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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. SUPREME COURT

Certiorari to Charleston County

Deidre L. Jefferson, Circuit Court Judge

2017-000-755

Terrell McCoy, Petitioner,

V.

State of South Carolina, Respondent.

APPENDIX

I

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ATTORNEY FOR PETITIONER

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STATE OF SOUTH CAROLINA **FILED** IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON JAN 30 AM 11:07) FOR THE NINTH JUDICIAL CIRCUIT
Warrant No(s): F-969254, K-066242,
K-296796, K-298645

Charge(s): Murder, PWID/Dist Marij-1ST,
Indecent Exposure (2cts.)
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

ORDER TO BE RELEIVED AS COUNSEL

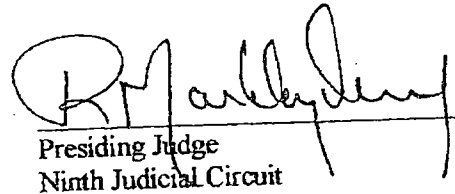
vs.
TERRELL
TERRELL L. MCCOY,

Defendant

IT APPEARING to this Court that Lorelle D. Proctor, Esquire and the Ninth Circuit Public Defender's Office be relieved as counsel for the above-captioned Defendant and the Defendant be allowed to proceed *pro-se*. Lorelle D. Proctor, Esquire is hereby relieved of Post Conviction relief Actions affective after 12:00 P.M. January 27, 2009. It is

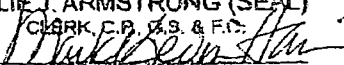
ORDERED, ADJUDGED AND DECREED that Lorelle D. Proctor, Esquire and the Ninth Circuit Public Defender's Office is relieved as counsel of record for the above-captioned Defendant and the Defendant is allowed to proceed *pro se*.

AND, IT IS SO ORDERED.


Presiding Judge
Ninth Judicial Circuit

Charleston, South Carolina

Dated: 1/28, 2009

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., C.S. & F.C.
By 
DEPUTY CLERK

STATE OF SOUTH CAROLINA **FILED** THE COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON 2009 JAN 30 AM 11:08
Warrant No(s): F-969254, K-066242,
K-296796, K-298645

Charge(s): Murder, PWID/Dist Marij-1ST,
Indecent Exposure (2cts.)
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

BY [Signature]

ORDER

vs.

TERRELL
TERRELL L. MCCOY,

Defendant

IT APPEARING to this Court that the above captioned Defendant appeared before this Court, January 27, 2009, to waive his right to counsel and to proceed *pro se*. At this hearing the Court warned Defendant of the dangers and disadvantages of self-representation. Defendant stated that he understood what he was waiving but still choose to waive counsel. At this time Lorelle Proctor, Esquire of the Ninth Circuit Public Defender's Office was relieved as counsel. It is

ORDERED, ADJUDGED AND DECREED that Lorelle D. Proctor, Esquire be appointed stand-by counsel to assist Defendant during his trial if he needs legal advice.

AND, IT IS SO ORDERED.

[Signature]
Presiding Judge
Ninth Judicial Circuit

Charleston, South Carolina

Dated: 1/29/, 2009

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., D.S. & F.C.
By [Signature]
DEPUTY CLERK

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS.
COUNTY OF CHARLESTON 06-GS-10-4987

STATE OF SOUTH CAROLINA)
) TRANSCRIPT OF RECORD
) February 2-6, 2009
TERELL LYNWOOD McCOY,)
) Charleston, South Carolina
) Defendant.)

B E F O R E:

The Honorable Roger M. Young, Sr., Judge, and a Jury.

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

Byrnes Wetmore, Assistant Solicitor
Peter McCoy, Assistant Solicitor
Attorneys for the State

Terrell Lynwood McCoy, Pro Se

Lorelle Proctor, Standby Counsel for the Defendant

Amanda K. Haffenden, RPR, CRR
Circuit Court Reporter

	I N D E X				
	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
1					
2					
3	Carinda Snowden				
	Williams	89	101	221	--
4		140	181	232	--
5	Brandon Cuttino	237	256	264	267
6	James Hill	271	279	--	--
7	Doug Armstead	283	289	300	304
8	Angela Bunker	323	349	420	424
		576	578	579	--
9	Tracy Thrower	427	440	--	--
10	Al Hallman	441	454	--	--
11	Scott Wyant	470	478	486	--
12	Amy Sheil	487	--	--	--
13	Jason Roy	513	519	--	--
14	Rae Wooten	521	541	--	--
15	Clary Mole	550	556	560	--
16	John Roberts	562	569	574	--
17	Scott Hille	590	597	600	--
18	Travis Holcombe	601	615	--	--
19	Tonia Theus	625	629	--	--
20	Thomas Scott Deckard	640	--	--	--
21					
22					
23					
24					
25					

1	E X H I B I T S			
2	NO.	DESCRIPTION	ID.	EV.
3	State's 1	Mug Shots	89	--
4	State's 2	Mug Shot	89	--
5	State's 3	Photograph	137	500
6	State's 4	Photograph	137	331
7	State's 5	Photograph	137	331
8	State's 6	Photograph	137	331
9	State's 7	Photograph	137	331
10	State's 8	Photograph	137	331
11	State's 9	Photograph	137	331
12	State's 10	Photograph	137	331
13	State's 11	Photograph	137	331
14	State's 12	Photograph	137	331
15	State's 13	Photograph	137	331
16	State's 14	Photograph	137	337
17	State's 15	Photograph	137	337
18	State's 16	Photograph	137	337
19	State's 17	Photograph	137	337
20	State's 18	Photograph	137	340
21	State's 19	Photograph	137	340
22	State's 20	Photograph	137	340
23	State's 21	Photograph	137	340
24	State's 22	Photograph	137	345
25	State's 23	Photograph	137	345

1	E X H I B I T S			
2	NO.	DESCRIPTION	ID.	EV.
3	State's 24	Photograph	137	345
4	State's 25	Photograph	137	345
5	State's 26	Chart	137	--
6	State's 27	Diagram	137	--
7	State's 28	Fingerprint Comparison	137	--
8	State's 29	Cuttino Statement	239	255
9	State's 30	Shell Casings	271	337
10	State's 31	Shell Casings	271	337
11	State's 32	Shell Casings	271	337
12	State's 33	Shell Casings	271	337
13	State's 34	Shell Casings	271	337
14	State's 35	Shell Casings	271	346
15	State's 36	Shell Casings	271	346
16	State's 37	Shell Casings	271	346
17	State's 38	Photograph	271	345
18	State's 39	Fragments	475	475
19	State's 40	Fragments	475	475
20	State's 41	Fragments	475	475
21	State's 42	Fragments	475	475
22	State's 43	Bullet Fragments	475	475
23	Defendant's 1	Mugshot	102	--
24	Defendant's 2	Ms. Williams' Statement	137	--
25	Defendant's 3	Ms. Williams' Statement	137	--

E X H I B I T S

NO.	DESCRIPTION	ID.	EV.
Defendant's 4	Ms. Williams' Statement	137	--
Defendant's 5	Group of Nine Photographs	137	293
Defendant's 6	Photograph	137	293
Defendant's 7	Photograph	137	293
Defendant's 8	Photograph	137	292
Defendant's 9	Photograph	137	414
Defendant's 10	Photograph	137	464
Defendant's 11	Photograph	137	464
Defendant's 12	Photograph	137	464
Defendant's 13	Statement	137	--
Defendant's 14	Photograph	206	206
Defendant's 15	Photograph	214	--
Defendant's 16	Photograph	219	219
Defendant's 17	Page of Transcript	290	--
Defendant's 18	Photograph	298	--
Defendant's 19	Photograph	298	--
Defendant's 20	Photograph	353	353
Defendant's 21	Photograph	353	353
Defendant's 22	Photograph	353	353
Defendant's 23	Photograph	353	353
Defendant's 24	Photograph	363	363
Defendant's 25	Photograph	364	364
Defendant's 26	Photograph	364	364

1	E X H I B I T S			
2	NO.	DESCRIPTION	ID.	EV.
3	Defendant's 27	Photograph	367	367
4	Defendant's 28	Photograph	--	--
5	Defendant's 29	Bag of Evidence	409	409
6	Defendant's 30	Bag of Evidence	407	407
7	Defendant's 31	Bag of Evidence	371	371
8	Defendant's 32	Photograph	316	316
9	Defendant's 33	Map	--	--
10	Defendant's 34	Photograph	400	400
11	Defendant's 35	Photographs	403	403
12	Defendant's 36	Photographs	415	415
13	Defendant's 37	Photographs	415	415
14	Defendant's 38	Photographs	415	415
15	Defendant's 39	Photograph	415	415
16	Defendant's 40	Photograph	416	416
17	Defendant's 41	Photograph	419	419
18	Defendant's 42	Bag of Evidence	419	419
19	Defendant's 43	Photograph	485	485
20	Defendant's 44	Photograph	524	524
21	Defendant's 45	Photograph	525	525
22	Defendant's 46	Photograph	533	533
23	Defendant's 47	Photograph	538	538
24	Defendant's 48	Group of Photographs	535	535
25	Defendant's 49	Holcombe Statement	610	--

1 THE COURT: All right. You're Mr. McCoy,
2 Terrell McCoy?

3 MR. TERRELL McCOY: Yes, sir.

4 THE COURT: I understand last week you met
5 with Judge Dennis and told him you want to represent
6 yourself.

7 MR. TERRELL McCOY: Yes, sir.

8 THE COURT: Is that still your desire?

9 MR. TERRELL McCOY: Yes, sir.

10 THE COURT: I know Judge Dennis did a good
11 job on asking you about this decision and talking to you
12 about the consequences that, you know, if I was in your
13 shoes, I wouldn't do that. I wouldn't. I'll give you
14 one last chance to change your mind, and Ms. Proctor will
15 represent you, if you want.

16 MR. TERRELL McCOY: No, sir. I want to
17 represent myself.

18 THE COURT: You can't change your mind in the
19 middle of the trial. Once we start, we start. Now, has
20 she talked with you about this process where we pick the
21 jury and how that worked?

22 MR. TERRELL McCOY: Yes, sir.

23 THE COURT: So you got some questions. The
24 state has a couple. I've got some. We've got a list of
25 witnesses. We'll call those out. Once we've got all

1 those questions asked, if you have got anybody you want
2 me to excuse for cause, I'll give you the opportunity to
3 tell me that before we question the jury, or before we
4 start the selection.

5 Once we start the jury selection process, the
6 way it works is we'll call out the names of the jury,
7 they'll come around, turn and face back that way. The
8 state will then have the opportunity to say whether or
9 not they want to have them seated first, and if they
10 don't have an objection to the person, they'll say, seat
11 the juror, and then you'll have the opportunity to say
12 whether or not you want to strike them, so that you just
13 say, Strike the juror, or seat the juror. If both of
14 y'all have agreed to seat the juror, the person goes over
15 and they become part of the jury. We'll pick 12 jurors.
16 We'll pick two alternates.

17 Now, if you decide you want to strike a
18 juror, that's fine. You get ten strikes. All right?
19 They get five, you get ten. Now, the only thing that you
20 got to keep in mind is you can't strike people just
21 because of their race or you can't strike because of
22 their sex. You can't strike somebody just because
23 they're a man or just because they're a woman or just
24 because they're white or black or Oriental or whatever
25 reason.

1 If you do that and the state asks to
2 challenge that, you have to come up with a neutral -- a
3 race gender neutral reason as to why you struck that
4 juror.

5 MR. TERRELL McCOY: Yes, sir.

6 THE COURT: You also have the right to
7 challenge any of theirs at the end, so the way that will
8 work is once we seat that juror, before I swear the jury,
9 I'll ask if you have any objections. You don't have to
10 raise objections. I'm just telling you, if you ask for
11 an objection, I'll bring y'all up and then we'll talk
12 about that.

13 After that, then, if we got all the jurors,
14 I'll send them out to lunch, and we'll start the case
15 after lunch. All right? Now, Ms. Proctor gave me a list
16 of questions you want to ask the jurors as well as these
17 people you might call as witnesses.

18 MR. TERRELL McCOY: There is one juror on
19 there, Officer Mitchell Wilson? He's on my witness list.
20 I received a FAX from North Charleston --

21 THE COURT: Officer Mitchell Wilson? He's a
22 juror as well?

23 MR. TERRELL McCOY: No. He's a witness for
24 this. And I received a FAX saying that he wasn't going
25 to be able to make it, and I need him.

1 THE COURT: Have you subpoenaed him?

2 MR. TERRELL McCOY: Yes, sir. We tried to
3 subpoena him.

4 MS. PROCTOR: Your Honor, we tried to
5 subpoena him as an officer for the case. They said he
6 doesn't work for North Charleston police department, and
7 they weren't able to offer us any means on how to contact
8 him. He was the officer that originally went to the
9 scene of this.

10 THE COURT: Do y'all have any way to get
11 ahold of him?

12 MR. WETMORE: If he's left the department, I
13 don't have any idea. He is not someone we intend to call
14 as a witness. He was one of the responding officers, one
15 of four, did not play a large role in the case. We had
16 talked about the case, but if he has left the department,
17 Judge, I really don't know where he would be.

18 THE COURT: Have y'all talked to him
19 recently?

20 MR. WETMORE: No, sir. I have not talked to
21 him, ever, to my knowledge.

22 MR. TERRELL McCOY: He was present for the
23 first trial, and he wasn't allowed to testify. He's
24 critical to my case because under the chain of custody
25 sheet, he was in charge of some evidence.

1 THE COURT: If nobody knows how to get ahold
2 of him, I can't produce him. If you have an address for
3 him or know of some way to get ahold of him, I can issue
4 a subpoena and have an officer go pick him up if he
5 refuses to come.

6 He's not working for them anymore. That's
7 the problem. So unless you got a way of getting ahold of
8 him, that's the way it goes sometimes. I don't know how
9 to get ahold of him, and the police department says they
10 don't, so I can't work miracles.

11 MR. WETMORE: He did not testify at the first
12 trial.

13 MR. TERRELL McCOY: He was present. He was
14 on my first witness list.

15 THE COURT: If he would have testified and he
16 wasn't available, you could use his testimony from the
17 previous trial, but he's not available, and we don't know
18 how to get ahold of him. So that is just one of those
19 things. Things happen like that.

20 MR. TERRELL McCOY: His testimony is real
21 critical to my case, and without him I won't receive a
22 fair trial.

23 THE COURT: I wish had I some way of helping
24 out, Mr. McCoy, but I don't. I don't have an address for
25 them, they don't have an address for him, so we'll just

1 moved on and you go with what you got.

2 You got anything else you want to ask me
3 before we start?

4 MR. TERRELL McCOY: Are you ready to hear the
5 motions?

6 THE COURT: All right. Anything from the
7 state before we start?

8 MR. WETMORE: Judge, just something in way of
9 a motion in limine. We're certainly going to avoid any
10 mention of the first trial with this case, and I've asked
11 for our witnesses to do the same.

12 THE COURT: Mr. McCoy, it's not relevant that
13 you've already been tried on this one time, so you can't
14 bring that up when you talk to the jury.

15 MR. TERRELL McCOY: Right. But I would like
16 to impeach my witnesses.

17 THE COURT: You would like to what?

18 MR. TERRELL McCOY: I would like to impeach
19 the witnesses under Rule 106.

20 THE COURT: Do you have a transcript?

21 MR. TERRELL McCOY: Yes, I have my
22 transcript.

23 THE COURT: What can you do is if they
24 testify to something different that they did at the first
25 trial, then you can impeach them, but it has to be

1 something different that they said, and if they did
2 testify, then you can say, Do you remember testifying at
3 a hearing on such and such a date? If they say yes or
4 no, you can say I've got this, but we won't go into our
5 first trial or anything like that. Avoid that. Okay?

6 MR. TERRELL McCOY: Thank you, Judge.

7 THE COURT: Do you intend to testify at this
8 trial?

9 MR. TERRELL McCOY: No, sir.

10 THE COURT: You don't have to. I'm just
11 asking. You can change your mind. But what I can't let
12 you do is get up in front of the jury, You'll be able to
13 give an opening statement, and testify. You can talk
14 about what the evidence is they're likely to hear and
15 that sort of thing, but you can't get up there and just
16 start testifying. If you do, I'm going to put you on the
17 stand and they get to ask you questions.

18 MR. TERRELL McCOY: Yes, sir, I understand.

19 THE COURT: Okay.

20 MR. TERRELL McCOY: I filed a motion in
21 limine too.

22 THE COURT: We'll take care of those after we
23 draw the jury. Okay? All right. Anything else?

24 MR. WETMORE: No, sir.

25 THE COURT: You want to bring the jury panel

1 in? All right. We're doing criminal court in here this
2 week, and so we got a trial that we're going to begin,
3 and what we're going to do now is I'm going to introduce
4 you to the parties involved, tell you a little bit about
5 what this case is, and then I'm going to ask you some
6 more questions that go to this case.

7 What we're looking at, again, is not to pry.
8 We're just trying to find 12 people that are
9 disinterested and don't have an interest in the outcome
10 of the lawsuit so that we can have y'all listen to the
11 facts and make a decision about this case.

12 Now, this case is the state of South Carolina
13 versus Terrell Lynwood McCoy. Mr. McCoy is sitting right
14 here at this table. Mr. McCoy, would you stand, please.

15 MR. TERRELL MCCOY: Yes, sir.

16 THE COURT: All right. This is Mr. Terrell
17 Lynwood McCoy, and Mr. McCoy has been indicted by the
18 grand jury of Charleston County for murder. You can sit
19 down there, Mr. McCoy.

20 He is going to represent himself in this
21 trial, which is his right, and so he does not have a
22 lawyer. He will be acting as his own lawyer, and he will
23 be sitting at the defense table with this lady, who is
24 sitting over here beside him. This is Ms. Lori Proctor,
25 and she's not going to act as his lawyer in this trial.

1 She's just going to be able to assist him as an assistant
2 from time to time. Now, I want to tell you one thing
3 that is very important about the charge against
4 Mr. McCoy, and that is while he has been indicted by the
5 grand jury for murder, he is considered in the eyes of
6 the law to be innocent of that charge, not guilty, and he
7 does not have to prove his innocence or his lack of
8 guilt.

9 The state has the burden of proving his
10 guilt. He doesn't have to prove a thing, and that is
11 important for you to remember throughout this trial if
12 you are picked to serve on a jury, and the state of South
13 Carolina and every state in this country, the state, when
14 they charge somebody with a crime, has the burden of
15 proving what they allege.

16 The defendant doesn't have to prove a thing;
17 doesn't have to call a witness; doesn't have to say a
18 word if they don't want to. The only thing they have to
19 do is attend, and Mr. McCoy is to be considered by you
20 because he is in the eyes of the law at this point not
21 guilty of this charge and doesn't have to prove a thing.
22 That is very important for you to remember, and I will
23 emphasize that from time to time in this trial.

24 Now, I've introduced you to Mr. Terrell
25 McCoy, and, again, he's going to represent himself. The

1 state of South Carolina is represented by these two
2 gentlemen sitting at this other table here, Mr. Burns
3 Wetmore and Mr. Peter McCoy. They work for the solicitor
4 of Charleston County or Ninth Judicial Circuit, Ms.
5 Scarlett Wilson. They're going to be representing the
6 state of South Carolina in this case, and they will be
7 prosecuting Mr. McCoy, and I ask both these gentlemen to
8 stand right now. Is there any member of the jury, this
9 is Mr. Wetmore on my left, your right, Mr. McCoy waving
10 to you there on the right, your left. Is there any
11 member of the jury panel that is related by blood or
12 marriage or acquainted with either of these two gentlemen
13 in any way? If so, please stand.

14 Yes, sir, your name and number?

15 A PROSPECTIVE WITNESS: I'm an attorney in
16 town. I graduated in 2000 from law school, USC Law
17 School.

18 MR. WETMORE: Neither of us went to USC Law
19 School.

20 THE COURT: Okay. Y'all can be seated.
21 Thank you. Now, Mr. McCoy was standing before you a
22 minute ago. Was there any member of the jury panel that
23 is related by blood or marriage or acquainted with him in
24 any way? If so, please stand. Okay. I find none.

25 Now, I'm going to read to you the names of

1 some people who might be called as witnesses in this
2 case. There are a lot of names, but not necessarily
3 everyone will be called, but we have to list everybody
4 just out of an abundance of caution. When I call these
5 names out, if you are related by blood or marriage or
6 acquainted in any way with any of these names when I call
7 them out, I would ask that you please stand.

8 Brandon Cuttino; James Hill, North Charleston
9 police; I'm not sure how to pronounce this name, Carinda,
10 Snowden; C-a-r-i-n-d-a, Snowden; all right? Travis
11 Holcombe; Doug Armstead of North Charleston police;
12 Angela Bunker with North Charleston police; Al Hallman,
13 North Charleston police; Scott Wyant, W-y-a-n-t with
14 North Charleston police; Brian S-o-m-e-r-f-e-r-d-t,
15 Charleston County sheriff's office; David Owens,
16 Charleston County sheriff's office; Amy Stevens with
17 SLED, state law enforcement division; Tracy Thrower with
18 SLED; Verona Gibson with SLED; Laura Mills with SLED;
19 John Roberts with SLED; Scott Deckard, D-e-c-k-a-r-d,
20 North Charleston police; Eric Jourdan, North Charleston
21 police, that's spelled J-o-u-r-d-a-n; Amy Sheil,
22 S-h-e-i-l, Dr. Amy Sheil, either know her, related to
23 her, or might be a patient; Sprint James Ferretti,
24 F-e-r-r-e-t-t-i; I have an Officer Arthur Armstead with
25 North Charleston police; Sergeant Laurie, North

1 Charleston police. I don't know Sargeant Laurie's first
2 name or last name or if Sergeant Laurie is a man or
3 woman.

4 MR. TERRELL McCOY: Sergeant David Laurie.
5 He's a man.

6 THE COURT: All right. Detective James Hill.
7 I already asked about him. Officer Mitchell Wilson;
8 Tanya Theus, T-h-e-u-s; Angela Bunker, North Charleston
9 police department, I already asked about Officer Hallman.
10 Is John Roberts also with SLED, John, J.G.E. Roberts;
11 Officer Hille with North Charleston; Moe Clary with EMS;
12 and Laureen Shelton with EMS; coroner Rae Wooten; Jay
13 Fowler of North Charleston police; Sierra Williams, North
14 Charleston; T. Daniel, North Charleston police; Samuel
15 McCoy; Wasina -- I guess this is Officer Wasina 911
16 dispatcher, North Charleston; somebody whose last name
17 Yoemanf, Y-o-e-m-a-n-f, 911 dispatcher from North
18 Charleston; anybody that works for North Charleston
19 police that has a position of being a custodian of 911?

20 Okay. Now, is there any member of the jury
21 panel either a current or a former member of law
22 enforcement, in any capacity? If so, please stand. Yes,
23^p sir, your name and number.

24 A PROSPECTIVE JUROR: Robert Gates, 86,
25 Charleston city police, '74 to '78.

1 THE COURT: You're retired now?

2 A PROSPECTIVE JUROR: Yes, sir, not from the
3 police, from DuPont.

4 THE COURT: All right. Thank you. Anyone
5 else? Any members of the jury panel, either have any
6 family members or close personal friends that are
7 employed by any law enforcement agency? If so, please
8 stand.

9 A PROSPECTIVE JUROR: I'm Susan McKenna, 172.
10 My son is a police officer in Pennsylvania.

11 THE COURT: All right. Thank you. Yes, sir,
12 name and number?

13 A PROSPECTIVE JUROR: 45, Christopher
14 Coggins. My wife is employed with the city of North
15 Charleston police department.

