

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable Edward W. Miller, Circuit Court Judge

KEITH LETMON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-000973

APPENDIX

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INDEX

INDEX.....	i
TRANSCRIPT DECEMBER 2, 2011	1
TRIAL TRANSCRIPT.....	14
APPLICATION FOR POST-CONVICTION RELIEF	409
RETURN AND MOTION FOR A MORE DEFINITE STATEMENT.....	415
AMENDMENTS TO APPLICATION FOR POST-CONVICTION RELIEF	419
POST-CONVICTION RELIEF HEARING TRANSCRIPT	423
ORDER OF DISMISSAL.....	462
INDICTMENT	470

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Keith Letmon,) 2011-GS-42-5626-5628
6 Defendant.) December 2, 2011
7) Spartanburg, South Carolina

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9
10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE
12

13
14 A P P E A R A N C E S:

15 BARRY JOE BARNETTE, ESQUIRE
16 Attorney for the State

17 MATTHEW W. SHEALY, ESQUIRE
18 Attorney for the Defendant

19
20
21 Linda D. Moffitt
22 Circuit Court Reporter
23
24
25

1	<u>INDEX</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3	RUSSELL PORTER (SW)	
4	Direct examination by Mr. Barnette	4
5	Cross-examination by Mr. Shealy	7
6	Redirect examination by Mr. Barnette	9
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1		<u>EXHIBITS</u>		
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	C-1	Letter		6
4	C-2	Affidavit		7
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
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Russell Porter
Direct examination by Mr. Barnette

1 MR. BARNETTE: I would like to call Officer Russell to
2 the stand, please.

3 THE COURT: Who represents Mr. Letmon?

4 MR. SHEALY: I do, Your Honor.

5 THE COURT: Okay.

6 RUSSELL PORTER, having been
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. BARNETTE

9 Q If you would, sir, give your full name for the record,
10 please.

11 A Russell Porter.

12 Q And where do you work at, sir?

13 A Spartanburg Public Safety Department.

14 Q What's your position there, sir?

15 A I'm currently an investigator with the criminal
16 investigation division.

17 Q And was you working on July 15th of 2011, sir?

18 A I was.

19 Q And did you receive a shooting call at [REDACTED] Norris
20 Street here in the City of Spartanburg, sir?

21 A I did.

22 Q And did you find the victim, Cecil [sic] Moss lying on
23 his back on the front porch --

24 A I did.

25 Q -- in front of 108?

Russell Porter
Direct examination by Mr. Barnette

1 A We did.

2 Q And he was shot, is that correct, sir?

3 A That's correct.

4 Q And through your investigation did you interview
5 witnesses, sir?

6 A I did.

7 Q And was Anthony Copeland and Crystal Ross people that
8 you identified as witnesses in this case?

9 A Yes, they were.

10 Q And they identified the defendant, Keith Letmon, as the
11 suspect?

12 A They did.

13 Q And based off that did you prepare an affidavit
14 concerning your investigation of this?

15 A I did.

16 Q Is that a copy of your affidavit, sir?

17 A Yes, it is.

18 Q Okay.

19 MR. BARNETTE: Your Honor, I'd like to have
20 Investigator Porter sign this in front of Your Honor if
21 that's possible and go ahead and hand it up to the Court,
22 Your Honor.

23 THE COURT: Okay.

24 (Pause for witness to sign.)

25 Q And I've already shared this with Mr. Shealy if I could

Russell Porter
Direct examination by Mr. Barnette

1 pass that up.

2 MR. SHEALY: I have no objection.

3 (Letter marked Court's Exhibit No. 1.)

4 Q And if I could show you this, this will be Court's
5 Exhibit No. 1. Is this the information you received from
6 SLED on D.N.A., sir?

7 A Yes, sir. Received October the 12th of 2011 from SLED.

8 Q And are they requesting a sample from the suspect in
9 this case?

10 A They are.

11 Q And do they need that before they initiate D.N.A.
12 testing in this case?

13 A That's correct.

14 MR. BARNETTE: Your Honor, I'd like to enter this just
15 for purposes of this hearing. I think Mr. Shealy may have
16 already seen this.

17 MR. SHEALY: I have, Your Honor, if I can just refresh
18 my memory.

19 (Pause.)

20 MR. SHEALY: Your Honor, I have no objection.

21 MR. BARNETTE: May I approach the bench and enter it
22 into the record, Your Honor?

23 Q So we're requesting a D.N.A. sample, a buccal swab,
24 from the defendant in this case, sir?

25 A That's correct, sir.

Russell Porter
Cross-examination by Mr. Shealy

1 Q And we've reviewed -- and that would be collected and
2 sent to D.N.A. for additional testing?

3 A Yes, sir, it would be.

4 Q And he's definitely the suspect in this case, is that
5 correct?

6 A Yes, yes, he is.

7 Q And if you would, please answer any questions the judge
8 or Mr. Shealy may have for you.

9 MR. BARNETTE: Your Honor, we would like to enter that
10 affidavit, Your Honor, as part of this hearing also, Your
11 Honor.

12 THE COURT: Okay.

13 MR. SHEALY: I have no objection to that.

14 (Affidavit marked Court's Exhibit No. 2.)

15 CROSS-EXAMINATION

16 BY MR. SHEALY

17 Q Investigator Porter, what all did you collect from the
18 scene?

19 A From the scene that was collected by the criminal
20 investigation division, crime scene techs recovered a
21 plastic baggie, spent bullet, swab from the blood pool,
22 Black Rock Wear hat, a pair of brown house shoes, white
23 socks, bloody tissue, Bud Light can, a Bud Light can, three
24 print cards and swabs from rocker bottom, swab from a light
25 bulb, I mean, light beer can, and swab also from another

Russell Porter
Cross-examination by Mr. Shealy

1 beer can, one pair of white socks and the victim's clothing.

2 Q Okay. Investigator Porter, are you familiar with that
3 particular address?

4 A I am.

5 Q You are. Okay. Isn't it true that particular address
6 is a liquor house?

7 A No, it's not. That house is not, no, sir.

8 Q Okay. There's, what, four beer cans, vodka bottle and
9 any number of things.

10 A Yes, sir. The liquor house is actually two doors down.

11 Q The liquor house is two doors down.

12 A Right.

13 Q And you interviewed these witnesses, is that correct?

14 A I did.

15 Q Okay. And isn't it true that those witnesses whenever
16 they spoke with you, they claimed that the shooter simply
17 walked up, said some words to Mr. Moss and shot him three
18 times and then left, correct?

19 A That's correct.

20 Q Didn't mention anything about Bud Light, did they?

21 A No, sir.

22 Q Or a vodka bottle.

23 A No, sir.

24 Q My client or the shooter drinking anything, is that
25 correct? They didn't mention any of that, did they?

Russell Porter
Redirect examination by Mr. Barnette

1 A No, sir.

2 Q No. Okay.

3 MR. SHEALY: That's I believe all that I have for this
4 witness, Your Honor.

5 MR. BARNETTE: Just one question on followup, Your
6 Honor.

7 REDIRECT EXAMINATION

8 BY MR. BARNETTE

9 Q Investigator Porter, isn't it true that to do a
10 thorough investigation you collect all the evidence at the
11 scene?

12 A That's correct, sir.

13 Q And usually that's tested or checked? A lot of times
14 defense attorneys ask y'all questions, have y'all done that,
15 is that correct?

16 A That's correct.

17 MR. BARNETTE: Thank you, Your Honor. That'd be all
18 the questions I have.

19 THE COURT: Okay. Step down.

20 Anything else?

21 MR. BARNETTE: Nothing from the state, Your Honor.

22 THE COURT: Anything?

23 MR. SHEALY: Only argument, Your Honor.

24 THE COURT: Okay.

25 MR. SHEALY: Your Honor, it'd be our position that

1 there has been no -- well, to begin, Judge, that there's
2 been no explanation as to the way that this would be
3 gathered.

4 Again, the state has to show not simply that there's
5 probable cause to believe that my client's a suspect. They
6 also have to show that there's going to be relevant
7 material evidence found and that the method is safe and
8 reliable.

9 Your Honor, there has been no testimony as to the
10 method. Further, there's been no testimony as to the
11 material relevant evidence, Judge.

12 He said that all of the D.N.A. evidence or, well, all
13 of the -- that the witnesses told him that my client simply
14 walked up and shot. That's it. That he didn't try to
15 drink anything, didn't swab -- swig anything. He didn't
16 touch any vodka bottles. So there is no relevant material
17 evidence.

18 Further, Your Honor, we don't even know that there is
19 going to be D.N.A. on any of these items, Judge. And all
20 of that -- the Court's exhibit I believe is marked No. 1 --
21 does request the sample from my client. It does say that
22 you can do these preliminary analyses simply by calling
23 SLED and asking them to do them, make sure that there is
24 D.N.A. here and then go to my client and ask for this
25 sample.

1 Your Honor, finally, I believe my client's sample is
2 in CODIS, so it's unnecessary to collect it at this point
3 from my client, Judge. So it'd be our position that the
4 state simply hasn't carried their burden based on State vs.
5 Baccus and various others cases. Thank you.

6 MR. BARNETTE: Thank you, Your Honor.

7 I think that we did establish we need a buccal swab in
8 this case. Just to be safe, I think it's a general
9 understanding from everybody that what a buccal swab is,
10 it's a swab inside the cheeks to get that information and
11 everything. Obviously, that's the most safe and reliable
12 method. We didn't ask for blood in this case.

13 The other thing, Your Honor, obviously we have a crime
14 that occurred, a murder. There's items that were found at
15 that scene from there.

16 I know what their argument is, that he didn't touch
17 anything. We didn't know what he touched and what he
18 didn't touch. We don't know what he threw down.

19 The witnesses just saw him actually shoot. We don't
20 know what he did before he got there, after he left there
21 or what he left and so forth. And obviously SLED's
22 requested this information to do the D.N.A.

23 I don't know if he's in CODIS or not from that
24 standpoint. It doesn't, really doesn't, make it relevant.
25 If he's in CODIS anyway we would be back to this point

1 arguing in front of the Court because CODIS is not enough.
2 It's enough for probable cause to ask for this hearing, but
3 we don't know if he is or not. But obviously we've got
4 probable cause with three eye witnesses that saw him at the
5 scene shoot this individual and the items that were found
6 there.

7 And D.N.A. can be collected off beer cans or anything
8 like that -- the saliva, any items, clothing that was left
9 there. And I think he have the right to get that
10 information to test it, because obviously the first thing
11 the defense asks, they always attack the police
12 investigation, that the police didn't do this, this and
13 this. Obviously, they're trying to be thorough and follow
14 through with this.

15 THE COURT: All right. I'll review the affidavit and
16 issue an order.

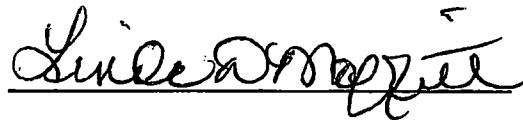
17 END OF REQUESTED TRANSCRIPT OF RECORD
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 2nd day of February 2011.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

July 2, 2013

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", is written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Keith Letmon,) 2011-GS-42-5626
6 Defendant.) December 10 - 12, 2012
7 Spartanburg, South Carolina

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11 B E F O R E:

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HONORABLE J. DERHAM COLE, JUDGE; and a jury

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

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DERRICK B. BULSA, ESQUIRE
Attorney for the State

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MATTHEW W. SHEALY, ESQUIRE
Attorney for the Defendant

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Linda D. Moffitt
Circuit Court Reporter

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1	<u>INDEX</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3	RUSSELL PORTER (SW) In-camera	
4	Direct examination by Mr. Bulsa	10
5	Cross-examination by Mr. Shealy	17
6	Redirect examination by Mr. Bulsa	22
7	Recross-examination by Mr. Shealy	25
8	LOUIS NELSON (SW) In-camera	
9	Direct examination by Mr. Bulsa	29
10	Cross-examination by Mr. Shealy	36
11	ANTHONY COPELAND (SW)	
12	Direct examination by Mr. Bulsa	100
13	Cross-examination by Mr. Shealy	118
14	Redirect examination by Mr. Bulsa	127
15	Recross-examination by Mr. Shealy	128
16	STEPHEN MCCLURE (SW)	
17	Direct examination by Mr. Bulsa	132
18	Cross-examination by Mr. Shealy	139
19	Redirect examination by Mr. Bulsa	140
20	BRITTANY ROBINSON (SW)	
21	Direct examination by Mr. Bulsa	141
22	Cross-examination by Mr. Shealy	147
23		
24		
25		

1	<u>INDEX</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3	CRYSTAL ROSS (SW)	
4	Direct examination by Mr. Bulsa	157
5	Cross-examination by Mr. Shealy	162
6	Redirect examination by Mr. Bulsa	175
7	JESSE WORTHY (SW)	
8	Direct examination by Mr. Bulsa	177
9	Cross-examination by Mr. Shealy	184
10	Redirect examination by Mr. Bulsa	201
11	COURTNEY WESTFALL (SW)	
12	Direct examination by Mr. Bulsa	203
13	Cross-examination by Mr. Shealy	216
14	RUSSELL PORTER (SW)	
15	Direct examination by Mr. Bulsa	220
16	Cross-examination by Mr. Shealy	226
17	REGGIE RICE (SW)	
18	Direct examination by Mr. Bulsa	231
19	Cross-examination by Mr. Shealy	242
20	Redirect examination by Mr. Bulsa	247
21	CHRISTOPHER LAYTON (SW)	
22	Direct examination by Mr. Bulsa	247
23	Cross-examination by Mr. Shealy	256
24	Redirect examination by Mr. Bulsa	258
25		

1	<u>INDEX</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3	LOUIS NELSON (SW)	
4	Direct examination by Mr. Bulsa	261
5	Cross-examination by Mr. Shealy	271
6	DEBRA KERNS (SW)	
7	Direct examination by Mr. Bulsa	276
8	Cross-examination by Mr. Shealy	279
9	BRENDALL MATHIS (SW)	
10	Direct examination by Mr. Bulsa	285
11	Cross-examination by Mr. Shealy	290
12	EDGAR GUTHRO (SW)	
13	Direct examination by Mr. Bulsa	294
14	Cross-examination by Mr. Shealy	297
15	MYLNOR BEACH (SW)	
16	Direct examination by Mr. Bulsa	298
17	Cross-examination by Mr. Shealy	303
18	Redirect examination by Mr. Bulsa	306
19	DAVID REEVES (SW)	
20	Direct examination by Mr. Bulsa	307
21		
22		
23		
24		
25		

1	<u>INDEX</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3	VERONA GIBSON (SW) In-camera	
4	Direct examination by Mr. Bulsa	310
5	Cross-examination by Mr. Shealy	312
6	Redirect examination by Mr. Bulsa	315
7	Recross-examination by Mr. Shealy	318
8	Redirect examination by Mr. Bulsa	321
9	Recross-examination by Mr. Shealy	323
10	FRANK DAN DE FREESE (SW)	
11	Direct examination by Mr. Bulsa	330
12	Cross-examination by Mr. Shealy	334
13	DR. JOHN DAVID WREN (SW)	
14	Direct examination by Mr. Bulsa	337
15	Cross-examination by Mr. Shealy	346
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	Jury qualification	50
2	Jury sworn	87
3	Opening statements	94
4	closing arguments	356
5	Jury charge	370
6	Verdict	388
7	Sentence	390
8	Certificate	395
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1		<u>EXHIBITS</u>		
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	S-1	Photo lineup	12	
4	S-2	Lineup Admonition	31	
5	S-2-A	Photographs	31	
6	S-3	Lineup Admonition	34	
7	S-3-A	Photographs	34	
8	S-4	Lineup Admonition	34	
9	S-4-A	Photographs	34	
10	S-5	Photograph	50	110
11	S-6	Photograph	50	110
12	S-7	Photograph	50	110
13	S-8	Photograph	50	110
14	S-9	Photograph	50	137
15	S-10	Photograph	50	206
16	S-11	Photograph	50	206
17	S-12	Photograph	50	240
18	S-13	Photograph	50	240
19	S-14	Photograph	50	240
20	S-15	Photograph	50	240
21	S-16	Photograph	50	233
22	S-17	Photograph	50	233
23	S-18	Photograph	50	233
24	S-19	Photograph	50	238
25	S-20	Photograph	50	253

1		<u>EXHIBITS</u>		
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	S-21	Photograph	50	253
4	S-22	Photograph	50	253
5	S-23	Photograph	50	253
6	S-24	Diagram	177	206
7	S-25	Evidence log	177	207
8	S-26	Bullets	214	333
9	S-26-A	Spent bullet	214	333
10	S-26-B	Spent bullet	214	333
11	S-26-C	Spent bullet	214	333
12	S-27	Gloves	215	
13	S-27-A	Manila envelope	215	
14	S-27-B	Brown envelope with gloves	215	
15	S-28	Swabs	215	
16	S-28-A	Envelope with swab samples	215	
17	S-28-B	Swab from steering wheel	215	
18	S-29	DNA suspect sample	260	
19	S-30	Cuttings and swabs	260	

20

21

22

23

24

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1 (Proceedings December 10, 2012)

2 THE COURT: This is Keith Letmon.

3 Mr. Shealy.

4 MR. SHEALY: Yes, Your Honor.

5 THE COURT: You represent him.

6 MR. SHEALY: I do, Your Honor.

7 THE COURT: He requests a trial by a jury?

8 MR. SHEALY: He does, Your Honor.

9 THE COURT: Any motions pretrial?

10 MR. SHEALY: I do, Your Honor, have a motion regarding
11 identification, in-court identification, by three
12 witnesses -- well, two witnesses will actually identify my
13 client in court, I believe. We've been administered photo
14 lineup in the past. It will be our position that the photo
15 lineup was unreasonably suggestive and that that taints the
16 in-court identification of what happened, Your Honor.

17 So we would ask to have a Neil vs. Biggers hearing on
18 that matter.

19 It's my understanding the state is not going forward
20 on two indictments, so that takes care of our motions to
21 quash the indictments for the pistol charges, Your Honor,
22 possession of a pistol by a person convicted of a crime of
23 violence, and the possession of a pistol during the
24 commission of a violent crime.

25 So I'm not making those motions because it's my

Russell Porter (In-camera)
Direct examination by Mr. Bulsa

1 understanding the state is not going forward on those
2 indictments.

3 THE COURT: All right. Mr. Bulsa, are y'all ready to
4 proceed on the identification motion?

5 MR. BULSA: Your Honor, I have my officers and
6 witnesses here.

7 This is actually -- the process is on the video, and
8 for some reason my computer is not playing that video. I'm
9 going to try to get another one down here, but I could
10 start the testimony.

11 THE COURT: Okay.

12 MR. BULSA: The state calls Russell Porter.

13 RUSSELL PORTER, having been
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. BULSA

16 Q Officer Porter, are you employed with the Spartanburg
17 Public Safety Department?

18 A I am.

19 Q Were you the lead investigator in the investigation of
20 the death of Cedric Moss back on -- in July of 2011?

21 A I was.

22 Q And the date of this occurrence was, I believe,
23 July the 25th, is that correct?

24 A Yes.

25 Q And it occurred over on Norris Street in the city of

Russell Porter (In-camera)
Direct examination by Mr. Bulsa

1 Spartanburg?

2 A Yes.

3 Q And there were actually eye witnesses to that
4 shooting, is that correct?

5 A That's correct.

6 Q And you brought those -- you had those eye witnesses
7 brought to the courthouse -- excuse me -- to the city hall
8 for an interview?

9 A That's correct.

10 Q And, specifically, those witnesses you interviewed
11 were Anthony Copeland.

12 A Yes.

13 Q Crystal Ross.

14 A Yes.

15 Q And Brittany Robinson.

16 A That's correct, yes.

17 Q Were identification procedures undertaken to determine
18 who they were naming as the shooter in this case?

19 A Yes.

20 Q Did you actually have a name that they gave you before
21 you started that process?

22 A They -- Mr. Copeland, Ms. Ross and Ms. Robinson --
23 well, actually Mr. -- Ms. Ross actually gave the name of
24 Slow and Anthony Copeland -- give the name, nickname,
25 street name, of Slow.

Russell Porter (In-camera)
Direct examination by Mr. Bulsa

1 At that time when they gave me Slow I knew from my
2 experience -- I knew personally two of the -- two
3 individuals known in the street as Slow -- Slow on the
4 north side and Slow on the south side. In this area we
5 considered being south side or the Highland area.

6 I compiled a photo array of several individuals that I
7 knew. One of the individuals contained one of the
8 individuals that I knowed to be Slow -- and then presented
9 that, had that lineup presented.

10 Q Okay. So in your experience did you know the
11 defendant, Keith Letmon, to go by the street name of Slow?

12 A Yes.

13 Q And was his picture placed in that 6-picture array
14 that you've just described?

15 A Yes.

16 (Photographic lineup marked State's Exhibit No. 1 for
17 Identification.)

18 Q Now, let me show you what's been marked State's
19 Exhibit No. 1 for Identification. Is that the -- for
20 purposes of this hearing, State's Exhibit No. 1, is that
21 the array that you had created?

22 A Yes.

23 Q And which picture is the defendant in that array?

24 A The -- usually your sequence of numbering will be
25 starting from the top left -- one, two, three, four, five.

Russell Porter (In-camera)
Direct examination by Mr. Bulsa

1 It will be No. 5 here.

2 Q Okay. Did you meet with Mr. Copeland and Ms. Ross on
3 separate -- at separate times?

4 A That's correct, separate times, yes.

5 Q And did you show this 6-picture array to both of them?

6 A I had an independent administrator show it or
7 independent person show -- show the lineup.

8 Q Did you show it yourself to them?

9 A To -- I can't remember if it was Crystal or either
10 Anthony, yes.

11 Q Will you check your notes?

12 A Okay. I showed it to Mr. Copeland, yes.

13 Q And how about Ms. Ross?

14 A And Brittany Ann and Crystal, yes.

15 Q Okay. So, and after you showed that lineup to each of
16 those did you have any of them make a notation on it?

17 A Yes.

18 Q On that lineup itself?

19 A Not this one, no.

20 Q Okay. I think you're confused.

21 You showed them this 6-picture array, and then you had
22 someone else meet with them at a separate time?

23 A The actual -- the actual identification part, yes.

24 Q Okay. And would that have been Investigator Nelson?

25 A Yes.

Russell Porter (In-camera)
Direct examination by Mr. Bulsa

1 Q Okay. And he did a separate type of lineup with them.

2 A That's correct.

3 Q Were you present during that, those showings?

4 A Yes, sir.

5 Q Okay. Why did you use the 6-picture array on one
6 sheet and then have Investigator Nelson do a separate
7 process?

8 A For our identification purposes. I did it this way
9 just to say this is the right person, first of all.

10 And the way our procedure we've started doing now, we
11 will cut each individual picture out and show one
12 individual picture at a time.

13 They use an independent person that didn't actually
14 either put this together or know who the suspect was, so
15 use someone independent to do that so won't be any biases
16 or any hints or anything like that.

17 So we have an independent person do that on
18 separate -- each individual picture that he would present
19 to the person. And once they make the identification they
20 will circle or whatever, initial or whatever, however they
21 ask them to do it.

22 Q Okay. So you used this State's Exhibit 1 to just make
23 sure you had the right slow.

24 A Right. That's correct.

25 Q And you sent Mr. Nelson in with -- was it the same set

Russell Porter (In-camera)
Direct examination by Mr. Bulsa

1 of pictures or were they different pictures?

2 A Same set of pictures, just cut out.

3 Q Okay. And you're telling us Mr. Nelson did not know
4 which, if any, of these were the suspect?

5 A That's correct. He -- he is not from this area, so he
6 didn't know the person. I didn't tell him who the person
7 was.

8 Q So which of the three people you interviewed picked
9 out someone out of your array?

10 A Mr. Copeland did. Well, that one?

11 Q Yes, sir.

12 A Crystal and Anthony.

13 Q Okay. So two of the three witnesses actually pointed
14 to one of the pictures and said that's slow?

15 A That's correct.

16 Q Okay. And-but Ms. Robinson was not able to.

17 A She wasn't a hundred percent sure.

18 Q Okay. But then you -- you had Mr. Nelson do the
19 additional showing of --

20 A That's correct.

21 Q -- each of those individuals.

22 A That's correct.

23 Q Okay. All right. Well, while you were speaking to
24 Mr. Copeland and Ms. Ross -- we'll stick with those two
25 since they identified one -- did you make any suggestions

Russell Porter (In-camera)
Direct examination by Mr. Bulsa

1 to them as to which one you thought was slow?

2 A I did not.

3 Q Or the one you knew to be slow.

4 A I did not.

5 Q Was that process toward the beginning of your
6 interview with them?

7 A Yes.

8 Q All right. That's all I have at this time. Well, let
9 me -- this was done at city hall?

10 A Yes, in the interview room, yes.

11 Q Was anybody else in that interview room other than
12 yourself?

13 A Investigator Nelson, no, sir. Just us three --
14 Investigator Nelson, myself and whoever, which one of the
15 individuals was talking to.

16 Q Wait a minute. Was Mr. Nelson in the interview room
17 while you were showing this lineup?

18 A At first, no.

19 Q Okay. That's what --

20 A Talking about all together, but just all together just
21 us three, no other, you know, individual, investigators
22 came in and talked to the folks.

23 Q Okay.

24 A I went in first.

25 Q But specifically for this hearing, because this is the

Russell Porter (In-camera)
Cross-examination by Mr. Shealy

1 important part of this case, is who killed Cedric Moss.

2 A Uh-huh.

3 Q You met with the witnesses by yourself --

4 A That's correct.

5 Q -- at first, is that right?

6 A That's right.

7 Q And they helped you figure out a name that went with
8 the person they knew to be Slow.

9 A That's correct.

10 Q And then you had Mr. Nelson go in and confirm it with
11 a separate procedure.

12 A That's correct.

13 Q Okay. Answer any questions Mr. Shealy may have.

14 CROSS-EXAMINATION

15 BY MR. SHEALY

16 Q Officer Porter, did you write a report in this case?

17 A A supplement, yes.

18 Q Okay. And it was a supplemental, right?

19 A Yes.

20 Q And it starts out 7/28/2011, 0455, correct?

21 A That's correct.

22 Q Okay. I want to make sure that I got the right
23 report.

24 Now, when exactly did you show? You said you showed
25 all three witnesses a photo array?

Russell Porter (In-camera)
Cross-examination by Mr. Shealy

- 1 A Yes.
- 2 Q And you did that.
- 3 A Yes.
- 4 Q Okay. And at what time did you do that?
- 5 A Crystal Ross -- I started talking to her at 0547.
- 6 Q Okay.
- 7 A Started with Brittany at 0557, and then at 07 with
- 8 Anthony Copeland, I started with him.
- 9 Q Okay. Well, I'm going to hand you a copy of the
- 10 report I have.
- 11 Well, first let me -- let me ask you about Ms. Ross.
- 12 It's my understanding that the photo lineup that you showed
- 13 Ms. Ross was, in fact, a photo lineup of a Shundrell Holmes.
- 14 A Also, yes.
- 15 Q Okay. And did he -- did she pick from that photo
- 16 array any -- anyone.
- 17 A No.
- 18 Q Okay. I'm going to hand you your report that I got.
- 19 And you testified it being the 04547, 0557 and 0700, right?
- 20 A That's correct.
- 21 Q Okay. Where does it say that you administered a photo
- 22 lineup?
- 23 A Interview begin with Ross -- Anthony Copeland --
- 24 THE COURT: Pardon me.
- 25 You're going to start over with that response. The

Russell Porter (In-camera)
Cross-examination by Mr. Shealy

1 court reporter can't hear what you're saying.

2 THE WITNESS: I'm sorry, sir.

3 A Says 0700 interview begins with Anthony Copeland. "I
4 have compiled a photo array with the subject I know to be
5 known as Slow that would be in the Highland area."

6 Q Okay. And you have -- Investigator Nelson did that
7 one, right? Believe it's the next sentence.

8 A Yes. That's correct.

9 Q Okay.

10 A As shown -- as shown the array by Investigator Louis
11 Nelson.

12 Q But you showed Mr. Copeland a photo array as well?

13 A Yes.

14 Q But it doesn't say that anywhere in the supplemental,
15 does it not?

16 A Not -- no.

17 Q No. And this was all videotaped, right?

18 A Yes.

19 Q All right. Because I'll be honest with you. When I
20 watched the videos I didn't see you except for the one that
21 you gave having Shundell Holmes in it -- I didn't see you
22 provide a photo lineup to these, these individuals. But
23 that should have been on video tape too, correct?

24 A If the machine was working correctly, it should be,
25 but we were there for several hours. So I -- you know, I

Russell Porter (In-camera)
Cross-examination by Mr. Shealy

1 don't know what to tell you.

2 Q Okay. Well, and I don't know what to tell. That was
3 just a surprise to me.

4 All right. And it's your testimony that one of the
5 three witnesses picked out my client?

6 A Two.

7 Q Two witnesses.

8 A Crystal and Anthony.

9 Q Crystal and Anthony. But not Brittany Robinson?

10 A Well, she wouldn't -- she wouldn't say with a hundred
11 percent certainty that she would pick, you know, she could
12 identify him.

13 Q All right. And you provided these on your own, or
14 these lineups on your own, and then had Investigator Nelson
15 verify it. Is that your testimony?

16 A Verify with the witnesses?

17 Q Yeah. Have them run through a second time.

18 A Right.

19 Q Okay. Is that the normal way of doing things?

20 A Yes, our procedure, yes.

21 Q That's your procedure, so.

22 A Showing, having independent person showing it, yes.

23 Q Well, no. I mean for you to show it, and then to have
24 this independent person show the exact same lineup.

25 A No. That part is not.

Russell Porter (In-camera)
Cross-examination by Mr. Shealy

1 Q That's not --

2 A That's just something for me to -- just a way of being
3 sure of identifying the right person.

4 Q Okay.

5 A But if there'd been five Slows, then we'd have done
6 five. But there were two Slows that I know of personally.
7 So to get the right Slow that's what I did.

8 Q Okay. Now, this new procedure, I guess it's designed
9 to make sure y'all get the right person, is that -- is that
10 accurate?

11 A What procedure?

12 Q The procedure with the independent administrator.

13 A The purpose of that is to show -- have the independent
14 person do it so there's -- there's no bias or any kind of
15 influence from the person doing the investigation, because
16 usually the person doing the investigation would either
17 know or have an idea who the person is. So to avoid any
18 bias or influence of me to him -- so have independent
19 person do it that doesn't know the person being
20 investigated.

21 Q Okay. All right. Now, in first photo array that you
22 provided I believe Ms. Ross do you recall that she picked
23 somebody out?

24 A With me or with him?

25 Q With you. The one that had Shundell Holmes in it.

Russell Porter (In-camera)
Redirect examination by Mr. Bulsa

1 She said that looks kind of like the guy.

2 A I'm not sure. She may have. I'm not sure.

3 Q You don't recall it.

4 All right. And isn't it true that in your interviews
5 with these individuals you had said that you didn't think it
6 would be slow from the north side, you thought it'd be slow
7 from the south side?

8 A No. I didn't know which slow.

9 Q You didn't know which.

10 A I had to confirm which slow. I didn't know from the
11 north side.

12 MR. SHEALY: That's all I have of this witness.

13 REDIRECT EXAMINATION

14 BY MR. BULSA

15 Q Will you read your report to yourself about what you
16 did with Ms. Ross, please?

17 (Pause.)

18 A Okay.

19 Q Okay. How many lineups does it say you actually
20 showed Ms. Ross?

21 A Just one.

22 Q Okay. And that is the one that -- that included Mr.
23 Holmes?

24 A Yes.

25 Q Okay. Do you recall showing her another set of

Russell Porter (In-camera)
Redirect examination by Mr. Bulsa

1 pictures?

2 A I don't think I did.

3 Q Okay. Your report does not document you showing
4 Mr. Copeland the 6-picture array, does it?

5 A Mr. Copeland?

6 Q Yes, sir.

7 A Copeland does, yes.

8 Q Does not show the one that you did with him.

9 A That's correct.

10 Q It documents what Louis Nelson did.

11 A Right, the rate that I -- that I put up, yes.

12 Q Okay. How did you get the name of Keith Letmon as
13 being slow?

14 A I knew personally that's what they called him from
15 dealing -- from past situation with Mr. -- Mr. Letmon.

16 Q Okay. Were there any other lineups of Shundrell
17 Williams?

18 A Holmes, no.

19 Q Holmes.

20 A No.

21 Q No. Okay. What happened to that lineup?

22 A I thought it was in the case file. If not in the case
23 file then it's -- I don't think it's in there.

24 Q Okay.

25 A I don't remember seeing it.

Russell Porter (In-camera)
Redirect examination by Mr. Bulsa

- 1 Q How come we have State's Exhibit 1? It appears to be
2 an array of Mr. Letmon.
- 3 A That's correct.
- 4 Q But we don't seem to have one of Mr. Holmes.
- 5 A Once the identification was made of Mr. Letmon, that
6 was the original one that I created it from, so obviously
7 had made that one part of the case file.
- 8 Q You're telling me you then took other -- what did you
9 then -- how did you make -- let me ask it this way. How
10 did you make the lineup that you gave to Mr. Nelson to show
11 to these?
- 12 A That's saved on the computer system from the jail, and
13 just print out another one and cut it out.
- 14 Q Okay. So did you do that three separate times?
- 15 A Yes.
- 16 Q Okay. So that is not necessarily the six pictures you
17 showed to Mr. Copeland.
- 18 A That's correct.
- 19 Q And it's not necessarily the six pictures you showed
20 to Ms. Ross.
- 21 A That's correct.
- 22 Q Do you know if the six pictures containing Shundrell
23 Holmes was saved on a computer?
- 24 A Yes, it is saved, yes.
- 25 Q It is?

Russell Porter (In-camera)
Recross-examination by Mr. Shealy

1 A Yes. You can go back today and put the date in and it
2 would pull it up.

3 Q But you didn't -- you just didn't print a copy for the
4 file.

5 A Right. That's correct.

6 Q Because nobody picked anybody out.

7 A That's correct.

8 Q So did you therefore not consider it relevant to the
9 case?

10 A No. I did not.

11 Q All right. Thank you.

12 RECROSS-EXAMINATION

13 BY MR. SHEALY

14 Q Investigator Porter, I'm going to -- I'm still
15 confused, because, as Mr. Bulsa has pointed out, your
16 report only documents you provided one lineup to Ms. Ross,
17 right?

18 A Yes.

19 Q Okay. And that one lineup is the lineup with
20 Shundrell Holmes?

21 A That's correct.

22 Q Is that correct? But you -- but you know that you
23 provided that lineup to Ms. Ross as well.

24 A Investigator Nelson did.

25 Q Investigator Nelson provided that.

Russell Porter (In-camera)
Recross-examination by Mr. Shealy

1 A Right.

2 Q But you didn't.

3 A I tell you. I'd have to look at the video to see
4 what --

5 Q Okay. And, well, and I have the video pulled up.

6 A Okay.

7 Q I'm not sure how to do this.

8 MR. SHEALY: Your Honor, if you will, bear with me.

9 THE COURT: What are you trying to do now?

10 MR. SHEALY: Your Honor, I just want to show him this
11 where he presents the lineup, and I want to know which
12 lineup he's presenting.

13 THE COURT: Well, why can't you just show that to him
14 on the computer?

15 MR. SHEALY: I can do that. I didn't know if that
16 would be sufficient, Your Honor, if I may approach.

17 THE COURT: How else would you do it?

18 MR. SHEALY: Well, then I'll show, Your Honor.

19 THE COURT: Okay. Because he and I can't see that
20 screen any better than I can see your computer. I can
21 assure you of that.

22 MR. SHEALY: I understand. Yes, Your Honor.

23 BY MR. SHEALY

24 Q All right. Investigator Porter, is that an accurate
25 representation of you in that interview room with Ms. Ross?

Russell Porter (In-camera)
Recross-examination by Mr. Shealy

- 1 A Ms. Ross, that's correct.
- 2 Q And this -- you've got two lineups in your hand there.
- 3 A Right.
- 4 Q Is that correct? All right. I'm going to push play.
- 5 And if you could, identify the lineup that you present to
- 6 Ms. Ross.
- 7 (Whereupon, the video was played for the witness.)
- 8 A That's two of the same.
- 9 Q That's two of the same lineups?
- 10 A Yeah. Turn it face down, but it's still the same as
- 11 the one -- same. See it.
- 12 Q Okay. Which lineup --
- 13 THE COURT: Excuse me. Be sure that the court
- 14 reporter can hear your answers. Use the microphone and
- 15 speak distinctly, please.
- 16 THE WITNESS: Yes, sir.
- 17 A That's the same lineup that's there on the bench now.
- 18 These two lineups are the same -- same set of pictures.
- 19 Q Okay. So the lineup that you presented her was not
- 20 the lineup you documented in your report. It was some
- 21 other lineup, is that correct?
- 22 A The --
- 23 Q It's the doctored -- the one entered as State's
- 24 Exhibit 1.
- 25 A That's correct. The one you see there.

Russell Porter (In-camera)
Recross-examination by Mr. Shealy

1 Q Thank you.

2 MR. BULSA: Do you need to show Judge Cole that part?

3 MR. SHEALY: Yes, sir. I just have to get it cued
4 back up.

5 BY MR. SHEALY

6 A Now, there was a -- also an off-camera. We're not
7 even in the room yet. So before we go in that room -- you
8 talking about the Holmes and the other one. Okay. That's
9 off camera. That's outside of the C.I.D. office. We go
10 into the room, and then we begin to video from that point.

11 Q Okay.

12 MR. SHEALY: Your Honor, if I may approach with this
13 video, it's at 5:49. Your Honor, I've shown it to Mr.
14 Bulsa.

15 (Whereupon, the video was played for the Court.)

16 MR. SHEALY: Your Honor, that portion is from --
17 current time of 5:49 to portion 5:49:28 on the video.

18 MR. BULSA: Your Honor, we'll have to make a copy of
19 that to enter into evidence. I was unaware that this issue
20 would come up. I apologize.

21 THE COURT: Well, we've got time for you to do that.

22 MR. SHEALY: Yes, sir. Thank you, Your Honor.

23 BY MR. SHEALY

24 Q If I may -- all right. All right. Investigator
25 Porter, I believe that's all the questions that I have for

Louis Nelson (In-camera)
Direct examination by Mr. Bulsa

1 you.

2 MR. BULSA: Nothing further from Mr. Porter.

3 THE COURT: Step down.

4 MR. BULSA: The state calls Louis Nelson.

5 LOUIS NELSON, having been
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MR. BULSA

8 Q Mr. Nelson, are you employed with the Spartanburg
9 Public Safety?

10 A Yes, sir, I am.

11 Q Did you assist Investigator Porter in this case?

12 A Yes, sir, I did.

13 Q When did you become involved?

14 A Investigator Porter called me early that morning right
15 before I was scheduled to come in and asked me to come in
16 and assist with a homicide investigation.

17 Q And what was the first thing you did in the case?

18 A Once I arrived, investigator informed me he had
19 several witnesses that he wanted me to present a photo
20 lineup to. And I went in and presented photo lineups to
21 three different individual witnesses.

22 Q Okay. Do you recall the order in which you met each
23 of those individuals?

24 A First individual I met was Anthony Copeland. Should
25 have been around 0700 hours that morning. And then

Louis Nelson (In-camera)
Direct examination by Mr. Bulsa

1 Brittany Robinson; then Crystal Ross. I believe that's the
2 order.

3 Q Okay. And where did you meet with these individuals?

4 A In the interview room at city hall right off of
5 upstairs in the investigations.

6 Q And were those interviews recorded?

7 A Yes, sir.

8 Q Have you since watched those interviews?

9 A Not -- not recently, no, sir.

10 Q Did you watch them at any time after they were
11 recorded?

12 A Portions of it, yes, sir.

13 Q Do they accurately show what you -- what process you
14 undertook?

15 A Yes, sir.

16 Q And explain to the Court what that process was.

17 A Once I arrived Investigator Porter had asked me to
18 present the lineups to the witnesses involved in this
19 particular case.

20 He gave me what's called an eye-witness admonition,
21 which is basically just a page with instructions that we
22 read out to the person who is about to view the
23 photographic lineup.

24 He also gave me a supplemental form, which is
25 basically how you -- you record the information of how the

Louis Nelson (In-camera)
Direct examination by Mr. Bulsa

1 person went by identi -- identifying the -- the target or
2 the fillers in the particular lineup. And when I say
3 target, the target is the person that you believe to be the
4 suspect. And then you have five other individuals of
5 similar characteristics that are also in the lineup.

6 Q Did you know who the target was?

7 A At that time, I didn't when he -- when he gave me the
8 photograph, the lineup.

9 Q So at that time you did not?

10 A At that time I didn't, when he asked me to do a
11 lineup.

12 Q Were the pictures already cut out?

13 A Yes, sir, the pictures were already cut, six
14 individual photos.

15 Q All right. And you went through that process with
16 each person?

17 A Yes, sir.

18 Q Okay. Let me show you -- I will start with
19 Mr. Copeland and get you to identify these documents first.

20 (Lineup admonition marked State's Exhibit No. 2 for
21 Identification; photographs marked State's Exhibit No. 2-A
22 for identification.)

23 Q The purpose of this hearing let me show you what's
24 been marked Exhibit 2 and 2-A. Explain to the court what
25 those are.

Louis Nelson (In-camera)
Direct examination by Mr. Bulsa

1 A Exhibit 2 would be the eye -- eye-witness lineup
2 admonition and the eye witness supplemental, which are --
3 which are the two forms that we utilize.

4 The eye-witness admonition is basically instructions
5 that you read to an eye witness about how a lineup is going
6 to be conducted. And the eye witness lineup supplemental
7 is where you record the information about the time that you
8 presented the lineup, who you presented it to.

9 Q Okay. And what does the envelope contain?

10 A And 2-A is nothing more than the City of Spartanburg
11 business envelope that contains the six individual photos
12 in the lineup that is presented.

13 Q Okay. And is there anything on the back of those
14 photos?

15 A Yes, sir. The way I -- you have six individual
16 photographs, photos, in the lineup. And what we do is we
17 show the witness the lineups one photograph at a time, and
18 they'll state either yes or continue.

19 Once they view each one of the photographs if they
20 say, yes, this is the person that committed the crime, I'll
21 ask them to affix their signature, the date and the time,
22 and I'll continue to show all of the -- all six of the
23 photos in the lineup. And just to prove that we show all
24 of the photos in the lineup, we ask them to initial the
25 back of the other five that they did not select that are

Louis Nelson (In-camera)
Direct examination by Mr. Bulsa

1 called the fillers.

2 Q Okay. Did Mr. Copeland seem to you to know the person
3 who shot Mr. Moss?

4 A Yes, sir. Mr. -- Mr. Copeland was the most decisive
5 person when it -- when it came time to identify the
6 individual. He was the most decisive out of either one
7 that I spoke to.

8 Q Put them back in.

9 Do you recall that same process with Ms. Ross and
10 Ms. Robinson?

11 A Yes, sir. I read the instructions on the admonition,
12 and I record the results of the presentation of the lineup
13 on the supplemental. And if there -- she was able, Ms.
14 Ross was able, to identify Keith Letmon. She did the same
15 thing. She affixed a signature to the back of the
16 photograph and initialed the five fillers. And then I
17 completed the supplemental with the information on the time
18 and the date and how she went about identifying the
19 individual.

20 Q Okay. So Ms. Ross -- did Ms. Ross pick someone out?

21 A Yes, sir, she did.

22 Q And did Ms. Robinson?

23 A Ms. Robinson -- she was unable to select anyone with
24 all certainty. She was -- she couldn't be a hundred
25 percent positive so she -- she couldn't identify anyone.

Louis Nelson (In-camera)
Direct examination by Mr. Bulsa

1 Q So she didn't sign any -- the back of any sheet with
2 the date.

3 A She may have initialed the back of the individual
4 photographs. I'm not a hundred percent certain. But I did
5 have her complete the supplemental saying that she could
6 not identify anyone.

7 Q Just so the record is complete, look at the pictures,
8 please.

9 A I had her just to initial all six of the photos. She
10 initialed them, but she could not make a positive
11 identification.

12 (Lineup admonition marked State's Exhibit No. 3 for
13 Identification; photographs marked State's Exhibit No. 3-A
14 for Identification; lineup admonition marked State's Exhibit
15 No. 4 for Identification; photographs marked State's Exhibit
16 No. 4-A for Identification.)

17 Q I'm going to show you what's been marked State's 3 and
18 3-A. What are those?

19 A This is a photo lineup with the six individual
20 photographs that is marked Exhibit 3-A. These are six
21 individual photographs that I presented to Ms. Crystal
22 Ross. Let me verify that first. Yes, sir. 2-A is the six
23 individual photographs from the lineup that I presented to
24 Ms. Ross, Ms. Crystal Ross.

25 Q She initialed all of those?

Louis Nelson (In-camera)
Direct examination by Mr. Bulsa

1 A She initialed five -- the five fillers, and she
2 signed, affixed her signature, and date and time on the
3 target --

4 Q Okay.

5 A -- in the lineup.

6 THE COURT: Be sure you identify the exhibit number
7 correctly, please.

8 THE WITNESS: Yes, sir. I'm sorry. I apologize.

9 A That would be Exhibit 3-A, 3 alpha.

10 And the other two forms are the eye witness lineup and
11 the admonition which is basically just the instructions,
12 once again, when they accept the instruction procedure that
13 they understand how the lineup will work. And the second
14 page is the eye witness supplemental. It's basically where
15 she also signed again stating that the person that she
16 identified in the lineup is the person that shot Mr. -- Mr.
17 Moss. And this is Exhibit 3.

18 Q Okay. Exhibit 4 and 4-A, is that the lineup,
19 paperwork, for Ms. Robinson?

20 A Yes, sir. Exhibit 4 is the eye witness lineup
21 admonition for Ms. Robinson, along with the supplemental.

22 And State's Exhibit 4-A is the photo lineup that I
23 presented to Ms. Brittany Robinson with six individual
24 photographs.

25 Q Did you in any way make any suggestions as to who they

Louis Nelson (In-camera)
Cross-examination by Mr. Shealy

1 should pick?

2 A No, sir.

3 Q Do you recall approximately how long these processes
4 took place?

5 A They vary from -- Mr. Copeland was rather -- rather
6 quick once I read -- read his admonition.

7 Ms. Ross was just a little bit longer. Ms. Ross took
8 a little longer.

9 And Ms. Robinson, hers was a little longer. I would
10 say totally about five to seven minutes on each individual
11 person.

12 Q Thank you. Answer any questions Mr. Shealy has.

13 MR. SHEALY: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. SHEALY

16 Q Officer Nelson, you wrote a report in this case, is
17 that correct?

18 A Yes, sir.

19 Q All right. And it's entitled a supplement, right?

20 A Supplemental, yes, sir.

21 Q I want to make sure I'm handing you the right thing if
22 I may.

23 If I may get you to refresh your memory as to who you
24 talked to first and exactly how you did these lineups --

25 A Yes, sir.

Louis Nelson (In-camera)
Cross-examination by Mr. Shealy

1 Q Okay. And point of fact, when you arrived at
2 6:40 that morning you talked with an Officer McClure, is
3 that correct?

4 A Yes.

5 Q I believe you were briefed. All right. And then I
6 guess at some point, at 0700 I believe it was, you spoke
7 with Mr. Copeland, is that correct?

8 A Yes, sir. That's what I have in my supplemental.

9 Q Okay. And you talked to him about what he saw happen.

10 A Yes, sir.

11 Q Is that correct? Okay. So you spoke with him for
12 some period of time. But at that point you did not provide
13 him with this lineup, is that correct?

14 A I didn't --

15 Q You didn't do the lineup identification procedure at
16 that point, is that correct?

17 A It's not -- it is not listed in my -- my supplemental.
18 I'll have to look at the admonition form. I could confirm
19 that.

20 Q Well, why don't you just skip down to 7:21. I believe
21 that you showed Mr. Copeland the lineup third out of the
22 bunch.

23 A Yes, sir.

24 Q I believe, is that correct?

25 A All right.

Louis Nelson (In-camera)
Cross-examination by Mr. Shealy

1 Q In fact, you gave Ms. Ross the first lineup, is that
2 correct?

3 A Yes, sir.

4 Q Okay. And then you gave Ms. Robinson the lineup.

5 A Ms. Ross, then Ms. Robinson.

6 Q And then Mr. Copeland.

7 A And then Mr. Copeland.

8 Q Okay. Good deal. All right. So you would have
9 talked to Mr. Copeland prior to any of this identification,
10 anybody had asked you to give identifications at all,
11 correct?

12 A Can you repeat the question, sir?

13 Q I'm sorry. You had spoken with Mr. Copeland and
14 gotten his statement as to this slow person prior to giving
15 the lineups, is that correct?

16 A I spoke with him briefly about what happened. And as
17 far as taking his statement at that time, I can't tell you
18 if I took it at that time or if I took it later that
19 morning.

20 Q Shortly after. I don't mean formally, formalize the
21 statement. But he gave you an understanding and he
22 verbalized to you what he says happened, is that correct?

23 A Yes, sir.

24 Q Okay. All right, Officer Nelson.

25 MR. SHEALY: If I may approach, Your Honor.

Louis Nelson (In-camera)
Cross-examination by Mr. Shealy

1 Q I am going to hand you up Ms. Crystal Ross' eye
2 witness admonition.

3 MR. SHEALY: Your Honor, that is State's Exhibit 3.

4 Q It consists of two pages. I want you to look at the
5 second page if you'll look at the second page of Exhibit 3.

6 Now, when you fill out these lineups, supplements --
7 when do you fill them out?

8 A The supplementals, once the person makes an
9 identification. Or if they cannot make an identification I
10 ask them to go ahead and complete the narrative box
11 where -- where they have to circle, "I can or cannot make
12 an identification."

13 They do that at that time, and normally I'll go ahead
14 and put the times, and that's pretty much what I do.

15 Sometimes I may wait until I walk out of the room and
16 go to my desk, depending on what's going on at the time.
17 It just varies. I may go to another place and finish
18 completing the form. So it's -- you normally write during
19 the same timeframe.

20 Q Okay. So generally your administrators note that you
21 would do them immediately, correct --

22 A Yes, sir.

23 Q -- or as close thereof --

24 A As practical yes.

25 Q Okay. And you've testified -- and part of the reason

Louis Nelson (In-camera)
Cross-examination by Mr. Shealy

1 for that is because this gives you an idea of how certain
2 they are, because you include their actual words,
3 correct --

4 A Yes.

5 Q -- to the extent you're able.

6 A Yes, sir.

7 Q Okay. Now, you've also testified that when a lineup
8 is given there are certain technical terms you use,
9 correct?

10 A I'm not certain, sure, what you mean by technical
11 terms.

12 Q What I mean by that is you call the person you want
13 them to pick the target --

14 A Uh-huh.

15 Q -- and the other people are fillers, right?

16 A Well, the person that you believe -- believe to have
17 committed the crime to be a target -- target. And the
18 fillers are of the individuals.

19 Q Okay. Just the other folks who you got to pick out.

20 A Similar characteristics, yes, sir.

21 Q Okay. Would you look at that admon -- or that lineup
22 supplement? And how do you describe the person that
23 Ms. Ross picks out?

24 A "Witness was decisive when selecting the target."

25 Q Okay. How did you know that she had picked out the

Louis Nelson (In-camera)
Cross-examination by Mr. Shealy

1 target?

2 A Once -- once I went back out -- like I said, sometimes
3 we don't -- I don't complete the form right there in front
4 of them. I can -- I'll leave out. Sometimes I'll return
5 to my desk or another area and complete it as soon as
6 practical. And we had a lot of people in the office that
7 morning, so it's possible that I didn't fill it out at that
8 very time.

9 Q Okay. So it's your testimony that you're not sure
10 when you filled this piece out, when you filled this sheet
11 of paper out?

12 A I can't tell you down to the minute, but it was that
13 morning.

14 Q Okay. Well, apparently after you had found out who
15 the target was, correct?

16 A Yes, sir.

17 Q Okay. And you immediately thereafter gave the same
18 pictures to Brittany Robinson, correct?

19 A I did. According to my supplemental, I presented a
20 lineup to Ms. Ross first, and then Ms. Robinson, and then
21 Mr. Copeland.

22 Q Okay. And you knew who Crystal Ross had picked out of
23 the lineup, correct? Because she'd just picked somebody
24 out, right?

25 A The person -- the person that she selected, yes, sir.

Louis Nelson (In-camera)
Cross-examination by Mr. Shealy

1 Q You knew who that was.

2 A I'm not sure I understand you.

3 Q Well, I mean you knew who she had picked out
4 previously.

5 A Yes, yes.

6 Q Crystal Ross had picked out, right?

7 A Yes, sir.

8 Q Okay. And then when you did Mr. Copeland's, you also
9 again -- you had that knowledge as to who Crystal Ross had
10 picked out and who Ms. Robinson had narrowed it down to, is
11 that accurate?

12 A Yes, sir. I would say that's -- that's true.

13 Q Okay. But in each of these cases when you read this
14 admonition -- and I'm just going to come and get this from
15 you -- when you read this admonition you told them that you
16 didn't know who the person was, is that correct?

17 A Yes, sir. Following the instructions.

18 Q Okay. Even though you had a pretty good idea by the
19 end when you'd given Mr. Copeland who everybody is picking
20 out, right?

21 A Yes, sir.

22 Q And even though when you filled out Ms. Ross' lineup
23 supplement you knew who the target was, correct?

24 A I didn't know, but, you know, I didn't know because I
25 wasn't there. I didn't know. I wasn't privy to all of the

Louis Nelson (In-camera)
Cross-examination by Mr. Shealy

1 information.

2 Q But you knew that she had, apparently you knew she
3 had, picked out the target of the lineup procedure.

4 A Yes, sir.

5 Q Okay.

6 MR. SHEALY: Bear with me just one moment, Your Honor.

7 (Pause.)

8 MR. SHEALY: I do have one more -- a couple of more
9 questions I need to ask if I may approach the witness, Your
10 Honor.

11 BY MR. SHEALY

12 Q I am going to hand you, Officer Nelson, State's
13 Exhibits 2 and 4. And if you would, look at the lineup
14 supplement of each of those. That's page two of two of
15 each of those exhibits.

16 A Do you want me to look at the --

17 Q Just look at the lineup supplement, the
18 administrator's notes, section.

19 A Yes, sir.

20 Q On those lineup supplements, on each of them, do you
21 see that you list the date and the time at which you fill
22 out those portions?

23 A Yes, sir.

24 Q Okay. And point of fact, those are -- you filled
25 those portions out one minute after the lineup after the

Louis Nelson (In-camera)
Cross-examination by Mr. Shealy

1 witnesses, is that correct?

2 A The signature block and the date and time, yes, sir.

3 Q Okay. So you apparently filled those two out almost
4 immediately.

5 A The signature block and the date and time. If you
6 look -- if you look at the -- if you'll examine you'll see
7 my signature is written in ink off a ballpoint pen, the
8 date and time. And here this is written in a jail pen.

9 So, like I said, I must have not completed the form in
10 its entirety in the interview room. I went back to my desk
11 or another area and I completed it, because there's two --
12 two different pens.

13 Q All right. Let me see.

14 MR. SHEALY: Again bear with me, Judge.

15 (Pause.)

16 Q All right. One more question. Well, a few more
17 questions about Mr. Copeland's state of mind at the time
18 all of this happened.

19 This was early -- all of this is alleged to have
20 happened early in the morning, is that correct?

21 A Yes, sir, to my recollection.

22 Q Okay. And apparently it had happened at some kind of
23 drinking function as it appears, is that correct?

24 A From what I was told there, there was some beer cans,
25 I think, that were --

Louis Nelson (In-camera)
Cross-examination by Mr. Shealy

1 Q There was some drinking going on.

2 A Yes, sir.

3 Q In your interactions with Mr. Copeland did he appear
4 intoxicated?

5 A No, sir, not that I recall.

6 Q Not that you recall?

7 A No, sir. He wasn't intoxicated.

8 Q Okay.

9 MR. SHEALY: That's all I have for this witness, Your
10 Honor.

11 MR. BULSA: Nothing further of Mr. Nelson.

12 THE COURT: You may step down.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: How many other witnesses do you have?

15 MR. BULSA: That's all we're going to present in this
16 showing.

17 THE COURT: That's all you're presenting in this
18 hearing?

19 MR. BULSA: In this matter, yes, sir.

20 THE COURT: All right. Mr. Shealy.

21 MR. SHEALY: Thank you, Your Honor. Your Honor --

22 THE COURT: Do you have any witness testimony you want
23 to present?

24 MR. SHEALY: No, Your Honor. I have none.

25 THE COURT: Okay.

1 MR. SHEALY: Your Honor, we would again point out that
2 these lineups were apparently improperly presented
3 according to the testimony of the city police officers.

4 Procedure as Investigator Porter testified is that an
5 independent administrator administers these lineups.
6 Apparently that didn't happen.

7 Investigator Porter testified that he pointed out or
8 he gave lineups to each of these witnesses and they then
9 picked somebody and then they did some kind of confirmatory
10 lineup procedure with Investigator Nelson.

11 Your Honor, again, that doesn't appear to be procedure
12 of the city police department. It would be our position
13 that even the city would call these lineups to be tainted.
14 These were improperly presented. We would also --

15 THE COURT: And in what way are they improperly
16 presented?

17 MR. SHEALY: Your Honor, it was testified to that
18 procedure wasn't followed.

19 THE COURT: What procedure?

20 MR. SHEALY: That the city police's procedure for
21 police ident -- the way they do these lineups.

22 THE COURT: In what way was it not followed?

23 MR. SHEALY: Well, because, Your Honor, there was an
24 initial lineup presented. That -- that's not the way you
25 do it.

1 THE COURT: How do you do it?

2 MR. SHEALY: Apparently according to Investigator
3 Porter, according to what they've been trained to do, is
4 that they just had this independent administrator in order
5 to get rid of any biases and what not. That's what he
6 testified to, Your Honor.

7 THE COURT: Okay.

8 MR. SHEALY: And when the city would say that these
9 were -- apparently that these were improperly-presented
10 lineups.

11 Judge, we'd also point to the pictures. It'd be our
12 position that Mr. Letmon's picture basically has it
13 spotlighted compared to the others.

14 So if the pictures themselves are improper or not
15 similar enough, and because they were presented, again,
16 improperly, it would our position that this is an improper
17 lineup. Thank you.

18 THE COURT: Mr. Bulsa.

19 MR. BULSA: Your Honor, I believe the standard is
20 whether there's any suggestiveness in the lineups to render
21 a misidentification of the suspect in question.

22 Your Honor has heard testimony from both officers as
23 to the process they have undertaken. In view of the photos
24 while it might seem a little duplicative, there does not
25 appear to be any suggestiveness into the witnesses'

1 identification of the person they knew to be Slow.

2 This is not a case where they did not know the person.
3 They just did not know his real name. They were familiar
4 with the man known to be Slow.

5 The officers were trying to put a name with the face,
6 and that's why they undertook this process. We don't feel
7 there's any suggestiveness involved.

8 THE COURT: All right. Well, based upon the evidence
9 presented I find that there is no unduly suggestive
10 procedure used and that the procedure that was used is not
11 in any way conducive towards an irreparable
12 misidentification of the defendant by a witness picking out
13 a photograph.

14 So if your motion was to exclude any in-court
15 identification, or out-of-court identification for that
16 matter, the ground as presented, that motion is denied.

17 Any other ground?

18 MR. SHEALY: Not at this time, Your Honor.

19 THE COURT: All right. Anything further before we
20 recess for lunch?

21 MR. BULSA: Not from the state. I believe you had
22 something else.

23 MR. SHEALY: No.

24 Oh, Your Honor, I do need to renew my motion.

25 Your Honor, a buccal swab was taken my client. We

1 would renew our objection to that buccal swab having been
2 taken.

3 I'm not sure that I have to do that, but I want to
4 make sure that that's covered in the record.

5 THE COURT: You mean at some previous time when the
6 motion was made?

7 MR. SHEALY: Yes, sir.

8 THE COURT: Well, you better -- you better reassert
9 that so that this record will be complete here.

10 MR. SHEALY: Yes, Your Honor.

11 It was our position that the -- Your Honor, the state
12 made a motion to take non-testimonial evidence from my
13 client. We objected to that. We presented evidence at, I
14 believe, a hearing on December the 2nd of 2011 in front of
15 Your Honor with Linda Moffitt as the court reporter and
16 Your Honor as the judge.

17 It was our position that the state failed to make out
18 a sufficient showing under Baccus that they needed this
19 information and that their mode of getting this evidence
20 was safe and unduly -- and not unduly burdensome to my
21 client. We reassert that objection.

22 THE COURT: Mr. Bulsa.

23 MR. BULSA: Your Honor, that was clearly held before
24 another court and a ruling was made. I don't see where
25 there was any -- there was any issue. Whatever issue that

Jury qualification

1 was was addressed at that hearing.

2 It appears that Your Honor made the ruling in April --
3 April the 4th of 2012. An officer following that order
4 went July the 27th -- excuse me -- went sometime after that
5 order and obtained a buccal swab from the defendant, and
6 that was properly submitted to SLED for comparison to
7 samples secured from the vehicle in question.

