPUTY KEVIN FORD,
being first duly sworn by the clerk, is examined and testifies as follows:

THE CLERK: Be seated. If you'll please state your full name and spell your last name.

THE WITNESS: Kevin Christopher Ford,

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1 F-O-R-D.

2 DIRECT EXAMINATION

3 BY MR. DURANT:

4 Q. Deputy, could you please tell the jury where
5 you're employed?

6 A. Charleston County sheriff's office.

7 Q. And you've been with the sheriff's office for
8 how long?

9 A. Nine years.

10 Q. What do you do now?

11 A. I'm in the patrol division.

12 Q. And were you doing the same thing in August of
13 2005?

14 A. Yes, I was.

15 Q. Were you in the same district that Deputy
16 Prindle was assigned to at that time, the north
17 district?

18 A. Yes, sir.

19 Q. In that capacity, did you have an occasion to
20 be dispatched to the area of Berrywood and Mixedwood
21 in the early morning hours of August 14th, 2005?

22 A. Yes, I did.

23 Q. In reference to what?

24 A. We originally got called for what was a shots
25 fired call. While we were in route, we were told

1 that somebody had actually been shot.

2 Q. And were you alone? Was anyone riding with
3 you that night?

4 A. I had Reserve Deputy John Moniz with me.

5 Q. And what other deputies were on the scene when
6 you arrived?

7 A. Deputy Jeff Prindle and Deputy Sheri Church.

8 Q. Do you recall who arrived first?

9 A. I was the first car in to the scene, but we
10 all arrived at roughly the same time.

11 Q. And what did you observe when you arrived in
12 the area of [REDACTED] Drive?

13 A. When I pulled up, I saw several subjects on
14 the ground, and one person was being restrained on
15 the ground. I believe another subject was standing
16 off to the side, and another individual was laying on
17 the ground behind where the other individual was
18 being restrained.

19 Q. Did anybody say anything upon your arrival?

20 A. When I began walking up, one of them said,
21 "That motherfucker shot him."

22 Q. Now, who was that person referring to?

23 A. I believe he was referring to the defendant,
24 Mr. Rocquemore.

25 Q. This gentleman seated in the courtroom today?

1 A. Yes, sir.

2 Q. What happened when you got up to where the
3 defendant was being restrained?

4 A. Myself and Deputy Moniz started ordering the
5 two individuals that were holding him down to get
6 off. They complied with our orders. They began
7 getting off of him. At that time we started
8 restraining him.

9 Q. Okay. They put a -- gave him a couple licks,
10 too; did they not?

11 A. As they were coming off, I mean, it was a
12 pretty agitated scene. They were pretty agitated.
13 It took several orders to tell them to get off. One
14 of the individuals kicked him in the groin. I think
15 one more might have punched him.

16 Q. And what happened after you got these folks
17 off of Mr. Rocquemoire?

18 A. Deputy Prindle went and began trying to give
19 aid to the victim. I told Deputy Moniz to hold him
20 there, and then I retrieved the weapon.

21 Q. Okay. Where was the defendant placed?

22 A. He was initially placed in my cruiser, in the
23 back seat of my cruiser.

24 Q. And were you able to locate a weapon at the
25 scene?

1 A. Yes, I was. On the back of a pickup truck on
2 a toolbox that was in the same yard where the
3 shooting occurred.

4 Q. How did you know to look in the truck?

5 A. When we were in route to the scene, the
6 dispatch had informed us there was a concerned
7 citizen relaying information. They told them that
8 somebody had placed the gun in the back of that
9 pickup.

10 Q. Did you check the weapon?

11 A. Yes, I did.

12 Q. And what was the condition of the weapon?

13 A. It was currently jammed with the slide back
14 with a casing jammed into it.

15 Q. And what kind of weapon was it?

16 A. It was a .45 caliber Highpoint semiautomatic.

17 MR. DURANT: Mark this as state's 49,
18 please, ma'am, for identification.

19 (State's Exhibit No. 49, gun, is marked
20 for identification.)

21 BY MR. DURANT:

22 Q. Officer, I hand you now what's been marked as
23 state's exhibit number 49 for identification purposes
24 only and ask if that appears to be the weapon you
25 recovered that night.

1 A. Yes, this appears to be it.

2 Q. What did you do with the weapon after removing
3 it from the truck?

4 A. I secured it in the trunk of my cruiser.

5 Q. And did you eventually turn the custody of
6 that weapon over to someone else?

7 A. Yes. Once the scene was secured, I turned it
8 over to TSU Deputy Owen.

9 Q. And who is TSU Deputy Owen?

10 A. He is a deputy within our crime investigation.

11 Q. Crime scene unit?

12 A. Yes, sir.

13 Q. Did you observe any other weapons in the area?

14 A. No, sir, I did not.

15 Q. Now, the people that were holding the
16 defendant down...

17 A. Yes, sir.

18 Q. --- were they responsive to your -- your
19 commands?

20 A. Yes, they were.

21 Q. Did they listen to what you told them to do?

22 A. Yes, sir, they did.

23 Q. Were they belligerent with you in any way?

24 A. No, sir.

25 Q. Did they appear to be falling down drunk?

1 A. Not that I observed.

2 Q. Did they appear to be incoherent?

3 A. No, sir.

4 Q. Where was the truck located where this weapon
5 was found?

6 A. It was within the same yard where the
7 defendant and the victim were when we got there, a
8 little further up towards the house.

9 Q. Okay. I want to show you a couple of exhibits
10 that are in evidence.

11 MR. DURANT: Court's indulgence for just
12 one moment.

13 BY MR. DURANT:

14 Q. First I'd like to do -- let me direct your
15 attention to state's exhibit number two. What's that
16 a photograph of?

17 A. That is my patrol vehicle.

18 Q. Okay. State's exhibit number three?

19 A. That is the trunk of my cruiser.

20 Q. State's exhibit number four?

21 A. That'll be the weapon I retrieved from the
22 truck.

23 Q. And state's exhibit number five?

24 A. That'll be the casing that was keeping the
25 weapon jammed.

1 Q. And then state's exhibit number 14?

2 A. That is the truck in the yard where the
3 shooting occurred, and that's the truck I retrieved
4 the weapon from.

5 Q. That is the truck you retrieved the weapon,
6 the one's that got Landmark Construction on it?

7 A. Yes, sir.

8 Q. And where roughly were the victim and the
9 defendant when you arrived on the scene?

10 A. The best of my recollection, the defendant
11 would have ---

12 Q. Here's a laser pointer if you need it right
13 there.

14 A. The defendant would have been laying right in
15 this area. The victim was just a little bit further
16 up, up here.

17 Q. Okay. Did the cruiser you were in that night
18 have an in-car video?

19 A. Yes, sir, it did.

20 Q. And did you activate that video on the way to
21 the scene?

22 A. Yes, sir. It automatically cut on when I
23 activated my emergency lights.

24 Q. And you're aware, of course, that the video in
25 your car was transferred to a compact disk format?

1 A. Yes, sir.

2 Q. You viewed that in my office; is that correct?

3 A. Yes, sir, I did.

4 MR. DURANT: This will be state's 50, I
5 believe.

6 (State's Exhibit No. 50, in-car video on
7 CD disk, is marked for identification.)

8 (Mr. Durant and Mr. Savage confer.)

9 MR. DURANT: Your Honor, I believe at
10 this time we would offer state's exhibit number 50
11 into evidence, I believe without objection.

12 THE COURT: Is that correct?

13 MR. SAVAGE: That's correct as long as
14 it's the same one we have.

15 THE COURT: All right. In evidence
16 without objection.

17 (State's Exhibit No. 50, in-car video on
18 CD disk, previously marked for identification, is
19 received in evidence.)

20 BY MR. DURANT:

21 Q. You've had an opportunity to review your
22 in-car video; is that correct?

23 A. Yes, sir, I have.

24 Q. And does it fairly and accurately depict the
25 scene as you found it when you arrived there?

1 A. Yes, sir.

2 MR. DURANT: Your Honor, I request at
3 this time the opportunity to publish state's exhibit
4 number 50 to the jury.

5 THE COURT: All right.

6 BY MR. DURANT:

7 Q. And, Deputy Ford, you may want to come down.
8 I'm going to ask you some questions as this tape is
9 being played.

10 A. Okay.

11 MR. DURANT: With the Court's permission,
12 may the witness come down, Your Honor?

13 THE COURT: Yes, sir.

14 (The witness leaves the witness stand and
15 stands at counsel table.)

16 (State's Exhibit No. 50 begins playback.)

17 MR. DURANT: Would you kill that light
18 some, Mike.

19 BY MR. DURANT:

20 Q. If you could tell the jury which road you're
21 on here now.

22 A. This would be Berrywood Drive in Woodside
23 Manor.

24 MR. DURANT: If you could kill those
25 lights for me, please. Thank you.

1 BY MR. DURANT:

2 Q. Those are streetlights along the left side
3 there?

4 A. Yes, sir.

5 Q. And this is the video from your car; is that
6 correct?

7 A. Yes, sir, it is. That's we're arriving on the
8 scene and located them.

9 Q. Those are the individuals you were talking
10 about?

11 A. Yes, sir. There's two individuals holding
12 down the defendant, Mr. Rocquemore. The victim is
13 just behind him. I don't believe you can see him
14 quite well at this time.

15 That's Deputy Moniz, and that's myself coming
16 in on the screen.

17 That would be Deputy Prindle.

18 You can see that's when he was kicked. That's
19 when they were getting off of him.

20 That's Deputy Church off to the right. She's
21 keeping people back. As you can see, they're being
22 compliant with her.

23 Q. So Deputy Church is watching the other
24 folks?

25 A. Yes, sir. She keeps them all off to the

1 right there to keep the scene safe where we're at.

2 Q. And where did she keep them safe?

3 A. There is a driveway, I believe. One of the
4 witnesses actually having a party lived in the house
5 right across the street. They were standing in the
6 driveway in that front yard.

7 Q. And she sat there and watched them?

8 A. Yes, sir.

9 And right now I'm just waiting on Deputy
10 Prindle. He's attending to the victim.

11 Q. That's him over on the far left?

12 A. He's off to the far left.

13 At this time I'm going back to my vehicle to
14 go get some gloves. You won't see it, off camera.

15 The truck is just off camera to the left. I'm
16 about to go up and retrieve the weapon.

17 And as you can see, again, Deputy Church is
18 having them stand back. He's giving her no problem.
19 They're off to the side.

20 Q. I can speed this up a little bit, with the
21 Court's permission.

22 A. That's just me coming back. You can see at
23 this time myself and Deputy Moniz are going to place
24 the defendant into my patrol vehicle.

25 Q. That's Deputy Prindle?

1 A. That's still Deputy Prindle attending to the
2 victim. At this time we're just waiting on EMS to
3 come to the scene.

4 As you see again there, he needs -- obviously
5 upset. Again Deputy Prindle asked him to go back.
6 They go back.

7 Q. You were aware, of course, that that was their
8 friend on the ground right there?

9 A. Yes.

10 MR. SAVAGE: Objection to the form of the
11 question.

12 THE COURT: Rephrase that question.

13 BY MR. DURANT:

14 Q. Were you aware that that was their friend on
15 the ground?

16 MR. SAVAGE: Objection to the form of the
17 question.

18 THE COURT: Pardon me?

19 MR. SAVAGE: Objection to the form of the
20 question.

21 THE COURT: Rephrase it again, please.

22 MR. DURANT: That's okay, Your Honor.
23 I'll withdraw it.

24 THE COURT: Go ahead.

25 BY MR. DURANT:

1 Q. Is the time in the upper right-hand corner
2 right?

3 A. To the best of my knowledge, yes.

4 Q. Had you already recovered the weapon at this
5 point?

6 A. I recovered the weapon before myself and
7 Deputy Moniz put the defendant in the vehicle.

8 Q. Okay. And this is the point where the
9 ambulance arrived?

10 A. That would be EMS, and I believe Fire also
11 arrived at that time.

12 MR. DURANT: Mr. Savage, do you want to
13 look at any more of the tape?

14 (State's Exhibit No. 50 ends playback.)

15 MR. DURANT: Would you please resume your
16 seat.

17 (The witness returns to the witness
18 stand.)

19 MR. DURANT: Would you please answer any
20 questions that Mr. Savage may have for you.

21 MR. SAVAGE: May it please the Court.

22 THE COURT: Yes, sir.

23 MR. DURANT: Your Honor, may I return the
24 exhibit to the court reporter?

25 THE COURT: Yes, sir.

1 CROSS-EXAMINATION

2 BY MR. SAVAGE:

3 Q. Good afternoon, Deputy Ford.

4 A. Good afternoon, sir.

5 Q. I assume that there've been many, many, many,
6 many, many responses to calls for aid since August
7 13th that you've been called to?

8 A. Yes, sir.

9 Q. And I assume that you had an opportunity to
10 review the file in this case before you came to court
11 today because there's so many cases you have to try
12 to remember the particulars. Is that correct?

13 A. Yes, sir.

14 Q. And, of course, looking at that video assists
15 in recollecting what took place that night?

16 A. That's correct.

17 Q. Woodside Manor, is that the...

18 A. Yes, sir.

19 Q. --- territory?

20 A. Yes, sir.

21 Q. All right. I don't know whether anybody's
22 told the jury yet exactly, you said the north area,
23 so let's use some landmarks. Let's take a location
24 that the jurors may be familiar with and try to place
25 it. It's like the state -- the county fairgrounds,

1 where would that be in relationship to this locale?

2 A. It's approximately maybe two to three miles.
3 Woodside Manor would be going back towards
4 Summerville off of Highway 78 past the fairgrounds.

5 Q. North Trident Hospital?

6 A. Roughly five or six maybe, possibly.

7 Q. So if you went from North Trident Hospital on
8 78...

9 A. Yes, sir.

10 Q. --- to Summerville, just to give them an idea
11 of where it is, halfway? a quarter of the way?

12 A. About halfway.

13 Q. And had you been to this Woodside Manor
14 location as a deputy on other service calls?

15 A. Several occasions.

16 Q. It's what they call a high call area?

17 A. Yes, sir.

18 Q. A lot of activity for law enforcement?

19 A. Yes, sir.

20 Q. No surprise showing up there at four o'clock
21 in the morning for the shooting?

22 A. No, sir.

23 Q. Let's take a look at the video if we can. And
24 I think -- can you do it here? May I see that,
25 Deputy?

1 (Mr. Savage and Ms. Savage confer.)

2 (State's Exhibit No. 50 begins playback.)

3 BY MR. SAVAGE:

4 Q. What I want to do is to assist the jury in
5 analyzing what you saw that night and try to put them
6 in the position of a law enforcement officer arriving
7 at a scene.

8 A. Okay.

9 Q. Now, before you -- stop, please.

10 (State's Exhibit No. 50 ends playback.)

11 BY MR. SAVAGE:

12 Q. Before you got there, you had certain
13 information that came in from neighbors?

14 A. Yes, sir.

15 Q. And that information would be a telephone call
16 to a 911, they figure out the location, and then they
17 would send the telephone caller to the county
18 sheriff's department?

19 A. Yes, sir.

20 Q. You might get a call because -- how far away
21 are you from Dorchester County?

22 A. Roughly two to three miles.

23 Q. So sometimes those calls get confused and
24 whatnot and more than one agency would respond; is
25 that correct?

1 A. It could if it was sent off a cell phone.

2 Q. Now, before you got there, let's talk about
3 that. Before you got to the location of the
4 incident, you were aware that there had been shots
5 fired?

6 A. Yes, sir.

7 Q. Then you were aware that there was an injured
8 party?

9 A. Yes, sir.

10 Q. And then you were aware that the gun at some
11 time had been placed on the back of a truck?

12 A. Yes, sir.

13 Q. And three of you converged, three units; four
14 officers converged at the same time?

15 A. Yes, sir.

16 Q. Y'all just happened to get there at the same
17 time?

18 A. Yes.

19 Q. Or did somebody stage and wait for the others?
20 How did that work?

21 A. I don't remember exactly how it came into
22 effect. I mean, we might have been roughly in the
23 same area when it went out.

24 Q. But have you listened to the voice
25 transcriptions of the response that night?

1 A. No, I have not.

2 Q. You have not. And if they use the term
3 "staging," what would that mean?

4 A. It would just mean that because of the
5 situation you may not want to send one officer in by
6 themself, so we would stage just before where the
7 incident is but wait for fellow officers to come in.

8 Q. For officer safety?

9 A. Yes, sir.

10 Q. Sure. And that's normal practice. There
11 wasn't anything unusual about it?

12 A. No. It's normal practice.

13 Q. Did you have any information before you got to
14 the scene about vehicles?

15 A. Not that I recall, other than the truck where
16 the weapon was placed.

17 Q. And do you recall any 911 calls that said a
18 car is leaving?

19 A. Not ---

20 Q. Stop that vehicle?

21 A. Not that I remember.

22 Q. Because there's so many things going on at the
23 time of the response?

24 A. Yes, sir.

25 Q. And often what you can do then is go back

1 later, because all these calls are recorded,
2 transcribe them and read them and see what happened.
3 Did you do that in preparation for today's testimony?

4 A. I didn't listen to any tapes. I've just seen
5 the video.

6 Q. And you haven't looked at any call numbers or
7 those codes you all use, 10-72 and all that stuff?

8 A. I saw a sheet, but I really didn't look over
9 to see every little thing that went down before.

10 Q. So prior to arrival and while you were there,
11 you didn't know whether there were any 911 calls
12 about a car leaving?

13 A. Not that I recall.

14 Q. Now, when you came up, in your mind, as you're
15 driving up, what you're thinking about, what am I
16 going to do when I get there and whatnot, were you
17 aware of vehicles that you had to be concerned with?

18 A. Again, not -- no vehicle I remember being
19 concerned with other than the vehicle I was told
20 where the weapon was at.

21 Q. Which ultimately had no relationship to the
22 incident?

23 A. No.

24 Q. So as you arrived, you had some information,
25 but you didn't -- you weren't given information to

1 process about a suspect vehicle, a witness vehicle,
2 the injured party's vehicle, or anything like that?

3 A. Not that I remember.

4 Q. Let's look at the part of the video that when
5 Deputy Ford first comes up. Is it Woodside Manor?

6 A. Yes, sir. Woodside Manor on Berrywood Drive.

7 Q. And then stop it when you can see the vehicles
8 at the scene.

9 MS. SAVAGE: Sure.

10 BY MR. SAVAGE:

11 Q. If you'd like to step down or sit there,
12 whatever is best for you.

13 A. I don't want to block the view.

14 Q. Whatever is easier, you can have a seat or you
15 can stand up.

16 A. (The witness leaves the witness stand and
17 stands at lectern.)

18 (State's Exhibit No. 50 begins playback.)

19 MR. SAVAGE: Tell me if I'm I wrong, I
20 believe this is the initial part of the video?

21 MS. SAVAGE: This is the very beginning.

22 BY MR. SAVAGE:

23 Q. Very beginning when you go in, Deputy, off 78,
24 correct? You turned left on 78?

25 A. Yes, sir. I turned left on 78 onto Berrywood

1 Drive.

2 Q. What I'm looking for are vehicles in the
3 neighborhood. Pretty dark that night?

4 A. Yes, sir. Well, no, it's a little brighter.
5 That's when we're actually there.

6 Q. Somebody was using their searchlight, looking
7 for...

8 A. That was me. When we arrived, I was just
9 trying to see if I could locate them.

10 Q. Get the numbers? All right. If you would
11 stop right there. The vehicle on the right-hand
12 side, did you ever identify that vehicle?

13 A. Later on I was told that it was the
14 defendant's vehicle.

15 Q. Okay.

16 A. If that's the SUV.

17 Q. I don't know. I'm just asking. All right.
18 Let's keep going.

19 MS. SAVAGE: Normal speed?

20 MR. SAVAGE: Normal speed.

21 BY MR. SAVAGE:

22 Q. Stop. Any other vehicles seen there?

23 A. I believe there's one right in front of that
24 SUV.

25 Q. All right. Any other vehicles there?

1 A. Not that I remember. And off to my right at
2 all, if that's what you're asking.

3 Q. Put it there. Is there a vehicle to the right
4 there?

5 A. There is one a little bit further up from us,
6 yes.

7 Q. All right. Now, would you -- and this is as
8 you arrive, correct?

9 A. Yes, sir.

10 Q. And I'm looking at the screen. From where I'm
11 standing, the left side, it's sort of a blurry white
12 area. That's I assume where the fight was going on?

13 A. Well, where they were restraining him. Wasn't
14 really a fight when we arrived there.

15 Q. All right. Let's take it up to where the
16 first gentleman leaves the restraint, the restraining
17 action. Is that your -- that's you on the left.
18 Right?

19 A. Actually, I believe that's Deputy Moniz.

20 Q. All right. Stop, stop right here. That white
21 blur now is a little bit more visible, and you can
22 actually see, distinguish, maybe not know who they
23 are but you can distinguish the law enforcement from
24 the fellows who are there?

25 A. Yes, sir.

1 Q. And the fellow on the left who is crouched
2 down or -- do you know who that is?

3 A. I don't know him, no.

4 Q. And the fellow in the middle, the one that we
5 see from -- were you in the military?

6 A. No, sir.

7 Q. From the six o'clock position?

8 A. Okay.

9 Q. Do you know who that is?

10 A. I just know him from being on the scene. I
11 don't know any of them or can identify them.

12 Q. The fellow on the right-hand side, do you know
13 who that is?

14 A. Again, no.

15 Q. Now, the fellow on the right-hand side is not
16 engaged in the restraint?

17 A. No, he's not.

18 Q. The two fellows that we see, one in the center
19 and one to the left, are engaged in the restraint?

20 A. Yes, sir.

21 Q. And below them is Mr. Rocquemore?

22 A. Yes.

23 Q. And next to him, right next to him is the
24 fellow who was shot?

25 A. Yes, sir.

1 Q. Now, let's see what the fellow in the middle
2 does when he gets up. What is he doing now?

3 A. He strikes him.

4 Q. How many times?

5 A. It's hard to tell from the video. At least
6 once.

7 Q. And how many law enforcement officers are
8 standing there?

9 A. At that time I can make out at least three.

10 Q. And there were at least four in the area?

11 A. On the scene.

12 Q. Because three units came by and those units
13 contained four law enforcement officers?

14 A. That's correct.

15 Q. And you had been there enough time to go over
16 and observe what was happening?

17 A. Roughly. I mean, we'd been there maybe at
18 that point ---

19 Q. I'm not picking on you.

20 A. Yeah.

21 Q. But they were aware that law enforcement ---

22 A. Yes, sir.

23 Q. --- officers were standing right next to them?

24 A. Yes, sir.

25 Q. Now, let's see the second guy who gets up, the

1 guy on the left. Stop. What does he do?

2 A. He kicks him.

3 Q. Kicks who?

4 A. He kicks the defendant, Mr. Rocquemore.

5 Q. And that's right in front of three or four law
6 enforcement officers?

7 A. Yes, sir.

8 Q. Now, are any -- you said that they were acting
9 compliant?

10 A. They complied with us when we ordered them to
11 back away, back away from us, yes.

12 Q. But compliant, it isn't trying to imply that
13 they weren't assaulting and battering Mr. Rocquemore
14 in your immediate presence?

15 A. When we pulled up, no, they weren't.

16 Q. And they were not restrained. They actually
17 -- if you'd move forward -- leave the area and come
18 down to the left side of the video and go out of
19 vision?

20 A. Yes, sir.

21 Q. And in the video now, we can't see the other
22 vehicle we saw a little bit ago that was on the
23 right-hand side of the road?

24 A. You can vaguely make it out, yes, sir.

25 Q. As restrainer number one and restrainer number

1 two leave, where do they go?

2 A. I honestly couldn't tell you. My attention
3 was on the defendant.

4 Q. All right. Well, let's watch the video and
5 see where they go. Stop. Are these the two
6 gentlemen that I would refer to as restrainer number
7 one and restrainer number two?

8 A. That appears to be them, yes.

9 Q. And where did they go? Does this refresh your
10 memory?

11 A. I still couldn't tell you where they were when
12 they were out of the video. I know now they're
13 walking in front of my vehicle.

14 Q. Now, is there any law enforcement presence
15 with them at this time?

16 A. Directly with them? Not that I'm aware of.

17 Q. And where did they go?

18 A. I can't see them at this point. As I said, my
19 attention was on the defendant at that point. I am
20 actually going and retrieving the weapon. I don't
21 even think I'm there right now.

22 Q. Why was the vehicle that was parked -- whose
23 vehicle was parked right where they went?

24 A. I honestly couldn't tell you.

25 Q. Did you have any -- let me go through this,

1 then I'll come back. See if we can see anything
2 further. I believe what you'll see next is a female.
3 Was a female law enforcement officer present?

4 A. Deputy Church, yes.

5 Q. With the flashlight?

6 A. I believe actually -- she might have her
7 flashlight, or it might be the light off of her
8 taser.

9 Q. Her taser?

10 A. Yes, sir.

11 Q. Well, what was she doing with a taser if
12 everybody was compliant?

13 A. At this time we're still arriving. We don't
14 know who's who and what's going on. So she's just
15 trying to keep people away from us. They're not
16 actually trying to come forward. She might have just
17 had it out. I couldn't explain why that -- I mean, I
18 just can't speak for her.

19 Q. And certainly Mr. Rocquemoire was compliant?

20 A. At that point, yes.

21 Q. And the whole time he was there?

22 A. Well, he -- no, he never gave me any problem.

23 Q. But he's actually compliant. He's in
24 handcuffs.

25 A. Yes, sir.

1 Q. And he's not giving anybody a hard time,
2 particularly law enforcement?

3 A. No.

4 Q. So he's doing everything you ask him to do?

5 A. I would say so.

6 Q. And then the taser comes out. So who would
7 the taser be for if everybody's compliant?

8 A. It might have been a standard thing as they
9 were coming on the scene of a shooting. She might
10 have had it out from the time she got there. I can't
11 speak for Deputy Church.

12 Q. Now, this fellow that's walking over to the
13 injured party is his friend. Is that correct?

14 A. I could assume so, yes.

15 Q. And who is following him over there?

16 A. I don't see anybody following him at this
17 point.

18 Q. Well, let's watch. And what does she have in
19 her hand?

20 A. I can't tell. If you make it larger, I might
21 be able to see it better.

22 Q. And who is that? Another officer that comes
23 over to intervene?

24 A. That could either be myself or Deputy Moniz.
25 I'm not sure.

1 Q. And what would the purpose of those two
2 officers be, approaching the compliant friends of the
3 injured party?

4 A. Again, I could see where they might have
5 wanted to come over. That is their friend that's
6 just been shot, and we're just telling them to stand
7 back out of the crime scene. That's not an uncommon
8 thing.

9 Well, you know, I mean, there's no audio. So
10 I guess, I mean, he might have just been coming up,
11 concerned for his friend. I don't know.

12 Q. Now, speaking of audio, there is no audio of
13 this?

14 A. No, sir, not that I'm aware of.

15 Q. And this is the audio that the police
16 generally use when they arrive at, say, like a DUI?

17 A. Yeah.

18 Q. And if somebody is being questioned, of
19 course, there's another video?

20 A. If it's turned on, yes.

21 Q. But there's no audio of this one?

22 A. I don't know.

23 Q. But the next morning when they're going around
24 taking pictures of the neighborhood, the audio was
25 on?

1 A. I'm not aware from...

2 Q. You weren't present then?

3 A. That might not be my vehicle in the morning.

4 I'm not sure.

5 Q. Now, do we ever see a car leave in this video?

6 A. I'm not aware of it.

7 Q. I direct your eyes to the right-hand side of
8 the video, and I ask you to the look for parking
9 lights, and then I ask you to look for turn signal
10 lights.

11 MR. SAVAGE: Passed it. Back up.

12 THE WITNESS: I can see lights over on...

13 BY MR. SAVAGE:

14 Q. On the right-hand side of the road, which is
15 the right-hand side of the road where the party was.
16 Is that correct?

17 A. Yes, sir.

18 Q. Right down the street, in very close
19 proximity, they drive off, they turn their signal on,
20 and they take a right-hand turn because that's a dead
21 end there. Correct?

22 A. Yeah, right where that was.

23 Q. Now, thank you, sir. If you would return.

24 A. (The witness returns to the witness stand.)

25 Q. Were you aware that one of the 911 calls

1 reported to the 911 operator that a car was leaving
2 the scene?

3 A. I don't recall that.

4 MR. DURANT: I have a matter of law,
5 Your Honor.

6 THE COURT: A matter of law?

7 MR. DURANT: Yes, sir.

8 THE COURT: Do we need to send the jury
9 out?

10 MR. DURANT: May we approach side bar
11 first?

12 MR. SAVAGE: Judge, I'll withdraw that.
13 We can come back later when we have a break and we
14 can argue it out. I'll go on to another matter.

15 THE COURT: All right. Go ahead.

16 BY MR. SAVAGE:

17 Q. I'm not going to discuss the 911 calls now.

18 A. Okay.

19 Q. But what I'd like to discuss is what you may
20 have overheard on the radio that night. Okay?

21 A. Pretty much.

22 Q. Was there a call for backup that night for
23 crowd control purposes?

24 A. We did call for more units.

25 Q. And was there a call out to the department,

1 police department, for North Charleston police
2 department to respond?

3 A. It's a possibility. I think several units
4 came.

5 Q. Was there a call for the Dorchester County
6 sheriff's department to respond?

7 A. Again, it's possible.

8 Q. And was all that done after Mr. Rocquemore was
9 in the back of the patrol car?

10 A. I can't recall.

11 Q. But that was -- and if everybody's compliant,
12 that there are calls for backup from the multiple
13 agencies?

14 A. As I said, I don't know when the backup was
15 called. I don't recall.

16 Q. Now, these compliant restrainer number one and
17 restrainer number two, did you take a statement from
18 them?

19 A. A written statement of any kind? No. I
20 barely even talked to them.

21 Q. They didn't volunteer to you what happened?

22 A. I didn't have much interaction with any of
23 them.

24 Q. Did you get close to them?

25 A. Just walking around the scene.

1 Q. And was there an odor of alcohol beverages
2 about when you spoke to them?

3 A. I don't really recall.

4 Q. Were they ever restrained from going back to
5 the vehicle in which they traveled in to get to the
6 scene of the party?

7 A. I don't remember anybody being restrained to
8 keep away from anything.

9 Q. Mr. Rocquemore?

10 A. And I thought we were talking about the
11 witnesses.

12 Q. But the three gentlemen, restrainer one, two,
13 and the third fellow, they were not kept from going
14 wherever they wanted to go?

15 A. Not initially, no.

16 Q. So what they did, what they spoke about, and
17 what they hid, you don't know anything about?

18 A. As I said, I didn't have much interaction with
19 them.

20 Q. And nobody, to the best of your knowledge,
21 ever secured the vehicle in which they were
22 traveling?

23 A. I don't know which vehicle they were in.

24 Q. Did anybody ever ask them?

25 A. Again, I couldn't say what other people might

1 have asked them or might have done.

2 Q. The gentleman, the non-restrainer number three
3 who had, it looked like, some kind of uniform or
4 maybe a baseball uniform, football uniform, jersey,
5 or whatever...

6 A. Okay.

7 Q. --- do you know who I'm talking about?

8 A. Yes, sir.

9 Q. And he wasn't in the dog pile; he was standing
10 up?

11 A. Yes, sir.

12 Q. Did you get a chance to look at him?

13 A. Look at him well?

14 Q. Yes, sir.

15 A. I probably couldn't pick him out to this day,
16 no.

17 Q. Well, remembering what you were looking for
18 that night in an assault situation that resulted in a
19 shooting, did you ever get a chance to look at his
20 right hand?

21 A. I might have. Again, I don't really recall.

22 Q. And this is the fellow who was not in the dog
23 pile; this is the fellow who was standing up?

24 A. Yes, sir.

25 Q. You don't recall seeing his right hand bloody?

- 1 A. I don't remember paying much attention to it.
- 2 Q. When you responded that night, tell me the
3 code that you were on and what that code means.
- 4 A. It would be a code three. It's lights and
5 siren.
- 6 Q. Pardon me?
- 7 A. Code three. It's lights and siren.
- 8 Q. The jury doesn't understand that, so tell us
9 how -- code three is a police jargon...
- 10 A. Yes, sir.
- 11 Q. --- that means immediate high speed response?
- 12 A. Yes, sir.
- 13 Q. And when you respond in code -- I guess
14 there's a one and a two?
- 15 A. Yes, sir.
- 16 Q. One is a cat in a tree, and two is for
17 stealing a car?
- 18 A. That's a easy way to put it.
- 19 Q. I mean, property crimes, that kind of stuff?
- 20 A. Yes, sir.
- 21 Q. I mean, code three really means let's get
22 there in a hurry, we've got a real problem. Siren,
23 lights going, the whole bit?
- 24 A. Yes, sir.
- 25 Q. And did the three units that respond all

1 respond equally in terms of their lights?

2 A. Well, I mean, I couldn't say where everybody
3 was exactly coming from. They might not have had
4 their lights and siren on coming in. As you can see,
5 we did have them on when we were riding down the
6 road.

7 Q. But going down, in hearing distance, you did
8 on 78?

9 A. It's possible, but a lot of times we'll cut
10 our siren off before we get into the area, to try not
11 to alert them that we're getting ready to come in.

12 Q. But that wasn't done that night?

13 A. I couldn't say.

14 Q. Well, the people who were there that night
15 could testify. I mean, neighbors and whatnot could
16 see the police coming.

17 A. Okay.

18 Q. And they would say on the telephone that here
19 they come. Correct?

20 A. That's possible. I don't know.

21 Q. You just haven't had an opportunity to review
22 those transcripts?

23 A. No, sir.

24 MR. SAVAGE: Beg the Court's indulgence
25 one moment.

1 THE COURT: Mr. Savage, the jury has been
2 here a while. Is this a good break in your
3 questioning?

4 MR. SAVAGE: That's fine. Sure.

5 THE COURT: All right. Ladies and
6 gentlemen, I'll send you to the jury room for your
7 afternoon break. Do not discuss this case in any
8 way. Thank you very much.

9 (Whereupon, the jury goes to the jury
10 room at approximately 3:27 p.m.)

11 THE COURT: Sir, you may step down.
12 During the break, you understand you may not discuss
13 your testimony with anyone.

14 THE WITNESS: Yes, sir.

15 THE COURT: All right. Take a short
16 break. Thank you.

17 (A break is taken at approximately
18 3:27 p.m.)

19 (The trial reconvenes at approximately
20 3:43 p.m., the defendant being present with counsel,
21 and the following proceedings were had:)

22 THE COURT: Y'all ready to proceed?

23 MR. DURANT: Yes, sir, Your Honor.

24 THE COURT: Is the jury ready?
25 Approach.

1 (There was an off-the-record bench
2 conference. Said bench conference being concluded,
3 the following proceedings were had:)

4 (Whereupon, the jury returns to the
5 courtroom at approximately 3:45 p.m.)

6 DEPUTY KEVIN CHRISTOPHER FORD,
7 previously duly sworn, resumes the witness stand and
8 is examined and testifies further as follows:

9 THE BAILIFF: The jurors are present,
10 Your Honor.

11 THE COURT: Thank you. Please be seated.

12 All right, ladies and gentlemen. We're
13 ready to proceed.

14 MR. SAVAGE: Nothing further for this
15 witness, Your Honor. Thank you.

16 MR. DURANT: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. DURANT:

19 Q. Deputy Ford, did you or anyone else in your
20 presence call for backup because the witnesses were
21 being unruly?

22 A. Not that I'm aware of.

23 Q. To the best of your knowledge, was Deputy
24 Church watching the witnesses while you were tending
25 to the defendant and the victim?

1 A. Yes, she was.

2 Q. Now, we saw the in-car video, the way you came
3 into the neighborhood. Why did y'all come into the
4 neighborhood that way?

5 A. Why did we come in what way?

6 Q. That way down Berrywood.

7 A. Because that's the most direct route. We were
8 told it was on Berrywood.

9 Q. Okay. Is that the way into the neighborhood?

10 A. There's two entrances. That's the --
11 Berrywood is the first one, and that's where we were
12 told the scene was at.

13 Q. Okay. And but Berrywood is an entrance into
14 the neighborhood; is that correct?

15 A. Yes.

16 Q. Going back to state's exhibit number 50, if we
17 could kill the lights, and I'd like you to come down,
18 please, sir, if you would.

19 A. (The witness leaves the witness stand and
20 stands at the lectern.)

21 (State's Exhibit No. 50 begins playback.)

22 MR. SAVAGE: May I approach, Your Honor?

23 THE COURT: Yes.

24 (There was an off-the-record bench
25 conference in the presence of the jury but out of the

1 hearing of the jury.)

2 (Said bench conference being concluded,
3 the following proceedings were had:)

4 THE COURT: Ladies and gentlemen, I'll
5 send you to your jury room. Do not discuss the case
6 in any way. Thank you very much.

7 (Whereupon, the jury goes to the jury
8 room at approximately 3:48 p.m.)

9 THE COURT: Please be seated. I'll hear
10 your motion.

11 MR. SAVAGE: Judge, the defendant
12 respectfully asks for a mistrial based on the
13 intentional representation by the Solicitor's Office
14 at the conclusion that's now in the video that hadn't
15 been there earlier that says "homicide."

16 THE COURT REPORTER: Excuse me?

17 MR. SAVAGE: Homicide, H-O-M-I-C-I-D-E,
18 August 14th, 2005.

19 That was left up there by the solicitor
20 we believe intentionally. It was not up there on the
21 earlier video. They know better than to put a sign
22 like that up in front of the jury and allow the jury
23 to dwell on it while they are looking for whatever
24 they're looking for.

25 MR. DURANT: Your Honor, there was no

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1 evil intent on my part at all. It's the title that's
2 on the front of that. It's the title that's on the
3 front of the -- the thing that's on the computer is
4 basically the same in-car video we've been looking at
5 all the time, the whole time. This was ---

6 THE COURT: Wait a minute. Let me
7 understand, because he said this was never on the
8 video before. Was it added?

9 MR. DURANT: This was -- this is a copy
10 that's on my computer like the copy that's on his
11 computer.

12 MR. SAVAGE: Absolutely untrue,
13 Your Honor. Absolutely untrue.

14 MR. DURANT: And then I was just trying
15 to -- all I was trying to do, Your Honor, was run it
16 back to the front. If you start it, it goes straight
17 to that. And it wasn't -- there wasn't any intent on
18 my part to show them anything like that, and, you
19 know, it's nothing more than a title and a case
20 number.

21 THE COURT: Who put it there?

22 MR. DURANT: I believe that Detective
23 Owens must have put it there when he made the copy of
24 the -- made the copy of the tape.

25 THE COURT: All right.

1 MR. DURANT: I did not -- I mean, I know
2 it's just -- that was on there and it said -- as I
3 said, if you run it back to the very front, that's
4 just the title page, and then you start it and it
5 goes straight to the crime scene, the crime scene
6 video.

7 THE COURT: Well, Mr. Savage, the fact
8 that the police call it a homicide is not
9 dispositive.

10 MR. SAVAGE: Sure it is. Mr. Durant's
11 the one who's displaying it. It's not on our video.
12 If it had been on our video, we would have made an in
13 limine motion before the trial. We'll be glad to
14 give you a copy of our video, but it's not on there.

15 THE COURT: I accept your word for that.
16 But what's wrong with a curative instruction? Just
17 because that something is labeled a homicide doesn't
18 make it in fact so. And that's the very point we
19 have the jury here today. No different than when we
20 advise the jury that they have charged him with
21 murder.

22 MR. SAVAGE: It doesn't say murder. It
23 says homicide. They're trying to -- they're trying
24 to embellish what's going on here. I don't think
25 it's by mistake. You know, this is consistent with

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1 the prosecution of this case. I can't explain why.

2 THE COURT: Well, if I see that trend,
3 then I'll address it at the appropriate ---

4 MR. SAVAGE: That was not displayed,
5 though, earlier. Why would it be displayed now, and
6 why would it be left up there? If it was
7 inadvertent, it would have been up there for a few
8 seconds. I didn't raise an objection until it was
9 delayed up there and I would say for at least 15
10 seconds before I addressed the Court.

11 I think it's highly prejudicial. I don't
12 think an instruction from the Court is sufficient. I
13 believe that the Court can instruct the jury, but I
14 doubt that that instruction -- I would like to hear
15 the instruction before I really object to it.

16 I think I'd be willing to agree to allow
17 August 14th, 2005, self-defense, substituting
18 "homicide" for "self-defense" for 15 seconds, and I
19 would agree that that would be appropriate. Or put
20 "justified" in front of "homicide," that would be
21 okay, too.

22 THE COURT: I would just prefer to say --
23 theoretically and conceptually, I'm not sure I see a
24 difference between the state stands up and says that
25 in an indictment the defendant is charged with

1 murder, as opposed to a police officer taking the
2 stand and we proceeded on this homicide investigation
3 or murder investigation, etc.