16 THE COURT: Thank you. Anyone else?

17 A PROSPECTIVE JUROR: Patricia Cunningham,
18 306, my husband works for Homeland Security in US
19 Customs.

20 THE COURT: All right. Thank you. Yes?

21 A PROSPECTIVE JUROR: Juror 110, Kellie
22 Holmes. My cousin is a police officer on Sullivan's
23 Island.

24 THE COURT: Thank you. Anyone else?

25 A PROSPECTIVE JUROR: 246, Barbara Smalls.

1 My cousin is a judge here.

2 THE COURT: Okay. Thank you. Anyone else?
3 Yes?

4 A PROSPECTIVE JUROR: Anne Nicholson, juror
5 197. My cousin's -- one of my cousins is a sheriff in
6 North Carolina.

7 THE COURT: All right. Anyone else?

8 A PROSPECTIVE JUROR: Juror 78. My husband
9 is a county attorney for Charleston County.

10 THE COURT: All right. And your number
11 again?

12 A PROSPECTIVE JUROR: 78.

13 THE COURT: All right. Thank you. Anyone
14 else? Okay. Any member of the jury or close family
15 member or close family friend employed with the
16 Charleston County solicitor's office or the Ninth
17 Circuit, which covers Berkeley as well? I find none.

18 Any member of the jury panel, either you or a
19 relative or a close personal friend, ever been the victim
20 of a violent crime? If so please stand.

21 Yes, ma'am. Name and number again, please?

22 A PROSPECTIVE JUROR: 197.

23 THE COURT: Okay. I'm sorry?

24 A PROSPECTIVE JUROR: Anne Nicholson.

25 THE COURT: What can you tell us?

1 A PROSPECTIVE JUROR: My nephew was murdered
2 at the after-prom party in North Charleston.

3 THE COURT: When did this take place?

4 A PROSPECTIVE JUROR: Two -- year before
5 last.

6 THE COURT: Okay. All right. Thank you.
7 Yes, sir?

8 A PROSPECTIVE JUROR: I didn't really hear
9 the question you were asking, whether a family member was
10 the victim of a violent crime?

11 THE COURT: Yes.

12 A PROSPECTIVE JUROR: My first cousin's son
13 was murdered about a year and a half ago.

14 THE COURT: Could you give us your name and
15 number again, please.

16 A PROSPECTIVE JUROR: Randolph Roper, 225.

17 THE COURT: Okay. Thank you.

18 A PROSPECTIVE JUROR: My name is Charles
19 Ramsey and my number is 211, and my aunt was murdered in
20 North Charleston about five years ago.

21 THE COURT: Okay. Thank you. Yes?

22 A PROSPECTIVE JUROR: I'm number 156. My
23 uncle was murdered about 20 years ago.

24 THE COURT: Okay. Thank you. All right. Is
25 there any member of the jury panel that has any

1 particular opinions, experiences, or feelings about the
2 crime of homicide which would make it difficult for you
3 to serve on a jury where the defendant is charged with
4 murder in this case? Okay. I find none. Oh, yes,
5 ma'am?

6 A PROSPECTIVE JUROR: Angel Irick. I think
7 I'm number 127. As far as I'm concerned, if they are
8 guilty of murder, they should go to jail.

9 THE COURT: If they're guilty of it?

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: Okay. Do you feel like you could
12 serve on a jury and determine whether or not they're
13 guilty or innocent? You don't come in predisposed, do
14 you? As I told you, he is charged with a crime, but he
15 is considered to be not guilty of it. The state has to
16 prove that he is. What happens afterwards is up to me.

17 A PROSPECTIVE JUROR: But he's been charged?

18 THE COURT: He has been charged, but he is on
19 trial for it. He's not been convicted.

20 A PROSPECTIVE JUROR: I don't think I would
21 be fair with it, but --

22 THE COURT: You don't think you could be
23 fair?

24 A PROSPECTIVE JUROR: No.

25 THE COURT: Why is that?

1 A PROSPECTIVE JUROR: Well, I have my
2 personal feelings toward it.

3 THE COURT: Okay.

4 A PROSPECTIVE JUROR: Violence -- I've been
5 through some violence myself, and I just don't agree with
6 it.

7 THE COURT: So you don't think you could be
8 fair and impartial towards Mr. McCoy?

9 A PROSPECTIVE JUROR: No.

10 THE COURT: Okay. Well, what I'm going to do
11 is I'll excuse you from jury service on this case;
12 however, I'll leave you in the panel for the civil trials
13 that we have. Okay? So just stay with you now. Your
14 name and number?

15 A PROSPECTIVE JUROR: My name is Idell White.
16 My number is 281. I don't think I could judge it fairly.

17 THE COURT: Why is that?

18 A PROSPECTIVE JUROR: Because I've been
19 through a little violence.

20 THE COURT: You don't think you could give
21 him a fair trial?

22 A PROSPECTIVE JUROR: No.

23 THE COURT: All right. Just because of your
24 past experiences?

25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: All right. I'll leave you off
2 the jury in this case, but I'll have you sit on some of
3 the civil juries, okay?

4 A PROSPECTIVE JUROR: Okay.

5 THE COURT: All right. Anyone else? Okay.
6 Has anybody heard or seen any publicity regarding this
7 case, or do you recall anything that might have been on
8 either television or newspaper regarding this case? This
9 involved an incident that took place March 25th, 2006,
10 and the victim in the case is named Antwan Bryant.

11 Anybody know anything about this case or seen
12 any publicity about it? Okay. Anybody know or work with
13 Mr. Bryant? Did you know Mr. Bryant or any of his family
14 members? No? Okay. Has any member of the jury panel
15 already formed an opinion about this case? All right.

16 A PROSPECTIVE JUROR: Can I ask you a
17 question? Does this trial have anything to do with drugs
18 or alcohol or anything like that?

19 THE COURT: I'm not aware of -- Mr. Wetmore,
20 is there anything involving drugs or alcohol in this
21 case?

22 MR. WETMORE: Judge, there were some drugs
23 found -- small amount of drugs found at the scene. It
24 doesn't play a part in the murder.

25 THE COURT: Okay. Would that affect your

1 ability to be fair and impartial in this case? I know
2 you had talked to me in the qualification about alcohol,
3 right?

4 A PROSPECTIVE JUROR: I could probably do it,
5 but I wanted to make sure --

6 THE COURT: There's no allegations about
7 drinking and driving.

8 A PROSPECTIVE JUROR: Okay.

9 THE COURT: Which I think is what your
10 concern was earlier. Okay? Anyone else? All right. Is
11 there any member of the jury panel that knows of any
12 reason why they couldn't be fair and impartial, either
13 towards the state or towards the defendant, Mr. McCoy, in
14 this case? All right.

15 Does any member of the jury panel believe
16 that Mr. McCoy must prove his innocence? I talked to you
17 about that earlier. Does any member of the jury panel
18 believe he has to prove his innocence? I find none.

19 Is there any member of the jury panel who
20 doesn't understand that the state has the burden of proof
21 and must prove the defendant is guilty? All right. I
22 find none. Any member of the jury panel or any of your
23 immediate family members affiliated with any programs
24 that are aligned with victims' rights organizations or
25 which promote law enforcement, such as Citizens Against

1 Violent Crime, also known as CAVE; People Against Rape;
2 MADD, Mothers Against Drunk Driving? Any organizations
3 like that? If so, please stand. I find none.

4 Any member of the jury panel ever been
5 prosecuted or represented by the solicitor's office? I
6 find none.

7 Any member of the jury panel have any
8 criminal charges pending against you in any jurisdiction?
9 I find none. Yes, sir?

10 A PROSPECTIVE JUROR: How do you mean,
11 criminal charges?

12 THE COURT: I'm sorry?

13 A PROSPECTIVE JUROR: What kind of cases are
14 you referring to?

15 THE COURT: Any kind of case. Do you have
16 any criminal charges against you that you're waiting for
17 trial on or have otherwise not been disposed of?

18 A PROSPECTIVE JUROR: Well, there is a
19 lawsuit against me.

20 THE COURT: A civil lawsuit?

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: Okay. But that's not what we're
23 asking about, though. Thank you. Anyone else? Yes,
24 sir?

25 A PROSPECTIVE JUROR: As I presented to you

1 earlier, I have a court date of Wednesday.

2 THE COURT: Okay. That is just a traffic
3 ticket. Okay. Thank you. All right. Anyone else? All
4 right. Anybody have any -- any member of the jury panel
5 have any experience with law enforcement, the legal
6 system, or the penal system that would render you
7 incapable of being a fair and impartial juror? Yes, your
8 name and number?

9 A PROSPECTIVE JUROR: Cynthia Dillard, number
10 70. I'm a paralegal, and most of our work is defending
11 the DSC.

12 THE COURT: Do you believe you would be
13 incapable of being fair and impartial in this case?

14 A PROSPECTIVE JUROR: No, sir.

15 THE COURT: Okay. Thank you. Anyone else?
16 Any member of the jury panel believe in the legalization
17 or decriminalization of any currently illegal drug or
18 substances? Okay. I find none.

19 Any member of the jury panel hold any social,
20 ethnic, or racial views that would render a juror
21 incapable of being fair and impartial in a case involving
22 a defendant who is from a certain social, ethnic or
23 racial background? I find none.

24 Does any member of the jury panel hold any
25 moral or religious views that would render you incapable

1 of determining guilt or passing judgment on behalf of an
2 individual? If so, please stand. Okay. All right.

3 We're getting ready then to draw our jury.

4 Are there any challenges or objection from the state?

5 MR. PETER McCOY: No, Your Honor.

6 MR. WETMORE: No, Your Honor.

7 THE COURT: Mr. McCoy, any challenges or
8 objections?

9 MR. TERRELL McCOY: Yes, sir.

10 THE COURT: Okay. Why don't you talk to
11 Ms. Proctor about that real quick.

12 All right. State ready?

13 MR. WETMORE: Yes, Your Honor.

14 THE COURT: Mr. McCoy, you ready?

15 MR. TERRELL McCOY: Yes, sir, Your Honor.

16 THE CLERK: Ladies and gentlemen, if I call
17 your name, if you will please gather your belongings,
18 come up to this podium, turn and face the parties, I'll
19 then ask the parties questions, and I'll direct you to
20 either have a seat in the jury box or have a seat back in
21 the audience.

22 THE CLERK: Jury number 153, Constance Lee,
23 153. What say you for the state?

24 MR. WETMORE: Please present the juror.

25 THE CLERK: What say you for the defendant?

1 THE COURT: Say present or strike.

2 MR. TERRELL McCOY: Present.

3 THE CLERK: Ms. Lee, please have a seat in
4 the jury box. You've been selected as a juror in this
5 case. Juror number 27, Marshonia Brown, 27. What say
6 you for the state?

7 MR. WETMORE: Please excuse the juror.

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

11 Juror number 126, Robert Infinger, 126. What
12 say you for the state?

13 MR. WETMORE: Please present the juror.

14 THE COURT: What say you for the defendant?

15 MR. TERRELL McCOY: Please excuse.

16 THE CLERK: Mr. Infinger, please have a seat
17 back in the audience. You've been excused from the trial
18 of this case.

19 Juror 182, Bryan Minton, 182. What say you
20 for the state?

21 MR. WETMORE: Please present the juror.

22 THE CLERK: What say you for the defendant?

23 MR. TERRELL McCOY: Please excuse.

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

1 of this case.

2 160, Leroy Manigault, 160. What say you for
3 the state?

4 MR. WETMORE: Please excuse the juror.

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

8 Juror 134, Richard Jerue, 134. What say you
9 for the state?

10 MR. WETMORE: Please present the juror.

11 THE CLERK: What say you for the defendant?

12 MR. TERRELL McCOY: Present.

13 THE CLERK: Please have a seat in the jury
14 box. You've been selected as a juror in this case.

15 Juror number 130, Mathew Jackson, 130. What
16 say you for the state?

17 MR. WETMORE: Please present the juror.

18 THE CLERK: What say you for the defendant?

19 MR. TERRELL McCOY: Please seat the juror.

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

23 Juror number 246, Barbara Smalls, 246. What
24 say you for the state?

25 MR. WETMORE: Please present the juror.

1 THE CLERK: What say you for the defendant?

2 MR. TERRELL McCOY: Please seat the juror.

3 THE CLERK: Ms. Smalls, please have a seat in
4 the jury box. You've been selected as a juror in this
5 case.

6 Juror 110, Kellie Hall. What say you for the
7 state?

8 MR. WETMORE: Please present the juror.

9 THE CLERK: What say you for the defendant?

10 MR. TERRELL McCOY: Please excuse the juror.

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

14 Juror number 177, John Michiels, 177. What
15 say you for the state?

16 MR. WETMORE: Please present the juror.

17 THE CLERK: What say you for the defendant?

18 MR. TERRELL McCOY: Please excuse the juror.

19 THE CLERK: Have a seat back in the audience.
20 You've been excused from the trial in this case. That is
21 four strikes for the defendant.

22 Juror number 70, Cynthia Dillard, 70. What
23 say you for the state?

24 MR. WETMORE: Please present the juror.

25 THE COURT: What say you for the defendant?

1 MR. TERRELL McCOY: Please seat the juror.

2 THE CLERK: Ms. Dillard, please have a seat
3 in the jury box. You've been selected as a juror in this
4 case.

5 Juror 260, Elizabeth Tezza, 260. What say
6 you for the state?

7 MR. WETMORE: Please seat the juror.

8 THE COURT: What say you for defendant?

9 MR. TERRELL McCOY: Please excuse the juror.

10 THE CLERK: Please have a seat back in the
11 audience. You've been excused from the trial of this
12 case.

13 Juror 197, Anne Nicholson, 197. What say you
14 for the state?

15 MR. WETMORE: Juror 197, correct?

16 THE CLERK: Right, correct.

17 MR. WETMORE: Please excuse the juror.

18 THE CLERK: Have a seat back in the audience.
19 You've been excused from the trial of this case. That is
20 three strikes for the state.

21 Juror number 210, Lara Raiford, 210. What
22 say you for the state?

23 MR. WETMORE: Please present the juror.

24 THE COURT: What say you for the defendant?

25 MR. TERRELL McCOY: Remove for cause.

1 THE CLERK: Would you like to excuse?

2 THE COURT: Talk to Ms. Proctor for a second.

3 MR. TERRELL McCOY: Seat the juror.

4 THE CLERK: Ms. Raiford, have a seat in the
5 jury box. You've been selected as a juror in this case.

6 Juror number 50, Walter Cook, 50. What say
7 you for the state?

8 MS. PROCTOR: I'm sorry. What was the
9 number?

10 THE CLERK: 50, Walter Cook.

11 MR. WETMORE: Please present the juror.

12 THE CLERK: What say you for the defendant?

13 MR. TERRELL McCOY: Please excuse.

14 THE CLERK: Have a seat back in the audience.
15 You've been excused from the trial of this case.

16 Juror number 291, Tina Williams, 291. What
17 say you for the state?

18 MR. WETMORE: Please present the juror.

19 THE CLERK: What say you for the defendant?

20 MR. TERRELL McCOY: Please seat the juror.

21 THE CLERK: Miss Williams, please have a seat
22 in the jury box. You've been selected as a juror in this
23 case.

24 Juror 114, Joye Hansen, 114. What say you
25 for the state?

1 MR. WETMORE: Please present the juror.

2 THE CLERK: What say you for the defendant?

3 MR. TERRELL McCOY: Please excuse the juror.

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

7 Juror number 284, Nicholas Wiegand, 284.
8 What say you for the state?

9 MR. WETMORE: Please excuse the juror.

10 THE CLERK: Mr. Wiegand, please have a seat
11 back in the audience. You're excused from the trial of
12 this case. That is four strikes for the state.

13 Juror 172, Susan McKenna, Juror 172. What
14 say you for the state?

15 MR. WETMORE: Please present the juror.

16 THE CLERK: What say you for the defendant?

17 MR. TERRELL McCOY: Please excuse the juror.

18 THE CLERK: Ms. McKenna, please have a seat
19 in the back of the courtroom. You've been excused from
20 the trial of this case. That is eight strikes for the
21 defendant.

22 Juror number 273, Candace Ward, 273. What
23 say you for the state?

24 MR. WETMORE: Please present the juror.

25 THE COURT: What say you for the defendant?

1 MR. TERRELL McCOY: Please seat the juror.

2 THE CLERK: Okay. Ms. Ward, please have a
3 seat in the jury box. You've been selected as a juror in
4 this case.

5 Juror number 245, William Smith (sic), 245.

6 MR. WETMORE: Is that William Small, 245?

7 THE CLERK: I know the number. 245, William
8 Small? What say you for the state?

9 MR. WETMORE: Please present the juror.

10 THE CLERK: What say you for the defendant?

11 MR. TERRELL McCOY: Please seat the juror.

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

15 Juror number 108, Nenita Haddox, 108. What
16 say you for the state?

17 MR. WETMORE: Please present the juror.

18 THE CLERK: What say you for the defendant?

19 MR. TERRELL McCOY: Please seat the juror.

20 THE CLERK: Ms. Haddox, have a seat in the
21 jury box. You've been selected as a juror in this case.

22 Juror number 154, Celeste Lenhart, 154. What
23 say you for the state?

24 MR. WETMORE: Please present the juror.

25 THE CLERK: What say you for the defendant?

1 MR. TERRELL McCOY: Please excuse the juror.

2 THE CLERK: Ms. Lenhart, please have a seat
3 back in the audience. You're excused from the trial in
4 this case. Nine strikes for the defendant.

5 Juror number 78, Diane Ferrara, 78. What say
6 you for the state?

7 MR. WETMORE: Please present the juror.

8 THE CLERK: What say you for the defendant?

9 MR. TERRELL McCOY: Seat the juror.

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

13 Juror number 171, Molly McKelvey, 171. What
14 say you for the state?

15 MR. WETMORE: Please present the juror.

16 THE CLERK: What say you for the defendant?

17 MR. TERRELL McCOY: Please excuse the juror.

18 THE CLERK: Did you say excuse?

19 MR. TERRELL McCOY: Excuse.

20 THE CLERK: Ms. McKelvey, please have a seat
21 back in the audience. You've been excused from the trial
22 of this case. That is ten strikes for the defendant.

23 THE COURT: You don't get any more strikes.
24 You can challenge.

25 THE CLERK: Juror number 45, Christopher

1 Coggins, 45. What say you for the state?

2 MR. WETMORE: Please present the juror.

3 THE CLERK: Any challenge from the defendant?

4 MR. TERRELL McCOY: No, sir.

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

8 THE COURT: We're going to call two
9 alternates. You get one strike on the alternate, you get
10 two strikes. Call the first alternate.

11 THE CLERK: Juror number 136, William
12 Johnson, 136. What say you for the state?

13 MR. WETMORE: Please excuse the juror.

14 THE CLERK: Mr. Johnson, please have a seat
15 back in the audience. You've been excused from the trial
16 of this case. Juror number 132, Mary Jefferson, 132.

17 THE COURT: 132 or 133?

18 THE CLERK: 132, Mary Jefferson. Any
19 challenge from the state?

20 MR. WETMORE: No.

21 THE CLERK: What say you for the defendant?

22 MR. TERRELL McCOY: Please seat the juror.

23 THE CLERK: Have a seat in the jury box.
24 You've been selected as an alternate.

25 Juror number 313, James Kittrell, 313. What

1 say you for the state?

2 MR. WETMORE: Please present the juror.

3 THE CLERK: What say you for the defendant?

4 MR. TERRELL McCOY: Please excuse the juror.

5 THE CLERK: Mr. Kittrell, please have a seat
6 back in the audience. You are excused from the trial of
7 this case.

8 Juror number 225, Randolph Roper, 225. What
9 say you for the state?

10 MR. WETMORE: Please excuse the juror.

11 THE CLERK: Mr. Roper, please have a seat
12 back in the audience. You've been excused from the trial
13 in this case.

14 Juror number 161, Theodore Manuel, 161. Any
15 challenge from the state?

16 MR. WETMORE: No.

17 THE CLERK: What say you for the defendant?

18 MR. TERRELL McCOY: Please excuse the juror.

19 THE CLERK: Have a seat back in the audience.
20 You've been excused from the trial of this case. That is
21 two strikes for the defendant.

22 Juror number 312, Stevenson Kemp, 312. Any
23 challenge from the state?

24 MR. WETMORE: No.

25 THE COURT: Any challenge from the defendant?

1 MR. TERRELL McCOY: No.

2 THE CLERK: Mr. Kemp, please have a seat in
3 the jury box.

4 Your Honor, the jury has been selected in
5 this case.

6 THE COURT: All right. Anything from the
7 state?

8 MR. WETMORE: No, Your Honor.

9 THE COURT: From the defense?

10 MR. TERRELL McCOY: Yes, sir. I would like
11 to object on the --

12 MS. PROCTOR: We have a motion, Your Honor.

13 THE COURT: Okay. He can come up here.

14 (At sidebar.)

15 MR. TERRELL McCOY: The state has seated all
16 white jurors and dismissed all black jurors and --

17 THE COURT: Well, see, which ones in
18 particular are you --

19 MS. PROCTOR: 27. They struck a black juror,
20 number 27.

21 THE COURT: Number 160 --

22 MS. PROCTOR: 27.

23 MR. TERRELL McCOY: 246.

24 THE COURT: 246, 197, and 291?

25 So -- 291 is seated. I'm sorry. So there

1 is -- all right. As to number 27, where was your reason
2 for striking number 27?

3 MR. WETMORE: Judge number 27 has a lengthy
4 record.

5 THE COURT: Has what?

6 MR. WETMORE: A lengthy criminal record. So
7 I had poor communication.

8 THE COURT: What was the lengthy criminal
9 record? It has to be misdemeanors.

10 MR. WETMORE: It is. That is what I'm
11 reading. It's -- 27, simple assault, driving under
12 suspension, failure to surrender driver's license,
13 careless, contempt of Court, uninsured motorists driving
14 charge, and failing to appear for court.

15 THE COURT: Okay. Well, that is not
16 pretextual then. What about 160?

17 MR. WETMORE: 160, Your Honor, has a criminal
18 history as well. He has a shoplifting; he also has an
19 armed robbery that is pending, 160; has an arrest for
20 armed robbery with a deadly weapon. It's pending.

21 THE COURT: Okay.

22 MR. WETMORE: Also, I noted his occupation
23 and his marital status. That gave me some concern in
24 conjunction with the record.

25 THE COURT: What was his occupation?

1 MR. WETMORE: He worked in lawn care, kind of
2 odd jobs, landscaping. Not used to being indoors and not
3 dealing with this kind of thing, I thought that might be
4 problematic for him. Also, he's single he has never had
5 to get along with that kind of relationship with
6 somebody, so the main thing was the record.

7 MR. TERRELL McCOY: Excuse me for a second.
8 You said 27?

9 THE COURT: This is 27.

10 MR. TERRELL McCOY: Note here criminal
11 background, that is number 23. If you look at it, you
12 can see.

13 THE COURT: Let me see. 27 -- that is 15(a).
14 She had a failure --

15 MR. WETMORE: Failure to appear for court.

16 THE COURT: There is this other -- see, this
17 whole block, the name dropped down to the bottom, but all
18 this stuff goes in the same block.

19 MR. TERRELL McCOY: I'm sorry.

20 THE COURT: Okay.

21 MR. TERRELL McCOY: Sorry.

22 THE COURT: That's okay. So 160, you want to
23 say anything about 160?

24 MR. TERRELL McCOY: I would like to present.

25 THE COURT: Well, it's a race neutral reason

1 that he gave. It's not pretextual. So what about 246?

2 MR. WETMORE: 246 is on the jury.

3 THE COURT: What is the number?

4 MR. WETMORE: 246, I have that was -- I'm
5 sorry. She's on the jury. Black female on the jury.

6 THE COURT: And you have one other one, and
7 that was 197.

8 MR. WETMORE: Your Honor, 197, he also has a
9 lengthy criminal history. Disorderly conduct, simple
10 assault, domestic violence, check violations, driving
11 under the influence, open container, domestic violence;
12 also noted that 197 had poor communication skills and was
13 involved in some ways with a victim, or had some family
14 members involved in another matter. For those reasons, I
15 struck that.