8 THE COURT: All right. Anything further?

9 MR. SHEALY: No, Your Honor.

10 THE COURT: Court's in recess until 2:45.

11 (Whereupon, a recess was taken.)

12 (Photographs marked State's Exhibits Nos. 5 through 23
13 for Identification.)

14 THE COURT: Any matters that need to be addressed
15 prior to the jury panel being brought around?

16 MR. BULSA: None from the state, Your Honor.

17 MR. SHEALY: Not by the defense, Your Honor.

18 THE COURT: Bring them around. If we still have one
19 missing, be sure we know who that juror is, what number.

20 (The following takes place in the presence of the jury
21 venire.)

22 THE COURT: Good afternoon, ladies and gentlemen of
23 the jury panel.

24 My name is Derham Cole. I am a resident judge here in
25 the 7th Judicial Circuit. I will be presiding over a term

Jury qualification

1 of general sessions court this week.

2 The general sessions court is the criminal side of the
3 circuit court, as common pleas is the civil side of the
4 circuit court. Judge Couch is doing civil cases. I'll be
5 handling criminal cases this week.

6 The first case that we have that's going to require
7 the participation of some of you is the case of the State
8 vs. Keith Letmon.

9 Mr. Letmon has been accused by the solicitor, who is
10 the prosecutor in the state court, with having committed
11 the crime of murder.

12 The state alleges by way of a document referred to as
13 an indictment that the defendant did here in Spartanburg
14 County on or about July the 25th of 2011 wilfully and with
15 malice aforethought kill one Cedrick Antoine Moss by
16 shooting him with a firearm and that he died as a result of
17 that gunshot wound.

18 As to those allegations and as to that charge the
19 defendant has entered a plea of not guilty. A plea of not
20 guilty places upon the state the burden of proving the
21 allegations that they have set forth in the indictment, the
22 burden of proving each of the essential elements that makes
23 up the crime the state has alleged against the defendant;
24 and therefore the burden is upon the state to establish the
25 defendant's guilt to the satisfaction of 12 jurors beyond a

Jury qualification

1 reasonable doubt before a verdict of guilty could be
2 returned as to the charge.

3 Therefore we're going to be selecting -- the defendant
4 has entered a plea of not guilty. And as I say, we're
5 going to select 13 of you to participate in the trial of
6 the case.

7 There'll be 12 primary jurors and then one additional
8 juror to serve as an alternate in the event that one of the
9 original 12 cannot continue to serve. And by of your
10 participation you're simply going to be called upon to
11 listen to the testimony, consider the evidence.

12 From that evidence you will determine what you believe
13 to be the true facts as they relate to these allegations.
14 And once you determine what those facts are you'll then
15 apply the law that I will have provided you, and you will
16 determine whether or not the evidence in the case proves
17 the defendant guilty beyond a reasonable doubt. And if it
18 does, then the verdict is guilty. If it does not, then the
19 verdict would be not guilty.

20 Before we begin with that jury selection I've got some
21 questions to ask you. The purpose of the questions is to
22 determine if there's a reason why any one of you jurors
23 should not be selected to serve as a juror in this
24 particular case, in other words, do you have some reason
25 why you think you might not be able to be fair if you were

Jury qualification

1 selected in this particular case.

2 And so as these questions are asked of you should you
3 need to respond to them, I'll ask that you please stand,
4 and I'll address those matters with you individually should
5 the need arise.

6 The first thing I'm going to do is to introduce some
7 people to you. Those are the people that are involved in
8 the trial of this case.

9 That includes the defendant; that would include some
10 members of the purported victim's family; that would
11 include the lawyers, as well as any potential witnesses
12 that might be called during the trial of the case.

13 The reason that I'm introducing these people to you is
14 because I need to find out if you are connected by blood or
15 marriage to any person involved in the case, or do you have
16 any employment connection with them. Do you have a church
17 connection with them, do you have some type of social
18 connection with them, or do you know them in any way, have
19 you met them anywhere? And I simply need to find out if
20 you have any such connection, and if you do whether or not
21 it would affect your judgment in the case.

22 And so as these people are introduced to you if you
23 have a connection or you know them, you've met them
24 somewhere, I'm going to ask that you please stand, and
25 we'll address what that connection is and whether it would

Jury qualification

1 affect your judgment.

2 First of all, as I told you, the defendant in the case
3 is Keith Letmon. Mr. Letmon is seated at the defense
4 table.

5 Mr. Letmon, if you will, stand and face the jury panel
6 so that they may see who you are.

7 (Whereupon, the defendant stood.)

8 THE COURT: Thank you. Be seated.

9 Mr. Letmon is represented by Matthew Shealy.
10 Mr. Shealy is an assistant public defender in Spartanburg
11 employed by the 7th Judicial Circuit Public Defender's
12 office.

13 In this case the person who is alleged to have been
14 killed by Mr. Letmon is Cedric Antoine Moss. And I'll ask
15 if any of Mr. Moss' family members are present. If you
16 would, I would ask that you please stand so that the jury
17 can see you, and by you they can determine whether or not
18 they know or knew Mr. Moss.

19 (Whereupon, the victim's family stood.)

20 THE COURT: All right. Thank you. You may be seated.

21 Presenting the case on behalf of the state is Derrick
22 Bulsa, the deputy solicitor for the 7th Judicial Circuit,
23 employed in the 7th Judicial Circuit solicitor's office.

24 Also, we have the following potential witnesses that
25 will testify during the case. They include -- all of the

Jury qualification

1 ones that I'm reciting right now are employed by the
2 Spartanburg Public Safety department.

3 They include Mylnor Beach, John Burgess, Jeff
4 Campbell, Ed Guthro, Mark Hillers, Christopher Layton,
5 Brendall Mathis, Steve McClure, Shane Morrow, Louis Nelson,
6 Russell Porter, David Reeves and Courtney Westfall.

7 In addition to those we have four -- or three
8 witnesses employed by the state law enforcement division,
9 sometimes referred to as SLED. They include Dan DeFreese,
10 Verona Gibson and Katherine Leisy.

11 In addition to those witnesses we also have Antoine
12 Bogan, Reena Travers Cates or Catts, Anthony Copeland,
13 Debra Kerns, Doris Letmon, Laketa Long, Shawn Long,
14 Reginald Rice, Brittany Robinson, Crystal Ross, Jeanette
15 Smith, Chris Swindler, Mark Walker, Mike West, Jesse
16 Worthy, and John David Wren, a pathologist with the
17 Spartanburg Regional Medical Center.

18 Are there any other potential witnesses on behalf of
19 the state?

20 MR. BULSA: I think Your Honor missed No. 8.

21 THE COURT: Lee Dill -- Lee Dill.

22 Any others?

23 MR. BULSA: No, sir.

24 MR. SHEALY: Yes, sir. I apologize. I passed up a
25 couple of witnesses for us if I may approach.

Jury qualification

1 THE COURT: Also, have Michelle Davis, Jeffrey
2 Jefferson and Stanley Earl Jones.

3 Does any juror know any of the persons who've just
4 been introduced to you or the name has been recited? And
5 if you know somebody who has a name that's been recited but
6 you're not sure if that's the same person, please stand and
7 let me know. And we will try to narrow down the
8 identification for you because it's important for us to
9 know if you happen to have a connection or know any of
10 these individuals. So if you do, please stand.

11 All right. I've got two standing. I am going to
12 start over here to my left if you'll give me your name and
13 juror number, please, ma'am.

14 JUROR NO. 21: Paulette Carter, 21.

15 THE COURT: All right. And who is that you know?

16 JUROR NO. 21: I'm not -- I'm not sure exactly. The
17 name sounds familiar. Jeffrey Jefferson.

18 THE COURT: All right. Mr. Shealy, where does Jeffrey
19 Jefferson live?

20 MR. SHEALY: Your Honor, my understanding is he lives
21 in Spartanburg. I don't have his address.

22 THE COURT: We'll have to narrow it down to a little
23 smaller geographical area if we can like a street maybe.

24 MR. SHEALY: Your Honor, I don't have a street.

25 THE COURT: You don't know.

Jury qualification

1 MR. SHEALY: He is currently residing in California
2 Avenue.

3 THE COURT: All right. Can you -- can you give some
4 type of description of him?

5 MR. SHEALY: Yes, Your Honor. He's about my height.
6 He's an African-American male. He's about 20 to 25. He
7 has a goatee.

8 THE COURT: Do you know if he's employed?

9 MR. SHEALY: I don't know that, Judge. I don't
10 believe so.

11 THE COURT: Ma'am, would that help you any?

12 JUROR NO. 21: Sir, you said -- I think I heard that
13 he resides at California Avenue.

14 THE COURT: He's in the Spartanburg County Detention
15 Facility right now.

16 JUROR NO. 21: If I can see a picture, please.

17 THE COURT: Well, I don't have a picture. Mr. Shealy
18 might have one.

19 MR. SHEALY: Your Honor, I can get a picture of him.

20 THE COURT: Okay. Without going into a whole lot of
21 detail, let me ask you this, ma'am.

22 Do you know him personally or through a family?

23 JUROR NO. 21: Through employment.

24 THE COURT: Through employment.

25 JUROR NO. 21: Through prior employment.

Jury qualification

1 THE COURT: And you and he worked at the same place.

2 JUROR NO. 21: I worked at the place where he was
3 incarcerated.

4 THE COURT: Okay.

5 MR. SHEALY: Your Honor, I have that picture if you
6 would like for me to show it to her.

7 THE COURT: Okay. Sure. Show that to the juror.

8 (Whereupon, the juror was allowed to view the
9 photograph.)

10 JUROR NO. 21: Yes, sir.

11 THE COURT: All right. That's the person you know?

12 JUROR NO. 21: Uh-huh.

13 THE COURT: And is there anything about your
14 connection with that person that would have any bearing
15 upon your decision in this case?

16 JUROR NO. 21: No, sir.

17 THE COURT: All right. Thank you, ma'am. You may be
18 seated.

19 That's Juror 21.

20 Next juror.

21 JUROR NO. 164: Makia Stevens, 164. And I know a
22 majority of the witnesses from school.

23 THE COURT: You know the majority of which witnesses
24 from school?

25 JUROR NO. 164: I heard them say Chris Swindler,

Jury qualification

1 Michelle Davis.
2 THE COURT: Chris Swindler is one. Jeanette Smith?
3 JUROR NO. 164: No.
4 THE COURT: Crystal Ross?
5 JUROR NO. 164: No.
6 THE COURT: Brittany Robinson?
7 JUROR NO. 164: No?
8 THE COURT: Mark Walker?
9 JUROR NO. 164: No.
10 THE COURT: Jesse Worthy?
11 JUROR NO. 164: No.
12 THE COURT: Shawn Long?
13 JUROR NO. 164: Yes.
14 THE COURT: Laketa Long?
15 JUROR NO. 164: No.
16 THE COURT: Doris Letmon?
17 JUROR NO. 164: No.
18 THE COURT: Debra Kerns.
19 JUROR NO. 164: No.
20 THE COURT: Anthony Copeland.
21 JUROR NO. 164: No.
22 THE COURT: Reena Travers Catts?
23 JUROR NO. 164: No. I guess it's --
24 THE COURT: Antoine Bogan?
25 JUROR NO. 164: No.

Jury qualification

1 THE COURT: Okay. Well, so you know --

2 JUROR NO. 164: Three of them.

3 THE COURT: Mr. Swindler and --

4 JUROR NO. 164: Shawn Long and Michelle Davis.

5 THE COURT: Okay. And you know them from what school?

6 JUROR NO. 164: Dorman.

7 THE COURT: All right. Is there anything -- and how
8 was your -- how are you connected with them?

9 JUROR NO. 164: Just know them principally.

10 THE COURT: Students?

11 JUROR NO. 164: Yeah.

12 THE COURT: Okay. Would that have any bearing upon
13 your decision in the case if you were serving as a juror?

14 JUROR NO. 164: It wouldn't have nothing to do with my
15 decision but --

16 THE COURT: That's what I'm asking.

17 would the fact that you know them have any bearing
18 upon the outcome of the case in your mind?

19 JUROR NO. 164: Yes. I think it would.

20 THE COURT: So it would have a bearing on your
21 decision then.

22 JUROR NO. 164: Yes.

23 THE COURT: Okay. We'll excuse you from service in
24 the trial.

25 That's Juror 164.

Jury qualification

1 JUROR NO. 164: Thank you.

2 THE COURT: But don't leave.

3 JUROR NO. 164: Don't leave?

4 THE COURT: Don't leave yet.

5 Yes, ma'am.

6 JUROR NO. 130: I'm 130, Debra Phelps. And I know Dr.
7 Wren.

8 THE COURT: And how do you know Dr. Wren?

9 JUROR NO. 130: He was the pathologist that was the
10 point-of-care medical director over my laboratory at the
11 Spartanburg Hospital for Restorative Care up until six
12 years ago.

13 THE COURT: Okay. And would that have any bearing
14 upon your decision in this case?

15 JUROR NO. 130: It will not.

16 THE COURT: Thank you. You may be seated.

17 Anyone else know any of the people involved in the
18 trial of the case?

19 And -- yes, ma'am.

20 JUROR NO. 78: Gennifer Jolley, 78. I think I know
21 Brendall Mathis.

22 THE COURT: Brendall Mathis?

23 JUROR NO. 78: Yes.

24 THE COURT: Okay. And how do you know Mr. Mathis?

25 JUROR NO. 78: I think that he -- when I was working

Jury qualification

1 at a hotel he used to come and fix some air conditioning.

2 THE COURT: Okay. would that have any bearing upon
3 your decision in the case?

4 JUROR NO. 130: No.

5 THE COURT: Thank you. Be seated.

6 JUROR NO. 130: I don't --

7 THE COURT: Ma'am?

8 JUROR NO. 130: I said I don't know him well. I just
9 saw him passing.

10 THE COURT: Okay. Thank you.

11 Yes, sir.

12 JUROR NO. 98: Dicky Mason, No. 98. I know Dr. Wren
13 from when I worked with the coroner's office.

14 THE COURT: And would that have any bearing upon your
15 decision?

16 JUROR NO. 98: No, sir.

17 THE COURT: Thank you. Be seated.

18 Anyone else need to respond to that question?

19 (No response.)

20 THE COURT: This is an event, which I have told you,
21 the state alleges occurred back on July the 25th of 2011.
22 It is alleged to have occurred at the residence of Anthony
23 Copeland at ■■■ Norris Street located here in the city of
24 Spartanburg.

25 Is there any member of the jury panel that believes

Jury qualification

1 that you may have heard, seen or read some type of
2 information that might relate to this particular case?
3 Have you been exposed to any facts of the case or any
4 information about the case from any person or any other
5 source including television and radio or newspaper? If so,
6 please stand.

7 (No response.)

8 THE COURT: As you know, the defendant is charged with
9 the crime of murder.

10 Is there anything about that fact, just the nature of
11 the charge itself, that would prevent any juror from being
12 able to be fair and impartial if selected as a juror? If
13 so, please stand.

14 (No response.)

15 THE COURT: Has any member of the jury panel ever been
16 employed as any type of law enforcement officer? And I
17 also want to know if you have any immediate family member
18 who is now or has ever been employed as a law enforcement
19 officer. And that would be whether it be a civilian law
20 enforcement agency or a military law enforcement officer.

21 And let me define an immediate family member as a
22 parent, a spouse, a child or sibling -- parent, spouse,
23 child or sibling.

24 Have you or any members of those immediate families as
25 I defined it ever been employed as any kind of law

Jury qualification

1 enforcement officer? If so, please stand.

2 All right. I'll start on the front row. I'll start
3 to my right and work to my left and work each row back if
4 you'll give me your name and juror number, please, sir.

5 JUROR NO. 38: David Duckett, No. 38.

6 THE COURT: And how does that question relate to you?

7 JUROR NO. 38: My son is a Spartanburg County deputy
8 sheriff -- sheriff's deputy up until about a month ago.

9 THE COURT: All right. And would that have any
10 bearing upon your decision in this case?

11 JUROR NO. 38: It probably wouldn't but I -- I'd
12 probably lean toward the arresting side, I guess.

13 THE COURT: Okay. Well, do you think it would affect
14 your judgment?

15 JUROR NO. 38: Yes, sir, I do.

16 THE COURT: All right. We'll excuse Juror No. 38 from
17 service in the case.

18 Next juror.

19 JUROR NO. 64: Yes, sir. Adam Harris, No. 64. My
20 brother is currently a sergeant with Spartanburg Public
21 Safety.

22 THE COURT: And understanding that the Spartanburg
23 Public Safety Office is involved in this particular case,
24 would that have any bearing upon your decision in the case?

25 JUROR NO. 64: No, sir.

Jury qualification

1 THE COURT: You could put that connection aside and
2 not allow it to influence your judgment?

3 JUROR NO. 64: Yes, sir.

4 THE COURT: Thank you. You may be seated.

5 Next row.

6 Yes, ma'am.

7 JUROR NO. 179: Donna Vinson, 179. My younger sister
8 is a former officer for Greenville city.

9 THE COURT: Would that have any bearing upon your
10 decision?

11 JUROR NO. 179: No.

12 THE COURT: Thank you. Be seated.

13 Juror 21.

14 JUROR NO. 21: Paulette Carter. I worked at the
15 Spartanburg County Detention Center.

16 THE COURT: And would that have any bearing upon your
17 decision?

18 JUROR NO. 21: Yes, sir.

19 THE COURT: It would. All right. We'll excuse Juror
20 21 from service in the case.

21 Next juror.

22 JUROR NO. 95: James Lewis, 95.

23 THE COURT: Ninety-five?

24 JUROR NO. 95: Yes, sir.

25 THE COURT: All right. How does that question relate

Jury qualification

1 to you?

2 JUROR NO. 95: My sister is F.B.I., Washington, D.C.

3 THE COURT: And would that have any bearing upon your
4 decision in the case?

5 JUROR NO. 95: No, sir.

6 THE COURT: All right. Thank you. Be seated.

7 130?

8 JUROR NO. 130: 130, Debra Phelps. My father was a
9 Myrtle Beach police officer.

10 THE COURT: And would that have any bearing upon your
11 decision?

12 JUROR NO. 130: It will not.

13 THE COURT: Thank you. Be seated.

14 Juror 98?

15 JUROR NO. 98: Dickie Mason. I worked with the
16 coroner's office.

17 THE COURT: And would that have any bearing upon your
18 decision?

19 JUROR NO. 98: No, sir.

20 THE COURT: Thank you. Be seated.

21 Yes, sir.

22 JUROR NO. 22: Michael Cashmir, No. 22. My dad was a
23 police officer for the Lyman police department.

24 THE COURT: And would that have any bearing upon your
25 decision in the case if you were selected?

Jury qualification

1 JUROR NO. 22: No, sir.

2 THE COURT: Thank you. Be seated.

3 Anyone else have that connection? If so, please
4 stand.

5 (No response.)

6 THE COURT: Does any member of the jury panel belong
7 to or contribute time or money to, to any type of
8 organization that might be characterized as law enforcement
9 support or victims' advocacy groups, anything supporting
10 law enforcement or victims' rights or anything of that
11 nature?

12 Some of those might be -- might include Mothers
13 Against Drunk Drivers, Citizens Against Violent Crime, the
14 honorary sheriffs' association, the fraternal order of
15 police or any other similar type of organization.

16 Do you belong to any or do you contribute time or
17 money to any of those types of organizations? If so,
18 please stand.

19 All right. We've got 130. Tell me what you
20 contribute to or belong to.

21 JUROR NO. 130: MADD and South Carolina Troopers'
22 Association.

23 THE COURT: Okay. Thank you. You may be seated.
24 Anyone else?

25 (No response.)

Jury qualification

1 THE COURT: Has any -- I've already defined an
2 immediate family member to you as a parent, spouse, child
3 or sibling. Have you or any members of your immediate
4 family ever been the victim of any type of crime that might
5 be characterized as a violent crime, as well as have you or
6 any member of your immediate family as I defined it ever
7 been accused of having committed any type of crime that
8 might be characterized as a violent crime?

9 Those crimes would include crimes such as murder,
10 manslaughter, assault and battery with intent to kill,
11 criminal sexual conduct, burglary, armed robbery,
12 common-law robbery, criminal domestic violence of a high
13 and aggravated nature or any other similar type of criminal
14 offense.

15 Have you or a family member been the victim of such or
16 have you or a family member ever been accused of having
17 committed such? If so, please stand.

18 All right. I've got five standing now.

19 When you respond to the question, you can respond to
20 it where you're standing. If you prefer to respond to it
21 down here, you don't want to provide information in front
22 of an audience, feel free to step down here. I'll discuss
23 it with you privately. Otherwise, I'll just accept your
24 answer from where you are.

25 I'll start to my right and work to my left. I'll

Jury qualification

1 start with you, sir. Your name and number.

2 JUROR NO. 68: Chad Henry, 68.

3 THE COURT: Okay.

4 JUROR NO. 68: Is this still immediate family or --

5 THE COURT: Yeah. Still immediate family.

6 JUROR NO. 68: Okay. It's my first cousin.

7 THE COURT: All right. And was your first cousin the
8 victim of a crime or accused of a crime?

9 JUROR NO. 68: Accused of a crime.

10 THE COURT: And what was the type of crime?

11 JUROR NO. 68: Assault and battery, high and
12 aggravated assault.

13 THE COURT: Okay. And is there anything about that
14 that would affect your judgment in this case?

15 JUROR NO. 68: No.

16 THE COURT: No. Thank you. Be seated.

17 What was your number again, please?

18 JUROR NO. 68: Sixty-eight.

19 THE COURT: Sixty-eight.

20 All right. Yes, ma'am.

21 JUROR NO. 62: Stevey Haney, 62.

22 THE COURT: Okay. And how does that question relate
23 to you?

24 JUROR NO. 62: I've got one sister that was accused or
25 has a felony before and after the fact, and then I have two

Jury qualification

1 that have both filed C.D.V.s on their exhusband's.

2 THE COURT: Okay. And would any of those facts have
3 any bearing upon your decision in this case?

4 JUROR NO. 62: No, sir.

5 THE COURT: Thank you. Be seated.

6 All right. Front row. Yes, ma'am.

7 JUROR NO. 131: Brittany Phillips, 131. And my
8 brother was accused of burglary.

9 THE COURT: Would that have any bearing upon your
10 decision?

11 JUROR NO. 131: No, sir.

12 THE COURT: Thank you. Be seated.

13 Next row.

14 JUROR NO. 17: Anthony Brewington, Juror 17. I was
15 the victim of a crime. My house got broke into in 2005.

16 THE COURT: And would that experience have any bearing
17 upon your decision in the case?

18 JUROR NO. 17: No, sir.

19 THE COURT: Thank you. Be seated.

20 Yes, sir.

21 JUROR NO. 107: Alex McLamb, 107. My cousin was
22 accused of attempted murder.

23 THE COURT: And would that have any bearing upon your
24 decision in the case?

25 JUROR NO. 107: Yeah.

Jury qualification

1 THE COURT: All right. We'll excuse Juror 107 from
2 participation.

3 Next.

4 JUROR NO. 141: 141. First cousin, burglary.

5 THE COURT: Could you tell me that again, please, sir?

6 JUROR NO. 141: First cousin, burglary; second cousin,
7 murder.

8 THE COURT: Accused or victim of?

9 JUROR NO. 141: Accused. Making time now.

10 THE COURT: Okay. Would either of those facts have
11 any bearing upon your decision in the case?

12 JUROR NO. 141: No, sir.

13 THE COURT: Thank you. You may be seated.

14 Yes, ma'am.

15 JUROR NO. 130: 130, Debra Phelps. A victim of
16 burglary.

17 THE COURT: And would that have any bearing upon your
18 decision?

19 JUROR NO. 130: It will not.

20 THE COURT: Thank you. Be seated.

21 Yes, sir.

22 JUROR NO. 189: 189, Rodney Yates. My daughter
23 accused my exwife of inappropriate touching.

24 THE COURT: And would that have any bearing upon your
25 decision in this case?

Jury qualification

1 JUROR NO. 189: No, sir.

2 THE COURT: Thank you. Be seated.

3 Does any juror know any person -- I've introduced Mr.
4 Bulsa and Mr. Shealy to you. Does any juror know any other
5 person employed in either the 7th Judicial Circuit
6 Solicitor's Office or the 7th Judicial Circuit Public
7 Defender's Office? If so, please stand.

8 All right. Yes, sir.

9 JUROR NO. 9: George Betha, No. 9.

10 THE COURT: All right.

11 JUROR NO. 9: A neighbor upstairs is in the
12 solicitor's office.

13 THE COURT: Okay. And would that have any bearing
14 upon your decision in the case?

15 JUROR NO. 9: It will not.

16 THE COURT: Thank you. You may be seated.

17 Has any juror already made up your mind or formed an
18 opinion as to what you think the outcome of this case ought
19 to be based upon what you've heard up to this point or
20 based upon any other consideration? Simply put, have you
21 already made up your mind as to the ultimate decision? If
22 so, please stand.

23 (No response.)

24 THE COURT: Does any juror know of any reason
25 whatsoever why you believe you could not be fair and

Jury qualification

1 impartial if you were called upon to serve as a juror in
2 this particular case? If so, please stand.

3 (No response.)

4 THE COURT: None responding.

5 Any other questions requested by the state?

6 MR. BULSA: No, Your Honor.

7 THE COURT: By the defendant?

8 MR. SHEALY: No, Your Honor.

9 THE COURT: All right. As your names are called --
10 jury selection is different in the criminal court in
11 contrast to the civil court.

12 In this court the computer will prepare a list for us,
13 but your names will be called individually and you'll be
14 asked to come forward one at a time.

15 When you come forward you can -- if you're closer to
16 the center aisle, just come down the center aisle, and come
17 towards me past the desks where the lawyers are seated.

18 Take about two paces past those desks and turn and
19 face your fellow jurors.

20 If you're on the outside or towards the wall, you can
21 come around the desks if you'd like. But I still need for
22 you to take your same position.

23 Each side has an opportunity to have you excused from
24 service in the case or to have you seated for serving in
25 the case.

Jury qualification

1 If either asks that you be excused you can simply go
2 back and have a seat on the back row. If both agree to
3 have you seated for serving in the case, then you'll be
4 having a seat in that jury box to my left and to your
5 right.

6 So please come forward as your name is called, and
7 you'll be instructed if you're to be seated for service in
8 the case or excused from service in the case.

9 THE CLERK: No. 184, Peggy White.

10 What says the state?

11 MR. BULSA: Please present the juror.

12 THE CLERK: What says the defense?

13 MR. SHEALY: Seat this juror.

14 THE COURT: Seat her?

15 THE CLERK: No. 9, George Bethea.

16 What says the state?

17 MR. BULSA: Please present the juror.

18 THE CLERK: What says the defense?

19 MR. SHEALY: Please excuse this juror.

20 THE CLERK: No. 151, Vanessa Semones.

21 MR. SHEALY: Could you repeat that?

22 THE CLERK: 151.

23 What says the state?

24 MR. BULSA: Please present the juror.

25 THE CLERK: What says the defense?

Jury qualification

1 MR. SHEALY: Please seat this juror.

2 THE BAILIFF: Did you say excused?

3 MR. SHEALY: Seat. Please present this juror.

4 THE CLERK: No. 109, Nilesh Merchant.

5 What says the state?

6 MR. BULSA: Please present the juror.

7 THE CLERK: What says the defense?

8 MR. SHEALY: Please excuse this juror.

9 THE CLERK: No. 167, Lorraine Sudo.

10 What says the state?

11 MR. BULSA: Please present the juror.

12 THE CLERK: What says the defense?

13 MR. SHEALY: That's No. 67, right?

14 THE CLERK: No. 167.

15 MR. SHEALY: 167.

16 THE CLERK: Yes.

17 MR. SHEALY: Please seat this juror. Please present
18 this juror.

19 THE CLERK: No. 12, Sagen Blackwell.

20 What says the state?

21 MR. BULSA: Please excuse the juror in this case.

22 THE CLERK: No. 98, Dickie Mason.

23 What says the state?

24 MR. BULSA: Please present the juror.

25 THE CLERK: What says the defense?

Jury qualification

1 MR. SHEALY: Please excuse this juror.
2 THE CLERK: No. 115, Joseph Mullen.
3 What says the state?
4 MR. BULSA: Please present the juror.
5 THE CLERK: What says the defense?
6 MR. SHEALY: Please excuse this juror.
7 THE CLERK: No. 168, Mack Sumner.
8 What says the state?
9 MR. BULSA: Please present the juror.
10 THE CLERK: What says the defense?
11 MR. SHEALY: Please present this juror.
12 THE CLERK: No. 95, James Lewis.
13 What says the state?
14 MR. BULSA: Please present the juror.
15 THE CLERK: What says the defense?
16 MR. SHEALY: Please present this juror.
17 THE CLERK: No. 194, Skyla Simpson.
18 What says the state?
19 MR. BULSA: Please excuse this juror.
20 THE CLERK: No. 25, Amanda Church.
21 What says the state?
22 MR. BULSA: Please present the juror.
23 THE CLERK: What says the defense?
24 MR. SHEALY: Please present this juror.
25 THE CLERK: No. 50, Richard Glenn.

Jury qualification

1 what says the state?
2 MR. BULSA: Please present the juror.
3 THE CLERK: what says the defense?
4 MR. SHEALY: Please present this juror.
5 THE CLERK: No. 52, Albert Goodman.
6 what says the state?
7 MR. BULSA: Please present the juror.
8 THE CLERK: what says the defense?
9 MR. SHEALY: Please present this juror.
10 THE CLERK: No. 53, Paula Goulet.
11 what says the state?
12 MR. BULSA: Please present the juror.
13 THE CLERK: what says the defense?
14 MR. SHEALY: Please excuse this juror.
15 THE CLERK: No. 67, Esther Hendricks.
16 what says the state?
17 MR. BULSA: Please excuse the juror.
18 THE CLERK: No. 189, Rodney Yates.
19 what says the state?
20 MR. BULSA: Please present the juror.
21 THE CLERK: what says the defense?
22 MR. SHEALY: Please present this juror.
23 THE CLERK: No. 120, Megan Nolen.
24 what says the state?
25 MR. BULSA: Please present the juror.

Jury qualification

1 THE CLERK: What says the defense?
2 MR. SHEALY: Please excuse this juror.
3 THE CLERK: No. 130, Debra Phelps.
4 What says the state?
5 MR. BULSA: Please present the juror.
6 THE CLERK: What says the defense?
7 MR. SHEALY: Please excuse this juror.
8 THE CLERK: No. 124, James Pack.
9 What says the state?
10 MR. BULSA: Please excuse the juror in this case.
11 THE CLERK: No. 131, Brittany Phillips.
12 What says the state?
13 MR. BULSA: Please excuse the juror in this case.
14 THE CLERK: No. 136, William Potvin.
15 What says the state?
16 MR. BULSA: Please present the juror.
17 THE CLERK: What says the defense?
18 MR. SHEALY: Please excuse this juror.
19 THE CLERK: No. 111, Lisa Moody.
20 What says the state?
21 MR. BULSA: Please present the juror.
22 THE CLERK: What says the defense?
23 MR. SHEALY: Please present this juror.
24 THE CLERK: No. 7, Deborah Bennett.
25 What says the state?

Jury qualification

1 MR. BULSA: Please present the juror.
2 THE CLERK: What says the defense?
3 MR. SHEALY: Please present this juror.
4 THE CLERK: No. 17, Anthony Brewington.
5 What says the state?
6 MR. BULSA: Please present the juror.
7 THE CLERK: What says the defense?
8 MR. SHEALY: Please excuse this juror.
9 THE CLERK: No. 72, Christopher Jackson.
10 What says the state?
11 MR. BULSA: Please present the juror.
12 THE CLERK: What says the defense?
13 MR. SHEALY: Please present this juror.
14 THE COURT: First alternate. We'll do two.
15 THE CLERK: No. 127, John Parker.
16 What says the state?
17 MR. BULSA: Please present the juror.
18 THE CLERK: What says the defense?
19 MR. SHEALY: Please present this juror.
20 THE CLERK: No. 169, Ellen Teal.
21 What says the state?
22 MR. BULSA: Please present the juror.
23 THE CLERK: What says the defense?
24 MR. SHEALY: Please excuse this juror.
25 THE CLERK: No. 158, Erica Smith.

Jury qualification

1 What says the state?

2 MR. BULSA: Please excuse the juror in this case.

3 THE CLERK: No. 160, J.C. Smith.

4 What says the state?

5 MR. BULSA: Please present the juror.

6 THE CLERK: What says the defense?

7 MR. SHEALY: Please present this juror.

8 (Whereupon, a jury was impaneled.)

9 THE COURT: All right. Those who have been selected,
10 I'll ask you to please go with the bailiff to a jury room,
11 and I'll bring you back shortly to begin with the trial of
12 the case.

13 (The following takes place outside the presence of the
14 jury.)

15 THE COURT: Are there any matters to address regarding
16 jury selection by the state?

17 MR. BULSA: No, Your Honor.

18 THE COURT: By the defendant?

19 MR. SHEALY: No, Your Honor.

20 (Whereupon, the remaining members of the jury venire
21 were excused.)

22 (The following takes place with Juror No. 7.)

23 THE COURT: Ms. Bennett, if you'll just stand by that
24 microphone over there, please. You don't have to sit in
25 the chair. Just stand by the microphone -- Mr. Hayes -- in

Jury qualification

1 front of the box there. You don't have to sit.

2 JUROR NO. 7: Okay.

3 THE COURT: Mr. Hayes, will you show her where the
4 front of that box is, please, sir?

5 Let me remind those who are here as defendants as I
6 said before, have a seat on the back row, please -- on the
7 back row. If you are a defendant and been told to stay,
8 have a seat on the back row. I don't want to have to say
9 that but once. That will be twice I've said it now.

10 All right. Now, Ms. Bennett, you've indicated to the
11 bailiff that you neglected to respond to a question that
12 was asked.

13 JUROR NO. 7: Yes.

14 THE COURT: And what question was it that you didn't
15 answer?

16 JUROR NO. 7: The ones about did he know anyone over
17 here on this side.

18 THE COURT: Yes, ma'am. The people that I introduced
19 and asked to stand up?

20 JUROR NO. 7: No. Some of the peoples over here, the
21 ladies over here.

22 THE COURT: Did they stand up, or were they just
23 sitting in the courtroom?

24 JUROR NO. 7: They stood up, I think.

25 THE COURT: Okay. That was -- yeah. That's why I was

Jury qualification

1 introducing them to the panel, so we could find out if you
2 knew any of those.

3 JUROR NO. 7: Yeah. I know them.

4 THE COURT: But you didn't respond to the question.

5 JUROR NO. 7: No. I didn't hear -- I didn't hear it.

6 THE COURT: You didn't hear the question?

7 JUROR NO. 7: Uh-uh.

8 THE COURT: Well, who is it that you know?

9 JUROR NO. 7: I know the lady on the end, and her, and
10 I know her.

11 THE COURT: Okay. And who are those, solicitor? Are
12 they with you?

13 MR. BULSA: They are relatives of the victim, Your
14 Honor.

15 THE COURT: Okay. And how do you know them?

16 JUROR NO. 7: I was introduced to her by a cousin, the
17 first lady. And I used to work with her.

18 THE COURT: Used to work with her.

19 Okay. And is there anything about that connection
20 with those people that you know that would have any bearing
21 upon your decision in the case?

22 JUROR NO. 7: Yes, sir.

23 THE COURT: It would?

24 JUROR NO. 7: Uh-huh.

25 THE COURT: Okay. We'll excuse you from serving.

Jury qualification

1 Just please go back down to the jury assembly room
2 right now. Okay. Thank you.

3 (Whereupon, the juror was excused from the courtroom.)

4 THE COURT: Juror No. 7 has been excused based upon
5 her knowledge of some relatives of the deceased, and she
6 says it would affect her judgment. I'm not sure why we
7 weren't told that before, but, nevertheless, we've been
8 told that now.

9 Either have any objection to her being excused?

10 MR. BULSA: No, Your Honor.

11 MR. SHEALY: No, Your Honor.

12 THE COURT: Okay. Thank you.

13 The two alternate jurors are Jurors 127 and 160.

14 Any objection to the juror replacing Ms. Bennett in
15 the order that they were selected?

16 MR. BULSA: None by the state, Your Honor.

17 MR. SHEALY: None from the defense, Your Honor.

18 THE COURT: All right. Juror 127 -- that's
19 Mr. Parker. He'll be taking Ms. Bennett's place.

20 Do we have any matters we need to address before the
21 jury is sworn?

22 MR. BULSA: Nothing.

23 MR. SHEALY: Nothing from the defense, Your Honor.

24 THE COURT: All right. We have a lot of spectators in
25 the courtroom, and you're welcome to stay and spectate.

Jury qualification

1 Some of you are required to be here; some of you are not.

2 But what is going to be required of all of you is that
3 you be quiet. There's going to be no conversations, no
4 talking, no discussions, no reaction to anything that goes
5 on in the courtroom. Everybody's going to be of their best
6 behavior. Otherwise, I will have to deal with that on an
7 individual basis, and I will if I need to.

8 MR. SHEALY: Your Honor, my client wants to put
9 something on the record --

10 THE COURT: All right.

11 MR. SHEALY: -- a decision that I've made.

12 I've spoken with a witness that he gave me a name, a
13 Tashan Carson. But a number of witnesses, a number of whom
14 I have spoken with and who based on my conversations with
15 those witnesses I don't believe they would be helpful,
16 those witnesses I've been able to find.

17 THE COURT: Okay. Well, I'll let y'all discuss that,
18 and then we'll address those issues at the time that the
19 defendant makes a decision as to whether he wants to call
20 anybody or not. Okay?

21 MR. SHEALY: Yes, sir. Okay.

22 THE COURT: Any other matters we need to address?

23 All right. Bring the jury in, and ask Ms. Moody to
24 take the foreperson's seat -- Ms. Moody.

25 (The following takes place in the presence of the

1 jury.)

2 THE COURT: Ladies and gentlemen, we are ready to
3 begin with the trial of the case for which each of you have
4 been selected.

5 And, Mr. Parker, as you know -- or perhaps you know --
6 you were selected as an alternate juror. But you are now
7 going to be the 12th juror because one of your fellow
8 jurors has already had to be excused based upon the fact
9 that she neglected to respond to a question and provide
10 some information that she did provide a few minutes ago;
11 and therefore she's been excused from serving in the case.

12 So you, Mr. Parker, are now the 12th juror.

13 And, Mr. Smith, you are the alternate juror.

14 And, Ms. Moody, I'm going to ask if you'll serve as
15 the foreperson of this jury. And as the foreperson you're
16 going to have three specific duties that none of the other
17 jurors will have.

18 First of all, you'll be asked to serve as the
19 spokesperson for the jury. And that just means if
20 something arises during the course of the trial that needs
21 to be brought to my attention -- you or a fellow juror has
22 some difficulty, problem or question -- if you'll let me
23 know of that fact I'll address those issues or answer those
24 questions.

25 Secondly, you'll be called upon to preside over jury

1 deliberations when the time comes for those deliberations
2 simply to ensure that that process is carried out in some
3 orderly fashion.

4 And, thirdly, you'll be called upon to actually write
5 the verdict or the decision of the jury. You'll do that on
6 a verdict form that I'll provide you at the trial's
7 conclusion on which you will indicate the jury's unanimous
8 decision.

9 Now, the foreperson has those duties that I have just
10 indicated. That does not however mean that she is any more
11 important than any of you other jurors, and that's because
12 the decision that the jury makes is the unanimous consensus
13 opinion of all 12 jurors. And so all of you will have an
14 equal say and an equal vote in what the ultimate decision
15 will be in the case.

16 Someone simply has to be delegated those
17 responsibilities that I have just indicated, and I have
18 delegated those to Ms. Moody in appointing her as the
19 foreperson. But each of you jurors are equally important
20 so far as the ultimate decision is concerned because, as
21 I've stated, the verdict has to be unanimous. All of you
22 must be in agreement.

23 Now, Mr. Smith, as you know, you're the alternate
24 juror, and you'll be called upon to take the place of one
25 of the original 12 jurors if during the trial one of these

Jury sworn

1 12 cannot continue to serve for some reason.

2 So, it is important that you pay just as careful
3 attention as we ask of all the jurors in the case because,
4 as you already know, something may occur that one of the
5 original 12 cannot continue. In that event you become the
6 12th as Mr. Parker has.

7 So we do appreciate your participation as an
8 alternate, just as we appreciate the participation of each
9 of you jurors who have been selected for the purpose of
10 deciding the verdict in this particular case.

11 You may swear the panel.

12 (Whereupon, the jury was duly sworn.)

13 THE COURT: Ladies and gentlemen, as you know, you
14 have been selected to decide the verdict in the case of the
15 State vs. Keith Letmon.

16 As you also know, Mr. Letmon has been accused by the
17 prosecutor by of way an indictment with having committed
18 the crime of murder.

19 The state alleges that he committed that offense on
20 July the 25th of 2011 in that he did wilfully and with
21 malice aforethought kill one Cedric Antoine Moss by
22 shooting him with a firearm and that Mr. Moss died as a
23 proximate result of that gunshot wound.

24 As you also know, as to those allegations and as to
25 that charge he's entered a plea of not guilty. And as I've

1 told you, that plea of not guilty places upon the state.
2 because they made the accusation the burden of proving the
3 allegations that they have set forth in that indictment,
4 the burden of proving each of the essential elements that
5 makes up the crime of murder; and therefore the burden is
6 upon the state to establish the defendant's guilt to the
7 satisfaction of each of you 12 jurors beyond a reasonable
8 doubt before any verdict of guilty could be returned.

9 Every person accused of a crime is always presumed to
10 be innocent of that charge. That presumption of innocence
11 remains with any defendant, as it does with this defendant,
12 from the time that he is placed under arrest and throughout
13 the course of the criminal process, even throughout the
14 course of the trial and even as you go back to begin with
15 your deliberations at the trial's conclusion.

16 That presumption of innocence will apply to Mr. Letmon
17 even as you are deliberating the case, and it will remain
18 with him forever unless you 12 jurors determine that he's
19 no longer entitled to that presumption of innocence.

20 In other words, after you've been instructed to begin
21 your deliberations and after beginning those deliberations
22 you consider all the evidence in the case and from that
23 evidence you decide what you believe the true facts to be
24 as they relate to these allegations, and upon deciding
25 those facts you apply the law that I will have provided

1 you, if you 12 jurors unanimously determine that his guilt
2 has been proven beyond a reasonable doubt, then he would no
3 longer be entitled to the presumption of innocence. But
4 it's only if, unless and until you are satisfied of his
5 guilt beyond a reasonable doubt that the presumption of
6 innocence will no longer be applicable.

7 Now, the way the trial will proceed is that in a
8 moment the lawyers are going to address you in what are
9 called opening statements.

10 There are two occasions in a trial where lawyers are
11 permitted to address the jury, and that is at the beginning
12 of the trial before any evidence has been introduced and
13 then again at the conclusion of the trial after all of the
14 evidence has been received.

15 Keep in mind however as I've just indicated, the
16 lawyers' statements are not evidence. The evidence comes
17 in between their opening and their closing statements. And
18 the reason their statements are not to be considered as
19 evidence is because they don't know anything about this
20 case of their own personal knowledge or experience or
21 perception as witnesses will be testifying to.

22 The lawyers will not take the witness stand. They'll
23 not be placed under oath like witnesses will be. They will
24 not be subjected to direct and cross-examination like each
25 of the witnesses will be.

1 And so what they tell you in their statements is not
2 to be considered by you as any evidence upon which you will
3 base your decision, but you should listen to what the
4 lawyers have to say because those statements do serve a
5 purpose.

6 The opening statements will serve to provide you with
7 a basic understanding as to what this case is about from
8 both the perspective of the state and of the defendant so
9 that you'll have some context in which to place the
10 evidence that we will be receiving shortly thereafter.

11 The closing statements occur after all of the evidence
12 has been received during the trial. And, again, while
13 those statements are not evidence, it does afford the
14 lawyers an opportunity to discuss with you the evidence
15 that you have seen and heard during the trial of the case.
16 And through that discussion each will have an opportunity
17 to try to persuade you or to convince you that that
18 evidence does or does not support a particular decision.

19 And it's in between those opening and closing
20 statements that we actually receive the evidence upon which
21 you will decide the facts and base your opinion.

22 The state has the burden of proof because they made
23 the accusation. They brought the charge against the
24 defendant, and therefore the state has the burden of
25 establishing his guilt to your satisfaction beyond a

1 reasonable doubt. And therefore the state will go forward
2 first in its presentation of evidence because they do have
3 that burden.

4 Once the state has concluded in its presentation of
5 evidence a defendant has an opportunity to take the witness
6 stand and testify or to call other witnesses to testify or
7 to introduce other types of evidence or exhibits.

8 But please understand that a defendant in a criminal
9 trial has no burden of proof. The burden is not upon a
10 defendant to prove that he or she is not guilty or to prove
11 that he or she is innocent because in some cases that might
12 not even be possible.

13 The burden is on the state to establish the
14 defendant's guilt beyond a reasonable doubt. There is no
15 burden at all placed upon a defendant in a criminal trial.

16 And therefore a defendant in a criminal trial may not
17 take the witness stand and testify, may not call any
18 witness, may not produce any evidence. And if that occurs
19 that's not something that a jury can hold against a
20 defendant in the slightest degree, because, as I've said,
21 the burden is not upon a defendant to prove anything. The
22 burden is on the state to prove his or her guilt beyond a
23 reasonable doubt. But every defendant is afforded an
24 opportunity to present evidence in the event he or she
25 wishes to do so.

1 So after all of the evidence has been received and
2 after you hear the final summations of the lawyers, I will
3 then instruct you fully on the law as it relates to the
4 criminal law generally and as it relates to the crime of
5 murder specifically.

6 After that you'll be asked to go back and begin with
7 your deliberations. And through that process you're simply
8 going to be called upon through the exercise of good
9 judgment and common sense conscientiously applied to the
10 testimony and evidence in the case to decide what you
11 believe to be the true facts as they relate to these
12 allegations.

13 Once you decide those facts you'll apply the law that
14 I will have provided you, and you will be called upon to
15 determine whether or not the evidence in the case has
16 established the defendant's guilt beyond a reasonable
17 doubt.

18 If it has, then your verdict would be guilty. If it
19 has not, then your verdict would be not guilty.

20 So all that we're going to ask for you to do
21 throughout the course of the trial is pay careful
22 attention. Give every witness the same degree of attention
23 as they testify, because sometimes during the course of a
24 trial you'll have witnesses' testimony in conflict. And
25 where that conflict in testimony relates to a material fact

1 or a material element that has to be resolved in order for
2 a decision to be reached, you get to resolve that material
3 fact. You get to assess and to evaluate the credibility of
4 a witness' testimony in light of not just that witness'
5 testimony but in light of all the testimony and all of the
6 evidence received during the trial.

7 You may accept everything that a witness testifies to;
8 you may reject everything that a witness testifies to. You
9 may believe one portion of a witness' testimony and reject
10 some other portion of that same witness' testimony.

11 You can believe witness as opposed to several, or
12 several as opposed to one. But in order for you to be able
13 to properly evaluate a witness' credibility and
14 believability and knowledge of the fact it's important that
15 you give every witness the same degree of attention so that
16 you'll be able to properly make that determination in light
17 of all of the evidence received during the trial.

18 It's also important that you keep an open mind
19 throughout the course of the trial, and that just means
20 that you are not to begin making up your minds or
21 formulating your opinions as to what they think the ultimate
22 decision ought to be in this case until all of the evidence
23 has been received, until I have instructed you on the law
24 that's applicable in the case and until you've been asked
25 to go back and begin with your deliberations at the trial's

1 conclusion.

2 That is the process that is designed for you 12 jurors
3 to arrive at a fair and just decision, whatever that
4 decision may be.

5 So I do want to thank you in advance for your
6 participation, as well as for your careful attention. I
7 would ask that you please give the lawyers your attention
8 now as they give you their opening statements.

9 Mr. Bulsa.

10 MR. BULSA: Thank you, Your Honor.

11 Good afternoon, ladies and gentlemen. I know this is
12 a difficult time for you to be here and a difficult subject
13 to listen to, but it's a serious matter.

14 You've got a lot of people here watching this case and
15 concerned about this case. A man's life was taken from him
16 at the young age of 27.

17 Cedric Moss was visiting with some friends on July the
18 21st of 2011. He was in an area of Spartanburg, City of
19 Spartanburg, near the Beacon, an area called Highlands.

20 He had been there off and on that evening visiting,
21 meeting with some friends. And there was some drinking
22 going on.

23 Also there during that occasion was the defendant.
24 He'd been there off and on during July the 21st of 2011.

25 And nothing actually occurred between the two prior to

1 this incident at that location. We don't know why this
2 happened. It's not important. The judge will not charge
3 you that you have to find out why Mr. Letmon killed Cedric
4 Moss. You have to find who did it.

5 When you listen to the facts of this case and you hear
6 how Mr. Letmon was gunned down in front of this house it's
7 going to be clear that a murder occurred.

8 Murder in South Carolina is the unlawful killing of a
9 human being with malice aforethought. You can derive the
10 malice from the type of weapon that was used, the number of
11 shots that were used and the nature of the overall
12 circumstances, the facts.

13 I submit to you, ladies and gentlemen, what you're
14 here to decide today and probably tomorrow and maybe even
15 into Wednesday is who did this.

16 I submit to you that the evidence is going to show
17 that it was the defendant, Keith Letmon. He fired multiple
18 times at Cedric Moss. Cedric Moss had multiple wounds.
19 The doctor will testify that he was shot four times. Some
20 of those were through and through.

21 A couple of bullets were recovered from his body. One
22 bullet was recovered from the ground.

23 You're going to hear gruesome facts that a witness saw
24 him standing over the victim and shooting at him while he
25 was on the ground. Mr. Moss had no chance.

1 This was not a fight gone wrong. This was Mr. Letmon
2 upset about something, driving back to this location and
3 getting out with a gun and walking up to the area where
4 these people were and firing at Mr. Moss and killing him.
5 Mr. Moss had no chance. This is a murder.

6 I'm sure the defense will argue that it wasn't Keith
7 Letmon. But this case was not -- did not happen in a
8 vacuum, did not happen with just the defendant and the
9 victim around. He did this in front of multiple people.
10 You will hear each of those persons come to testify.

11 Some of those people were very familiar with
12 Mr. Letmon and knew him by his street name as Slow. They
13 told the police that morning what they knew, what they saw,
14 how they knew the defendant. And the police put the name
15 with a face, and the police began to look for Mr. Letmon.

16 They also began to look for the vehicle that he drove
17 up in. You'll hear from witnesses testify about that
18 vehicle and about where that vehicle was found. That
19 vehicle was found driven in a park behind the back of a
20 house away from the view of the public.

21 I submit to you that suggests that the person driving
22 that car had something to hide. He was hiding that
23 vehicle.

24 Then the police began their search for the defendant,
25 and it took them over a month to find him. You'll hear

1 from that, about that investigation and where and how he
2 was found.

3 All of these pieces of evidence I suggest to you
4 corroborate the witnesses that will identify him in court
5 as being the man that shot Cedrick Moss.

6 Our burden is to prove this case beyond a reasonable
7 doubt. I submit to you that you will be firmly convinced
8 that that burden has been met. And at the close of this
9 case you will find this man guilty of murder because that's
10 what this is. I thank you in advance for your time and
11 attention.

12 THE COURT: Mr. Shealy.

13 MR. SHEALY: Thank you, Your Honor.

14 Ladies and gentlemen, my name is Matt Shealy. I'm
15 with the public defender's office. I represent Keith
16 Letmon. And I apologize. I've got a little bit of a cold.
17 I've had a cold for about a week and a half. So if I don't
18 speak up loudly enough, I apologize in advance. For that
19 I'm going to be making noises as well.

20 As Mr. Bulsa said, you are here for a very serious
21 purpose. Obviously, there are a lot of people here who are
22 interested in the outcome of the case, but they want the
23 outcome to be just. They don't want you just to say, well,
24 we got somebody in front of us, we are going to punish him,
25 because that's not justice.

1 All right. You've heard what Mr. Bulsa claims he'll
2 be able to elicit. The testimony that you're going to hear
3 is going to be about people behaving the ways that y'all
4 are not used to.

5 Okay. And the most important thing for you to
6 understand is this is -- there are people who live like
7 this, who stay up until 5:00 o'clock in the morning and are
8 drinking. That wasn't my client.

9 You're going to hear that this congregation at [REDACTED]
10 Norris Street was a number of different witnesses. And I
11 believe they will testify that they were in -- I believe at
12 least two of them will testify that they had had
13 substantial amounts of alcohol, substantial amounts of
14 alcohol. And that's the eye witness account he wants you
15 to trust.

16 Now, we've probably all been intoxicated at some point
17 in our lives. And I don't know about you, but if you are
18 that intoxicated I'd submit to you would you trust your own
19 eye witness account?

20 Now, you're also going to hear a bunch of other
21 information about the investigation Mr. Bulsa alluded to,
22 wants to find him and all of that. And I believe at the
23 end of all of that you're going to hear my client was
24 arrested at Sun 'N Sand Motel out here on 85.

25 So, I mean he was around. They just didn't arrest

1 him. I can't speak to that. I don't know why. But you're
2 going to hear he was arrested in Spartanburg. Okay. So I
3 don't know how probative that is, quite frankly.

4 And, ladies and gentlemen, I'd ask that you keep an
5 open mind as to the facts because, again, the state goes
6 first. And y'all will hear a whole bunch of stuff, a lot
7 of stuff given their witness list. You heard their witness
8 list. So there will be a whole lot of people who testify.
9 But ultimately this is a pretty straightforward case,
10 whether you trust those eye witnesses, or you don't.

11 All right. And I don't think at the end of this
12 you're going to trust those eye witnesses. I just don't
13 expect it. At least I don't believe that you will beyond a
14 reasonable doubt trust those eye witnesses.

15 And reasonable doubt is very -- is a pretty high
16 standard in the criminal law. The reason we have that very
17 high standard, one, is the state has to prove their case,
18 and the state has, you're going to hear, again, all of
19 those people. They have public safety. They've got the
20 state law enforcement division. They've got all of these
21 investigators, all of these folks in order to build these
22 cases.

23 And what they're asking you to do is to deprive my
24 client of his freedom ultimately. So that's why we hold
25 them to that very high standard of reasonable doubt.

Anthony Copeland
Direct examination by Mr. Bulsa

1 And that's why we don't have to prove anything. My
2 client and I bear no burden in any of this. We can just
3 sit there if we want to.

4 And the reason for that is we can't prove a negative.
5 We can't prove that we didn't do it. I can't prove I
6 didn't do it. I don't know where I was July 25th of 2011.
7 I was probably asleep at 5:00 o'clock in the morning, but I
8 can't prove it. And I submit to you none of you could
9 probably prove where you were at that time unless you were
10 with a lull [sic]. And that's why we don't have that
11 burden of proof.

12 So, ladies and gentlemen, I'd ask that you hold them
13 to their burden. Make them prove their case, because
14 that's the oath that you took. So, ladies and gentlemen,
15 I'd like you -- I'd ask you to uphold that oath. Thank you
16 for your time and your attention. And I'll leave it at
17 that.

18 MR. BULSA: The state calls Anthony Copeland.

19 ANTHONY COPELAND, having been
20 first duly sworn, testified as follows:

21 THE COURT: Let me ask you to throw that gum in the
22 trashcan, please, sir.

23 DIRECT EXAMINATION BY MR. BULSA

24 Q Mr. Copeland, I'm going to be standing over here.
25 Okay? Pull that --

Anthony Copeland
Direct examination by Mr. Bulsa

1 THE COURT: Do you see that black microphone there,
2 Mr. Copeland? If you will, pull up there and use that,
3 please, sir.

4 Q Make sure you speak up so I can hear you all the way
5 back here. Okay? Please tell us your name.

6 A Anthony Copeland.

7 Q All right. And how old are you, sir?

8 A Thirty-eight.

9 Q Where do you reside?

10 A Where I stay at?

11 Q Yes, sir.

12 A I stay on Cooksey Street now. I stayed at [REDACTED] Norris
13 Street.

14 Q Okay. And where was -- where is [REDACTED] Norris Street?

15 A Right off of -- right off Highland Avenue.

16 Q Is that in the city of Spartanburg?

17 A Yes, in the city of Spartanburg.

18 Q And how long had you stayed there?

19 A I stayed there like a year.

20 Q Is that a duplex type building?

21 A Yes, it's a duplex.

22 Q Did anybody live --

23 THE COURT: Just a minute, please.

24 Mr. Copeland, let's don't bob back and forth. Let's
25 just pick a location there, and then the microphone should

Anthony Copeland
Direct examination by Mr. Bulsa

1 be able to pick up your voice. When you go in and out it
2 distorts the sound.

3 BY MR. BULSA

4 Q And who did you live there with?

5 A I stayed by myself.

6 Q Okay. And do you remember -- did you know a Cedric
7 Moss?

8 A Yes, I knew him.

9 Q How did you know him?

10 A I knowed him a long time ago when I stayed on Highland
11 Avenue.

12 Q Okay. Was he a little bit younger than you?

13 A Yeah, a whole lot younger than me.

14 Q Did he come and visit you often?

15 A Yeah. He come and see me all the time.

16 Q Okay. And he came to see you there on Norris Street?

17 A Yeah, came to see me on Norris Street.

18 Q Okay. Do you remember the day he died?

19 A Yes, I remember it.

20 Q Was that out in front of your house?

21 A Yeah, in the front yard.

22 Q Were you there?

23 A Yes, I was there.

24 Q Who all was there when he was shot?

25 A It was me, Crystal, Brittany and my cousin Jesse.

Anthony Copeland
Direct examination by Mr. Bulsa

1 Q Okay. So there were four of you?

2 A Yes, four of us.

3 Q Plus Mr. Moss.

4 A Yeah, plus Moss, Mr. Moss.

5 Q And about what time of day was this?

6 A About 5:00, about 5:00 in the morning.

7 THE COURT: Mr. Copeland, do you hear how it's
8 distorting that sound? Can we get in -- when you hear it
9 do that, please back off a little bit. Don't eat the
10 microphone.

11 THE WITNESS: Yes, sir.

12 THE COURT: Thank you.

13 BY MR. BULSA

14 Q We want to make sure everything gets recorded right
15 and the jury can hear you. Okay. This is serious.

16 You said there were four of you. There would have been
17 three men and two ladies, right?

18 A Yes, sir.

19 Q Had you had more people there before that time of the
20 morning?

21 A Yes, yes, I did.

22 Q Would you describe what was going on that evening?

23 A We were drinking, you know, having a good time out
24 there.

25 Q Okay. And how long had that been going on?

Anthony Copeland
Direct examination by Mr. Bulsa

- 1 A Until about 5:00 in the morning.
- 2 Q About when did it start?
- 3 A It started around about 11:00.
- 4 Q 11:00 the night -- that same night?
- 5 A That same night.
- 6 Q That would have been July 24th, and this was the
- 7 morning of July 25th.
- 8 A Yeah, in the morning.
- 9 Q Could you tell us some of the other people that had
- 10 come and gone from that location?
- 11 A Yes. I had my brother-in-law and my cousin. They was
- 12 there, and also had left.
- 13 Q Can you give me their names?
- 14 A Antoine Bogan and Jonathan Mullins.
- 15 Q Okay. And who else had been there and left?
- 16 A Jesse was there, Jesse Worthy was there, but, you
- 17 know.
- 18 Q Okay. And who else?
- 19 A Me, Brittany and Crystal.
- 20 Q Do you know the defendant?
- 21 A Yes, I know him.
- 22 Q How do you know him?
- 23 A I just been knowing him off and on.
- 24 Q Okay. And he'd been to your house before this
- 25 incident.

Anthony Copeland
Direct examination by Mr. Bulsa

- 1 A Nah. That's the first time he'd ever been to my
2 house.
- 3 Q Okay. You mean that being the first day?
- 4 A Yeah, the first time.
- 5 Q Well, about what time did he come over there?
- 6 A He came around about -- it was a little after --
7 little after 11:00.
- 8 Q Okay. And who did -- did he come there with somebody?
- 9 A Nah. He came by himself.
- 10 Q Okay. And why did he come over, do you know?
- 11 A Just to drink.
- 12 Q Okay. And did you invite him to stay?
- 13 A It didn't -- he didn't bother me.
- 14 Q Okay. So you didn't --
- 15 A I didn't think nothing of it.
- 16 Q -- ask him to stay. You just let him stay.
- 17 A I just let him stay.
- 18 Q Okay. And during the timeframe that he was there was
19 Mr. Moss also there?
- 20 A Yes, he was there too.
- 21 Q And about how long did the defendant stay there?
- 22 A For talking about Cedric?
- 23 Q No.
- 24 A Yeah. He came and left.
- 25 Q Okay. And what did you know him by?