4 What I'm suggesting to you is, although
5 the word "homicide" does sound a little weightier
6 than perhaps "murder," that there's no real
7 conceptual difference in my mind, and I just propose
8 to say:

9 The fact that the state labels a slide or
10 a matter as a homicide obviously is not dispositive
11 as to you, ladies and gentlemen. Just as I have told
12 you, when a defendant is charged by the state in an
13 indictment it is not evidence, the fact that the
14 state treats or suggests a matter is a homicide is
15 not evidence. As I indicated, the jury will decide
16 what happened in this case, and the state must
17 convince you of the guilt of the defendant beyond a
18 reasonable doubt.

19 I'm not sure why that doesn't cure
20 anything or, actually, it's not anything more than
21 what we continually tell them.

22 MR. SAVAGE: Here's my argument, Judge.
23 An indictment the jury knows is not evidence, because
24 the Court says that repeatedly with very well
25 respected instructions.

1 Mr. Durant said let's get evidence number
2 50, evidence number 50, and then he pops up
3 "homicide." He's addressed it as evidence, not the
4 Court. And for whatever reason that was done, I can
5 assure you we would have filed a motion in limine
6 ahead of time to keep it out.

7 That is not on the video that we were
8 given. Somebody put it on there since that was
9 provided to us.

10 When was that provided to us?

11 MS. SAVAGE: I don't know. I'll have to
12 look.

13 MR. SAVAGE: And I'm very suspect of
14 that.

15 THE COURT: Well, I mean, suspicion at
16 this point is not -- it hasn't gotten to the point
17 for me to take corrective action.

18 MR. SAVAGE: We've been told that the
19 sheriff's department put it on there, and we will
20 follow up.

21 THE COURT: If you want to follow up on
22 that outside the presence of the jury, you can.
23 Right now I can't see the conceptual difference nor
24 has it been established to me that this was some
25 intentional act. If you can demonstrate to me

1 otherwise, I'll reconsider it at the appropriate
2 point. However, my proposed charge does indeed
3 indicate the fact that they treat or suggest a matter
4 is a homicide is not evidence. It seems to me for
5 now that that should be acceptable.

6 MR. SAVAGE: Thank you, Your Honor.

7 THE COURT: Bring the jury -- yes.

8 MR. DURANT: I just want to say I
9 apologize to the Court, I apologize to Mr. Savage,
10 but I very much -- I very much take umbrage at his --
11 at his claim of prosecutorial misconduct. I've done
12 everything I can to bend over backwards to
13 accommodate him in this trial ---

14 THE COURT: Well, I mean ---

15 MR. DURANT --- from beginning to end.
16 And every time he stands up, he's pointing a finger
17 over at this end of the table and accusing us of
18 misconduct, and I just want to state for the record
19 that I do not appreciate it.

20 THE COURT: Well, as the Court indicated,
21 there is no intent on the part of the Court to make
22 that finding as of now. Obviously, the question in
23 and of itself arises only because the videos are
24 different, which you yourself would probably argue in
25 reverse if the situation were at hand. The mere fact

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1 the videos are -- we should not have a situation
2 where videos are ever different. That's all there is
3 to it.

4 MR. DURANT: Yes, sir.

5 THE COURT: Not that you did anything
6 wrong on your part, but that does beg the question
7 why do we have different videos. We shouldn't have
8 these problems. That's why everything should be
9 reviewed in advance.

10 I'll proceed with this instruction.

11 Bring the jury in.

12 Make sure you skip over that part.

13 MR. DURANT: I have, Your Honor.

14 (Whereupon, the jury returns to the
15 courtroom at approximately 4:00 p.m.)

16 DEPUTY KEVIN CHRISTOPHER FORD,
17 previously duly sworn, resumes the witness stand and
18 is examined and testifies further as follows:

19 THE BAILIFF: The jurors are present,
20 Your Honor.

21 THE COURT: Thank you. Please be seated.

22 All right, ladies and gentlemen, before
23 we proceed, there was flashed on the screen a little
24 reference to homicide, and I just want to instruct
25 you the fact that the state labels a slide or a

1 matter as a homicide obviously is not dispositive as
2 to you, ladies and gentlemen, and I'm sure you
3 understand that, because that's why we have you here.

4 Just as I have told you, when a defendant
5 is charged by the state in an indictment, it is an
6 allegation and it is not evidence, and the fact that
7 the state treats or suggests a matter is a homicide
8 is not evidence.

9 As I've indicated, the jury must decide
10 what happened, all the facts and circumstances of
11 this case, apply those to the law that I give you,
12 and you will make that determination or that
13 conclusion about the charge in this case. As I
14 indicated, the state must convince you of the guilt
15 of a defendant beyond a reasonable doubt.

16 All right. Ready to proceed?

17 MR. DURANT: Yes, Your Honor.

18 Mike, if you'll kill the lights, please.

19 REDIRECT EXAMINATION (CONTINUED)

20 BY MR. DURANT:

21 Q. Deputy Ford, could you please just take the
22 stand there, if you would, because I'm going to ask
23 you a couple of questions -- no. Right here at the
24 podium. I'm just going to ask you a couple of
25 questions as this plays.

1 A. (The witness leaves the witness stand and
2 stands at the lectern.)

3 (State's Exhibit No. 50 begins playback.)

4 BY MR. DURANT:

5 Q. Now, this is you? Is this you coming down
6 Berrywood from Ladson Road?

7 A. Yes, sir.

8 Q. And that's the entrance into the neighborhood;
9 is that correct?

10 A. Yes, sir, it is.

11 Q. Have you passed any vehicles on your way to
12 the scene?

13 A. As far as leaving the neighborhood?

14 Q. Yes.

15 A. No, sir.

16 Q. Okay. Let's take it from this point. This is
17 when you're getting at the scene, correct?

18 A. Yes, sir, it is.

19 Q. I believe that vehicle on the right was
20 identified as what?

21 A. I was told later on that was the defendant's
22 vehicle.

23 Q. Okay. Let's step through this. And is there
24 another vehicle right in front of that vehicle?

25 A. Some type of vehicle, yes, sir.

1 Q. Okay. And that would be in this area right
2 here?

3 A. That's correct.

4 Q. And then what is this in this area right
5 there?

6 A. It's another vehicle down the road. It
7 appears to be.

8 Q. Okay. Let's just move this up to normal
9 speed. About that vehicle on the right, it's off
10 your camera now, isn't it?

11 A. That's correct.

12 Q. That's Deputy Church to the right there?

13 A. Yes, it is.

14 Q. To the best of your knowledge, did she remain
15 over to the right with the other folks?

16 A. Yes.

17 MR. SAVAGE: Calls for speculation
18 Your Honor. Objection.

19 THE COURT: Rephrase that question,
20 Counsel.

21 BY MR. DURANT:

22 Q. Okay. Let's stop it there. There's lights
23 going on a car way up the road, aren't they?

24 A. It appears to be, yes, sir.

25 Q. Talking about these lights right there?

1 A. Yes, sir.

2 Q. That's not the car we saw on the screen,
3 obviously; is that correct?

4 A. No, it's not.

5 Q. You have one of the people right there; is
6 that correct?

7 A. Yes, sir.

8 Q. Does that car appear to drive off?

9 A. It appears so.

10 Q. Makes a right turn there?

11 A. Yes, sir.

12 Q. And the other two just came from the back of
13 your car?

14 A. That's correct.

15 Q. So they obviously weren't there when you were
16 driving that car, either, was it?

17 A. Doesn't appear to be.

18 Q. Let me show you one more thing. I'd like to
19 show you state's exhibit number 19.

20 MR. DURANT: Could you kill this until I
21 can get up mine? Just kill the screen until I can
22 get it up. Okay, could you show that one?

23 BY MR. DURANT:

24 Q. This is state's exhibit number 19. This
25 picture was obviously taken after that crime scene

1 video, correct?

2 A. Yes, sir.

3 Q. It shows a line of three cars; is that
4 correct?

5 A. Yes, it does.

6 Q. Whose car is that?

7 A. To the best of my knowledge, it'd be the
8 defendant's.

9 Q. There was a car right in front of it?

10 A. Yes, sir.

11 Q. And there is a third car right there, correct?

12 A. Yes, there is.

13 Q. And that was the car that we just saw in your
14 video that just went off screen right when you stop?

15 MR. SAVAGE: Objection to the form of
16 that question, Your Honor.

17 THE COURT: Rephrase that question.
18 Don't lead the witness.

19 BY MR. DURANT:

20 Q. Was that car visible on your video once you
21 stopped?

22 A. Yes, sir.

23 Q. This car here, once your car stopped, could
24 you still see it on your video?

25 A. After I stopped, no.

1 Q. And would you agree, sir, that whatever car
2 drove off was one way further down the road from that
3 vehicle?

4 A. Yes, sir.

5 MR. DURANT: Thank you. Would you please
6 answer any questions that Mr. Savage might have.

7 (The witness returns to the witness
8 stand.)

9 RE-CROSS-EXAMINATION

10 BY MR. SAVAGE:

11 Q. Lawyers always use words some people don't
12 understand. What does way far down the road mean?

13 A. It just appeared to be down the road.

14 Q. Twenty feet? Thirty feet? From here to the
15 back of the courtroom?

16 A. Further than back of the courtroom.

17 Q. But the car that the young man who was shot,
18 is that in picture number 19?

19 A. I'm sorry?

20 Q. The vehicle in which the deceased arrived at
21 the party, is that in photograph number 19?

22 A. I don't know what vehicle he arrived in.

23 MR. SAVAGE: So if you wouldn't mind
24 putting that back up, 19?

25 MR. DURANT: It's off. I'll just put it

1 up.

2 MR. SAVAGE: We don't have to dim the
3 lights.

4 BY MR. SAVAGE:

5 Q. So as being the deputy who was first on the
6 scene that night, you don't even know what that
7 vehicle is that's right in the middle of the crime
8 scene?

9 A. No, sir, I don't know whose it is.

10 MR. SAVAGE: Thank you, sir.

11 MR. DURANT: Nothing further, Your Honor.

12 THE COURT: You may step down, sir.

13 MR. DURANT: I would ask that Deputy Ford
14 be excused.

15 MR. SAVAGE: Without objection.

16 THE COURT: You may be excused, sir.

17 THE WITNESS: Thank you.

18 (The witness is excused from the witness
19 stand and leaves the courtroom.)

20 MS. KNEESE-SHEALY: Your Honor, the state
21 would call Dexter Brown.

22 Your Honor, may counsel and I approach
23 the bench?

24 THE COURT: Yes, ma'am.

25 (There was an off-the-record bench

1 conference in the presence of the jury but out of the
2 hearing of the jury.)

3 (Said bench conference being concluded,
4 the following proceedings were had:)

5 (Mr. Brown enters the courtroom.)

6 THE CLERK: This way, sir.

7 DEXTER BROWN,
8 being first duly sworn by the clerk, is examined and
9 testifies as follows:

10 THE CLERK: Thank you. Be seated. If
11 you'll speak into this mike and please state your
12 full name and spell your last name.

13 THE WITNESS: Dexter Brown, B-R-O-W-N.

14 DIRECT EXAMINATION

15 BY MS. KNEESE-SHEALY:

16 Q. Dexter, if you would, please, tell the jury
17 how old are you.

18 A. I'm 36.

19 Q. Thirty-six?

20 A. Yes.

21 Q. And where do you currently live?

22 A. [REDACTED] in Ladson.

23 Q. And that's in Woodside Manor?

24 A. Yes.

25 Q. Okay. If you would, please, tell the jury

1 where you're currently employed.

2 A. A.L. Corporation (phonetic).

3 Q. And what type of business is that?

4 A. It's a warehouse.

5 Q. And how long have you been working there?

6 A. A little over a year.

7 Q. And in what capacity do you work there?

8 What's your job there?

9 A. I'm assistant manager.

10 Q. Okay. Prior to working there, where did you
11 work?

12 A. Henry J. Lee.

13 Q. And what type of business is Henry J. Lee?

14 A. It's a bed distributor.

15 Q. And how long did you work with that company?

16 A. For a year and a half.

17 Q. And what was your role at that company?

18 A. I was assistant supervisor, and then I moved
19 to shift supervisor.

20 Q. Okay. Did you have the occasion to work with
21 Chris Thomas while you were ---

22 A. Yes.

23 Q. --- working there? Now, Dexter, back in 1999,
24 were you convicted of a crime?

25 A. Yes.

1 Q. Would you tell the jury, please, what you were
2 convicted of?

3 A. Trafficking in cocaine.

4 Q. Okay. And that was in North Carolina?

5 A. Yes.

6 Q. Now, focusing your attention then back to the
7 events in question, I want to ask you how you know
8 certain people who were involved back in August of
9 2005, okay? Tell us about Demar Denson, how did you
10 know him?

11 A. We grew up together.

12 Q. Okay. And when you say you grew up together,
13 about how long had you known Demar?

14 A. Twenty-five years.

15 Q. Okay.

16 A. A little bit more than 25 years.

17 Q. And the house that you are currently living
18 in, is that the house that you grew up in?

19 A. Yes.

20 Q. Are your parents still alive?

21 A. No. They're deceased.

22 Q. Okay. Have you lived in that house since they
23 both died?

24 A. Yes.

25 Q. And, now, did you and Demar work together?

1 A. No, we didn't.

2 Q. Okay. Were you aware of where Demar was
3 working?

4 A. Yes.

5 Q. And what was he doing?

6 A. Longshoreman.

7 Q. Longshoreman?

8 A. Yeah.

9 Q. Okay. Was there a time period from when y'all
10 were kids in school -- and did y'all go to school
11 together?

12 A. Yes.

13 Q. Where did you go to school?

14 A. R.B. Stall High.

15 Q. And after high school, was there a time period
16 when Demar actually lived elsewhere?

17 A. Well, yes.

18 Q. And that was more recently?

19 A. Yes.

20 Q. Okay. Where was he living?

21 A. Whenever he was -- he was going to school, he
22 was staying in Orangeburg.

23 Q. Okay.

24 A. Yeah.

25 Q. He was in college there?

1 A. College, yeah.

2 Q. So as it relates to Demar, could you describe
3 for the jury what type of relationship you had with
4 him once y'all got out of high school? Did y'all
5 still pal around together?

6 A. Yeah. We'd see each other from time to time
7 when he -- whenever he was around, you know.

8 Q. Okay. And his father actually still lives
9 over in Woodside Manor; is that correct?

10 A. Yes.

11 Q. What about Ronald and Rodney Gibbs? Could you
12 tell the jury, please, how you know both of those
13 gentlemen?

14 A. Grew up with them.

15 Q. And when you say grew up with them, did you go
16 to school with one of them?

17 A. Yes. Me and Ronald.

18 Q. Okay. Is Rodney older or younger than y'all?

19 A. Older.

20 Q. And what about your relationship with Ronald
21 once y'all got out of high school? Did he still live
22 around the Charleston area?

23 A. No. He -- basically, he went in the service
24 and, you know, he would come home from time to time,
25 and, you know, we would get together every now and

1 then whenever we see each other.

2 Q. Okay. So is it fair to say then that you
3 didn't see him quite as frequently as you ---

4 A. Right.

5 Q. --- did when you were growing up? What about
6 Rodney Gibbs? Did you have a relationship with
7 him ---

8 A. Yes.

9 Q. --- since he's older than y'all?

10 A. Yes.

11 Q. And tell us about Rodney. Did he still live
12 in Charleston?

13 A. No. He was gone for a while. He was gone,
14 too.

15 Q. And where was he gone as far as you know?

16 A. Merchant seaman.

17 Q. And how frequently, if at all, would you run
18 into Rodney?

19 A. Every -- same as Ronald, about the same.

20 Q. About the same as Ronald?

21 A. Yeah. Ronald, yeah.

22 Q. Now, Troy Eason, tell the jury, please, where
23 Troy lives.

24 A. Troy lives -- he's about five blocks away from
25 me.

1 Q. In the same neighborhood?

2 A. In the same neighborhood.

3 Q. Unlike Ronald and Rodney, did Troy stay in
4 Charleston or did he leave, as well?

5 A. He stayed in Charleston.

6 Q. So amongst those guys, Demar and Troy and
7 Ronald and Rodney, who would you have most contact
8 with?

9 A. Troy.

10 Q. With Troy. Keith Brown, who was he to you?

11 A. That's my brother.

12 Q. And you've told us then that you and Chris
13 Thomas worked together?

14 A. Uh-huh.

15 Q. Do you recall how long y'all had worked
16 together before the events in question?

17 A. About a year, a year and a half. For about a
18 year and a couple months.

19 Q. David Rocquemore, do you see him in the
20 courtroom?

21 A. Yes.

22 Q. Could you point him out to the jury?

23 A. Sitting over there (pointing).

24 Q. With the black suit on?

25 A. Yes.

1 Q. Prior to August 13th, 2005, had you ever had
2 the occasion to meet David Rocquemore?

3 A. No.

4 Q. That was the first time you had seen him?

5 A. That was the first time.

6 Q. If you would, Dexter, tell us a little bit
7 about the party you had a week ahead of time. Did
8 Ronald and Rodney Gibbs go to that party?

9 A. Yes.

10 Q. Did Demar Denson go to that party?

11 A. Yes.

12 Q. Did Troy Eason?

13 A. Yes.

14 Q. And in addition to those guys, were there some
15 young ladies there?

16 A. Yes.

17 Q. And who was cooking for that party?

18 A. Demar.

19 Q. Was Chris Thomas there?

20 A. No.

21 Q. And was David Rocquemore?

22 A. No.

23 Q. Now, during that party, were there plans made
24 for the following weekend?

25 A. Yes.

1 Q. Could you tell the jury about that, please?

2 A. Well, you know, one of the young ladies, she
3 said she wanted to -- wanted to have a cookout the
4 next weekend. She --- they had so much fun, they
5 wanted to -- they said they were going to have a
6 cookout the next weekend and told us we was invited.

7 Q. Okay. And tell the jury, did you plan on
8 going to that party?

9 A. Yes.

10 Q. And did you invite Chris Thomas to come join
11 you at the party?

12 A. Yes.

13 Q. Okay. So focusing your attention now on
14 August 13th, describe if you would to the jury where
15 that party took place. Was it in Ladson or a
16 different area?

17 A. Summerville.

18 Q. And could you tell us a little bit about that
19 party? What was it like?

20 A. It was just a -- like a settled party, you
21 know, just a little music, food, drinks, you know.

22 Q. And Chris Thomas actually arrived at the
23 party?

24 A. Yes.

25 Q. Did he in fact bring David Rocquemoire with

1 him?

2 A. Yes.

3 Q. Okay. And tell us who else from the
4 neighborhood were -- were at the party.

5 A. It was Ronald, well, Rodney, Troy, me.

6 Q. And Demar, did he go?

7 A. Demar.

8 Q. Okay. Now, I think you described the party as
9 a settled party?

10 A. Yeah.

11 Q. Okay. Were there children at the party?

12 A. Yes, children.

13 Q. Were there older people at the party?

14 A. Yes. Well, around my age.

15 Q. Okay.

16 A. You know.

17 Q. And did anything eventful happen in that
18 party?

19 A. No.

20 Q. What happened as that party started winding
21 down? What did you then decide to do?

22 A. You know, everybody -- we had so much fun the
23 weekend before, so they was looking towards going
24 back to my house, but we wound up going to Troy's
25 house afterward.

1 Q. Okay. So tell us, if you would, when you left
2 that party who went to Troy's house.

3 A. It was me, Rocquemore, Troy, and Demar.

4 Q. Okay. And what about Chris Thomas?

5 A. And Chris. Yes, he also was there.

6 Q. When you went to Troy's house, did any of the
7 young ladies go, as well?

8 A. Yes. The young ladies came.

9 Q. Okay. Could you describe for the jury how
10 long y'all stayed at Troy's house, if you remember?

11 A. Probably about 15, 20 minutes.

12 Q. And why was it that you stayed there such a
13 short period of time?

14 A. Because the music wasn't working over there at
15 his house.

16 Q. Okay. Where do y'all go once you leave Troy's
17 house?

18 A. To my house.

19 Q. Now, when you leave Troy's house, does Troy go
20 with you?

21 A. Yes.

22 Q. He goes with you?

23 A. With me when I leave. He goes with me, but --
24 well, I'm getting before myself, but he goes with me,
25 but he winds up leaving after I left with Rocquemore.

1 Q. Okay. So ---

2 A. After that.

3 Q. --- Troy stays at his house at some point?

4 A. Yeah, at some point.

5 Q. Okay.

6 A. Uh-huh.

7 Q. When you went down to your house then, could
8 you tell us who all came to your house once you left
9 Troy's?

10 A. It was me, Rocquemore, Troy, Demar, and Chris.

11 Q. And then did Rodney ---

12 A. Then Ronald and Rodney.

13 Q. --- and Ronald come?

14 A. Yeah, they came afterward.

15 Q. Okay.

16 A. A little -- a little bit afterward.

17 Q. Were there any women at this party?

18 A. Yes.

19 Q. Okay. And do you recall how many women came
20 over there?

21 A. I think about five.

22 Q. Okay. And what about your brother Keith?

23 A. Yeah.

24 Q. Where is he?

25 A. He was in the house.

1 Q. He was inside the house?

2 A. Uh-huh.

3 Q. Now, you had told us about the party earlier
4 in the evening. Had you had anything alcoholic to
5 drink when you were there?

6 A. Yes.

7 Q. At the lady's house?

8 A. Uh-huh.

9 Q. And did you have some alcoholic beverages at
10 your house?

11 A. Yes.

12 Q. At some point do you leave your house that
13 evening?

14 A. Yes. Thirty minutes, about 30 minutes after I
15 got there, me and Rocquemoire leave to go get some
16 beer.

17 Q. Okay. So just the two of you went?

18 A. Yes.

19 Q. And which vehicle did y'all take?

20 A. We took his.

21 Q. And do you remember what type of car he had?

22 A. I think it's a Suburban or a Tahoe.

23 Q. A big SUV?

24 A. A white SUV.

25 Q. Okay. When you go to get the beer, do y'all

1 come back to your house after that?

2 A. Yes.

3 Q. When you left to go get the beer, did you
4 leave all the other people at the party?

5 A. Yes.

6 Q. So were the girls at your house when you left?

7 A. Yes.

8 Q. Were Ronald and Rodney at your house when you
9 left?

10 A. Yes.

11 Q. Demar was at your house?

12 A. Yes.

13 Q. And Troy was at home?

14 A. Yes.

15 Q. Okay.

16 A. Troy had left, I think, after we left.

17 Q. When you get back to your house, could you
18 tell us if at some point you talked to Chris Thomas
19 and y'all have a conversation about what happened
20 while you were gone?

21 A. Yes. I was just wondering what -- what had --
22 when I got back, when I got back there, you know, I
23 seen the girls leaving, so I didn't understand why
24 they was leaving.

25 Q. Okay. Well, tell the jury a little bit about

1 that for us. You drive back up and where are the
2 girls?

3 A. They're in -- they're right in the front of my
4 house on the street in their cars.

5 Q. And is it -- could you describe for the jury
6 what your mood was when you learned that the girls
7 were leaving?

8 A. I was like, why are y'all leaving, you know?

9 Q. Okay. And did you know where Rodney and
10 Ronald ---

11 A. They had ---

12 Q. --- and Demar were?

13 A. They had left.

14 Q. Tell the jury, please, what you did as a
15 result of learning that the girls were leaving and
16 the guys had gone. What'd you then do? Did you call
17 somebody?

18 A. Yes. I called Troy.

19 Q. Okay. And tell us, please, what you asked
20 Troy when you called him.

21 A. I said, why did -- why did them guys left my
22 house unattended like that?

23 Q. Could you describe for us what your mood was
24 like when you called Troy? Were you ---

25 A. I was ---

1 Q. --- angry at him?

2 A. Yes. I was angry.

3 Q. Okay.

4 A. Uh-huh.

5 Q. Were you disappointed?

6 A. Yeah. Disappointed.

7 Q. Did Troy indicate they would come over and
8 talk to you about it?

9 A. Yes.

10 Q. Okay. So you were expecting Troy to come
11 over?

12 A. Yes.

13 Q. Now, let me ask you about a practice, and you
14 tell me whether or not it's unusual. Do people cut
15 their lights off when it's dark outside as they're
16 approaching houses?

17 A. Yeah. We did it all the time in the
18 neighborhood.

19 Q. Okay. And could you explain to us why y'all
20 would do that?

21 A. Just as soon as we get up on it, there might
22 be a lot of people in the road. We might just cut
23 the light off and just pull up.

24 Q. Now, you've lived in Woodside Manor then now
25 for over 20 years?

1 A. Yes.

2 Q. Has that neighborhood changed over the course
3 of those 20 years?

4 A. Yeah.

5 Q. Okay.

6 A. You can say.

7 Q. There are some people who've been there that
8 long and then there's some new blood?

9 A. Yeah. Right.

10 Q. When Ronald drives up in this vehicle, where
11 are you and where is Chris and where is David?

12 A. We was -- we're right there in the middle of
13 the road.

14 Q. When you say the middle of the road, where is
15 that in relationship to your driveway?

16 A. Right in front of my -- maybe to the left of
17 my driveway.

18 Q. Okay. And the cars that were parked outside
19 prior to Ronald coming were David's and Chris's?

20 A. Uh-huh.

21 Q. When you see Ronald's vehicle driving up,
22 could you tell us whether or not there was anything
23 unusual about the way they drove up?

24 A. Just cut the lights off.

25 Q. Okay. And you've indicated to us that that in

1 fact is not unusual?

2 A. No, it's not.

3 Q. When they got out of the car, was there
4 anything strange about the way they got out of the
5 car?

6 A. No.

7 Q. Tell the jury what the next thing you see
8 happen between Rocquemore and Chris Thomas. And let
9 me interrupt you and ask you, what was Rocquemore and
10 Thomas's mood like that the girls had left?

11 A. Well, they was pretty angry the girls were
12 leaving, too.

13 Q. Okay. And when Ronald and Troy and Demar and
14 Rodney drive up then, could you tell the jury what
15 happens next once they get out of the car? What's
16 the next thing that you recall?

17 A. Once they get out of the car -- I know I was
18 talking to the young ladies, and for whatever reason,
19 once they got out of the car, all -- everybody was
20 just right there in the crowd. For whatever the
21 reason, the arguing and stuff came on, I don't know.

22 Q. Okay.

23 A. But...

24 Q. So were you aware of what started the
25 argument?

1 A. No.

2 Q. And when you say argument, do you mean words
3 or do you mean fight?

4 A. Just -- just words and pretty much like chest
5 up, like close to each other, you know, I don't know.

6 Q. Okay. And when you say everybody, do you mean
7 -- tell us who you mean.

8 A. I meant Rocquemore and Demar.

9 Q. Rocquemore and Demar?

10 A. Yeah.

11 Q. Okay. And you saw no fighting, though?

12 A. No, ma'am.

13 Q. At some point does Chris Thomas indicate he's
14 going to do something?

15 A. I know he yelled and he blurted -- blurted out
16 something, but I don't know exactly what he said, but
17 I know he walked off and walked off and walked to his
18 car.

19 Q. Okay. And while you don't remember what he
20 said, what was your concern when he went to the car?

21 A. That he may be going to get something.

22 Q. What do you mean something?

23 A. I meant like a gun or a bat or whatever.

24 Q. Okay.

25 A. You know.

1 Q. So prior to his walking to his car, where had
2 he been standing?

3 A. Right back behind his trunk.

4 Q. Okay. And do you see Ronald Gibbs approach
5 Chris Thomas at that point?

6 A. Yes.

7 Q. You don't recall what was said by Chris
8 Thomas?

9 A. No. I don't recall.

10 Q. Now, after that occurs, do you see where David
11 Rocquemore goes?

12 A. I mean, I see him go to his truck.

13 Q. Okay. And if you would, tell this jury how
14 did that affect you when you saw David going to his
15 truck.

16 A. I mean, it just -- it was really sort of -- I
17 mean, I just thought that he was going to get a gun
18 or something and, you know, I don't know, so I just
19 ran.

20 Q. Okay.

21 A. You know.

22 Q. Now, when you saw David Rocquemore approaching
23 his vehicle, was anybody running after him?

24 A. No.

25 Q. Was anybody trying to hurt him?

1 A. Uh-uh.

2 Q. What did you do as a result of what you were
3 concerned about? What did you do?

4 A. I just left.

5 Q. And when you say you left, where did you go?

6 A. I ran through the back of -- my backyard and
7 in to the house, to the back of my house.

8 Q. Prior -- I'm sorry.

9 A. To the back -- back of my house, and I ran
10 through the back door.

11 Q. Let me ask you this question. Why would you
12 go to the back of your house to go in instead of go
13 in the front door?

14 A. Because the bushes was right there on the --
15 where the -- there's some bushes right there. So if
16 any -- any gunshots was to, you know, happen or
17 whatever, I was just protecting myself by running
18 through the backyard.

19 Q. And that's why you didn't go in through the
20 front?

21 A. Right.

22 Q. Okay. Now, at some point when you're going
23 behind the bushes and in the back of the house, do
24 you hear anything?

25 A. Yeah. I hear gunshots.

1 Q. Okay. And do you recall how many you heard?

2 A. I heard about three.

3 Q. When you -- you entered your house actually?

4 A. Yeah.

5 Q. Go in it? And where do you go once you go
6 inside your house?

7 A. I go straight to the front door.

8 Q. Okay. Do you ever go out of your front door?

9 A. No -- well, I opened the door and went out,
10 and as soon as I got to the front door, they was like
11 yelling, saying, "Call 911, Demar got shot."

12 Q. Okay. Now, tell this jury if you would,
13 please, at the end of your driveway, across the
14 street, is there a ditch?

15 A. Yes.

16 Q. Okay. Tell the jury where you saw or who you
17 saw outside the front door when you opened it.

18 A. It was Rocquemore, Ronald, Rodney, Troy, and
19 Chris.

20 Q. Okay. Could you see Demar?

21 A. Yes.

22 Q. Okay. And where was Demar?

23 A. Laying out in the ditch.

24 Q. Okay. Where was Ronald and Chris Thomas?

25 A. Ronald was standing up, and Chris was standing

1 up, and then Rodney -- Rodney and Troy had him
2 restrained on the ground.

3 Q. They had Rocquemore on the ground?

4 A. Rocquemore on the ground.

5 Q. Okay. And what were you being yelled at to
6 do?

7 A. Call 911.

8 MS. KNEESE-SHEALY: I beg the Court's
9 indulgence just a moment.

10 (Ms. Kneese-Shealy and Mr. Durant
11 confer.)

12 BY MS. KNEESE-SHEALY:

13 Q. Dexter, the next day -- well, I guess you were
14 still around when it became light outside; is that
15 correct?

16 A. Right.

17 Q. Were there any skid marks in the road?

18 A. No. Not that I know of.

19 MS. KNEESE-SHEALY: Okay. Well, let me
20 -- beg the Court's indulgence just a moment.

21 THE COURT: Yes, ma'am.

22 (Mr. Savage and Ms. Kneese-Shealy review
23 photos.)

24 MS. KNEESE-SHEALY: Your Honor, may I
25 approach the witness?

1 Can I get these marked for I.D.

2 (State's Exhibit No. 51, photo - skid
3 marks, is marked for identification.)

4 (State's Exhibit No. 52, photo - skid
5 marks, is marked for identification.)

6 BY MS. KNEESE-SHEALY:

7 Q. Mr. Brown, I'm going to show you what's been
8 marked for identification purposes only, 51 and 52,
9 and just ask you can you identify these shots, these
10 photographs.

11 A. Those -- those marks had been there.

12 Q. Okay.

13 A. Yeah.

14 Q. Well, let's do it this way if you don't mind,
15 Mr. Brown.

16 A. All right.

17 Q. First of all, are you familiar with those
18 areas?

19 A. Yes, I'm familiar with it.

20 MS. KNEESE-SHEALY: Your Honor, we would
21 offer these into evidence.

22 THE COURT: Any objection?

23 MR. SAVAGE: No, sir.

24 THE COURT: 51 and 52?

25 MS. KNEESE-SHEALY: Yes.

1 THE COURT: In evidence without
2 objection.

3 (State's Exhibits No. 51 and 52,
4 previously marked for identification, are received in
5 evidence.)

6 BY MS. KNEESE-SHEALY:

7 Q. Okay. And tell the jury, if you would, what
8 those photographs depict. What are those pictures
9 of?

10 A. Some skid marks.

11 Q. Okay. And where are those skid marks in
12 relationship to your house?

13 A. It's back like behind my house. I mean,
14 before you get to my house, coming down
15 Berrywood.

16 Q. Okay.

17 A. Yeah.

18 Q. And were those skid marks present before the
19 incident in question?

20 A. Yes, I think they were.

21 MS. KNEESE-SHEALY: Beg the Court's
22 indulgence just a moment.

23 I have no further questions. Please
24 answer any that the defense might have.

25 MR. SAVAGE: May it please the Court.

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CROSS-EXAMINATION

BY MR. SAVAGE:

Q. Good afternoon, sir. Dexter Brown, correct?

A. Yes.

Q. I'm Andy Savage, and I represent Mr. Rocquemore. I've never seen you, I don't think; is that right?

A. No, you haven't.

Q. Now, the prosecutor -- the prosecutor, do you know the prosecutors?

A. Yes.

Q. And who are they?

A. Not really by name.

Q. All right. But these folks right here?

A. Yes.

Q. Have you met with them?

A. Yes, I met with them.

Q. And in meeting with them, did you discuss what you were going to tell the jurors today?

A. Yes.

Q. And did you tell them the same statement that you just told the jury?

A. Yes.

Q. And on how many occasions have you met with them?

1 A. Two times.

2 Q. And did you, like, go over your testimony?
3 Did you change your testimony at all when you met
4 with them?

5 A. No.

6 Q. No? Did you add any more to the testimony
7 when you met with them?

8 A. No.

9 Q. Do you mean the testimony that you gave on
10 August 14th, 2005, you never suggested that there was
11 more to it until you arrived at your testimony today?

12 A. No.

13 Q. Now, you did give a statement to the police
14 that night?

15 A. Yes.

16 Q. That consists of about 35, 40 words?

17 MR. SAVAGE: May I approach the witness,
18 Your Honor?

19 THE COURT: Yes, sir.

20 BY MR. SAVAGE:

21 Q. May I approach?

22 A. Yes.

23 Q. Are you familiar with this?

24 A. (The witness reviews document.) Yes, I'm
25 familiar with it.

1 Q. Now, is that the statement you gave on August
2 14th to the police about your knowledge of the events
3 that transpired early that morning?

4 A. Yes.

5 Q. And you were going to be truthful with them at
6 that time?

7 A. Yes.

8 Q. And accurate with them?

9 A. I was a little intoxicated, but yes.

10 Q. Oh, oh, oh, you were a little intoxicated. So
11 at the time you gave the statement, you didn't know
12 what was going on, but then when you met with the
13 prosecutor -- you weren't intoxicated when you met
14 with the prosecutor, were you?

15 A. No. I wasn't intoxicated then.

16 Q. Either time? So then when you met with the
17 prosecutor, you weren't drinking and you got the
18 story straight?

19 A. No, nothing like that.

20 Q. No?

21 A. I got the story straight. The same thing I
22 said there is the same thing I said now.

23 Q. Did you notice what your address was that
24 night?

25 A. (The witness further reviews document.) I

1 don't see no address.

2 Q. Don't see any address?

3 A. Uh-uh.

4 Q. You don't think the prosecutor might have
5 taken that off the copy he gave me, do you?

6 A. I don't know.

7 MR. SAVAGE: Do you have a complete copy
8 there I could look at?

9 (Ms. Shealy reviews documents.)

10 MR. SAVAGE: Is this the statement he
11 gave, or is that the one?

12 MS. KNEESE-SHEALY: Your Honor, I would
13 object. May we approach the bench?

14 (There was an off-the-record bench
15 conference in the presence of the jury but out of the
16 hearing of the jury.)

17 (Said bench conference being concluded,
18 the following proceedings were had:)

19 BY MR. SAVAGE:

20 Q. Mr. Brown, the statement that I showed you
21 that you said that you gave to the police that
22 morning...

23 MR. SAVAGE: Where is that, please? Can
24 I get this back from you?

25 BY MR. SAVAGE:

1 Q. Has this been changed in any way since you
2 gave it?

3 MS. KNEESE-SHEALY: Your Honor, I have
4 another objection.

5 THE COURT: Approach. If he wants to
6 show him his statement...

7 (There was an off-the-record bench
8 conference with the Court, Ms. Kneese-Shealy, and
9 Mr. Savage in the presence of the jury but out of the
10 hearing of the jury.)

11 MR. DURANT: May I approach, Your Honor?
12 Can I approach?

13 (Said bench conference continues with
14 the Court, Ms. Kneese-Shealy, Mr. Savage, and
15 Mr. Durant.)

16 (Said bench conference being concluded,
17 the following proceedings were had:)

18 BY MR. SAVAGE:

19 Q. Mr. Brown, I beg your indulgence. The
20 statement that I gave you, that I showed to you, are
21 you familiar with it?

22 A. Yes.

23 Q. And is there anything that has been changed or
24 taken out in any way of your statement?

25 A. No.

1 Q. Would you kindly look at the statement and
2 tell me the address?

3 A. There's no address on there.

4 Q. Was there an address on it when you gave it?

5 A. No.

6 Q. There wasn't?

7 A. Not that I remember.

8 Q. All right. Now, let's see the original,
9 please.

10 (Mr. Savage and Mr. Durant confer.)

11 BY MR. SAVAGE:

12 Q. Is this the original of the statement that you
13 gave?

14 A. (The witness reviews document.) Yeah, because
15 it has my handwriting on it.

16 Q. All right. And is that still there on the
17 statement that I showed you?

18 A. No, I don't see it on there.

19 Q. Thank you. Now, this is the statement that
20 you gave to the police the morning of August 14th
21 and, with all due respect, you said that you were
22 intoxicated at that time?

23 A. Right.

24 Q. And at that time, would it be fair to say that
25 you didn't have a clear recollection of what had

1 transpired immediately before that?

2 A. (There was no response.)

3 Q. Sir?

4 A. Yes.

5 (The trial is interrupted by cell phone.)

6 THE COURT: Someone take the phone,
7 please, Mr. Bailiff.

8 (There was off-the-record discussion
9 regarding the cell phone.)

10 THE COURT: Go ahead.

11 BY MR. SAVAGE:

12 Q. When the police interviewed you that night,
13 did you tell them all the information about what
14 happened earlier that night? Did you tell them that
15 you had been to two parties prior to that night?

16 A. Yes. I'd been to the one in Summerville.
17 Now, I'd just been to that one, in Summerville, one
18 party.

19 Q. What I'm going to do is to give you a copy of
20 your statement, then you can use that to refresh your
21 memory if you need to. Did you tell the police --
22 first of all, when you gave that statement you admit
23 you were intoxicated?

24 A. Yes.

25 Q. And the police knew you were intoxicated?

1 A. Oh, yeah.

2 Q. No question about the police knew you were
3 intoxicated?

4 A. Uh-huh.

5 Q. Breath reek?

6 A. Yes.

7 Q. All of you stumbling around and that, right?

8 A. Yes.

9 Q. And did you tell the law enforcement
10 authorities that night that you had been to a party
11 in Summerville?

12 A. Yes.

13 Q. Is it on the statement?

14 A. No, it's not on the statement.

15 Q. Did you tell the police that you had a party
16 at your house?

17 A. Yes.

18 Q. Did you tell them that there was any
19 disturbance at the party at your house between the
20 friends that you grew up with and one or two of the
21 women?

22 A. Yes.

23 Q. And is that in your statement?

24 A. No.

25 Q. Did you tell them or did you tell the jury

1 today that anybody took an umbrella between -- stuck
2 between their legs and started going after the women
3 in a sexually provocative way?

4 A. No.

5 Q. You didn't tell them?

6 A. No.

7 Q. Did you tell them Mr. Rocquemore wasn't
8 drinking that night?

9 A. No.

10 Q. He wasn't drinking?

11 A. I don't recall.

12 Q. You don't recall, but you don't recall that he
13 wasn't drinking or that -- did you see him with a
14 drink that night?

15 A. I don't recall. I wasn't paying attention.

16 Q. All right. Do you recall that he was very
17 quiet and composed and wasn't getting in anybody's
18 face or doing anything aggressive to anyone that
19 night?

20 A. Yes.

21 Q. When all this provocative throwing the drink
22 on people and what was going on in the party, the
23 dancing and the whooping and hollering, he wasn't
24 part of it, was he?

25 A. No.

1 Q. He wasn't engaged in any arguments with any of
2 the girls, he wasn't putting his hands on any of the
3 girls, he wasn't being aggressive to male or female
4 that night, was he?