16 THE COURT: All right. You want to say
17 anything about that one?

18 MR. TERRELL McCOY: No.

19 THE COURT: Okay.

20 MR. TERRELL McCOY: 160, because he said
21 there --

22 THE COURT: 160? He had shoplifting?

23 MR. WETMORE: Shoplifting and showed an
24 arrest for armed robbery.

25 MR. TERRELL McCOY: But he was never

1 convicted? He was never convicted.

2 THE COURT: There didn't have to be a
3 conviction. That is just telling me a reason -- the
4 history of arrests would qualify him. So those are
5 three, and I'll rule against you on those three. Are
6 there any other ones? 132? I'm sorry, 136, your
7 alternate.

8 MR. WETMORE: 136 does not appear to have any
9 criminal record; however, I noted that I questioned her
10 communication skills.

11 THE COURT: What?

12 MR. WETMORE: I questioned her communication
13 skills. Is that a man?

14 MR. TERRELL McCOY: That's a black male.

15 MR. WETMORE: You're right. 136, I
16 questioned his communication skills, and he indicated
17 some reluctance to serve. He indicated he was single,
18 and he indicated that he was from North Charleston. All
19 those reasons combined gave me some fear of -- North
20 Charleston being where this happened, all those factors
21 combined.

22 MR. TERRELL McCOY: Judge --

23 THE COURT: Well, it's not pretextual, so,
24 all right. I'll rule against you on that one too.

25 Anything else? I think that's all --

1 MR. TERRELL McCOY: 132 --

2 THE COURT: 132 is seated.

3 MR. PETER McCOY: 225. There was another
4 one.

5 THE COURT: The only other one y'all struck
6 was number 284, and that was a white male.

7 MS. PROCTOR: One of the alternates, 225.

8 THE COURT: We took -- I'm sorry, 225. Okay.
9 225?

10 MR. WETMORE: 225 does not have a criminal
11 record. Throughout the process he's been very reluctant
12 to serve. I noted he had a poor attitude, in my opinion.
13 He showed in my opinion disrespect towards you in the
14 clarification process. He indicated he had some
15 involvement in another murder as well and is also
16 involved in a pending civil action. For those reasons, I
17 struck him.

18 THE COURT: Anything you want to say on that?

19 MR. TERRELL McCOY: I would object to that.

20 THE COURT: Well, again, his reason is not
21 pretextual. All right. That's all of them, I think.
22 Anything else? That's all of them.

23 MR. WETMORE: Yeah.

24 THE COURT: Okay. All right.

25 (End of sidebar.)

1 THE COURT: Okay, folks. You're going to be
2 our jury now. I'm going to have you go back to the jury
3 room right now with the bailiffs, and they'll show you
4 where to come back to after lunch. I don't want you to
5 come back in the courtroom. You go back in the room
6 where they're showing you at now. When they take you
7 back there, it's okay for you to go to lunch.

8 It's almost 1:00 now. We've got some things
9 I've got to do in a couple other cases, plus hear some
10 motions on this one, so I don't think we're going to get
11 started back before 3:00, so y'all have a nice long
12 lunch, but we'll come back -- about five minutes to 3:00,
13 be back in the jury room. Y'all can talk about anything
14 in the world you want to talk about except this case, and
15 you can't go out and try to find out anything about the
16 case. You can go to lunch with anybody on the jury if
17 you want to, but just don't talk about the case.

18 When you get back into the jury room, again,
19 you can talk, but don't talk about the case. You can get
20 to know each other a little bit. A lot of times I like
21 to let the jury, if they can, pick their own foreman or
22 forelady, so if y'all can pick somebody, the only people
23 that can't do it are our two alternates. So when you get
24 back in the jury room, if you want to appoint a jury
25 foreperson, that would be fine.

1 We'll see you back at 3:00. Okay? Thank you
2 for your patience.

3 (Jury excused.)

4 THE COURT: Okay. Now, y'all come back about
5 2:30, and we'll start working on your motions. Have you
6 seen these yet, Mr. Wetmore, motions that he's talking
7 about? I haven't seen them yet, so I haven't had a
8 chance to look at them.

9 MR. WETMORE: He's filed several motions
10 throughout this case. I don't know -- was this very
11 recently?

12 MR. TERRELL McCOY: No. During the process,
13 but not recently.

14 THE COURT: Looks like some of them are filed
15 in January.

16 MR. TERRELL McCOY: That is from the first
17 trial, a motion in limine to determine eligibility of
18 prior convictions. That was from the prior trial.
19 Motions of limine, statements of the defendant, that was
20 probably from the first trial.

21 THE COURT: Okay. Have you not gotten a copy
22 of these?

23 MR. WETMORE: I went in the clerk's office
24 Thursday of last week and got everything, so unless it's
25 been filed since Thursday of last week.

1 THE COURT: Have you filed any motions since
2 Thursday?

3 MR. TERRELL McCOY: No, sir.

4 THE COURT: Okay. See what your position
5 will be, we'll look at it, and I'll meet y'all back here
6 at 2:30. Okay? Thanks.

7 (Recess taken.)

8 THE COURT: On state versus McCoy, and I also
9 have -- let the record reflect Mr. McCoy, the defendant,
10 is present in the courtroom.

11 We're going to go through some motions filed
12 January 15, 2009, motions to compel evidence pursuant to
13 South Carolina rule of criminal procedure 5 and 6.
14 You're requesting that they provide DNA testing, SLED
15 reports, any Brady material?

16 MR. TERRELL McCOY: Yes, sir.

17 THE COURT: Is there anything that you have
18 got in particular that you are talking about that you
19 didn't already have?

20 MR. TERRELL McCOY: Yes, sir. There was some
21 evidence that was contaminated, 1 through 13, and I
22 wanted that evidence from the solicitor. I never
23 received that evidence from the solicitor, and --

24 THE COURT: What evidence is this?

25 MR. TERRELL McCOY: Contaminated evidence.

1 It was stated by Detective Angela Bunker that the crime
2 scene was contaminated, exhibits 1 through 13. That is
3 why all my exhibits start with 14. 1 through 13 was
4 contaminated. I was trying to compel that evidence to
5 see what that evidence was. I also requested for Carinda
6 Snowden, her marriage license report, her criminal
7 background, her and Brandon Cuttino. I never received
8 those.

9 She stated under oath that she was married.
10 We did an investigation on her, and she was never
11 married. The marriage license bureau don't have nothing
12 on this witness, and I was trying to get a copy of that
13 so I could have the burden of proof that she wasn't
14 married.

15 Also, there was some evidence that was
16 selected by the crime scene investigator that was never
17 sent off to be tested, and then -- it didn't get sent off
18 to be tested until January 19th of 2009, but that was
19 only two evidence that was selected at the crime scene.
20 Still more evidence that was never tested, like beer
21 bottles.

22 THE COURT: Could I get you to move up to the
23 podium there and speak into the microphone?

24 MR. TERRELL McCOY: There was some beer
25 bottles collected at the crime scene and I wanted to get

1 them tested for fingerprints and saliva. Never got no
2 results.

3 There was three curtains in that residence.
4 The blood on two of them, they were never sent off to
5 SLED for DNA testing. I wanted to get that evidence, get
6 that testing result.

7 THE COURT: If they weren't tested, there
8 wouldn't be any results to give you.

9 MR. TERRELL McCOY: I wanted to get test
10 reports on the blood to find out whose blood -- there was
11 blood found on the window sills. There was blood found
12 on the curtains. I just wanted to get the DNA test
13 results from this.

14 The solicitor failed to produce that
15 evidence, and that violated my Brady versus Maryland. I
16 think that's all. They didn't do no testing. They
17 didn't give me no type of test as a result or none of the
18 evidence that was collected.

19 THE COURT: They only have to give you
20 evidence that they have. They don't have to go and
21 perform these tests. If you wanted to, then there was a
22 mechanism for you to do it.

23 MR. TERRELL McCOY: Yes, sir, because Antwan,
24 the victim in this case, his left hand was tested
25 positive for gunpowder residue, being that he shot a gun,

1 and there was blood found on the window, so I wanted to
2 find out whose blood was that, was it his blood or was it
3 the person that was attacked, so I wanted the evidence.

4 Also, the curtain that was on the window was
5 taken (sic) from the window and placed under the
6 victim's body. That is why I asked for 1 through 13
7 contaminated evidence because that is not the original
8 crime scene. The crime scene was rescrubbed.

9 The curtain that was under the victim's body
10 wasn't there. It was on the window. The coroner stated
11 that she observed blood on the curtain or over the
12 window. I have a picture. The curtain was removed and
13 placed under the victim's body, to cover up the evidence
14 that somebody jumped out that window.

15 They tried to hide it, but blood was left on
16 the window itself showing proof that somebody jumped out
17 of that window leaving bloody fingerprints on that
18 window. That was never tested, according to crime scene
19 investigators. So I asked for this. That is why I filed
20 a motion to compel to have all this evidence for blood,
21 find out -- never received it. This violated my due
22 process under South Carolina constitution article 1 and 3
23 and United States constitution number 14.

24 THE COURT: Okay. What does the state want
25 to say about this? Go on back. I want to hear from the

1 state now.

2 MR. WETMORE: Judge, Mr. McCoy obviously has
3 the opportunity to cross-examine crime scene personnel.
4 Anything he wants to ask about how they could have or
5 should have done their job, he could ask them on
6 cross-examination. Many of the things he's bringing up
7 to you are what he perceives to be problems with the way
8 they did their job. You could certainly ask him about
9 that on cross. The evidence that was collected, it's
10 been tested. All the reports have been turned over to
11 either Ms. Proctor or the defendant of record.

12 THE COURT: Every report?

13 MR. WETMORE: Yes.

14 THE COURT: Has been performed?

15 MR. WETMORE: Yes, everything that has been
16 performed has been reported and has been given a copy to
17 Mr. McCoy, either directly or to his lawyer. One point I
18 would like to let the Court know, just because this
19 sounds -- it certainly sounds bad, contaminated evidence.
20 What I believe Mr. McCoy is referring to is in the first
21 trial of this case, in the transcript, the crime scene
22 officer testified that she was using these placards. I'm
23 sure Your Honor is familiar with placards that are
24 numbered and placed at the scene to kind of show the
25 evidence.

1 Well, she started using the placards at
2 number 14; 14, 15, 16, so forth, and Ms. Proctor, who was
3 counsel at the time, basically asked what happened to
4 number one through 13. And her answer, I believe, is
5 what gives Mr. McCoy concern. The crime scene officer
6 said, I could not use placards 1 through 13 because I had
7 just been to another crime scene, and those placards were
8 contaminated, so those placards could not be used at this
9 crime scene. So 1 through 13 weren't even used for
10 exactly the reason that they did not want to contaminate
11 any evidence.

12 So that is easily explained, Your Honor. The
13 other issues he raises are certainly good ammunition for
14 cross-examination, but everything that's been collected
15 and tested has been given to them.

16 THE COURT: All right.

17 MR. TERRELL MccOY: Your Honor, may I please
18 speak?

19 THE COURT: Sure.

20 MR. TERRELL MccOY: She stated the 1 through
21 13 placard was the victim -- had the victim's biohazard
22 on it. She stated she was behind the police department.
23 That is the neighborhood that that guy got shot in, so
24 she was talking about that neighborhood, that house, and
25 she stated she was there. She stated in her -- the house

1 had the victim's biohazard, so she was talking about that
2 victim. She was talking about Antwan Bryant. That is
3 why I said the crime scene was contaminated. They
4 contaminated the evidence.

5 THE COURT: Well, that is an argument that
6 you can make, and if you bring it out on
7 cross-examination, but what you're asking me to do is
8 have them produce evidence, which they say they have
9 produced everything that they have had tested, so any
10 evidence that they have and any results of any test
11 Mr. Wetmore says they have given you.

12 As to the arguments that you would want to
13 make as to the fact that they may or may not have done an
14 investigation at the scene that contaminated any
15 evidence, that would be something that you have to try to
16 bring out when the witness is testifying.

17 MR. TERRELL McCOY: I understand that, Your
18 Honor, but it violates my due process, because also the
19 witness stated that she gave detectives her red jersey
20 shirt, red and white jersey striped shirt, a pair of blue
21 jeans and some flip flops. We only have the red and
22 white jersey shirt. The blue jeans have been destroyed.
23 That is another thing I want to compel from the
24 solicitor.

25 The jeans that she was talking about that she

1 stated she gave the police all their evidence, not all
2 the evidence, but all the clothing that she had on that
3 had blood on it. The pants was destroyed. That's why I
4 wanted Mr. Wilson of the North Charleston police
5 department -- North Charleston police officer to be there
6 to testify and find out what was the evidence. They said
7 they can't give me -- he no longer works there. We can't
8 find him, but he destroyed that evidence.

9 I have a chain of custody sheet where we only
10 received red and white -- the police department only
11 received red and white jersey striped shirt and some flip
12 flops. The pants were destroyed. That violated my due
13 process under Brady vs. Maryland. I'm asking for
14 evidence, exculpatory evidence, that can prove my
15 innocence in this case, and it's destroyed.

16 I'm not -- I can't receive a fair trial. All
17 the evidence that proves my innocence has been destroyed.
18 How can I have a fair trial with all the evidence that
19 proves my innocence has been destroyed?

20 THE COURT: I wish I had an answer for you.

21 MR. TERRELL McCOY: That violates my
22 Fourteenth Amendment under South Carolina constitution
23 article 1 and 3.

24 THE COURT: All right. Anything else?

25 MR. TERRELL McCOY: No, sir.

1 THE COURT: I can only order them to produce
2 what they have, and they said they have. You get to make
3 the argument that something might have been destroyed, or
4 might have been contaminated. You can bring that out on
5 examination of a witness. All right.

6 Let's talk about -- this one looks like it's
7 filed on January 14th of '09, and you filed preliminary
8 rulings, identification, two pages.

9 MR. TERRELL McCOY: Yes, sir. I filed that
10 motion.

11 THE COURT: Go ahead and move back up here.

12 MR. TERRELL McCOY: I'm sorry. I, Terrell
13 McCoy, the defendant in this case, is addressing the
14 Court as self-represented with a motion in limine under
15 South Carolina rule 104, the defendant requesting this
16 motion in limine to seek pretrial evidentiary ruling to
17 prevent the disclosure of --

18 THE COURT: Go ahead and just tell me a
19 little bit about what it is you want. I've got what
20 you're reading from.

21 MR. TERRELL McCOY: Prejudice to the matter
22 because the witness gave a false name when she signed
23 off. That's not her name. That is why I filed a motion
24 to get her marriage license reports because -- the
25 solicitor never disclosed in my Brady Rule 5 and 6 that a

1 witness was going to be testifying at my trial.

2 I have a witness list from police reports
3 that states Carinda Williams. Never stated nothing in my
4 Rule 5 that somebody named Carinda Snowden was going to
5 testify in my trial.

6 THE COURT: If she was lying about what her
7 name was, then that is something you could bring out to
8 impeach her credibility, but that doesn't stop her from
9 having the state call her, you just get to say, You said
10 this was your name. It's not your name.

11 MR. TERRELL McCOY: Right. That's why I
12 asked for reports from the solicitor.

13 THE COURT: Well, the solicitor doesn't keep
14 the marriage records. DHEC keeps the marriage records.
15 The solicitor's office doesn't keep marriage records, an
16 office in Columbia called DHEC does. That's where you
17 get marriage records from.

18 MR. TERRELL McCOY: I also filed this motion
19 in limine because of the evidence that was destroyed.

20 THE COURT: What evidence was destroyed?

21 MR. TERRELL McCOY: Blue jeans, a curtain,
22 and a weapon.

23 THE COURT: Again, if you can bring out that
24 there was evidence that was destroyed, you know, by
25 showing photographs or whatever of the evidence and then

1 asking where it is, then you can talk to the jury about
2 there being evidence that the state has and destroyed.

3 I'll even give you a charge on it. It's
4 called spoliation of evidence. It says if there is
5 evidence out there, you can presume that it was destroyed
6 because it probably would have been unfavorable to the
7 party, but that is something you have to lay a foundation
8 for and, in essence, prove, is that it was there and it
9 was destroyed by the other side.

10 MR. TERRELL McCOY: Under Brady versus
11 Maryland, this due process was violated because the state
12 withheld evidence.

13 THE COURT: There was what?

14 MR. TERRELL McCOY: State withheld evidence.

15 THE COURT: What evidence was that?

16 MR. TERRELL McCOY: It was a statement from
17 the codefendant, was withheld.

18 THE COURT: Do you not have that statement?

19 MR. TERRELL McCOY: I'm talking under Brady
20 versus Maryland.

21 THE COURT: I know, but do you have the
22 statement?

23 MR. TERRELL McCOY: Do I have the statement?

24 THE COURT: Did they provide it to you? Do
25 you have it now?

1 MR. TERRELL McCOY: Yes, sir.

2 THE COURT: Well, they've given it to you.

3 MR. TERRELL McCOY: No, I'm not talking about
4 the state. I'm talking under Brady versus Maryland. I'm
5 stipulating to you that my due process under Brady versus
6 Maryland has been violated because the evidence has been
7 withheld.

8 THE COURT: When did you get it?

9 MR. TERRELL McCOY: I never received it.

10 THE COURT: You just told me you had.

11 MR. TERRELL McCOY: I was talking about Brady
12 vs. Maryland. You tried to cross me up --

13 THE COURT: The statement that you said that
14 a codefendant wrote out --

15 MR. TERRELL McCOY: That is under Brady
16 versus Maryland. That is why they violated my due
17 process.

18 THE COURT: Brady versus Maryland says they
19 have to give it to you if they have it.

20 MR. TERRELL McCOY: And my due process was
21 violated because they didn't produce it.

22 THE COURT: But you just told me you had
23 that.

24 MR. TERRELL McCOY: I never received it.

25 THE COURT: I misunderstood what you're

1 saying. There is a codefendant statement out there that
2 you believe exists?

3 MR. TERRELL McCOY: No, sir. I don't know,
4 not codefendant. I'm stipulating that Brady versus
5 Maryland. Under Brady versus Maryland, the due process
6 was violated because the state withheld a statement that
7 was signed, exculpatory evidence statement saying that he
8 wasn't involved in this crime and withheld during trial,
9 and that violated my due process under the United States
10 constitution and under Maryland constitution.

11 THE COURT: All right.

12 MR. TERRELL McCOY: And I'm stipulating that
13 because my rights are being violated under the United
14 States constitution, as well as 14th Amendment and the
15 South Carolina constitution, Article 113.

16 THE COURT: Okay. All right. Mr. Wetmore,
17 you want to address that issue, or do you still have
18 something else you want to say on that issue, Mr. McCoy?

19 MR. TERRELL McCOY: Also, the state failed to
20 disclose the fact that the witness in this case was being
21 arrested for this charge. It was stated that Detective
22 Jourdan took her to a courthouse and they had some type
23 of conversation. This is after she wrote her two
24 statements. This is after she wrote her two statements.
25 She gave another statement. This conversation was never

1 recorded. This conversation was never brought up in my
2 incident reports.

3 It was never -- I never received nothing
4 stating that a judge signed off on the warrant to arrest
5 Carinda Snowden, so the state failed to disclose that
6 information too. I think that's in my motion to compel
7 too. A judge signed off on a warrant to arrest Carinda
8 Snowden on this murder. When she first gave two
9 statements, she said she didn't know who did it. She
10 didn't know what was going on. 24 hours later, Detective
11 Hill and Detective Jourdan picks her up, but she stated
12 that they called her and said they had a warrant for her
13 arrest, so we met her at the Waterfront Park. They said
14 they had a warrant for her arrest. She was never
15 arrested.

16 And what I was trying to get from the state
17 is some type of documents showing that a judge signed off
18 on the warrant to arrest Carinda Snowden for the murder,
19 or she was charged -- what she was being charged with.
20 This goes to my Rule 5, that this violated my due process
21 and I want to be able to attack this witness, using those
22 arrest warrants under Rule 6.

23 THE COURT: Okay.

24 MR. WETMORE: I think there are two points he
25 was making. Only codefendant I know of is his brother,

1 Travis Holcombe. He was charged with misprison of a
2 felony. He did give a statement to investigators. A
3 copy of that was provided to the defense.

4 It seems like he's also talking about another
5 witness who gave a statement and was questioning the fact
6 that she gave multiple statements. Obviously, that is
7 cross-examination material, a pretty good thing to ask
8 her about on cross-examination. I'm sure he will, but
9 there has been no hiding of any statements. They've only
10 been given to the defendants.

11 THE COURT: There are no other statements
12 that you're aware of?

13 MR. WETMORE: Judge, there are several
14 statements in this case, and they've all been given to
15 him. The ones he's just mentioning, and particularly I
16 was trying to address and I know that --

17 MR. TERRELL McCOY: Statement that she
18 gave --

19 THE COURT: He's saying that every statement
20 that they have taken, either in writing or by tape or
21 however, if it has been recorded, you have been provided
22 with.

23 MR. TERRELL McCOY: I'm not talking about no
24 statement. When I said statement, I was talking about --
25 I was going -- I was telling you about the Brady versus

1 Maryland. If you read --

2 THE COURT: I understand what that is about,
3 but I'm trying to figure out what you're asking me to do,
4 and you're saying provide evidence, because that is what
5 Brady says, is they have to provide you with any evidence
6 that they have, and they are saying they have provided
7 you with every shred of evidence that they have.

8 What evidence is it that you're saying that
9 they have that they have not provided to you? That's
10 what I can't --

11 MR. TERRELL McCOY: I don't have the 1 to 13
12 contaminated evidence. I do not have the blue jeans that
13 was collected.

14 THE COURT: But he's saying they don't
15 have -- you don't have it, Mr. Wetmore?

16 MR. WETMORE: The clothing, everything has
17 been taken to evidence. Ms. Proctor has been through it.
18 There is no blue jeans, to my knowledge, in evidence.

19 MR. TERRELL McCOY: The witness stated that
20 she gave Mitchell Wilson, the North Charleston police
21 officer who no longer works for them -- I don't know why
22 he don't work for them no more, but she stated she gave
23 it to him, blue jeans, red and white striped shirt, and
24 flip flops.

25 THE COURT: You got a witness who said she

1 gave this to somebody, correct?

2 MR. TERRELL McCOY: She said she gave it to
3 the North Charleston police.

4 THE COURT: Okay. If you call that witness
5 and they testify to that, then you can argue that to the
6 jury, that they destroyed evidence, but Mr. Wetmore, as
7 an officer of the court, is saying they didn't collect
8 any of that evidence and they don't have any of that
9 evidence, and whatever they did have and whatever they
10 did collect, they turned over to either you or
11 Ms. Proctor back when she was representing you.

12 I can't manufacture something that doesn't
13 exist. He's saying it doesn't exist. You just have a
14 witness that says it existed.

15 MR. TERRELL McCOY: I understand that.
16 Exculpatory evidence is being withheld.

17 THE COURT: Okay. And so there was some
18 exculpatory evidence that you can come up with --

19 MR. TERRELL McCOY: I am, and I'm
20 stipulating -- it's been said by witnesses, coroner,
21 curtains that have been destroyed -- that give her ample
22 opportunity to place this crime on me. They was coming
23 to arrest her for the warrant -- I mean, for this crime.
24 I never got any --

25 THE COURT: We're just repeating ourselves at

1 this point, so I'm going to rule against you. I'm
2 ordering, again, if the state has any evidence, that they
3 produce it, and if it turns out that they have evidence
4 that they didn't produce, then we'll deal with that at
5 the time, but right now the only thing you're telling me
6 is you got some witness who says some evidence exists.
7 They say they don't have any of that, and that, you
8 know -- I don't know what else to do.

9 MR. TERRELL McCOY: I understand this motion
10 in limine is preliminary. During the process of the
11 trial that you have to give me a final ruling once all
12 the evidence is presented in this case, and I'm saying
13 that it's --

14 THE COURT: All right. Let's move on to your
15 next motion, a request motion to disclose evidence
16 pursuant to rule 104 and 403. That looks like it would
17 have been filed January -- or was this July. The date is
18 not clear. It's dated 1/22/09.