Anthony Copeland
Direct examination by Mr. Bulsa

- 1 A I just know him by slow.
- 2 Q And did you just know him from the neighborhood?
- 3 A Nah, I didn't know him from there. I just know him
- 4 from other parts of town.
- 5 Q Okay. All right. Now, was it a person that you
- 6 readily recognized?
- 7 A Yes.
- 8 Q And you had no -- had you had any problems with him
- 9 before?
- 10 A No, I ain't never had no problem with him.
- 11 Q Okay. So he was in the area and came over and stayed.
- 12 And did he drink with you also?
- 13 A Yeah, he also had a couple of drinks too.
- 14 Q Okay. And do you remember him leaving the area?
- 15 A Yes. I remember when he left.
- 16 Q And do you recall how he left?
- 17 A Yeah. I know how he left.
- 18 Q Tell us.
- 19 A He left with -- with my brother-in-law.
- 20 Q who is?
- 21 A That's Antoine Bogan.
- 22 Q Okay. So did they leave walking or driving?
- 23 A They left driving out of my -- out of my driveway.
- 24 Q Okay. And who was driving?
- 25 A Antoine was driving.

Anthony Copeland
Direct examination by Mr. Bulsa

- 1 Q So it was Antoine's car?
- 2 A Yeah, it's his car.
- 3 Q So when the defendant had come to your house had he
- 4 come walking up?
- 5 A Yeah, he came walking up.
- 6 Q All right. And did you see him any more after that?
- 7 A Yes. When he came back, when he shot Ced.
- 8 Q Okay. Describe it.
- 9 A Right when I had got -- well, when he pulled up, he
- 10 pulled up by my mailbox. He got by my tree, and he just
- 11 let a couple of shots off.
- 12 Q And what kind of car was he in?
- 13 A He was in a -- in a gray car.
- 14 Q A what?
- 15 A A gray car.
- 16 Q Okay. Do you know what type of car it was?
- 17 A I don't know what type of car it was, but I know it
- 18 was gray.
- 19 Q Had you seen it before?
- 20 A I hadn't never seen it.
- 21 Q Okay. Did you see any pictures of it since then?
- 22 A Nah, I haven't seen any.
- 23 Q Did you -- did the police ever show you a car?
- 24 A Nah. They haven't showed me nothing.
- 25 Q Okay. All right. Now, you said he got out. And what

Anthony Copeland
Direct examination by Mr. Bulsa

- 1 did he do?
- 2 A He got out. He got out and got by my tree and raised
3 up and started shooting.
- 4 Q Okay. Now, how far is your house from the road?
- 5 A It's just to the sidewalk. When he come on the
6 sidewalk, he got by the tree and started shooting.
- 7 Q Can you estimate in the courtroom how far it is? Say
8 you're sitting on the front porch. How far would the
9 street be from there?
- 10 A About 5 feet.
- 11 Q Okay.
- 12 A About 5 -- 5 or 10 feet.
- 13 Q Can you pick a location in the courtroom as to how far
14 it might have been?
- 15 A About here to the -- to the last chair behind the
16 detective.
- 17 Q Back in here?
- 18 A Yeah.
- 19 Q Okay. So you're describing --
- 20 A To where I'm at right now.
- 21 Q Okay. That's about how big your front yard is.
- 22 A Nah. That's to the street, you asked me.
- 23 Q The street. Okay.
- 24 A Yeah.
- 25 Q Okay. So what is there, a sidewalk?

Anthony Copeland
Direct examination by Mr. Bulsa

1 A There's a sidewalk. There's a sidewalk, and he had to
2 come in the yard.

3 Q Okay. So he wasn't that far from you.

4 A Nah, he wasn't that far.

5 Q The tree you're describing, where would that have been
6 in relation to your house?

7 A The tree is near -- near my porch where I had my dog
8 tied up.

9 Q Okay. Let me show you a couple of pictures. Okay?

10 MR. BULSA: For the record, these are State's Exhibits
11 5, 6, 7 and 8 for Identification.

12 Q Do these pictures show your house?

13 A Yes.

14 Q Okay. They're different views of the front of your
15 house?

16 A Yes.

17 Q Do they represent what your house would look like at
18 that time?

19 A Yes.

20 Q Okay. And it's sort of a tan colored building?

21 A Yeah, tan colored.

22 Q Okay.

23 MR. BULSA: Your Honor, the state would offer these
24 into evidence.

25 MR. SHEALY: No objection, Your Honor.

Anthony Copeland
Direct examination by Mr. Bulsa

1 THE COURT: What are the numbers?

2 MR. BULSA: Five, six, seven and eight.

3 THE COURT: They're admitted.

4 (Photographs marked State's Exhibits Nos. 5, 6, 7 and
5 8.)

6 Q While that's warming up -- I'm going to show these in
7 just a minute. But where were you when he came and fired
8 those shots?

9 A Sitting on the porch.

10 Q Were you on a -- in a chair?

11 A In a chair sitting on the porch.

12 Q And where was everybody else?

13 A Ced was sitting right beside me.

14 Q Okay. Where were the girls?

15 A They were right -- the girls was kind of standing up
16 like.

17 Q And where was Mr. Worthy?

18 A Mr. Worthy was standing by the tree.

19 Q All right. Now, do you recall the defendant saying
20 anything before he shot?

21 A I never heard him say nothing.

22 Q Okay. How much had you had to drink that night?

23 A I had about two or three bottles.

24 Q Bottles of what?

25 A Burnett.

Anthony Copeland
Direct examination by Mr. Bulsa

1 Q What is that?

2 A It's a liquor.

3 Q Okay.

4 A It's a vodka.

5 Q Okay. Were you intoxicated?

6 A No, I wasn't that intoxicated.

7 Q Okay. Let's go through these, and I'm going to -- can
8 you kind of -- it's a little awkward positioning. State's
9 Exhibit 5 --

10 THE COURT: Let's do this.

11 Let me -- Mr. Copeland, let me ask you to step out of
12 the box.

13 (Whereupon, the witness left the stand.)

14 THE COURT: Do you see that microphone right there
15 hanging from the ceiling towards me? If you'll just stand
16 about right there that should do it.

17 And when Mr. Bulsa asks you a question if you'll speak
18 up, you know, loudly it should pick it up. We'll see how
19 that works.

20 BY MR. BULSA

21 Q Okay. Now, this is State's Exhibit No. 5.

22 THE COURT: You might have to back up just a little
23 bit. Okay. That should be good.

24 Q Is this the house that you were staying in?

25 A Yeah, on -- on the right-hand side.

Anthony Copeland
Direct examination by Mr. Bulsa

1 Q You would have been in this -- this one over here by
2 the tree?

3 A Right there, yeah, right there.

4 Q Okay. There is another view, State's Exhibit 6.

5 THE COURT: Mr. Shealy, can you see okay?

6 MR. SHEALY: I can, Your Honor.

7 Q Just a little different view. We can see how close
8 the road is to your house.

9 A Yeah, I can see how close it is.

10 Q Okay. It's pretty close.

11 Now, State's Exhibit 7. All right. Now, you would
12 have been standing this -- this side?

13 A Yeah, onto the right-hand side.

14 Q Was this side occupied?

15 A Yes. There's older lady kind of stayed right there.

16 Q Okay. Now, so she would have been there asleep?

17 A Yeah, asleep.

18 Q How much noise were y'all making out there?

19 A Wasn't making that much noise.

20 Q Were you being mindful of her?

21 A Yeah.

22 Q Okay. And you said you were sitting down. Were you
23 in one of these chairs?

24 A Yeah, the chair on the right.

25 Q The one beside the door?

Anthony Copeland
Direct examination by Mr. Bulsa

1 A Yeah, right beside the door.

2 Q And you say the defendant parked the car in front of
3 the house and got out. And is this the tree you're talking
4 about?

5 A Yeah, when he got by the tree.

6 Q All right. State's Exhibit No. 8. This is a little
7 bit different angle. How far over did he go?

8 A He was still on the other side of the tree.

9 Q He was on the other. So we need to be looking at the
10 other picture of the tree?

11 A Yeah, you need to be looking at the other one.

12 Q State's Exhibit No. 7.

13 A Yeah, right in front.

14 Q I give you this pointer, and see the red button there
15 you push. And hold it so the jury can see what you're
16 talking about.

17 A When he got about right around in here, that's when he
18 fired.

19 Q Okay. And what happened when he fired?

20 A Ced tried to stand up, tried to stand up when he was
21 shooting. And he messing around and fell right here on the
22 porch right there. He messed around and fell.

23 Q Okay. Was he able to get back up?

24 A Nah, he couldn't get back up because he still was
25 shooting at him.

Anthony Copeland
Direct examination by Mr. Bulsa

1 Q Okay. And did you stay seated and watch this all?

2 A Nah. I fell off the porch and ran around on the side
3 of the house. That's the other picture.

4 Q All right. State's Exhibit 8. We actually see a
5 chair right there. Do you see that chair?

6 A Yeah, I see the chair.

7 Q Okay. Was that normally sitting like that?

8 A Nah, it don't sit like that.

9 Q Normally on the porch?

10 A Yeah, it be on the porch.

11 Q Okay. So did it get knocked over during this?

12 A Yeah. I probably knocked it over when I ran on the
13 side of the house right there, kinda ran through the back
14 right here --

15 Q Okay.

16 A -- and came back around.

17 Q Okay. And you were still able to see everything?

18 A Yeah, I could see everything.

19 Q Did you -- do you recall what all the other persons
20 did?

21 A They ran too.

22 Q All right. Did anybody make any attempt to go after
23 the defendant?

24 A No. Basically, everybody was scared.

25 Q Okay. All right. Did this all take place pretty

Anthony Copeland
Direct examination by Mr. Bulsa

1 quickly?

2 A It happened real fast.

3 Q And what happened after the shots stopped?

4 A After the shots -- the stops -- the shots stopped,
5 after he stopped shooting, he jumped back in the car and
6 pulled off.

7 Q You can have a seat back up there.

8 (Whereupon, the witness returned to the stand.)

9 Q What did you do after he drove off?

10 A After he drove off I, I got -- I got -- got close to
11 Ced and was trying to help him breathe, and Crystal and
12 them was calling the police and the ambulance.

13 Q Do you remember if he was wearing anything on his
14 hands?

15 A Yeah. He had like -- looked like white gloves. He
16 had on like -- like surgery like gloves. That's what he
17 looked like he had on his hands.

18 Q Did you notice anything about the kind of weapon he
19 was using?

20 A I know it was -- it was chrome.

21 Q Could you tell if it was a revolver or --

22 A Yeah, it had to have been a revolver.

23 Q Why is that?

24 A That was the way -- the way he was -- the way he was
25 shooting, fire was jumping out of the barrel of it.

Anthony Copeland
Direct examination by Mr. Bulsa

- 1 Q All right. Were you able to help Mr. Moss?
- 2 A Nah, I couldn't help him. I was just trying to help
- 3 him breathe until the ambulance got there.
- 4 Q So somebody called 9-1-1?
- 5 A Yeah. Crystal and them called.
- 6 Q About how long did it take the ambulance?
- 7 A It took them about like ten or 15 minutes.
- 8 Q Really? Things pretty hysterical out there after
- 9 that, after the shooting?
- 10 A Yeah, yeah.
- 11 Q Did everybody stick around to talk to the police?
- 12 A Nah, nah. It was just me and Crystal and Brittany.
- 13 Q What happened to Mr. Worthy?
- 14 A He went on down the street.
- 15 Q So when the police got there did they speak to you
- 16 about what happened?
- 17 A Yeah.
- 18 Q Did they take you to city hall?
- 19 A Yeah, took me, took me downtown.
- 20 Q Did you identify who did this to them?
- 21 A Yes.
- 22 Q How did you identify him?
- 23 A I just know him.
- 24 Q Okay. And you told the police his name was?
- 25 A Slow.

Anthony Copeland
Direct examination by Mr. Bulsa

1 Q Did you know Slow's real name?

2 A No. I never knowed his real name.

3 Q Did the police show you some photos to ask you to try
4 to figure out what name went with that?

5 A Yeah, uh-huh.

6 Q Okay. And did you -- did you pick somebody out and
7 identify them for the police?

8 A Yeah.

9 Q Now, Mr. Copeland, did you see Mr. Letmon any time
10 after that?

11 A Nah. I haven't seen him since -- after that right
12 there, I ain't seen him.

13 Q You've been talking about him, but point out to the
14 jury if you would who you knew to be Slow.

15 A Right here.

16 MR. SHEALY: Your Honor, we object based on the prior
17 objections that I made, prior hearing.

18 THE COURT: Overruled.

19 BY MR. BULSA

20 Q Do that again.

21 A He's sitting right there.

22 Q What color of shirt's he got?

23 A Got a blue shirt on.

24 Q Any doubt in your mind that that's the person you saw
25 shoot Cedric Moss?

Anthony Copeland
Cross-examination by Mr. Shealy

1 A I know that's the person that shot him.

2 Q And you told the police that morning?

3 A Yeah, I told them.

4 Q All right. Thank you, Mr. Copeland. Answer any
5 questions Mr. Shealy may have.

6 CROSS-EXAMINATION

7 BY MR. SHEALY

8 Q All right. Mr. Copeland, let me understand what you
9 testified to thus far.

10 My understanding is that you're claiming that my client
11 was there earlier that evening?

12 A Yeah, a little after 11:00.

13 Q A little after 11:00. Okay. And about when did he
14 leave after that?

15 A He left around about -- about -- I can say about -- at
16 least by 2:30 or something like that.

17 Q He left about 2:30. And then when did he come back?

18 A 2:30 or 3:00 o'clock because we was still out there
19 drinking.

20 Q Okay. And what time did he come back?

21 A He come -- he come back around about -- we was still
22 out there about 5:00. He come back. He come back around
23 about like about 30 minutes or something like that, 30 or
24 15 minutes. Something like that.

25 Q So he left and came back about 30 or 15 --

Anthony Copeland
Cross-examination by Mr. Shealy

- 1 A Yeah.
- 2 Q Okay. You testified you had some -- some -- I guess
- 3 it's called -- you said Burnett. That's vodka?
- 4 A Yeah, that's vodka.
- 5 Q You call it blue top.
- 6 A Yeah. It's blue top.
- 7 Q Right? And would it surprise you that you told the
- 8 police that you had four blue tops?
- 9 A About four.
- 10 Q About four blue tops. Now, how big is a blue top?
- 11 It's about a liter, isn't it?
- 12 A A little small. It was a little small, little filler.
- 13 Q It's a mini bottle?
- 14 A Yeah, no, next to them.
- 15 Q The 375?
- 16 A Nah, nah. It's the 210 bottle.
- 17 Q A 210 bottle.
- 18 A Yeah.
- 19 Q Okay. So you had 880 some odd milliliters of vodka
- 20 that night.
- 21 A No. We all was sharing it.
- 22 Q You all were all sharing it.
- 23 A Yeah.
- 24 Q Again, would it surprise you that you told the police
- 25 you had four -- that you had four?

Anthony Copeland
Cross-examination by Mr. Shealy

1 A Yeah, but I still was sharing it with everybody out
2 there that was drinking.

3 Q Okay. Were y'all doing anything else that night?

4 A Nah.

5 Q You weren't smoking any marijuana?

6 A Yeah. I probably -- probably hit a blunt or two out
7 there.

8 Q Y'all may have hit a blunt or two?

9 A Yeah, a blunt or two.

10 Q There was no crack cocaine --

11 A Nah.

12 Q -- being used there?

13 A Nah.

14 Q Okay. So it would surprise you. How long had Cedric
15 been there?

16 A Cedric had been there for a minute.

17 Q Been there for a while.

18 A Yeah.

19 Q Would it surprise you that he had some crack cocaine
20 in his system?

21 A No. I don't think so.

22 Q You don't think he had any cocaine in his system?

23 A Nah, I don't know -- I don't think he did nothing like
24 that. He didn't do it around me.

25 Q So y'all didn't do it at this Norris Street. So if he

Anthony Copeland
Cross-examination by Mr. Shealy

- 1 did it, he didn't do it with you. Is that your testimony?
- 2 A Yeah. If he did it, he didn't do it around me.
- 3 Q All right. And at 5:00 o'clock in the morning was it
- 4 light or was it dark?
- 5 A It was still dark.
- 6 Q It was still dark?
- 7 A Yeah.
- 8 Q I know this was in July, you testified to, right?
- 9 A Uh-huh.
- 10 Q Gets light a little earlier, but it was still dark at
- 11 that point, is that right?
- 12 A Yeah.
- 13 Q And I'm looking at these pictures y'all have that the
- 14 solicitor's office has shown. And if you look at one,
- 15 doesn't look like there are many street lights around your
- 16 house. Is that accurate?
- 17 A Yeah, that's accurate. There's one across the street
- 18 though. There's a street light across the street.
- 19 Q It's across the street.
- 20 A Uh-huh.
- 21 Q Had you ever seen that particular gray car before?
- 22 A Nah, I never seen it.
- 23 Q But you're sure it was gray.
- 24 A Yeah. It was gray.
- 25 Q But you're not sure what kind.

Anthony Copeland
Cross-examination by Mr. Shealy

1 A Nah. I'm not sure what kind it was.

2 Q All right. Now, this was another thing I was confused
3 about when you were talking about my client. You testified
4 that this was the first time he'd ever come over to your
5 house, right?

6 A Yeah. That's the first time he'd ever been to my
7 house.

8 Q Okay. How long had you known him?

9 A I been knowing him for a good -- good many.

10 Q So you knowed him for a while.

11 A Yeah.

12 Q But he's never come over before.

13 A He just never came over to my mouse.

14 Q Okay. So whenever you say a minute, how long do you
15 reckon that is?

16 A I knowed him at least about six or seven years.

17 Q Six or seven years.

18 A Uh-huh.

19 Q Off and on or --

20 A Off and on; off and on.

21 Q But you -- did you ever know him to drive that
22 particular car before?

23 A I never -- I never knowed him to drive that car.

24 Q Not that car. Okay. And you've testified about white
25 gloves. They both were white?

Anthony Copeland
Cross-examination by Mr. Shealy

- 1 A Yeah. He had two white gloves on, yeah.
- 2 Q Two white gloves on.
- 3 A On his hands.
- 4 Q Okay. And he had been there 30 minutes, 45 minutes
- 5 before and there hadn't been any trouble.
- 6 A Nah, hadn't been -- I ain't heard nobody say nothing.
- 7 Q So nobody got -- even confronted anybody.
- 8 A Nah.
- 9 Q Just made -- just showed up and shot somebody
- 10 apparently.
- 11 A When he came back he did that.
- 12 Q Right. I understand that. But he just came back and
- 13 shot somebody.
- 14 A Yeah.
- 15 Q Now, how many slows do you know?
- 16 A He's the only slow I know.
- 17 Q Okay. And where is he from, do you know? Is he from
- 18 the south side or the north side?
- 19 A I knowed him when he used to be down in Prince Hall,
- 20 and then he used to be across town.
- 21 Q When you say Prince Hall, is that on the south side,
- 22 right?
- 23 A That's the south side.
- 24 Q Okay. And across town, would that still be across
- 25 town on the south -- southern part?

Anthony Copeland
Cross-examination by Mr. Shealy

- 1 A Over there by Northside.
- 2 Q Oh, that's over by Northside.
- 3 A Yeah. I see him on Northside, on that side too.
- 4 Q And where was he -- let me. Which of those did you
- 5 know him from most recently, I guess?
- 6 A Right there in Prince Hall.
- 7 Q In Prince Hall.
- 8 A Yeah.
- 9 Q On the south side of the --
- 10 A The south side.
- 11 Q Would it surprise you that you told the police that it
- 12 was the slow from the north side of town?
- 13 A I said I know him from over that side too.
- 14 Q Okay. But I can just tell you what you told the
- 15 police.
- 16 A Well, I'm just telling you where I know him from.
- 17 Q Now, you testified he just walked up initially, right?
- 18 Is that correct?
- 19 A Yeah.
- 20 Q Because he didn't drive up.
- 21 A Nah, he didn't drive up.
- 22 Q And did he say anything?
- 23 A I ain't never heard him say nothing, you know.
- 24 Q He didn't talk to you?
- 25 A Nah. He was talking to Jesse.

Anthony Copeland
Cross-examination by Mr. Shealy

- 1 Q Okay. Do you have any idea as to what they were
2 talking about?
- 3 A Nah.
- 4 Q They just were doing whatever they were doing.
- 5 A That's it.
- 6 Q Did he hit a blunt with you that you know of?
- 7 A Not that I know of.
- 8 Q No. How about the bourbon?
- 9 A Yeah, he drunk, drunk a little bit.
- 10 Q He had some.
- 11 A Yeah.
- 12 Q And I understand this party was going on for a good
13 long while.
- 14 A Yeah, a good little while.
- 15 Q Right. So maybe -- I understand you may not know
16 exactly how much liquor y'all drank, is that accurate?
- 17 A Yeah, that's accurate.
- 18 Q Okay. Do you have any idea as to -- and you said he
19 left with Antoine Bogan.
- 20 A Yes. He left with him.
- 21 Q In what vehicle did he leave?
- 22 A He left -- he left in a Lincoln.
- 23 Q In a gold Lincoln?
- 24 A Gold Lincoln.
- 25 Q Okay. Do you have any idea as to where Antoine took

Anthony Copeland
Cross-examination by Mr. Shealy

1 him?

2 A Nah.

3 Q All right. Did it seem strange to you that a guy just
4 walks up at 2:30 or 3:00 o'clock in the morning?

5 MR. BULSA: Objection, Your Honor. That calls for
6 speculation.

7 THE COURT: Well, he's asking him what's in his mind.
8 Overruled.

9 You may answer it if you have an answer.

10 BY MR. BULSA

11 A It didn't seem strange to me because I know him.

12 Q Okay. And y'all didn't ask him where he'd been?

13 A Nah.

14 Q Why he's just showing up now? Because, again, it's
15 been going on for a while.

16 A Nah. That ain't my business to ask him all of that.

17 Q Did you see any unsightly bulges, any guns on him?

18 A Nah.

19 Q Anything like that? Did he bring any liquor to the
20 party?

21 A Yeah. He was drinking when he came up.

22 Q When he came up. Okay.

23 A Yeah.

24 MR. SHEALY: That's all I have from this witness, Your
25 Honor.

Anthony Copeland
Redirect examination by Mr. Bulsa

1 MR. BULSA: Briefly in reply.

2 REDIRECT EXAMINATION

3 BY MR. BULSA

4 Q Mr. Copeland, were there any lights on in the house?

5 A Yeah. I had a T.V. on.

6 Q Okay. And how about, did you have a porch light on?

7 A Nah, I didn't have no porch light on.

8 Q Okay. How well could you see out there?

9 A I could see pretty good.

10 Q Did you -- did you ever go up to the car that he drove
11 up in?

12 A I never went to his car.

13 Q Okay. And when he came up was your attention focused
14 on him?

15 A Yeah, it was focused on him because he was shooting.

16 Q Okay. Did he start shooting -- all right. It's
17 pretty close to the tree. He pretty much got out of the
18 car and started shooting?

19 A Yeah, when he got by the tree.

20 Q Okay. Now, did that surprise you?

21 A Yeah. I fell off the porch and ran around beside the
22 house.

23 Q Okay. Had you had any problem with him before?

24 A Ain't never had no problems with him.

25 Q So do you have any reason to say -- to identify him as

Anthony Copeland
Recross-examination by Mr. Shealy

1 the person who did it --

2 A Nah.

3 Q -- if it --

4 A I just know who did it. I seen him.

5 Q Okay. Thank you. That's all I have.

6 RECROSS-EXAMINATION

7 BY MR. SHEALY

8 Q Just a few questions because I meant to ask this
9 earlier. You testified you fell off the porch and ran
10 around the side.

11 A The side, yeah.

12 Q Okay. I believe -- you can take a look at Exhibit
13 No. 8 here. This is the side of the house, right?

14 A Yeah, that's the side of the house.

15 Q Now, did you cut in front of the tree or did you cut
16 behind the tree?

17 A No. I fell on the side of the porch right there,
18 right there where the front door at. That's where I fell
19 off the porch at.

20 Q So you fell off the side of the porch into here.

21 A Yeah, right here, yeah.

22 Q And then you ran over here.

23 A Around on the side of the house right there.

24 Q Okay. So you didn't cut around or behind.

25 A No, uh-uh.

Anthony Copeland
Recross-examination by Mr. Shealy

- 1 Q And you were in this chair?
- 2 A Yeah. I was in that chair right there.
- 3 Q As opposed to that chair.
- 4 A That -- I told you right there by the door.
- 5 Q Right. I want to make sure that I'm following you.
- 6 A Okay. I'll let you know.
- 7 Q Okay. I am just asking. And you think you may have
- 8 knocked into that chair.
- 9 A Yeah. I probably knocked it over when I was running.
- 10 Q Now, is that the chair normally on the porch?
- 11 A Yeah, it's normally on the porch.
- 12 Q All right. And so whenever Cedric was shot he stood
- 13 up and then fell down on the porch?
- 14 A Yeah, fell off the porch.
- 15 Q Fell off the porch. Okay. And to your recollection
- 16 where was -- where was the car? He pulled up in front of
- 17 the mailbox?
- 18 A In front -- in front of the mailbox.
- 19 Q So he pulled up at the mailbox.
- 20 A Yeah.
- 21 Q And then walked to the side of the tree.
- 22 A The tree right there.
- 23 Q And that's when he opened fire.
- 24 A Yeah, that's when he opened fire.
- 25 Q Okay. And you've testified from your porch to that

Anthony Copeland
Recross-examination by Mr. Shealy

1 mailbox is about 10 feet?

2 A About ten.

3 Q About from you to --

4 A Yeah, right there.

5 Q Right.

6 MR. SHEALY: That's all I have.

7 MR. BULSA: I have nothing further.

8 THE COURT: You may step down.

9 Ladies and gentlemen, we're going to recess for the
10 afternoon.

11 Let me caution you that now that this case has begun
12 you're not permitted to talk about the case with any person
13 whatsoever in any fashion whatsoever.

14 So when you go home you may have a spouse or a child
15 or a friend or somebody that knows you have jury duty and
16 they want to know what you're doing. You just tell them
17 you can't talk about it until the case is over and you've
18 reached a decision. You're not to discuss it or allow
19 anybody to try to discuss it with you.

20 Also, don't conduct any research. Don't do your own
21 investigation into any issue that might arise during the
22 trial. You have to base your decision solely upon what you
23 see and hear during the trial. You can't supplement that
24 knowledge by consulting outside resources.

25 Also, don't permit yourselves to be exposed to any

Anthony Copeland
Recross-examination by Mr. Shealy

1 type of media coverage that might relate to the case. I
2 don't know if there'll be anything in the newspaper or on
3 the television or on the radio. But if there is you ignore
4 it. Turn it off, cut it off, don't read it. Put it aside.

5 Again, you have to base your decision upon what you
6 see and hear during the trial, and you can't supplement
7 that wealth of knowledge by reading newspapers or watching
8 television or radio or talking to other people.

9 With those cautions in mind, do have a good evening,
10 and please report to your jury room at 9:30 in the
11 morning -- 9:30 in the morning.

12 If you're not sure how to get back to that jury room
13 talk to the bailiffs. They'll provide you with those
14 directions.

15 Have a good evening. We'll see you at 9:30 in the
16 morning.

17 (The following takes place outside the presence of the
18 jury.)

19 THE COURT: Court's in recess until 9:30 in the
20 morning.

21 END OF PROCEEDINGS DECEMBER 10, 2012
22
23
24
25

Stephen McClure
Direct examination by Mr. Bulsa

1 (Proceedings December 11, 2012)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Are we ready for the jury?

5 MR. BULSA: Yes, sir.

6 MR. SHEALY: Yes, sir.

7 THE COURT: Okay. Bring them in, please.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: Good morning, ladies and gentlemen.

11 As you know, when we recessed yesterday the state had
12 begun with their presentation of evidence, so we'll
13 continue with that presentation this morning.

14 Mr. Bulsa.

15 MR. BULSA: The state calls Officer McClure.

16 STEPHEN MCCLURE, having been
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. BULSA

19 Q Officer, if you would, introduce yourself to us.

20 A My name is Officer Stephen McClure. I work with the
21 Spartanburg Public Safety Department.

22 Q And how long have you been with Public Safety?

23 A I've been with them a little over five and a half
24 years now.

25 Q What are your duties with them?

Stephen McClure
Direct examination by Mr. Bulsa

1 A Currently I'm assigned to the traffic unit. Before
2 that I was assigned to the uniform patrol division.

3 Q What were your duties back in July of 2011?

4 A That's when I was assigned to -- we call it
5 third-shift patrol division.

6 Q And did you have a certain area of the city that you
7 paroled -- patrolled?

8 A Yes, sir. I was assigned to the south side, which is
9 the area around Union Street, Pine Street areas, like that.
10 So I was assigned to the Duncan Park area specifically.

11 Q Okay. Now, on July the 25th of 2011, I believe that
12 was a Monday morning. Where did you get a call to go to?

13 A I got dispatched to [REDACTED] Norris Street, which is
14 located in the city of Spartanburg.

15 Q Is that within your normal zone?

16 A It's -- it's on the south side. It's not in my what
17 we call our C.O.P. zone, but it is in the south side area.
18 It's where I'm assigned to cover.

19 Q Approximately what time did you arrive at that
20 location?

21 A It was a few minutes before 5:00 o'clock a.m. It was
22 around sometime between 4:55 and 5:00 o'clock in the
23 morning.

24 Q What kind of call did you receive?

25 A It came in as a shooting.

Stephen McClure
Direct examination by Mr. Bulsa

1 Q And were you the first officer to arrive?

2 A Yes, I was.

3 Q Describe to the jury what you saw when you got there.

4 A When I arrived on the scene to Norris Street I
5 observed a black male that was laying on the ground in
6 front of the residence at [REDACTED] Norris Street. The gentleman
7 was laying on his back face up and looking up at the sky.
8 His feet and his shoes were still on the porch when we
9 arrived.

10 Q Did he appear to be alive or deceased to you?

11 A At the time when we arrived he appeared to still be
12 alive. You could tell it was a very grave situation. He
13 had like short choppy breaths. His eyes were wide open.
14 He wasn't blinking. We knew it was pretty serious when we
15 got there.

16 Q Was anybody around him?

17 A There were a few people gathered around. There was
18 one gentleman that was actually on the ground trying to
19 console him. And there were several people standing
20 around.

21 Q What did you do yourself?

22 A When I got there, the first thing we do is we try to
23 render aid. As I said, I noticed it was a very grave
24 situation. We already had an ambulance on the way.

25 The first thing we do is try to secure the area so

Stephen McClure
Direct examination by Mr. Bulsa

1 it's safe for E.M.S., which we did. We notified on our
2 radios that it was safe for E.M.S. to enter, so E.M.S. come
3 in and began their work on him.

4 At the same time we also separated people from the
5 victim, had people to step back just to secure the scene a
6 little bit and give him the space that E.M.S. needed to do
7 their job.

8 Q Did you have any reason to believe the shooter was
9 still on the site?

10 A No, we didn't.

11 Q Did you interact with any of the persons there
12 yourself?

13 A I did not. Like I say, my main goal was to secure the
14 crime scene, and then I assisted E.M.S. notifying them of
15 what I observed and stuff like that.

16 By the time that was -- by the time they had him
17 loaded into the ambulance on the way to the hospital other
18 officers had separated people. And my job was to make sure
19 the crime scene stayed secure.

20 Q Okay. So other officers. And did investigators show
21 up as well?

22 A They arrived a little bit later, yes, sir.

23 Q How about crime scene personnel that processed the
24 scene?

25 A I'm not sure if they arrived. They may have arrived

Stephen McClure
Direct examination by Mr. Bulsa

1 after I left, but I can't remember if they left before or
2 after.

3 Q So you might have already left. Where did you leave
4 to?

5 A I went to city hall. Investigator Porter asked me to
6 transport one of the witnesses to city hall, so I took that
7 gentleman back to city hall to be interviewed.

8 Q Do you remember which person you transported?

9 A Yes, sir. It was a gentleman by the name of Anthony
10 Copeland.

11 Q And did you speak with him at all during that trip?

12 A We didn't talk much, no. I just took him straight.
13 It's only a -- probably about a-minute-and-a-half drive to
14 city hall from there. So I just took him straight there.

15 Q What did you do after you dropped him off?

16 A Once I dropped him off I stayed with him in the room
17 for a little bit until Investigator Porter started speaking
18 with him, and then I proceeded to type up the report.

19 Q All right. Was this during your normal shift hours?

20 A It was, yes, sir.

21 Q Let me show you some photos. State's 5 and State's 7
22 were entered yesterday. Look at those -- and also look at
23 State's 9 for Identification -- and see if those portray
24 the scene.

25 A Yes, sir. They do.

Stephen McClure
Direct examination by Mr. Bulsa

1 Q Okay. Specifically, State's Exhibit 9, is that an
2 accurate representation of the items that you saw when you
3 observed the victim on the ground?

4 A Yes, sir, it is.

5 Q It doesn't show his body, but it shows some other
6 items.

7 A Yes, sir, yes, sir.

8 THE COURT: Be sure you use the microphone, please,
9 sir.

10 MR. BULSA: Your Honor, the state would offer State's
11 9 into evidence.

12 MR. SHEALY: No objection.

13 THE COURT: It's admitted.

14 (Photograph marked State's Exhibit No. 9.)

15 Q State's 5. Orient the jury. Where did you actually
16 park your patrol car?

17 A My patrol car would have been actually fairly close to
18 where the picture was taken from.

19 I drove -- I would have been coming -- if you are
20 looking at the picture, from the right side of the screen
21 is where I arrived from.

22 When I observed the victim laying on the ground and
23 the people flagged my attention down for the address, I
24 would have stopped -- stopped my vehicle. It would have
25 probably been in this area here. And more than likely I

Stephen McClure
Direct examination by Mr. Bulsa

1 would have blocked off this road by facing my -- the front
2 of my patrol car in this direction.

3 Q We see some yellow tape around some trees. What's
4 that?

5 A That's the crime scene tape to mark off the location
6 of the incident to secure that scene.

7 Q Okay. Now, when you pulled up where were all the
8 people gathered?

9 A Like I said, the victim was laying on the ground about
10 here.

11 There was a gentleman kneeling down beside him on this
12 side. There were -- let's see. There were several people
13 there. There was a couple of people standing near this
14 tree here, and then there were several people standing off
15 to this side. And of course by the time we were there more
16 people started gathering. But this is -- people were here
17 when I arrived on the scene.

18 Q This is a little more direct picture, State's 7.
19 State's 9, does this show the location of where Mr. Moss
20 might have been laying?

21 A Yes, sir.

22 Q Point to it for us.

23 A This area here. His head would have been up in this
24 direction, his back laying here. And, like I said, his
25 feet were still on the porch near where his shoes were.

Stephen McClure
Cross-examination by Mr. Shealy

1 Q Okay. All right. Thank you. Answer any questions
2 Mr. Shealy may have.

3 CROSS-EXAMINATION

4 BY MR. SHEALY

5 Q Just a few questions, Officer McClure.

6 You said your zone of -- your ordinary zone was over in
7 Duncan Park.

8 A Part of it, yes, sir.

9 Q Are there any other officers generally in this area at
10 that time?

11 A There can be. Just at the time usually we have
12 probably two or three officers per what we label as
13 districts, like district three is south side. There's
14 usually two or three officers on there that covers it
15 during third-shift hours.

16 Q So they may have been spread out.

17 A They could have been, yes, sir.

18 Q And you testified that you transported Mr. Copeland.

19 A Yes, sir.

20 Q Okay. Did you notice anything? And I guess you were
21 the first on the scene, correct?

22 A Correct, yes, sir.

23 Q Did you notice any -- any beer bottles, things like
24 that, vodka bottles?

25 A Honestly, I didn't. I didn't -- didn't notice any at

Stephen McClure
Redirect examination by Mr. Bulsa

1 the time.

2 Q You weren't looking for that.

3 A No, no, sir.

4 Q And can you describe Mr. Copeland's demeanor whenever
5 you -- you got him into your car?

6 A Yes, sir. He was, you know, upset. I think it was a
7 friend of his. Mr. Moss I believe was a friend of his. So
8 he didn't talk a whole lot when he was in the car with me,
9 but you could tell he was visibly upset that something had
10 happened.

11 Q Okay. Did he have the odor of alcohol on him?

12 A Yes, he did. He did smell of alcohol.

13 Q How about marijuana?

14 A I didn't smell any marijuana at the time, no, sir.

15 MR. SHEALY: That's all I have of this witness.

16 REDIRECT EXAMINATION

17 BY MR. BULSA

18 Q You say you didn't notice any alcohol containers
19 about?

20 A I didn't. I didn't notice any, no, sir.

21 Q So nothing like that stood out to you.

22 A Nothing stood out to me.

23 Q The yard wasn't littered with beer bottles or liquor
24 bottles.

25 A I -- I don't believe so. Like I said, I honestly

Brittany Robinson
Direct examination by Mr. Bulsa

1 didn't focus on that.

2 Q Okay. Let me show you pictures, State's Exhibit 9.

3 Do you even see any in that photo?

4 A No, I do not.

5 Q Okay. And you testified Mr. Copeland was upset and
6 smelled of alcohol. Did he seem to understand what was
7 taking place?

8 A Yes, sir, he did. He was coherent.

9 Q Did he seem to have his faculties about him?

10 A Yes, limited contact I had he did, yes.

11 Q Okay. Thank you.

12 MR. BULSA: Nothing further.

13 MR. SHEALY: I have nothing further.

14 THE COURT: You may step down.

15 MR. BULSA: We would ask that Officer McClure be
16 excused.

17 THE COURT: He may be.

18 (Whereupon, the witness was excused.)

19 MR. BULSA: The state calls Brittany Robinson.

20 BRITTANY ROBINSON, having been
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION BY MR. BULSA

23 Q Good morning, Ms. Robinson.

24 A Good morning.

25 Q Where do you live, ma'am?

Brittany Robinson
Direct examination by Mr. Bulsa

- 1 A I now live in the Duncan park area.
- 2 Q Okay. Make sure you speak up so we can hear you.
- 3 okay. And did you know Cedric Moss?
- 4 A Yes, I did.
- 5 Q Okay. How did you know him?
- 6 A He was a friend of the family.
- 7 Q So you had been knowing him for a long time?
- 8 A Well, a pretty little bit, for a good little bit.
- 9 Q How about Anthony Copeland? Did you know him?
- 10 A Yes.
- 11 Q How did you know him?
- 12 A Anthony?
- 13 Q Yes, ma'am.
- 14 A My best friend's sister is his baby-mama. And his
- 15 kids, I grew up around them since we was little kids.
- 16 Q Okay. Now, do you remember the day that Cedric died?
- 17 A Yes, sir, I do.
- 18 Q Were you at the house where it happened?
- 19 A Yes, sir, I was.
- 20 Q Can you tell us how you came to be there that night?
- 21 A Ced -- me, Ced and Crystal Ross. We was hanging the
- 22 night before about, I'd say about, 10:00. We started at my
- 23 house on Concord. I stayed on Concord when the incident
- 24 happened.
- 25 We stayed at my house, whatever. Started walking

Brittany Robinson
Direct examination by Mr. Bulsa

1 around Highland, and we walked up Norris Street and went up
2 to Boot's house. When we got to Boot-house, it was Boot,
3 Pooky. And the guy they named Slow was up there, was
4 sitting up there drinking, whatever. The guy Slow --

5 Q Let me stop you right there. Let's make sure the jury
6 understands. Who is Boot?

7 A Boot is Anthony Copeland.

8 Q Okay. And who is Pooky.

9 A Pooky is Jesse Worthy.

10 Q Okay. Thank you. Now continue.

11 Did you know the person Slow?

12 A No, I didn't. I never seen that guy before.

13 Q Never seen him before. Okay.

14 A No.

15 Q When you walked up with Cedric and Crystal --

16 A Ross.

17 Q -- those three men were outside?

18 A Yes, on Boot's porch drinking.

19 Q All right. And what happened?

20 A The man Slow was looking at Cedric kind of strange,
21 and I realized it, and I tapped Ced on the shoulder and
22 asked him why was he looking at him in that type of manner.
23 Ced told me back --

24 MR. SHEALY: Objection, Your Honor. That's going to
25 be hearsay.

Brittany Robinson
Direct examination by Mr. Bulsa

1 THE COURT: Sustained.

2 BY MR. BULSA

3 Q Ma'am, you can't tell us what Ced told you, but what
4 happened after Ced told you something?

5 A Me, Ced and Crystal walked back down Norris Street,
6 and we stayed down Norris Street, and we walked on around
7 for like an hour.

8 We went back up the street to Anthony's house, and we
9 got up there. We sat on the porch. I was sitting at
10 Boot -- at Anthony's door. Ced was sitting next to me, and
11 next to Ced was Crystal Ross. We was sitting out there
12 talking.

13 A brown -- a brownish-colored tan car pulled up,
14 2-door car, tinted windows with rims. It pulled up a
15 little bit past Anthony's mailbox. The man rolled his
16 window down a little bit. Anthony said who is that. Jesse
17 replied --

18 MR. SHEALY: Objection, Your Honor. That's hearsay.

19 Q You can't tell us what people were talking about.

20 Okay. Just tell us when the car pulled up what
21 happened.

22 A What happened, he rolled down his window. He got
23 outta the car, walked up towards the tree in Anthony's
24 yard, and he replied, "Niggers don't fight no more. They
25 shoot."

Brittany Robinson
Direct examination by Mr. Bulsa

1 MR. SHEALY: Objection, objection. She can't --

2 THE COURT: This is the person -- tell me who this
3 person is you're talking about.

4 THE WITNESS: Slow.

5 THE COURT: Okay. Overrule the objection.

6 MR. BULSA: Thank you.

7 BY MR. BULSA

8 A He got out.

9 Q Just so the jury understands it, the person that
10 walker -- got out of the car and walked up --

11 A Slow.

12 Q -- to the house, was it the same person you had seen
13 earlier at the house?

14 A Yes, slow.

15 Q That you knew to be slow?

16 A Yeah. That's who they say his name was -- slow.

17 Q Okay.

18 A As he walked --

19 Q Then what did he say?

20 A He walked up, and he got by the tree, and he said,
21 "Niggers don't fight no more. They shoot."

22 And after he said that he started shooting. The first
23 shot came past my ear, the fire. I jumped up quick and ran
24 through Boot house.

25 When I ran through Boot house everybody else ran. Ced

Brittany Robinson
Direct examination by Mr. Bulsa

1 tried to get away but one -- once he shot that first shot,
2 he went and started back shooting again. Sed fell down.

3 After I came back to the door I was screaming and
4 hollering or whatever. And Crystal Ross was asking the man
5 please don't shoot him no more, please don't. And she said
6 a prayer and prayed that the man don't shoot her.

7 By that time he still -- he was still standing over
8 Ced trying to shoot. The gun had done finally jammed up.

9 He walked back pointing his gun and got in his car and
10 got to the stop sign and made a left, and he left.

11 I came on out the door, and they were standing over
12 Ced trying to get him to breathe. By that time the police
13 rolled up.

14 Q Okay. Now, did you meet with the police that evening
15 or that morning?

16 A Yes, I did.

17 Q Were you able to identify who this Slow person was?

18 A Not at the time. I was in shock. I still was in
19 shock. I was -- it had done shocked me.

20 When he took that -- when he shot that first shot it
21 run like right past my ear, and he almost shot me. So if I
22 wouldn't have moved as quick as I did he would have shot
23 me. The first shot would have went and hit me.

24 Q Are you certain that the man you saw shoot was the
25 same man that had been there earlier that evening?

Brittany Robinson
Cross-examination by Mr. Shealy

1 A Yes, because the whole time me, Crystal and Cedric was
2 walking down Norris Street, Slow and Jesse was in a goldish
3 Lincoln with a Family Auto tag on it, and they just kept
4 going back and forth to a liquor house getting drinks. And
5 they would end up back up the street at Anthony's house on
6 Norris Street.

7 Q Okay. So can you identify who that Slow was?

8 A At the time when they got me to the city hall I
9 couldn't identify him, but now that I'm in here now and I
10 see him, it's the man right there. That's him.

11 Q The man right where?

12 A Right there.

13 Q Sitting at the counsel table?

14 A Yes.

15 Q Okay. Thank you, Ms. Robinson. Answer any questions
16 Mr. Shealy may have.

17 CROSS-EXAMINATION

18 BY MR. SHEALY

19 Q All right. Ms. Robinson, so you testified that you
20 spoke with the police immediately after this happened,
21 correct?

22 A Yes.

23 Q Not maybe an hour.

24 A No. It wasn't no hour.

25 Q So it would have been even sooner after this than an

Brittany Robinson
Cross-examination by Mr. Shealy

1 hour.

2 A Right. Right after it happened they called the
3 police. The police arrived. The detective -- Detective
4 Porter arrived, and I left. The detective, Porter, got me
5 a ride to the city hall, and I went up there and I talked
6 with Detective Porter and did my report.

7 Q Okay. And you wanted that report to be helpful,
8 correct?

9 A Yes.

10 Q Because you wanted that. And you wanted that report
11 to be accurate?

12 A Yes.

13 Q Is that correct? And you wanted it to be complete,
14 correct?

15 A Yes.

16 Q Okay. And you talked to an Officer Nelson, didn't
17 you, that big fellow right there sitting in the corner?

18 MR. SHEALY: Officer Nelson, stand up please so she
19 can see you.

20 (Whereupon, Officer Nelson stood.)

21 A Oh, yes.

22 MR. SHEALY: Thank you, Officer Nelson.

23 Q And he showed you six pictures, didn't he?

24 A Yes.

25 Q Showed you six of them one at a time, correct?

Brittany Robinson
Cross-examination by Mr. Shealy

- 1 A Yes.
- 2 Q Okay. And he gave you plenty of time to decide
3 whether that's the person you saw or that's not the person
4 you saw, isn't that true?
- 5 A Yes.
- 6 Q Okay. And when you had looked at those pictures --
7 you looked at them twice, didn't you?
- 8 A Yes. At the time I couldn't -- I wasn't.
- 9 Q And you didn't pick anybody out, did you?
- 10 A No, I did not. At the time I was still frightened
11 about what had done happened. He almost shot me. I was
12 fear -- I was frustrated and fuse -- confused. I couldn't
13 do it.
- 14 Q I'm going to show you, Ms. Robinson, what's been
15 marked as State's Exhibit 7. Ms. Robinson, you testified
16 that you were sitting over here?
- 17 A I was sitting in that -- I was sitting in that first
18 chair right there.
- 19 Q This chair right here.
- 20 A Yes.
- 21 Q You were sitting in this chair.
- 22 A And Cedric Moss was sitting next to me.
- 23 Q Okay.
- 24 A And there was a chair next to Cedric Moss that --
25 which was -- well, Crystal Ross was sitting in it.

Brittany Robinson
Cross-examination by Mr. Shealy

- 1 Q Okay. So Crystal was sitting here; Cedric Moss was
2 sitting here; and you were sitting here.
- 3 A Yes.
- 4 Q Okay. And where was Boot?
- 5 A Anthony Copeland was sitting on the other side of the
6 door.
- 7 Q He was over here?
- 8 A Yes.
- 9 Q Okay.
- 10 A And Jesse -- and Jesse was sitting on the porch.
- 11 Q He was sitting --
- 12 A Next -- no. Next to Anthony.
- 13 Q Okay. So on the porch ledge next to -- about right
14 there, right here?
- 15 A No, not --
- 16 Q If you would, step out and use this pointer. It's the
17 red button. You can point to where he was.
- 18 A Right over -- right there at the edge of the porch
19 over there.
- 20 Q Okay. But he was sitting on the actual porch?
- 21 A Yeah.
- 22 Q All right. And where was -- you said by the tree is
23 the allege -- is the shooter. Somewhere in this area?
- 24 A Yes.
- 25 Q Okay. And he shot past your ear, you said, right?

Brittany Robinson
Cross-examination by Mr. Shealy

1 A Yes.

2 Q Did it go into the air conditioning unit?

3 A It went in -- in -- in the -- on the building and hit
4 the power.

5 Q It went into the panel.

6 Okay. All right. And we have heard testimony. I just
7 want to make sure I understand the lighting situation.
8 Y'all didn't have a porch light on.

9 A No.

10 Q There's a street light across the way, across the
11 street.

12 A They weren't.

13 Q There wasn't a street light across the street?

14 A There's one out there.

15 Q There is one out there, right?

16 A There's one out there.

17 Q It's across the street, correct?

18 A Yeah.

19 Q Okay. And I guess there was a television on, is that
20 correct?

21 A At Anthony's house.

22 Q Inside the house.

23 A Inside the house.

24 Q Okay. Now, have you done any research on this case
25 since you spoke with the police?

Brittany Robinson
Cross-examination by Mr. Shealy

1 A What you mean?

2 Q Looked for a picture of the person that they arrested,
3 things like that?

4 A No.

5 Q No. All right. I want to understand what happened
6 with leading up to the shooting.

7 When the gold or brownish Honda pulled up and it
8 stopped, what happened then?

9 A He rolled down his window where you could see.

10 Q I mean, don't testify to what people told you.

11 A I'm telling you what I saw. I'm not telling you what
12 nobody told me. I'm telling you what my eyes saw.

13 He rolled down his window to where you could see from
14 his forehead to his chin. Then from my understanding from
15 what I saw I was thinking maybe he was going to do a
16 driveby. But since he didn't -- he got on out of the car
17 and he walked up, and he by the time he got to the tree
18 pulled out a gun and he said, "Niggers don't fight no more,
19 they shoot." And he started shooting.

20 Q Okay. And I'm not asking you what they said. But did
21 he ever speak with Jesse or Boot before the shooting?

22 A What you mean?

23 Q Did he --

24 A He was up there with them all of that night.

25 Q Not all of that night. I mean right after he pulled

Brittany Robinson
Cross-examination by Mr. Shealy

- 1 up did he speak to Jesse and Boot, or Anthony -- excuse me.
- 2 A Yeah.
- 3 Q He did speak with them.
- 4 A Yeah. He let them know who he was.
- 5 Q So he talked to them.
- 6 A And he got on out of the car.
- 7 Q And then he shot.
- 8 A Yeah. He walked up and started shooting.
- 9 Q So he lets them know who he is and then shoots them.
- 10 Now, would it surprise you that you told the police
- 11 that you couldn't see his face?
- 12 A When he walked up after he started shooting I couldn't
- 13 really picture his face after that.
- 14 Q No.
- 15 A So, no, it don't surprise me.
- 16 Q That you couldn't -- or you told the police
- 17 immediately thereafter just that you couldn't see his face.
- 18 A No.
- 19 Q You didn't say that?
- 20 A I said, no, I couldn't after he --
- 21 Q You couldn't see his face.
- 22 Okay. So despite that you're sure now that that's the
- 23 guy who did it.
- 24 A Yes.
- 25 Q So despite having told the police you couldn't see

Brittany Robinson
Cross-examination by Mr. Shealy

1 him, today, a year and a half after it allegedly

2 happened --

3 A Yeah. I know what's happened.

4 Q -- you know who it is.

5 A Yeah. I know that's him.

6 Q And it isn't just because he's sitting at the
7 defendant's table, right?

8 A No, it's not just that. No, it's not.

9 Q Now, when you and Mr. Moss and Crystal left, you left
10 about an hour before the shooting, is that correct?

11 A Yeah.

12 Q It was about an hour. And I understand you weren't
13 looking at a clock, but/and it's your testimony that my
14 client was still there when y'all left.

15 A When we left, he was there.

16 Q He was still there. So he saw y'all leave.

17 A Yeah.

18 Q Where did y'all go?

19 A We went down Norris Street.

20 Q Down Norris Street?

21 A Yes.

22 Q Did you go to another house --

23 A No.

24 Q -- or where did you go?

25 A We was just walking.

Brittany Robinson
Cross-examination by Mr. Shealy

- 1 Q Just walking.
- 2 A Just walking around.
- 3 Q Okay.
- 4 A By the time we got back up there he was gone.
- 5 Q Okay. And were you with Mr. Moss the whole time, or
- 6 did somebody drop him off, somebody bring him back?
- 7 A When -- when we walked back down Norris Street he got
- 8 in the car and said he was going home. Then he did not go
- 9 home. He got back outta the car and went to Boot's house,
- 10 Anthony's house.
- 11 Q Okay. With you and Ms. Ross?
- 12 A Yeah.
- 13 Q Okay. Now, one more thing I want to talk to you about
- 14 because I may have misunderstood this.
- 15 When did you -- I guess y'all were hanging out, you
- 16 said, the night before.
- 17 Would that have been the 23rd or would that have been
- 18 the 24th?
- 19 A The 24th. He got shot the 25th.
- 20 Q Right. The early morning of the 25th. So it was
- 21 still that same night. So y'all were hanging out at your
- 22 house on Concord?
- 23 A Yes, yes.
- 24 Q And how far is away from Norris Street?
- 25 A It's about a couple -- you'll be on Norris Street.

Brittany Robinson
Cross-examination by Mr. Shealy

1 Once you hit the bottom of my street, once you hit the
2 bottom of Concord Avenue, you'll be in the middle of Norris
3 Street.

4 Q So y'all are fairly close.

5 A Close, yes.

6 Q You're fairly close to Anthony's house.

7 A Yes.

8 Q Okay. And where is Cedrick's house or where was
9 Cedric's house?

10 A Cedric stayed -- I don't know where Cedric stayed.

11 Q And before that night you testified you didn't know
12 this person they called Slow at all.

13 A No.

14 Q All right. All right. And, now, you testified
15 obviously that your memory has gotten better over time.

16 What exactly was my client wearing that night?

17 A I can't remember.

18 Q You don't know at all?

19 A I can't remember it. I can't remember.

20 Q Okay.

21 MR. SHEALY: I have got nothing further for this
22 witness.

23 MR. BULSA: Nothing further, Your Honor.

24 THE COURT: You may step down.

25 MR. BULSA: The state calls Crystal Ross.

Crystal Ross
Direct examination by Mr. Bulsa

- 1 CRYSTAL ROSS, having been
2 first duly sworn, testified as follows:
3 DIRECT EXAMINATION BY MR. BULSA
4 Q Good morning, Ms. Ross.
5 A Good morning.
6 Q How old are you, ma'am?
7 A Twenty-five.
8 Q Where do you live now?
9 A [REDACTED] Norris Street.
10 Q So you actually live at the place where this happened?
11 A Yes, sir.
12 Q When did you move there?
13 A December of last year.
14 Q Where did you live when this happened?
15 A 501 Highland Avenue.
16 Q Is that close by?
17 A Yes, sir.
18 Q Within walking distance?
19 A Yes, sir.
20 Q How did you know Anthony Copeland?
21 A He was my friend-sister's baby-daddy.
22 Q And did you know Brittany Robinson?
23 A Yes, sir.
24 Q Was she a friend of yours?
25 A Yes, sir.

Crystal Ross
Direct examination by Mr. Bulsa

1 Q How about Cedric Moss?

2 A He was a close friend.

3 Q And how about this person named Pooky -- Jesse Worthy?

4 A I know of him from being in Highland, but I really
5 didn't know too much about him.

6 Q Okay. Do you recall the day that Cedric died?

7 A Yes, sir.

8 Q Were you at the house when it happened?

9 A Yes, sir.

10 Q Would you tell us what you remember happening?

11 A We was all sitting on the porch, on Anthony Copeland's
12 porch. It was me, Brittany Robinson, Ced Moss, Anthony
13 Copeland and Jesse Worthy. We's all sitting out there
14 laughing and tripping.

15 Then all of a sudden brown 2-door beige Honda, dark
16 tinted windows, pulled up coming out Highland Avenue. It
17 turned on Norris Street.

18 It went all the way down and made a U-turn at the stop
19 sign and came back cruising slow back past Anthony
20 Copeland's house. It stopped. It stopped at Boot, which
21 is Anthony Copeland's mailbox.

22 He tipped the window down. He was told to get out and
23 chill with them. So he got out of the car.

24 He walked in the yard. He said, "Niggers don't fight
25 no more. We shoot." He started firing from the left side

Crystal Ross
Direct examination by Mr. Bulsa

1 of the tree.

2 The first two bullets passed me and Brittany Robinson.
3 She get up and run in Anthony Copeland's house. The dogs
4 scared her, and ran her back out. She stood in the door.
5 She was just screaming.

6 When the first two bullets went off Ced -- I mean, Ced
7 was still sitting; I was still sitting. Anthony Copeland
8 and Jesse fell off the porch.

9 Ced got up and tried to run and the little -- the
10 little red that was on the left side of the porch -- the
11 right side of the porch -- the third bullet caught him. He
12 fell off the porch on his back. Shoes still on the porch.
13 Feet was still on the porch.

14 I got up. I started screaming. I was standing a
15 couple of -- a couple of steps away from Ced when he fell
16 on the ground.

17 He continued to keep shooting. Slow continued to keep
18 shooting. I begged him to stop shooting. I closed my eyes
19 and said a prayer. As I opened my eyes he was backing back
20 from Ced getting in the car. He took off and went back out
21 Highland Avenue.

22 Q Did you know that man?

23 A No. I never seen him a day in my life besides that
24 day, the night he came shooting. And earlier that day we
25 bumped heads with him on Anthony Copeland's porch.

Crystal Ross
Direct examination by Mr. Bulsa

1 Q So you were at the house earlier?

2 A Yes, sir.

3 Q Were you there with Brittany Robinson and Ced?

4 A Yes, sir.

5 Q Do you see the person in the courtroom that did this?

6 A Yes, sir.

7 Q Point him out to the jury.

8 MR. SHEALY: Objection, Your Honor, based on my
9 previous objection.

10 THE COURT: Overruled.

11 You may answer the question.

12 BY MR. BULSA

13 Q I think you were pointing as he objected. Point
14 again.

15 A He's sitting there with the white shirt on.

16 Q Okay. You're certain that's the person who shot at
17 Cedrick?

18 A Yes, sir.

19 Q Did you identify him to the police that night?

20 A Yes, sir.

21 Q What did you do after he drove off?

22 A I started screaming and jumping and knocking on
23 everybody's door.

24 The next set of buildings, it was at the blue duplex,
25 the gray-blue duplex. I went down there and both -- both

Crystal Ross
Direct examination by Mr. Bulsa

1 persons who lived there -- both duplex came out. And I --
2 I was still screaming and yelling. And they were asking me
3 what was wrong.

4 It was a man laying on the porch on his back, which is
5 known as Bull. He jumped up, and he was like, "Crystal, is
6 everybody all right?" I still couldn't talk at the moment
7 because I was still in the shock.

8 So the girl Crystal came out her door at one -- 106.
9 And she called the ambulance, and when the ambulance
10 arrived -- the police arrived before the ambulance did.
11 And then I seen Scottie Pippen. He took me and Brittany
12 Robinson back to his car and was questioning us and asking
13 us could we go up to the city hall and do a statement. We
14 told him yeah. He took us to the city hall.

15 Q You called the name Scottie Pippen. Is that what you
16 know this officer as?

17 A Yes, sir.

18 Q Scottie Pippen is a basketball player, is that right?

19 A Yes, sir.

20 Q He reminds you of Scottie Pippen?

21 A Yes, sir.

22 Q Okay. All right. So who all went up to city hall?

23 A Me and Brittany rode in the same car up to the city
24 hall. And Jesse -- I mean, Anthony Worthy got in the car
25 with another policeman.

Crystal Ross
Cross-examination by Mr. Shealy

1 Q Anthony Copeland?

2 A Jesse refused to go do a statement. He said he was
3 too intoxicated, too drunk at the time.

4 Q Just the three of you went up there.

5 A Yes, sir.

6 Q Thank you, ma'am. Answer any questions Mr. Shealy
7 has.

8 CROSS-EXAMINATION

9 BY MR. SHEALY

10 Q All right. Ms. Ross, you testified that -- and I want
11 to understand how this all happened. I guess you were here
12 when Ms. Robinson testified, correct? You were in the
13 courtroom?

14 A Yes, sir.

15 Q Yeah. So y'all were all at her house, is that
16 correct, at the beginning of the night?

17 A We was all walking. Me, Ced and Brittany was walking
18 around.

19 We was down at the bottom of Norris Street. When we
20 walked up to the -- it was just getting dark when we walked
21 up to Anthony Copeland's house. And when we arrived up
22 there it was slow, Anthony Copeland, Boot, I mean, Jesse
23 worthy. It was Anthony Copeland's stepbrother, and another
24 guy was already up there on the porch getting drunk.

25 Q Okay.

Crystal Ross
Cross-examination by Mr. Shealy

1 A So me, Brittany and Ced sat down, and Slow looked at
2 Ced, gave him a look like he could have went through him
3 then. But Brittany Robinson didn't understand why. So she
4 tapped him and she asked Ced why was he looking at him like
5 that.

6 Q Okay. Well, you can't testify to what other people
7 said, okay, but you were with them earlier in the night, is
8 that right?

9 A Yes, sir.

10 Q And y'all got there about when it got dark. So that
11 would have been, what, maybe 8:00 or 9:00 o'clock that
12 evening?

13 A It was still daybreak, but you could tell it was
14 getting dark.

15 Q Okay. So maybe 6:00 or 7:00 in the evening?

16 A It was somewhere around in there.

17 Q So it would have been in July. So it would have been
18 a little bit later than it gets dark now, right?

19 A Yes.

20 Q Okay. So y'all got down there about 6:00 or 7:00.
21 And we've had testimony already that y'all didn't leave
22 until about an hour before the shooting happened, is that
23 right?