5 A. No.

6 Q. Quiet guy. Barely said two words all night.
7 Correct?

8 A. Right.

9 Q. And he was the only sober one in the crowd, so
10 that when you wanted to go out and get more alcoholic
11 beverages for yourself and for your friends, he is
12 the one that drove?

13 A. Right.

14 Q. Designated driver, because he was sober. How
15 was he acting when you went and got the beer that
16 night? Was he quiet?

17 A. Yeah ---

18 Q. Was he peaceful?

19 A. --- quiet.

20 Q. Quiet guy?

21 A. Yeah.

22 Q. He wasn't agitated or aggravated to anybody?

23 A. No.

24 Q. Now, while you were at the store buying more
25 -- was it beer or booze, or what were you buying?

1 A. Beer.

2 Q. Was David aggravated or mad? Did he express
3 any ill will towards anyone?

4 A. No.

5 Q. When he got back to the scene, did his
6 attitude change? He stayed calm and peaceful the
7 whole time, didn't he?

8 A. Well, when we got -- when we got back, you
9 know, he was a little upset, all of us was a little
10 upset because the -- because the girls was leaving.

11 Q. But he didn't take any aggressive action
12 towards anybody. I mean, you've given statements.
13 You never said he did anything of any untowards
14 towards anyone else. He didn't shout at anybody. He
15 didn't cuss at anybody.

16 MS. KNEESE-SHEALY: Your Honor, I object
17 to the form.

18 MR. SAVAGE: This is cross-examination.

19 THE COURT: What's the nature of the
20 objection?

21 MS. KNEESE-SHEALY: The witness hasn't
22 answered a question. Mr. Savage is testifying, but
23 the witness hasn't responded.

24 THE COURT: Well, but I thought he was
25 trying to use it through inflection, but if the

1 objection is to ask a question, ask it in question
2 format.

3 MR. SAVAGE: I apologize.

4 BY MR. SAVAGE:

5 Q. (Reading): When I came back home and I had
6 some friends over, all of a sudden it was an
7 argument, and my friend got shot.

8 You didn't even say who was in the argument
9 until today. Isn't that correct?

10 A. Right.

11 Q. Or maybe when you met with the prosecutor.
12 But that night when the police wanted to know about
13 the argument, you didn't say quiet David Rocquemore
14 was involved in the argument. It just came out
15 today. Correct?

16 A. Correct.

17 Q. "What time did the argument start?" I don't
18 know. That's what you told them?

19 A. I know. I didn't.

20 Q. "Do you know who shot?" No.

21 A. No, because when...

22 Q. You didn't know?

23 A. I don't know.

24 Q. You were tight.

25 A. No, sir.

1 Q. "Who else was inside your residence prior to
2 the shooting?" Gibbs, Gibbs, Denson, Brown, and
3 Eason.

4 I mean, I ask you if you'll look at it. Was
5 Rocquemore there? Didn't even mention him. He was
6 so insignificant that night you didn't even mention
7 him being at your party. Correct?

8 A. He was at the party.

9 Q. I didn't ask you that. Yes, he was at the
10 party.

11 A. Yeah.

12 Q. But you didn't know it. It's not in your
13 statement. Correct?

14 A. Just because it ain't in my statement...

15 Q. Doesn't mean it's not true, we know that. But
16 it wasn't in your statement about a shooting that you
17 claim that you witnessed that Mr. Rocquemore was
18 involved in. The truth is you didn't witness
19 anything. The truth is you were tanked, and when you
20 got home you went in the house. And now, because
21 your three friends that you grew up with are somewhat
22 suspect of being in trouble, you're taking their
23 side, aren't you?

24 A. No. I'm not taking nobody's side.

25 Q. Any driveby shootings in your neighborhood?

1 A. There's been a few shootings around there.

2 Q. Driveby shootings, when cars roll up at night,
3 they turn their lights off and they gun ---

4 MS. KNEESE-SHEALY: Objection, Your
5 Honor.

6 BY MR. SAVAGE:

7 Q. --- somebody down?

8 A. Not that I know of.

9 THE COURT: What is the objection?

10 THE WITNESS: There have been shootings,
11 but I -- I don't know of any driveby.

12 THE COURT: Hold on.

13 Approach the bench.

14 (There was an off-the-record bench
15 conference in the presence of the jury but out of the
16 hearing of the jury.)

17 (Said bench conference being concluded,
18 the following proceedings were had:)

19 THE COURT: All right. Go ahead.

20 BY MR. SAVAGE:

21 Q. Mr. Brown, there may be some reasons that
22 people drive with their lights out other than being
23 courteous to the neighbors; isn't that correct?

24 A. Well, I know why we do it, just when it's ---

25 Q. That's not the question I asked you. I asked

1 you if there are reasons that people drive with their
2 lights off other than being courteous to the
3 neighbors.

4 A. Right, there's various reasons.

5 Q. Now, you have testified to this jury that you
6 saw somebody -- was that Thomas or somebody, Thomas,
7 Chris, Chris Thomas?

8 A. Right.

9 Q. --- go to their car?

10 A. Right.

11 Q. And you immediately thought that they were
12 going to get a gun?

13 A. Right.

14 Q. Is that usual in your neighborhood?

15 A. I -- I don't know.

16 Q. Well ---

17 A. I don't know ---

18 Q. What would have made you thought that?

19 A. I mean, if he going to his -- I don't know.

20 Q. And you saw Chris Thomas leaving, and you
21 never told the police that that's what he did --
22 excuse me -- David Rocquemore leaving, and you never
23 told the police that. Did you? Do you want to see
24 your statement again?

25 A. I didn't write it on the statement.

1 Q. Huh?

2 A. I didn't write it on the statement.

3 Q. You didn't tell them. The night you gave the
4 statement, you swore that it was true and correct to
5 the best of your knowledge. And you didn't say David
6 Rocquemore was going to his car. You didn't say you
7 saw Chris Thomas going to his car. You didn't say
8 that they were trying to leave and get out of there
9 or that David Rocquemore was going to his car to get
10 out of there because trouble had started. You didn't
11 say that David Rocquemore was beaten up that night.
12 Because you said you weren't there. Is that correct,
13 Mr. Brown?

14 A. What you mean by when you said I wasn't there?

15 Q. Well, you didn't tell the police that night
16 what happened leading up to the fight. You didn't
17 tell them about the parties, you didn't tell them
18 about the insults to the girls, you didn't tell them
19 that David Rocquemore was quiet and was not consuming
20 any alcohol that night, you didn't tell them that
21 David was calm and cool and collected when you got
22 back to the house that night, you didn't tell them
23 that David Rocquemore got aggravated about some girl
24 relationship that night, you didn't tell them that
25 Chris Thomas went to the trunk of his car that night,

1 you didn't tell them that David Rocquemore was
2 leaving that night, getting to his car. You didn't
3 tell them that ---

4 MS. KNEESE-SHEALY: Your Honor, I would
5 ask that the witness be asked a question, allowed the
6 opportunity to answer it, and then asked another
7 question.

8 MR. SAVAGE: This is a continuous
9 question, Your Honor.

10 THE COURT: I'll allow that because the
11 witness asked you to clarify. Go ahead.

12 BY MR. SAVAGE:

13 Q. All of these things that you've testified to
14 the jury today, you didn't tell the police when you
15 were interviewed. Now, did the police come back and
16 interview you again?

17 A. No.

18 Q. When you were interviewed by the prosecutor,
19 did you tell them all this?

20 A. Did I tell them that ---

21 Q. All the things that you testified to today?

22 A. Yes.

23 Q. Did you tell them that you left it out of your
24 statement? Did you write down a new statement? Did
25 you give them a statement truthfully -- let me get

1 the exact words -- true and correct to the best of
2 your knowledge?

3 A. (There was no response.)

4 Q. Sir?

5 A. Could you repeat that, please?

6 Q. Was that the complete statement you gave that
7 night, what you reviewed?

8 A. Yes, what I...

9 Q. Now, do you remember giving another statement
10 when the police came back and asked you further
11 questions about what you observed that night?

12 A. I didn't give no -- I didn't give no other
13 statement to another officer. Just that night.

14 Q. But did the police ever ask you questions
15 about what you observed that night? Either that
16 night or later in the day or another policeman? A
17 guy named Smith took the questions ---

18 A. Uh-huh.

19 Q. --- that you have in front of you, correct?

20 A. Correct.

21 Q. Did a detective by the name of Boyd ask you
22 questions later that night or the next morning?

23 A. I don't recall.

24 MR. SAVAGE: May I approach, Your Honor?

25 THE COURT: Yes, sir.

1 BY MR. SAVAGE:

2 Q. (Mr. Savage tenders document to the witness.)

3 A. (The witness reviews document.) Yes.

4 Q. A different detective, but you told the jury
5 that you weren't questioned a second time. Now we've
6 established you were questioned a second time by a
7 detective. Correct?

8 A. Right.

9 Q. And, Mr. Brown, not to be rude, but people
10 forget?

11 A. Right.

12 Q. Right? So I take it in good faith that you
13 didn't remember giving a second statement.

14 A. Right.

15 Q. In the second statement, if I may, it says did
16 you hear what David and Demar -- I don't like using
17 first names, because I don't think ---

18 A. Right.

19 Q. --- I should. But the fellows that were
20 arguing, they asked you about that because the police
21 were interested in that.

22 A. Uh-huh.

23 Q. And they asked you what they were arguing
24 about, and what did you tell the jury today?

25 A. I don't know.

- 1 Q. You didn't say it was over some girls? The
2 girls had gone out?
- 3 A. No, I didn't say it was over some girls.
- 4 Q. Oh, I thought -- I'll let the jury judge that,
5 but I thought you said that he was aggravated because
6 the girls were gone. That's not correct?
- 7 A. I said David Rocquemore was -- that he was --
8 well ---
- 9 Q. What did you say that night?
- 10 A. --- no.
- 11 Q. No. Didn't know?
- 12 A. Right.
- 13 Q. You did tell them that you knew David from
14 Chris?
- 15 A. Right.
- 16 Q. And you told them that Chris was your friend
17 from work?
- 18 A. Right.
- 19 Q. And you told them that Demar was the guy you
20 grew up with?
- 21 A. Right.
- 22 Q. And you told them who told you to call 911?
- 23 A. (There was no response.)
- 24 Q. Yes?
- 25 A. Yes.

1 Q. And you told them when you got there who was
2 standing in the driveway?

3 A. When the cops got there?

4 Q. No. When you were standing outside in the
5 driveway when Demar pulled back up, who was standing
6 there?

7 A. Chris, David, and Keith.

8 Q. And what was the argument about? They asked
9 you this a second time.

10 A. I don't know.

11 Q. So at least on two occasions that night they
12 asked you about what the argument was about, and you
13 said you didn't know on two separate occasions?

14 A. Uh-huh.

15 Q. And when they asked you did you go back
16 inside, what did you say?

17 A. Did I go back inside?

18 Q. Uh-huh. When did you go back inside?

19 A. When David -- when David went to the trunk.

20 Q. All right. You didn't say anything about --
21 about Mr. Thomas. Is it Thomas Chris or Chris
22 Thomas? You didn't say anything about him?

23 A. (The witness nods head up and down.)

24 Q. Correct?

25 A. Right.

1 Q. And in your testimony today you were -- you
2 said you were getting scared because you thought that
3 Chris Thomas was going to get a gun?

4 A. Right.

5 Q. That's pretty important?

6 A. Uh-huh. Right.

7 Q. You didn't tell the police that?

8 A. I didn't tell them.

9 Q. Did you ever see David with a gun?

10 A. No.

11 Q. No?

12 A. (The witness shakes head from side to side.)

13 Q. David didn't start an argument when they came
14 back, flashing a gun and saying he was going to shoot
15 the MF-er or anything like that.

16 A. No.

17 Q. Did he? And after, after Chris Thomas -- now
18 I'm confused. I'm going to ask you based on what you
19 said today, not what you said that night, but you got
20 scared because you thought Chris Thomas was going to
21 his car, you automatically got scared even though you
22 didn't know whether he was getting in to get the heck
23 out of there or what.

24 A. Uh-huh.

25 Q. And then you saw your friend who you grew up

1 with, the guy in the Army -- what's his name?

2 A. Ronald.

3 Q. Ronald. Run over before Chris Thomas could do
4 anything. And what do you call it, bull rush? Is
5 that the term you used?

6 A. I think.

7 Q. Tell the jury what bull rush means.

8 A. I don't know exactly what it means.

9 Q. Well, tell them what he did. Tell them what
10 Chris Thomas did.

11 A. I don't know, but -- well, Ronald just grabbed
12 him and held him. I don't know what kind of move,
13 bull rush, I don't know the name of it, but he just
14 held him.

15 Q. And where was David Rocquemore at that time?

16 A. Just still everybody was right there in the
17 crowd.

18 Q. He hadn't done anything when the fight was
19 going on between your friend -- what's his name?

20 A. Demar.

21 Q. No. The guy that bull rushed the guy, the
22 Army guy?

23 A. Ronald.

24 Q. Ronald and Chris Thomas were fighting. Isn't
25 that correct?

1 A. No, they weren't fighting.

2 Q. Well, he knocked the heck out of him, didn't
3 he?

4 A. No, he ---

5 Q. Knocked him down on the ground, kept him on
6 the ground?

7 A. He just grabbed him and held him.

8 Q. Oh, he never threw him on the ground?

9 A. I -- not that I remember.

10 Q. And that was all before, whatever you don't
11 remember was before David went to his car?

12 A. Right.

13 Q. And you can't tell this jury why David was
14 going to the car, because maybe you did or maybe you
15 didn't see him and maybe somebody was following him
16 and somebody was beating on his back when he's going
17 to his car, preventing him from leaving, whether he's
18 getting in his car to get the heck out of the
19 neighborhood, because he was the only sober one
20 there that night.

21 MS. KNEESE-SHEALY: Your Honor, again ---

22 BY MR. SAVAGE:

23 Q. Isn't that correct? Isn't that correct?

24 A. I don't know if he was sober or not.

25 Q. So now you don't know whether he was drinking?

1 A. No.

2 Q. Did you see him drink that night?

3 A. I wasn't paying attention.

4 Q. In fact, you weren't paying attention so much
5 you didn't even put him in the police report that he
6 was even at the party. Isn't that correct?

7 A. Sir, I didn't put it in the statement.

8 Q. Even though that he was the guy who was
9 getting arrested that night right in front of you,
10 you didn't even put his name in the statement. Isn't
11 that correct?

12 A. I didn't put it in the statement.

13 MR. SAVAGE: Thank you, sir.

14 MS. KNEESE-SHEALY: Please the Court.

15 THE COURT: Yes, ma'am.

16 REDIRECT EXAMINATION

17 BY MS. KNEESE-SHEALY:

18 Q. Mr. Brown, let me ask you a question.

19 Mr. Savage asked you if there were other reasons to
20 turn off lights, and you knew what y'all's practice
21 was. Was there anything about the way Ronald was
22 driving down the street that caused you to be alarmed
23 about anything?

24 A. No.

25 MS. KNEESE-SHEALY: And may I approach

1 the witness, Your Honor?

2 THE COURT: Yes, ma'am.

3 BY MS. KNEESE-SHEALY:

4 Q. Mr. Savage asked you about the statements you
5 gave that night. Now, tell the jury why your memory
6 about those statements is a little unclear.

7 A. I was intoxicated.

8 Q. Okay. And, in fact, you realize now that you
9 made two statements?

10 A. Right.

11 Q. Okay. Tell me whether you need to refresh
12 your memory about anything, but the first statement,
13 they asked you to write it?

14 A. Yes.

15 Q. And I'll let you take a look at that.

16 A. Uh-huh.

17 Q. Could you tell the jury how lengthy that
18 statement was when you wrote out what had happened?

19 A. How lengthy?

20 Q. Yes. The top part where you write out what
21 happened.

22 A. Short.

23 Q. Okay. Are you someone who writes very often?

24 A. No.

25 Q. Do you have to do that ---

1 A. No.

2 Q. --- for your work or anything?

3 A. No.

4 Q. After you wrote out -- and tell the jury what
5 you told the police that evening.

6 A. (Reading): When I came back home and I had
7 some friends over, all of a sudden -- all of a sudden
8 it was a argument and my friend Demar Denson got
9 shot. When I heard the shots, I went into my house
10 to avoid from getting shot.

11 Q. Okay. Now, may I have that back again,
12 please? And after you wrote that brief description,
13 did the officers ask you more questions about what
14 had happened? Did they ask ---

15 A. Yes.

16 Q. --- you more?

17 A. Yes.

18 Q. Okay. And, in fact, a second officer
19 approached you and asked some other questions. Is
20 that correct?

21 A. Yes.

22 Q. And showing you this statement, on that
23 occasion did you write it or did the officer write
24 it?

25 A. The officer.

1 Q. Okay. And he was following up with some
2 questions?

3 A. Uh-huh. Yes.

4 Q. Would you tell the jury, please, when he asked
5 you when did you start walking back inside, what did
6 you indicate to the officer? When he asked you when
7 did you walk back inside, what did you indicate to
8 the officer?

9 A. When David went to his truck.

10 Q. When David went to his truck. When they asked
11 you what car did David go to, could you tell the jury
12 what you told the officer?

13 A. A white Suburban.

14 Q. When the officer asked you who was involved in
15 the argument, would you please tell the jury what you
16 told the officer on August 14th?

17 A. Demar and David.

18 Q. Demar and David. So, in fact, when you did
19 give your statement that evening, you told the
20 officers that it was Demar and David Rocquemore who
21 were arguing?

22 A. Right.

23 Q. And you left and went inside once
24 Mr. Rocquemore went to his vehicle?

25 A. Yes.

1 MS. KNEESE-SHEALY: I have nothing
2 further. Thank you.

3 THE COURT: Anything else?

4 MR. SAVAGE: No, sir.

5 THE COURT: You may step down, sir.
6 Thank you.

7 (The witness leaves the witness stand.)

8 THE COURT: It's a good point to break,
9 ladies and gentlemen. If you'll please report back
10 tomorrow at 9:30, we'll proceed with the trial.

11 What I need you to do is flip -- do the
12 pads have their juror numbers on them?

13 THE CLERK: There's a tab on the front
14 they can write them on there.

15 THE COURT: There's a tab on the front,
16 and you can write your juror number on there, or
17 either you flip them up and write your name on the
18 first page. Make sure you give them to the bailiff
19 on the way out. They will secure those pads for you
20 overnight.

21 Also, when you report in tomorrow, I need
22 for you to go up one more floor to the fourth floor,
23 and you'll report to the side door like you did
24 today, the same kind of setup. They're just going to
25 move us to a bigger courtroom because it's a little

1 bit tight in here. So we're going to move to a
2 larger courtroom for the remainder of the trial.

3 All right. Again, remember my
4 instructions. Do not conduct any type of independent
5 investigation on your own. Do not expose yourself to
6 any media about this case. Do not talk to anyone
7 about this case or talk to yourselves about this case
8 or allow anyone to talk to you about this case. And
9 if anyone should violate those instructions, it's
10 incumbent upon each and every one of you to
11 immediately report that to me.

12 All right. I'll see you tomorrow. Have
13 a good night.

14 (Whereupon, the jury leaves the courtroom
15 at approximately 5:05 p.m.)

16 THE COURT: All right. Thank you. I
17 don't know if there's anything y'all want to go ahead
18 and do. The deputies and the bailiffs can assist in
19 opening the courtroom in 4-C, and then they'll be
20 secured overnight if you want to move anything now so
21 we'll be ready to go in the morning.

22 Y'all assist with that, please. Thank
23 you.

24 MR. DURANT: Thank you, Your Honor.

25 MS. KNEESE-SHEALY: Your Honor, in regard

1 to Mr. Brown, it's all right for him to return to
2 work? He's still under subpoena.

3 THE COURT: Are y'all excusing him?
4 You're excused.

5 Do you have any objection to him being
6 excused?

7 MR. SAVAGE: No, sir.

8 THE COURT: You may be excused, sir.
9 Thank you.

10 (The witness is excused.)

11 (Whereupon, at approximately 5:07 p.m.,
12 the trial is recessed to the following day, Thursday,
13 July 12, 2007, at 9:30 a.m.)

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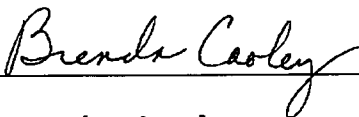
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CERTIFICATE OF THE COURT REPORTER

I, the undersigned, Brenda Cooley, Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true and accurate transcript of record of the proceedings had and the evidence introduced in the hearing of the captioned trial, Volume I of V, pages 3 through 256, inclusive, relative to appeal, in the Court of General Sessions for Charleston County, Charleston, South Carolina, on the 9th and 11th days of July 2007, there being no trial proceedings on the 10th day of July 2007.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 17, 2008



Brenda Cooley

Circuit Court Reporter

BATSON LIST

COUNTY: Charleston TRIAL DATE: July 9, 11, 12, 13, 17, 18,
and July 19, 2007

CASE NO.: 2005-GS-10-8601 JUDGE:
2005-GS-10-8602 The Hon. Daniel F. Pieper

STATE: State of South Carolina STATE'S ATTORNEYS:
vs. Bruce D. Durant, Esq.
Jennifer Kneese-Shealy, Esq.
Bryan Alfaro, Esq.

DEFENDANT: David Michael Rocquemore DEFENSE ATTORNEYS:
Andy Savage, Esq.
Lauren Williams, Esq.

COURT REPORTER:
Brenda Cooley

JUROR NO.	JUROR NAME	RACE	SEX	STRIKES		SEATED
				STATE	DEFENSE	
329	Donna McNeill	W	F			X
202	Ashley Parks Gallagher	W	F			X
320	John Gross	W	M			X
58	Kelly Dudley	W	F		X	
333	Laura Papagoda	W	F		X	
240	Belinda Shumpert	W	F			X
314	Cecelia Dunleavy	W	F		X	
130	Pierre Jennings	W	M		X	
309	Austin Davey	W	M			X
337	Sheryl Ransom	W	F		X	
330	David McQueeney	W	M			X
236	William Shannon	B	M			X
335	Cynthia Peebles	W	F			X
99	Ruth Green	B	F			X
109	Leslie Haywood	W	F		X	
61	Jessica Durham	W	F	X		
139	Frances Jordan	B	F	X		
200	Thomas Owens	W	M			X
259	Andrew Tash	W	M			X
311	Debbie Dechene	W	F	X		
349	Elizabeth Weeks				X	
305	Willie Brown	B	M	X		
87	Georgetta Gibbs	B	F		X	
20	Hunter Bowie	W	M			X

ALTERNATES:

161	Jarrett Lindon	W	M			X
301	Carol Baloglu	W	F			X

State of South Carolina) The Court of General Sessions
 County of Charleston) The Ninth Judicial Circuit
 State of South Carolina,)
 vs.) Case No. 05-GS-10-8601
) 05-GS-10-8602
 David Michael Rocquemore,)
)
 Defendant.)
 _____)

VOLUME II of V

TRANSCRIPT OF RECORD

July 12, 2007

Charleston, South Carolina

B E F O R E:

The Hon. Daniel F. Pieper, Judge, and a Jury

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

Bruce D. Durant, Esq.
 Jennifer Kneese-Shealy, Esq.
 Bryan Alfaro, Esq.
 Attorneys for the State

Andy Savage, Esq.
 Lauren Williams, Esq.
 Attorneys for the Defendants

I N D E X

VOLUME II OF V

THURSDAY, JULY 12, 2007

	PAGE
Exhibits	2.8-2.9
Proceedings	258
Defendant's Motion - Summary of Oral Statement	258
Defendant's Motion to Suppress - Pre-Miranda	258
Defendant's Motion - Exclude Testimony of Ronald Gibbs	261
DEFENDANT'S WITNESSES:	
<u>ROBERT MINTER (IN CAMERA)</u>	
Direct Examination by Mr. Savage	264
Cross-Examination by Mr. Durant	268
<u>NEIL SUTLER (IN CAMERA)</u>	
Direct Examination by Mr. Savage	272
Cross-Examination by Mr. Durant	273
<u>RONALD GIBBS, JR. (IN CAMERA)</u>	
Examination by Mr. Durant	277
Direct Examination by Mr. Savage	278
Court's Ruling	281

STATE'S WITNESSES:

RONALD GIBBS, JR.

Direct Examination by Mr. Durant	283
Cross-Examination by Mr. Savage	316

TROY EASON

Direct Examination by Ms. Kneese-Shealy	352
Cross-Examination by Mr. Savage	384
Redirect Examination by Ms. Kneese-Shealy	417
Re-Cross-Examination by Mr. Savage	422

RODNEY GIBBS

Direct Examination by Ms. Kneese-Shealy	425
Cross-Examination by Mr. Savage	450
Redirect Examination by Ms. Kneese-Shealy	475

Defendant's Objections and Court's Rulings	477
--	-----

INVESTIGATOR DAVID OWEN

Direct Examination by Mr. Durant	480
Cross-Examination by Mr. Savage	510
Redirect Examination by Mr. Durant	570
Re-Cross-Examination by Mr. Savage	581

Court's Instruction to the Jury	585
---------------------------------	-----

Defense Objections and Court's Rulings	586
--	-----

Certificate of the Court Reporter	590
-----------------------------------	-----

E X H I B I T S

STATE'S	DESCRIPTION	I.D.	REC'D
49	Gun	150	485
53	Photo - Ronald Gibbs, hands	314	315
54	Photo - aerial photo, crime scene	476	500
55	One live .45 caliber round recovered from gun chamber	486	487
56	Three live .45 caliber rounds recovered from gun magazine	486	487
57	.45 caliber shell casing	489	509
58	.45 caliber shell casing live round	490	510

DEFENDANT'S	DESCRIPTION	I.D.	REC'D
1	Photo - left hand, Ronald Gibbs	542	543
2	Photo - right hand, Ronald Gibbs	542	543
3	Photo - lower portion of body, Ronald Gibbs	542	543
4	Photo - back of Ronald Gibbs	542	543
5	Photo - full rear view, Ronald Gibbs	542	543
6	Photo - legs, front, Ronald Gibbs	542	543
7	Photo - full frontal, Ronald Gibbs	542	543
8	Photo - bloodstain on shirt, Ronald Gibbs	542	543
9	Photo - bloodstain on shirt, Ronald Gibbs	542	543

DEFENDANT'S	DESCRIPTION	I.D.	REC'D
10	Photo - overall photo, muddy wet clothes, Rodney Gibbs	543	543
11	Photo - front view, muddy wet clothes, Rodney Gibbs	543	543
12	Photo - front view, muddy wet clothes, Rodney Gibbs	543	543
13	Photo - Dodge Stratus, items on hood	563	564
14	Photo - Dodge Stratus, items on hood	563	564
15	Photo - Dodge Stratus, close-up, items on hood	563	564
16	Photo - palms of Ronald Gibbs	583	584
17	Photo - palms of Ronald Gibbs	584	584

* * *

(The exhibits were retained by the clerk of court.)

1 (On Thursday, July 12, 2007, the
2 defendant being present with counsel, the trial
3 reconvenes at approximately 9:30 a.m., and the
4 following proceedings were had:)

5 THE COURT: All the jurors are here. Are
6 y'all ready to proceed? Are y'all ready?

7 MR. DURANT: The state's ready, Your
8 Honor.

9 THE COURT: Defense ready?

10 MR. SAVAGE: The defense has one matter
11 to put up.

12 THE COURT: All right.

13 MR. SAVAGE: Your Honor, state in the
14 pretrial conference with your clerk advises that
15 there are two things; one is that there was an oral
16 statement of the defendant and, two, advises that he
17 may comment, a pre-Miranda statement, or his silence
18 pre-Miranda.

19 THE COURT: Yes.

20 MR. SAVAGE: We had asked the state for a
21 summary of any oral statement, and we have not
22 received that.

23 THE COURT: This is a statement that was
24 originally indicated they weren't planning on
25 introducing?

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1 MR. DURANT: That's correct, Your Honor.

2 THE COURT: Did you change your mind?

3 MR. DURANT: No, sir, Your Honor. The
4 statement has been provided to them and is in the
5 supplemental of Detective Stanley.

6 THE COURT: All right. Well, I
7 understand from pretrial they are not planning on
8 introducing that.

9 MR. SAVAGE: Well, certainly, if we put
10 our witness up and cross-examine him on that
11 statement, and that's what I wanted to know, the
12 substance. They are required whether they're going
13 to introduce it or not.

14 THE COURT: Oh, I agree with you.

15 MR. SAVAGE: Rule five, a summary of any
16 oral statement.

17 THE COURT: He just said that he's turned
18 it over to you.

19 MR. SAVAGE: Yes. I'm asking what that
20 is, so that it's on the record what the statement is.

21 THE COURT: Okay.

22 MR. DURANT: The statement I was
23 referring to is in Detective Stanley's supplemental
24 on page one of two, midway through the second
25 paragraph: "As I advised Rocquemore, the charge in

1 question is murder. He began to cry and said, He is
2 dead?" Question mark.

3 That's the only statement I'm aware of.
4 It's been provided to the defense for months.

5 THE COURT: Do you wish to have any type
6 of hearing on that?

7 MR. SAVAGE: No, sir. We just wanted to
8 clarify that was it.

9 Now, Your Honor, the prosecutor also
10 indicated that he may comment on any pre-Miranda
11 silence of the defendant. If he intends to do that,
12 at this time I'd make a motion in limine to prevent
13 that so that we can fully litigate that.

14 THE COURT: State?

15 MR. DURANT: Your Honor, I will let --
16 I'll let Ms. Shealy argue that motion.

17 THE COURT: All right.

18 MR. DURANT: She's prepared for it, but I
19 believe the case law is, not in our case in chief but
20 on cross-examination it's fair game.

21 MS. KNEESE-SHEALY: And I'm not sure if
22 Mr. Savage's motion only applies to whether or not we
23 anticipated as presenting that in our case in chief,
24 but if he were -- if the client were to testify, I
25 think we are certainly entitled to elicit his silence

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1 prior to his Miranda warnings being given.

2 THE COURT: Do you agree with that?

3 MR. SAVAGE: Well, I understand what
4 their position is. We'll address that if it becomes
5 a problem.

6 THE COURT: But do you agree with that?

7 MR. SAVAGE: No.

8 THE COURT: Okay. So you're saying that
9 may not be a problem?

10 MR. SAVAGE: Well, they're not going to
11 bring it up now, so there's no sense in burdening the
12 Court with that.

13 THE COURT: All right. You're not going
14 to bring it up in your case in chief?

15 MS. KNEESE-SHEALY: That's correct, Your
16 Honor.

17 THE COURT: You're right. There's no
18 sense in requiring us to rule.

19 Go ahead. Anything else?

20 MR. SAVAGE: It depends on who the next
21 witness is.

22 THE COURT: Who is your next witness?

23 MR. DURANT: Ronald Gibbs, Your Honor.

24 MR. SAVAGE: Judge, we have a motion to
25 exclude the testimony of Mr. Gibbs. I believe the

1 Court -- do you have a copy of this motion?

2 Judge, at the commencement of this trial,
3 the Court ruled to sequester witnesses. At that time
4 the state and the defense were both put on notice by
5 the Court that all witnesses would be sequestered
6 except for certain ones who were placed on the
7 record.

8 THE COURT: That's correct.

9 MR. SAVAGE: Yesterday, during the
10 examination of the prosecutor's witness, Brown, three
11 individuals were shuttling testimonial information to
12 three of the proposed state witnesses. That was
13 observed by a court officer as well as an
14 investigator from our office who is prepared to
15 present testimony. Specifically about testimony, not
16 just "how you doing?"

17 THE COURT: The three witnesses were
18 discussing the testimony?

19 MR. SAVAGE: The three non-witnesses were
20 discussing -- one or more was discussing testimony
21 with the three proposed witnesses of the state. That
22 was done immediately outside the courtroom yesterday
23 and observed by an investigator from our office and a
24 court officer who's present and prepared to testify.

25 THE COURT: Well, I'll be happy to hear

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1 from the state. Are you aware of any violation of
2 the sequestration order?

3 MR. DURANT: No, Your Honor, and I'm not
4 real sure who he's talking about is talking to the
5 witnesses.

6 THE COURT: Which witnesses are you
7 referring to?

8 MR. SAVAGE: Judge, we're prepared to
9 present sworn testimony.

10 MR. DURANT: Is he referring to the
11 witnesses were talking with each other, or is he
12 saying that somebody else that was a spectator in the
13 courtroom was talking with them?

14 THE COURT: Well, my problem is if he is
15 -- if you're not aware of it and he is just
16 requesting to present that testimony, I think the
17 record is going to have to be established on that
18 because I need to know the extent of the violation
19 before I can address any violation.

20 MR. DURANT: Well, I would agree,
21 Your Honor. I mean, this is the first I've heard of
22 it. I just don't know of anything.

23 THE COURT: All right. Call your
24 witness.

25 MR. SAVAGE: Robert Minter.

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ROBERT MINTER,

being first duly sworn by the clerk, is examined and testifies as follows:

THE CLERK: Thank you. Be seated.

Please state your full name, speak into the mike and state your full name and spell your last name.

THE WITNESS: Robert Lowe Minter,
M-I-N-T-E-R.

DIRECT EXAMINATION (IN CAMERA)

BY MR. SAVAGE:

Q. Mr. Minter, I'll move rapidly through the preliminaries and get to where we were yesterday.

You are a former law enforcement officer?

A. Yes, sir.

Q. How many years' experience?

A. Twenty-five.

Q. Rank and time of termination from?

A. Lieutenant, retired.

Q. Retired. And what have you been doing since then?

A. I've been a private -- licensed private investigator since 1995.

Q. Licensed by the State of South Carolina?

A. Yes, sir.

Q. Continuing legal education requirements like

1 any other P.I. in the state?

2 A. Yes, sir.

3 Q. You're in compliance with that, and you're
4 currently active as a licensed P.I.?

5 A. Yes, sir.

6 Q. Yesterday did you have an opportunity to be in
7 the courtroom on the third floor?

8 A. Yes, sir.

9 Q. On the trial of David Rocquemore?

10 A. Yes, sir.

11 Q. What is your role? What were you doing there,
12 what's your role in that case if any?

13 A. In this particular case, I served some
14 subpoenas, and I've come by the court to watch the
15 trial as it progressed.

16 Q. Did you take statements or anything like that
17 from any witnesses?

18 A. No.

19 Q. And do you have any familiarity with any of
20 the witnesses or parties involved?

21 A. No.

22 Q. Did you provide an affidavit to our office, a
23 sworn affidavit regarding your observations
24 yesterday?

25 A. Yes, I did.

1 Q. Is it true and correct?

2 A. Yes, sir.

3 Q. Would you provide the Court with a summary of
4 your affidavit?

5 And I'll present the affidavit to you if I
6 may, Your Honor.

7 A. The affidavit basically gives my full name,
8 date of birth, Social, about my particular interest
9 in this case and that I became -- I noticed some --
10 some witness -- some people that were in the
11 courtroom yesterday leaving, kept -- they kept
12 leaving. It became pretty obnoxious with me. I was
13 sitting by the front door, and they kept coming and
14 going.

15 Q. Don't characterize their affect. Would you
16 tell us what they said, please?

17 A. What they said?

18 Q. Summarize what you observed or heard or
19 witnessed.

20 A. I walked outside of the courtroom, and these
21 three women who were in the courtroom came out, and
22 they began talking out loud to -- about the testimony
23 that was taking place inside the courtroom.

24 They were standing right in the -- in close
25 proximity of the three state's witnesses, one of them

1 being a man in uniform and he was looking directly at
2 her.

3 She was talking to him. And there was another
4 lady with her. There was actually three women. And
5 there was another lady with her, and she -- she spoke
6 up, was making some statements and then ---

7 Q. But the characterization of the statement is
8 what essentially? What were they talking about?

9 A. They were talking about Attorney Savage's
10 cross-examination of the witnesses.

11 I heard the one lady say "Mr. Savage made him
12 look like a punk," and they -- they were just talking
13 general about what was going on in the courtroom.

14 Q. Were they talking about testimony or the
15 lights in the courtroom or the carpet on the
16 floor ---

17 A. Testimony.

18 Q. --- or what?

19 A. They were talking about the testimony in the
20 courtroom.

21 Q. Did you hear that?

22 A. Yes, sir.

23 Q. And did they respond, the men that were out
24 there respond to the ladies?

25 A. They didn't say anything to them.

1 Q. And was anyone else present while you were
2 there?

3 A. Yes, sir. There was a bailiff sitting outside
4 the door who was closer than I was.

5 Q. Do you know the bailiff's name?

6 A. Neil Sutler.

7 MR. SAVAGE: Thank you. Kindly answer
8 any questions the prosecutor might have.

9 CROSS-EXAMINATION (IN CAMERA)

10 BY MR. DURANT:

11 Q. Could you identify these ladies to the Court?

12 A. I tried to find out, see if they were in the
13 courtroom this morning, but they're not -- they're
14 not in here this morning.

15 Q. So these are three unidentified ladies?

16 A. Yes, sir.

17 Q. You have no idea who their identities are?

18 A. No, sir.

19 Q. In your capacity as a private investigator,
20 didn't you feel it was important to find out who the
21 identities of these people were?

22 A. Yes, sir.

23 Q. If you felt like they were violating the
24 Court's order?

25 A. I did ---

1 Q. Especially since you're an employee of
2 Mr. Savage; is that correct?

3 A. Yes, sir.

4 Q. And so you don't think that's important that
5 you identify these people that you think are
6 violating Judge Pieper's order?

7 A. Yes, sir. Yeah. I was going to first bring
8 it ---

9 Q. Is that the kind of investigator you are, sir?

10 A. I wanted to bring it -- bring it to
11 Mr. Savage's attention, and they -- the Court
12 excused, broke, and then everybody left.

13 Q. And you said these ladies were talking to each
14 other?

15 A. Yes. They were talking out loud.

16 Q. They were talking to each other aloud,
17 correct?

18 A. Yeah.

19 Q. There were three of them talking together, and
20 the only thing that you heard them say direct was
21 that Mr. Savage made him look like a punk?

22 A. Yes, sir.

23 Q. That's the only specific you have?

24 A. Yes, sir.

25 MR. DURANT: I have nothing further.

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MR. SAVAGE: Neil Sutler, Your Honor.

THE COURT: You may step down, sir.

(The witness is excused from the witness stand.)

THE COURT: Before we go too far with this, obviously I don't want to deprive you of any right to make the appropriate record or your right to have this substantively considered, but unless we know who these people are, it may be more appropriate to wait to see if they actually walk in and testify, and take it up. Like I said, I don't want to tie your hands, but unless you're going to be able to establish that right now, how am I going to exclude someone if I don't know who they are?

MR. SAVAGE: We can identify the proposed witnesses.

THE COURT: Okay. Good.

MR. SAVAGE: We are trying to identify the women who transferred statements of the testimony.

Our position is that the state, the state, not the witnesses, the state is under an obligation to ensure sequestration of their witnesses. It's the state's responsibility to place them in a position where they don't receive

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1 information from other witnesses.

2 And our position is that this
3 communication, which we will address further to
4 clarify, was substantive about testimony and it was
5 in direct violation of the Court's order.

6 THE COURT: All right. Like I said, I
7 don't want to tie anyone's hands. I just -- I was
8 trying to figure out the timing of this right before.
9 Go ahead.

10 MR. SAVAGE: I guess to do it properly
11 then, it would be to let them present their witness.
12 They can have a visual eyeball if that is the
13 witness.

14 THE COURT: That's what I was suggesting,
15 but I'm not trying to tie your hands. Do it whatever
16 way you think is best.

17 MR. SAVAGE: It just registered with me,
18 but maybe they should call their witness and then I
19 stop and say is that the one.

20 THE COURT: Well, I'm perfectly happy
21 considering it if you can name the witness that we're
22 talking about so that they can...

23 MR. DURANT: I'm confused.

24 THE COURT: What I'm trying to say is, if
25 we know that it's a certain witness, we may have to

1 call that witness that's involved in the case to know
2 exactly what was transmitted to him by the person in
3 the courtroom. That's what I'm trying to say. Are
4 we going to get to that point, or we have to wait
5 until we see the witness actually take the stand?

6 MR. SAVAGE: The defense would call the
7 bailiff, Your Honor.

8 THE COURT: All right. Let's go ahead
9 and put the bailiff on.

10 NEIL M. SUTLER,
11 being first duly sworn by the clerk, is examined and
12 testifies as follows:

13 THE CLERK: Be seated. If you'll please
14 state your full name and spell your last name.

15 THE WITNESS: Neil M. Sutler,
16 S-U-T-L-E-R.

17 DIRECT EXAMINATION (IN CAMERA)

18 BY MR. SAVAGE:

19 Q. Good morning, sir. Would you please place in the
20 record your position with the courthouse?

21 A. I'm a bailiff. I work under Mr. Brown.

22 Q. And for how many years have you been so
23 employed?

24 A. Ten years.

25 Q. This morning did you bring to my attention an

1 observation that you made during the testimony of
2 David Rocquemore (sic) yesterday?