19 MR. TERRELL McCOY: January 22 I filed a
20 motion to exclude.

21 THE COURT: Okay. The state -- you got the
22 date 1/22/09. It looks like it's stamped January the
23 14th.

24 MR. TERRELL McCOY: Yeah. They stamped it on
25 top of the request. I filed a motion to exclude

1 everything under rule 10 --

2 THE COURT: What do you want excluded?

3 MR. TERRELL McCOY: Contradictory statements
4 because it's unfair -- it confused the jury.

5 THE COURT: It what?

6 MR. TERRELL McCOY: The statements -- three
7 statements that were filed under a false name can confuse
8 the jury, so I am filing this motion under 403, unfair
9 prejudice and confusion in misleading the jury. This
10 evidence can mislead the jury, and it can violate my due
11 process under the South Carolina article 1, section 3.

12 So I'm asking that you exclude this evidence.
13 She gave three exculpatory -- she gave three
14 contradictory statements. She's saying I didn't commit
15 this crime, and one's saying I commit this crime after
16 Detective Jourdan and Hill took her and had a
17 conversation with her, and this conversation was never
18 brought up in my reports, and that is why I'm trying to
19 find out, where is this?

20 THE COURT: Okay.

21 MR. TERRELL McCOY: And this is also a
22 violation --

23 THE COURT: You want all three statements
24 excluded from the jury, even the ones that say you didn't
25 do it?

1 MR. TERRELL McCOY: I want the whole
2 testimony excluded.

3 THE COURT: Well, normally, you know, we
4 would just say she gave contradictory statements, and her
5 credibility is a question for the jury to decide.

6 MR. TERRELL McCOY: That is why I'm asking
7 for a hearing for the Court to decide.

8 THE COURT: I don't make that decision. The
9 jury makes that decision. I mean, if she gave
10 contradictory statements, you can bring that out to the
11 jury, but the jury weighs whether or not to give her
12 statements any credibility. Okay?

13 Mr. Wetmore, you want to be heard on that?

14 MR. WETMORE: Judge, I would say exactly what
15 you said. He can ask her about credibility. There is no
16 reason to suppress this statement.

17 THE COURT: Again, that is something that the
18 jury decides, whether or not to give her -- the fact she
19 gave three different statements any weight. I'll see
20 what this evidence says.

21 You've got two motions from here. I don't
22 know if it's the same thing or not. It says pretrial
23 motion to dismiss indictment with prejudice on the
24 following grounds.

25 MR. TERRELL McCOY: Yes, sir. There is

1 two --

2 THE COURT: Two of them on the same day?

3 MR. TERRELL McCOY: Yes, sir. One of them is
4 a speedy trial.

5 THE COURT: One of them is for a speedy
6 trial?

7 MR. TERRELL McCOY: First one is for a speedy
8 trial violation, and the second one is for everything I
9 just stated in my Brady versus Maryland violation. State
10 failed to disclose evidence, and evidence in this case
11 was destroyed.

12 THE COURT: All right. Well, you already had
13 one trial, right? You got a hung jury?

14 MR. TERRELL McCOY: Yes, sir. According to
15 the United States -- my Sixth Amendment right under the
16 United States constitution, placement for a speedy trial,
17 I have the burden of proof. I filed for the speedy trial
18 December 29th of 2006. I wasn't brought forth to trial
19 until July 14th, 2008. This violated my due process to a
20 speedy trial.

21 I brought it to my counselor, my acting
22 counsel at that time, and she told me that South Carolina
23 does not have no speedy trial clause, but according to
24 the South Carolina constitution, article 1, section 3 --
25 I mean, excuse me, according to South Carolina

1 constitution article 1, section 14, South Carolina do
2 have a speedy trial clause.

3 State has failed to bring forth to a trial.
4 That violated my speedy trial rights, and even though I
5 was brought forth to trial on July 14th, I'm still
6 protected under the speedy trial clause.

7 Now, if Judge Deadra Jefferson declared a
8 mistrial on July 17th, I should have been brought forth
9 to trial during the week of September 22nd, 2008. That
10 also violated my due process under the United States
11 constitution and the South Carolina constitution.

12 THE COURT: Did you have a motion for a
13 speedy trial pending back then?

14 MR. TERRELL McCOY: Sir?

15 THE COURT: When did you file your motion for
16 a speedy trial?

17 MR. TERRELL McCOY: I filed my motion for
18 speedy trial -- I think you have the burden of proof, on
19 December 29, 2006.

20 THE COURT: Okay.

21 MR. TERRELL McCOY: And I was never brought
22 forth for trial until July 14, 2008. The state has
23 failed to bring forth the trial. The state has denied
24 all my rights -- violated all my rights, and the speedy
25 trial is designed to protect the accused or oppressed

1 from incarceration. I've been incarcerated for 35
2 months.

3 THE COURT: Uh-huh.

4 MR. TERRELL McCOY: All this has disrupted my
5 family's life. My attorney was very ill. That is why
6 I'm representing myself today. I filed the complaint
7 with the South Carolina Office of Disciplinary Counsel
8 against Ms. Proctor and against Mr. Burns Wetmore.

9 During my first trial, my compulsory process
10 was denied. Available witnesses were available and were
11 not allowed to testify. The state violated my right to
12 confront witnesses against them, against me. The state
13 failed to call Rae Wooten, the coroner from Charleston
14 police department to testify at my first trial. There
15 was testimony given by Detective A. Bunker, exculpatory
16 evidence, which was withheld during the first trial was
17 took by coroner Rae Wooten.

18 I never got the opportunity to confront this
19 witness and doing so was a violation of my Sixth
20 Amendment confrontation clause, which also applies to
21 physical evidence, provided defense ample opportunity to
22 cross-examine. The state has deprived me of my due
23 process and liberty of freedom of movement. If the trial
24 commenced today, I won't receive a fair trial because
25 exculpatory evidence was withheld.

1 Those DNA test results, fingerprint results,
2 are favorable to my case. Those blue jeans are favorable
3 to my case. Those curtains that were destroyed are
4 favorable to my case. All this evidence proves that I'm
5 innocent and they were destroyed by North Charleston
6 police department because it proves that I'm innocent.
7 And it was proving I was guilty, it would have been here,
8 but being that it proved I am innocent, it was destroyed.
9 And that is why I asked that this indictment be dismissed
10 with prejudice on the following grounds.

11 THE COURT: All right. Mr. Wetmore, you want
12 to be heard?

13 MR. WETMORE: Judge, as to the physical
14 evidence, I know Ms. Proctor has gone through it. It's
15 here now. Everything has been collected. It's here now.
16 Everything has been collected. It's been provided, so I
17 can't say that enough.

18 Finally, the speedy trial issue he's raised,
19 I was assigned this case about a year ago. I tried this
20 case with Ms. Proctor in July of last year. As you know,
21 it was a hung jury. As soon as the transcript came back,
22 we scheduled it, and we're prepared to begin today, so we
23 argue that is moot because we're here at trial.

24 MR. TERRELL McCOY: Could I have some rubber
25 gloves so I can look at the evidence? He says the

1 evidence there, but according to the chain of custody --
2 excuse me --

3 MR. WETMORE: My understanding, there is one
4 curtain. I certainly don't want to deny him the
5 opportunity to examine the physical evidence Ms. Proctor
6 has. I'm sure she has shared her findings with him, but
7 the evidence is here. We're certainly not hiding
8 anything, destroying anything. It's all here.

9 MR. TERRELL MccOY: I never received that. I
10 never received it.

11 THE COURT: All right. When we take a break,
12 you can take a look at anything that you've got. Before
13 he presents it, they'll show it to you. You can sit
14 down. We'll take a little break before we start. We can
15 see if there is anything on this list that -- this, in
16 particular, is what you're looking at? These don't
17 exist, is what you're saying?

18 MR. TERRELL MccOY: That one curtain exists.
19 There is two more curtains, one that is under the victim
20 and one that was found -- there is two more curtains.

21 THE COURT: All right. What you're going to
22 have to do is bring out some kind of evidence that there
23 was other curtains and that you could raise the inference
24 it exists, but otherwise, you're just going to -- you
25 just want to stand up to the jury and say, Folks,

1 evidence got destroyed. The state doesn't have it.
2 Anybody can say that.

3 MR. TERRELL McCOY: It violates my due
4 process under the South Carolina constitution.

5 THE COURT: Understand, you got to do
6 something other than just say there is evidence.

7 MR. TERRELL McCOY: I have physical evidence.
8 I have the pictures.

9 THE COURT: You'll be able then to talk to
10 that about any witnesses, police officers or any other
11 witnesses that you have, but you understand, I can't just
12 dismiss the case because you say evidence exists.

13 MR. TERRELL McCOY: Yes, sir.

14 THE COURT: Okay? You have to prove that it
15 existed and it was destroyed, and then I can give the
16 jury the charge at the appropriate time to say, Folks,
17 you've heard evidence. You've heard evidence that there
18 was evidence perhaps that existed and got destroyed, and
19 you can make an adverse inference against the party that
20 had it and destroyed it, but I won't do that unless you
21 put forth some evidence that it actually existed, other
22 than your word.

23 MR. TERRELL McCOY: So if we have the
24 evidence then -- if we have the evidence then -- if we
25 have the evidence today, it was never disclosed to me

1 that we have two more curtains with blood?

2 THE COURT: At the end of the trial, we have
3 evidence.

4 MR. TERRELL McCOY: Yes, sir, that two more
5 curtains exist. Under my motions I filed, I asked the
6 solicitor to produce all evidence, even if it wasn't
7 favorable under Rule 5 and 6 --

8 THE COURT: I know what you asked, and you
9 want the state to produce these curtains. The state
10 says, as far as they know, they do not exist. They don't
11 have them.

12 MR. TERRELL McCOY: They're saying that, but
13 we have pictures that they do exist. We have physical
14 evidence that they do exist.

15 THE COURT: All right. Then that will come
16 out in the course of trial. We will deal with that
17 appropriately. In the pretrial stage, there is nothing I
18 can do about it other than order if they have it to
19 produce it.

20 MR. TERRELL McCOY: They disclosed they do
21 have it. I never got a chance to view -- you know, the
22 set of defense, present a defense, because they never
23 disclosed the fact that -- I never received any
24 documents, so how can I present a defense if I never
25 received any kind of documents saying they had these

1 other two curtains that were in the house?

2 THE COURT: But they're saying they don't
3 exist.

4 MR. TERRELL McCOY: They sent me the
5 pictures, so they have to have it, so it does exist.

6 THE COURT: I told you how I can deal with
7 it. That's the only way I can deal with it. What else
8 we got? This is the same thing with -- this is
9 repetitive, same thing with gunshot evidence and forensic
10 evidence and Brady. We just already dealt with that,
11 haven't we?

12 MR. TERRELL McCOY: That is Brady versus
13 Maryland.

14 THE COURT: Again, they've said they produced
15 everything that they have. Okay? And they say they
16 tested -- every test that they have conducted they've
17 given you a copy of.

18 MR. TERRELL McCOY: They never gave me a copy
19 of the beer bottles that was collected.

20 THE COURT: They didn't give you what?

21 MR. TERRELL McCOY: The four Ice House beer
22 bottles that was collected at the crime scene.

23 THE COURT: Do those exist, Mr. Wetmore?

24 MR. WETMORE: I know they were collected. As
25 I tell him, everything that is collected is here in this

1 courtroom in this box.

2 THE COURT: Okay.

3 MR. WETMORE: And certainly as Your Honor has
4 pointed out, if we're going to produce a piece of
5 evidence, we'll let him look at it, and if Your Honor is
6 inclined at some point during the trial to review the
7 evidence, the physical evidence here --

8 THE COURT: If you wanted to have a test
9 conducted on it and they didn't conduct it, the time to
10 have made that motion has passed. We're here at the
11 trial. If you could have made discovery motions to test
12 evidence before the trial started, you can't do that in
13 the middle of a trial.

14 MR. TERRELL McCOY: That motion was made
15 April 2006, Your Honor.

16 THE COURT: It was what?

17 MR. TERRELL McCOY: The motion for the
18 evidence was made April 2006.

19 THE COURT: Okay. So that got ruled on
20 before your first trial, correct?

21 MR. TERRELL McCOY: Right, and they still
22 failed to produce that evidence.

23 THE COURT: It did not get produced at your
24 first trial?

25 MR. TERRELL McCOY: No, sir.

1 THE COURT: All right. Did you make a motion
2 to have a testing done on it?

3 MR. TERRELL McCOY: Yes, sir. That is why I
4 fired my attorney, because she failed to protect my
5 rights.

6 THE COURT: All right. Well, you elected to
7 fire your attorney and proceed without and represent
8 yourself, and you told Judge Dennis last week you were
9 ready to go to trial this week.

10 MR. TERRELL McCOY: Yes, I'm ready. But how
11 can I be given a fair trial when all this exculpatory
12 evidence has been destroyed, or never disclosed to me?
13 How can I prepare a defense if I don't have this
14 exculpatory evidence? I need this evidence.

15 THE COURT: Did you tell Judge Dennis last
16 week that you wanted to run some tests on this stuff?

17 MR. TERRELL McCOY: Sir?

18 THE COURT: Did you tell Judge Dennis last
19 week that you wanted to run the test on this evidence?

20 MR. TERRELL McCOY: I went over a couple
21 motions with him. I went over a motion to compel with
22 him.

23 THE COURT: And what did he rule?

24 MR. TERRELL McCOY: He told me to wait till
25 trial, and that is what I'm doing today.

1 THE COURT: What can you tell me about
2 motions that got heard last week, Mr. Wetmore?

3 MR. WETMORE: Last week I was in Court with
4 his motion, pro se, to be granted. To the best of my
5 recollection, he made some motions in limine. Judge
6 Dennis would not hear those, so those were for the trial
7 judge.

8 I think once he reiterated his speedy trial
9 concerns, Judge Dennis agreed they were moot. I don't
10 remember if there were any others in particular. Oh, he
11 actually -- he mentioned his belief that evidence was
12 contaminated, which I discussed with you before, which,
13 in fact, was North Charleston's evidence, to not
14 contaminate. He did hear that and he did deny that
15 motion.

16 Certainly, there has been no evidence
17 destroyed, withheld. It's been in the evidence locker
18 the whole time this case has been pending. I know Ms.
19 Proctor has looked at it several times. We've looked at
20 it several times. It's all here today, and everything
21 has been tested. It's been reported to Mr. McCoy, and,
22 Judge, I think it's appropriate that we ask Mr. McCoy not
23 to, in front of the jury, begin to rail on about how
24 evidence has been destroyed, because that is simply not
25 the case.

1 I would ask that you limit him from saying
2 that. There is absolutely no basis for that. There is
3 no evidence that he could bring up for that. He can
4 certainly cross-examine witnesses about what they should
5 have done or what they did with items, but for him to
6 come out firing with evidence has been destroyed is
7 inappropriate.

8 MR. TERRELL McCOY: I object to that because
9 evidence -- if the state has contaminated a report, then
10 it needs to be brought up.

11 THE COURT: Well, I won't have you comment on
12 something that is that inflammatory -- in the opening
13 statement, you can talk about evidence, witnesses, things
14 like that, but what you can't do, I don't want you to do
15 at this point, is say there is going to be evidence that
16 they destroyed. If during the course of trial you prove
17 that evidence was destroyed, then at the closing
18 argument, you can comment on that.

19 And I don't let lawyers or anybody, no judge
20 will, talk about -- just go up and make accusations
21 because then you can't prove them, because then the jury
22 is, What was that I heard about evidence that got
23 destroyed? And then there is no evidence of it. If you
24 can prove it in trial, then you can talk about it in
25 trial.

1 MR. TERRELL McCOY: I ask that you not make a
2 final ruling right now on the motion in limine until I
3 build a foundation to prove that evidence and --

4 THE COURT: We'll talk about that later in
5 the trial then. This got filed December 29th, '06,
6 speedy trial. That one already got ruled on, didn't it?

7 MR. TERRELL McCOY: I'm still protected under
8 that law. I'm still protected --

9 THE COURT: To do with venue, Charleston
10 County? You're saying venue is proper.

11 MR. TERRELL McCOY: Yes, sir.

12 THE COURT: And you're in Charleston County.

13 MR. TERRELL McCOY: Yes, sir. Excuse me.
14 Under that speedy trial clause, it stipulates sanctions
15 under 3162, and it says that if the defendant is not
16 brought to trial within the time that is required by
17 section 31(C) as extended by section 31, 61(A), the
18 information on the indictment shall be dismissed by a
19 motion on the defendant. Defendant shall have the burden
20 of proof to support such a motion and the government
21 shall have the burden of going forward in connection with
22 any exclusion under time limits.

23 In determining whether to dismiss the case
24 with or without prejudice, the Court shall consider,
25 among others, each of the following factors, the

1 seriousness of the offense, the facts and circumstances
2 of the case, which led to the dismissal, and the impact
3 on reprosecution under administration of this chapter and
4 on the administration on the justice, failure of the
5 defendant to move for a dismissal prior to trial, or
6 entry of a plea of guilty or nolo contendere shall
7 constitute a waiver to the right of dismissal under the
8 section. And that is why I stipulate this motion to
9 dismiss, violation of my speedy trial, Sixth Amendment.

10 THE COURT: I'm sorry. Go ahead. You wanted
11 to say something else? Mr. Wetmore, do you want to
12 respond to that?

13 MR. WETMORE: Judge, I believe I've already
14 been heard on the speedy trial issue. We're here on
15 trial. This is the second time he's been up for trial.

16 THE COURT: Your motion is denied. Now, we
17 got a request pursuant to South Carolina rule of criminal
18 procedure five and six. Well, Brady versus Maryland,
19 we've dealt with that, and you also assert your Fifth
20 Amendment right to remain silent. I thought I read
21 something earlier that said you wanted to testify. You
22 don't have to testify if you don't want to. Okay?

23 MR. TERRELL McCOY: I'll decide, Your
24 Honor --

25 THE COURT: You don't have to make that

1 decision about whether or not you want to testify until
2 after the state presents its case.

3 MR. TERRELL McCOY: Yes, sir.

4 THE COURT: Okay.

5 MR. TERRELL McCOY: I filed the motion in
6 limine to determine the admissibility of prior
7 convictions.

8 THE COURT: Of what?

9 MR. TERRELL McCOY: Motion in limine to
10 determine admissibility of prior convictions.

11 THE COURT: Okay. All right. Okay. Here we
12 go. Motion in limine to determine the admissibility of
13 prior convictions. All right. What prior convictions do
14 you have?

15 MR. TERRELL McCOY: I haven't been convicted
16 of a felony in ten years.

17 THE COURT: You have or have not?

18 MR. TERRELL McCOY: I have not.

19 THE COURT: Did the state want to present
20 evidence of some other convictions?

21 MR. WETMORE: Judge, just looking at the
22 window, he has a 2009 possession of crack --

23 THE COURT: That's an arrest or conviction?

24 MR. WETMORE: Conviction.

25 MR. TERRELL McCOY: I never was convicted --

1 THE COURT: Possession of crack, 2009?

2 MR. WETMORE: I'm sorry, 1999.

3 THE COURT: Oh, in '99.

4 MR. WETMORE: Then he also has possession
5 with intent to distribute cocaine within proximity of a
6 school, resisting arrest.

7 THE COURT: When was that?

8 MR. WETMORE: These are all from -- February
9 1, 1999. I guess, actually, Judge, it would put him out
10 of that window by one day.

11 THE COURT: Okay. All right. Then we
12 won't --

13 MR. WETMORE: He has several convictions,
14 Judge. I'm just looking at the ones that would be
15 admissible.

16 THE COURT: All right.

17 MR. WETMORE: Actually, Judge -- I'm looking
18 at this one here, Judge. The incident that happened in
19 1999, the conviction is February 1, 1999, possession of
20 crack, PWID cocaine within proximity of a school, and he
21 came to court on February 1, 1999, which would have been
22 ten years and one day, but he received a YOA sentence, so
23 that is still within the time frame. So I would seek to
24 introduce those convictions of possession of crack, PWID
25 cocaine within proximity, resisting arrest.

1 Those are the extent of the convictions. I
2 believe they're admissible because obviously he wouldn't
3 have been released from his sentence, paroled from the
4 YOA, until much later than February of 1999, Your Honor.

5 THE COURT: Well, because of the age of
6 those, I don't think that the probative value
7 substantially outweighs its prejudicial effects, so I'll
8 order that you not use those, so you won't be able to use
9 those if you take the stand.

10 All right. Next we've got --

11 MR. TERRELL McCOY: Motion in limine,
12 statement of the defendant.

13 THE COURT: Statement of defendant. All
14 right. So you gave a statement?

15 MR. TERRELL McCOY: Yes, sir.

16 THE COURT: All right. And you're saying
17 that, what, it wasn't freely, voluntarily given?

18 MR. TERRELL McCOY: I never had a lawyer,
19 never had an attorney present.

20 THE COURT: Tell me something about this
21 statement, Mr. Wetmore.

22 MR. WETMORE: Judge, he gave a self-serving
23 statement that articulated some sort of alibi to
24 Lieutenant Deckard here. He gave that statement at the
25 police station. I have a copy, if you'd like to see it,

1 Judge. I was not intending to introduce them to my case
2 in chief; however, Mr. McCoy does put up some sort of an
3 alibi. It would be something that I might seek to
4 introduce, and then, if such, we would have to have a
5 hearing.

6 THE COURT: Okay. Well, he's saying he's not
7 going to put it up in his case. If you testify, then he
8 might consider it, so we'll deal with whether or not it's
9 admissible, after you make a decision to testify. Okay?

10 And, finally, we got a motion to suppress the
11 identification of you. All right. This would be whose
12 identification of you? Who identifies you?

13 MR. TERRELL MCCOY: Carinda Snowden, or
14 Carinda Williams.

15 THE COURT: Okay.

16 MR. TERRELL MCCOY: But when she identified
17 me, she was never -- she -- the police never given her a
18 six photo mugshot. They just gave her one mugshot with
19 my face on it. She was never given a six photo mugshot.
20 That violated my due process. Police procedure states
21 that when police are showing a witness photos of a
22 possible suspect that it's supposed to be shown a six
23 photo mugshot. In this case she was shown a one photo
24 mugshot with me on it. That violated my due process
25 also.

1 THE COURT: What about that, Mr. Wetmore?

2 MR. WETMORE: Judge, Ms. Snowden and another
3 witness is going to testify and identify Mr. McCoy. They
4 both know him. They've both known him for some period of
5 time. My understanding from looking at the investigation
6 with North Charleston was she gave this information. She
7 gave these names, and they merely got the pictures to
8 confirm that is who she was talking about, but there was
9 no identification issue.

10 She said this is exactly who it is. The
11 other witness, similarly he said, so there is no real
12 identification issue that was tainted by any sort of
13 photographic display.

14 THE COURT: Are these folks you're going to
15 put up first or in what order?

16 MR. WETMORE: I'm going to put up the two
17 witnesses, two lay witnesses who were in the street and
18 in the room with him that night, and they're certainly
19 going to talk about what they experienced and how they do
20 know Mr. McCoy.

21 THE COURT: Okay. These aren't the ones he's
22 talking about with the photographs, though? Oh, they
23 are?

24 MR. TERRELL MCCOY: Carinda Williams, she was
25 shown one photograph. I have it, if you want --

1 THE COURT: What are the names of the folks
2 that you're talking about, Mr. Wetmore?

3 MR. WETMORE: I'm going to call Carinda
4 Snowden to the stand and Brandon Cuttino to the stand.
5 They both knew Mr. McCoy well and they gave his name, and
6 there was no real identification process of using
7 photographs. They knew him.