24 A Well, when we left Anthony Copeland -- the four of us,
25 we went back down Norris Street, and we was still walking

Crystal Ross
Cross-examination by Mr. Shealy

1 around tripping. We stopped at the hot-dog-man house and
2 got some hot dogs. Then we headed back up and stopped at
3 the bottom of Concord. That's where we sat at. We was
4 trying to wait on the Beacon to open.

5 And then he was -- Ced Moss was fixing to leave. He
6 got in the car and drove up to the stop sign, and he got
7 outta the car. And he flagged me and Brittany Robinson to
8 come on Boot porch, on Anthony Worthy porch.

9 Q Which stop sign are you walking, a stop sign from
10 Concord to Norris?

11 A The bottom of Concord and head back up Norris Street
12 and facing Highland Avenue. Like if you cross the street,
13 you'll be on Norris Street in front of Anthony Copeland's
14 house.

15 Q Okay. But you were at this -- I guess what I'm asking
16 is how long were you at the porch at Boot's house, at
17 Mr. Copeland's house.

18 A Before we left and went back down?

19 Q Yeah, before you left and went back down.

20 A We wasn't there that long because Brittany was asking
21 him why Slow was looking at him like that. So he got up
22 and told us to come on.

23 Q But you got there right whenever -- you got there
24 before it was getting dark --

25 A Yes.

Crystal Ross
Cross-examination by Mr. Shealy

- 1 Q -- or right before it got dark?
- 2 A It was getting dark.
- 3 Q It was getting dark. So we've decided that's about
- 4 6:00 or 7:00 p.m., right?
- 5 A I guess it was.
- 6 Q And the shooting didn't take place until about
- 7 5:00 o'clock in the morning on the 25th, right, maybe a
- 8 little bit before that?
- 9 A We left Anthony Copeland's porch way before the
- 10 shooting. We went back down Norris Street.
- 11 Q So it was much more than an hour.
- 12 A Yes.
- 13 Q Okay. So about how long do you think it was?
- 14 A We was at the bottom of Concord Street for a couple of
- 15 hours just laughing and tripping.
- 16 Q And how do you know Jesse, or do you know Jesse?
- 17 A I know him from being in Highland.
- 18 Q But you don't know him well?
- 19 A He's a close friend of Anthony Copeland, and he always
- 20 was at Anthony's house.
- 21 Q So y'all were sometimes at Anthony's house at the same
- 22 time, so y'all would interact at that point.
- 23 A Yes.
- 24 Q Now, can you describe what my client was wearing?
- 25 A He was wearing all black, black stocking cap with

Crystal Ross
Cross-examination by Mr. Shealy

1 nothing on his face, white socks on his hands.

2 Q white socks on his hands?

3 A Yes.

4 Q Okay. And this was when he was on the porch around
5 7:00 o'clock that evening?

6 A No. This was when he pulled up to do the shooting.

7 Q Well, what was he wearing when he was on the porch?

8 A I can't remember.

9 Q You don't remember that. But when he did the shooting
10 he was wearing black, a stocking cap, you said, but it
11 wasn't pulled over his face. There was nothing on his
12 face.

13 A No, sir.

14 Q Was it rolled up?

15 A It was just a stocking cap. He had on all black and
16 didn't have nothing on his face but a black stocking cap.

17 Q But you don't remember what he was wearing earlier
18 that day?

19 A No, I don't.

20 Q All right. Now, I want to make sure. Again, we've
21 had some other people testify as to what they remember the
22 lighting situation being. I want to get your
23 understanding, what the lighting situation. Y'all didn't
24 have the porch light on, correct?

25 A No. The street light across the street was bright

Crystal Ross
Cross-examination by Mr. Shealy

1 enough to see in his yard.

2 Q Right. But it's -- it's across the street, right?

3 A Yes, sir.

4 Q Again, because there's been some inconsistency, I just
5 want to make sure that I understand where everything was.

6 And the television on the inside of the house was on,
7 right?

8 A Yes.

9 Q And you testified as to where everybody was sitting.
10 And, again, I want to make sure I understand where people
11 were sitting. Were you sitting here or was Ms. Robinson
12 sitting here?

13 A That was Brittany Robinson. Ced Moss was in that
14 middle, and I was the right side of. There was another
15 chair there, and I don't know why or where it went to.

16 Q You were in a chair.

17 A Huh?

18 Q You were in a chair.

19 A Yeah.

20 Q Sitting there?

21 A Yes. And the chair that's on the ground in sideways
22 to your left, that's the chair Anthony Copeland got out of.

23 Q Let me see if I can hunt that picture down.

24 (Pause.)

25 Q I show you State's Exhibit No. 8. Okay. That chair

Crystal Ross
Cross-examination by Mr. Shealy

1 there?

2 A Uh-huh.

3 THE COURT: Please answer yes or no for the benefit of
4 the court reporter.

5 A Yes, sir.

6 THE COURT: What was your answer to that question?

7 THE WITNESS: Yes, sir.

8 BY MR. SHEALY

9 Q This is State's Exhibit 8, and pointing at this chair
10 off the side of the porch. So Anthony Copeland was in that
11 chair.

12 A Yes, sir.

13 Q And he hopped up, and it fell over, and he went off
14 over here somewhere, right?

15 A Yes, sir.

16 Q Okay. And Jesse was sitting on the porch here.

17 A Yes, sir.

18 Q Okay. Which side was he facing? Was he facing this
19 side or was he facing the tree?

20 A I can't remember. I just know he was sitting on the
21 edge of the porch.

22 Q Okay. So he's sitting on the edge. You're not sure
23 where he was facing apparently.

24 Now, how many times -- you testified that there was a
25 lot of shooting going on. How many times did you actually

Crystal Ross
Cross-examination by Mr. Shealy

1 hear shots?

2 A It probably let off about -- the first two passed me
3 and Brittany. The third one caught Ced going off the
4 porch. He landed on his back with his feet still on the
5 porch, and shoes.

6 And he co -- he tried to reach over and cover his
7 wound, and I guess he thought he was grabbing for a gun,
8 but he was trying to cover the wound from the third bullet
9 that hit him. And he -- as he was covering the wound he
10 walks on the left side of the tree around to the right side
11 walking up to Ced.

12 He moved Ced's hand and told him it ain't going down
13 like that. And he stood over him, and he was shooting.

14 Q So --

15 A I would say the gun probably let off about -- about
16 five or six times.

17 He -- it had like -- it got jammed two -- it got
18 jammed two times while he was standing over him. And as
19 the gun got jammed, that's when I was telling him please,
20 just please, stop shooting. I closed my eyes.

21 Q Okay. I'm going to show you State's Exhibit No. 7.
22 This is news to me. So, now, what you're telling me
23 happened is there was a -- the shooting happens. The
24 shooter is here.

25 A No. When he started out shooting he was on the utter

Crystal Ross
Cross-examination by Mr. Shealy

1 [sic] side of the tree.

2 Q He was on this side of the tree.

3 A Yeah. He started shooting at the time he got out of
4 the car and walked up to the driveway and got to this side
5 of the tree.

6 Q So just as soon as he got out of the car he starts
7 shooting.

8 A Well, when he got outta the car he -- he was -- he
9 said something to Jesse. And then he was like, "Man,
10 niggers don't shoot no more, I mean, fight no more. We
11 shoot." And then he started shooting.

12 Q I'm going to show you this that's been marked State's
13 Exhibit 6, and it's the far, kind of a panoramic view.

14 My understanding from your testimony is he pulls up to
15 the mailbox, correct?

16 A Yeah, a little bit past the mailbox.

17 Q A little bit past. So back here or over here?

18 A No. He pulled up a little bit.

19 Q Right here. If you'll just step down and show us
20 where he --

21 (Whereupon, the witness left the stand.)

22 A He pulled up a little bit right here.

23 Q So he actually pulled into the driveway?

24 A No. He was on the curb.

25 Q He was on the curb.

Crystal Ross
Cross-examination by Mr. Shealy

1 A Right here.

2 Q Okay. And you can have a seat back in the witness
3 box.

4 (Whereupon, the witness returned to the stand.)

5 Q He rolled down his window, got out and immediately
6 started shooting.

7 A Yes.

8 Q Okay. And he was shooting as he was walking towards
9 the tree?

10 A He started shooting when he got about right there.

11 THE COURT: Excuse me.

12 You're going to have to use the microphone because the
13 court reporter nor I can hear, and perhaps some of the
14 jurors cannot either. You can adjust the microphone if you
15 need to. It moves around.

16 MR. BULSA: Your Honor, it appears she may need to
17 step back down.

18 THE COURT: Well, if she needs to, she may. You'll
19 have to stand under this microphone then.

20 (Whereupon, the witness left the stand.)

21 THE COURT: Ms. Ross, if you'll come back, do you see
22 that microphone above you? All right.

23 BY MR. SHEALY

24 A When he pulled up and got the car -- he pulled up
25 right here, and he was told to get outta the car. So when

Crystal Ross
Cross-examination by Mr. Shealy

1 he got outta the car he walked up about right here. He
2 started shooting.

3 When the first two shots passed me and Brittany
4 Robinson, Ced got up, and he tried to run under that rail
5 right there.

6 As he got up the bullet caught him about right here
7 and blew him off the porch, and he landed right here, and
8 his feet was still on the porch with his bedrooms.

9 And when the third bullet had caught him, he tried to
10 reach over with his left hand to cover the wound about
11 right here.

12 And I guess he thought Ced was grabbing for a gun or
13 thinking, and then he walked from this side of the tree
14 around. And he was like -- he moved his hand. It was
15 like, nah, it ain't going down like that, and he just
16 started shooting standing over.

17 (Whereupon, the witness returned to the stand.)

18 Q So it's your testimony that the person who did the
19 shooting actually reached down and moved Mr. Moss' hand?

20 A Yes. He moved his hand.

21 Q And fired some number of times, at least I guess tried
22 to fire, what, maybe four or five times? But it jammed.

23 A I guess the end of the clip, I guess. Wasn't no more
24 in there.

25 Q Okay. And this gun, it's your testimony the clip --

Crystal Ross
Cross-examination by Mr. Shealy

1 you think it had a clip in it?

2 A I don't know what it had in it.

3 Q Okay. So you didn't see the gun very well?

4 A I just seen he had white socks over his hand and
5 looked like it was silver. But I couldn't really see that
6 far I was so out of it, so.

7 Q All right. The last things I want to ask you about,
8 Ms. Ross, is do you recall giving a statement in this case.

9 A Would you repeat yourself?

10 Q Sure. Do you remember writing a statement in this
11 case?

12 A Yes, sir.

13 Q And I'm going to hand you what's -- I have got page
14 three of three. It's the third page of your statement if
15 you'll look that over.

16 (Pause.)

17 Q Do you recall telling the officer that you didn't see
18 the person who did the shooting's face real good?

19 A I remember telling -- when Scottie Pippen asked me the
20 first time could I do a lineup, I really told him I
21 couldn't because I never seen him before unless I closed my
22 eyes and pictured the whole thing from the beginning when
23 he started -- when he pulled up to get out to start
24 shooting.

25 Q Okay. But you don't remember? Well, you don't

Crystal Ross
Cross-examination by Mr. Shealy

1 remember saying to the answer -- to the question, "would
2 you recognize him if you saw him again?" Saying, "It's
3 hard to say because I didn't get to see his face good." I
4 think I handed you the wrong page. This is page two of
5 three. The answer to that question, do you remember saying
6 that?

7 A At the time when he answered that question I did say
8 it, but because at the first time I couldn't. I was so out
9 of it at the time he asked could I do a lineup, I told him
10 I couldn't unless I was going to line up the scene all over
11 from the beginning.

12 And when he showed me the picture, that's what I did.
13 I closed my eyes. I could never forget that face because
14 he pointed a gun at me after I told him to stop shooting,
15 please stop shooting. That's what made me close my eyes
16 and say a prayer.

17 But when he asked me at the time could I do a lineup,
18 I did tell him that I couldn't unless I was going out the
19 scene all over from the beginning.

20 So he laid them, the whole sheet of lineup, out to me.
21 That's what I did. I closed my eyes and I pictured the
22 scene all over again. When I opened my eyes, I pointed
23 right at the picture.

24 Q Okay. But you did say, "I didn't see his face good."
25 You told him that. You told the officer that. Isn't that

Crystal Ross
Redirect examination by Mr. Bulsa

1 accurate?

2 A He asked me the question can I do a lineup, I told
3 him. I told them that I don't think I can do the lineup
4 because I didn't see him good unless I was lined up the
5 scene all the way from the beginning. I always remember
6 his face because he turned around and pointed a gun at me.
7 He didn't have no mask on.

8 Q Ma'am, I'm asking you. You were asked would you
9 recognize him again. And isn't it true that you said it's
10 hard to say because I didn't get to see his face good? You
11 signed that statement. Isn't it true you said that?

12 A Yes. I said it.

13 Q Thank you.

14 MR. SHEALY: I have nothing further for this witness.

15 MR. BULSA: Just briefly.

16 REDIRECT EXAMINATION

17 BY MR. BULSA

18 Q Ms. Ross, were you on the porch the whole time this
19 incident happened?

20 A Yes, sir.

21 Q You didn't run off --

22 A No, sir.

23 Q -- or run away? So you actually watched the whole
24 thing except when you closed your eyes to say a prayer?

25 A Yes, sir.

Crystal Ross
Redirect examination by Mr. Bulsa

1 Q And I think the comment he was talking to you about,
2 that was the statement you gave the first officer. It
3 wasn't to this officer, was it?

4 A I think it was to Scottie Pippen because he was the
5 first person that showed me the lineup. When I got to the
6 city hall, that was the first officer I spoke to.

7 Q Right. Do you remember talking to somebody at the
8 crime scene?

9 A I can't remember.

10 Q You don't remember that. Okay. But even if you did
11 tell that officer that -- and you certainly did, because
12 you've signed it -- you might not have thought you could,
13 but you certainly did pick him out, didn't you?

14 A Yes, sir.

15 Q Is there any doubt that the person you picked and
16 identified in the courtroom is the man you saw shooting?

17 A Yes, sir.

18 Q So there's no doubt at all about that, is there?

19 A He -- that was the right one.

20 Q Okay. Thank you.

21 MR. SHEALY: I've got nothing further of this witness.

22 THE COURT: You may step down.

23 MR. BULSA: May we approach, Your Honor?

24 THE COURT: Okay.

25 (Bench conference held off the record in the presence

Jesse Worthy
Direct examination by Mr. Bulsa

1 of the jury but out of the hearing of the jury.)

2 THE COURT: All right. Ladies and gentlemen, we're
3 going to take a short break before we go further.

4 So please go to your jury room, but do not yet discuss
5 the case in any fashion. I'll bring you back after that
6 short break to continue.

7 (The following takes place outside the presence of the
8 jury.)

9 THE COURT: We will be at ease for 15 minutes.

10 (Whereupon, a recess was taken.)

11 (Diagram marked State's Exhibit No. 24 for
12 Identification; evidence log marked State's Exhibit No. 25
13 for Identification.)

14 THE COURT: Are we ready for the jury?

15 MR. BULSA: Yes, sir.

16 THE COURT: Bring them in.

17 (The following takes place in the presence of the
18 jury.)

19 THE COURT: The jury is present. You may proceed.

20 MR. BULSA: The state calls Jesse Worthy.

21 JESSE WORTHY, having been
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. BULSA

24 Q Mr. Worthy, make sure you speak up so we all can hear
25 you. Okay?

Jesse Worthy
Direct examination by Mr. Bulsa

- 1 A Okay.
- 2 Q Tell us your name.
- 3 A Jesse Worthy.
- 4 Q Are you related to Anthony Copeland?
- 5 A Yes, I am.
- 6 Q How?
- 7 A That's my cousin.
- 8 Q Cousin?
- 9 A Uh-huh.
- 10 Q And did you know Cedric Moss?
- 11 A Yes. I do.
- 12 Q How did you know him?
- 13 A That's a friend of mine.
- 14 Q Do you remember the day he died?
- 15 A Yes, sir.
- 16 Q Were you at the house when he died?
- 17 A Yes, I was there and everything.
- 18 THE COURT: Let me ask you to pull that microphone up
- 19 a little bit closer to you. You might have to adjust the
- 20 top of it.
- 21 BY MR. BULSA
- 22 Q You are incarcerated yourself, aren't you?
- 23 A Yes, I am.
- 24 Q Now, I want you to tell us what happened the day of
- 25 Cedric's death.

Jesse Worthy
Direct examination by Mr. Bulsa

1 A Okay. Well, think about it. Okay. Well, for
2 starters I [inaudible] -- I observed a car --

3 THE COURT: Excuse me. You're going to have to start
4 over. We couldn't understand that.

5 THE WITNESS: Okay.

6 BY MR. BULSA

7 A I said for starters I was at my cousin's house, and I
8 seen a car like going back and forth in a circular motion
9 or whatever, and from my understanding --

10 THE COURT: You don't need to look at me. You're
11 talking to the jury.

12 THE WITNESS: Okay. Well, okay.

13 BY MR. BULSA

14 A For starters I seen a car going back and forth in a
15 circular motion or whatever.

16 Okay. I thought -- WHAT I seen -- I thought I seen a
17 car to have been like a turquoise-bluish color or whatever.
18 But from the pictures that the solicitor showed me it's
19 like a brownish -- a brownish color or whatever.

20 Okay. I observed the car pulling over across the
21 street directly from the house or whatever. Okay. And I
22 seen -- I seen somebody get out.

23 Q Did you know the person?

24 A Yes.

25 Q Who was it?

Jesse Worthy
Direct examination by Mr. Bulsa

- 1 A Mr. Letmon.
- 2 Q Mr. Letmon?
- 3 A Uh-huh.
- 4 Q AND how do you know him?
- 5 A How do I know him? I grew up with 'm.
- 6 Q Okay. So you knew him by sight.
- 7 A Huh?
- 8 Q You knew him by sight?
- 9 A Unless my eyes was playing tricks on me.
- 10 Q Okay. All right. So you saw him get out of the car.
- 11 And then what happened?
- 12 A I seen him -- well, I seen him walk across the street
- 13 and I seen him come in the yard. And, you know, like I
- 14 say, I was so full off the alcohol till I like -- well, I
- 15 passed out for a second or two. And then when I -- when I
- 16 woke I seen a streak of fire.
- 17 Q Okay. Where were you when you -- when all of this
- 18 happened?
- 19 A I was sitting on -- on Anthony's porch.
- 20 Q Okay.
- 21 A Uh-huh.
- 22 THE COURT: Don't lean away from the microphone. We
- 23 still need for you to use that microphone.
- 24 THE WITNESS: Okay.
- 25 BY MR. BULSA

Jesse Worthy
Direct examination by Mr. Bulsa

- 1 Q who all was on the porch?
- 2 A Well, from my understanding -- well, on his porch it
- 3 was just me and him.
- 4 Q All right. Well, who -- who was at that house, that
- 5 duplex area?
- 6 A Oh, well, it was me. Let's see. Me and him and --
- 7 Q You say him. Name names. Give us names.
- 8 A Me and Anthony, me and him and two females, the two
- 9 females. But they was on the other side of the porch.
- 10 Q okay.
- 11 A Uh-huh.
- 12 Q So it was you two, the two ladies and then Mr. Moss?
- 13 A Uh-huh.
- 14 THE COURT: Is that a yes or a no?
- 15 A I said yes.
- 16 Q Okay. All right. Now, how many people got out of the
- 17 car that walked up?
- 18 A I didn't see but one person.
- 19 Q And that was the defendant.
- 20 A Uh-huh.
- 21 THE COURT: Is that a yes or a no?
- 22 A Yes, yes, yes, yes, yes.
- 23 Q All right. And, now, tell us again what you saw
- 24 happen when he got out of the car.
- 25 A Okay. This is exactly what I saw happen. Okay. The

Jesse Worthy
Direct examination by Mr. Bulsa

- 1 car pulled up. He got outta the car. He came in the yard.
- 2 Q All right.
- 3 A Uh-huh.
- 4 Q And then what happened?
- 5 A Like I told you, I passed out. I guess he did --
- 6 well, I guess he did whatever he did or whatever he's
- 7 supposed to did or whatever y'all saying he did. I don't
- 8 know. I was -- like I say, he came in the yard.
- 9 Q He came in that yard. And you said you passed out and
- 10 you came to. And what did you see when you came to?
- 11 A I seen fire.
- 12 Q What do you mean -- fire?
- 13 A Fire from -- fire from gun. That's all I remember
- 14 seeing.
- 15 Q Fire from a gun. Okay. And what did you see when you
- 16 saw that fire?
- 17 A Seen a car pulling off going down the street.
- 18 Q Okay. And was it the same car that had pulled up?
- 19 A Yes, it was.
- 20 Q Okay. And did you see what had happened?
- 21 A No, I didn't.
- 22 Q Okay. Well, after the car drove off, what did you do?
- 23 A Shit, I woke up and I -- I went down the street.
- 24 Q Did you see whether Mr. Moss was hurt?
- 25 A Oh, correction. Yes, I did. I turned to my left and

Jesse Worthy
Direct examination by Mr. Bulsa

- 1 I seen him laying in the yard.
- 2 Q All right.
- 3 A Uh-huh.
- 4 Q And what did you do when you saw him?
- 5 A As a matter of fact, called -- called the ambulance or
- 6 whoever.
- 7 Q You called 9-1-1 yourself.
- 8 A Yes, sir.
- 9 Q And did you stick around?
- 10 A Well, not at the moment, uh-uh.
- 11 Q Why not?
- 12 A I don't know. I just --
- 13 Q Huh?
- 14 A I said I don't know. I just --
- 15 Q So you weren't there when the police got there?
- 16 A Well, when I came they were still there. I guess they
- 17 had been there for a while or whatever.
- 18 Q Did you go to the police and talk to them?
- 19 A No, I didn't.
- 20 Q Why not?
- 21 A I don't know. I just -- (I-don't-know grunt). I
- 22 couldn't go under the influence like that anyway.
- 23 Q Did you go after you sobered up?
- 24 A No, not.
- 25 Q No.

Jesse Worthy
Cross-examination by Mr. Shealy

1 A I didn't know I had to go.

2 Q But you were there when Cedric got killed. But you're
3 telling this jury that you were passed out.

4 A Yes, I am.

5 Q But you do recall seeing slow get out of a car just
6 before Cedric got killed.

7 A Uh-huh.

8 Q Is that yes?

9 A That's a yes.

10 Q Okay. All right. Thank you. Answer anything
11 Mr. Shealy has.

12 CROSS-EXAMINATION

13 BY MR. SHEALY

14 Q Mr. Worthy, I want to go a little bit further back.
15 How long had you been at Mr. Copeland's house?

16 A Say what, now?

17 Q How long had you been at Mr. Copeland's house?

18 A How long had I been there?

19 Q Yeah.

20 A I had been there for a minute -- a couple of hours or
21 so.

22 Q A couple of hours.

23 A Yeah.

24 Q Did you maybe get there when it was getting dark or
25 before it got dark or after it got dark or what?

Jesse Worthy
Cross-examination by Mr. Shealy

- 1 A It was already dark when I appeared. It was maybe
2 like approximately -- had to been at least 1:30 or 2:00
3 o'clock in the morning when I first arrived.
- 4 Q So you didn't get there until 1:30 or 2:00 o'clock in
5 the morning.
- 6 A Yeah, uh-huh.
- 7 Q Were you already drunk?
- 8 A Yes, I was.
- 9 Q So you had been drinking other places and then came
10 back.
- 11 A Yes, yes, I was.
- 12 Q Okay. Did you bring anything with you?
- 13 A Yes, I did.
- 14 Q How much?
- 15 A I probably brought a -- a couple of half of pinks.
- 16 Q A couple halves of what?
- 17 A A couple of half of pinks, or maybe more.
- 18 Q Pinks?
- 19 A Pinks, yes, yes.
- 20 Q Okay. What's that?
- 21 A That's like three, maybe three or four half of pinks.
- 22 Q Right. Is that vodka? Is it -- what is it? What
23 kind of liquor is it?
- 24 A Maybe brandy or something.
- 25 Q Brandy, you think.

Jesse Worthy
Cross-examination by Mr. Shealy

- 1 A Uh-huh.
- 2 Q Okay. So it's strong.
- 3 A Uh-huh.
- 4 Q It ain't -- it's -- when you're drinking it you want
5 to get drunk, right?
- 6 A That's my whole purpose of drinking.
- 7 Q Right. Sure, sure. And you remember talking with me
8 earlier, right?
- 9 A Yes, I do.
- 10 Q And did you bring any marijuana with you?
- 11 A Yes.
- 12 Q Yeah. Y'all smoking marijuana too?
- 13 A Yes, we were.
- 14 Q And you were sharing because you're a shareful guy,
15 right?
- 16 A Uh-huh.
- 17 Q Because you're at somebody else's house, right?
- 18 A My family.
- 19 Q Sure. I understand. So you and Boot were drinking
20 the brandy, smoking the weed?
- 21 A whoever want -- whoever want to get in with me, I let
22 them have --
- 23 Q whoever. Okay. And when you first got there who was
24 there?
- 25 A Nobody. Boot -- me and Boot.

Jesse Worthy
Cross-examination by Mr. Shealy

1 Q Just you and Boot.

2 A Yeah.

3 Q Okay. And then when did Cedric and the two females
4 get there?

5 A Shit, probably -- it wasn't long after. Hell, I'm
6 going to say probably, what, maybe ten or 15 minutes prior
7 to the time when we left.

8 Q So ten or 15 minutes after you got there. So maybe
9 2:15 or so?

10 A I say maybe ten or 15 minutes after, yeah, I was there
11 they probably.

12 Q Okay. And how long were they with you or with y'all?

13 A Well, for starters, they were never really with us.
14 They was just next door. He even lives on the same porch.
15 But, you know what I'm saying, it was next door. We was
16 all just standing out there. We were doing what we were
17 doing, and they were doing what they were doing.

18 Q Okay. So it was kind of like two groups of people.

19 A Yeah.

20 Q Okay. And then they left? I guess what happened
21 then, or do you remember?

22 A I remember -- let's see. I think maybe he might have
23 left.

24 Q Who might have left?

25 A He might -- Mr. Letmon. He may have left.

Jesse Worthy
Cross-examination by Mr. Shealy

- 1 Q He may have left?
- 2 A Uh-huh.
- 3 Q When did he get there?
- 4 A He came up the street with me.
- 5 Q Oh, he came with you.
- 6 A Uh-huh.
- 7 Q Where did y'all come from?
- 8 A We came from down the street.
- 9 Q Okay. You came from where down the street?
- 10 A Well, not even really from where we was at.
- 11 Q Okay. Was that --
- 12 A It was really walking distance, but we drove.
- 13 Q Okay.
- 14 A Uh-huh.
- 15 Q But was it another address on Norris Street or was it
- 16 on --
- 17 A I don't know the address, but, yes, it was on -- it
- 18 was on Norris Street.
- 19 Q It was on Norris Street. Okay. So y'all met up
- 20 someplace else on Norris Street and walked down.
- 21 A No, we rode. We never --
- 22 Q Y'all rode down.
- 23 A Rode up.
- 24 Q To [REDACTED] Norris Street at Boot's house.
- 25 A Uh-huh.

Jesse Worthy
Cross-examination by Mr. Shealy

1 Q Okay. And then that was about 1:30, you said, right,
2 or 2:00 o'clock?

3 A No, no. I said I may have arrived in between 1:30 and
4 maybe 2:00 o'clock. I don't know what time that was. I'm
5 saying, like a little afterwards or whatever.

6 Q I thought you said you were riding with Mr. Letmon.

7 A Okay.

8 Q You go back --

9 A No, no, no, no, no. That's not what I said.

10 Q Okay. Just you say whatever you said.

11 A Okay. This is exactly what I said right here. I said
12 that I may have arrived over there in between 1:30 and
13 2:00 o'clock.

14 Q Okay.

15 A And then I also said that I went to a friend of mine's
16 house or whatever. That's where I met up with him at.

17 Q All right. And that was another address on Norris
18 Street, you're saying, right?

19 A Yes, it was.

20 Q All right. When did you do that?

21 A It wasn't long. It was shortly after I got there. I
22 know that. I can't -- I can't give you no -- I can't give
23 no exclamation [sic], no exact exclamation of time or
24 whatever, but I know it was -- wasn't long after I got
25 there.

Jesse Worthy
Cross-examination by Mr. Shealy

1 Q Okay. And did Cedric Moss, Crystal Ross and Brittany
2 Robinson get there before you had gone to your friend's
3 house or after you had gone to your friend's house?

4 A I'm going to say maybe after.

5 Q After you had gone to your friend's house and come
6 back.

7 A Uh-huh.

8 Q Okay. And about what time do you think that is?

9 A I don't know.

10 Q You don't know?

11 A No, I don't.

12 Q Do you think maybe about 2:30 or 3:00 o'clock?

13 A It was in between -- I'm saying in between. You know,
14 I can't really give no time because I really don't know.

15 Q All right. And you had been, you testified, drinking
16 a good bit --

17 A Uh-huh.

18 Q -- with Mr. Copeland, right?

19 A I drunk before then, but I also drunk with him.

20 Q With him.

21 A Yes.

22 Q Okay. So to your knowledge you and Mr. Copeland and,
23 you're testifying, my client were at [REDACTED] Norris Street.
24 And Cedric and the girls came, right?

25 A Yes.

Jesse Worthy
Cross-examination by Mr. Shealy

- 1 Q Okay. And then they left, correct?
- 2 A They left?
- 3 Q Did they leave?
- 4 A I don't -- no, no. I don't -- no, no. They never --
- 5 they never left.
- 6 Q They never left?
- 7 A When we -- okay. When we arrived, they came.
- 8 Q Okay.
- 9 A Yes.
- 10 Q Right.
- 11 A Yeah. I don't recall them leaving. I never said
- 12 that.
- 13 Q You don't recall them leaving.
- 14 A Not to my knowledge.
- 15 Q Do you recall anybody leaving?
- 16 A No, nobody. Well, I remember -- well, I don't
- 17 remember exactly as to when he left or whatever, but I know
- 18 he was gone.
- 19 Q You know who was gone?
- 20 A Mr. Letmon.
- 21 Q Mr. Letmon was gone.
- 22 A Uh-huh.
- 23 Q So he left at some point. Okay. And so at that point
- 24 it's just you and Mr. Copeland and Ms. Ross and
- 25 Ms. Robinson and Mr. Moss, correct?

Jesse Worthy
Cross-examination by Mr. Shealy

1 A Uh-huh, from my understanding, although I really
2 wasn't paying attention. But from my understanding.

3 Q Okay. But you don't remember -- do you remember a
4 gold Lincoln at all?

5 A No.

6 Q You don't remember anything about a gold Lincoln or
7 two other fellows or anything like that?

8 A Uh-uh.

9 Q No?

10 A Uh-uh.

11 Q Okay. All right. So you walked. After the shooting
12 you walked down the road. Where did you go?

13 A I went to my aunt's house.

14 Q You went to your aunt's house?

15 A Yes, I did.

16 Q Okay. Because you had told everybody you were too
17 intoxicated to give a statement, correct?

18 A Yes, I'm saying that. Okay, okay. Prior example,
19 right. Okay. If a person shall talk to you intoxicated or
20 whatever, quite naturally you ain't going to really -- you
21 ain't going to be -- you ain't going to be too quick to
22 believe that's they talking about, right? I know I'm not
23 anyway, especially when they talking all outside their head
24 or whatever.

25 Q Because drunk people get confused easily, correct?

Jesse Worthy
Cross-examination by Mr. Shealy

- 1 A Sober people do too, you know wh't I'm saying?
- 2 Q Sure, sure. But there is an inherent credibility
- 3 problem with people who have been drinking and smoking
- 4 marijuana, is what you're saying.
- 5 A Uh-huh.
- 6 Q Fair enough. That's a good point. And so you didn't
- 7 think anybody would believe you?
- 8 A Oh, I didn't know. I didn't know.
- 9 Q You didn't know if anybody would believe you.
- 10 A Uh-uh.
- 11 Q All right. Let's see if I can turn this projector on.
- 12 I want to show you some pictures, and I want to understand
- 13 the layout of everything.
- 14 A Uh-huh.
- 15 Q But let's talk about what you're doing right now while
- 16 that warms up.
- 17 A Uh-huh.
- 18 Q You obviously -- you testified you're in -- in
- 19 custody, correct?
- 20 A Uh-huh.
- 21 Q What were you convicted of?
- 22 A Say that again, now.
- 23 Q What were you convicted of?
- 24 A Trafficking.
- 25 Q Trafficking what?

Jesse Worthy
Cross-examination by Mr. Shealy

1 A Crack.

2 Q Crack cocaine?

3 A Uh-huh.

4 Q All right.

5 THE COURT: Please say yes or no and don't say uh-huh
6 and uh-uh. Don't grunt. Talk. Okay?

7 THE WITNESS: Uh-huh.

8 Q And you were also convicted of a possession with
9 intent to distribute near a school and another possession
10 with intent to distribute, correct?

11 A Yes, I was.

12 Q That's your understanding.

13 A Uh-huh.

14 Q Okay. And you got a 12-year sentence. Is that
15 accurate? So you're serving a 12-year sentence in the
16 Department of Corrections right now.

17 A Yes, I am.

18 Q Let me see if I can work this thing. Now, are you
19 aware that we have a statute that allows people --

20 MR. BULSA: Objection, Your Honor.

21 THE COURT: Sustained.

22 MR. SHEALY: Your Honor, I think it goes to the
23 credibility of the witness.

24 THE COURT: Let me ask the jury to step out, please.

25 And I'll address this issue, and I'll bring you right back.

Jesse Worthy (In-camera)
Cross-examination by Mr. Shealy

1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: All right. Proffer your testimony.

4 BY MR. SHEALY

5 Q Are you aware that there's a statute in South Carolina
6 that allows someone who gives substantial assistance to the
7 prosecution to get a reduced sentence?

8 A Am I aware of that?

9 Q Are you aware of that?

10 A No, I'm not. I'm not aware of that. I was never --

11 Q Nobody ever told you that?

12 A Uh-uh.

13 Q You didn't know that from being in the Department of
14 Corrections?

15 A Never, never really even, you know what I'm saying,
16 thought about it. Nobody ever brought it to my attention
17 nor never did I ever bring it to anybody's attention or
18 whatever.

19 Q Okay. So nobody's ever told you that.

20 A No, no, no.

21 Q And just being in the Department of Corrections hasn't
22 made you aware of it?

23 A No, not really. Like I say, I never -- it never -- it
24 never crossed my mind.

25 Q Okay. And you don't have any hope of any kind of

Jesse Worthy
Cross-examination by Mr. Shealy

1 benefit from the 7th Circuit Solicitor's Office or any
2 other government agency that maybe they can help you get a
3 lesser sentence?

4 A No. Never thought about it. No, sir.

5 Q Never thought about it.

6 A No.

7 Q Okay.

8 A Uh-uh.

9 MR. SHEALY: If you will bear with me, Judge.

10 (Pause.)

11 MR. SHEALY: That's all that I have on this issue.

12 THE COURT: All right. Bring the jury back, please.

13 (The following takes place in the presence of the
14 jury.)

15 THE COURT: Mr. Shealy.

16 MR. SHEALY: Thank you, Your Honor.

17 BY MR. SHEALY

18 Q All right. So we've talked about your most recent
19 convictions.

20 Isn't it also true that you've got a problem telling
21 the police the truth? You've got two convictions for giving
22 false information. Isn't that accurate? One from 1997 and
23 one from 2001? Yeah?

24 A Yes, sir.

25 Q You need to answer up.

Jesse Worthy
Cross-examination by Mr. Shealy

1 A Yes. I'm saying, but that don't have anything to do
2 with what's going on right now.

3 Q Okay. Well, I mean, it shows you've got a problem
4 with telling the truth to the police because you give them
5 false information. Isn't that accurate?

6 A Yeah.

7 Q Okay. You've got another trafficking crack conviction
8 in 2001. Isn't that accurate?

9 A Yes, it is.

10 Q And you've got a possession of crack in 2001?

11 A Yes, it is.

12 Q Got another possession of crack from 2007?

13 A Never had no convictions of crack in no 2007.

14 Q 2007. You sure?

15 A Positive.

16 Q Okay. And you've got a conviction from '94 for armed
17 robbery. Isn't that accurate?

18 A Yes, it is.

19 Q All right. Mr. Worthy, one last thing I want to go
20 over with you that I can think of right now from what
21 you've testified to.

22 I'm going to show you State's Exhibit No. 7, because I
23 want to get what you testify as to where everybody was. You
24 testified you and Anthony Copeland were on his part of the
25 porch, right?

Jesse Worthy
Cross-examination by Mr. Shealy

- 1 A Uh-huh.
- 2 Q Okay. And they were --
- 3 THE COURT: Excuse me. Is that a yes or a no?
- 4 THE WITNESS: That's a yes, yes, yes.
- 5 Q Make sure you say yes.
- 6 A Okay. Yes.
- 7 Q And they were -- the three of them were someplace
- 8 else?
- 9 A Right here too.
- 10 Q They were here or here?
- 11 A Right there.
- 12 Q Right here. If you'll step off, Mr. Worthy, if you'll
- 13 come --
- 14 THE COURT: Come this side, Mr. Worthy.
- 15 (Whereupon, the witness left the stand.)
- 16 MR. SHEALY: We may need one of his hands.
- 17 (Referring to handcuffs worn by the witness.)
- 18 THE COURT: Use that microphone.
- 19 For what?
- 20 MR. SHEALY: For the pointer if he can.
- 21 THE COURT: You can -- he can describe it, and you can
- 22 point to it.
- 23 MR. SHEALY: Yes, sir. Okay.
- 24 THE COURT: Mr. Worthy, you need to back up a little
- 25 bit so you can use that microphone that's above your head.

Jesse Worthy
Cross-examination by Mr. Shealy

- 1 Q And Ms. -- Mr. Moss and Ms. Robinson and Ms. Ross,
2 were they here?
- 3 A Yes, they was.
- 4 Q Okay. Were they standing up or sitting down, or do
5 you remember?
- 6 A From my understanding they were sitting down.
- 7 Q They were sitting down over there.
- 8 A Yes, sir.
- 9 Q And you were I guess -- the two of y'all sitting here?
- 10 A No. I was sitting on the porch right there.
- 11 Q You were sitting on the porch over here.
- 12 A Uh-huh.
- 13 Q And Anthony Copeland was sitting over here too?
- 14 A Uh-huh.
- 15 THE COURT: Is that a yes or a no?
- 16 A Yes, it was -- yes, it was.
- 17 Q Say yes or no.
- 18 A Yes, yes, yes, yes.
- 19 Q So Mr. Copeland was here.
- 20 A Yes, he was.
- 21 Q And you were here.
- 22 A Yes, I was.
- 23 Q And they were on this area.
- 24 A Yes, they was.
- 25 Q Okay. If you'll go back and go sit back down.

Jesse Worthy
Cross-examination by Mr. Shealy

1 (Whereupon, the witness returned to the stand.)

2 Q Did you -- you testified that you passed out. When
3 did -- did you pass out any more or just that one time?

4 A I passed out after I left there.

5 Q Okay. But while you were there you only passed out
6 once, is that accurate?

7 A Uh-huh, yes, that's it.

8 Q Did you fall off the porch when you passed out?

9 A No.

10 Q You passed out sitting up?

11 A Yes, I did.

12 Q Okay. All right. Mr. Worthy, you testified that the
13 car that you saw that you remember -- and I'm asking you
14 not what the solicitor told you apparently later -- but the
15 car that you saw was turquoise?

16 A Bluish. I'm saying, like I said, unless it was my
17 eyes playing tricks on me due to the fact that I was --
18 know wh't I'm saying -- on the alcohol backwards, I could
19 have sworn that it was like a turquoise-bluish color.

20 Q You think it was a turquoise-bluish car.

21 A Uh-huh.

22 Q Okay. Do you remember what the person you saw getting
23 out of the car was wearing?

24 A No, I don't.

25 Q Okay. So you don't remember that at all.

Jesse Worthy
Redirect examination by Mr. Bulsa

1 A No, I don't. I don't remember what he was wearing.

2 Q But you're testifying that it was -- you're certain
3 beyond any doubt that it was Keith Letmon. So you can't
4 remember what he was wearing.

5 A Uh-uh.

6 Q But you're sure that that's what --

7 THE COURT: Let's give him a chance to answer the
8 question before you ask the next one, please.

9 MR. SHEALY: Yes, sir. I apologize.

10 BY MR. SHEALY

11 A If he's the person -- if it wasn't him, it appeared to
12 have been him. It looked just exactly like him, you know
13 what I'm saying. So, you know, I just -- I just took -- I
14 took it as, know w't I'm saying.

15 MR. SHEALY: That's all I have for this witness, Your
16 Honor.

17 REDIRECT EXAMINATION

18 BY MR. BULSA

19 Q Ms. Letmon is a person you've known for quite some
20 time, correct?

21 A Yes, he is.

22 Q In fact, you came to this location with him. Yes?

23 A Yes, I did.

24 Q A little time earlier in the evening you and he came
25 up the street together?

Jesse Worthy

Redirect examination by Mr. Bulsa

1 A No. We didn't come -- we didn't come together but one
2 time.

3 Q But one time.

4 A Yes.

5 Q That's what I'm saying. And you saw him earlier in
6 the evening.

7 A No, no. I never saw him earlier in no evening.

8 Q Well, you said --

9 A Because I didn't -- I'm saying I didn't -- well, I
10 didn't get to the area until about 1:30 or maybe
11 2:00 o'clock that morning.

12 Q Okay.

13 A Uh-huh.

14 Q And you were with him when you wind up at Boot's
15 house.

16 A Yes.

17 Q Okay. And he's a friend of yours?

18 A Yes, he was. He was all right.

19 Q Pardon?

20 A Yes.

21 Q How long would you say you've known him?

22 A Probably a little over 20 years.

23 Q Over 20 years.

24 A Uh-huh.

25 Q All of your adult life?

Courtney Westfall
Direct examination by Mr. Bulsa

1 A Yes.

2 Q There's no doubt he's the one that got out of the car
3 right before you --

4 A From what my eyes seen, yes, uh-huh.

5 Q And that's right before you say you passed out.

6 A Uh-huh, yes.

7 Q And when you came to Cedric Moss was dead, right?

8 A From my understanding he wasn't dead at -- he wasn't
9 dead at the time, but probably later on after.

10 Q Okay. He was on the ground dying.

11 A Yes.

12 Q Thank you.

13 THE COURT: Step down.

14 MR. BULSA: The state calls Courtney Westfall.

15 COURTNEY WESTFALL, having been
16 first duly sworn, testified as follows:

17 MR. SHEALY: Your Honor, may Mr. Bulsa and I approach?

18 (Bench conference held off the record in the presence
19 of the jury but out of the hearing of the jury.)

20 DIRECT EXAMINATION BY MR. BULSA

21 Q Ms. Westfall, I think it's actually Burgess now.

22 A Yes.

23 Q I'm so used to your maiden name. Who are you employed
24 with?

25 A Spartanburg Public Safety Defendant.

Courtney Westfall
Direct examination by Mr. Bulsa

1 Q In what capacity?

2 A I'm a forensic technician in the forensics unit.

3 Q How long have you been doing that?

4 A It will be seven years in February.

5 Q You actually trained in that in college, right?

6 A Yes. I have a 4-year bachelor of science degree from
7 Wesleyan University in forensics.

8 Q Okay. And are you called to crime scenes to help
9 process them and collect evidence?

10 A I am.

11 Q Were you called to the scene on [REDACTED] Norris Street back
12 on July the 25th of 2011?

13 A Yes.

14 Q Do you recall about time it was that you got there?

15 A I was called at approximately 5:15 in the morning. I
16 got there about 6:10.

17 Q Okay. And what was taking place when you arrived?

18 A When I arrived the victim had already been taken to
19 the hospital. The officers on scene were holding the
20 scene. There was crime scene tape up around the vicinity
21 of the -- the house. They were basically just waiting on
22 me to get there to process the scene.

23 Q So they had removed everybody away from the house?

24 A Yes.

25 Q And when you get there what's -- do you first begin

Courtney Westfall
Direct examination by Mr. Bulsa

1 photographing it?

2 A Yeah. When I get there on scene normally what I do is
3 I'll do an initial walk-through just to see kind of what
4 I've got and if there is any evidence that just kind of
5 stands out, right out, outright. And then I'll begin
6 photographing the scene, again, still searching for
7 evidence and documenting it by photographing it.

8 Q Okay. Now, when you actually go to the scene do you
9 have any idea of what just occurred?

10 A When I get on scene usually the officer there briefs
11 me on what's happened.

12 When I got there I spoke to Sergeant Patton who
13 advised that the victim had been shot and had passed away
14 at the hospital.

15 Q Okay. So you began looking for evidence relating to a
16 shooting.

17 A Yes.

18 Q Okay. And do -- you told us you document with
19 photographs. Do you also create a diaphragm?

20 A Yes. While on scene after taking photographs and
21 marking evidence and taking notes of the evidence I will
22 kind of just do a sketch of the scene, not nothing to
23 scale, just doing I guess my own kind of rendering of the
24 scene just so that I know where everything was. It's more
25 to help me just so that I know where each piece of evidence

Courtney Westfall
Direct examination by Mr. Bulsa

1 that I collected came from.

2 Q Okay. Helps put everything in perspective.

3 A Yes.

4 Q Okay. We have a few pictures that have already been
5 entered into evidence, State's 5 through 9.

6 Let's also look at State's 10 and 11. Those are the
7 ones that have been entered. Review those first, please.
8 Are those pictures you would have taken?

9 A Yes.

10 Q And here is 10 and 11, which is two more.

11 A Okay. These are some more of the photos that I took.

12 Q Okay. And let me show you State's 24 and 25. Do you
13 recognize those documents?

14 A Yes. One is the diagram that I created and --

15 Q Reference it by number, please.

16 A No. 24 is the diagram that I created and No. 25 is an
17 evidence log or basically just -- just a legend to go with
18 the diagram.

19 Q Okay.

20 MR. BULSA: Your Honor, the state would offer these
21 State's 10 and 11 and 24 and 25 into evidence.

22 MR. SHEALY: I have no objection, Your Honor.

23 THE COURT: They're admitted.

24 (Photographs marked State's Exhibits Nos. 10 and 11;
25 diagram marked State's Exhibit No. 24; evidence log marked

Courtney Westfall
Direct examination by Mr. Bulsa

1 State's Exhibit No. 25.)

2 Q Okay. We've seen some of these already, but let's
3 kind of walk through them again.

4 A Okay.

5 Q Showing you State's 5. It appears that you had been
6 taking photos from a distance.

7 A Yes. That's taken from the street there.

8 Q Okay. And here is another perspective, State's 6.

9 A I believe that's another one taken from the street or
10 across the street.

11 Q It's a little different view of it.

12 A Yeah.

13 Q And State's 7, you got a little closer?

14 A Yes.

15 Q Okay. And State's 8 is sort of a view of the side
16 showing the other part of the porch.

17 A Yes.

18 Q State's 9 is a little close-up picture of some items.
19 Could you identify what those items are?

20 A Do you mind if I step down?

21 THE COURT: That's fine. Just please stand under that
22 microphone so we can hear you.

23 (Whereupon, the witness left the stand.)

24 A Okay. Right here on the porch there are some house
25 shoes and a sock. There's also a black baseball cap. And

Courtney Westfall
Direct examination by Mr. Bulsa

1 this is a pool of what is believed to be blood.

2 Q Okay. All right. Stand there, and let's talk about
3 these others.

4 Here's another view of the other side of the porch,
5 State's 10, showing some of those same items.

6 A Yes. Here is the house shoes and the sock. There's
7 the stain in the yard, and the hat. Some of these items
8 out here are just trash left behind by E.M.S.

9 Q I noticed -- did you find any alcohol containers?

10 A Yes. There -- there was a small vodka bottle. I
11 don't know if you can see it in this picture.

12 Q Let me -- let me put these next pictures up and show
13 them.

14 A Okay.

15 Q But it does appear that that place is littered with
16 bottles, isn't it?

17 A Yeah. There's a beer can over here on this end of the
18 porch.

19 Q Okay. And here is State's Exhibit 11 with some yellow
20 numbered placards.

21 A Yes.

22 Q What are those?

23 A When I find the evidence, after I photograph it the
24 first time, I'll go back and mark it with those evidence
25 placards which have the numbers on them, and those numbers

Courtney Westfall
Direct examination by Mr. Bulsa

1 will correspond with my diagram.

2 Once you get to see the diagram you'll see the numbers
3 on there. And those indicate what those items were.

4 Q Now, when you're collecting this evidence you don't
5 know what might be significant or not at that time, do you?

6 A Not at the time, no.

7 Q Based on your experience you're collecting items that
8 you think might become relevant.

9 A Correct. Evidence of a shooting, if there's bullets,
10 shell casings, items that might contain D.N.A. like a vodka
11 bottle, beer cans, things like that.

12 Q Okay. And then also this is not an exact science, is
13 it?

14 A No.

15 Q You're basically searching for pieces of evidence.

16 A Correct.

17 Q That's not to say that you actually find a piece.

18 A Not always, not like on "C.S.I." where they always
19 find that perfect piece of evidence on everything, but we
20 do try our best to find what's there.

21 Q Okay. Now, you have these placards that looks like
22 they number one through --

23 A I believe --

24 Q -- nine.

25 A I believe there's a ten right there. It's kind of

Courtney Westfall
Direct examination by Mr. Bulsa

1 hard to tell.

2 Q Okay. Well, let me show you your diagram, State's
3 Exhibit 24. Describe what we're seeing.

4 A Well, this is the diagram. And, like I said, each
5 number indicates a different piece of evidence. I don't
6 believe you could see 11 and 12 in that photo. I believe
7 11 and 12 are beer cans.

8 Q Okay. All right. I don't see. Where is No. 10?
9 There it is.

10 A In the front of the tree right there.

11 Q Okay. So here is the legend, evidence log, that you
12 created.

13 A Yes.

14 Q And identifies each of those numbers.

15 A Correct.

16 Q Right? Walk us through what you found.

17 A Okay. No. 1 was a small Burnett's vodka bottle. No.
18 2 was a small piece of paper. It was a flyer for one of
19 the local night clubs. No. 3 was a plastic baggy with a --
20 there was a torn piece of plastic baggy with some white
21 residue on it. No. 4 was a spent bullet or fired bullet.
22 No. 5 was a swab from the red substance believed to be
23 blood. No. 6 was the black hat. Seven was a small piece
24 of off white rock-like substance on the porch. No. 8 was a
25 pair of brown house shoes. No. 9 was the white sock. Ten

Courtney Westfall
Direct examination by Mr. Bulsa

1 was a piece of tissue out in the yard like a Kleenex with
2 what appeared to be blood on it. And 11 and 12 were Bud
3 Light cans.

4 Q Okay. So it only appears that there were three
5 alcohol containers --

6 A Yes.

7 Q -- that you saw in the front-yard area.

8 A In the front-yard area.

9 Q Okay. And I noticed only one bullet recovered.

10 A Yes.

11 Q And where was that?

12 A It was laying in the red substance there in the yard
13 in front of the porch.

14 Q Okay. And I didn't notice if you found any shell
15 casings.

16 A No. No shell casings were located.

17 Q What does that tell you in your experience?

18 A It could be indicative of a revolver being used. When
19 a revolver is fired the shell casings aren't ejected from
20 the gun.

21 Q Okay. Did you later learn how many times the victim
22 had been shot?

23 A I would have to go back and look at my notes, but I
24 believe it was maybe four times.

25 Q Okay. Step back up there, a couple of more.

Courtney Westfall
Direct examination by Mr. Bulsa

- 1 A Yes. I believe it was four times.
- 2 Q Okay. And you recovered one spent bullet from the
3 scene.
- 4 A Yes.
- 5 Q Basically in his blood.
- 6 A Yes.
- 7 Q Did you attend the autopsy?
- 8 A I did.
- 9 Q And were you given any bullets from the autopsy?
- 10 A There were two bullets collected from the autopsy.
- 11 Q Okay. So he has four wounds, but only three rounds
12 were recovered.
- 13 A Yes.
- 14 Q Is it safe to say that at least one round was not
15 found?
- 16 A Correct.
- 17 Q What did you do with the bullets themselves?
- 18 A They were sealed and placed into evidence.
- 19 Q For what purpose?
- 20 A For preservation to later be sent for testing if
21 possible.
- 22 Q To see if you found a weapon to match it to?
- 23 A Correct.
- 24 Q You can have a seat back up there.
- 25 (Whereupon, the witness returned to the stand.)

Courtney Westfall
Direct examination by Mr. Bulsa

1 Q Now, did you process this scene by yourself?

2 A Yes. I believe Officer Taylor may have helped me take
3 some measurements. And really all he did -- I have a laser
4 measuring unit, and all he did was hold up a folder so that
5 I could shoot -- see the dot later so I could have the
6 distance that I was measuring. That's the only assistance
7 he had.

8 Q So you're not the only forensic officer at the city,
9 are you?

10 A No. There's one other.

11 Q That's Officer Guthro?

12 A Yes.

13 Q Now, in this case the police also located a vehicle,
14 is that correct?

15 A Correct.

16 Q Did you help process that vehicle?

17 A No, I did not.

18 Q Would that have been Officer Guthro?

19 A I believe he helped with the vehicle.

20 Q Okay. Now, did you help process any other potential
21 scene or connection to this case? Any location?

22 A I do not -- no, no. I don't believe so. No.

23 Q Are you aware of whether any firearm was recovered?

24 A I don't recall a firearm being recovered, no.

25 Q Is that unusual?

Courtney Westfall
Direct examination by Mr. Bulsa

1 A No.

2 (Bullets marked State's Exhibit No. 26 for
3 Identification; spent bullet marked State's Exhibit No. 26-A
4 for Identification; spent bullet marked State's Exhibit No.
5 26-B for Identification; spent bullets marked State's
6 Exhibit No. 26-C for Identification.)

7 Q I show you what's been marked State's Exhibit 26 for
8 Identification. Could you look inside of there and see if
9 you recognize it? What are those?

10 A Two of the items in here are bullets that were
11 recovered from Cedric Moss' body at the autopsy, and one of
12 them is item -- item No. 4, which was the bullet recovered
13 from the front yard.

14 Q Okay. So those are actually inside of this in
15 envelopes.

16 A Yes.

17 Q Okay. And red evidence tape?

18 A Yes.

19 Q Is that what you would have placed on it?

20 A Yes. I placed the -- it's tamper-evident tape so that
21 if someone does try to open the envelope it tears that
22 tape.

23 Q So you're preserving the evidence and making sure the
24 integrity is, correct?

25 A Yes.

Courtney Westfall
Direct examination by Mr. Bulsa

1 Q All right. Now, a similar -- is a similar process
2 undertaken when swabs are taken from items?

3 A Yes, the same thing. The evidence is sealed just to
4 maintain the integrity and maintain the chain of custody.

5 Q And as part of your duties do you transport items of
6 evidence to the state law enforcement division?

7 A Occasionally, yes.

8 Q And in this case do you recall doing that?

9 A I did.

10 Q Did you transport some items that had been recovered
11 from the vehicle in question?

12 A I believe so, yes.

13 (Gloves marked State's Exhibit No. 27 for
14 Identification; Manila envelope marked State's Exhibit No.
15 27-A for Identification; brown envelope with gloves marked
16 State's Exhibit No. 27-B for Identification; swabs marked
17 State's Exhibit No. 28 for Identification; envelope with
18 swab samples marked State's Exhibit No. 28-A for
19 Identification; swab from steering wheel marked State's
20 Exhibit No. 28-B for Identification.)

21 Q I show you what's been marked for identification as
22 State's 27 and 28. Do you recognize those packages?

23 A Yes. These are SLED's evidence packaging. When we
24 take items of evidence to SLED and we're checking them into
25 the evidence receiving they're placed into these

Courtney Westfall
Cross-examination by Mr. Shealy

1 heat-sealed bags, and we sign and across the heat seal.

2 And we also put our name and date on the bag.

3 Q So the items when they're transported by yourself,
4 have they been sealed by the city?

5 A Yes.

6 Q And then they get sealed again at the state law
7 enforcement division.

8 A Yes. They take -- they take everything that we bring
9 them, whether -- you know, if it's sealed they assume that
10 the package contains what we say it contains, and they
11 again seal it in their package.

12 Q Okay. And that's in front of you, and you, in fact,
13 sign it.

14 A Yes.

15 Q Okay. Thank you, Officer. Answer any questions
16 Mr. Shealy has.

17 CROSS-EXAMINATION

18 BY MR. SHEALY

19 Q Officer Burgess, you talked about those heat-sealed
20 bags.

21 Now, my understanding from your report, those were
22 transported twice, correct, down to SLED?

23 A Yes.

24 Q Okay. Did you transport them the first time and the
25 second time or --

Courtney Westfall
Cross-examination by Mr. Shealy

1 A No. The second time. I received an e-mail from
2 someone at SLED asking me to resubmit the items, and I took
3 them down there myself.

4 Q Who took them down the first time?

5 A I'm not sure. We'd have to look at the chain of
6 custody.

7 Q You don't know.

8 A No. It would probably have been someone in evidence,
9 property and evidence. But I wouldn't know that without
10 looking at the chain.

11 Q And when did you take these down?

12 A I took them down the second time on -- I believe it
13 was June 6th or June 8th.

14 Q June 6th or June 8th.

15 A I would have to look at the bag again.

16 Q Of two thousand --

17 A 2012.

18 Q Okay. And when you took them down the second time
19 they were properly sealed at the city?

20 A Yes.

21 Q They were with the tamper-evident tape?

22 A Yes, as far as I know, yes.

23 Q But you can't testify as to their condition prior to
24 that?

25 A Before I picked them up?

Courtney Westfall
Cross-examination by Mr. Shealy

1 Q Before you got them from evidence.

2 A No.

3 Q No. And you're not sure who brought them down the
4 first time, right?

5 A No.

6 Q Now, you testified that you were looking for basically
7 evidence of a shooting, correct?

8 A Yes, correct.

9 Q All right. That looking or that walk-through that you
10 mentioned would have included any bullet holes, right?

11 A Yes.

12 Q Did you find any bullet holes?

13 A Not definitive bullet holes. There was a dent, kind
14 of a -- I don't know if you would call it a hole, but more
15 of an elongated maybe tear in the side of the house.

16 It -- it was on the -- well, it was on the front of
17 the -- the porch area. It didn't appear to be new as there
18 was no debris or paint chips or anything laying under it.

19 Also, upon examining the hole I didn't find any
20 bullets in it. So it may have been maybe where a bullet
21 struck the house but didn't actually go into the house.
22 But, no, I didn't find any bullets lodged in the house.

23 Q You didn't find any bullets in the house, and your
24 report, it's my understanding, there also wasn't any debris
25 around that hole.

Courtney Westfall
Cross-examination by Mr. Shealy

- 1 A Correct.
- 2 Q And ordinarily you would expect from something
- 3 striking the vinyl siding there would be some.
- 4 A Correct.
- 5 Q Right?
- 6 A Yeah.
- 7 Q So, but you didn't -- you certainly didn't find two
- 8 holes.
- 9 A Not that I remember, no.
- 10 Q No. And, again, you were looking for evidence of a
- 11 shooting.
- 12 A Correct.
- 13 Q And when you got there was Mr. Moss still there or
- 14 were you -- or was -- had he already been transported?
- 15 A He had already been transported to the hospital by the
- 16 time I got there.
- 17 Q And when did you take these pictures?
- 18 A These pictures right here would have been shortly
- 19 after I got there. It was 6:00 or so in the morning.
- 20 Q Okay. And nobody had to your knowledge messed with
- 21 any of the -- fiddled with the scene.
- 22 A As far as I know, no.
- 23 Q It had been secure since --
- 24 A When I got there patrol officers were standing outside
- 25 the tape.

Russell Porter
Direct examination by Mr. Bulsa

1 I believe there was one at the front of the house and
2 maybe one, an officer, at the back of the house just making
3 sure nobody went in the -- in the scene.

4 Q All right.

5 MR. SHEALY: I have nothing further for this witness.

6 MR. BULSA: Nothing further.

7 THE COURT: You may step down.

8 MR. BULSA: The state calls Russell Porter.

9 RUSSELL PORTER, having been
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION BY MR. BULSA

12 Q Investigator Porter, how long have you been with the
13 public safety department?

14 A About 20 years.

15 Q And what are your primary duties?

16 A Carry out signs of the criminal investigation
17 division.

18 Q And how long have you investigated homicides?

19 A A little over ten years.

20 Q Were you called to this scene on [REDACTED] Norris Street?

21 A Yes, I was.

22 Q Do you recall approximately when you would have
23 arrived?

24 A I was notified just about five minutes before
25 5:00 a.m. in the morning and got there about 20 minutes

Russell Porter
Direct examination by Mr. Bulsa

1 later or 25 minutes later.

2 Q Okay. And what was taking place when you arrived at
3 the scene?

4 A When I arrived there were people standing on both
5 sides of the house. Patrol officers were around the scene,
6 obviously had already taped it off. The victim was
7 already -- already transported to -- to the hospital.

8 At that time patrol officers started briefing me about
9 what had happened and also pointing out potential
10 witnesses.