3 A. Yesterday I was outside. The door was making
4 a noise, and I was kind of out there making sure that
5 the door wouldn't slam. And three young ladies came
6 out very upset, and they was going away from me, and
7 they was very upset and talking among themselves.
8 And one of them turned around and said, "Don't you
9 let Andy Savage ask you questions; you ask him."

10 Q. And who was she addressing that to?

11 A. They was talking among their selves.

12 Q. Were there three males standing near them?

13 A. Yes, sir. Three males was over to the far
14 left.

15 Q. Would you be able to describe them?

16 A. The three ladies?

17 Q. The three males.

18 A. Three men, one of them had military clothes
19 on, and the other -- there was two more. It looked
20 like they was maybe related or kin. They was -- they
21 looked alike, you know.

22 MR. SAVAGE: Thank you, sir.

23 CROSS-EXAMINATION (IN CAMERA)

24 BY MR. DURANT:

25 Q. Just so I'll have this straight. These ladies

1 came out, they were angry, correct?

2 A. Yes, sir.

3 Q. And they were talking amongst themselves?

4 A. Correct.

5 Q. And one of them made a comment to the other,
6 and what was the substance of that comment?

7 A. They was walking away from me, and they was
8 talking among their selves. And then one of them,
9 she turned around and kind of made kind of hands,
10 threw her hands like this, and told the other ones
11 and said, "Don't you let Andy Savage ask you
12 questions; you ask him."

13 Q. Okay. And was it your understanding that
14 these ladies were witnesses for the state?

15 A. No, sir, I didn't know. They just came out of
16 the courtroom.

17 Q. And they were talking to themselves, correct?

18 A. Yes, sir.

19 Q. They obviously were not talking to this group
20 of three people that you were talking about?

21 A. Not to my knowledge.

22 MR. DURANT: I have nothing else, Your
23 Honor. I can tell you this, the state ---

24 THE COURT: Hold on. Anything else from
25 this witness?

1 MR. SAVAGE: No, sir.

2 THE COURT: You may step down, sir.

3 (The witness is excused from the witness
4 stand and leaves the courtroom.)

5 THE COURT: Anything else?

6 MR. SAVAGE: Just prior to the call of
7 his testimony, I'd like to have a right to examine
8 the witness before they testify before the jury.

9 THE COURT: Well, is this -- I assume
10 this is the person that we were talking about the
11 other day about wearing the uniform, but I don't
12 know, so if he's going to be the next witness, we
13 might as well go ahead and see if he has any
14 information.

15 MR. DURANT: He is the next witness.

16 I would just state for the record he has
17 shown no violation of any sequestration order at this
18 point.

19 THE COURT: Well, in an abundance of
20 caution.

21 MR. DURANT: I mean, basically, all
22 that's -- the only testimony we've heard is the three
23 ladies were talking amongst themselves and not about
24 any substance of any testimony.

25 THE COURT: You know, I'm more interested

1 in the statement about telling him not to answer any
2 of Mr. Savage's questions.

3 MR. DURANT: Well, though, according to
4 Mr. Sutler, that was between themselves, and I can --
5 I can certainly represent to the Court that we don't
6 have any female witnesses in this case except for
7 chain of custody witnesses that are in Columbia and
8 weren't even in town yesterday.

9 THE COURT: Well, I mean, just for
10 establishing the record, it would be real easy to
11 say two questions, just that you weren't exposed to
12 any communication in this case, and put the issue to
13 rest.

14 MR. DURANT: I mean, I don't mind putting
15 him up.

16 THE COURT: Put him up.

17 MR. DURANT: Can we have Ronald Gibbs,
18 please.

19 (Mr. Ronald Gibbs, Jr., enters the
20 courtroom.)

21 RONALD GIBBS, JR.,
22 being first duly sworn by the clerk, is examined and
23 testifies as follows:

24 THE CLERK: Be seated. If you'll please
25 speak into the mike and state your full name and

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1 spell your last name.

2 THE WITNESS: Ronald Gibbs, Jr. My last
3 name is G-I-B-B-S.

4 THE COURT: Hold on a second. I'll need
5 -- Mr. Brown, I need Mr. Sutler back in here in case
6 there's an issue about who was standing out there.
7 Thank you.

8 Go ahead.

9 EXAMINATION (IN CAMERA)

10 BY MR. DURANT:

11 Q. You were present here yesterday. Correct?

12 A. That's correct, sir.

13 Q. And you were out in the hall with your brother
14 Rodney and Troy; is that correct?

15 A. That's correct.

16 Q. And you were wearing a uniform yesterday,
17 what's called BDU's?

18 A. ACU's, sir.

19 MR. SAVAGE: Judge, I'd like to have the
20 -- this is my motion. I would like to present it. I
21 think it's improper for Mr. Durant to be asking him
22 any questions. This is my motion, it's my burden,
23 and I have a right to question him.

24 THE COURT: Yeah, I agree with that.
25 I'll let him do that. Go ahead. Let me know -- it's

1 not his fault. I told him to call the witness.

2 MR. SAVAGE: Yes, sir.

3 THE COURT: This is only on the question
4 of what happened in the hallway and nothing else.

5 MR. SAVAGE: Yes, sir.

6 DIRECT EXAMINATION (IN CAMERA)

7 BY MR. SAVAGE:

8 Q. Sir, you're a subpoenaed witness in this case?

9 A. Yes, sir.

10 Q. And what were you -- were you aware of
11 your responsibilities in terms of observing the
12 testimony or discussing the testimony of other
13 witnesses?

14 A. Say it again, sir?

15 Q. Were you made aware of your obligation
16 regarding the testimony of other witnesses in this
17 case?

18 A. Yes, sir.

19 Q. And what was that?

20 A. I know after we came out we couldn't talk
21 about the case.

22 Q. What was your knowledge of other people in the
23 courtroom talking to you about the case?

24 A. Nobody, sir.

25 Q. And yesterday afternoon were you outside the

1 courtroom dressed in your BDU's?

2 A. ACU's, sir.

3 Q. ACU's. Were you in your ACU's yesterday?

4 A. That's correct, sir.

5 Q. And were the other two gentlemen with you
6 proposed witnesses in the state, proposed witnesses
7 in this case for the state?

8 A. That's correct.

9 Q. And what are their names?

10 A. Rodney Gibbs and Troy Eason.

11 Q. And as you were standing outside the
12 courtroom, did any ladies discuss anything with you?
13 Did any ladies approach you?

14 A. No.

15 Q. No ladies from the courtroom approached you?

16 A. That's correct.

17 Q. And you didn't hear any statements that they
18 made?

19 A. They was talking amongst their self.

20 Q. And what did they say?

21 A. They was talking amongst their self, sir.

22 Q. And you didn't hear it?

23 A. I wasn't paying attention to them.

24 Q. And they didn't suggest to you what to say?

25 A. No.

1 Q. Are you the same gentleman that was talking to
2 an investigator from our office, Mr. Randolph?

3 A. I briefly spoke to him outside Monday.

4 Q. And is that the same time that Mr. Durant told
5 you not to talk to him?

6 A. Mr. Durant never said I didn't have to talk
7 to him. He's told your investigator, he said inform
8 us of our rights, which he never did. He just
9 started asking us questions. He gave his card and
10 started asking us questions. And he said you should
11 inform those gentlemen of their rights, which he
12 never did.

13 MR. SAVAGE: All right. Thank you, sir.

14 THE COURT: Anything else?

15 MR. SAVAGE: No, sir.

16 THE COURT: Anything, Mr. Durant?

17 MR. DURANT: No, sir.

18 THE COURT: You may step down, sir.

19 (The witness leaves the witness stand and
20 leaves the courtroom.)

21 THE COURT: Anything else, Mr. Savage?

22 MR. SAVAGE: That's all we have.

23 THE COURT: All right. Any further
24 discussion based on that presentation?

25 MR. SAVAGE: No, sir.

1 THE COURT: All right. Based on that,
2 I'm not prepared to grant any motion to exclude the
3 witness. I don't think there's been any record
4 developed that the witness has been tainted in any
5 way or that testimony has been conveyed to the
6 witness. The motion is denied.

7 Are y'all ready to proceed?

8 MR. DURANT: Yes, sir, Your Honor.

9 THE COURT: Are you ready, Mr. Savage?

10 MR. SAVAGE: We're ready, Your Honor.

11 THE COURT: Bring the jury in, please.

12 (Whereupon, the jury enters the courtroom
13 at approximately 10:00 a.m.)

14 THE COURT: Thank you. Please be seated.
15 Good morning, ladies and gentlemen.

16 (Members of the jury reply good morning.)

17 THE COURT: Sorry for the delay. We were
18 taking care of a few matters. We're ready to proceed
19 at this time.

20 You want to swap seats.

21 (The foreperson and juror exchange seats
22 in the jury-box.)

23 (The bailiff tenders document to the
24 Court.)

25 THE COURT: All right. I didn't know

1 there was a note.

2 MR. DURANT: May I call the next witness,
3 Your Honor?

4 THE COURT: Pardon me?

5 MR. DURANT: May I call the next witness?

6 THE COURT: Hold on a second. I'm
7 reading a note from the jury.

8 I'll have to take this up at the
9 appropriate time. I don't know that it's going to be
10 a problem. Where is the juror?

11 A JUROR: (Raises hand.)

12 THE COURT: All right. I doubt that will
13 be a problem, but -- hopefully, it will not be a
14 problem.

15 All right. Call your witness.

16 MR. DURANT: Thank you, Your Honor. The
17 state would call Ronald Gibbs.

18 (Mr. Ronald Gibbs enters the courtroom.)

19 RONALD GIBBS, JR.,
20 being first duly sworn by the clerk, is examined and
21 testifies as follows:

22 THE CLERK: Be seated. If you'll state
23 your full name and spell your last name.

24 THE WITNESS: Ronald Gibbs, Jr.,
25 G-I-B-B-S.

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1 DIRECT EXAMINATION

2 BY MR. DURANT:

3 Q. Good morning, Mr. Gibbs. Could you please
4 tell this jury how old you are?

5 A. I am 37 years old.

6 Q. And where were you born and raised?

7 A. I was born in California. I was raised in
8 Charleston, South Carolina.

9 Q. And what part of Charleston, South Carolina?

10 A. Ladson.

11 Q. And specifically what area of Ladson?

12 A. Woodside Manor.

13 Q. Where are you employed?

14 A. United States Army.

15 Q. How long have you been in the United States
16 Army?

17 A. Fourteen years, sir.

18 Q. And what is your current duty? What are your
19 current duties with the U.S. Army?20 A. I'm with the special operations units out of
21 Iraq.

22 Q. And were you recently stationed in Iraq?

23 A. Yes. I just returned from Iraq.

24 Q. You're on leave right now?

25 A. Yes, sir.

- 1 Q. Do you have to return to Iraq?
- 2 A. Yes, sir.
- 3 Q. Are you married?
- 4 A. Yes, sir.
- 5 Q. Do you have children?
- 6 A. I have three.
- 7 Q. What are your children's ages?
- 8 A. 15, 13, and 10.
- 9 Q. And does your family live -- where does your
- 10 family live?
- 11 A. Fort Bragg. Well, Fort Bragg, sir.
- 12 Q. That's where you're -- they're in Fort Bragg?
- 13 That's where you're stationed, correct?
- 14 A. Yes, sir.
- 15 Q. In North Carolina?
- 16 A. Yes, sir.
- 17 Q. But you're in Iraq right now and just home
- 18 temporarily?
- 19 A. That's correct.
- 20 Q. How far did you go in school?
- 21 A. Two and a half years of college, and I'm still
- 22 continuing.
- 23 Q. Have you ever been arrested or convicted of a
- 24 crime?
- 25 A. No, sir.

1 Q. How do you know the victim in this case,
2 Demar Denson?

3 A. Well, Demar, he's basically a brother. We
4 grew up together since we lived in the neighborhood
5 since '78. And we grew up, went to college, he was
6 my roommate. And when I turned in to the Army, he
7 was still pursuing college. We've just been together
8 ever since.

9 Q. Okay. And, obviously, you didn't get to see
10 him as much when you -- you've been stationed
11 overseas, correct?

12 A. That's correct.

13 Q. Prior to Iraq, where were you stationed?

14 A. Korea.

15 Q. But do you have -- did you have the
16 opportunity to get together with Demar when you would
17 be in Charleston on leave?

18 A. Yes. When I come home on leave, the first
19 person usually to pick me up from the airport -- or
20 if I fly in straight to Charleston, he'll be the
21 first one to pick me up from the airport.

22 Q. Y'all went to the same schools together and
23 all of that?

24 A. Yes, sir.

25 Q. Do you know where Demar was working at the

1 time of his death?

2 A. Yes, sir. He was working for ILA,
3 longshoreman.

4 Q. And do you know how far Demar went in school?

5 A. Well, Demar graduated from Claflin University
6 in August 2005.

7 Q. And do you know when he graduated from Claflin
8 University in relation to his death in August of
9 2005?

10 A. Well, I want to say a month prior before he --
11 his death.

12 Q. What is your relationship with Troy Eason?

13 A. Same as Demar, brothers. We -- in fact, my
14 two closest brothers, we're always together.

15 Q. And y'all are all about the same age, you and
16 Troy and Demar?

17 A. Yes, sir.

18 Q. Now, who is Rodney Gibbs?

19 A. Rodney Gibbs is my oldest brother.

20 Q. And how much older? How old is Rodney?

21 A. Rodney's, I want to say, 43.

22 Q. So he is a good bit older than you and Demar?

23 A. Yes, he ---

24 Q. And Troy?

25 A. Yes, sir.

1 Q. What does Rodney do for a living?

2 A. Rodney is a merchant seaman.

3 Q. And as part of his job, is he out of town a
4 good bit as well?

5 A. Yes. He's all over the world.

6 Q. Do you know Dexter Brown?

7 A. Yes, sir.

8 Q. How do you know Dexter Brown?

9 A. We grew up together. He lives at the end of
10 my street.

11 Q. He lives in Woodside Manor?

12 A. Yes, sir.

13 Q. The same neighborhood you ---

14 A. Same neighborhood.

15 Q. Are you as close to Dexter as you are with
16 Troy and Demar?

17 A. No, sir.

18 Q. And why is that?

19 A. Kind of went our separate ways after high
20 school.

21 Q. Okay. Now, did you have the occasion to be in
22 the Charleston area in August of 2005?

23 A. That's correct, sir.

24 Q. And why were you here? Why were you in the
25 area?

1 A. I was here, I was on mid-tour leave. I was in
2 Iraq for -- I mean, excuse me, Korea and when
3 mid-tour leave came up and was trying -- I was trying
4 to get back for Demar's graduation, but it didn't
5 fall in time, so I came a month later.

6 Q. Okay. How long did your leave last?

7 A. Thirty days, sir.

8 Q. Now, moving on to the evening of August 13th
9 of 2005, early morning hours of the 14th of 2005, did
10 you have an occasion to be out with Troy and Demar
11 and your older brother?

12 A. Yes, sir.

13 Q. Where had y'all been that evening?

14 A. We went to a cookout in the Summerville area,
15 to over -- I don't recall the female's name, but...

16 Q. It was at some female's house?

17 A. Yes, sir.

18 Q. What kind of party was this?

19 A. It was more of a -- it was a cookout, but it
20 was family oriented. Her mother was there. They had
21 kids there, also.

22 Q. And you were there with who?

23 A. I was there with Rodney, Demar, and Troy.

24 Q. Okay. You were there with Demar and Troy and
25 Rodney?

1 A. Yes, sir.

2 Q. Was this gentleman there?

3 A. Yes, sir.

4 Q. And you subsequently learned his name is
5 Mr. Rocquemore?

6 A. That's correct.

7 Q. Was his friend Chris Thomas there?

8 A. Yes, sir.

9 Q. Prior to that party, had you ever seen either
10 one of those gentlemen before?

11 A. I'd never seen them before.

12 Q. Who were they at the party with?

13 A. They came with Dexter Brown.

14 Q. Now, how long were you at that party?

15 A. I'd say quite a while. I don't know a
16 specific time, but...

17 Q. Okay. And what was going on? Was there
18 drinking going on at the party?

19 A. Yes, sir.

20 Q. And were you drinking?

21 A. No, sir.

22 Q. And why were you not drinking?

23 A. I was the designated driver, sir.

24 Q. You drove to Summerville?

25 A. Yes, sir.

1 Q. Were there any problems between you and David
2 Rocquemore at that party?

3 A. No, sir.

4 Q. Were there any problems between Demar Denson
5 and Mr. Rocquemore at that party?

6 A. No, sir.

7 Q. Were there any problems between Rodney Gibbs
8 and David Rocquemore at that party?

9 A. No, sir.

10 Q. Was there any problem between anybody in the
11 group you were with and Mr. Rocquemore and/or his
12 friend Chris Thomas?

13 A. None at all.

14 Q. Now, after that party broke up, where -- who
15 did you leave with and where did you go?

16 A. I left with Rodney.

17 Q. Rodney, your brother?

18 A. Yes, my brother and Demar. We left. Dexter
19 -- after the party broke up, Dexter said he wanted to
20 have a after-party at his house, himself and -- we'll
21 go.

22 Q. Okay. And they left before you did?

23 A. Yes, I believe so.

24 Q. And who left -- and did y'all stay at the
25 party a little bit longer?

1 A. Yes.

2 Q. At the party in Summerville? And who did you
3 leave with?

4 A. Rodney and Demar.

5 Q. And Troy had left with Dexter?

6 A. Yes, sir.

7 Q. Now, y'all went to Dexter's house; is that
8 correct?

9 A. That's correct, sir.

10 Q. And where does Dexter live?

11 A. He lives on the corner of Mixedwood and
12 Berrywood, sir.

13 Q. Do you happen to know the address?

14 A. No, sir, I don't.

15 Q. If you don't, that's fine.

16 MR. DURANT: Just a moment, Mike. Not
17 yet. Put it up.

18 BY MR. DURANT:

19 Q. I'd like you to take a look at state's exhibit
20 number one if you would, please, sir.

21 MR. DURANT: May I approach the witness,
22 Your Honor?

23 BY MR. DURANT:

24 Q. This is a laser pointer, Ronald. Just point
25 there. Hopefully -- I'm not sure if it will show up

1 on there or not. Kind of...

2 A. All right, sir.

3 Q. If you would, just point out to the jury which
4 of those houses is Dexter's house.

5 A. That house right there, sir.

6 Q. Okay. Now, what happened when y'all -- what
7 happened when y'all got to Dexter's house?

8 A. When we got to Dex's house, myself and Demar,
9 we went inside the house, back in the -- his den
10 area. That's where most of the people were gathered
11 in the house there.

12 Q. Where was Rodney?

13 A. He was still outside.

14 Q. Okay. And who all was there at that time if
15 you remember?

16 A. There were some females, and there was Chris.

17 Q. Chris Thomas?

18 A. Yeah.

19 Q. Do you remember whether or not Troy was over
20 there at the time?

21 A. No. Troy, he -- he was home.

22 Q. Okay. He had left and gone home?

23 A. Yes, sir.

24 Q. By the time you got there? Now, what was
25 going -- what was going on at Dexter's house? Was

1 there a party there, too?

2 A. It was -- it was a party, it was more a
3 semi-party. Everybody is just talking amongst each
4 other and casual drinking.

5 Q. Okay. Did you drink at that party?

6 A. No, sir.

7 Q. Now, while you were there, did Dexter go
8 anywhere?

9 A. Yes, sir.

10 Q. And where did Dexter go and who did he go
11 with?

12 A. Dexter Brown and David Rocquemore, they left
13 in a vehicle.

14 Q. Okay. And at the point up to this point that
15 he left, do you know where they were going?

16 A. No, sir.

17 Q. Up to this point had there been any
18 difficulties between any of your friends and David
19 Rocquemore or his friend Chris Thomas?

20 A. None at all, sir.

21 Q. No cross words?

22 A. No, sir. Nothing.

23 Q. No arguments?

24 A. No arguments.

25 Q. No bad mood at all?

1 A. No bad mood, sir.

2 Q. Now, at some point you and Demar left the
3 party?

4 A. Yes, sir.

5 Q. Left the inside?

6 A. That's correct.

7 Q. And where were y'all going?

8 A. Outside.

9 Q. And was this when Mr. Rocquemore and Dexter
10 were still gone?

11 A. That's correct, sir.

12 Q. And where were y'all going, you and Demar?

13 A. We went outside to the driveway.

14 Q. Okay. Were y'all leaving the party or were
15 you just going outside ---

16 A. Just ---

17 Q. --- with Rodney?

18 A. Just going out with Rodney, sir.

19 Q. Okay. And tell the jury what happened out
20 there.

21 A. We was outside, me and Demar was on a car, and
22 my brother Rodney was talking to a female. Two --
23 there was two females sitting on the car, on the
24 hood. And they was talking, and they was all ---

25 Q. And "they," they meaning who?

1 A. My brother. I can't -- I don't know the
2 female's name.

3 Q. You don't know the girl's name?

4 A. No. No, sir. They were talking. And another
5 female -- well, he was only talking to one female,
6 and the other female we heard cursing.

7 Q. Did that female appear to be intoxicated?

8 A. Yes, sir.

9 Q. And could you tell who she was cursing at?

10 A. She was cursing at my brother Rodney.

11 Q. Do you know why?

12 A. I have no idea, sir.

13 Q. Then what happened?

14 A. He threw a drink on her.

15 Q. And what did you do?

16 A. I said it's time to go. I told him that it's
17 time to go. Just time to go.

18 Q. Okay. So what did you do when you said it's
19 time to go?

20 A. I got them together, we got in the truck, and
21 we went to Troy Eason's house.

22 Q. Okay. So this would be you and who else?

23 A. Demar and my brother Rodney.

24 Q. And where does Troy Eason live in reference to
25 Dexter Brown's house?

1 A. He lives four blocks up the road from Dexter.

2 Q. The same neighborhood?

3 A. Same neighborhood.

4 Q. And what did y'all do at Troy's house?

5 A. Nothing. We went in the house, sat on the
6 sofa, turned the TV on, just...

7 Q. How did you get in Troy's house?

8 A. My brother had a key to Troy's house and...

9 Q. Was Troy still awake?

10 A. He was halfway sleeping. He was on the sofa.

11 Q. He was still clothed and all of that?

12 A. Yes, sir.

13 Q. Watching TV or doing what?

14 A. The TV was on. I think it was watching him.

15 Q. And what happened while you were -- what were
16 y'all doing at Troy's house?

17 A. Just sitting there, talking, and my brother
18 saying what was wrong with her that happened. Just
19 going through the other things, what happened.

20 Q. Okay. And what -- did anybody call while you
21 were at Troy's house?

22 A. Yes. When Dexter he called back at Troy
23 Eason's house, and he called, where did you guys go
24 and why did they leave. And he was talking to Troy.
25 I don't know exactly the words they said, but he

1 wanted us to come back. So we got in the truck, and
2 we went back to Dexter's house.

3 Q. Okay. And who went back to Dexter's house at
4 that point?

5 A. Myself, my brother Rodney, Demar, and Troy.

6 Q. Okay. So there were four of you in the
7 vehicle?

8 A. That's correct, sir.

9 Q. Who drove?

10 A. I drove.

11 Q. And do you recall who was in the front seat
12 with you?

13 A. I want to -- I want to say Rodney.

14 Q. Okay. The other two were in the back seat?

15 A. Yes, sir.

16 Q. Now, when -- what kind of car were you
17 driving?

18 A. Ford Explorer.

19 Q. What color?

20 A. Silverish brown.

21 Q. And which road did you come down and which
22 direction on state's exhibit one -- you can use the
23 laser pointer if you want -- to get to Troy's house
24 -- I mean, Dexter's house from Troy's house?

25 A. Came on Berrywood, came down -- straight down

1 Berrywood, sir.

2 Q. Okay. So kind of diagonally down to the
3 bottom left corner ---

4 A. Yes, sir.

5 Q. --- on that exhibit? And if you would, could
6 you tell the jury on state's exhibit number one where
7 you parked?

8 A. I came down the road, sir. I parked in this
9 area right here.

10 Q. Okay.

11 MR. DURANT: Could you kill that just a
12 second, Mike? Okay. Could you put it back up.

13 BY MR. DURANT:

14 Q. If I can refer your attention now to state's
15 exhibit number 19, could you show the jury where your
16 vehicle is in that photograph if it is at all?

17 A. Yes, sir. My vehicle's right there, sir.

18 Q. Okay. And is that on the inside of the crime
19 scene tape or outside of the crime scene tape?

20 A. That's outside.

21 Q. And that's where you parked your car?

22 A. Yes, sir.

23 Q. When you got there that night?

24 A. Yes, sir.

25 Q. And that's where that car remained until you

1 were allowed to leave by the police?

2 A. That's correct.

3 MR. DURANT: Could you kill that please,
4 sir.

5 Court's indulgence for just one moment.

6 THE COURT: Yes, sir.

7 MR. DURANT: Your Honor, with the Court's
8 permission, I'm going to have to bring the state's
9 exhibit.

10 THE COURT: All right.

11 (Mr. Durant retrieves exhibit.)

12 BY MR. DURANT:

13 Q. Referring now to state's exhibit number 50.

14 MR. DURANT: Mike, could you turn that
15 on.

16 (State's Exhibit No. 50 begins playback.)

17 BY MR. DURANT:

18 Q. Have you even had an opportunity to see this
19 video before?

20 A. Yes, sir.

21 Q. And how long ago?

22 A. Maybe a week ago, sir.

23 Q. And this is as the police are arriving at the
24 scene. Let me back this up just a little bit. Do
25 you know whose vehicle this is right there?

1 A. That's my vehicle, sir.

2 Q. Are you sure? I want you to get a little
3 closer. Let's step through this.

4 A. No, I take that back. That's...

5 Q. That's whose vehicle?

6 A. David Rocquemore's vehicle.

7 Q. Okay.

8 MR. DURANT: Mike, could we dim these
9 lights just a little bit. Thank you.

10 BY MR. DURANT:

11 Q. And do you know whose vehicle this is right
12 here, right in front of Mr. Rocquemore's vehicle?

13 A. Chris Thomas, sir.

14 Q. And do you know whose this vehicle is right
15 here?

16 A. That would be my vehicle, sir.

17 Q. Okay. So your vehicle essentially is off the
18 screen at the time the officer's car stops; is that
19 correct?

20 A. Yes, sir.

21 Q. And who is this?

22 A. That would be me, sir.

23 Q. And what are you doing?

24 A. Getting my I.D. card. I didn't want no
25 confusion with the police officers coming on the

1 scene.

2 Q. And what are you pointing out there?

3 A. Where the weapon is located, where I put the
4 weapon.

5 MR. DURANT: Thank you. If you will kill
6 that, Mike.

7 (State's Exhibit No. 50 ends playback.)

8 BY MR. DURANT:

9 Q. Now, when you pulled up to Dexter's house, was
10 there anybody outside?

11 A. Yes, sir.

12 Q. Do you know who that was, or did you know who
13 it was at the time?

14 A. Yes, sir.

15 Q. Who?

16 A. It was Dexter Brown, David Rocquemore, and
17 Chris Thomas.

18 Q. And what did you do as you were pulling up to
19 the residence?

20 A. When I pulled up, I actually had turned my
21 lights off.

22 Q. And why did you turn your lights off?

23 A. Something we do in the neighborhood since I've
24 been living there, only to drive up.

25 Q. Were you driving fast?

1 A. No, sir.

2 Q. Did you almost hit anybody in the road?

3 A. No, sir.

4 Q. Were you driving recklessly at all?

5 A. No, sir.

6 Q. Was anyone yelling out of the car?

7 A. Negative.

8 Q. And what happened after you pulled up in the
9 car on Berrywood at the corner of Berrywood and
10 Mixedwood?

11 A. I pulled up, I got out of the car, and I was
12 walking to the driveway, to Dexter Brown's driveway
13 where he's standing at. And I heard David Rocquemore
14 saying, "Y'all niggers think y'all gangsters." And I
15 dismissed it as maybe he's just joking around.

16 Q. Do you know who he directed that comment to?

17 A. To my brother, Rodney.

18 Q. Okay. And you thought he was kidding or
19 something?

20 A. Yes, sir.

21 Q. And then what happened?

22 A. As I walked to the driveway, I seen him, him
23 and my brother, they was talking back and forth. And
24 I -- at that time I seen Demar gets in -- get between
25 David Rocquemore and Rodney Gibbs.

1 Q. At this point was there anything more than an
2 argument, though?

3 A. No. That's all it was.

4 Q. Okay. So originally you saw your brother and
5 Rocquemore. Correct?

6 A. That's correct.

7 Q. And then you saw Troy get in between those
8 two?

9 A. No, sir. Demar.

10 Q. Excuse me. Demar get in between those two?

11 A. Yes, sir.

12 Q. And then what happened?

13 A. They got between, and I seen David Rocquemore
14 and he pushed Demar hand away and said "don't touch
15 me" and push his hand off. They was going back and
16 forth, and that's when I step in between, and I say
17 "we don't need no trouble, let's just -- just -- just
18 chill out."

19 Q. So you stepped in between who at that point?

20 A. David Rocquemore and Demar Denson.

21 Q. Okay. And David Rocquemore, meaning this
22 David Rocquemore right here?

23 A. Yes, sir.

24 Q. Now, what did Chris Thomas do when you stepped
25 in between David Rocquemore and Troy (sic)?

1 A. When I was between those two, Chris Thomas, he
2 said, "There's a lot of speaking going on, there's
3 lot of talking going on out here now, but when I get
4 to my trunk there won't be no talking." And at that
5 time ---

6 Q. And what did he do when he said that?

7 A. As he said that, he's walking back towards the
8 trunk of his car.

9 Q. And his car, referring once again to state's
10 exhibit number 19, is that the car you're referring
11 to?

12 A. Yes, sir.

13 Q. And do you know who opened the trunk of that
14 car?

15 A. Chris Thomas.

16 Q. And where were you in between Demar and
17 Rocquemore when he made the statement that he was
18 going to his -- you can use, use the laser pointer if
19 you want -- when he made the statement he was going
20 to...

21 A. Right in front of the car, basically off to
22 the side grass of us when he was just still kind of
23 walking in between.

24 Q. Okay. Now, when he made that comment, what
25 did you think he was talking about?

1 A. A comment like that, I'm thinking going to get
2 a gun.

3 Q. So what did you do?

4 A. At that time he made that comment, I just
5 basically watched him all the way. I kind of
6 mirrored him, looking at him and see what he's doing.

7 Q. Were you walking along with him?

8 A. Yes, sir. I was on the -- excuse me -- on the
9 outside of the vehicle after he walked behind the
10 vehicle.

11 Q. And what did he do when he walked behind the
12 vehicle?

13 A. When he walked behind the vehicle, he -- I
14 watched him, he went to his trunk and he put his key
15 in his trunk and he opened his trunk. And at that
16 time...

17 Q. And what did you do when he opened his trunk?

18 A. At that time when he made an idle threat, I
19 didn't want this guy to get a gun and shoot, so I
20 tackled him to the ground.

21 Q. And where did you tackle him to the ground at?
22 If you can show ---

23 A. Right in between this area right here.

24 Q. Okay. In between the two cars?

25 A. Yes, sir.

1 Q. Were you partway on the road, in the road?

2 A. Say again, sir?

3 Q. Were you partway in the roadway, as well?

4 A. Yes, sir.

5 Q. Now, what did you do once you put him on the
6 ground?

7 A. I immediately started searching for a weapon.
8 I had him down on the ground, I had his hands pinned,
9 and I was making sure he didn't have a weapon on his
10 body.

11 Q. Okay. Let me ask you this question. Prior to
12 him going in his trunk, had you had any argument with
13 him or had any fight with Chris Thomas?

14 A. None at all.

15 Q. Did you strike him? I mean, did you hit him
16 in any way prior to him trying to go ---

17 A. No, sir.

18 Q. --- into his trunk?

19 A. No, sir.

20 Q. Okay. Now, tell me exactly what you did after
21 you tackled him and brought him to the ground.

22 A. When I tackled him, I had him pinned on the
23 ground, and I had my hands down by his waistline,
24 feeling on his body underneath. And he was trying to
25 struggle, so I'm trying to struggle with him, make

1 sure that he can't get his hands -- couldn't get his
2 hands and grab a weapon. And I didn't know if he --
3 and I was feeling on him. And when he was down on
4 the ground, I made him take his shirt off. I was
5 pulling his shirt off and I told him to take his
6 shirt off. I didn't want him to get one and stash it
7 in the back.

8 Q. Okay. And is that his shirt depicted in
9 state's exhibit number 19?

10 A. Yes, sir.

11 Q. While you were on the grass -- the ground with
12 Mr. Thomas, did you notice anything that
13 Mr. Rocquemore is doing?

14 A. When we was on the ground, we was facing --
15 our heads were -- between the ground, I seen his door
16 come open on the white truck. I seen the door, the
17 driver's side door come open.

18 Q. Okay. You couldn't see who opened the door?

19 A. No, sir, I couldn't see who opened the door.

20 Q. And while you were down on the ground,
21 struggling with Mr. Thomas, were you like punching
22 him or anything or -- or holding him?

23 A. I had him held down, sir.

24 Q. Okay. You weren't striking him with your fist
25 or anything like that?

1 A. No, sir.

2 Q. And what happened while you were on the ground
3 involved with Chris Thomas?

4 A. When I was down on the ground, I had him on
5 the ground, and I heard shots go off behind me.

6 Q. Okay. And what did you do when you heard the
7 shots?

8 A. After I heard the shots went off, I got up,
9 and from this point right here, I went to my left
10 over...

11 Q. Let me -- let me change exhibits if I could,
12 please, sir, back to number one. And if you would,
13 could you tell just roughly in the general area where
14 Mr. Thomas's car was parked on that aerial
15 photograph?

16 A. His car is parked right about here.

17 Q. Okay. Mr. Rocquemore's car was behind him?

18 A. Yes, sir, about this area right here.

19 Q. Okay. Now, when you got up and looked, where
20 was everybody?

21 A. They were down here in this area right here,
22 sir.

23 Q. In that yard, in that ditch right across the
24 street from Mr. Brown's house?

25 A. Yes, sir.

1 Q. Is that correct?

2 A. That's correct.

3 Q. And that was right after the shots fired?

4 A. Yes, sir.

5 Q. Immediately?

6 A. Yes, sir.

7 Q. And what did you see going on down there?

8 A. When I got up, I'm -- I turned around and when
9 I -- I seen Rocquemore on the ground. But the first,
10 first thing I noticed was Demar, he was lying on his
11 back on the other side above the ditch. And I seen
12 my brother and Troy had Rocquemore, they're --
13 they're screaming "he shot him, he shot him." And
14 one of the first things I went to do was, I was
15 calling, I said, "Where's the gun? Where's the gun?"

16 And the -- then David Rocquemore said he
17 didn't have a gun, he didn't have a gun, you know.

18 I just went by him and my brother and Troy on
19 the ground, and I went to go tend to Demar to see if
20 he was breathing. He was breathing. He was
21 breathing his regular -- he was breathing on his own.

22 And I went back, "Where is the weapon? Where
23 is the weapon?"

24 And he said -- he said, Rocquemore said,
25 saying he didn't have a weapon.

1 And my brother said, "Yes, he does, he have a
2 weapon. It's underneath him, it's underneath him."

3 I guess my brother had his finger in the
4 trigger well so he couldn't squeeze the trigger.

5 When I told him to give me the weapon, I say,
6 "Give me the weapon."

7 He said, "Oh, no, you guys are going to burn
8 me. Y'all are going to shoot me."

9 I said, "No, I'm not going to shoot you." And
10 I kept on saying "I'm not going to shoot you."

11 Then he told me, "Well, I don't have no -- I
12 don't have a weapon." Then he said, "Well, let me
13 give my weapon to my friend," which being Chris
14 Thomas was across the road.

15 And he started to walk over, and I told him to
16 get back across the road or I'm going to hurt you
17 this time. And he complied, he went back across the
18 road.

19 And he still had the weapon. He wouldn't let
20 the weapon go. He kept on insisting I was going to
21 kill him, was going to shoot him with his weapon.

22 Q. And did y'all use force to get this weapon
23 from Mr. Rocquemore?

24 A. Yes, sir.

25 Q. And tell the jury what kind of force you used.

1 A. The force used, I kneed him. My brother --
2 Troy was on one side, and my brother was on one side,
3 and I was on the opposite from him, and I kneed him.
4 I kneed him to the side, kneed him to the neck, I
5 kneed him to his face.

6 Q. Okay. Did that work?

7 A. No, sir. He would not let go of the weapon.

8 Q. Were you able to eventually get the weapon
9 from him?

10 A. Yes, sir.

11 Q. And how?

12 A. I put my finger into his mouth, and I twist
13 and turned his head, a stress point, until he
14 released and gave up the weapon.

15 Q. And that's something you learned in the
16 military?

17 A. Yes, sir.

18 Q. And did he give up the weapon at that point?

19 A. That's correct.

20 Q. What did you do -- you got the weapon from him
21 yourself?

22 A. That's right, sir.

23 Q. And what did you do with the weapon?

24 A. When I got the weapon, I got up and tried to
25 drop the magazine and discharge the weapon, but there

1 was a round stuck in it. So before the weapon --
2 back off, I took it and I placed it on the truck that
3 was sitting in the yard.

4 Q. Now, when you say discharge the weapon, do you
5 mean shoot the weapon ---

6 A. No, just ---

7 Q. --- or unload the weapon?

8 A. Unload the weapon.

9 Q. And you couldn't do so because why?

10 A. There was a round stuck in the chamber.

11 Q. Okay. And what did you do with it then?

12 A. I took it and I placed it on the back of the
13 truck.

14 Q. And that was like a work truck in the front
15 yard of [REDACTED]

16 A. Yes, sir.

17 Q. I hand you what's been previously marked as
18 state's exhibit number 49. Does that appear to be
19 the weapon you retrieved from the defendant, David
20 Rocquemore?

21 A. Yes, sir.

22 MR. DURANT: Kill that for just one
23 moment, Mike.

24 BY MR. DURANT:

25 Q. Referring to state's exhibit number 12, is

1 that the vehicle that you placed the weapon on?

2 A. Yes, sir.

3 Q. Did you make any effort to try to shoot
4 Mr. Rocquemoire with that weapon?

5 A. Negative.

6 Q. Did you pistol-whip Mr. Rocquemoire with that
7 weapon?

8 A. Negative. No.

9 Q. And so what else went on out there that night
10 after -- after you got the weapon?

11 A. After I got the weapon, I was -- got the
12 weapon, and I went back to check on Demar because his
13 breathing got shallow, and I started administering
14 first aid. Well, I ripped his shirt open to try to
15 see if he was bleeding on the back and where he got
16 hit. I only seen the one bullet shot, that on his
17 left side underneath, and I know he was starting to
18 gurgle and trying to breath, so I started
19 administering first aid.

20 And I'm still looking at -- trying to look at
21 them, because I'm facing kind of to the side, and
22 they're behind me on the other side. And they're
23 struggling in the ditch, and he was trying to get up.

24 So I'm finished with the first, then I go
25 back. We hold him down. I went back, left Demar

1 alone, and held him down till the cops came. And
2 that's when I got up and showed them my I.D. I
3 didn't want no confusion when the cops showed up.

4 Q. And that's when the tape picked up, right
5 there?

6 A. Yes, sir.

7 Q. Obviously, the police came out and
8 investigated that night.

9 A. Yes, sir.

10 Q. Correct? Did you give anybody a statement
11 that night?

12 A. Yes, sir.

13 Q. And where was that given?

14 A. Outside on, I believe, the side of the car, on
15 the car.

16 Q. Okay.

17 (State's Exhibit No. 53, photo - Ronald
18 Gibbs' hands, is marked for identification.)

19 (Mr. Durant and Mr. Savage confer.)

20 MR. DURANT: Your Honor, at this time we
21 would offer state's exhibit number 53, I believe
22 without objection.

23 THE COURT: Is that correct?

24 MR. SAVAGE: Correct, Your Honor.

25 THE COURT: All right. 53 in evidence

1 without objection.

2 (State's Exhibit No. 53, previously
3 marked for identification, is received in evidence).

4 MR. DURANT: Kill the lights a little bit
5 more for me, please.

6 BY MR. DURANT:

7 Q. Do you know whose hands those are showing?

8 A. Yes, sir. Mine, sir.

9 Q. And those are the clothes you were wearing
10 that night?

11 A. Correct, sir.

12 Q. Your right knuckles are scraped; is that
13 correct?

14 A. Yes, sir.

15 Q. And could you tell the jury how your knuckles
16 became scraped?

17 A. When Chris Thomas and I were on the ground
18 between -- on the streets. When I went to grab him,
19 I guess hit on the asphalt on the streets, I mean,
20 hitting the street with my hand.