8 THE COURT: Okay. The police did not show
9 them a mugshot, or they did?

10 MR. WETMORE: My understanding is that they
11 showed these witnesses pictures to match up names with
12 faces and street names with regular names, but there was
13 no identification issue. They knew who these people
14 were. They were describing who they were.

15 MR. TERRELL McCOY: She stated --

16 THE COURT: So they had already told the
17 police that Mr. McCoy was the person?

18 MR. WETMORE: That's my understanding, yes,
19 sir.

20 MR. TERRELL McCOY: No, sir.

21 THE COURT: Hold on. I'm asking Mr. Wetmore
22 this.

23 MR. WETMORE: Yes, sir. They had already
24 given -- already made the identification because they
25 knew them. They weren't trying to figure out who it was,

1 they knew who it was, and they were telling them who it
2 was. My understanding is they simply matched up faces
3 with names so that North Charleston knew who they were
4 talking about.

5 MR. TERRELL McCOY: That's not the case, Your
6 Honor. She was shown a picture of me. First, she gave
7 two statements saying she didn't really -- she didn't
8 know who did the crime. Just like I said, she was taken
9 (sic) to a garage by Detective James Hill and Detective
10 Jourdan, and they had some type of conversation for about
11 an hour. Then she comes back and he takes her to the
12 North Charleston police department, and that is when she
13 gave -- she said, I'm the person. They showed her a one
14 photo picture of me instead of a six photo mugshot.

15 She stated that -- she didn't know me, she
16 didn't know me because I never was staying in Charleston.
17 I didn't move to Charleston until 2005. I was away from
18 Charleston for five, six years, so she never knew me.

19 THE COURT: I might have to hear what the
20 witnesses have to say about the identification before I
21 can make a ruling on that. So these are going to be,
22 like, your first two witnesses, Mr. Wetmore?

23 MR. WETMORE: Yes, sir.

24 THE COURT: All right. Why don't you get
25 them lined up so we can do a little hearing on that, and

1 let's take a little rest room break. We'll come back in
2 ten minutes.

3 (Recess taken.)

4 MR. WETMORE: As I understand, this is a
5 hearing to discuss the identification issues --

6 THE COURT: Of the two people you said you
7 were going to call right off the bat.

8 MR. WETMORE: And my understanding, there is
9 just the one -- there is one witness named Carinda
10 Snowden, and she, you know, came to North Charleston and
11 said, This is the person that did it.

12 And so they showed her the typical six pack,
13 and she identified the defendant.

14 THE COURT: Okay.

15 MR. WETMORE: Then she spoke to them again,
16 once again said it was the defendant who did it --

17 THE COURT: She identified him by name?

18 MR. WETMORE: By a street name, yes, sir.

19 THE COURT: Okay.

20 MR. WETMORE: She knows him, and she's not
21 trying to figure out who it is. She's telling them, This
22 is who I saw do it. She just doesn't know what she calls
23 the government name, the real name, so they used a single
24 photograph just to make sure that they have the right
25 person for the arrest, so there is never an issue of her

1 figuring out who it is. She's known it for a long while,
2 and she is here and can certainly tell you about that, if
3 Your Honor wants to hear from her, but I'll argue it's
4 not an identification issue, because it's not based on
5 the pictures. She knew him.

6 THE COURT: Okay. Well, let's just put her
7 up and have her say that so it's on the record. Yes,
8 sir?

9 MR. TERRELL MCCOY: She was never shown --

10 THE WITNESS: Six.

11 THE COURT: We're going to figure out,
12 because you say one thing, and they say the other.

13 MR. WETMORE: Do you have the original copy?

14 (Photo line-ups were marked as State's
15 Exhibits 1 and 2.)

16 CARINDA WILLIAMS,
17 having been first duly sworn,
18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. WETMORE:

21 Q. We're here to talk about your identification of
22 the defendant in this case, Terrell McCoy. When did you
23 first come to know Mr. McCoy?

24 A. I know him close now to about four or five years.
25 I used to go with his brother.

1 Q. This event happened on March 25th, 2006. At that
2 time, how long you had known the defendant?

3 A. For at least about a year or so.

4 Q. So you knew him starting approximately March of
5 2005, I guess.

6 A. Yes.

7 Q. How did you know him exactly?

8 A. Being in the same neighborhood I lived in, dealing
9 with his brother, and he used to come to my house.

10 Q. So he actually came to your house with his
11 brother?

12 A. Yes, sir.

13 Q. And your relationship -- I guess you were dating
14 or something his brother.

15 A. Yes, sir.

16 Q. Okay. And so for approximately a year, you knew
17 this man?

18 A. Yes, sir.

19 Q. And how long did you go out with his brother, that
20 whole year or --

21 A. Off and on, but I still only saw him.

22 Q. So you were kind of off and on with your
23 relationship with his brother, but you knew him for about
24 a year?

25 A. Yeah.

1 Q. Now, you said he came to your house. You saw him
2 out in the neighborhood.

3 A. Yes.

4 Q. How else did you know him? Did you know him
5 socially? Did you know him --

6 A. Socially, we ate around each other. He's been to
7 my house several occasions.

8 Q. You knew what he looked like?

9 A. Yes.

10 Q. Knew what his face looked like?

11 A. Yes.

12 Q. You knew who he was?

13 A. Yes.

14 Q. Obviously, you knew who his brother was. You had
15 dated him.

16 A. Yes.

17 Q. Now, did you know what his name was?

18 A. His government, no.

19 Q. How did you know him?

20 A. I identified him.

21 Q. How did you -- like, when you went to call his
22 name --

23 A. Sleezie.

24 Q. You called him Sleezie?

25 A. Yes.

1 Q. That was a nickname, street name?

2 A. Yes, sir.

3 Q. And that is the name you knew him by?

4 A. Yes, sir.

5 Q. But you also knew that he was your boyfriend's
6 brother?

7 A. Yes, sir.

8 Q. And you knew him for approximately one year?

9 A. Yes, sir.

10 Q. Okay. Now, the night that this happened, you were
11 actually an eyewitness to this murder, correct?

12 A. Yes, sir.

13 Q. And did you see the defendant shoot and kill the
14 victim, Antwan Bryant?

15 A. Yes, I did.

16 Q. You saw him with your two eyes?

17 A. Yes, I did.

18 Q. And there was no doubt in your mind who it was?

19 A. No, sir.

20 Q. And you knew this to be the person that was your
21 boyfriend's brother?

22 A. Yes, sir.

23 Q. And you knew him as Sleezie?

24 A. Yes, sir.

25 Q. Now, when you talked to -- let me back up one step

1 there. That night when it happened, your identification,
2 your vision, your viewing of the defendant, was it
3 clouded by anything, clouded by sleep?

4 A. I don't understand.

5 Q. Were you groggy? Were you asleep or were you
6 focussed on what was happening?

7 A. I was focussed.

8 Q. Were you high or were you strung out on any kind
9 of drug or drug?

10 A. No, sir.

11 Q. So your memory wasn't cloudy?

12 A. No, sir.

13 Q. Were your observations blocked by anything?

14 A. No, sir.

15 Q. You were clearly able to see what happened?

16 A. Yes, sir.

17 Q. Clearly able to see the defendant?

18 A. Yes, sir.

19 Q. And you knew him?

20 A. Yes.

21 Q. Now, you talked to North Charleston police
22 department three different times.

23 A. Yes, sir.

24 Q. First time you talked to them was right after this
25 murder happened.

1 A. Yes.

2 Q. And in that first statement, were you honest with
3 North Charleston police department?

4 A. No, sir.

5 Q. Okay. At that point, did you look at any
6 pictures?

7 A. No, sir.

8 Q. Okay. And at that point, the first time you
9 talked to them and you were not honest with them, did you
10 tell them that the defendant committed this murder?

11 A. No, sir.

12 Q. So you didn't give up his name at that point?

13 A. No, sir.

14 Q. The second time you talked to North Charleston
15 police department, when did that take place?

16 A. It was the same time, right after the first time.

17 Q. So just shortly after the first statement, you
18 gave them a second statement?

19 A. Some hours had went past the second time.

20 Q. It was that same day?

21 A. Yes, sir.

22 Q. And you gave them a second statement?

23 A. Yes.

24 Q. And in that statement, did you identify the
25 defendant?

1 A. Yes, I did.

2 Q. Do you remember telling them that the guy that did
3 it was your boyfriend's brother?

4 A. Yes, I do.

5 Q. Do you remember telling them that his street name
6 is Sleezie Boy?

7 A. Yes.

8 Q. And you could see him well, and you identified him
9 the second time you spoke to North Charleston?

10 A. Yes.

11 Q. Now, at that time, did you look at any photographs
12 with North Charleston police?

13 A. Yes.

14 Q. Okay. Did you look at single pictures or did you
15 look at multiple pictures on the page?

16 A. Multiple.

17 Q. Okay. Now, when you looked at these pictures on
18 the page, did North Charleston police department tell
19 you, Hey, the guy that we think did this is in here?

20 A. No, sir.

21 Q. Did they tell you that they had a suspect in this
22 lineup?

23 A. No.

24 Q. Did they tell you who to pick?

25 A. No.

1 Q. Did they tell you which one was the one they
2 thought did it?

3 A. No.

4 Q. What exactly did they ask you?

5 A. Can I identify the individual in this picture, in
6 this photograph.

7 MR. WETMORE: If I may approach, Your Honor.

8 THE COURT: You may.

9 BY MR. WETMORE:

10 Q. I'll show you what has been marked as State's No.

11 1. Can you identify that?

12 A. Yes.

13 Q. What is that?

14 A. It's the photograph I've seen. It's the
15 photograph. I identified him.

16 Q. Were you able to identify the photo of the
17 defendant?

18 A. Yes.

19 Q. Where is that picture?

20 A. He's the third person at the top.

21 Q. And did they ask you to write on it, circle it,
22 anything like that?

23 A. Not on this, no.

24 Q. You didn't make a mark on that paper?

25 A. No, sir.

1 Q. But you pointed to them who -- the guy you were
2 talking about?

3 A. Yes.

4 Q. And in that second meeting, you had told him, Hey,
5 this is the guy that did it.

6 A. Yes.

7 Q. And then they showed you those pictures?

8 A. Yes.

9 Q. And you once again said, This is the guy I'm
10 talking about.

11 A. Yes.

12 Q. But you didn't mark on it at that point?

13 A. No.

14 Q. Now, the next day you talked to North Charleston
15 police department; is that correct?

16 A. Yes, sir.

17 Q. How did that meeting come about?

18 A. I called the detective.

19 Q. So you set up that meeting?

20 A. Yes, I did.

21 Q. Once again, did you tell them that it was the
22 defendant that did this murder?

23 A. Yes, I did.

24 Q. The defendant that you know, the defendant that is
25 your boyfriend's brother?

1 A. Yes.

2 Q. At that point did you look at any photographs?

3 A. Yes, I did.

4 Q. And at that point did you look at a photograph
5 that was a bunch of them on one page?

6 A. No.

7 Q. Or one big one, one small one?

8 A. Yes.

9 Q. So you looked at a single picture on this?

10 A. Yes.

11 Q. Tell me how that took place. Did they tell you,
12 This is the guy we think did it?

13 A. No.

14 Q. What did you tell them?

15 A. Who it was. I told them his name.

16 Q. So you told them the name, but, once again, you
17 didn't know his government name?

18 A. No.

19 Q. At that point did they show you a single
20 photograph?

21 A. Yes.

22 Q. If I may approach the witness, Your Honor.

23 THE COURT: You may.

24 BY MR. WETMORE:

25 Q. Could you look at State's No. 2.

1 MR. TERRELL McCOY: Could I see that, Your
2 Honor?

3 BY MR. WETMORE:

4 Q. Could you identify what has been marked as State's
5 No. 2? Can you take a look at State's 2. Is that the
6 picture you're talking about, single picture?

7 A. Yes. That's him.

8 Q. And did they ask you to write on that picture?

9 A. Yes.

10 Q. What did you write on that picture?

11 A. I identified him as Sleezie Boy. It has my last
12 name, my first and last name.

13 Q. Okay.

14 A. And this is the person.

15 Q. So you told them who did it.

16 A. Yeah.

17 Q. They showed you that picture.

18 A. Yes.

19 Q. And you wrote on the picture, This is the person
20 I'm talking about?

21 A. Yes.

22 Q. Once again, did they tell you, Hey, this is the
23 person that we think did it?

24 A. No.

25 Q. Did they know who did it?

1 A. No.

2 Q. How did they know who did it?

3 A. Because I told them.

4 Q. At any point did they ever suggest to you who this
5 person was, or who to pick or which photograph?

6 A. No, never.

7 MR. WETMORE: If I could have just one
8 second, Your Honor.

9 BY MR. WETMORE:

10 Q. Ms. Snowden, just so we're clear, you know this
11 man, this defendant.

12 A. Yes, I do.

13 Q. From your relationship with his brother, from
14 being around him?

15 A. Yes.

16 Q. And your identification of him in court today is
17 based on that?

18 A. Yes.

19 Q. And you saw this man commit a murder?

20 A. I saw him do it.

21 Q. You saw him?

22 A. Yes, sir.

23 Q. So your identification in court is based on that
24 observation?

25 A. Yes, sir.

1 Q. Your identification of him is not based on the
2 photographs that you were shown.

3 A. No.

4 MR. WETMORE: I don't have any further
5 questions.

6 THE COURT: Mr. McCoy?

7 CROSS-EXAMINATION

8 BY MR. TERRELL McCOY:

9 Q. Is it Carinda Snowden or Williams?

10 A. Carinda Snowden Williams.

11 Q. When you gave this statement, you used Carinda
12 Snowden.

13 A. I use both my names. I use Snowden when I'm
14 working. I use both my names.

15 Q. Where did Williams come from?

16 A. My married name.

17 Q. We did an investigation, and you never was
18 married.

19 A. I was married, and still am.

20 Q. We don't have no type of marriage license --

21 MR. WETMORE: Objection, Your Honor.

22 THE COURT: What is your objection?

23 MR. WETMORE: The basis of this hearing is
24 for the identification. These are questions of
25 cross-examination for trial.

1 THE COURT: Mr. McCoy, what we're doing now
2 is we're focussing in on the identification issue with
3 the photographs. That whole issue about her names and
4 stuff, you can go into that, but just go into that at
5 trial. Just ask her questions about the suggestiveness
6 of the photograph lineups, or photographs, and how she
7 went about identifying you. Okay?

8 BY MR. TERRELL McCOY:

9 Q. You just stated when they showed you six
10 photographs, or six mugshot photographs, right?

11 A. Yeah.

12 Q. But you never marked -- you never picked the
13 defendant out.

14 A. I picked you out.

15 Q. You never picked the defendant out on the exhibit.

16 MR. TERRELL McCOY: Your Honor, may I
17 approach the witness?

18 THE COURT: Sure. Well, she's not
19 comfortable with that. I'll tell you what: You want to
20 hand that to the bailiff? They can hand it to the
21 witness.

22 MR. TERRELL McCOY: Let's mark that as
23 Defense Exhibit No. 1.

24 (Mugshot marked for identification as
25 Defendant's Exhibit No. 1.)

1 BY MR. TERRELL McCOY:

2 Q. You never picked the defendant out on that
3 mugshot?

4 A. Yes, I did.

5 Q. Can you show me where you circled it?

6 A. I didn't circle it. I pointed it out.

7 Q. So why didn't you circle it?

8 A. I wasn't asked to.

9 Q. You wasn't asked to?

10 A. But I know who the person was.

11 Q. So on this mugshot right here --

12 A. Yes.

13 Q. -- you were shown a mugshot with the Charleston
14 County sheriff office detention center on it, right?

15 A. That's what it says.

16 Q. And it has -- you said you identified the person
17 as Sleezie and Willy D. Who is Willy D?

18 A. You.

19 Q. That is not my name.

20 A. That is some of the names you was called.

21 Q. I'm sorry, ma'am.

22 A. Okay.

23 THE COURT: You can't argue with her, now.

24 Just ask questions.

25 BY MR. TERRELL McCOY:

1 Q. Now, you stated you was dating the defendant's
2 brother, Travis, right?

3 A. Yeah.

4 Q. And how long was you dating Travis?

5 A. Me and him was off and on.

6 Q. And then you said your boyfriend, Travis Johnson.
7 Who was Travis Johnson?

8 A. That is the name that I told them in my first
9 statement.

10 Q. But if that is your boyfriend, why would you say
11 his name is Travis Johnson?

12 MR. WETMORE: Objection. Once again, we're
13 here talking about the identification of the defendant,
14 not of his brother.

15 THE COURT: Let's just stick -- what does
16 that have to do with the identification on photographs?

17 MR. TERRELL McCOY: She's saying she knew me
18 from my brother Travis Johnson. That's not my brother's
19 name. My brother's name is Travis Holcombe.

20 THE WITNESS: Could I say something, Your
21 Honor?

22 THE COURT: What do you want to add?

23 THE WITNESS: I had said that in my first
24 statement, which I wasn't truthful, but I know the
25 defendant. I know him because he done came to my house,

1 and he ate at my house, and he done been around me and my
2 daughter, and I know him.

3 THE COURT: Okay. That's fine. The issue
4 about your brother isn't relevant at this time. We're
5 just talking about the identification process, which she
6 came to say that she told the police that she knew you
7 before they showed the photographs to her.

8 Okay? So that is really what you need to
9 focus on. That other stuff, I'm going to let you get
10 into that other stuff during the trial. We're going to
11 focus on one narrow issue right now.

12 BY MR. TERRELL McCOY:

13 Q. You gave three different statements for that, but
14 in two of your tapes, you said you didn't know who
15 committed this crime, right?

16 A. Repeat that.

17 Q. In two of your statements, you stated that you
18 didn't know who committed this crime, right?

19 A. In my first statement.

20 Q. And your second statement, you said that -- hold
21 on.

22 THE COURT: I know this is kind of splitting
23 hairs, and you don't understand the distinction, but what
24 the statement says, ultimately, is not necessary for me
25 to know right now. It's the circumstances under the

1 identification that she said it was you. Okay? So what
2 she said later on, or what she even said before, it
3 doesn't really matter. It's the circumstances by which
4 she came to identify you to the police and whether or not
5 the use of the photographs was suggestive that it was
6 you. Okay?

7 BY MR. TERRELL McCOY:

8 Q. So in the first two statements you stated -- you
9 never identified me, right?

10 A. I identified you the second time.

11 Q. But you never marked it on the six photo mugshot,
12 correct?

13 A. No, I didn't.

14 Q. And you were shown the Charleston County sheriff's
15 office mugshot of the defendant, right?

16 A. Yes.

17 Q. And on that mugshot you marked Sleezie Boy,
18 a/k/a Willy D, correct?

19 A. Yes.

20 Q. But you just testified you only know the defendant
21 by Sleezie Boy, but now you're saying Willy D now?

22 A. That's the name that -- I know for a fact I call
23 you Sleezie.

24 Q. But you're saying -- why didn't you circle it when
25 you were shown the six photo mugshot, if you are shown a

1 six photo mugshot?

2 A. They didn't ask me to write anything down. I
3 identified. They asked me who was the person. I
4 identified you as the shooter.

5 Q. So you identified me as the shooter. Why didn't
6 you circle it on the six photo mugshot? You never put
7 your signature nowhere on that mugshot. You never
8 circled that mugshot, so --

9 A. Because they didn't ask me.

10 Q. That's police procedure.

11 A. Had they would have asked me, I would have did it.
12 The officer, I can't explain for him, but I could answer
13 for me. I identify you in the six photo. I pointed you
14 out. I identified you as the shooter.

15 Q. That is your testimony today, but during that
16 time, on March 27, 2006, you were shown that six photo
17 mugshot. You never pointed the defendant out. You
18 didn't point the defendant out until you were shown the
19 Charleston County sheriff's department mugshot --

20 THE COURT: Let him finish asking his
21 question before you jump in, okay?

22 BY MR. TERRELL McCOY:

23 Q. You weren't shown a six photo mugshot during March
24 26, 2006. You never pointed me out in no photo mugshot,
25 six photo mugshot, during the time of March 24, 2006.

1 You never pointed me out until you were shown Charleston
2 County Detention Center mugshot, correct?

3 A. No.

4 Q. Why you mark the Charleston County Sheriff office
5 saying this is Sleezie Boy, a/k/a Willy D, and not mark
6 it on the six photo mugshot you were shown?

7 A. You have to ask the officer that.

8 Q. So the officer never told you to circle -- to
9 identify the defendant in the six photo mugshot?

10 A. He asked me did I see you -- did I see that
11 individual that did the shooting, and I identified you.
12 I pointed you out.

13 Q. And what date was this?

14 A. March 25th.

15 Q. So on March 25th, 2006, you were shown a six photo
16 mugshot of the defendant?

17 A. The same thing --

18 Q. You said, That's who did it, but you didn't
19 identify -- you never identified -- the March 25th, you
20 said you didn't know who did it. You didn't identify
21 nobody. You said you didn't know who committed the
22 murder.

23 MR. WETMORE: Objection. He's asked the same
24 question probably six different ways.

25 THE COURT: It is just argumentative. I

1 really heard enough to make my decision. Again, this is
2 not to say you can't talk to her about these things in
3 more detail on cross, but I have to just -- you asked me
4 to rule on whether or not or identification of you should
5 be suppressed because it was unduly suggestive, and I've
6 heard from her now on several occasions that she
7 identified you by a different name than you say you're
8 known by, but she identified you by the name she knew.
9 They came up with six photographs. She picked you out,
10 and they came back another time with one, but she
11 identified you consistently as the person she knew.

12 MR. TERRELL McCOY: She was never shown that
13 six photo.

14 THE COURT: That's not what she said.

15 MR. TERRELL McCOY: She stated that today.

16 THE COURT: Well, that's all I can go by,
17 today.

18 MR. TERRELL McCOY: But he didn't identify me
19 until March 27th.

20 THE COURT: Okay.

21 MR. TERRELL McCOY: March 25th, excuse me.

22 THE COURT: But she didn't. So that's all I
23 can go by, okay?

24 So your motion is denied. That doesn't mean
25 you won't be able to go into those prior inconsistent

1 statements before the jury, but this is just a pretrial
2 motion on the suggestiveness of the lineup, or in this
3 case it wasn't a lineup, but of the identification, so
4 there is enough to show me that she identified you prior
5 to being -- the photographs and they gave her the six
6 person photos and then followed up with the one person,
7 but she identified you.

8 MR. TERRELL McCOY: But he never circled it.

9 THE COURT: That doesn't matter. It may have
10 to do with credibility, but that is something for the
11 jury, again, to weigh. She says she wasn't asked to
12 circle your picture.

13 MR. TERRELL McCOY: But on March 25th, she
14 said she didn't know who committed this crime. She
15 didn't point me out until March 26th after she was taken
16 to the garage and shown this photograph.

17 THE COURT: She said she identified you from
18 the six person.

19 MR. TERRELL McCOY: She didn't give the
20 statement identifying me until March 26th.

21 THE WITNESS: March 25th, I identified him in
22 the six man lineup. The second statement, I identified
23 him, but I did not circle him.

24 THE COURT: Okay.

25 MR. TERRELL McCOY: Your Honor, I have burden

1 of proof, of March 25th, she said she didn't know who
2 committed this crime. Now, on March 26th, that's when
3 she said I committed this crime, so she was never shown
4 the six photo mugshot on March 25th. That is what I'm
5 trying to say.

6 THE COURT: That is because on the second
7 date, that's when she told somebody.

8 MR. TERRELL McCOY: And that is what she
9 showed the Charleston County Sheriff's Office --

10 THE COURT: She says she told them the name
11 first. She does give prior inconsistent statements.

12 MR. TERRELL McCOY: She never stated that in
13 her statement.

14 THE COURT: That goes to credibility, and
15 that is something that the jury has to make a
16 determination of. I just made this initial determination
17 as to whether or not her identification is admissible.
18 You still get to argue whether or not it's credible to
19 the jury. Okay? All right. Anything else?