11 Q Did you direct those witnesses to be taken to city
12 hall?

13 A Yes, I did.

14 Q And who were those persons?

15 A Brittany Robinson, Crystal Ross and Anthony Copeland.

16 Q Did you learn of Jesse Worthy?

17 A Yes. I actually spoke to Jesse there at the scene.
18 He was very intoxicated and basically refused to -- refused
19 to come, be transported to city hall.

20 Q Okay. But the other three, were they willing, wanting
21 to come and talk?

22 A Yes.

23 Q Okay. So you met with them individually at city hall?

24 A Yes, I did.

25 Q And what was your primary goal at that time?

Russell Porter
Direct examination by Mr. Bulsa

1 A To hopefully establish or to find out a suspect and
2 find out exactly what happened.

3 Q Okay. And were they giving you the name of Slow?

4 A Yes, they were.

5 Q And what did you do to determine who Slow was?

6 A Me personally from my experience in years there had
7 dealt with several individuals that used the street name of
8 Slow.

9 I knew of one individual named Slow that lived
10 basically at this time on the north side of town and also
11 one that lived or hung out in the south area of town. At
12 that time I compiled photographs of both individuals and
13 then presented those individuals.

14 Q And who are those three people that identified the
15 defendant as the Slow they were talking about?

16 A Crystal Ross.

17 Q Okay. How about Anthony Copeland? Did you show him
18 that, those photos?

19 A Investigator Nelson did.

20 Q Okay. You showed him something later.

21 A Yes.

22 Q Okay. All right. And once you got that information
23 about who did this, what did you then begin to do?

24 A At that time we began to look for the individual,
25 trying to find a good address for him. So we went back

Russell Porter
Direct examination by Mr. Bulsa

1 into our system, jail system, our records to try to locate
2 the individual.

3 Q Did you also call in any other people to assist?

4 A The -- I already had called in Investigator Nelson.
5 Obviously, had other investigators there also. Called in
6 our violent street team, called those guys in. And just
7 everybody looking for him.

8 Q What was the -- what was the purpose for calling so
9 many people in?

10 A Just to me being the lead investigator designating
11 certain duties to the other people to -- to help out just
12 to spread the load out.

13 Q Is it important to try to catch somebody quickly?

14 A Yes.

15 Q Why?

16 A Obviously, the loss of either, you know, evidence and
17 trying to locate the suspect themselves.

18 Q Okay. Did you have any success in locating him?

19 A Yes, we did.

20 Q When?

21 A Located him -- I can tell you exactly. Actually about
22 a month later, but the exact date, on 9/1/2011 when he was
23 actually located.

24 Q And where was he located?

25 A He was located at the Sun 'N Sand Motel. That'd be at

Russell Porter
Direct examination by Mr. Bulsa

1 150 Sun 'N Sands Road near Highway 221 and 85.

2 Q So in the date of July 25th to the date of
3 September 1st --

4 A That's correct.

5 Q -- how much energy was put into trying to locate him?

6 A Basically, almost every day -- every day of looking,
7 following up on leads, people calling in. Once they call
8 in I give the information out to the violent crime task
9 force guys. They go out. Their lead didn't pay out,
10 they'd come back and tell me it didn't pan out. We would
11 just either wait on another one or just continue to look.

12 Q Okay. Did you go to his family members?

13 A Yes. We went to his mother's house. Myself and
14 Investigator Nelson went there and spoke with her, had
15 officers in that -- in that area where she lived for days
16 at a time watching her residence and just trying to make
17 contact.

18 Q Did you learn of the type of vehicle that he was
19 driving?

20 A Yes, we did.

21 Q And what type of vehicle did you learn he had been
22 driving?

23 A We had learned he was driving a Honda, a gold or brown
24 in color Honda -- Honda Accord.

25 Q Okay. You heard testimony here of different colors of

Russell Porter
Direct examination by Mr. Bulsa

1 cars, but did the basic description the individuals give
2 you match the description of the vehicle you learned he was
3 driving?

4 A Yes. Certain -- certain characteristics of the
5 description was basically the same. It was the tinted
6 windows and -- and the shattered wheels on the car.

7 The color. Some vary in color from tan, to brown, to
8 blue, to white. But everything that was consistent was the
9 tinted windows and the wheels where everybody just seemed
10 to just stand out to them.

11 Q Okay. And was that vehicle found?

12 A Yes, it was.

13 Q Where was it found?

14 A The vehicle was located on the south side of town.
15 The exact location was at --

16 Q Was it on Edwards Avenue?

17 A Yes. Edwards Avenue.

18 Q Okay. All right. And was the street unit responsible
19 for locating that? Are they the ones that actually found
20 it?

21 A Yes. We had received information from another officer
22 that actually was sort of related or his family member
23 related to an individual that lived on Edwards Avenue.
24 Give us the information that the car was possibly behind
25 his house. Sent the street guys down. They were in the

Russell Porter
Cross-examination by Mr. Shealy

1 area looking, along with myself and Investigator Nelson,
2 and they actually located the car behind the house on
3 Edwards Avenue.

4 Q Okay. All right. How soon after the incident was
5 that vehicle found?

6 A Found the car on --

7 Q Was it within a couple of days?

8 A Yes.

9 Q Okay. But then it took over a month to find the
10 defendant.

11 A That's correct.

12 Q Okay. That's all I have at this point. Answer any
13 question Mr. Shealy has.

14 CROSS-EXAMINATION

15 BY MR. SHEALY

16 Q Investigator Porter, you wrote a report in this case.

17 A I did.

18 Q Okay. And you testified that you were working this
19 case every day from July twenty -- what was it -- 25th to
20 September 1st.

21 A Pretty much except for the two days I was off during
22 the week.

23 Q Okay. But in that report you go from July 25th of
24 2011 to September 1st of 2011.

25 A That's correct.

Russell Porter
Cross-examination by Mr. Shealy

1 Q So you didn't document any of that other work you did?

2 A No, sir.

3 Q You didn't put any of that in your report.

4 A No, sir. Like if somebody called in, didn't pan out
5 or wasn't anything relevant, no, sir. They called, check
6 it out, and it wasn't any good, kept going.

7 Q So if you had gotten any relevant information you
8 would have put it in the report.

9 A Yes.

10 Q You just didn't get any relevant information between
11 July 25th and September 1st. Is that accurate?

12 A No, sir. We had -- the 25th, we had the car; 28th, we
13 talked to folks, so.

14 Q Well, what I'm asking you I guess is your report jumps
15 from July 25th to September 1st. Is that accurate? I
16 mean, you've got your report right in front of you. You
17 can look at it.

18 A Yes, sir, yes, sir.

19 Q Okay. And if you had gotten relevant information you
20 would have put that in your report.

21 A That's correct.

22 Q Okay. So since you didn't, you must not have gotten
23 any relevant information between the 25th and the 1st.

24 A That's correct.

25 Q Okay. Now, we've have heard a lot of testimony about

Russell Porter
Cross-examination by Mr. Shealy

1 these, this car. We've heard that the color varied widely.
2 I mean, we've heard gray; we've heard turquoise, bluish;
3 and we've heard brown. What color was this car that y'all
4 found behind this house?

5 A To me, I would say brown.

6 Q You thought it was brown.

7 A Yes.

8 Q Okay. And it was a Honda Accord.

9 A Yes.

10 Q And what year?

11 A The registration and everything is in my case file
12 there. It's not in this report.

13 Q And, in fact, this was not the first car you seized,
14 was it?

15 A It was not the what?

16 Q The first car that you went looking, that you seized,
17 that you took, is that correct?

18 A That's correct.

19 Q Okay. In fact, you had taken a black Honda Accord
20 earlier, right?

21 A That's correct.

22 Q Okay. Because you thought that was the car that
23 Mr. Letmon was in.

24 A I just don't see anything in here about no black car,
25 but if you say I did, somewhere it's documented.

Russell Porter
Cross-examination by Mr. Shealy

1 Q Okay. It was Laketa Long's car? Isn't that accurate?
2 I believe it's -- you picked Laketa Long and escorted her
3 along with a male friend to impound to recover her vehicle
4 and released it back to her?

5 A That's correct.

6 Q But you don't remember why y'all took that car?

7 A No, not right off, no, I don't.

8 Q Now, in this area is it strange for a car to have
9 tinted windows?

10 A Strange, no. It's not uncommon.

11 Q It is not uncommon.

12 A No.

13 Q How about shiny wheels?

14 A No.

15 Q In fact, whenever you're driving around you can pick
16 out any number of cars with shiny wheels and tinted
17 windows, right?

18 A That's correct.

19 Q And particularly in this particular area. That's what
20 people drive down in that area, is that correct?

21 A That's not correct.

22 Q That's not correct.

23 A No.

24 Q So they don't drive tinted windows and shiny wheels.

25 A Not in that particular area. All over town, but not

Russell Porter
Cross-examination by Mr. Shealy

1 that particular area, you can't, you know.

2 Q How about --

3 A I can count ten people that don't have cars.

4 Q How about Edwards Avenue?

5 A What about it?

6 Q Is that an uncommon thing to see, tinted windows and
7 shiny wheels?

8 A I don't understand what you're asking me. I -- it
9 wouldn't be uncommon to that area, I don't know. I don't
10 live there.

11 Q You don't know.

12 A I don't understand what you're asking is what I'm
13 saying.

14 Q Okay. And whose house was this?

15 A Which house?

16 Q 532 Edwards Avenue where this car was found.

17 A The address we got from the officer, he said 532
18 Edwards Avenue, which is supposed to have been the
19 residence of Reggie Rice, but, in fact, the house number he
20 gave us was not the house number that we actually went to.

21 But he gave us the house number 532, which is what he
22 thought it was, which he got information from somebody
23 else. But we went looking for 532 Edwards Avenue.

24 Q Okay. So where did you find this car?

25 A It was like 138 or 139 Edwards Avenue where it

Reggie Rice
Direct examination by Mr. Bulsa

1 actually wound up being.

2 Q Okay. And that was Mr. Rice's residence?

3 A Yes.

4 Q I'm sorry. You think that the number was 130
5 something on Edwards Avenue? You're just not sure.

6 A Just not sure, yeah. The -- the number we got was 532
7 Edwards Avenue from the patrolman.

8 Q Okay. But --

9 A But it wound up being something else actually, but the
10 number we got was 532.

11 Q That's what I have.

12 MR. BULSA: Nothing further.

13 THE COURT: You may step down.

14 MR. BULSA: The state calls Reggie Rice.

15 REGGIE RICE, having been first
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BULSA

18 Q Mr. Rice, where do you live now, sir?

19 A Stay at one -- stay at 111 Richardson Court.

20 Q Richardson Court?

21 A Yeah.

22 Q You used to live on Edwards Avenue?

23 A Correct.

24 Q What address?

25 A 236 Edwards Avenue.

Reggie Rice
Direct examination by Mr. Bulsa

- 1 Q Did you own that house?
- 2 A Correct.
- 3 Q How long was it you owned it?
- 4 A Maybe a year.
- 5 Q Okay. And did you live at it while you owned it?
- 6 A Yes, I did.
- 7 Q And do you know the defendant?
- 8 A Yes, I do.
- 9 Q How do you know him?
- 10 A I grew up with him, a friend of mine.
- 11 Q Friend of yours and you grew up with him.
- 12 A Yes, sir.
- 13 Q Did you let him stay at your house at any time?
- 14 A Yes, sir.
- 15 Q Back in July of 2011 did he stay at your house?
- 16 A Off and on.
- 17 Q Off and on?
- 18 A Yes, sir.
- 19 Q Okay. And while he was at your house did he have
- 20 transportation?
- 21 A Sometimes.
- 22 Q Okay. Did he ever drive a vehicle?
- 23 A Yeah.
- 24 Q What kind of vehicle was he driving?
- 25 A The Honda -- Honda Accord.

Reggie Rice
Direct examination by Mr. Bulsa

1 Q All right. I show you a series of photographs. These
2 are State's 16, 17 and 18 for Identification at this point.
3 Could you look through those?

4 (Pause.)

5 Q Okay. Do those show your house?

6 A Yeah.

7 Q Are they accurate pictures of your house?

8 A Yes, sir.

9 MR. BULSA: Your Honor, the state would offer these
10 into evidence.

11 MR. SHEALY: No objection.

12 THE COURT: They're admitted.

13 (Photographs marked State's Exhibits Nos. 16, 17 and
14 18.)

15 Q Now, State's 16 appears to be a shot of the front of
16 your house, a nice, big magnolia tree in front of it, is
17 that right?

18 A Correct.

19 Q Okay. And you have a sidewalk coming out from your
20 porch to the roadway.

21 A Correct.

22 Q Okay. It doesn't look that far from the road, does
23 it?

24 A No. It's not.

25 Q All right. So you actually have a sidewalk next to

Reggie Rice
Direct examination by Mr. Bulsa

- 1 the road?
- 2 A Correct.
- 3 Q State's 17 is sort of a front-side view of the right
- 4 side.
- 5 A Correct.
- 6 Q And State's 18 is the other side, is that right?
- 7 A Correct.
- 8 Q Is this one right here, is that right?
- 9 A Yes.
- 10 Q Okay. Now, what transportation did you have?
- 11 A I ride a scooter.
- 12 Q You rode a scooter.
- 13 A Yeah.
- 14 Q Okay. What would you do with your scooter when you
- 15 got home?
- 16 A I take it inside.
- 17 Q And how did you take it inside?
- 18 A I have a two by four I put up on the steps and I ride
- 19 up into the house.
- 20 Q Ride up the front steps into the house?
- 21 A Correct, correct.
- 22 Q You put it up there to secure it?
- 23 A Correct.
- 24 Q Were you working at that time?
- 25 A Correct.

Reggie Rice
Direct examination by Mr. Bulsa

- 1 Q where were you working?
- 2 A C.R. Brands.
- 3 Q what was that?
- 4 A C.R. Brands.
- 5 Q C.R. Grants?
- 6 A They make Mean Green.
- 7 Q Okay. How long had you worked there?
- 8 A Maybe three months.
- 9 Q Are you still working there now?
- 10 A No, I'm not.
- 11 Q where are you working now?
- 12 A Unemployed.
- 13 Q Unemployed.
- 14 Now, when Mr. Moss stayed with you where would he park
- 15 his car?
- 16 A In the driveway on the side of the road in the front.
- 17 Q Okay. Do you have a driveway?
- 18 A Right beside that -- right beside that big tree you
- 19 see with the --
- 20 Q We don't see it in State's 16, excuse me, 17.
- 21 A See where you see that sign on that tree where it say
- 22 no trespassing?
- 23 Q This one right here?
- 24 A That's my little driveway right there.
- 25 Q You kind of faded out.

Reggie Rice
Direct examination by Mr. Bulsa

1 A That's the driveway. There's a little parking spot
2 right there.

3 Q Park -- State's 18. Are you talking about this area
4 right here?

5 A Right where you flashing right there.

6 Q Okay. Is that a shared driveway with a neighbor?

7 A It's kind of close right beside each other.

8 Q Now, where would he park it if he parked it on that
9 driveway?

10 A It would be on the right side.

11 Q Okay. Did he ever drive it back in behind the house?

12 A No.

13 Q No. All right. Now, did you know Cedric Moss?

14 A No, sir.

15 Q You didn't know him at all.

16 A No, sir.

17 Q Did you learn that the police were looking for
18 Mr. Letmon?

19 A Yes, I did.

20 Q How did you learn that?

21 A I got off from work around 3:30 or 4:00 in the
22 evening.

23 I stopped at my sister-in-law's house up the street,
24 and she asked me did I -- did I know that they say he had
25 killed somebody or something. And I was like, nah, I

Reggie Rice
Direct examination by Mr. Bulsa

1 didn't know that.

2 And I was walking down to my house. I could see the
3 taillights of a car in the back yard. So I said, man, look
4 like his car. So I panicked.

5 So I didn't know what else to do, so I called my uncle
6 and asked him what to do. You know, he was an officer with
7 the city. I asked him what to do. And he was like to call
8 the detective and gave me a number to call.

9 And so I called them. And I met them up the street
10 from my house, and I gave them the opportunity to go in
11 before I went in or whatever and search my -- you know, my
12 residence or whatever.

13 Q Okay. So you worked. You had just gotten off from
14 work the day you heard of this incident?

15 A Correct.

16 Q Okay. Would that have been a Monday?

17 A Correct.

18 Q Okay. So you worked that Monday, and then in the
19 afternoon you learned of Mr. Letmon being a suspect.

20 A Correct.

21 Q And had he just been staying with you?

22 A Yeah, off and on.

23 Q Okay. All right. Now, you said you were walking up
24 and down the street.

25 A No. I walked -- I walked from up the street, like

Reggie Rice
Direct examination by Mr. Bulsa

1 four houses up.

2 Q Four houses up. So is that where you were when you
3 heard the news?

4 A Right, correct.

5 Q Okay. So were you walking back to your house?

6 A Correct.

7 Q And you say you saw some taillights.

8 A I seen the taillights in the back.

9 Q All right. Now, let's look here. Is this what you
10 saw?

11 A Correct.

12 Q Okay. Show you what's been marked State's 19 for
13 Identification at this time. Does that appear to be a
14 closer picture?

15 A Correct.

16 MR. BULSA: State would offer 19 into evidence.

17 MR. SHEALY: No objection.

18 THE COURT: It's admitted.

19 (Photograph marked State's Exhibit No. 19.)

20 Q Okay. Now, was that unusual?

21 A Yeah.

22 Q Do you know how that car got back there?

23 A No, I don't.

24 Q Whose car was it?

25 A That's the car he drives.

Reggie Rice
Direct examination by Mr. Bulsa

- 1 Q That's the car Mr. Letmon drove?
- 2 A Yes, sir.
- 3 Q And that's the car he drove when he stayed at your
- 4 house.
- 5 A Correct.
- 6 Q Do you know when it got there?
- 7 A No, I don't.
- 8 Q Do you know how long it had been there?
- 9 A No, I don't.
- 10 Q You used your front door all of the time?
- 11 A Correct.
- 12 Q All right. So the morning of July the 25th when you
- 13 went off to work you would have driven your moped --
- 14 A Down the steps, yeah.
- 15 Q -- down the steps and out the front door.
- 16 A Right.
- 17 Q Okay. All right. Let me show you these pictures --
- 18 12, 13, 14 and 15. They're all pictures of the same car,
- 19 but do they accurately show the vehicle you knew to be
- 20 driven by Mr. Letmon?
- 21 A Correct.
- 22 Q Okay. Were those pictures taken in your back yard?
- 23 A Correct.
- 24 Q Where they were found, where the car was found.
- 25 A Correct.

Reggie Rice
Direct examination by Mr. Bulsa

1 MR. BULSA: Your Honor, the state would offer State's
2 12 through 15 into evidence.

3 MR. SHEALY: No objection.

4 THE COURT: They're admitted.

5 (Photographs marked State's Exhibits Nos. 12 through
6 15.)

7 Q Start with State's 12. That's the car?

8 A Correct.

9 Q Okay. And, in fact, it was taken, those pictures were
10 taken, because you called the police to your house because
11 of this car, right?

12 A Correct.

13 Q And you cooperated with the police.

14 A Correct.

15 Q You said you even let them search your house.

16 A Correct.

17 Q Did they tow that car from your -- behind your house?

18 A Correct.

19 Q Okay. Now, when you found that car did you make any
20 attempts to try to locate Mr. Letmon yourself?

21 A No, I didn't.

22 Q Did you call any of his relatives and ask them where
23 he might be?

24 A No, I didn't.

25 Q Why not?

Reggie Rice
Direct examination by Mr. Bulsa

1 A After they told me that, you know, after my
2 sister-in-law told me he was on T.V. or whatever, I
3 ain't -- what am I going to call him for, I mean?

4 Q Okay. I understand that point.

5 A Right.

6 Q But when you got back to your house and saw his car
7 back there you didn't think to try to call him and find out
8 where he was and why he left the car back there?

9 A No, no, I didn't.

10 Q Okay. You did the next best thing. You called the
11 police.

12 A Correct.

13 Q Okay. Now, after the police came and met with you --
14 was it the same day?

15 A Correct.

16 Q Okay. And they took the car off. Did you see
17 Mr. Letmon after that?

18 A No, I didn't.

19 Q Now, before this incident happened how often would you
20 see him?

21 A Sometimes every night, every other night.

22 Q Okay. So pretty frequently.

23 A Yeah.

24 Q But after this you didn't see him at all.

25 A No, I didn't.

Reggie Rice
Cross-examination by Mr. Shealy

1 Q Did you learn he was arrested?

2 A Later on I did.

3 Q Did he ever contact you any time between the time his
4 car was found and the time he was arrested?

5 A No, sir.

6 Q That's all I have. Answer any questions Mr. Shealy
7 may have.

8 CROSS-EXAMINATION

9 BY MR. SHEALY

10 Q Mr. Rice, you testified that sometimes when he was
11 staying with you he would have transportation, which means
12 that at other times he wouldn't have transportation.

13 A Correct.

14 Q Okay. So that car that you testified to, it wasn't
15 necessarily his car. It was just a car that he was -- that
16 he had driven in the past, right?

17 A Correct.

18 Q Okay. So it belonged -- did it belong to somebody
19 else?

20 A Apparently so.

21 Q Did you -- had you ever seen -- have you ever driven
22 that car?

23 A No, I haven't.

24 Q You have never driven that car.

25 A Yeah. I drove it.

Reggie Rice
Cross-examination by Mr. Shealy

- 1 Q Yeah. You drove it.
- 2 A Yeah. I done drove the car.
- 3 Q You've driven the car.
- 4 A I drove the car, yeah.
- 5 Q Shawn Long had driven the car, hadn't he?
- 6 A Correct.
- 7 Q Yeah. It was just a car that a lot of people drove,
- 8 correct?
- 9 A Correct.
- 10 Q So it isn't shocking that Mr. Letmon drove it, because
- 11 everybody was driving this car in y'all's circle of
- 12 friends, right?
- 13 A Correct.
- 14 Q Okay. And there were other cars that were driven too,
- 15 weren't there?
- 16 A Correct.
- 17 Q All right. There was a white truck, for example,
- 18 wasn't there, that belonged to Shawn Long?
- 19 A I can't -- I can't really remember, man. I --
- 20 Q You don't remember a white truck?
- 21 A It might have been a gray or a smoke gray or white or
- 22 something.
- 23 Q But it was a truck. There was a truck.
- 24 A There was a truck, yeah, a Ford truck.
- 25 Q And, in fact, now, when you talked to the police you

Reggie Rice
Cross-examination by Mr. Shealy

- 1 told them that you hadn't seen my client since I believe
2 the 23rd, right? Saturday morning.
- 3 A Correct.
- 4 Q He had stayed over the night that Friday.
- 5 A Correct.
- 6 Q Okay. So you didn't see him on the 24th?
- 7 A No.
- 8 Q Are you sure? He didn't come up to your house and you
9 were cooking tilapia, I believe.
- 10 A Yeah, yeah, he did. He did come and eat. Yeah. He
11 came and ate. He came and ate that night.
- 12 Q On the 24th, right?
- 13 A Yeah, he came, yeah. I believe so. Yeah. I cooked
14 fish or something, yeah.
- 15 Q Do you remember asking him about what he was listening
16 to?
- 17 A I can't remember, man.
- 18 Q Do you remember he had a car though that had music?
- 19 A I can't -- I can't even remember what kind of car or
20 what he was listening to or nothing. I be honest with you,
21 man. I been -- I got a drug problem, man.
- 22 Q I understand.
- 23 A I been through a lot, man.
- 24 Q Sure.
- 25 A I even -- I can't remember nothing. I'm just -- I'm

Reggie Rice
Cross-examination by Mr. Shealy

1 trying to stay sober today, man.

2 Q Well, and I appreciate that.

3 A Working on my recovery. It's hard for me to remember
4 anything. To be honest with the Court, that's where I
5 stand today.

6 Q But you remember that the car he came with had music
7 in it. And this Honda haven't have music, did it?

8 A No, I don't think the Honda did have music.

9 Q Because somebody had stolen the C.D. player out of it,
10 hadn't they?

11 A I am not sure. I wouldn't know about that.

12 Q So the car -- but do you remember him -- you remember
13 him coming to dinner, right?

14 A Correct.

15 Q Because you cooked fish and maybe some macaroni and
16 cheese or something like that, right?

17 A Right.

18 Q But you don't really remember asking him what he was
19 listening to.

20 A No. I don't -- I can't remember that.

21 Q And you don't remember what car he came up in?

22 A Uh-uh.

23 Q Okay. But you couldn't testify that it was this car,
24 this Honda car.

25 A Say that again.

Reggie Rice
Cross-examination by Mr. Shealy

1 Q You don't know that it was this Honda either that he
2 came up in on the 24th.

3 A I'm not -- I'm not sure. I'm not sure.

4 Q Do you know how many different cars y'all were driving
5 in and out of this particular residence?

6 A Ask that question again.

7 Q How many different cars were there? We've talked
8 about a truck; we've talked about a car.

9 A I can't count, man, so many cars, man.

10 Q There were a lot of different cars.

11 A I can't -- I can't remember, man, so many cars, you
12 know. I don't drive, man. I ride a scooter, man. I mean,
13 I ain't supposed to drive, period.

14 Q I understand.

15 A I mean, just being honest with you, man. I don't
16 know.

17 Q All right.

18 A I really don't know.

19 Q So you don't know what car he was driving --

20 A No.

21 Q -- on the 24th.

22 A I can't remember.

23 Q You think on the 23rd he may have been driving this
24 Honda.

25 A Maybe.

Reggie Rice
Redirect examination by Mr. Bulsa

1 Q But you remember that he drove all kinds of cars and
2 any number of different people --

3 A Correct.

4 Q -- drove this car.

5 A Correct.

6 Q That's all I have for this witness.

7 REDIRECT EXAMINATION

8 BY MR. BULSA

9 Q Mr. Rice, when you saw that car behind your house the
10 first person you thought of was the defendant, is that
11 right?

12 A Correct.

13 Q Thank you.

14 THE COURT: You may step down.

15 MR. BULSA: The state calls Chris Layton.

16 CHRISTOPHER LAYTON, having
17 been first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. BULSA

19 Q Tell us who you are employed with.

20 A The Spartanburg Public Safety Department.

21 Q In what capacity?

22 A I am currently a member of the violent crimes task
23 force.

24 Q Okay. And were you involved in the search for Keith
25 Letmon in this case?

Christopher Layton
Direct examination by Mr. Bulsa

1 A Yes, sir, I was.

2 Q Tell the jury what all -- what all that consisted of,
3 what y'all did to try to find him.

4 A On July the 25th of 2011 at approximately 11:30 my
5 team was called into city hall at 145 West Broad Street in
6 reference to a murder investigation. And we were tasked
7 with assisting to locate Keith Letmon who allegedly shot
8 Cedric Moss at 108 Norris Street earlier that morning.

9 Upon arrival at city hall we went to Kensington Manor
10 obviously to try to block off the roadway there. Tactical
11 team was called in.

12 Q Let me just ask the questions. Kensington Manor.
13 Were there relatives of his there?

14 A I don't know. I was instructed to block off the
15 road by investigations. And the tactical team were there.
16 I was further up the road blocking off Kensington Road.

17 Q And they brought y'all in to support certain areas
18 they were going to look for.

19 A Yes, sir.

20 Q Okay. And were you called to a residence on Edwards
21 Avenue?

22 A We went, I believe, to Mr. Letmon's mother's residence
23 first on Charlie Mae Campbell, and she told us that
24 Mr. Letmon was staying on Edwards Avenue at 236. So we
25 went there just riding around Edwards Avenue --

Christopher Layton
Direct examination by Mr. Bulsa

1 Q Okay.

2 A -- and observed a vehicle parked behind the house.

3 Q Okay. That was the house we have pictures of?

4 A 236 Edwards Avenue, yes, sir.

5 Q So how difficult was it, or was it easy to see the car
6 behind the house?

7 A You could see the vehicle from the roadway. Yes, it
8 was very easy.

9 Q Okay. What did y'all do with that vehicle?

10 A We maintained surveillance on it and got in contact
11 with investigators that were working the case until they
12 arrived there. And they -- I guess they had been speaking
13 with Mr. Rice. And once he arrived there the vehicle was
14 secured. And he allowed us inside the residence to search
15 the residence.

16 Q Okay. Did you tow the vehicle from the scene?

17 A Yes, the vehicle was towed from the scene.

18 Q Where was it towed to?

19 A The impound lot at city hall.

20 Q Did you assist in processing that vehicle?

21 A Yes, sir. I did.

22 MR. SHEALY: Your Honor, at this point I think we have
23 an issue to take up outside the presence of the jury. I
24 have an objection.

25 THE COURT: All right. Let me see you just a minute.

Christopher Layton
Direct examination by Mr. Bulsa

1 (Bench conference held off the record in the presence
2 of the jury but out of the hearing of the jury.)

3 BY MR. BULSA

4 Q Officer, State's Exhibit 12, that's the vehicle y'all
5 had towed to city hall?

6 A That's correct.

7 Q And did you assist Officer Guthro in processing that
8 vehicle?

9 A Yes, sir.

10 Q Okay.

11 THE COURT: The photo has previously been admitted
12 without objection?

13 MR. BULSA: That one has.

14 MR. SHEALY: Your Honor, again, I'm going to object to
15 the processing. They have failed to tie this car --

16 MR. BULSA: Objection, Your Honor.

17 MR. SHEALY: Your Honor, I have to state the basis of
18 my objection.

19 MR. BULSA: May we approach?

20 THE COURT: Okay. Let me ask the jury to step out,
21 please, and I'll address this objection and bring you right
22 back. Don't talk about the case.

23 (The following takes place outside the presence of the
24 jury.)

25 THE COURT: Let's have no talking in the audience,

Christopher Layton
Direct examination by Mr. Bulsa

1 please. As I mentioned earlier before this case started,
2 if you can't exhibit proper decorum you'll have to leave
3 the courtroom voluntarily or involuntarily. It doesn't
4 matter to me.

5 All right.

6 MR. SHEALY: Your Honor, the state has failed to tie
7 that any of the eye witnesses identified this is the car
8 that happen -- that was at the shooting. It would be our
9 position that anything found in this car is irrelevant. It
10 doesn't go to prove anything at issue in the case.

11 THE COURT: Okay. Mr. Bulsa, do you perceive that
12 there's going to be some relevant evidence that's going to
13 be derived from this examination about the vehicle from
14 this witness?

15 MR. BULSA: Yes, sir. Mr. Copeland testified that he
16 saw the shooter wearing what he called white rubber gloves.

17 Ms. Ross said that she saw white socks which could
18 have been the gloves. And inside of this vehicle just
19 beside the driver's seat there was a white colored glove as
20 well as a blue colored glove that was processed by SLED and
21 resulted in the defendant's D.N.A. being on those gloves.

22 MR. SHEALY: Your Honor, I'm going to have I believe
23 an objection on the D.N.A., as well as I point out that the
24 testimony was two white gloves.

25 Things found in this car is a single blue glove, and

Christopher Layton
Direct examination by Mr. Bulsa

1 my understanding of the description is a gray glove.
2 That's not a blue -- that doesn't match. It doesn't match
3 what these eye witnesses or alleged eye witnesses are
4 testifying to. So they can't.

5 And, Your Honor, I don't believe that there will be
6 anything, any gunshot residue to say that these gloves were
7 worn during a shooting. And so there is nothing that can
8 tie those gloves as having been used in issue. So, Judge,
9 I don't believe it is relevant.

10 THE COURT: Anything else?

11 MR. SHEALY: And I would also argue they haven't
12 properly tied the car to my client, but nothing else, Your
13 Honor.

14 THE COURT: All right. Note your objection.

15 Bring the jury back, please.

16 (The following takes place in the presence of the
17 jury.)

18 THE COURT: You may continue.

19 BY MR. BULSA

20 Q Where was the car? You used the word process. Where
21 did y'all look through the car at?

22 A It would have been the city hall impound lot.

23 Q Okay. I've only printed a few pictures, State's 25,
24 excuse me, 23 -- out of order -- 21, 22, 23 and 20.

25 Look at those. Do those show portions of the car

Christopher Layton
Direct examination by Mr. Bulsa

1 showing y'all processing it?

2 A Yes, sir, they do.

3 Q I think in one of the pictures you actually can see
4 part of a person. Is that you?

5 A That would be me, yes, sir.

6 MR. BULSA: Your Honor, the state would offer State's
7 20 through 23 into evidence at this time.

8 MR. SHEALY: Subject to my previous objection, Your
9 Honor, as to --

10 THE COURT: They are admitted over it.

11 MR. SHEALY: I would also have another specific
12 objection to Nos. 23 and 22 as again showing irrelevant
13 information.

14 THE COURT: I understand. They are admitted over the
15 objection.

16 (Photographs marked State's Exhibits Nos. 22 and 23.)

17 Q Now, y'all are basically looking inside the car to see
18 if there's anything of value.

19 A That's correct.

20 Q State's 20 showing the driver's side and State's 21
21 showing the passenger side. State's 22, what is that
22 showing us?

23 A That would be between the front driver and passenger
24 seat.

25 Q Okay.

Christopher Layton
Direct examination by Mr. Bulsa

1 THE COURT: Be careful of that microphone, please,
2 sir.

3 THE WITNESS: Yes, sir.

4 Q Step down if you would.

5 (Whereupon, the witness left the stand.)

6 Q Appears to be an object we can see. What is that
7 object?

8 A It's a white latex glove.

9 Q And State's 23 is a closer picture of that.

10 A Yes, sir.

11 Q That's basically what we saw on State's 22?

12 A It's a black latex glove and a blue latex glove, yes,
13 sir.

14 Q On a closer picture we can actually see a second
15 glove?

16 A Yes, sir.

17 Q Okay. Have a seat.

18 (Whereupon, the witness returned to the stand.)

19 Q Were those gloves recovered?

20 A Yes, sir.

21 Q Were they put into evidence?

22 A Yes, sir.

23 Q Were they secured?

24 A Yes, sir.

25 Q Did officer Guthro assist you in collecting those

Christopher Layton
Direct examination by Mr. Bulsa

1 items?

2 A Yes, sir.

3 Q Because this isn't your normal duty, is it?

4 A No, sir.

5 Q All right. Did you participate in the actual location
6 of Mr. Letmon?

7 A Yes, sir. I was on Sun 'N Sand Road.

8 Q Do you recall what day it was y'all found the car?

9 A The car was found on the 25th -- July 25th.

10 Q And when was he found?

11 A September the 1st.

12 Q Did your team do anything in the meantime to try to
13 locate him?

14 A Yes, sir, we did.

15 Q What?

16 A We went to his mother's residence on Charlie Mae
17 Campbell Lane several times. I don't know the exact
18 number. I would say in the neighborhood of six, seven,
19 maybe eight times within that month and month-and-a-half
20 time span.

21 We also went to his brother's house a couple of times.
22 Followed different various tips and leads in an attempt to
23 locate him that had been called in searching different
24 hotels in the Spartanburg area, different hotels in the
25 Greenville area and things of that nature.

Christopher Layton
Cross-examination by Mr. Shealy

1 Q And finally one of those tips spanned true?

2 A Yes, sir.

3 Q Thank you. That's all I have at this time. Answer
4 any questions Mr. Shealy has.

5 CROSS-EXAMINATION

6 BY MR. SHEALY

7 Q Is it Officer Layton?

8 A Yes, sir.

9 Q Okay. I want to make sure I call you the right name.
10 All right. And you processed this scene or this car,
11 correct?

12 A I assisted, yes, sir.

13 Q Okay. You found a whole bunch of stuff, didn't you?

14 A Yes, sir, there was.

15 Q You found -- and it was all for different people,
16 wasn't it?

17 A There were miscellaneous paper documents, yes, sir.

18 Q Okay. So you found stuff from -- for a Sean Smith,
19 some other mail for a Teresa Woodruff, some more mail for
20 Sean Smith. Is that accurate?

21 A I would -- I would say that there was different
22 things. I don't have the specific names. I see something
23 here for Teresa Woodruff. But there were -- there were
24 documents inside the vehicle.

25 Q And feel free to refer to your report for that.

Christopher Layton
Cross-examination by Mr. Shealy

1 A Yes, sir.

2 Q That's why you write them. And you found a bunch of
3 clothing too, didn't you?

4 A Yes, sir. There was clothing located in the trunk.

5 Q Okay. And among those items of clothing were two
6 white socks, is that correct?

7 A Yes, sir.

8 Q Two white socks, one of which had a blood stain on it,
9 correct?

10 A It had what appeared to be a blood stain, yes, sir.

11 Q And did you collect that or did Officer Guthro collect
12 that? Looks like you did.

13 A The items -- the vehicle would have been gone through
14 by both myself and Officer Guthro. He would have actually
15 collected any evidence. I would have recovered the
16 evidence and placed it into property and evidence at city
17 hall.

18 Q Okay. All right. And who did this vehicle actually
19 belong to?

20 A The vehicle -- the tag on the vehicle, registration of
21 the vehicle, came back to Christopher Swindler, I believe.

22 Q Okay. Did he disclaim -- didn't he disclaim any
23 knowledge of the vehicle?

24 A Yes, sir, he did.

25 Q Further you found some receipts, correct?

Christopher Layton
Redirect examination by Mr. Bulsa

1 A That is correct.

2 Q Okay. For among others a Yolanda Jeter.

3 A I don't see that specific name in my report. I'm
4 looking over it but--

5 Q You found information on a Tashan Carson, is that
6 accurate?

7 A Again, I don't have that listed specifically in my
8 report, that name. But there were miscellaneous documents.
9 There were several different documents inside the vehicle.

10 Q And they were, again, for any number of different
11 people. And did you also swab down the car for D.N.A.?

12 A The vehicle was -- was swabbed for D.N.A.

13 Q Thank you, officer.

14 MR. SHEALY: I believe that's all I have for this
15 witness.

16 MR. BULSA: Briefly.

17 REDIRECT EXAMINATION

18 BY MR. BULSA

19 Q You said you actually were the ones that recovered the
20 gloves. I show you State's Exhibit No. 27. That's for
21 identification. Inside this plastic bag, envelope, look
22 inside there and see if that contains the gloves that you
23 recovered.

24 A They're still wrapped up.

25 Q Does the packaging show that that's what those belong

Christopher Layton
Redirect examination by Mr. Bulsa

1 to on the outside of the packaging?

2 A Latex gloves, yes, sir, processed.

3 Q Did you fill out that envelope?

4 A Yes, sir.

5 Q Show the jury what you're looking at.

6 A Looking at a brown grocery style sack for the chain of
7 custody. And the outside here has been filled out and
8 completed. You know, gloves have been placed inside.

9 Q And that's evidence tape on it?

10 A It would have the tamper tape for evidence collection
11 on it.

12 Q Okay. So this is the item that you -- items you
13 recovered, at least purportedly. But they have been
14 wrapped up.

15 A Yes, sir.

16 Q Okay. Thank you.

17 MR. BULSA: That's all I have.

18 MR. SHEALY: I have nothing for the witness.

19 THE COURT: You may step down.

20 Ladies and gentlemen, we will recess for lunch.

21 Keep in mind the caution I've previously given you.

22 No discussions, no media exposure, no independent research
23 or investigation into any issue.

24 Do have a good lunch. Please report to your jury room
25 at 2:30 -- 2:30 this afternoon.

Christopher Layton
Redirect examination by Mr. Bulsa

1 All others remain seated while the jury is leaving the
2 courtroom.

3 (The following takes place outside the presence of the
4 jury.)

5 THE COURT: Mr. Bulsa, you took a bag or two out of
6 another bag.

7 Are all of those marked? Because if they're not
8 marked that's going to be real confusing for the court
9 reporter, as well as everybody else.

10 MR. BULSA: I am going to put it back together.

11 THE COURT: Well, are we going to do that before it's
12 moved?

13 MR. BULSA: Yes, yes, sir. I was going to.

14 THE COURT: Court is in recess until 2:30.

15 (Whereupon, a recess was taken.)

16 (D.N.A. suspect sample marked State's Exhibit No. 29
17 for Identification; cuttings and swabs marked State's
18 Exhibit No. 30 for Identification.)

19 THE COURT: Are we ready for the jury?

20 MR. BULSA: Yes, sir.

21 MR. SHEALY: Yes, Your Honor.

22 THE COURT: Bring them in.

23 (The following takes place in the presence of the
24 jury.)

25 THE COURT: Good afternoon.

Louis Nelson
Direct examination by Mr. Bulsa

1 When we recessed for lunch the state was still in the
2 midst of their presentation, so we will continue with that.

3 Mr. Bulsa.

4 MR. BULSA: The state calls Louis Nelson.

5 LOUIS NELSON, having been
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MR. BULSA

8 Q Please introduce yourself to the jury.

9 A Yes, sir. My name is Louis Nelson. I am an
10 investigator with the Spartanburg Public Safety Department,
11 and I work in the criminal investigations division.

12 Q Did you assist Investigator Porter in this case?

13 A Yes, I did.

14 Q And how long have you been an officer?

15 A I've been a police officer for nearly 20 years in
16 January.

17 Q How long have you been in investigations?

18 A Together totally, narcotics and criminal,
19 approximately 15 years.

20 Q When did you begin assisting Investigator Porter?

21 A That morning maybe an hour after the incident
22 occurred. He called me and informed me that there had been
23 a homicide, and he wanted me to come in early and assist
24 him with the investigation.

25 Q Did you meet with any of the witnesses?

Louis Nelson
Direct examination by Mr. Bulsa

1 A Yes, sir, I did.

2 Q Okay. And did you speak specifically with Ms. Ross,
3 Crystal Ross?

4 A Yes, I did speak with Crystal Ross.

5 Q Did you show her some photos?

6 A I showed her -- I showed her a photo lineup consisting
7 of six photographs.

8 Q Was she able to identify anybody in those photographs?

9 A Yes. She was able to identify one individual out of
10 all six.

11 Q And who was that individual?

12 A That individual was Mr. --

13 MR. SHEALY: Objection, Your Honor, based on my prior
14 objection.

15 THE COURT: Overruled.

16 BY MR. BULSA

17 Q Continue.

18 A That individual was Mr. Keith Letmon sitting right
19 there in the white t-shirt -- excuse me -- the white
20 long-sleeved shirt right there.

21 Q Okay. And is that the person she identified as being
22 the shooter in this case?

23 A Yes. She identified him as being the shooter in this
24 particular case.

25 Q How about Mr. Copeland, Anthony Copeland? Same thing

Louis Nelson
Direct examination by Mr. Bulsa

1 with him?

2 MR. SHEALY: Again, Your Honor, I object based on my
3 prior objection.

4 THE COURT: Overruled.

5 BY MR. BULSA

6 A Yes. I did show the same lineup to Mr. Anthony
7 Copeland. And when I was showing Mr. Copeland the lineup
8 he was very quick and very decisive pointing out the
9 individual that he saw commit the crime.

10 Q Just so the jury understands, you did these
11 independent of each other, did you not?

12 A Yes, I did. I did -- I believe I did Ms. Ross first,
13 and Mr. Copeland was last I believe. I also did Brittany
14 Robinson.

15 Q Was Ms. Robinson able to identify anybody at that
16 time?

17 A Ms. Robinson -- she couldn't select. She was hung up
18 on three -- three pictures, and she couldn't. She said she
19 couldn't make it with all certainty, she couldn't select an
20 individual from the lineup.

21 Q Okay. After you got this information what did you and
22 Mr. Porter do?

23 A After we got the information from -- we had two people
24 identify Mr. Letmon as the individual. We went and spoke
25 with a judge, and we obtained an arrest warrant for

Louis Nelson
Direct examination by Mr. Bulsa

1 Mr. Keith Letmon.

2 Q Did you then try to serve that warrant?

3 A Yes, sir, we did.

4 Q What did you do?

5 A We went to several locations. I started -- we started
6 out. First at approximately 9:50 that particular morning
7 we made contact with the probation and parole office
8 located right across the street here.

9 Q Okay. Did you get any information there?

10 A Yes, we did obtain some information from --

11 Q Officer -- okay. Did that lead you anywhere else?

12 A It led us to 600-A Charlie Mae Campbell Lane, which is
13 the address that was on record in the probation and parole
14 office. And that was where his mother, Ms. Doris Letmon,
15 resided. And we went -- we went to 600 Charlie Mae
16 Campbell, Apartment A.

17 And once we knocked on the door we didn't get a
18 response. We then called. We were able to also get a
19 phone number for Ms. Letmon. And we called her and we
20 informed her that we were searching for her son and he was
21 a suspect in a crime that, a murder, a homicide, that
22 occurred in the city.

23 Q Was she able to help you find him?

24 A At that particular time she said that she didn't
25 have -- she was a little upset at the news. She said that

Louis Nelson
Direct examination by Mr. Bulsa

1 she didn't know his cell number but she thought -- she
2 thought maybe her granddaughter had that information.

3 So, we -- we left the apartment area, and we continued
4 to search. And we went to -- later went to Kensington
5 Manor Apartments.

6 She wasn't able to provide us with that phone number
7 at that time. So once we left -- once we left Charlie Mae
8 Campbell, which is on the south side of Spartanburg, we
9 then went to Kensington Manor Apartments, because we also
10 had some information. We was just checking places where we
11 had information where Mr. Letmon had laid his head or had
12 relatives.

13 So, we went over to Kensington Manor Apartments on
14 Kensington Drive, and we spoke with the complex manager
15 trying to track down some of the relatives. And we -- at
16 that time we couldn't come up with any solid leads.

17 So at that point we went to another apartment complex,
18 which was Woodland Apartments. And it's located right off
19 of John B. White Boulevard on South Pinelake.

20 At one point Mr. Letmon had a girlfriend that resided
21 in that particular apartment complex, based on previous
22 investigations that we have conducted in the office. And
23 we went by to try and locate her to see if she had seen Mr.
24 Letmon.

25 Q Did she provide you any information?

Louis Nelson
Direct examination by Mr. Bulsa

1 A She had -- she had moved away from the apartments, but
2 we spoke with a neighbor, and the neighbor didn't know
3 where she was. And we also spoke with the complex manager
4 at Woodland Apartments. And she said that girlfriend --
5 the girl that we knew to be girlfriend of Mr. Letmon, that
6 she had left no forwarding address at that time. But from
7 there we left the complex office.

8 We had received some other information that he had
9 been sighted in Woodruff. So we then began to head towards
10 Woodruff. And at that point Investigator Porter received
11 some other information that he was at Kensington Manor
12 right now.

13 So we turned around, and we came back to Spartanburg,
14 and we began to set up surveillance on this particular
15 apartment, which was I think the apartment of Laketa Long.
16 I think she was an aunt or a cousin to Mr. Letmon.

17 Q Did you find him there?

18 A No, sir. We set up surveillance and we -- we watched
19 and watched and watched. And we finally got, obtained, a
20 search warrant, but we didn't find him there.

21 Q Let me -- let's shorten this up. Officer, how many
22 addresses did you check?

23 A Let's see. We went to -- we went back into the
24 Highland community area and we -- we checked on several
25 streets trying to obtain leads.

Louis Nelson
Direct examination by Mr. Bulsa

1 I also called the state law enforcement division
2 fugitive task force, and I had one of their agents. He
3 came up and he assisted us in trying to start pinging a
4 phone of Mr. Letmon. We went to, back to, Kensington Manor
5 Apartments again.

6 Q Did you put information out in the communities that
7 you were looking for Mr. Letmon?

8 A It was broadcast over the news about the incident and
9 that we had developed a suspect. And his picture was ran
10 in the news.

11 Q Were there any flyers put out through the
12 neighborhood?

13 A Yes, sir. We also -- in the time when we went back
14 into the Highland community, we went to Crescent Hills
15 Apartments, and we went to different locations. And we --
16 we put flyers out everywhere we went offering a reward to
17 anyone that could tell us where Mr. Letmon was located.

18 Q Did you continue to check his family members'
19 residences?

20 A Yes. We continued to check with Ms. Letmon. We went
21 back by the apartment on several -- on several occasions,
22 and there was no answer. And I think I was told at one
23 point that she left the apartment because she was getting
24 calls and everything. I think she went to stay with some
25 of her family members.

Louis Nelson
Direct examination by Mr. Bulsa

1 But we went -- we went to Chesnee following up on
2 leads trying -- trying to locate Mr. Letmon. We went to
3 Edwards Avenue where the vehicle was discovered trying to
4 locate -- trying to locate Mr. Letmon. We also went to 440
5 Zephyr Street. We went back -- back by the Highland
6 community. We spoke with some more residents in that area,
7 because it looked like they had kind of set up one of those
8 memorials at the location where -- where Mr. Moss was
9 killed.

10 We also went to 138 Countryside Circle in Moore. We
11 went to 107 Smith Street in Moore. We did go, finally go,
12 back to Woodruff to 176 Pearson Street. We also went to
13 227 Woodruff Street.

14 All of these were addresses and leads that we were
15 getting, and we were just eliminating them. People were
16 calling in based on -- based on what they had seen in the
17 news and the flyers that we were putting out in the
18 community.

19 We also went to an area in Roebuck to another -- a
20 lady, a Ms. Rodriguez, who was another past acquaintance we
21 were told of Mr. Letmon trying to develop some leads. And
22 she said that she hadn't heard from him.

23 Q Now, you documented all of these in your report --

24 A Yes, sir.

25 Q -- and I think they are the first two or three days of

Louis Nelson
Direct examination by Mr. Bulsa

1 this investigation.

2 A Yes, sir. For the first two -- first two or three
3 days we -- we pretty much stayed just checking our records
4 management system, T.L.O., accurate, all of the resources
5 that we had to try to come up with any leads, any
6 addresses, phone numbers, family members. We -- we went
7 any and every where we could think of.

8 Q What happened after the two or three days?

9 A After two or three days we had pretty exhausted all of
10 the leads that we had. We had checked all of the addresses
11 that we had. Some of the information that was found in the
12 Honda Accord, some of the people's names, we went to. We
13 also went to those locations and spoke -- [REDACTED] East
14 Blackstock Road, Westgate Apartments, and spoke to Tashan
15 Carson. We went to [REDACTED] Powell Mill Road.

16 We set up surveillance on another previous girlfriend
17 of Mr. Letmon, and we thought that maybe she had picked him
18 up one night, but it was actually -- that didn't go
19 anywhere.

20 Q Needless to say, you didn't find him.

21 A No, sir. We searched. We searched pretty much high
22 and low everywhere we could think of, and we couldn't find
23 Mr. Letmon.

24 Q But the search continued for over a month?

25 A Yes, sir. We would follow up on -- on information we

Louis Nelson
Direct examination by Mr. Bulsa

1 received.

2 Sometimes we'd get information that would kind of be
3 stale, what we consider stale, somewhere we had already
4 checked. But we would just, because we got that
5 information just to eliminate it, we would go back and
6 check it again. So a lot of times, you know, we would get
7 information and be nothing to it.

8 Q Was the -- was the trying to locate Mr. Letmon kind of
9 turned over to the street team?

10 A Yes, sir. Normally when we have a violent crime occur
11 such as a homicide and knew right away -- when we can't
12 locate or can't find the individual and time is of the
13 essence, because evidence can be destroyed or this subject
14 can get further away from us -- a lot of times people take
15 flight and go north -- we call in the violent crimes task
16 force.

17 Consists -- it consists of four officers. And we
18 amass all the information and we break it down, and
19 everybody is assigned to check certain locations. And we
20 go out and we check those locations. And if need be, we
21 set up surveillance if it's a good lead.

22 Q And it was that team that actually wound up finding
23 him.

24 A Yes, sir, based on some information.

25 Q Okay. All right. That's all I have at this time.

Louis Nelson
Cross-examination by Mr. Shealy

1 Answer anything Mr. Shealy may have.

2 A Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. SHEALY

5 Q Investigator Nelson, where did they finally find
6 Mr. Letmon?

7 A Mr. Letmon was located at 150 Sun 'N Sands Road right
8 off of Highway 221 --

9 Q Okay.

10 A -- in the Sun 'N Sands Motel.

11 Q And a lot of these leads that you got, for example,
12 one of them took you to a place of a vacant lot, right? I
13 believe 138 Countryside Circle over in Moore.

14 A Yes, sir. I believe that's correct. I remember
15 distinctly. I think we went to one location where there
16 was nothing. There was just grass growing.

17 Q Okay.

18 A I think that was the location.

19 Q So you got to follow up on any leads you get, right?

20 A Yes, sir.

21 Q I mean, because you can't leave a lead unchecked,
22 right?

23 A Absolutely.

24 Q Okay. But as you testified, a lot of times that
25 information wasn't going to be any good anyway?

Louis Nelson
Cross-examination by Mr. Shealy

- 1 A Sometimes it's stale.
- 2 Q Yes.
- 3 A We have -- maybe have already checked it before, but
- 4 we still go back.
- 5 Q So you've got to follow up even if it's a lead you
- 6 know isn't going to be -- or you have a good feeling it's
- 7 not going to be viable, right?
- 8 A Well, if it's -- if it's something that we -- I mean,
- 9 it has to be very much off key when we won't follow up on
- 10 it. We try to run down all leads.
- 11 Q Okay. And you go and talk to people's family and all
- 12 of that.
- 13 A Yes. We did. We did go to one or two locations.
- 14 Q Is it -- is it uncommon that people don't live with
- 15 their family?
- 16 A It's -- oh, no. It's not uncommon.
- 17 Q I mean, sometimes you're just not going to find them
- 18 at their family's house, right?
- 19 A No. But usually they'll know how to get in touch with
- 20 them.
- 21 Q Have an idea as to how to get in touch with them.
- 22 Just happens that these people didn't have an idea
- 23 apparently.
- 24 A That's what they told us.
- 25 Q Okay. And over this month, again, did you -- did you

Louis Nelson
Cross-examination by Mr. Shealy

1 ever go to Sun 'N Sand Motel?

2 A No, sir. I had no information that would take me in
3 that direction.

4 Q Okay. Until you -- until I guess you did have
5 information, and then once you got that information you
6 went and arrested Mr. Letmon, right?

7 A Acted on it, yes, sir.

8 Q Okay. And Sun 'N Sand Hotel is right over here on 221
9 and I-85, right?

10 A Yes, sir. I've -- I've been there. It's a place,
11 that particular area, I'm not very familiar with.

12 Q But you can see it when you're going on I-85. It's
13 right over there, correct?

14 A I think so, yes.

15 Q You think so.

16 A I'm pretty sure.

17 Q And you've testified that you provided a lineup for
18 these -- for these witnesses. Is that accurate?

19 A Yes, sir.

20 Q Okay. And how did you get this lineup?

21 A Investigator Porter brought the lineup to me and asked
22 me to show it to the witnesses.

23 Q Okay. And did he tell you if he had administered this
24 lineup previously or not?

25 A No, sir.

Louis Nelson
Cross-examination by Mr. Shealy

1 Q He didn't tell you that?

2 A He just brought me the lineup and asked me to present
3 it to the witnesses. I didn't know. That's all I knew at
4 that point.

5 Q Okay. Now, you also, it's my understanding, were
6 involved in the search of this vehicle, is that accurate?

7 A The search of the gold Honda Accord?

8 Q Correct.

9 A Yes.

10 Q Did you have anything to do with the search of Laketa
11 Long's black Honda Accord?

12 A No, sir. I don't believe I did. I can refer back to
13 my notes, but I don't -- I don't recall that I did.

14 Q Okay. So you were there when Officer Layton recovered
15 all of those pieces of paper, all of that, all of those
16 documents that he mentioned.

17 A I arrived. To be -- I arrived. I'm not sure if they
18 had already began to search the vehicle or if I arrived
19 right at the time when they searched.

20 I know when I got there they had just started, so I
21 don't know if they had already discovered that or if I -- I
22 just can't tell you. I can't be a hundred percent sure on
23 exactly what time I walked around to the vehicle when the
24 search had begun.

25 Q Okay. So you weren't there for the whole thing, but

Louis Nelson
Cross-examination by Mr. Shealy

1 you were there for some of it.

2 A I think I was there for the most of it.

3 Q Most of it.

4 A Let me doublecheck my notes.

5 (Pause.)

6 A No. It doesn't appear that Officer Clayton -- Layton;
7 myself and Guthro -- we went around to the storage building
8 to the gold Honda Accord in the city and found it.

9 Q Okay. And do you recall recovering paperwork for a
10 Tashan Carson in that vehicle?

11 A There was -- I can't tell you exactly what type of
12 paperwork, but there was something in there with his name
13 on it.

14 Q Some mail from or to him with his name on it?

15 A It was something in it. I can't tell you exactly what
16 it was.

17 Q Okay. And you had some mail for a Michelle Davis,
18 correct?

19 A Well, I would have to refer to paperwork, and I can't
20 tell you what exactly with each name.

21 Q But it had her name on it.

22 A There was something in the vehicle with her name on
23 it.

24 Q Okay. And this car was registered to a Christopher
25 swindler, correct?

Debra Kerns
Direct examination by Mr. Bulsa

1 A I believe that's correct, yes, sir.

2 Q And he had some paperwork in there too, didn't he?

3 A Yes, sir.

4 Q And I think Officer Layton's already testified, but do
5 you recall them finding two white ankle socks in the trunk?

6 A Yes, sir.

7 Q You do recall that?

8 A Yes, sir.

9 Q I think that's all I have for you if you will bear
10 with me one second.

11 (Pause.)

12 MR. SHEALY: That's all I have for this witness.

13 MR. BULSA: Nothing further.

14 THE COURT: You may step down.

15 MR. BULSA: We call Debra Kerns.

16 DEBRA KERNS, having been first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. BULSA

19 Q Please introduce yourself to us, ma'am.

20 A My name is Debra Kerns.

21 Q Where do you work, ma'am?

22 THE COURT: Ma'am, could you get a little bit closer
23 to that microphone, please, so you can use that? You can
24 adjust it as you need to.

25 BY MR. BULSA

Debra Kerns
Direct examination by Mr. Bulsa

- 1 A My name is Debra Kerns, and I work at Hampton Inn and
2 Suites at this day.
- 3 Q How long have you worked there?
- 4 A Five years.
- 5 Q What hours do you generally work?
- 6 A We have to clock in at 8:50, and we work until we
7 finish, sometimes 3:00 or 4:00.
- 8 Q What are your duties there?
- 9 A Huh?
- 10 Q What do you do there?
- 11 A I'm housekeeping.
- 12 Q Okay. Do you know the defendant?
- 13 A That's the one that was on the elevator with me.
- 14 Q Okay. And do you know him?
- 15 A I've seen him, but to know him, know him, no, but I've
16 seen him.
- 17 Q Where have you seen him?
- 18 A About living around Spartan Terrace.
- 19 Q Did you know him -- did you know him by name?
- 20 A No. Just by nickname.
- 21 Q What was his nickname?
- 22 A Slow.
- 23 Q Slow. And were you working back in July of 2011 at
24 Hampton Inn?
- 25 A Yes.

Debra Kerns
Direct examination by Mr. Bulsa

1 Q Did you see this person you knew to be slow there?

2 A Yeah. We was on the elevator together.

3 Q Okay. And how was he acting?

4 A He had a hat on pulled down like this right here so
5 that you couldn't really just look in his face. I'm nosy,
6 so I was looking at him.

7 And then he was on the elevator when I got on. So he
8 was coming from the fifth floor. I was getting on from the
9 fourth floor going down. When we gets down to the lobby, I
10 gets off and go around to the front. He goes out the back
11 door.

12 Q Did you know he was wanted at that time?

13 A Yeah, and kinda scared because of what he had did. So
14 can't estimate peoples like that, yeah.

15 Q How did you gain your information?

16 A News and peoples out in the street saying somebody
17 just got killed and all of this right here. But you have
18 to see the person first.

19 Q Okay.

20 A Yeah.

21 Q So you knew -- you knew he was wanted, and you saw
22 him, and he was acting that way. What did you do with the
23 information?

24 A Some of the detectives or SWAT team or whatever come
25 to the hotel and they -- when we got there that morning

Debra Kerns
Cross-examination by Mr. Shealy

1 they had the hotel covered. We couldn't go upstairs on the
2 floors. All the steps and everything was blocked. And
3 they was looking for him, and he was on the fifth floor.
4 But when they got there he wasn't there. He was gone. But
5 the day before he was there.

6 Q Okay. Was there another member that worked at your
7 place that also saw him?

8 A Yeah. Jeanette Smith. She's the one that had the
9 room, yeah. It was him, another guy and a girl and a baby.

10 Q Okay. She was the one cleaning their room.

11 A Yeah, Jeanette was cleaning their room.

12 Q Okay. All right. Do you have anything against Mr.
13 Letmon?

14 A No, I don't.

15 Q But you're certain he was the man you saw and he was
16 acting that way.

17 A Yeah, he is the man I saw.

18 Q Okay. Thank you, ma'am. That's all I have.

19 CROSS-EXAMINATION

20 BY MR. SHEALY

21 Q All right. Mr. Kerns, let me understand this.

22 You saw a man with a baseball cap on. Was it a
23 baseball cap?

24 A He had a cap, a ball cap.

25 Q It was a ball cap, right, with a brim?

Debra Kerns
Cross-examination by Mr. Shealy

- 1 A Yeah.
- 2 Q Okay. You saw a black man with a baseball cap with a
3 brim on it in an elevator.
- 4 A Uh-huh.
- 5 Q And you thought that was suspicious?
- 6 A No. I'm standing there looking at him.
- 7 Q Sure.
- 8 A You know, I'm looking at him. When you can't look at
9 me and, you know, you're talking but you still can't look
10 at the person because you're going to keep your head down,
11 that made me curious to look at you.
- 12 Q Okay.
- 13 A Yeah.
- 14 Q But when you got on he didn't get immediately off with
15 you.
- 16 A Yeah. He come off with me.
- 17 Q He came off.
- 18 A Right.
- 19 Q He came off with you.
- 20 A Come off together. I went this way and he went out
21 the back door.
- 22 Q But he -- he was coming down from the fifth floor.
- 23 A Yeah. See, I'm on fourth, so he coming from fifth.
24 He just got there by us.
- 25 Q So you got on in the fourth floor.