21 Q. It was on the street when you were frisking
22 him?

23 A. Yes, sir.

24 Q. So that came from contact with the -- the
25 asphalt?

1 A. Yes, sir.

2 Q. While you were engaged with Chris Thomas?

3 A. Yes, sir.

4 MR. DURANT: Court's indulgence.

5 Could you please answer any questions
6 that Mr. Savage may have for you.

7 THE WITNESS: Yes, sir.

8 MR. DURANT: May I return the exhibit I
9 showed? To the court reporter?

10 CROSS-EXAMINATION

11 BY MR. SAVAGE:

12 Q. Good morning, sir.

13 A. Good morning, sir.

14 Q. Ronald Gibbs, correct?

15 A. Yes, sir.

16 Q. And, Mr. Gibbs, I don't think I've ever had an
17 opportunity to talk to you before.

18 A. That's correct.

19 Q. Thank you for your service to our country.

20 A. Thank you, sir.

21 Q. The understanding I have and what I heard this
22 morning from the prosecutor is that you were in the
23 service of your country, you were stationed in Korea
24 and you were home on TDY, temporary leave, and you
25 were stationed at Fort Bragg and that's in North

1 Carolina. Is that correct?

2 A. It's almost correct, but I was in Korea. I
3 was on 30 days.

4 Q. Thirty days.

5 A. On TDY, but I wasn't stationed in Bragg at the
6 time.

7 Q. You were in Korea?

8 A. Yes.

9 Q. And you were home on leave?

10 A. That's correct.

11 Q. And you left -- you left Korea. Did you go to
12 Charleston, or did you go to Fort Bragg?

13 A. I left Korea, and three months later I was at
14 Bragg. I got stationed back over in Iraq.

15 Q. And how long were you on leave at the time you
16 came to Woodside Manor?

17 A. Thirty days, sir.

18 Q. And so this was the very last day of your
19 leave?

20 A. No, sir.

21 Q. The question I asked is: You were in Korea,
22 you came back to Fort Bragg, how many days were you
23 in Fort Bragg before you came to Woodside?

24 A. No, sir. I was in Korea. My change of
25 station was to Fort Bragg, but that didn't happen at

1 the time. I came off a leave from Korea, which I was
2 returning back to Korea after leave. I still had
3 another year to go in Korea.

4 Q. I'm confused, myself. At the time of this
5 incident, were you in Fort Bragg, were you stationed
6 there?

7 A. I was stationed in -- in Korea.

8 Q. And you were on vacation?

9 A. Correct.

10 Q. And how long had you been on vacation?

11 A. I can't give you an exact time, what time.
12 I'd have to look at my paperwork.

13 Q. When you traveled from North Carolina, did you
14 travel -- the question is: Did you travel from North
15 Carolina to South Carolina?

16 A. No, sir. I flew in straight. I went from
17 Fort Drum to Korea back on the duty station. I
18 wasn't -- I just got stationed to Fort Bragg back in
19 April -- excuse me, June of 2006 -- excuse me, July
20 of 2006. When I came from -- I was never at Fort
21 Bragg when this incident happened.

22 Q. I misunderstood because I thought you were at
23 Fort Bragg. You were on leave?

24 A. That's correct.

25 Q. And where was your family?

1 A. In Charleston.

2 Q. And where were they staying in Charleston?

3 A. At my parents'.

4 Q. And where do your parents live?

5 A. Woodside.

6 Q. And that is how far away from where this
7 incident happened?

8 A. About four houses down, on the corner.

9 Q. And this is the incident that happened about
10 four o'clock in the morning. Correct?

11 A. I don't know what exact time it happened, sir.
12 I really wasn't...

13 Q. Now, earlier that evening, did you leave your
14 wife and three children and go to a party that some
15 females were having in Summerville?

16 A. No, I didn't leave them. They were at their
17 father's house.

18 Q. Did you go by yourself with your male friends
19 to Summerville?

20 A. That would be correct.

21 Q. And was there drinking there?

22 A. That's correct.

23 Q. And you stated to the jurors that you were not
24 drinking that night. You didn't comment on your
25 friends and your brother drinking. Were they

1 drinking?

2 A. Yes, sir.

3 Q. And what were they drinking?

4 A. I don't know offhand, but most likely it was a
5 beer or...

6 Q. Was it ice tea?

7 A. Could have been.

8 Q. Was it lemonade?

9 A. No, I wouldn't say there was lemonade there.

10 They had tea there.

11 Q. Was it booze?

12 A. They had booze there, also.

13 Q. And they had beer?

14 A. Yes, sir.

15 Q. And they had been drinking a good bit?

16 A. What's a good bit, sir?

17 Q. Well, what I would call a good bit is what
18 then would affect them, they -- it would change, it
19 would alter them, how they feel and how they act.

20 A. No, I wouldn't say. They was -- they was
21 normal.

22 Q. For instance, you didn't, you didn't drink
23 that night?

24 A. That's correct.

25 Q. Because you were driving?

1 A. That's correct.

2 Q. And I assume that you were driving because you
3 -- the ones that were with you couldn't drive?

4 A. No. It's just the law. If you drink, you
5 can't drive.

6 Q. And what is the purpose of that law?

7 A. Keep people safe.

8 Q. And it's because when they drink they act
9 differently?

10 A. That's true.

11 Q. And their perceptions are different?

12 A. That's true.

13 Q. The way they control themselves is different?

14 A. Yes. Yes, sir.

15 Q. And so when I ask you had they been drinking
16 that night, would it have been safe for them to
17 drive?

18 A. No, because that's why you have a designated
19 driver, sir.

20 Q. Yes, sir. Now, when you left that party, what
21 time -- well, start, what time did you get to the
22 party?

23 A. I want to say we got to the party around 8:00
24 that night.

25 Q. 8:00 in the evening?

1 A. Yes, sir.

2 Q. And still daylight?

3 A. I can't comment. I really don't remember,
4 sir.

5 Q. Why do you think it was eight o'clock in the
6 evening?

7 A. It was around that time. It's just because
8 that's what time when -- she said it was going to
9 start at 7:00. Dex said the party was going to start
10 at 7:00 -- I mean, the cookout was going to start at
11 7:00, and I know we left around about 8:00. I know
12 we left Woodside around about 8:00.

13 Q. And this wasn't Dexter's party? This was not
14 -- Dexter, you're referring to Mr. Brown?

15 A. Yes, sir, Dexter.

16 Q. This was not his party?

17 A. That's correct.

18 Q. This was Eleanor's (phonetic) party?

19 A. Who?

20 Q. Ladies in Summerville?

21 A. Yeah.

22 Q. A lot of ladies?

23 A. I wouldn't say a lot of ladies. A lot of
24 family members there.

25 Q. And what time did you leave that party?

1 A. I'd say around maybe midnight.

2 Q. Could it have been eleven o'clock?

3 A. I would say midnight, sir.

4 Q. Could it have been one o'clock in the morning?

5 A. I want to say midnight, sir.

6 Q. So you're pretty firm that it was at midnight?

7 A. I want to say that.

8 Q. Where did you go next?

9 A. Well, after we left there, Dex, I want to say
10 that he would have the after-party. Because it was
11 getting late, and she had her mother and kids there,
12 and she was cutting it down for the night. And Dex
13 wanted to have a -- that we "go over to my house" and
14 continue with the party.

15 Q. Did you go to Troy's house first?

16 A. No, sir.

17 Q. Were you ever in Troy's house that night?

18 A. Yes, sir. The night after we -- after we left
19 Dexter Brown's house.

20 Q. Before you got to Dexter's, go to Troy's?

21 A. No, sir.

22 Q. When you left the -- and I'll refer to the
23 party in Summerville, you don't know the name of the
24 lady who had the party?

25 A. That's correct?

1 Q. When you left the Summerville party, did you
2 go directly to Mr. Brown's house?

3 A. Yes, sir.

4 Q. And who accompanied you?

5 A. Rodney and Demar.

6 Q. And that's your brother?

7 A. Yes, sir.

8 Q. And your friend, your childhood friend you
9 grew up with, Demar?

10 A. Yes, sir.

11 Q. Now, where was Troy?

12 A. Troy rode out with Dexter.

13 Q. And where did Troy go?

14 A. I believe Troy went home.

15 Q. And this was at what time, sir?

16 A. It was -- he left before, so I don't know the
17 exact time, but they left before us.

18 Q. You left at?

19 A. Midnight.

20 Q. You're pretty sure of that?

21 A. I want to say midnight.

22 Q. Given an opportunity to say 11:00 or 1:00,
23 you're stuck with midnight. And Troy left before
24 that?

25 A. Yes.

1 Q. So he left at what time?

2 A. Before midnight. I know he left before us.

3 That's all -- he -- he left before us.

4 Q. And he went where?

5 A. When I met him, he was at his house. In
6 between from that party in Summerville to his house.

7 That's where I met him, at his house.

8 Q. He went home?

9 A. Yeah.

10 Q. As far as you knew?

11 A. Yes.

12 Q. At about 11:30, certainly before midnight?

13 A. I can't comment on that. I wasn't with him.

14 Q. Now, Demar was with you?

15 A. That's correct.

16 Q. And your brother was with you. Had they been
17 drinking at the lady's party in Summerville?

18 A. Yes.

19 Q. And did you go directly to Dexter's house?

20 A. Yes.

21 Q. And how long did it take to get from the party
22 in Summerville to the party at Dexter's house?

23 A. I -- I don't know, sir.

24 Q. An hour and a half?

25 A. No, sir.

1 Q. An hour?

2 A. No, sir.

3 Q. Forty-five minutes?

4 A. No, sir.

5 Q. Thirty minutes?

6 A. Maybe no more than 15 maybe.

7 Q. Fifteen minutes. So at or about 12:15 you
8 arrive to Mr. Brown's house, correct?

9 A. If that was the correct time, sir.

10 Q. Well, that's why I was asking you. I was not
11 there.

12 A. I wasn't pressed for time, sir. I was on
13 vacation.

14 Q. Well, you see, now we're getting to have a
15 little problem with the time. Now, you said that it
16 was at midnight that you left, so it was about 12:15
17 when you arrived at Mr. Brown's house?

18 A. No, sir. You asked me how much time we
19 arrived there. But I wasn't pressed for time. I was
20 on vacation.

21 Q. And would it be fair to say then that 15
22 minutes after you left the first party you arrived at
23 Mr. Brown's house?

24 A. No, I don't think it would be fair to say,
25 because you're trying to twist my words. So I'm

1 going to say we got to Dexter's house, I don't know
2 what time.

3 Q. Pardon me, sir?

4 A. I want -- I want to say we got to Dexter
5 Brown's house, but I'm not going to constrain myself
6 to a certain time where you're trying to set a
7 pattern for me.

8 Q. Well, you've refused to talk to me before
9 today, haven't you?

10 A. No. You never contacted me.

11 Q. Did you ever refuse to talk to our
12 investigator?

13 A. No, sir. It was outside, he approached me
14 Monday, after two years.

15 Q. I'm asking you yes or no, did you refuse to
16 talk to the investigator?

17 A. Do I have the right to answer?

18 Q. Yes. That's why I ask the question, sir.

19 A. That's what I'm trying to explain, sir.

20 MR. DURANT: Your Honor, if the witness
21 could answer and explain.

22 THE COURT: You can answer it, sir, then
23 you can explain it. Go ahead.

24 THE WITNESS: No.

25 THE COURT: Now, would you like to

1 explain?

2 THE WITNESS: Yes, I'd like to explain.

3 THE COURT: Go ahead.

4 THE WITNESS: After two years, your guy
5 approached us Monday. Two years, I say, approached
6 us Monday outside.

7 He said, "I'd like to speak to you."

8 I said, "You know, I have no problem
9 speaking to you as long as I can speak in front of
10 the solicitor," because right now I don't want my
11 words twisted in any manner or misrepresented in this
12 courtroom today.

13 BY MR. SAVAGE:

14 Q. So you have decided to talk in the courtroom
15 today?

16 A. When I get an opportunity, like I would speak
17 in front of the solicitor. I gave -- if Mr. Durant
18 was outside. I said I would like to have a solicitor
19 present when I speak.

20 Q. Let's get back to August 14th.

21 A. Yes, sir.

22 Q. After midnight or whatever time it was, you
23 arrived at Mr. Brown's house?

24 A. That's correct.

25 Q. And prior to that time, I believe, you said

1 Demar and your brother had been drinking?

2 A. That's correct.

3 Q. And when you arrived at Mr. Brown's house, who
4 was present at the house?

5 A. There were a couple of females. I know Chris
6 Brown (sic), Dexter, and David Rocquemore was at the
7 house.

8 Q. Do you know how many females were there?

9 A. No, sir.

10 Q. Do you know if anybody else was there?

11 A. Like?

12 Q. I don't want to twist your words or put words
13 in your mouth. I'm just asking you if there was
14 anybody else that was there.

15 A. There was people there. I know the people I
16 came with was there. And the people -- Dexter Brown
17 who owned the house was there. Chris Brown was
18 there, David Rocquemore was there, and the two
19 females I know for sure was there on the vehicle.

20 Q. Two, two females?

21 A. Yeah.

22 Q. Do you know how the females arrived at the
23 house?

24 A. I have no idea, sir.

25 Q. And were they there before you got there or

1 after you got there?

2 A. Before I got there, sir.

3 Q. And were they, those females, at the prior
4 party you had been at earlier?

5 A. Yes, sir.

6 Q. And did you have occasion to observe the
7 relationship between the females and any of the males
8 that were at the party?

9 A. No, sir.

10 Q. Were the females staying to themselves?

11 A. Everybody was talking amongst each other.

12 They -- I don't know if I can explain. They worked
13 together. I guess the females is a big group. They
14 all worked in one of these telephone companies
15 together. So they was in one part, and we was on one
16 side.

17 Q. But they were at the party?

18 A. Yes, sir.

19 Q. They were present and you observed them?

20 A. Yes, sir.

21 Q. And was there drinking at that party?

22 A. Yes, sir.

23 Q. And you didn't participate?

24 A. That's correct.

25 Q. And your brother and Demar participated, or

1 did they not?

2 A. Yes, sir.

3 Q. And what caused you to leave the party?

4 A. What party are you referring to, Dexter's or
5 Woodside?

6 Q. Mr. Brown's party.

7 A. Yes, sir. A heated argument between a female
8 and my brother.

9 Q. At that time, sir, was Mr. Rocquemore present
10 at the party?

11 A. No, sir.

12 Q. Had he left the party before any argument, any
13 trouble started?

14 A. Yes, sir.

15 Q. Was he ever involved in any altercation, loud
16 aggressive talking, or any inappropriate behavior
17 prior to the argument you have addressed?

18 A. Which one? When the shooting or ---

19 Q. That caused you to leave the party.

20 A. No, sir.

21 Q. Was he quiet that night?

22 A. Yes, sir.

23 Q. And did you ever notice him drinking that
24 night?

25 A. Yes, sir.

1 Q. So you saw him drinking?

2 A. Yes, sir.

3 Q. Do you know whether that was booze or beer?

4 A. I don't think it was beer, sir, but he was
5 drinking.

6 Q. Could have been ice tea?

7 A. Yes, sir.

8 Q. Lemonade? He certainly wasn't acting
9 inappropriately, was he?

10 A. No, sir.

11 Q. And unlike Mr. Rocquemore's actions, there
12 were people that were acting sexually aggressive
13 towards the females?

14 A. No, sir.

15 Q. Do you recall seeing Mr. Brown's father's cane
16 being tucked between the legs of your friends and
17 chasing after the females?

18 A. No, sir.

19 Q. You didn't see that? The only thing that you
20 saw was one instance of somebody throwing a drink on
21 the ladies?

22 A. No, sir. When you're talking about the cane,
23 I have no idea about the cane. But what led myself
24 and Demar outside, they was debating about something
25 and he's -- they was going at it. It was a debate,

1 that's all. There was no sexual explicit. I told
2 Demar let's go outside. Because that's what he liked
3 to do, he was debating at the time, and, you know,
4 "I'm a good guy." And that's all he was doing. They
5 was debating about something and then it got a
6 little...

7 Q. And he was pretty liquored up at that point?

8 A. No, sir.

9 Q. He had been drinking all night, but he wasn't
10 liquored up?

11 A. He wasn't drinking all night. What's drinking
12 all night, sir? Do we have a computation? I mean, I
13 won't elaborate on the situation, but I'm no expert
14 at that. If he had intoxication, I have to tell you
15 what's the legal limits for drunk.

16 Q. What time did Mr. Rocquemore and Mr. Brown
17 leave the party?

18 A. I have no idea, sir.

19 Q. Was it shortly after you arrived?

20 A. I have no idea, sir.

21 Q. So it could have been ten minutes after you
22 arrived?

23 A. I have no idea, sir.

24 Q. But I guess we know what time the shooting
25 was, because that's what time the police were called;

1 is that correct?

2 A. What time they were called, I know we yelled
3 to call 911. I don't know what time that was.

4 Q. So what happened between the time that you got
5 to the party and the time the drink was thrown on the
6 lady at the party? It was just -- were people
7 playing cards? Were they dancing?

8 A. No. There was a little dancing inside the
9 den. There was nobody dancing with each other. It
10 was music playing, and people were just bobbing and
11 weaving, no dancing. And there was a discussion
12 between Demar -- I don't know what female it was.
13 There was a discussion between Demar and another
14 female.

15 Q. And when Mr. Brown left the party, did you
16 know he was leaving?

17 A. Yes, sir.

18 Q. Did you know what purpose he was leaving for?

19 A. No, sir.

20 Q. And did you know that Mr. Rocquemore was
21 leaving?

22 A. Yes, sir.

23 Q. And did you know what purpose he was leaving
24 for?

25 A. No, sir.

1 Q. How long before you left, approximately, did
2 they leave?

3 A. I couldn't tell you, sir. I really couldn't
4 tell you the time.

5 Q. Well, could you help the jury know whether it
6 was minutes or hours?

7 A. I would -- my best to say, probably to say 30
8 minutes to 45 minutes they -- they were gone I would
9 say about 30, 30 -- 30 to 45 minutes. I don't --
10 that's just a guess, I'd say a good guess, but the
11 exact time I do not know. I really do not know.

12 Q. In that time frame is they left that amount of
13 time before you left?

14 A. Say it again, sir?

15 Q. New question. You don't know what time they
16 came back, correct?

17 A. That's true.

18 Q. Because you were not there when they came
19 back?

20 A. That's correct.

21 Q. But the question was, how long was it before
22 you left that they left, and I think you said 30 to
23 45 minutes.

24 A. Yes, sir.

25 Q. So they were gone from the party a minimum of

1 30 to 45 minutes and then you left?

2 A. Yes, sir.

3 Q. Now, when you left, not you because I know you
4 were calm, cool, and collected that night, but was
5 anybody aggravated who left with you?

6 A. Besides, of course, the argument, and after
7 that argument, we got in the vehicle, and I said
8 let's go, and we left.

9 Q. And you wanted to leave that party because the
10 atmosphere at that party which was fueled by alcohol
11 consumption was getting a little rough?

12 A. No, sir. I left that party because -- it
13 wasn't about alcohol. It was just a better judgment
14 that I'm accustomed to use in a situation where you
15 see arguing and stuff, only one at home, we left, and
16 I didn't want to have it.

17 Q. When you left the party, did you take with you
18 anybody who was excited and aggravated and agitated?

19 A. I took my brother and Demar. I wouldn't say
20 he was aggravated and excited. He had an argument.

21 Q. But they were ---

22 A. Not belligerent.

23 Q. They were in such an emotional state that you
24 thought it would be best to take them away from the
25 party and go someplace else?

1 A. That's basically how you diffuse the situation
2 before coming to anything.

3 Q. The point being there was something to
4 dispute?

5 A. It was a better judgment call.

6 Q. And at that time Mr. Rocquemoire hadn't been
7 there for 30 or 45 minutes and Mr. Brown hadn't been
8 there for 30 or 45 minutes?

9 A. That would be correct.

10 Q. Now, what time -- first of all, when you left
11 the party, did you drive along slowly without your
12 lights on?

13 A. No, sir. I turned my lights on.

14 Q. And did you drive off slowly?

15 A. Yes, sir.

16 Q. So there was no squealing of the tires?

17 A. I drive a Ford Explorer. I don't have that
18 much power to squeal.

19 Q. Did you drive off fast?

20 A. No, sir. I drove the normal speed.

21 Q. Would you have made any loud engine noises or
22 any tire noises when you left the party?

23 A. No, sir.

24 Q. When you left the party at Mr. Brown's house,
25 you don't recall what time it was?

1 A. That's true, sir.

2 Q. And where did you go from there?

3 A. I went to Troy Eason's house.

4 Q. Now, had it been a half hour, 45 minutes, an
5 hour, three hours, four hours since you had last seen
6 Troy Eason?

7 A. I don't know the exact time, but I -- I would
8 say around maybe two hours or so.

9 Q. Now, Mr. Eason -- Troy Eason; is that correct?

10 A. Yes, sir.

11 Q. --- was a friend of yours who grew up with you
12 and grew up with your brother and grew up with Demar,
13 was at his home. Correct?

14 A. Yes, sir.

15 Q. And hours later, you went back to his house
16 after there was a disturbance at Mr. Brown's house?

17 A. I won't say hours. I'm not -- going to
18 correct myself. I'm not going to say what time
19 because I don't know where you're going with the time
20 thing, but I'm not saying hours. We did go back to
21 Troy Eason's house. After we left Dexter Brown's
22 house, myself, Demar, and Rodney went back to Troy.

23 Q. To Troy's house?

24 A. Yes, sir.

25 Q. And how long were you there, sir?

1 A. I'm going to say maybe 15 minutes at tops.

2 Q. And do you know what time in the morning this
3 was?

4 A. No, sir.

5 Q. And you didn't go home at that time?

6 A. That's correct.

7 Q. And you determined, along with your three
8 friends, you went back to the scene of the earlier
9 disturbance. Correct?

10 A. No, that's not correct. Dexter Brown called
11 Troy Eason's house. And Troy Eason and Dexter was on
12 the phone, and he was -- I guess he asked Troy why
13 did we leave, and he asked what happened and said are
14 we going to come back. He asked us to come back to
15 the house. That's what happened.

16 Q. But there was no one at the house at that
17 point?

18 A. Apparently Dexter, David Rocquemore, and Chris
19 Brown was at the house when I rolled up.

20 Q. And your knowledge of that is what somebody
21 else told you?

22 A. No. That's what I seen. I drove.

23 Q. Did Mr. Brown talk to you?

24 A. Mr. Brown talked to Troy, but when I pulled up
25 to the house ---

1 Q. As I say, Mr. Brown didn't talk to you?

2 A. That's correct, sir.

3 Q. So what you know about the conversation
4 between Mr. Brown and Mr. Eason, you heard from
5 somebody else?

6 A. That would be correct, sir.

7 Q. And when you got up to the house, the girls
8 have already left, the party was over?

9 A. Yes, sir.

10 Q. There was no party?

11 A. Yes, sir.

12 Q. And you have described in some detail to the
13 jury that a disturbance took place that wound up in a
14 shooting?

15 A. No, sir. I did not describe that. I said
16 there was a disturbance between my brother and a
17 female, which had nothing to do when the shooting
18 took place because they weren't there.

19 Q. We're talking about two different ---

20 A. Exactly. You're talking two different
21 incidents.

22 Q. I'm talking about when you returned to
23 Mr. Brown's house following your stay at Mr. Eason's
24 house.

25 A. Yes, sir.

1 Q. The party was over; isn't that correct?

2 A. Yes, sir.

3 Q. The girls had already vacated the premises?

4 A. Yes, sir.

5 Q. The party was shut down, nothing was going on,
6 yet you and your three friends came back to
7 Mr. Brown's house?

8 A. That's incorrect. Four friends, counting
9 myself. We all came back over to Mr. Brown's house
10 who called us. He wanted us to come back.

11 Q. And at the time you got back, the party was
12 over, the girls had gone already?

13 A. Okay.

14 Q. Is that true?

15 A. That would be true.

16 Q. And Mr. Eason who had been home for several
17 hours ---

18 A. I don't know where you get several hours from.

19 Q. You told me several hours. You told me at
20 least two.

21 A. I'm not -- as I told you, I wasn't even
22 counting time. I won't say what time, how long he'd
23 been home, but I didn't tell you several hours. It
24 wasn't several hours.

25 Q. But he came back with you...

1 A. Yes, sir.

2 Q. --- to the party...

3 A. Yes, sir.

4 Q. --- that didn't exist at that time?

5 A. Yes, sir.

6 Q. And you have described in some detail for the
7 prosecutor and to the jury about what happened after
8 you came back to Mr. Brown's house?

9 A. Say it again, sir?

10 Q. You have described to the prosecutor for the
11 benefit of the jury in some detail about what
12 happened after you came back to Mr. Brown's house for
13 the second time?

14 A. Yes, sir.

15 Q. And you also provided information to the
16 police department that night about what you observed
17 that night?

18 A. Yes, sir.

19 Q. In your statement to the police that you made
20 to Detective Boyd that night, do you recall telling
21 them that there wasn't any problem with anyone
22 associated with you before you left the party the
23 first time?

24 A. Yes, sir.

25 Q. And was that true?

1 A. Yes, sir.

2 Q. Well, didn't you testify today under oath that
3 some lady threw a drink on somebody who was with you
4 that night?

5 A. That wasn't -- when he asked the question, he
6 asked between David Rocquemoire. He didn't ask about
7 the lady. There wasn't any problems when -- it
8 states on the Q and A that did we have any problem
9 with David Rocquemoire at the party, and I said no.

10 Q. Well, certainly you've gone over your
11 statement with the prosecutor in the last week or two
12 in preparation for your testimony today, haven't you?

13 A. Yes, sir.

14 Q. Do you recall the police saying did you or any
15 of your friends who were at the party with -- you and
16 your friends who you were at the party with have any
17 problems prior to leaving the first time? Do you
18 remember them asking you that?

19 A. Can I see it, sir?

20 MR. SAVAGE: May I approach?

21 BY MR. SAVAGE:

22 Q. I have it marked in yellow.

23 A. (The witness reviews document.) Yes, sir.

24 Q. So is there some reason you didn't want the
25 police to know that night that there had been a

1 problem before you left, or did you just not think of
2 it at the time?

3 A. You said the first prior party? There was not
4 a problem. That was resolved. That's why we left
5 the party, sir.

6 Q. I'm sorry?

7 A. That the issue -- are you talking about the
8 first party, or are you talking about the second
9 party?

10 Q. I'm talking about what the police asked you.

11 A. Okay.

12 Q. What did the police ask you?

13 A. In that night he's asking from David
14 Rocquemore and them, we met them for the first time
15 over at the female's house in Summerville, at that
16 party did we have any problem, and I said no.

17 Q. The question was: Did you or any of the
18 friends you were with, at the party with, have any
19 problems prior to leaving the first time, and you
20 said no?

21 A. That's true.

22 Q. Did you ever indicate to the police that there
23 was a problem at the party that took place when David
24 Rocquemore wasn't even there?

25 A. No, sir. There was not a problem.

1 Q. But there was something that caused you to
2 leave the party?

3 A. Yes.

4 Q. Whatever you described as the problem with the
5 brother was. Now, when you returned to the party,
6 David Rocquemore and Mr. Brown were back at the
7 party. Correct?

8 A. Yes.

9 Q. And a fellow by the name of Mr. Thomas was at
10 the party?

11 A. Yes, sir.

12 Q. And Mr. Thomas is the same Mr. Thomas who had
13 been at the party all the night through with you and
14 your friends and the ladies and whatnot?

15 A. Yes, sir.

16 Q. Four of you got out of the car?

17 A. Yes, sir.

18 Q. And an argument ensued?

19 A. I wouldn't say argument. It was, this is the
20 exact words, "y'all niggers think y'all gangsters."

21 Q. And no one else said anything?

22 A. We dismissed that, that he's joking around.

23 Q. And no one bowed up to anybody?

24 A. No, sir.

25 Q. Well, if no one bowed up to anybody, then how

1 did some of these get their hands slapped?

2 A. About bow up, they was talking amongst each
3 other, and I got between. That's bowing up as you're
4 -- what you're saying, bowing up, fighting, sir?

5 Q. Well, I think you had testified to the jury
6 earlier that somebody slapped somebody's hands down.

7 A. Yes, sir. That -- I wouldn't consider that
8 bowing up. That's why I got between them and
9 diffused that.

10 Q. And then Mr. Thomas left and went towards his
11 car?

12 A. Yes, sir.

13 Q. And you ran after him. And what was the term
14 you described it as? Bull rushed him? What does
15 that mean, "I bull rushed him to the ground"?

16 A. First of all, I didn't run after him. I
17 walked and looked at him. Bull rush is a term we use
18 to take somebody down in the military.

19 Q. And you bull rushed him?

20 A. I took him down. I bull rushed him. That's
21 what I put on my paper.

22 Q. Did he have a weapon?

23 A. I didn't give him a chance to. I didn't see
24 if he had a weapon, but he -- he made an idle threat.
25 He reached in the trunk. When he was reaching in the

1 trunk and I couldn't -- you know, I'm not going to
2 let him grab a weapon. So at the time I had him on
3 the ground, I didn't know if he had a weapon or not.

4 Q. Did he have a weapon?

5 A. I didn't find a weapon on him, sir.

6 Q. And as that happened, you saw the car door to
7 Mr. Rocquemore's car open?

8 A. Yes, sir.

9 Q. And you didn't see who opened the door. Is
10 that correct?

11 A. Yes, sir.

12 Q. So you know nothing about what happened
13 between the time you bull rushed Mr. Thomas and the
14 time that you heard the shots fired?

15 A. That's correct, sir.

16 Q. So all your testimony about what happened at
17 Mr. Brown's house that night is unrelated to the
18 immediate disturbance which created the shooting of
19 the weapon. You didn't see the weapon, you didn't
20 see anybody with a weapon, you don't know whether
21 anybody was on top of somebody else or they were
22 fighting or what they were saying?

23 A. That's a false statement you just put it in.

24 Q. That's a false statement?

25 A. I seen your -- David Rocquemore with a weapon.

1 He had the weapon underneath his body.

2 Q. That was after the shooting.

3 A. After the shooting.

4 Q. What I'm asking you is if you can describe to
5 the jury so they can understand what led to the
6 shooting. What happened between the time you bull
7 rushed Mr. Thomas until the time you heard the shots
8 fired?

9 A. I will gladly tell them again. As we --
10 between us, when David Rocquemore and Demar Denson
11 was walking, Chris Thomas made a statement and said,
12 "Hey, there will be -- there's a lot of talking going
13 on, there'll be no more talking once I get to the
14 trunk of my car."

15 And at that time, my focus was on Chris
16 Thomas. I watched him, and -- and I neared him on
17 the other side of his car, and he popped his trunk.
18 He'd made an idle threat regarding what he's going to
19 do with it.

20 When he reached his hands in there, I said I'm
21 not going to let this guy in there grab a gun, and I
22 bull -- that's what I call it whenever I say I bull
23 rushed him to the ground, which we call take down. I
24 took him down, I had him pinned down on the ground,
25 searching for a weapon, and as we're going there, I

1 seen David Rocquemore's door open up. I don't know
2 who went in the vehicle, but after -- shortly after
3 that, I heard firing behind me. I heard two shots go
4 off behind me, and they say "he shot Demar, he shot
5 Demar."

6 Q. But, Mr. Gibbs, the question, the question is
7 very simple, and I'd ask you to give it a very direct
8 answer. From the time you bull rushed Mr. Thomas and
9 till the time the shots were fired, you did not have
10 an opportunity to observe anything between
11 Mr. Rocquemore and the other people who were present;
12 isn't that correct?

13 A. True.

14 MR. SAVAGE: Beg the Court's indulgence
15 for one moment.

16 We have no further questions.

17 MR. DURANT: I have nothing on redirect,
18 Your Honor.

19 THE COURT: You may step down, sir.

20 THE WITNESS: Yes, sir.

21 MR. DURANT: Your Honor, may the witness
22 remain?

23 THE COURT: Any objection?

24 MR. SAVAGE: As long as he follows the
25 Court's instructions.

1 Are you asking that he remain subject to
2 sequestration?

3 THE COURT: He's asking if he can remain
4 in the courtroom.

5 MR. SAVAGE: Yes, he can remain in the
6 courtroom.

7 THE COURT: All right.

8 (The witness is excused from the witness
9 stand.)

10 THE COURT: Ladies and gentlemen, good
11 time to go ahead and give you a break. I know it's
12 been a while. Do not discuss the case in any way.
13 Thank you very much.

14 (Whereupon, the jury goes to the jury
15 room at approximately 11:20 a.m.)

16 THE COURT: Okay. Take a short break.

17 MR. SAVAGE: If I may, what I was
18 concerned with, that the state's witnesses are
19 instructed not to discuss their testimony with
20 anyone. That's referring to not whether he could
21 stay in the courtroom. He can go wherever as long as
22 he doesn't discuss the testimony.

23 THE COURT: Well, he's still in here.

24 Sir, you understand you may not discuss
25 your testimony with anyone?

1 MR. RONALD GIBBS: Yes, sir.

2 THE COURT: All right. Thank you.

3 (A break is taken at approximately
4 11:20 a.m.)

5 (The trial reconvenes at approximately
6 11:30 a.m., the defendant being present with counsel,
7 and the following proceedings were had:)

8 THE COURT: Go ahead and make copies of
9 the exhibits.

10 MR. SAVAGE: Just the photographs.

11 THE COURT: Of the photographs?

12 MR. SAVAGE: Just hard to tell what the
13 description, handwritten description, of the
14 photograph represents. For instance, a face shot of
15 something, we might have four or five of those photos
16 and which one is in evidence hard to tell.

17 THE COURT: Do you have any problem with
18 him copying them?

19 MR. DURANT: I don't have any problem
20 with that.

21 THE COURT: All right. I'll authorize
22 you to take them out of the courtroom.

23 MR. SAVAGE: We can do it right here,
24 Judge.

25 THE COURT: That's fine.

1 Are y'all ready?

2 MS. KNEESE-SHEALY: We're ready,
3 Your Honor.

4 THE COURT: Bring the jury in, please.

5 (Whereupon, the jury returns to the
6 courtroom at approximately 11:32 a.m.)

7 THE BAILIFF: The jurors are present,
8 Your Honor.

9 THE COURT: Thank you. Please be seated.

10 All right, ladies and gentlemen. We're
11 ready to proceed.

12 Call your next witness.

13 MS. KNEESE-SHEALY: Troy Eason.

14 (Mr. Eason enters the courtroom.)

15 TROY LEN EASON,
16 being first duly sworn by the clerk, is examined and
17 testifies as follows:

18 THE CLERK: Be seated. If you'll speak
19 into the mike and state your full name and spell your
20 last name.

21 THE WITNESS: Troy L. Eason, E-A-S-O-N.

22 DIRECT EXAMINATION

23 BY MS. KNEESE-SHEALY:

24 Q. Mr. Eason, if you would, please, tell the jury
25 how old you are.

1 A. I'm 37 years old.

2 Q. And where did you grow up?

3 A. Charleston. Ladson, South Carolina.

4 Q. Ladson, South Carolina?

5 A. Yes, ma'am.

6 Q. And how long have you lived in that area?

7 A. That particular area I've been in about 25
8 years.

9 Q. And when we're talking about that area, is
10 that Woodside Manor?

11 A. Yes, ma'am.

12 Q. Okay. Tell us about your background. Where
13 did you go to high school?

14 A. I went to R.B. Stall High School and graduated
15 from there and went to North Greenville Junior
16 College in Greenville, Colorado. I left there and
17 went to South Carolina State for a year.

18 Q. Okay. And when you went to North Greenville,
19 did Demar Denson go to college with you?

20 A. Yes, ma'am. We were roommates, actually.

21 Q. Y'all were roommates. Would you tell the jury
22 whether or not you've ever been arrested or convicted
23 of any crime?

24 A. No.

25 Q. Where are you currently employed?

1 A. I'm currently employed at Force Protection.
2 It's a defense contractor. We make armored vehicles
3 for the military.

4 Q. Okay. And where is that located?

5 A. It's in Ladson.

6 Q. And how long have you been working there?

7 A. About ten months.

8 Q. Prior to working -- and tell me the name
9 again. Force?

10 A. Force Protection.

11 Q. Force Protection. Prior to working there,
12 where did you work?

13 A. I worked at the College of Charleston for
14 about five years.

15 Q. And at the time of this incident, that being
16 August of 2005, were you working at the College of
17 Charleston?

18 A. Yeah, I was employed there at Charleston.

19 Q. What did you do for the College of Charleston?

20 A. I was a maintenance tech for the dormitories
21 and the sorority and frat houses.

22 Q. And you did that for five years?

23 A. Yes, ma'am.

24 Q. Tell us how you know Rodney Gibbs.

25 A. I know Rodney through Ronald Gibbs which is

1 his younger brother.

2 Q. And what kind of relationship do you have with
3 Rodney Gibbs?

4 A. Rodney is kind of like the older brother of
5 the group. He's always, you know, been the older one
6 of us, so he's always like an older brother to me.

7 Q. And did you know him as a child growing up
8 with Ronald?

9 A. Yes, ma'am.

10 Q. What has your relationship with Rodney been
11 since y'all have become adults?

12 A. It's been continuously the same since we were
13 little. Whenever he's home, we get in touch with
14 each other, get together. We always try to find each
15 other and get in touch with each other.

16 Q. Okay. And when you say when he's home, has he
17 lived elsewhere?

18 A. Yes. He lived in California for a while, and
19 he's a merchant seaman, so he travels a lot. So
20 whenever he gets a chance to come home, we try to get
21 together.

22 Q. And what about his brother Ronald? Describe
23 your relationship for us, if you would, with Ronald.

24 A. I met Ronald when I first moved into the
25 neighborhood, which is -- I actually met Demar first,

1 and he introduced me to Ronald. We all played Little
2 League football together, so we kind of -- we kind of
3 had, like, a reputation. The four of us got together
4 and we, you know, gelled together when we first met
5 each other.

6 Q. Okay. And what about Dexter Brown?

7 A. The same circumstances, just through the
8 neighborhood, from being kids running around the
9 neighborhood.

10 Q. Were you and Ronald and Rodney and Demar
11 closer friends than y'all were with Dexter?

12 A. Well, to say closer, we -- we all hung
13 together. But me, Ronald, and Rodney were -- yeah,
14 well, I guess we were closer. We were more -- their
15 families and more my families, they and my mom and
16 dad were like that.

17 Q. Okay.

18 A. So I guess we were closer, yes, ma'am.

19 Q. And tell us about Demar. Do you remember how
20 old you were -- you were when you met him?

21 A. Eleven, twelve years old.

22 Q. And was he living in Charleston at the time of
23 this incident?

24 A. Yes, he was living in Charleston.

25 Q. Had he been living in Orangeburg for some

1 time?

2 A. Yeah. He had -- he had just gone back to
3 school to finish up, and he was staying at
4 Orangeburg. And he would stay at my house at night,
5 too, to make the trip a little shorter.

6 Q. And do you remember where Demar was working at
7 the time?

8 A. He was working the Longshoreman Hall in
9 Charleston.

10 Q. Now, what about Chris Thomas and David
11 Rocquemore? Had you met them prior to August 13th of
12 2005?

13 A. No. I never met them until that night.

14 Q. And do you see David Rocquemore here today?

15 A. Yes, ma'am.

16 Q. And he's seated over to the left of you?

17 A. Yes, ma'am.

18 Q. Regarding August 2005 ---

19 A. Uh-huh.

20 Q. --- had there been a party at Dexter's house
21 the week before the incident in question?

22 A. Yes, ma'am. There was a cookout the week
23 before.

24 Q. And had you gone to that party?

25 A. Yes, I did.

1 Q. Do you recall whether or not Rodney and Ronald
2 had gone to that party?

3 A. Yes, they were. We all attended together.

4 Q. And when you were at Dexter's house that
5 weekend, was there an invitation extended to y'all
6 for the following weekend?

7 A. Yes, ma'am. Some -- some young ladies that
8 were there at the party invited us to a -- I think it
9 was a housewarming party she was having the following
10 week, and she wanted us to come out there.

11 Q. Did Demar have any role at the party at
12 Dexter's the week before? Was he doing anything?

13 A. Yeah. He was the -- folks call him the chef.
14 He was on the grill out there, actually, you know.

15 Q. Okay. Now, regarding the girl's party in
16 Summerville, did you have the occasion to go to that
17 party?

18 A. Yes, ma'am, I did.

19 Q. And how did you get over there?

20 A. I rode with Dexter.

21 Q. And when you got to that party, if you would,
22 describe for the jury what type of party that was.

23 A. It was a older crowd. I believe the parents
24 were there, and they were cooking, there was some
25 kids around, more like a family-type atmosphere.