20 MR. WETMORE: Not from the state, Your Honor.

21 THE COURT: Okay. Thank you. All right.
22 Anything else before the jury comes in?

23 MR. WETMORE: Not from the state.

24 THE COURT: I think at this point we'll
25 probably just do the openings this afternoon and start

1 the testimony in the morning.

2 (Jury duly sworn.)

3 THE COURT: All right, folks. Welcome back.
4 We're going to get started. You'll find -- as I told you
5 in the qualification process, you have a role in this
6 courtroom, I have a role in the courtroom. Some people
7 in the audience are spectators, but as far as you and I
8 go, we are both acting as judges throughout this trial.
9 I'm the judge of the law, and you are the judges of the
10 facts, and so sometimes I have to make some rulings on
11 legal issues that affect your ability to hear evidence.

12 So from time to time, you might hear one of
13 the parties stand up and object when there is a witness
14 on the stand and that sort of thing. Sometimes I can
15 rule on that based on the context of what they say.
16 Sometimes it's necessary for me to just bring the parties
17 up and hear kind of out of earshot what the objection
18 might be if I can't figure it out. Sometimes it's
19 necessary, though, for me to send you out so I can hear
20 what a witness may say or what a lawyer may want to
21 argue. We're not trying to keep anything from you. It's
22 just part of my job because as the trial judge and the
23 judge of the law, I basically have two functions. I make
24 sure that both parties, state and the defendant, get a
25 fair trial, and then I'm also to, as part of that, charge

1 you on the what the law is.

2 So part of my job as the trial judge is to
3 make sure that you hear what we call legally competent
4 evidence. And, again, we're not trying to keep anything
5 from you, but there are some things that it's acceptable
6 for you to hear in certain forums, and then at other
7 times, you know, we can't let you hear something because
8 it's not reliable, usually. Like, you've heard of
9 hearsay evidence, and that is usually where somebody gets
10 up on the witness stand and says what somebody else says.

11 We just usually have witnesses testify about
12 what they saw or what they heard, what they touched, what
13 they felt, they smelt, that sort of thing. The most
14 reliable thing is to have the person that saw it come in
15 and talk about it. It's really not reliable for somebody
16 else to come in and say, Well, so and so said this unless
17 they're saying about one of the parties. It's not
18 reliable.

19 So that kind of thing, I have to hear that
20 sometimes in order to say, oh, yeah, that is hearsay.
21 You can't hear that, so we're not trying to keep anything
22 from you. We're trying to hear this case one time, try
23 to get it right, and then move on.

24 So you are the judges of the facts, though,
25 so whenever you hear testimony, you're ultimately going

1 to decide how much credibility you give that testimony,
2 and based on all the evidence that you hear, including
3 that person's testimony, you make that final decision as
4 to what to do with that evidence, based on the law that I
5 tell you, and we try to do the trial in the correct way,
6 both procedure-wise and evidence-wise.

7 So your role as a judge of the facts, I'm the
8 judge of the law. I respect what you have to do, and
9 then you just respect the fact that sometimes I'm going
10 to have to do -- I might have to send you out, but the
11 important point that I started to make was I really don't
12 like you to have to sit in the other room and do nothing.
13 I'm very mindful of the fact that you are away from your
14 home or your job or whatever it is you do with your day,
15 and so I don't like to have you sitting back there
16 wondering what is going on.

17 So I'll send word back out from time to time
18 if we are in one of those delays like that, but please
19 don't think nobody is doing nothing when we're in here.
20 We almost invariably are hashing out a legal matter.
21 Occasionally, I'll have to deal with something on another
22 case, but almost always, it's involving something on the
23 case we're doing, just to try to streamline it to get it
24 to you so you're here only when you need to be and we get
25 you back out as soon as we can.

1 Now, as I told you at the beginning of the
2 jury process, Mr. McCoy over here has been indicted by
3 the grand jury for murder, and this is the indictment.
4 Remember when I asked you this morning if any of you
5 served on a grand jury before? Well, the grand jury is a
6 panel of 18 jurors that meet once a month. They hear
7 evidence, and they only hear one side of the evidence.
8 That is whatever the state puts up, but they are
9 protecting citizens against just being pulled off the
10 street. This idea of a grand jury comes back from when
11 we used to have the Norman Conquest, and they didn't like
12 to have the king just pull people off the street and say
13 you got to stand trial, just because the king said so.
14 If you didn't like the king, you got pulled off the
15 street and you had to have a trial.

16 The whole idea of jury trials came and flowed
17 from those days when the government, in essence, could
18 arbitrarily pull citizens off the street and try them for
19 a crime. Grand juries are a function of those days and
20 that old legal history. We're talking about 1,000 years
21 ago now, but what would happen with the grand jury is
22 that they hear evidence. At least 12 of those grand
23 jurors decided that there was enough evidence to say that
24 a crime happened and that there is enough evidence to
25 suggest that Mr. McCoy did commit the crime. That is not

1 passing on his guilt or innocence, that is just saying
2 there is enough evidence there to say that he has to
3 stand trial for that.

4 As a result of that, they issue what they
5 call a true bill on an indictment, which is the charging
6 instrument. All an indictment does is give this Court
7 jurisdiction to hear this case and charges Mr. McCoy with
8 the crime. The crime that he is charged with is murder,
9 and this indictment reads that Terrell Lynwood McCoy did
10 in Charleston County on or about March 25th, 2006
11 feloniously, willfully, and with malice aforethought kill
12 and murder one Antwan Bryant by shooting him, and Antwan
13 Bryant did die in Charleston County as a proximate result
14 on or about March 25, 2006 in violation of code section
15 16-3-10 of the South Carolina code of laws 1976 as
16 amended.

17 Mr. McCoy has pled not guilty to this charge,
18 so the state then has to prove to a jury, which is what
19 you folks are, that he is guilty of this charge. So we
20 now are at the part where we will have him stand trial
21 for the indictment that the grand jury issued. You, as
22 the trial jury, now will hear all of the evidence that
23 the state will present to support this indictment, and,
24 Mr. McCoy, if he so desires, can put up evidence.

25 He doesn't have to do a thing. As I told

1 you, he does not have to prove that he is innocent, he
2 doesn't have to prove he's not guilty, he doesn't have to
3 do a thing except sit there, if he wants to.

4 He can, however, call witnesses. He can
5 cross-examine witnesses. He can put up evidence, if he
6 so desires, but he does not have to put up any -- and he
7 doesn't even have to tell me at this point if he wants to
8 put up any evidence. There is no burden on him
9 whatsoever to do anything except show up for this trial,
10 and he is doing that today.

11 The state, on the other hand, has to prove
12 what they have alleged in this indictment, and that is
13 that he, on or about March 25th, killed Mr. Antwan
14 Bryant. Now, they have to prove that by a burden of
15 proof called -- or a presumption of proof called a
16 reasonable doubt, or beyond a reasonable doubt.

17 Now, if you've ever served on a civil trial,
18 maybe you have served on a civil trial, you've probably
19 heard the phrase preponderance of the evidence.
20 Preponderance of the evidence is a lower burden of proof,
21 and it simply means the greater weight of the evidence,
22 or is whatever one party alleged more likely true than
23 not. That is a very low burden of proof. In a criminal
24 case like this, the burden of proof is much higher. It's
25 much greater. It's called beyond a reasonable doubt.

1 Now, in life we can't prove anything, very
2 few things, to an absolute certainty, and the law doesn't
3 require that this state prove its case to an absolute
4 certainty. They only require that the state prove this
5 beyond a reasonable doubt, and basically what that means
6 is that you are firmly convinced of the defendant's guilt
7 in this case after you have heard all of the evidence.

8 Now, this is very, very important for you to
9 understand. You have to keep an open mind throughout
10 this trial, all right? The fact that he is charged with
11 the crime means nothing to you. The fact that the state
12 puts up evidence first should mean nothing to you.

13 It's not until you hear all of the evidence
14 that you begin to make up your mind. I've sat through a
15 bunch of these, and I'm telling you this is a lot harder
16 than you think. You often are going to go back and forth
17 in your mind throughout the course of the trial, going,
18 Oh, that sounded pretty good, and then later on you'll
19 hear something else and say, That changes my mind
20 entirely, and that is very normal.

21 It happens all the time, and it is why I tell
22 you now, don't make up your mind until you have heard all
23 of the evidence. That's why I tell you not to talk about
24 the case with anybody. Any evidence that you need to
25 know about this case is going to come to you in this

1 courtroom, but it's also why I tell you not to talk to
2 each other in this case because you haven't heard all the
3 evidence.

4 When all of the evidence is in, then it's
5 proper for you to begin to make up your mind, but then
6 and only then, because I tell you, you're going to hear
7 things that make you think about things based on what --
8 you know, you might change your mind about something
9 based on what you heard here later on, so just keep that
10 in mind. It sounds a little theoretical sometimes, but
11 it's really important, and it's a lot more difficult to
12 do than you really think it is, so you have to check
13 yourself.

14 If you start thinking, well, I believe that
15 he did it or I might believe he didn't do it, you just
16 keep that thought out of your head until you've heard all
17 of the evidence in the trial. Okay?

18 Now, because the state has the burden of
19 proof, they go first. In a moment we're going to have
20 the opening statements. That means the parties get to
21 get up and talk to you a little bit about the evidence
22 you're going to hear in this the trial. The state,
23 represented by Mr. Wetmore and Mr. McCoy, and I told you,
24 they are the lawyers representing the state, are the
25 solicitor's office. This is really important for you to

1 remember. They're not witnesses. They're not going to
2 testify, and whatever they say is not to be considered by
3 you as evidence.

4 Evidence is people getting up on witness
5 stand and saying something. Whatever they say, that is
6 evidence. If they show you a photograph and I let it in,
7 that's evidence. If they have a statement or a picture
8 or a document or something like that, if I rule that it
9 can come in, that's evidence, but lawyers saying
10 something is not evidence. So whatever they say, you
11 don't consider that. They simply are making statements
12 and arguments.

13 When they ask a question, that's not
14 evidence. The answer to the question is evidence. All
15 right? So keep that in mind when you hear from the
16 lawyers.

17 Now, in this case, we have the unusual little
18 twist that Mr. McCoy has chosen to represent himself, and
19 that's okay. He has the right to do that, but I've
20 talked with him about the fact that when he gets up and
21 talks to you in a couple of minutes on the opening
22 statement, he's not testifying then. He can talk about
23 what the evidence might be that you're going to hear, but
24 he at this point has not told me whether or not he wants
25 to testify. He doesn't tell me, but he's not going to

1 get up and testify in the opening statements, so despite
2 the fact that I would tell you what his lawyer would
3 normally say to be considered by you as evidence, when he
4 gets up and talks to you in a few minutes in his opening
5 statement, that is not evidence, and that is not to be
6 considered by you as evidence. Only later on if he
7 testifies is that considered evidence and if he doesn't
8 testify, you don't hold that against him. All right?

9 But when he gets up, he'll have the right to
10 make an opening statement in a little bit, but that is
11 not testifying, and it's not to be considered by you.
12 Then, because the state has the burden of proof, they
13 call the witnesses first. The lawyers for the state get
14 to ask questions first, and then Mr. McCoy will get the
15 opportunity to ask questions. That's called
16 cross-examination.

17 Direct is when the state calls a witness and
18 asks questions. That is direct. The person that asked
19 the questions second, that is cross-examination. I
20 usually let one round of direct, one round of cross, and
21 then we go and have a second round where we get to follow
22 up, so there will be -- each side will get to ask two
23 sets of questions, and then almost 99 times out of 100
24 that is it, and we go to the next witness, so usually we
25 hear direct, cross, redirect, recross. The state then

1 calls all of their witnesses, and then we'll take a
2 break.

3 Mr. McCoy will decide whether he wants to put
4 up any evidence based on what the state has put up, and
5 if he wants to put up any witnesses, he will get to call
6 those at that time, and then when all the evidence is in,
7 we'll have closing arguments at the end of the trial.
8 I'll tell you what the law is that applies to the facts
9 in this case as you've heard them, and then y'all will
10 retire and deliberate and render a verdict.

11 All right? Now, today what we're going to do
12 is, because we're getting a little bit of a late start,
13 it's 4:30 now, I'm going to have the opening statements
14 by the parties, and then we'll start with the evidence in
15 the morning. Okay? So right now, you're going to hear
16 from Mr. Wetmore first, and then you'll hear from
17 Mr. McCoy, if he decides to make an opening statement,
18 and then we'll adjourn for the evening and start with the
19 evidence in the morning.

20 MR. WETMORE: Thank you, Judge. May it
21 please the Court.

22 THE COURT: Yes, sir.

23 MR. WETMORE: Good afternoon. My name is
24 Burns Wetmore. As the judge said, it's my job, it's my
25 privilege, to represent the state of South Carolina in

1 this case; more specifically, Charleston County; even
2 more specifically than that, it's my job to represent the
3 people, those of us who live and who work in Charleston
4 County.

5 Now, the defendant, Terrell McCoy, has been
6 indicted for murder, and he has chosen to represent
7 himself. That is his right, his absolute right; that is
8 his decision. He's made that choice. I've been doing
9 this for a while. I don't believe have ever seen such a
10 senseless killing that is before you today.

11 It happened a while ago. It happened back in
12 March 2006 in North Charleston. It was that part of the
13 night when late night Friday kind of rolls over into
14 early Saturday morning. The defendant and some of his
15 friends, his brother, they had been out at a club, and it
16 was late night, and they were continuing to party out in
17 the street, out in Delta Street, in North Charleston.

18 Late, late, late Friday, it turned into early
19 Saturday morning, they were keeping the party going out
20 in the street. Everybody was drinking. People were
21 taking drugs, there is no question about it, but the
22 event that started this killing was when the defendant,
23 trying to be tough, trying to be bad, pulled out his
24 pistol, and he started shooting up into the air, firing
25 off shots up into the air, on the street, in North

1 Charleston.

2 Well, it's the middle of the night. Shots
3 are fired up in the air. Obviously, everybody thinks,
4 Uh-oh, here come the cops. Here come the police.

5 So everybody runs into this little house
6 right there, and it's the house that belongs to a girl
7 who is kind of hanging out, kind of dating the
8 defendant's brother, and they run right in her house,
9 because the defendant had fired off a gun. They were
10 afraid of the cops.

11 And they run into this house, through the
12 side door, which is the door that they always use. They
13 come in and out of that house frequently, and they always
14 use that side door. A lot of us have a door like that in
15 our houses. We don't always come in and out of the
16 front, formal door, but that is the same case. They
17 always came in and out of that side door, and that is
18 what they did that night, middle of the night, because
19 they were afraid the police were coming because he had
20 shot off a gun.

21 They run in this house, they run into this
22 lady's den, and in the den, you have the defendant, his
23 brother, the victim, who was killed later on, another one
24 of their friends, and this lady that lives there. There
25 are five people that were there in that den. That den,

1 that small little area, is where this murder takes place.
2 Now, when they get in there, the defendant and his
3 brother are arguing.

4 They're fighting, and his brother is
5 criticizing him pretty sharply, putting him down pretty
6 hard because he shot up in the air, and the victim is
7 friends with both of them, and he tries to get involved.
8 He tries to calm everybody down. He's friends with both
9 the defendant and his brother. He sees their argument.
10 He sees the defendant has got the gun in his hand.

11 He tries to calm everybody down, and there is
12 a brief pause, and the defendant is not yelling. Brother
13 is not yelling. Defendant still has the gun in his hand,
14 but they're not actively arguing like they were when they
15 first came in, and I think that the collective hope in
16 that room was, Man, I hope this argument is over.

17 And there is a brief pause, but it was far
18 from over. This man, the defendant, was seething mad.
19 He felt disrespected by this brother, his own brother, by
20 his friends. His very insecure, angry, malicious mind,
21 right then and there, he decided he was going to murder
22 the victim, Antwan Bryant, the man who had just stepped
23 in, trying to calm the argument down.

24 He paused, he waited, and he made the
25 decision, I'm going to kill him, and he took his pistol

1 and he shot him over and over and over and over. He hit
2 him four times. As soon as the defendant did that, he
3 takes off, trying to escape from what he had just done,
4 and the closest escape route was a storm door, right next
5 to him, that wasn't even functional. It was kind of, you
6 know, latched or secured. It was not the door that was
7 used.

8 Like I told you, they always come in and out
9 the side door, but his closest point of escape that night
10 was the storm door. It was latched. It wasn't even
11 functional. And needing the quickest escape route, he
12 bashes through this storm door, and he's got the gun in
13 his right hand, takes his left hand, pushes through this
14 door, and escapes out into the night, trying to get away
15 from what he's done.

16 During his hurry to escape, he leaves behind
17 his fingerprints. Two of his fingerprints are left at
18 the scene of the crime, right here on this glass storm
19 door, the door that was never used, the door that wasn't
20 even functional. He leaves his left ring fingerprint and
21 his left middle fingerprint as he bashes out this door.
22 These two fingers leave prints because the gun is in his
23 right hand. He leaves his prints at the scene of the
24 crime and he takes off, and the rest of the guys also,
25 they take off, and they leave this young lady who owns

1 the home, who was asleep in her bed, they leave her with
2 the victim, who is dying.

3 And she literally holds him in her lap while
4 the blood and the life literally pour out of him, and he
5 dies, in her lap, and she spends the last few moments
6 that he has with him. Everybody else is gone. Everybody
7 else has left. Defendant left her.

8 Defendant's brother, who she was kind of
9 hanging out with, ditched her. She's left in her den
10 with the victim dying in her lap. Can you imagine being
11 asleep, and she is awoken and moments later she is
12 cradling a young man, riddled with bullet holes, in her
13 lap, dying? That's what happened to her.

14 And she spends these last few minutes with
15 him and she comforts him. After he has died, this young
16 lady runs next door to the neighbor's house, calls 911,
17 tries to get help, but it's too late. He's gone, and
18 that is the senseless and sad story you're going to hear
19 in this trial, and all caused by the defendant, by his
20 senseless actions.

21 It's my job to present that story to you, and
22 the way that I do that is by using witnesses, and I'm
23 going to tell you right now, I'm going to be honest with
24 you, some of these witnesses are not going to be real
25 excited to come into court.

1 This isn't the type of thing that they
2 usually do. They're probably not going to be real happy
3 to be here, and you may not like some of them. You may
4 look at them on the witness stand and say, I don't much
5 care for that person.

6 But these are the witnesses to the event.
7 These are the witnesses that were there that night, in
8 that small den, when he murdered the victim. I wish I
9 could pick my witnesses, but these are his friends. If
10 anything, he's the one that picked these people. These
11 are the kind of people that he hangs out with, in the
12 street, in the middle of the night, so that's the
13 witnesses to the event. That's who is going to tell the
14 story to, his friends.

15 Now, you're going to hear from two people who
16 were in this little den when the shooting happened.
17 First, you're going to hear from Carinda Snowden, and
18 she's the young lady that owned the little house in North
19 Charleston. Now, she knows the defendant well. As I
20 said, she was hanging out with his brother, off and on,
21 and she's going to tell her story. She heard this man
22 out shooting out in the street.

23 Next thing she knows, the defendant and all
24 his buddies come running into his house, into her den.
25 He's arguing with his brother, waving the gun in his

1 hand. The victim tries to calm the situation down, and
2 he murders him. She's going to tell you that story.
3 She's also going to tell you that she pushed through the
4 storm door, just like I described, leaving his two
5 fingerprints from his left hand because the gun is in his
6 right hand.

7 She's going to tell you her awful, awful
8 memory about holding the victim as he died. And she's
9 going to tell you how she went to go get help after he
10 passed. You can think what you want of her, but she's a
11 brave young lady, brave that night, and she is brave to
12 come in here, in this trial, and testify against this
13 man. After what she saw him do, she's brave. I want you
14 to listen to her.

15 The other person you're going to hear from
16 that was in the room where the murder happened is a guy
17 named Brandon Cuttino, and I don't know what his attitude
18 is going to be on the stand, but he's probably not going
19 to be very happy to be here. He knows the defendant very
20 well. They're friends, but he's going to come in here
21 and tell his story about how he was with the defendant in
22 the street, about how the defendant shot up in the air,
23 about how they all ran into this den where the defendant
24 argued with his brother, and, according to Mr. Cuttino,
25 he saw how things were going.

1 He saw the argument get heated, he saw the
2 defendant with a gun, and he said, I better get out of
3 here, and out of self-preservation, Mr. Cuttino is going
4 to tell you he ran out that door, and as soon as he got
5 outside, bam, bam, bam, he heard the defendant shooting
6 the victim.

7 Those are my two witnesses who were in that
8 room, who were in that den that night; Carinda Snowden,
9 Brandon Cuttino. The other two people in the room were
10 the defendant, the defendant's brother, who refuses to
11 talk to us, and the victim, who is, of course, dead.

12 Now, you're also going to hear from law
13 enforcement personnel, and there were several people that
14 worked this case, that investigated the case, collected
15 evidence. You're going to hear from several law
16 enforcement type people, and most importantly, I want you
17 to listen to how they lifted this man's fingerprints from
18 that front door, the door that was never used until that
19 night when he pushed out that door.

20 They're also going to tell you about some
21 firearm evidence in this case. They're going to tell you
22 all the firearm evidence in this case matches, meaning
23 when the defendant was out in the street, shooting his
24 gun up in the air, all that evidence matches. Where he
25 was inside the room, inside the den, shooting over and

1 over and over into the victim, all this evidence matches.
2 It's all from the same gun, shot by the defendant.

3 That is kind of how I perceive my case is
4 going to be. We're going to hear from people that were
5 in the room. We'll hear from various law enforcement
6 people. I want to thank you all for being here. I know
7 there is probably other things you could be doing, but I
8 appreciate you being here. This is a very important case
9 to the victim's family. It's a very important case to
10 me. I hope you can see that. I appreciate your service,
11 and I ask you, please don't let him get away with murder.
12 I ask that you find him guilty.

13 Thank you.

14 THE COURT: All right. Mr. McCoy, you could
15 make an opening statement now. You're not required to,
16 or you can make an opening statement before you put up
17 any evidence, if you wish, after the state's
18 presentation. It's up to you. Do you want to make an
19 opening statement now?

20 MR. TERRELL MccOY: Yes, sir.

21 THE COURT: All right. Go ahead.

22 MR. TERRELL MccOY: How are y'all doing
23 today? My name is Terrell McCoy. I'm the defendant in
24 this case and also self-represented. Three shots were
25 fired outside of the building of Antwan Bryant. Three

1 shots, three bullets hit him, two to the body.

2 He was running from the detective. He goes
3 up to this house, bangs on the door, asks for help.
4 Nobody answered the door, so he kicked the door open. He
5 ran inside. The detective comes behind him, shoots him
6 two more times. Three shells that hit him, that was from
7 somebody else inside the house.

8 The house owner stated that she heard people
9 arguing around 2:00 a.m. and she states she heard shots
10 outside. Moments later she heard someone banging on her
11 front door, really, really hard. Then she heard a large
12 boom at her front door. Somebody kicked her door in, and
13 she heard three to four shots. She jumps up and walks
14 into the living room and saw a dead guy lying on her
15 living room floor.

16 She ran over to him, touched him, tried to
17 help, and she freaked out, and ran into her bedroom and
18 opened the window and jumped out. She ran to the
19 neighbor's and told them to call the police. She asked
20 for a towel, and she changed clothing. When the police
21 arrived, she told them she heard shots outside. Moments
22 later, the door was kicked open and more shots were
23 fired. She tells them she never saw the shooter.

24 Now, I don't have to say anything in my own
25 defense, and the state failed to prove its case. The

1 state must convince you that I'm guilty beyond a
2 reasonable doubt, and I will prove my presumption of
3 innocence by every element. I ask that you pay close
4 attention to all the evidence presented.

5 Thank you.

6 THE COURT: Okay, folks. That is what we'll
7 do today, rather than start in with a witness today at
8 this late hour. It's almost 5:00, so I want to get you
9 home before it gets too late.