Debra Kerns
Cross-examination by Mr. Shealy

- 1 A Yes.
- 2 Q He didn't get off on the fourth floor.
- 3 A No.
- 4 Q He didn't get off the third floor.
- 5 A No.
- 6 Q He didn't off on the second floor.
- 7 A No.
- 8 Q He got off on the first floor.
- 9 A Yes.
- 10 Q With you.
- 11 A Yes.
- 12 Q Okay. And you found that suspicious.
- 13 A Yeah. I found it suspicious went he got on the
- 14 elevator and wouldn't look at me.
- 15 Q Because he wouldn't look at you?
- 16 A That's right.
- 17 Q Is it a big elevator, small elevator?
- 18 A Nice size. It can hold seven or eight people.
- 19 Q Seven or eight people.
- 20 A Uh-huh.
- 21 Q Okay. Well, I mean, do most people have chats on
- 22 elevators?
- 23 A Well, the type of business I am, yes, we do.
- 24 Q Y'all have all kinds of conversations.
- 25 A Yeah, yeah, we do with the guests too.

Debra Kerns
Cross-examination by Mr. Shealy

- 1 Q On the elevator.
- 2 A On the elevator.
- 3 Q Okay. Now, you live in Crescent Hills Apartments?
- 4 A No. I used to.
- 5 Q You used to.
- 6 A Yeah.
- 7 Q Okay. And that's where you say you know my client
- 8 from?
- 9 A Used to be around over in there.
- 10 Q In there.
- 11 A In the area, yeah.
- 12 Q All right. And then he went out the -- he left. What
- 13 door did he go out of?
- 14 A He went out the exit going down the hall on the first
- 15 floor.
- 16 Q Okay.
- 17 A I went toward the lobby.
- 18 Q So he goes down an exit and he leaves.
- 19 A When he goes down the hall and I'm going to the lobby,
- 20 I didn't even look back.
- 21 Q What day was that on?
- 22 A I cannot remember dates.
- 23 Q You don't know what the day was. Okay.
- 24 A Talking about last year.
- 25 Q How about in relation to when the police came? When

Debra Kerns
Cross-examination by Mr. Shealy

- 1 did the police come?
- 2 A I can't remember that either.
- 3 Q You don't remember if it was the day after?
- 4 A The day -- no. I really don't because --
- 5 Q Okay. Because you just testified that the day before
- 6 he was there.
- 7 A Yeah, the day before he was there.
- 8 Q Okay.
- 9 A But I can't specifically cite the dates.
- 10 Q All right. I understand that. But the day before
- 11 what?
- 12 A He was there.
- 13 Q The day before what though, the day the police came?
- 14 A The day before the police came, yeah, he was there.
- 15 Q All right. So they don't come until the next morning.
- 16 A When we got there, they was there.
- 17 Q So they may have come late that night?
- 18 A I don't know.
- 19 Q Okay. Now, you work at a hotel.
- 20 A Uh-huh.
- 21 Q Right? So this hotel has guests, correct?
- 22 A Yes.
- 23 Q And people coming and going all of the time, right?
- 24 A Yes.
- 25 Q It's not uncommon for people to leave, is it?

Debra Kerns
Cross-examination by Mr. Shealy

- 1 A No, it's not.
- 2 Q In fact, most people don't live in hotels, right?
- 3 A Some of them do.
- 4 Q Some people do.
- 5 A On and off.
- 6 Q But most people don't, right?
- 7 A No. At our hotel it's an ongoing thing where you
- 8 stay. You're a known resident of the hotel.
- 9 Q Okay. So, but there are some people who leave, right?
- 10 A Yeah.
- 11 Q Okay. And that's not a strange thing.
- 12 A Nah.
- 13 Q Okay. And it's not strange for people who live in
- 14 Spartanburg to go to that hotel and stay there for some
- 15 period of time and then go home or go elsewhere.
- 16 A Yeah. It's not strange.
- 17 Q That's something that happens.
- 18 A Yeah.
- 19 Q Okay.
- 20 MR. SHEALY: I have nothing further of this witness.
- 21 MR. BULSA: Nothing further.
- 22 We would ask that she be excused.
- 23 THE COURT: She may be.
- 24 (Whereupon, the witness was excused.)
- 25 MR. BULSA: The state calls Brendall Mathis.

Brendall Mathis
Direct examination by Mr. Bulsa

1 BRENDALL MATHIS, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. BULSA

4 Q Please introduce yourself to the jury.

5 A Officer Brendall Mathis. I'm currently employed with
6 the Spartanburg Public Safety Department. I've been there
7 for five years.

8 Q What are your duties?

9 A I'm assigned to the violent crimes task force.

10 Q Were you with that unit back in July of 2011?

11 A Yes, sir.

12 Q Did you and your team assist in trying to locate a
13 Keith Letmon?

14 A Yes, sir, we did.

15 Q To what extent did y'all try to find him?

16 A We took a pretty good extent of time on it. We
17 were -- I was notified on the 25th of July in reference to
18 the suspect possibly being at Kensington Manor. I assisted
19 as a member of our tactical team for that search warrant.

20 Later on that afternoon we actually went to his
21 mother's house at 600-A Charlie Mae Campbell. We were
22 given some information from her that he had been in jail.
23 When he got out of jail he was staying with a guy named
24 Reggie on Edwards Avenue.

25 And as we went over to check that area -- Edwards

Brendall Mathis
Direct examination by Mr. Bulsa

1 Avenue pretty much makes a u-shape. As you turn into one
2 road you'll circle back out back to Church Street.

3 As we were coming down the very back road is when
4 myself and Officer Layton and Officer Morrow noticed that a
5 gold or brown in color Honda 2-door was sitting up next to
6 the house in the -- more or less in the back yard of one of
7 the residences. We had been advised by investigations that
8 was a vehicle of interest that was possibly involved in the
9 shooting.

10 At that time we contacted the investigators to let
11 them know. We sat on the back street where we could
12 actually see. It was maybe three or four houses up from
13 the end. We sat back on the back and just kept an eye on
14 the vehicle to make sure no one got in it and tried to
15 drive off or anything like that just to maintain
16 surveillance on it until they could arrive and we could
17 figure out who owned the house and stuff like that.

18 Q Okay. So you did get that information from his
19 mother. Did you also learn that Mr. Rice had called the
20 police himself?

21 A I didn't know that until -- until after the fact. I
22 believe it all pretty much maybe took place at the same
23 time.

24 Q Okay. All right. You found the car, and the car was
25 processed. Did you continue to look for Mr. Letmon?

Brendall Mathis
Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q Now, we've heard testimony about how long it took.

3 How long -- how much time did your team spend during that
4 month?

5 A I would say pretty much every day we -- we did
6 something. We either checked at his mother's residence.
7 We went by some of the -- you know, some of the leads that
8 investigators had received due to, you know, maybe like
9 Investigator Nelson said, it was a stale lead but we needed
10 to recheck the house. We would go by that address and
11 check on it.

12 We checked at Mr. Swindler who the vehicle was
13 registered to. We checked at his house several times and
14 went by his -- went by Mr. Letmon's mother's home on
15 numerous, numerous occasions.

16 Q Would your team have been the team that went to the
17 Hampton Inn to check?

18 A Yes, sir, yes, sir, we were.

19 Officer Layton and Officer Morrow had responded to
20 that area, began speaking with the female that just left.
21 I don't recall her name right off. Spoke with those about
22 where he might be, if he was in that room who he was
23 supposed to be with.

24 That day also we got some information that he could be
25 staying in Greenville. So we spent the remainder of the

Brendall Mathis
Direct examination by Mr. Bulsa

1 day in Greenville checking a lot of the motels in that area
2 for him.

3 Q And how did you ultimately find him at the Sun 'N Sand
4 Motel?

5 A We received some information that -- that he was
6 possibly staying there. We went and took a photograph of
7 him. One of our wanted posters that we had been handing
8 out, took that to the manager or the clerk that was working
9 that day, showed it to him and asked him if he had anyone
10 staying in there. And he advised us that he did.

11 He had a guy that matched that description staying
12 with a white female. That was in room 124. But he said
13 that that room was rented to a different name other than
14 Mr. Letmon's. It was actually in a Mark Walker with a
15 different address.

16 We -- he said he checked back in his records and found
17 out that they had checked into that room August 21st, 2011,
18 and they had just moved to room 124 the day that we got
19 there. They had actually moved all of their items from the
20 other room into a -- into a separate room.

21 So at that time we began conducting some surveillance
22 on the motel trying to determine if, you know, this was our
23 suspect or -- or not.

24 Q And were able to determine that?

25 A Yes, sir. We actually -- we checked back and forth

Brendall Mathis
Direct examination by Mr. Bulsa

1 with the management to confirm, you know, that was him and
2 we wasn't running down the wrong road.

3 At that time we also had Spartanburg County come and
4 assist us. We were able to make -- you know, communicate
5 with the folks inside of the room and ask them to come
6 outside -- a white female. Once somebody opened the door a
7 white female came out, and then, secondly, Mr. Letmon
8 walked outside. And at that time he was apprehended.

9 Q How did you communicate with them?

10 A They -- they pulled up in front of the -- the way the
11 rooms were set up, it's a -- basically a long building,
12 just a 1-story, had different rooms. They were able to
13 pull their patrol car near the room and contact them
14 through the -- the speaker in the vehicle. So it was loud
15 enough that they could hear inside the room. Just, you
16 know, ask whoever was inside of the room to come out. And
17 then once we got them out we were able to confirm that it
18 was Mr. Leter -- Letmon -- excuse me -- and we identified
19 the other female. And they were taken to city hall for
20 questioning.

21 Q Where exactly is the Sun 'N Sand Motel?

22 A It's off of 221. It's on Sun 'N Sands Road.

23 Q What part of the county? 221 basically runs the full
24 county length.

25 A It's -- it's basically between Spartanburg and

Brendall Mathis
Cross-examination by Mr. Shealy

1 Chesnee, I guess is the best way to explain it.

2 Q The part of 221 that goes toward Chesnee. Is it near
3 the interstate?

4 A Yes, sir. It's right off of the interstate. You can
5 actually see the -- the motel from the -- from the
6 interstate where you're going down.

7 Q And that's how far outside the city limits, is that?

8 A Coming down 221, it's probably -- I'd have to
9 ballpark -- maybe 8 miles or so, something like that.

10 Q Did Mr. Letmon have any family in that area?

11 A We didn't -- the -- the areas that we checked were as
12 Investigator Nelson said. There are some in Woodruff.
13 There were some on the -- over near Anderson Mill Road.
14 But we didn't have anything, I don't believe, that led us
15 towards that area.

16 Q Thank you. Answer anything Mr. Shealy has.

17 CROSS-EXAMINATION

18 BY MR. SHEALY

19 Q Officer Mathis, now, you testified as to 221, is about
20 8 miles outside of the city limits, right?

21 A Roughly.

22 Q Roughly, I mean.

23 A I'm not real sure how far it is.

24 Q I understand ballpark. But what about down 85?

25 A Coming down 85, get off business 85, it's probably

Brendall Mathis
Cross-examination by Mr. Shealy

1 about the same -- probably about the same distance.

2 Q But it's still fairly close, right?

3 A It's within -- you know, I would say it's within 10
4 miles.

5 Q Okay. And do you ever go places you don't have
6 family?

7 A vacation.

8 Q Okay. But just out?

9 A No, sir.

10 Q No. All of your family here?

11 A Some of them.

12 Q Okay. Well, that must be nice. And they all live
13 close to you?

14 A Some of them, yes, sir.

15 Q Well, I'm asking you about all of them. All of them
16 live close to you?

17 A No, sir.

18 Q I'm going to hand you this report that you wrote. You
19 told us about all of the stuff you did.

20 A Yes, sir.

21 Q And I'm going to ask you if it was important stuff
22 that you did why didn't you document it in that report,
23 because that report goes from July 28th to September 1st.

24 A Yes, sir.

25 Q What about all of that time in between you testified

Brendall Mathis
Cross-examination by Mr. Shealy

1 to?

2 A Well, all of that time in between there was when we
3 actually would go maybe to his mother's house and talk with
4 them and check the other leads that not necessarily went
5 anywhere to the apprehension of him.

6 Q Okay. So you didn't document that stuff?

7 A No, sir.

8 Q Okay. So do you have any -- when you spoke with --
9 when you went out to Hampton Inn Suites, you didn't
10 document that?

11 A No, sir. We -- we rode out to assist Officer Layton
12 and Officer Morrow that were there.

13 When we got on the scene, that's when we received
14 information that he could possibly be in Greenville at
15 which time we left that motel and went to Greenville and
16 started checking some of the other ones.

17 Q All right. Where did you get that information that
18 you went to Greenville?

19 A It came from -- I believe it was information from
20 either somebody that was at the motel or information that
21 was called in that he was possibly with a subject, a Shawn
22 Long, I believe is who he was supposed to be with or had
23 information that he was in Greenville. And that's where we
24 went to follow up on that information.

25 Q Okay. And do you know where in Hampton Inn and Suites

Brendall Mathis
Cross-examination by Mr. Shealy

1 my client was alleged to stay --

2 A No, sir.

3 Q -- or been staying, the room number?

4 A No, sir. Like I said, when we got there we were there
5 to help out Officer Morrow and officer Layton. And that's
6 when we received the information. We turned around and
7 went back towards Greenville.

8 Q Okay. All right. So you went basically all over the
9 place.

10 A Yes, sir, looking for him.

11 Q But you didn't find him.

12 A No, sir.

13 Q And then ultimately you find him at a hotel, the Sun
14 'N Sand Motel, right?

15 A Yes, sir, on the 1st of September.

16 Q I understand. But you don't know who the hotel room
17 at Hampton Inn and Suites was reserved under.

18 A No, sir. I didn't -- I didn't speak with anybody at
19 the Hampton Inn.

20 Q And you don't know where you got that information that
21 he was in Greenville from?

22 A It was -- it was pertaining to Mr. Long. I'm not sure
23 how we actually came to that, but we had received the
24 information and decided that that was pertinent enough for
25 us to go to Greenville and look for him even further,

Edgar Guthro
Direct examination by Mr. Bulsa

1 potentially him trying to flee the Spartanburg area.

2 Q But you didn't find him there either.

3 A No, sir. We did not.

4 MR. SHEALY: If you would bear with me, Your Honor.

5 (Pause.)

6 MR. SHEALY: That's all I have for this witness, Your
7 Honor.

8 MR. BULSA: Nothing further.

9 THE COURT: You may step down.

10 MR. BULSA: The state calls Ed Guthro.

11 EDGAR GUTHRO, having been
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. BULSA

14 Q Please introduce yourself to the jury.

15 A My name is Ed Guthro. I work for the Spartanburg
16 Public Safety Department.

17 Q In what capacity?

18 A I work as a forensic investigator. I've been employed
19 there for about 24 years.

20 Q How long have you been with the forensics?

21 A Approximately seven years.

22 Q Did you assist in the processing of evidence in this
23 case?

24 A I did.

25 Q Specifically, a Honda Accord?

Edgar Guthro
Direct examination by Mr. Bulsa

- 1 A Yes, sir.
- 2 Q Okay. And how is it that you came to assist in that?
- 3 A I was contacted by Investigator Nelson and advised
- 4 that they were executing a search warrant on this vehicle.
- 5 I responded to the impound lot where they were and
- 6 collected D.N.A. swabs from the steering wheel, the gear
- 7 shift and the inside driver's-door handle. And I processed
- 8 the vehicle for prints.
- 9 Q Okay. Now, did Officer Layton assist you in searching
- 10 the vehicle?
- 11 A Yes. He was there, and they were handling that part.
- 12 I simply did the dusting for fingerprints and collecting
- 13 D.N.A.
- 14 Q Okay. So Officer Layton would have collected any
- 15 physical items from the vehicle.
- 16 A Yes.
- 17 Q And you were collecting more the scientific data.
- 18 A Yes.
- 19 Q Okay. What did you do with the swabs that you took
- 20 from the steering wheel and gear shift?
- 21 A They're collected by use of sterile swabs. Of course
- 22 we glove-up with latex gloves and use sterile swabs and
- 23 distilled water to collect, and then you simply swab
- 24 whatever the item is that you are trying to collect the
- 25 D.N.A. from.

Edgar Guthro
Direct examination by Mr. Bulsa

1 They're placed into cardboard cartons that are then
2 placed into evidence bags and marked with my initials and
3 date and time.

4 Q I'm going to show you something that's been marked
5 State's Exhibit 28 for Identification. And inside there's
6 several bags. Specifically, inside State's 28 there's a
7 bag marked state's 28-B. Would that be the packaging that
8 you prepared for the steering wheel swab?

9 A Yes, sir. This is a swab I collected from the Honda
10 Accord. I'll have that V.I.N. number from the vehicle
11 listed on the bag. And it's marked as being from the
12 steering wheel. It was collected on 7/27 at 1800.

13 Q Where would you have placed that once you collected
14 it?

15 A Into evidence.

16 Q Would that be a secure facility?

17 A Yes.

18 Q And was it later sent down for analysis to state law
19 enforcement division?

20 A It was. I'm not sure who carried it, but it was, yes.

21 Q Okay. So you did the collecting and you gave it to
22 evidence for security. And then all of that was stored.
23 Did you do anything else in this case?

24 A I collected a buccal swab from Mr. Letmon at the
25 county jail.

Brendall Mathis
Cross-examination by Mr. Shealy

1 Q Explain to the jury what that is.

2 A A buccal swab is collected in the same manner. You
3 glove up with latex gloves. You use sterile swabs. You
4 swab the inside of the individual's mouth. And they're,
5 again, placed in cardboard cartons and marked for
6 identification and then placed in evidence bags and placed
7 in evidence just like the previous swabs we discussed.

8 Q And that is basically a standard from the individual
9 you're trying to connect items to.

10 A That's correct.

11 Q Okay. I show you what's been marked State's 29 for
12 identification. If you look inside that I think you can
13 read through that clear packing. What's inside of it?

14 A I can. This is the buccal swab that I collected from
15 Mr. Letmon at the county jail. I did that on 4/9/2012 at
16 1535.

17 Q That would have been secured in evidence in the same
18 fashion?

19 A Correct.

20 Q Okay. Answer any questions Mr. Shealy may have.

21 CROSS-EXAMINATION

22 BY MR. SHEALY

23 Q All right. Officer Guthro, why did you collect the
24 swabs as opposed to everything? I was confused about that.

25 A When they called me when I arrived that's what they

Brendall Mathis
Cross-examination by Mr. Shealy

1 wanted me to do.

2 Nick had already started -- had already photographed
3 the vehicle and had started to execute the warrant. And so
4 I simply did the part that they didn't have the ability to
5 do or didn't have the equipment to do.

6 Q So you had special equipment that they did not have.

7 A Correct.

8 MR. SHEALY: I have nothing further of this witness.

9 MR. BULSA: Nothing further.

10 THE COURT: You may step down.

11 MR. BULSA: State calls Mylnor Beach.

12 MYLNOR BEACH, having been
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. BULSA

15 Q Please introduce yourself to the jury.

16 A My name is Mylnor Beach. I'm a property and evidence
17 technician with the City of Spartanburg Public Safety
18 Department.

19 Q What are your duties with the property and evidence?

20 A To receive, bring in, check, log and maintain the
21 integrity of the evidence that's turned in by the officers.

22 Q Okay. Do you also take items to the state law
23 enforcement division?

24 A Yes, sir, I do.

25 Q Before you take them to the state law enforcement

Mylnor Beach
Direct examination by Mr. Bulsa

1 division do you ensure that they have not been tampered
2 with?

3 A Yes, sir.

4 Q This evidence area of the city, is that fairly secure?

5 A It's extremely secure. To get into the area where we
6 are you have to go through an electronic controlled door
7 that's guarded. And then there is two additional locked
8 doors to get into the office area, and then a locked
9 chained fenced area to get into where the evidence is.
10 This is the normal evidence. And then we have two more
11 locked doors that go into a higher secured area.

12 Q Okay. Now, Mr. Beach, let me show you a couple of
13 items of evidence that have been marked for identification
14 State's 27 and State's 29. Excuse me. That's not 29.
15 State's 28. Let's start with State's 27. Would you look
16 inside that packaging and tell us what you see?

17 A I have an evidence bag of this particular case that
18 was turned in. I'm not sure of the initial here. It was
19 received by David Reeves. Can I look inside the bag?

20 Q Yes, sir. Please note for the record it's got a
21 sticker on it, State's -- what is that?

22 A 27-B.

23 Q Okay.

24 A This has, this particular item has, a SLED lab number
25 on it L-11-9112. And our -- by our evidence label it's

Mylnor Beach
Direct examination by Mr. Bulsa

1 marked by -- as one white and blue latex glove. It has
2 notation processed for G.S.R. and D.N.A. recovered from
3 between front driver and front passenger seat.

4 Q Okay.

5 A Marked as recovered by Chris Layton.

6 Q So that was put in evidence. And did you transport
7 that to the state law enforcement division?

8 A No, sir. Courtney Westfall Burgess did. She received
9 it. Our chain of custody log here shows that I signed it
10 out to Officer Burgess. She in turn took it down to SLED.

11 Q She took it a second time. Did you not take it the
12 first time?

13 A Well, I'm just going by this particular item. Okay.
14 I mean, that's what you asked me about.

15 Q Yes, sir.

16 A This shows where she sealed it.

17 Q Yes, sir. She took it a second time to SLED. Did you
18 take it the first time?

19 A I don't see the chain of possession marked for either
20 item. I can't answer that.

21 Q Do you have your chain of custody with you, sir?

22 A No. This will be our item No. 32.

23 Q Okay.

24 A Yes, sir. On October the 7th of 2011 I took it to
25 SLED in Columbia.

Mylnor Beach
Direct examination by Mr. Bulsa

1 Q Okay. Was it sent back to the city from SLED without
2 being processed?

3 A Was it sent back to the city?

4 Q Without being processed. Do your records show that?

5 A Not -- not on the chain of possession. It just shows
6 who handled it and who -- who brought things back.

7 Q Okay. Does it show it came back to the city and
8 then --

9 A Yes, sir, it did. And then it showed me checking it
10 out to Officer Courtney -- Officer Burgess on June 7th of
11 2012.

12 Q Okay.

13 A And she took it to SLED.

14 Q All right.

15 A And that's where this seal and signature --

16 Q That's the second packaging. Let's look at the other
17 packaging and see if you can determine from that. What
18 item are you looking in for the record?

19 A This will be State's Exhibit 28.

20 Q Look inside. There's a second seal. There's a second
21 clear bag.

22 A Okay.

23 Q What number is that?

24 A This -- this particular bag --

25 Q What is the number on the sticker, please?

Mylnor Beach
Direct examination by Mr. Bulsa

1 A 28-A.

2 Q Okay. Does that contain your signature?

3 A Yes, sir. This contains my signature being taken down
4 on October the 7th of 2011. I've signed it here, and it's
5 initialed here on the heat-seal mark.

6 Q So you would have taken those items the same day you
7 took the -- the gloves.

8 A Yes, sir.

9 Q Okay. And inside that item was there a steering-wheel
10 swab that you just pulled out? You'd already pulled it
11 out, sir. It's on -- Mr. Beach.

12 A This one?

13 Q Yes, sir.

14 A This particular item, 28-B, is a swab from the
15 steering wheel.

16 Q Okay. And was that inside that packaging?

17 A Yes, sir, it would have been.

18 Q Okay. All right. So you didn't do anything with this
19 except transport it.

20 A That's all we do, yes, sir.

21 Q Would you have done anything in the evidence office
22 other than make sure it was secured?

23 A Well, when it's brought in and we receive it to bring
24 into the evidence, it's checked then to make sure
25 everything is like it should be. And then it's stored and

Mylnor Beach
Cross-examination by Mr. Shealy

1 secured and maintained until the time that we get the
2 recommendation or the request from the investigator to take
3 it to SLED.

4 Then it is pulled, usually the afternoon before or the
5 morning of. And we leave from city hall and go straight to
6 SLED headquarters in Columbia, and we go straight into the
7 property and evidence receiving area.

8 Q Okay. But you don't open up the packaging and pull
9 anything out, do you?

10 A No, sir.

11 Q Okay.

12 A The -- those envelopes were sealed, so that's -- you
13 know, we -- we don't tamper with that.

14 Q And that's to make -- that's what the jury needs to
15 know. These items were recovered from the various
16 locations and secured in your evidence room and taken to
17 SLED in a secure fashion.

18 A Yes, sir.

19 Q And that did happen, is that true?

20 A Yes, sir.

21 Q Okay. Answer anything Mr. Shealy may have.

22 CROSS-EXAMINATION

23 BY MR. SHEALY

24 Q Officer Beach, just a few things about these just for
25 clarity sake, because I want to make sure that I understand

Mylnor Beach
Cross-examination by Mr. Shealy

1 just like they understand what's going on.

2 whenever you get these you don't get them in the clear
3 SLED lab envelopes, correct?

4 A No, sir, no, sir. We get -- this is considered what
5 we call our evidence envelope.

6 This particular item here as you can see is put inside
7 the evidence envelope. It's filled out by the officer.
8 They log it into the computer in our log-in area.

9 When they finish with it, have all the information on
10 here -- this particular one has been sealed with
11 evidence-label tape. They drop it in a -- what we call our
12 drop box. It's very similar to a post office drop box
13 that's locked. There are only three people that have a key
14 to that -- myself, David Reeves who is my partner and our
15 supervisor, Major Lamb.

16 There's no way that you can retrieve anything out of
17 that locked box by the way it's designed. Normally, every
18 morning first thing we come in and we unlock that and take
19 all of the evidence out and move into our office area and
20 check it against the computer, at which time we ourselves
21 put the case number, assign a location to it, and then
22 we'll sign that we received it.

23 This particular envelope, Officer Reeves received it
24 from Officer Westfall on the 25th at 11:05. So that's why
25 his name is listed right here. If it were missing on it in

Mylnor Beach
Cross-examination by Mr. Shealy

1 the drop box, if he pulled it out the following morning, we
2 would have listed the drop box area here. He would sign
3 that he received it from the drop box and sign this area
4 here. That's the way the chain works.

5 Q And it's always sealed with this evidence tape, right?

6 A That's our policy, yes, sir.

7 Q Because, well, that's the way y'all tell whether it's
8 been tampered with, right?

9 A Well, that's -- that -- that tells you that it has not
10 been tampered with, yes, sir.

11 Q Okay. And when you took these things the first time
12 would you have verified that they were sealed?

13 A Yes, sir.

14 Q Okay.

15 A Everything -- everything's got to be in order, No. 1,
16 for us to receive it. Once -- once we receive it it is not
17 tampered with whatsoever.

18 Q Okay.

19 A Those type of items aren't even given to an officer to
20 look at because there's nothing to look at, not like a
21 statement or, you know, something of that nature.

22 Q Okay. And all of this stuff, like you say, would have
23 been sealed when you took it to SLED.

24 A Yes, sir.

25 Q And then SLED does whatever SLED does with it, right?

Mylnor Beach
Redirect examination by Mr. Bulsa

1 A In -- in front of either myself or Mr. Reeves, or in
2 one case Officer Burgess.

3 Q Okay. So they would have heat sealed this envelope
4 here, this clear plastic envelope, in front of you.

5 A Yes, sir. They check to make sure that the evidence
6 is in proper condition before they received it, at which
7 time they put it in their bag. They heat seal it and they
8 hand it back to us for us to sign and initial. We'll put
9 the date and our initial on the heat seal and then sign or
10 put our initial on the lower part.

11 Q So there would be no reason for that interior
12 packaging to be damaged, correct?

13 A No reason for what?

14 Q For that interior package to be damaged.

15 A No, sir.

16 Q And that should be intact with the evident --
17 tamper-evident tape, correct?

18 A Yes, sir.

19 MR. SHEALY: That's all I have for Mr. Beach, Officer
20 Beach.

21 REDIRECT EXAMINATION

22 BY MR. BULSA

23 Q Now, in preparation for court cases lawyers go look at
24 evidence, and those seals are broken so we can determine
25 what's inside, is that correct?

David Reeves
Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q Okay. But when you take them to SLED everything is
3 sealed so when processed it's --

4 A Yes, sir.

5 Q Everything is remained intact. So if it's been opened
6 in court today it's when somebody opened it to ready for
7 court.

8 A Yes, sir.

9 Q Okay.

10 A And once we receive it back from SLED all of the work
11 and criteria has already been done, you know, when we
12 receive it to bring it back.

13 Q Thank you.

14 MR. SHEALY: I have nothing further.

15 THE COURT: You may step down.

16 MR. BULSA: The state calls David Reeves.

17 We ask Mr. Beach be excused, Your Honor.

18 (Whereupon, the witness was excused.)

19 DAVID REEVES, having been
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. BULSA

22 Q Mr. Reeves, please introduce yourself to the jury.

23 A My name is David Reeves. I'm a property and evidence
24 technician for the City of Spartanburg Police Department.

25 Q You work for Mr. Beach?

David Reeves
Direct examination by Mr. Bulsa

1 A I do.

2 Q Go straight to the matter in this case.

3 Did you collect and/or transport a suspect sample of
4 Mr. Letmon to the state law enforcement division?

5 A I did.

6 Q Okay. I show you what's been marked State's Exhibit
7 No. 29 for Identification. Is that the packaging?

8 A It is.

9 Q Okay. And describe the process. I think Mr. Beach
10 talked about it, but would you also describe what took
11 place when you took that to SLED?

12 A With this particular item I see that my partner,
13 Mr. Beach, received it from the drop box.

14 I receive it in the same condition that it is. I take
15 it to SLED. When I present it to SLED, in my presence they
16 place it inside this envelope. They seal it still in my
17 presence and hand it back to me.

18 At that time I initial it. I date it. I put my name.
19 I put the date I did it and my department and the case
20 number right here. And then at that time I actually submit
21 it to SLED.

22 Q Okay. Now, that suspect sample is sealed and secured
23 into city evidence. Does it ever come into contact with
24 any of the other items recovered in the case?

25 A Never.

David Reeves
Direct examination by Mr. Bulsa

- 1 Q Okay.
- 2 A It always stays in that envelope.
- 3 Q Okay. And that's sent to SLED with the items for
4 comparison purposes.
- 5 A Yes.
- 6 Q Thank you.
- 7 MR. BULSA: That's all I have.
- 8 MR. SHEALY: Your Honor, I have nothing for this
9 witness.
- 10 THE COURT: You may step down.
- 11 BY MR. BULSA
- 12 Q I forgot to ask you one other thing. I'm sorry. Did
13 you also submit the rounds to SLED?
- 14 A I can tell you I personally received these rounds from
15 Courtney Westfall Burgess.
- 16 Q Do your records show that you transported those to
17 SLED?
- 18 A They show that Mr. Beach transported these to SLED.
- 19 Q I get them all mixed up. All right. But they would
20 have been sealed in the same fashion, is that correct?
- 21 A That is correct.
- 22 Q Okay. Thank you.
- 23 MR. SHEALY: I have nothing.
- 24 THE COURT: You may step down.
- 25 MR. BULSA: We ask that he be excused.

Verona Gibson (In-camera)
Direct examination by Mr. Bulsa

1 THE COURT: He may be.

2 (Whereupon, the witness was excused.)

3 MR. BULSA: The state calls Verona Gibson.

4 VERONA GIBSON, having been
5 first duly sworn, testified as follows:

6 MR. BULSA: May we approach, Your Honor?

7 (Bench conference held off the record in the presence
8 of the jury but out of the hearing of the jury.)

9 THE COURT: Let me ask the jury to please go to your
10 jury room.

11 We'll take a short break, and I'll address this issue.
12 And after the break we'll bring you back to continue.

13 (The following takes place outside the presence of the
14 jury.)

15 MR. BULSA: I think he wants me to proffer the
16 testimony first, Your Honor.

17 DIRECT EXAMINATION BY MR. BULSA

18 Q Ms. Gibson, let me show you packaging with the gloves.
19 That will be State's 27. Do you have your records with
20 you?

21 A I do, yes, sir.

22 Q On your evidence processing worksheet you noted when
23 you examined the packaging, you noted a discrepancy.

24 A Yes, sir.

25 Q Would you explain that in detail?

Verona Gibson (In-camera)
Direct examination by Mr. Bulsa

1 A The inner packaging, there were at the time two
2 packages. So it would have been --

3 Q What do you mean, two packages?

4 A This package would have been the outer package. This
5 package would have been the next package. And then this
6 bag would have been inside the Manila envelope.

7 Q Okay.

8 A The two seals of the two outer packages -- I'm sorry.
9 Two seals on the outer packaging were intact. This is the
10 seal that looked like it had been opened.

11 Q That's on State's 27-B. You're saying 27-B was inside
12 27-A but they had been opened?

13 A Correct.

14 Q Now, had this item come to SLED before, or when did
15 it -- when do you show it came to SLED?

16 A It originally came on 10/7 of 2011, and then it was
17 returned to SLED on 6/8 of 2012.

18 Q Do your records show that anybody did anything with it
19 the first time?

20 A It goes through several people before it came to us,
21 so I'm unsure if someone may have opened it at that time.
22 We just note any discrepancies in packaging at the time we
23 open it.

24 Q Okay. And how were the gloves inside the brown
25 package, 27-B?

Verona Gibson (In-camera)
Cross-examination by Mr. Shealy

1 A What do you mean, how were they in it?

2 Q Were they just -- were they inside?

3 A They were just inside the bag, yes, sir.

4 Q And now they're wrapped up in something else.

5 A Correct. That's the processing paper we use when we
6 process it.

7 Q So what does this mean to you?

8 A I'm really not sure. I just -- we note any
9 discrepancies at the time when we -- with the packaging if
10 it's not something we usually see.

11 Q Okay. Did it cause you not to process it?

12 A No, sir. The outer seal was -- was intact.

13 Q Okay.

14 A I mean, we have no idea of knowing if the agency
15 needed to retrieve something out of the bag that was --
16 needed to be packaged separately or anything like that. We
17 just note the -- the situation.

18 Q And then you processed it as you normally do.

19 A Yes, sir.

20 Q Thank you.

21 CROSS-EXAMINATION

22 BY MR. SHEALY

23 Q Ms. Gibson, you've testified that there were just --
24 were there just two gloves in there?

25 A In this container, yes, sir.

Verona Gibson (In-camera)
Cross-examination by Mr. Shealy

1 Q So there weren't two swabs. There weren't any swabs
2 in there either, or there weren't any swabs, correct?

3 A No, sir. The swabs are the result of our processing.

4 Q So y'all took the swabs.

5 A Correct, yes, sir.

6 Q So the two gloves were just thrown in just together.

7 A They were in the bags.

8 Q Do you know if they were turned inside out or right
9 side out?

10 A We don't make determinations. We can't tell on a
11 latex glove, which is inside or outside.

12 If you have a copy of my worksheet, that's the reason
13 the swab will say from the outside as submitted.

14 Q And then you've got a swab from inside as submitted
15 and it's just --

16 A Correct, as it was in the bag when we received it,
17 yes, sir.

18 Q And you've testified that it went through several
19 people before it got to you?

20 A When it was first submitted to SLED it went through
21 the trace department, so I'm not sure if they opened it or
22 not.

23 Q Okay. And you can't tell if they opened it because
24 all you know is the interior packaging is -- was opened.

25 A Yes, sir. I can't tell. I'm not sure whose initials

Verona Gibson (In-camera)
Cross-examination by Mr. Shealy

1 those are.

2 Q Whose initials they are?

3 A On this seal. It looks like at the time it was -- two
4 times it was submitted to SLED, but maybe I can determine.

5 So actually it does look like this is John Roberts'
6 seal. So he could possibly have been the person that opened
7 it, who is an analyst in our trace evidence department.

8 Q Okay. So an analyst from another department then got
9 this --

10 A Correct.

11 Q -- out of the evidence room, whatever.

12 A Correct. I believe there was -- I'm sorry.

13 Q Whatever room y'all store this stuff in.

14 A Correct.

15 Q Okay.

16 A I believe there was a gunshot residue request on those
17 items, and he would have looked at those for that.

18 Q Okay. And you can't speak as to what he did with
19 those.

20 A No, sir.

21 Q And the interior packaging had been opened.

22 A Correct.

23 MR. SHEALY: I think that's all that I have of this
24 witness.

25

Verona Gibson (In-camera)
Redirect examination by Mr. Bulsa

1 REDIRECT EXAMINATION

2 BY MR. BULSA

3 Q So now we've deciphered that apparently these gloves
4 went to trace evidence. Would trace evidence have had any
5 reason to have received the buccal swab?

6 A No, sir.

7 Q Okay. And do you have -- do you show that you have
8 custody of the buccal swab?

9 A No, sir. I just have the stuff that I processed.

10 Q That you processed. Okay. Now, would Ms. Leisy have
11 that?

12 A I would imagine she would, yes, sir.

13 Q Okay. All right. So if they'd been to evidence --
14 excuse me -- to trace evidence would that have affected
15 your processing of those gloves in any way?

16 A No, sir.

17 Q Okay. Thank you.

18 THE COURT: Let me be sure I understand.

19 When you received that item 27-B was it sealed in that
20 clear bag that has written blue evidence on it.

21 THE WITNESS: 27-B was inside 27-A, which was inside
22 the heat-sealed pouch.

23 THE COURT: Okay. And what's the heat-sealed pouch
24 exhibit number?

25 THE WITNESS: Twenty-seven.

Verona Gibson (In-camera)
Examination by the Court

1 THE COURT: Twenty-seven. All right. We've got 27,
2 27-A, which is a Manila envelope, and 27-B, which is a
3 brown envelope.

4 THE WITNESS: Correct.

5 THE COURT: When you received it to do whatever
6 testing you were going to do it was sealed in 27, Exhibit
7 27?

8 THE WITNESS: It was sealed in 27 and 27-A.

9 THE COURT: And you took 27-A out of 27.

10 THE WITNESS: Correct.

11 THE COURT: And that was also sealed.

12 THE WITNESS: Yes, sir.

13 THE COURT: But when you took the brown bag out of
14 27-A is when you discovered that 27-B had apparently
15 already been opened.

16 THE WITNESS: Correct.

17 THE COURT: In other words, it was not intact. The
18 seal was not intact.

19 THE WITNESS: The seal was not intact, yes, sir.

20 THE COURT: Okay. But you don't know how -- who would
21 have opened that bag.

22 THE WITNESS: No, sir. All I can say is that John
23 Roberts on 11/3/11 had the evidence. And this seal is on
24 11/3/11, and that could possibly be his initials. I'm not
25 familiar with his initials, and they're a little bit

Verona Gibson (In-camera)
Examination by the Court

1 difficult to read.

2 THE COURT: Well, he is with SLED?

3 THE WITNESS: He is with SLED.

4 THE COURT: So -- so 27-A and B -- excuse me -- 27 and
5 27-A have been opened at SLED?

6 THE WITNESS: Twenty-seven is from -- it does not look
7 like it was opened but once, but I'm not sure. This is the
8 second submission, so the outer container could have been
9 removed when it was returned to Spartanburg the first time.

10 THE COURT: All right. So the item that you are
11 holding, which is item 27, when it was received at SLED,
12 and you received it, it had never been opened.

13 THE WITNESS: It had never been opened, no, sir.

14 THE COURT: 27-A had been opened before and resealed?

15 THE WITNESS: It looks that way. It was -- it's -- it
16 was hard when I was first processing it because I didn't
17 have a chain of custody right in front of me. All I knew
18 was this was a resubmission of evidence, so I wasn't sure
19 if that was when the second seal was placed on there.

20 THE COURT: Well, does it reflect that it's been
21 opened more than once?

22 THE WITNESS: It has been sealed twice, yes, sir.

23 THE COURT: All right. Okay. And 27-B has been
24 opened once so far as you know. There's no indication it
25 was ever opened and resealed and then opened, is there?

Verona Gibson (In-camera)
Redirect examination by Mr. Bulsa
Recross-examination by Mr. Shealy

1 THE WITNESS: No, sir.

2 THE COURT: Okay. All right. Have y'all got any
3 other questions?

4 BY MR. BULSA

5 Q Did you seal 27-A yourself?

6 A 27-A, no, sir. After we process we don't reseal the
7 inner packaging.

8 Q Okay. What makes you think it was opened twice?

9 A There's -- see the black signature underneath? It's
10 not -- it was sealed twice. I'm not saying it was opened
11 twice. It was sealed twice.

12 Q So it would have been sealed by Mylnor Beach, M.S.
13 Beach, and then opened and sealed by John Roberts.

14 A Possibly John Roberts. That's who had the evidence
15 that date.

16 THE COURT: Well, then you opened it.

17 THE WITNESS: And then I opened it, yes, sir.

18 THE COURT: So it's been opened twice.

19 THE WITNESS: Okay. Yes, sir. I'm sorry.

20 MR. SHEALY: Just so I can understand, Your Honor.

21 RECROSS-EXAMINATION

22 BY MR. SHEALY

23 Q So my understanding of your testimony is that it went
24 down once.

25 A Yes, sir.

Verona Gibson (In-camera)
Recross-examination by Mr. Shealy

- 1 Q Okay. And that's when Mr. Roberts opened it.
- 2 A That's what it appears, yes, sir.
- 3 Q What you think.
- 4 A Yes, sir.
- 5 Q Okay. And he opened and closed the heat-sealed SLED
- 6 evidence bag, correct?
- 7 A It would have been another one, not this one.
- 8 Q Right. A different one.
- 9 A Right.
- 10 Q And then he would have opened State's Exhibit 27-A,
- 11 correct?
- 12 A Correct.
- 13 Q Then he would have opened State's Exhibit 27-B.
- 14 A Correct.
- 15 Q And would he have done something to it?
- 16 A He may have looked to see if it was suitable for
- 17 G.S.R. processing. I'm unsure what he would have done.
- 18 Q Okay. So you don't know if he did anything to the --
- 19 the items of evidence in 27-B.
- 20 A I'm not sure.
- 21 Q You're not -- you just don't know.
- 22 A I don't have his report or anything.
- 23 Q Okay. And then it was placed back into 27-A.
- 24 A Correct.
- 25 Q And you believe that it was then sealed by

Verona Gibson (In-camera)
Recross-examination by Mr. Shealy

1 Mr. Roberts, or you're not sure?

2 A It appears to be. It was on the same date. I'm not
3 sure what his initials look like though.

4 Q And then would it have been placed back into an
5 evidence bag and heat sealed?

6 A Correct.

7 Q And then it would have been -- was it sent to --

8 A Returned to Spartanburg city.

9 Q It was returned to Spartanburg city at that point.

10 A Yes, sir.

11 Q Who is Patricia Crooks?

12 A She is a technician in our evidence control
13 department.

14 Q Okay. And Illa Simmons?

15 A She is a -- an analyst in the trace evidence
16 department.

17 Q She's in trace evidence.

18 A Correct.

19 Q So it never came to the D.N.A. folks.

20 A Not at that time, no, sir.

21 Q Until it was sent back.

22 A Correct. Until it was returned to SLED, yes, sir.

23 Q Okay. Now, when it would have been sent back to
24 Spartanburg city would it have been sent back in the SLED
25 evidence bag that it was in?

Verona Gibson (In-camera)
Redirect examination by Mr. Bulsa

1 A The first time or the second time? I'm sorry.

2 Q The first time.

3 A The first time it would have been in a bag just like
4 this.

5 Q would have been in that kind of bag.

6 A Yes, sir.

7 Q Okay. And there wouldn't have been any reason to open
8 that bag presumably.

9 A I have no idea.

10 Q You don't know.

11 MR. SHEALY: Okay. I have nothing further for this
12 witness.

13 REDIRECT EXAMINATION

14 BY MR. BULSA

15 Q I don't know if you can -- can give record of this or
16 not, but State's 28-A, do you show the submission date of
17 those?

18 A No, sir. These never came into my custody.

19 Q Okay. If I show showed you a chain of custody from
20 SLED could you read it?

21 A Yes, sir.

22 Q Let me show that evidence. I show you the forensic
23 request report dated July -- let's see. Submission date,
24 October 7th of 2011.

25 MR. SHEALY: Your Honor, if that's not her report I'm

Verona Gibson (In-camera)
Redirect examination by Mr. Bulsa

1 going to object as to -- she doesn't have any personal
2 knowledge.

3 THE COURT: Well, this is all being proffered. Let's
4 just hear what she has to say before we object to it.

5 MR. SHEALY: Yes, sir.

6 BY MR. BULSA

7 Q That's a SLED document, isn't it?

8 A Yes, sir, is it.

9 Q You are familiar with those documents.

10 A Yes, sir. The inside envelopes don't have SLED item
11 numbers on them, so I can't tell which items these actually
12 are. With the chain of custody it would actually tell me
13 which items were in which container. I'm sorry. Here is
14 the initials. Item 12. This was a swab from the steering
15 wheel of the Honda. Do you need to know --

16 Q No. I'm just trying -- what I'm trying to get at is
17 would these gloves have been submitted at the same time as
18 that packaging that you're going through.

19 A I'm sorry. Yes, sir, they were.

20 Q Okay. So could this -- could 28-A be the other
21 packaging from the gloves?

22 A It's possible. I have no idea.

23 Q Okay. Because it appears they were all submitted at
24 the same time.

25 A Correct.

Verona Gibson (In-camera)
Recross-examination by Mr. Shealy

1 Q And one of them was --

2 A Usually the items going to D.N.A. and the items going
3 to evidence processing are separated.

4 Q Okay. So we may have a bag that's missing. But that
5 doesn't mean it was tempered with, does it?

6 A No, sir.

7 Q And, in fact, based on the analysis here in court it
8 appears what happened is that the gloves went to the trace
9 department in SLED and then got sent back to -- to
10 Spartanburg before it came to you.

11 A Correct.

12 Q Okay. And then, once again, anything trace would have
13 done would not have affected your ability to process the
14 gloves.

15 A No, sir.

16 Q Thank you.

17 RECROSS-EXAMINATION

18 BY MR. SHEALY

19 Q So what would trace have done?

20 A I'm unsure. I -- I have never worked in the trace
21 department. I do know there was a G.S.R. request on the
22 item.

23 Q Okay.

24 A So I'm not sure what they did do.

25 Q So you don't know if what they did do --

Verona Gibson (In-camera)
Recross-examination by Mr. Shealy

1 A But they -- they do know if it's coming to us there
2 are certain protocols they have to follow. Items usually
3 go to the trace evidence department first because our
4 processing could harm their processing. So they're aware
5 of what they need to do to preserve evidence for us.

6 Q Okay. But you're not sure if that's what happened,
7 what Mr. Bulsa outlined, that you don't how that envelope,
8 inner envelope, got opened.

9 A I'm not absolutely certain, no, sir.

10 Q And you've even testified that you think those are
11 Mr. Roberts' initials, but they may not be, right?

12 A I don't recognize his initials right off, no, sir.

13 Q You just don't know. And he doesn't appear to be
14 here, correct?

15 A I'm not aware that he's here, no, sir.

16 Q Thank you.

17 THE COURT: Let me be sure I understand. Maybe I
18 misunderstood something.

19 You did not receive that item from your trace evidence
20 department, did you?

21 THE WITNESS: No, sir.

22 THE COURT: You received it from --

23 THE WITNESS: Evidence.

24 THE COURT: Directly from Spartanburg.

25 THE WITNESS: From evidence, our evidence, control

Verona Gibson (In-camera)
Examination by the Court

1 department.

2 THE COURT: Well, but, I mean, it was sealed in a bag
3 that had come from Spartanburg. It wasn't sealed in a SLED
4 bag, was it? When you received the bag that it was in --

5 THE WITNESS: Yes, sir.

6 THE COURT: -- did that come from SLED or did that
7 come from Spartanburg city?

8 THE WITNESS: These bags are provided by SLED.

9 THE COURT: I understand they're provided by SLED.
10 But SLED doesn't fill those out, doesn't fill that bag out.

11 THE WITNESS: They fill it out in our -- in the
12 evidence control department, and it's sealed in front of
13 the officer and the person who is taking that evidence in.

14 THE COURT: All right. When an item comes -- when the
15 item came to SLED it was in that Manila envelope. It was
16 in 27-A.

17 THE WITNESS: That's the way it appears.

18 THE COURT: It was never in a clear bag. Did SLED put
19 that in the clear bag?

20 THE WITNESS: It would have been put in -- in our
21 evidence control, yes, sir.

22 THE COURT: Okay. Anything else?

23 MR. SHEALY: No, sir.

24 THE COURT: Okay. You can step down right now. Thank
25 you.

1 Okay. What's the issue, Mr. Shealy?

2 MR. SHEALY: Your Honor, she can't testify as to how
3 that got opened or who actually opened it.

4 She's speculating as to who she thinks may have opened
5 it, but, Your Honor, it was opened, and it was clearly
6 opened at some point prior to it being submitted to SLED.

7 And, Your Honor, I believe she's testified to that --
8 that. If so, Judge, it would be our position that they
9 can't complete the chain of custody.

10 Both Ms. Westfall Burgess and Mr. Beach testified that
11 they had sealed them, that the collectiture [sic] testified
12 he had sealed it.

13 We've got a -- what heretofore has been a sealed bag
14 that when Ms. Gibson opens it it's not longer a sealed bag.

15 So something happened to it at some point. That
16 person hasn't come in and testified. I don't think they
17 have completed the chain of custody. So it'd be our
18 position that you have to exclude those gloves.

19 THE COURT: All right. Mr. Bulsa.

20 MR. BULSA: Your Honor, the chain of custody has been
21 stated and set out by Ms. Gibson. She was able to review
22 the -- review the documents and determine what had
23 happened, where the gloves had went.

24 THE COURT: Well, she said she was just -- no. She
25 didn't say she knew where it went. She was speculating

1 about what might have happened to it.

2 Apparently, Mr. Roberts -- she believes if those are
3 his initials -- has looked at it, opened it and put them
4 back in the bag and sent it back to Spartanburg for some
5 reason. But we don't know that because Mr. Roberts isn't
6 here and Ms. Gibson doesn't know.

7 She's just -- she's speculating what may have
8 occurred, but I don't believe she testified, nor I don't
9 think she will testify under oath, that she knows that's
10 what happened.

11 MR. BULSA: Your Honor, we have --

12 THE COURT: We can put her back up if I misunderstood
13 her, but I believe she said that that could have happened.
14 But she doesn't know.

15 MR. BULSA: We have a chain of custody form provided
16 to the defense that sets out all of the persons at SLED
17 that handled this item including John Roberts that would be
18 with the trace department.

19 Your Honor, whatever objection this is would go to the
20 weight of the evidence, not to the admissibility. We think
21 she's --

22 THE COURT: I don't know anything about that chain. I
23 haven't seen any chain-of-custody form. I don't know what
24 you're talking about.

25 MR. BULSA: I can -- I can call a witness and put it

1 up if I need to.

2 THE COURT: Well, you're trying to convince me that
3 something ought to be allowed because the chain is complete
4 in your mind, and you're referring to a form that's not in
5 evidence and I haven't seen. I don't know anything about
6 that form. Is that something I've seen?

7 MR. BULSA: No, sir, it's not. But it's been talked
8 about.

9 THE COURT: Well, oh, well, I understand. There's a
10 lot of things talked about. Mr. Roberts was talked about,
11 but we don't seem to know what Mr. Roberts did. Is he
12 unavailable?

13 MR. BULSA: No, sir. I didn't subpoena him. I never
14 got a report from trace, so I don't know what his results
15 were.

16 THE COURT: Well, I'm not suggesting that he did any
17 results. I'm suggesting that perhaps he knows what
18 happened to those, item 27-B. If he, in fact, opened it or
19 if he sealed it back up, I don't know.

20 Ms. Gibson says it looks like it might have been
21 Mr. Roberts. She's not sure of those initials, but it
22 looks like somebody at SLED might have opened 27-A and
23 resealed it. But she's not certain of that. She can't
24 testify to that with any degree of certainty. Somebody
25 else may -- may could. I'm not sure.

1 MR. BULSA: She did testify that whatever would have
2 been done at SLED would not have affected her ability to
3 process those gloves.

4 THE COURT: It perhaps would not have affected her
5 ability to process the gloves.

6 MR. BULSA: Yes, sir.

7 THE COURT: But we don't know what happened to the
8 gloves in between the time it was delivered and she got it.

9 MR. BULSA: We know they were in sealed packaging.

10 THE COURT: But it was not sealed. It was opened.
11 27-B was open when she got it. She doesn't know how it got
12 opened or what happened to it after it was opened.

13 All she knows is when she received it it was sealed.
14 But the inside container had been opened by somebody
15 somewhere. She doesn't know who or what or why, is what I
16 understood.

17 MR. BULSA: Your Honor, I still say that just goes to
18 the weight of the evidence, not the admissibility.

19 We can put up Ms. Leisy who is the D.N.A. analyst who
20 can testify that the suspect swab was sealed and therefore
21 there was no way it could have come into contact with those
22 gloves. And that's the comparison that's being done,
23 that's being offered.

24 THE COURT: Well, I understand.

25 Okay. Well, we're going to take a 15-minute recess.

Frank Dan DeFreese
Direct examination by Mr. Bulsa

1 You might want to talk to some other folks at SLED and
2 see if they can clear that up for you. I'm not sure.

3 MR. BULSA: Yes, sir.

4 THE COURT: We'll take 15 minutes.

5 (Whereupon, a recess was taken.)

6 THE COURT: All right. Are we ready for the jury?

7 MR. BULSA: I guess so, yes, sir.

8 THE COURT: Bring them in.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Mr. Bulsa.

12 MR. BULSA: The state calls Agent Dan DeFreese.

13 FRANK DAN DE FREESE, having
14 been first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. BULSA

16 Q Good afternoon, Agent. Please introduce yourself.

17 A My name is Frank Dan DeFreese.

18 Q And who are you employed with?

19 A I work for the South Carolina Law Enforcement Division
20 in the forensic services lab in Columbia.

21 Q And in what capacity?

22 A I'm assigned to the firearm and toolmark department,
23 and I analyze firearm and toolmark evidence.

24 Q Are you an expert in those areas?

25 A I have been ruled that, yes.

Frank Dan DeFreese
Direct examination by Mr. Bulsa

1 Q How many times?

2 A Probably between six and seven hundred.

3 Q Okay. You've been doing this a long time, haven't
4 you?

5 A For 45 years.

6 MR. BULSA: Your Honor, we would offer Agent DeFreese
7 as an expert in those areas.

8 MR. SHEALY: No objection.

9 THE COURT: He is so qualified.

10 BY MR. BULSA

11 Q Agent DeFreese, in this case in particular did you
12 receive some items of evidence to compare?

13 A I did.

14 Q What did you receive?

15 A I received three fired bullets.

16 Q And what were you being asked to do?

17 A I was being asked to determine whether the three
18 bullets were fired by the same gun and to determine what
19 information I could as to the caliber and possible makes of
20 firearms that may have fired the bullets.

21 Q Okay. Show you State's Exhibit 26 for Identification.
22 Do you recognize that package?

23 A I do.

24 Q Would you look inside of it and see if you recognize
25 what's inside?

Frank Dan DeFreese
Direct examination by Mr. Bulsa

1 A Yes. I recognize those.

2 Q Are those the bullets received in this case?

3 A Yes, sir. This is one of the three bullets. There's
4 a bullet each in each of the other containers.

5 Q You took some time examining those. What were you
6 looking at?

7 A I was looking for my markings. At the time that I
8 open the evidence and examine it I place the case number,
9 the item number and my initials on the evidence item so
10 that I'll be able to recognize them when I see them later.

11 Q You place them on that little plastic bag?

12 A No. Actually I engrave them on the bullet, or in this
13 case one of the bullets was received in one piece and it
14 separated into two pieces. And I put my markings on both
15 of the pieces.

16 Q Were the bullets in a sealed condition when you
17 received them?

18 A They were. When I received them, both the outside
19 container -- the large envelope and each of these were
20 sealed with evidence tape that was intact. I opened it.

21 Q Now, these items aren't in a plastic bag like we've
22 seen in other pieces of evidence.

23 A No, sir. The -- the outer container for this case was
24 this -- I think it's a 12-and-a-half-by-15 envelope, this
25 large craft envelope.

Frank Dan DeFreese
Direct examination by Mr. Bulsa

1 Q Okay. That was sealed when it came to you.

2 A It was.

3 Q Okay.

4 MR. BULSA: Your Honor, the state would offer these
5 items into evidence.

6 MR. SHEALY: No objection.

7 THE COURT: They're admitted.

8 (Bullets marked State's Exhibit No. 26; spent bullet
9 marked State's Exhibit No. 26-A; spent bullet marked State's
10 Exhibit No. 26-B; spent bullet marked State's Exhibit No.
11 26-C.)

12 THE COURT: For the record, Your Honor, they are
13 State's 26, 26-A, 26-B and 26-C.

14 BY MR. BULSA

15 Q Agent DeFreese, what did your comparison tell you
16 about these bullets?

17 A Well, I first examined them as to their size and
18 weight in an attempt to determine the caliber of the
19 firearm that could have fired the three bullets. And the
20 diameter and weight of those bullets were wholly consistent
21 with those .38 special caliber and .357 Magnum caliber
22 bullets.

23 All three of the bullets were either jacketed hollow
24 point bullets or jacketed soft point bullets of similar
25 construction. All three of the bullets were rifled or

Frank Dan DeFreese
Cross-examination by Mr. Shealy

1 fired from a firearm that had a barrel that was rifled with
2 five grooves and right-hand twist.

3 And I measured the width of the land and groove
4 impressions on the bullets, and I derived a list of
5 possible manufacturers of .38 Special and .357 Magnum
6 caliber firearms that could have fired these bullets.

7 Q Are those type of firearms revolvers or automatics?

8 A Most of them are revolvers. I think of the possible
9 makes I suggested there is one rare and very expensive
10 semiautomatic .357 Magnum caliber pistol. The -- all of
11 the rest of the possible makes I suggested were revolvers.

12 Q Okay. And if we add in the information that there
13 were no shell casings recovered at the scene?

14 A That would tend to argue for the revolver.

15 Q Okay. How many guns fired those rounds?

16 A One gun. All three were fired by the same gun barrel.

17 Q Okay. Thank you. That's all I have.

18 CROSS-EXAMINATION

19 BY MR. SHEALY

20 Q Agent DeFreese, what does it mean that these bullets
21 did not meet the criteria for entry into integrated
22 ballistics identification system?

23 A We have a computer. The integrated ballistics
24 identification system is an imaging system for searching
25 bullets to see if we can obtain a match between bullets

Frank Dan DeFreese
Cross-examination by Mr. Shealy

1 submitted in different cases.

2 It scans the bullets, and it looks at the land
3 impressions that are present near the heel, near the very
4 base of the bullet.

5 when we get a damaged bullet, as evidence bullets so
6 often are, they're incomplete at this point. That is they
7 don't have enough individual strike all the way around the
8 bullet. And for that reason -- these bullets were damaged
9 in different places and there's -- none of the three are
10 absolutely complete all the way around their circumference.
11 And for that reason they did not meet the criteria for
12 entry into the integrated ballistic identification system.
13 That doesn't mean they can't be identified with each other.
14 It just means that they're not good enough for the computer
15 to look at.

16 Q Okay. And how did you -- the bullet that separated
17 into two pieces, when did that happen?

18 A That happened when I was cleaning it up. It was one
19 bullet, but it was covered with -- with sort of decaying
20 tissue that I was trying to get off because it was corroded
21 in the bullet and it was unpleasant to handle. And during
22 the process of flushing and sanitizing the bullet -- the
23 bullet was rather fully mushroomed, and the core separated
24 from the jacket. It's not an uncommon occurrence.

25 Q Okay. But that didn't render it unanalyzable?

Frank Dan DeFreese
Cross-examination by Mr. Shealy

1 A No. It's actually the marks that are present on the
2 jacket that make the bullet subject to identification. The
3 core is never actually marked by the gun barrel.

4 Q Okay. So what actually separated was the core from
5 the jacket as --

6 A Correct. That's correct.

7 Q All right.

8 MR. SHEALY: That's all I have for this witness, Your
9 Honor.

10 MR. BULSA: Nothing further.

11 THE COURT: You may step down.

12 MR. BULSA: We ask he be excused.

13 THE COURT: He may be.

14 (Whereupon, the witness was excused.)

15 THE COURT: All right. Ladies and gentlemen, we're
16 going to recess for the balance of the afternoon.

17 Keep in my mind my caution. No discussions, no media
18 exposure, no independent investigation or research.

19 Do have a good evening, and please report to your jury
20 room at 9:30 in the morning -- 9:30 in the morning.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: Court's in recess until 9:30 in the
24 morning.