1 Q. And were there alcoholic drinks served at that
2 party?

3 A. Yes, ma'am, there was.

4 Q. Did you have something alcoholic to drink ---

5 A. Yes, I did.

6 Q. --- while you were there? Do you remember
7 what you had?

8 A. I had Grey Goose and cranberry juice.

9 Q. Okay. Was there any kind of problem at that
10 party?

11 A. No, none whatsoever.

12 Q. When you were there, did you in fact meet
13 Chris Thomas and David Rocquemore?

14 A. Yeah. I believe Dexter introduced me to them.
15 I think Chris was there, a supervisor with him at his
16 job, and he just introduced them, and we all sat
17 around talking with each other for the night.

18 Q. Okay. Did you have any kind of problems with
19 Chris Thomas ---

20 A. No.

21 Q. --- or David Rocquemore?

22 A. None whatsoever.

23 Q. And was there a particular reason that that
24 young lady was having a party? Was it for a special
25 purpose?

1 A. I believe it was -- she just purchased a
2 house, and it was a housewarming party.

3 Q. Okay. When that party ended, what did you
4 then do?

5 A. We all left her house and went to my house.

6 Q. And when you say we all went, who all went
7 with you to your house?

8 A. Me, Dexter, a few of the ladies from the
9 party, Mr. Rocquemoire, and Chris ---

10 Q. Okay.

11 A. --- came to my house.

12 Q. And where were Rodney and Ronald and Demar as
13 far as you knew when y'all left the party?

14 A. They were still at the party when we left.

15 Q. Okay. When you got to your house, how long,
16 if you remember, approximately did y'all stay over
17 there?

18 A. A matter of 10, 15 minutes. It wasn't long at
19 all. It was -- there was a problem with my radio not
20 working, I didn't have anything to drink at the house
21 or anything like that, so I believe Dexter made a
22 suggestion that we go back to his house.

23 Q. Okay. And if you would, tell us who all went
24 back to Dexter's house.

25 A. The girls, I believe Chris, and

1 Mr. Rocquemore.

2 Q. And Dexter?

3 A. And Dexter, right.

4 Q. Did you in fact go?

5 A. Yeah, I went. I went back for like five, ten
6 minutes, and at that time it was late, so I came back
7 home and went and sat down on the couch.

8 Q. Okay. And tell us how long it takes to get
9 from Dexter's house to your house.

10 A. Two or three minutes. It's about four blocks
11 from my house.

12 Q. And so why did you decide to leave Dexter's?

13 A. I was tired, and really nothing going on, and
14 I was just ready to go home.

15 Q. Okay. When the evening continued, the early
16 morning hours, at some point do Ronald and Rodney and
17 Demar come back over to your house?

18 A. Yes, ma'am.

19 Q. Could you describe for the jury what happened
20 once they got over to your house?

21 A. I remember the door ringing and letting them
22 in -- actually, they had a key, so they came in and
23 we talked about what -- you know, what happened that
24 night. And about the same time, Dexter called me.

25 Q. Okay. Well, let me interrupt you for a

1 second. When they were telling you about what had
2 happened earlier, did Rodney explain to you about his
3 throwing a drink at a girl?

4 A. I don't believe he explained to me all that.
5 Not at that time, no.

6 Q. Okay. Did anybody else explain that to you?

7 A. No. Not at that time, no.

8 Q. So you were telling us about receiving a phone
9 call from Dexter.

10 A. Dexter, right.

11 Q. Tell us what that conversation involved.

12 A. It was more he -- he had gotten back and
13 noticed that everybody had left, and he was wondering
14 why everybody had left and why the girls, quote, why
15 the girls had left.

16 Q. Okay. Can you describe for us the tone in
17 Dexter's call?

18 A. It was more -- I think it was more of a --
19 hard to describe it -- what happened, you know, why
20 -- why the girls left, wondering what's going on,
21 what happened with the girls.

22 And I was like, I don't know, I'm not sure,
23 but these guys have got here now. So I said, if you
24 want, we'll come back down there, you know, find out
25 what's going on. He said all right. I said, well,

1 we're on the way back.

2 Q. Okay. And who in fact left your house to go
3 back to Dexter's?

4 A. Me, Demar, Rodney, and...

5 Q. Ronald?

6 A. Ronald.

7 Q. When y'all were making the decision to go back
8 to Dexter's, was anybody with you angry?

9 A. No. No.

10 Q. Did Dexter appear to be angry or frustrated
11 when he called?

12 A. I wouldn't say angry. Maybe frustrated that
13 the girls had left. You know, he wasn't like upset
14 or nothing.

15 Q. So what was the purpose then of y'all leaving
16 your house and going back to Dexter's?

17 A. It was, I guess, a courtesy. Because we
18 actually -- I believe they left Dex's house
19 unattended -- unattended, and we're just going -- you
20 know, go back and let him know what's going on.

21 Q. Okay. When you say they had left Dexter's
22 house unattended, what do you mean by that?

23 A. Well, you know, as we grew up we all spend
24 time at each other's house, and I guess when -- Dex
25 wasn't there at the time, so I guess he expected one

1 of us to be there to keep a eye on things at his
2 house.

3 Q. Okay. So y'all went back over to smooth
4 things over ---

5 A. Yes, ma'am.

6 Q. --- with Dexter? And, again, was anybody with
7 you, Ronald, Rodney, or Demar, angry when y'all were
8 heading over there?

9 A. No, ma'am.

10 Q. Troy, could you describe for the jury why you
11 made the decision to go back over there if you'd been
12 tired earlier in the evening?

13 A. It was more just to be -- settle the -- I
14 mean, to just explain to Dex what -- you know, what's
15 going on then, you know, going on that night. It was
16 just something we've always done. And I can't --
17 it's not like aforethought as to why we went back
18 over. Just something we've always done.

19 Q. Okay.

20 A. Just, you know...

21 Q. When you were traveling over there, was
22 anybody hanging out the window or whooping and
23 hollering?

24 A. No, ma'am. No, ma'am.

25 Q. And who drove back over there?

1 A. I believe Ronald drove.

2 Q. And whose vehicle were you in?

3 A. Ronald's.

4 Q. And when you were approaching Dexter's house,
5 at some point do you recall whether or not Ronald
6 turned the lights off in the vehicle?

7 A. Yes, ma'am. It was maybe 10, 20 feet from
8 where Dexter's house is, cuts the lights off. It's
9 something that we, you know, would always do that
10 late at night and, you know, stop doing -- disturbing
11 neighbors, whatnot. We always cut the radio down and
12 cut the lights off when we approach someone's house.

13 Q. Okay. So let me make sure I understand. You
14 grew up in Woodside Manor?

15 A. Yes, ma'am.

16 Q. Dexter grew up in Woodside Manor?

17 A. Yes, ma'am.

18 Q. Demar's father still lives in Woodside Manor?

19 A. Yes, ma'am.

20 Q. And the Gibbs also ---

21 A. Yes, ma'am.

22 Q. --- grew up in the same neighborhood?

23 A. Right.

24 Q. Was there any effort to appear
25 gangster-like ---

1 A. Uh-uh.

2 Q. --- by turning the lights off?

3 A. No, ma'am.

4 MR. SAVAGE: Object to the form of the
5 question.

6 MS. KNEESE-SHEALY: I'll move on.

7 THE COURT: Move on?

8 MS. KNEESE-SHEALY: I'll move on. Thank
9 you, Your Honor.

10 THE COURT: All right. I sustain that.
11 Go ahead.

12 BY MS. KNEESE-SHEALY:

13 Q. When you approached Dexter's house, would you
14 tell us, please, whether or not there was anyone in
15 the street or in the driveway?

16 A. I believe Dexter was standing in the driveway,
17 and Mr. Rocquemore and Chris were standing right in
18 the street, right there in the front of his house.

19 Q. Okay. And do you recall where Ronald parked
20 his car?

21 A. He parked up about ten feet in front of
22 Dexter's driveway.

23 MS. KNEESE-SHEALY: If we could pull up
24 state's exhibit number one.

25 Your Honor, may I approach?

1 THE COURT: Yes, ma'am.

2 (There was an off-the-record discussion
3 regarding laser pointer.)

4 BY MS. KNEESE-SHEALY:

5 Q. Now, Mr. Eason, are you familiar with what
6 this exhibit depicts, that being the area of
7 Mixedwood and Berrywood?

8 A. Yes, ma'am.

9 Q. That laser pointer I gave you...

10 A. Okay.

11 Q. --- if you will point that and show us in what
12 direction y'all came down the street.

13 A. We came from this direction here, from up
14 Berrywood here ---

15 Q. Okay.

16 A. --- and parked, I believe, in this area.

17 Q. And show us where Dexter's house is.

18 A. Dexter's house is here.

19 Q. Now, those dark areas on either side of the
20 driveway, could you tell us what those are? Are
21 those shrubbery?

22 A. Are you speaking of this area here?

23 Q. Yes.

24 A. That's just shrubbery that's in front of
25 Dexter's house.

1 Q. And show us, please, where Ronald pulled over.

2 A. He pulled over in this area here.

3 Q. And were there two other cars on the road as
4 y'all were approaching?

5 A. Yes, ma'am. Chris's car was here. And the
6 white Suburban, I believe it was, was parked here.

7 Q. Okay. Thank you.

8 MS. KNEESE-SHEALY: You can turn it off.
9 I'm sorry. You can turn that off now.

10 BY MS. KNEESE-SHEALY:

11 Q. As you were approaching then and parking, when
12 y'all got out of the vehicle was anybody in the car
13 angry?

14 A. No, ma'am, not at all.

15 Q. What happened once y'all got parked and got
16 out of the car?

17 A. We parked, got out of the car, was walking up
18 towards the -- Dexter's driveway, and Mr. Rocquemore
19 walked over and said, "Y'all think y'all some
20 gangsters for driving up with the lights off."

21 Q. And can you describe for the jury then what
22 happens after Mr. Rocquemore says that?

23 A. At the time he said that, he was approaching I
24 believe it was Rodney. He was approaching Rodney and
25 saying that, and Demar stepped in between them.

1 Q. Demar stepped in between them?

2 A. Yes, ma'am.

3 Q. Was there any exchange of arms or hands at
4 some point?

5 A. It was more of a brushing off or don't put
6 your hands on me like ---

7 Q. Okay.

8 A. --- like that, you know.

9 Q. Well, tell us who said what to whom.

10 A. I believe Demar said that to Mr. Rocquemore
11 and said don't put your hands on me.

12 Q. What had Mr. Rocquemore done prior to Demar
13 saying that?

14 A. He had pointed, you know, was pointing at him
15 or pointing at him like -- I guess he put his hands
16 on like his shoulder or something.

17 Q. Now, at any point after that happens, are any
18 -- exchange of blows? Did anybody hit anybody?

19 A. No, there wasn't no fight. It was more of a
20 everybody calm down, what's going on, what's going on
21 type of situation. It wasn't -- it was like trying
22 to diffuse the situation, I guess, everybody calm
23 down, what's going on. It was not a big deal.

24 Q. And what if anything does Chris Thomas then
25 say and do?

1 A. During the commotion of everybody calm down, I
2 could see him saying, well, soon there won't be any
3 noise as soon as I get to my trunk.

4 Q. I'm sorry. Could you say that a little bit
5 slower?

6 A. He said soon there won't be any noise as soon
7 as I get to my trunk. It was something to the sense
8 of that, what I can remember.

9 Q. And based on what Mr. Thomas said, what did
10 you think he meant?

11 A. I took it that he was getting a weapon from
12 out of his trunk.

13 Q. After he said that, where did he go?

14 A. Towards his trunk.

15 Q. And as he went to his trunk, did anybody out
16 there move towards him?

17 A. I believe Ronald kind of shadowed him towards
18 the trunk to see what he was going to get in the
19 trunk. And once he opened the trunk, Ronald pushed
20 him out of the way and put him on the ground and told
21 him you're not getting no gun out of the trunk.

22 MS. KNEESE-SHEALY: Beg the Court's
23 indulgence just a minute.

24 MR. DURANT: State's exhibit number 19.

25 BY MS. KNEESE-SHEALY:

1 Q. Showing you what has been previously marked as
2 state's exhibit 19, could you tell the jury, and use
3 the pointer, if you will, whose cars are whose out on
4 the street?

5 A. All right. This is the Explorer here. That's
6 Ronald's car. And this car is Chris's car. And I
7 believe this car is Mr. Rocquemore's car.

8 Q. And if you use the pointer to show us what
9 direction Chris Thomas was walking toward his car.

10 A. He was walking from over in this area towards
11 his car here and back to his trunk here and put -- I
12 guess he put his key in the trunk and was popping the
13 trunk.

14 MS. KNEESE-SHEALY: Thank you. You can
15 turn it off.

16 BY MS. KNEESE-SHEALY:

17 Q. And as Ronald then goes towards Chris, is he
18 dealing with Chris at that point?

19 A. Yeah. He -- he kind of tackled him and had
20 him on the ground and was patting him down to make
21 sure he didn't have a gun or anything on him.

22 Q. Would you tell us then what did Mr. Rocquemore
23 do while that's going on?

24 A. I seen him walk towards like on the other side
25 of the street towards his vehicle.

1 Q. Towards his what?

2 A. His vehicle.

3 Q. Okay. And as he's going towards his vehicle,
4 is anybody running up behind him?

5 A. No. Nobody's running behind him at all, no.

6 Q. So does anybody try to gang him?

7 MR. SAVAGE: Object to the form of the
8 question.

9 THE COURT: Rephrase the question.

10 BY MS. KNEESE-SHEALY:

11 Q. Could you describe whether or not anybody else
12 in the group was going towards him at some point?

13 MR. SAVAGE: Object to the form of the
14 question.

15 THE COURT: Observations, but without
16 leading. Go ahead.

17 BY MS. KNEESE-SHEALY:

18 Q. Mr. Eason, if you would, would you describe
19 what other people are doing at this point, please?

20 A. Ronald's with Chris Roc -- I mean, with Chris
21 Thomas, you know what I'm saying. And Mr. Rocquemore
22 was walking towards his car, and Demar is kind of
23 behind him, watching him and kind of watching so he
24 could see what's going on at the time. My attention
25 is more with Ronald and Chris there on the ground,

1 you know, and the next thing I know, that's when all
2 the other stuff happened.

3 Q. Okay. Well, first of all, I need you to speak
4 up a little bit for us.

5 A. Okay.

6 Q. If you need to get a little closer to the
7 microphone, do so. And if you would, describe for us
8 what then does happen.

9 A. From what I remember, Demar -- I mean, Ronald
10 had Chris on the ground, and my attention was at
11 that, and the next thing I know, I looked up and I
12 can remember -- excuse my language -- "yeah,
13 motherfucker, what y'all going to do now?" And I
14 looked up, and he had the gun on Demar.

15 Q. Who had the gun on Demar?

16 A. Chris (sic) Rocquemore.

17 Q. And where was Mr. Rocquemore standing?

18 A. Across the street, underneath the -- I
19 remember seeing him because he was underneath the
20 streetlight.

21 Q. And what was Demar doing?

22 A. He had his hands up with his hands like that
23 (demonstrating).

24 Q. Okay. And, again, just stay a little closer
25 to the microphone for me. When Demar put his hands

1 up like that, where then does he go?

2 A. He kind of -- he had the gun, and he kind of
3 went like he was going to pistol-whip him, and he
4 swung out, and Demar leaned -- leaned back, and I
5 guess the gun landed on the ground. And the next
6 thing I remember, he picked it up, came up, and shot
7 him.

8 Q. Okay. And let me get you to say the name of
9 the person that you're talking about instead of just
10 "he." Who took the gun and tried to hit Demar?

11 A. Mr. Rocquemore.

12 Q. And once the gun fell, who picks the gun up?

13 A. He did.

14 Q. And at this point, where are -- are y'all in
15 relationship to Mr. Rocquemore's car and the ditch
16 across the street from ---

17 A. We are more ---

18 Q. --- Dexter's?

19 A. We're more in front of Chris Thomas's car and
20 the street, that area I believe.

21 Q. After Mr. Rocquemore picks up the gun, what
22 then happens?

23 A. During the time I'm going towards him, the
24 same time I hear the shots, and the second shot, and
25 that's when Demar kind of grabbed him, and the same

1 time Demar grabbed him, I got there and grabbed him
2 and tackled him to the ground.

3 Q. In what area are you tackling him to the
4 ground?

5 A. Across the street, like in the driveway right
6 across the street.

7 Q. And across the street from what?

8 A. From Dexter's house.

9 Q. Okay. So in comparison to where
10 Mr. Rocquemore's car is, could you describe where
11 y'all were when the shots were fired?

12 A. Where we were from his car?

13 Q. Yes.

14 A. It was about 10, 20 feet away from his car, on
15 the other side of the street.

16 Q. On the other side of the street?

17 A. On the other side of it, yes.

18 Q. And where in relation to Mr. -- to Dexter
19 Brown's driveway?

20 A. Directly across the street from Dexter's
21 driveway.

22 Q. And could you see how far apart Mr. Rocquemore
23 and Mr. Denson, Demar Denson, were when the shots
24 were fired? Could you see that?

25 A. I could see he was -- you know, I guess they

1 were maybe four or five feet away from me.

2 Q. You were telling us that at some point Demar
3 comes towards Mr. Rocquemoire. When does that happen?

4 A. After the first shot.

5 Q. And at the time of the second shot, was there
6 still some distance between them?

7 A. Yes, ma'am.

8 Q. Now, at any point prior to the shots did you
9 see Demar Denson attack David Rocquemoire?

10 A. Nobody laid a hand on him before that, before
11 that shot.

12 Q. And once the two shots were fired, at what
13 point does Mr. Rocquemoire get on the ground?

14 A. It was immediately afterward because me and
15 Demar are trying to tackle him down on the ground.

16 Q. And when you got him on the ground, what were
17 you trying to get from him?

18 A. Well, he still had the weapon on him. He was
19 laying on the ground, like facedown on the ground and
20 had the gun pinned underneath him. And when he hit
21 the ground, it, you know, landed underneath him, and
22 Demar got up off of him and fell back into the ditch.
23 And Rodney came over and got on the other side. He
24 was holding his hand, trying to keep him -- keep him
25 from -- trying to get the gun away from him.

1 Q. Okay. Mr. Rocquemore was facing what way on
2 the ground?

3 A. He was facing towards Dexter's house.

4 Q. And was he on his stomach or on his back?

5 A. He was on his stomach.

6 Q. And the gun was where?

7 A. It was underneath him.

8 Q. And at the point that Demar goes and lays on
9 the ground near the ditch area, who is with you
10 trying to control Mr. Rocquemore?

11 A. Me and Rodney.

12 Q. You and Rodney?

13 A. Yes, ma'am.

14 Q. And were you able to get the gun away from
15 Mr. Rocquemore?

16 A. When we -- well, it took a while. He wouldn't
17 -- he wouldn't give it up. And we hit him on the
18 back of his head and we elbowed him and kneed him,
19 just to get the gun away from him, you know, where he
20 could not start shooting the rest of us like that.
21 So we're doing everything we could to get the gun
22 away from him.

23 Q. And you did say you were hitting and kneeling
24 him when he was on the ground?

25 A. Yes, ma'am.

1 Q. Had there been any hitting or kneeling of him
2 prior to him being on the ground?

3 A. There had been no contact whatsoever.

4 Q. Were you or Rodney ever able to get the gun
5 from him?

6 A. Not until Ronald came from across the street
7 and -- and did some type of pressure move on him, and
8 he gave up -- he gave up the weapon then.

9 Q. And could you see where Ronald put the gun?

10 A. He kind of grabbed it and I guess tried to
11 clear it, and he took it where the truck's parked in
12 the yard where we're at, and he put it on the back of
13 that truck.

14 Q. And that truck was parked behind the ditch?

15 A. Right. Behind the ditch.

16 Q. And that ditch area, was it sort of muddy in
17 that area?

18 A. Yes. It was muddy.

19 Q. Now, after Ronald got the gun away from
20 Mr. Rocquemore, did you continue to hit or knee

21 Mr. ---

22 A. Yes.

23 Q. --- Rocquemore?

24 A. Yes, I did.

25 MR. SAVAGE: Object to the form of

1 question and ask counsel not to lead this witness.

2 BY MS. KNEESE-SHEALY:

3 Q. Describe ---

4 THE COURT: Yeah, I sustain that.

5 Rephrase the question.

6 BY MS. KNEESE-SHEALY:

7 Q. Describe for the jury what you did in
8 relationship to Mr. Rocquemore after the gun was
9 taken from him.

10 A. After the gun was taken, I remember still
11 being on the back of him with my forearm like on the
12 back of his neck and just hitting him and asking him
13 why he did that, why he did that, why he did that.

14 Q. And why were you continuing to hit him?

15 A. My friend was laying in the ditch, dying. So
16 I was -- I was, you know, just upset. I didn't
17 understand why, you know, why it happened with him.

18 Q. Did you have the occasion that night to speak
19 to the police once they arrived?

20 A. Yes, I did.

21 Q. And would you tell the jury, please, where it
22 was that you actually gave them a statement? Where
23 were you?

24 A. At the police car.

25 Q. At the police what?

1 A. At the end of the police car.

2 Q. Okay. And when the police released y'all from
3 the scene, where did y'all go?

4 A. We came downtown to the emergency hospital to
5 check on Demar.

6 MS. KNEESE-SHEALY: I beg the Court's
7 indulgence just a moment.

8 BY MS. KNEESE-SHEALY:

9 Q. Mr. Eason, while you were out there that
10 evening, did you see anybody else with a gun?

11 A. No, ma'am.

12 Q. Did you have a gun?

13 A. No, ma'am.

14 Q. And when you described for us what happened,
15 could you tell us the difference between what you saw
16 and what you heard at the time of the shooting?

17 A. I'm not sure what you...

18 Q. When describing the shots, did you hear the
19 shots?

20 A. Yeah, I heard the shots.

21 Q. Okay. Were you able to actually see the
22 gunfire at that point?

23 A. No, because Demar's back was -- Demar's back
24 was to me and Rocquemore was like directly in front
25 of him. So all I could really see was Demar like

1 this, and I could see him with his arm extended up
2 like that (demonstrating).

3 MS. KNEESE-SHEALY: I have no other
4 questions. Answer any that the defense may have.

5 THE COURT: Approach, please.

6 (There was an off-the-record bench
7 conference in the presence of the jury but out of the
8 hearing of the jury.)

9 (Said bench conference being concluded,
10 the following proceedings were had:)

11 THE COURT: All right, ladies and
12 gentlemen. Before cross-examination, we're going to
13 go ahead and break for lunch. I'll send you out.
14 Please give your pads to the bailiff on your way out.
15 We'll see you back at 1:30. Do not discuss the case
16 in any way. Thank you very much.

17 (Whereupon, the jury leaves the courtroom
18 room at approximately 12:00 noon.)

19 THE COURT: Please be seated.

20 Sir, you may step down during the lunch
21 break; however, you may not discuss your testimony
22 with anyone. Do you understand that?

23 THE WITNESS: Yes, sir.

24 THE COURT: Thank you. You may step
25 down.

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(The witness leaves the witness stand.)

THE COURT: All right. See y'all after lunch.

MS. KNEESE-SHEALY: Your Honor, what time are we starting back?

THE COURT: 1:30.

(A lunch break is taken at approximately 12:00 noon.)

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AFTERNOON SESSION

(The trial reconvenes at approximately 1:30 p.m., the defendant being present with counsel, and the following proceedings were had:)

THE COURT: Is the state ready?

MS. KNEESE-SHEALY: The state's ready.

THE COURT: Bring the jury in, please.

(Whereupon, the jury returns to the courtroom at approximately 1:30 p.m.)

THE BAILIFF: Jurors are present,
Your Honor.

THE COURT: Thank you. Please be seated.

All right, ladies and gentlemen, we're ready to proceed. The witness will return to the witness stand, please.

(Mr. Eason enters the courtroom.)

TROY LEN EASON,
previously duly sworn by the clerk, resumes the witness stand and is examined and testifies further as follows:

THE COURT: Just remain under oath, sir, and continue your examination.

Go ahead, Counsel.

MR. SAVAGE: May it please the Court.

THE COURT: Yes, sir.

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CROSS-EXAMINATION

BY MR. SAVAGE:

Q. Good afternoon, sir.

A. How you doing?

Q. Troy Len Eason; is that correct?

A. That's correct.

Q. I'm Andy Savage. I represent Mr. Rocquemore.
We haven't met before?

A. Okay.

Q. Correct, we have not met before?

A. No, sir.

Q. This incident happened in your neighborhood?

A. Correct.

Q. And this incident happened in your
neighborhood with a friend of yours?

A. Brother of mine.

Q. Pardon me?

A. A brother of mine, yes, more than a friend.

Q. Brother being not biological, but in terms of
your relationship y'all were very close?

A. Yes, sir.

Q. And the Gibbs brothers were brothers of yours
at that time?

A. Yes.

Q. And y'all hung pretty close together, and this

1 incident caused you a lot of emotional trauma as a
2 result of the loss of your friend?

3 A. Yeah.

4 Q. Now, since that incident some two years ago,
5 almost two years ago, 23 months ago, have you seen
6 the Gibbs brothers?

7 A. Periodically, yes.

8 Q. And have you discussed this case with them?

9 A. Of course, yes.

10 Q. And have you discussed your testimony with
11 them?

12 A. We discussed the truth. We discussed what
13 happened that night.

14 Q. You did go over what you were going to testify
15 to, what they were going to testify to?

16 A. Yeah.

17 Q. And, of course, you did that with the
18 prosecutor?

19 A. Yes.

20 Q. And you went over the information that you
21 provided back when the incident happened, and then
22 there apparently were some things you learned from 23
23 months ago until today?

24 A. I'm not sure your question.

25 Q. Well, the night that incident happened you're

1 pretty much slammed?

2 A. I wasn't drinking at ---

3 Q. You had a good recollection of what happened
4 that night?

5 A. Yes, sir, I believe so, yes.

6 Q. And do you remember being interviewed by the
7 police?

8 A. I remember sitting in the car with -- watching
9 my friend's body get loaded in the ambulance and them
10 asking questions.

11 Q. And, of course, you've spoken to the police
12 since then?

13 A. I don't believe so, not the police, no.

14 Q. And you've spoken to the assistant prosecutor
15 since then?

16 A. Yes, sir.

17 Q. And, of course, you had an opportunity on more
18 than one occasion to correct any misstatements you
19 might have made in your earlier statement?

20 MR. DURANT: May we approach real
21 quickly, Your Honor?

22 THE WITNESS: Yeah.

23 THE COURT: Approach.

24 (There was an off-the-record bench
25 conference in the presence of the jury but out of the

1 hearing of the jury.)

2 (Said bench conference being concluded,
3 the following proceedings were had:)

4 THE COURT: Go ahead.

5 BY MR. SAVAGE:

6 Q. On the night of the incident, did you give the
7 police a statement?

8 A. Yes, I did.

9 Q. And since that night, have you had a chance to
10 correct any misstatement you might have made?

11 A. I'm not understanding what you mean by
12 correct, though.

13 Q. Is what you gave the police the night that you
14 were interviewed accurate?

15 A. At the time, considering what I been through
16 at that time, it was the best that I could relate,
17 yes.

18 Q. And the most important question that could be
19 answered that night was whether or not you saw the
20 shooting?

21 A. I guess that's what I really know that's the
22 most important.

23 Q. When you came to court today, you testified
24 for the benefit of the jury what you observed at the
25 time of the shooting?

1 A. Right.

2 Q. And you gave testimony today about at the time
3 of the shooting you saw Demar and how he was
4 positioned and whatnot?

5 A. Yeah.

6 Q. You gave some detail about that?

7 A. Right.

8 Q. Now, you were questioned the night of the
9 shooting, were you not, by the police about what you
10 observed?

11 A. Again, considering what was going on that
12 night, my friend was laying dead in the ditch, so it
13 should have been, it should be.

14 MR. SAVAGE: May I approach?

15 MS. KNEESE-SHEALY: Your Honor, I would
16 ask ---

17 THE COURT: Hold on a second.

18 Did you finish your statement?

19 THE WITNESS: Yes.

20 BY MR. SAVAGE:

21 Q. What I want to do is ask you if this is your
22 written statement that you gave them.

23 A. Yes, this is it.

24 Q. All right. Are you sure that's it?

25 A. (The witness further reviews document.) Yeah,

1 I'm pretty sure.

2 Q. Now, the night that you gave the statement,
3 you were upset. So you didn't give details about
4 what happened earlier in the evening?

5 A. That's -- I guess not, no.

6 Q. It's not a guessing game. This is serious
7 business. Either you did or you didn't.

8 A. No, I guess I didn't.

9 Q. Are you guessing or do you remember?

10 A. No, I didn't.

11 Q. Is there something ---

12 A. No, I didn't give any information about it.

13 Q. So the information about how this party, was
14 not given, the information about the cookout the week
15 before was not given, the names of the women you were
16 with that night were not given, and the details about
17 what you did that night was not given?

18 A. No.

19 Q. But the question that was important that night
20 about what you observed at the time of the shooting
21 was asked, and you answered and you gave the correct
22 statement. Correct?

23 A. The question that was important to me, was my
24 friend all right.

25 MS. KNEESE-SHEALY: Objection, Your

1 Honor. 613(b).

2 THE COURT: All right. Approach the
3 bench.

4 (There was an off-the-record bench
5 conference in the presence of the jury but out of the
6 hearing of the jury.)

7 (Said bench conference being concluded,
8 the following proceedings were had:)

9 BY MR. SAVAGE:

10 Q. The night of this incident, you gave a
11 statement; is that correct?

12 A. Yes, sir.

13 Q. Since that night, you have met with the
14 prosecutor on numerous occasions?

15 A. I wouldn't say numerous occasions.

16 Q. You met with him and reviewed your statement?

17 A. Yes.

18 Q. And have you changed your statement?

19 A. Not that I'm aware of, no.

20 Q. Was there anything in your original statement
21 that was untrue, false, or you didn't have proper
22 recollection that night?

23 A. Not that I'm aware of, no.

24 Q. Do you remember giving that statement to a
25 Charleston County sheriff's deputy?

1 A. Yes, sir.

2 Q. What time and place was that? In the patrol
3 car that morning?

4 A. Yes, it was in the patrol car that morning,
5 sir.

6 Q. The statement that I gave you, to be sure, is
7 this the statement that you gave them?

8 MR. SAVAGE: May I approach, Your Honor?

9 THE COURT: Yes.

10 BY MR. SAVAGE:

11 Q. Specifically, were you asked the question did
12 you witness the shooting?

13 A. (The witness reviews document.)

14 Q. Bottom of the page?

15 A. Bottom of the first page?

16 Q. Yes, sir.

17 A. It's under the person who shot the gun, the
18 answer is no.

19 Q. Would you mind publishing, that means reading
20 to the jury, the last four lines?

21 THE COURT: Speak louder, pull that mike
22 to you. Madam Court Reporter can't hear you.

23 If you can't hear, you can ask the
24 witness directly.

25 THE COURT REPORTER: Thank you.

1 THE WITNESS: There is a "Q," means
2 question: Did you see Demar get shot? The answer
3 was, is "A," and I put: "No. Heard shots."

4 Another question: "Do you know the
5 person who shot the gun?" That's the last question
6 on the page. And my answer is no.

7 Q. And is this a truthful statement?

8 A. To the best of my knowledge, yes. Demar was
9 in front of him, so I couldn't see him shoot the gun,
10 but I seen the act of him pointing the gun at him and
11 heard the shots. So, to be technical, I didn't see
12 the bullet go in him, no.

13 Q. But the night ---

14 MS. KNEESE-SHEALY: Objection,
15 Your Honor.

16 MR. DURANT: He's making a statement and
17 admitted making the statement.

18 THE COURT: Approach.

19 (There was an off-the-record bench
20 conference in the presence of the jury but out of the
21 hearing of the jury.)

22 (Said bench conference being concluded,
23 the following proceedings were had:)

24 THE COURT: If it's just for the
25 clarification.

1 BY MR. SAVAGE:

2 Q. You've had a chance to look at this statement
3 you made that night?

4 A. Yes.

5 Q. And you've refreshed your memory with it?

6 A. Somewhat.

7 Q. And there's no question the night that you
8 gave a statement when the police asked you did you
9 see Demar get shot, you said no?

10 A. Yes.

11 Q. And you didn't say you didn't see him because
12 somebody was standing in front of you or anything
13 else about the fight, you didn't give any of those
14 details?

15 A. I mean, as when you witness something like
16 this, witness my best friend get shot for no apparent
17 reason, so, I mean, of course, some details are left
18 out of it. To the best of my knowledge, I answered
19 it the best I could at the time.

20 Q. And the details that you left out were that
21 you didn't see him get shot?

22 A. No, that's not what I said.

23 Q. How about earlier that evening? Where did you
24 go and who did you go with?

25 A. Earlier, I worked earlier that evening, I got

1 off, and I think we went shopping to get me some
2 clothes for -- for the cookout later on in the
3 evening.

4 Q. And did you go to a cookout?

5 A. Yes, we did.

6 Q. And what time was that?

7 A. I can't -- it was late evening. Maybe, you
8 know, right around six or seven o'clock.

9 Q. Six or seven o'clock?

10 A. I'm not particularly sure exactly what time it
11 was.

12 Q. And how long did you stay at that party?

13 A. Maybe two hours, two and a half hours.

14 Q. So would that have put you at eight or nine
15 o'clock?

16 A. Like I say, I'm not -- I know it was dark when
17 we got there. So it was late August, so it -- it
18 actually may have been later than that, actually.

19 Q. And about how long did you stay at that party?

20 A. It was like, like I said, about two hours.

21 Q. And had you been drinking that night?

22 A. Yes, sir.

23 Q. And were you drinking at that party?

24 A. Yes, I was.

25 Q. And that's the Grey Goose you were drinking?

1 A. Yes, sir.

2 Q. Were the people that you were with drinking?

3 A. Yes.

4 Q. It was a drinking party?

5 A. No. It was a housewarming party.

6 Q. Housewarming. And why did you decide to
7 leave?

8 A. It got late in the evening, the party was
9 winding down, so we decided to go back to my house.
10 Me and Rocquemore and myself was at my -- actually
11 visiting my house.

12 Q. At that point did you and Mr. Rocquemore or
13 anybody else have any confrontation or any problem?

14 A. We had no problem at all. He was a guest in
15 my house. We talked, and it was just a normal
16 evening.

17 Q. And he was being polite and engaging the whole
18 night?

19 A. I don't remember him talking much, you know,
20 during the whole evening, but there was no -- no type
21 of arguments or nothing.

22 Q. Were any of the ladies there at your house?

23 A. Yeah. A few of them came back to my house,
24 yes.

25 Q. And was there any problem with the ladies at

1 that point?

2 A. No, no problems at all.

3 Q. Now, had the ladies been drinking?

4 A. I'm pretty sure they were, yeah.

5 Q. And you left your house because the liquor ran
6 out?

7 A. No. We left my house because the stereo
8 wasn't working. I didn't have any liquor at my
9 house.

10 Q. And there was nothing to drink at your house?

11 A. Right.

12 Q. So you went to Dexter's house?

13 A. Right.

14 Q. Mr. Brown?

15 A. Right.

16 Q. And how long were you there?

17 A. No more than 10, 15 minutes.

18 Q. All right. And then did you go home?

19 A. Yes, I went home.

20 Q. And how did you get from Mr. Brown's house to
21 your house?

22 A. I believe Ronald dropped me off.

23 Q. And it's a couple blocks away?

24 A. Yeah. It's about four or five blocks.

25 Q. Now, you had gone to the first party about

1 eight or nine o'clock or maybe at dusk; would that be
2 fair to say? I'm not trying to put words in your
3 mouth.

4 A. A particular time, I couldn't -- you know, I
5 can't tell you.

6 Q. And you stayed there about two hours?

7 A. Yes, sir.

8 Q. And you left that party and you went to your
9 house?

10 A. Right.

11 Q. And it took about 15 or 20 minutes? I'm
12 asking. I don't know. How long did it take to get
13 from the first party to your house?

14 A. I would -- it would be more than 15 or 20
15 minutes. I'd say about 35 or 40 minutes.

16 Q. From Summerville to Ladson?

17 A. From -- we're in Knightsville. I'm -- we're
18 at an unfamiliar area, and so it was -- it was kind
19 of a, you know, slow riding on that one.

20 Q. And you stayed at your house for a few
21 minutes?

22 A. Yes.

23 Q. And then you went to Mr. Brown's house which
24 was a few minutes away?

25 A. Right.

- 1 Q. And you stayed there a few minutes?
- 2 A. Right.
- 3 Q. And you went home?
- 4 A. Right.
- 5 Q. What time did you get home?
- 6 A. I can't -- you keep asking me times. For me
- 7 to give you a specific time, I can't. I can't -- I
- 8 can't do that.
- 9 Q. I'm not asking for 11:09. I'm asking for it
- 10 was around midnight, you know, whatever time that you
- 11 can recall.
- 12 A. I guess it was later, later in -- later in the
- 13 evening at that time.
- 14 Q. Did you watch TV?
- 15 A. I remember cutting the TV on, yeah.
- 16 Q. Do you remember what was on?
- 17 A. No, I don't remember what was on.
- 18 Q. Was it the Late Show or the news or...
- 19 A. I don't remember what was on.
- 20 Q. And you stayed at home then?
- 21 A. Yeah.
- 22 Q. And was anybody at home with you?
- 23 A. No. I stayed by myself.
- 24 Q. And you were resting? You're relaxing?
- 25 A. Relaxing.

1 Q. At some point there was a knock on the door?

2 A. No. Actually, they have a key to my house, so
3 I believe they -- they came on in.

4 Q. And what was said to you at that time?

5 A. The actual words, I can't recall what was
6 said, but it was like, man, what a -- you know, it
7 was like discussing the night, you know, what went on
8 that night.

9 Q. And what was discussed?

10 A. The party, the girls maybe. I can't recall
11 specific, you know, conversations or whatnot.

12 Q. Well, did anybody say that a drink was thrown
13 in their face?

14 A. Not at that time.

15 Q. That they'd thrown a drink in somebody else's
16 face?

17 A. No. I remember ---

18 Q. That there was an argument?

19 A. I remember them saying there was an argument
20 with a girl, that the girls -- I remember that the
21 girls had left. That's why they came back to my
22 house. The girls had left.

23 Q. The girls had left, so that's why they came
24 back to your house?

25 A. Right.

1 Q. The party was over?
2 A. (There was no response.)
3 Q. I mean, you didn't say, well, let's go back
4 and party some more. You were already resting for
5 the evening. Correct? That's a question.
6 A. Repeat? I don't understand the question, what
7 you're trying to say.
8 Q. You went home, you went to the party, I guess
9 you didn't think much of the party so you left and
10 went home to your house?
11 A. Correct.
12 Q. Sometime later on somebody came to your house
13 with a key?
14 A. It was somebody -- it was Demar and my best
15 friends that I've known for 20 something years came
16 back to my house.
17 Q. Your best friends...
18 A. Right.
19 Q. --- came to your house at what time?
20 A. Again, you're trying -- I don't -- I can't
21 recall a specific time, you know, what time this was.
22 Q. Was it in the evening?
23 A. It was late, late evening.
24 Q. Was it early morning?
25 A. Again, you're trying to pin me to one -- it

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1 was late. It was late evening. It was like late
2 evening.

3 Q. It was past the middle of the night?

4 A. If that's how you want to say it, I guess. I
5 don't know.

6 Q. I'm not trying to put words in your mouth. I
7 just want to try to get an idea of what was going on
8 at that time of the morning. They came back to your
9 house?

10 A. Correct.

11 Q. And as a result of them coming back to your
12 house, you got up and left with them to go back to
13 Mr. Brown's house?

14 A. Actually, Dexter called me and he's asking why
15 everybody left. And at the same time, you know, they
16 were coming back. So we're just talking about what
17 going on that night, and he was like, man, all the
18 girls left. I said, well, we'll come back over there
19 and find out what's going on.

20 Q. But the party was over?

21 A. I don't think it was a party per se at that
22 time, but he had some people over.

23 Q. I'm not sure what you're talking about now.

24 A. I'm not sure what you're ---

25 Q. Are you saying that that wasn't a party y'all

1 went there earlier?

2 A. That earlier in the evening, yes, there was a
3 party we went to. But to say at Dexter's house it
4 was a party, it wasn't. It was more of everybody
5 getting together afterwards.