10 When you come in tomorrow morning, come back
11 to the jury room where you were at a little bit ago.
12 Don't come back into the courtroom. I want you to report
13 back by 9:45. I'm going to have everybody in here a
14 little bit earlier if we need to take up anything before
15 that, so we can get started right at 9:45.

16 If you have any problems at all with
17 transportation or you're running late, please contact the
18 clerk's office and let us know. Now, this is important:
19 When you go home tonight, you can't talk about the case
20 with anybody. I'm going to have to say that to you every
21 time we break for the evening, every time we go on a
22 break to the rest room. Don't talk about the case with
23 anybody. Don't begin your deliberations. Don't try to
24 find out about the case.

25 You know, these days on the Internet, things

1 like that, people like to go out, see if they can find
2 anything. They like to get invested in the case. It
3 sounds a little crazy, I know, but the reason I give you
4 this precaution is because people go out and do it. You
5 don't need to go out and try to find anything about it.
6 It would be not only a violation of your oath as a juror,
7 but think about it: It would be improper to go out and
8 try to find out anything about the case without it being
9 evidence because then you wouldn't be able to have the
10 benefit of the adversarial process, which is what a case
11 like this is all about. Both sides get to talk about the
12 case, present different lights on it, and then you get to
13 see how you feel like it should be treated in a
14 discussion with all the other jurors.

15 Anything that you need to know about this
16 case we are going to tell you in this courtroom. That's
17 what you base your decision on, the evidence in the
18 courtroom, not about the stuff that is outside. And when
19 you go home tonight, obviously, if you have a family
20 member or somebody that you live with or your friends,
21 they may say, Oh, did you get picked on a jury?

22 You can say, Yeah, I got picked on a jury and
23 the judge says I can't talk to you about it. There will
24 be plenty of time to talk about it when it's all over
25 with, but believe me, they will want to influence you.

1 People can influence you by saying nothing, as you well
2 know. So you can't talk about it with them. They'll
3 just have to respect that, even if they want to talk to
4 you about it, and I know sometimes that urge to talk
5 about it can just overwhelm you.

6 Just don't. Just hold off on it. When the
7 case is over with, you can talk about it all you want,
8 but just don't talk about it tonight. You can tell them
9 you got picked on a jury and it is a murder case, but
10 that is all you can do. Now, tomorrow morning when you
11 get up, it might be that you get the newspaper, and there
12 might be a story about it in the newspaper.

13 This week, don't read the newspaper. All
14 right? Because there will likely be stories about it
15 this week and, again, newspaper reporters, we love to
16 have them covering stuff because it lets people know what
17 is going on. We run an open courtroom. Anybody that
18 wants to come in can come in. It's the great thing about
19 democracy, and the press can write anything they want
20 about it, but, again, they could be writing about
21 something that you couldn't necessarily hear because it's
22 not proper for you to hear, and, besides, it's just one
23 view.

24 So the newspaper reporter is not on the jury,
25 and he can write about whatever he wants to write about,

1 but you can't talk about the case, and you can't, most
2 importantly, be influenced by what somebody else has to
3 say about the case. So just for this week, don't read
4 the newspaper. After this week and this trial is over
5 with, you can read about it, you can go back and read all
6 the back issues that you want, but more than likely there
7 will be coverage on it in tomorrow's paper, the rest of
8 the week, however long we're here on it, so just don't
9 read the newspaper.

10 As they say, avert your gaze if you see
11 anything in the newspaper about it, or, for that matter,
12 TV. I haven't seen any TV cameras or anything here, but
13 I do know we've had newspaper coverage here today. So
14 just keep that in mind. Don't read the newspaper
15 tomorrow.

16 Head on home tonight. Have a good evening.
17 Thank you for your patience today, and if you would, just
18 be back in the jury room by 9:45. We'll see you then.

19 (Jury recessed.)

20 THE COURT: All right. Folks, we will start
21 up -- if you will be in by 9:30 tomorrow morning. Do you
22 have anything you want --

23 MR. TERRELL McCOY: Before we leave, I would
24 like to take a look at the evidence.

25 THE COURT: You want to go through -- let him

1 Spend a few minutes, go through the evidence with him
2 that you have. All right. Anything else? See you in
3 the morning.

4 (February 3, 2009.)

5 (State's Exhibit Nos. 3-28 were marked for
6 identification.)

7 (Defendant's Exhibit Nos. 2-13 were marked
8 for identification.)

9 THE COURT: All right. Mr. McCoy?

10 MR. TERRELL McCOY: Yes, Your Honor. I have
11 some photographs that I need to show the witness, and I
12 would like to ask that she not act the way she was acting
13 yesterday, because it's prejudicial to me and --

14 THE COURT: Well, what I want you to do is
15 when you want to show her the pictures, you just indicate
16 that, and Ms. Parker, the lady in the red coat there,
17 she'll come over, and you hand them to her, and she'll
18 take them to the witness, but the witness is
19 uncomfortable with you getting real close, so I'll just
20 have you get, you know, no more than about ten feet away.
21 But if you hand the picture to Ms. Parker, and then
22 she'll give it to the witness.

23 MR. TERRELL McCOY: Yes, sir. And yesterday
24 you said you were going to have an ID hearing on both
25 witnesses, Carinda Snowden and Brandon Cuttino.

1 THE COURT: According to the solicitor
2 yesterday, they were only going to call one witness who
3 had identified you through a photograph; is that correct?

4 MR. WETMORE: That's correct, Judge. Brandon
5 Cuttino is going to identify him in court, but he never
6 saw any pictures.

7 THE COURT: Okay.

8 MR. TERRELL McCOY: So he was never shown no
9 pictures to identify me, and I was already incarcerated
10 for five days when he gave that statement. I was already
11 incarcerated for five days. My face was already on the
12 news, and I was already incarcerated for this crime when
13 he said that he was -- when he saw me out in the streets,
14 so I would like -- he was never shown no police
15 photograph to point me out in a lineup to say that, This
16 is Terrell McCoy, or whoever they say I am.

17 THE COURT: You can bring that out on
18 cross-examination, but he didn't identify you by face.
19 He identified you by name.

20 MR. TERRELL McCOY: Right. And according to
21 the police procedure, they're supposed to show mug shots
22 of a possible suspect for the witness to point out, and
23 that was never done.

24 THE COURT: All right.

25 MR. TERRELL McCOY: I would ask for

1 identification hearing on that.

2 THE COURT: You can bring that out on
3 cross-examination, but what I'm saying is that the normal
4 thing of somebody going, Oh, that's you, in that picture,
5 you know, and that is how they end up identifying you, it
6 doesn't necessarily apply in this case, because they did
7 not identify you, except by name. They told the police,
8 It was Terrell McCoy, or whatever name they used.

9 But it's not like the other lady, where you
10 had a picture and the question is was this suggestive
11 because they only showed one picture and said, Is this
12 the guy, that sort of thing, that is where your photo
13 ID hearing comes into play. It doesn't apply to a
14 witness that identified you through other means. There
15 is no photograph to say where the police suggested it was
16 you.

17 MR. TERRELL MCCOY: Why he was never shown a
18 photograph?

19 THE COURT: I don't know, but you can ask the
20 police officer that.

21 MR. TERRELL MCCOY: I was already on the
22 news. That is what I'm trying to state.

23 THE COURT: Well, then, you can bring that
24 out. Okay? All right? Anything else that we need?

25 All right. Are you ready with your first

1 witness?

2 MR. WETMORE: Yes, sir, Judge. We told her
3 9:45, so let me make sure she's out there.

4 (In open court, jury present.)

5 THE COURT: Be seated. All right. Welcome
6 back, folks. We're going to start now with the
7 presentation of the evidence, but before we do that, I
8 want to ask, did anybody see the newspaper article this
9 morning about the case, look at the newspaper, see it in
10 any way? Okay. Let the record reflect all the jurors
11 have indicated they did not see the newspaper today.

12 All right. Very well. If the state is ready
13 then, call your first witness.

14 MR. WETMORE: Thanks, Judge. The state calls
15 Carinda Snowden.

16 CARINDA SNOWDEN WILLIAMS,
17 having been first duly sworn,
18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. WETMORE:

21 Q. Will you tell the jury how old you are.

22 A. Thirty-three.

23 Q. And did you grow up around here?

24 A. No, no, sir.

25 Q. Where did you grow up?

1 A. In New York City.

2 Q. But you live in this area now?

3 A. Yes.

4 Q. Do you have family here in this area?

5 A. Yes.

6 Q. You have a child?

7 A. Yes.

8 Q. How old is your child?

9 A. Six years old.

10 Q. Are you raising that child as a single mom?

11 A. Yes, I am.

12 Q. Do you work in this area?

13 A. Yes, I do.

14 Q. And have you ever been convicted of any crimes
15 whatsoever?

16 A. No.

17 Q. You have no criminal record?

18 A. No, sir.

19 Q. When you told the Court your name, you had kind of
20 a longer last name. Do you have two last names or --

21 A. I have two last names.

22 Q. Can you explain that to us?

23 A. Snowden is my maiden name; Williams is my married
24 name.

25 Q. Are you married now?

1 A. Currently, yes.

2 Q. Okay. So you use both names?

3 A. Yes, sir.

4 Q. Snowden and Williams?

5 A. Yes.

6 Q. Okay. You just happen to have two last names; is
7 that right?

8 A. Yes.

9 Q. And there is no intention to hide who you are or
10 to try to hide behind a false name?

11 A. No.

12 Q. Are you at all nervous or scared to be here?

13 A. Nervous, but scared, no.

14 Q. What are you nervous about?

15 A. That I have to relive this again.

16 Q. Now, can you tell the jury how many times that you
17 and I have actually talked about this case.

18 A. Three times.

19 Q. And you're testifying here today because you've
20 been subpoenaed; is that correct?

21 A. Yes, sir.

22 Q. Obviously, this isn't something you choose. This
23 isn't fun for you?

24 A. No.

25 Q. Carinda, I ask you, do you know the defendant,

1 Terrell McCoy?

2 A. Yes, I do.

3 Q. And how long have you known him?

4 A. I think about -- since '05, 2005.

5 Q. So you've known the defendant since 2005?

6 A. Yes, sir.

7 Q. How did you come to know him?

8 A. I used to date his brother.

9 Q. So you used to date the defendant's brother?

10 A. Yes, sir.

11 Q. What was his name?

12 A. Travis.

13 Q. So that is how you came to know the defendant,
14 through his brother?

15 A. Yes, sir, and I also see him in the neighborhood.
16 We used to be around each other.

17 Q. Do you know him from being in the same
18 neighborhood?

19 A. Yes.

20 Q. So you know who he is well?

21 A. Yes, I do.

22 Q. Okay. When you would call him, or speak to him or
23 talk about him, did you call him Terrell McCoy or did he
24 have any other names or nicknames?

25 A. I called him Sleezie.

1 Q. So you called him Sleezie?

2 A. Yes, sir.

3 Q. Is that the nickname that folks use when they're
4 describing him?

5 A. Mostly, yes.

6 Q. All right. I know that we're going to be talking
7 about some people and using some names, and I'm going to
8 keep this chart here so that I have it straight so that
9 the jury can keep it straight. So the defendant, Terrell
10 McCoy, you knew him as Sleezie.

11 A. Yes, sir.

12 Q. I understand that's how it's spelled; is that
13 correct?

14 A. Yes.

15 Q. You were going out with, or hanging out with, his
16 brother Travis; is that correct?

17 A. Yes.

18 Q. What did Travis go by on the street? Did he have
19 any nicknames, street names?

20 A. No.

21 Q. Nothing?

22 A. No.

23 Q. The whole time you were going out with him, you
24 didn't know about any nicknames or street names?

25 A. No. Everybody just called him Travis.

1 Q. Now, how long did you end up going out with
2 Travis, the defendant's brother?

3 A. Off and on for about a year, just off and on.

4 Q. Off and on for about a year?

5 A. Yes, sir.

6 Q. Now, were you on with him back in March of 2006
7 when this murder happened?

8 A. Yes, I was.

9 Q. Okay. You aren't with him now, are you?

10 A. No.

11 Q. When is the last time you were with him, on?

12 A. March 25th.

13 Q. So the day this happened was when that
14 relationship ended?

15 A. Yes, sir.

16 Q. Are you -- at any point in this case, did you try
17 to cover for his brother, Travis?

18 A. No, sir.

19 Q. Never?

20 A. No.

21 Q. Are you testifying today you covered for his
22 brother, Travis?

23 A. No, I'm not.

24 Q. Now, tell me where you lived back then in March of
25 2006.

1 A. On Delta Street in Russelldale.

2 Q. Do you remember the address?

3 A. 5055. I'm not really sure. I put it out of my
4 mind.

5 Q. Where this murder happened was 5061 Delta Street.
6 Was that your house?

7 A. Yeah, on Delta Street, in Russelldale.

8 Q. That is where you lived in March of '06?

9 A. Yes.

10 Q. And the murder happened in your house?

11 A. Yes, it did.

12 Q. I'm going to take you back to that night when this
13 thing happened. It was late on a Friday, and then it
14 rolled over into the Saturday morning, March 25, 2006.
15 Now, were you in your house, in your home, on Delta
16 Street at that time?

17 A. Yes.

18 Q. What were you doing?

19 A. Sleeping.

20 Q. About 5:00 in the morning, you were asleep.

21 A. Yes.

22 Q. Now, had you been out partying that night?

23 A. No, no.

24 Q. So you were asleep?

25 A. Yes.

1 Q. Did you hear anything out in the street going on
2 about 5:00, 5:30?

3 A. I heard gunshots.

4 Q. You heard gunshots coming from Delta Street?

5 A. It had to have been, because it was so close by.

6 Q. And they sounded like they were right outside your
7 house?

8 A. Not right outside.

9 Q. They sounded close to your house?

10 A. Yes.

11 Q. Can you remember how many shots you heard?

12 A. Three.

13 Q. You think it was three?

14 A. Yes.

15 Q. Now, you already said they sounded pretty close to
16 where you were.

17 A. Yeah.

18 Q. Did they wake you up?

19 A. Yes, they did.

20 Q. Now, after you heard those shots, did the
21 defendant come into your house, into your den?

22 A. Yes, he did.

23 Q. How long after you heard those shots did he come
24 into the house?

25 A. A few minutes. Less than five minutes, I would

1 say.

2 Q. So you heard the shots in the street, and a short
3 period of time later, he came into your house?

4 A. Yes, he did.

5 Q. Were you in the bed asleep when they came in?

6 A. I was already up.

7 Q. Because of the shots?

8 A. And I heard when his brother -- him and his
9 brother was coming in the house.

10 Q. Okay. So when they came in, they finished waking
11 you up?

12 A. I was up.

13 Q. Now, who all came in with the defendant, Terrell
14 McCoy, as you know -- or you know him as Sleezie? Who
15 else came in with him?

16 A. Sleezie, Travis, and Bizzy and Antwan.

17 Q. Now, you mentioned Bizzy. Who is that, on my
18 street name chart?

19 A. Brandon Cuttino.

20 Q. Okay. So Brandon Cuttino goes by Bizzy.

21 A. Yes.

22 Q. So Bizzy was with the defendant?

23 A. Yes.

24 Q. Travis was with the defendant?

25 A. Yes.

1 Q. And Antwan was the victim?

2 A. Yes.

3 Q. Did he have any nicknames that you know of? Did
4 you know him? Did you know his name?

5 A. Antwan. I didn't know him.

6 Q. So you didn't know him at all?

7 A. No.

8 Q. So when he came into your house, you didn't know
9 who he was?

10 A. No.

11 Q. So you don't know about any kind of nicknames for
12 him?

13 A. No.

14 Q. I'm not going to ask you about any nicknames. I
15 don't think that is important.

16 So all these people came into your house, Terrell
17 McCoy, who is the defendant, who you know as Sleezie; his
18 brother, Travis; Brandon Cuttino, who you know as Bizzy;
19 and the victim, Antwan Bryant, who you didn't know at the
20 time; is that right?

21 A. Yes.

22 Q. And you were obviously up because of the gunshots
23 and because they came into your house?

24 A. Yes.

25 Q. So these people that are on this chart are the

1 people that were in your room, your house, when this
2 murder happened?

3 A. My living room, yes.

4 Q. When these guys came into your house, tell me how
5 they came into your house.

6 A. From the side door entrance, into the living room.

7 Q. Okay. Now, if you would take a look at this.
8 Does this diagram -- I know it's not perfect, but does it
9 accurately reflect the way that your den looked back then
10 in March of 2006?

11 A. Yes.

12 MR. WETMORE: Let me approach the witness,
13 Your Honor.

14 THE COURT: Yes.

15 BY MR. WETMORE:

16 Q. This is the laser pointer. If you would show the
17 jury how these guys came into your house.

18 A. This way.

19 Q. They came in through the side door?

20 A. Yes.

21 Q. They came in through the kitchen?

22 A. Yes.

23 Q. Into the den?

24 A. Yes.

25 Q. Is that the door those guys normally used?

1 A. Yes, that I used also.

2 Q. Okay. So that side door was the door that they
3 used, you used, everybody used?

4 A. Yes.

5 Q. Had you ever known the defendant to come in that
6 front door?

7 A. No.

8 Q. Never?

9 A. No.

10 Q. He always came in that side door?

11 A. Yes.

12 Q. And when they all came into the den, you were
13 obviously there with them. Was the defendant -- you
14 know, was he arguing? Was he fighting with anybody?

15 A. Yes.

16 Q. Tell me what was going on.

17 A. He was arguing with his brother. His brother was
18 fussing with him about shooting a gun outside, in the
19 air.

20 Q. So the defendant's brother was arguing with him.
21 They were having a confrontation because the defendant
22 had shot a gun --

23 MR. TERRELL McCOY: Objection.

24 THE WITNESS: Yes.

25 MR. TERRELL McCOY: Leading.

1 THE COURT: Please rephrase your question.

2 BY MR. WETMORE:

3 Q. What were they arguing about?

4 A. About him shooting a gun outside in the air.

5 Q. And when they were having this argument, did the
6 defendant still have the gun?

7 A. Yes, he did.

8 Q. Where did he have it?

9 A. He put the gun to his brother, and when I got in
10 between them, he put the gun on my head.

11 Q. So the defendant had the gun in his hand?

12 A. Yes, he did.

13 Q. All right. So you had been asleep, and you came
14 out, and what did you do? What did you say to these guys
15 when you saw them in the den?

16 A. I was talking to Travis and telling him that I
17 can't deal with it no more with him or with his friends
18 and I'm going to end up getting put out because of him.

19 Q. I'm sorry. I didn't hear all of that.

20 A. I explained to Travis that I didn't want them in
21 my house no more, because I'm going to end up getting
22 into trouble because of them. And he -- Travis told me
23 that they couldn't leave out right then and there because
24 he referred to his brother as something else, which was a
25 curse word, was shooting a gun in the air, and the police

1 would be coming through soon. So they stayed in my
2 house.

3 Q. So you were concerned that those guys were in your
4 house.

5 A. Yeah, as long as they was fussing, them two was
6 fussing.

7 Q. Did it bother you that the defendant had a gun in
8 your house?

9 A. Yeah, it bothered me when he put the gun to my
10 head.

11 Q. So what exactly did you do? You stepped in and
12 said something to Travis --

13 MR. TERRELL McCOY: Objection. Leading.

14 BY MR. WETMORE:

15 Q. What did you do?

16 A. When he put the gun to my head, Travis pushed him
17 up against the wall. Antwan then got in between them
18 two, and I went and just sat down in one of those chairs.

19 Q. Okay.

20 A. And I just --

21 Q. Who did you talk to when you came out into the
22 den?

23 A. Travis.

24 Q. Okay. What did the defendant do?

25 A. He didn't do nothing. He just looked at me. He

1 put the gun to his brother, and then he put the gun to my
2 head.

3 Q. So the defendant put the gun to your head.

4 A. Because I was trying to stop him and his brother
5 from arguing.

6 Q. What did Travis, his brother do? That was your
7 boyfriend at the time? What did he do when he put the
8 gun to his head?

9 A. He grabbed him and put him up against the wall.

10 Q. So his brother put him up against the wall?

11 A. Yes.

12 Q. Trying to get him off of you?

13 A. Yes.

14 Q. Were you scared at that point?

15 A. Yeah. I wanted to leave.

16 Q. You just had a gun to your head.

17 A. Yes.

18 Q. What did -- I think we've heard what the defendant
19 was doing, what his brother was doing. What was the
20 victim doing? What was Antwan Bryant doing?

21 A. Then when I went and sat down, he got in between
22 them and told them they would need for them to stop
23 fussing and arguing, that it was stupid.

24 Q. So Antwan Bryant did this?

25 A. Yeah.

1 Q. He tried to get in between the defendant and his
2 brother?

3 A. Yeah, and Travis went -- everyone just sat down.
4 Sleezie stood behind the front door, and it was just --
5 exchanged words. They were getting up close on each
6 other.

7 Q. Okay. So the victim, Antwan Bryant, tried to step
8 in. Was the arguing still going on or had it stopped?

9 A. No. Travis was still exchanging words with his
10 brother.

11 Q. They were still arguing back and forth?

12 A. Yeah, but Sleezie was saying he didn't want to
13 hear it. Travis was more, like, provoking.

14 Q. And the defendant, who you know as Sleezie, did he
15 still have the gun in his hand?

16 A. He still had the gun.

17 Q. All right. So on this chart here, if you would,
18 this diagram, here, if you would turn around, tell me,
19 first of all, where you were during this, right before
20 the shooting.

21 A. Right there (indicating).

22 Q. You were sitting in that chair?

23 A. Yes.

24 Q. Tell me where Travis, the defendant's brother,
25 was.

1 A. Right there.

2 Q. Sitting on that couch?

3 A. Yes.

4 Q. Tell me where Brandon Cuttino, who you know as
5 Bizzy, where was he standing or sitting?

6 A. Right there.

7 Q. On this big couch?

8 A. Yes.

9 Q. Now, tell me where the victim, Antwan Bryant, was
10 standing or sitting?

11 A. Right here.

12 Q. And, finally, where was the defendant, Terrell
13 McCoy, who you know as Sleezie? Where was he standing?

14 A. Right here.

15 Q. Did I do that right? Did I put everybody in the
16 right place?

17 A. Yes.

18 Q. Now, what is this circle here in front of you?

19 A. That is an ashtray.

20 Q. And that is the layout where everybody was in your
21 den before this murder?

22 A. Yes.

23 Q. Now, other than trying to talk to the defendant
24 and his brother, did the victim do anything to provoke a
25 fight?

1 A. No, he didn't.

2 Q. Did the victim do anything physical, anything
3 verbal, to provoke the fight?

4 A. No, he didn't.

5 Q. Tell me what he did and tell me what you know
6 happened.

7 A. Travis was trying to put Sleezie down. Antwan was
8 just trying to stop them from arguing and stuff, and
9 Travis stated to Sleezie that Antwan is more of a brother
10 than what he is, or would be, and they was just going
11 back and forth.

12 Antwan stated that he loved both of them like
13 brothers and he didn't want to die over stuff that was so
14 stupid, and he walked over to Sleezie, just talking or
15 whatever, and Sleezie told him to get out of his face.

16 Antwan had a cigarette in his hand, and he turned
17 around, Antwan, and he went to flick his ashes in the
18 ashtray in front of me, and he had -- he had got shot by
19 Sleezie.

20 Q. So the victim was actually coming over to flick an
21 ash in that ashtray.

22 A. Yes.

23 Q. And that is when he was shot.

24 A. That's when he had first shot.

25 Q. Did you see the defendant, Terrell McCoy, that you

1 know as Sleezie, did you see him shoot the victim?

2 A. Yes, I did.

3 Q. I know this is absolutely tough. It's got to be a
4 horrible experience to think about, and I'm sorry to have
5 to ask you to think about it, but you've got to tell this
6 jury exactly what happened, because it's very important
7 for them to know what happened.

8 THE COURT: Take a second and get a drink of
9 water if you like, ma'am.

10 BY MR. WETMORE:

11 Q. You can take a minute. I'm sorry to have to ask
12 you to do it.

13 A. He, Sleezie, shot him. And he fell over. And
14 Sleezie kept shooting him. He just kept shooting him,
15 and at me. He didn't care whether he hit me or not. He
16 had --

17 Q. Take your time.

18 A. He had so much blood on him, on me. I saw Sleezie
19 shoot him. And he just kept doing it. I was grazed.

20 THE COURT: Ms. Snowden, do you need a break?

21 THE WITNESS: No. He didn't care. Antwan
22 bled so much on me, but at the time I didn't know if I
23 was shot or if I was grazed. But he was laying
24 practically on my lap before he fell on the floor. His
25 brains was all over me.

1 And he didn't do nothing to deserve this, and
2 I didn't either. And I know, I know who did this to me.
3 And I have go through this and remember it for the rest
4 of my life. And it's hard. It's hard for me to say it,
5 and it's hard for me to forget what all happened, because
6 I know the defendant did this. And Antwan didn't do
7 nothing.

8 BY MR. WETMORE:

9 Q. I appreciate you talking to us. I know it is
10 something that you don't like to think about. So when
11 Antwan Bryant was shot the first time, did he fall
12 towards you or away from you?

13 A. He fall towards me.

14 Q. And you were still in that little small chair?

15 A. Yes, I was.

16 Q. And did he actually land on you?

17 A. Yes, he did.

18 Q. And did you see the defendant shoot the victim,
19 Antwan Bryant?

20 A. Yes, I did.

21 Q. I know you described seeing him the first time,
22 shooting him. Did you see him shoot him multiple times?

23 A. Yes, I did.

24 Q. Do you have any idea how many times he was
25 shooting?

1 A. It was so loud. Between five and seven, I would
2 say. I know it was a lot of times.

3 Q. And so when the defendant is shooting, he's
4 shooting into the victim.

5 A. He's shooting at me and the victim.

6 Q. Because the victim is on you?

7 A. Yes.

8 Q. Now, you mentioned being grazed. Did you actually
9 get hit by one of the bullets that the defendant shot?

10 A. Yes.

11 Q. Can you describe exactly what your injuries were.

12 A. It just skinned me, right up off my left ear, on
13 this side.

14 Q. So it just grazed the side of your head?

15 A. Yes, sir.

16 Q. And that is the defendant that did that?

17 A. Yes, he did.

18 Q. Shooting at you and the victim, Antwan Bryant?

19 A. Yes.

20 Q. And you are telling this jury here that you saw
21 the defendant firing all those shots?

22 A. Yes.

23 Q. No question in your mind?

24 A. No.

25 Q. Now, were you able to focus enough to see the

1 defendant leave your house?

2 A. Yeah, yeah.

3 Q. If you would show us on that diagram how he got
4 out of the house.

5 A. He went through this way, he went through this
6 door.

7 Q. So the defendant came out that front door.

8 A. He went out front.

9 Q. Now, had you ever known the defendant to use that
10 front door other than that night?

11 A. No.

12 Q. Never seen him use it?

13 A. He never did, as far as I know, no.

14 Q. And when he left out that front door, could you
15 tell if he still had the gun with him?

16 A. Yes, he did.

17 Q. Can you describe where the gun was?

18 A. In his right hand.

19 Q. The defendant had the gun in his right hand?

20 A. Yes.

21 Q. And how did he get out the door?

22 A. I had a storm door that was tied, and he just
23 pushed the door open. He snatched the front door open.

24 Q. So the storm door was tied?

25 A. Yeah.

1 Q. Why was it tied?

2 A. 'Cause no one ever go in and out of it.

3 Q. So it wasn't even a door that was opened and shut.

4 A. No.

5 Q. And the defendant pushed out that when he left?

6 A. Yeah.

7 Q. Can you tell which hand he was using to push out?

8 A. His left hand.

9 Q. Because the gun was in his right hand?

10 A. Yes.

11 Q. Now, what happened to this guy right here, Brandon
12 Cuttino, the one sitting on the couch? Did he leave at
13 that point as well or --

14 A. He left after.

15 Q. So he ran out -- did he run out the front door?

16 A. Yes, he did.

17 Q. All right. Let's talk about what Travis Holcombe,
18 the defendant's brother, the guy you were hanging out
19 with, what did he do after this shooting?

20 A. He -- I guess he was in shock.. He didn't leave
21 right away.

22 Q. So Travis didn't leave right away. What did he
23 do?

24 A. When I was holding Antwan, Travis was getting
25 something off of him. Then he went into -- I guess he

1 went through this way.

2 Q. So first Travis went to the victim; is that what
3 you're saying?

4 A. Yeah, and he was -- Travis was just taking a lot
5 of stuff.

6 Q. Did Travis actually touch the victim?

7 A. Yes, he did.

8 Q. What was he doing? What was Travis doing to the
9 victim, or with the victim?

10 A. He went -- I see Travis going -- and he went into
11 his pocket.

12 Q. So the defendant's brother, Travis, went into the
13 victim's pockets while he was laying there; is that
14 right?

15 A. While he was dying.

16 Q. Where were you?

17 A. Holding Antwan.

18 Q. So you were holding the victim, watching Travis go
19 through his pockets?

20 A. Yes.

21 Q. Now, as Travis is touching the victim, obviously,
22 there has got to be a lot of blood; is that right?

23 A. Yes.

24 Q. Was the victim covered in blood?

25 A. Yes, he was.

1 Q. Were you covered in blood?

2 A. Yes, I was.

3 Q. So do you know if Travis got any blood on his
4 hands?

5 A. He had to have there was so much blood.

6 Q. He had to because there was so much blood. And
7 after he goes into the victim's pockets, do you know what
8 he got out?

9 A. I don't remember what he got out.

10 Q. But you know he was touching the victim, going
11 through his pockets?

12 A. Yes.

13 Q. Okay. Now, after he had that contact with the
14 victim, did Travis, the defendant's brother, did he leave
15 that little den area?

16 A. Yes.

17 Q. Where did he go right after he had contact with
18 the victim?

19 A. He went walking towards where the bedroom was.

20 Q. Can you show us, just make sure I understand.

21 A. (Indicating.) He went walking this way, and that
22 is it.

23 Q. And so he goes back into the bedroom.

24 A. Yes.

25 Q. Where were you when he was in the bedroom?

1 A. I was still holding Antwan.

2 Q. Show us where you and the victim were when Travis
3 went into the bedroom?

4 A. Right here (indicating).

5 Q. So you're laying there, sitting there, with the
6 victim; is that right?

7 A. Yes.

8 Q. And Travis goes back into the bedroom.

9 A. Yes.

10 Q. Now, do you have any idea what he was doing back
11 there?

12 A. No, no.

13 Q. I mean, is the layout so that can you see into
14 there? Could you see what he was doing?

15 A. No.

16 Q. No idea what he was doing back there?

17 A. No.

18 Q. Because you were still on the floor in the den,
19 with the victim.

20 A. Yes.

21 Q. Now, back in that bedroom, you had been in there
22 just before this happened. You had been there asleep.

23 A. Yes.

24 Q. Was there any blood in that bedroom before this
25 happened?

1 A. No.

2 Q. That was your bedroom. That is where you slept.

3 A. Yes.

4 Q. Was there any blood at all back in that bedroom
5 before this happened?

6 A. No. Me and my daughter slept in that bedroom.

7 Q. That is where you guys slept, and, obviously, you
8 would have noticed if there was blood in there.

9 A. Yes.

10 Q. But when Travis went back in there, you don't know
11 what happened?

12 A. No.

13 Q. And you believe he had blood on his hands.

14 A. He had to.

15 Q. He had to because he had touched the victim.

16 A. Yes.

17 Q. Now, where did Travis go after he left that
18 bedroom back there? What did he do next?

19 A. He said he was going to make -- he kicked in the
20 door. He said he couldn't go to jail. He said he can't
21 believe his brother did this. So he went to the front
22 door, and he put the lock on the front door and he kicked
23 the front door open.

24 Q. So Travis kicked the front door, broke the front
25 door?

1 A. Yes, he did.

2 Q. Broke your front door?

3 A. Yes, he did.

4 Q. Why would he do that?

5 A. To make it seem like Antwan -- make it seem like
6 Antwan and he shoot outside, and that is not true.

7 Q. So you -- you're watching this happen; is that
8 correct?

9 A. I see some of this stuff.

10 Q. I'm sorry. I didn't hear what you said.

11 A. I just saw some of this stuff. I saw Travis.

12 Q. I know, but you're still back there in that corner
13 with the victim. You're waving --

14 A. He's still bleeding. He was still alive.

15 Q. And you're there with him?

16 A. Yes.

17 Q. And you're watching Travis do all this?

18 A. Yes.

19 Q. Did you tell him to do anything?

20 A. No. I told him to go call 911.

21 Q. But Travis isn't the one that did the shooting, is
22 he?

23 A. No, he didn't.

24 Q. Travis is doing all this stuff, but he's not the
25 shooter, is he?

1 A. No.

2 Q. Who is the one that shot the victim?

3 A. Sleezie shot him.

4 Q. No doubt in your mind?

5 A. There is no doubt because I saw him, he looked at
6 me and I looked at him, and he did it.

7 Q. All right. So what -- how did Travis come to
8 leave?

9 A. He ran out the front door, and I asked Travis to
10 call 911.

11 Q. You told him to call 911?

12 A. Yes. He ran out the front door, and I was left
13 there with Antwan.

14 Q. All right. So the defendant left out the front
15 door, right after this happened; is that right?

16 A. Yes.

17 Q. And you say Brandon Cuttino, who you know as
18 Bizzy, left out the front door after this happened?

19 A. Yes.

20 Q. And then you described Travis's actions, and then
21 he left out that front door.

22 A. Yes.

23 Q. So everybody is gone, but you.

24 A. Yes.

25 Q. And the victim, Antwan Bryant?

1 A. Yes.

2 Q. Did you stay there with him? What did you do?

3 A. I told Antwan to I was going to call 911. He told
4 me don't leave him. So I had to hold him. I hold his
5 throat, trying to stop him from bleeding. I was just
6 trying to hold him. I was just trying to help him. And
7 he was bleeding so bad. He hold on me and he died in my
8 arms.

9 Q. Could you tell where he was hit? Could you tell
10 where he was injured?

11 A. He had to have been hit in his head because his
12 brains was on me and his chest, because I was holding a
13 hole in his chest and my arm was holding his head to try
14 to hold his brains. I don't know why I did it.

15 Q. So you stayed there with him until he died, right?

16 A. Yes.

17 Q. You didn't go get help until after he died; is
18 that right?

19 A. Yes.

20 Q. How long were you there sitting there with him?

21 A. Just a few minutes. Just about some minutes.

22 Q. You stayed there with him while he died, and after
23 that, is that when you tried to go get help?

24 A. Yes, and I went to go get help.

25 Q. Can you tell us what you did to go get help.

1 A. I was -- I just -- I don't know why I did, but I
2 grabbed some pants and I ran next door, because what I
3 had on was short. I ran next door to my next door
4 neighbor, and I banged on the door and he came to the
5 door, and I was trying to tell him that somebody was shot
6 at my house, but at the time he didn't listen to me
7 because he thought it was me because I had so much blood
8 on me.

9 Q. He thought you had been shot?

10 A. Yes.

11 Q. Did you have a lot of blood on your clothes?

12 A. My clothes, my body, and I didn't realize till
13 when I went to his house, so it took him a few minutes to
14 go over there, then he called 911 before he went over
15 there.

16 Q. So he called 911 for you?

17 A. Yes, because I couldn't go in.

18 Q. I understand that. I really do.

19 The clothes that you had on, you said they were
20 bloody. What happened? Did you try and change clothes?

21 A. While I was at the neighbor's house, there was so
22 much stuff on me. His girlfriend at the time told me to
23 take those off. She had given me some clothes. When I
24 took the stuff off, I had things on my body, so she wiped
25 me off, and she gave me clean clothes to put on.

1 Q. So she cleaned you up a little bit, gave you a
2 change of clothes.

3 A. Yes.

4 Q. What happened to those nasty clothes?

5 A. The police had kept them.

6 Q. So you just left them there and the police got
7 them?

8 A. Yes. She put them in the trash because we didn't
9 know --

10 Q. Sure.

11 A. -- what to do, but when an officer came, he got
12 them.

13 Q. You threw them away because they were obviously
14 disgusting and North Charleston came and got them out of
15 the trash?

16 A. They got them.

17 Q. You weren't trying to hide these clothes for any
18 reason, were you?

19 A. No.

20 Q. You just wanted out of them.

21 A. I just wanted them off me.

22 Q. Now, you mentioned that you had gotten grazed, or
23 kind of clipped, by the bullet after the defendant shot.

24 A. Yeah.

25 Q. What is going on with that? Were you bleeding

1 badly?

2 A. I wasn't bleeding badly. That is why I told -- I
3 refused EMS. I refused everyone. I just wanted to go
4 somewhere and forget it happened, but I was bleeding. I
5 wasn't bleeding real bad.

6 Q. So you were lucky and just got scratched and you
7 didn't need any real serious medical attention.

8 A. Yes.

9 Q. I'm sorry to have to talk to you about this stuff,
10 I really am.

11 Let's kind of move on a little bit. When the
12 police got there, how quickly did they arrive after this
13 happened?

14 A. It didn't take them long. It didn't take them
15 long. It took --

16 Q. Just a couple minutes?

17 A. Yes.

18 Q. And did you talk to them at that point?

19 A. I was just describing. I remember a chaplain
20 talking to me. I don't remember the officer talking to
21 me, at first.

22 Q. Okay. So the first time that you sat down and
23 actually talked to a detective, talked to a police
24 officer about this, what time was that? Was that a long
25 while after or was it that morning?

1 A. It was that morning. It wasn't long after. It
2 was that morning.

3 Q. Okay. So that morning, shortly after this thing
4 happened, you talked to the police.

5 A. Yes.

6 Q. Right after this had happened, in your den, in
7 your lap, you talked to the police?

8 A. Yes.

9 Q. And did you give them a statement at that point?

10 A. At the precinct, yes.

11 Q. And when you talked to them, when you gave them
12 that statement, were you honest with them?

13 A. No.

14 Q. Why not?

15 A. Because I was scared. I was confused.

16 Q. What was going on in your mind when you talked to
17 them that first time?

18 A. How am I going to tell them what happened and
19 Sleezie is still out there?

20 Q. So you were worried that he was still out there?

21 A. Yes.

22 Q. You were worried to tell the truth?

23 A. Yes.

24 Q. And you admit that you were not honest with them
25 the first time you talked to them, a few hours after this

1 murder?

2 A. Yes.

3 THE COURT: We need to take a break right now
4 so we -- a juror needs to use the rest room, so let's go
5 ahead and take about a ten or fifteen minute break right
6 now so don't talk about the case or begin deliberations.
7 See you all back in a few minutes.

8 (Jury excused.)

9 THE COURT: All right. Ma'am, if you need to
10 go to the rest room, I can have the bailiffs take you in
11 one of the rest rooms back there. You can't talk to
12 anybody about your testimony, okay, but one of the
13 bailiffs here can you take her back to the rest room.

14 All right. See you back in ten minutes.

15 (Recess taken.)

16 THE COURT: Let the record reflect Mr. McCoy
17 is in the courtroom. Bring the jury back in.

18 (In open court, jury present.)

19 THE COURT: All right. Mr. Wetmore, you may
20 resume.

21 MR. WETMORE: Thank you.

22 BY MR. WETMORE:

23 Q. All right, Carinda. Where we left off, you were
24 telling me about the first time you talked to the
25 detectives in North Charleston.

1 A. Yes.

2 Q. You admit you were not honest; is that right?

3 A. Yes.

4 Q. You were concerned the defendant was still out
5 there.

6 A. Yes.

7 Q. So for that reason, you weren't completely honest.

8 A. No.

9 Q. You admit that you made the statement to him. Did
10 you put it down in writing?

11 A. Yes.

12 Q. One of the detectives wrote it for you, or you
13 wrote it yourself?

14 A. I wrote it myself.

15 Q. And you didn't tell him the whole truth.

16 A. No.

17 Q. Now, did you talk to them a little bit later, I
18 guess about, maybe, 11:00, 12:00, around lunchtime that
19 same day?

20 A. Yes.

21 Q. Okay. Did you give them another statement?

22 A. Yes.

23 Q. And in that second statement, were you completely
24 truthful with them or partially truthful or --

25 A. Partially.

1 Q. What did you tell them the second time?

2 A. I identified Sleezie and --

3 THE COURT: Could you speak up.

4 THE WITNESS: I identified the defendant.

5 BY MR. WETMORE:

6 Q. So you told the police that it was the defendant
7 that did it in your second statement.

8 A. Yes.

9 Q. But did you give them the whole statement, the
10 whole truth, like you did today?

11 A. No.

12 Q. Why not? Why didn't you come clean and give them
13 the whole story?

14 A. I was just scared.

15 Q. Why were you scared?

16 A. Because they didn't find him. They didn't arrest
17 him, and his brother -- I was just scared of his brother,
18 mostly.

19 Q. So you were scared of the defendant and --

20 A. His brother.

21 Q. So the second statement, you told them the
22 defendant did it, but you didn't give them the whole
23 story.

24 A. No.

25 Q. Because you were scared of his brother.

1 A. Yes.

2 Q. Like I said, it was Friday. Then it rolled over
3 into Saturday morning early when you first talked to
4 them. Not true. Second time, around lunchtime, you gave
5 them the defendant's name, but you didn't tell them the
6 whole story.

7 A. No.

8 Q. Now, did you talk to them a third time?

9 A. Yes.

10 Q. How did that take place?

11 A. I called the detective.

12 Q. So you called the detectives?

13 A. Yes.

14 Q. Now, when did you call?

15 A. The next day.

16 Q. What time, do you remember?

17 A. It was the morning, I guess.

18 Q. That would have been, I guess, Sunday morning.

19 A. Yes.

20 Q. So the next morning, you called them. What did
21 you say?

22 A. I wanted to tell them everything.

23 Q. So you called them the next morning after this
24 happened, and said, I need to come clean and tell you
25 everything this time.

1 A. Yes.

2 Q. And at that point did you tell them the whole
3 truth, the whole story, about what happened?

4 A. Yes.

5 Q. And it's the same story as you told us today?

6 A. Yes.

7 Q. Because it's the truth; is that right?

8 A. Yes.

9 Q. Once again, please explain to those folks why you
10 weren't honest with North Charleston the first time you
11 talked to them, or why you were only partially honest the
12 second time.

13 A. Because I was afraid of Sleezie at the time.

14 Q. Were you under any kind of stress, shock?

15 A. Yes, shock, a lot, yes. I was just afraid.

16 Q. The next morning you came to them --

17 A. Yeah.

18 Q. You came to them and you told them the whole
19 truth.

20 A. Yes.

21 Q. And it's the same truth that you told today.

22 A. Yes.

23 Q. You have been completely honest today?

24 A. Yes.

25 Q. Nothing you need to change or add?

1 A. No.

2 Q. Now, since this happened, leading up to trial, you
3 indicated that you had talked to me three times; is that
4 right?

5 A. Yes.

6 Q. Now, has anybody besides me or my office contacted
7 you about this case?

8 A. No.

9 Q. Anybody approached you, threatened you?

10 A. No. I had someone tell me that I shouldn't come
11 to Court, but they didn't threaten me.

12 Q. Someone advised you that you shouldn't come to
13 Court?

14 A. That I shouldn't testify against Sleezie.

15 Q. But you didn't take that as a threat?

16 A. No, because I'm here now.

17 Q. You're here today to tell the truth.

18 A. Yes.

19 Q. Now, you mentioned, like I said, that you were
20 asleep when this thing erupted into your den?

21 A. Yes.

22 Q. Were you groggy from sleep? Did it somehow keep
23 you from realizing what was going on, or were you wide
24 awake?

25 A. I was wide awake.

1 Q. I know you may have learned about this, but there
2 were some drugs and some drug paraphernalia found at the
3 scene at the victim's body. Do you have any idea how
4 that stuff got there?

5 A. No.

6 Q. Now, were you under the influence of drugs or
7 alcohol, drugs, anything that night?

8 A. No.

9 Q. So your judgment, your memory, your recollection
10 of those events, is not clouded by alcohol or drugs.

11 A. No.

12 Q. I'm going to ask you one final time now. You're
13 not covering for anybody. You're not covering for
14 Travis, anybody like that?

15 A. No.

16 Q. Any doubt in your mind this is the man who shot
17 the victim?

18 A. There is no doubt that he did do it.

19 MR. WETMORE: If I may have just one second,
20 Your Honor. Ms. Snowden, if you would -- I have no
21 further questions. If you would answer any from the
22 defendant.

23 THE COURT: All right. Mr. McCoy, you have
24 questions?

25 MR. TERRELL MCCOY: Yes, sir.

CROSS-EXAMINATION

1
2 BY MR. TERRELL McCOY:

3 Q. Carinda, a minute ago the solicitor was talking
4 about street names. Do you got any street names?

5 A. No.

6 Q. When you gave all your statements, I know you
7 signed the name Carinda Williams. Who is that?

8 A. Because I have two last names.

9 Q. And what is your last name? What is the last name
10 coming from? How do you end up with two last names?

11 A. Snowden is my maiden name, and Williams is my
12 married name.

13 Q. Well, I did an investigation with the marriage
14 license bureau, and they don't have nothing --

15 MR. WETMORE: Objection, Your Honor. He's
16 testifying. He needs to ask a question and wait for an
17 answer.

18 THE COURT: Just ask a question.

19 BY MR. TERRELL McCOY:

20 Q. So you was married?

21 A. I still am married.

22 Q. I did an investigation with the marriage license
23 bureau and they said --

24 THE COURT: You can't testify. You can ask a
25 question, but by stating, You did this investigation, if

1 you want to talk about that, you get on the stand later
2 and do that. Just ask questions now.

3 BY MR. TERRELL McCOY:

4 Q. Do you remember giving three statements to the
5 police?

6 A. Yes.

7 Q. And when they asked you on the first statement to
8 provide a little history on yourself, what did you tell
9 them?

10 A. I don't remember them asking me that. I don't
11 remember giving them a history of myself.

12 Q. Did you tell them you had a boyfriend by the name
13 of Travis Johnson?

14 A. Yes.

15 Q. And who is Travis Johnson?

16 A. Travis is your brother.

17 MR. TERRELL McCOY: Your Honor, may I
18 approach the witness?

19 THE WITNESS: I don't want him approaching
20 me.

21 MR. TERRELL McCOY: Let me show you what is
22 marked as Defendant's Exhibit 13.

23 BY MR. TERRELL McCOY:

24 Q. That is the statement you wrote, right? Is this
25 the first statement you gave to law enforcement?

1 A. Yes.

2 Q. And at the very bottom, it says, I have read the
3 forgoing statements, or had it read to me, and it's true
4 and correct to the best of my knowledge, and I have given
5 this statement freely and voluntarily and have provided
6 them a copy of that statement, and you signed at the
7 bottom. That is your signature, right?

8 A. Yes.

9 Q. And you signed it Carinda Williams, right?

10 A. Yes.

11 Q. And the first statement you gave, you said that
12 Travis Johnson, my boyfriend, left my house, and I don't
13 know if he ever returned; is that correct?

14 A. Yes.

15 Q. Can you tell me who Travis Johnson was?

16 A. Travis is your brother.

17 Q. Whoever told you that Travis Johnson was Sleezie
18 brother?

19 A. Travis is your brother, and I know it, and you
20 know it.

21 Q. Whoever told you that Johnson was Travis's last
22 name?

23 A. Travis did, and I never questioned his last name.

24 Q. I thought he was your boyfriend for one year or
25 so. Wouldn't you know your boyfriend's last name?