25 END OF PROCEEDINGS DECEMBER 11, 2012

Dr. John David Wren
Direct examination by Mr. Bulsa

1 (Proceedings December 12, 2012)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Any matters that need to be
5 addressed prior to the jury being brought in?

6 MR. BULSA: No, sir.

7 MR. SHEALY: No, Your Honor.

8 THE COURT: All right. Bring them in, please.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Good morning, ladies and gentlemen.

12 We are going to continue with the state's presentation
13 of evidence.

14 Mr. Bulsa.

15 MR. BULSA: Thank you, Your Honor. The state calls
16 David Wren.

17 DR. JOHN DAVID WREN, having
18 been first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BULSA

20 Q Good morning, Dr. Wren. Would you please introduce
21 yourself to the jury?

22 A My name is John David Wren.

23 Q What's your profession, sir?

24 A I'm a medical doctor with a specialty in pathology
25 including forensic pathology.

Dr. John David Wren
Direct examination by Mr. Bulsa

1 Q You've testified in court as an expert before?

2 A Yes.

3 Q What field?

4 A Anatomic and clinical pathology, as well as forensic
5 pathology.

6 Q How many times?

7 A Pardon?

8 Q About how many times?

9 A Gee, it must be close to 200 by now.

10 MR. BULSA: Your Honor, the state would offer Dr. Wren
11 as an expert in his field.

12 MR. SHEALY: No objection.

13 THE COURT: He is so qualified.

14 BY MR. BULSA

15 Q Dr. Wren, do you conduct autopsies on persons to
16 determine the cause of death?

17 A Yes. I performed an autopsy on Cedric Moss on July
18 the 25th, 2011, in the Spartanburg Regional Autopsy Room,
19 and I began that autopsy at approximately 2:30 p.m.

20 Q Would you describe the gunshot wounds that you found
21 on his body?

22 A He had multiple gunshot wounds. He'd also had
23 attempted resuscitation. Some of -- there was some
24 problems because of that, because at least one of the
25 wounds had been partially interrupted by what's called a

Dr. John David Wren
Direct examination by Mr. Bulsa

1 thoracotomy incision that went from the side of his chest
2 all the way across to the other side of his chest to try to
3 do a heart massage to keep his heart functioning as he
4 became ischemic losing blood.

5 But he did have recognizable gunshot wounds that were
6 predominantly in the back. I guess I'll just go through
7 them one at a time.

8 He had a gunshot wound in his right lateral back near
9 the posterior border of the armpit, which we call the
10 axilla. The medical term is axilla for the armpit.

11 So you divide the -- if a wound is near there, then
12 you call the anterior fold of the arm the anterior axillary
13 line. The posterior fold is the posterior axillary line.
14 And then the midportion is the mid axillary line.

15 His -- this wound appeared in the posterior axillary
16 line on the right. It was 18.8 inches from the top of his
17 head and 8.5 inches to the right of his midline.

18 It was an entrance wound. It measured 41 hundredths
19 of an inch in diameter and had a slight abrasion border,
20 which is a recognizable abrasion associated with a
21 projectile or even stab wounds or other injuries that shows
22 where the leading edge hit.

23 That was if you look at the body with the head at
24 12:00 o'clock, the feet at 6:00 o'clock, this wound
25 appeared from 9:00 o'clock on the body up to 12:30 o'clock

Dr. John David Wren
Direct examination by Mr. Bulsa

1 and showed that the bullet was passing in at that area
2 first.

3 Now, you have to recognize that the skin is contoured
4 over much of the body, so it just means that that was the
5 leading edge of the bullet.

6 Q Dr. Wren, I am going to ask you to pause right there.
7 Can you describe to the jury how Mr. Moss would most
8 likely have been positioned in relation to the gun?

9 A Pardon?

10 Q What would his body position have been in relation to
11 the person firing at him?

12 A The gun would have -- the gunshot would have come from
13 his -- well, I have to describe the exit associated with
14 that.

15 There was another gunshot wound I found. It was in
16 the left mid back. It was 22 and a half inches from the
17 top of the head and 6.5 inches to the left of midline.
18 That wound was -- had frayed skin. As bullets exit the
19 skin they sort of tear the skin apart rather than boring a
20 hole in them like an entrance will. And it was smaller and
21 associated with an exit.

22 Now, those two wounds, the bullet was passing from his
23 right side slightly posterior unless he had turned. It was
24 still coming from that direction, but the gun projectile
25 path would have had to come from his right and slightly

Dr. John David Wren
Direct examination by Mr. Bulsa

1 posterior to enter his -- his back essentially. That went
2 through the right lower lobe of the lung. It was almost
3 straight through the body, neither front nor back, and it
4 was going downward and from his right to his left. That
5 probably was not the fatal wound.

6 That was two of the gunshot wounds, and that was a
7 through and through.

8 Q Okay.

9 A But he did -- would have had some hemorrhage from
10 that.

11 Q Dr. Wren, would that be consistent with him trying to
12 turn away from the gun?

13 A He would be turning -- either turning away, or if he
14 didn't see the person, the person would have been to his
15 right and slightly posterior. If he were looking
16 straightforward he probably would not have seen that, that
17 assailant in that position.

18 Now, he had another wound that was probably -- that
19 was not fatal, appeared in his left lateral leg more
20 slightly anterior than the other one. And it was about
21 midway between the hip and the thigh a little bit more
22 toward the -- I mean, the hip and the knee. It was a
23 little bit more towards the knee.

24 It was an entrance wound, and it also measured 41
25 hundredths of an inch in diameter, and it had an abrasion

Dr. John David Wren
Direct examination by Mr. Bulsa

1 border also in that case from 1:00 o'clock to 7:00 o'clock.
2 So the bullet was coming from his left when it hit the
3 skin. And the majority of the abrasion was on his left
4 side of the wound.

5 Now, that bullet passed through his -- his thigh, hit
6 his femur, which is the big bone in the upper portion of
7 the leg.

8 It exited on the inner thigh near the -- near the
9 crotch. And that bullet actually impacted on -- as it came
10 out it had lost a lot of momentum, and it was distorted
11 from hitting the bone. It probably tried to enter the
12 scrotum, and it caused a little abrasion or laceration
13 there. It was not completely through.

14 That bullet may have been associated with a bullet
15 that we recovered from his shorts. When we removed the
16 clothing the bullet fell out. I labeled that bullet as
17 bullet 4-A.

18 The autopsy number is 174. I use the last number of
19 the autopsy because it's hard to scratch on bullets,
20 particularly if they're distorted.

21 I measure -- I labeled it 4-A and with the Greek
22 letter delta, which I use because it's like a triangle.
23 It's easier to use than English letters. And I labeled it
24 with the letter A also.

25 I forwarded that to Officer Courtney Westfall of the

Dr. John David Wren
Direct examination by Mr. Bulsa

1 Spartanburg City Police Department.

2 That -- that injury was probably not immediately
3 life-threatening either, although it was life-threatening,
4 could have bled considerably from the fracture and the
5 wound and could have eventually become infected. He could
6 have died from that later if he had survived.

7 Now, he also had a gunshot wound in the right upper
8 inner thigh that passed through the skin and grazed the
9 perineum, which is the area between the rectum and the
10 scrotum. And it probably passed through the body, and it
11 was -- didn't hit anything viable unless it hit a small
12 vessel there. So that's -- that's five of the gunshot
13 wounds I found.

14 The fatal wound was in the left lower back. It was
15 26.2 inches from the top of his head and 3 inches to the
16 left of his midline.

17 Now, that bullet was going upward, slightly forward,
18 and from his left to his right. In the path of that
19 bullet -- it passed through his intestines, large intestine
20 twice. It hit the portion of his kidney, and it went into
21 the liver. And as it attempted to exit from the liver it
22 didn't -- it had lost enough momentum to where it stayed in
23 the liver.

24 I recovered that bullet from the liver. I labeled it
25 4-B with the Greek letter delta. Both of those bullets

Dr. John David Wren
Direct examination by Mr. Bulsa

1 were -- I measured them as I think 9 millimeters in
2 diameter at the base.

3 The 4-A was intact because it did not hit any bone --
4 I mean, I'm sorry. The 4-B was still normally formed
5 because it hadn't hit anything to deform it. It measured I
6 think point six -- around .68 inches in length.

7 The other bullet was flattened at the nose, and it was
8 distorted from hitting that bone. It measured .52 inches
9 at the base, I mean, in length.

10 Q Now, that last one you described, is that consistent
11 with the victim turning away or being --

12 A He would have -- in that case the assailant would have
13 been below him. The bullet would have -- I mean, the
14 barrel would have had to have been below him and the bullet
15 would have had to have been coming upward going forward.
16 So he would have been behind him somewhat inferior to his
17 body itself to have inflicted that one.

18 Now, a person could have been leaned over of course
19 any position that you can think of in which the straight
20 line from the barrel of the gun into the back 3 inches,
21 about this far past to the left of his spine, and going
22 upward towards his right shoulder. That would have been
23 the position he would have been in.

24 He'd have been on the ground or the assailant would
25 have been way away from him to shoot him in that position.

Dr. John David Wren
Direct examination by Mr. Bulsa

1 Or if he were standing on a -- you know, on a ladder the
2 guy could have been below him.

3 You can't tell just by looking at it. You can just
4 say -- if you're given a postulate of a position one can
5 say, yes, that's consistent and, no, it isn't. It's not --
6 it's not hard to figure out.

7 Q Well, in this case it sounds like that's consistent
8 with the victim being on the ground when that wound was
9 inflicted.

10 A Or leaned over, yes.

11 Q Okay. Now, you recovered -- you told us about the
12 bullet from the liver area, I believe?

13 A One -- one bullet from the liver and one from his
14 shorts.

15 Q You gave both of those to the city police?

16 A Yes. Courtney Westfall.

17 Q Okay. And now finally, Dr. Wren, what did you
18 determine the cause of death to be?

19 A I attributed his cause of death as exsanguination,
20 which is bleeding to death. And I just called it multiple
21 gunshot wounds to the body because he bled from all of them
22 really.

23 Q And from my listening to you I counted four wounds.
24 He was shot four separate times.

25 A There was at least four, yes, that hit him.

Dr. John David Wren
Cross-examination by Mr. Shealy

1 Q Thank you, Dr. Wren.

2 CROSS-EXAMINATION

3 BY MR. SHEALY

4 Q Dr. Wren, you've also testified that --

5 A Pardon?

6 Q All you can do is based on a postulated position say
7 whether that's consistent or not, right?

8 A I didn't understand you.

9 Q Okay. Based on my understanding of your testimony, is
10 that these gunshot wounds are consistent with any number of
11 different positions.

12 A Yes. That's true.

13 Q Whatever, whatever you can imagine, however people --

14 A Not whatever you can imagine. Whatever you can
15 imagine that's consistent with the laws of physics.

16 Q Sure, sure.

17 A Okay.

18 Q And the way that those bullets have entered the body.

19 A Right. They don't -- they don't travel in arcs and
20 they don't make right angles and they don't --

21 Q Sure. I understand.

22 A Okay.

23 Q So it could be -- so while it could be consistent with
24 somebody laying down, it could be consistent with a number
25 of other things too --

Dr. John David Wren
Cross-examination by Mr. Shealy

1 A Yes.

2 Q -- is what you testified to, right? And during the
3 course of this autopsy did you take any blood from Mr.
4 Moss?

5 A Yes. We take blood.

6 Q Take blood as a normal course, right?

7 A Yes, sir.

8 Q And have that analyzed?

9 A And we take liver, yes.

10 Q Okay. And are you aware that Mr. Moss tested positive
11 for cocaine?

12 MR. BULSA: Objection, Your Honor.

13 A No.

14 Q You're not aware of that?

15 A No, sir.

16 MR. BULSA: Objection, Your Honor.

17 THE COURT: Let me see y'all just a minute.

18 (Bench conference held off the record in the presence
19 of the jury but out of the hearing of the jury.)

20 THE COURT: I sustain the objection.

21 MR. SHEALY: That's all I have for this witness.

22 MR. BULSA: We have nothing further, and we ask he be
23 excused.

24 THE COURT: You may step down. You may also be
25 excused. Thank you.

1 (Whereupon, the witness was excused.)

2 MR. BULSA: Your Honor, the state would rest at this
3 time.

4 THE COURT: All right. Ladies and gentlemen, that is
5 all of the testimony or other evidence to be offered by the
6 state, at least in their case in chief.

7 Before we go further I've got some legal matters I'll
8 need to address with the lawyers. So I'll ask you to
9 please go to your jury room. Do not yet discuss the case.
10 I'll bring you back in a few minutes to continue with the
11 trial.

12 (The following takes place outside the presence of the
13 jury.)

14 THE COURT: Any motions or other matters to be
15 considered before we go further?

16 MR. SHEALY: Your Honor, I do have a couple of
17 motions.

18 Your Honor, I would renew my motion as to the car and
19 the evidence that was retrieved from that car as being
20 irrelevant. I don't think the state ever did tie that --
21 that evidence to my client.

22 I guess some of it wasn't actually entered into
23 evidence, but it was testified to, and I made those
24 objections.

25 So, Your Honor, I would move to strike that testimony,

1 as well as again to exclude that evidence.

2 THE COURT: Exclude which evidence, now?

3 MR. SHEALY: Your Honor, there were some pictures of
4 the car. If I may approach I can give you the numbers.

5 THE COURT: You may.

6 MR. SHEALY: Your Honor, State's Exhibits 23, 22, 21,
7 20 and 19. So 19 through 23, Your Honor.

8 I'd also move to strike any testimony regarding
9 State's Exhibits 27 and 28 and 29.

10 THE COURT: All right. Mr. Bulsa.

11 MR. BULSA: Your Honor, each of the eye witnesses
12 identified a car matching the description. And while their
13 colors were inconsistent, the size and description of the
14 car certainly is consistent with the car that we've proven
15 was driven by the defendant.

16 Reggie Rice testified that he'd seen the defendant in
17 that car. He'd driven that car to his house while he was
18 staying there, and that car was left behind his house.

19 We have clearly established that he had contact with
20 that car and access to that car on the day of this
21 incident. And it is consistent with testimony of each of
22 the eye witnesses' description of the type of vehicle he
23 drove up in.

24 Mr. Copeland describes the defendant wearing some
25 latex gloves white in color. A latex glove white in color

1 was found inside that vehicle. That is consistent with his
2 testimony.

3 MR. SHEALY: Your Honor, those gloves weren't entered
4 into evidence. We would move to strike that.

5 MR. BULSA: The gloves didn't need to be. A picture
6 of them were.

7 MR. SHEALY: Again, Your Honor, it'd be our position
8 that those were never tied to my client.

9 THE COURT: All right. Did I understand that 27 --
10 Exhibits 27 and 28 and 29 are not in evidence?

11 MR. BULSA: Correct, Your Honor. They're not in
12 evidence.

13 THE COURT: Okay. There is a picture of a latex glove
14 which was what number?

15 MR. SHEALY: Your Honor, it's State's Exhibits 23 and
16 22.

17 THE COURT: Let me see those, please.

18 (Pause.)

19 THE COURT: All right. Those motions are denied.
20 I understand that 27, 28 and 29 are not in evidence.
21 They've not been offered; they're not admitted.

22 So the photographs, 19 through 23, have previously
23 been admitted, and they shall remain so.

24 All right. Any other motions?

25 MR. SHEALY: Your Honor, I also have made a motion to

1 strike that item. I imagine that was denied as well.

2 THE COURT: That's also denied.

3 MR. SHEALY: Thank you, Your Honor.

4 I do have another motion for a directed verdict based
5 on my prior objection, as well as the state's failure to
6 produce sufficient testimony that it was, in fact, my
7 client who committed this crime. Thank you.

8 THE COURT: The insufficient evidence to establish
9 that Mr. Letmon was the person who fired the weapon that
10 killed Mr. Moss?

11 MR. SHEALY: Yes, Your Honor.

12 THE COURT: Well, I think there's more than sufficient
13 evidence to establish that fact if believed by the jury.
14 So that motion is denied.

15 Any others?

16 MR. SHEALY: Your Honor, no, sir.

17 I do not believe my client -- I don't believe my
18 client wishes to testify if you'd like to --

19 THE COURT: And you've talked to him about that right?

20 MR. SHEALY: I have, Your Honor, at length.

21 THE COURT: All right. Mr. Letmon, you've heard
22 Mr. Shealy tell me that he's talked to you about your right
23 to testify, as well as not testify.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand that when you're charged

1 with a crime as you are now you have an absolute right to
2 remain silent, which simply means that nobody can require
3 that you take the witness stand and testify during the
4 trial of this case?

5 At the same time, if you wish to testify or provide
6 any additional evidence to this jury now is the only
7 opportunity that you will have to do so.

8 You can't wait until the end of the trial after the
9 jury has reached a decision and then change your mind about
10 whether or not you'll testify.

11 If you elect to testify you'll have to answer not only
12 the questions asked by your lawyer, but you'll also have to
13 answer the questions asked of you by the prosecutor to the
14 extent that they are relevant even if the answers might
15 tend to prove you guilty of the crime the state claims you
16 have committed.

17 If you elect not to testify I'm going to instruct the
18 jury as I already have that they can't hold that against
19 you, they can't consider it in any way in their
20 deliberations or in their determination as to whether or
21 not your guilt has been proven beyond a reasonable doubt.

22 Have you had plenty of time to talk with Mr. Shealy
23 about your decision as to whether or not you'll testify?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And do you understand you have the right

1 to remain silent?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you understand you have the right to
4 take the witness stand and testify?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand that it's your choice
7 and your decision and only you can make it?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you and Mr. Shealy discussed the
10 advantages and disadvantages of testifying, as well as not
11 testifying?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you appreciate and understand what
14 those advantages and disadvantages are?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And have you had time to reflect upon your
17 decision as to whether or not you will testify?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And have you arrived at a decision?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And what is that decision?

22 THE DEFENDANT: I will not testify.

23 THE COURT: And is that a decision that you made of
24 your own free will and accord?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Has anybody forced you into it?

2 THE DEFENDANT: No, sir.

3 THE COURT: Anybody suggested to you that that's the
4 decision you ought to make?

5 THE DEFENDANT: No, sir.

6 THE COURT: Is that a decision that you made on your
7 own after carefully considering all of the factors related
8 to it?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And you're satisfied with that decision?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Thank you. You may be seated.
13 Any other witnesses you intend to call, Mr. Shealy?

14 MR. SHEALY: No, Your Honor. We intend to rest.

15 THE COURT: All right. Do y'all have any requests for
16 instructions?

17 MR. SHEALY: I do not.

18 MR. BULSA: Nothing special, Your Honor, no, sir.

19 THE COURT: All right. Let's take ten minutes before
20 we conclude.

21 (Whereupon, a recess was taken.)

22 THE COURT: All right. All is present. Bring the
23 jury in, please.

24 Mr. Letmon, your lawyer indicated yesterday that he
25 was going to call a witness or two, or maybe even three.

1 I'm not certain about that.

2 Did y'all discuss that and decide not to call those
3 witnesses?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you're satisfied with that decision?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. All right. You can bring them in.
8 Thank you.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: All right. Ladies and gentlemen, as you
12 know, the state has rested in their presentation of
13 evidence. So we will now proceed with any to be offered by
14 the defense.

15 Mr. Shealy, does the defendant wish to present any
16 additional evidence?

17 MR. SHEALY: No, Your Honor. The defense rests.

18 THE COURT: All right. That's all the evidence that's
19 going to be presented; and therefore what remains to be
20 done are the lawyers' final summations, after which I'll
21 instruct you on the law, and then you can begin with your
22 deliberations.

23 So please give the lawyers your attention now as they
24 give you their final summations.

25 Mr. Bulsa.

Closing arguments

1 MR. BULSA: Thank you, Your Honor.

2 Good morning, ladies and gentlemen. I appreciate your
3 participating in this case.

4 It has been a terrible, terrible case to listen to. A
5 young man died senselessly on July 25th of 2011. As you
6 heard from Dr. Wren, he was shot four times, twice in the
7 back and twice in the legs.

8 He was trying to get away from his assailant. The
9 evidence is consistent that he was lying on the ground and
10 he was shot and the fatal wound was inflicted.

11 You heard the eye witnesses in this case. We brought
12 you each and every witness that was out there at the time
13 this happened. You would have expected to do that. You
14 would have expected us to bring each of those people.

15 Ladies and gentlemen, in cases like this, in criminal
16 cases, we don't select what crimes occur, what time they
17 occur, who witnesses them. We bring you the evidence that
18 exists.

19 We brought you the four eye witnesses that went out
20 there that night, the four eye witnesses that had shared
21 drinks with this man because he had been there earlier that
22 night. It wasn't like this was the first time they saw him
23 that evening. He had been there earlier.

24 He'd spent time with each of those people. Two of
25 them knew him from the past, one of them for 20 years,

Closing arguments

1 called him a friend. The two ladies saw him, shared drinks
2 with him. It's not like he just walked up and shot and
3 that was the only time they had a chance to look at his
4 face. He had been there earlier in the evening. He had
5 spent time there.

6 He left and came back. And for some reason, a reason
7 that we don't know, a reason that you don't need to be
8 concerned with, but it's clear from two of the ladies that
9 what they heard was we don't fight, we shoot. He had
10 something in his mind against Mr. Moss, came back to that
11 house because he knew he was there and fired at him at
12 least four times and killed him.

13 These witnesses, Mr. Copeland, he lived at that
14 residence. He was the host of this jam. The defense is
15 going to talk about the drinking that was going on and
16 seeing marijuana and might try to imply that there was
17 other drug use. That does not mean that a man needs to
18 die. He's going to argue that that means you shouldn't
19 listen to these witnesses, you shouldn't take their stories
20 as credible.

21 You heard and you observed each person from this
22 witness stand. That's what trials are about. You got to
23 see their demeanor; you got to see their reaction.

24 They were afraid of what they saw. Ms. Robinson in
25 particular ran in the house screaming; Ms. Ross stood on

Closing arguments

1 the porch screaming; Mr. Copeland ran around the side of
2 the building. The victim tried to run, and he got shot
3 down. Mr. Worthy says he passed out. Each of these four
4 people came into court and said he was the one.

5 This is not a conspiracy hatched by these four people.
6 They didn't have anything to gain by pointing the finger at
7 him. The ladies were afraid of him. The two men knew him.

8 Mr. Worthy tried to water down his version because he
9 didn't want to admit that he actually saw him pull the
10 trigger. But he certainly saw him get out of the car and
11 walk up and saw the blaze from the last shot and then saw
12 the defendant leave in his car.

13 When you go back I'm asking you to use your common
14 sense as you discuss this case and talk about each of these
15 witnesses.

16 Mr. Shealy I am sure will point out inconsistencies in
17 their statements, in their testimony, things like where
18 they each were actually located on the porch and where the
19 shooter might have been actually standing, the color of the
20 car that they saw.

21 You should not expect exact testimony from each
22 witness, that each had their own perspective of what they
23 saw, how they reacted and the stress they were under at the
24 time. But their stories taken together are very consistent
25 in that they all name the same manner and the same way the

Closing arguments

1 shooting occurred.

2 You know, this case could have been over after we just
3 put those four people up and they sat and pointed at him.
4 We could have walked off and rested and said, ladies and
5 gentlemen, that's the case.

6 But the police did a lengthy attempt to try to find
7 him. They went to his family members. They went to past
8 acquaintances and went to all of the addresses they knew
9 of.

10 They even went and talked to the lady at the Hampton
11 Inn who saw him. They put out flyers. He knew he was
12 wanted. He was hiding from the police. That's evidence of
13 guilt also.

14 There was a lot of talk about this car. The witnesses
15 describe a small car, 2-door, that pulled up and the
16 defendant got out and walked up and shot him and left.

17 Remember that that was the first time that any of them
18 saw that car. It's not like he had driven up in that car
19 before and it had sat parked there and they got to see it
20 and look at it.

21 He was basically in there, get out and shoot, and get
22 out. And they weren't focused on the car. They were
23 focused on the man outside with the gun shooting at them.

24 So the discrepancy in the color, I submit to you, is
25 not that great. We brought in Mr. Rice who testified that

Closing arguments

1 this man had access to a car very similar to the one they
2 described. And where was that car found? Back in behind
3 Mr. Rice's house as if he was trying to hide it.

4 I suggest to you he drove the car to that house that
5 night, hid the car and then hid himself, disposed of the
6 murder weapon and hid himself. That is consistent with
7 what happened.

8 Mr. Robinson said to him it looked like the man was
9 wearing white latex gloves. In the car was at least one
10 white latex glove. Ms. Ross called them socks. It is
11 clear that the defendant had something covering his hands
12 as if to hide the fact that he was shooting. He wasn't
13 found in order for the police to try to find any evidence
14 off of him, because he successfully hid himself away.

15 The judge will charge you on the law in this case.
16 It's pretty simple. You have one charge for you to
17 consider. That's the charge of murder. You have two
18 possible verdicts, guilty or not guilty.

19 As I told you in my opening statement, after you hear
20 the facts of this case it should be pretty clear that this
21 was a murder. This was a murder, and the case is all about
22 who did it. That's why my argument is stressing the four
23 witnesses.

24 Anthony Copeland knew the defendant and had seen him
25 around and knew him by slow. He was able to quickly point

Closing arguments

1 him out to the police when they showed him the picture
2 because the police had to put a name with slow. He was
3 very definite and easily pointed him out in court.

4 Crystal Ross. She didn't know him, but she'd seen him
5 that night. He came back. She was able to pick him out
6 also to the police in the lineup.

7 Brittany Robinson didn't know him but had seen him
8 that night. In her testimony she pointed him out in court.
9 And the defense is going to argue that she didn't point him
10 out to the police.

11 I suggest to you her testimony was plausible in that
12 she was under the stress of this incident. She was afraid.
13 But when she saw him she knew him. But her testimony is
14 clear when she was talking to the police she was -- the
15 person she saw at the house before was the same person that
16 she saw that came out of the car, so it was the -- she
17 might not have known his face, but she clearly knew it was
18 the guy that living there before that did it, that came
19 back, which is consistent with what everybody else said.
20 And she was able to point him out when she saw him that
21 night.

22 And Jesse Worthy, the man that was too intoxicated to
23 come to the police station, never gave a statement, but he
24 knowed him for 20 years. He was an old friend.

25 I suggest he didn't want to have to point him out as

Closing arguments

1 the actual shooter, but it clearly puts him back at the
2 house when this happened. And if you look at his testimony
3 in the whole, he identified the shooter as well.

4 You have to go back, ladies and gentlemen, and decide
5 is this enough, are four eye witnesses that put the man at
6 the scene of the crime with the gun in his hand, is that
7 enough? I submit to you it is well enough.

8 This case has clearly been proven beyond a reasonable
9 doubt that the defendant was guilty of murdering Cedric
10 Moss. Gun him down, standing over him shooting him four
11 times causing his death. Thank you.

12 MR. SHEALY: May it please the Court.

13 THE COURT: Mr. Shealy.

14 MR. SHEALY: Ladies and gentlemen, the prosecution
15 would like this case to be about the fourth. We've got
16 four eye witnesses. That's enough. If you add four up,
17 maybe two weren't enough but four is. That's not the way
18 we do things.

19 As the judge charged you at the beginning of this
20 trial, you can believe one witness over many, or you can
21 believe many witnesses over one. Simply because we've got
22 four people here, that's not enough.

23 You've got to look at all of the circumstances and the
24 way they testify and what they said. To me, I don't know
25 why Jesse Worthy now is reticent to -- to point out my

Closing arguments

1 client. I mean, he was here. He testified, didn't he?
2 And I take it he didn't seem to be holding anything back to
3 me. He told you that, yeah, I brought some pinks -- I
4 think is what he said. Some brandy, some marijuana and all
5 kinds of stuff. He wasn't holding anything back.

6 Okay. So this idea that Jesse worthy is somehow
7 holding things in, that just didn't appear to be Jesse
8 worthy's error.

9 The statements that were made, the testimony that was
10 given by these eye witnesses, was consistent in only two
11 things, only two things. And it was widely inconsistent in
12 everything else.

13 We couldn't figure out when they got there, when they
14 left. We don't know who got where when. We don't know
15 where who was sitting. We don't know any of that.

16 In fact, we had one witness testify that two bullets
17 went into the front of the house. We had Courtney Westfall
18 testify that didn't happen. It just didn't happen. I
19 mean, it's just widely inconsistent.

20 The two things that they were right on point with as
21 Mr. Bulsa has said is, one, it was my client who did it,
22 and, two, the lighting situation. Everything else was
23 completely different.

24 There were some chronology similarities. Everybody
25 admitted that Cedric Moss left before my client left.

Closing arguments

1 Again, the time between who left first and second, that
2 wasn't consistent. But they did testify that Cedric Moss
3 left with the girls first, and then Mr. Letmon left.

4 Okay. And you've got to think about when this all
5 happened. The shooting occurs at 5:00 o'clock when
6 everybody is intoxicated, and everybody admitted as far as
7 I can tell to being intoxicated, to being drunk, to being
8 high. It's 5:00 o'clock in the morning. They're tired.

9 That matters. The state would like for you not to
10 think about that because they've got four eye witnesses and
11 that's enough.

12 But I'm asking you if my client's going to shoot
13 somebody in front of a bunch of witnesses why didn't he
14 just shoot them the first time he's there? That don't make
15 any sense to me.

16 Why does he walk down with Jesse Worthy, sit a while,
17 hang out, drink and smoke and do all of this business,
18 leave with somebody in a gold Lincoln and then come back to
19 a house in order to gun somebody down who he knows isn't
20 there because he saw Cedric Moss leave?

21 In fact, Ms. Rollins or Mr. Ross testified that Cedric
22 Moss was going to go home when they left. Got in the car,
23 rode up to a stop sign and changed his mind.

24 But my client now has premeditated this murder, come
25 to a place he knows Mr. Moss is and then shot, which leads

Closing arguments

1 us to the consistencies, because I understand what you're
2 saying. But, Mr. Shealy, you can say they are
3 inconsistent, you can say they were high, you can say they
4 were drunk, you can say they were tired. You can say all
5 of these things, but they're consistent that it's your
6 client. How do you get away from that?

7 well, ladies and gentlemen, my client is a
8 dark-skinned black man. They've all testified that the
9 light was behind and up from where the shooter was. That's
10 what they testified to. The light would hit him in the
11 back of the head. They couldn't see his face. And they
12 tried to hide that and tried not to testify to that. But
13 ultimately they did. You couldn't see his face good.

14 That's why Brittany Robinson couldn't identify him in
15 the lineup. That's why he couldn't tell the police who it
16 was, because he couldn't see his face.

17 What happened that night is somebody came in this car
18 and shot that guy, shot Mr. Moss. Nobody denies that. And
19 it may have been somebody of my client's general build.
20 And he had been there earlier, and so they made the
21 assumption that that must be who it is.

22 These people were tired. They were intoxicated. They
23 never spoke with him; they never dealt with him. He just
24 pulls up. They're from here to there. And they made the
25 assumption that must be who it is because he'd been there

Closing arguments

1 earlier.

2 And this was, as Derrick, as Mr. Bulsa, has pointed
3 out, a traumatic event. And they grabbed the only thing
4 that they could. It must have been Keith Letmon. And they
5 have to make sense of a senseless act. They have to make
6 sense or they'll go crazy.

7 And I don't doubt that they all believed that it was
8 Keith Letmon. There ain't -- they all believe that.
9 Ms. Robinson believed it so much that she pointed him out.
10 Even though she couldn't do it before, that she pointed him
11 out as that has to be who it was.

12 And you see that they want to give these victims some
13 closure. They want to give them somebody to say that guy
14 did it. And they need that, and I understand that.

15 But, ladies and gentlemen, that's not your job. Your
16 job is to safeguard my client's right to a jury trial, to
17 be proven beyond a reasonable doubt. And if you don't have
18 a reasonable doubt, then I don't know what else I can say,
19 because these eye witnesses -- they have four of them. I
20 understand that. But there are -- four bad I.D.s are still
21 four bad I.D.s.

22 So we get to the other two pieces of evidence that Mr.
23 Bulsa has pointed to. One, he fled. He went all over
24 Robin Hood's bar trying to prove that they went everywhere
25 and did all of this stuff to prove that he fled and that's

Closing arguments

1 somehow evidence of guilt.

2 I don't know if y'all have ever been in jail, but it's
3 not coeducational. He was arrested in a hotel with a
4 woman. It's crude, but let's be honest. It's not
5 surprising.

6 And I guess Mr. Bulsa just thinks you should volunteer
7 to go to jail. I don't understand that. I've never met
8 anybody who would do that. I don't think it's evidence of
9 guilt. I think it's evidence of rationality.

10 And the last issue is this car. We found some gloves
11 in the car. Well, to begin with, nobody identified this
12 car as the car that the shooter was using. Okay. So we
13 don't have any kind of -- anything tying this car to this
14 shooting except it looks like the car.

15 I believe Investigator -- I believe it is Porter -- it
16 may have been Nelson -- testified, yeah, that it had tinted
17 windows and shiny wheels. It's a '91 Honda Accord.

18 Okay. How many '91 Honda Accords have tinted windows
19 and shiny wheels? To be honest, that's not that uncommon.
20 He's testified it isn't uncommon to have tinted windows and
21 shiny wheels. That's not surprising. So this idea that
22 we, a-ha, we got them because we got those gloves is just
23 no good.

24 And, ladies and gentlemen, there is only one glove
25 that matches the description of Mr. Copeland. The other

Closing arguments

1 one is blue. I don't know. I don't get white from blue,
2 or blue from white. So how? What relevance does any of
3 that have? What relevance?

4 And you heard them testify they did all kinds of stuff
5 with these gloves, but you'll notice when you go back there
6 you're not going to have any gloves. You're not going to
7 have any of them. You'll have a picture of them, but you
8 ain't going to have any actual gloves. And you don't have
9 any D.N.A. Don't have any gunshot residue off these
10 gloves. You don't have anything.

11 Why don't you have them? We've got an entire lab
12 report in Columbia. They testified they took it there.
13 But, ladies and gentlemen, apparently they ain't got --
14 there's nothing in evidence about what's going on with it,
15 about what SLED found.

16 So, ladies and gentlemen, I submit to you this car is
17 completely irrelevant, which leaves us with those four eye
18 witnesses, and I think I've dealt with those. You can't
19 see a man's face from his back, and you know that.

20 I understand that what I'm asking you to do is
21 different. I understand that. But when he's backed away,
22 they couldn't see it.

23 The identifications are not good enough. They just
24 aren't. And the fact that they got four of them doesn't
25 matter. They could have 12 of them. Under those

Closing arguments

1 circumstances 12 isn't enough, a thousand isn't enough.
2 This isn't arithmetic, ladies and gentlemen. This is
3 reasonable doubt.

4 And the last thing I'll explain to you is I've got a
5 way of explaining reasonable doubt, that it's kind of
6 like -- and this is the way my dad taught me many years
7 ago.

8 It's kind of like when you go to a supermarket or
9 something like that and you go to the meat counter and you
10 find some meat that's been reduced and you look at it, and
11 it's been reduced for quick sale, so it's got a good price
12 on it. And you think I'd like to have a steak today. But
13 you look at it and you think, ooh, maybe I don't want that
14 because it's been reduced because it's right on its
15 expiration date. Maybe you buy that stake; maybe you
16 don't. What you had is a reasonable doubt.

17 So maybe you buy the prosecutor's position, but if you
18 haven't then that's reasonable doubt, means you are
19 required under your oath, the oath you took at the
20 beginning of this, to find my client not guilty. Required
21 to do that. As citizens, otherwise what we do here hasn't
22 mattered today. Thank you.

23 THE COURT: Madam forelady and ladies and gentlemen of
24 the jury, you of course have heard and seen all of the
25 evidence. You've now heard the final summations of the

Jury charge

1 lawyers. So I'm now going to instruct you on the law
2 that's applicable in the case.

3 Then you'll be asked to go back and begin with your
4 deliberations. Through that process you'll examine the
5 evidence, decide the facts, apply the law and arrive at a
6 fair and just decision, whatever that decision may be.

7 It is your exclusive duty to determine what the facts
8 are. You do that through your own common sense examination
9 and evaluation of all of the testimony and other evidence
10 received during the course of this trial.

11 You 12 jurors alone will decide what weight, value and
12 effect to give to any particular witness' testimony. Your
13 sole objective is to determine the truth of the matter
14 based upon your view of the evidence in the case, decide
15 those facts, apply the law and arrive at a fair and just
16 decision.

17 In this case, as you know, the state has charged the
18 defendant, Keith Letmon, with the crime of murder. The
19 state alleges that by way of the document I referred to
20 prior to your selection, and that's the indictment.

21 The indictment is not evidence of anything. It's not
22 proof of anything. It does not establish anything.

23 It will be in the jury room with you because it is on
24 the back of the indictment, Madam Forelady, that you're
25 going to be asked to indicate the jury's unanimous

Jury charge

1 decision, and you'll do that in the bottom left-hand corner
2 on the back of the indictment beneath the word verdict.
3 You'll indicate the jury's decision. But other than
4 serving as the verdict form, the indictment serves no
5 purpose so far as you 12 jurors are concerned. It's simply
6 the charging paper.

7 But the state through the prosecutor has charged the
8 defendant, Keith Letmon, with the crime of murder. They
9 allege that on or about July the 25th of 2011 he did
10 wilfully and with malice aforethought kill Cedric Antoine
11 Moss by shooting him with a firearm and that Mr. Moss died
12 as a proximate result of that gunshot wound.

13 Now, as to those allegations and as to that charge the
14 defendant has entered a plea of not guilty. That plea of
15 not guilty has placed upon the state the burden of proving
16 the allegations that they have set forth in that
17 indictment, the burden of proving each of the essential
18 elements of the crime alleged against the defendant; and
19 therefore the burden is upon the state to establish his
20 guilt to the satisfaction of you 12 jurors beyond a
21 reasonable doubt before a verdict of guilty could be
22 returned.

23 The burden is never upon a defendant or a person
24 charged with a crime to prove that they are not guilty or
25 to prove they are innocent because in many instances that

Jury charge

1 might not be possible. The burden is always upon the state
2 because they brought this charge against the defendant to
3 establish his guilt to your satisfaction beyond a
4 reasonable doubt.

5 You are instructed that it is a vital, important and
6 cardinal rule of law that every defendant in a criminal
7 trial -- and it does not matter how serious the offense is
8 for which that person stands charged -- a person is always
9 presumed innocent of the charge. That presumption of
10 innocence remains with any defendant, as it does with
11 Mr. Letmon, from the time that he was placed under arrest
12 and throughout the course of the criminal process and even
13 throughout the course of the actual trial that is taking
14 place.

15 That presumption of innocence will be with Mr. Letmon
16 even as you go back to begin with your deliberations in
17 this case, and that presumption of innocence will be with
18 him in your jury room, and it'll be with him forever unless
19 you 12 jurors determine that he's no longer entitled to
20 that presumption of innocence.

21 In other words, after you have carefully considered
22 all of the evidence in the case, and from that evidence you
23 have determined the facts, and upon deciding those facts
24 you apply the law that I will have provided you, if you 12
25 jurors determine that his guilt has been proven beyond a

Jury charge

1 reasonable doubt, then he's no longer entitled to that
2 presumption of innocence. But it's only if, unless and
3 until you are satisfied of his guilt beyond a reasonable
4 doubt that the presumption of innocence would no longer be
5 applicable.

6 Now, while the state does have the burden of proving
7 the defendant's guilt beyond a reasonable doubt, that
8 doesn't mean that the state has to prove his guilt beyond
9 all doubt or beyond any possible doubt. But it does require
10 the state to prove his guilt to your satisfaction beyond a
11 reasonable doubt.

12 The term reasonable doubt should be given its plain and
13 ordinary meaning. A reasonable doubt is the kind of doubt
14 that would cause a reasonable person to hesitate to act upon
15 the information provided.

16 A defendant in a criminal trial is entitled to any
17 reasonable doubt that arises from the evidence or lack of
18 evidence in a case. If upon any factual issue essential to
19 a finding of a verdict of guilty you have some reasonable
20 doubt as to how that issue should be resolved it would be
21 your duty to resolve that reasonable doubt in favor of the
22 defendant. And therefore if you have a reasonable doubt as
23 to the defendant's guilt after considering all the evidence
24 in the case, you must resolve that doubt in his favor and
25 return a verdict of not guilty.

Jury charge

1 At the same time, after you've considered all the
2 evidence and decided the facts and applied the law, if you
3 have no reasonable doubt as to his guilt, then it would be
4 your corresponding duty to find him guilty where you have
5 been convinced beyond a reasonable doubt.

6 The same law that provides that you are the judges of
7 the facts also provides that I am the judge of the law. And
8 that simply means that nobody is going to tell you how to
9 arrive at your determination of fact in this case. You do
10 that, as I've already stated, through the exercise of good
11 judgment and common sense conscientiously applied to the
12 testimony and the evidence received during the course of the
13 trial.

14 You must however under your oath as a juror accept the
15 law as I provide it to you as being the law that you are to
16 apply in the case. In other words, you're not to concern
17 yourself with what you thought the law was before you came
18 to serve as a juror this week or what you think the law
19 ought to be.

20 Under your oath as a juror you must simply accept the
21 law as I provide it to you as being the law that you are to
22 apply in the case. Then you simply take that law and you
23 apply it to the facts as you 12 jurors determine those facts
24 to be based upon your common sense examination of the
25 evidence in the case.

Jury charge

1 Because you are the sole judges of the facts in this
2 case you are therefore necessarily the sole judges of the
3 credibility and the believability of any witness that has
4 testified during the course of the trial.

5 You 12 jurors alone will decide what weight, value and
6 effect to give to any particular witness' testimony, or even
7 a portion of that testimony. But there are several factors
8 which you should consider in making your assessment in
9 evaluation of a witness' testimony, and I'm going to list
10 those factors for you.

11 You should consider the demeanor of the witness, that
12 is how the witness appeared to you as the witness testified
13 from the witness stand. Was the witness straightforward in
14 responding questions, or was the witness hesitant or evasive
15 in responding to questions that were asked of that witness.

16 Simply put, did the witness appear to you to be telling
17 the truth and to have knowledge of the facts to which that
18 witness has testified.

19 You should also consider whether or not the testimony
20 of a witness is consistent, or is it inconsistent with that
21 witness' own testimony or with other testimony or other
22 evidence presented and received during the trial of the
23 case.

24 You should also consider how the witness came to know
25 the facts to which a witness has testified. In other words,

Jury charge

1 what was that particular witness' opportunity and ability to
2 perceive the existence of those facts to which that witness
3 has testified by having previously used his or her senses.
4 And then what is that witness' ability to be able to come
5 into court and to accurately recollect to you as what they
6 have previously seen or heard, or felt for that matter.

7 You should also consider any bias or prejudice or
8 interest that a witness might have with regard to the
9 outcome. In other words, do you find some particular reason
10 that a particular witness would come into court and would
11 testify one way or another to help or hurt one side or the
12 other.

13 You may consider any interest that a witness might have
14 in the outcome if you determine that a witness does have
15 such an interest and you further find that that interest
16 would bear upon that particular witness' credibility.

17 And you may also consider whether or not the testimony
18 of a witness was strengthened, or was it weakened by other
19 testimony or other evidence received during the course of
20 the trial.

21 Now, as I've told you, because you are the judges of
22 the facts, and therefore the judges of the credibility of
23 each witness that has testified, you are permitted to
24 believe as much or as little of what a witness has testified
25 to as you deem is appropriate.

Jury charge

1 Therefore you may believe everything that a witness
2 testified to. You may choose to believe none of it. You
3 may believe one portion of a witness' testimony and reject
4 some other portion of that same witness' testimony.

5 You may believe one as opposed to several, or several
6 as opposed to one. But whatever your good judgment and
7 common sense tells you is the most believable and credible
8 testimony is the testimony you should accept, and you should
9 reject any testimony or other evidence that you find not to
10 be credible or believable.

11 Again, your sole objective is to simply reach the
12 truth. And by doing that you will have fulfilled your
13 obligations in this case.

14 Now, in this case, as you, know the defendant, Keith
15 Letmon, is charged with the crime of murder.

16 Murder is defined in a South Carolina code section as
17 the killing of any person with malice aforethought either
18 expressed or implied.

19 In order for you to find the defendant guilty of the
20 crime of murder it would be necessary that the evidence in
21 this case has established to your satisfaction beyond a
22 reasonable doubt that the defendant, Keith Letmon, did
23 commit some act or acts which proximately caused the death
24 of the decedent, Cedric Moss, and that that killing was done
25 with malice aforethought.

Jury charge

1 So what is malice? Well, malice is an essential
2 element of the crime of murder. Malice is a technical term
3 importing wickedness and excluding just cause or legal
4 excuse.

5 It is something which springs from depravity, from a
6 heart devoid of social duty and fatally bent on mischief.
7 It is a state of mind indicating an extreme disregard for or
8 an extreme indifference to human life.

9 Malice refers to a state of mind connoting an ill will
10 towards another and having the intent to do harm to that
11 person.

12 The term intent refers to the state of a person's mind
13 which directs his actions towards a specific object or goal.
14 The term intent would include those consequences which
15 represent the very purpose for which an act is done, as well
16 as those consequences which are known to be substantially
17 certain to result whether actually intended or not.

18 Malice may be likewise defined as a state of mind which
19 indicates a formed purpose and design to do a wrongful act
20 intentionally without just cause or legal excuse.

21 The existence of malice may be either expressed or
22 implied by the evidence in the case. The words expressed or
23 implied malice as it relates to the existence of malice does
24 not mean different kinds of malice but merely the manner in
25 which malice may be shown to have existed. That is to say

Jury charge

1 either proof by direct evidence or proof by circumstantial
2 evidence from which the existence of malice may be
3 reasonably inferred.

4 An inference is simply a deduction of fact which may
5 logically and reasonably be drawn from the proof of some
6 other fact or set of facts. In other words, you may infer
7 that a particular event occurred or that a particular fact
8 exists based upon the proof of sufficient factual
9 circumstances which would reasonably warrant your arriving
10 at such a conclusion.

11 Malice may be expressed as where there is an expressed
12 threat to kill or a lying in wait or where the evidence
13 otherwise directly shows that the defendant intended to kill
14 the defendant [sic] with malice aforethought.

15 Malice may be inferred, though no expressed intent to
16 kill is proven by direct evidence, where the facts and the
17 circumstances which have been established by the evidence in
18 this case satisfy you beyond a reasonable doubt that malice
19 was present in the mind of the defendant at the time any
20 killing took place.

21 The existence of malice may be inferred from
22 circumstances shown to have existed at the time of the
23 event, and the existence of malice may be inferred from the
24 acts, declarations and conduct of the defendant, as well as
25 any other circumstances established by the evidence in this

Jury charge

1 case from which you might reasonably infer the existence of
2 malice as often the state of a person's mind can only be
3 proven by circumstantial evidence.

4 Malice as an essential element of the crime of murder
5 does not require proof of an actual or a specific intent to
6 take human life, although such intent may be established by
7 the evidence in the case. But rather it means a state of
8 mind accompanying conduct signifying a general malignant
9 recklessness and an extreme disregard for or an extreme
10 indifference to human life.

11 Even if the factual circumstances proven are sufficient
12 to raise an inference of malice such an inference would
13 simply be an evidentiary fact to be taken into consideration
14 by you 12 jurors along with all the other evidence received
15 during the trial of the case. And you may give such
16 inferences such weight that you determine they should
17 receive, if any.

18 The state is required to prove malice just as it must
19 prove any other essential element of the crime charged, and
20 it is for you 12 jurors to determine whether or not the
21 evidence in this case establishes malice beyond a reasonable
22 doubt.

23 It is also essential that there exist not only malice
24 but that the malice be aforethought. The law does not
25 require that malice must exist for any appreciable length of

Jury charge

1 time before the commission of an act or acts proximately
2 causing the fatal result. Indeed, malice may be conceived
3 at the very moment that the fatal acts are committed.

4 It is sufficient in the law so long as the state does
5 prove beyond a reasonable doubt both the existence of malice
6 in the mind of the defendant and the commission of an act or
7 acts by the defendant which proximately caused the fatal
8 result.

9 while the state must prove beyond a reasonable doubt
10 that a killing did occur accompanied by the element of
11 malice aforethought, in order to establish the crime of
12 murder it is not necessary that the state prove any motive
13 for the killing. Motive is not an essential element of the
14 crime of murder which must be proven, although in some cases
15 there may be evidence relating to that fact introduced
16 during the trial of the case.

17 As I have previously instructed you, the state does
18 have the burden of proving every essential element of the
19 crime alleged against the defendant beyond a reasonable
20 doubt; and therefore not only must the state prove beyond a
21 reasonable doubt that the crime of murder was committed by
22 someone, but the state must further prove beyond a
23 reasonable doubt that it was, in fact, the defendant, Keith
24 Letmon, who was the perpetrator of that crime and not
25 someone else.

Jury charge

1 If after a careful consideration and an examination of
2 all of the evidence in this case relating to the issue of
3 the identification of the defendant as the perpetrator of
4 the crime you have a reasonable doubt as to the accuracy of
5 that identification of the defendant as the perpetrator of
6 the crime, then you must resolve that reasonable doubt in
7 favor his favor and return a verdict of not guilty.

8 You are further instructed, and I emphasize to you,
9 that the fact that a defendant does not testify during the
10 course of a criminal trial is not a circumstance or a fact
11 which may be considered by you jurors in any way whatsoever
12 in your deliberations or in your determination as to whether
13 or not his guilt has been proven beyond a reasonable doubt.

14 You may not allow such a fact to weigh in the slightest
15 degree against a defendant. As I have stated, the burden is
16 always upon the state because they brought the charge
17 against the defendant to establish his guilt beyond a
18 reasonable doubt.

19 The burden is never upon a defendant to prove that he
20 is not guilty or to prove that he is innocent because in
21 some cases that might not be possible. And therefore you
22 are not to draw any inference nor reach any conclusion from
23 the fact that a defendant does not testify during the course
24 of the criminal trial, nor should that fact be discussed by
25 you while you are engaged in your deliberations and may not

Jury charge

1 influence your determination as to whether or not his guilt
2 has been proven beyond a reasonable doubt.

3 Now, Madam Forelady and ladies and gentlemen of the
4 jury, I am not in any way concerned with what your decision
5 is, but I do tell you that the verdict has to be unanimous.
6 All 12 of you must be in agreement before a verdict may be
7 rendered and returned to the Court.

8 Now, Madam Forelady, as you know, you're going to be
9 called upon to preside over jury deliberations simply to
10 ensure that those deliberations are carried out in some
11 orderly fashion. But all jurors are expected to participate
12 in the deliberations, because, as you know, the decision of
13 the jury is the unanimous and consensus opinion of all 12
14 jurors.

15 Now, Madam Forelady, you'll have the indictment. As I
16 told you, it will serve as the verdict form. Once you and
17 your fellow jurors have arrived at your unanimous decision
18 I'll ask that you indicate it in the space provided on the
19 back of the indictment beneath the word verdict. Also, sign
20 your name as the foreperson and place the appropriate date.
21 You are the only juror that needs to sign the verdict form.

22 In this case you have two possible verdict forms.
23 Those verdict forms are guilty and not guilty. So whatever
24 that decision is, insert it in the space provided, sign your
25 name and date it, knock on the door and notify the bailiff

Jury charge

1 that you've reached your decision and we'll bring you back
2 to receive that verdict.

3 After you have received -- after you have made your
4 decision and you've indicated it on the verdict form and
5 you've notified the bailiff that you have reached that
6 decision, Madam Forelady, you will hold on to the verdict
7 form.

8 Do not give it to the bailiff. I'll receive it from
9 you after you and your fellow jurors come back into the jury
10 room and are seated -- I mean, back into the courtroom and
11 are seated in the jury box.

12 During your deliberations there may come a time where
13 you have some question about the facts or the evidence or the
14 testimony. You might even wonder if there's other evidence
15 that you could have -- does it exist -- that might help you
16 resolve the case.

17 Understand that no additional evidence may be received
18 now that you are going back to begin with your
19 deliberations. So if it has not already been introduced and
20 it's not in the jury room with you, it cannot now be
21 received, whether it exists or not.

22 Also, I am never permitted to answer questions that
23 relate to questions of fact. If you have a question about
24 the evidence or about the testimony and that question can be
25 answered by having testimony replayed in whole or in part,

Jury charge

1 we can permit you to come back into the courtroom to have a
2 witness' testimony replayed either in its entirety or in
3 only some portion if that's all you need. I don't have
4 transcripts of the testimony to send back.

5 So if you at any time need to hear or rehear a witness'
6 testimony you'll have to let me know of that fact, and we'll
7 bring you back into the courtroom in order to have that
8 testimony replayed.

9 If at any time you ever have a question about the law
10 that is applicable, I am permitted to answer those
11 questions. So if you need for me to provide you a
12 reinstruction or an explanation or a clarification of any
13 point of law that I've already provided, I'll be happy to do
14 that. And I'll also bring you back into the courtroom for
15 that purpose also.

16 Madam Forelady, if at any time you have a matter that
17 needs to be addressed to me if you'll write it on a piece of
18 paper and give it to the bailiff he'll provide that to me,
19 and I'll respond accordingly.

20 I don't have the slightest idea how long your
21 deliberations will take, nor do you, because you've not yet
22 begun. But I tell you this. If you get to a point where
23 you think it's appropriate to order lunch, it ordinarily
24 takes about an hour, maybe a little bit over an hour, to
25 have the lunch ordered, prepared and then brought to the

Jury charge

1 jury room for your benefit.

2 So keep that timetable in mind as you go back to begin
3 deliberations. If you get to a point where you wish to
4 order lunch, you'll need to let the bailiff know. And the
5 clerk can take those lunch orders. As I say, it takes
6 usually just a little over an hour to have that
7 accomplished.

8 I don't know if we have smokers on the jury, but if we
9 do you are permitted to smoke during deliberations but not
10 in the jury room. You have to go outside if you want to
11 smoke. And therefore if anybody does go outside to smoke,
12 you'll do so with the bailiff.

13 You are instructed however that if any juror is absent
14 from the jury room for any authorized purpose, then the
15 deliberations have to stop, and they may only resume when
16 all 12 jurors are present so that all may participate.

17 I think that covers everything. But if it does not I'm
18 sure one of these lawyers will remind me that I have
19 neglected to provide you with some information. And if
20 that's the case I'll bring you back into the courtroom. If
21 that's not the case and I don't need to bring you back I'll
22 simply send word by way of the bailiff that you may begin
23 with your deliberations. In the event he will bring to the
24 jury room all of the exhibits which have been introduced
25 during the trial.

Jury charge

1 And to you, Madam Forelady, he'll also bring the
2 indictment which will serve as the verdict form.

3 So with the exception of Mr. Smith who I'm going to ask
4 to remain in the courtroom with me, I'll ask the 12 primary
5 jurors if you'll please retire to your jury room. But do
6 not begin deliberations until I send you word to do so.

7 (Whereupon, the jury retired to deliberate at
8 11:05 a.m.)

9 (Whereupon, the alternate juror was excused.)

10 THE COURT: Are there any exceptions taken to the
11 instruction or requests for additions to the instruction by
12 the state?

13 MR. BULSA: No, Your Honor.

14 THE COURT: By the defendant?

15 MR. SHEALY: No, Your Honor.

16 THE COURT: All right. Let me ask y'all to please
17 verify the exhibits before they go back.

18 (Pause.)

19 THE COURT: All right. All of the exhibits are
20 properly accounted for?

21 MR. BULSA: Yes, sir.

22 MR. SHEALY: Yes, sir.

23 THE COURT: And those that were marked and not
24 introduced are not with the exhibits going back to the
25 jury?

verdict

1 MR. BULSA: No, sir.

2 MR. SHEALY: No, Your Honor.

3 THE COURT: Okay. Send the exhibits back along with
4 the verdict form and tell the jury to begin deliberations
5 and notify us when they have concluded.

6 We will be at ease for the present time while the jury
7 is deliberating.

8 (Whereupon, a recess was taken.)

9 THE COURT: All right. I understand the jury has
10 reached a decision.

11 Where is Mr. Bulsa?

12 UNIDENTIFIED PERSON: He's on his way.

13 (Pause.)

14 THE COURT: All right. The jury has reached a
15 verdict. Are we ready to receive it?

16 MR. BULSA: Yes, sir.

17 MR. SHEALY: Yes, sir.

18 THE COURT: All right. Bring them in, please.

19 (Whereupon, the jury returned to the courtroom at
20 11:57 a.m. to report its verdict.)

21 THE COURT: Madam Forelady, have you and your fellow
22 jurors reached a unanimous decision?

23 THE FOREPERSON: We have, Your Honor.

24 THE COURT: Have you indicated that decision on the
25 back of the indictment as requested?

Verdict

1 THE FOREPERSON: I have.

2 THE COURT: And did you sign it and date it?

3 THE FOREPERSON: I did.

4 THE COURT: If you will, please hand that form up by
5 way of the bailiff.

6 You may publish the verdict.

7 THE CLERK: In the Court of General Sessions, Case No.
8 2011-GS-42-5626, the State vs. Keith Letmon, indictment for
9 murder, the verdict is guilty.

10 This is signed by the foreperson and dated today's
11 date.

12 Ladies and gentlemen of the jury, if this is your
13 verdict and still your verdict, please raise your right
14 hand.

15 (Whereupon, all responded in the affirmative.)

16 THE CLERK: So say you all.

17 THE COURT: All right. Does the defendant wish to
18 have the jury polled?

19 MR. SHEALY: No, Your Honor.

20 (Whereupon, the trial jury was excused.)

21 THE COURT: Are there any matters to be addressed
22 prior to the imposition of sentence?

23 MR. SHEALY: Your Honor, I'd make a motion for a new
24 trial given the short period of time that they were out,
25 looks like about 45 minutes, that that was an insufficient

Sentence

1 time for them to consider the issues that were raised
2 during the trial. So I would move to set aside the verdict
3 and ask for a new trial.

4 THE COURT: How much time do you think they were
5 supposed to spend?

6 MR. SHEALY: Well, Your Honor, longer than 45 minutes.

7 THE COURT: How much longer?

8 MR. SHEALY: I don't know, Judge, but longer than
9 that.

10 THE COURT: All right. That motion is denied.

11 MR. SHEALY: And I would also renew my previous
12 motions.

13 THE COURT: Those are also denied.

14 Anything else on behalf of the state?

15 MR. BULSA: Just his record, Your Honor.

16 We also have a member of the family that may wish to
17 speak.

18 THE COURT: Okay.

19 MR. BULSA: His prior record, Your Honor, dates to
20 1994 for possession of stolen property, escape, possession
21 with intent to distribute marijuana; 1996, possession of
22 marijuana and giving false information; 1997, discharging a
23 firearm, vandalism of automobile, trespass; federal
24 conviction in 1998 for possession of cocaine; 2002,
25 common-law robbery, two counts, assault and battery high

Sentence

1 and aggravated, failure to stop and attempted common-law
2 robbery; 2004, criminal domestic violence; 2009, assault
3 and battery high and aggravated, criminal domestic
4 violence, second criminal domestic violence high and
5 aggravated and escape; 2011, assault and battery high and
6 aggravated and possession of a stolen pistol. He received
7 that 2011 conviction May 25th. He received an 8-year
8 sentence suspended to two years. It's my understanding he
9 was paroled out in early July of 2011.

10 THE COURT: Okay. What else would you like to tell
11 me?

12 YVETTE NESBITT: My name is Yvette Nesbitt. I am
13 Cedric's other half. I'm not his real mom. I just was
14 there when he needed me.

15 We as the family, we suggest if -- he took a part of
16 us away from us. Excuse me. But we are asking you if you
17 don't mind -- Cedric wasn't but 27. He's got one son ain't
18 going to never see him.

19 He's got kids. We don't want him to see his kids no
20 more since Ced can't see his -- his son no more. So we are
21 asking if you will give him 30 or life.

22 He took our Ced's life from us. And his little boy
23 that he don't know where his daddy at, we don't know how to
24 explain to him because he's so young. That's all.

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

Sentence

1 Anything else?

2 All right. Mr. Shealy.

3 MR. SHEALY: Thank you, Your Honor.

4 Your Honor, my client is 38 years old, and he does
5 have one child who is 18.

6 Your Honor, he was not working when he was arrested
7 largely because he had been shot in the knee a number of
8 years ago. So he was signed up for his disability. He
9 just never has been put on it.

10 Your Honor, I should point out that his family has
11 been here all week.

12 We would ask that you be lenient even though he does
13 continue obviously to dispute the jury's finding. Thank
14 you.

15 THE COURT: And how was -- how was he shot?

16 MR. SHEALY: He was shot in 2001.

17 THE DEFENDANT: 2006.

18 MR. SHEALY: 2006. Excuse me.

19 THE COURT: How did that occur?

20 MR. SHEALY: He was being robbed, Your Honor. It was
21 an armed robbery. He was shot in the course of that.

22 THE COURT: Somebody was robbing him and shot him?

23 MR. SHEALY: Yes, sir.

24 THE COURT: Was that person charged?

25 MR. SHEALY: I don't believe so, no, sir.

Sentence

1 THE COURT: All right. Mr. Letmon, anything you want
2 to add to what your lawyer has told me?

3 THE DEFENDANT: I still -- I'm still pleading
4 innocent. There's no win in this situation.

5 I mean, I understand how they feeling for Ced Moss. I
6 lost a sister -- young man. So I understand. I understand
7 what they going through to lose someone.