6 Q. At Dexter's house, I think it's been referred
7 to as an after-hours party. Were people drinking?

8 A. No. I didn't see anybody drinking.

9 Q. No one was drinking at that party?

10 A. I wasn't.

11 Q. Was anybody else drinking?

12 A. I didn't -- I don't recall seeing anybody
13 drinking.

14 Q. Did you ever hear that somebody threw a drink
15 in somebody's face?

16 A. I was -- I was home. I didn't -- I heard that
17 afterwards.

18 Q. So you don't know whether anybody was drinking
19 that night?

20 A. I'm pretty sure they were. I mean, it was ---

21 Q. And you don't think it was a party going on?

22 MS. KNEESE-SHEALY: Your Honor, again, I
23 object.

24 THE WITNESS: I didn't -- again, I didn't
25 say that.

1 THE COURT: Hold on. Make sure the
2 witness can explain.

3 BY MR. SAVAGE:

4 Q. And when you got back to the ---

5 MR. SAVAGE: Excuse me, Judge.

6 BY MR. SAVAGE:

7 Q. When you got to Mr. Brown's house after
8 leaving it, there was no party.

9 A. After leaving?

10 Q. When you left Mr. Brown's house, there were a
11 lot of girls and men there?

12 A. Correct.

13 Q. And you don't know whether they were drinking
14 or not, but you left?

15 A. Correct.

16 Q. And when you got back there, there were no
17 girls there?

18 A. Right.

19 Q. There was no party?

20 A. Right.

21 Q. But you got in a car with your three lifelong
22 best friends to go back to Mr. Brown's house at a
23 time you don't recall?

24 A. It was late evening. I don't know the exact
25 time, though.

1 Q. Now, did you testify that it's customary in
2 your neighborhood to turn the lights out?

3 A. It's customary for us. I stay directly across
4 from my parents' house. So I have a lot of people
5 coming over there late, at late at night, so we
6 always cut the lights off, cut the radio off, just
7 not disturbing the neighbors.

8 Q. I believe that you have testified earlier
9 about the exhibit that the prosecutor had that
10 appears to be an aerial photograph or map of your
11 neighborhood?

12 A. Uh-huh.

13 Q. You testified about that?

14 MR. DURANT: Do you want that on the
15 screen?

16 BY MR. SAVAGE:

17 Q. Is this the same? Do you recognize this?

18 A. Yes.

19 Q. Where did you first see that photograph?

20 A. Where did I first see that photograph?
21 Actually, this is maybe the first time I've seen this
22 particular photograph.

23 MR. DURANT: This is state's one.

24 BY MR. SAVAGE:

25 Q. This is the first time you've seen that?

1 A. I mean, I've seen photographs of the -- of the
2 neighborhood like that, I mean.

3 Q. When is the first time you saw this particular
4 one?

5 A. I can't remember. That particular photograph,
6 I don't -- it doesn't stand out to me. I remember
7 seeing, looking at photographs. It was probably
8 certain photographs of the area and -- and the houses
9 and whatnot.

10 Q. But are you familiar with this photograph?

11 A. It doesn't stand out to me right now, it
12 doesn't.

13 Q. Is this not the same photograph you testified
14 about earlier?

15 A. I mean, I've seen it today, of course, but you
16 asked if I've seen it before today, and I don't
17 recall seeing this particular, though.

18 Q. But you look at this photograph and you
19 recognize what's in it?

20 A. Yeah.

21 Q. And I think you said earlier that you came
22 down Berrywood, and I am ---

23 A. I came down Berrywood this way.

24 Q. Is your ---

25 A. My house is up this way, so you can't ---

1 Q. But you came down this way?

2 A. Yeah.

3 Q. And you pulled off to the right-hand side of
4 the road?

5 A. We pulled off right here, right by Dexter's
6 driveway.

7 Q. Were the lights turned off?

8 A. The lights might have been turned off right in
9 this area here where that streetlight is at. Again,
10 this, you know, it's -- to recall exactly where he
11 turned the lights off, again, I can't -- I couldn't
12 tell you that, but it had to have been real close to
13 his house.

14 Q. And which neighborhood -- which neighbor were
15 you being courteous to, not to have the lights go in
16 their eye?

17 A. There's neighbors here across, there's
18 neighbors here across the street. There's a house
19 here that as we come down the street that the lights
20 will shine directly into their house there. So
21 there's a whole -- there's a whole group of people.

22 Q. And when you leave, of course, you don't put
23 the lights on when you leave and you wait a while to
24 turn them on till you get down the street?

25 A. Normally we -- you know, the normal location,

1 I park in that same spot. So if I was to leave, and
2 I'd probably go down this street and cut my lights on
3 when I get on the street here.

4 Q. But if somebody was parked here and had to
5 leave, they'd probably put their headlights in three
6 or four neighbors' yards?

7 A. I can't tell what somebody else would do. I
8 know what I would do.

9 Q. Well, when you drive, the headlights are
10 usually in the front of the car?

11 A. I believe all heads and tails is going to
12 be...

13 Q. And when the vehicle turns, your headlights
14 turn with them?

15 A. I guess that's right.

16 Q. So wherever the vehicle's facing, that's where
17 the headlights are?

18 A. I would assume so, yeah.

19 Q. And in order to go back around on the street
20 you came in, the headlights would go with the car in
21 the front of the car and follow around 360 degrees?

22 A. I guess so, yeah.

23 Q. No question about that?

24 A. No.

25 Q. So the question I ask you is: Do you put your

1 lights on when you take off?

2 A. It would depend on the type of, you know, what
3 -- how late the evening is or whatnot. I can only
4 say what we did that night. You know, other nights
5 maybe, maybe not, you know, maybe not have turned the
6 lights on or off. I've definitely done it plenty of
7 times. I pull in their driveway and cut the lights
8 off so I won't disturb -- maybe his mother is in
9 there sleeping or something, so...

10 Q. What size shirt do you wear, sir?

11 A. Hm, now?

12 Q. Yes.

13 A. Probably 3X, or do you want an actual number
14 size?

15 Q. Yes, sir. But numbers -- X's are good. How
16 about the night of this incident?

17 A. It would probably be a 3X, 2X or 3X shirt.

18 Q. And when you left that night, did you have a
19 shirt on?

20 A. Yes, I did.

21 Q. And did you leave a shirt behind?

22 A. I believe one of the detectives asked me for
23 the shirt I was wearing.

24 Q. So you left a shirt behind there?

25 A. I left it with an officer, yes.

1 Q. And what did it look like?

2 A. I don't know. Maybe a white -- white shirt,
3 I'm not sure.

4 Q. Now, have you seen your shirt since that
5 night?

6 A. No, I haven't.

7 Q. Did you have two shirts on that night?

8 A. Hm, I had an undershirt maybe.

9 Q. When you left the scene, did you have any
10 shirt on at all?

11 A. I had a -- no. Actually, I borrowed a shirt
12 from Dexter from his house and put on, because we
13 actually -- we actually left there and went to the
14 hospital.

15 Q. Now, the night that this happened, you talked
16 to the police, correct?

17 A. Correct.

18 Q. And did the police -- they took your shirt,
19 right?

20 A. Yeah.

21 Q. And did they photograph you?

22 A. I don't remember taking photographs, no.

23 Q. Do you remember somebody coming up and taking
24 a photo shot of your hands or your face or your
25 knees?

1 A. Again, but my intention was getting to the
2 hospital and finding out if my friend was okay, you
3 know, but whether somebody did or not, I couldn't --
4 I couldn't tell you.

5 Q. Were you wearing shorts or long pants?

6 A. I was wearing shorts.

7 Q. And you don't remember the police taking
8 pictures of you?

9 A. Not offhand, no, I don't.

10 Q. Is this the shirt that you were wearing that
11 night? (Counsel opens paper bag.)

12 A. It looks familiar, yes. It sure does.
13 Five-X? Okay.

14 Q. Was that your shirt?

15 A. Yeah, I think so.

16 Q. Do you know what the police did with this
17 shirt after they took it from you that night?

18 A. I don't have no idea.

19 Q. Do you know why they took it from you?

20 A. No, I don't.

21 MR. SAVAGE: Beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 MR. SAVAGE: Thank you.

24 BY MR. SAVAGE:

25 Q. Mr. Eason, thank you for your patience. I

1 just have one or two more questions. How well did
2 you know Dexter Brown?

3 A. Pretty well. But, again, childhood friends,
4 maybe sixth, fifth, sixth grade.

5 Q. And the night of this incident you were in his
6 house, were any family members of him in his house?

7 A. You're asking me were any what?

8 Q. Any of his family members in his house?

9 A. I think his brother might have been there,
10 Keith.

11 Q. That would be his brother Keith?

12 A. Right.

13 Q. And did you say that Mr. Brown called you to
14 ask you ---

15 A. Yeah.

16 Q. --- why you abandoned his house?

17 A. He didn't put it in them terms. He was just
18 calling and asking me why the girls left.

19 Q. So there was nothing about y'all abandoning
20 his house?

21 A. Yeah. He's just like why -- why is nobody
22 here, you know, why did everybody leave. So, you
23 know, he didn't say y'all abandoned my house, like
24 that. He didn't talk like that.

25 Q. But at his house his brother was there to keep

1 it secure?

2 A. Well, his brother is a little slow, so I guess
3 he really don't -- I don't know how to put it nicely.
4 He's just -- he's a little slow.

5 Q. Was he present when this incident took place?

6 A. Not that I recall, no.

7 Q. The car you came in at the end of the night is
8 parked right here next to the driveway of Mr. Brown's
9 residence?

10 A. It was more like towards -- it was like about
11 -- it was more in this area here than closer to the
12 driveway.

13 Q. I know the jury can see it, but the court
14 reporter can't tell in terms of its location. So if
15 you would use the street address and tell us in
16 relationship to the driveway to the street.

17 A. Far as distance from the street to the
18 driveway?

19 Q. No, sir. Where the car was parked.

20 A. I don't understand the question you're trying
21 to ask me.

22 Q. How far away was the car in which you traveled
23 back to Mr. Brown's house? How far away was that
24 car?

25 A. Parked from Mr. Brown's house?

1 Q. No. From the driveway.

2 A. From the driveway? A wild guess, maybe about
3 10 to 15 feet.

4 Q. And was there anything when you arrived in the
5 car -- you said there was no longer a party -- that
6 prevented you and your friends from getting back in
7 the car and leaving?

8 A. I guess not, no.

9 Q. And did you testify earlier that as soon as
10 you got back to the place where the party used to be,
11 the non-party at Mr. Brown's house, whatever, an
12 argument started?

13 A. Right.

14 Q. And did anyone that you were with get back
15 into the vehicle in which you came to leave?

16 A. No.

17 Q. But you could have if you wanted to?

18 A. Not with this Chris, whatever his name was,
19 going to his trunk to get a weapon.

20 Q. Oh. Now, Chris Thomas was going for a weapon?

21 A. I assume that's what he was going for, yes.

22 Q. Did you see a weapon?

23 A. He didn't get a chance to get -- to get a
24 weapon.

25 Q. And did he get a weapon?

1 A. Not that I'm aware of, no.

2 Q. Sir?

3 A. Not that I'm aware, no.

4 Q. And your attention ---

5 A. He didn't have a chance to. Ronald stopped
6 him from getting to the trunk.

7 Q. And your attention was directed to him and you
8 were watching him?

9 A. My attention was directed to the whole
10 situation that was going on.

11 Q. And David Rocquemoire left from the driveway to
12 go to his car?

13 A. Yes.

14 Q. And what was he doing?

15 A. Again, I can't -- I can't testify to what he
16 was doing.

17 Q. But he was followed to his car?

18 A. No, he wasn't followed to his car at all.

19 Q. Chris Thomas was allowed to go to his car ---

20 A. He wasn't allowed ---

21 Q. Excuse me ---

22 A. --- to go to his car.

23 Q. --- I'm asking a question. Thomas ---

24 THE COURT: Hold on a second. Let him
25 finish the question, then you can answer, sir.

1 Go ahead.

2 BY MR. SAVAGE:

3 Q. Thomas was going to his car?

4 A. Right.

5 Q. And he was jumped and knocked down? He was
6 bull rushed and knocked down?

7 A. He was prevented from getting a weapon out of
8 his trunk.

9 Q. And Mr. Rocquemore was going to his car and
10 everybody was just going to let him leave. Is that
11 correct?

12 A. If he wanted to get in the car, I'm pretty
13 sure he could have left. If he wanted ---

14 Q. He just ---

15 A. If he wanted to leave, I'm sure he could have
16 left.

17 Q. Thomas gets knocked down before Rocquemore
18 goes to his car?

19 A. Thomas made a statement that he was going in
20 the trunk to end this noise and went to his trunk and
21 opened the trunk. So, yes, he was stopped ---

22 Q. Thomas ---

23 A. --- from getting in his trunk.

24 Q. The question is: Did Thomas get knocked down
25 before Rocquemore went to his car?

1 A. I can't -- for that time, I mean, I can't
2 really say. Was it simultaneously? It might have
3 been. It could have been before he went to his
4 trunk. I don't know.

5 Q. And you followed Rocquemore to his car?

6 A. I followed Rocquemore to his car?

7 Q. Who followed him?

8 A. Nobody followed him.

9 Q. No one at all?

10 A. No. No.

11 Q. Just free to go?

12 A. It was more -- you know, the whole situation
13 was just crazy. It was more of why is he going to
14 his trunk, and paying attention to make sure he
15 didn't have a weapon, and at the same time he kind of
16 eased off to his car. So to say somebody was, you
17 know, following him to his trunk, nobody -- nobody
18 followed him to his trunk.

19 Q. The word is shadow.

20 A. Shadow?

21 Q. Did anybody shadow him ---

22 A. No.

23 Q. --- to his car?

24 A. Not that I'm aware of, no.

25 Q. But you were there and you were present?

1 A. Yes, I was.

2 MR. SAVAGE: Thank you, sir.

3 MS. KNEESE-SHEALY: May it please the
4 Court.

5 THE COURT: Yes, ma'am.

6 REDIRECT EXAMINATION

7 BY MS. KNEESE-SHEALY:

8 Q. Mr. Eason, you were asked about Keith Brown,
9 Dexter's brother?

10 A. Right.

11 Q. And I think you testified that he's sort of
12 slow?

13 A. Yeah.

14 Q. Do you know where he lives now?

15 A. I believe he stays in a home somewhere in
16 downtown Charleston now.

17 Q. And when you say in a home, do you mean for
18 his mental condition?

19 A. Yes, ma'am.

20 MR. SAVAGE: Leading question.

21 THE COURT: I sustain that.

22 MS. KNEESE-SHEALY: Thank you, Your
23 Honor.

24 BY MS. KNEESE-SHEALY:

25 Q. You have described to us that you gave a

1 statement that evening, and Mr. Savage asked you
2 about that.

3 A. Right.

4 Q. Explain to us, if you would, what was going on
5 when you were asked to give a statement.

6 A. It was more of -- I was more concerned about
7 what happened with my friend, because the last sight
8 I saw him he was going in an ambulance and them
9 giving CPR on his chest. So it was more -- my
10 attention was more on -- you know, concerned what's
11 going on with him.

12 Q. Okay. And when you gave your statement, where
13 were you when the officers asked you to write it
14 down?

15 A. In the actual police car, sitting in the
16 police car.

17 Q. And ---

18 A. Directly across from where he was laying at.

19 Q. Okay.

20 MR. DURANT: This would be state's 14.

21 BY MS. KNEESE-SHEALY:

22 Q. Mr. Eason, showing you what's been marked as
23 state's exhibit number 14, could you describe that
24 area to the jury?

25 A. Yeah. That's the -- that's the ditch where he

1 was laying.

2 Q. Where Demar was laying?

3 A. Yeah.

4 Q. And when you were asked to give the statement,
5 where were you?

6 A. I was sitting in the patrol car, maybe in this
7 area here.

8 Q. And where was Demar at that point?

9 A. The paramedics were putting him on the
10 stretcher and putting him in the ambulance.

11 Q. When you were asked to give your statement at
12 that point, did you give every detail that you knew?

13 A. That I -- that I possibly could at the time,
14 yeah.

15 Q. At that time. And Mr. Savage asked you about
16 statements regarding whether or not you saw Demar
17 shot.

18 MS. KNEESE-SHEALY: May I approach the
19 bench ---

20 THE COURT: Yes, ma'am.

21 MS. KNEESE-SHEALY: --- the witness, Your
22 Honor.

23 BY MS. KNEESE-SHEALY:

24 Q. Could you read for the jury the statement
25 before the isolated one Mr. Savage asked you?

1 A. I said: The next thing I saw was the guy
2 tried to pistol-whip Demar with the gun and ran over
3 to stop him and heard two shots.

4 Q. So when you gave your statement, you tried to
5 give the details you could recall at that point?

6 A. Correct.

7 Q. And just to make sure we're clear, would you
8 describe for us again what you see and what you hear
9 at the time of the shooting?

10 A. I hear, "What y'all motherfuckers going to do
11 now?" And then at the same time, I'm turning towards
12 that and I seen him try to pistol-whip him with the
13 gun. It drops. He picks it up. And Demar is like
14 in front of me. I'm looking -- let's say like I'm
15 looking over his shoulder, seeing Rocquemore and
16 seeing Demar like this, and I heard the two shots.

17 Q. So when the officers asked you did you see
18 Demar get shot, and you answered, "No. I heard the
19 shots."

20 A. Right.

21 Q. That's what you're saying today?

22 A. Exactly what I'm saying.

23 Q. Now, when your attention was with Chris Thomas
24 and y'all see David Rocquemore approach his
25 vehicle...

1 A. Right.

2 Q. --- please tell the jury whether anyone
3 prevented Mr. Rocquemore from getting in that car and
4 leaving.

5 A. Nobody -- nobody. I -- it's been two years,
6 and I wish it would have happened ---

7 MR. SAVAGE: We have an objection on the
8 type of questions. They're constantly leading
9 questions.

10 THE COURT: Refrain from leading,
11 Counsel. Go ahead.

12 MS. KNEESE-SHEALY: Would you like for me
13 to restate that, Your Honor?

14 THE COURT: Yes, ma'am.

15 BY MS. KNEESE-SHEALY:

16 Q. Mr. Eason, describe for the jury, please, what
17 everyone else was doing as it related to
18 Mr. Rocquemore at his car.

19 A. Nobody was -- was following him, nobody
20 touched him, nobody -- it wasn't really even an
21 argument. That's why, to me, it was so senseless.
22 Because maybe I could accept it more if it was an
23 argument or we had hostilities towards him, but it
24 was just cool out, cool out, cool out, him going to
25 the trunk, get to the car, and him going to his car,

1 and then in a matter of seconds, you know, everything
2 -- everything went down.

3 MS. KNEESE-SHEALY: Beg the Court's
4 indulgence.

5 THE COURT: All right.

6 MS. KNEESE-SHEALY: I have no further
7 questions, Mr. Eason. Please answer any more that
8 Mr. Savage may have.

9 RE-CROSS-EXAMINATION

10 BY MR. SAVAGE:

11 Q. Mr. Eason, certainly you were upset that
12 night?

13 A. Still upset.

14 Q. But you didn't even tell the police officers
15 who fired the weapon that night, correct? You said
16 you didn't know who it was?

17 A. No, that's not what I said. There was only
18 one person with a weapon, so...

19 Q. So it should have been a pretty simple
20 question asked and answered. Did they ask you, "Do
21 you know the person who shot the gentleman?"

22 A. He asked me if I knew him as in
23 relationship-wise, and I told him no.

24 Q. You didn't tell him he was a fellow that was
25 at the party earlier, you didn't tell him his name,

1 you didn't tell him you had been with him all earlier
2 that evening?

3 A. No, I didn't elaborate too much on the
4 question. Again, I was concerned about my friend.

5 Q. You didn't tell them that night that the gun
6 was on the pavement, that it fell on the pavement ---

7 A. Again, this is right after ---

8 Q. Excuse me. I need to ask the question.

9 THE COURT: Hold on a second. One at a
10 time.

11 BY MR. SAVAGE:

12 Q. That the gun went down on the pavement and
13 there was a scramble to pick up the gun?

14 A. No.

15 Q. You didn't tell them that?

16 A. No, I didn't say that. That isn't what
17 happened.

18 Q. You told that to the jury today?

19 A. I didn't say anything about scrambling to get
20 the gun. I told you he picked the gun up.

21 Q. Was Mr. Demar pistol-whipped?

22 A. No.

23 Q. Didn't you say the words he tried ---

24 A. He attempted ---

25 Q. --- to pistol-whip him?

1 A. He attempted to pistol-whip him.

2 Q. And during that is when the gun went on the
3 pavement?

4 A. Correct.

5 Q. The gun hadn't been fired at that point?

6 A. No, I guess not, no.

7 Q. And then Mr. Rocquemore picked the gun up?

8 A. Right.

9 Q. Is that the truth?

10 A. Everything I said today is the truth.

11 MR. SAVAGE: Thank you, sir.

12 THE WITNESS: You're welcome.

13 MS. KNEESE-SHEALY: Beg the Court's
14 indulgence just one moment.

15 THE COURT: All right.

16 MS. KNEESE-SHEALY: I have no further
17 questions, Your Honor.

18 THE COURT: You may step down.

19 MS. KNEESE-SHEALY: You Honor, I would
20 ask that Mr. Eason be allowed to sit in the
21 courtroom.

22 THE COURT: Any objection?

23 MR. SAVAGE: No, sir.

24 THE COURT: All right, sir. You may step
25 down. You may stay in the courtroom. You may not

1 discuss your testimony with anyone. Do you
2 understand?

3 THE WITNESS: Yes, sir.

4 (The witness is excused from the witness
5 stand.)

6 MS. KNEESE-SHEALY: The state calls
7 Rodney Gibbs.

8 (Mr. Rodney Gibbs enters the courtroom.)

9 THE COURT: Come forward, sir, and be
10 sworn.

11 THE CLERK: This way, sir.

12 RODNEY GIBBS,
13 being first duly sworn by the clerk, is examined and
14 testifies as follows:

15 THE CLERK: Be seated. If you'll please
16 speak into the mike and state your full name and
17 spell your last name.

18 THE WITNESS: Rodney Lavalley (phonetic)
19 Gibbs, G-I-B-B-S.

20 DIRECT EXAMINATION

21 BY MS. KNEESE-SHEALY:

22 Q. Mr. Gibbs, would you tell the jury, please,
23 how old you are?

24 A. Forty-three.

25 Q. And tell us about your educational background.

1 A. I attended R.B. Stall High School. I finished
2 the night program. I had a little bit of college.

3 Q. And would you tell us your marital status?

4 A. Divorced.

5 Q. Do you have any children?

6 A. Two girls.

7 Q. And how old are your girls?

8 A. 25 and 19 years old.

9 Q. Where do they live?

10 A. South Carolina and California.

11 Q. You've never been convicted of a crime, or
12 have you ever been convicted of a crime?

13 A. No.

14 Q. Tell us about your occupation. What do you do
15 for a living?

16 A. I work for MSC, Military Sealift Command.

17 Q. What does that mean? What is that?

18 A. We supply the Navy vessels out that are
19 overseas with ammo and food.

20 Q. And how long have you been with them?

21 A. About eight years.

22 Q. Are you employed as a government employee?

23 A. Yes, ma'am.

24 Q. But you're not in the Navy?

25 A. Not in the Navy.

1 Q. And where are you currently based?

2 A. San Diego, California.

3 Q. Do you recall where you were based in August
4 of 2005?

5 A. San Diego, California.

6 Q. And when you say San Diego, do you have to go
7 overseas as part of your job?

8 A. Yes. When I'm assigned to a job, I go to
9 Singapore, Japan, Guam, Dubai, wherever they send me.

10 Q. Okay. And prior to working with the Sealift
11 Command, what type of work were you doing?

12 A. Computer graphic arts.

13 Q. And where were you doing that work?

14 A. Sacramento, California.

15 Q. Ronald, if you'd tell us, please, is related
16 to you how?

17 A. He's my younger brother.

18 Q. And do you know Dexter Brown or did you know
19 him?

20 A. Yes. I know Dexter through my brother.

21 Q. And how long have you known Dexter Brown?

22 A. Over 25 years.

23 Q. What about Troy Eason?

24 A. Troy is closer to me. He's like a younger
25 brother, but I know him also through my brother.

1 Q. Okay. And what about Demar? Tell us how you
2 knew Demar.

3 A. The same. He was like a younger brother, and
4 I know him through my younger brother.

5 Q. And were you aware of where Demar was working
6 during this time period in August 2005?

7 A. Demar was a longshoreman.

8 Q. Had you come into town for any particular
9 reason back in August of 2005?

10 A. Yes. I came back to watch Demar graduate from
11 college.

12 Q. Okay. And did you attend that graduation with
13 anyone else in your family?

14 A. Yes. My mother and father also attended.

15 Q. And what about Chris Thomas and David
16 Rocquemore? Could you tell the jury how long you had
17 known them?

18 A. Just the night of the party.

19 Q. And where was it that you first met them?

20 A. It'd be Dexter's house.

21 Q. Had you seen them earlier in the evening at a
22 party in Knightsville or Summerville?

23 A. Yes.

24 Q. Okay. And was there any problem when you met
25 them over at the ---

1 A. No problem at all.

2 Q. --- house there?

3 A. No problem at all.

4 Q. Why don't you describe for us how that party
5 was, the first party you went to at the young lady's
6 house.

7 A. It was a family atmosphere. I guess it was a
8 graduation college party, a housewarming party also.
9 And there was her family there, kids there, and we
10 were there.

11 Q. Now, prior to going over to her house, did you
12 and anyone else go shopping?

13 A. Yeah. Me and my brother and Demar. I bought
14 some sandals and a short outfit, and my brother he
15 bought something. I think we both bought Demar's
16 outfit.

17 Q. Okay. And y'all were buying outfits for what?

18 A. The party.

19 Q. When you went over to the young lady's house
20 in Summerville, did you have anything alcoholic to
21 drink?

22 A. Not until I got there.

23 Q. Not until you got to the party?

24 A. Yes.

25 Q. Okay. What did you have at the party? Do you

1 recall?

2 A. Grey Goose and cranberry.

3 Q. And do you recall about how long y'all stayed
4 over there or what caused y'all to leave that party?

5 A. We was over there a while, I couldn't estimate
6 the time, but the party was about to end so we
7 started leaving. We laid around -- we laid around a
8 little bit, but when the party ended then we -- we
9 left.

10 Q. Okay. And do you recall whether or not Dexter
11 and Troy stayed as long as y'all did or who left
12 first or do you recall?

13 A. We left later. But Troy and Rocquemore and
14 Dexter left, and I can't remember the other guy's
15 name.

16 Q. That was with Rocquemore?

17 A. Yes.

18 Q. Okay. Now, when you left the young lady's
19 house in Summerville, you rode with whom where?

20 A. I rode with my brother. We went to Dexter's
21 house.

22 Q. Okay. And where was Demar?

23 A. With him.

24 Q. And when you got to Dexter's house, could you
25 describe for the jury, if you would, what was going

1 on over there?

2 A. It was like an after-party. We went into the
3 house. It was a little smokey for me so I stepped
4 outside.

5 Q. When you say smokey, what are you talking
6 about?

7 A. People were smoking in the house.

8 Q. Smoking cigarettes?

9 A. Cigarettes, yeah.

10 Q. Okay. And when you walked outside, tell the
11 jury, if you would, who you saw and what happened
12 next.

13 A. When I stepped outside, there was a young lady
14 and her friend sitting on a car. And the young lady
15 that I was talking to at Dexter's party the week
16 before called me over, and we started talking a
17 little bit. And for some crazy reason, her friend
18 just started cussing at me, was belligerently just
19 going off for no reason, I don't know why. But the
20 young lady was walking away, so I started walking
21 away with her. And the friend continued to curse,
22 and I poured a drink on her.

23 Q. Okay. And when you say you poured a drink on
24 her, is that something you're proud of?

25 A. Not proud at all.

1 MR. SAVAGE: Objection to the form of the
2 question, Your Honor. It's continuous leading.

3 THE COURT: Go ahead. I'll allow that.

4 MS. KNEESE-SHEALY: Thank you, Your
5 Honor.

6 THE COURT: Go ahead.

7 BY MS. KNEESE-SHEALY:

8 Q. After that occurs, what do y'all do next?

9 A. We go to Troy's house.

10 Q. Okay. And who went to Troy's house?

11 A. Me and my brother and Demar.

12 Q. Now, prior to walking outside at Dexter's
13 house and the incident occurring with the girl, had
14 Dexter and Rocquemore left to go anywhere or were
15 they still there?

16 A. No. I think they left. They went -- they did
17 leave. They went to go get beer.

18 Q. And when y'all left Dexter's house, where were
19 the girls as far as you knew?

20 A. They left.

21 Q. When you went back to Troy's house, do you
22 recall how you got into Troy's house?

23 A. We just walked in. He -- he leaves the door
24 open.

25 Q. Okay. Do you have a key, or did anybody have

1 a key to the house as far as you know?

2 MR. SAVAGE: Objection to the form of the
3 question, Your Honor. Your Honor, this is getting to
4 be a continuous objection to the form of the
5 question.

6 MS. KNEESE-SHEALY: Your Honor, I don't
7 believe that was asked in a leading fashion. I asked
8 whether anyone had a key.

9 MR. SAVAGE: Object to the ---

10 THE COURT: No, I'll allow that. I mean,
11 if you're asking him did anyone have a key to his
12 place?

13 MS. KNEESE-SHEALY: Yes.

14 THE COURT: I'll allow that. Go ahead.

15 THE WITNESS: I don't recall a key.

16 BY MS. KNEESE-SHEALY:

17 Q. When y'all went over to Troy's house, could
18 you describe your mood at that time?

19 A. Mellow. I wasn't upset about anything.

20 Q. Was anyone upset that was with you?

21 A. No.

22 Q. And when at Troy's house did a phone call come
23 in that you were aware of?

24 A. I heard the phone ring. And I went to the
25 bathroom. I guess Troy was talking to Dexter because

1 when I came out of the bathroom he said let's go down
2 to Dexter's house or Dexter wants us to come down to
3 his house and talk about what went down.

4 Q. Would you describe for the jury what the mood
5 of you and Rodney -- excuse me, I'm sorry -- you and
6 Ronald, Troy, and Demar were when y'all left Troy's
7 house?

8 A. There wasn't really a mood. We just knew we
9 were going down to Dexter's house, a friend of ours.

10 Q. When you travel down to Dexter's house, who
11 was driving?

12 A. My brother was driving, I was sitting behind
13 him, Troy was up front, and Demar was sitting behind
14 Troy.

15 Q. And as Ronald was driving over there, was
16 anybody in the car hanging out the windows or doing
17 anything crazy?

18 A. No ---

19 MR. SAVAGE: Form of the question.

20 MS. KNEESE-SHEALY: I don't believe
21 that's ---

22 THE COURT: Go ahead. There's some
23 leeway.

24 MS. KNEESE-SHEALY: --- leading, either.

25 THE COURT: I'll allow it. Go ahead.

1 BY MS. KNEESE-SHEALY:

2 Q. I'm sorry. Go ahead and answer that question.

3 A. No.

4 Q. When Ronald approached Dexter's house, could
5 you describe for the jury what if anything he did
6 with the lights on the car?

7 A. He turned them off.

8 Q. And could you tell us whether or not that's a
9 practice that you also...

10 A. Yes. He pretty much probably learned it from
11 me because we do that to everyone's house that we go
12 into. We turn the lights off so we don't flash
13 inside the house.

14 Q. And how long had you lived in the Woodside
15 Manor neighborhood?

16 A. Hm. Maybe 15 years before I left.

17 Q. Before you left?

18 A. Yeah.

19 Q. Showing you what's been marked as state's
20 exhibit number one -- do you have a clicker up there
21 with you, Mr. Gibbs?

22 A. I guess this is it?

23 Q. State's exhibit number one depicts Berrywood
24 where it meets Mixedwood. Are you familiar with that
25 area?

1 A. Yes.

2 Q. Would you show the jury, please, in what path
3 y'all took to Dexter's house?

4 A. From Troy's house?

5 Q. Yes.

6 A. Came down this way right here.

7 Q. And do you recall where Ronald parked his
8 vehicle?

9 A. Parked right here.

10 Q. Could you show us with that laser pointer,
11 please, where Chris Thomas's vehicle was parked?

12 A. About there.

13 Q. Could you show us where David Rocquemore's
14 vehicle was parked?

15 A. Behind it.

16 Q. Do you see those dark areas on either side of
17 the driveway of Dexter's house?

18 A. Are you talking about these?

19 Q. Yes.

20 A. This? The bushes?

21 Q. Yes, what those are. What are they?

22 A. They look like bushes.

23 Q. Okay. And could you show us the area of where
24 a ditch is located across from Dexter's house?

25 A. Right here.

1 Q. Now, are you familiar with where some
2 streetlights may be on that street?

3 A. Right here. Right here.

4 Q. Thank you.

5 MS. KNEESE-SHEALY: Thank you. You can
6 turn that off now. Thank you.

7 BY MS. KNEESE-SHEALY:

8 Q. When Ronald parked the vehicle and y'all got
9 out of the vehicle...

10 A. Yes.

11 Q. --- would you describe for the jury, please,
12 what happens at that point?

13 A. That's when Rocquemore walked up. After we
14 got out of the car, the truck, Rocquemore walked up
15 and he said, "You niggers think y'all gangsters."

16 And I was like, what? And I threw my hands
17 down and said, "No, it's not even like that."

18 And Demar stepped -- Rocquemore was walking
19 closer to me, and then Demar stepped in between
20 Rocquemore and myself. And after that, my brother
21 stepped in between Rocquemore and Demar. My brother
22 was kind of pushing Demar away.

23 And as they were doing that, Thomas, Thomas
24 said something to the effect of "y'all talking shit
25 now. By the time I get to my -- when I pop this

1 trunk open, it's going to get quiet around here."

2 But when -- while he was doing that, he was walking
3 toward the back of his car. The trunk was already
4 popped open when he said, "When I go in my trunk, you
5 guys are going to get quiet around -- it's going to
6 get quiet around here."

7 Q. Mr. Gibbs, let me back you up just a little
8 bit. When -- when y'all get out of the vehicle...

9 A. Uh-huh.

10 Q. --- and Mr. Rocquemore was approaching you...

11 A. Yes.

12 Q. --- I believe you indicated Demar got in
13 between y'all?

14 A. Yes.

15 Q. Is there any physical contact between Demar
16 and Rocquemore at that point?

17 A. Yes. He -- he was pointing like this at first
18 (demonstrating).

19 Q. Who was?

20 A. Rocquemore was pointing like this
21 (demonstrating). "Y'all motherfuckers, y'all niggers
22 think y'all gangsters."

23 And that's when I did like I threw my hands
24 down and said, "It's not even like that."

25 And Demar got in between the two of us. He

1 put his hands on Demar and said, "You motherfucker,
2 you think you're a gangster."

3 And Demar hit his hand and said, "Get your
4 hands off me."

5 Q. Prior to the statement that you heard
6 Mr. Thomas make, was there any exchange of blows or
7 any other type of ---

8 A. No, just ---

9 Q. --- physical contact?

10 A. Just the hand thing.

11 MS. KNEESE-SHEALY: May I ask to put up
12 state's exhibit number 19.

13 BY MS. KNEESE-SHEALY:

14 Q. Using that laser pointer, could you point out
15 the vehicles that are depicted in state's exhibit
16 number 19?

17 A. This one right here, that's my brother's
18 truck. This one right here is Thomas's car. This is
19 Rocquemore's truck.

20 Q. Would you show the jury, using the pointer, in
21 what direction Chris Thomas was walking after he made
22 his comment?

23 A. From the driveway, alongside here.

24 Q. And after he said that and was walking in that
25 direction, what happened with the people who were out

1 that evening outside of Dexter's house? Who did
2 what? Where does Ronald go?

3 A. Okay. My brother broke away from Demar and
4 myself, following Chris, and then right about this
5 area.

6 Q. Okay. Thank you. And where does Ronald
7 actually go?

8 A. He's like alongside the same way, right here.

9 Q. Okay. And at some point does he reach Chris
10 Thomas or not?

11 A. Yes. He grabs him after he says that.

12 Q. And when Ronald is dealing with Chris Thomas,
13 what if anything do you see Mr. Rocquemore do?

14 A. He kind of slipped away. Because I'm focused
15 on my brother, I'm looking at my brother, and
16 Rocquemore kind of slips away. He doesn't say
17 anything. And then he's in -- he slips away, he's in
18 his car, he's hovered over in the driver's seat with
19 the door open, in his car, but he doesn't say
20 anything.

21 Q. Let me ask you, do you or Troy or Demar follow
22 Rocquemore to his vehicle?

23 A. No. Not me and Troy, because we're -- I'm
24 talking to Dexter Brown at this time. I think Demar
25 was across the street. He -- he wasn't following

1 him, but I think he kept his eye on him.

2 Q. Okay. And if you would, show us what you mean
3 by across the street.

4 A. It's not on here, but...

5 Q. Okay. Well, just point ---

6 MR. DURANT: Do you want state's one
7 again?

8 BY MS. KNEESE-SHEALY:

9 Q. We'll go back to state's number -- state's
10 one, Mr. Gibbs. Hang on just a second. Okay. If
11 you can get yourself acclimated. Where is ---

12 A. Demar ---

13 Q. Where is Demar when Mr. Rocquemore approaches
14 his vehicle?

15 A. Demar is right about here.

16 MS. KNEESE-SHEALY: Your Honor, I'd ask
17 that the witness be allowed to step down for a
18 moment.

19 THE COURT: You may step down.

20 BY MS. KNEESE-SHEALY:

21 Q. Mr. Gibbs, if you'll come on down.

22 A. (The witness leaves the witness stand and
23 stands in front of the jury-box.)

24 Q. Now, if you would, will you show the jury what
25 you saw Mr. Rocquemore doing at his vehicle.

1 A. His door was open, the driver's side door was
2 open.

3 Q. Let me tell you this. You're going to have to
4 talk loud enough that all of the jury can hear you
5 and so the court reporter and the judge and
6 Mr. Savage can hear you.

7 A. He was at his driver's side door, leaning over
8 like this (demonstrating).

9 Q. Where were his feet?

10 A. On the street.

11 Q. And what do you then see him do?

12 A. I see him slam the door, and he comes up.
13 Demar was behind him, closer to the -- to the
14 driveway.

15 Q. Why don't you get that laser pointer for us.

16 A. (The witness complies.) His truck was right
17 about here, and he bounces over to Demar in this
18 area, because Demar was under the light. I could see
19 his face with his hands up.

20 After Rocquemore came out and slammed the
21 door, and he comes out, "Now what? Now what y'all
22 going to do?"

23 He bounces over to Demar, and he points the
24 gun at Demar like this (demonstrating).

25 Q. Let me interrupt you for a second. When he

1 says "what you going to do," what if anything is in
2 his hand?

3 A. The gun.

4 Q. And then what does he do with the gun?

5 A. Points the gun at Demar.

6 Q. And at that point is Demar under the light or
7 near Mr. Rocquemore's car?

8 A. Demar took a couple of steps back. So he's
9 like at the edge of that, at the edge of this, right
10 about here, on the driveway.

11 Q. Okay. And using that laser pointer, could you
12 explain to us what happens between Mr. Rocquemore and
13 Demar after he has the gun pulled on him? What
14 direction are they going?

15 A. Okay. Demar is right here. Rocquemore is
16 walking him around.

17 Q. Now, what do you mean by that?

18 A. Okay. He points the gun at Demar like this.

19 Q. And speak louder for me.

20 A. Okay. He's pointing the gun at Demar, and he
21 walks Demar around like this. So Demar ended up
22 right here, and Rocquemore is where Demar was earlier
23 (demonstrating).

24 Q. Okay. And if you could, describe for us then
25 what happens. You can go ahead and take a seat back

1 up now.

2 A. (The witness returns to the witness stand.)

3 Q. What happens once they get in that position?

4 A. Demar has his hands up like this. Then
5 Rocquemore takes a step in, and he tries to hit him
6 with the gun. He drops the gun. I'll have to stand
7 up again.

8 Q. Okay. Well, go ahead. Come back down.

9 A. (The witness leaves the witness stand and
10 stands in front of the jury-box.)

11 He tries to pistol-whip him, and Demar throws
12 his self back like this. Rocquemore drops the gun,
13 and he picks the gun up, and he stumbles, and he pops
14 one off. Then he stumbled a little bit more, and he
15 shoots another one off, and Demar ---

16 Q. I'm sorry. Go ahead.

17 A. At that time Demar is like this, going at him,
18 but it was still a distance. Then he went in a
19 little bit more, and then another shot, and then he
20 was on top of him.

21 Q. If you would, just using your voice, describe
22 how quickly the shots were to each other.

23 A. It was like pop, pop.

24 Q. And would you describe for the jury how far
25 apart Mr. Rocquemore and Mr. Denson were when the

1 shots occurred?

2 A. Like I said, he was kind of stumbling like
3 this. So when he shot the first shot, he was like
4 this. And if the gun was right here, then Demar was
5 like this (demonstrating).

6 Q. After Demar gets shot twice, where does he
7 then go?

8 A. Demar?

9 Q. Uh-huh.

10 A. He's on Rocquemore. They're in the ditch.
11 They end up in the ditch by this time.

12 MS. KNEESE-SHEALY: Okay. If I could see
13 state's exhibit number 14.

14 (The witness returns to the witness
15 stand.)

16 BY MS. KNEESE-SHEALY:

17 Q. Okay. Mr. Gibbs, looking at what's been
18 marked as state's exhibit number 14, could you
19 describe for us -- if you need to use the pointer, do
20 so...

21 A. Okay.

22 Q. --- where Demar goes, what -- after he's shot?

23 A. They -- they were wrestling around right here.
24 Demar, I guess, realized he was shot. He rolls over,
25 and he ends up right along here.

1 Q. Okay. And at that point where is
2 Mr. Rocquemore and where are you?

3 A. Okay. After the second shot, Troy is on
4 Mr. Rocquemore with Demar, and they're -- and then I
5 ended up on him right about here. We're laying this
6 way, and Demar is laying that way by his self.

7 Q. And where is Dexter's driveway in comparison
8 to where this ditch is?

9 A. It's directly in front.

10 Q. Across the street?

11 A. Across the street.

12 Q. Now, once Troy has Mr. Rocquemore down, could
13 you describe for the jury whether or not you or Troy
14 strike Mr. Rocquemore in any fashion?

15 A. After the shots, yeah, we did hit him.

16 Q. What do you recall doing to Mr. Rocquemore?

17 A. I'm holding the gun, and he's telling my
18 brother that he didn't have a gun, after he shot
19 Demar. My brother hit him a couple times. He hit
20 him a couple times, asking for the gun. He's laying
21 on the gun like this, he wouldn't give it up, but my
22 hand is on the gun.

23 He said, "I don't have a gun."

24 And I'm -- I'm looking at my brother and
25 saying, "Yes, he does. I have my hand on the gun

1 right now."

2 Q. Well, come on back down for us, if you would
3 again, and you may need to step a little further
4 back, but try to describe for us, if you could, how
5 you had your hand on the gun.

6 A. (The witness leaves the witness and stands in
7 front of the jury-box.) Rocquemore is laying right
8 here.

9 Q. You've got to talk louder.

10 A. Rocquemore is laying right here. I'm behind
11 him like this, holding his waist and holding the gun
12 underneath him, and he's holding it like this by his
13 stomach.

14 Q. Were you and Troy, were y'all able to get the
15 gun from ---

16 A. No.

17 Q. --- Rocquemore? You can go ahead and have a
18 seat.

19 A. (The witness returns to the witness stand.)

20 Q. And who in fact got the gun from Rocquemore?

21 A. My brother.

22 Q. And after Ronald got the gun, what did he do
23 with the gun?

24 A. He walked away. He tried to -- to get the
25 round out of the chamber and drop the magazine, but

1 it -- nothing would happen. So he put it on a truck,
2 that white truck right there.

3 Q. Okay. After the gun was taken from
4 Rocquemore, did you continue to hit or kick or knee
5 Mr. Rocquemore?

6 A. We were -- I was talking to him. Yeah, I did
7 hit him. I did hit him.

8 Q. Did you do anything else to him that you
9 remember?

10 A. I stood up and I kicked him.

11 Q. Okay. And what was Mr. Eason doing to him?

12 A. He punched him a couple of times.

13 Q. Now, prior to the shots being fired, did you
14 witness anyone strike Mr. Rocquemore?

15 A. No.

16 Q. Was there any jumping of Mr. Rocquemore?

17 A. No.

18 Q. And was there any pulling Mr. Rocquemore from
19 his truck?

20 A. No.

21 Q. Were you asked after this event, while the
22 police officers were still there, to give a
23 statement?

24 A. yes.

25 Q. And could you describe for the jury what was

1 going on when you were asked to give a statement?

2 A. EMS was there, and the police was there. They
3 asked me to give a statement. I was starting the
4 statement on my brother's truck because they asked me
5 to do it, but my concerns was on Demar. I didn't
6 care about the statement, I didn't know what the
7 statement was going to be about, I just wanted to see
8 what's going on with Demar.

9 Q. When the police allowed you to leave the scene
10 that evening, where did you go?

11 A. To the hospital.

12 MS. KNEESE-SHEALY: I beg the Court's
13 indulgence just a moment.

14 BY MS. KNEESE-SHEALY:

15 Q. What did you find out when you got to the
16 hospital?

17 A. Demar passed away.

18 MS. KNEESE-SHEALY: I have nothing
19 further. Please answer anything that the defense may
20 have.

21 THE COURT: Does anybody need a break?

22 All right. Go ahead.

23 If so, raise your hand.

24 Go ahead.

25 MR. SAVAGE: Please the Court.

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CROSS-EXAMINATION

BY MR. SAVAGE:

Q. Good afternoon, sir.

A. How you doing.

Q. You are Rodney Gibbs?

A. Yes, sir.

Q. I'm Andy Savage, and I represent
Mr. Rocquemore. Nice to meet you, sir.

A. Nice meeting you.

Q. The time you left the scene where the shooting
took place was what time, sir?

A. I couldn't estimate a time.

Q. The prosecutor asked you a statement where you
went and you said to the hospital?

A. Yes.

Q. Do you recall what time you got to the
hospital?

A. No.

Q. Before leaving the scene, you gave a statement
to the police?

A. Yes.

Q. And in that statement they asked you different
things about what you observed?

A. I wrote down what I wrote down.

Q. The things you observed?

1 A. Yes.

2 Q. And at that time, had you been drinking a good
3 bit?

4 A. No.

5 Q. You hadn't been drinking?

6 A. I'd been drinking, but not a good bit. What's
7 a good bit?

8 Q. Well, where -- did you have a buzz?

9 A. I had two drinks.

10 Q. Was it enough to consume alcohol that you
11 wouldn't normally throw a drink in a lady's face, but
12 that night you did?

13 A. Could you repeat the question?

14 Q. In other words, do you usually go around
15 throwing drinks in ladies' faces, or maybe the
16 alcohol had some influence on you that made you less
17 inhibited about what you were doing that night?

18 A. Neither.

19 Q. So the alcohol had nothing to do with throwing
20 the drink in the lady's face?

21 A. No.

22 Q. Now, did David Rocquemore that evening express
23 himself in any antagonistic way towards you, your
24 friends, or the ladies?

25 A. Excuse me?

1 Q. At the party that night, did Mr. Rocquemore
2 act up at all?

3 A. No.

4 Q. Was he drinking that night?

5 A. I can't tell you.

6 Q. Did he appear to be drinking that night?

7 A. Well, he had a cup, but I couldn't tell you
8 what was in it.

9 Q. But he wasn't acting like he had been
10 drinking?

11 A. I wouldn't know.

12 Q. Well, you know how people act when they've
13 been drinking?

14 A. Are you trying to say he was drunk, if he was
15 drunk?

16 Q. No, I'm not saying drunk. I'm saying was he
17 acting like either real giddyish happy because he had
18 been drinking, or was he stumbling around, or was his
19 speech slurred? Was he acting up?

20 A. He was quiet. He was pretty quiet.

21 Q. Pretty quiet. Now, what time did you go to
22 the party in Summerville?

23 A. I don't really recall.

24 Q. And what time did you leave the party in
25 Summerville?

1 A. I couldn't give you a specific time, but it
2 was late.

3 Q. And what time -- did you go to Mr. Eason's
4 house, or did you go directly to Mr. Brown's house?

5 A. We went to Mr. Brown's house.

6 Q. So you didn't stop by Mr. Eason's house on the
7 way to Mr. Brown's house?

8 A. No.

9 Q. Why was that?

10 A. Because he's -- I was riding with my brother.
11 So I wasn't driving.

12 Q. Well, how would you know to go to Mr. Brown's
13 house and not to Mr. Eason's house?

14 A. I was riding with my brother. He knew to go.

15 Q. Was Mr. Eason present at Mr. Brown's house
16 when you got there?

17 A. I don't recall.

18 Q. Who was present when you arrived at
19 Mr. Brown's house?

20 A. A couple of girls, Rocquemore, Mr. Brown, a
21 few other people. I was in the house briefly and I
22 came out.

23 Q. What were the names of the women who were
24 there that night?

25 A. I have no idea.

1 Q. If you saw them today, would you be able to
2 verify that those are the people?

3 A. No.

4 Q. Did you tell the police that night or have you
5 told -- you met with the solicitor, I suppose, the
6 prosecutor?

7 A. We've talked.

8 Q. You talked? Have you reviewed your testimony
9 with them?

10 A. I talked about what I wrote on my statement.

11 Q. This stuff and all that, did you go over that
12 with them? Sir?

13 A. Yes.

14 Q. Did you tell them about the girl whose face
15 you threw the drink in?

16 A. Yes.

17 Q. So they knew that there were witnesses at the
18 party other than you and your lifelong friends? The
19 police? The prosecutor?

20 A. Witnesses to what?

21 Q. That there were people at the party that
22 night...

23 A. Yes.

24 Q. --- that was not Mr. Rocquemore, not
25 Mr. Thomas, not you, not your brother, not Demar, and

1 not Mr. Eason. Correct?

2 A. There were people at the party, yes.

3 Q. And sometimes those witnesses are called
4 independent witnesses, people who don't have a stake
5 in the action, for instance ---

6 MS. KNEESE-SHEALY: Objection to his
7 testifying instead of asking questions.

8 THE COURT: You want to ask him what ---

9 BY MR. SAVAGE:

10 Q. An independent witness. Mr. Rocquemore is not
11 independent, is he? He's on trial.

12 A. He was there.

13 Q. He was there, he was a witness, but he's on
14 trial today. And Mr. Thomas is the person that you
15 said was going to his trunk. He's not independent,
16 because he was involved.

17 A. Rocquemore was involved, too.

18 Q. And so he was involved. And Mr. Eason was
19 involved? Wasn't he?

20 A. In the situation?

21 Q. Yes, sir.

22 A. Yes.

23 Q. And your brother was involved?

24 A. I was involved, too.

25 Q. But the girls who were at the party who

1 observed what took place at the party before what
2 we're here about, they weren't fighting with anybody?

3 A. Not while they're fighting, no.

4 Q. They weren't friends of Mr. Rocquemore, were
5 they?

6 A. I have no idea.

7 Q. They're not friends of yours or anybody else
8 who's testified?

9 A. They're good friends of Dexter's.

10 Q. Dexter's. And they are -- they were there
11 that night, and they observed what happened in terms
12 of your behavior, your brother's behavior, Demar's
13 behavior, Mr. Eason's behavior, Mr. Rocquemore's
14 behavior, and Mr. Thomas's behavior?

15 A. My ---

16 Q. They were there?

17 A. Like I told you, I don't know. I can't recall
18 if Troy was there or not, but...

19 Q. Now, you have testified that Mr. Rocquemore
20 was well behaved?

21 A. He was quiet.

22 Q. Quiet. He was not present when you acted up
23 when you had the problem with the lady?

24 A. I didn't act up. I made a mistake.

25 Q. And the mistake was throwing a drink in her

1 face?

2 A. Dumb mistake.

3 Q. And prior before that, did you take
4 Mr. Brown's daddy's cane and do anything sexually
5 suggestive to any of the women?

6 A. No.

7 Q. Did anybody else?

8 A. I have no idea.

9 Q. Do you recall what time you got to Mr. Brown's
10 house?

11 A. No.

12 Q. Did you go directly from the party in
13 Summerville to Mr. Brown's house?

14 A. Yes.

15 Q. Is that the party in Summerville where there
16 were children at grandma's and it was a
17 graduation/homecoming/housewarming party?

18 A. Housewarming party and graduation, yeah.

19 Q. At what time did that party close down?

20 A. Late in the night.

21 Q. And could you tell us what late means?

22 A. Late in the night, real late in the night.

23 Q. They call the late news Late News at eleven
24 o'clock. Was it ---

25 A. Later than 11:00.

1 Q. Was it later than midnight?

2 A. I don't know the exact time. I couldn't
3 estimate on that.

4 Q. How long did it take you to get from
5 Summerville to Mr. Brown's house?

6 A. I have no idea.

7 Q. You lived there all your life and you don't
8 recall?

9 A. No. I wasn't tracking time.

10 Q. You went directly there?

11 A. I went directly from the party to Mr. Brown's
12 house.

13 Q. Was there booze at Mr. Brown's house?

14 A. Yes.

15 Q. And did you partake?

16 A. I had a glass.

17 Q. Just one?

18 A. Yes.

19 Q. How long were you there?

20 A. I don't remember.

21 Q. You don't remember. One drink?

22 A. Excuse me?

23 Q. One drink is what you had?

24 A. I didn't drink the drink. I had a glass.

25 Q. Oh. So you had a glass, but you didn't drink

1 it?

2 A. Yes.

3 Q. The whole time you were there, you had nothing
4 to drink?

5 A. No.

6 Q. How long had you been there before
7 Mr. Rocquemore left?

8 A. I don't remember.

9 Q. Do you remember him leaving?

10 A. Yes.

11 Q. And how did he leave?

12 A. With Dexter in his car.

13 Q. And where was his car parked when he left?

14 A. Where was it parked when he left?

15 Q. Yes, sir. Where was he parked when he got in
16 the car with Dexter to leave?

17 A. I didn't pay attention to that.

18 Q. Well, you were outside?

19 A. I was inside when they left.

20 Q. So you don't know where his car was when you
21 got there? He was there when you got there?

22 A. Yeah.

23 Q. And where was his car then?

24 A. I wasn't paying attention to that.

25 Q. And you don't know when he left. Do you know

1 how long he was gone?

2 A. No.

3 Q. Were you there when he got back?

4 A. No.

5 Q. Did all the trouble that took place take place
6 while he was gone?

7 A. The drink that I had, yeah, the cup that I
8 had, there was a little trouble with the young lady.

9 Q. And did your brother say it's time to leave?

10 A. Yes.

11 Q. And he got you and your friends and you left?

12 A. Yes.

13 Q. Did you go home?

14 A. I went to Troy's house.

15 Q. Did you go home?

16 A. Troy's house.

17 Q. Did you go home?

18 A. I went to Troy's house.

19 Q. The answer is no?

20 A. I went to Troy's house.

21 THE COURT: Sir, he's asking you to
22 answer yes or no.

23 THE WITNESS: No.

24 BY MR. SAVAGE:

25 Q. You lived in the neighborhood?

- 1 A. Yeah.
- 2 Q. And you didn't go home?
- 3 A. No.
- 4 Q. Do you know what time of the morning it was?
- 5 A. No, I don't.
- 6 Q. Do you know what time Mr. Eason had left the
7 party?
- 8 A. No, I don't.
- 9 Q. Did you know whether it was 10 minutes, 30
10 minutes, an hour, or four hours?
- 11 A. I don't recall.
- 12 Q. Was it closer to four hours or ten minutes?
- 13 A. I don't recall.
- 14 Q. But you did go to Mr. Eason's house at that
15 time of the morning when you left the party?
- 16 A. I went to ---
- 17 Q. And got ---
- 18 A. I went to Mr. Eason's house after I had poured
19 the drink on the girl.
- 20 Q. And then the three of you who left the party
21 came back with four people to Mr. Brown's house?
- 22 A. Yes.
- 23 Q. And when you rolled up at the party, you could
24 immediately tell that the party was over?
- 25 A. Well, that the party was over, I guess, when I

1 poured the drink on the girl.

2 Q. So when you left the party there was trouble,
3 you all had to leave the party, your brother
4 encouraged everybody to get in the car and leave, and
5 you went to Troy's house?

6 A. We didn't have to leave. We just decided to
7 leave.

8 Q. Your brother decided you should leave. Is
9 that correct?

10 A. Yes, I guess.

11 Q. And y'all left the party because there was a
12 problem at the party? Whatever that was, there was a
13 problem and that's why you left?

14 A. I guess.

15 Q. And you went to Mr. Eason's house?

16 A. Yes.

17 Q. And then the four of you came back to where
18 the party was, where the problem was ---

19 A. Because Dexter had called.

20 Q. Let me ask the question, and I'll be glad to
21 let you ---

22 A. Excuse me.

23 Q. --- explain your answer.

24 THE COURT: Hold it. Go ahead. One at a
25 time.

1 BY MR. SAVAGE:

2 Q. When you left the party, the party -- the
3 reason to leave the party, because there was a
4 problem. You then went to Mr. Eason's house four
5 blocks away, and four of you came back the day --
6 where the party had been. And when you left the
7 party, there was a problem there. And you came back.

8 A. Yes.

9 Q. And the party was over?

10 A. Yes.

11 Q. People were leaving and people had left.

12 Correct?

13 A. No. People weren't leaving when we came back.

14 Q. Were people ---

15 A. They were -- they were already gone.

16 Q. They were gone?

17 A. Yes.

18 Q. And the people who were left were at the edge
19 of the driveway?

20 A. The people that were there, Mr. Brown and
21 Mr. Rocquemore and Mr. Thomas.

22 Q. And Mr. Thomas and Mr. Rocquemore were between
23 the door and their car? That's where they were
24 physically located?

25 A. They were on the driveway.

1 Q. And that's located between the door and their
2 car?

3 A. Technically, it's between the door and the
4 street.

5 Q. And the car was parked on the street?

6 A. Away from the door.

7 Q. To get ---

8 A. Down the street.

9 Q. Let me ask you this question. To get from --
10 first of all, was Mr. Rocquemore inside the house
11 while you were there?

12 A. No.

13 Q. He wasn't? Where was he?

14 A. I have no idea.

15 Q. During the party, did he leave the party?

16 A. I don't know what part of the house he was in,
17 if he was in the house at all. He could have been in
18 the backyard.

19 Q. He could have been where?

20 A. I have no idea.

21 Q. So you don't know whether he stayed in the
22 house during the party or not?

23 A. I know he left to go to get beer.

24 Q. And when he left to go get beer, where did he
25 leave from?

1 A. He left from the house.

2 Q. Inside the house?

3 A. I don't know if he was inside or not.

4 Q. And then in order to get from the house to the
5 car, he had to be in the driveway where he was
6 standing when y'all rolled up. Isn't that correct?

7 A. Can you repeat that?

8 Q. In order for him to go from the party to his
9 car, to leave the party that was over, he had to walk
10 down the driveway and then down the street. Isn't
11 that correct?

12 A. Yeah, because maybe some -- like I said, I
13 don't know if he was in the house or in the driveway,
14 but I do know he left.

15 Q. But when y'all rolled up, clearly the party
16 was over?

17 A. Yes.

18 Q. But you pulled up the street, and the four of
19 you got out of the car to come back?

20 A. Yes.

21 Q. All four of you got out of the car?

22 A. Yes.

23 Q. Now...

24 MR. SAVAGE: Beg the Court's indulgence.

25 THE COURT: Yes, sir.

1 BY MR. SAVAGE:

2 Q. And I realize that you were in a -- had been
3 involved in an incident that created a lot of trauma
4 with you, but the police did ask you questions that
5 night?

6 A. They asked me to make a statement.

7 Q. And you remained at the scene where the
8 incident took place for hours following the incident?

9 A. I can't recall if it was hours, but it was
10 some time.

11 Q. Well, was it dark out when the incident took
12 place?

13 A. Yes.

14 Q. Was it light out when you left?

15 A. Yes.

16 Q. And in between the dark hours and the light
17 hours, did the police take photographs of you?

18 A. Yes.

19 Q. And it was light out when they took those
20 photographs?

21 A. It was dark.

22 Q. Have you seen those photographs?

23 A. Yes, I have.

24 Q. And those were some hours after the incident?

25 A. Yes.

1 Q. So I don't want the impression to be left that
2 you went immediately to the Medical University. You
3 stayed there, correct?

4 A. Yes.

5 Q. Who else stayed there?

6 A. My brother and Troy.

7 Q. And Mr. Eason?

8 A. Yes.

9 Q. Have you seen any photographs of Mr. Eason
10 when you were meeting with the prosecutors?

11 A. Yes.

12 Q. You have?

13 A. Of his shirt.

14 Q. Did you see any photographs of him?

15 A. Just me and my brother. No.

16 Q. Did you tell at any time in those hours that
17 you stayed at the scene following the incident that
18 Mr. Rocquemore went to his car to get a gun?

19 A. Could you repeat the question?

20 Q. In the time frame in which you remained where
21 the incident occurred, did you ever tell the police
22 that Mr. Rocquemore went to his car to get a gun?

23 A. The police didn't interview me like that.

24 Q. Pardon me?

25 A. The police didn't interview me.

1 Q. The police didn't interview you?

2 A. No. They just asked me to make a statement.

3 Q. Did they ask you a series of questions?

4 A. No.

5 Q. Are you Rodney L. Gibbs?

6 A. Yes.

7 MR. SAVAGE: May I approach, Your Honor?

8 THE COURT: Yes.

9 BY MR. SAVAGE:

10 Q. Does this document -- do you recall seeing
11 this before? Does this refresh your memory in any
12 way?

13 A. (The witness reviews document.) This is my
14 statement.

15 Q. So you did make a statement?

16 A. I said that.

17 Q. Maybe I misinterpreted, and I apologize, but
18 you did make a statement that night?

19 A. I said I made a statement.

20 Q. And they asked you do you know who shot Demar?

21 A. No, I didn't know him.

22 Q. Did you tell them that he went to his car?

23 Did you tell them any of the information that you
24 provided to the jury today? Did you describe who was
25 leaning over and who was standing up, how close they

1 were, where on the street they were? Did you tell
2 them that Demar shadowed ---

3 A. He didn't interview me like that. He just
4 asked me to make a statement. So I made a statement.

5 Q. And you put in the statement what you thought
6 was important?

7 A. Yes.

8 Q. You didn't put in the statement that Demar and
9 you went over to follow David Rocquemore when he was
10 trying to get in his truck, did you?

11 A. Because we didn't do that.

12 Q. And you didn't tell them that you beat on
13 Mr. Rocquemore while he was trying to get in his
14 truck?

15 A. We didn't do that either.

16 Q. And did you lose your jewelry that night?

17 A. No.

18 Q. Did you lose what was on your hands that
19 night?

20 A. One of the policemen grabbed my watch,
21 loosened it up, and gave it back. You know, I
22 connected it back onto my arm. That's what -- I
23 didn't have any jewelry to lose.

24 Q. You didn't drop anything during the fight that
25 night?

1 A. No.

2 Q. Do you know who did?

3 A. No.

4 Q. Did you ever see any jewelry about the ground
5 where the fight took place?

6 A. No.

7 Q. You're not saying it didn't happen; it's just
8 that you didn't see it?

9 A. I didn't see it.

10 Q. The question I'm going to ask you is because
11 the court reporter writes everything down, and she
12 can't write down what she observes, she can only
13 write down what she hears. And as I followed you and
14 Ms. Shealy, you were describing how Demar
15 was shot?

16 A. Yes.

17 Q. And you described that he was standing where I
18 am, facing Mr. David Rocquemore, and that
19 Mr. Rocquemore was crouched down close to the
20 ground?

21 A. Stumbling, yeah.

22 Q. And so when he turned around and shot, he was
23 firing in an upward trajectory, the bullet was rising
24 before it hit the deceased?

25 A. All I know is he was shooting as he was

1 stumbling.

2 Q. But you pointed out to the jury precisely how
3 Mr. Rocquemore was when the weapon was fired. Isn't
4 that correct?

5 A. He pointed the gun at Demar. Whether it
6 was ---

7 Q. But for purposes ---

8 A. --- up or down, I -- I didn't focus on that.
9 I just knew he shot.

10 Q. But for purposes of the record, when you did
11 that, you were crouched with your knees close to the
12 ground with the pistol being held in an upward
13 trajectory, isn't that correct, in your demonstration
14 for the prosecution?

15 A. Yes.

16 Q. And that's still your testimony?

17 A. Yes.

18 Q. And your testimony is that after, after he was
19 shot not once but twice, he continued to lunge and go
20 after Mr. Rocquemore?

21 A. Yes.

22 Q. He did? He wasn't going after Mr. Rocquemore
23 until after he was shot not once ---

24 A. No.

25 Q. --- but twice and then went after

1 Mr. Rocquemore?

2 A. His hands were up. Mr. Rocquemore dropped the
3 gun and came up shooting.

4 Q. And nobody had any attempt to pick up the gun?
5 Nobody saw the gun and tried to jump on it or grab it
6 or to get it away from him?

7 A. I tried to. But I couldn't make it over there
8 because Dexter Brown grabbed my arm.

9 Q. Dexter Brown. Dexter Brown?

10 A. Yes.

11 Q. Your friend?

12 A. Yes.

13 Q. Grabbed your arm so that you couldn't go
14 protect him?

15 A. No. He grabbed my arm, and he just stated,
16 "This stuff has to stop and stop from in front of my
17 house."

18 Q. And I'm sure Mr. Brown was there and saw that,
19 also?

20 A. I couldn't recall. He -- as far as I'm
21 concerned, I believe he was outside, but I was
22 concerned about my brother and Demar.

23 Q. But you're saying that you couldn't grab the
24 gun, you didn't try to grab the gun, you didn't ---

25 A. No.

1 Q. --- try to beat on David Rocquemore?

2 A. No.

3 Q. Nobody tried to ---

4 A. No.

5 Q. --- beat on him because Dexter Brown was
6 standing there and holding you away?

7 A. In the driveway, his driveway.

8 MR. SAVAGE: Beg the Court's indulgence
9 one moment.

10 THE COURT: Yes, sir.

11 (Mr. Savage and Ms. Savage confer.)

12 BY MR. SAVAGE:

13 Q. The cooperation you gave the police that
14 night, providing a statement, is it your testimony
15 that was given before the EMS left?

16 A. Would you repeat that again?

17 Q. The statement you gave to the law enforcement
18 authorities that evening...

19 A. Yes, sir.

20 Q. --- that morning, I believe I heard you say
21 earlier in response to the prosecutor's question that
22 it was given before your friend left in the EMS?

23 A. It was given while EMS was there.

24 Q. So if we were to look at the records of what
25 time the EMS departed the scene, we would know what

1 time you gave the statement?

2 A. I guess you would.

3 Q. And you remained at the scene for hours
4 following that?

5 A. I stayed until my brother gave his second
6 statement and after that we left.

7 Q. All right. But you were photographed?

8 A. Yes.

9 Q. And it was daylight at that time?

10 A. No, it was -- it was still dark.

11 Q. It was dark?

12 A. Semi-dark and sort of changing into the
13 morning.

14 Q. And when the police had further questions for
15 you about what your role was in the offensive conduct
16 that evening, you refused to give any further
17 statements?

18 A. He asked to me -- for me to give another
19 statement, and I refused because I wanted to see
20 Demar.

21 MR. SAVAGE: Thank you, sir.

22 MS. KNEESE-SHEALY: Beg the Court's
23 indulgence just one moment.

24 (Ms. Kneese-Shealy and Mr. Durant
25 confer.)

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REDIRECT EXAMINATION

BY MS. KNEESE-SHEALY:

Q. Mr. Gibbs, where were you when the officer asked you to give a second statement?

A. In the car.

Q. In the car?

A. Yes.

Q. And where -- who was in the car with you?

A. No one.

Q. Where were y'all getting ready to go?

A. To the hospital.

Q. And why did you not give the second statement?

A. I was concerned about Demar. I just wanted to get to the hospital and see what's going on.

MS. KNEESE-SHEALY: I have no further questions, Your Honor.

THE COURT: Anything else, Mr. Savage?

MR. SAVAGE: No, sir.

MS. KNEESE-SHEALY: Your Honor, we would ask that Mr. Gibbs also be allowed to remain in the courtroom.

MR. SAVAGE: No objection.

THE COURT: You may remain, step down, sir, and remain in the courtroom. You may not discuss your testimony with anyone. Do you

1 understand?

2 THE WITNESS: Thank you.

3 (The witness is excused from the witness
4 stand.)

5 THE COURT: All right, ladies and
6 gentlemen, I'm going to give you your afternoon
7 break. Do not discuss this case in any way. Thank
8 you very much.

9 (Whereupon, the jury goes to the jury
10 room at approximately 3:13 p.m.)

11 THE COURT: All right. Thank you.

12 MR. SAVAGE: I have a matter. We can do
13 it now or when we come back.

14 THE COURT: No. We'll do it when we come
15 back.

16 (A break is taken at approximately
17 3:13 p.m.)

18 (The trial reconvenes at approximately
19 3:35 p.m., the defendant being present with counsel,
20 and the following proceedings were had:)

21 (State's Exhibit No. 54, aerial photo -
22 crime scene, is marked for identification.)

23 THE COURT: Thank you. Please be seated.
24 Are y'all ready to proceed? You have some matters
25 for the Court?

1 MR. SAVAGE: Some matters, Your Honor.

2 The first one is to ask the Court to
3 instruct the prosecution on their continuous leading
4 questions. I don't want to have to jump up every
5 time there's a leading question. One prosecutor in
6 particular keeps asking leading questions, and I'd
7 ask that...

8 THE COURT: That has to be avoided.

9 MR. SAVAGE: --- that be avoided.

10 THE COURT: As to leading questions,
11 there were several leading questions.

12 MR. SAVAGE: And the other, Judge ---

13 THE COURT: Some of them, if it's not a
14 -- if it's a trivial matter, I don't -- it's not
15 worth the time.

16 MR. SAVAGE: It's a waste of time. But
17 when it's material and they testify and ask a
18 question that isn't proper...

19 Judge, the second one is the gentleman
20 who previously testified that I did not object to
21 remaining in the courtroom, I would object to him
22 remaining in the courtroom while the police crime
23 scene people testify, as we may recall him.

24 THE COURT: Well, unless you -- I don't
25 know when that's going to take place, so it might be

1 best just to have him step out of the courtroom
2 rather than...

3 MR. DURANT: Well, Your Honor, quite
4 frankly, I can't understand how -- the gentleman's
5 already testified -- his testimony can be affected
6 when someone testifies.

7 THE COURT: Well, they would still have
8 the opportunity to potentially bring someone back.

9 MR. DURANT: Okay.

10 THE COURT: I mean, I don't want to
11 speculate on it. Maybe not to disclose his strategy.

12 MR. DURANT: Yeah, and I'll leave it to
13 your discretion, but I just don't think it's
14 necessary.

15 THE COURT: When are those witnesses
16 coming up?

17 MR. DURANT: We'll have two crime scene
18 guys coming up. I may try to sandwich a chain of
19 custody witness between them who's here from out of
20 town and...

21 THE COURT: Well, then...

22 MR. DURANT: As of right now, those two
23 crime scene folks are my next two witnesses.

24 THE COURT: I'll go ahead and instruct
25 the previous witness then. Where is he at? He needs

1 to go ahead...

2 MR. DURANT: Mr. Rodney Gibbs.

3 THE COURT: I'll need you to step out of
4 the courtroom. Thank you. Do not discuss your
5 testimony.

6 (Mr. Rodney Gibbs leaves the courtroom.)

7 THE COURT: Is that any problem?

8 Mr. Rodney Gibbs?

9 MR. SAVAGE: It's the gentlemen who have
10 testified, the civilian gentlemen, I'd ask that they
11 be excused from the courtroom during the crime scene
12 testimony.

13 THE COURT: All right. Just all --
14 all the prior witnesses, if you'll step out
15 momentarily, please. Thank you. Do not discuss your
16 testimony.

17 (Said witnesses leave the courtroom.)

18 THE COURT: Anything else? You said you
19 had two matters?

20 MR. SAVAGE: The first one was leading
21 questions.

22 THE COURT: Oh, okay. Anything else?

23 MR. SAVAGE: No, sir.

24 THE COURT: Ready? The state ready?

25 MR. DURANT: Yes, sir, Your Honor.

1 THE COURT: Bring the jury in, please.

2 (Whereupon, the jury returns to the
3 courtroom at approximately 3:40 p.m.)

4 THE BAILIFF: The jurors are present.

5 THE COURT: Thank you. Please be seated.

6 We're ready to proceed, ladies and
7 gentlemen.

8 Go ahead.

9 MR. DURANT: The state would call
10 David Owen.

11 INVESTIGATOR DAVID OWEN,
12 being first duly sworn by the clerk, is examined and
13 testifies as follows:

14 THE CLERK: Thank you. Be seated. Could
15 you please state your full name and spell your last
16 name.

17 THE WITNESS: David Owen, O-W-E-N.

18 DIRECT EXAMINATION

19 BY MR. DURANT:

20 Q. Would you please tell the jury where you're
21 employed?

22 A. The Charleston County sheriff's office.

23 Q. How long have you been with the sheriff's
24 office?

25 A. Five years.

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1 Q. And what do you currently do with the
2 sheriff's office?

3 A. Crime scene investigator.

4 Q. How long have you been a crime scene
5 investigator?

6 A. Four years.

7 Q. In that capacity did you have the opportunity
8 to respond to a fatal shooting on Berrywood Drive and
9 Mixedwood Drive on August 14th of 2005?

10 A. Yes, I did.

11 Q. And approximately what time did you get on the
12 scene?

13 A. I believe it was 4:57 in the morning.

14 Q. Were you the first crime scene officer there?

15 A. Yes, I was.

16 Q. And what did you do upon arriving at the
17 scene?

18 A. I located the first responding deputy which
19 was Deputy Ford. I checked in with the crime scene.
20 I think it was Deputy Moniz who was keeping the crime
21 scene log with all the stuff on there.

22 Q. And did you receive -- receive a briefing from
23 Deputy Ford as to what had gone on?

24 A. Yes, sir, I did.

25 Q. Had the crime scene area been roped off when

1 you had arrived?

2 A. Yes, sir. The immediate area on Berrywood
3 close to Mixedwood, and I believe the address was
4 [REDACTED] just beyond that had been roped off and
5 secured.

6 Q. Was the victim, Demar Denson, still on the
7 scene when you arrived?

8 A. No, sir. He had been removed and transported
9 to the hospital.

10 Q. How about the defendant, David Rocquemore?
11 Was he still present on the scene?

12 A. Yes, he was.

13 Q. And where was he?

14 A. He was in the back of a patrol cruiser.

15 Q. In custody at the time?

16 A. Yes.

17 Q. Do you recall whether he had anything on his
18 hands?

19 A. Yes. He had brown paper -- brown paper bags
20 on his hands.

21 Q. Do you know why he had brown -- brown paper
22 bags on his hands?

23 A. Those are -- those are placed on the hands to
24 protect until we can -- to protect the hands until we
25 can collect a gunshot residue kit.

1 Q. And do you know who bagged his hands?

2 A. Yes. It was Lieutenant Scarborough.

3 Q. Did you assist anyone with regard to any
4 forensic collection in regard to the defendant's
5 hands?

6 A. I'm sorry, sir, I didn't hear you.

7 Q. Did you assist anyone regarding any forensic
8 collection from the defendant's hands?

9 A. Yes. I assisted Investigator Hodge with
10 collecting the GSR collection kit.

11 Q. And what is a GSR collection kit?

12 A. GSR is gunshot residue.

13 Q. But it was actually -- the sample was actually
14 collected by Investigator Hodge; is that correct?

15 A. That is correct.

16 Q. Once being briefed by Deputy Ford, did you
17 have an opportunity to collect a weapon at the scene?

18 A. Yes, I did.

19 Q. And what type of weapon was that?

20 A. It was a Highpoint .45 caliber semiautomatic
21 handgun.

22 Q. And where did you obtain that weapon from?

23 A. It was ---

24 Q. Who did you obtain that weapon from? Who or
25 where?

1 A. From Deputy Ford. It was secured in the trunk
2 of his patrol cruiser.

3 Q. And how did you go about collecting that
4 weapon?

5 A. First, before I touched it, I photographed the
6 handgun in the cruiser. I observed that it was
7 jammed. I took a close-up of the chambered area with
8 one round in the chamber.

9 After photographing it, I picked the handgun
10 up and cleared it, having one round ejected into --
11 removed from the gun in Deputy -- from the gun, into
12 the trunk of Deputy Ford's cruiser.

13 At that point I stopped and photographed the
14 round that was ejected, the firearm a second time, as
15 well as the magazine which was removed from the
16 handgun.

17 Q. And what was the serial number on that weapon
18 if your notes reflect?

19 A. The serial number was 342029.

20 Q. I hand you what's previously been marked as
21 state's exhibit number 49 for identification, ask if
22 you recognize that weapon and, if so, how.

23 A. Yes, I do recognize the weapon. It's a
24 Highpoint .45 caliber. The serial number, as I
25 indicated, is 342029.

1 Q. Does that weapon appear to be in substantially
2 the same condition as it did when you collected it on
3 the morning of August 14th, 2005?

4 A. Yes, it does.

5 MR. DURANT: Your Honor, at this point
6 we'd offer state's 49 into evidence.

7 THE COURT: Any objection?

8 MR. SAVAGE: Without objection. Of
9 course, I don't know what type of tags are on it. We
10 don't object to the evidence.

11 THE COURT: All right. State's 49 in
12 evidence without objection.

13 (State's Exhibit No. 49, previously
14 marked for identification, is received in evidence.)

15 BY MR. DURANT:

16 Q. Did you have an opportunity to run a trace on
17 that weapon?

18 A. Yes, I did.

19 Q. Were you able to determine who the gun was
20 registered to?

21 A. Yes. We conducted an ATF trace, and it came
22 back registered to a David Rocquemore.

23 Q. And did it indicate when the weapon was
24 purchased?

25 A. One second, I'll refer to my notes. The

1 purchase date on the weapon was March 14th, 2003.

2 Q. And where purchased?

3 A. Mickalis Pawnshop in Summerville.

4 (Mr. Durant and Mr. Savage confer.)

5 MR. DURANT: May I approach the court
6 reporter, Your Honor?

7 THE COURT: Yes.

8 (State's Exhibit No. 55, one live .45
9 caliber round recovered from gun chamber, is marked
10 for identification.)

11 (State's Exhibit No. 56, three live .45
12 caliber rounds recovered from gun magazine, is marked
13 for identification.)

14 BY MR. DURANT:

15 Q. I hand you what's been marked as state's
16 exhibit number 55 and ask you to take a look at that
17 exhibit, tell me if you recognize it, and tell what
18 it is.

19 A. It's a .45 caliber round, live round that was
20 -- that was recovered from the chamber of the
21 handgun.

22 Q. That was the one that was jammed in the
23 handgun?

24 A. Yes, sir.

25 Q. And you're the one who packaged that?

1 A. Yes, sir.

2 Q. How about with regard to state's exhibit
3 number 56?

4 A. It's three live .45 caliber rounds that was in
5 the magazine when it was removed from the handgun.

6 Q. And do state's exhibits 55 and 56 appear to be
7 in substantially the same condition now as when you
8 recovered them on the morning of August 14th of 2005?

9 A. Yes, sir, they do.

10 MR. DURANT: Your Honor, we would offer
11 state's 55 and 56 at this time.

12 MR. SAVAGE: Without objection.

13 THE COURT: State's exhibits 55 and 56 in
14 evidence.

15 (State's Exhibit No. 55, one live .45
16 caliber round recovered from gun chamber, previously
17 marked for identification, is received in evidence.)

18 (State's Exhibit No. 56, three live .45
19 caliber rounds recovered from gun magazine,
20 previously marked for identification, is received in
21 evidence.)

22 MR. SAVAGE: There may be an objection as
23 to packaging or labeling, but not to the evidence
24 itself.

25 MR. DURANT: Would you like to see the

1 packaging?

2 THE COURT: Do you want to change that?

3 MR. SAVAGE: I can do that later.

4 THE COURT: All right. Y'all bring it
5 back to my attention. It's admitted. Go ahead.

6 BY MR. DURANT:

7 Q. Could you relate to the Court and the jury
8 what the caliber, make, and type of ammunition you
9 recovered from the weapon?

10 A. They are Winchester .45 auto hollow-point
11 bullets.

12 Q. What is a hollow point?

13 A. It's hollow in the center, so it's not like a
14 ball ammunitions.

15 Q. Were any efforts made to locate shell casings
16 at the scene?

17 A. Yes, there was.

18 Q. And could you describe those efforts to the
19 jury?

20 A. We conducted a line search of the road, the
21 shoulders, and the ditch, on both sides of the road
22 for shell casings with none being found visually. A
23 metal detector was brought to the scene, and the area
24 was checked with a metal detector.

25 Q. And when you check the area with metal

1 detectors, what area did you check?

2 A. The immediate area where the defendant and the
3 victim were, in front of 9752, the -- the ditch and
4 the shoulder of the road.

5 Q. At [REDACTED]

6 A. That's correct.

7 Q. Did you find any shell casings?

8 A. Yes.

9 Q. And how many?

10 A. One shell casing.

11 Q. Did you find another live round?

12 A. Yes, we found another live round.

13 Q. And where did you find those items?

14 A. It was in the -- mixed in with the mud and the
15 ditch line in front of [REDACTED]

16 Q. And what did you do with the shell casing live
17 round when you located it?

18 A. Once we located it, we photographed it,
19 collected it, and secured it as evidence.

20 Q. Was it marked with a numbered placard?

21 A. Yes. It was marked with number 13.

22 MR. DURANT: I guess this will be 57 and
23 58.

24 (State's Exhibit No. 57, .45 caliber
25 shell casing, is marked for identification.)