8 But don't take my life away. They don't -- I could
9 have did that -- I didn't do that. If I did, I'd been man
10 enough to stand up and did it -- say I did. You know wh't
11 I mean? Me and that man never had no problem. So why
12 would I want to take his life?

13 I'm sorry for y'all's loss, but I ain't the one who
14 did it, but, like I say, I know what y'all going through.
15 I know what y'all going through. I know what y'all going
16 through. I mean, I know what you're going through.

17 You have to consider my loss too. So I know what
18 you're going through, you know, and I feel sorry for you.
19 I feel sorry for you. It was not my action.

20 THE COURT: All right. On Indictment 2011-5626, an
21 indictment for murder, wherein, you have been found guilty
22 by the jury, the Sentence of the Court is you, Keith
23 Letmon, be confined to the South Carolina Department of
24 Corrections for the period of your natural life.

25 You have a right to appeal the verdict of the jury and

Sentence

1 the sentence of the Court. You must file any notice of
2 your intention to appeal those decisions within ten days of
3 today's date.

4 END OF REQUESTED TRANSCRIPT OF RECORD

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Certificate

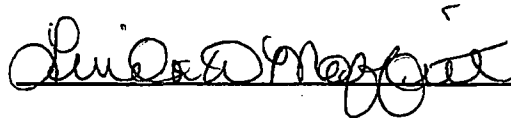
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 10th, 11th and 12th days of December 2012.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

July 3, 2013

A handwritten signature in cursive script, appearing to read 'Linda D. Moffitt', written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF SpartanburgKeith Lemon #214137
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2015-CP-42-286

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional Institution 990 Westparkway
2. Name and location of Court which imposed sentence Spartanburg County
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2011-GS-42-5626
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) December 12, 2012, Life without Parole
 - (b) _____

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BLACKLEY

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ☒ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Conviction affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Verdict February 3, 2015 - filed March 4, 2015
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

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- (a) Ineffective Assistance of Trial Counsel
- (b) Ineffective Assistance of Appellate Counsel
- (c) Solictor misconduct

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Ineffective Assistance of Trial Counsel
- (b) Ineffective Assistance of Appellate Counsel
- (c) Solictor misconduct

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (c) the disposition thereof:
 - i. _____
 - ii. _____
 - iii. _____

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- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- _____
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) *Post Conviction Relief is the proper forum for such allegations*
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? YES _____
- (c) your sentencing? YES _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Matthew W. Stealy, 306 N. Church St. Suite 3000 Spartanburg S.C. 29303
- ii. Robert M. Dulak, Office of Appellate Defense, 1370 Lady St. Suite
- iii. 401, Columbia S.C. 29201
- (b) the proceedings at which each such attorney represented you:
- i. Trial
- ii. Direct appeal
- iii. _____
19. State clearly the relief you seek in filing this application:
- A New Trial
20. Are you now under sentence from any other court that you have not challenged?
- No

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SPARTANBURG COUNTY
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**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

X *Kens Lett*

Applicant

SWORN or affirmed to and subscribed before me this
25TH day of JUNE, 2005.

James J. Dugger
Notary Public

My Commission Expires: 11-05-2019

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Keith Letmon, #214137,	)	Case No.: 2015-CP-42-2886
	)	
Applicant,	)	
	)	RETURN AND MOTION FOR
v.	)	A MORE DEFINITE STAMTENT
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed on June 29, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Spartanburg County. Applicant was indicted at the September 2011 term of the Spartanburg County Grand Jury for murder (2011-GS-42-5626). Matthew W. Shealy, Esquire, represented Applicant. On December 10-12, 2012, Applicant proceeded to trial before the Honorable J. Derham Cole and a jury. The jury found Applicant guilty as indicted. Judge Cole sentenced Applicant to imprisonment for a term of life.

Applicant filed a timely notice of appeal. Robert M. Dudek, Esquire, represented Applicant on appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on March 4, 2015. State v. Letmon, Op. No. 2015-UP-117 (S.C. Ct. App. filed March 4, 2015). The Remittitur was returned on May 20, 2015.

Attached herewith and incorporated herein by reference are the records of the Spartanburg County Clerk of Court regarding the subject conviction, the transcript from Applicant's trial, and Applicant's records for the Department of Corrections and appellate

tance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, Counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The allegation that appellate counsel was ineffective is also without merit. Respondent contends that Applicant's appellate counsel rendered adequate assistance and provided representation within the range of competence required by appellate attorneys. A defendant is constitutionally entitled to the effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830 (1985). Where ineffective assistance of appellate counsel is alleged, Applicant must show that appellate counsel's performance was (1) deficient; and (2) that there was prejudice from the appellate counsel's deficiency. Southerland v. State, 337 S.C. 610, 524 S.E.2d 833 (1999). To be effective, appellate counsel must give assistance of such quality as to make appellate proceedings fair. Id. Appellate counsel must provide effective assistance but need not raise every non-frivolous issue presented by the record. Id. Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745 (1983). Where the strategic decision to exclude certain issues on appeal is based on

counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code Ann. § 17-27-10 *et seq.*; Rule 71.1, SCRPC. All claims should be made well in advance of the PCR hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Filings by Applicant will not be considered at the PCR hearing.

VIII.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

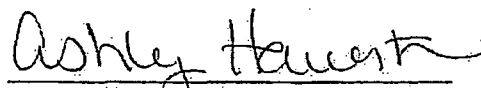
[Signature page to follow]

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
	)	
	)	2015-CP-42-2886
KEITH LETMON, #214137,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Mr. Rodney Wade Richey, Esquire
Richey & Richey, PA
PO Box 10916
Greenville, SC 29603-0916

DATED this 16TH day of February, 2016.



 Ashley Haworth, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMONS PLEAS
	)	CASE NO: 2015-CP-42-2886
COUNTY OF SPARTANBURG	)	
	)	
Keith Letmon, SCDC# 214137	)	AMENDMENTS TO
Applicant,	)	POST CONVICTION
	)	RELIEF APPLICATIONS
vs.	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	
Respondent.	)	
_____	)	

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SPARTANBURG COUNTY
2016 OCT 14 PM 4:08
M. HOPE BLACKLEY

The applicant hereby amends answers to number 9 and number 10 of his Application for Post-Conviction Relief to state the following:

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(A) The Applicant was denied effective assistance of counsel in violation of the Sixth Amendment to the United States Constitution and Article I, Section 14 of The South Carolina Constitution.

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) The applicant was provided with deficient representation by his attorney, in that the conduct of his attorney was objectively unreasonable under the circumstances. Strickland v. Washington, 466 U.S. 668 (1984). The outcome of the applicant's proceeding was prejudiced, and it is reasonable probable that the outcome would have been different had counsel's performance not been deficient. Strickland, 466 U.S. at 694. Defense counsel was ineffective based on one or more of the following:

1. My defense attorney failed to conscientiously discharge his professional responsibilities while he was handling my case.
2. My defense attorney failed to effectively challenge the arrest and seizure of Applicant.
3. My defense attorney failed to act as my diligent, conscientious advocate.
4. My defense attorney failed to give me his complete loyalty.
5. My defense attorney did not have my best interest in mind while he was supposed to be investigating and preparing my case.
6. My defense attorney failed to serve my cause in good faith.
7. My defense attorney neglected the necessary investigations and the preparation of my case.
8. My defense attorney did not do the necessary factual investigations on my behalf.
9. My defense attorney did not do the necessary legal research.
10. My defense attorney did not conscientiously gather any information to protect my rights.
11. My defense attorney did not try to have my case settled in a matter that would have been to my best advantage.
12. My defense attorney did not advise me of all my rights or take any of the actions that were necessary to protect preserve them, knowing that I was not versed in the law.
13. My defense attorney, knowing I was illiterate in the law, never properly ascertained whether or not I actually understood or comprehended all of the issues that were involved in my case.
14. My defense attorney never properly consulted with me or kept me informed with what was going on as far as my case was concerned.

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 M. JOPE B. GALEY

15. My defense attorney never explained to me or discussed with me any of the elements of the crime charged.
16. My defense attorney never made any attempt to ascertain whether or not I actually knew what the elements fo the crime charged were or whether or not I understood exactly what the term "criminal" element" actually meant.
17. My defense attorney never explained to me or discussed with me how the elements of the crime charge and the evidence that the prosecution planned to introduce into evidence against me related to one another and did not discuss how the sentencing would be done especially as it related to the elements of the crime as in State V. Boyd.
18. My defense attorney never informed me of any of the defenses that were available to me.
19. My defense attorney never intended to offer any defense to the court on my behalf.
20. My defense attorney never explained to me or discussed with me any kind of defense strategy.
21. My defense attorney never explained to me or discussed with me any of the tactical choices that they either made or were planning to make.
22. My defense attorney dictated to me exactly how my case was going to be handled and offered no alternative options.
23. My defense attorney failed to properly acquaint themselves with the law and the facts surrounding my case and as a direct result of their intentional negligence, there was a very serious error in their assessment of both the law and the facts.
24. Because of my defense attorney's gross neglect and his many legal errors no defense at all was put in issue for me during the Court proceedings.
25. My defense attorney did not subject the prosecution's case to any adversarial testing.
26. My defense attorney failed to oppose the prosecution's case with any adversarial litigation.

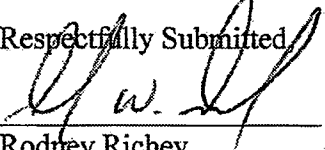
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 MICHAEL B. BAILEY

27. My defense attorney failed to function as the government's adversary in any sense of the word.
28. My defense attorney failed to pursue any of the legal recourse that were available to him.
29. The attorney that represented me on this charge in Court failed to function as the counsel that the Constitution's Sixth Amendment Guarantees.
30. My defense attorney failed to call alibi witnesses on my behalf which would have proven my innocence.
31. My defense attorney failed to appeal my case after I was convicted when I wanted to appeal.

His counsel's representation was not within the range and scope of competence demanded by Strickland and its progeny.

A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction requires that the defendant show first, that the deficient performance prejudiced the defense so as to deprive the defendant of a fair trial. Sosebee v. Leeke, S.C. 362, F. 2nd 221 (1987), citing Strickland v. Washington 46 S.E.2D. 813 (1984), See also Butler v. State 286 S.C. 441, 334 S.E. 2d 813 (1985), also, Hill v. Lockhart 474 U.S. 88 (1985).

Respectfully Submitted,


 Rodney Richey
 Richey and Richey, P.A.
 Post Office Box 10916
 Greenville, South Carolina 29603
 Attorney for the Applicant

October 13, 2016

FILED
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 SARTANBURG COUNTY
 2016 OCT 14 PM 4:08
 M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	2015-CP-42-2886
COUNTY OF SPARTANBURG	)	
	)	
	)	
	)	
KEITH LETMON,	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
THE STATE OF SOUTH CAROLINA,	)	
RESPONDENT.	)	
	)	

January 30, 2017
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE

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

RODNEY W. RICHEY, ESQ.
Attorney for the Applicant

CAITLIN B. HASTINGS, ESQ.
Attorney for the Respondent

CHERYL A. SMITH
Circuit Court Reporter

INDEXPAGE

APPLICANT'S WITNESSES

KEITH LETMON:

Direct Examination by Mr. Richey	12
Cross-Examination by Ms. Hastings	21

MATTHEW SHEALY:

Direct Examination by Mr. Richey	24
Cross-Examination by Ms. Hastings	31
Redirect Examination by Mr. Richey	35

Applicant Rests	37
Ruling by the Court	38
Certificate of Reporter	39

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>

There were no exhibits introduced.

P R O C E E D I N G S

(WHEREUPON, proceedings convened at 11:07 a.m.)

MS. HASTINGS: Your Honor, this is the case of Keith Letmon vs. The State of South Carolina, Case Number 2015-CP-42-2886.

This application was filed June 29, 2015. The applicant is presently confined in the South Carolina Department of Corrections. He was indicted at the September 2011 term of the Spartanburg County grand jury for murder. He was represented by Matthew Shealy, and on December 10th to the 12th of 2012, he proceeded to trial before Judge Cole and a jury. The jury found the applicant guilty as indicted, and Judge Cole sentenced the applicant to imprisonment for a term of life. He subsequently filed an appeal which the South Carolina Court of Appeals affirmed his conviction. He subsequently filed this application. And I would turn it over to PCR counsel at this time.

THE COURT: Okay.

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

Your Honor, my client, we were here previously for a hearing, I believe, back in September. Okay. We were previously here for a hearing. At that hearing, I discussed with my client, he says he has potential alibi witnesses. I will say that I went to the Department of Corrections to see

1 him, and at the time, he was not ready to present those
2 witnesses to me. At the last hearing, he didn't come
3 forward with these witnesses, but I talked to him last night
4 and he indicated to me that he had -- he physically had the
5 names of the witnesses. I still don't have them. He
6 physically has them now, and he wants the Court to give him
7 the opportunity to hire an investigator to go out and try to
8 find these witnesses. I've explained to him that we've been
9 here one other time. I still don't have these folk, but he
10 claims that he has them right now, now. But that's what
11 he's asked me to ask the Court to do. And I just say that
12 if he can tell the Court who these people are.

13 THE COURT: Yeah. All right. Mr. Letmon?

14 MR. LETMON: I have a Stella Jones [phonetic]. He's no
15 longer with us. He's deceased. We had him at the trial,
16 but he didn't come -- he didn't come testify on the advice
17 of counsel.

18 We've got Kenneth Brannon [phonetic] from Spartanburg,
19 South Carolina. We have Rozie Means [phonetic], Sheila
20 Henderson, Walter Long, Dexter Sarratt, Lou Rogers, Darrell
21 Smith, Christina Rodriguez and James Evans.

22 THE COURT: Who are they?

23 MR. LETMON: They were the people who saw me where I
24 was that night over on Allan Street [phonetic] when they say
25 this -- this crime took place.

1 But like I say, during -- during the course of me being
2 incarcerated in Spartanburg County, I didn't have the proper
3 means to be able to try to find these people, and counsel
4 didn't try to find -- didn't try to contact these people
5 until a week prior to me going to trial. So things --
6 things -- things of significance to me was no significance
7 to them because they don't know -- the counsel, I'm saying
8 on the part of the counsel, he didn't try to get in touch
9 with these people until a week before trial. So that's
10 18 months after this now happened. So they don't remember
11 exactly. The last time they seen Mr. Letmon, it was here,
12 it was there, what's the significance of me needing them?
13 You know what I'm saying? I just don't understand why he
14 didn't talk to them when I first gave him the information
15 that these people will be my alibi witnesses.

16 THE COURT: So what you're saying ---

17 MR. LETMON: I need -- I need -- I need an investigator
18 to go out and talk to these people and confirm ---

19 THE COURT: What you're telling me is that when it came
20 time -- you told the lawyer about those people?

21 MR. LETMON: I told the lawyer about these people.

22 THE COURT: Yeah. And when it came time to court, they
23 didn't remember what was going on?

24 MR. LETMON: No, no. I say what -- he didn't go and
25 try to find these people until it's time to go to court

1 18 months later.

2 THE COURT: Okay.

3 MR. LETMON: I didn't have -- I didn't have contact
4 with these people.

5 THE COURT: I've got you. I've got you. And what
6 you're telling me is when they showed up for the trial time,
7 they didn't --

8 MR. LETMON: They didn't --

9 THE COURT: Let me finish.

10 MR. LETMON: Okay, okay.

11 THE COURT: They didn't remember what happened.

12 MR. LETMON: No. I'm not saying that.

13 THE COURT: What are you saying?

14 MR. LETMON: I'm not saying that. The ones -- the ones
15 he said he did find, he said -- I'm going to tell you,
16 quote, unquote, you tell me, he said the one -- the one he
17 did find said that he seen me that night, but he can't
18 remember what time. He -- I left because he left earlier or
19 whatever. You know what I mean? That's the one he said he
20 could find, but some he couldn't find. You know what I'm
21 saying? Some he couldn't find. I mean, and this -- this is
22 -- this is detrimental to me because I need these people. I
23 need these people. You understand what I'm saying? I need
24 these people.

25 THE COURT: Mr. Richey, how long have you been

1 representing this guy?

2 MR. RICHEY: Since at least October of '16.

3 And I'm sorry. I did go to the Department of
4 Corrections to see him on 10/16/16 ---

5 THE COURT: Okay.

6 MR. RICHEY: --- and I asked him for the names of these
7 people. And I have a note, and he told me that he just met
8 me and he couldn't give me the names. He gave me two names.
9 He gave me one with a phone number that can't be -- can't be
10 reached, and he just gave me a generic name. He gave me
11 just another name, but he said a lot of these people that he
12 listed on here, I've never heard of them.

13 THE COURT: Have you contacted him by mail?

14 MR. RICHEY: Yes, sir. I did.

15 THE COURT: Has he corresponded with you?

16 MR. RICHEY: He has sent me back a questionnaire, but
17 in terms of witnesses, I haven't gotten any witnesses from
18 him through the mail.

19 THE COURT: So he waits till today to tell you that he
20 now has a list of witnesses?

21 MR. RICHEY: Well, he's always said, "Hey, I've got
22 these witnesses," okay? He's always said that. Like last
23 night I went and saw him at the jail, and he told me, "Hey,
24 I've got this list of witnesses. I've got them up in the
25 room." And he didn't bring them down.

1 (Indiscernible conversation between the applicant and his
2 attorney.)

3 MR. LETMON: Can I please talk?

4 MR. RICHEY: Go ahead.

5 MR. LETMON: You told me -- you told me I'm going to
6 take care of these in the morning.

7 To be honest with you, when we first talked, when you
8 first came to see me, you came at count time. I said,
9 "Well, I've got these witnesses." I didn't know that he was
10 coming that day, but I had these witnesses. I had the
11 paperwork in the room. He said -- so he tells me to go back
12 to the room and get them, but it's count time. I can't
13 leave at count time. So we got on a bad start. So he left.
14 But the whole time me and him have been -- been -- he's been
15 my counsel, we haven't had a ten-minute conversation. We
16 haven't had a ten-minute conversation. We haven't gone over
17 no issues, period. No issues, period.

18 THE COURT: Okay. Well, you knew he wanted the names
19 of those witnesses, right?

20 MR. LETMON: And I told him. I told him.

21 THE COURT: No, you didn't. When you ---

22 (Indiscernible cross-talk.)

23 THE COURT: Mr. Letmon -- Mr. Richey just hold on.

24 MR. RICHEY: Okay.

25 THE COURT: Mr. Letmon, when he met with you in October

1 at the Department of Corrections, you told him you had a
2 list of witnesses; is that right?

3 MR. LETMON: Uh-huh.

4 THE COURT: Yes or no?

5 MR. LETMON: Yes, sir.

6 THE COURT: And you said they were up in your room and
7 you didn't have them; is that right?

8 MR. LETMON: I told him they was in the room. I -- yes,
9 sir. Basically, yes, sir.

10 THE COURT: Okay. And then he had to leave because it
11 was count; is that right.

12 MR. LETMON: Yes, sir.

13 THE COURT: And you never mailed him the list of
14 witnesses; is that right?

15 MR. LETMON: Like I say, when we came -- we came -- we
16 came to court last -- last term, when we came to -- I
17 specifically gave him all these names, specifically.

18 THE COURT: Let him talk, Mr. Richey.

19 MR. RICHEY: Okay. I'm sorry, Judge. I'm sorry.

20 MR. LETMON: I specifically gave him all these names,
21 all these names. I specifically gave him all these names.

22 THE COURT: And when was the last time you were up in
23 court?

24 MR. LETMON: November 8th. I specifically gave all the
25 names. I specifically gave him all these names. He said I

1 gave him two names. I specifically gave him all these
2 names, specifically. And he hasn't got in touch with any
3 one of them.

4 THE COURT: All right. Mr. Richey, he claims that he
5 gave you all the names. Did he?

6 MR. RICHEY: No, Judge. I had a letter I wrote him
7 October 5th actually memorializing the conversation we had.
8 I wrote him, said the hearing is November 8th. I met him
9 October 16th. I requested you to bring me the name of the
10 witnesses. You stated you could not give me the names
11 because you met me for the first time. You stated you would
12 get these names to me. Please be advised that I have not
13 received the names.

14 So I followed that conversation up at the jail with
15 this letter to him saying this is what you told me, okay?
16 And so I haven't gotten any names. Judge, I drove two hours
17 to go see this man, and I had plenty of time to talk to
18 him. There wasn't any restriction on count. I had plenty
19 to time to talk to him. I had plenty of time to talk with
20 this gentleman.

21 MR. LETMON: Tell the truth.

22 THE COURT: Hey, Mr. Letmon. I'll give you a chance to
23 talk in a minute. Right now, Mr. Richey is talking to me.

24 Anything else?

25 MR. RICHEY: So, Judge, I told him last night we'll

1 take this matter up with the Court, and if the Court extends
2 the time, I'll get an investigator. I'll do whatever I
3 needed to do.

4 THE COURT: All right. What's the State's position?

5 MS. HASTINGS: The State would oppose any funding for
6 an investigator. We believe that Mr. Richey has done his
7 due diligence to obtain the witnesses, and we think this
8 case should go forward. It's been on our roster before.

9 THE COURT: Yeah. All right. Well, Mr. Letmon, you
10 have an obligation. You're the moving party. You have an
11 obligation to pursue the claim, and you have not done that.
12 We're going forward with the case. All right.

13 MR. LETMON: Can I say something, Your Honor?

14 THE COURT: Yes, sir.

15 MR. LETMON: Me -- me and him have no legal -- no legal
16 -- nothing legal, nothing, nothing. We haven't had a
17 ten-minute conversation the two or three times that we've
18 talked, so how is he going to properly represent me when we
19 haven't went over nothing, no strategy, no nothing? We
20 haven't went over nothing, nothing. This is -- this is a
21 serious matter. We haven't gone over nothing, nothing.

22 THE COURT: Okay. All right. Call your first witness.

23 MR. RICHEY: Okay. I call Mr. Letmon.

24 ///

25 ///

1 DIRECT EXAMINATION

2 BY MR. RICHEY:

3 Q Sir, would you state your name, please.

4 A Keith Letmon.

5 Q And, Mr. Letmon, are you currently in the Department of
6 Corrections?

7 A Yes, sir.

8 Q And what are you in the Department of Corrections for?

9 A Charge of murder. I've been accused of murder.

10 Q Okay. And who represents you on those cases?

11 A At the trial?

12 Q Yeah. Who represented you at trial?

13 A Matthew Shealy.

14 Q Okay. And you had a jury trial, correct?

15 A Correct.

16 Q Okay. And you were subsequently found guilty, correct?

17 A Correct.

18 Q Okay. And what sentence did you receive?

19 A A life sentence.

20 Q And you have filed this application for postconviction
21 relief because you believe that your trial counsel did not
22 effectively represent you, correct?

23 A Yes, sir.

24 Q And one of the issues that you have was you believed
25 that he failed to investigate your case; is that correct?

1 A Yes, sir.

2 Q And can you tell me why you believe he failed to
3 investigate your case?

4 A It's -- it's several reasons -- several reasons.
5 Several reasons. He -- he didn't -- he didn't interview
6 potential alibi witnesses. He didn't -- he didn't go over
7 my motion with me. He -- he -- he basically didn't do
8 nothing but -- but asked me a few questions, I gave him a
9 few answers, and he didn't investigate nothing. He didn't
10 investigate nothing. Just -- just dealing with the Neil vs.
11 Biggers hearing we had before -- before trial.

12 The trial judge -- the judge who had the hearing asked
13 him several times how to properly do a photo array. That's
14 -- that's -- Neil vs. Biggers is basically based upon
15 misidentification. You understand what I'm saying?
16 Misidentification. He didn't -- he didn't investigate, he
17 didn't -- he didn't do nothing. You know what I'm saying?
18 He didn't basically do nothing. You know what I'm saying?
19 Took me to trial, and here I am now.

20 Q Okay. You had stated at the pretrial you had some
21 witnesses that you wanted him to talk to?

22 A Uh-huh.

23 Q Do you know whether he talked to those witnesses?

24 A He said -- I'm going to tell you what he tell me. He
25 said he talked to a Rozie Means. He said Rozie Means tell

1 him -- told him that he can't really remember that night.
2 The only thing he knows is I was over there, I didn't look
3 like I was mad, that he left early, which is a lie. This
4 dude -- the dude's house we was at was Rozie Means, so he
5 was there the whole time. You know what I'm saying?

6 Q When you say it's a lie, you mean it's a lie what you
7 were told or what ---

8 A I'm saying the information that he came back and
9 brought to me was he's -- quote, unquote, said Rozie Means
10 said I know is a lie. You know what I'm saying?

11 Q Did he discuss with you any of the other witnesses?

12 A Well, he's -- I'm going to tell you what he tell me.
13 Several of the witnesses that I -- that I presented was on
14 probation, home detention, but he tell me he can't find
15 them. He tell me he couldn't find Christina Rodriguez, and
16 Christian Rodriguez' address was inside my Rule 5. You know
17 what I mean? So he's telling me that he didn't -- he didn't
18 read over the Rule 5 if he couldn't find these witnesses..

19 Q Okay. So you're saying that you had the address of all
20 these witnesses?

21 A I don't -- I didn't say I had the address. I didn't
22 have the address of all these witnesses. I gave these
23 perspective names to him, like I told you. Several of these
24 witnesses were on probation, home detention, so it was
25 easier to get access to figure out where these people are.

1 I couldn't do it from 950 California Avenue.

2 Q You also allege he failed to communicate with you; is
3 that correct?

4 A Correct.

5 Q And why was that?

6 A I can't say why he did that. You know what I'm saying?

7 Q No. I mean, what do you mean when you say he did not
8 communicate?

9 A When we -- when we discussed trial strategy, it's the
10 last -- it's two days before trial, two days before trial.
11 So we -- I -- my discovery, it's -- it's -- it's over five,
12 six inches thick (gesturing). You know what I mean? And
13 the few things that I pointed out to him as far as SLED
14 sending -- sending stuff back and saying that -- it had
15 notes on it saying that it was probably mishandled, he
16 didn't see -- I had to catch these things. You know what I
17 mean?

18 And the things like -- like -- I'm going to give you
19 another example. We had Stella Jones. We had one witness
20 that was down inside the holding cell downstairs, but he
21 refused -- he tell me that we don't need this dude. That's
22 why we didn't put up no defense. We didn't need this dude,
23 see? I'm -- I was a layman to the law -- layman to the law,
24 so I'm taking advice of counsel. But if I had this -- this
25 one person would have came and said, "Now, Keith Letmon

1 wasn't right here," I probably wouldn't be right here today.
2 I probably wouldn't -- this is -- this is a serious matter.
3 This is a -- a life sentence that's been imposed on me, and
4 counsel just didn't do nothing, do nothing. We had a
5 witness. We had a witness. We had two witnesses, as a
6 matter of fact, him and Jeffrey -- Jeffrey Jeffers. We had
7 two witnesses, and he didn't call neither one to the stand.

8 Q You -- one of the allegations, you say you believe he
9 failed to go over discovery. I think you talked about that.
10 He failed to go over discovery with you.

11 A Uh-huh.

12 Q Is that -- he did not?

13 A We -- we -- when he came to see me in the two days
14 prior to trial, he asked me what do I want to do. So I tell
15 him about the witnesses. He tells me some of the ones he
16 couldn't find because he don't have the -- basically, he
17 tell me he couldn't find the witnesses. But I tell him I --
18 well, people in Spartanburg County and Spartanburg city can
19 find these people, but he don't have the means they do.
20 That's -- that's the exact thing he tell me. So if I can't
21 find them from 950 California Avenue, how can I find them?

22 And I -- since I've been -- since I've been
23 incarcerated, I've asked Mr. Shealy for his -- for his
24 notes, for his private investigator's note, plus subpoenas
25 to see if he actually did talk to these people because I

1 wanted these people subpoenaed. If they said they don't
2 want to -- don't want to come testify, they could have been
3 forced to come and testify. You understand what I'm saying?

4 Q Okay. Did you have a plea offer in the case?

5 A Not that I knew of.

6 Q Okay. And you believe it's one of your allegations he
7 was ineffective for not providing a plea offer?

8 A I've never seen no plea.

9 Q Do you have a transcript up there?

10 A Yeah.

11 Q Can you take it out? Because I think there is
12 something in the transcript.

13 Let me ask you, did you believe that the prosecutor's
14 closing argument was improper, particularly on page 363? Do
15 you recall discussing with me you felt like the prosecutor's
16 closing argument was improper?

17 A 363, that's Mr. Shealy.

18 Q No, no. 366.

19 A That's still Mr. Shealy.

20 Q Okay. Well, I believe that you had some issue about
21 the closing statement in your case, correct?

22 A Not just the closing statement. It's the opening
23 statements, too, do you know what I mean, as far as -- as
24 far as -- as far as the malice.

25 Q As far as what?

1 A The malice, the malice, the malice, malice.

2 Q Okay.

3 A He's saying that you can derive malice from the number
4 of shots fired and in the weapon -- type of weapon -- what
5 weapon was fired. You know what I mean? Malice -- malice
6 instruction in Belcher got rid of that. You know what I
7 mean? Just because I've been accused of it mean I presented
8 malice because a weapon was used, so now you put in the
9 jury's mind that I've got to -- I've got to prove that I
10 didn't do this, not alone, yet I've got to say -- I've got
11 to prove I didn't do nothing, period. You know what I'm
12 saying? That's -- that's -- that's the law.

13 But my thing is with the Belcher with the malice
14 inference, they -- Belcher got out in 2012 before I went to
15 court. You know what I mean? So he wasn't supposed to do
16 that. You know what I mean?

17 And I also, he's -- I'm going to break some other stuff
18 down to you. I'm going to tell you what he -- what he
19 wrote. On page 95, murder in South Carolina, it's the
20 unwilling, unlawful killing of a human being with malice
21 aforethought. You can derive the malice from the type of
22 weapon that was used, the number of shots that were used,
23 and the nature of overall circumstances and effects.
24 Uh-huh.

25 So malice -- malice -- if you -- if you studied this

1 case and understood what I was saying, you will understand
2 that Belcher -- that Belcher got rid of that -- them
3 presenting malice by saying, oh, a weapon was used. Just
4 because a weapon was used, that don't mean malice. You know
5 what I'm saying? So that's already put in the jury's head.
6 Just because somebody had a weapon, he -- he had total
7 disregard for human life. A weapon don't necessarily mean
8 that.

9 And another thing, on page 94, when you bring other
10 people into justice, when he said -- when -- when the
11 solicitor told -- told -- told the jury -- told the people,
12 say you've got a lot of people here watching this case, a
13 lot of people could serve this case, a man's life was taken
14 at a young age, so he's basically telling -- telling --
15 telling the jury even though something going on in this
16 courtroom, you've got to -- you've got to please these
17 people outside this courtroom that's watching what's going
18 on, because a lot of people watching this case. You know
19 what I mean? It ain't just about justice. You want to
20 prove something to these people, not just serve justice.

21 Q Okay. So your complaints are -- let me put these kind
22 of in order -- is that counsel failed to call the witnesses,
23 one, right?

24 A Yeah.

25 Failed to investigate.

1 Q And failed to investigate.

2 Failed to communicate.

3 A Uh-huh.

4 Q Failed to go over discovery, right?

5 A Yes, sir.

6 Q And he failed -- based on the malice charge, he did not
7 do that correct; is that what you're saying?

8 A There's a lot of things he could have did. You know
9 what I'm saying? A lot of things he could have did. That
10 -- that -- that -- that's -- that's -- that's some
11 hindsight. I don't understand that you give -- you give
12 lawyers leeway to -- to -- to their ability of thinking -- I
13 can't really word this the right way. You give lawyers
14 leeway to -- to -- to put my life in their hands and get a
15 judgment, but yet if the lawyer don't want to investigate
16 potential witnesses, what's the need of them? What's the
17 need of them? As far as my situation, what's the need of
18 them if -- if -- if he don't put no defense up for me? You
19 know what I'm saying? And knowing in a murder -- murder
20 trial when somebody's facing a life sentence and we've got
21 potential witnesses that was here and you didn't call to the
22 stand, I don't -- I don't see why his excuse about that, you
23 know what I'm saying, even though you might have thought,
24 well, it could be irrelevant. Let these -- let the juror --
25 let the jurors decide that. You know what I mean? I had

1 witnesses. It ain't like I didn't. I said this at the
2 beginning of the trial, too. You know what I'm saying? Let
3 me -- let me go to the page on that. I simply quoted that.

4 Q You believe he should have just called the witness, get
5 them on the stand and let them testify, correct?

6 A Yeah. Basically. You know what I'm saying?
7 Basically.

8 MR. RICHEY: Thank you. Answer the questions the
9 attorney general has for you.

10 CROSS EXAMINATION

11 BY MS. HASTINGS:

12 Q Hi, Mr. Letmon. Thank you for being here today.

13 A Hey.

14 Q How many times did you meet with your attorney?

15 A About -- about -- about this murder charge?

16 Q Yes.

17 A I'm not -- about three times.

18 Q Three times.

19 A Yeah. He came to see me the second -- the first one I
20 was in, if -- if -- if -- if he will be honest, I gave him a
21 list of witnesses, him with his -- with his -- with his
22 private investigator then. He came again, and I went to a
23 preliminary hearing on another charge, so he talked to me
24 about it. And when he brought my discovery two days before
25 trial, we discussed a few things about what we should do,

1 what he thought I should do.

2 Q But you didn't give him any specific information as to
3 how to contact these witnesses; is that right? You just
4 gave him a list of names.

5 A I -- I gave him a list of names. But at the time, I'm
6 incarcerated. I don't have no way of knowing where these
7 people are because, you know, every given moment, things
8 change. People move, they -- they change -- they change
9 phone numbers. So I can -- I can only give the information
10 as far as the names.

11 Like I say, he say he contacted one or two. But he say
12 one or two. Well, one person he say -- how -- how -- how
13 did he put it? He say he don't remember what time he left,
14 but this was the individual's homes we was at. And one
15 individual say they want to talk to him, one individual say
16 we ain't going to talk to him. You know what I'm saying?
17 Because this -- this was a friend of the victim. You know
18 what I'm saying? So he seen me at another -- another spot
19 when this crime's supposed to took place. You know what I'm
20 saying?

21 Q Well, if these witnesses that you gave him didn't want
22 to talk to him, why did you think that they would be good
23 witnesses for you?

24 A I'm saying -- I'm saying it's just for me, no one --
25 (indiscernible) no one understand this, for me just assuming

1 law at the time -- at that time. Somebody might not want to
2 testify, but he can be forced to get up there and be what
3 they call a hostile witness. You know what I mean? He'd be
4 forced to come up there and say what he seen, and he's going
5 to be truthful about it. You know what I'm saying?

6 Q Okay. And did you always want to go to trial in this
7 case?

8 A Yes. You know what I'm saying? Yes.

9 Q You always wanted to go to trial?

10 A Yeah. I want to go to trial because I didn't commit
11 that murder. I didn't commit that murder.

12 Q So you didn't tell Mr. Shealy that you wanted to take a
13 plea deal ever?

14 A No. During trial -- let me -- let me tell you the
15 joke. During trial when they took a break about these
16 gloves, I say, "Should I go and tell them I'll take ten
17 years?"

18 He said, "No."

19 I said, "I'll just plan anyway." You know what I'm
20 saying?

21 He said, "I'm going to -- I'm going to let you take it,
22 no way." I mean, I'm just joking with him because we -- we
23 thought we had them beat. I said, "Go on. Tell them I'll
24 take ten." I said, "No."

25 He said, "No. Don't do that."

1 I said, "No. I'm just playing anyway." That's what I
2 said. I mean, that was a joke. I wouldn't -- if I wanted
3 to take a plea, I would have been telling him, "Man, go try
4 and get me a plea." No, no, no. I didn't commit this
5 crime.

6 Every -- anytime that I've done something, I've been
7 man enough to say, "Yeah" -- I go to -- I go to say, "Yeah,
8 I did that," and take whatever consequences are going to
9 come with it. But I didn't commit this crime.

10 Q Okay. And so, basically, your defense is that the ID
11 witnesses were incorrect in who they ---

12 A Basically, basically.

13 Q Okay. And you communicated that to your attorney?

14 A Basically, yeah.

15 MS. HASTINGS: Okay. No further questions, Your Honor.

16 THE COURT: Any redirect?

17 MR. RICHEY: No questions.

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

19 MR. RICHEY: I want to call Mr. Shealy.

20 WHEREUPON,

21 MATTHEW SHEALY

22 After having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. RICHEY:

25 Q Sir, would you state your name, please.

1 A Matthew Shealy.

2 Q Mr. Shealy, do you recall representing Mr. Letmon?

3 A Very well.

4 Q Okay. And when did you represent him?

5 A Well, I've represented him several times. I
6 represented him earlier, and I believe it's 2011, I did not
7 bring that file with me, for a CDVHAN and there were some
8 attendant charges. And one of -- all of those charges but
9 one got dealt with. That one stuck around. And then this
10 occurrence happened. So I started representing him on this
11 case I believe it was the beginning of 2012.

12 Q Let's get these witnesses. Did he provide you any
13 names of witnesses?

14 A He did. I went and saw him on the 31st of January, and
15 he gave me a list of names.

16 Q Do you recall the names of these witnesses?

17 A I've written them down. All right. His initial what
18 he told me happened was there were various people that saw
19 him at a restaurant called The Grill initially that night.
20 Those people were Dexter Sarratt; Lou Rogers; somebody named
21 Lill Aljeeter [phonetic]; a guy whose last name he did not
22 know, but his first name was Pete; Ms. Rodriguez, who was
23 the bartender, I believe he mentioned her; and a Darrell
24 Smith, whose street name was "Black D."

25 He then went to the Northside Liquor House where he

1 encountered Mr. Jones, who he's mentioned. And we did have
2 him at trial. And I had spoken with him, and I can tell you
3 what he told me in just a minute.

4 There was a Kenneth Brannon who goes by "Snoop."
5 Snoop's little brother -- oh, "Samp" [phonetic]. Excuse me.
6 And I've got that written on his picture. I've got Rozie
7 Means. There was a guy who, again, we didn't know his last
8 name, but it was Little Roosevelt. There was a Sheena
9 Anderson, a Walter Long, and then -- so those were his alibi
10 witnesses.

11 Q Okay.

12 A And then there was a Jesse Worthy [phonetic], who was
13 -- who actually, I believe, testified at trial.

14 Q Okay. The alibi witnesses, how many of those did you
15 talk to; do you recall?

16 A I talked to the ones that I could find. Obviously,
17 Pete, I didn't know what his last name was so I couldn't
18 find him.

19 Q Okay. The two -- who were the two that you talked to?

20 A I talked to several. We spoke with -- what I did
21 initially was I pulled -- we've got this program called
22 Spillman, which has the mugshots of all the people. And,
23 obviously, most of these people have been arrested before,
24 so I pulled the pictures. And there would -- obviously,
25 there were a number of different people named Dexter

1 Sarratt, for instance. So once I pulled those pictures, I
2 went to talk to him again, showed him the pictures, and he
3 said, "Yeah, that's him," or "No, that isn't him." And so I
4 think that's where we discovered that I had written down
5 "Snoop" but it was actually "Samp," for instance.

6 We then went through probation and pulled the addresses
7 that we could find. We also went through Spillman to pull
8 the addresses that we could find.

9 We went out to Darrell Smith's house, Dexter Sarratt's
10 house, Walter Long's house. Nobody was there. We left
11 cards for them to call us back. They -- so far as I can
12 tell from my notes, neither Mr. Smith nor Mr. Sarratt ever
13 did.

14 We went to [REDACTED] Midway Road, left our name, numbers with
15 the cousins of the witnesses. Again, we called probation to
16 see if we could get better addresses for Mr. Long, and we
17 got an address, a [REDACTED] Carnahan Drive. Again, he didn't
18 return our phone calls.

19 Q This question is, the witnesses that you -- you
20 actually talked to some of those people.

21 A We actually talked to some of these people, correct.

22 Q And when you talked to -- can you tell me the name of
23 the person you talked to and what they said about the case?

24 A Sure. We spoke with Stanley Earl Jones. Stanley Earl
25 Jones told us that he was drunk that night, that he was with

1 Mr. Letmon but he couldn't tell us where he was with
2 Mr. Letmon, he couldn't tell us what time he was with
3 Mr. Letmon. Obviously, those are kind of important because
4 this happened early in the morning. He said that he had
5 passed out at some point.

6 Q When you say -- who -- who was intoxicated? Was it
7 Mr. Letmon or the other gentleman?

8 A Mr. Jones.

9 Q Mr. Jones.

10 A Mr. Jones who would have testified. And, again, he was
11 downstairs. He does say that Mr. Letmon was drunk as well.
12 They were drunk all night, all that day, they passed out at
13 some point, but, again, he couldn't give us times because he
14 was so intoxicated, he just couldn't -- he couldn't recall.

15 Q Who was the other witness that you talked to?

16 A I believe we spoke to Mr. Means, and Mr. Means, again,
17 said that he couldn't say when Mr. Letmon left, which is a
18 problem. And it may be that that's a lie, but I can't call
19 a witness who is not going to help my client. I'm not
20 magical. I can't make them tell the truth. I just can't do
21 that. And maybe he would have gotten up here and said
22 something different from what he told me, but I can't take
23 that chance, particularly not when I've kicked enough dirt
24 on their lineups that they've got problems with their
25 eyewitnesses. I mean, you just can't do that.

1 Q So those are the two people that you got ahold of who
2 was able to tell you anything about the case?

3 A But -- no. We ultimately spoke with Darrell Smith, and
4 he said that he couldn't help us. We got subpoenas to
5 Tyshan Carson [phonetic] who said -- who was another name
6 Mr. Letmon had given me. Subsequently, he said he didn't
7 know my client.

8 We also spoke with Mr. Long's girlfriend. We spoke
9 with Reginald Rice. But, again, we couldn't get -- no. We
10 didn't speak with Mr. Rice. Excuse me. We tried to speak
11 with Mr. Rice, but we didn't have a good phone number.

12 We did, I believe, serve Michelle Davis. I spoke with
13 Ms. Davis. She had been charged previously. She was going
14 to testify as to what the street was saying regarding
15 Mr. Long.

16 What had happened was our trial strategy kind of
17 evolved over time. Once we finally got to trial, Mr. Letmon
18 gave me a different theory as to who actually did the
19 shooting in this case, and that was that Mr. Long had done
20 the shooting. And so we were trying to buttress that theory
21 with Ms. Davis, who would have testified about the street
22 threatening Mr. Long, and how Cedric had -- was looking for
23 Mr. Long.

24 We also had Mr. Jeffries, but, again, I -- I don't
25 believe he would have been helpful. So . . .

1 Q Did you go over the discovery with Mr. Letmon?

2 A Yes, sir.

3 Q And how many times do you believe that you went over
4 discovery to discuss this case with him? Do you have an
5 idea?

6 A I went over it with him at least five times. I gave
7 him a copy of it as well. I've given him, actually, several
8 copies of it so he could ---

9 Q Copies of the discovery?

10 A Copies of the discovery, correct.

11 Q Do you believe he understood those talks?

12 A Yes, sir. Mr. Letmon was always an active participant
13 in our conversations.

14 Q So the main crux in this case was identification?

15 A Correct.

16 Q So if they -- I guess put it this way. The
17 identification would be he wins; is that fair to say?

18 A Yeah. That would be fair to say.

19 Q And so these witnesses were all part of him proving he
20 was not there, so the identification wouldn't be
21 corroborated, correct?

22 A Correct. Had any of them testified the way he told me
23 they would testify.

24 Q Did he -- was he ever presented any plea offer or
25 anything in this case?

1 A I don't believe so. I believe there was a straight up
2 to murder, but, I mean, that's not much -- that's not really
3 an offer. That's just what it is.

4 MR. RICHEY: One moment, Your Honor, please.

5 BY MR. RICHEY:

6 Q, So some of these people you contacted, they didn't
7 remember what happened?

8 A It's not so much they didn't remember. Well, Mr. Jones
9 didn't remember what happened. But, no. They would tell me
10 things like, "I don't know him," or "I know him, but I
11 don't" -- or "I know of him but I don't know him." They
12 would say things like, "Well, no, that restaurant has been
13 -- The Grill had been closed for five years," which, again,
14 I understand may not be true, but he says he didn't see him
15 at The Grill because The Grill was closed, I -- I can't make
16 him tell the truth.

17 MR. RICHEY: No other questions. Thank you, Your
18 Honor.

19 THE COURT: Cross?

20 CROSS EXAMINATION

21 BY MS. HASTINGS:

22 Q Hi, Mr. Shealy.

23 A Hey.

24 Q How long have you been practicing law?

25 A Now eight years, I think. Maybe nine. Something like

1 that.

2 Q And what portion of that has been criminal?

3 A All of it.

4 Q All of it.

5 A For about six months I practiced down in Magistrate
6 Court, but . . .

7 Q And at the time that you represented Mr. Letmon, had
8 you handled any murder trials previously?

9 A Yes.

10 Q Yes. And how many times did you meet with Mr. Letmon
11 to discuss his case?

12 A At least five. Again, my note -- the file was a bit
13 destroyed, but it was at least five. I could tell from my
14 notes.

15 Q And you reviewed all the discovery like you told
16 Mr. Richey? You gave him copies?

17 A Correct.

18 Q Okay. And you reviewed the charges?

19 A Yes.

20 Q And his potential sentence?

21 A Yes, ma'am.

22 Q Okay. And did you -- and you obviously reviewed his
23 version of the facts?

24 A Yes, ma'am.

25 Q Okay. Did you -- how would you describe the State's

1 evidence against him?

2 A Well, I mean, it was based on identification, and in
3 this particular case, they had screwed up several of them.
4 They lost some lineups, I believe. And it's in the Neil v.
5 Biggers hearing. There was most of them were drunk or
6 otherwise intoxicated. Mr. Moss was intoxicated. And I
7 believe I asked a question about that as well.

8 So, I mean, it was based on -- and we also attempted to
9 attack whether they could actually see him or not because of
10 the way that -- when you go out there, it's a fairly small
11 kind of a duplex house, and it's on a side street, and it's
12 not particularly well populated and there aren't that many
13 lights out there. So we made some hay about whether or not
14 you could actually see him because, again, he's an African
15 American male. They said -- I believe they said that they
16 had maybe a porch light on, but it didn't go out into the
17 yard. Again, there were no -- so we made some hay out of
18 that and the fact that they just wouldn't have been able to
19 see him. So those were some problems with their case. But
20 anytime you have that many eyewitnesses, it's a difficult
21 case to win.

22 Q So going to your closing argument, your -- the theme of
23 your closing argument, though, was the credibility of these
24 eyewitnesses, correct?

25 A Correct.

1 Q Can you describe your closing argument a little bit for
2 the record?

3 A Well ---

4 Q Just briefly.

5 A Again, I mean, I attacked their -- the credibility of
6 their witnesses. It would have been nice to have alibi
7 witnesses who would have been able to testify as to him not
8 being there. And, again, we tried to do what we could do
9 with -- there was also some information about gloves and
10 things. We tried to build whatever reasonable doubt we
11 could out of that.

12 Q Okay. And you -- did you make any motions to suppress
13 at this hearing or motions to strike? I mean at the trial.

14 A Yes. We made the motion to suppress the out-of-court
15 -- or the in-court identifications, and we also, I believe,
16 suppressed some DNA.

17 Q Okay. And you -- did you move for a directed verdict?

18 A I did.

19 Q Did you move for a new trial?

20 A I believe that I did.

21 Q Okay. And did you see any -- at the time, did you see
22 any issues with the solicitor's closing argument?

23 A I did not.

24 Q But if you had, you would have objected?

25 A I would.

1 MS. HASTINGS: No further questions, Your Honor.

2 THE COURT: Any redirect?

3 MR. RICHEY: One moment, Your Honor.

4 THE COURT: All right.

5 REDIRECT EXAMINATION

6 BY MR. RICHEY:

7 Q Let me ask you this. Do you recall objecting to this
8 identification, to the actual admissibility of it?

9 A I remember that I did a Neil v. Biggers hearing,
10 objecting to it. I believe when it was offered, I objected.
11 If I didn't, I should have.

12 Q Do you recall whether that was the reason why his
13 appeal was -- that issue was not heard because you didn't do
14 the continued objections? Do you recall that?

15 A I can't answer that. I don't know anything about the
16 appeal.

17 Q Okay. And so you believe it would be proper to do
18 that, right?

19 A Yeah. I should have continued -- now, I almost
20 certainly would have denied my objection, but -- on the
21 previous bases.

22 (Pause in proceedings.)

23 MS. HASTINGS: Your Honor?

24 THE COURT: Wait a minute. He's still on the . . .

25 (Pause in proceedings.)

1 THE COURT: Mr. Richey, you got anything?

2 MR. RICHEY: Just one more second, Your Honor.

3 (Pause in proceedings.)

4 BY MR. RICHEY:

5 Q Sir, do you recall impeaching some of the witnesses
6 that testified against him? A lot of these folks have
7 records and stuff; is that correct?

8 A That is correct.

9 Q And do you believe you'd done a sufficient job in
10 impeaching them?

11 A I think that I did.

12 Q Okay. And Anthony Copeland, do you remember Anthony
13 Copeland in the case?

14 A I do, but I don't -- I mean, you're going to have to
15 give me a little bit more.

16 Q Do you recall cross-examining him?

17 A I do.

18 MR. RICHEY: No other questions.

19 THE COURT: Okay. Anything else?

20 MS. HASTINGS: The State would just draw your attention
21 to page 47 of the transcript, Your Honor.

22 THE COURT: Wait a minute. We're not through. Do you
23 have any other questions?

24 MS. HASTINGS: No, Your Honor.

25 THE COURT: All right. Thank you, Mr. Shealy. You can

1 step down.

2 THE WITNESS: Thank you, Judge.

3 THE COURT: Mr. Richey, do you have any other
4 witnesses?

5 MR. RICHEY: I have no other witnesses.

6 THE COURT: All right.

7 MS. HASTINGS: No witnesses, Your Honor.

8 THE COURT: Okay. Be happy to hear from you. Anything
9 you want to tell me?

10 MR. RICHEY: Not at this time, Your Honor.

11 THE COURT: Anything?

12 MS. HASTINGS: Not at this time, Your Honor.

13 THE COURT: Well, which way should I rule?

14 MS. HASTINGS: Okay. The State would contend that
15 applicant has failed to meet his burden under Strickland.
16 He has failed to show that Mr. Shealy, that his conduct fell
17 below the professional norms of criminal litigation and that
18 if his alleged performance did fall below these norms, that
19 any prejudice resulted. So we would argue that Mr. Letmon
20 has failed to meet his burden of proof and that PCR relief
21 should be denied.

22 THE COURT: Anything you want to say?

23 MR. RICHEY: Judge, we believe that Mr. Letmon's PCR
24 should be granted.

25 ///

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RULING BY THE COURT

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THE COURT: All right. Well, I'm going to deny the application, find that the conduct of the defense lawyer did not fall below the objective standard of reasonableness, and so I'm going to ask the State to prepare an order.

6

MR. RICHEY: Thank you, Your Honor.

7

(WHEREUPON, proceedings concluded at 3:21 p.m.)

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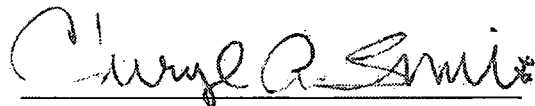
1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)
4 COUNTY OF GREENVILLE)
5
6

7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South Carolina,
9 do hereby certify that the foregoing is a true, accurate and
10 complete Transcript of Record of the proceedings had and
11 evidence introduced in the trial of the captioned case,
12 relative to appeal, in the Court of Common Pleas for
13 Greenville County, South Carolina, on the 30th day of
14 January, 2017.

15 I do further certify that I am neither of kin, counsel,
16 nor interest to any party hereto.
17

18 June 7, 2017
19
20

21 
22

23 Cheryl A. Smith, CVR-M

24 Court Reporter
25

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
OF THE SEVENTH JUDICIAL CIRCUIT

Keith Letmon,
S.C.D.C. No. 214137,

2015-CP-42-2886

Applicant,

ORDER OF DISMISSAL

v.

State of South Carolina,

Respondent.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed June 29, 2015. Respondent made its Return and Motion for a More Definite Statement on February 16, 2016. An evidentiary hearing was held on January 30, 2017, at the Spartanburg County Courthouse. Applicant was present and represented by Rodney W. Richey, Esquire. Assistant Attorney General Caitlin B. Hastings represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's trial counsel Matthew Shealy, Esquire, also testified. The Court had before it a copy of the trial transcript, the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the pleadings. The Court finds as follows:

PROCEDURAL HISTORY

Keith Letmon ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Spartanburg County. Applicant was indicted at the September 2011 term of the Spartanburg County Grand Jury for murder (2011-GS-42-5626). Matthew W. Shealy, Esquire, represented Applicant. On December

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10-12, 2012, Applicant proceeded to trial before the Honorable J. Derham Cole and a jury. The jury found Applicant guilty as indicted. Judge Cole sentenced Applicant to imprisonment for a term of life.

Applicant filed a timely notice of appeal. Robert M. Dudek, Esquire, represented Applicant on appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on March 4, 2015. State v. Letmon, Op. No. 2015-UP-117 (S.C. Ct. App. filed March 4, 2015). The Remittitur was returned on May 20, 2015.

ALLEGATIONS

In his Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Trial Counsel
2. Ineffective Assistance of Appellate Counsel
3. Prosecutorial Misconduct

In his amended Application, Applicant also asserted 31 additional claims of ineffective assistance of counsel. At the evidentiary hearing, Applicant proceeded on allegations of ineffective assistance of trial counsel for (1) failure to investigate—failure to interview alibi witnesses; (2) failure to review discovery with Applicant; and (3) failure to communicate a plea offer.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the evidentiary hearing. This Court has further had the opportunity to observe each witness who testified at the hearing and to closely pass upon their credibility. This Court has weighed the testimony accordingly. As a matter of general impression, this Court finds Counsel's testimony to be credible and Applicant's testimony to be neither credible nor legally

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relevant. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80.

Summary of the Testimony

Applicant testified that he met with counsel three times before trial. Applicant testified that Counsel did not review his rule 5 discovery materials with him and that they did not discuss a strategy until two days before his trial. Applicant testified that Counsel did not properly investigate his case because Counsel did not interview the alibi witnesses Applicant provided him. Applicant also testified that Counsel failed to communicate a plea offer to him and that, in general, Counsel did not sufficiently communicate with Applicant. On cross-examination, Applicant admitted that he always wanted to go to trial rather than take a plea.

Counsel testified that he has been practicing law for eight to nine years, all of which being criminal law. Counsel testified that at the time of Applicant's case, Counsel had experience trying murder cases. Counsel testified that he met with Applicant at least five times. During these meetings, Counsel testified that he reviewed all discovery with Applicant at least five different times and provided Applicant with several copies of the discovery. Counsel also testified that he discussed with Applicant the elements of the charges and possible defenses to those charges and advised Applicant concerning his right to testify. Counsel investigated the leads that Applicant provided to him, including a possible alibi defense. However, Counsel testified that Applicant only provided him with a list of names, some of which were not accurate or lacked last names. Counsel testified that he pulled the corresponding mugshots to the names Applicant gave him. He then brought the photos to Applicant to verify if they were correct. After this, Counsel testified he pulled the addresses he could find. Counsel testified that it was very difficult to track down the list of witnesses Applicant gave him. He explained that often no one would be home or

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he would have to leave his name and number with another cohabitant. Counsel testified that he was never contacted by any of the witnesses but was eventually able to talk with a few of them. Counsel testified that after speaking with these witnesses, he felt that none were helpful, and some would be even harmful to Applicant's case. Counsel also testified that he has no recollection of any plea offers being made in Applicant's case, as Applicant was always planning to go to trial. Counsel also testified that there was a lot of communication between he and Applicant and that Applicant was a very active participant in the case.

Ineffective Assistance of Trial Counsel

In this post-conviction relief action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove counsel's "conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Id. at 442, 334 S.E.2d at 814 (citing Strickland v. Washington, 466 U.S. 668 (1984)).

The proper measure of performance is whether counsel provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The Court presumes counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

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The Court uses a two-pronged test in evaluating allegations of ineffective assistance of counsel. *Id.* at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. *Id.* Under this prong, the Court measures counsel's performance by its "reasonableness under prevailing professional norms." *Id.* (citing *Strickland*, 466 U.S. at 688). Second, any deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 117-18, 386 S.E.2d at 625.

Failure to Investigate

Applicant alleged at the evidentiary hearing that Counsel failed to conduct a proper investigation. This Court finds Applicant has failed to show that Counsel was deficient or that he was prejudiced by any alleged deficiency.

"[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case. *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (citing *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007)). Failure to conduct an independent investigation is not *per se* ineffective assistance of counsel, especially where an investigation would not have uncovered any helpful information. See *Moorehead v. State*, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998).

Here, Counsel reviewed all the evidence in the case, discussed possible defenses with Applicant, and pursued leads that Applicant provided. Specifically, Counsel pursued a possible alibi defense and attempted to contact purported alibi witnesses. He also reviewed the State's evidence with Applicant prior to trial. Such an investigation was reasonable under the circumstances. See *Edwards*, 392 S.C. at 457, 710 S.E.2d at 65 (citing *Daniels v. State*, 676

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S.E.2d 13 (Ga. 2009)). This Court finds Counsel conducted a proper investigation, adequately conferred with Applicant, and was thoroughly competent in his representation. Accordingly, Applicant has failed to show Counsel was deficient in investigating or developing a defense.

Likewise, Applicant has failed to demonstrate any prejudice resulting from Counsel's alleged failure to investigate. See Dempsey v. State, 363 S.C. 365, 369, 610 S.E.2d 812, 814 (2005) ("A PCR applicant cannot show that he was prejudiced by counsel's failure to call a favorable witness to testify at trial if that witness does not later testify at the PCR hearing or otherwise offer testimony within the rules of evidence." (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995))). This Court can only speculate as to what additional investigation could have been done and what evidence that investigation would have uncovered. Applicant testified on his own behalf but presented no other witnesses and produced no evidence of what Counsel might have uncovered had he conducted any additional investigation. Therefore, Applicant has failed to demonstrate any alleged deficiency prejudiced him. See Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) ("Respondent failed to present any evidence of what counsel could have discovered or what other defenses respondent would have requested counsel pursue had counsel more fully prepared for the trial.").

This Court finds Applicant has failed to satisfy either prong of the Strickland analysis. Accordingly, this allegation is denied and dismissed with prejudice.

Failure to Review Discovery

Applicant alleged at the evidentiary hearing that Counsel failed to review discovery with him. This Court finds Applicant has failed to show that Counsel was deficient or that he was prejudiced by any alleged deficiency. Counsel testified that he recollects reviewing all of the evidence in the case with Applicant at least five times and provided Applicant with numerous

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copies of the discovery. Therefore, this Court finds Applicant has failed to satisfy either prong of the Strickland analysis and denies and dismisses this allegation with prejudice.

Failure to Communicate a Plea Offer

Applicant alleged at the evidentiary hearing that Counsel failed to communicate a plea offer to him. This Court finds Applicant has failed to show that Counsel was deficient or that he was prejudiced by any alleged deficiency. Counsel testified that he does not recollect any plea offers being made in Applicant's case. Applicant and Counsel both testified that Applicant maintained his innocence and wanted to go to trial rather than take a plea. Therefore, this Court finds Applicant has failed to satisfy either prong of the Strickland analysis and denies and dismisses this allegation with prejudice.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

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CONCLUSION

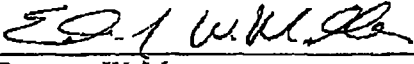
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this _____ day of 3/29/17, 2017.


EDWARD W. MILLER
Presiding Judge
Seventh Judicial Circuit

Sumville, South Carolina

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WITNESSES

Spartanburg City Police Department

1. SENTENCE MADE

2. VERDICT ENTERED

3. JURY RELEASED

4. RETURN TO COURT

5. COURT REPORTER

6. COURT CLERK

ARREST WARRANT NUMBER

M-127596

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

SEP 15 2011

VERDICT

Guilty

Foreperson of Petit Jury

Date: 12.12.12

11-65-42-5626

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

SEP 19 2011

TERM

THE STATE

v.

KEITH LETMON

Indictment for

MURDER

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

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STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

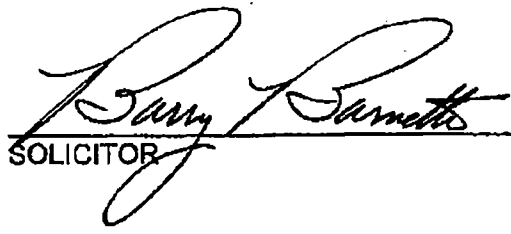
At a Court of General Sessions, convened on SEP 15 2011, the

Grand Jurors of Spartanburg County present upon their oath:

MURDER

The Defendant, Keith Letmon, did in Spartanburg County on or about July 25, 2011, feloniously, willfully, and with malice aforethought, kill one Cedric Antoine Moss, by shooting him with a firearm, and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR