

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Sumter County

Honorable D. Craig Brown, Circuit Court Judge

ANTRELL RASHAWN FELDER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001173

APPENDIX

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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

COURT OF GENERAL SESSIONS
10-GS-43-00059

STATE OF SOUTH CAROLINA

-vs-

ANTRELL RASHAWN FELDER

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:

TRANSCRIPT OF RECORD

NOVEMBER 14 - 18, 2011
SUMTER, SOUTH CAROLINA

B E F O R E:

HONORABLE HOWARD P. KING, JUDGE, AND A JURY.

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

JOHN P. MEADORS, ASSISTANT SOLICITOR
CHIP FINNEY, SOLICITOR
ATTORNEYS FOR THE STATE

SHAUN C. KENT, ESQUIRE
RAY CHANDLER, ESQUIRE
ATTORNEYS FOR THE DEFENDANT

DIANNE A. RUTLEDGE
CIRCUIT COURT REPORTER

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1 (Monday, November 14, 2011.)

2 THE COURT: Ladies and gentlemen of the jury, thank
3 you for being here. You all have been in the courtroom
4 this morning with Judge James. I formerly had the seat
5 that Judge James now has as the resident judge. I was a
6 resident judge to this circuit from 1996 until 2006 when
7 Judge James took my place, but I still have been serving at
8 the request of the Supreme Court and the Chief Justice in a
9 retired active capacity. And it is always a pleasure for
10 me to hold court in Sumter, because it is my home county
11 and I always enjoy holding court here.

12 As I am sure Judge James told you, both of us are
13 assigned to conduct general sessions court this week. And
14 he has already qualified you as jurors and has selected a
15 jury, and we are now ready to go forward with the next
16 matter that the solicitor has.

17 Mr. Meadors, what is the matter before The Court at
18 this time?

19 MR. MEADORS: If it pleases Your Honor. At this time
20 we call The State of South Carolina versus Antrell Rashawn
21 Felder. This is a true billed Sumter County indictment for
22 murder and possession of a firearm during the commission of
23 a violent crime. Mr. Felder is present with his attorneys,
24 Mr. Shun Kent and Mr. Ray Chandler.

25 THE COURT: All right. If you will hand up the

1 indictment, and the witness list and voir dire please.

2 (Pause.)

3 THE COURT: Any special voir dire or witness list on
4 behalf of defense, Mr. Kent?

5 MR. KENT: No, sir, Judge.

6 THE COURT: All right. What about the state's witness
7 list?

8 MR. MEADORS: Your Honor, I think it's up there. I'm
9 sorry.

10 THE COURT: It is. (Pause.) Okay. All right. Thank
11 you.

12 Ladies and gentlemen, if you would, give me your
13 attention. You have heard the state announce that they
14 have called the case of The State of South Carolina versus
15 Antrell Rashawn Felder. His name is A-n-t-r-e-l-l,
16 Rashawn, R-a-s-h-a-w-n, Felder. And he is charged in the
17 bill of indictment which has been returned as a true bill
18 by the grand jury of Sumter County with the crime of murder
19 and the crime of possession of a weapon during the
20 commission of a violent crime.

21 What I'm going to tell you is not evidence in this
22 case. It is simply the allegations contained in the
23 indictment, but I tell you this so you can determine if you
24 know anything about the facts of this case or anything that
25 would prevent you from serving as a juror.

1 But the state alleges that Mr. Felder did in Sumter
2 County on or about July 18, 2008 feloniously, wilfully, and
3 with malice aforethought either express or implied kill one
4 William McKenzie by means of shooting him with a handgun
5 and that the said William McKenzie died as a proximate
6 result thereof and the crime is one of murder.

7 The second count of the indictment is one that charges
8 that Mr. Felder did in Sumter County on that same day have
9 in his possession or visibly display a knife (sic) during
10 the commission of a violent crime, specifically, the
11 violent crime of murder, and he is charged with the
12 separate offense of possession of a firearm or knife during
13 the commission of a violent crime.

14 The defendant, Mr. Felder, is represented by Mr. Ray
15 Chandler Mr. Shaun Kent. Mr. Kent, will you stand and
16 introduce Mr. Chandler or either vice versa and also have
17 your client stand and face the jury please.

18 MR. KENT: My name is Shaun Kent. I practice law in
19 Manning, South Carolina at the law firm of Ray Chandler.
20 This is my client, Antrell Felder. Thank you.

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

22 All right. Ladies and gentlemen, before we select a
23 jury, I need to ask you a number of questions to determine
24 your qualifications to serve on the jury this week. Please
25 give your attention to these questions. And if any of them

1 apply to you, then respond accordingly.

2 Is any member of the jury panel related by blood or
3 connected by marriage to the defendant Antrell Rashawn
4 Felder? If so, please stand.

5 (No response.)

6 THE COURT: Thank you. The following individuals may
7 appear as witnesses in this case. I would ask if the
8 witnesses are present, if they would stand when their name
9 is called and face the jury, and then be seated.

10 James Allsbrook of the Sumter Police Department
11 evidence technician, Amy Stephens, South Carolina Law
12 Enforcement Division, Lieutenant, Truman Duggin of the
13 Sumter Police Department, Marie Hodge of the Sumter Police
14 Department, Agent Maryanne Shehan of SLED, Detective Jason
15 Potteiger, formerly of the Sumter Police Department, Agent
16 Kenneth Whitler, W-h-i-t-l-e-r, of SLED, Lieutenant David
17 McClure of SLED, Special Agent Veronica Gibson of SLED,
18 Special Agent Selena Kinard of SLED, Daniel Perry,
19 Detective William Lyons of the Sumter Police Department,
20 Detective Robbie Richburg of the Sumter Police Department,
21 Officer Joel Geddings of the Sumter Police Department,
22 Kayla McFadden, M-c-F-a-d-d-e-n, Antrell McFadden, Ida Mae
23 Felder, Kim Tindall, Stephon Robinson, Lieutenant Ken
24 Nesbitt of the Sumter Police Department, Sada Isaac, Stacey
25 Caughman, Detective Chief Alvin Holston of the Sumter

1 Police Department, Sergeant Cedrica Stubbs of the Sumter
2 Police Department, Lisa Boggs, Patrolman C. Jones of the
3 Sumter Police Department, Corporal Lawrence Simmons of the
4 Sumter Police Department, Stephanie Harry, Kelvin McCoy,
5 Deonte Frierson, Detective Curtis Hodge of the Sumter
6 Police Department, Heather Ramos, Curt Gowdy, John
7 Frierson, Tonya McDaniels, Fonzo, F-o-n-z-o, Fonzo Glasgow,
8 Gabriel Blackwell, formerly of the Sumter Police
9 Department, Angelique Dade, Jerome Vaughn, S. Doughrity, a
10 custodian of the records of the Time Warner Cable Company,
11 Dodie Yarborough of SLED, Pat Crooks of SLED, Sheree Brown
12 of SLED, Lisa McReynolds of SLED, Kathy Woodward of SLED,
13 Brandon Williams of SLED, Shana Sorreilis, S-o-r-r-e-i-i-s,
14 of SLED, Dr. Janice Ross, Robert Jones, Linda Daniels,
15 Chiqua, C-h-i-q-u-a, Wells, Leroy McDaniel (sic), and
16 Monica Daniels.

17 Is any member of the jury panel related by blood or
18 connected by marriage to any of the proposed witnesses? If
19 so, please stand.

20 (Pause.)

21 THE COURT: All right. I think I said Leroy Daniels.
22 I should have said Leroy McKenzie and Monica Daniels.

23 So, again, the question is: Any member of the jury
24 panel related by blood or connected by marriage to any of
25 the proposed witnesses? If so, please stand.

1 (No response.)
2 THE COURT: Thank you.
3 MR. MEADORS: Judge.
4 (Pause.)
5 THE COURT: All right. During the process of calling
6 out the names of the witnesses, there was a gentleman who
7 stood up on the back row. Would you stand up again,
8 whoever that was?
9 All right. Did you know one of the witnesses in this
10 matter?
11 JUROR: I do.
12 THE COURT: All right. Who is that?
13 JUROR: Could I come up?
14 THE COURT: Yes, please. Come up, Counsel.
15 (The following takes place on the record in the
16 presence of the jury panel, but out of the hearing of the
17 jury panel.)
18 THE COURT: Tell me first your name?
19 JUROR: Jason Coker.
20 THE COURT: Okay. Mr. Coker.
21 JUROR: 32.
22 THE COURT: All right. Juror No. 32, Mr. Coker.
23 All right. Yes, sir.
24 JUROR: I was an informant with Trip Hayes and Potts a
25 while back on several things.

1 THE COURT: Okay. So which officers were you an
2 informant for?

3 JUROR: I know Trip Hayes. Potts was in with it.

4 MR. MEADORS: Is it Potteiger you're talking about?

5 JUROR: Yeah.

6 THE COURT: All right. Would that fact prevent you
7 from giving to both the state and the defendant a fair and
8 impartial trial based on the evidence?

9 JUROR: I don't see a problem with it.

10 THE COURT: You don't have a problem with it. My
11 question is: Could you put that aside and decide this case
12 based on the evidence you hear in this courtroom? Would
13 you do that?

14 JUROR: Yes.

15 THE COURT: Okay. Thank you, sir. You're not working
16 with him now; is that correct?

17 JUROR: But my brother is also a city cop.

18 THE COURT: All right. Who is that?

19 JUROR: Ron Freemond (phonetic).

20 THE COURT: Okay. And he is currently with the city
21 police department?

22 JUROR: Right.

23 THE COURT: Sumter City Police Department. Okay. All
24 right. Thank you.

25 I'll hear from you on a motion on that.

1 (In-camera hearing concludes.)

2 THE COURT: All right. Additionally, ladies and
3 gentlemen, let me give you the names of 2 other witnesses,
4 potential witnesses in this case. Maurice Llewellyn
5 (phonetic), and Tommy Burgess.

6 Is any member of the jury panel related by blood or
7 connected by marriage to either of those 2 witnesses? If
8 so, please stand.

9 (No response.)

10 THE COURT: Thank you. All right. You have heard the
11 attorneys introduce themselves to you, that is the
12 attorneys for the defense. Mr. Meadors, I would ask if you
13 would stand and introduce yourself to the jury panel and
14 the solicitor as well and any other lawyers who will be
15 working with you on this matter?

16 MR. FINNEY: Thank you, Your Honor. My name is Chip
17 Finney. I represent the solicitor's office. John Meadors
18 is the attorney assigned to this case today.

19 THE COURT: All right. Thank you.

20 Is any member of the jury panel represented now or
21 been represented in the last 10 years by Mr. Chandler or
22 Mr. Kent or any member of their law firm in Manning? If
23 so, please stand.

24 (No response.)

25 THE COURT: Is any member of the jury panel

1 represented now or been represented in the last 10 years by
2 any member of the Third Circuit Solicitor's Office or by
3 Mr. Finney when he was in private practice? If so, please
4 stand.

5 (No response.)

6 THE COURT: Thank you. Does any member of the jury
7 panel know anything about the facts of this case as I have
8 briefly recited them to you? If so, please stand.

9 (No response.)

10 THE COURT: Thank you. Is any member of the jury
11 panel or member of your immediate family -- and I define
12 immediate family as spouse, parent, brother, sister, or
13 child -- any member of the jury panel or member of your
14 immediate family been the victim of a violent crime on the
15 person of that individual? Anybody who is on the jury
16 panel who has been the victim of a violent crime or a
17 member of your immediate family has been the victim of a
18 violent crime? If so, please stand.

19 All right. Let the record reflect that 2 individuals
20 have stood. Come forward please.

21 (Pause.)

22 (The following takes place on the record in the
23 presence of the jury panel, but out of the hearing of the
24 jury panel.)

25 THE COURT: Yes, ma'am. Tell me your name?

1 JUROR: Melany Stein, 176.

2 THE COURT: 176. All right. Ms. Stein, tell me your
3 situation.

4 JUROR: My father was murdered.

5 THE COURT: Okay. And how long ago was that, Ms.
6 Stein?

7 JUROR: Oh, gosh.

8 THE COURT: A long time?

9 JUROR: Yes.

10 THE COURT: Was it in Sumter or was it somewhere else?

11 JUROR: No. Kentucky.

12 THE COURT: Okay. All right. Would that fact prevent
13 you from giving both the state and the defendant a fair
14 trial based on the evidence you hear in this case?

15 JUROR: I don't know.

16 THE COURT: Well, I have to know that you would be
17 able to put that aside and decide the case in this case.
18 If you can't do that, I would need to know that as well.

19 JUROR: Right.

20 THE COURT: I just want you to give me your honest
21 opinion on it.

22 JUROR: I probably could.

23 THE COURT: Probably could?

24 JUROR: Uh-huh.

25 THE COURT: Well, I'm not sure that's good enough.

1 Would you do that?

2 JUROR: I would.

3 THE COURT: All right. You would put that aside and
4 decide the case based on the evidence you hear in this
5 courtroom?

6 JUROR: (Nods head.)

7 THE COURT: Okay. Thank you, ma'am.

8 BAILIFF: Juror No. 87, Your Honor.

9 THE COURT: Ms. Jenkins. Okay. Yes, ma'am. Tell me
10 about your situation?

11 JUROR: My nephew, he was brutally murdered.

12 THE COURT: Your nephew what?

13 JUROR: My nephew was brutally murdered.

14 THE COURT: Okay. Was that here in Sumter?

15 JUROR: Charleston.

16 THE COURT: In Charleston?

17 JUROR: Yes.

18 THE COURT: And how long ago was that?

19 JUROR: That was in 2008 or 2009.

20 THE COURT: Okay. Was anybody arrested and convicted
21 for that crime?

22 JUROR: (Nods head.)

23 THE COURT: All right. Would that fact prevent you
24 from giving to both the state and the defendant a fair and
25 impartial trial based on the evidence?

1 JUROR: I can try.

2 THE COURT: You could try what now?

3 JUROR: To do the right thing.

4 THE COURT: My question is, could you put that fact
5 aside and decide that case -- this case based on what you
6 hear in this courtroom outside of what happened to your
7 nephew?

8 JUROR: (Nods head.)

9 THE COURT: You could? Is that a yes? Ma'am?

10 JUROR: I don't think so.

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

12 (In-camera hearing concludes.)

13 THE COURT: Has any member of the jury panel formed or
14 expressed an opinion as to the guilt or innocence of the
15 defendant in this case, Mr. Antrell Rashawn Felder? If so,
16 please stand.

17 (No response.)

18 THE COURT: Other than what has already been disclosed
19 to me, is any member of the jury panel aware of any
20 interest, any bias or prejudice, for or against the
21 defendant, Antrell Rashawn Felder? If so, please stand.

22 (No response.)

23 THE COURT: Again, other than what has been disclosed
24 to me, can each member of the jury panel give to the state
25 and the defendant, Mr. Felder, a fair and impartial trial?

1 If not, please stand.

2 (No response.)

3 THE COURT: Does any member of the jury panel know of
4 any reason whatsoever why he or she should not serve as a
5 juror in this case other than what has already been
6 disclosed to me? If so, please stand.

7 (No response.)

8 THE COURT: Are there additional questions on behalf
9 of the state, Mr. Meadors?

10 MR. MEADORS: No, sir, Your Honor.

11 THE COURT: On behalf of the defense, Mr. Kent?

12 MR. KENT: No, Your Honor.

13 THE COURT: All right. Counsel, come up please.

14 (The following takes place on the record in the
15 presence of the jury panel, but of the hearing of the jury
16 panel.)

17 THE COURT: Any motions on behalf of the defense?

18 MR. KENT: The one question I had, Judge ---

19 THE COURT: Wait a minute. Speak to her.

20 MR. KENT: The one question I had, Judge, and I asked
21 John to check. Did he work his charges off? Are there
22 still pending charges on his record? I understood he is
23 working charges off is what he said. I don't even know if
24 he's eligible. I just don't know.

25 THE COURT: The way I feel about it, he's got a

1 brother that is currently in the city police department. I
2 think that puts him in a bad position.

3 MR. KENT: Either way?

4 THE COURT: Yes, I think he ought to be excused. Do
5 you have any objection to that?

6 MR. KENT: No.

7 THE COURT: All right. Let's take off No. 32.

8 176. She said she could put it aside.

9 MR. KENT: She answered the questions properly, Judge.

10 THE COURT: Okay. So 32 and 87 will be excused.

11 (In-camera hearing concludes.)

12 THE COURT: All right. Counsel, in view of what we've
13 put on the record, we will now proceed with the selection
14 of the jury.

15 Ladies and gentlemen, you will recall having been in
16 here when Judge James selected the jury, and I'm sure he
17 told you this -- go ahead, Mr. Bradley, give us a jury.
18 And while you all are printing that out, I'll talk to the
19 jury just a minute.

20 I'm sure that Judge James told you that in the older
21 days -- by older days I mean, not that long ago. 10, 12
22 years ago -- or less than that, we used to put all the
23 qualified jurors' names in a rotating drum and mix them up
24 and draw them out one by one. And it was all done by hand.

25 Now it's all done by the computer. All of the names

1 of the qualified jurors are put into the computer, and the
2 computer randomly selects the jurors. And that's what the
3 clerk is doing right now, and will have that for us in just
4 a minute.

5 But we will go through the process as we have done or
6 as you saw done this morning when Judge James was here.
7 When your name is called, please come through either the
8 double swinging doors here in the front or the door over
9 here to the left, whichever is the most convenient to you,
10 up to the front rail here, turn around with your back
11 toward me, face the back of the courtroom and General
12 Thomas Sumter up there on the wall.

13 And if you are acceptable to the state, the state will
14 indicate, present the juror. If you're acceptable to the
15 defense, the defense will indicate, seat the juror. And
16 you would have a seat in the jury box to my left.

17 If either side excuses you, you would have a seat back
18 out with the remainder of the jury panel.

19 And we will go through this process until we have
20 selected a jury.

21 All right. Anything before we begin the selection
22 process on behalf of the state, Mr. Meadors?

23 MR. MEADORS: No, Your Honor.

24 THE COURT: Mr. Kent?

25 MR. KENT: Nothing, Your Honor.

1 THE COURT: All right. Mr. Clerk, give us a jury
2 please.

3 (The jury was empaneled at 1:16 p.m.)

4 THE COURT: Anything with regard to striking the jury
5 on behalf of the state, Mr. Meadors?

6 MR. MEADORS: Beg The Court's indulgence.

7 THE COURT: All right.

8 (Pause.)

9 MR. MEADORS: Nothing from the state.

10 THE COURT: On behalf of the defense, Mr. Kent?

11 MR. KENT: Nothing on behalf of the defense, Your
12 Honor.

13 THE COURT: All right. Ladies and gentlemen, selected
14 in the trial of this case, there are a number of matters
15 that we need to tend to before we can go forward with the
16 actual trial of this case. I have been in conference with
17 the lawyers earlier this morning and know that we've got
18 some motions and things that need to be heard this
19 afternoon that will probably take us most of the afternoon.

20 So I'm going to excuse you now and we're going to
21 start the trial of this matter in the morning at 9:30.
22 However, before I excuse you, there are several things that
23 I want to tell you.

24 First of all, later on in this trial I will either
25 select or will allow you to select one of the 12 members of

1 the principal jury as foreperson of this jury. When I do
2 that, that foreperson should always sit in the first seat
3 here on the front row.

4 The alternates will always sit in the seats where they
5 are seated, one here and one back there.

6 The rest of the seats in the jury box are not reserved
7 and it does not matter what order you come and go from the
8 courtroom. I would simply ask that you go all the way down
9 so that it wouldn't be a situation of crawling over one
10 another, reserving the seat here in this corner and the
11 first seat on the second row for the alternates and the
12 first seat on the front row for the foreperson when that
13 foreperson is selected.

14 Now, I know you do not know anything about the facts
15 of this case, except what I told you basically the case is
16 about. But it would be improper for you to discuss this
17 case with anyone while you are away from the courthouse.
18 So when you see your family or your friends, do not discuss
19 the case with them at all. You can tell them that you're
20 serving on the jury, but you can't discuss the matter with
21 them.

22 And the reasons for that is pretty obvious. You've
23 got to decide the case based upon what you hear in this
24 courtroom and not on the basis of what anyone else might
25 say.

1 Also, do not discuss the case among yourselves at any
2 time throughout the trial of this case. When you are there
3 in the jury room assembling in the morning or whenever you
4 might be in the jury room in this matter, do not discuss
5 the case among yourselves until I tell you it is
6 appropriate for you to do so, which will be at the end of
7 the case after you have heard all the testimony, the
8 arguments of counsel, and the instructions on the law by
9 The Court.

10 So you can talk about anything you want to when you're
11 in the jury room, children, grand children, weather,
12 sports, anything you want to talk about, but don't talk
13 about this case until I tell you it is appropriate for you
14 to do so.

15 Also, do not allow anyone to talk with you about the
16 case. If anyone should approach you or try to talk with
17 you about the case, give their name or their description,
18 report it to the bailiffs. They will report it to me. And
19 I will deal with them.

20 And, finally, do not read any news stories or listen
21 to any broadcast media about this case. I don't know
22 whether there will be anything in the newspaper or whether
23 there will be anything in the broadcast media. If there is
24 anything on the broadcast media, simply turn it off and do
25 not listen to it. Or if there's anything in the newspaper,

1 simply put that paper aside and do not read that.

2 And, again, the reasons for that are pretty apparent.
3 With all due respect to my friends in the news media, the
4 things that they report are not always accurate as to what
5 goes on in court. And you've got to decide this case based
6 upon what you hear from this witness stand. And so it
7 would be inappropriate for you to read any news stories or
8 listen to any radio broadcast.

9 And, similarly, do not do any research about this
10 matter on your own. Do not get on the internet. Do not do
11 any research whatsoever in to the law or the facts of this
12 case. You've got to, again, decide the case based upon
13 what you hear in the courtroom and not on the basis of any
14 information which you can obtain on your own.

15 So with those admonitions, I am going to excuse you
16 now. Go with the bailiff. He will show you where your
17 jury room is. And he will also show you how to get in and
18 out of the courthouse tomorrow morning. And I would ask
19 that you be here at 9:30. Please try to be here promptly
20 at 9:30. We want to try to start right at that time. In
21 fact, be here a few minutes early if you possibly can so
22 that we can start promptly at 9:30. But he will show you
23 how to get in and out of the courthouse and to get here in
24 the morning.

25 I know that parking is a problem right now. You have

1 probably encountered that this morning already. We are in
2 the process of constructing a judicial center -- a new
3 judicial center for Sumter County, and it is going up in
4 the former parking lot across the street over there, and it
5 really caused a problem with regard to the parking. So
6 give yourself enough time to find a place to park and be in
7 the courthouse, in your jury room by 9:30.

8 With those admonitions then, I'm going to excuse you
9 now and allow you to go about your business for the rest of
10 the day, and I'll see you tomorrow morning at 9:30. Have a
11 pleasant afternoon.

12 (The jury exits the courtroom at 1:21 p.m.)

13 (The jury panel was excused.)

14 THE COURT: On juror No. 118, find out why Mr.
15 McDonald ---

16 CLERK: He came in earlier and he was excused.

17 THE COURT: That's right. That's the gentleman that
18 was deaf.

19 CLERK: Yes, sir, and we forgot to take him out.

20 THE COURT: All right. Okay. So that accounts for
21 him.

22 That juror was here earlier this morning, Counsel, but
23 he was communicating with whoever was with him by sign
24 language. And so it was obvious that he was not able to
25 serve. So I excused him earlier today.

1 All right. Counsel, we'll be ready to go forward and
2 hear the motions this afternoon. Is there anything before
3 we plan to come back, say, at 2:30, Mr. Meadors, and
4 address the motions and matters that need to be heard?

5 MR. MEADORS: Nothing, besides what we discussed in
6 chambers, Your Honor.

7 THE COURT: All right. We'll take those matters up at
8 2:30. So we will be in recess then until 2:30 at which
9 time we will address the motions in this case. Thank you.

10 Oh, one other thing -- well, at this point on the
11 matter of the defendant's status, the jury hasn't been
12 sworn yet, and we'll allow him to remain on the electronic
13 monitoring at least over the lunch recess, but we'll go
14 after that.

15 MR. KENT: Thank you.

16 THE COURT: Thank you.

17 (Court is in recess for lunch.)

18 THE COURT: All right. Back on the record with regard
19 to the matter of The State versus Felder, indictment No.
20 09-GS-43-059. I believe the matters that we needed to
21 address this afternoon are some motions. From pretrial
22 discussions, Mr. Meadors, I don't believe there are any
23 motions on behalf of the state at this time; is that
24 correct?

25 MR. MEADORS: Yes, sir, that's correct.

1 THE COURT: All right. Mr. Kent, motions on behalf of
2 the defense?

3 MR. KENT: Thank you, Your Honor. May it please The
4 Court. I'll start simple, and the one that we've already
5 discussed. I think the first one we discussed was motion
6 for sequestration. My understanding from talking to
7 Solicitor Meadors, I think we're both in concert that it
8 probably is necessary to sequester all witnesses with the
9 exception of whoever the case agent is, who they designate
10 as the investigating officer. I think that's really about
11 it.

12 THE COURT: All right. Motion to sequester I normally
13 do that as a matter of course as I have stated before. The
14 proposal has been and has not yet been passed in this state
15 to make sequestration automatic as it is in the federal
16 courts. But that is still not our rule or our law.
17 However, I do normally grant motions for sequestration,
18 make it reciprocal that both sides must sequester their
19 witnesses. The state has the right to keep the primary
20 case officer present and victim's representatives, Mr.
21 Meadors.

22 MR. MEADORS: Yes, sir. Judge, the only caveat is
23 there actually are 2 chief investigating officers. Jason
24 Potteiger is now in Beaufort. He just came back for this
25 trial. I didn't know if Your Honor would let both of them

1 stay. Obviously, all the rest of law enforcement would be
2 out. And there is a potential witness -- and I'm not even
3 sure I'm going to use her.

4 THE COURT: All right. How do you feel about having
5 the 2 officers here?

6 MR. KENT: With all due respect, there's going to be
7 differences in testimony. And the whole point of
8 sequestration is so you can't say the same thing. There
9 are 2 officers that will be called to testify to individual
10 facts.

11 THE COURT: All right. Normally, it's been my
12 experience that there's been one officer designated as the
13 primary case officer. I think that would be the person you
14 would have to keep here, Mr. Meadors.

15 MR. MEADORS: Yes, sir.

16 THE COURT: Okay. All right. So motion for
17 sequestration is granted.

18 All right.

19 MR. KENT: Judge, do you want them sequestered during
20 the course of the hearings, during the motions? Because I
21 think the majority of the witnesses -- even though the
22 solicitor is the one who handed up the witness list, I
23 think that the witness for all -- the majority of the
24 witnesses will come from Mr. Felder's family were on the
25 witness list. Do you want them all sequestered? If so, we

1 should do it right now before we get into it.

2 THE COURT: What's the motion that you're going to
3 make? I don't even know what the motion is?

4 MR. KENT: Oh, all of my motions.

5 THE COURT: Sir?

6 MR. KENT: I'm just saying all of my motions, do you
7 want to exclude them right now or do you want to just ---

8 THE COURT: Well, it doesn't matter unless there's
9 going to be testimony as far as I'm concerned. The only
10 things that we need to sequester the witnesses for would be
11 to hear the matter of testimony, not the arguments of
12 established facts.

13 MR. KENT: That's fine, Judge.

14 THE COURT: Okay.

15 MR. KENT: The next motion, Judge -- and just to cover
16 ourselves on the record, if there was a line-up hearing, if
17 there was a hearing after the line-up, I do not believe
18 that is going to be necessary. We've talked to the
19 solicitor. I think there is no objection to the line-up
20 coming in in this case at all, just for the course of the
21 record, there are strategy decisions, the reason we would
22 not find an objection to the line-up, I think the solicitor
23 would agree that there was no one actually picked out of
24 the line-up. So if anything, more so it would be a line-up
25 that the defense would use, so I don't think there is any

1 necessity for making any motion. I'm just covering myself
2 on the record.

3 THE COURT: So there's no objection to the line-up or
4 Biggers issues with regard to I.D.?

5 MR. KENT: No Biggers issues.

6 MR. MEADORS: Your Honor, testimony I would attempt to
7 elicit is that they looked at this line-up, may or may not
8 know somebody in that line-up. They can't say that one of
9 those people was the shooter or wasn't the shooter. It's
10 just not an issue. But I will go over it with him, that he
11 looked at the line-up. I don't want to ---

12 THE COURT: Right. He says he's not objecting to
13 that.

14 MR. KENT: I have no objection, no one was picked out
15 of the line-up. I have no objection, so I wouldn't put a
16 Biggers motion.

17 THE COURT: All right. No objection to the line-up
18 and no Biggers matters.

19 MR. KENT: Just by way of housekeeping now even though
20 we're talking about the line-up that I was presented, I
21 would ask the state at this point in time, are there any
22 other identifications that are going to be offered, any
23 other specific identifications other than the 2 line-ups
24 that were provided? The reason I bring this up, Your Honor
25 -- I'll get more so into this in a moment. I've been given

1 information that at one of the hearings -- and I have a
2 transcript that I can offer -- that the state -- well, I'll
3 just say the state at an earlier hearing made mention to
4 The Court in an effort to keep Mr. Felder in on bond, it
5 was specifically told The Court that one of the reasons
6 that Mr. Felder should be kept on the bond, we have an
7 eyewitness who has identified Mr. Felder as the shooter.
8 This was actually the bond hearing in front of yourself.

9 I've never been given any information like that at
10 all. I just need to make sure there's no -- later there's
11 going to be an identification, that might be something I
12 would ---

13 THE COURT: All right. So there's no objection to the
14 line-up. From a standpoint of identification of the
15 defendant as being the shooter in this case, do you have
16 witnesses to that effect, Mr. Meadors?

17 MR. MEADORS: At this time I do not, no, sir. I do
18 not. I don't know what transcript he's talking about. But
19 I trust him.

20 THE COURT: All right. He's indicated there are no
21 witnesses that he plans to call that identify Mr. Felder as
22 the trigger man; is that correct?

23 MR. MEADORS: Yes, sir. Judge, that's what I'm saying
24 now. There are some other witnesses, some of them I
25 mentioned in chambers, that I said that have indicated

1 somebody else may have seen it. I hadn't talked with them.

2 MR. KENT: Why ---

3 THE COURT: Wait a minute. One at a time. If you
4 find out -- he doesn't know of any at this time. If any
5 come up at any point before they are presented in court,
6 both Mr. Kent and I need to know about it ahead of time.

7 MR. KENT: Without question, Your Honor.

8 THE COURT: Okay.

9 MR. KENT: Judge, next as to statements that were
10 given by Mr. Felder. My understanding, I only was provided
11 one actual, tangible statement, was a statement taken by
12 officers. I don't think there's any disagreement from the
13 defense or the state at this point in time that the
14 statement that was given was self-serving. However, it may
15 be necessary just for the record to do a Jackson v. Denno
16 hearing. I don't think it will be very lengthy at all, to
17 be perfectly candid. But just in an abundance of caution
18 as to the one statement that I know of.

19 And then I would specifically ask if there are any
20 other statements that the state would be offering against
21 Mr. Felder.

22 THE COURT: All right. So written statements by the
23 defendant; is that what you're talking about?

24 MR. KENT: Yes, sir, statements or admissions.

25 THE COURT: And so there is a -- there was a written

1 statement given. Does the state plan to offer that
2 statement, Mr. Meadors?

3 MR. MEADORS: I don't know. But we are prepared to do
4 a Jackson v. Denno. I certainly would mention it before we
5 went through a Jackson v. Denno, Judge.

6 THE COURT: Well, I would like to shortcut that if I
7 can and not have to do it during the course of the trial.
8 Let's see where we get this afternoon and we may be able to
9 -- have you got the witnesses here this afternoon that can
10 go with the Jackson v. Denno?

11 MR. MEADORS: We have Detective Potteiger, Your Honor,
12 which we can do it today.

13 THE COURT: All right. We'll consider that maybe
14 later on. If we don't get to it this afternoon, then
15 we'll, of course, do it before the statement is offered.
16 So that matter is still unresolved at this point. But
17 let's see where we are.

18 Is that the only statement that the state would
19 propose to offer if it offers any statements?

20 MR. MEADORS: Through a state agent, correct.

21 THE COURT: Sir?

22 MR. MEADORS: Through a state agent, yes, sir.

23 THE COURT: Where Jackson v. Denno would be
24 applicable?

25 MR. MEADORS: Yes, sir.

1 THE COURT: All right. Obviously, you may offer
2 statements as to what somebody else might have heard or
3 what somebody else might have been said to somebody else,
4 but that would not involve miranda or voluntariness. It
5 might involve other evidentiary objections such as hearsay,
6 but we can address those when the time comes up. All
7 right.

8 MR. KENT: Thank you, Judge.

9 THE COURT: What's the next matter, Mr. Kent?

10 MR. KENT: Judge, the next matter -- do you just want
11 me to go -- you don't want me to argue the motions, you
12 just want me to tell you what they're going to be?

13 THE COURT: Yes, I want to know what your next motion
14 is.

15 MR. KENT: The next motion, Judge, would be -- there's
16 a series of phone records that was gotten from several
17 phone records, several clients, several witnesses, that was
18 put in discovery, sent over for discovery, just with the
19 numbers located on them.

20 THE COURT: So the motion is to suppress those phone
21 records?

22 MR. KENT: The motion is to suppress those phone
23 records.

24 THE COURT: And give me the basis -- short basis for
25 it? If we need to get in to more argument, I will. But

1 what's the legal basis?

2 MR. KENT: The legal basis is it was an illegally
3 gotten subpoena. The subpoena was impermissibly issued.
4 They called it a search warrant, but it's a subpoena.

5 THE COURT: What's the state's position?

6 MR. MEADORS: Your Honor, they're downstairs. I think
7 we did a search warrant on those, my understanding. But
8 that's something we're prepared to argue in a little bit.

9 THE COURT: All right. We'll have to address that
10 this afternoon. Okay. We'll consider that motion to
11 suppress the search warrant as one of the motions to
12 suppress the phone records, however they were obtained, and
13 we'll get to that this afternoon.

14 All right.

15 MR. KENT: And, Judge, a subsection of that
16 suppression if The Court did see fit to allow that, there
17 will be a separate argument as to the admissibility of
18 those phone records based upon hearsay and things of that
19 nature. I just want to let you know there would be a
20 motion in limine if those phone records did come in.

21 THE COURT: All right.

22 MR. KENT: Additionally, Your Honor, there would be an
23 additional motion in limine. When officers in the
24 discovery -- officers indicated they went to see Mr.
25 Antrell Felder at his house and went to try to arrest Mr.

1 Felder at his house. In the course of the records they
2 say, we went to see him at his house. When we did see him
3 at the house, he gave us a fake name. He pretended he was
4 somebody else. He pretended that he was actually his
5 brother.

6 What we would ask for is a motion in limine on that
7 until they lay a proper foundation. They might be able to
8 do it here. I've never been able to -- I've never been
9 given the foundation of how they knew that this individual
10 gave a fake name.

11 What ended up happening was the officers said they
12 went to Mr. Felder's house to attempt to arrest him. When
13 they opened the door -- according to their testimony --
14 Antrell Felder answered the door and gave a fake name. He
15 pretended he was his brother -- according to these
16 officers. They left, realizing he gave a fake name
17 according to them, came back, and arrested him. Actually,
18 he turned himself in.

19 Your Honor, the motion in limine basically, before
20 they bring that up in front of the jury that they lay a
21 proper foundation on how they even knew. And I'd ask if we
22 just did it right now, it might be easiest.

23 THE COURT: Well, I can't anticipate everything that's
24 going to come up, Mr. Kent. If that was one of the things
25 that comes up, I'm not sure that I could handle that with a

1 motion in limine without hearing the testimony and hearing
2 the context in which it was done.

3 We can't -- I know you don't want anything to come
4 before the jury that you might lose, because you might --
5 but I just have a little bit of problem with whether or not
6 he was given a fake name as that being an appropriate
7 motion in limine. But motion re fake name. All right.
8 I'll put it down here.

9 MR. KENT: Thank you, Your Honor. And the last, which
10 will probably be the longest of the motions that we will
11 bring -- and what we discussed in chambers, will be a
12 motion for dismissal based upon prosecutorial misconduct;
13 that will probably be the lengthiest of all of our motions;
14 that will be a motion which we probably need testimony. We
15 would need to take the testimony of Detective Lyons. I
16 think that probably would be the only testimony of anyone
17 that would be available to testify today. Maybe -- it may
18 be a necessity to have the former solicitor testify in that
19 hearing.

20 THE COURT: May be necessary what?

21 MR. KENT: To have the former solicitor who was
22 on this case testify in that hearing, but that would be
23 the ---

24 THE COURT: Well, I'm going to hear it today based
25 upon what's presented today and I'm going to rule on it

1 today based upon ---

2 MR. KENT: That's fine.

3 THE COURT: --- what's presented today. I mean, you
4 all have had plenty of time to prepare this for a hearing
5 prior to today. I'm not going to wait and hear anything on
6 it tomorrow morning once we got the jury coming back.

7 MR. KENT: I understand, Judge.

8 THE COURT: Okay. All right. Looks like to me then
9 that the order in which I need to really hear the matters
10 are the motion for dismissal based on prosecutorial
11 misconduct is the first matter.

12 The second would be the motion to suppress the illegal
13 subpoena, the contents of the phone records.

14 And third if appropriate, the motion regarding the
15 fake name.

16 And at this point, there doesn't seem to be anything
17 -- well, I'd like to go with the statement if we can if the
18 state thinks they're going to offer the statement. I'd
19 like to go ahead and get that out of the way before we do
20 it with the jury.

21 But let's go forward with the motion to dismiss based
22 upon prosecutorial misconduct. And, Mr. Kent, it is your
23 motion, so I'll be glad to let you proceed with the
24 presentation of whatever you wish to present including
25 evidence.

1 MR. KENT: Thank you, Judge.

2 May it please The Court. Your Honor, let me couch
3 this motion very carefully by saying, the prosecutorial
4 misconduct motion -- even though I'm bringing it towards
5 the Third Circuit Solicitor's Office, I will be very clear
6 that since I've been dealing with John Meadors, as well as
7 Solicitor Chip Finney, I've had no problems with those
8 officers of the court. They've provided everything that
9 was supposed to be provided. They've been very diligent.
10 They've been effective. Myself and Solicitor Meadors have
11 met several times. So they've done everything they were
12 supposed to do. So I don't want to couch this that I am
13 personally attacking these solicitors.

14 By way of background, Judge, this case started back in
15 June of 2008. Originally we came in front of the Honorable
16 Ferrell Cothran. We had brought a motion for a bond.
17 During that motion for the bond hearing -- this was very
18 quick in the process, actually. It was probably a couple
19 of months after he was arrested. I filed a motion which
20 was summarily denied. Judge Cothran immediately told us,
21 look if you have some new evidence or something down the
22 road, you're available to come back 6 months later and
23 bring any new or additional evidence that you might need to
24 bring if you want another bond hearing at a separate date.
25 So we came back and brought a second bond hearing at a

1 separate date. And this is where the first problem
2 started. When we get to the first -- the first bond
3 hearing, the solicitor then at the time -- one of the
4 things that she told The Court or the judge, one of the
5 reasons you need to keep this individual in jail is we have
6 an actual eyewitness to the shooting. I'll give you a copy
7 of the transcript that Solicitor Meadors is actually
8 reading right now. She specifically told The Court, we
9 have an eyewitness to the shooting. A long story short,
10 she said, we have an eyewitness to the shooting who has
11 pointed Mr. Felder out as the shooter. This is one of the
12 reasons you need to keep him in.

13 I'll hand you a copy of this transcript as soon as
14 Solicitor Meadors is done with it.

15 That's when we started our investigation. I can hand
16 this up to you, Judge.

17 (Pause.)

18 THE COURT: All right. Let the record reflect, there
19 is no objection to my referring to this, Mr. Meadors?

20 MR. MEADORS: No, sir.

21 THE COURT: All right. Let the record reflect that
22 the court has been handed a transcript of a record --
23 transcript of the hearing held on January 15, 2009 before
24 Judge Ferrell Cothran, with Ms. Fant present as the
25 assistant solicitor, Mr. Kent present as the representative

1 of the defendant. The actual page that was turned to is
2 page 13. Is that where this information is contained?

3 MR. KENT: That is correct, yes, sir, Judge.

4 THE COURT: All right. Give me just a moment.

5 MR. KENT: Thank you.

6 (Pause.)

7 THE COURT: All right. I have read that particular
8 portion of the transcript, page 13, lines 4 through 8 is
9 what Mr. Kent was referring to.

10 All right, sir. Go ahead.

11 MR. KENT: Judge, of course, clearly based upon what
12 you've heard from the solicitor today -- and I sat down and
13 I've had an interview with the solicitor today. There is
14 no eyewitness. There was nothing provided; that was
15 completely inaccurate. And basically an inaccurate fact
16 placed upon the court.

17 After that Mr. Chandler and I became -- the easiest
18 way to say it, worried about what we were being provided.
19 We sent letter after letter, motion after motion,
20 everything we could possibly send to a solicitor saying ---

21 THE COURT: Well, in response to that statement or in
22 connection with that statement, I assume you had filed Rule
23 5 and ---

24 MR. KENT: Yes, sir, and I'll hand you a copy of that
25 up to The Court.

1 THE COURT: And what was the response as far as an
2 eyewitness is concerned?

3 MR. KENT: Judge, just so we have it clear. The first
4 thing I'll hand up is a copy dated November 11, 2010. This
5 is a copy of the Rule 5 that myself and Mr. Chandler filed.

6 THE COURT: All right. The Court has a copy of a
7 document from Mr. Chandler and Kent. That is a request
8 under Brady and Rule 5 for certain information. All right.
9 That is your request. What was the response?

10 (Pause.)

11 THE COURT: Let the record reflect that is November
12 11th of 2008. And the hearing was January 15th of 2009.

13 MR. KENT: I'm handing 2 letters to the solicitor.
14 I'll give him an opportunity to review the 2 letters.

15 THE COURT: Okay.

16 (Pause.)

17 THE COURT: All right. And also just so the record
18 will be complete, while Mr. Meadors is still looking at
19 that, let's do it this way. I'd like for the court
20 reporter to mark this transcript of record for purposes of
21 this hearing as Court's No. 1, and the request for
22 discovery dated November 11 as Court's No. 2.

23 (Transcript of January 15, 2009 hearing marked for
24 identification as Court's Exhibit No. 1.)

25 (Letter to Kelly Jackson from Ray Chandler,

1 Certificate of Mailing and motions, 10 pages, marked for
2 identification as Court's Exhibit No. 2.)

3 (Pause.)

4 MR. MEADORS: I just briefly skimmed over these. I
5 don't dispute they are what they are.

6 THE COURT: Okay.

7 MR. MEADORS: I don't know how else to say that. I
8 can't tell you I've read every ---

9 THE COURT: I understand.

10 MR. MEADORS: --- sentence. I just don't want to hold
11 The Court up.

12 THE COURT: All right. What are those -- what do they
13 purport to be, Mr. Kent? Is that the response of the state
14 to your Rule 5 and Brady request on November the 11th of
15 2008?

16 MR. KENT: That's correct, Judge, as well as ---

17 MR. MEADORS: No, I didn't have that. He just handed
18 our response, and I didn't have that.

19 (Pause.)

20 MR. MEADORS: Your Honor, this is dated January 15 --
21 I guess we need to mark all this.

22 MR. KENT: I believe that's what I was going to mark.
23 Just let me look at it.

24 THE COURT: One of you talk at a time. Talk to me,
25 don't talk to each other because the court reporter can't

1 take that down.

2 All right. Back to where we were now. He's offered
3 it and I have marked as Court's Exhibit No. 1 his request
4 for discovery. I asked him what he did in response to the
5 statement on January the 15th in the hearing that there was
6 an eyewitness and asked him if he had filed Rule 5, and he
7 said that he had, and that was on November 11th.

8 My next question was, what was the response? And I
9 believe that's what these documents are?

10 MR. KENT: And that's what we're getting in to now,
11 yes, sir.

12 THE COURT: All right.

13 MR. KENT: The response in all sincerity -- actually,
14 I wasn't given any discovery. I wasn't given anything. I
15 wasn't given any discovery at all that I had requested in
16 the initial memo. So what ended up having to happen is Mr.
17 Chandler -- and I have a copy of the letter that I'll
18 provide to you. Mr. Chandler sent another letter, which
19 I'll provide to the state. Mr. Chandler had to send a
20 detailed letter to Ms. Fant, again, asking for discovery.

21 What ended up happening, judge, is she actually
22 originally provided us discovery with someone named LeRoy
23 Felder. She said it was a simple mistake. She provided us
24 with discovery from LeRoy Felder. This was like a year
25 later.

1 THE COURT: Provided you with discovery with what?

2 MR. KENT: She provided us with discovery on a client
3 named LeRoy Felder.

4 THE COURT: Oh, okay.

5 MR. KENT: Just a completely different person.

6 THE COURT: All right. But this December 30th is 2009
7 is captioned Antrell Felder. Was it in fact -- I haven't
8 read all of this, obviously, yet. But is that a response
9 to your discovery request?

10 MR. KENT: Like I said, what I was saying, Judge. We
11 didn't get any discovery. We weren't given anything. And
12 so Mr. Chandler sent a second letter.

13 THE COURT: All right. The discovery request -- this
14 is what I'm trying to get -- just get this down to its
15 basics. No. 4 on the discovery request requested the names
16 and addresses of all witnesses interviewed by the
17 solicitor's office or any other law enforcement agency who
18 might establish the defendant's innocence, mitigate
19 punishment, or impeach, discredit, or contradict the
20 witness of any statement, whether or not the witness may
21 testify at trial.

22 So at the point of the hearing on -- the bond hearing
23 before Judge Cothran on January 15, you had not received
24 any notice about an eyewitness -- she made the statement
25 about the eyewitness on December the 15th.

1 MR. KENT: That's correct, Judge.

2 THE COURT: All right. Go from there.

3 MR. KENT: Okay. So Mr. Chandler -- and I provided
4 you a copy of the letter -- sent a letter to Ms. Fant
5 saying we need our discovery so we can get ready for this
6 trial.

7 THE COURT: Oh, I see. That was before the hearing.

8 MR. KENT: That's correct. It was a letter he sent
9 before the hearing, like we still had not had our discovery
10 yet.

11 THE COURT: Okay. Go ahead.

12 MR. KENT: We had not had discovery. Mr. Chandler
13 sent a very detailed letter saying you sent us stuff on
14 LeRoy Felder. How are we supposed to prepare for trial?
15 We can't prepare for this case effectively unless you send
16 us discovery.

17 We constantly got rebuffed. And as I mentioned, we
18 got sent LeRoy Felder.

19 What would end up happening, Judge, is a consistent,
20 we're making speedy trial motions. And I think we heard it
21 in front of you about 2 or 3 times, and we appeared in
22 front of Judge Cothran 3 times. We appeared in front of
23 Judge James at least once or twice, consistently saying,
24 get us our discovery. Give us our discovery.

25 She finally did provide discovery. Discovery was not

1 provided until after the January hearing. She actually
2 provided us discovery.

3 (Pause.)

4 THE COURT: All right. Give this to the court
5 reporter, Mr. Bradley. This first of all, this letter from
6 Mr. Chandler dated December 30, 2009, Court's No. 3.

7 (Letter to Catherine Fant from Ray Chandler, 11 pages,
8 with attachments marked for identification as Court's
9 Exhibit No. 3.)

10 THE COURT: All right. Go ahead, Mr. Kent.

11 MR. KENT: I'm providing the responses of what we were
12 given from the state.

13 THE COURT: All right. A 2-page document, one is
14 supplemental Rule 5 discovery. One is dated January 7, and
15 one is dated January 15th of 2010. We'll consider them as
16 one, and mark them as Court's No. 4.

17 (Letters to Ray Chandler from Catherine Fant, 2 pages,
18 dated January 7 and January 15 marked for identification as
19 Court's Exhibit No. 4.)

20 THE COURT: All right.

21 MR. KENT: As you will notice in looking at that
22 information, she detailed a list of what she was actually
23 giving us on the front of the -- on the front of the
24 information from the state of South Carolina, a detailed
25 list of everything that she was actually providing to us.

1 Nothing that would indicate -- there was no statement that
2 was actually provided or indicated on what she gave to us.

3 Specifically, as you'll indicate on one of the things
4 that cause the most trouble and consternation -- on the
5 line-up. Indicated on what I provided to you from the
6 state of South Carolina where they show what they've given,
7 she indicates that there's 2 photo line-ups were provided,
8 and it says, no identifications were made.

9 THE COURT: All right. The record will reflect that
10 on the discovery response dated January 15, 2010, which was
11 the same date as the date of the hearing before Judge
12 Cothran, she indicated that we do have an eyewitness who
13 have identified Mr. Felder as the shooter.

14 In response -- well, in the discovery information she
15 indicates that in responses 10 and 11 that there was a
16 photographic identification line-up. No identification was
17 made. And No. 11 was also a photo identification line-up.
18 No identification made.

19 All right.

20 MR. KENT: As a result of getting that, Judge, I sent
21 a letter with a copy of the line-up, and I CC'd a copy to
22 yourself, Judge.

23 THE COURT: Which I usually don't look at because I
24 consider them ex-parte. But go ahead.

25 MR. KENT: I CC'd a copy to yourself. I CC'd a copy

1 to Ms. Fant, indicating I've gotten the line-ups, but they
2 actually do me no good whatsoever, the exculpatory nature
3 of these line-ups. Please provide me more information on
4 these line-ups. Basically, what am I supposed to do with
5 it? I quoted Kyle (phonetic) versus Whitley (phonetic),
6 among other case law.

7 Basically, said, the line-ups in and of themselves don't
8 do me any good, could you provide me with more tangible
9 information than just 2 line-ups where nobody picked
10 anybody out.

11 THE COURT: All right. Letter of January 21, 2010 to
12 Ms. Fant is made Court's Exhibit No. 5.

13 (Letter to Catherine Fant from Shaun Kent, 3 pages,
14 dated January 21, 2010 marked for identification as Court's
15 Exhibit No. 5.)

16 MR. KENT: After receiving -- and also all within the
17 same time, we sent another request for discovery specific
18 to the state -- and this was by Mr. Chandler sending a
19 specific request to the state, basically saying, you've
20 sent us all this information, but we know for a fact
21 there's a bunch of outstanding statements, outstanding --
22 give us copies of statements. We asked for very specific
23 information.

24 THE COURT: Okay. The second request for discovery, a
25 copy of which has been given to the court undated will be

1 made Court's Exhibit No. 6. .

2 MR. KENT: Judge, thereafter, because of all the
3 problems we were having with discovery, all ---

4 THE COURT: Wait a minute. Wait a minute. She's got
5 to mark it.

6 MR. KENT: I'm sorry, Judge.

7 (Second Request for Discovery, 3 pages, marked for
8 identification as Court's Exhibit No. 6.)

9 COURT REPORTER: Thank you.

10 THE COURT: All right.

11 MR. KENT: Based upon all the problems we are having
12 at that point in time and the last bond we actually had in
13 front of Your Honor, the state came forward said, we're
14 going to try this case no matter April 12, 2010. I think
15 you actually ordered a date-certain trial. Ms. Fant agreed
16 with a date-certain trial. And it was dated for April 12,
17 2010.

18 You actually also ordered me -- between myself, the
19 solicitor then at the time, Kelly Jackson, Mr. Chandler --
20 we were all present at that hearing.

21 I've given a copy of this order to the solicitor.

22 (Pause.)

23 THE COURT: That's the Order arising out of a bond
24 hearing that was before me?

25 MR. KENT: That's the Order arising not out of the

1 bond hearing. It's an Order arising out of the fact that
2 we couldn't get her to agree on the discovery, so you put
3 an Order in writing.

4 THE COURT: All right. I don't have a copy of it.
5 I'm sure there's a copy in the record.

6 MR. MEADORS: There's an additional page 3 and 4,
7 Judge. I think it just has specifically items that were
8 turned over.

9 THE COURT: All right.

10 MR. KENT: Judge ---

11 THE COURT: Just hand it up and we'll make it as
12 Court's No. 7, even though it is automatically a part of
13 the record because it will be a filed order.

14 (Order of Judge King, dated January 27, 2010, 4 pages,
15 marked for identification as Court's Exhibit No. 7.)

16 THE COURT: All right. Attached to that order are
17 certain things with regard to discovery. Give me just a
18 moment to refresh my memory on this Order.

19 (Pause.)

20 THE COURT: All right. I have read an Order of
21 January 27, 2010 marked as Court's Exhibit No. 7. All
22 right. Go ahead.

23 MR. KENT: Judge, at that hearing, you remember one of
24 the things that you talked about was Rule 5 and disclosures
25 and things of that nature. Specifically, it was told to

1 the state that the purpose of turning these things over is
2 it could speed up the trial process.

3 We talked in detail about statements we were going to
4 be entitled to. And you actually mentioned that you would
5 look completely through the full investigative file for an
6 exculpatory evidence and things of that nature, was a
7 request by myself and Mr. Chandler.

8 You had mentioned the new rules, you had mentioned the
9 fact that you believe that statements should be turned over
10 in advance of trial, in effort for guilty pleas and an
11 effort to make sure everybody is properly prepared.

12 After that hearing, still the hearing for April 12,
13 2010, myself and Mr. Chandler were preparing, thinking we
14 had gotten a copy of the Order, we had gotten new evidence
15 from Ms. Fant. We were under the impression that we had
16 been given everything that we were entitled to, except for
17 -- I'm handing you a copy of a letter dated by myself April
18 5, 2010, still before the trial date.

19 THE COURT: All right. The letter of April 5, 2010 to
20 Ms. Fant will be marked as Court's Exhibit No. 8.

21 (Letter to Ms. Fant from Shaun Kent, dated April 5,
22 2010, 4 pages marked for identification as Court's Exhibit
23 No. 8.)

24 THE COURT: All right. Go ahead.

25 MR. KENT: The letter of April 5, 2010 -- all it says,

1 and the solicitor's reviewed of the letter. I sent it
2 back to Ms. Fant saying she still has yet to answer my
3 question on the line-up issue.

4 I said, of course, I find that basically 7 days to get
5 ready for trial, and you still have not answered my
6 question on what is going on with the line-ups, why are
7 there 2 line-ups where nobody has been identified. No
8 response was given to me at all at that point in time.

9 Myself and Mr. Chandler showed up on April 12, 2010
10 ready for trial. We came into the courtroom. We sat in
11 the courtroom ready for trial. We actually sat -- I
12 remember very specifically. We got here about 9:00
13 o'clock. We went through the jury. Ms. Fant didn't say a
14 word to us. Right about 1:00 o'clock she came to us and
15 she said, I will not be calling this trial today.

16 We specifically asked her, why would you not be
17 calling this trial?

18 Her specific response to us, well, we found some new
19 evidence.

20 I said, Ms. Fant, what is the new evidence?

21 She said, well, we found a bullet.

22 THE COURT: She found what?

23 MR. KENT: She told myself and Mr. Chandler that we
24 found a bullet; that was exactly what her quote was, we
25 found a bullet.

1 THE COURT: A bullet?

2 MR. KENT: A bullet.

3 THE COURT: Okay.

4 MR. KENT: That was her exact response to myself and
5 Mr. Chandler. She said, I will not be calling the case.
6 Then she left it that way. We left the courtroom.

7 I think I immediately sent you a letter asking for the
8 conditions that you had previously talked about. Asked you
9 for the conditions of the bond which you had originally set
10 to be put in place. You issued a \$100,000 bond with
11 satellite monitor if the case was not tried by April 12,
12 2010.

13 THE COURT: All right. The letter requesting of the
14 setting of the bond in accordance with The Court's previous
15 statements will be marked as Court's Exhibit No. 9.

16 (Letter to Howard P. King from Shaun Kent dated April
17 12, 2010, 7 pages, marked for identification as Court's
18 Exhibit No. 9.)

19 THE COURT: All right. Go ahead.

20 MR. KENT: Thereafter, realizing our client had been
21 out on bond, he was given -- he got his bond. Myself and
22 Mr. Chandler then began to prepare for the trial based upon
23 the evidence we'd been given. We were under the impression
24 the trial date had come and gone, we were being given
25 everything that we're entitled to. We took your Order on

1 face value that the state had provided us all statements,
2 all written statements, everything that was put down, all
3 oral statements, anything attributed to our client; that's
4 what we were under the impression.

5 Thereafter, of course, there was an election. A year
6 or so went by. The solicitor then lost the election. Ms.
7 Fant was removed from her position. Solicitor Finney took
8 over and he subsequently hired John Meadors -- actually,
9 Eleazor Carter -- Eleazor Carter was on the case. We
10 talked about trying the case. We attempted to try to try
11 it at some point in time but weren't able to.

12 I called John Meadors. He's been wonderful. He's
13 given me everything I needed.

14 About 2 weeks ago -- I guess it was about 3 weeks ago
15 I actually called Solicitor Meadors and I brought up the
16 fact that I wanted my client off his satellite monitoring.
17 This case has taken so long, I actually brought the motion
18 up to you once before. The defendant, through no fault of
19 his own, the satellite monitor is costing entirely too much
20 money.

21 There was an order basically that said if the case is
22 not tried in X amount of time, we were going to take him
23 off the satellite monitoring -- that was between myself and
24 Eleazor Carter.

25 When I called Solicitor Meadors in an effort to try to

1 get him off of his satellite monitor, he gave me what I
2 wanted, let's just try the case. I said that's fine,
3 that's what we've wanted the entire time.

4 I went to John Meadors. Without even reading the
5 Order, he went out of his way to make sure I had all of the
6 discovery.

7 Two of the things that I was given, one a witness
8 statement from Trell McFadden, and the other is a report by
9 Detective William Lyons.

10 THE COURT: All right. Let's refer to these
11 separately. Let's put the witness statement as Court's
12 Exhibit No. 10, and the detective's summary as Court's
13 Exhibit No. 11.

14 (Witness Statement, 1 page, dated 7/18/08, marked for
15 identification as Court's Exhibit No. 10.)

16 (Detective Summary, dated 7/18/08, 2 pages, marked for
17 identification as Court's Exhibit No. 11.)

18 THE COURT: Just to make sure that I'm summarizing
19 this correctly, Mr. Kent, apparently when you wanted to do
20 something about the electronic monitoring that he was on
21 for bond and were discussing the matter with Mr. Meadors,
22 he basically indicated, well, let's go ahead and try the
23 case. But in the meantime -- or he gave you these 2
24 things. Is this the first time you had seen these 2
25 documents?

1 MR. KENT: That was the first time I'd seen that
2 information, yes, sir.

3 THE COURT: And when was this, approximately?

4 MR. KENT: About 2 and a half weeks ago.

5 THE COURT: About 2 and a half weeks ago?

6 MR. KENT: Literally, right after I called and said --
7 he said, let's try it. He said, come over. And I went
8 over. It was about 2 and a half weeks.

9 THE COURT: Between the middle of October and the end
10 of October, sometime in that range? Just, it doesn't
11 matter.

12 MR. KENT: It's around there.

13 THE COURT: Okay. Fine. Go ahead.

14 MR. KENT: Judge, as he indicated -- and as we
15 mentioned originally, this file was supposed to be
16 presented to yourself, and I'm not sure if that was in
17 there when you looked at it. One of the request was that
18 these 2 pieces of information should have been in the file
19 that you reviewed. I wasn't given them. And I'm not sure
20 The Court was given them. But they should have been in the
21 file that was reviewed by the state (sic).

22 One of the things that we're very concerned about
23 is the testimony of Trell McFadden. Toward's the last
24 line ---

25 THE COURT: What are you referring to now? Mr.

1 McFadden's statement?

2 MR. KENT: What number is that?

3 THE COURT: McFadden's statement is Court's No. 10.

4 MR. KENT: Thank you, Judge.

5 MR. MEADORS: Judge, could I just review that, because
6 I think ---

7 THE COURT: All right. It purports to be a statement
8 of Kayla McFadden, dated July 18, 2008.

9 MR. MEADORS: This is actually the statement Antrell
10 McFadden -- up at the top.

11 MR. KENT: That's what I'm talking about.

12 THE COURT: All right. I see Antrell McFadden written
13 up there at the top. Okay. Go ahead. I haven't read it,
14 but go ahead.

15 MR. KENT: I'll give you an opportunity to read it,
16 because I'll be discussing some ---

17 THE COURT: Give me just a moment.

18 (Pause.)

19 THE COURT: Apparently, Mr. Antrell McFadden did not
20 sign this statement, but it appears to have a witness' name
21 on it; is that correct?

22 MR. KENT: That's the statement. Yes, sir, Your
23 Honor.

24 THE COURT: All right.

25 MR. KENT: I don't know if there's a signed copy.

1 THE COURT: What about it? What is it in that
2 statement that you want to call to my attention?

3 MR. KENT: Toward the last line -- and I'll get in to
4 it in more detail. And they go hand-in-hand together. The
5 witness indicates, I could probably identify the guy that
6 got out of the car if I saw him again. I never saw the guy
7 before the incident.

8 The reason that becomes important, Judge, is earlier
9 in his statement he indicates that -- he basically gives
10 the description of what they're saying, they're relying on
11 arresting Antrell Felder. So the purpose of that statement
12 is they're saying that this person, Trell McFadden probably
13 could pick out the person who was the shooter on that day
14 if given a line-up.

15 THE COURT: Okay. I see what you're saying. I hear
16 what you're saying. All right.

17 MR. KENT: Judge, when you compare that -- and, again,
18 for the record ---

19 MR. MEADORS: That's not what I gave him later. I
20 think he already had that statement. What I gave him later
21 was a statement of Billy Lyons referencing the summary of
22 when he did look at the line-up.

23 THE COURT: All right. Wait just a minute. I'm going
24 to let you come back in just a minute, Mr. Meadors.

25 MR. MEADORS: I'm sorry.

1 THE COURT: But what I understood him to tell me was
2 that this statement from Antrell -- purported, I guess,
3 summary of the statement of Antrell McFadden -- since he
4 didn't actually sign it, was given to you in the discovery
5 of 2 and a half, 3, or 4 weeks ago?

6 MR. KENT: One moment, Judge.

7 THE COURT: All right.

8 (Pause.)

9 MR. KENT: Judge, the next thing you're being given,
10 which we all agree on that I was just ---

11 THE COURT: All right. What about this, was this
12 given to you by Mr. Meadors or did you have it before or
13 what's the status?

14 MR. KENT: I'm under the impression I was given it by
15 Mr. Meadors. But I'm going to drop that issue completely
16 because if there's a source of disagreement, I'm going to
17 err on the side of Mr. Meadors.

18 THE COURT: All right. Go ahead.

19 MR. KENT: But the one thing we all agree on -- the
20 detective's summary that I gave to you, Judge ---

21 THE COURT: Yes, that's Court's Exhibit 11.

22 MR. KENT: The last paragraph, we all agree this is
23 the last thing -- this was given to me by the solicitor.
24 Says, on July 18, 2008 around 18:30 I met with witness and
25 showed him a photo line-up of a suspect we had developed in

1 the case. Kayla McFadden did not identify anyone in the
2 line-up.

3 Antrell McFadden stated he knew 2 individuals in the
4 line-up. He stated he was familiar with suspect No. 2 and
5 suspect No. 4. I asked him who they were. He thought No.
6 2 was a guy by the name of Little Daddy and that No. 4 was
7 a guy by the name of Fat Roger. McFadden did not I.D.
8 anyone in the line-up, however. The suspect, Antrell
9 Felder, in this case was No. 2 in the line-up that I showed
10 him.

11 THE COURT: All right.

12 MR. KENT: So, Judge, of course, I'm not provided that
13 until luckily this solicitor saw fit to give it to me. I
14 don't see how it's not exculpatory at all, the fact of the
15 matter is very simple. From this statement, the statement
16 says the eyewitness says I probably could identify this
17 person if I see him again. He's given a line-up, he says,
18 I know 2 people in this line-up. I know Antrell Felder, I
19 think they call him little Daddy in the street, and I know
20 another guy, but I can't pick the shooter out of this line-
21 up; and that's not provided to us after you specifically
22 gave instructions to provide all this information over.
23 I'm not sure if it was in the file that they gave you when
24 you did the document review of the file.

25 At minimum, it wasn't provided 2 years ago when they

1 were getting ready for trial on April 10. We were going to
2 go in to trial on April 12, 2010 and it still was not
3 provided.

4 Going along with that, Judge, this past Thursday,
5 again, with Solicitor Meadors. I met with Solicitor
6 Meadors again. We went through to make sure I had
7 everything in the file that I needed.

8 He told me at that point in time, Shaun, there's
9 another witness I need to tell you about.

10 I said, what are you going to give me now?

11 He says, there's another witness who we have who
12 basically is the night of the shooting, according to --
13 this is just what I've been told, I haven't been provided
14 anything, so excuse me if I couch it in the wrong terms.

15 But what I was told by the solicitor at that time,
16 they were given another statement. They had visited
17 another individual who was in federal custody -- who is in
18 federal prison in Bennettsville. He's serving a 16 ½ year
19 sentence. If I'm not mistaken, his name is Deonte
20 Frierson. That was the first time I was told of the name,
21 last Thursday. I was told Deonte Frierson had provided
22 information that after the shooting he went over to a
23 residence where Antrell Felder was. While he was there
24 Antrell Felder and another individual, who's street name
25 was Jelly, who's true name is Jerome Norman (phonetic). He

1 said that Antrell Felder -- according to their testimony,
2 Antrell Felder told Mr. Frierson that he had shot Willie
3 McKenzie.

4 The first I'm hearing about this is on last Thursday.
5 I asked him a bunch of information, where did this
6 information come from? Where the statement come from? Is
7 there a written statement? Did he do a DEA-6? They had no
8 information.

9 All the solicitor was able to tell me was, no, Shaun,
10 I met with him last Friday. I talked to him last Friday.

11 THE COURT: He talked with?

12 MR. KENT: The solicitor told me that he had talked to
13 the federal witness the preceding Friday.

14 THE COURT: Okay.

15 MR. KENT: That's all I can say. He didn't know any
16 other information about it. The first time I was able to
17 see him, he told me about it.

18 THE COURT: Where is this witness?

19 MR. KENT: I've never met him. I think they're in
20 Bennettsville.

21 MR. MEADORS: Bennettsville Correctional Institution.

22 THE COURT: Bennettsville, okay.

23 MR. KENT: I did know that over the weekend.

24 THE COURT: Okay. All right.

25 MR. MEADORS: I did tell him that.

1 THE COURT: All right. Okay.

2 MR. KENT: I just ---

3 THE COURT: Talk to me, Counsel. Talk to me.

4 MR. KENT: Okay. So I find out about that Thursday.

5 One other time you asked if there was testimony that would
6 be necessary, this would be one of the times I would like
7 to put on some testimony, that of William Lyons.

8 THE COURT: Let me ask you about this last witness.

9 And this is what you want testimony about. He's in federal
10 custody. Mr. Meadors, I'll ask you. I guess the question
11 is, when you learned about this witness, you told Mr. Kent
12 about him?

13 MR. MEADORS: I spoke with him the Friday before, he's
14 correct. I talked to him that Wednesday or Thursday.

15 THE COURT: And then you told him about it, I
16 understand that. Okay. All right. Now, so basically
17 we've got -- all right. What is it you want to put
18 witnesses on the stand for Mr. Felder, to prove what point?

19 MR. KENT: One, I want to know if they knew about this
20 statement, they knew about this witness after you had
21 already given your Order, and length of time that they
22 could have told us about this information. Did the
23 detective go and meet with this individual? Did he go meet
24 with this individual with the former solicitor? If this is
25 information that just came out a couple weeks ago, I have

1 no problem. But if this is information that they went down
2 and talked with an individual, they got statements from him
3 after you had granted your Order ---

4 THE COURT: I understand. It seems to me to establish
5 the facts surrounding the -- for lack of a better way of
6 putting it, the revelation of this information to you?

7 MR. KENT: That's correct, Judge.

8 THE COURT: And the facts surrounding that; that's
9 what you really need. And that's with regard to this
10 witness, Deonte Frierson.

11 MR. KENT: I understand Deonte Frierson was the name I
12 was looking for. It's the name we called to the jury.

13 THE COURT: All right. So basically if I understand,
14 your motion is from the prosecutorial misconduct
15 standpoint, it's two-fold.

16 One is the series of facts that you have related to me
17 about the discovery during the time that Ms. Fant was the
18 prosecutor in this case.

19 And the other is possibly prosecutorial misconduct --
20 not from the standpoint of the solicitor's office, but from
21 the standpoint of law enforcement as to the discovery of or
22 the knowledge that this witness was in existence.

23 MR. KENT: Judge, I want to make sure I have that. I
24 don't think I would say -- I'm not under the impression
25 that law enforcement did anything. I want to know if this

1 solicitor's office, not this ---

2 THE COURT: Okay.

3 MR. KENT: If the solicitor's office knew of
4 information in violation of your Order.

5 THE COURT: Okay. That's right. Okay.

6 MR. KENT: I don't want to say law enforcement.

7 THE COURT: All right. I understand.

8 MR. MEADORS: Judge, just for my own edification, I
9 think I understand the prosecutorial misconduct. But also
10 we have -- I guess intertwined is a Brady -- I guess, an
11 alleged Brady violation as a result of that. I'm not sure
12 or a due process violation. I guess at the appropriate
13 time I would like to address all of those.

14 THE COURT: Well, I will and I don't mind going ahead
15 with the testimony, just to get the factual background
16 right now. But my initial impression of all of this
17 exercise that we're going through is one word: Prejudice.
18 If there's no prejudice, there's no harm. You know, that's
19 the one thing I'll have to be convinced of that, first of
20 all, if in fact there was information that was withheld,
21 and secondly what the prejudice would be, because it might
22 be -- if they can't show me prejudice, there might be
23 action that I would take against the officers of the court
24 that were involved, but it would not affect the trial of
25 the case. So that would be what we would do.

1 All right. I'll hear from -- I'll let you present any
2 witnesses that you wish to present regarding this
3 information of the witness Deonte Frierson.

4 MR. KENT: There's just 2 more things I need to put on
5 the record about Deonte Frierson.

6 THE COURT: Okay.

7 MR. KENT: And I discussed this with you in chambers,
8 Judge. One of the other situations that we were not
9 provided -- and asked for a lengthy period of time. The
10 victim in this case has 2 pending burglaries on his record.

11 The state's motivation for this case is that this case
12 all happened because of the burglary, and they are saying
13 that that is motivation for murder.

14 I don't know where the burglary is going. I asked for
15 information about the burglaries via discovery. I'd asked
16 for a lengthy period of time to tell me about the prior
17 burglary, tell me about the history. I don't know if
18 they're admissible or not, Judge. But I do think they are
19 discoverable and those things I've requested.

20 I think in chambers Solicitor Meadors indicated to you
21 that he would try to give me that information.

22 No. 2, Judge, one of the large issues inside of this
23 case is that of a white vehicle.

24 Beg The Court's indulgence for just a ---

25 MR. MEADORS: Judge, could we take these one at a

1 time?

2 MR. KENT: I just thought he wanted -- I think it all
3 goes with the prosecutorial ---

4 THE COURT: I'm just getting a view of it right now.
5 In just a minute we're going to go in to the witness, let
6 him call witnesses. He's just presenting what he wants to
7 go forward with.

8 Tell me about this vehicle and we'll come back to that
9 too.

10 MR. KENT: Judge, one of the large issues inside of
11 this case is that of a white vehicle. There's been an
12 indication that Mr. Felder was inside of a white 4-door
13 vehicle when this shooting happened. It was either a Buick
14 or Oldsmobile vehicle. So there was a big indication on
15 what type of vehicle was actually used.

16 Slipped inside of discovery provided to us -- and I'm
17 looking for a copy to hand to The Court -- was a picture of
18 a vehicle completely unrelated to anything dealing with
19 this case. I asked the current solicitor what does this
20 vehicle have to do with this case?

21 He said, I have no clue.

22 The point in the matter is we had exhaust -- it's just
23 more expenses we had to exhaust all in the red herrings
24 that solicitor was just throwing random things inside of a
25 file, making us look for stuff that had nothing to do with

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1 this case.

2 I'm just saying that to cover myself on the record,
3 Judge. When I find it, I'll ---

4 THE COURT: All right. We'll come back to that.

5 Let's get into the issue about the witness Deonte Frierson.

6 MR. KENT: Judge, at this time we would call Detective
7 William Lyons.

8 WILLIAM LYONS, being first
9 duly sworn, testified as follows:

10 CLERK: Please state your name. Spell your last name
11 for the record.

12 DETECTIVE LYONS: William Lyons, L-y-o-n-s.

13 DIRECT EXAMINATION BY MR. KENT:

14 Q Detective Lyons, how are you?

15 A Doing fine, sir.

16 Q Who do you currently work for?

17 A City of Sumter Police Department.

18 Q How long have you been with the City of Sumter?

19 A Since 2004.

20 Q And you've been here this entire time, you know what
21 case we're here on?

22 A I do.

23 Q Okay. I'm not going to go into a bunch of background.

24 Tell me specifically about your relation with the

25 individual -- Mr. Frierson. Give me his proper first name.

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1 Tell me about your relation with him, how you came to know
2 about him?

3 A The proper spelling or proper pronunciation is Deonte.

4 Q Deonte?

5 A Deonte Frierson. I became involved through a federal
6 investigation with Mr. Frierson prior to his being arrested
7 on federal drug charges through the Bureau of Alcohol,
8 Tobacco, and Firearms. Mr. Frierson was subsequently
9 arrested and released on bond pending his trial and/or plea
10 to the federal drug charges.

11 Q Do you know when that was and the date?

12 A When we first arrested him, I do not. I do know that
13 I first became involved with Mr. Frierson in regards to
14 information about this case in early to mid 2010. We had a
15 homicide at the Holiday Inn Express in March of 2010. And
16 the first meeting that I had with Mr. Frierson where Ms.
17 Fant was present and another detective, a Detective Bedford
18 (phonetic) was after that homicide, because I remember
19 specifically we also asked him questions about that
20 homicide, because he knew quite a few of the guys who were
21 involved. He knew the deceased victim really well. He
22 knew the deceased victim's brother who had been wounded in
23 the same gun battle.

24 So it was after that homicide, which I say I don't
25 know the exact date, but I believe it was March 2010.

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1 I do know that we met at the Jim Clyburn

2 Transportation Center on South Harvin Street.

3 Q Was he in the Bennettsville Correction Center at that
4 point in time?

5 A No, sir, he had not been sentenced at that time.

6 Q He had not been sentenced?

7 A No.

8 Q Okay.

9 A I guess, not to get too much into his personal life,
10 but he was having some difficulties with his
11 representation, as far as attorneys at that point in time.
12 He met. He discussed, basically what you're saying, that
13 he had a conversation with the defendant shortly after the
14 shooting had occurred. The defendant had admitted to him
15 to have shot the victim, Mr. William McKenzie. Again ---

16 Q Was this at the same meeting when you were talking
17 about the other murder case earlier ---

18 A Yes, it was all during the same exact time. We
19 discussed various cases at that time. He was wanting to
20 provide information in hopes to get some sort of downward
21 departure in regards of sentence reduction.

22 Q He was trying to get his sentence reduced?

23 A Substantial assistance in the federal system. Again,
24 no written statements were taken.

25 Q Why were no written statements taken?

Detective Lyons -- Direct by Mr. Kent

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1 A I didn't take any written statements from him. It was
2 simply just an interview.

3 Q No written statements, no notes were taken by anybody
4 in the room at all?

5 A Not me. I cannot -- I cannot account for whether or
6 not Ms. Fant took any. But I did not take any notes at
7 all.

8 Q Is that normal to not take statements when someone is
9 giving you information about a murder?

10 A It varies. It depends. Sometimes we take statements.
11 Sometimes we don't. A lot of times ---

12 THE COURT: Let me interrupt because I'm the one
13 that's got to hear this. I want to make sure I've got my
14 facts right. Did I understand that this interview took
15 place with Mr. Frierson where he admitted that the
16 defendant -- where the Defendant Felder admitted shooting
17 Mr. McKenzie was in your presence and in the presence of
18 Ms. Fant?

19 DETECTIVE LYONS: That is correct, Your Honor.

20 THE COURT: Okay.

21 Q So you and the solicitor were there. He gave
22 information about this case?

23 A Correct, along with ---

24 Q Okay.

25 A --- the Holiday Inn and some other stuff.

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1 Q Let me back you up a little bit. You know what a DEA-
2 6 is?

3 A Not quite familiar. I understand as far as a proffer
4 agreement, or something along those lines.

5 Q Do you normally do it if he had been given a proffer
6 agreement in this case -- in his federal case?

7 A I knew that he had -- I knew that -- I believe he
8 signed a proffer, but there have been some problems with
9 his proffer. I don't think that he was forth-coming with
10 the ATF in regards to some of the questions they had to
11 him. You talking about the drug cases?

12 Q Yes, sir.

13 A As far as his proffer ---

14 Q You don't know if he ever sat down and gave a full
15 debriefing to the federal government?

16 A I think he attempted, but I don't believe that they
17 were -- for lack of a better term -- pleased with what he
18 had to say.

19 Q I guess what I'm wondering, do we know if he ever gave
20 a debriefing about this case to the federal government?

21 A I -- I do not know.

22 Q You're not sure?

23 A I'm not -- I don't have one. Again, I do not know.

24 Q The meeting that happened with yourself, Catherine
25 Fant, and Mr. Frierson clearly happened before April 12,

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- 1 2010, there's no doubt about that?
- 2 A No, sir, I'm not going to say it happened before.
- 3 That -- that homicide happened in March of 2010. So it was
- 4 after the homicide. I can't give you date specific, I can
- 5 tell you that it was mid to early 2010.
- 6 Q We just don't know the date right now?
- 7 A I do not know the exact date.
- 8 Q And you're not sure if anyone took statements or notes
- 9 or anything, you can't testify?
- 10 A To my knowledge, I was never given a statement to go
- 11 with this file.
- 12 Q Did yourself and Ms. Fant talk about this information
- 13 afterward, that you got from Mr. Frierson in regards to
- 14 this trial?
- 15 A In regards to we discussed ---
- 16 Q Go ahead. I'm sorry.
- 17 A I guess I'm not sure what your question is. I mean,
- 18 obviously, we discussed what he had to say. Whether or not
- 19 it was truthful or did we have -- did we have anything to
- 20 back up what he was saying or was it just him telling us
- 21 something to get credit.
- 22 Q Did you corroborate his testimony?
- 23 A At this time we have not. We don't have anybody else
- 24 other than him saying that he had this conversation with
- 25 Mr. Felder.

1 Q Did you all discuss using him as a witness in this
2 trial?

3 A That was discussed.

4 Q And what was that discussion? Was that before the day
5 of trial?

6 A It was not before the date of April 12, 2010 trial.
7 Again, I can't give you the specific date.

8 Q That's fine.

9 A But I do know that there was a discussion about
10 whether or not we were going to use him.

11 Q Were there discussion of turning this information over
12 to the defense? Did you ever remember any discussion, we
13 should provide this information to the defense, we should
14 provide this statement to the defense?

15 A She never provided me with any sort of discussion.
16 She never directed any conversation to me in regards to
17 that.

18 Q Did you ever discuss why the April 12, 2010 case was
19 continued?

20 A I think it was because of what you said earlier, a
21 bullet had been discovered at a residence on Highland
22 Avenue.

23 Q Okay. But as far as you're concerned -- and I know
24 you don't remember specifically, it wasn't about Deonte
25 Frierson's testimony is the reason she wanted to continue

Detective Lyons -- Direct by Mr. Kent

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1 it?

2 A No. As far as I knew it was because I had gone and
3 recovered that bullet, and it had not been -- it was
4 something new. And so we discussed it and she said she was
5 going to have to continue it because we'd gotten that new
6 evidence, and there was -- she didn't feel like going
7 forward because of that new evidence.

8 Q Do you know if the solicitor ever met with Mr.
9 Frierson without you?

10 A I do not know.

11 Q I'm sorry, I don't mean Solicitor Meadors. I mean the
12 Solicitor Fant. Do you know if she ever got him?

13 A I do not know.

14 Q Do you know if she met with him again at all with
15 anybody -- or if he would have met with anybody by law
16 enforcement or was that the only meeting?

17 A I do know that we were present at his sentencing
18 hearing in Columbia.

19 Q You were present at his sentencing hearing?

20 A Yes.

21 Q Was his information brought up that he had helped with
22 a murder trial at the time?

23 A It was brought up that he had given us information in
24 regards to a homicide; and that was -- it was -- it was
25 part of -- Judge Anderson asked what if any assistance had

1 he provided or was he going to provide. And we indicated
2 he would potentially be testifying in a murder trial if
3 that trial came to fruition.

4 Q So during the federal hearing -- at some federal
5 hearing somehow he was before a federal judge saying he was
6 going to be testifying about a certain amount of facts in
7 this trial?

8 A We didn't specifically say this trial. We just said
9 that he could be testifying in a homicide trial in Sumter.

10 Q When was he sentenced?

11 A This year, the early part of this year.

12 Q Do you know if he's gotten down whether it's 5-K or
13 whether it's a reduction, he has not gotten any ---

14 A As far as I know, he has not.

15 Q Was he given a reduction when he testified -- I mean,
16 when he pled guilty originally?

17 A He was given -- Judge Anderson ruled that he should
18 receive some sort of reduction just based on his agreeing
19 to cooperate, but it wasn't per se a 5-K or anything like
20 that. It was just ---

21 Q He gave him like a 3 or 4 level reduction?

22 A The judge just took him down from one level, versus
23 where he was ---

24 Q Substantial assistance?

25 A Yes.

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1 MR. KENT: Beg The Court's indulgence one moment.

2 (Pause.)

3 Q I want to make sure I'm clear on this story, because
4 we don't have it written. What is the story?

5 Specifically, what is the story that he gave you of what
6 happened? Was he saying there were 2 shooters, 1 shooter?
7 Tell me what happened, according to him?

8 A Right. According to Mr. Frierson, the information that
9 he provided was that this conversation took place between
10 him, Mr. Felder, and Jerome Vaughan, a/k/a/ Jelly. It was
11 just taken place at a residence over off the south side,
12 potentially Jelly's residence. They came -- he was at the
13 residence, along with several other -- the other family
14 members of Antrell's family. When Antrell got back, Jelly
15 was with him. The conversation was that I bodied me a --
16 and he used the "N" word.

17 Q Yes, sir. He was referring to Willie McKenzie?

18 A He was referring to Willie McKenzie. This was coming
19 from Mr. Felder saying this to Mr. Frierson. Mr. Frierson
20 did make some indications that Jelly was saying that he had
21 shot some too, but that Mr. Felder was the one that had
22 actually shot Mr. McKenzie. Again ---

23 Q But the indication of the federal witness is that
24 there was 2 shooters, not 1 shooter?

25 A That is -- that is according to the story that he got

1 from those 2 gentlemen that night. The only part of that
2 story that does not coincide with our other witnesses is
3 they only saw one person.

4 Q They only saw one shooter?

5 A Right.

6 Q They're different -- the 2 stories are different from
7 each other?

8 A Essentially, if you look at one, you've got witnesses
9 saying 1 shooter. And his conversation with Mr. Felder,
10 which Mr. Vaughan was present, where both of admitting of
11 having fired a weapon, but Mr. Felder admitting to actually
12 having shot Mr. McKenzie.

13 Q And make sure I have a clear record, the other 2
14 witnesses we are talking about are Kayla McFadden and
15 Antrell McFadden, those are the 2 eyewitness -- I say
16 eyewitness, the 2 witnesses to the shooting who indicate
17 there was only 1 shooter, correct?

18 A That's correct.

19 Q And then the difference is Deonte -- Mr. Frierson said
20 that there were 2 shooters based on what he heard from
21 Antrell McFadden -- I mean Antrell Felder, as well as
22 Jelly, also known as Jerome Vaughan?

23 A That's correct.

24 MR. KENT: Okay. Thank you, that's all I have.

25 THE COURT: Mr. Meadors?

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- 1 MR. MEADORS: Very briefly.
- 2 CROSS EXAMINATION BY MR. MEADORS:
- 3 Q You did not take any written statements, correct?
- 4 A That's correct.
- 5 Q Did not record any?
- 6 A No, sir.
- 7 Q And you said that the feds were investigating him for
- 8 drugs, correct?
- 9 A That's correct.
- 10 Q And you said they weren't happy with something he
- 11 provided, and their investigation was exclusively about
- 12 drugs?
- 13 A That is correct.
- 14 Q They weren't investigating this murder, the feds?
- 15 A No, they weren't.
- 16 MR. MEADORS: Thank you, that's all.
- 17 THE COURT: Anything further from this witness?
- 18 MR. KENT: No questions.
- 19 THE COURT: All right. Thank you, Mr. Lyons. You may
- 20 step down.
- 21 (The witness leaves the witness stand.)
- 22 THE COURT: All right. Mr. Kent, anything else on
- 23 this issue?
- 24 MR. CHANDLER: If I may, Your Honor.
- 25 THE COURT: Yes, sir.

1 MR. CHANDLER: The problem this puts us in ---

2 THE COURT: Well, I understand that. Any more
3 evidence?

4 MR. KENT: We have no other witnesses.

5 THE COURT: All right. No other witnesses. All
6 right. Okay. I've just been handed a note that Judge
7 Baxley needs to speak with me and he's on the phone, so
8 let's take about a 10-minute recess and let me speak to
9 Judge Baxley.

10 (A recess was taken.)

11 THE COURT: All right. Back on the record. We need
12 to get the defendant back in the courtroom.

13 (Pause.)

14 (The defendant enters the courtroom.)

15 THE COURT: All right. Back on the record with regard
16 to the matter of the state versus Antrell Felder. The
17 matter that is before The Court is the state's (sic) motion
18 to dismiss based upon prosecutorial misconduct,
19 specifically at this point the misconduct allegedly being
20 the failure of the state through the former assistant
21 solicitor to disclose the name of a witness who -- with
22 whom she was familiar and would say that the defendant
23 admitted to shooting the victim, and that that witness'
24 name was not disclosed at any time until fairly recently
25 when it was disclosed by Mr. Meadors. And that witness

1 being Deonte Frierson.

2 All right. Mr. Chandler, I guess you want to argue
3 the dismissal for that.

4 MR. CHANDLER: Yes, sir.

5 THE COURT: All right.

6 MR. CHANDLER: If you could see, Judge, we have been
7 -- we feel like we have been very industrious in trying to
8 get all of the facts in this case together. The initial
9 theory of this case we have been told, albeit piecemeal,
10 was one, that there was one shooter, that he drove away in
11 a certain vehicle by himself, that he kicked the person 2
12 or 3 times, etcetera.

13 And we finally then find from a line-up in piecemeal
14 that the people that -- somebody who knew him believed he
15 could pick him out, and then when he looked at the line-up,
16 he said, I know these 2 people and I can't pick anybody
17 out. We didn't get that until right before Halloween,
18 which I think we can deal with that. You know, we don't
19 like it. We can deal with it.

20 This other is a different story for us. Now we're
21 faced with 2 theories of how this -- that there's 2
22 shooters, a guy named Jelly, who we can't find; that this
23 information comes from a federal defendant who is now a
24 federal convict, who -- we can't -- we can't find this
25 witness. We can find Jelly. Okay. Our problem is ---

1 THE COURT: You can't find Mr. Frierson?

2 MR. CHANDLER: No. We can find Mr. Frierson.

3 THE COURT: Okay.

4 MR. CHANDLER: But my situation now is that we're at
5 this last minute, and we're going to be completely
6 unprepared to challenge this 2-shooter theory. We've got a
7 federal agency involved, the ATF, who does -- I have to
8 tell you, I do these all the time -- immense amounts of
9 background work on these individuals. They take statements
10 about everything, and they take statements about
11 information that he is getting ready to get. So I'm now --
12 I can't vet this guy. I can't find out at this minute how
13 big a liar he is.

14 THE COURT: Which guy are we talking about?

15 MR. CHANDLER: I'm talking about the witness, that the
16 named -- I'm sorry, the witness that they named last
17 Thursday.

18 THE COURT: Which is Frierson.

19 MR. KENT: Deonte Frierson.

20 MR. CHANDLER: Deonte Frierson. Frierson is a
21 different story, a brand new witness, different theory of
22 the facts in our mind. And we do not have time to get ---

23 THE COURT: Well, what if I give you the time? What
24 if I continued the case, wouldn't that be the solution to
25 the problem?

1 MR. CHANDLER: The solution to the problem we would be
2 like would be to have his -- in light of the past conduct
3 in this and The Court's Order, we wouldn't be here for a
4 continuance.

5 THE COURT: Well, I understand that and I find the
6 conduct reprehensible. I don't mind telling you, I find
7 the conduct reprehensible that Ms. Fant was present as Mr.
8 Lyons said that she was and that she knew about this
9 witness and she didn't disclose him. I find all of that
10 really troubles me a great deal. Whether or not it rises
11 to the level of dismissing the case when that problem can
12 be corrected to give you an opportunity to meet the facts
13 as they now exist can be done by giving you more time.

14 The question of the conduct of the assistant solicitor
15 may have to do with The Court taking certain actions to
16 something with regard to the conduct of the assistant
17 solicitor, but I don't know that that affects ---

18 MR. CHANDLER: The remedy I would request ---

19 THE COURT: --- this case.

20 MR. CHANDLER: The remedy I would request is that the
21 state has come forward, not through any fault of John's --
22 Mr. Meadors -- has come forward with this second witness
23 with a federal set of convictions, at the last minute,
24 would you consider Your Honor striking his testimony, not
25 allowing them to call him as a witness? They shouldn't be

1 allowed to call this guy at the last minute with a
2 different theory of this case, with a dubious and
3 questionable background, a federal conviction and us having
4 no opportunity to vet him.

5 The only reason that -- and we've ramped up for this
6 case, Judge. We've spent a bunch of money getting ready to
7 get here -- right here today and a week before Friday. And
8 I would respectfully ask -- and you have that discretion,
9 but I ask you to strike his testimony, not allow him to be
10 a witness in this case.

11 THE COURT: All right. Mr. Meadors, let me hear from
12 you.

13 MR. MEADORS: Thank you. May it please The Court.
14 Judge, it's not fair for me to go back in Ms. Fant's shoes
15 and defend for her doing something. I don't think it's
16 exculpatory.

17 THE COURT: You don't think what?

18 MR. MEADORS: I don't think it's exculpatory. Now,
19 I'm not saying I wouldn't have turned it over. But I don't
20 think it's exculpatory. There may be reasons why
21 prosecutors do wait. And according to the rules, you're
22 allowed to call the witness at that point and turn the
23 statement over.

24 This is an inmate, a person who's known this defendant
25 for his whole life. There may have been concerns she had

1 about safety or security. I know in this case since I've
2 been involved, that I've heard from the streets that
3 there's some ---

4 THE COURT: The remedy in that case is to apply to The
5 Court to protect the witness, not for her to make that
6 decision.

7 MR. MEADORS: I don't disagree with that. I'm not
8 saying that. But, Judge, at this point, I guess, I don't
9 think it changes the theory of the case at all. The
10 theory all along is there had been a burglary. The
11 defendant was angry about it, knew who did it, and went
12 and executed him.

13 And when Mr. Chandler -- with all due respect said --
14 and I think Mr. Kent corrected him, but Jerome Vaughan they
15 said couldn't find him. They represent Jerome Vaughan now
16 on a drug case, who is the other person alleged to -- that
17 -- that now Deonte Frierson says when he came to the
18 residence, Mr. Felder said I shot, and then Jerome Vaughan,
19 also Jelly, said, well, I shot too. But Felder said, I'm
20 the one that killed him.

21 And it's not inconsistent. There's a statement about
22 a patrolman who took the statement of one of these
23 witnesses, and his narrative says that one of these
24 witnesses told him that when the car stopped, that we
25 believe the defendant was in, a shot was fired, that this

1 person got out and shot, executed the victim.

2 There are 2 different caliber bullets, Judge. One of
3 them is in the house at 123, it's a 40. One of them is in
4 the body of the victim, Mr. McKenzie, which would be
5 consistent with 2 shooters.

6 I don't know how this changes the theory regarding
7 this defendant. He's identified by the sheriff, his
8 clothes, and his hat, a fingerprint on his hat. Whether
9 or not there was another person in the car -- hand of one,
10 hand of all. I don't know if it matters.

11 I don't know what else I can say, Judge. I turn
12 this ---

13 THE COURT: I agree with what you're saying, but I'm a
14 little bit chagrined because where there is a difference in
15 the view of the facts -- and there obviously would be a
16 difference in the view of the facts -- between the
17 prosecution and the defense in this case, for the
18 prosecution to sit -- for lack of a better way to put it --
19 on a witness that they have discovered a year ago -- and
20 it's not you and not the present solicitor -- is disturbing
21 to me. And I guess what I'm trying -- and regardless of
22 what that witness -- whether that witness' testimony is or
23 is not exculpatory, whether it is or is not a different
24 theory of the case, or what the prosecution's view of what
25 that witness' effect would be on the case as opposed to

1 what the defense views that witness' testimony would be on
2 the case is not the issue here.

3 The issue here is the failure as far as I'm concerned
4 on the part of the assistant solicitor to be candid -- not
5 only with the defense in this case, but to be candid with
6 The Court when I was asked to review the file to determine
7 what ought to be disclosed and what ought not to be
8 disclosed, and I made a specific ruling of those things
9 that ought to be disclosed, and it's contained in that
10 Order, and nothing was said in there about that, because I
11 didn't have any knowledge about it.

12 And Mr. Lyons said he didn't take any notes. Well,
13 maybe perhaps he didn't -- and I'm sure he didn't if he
14 testified to that. I believe Mr. Lyons on that. And he
15 didn't know whether Ms. Fant took any notes or not. But
16 she was obviously there.

17 And it just appears to me to be -- and he said the
18 case wasn't continued for that reason, it was continued
19 because of the bullet. But that was in April of 2010. And
20 then we come up here now a week or 10 days or 2 weeks or
21 whatever it is before the trial of the case and the witness
22 is given to the defendant -- the witness' name is given to
23 the defendant.

24 And that just troubles me. And it really does. And
25 it seems like to me I have got 3 alternatives in this case.

1 One would be to continue the case, to allow the defense to
2 explore this witness or to explore what he's going to say,
3 and to produce whatever witness they need to refute that
4 testimony.

5 Or as Mr. Chandler has suggested, a possible thing
6 would be to strike his testimony.

7 And the third would be dismissal.

8 But I'm not so much concerned with the interpretation
9 put on the witness' testimony, whether the witness'
10 testimony is inadmissible as I am concerned with the
11 apparent, intentional concealment of information. That's
12 what I'm really bothered by.

13 MR. MEADORS: Judge, we understand your concern. And
14 I guess with that as a backdrop, I would certainly request
15 Your Honor not dismiss it. I would certainly request Your
16 Honor not disallow the testimony, because I think it's
17 important testimony for the state and the victims. This
18 person has known this defendant his whole life.

19 As far as vetting him and how much time they need, I
20 am of the type I bring it all out, Judge. And I don't know
21 if this individual would talk to him or not -- talk to the
22 investigator or not. I have no idea. He's in the federal
23 custody, and I don't understand what they mean by vetting.
24 Obviously, what sentence he's done and what he's cooperated
25 with, I'd certainly bring it out.

1 THE COURT: And, of course, I don't have any knowledge
2 as to why Ms. Fant didn't think that this information was
3 something that should be revealed. I know that in the past
4 she has taken the position that she fears for her victims.
5 And that's commendable from the standpoint of the
6 prosecution, but it's not her determination as to whether
7 their name should or should not be revealed if it's
8 something that discovery calls for the revealing of. And
9 the proper way to handle that is to apply to The Court. In
10 fact, that's what I did in this case by specifically
11 providing that the names would have to be furnished, but
12 that the counsel for the defense was to maintain that
13 information confidential and not even tell their client
14 about it or not do anything. All that was put in the
15 Order.

16 And even after that order was passed, this witness'
17 name was still not revealed.

18 (Pause.)

19 THE COURT: Counsel, I don't mind telling you and
20 putting on the record at this point that even though I was
21 not present, I am aware of the fact that there was a --
22 what I would call major -- or at least fairly major
23 confrontation between defense counsel, Mr. Kent, and Ms.
24 Fant with regard to this matter back -- it was around April
25 when this was matter was continued. Is that when that was,

1 Mr. Felder (sic)?

2 MR. KENT: Kent. Yes, sir.

3 THE COURT: I mean, Kent.

4 MR. KENT: I think it was April 2 years ago, yes, sir,
5 Judge.

6 THE COURT: All right. I want to think about it a few
7 minutes. I'm going to rule before the afternoon is over,
8 but let's talk about what else we need to do in connection
9 with this. And maybe I ought to go ahead and decide this
10 matter.

11 I'd like to -- I'm not sure what I'm going to do with
12 regard to this, but this is a matter that I might need to
13 address anyhow.

14 Let's talk about the motion to suppress the telephone
15 records and the basis of the subpoena, Mr. Kent.

16 MR. KENT: Thank you, Judge. May it please The Court.
17 I have -- (pause). Judge, in this case, the state can call
18 them search warrants -- and I hand a copy of it to you.

19 THE COURT: Before you do that, while you're getting
20 in to that, Ms. Rutledge, are those the Court's Exhibits
21 that I had a few minutes ago? How about handing those up,
22 Mr. Bradley, let me have them.

23 (Pause.)

24 THE COURT: Let me review these just a minute and make
25 sure I've got everything.

1 (Pause.)

2 THE COURT: I have Court's Exhibits 1 through 11 in
3 connection with the previous motion. All right. Now, go
4 ahead, Mr. Kent. I'm sorry.

5 MR. KENT: By way of record, officers in this case --
6 I think it's Detective Potteiger if I'm not mistaken, who
7 issued search warrants. They call them search warrants.
8 They're search warrants for certain phone records in this
9 case. For the record they issued a search warrant for
10 phone number , , as
11 well as . Those were the search warrants they
12 issued. I could hand a copy to The Court. I've shown it
13 -- just give me one of the search warrants, Judge. They're
14 all exactly the same or they have the exact same language
15 on them.

16 THE COURT: All right. The search warrant which has
17 been presented to The Court, one for each of the different
18 phone numbers, I assume is what you're talking about, a
19 different search warrant for each of the phone numbers.
20 But they're in all other respects identical?

21 MR. KENT: Yes, sir.

22 THE COURT: Will be marked for purposes of this
23 hearing, again for the suppression hearing -- and to keep
24 the record straight, let's make it Court's Exhibit No. 12.

25 (Search warrants, 5 pages, dated 7/23/08, marked for

1 identification as Court's Exhibit No. 12.)

2 THE COURT: All right. Go ahead, Mr. Kent.

3 MR. KENT: Thank you, Judge. The first thing, Judge,
4 is determining whether or not these are actually search
5 warrants or subpoenas. The officers have couched them as
6 search warrants. But what they actually are are subpoenas.

7 THE COURT: It's what, I'm sorry?

8 MR. KENT: These are subpoenas. They're calling them
9 search warrants, but ---

10 THE COURT: No, sir. I disagree with you completely.

11 MR. KENT: Okay. I'll let you finish, Judge.

12 THE COURT: Because I don't think they've got a right
13 to subpoena records. I think the only thing they have the
14 right to do is to search for records when they can show
15 probable cause to a judicial officer, which apparently was
16 done in this case. What I've had a problem with in the
17 past is where either side, either the state or the defense,
18 has issued a subpoena to require a business -- whatever it
19 might be or anything else just produce certain records at a
20 given time and place without any judicial oversight.

21 And I've always had a problem with that. I don't
22 think that they have the right to do that. I think the
23 proper way to do it is go before a judge, show why we need
24 these particular phone records, and if he finds probable
25 cause, then issue the search warrant.

1 MR. KENT: Judge, I would just like to put on the
2 record that I think that these are actually subpoenas.
3 One, they're sending these out of state. They're not using
4 these inside the state.

5 No. 2, at the beginning of the search warrant or
6 whatever you want to call it, they rely on code section
7 17-13-140, which I don't actually think is even the
8 applicable law to utilize when executing search warrants.

9 The last paragraph says, all records that are
10 requested will have to come from the subpoena compliance
11 before at Overhide Park, Kansas, which pertains to the
12 phone number . Just because you call something
13 a search warrant doesn't make it necessarily a search
14 warrant.

15 They say they want to search a store, but then they
16 say they want to go the subpoena source and send us all the
17 information.

18 So I think that this is a subpoena. This is them
19 going to the subpoena compliance store and saying, send us
20 all the information, we don't have out-of-state subpoena
21 power. They're not searching anything even inside South
22 Carolina. They're not even looking for something in South
23 Carolina. They're actually sending this to Kansas.

24 THE COURT: Well, the first thing of all, let me ask
25 you. What's the expectation of privacy?

1 MR. KENT: In our phone records?

2 THE COURT: Yes.

3 MR. KENT: I guess I'm confused on the question. I
4 want to think about it.

5 THE COURT: In order to be -- to require a search
6 warrant, doesn't the defendant have to have an expectation
7 of privacy?

8 MR. KENT: Well, Judge, don't we all have expectations
9 of privacy in our personal cell phones?

10 THE COURT: Whose numbers are these?

11 MR. KENT: This is the defendant's cell phone number,
12 as well as his family cell phone records if I'm not
13 mistaken. So why they not have a personal stake in these
14 things?

15 THE COURT: Okay. All right. Go ahead.

16 MR. KENT: So, Judge, expectation of privacy, I think
17 everybody ---

18 THE COURT: How would you then say that the state --
19 what would you say the state has to do to get these
20 records? What would be your position?

21 MR. KENT: Well, Judge, I would rely on it -- I'm
22 calling the case of the state versus Arley Ashley
23 (phonetic), because that's how you corrected me on the
24 proper way to handle it, they would have to come in front
25 of you first, and then I don't know that they can get

1 subpoena records ---

2 THE COURT: What's the difference between me and a
3 magistrate as far as issuing a search warrant is concerned?

4 MR. KENT: Well, the next thing would be exactly what
5 you said, they had to be brought during the term of court
6 in which the case is going to be called; that's exactly
7 what we talk about in Arley Ashley. You can't have ---

8 THE COURT: Well, that's a subpoena. That's what the
9 subpoena rule says. That's not what the search warrant
10 rule says.

11 MR. KENT: Okay. Again, I still think this is a
12 subpoena, Judge, because mostly it goes out of state. And,
13 of course, No. 2, there's no out-of-state subpoena power or
14 search warrant power. You can't go outside of the state
15 and say a magistrate has given authority to use this
16 outside of state. Because if we're going to follow the
17 magistrate's rule, the magistrate has no power outside of
18 Sumter County. So he clearly has no power outside of the
19 State of South Carolina. Magistrate's jurisdiction is
20 limited to the county in which they are. They don't have
21 jurisdiction inside of Kansas, so there is no authority on
22 this record. Now if a Circuit Court Judge see it, but not
23 a magistrate would definitely not have subpoena, search
24 warrant -- any authority outside of the county of Sumter.

25 THE COURT: So you're saying that these records -- if

1 I understand what you're saying. These records of Sprint
2 in this case are outside the subpoena power of this court
3 completely?

4 MR. KENT: Not this court, Judge. What I'm arguing
5 right now, definitely outside of the power of a magistrate.
6 There's no doubt of that.

7 THE COURT: Are they outside of the power of the State
8 of South Carolina to get the records?

9 MR. KENT: From what I've always been told, Judge.
10 And you can correct me if I'm wrong. There is no -- we do
11 not have subpoena power outside of the State of South
12 Carolina. I could be wrong, but I've been told we don't
13 have subpoena power outside of the State of South Carolina.

14 THE COURT: So you're saying that the records of
15 Sprint, Bank of America, whoever, are not available to --
16 there's no kind of proceeding that can be instituted in the
17 State of South Carolina for the state to get these records?

18 MR. KENT: I'm not necessarily saying that. I'm
19 saying this is not the way to do it.

20 THE COURT: All right. What is the way to do it?

21 MR. KENT: Well, first of all, I guess the first
22 question I should ask is you completely disagree with me on
23 this is a subpoena is what I'm assuming.

24 THE COURT: There has to be some way that the state or
25 you -- the defense. Let's turn the tables a little bit.

1 Let's suppose that you wanted to get the telephone records
2 of a particular body and those records are not available in
3 the State of South Carolina. What's the procedure for
4 doing it?

5 MR. KENT: Judge, maybe I should answer it this way.
6 These people have to have the ability to say no. You don't
7 have to listen to the subpoena. You don't have to listen
8 to the search warrant. They're not given the ability to
9 say no. They're presenting this as if it is a subpoena.
10 They're getting something by our court giving, first of all
11 the incorrect law. 17-13-140 is not the correct law.
12 They're getting this sent to Kansas saying, this is
13 enforceable by a court of higher jurisdiction.

14 THE COURT: Does your client have the standing to
15 raise that or is that up to Sprint to raise that question?

16 MR. KENT: Well, my client ---

17 THE COURT: They're the ones that have the standing to
18 say, hey, this subpoena is invalid. I mean, this search
19 warrant is invalid. Isn't it up to Sprint to say, we're
20 not going to give you the records in response to this
21 document?

22 MR. KENT: Well, Sprint was simply the agent of my
23 client. Sprint works for Mr. Felder. He paid the bill to
24 Sprint, so he would have the right to raise it as well as
25 Sprint.

1 THE COURT: He used their service. He does not pay
2 the bill for them to protect his number.

3 MR. KENT: I'm completely lost there, Judge.

4 THE COURT: He pays the bill to be able to use their
5 facilities to talk on the telephone.

6 MR. KENT: Correct.

7 THE COURT: Okay. He's not paying them to never give
8 that information to anybody.

9 MR. KENT: He actually pays them for an exclusivity,
10 this is his phone and his phone alone; that's why everybody
11 doesn't have the exact same phone numbers. He pays for
12 privacy. Pays for the fact that they don't give it to
13 everybody in the world, and can just call in randomly. If
14 we go to Sprint right now and I ask for Judge King's phone
15 number, they're not going to give it to me.

16 THE COURT: I hope not.

17 MR. KENT: Since I can't pay for your phone records,
18 they realize you are in charge of that phone. I can't ---

19 THE COURT: Let me tell you, this is one of the things
20 -- and I think you and I have had this discussion before.

21 MR. KENT: Yes, sir, Judge.

22 THE COURT: A number of years ago I was appointed to
23 chair the committee to do a change or recommend changes in
24 the criminal rules. And one of the things that we have
25 wrestled with and did wrestle with and before submitting

1 our report to the Supreme Court where it still sits, and
2 the changes haven't been made yet, is this business of
3 search warrant versus subpoena, and the procedures by which
4 a subpoena could be issued, and what was happening with the
5 abuses with subpoenas. And what we were finding in our
6 investigation was -- and I'll give you an example. It did
7 not happen in this county. It did not happen in this
8 circuit. But it happened in another county, in another
9 circuit where a subpoena was issued by the clerk of court's
10 office ordering a company in North Carolina to produce
11 records at a certain time and place to the sheriff's office
12 long before court ever started, because -- I think it was
13 telephone records in that case. I'm not sure. But to
14 produce the records and produce them to the sheriff's
15 investigator at the sheriff's office at the place they put
16 on the subpoena, and this was issued at the request of the
17 solicitor's office by the clerk's office.

18 I don't think that there is any authority in South
19 Carolina for an investigative subpoena. We don't have such
20 an animal as an investigative subpoena. We tried to figure
21 out some way to put into the rules an investigatory
22 subpoena, but couldn't figure out any way that that would
23 withstand due process muster, because of the confrontation
24 issues and because of the due process issues. We just
25 didn't figure out any way to do it. We felt the only way

1 to do it was by search warrant.

2 And the rules prohibited the issuance of a subpoena or
3 subpoena duces tecum to produce any records except before
4 The Court and in court. And that's kind of what we put
5 into the rules to take care of that subpoena problem. And
6 then that meant that for anybody, be it defense or
7 prosecution, to obtain any records, they would have to
8 apply for a search warrant whereby a judge, circuit judge,
9 magistrate, or whatever it would be, would be based upon
10 probable cause as to whether there was any probable cause
11 for the requirement of that search warrant, would have to
12 be sworn testimony before a judge of probable cause.

13 And a limited search warrant to produce records or
14 anything else is nothing more -- I don't care if all they
15 want are the numbers on this particular -- I mean, the
16 records on this particular number, it's still just a
17 limited search warrant.

18 I think the same is true of medical records. Unless
19 you've got the consent of the person whose medical records
20 those are, I don't think that you can subpoena those and
21 have them produced at your office, at least not in the
22 criminal rules you can't.

23 And, again, it's got to be done by a search warrant.

24 But I don't know of any other way to do it other than
25 the way that the state did it in this case, and I think

1 that they're entitled to it. I think you're entitled to it
2 if you could show probable cause that it could be done that
3 way. But I think it's got to go before a judicial officer.
4 I just don't think that the records -- I mean, I would be
5 highly perturbed if somebody issued a subpoena to the Bank
6 of America and wanted my checking account records that has
7 a balance of \$4.98 in it produced without any more than
8 just a subpoena. And I think that's why it requires a
9 search warrant. Even though those records are Bank of
10 America may not be here, they may be in North Carolina, I
11 think that they could probably obtain that if they could
12 show probable cause why they needed that by appearing
13 before a judicial officer, making an affidavit and having
14 that judicial officer make that determination as to whether
15 the search warrant would be issued.

16 That's the way I view the correct procedure. And I
17 can't -- you know, right now, I'm having a problem. You
18 can't give me an alternative procedure, you're just saying
19 this was not valid.

20 MR. KENT: Well, Judge, at a bare minimum, I think it
21 would take a general sessions. I just don't see how a
22 county magistrate can issue out-of-state -- I mean, just
23 procedurally, they have no authority outside of their own
24 county.

25 THE COURT: Could I?

1 MR. KENT: I can't see why not.

2 THE COURT: Why?

3 MR. KENT: You would have more authority.

4 THE COURT: What's the difference between me and a
5 magistrate?

6 MR. KENT: Well, because the statute specifically says
7 magistrates don't have authority outside of their own
8 county. The magistrate section says they can't issue
9 subpoenas -- a Sumter County magistrate can't issue a
10 subpoena for Charleston. They just can't. They don't have
11 authority outside of their county. So that would be the
12 difference. There's nothing that limits ---

13 THE COURT: But I don't have authority to order
14 anything in North Carolina or Illinois or wherever it might
15 be.

16 MR. KENT: Judge, anything you tell me to do, I will
17 do.

18 THE COURT: I mean, we're talking about semantics as
19 far as between county lines and state lines, but it's still
20 the same principle. And, you know, I think that -- I just
21 don't know how else they could do it. Let me hear from
22 you, Mr. Meadors, I'd like to hear your take on this and
23 your weigh in on this problem, this rule.

24 MR. MEADORS: Judge, I don't -- I don't know how else
25 they can do it. They're serving the agent in this county,

1 which the magistrate does have jurisdiction with a search
2 warrant, with an affidavit explaining why we need this. We
3 used to have problems in Richland County. Investigators
4 would go down with subpoenas and it took the judge saying,
5 no, you've got to do search warrants and affidavits; and
6 that's when we started to do that there. I was delighted
7 to see them doing that here in Sumter. I don't know how
8 else they can do it, Judge. They're serving an agent of
9 Sprint or whoever it is with the search warrant.

10 Here's why we need them in this case. There was a 911
11 call from a residence on Harry, another 911 call from the
12 residence at Harry. And in between there was a call about
13 a shooting at with calls offs back and forth
14 between the participants during that time period.

15 And, Judge, the other thing on this as far as privacy.
16 Mr. Felder in his statement gave all the numbers up. He
17 said, here's my number. Here's their number.

18 And these aren't conversations we're trying to get in.
19 But I think they complied with the only guidance that's out
20 there, respectfully, serving the agent.

21 THE COURT: Mr. Kent, if they had gotten this
22 information pursuant to Rule 13 of the South Carolina Rules
23 of Criminal Procedure, I would agree with you, I would say
24 that they didn't have the right to do that. And I would
25 quash the information that had been obtained under the Rule

1 13 subpoena, because that rule clearly says that upon the
2 request of any party, the clerk of court shall issue
3 subpoenas or subpoenas duces tecum for any person or
4 persons to attend as witnesses in a cause or matter in the
5 general sessions court. The subpoena shall state the name
6 of the court, the title of the action, and shall command
7 each person to whom is directed to attend and give
8 testimony or otherwise produce documentary evidence at the
9 time and place therein specified.

10 The subpoena shall also set forth the name of the
11 party requesting the appearance of such witness and the
12 name of the counsel for the party if any.

13 And that is what I have always felt like, that all
14 that gives either side the power to do is subpoena a
15 witness to bring records to court.

16 But I have also felt like that the only other way to
17 get that information and the way to do it that meets the
18 due process requirements is to have judicial oversight, and
19 I think they got the judicial oversight. And they're
20 looking for information in this county. You know, Sprint
21 has probably got an office here in Sumter. They could have
22 simply served the office here in Sumter and seized all
23 their computers, but I'm sure Sprint wouldn't have been
24 very happy about that.

25 And I think that this is the way to do it, is a

1 limited search warrant whereby they just produce the
2 particular information about this 1 or 2 or 3 in this case
3 numbers.

4 I would respectfully deny your motion to suppress the
5 search warrant and the information that was obtained on
6 that basis. I think that we had clarified it in the
7 proposed rules, but those are not the law and those rules
8 haven't been adopted. But I think we did clarify that.
9 But this is an area of the law that is not clear at this
10 time. But I've seen the abuses, and that's what we were
11 trying to limit. And I think the way to limit the abuses
12 is to require it by search warrant, albeit a limited search
13 warrant for a particular piece of information.

14 So I would respectfully deny your motion.

15 MR. KENT: Understood, Judge.

16 THE COURT: Okay. All right. What else do we need to
17 do before I go back to the ---

18 MR. KENT: The Biggers hearing.

19 THE COURT: Sir?

20 MR. KENT: The Biggers hearing, Judge -- I'm sorry,
21 Jackson v. Denno hearing.

22 THE COURT: Well, we hadn't decided yet whether he's
23 going to offer that or not. Have you thought about that
24 any more?

25 MR. MEADORS: Judge, just in an abundance of caution,

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1 I think we ---

2 THE COURT: Let's put him up.

3 MR. MEADORS: Judge, could I see your Order again real
4 quick while I'm doing that?

5 Detective Potteiger.

6 JASON T. POTTEIGER, being
7 first duly sworn, testified as follows:

8 CLERK: Please state your name. Spell your last name
9 for the record.

10 DETECTIVE POTTEIGER: Jason Thomas Potteiger,
11 P-o-t-t-e-i-g-e-r.

12 DIRECT EXAMINATION BY MR. MEADORS:

13 Q Good afternoon.

14 A Afternoon.

15 Q Are you still a detective?

16 A Yes, sir.

17 Q You're now in Beaufort?

18 A Berkeley County Sheriff's Office.

19 Q You're in Berkeley?

20 A Yes, sir.

21 Q You were with Sumter Police Department when this
22 incident happened?

23 A Yes, sir.

24 Q And what was your capacity?

25 A I was an investigator.

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1 Q I'm just going to ask you specifically now about the
2 opportunity you had to talk with the defendant, Antrell
3 Felder, very briefly on July 18 and then on July 19?

4 MR. MEADORS: Your Honor, there was the other issue
5 about the false name. Do you want me to go in to that
6 while we're here?

7 THE COURT: Yes, sir, let's do.

8 Q First of all, on July 18, 2008, did you have an
9 opportunity to go to the home of Ida Mae Felder in
10 Wedgefield?

11 A Yes.

12 Q Okay. Tell the judge what was the purpose of that?

13 A Through the investigation we developed and with
14 speaking with individuals in regards to the homicide that
15 occurred on Harry Street.

16 Q If you'll please just speak into that, Detective.

17 A Okay.

18 Q When you arrived at Ms. Ida Mae Felder's home, did you
19 have an occasion to come in contact with an African
20 American male?

21 A Yes, we did.

22 Q Did that person identify himself to you?

23 A Yes.

24 Q And who was it that he identified himself as?

25 A I can't remember the name exactly, but it was -- I

- 1 can't remember the name exactly. But it was not Antrell
2 Felder. He did not identify himself as Antrell Felder.
3 Q Is it fair to say he identified himself as Antrell
4 Felder's brother?
5 A It's fair to say that, yes, sir.
6 Q You just can't remember what that first name was?
7 A No, sir.
8 Q All right. And since you were told that Antrell
9 Felder was not there, did you leave?
10 A Not immediately. We spoke to a couple other people.
11 Q Okay. Who else did you speak to?
12 A I can't recall the names exactly, but a female and a
13 couple other males maybe in the house. Whoever came to the
14 door we just talked to them briefly, to see if they had any
15 information.
16 Q Did you come back later that day?
17 A I don't recall going back later that day.
18 Q Did you learn -- tell the judge how you learned the
19 person that identified themselves as Antrell Felder's brother
20 was really Antrell Felder?
21 A I believe another investigator who was there with us
22 was more familiar with him. We deliberated outside for a
23 little bit, and we spoke with -- we actually took a female
24 from the residence. She agreed to come with us and give a
25 statement, a written statement at that time at the police

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1 department. After all that it is determined we actually
2 spoke with Mr. Antrell Felder at the house when he answered
3 the door or came to the door.

4 Q And who was that other detective, Mr. Lyons?

5 A I believe Mr. Lyons was there. There was about 3 or 4
6 of us there.

7 Q July 19, 2008, did you have an occasion to talk with
8 Antrell Felder, along with Captain Holston?

9 A Yes, sir, I did.

10 Q Tell the judge where that occurred?

11 A I'm sorry?

12 Q Where did that happen? Where did you talk to him?

13 A At the Sumter Police Department Law Enforcement
14 Center.

15 Q And did you have an occasion to read the defendant his
16 rights?

17 A I did.

18 MR. MEADORS: Court's 13.

19 (Sumter Police Department Interview Form, Waiver of
20 Rights, 1 page, marked for identification as Court's
21 Exhibit No. 13.)

22 Q I'm going to show you what is marked Court's 13. Do
23 you recognize this?

24 A Yes, sir, it's the form I read off. It's an interview
25 form with his miranda rights on it.

1 Q And, specifically, where were you when you read these
2 rights to Mr. Felder?

3 A At an interview room in the investigation division of
4 the Sumter Law Enforcement Center.

5 Q Who else was there with you if anybody?

6 A Then at the time Captain Holston.

7 Q Tell the judge your first observations of Mr. Felder.
8 Did he appear to you to be under the influence of any
9 alcohol or drugs or any other intoxicant or mind-altering
10 drugs?

11 A No, sir. He seemed in his right mind, aware of what
12 was going on.

13 Q Say that?

14 A Aware of what was going on in my opinion.

15 Q Could you smell anything on him?

16 A No, sir.

17 Q And did you have an occasion to read him his miranda
18 rights?

19 A Yes, sir, I did.

20 Q Prior to that, did you get any background information
21 from him?

22 A Maybe his name, his birth date, where he lived, how
23 old he was, that's it.

24 Q Did you have any trouble understanding him when you
25 asked him those questions?

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- 1 A No, sir.
- 2 Q Did he appear to have any trouble understanding you
- 3 based on the responses he gave to your questions?
- 4 A No, sir.
- 5 Q Now, read to His Honor as you read that day on July
- 6 19, the rights to the defendant, Antrell Felder?
- 7 A You want me to read the entire form?
- 8 Q Yes, sir, I do.
- 9 A It's entitled, Sumter Police Department form. Before
- 10 we ask you any questions, you must understand your rights.
- 11 You have the right to remain silent. Anything you say can
- 12 be used ---
- 13 Q Stop. You said you have the right to remain silent.
- 14 Did he indicate to you that he understood that?
- 15 A He -- he admitted -- indicated that he understands the
- 16 entire form when I was completed.
- 17 Q Okay. Go on. What did you do next?
- 18 A Anything you say can be used against you in a court of
- 19 -- in court.
- 20 Q You read that to him?
- 21 A Yes, sir.
- 22 Q In his presence?
- 23 A Yes, sir.
- 24 Q He appeared to you to understand that?
- 25 A Yes, sir.

- 1 Q And did he tell you he understood all these rights?
- 2 A Not individually, but at the end, yes, sir.
- 3 Q All right. Go ahead.
- 4 A You have the right to talk to a lawyer for advice
5 before we ask you any questions and to have him or her with
6 you during the questioning.
- 7 Q And are you using this form to help you as you go
8 through reading, not that you need it, but are you
9 referring to it as you go through it?
- 10 A Yes, sir, in fact, during many and almost all my
11 interviews, I actually read it upside down while they are
12 going along with me.
- 13 If you cannot afford to hire -- I'm sorry. If you
14 cannot afford a lawyer, one will be appointed for you
15 before any questioning if you wish.
- 16 If you decide to answer questions -- to answer any
17 questions now without a lawyer present, you will still have
18 the right to stop answering at any time until you talk with
19 a lawyer.
- 20 Q Now, at any time the reading of these rights did he
21 tell you, I don't want to talk to you?
- 22 A Not in those words, no, sir.
- 23 Q And did he say, I want a lawyer?
- 24 A I believe he did after maybe an hour of interview.
- 25 Q I'm talking the statement right now.

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1 A No. No. Not while we were going over this point, no.

2 Q During reading those rights he didn't say, I want a
3 lawyer, I don't want to talk to you, right?

4 A No, sir.

5 Q You read his waiver of rights?

6 A Correct.

7 Q And read them as you read them to him?

8 A Okay. At the bottom it's waiver of rights. Before
9 any questioning, I was furnished the above statement of my
10 rights at -- and then I filled in 5:43 and circled p.m.

11 And then it says on, and then I filled in July 19, 2008.

12 At -- I filled in again, Sumter L.E.C., which would stand
13 for Law Enforcement Center, by Officer -- and I put in my
14 name, Potteiger, of the Sumter Police Department.

15 I have read or had read to me this statement of my
16 rights. I understand what my rights are. I am willing to
17 answer questions at this time without a lawyer present.

18 No promises or threats have been made to me and no
19 pressure has been used against me.

20 Q I apologize, Detective. Now, during the reading of
21 those rights and the waiver of those rights, did he appear
22 to you to understand what you were reading?

23 A Yes, sir.

24 Q Did he tell you, I understand my rights and I waive my
25 rights?

Detective Potteiger -- Direct by Mr. Meadors

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- 1 A Yes.
- 2 Q Okay.
- 3 A And he signed it as well.
- 4 Q That was my next question. Did he sign it that he
- 5 understood and waived them?
- 6 A Yes, sir, it was signed, dated, and time by himself.
- 7 Q And did you force him to sign it?
- 8 A No, sir.
- 9 Q All right. You watched him sign that?
- 10 A Yes, sir.
- 11 Q And is that your signature there?
- 12 A Yes, sir, on the bottom left that is my signature as a
- 13 witness.
- 14 Q At any time during the reading just of this rights
- 15 form 13, did he ever say, stop, I don't want to talk to
- 16 you?
- 17 A Not while we were going.
- 18 Q At any time did he say give me a lawyer during the
- 19 reading of these rights?
- 20 A No.
- 21 Q If he had done that, would you have stopped that?
- 22 A I would have immediately.
- 23 Q Would you -- or did you or if he have asked, would you
- 24 have provided him any nourishment or any bathroom
- 25 privileges if he'd asked?

Detective Potteiger -- Direct by Mr. Meadors

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1 A Yes.

2 Q Did you threaten him or coerce him in any way to get
3 this statement?

4 A No, sir.

5 Q Did you hold out any hope or promise of reward?

6 A No.

7 Q After the reading of the rights and him signing saying
8 he understood them, did you have an occasion to do a
9 summary of an oral statement he gave you -- I guess is the
10 best way to say it?

11 A I'm not certain if I did or not.

12 (Summary of defendant's oral statement, 2 pages,
13 marked for identification as Court's Exhibit No. 14.)

14 THE COURT: All right. Court's 14.

15 Q That's Court's 14. I ask if you recognize it? Is
16 this a summary of the statement that Mr. Antrell Felder
17 gave to you on July 19, 2008 at the Sumter Law Enforcement
18 Center?

19 A Yes, this looks familiar.

20 Q Is that the summary of the statement that he gave you
21 or gave Captain Holston?

22 A Yes.

23 Q Okay. That is typed out, correct?

24 A That's correct.

25 Q And is that the result of you all talking to him and

- 1 putting that information -- somebody typing it in the
2 computer, correct?
- 3 A Yes.
- 4 Q And that's the information that you took down or was
5 taken down from this defendant in this case, correct?
- 6 A That's correct.
- 7 Q At the end there, does he provide you with his phone
8 number and phone numbers of all the other family members?
- 9 A Yes, he provided us numerous phone numbers in the
10 interview.
- 11 Q And is it fair to say -- is it summarized that he
12 talks about his house being broke into, correct?
- 13 A The house on Harry Street, he stated was his house.
- 14 Q And then he left, but he went an opposite way from
15 Highland, correct?
- 16 A He described the back way, back towards where they
17 were at earlier when they learned about the break-in,
18 burglary.
- 19 Q Is the person that gave you this statement in this
20 courtroom?
- 21 A Yes, sir, he is.
- 22 Q And can you point him out for His Honor?
- 23 A Sitting with Mr. Kent at the defendant's table.
- 24 MR. MEADORS: Your Honor, we ask the record reflect
25 he's pointed to Mr. Felder.

Detective Potteiger - Direct by Mr. Meadors

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1 THE COURT: The record will so reflect.

2 Q You said earlier at some point that he -- did he at
3 some point ask for a lawyer?

4 A No, sir. It just wound down. The interview came to
5 an end or he actually asked for an attorney. But it was
6 roughly about an hour long.

7 Q Is it fair to say that all the information you took
8 down until you stopped, he had not asked for a lawyer or
9 said, don't talk to me?

10 A That is correct, yes, sir.

11 Q And at no point during this did you threaten him or
12 coerce him?

13 A No.

14 Q And when you'd ask him a question, was he able to
15 answer it in a content-appropriate message? In other
16 words, did he appear to understand your questions?

17 A Yes, sir.

18 Q Did you have any trouble hearing him when he gave you
19 his answers?

20 A No, sir.

21 Q Or understanding his words?

22 A No, sir.

23 MR. MEADORS: Thank you. That's all.

24 THE COURT: Cross examination, Mr. Kent.

25 MR. KENT: Thank you, briefly.

1 CROSS EXAMINATION BY MR. KENT:

2 Q Detective, how are you?

3 A All right. How are you?

4 Q I was just kind of confused. You talked earlier about
5 you went to Antrell Felder's house and he gave you the fake
6 name. I just want to go over that briefly, okay?

7 I'm confused. When you went to the house, did you ask
8 if he was Antrell Felder? Tell me how that conversation
9 started when he answered the door?

10 A All right. It wasn't his house.

11 Q Okay.

12 A We went to a house in Wedgefield.

13 Q You went to a house in Wedgefield?

14 A We understood that he might have been there or people
15 that had information.

16 Q Okay.

17 A What I recall, a male came to the door at one point,
18 and we asked him the name. And the name they provided was
19 incorrect.

20 Q Now, I was confused. I think the solicitor said he
21 said his last name was Felder, and it was a different first
22 name. Is that what you're -- I want to make sure I've got
23 you correct.

24 A I can't recall what name was given.

25 Q You have no clue what name?

Detective Potteiger - Cross by Mr. Kent

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- 1 A I can tell you it wasn't Antrell Felder's name.
- 2 Q Okay. Specifically, now, how did you determine that
- 3 this person that answered the door was lying to you, that's
- 4 what I was confused about?
- 5 A I don't know if I did determine that. At that moment?
- 6 Q Yes, sir.
- 7 A Through the investigation, talking with other people,
- 8 we learned that it was actually him, Antrell Felder, that
- 9 answered the door that provided us a wrong name.
- 10 Q And, Detective, you need to be a little more specific
- 11 than through the investigation you determined he was lying?
- 12 A Well, obviously, I talked to him the next day.
- 13 Q Yes, sir.
- 14 A And I recognized him as being -- I mean, for certain I
- 15 can tell you that right now. I recognize him being the one
- 16 that gave us the wrong name at the Wedgefield address.
- 17 Q Okay. So when you met with him the next day, when he
- 18 came in and gave you a statement, you realized the person
- 19 you met with the next day was the same, exact person who
- 20 answered the door who lied to you?
- 21 A Was at the door at one point, yes, sir.
- 22 Q Did you ask him why had lied to you or anything of
- 23 that nature?
- 24 A I can't recall if I asked him that or not.
- 25 Q Did you ask him, are you -- were you the person who

- 1 answered the door the day before?
- 2 A I've been looking through my notes and through the
3 exhibit, and I don't recall asking him specifically if that
4 was him.
- 5 Q Okay. So you're not sure?
- 6 A Not sure of what?
- 7 Q You're not sure if you asked him who he was the next
8 day, you made the assumption?
- 9 A In regards to -- I'm not sure if I asked him
10 specifically if he was the male that was at the Wedgefield
11 house, because I -- I could tell it was him during the
12 interview. When I saw him, it was definitely him, the same
13 person we talked to at point at the Wedgefield residence.
- 14 Q Do you know if he looks like his brother? I think
15 they mentioned he gave his brother's name. Did you check
16 to see what his brother looked like?
- 17 A No, sir.
- 18 Q So you had no -- could it have been his brother who
19 answered the door?
- 20 A I can't recall if he has a brother.
- 21 MR. KENT: That's all the questions I have. I
22 actually have no questions about ---
- 23 THE COURT: The search warrant.
- 24 MR. KENT: --- the statement.
- 25 THE COURT: I mean, the statement, I'm sorry. All

Detective Potteiger - Redirect by Mr. Meadors

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1 right. Redirect?

2 REDIRECT EXAMINATION BY MR. MEADORS:

3 Q The person you saw at the door on the 18th who said he
4 was so-and-so, correct?

5 A Correct.

6 Q You saw him the next day, correct?

7 A Correct.

8 Q And that was Antrell Felder, correct?

9 A It was Antrell Felder that we interviewed at the law
10 enforcement center.

11 Q The day before he said he was somebody else?

12 A Correct.

13 Q You know that from looking at him with your own eyes?

14 A Yes, sir.

15 MR. MEADORS: Thank you.

16 THE COURT: Anything further?

17 MR. KENT: No, sir, Judge.

18 THE COURT: All right. Thank you, Mr. Potteiger, you
19 may step down.

20 (The witness leaves the witness stand.)

21 MR. CHANDLER: If it please The Court, on the issue of
22 the white car, the infamous white vehicle, the photograph
23 was resolved at the break. That officer has said that they
24 had shown it, and a witness said it was a car like that
25 one.

1 THE COURT: So you all have resolved that issue?
2 MR. CHANDLER: Yes, sir.
3 THE COURT: All right.
4 MR. CHANDLER: I now know it was shown to someone,
5 that it was just not surreptitiously dropped in the file.
6 THE COURT: All right.
7 MR. MEADORS: I wasn't privy to all of that, but it's
8 good to know.
9 THE COURT: Mr. Chandler or Mr. Kent, I'll be glad to
10 hear from you with regard to the matter of the false name
11 and the matter of the Jackson v. Denno search warrant.
12 MR. KENT: Just what the solicitor did, he went
13 through what needed to be done on the Jackson v. Denno. I
14 would not have any objection to it, the statement, if he
15 chooses to go forward with it.
16 THE COURT: All right.
17 MR. KENT: I think it was necessary to put it on the
18 record though.
19 THE COURT: All right. So the Jackson v. Denno is
20 resolved and you don't object to it. If they decide to
21 offer the statement, you don't challenge the validity?
22 MR. KENT: I don't think I can challenge the validity
23 of it is probably a better way to put it. It's not that I
24 don't challenge, I don't think I need to.
25 THE COURT: Or the voluntariness.

1 MR. KENT: Exactly. I don't think I can based upon
2 the testimony that was just elicited.

3 THE COURT: All right. What's your position on the
4 false statement?

5 MR. KENT: Judge, my position would be very simply, I
6 still don't think they've made a proper foundation. This
7 officer doesn't know what name was given. He really
8 doesn't know much of anything. He doesn't remember much of
9 anything. I don't think he can lay a proper foundation to
10 say this person even lied to him. He didn't confront it,
11 he didn't verify it. He's just guessing; that would be my
12 entire argument, that he can't lay the proper foundation
13 that this person actually lied to him when they went to the
14 door. This is pure speculation at best.

15 THE COURT: All right. Mr. Meadors?

16 MR. MEADORS: Judge, first of all, I think there was
17 another officer too that was involved in this. But I think
18 this officer specifically said the person I saw on the 18th
19 gave me a name. When I saw him the next day, it was the
20 same person, it was Antrell Felder, and that's the person
21 that gave me a different name the day before. I think
22 that's a jury issue on cross.

23 THE COURT: All right. I would respectfully deny the
24 motion in limine to prevent the state from introducing the
25 testimony regarding the false name. I think that this

1 witness did testify that an individual came to the door,
2 gave him a name other than Antrell Felder, but the next day
3 the person came in and identified himself as Antrell Felder
4 and he testified that that was the same person that came to
5 the door the day before and said he -- and gave a false
6 name.

7 So I think it is a factual issue as to whether he did
8 give a false name to the police at the time that they came
9 up. And I think a foundation has been laid, and therefore,
10 I would overrule the motion to suppress that evidence.

11 And the issue of the miranda rights is resolved.

12 Counsel, I think the only issue that I've got to
13 really address now and decide is -- I know everybody would
14 like to know before the end of the day, including me, as to
15 what to do about the failure to disclose the name of the
16 witness who had the conversation with the defendant, who
17 admitted shooting the victim in this case. I am troubled
18 by that, as I have already indicated.

19 So if you all will give me about 5 or 10 minutes and
20 let me think about it, I will address that this afternoon.

21 MR. MEADORS: Judge, would you entertain -- if you'll
22 allow. We reviewed before -- which, quickly frankly ---

23 THE COURT: Go ahead.

24 MR. MEADORS: Very briefly. Your Honor, your Order
25 required disclosure under Brady of any exculpatory

1 material.

2 THE COURT: Right.

3 MR. MEADORS: In addition, it finds all witness
4 statements -- your Order says -- should be disclosed.

5 The officer testified there wasn't any -- there were
6 no written statements, obviously, recorded.

7 In addition to that, your Order in paragraph 4 says
8 that law enforcement may delete notes and not produce them.
9 They didn't take anything there.

10 Judge, rightly or wrongly, Ms. Fant may have concluded
11 that she didn't have to turn over non-exculpatory
12 information that was never written down by the officer. I
13 don't know. I just wanted to throw that out there. I'm
14 not saying that you're -- I'm not trying to -- I'm just
15 trying to fill another ---

16 THE COURT: Well, what you're arguing is she might
17 have felt like that she was following the letter of the
18 Order but not the spirit.

19 MR. MEADORS: I guess that's what I'm saying. And,
20 Judge, every other -- and that's why when I -- every other
21 statement -- I thank Solicitor Finney with helping with
22 that. Every other statement that you ordered, she did turn
23 over, even that Kayla McFadden. It was just redacted.

24 And in this case if there wasn't a written
25 statement ---

1 THE COURT: I understand.

2 MR. MEADORS: Thank you.

3 THE COURT: All right. I have the Order. I've got
4 the other exhibits here; that's the only one I don't have.
5 I want to go back and review them.

6 All right. Counsel, give me about 5 or 10 minutes.

7 (A recess was taken.)

8 THE COURT: All right. Counsel, with regard to the
9 motion of the defense to dismiss for prosecutorial
10 misconduct, I've given a great deal of thought to it and
11 have read the -- glanced through and read more thoroughly
12 some of the documents.

13 I do find some real troubling parts to this case,
14 especially the fact that the solicitor told the circuit
15 court judge at a bond hearing that they had an eyewitness
16 who identified Mr. Felder, and that just appears to be an
17 outright lie. That causes me some real problems.

18 But I have carefully read my Order of January 27, 2010
19 and how it affects the testimony of this witness says --
20 and from what I understand from the evidence that was
21 presented before The Court, and I wrote this down, was that
22 he said he had a conversation with the defendant, who
23 admitted shooting the victim in this case, Mr. McKenzie.

24 I can't see how that statement is exculpatory of the
25 defendant. It's inculpatory, but not exculpatory. So I

1 don't think that it meets -- the failure to say that or to
2 disclose that meets the requirements of Brady versus
3 Maryland, 373 US 83.

4 And then we turn to the issue of whether it's in
5 violation of Rule 5 (A) (2), which specifically provides
6 that upon a sufficient showing the statement of a
7 prospective witness must be disclosed prior to the time
8 such witness testifies.

9 In my Order I was simply seeking early disclosure to
10 alleviate those issues later and to come to some agreement.
11 But the Rule does not really require that a witness
12 statement be disclosed prior to the time that the witness
13 testifies, as long as it is disclosed at the time prior to
14 the time the witness testifies so the defense can use that
15 statement in cross examination.

16 So I can't really conclude that there's really been
17 any Rule 5 (B) violation as well.

18 I do think there is a violation of the spirit of The
19 Court's Order and the spirit of my verbal discussion with
20 counsel when I was trying to resolve all these issues so
21 that we would not have these very issues when this matter
22 came to trial. But I don't think there's been any
23 violation of the letter of the rule or of the law or of The
24 Court's Order.

25 I'm disturbed about the fact that it does appear to be

1 fencing with the issues of The Court in trying to -- issues
2 before The Court in trying to take advantage of not being
3 required to disclose. But I think that that's a matter for
4 me to determine what action should be taken if any against
5 the attorney involved.

6 Therefore, I am at this time going to deny the motion
7 to dismiss the case based upon prosecutorial misconduct.

8 I'm also going to deny the motion to strike the
9 testimony at this time and for a continuance, with the
10 following proviso: That the state is to produce and have
11 the witness available here in this court tomorrow morning
12 at 8:00 a.m. before the jury is sworn, and that that
13 witness will be required to discuss and disclose and talk
14 to defense counsel about his testimony and what was told to
15 them and to give them an ample opportunity to discuss this
16 witness' proposed testimony prior to the time that the jury
17 is sworn. And if anything really unusual comes up or
18 anything comes as a result of that discussion, Mr. Kent and
19 Mr. Chandler, that causes you a great deal of consternation
20 or more than what has already been presented, then I'll
21 still hear from you and the jury will not have been sworn.

22 But I'm going to give you a chance to interview the
23 witness.

24 MR. MEADORS: Judge, obviously, I'll do whatever you
25 tell me. There is a procedure the feds have, and I had to

1 do it a week and a half to get him here Wednesday.

2 THE COURT: He's in federal custody. He's just over
3 in Bennettsville.

4 MR. MEADORS: Judge James had to sign an order. We
5 had to fax it originally. We had to get certified copies
6 by police officers. And I got him Wednesday was the
7 earliest they said -- I'll do whatever you tell me.

8 THE COURT: Are you going to bring him or did you have
9 him planned to bring as a witness?

10 MR. MEADORS: He's coming Wednesday, yes, sir.

11 THE COURT: Wednesday?

12 MR. MEADORS: I'm just saying, getting here in the
13 morning at 8:00 -- I don't know if I can do it.

14 THE COURT: Well, I'm not going to have the jury sworn
15 until they've had a chance to talk to him.

16 MR. MEADORS: I understand. I just want to say -- I
17 can't control the feds. I know Your Honor might can. But
18 if I get on the phone with them tonight, I'm not sure we
19 can get him here in the morning.

20 MR. KENT: He's right, Judge. I've had the same
21 problem with a federal witness.

22 THE COURT: Sir?

23 MR. KENT: He is right about getting federal ---

24 THE COURT: I know that. I've just been having a big
25 issue with some lawyers over in Dillon County about this

1 same thing, only they wanted to bring him from California.

2 MR. MEADORS: Judge, I think we can finish this trial
3 Wednesday and bring everybody back in the morning.

4 THE COURT: Well, the problem is you were going to
5 have to be off in the morning anyhow, I believe, weren't
6 you?

7 MR. MEADORS: Yes, sir. It's going to be moved up, I
8 just don't know how early.

9 THE COURT: Yes. All right. We can still do that and
10 maybe -- if we -- here's the situation. You all know we
11 want to take a recess Wednesday morning around 10:30 or so
12 to give everybody an opportunity to attend the service. We
13 can still take care of that first and maybe get in and get
14 started with this matter before the jury at lunchtime or
15 right thereafter. And I think that's what we'll have to
16 do.

17 All right. That being the case, then the matter will
18 be continued then until Wednesday morning. But get him
19 here as early as possible Wednesday morning, and you all
20 discuss the matter with him Wednesday morning. And I don't
21 want the jury sworn until they've had a chance to talk with
22 this witness.

23 And then we will talk with him Wednesday morning, and
24 then if necessary, Counsel, we'll take a break and attend
25 the services for Mr. Harritt, and then come back and begin

1 with the jury.

2 In the meantime, Mr. Meadors, if you will get any
3 matters lined up that I can handle tomorrow without the
4 jury, we'll do that.

5 MR. MEADORS: Yes, sir. Yes, sir. Judge ---

6 THE COURT: Yes, sir.

7 MR. MEADORS: I assume they were bringing him first
8 thing. But I'll call in the morning and say we need him as
9 early as you can get here Wednesday morning.

10 THE COURT: The earlier the better. Let's tell them
11 8:00 o'clock, and hope they get here by 9:00.

12 MR. MEADORS: Okay. Yes, sir.

13 MR. KENT: I understand. I'm not disagreeing with
14 your ruling whatsoever. We still have the right -- if I'm
15 not understanding correctly -- to later ask for a
16 continuance if we feel it's not enough time to speak to
17 this witness?

18 THE COURT: Yes, sir. After you've all had a chance,
19 if you can give me a really good reason, I mean, I'm not
20 precluding you from -- that's why -- that is the very
21 reason I don't want the jury sworn is because I don't want
22 a matter of double jeopardy that could be injected in to
23 it. So you would have the right to move to strike or move
24 to continue the matter if after your discussions with him.

25 MR. KENT: And, additionally, Judge, I'm protected for

1 the record, I don't have to bring this up -- I'm just
2 making sure for the record, I don't have to bring this up
3 over and over again, objecting to this testimony, just
4 right now I'm protected that I've objected and asked for
5 the dismissal and asked for the ---

6 THE COURT: Yes, sir, that's correct.

7 MR. KENT: Thank you, Judge.

8 MR. CHANDLER: And, Your Honor, the basis we had
9 talked about -- this Order was that my reading of Rule 5,
10 is your reading of Rule 5 unless we move for an Order that
11 says you're going to give all the statements? And so I
12 guess we were under the impression when we got your Order
13 that you had expanded Rule 5 -- as the Rule states, you're
14 only to give statements. But if you move The Court, I
15 thought you could get it directed that they gave them all?

16 THE COURT: I did say the statements shall be
17 furnished to defense counsel, but ---

18 MR. CHANDLER: I was trying not to get limited to
19 Rule 5. We were under the impression that we had expanded
20 Rule 5.

21 THE COURT: Probably had, yes. Rule 5 (A)(2) permits
22 The Court upon sufficient showing to require the production
23 of any statement of any prospective witness prior to the
24 time such witness testifies; and that's what I really was
25 asking her to do. I really wanted every witness' names

1 produced. But I -- as I say, I don't think she followed
2 the spirit of the law -- or the spirit of The Court's
3 ruling at all. And maybe there is even a violation of the
4 way the rule was written.

5 But I'm not going to strike it at this time. I'm not
6 going to dismiss the case based on that, or I'm not going
7 to continue it based on that. I will give you a chance to
8 talk with the witness, and let's find out what we are
9 talking about here.

10 I'm not real pleased about the fact that we are at
11 this point and this issue has come up. But I will have to
12 -- and I want to say for the record I don't find that --
13 and don't fault the current solicitor or assistant
14 solicitors in any way with this. It arose as a result of
15 prior administration.

16 But we'll look at it then. And what we'll do -- I
17 think I told the clerk in the hall, Mr. Bradley, to have
18 the jury call back at mid-day tomorrow. And I will give
19 them some instructions. I have not got them coming back at
20 9:30 in the morning. So at 9:30 in the morning, I'll be
21 here, prepared to hear some pleas and whatever we need to
22 do.

23 And let's see what we can do about getting the witness
24 here and give Mr. Kent and Mr. Chandler a chance to talk
25 with him.

1 MR. MEADORS: Your Honor, during that meeting when
2 they talk to him, will I be around or will the
3 investigators be allowed too? I'm just asking.

4 THE COURT: No. I think they've got the right to talk
5 to any witness without anybody present.

6 MR. MEADORS: The reason I ask is in the Order with
7 the feds that I signed and authorized, he would be with me
8 the whole time. I'm not trying -- but ---

9 THE COURT: Well, we can keep him in custody, and he
10 can be back here in the back where he'd be locked up, then
11 that's -- he's in the presence of the state even though
12 maybe right there while somebody's talking to him. The
13 feds don't have any right to keep the defense from talking
14 to him just any more than if they went over there and
15 talked to him over there.

16 MR. MEADORS: I want the record to reflect that.

17 THE COURT: Okay. They have the right to talk to him,
18 but I'm not going to allow them to take him out and talk to
19 him over a cup of coffee. I mean, he's going to have to do
20 it back here in the back. Okay.

21 MR. MEADORS: Judge, one final matter.

22 THE COURT: Yes, sir.

23 MR. MEADORS: This will be it. And I need to talk to
24 you in chambers, so this probably won't come up again.

25 THE COURT: All right. Could we do that at some other

1 time? What I'd like to do today right now, Mr. Manning,
2 before we adjourn, hear that motion for reconsideration
3 because we've got those 2 witnesses here that we need.

4 (Pause.)

5 THE COURT: All right. Everybody is excused on this
6 case. Keep the court personnel here just a minute and see
7 if we can take care of that motion for reconsideration.

8 The defendant will remain out on bond until the jury
9 is sworn.

10 (Court is in recess.)

11 (Tuesday, November 15, 2011.)

12 THE COURT: This is about the state versus Antrell
13 Felder. This is indictment No. 2009-GS-43-059. We've had
14 a little communications snafu with regard to what we were
15 going to do in connection with this matter, because I had
16 told the state and the defense that I was going to allow
17 the defense an opportunity to interview this witness,
18 Deonte Frierson, who is in federal custody.

19 Mr. Meadors indicated he did not know whether he could
20 get him here this morning, but he was scheduled to come
21 this morning -- tomorrow morning, Wednesday morning. And I
22 guess the lawyers all thought that based on that, we would
23 not start before the jury until Wednesday morning. Of
24 course, I had no way to get that word to the jury, and all
25 the jurors are here.

1 I have since communicated with Mr. Meadors. Have not
2 yet talked with Mr. Kent or Mr. Chandler. But I do think
3 the appropriate thing to do at this time is to bring the
4 jury back -- and the other complicating factors in this is
5 that Mr. Meadors is before the screening committee of the
6 General Assembly this morning, waiting to be called in to
7 be screened in his candidacy for the circuit court. He's
8 not really scheduled to be screened until 3:00 o'clock this
9 afternoon, but they told him to be there this morning in
10 case they move some of them back. And so he's waiting. He
11 doesn't know when he'll get away from over there or when
12 he'll be able to get here. So I can't really do anything
13 in that connection until tomorrow, to take the pressure off
14 of him to take care of that screening situation.

15 I have told Mr. Meadors -- and I told Mr. Finney as
16 well, and I am in the process of doing a written Order as
17 to what my ruling is going to be. I have not yet
18 communicated this to Mr. Kent and Mr. Chandler, but I will
19 do so.

20 That since hearing the matter yesterday afternoon, I
21 have decided that I am going to exclude the witness, Deonte
22 Frierson, from testifying in Mr. Felder's case. And I will
23 put that in a written order. And so the necessity for the
24 delay is no longer there, the necessity for Mr. Kent and
25 Mr. Chandler to interview this witness is no longer

1 present, but that still does not enable us to go forward
2 any sooner.

3 In any event, I'm going to send the jury home and
4 bring them back at 9:00 o'clock in the morning is the
5 intention now, Mr. Griffin. And we'll work until 10:00 or
6 10:15, where we get a reasonable break, take about a 2-hour
7 recess for the services for Mr. Harritt, get a bite to eat,
8 and come back early after lunch, and go forward tomorrow
9 afternoon.

10 Mr. Meadors has indicated to me that he did not think
11 that there would be difficulty in concluding this case by
12 Thursday afternoon or Friday morning if we do that; so
13 that's going to be the plan.

14 MR. GRIFFIN: Yes, sir, Your Honor.

15 THE COURT: All right. Bring the jury in.

16 (The jury returns to the courtroom at 10:05 a.m.)

17 BAILIFF: Your Honor, we have all the jurors present
18 in the courtroom.

19 THE COURT: Good morning, ladies and gentlemen. And
20 thank you for your promptness in being back here, and I
21 apologize for the delay. I want to tell you that we've had
22 -- we worked yesterday afternoon on some legal matters that
23 we had to do in connection with this case. Some of them
24 had to be carried over to this morning. There's been a
25 couple of communication snafues.

1 But the bottom line without going into all the details
2 is that we're going to, again, have to wait before we can
3 actually start the trial of this case until tomorrow. So
4 I'm going to turn you loose for any further responsibility
5 today. I do apologize for bringing you back, but it was
6 one of the things that could not be helped.

7 As often been said, the best laid plans of men often
8 go awry. Sometimes better stated under Murphy's Law that
9 if anything can go wrong, it will. And that's kind of what
10 we've got in this case from a procedural standpoint only.

11 But in any event, we are and will be ready to go
12 forward tomorrow with this matter. But what I would like
13 to do in order to ensure that we can move through this case
14 -- and I've been assured by counsel that this is a case
15 that can be concluded within the time frame that we have
16 scheduled for it.

17 But what I would like to do would be to start tomorrow
18 morning at 9:00 o'clock if that suits everybody, if that's
19 not too early. And I will again have to tell you and
20 apologize to you for this. That we're going to go just a
21 very short time, maybe an hour and a half, until about
22 10:30, and then we're going to have to recess for a short
23 period of time. Many of you may have seen in the paper
24 where a very distinguished member of the Sumter County bar
25 died suddenly Sunday afternoon. Mr. Bill Harritt. And his

1 services are scheduled for tomorrow morning at 11:00
2 o'clock at the First Presbyterian Church, right up the
3 street. And, of course, all of the attorneys and court
4 personnel want to be free to attend that service, and I
5 want to attend it myself. And so we will take that break,
6 say, between 10:30 and 12:30. But we will work that out
7 and let you know and maybe have you get your lunch and come
8 on back early after lunch tomorrow, then we'll press
9 forward.

10 We should not have any more interruptions. But I
11 wanted you to know a little bit about what the schedule is
12 and what we will be doing tomorrow..

13 So, again, I apologize for bringing you up here this
14 morning. If it is any consolation to you, you will get
15 paid for coming today, although your pay for jury service
16 is very slight, low. But you will get paid for reporting
17 today as well.

18 So I am going to excuse you. And, again, with the
19 same admonitions, please do not discuss the case among
20 yourselves or with anyone else. Do not allow anyone to
21 discuss it with you. Do not read any news stories or
22 listen to any broadcast media about this case, but simply
23 forget about it until in the morning at 9:00 o'clock.

24 Try to be here a little bit early. I'm going to make
25 the lawyers be here a little bit early, so that we can

1 start promptly at 9:00 o'clock.

2 With that then, I'll let you go for the rest of the
3 day and I'll see you tomorrow. Thank you for your
4 patience.

5 (The jury exits the courtroom at 10:10 a.m.)

6 (Court is in recess.)

7 (Wednesday, November 16, 2011.)

8 THE COURT: We're back on the record with regard to
9 the matter of The State versus Antrell Felder. Defense
10 counsel is present. The state is represent by Mr. Meadors.
11 What's the status of the defendant, Mr. Kent?

12 MR. KENT: Judge, he's here.

13 THE COURT: Okay. All right. The defendant is also
14 present.

15 I would assume, Counsel, that everyone has received a
16 copy of my Order yesterday regarding the motion of
17 prosecutorial misconduct, which I denied but instead
18 imposed a lesser sanction of excluding the witness, and
19 that is the way that we will proceed.

20 MR. MEADORS: Your Honor, I found the order this
21 morning. Obviously, respectfully, take exception for the
22 record -- respectfully take exception. Judge, I guess my
23 argument was prior. And I understand your rule is that
24 there just really wasn't any prejudice in this case,
25 despite what the former assistant solicitor did and had

1 knowledge of.

2 He grew up with this fellow. Known the fellow. Had
3 time to prepare for it. I just don't think they showed
4 prejudice for this case ---

5 THE COURT: I understand, Mr. Meadors. And I realize
6 also that exclusion of witnesses is generally a rather
7 harsh sanction. But from your standpoint it is a whole lot
8 better than my dismissing the case, because I felt like the
9 conduct was egregious, and that the state through the
10 solicitor's office -- not the present solicitor's office --
11 had knowledge of this witness back at the time that my
12 Order very clearly said and overrode Rule 5 that names of
13 witnesses would be disclosed -- statements of witnesses
14 would be disclosed; and that did not necessarily mean
15 written statements.

16 And I think that the solicitor's office had notice of
17 the statement made by this witness, and it was not
18 disclosed. Not only not just a short period of time, but
19 for some 9, 10, or 11 months when the prior solicitor was
20 handling the case. And, of course, you had no knowledge of
21 it. Evidently, as I said in the Order, no notation was
22 even made in the file because you didn't become
23 knowledgeable about this matter -- not your fault, but you
24 didn't become knowledgeable about this matter until you
25 were preparing the case for trial. And it's been 18 months

1 since this witness' name surfaced and no notice was given
2 to the state.

3 And I appreciate your exception, but my ruling stands.

4 MR. MEADORS: Judge, in that light, Monday I think I
5 did mention to Your Honor that there's some other matters I
6 needed to tell you in chambers that I have discovered since
7 this trial -- mentioned that to you Monday briefly, and I
8 need to do that in chambers at some point with you.
9 Frankly, the earlier the better. It won't take but a
10 second.

11 THE COURT: All right.

12 MR. MEADORS: To comply with your Order.

13 THE COURT: All right. Let's step back there and see
14 what we've got.

15 MR. MEADORS: It won't take but a second.

16 MR. KENT: Judge, are we not privy to that
17 conversation?

18 MR. MEADORS: At this point, Your Honor, I think it
19 would be better to comply with the Order for security
20 reasons, then Your Honor make the decision.

21 THE COURT: Let me find out what he's talking about,
22 then I'll let you know.

23 (Pause.)

24 THE COURT: Mr. Chandler and Mr. Kent, let me see you
25 at the bench.

1 (A bench conference was held off the record.)

2 THE COURT: All right. I have discussed with counsel
3 the matters that Mr. Meadors and I discussed in chambers.
4 Before any of those matters come up in the trial, The Court
5 will be advised and we will address it at that time.

6 All right. Now, what else, Mr. Meadors?

7 MR. MEADORS: Your Honor, other than that, we talked
8 about that earlier, don't mention any third-party guilt or
9 penalty in their opening. And other than that, I don't
10 have anything.

11 THE COURT: All right. Yes, sir.

12 MR. KENT: Judge, the only other issue we'd have
13 before the trial started -- there's a question of whether
14 or not Mr. Felder and the victim were -- basically, if Mr.
15 Felder was selling marijuana to the victim. There's no
16 convictions for selling marijuana. There's no tangible
17 evidence of selling marijuana. The solicitor has indicated
18 to me that he wants to in his opening statement say the 2
19 individuals were engaged in a business relationship.
20 Without laying a proper foundation, he wants to engage in
21 the fact that they were selling marijuana with one another.
22 Without any conviction, I think this was a prior bad act.
23 I think it's inadmissible until he lays any foundation -- I
24 don't know if he can. I would say it had to be kept out.
25 He can't go in front of the jury and say that they were

1 engaged in a business relationship without laying any type
2 of foundation.

3 We just discussed what he was trying to do this
4 morning. I thought he was going to not mention it until he
5 attempted to lay a foundation. I don't know what
6 foundation could be laid of whether or not one was selling
7 marijuana to the other.

8 THE COURT: Well, it seems to me that whatever is said
9 in opening statement, either side says it at their peril.
10 And if it's not proven, then that's something that can be
11 argued.

12 What's your position, Mr. Meadors?

13 MR. MEADORS: Your Honor, talking in advance, there
14 won't be a problem. But I appreciate the fact that we
15 talked about it. I just say they know each other.

16 MR. KENT: And I can't object to that.

17 THE COURT: All right. Fine. Okay. Bring the jury
18 in.

19 (The jury returns to the courtroom at 9:10 a.m.)

20 BAILIFF: Your Honor, we have all the jurors are
21 present in the courtroom.

22 THE COURT: All right. Good morning, ladies and
23 gentlemen, and thank you for your promptness with being
24 back here. We did have a matter or two that we had to deal
25 with this morning. We have taken care of those, and we are

1 now ready to go forward.

2 All right. Mr. Bradley, you may swear the jury.

3 (The jury was first duly sworn at 9:11 a.m.)

4 THE COURT: All right. Thank you very much, ladies
5 and gentlemen. And before we begin the trial of this case,
6 I thought it might be helpful if I explain to you basically
7 how a trial proceeds. I know all of you have seen trials
8 on television, but I think that you will find it is a great
9 deal different in real life.

10 First of all, the state will make an opening
11 statement. An opening statement is not evidence. It is
12 simply an outline to help you understand what the state
13 expects the evidence will show.

14 The defendant may if he wishes to present an opening
15 statement. But he doesn't have to, for reasons that I will
16 explain later.

17 Following the opening statements, you will hear the
18 testimony and the evidence in this case. This will consist
19 of testimony from the state's witnesses as well as any
20 physical exhibits which will be introduced into evidence.

21 Following the completion of the testimony, the
22 attorneys will again have an opportunity to make what is
23 called a closing statement or summation to you. This is an
24 opportunity for the attorneys to summarize the case from
25 their respective points of view. Again, these arguments

1 are not evidence.

2 Following the closing statements by the attorneys, I
3 will instruct you on the law of South Carolina as it
4 pertains to the issues that have arisen in this case. And
5 when I have completed my instructions to you, you will be
6 permitted to begin your deliberations in order to reach
7 your verdict.

8 Now, ladies and gentlemen, you are now the jury in
9 this case. And I want to take a few minutes to tell you
10 something about your duty as jurors and to give you some
11 basic instructions.

12 At the end of this trial I will give you more detailed
13 instructions and those instructions will control your
14 deliberations. It will be your duty to decide from the
15 evidence what the facts are. You and you alone are the
16 judges of the facts. You will hear the evidence, decide
17 what the facts are, and then apply those facts to the law
18 which I will give to you; that is how you reach your
19 verdict.

20 In doing so, you must follow the law whether you agree
21 with it or not. The evidence will consist of the testimony
22 of witnesses, documents, and other things received into
23 evidence as exhibits and any facts on which the lawyers
24 agree or which I may instruct you to accept.

25 And I will tell you now, also, that if there are

1 exhibits, physical exhibits that are introduced into
2 evidence, the lawyers may ask for permission to publish
3 those exhibits; that simply means to show those exhibits to
4 the jury. And I will likely grant that permission, and
5 they may hand them to you and allow you to look at them
6 while you sit there in the jury box and pass them around.

7 Do not be concerned if you do not have as long to look
8 at an exhibit while you are sitting in the jury box as you
9 might like to, because anything that is admitted into
10 evidence will go with you to your jury room when you retire
11 to deliberate your verdict in this case, and you will have
12 ample opportunity to study that exhibit for as long as you
13 would like.

14 Now, you should not take anything that I may say or do
15 during this trial as indicating what I think of the
16 evidence or what your verdict should be. The law does not
17 permit me to have an opinion as to the facts.

18 The same law that makes you the judge of the facts
19 makes me the judge of the law. You must take the law as I
20 give it to you, regardless of what you think the law is or
21 what the law ought to be. If I'm wrong on the law, there's
22 another time and place for that error to be corrected.

23 But for this case you must accept the law as I charge
24 it to you.

25 Now, this is a criminal case brought by The State of

1 South Carolina. The state charges the defendant, Antrell
2 Rashawn Felder, with the crimes shown in the indictment --
3 those are the crime of murder and possession of a firearm
4 or knife during the commission of a violent crime.

5 The indictment is not evidence of anything. It is
6 simply the description of the charges made by the state
7 against the defendant.

8 The defendant has pled not guilty to these charges and
9 is presumed innocent unless and until proven guilty beyond
10 a reasonable doubt.

11 A reasonable doubt is the kind of doubt that would
12 cause a reasonable person to hesitate to act.

13 A defendant has the right not to testify and never has
14 to prove innocence or present any evidence. The burden of
15 proof is always on The State of South Carolina.

16 Now, there are certain things that are not evidence.
17 And you must not consider them as evidence in deciding the
18 facts of this case. Statements and arguments of the
19 attorneys are not evidence. Objections and questions of
20 the attorneys are not evidence. And testimony that I
21 instruct you to disregard is not evidence.

22 Evidence may be direct or circumstantial. Direct
23 evidence is testimony by a witness about what that witness
24 personally saw or heard or did.

25 Circumstantial evidence is indirect evidence.

1 The law permits you to give equal weight to both, but
2 it is for you to decide how much weight to give to any of
3 the evidence.

4 There are rules of evidence which control what can be
5 received in to court. When the lawyer asks a question or
6 offers an exhibit into evidence and the lawyer on the other
7 side thinks that it is not permitted by the rules of
8 evidence, that lawyer may object.

9 If I overrule the objection, the question may be
10 answered or the exhibit may be received.

11 If I sustain the objection, the question cannot be
12 answered or the exhibit cannot be received.

13 Whenever I sustain an objection to a question or deny
14 a motion to admit an exhibit into evidence, you must ignore
15 the question or the existence of the exhibit, and you must
16 not guess what the answer would have been or what the
17 exhibit would have shown.

18 Sometimes it may be necessary for me to request that
19 you leave the courtroom while I discuss with the attorneys
20 legal questions that come up during the trial. If this
21 occurs, you should not speculate about our discussions or
22 the reasons that you were asked to leave the room. This is
23 simply a procedure that the law requires when certain legal
24 issues arise.

25 There also may be occasions when I ask the attorneys

1 to approach the bench so that I can discuss a legal issue
2 with them in private. I will do this as often as possible
3 so that you will not be required to leave the courtroom
4 more than is absolutely necessary.

5 Again, if I ask the attorneys to step up to the bench
6 or if I ask you to leave the courtroom, please don't think
7 that anybody is trying to hide anything from you or keep
8 any evidence from you. This is simply a procedure used by
9 all lawyers and by all courts to determine and decide legal
10 questions.

11 Now, in deciding the facts of this case, you may have
12 to decide which witnesses to believe and which witnesses
13 not to believe. This is called credibility. You may
14 believe everything a witness says or only part of it or
15 none of it.

16 In deciding what to believe, you may consider a number
17 of factors, including the witness' ability to see or hear
18 or know the things the witness testified to; the quality of
19 the witness' memory, the witness' manner or demeanor while
20 testifying, whether the witness has an interest in the
21 outcome of the case or any motive, bias, or prejudice;
22 whether the witness was contradicted by anything the
23 witness said or wrote during the trial or by any other
24 evidence; and how reasonable was the witness' testimony
25 when considered in the light of other evidence which you do

1 believe.

2 Now, just a few words to you about your conduct as
3 jurors, some of which I have already mentioned, but they're
4 important enough that they bear repeating.

5 First of all, do not talk to each other about this
6 case until the end of the case when you go to your jury
7 room to decide your verdict.

8 Do not talk with anyone else about the case until the
9 end of the trial and you have been discharged by The Court
10 after your verdict.

11 This means, do not discuss the case with members of
12 your family or your friends or with anyone else. You may
13 tell them that you are a juror, but don't tell them
14 anything about the case until you have been discharged by
15 me.

16 Do not let anyone talk to you about the case. If
17 anyone should try to talk to you, please get their name or
18 their description, and report it to the bailiff. They will
19 report it to me, and I will deal with them.

20 Do not read any news stories or articles or listen to
21 any radio or television reports about the case, and do not
22 do any research on the internet or in any other resource
23 source.

24 You are not to consider as evidence anything that you
25 may see or hear or read when the court is not in session.

1 Do not do any -- as I said -- research by consulting
2 dictionaries or other reference materials or the internet.
3 And do not do any investigation into the case on your own.

4 And, finally, and probably most important, do not make
5 up your mind about what your verdict should be until you
6 have heard all of the evidence in this case and the
7 instructions on the law by -- the arguments of counsel and
8 the instructions on the law by The Court. You will be
9 instructed when to begin your deliberations by either me or
10 the bailiff.

11 Any objections to my opening remarks on behalf of the
12 state, Mr. Meadors?

13 MR. MEADORS: No, sir, Your Honor.

14 THE COURT: On behalf of the defense, Mr. Kent?

15 MR. KENT: No, Your Honor.

16 THE COURT: All right. First order of business,
17 ladies and gentlemen, will be a matter of opening
18 statements. And for that purpose The Court will recognize
19 the assistant solicitor, Mr. Meadors.

20 MR. MEADORS: Your Honor, could we approach briefly?

21 (A bench conference was held off the record.)

22 THE COURT: If there are any witnesses in this case,
23 the order of The Court is witnesses are sequestered, with
24 exception of the ones that were enumerated yesterday.

25 (Pause.)

1 THE COURT: All right, Mr. Meadors.

2 MR. MEADORS: May it please The Court.

3 THE COURT: Yes, sir.

4 OPENING STATEMENTS BY MR. MEADORS ON BEHALF OF THE STATE:

5 You're under arrest. You're under arrest. You have
6 the right to remain silent.

7 Mr. Grand Jury Foreman, have you returned -- has the
8 grand jury acted on your indictment?

9 Yes, sir, we have.

10 Ladies and gentlemen of the jury, have you reached a
11 verdict? Have you reached a verdict?

12 All of those are rights we all have. Every one of us,
13 to sit here, be informed of our rights and be judged by
14 peers; that's why I love this courtroom. Disputes are to
15 be settled in this courtroom with a judge of the law and
16 somebody representing the state and somebody representing
17 the accused. This is where you settle disputes and they're
18 decided, not on the streets.

19 And in this case, ladies and gentlemen -- and I didn't
20 know how I was going to say this but just to say it. In
21 this case, the victim, Mr. William McKenzie, was denied
22 each and every one of those rights that everyone is
23 entitled to. He was denied those rights because -- to get
24 right down to it, the defendant thought William McKenzie
25 broke into his house and he went, he found him, and he

1 executed him. That's what this case is about. It was
2 decided on the streets, not here where it should have been.

3 Ladies and gentlemen, my name is John Meadors. I'm an
4 assistant solicitor for the Third Judicial Circuit, and I
5 have the honor and privilege for working for Solicitor
6 Finney, your elected solicitor here, Chip Finney. It's an
7 honor to be here in front of juries in this county.

8 I am here today with Solicitor Finney and officers of
9 the Sumter Police Department, representing the state, yes.
10 Representing Sumter County, yes. And representing the
11 family of Mr. McKenzie, some of who are here in this room
12 today, his mother and sister.

13 You did -- and I don't know if Mr. Campbell is here or
14 not. But when you came in here yesterday, you didn't go to
15 a school. We didn't have a short course on how to be a
16 juror. But you've been going to that school your whole
17 life. It's called the school of common sense. You don't
18 leave that outside the courtroom or in the jury room. When
19 you come out here, you bring it with you.

20 And this is a common sense case, ladies and gentlemen.
21 That's all I ask you to do, use your common sense in
22 deciding this case.

23 As His Honor told you, the defendant, Mr. Antrell
24 Rashawn Felder, has been indicted by the Sumter County
25 Grand Jury. It's just a charging paper. It doesn't mean

1 anything. But he's been indicted for murder and for
2 possession of a firearm during the commission of a violent
3 crime.

4 Now, before I get to those elements briefly, what's
5 the burden on the state in this case? You all ought to
6 know it, you can say it out to me. You see it on T.V. The
7 burden on the state in this case is the same burden that's
8 on every juror that's sitting today in this country. We
9 must prove the defendant's guilt beyond a reasonable doubt.
10 Not beyond all doubt, but beyond a reasonable doubt.
11 Beyond a doubt that makes reasonable folks hesitate to act.
12 Common sense.

13 What's murder? You can tell me that too. Murder is
14 the unlawful, intentional killing of another living,
15 breathing human being with malice aforethought.

16 What's malice? Malice is evilness, wickedness,
17 meanness, spitefulness one person shows to another. You
18 kind of know it when you see it. It can be expressed: I'm
19 going to kill you. Or it's permissible in certain cases --
20 and I believe in this case where it's permissible to infer
21 malice by the use of a deadly weapon.

22 Aforethought. That's a term of art. I don't know if
23 all of you understand it, but it means it's got to exist.
24 In this state you don't have to plan it. You don't have to
25 think it out. Aforethought means it just existed the

1 instant when the trigger is pulled. Malice aforethought.

2 We must also prove that the defendant killed Mr.
3 McKenzie or his bullet resulted in his death -- that that
4 bullet was the proximate cause of his death. We'll have a
5 pathologist called and show that Mr. McKenzie was killed by
6 a bullet to his chest.

7 Unlawful killing of another person with malice
8 aforethought -- meanness, evilness, wickedness -- in this
9 case, with a firearm.

10 The second element is pretty self-explanatory.
11 Possession of a firearm during the commission of a violent
12 crime.

13 Your Honor has told you there's different types of
14 evidence you're going to hear in this case. Direct
15 evidence is evidence you kind of gather with one of your
16 senses. You see it, you hear it, you smell it, you touch
17 it. You come up here on this witness stand and you say,
18 this is what I heard, saw, smelled, or touched. It's
19 direct evidence.

20 Circumstantial evidence is evidence of a fact and
21 another fact which leads to a fact -- another fact in
22 question. You went to bed last night. If it was winter,
23 you went to bed and you get up this morning and it snowed,
24 and you didn't see it snowed, but you know it snowed
25 because the snow is there.

1 And as the judge told you, both of them carry the same
2 weight. Direct or indirect -- circumstantial evidence.

3 You can consider both of them.

4 You'll also hear -- you'll also have pictures,
5 stipulations. We have stipulations in this case, pictures,
6 and other evidentiary items. Maybe some photos. Different
7 types of evidence you'll be allowed to hear.

8 What's this case about? Back on July 17, ladies and
9 gentlemen, of 2008 -- there are a couple scenes we're going
10 to take you to through the testimony of witnesses.

11 The first scene will be on Broad Street,
12 , the home of Stephon Robinson and Sada Isaac, Willow
13 Morand Apartments. The evidence will show -- we believe --
14 that Ms. Isaac, Ms. Ida Mae Felder, Mr. Felder the
15 defendant, Ken Tindall, several other folks were at this
16 apartment just socializing.

17 Evidence will show that as a result of a phone call,
18 they went in 2 separate cars to , right off
19 Broad Street. You all know where it is better than I do.
20 It's right before you get to the Shrimper if you're heading
21 out of town, some duplexes there, home of the defendant,
22 Mr. Felder, and Ms. Caughman, Stacey Caughman. They got
23 there the evidence will show -- somebody told them, your
24 house has been broken into.

25 You'll hear from an officer, Mr. Blackwell, I believe

1 that responded. Took an incident report. Took down what
2 was stolen -- what was stolen. I believe the air
3 conditioner might have been pulled out. And evidence will
4 then show Mr. Felder left. White car tinted windows
5 leaves.

6 The evidence will then show that 2 folks, that Kayla
7 McFadden and Antrell McFadden, they'd been at Sada -- a
8 friend of theirs, Shana's house at , I believe.
9 It's on the opposite side of Broad Street. Opposite side
10 of the Shrimper. They were heading up to a convenience
11 store. I think it's Kangaroo, I'm not sure, going to get
12 some cigarettes.

13 And you know who they came in contact with on the way?
14 William McKenzie. They're coming up the circle, heading up
15 to Highland Drive to head to Broad, pulled up at the
16 convenience store, they come in touch with William
17 McKenzie. Gave him a cigarette. And as they're walking up
18 toward Broad, they start to cross. Mr. McKenzie starts to
19 go toward this side of the house -- toward . I
20 don't know where he was going. But they were starting to
21 separate.

22 Testimony will show that Ms. McFadden and Mr. McFadden
23 are cousins. As they were separating, they saw a white car
24 come down off Broad, come down toward Highland Street,
25 stop.

1 We believe the evidence will then show 1, 2 shots --
2 don't know. But they saw a fellow get out of the car.
3 They're going to describe what he was wearing. We believe
4 the evidence will show white t-shirt, wife beater t-shirt,
5 dark pants. Red hat. Saw the person get out, come around,
6 and shoot William McKenzie.

7 You know what they did -- the evidence will show?
8 They run. They called the police and give a statement that
9 night, early that morning.

10 The car then books -- books on down, moves on down
11 Highland Street away from . They are
12 going to be here. They're going to tell you what they saw,
13 what they heard.

14 Law enforcement is called. Blackwell is now
15 investigating Harry.

16 Ladies and gentlemen, you'll have a 911 tape, the call
17 about a burglary at . Then there's a call about
18 the murder. Then there's another call back saying, you all
19 are not here at yet. We're going to put it all
20 in. You're going to hear it all.

21 Law enforcement gets involved. Right now they've got
22 the description of this car -- description of the car.
23 They stop the white car that matched the description later
24 on that morning. Comes back -- Stephanie (sic) Caughman is
25 driving. Comes back to Ida Mae Felder, the defendant's

1 mother. We'll present that testimony.

2 But, ladies and gentlemen, Your Honor mentioned
3 credibility and believability; that's all you've got.
4 That's in this case. Use your common sense to decide
5 what's credible, what's believable, because in this state
6 that's for you to decide, that and the evidence, and the
7 law His Honor gives you.

8 Law enforcement gets involved. They go looking for
9 the defendant who has been developed as a suspect through
10 the description. And the evidence will show when they
11 first met the defendant, the officer is going to get up and
12 testify, he told him he was his brother. Told him he was
13 somebody else.

14 And then they came back -- he gave a statement to law
15 enforcement. You'll be able to see that and hear that.

16 There are a couple of things that we stipulate to.
17 Mr. Kent and I talked in advance and we've agreed to this,
18 that's why I believe we'll finish this trial by Friday. A
19 couple things aren't disputed. The defendant's DNA is in
20 the hat; we've agreed to that. We don't have to bring SLED
21 agents here. We don't have to go through all that; that
22 will shorten the trial. We talked about that. His DNA is
23 in that hat.

24 There's some other unknown DNA in there. It's not the
25 victim's and we've stipulated to that. I just -- we just

1 saved a day's worth of testimony -- and we thank each other
2 for that.

3 And you'll have all the stipulations that comes in.

4 You'll also hear from Marie Hodge, who is the
5 fingerprint analyzer over at the city, who's going to come
6 in and tell you that a fingerprint was lifted from the bill
7 of that hat. And we believe she's going to say that that
8 fingerprint comes back the defendant, Antrell Felder.

9 Ladies and gentlemen, it's not complicated. But it is
10 as important a case that is going to be tried in this
11 country. And I'm not just saying that. It is. It really
12 is. It's important to the defendant. It's important to
13 the state. It's important to Sumter County. And it's
14 important to those victims. This is an important case.
15 This is where you resolve disputes.

16 And, off the body -- off the body of the victim,
17 there's a camera that's got film in it of some of the
18 family. He didn't know when they broke in his house. We
19 don't have to prove motive, but that was his motive, we
20 submit for killing him.

21 We'll present everything.

22 Ladies and gentlemen, I want to thank you for being
23 here, thank you for your attention to me now. Thank you
24 for the attention that you'll give these lawyers.

25 We all have roles in this. His Honor is the law.

1 Judge King is the law. What he says governs. We all know
2 that and we follow it.

3 We have our roles. I used to call this my office. I
4 love this place. We all do. This is what we do. This is
5 the judge's office. But it's not really, it's you all's
6 office. I finally realized this is you all's office
7 because week in and week out you all -- you decide the
8 outcome of the game. But it's not a game. It's not a
9 game.

10 Use your common sense. Listen to the facts. You all
11 decide what you believe. Listen to His Honor's law, and
12 then make a decision that reach a verdict.

13 And verdict quite simply means to speak the truth, and
14 that's all any of us can ask you, to render a verdict that
15 speaks the truth.

16 And in this case we believe after you've heard the
17 evidence, the truth will be that Mr. McKenzie was entitled
18 -- if he did do the burglary -- to his day in court. And
19 that defendant, was the officer, the judge, the jury, and
20 the executioner. And we're going to find him guilty.

21 Thank you.

22 THE COURT: Mr. Chandler, does the defense care to
23 make an opening statement?

24 MR. CHANDLER: If it please The Court.

25 THE COURT: All right, sir.

1 OPENING STATEMENTS BY MR. CHANDLER ON BEHALF OF THE

2 DEFENDANT:

3 Good morning. My name is Ray Chandler, and I practice
4 law over in Manning for the last -- I hate to tell you --
5 40 years. I have been practicing criminal law, civil law
6 in the Third Judicial Circuit. This young man, Mr. Shaun
7 Kent, was the leading prosecutor in Charleston, South
8 Carolina, a deputy prosecutor, one of the most experienced
9 trial lawyers in the state.

10 I went to him and his mama about 7 years ago and I
11 hired him to come to work with me. Mr. Kent will be the
12 lead attorney in this case.

13 I don't think you feel like this is your office. I
14 thank you for volunteering for jury duty. We picked you.
15 We thought that each of you individually, you collectively,
16 would be the best jury we could have. And I know that when
17 your name was called, you were going, I don't know what it
18 is about me. Maybe my clothes aren't right. But I hope I
19 can go back over there and sit down. It's the last place a
20 lot of people want to be is in that seat, because it's a
21 heavy responsibility. And I know each and every one of you
22 are going to carry it freely, completely, substantially
23 because you're good people and you've taken an oath to do
24 the right thing.

25 When I was a little guy in Sunday School and first

1 heard the word burden, it was out of the Bible, the Old
2 Testament. The burden is something heavy that you carry,
3 that you bear. A burden is something heavy that you carry.

4 And Judge King has told you that The State of South
5 Carolina has the burden of proof, and it is a heavy burden.
6 It is a burden beyond a reasonable doubt. That doubt is
7 one that would cause a reasonable person to hesitate, yes,
8 but.

9 This is a case that if you look at it on its face,
10 could be assumed to be as simple as the law enforcement and
11 their agent, Mr. Meadors, says it is. If you look at it
12 immediately at first blush, you might jump to the
13 conclusion that makes his opening statement true.

14 But as the judge has already told you, opening
15 statements, lawyers' theories, versions of the facts,
16 slants of what happened are not evidence. You have not
17 heard one word of evidence -- not from John Meadors, not
18 from Ray Chandler, not from Judge King, not one word.
19 You've heard theory of the case.

20 And now they must prove everything he said. So the
21 first question I would ask you when you're listening to
22 that presentation, ask yourself: I remember that Mr.
23 Meadors here in his office, the place he loves, did he tell
24 me everything or did he leave out those things that would
25 cause me to doubt? Did the eyewitness pick this man out

1 from a line-up the morning of this incident? Did this man
2 -- the eyewitness say I know 2 people in this, and I can't
3 pick them out.

4 Was what he said and how he told us, could it have
5 happened and did it happen that way and why did it happen?

6 In this case there are going to be doubts. So let's
7 briefly talk about burdens. When you have a doubt, the
8 state must clear it up. When you have a question, the
9 state must answer it.

10 If this case gets murky, the state must clear it so
11 that you can see it clearly.

12 So what is your job? Your job is to hear the
13 evidence, to examine the facts, to look at them closely,
14 and mentally, individually put this case to the test, and
15 ask yourself: Did the state jump to a conclusion and then
16 as that conclusion did not ring true, did they do anything
17 else to make it so?

18 And when they went through their normal procedures,
19 did those procedures bear out what Mr. Meadors has said
20 beyond a reasonable doubt or after this is over, Mr. Kent
21 comes back. Mr. Meadors comes back. No matter how
22 articulate we are, no matter how much we sound like
23 preachers, no matter how much we want to tell you all of
24 these things go together, it will be you and only you who
25 will be the final judges of the facts.

1 Why? If Judge King makes an error of law, we have
2 another court we can go to. But if we make an error of
3 fact, it goes no further than those chairs. There is no
4 appeal to the facts.

5 And so, we will move through these. We will examine
6 the facts together. We will look at these. There will be
7 questions raised. Will those questions be answered? There
8 will be doubts in your mind. Will the state clear them up?
9 There will be murkiness here. Will the state allow you to
10 see through it clearly? You can answer those questions.

11 Thank you for your time.

12 MR. MEADORS: Could we approach?

13 THE COURT: Yes, sir.

14 (A bench conference was held off the record in the
15 presence of the jury, but out of the hearing of the jury.)

16 THE COURT: All right. Ladies and gentlemen, as I
17 told you yesterday, we have got a matter that we are going
18 to have to take care of this morning. Some of you may have
19 seen in the newspaper where a very distinguished member of
20 the Sumter County bar, Mr. William Harritt, passed away on
21 Sunday. His services are this morning. All of the lawyers
22 and some of the court personnel wish to attend his
23 services, and I indicated yesterday that we were going to
24 break in order to do that. And we had thought that perhaps
25 we could get one witness in before we did that, but I've

1 just been advised by counsel that the first witness will
2 likely run us too late for that in order for the personnel
3 to get to his services.

4 So we're going to go ahead and recess at this time.
5 And what I am going to ask you to do is to be back in your
6 jury room at 12:30. Get your lunch before you come. And
7 be back in your jury room please at 12:30. And we will try
8 to start at that time and not take -- we'll take some
9 recesses, but we will not take any extended recesses or
10 extended recesses for the rest of the afternoon in order to
11 get as much testimony in on this matter as we can.

12 So I'm going to excuse you now, allow you to go about
13 your business for the rest of the morning, and ask you to
14 be back in your jury room please at 12:30.

15 Again, the same admonitions apply. Do not talk with
16 anyone about this case. Do not allow anyone to talk to you
17 about the case. Do not discuss it among yourselves when
18 you're reassembling in the jury room. All those
19 admonitions apply now and throughout the trial of this
20 case.

21 But if you would, go ahead and take this recess --
22 extended recess at this time, and be back in the jury room
23 please at 12:30 and we'll be ready to go at that time.

24 Thank you. Have a pleasant morning. And I apologize
25 to this, but it is just absolutely necessary.

1 All right. Everyone else keeps your seats please.
2 Everyone else keep your seats. All right. Have those
3 people come back in the courtroom and sit down. Nobody has
4 been excused.

5 (The jury exits the courtroom at 9:50 a.m.)

6 THE COURT: All right. When I excuse the jury, that
7 does not mean that's a recess for everyone else in the
8 courtroom to leave when they want to. No one in the
9 courtroom leaves until they are excused by The Court. And
10 the reason for that -- and I want to say this at this time,
11 is that I want to warn all the spectators in this case from
12 both sides from speaking to or talking with any witnesses
13 or potential witnesses in this case, any kind of contact
14 direct or indirect will be dealt with by The Court very
15 severely.

16 So if there is any attempt by anybody to make any
17 contact with anyone in this case on either side -- that is
18 on the other side or a potential witness in this case, and
19 I learn about it, then there will be -- as the saying goes,
20 heads will roll. So I'm just warning everybody. And I
21 want everybody to be fairly warned about that.

22 All right. Now, having said that, the jury has now
23 been sworn in this case. And I feel that because of the
24 very nature of the case, that it is appropriate to revoke
25 the defendant's bond and require that he remain

1 incarcerated until the trial of this case is concluded.

2 And then the third thing, Mr. Meadors and Mr. Kent and
3 Mr. Chandler, I heard -- I believe Mr. Meadors alluded to
4 stipulations that the parties have agreed upon. The rule
5 does require that those stipulations be in writing. I
6 would ask that before you leave the courtroom to attend the
7 service if you are going, that you all get those
8 stipulations taken care and also see if you can agree upon
9 some exhibits, get those marked. If there is an agreement
10 as to the exhibits, then they will be in evidence. If
11 there is a disagreement, they will be given an I.D. number
12 and I will address them at the time that they're offered.

13 But in order to save time, anything that you all can
14 agree upon, go ahead and have the court reporter mark it
15 with an exhibit number, and it will be in evidence without
16 further authentication.

17 All right. Having said that, then we will be in
18 recess until -- let me give the jury a minute to get out.
19 Do you think they're out?

20 BAILIFF: Should be.

21 THE COURT: All right. We'll be in recess then until
22 12:30. Thank you.

23 (Court is in recess for an extended lunch.)

24 (8 small color photos marked in evidence as State's
25 Exhibit Nos. 1 through 8.)

1 (Aerial of scene marked in evidence as State's Exhibit
2 No. 9.)

3 (Sunglasses marked in evidence as State's Exhibit No.
4 10.)

5 (6 small color photos marked in evidence as State's
6 Exhibit Nos. 11 through 16.)

7 THE COURT: Okay. All right. We're back on the
8 record with regard to the matter of The State versus
9 Felder. Mr. Felder is present in the courtroom with his
10 counsel. The state is present and represented by Mr.
11 Meadors. I'm advised that all the jurors have returned.
12 Is there anything before we bring the jury in, Mr. Meadors?

13 MR. MEADORS: Judge, I don't think this will become a
14 point. My first witness had flip-flops on and socks. We
15 weren't able to get shoes. I gave her my old pair of shoes
16 to wear. I don't think that's going to be an issue. I'm
17 just telling The Court she's got them on. It is what it
18 is. She couldn't come in otherwise.

19 THE COURT: No comment about the shoes, Counsel. All
20 right?

21 MR. KENT: That wasn't my plan, Judge.

22 THE COURT: All right. Anything before we bring the
23 jury in, Mr. Kent?

24 MR. KENT: Nothing.

25 THE COURT: All right. Bring the jury in please.

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1 (The jury returns to the courtroom at 12:37 p.m.)

2 BAILIFF: Your Honor, we have all the jurors present
3 in the courtroom.

4 THE COURT: Thank you, Mr. Bradley. And thank you
5 ladies and gentlemen for your promptness in being back here
6 and for your patience with the court personnel in
7 connection with the matter that we had to take care of this
8 morning from the standpoint of the colleague who passed
9 away.

10 We are now ready to proceed. You have heard the
11 opening statements of both the state and the defendant.
12 And now the state will have the right to present any
13 evidence and testimony to you that they wish to present as
14 required by the law in proving their case to you.

15 All right. Mr. Meadors.

16 MR. MEADORS: May it please, Your Honor.

17 THE COURT: Yes, sir.

18 MR. MEADORS: The state would call Kayla McFadden.

19 KAYLA MCFADDEN, being first
20 duly sworn, testified as follows:

21 CLERK: Please state your name. Spell your last name
22 for the record.

23 KAYLA MCFADDEN: Kayla McFadden, M-c-F-a-d-d-e-n.

24 DIRECT EXAMINATION BY MR. MEADORS:

25 Q Ms. McFadden, if you'll just be sure to speak into

- 1 here so everybody can hear you. Okay?
- 2 A Okay.
- 3 Q Are you nervous?
- 4 A Yeah.
- 5 Q You're going to have to speak up a little bit.
- 6 A Yes.
- 7 Q I want you to tell the ladies and gentlemen of this
- 8 jury about Kayla McFadden. Okay? First of all, where were
- 9 you born?
- 10 A I was born in Florence, South Carolina.
- 11 Q Where were you raised?
- 12 A Columbia, South Carolina.
- 13 Q Do you remember where you went to elementary school?
- 14 A Sandhills Elementary.
- 15 Q Sandhills in Columbia?
- 16 A Yes, sir.
- 17 Q Where did you go after that?
- 18 A Manning. Manning Primary.
- 19 Q Manning Primary?
- 20 A (Nods head.)
- 21 Q Where did you go to middle school?
- 22 A Alice Drive Middle.
- 23 Q Where did you go after that?
- 24 A Sumter High.
- 25 Q When did you get out of Sumter High? When did you

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- 1 graduate?
- 2 A 2007.
- 3 Q And when you graduated high school in 2007, what did
- 4 you do after that?
- 5 A I got a job working at Sambino's off of Miller Road.
- 6 Q Sambino's off of Miller?
- 7 A Yes, sir.
- 8 Q Please tell these folks what you do there?
- 9 A I like clean up and wash dishes.
- 10 Q And how long did you do that?
- 11 A Like a year or so.
- 12 Q And what did you do after that?
- 13 A Well, I had 2 kids, and I just stay home and take care
- 14 of them.
- 15 Q So you have 2 kids now?
- 16 A Yes, sir.
- 17 Q And you're now living in Sumter?
- 18 A Yes.
- 19 Q Who do you stay with now?
- 20 A My grandmother and my aunt.
- 21 Q Your grand mama and your aunt?
- 22 A Yes.
- 23 Q Okay. Now, I want to go back if I can to July of
- 24 2008. Okay?
- 25 A Yes, sir.

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- 1 Q Can you tell these folks where you were living then?
- 2 A I was staying on Peace Street.
- 3 Q Peace?
- 4 A Peace.
- 5 Q Is that here in Sumter?
- 6 A Yes, sir.
- 7 Q And who were you staying with there?
- 8 A My grandmother and my aunt.
- 9 Q Now, do you know somebody named Antrell McFadden?
- 10 A Yes.
- 11 Q Who is that person and how do you know him?
- 12 A That's my cousin.
- 13 Q And do you know somebody named Shana?
- 14 A Yes.
- 15 Q And where did Shana live back in July of 2008?
- 16 A On Sims Street.
- 17 Q Sims Street?
- 18 A Yes, sir.
- 19 Q Now, Ms. McFadden, let's take you back to July 17th of
- 20 2008. Okay?
- 21 A Yes, sir.
- 22 Q Did you have an occasion to see Shana that day?
- 23 A Yes, sir.
- 24 Q Tell these folks where you saw Shana?
- 25 A On Sims Street.

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- 1 Q At her house?
- 2 A Yes, sir.
- 3 Q And who else was staying with her?
- 4 A I guess her mother.
- 5 Q Okay. You say you guess her mother?
- 6 A Well, her mother, yeah.
- 7 Q Now, who if anybody went with you there to see her?
- 8 A Antrell -- my cousin Antrell.
- 9 Q Why did you all go to her house that day?
- 10 A Just to -- just to hang out a little bit.
- 11 Q Just to do what a little bit?
- 12 A Hang out.
- 13 Q And what did you do?
- 14 A We really wasn't doing anything but listen to music.
- 15 Q So it's you, Antrell, Shana. And who else was there?
- 16 A Her mother.
- 17 Q Okay. How long did you stay there on July 18, 2008?
- 18 A I was there probably since like -- I say like 3:00 or
- 19 4:00 in the afternoon until then -- until like 12:00, I
- 20 guess, or 1:00.
- 21 Q When this all happened?
- 22 A (Nods head.)
- 23 Q Now, did there come an occasion at some point late in
- 24 the evening of July 17th, 2008 or the early morning hours,
- 25 did you have occasion to leave Sims Street and go somewhere

- 1 else?
- 2 A Yes, sir.
- 3 Q Who did you go with?
- 4 A Antrell McFadden.
- 5 Q Where were you going?
- 6 A To the Kangaroo off of Broad.
- 7 Q I'm sorry, ma'am. Speak up just a tad.
- 8 A The Kangaroo off of Broad.
- 9 Q To the Kangaroo?
- 10 A Yes.
- 11 Q Can you tell these folks how you were going, what's
- 12 the route you took?
- 13 A I walked down Sims all the way up until Highland.
- 14 Q Okay. And then when you got on Highland, which
- 15 direction were you going?
- 16 A Like Broad way -- I mean, Broad Street way.
- 17 Q Towards Broad Street?
- 18 A Yeah.
- 19 Q So it's you and who?
- 20 A Me and Antrell.
- 21 Q And why were you going?
- 22 A To get -- to get some cigarettes.
- 23 Q You were smoking cigarettes?
- 24 A Yes.
- 25 Q Do you still smoke?

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1 A Yes.

2 Q All right. And on the way to the Kangaroo to get
3 cigarettes, did you have an occasion to run in to anybody?

4 A Yes, a man. I don't know his name.

5 Q Okay.

6 A Well, we was walking. And then he asked for a
7 cigarette and we gave him one. And then ---

8 Q He asked for a cigarette, and you all gave him one?

9 A Yeah.

10 Q All right. Did you a few cigarettes left?

11 A Yeah, like 2.

12 Q 2?

13 A (Nods head.)

14 Q Okay. So did you know who this person was?

15 A Huh-uh.

16 Q Is that a yes? Say yes or no.

17 A No, sir.

18 Q Okay. And so you gave him a cigarette. Then what
19 happened?

20 A Well, we departed. And then I guess -- well, the
21 white car came up.

22 Q When you say you departed, who departed?

23 A Me, Antrell, and the other guy.

24 Q Describe that other guy to us. Was he a white male or
25 a black male?

- 1 A He was black.
- 2 Q Did he have any glasses on?
- 3 A He had shades on and a white shirt and some gray
- 4 sweats.
- 5 Q Okay. And do you know how tall he was?
- 6 A Not exactly, but I estimate about like 5'7".
- 7 Q Okay. And so you see -- this is the person you gave
- 8 the cigarette to?
- 9 A Yes.
- 10 Q And he wasn't wearing -- was he wearing a hat?
- 11 A No.
- 12 Q Not wearing a hat. You give him a cigarette. You're
- 13 still going to the store. What happened next if anything?
- 14 A A car pulled up. Someone jumps out and he shot. And
- 15 then I guess they went around the car. They went around
- 16 the car and kicked the boy, and then I guess they shot --
- 17 they shot and then we ran. That's all we saw.
- 18 Q You saw a car come up?
- 19 A Yeah.
- 20 Q Okay. In which direction was the car coming?
- 21 A I want to say like -- I want to say from the Shrimper
- 22 way, but I'm not exactly sure.
- 23 Q I'm sorry. I couldn't hear.
- 24 A From on the other end of -- the other end of Highland.
- 25 Q Okay. Coming towards you?

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- 1 A Yeah.
- 2 Q Okay. Describe this car?
- 3 A I just remember it was white and had tinted windows;
4 that's all.
- 5 Q The car pulls up and you said it stopped and a person
6 gets out?
- 7 A Yeah.
- 8 Q I think you said -- the record will reflect -- a shot
9 was fired?
- 10 A Yes.
- 11 Q All right. And then what did this person do if
12 anything?
- 13 A He -- that person walked around and it looked like he
14 had kicked the boy, I guess.
- 15 Q Looked like he what?
- 16 A Kicked the boy.
- 17 Q Kicked him?
- 18 A Yeah.
- 19 Q Then what if anything?
- 20 A Then some more shots got fired. I don't know exactly
21 how many.
- 22 Q Now, describe what this person was wearing when you
23 see him and gets out of the car?
- 24 A A hat, white shirt, and some dark pants.
- 25 Q Hat, white shirt, and dark pants?

- 1 A Yes.
- 2 Q How far were you from him?
- 3 A I would say from like -- from where Mr. Lyons -- Lyons
- 4 is sitting.
- 5 Q Where Lyons is?
- 6 A Yeah.
- 7 Q Did you know who this person was that shot?
- 8 A No, I don't know who shot the man.
- 9 Q Okay. But you said a white shirt?
- 10 A Yes.
- 11 Q Pants -- dark pants, and a hat?
- 12 A (Nods head.)
- 13 Q I'm going to show you what's ---
- 14 (Box with red hat marked for identification as State's
- 15 Exhibit No. 17.)
- 16 Q You said it was a red hat?
- 17 A I believe so. I'm not sure what color the hat was. I
- 18 just remember the hat.
- 19 Q And I'm going to show you what's already in as State's
- 20 1. Do you recognize that?
- 21 A Yes, that where he got shot.
- 22 Q What's on the ground there?
- 23 A A red and white hat.
- 24 Q And you said the person had a hat on, correct? The
- 25 person that got out of the car and did the shooting had a

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1 hat on?

2 A Yes.

3 Q Kayla, tell these folks -- you give a cigarette to one
4 fellow. Somebody else comes up and shots are fired. Who
5 was the fellow that got shot? I mean, I don't need his
6 name. Was that the fellow you gave a cigarette to?

7 A Yeah, the one who got shot we gave a cigarette to.

8 Q Okay. And what did you and Antrell do after you heard
9 the shots?

10 A We ran.

11 Q Have you ever seen anybody shot before?

12 A No. No, sir.

13 Q Before this?

14 A No, sir.

15 Q After this?

16 A No, sir.

17 Q Which way did you run?

18 A Like on Dixie Drive.

19 MR. MEADORS: Judge, I think very briefly, I need her
20 to come down. I want to show her what's already been
21 introduced in evidence.

22 THE COURT: That will be fine, step down. Remember,
23 you're going to have to keep your voice up because you're
24 going to be away from the microphone.

25 (The witness steps down from the witness stand.)

1 Q This is State's No. 9. Okay? You were visiting your
2 friend Shana on what street?

3 THE COURT: All right. Keep your voice up.

4 A Sims -- Sims Street.

5 Q You've looked at this before in my office, correct?

6 A Yes, sir.

7 Q Now, this right here, what does that street say?

8 THE COURT: Couldn't hear you.

9 A Broad Street.

10 THE COURT: Okay.

11 Q Are you familiar with Broad Street?

12 A Yes, sir.

13 Q Where was the convenience store that you were going to
14 that night located?

15 A On Broad.

16 Q Now, are you familiar with Highland Street?

17 A Yes, sir.

18 Q Highland Avenue?

19 A Yes, sir.

20 Q What street were you on when you were going to the
21 convenience store on Broad Street?

22 A I was on Highland.

23 Q In which direction were you traveling?

24 A Like towards -- up towards Broad.

25 Q This way?

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- 1 A This way coming down.
- 2 Q This way. Can you show us where -- about where you
- 3 met the man that you gave the cigarettes to?
- 4 A Where the little square ---
- 5 Q In this area?
- 6 A No. Right here. About right here.
- 7 Q Okay. How far did you walk with him if anywhere?
- 8 A We walked with him like a little before we got to that
- 9 house.
- 10 Q In which direction did this white car that you
- 11 described with the tinted windows come from?
- 12 A Well, I think it came from like that way -- on
- 13 Highland.
- 14 Q So he was coming this way toward you?
- 15 A Yes.
- 16 Q Where did the car stop when he came toward you?
- 17 A At the house.
- 18 Q Point it out to me?
- 19 A (Complied.)
- 20 Q And where were you and Antrell?
- 21 A Like right here.
- 22 Q After the shots were fired, show this jury, where did
- 23 you go?
- 24 A Right here.
- 25 Q How do you know that's where you went? Talk in there

- 1 please, ma'am.
- 2 A Because I ran to the house.
- 3 Q So you ran to there. What street is that on?
- 4 A Dixie Drive.
- 5 Q What did the car do after you heard the shots if
- 6 anything?
- 7 A I guess -- I believe it pulled off, most likely.
- 8 Q Did you see it again?
- 9 A I -- I think I seen it.
- 10 Q Right then did you see it again?
- 11 A Oh, not after that.
- 12 Q That's all. Thank you.
- 13 THE COURT: Come back up, please, ma'am.
- 14 (The witness returns to the witness stand.)
- 15 Q You're now at this house on Dixie, Kayla, right?
- 16 A (Nods head.)
- 17 Q I'm sorry, ma'am. You've got to answer.
- 18 A Yes.
- 19 Q Okay. That's all right. What did you do next if
- 20 anything?
- 21 A Ran.
- 22 Q Did you call the police?
- 23 A I don't remember calling the police.
- 24 Q Did the police end up coming?
- 25 A Yes.

Ms. McFadden — Direct by Mr. Meadors

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- 1 Q And did you have an occasion to speak with the police?
- 2 A Yes, they had stopped us when we was walking.
- 3 Q Okay. And do you remember where you were walking when
- 4 they stopped you?
- 5 A We was in the Money Saver's parking lot.
- 6 Q Where is that?
- 7 A On Broad right off Highland.
- 8 Q And I don't -- were you still going to get cigarettes?
- 9 A No. We were going home.
- 10 Q Okay. Did they ask you if you knew anything or hear
- 11 anything?
- 12 A Did they ask?
- 13 Q When they stopped you, what happened?
- 14 A They were like, some lady said you all saw what
- 15 happened. You all have to come with us. Could you all
- 16 come with us.
- 17 Q And as a result of that, did you have an occasion to
- 18 go down to the police station?
- 19 A Yes.
- 20 (Witness statement of Kayla McFadden, 7/18/08, 1 page,
- 21 marked for identification as State's Exhibit No. 18.)
- 22 MR. MEADORS: It's just for I.D., Your Honor.
- 23 THE COURT: Yes, sir.
- 24 MR. MEADORS: May I approach?
- 25 THE COURT: Yes, sir.

1 Q This is for I.D. I just want to see if you recognize
2 that. Whose name is right there?

3 A Kayla McFadden.

4 Q And that's you?

5 A Yes, it is.

6 Q And is this the statement that you gave on July 18th
7 of 2008?

8 A Yes.

9 Q Okay. If I asked you, I apologize to everybody.
10 Where were you when you gave that statement?

11 A At the downtown police department.

12 Q And did one of these officers take the statement from
13 you?

14 A Detective Lyons.

15 Q Lyons, right here?

16 A (Indicates.)

17 Q What kind of car did you see coming down -- that the
18 man got out of and shot, what kind of car was it?

19 A I don't know what kind of car it was. It was -- I
20 just know it was white.

21 Q And did you tell law enforcement that?

22 A Yes.

23 Q And did they show you any pictures on the internet or
24 anything of the car that ---

25 A No, sir.

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1 Q And after you had given this statement, was Antrell
2 down there too ---

3 A Yes.

4 Q --- at the police station? Were they taking you home?

5 A Yes.

6 Q What if anything happened on the way home?

7 A We saw a car that looked similar like the car that did
8 the shooting.

9 Q Did you say anything?

10 A Yes.

11 Q What did you say?

12 A That look like the car.

13 Q Did you tell them that?

14 A Yes.

15 Q Okay. And were you in the car with them then?

16 A Yes.

17 Q Where were you going?

18 A Home.

19 Q So you saw a car that looked like that, you say, hey,
20 that looked like the car?

21 A Yes, sir.

22 Q About what time was that, do you know?

23 A No, sir, I don't recall.

24 Q Let me ask it this way. From the time that you were
25 going to get cigarettes, until you meet the man -- I'm

- 1 sorry. Did you ever go home I guess is my question before
2 any of this?
- 3 A No.
- 4 Q Okay. Now, when you were at the station, did they
5 show you some pictures?
- 6 A No, sir.
- 7 Q A group of pictures to see if you could pick out
8 anybody? I'm sorry.
- 9 A I don't remember.
- 10 Q Okay. So could they have shown you pictures, you just
11 don't remember?
- 12 A They showed me pictures later on like that evening.
- 13 Q That's my fault. That's a bad question. Later on
14 that same day, the 18th, later on they showed you?
- 15 A Yes.
- 16 Q Okay. I apologize. That's my fault. Where was that?
- 17 A At my house.
- 18 Q Were you able to pick anybody out?
- 19 A No, sir, I didn't know who it was.
- 20 Q In fact, right there when these shots are fired when
21 you were heading to the Kangaroo, could you see who fired
22 it?
- 23 A No, I couldn't.
- 24 Q And but you saw what they were wearing and you gave a
25 description to law enforcement?

Ms. McFadden - Direct by Mr. Meadors

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- 1 A Yes.
- 2 MR. MEADORS: Beg The Court's indulgence.
- 3 THE COURT: Yes, sir.
- 4 (Pause.)
- 5 Q When you first talked to the police at the police
6 station, earlier that evening, late night, whatever you
7 want to call it -- you with me?
- 8 A Uh-huh. Yes, sir.
- 9 Q Is that when you gave this statement?
- 10 A Yes.
- 11 Q So it's fair to say the early morning hours of the
12 18th?
- 13 A Yes.
- 14 Q Is that fair?
- 15 A Yes.
- 16 Q And was it later that day that you went down to look
17 at a group of pictures?
- 18 A No. He came to my house.
- 19 Q Okay. But later that day you looked at a group of
20 pictures, but he came to your house?
- 21 A Yes.
- 22 Q And he being?
- 23 A Detective Lyons.
- 24 Q Detective Lyons. And you couldn't pick out anyone?
- 25 A No, I didn't know who they were.

- 1 Q Okay. But the description you gave was early that
2 morning, wasn't it?
- 3 A Uh-huh.
- 4 Q Is that a yes?
- 5 A Yes.
- 6 MR. MEADORS: Thank you, that's all I have.
- 7 THE COURT: Cross examination, Mr. Kent.
- 8 MR. KENT: Thank you, Judge.
- 9 CROSS EXAMINATION BY MR. KENT:
- 10 Q Kayla, how are you?
- 11 A I'm good.
- 12 Q Okay. Kayla, you talked a little bit about the
13 evening. I think we said it was the 17th in 2008?
- 14 A Yes, sir.
- 15 Q I'm just asking the question. I know you said you
16 were out -- you were hanging out that entire day. Had you
17 been drinking at all?
- 18 A Huh-uh.
- 19 Q Okay. I was just making sure. What about ---
- 20 THE COURT: No?
- 21 A No, sir.
- 22 THE COURT: Use yes and no, please. The reporter
23 can't pick up huh-uh and uh-huh.
- 24 A All right.
- 25 Q You can answer the question. Had you been drinking

Ms. McFadden — Cross by Mr. Kent

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- 1 that day?
- 2 A No, sir.
- 3 Q You were with Antrell McFadden. I think you said
- 4 that's your cousin?
- 5 A Yes.
- 6 Q Had he been drinking that day?
- 7 A No.
- 8 Q You all got down -- I said you all were hanging out
- 9 and you all just started walking, said you were smoking
- 10 cigarettes or you were on your way to go get cigarettes?
- 11 A Uh-huh.
- 12 THE COURT: Yes?
- 13 A Yes.
- 14 Q You mentioned that you had saw somebody on the
- 15 opposite side of the road?
- 16 A Yes.
- 17 Q Were you able to get a description?
- 18 A Of?
- 19 Q The person you saw on the opposite side of the road?
- 20 A The one who shot -- was shooting?
- 21 Q The guy you and your cousin were talking to?
- 22 A Yes.
- 23 Q What was his description?
- 24 A He was like -- I would say about your height. He was
- 25 light -- light brown.

- 1 Q About my height, about 6'2"?
- 2 A Oh, no, not that tall.
- 3 Q Okay.
- 4 A He was like 5'7", and he was light brown skin. And he
- 5 had on shades and a white shirt and some gray -- gray
- 6 sweats, and he was slim.
- 7 Q And I think you mentioned that you and your cousin
- 8 were talking to this individual and you offered him a
- 9 cigarette. I think you gave him 2 cigarettes?
- 10 A I believe it was 1.
- 11 Q You gave him 1 cigarette. Did your cousin give him a
- 12 cigarette or did you?
- 13 A I gave it to him.
- 14 Q So you were already on your way back from the Kangaroo
- 15 gas station?
- 16 A No, we haven't gotten to the Kangaroo yet.
- 17 Q And were those your last 2 cigarettes then?
- 18 A Yes.
- 19 Q So you gave him your last 2 cigarettes?
- 20 A Yes.
- 21 Q You got done talking to him. I think you testified
- 22 you went on the opposite side of the road?
- 23 A Yes.
- 24 Q And that he kept walking and you all kept walking?
- 25 A Yes.

Ms. McFadden -- Cross by Mr. Kent

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- 1 Q You all were walking in opposite directions?
- 2 A Yeah.
- 3 Q And I think you said you saw a white car?
- 4 A Uh-huh.
- 5 Q You definitely saw a white car as it was coming
- 6 towards you?
- 7 A Yeah. Yes.
- 8 Q And that white car, if I'm not mistaken, when you were
- 9 talking to the solicitor, you said a white car with tinted
- 10 windows; is that correct?
- 11 A Yes.
- 12 Q Okay. So you saw a white car with tinted windows.
- 13 You see the white car come up. You said somebody hopped
- 14 out of the vehicle?
- 15 A Uh-huh, yes.
- 16 Q You don't know what color hat this person was wearing?
- 17 A No, not exactly.
- 18 Q And I think you had indicated that you were about as
- 19 far from this white car as you are to Detective Lyons is
- 20 right there; is that correct?
- 21 A Yes.
- 22 Q Okay. I just want -- so that would just be normal
- 23 paces, 1, 2, 3, 4, 5, 6, 7, 8, 9 -- about 10 paces away?
- 24 Does that sound about right what I just counted off from
- 25 Detective Lyons and you?

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- 1 A (Nods head.)
- 2 Q Is that a yes?
- 3 A Yes.
- 4 Q And your cousin was right next to you when this all
- 5 happened?
- 6 A Yes.
- 7 Q So you and your cousin were about 10 paces away from
- 8 all of this stuff that started happening?
- 9 A Yes.
- 10 Q Okay. Do you remember about what time it was?
- 11 A No, sir.
- 12 Q I think the solicitor mentioned, it was early morning
- 13 hours, some time early in the morning?
- 14 A Yes.
- 15 Q I want to go through exactly what happened. So you
- 16 see the white car coming, you see a person hop out of the
- 17 white car; is that correct?
- 18 A Yes.
- 19 Q Okay. So they hop out from the driver's side of the
- 20 car?
- 21 A Yes.
- 22 Q When they hop out from the driver's side of the door,
- 23 what did they do then?
- 24 A Shot at the man.
- 25 Q Okay. Did they shoot over the car?

Ms. McFadden - Cross by Mr. Kent

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1 A Yes.

2 Q Okay. So the person that hopped out of the driver's
3 door, stopped. Did they say anything at all?

4 A I wasn't trying to hear what they were saying. I
5 really wasn't paying attention.

6 Q Okay. But you see him pull out and shoot?

7 A Yes.

8 Q Okay. And then they go around the back of the car or
9 do they go around the front of the car?

10 A The front.

11 Q So they go around the front of the car. Did he still
12 have his gun pointed?

13 A I'm not sure, because I ran. I can't tell you that.

14 Q Well, I was just going over the testimony that you
15 gave to the solicitor. So you didn't see any of this
16 stuff?

17 A I saw him went around the car. I wasn't paying
18 attention to the gun. I just saw the man when he went
19 around the car and it looked like he was kicking the boy.
20 And then we left. I wasn't trying to stick around.

21 Q Okay. And I'm not trying to confuse you. Were you
22 paying attention or were you not paying attention?

23 A I was and then I wasn't.

24 Q But you were paying enough attention to see the person
25 pull out a gun and shoot, correct?

- 1 A Uh-huh.
- 2 Q Go around the front of the car, correct, from about 10
- 3 paces away, I think you indicated?
- 4 A Uh-huh.
- 5 Q Get out of the car?
- 6 A Yes.
- 7 Q Did they shoot again?
- 8 A Yes.
- 9 Q You saw that happen?
- 10 A Yes.
- 11 Q You saw that individual shoot again?
- 12 A Well ---
- 13 Q And you ---
- 14 MR. MEADORS: Your Honor, give her a chance to answer,
- 15 please.
- 16 THE COURT: Yes.
- 17 A Actually I had -- when he -- after the person got out
- 18 of the car, he shot. And then he went around here and it
- 19 looked like he was kicking the boy. And then after that I
- 20 heard some more gunshots.
- 21 Q You heard or did you see?
- 22 A I heard.
- 23 Q Okay. Did you see the individual kick or that
- 24 just ---
- 25 A That what it looked like, a kick.

Ms. McFadden - Cross by Mr. Kent

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1 Q Okay. It looked like a kick. But you were paying
2 attention to that?

3 A Yes.

4 Q Okay. And I think you said after this shooting you
5 and your cousin took off, right?

6 A Yes.

7 Q You don't remember calling 911?

8 A No, sir.

9 Q Is there a chance you called 911 and just don't
10 remember or you just don't remember either way?

11 A I don't remember.

12 Q When the solicitor was asking which direction the car
13 came from, I think your testimony was I'm not sure. I
14 think he came from this direction. Are you sure what
15 direction the car came from?

16 A I know he came from off of Broad Street, that's all --
17 that ---

18 Q That's all you know, it came from Broad Street?

19 A Yes.

20 Q And then when the detective said when you were driving
21 back with the officers, who all was in the car with the
22 officers when they were driving you back?

23 A Those 2 guys right there.

24 Q The 2 officers, Detective Potteiger and Detective
25 Lyons?

- 1 A Yes.
- 2 Q Both of them were in the vehicle?
- 3 A And my cousin Antrell.
- 4 Q And your cousin Antrell?
- 5 A And me.
- 6 Q And you indicated that you saw a vehicle that looked
- 7 similar to the vehicle that you saw earlier that night?
- 8 A Yes.
- 9 Q What did you mean by similar? Close? The same
- 10 vehicle?
- 11 A Actually, I think it was that same car. It had tinted
- 12 windows in it. It was white.
- 13 Q It had tinted windows on the car that you saw?
- 14 A Yes.
- 15 Q Did you tell the officer that exact thing, that's the
- 16 same vehicle that that guy got out of?
- 17 A No. I say it looks like the vehicle.
- 18 Q So you didn't think that vehicle -- that's the vehicle
- 19 the guy hopped out of, you said that kind of looks like it?
- 20 A Yeah.
- 21 Q Did you say could be and I'm not sure, were you?
- 22 A Well, I'm not sure my exact words, but I'm sure I did
- 23 say that's the vehicle right there.
- 24 Q But you weren't sure it was the exact vehicle?
- 25 A Yes, sir.

Ms. McFadden - Cross by Mr. Kent

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1 Q The car looked similar?

2 A It looked just like it.

3 Q They were similar?

4 A Yeah.

5 MR. KENT: Thank you. That's all the questions I
6 have.

7 THE COURT: Redirect?

8 MR. MEADORS: Beg The Court's indulgence.

9 (Pause.)

10 MR. MEADORS: Thank you, Judge, that's it. No more
11 questions.

12 THE COURT: All right. Thank you. You may step down.

13 (The witness leaves the witness stand.)

14 THE COURT: All right. Mr. Meadors, you may call your
15 next witness.

16 MR. MEADORS: Your Honor, may Ms. McFadden be excused?

17 THE COURT: Any objection?

18 MR. KENT: No objection.

19 THE COURT: All right. You may be excused. Thank you
20 for coming.

21 MR. MEADORS: The state would call Antrell McFadden.

22 ANTRELL MCFADDEN, being first
23 duly sworn, testified as follows:

24 CLERK: Please state your name. Spell your last name
25 for the record.

1 MR. MCFADDEN: Antrell McFadden, M-c-F-a-d-d-e-n.

2 (Witness statement, Antrell McFadden, July 18, 2008, 1
3 page, marked for identification as State's Exhibit No. 19.)

4 DIRECT EXAMINATION BY MR. MEADORS:

5 Q Mr. McFadden, where are you from?

6 A Alcolu, South Carolina.

7 Q Where?

8 A Alcolu, South Carolina.

9 Q And were you born there?

10 A Yes, sir.

11 Q Raised there?

12 A Yes, sir.

13 Q Please tell these folks where you went to school?

14 A Manning High.

15 Q When did you get out of Manning High, Mr. McFadden?

16 A '98.

17 Q In 1998 when you got out of Manning High, what did you
18 do?

19 A Find a job.

20 Q What did you start doing?

21 A Mill.

22 Q Mill?

23 A Mill.

24 Q And what did you do there?

25 A Stacking lumber.

Mr. McFadden — Direct by Mr. Meadors

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- 1 Q Is that pretty hard work?
- 2 A Yeah.
- 3 Q About how long did you do that?
- 4 A About 2 years.
- 5 Q What did you do after that?
- 6 A I went to I think Jerry's Truck Wash.
- 7 Q Was that 18-wheelers?
- 8 A Yes.
- 9 Q What did you do there?
- 10 A Had to wash the front end of the trucks, and we had a
- 11 machine do the back end of the truck wash for us.
- 12 Q How long did you do that?
- 13 A A year.
- 14 Q What did you do after that?
- 15 A Shoney's.
- 16 Q Where was that?
- 17 A In Manning.
- 18 Q What did you do at Shoney's?
- 19 A Washed dishes and bus boy.
- 20 Q What did you do after that?
- 21 A Textile. And I've been there for 8 years. I've been
- 22 turning fabric and loading up trucks and work at a
- 23 distribution plant.
- 24 Q When you were at the textile, were you a supervisor
- 25 also?

- 1 A Yes.
- 2 Q And you did something else. What all did you do in
3 the textile place?
- 4 A I turned fabric. I was the supervisor. And I used to
5 work in finishing. And I used to load trucks.
- 6 Q I think you said you worked for a distribution place
7 after that?
- 8 A Yes.
- 9 Q Where was that?
- 10 A In industrial park.
- 11 Q And what did you do there?
- 12 A Unload trucks, 18-wheelers, and load 18-wheelers.
- 13 Q How long did you do that?
- 14 A About a year and a half.
- 15 Q Then did you go to -- what did you do after that?
- 16 A Columbia Farms.
- 17 Q How did that go?
- 18 A Not too good.
- 19 Q You didn't like the work?
- 20 A No.
- 21 Q Chickens?
- 22 A Yeah.
- 23 Q And after that, what did you do? When you say -- the
24 job just didn't work. Obviously, you're a hard working
25 man. You just -- chicken -- that wasn't it?

Mr. McFadden - Direct by Mr. Meadors

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- 1 A No.
- 2 Q Okay. And what did you do after that?
- 3 A I started drawing unemployment then. I ain't found no
- 4 work.
- 5 Q And that was -- when did you quit working at the
- 6 chicken place?
- 7 A April. I lasted about a week and 3 days.
- 8 Q Now, let me take you back to July -- if I could -- of
- 9 2008. Okay?
- 10 A Yes.
- 11 Q First of all, was Kayla McFadden any relation to you?
- 12 A My cousin.
- 13 Q And back in 2008, where were you living, Mr. McFadden?
- 14 A Peace. No -- yeah, Peace Street.
- 15 Q Who were you staying there with?
- 16 A My cousin and my 2 aunts.
- 17 Q And at that time in your life, your history we just
- 18 went over, where were you working?
- 19 A I was still at textile then. I'd been over there.
- 20 Q Now, specifically, on July 17th of 2008 you had
- 21 occasion to go with your cousin to some lady named Shana's
- 22 house?
- 23 A Yes.
- 24 Q And what -- how did you know Shana?
- 25 A Well ---

- 1 Q Girl friend or friend or what?
- 2 A Girl friend.
- 3 Q I didn't mean to -- friendly -- friendly lady?
- 4 A Yes.
- 5 Q And why did you all go over there that day?
- 6 A To chill with her, spend a little bit of time with
- 7 her.
- 8 Q Where is Shana's street?
- 9 A I think Sims.
- 10 Q Sims Street. And where is Sims Street, I'm sorry?
- 11 A I forgot what street it connect to. It was -- well,
- 12 it wasn't far. I forgot where it connected to.
- 13 Q Okay. That's fine. And you were over there with
- 14 Shana on Sims Street with your cousin Kayla?
- 15 A Yes.
- 16 Q Did you all have an occasion to leave the house late
- 17 that evening and go to the store?
- 18 A Yes.
- 19 Q Why were you going to the store?
- 20 A To get something to drink.
- 21 Q And were you all riding or walking?
- 22 A Walking.
- 23 Q On your way to the store, did you have an occasion to
- 24 come in contact with anybody?
- 25 A Yes.

Mr. McFadden - Direct by Mr. Meadors

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- 1 Q Tell the ladies and gentlemen of this jury who you
2 came in contact with if anybody?
- 3 A Main.
- 4 Q You saying Main?
- 5 A Yeah.
- 6 Q And when you saw him that night or late night on July
7 17th of 2008, did you know that person as Main then?
- 8 A No.
- 9 Q Okay. That's what subsequently you learned he was
10 called, right?
- 11 A Yeah.
- 12 Q And had you seen that person before?
- 13 A No.
- 14 Q So when you saw this person that night, did you know
15 who it was?
- 16 A No.
- 17 Q What if anything happened when you saw this person
18 when you were with Kayla, what happened?
- 19 A Well, we been walking. We met up with him. And he
20 asked her for a cigarette. I hesitated at first to give
21 him a cigarette. I did not know him. So eventually I give
22 him one. And we started walking back. This guy is walking
23 right beside us. He right beside us before we had got down
24 the street a little bit. Then we started parting ways a
25 little bit. Then we end up on the other side of the road.

1 He end up walking towards the house. And he stood by a
2 fence.

3 Q All right. So what was your intent at that point, you
4 and Kayla, you still going to the store?

5 A Yes.

6 Q What if anything happened after that?

7 A Well, as we continued walking, then he look -- he
8 looked at us and I look back. But I look back -- I look
9 back and started walking again. Then there was a car
10 pulled up, a white car. And they been on the shoulder of
11 the road, the right. It's like this side, the left
12 shoulder of the road, not the right side.

13 Q Say it one more time.

14 A Like the car pulled up, he was on the left side of the
15 shoulder of the road.

16 Q What happened next if anything?

17 A The dude -- like, the dude jump out and run around,
18 bang, and then we run.

19 Q Okay. The dude jumped out and went around and bang
20 and then what?

21 A We run.

22 Q You ran?

23 A Right.

24 Q Now, you said the car was what color car?

25 A White.

Mr. McFadden -- Direct by Mr. Meadors

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- 1 Q Was it coming towards you or behind you?
- 2 A Towards.
- 3 Q Towards you. Anything else about the car you noticed?
- 4 A Tinted windows.
- 5 Q All right. Can you tell me what the person that got
- 6 out of the white car was wearing?
- 7 A A hat that I notice and I think white shirt and blue
- 8 jeans, I think.
- 9 Q White shirt, blue jeans?
- 10 A Yeah.
- 11 Q Hat?
- 12 A Yeah.
- 13 Q How tall was he?
- 14 A Probably about my -- probably about my height, about
- 15 5'7" or so.
- 16 Q 5'7" or so. And did you tell the officer how much did
- 17 he weigh? We're talking about the person that got out of
- 18 the car?
- 19 A Yeah.
- 20 Q How much did he weigh?
- 21 A I didn't know exactly. I guess around probably a
- 22 little more than me. About -- I say about 190 or so.
- 23 Q You didn't have a scale out there to weigh him?
- 24 A No.
- 25 Q Black man or white man?

- 1 A Black.
- 2 Q Black man, around 5'7", 190, hat on, white shirt?
- 3 A Yeah.
- 4 Q Dark pants? Blue pants. What color was the hat?
- 5 A I think red and black.
- 6 Q And the fellow that you gave a cigarette, did he have
- 7 a hat on?
- 8 A No.
- 9 Q The fellow that got out of the car had a hat on?
- 10 A Yeah.
- 11 Q How many shots did you hear?
- 12 A One.
- 13 Q Now, have you ever seen anybody shot before?
- 14 A No.
- 15 Q Before this?
- 16 A No.
- 17 Q After this?
- 18 A No.
- 19 Q And could you see the person's face that shot?
- 20 A No.
- 21 Q What did the car do -- first of all, what did the
- 22 person do immediately after the shot was fired? What did
- 23 that person do and then what did the car do if anything?
- 24 A Well, got back in and spun off.
- 25 Q What did you do?

Mr. McFadden - Direct by Mr. Meadors

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1 A Still run. I been all the way up on Broad Street.

2 Q Scared?

3 A Yeah.

4 Q I'm going to ask you with Your Honor's permission to
5 come down here and just for a second and please speak into
6 here if you don't mind.

7 THE COURT: You can step down. Be sure and speak into
8 the microphone. Keep your voice up, because everyone's got
9 to hear you including the court reporter and the jury.

10 (The witness steps down from the witness stand.)

11 Q Just kind of speak into there if you can, okay?

12 A Yeah.

13 MR. MEADORS: For the record, this is State's 9.

14 Q Is that fair to say that's Broad Street?

15 A Yes.

16 Q That's what it says right there?

17 A Yes.

18 Q This is Highland Street?

19 A Yes.

20 Q Which direction on Highland Street were you all
21 traveling on the night of July 17, 2008?

22 A Going towards Broad.

23 Q Towards Broad Street on Highland Street?

24 A Yes.

25 Q Can you show us on State's 9 where you came in contact

- 1 with the gentleman that you gave a cigarette to? Use this
2 pointer, and please speak in there.
- 3 A Back this way.
- 4 Q You gave him the cigarette?
- 5 A Yeah.
- 6 Q Kayla give him a cigarette?
- 7 A No.
- 8 Q How far did you walk with him?
- 9 A Until we got up here.
- 10 Q All right. You described what kind of car?
- 11 A A white car.
- 12 Q What kind of windows?
- 13 A Tinted.
- 14 Q Could you tell anything else about the car?
- 15 A No.
- 16 Q Where was that car coming from?
- 17 A Off of Broad Street.
- 18 Q You don't know which direction?
- 19 A No.
- 20 Q Show the jury how it was coming down Highland Street?
- 21 A Came this way, straight.
- 22 Q Straight what?
- 23 A Up.
- 24 Q Straight up. Okay. And show me where you were and
25 where the car stopped and where you were when the car

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- 1 stopped?
- 2 A Here.
- 3 Q How far were you from the car?
- 4 A About 30 feet.
- 5 Q You didn't hear him speak, did you?
- 6 A No.
- 7 Q All right. Which way after the shots were fired --
- 8 show the jury on State's 9 which way the car went that you
- 9 saw the person get out and shoot?
- 10 A Back this way.
- 11 Q Back this way?
- 12 A Yeah.
- 13 Q Do you know where they went after they went that way?
- 14 A No.
- 15 Q And show the jury where you and Kayla went after the
- 16 shots were fired?
- 17 A Up here.
- 18 Q You ran?
- 19 A Yeah.
- 20 Q Did you call the police?
- 21 A No.
- 22 Q Did she call the police?
- 23 A No.
- 24 Q Did the police come?
- 25 A Yeah.

- 1 Q Where did you end up meeting with the police?
- 2 A On Broad Street.
- 3 Q Do you remember where?
- 4 A No.
- 5 Q All right. That's all.
- 6 THE COURT: Come on back up please and have a seat.
- 7 (The witness returns to the witness stand.)
- 8 Q Did you have an occasion to speak with law enforcement
- 9 officers and to these gentlemen of the Sumter Police
- 10 Department while you were still out on the scene, I call
- 11 it, on Highland?
- 12 A Yeah.
- 13 Q Did you show them anything?
- 14 A No.
- 15 Q Did you tell them anything about the hat that was
- 16 seen?
- 17 A Yeah.
- 18 Q What did you tell them about the hat?
- 19 A I just -- I just seen a hat on the ground.
- 20 Q Did you point that out to them?
- 21 A No.
- 22 Q Did you tell them who was wearing the hat?
- 23 A No.
- 24 Q Did you tell them whether or not the shooter had a hat
- 25 on?

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- 1 A No.
- 2 Q In your statement, you testified earlier?
- 3 A Yes.
- 4 Q You saw a person with a hat on, correct?
- 5 A Yes.
- 6 Q Did you show them that hat at the scene?
- 7 A No.
- 8 Q Is that a hat on State's 1, State's 2?
- 9 A Yes.
- 10 Q Is that the same hat you saw that night?
- 11 A Yes.
- 12 Q And that was the hat on the person that got out of the
- 13 car?
- 14 A Yes.
- 15 MR. KENT: He's trying to ask the same question 7
- 16 different ways. The witness has answered the question.
- 17 THE COURT: Overruled. I think the question is
- 18 proper.
- 19 Q Did you say, yes?
- 20 A Yes.
- 21 Q That's the hat the person who got out of the car and
- 22 shot was wearing?
- 23 A Yes.
- 24 Q And does that appear to be the same hat?
- 25 A Yes.

1 MR. MEADORS: Your Honor, we would offer State's 17.

2 It's without objection, Your Honor.

3 THE COURT: All right. No objection, Mr. Kent?

4 MR. KENT: No objection.

5 THE COURT: All right. State's No. 17 admitted into
6 evidence without objection.

7 (State's Exhibit No. 17 received in evidence.)

8 Q Are you a little nervous today?

9 A Yes.

10 Q Did you have an occasion to go with law enforcement to
11 the police -- right across the street here, to the police
12 department, law enforcement center?

13 A Yes.

14 Q Do you remember who you met with?

15 A Yes.

16 Q Okay. Was it these officers?

17 A Yes, sir.

18 Q And did you have an occasion to give them -- and was
19 this the same morning you met with them?

20 A Yes.

21 Q Just a few hours after this incident?

22 A Yes.

23 Q And I'll show you what's marked State's 19 for I.D.

24 Okay. Do you recognize that signature right there where it
25 says signed, and there's a line. Whose signature is that?

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- 1 A Mine.
- 2 Q That's your signature?
- 3 A Yes.
- 4 Q And is this the statement that you gave them in the
5 early morning hours of July 18?
- 6 A Yes.
- 7 Q That's what you saw, correct?
- 8 A Yes.
- 9 Q Now, did you tell the police if you saw this person
10 again, you might be able to pick him out?
- 11 A Yes.
- 12 Q And the next -- and let me get this correct. Not that
13 night, but later on that same day, did you have an occasion
14 to get back with the police officers?
- 15 A Yes, sir.
- 16 Q And do you remember where that took place?
- 17 A At the work -- at the -- at the house.
- 18 Q And did you have an occasion to look at a line-up
19 then?
- 20 A Yes.
- 21 Q And could you pick anybody out of that line up that
22 was the shooter?
- 23 A No.
- 24 Q Could you say whether or not the person in that line-
25 up was a shooter or not?

- 1 A No.
- 2 Q Did you pick out 2 folks in there that you thought you
3 recognized, but you don't know whether they were the
4 shooter or not?
- 5 A No.
- 6 Q Is that right? Is that a fair way to say it?
- 7 A Yes.
- 8 Q Okay. Tell these folks, when you're out there, what
9 time was it when the shooting happened?
- 10 A After 12:30.
- 11 Q At night. Was it dark?
- 12 A Yes.
- 13 Q Could you see who was shooting?
- 14 A No.
- 15 (Photo line-up, with 6 pictures, marked for
16 identification as State's Exhibit No. 20.)
- 17 Q Do you recognize this?
- 18 A Yes.
- 19 Q Okay.
- 20 THE COURT: State what?
- 21 MR. MEADORS: This is State's 20, Your Honor.
- 22 THE COURT: For I.D.?
- 23 MR. MEADORS: For I.D. at this point.
- 24 Q Is this what you were shown that night?
- 25 A Yes.

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1 MR. KENT: That's fine.

2 MR. MEADORS: Your Honor, we would offer State's 20.

3 It's without objection.

4 THE COURT: State's 20 is admitted without objection,
5 correct, Mr. Kent?

6 MR. KENT: That's correct, Judge.

7 (State's Exhibit No. 20 received in evidence.)

8 Q Go back a little bit. When you were at the law
9 enforcement center, giving the statement, do you remember
10 that?

11 A Yes.

12 Q How did you get home after that?

13 A I think we went -- I don't think we went straight. I
14 forget how.

15 Q Let me ask you this. Did the police take you and
16 Kayla home?

17 A Yes.

18 Q And on the way home -- where would home have been in
19 July 2008?

20 A Peace. Peace Street.

21 Q On the way home, did anything happen?

22 A Yes.

23 Q And would you tell us please?

24 A They asked, was that the same -- the car that been on
25 the scene or not.

- 1 Q Did you see a white car on the way home?
- 2 A Yes.
- 3 Q What if anything was told to law enforcement about
- 4 that car?
- 5 A I -- I said I thought that was the same car.
- 6 Q Thought that was the same car?
- 7 A Yes.
- 8 Q So did you tell them that that early morning hour?
- 9 A Yes.
- 10 Q I show you what is in as State's 13. Does that appear
- 11 to be the same car? If you know.
- 12 A I don't know.
- 13 Q Okay.
- 14 MR. KENT: Judge, I could not hear that answer.
- 15 MR. MEADORS: He said I don't know.
- 16 THE COURT: I do not know.
- 17 MR. KENT: I'm sorry. I just couldn't hear.
- 18 Q You don't know who shot Main from your own eyes, do
- 19 you?
- 20 A No.
- 21 Q Now, just a couple more questions. I'm about through.
- 22 When you were at -- you said you'd never seen anybody shot
- 23 before?
- 24 A No.
- 25 Q What if anything did you hear the person who had shot

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1 say ---

2 MR. KENT: I'm going to object.

3 Q --- after he shot?

4 THE COURT: Let him finish the question. Don't answer
5 it, then I'll give him a chance to object. Go ahead and
6 finish your question and then I'll hear from you.

7 Q What if anything -- what if anything did you hear the
8 person -- hear the person who you say shot Main, what if
9 anything did you hear them say right after the shot?

10 THE COURT: All right. This is the shooter?

11 MR. MEADORS: Yes.

12 THE COURT: All right.

13 MR. KENT: I'm going to object as hearsay, Judge.

14 THE COURT: All right. Mr. Meadors, I'd be glad to
15 hear from you.

16 MR. MEADORS: A couple of things. I think we're going
17 to tie this up to this person through the testimony
18 circumstantial to the defendant through the hat and other
19 physical evidence. So it would be a statement against his
20 interest.

21 In addition to that, an excited utterance at the
22 scene. With an exception to the hearsay he says he heard.

23 THE COURT: Well, you haven't established, I don't
24 think, the requisites of 803 -- 803 (2) yet. And I know
25 the requisites of admission against interest had not been

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1 done because you haven't identified it being the defendant
2 in this case. You may have to call him later for that
3 purpose, but you can see a little bit more about trying to
4 get it in under 803 subparagraph (2) if you lay the right
5 foundation.

6 MR. MEADORS: Yes, sir.

7 (Pause.)

8 MR. MEADORS: Beg The Court's indulgence.

9 THE COURT: All right.

10 (Pause.)

11 Q How far were you from this person when the shots were
12 fired? I think you testified 30 feet?

13 A About 30 feet.

14 Q Was anything said contemporaneous to the shooting?
15 Did it happen about the same time?

16 A Yes.

17 MR. MEADORS: And, can we approach?

18 THE COURT: Yes, sir.

19 (A bench conference was held off the record in the
20 presence of the jury, but out of the hearing of the jury.)

21 THE COURT: All right. The objection is overruled
22 under 803 subparagraph (2), subject to the objection of the
23 defendant. All right.

24 Q Did you witness a shooting before?

25 A No.

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1 Q All right. Shots were fired?

2 A Yes.

3 Q A man is on the ground with a bullet in him?

4 A Yes.

5 Q What did you hear the person, if anything say that
6 shot?

7 A I thought I heard somebody like -- I heard like a loud
8 noise or something afterwards.

9 Q Do you remember hearing what they said?

10 A Yes.

11 Q Do you remember the words they said?

12 A Yes.

13 Q And I know you're nervous?

14 A Yes.

15 Q But, respectfully, please tell the jury what you
16 heard?

17 A I thought I heard someone say, I got you now,
18 something.

19 Q I got you now?

20 A Yeah.

21 (Pause.)

22 MR. MEADORS: That's all the questions. Judge, we
23 agreed I'd bring this out, and I forgot.

24 THE COURT: Okay.

25 MR. MEADORS: I apologize.

1 THE COURT: Go ahead. Just go ahead. If you have any
2 further questions, go ahead.

3 MR. MEADORS: I said I'm going to do it. I'm a man of
4 my word.

5 THE COURT: All right. Go ahead. Don't need the
6 comments, just ---

7 Q Under the rules, when you take the stand, I have to
8 ask you this. Do you have a shoplifting conviction in
9 2003?

10 A Yes.

11 MR. MEADORS: That's all. Thank you.

12 THE COURT: All right. Cross examination?

13 MR. KENT: Thank you.

14 CROSS EXAMINATION BY MR. KENT:

15 Q Mr. McFadden, how are you doing?

16 A Fine.

17 Q Do you go by Antrell, Trell, what do you use?

18 A Trell.

19 Q Trell. Is that what everybody usually calls you?

20 A Yes.

21 Q Trell, I'm just going to go over a couple questions
22 and make sure I understand everything you testified to.
23 Okay?

24 A Yes.

25 Q And I just want to make sure of your answer. Make

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1 sure you say yes and no so everybody on the jury as well as
2 this lady right here who is taking down every word that
3 you're saying.

4 A Yes.

5 Q Okay?

6 A Yes.

7 Q Trell, the night that all of this happened, you went
8 to go get cigarettes, is that what you were on your way to
9 do?

10 A Yes.

11 Q Were you on your way back from getting cigarettes or
12 were you on your way to go get cigarettes?

13 A I been -- I been going to the store the second time.
14 But I was back from the store getting cigarettes.

15 Q Okay. So you were on your way toward the Kangaroo?

16 A Yes, sir.

17 Q Had you been drinking at all that day?

18 A Some.

19 Q Tell me what you had to drink that day?

20 A 3 cups of gin, 3 24-ounce Bud Light.

21 Q About what time frame did you have these drinks?

22 A Before 12:00.

23 Q Before 12:00 o'clock?

24 A Yeah.

25 Q Was that before 12:00 in the ---

- 1 A In the morning.
- 2 Q Okay. Before 12:00 in the morning?
- 3 A Yeah.
- 4 Q Okay. You were with your cousin that night?
- 5 A Yes.
- 6 Q Her name is Kayla McFadden?
- 7 A Yes.
- 8 Q And she had -- you may not be aware, but she testified
- 9 earlier. Did she have anything to drink? Was she drinking
- 10 with you all that day?
- 11 A No.
- 12 Q Okay. You're walking if I'm not mistaken, you and
- 13 Kayla McFadden had just got done -- you were hanging out
- 14 with Shana, I believe?
- 15 A Yes.
- 16 Q And you were walking toward Broad Street, towards the
- 17 Kangaroo gas station?
- 18 A Yes.
- 19 Q I think you testified as you were walking toward the
- 20 Kangaroo gas station, that's when you came in touch with
- 21 the man that you know the name of Main?
- 22 A Yes.
- 23 Q What description did you give of Main? How tall did
- 24 you say he was?
- 25 A I didn't.

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- 1 Q You didn't. You're not sure how tall he was, how much
2 he weighs, or any description of him at all?
- 3 A No.
- 4 Q You're not sure of his height, his weight?
- 5 A No.
- 6 Q Do you remember what he was wearing that day?
- 7 A I think gray sweats or -- and white shirt.
- 8 Q Okay. You don't have to guess. If you don't know,
9 you don't know, that's fine.
- 10 MR. MEADORS: Your Honor, he answered.
- 11 THE COURT: Yes, sir, he answered.
- 12 MR. KENT: That's fine.
- 13 Q So you got into a conversation?
- 14 A No.
- 15 Q He was just asking -- he was trying to bum a cigarette
16 from you?
- 17 A Yes.
- 18 Q How many cigarettes -- do you remember how many
19 cigarettes you had left?
- 20 A At least 10 or 11.
- 21 Q So you had plenty of cigarettes left?
- 22 A Yes.
- 23 Q But you were still -- why were you still on your way
24 to go get cigarettes if you 10 or 11 left?
- 25 A Well, it's like I split -- I split more as I got

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- 1 walking.
- 2 Q Okay. So you were talking, he had to borrow a
- 3 cigarette. You gave him 1 or did you give him 2
- 4 cigarettes?
- 5 A I give him 1.
- 6 Q You just gave him 1 cigarette?
- 7 A Yes.
- 8 Q You gave this man 1 cigarette, you all talk at all,
- 9 you say anything to each other?
- 10 A No.
- 11 Q Not anything but can I borrow a cigarette, and you
- 12 gave him 1 cigarette. He goes on one side of the road?
- 13 A (Nods head.)
- 14 Q Is that a yes?
- 15 A Yes.
- 16 Q You were on the opposite side of the road?
- 17 A Yes.
- 18 Q Is that a yes?
- 19 A Yes.
- 20 Q You all are going opposite directions?
- 21 A Yes.
- 22 Q You see a white car, I think was your testimony?
- 23 A Yes.
- 24 Q You see a white car coming from toward Broad Street?
- 25 A Yes.

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1 Q You see the white car coming toward Broad Street with
2 tinted windows?

3 A Yes.

4 Q You see the white car coming toward Broad Street with
5 tinted windows. Was it speeding? Was it going really
6 fast?

7 A No.

8 Q About how fast do you think this white car with tinted
9 windows was going down Broad Street?

10 A Going about 15, 20 mile per hour.

11 Q So it wasn't speeding. It wasn't something you would
12 notice and, boy, this car is coming at a high rate of
13 speed?

14 A No.

15 Q Would you have noticed if that car was coming at a
16 high rate of speed towards you guys?

17 A Yes.

18 Q Okay. So you see this vehicle ---

19 MR. MEADORS: Your Honor, did he say going down
20 Highland or Broad?

21 THE COURT: I think he said Highland as far as I know.

22 MR. MEADORS: I thought he said Broad.

23 THE COURT: All right. The question is not an
24 objection and the question is not evidence. Go ahead.

25 Q So the vehicle -- does it slam on a brake, does it

1 stop, tell me what the vehicle does?

2 A It does slow down a little bit, slam on brakes as it
3 slowed down.

4 Q And you had a clear look at this vehicle?

5 A Yes.

6 Q And you said 30 feet. And I'm going to go back. Tell
7 me about how far away this vehicle was? Am I as close as
8 the vehicle was to you?

9 A A little bit far back.

10 Q All right. Tell me when to stop at about where the
11 vehicle was from you?

12 A There.

13 Q All right. So right about where I am standing.

14 MR. KENT: For the record, I am in the Sumter County
15 courtroom and I'm about 5 paces away from the door where
16 jurors come through.

17 Q Is that about right?

18 A Yes.

19 Q Where I'm standing is about where the vehicle was from
20 you?

21 A Yes.

22 Q So you had a clear look at this tinted vehicle, the
23 vehicle with tinted windows?

24 A Yes.

25 Q You see a person hop out of the vehicle; is that

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1 correct?

2 A Yes.

3 Q The person hopped out of the vehicle -- I think your
4 testimony was you saw the person wearing a red hat?

5 A Yes.

6 Q Okay. Are you sure about that? Tell me if you're not
7 sure, let me know.

8 A I don't know if I'm sure or not, but it was a hat on
9 the ground.

10 Q There was a hat on the ground. Tell me about the hat
11 on the ground, Mr. McFadden. Are you sure this was the
12 testimony that you gave on direct examination that the
13 individual hopped out of the car was wearing a red hat. If
14 you're not sure, that's fine.

15 A Yes.

16 Q So what is your answer, are you sure that the person
17 was wearing a red hat or are you not sure?

18 A I'm sure.

19 Q You're sure?

20 A Yes.

21 Q That's fine. So the person gets out of the vehicle.
22 Did you see them get out of the vehicle with a gun?

23 A Not at first.

24 Q Did you see him point a gun over the vehicle?

25 A No.

- 1 Q Did you see him fire a shot over the vehicle?
- 2 A (Shakes head,)
- 3 Q Did you see them run around the front of the vehicle
- 4 with the gun?
- 5 A Yes.
- 6 Q Okay. So at what point in time did this individual
- 7 who gets out of this vehicle, the one with the tinted
- 8 windows, what time did he grab the gun?
- 9 A Around the front.
- 10 Q So they go around the front of the vehicle. And where
- 11 do they get the gun from? Do they take it from the front,
- 12 back, where did they get this gun from?
- 13 A I'm not -- I'm not sure.
- 14 Q You're not sure. But at some point you see them grab
- 15 a gun?
- 16 A Yes, sir.
- 17 Q After coming around the vehicle, are they coming
- 18 closer toward where you were or did they come further away
- 19 from you?
- 20 A Like further.
- 21 Q So they were coming further away from you. So they're
- 22 further away from where you were?
- 23 A Yes.
- 24 Q So they come around the front of the vehicle. They
- 25 have the gun, and that's when you see the shots, you see

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- 1 the person shoot?
- 2 A Yes.
- 3 Q You have a clear advantage, you see this happen?
- 4 A Yes.
- 5 Q When you see this happening, you also testified that
- 6 this person kicked this person a couple times?
- 7 A Yeah. Yes.
- 8 Q Yes?
- 9 A Yes.
- 10 Q How many times did they kick him?
- 11 A At least once.
- 12 Q At least one time?
- 13 A (Nods head.)
- 14 Q Was it a light tap, was it a hard kick? What kind of
- 15 kick are we talking about?
- 16 A Just a kick. Or a kick, something like ---
- 17 Q Go ahead.
- 18 A Like a kick.
- 19 Q Like a kick. I mean, like that?
- 20 MR. MEADORS: Your Honor, he said a light kick.
- 21 THE COURT: All right. Wait a minute. It's cross
- 22 examination, Mr. Meadors. I'm going to allow it. He can
- 23 answer the question.
- 24 Q Was that the kick, was that the way the kick was that
- 25 I just did?

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- 1 A Yes.
- 2 Q I kicked it about like that; that's how they kicked
- 3 this individual?
- 4 A Yes.
- 5 Q And this was one time that you remember?
- 6 A Yes.
- 7 Q After this person kicked this individual, what did
- 8 they do then?
- 9 A Get into the car and drive off.
- 10 Q They drove off in the same direction, going down
- 11 Highland Street away from Broad Street?
- 12 A Yes.
- 13 Q Were they going at a high rate of speed at this point
- 14 in time? Were they speeding, were they booking?
- 15 A Yes.
- 16 Q Okay. So they go down. They're going at a high rate
- 17 of speed. What do you do at this time?
- 18 A I ran to Broad Street already.
- 19 Q You were already at Broad Street, you were running the
- 20 opposite direction?
- 21 A (Nods head.)
- 22 Q So you go toward Broad Street. Let's back up a little
- 23 bit. You gave a description on direct examination. You
- 24 said the individual was about 5'7"?
- 25 A Yes.

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- 1 Q You said they were about 190 or 195 pounds?
- 2 A Yes.
- 3 Q How tall do you think I am?
- 4 MR. MEADORS: Objection, Your Honor.
- 5 THE COURT: Overruled.
- 6 A About 5' -- about 5'7", 5'8".
- 7 Q 5'7", 5'8". About how much do you think I weigh?
- 8 A 170 -- between 170 and 180.
- 9 Q Okay. Thank you. When you were talking with the
- 10 solicitor, do you remember him asking the question: You
- 11 told the officers that you could probably identify the
- 12 person that you saw who shot -- you told the officer that,
- 13 correct?
- 14 A Yes.
- 15 Q You told the officer, I can probably identify the
- 16 person who did this shooting?
- 17 A Yes.
- 18 Q They took you down to the scene, correct? When they
- 19 took you down to the scene, they showed you a line-up?
- 20 A Yes.
- 21 Q They said, here's a line-up. They said, can you
- 22 identify anyone in the line-up?
- 23 A Yes, sir.
- 24 Q You looked at the line-up. You said, I recognize 2
- 25 people in this line-up, didn't you?

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- 1 A Yes.
- 2 Q You said, I know 2 of these people from the streets,
3 didn't you?
- 4 A Not from the streets, no.
- 5 Q But you did know them?
- 6 A Yes.
- 7 Q And then you said, I can't pick out anybody who did
8 the shooting?
- 9 A No.
- 10 Q The solicitor asked you a question -- let's back up a
11 little bit. I think they talked about the officer giving
12 you a ride home. There was a question about a car that you
13 all saw -- that you saw a car?
- 14 A Yes.
- 15 Q I think your testimony was you thought that car was --
16 could have been the car that was involved?
- 17 A Yes.
- 18 Q You weren't sure?
- 19 A No.
- 20 Q You weren't positive?
- 21 A No.
- 22 Q And the car they just showed you a picture of, you're
23 not sure if that's the car that came down the road at all,
24 are you?
- 25 A No.

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1 Q So he showed you a picture. You don't know what that
2 car is?

3 A No.

4 Q And then he asked you toward the end about what this
5 individual said when he got out of the vehicle -- the
6 person who did the shooting, the 5'7" inch man, who's about
7 190, 195 pounds wearing a red hat, you said I thought I
8 heard him say something. Were you sure what you heard or
9 were you just guessing what you heard?

10 A Guessing.

11 Q You were guessing. You really didn't know what you
12 heard, it was just a guess?

13 A (Nods head.)

14 Q So right now with a straight face can you say -- with
15 your hand on the Bible -- I know for a fact what this guy
16 said at that time?

17 THE COURT: All right. That's not a proper question,
18 Mr. Kent. Just ask him the question.

19 Q Do you know for a fact what that individual said when
20 he got out of the car?

21 A No.

22 MR. KENT: Thank you. That's all the questions I
23 have.

24 THE COURT: Redirect.

25 MR. MEADORS: Very briefly.

1 REDIRECT EXAMINATION BY MR. MEADORS:

2 Q Showing you State's 18 for I.D. You said that was
3 your signature there?

4 A Yes.

5 Q And you remember giving this statement a few hours
6 after this incident happened?

7 A Yes.

8 Q And did you put in here the description of the
9 individual? Did you put that in here?

10 A Yes.

11 Q Did you put in here that you heard the words that you
12 said earlier?

13 MR. KENT: Judge, I'm going to object.

14 THE COURT: Sustained. Not in evidence.

15 MR. MEADORS: I offer it in evidence, Judge.

16 THE COURT: Objection?

17 MR. KENT: Judge, I'm trying to figure out what's the
18 purpose of this.

19 THE COURT: He's offering it. You ---

20 MR. KENT: That's fine, Judge.

21 THE COURT: All right. I will sustain the objection.

22 MR. MEADORS: Is it in?

23 MR. KENT: It's in, no objection, Your Honor.

24 THE COURT: Oh, no objection. Okay. Admitted into
25 evidence without objection. Okay.

Mr. McFadden — Redirect by Mr. Meadors

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1 MR. MEADORS: Thank you.

2 THE COURT: Is it 18 or 19?

3 MR. MEADORS: 19. I apologize.

4 THE COURT: State's No. 19 admitted into evidence
5 without objection.

6 (State's Exhibit No. 19 received in evidence.)

7 Q Did you put in here how tall and the weight you
8 thought that the shooter was, correct?

9 A Yes, I thought.

10 Q That's all I'm asking. I'm sorry. And did you put in
11 here what the person was wearing?

12 MR. KENT: Your Honor, I'm going to object to leading.

13 THE COURT: Overruled. That's not leading.

14 Q Did you put in here what the person was wearing?

15 A Yes.

16 Q Did you put in here what kind of hat they were
17 wearing?

18 A Yes.

19 Q Did you put in here the guy with the hat shot the
20 fellow?

21 A Yes.

22 Q Did you put in here he said something like I got you
23 or I got you now?

24 A Yes.

25 MR. MEADORS: That's all I have.

Mr. McFadden — Recross by Mr. Kent

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1 THE COURT: Recross?

2 MR. KENT: Yes, sir. Thank you.

3 RECROSS EXAMINATION BY MR. KENT:

4 Q The solicitor just went over this statement, which is
5 State's Exhibit No. 19. You talked about all of this
6 stuff, specifically about that statement, I know I got you,
7 I got you now. Was that a guess back then when you gave
8 the statement?

9 A Yes.

10 Q So it's a guess? So this information that you gave
11 the officer was a guess?

12 A No, just the thing I heard last, I'm guessing that
13 what he said.

14 Q You were guessing?

15 A (Nods head.)

16 MR. KENT: Thank you. That's all the questions I
17 have.

18 THE COURT: Thank you. You may step down.

19 (The witness leaves the witness stand.)

20 (Pause.)

21 THE COURT: All right. Mr. Meadors, you may call your
22 next witness.

23 MR. MEADORS: May we approach?

24 THE COURT: Yes.

25 (A bench conference was held off the record in the

1 presence of the jury, but out of the hearing of the jury.)

2 THE COURT: Ladies and gentlemen, you've been in the
3 courtroom about an hour and a half. It's appropriate to
4 take a brief recess at this time. So we will take at 10
5 minutes and I'll allow you to go to your jury room.

6 Again, I would tell you, it would be premature for you
7 to begin any discussion about this case at all while you're
8 there in the jury room. Do not discuss the case among
9 yourselves. Just relax a few minutes, and we'll send for
10 you very shortly.

11 Thank you. You may go with the bailiff.

12 (The jury retires to the jury room at 1:52 p.m.)

13 THE COURT: All right. Mr. Kent, you wanted to place
14 your objection. I noted your objection to the admission of
15 the statement that the witness said he heard at the time of
16 the shooting, but you may put your objection on the record.

17 MR. KENT: Thank you, Judge. I would ask that the
18 statement that the witness testified to, that I got you
19 now, or something of that nature that was elicited the
20 defense (sic). One, it was improper hearsay. Number two,
21 they offered it for excited utterance. What they did not
22 lay the foundation for was it's not the question of whether
23 the witness who heard the statement was excited, it's
24 whether the person who was doing the action, actually
25 saying the statement, was excited and still under the

1 stress of excitement or startling.

2 They didn't offer any of that.

3 THE COURT: You don't think the shooting of somebody
4 at a scene is exciting for both the person doing the
5 shooting and the person observing the shooting?

6 MR. KENT: Respectfully, Judge, I wouldn't know. I've
7 never been in that situation, and I don't know who the
8 shooter is. And under that theory, they can't really offer
9 it as excited utterance until they can say this person was
10 excited. If he would have said, was this person excited?
11 He didn't offer any of that.

12 And then what's even more so, Judge, what makes it
13 worse is this witness even testified, I was just guessing.
14 I don't know what this individual said.

15 THE COURT: Well, that was on cross examination. He
16 did say that on direct examination. So that was not a part
17 of the issue.

18 Your objection is noted. I think very clearly it
19 meets the requirement under the exception to the hearsay
20 rule of a startling event. And so your objection is noted.

21 I did sustain the objection with regard to the
22 admission against interest, because he did not identify
23 anybody in this case as being -- the defendant in this case
24 as being the person, and therefore, would be an admission
25 against interest. All he said was this person made this

1 excited utterance. But it hadn't been linked to anybody.

2 Your objection is noted, and we'll go from there.

3 MR. KENT: Thank you, Your Honor.

4 THE COURT: All right. Let's take 10 minutes.

5 (A recess was taken.)

6 THE COURT: All right. Back on the record with regard
7 to the matter of The State versus Antrell Felder. Mr.
8 Felder is present with his counsel. The state is present
9 with Mr. Meadors.

10 Anything before we bring the jury in, Mr. Meadors?

11 MR. MEADORS: I've just been informed -- no, sir.

12 THE COURT: Anything, Mr. Kent or Mr. Chandler?

13 MR. KENT: No, sir, Judge.

14 THE COURT: All right. Bring the jury in please.

15 (The jury returns to the courtroom at 2:10 p.m.)

16 BAILIFF: Your Honor, we have all the jurors present
17 in the courtroom.

18 THE COURT: All right. Thank you, ladies and
19 gentlemen. And we are now ready to proceed.

20 Mr. Meadors, you may call your next witness.

21 MR. MEADORS: Detective William Lyons.

22 WILLIAM LYONS, being first
23 duly sworn, testified as follows:

24 CLERK: Please state your name. Spell your last name
25 for the record.

Detective Lyons - Direct by Mr. Meadors

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- 1 DETECTIVE LYONS: William Lyons, L-y-o-n-s.
- 2 DIRECT EXAMINATION BY MR. MEADORS:
- 3 Q Good afternoon, Deputy.
- 4 A Good afternoon, sir.
- 5 Q Please tell the ladies and gentlemen of this jury
- 6 about you, where you went to school, and your background
- 7 and your training, in particular your training in the field
- 8 of law enforcement?
- 9 A Yes, my name is William Lyons. I'm a Senior Detective
- 10 with the Sumter Police Department. I'm a graduate of the
- 11 University of South Carolina with a degree in business
- 12 management. I've been employed at the Sumter Police
- 13 Department since 2004. Currently serve in the capacity in
- 14 the violent crimes division, which is investigating crimes
- 15 against persons, robberies, violent-nature-type crimes.
- 16 Received numerous hours in training. Also responsible for
- 17 gang-related crimes in the City of Sumter as well.
- 18 Q You've been in law enforcement how many years?
- 19 A Since 2004.
- 20 Q The positions you've held are what?
- 21 A Start out as a patrol officer, moved to a K-9 officer,
- 22 was on a special enforcement team called the Neighborhood
- 23 Empowerment Team. And current assignment as a detective in
- 24 the investigations division.
- 25 Q Let me take you back in time to July 2008,

Detective Lyons - Direct by Mr. Meadors

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1 specifically July 18, 2008, Detective. What was your --
2 what were your duties that day? Were you on call?

3 A July the 18th, I was the -- I worked a normal day on
4 the 17th, and then I was on the rotation to pull call from
5 the night of the 17th, until 8:00 a.m. on the 18th.

6 Q Did you have an occasion to respond to a shooting at
7 ?

8 A I did. I was notified by the shift supervisor at the
9 time, Sergeant Stubbs, that a shooting had occurred in
10 front of .

11 Q And that's in Sumter County?

12 A That is correct.

13 Q What were your observations if any when you -- what
14 did you see when you got to ?

15 A Upon arrival on the scene, I was briefed by the patrol
16 sergeant. The victim in this case, Mr. William McKenzie,
17 had already been transported to Tuomey Hospital for his
18 injuries.

19 I arrived on the scene. Then right away was a red
20 baseball hat that's here before us today, a pair of
21 sunglasses was noticed in the crime scene. A spent shell
22 casing was within the crime scene, along with a towel that
23 had some blood on it.

24 Q So State's 1, is that the red cap that was left in the
25 roadway?

- 1 A That is correct.
- 2 Q As a result of your investigation, was that near where
- 3 the body of Mr. McKenzie was?
- 4 A The hat was in the roadway. Mr. McKenzie's body was
- 5 on the grassy portion of the edge of the roadway.
- 6 Q So by the time -- was Mr. McKenzie's body gone when
- 7 you got there?
- 8 A That is correct.
- 9 Q This is the real world, right?
- 10 A Right.
- 11 Q Were there pictures of his body there?
- 12 A No, there were not.
- 13 Q And that's because why?
- 14 A Because at the time he was shot, emergency workers
- 15 were actually working on him. He actually survived for a
- 16 short period of time and didn't succumb to his injuries
- 17 until at the hospital.
- 18 Q So you wouldn't leave a body there for evidence
- 19 purposes to get a picture of where it was if there's still
- 20 a chance of saving him?
- 21 A That's right.
- 22 Q So when you arrived there, he's gone, his body's gone?
- 23 A That's correct.
- 24 Q And what you've testified is State's 10. Is that the
- 25 sunglasses -- it's already in evidence?

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1 A That is correct.

2 Q State's 2, again, was the red hat?

3 A That is correct.

4 Q And is this also that same red hat, State's 17, which
5 is in evidence?

6 A That is correct.

7 Q And was there anything else on the bill of the hat
8 then?

9 A At the time there was a round medallion. Actually,
10 it's the sticker I think with the name of the company of
11 the hat. The new baseball hats usually have a sticker on
12 the top of the bill and some times underneath the bill.
13 There was a sticker on the hat.

14 (Brown envelope with contents marked for
15 identification as State's Exhibit No. 21.)

16 THE COURT: I'm sorry, what's the number?

17 COURT REPORTER: 21.

18 MR. KENT: No objection to State's 21, Judge.

19 THE COURT: All right. State's No. 21 will be
20 admitted into evidence without objection.

21 MR. MEADORS: Thank you.

22 (State's Exhibit No. 21 received in evidence.)

23 MR. MEADORS: If I could approach the witness?

24 THE COURT: Yes, sir.

25 Q Look at State's 21, which is now in evidence. Is that

Detective Lyons - Direct by Mr. Meadors

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1 the label you were talking about?

2 A That is correct. That is the medallion or the sticker
3 that was on the brim of the hat at the time that it was
4 recovered.

5 Q And that was on this hat when it was recovered?

6 A That is correct. It has since been removed to be
7 processed.

8 Q Is it fair to say that's a label? What do you call
9 it?

10 A Sticker. Label.

11 Q You mentioned, I believe, shell casings. This is
12 State's 3. Does that depict that?

13 A That is correct, a shell casing in the middle of the
14 roadway there.

15 Q Now, Detective, when you arrived on the scene, what's
16 the goal of law enforcement? I mean, if a body like in
17 this case has been shot, you know roughly where it was.
18 What if anything do you try to do to retrieve potential
19 evidence?

20 A Well, at first, obviously, the first thing is to try
21 to preserve the integrity of the scene and try to keep it
22 from becoming contaminated with other folks walking through
23 it, weather hazards, things of that nature. That night the
24 weather was clear, so the scene was taped off so the
25 evidence could be photographed and collected.

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1 Q Is Highland Avenue -- based on your experience,
2 training, and maybe just living here your whole life -- is
3 it a fairly busy road?

4 A It can be, given different days of the week, times of
5 the night or times of the day. It's fairly well traveled.
6 I would call it a cut-through road back over to Jackson
7 Street off of Broad Street. So it sees its fair to say
8 they have traffic.

9 Q State's 6, does that depict the crime scene as you saw
10 it that night?

11 A That would be correct, except for the yellow tape,
12 which was added as a precautionary to keep people out of
13 the scene.

14 Q Truman Duggin is going to testify at some point. But
15 do you like to take pictures of something before you
16 collect it?

17 A That is correct.

18 Q And State's 5, does that again depict approximately
19 where this incident occurred?

20 A That is correct.

21 Q There is there, correct?

22 A That's right.

23 Q Now, State's 7, which in, is that a daytime picture of
24 ?

25 A That's right.

- 1 Q And when was this taken?
- 2 A It was taken at a later date. I don't know if it was
3 the next day or -- or some time at a later date.
- 4 Q Did you have an occasion to see any potential
5 witnesses that night?
- 6 A I did. Actually, as I arrived on the scene, I was
7 briefed by Sergeant Stubbs, a BOLO or description of a
8 potential suspect vehicle had been given out, white 4-door
9 car, mid size, tinted windows.
- 10 Q White 4-door car, mid sized, tinted windows?
- 11 A Yes, that was the vehicle that was potentially being
12 looked for. Also based on ---
- 13 Q I know we all know, but what's a BOLO?
- 14 A Just be on the look out for, just -- just looking out
15 for a vehicle.
- 16 The -- after speaking with some of the officers and
17 the witnesses, I was able to determine that the hat that
18 was in the middle of the roadway had come from the shooter,
19 while the victim was wearing a pair of sunglasses, both of
20 which had been collected and placed into evidence to be
21 processed.
- 22 Q Now, as a result of the talking with Sergeant Stubbs,
23 did you come into contact with the McFaddens?
- 24 A I did.
- 25 Q And when did you first see Kayla and Antrell?

Detective Lyons -- Direct by Mr. Meadors

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1 A I did see them down on the scene.

2 Q Excuse me.

3 A I did see them at the scene. They were still being
4 held there at the scene by law enforcement. Some of our
5 patrol officers had them up to their car. I spoke with
6 them briefly, advised them that we would like to take them
7 to the station to get a detailed statement of the accounts
8 that they remember seeing that night.

9 Q And as a result of the conversation -- as a result of
10 your investigation and after talking with the McFaddens,
11 did this hat become a piece of evidence in your mind?

12 A It did. The hat was indicated to us as being worn by
13 the individual who shot Mr. McFadden -- I'm sorry, that
14 shot Mr. McKenzie.

15 Q That's now in through the statement that he gave,
16 correct?

17 A That is correct.

18 Q Do you remember -- do you remember who showed you that
19 hat?

20 A Mr. Antrell McFadden is the one who pointed the hat
21 out to me. Obviously, I mean, it was there in the road, so
22 it was kind of hard to miss. But he's the one that point
23 out, that's -- that's the hat that the guy who shot Main --
24 at that time he didn't know the gentleman's name.

25 Q He didn't know the person was?

- 1 A He didn't know the gentleman's name at that time. The
2 hat was on the guy who did the shooting.
- 3 Q And would you have collected the hat anyway?
- 4 A Yes, because it was within the crime scene.
- 5 Q Okay. Now, you put a BOLO out on a white 4-door, I
6 think, correct?
- 7 A Right.
- 8 Q What kind of car?
- 9 A Just looking for a white 4-door vehicle. We didn't
10 have a -- we were looking for a white 4-door, mid sized car
11 with tinted windows.
- 12 Q And did you have an occasion -- without saying what
13 they said -- this is already in -- to talk specifically
14 with Ms. McFadden and Mr. McFadden?
- 15 A That's correct.
- 16 Q Where?
- 17 A At the law enforcement center.
- 18 Q Okay. Time-wise, I mean, what time was this?
- 19 A I think the initial call came out just after 12:30
20 a.m. on the 18th. And therefore, they were at the station
21 probably within the hour of that, 1:30 -- somewhere around
22 there -- giving their statements after the scene had been
23 processed and we'd left the scene. So probably at least an
24 hour or so after initial contact on the scene they gave the
25 statements.

Detective Lyons — Direct by Mr. Meadors

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1 Q And 19, which is in evidence, whose signature is a
2 witness there?

3 A I'm pretty certain it's Jason Potteiger, Detective
4 Potteiger.

5 Q And you were also there, correct?

6 A I was -- I was not present for that statement. I was
7 present for the statement with Kayla McFadden.

8 Q Kayla. I handed you the wrong one. 18. Is that your
9 signature on State's 18 for I.D.?

10 A That would be correct.

11 Q Okay. Now, you took these statements, correct?

12 A Correct.

13 Q BOLO is out for a car?

14 A Right.

15 Q What happens next in the investigation? This is kind
16 of the way it was progressing, wasn't it?

17 A That's correct.

18 Q What we're doing now is the way you were doing it
19 then?

20 A That's right. After having gotten their statements,
21 we had shown Mr. Antrell McFadden some pictures on the
22 internet, trying to go through different cars on the
23 internet, white 4-door vehicle, possible Buick or
24 Oldsmobile as he thought it to be.

25 We were scrolling through the internet, came up with a

1 photograph that he felt was a close resemblance to the car
2 that he saw that night. And we printed off the picture of
3 the car that he thought he'd seen that night, just so we
4 would have a reference point, something to possibly start.
5 We knew white 4-door vehicle, but based on his choosing
6 this particular make and whatnot, now we may have something
7 more to add to the piece of the puzzle so to speak. We got
8 maybe a make, Oldsmobile or Buick now. So we've got
9 something else to add to that just white 4-door. Now we're
10 looking for maybe a Buick or an Oldsmobile.

11 Q And this is what you all were doing that morning, you
12 pulled something off the internet and say, does it look
13 Like this?

14 A That's right.

15 (Computer-generated picture marked for identification
16 as State's Exhibit No. 22.)

17 COURT REPORTER: State's 22.

18 MR. MEADORS: Without objection, Your Honor.

19 MR. KENT: No objection.

20 THE COURT: All right. State's 22 admitted without
21 objection.

22 (State's Exhibit No. 22 received in evidence.)

23 Q What happens next?

24 A After completing the interviews and after having
25 looked at the photograph with Mr. McFadden and Kayla

Detective Lyons — Direct by Mr. Meadors

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1 McFadden, myself and Detective Potteiger gave them a ride
2 home. While on the way, leaving the law enforcement
3 center, going down Broad Street, we observed a white
4 vehicle pass us right there at Willow Morand Apartments,
5 which are almost at the intersection of Broad and Salem,
6 close to Elmore Hill Funeral Home. To kind of give you a
7 reference point there -- where Willow Morand Apartments
8 are. A white 4-door vehicle, tinted windows passed us. It
9 caught our attention, and it caught their attention as
10 well. They made comments like, it looks like the vehicle.
11 That can be the vehicle, I'm not sure.

12 At the time myself and Detective Potteiger couldn't
13 stop the vehicle or even attempt to get out with it because
14 we had the 2 witnesses with us. So we called it in, asked
15 for a patrol officer to go by there, see if they could
16 identify who was driving the car.

17 We continued to take the 2 witnesses home. One of our
18 patrol officers went to Willow Morand Apartments and was
19 able to I.D. the vehicle. Came back to one Ida Mae Felder.
20 And Stacey Caughman was the driver, which is the
21 defendant's girl friend. And at that time we were able to
22 learn who all stayed there at the Willow Morand Apartments.

23 Q And who stayed at the Willow Morand Apartments?

24 A Stephon Robinson, and I believe Sada Isaac both stayed
25 there at Willow Morand Apartments. And Ms. Caughman and

Detective Lyons - Direct by Mr. Meadors

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1 Mr. Felder stayed at an address of , while
2 Ms. Ida Mae Felder lived out in the Spanish Gardens off
3 highway 261.

4 Q From your investigation, were you able to determine
5 who was driving this white car that went back to Ms. Ida
6 Mae Felder?

7 A Yes, the vehicle was registered to Ms. Ida Mae Felder,
8 but Ms. Caughman was the one that had been driving it when
9 we saw it pull in to Willow Morand Apartments.

10 Q Her relationship if any to the defendant is what?

11 A As far as I know, girl friend. Could be wife, I'm not
12 sure. But I know it to be girl friend or was in 2008 his
13 girl friend.

14 Q Now, again, in real time like we were back then, as a
15 result of this -- the car, the white car ---

16 A Right.

17 Q --- you mentioned Harry earlier?

18 A That is correct. After having seen that car at Willow
19 Morand Apartments that belonged to the Felder family, we
20 learned that -- when we got back to the station, we learned
21 of a burglary that had occurred at . The burglary
22 was actually called in to law enforcement 2 minutes prior
23 to the 911 call coming in for the shooting at .

24 Q We'll offer that later without objection. I'm just
25 not prepared to do it now, the 911 tape.

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1 A So now we have a vehicle that the McFaddens felt
2 matched the description. We thought ---

3 Q Or was similar?

4 A Was similar. We -- we felt it matched the description
5 based on the information that we'd been given. And then we
6 learned of a burglary at that was called in 2
7 minutes prior to the shooting on . So we began
8 looking at whether or not there was a connection between
9 the 2.

10 Q And that's what you do?

11 A Yes. We have to look at clues. Again, because at the
12 time of the shooting we didn't have anybody that said
13 Antrell Felder did it. At that time we didn't -- we didn't
14 have an eyewitness. We had pieces of evidence to use to
15 try to come up with a suspect in the case.

16 Q Who responded to to take the report of an
17 incident there?

18 A On the night of -- on the night -- the same night of
19 the shooting, Officer Gabriel Blackwell was the one that
20 responded that night.

21 Q He's here and now working in another department, is
22 that right?

23 A Right. He's employed with Clarendon County Sheriff's
24 Office.

25 Q And your testimony, there was a call about a break in

Detective Lyons - Direct by Mr. Meadors

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1 at ?

2 A That's correct.

3 Q And a call about a shooting at ?

4 A That's correct.

5 Q And was there another call back from after
6 that?

7 A There was. If memory serves me correctly, it's about
8 15 minutes goes by and the caller from calls back
9 in to 911 again.

10 MR. MEADORS: And I guess so I'm clear, then I'll move
11 on, Judge.

12 Q When you saw this car that was similar, you all didn't
13 go because they were in the car? I mean, why didn't you
14 just turn and go then?

15 A Exactly, because we had the 2 witnesses in the car.

16 Q So you called somebody else?

17 A Called somebody else to go.

18 Q To call to go to?

19 A Where we observed it pull in to, the Willow Morand
20 Apartments.

21 Q How far is Willow Morand Apartments from Harry Street?

22 A Less than a mile, I would say.

23 Q And how far is Harry from ?

24 A Half mile or three-quarter of a mile maybe.

25 Q Now, when you -- going back in time just a second, and

Detective Lyons -- Direct by Mr. Meadors

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1 I apologize. When you had Ms. McFadden and Mr. McFadden --
2 Kayla and Antrell, Trell, did you have an occasion to show
3 them line-ups?

4 A I did. It would have been on the 18th.

5 Q So it wasn't back in time. It was later on that day,
6 and I apologize.

7 A That evening, the -- if any clarity, the shooting
8 happened just after midnight from the 17th, going into the
9 morning of the 18th. They were shown the line-ups roughly
10 around 6:30 p.m. on the 18th. So some 18 hours later after
11 the shooting they were shown the line-ups.

12 Q And is this, what's entered as State's 20 the line up
13 you showed them?

14 A That is -- that is one of the line-ups that I showed.

15 Q Okay. And was Ms. McFadden able to pick out anybody?

16 A No, sir.

17 Q Okay. And was Mr. McFadden, Antrell, Trell McFadden
18 able to pick out anybody?

19 A No, he was not.

20 Q Did he say he recognized or thought he recognized some
21 folks in there?

22 A He did. No. 2 and No. 4 -- gave the nickname of No. 2
23 as Little Daddy. And No. 4 he knew him as Fat Roger.

24 Q Okay. And No. 2 is who?

25 A No. 2 is the defendant, Mr. Antrell Felder.

Detective Lyons -- Direct by Mr. Meadors

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1 Q And just strictly based on this case, was that his
2 nickname?

3 A No, sir. His nickname was Black.

4 Q So was Mr. McFadden able to pick out anybody that --
5 did he know who shot ---

6 A No, sir.

7 Q --- William McKenzie?

8 A No, sir, he did not.

9 Q Now, Willow Morand -- or where you found the car that
10 went back to Ms. Ida Mae Felder -- Felder, excuse me?

11 A Correct.

12 Q Were there individuals there that you and/or Potteiger
13 or somebody else took statements from?

14 A Yes, we ended up talking with a Stacey Caughman, Sada
15 Isaac, a Kim Tindall, and Stephon Robinson.

16 Q And as a result of that, through the investigation did
17 it show that those folks had been at Willow Morand?

18 A They had been at Willow Morand and then left, and went
19 to a -- went over to the burglary at along
20 with the defendant, Mr. Felder.

21 Q And that's pretty much through your investigation what
22 you determined. They were at this point at Willow Morand?

23 A Correct.

24 Q Then ended up at Harry?

25 A Right.

Detective Lyons — Direct by Mr. Meadors

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1 Q Why had they done that?

2 A They had received information from someone about a
3 break-in at their residence at .

4 Q And as a result of the information at , when
5 they got at , what if anything happened?

6 A I know the incident was reported to law enforcement.

7 As I said Officer Blackwell took the report. I believe

8 while there at , Mr. Felder left in the same white

9 Buick that law enforcement saw later that very same morning

10 -- that Detective Potteiger and I saw when taking Mr. and

11 Ms. McFadden home earlier.

12 Q By himself?

13 A By himself.

14 Q Okay. Detective, you got this information that -- a
15 burglary and shooting. Individuals at one house, now at
16 Harry. And the defendant leaving there, correct?

17 A Correct.

18 Q Was this item processed?

19 A It was. In the morning hours the item was processed
20 by Lieutenant Ken Nesbitt of the Sumter Police Department
21 and a fingerprint was recovered from that sticker, emblem
22 that we were just looking at in the other exhibit.

23 MR. MEADORS: That's 17 for the record. I apologize,
24 Judge. And the sticker that he just referred to, I believe
25 is, State's 21.

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1 A A fingerprint was developed from that emblem and
2 fingerprint was analyzed by our AFIS examiner, Marie Hodge.
3 And it was positively identified ---

4 MR. KENT: Objection, Your Honor.

5 THE COURT: Sustained.

6 Q As a result of that, what did you do?

7 A Based on the processing of the hat, a warrant was
8 obtained for Mr. Felder's arrest.

9 Q And did you go -- did you have an occasion to see Mr.
10 Felder?

11 A We did. During the daytime hours on the 18th, myself
12 and some of the other detectives, and Detective Potteiger,
13 went out to the Spanish Garden Apartments off Wedgefield
14 Highway, near 378, to Ida Mae Felder's residence in an
15 attempt to talk to -- locate Mr. Felder. We made contact
16 with some individuals there. An individual there
17 identified himself as Tavaras, which is Mr. Felder's
18 brother. We asked ---

19 Q Did this person say -- did you say, who are you?

20 A We did. We asked who he was. He introduced himself
21 as Tavaras, the defendant's brother. We asked if Antrell
22 was there. We were told he wasn't there. So we left.

23 It was later that ---

24 Q And help me out, Detective, please, and this jury.

25 Are we still on the 18th?

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- 1 A We are.
- 2 Q And what part of the day is it now?
- 3 A It's going -- it's after lunchtime. It's -- it's
- 4 during the afternoon hours that these are occurring. Just
- 5 by then we have also called back in -- Ms. Caughman and Ms.
- 6 Tindall and Ms. Isaac arrive to get additional statements
- 7 from them based on our having obtained the warrant for Mr.
- 8 Felder for the shooting of ---
- 9 Q Okay.
- 10 A --- Mr. McKenzie.
- 11 Q Were those the folks, I think you've already testified
- 12 were at Willow -- how do you pronounce it?
- 13 A Willow Morand.
- 14 Q Willow Morand. I apologize. They were there, then
- 15 went to Harry after they learned of a potential burglary?
- 16 A Right.
- 17 Q So you asked this person, you say, I'm looking for Mr.
- 18 Antrell Felder?
- 19 A Yes.
- 20 Q And they tell you they're who?
- 21 A The guy identifies himself as Tavaras, which is
- 22 Antrell Felder's brother.
- 23 Q Any doubt in your mind that's who they say they were?
- 24 A That's exactly what I remember him saying.
- 25 Q Okay. What happened after that?

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1 A As a result, we stayed there shortly, and left. Went
2 back. Through having spoken with the other folks that were
3 there at Willow Morand Apartments, it was determined that
4 the individual that we spoke to at Spanish Gardens was
5 actually Antrell Felder, and he'd given us his brother's
6 name, Tavaras. And the 2 look very, very similar to each
7 other. They could easily be passed off as one another.

8 Q And did you have an occasion to see Antrell Felder
9 after you saw him at the house and you said he said he was
10 his brother?

11 A Yes.

12 Q And was that the same person that had told you he was
13 his brother?

14 A That's correct.

15 Q And did you then identify him as Antrell?

16 A That's correct.

17 Q When you all left, you really thought you'd talked
18 with the brother, you didn't know, correct?

19 A That is correct. We actually went back again and
20 attempt to serve the warrant and Tavaras was actually there
21 -- the real Tavaras at the time. And, of course, he
22 provided us with his I.D. on the second attempt to locate
23 Mr. Felder, which we were unsuccessful on that attempt as
24 well to locate him.

25 Q When was Mr. Felder arrested?

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- 1 A Maybe the 19th or shortly thereafter. I have to see
2 his warrant to see when it was served on him.
- 3 Q And were you present when his rights were read to him?
- 4 A No, I was not.
- 5 Q Who was?
- 6 A Detective Potteiger and Deputy Chief Holston.
- 7 Q So you were not part of that process?
- 8 A No, I was not a part of his interview. No, sir.
- 9 Q As a result of the investigation, were you able to
10 determine that the victim just knew the defendant?
- 11 A That is correct.
- 12 MR. MEADORS: Beg The Court's indulgence, I'm
13 almost ---
- 14 THE COURT: Yes, sir.
- 15 (Pause.)
- 16 (Photo line-up with 6 pictures marked for
17 identification as State's Exhibit No. 23.)
- 18 (3 small color photos marked for identification as
19 State's Exhibit Nos. 24, 25, and 26.)
- 20 MR. MEADORS: Your Honor, 24, 25, 26, and then 22
21 without objection.
- 22 THE COURT: 23, isn't it? 22 is already admitted.
- 23 MR. MEADORS: I read it wrong. You're right. It's
24 23, 24, 25, and 26.
- 25 THE COURT: Admitted without objection, Mr. Kent?

- 1 MR. KENT: Without objection, Your Honor.
- 2 THE COURT: All right.
- 3 (State's Exhibit Nos. 23, 24, 25, and 26 received in
4 evidence.)
- 5 MR. MEADORS: If I could approach the witness?
- 6 THE COURT: Yes, sir.
- 7 Q I'm showing you what's State's 23. You mentioned
8 another line-up?
- 9 A I did.
- 10 Q Tell me about that?
- 11 A This is actually the line-up that I showed Ms.
12 McFadden, Kayla McFadden. It has the defendant's
13 photograph in it. It's just simply in a different position
14 than the one that I showed Mr. Antrell McFadden.
- 15 Q And she was not able to pick out anybody?
- 16 A Correct.
- 17 Q You got a description of the white car, traced a white
18 car back to Ida Mae Felder?
- 19 A Correct.
- 20 Q I'm showing you what's State's 11, 12, 13, 15, 16.
21 What's that a picture of?
- 22 A This is a picture of the white vehicle that belonged
23 to Ms. Ida Mae Felder. It is actually inside our impound
24 lot at the time is the reason for the containers being
25 behind it.

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1 This is actually the pictures of the vehicle that were
2 taken prior to a search being executed on the vehicle.
3 It's actually a Buick Century.

4 Q And 24, 25, and 26, are those the same?

5 A They are. These are pictures of the same vehicle.
6 This pictures shows the doors open with some film or tacky
7 substance on the windows of the vehicle, as well as this
8 one shows the door open with the window and some tacky
9 film-like substance on the windows. This is just another
10 overall of the vehicle.

11 Q You say a tacky window-like (sic) substance. Based on
12 your experience in law enforcement, do you know what that
13 is?

14 A To me, based on my experience, would be as if the tint
15 had been removed from the window, leaving behind the tacky
16 portion. When you put tint on, it's almost put on with
17 like a -- like a glue-type substance. And when you remove
18 it, it will leave a tacky film, unless you take a proper
19 cleaner to it, to get it off.

20 Q When did law enforcement get this car that's depicted
21 -- Ms. Felder's car? When did you all confiscate this?

22 A That was taken in late on the 18th, during the
23 afternoon hours on the 18th.

24 Q I believe you said -- if I'm wrong, I apologize to
25 everybody. The officer that responded to the burglary at

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- 1 was Blackwell?
- 2 A That is correct.
- 3 Q Of course, he took an incident report, correct?
- 4 A That would be correct.
- 5 MR. MEADORS: Beg The Court's indulgence.
- 6 THE COURT: Yes, sir.
- 7 (Pause.)
- 8 (Affidavit and Notification of Sale of Motor Vehicle
- 9 marked for identification as State's Exhibit No. 27.)
- 10 (Camera marked for identification as State's Exhibit
- 11 No. 28.)
- 12 MR. MEADORS: Your Honor, State's 27 is without
- 13 objection.
- 14 THE COURT: All right.
- 15 (State's Exhibit No. 27 received in evidence.)
- 16 Q And just for the record, State's 28, do you recognize
- 17 this without saying anything else?
- 18 A Yes, I do.
- 19 Q Where was that collected from?
- 20 A This is collected from the victim, Mr. William
- 21 McKenzie.
- 22 Q Who collected that?
- 23 A It was collected at the hospital by Detective Curtis
- 24 Hodge.
- 25 MR. MEADORS: Your Honor, we'd offer this at this

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1 time. If nothing else, for I.D. We'd offer it in
2 evidence, but ---

3 THE COURT: Any objection?

4 MR. KENT: No objection.

5 THE COURT: All right. It will be admitted into
6 evidence as State's No. 28 without objection.

7 (State's Exhibit No. 28 received in evidence.)

8 Q 27 is what?

9 A That is a sale -- Affidavit of Sale of Motor Vehicle,
10 sold to one Ida Mae Felder. This Bill of Sale was in the
11 Buick Century that's photographed here.

12 Q Is that to show that Ms. Felder had this vehicle in
13 her name?

14 A That is correct.

15 Q And what's now in as State's 28, you said that came
16 off the victim?

17 A It did.

18 Q And do you know what this is?

19 A It is a -- it is a camera-slash video camera.

20 Q And in the investigation -- do you know what was on
21 here?

22 A I do. There was a video contained on that camera of a
23 child's birthday party at what appeared to be the North
24 Hope Center playground there off Main Street area. And
25 what's in that video was video of the defendant's girl

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1 friend, Stacey Caughman, and family at this video -- at
2 this birthday party.

3 Q The defendant's girl friend, Stacey Caughman, a video
4 of her -- somebody's birthday?

5 A Yes.

6 Q This was in the possession of the victim?

7 A That's correct.

8 MR. MEADORS: Judge, that's all I have.

9 THE COURT: Cross examination, Mr. Kent.

10 MR. KENT: Thank you, Judge. I have a matter of law
11 that we need to discuss.

12 THE COURT: A matter of law?

13 MR. KENT: A matter of law, yes.

14 THE COURT: All right. Ladies and gentlemen, I'm
15 going to ask you to go to your jury room for just a moment
16 while we take up this matter that needs to be discussed
17 with The Court. Please do not discuss this case among
18 yourselves.

19 (The jury retires to the jury room at 2:48 p.m.)

20 THE COURT: All right, Mr. Kent. What's up?

21 MR. KENT: Thank you, Your Honor. When we met with
22 you on Monday on this case, I informed you and I was
23 informed during the motions hearing on this same case that
24 I was interested in some information on the victim. I
25 specifically brought up the fact that the victim actually

1 had 2 pending burglaries. I had mentioned to you that I
2 had asked the state several times for information on the
3 pending burglary that he was actually wanted on, on NCIC.

4 As of this time I still have yet to be provided that
5 information. I think in front of you the solicitor told
6 you that they were going to provide me with that
7 information.

8 The reason I'm bringing this up now, Your Honor, and
9 in an abundance of caution I didn't simply want to ask
10 about this information while this officer was on the stand.
11 I thought that would have been impermissible without
12 bringing it up to The Court in advance.

13 Judge, my rationale -- I have some case law I could
14 present to you if -- my rationale is very simple. In the
15 state's opening statement as well as through this witness,
16 they have mentioned motive. They have mentioned a motive
17 for murder in this case, burglary. They said the burglary
18 -- this person burglarized this home. Mr. Felder found out
19 about this and he killed this individual.

20 Your Honor, I think the third-party guilt takes on a
21 -- well, I say, the third-party guilt case law, of course,
22 would not permit me to simply say there's somebody out
23 there who possibly could have done. What a third-party
24 guilt case law does allow me to do is try to impeach the
25 investigation, allows me cross examination of the

1 investigation, meaning, are there pending burglaries -- are
2 there outstanding burglaries, is there someone else? Your
3 motivation -- if the state's reason for the motive of this
4 murder is burglary, I should have the right to say, are
5 there any other people with motive for this murder that you
6 investigated, how come you didn't investigate any other
7 motives for murder?

8 You're saying that the motive for murder is burglary,
9 and there are 2 pending burglaries against the victim in
10 this case. Did you investigate those? Did you check and
11 see if those individuals have white cars? Did you check
12 and see if those individuals were in the area at that time?
13 It's not giving a third-party guilt, what it is is
14 impeaching the investigation.

15 I've been asking about this burglary information for
16 quite some time. I wasn't going to simply spring it on the
17 officer.

18 THE COURT: What you want to ask him about is 2
19 pending burglaries as to the victim?

20 MR. KENT: That's correct, Your Honor, yes, sir.

21 THE COURT: And what is your position, Mr. Meadors?

22 MR. MEADORS: I'm not clear about the third-party
23 guilt. He said he wants to investigate -- the victim
24 apparently had 2 prior charges?

25 THE COURT: Yes. He wants to ask this witness is he

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1 aware of the fact -- as I see it is what you want to ask
2 him. Let's let him ask it and proffer it, then we'll know
3 what we're arguing about. Go ahead.

4 CROSS EXAMINATION BY MR. KENT:

5 Q Officer, my understanding of your testimony, the
6 motive for this murder is burglary?

7 A That would -- that would be correct, yes.

8 Q And that Mr. Felder developed a motive after his home
9 was burglarized and broken into to kill the victim, Mr.
10 McKenzie; is that correct?

11 A That would be correct.

12 Q You are aware that the victim, William McKenzie, had 2
13 pending burglaries in Sumter, South Carolina?

14 THE COURT: All right. Wait a minute. Wait a minute.
15 Is this what you object to?

16 MR. MEADORS: Yes.

17 THE COURT: All right. Wait a minute. Is that what
18 you object to?

19 MR. MEADORS: Yes, sir.

20 THE COURT: All right.

21 MR. MEADORS: They're not 2 pending. They're not 2
22 pending.

23 MR. KENT: Well ---

24 THE COURT: Well, wait a minute, Counsel. You all
25 talk to me and let me handle this, and you all quit arguing

1 back and forth between yourselves.

2 Do you object to the witness being asked this
3 question?

4 MR. MEADORS: Yes, sir, because according to my
5 investigation ---

6 THE COURT: Well, you'll get a chance to clear it up.

7 MR. MEADORS: Yes, sir.

8 THE COURT: All right. Go ahead, Mr. Kent.

9 MR. KENT: Thank you.

10 Q If you were aware of 2 pending burglaries that this
11 individual had -- well, first of all, you're the case agent
12 on this case; is that correct?

13 A I am the -- yes, I am the second case agent.

14 Detective Potteiger was the original case agent. He left.
15 I took over as the case agent.

16 Q And you're charged with the responsibility for
17 everything inside of the file; is that correct?

18 A Yes.

19 Q Inside of the file is an NCIC form on the victim,
20 William McKenzie, that was turned over to the defense?

21 A Yes, we ran a criminal history on him.

22 Q And on the criminal history -- and I can give it to
23 you. But on the criminal history, as an officer of the
24 court, it indicates that there are 2 pending burglaries
25 that he was actually wanted for at the time of the

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1 shooting?

2 A I'll have to take your word for it. If I can see
3 it, then I would be glad to interpret the NCIC. But I
4 don't ---

5 Q We didn't investigate any other burglaries for
6 motivation for murder of William McKenzie?

7 A No, because we had the hat there at the scene that was
8 told to us that the shooter was wearing that we had gotten
9 the defendant's fingerprint off of.

10 THE COURT: Getting far afield. The only thing we're
11 talking about here is whether or not the evidence of
12 pending burglaries against the victim at the time of this
13 incident is admissible.

14 Now, as I understand it what your questions are
15 directed to is that -- you're asking this witness if he
16 knew that there were pending burglaries?

17 He said he didn't, but he could look at the file.

18 And I think you all could probably stipulate that
19 there were pending burglaries.

20 Now, the question is whether that is admissible or
21 not. And what's your position as to whether it's
22 admissible, Mr. Meadors?

23 MR. MEADORS: Your Honor, and I'm not trying to be
24 difficult. But they weren't pending. They were warrants
25 that just had never been served -- I'm just now finding

1 out. So he never was arrested for it. And I think that
2 was the confusion.

3 THE COURT: Well, that makes them pending burglaries
4 though, doesn't it? I mean, whether he's arrested or not,
5 they ---

6 MR. MEADORS: Yes, sir. Be that as it may, Judge, I
7 think ---

8 THE COURT: All right. We can clarify the intricacies
9 of whether it's an arrest or whether it's just a pending
10 burglary or all that. The question is did the defendant --
11 or not the defendant. Did the witness -- excuse me, again.
12 Did the victim have burglary charges outstanding against
13 him, whether they were pending, whether he'd been arrested,
14 or whether he hadn't; that's the sole issue.

15 And I think, you know, we can argue about the
16 semantics of that all afternoon. But the question is he
17 did have some burglary -- the fact of the matter is, isn't
18 it, Mr. Meadors, that he did have some burglary charges
19 against him at the time of this incident?

20 MR. MEADORS: Apparently so, yes, sir.

21 THE COURT: Isn't that an established fact?

22 MR. MEADORS: Yes, sir.

23 THE COURT: All right. Is that or is that in your
24 view not admissible or admissible?

25 MR. MEADORS: Your Honor, what he's arguing about --

1 he's talking about third-party guilt, did they go look at
2 burglaries that he did to see if somebody else could have
3 done this. I don't understand that. I mean ---

4 THE COURT: What's your purpose of offering it, Mr.
5 Kent?

6 MR. KENT: And, Judge, maybe I said it incorrectly. I
7 was saying I'm not offering it for third-party guilt. What
8 I'm trying to offer ---

9 THE COURT: That's what I thought you said.

10 MR. KENT: Yes. I'm not offering it for third-party,
11 saying somebody else did it. What I'm saying is, did you
12 investigate? If you are saying that the motivation for
13 murder is burglary and the victim has 2 prior burglaries
14 pending right now, do we look in to these at all. The
15 officer said, no, we didn't look in to these at all.

16 Why didn't you look at them? He can answer however is
17 necessary, but I should have the right to get in to the
18 fact you didn't fully investigate. You stopped your
19 investigation right here right then and right there. But I
20 have the right to say, why didn't you investigate more
21 further to go with my -- they didn't investigate this case
22 in full detail.

23 THE COURT: What is the prior burglaries got to do
24 with the investigation of this case?

25 MR. KENT: Well, prior burglaries -- when the state

1 gets up and they say the motivation for murder is burglary,
2 they're saying someone committed a burglary; therefore,
3 somebody's motivated to kill them. And this victim
4 actually currently has 2 pending burglaries, and someone
5 else could have motivation. They should have a duty to
6 look in to those also.

7 THE COURT: Wait a minute. I don't follow you.
8 Burglary -- what does the state -- what do you say the
9 state says is the motivation for this shooting?

10 MR. KENT: The state in their opening, through this
11 witness ---

12 THE COURT: Well, opening statements are not evidence.
13 But what do you tell me that you say the motive -- the
14 motivation -- there doesn't have to be a motive, but what's
15 the motive for the shooting in your view of the state's
16 view?

17 MR. KENT: The burglary at

18 THE COURT: All right. What's that got to do with the
19 shooting at ?

20 MR. KENT: Well, Judge, that's half of the point. I
21 mean, one of the reasons why I specifically asked on Monday
22 -- I've asked for 2 years for information about this
23 victim.

24 THE COURT: Don't hand me that. Just tell me. Just
25 tell me ---

1 MR. KENT: Judge, it is important and it is important
2 for the record; that's why I've been asking about it so I
3 can look in to it in full detail and find out exactly if
4 there's something related to this case. The reason I have
5 a right to ask about these burglaries to this witness is,
6 did you investigate any other possible leads?

7 No, we didn't investigate any other leads.

8 I would like to get in to that to impeach the
9 investigation. This is not a full and thorough
10 investigation. If you or the state is saying that burglary
11 is motivation for murder and this person has 2 other
12 burglaries -- which means, there could be other people out
13 there with motivation to commit this murder, I should have
14 a right to get into that.

15 No convictions. I understand he's wanted currently
16 for the 2 burglaries. And they're saying, well, somebody
17 will kill somebody over a burglary, and he has 2 pending
18 ones out there that we're not even going to look in to --
19 look in to the people that are involved in them, look in to
20 see if these people have white cars, if they had
21 opportunity to commit this murder. We're not ---

22 THE COURT: You keep saying these people. I don't
23 know who you're talking about, Mr. Kent.

24 MR. KENT: Judge, and that's my concern. I've been
25 asking for this information for 2 years, and I have to sit

1 here and say these people and get in trouble because I
2 don't have the information that I've been requesting.

3 THE COURT: Well, I fail to see -- and you still
4 haven't convinced me of the relevance between the victim
5 having 2 burglary charges against him and ---

6 MR. KENT: Judge, it's almost -- I'm sorry. I almost
7 interrupted you. I apologize.

8 THE COURT: Well, the victim resided where? ?

9 MR. KENT: They have no residence on him.

10 THE COURT: Okay. No residence.

11 MR. KENT: The victim has no residence.

12 THE COURT: All right. Then what is the alleged
13 motive, burglary of what?

14 MR. KENT: The state's motivation for burglary is the
15 burglary of our residence -- is that what you're asking,
16 Judge?

17 THE COURT: Whose residence?

18 MR. KENT: They're saying that the victim burglarized
19 our residence -- Antrell Felder's residence at
20 Street. He burglarized it. Because he burglarized the
21 residence, they're saying that Mr. Felder developed a
22 motive to kill somebody because of this burglary; that's
23 the state's case.

24 THE COURT: All right. Mr. Meadors, you are saying
25 then that your theory of the case is that Mr. Felder's

1 residence -- the defendant's residence in this case was
2 burglarized?

3 MR. MEADORS: Yes, sir.

4 THE COURT: And that residence is located where?

5 MR. MEADORS: .

6 THE COURT: . All right. And your
7 theory is that he shot somebody in retaliation for that
8 burglary?

9 MR. MEADORS: Yes, sir, for this specific burglary.

10 THE COURT: Okay.

11 MR. MEADORS: I think what he's offering, in all due
12 respect, is classic third-party guilt. I think what he's
13 now saying, well law enforcement should have gone back and
14 looked at other burglaries he was charged with to see if
15 those -- I guess I'm helping him with his argument, but to
16 see if those persons, victims of those burglaries, could
17 have done this murder.

18 And, Judge, I think that's just cast -- that's not
19 inconsistent with ---

20 THE COURT: Well, it does seem like it meets the -- it
21 does seem like the third-party guilt. It's not
22 inconsistent with -- which is a requirement of third-party
23 guilt.

24 Now, tell me why you think it's not third-party guilt
25 and what you're trying to do, Mr. Kent?

1 MR. KENT: Thank you, Judge. And that's why I first
2 said to you, it's not third-party guilt. Third-party
3 guilt, of course, we've said it correctly, State versus
4 Saltz, State versus Beckham (phonetic), all those
5 specifically talk about the third-party guilt.

6 If I was simply to get up here and offer and say, tell
7 me about someone else involved in the burglary?

8 And they say, well, there's Johnny so-and-so. And I
9 started pointing the finger at Johnny so-and-so, I can't do
10 that and I'm not intending on doing that.

11 If the state did not bring up a motive at all, which
12 they don't have to -- if they do not bring up motive and
13 did not open up the door that the victim possibly committed
14 a burglary, then I couldn't get in to this at all either.
15 But the second they open the door, they start talking about
16 the motivation for this is burglary -- what I'm allowed to
17 do and the case law seem to say that I can impeach -- if I
18 can't get into third-party guilt, which I can't, I can use
19 it for other purposes, such as impeachment, to allow me to
20 confront the witness on the stand.

21 What I'd be using it for is to impeach the
22 investigation.

23 THE COURT: So what you're trying to do is go in the
24 back door what you can't go in the front door with?

25 MR. KENT: Judge, I have no desire to get in to the

1 fact that -- we can limit my question. I have no desire to
2 get in to the fact that, okay, what is -- if you want to
3 limit me, saying I can't talk about this person, this
4 person, or this person, I can limit it so far as did you
5 investigate any further, any of these prior burglaries?

6 No, I did not. We developed this suspect and we
7 stopped here; that goes to my invest -- that goes to my
8 defense that they did not fully investigate this case;
9 that's our defense. Did not fully investigate. How do we
10 know? You're saying the motivation is burglary, there's 2
11 pending burglaries out there this officer didn't even know
12 about, didn't even look in to it.

13 THE COURT: All right. So all you want to ask is were
14 there 2 pending burglaries against this victim? Yes or no.

15 MR. KENT: Yes or no.

16 THE COURT: Did you investigate those burglaries? No.

17 MR. KENT: No.

18 THE COURT: End of the matter?

19 MR. KENT: I could stop right there, Judge.

20 THE COURT: What's your problem with that?

21 MR. MEADORS: I don't think it's relevant, Judge. I
22 don't know, how does that impeach the officer?

23 MR. KENT: He ---

24 MR. MEADORS: I mean, he knows a specific burglary,
25 which we now have in evidence the camera which came from

1 there that shows family members at a birthday on the
2 victim's body.

3 Well, I don't see how those are relevant. I think
4 it's prejudicial to the state. I mean, 2 other burglaries
5 which I understand they're pending. We had -- we don't
6 have the file on -- I'm not saying to argue that. But I
7 don't know if he had any knowledge of it to investigate. I
8 don't see how he can be impeached. We have a burglary at
9 Harry, evidence from Harry on the victim.

10 I think just throwing out right there, I think they're
11 just trying to show this is a bad victim, he has a couple
12 other burglaries out there.

13 I don't know what else they're trying to offer it for,
14 because it's clearly not inconsistent with the defendant's
15 guilt.

16 MR. CHANDLER: Your Honor, to do otherwise would ---

17 THE COURT: All right. Just one lawyer, Mr. Chandler.

18 MR. KENT: Judge, did you want to hear more from me or
19 are you ready ---

20 THE COURT: Sir?

21 MR. KENT: Do you want to hear any more?

22 THE COURT: Not right now.

23 MR. KENT: Yes, sir, Judge.

24 (Pause.)

25 MR. MEADORS: Judge, at the appropriate time, one

1 other matter. I've just been informed they were county
2 burglaries. I don't think this officer ---

3 THE COURT: What?

4 MR. MEADORS: They were county cases, so I don't think
5 this officer had any knowledge of them.

6 THE COURT: Well, that's not the issue right now. The
7 question is if he has any knowledge about it or if he did
8 anything. The question is whether or not those 2 questions
9 are admissible. Is he aware that there were pending
10 burglaries against the victim? Did you do any
11 investigation of those; that's all he wants to ask.

12 (Pause.)

13 MR. KENT: Your Honor, I have some cases. Do you want
14 me to hand those up?

15 THE COURT: Yes, if you've got some law on it.

16 DETECTIVE LYONS: Your Honor, may I stand up and
17 stretch?

18 THE COURT: You can step down.

19 (The witness leaves the witness stand.)

20 THE COURT: All right. Counsel, I'm going to take
21 about 5, 10 minutes and look at this. I understand what
22 you want to show is that the state -- the defense desires
23 to show that there were pending or outstanding burglary
24 charges, 2 outstanding burglary charges, whether arrested
25 or not, against the victim, and ask that question and then

1 ask law enforcement whether or not they investigated those
2 burglary charges, not from the viewpoint of showing third-
3 party guilt, but to impeach the investigation of law
4 enforcement.

5 The state contends that the purpose of offering those
6 is simply to show that the victim was a bad person.

7 MR. MEADORS: Relevancy and then improper character
8 evidence, Your Honor.

9 THE COURT: I understand.

10 MR. MEADORS: And thirdly, and finally, this officer
11 -- I don't think he had knowledge of it.

12 THE COURT: All right. I'm going to look at the case.
13 Then I will do a little bit of research. Give me 15 -- 10,
14 15 minutes.

15 (A recess was taken.)

16 (The witness returns to the witness stand.)

17 THE COURT: All right. Back on the record with regard
18 to the matter of The State versus -- bring back the
19 defendant. Okay.

20 (Pause.)

21 THE COURT: We're back on the record with regard to
22 the matter of The State versus Antrell Felder. Mr. Felder
23 is present in the courtroom with his attorneys, Mr.
24 Chandler and Mr. Kent. The state is present and
25 represented by Mr. Meadors.

1 The issue before The Court is whether the defendant
2 through his counsel will be allowed to ask Mr. Lyons, the
3 investigating officer in this case and the case officer in
4 this case 1 or 2 or 3 questions regarding the outstanding
5 burglaries that the defendant (sic) had at the time of this
6 incident.

7 One of the questions he wanted to ask him was, are you
8 aware of the outstanding burglaries against the victim?

9 I think Mr. Lyons' original answer was, no. But
10 assuming he establishes that he reviewed the NCIC that was
11 in the file, that it showed that there were some burglary
12 -- 2 burglary charges against the victim, the next question
13 would be, did you do any investigation of them?

14 Those were the things that Mr. Kent wished to ask this
15 witness.

16 My understanding is that the purpose of this is not to
17 establish third-party guilt, which Mr. Kent and the defense
18 concedes they have no right to do, but to impeach the
19 investigatory work on the part of law enforcement. And
20 that the purpose of it is for impeachment purposes.

21 The first thing that strikes me about it, Counsel, is
22 that I'm not sure why you want to do this, because I think
23 it helps the state show motive. Which, if they claim is
24 burglary, and as I understand it, the state does contend
25 that is their theory -- but at the same time, the state

1 does not have to prove motive. They can show motive, but
2 it is not something that they have to prove. But I'm not
3 sure where it helps the defense to show that the victim had
4 prior burglaries, that this defendant thought his house had
5 been burglarized so he shot him, and the fact that he had
6 prior burglaries -- that is a double-edge sword it seems
7 like to me. It might buttress the state's motive because
8 the victim was shot in retaliation for the shooter thinking
9 the victim had burglarized the defendant's house.

10 Be that as it may, I have reviewed the cases that were
11 submitted to The Court. One being Fosick (phonetic) versus
12 State 333 SC 66, 508 SE 2nd 32; State versus Beckham or
13 Beckham versus The State 334 SC 302, 513 SE 2nd 606, and
14 also Saltz, S-a-l-t-z, versus The State 346 SC 114, 551 SE
15 2nd 240, as well as the USC Supreme Court case of Delaware
16 versus Vanarsdale.

17 The Court has also studied and looked at Rule 404 (A)
18 regarding character evidence or 404 character evidence in
19 general and 404 (A)(2), which deals with character evidence
20 of the victim. That rule provides that evidence of a
21 pertinent trait of character of the victim of the crime
22 offered by an accused or for the prosecution to rebut the
23 same or evidence of a character trait for peacefulness of
24 the victim offered by the prosecution in a homicide case to
25 rebut evidence that the victim was the first aggressor.

1 After having studied the matter and thought about it,
2 I first of all do not find that the testimony is relevant
3 under 403 -- 401, 402, and 403, is not relevant to the
4 issue to show anything in connection with the shooting. It
5 simply would be from a standpoint of supposed motive, but I
6 don't see where the burglary has anything to do with the
7 actual shooting.

8 Neither do I think that under 404 (A)(2) that it is
9 probative of anything to show action in conformity
10 therewith.

11 And, third, I'm not sure this victim (sic) has any
12 knowledge of it.

13 After having -- seemed like to me the sole purpose of
14 the prejudicial effect outweighs the probative value --
15 substantially outweighs the probative value of the
16 impeachment because what it would tend to do is to simply
17 show that the victim was a bad person. And even further
18 than that, that it may be for the purpose of showing third-
19 party guilt, which I just don't think is appropriate in
20 this case, and I don't think it's an appropriate
21 questioning for impeachment purposes, especially just to
22 show that the impeachment was not with regard to any
23 improper testimony on the part of the witness in this case,
24 but simply to show that they didn't go as far as the
25 defense thinks that they should have in the investigation.

1 The objection to the testimony by the state is
2 sustained.

3 MR. KENT: Thank you.

4 THE COURT: Okay. All right. Ready to go forward on
5 cross examination, Mr. Kent?

6 MR. KENT: I am, Judge.

7 THE COURT: All right. Bring the jury in.

8 (The jury returns to the courtroom at 3:32 p.m.)

9 BAILIFF: Your Honor, we have all the jurors present
10 in the courtroom.

11 THE COURT: All right. Thank you, ladies and
12 gentlemen. And thank you for your patience. There was a
13 matter of law, that was a serious matter that we had to
14 address. It took us a little bit of time to take care of
15 that, but we have taken care of that. We're now ready to
16 go forward.

17 You may cross examine, Mr. Kent.

18 MR. KENT: Thank you.

19 CROSS EXAMINATION BY MR. KENT:

20 Q Detective Lyons?

21 A Yes, sir.

22 Q Make sure I go through some of your qualifications a
23 little bit. I think the state talked about the fact that
24 you're trained at SLED, the State Law Enforcement Division
25 when you were originally trained?

Detective Lyons - Cross by Mr. Kent

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1 A Trained at the South Carolina Criminal Justice
2 Academy.

3 Q When they trained you at the Criminal Justice Academy,
4 they go over a bunch of stuff with you, don't they? They
5 go over taking statements?

6 A They go over a variety of different things, yes.

7 Q Taking statements, taking line-ups, processing crime
8 scenes -- they go over a bunch of stuff to make sure we are
9 effective police officers?

10 A Correct.

11 Q And they do continuing education to make sure year
12 after year that you don't do it 30 years ago, but we keep
13 going year after year after year so you're good at what you
14 do. Is that safe to assume?

15 A Correct.

16 Q And so every year they go back over this stuff -- over
17 and over again, to make sure everything we do is correct
18 and we're not doing anything incorrect?

19 A That would be fair to say, yes.

20 Q One of the major reasons they go over things like
21 taking witness statements. Witness statements are very
22 important, aren't they?

23 A They can be, yes.

24 Q They're almost as if they're a snapshot of time.

25 Would you agree with that?

- 1 A Yes.
- 2 Q And a witness statement -- I mean, the easiest way to
- 3 remember is witnesses forget stuff?
- 4 A Right.
- 5 Q And officers forget stuff?
- 6 A Yes.
- 7 Q And so that's why we try to write down as much of this
- 8 stuff as humanly possible so that we can have detailed
- 9 notes about everything that happened -- I guess in this
- 10 situation -- 4 years ago -- 3 or 4 years ago?
- 11 A Yes.
- 12 Q I want to start specifically -- and I might jump on it
- 13 a little bit. But I want to start initially where I think
- 14 you indicated that you and some other officers went to
- 15 Spanish Gardens Apartments or something of that nature to
- 16 look for Antrell Felder? Did I say the name of the place
- 17 you all went correctly? I might have said it wrong.
- 18 A Spanish Gardens, yes.
- 19 Q Spanish Gardens. So you went to Spanish Gardens.
- 20 There wasn't an outstanding warrant for him at that time,
- 21 was there?
- 22 A I do not believe so, not at that time.
- 23 Q So there wasn't an outstanding warrant. You go to the
- 24 house. You knock on the door. Someone answered the door?
- 25 A Yes.

Detective Lyons - Cross by Mr. Kent

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- 1 Q Somebody answered the door and you said, what's your
2 name? Was it you who asked the person's name?
- 3 A I don't remember if it was me or not. I was there.
- 4 Q You don't remember. You don't have notes on that?
- 5 A Right.
- 6 Q So somebody asked him the name. And whoever this
7 person at the door gives you the name of Something Felder
8 -- Tavaras Felder?
- 9 A Tavaras.
- 10 Q And according to you, that's not him, that's not
11 Tavaras Felder?
- 12 A That is correct.
- 13 Q Did you ask for an identification?
- 14 A No, we did not.
- 15 Q Did you take a picture of the person at the door?
- 16 A No, we did not.
- 17 Q Did you tell the person at the door there's an
18 outstanding warrant?
- 19 A No, we did not. We did not have a warrant at that
20 time.
- 21 Q You didn't have a warrant for him. You actually just
22 turned around and left, correct?
- 23 A Yes.
- 24 Q Okay. I think you actually mention that Tavaras
25 Felder and Antrell Felder look very similar?

- 1 A They do.
- 2 Q Could be confused with each other?
- 3 A I don't know if you can say they can be confused.
- 4 They look similar, but easily recognizable.
- 5 Q You talked to Tavaras Felder at a later point in time.
- 6 Did you get a statement from him -- anything written down,
- 7 anything that can show that says that wasn't me you talked
- 8 to a couple hours ago or a day ago?
- 9 A In regards to Tavaras?
- 10 Q Yes.
- 11 A No. When we went back the second time to look for
- 12 Antrell again, we did speak with Tavaras. He did provide
- 13 us with his I.D. ---
- 14 Q Did he say ---
- 15 MR. MEADORS: Let him finish. I don't think he was
- 16 finished.
- 17 THE COURT: Allow him to finish his answer please.
- 18 MR. KENT: Okay.
- 19 THE COURT: All right. Go ahead.
- 20 A Could you state it again, Mr. Kent?
- 21 Q No problem. When you talked to Tavaras, did he give
- 22 any information, did he give any written statement that I
- 23 wasn't the guy you talked to earlier; that was my brother.
- 24 Do you have anything to provide that to the jury?
- 25 A No. It wasn't the guy we talked to.

Detective Lyons - Cross by Mr. Kent

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1 Q Did you take a written statement from him?

2 A Why would I -- I didn't need to take a written
3 statement from him.

4 Q You ---

5 MR. MEADORS: Your Honor ---

6 THE COURT: Wait just a minute. Wait just a minute.
7 Let him finish.

8 Q Go ahead.

9 A No, we did not because Antrell Felder was the person
10 who opened the door, and now we went back the second time
11 and Tavaras is there. Didn't see the need to take a
12 statement when it was clearly evident that it was -- when
13 the real Tavaras was there, was not the same person who
14 answered the door the first time. The person that opened
15 the door the first time was Antrell Felder.

16 Q Clearly evident to you?

17 A Yes.

18 Q Take a picture of him?

19 A Of who? Of Antrell Felder?

20 Q Of Antrell to present to the jury to say these are 2
21 different people?

22 A No, I did not.

23 Q Did you get a statement from him as I asked you
24 before, saying I am not Antrell Felder, I did not answer
25 the door?

- 1 A No, we did not.
- 2 Q Did you talk to Antrell Felder and say, hey, why did
3 you give us a fake name?
- 4 A I did not interview him. Detective Potteiger did.
- 5 Q So the only thing you have to offer this jury -- we've
6 just talked about you've gone to SLED, we take testimony,
7 we take statements because things happen 4 years later --
8 the only thing we have to offer the jury is I'm pretty sure
9 it wasn't him?
- 10 A No. I'm sure it wasn't him. I didn't say pretty
11 sure. I said I'm sure it wasn't.
- 12 Q But you didn't arrest him the first time?
- 13 A We did not have a warrant for him the first time we
14 went.
- 15 Q So he really didn't do anything wrong, whoever this
16 person was. Also, lets get in to the burglary at
17 Street as you were talking about. Did you investigate the
18 burglary at .?
- 19 A No, sir.
- 20 Q But you're the case agent on this file?
- 21 A In regards to the homicide, not the burglary at
22 .
- 23 Q You agree you just offered testimony regarding the
24 burglary on .?
- 25 A Correct.

Detective Lyons - Cross by Mr. Kent

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- 1 Q So I can ask you questions about ---
- 2 A Yes.
- 3 Q --- the burglary at ?
- 4 A I'm familiar with the investigation at
- 5 .
- 6 Q And you're familiar with the investigation I've just
- 7 talked about, I just want to make sure ---
- 8 A Yes.
- 9 Q --- that I had properly asked my questions.
- 10 A Correct.
- 11 Q You indicated when testifying, do you remember the
- 12 exact time that that call came out? Do you remember when
- 13 the call came out?
- 14 A To ?
- 15 Q .
- 16 A If memory serves me correctly, it was 00:37.
- 17 Q 00:37?
- 18 A Yes.
- 19 Q And do you remember when the 911 call came out on the
- 20 murder?
- 21 A If memory serves me correctly, looking at the incident
- 22 report, the dispatch time was 00:38 or 39. I could look
- 23 back at the incident report, but it's 00:38 or 00:39.
- 24 Q So it was a minute -- you would agree it was a minute
- 25 or 2 between the 2 calls?

- 1 A Yes.
- 2 Q So it's a minute or 2 in between the 2 calls. I think
- 3 in your testimony earlier on direct from the state, you
- 4 indicated it was like a half mile away from
- 5 to the incident location that we're talking about?
- 6 A !?
- 7 Q To .?
- 8 A Yes.
- 9 Q It's about a half mile?
- 10 A Yes.
- 11 Q I know your testimony ---
- 12 A I said half or three-quarter of a mile. It's not very
- 13 far.
- 14 Q Did you drive it?
- 15 A No. But ---
- 16 Q You didn't drive it?
- 17 A Have I driven it?
- 18 Q Yes.
- 19 A No.
- 20 Q Do you know the distance of driving -- you offer this
- 21 jury how long it would take to get from one to the other?
- 22 A If I had to say it would be less than a minute in a
- 23 vehicle.
- 24 Q Okay.
- 25 A Less than a minute in a vehicle.

Detective Lyons - Cross by Mr. Kent

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1 Q Did you give me a guesstimate or did you not know? I
2 mean, if you don't know, I'm not going to try to push you.

3 A I would say it would be less than a minute, and that
4 would be it.

5 Q I want to talk about the line-ups. There's no doubt
6 on your direct testimony you showed a line-up to Willie
7 McKenzie (sic), correct? I mean, to Trell McFadden?

8 A That is correct.

9 Q You showed a line-up to Trell McFadden. You showed
10 the line-up to Trell McFadden -- before showing the line-up
11 he told you, I probably could identify the shooter if I saw
12 him again. That's actually in his statement, isn't it?

13 A I believe, yes, that's in his statement.

14 Q In his statement he tells you directly, I probably
15 could identify the guy who did it?

16 A In his statement -- again, I did not take his
17 statement. Detective Potteiger took it. But it is in his
18 statement that I -- that I can probably identify the
19 person.

20 Q Okay. But you showed him the line-up?

21 A I did show him the line-up.

22 Q You showed him a line-up and put it down -- the line-
23 up is in evidence -- and he identifies 2 people first. He
24 says, I think I know these 2 people?

25 A He said he thought he knew them.

- 1 Q He said, I know person No. 2 and person No. 4?
- 2 A Right.
- 3 Q He gave the person No. 2 the nickname of Little Daddy
- 4 if I'm not mistaken?
- 5 A That's correct.
- 6 Q And person No. 4 he came up with Fat Roger?
- 7 A Right.
- 8 Q But he said, I'm familiar with these 2 guys. We heard
- 9 his testimony. He said, I was familiar with these 2 guys?
- 10 A Right.
- 11 Q And he couldn't pick somebody out of the line-up who
- 12 was the shooter?
- 13 A He did not pick anybody out ---
- 14 Q He ---
- 15 THE COURT: Wait just a minute. Give him a chance to
- 16 finish, Mr. Kent.
- 17 A No one was picked from the line-up.
- 18 Q Did he say anything? Did you take any notes of what
- 19 he said afterwards? Did he say anything to you after he
- 20 couldn't pick anyone out?
- 21 A No. Other than -- other than No. 2 and No. 4.
- 22 Q And what happened then? Did you show him another
- 23 line-up or anything of that?
- 24 A No. He was only shown the first line-up.
- 25 Q So the witness -- and I think from the testimony, he

Detective Lyons - Cross by Mr. Kent

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1 was about 30 feet away when the shooting happened. Would
2 you agree that that was his testimony earlier?

3 A That was his testimony, yes.

4 Q He was about 30 feet away when the shooting happened.
5 He said I could probably pick the shooter out of the line-
6 up. He's shown the line-up with Mr. Felder in it.

7 Actually, Mr. Felder was person No. 2 who he called Fat
8 Roger -- Little Daddy?

9 A That's correct.

10 Q So he's in the line-up?

11 A Yes, he is.

12 Q And he couldn't pick him out?

13 A He did not pick anybody out of the line-up.

14 Q Generally when you do line-ups -- why don't you
15 explain to the jury the line-up procedure. I think it's
16 necessary so they understand how do officers come up with
17 line-ups. Please tell them?

18 A The line-up -- normally, we take information on an
19 individual we want to obtain a line-up, name, date of
20 birth, case number associated with. We send that
21 information to the State Law Enforcement Division, along
22 with a D.L. number if that individual has a D.L. number.
23 If not, we can provide a photo obtained from a variety of
24 different venues to get a photograph. We'll send that
25 information to the State Law Enforcement Division, and they

1 actually create the line-up for us.

2 There are 6 individuals shown on the line-up as you
3 saw here. They -- SLED puts them in order and assigns the
4 numbers. And then they're in no particular order or
5 number, and no particular way other than there's 6 spots,
6 there's got to be 6 numbers with 6 faces on it; that's how
7 they do it.

8 And ---

9 Q Go ahead.

10 A --- part of that process is much like part of the
11 process in which we explain the line-up to the individual.
12 Show them the line-up, tell them we've got a photo line-up
13 here we'd like for you to look at. You may or you may not
14 recognize anybody on this line-up. If you do, please mark
15 it if you feel they are a part of this investigation. And
16 then we'll take and show the line-up. Again, we tell them
17 the form is in no particular order. They're numbered 1
18 through 6. We show them the line-up and we ask them if
19 they recognize anybody in the line-up.

20 Q Is it rare for somebody to look at a line-up and say,
21 I know 2 people in this line-up? Does that happen often?

22 A It's happened before. And it just depends, again, on
23 how SLED formulates the line-up. I mean, it's not uncommon
24 to get line-ups for people that live in Sumter to have
25 folks from Sumter on the line-up. A lot of times the line-

Detective Lyons - Cross by Mr. Kent

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1 ups have folks on them that we have no clue where they are
2 in the state. So it's not uncommon, but I wouldn't say it
3 happens every time. So I couldn't give you a number on how
4 many times it has happened. But I do know that there has
5 been times when there have been multiple people on line-ups
6 that people have known.

7 Q Also talking specifically about the car, in the direct
8 examination they were showing you pictures of the vehicle,
9 of the car. Do you remember looking at these pictures when
10 he was talking to you about them?

11 A I do.

12 Q You indicated on one -- one of the pictures. You can
13 look through them. I don't know which one you were looking
14 at, Officer. But when you were looking at the pictures you
15 indicated that you thought one was a window that had the
16 tint removed. Do you remember that?

17 A I do.

18 Q Is that a guess? Were you guessing?

19 A No. Based on what I understand. I believe it to be
20 that the tint was removed. Looking at the window, the
21 tackiness, it appears to be sticky. I would say it would
22 be consistent with the window tint being removed from the
23 window.

24 Q Does it look like tint was removed from every window
25 on that car or just that one window?

1 A In this photograph, it's ---

2 Q Which number are you looking at?

3 A I'm looking at State's No. 24. The rear passenger

4 door. I would say it's clear. Not so much in these

5 pictures here. These are just side pictures. On the rear

6 driver side door, I would submit that it's clear. And

7 that's on State's No. 26 -- I'm sorry.

8 Q That's fine.

9 A The other ones are sides of the vehicle, so you don't
10 get a close-up of the windows. Those 2, 26 and 24,

11 actually show the doors open on both sides. And I would

12 say that the tackiness and the discoloring are very, very

13 identical on both sides of the vehicle, consistent with

14 what I would believe to be the tint being removed from the
15 windows.

16 Q Now, we have a ton of evidence. We've gone through a
17 bunch of it. You are pretty detailed when you go through
18 stuff, correct? Like cars, evidence, crime scenes --

19 that's what we have all this stuff for?

20 A Yeah.

21 Q And you're very -- I guess the easiest way to say it
22 -- anal to make sure we don't make mistakes, because these
23 are things that we're going to present to the jury at some
24 point in time, potentially?

25 A Correct.

Detective Lyons - Cross by Mr. Kent

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1 Q And that's why we talked about things that were from
2 SLED and we do reports and we do investigations and we do
3 statements so that 3 and 4 years later we're not making
4 these type of educated guesses. We make sure this stuff is
5 written down, someone has looked at it, someone has tested,
6 so we know these things for a fact; is that correct?

7 A I -- I guess it would be fair to say that in regards
8 to -- I don't know if you're asking if we write every
9 single thing down, no. Statements, we may take statements,
10 yes. Witness statements, victim statements, suspect
11 statements. We have notes from a crime scene. We have
12 search warrants. And we have a variety of different forms
13 that are filled out.

14 But I would not -- I would not say that we take a
15 single note for every single thing that we ever do with a
16 case. I don't believe that would be correct in saying.

17 Q If it's something very important -- if important to
18 the case ---

19 A If it's something that -- I don't -- I mean, it would
20 just be hard to say. We take notes for a variety of
21 different reasons, I guess that would be the best answer
22 for that.

23 Q You would agree that one of the important things in
24 this case is the tinted windows, wouldn't you?

25 A As far as the description that was given by the

1 witnesses that night, yes.

2 Q So if while this car is in your impound lot one of the
3 scientists, one of the experts, one of the other officers
4 thought the tint had been removed, don't you think there
5 would be a report somewhere on that?

6 A I can't say for sure whether there would be or not.

7 Q Is there a report that the tint was removed on this
8 car anywhere in any report that we can present to the jury
9 today?

10 A Other than?

11 Q Other than ---

12 A Other than these photographs here and what I believe
13 to be the tint being removed, I'll say there's an official
14 report, no.

15 Q So there's no official report, there's nothing that
16 backs up your theory?

17 A No. No handwritten documents, nothing.

18 Q No handwritten documents, nothing that had these
19 windows tested, nothing of that nature?

20 A Correct.

21 Q Officer, is there anything else about the description
22 of the vehicle, anything else that we haven't told the jury
23 about -- the only description you've gotten of the vehicle
24 was the fact that it had tinted windows and it was a white
25 4-door?

Detective Lyons - Cross by Mr. Kent

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- 1 A White 4-door.
- 2 Q No other description came out at all from any other
- 3 witness that you interviewed out there?
- 4 A Other than the 2 witnesses that we interviewed that
- 5 night. I believe it was a white 4-door.
- 6 Q No indication of silver handles?
- 7 A I do not recall.
- 8 Q You do not recall?
- 9 A I do not recall.
- 10 Q You're the case agent on the case, correct?
- 11 A Right.
- 12 Q You've got charge of the entire file?
- 13 A I do not recall anyone mentioning silver handles. I'd
- 14 have to ---
- 15 Q Do you think silver handles would be important?
- 16 A I don't know. In regards to the vehicle, may or may
- 17 not be. I don't -- I don't recall someone mentioning
- 18 silver handles. I'm not saying they didn't. I'm just
- 19 saying that on the stand right now I do not recall someone
- 20 having said that.
- 21 Q You don't recall any witness mentioning silver handles
- 22 at all?
- 23 A No, I do not.
- 24 Q Have you looked through the full case file in
- 25 preparation for trial today?

1 A I have looked through it, and I still do not recall
2 anyone saying silver handles.

3 Q The BOLO report that was put out, what was description
4 of the car?

5 A The best memory I have is just a white 4-door vehicle
6 with possibly tinted windows. Nothing -- nothing
7 extravagant, no make, model, or anything like that. Just
8 simple white 4-door vehicle with tinted windows.

9 Q If someone had said white 4-door vehicle, tinted
10 windows, silver handle, leaving at a high rate of speed,
11 that would be important, wouldn't it?

12 A Yes.

13 MR. KENT: Beg The Court's indulgence one moment,
14 Judge.

15 (Pause.)

16 MR. MEADORS: Your Honor, if they want to offer it, I
17 have no objection. Otherwise ---

18 THE COURT: Just a minute. I don't know what he's
19 going to do. Just let Mr. Kent decide what he wants to do.

20 MR. KENT: Thank you, Judge.

21 THE COURT: All right.

22 Q Let me make sure one last time, Officer. You have
23 reviewed the case file in preparation for the trial today?

24 A I have.

25 Q And there's nothing that you have seen to tell the

Detective Lyons - Cross by Mr. Kent

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1 jury about that there's a car with silver handles that was
2 reported by any witness on the scene?

3 A No, I did not say there's nothing I've seen. I do not
4 recall there being anything there. There may be, but at
5 this moment in time I do not recall that description.

6 Q You would agree with me that if a witness mentioned a
7 vehicle with silver handles with tinted windows, that would
8 be important?

9 A If there's someone who mentions it, yes, it may be
10 important.

11 Q Okay. And the picture of the car that we have that
12 we're saying belonged to Mr. Felder, does that vehicle have
13 silver handles?

14 A It does not appear. It appears it has white handles.

15 Q Does it have tinted windows?

16 A In these photographs here in our impound, no.

17 Q In your impound -- we mentioned in the impound. When
18 was that car taken?

19 A Late on the 18th, that afternoon.

20 Q Late on the 18th in the afternoon?

21 A Uh-huh.

22 Q So the same day that this happened, the car was taken
23 into impound?

24 A Yeah, but you're talking some 12, 14 hours later after
25 the shooting. It was well after lunchtime that this

1 vehicle was taken from Ms. Caughman.

2 Q The same day as the shooting happened?

3 A Yes, the same day. The shooting happened at 12 --

4 after midnight on the 17 at 00 -- I believe I said 37. So

5 that would be 37 minutes into the 18th day of July. And

6 then we took the car late that afternoon on the 18th of

7 July. So again, some 12 or 14 hours later we took the car

8 from them.

9 Q And, Officer, to make sure I'm not being unfair. Are
10 you saying you don't remember if there was something in the
11 file that indicates that witness mentioned that the vehicle
12 had silver handles?

13 A I'm saying I do not recall at this time.

14 Q If I gave you -- is there anything I could give you
15 that would help refresh your memory? If I gave you a copy
16 of the file and I gave you a copy of the witness statement,
17 copy of the incident report, may that refresh your memory?

18 A If you have something that has it on it, then ---

19 MR. MEADORS: Your Honor, I have no objection if they
20 want to put the statements ---

21 THE COURT: All right. I understand. All right.

22 He's given you his best answer. If you've got something
23 that you want him to refresh his memory with, hand it to
24 him.

25 Q I'm sorry. I'm showing you one of the reports that's

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1 inside ---

2 MR. MEADORS: Your Honor, that contains hearsay, not
3 from this officer.

4 THE COURT: All right. Let's find out what he's going
5 to do with it. Don't tell him what it is. You hand it to
6 him and ask him if he recognizes that.

7 Q Officer, I'm handing you a document. Do you recognize
8 what that is?

9 A I do.

10 Q You do recognize what it is?

11 A It's an incident report.

12 THE COURT: All right. You recognize what it is as an
13 incident report.

14 Q Did you have an opportunity to review it just now?

15 A I did.

16 Q Did it help refresh your memory at all to the question
17 I was asking?

18 A In regards to that description?

19 Q Yes.

20 A Yes.

21 Q Okay. So let me ask you a question ---

22 MR. MEADORS: Your Honor, again, it's hearsay. If he
23 wants to offer it, I don't care.

24 THE COURT: That's not hearsay. He can look at
25 anything if it refreshes his recollection, and he's

1 testified that he did refresh his recollection. Now you
2 can ask him the question.

3 Q So I asked you again -- earlier, was there another
4 description of the vehicle?

5 THE COURT: No, sir. Does that -- ask him the
6 question, does that -- has your memory been refreshed and
7 as a result of that, do you recall -- that's the way the
8 question should be asked, Mr. Kent.

9 Q Officer, did that document sufficiently refresh your
10 memory?

11 A Yes, that is an incident report that was generated in
12 regards to the shooting. It was generated by Officer Jones
13 of the Sumter Police Department.

14 THE COURT: That wasn't the question. Did it refresh
15 your recollection?

16 A Yes, it did.

17 THE COURT: All right. Next question.

18 Q As a result of refreshing your memory, are you able to
19 answer my earlier question at this point in time?

20 A I can.

21 Q Now, Officer ---

22 THE COURT: That's right.

23 Q Officer, I asked you earlier about a different
24 description of a vehicle, white vehicle with silver
25 handles. Could you address that question?

Detective Lyons - Redirect by Mr. Meadors

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1 A Did -- that report there indicates that there is a --
2 the vehicle had silver handles, a white 4-door vehicle but
3 with silver handles.

4 Q Which vehicle? The vehicle that was reported ---

5 A In -- in relation to the incident -- in relation to
6 the shooting, leaving the scene.

7 Q The vehicle that the shooter was placed in left the
8 scene, a white vehicle with silver handles and tinted
9 windows; is that correct?

10 A As described by ---

11 Q One of your witnesses?

12 A That witness there in that incident report.

13 MR. KENT: Thank you. That's all the questions I
14 have.

15 THE COURT: Redirect?

16 REDIRECT EXAMINATION BY MR. MEADORS:

17 Q This was not the McFaddens, correct?

18 A No, sir, it was not.

19 Q And you didn't talk with this witness?

20 A No, sir, I did not.

21 Q And was it a white car?

22 A It was a white car.

23 Q The person said he was inside heard the sound of a
24 pow?

25 A According to that report, yes.

- 1 Q Came outside and saw a white 4-door car, tinted
2 windows, and handles?
3 A Yes.
4 Q Departed at a high rate of speed?
5 A Yes.
6 Q Down Highland?
7 A Yes.
8 Q Did notice victim laying in the ground?
9 A Yes.
10 Q Correct?
11 A Yes.
12 Q Bullet wound in the chest?
13 A Yes, sir.
14 Q Dispatch time is what time?
15 THE COURT: That's not in evidence. Hand it to him.
16 He can read it. Give it back to you. And you can ask him
17 the questions.
18 Q What time was dispatch?
19 A 00:39.
20 Q What time was arrival?
21 A 00:41.
22 Q When you say 00:41, is that 12:41?
23 A It's 12:41 a.m., I'm sorry.
24 Q Just one other question. He asked you about -- in
25 direct response to him. He asked you about the report I

1 think ---

2 MR. MEADORS: Beg The Court's indulgence.

3 (Pause.)

4 Q Was there a report produced to back up your theory on
5 State's 26. Do you remember when he asked you that?

6 A Yes, sir, in regards to whether or not we have a
7 report about window tinting.

8 Q Sitting there right now, do your eyes match up your
9 theory that the tint was removed?

10 A Based on what -- based on what I see in this
11 photograph.

12 Q By looking at it?

13 A Yes.

14 Q And just finally, he'd asked you about when Mr. Felder
15 that morning. Your testimony to this jury that the first
16 individual you saw was Mr. Felder?

17 A That is correct.

18 Q The defendant?

19 A That is correct.

20 Q But he told you he was his brother?

21 A Yes.

22 Q Which was not true, correct?

23 A Which was not true.

24 Q And you came back and saw him again, and identified
25 him as the defendant, was that the same person that had

- 1 told you, no, I'm my brother?
- 2 A Yes.
- 3 Q Okay. Any doubt in your mind?
- 4 A No, sir.
- 5 Q So you didn't go to his brother and say, hey -- you
- 6 didn't take a statement about that?
- 7 A No, we did not take a statement from Tavaras.
- 8 MR. MEADORS: Thank you, that's all.
- 9 RE CROSS EXAMINATION BY MR. KENT:
- 10 Q Did Mr. Felder turn himself in?
- 11 A I'm sorry. Say again?
- 12 Q Did he turn himself in?
- 13 A Yes, he did.
- 14 Q When did he turn himself in, the next day?
- 15 A On the 19th, I believe.
- 16 MR. KENT: Thank you.
- 17 THE COURT: All right. Thank you, Mr. Lyons. You may
- 18 step down.
- 19 (The witness leaves the witness stand.)
- 20 THE COURT: All right. Mr. Meadors, you may call your
- 21 next witness.
- 22 MR. MEADORS: Dr. Janice Ross.
- 23 JANICE EDWARDS ROSS, being
- 24 first duly sworn, testified as follows:
- 25 CLERK: Please state your name. Spell your last name

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1 for the record.

2 DR. ROSS: Janice Edwards Ross, R-o-s-s.

3 MR. MEADORS: Beg The Court's indulgence.

4 (Pause.)

5 DIRECT EXAMINATION BY MR. MEADORS:

6 Q Good afternoon, Doctor.

7 A Afternoon.

8 Q Please tell the ladies and gentlemen of this jury
9 about Dr. Janice Ross, specifically where you're from ---

10 A Yes, sir.

11 Q Wait a minute. Your background, your education, and
12 in particular your education in the field of expertise that
13 we are offering you today, please?

14 A Yes. I live in Newberry, South Carolina where I work.
15 I've got a bachelor's degree from the University of South
16 Carolina in Biology. I received my M.D., doctor of
17 medicine, from Upstate Medical Center in Syracuse, New
18 York, where I further did study and residency in pathology,
19 the field of medicine, where you learn how to make
20 diagnoses on people by looking at tissue under the
21 microscope, by using laboratory work and blood work and
22 prove doing an autopsy finding the cause of death.

23 I am board certified in three areas of pathology,
24 including forensic pathology. The word forensic means
25 legal. And we use our pathology knowledge in such areas as

1 homicides, suicides, and accidents to identify cause of
2 death and manner of death.

3 Q The difference between pathologist and forensic
4 pathologist is what?

5 A A forensic pathologist is a pathologist. A forensic
6 pathologist is trained in legal matters and in how to
7 identify patterns of injury and identify how to do an
8 autopsy, to document patterns of injury.

9 Q Are you board certified in forensic pathology?

10 A Yes.

11 Q About how many autopsies have you performed, Doctor?

12 A Over 6,000.

13 Q Over 6,000?

14 A Yes.

15 Q Where is your office?

16 A Newberry, South Carolina.

17 Q Where do you conduct autopsies?

18 A We conduct autopsies in the morgue at Newberry County
19 Memorial Hospital.

20 Q Have you been offered as an expert prior to today in
21 courts of record in this state in the field of forensic
22 pathology?

23 A Yes.

24 Q And have you been so accepted?

25 A Yes.

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1 MR. MEADORS: Your Honor, at this time we would offer
2 Dr. Janice Ross as an expert in the field of forensic
3 pathology.

4 THE COURT: Voir dire with regard to qualifications,
5 Mr. Kent or Mr. Chandler?

6 MR. CHANDLER: I'm handling this witness, Judge. I've
7 voir dired her many times before. She's qualified. No
8 objection.

9 THE COURT: All right. The Court would find then that
10 this witness is qualified as an expert by The Court in the
11 field of forensic pathology.

12 Ladies and gentlemen of the jury, let me tell you what
13 that means. Ordinarily, a witness not testifying as an
14 expert, the witness' testimony is limited to those things
15 which are rationally based on the perception of the witness
16 or helpful to a clear understanding of the witness'
17 testimony or the determination of fact in issue, and do not
18 require special knowledge, skill, experience, or training.

19 However, if scientific, technical, or other
20 specialized knowledge will assist the trier of the fact --
21 and that's you in this case -- to understand the evidence
22 or to determine a fact in issue, a witness qualified as an
23 expert by knowledge, skill, experience, training, or
24 education may testify in the form of an opinion.

25 So basically the difference between a non-expert

1 witness and an expert witness is that an expert witness is
2 allowed to give an opinion. And I have qualified Dr. Ross
3 as an expert in the field of forensic pathology.

4 All right. Mr. Meadors.

5 MR. MEADORS: Thank you, Judge.

6 Q Dr. Ross, did you have an occasion to examine the body
7 in this case of Mr. McKenzie?

8 A Yes, sir.

9 Q And when did you do that, Doctor?

10 A July 19, 2008.

11 Q Where did you do that?

12 A In the morgue at Newberry County Memorial Hospital.

13 Q If we had an ideal world -- we certainly don't. But
14 if we had -- in your world, how would you like to view the
15 body? In an ideal world would you like to view it at the
16 scene?

17 A Yes.

18 Q Okay. Practically, that can't happen, correct?

19 A Correct.

20 Q So when you view the body, tell this jury, what do you
21 do -- what you did in this case with Mr. McKenzie's body?
22 What's the first thing you do?

23 A We receive the body in the morgue in a body bag. We
24 open the body bag, and we look at the body externally
25 first. If there is any evidence of -- for instance, a

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1 gunshot wound, we will then do x-rays before we do any
2 internal examination.

3 Q And do you take pictures of the body?

4 A Yes.

5 Q Do you dictate as you're looking at the body?

6 A No. We take notes. And I have a transcriber in the
7 morgue.

8 Q And can we if you will, like you did back in July of
9 '08, can you take us through what you did to Mr. McKenzie's
10 body and what your findings were after looking at his body?

11 A Yes, we did a thorough exam -- external examination
12 and x-rays, as I said. Took photographs. And we did an
13 internal examination, looking at each organ of the body, in
14 a specific manner so that it can be preserved for the
15 family.

16 We found a gunshot wound that entered the right chest.
17 The bullet path went front to back, right to left and
18 slightly upward. There was -- a lead metal bullet portion
19 was found beneath the skin of the left back. And there was
20 somewhat an exit wound in the left back also where a part
21 of the bullet went outside of the body. The bullet went
22 through the right lung and part of the heart, and caused
23 internal bleeding.

24 Q Doctor, I'm going to ---

25 MR. MEADORS: Beg The Court's indulgence.

1 (Pause.)

2 MR. MEADORS: We have stipulated as to these. If Your
3 Honor will give us a minute to mark them.

4 (5 small color photos marked for identification as
5 State's Exhibit Nos. 29, 30, 31, 32, and 33.)

6 THE COURT: 29 through -- what is it, Ms. Rutledge?

7 COURT REPORTER: 29 through 33.

8 THE COURT: 33. All right. I.D. only or are they
9 admitted?

10 MR. MEADORS: Without objection.

11 THE COURT: Admitted without objection. All right.
12 Admitted without objection.

13 (State's Exhibit Nos. 29 through 33 received in
14 evidence.)

15 MR. MEADORS: May I approach?

16 THE COURT: Yes.

17 Q I'm going to show you what's State's 32. Do you
18 recognize this?

19 A Yes.

20 Q And what is that?

21 A That's the entrance wound in the right chest.

22 Q I'm going to have you come down in a minute and show
23 them. That's the body of the deceased in this case, Mr.
24 McKenzie?

25 A Yes, it looks like.

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1 Q And would you describe what's on State's 32. I won't
2 show it now for the family's sake. But is that an entrance
3 or an exit wound?

4 A Entrance wound.

5 Q Now, you testified, I think, a little while ago about
6 what appeared to be an exit wound?

7 A Yes.

8 Q Looking at State's 33, can you tell us what that is?

9 A That is the hole in the left back, that was an exit
10 wound.

11 Q But you recovered the bullet?

12 A Yes.

13 Q Okay. And you said -- where was the bullet on Mr.
14 McKenzie's body?

15 A It was underneath the skin, just to the left of the
16 midline. It went through the right lung, through part of
17 the heart, through one of the vertebrae, and was found
18 under the skin there. I was told that part of the jacket
19 was found at the scene. So this could be an exit wound of
20 a part of the bullet.

21 Q If the bullet was under part of the skin as you said,
22 if someone was lying on the ground when they were shot, the
23 back against pavement?

24 A Yes.

25 Q Would that be consistent with the bullet being where

1 it was in this case?

2 A That's a possibility, yes.

3 Q And State's 31 -- 30, 31, and 30 -- excuse me, Judge.
4 29, 30, and 31. Are those pictures of the bullet?

5 A Yes, this is the lead metal bullet taken from the body
6 at autopsy.

7 Q Doctor, do you basically turn this bullet or whatever
8 evidence you gather from autopsy -- do give it to law
9 enforcement?

10 A Yes, I do.

11 Q Okay. What happens to it after that, you know it's
12 been tested, but you don't know, correct?

13 A Correct.

14 MR. MEADORS: And, Your Honor, we have talked
15 previously. And this is the bullet that will be coming
16 tomorrow from SLED. But they have stipulated this.

17 THE COURT: Okay.

18 MR. MEADORS: Thank you.

19 Q Would you step down if His Honor permits you very
20 quickly.

21 THE COURT: Yes.

22 (The witness steps down from the witness stand.)

23 THE COURT: If you would go over by the microphone,
24 Dr. Ross, so that everybody will be able to hear you.

25 DR. ROSS: Yes.

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1 Q Doctor, can you show the jury on me where this bullet
2 entered?

3 A The right chest.

4 Q And describe where it went?

5 A It went from front to back, towards the left and
6 slightly upward, pretty much level actually. It went
7 through the right lung and through the heart, and then was
8 found underneath the skin of the left back.

9 Q And based on your experience, training -- years of
10 experience, looking at the body, would that -- can you tell
11 what position the victim was in when he was shot?

12 A All I can say is the bullet goes straight and you can
13 have a the bullet -- I mean, the gun would have been in
14 front of the person, in front of the victim and slightly to
15 his right.

16 Q So the victim could have been standing up?

17 A Yes.

18 Q The victim could have been laying on the ground?

19 A Yes.

20 Q Take your seat, ma'am, please.

21 (The witness returns to the witness stand.)

22 Q Also, as a part of your job, you collect fluids?

23 A Yes.

24 Q And as a part of a forensic pathologist, you're
25 familiar with toxicology and that, correct?

- 1 A Yes.
- 2 Q In your field?
- 3 A Yes.
- 4 Q And just to tell it all, the toxicology in this case
- 5 on the victim was what?
- 6 A The results?
- 7 Q Right, the results?
- 8 A There was a small amount of alcohol. Well, point 126
- 9 of alcohol. And there was evidence of marijuana.
- 10 Q So the victim, based on your getting fluid, sending it
- 11 to SLED, you're an expert in this field. You've looked
- 12 back and seeing the results of point 12 alcohol and some
- 13 marijuana?
- 14 A Correct.
- 15 Q Let me ask you. I didn't ask you about this. Let me
- 16 ask you about bruising. Does bruising automatically
- 17 appear?
- 18 A It can, yes.
- 19 Q Can it be delayed also?
- 20 A Well, after death it doesn't increase. There are
- 21 times when -- well, in a deeply pigmented person you don't
- 22 see bruising. In a Caucasian, for instance, you may not
- 23 see bruising at first, but after the autopsy and after
- 24 blood has been drained, you might -- it might show up.
- 25 Q So ---

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1 A When we -- in the process of the autopsy, we look for
2 bruising, especially of the front of the chest and abdomen.

3 Q Especially what now?

4 A The front of the chest and the abdomen and the back of
5 the head.

6 Q And that's primarily where you look? You look at the
7 whole body?

8 A We look at the whole body. But as we're doing the
9 autopsy and underneath the skin, those areas, we can see.

10 Q Because you're looking into the body?

11 A Correct.

12 Q I got you. Other areas of the body, the face and all,
13 if there's not any wounds there, you're not necessarily
14 looking -- I apologize. You're not necessarily opening the
15 face, correct?

16 A No, we're not.

17 Q So is it possible that bruises could appear later?

18 MR. CHANDLER: Objection to the form. The standard is
19 not possible. It's ---

20 Q Based on your experience ---

21 THE COURT: All right. Objection is sustained.
22 Rephrase the question.

23 Q Do you have an opinion based on your experience and
24 examination of this body and your background in forensic
25 pathology, is it possible or not that injuries could appear

1 later as far as bruising?

2 A In this body it would be very difficult to identify.

3 Q Now, I ask you this final question. Do you have an
4 opinion to a reasonable degree of medical certainty as to
5 the death of William McKenzie?

6 A Yes.

7 Q Please look at these ladies and gentlemen and tell
8 them what it is?

9 A The cause of death is exsanguination, which means to
10 bleed out due to a laceration of the heart and lung, due to
11 the gunshot wound of the chest.

12 Q I forgot this. Could a person of -- how long could a
13 person live in this case after this injury?

14 A He's young, without coronary artery disease. It would
15 only be a few minutes.

16 Q A few minutes?

17 A Yes.

18 Q And looking at the whole body, did you see any
19 evidence of anything of what you may know of as defensive
20 wounds on the victim?

21 A No, there were no other scratches, abrasions,
22 lacerations.

23 MR. MEADORS: Thank you, Doctor. That's all I have,
24 Judge.

25 THE COURT: Cross examination, Mr. Chandler?

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1 MR. CHANDLER: If it please The Court.

2 THE COURT: Yes, sir.

3 CROSS EXAMINATION BY MR. CHANDLER:

4 Q Good afternoon, Doctor.

5 A Afternoon.

6 Q Did you drive all the way down here from Newberry
7 today?

8 A Yes.

9 Q So what we have here, do we not, is a black male who
10 was killed by a single bullet?

11 A Correct.

12 Q And that bullet entered into the front and stayed
13 basically in the body?

14 A Correct.

15 Q And that bullet as it went through the body caused
16 mortal damage, because it nicked the heart, the lung, and
17 caused him to bleed into his body cavity?

18 A Yes.

19 Q And that single bullet was there to be identified and
20 sent back to some ballistic person who could tell us about
21 it?

22 A Yes.

23 Q All right. Now, being a forensic pathologist, you are
24 trained to kind of get some background information. They
25 give you background information into what happened, don't

1 they?

2 A Yes.

3 Q Did anyone tell you that witnesses said that this man
4 had been kicked once or several times in the face?

5 A I did not have that information.

6 Q And you got the body a day after the fatal incident;
7 is that correct?

8 A Yes.

9 Q Now, let's really get down to it. Did your autopsy
10 examination of the subcutaneous areas of his face, his
11 skin, his chest give you any reason to report that this man
12 had been kicked severely one or more times about his face
13 or chest?

14 A As I say, we did not look under the skin of the face.
15 We do not mar the face. But as far as the skin of his
16 chest and abdomen and the back of the head and the top of
17 the head, there was no evidence of bruising.

18 Q If someone had kicked him in the face, an adult male
19 had kicked him in the face one or more times, would you
20 have expected to see evidence of that?

21 A It's possible, yes.

22 Q But you didn't, did you?

23 A Correct.

24 Q Okay. Coming with the individual is a report of about
25 what time it was and what happened; is that right, what

Dr. Ross - Cross by Mr. Chandler

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1 time the event happened, basically a skinny of what
2 happened?

3 A We get that from the coroner. We don't always get the
4 law enforcement report.

5 Q Your report indicates a backup to show you that there
6 was a single bullet; is that right? Would you look at the
7 page of your report ---

8 A Yes.

9 Q I'm asking you to look at the page of your report.
10 Does it kind of define the day and time of this on the
11 third or fourth page. It says, circumstances of death; is
12 that right? It's in your report.

13 A Page 4?

14 Q Ma'am, may I show it to you here. We'll save some
15 time. Is that your report ---

16 A Yes, this is a history that came in from the coroner.

17 Q Yes, ma'am. It says circumstances ---

18 MR. MEADORS: Your Honor ---

19 Q --- of death.

20 MR. MEADORS: That's hearsay from the coroner.

21 THE COURT: Wait just a minute.

22 MR. MEADORS: Unless he wants to offer it.

23 THE COURT: The objection is that it's hearsay?

24 MR. MEADORS: Unless he's offering it.

25 THE COURT: All right. I'll hear from you, Mr.

1 Chandler.

2 MR. CHANDLER: Simply, Your Honor, she's already
3 testified that ---

4 THE COURT: Why is this not hearsay? She said it's
5 the coroner's report not her report.

6 MR. CHANDLER: She got it from the coroner's report.
7 It's a part of her report to determine what happened.

8 THE COURT: Well, just a moment.

9 (Pause.)

10 MR. MEADORS: Judge, can we approach?

11 THE COURT: Wait just a minute.

12 (Pause.)

13 THE COURT: Rule 705 requires that an expert may
14 testify in terms of opinion or inferences and give reasons
15 therefor without first testifying to the underlying facts
16 or data unless The Court requires otherwise. Your expert
17 may in any event be required to disclose the underlying
18 facts and data on cross examination.

19 Your objection is overruled.

20 Q Your report -- your report says what there as the
21 background history?

22 A Yes, this is the documentation of what the coroner
23 recalls about the case.

24 THE COURT: You can't testify as to what the coroner
25 says. You can testify as to whether you relied on that in

1 any way in coming to your determination, but not what he
2 said.

3 A Yes, sir, this is what our case information was.

4 Q Correct.

5 MR. MEADORS: Your Honor, I object. I don't think she
6 relied on that to come to her conclusion.

7 THE COURT: That's what she just said she did. So I'm
8 going to allow it. She testified that she looked at it,
9 and that verified her opinion as I see it. But the jury --
10 they've heard the testimony.

11 An expert has the right to rely on underlying data
12 without that becoming a part of her testimony.

13 All right. So the thing is, Dr. Ross, you can testify
14 that you're aware of that, that you saw it, and what effect
15 that has on your conclusions.

16 Q My next question, Doctor, the case history ---

17 MR. MEADORS: Your Honor -- I'm sorry.

18 Q The case -- give me the case history that you were
19 provided as you started into this to form your opinion?

20 THE COURT: Wait a minute. Now, that's what you can't
21 do.

22 MR. CHANDLER: Judge, I'm sorry, but I'm trying --
23 what I just said, and let me get -- excuse me.

24 Q Circumstances of death -- excuse me, not case history.
25 I mis-comprehended. The circumstances of death -- would

1 you relate that to me, please? That you were given so that
2 you began, that you used to begin the autopsy to determine
3 if this man was a homicide or an accident? You're
4 evaluating the case, you've got the circumstances of death.
5 What were they?

6 THE COURT: She may testify to the underlying facts or
7 data upon which she relied.

8 MR. CHANDLER: Correct.

9 THE COURT: That's it.

10 MR. CHANDLER: Yes, sir.

11 THE COURT: Now, ask the question that way.

12 Q Would you read me ---

13 THE COURT: No.

14 Q Would you give me your underlying circumstances ---

15 THE COURT: No. I'll read the rule again. The expert
16 may in any event be required to disclose the underlying
17 facts or data upon which she relied.

18 Q I'm asking you, are there underlying facts upon which
19 you relied in that report?

20 A In my case history in my autopsy report ---

21 Q Yes, ma'am.

22 A I'll read it to you. This 23-year-old black male was
23 the victim of a shooting which occurred on July 18, 2008 at
24 approximately 12:35 a.m. in Sumter, South Carolina.
25 Apparently a witness heard a gunshot and called law

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1 enforcement. The victim was found on the ground. EMS
2 responded and transferred him to Tuomey Emergency Room.
3 The attempt at resuscitation was to no avail, and he was
4 pronounced dead at 1:10 a.m. that date. At the scene a
5 portion of the jacket of the bullet was found.

6 MR. CHANDLER: Thank you.

7 THE COURT: All right. Anything further with this
8 witness?

9 MR. MEADORS: No, sir, thank you.

10 THE COURT: All right. Thank you, Dr. Ross. You may
11 step down.

12 (The witness leaves the witness stand.)

13 MR. MEADORS: Respectfully, could the doctor be
14 excused?

15 THE COURT: Any objection, Mr. Chandler?

16 MR. CHANDLER: Nothing else.

17 THE COURT: Any objection to her being excused?

18 MR. CHANDLER: Yes, sir.

19 THE COURT: Any objection to her being excused?

20 MR. CHANDLER: No objection. I'm sorry. I didn't say
21 it loud enough.

22 THE COURT: All right.

23 MR. CHANDLER: Dr. Ross, it's good to see you again.

24 THE COURT: All right. Mr. Meadors, call your next
25 witness.

1 MR. MEADORS: Could we approach?

2 THE COURT: Yes, sir.

3 (A bench conference was held off the record in the
4 presence of the jury, but out of the hearing of the jury.)

5 JASON T. POTTEIGER, being
6 first duly sworn, testified as follows:

7 CLERK: Please state your name. Spell your last name
8 for the record.

9 DETECTIVE POTTEIGER: Jason Thomas Potteiger,
10 P-o-t-t-e-i-g-e-r.

11 DIRECT EXAMINATION BY MR. MEADORS:

12 Q Good afternoon, Detective.

13 A Afternoon, sir.

14 Q Please tell the jury about Jason Potteiger, where
15 you're from, your background, where you went to school, and
16 that sort of thing and your education in law enforcement?

17 A Yes, sir. Originally from the State of Pennsylvania,
18 graduated from 2 different colleges, one being the
19 University of Mansfield, with a bachelor's degree in
20 computer science, minor in accounting. And I also have a
21 associate degree from Harrisburg Area Community College,
22 which is also located in Pennsylvania for business
23 management.

24 I moved to South Carolina in the beginning of the
25 century, around 2000 and became a law enforcement officer

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1 with the City of Sumter in January 2001. While I was
2 employed with the Sumter Police Department, I was a patrol
3 deputy -- a patrol officer, as a corporal and a patrolman.
4 I also was assigned to several -- several special units,
5 one being community oriented policing, which involved
6 bicycle riding as a patrol vehicle. I also was involved
7 with the organized crime and vice control unit, which is
8 layman's terms, drug unit. I was in there for 3 years as
9 an investigator. And I also was working in criminal
10 investigations until I left the department in August of
11 2008.

12 Q Where did you go?

13 A I went to and am currently employed at Berkley County
14 Sheriff's Office in South Carolina. And I'm currently an
15 investigator over property crimes, primarily, and have been
16 since -- about 3 years.

17 Q Let's go back to July 17th of 2008 please, sir. And
18 your job then was what with the Sumter Police Department?

19 A I was assigned to the detective division. I primarily
20 worked on persons' crimes, violent crimes, criminal
21 domestic violences, and such crimes.

22 Q So prior to leaving, is it fair to say you were the
23 lead or one of the lead investigators?

24 A Yes, sir.

25 Q And did you have an occasion to go to

1 in the early morning hours of January (sic) 18,
2 2008?

3 A Yes, I did.

4 Q Tell the ladies and gentlemen of this jury, Detective,
5 what were your observations?

6 A On that early morning hours, I received a call from
7 Detective Lyons that he needed my assistance out on the
8 crime scene. I arrived, met up with him, and he introduced
9 me to a couple witnesses on the scene, as far as people
10 there and what needed to be done and who we needed to speak
11 with, and get statements from.

12 Q Were those the McFaddens?

13 A Yes.

14 Q And specifically, Kayla and Antrell?

15 A Yes.

16 Q So did you have -- you talked with them on the scene?

17 A If I did, it was very brief.

18 Q Okay. All right. What else did you do at the scene
19 initially when you got there?

20 A I don't believe I did anything at the scene, just a
21 briefing from Detective Lyons and then we brought the
22 McFaddens up to the police department.

23 Q And is that when these statements were taken from the
24 McFaddens?

25 A Yes.

1 Q About what time was that?

2 A It was early morning hours. Somewhere between 12:30
3 and 1:30.

4 Q When you finish taking -- I say you, you all -- the
5 McFaddens' statements, what did you do?

6 A When we completed the statements, we drove -- myself,
7 Detective Lyons, and the 2 McFaddens -- we accompanied them
8 home, made sure they had a ride home and were safe. And
9 took them back to their residence of their choice.

10 Q And had you ever met either of the McFaddens before?

11 A Not prior to that morning.

12 Q Whose vehicle were you in when you were taking them
13 from the law enforcement center back to wherever you were
14 taking them?

15 A I believe we were in my vehicle.

16 Q As you're heading back, did a white car come up?

17 A Yes. As we're traveling down Broad Street, a white
18 vehicle that was described by Mr. McFadden to myself -- it
19 matched the description, and I don't know who said it. But
20 the vehicle -- it was asked, does that look similar to the
21 vehicle that you were describing? It's a white vehicle,
22 tinted windows, 4 doors. And I believe it was either an
23 Oldsmobile or Buick. And the reply was yes, it's similar.

24 We observed the vehicle turn into the apartments. I
25 believe they're Willow Morand Apartments. Immediately

1 called a patrol officer to go in there and get as much
2 information as they can from the vehicle. And the way I
3 recall, it was one of the only vehicles we passed on Broad
4 Street that morning.

5 Q I know this sounds ridiculous, but you had no idea
6 when you left law enforcement that you were going to see a
7 white car?

8 A No.

9 Q So you called somebody to go check it out where the
10 white car appeared to be going?

11 A Yes. Whichever officer was closest to the area.

12 Q And you then took the McFaddens back?

13 A Correct.

14 Q At some point in the investigation did you learn that
15 there had been a burglary at ?

16 A Yes.

17 Q Okay. How did that come about?

18 A I learned it from the identification of who owned the
19 white -- the white vehicle. It was linked to Ms. Ida Mae
20 Felder. And through that investigation we learned that
21 individuals related to her reported a burglary in the same
22 area that this incident occurred.

23 Q In the same time period?

24 A Yes, within minutes.

25 Q Is that what Officer Blackwell -- I believe he's

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1 coming tomorrow. But he responded to that?

2 A I believe he was the officer that took the report on
3 that case..

4 Q This evidence gathered -- this fellow right here is
5 Truman Duggin, correct?

6 A Yes, that's Lieutenant Duggin.

7 Q At some point did you have an occasion to go and look
8 for Mr. Antrell Felder, did he become a suspect?

9 A Yes, he did.

10 Q Tell the jury how that came about?

11 A Linked to the vehicle and the burglary and the
12 information relayed to us that the victim, Mr. McKenzie,
13 may -- or did -- was responsible for the burglary, and that
14 Mr. Felder lived at the house on Harry Street, and that he
15 may have been aware that Mr. McKenzie committed that
16 burglary.

17 Q Let me ask you this question, did you have an occasion
18 -- did you go to look for Mr. Felder?

19 A Yes, we did.

20 Q As a result of what you just stated?

21 A Yes.

22 Q And did you come in contact with Mr. Felder on the
23 18th?

24 A Yes, we did, we learned that later.

25 Q The first time?

- 1 A Yes.
- 2 Q Tell the jury about that please?
- 3 A We responded to the address that came back to the
- 4 vehicle tag on the white -- on the white vehicle that we
- 5 saw going into Willow Morand Apartments, which was out in
- 6 the Wedgefield area. We learned that it was Ms. Ida Mae
- 7 Felder's residence, Spanish Gardens, I believe. While we
- 8 were there, we encountered a few individuals, one being a
- 9 black male. He provided us a name. I can tell you it was
- 10 not Antrell Felder's name. I learned at a later time when
- 11 Mr. Felder turned himself in to me the next day on the
- 12 19th, that he was the same person that I saw at Ms. Ida Mae
- 13 Felder's house the day -- it was have been a false name,
- 14 because it wasn't Antrell Felder.
- 15 Q So the person you saw initially identified himself as
- 16 somebody besides -- not Antrell Felder?
- 17 A Correct. We did not state -- he did not state his
- 18 name was Antrell Felder when he was asked.
- 19 Q When you later talked with him -- we'll get into that
- 20 in a minute. He was identified as Antrell Felder?
- 21 A Correct.
- 22 Q And was that the same person that -- you can't
- 23 remember the name. Is that the same person that had given
- 24 you another name?
- 25 A I'm sorry?

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1 Q Was that the same person that had given you another
2 name previously?

3 A Yes.

4 Q Now, you saw this person the first time, right, Mr.
5 Felder? When did you see him again?

6 A At the Sumter Law Enforcement Center.

7 MR. MEADORS: Beg The Court's indulgence. I need to
8 find something.

9 THE COURT: All right.

10 (Pause.)

11 THE COURT: Counsel, come up just a moment please.

12 (A bench conference was held off the record in the
13 presence of the jury, but out of the hearing of the jury.)

14 (Sumter police department interview form, Antrell
15 Felder, 7/19/08, 1 page marked for identification as
16 State's Exhibit No. 34.)

17 (Summary of defendant's oral statement marked for
18 identification as State's Exhibit No. 35.)

19 THE COURT: All right. 34 and 35. And, Mr. Kent, you
20 admit these without objection?

21 MR. KENT: Yes, sir, Judge.

22 THE COURT: All right. 34 and 35 admitted into
23 evidence without objection. Go ahead.

24 (State's Exhibit Nos. 34 and 35 received in evidence.)

25 MR. MEADORS: Thank you. May I approach?

- 1 THE COURT: Yes.
- 2 Q I show you what's State's 34. Do you recognize this?
- 3 A Yes, I do.
- 4 Q And whose name is on here?
- 5 A I signed it. I also wrote my name on there, and
- 6 Antrell Felder's name is on there.
- 7 Q Okay. And this is in evidence. And I don't want to
- 8 go as long as I usually do, but I want to go over this.
- 9 Okay. Is the advice of rights form?
- 10 A Yes, sir.
- 11 Q Okay. And did you have an occasion to read the advice
- 12 of rights to Mr. Felder on July 19?
- 13 A Yes, I did.
- 14 Q At what time?
- 15 A 5:43 p.m.
- 16 Q And that was next door, the law enforcement center?
- 17 A Yes, sir.
- 18 MR. MEADORS: Judge, for time, can I just come up here
- 19 and stand here?
- 20 THE COURT: Yes, that would be all right.
- 21 Q Tell the jury, who's with you and Mr. Felder when
- 22 you're talking to him?
- 23 A At that time it was Captain Holston, he's now Deputy
- 24 Chief.
- 25 Q And will you read the rights to the ladies and

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1 gentlemen of this jury as you read them to Mr. Felder on
2 July 18, 2008?

3 A Sure. Before I start, I usually advise them, this is
4 an interview form and I show it to them. Numerous times --
5 I will actually read it upside down so the person can
6 follow along with me as I'm reading it to them.

7 But I start by saying, before we ask you any
8 questions, you must understand your rights. You have the
9 right to remain silent. Anything you say can be used
10 against you in court.

11 You have the right to talk to a lawyer for advice
12 before we ask you any questions and to have him or her with
13 you during the questioning.

14 If you cannot afford to hire -- afford a lawyer, one
15 will be appointed for you before any questioning if you
16 wish.

17 If you decide to answer any questions now without a
18 lawyer present, you will still have the right to stop
19 answering at any time until you talk with a lawyer.

20 That's the top part.

21 At the bottom it will say, The waiver of rights.

22 Before any questioning I was furnished the above
23 statements of my rights at -- and I wrote in 5:43 p.m.,
24 circled p.m. On, and I wrote the date, which was July 19,
25 2008. At, and I put the Sumter L.E.C., which stands for

1 law enforcement center by Officer Potteiger. And I wrote
2 my name in the blank there -- of the Sumter Police
3 Department.

4 Lastly it states, I have read or had read to me the
5 statement of my rights. I understand that -- I'm sorry. I
6 understand what my rights are. I am willing to answer
7 questions at this time without a lawyer present. No
8 promises or threats have been made to me and no pressure
9 has been used against me.

10 Q Okay. Now, did the defendant appear to understand
11 these rights as you read them to him?

12 A Yes.

13 Q Okay. Did you understand his responses to you?

14 A Yes.

15 Q They were content appropriate?

16 A Yes.

17 Q Did he appear to be under the influence of alcohol,
18 drugs, or any other intoxicant?

19 A No.

20 Q And did you threaten him?

21 A No, I did not.

22 Q Did you hold out any hope or promise of reward?

23 A No.

24 Q At any time during the reading of these rights and the
25 waiver of these rights did he say, Jason, I don't want to

- 1 talk to you or I want a lawyer?
- 2 A No.
- 3 Q If he had, would you have talked to him?
- 4 A No.
- 5 Q And did he tell you and did he indicate to you that I
- 6 do understand my rights and I waive my rights?
- 7 A Yes, by his signature on there.
- 8 Q That was my next question. His signature is on here?
- 9 A Correct. He signed it and he also wrote the date and
- 10 time.
- 11 Q And you didn't force him to sign it?
- 12 A No.
- 13 Q Now, you're at the law enforcement center. If he
- 14 needed to use the bathroom or anything like that, would you
- 15 all have let him?
- 16 A Absolutely.
- 17 Q You would have given that to him?
- 18 A Yes.
- 19 Q I don't know if he did or not. But, I mean, you would
- 20 have made that available?
- 21 A Yes, sir.
- 22 Q Okay. And did you have an occasion to talk with Mr.
- 23 Felder?
- 24 A Yes, I did.
- 25 Q Okay. And did you type that up? Was that typed up

1 into what he told you into a summary of an oral statement?

2 A Yes.

3 Q Okay. And that's what's in evidence as State's 35.

4 Now, could you ---

5 MR. MEADORS: With The Court's permission, I'll
6 shorten it. We'd ask him to publish this, Your Honor.

7 THE COURT: All right. It's in evidence. It can be
8 published.

9 A Would you like me to read it?

10 Q Take your time. Yes, sir. Just read the whole
11 document.

12 A Okay. (Reading.) It's entitled, Summary of
13 Defendant's oral statement. On July 18, 2008 detectives
14 William Lyons, Jason Potteiger, and Curtis Hodge of the
15 Sumter Police Department went to the home of Ida Mae Felder
16 in Wedgefield in an attempt to speak with her son, Antrell
17 Felder, about a homicide that occurred earlier in the day.

18 Upon arrival, the detectives were met at the door by
19 an African American male who told them he was Antrell's
20 brother, Tavaras Felder. When the detectives returned
21 later that day they learned that the person identifying
22 himself as Tavaras Felder was in fact Antrell Felder. When
23 they attempted to contact Antrell Felder again, he could
24 not be located.

25 On the afternoon of July 19, 2008, defendant Antrell

1 Felder turned himself in at the Sumter City-County Law
2 Enforcement Center. Felder was arrested, signed a written
3 miranda waiver, and agreed to talk to Captain Alvin Holston
4 and Detective Potteiger.

5 Q And that's the waiving you just went over and told the
6 jury about?

7 A Yes, sir.

8 Q All right.

9 A (Reading.) Antrell Felder began by stating he was 26
10 years old, that his date of birth was [REDACTED] 1982, and
11 that he lived at [REDACTED]. He related that he was
12 currently on bond for a lynching charge. Regarding the
13 burglary of the house at [REDACTED], Felder said he
14 was hanging out at his sister-in-law Sada's apartment on
15 Broad Street along with Sada, Stephan, Tavaras, James
16 Singleton, Kim, his brother Roy, and his mother, sister,
17 and nieces. He stated that he had been at Sada's since
18 first dark, around 8:00 or 8:30 p.m. Felder said that
19 prior to this, everyone was over at his house on Harry
20 Avenue when he suggested that they go to his bro's house.
21 Felder continued by saying he was outside drinking
22 with Kim and his brother when he heard a commotion inside.
23 He then told the officers that someone he knew named David
24 had called his cell phone at 11:59 p.m., Thursday, July 17,
25 and said 4 guys were in the process of breaking into his

1 house at . Felder said he did not know David's
2 last name or where he lived. He said that he, Kim, and his
3 girl friend Stacey left and went to Harry Avenue -- went to
4 the Harry Avenue house. According to Felder, he, Stacey,
5 and Kim rode in his car, while his mother Ida, Sada, the
6 kids and James came later in Ida's green car. He said
7 Stephan and Tony came in Tony's car.

8 Felder stated he went inside the house to make sure
9 everything was okay. When asked what was missing from the
10 house, he mentioned shoes, a pair of new, black Air Force
11 Ones and a pair of white and red Air Jordan's, hats, and
12 some his and hers clothes. He disclosed that Stacey then
13 told him to make sure you don't have anything on you.
14 Because he had a bag of weed with him, Felder said he
15 promptly left by himself driving his white 4-door Buick.
16 Felder said Stacey, Sada, and Kim remained at the
17 residence. He further related that he went back to Sada's
18 apartment, and then when he arrived, Boo, Stephan's cousin,
19 was there. When asked which direction he drove when he
20 left , Felder told the officers he took the
21 back way to Sada's, but could not name any of the streets
22 he took. He then said that when he arrived, he smoked a
23 cigarette because no one was home.

24 When confronted with his previous remark about Boo,
25 Felder replied that Boo was indeed there and that Boo took

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1 him over to Red Bay to visit a girl named Shanda. Felder
2 remarked that Shanda lived on Belmont Drive near Jelly's
3 people, and that he left the white Buick at Sada's house
4 with the keys in the front floorboard. Felder stated he
5 and Boo arrived over on Red Bay between 12:25 a.m. and
6 12:35 a.m., and that he didn't leave the Red Bay area until
7 3:00 a.m. When asked to provide more information about
8 Boo, Felder said he did not know his real name or where he
9 lived.

10 When asked what he had been wearing the morning of the
11 18th, Felder replied that he had on black shorts and a
12 black shirt, although he stated he changed earlier from a
13 white shirt. He volunteered that he frequently visits his
14 mother's place in Wedgefield and that he stays with her on
15 that Thursday and Friday, the 17th and 18th. Felder gave
16 his telephone number as , and offered the following
17 numbers in addition: and (Stacey),
18 (Kia), , and .

19 As the interview wound down, Felder reiterated that
20 the items allegedly taken from the house on Harry Avenue
21 were clothes, shoes, hats.

22 Q So did he add at the end, hats? You said he
23 reiterated -- what you say?

24 A As the interview wound down, Felder reiterated that
25 the items allegedly taken from the house on Harry Avenue

1 were clothes, shoes, and hats.

2 Q Now, at any time during the taking of the notes of
3 this statement, did he ever -- not just the rights part,
4 but all the way through taking these notes, did he ever say
5 anything at all to you?

6 A I'm sorry? Somebody was coughing.

7 Q I'm sorry. Did he ever say, I don't want to talk to
8 you or give me a lawyer?

9 A No.

10 Q What do you mean?

11 A If he had, I would have stopped immediately.

12 Q Okay. Fine. Now, you said in here Boo. Who is Boo?

13 A I don't know.

14 Q Were you ever able to identify anybody named Boo?

15 A I believe as far as we got on that is Stephan's cousin
16 Boo, if I can recall correctly.

17 Q You don't know?

18 A No.

19 Q Now, I know you weren't -- were you involved at all on
20 the burglary at initially as filed, the incident
21 report and what was taken?

22 A No.

23 Q Okay.

24 MR. MEADORS: Beg The Court's indulgence.

25 THE COURT: Yes.

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1 (Pause.)

2 Q When you talked to Mr. Felder and he mentioned that
3 his house had been broken into?

4 A Yes.

5 Q Then he said he left?

6 A Yes.

7 Q So your information, he wasn't there to talk to the
8 initial officer, correct?

9 A Correct.

10 Q Did you have an occasion to see the car at the
11 impound?

12 A Yes.

13 Q I am going to show you ---

14 MR. MEADORS: Permission from The Court to approach?

15 THE COURT: Yes.

16 Q State's 12, State's 13, is that the car that was in
17 the impound and registered back to Ms. Ida Mae Felder?

18 A Yes.

19 Q And I think when you were talking earlier, you said
20 his car -- Ida Mae Felder's car. And I think you said in
21 the statement that she was in a green car. Through your
22 course of the investigation was this the car he was driving
23 that night, the white car?

24 A Yes, that's what he advised us.

25 Q Even though it's titled to Ms. Ida Mae, this is the

1 car he was driving, correct?

2 A Correct.

3 Q Now, how long have you been in law enforcement?

4 A January will be 11 years.

5 Q And State's 26, look at that. And tell the jury what
6 that means to you if anything?

7 A It's a picture of a rear -- well, the driver's door
8 and the rear door, rear door being closer to the camera.

9 They're open on the vehicle is the white -- white vehicle
10 with tan interior. The windows appear to be up and they're
11 lines going across the main window.

12 Q Have you had any experience in tinting?

13 A Yes, I've had numerous vehicles ever since I was able
14 to get vehicles that have tinted windows.

15 Q And what if anything on this item, 26, does that
16 appear to you to be on the back window, based on your
17 experience, training in law enforcement, and maybe
18 personal?

19 A I've taken tint off many of my personal vehicles.
20 I've seen many vehicles that had tint taken off of the
21 windows. And they leave lines. It leaves lines just like
22 that on your -- on your car windows. It's extremely hard
23 to get off, very cumbersome, and it takes a lot of any kind
24 of fluid, 401, whatever you use and strength, and almost a
25 razor blade. It's left on there by the glue, and the lines

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1 are left because you can't tear it off in one solid pull.
2 Each line represents where you go and re-grab the tint and
3 pull it down the window as far as you can, until you have
4 to re-grasp it.

5 Q Just a couple more questions. Going back to State's
6 -- statement and advice of rights -- 34 and 35. Is the
7 individual that said he talked to you, the individual that
8 gave you this oral statement, is he in the courtroom?

9 A Yes, he is.

10 Q Okay. And would you point that person out?

11 A The defendant, sitting next to Mr. Chandler.

12 Q Mr. Chandler.

13 A Wearing a white shirt, black male.

14 MR. MEADORS: We'd like the record reflect he pointed
15 to the defendant, Your Honor.

16 THE COURT: The record will so reflect.

17 MR. MEADORS: Beg Your Honor.

18 (Pause.)

19 MR. MEADORS: Thank you, Your Honor.

20 THE COURT: All right. Cross examination.

21 MR. KENT: Thank you, Judge. May it please The Court.

22 THE COURT: Yes, sir, Mr. Kent.

23 CROSS EXAMINATION BY MR. KENT:

24 Q Detective -- detective. Investigator, I'm sorry.

25 When Detective Lyons was testifying earlier, he said both

1 of you are basically the case agents so I can ask you both
2 questions about the file; is that safe?

3 A I'll tell you if I can't answer them or not. It's
4 been a while since I saw the entire file.

5 Q Okay. And I'm just wanting to -- this first question
6 I meant to ask Detective Lyons. Are you familiar with the
7 victim in this case? Do we know where he lived, his
8 residence, his home?

9 A I believe he grew up on the south end of town, but I
10 don't know where he -- I can't recall where he was staying
11 during the time frame.

12 Q Do you know if he's homeless, if he actually has a
13 residence?

14 A I don't recall where he was -- where he was living
15 during this time.

16 Q When you were talking about the vehicle, you were
17 talking about driving the McFaddens back to -- I think you
18 mentioned the 2 of you were in the car, yourself and
19 Detective Lyons as well as Antrell McFadden and Kayla
20 McFadden, they were in the back seat I'm assuming?

21 A I don't know if Detective Lyons was in the back seat
22 with one of them and McFaddens were split up -- front and
23 back seat is typically how I travel with people in the
24 vehicle not in law enforcement.

25 Q Okay. You had indicated that -- when you were asked

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1 questions from the state, you indicated that you saw a
2 white vehicle and you pointed to them, is this similar to
3 the vehicle you all were talking about; is that correct? I
4 want to make sure I have your testimony correct.

5 A I don't know who indicated as far as who said it
6 first. But the white vehicle drew attention and somebody
7 said, I know -- I don't know if they said something to me
8 first. But I asked them does that -- is that similar to
9 the white vehicle you guys are talking about? And they
10 said yes.

11 Q Same or similar?

12 A Similar.

13 Q Officer, and we talked about investigation, we talked
14 about the fact you're very well trained. You've gone to a
15 lot of colleges and I think in Pennsylvania, Harrisburg,
16 and things of that nature, again at Mansfield you also
17 indicated.

18 A Correct.

19 Q Is that correct?

20 A Yes, sir.

21 Q These are all places you've gone to help with your
22 training and investigation to become a better police
23 officer?

24 A Not the university.

25 Q Not the university. But, again, the State Carolina

1 Law Enforcement Division?

2 A South Carolina Criminal Justice Academy, yes.

3 Q Criminal Justice Academy and so forth to help you with
4 your law enforcement investigation?

5 A Yes.

6 Q When we do investigations and we're interviewing and
7 we're trying to figure out things that are happening in a
8 case, do we generally tell witnesses and tell individuals
9 and tell suspects our theories of the case and the things
10 we have and the evidence that we have?

11 A I would have to answer that on a case-by-case basis,
12 and depending on the information I'm releasing. Some
13 information we keep close to our cuff. Some information we
14 release.

15 Q Why do you keep some information close and other
16 information not so close?

17 A Some we don't want to go public, and some we need to
18 keep close to law enforcement.

19 Q Well, in this case, do you remember if you disclosed a
20 bunch of the evidence and information that you had to
21 everybody involved in the case?

22 A I can't recall that.

23 Q You can't recall if you went to Antrell Felder and
24 said, hey, we found the red hat or anything of that nature,
25 I'm just wondering?

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1 A I can't recall if I mentioned about a red hat.

2 Q We've been making a big deal about Antrell McFadden --

3 I mean, Antrell Felder, whether or not he was avoiding law

4 enforcement officers or not avoiding law enforcement

5 officers. But it's clear whenever you all went to see him

6 that first day at that apartment complex on the 18th, he

7 was not a suspect, he was not under arrest for anything at

8 that point in time?

9 A He was not under arrest.

10 Q He was not under arrest. There wasn't a pending

11 warrant for him at that point in time?

12 A I don't believe there was the first time we were

13 there.

14 Q And at the point that there was a pending warrant, he

15 actually turned himself in to law enforcement; is that

16 correct?

17 A He turned himself in on the 19th.

18 Q Officer, the statement we've gotten from Mr. Felder,

19 this is not a confession, is it? He's not confessing to

20 any crime or anything of that nature, this is a statement

21 from him, actually, it's a summary of an oral argument?

22 A Oral argument?

23 Q I mean, I'm sorry. Summary of a defendant's oral

24 statement. I'm sorry.

25 A It was a summary of the oral statement he provided to

1 myself and Captain -- then Captain Holston at the police
2 department, yes, sir.

3 Q Why wasn't he allowed to write -- I'm just asking
4 generically. Why wasn't it written in his own handwriting?
5 Why is it just a summary?

6 A I don't believe he wanted to provide a written
7 statement at that time. That was just based upon my notes
8 and the recollection of the oral statement.

9 Q That was not written down where that Mr. Felder did
10 not want to write his own statement, anything of that
11 nature?

12 A It's not in there.

13 Q Was this recorded at all?

14 A No.

15 Q Okay. So it's not recorded?

16 A No, sir.

17 Q Is there a reason why it's not recorded? Why aren't
18 these things recorded?

19 A If I recall correctly, the room we were in was not set
20 up for recording devices, if I can recall.

21 Q But what we have, basically, is a summary of your
22 notes of what happened in that interview room?

23 A And my recollection.

24 Q And your recollection?

25 A Yes, at the time I typed my summary.

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1 Q The gravamen of the statement that Mr. Felder gave you
2 was that there was a burglary at his residence, he went
3 back to his residence. Everybody was at his residence.
4 His girl friend told him, if you got weed or if you're
5 holding something, you better get out of here? Is that
6 what he told you all?

7 A I believe his words were, if you're holding -- she
8 said, if you're holding something, you know, the police are
9 on the way.

10 Q The police are on the way?

11 A He admitted that he had some what he called weed on
12 him.

13 Q He had some weed on him?

14 A And that's why he left.

15 Q And he takes off; that's what he told you?

16 A Yes.

17 Q And he came in right away and he told you that. He
18 didn't ask for an attorney?

19 A Correct.

20 Q He didn't. You didn't have to go find him, he came
21 and turned himself in?

22 A We were looking for him. He made phone contact with
23 us and it was arranged for him to turn himself in, yes,
24 sir.

25 Q That very next day. Well, how long had a warrant been

1 issued? You said they were looking for him. How long ---

2 A It may have been 24 hours. I believe the warrant -- I
3 didn't get to look at the warrant, but I believe it was
4 signed on the 18th. He turned himself in on the 19th.

5 Q He turned himself in?

6 A Yes, sir, on the late afternoon of the 19th.

7 Q He indicated to you certain amounts of property were
8 stolen from his residence, didn't he?

9 A I don't know if he said amounts, but he indicates some
10 property, yes.

11 Q Of the things he said was taken from his house was
12 shoes, clothing, and hats actually?

13 A He admitted some of that, yes.

14 Q Some of the things he told you that were stolen -- and
15 this was the day after the shooting happened. He said
16 somebody broke into my house and stole some property,
17 including hats; is that correct?

18 A Yes, sir.

19 Q And if I'm not mistaken, from your earlier testimony,
20 you can't testify whether or not we informed anybody of
21 this information that hats -- that a hat is a critical
22 piece of evidence in this case?

23 A I can't recall if I told anyone about a hat.

24 Q And you're one of the case agents on the file,
25 required to look in the file and testify to the jury

Detective Potteiger - Cross by Mr. Kent

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1 everything that the file finds; is that correct?

2 A Rephrase that for me please? Or could you repeat
3 that?

4 Q Had you looked at the full file in this case?

5 A I don't know if I've seen the whole file. I left the
6 police department roughly 1 month after this incident
7 occurred. So a lot has occurred after I left. So I can't
8 say I -- I looked through the entire file. Everything up
9 to a month later I would say I feel comfortable with.

10 Q Investigator, you testified on direct examination, you
11 testified that Mr. Felder was aware of who committed the
12 burglary on his residence. How do we know that? Is there
13 any information that you can provide to the jury how he
14 knew who committed this burglary?

15 A The investigation revealed that it was not the first
16 burglary at the house, and there was an on-going situation
17 and that he and Mr. McKenzie knew each other through --
18 through whatever means it was they knew each other. I
19 believe it was stated that Mr. McKenzie was purchasing some
20 items from Felder on occasion.

21 Q What do you have to offer that Mr. Felder knew that
22 Mr. McKenzie committed this burglary? Do you have anything
23 to offer or anything, because you testified that he knew
24 that this was the individual who burglarized his home.
25 It's not in the statement, correct?

1 A That's correct.

2 Q And it's not in the statements of anyone else you
3 talked to?

4 A That's correct.

5 Q Did you find any fingerprints in the house that
6 belonged to Willie McKenzie that would have given you
7 Antrell Felder?

8 A I don't know what was found in the house.

9 Q My question, how can we testify to the jury -- how can
10 you tell the jury that Antrell Felder knew for a fact who
11 burglarized his home? We can't, can we?

12 A I don't believe I said for a fact he knew.

13 Q You would agree that's what you told the jury that Mr.
14 Felder figured out who broke into his home?

15 A Not in those words.

16 Q What words did you use, Officer?

17 A I can't quote word for word what I said. I said we
18 believe he may have believed he knew who found -- who broke
19 into his house, that he believed Mr. McKenzie was the one
20 who broke into his house. It's one of those lines.

21 Q The same question. How do you know that? Is that a
22 guess?

23 A No. It's based upon the information I received during
24 the investigation of this homicide.

25 Q Did Mr. Felder give you that information?

Detective Potteiger - Redirect by Mr. Meadors

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1 A He did not provide that information.

2 Q He did not provide you the information of what was
3 inside of his mind at all, he did not tell you that he had
4 solved this burglary?

5 A No.

6 MR. KENT: Thank you. That's all the questions I
7 have.

8 THE COURT: Redirect, Mr. Meadors?

9 MR. MEADORS: Thank you, Your Honor. One second.

10 (Pause.)

11 REDIRECT EXAMINATION BY MR. MEADORS:

12 Q Are you familiar with State's 28 through your
13 investigation?

14 A Yes.

15 Q What is that?

16 A This is a camera that was brought to my attention
17 during the investigation, that was found on Mr. McKenzie's
18 person.

19 Q Did this have items in here relating to individuals,
20 specifically, Ms. Caughman, who is with the defendant?

21 A Yes, there's a video stored on that camera that later
22 I viewed. And it showed a -- what appeared to be a child's
23 birthday party at a local park. And it had family members
24 of Mr. Felder in the video, specifically who I believe is
25 his girl friend, Stacey Caughman.

1 Q Mr. Kent asked you in response to that that you had
2 said that there was some sort of relationship in here where
3 the victim bought stuff from Mr. Felder?

4 A Correct.

5 Q And I think also he asked you about when you first
6 went there, to the house and you didn't have a warrant. Do
7 you remember he asked you about that?

8 A Yes, I do, yes.

9 Q You didn't have a warrant for him and didn't even have
10 -- you didn't have a warrant for him?

11 A No.

12 Q That's when he gave -- didn't give you his real name,
13 right?

14 A Correct.

15 Q And it's in evidence without objection. But this
16 statement was freely and voluntarily given, correct?

17 A Yes.

18 Q These were his words that you took down. The summary,
19 this statement, I've got the wrong document, but I mean the
20 statement, No. 35? This was a summary of his statement?

21 A That's correct, a summary of his oral statement.

22 Q That you took from him, correct?

23 A Correct.

24 Q Freely and voluntarily given?

25 A Correct.

Detective Potteiger -- Recross by Mr. Kent

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1 Q After advice of rights, which he signed, correct?

2 A Yes.

3 Q Saying he understood?

4 A Yes.

5 Q And they're in without objection. These were his
6 words, summary of his words?

7 A Yes.

8 MR. MEADORS: One second please, sir.

9 (Pause.)

10 MR. MEADORS: That's all I have. Thank you.

11 THE COURT: Recross, Mr. Kent?

12 MR. KENT: Briefly.

13 RECROSS EXAMINATION BY MR. KENT:

14 Q Was there any indication at all who ever did this
15 shooting was ever on the crime scene went through the
16 pockets of the individual on the ground?

17 A I can't recall anyone saying that's what they saw.

18 Q I'm sorry. I didn't mean to interrupt you.

19 A That they saw somebody going through his pockets.

20 Q So there's no testimony that anybody went through the
21 pockets, whether there was anything inside his pockets?

22 A Repeat that for me please?

23 Q There's no testimony that anyone would have known what
24 was inside of the pockets of the victim -- or nothing
25 inside of the case file that you have seen that said

1 somebody knew what was inside the pockets of the victim?

2 A Other than the individuals that recovered it, medical
3 personnel.

4 Q And the individual recovered were medical personnel?

5 A And, obviously, him, Mr. McKenzie.

6 MR. KENT: Thank you. That's all the questions I
7 have.

8 THE COURT: All right. Thank you, sir. You may step
9 down.

10 (The witness leaves the witness stand.)

11 MR. MEADORS: Your Honor, side bar?

12 (A bench conference was held off the record in the
13 presence of the jury, but out of the hearing of the jury.)

14 THE COURT: Ladies and gentlemen of the jury, it is a
15 few minutes after 5:00, about 10 after 5:00, and you have
16 been here for a long stretch this afternoon. We normally
17 don't run this long. But, of course, because we had the
18 problem this morning, we did try to move along. And we
19 have moved along pretty well. So we are going to recess
20 for the afternoon. And I'm going to allow you to go to
21 your homes and families.

22 I want to emphasize the admonitions that I gave you
23 yesterday. Do not discuss the case with anyone while you
24 are away from the courthouse. Do not allow anyone to
25 discuss the case with you. If anyone should approach you

1 or try to talk with you about the case, get their name and
2 their description and report it to me when you return in
3 the morning.

4 Now, similarly, do not discuss the case among
5 yourselves when you're reassembling in the jury room
6 tomorrow morning, because it's still premature for you to
7 begin any discussion of this matter.

8 And one other thing that I'm going to ask you to do.
9 I'm going to ask you to be back in the morning about 9:15.
10 And when all of you get assembled, I want the 12 members of
11 the principal jury -- and the alternates should not
12 participate in this process. But the 12 members of the
13 principal jury, I want you to select from among yourselves
14 -- from among those 12, a person to be the foreperson of
15 this jury. And when you select that foreperson, notify the
16 bailiff who that is. And that person will sit on the first
17 seat on the front row.

18 The alternates should not participate in this process,
19 and, of course, cannot be elected as the foreperson. It
20 would have to be from the 12, and the 12 of you would be
21 the ones that would select that foreperson.

22 So if you would come -- try to be here in the morning
23 about 9:15, and do that, then we'll be ready to go forward
24 with the testimony at 9:30.

25 So have a pleasant evening. Don't discuss the case

1 with anyone. Just kind of forget about it over the evening
2 recess and get some rest and report refreshed in the
3 morning. And we'll be ready to go forward at 9:15. Thank
4 you. Have a pleasant evening. I'll see you tomorrow.

5 (The jury exits the courtroom at 5:11 p.m.)

6 THE COURT: All right. I'm going to wait just a
7 minute to give the jury an opportunity to clear the
8 building. But before I do, I again want to admonish any
9 spectators or anyone in the courtroom against any kind of
10 contact with any members -- anybody involved in this case
11 in any way whatsoever on the other side from the one that
12 you might be sympathetic to. Furthermore, any witnesses or
13 any discussion or any attempts to contact any witnesses or,
14 of course, any member of the jury will be dealt with by
15 this court very severely.

16 I'm going to require that there not be any contact
17 directly or indirectly with any members of the jury, any
18 potential witnesses in this case, or any members of the
19 victim's family or from the victim's family's standpoint
20 with any members of the defendant's family.

21 MR. MEADORS: Judge, can I briefly address one issue?

22 THE COURT: Yes, sir.

23 MR. MEADORS: I went through the advice of rights
24 pretty quickly, more quickly than I usually do, Your Honor
25 knows. Because I think it was in without objection, they

1 weren't contesting it. Then during the questioning, he
2 starts asking, well, why wasn't it recorded and all this,
3 which to me he's kind of questioning the statement. And
4 that's what I was a little worried about. I didn't know if
5 that's going to happen in closing. But I thought it was
6 stipulated to that it was freely -- I mean, I went over it
7 quickly.

8 MR. KENT: I would not contest -- for the record, I
9 will not contest anything about that during the closing
10 argument.

11 THE COURT: All right. Mr. Kent has indicated -- and
12 that was one reason I called side bar, because normally at
13 the time of the admission of a statement into evidence, I
14 will give the jury some preliminary instructions on the
15 jury's duty to find the question of voluntariness, and then
16 to give the statement such weight as they deem it is
17 appropriate.

18 Mr. Kent indicated to me that that was not an issue
19 and so I did not give those instructions to the jury that I
20 would normally give.

21 And as I understand it, Mr. Kent don't plan -- you
22 don't plan to ask for instructions on voluntariness at the
23 close of the case as well?

24 MR. KENT: Judge, it's probably necessary just to put
25 it on the record now, where we are able to do things as

1 part of strategy. It was probably the exact opposite.
2 It was a very voluntary statement, that he turned himself
3 in voluntarily. He voluntarily talked to law enforcement
4 without his attorney present. So it's the opposite of
5 what ---

6 THE COURT: I think that's covered adequately on the
7 record. All right.

8 MR. MEADORS: Thank you.

9 THE COURT: All right. Anything else before we
10 adjourn?

11 MR. MEADORS: No, sir.

12 MR. KENT: I have one matter.

13 THE COURT: Yes.

14 MR. KENT: During the cross examination of Detective
15 Potteiger, when I asked him is there any reason -- if
16 there's any evidence whatsoever out there that would make
17 him think that Antrell Felder actually broke into his home?
18 He actually said there's some other burglaries --
19 there was another burglary at the residence. I didn't stop
20 right there because I don't want to draw the jury's
21 attention to it. But I think at this time if there are
22 burglaries out there that we don't know about, that haven't
23 been disclosed to me, I'd like to know now. If there
24 aren't any burglaries, if he was just mistaken, I'd kind
25 like a curative instruction of some sort, that there's no

1 other burglaries, that William McKenzie was accused of
2 breaking into this residence; and that's how he knew it. I
3 didn't want to get into ---

4 THE COURT: Well, talk with Mr. Meadors. And if you
5 all have got some curative instruction that you want me to
6 give the jury, let me know about it the first thing in the
7 morning and we'll go from there.

8 Let's plan to be here -- let's plan to be here,
9 Counsel, at 9:15 as well so that you all can resolve that
10 issue and see if there's any curative instruction that's
11 appropriate. And I will also have the jury here by that
12 time to select a foreperson. So plan to be here at 9:15.
13 Let's be ready to start in the courtroom at 9:30. If you
14 all will take care of that in the morning. Okay?

15 MR. KENT: Thank you, sir.

16 MR. MEADORS: Thank you.

17 THE COURT: Thank you. We'll be in recess until 9:15
18 in the morning.

19 (Court is in recess.)

20 (Thursday, November 17, 2011.)

21 (Picture of fingerprint marked for identification as
22 State's Exhibit No. 36.)

23 (Brown envelope, Ball cap swabs, marked for
24 identification as State's Exhibit No. 37.)

25 (Brown envelope, 2 swabs from sunglasses, marked for

1 identification as State's Exhibit No. 38.)

2 (Brown envelope, DNA marked for identification as
3 State's Exhibit No. 39.)

4 (GSR evidence collection kit, Antrell McFadden, marked
5 for identification as State's Exhibit No. 40.)

6 (GSR evidence collection kit, Kayla McFadden, marked
7 for identification as State's Exhibit No. 41.)

8 (GSR evidence collection kit, William A. McKenzie,
9 marked for identification as State's Exhibit No. 42.)

10 (Video off camera marked for identification as State's
11 Exhibit No. 43.)

12 THE COURT: We're back on the record with regard to
13 the matter of The State versus Felder. Mr. Felder is
14 present in the courtroom with his counsel. The state is
15 present and represented by Mr. Meadors.

16 The reason for the delay is that a juror had car
17 trouble in the middle of the rain storm this morning, but
18 to his credit he called a couple times and stayed in touch
19 with The Court. So I wanted to give him the opportunity to
20 serve, since he was diligently following his duties and did
21 not want to excuse him for the alternate. And he is here
22 now.

23 And the parties have elected a foreperson. The jury
24 has elected a foreperson. And let me -- the foreperson for
25 the information of counsel elected by the jury is Juror No.

1 18, Mr. Irick Brooks.

2 All right. In addition to that the clerk has -- I
3 mean, the court reporter has advised me that she premarked
4 at the request of the parties exhibits -- give me the
5 numbers again, Ms. Rutledge.

6 COURT REPORTER: 36 through 43.

7 THE COURT: 36 through 43. Are those agreed to or
8 what's the status of those, Mr. ---

9 MR. MEADORS: Yes, sir, agreed to.

10 THE COURT: All agreed to?

11 MR. KENT: Without objection.

12 THE COURT: All right. So they're all in evidence
13 without further authentication.

14 (State's Exhibit Nos. 36 through 43 received in
15 evidence.)

16 THE COURT: All right. Anything before we bring the
17 jury in, Mr. Meadors, on behalf of the state?

18 MR. MEADORS: No, sir.

19 THE COURT: On behalf of the defense?

20 MR. KENT: Judge, just my objection that ---

21 THE COURT: Oh, yes. Let the record also reflect
22 there were certain pretrial motions that were made and
23 ruled on by The Court. The record should reflect that the
24 objections to anything coming in before the jury as a
25 result of The Court's rulings on those motions -- the

1 objection of the defense is preserved throughout the trial
2 of this case without the necessity of making additional
3 objections.

4 All right. Thank you.

5 MR. KENT: Thank you, Your Honor.

6 THE COURT: All right. Bring the jury in please.

7 (The jury returns to the courtroom at 9:56 a.m.)

8 BAILIFF: Your Honor, we have all the jurors present
9 in the courtroom.

10 THE COURT: Thank you very much, ladies and gentlemen.
11 And thank you for your promptness in being back here this
12 morning. And I want to commend the juror who had car
13 trouble this morning for staying in touch with The Court
14 and telling us what his problems were, and that is the
15 reason that we were late getting started. Otherwise, we
16 would have been ready to start at 9:30. But those things
17 happen and we do appreciate his diligence to his duties by
18 contacting The Court and advising us what his status was
19 and getting here as soon as he could. And The Court
20 appreciates that.

21 I also have been advised that you are Mr. Brooks; is
22 that correct?

23 JUROR: Yes.

24 THE COURT: All right. Mr. Brooks, that you have been
25 elected foreman of this jury. As the foreman of the jury,

1 you will sit in that seat throughout the rest of the trial
2 of the case.

3 The alternates, of course, will sit in the seats where
4 they are seated. And, again, as I said, the rest of the
5 seats in the jury box are not reserved and you may sit in
6 any of the seats in the jury box.

7 The next thing that I would need to ask you if anyone
8 has contacted you or tried to contact you or make any
9 contact with you about this case over the evening recess, I
10 would need to know about it now.

11 (No response.)

12 THE COURT: Negative response, and that's good.

13 The other thing that I would ask is that if anybody
14 has read any news stories or heard anything on the
15 broadcast media regarding this case over the evening
16 recess, I would also need to know about that now.

17 (No response.)

18 THE COURT: Again, negative response, and that's good.

19 All right. Yesterday afternoon when we adjourned, the
20 state was in the process of presenting their case to you,
21 and they have the right to continue with the presentation
22 of the state's case at this time.

23 Mr. Meadors.

24 MR. MEADORS: May it please The Court.

25 THE COURT: Yes, sir.

1 MR. MEADORS: The state now calls Kenneth Nesbitt.

2 KENNETH L. NESBITT, being
3 first duly sworn, testified as follows:

4 CLERK: Please state your name. Spell your last name
5 for the record.

6 LIEUTENANT NESBITT: My full name is Kenneth Lee
7 Nesbitt, N-e-s-b-i-t-t.

8 DIRECT EXAMINATION BY MR. MEADORS:

9 Q Good morning.

10 A Good morning, sir.

11 Q Please tell the ladies and gentlemen about you
12 briefly, where you're from, your background, your
13 education, in particular your education and training in law
14 enforcement please?

15 A Yes, sir. I was raised in Bishopville, South
16 Carolina, just about 20 miles from Sumter here, came to
17 work in 1982 at the Sumter Police Department. So I've been
18 there 28 years, worked at different capacities while I've
19 been at the police department. I'm currently in the
20 training office, one of the training officers that helps
21 conduct training for all of our officers.

22 For up until the last 3 or 4 years, for the last 15
23 years -- approximately 15 years prior to my current
24 assignment, which was 3 or 4 years ago, I worked most of my
25 time doing crime scene investigation, which includes going

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1 to crime scenes, taking pictures, collecting evidence,
2 trying to find fingerprints, collecting different items of
3 evidence to send off to the lab. To hold that position and
4 to do that work, I had to have extensive training in crime
5 scene investigation, fingerprint processing, such as that.

6 I attended numerous classes over that time period at
7 the South Carolina Criminal Justice Academy, as well as
8 other places to obtain training to be able to conduct crime
9 scene investigations and process for fingerprints.

10 Q How many crime scenes have you been involved in?

11 A I would conservatively estimate it more than 500
12 probably over this time period. Some of them very minor,
13 and then some more serious crime scenes.

14 Q How many -- if you could come up with a number, how
15 many items have you processed for potential fingerprints?

16 A There again, I would conservatively say 500. It would
17 probably be much more than that, but that would be a very
18 conservative figure over the years.

19 Q Have you been offered and accepted as an expert in
20 courts of record of this state in latent fingerprint
21 processing and identification?

22 A Yes, sir, I have, approximately 6 or 7 years ago in
23 fingerprint processing. And then about 3 years ago I was
24 qualified as an expert in fingerprint identification in
25 this courtroom.

1 MR. MEADORS: Your Honor, at this time we'd offer
2 Lieutenant Ken Nesbitt as an expert in the field of latent
3 fingerprint processing and identification.

4 THE COURT: Voir dire with regard to qualifications of
5 Mr. Nesbitt?

6 MR. KENT: No, Your Honor.

7 THE COURT: All right. The Court will find Officer
8 Nesbitt as an expert in the field of latent fingerprint
9 processing and identification.

10 Ladies and gentlemen, you will recall I told you
11 yesterday that the difference between an expert who has
12 been -- between a witness who has been qualified as an
13 expert and one who is just not qualified as an expert is
14 that an expert is allowed to give an opinion when
15 scientific, technical, or other specialized knowledge will
16 aid the trier of fact to determine a fact in issue. And a
17 witness that is qualified by experience, training,
18 education or otherwise may give an opinion. And I have
19 qualified Mr. Nesbitt as an expert in the field of
20 fingerprint identification and processing.

21 All right. Mr. Meadors.

22 MR. MEADORS: Thank you, Your Honor. May it please
23 The Court.

24 Q Lieutenant, were you given an item involved in this
25 case to process for potential fingerprints?

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1 A I was, yes, sir.

2 Q I'm going to show you what's been entered as State's
3 17 and also State's 21. Would you look at both of those
4 and tell me if that is the item that you processed in this
5 case?

6 A I can identify this red hat. It's got SL on the front
7 of the hat, like a St. Louis baseball hat is what it
8 appears to be to me.

9 THE COURT: What's the State's number?

10 MR. MEADORS: 17.

11 THE COURT: 17. Okay.

12 A And I can identify the hat primarily because I've
13 initialed it and dated it inside the hat.

14 Q Why do you do that?

15 A What I commonly do to be able to identify this item as
16 particularly the item that I received on that date.

17 Q So you come here in court now and say I know I did
18 this because my initial is in there?

19 A Yes, sir.

20 Q Look in State's -- what's the number in that please?

21 Read it out again?

22 A This is No. 21.

23 Q And the question would be, when you got State's 17,
24 was it in this condition or was it in the -- did it have
25 something else on it when you began processing it?

1 A When I received the hat out of evidence, it actually
2 had 2 labels on it that aren't on it now. The 2 labels
3 that were on it at the time I removed and they are here in
4 my hand now in the envelope marked Exhibit 21.

5 Q And can you show the jury ---

6 MR. MEADORS: Judge, can he come down just for one
7 second?

8 THE COURT: Yes, sir, you may step down. Just
9 remember to keep your voice up so that the court reporter
10 and all the members of the jury and defense counsel can
11 hear you.

12 LIEUTENANT NESBITT: Yes, sir.

13 (The witness steps down from the witness stand.)

14 Q You can come right here. I just want you to show the
15 jury on State's 17 where the label was which came from
16 State's 21? When you got the hat, where was the labels
17 that you said these labels were on? Would you show the
18 jury where they were?

19 A Yes. Would I -- would I be able to refer to the chain
20 of custody that I used?

21 Q Yes, sir.

22 A To make sure that I don't misquote exactly where the
23 labels were.

24 Q Sure.

25 (Pause.)

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1 A Thank you.

2 Q Yes, sir.

3 A This is the paperwork that I signed receiving the hat
4 from the evidence custodian, and also when I removed the
5 labels from the hat, I entered them as a separate item of
6 this paperwork.

7 Q You're pretty thorough, aren't you?

8 A I try to be. This job dictates that you do, yes, sir.
9 Do you want me to explain what I was looking at?

10 Q Okay.

11 A This label which is marked 59 -- it's got the letters
12 59 and the words f-i-f-t-y, fifty. It's a size 7 and 5/8
13 marked on the label. And it's got an authentic, official
14 major league baseball emblem on this decal. This was on
15 the bill of the hat. And what I was looking on the note
16 for was to see if it was on the underside of the top of the
17 hat. I really don't recall, and I didn't mark that. But
18 this label was on the bill of the hat, either the under
19 side or the top.

20 This is a smaller label that you can't read now
21 because of the chemical processing that I did trying to
22 find fingerprints caused the ink to run on it, so I really
23 can't make out what's on there now. But this label was on
24 the underside. I did mark on the note that it was on the
25 underside of the bill.

1 Q So if it was on the underside of the bill, you could
2 see it, correct?

3 A Correct.

4 Q And if this was on the outside of the bill, that kind
5 of fit there?

6 A Correct. It's shaped to where it would fit across the
7 bill of the hat, follow the contour of the bill of the hat.

8 Q So the question is when you got the hat, it had this
9 label and that label on the hat?

10 A That's correct.

11 Q All right. Take your seat back please. Thank you.

12 (The witness returns to the witness stand.)

13 Q You got item 17, which is now 17 and 21. As an expert
14 in the field of fingerprints processing and identification,
15 what did you do with it?

16 A I removed the labels from the hat because I
17 particularly wanted to try to get fingerprints. If there
18 was any fingerprints on the labels, I wanted to be able to
19 process the items and get fingerprints so they could be
20 examined, to try to determine whose prints they were.

21 I removed them from the hat to preserve the hat itself
22 for DNA testing. We don't do DNA testing at our police
23 department. We package those items and send them off to
24 the laboratory to let SLED conduct DNA testing. So I
25 removed the labels because some times the process that I

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1 use trying to find fingerprints may damage the evidence or
2 interfere with the DNA evidence on the hat. So that's why
3 I removed ---

4 Q That's why you removed them?

5 A Yes, sir. I removed these items in the process of
6 what we commonly call processing for fingerprints. And
7 what that means is ---

8 Q Yes, sir.

9 A --- there are several different ways we can try to
10 obtain fingerprints. You probably see a lot of stuff on
11 T.V. about this. A lot of what you see on T.V. is actually
12 not -- not real accurate as far as what we do. But in this
13 case what I did was use fingerprint powder, just plain old
14 conventional fingerprint powder, which appears to be very
15 finely ground graphite, is what it looks like. And I
16 brushed it on this label to try to obtain a fingerprint.

17 If there's fingerprint residue, which fingerprint
18 residue is just some type of moisture on the underside of
19 the hands or fingers that is transferred when you touch an
20 item, to that item, if there's any moisture there, it will
21 usually transfer.

22 And when you put the fingerprint powder on, it will
23 stick to that residue in the shape of the ridges on your
24 hands, which are the lines on your hands, the raised lines.
25 And everybody's probably noticed, looked at your own hand

1 or fingertips and been able to see your fingerprints. So
2 that's what I did in this case.

3 I dusted this item with fingerprint powder, and I did
4 get some partial fingerprints and some ridge detail -- is
5 commonly what we refer to it as, because very often it's
6 not a complete fingerprint but a part of one. And so we
7 normally define it as ridge detail that's at least part of
8 a fingerprint; that's what I did in this case.

9 And I did find several fingerprints on this item.

10 And on this label I used a different process. I used
11 a chemical process, a chemical compound which will react.
12 If that chemical reacts to some of the substances in the
13 fingerprint residue and causes it to be visible -- causes
14 it to stand out against the background.

15 On this item I did not find any fingerprints that
16 would be of any value for identification.

17 On this one, as I said, I did find some.

18 Q This is 36. Do you recognize that?

19 A Yes, sir. The -- once I dusted this and some
20 fingerprints were visible on it, I took this item first to
21 our lady that runs our AFIS computer system. It's an
22 automated computer system that searches against
23 fingerprints on file -- or we found prints that we put into
24 the system to try to see if we can match the print with
25 somebody that's in the system.

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1 So I took this item to Ms. Hodge, who's in the
2 courtroom, to ---

3 Q Is this Ms. Hodge back there?

4 A Yes, sir. Took this item to her to have her examine
5 it, to see if she could enter these prints in to the AFIS
6 system. And after she looked at it, she advised me that
7 she would probably be able to do a better job of seeing
8 these prints -- actually for seeing better, if I were to
9 lift them with tape, which is also a common process. I
10 just wanted her to look at it first before I lifted it
11 because sometimes it's better when it's visible on the item
12 before you put the tape on it. Sometimes it's actually
13 visible when you put the tape on it and lift it.

14 So I took the label back to the lab at the police
15 department and actually put clear tape over the top of it,
16 and lifted the print off and put it on this white
17 background surface here, and took this print to Ms. Hodge
18 to enter in to the AFIS system.

19 Q All that's what's called processing, correct?

20 A Correct.

21 Q What you just described?

22 A Yes, sir.

23 Q And at this point you've lifted that print?

24 A That's correct.

25 Q You took that to Marie Hodge for analysis?

1 A Yes, sir.

2 Q As far as processing in this case, Lieutenant. Did
3 you process anything else?

4 A No, sir, in this case that was the extent of my
5 involvement.

6 MR. MEADORS: Your Honor, I believe those are already
7 in evidence.

8 Beg The Court's indulgence.

9 THE COURT: Yes.

10 (Pause.)

11 MR. MEADORS: That's all. Thank you.

12 THE COURT: Cross examination, Mr. Kent?

13 MR. KENT: Yes, sir.

14 CROSS EXAMINATION BY MR. KENT:

15 Q Investigator, how are you doing, sir?

16 A Good, sir.

17 Q Maybe I was confused. Did you say you got several
18 fingerprints from item 17?

19 A I think I did say ---

20 Q 21, I'm sorry.

21 A --- several fingerprints, yes.

22 Q Okay. But you tested one fingerprint -- I just want
23 to make sure I have your testimony.

24 A I really don't know. Ms. Hodge would have to answer
25 that. Whatever I found, I gave to her. And the ones that

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1 she could check, she would have checked.

2 Q But your testimony is you took several fingerprints
3 off of ---

4 A I believe I took several. Some of them may have
5 actually been what we call a duplicate lift, too. I'd
6 have to look at it again to recall that. Oftentimes
7 we'll make one lift and we'll lift it again a second,
8 sometimes even a third or fourth time. Because sometimes
9 the quality of the print -- the visibility increases as
10 you lift it more.

11 So I really don't remember for sure if some of the
12 others were duplicates of the same print or not. But I did
13 have more than one.

14 Q Is that in your report? If I hand your report, is
15 that in there anywhere, or is that something we just have
16 to remember?

17 A It would be on the chain of custody, yes, sir, the
18 same paper that I reviewed when I was looking at the items
19 in front of the jury.

20 Q Would that help refresh your memory?

21 A Yes, sir.

22 (Pause.)

23 Q Investigator, I hand you a paper. Do you recognize
24 what those papers are?

25 A Yes, sir.

1 Q Could you take time just to review those papers real
2 quick to yourself. Tell me when you've had time to review
3 them.

4 (Pause.)

5 A Okay, sir.

6 Q Do those papers sufficiently help refresh your memory
7 as to the question that I just asked you?

8 A It does.

9 Q And let me ---

10 A Go ahead, sir.

11 Q Are you able now to answer the question I asked about
12 the several?

13 A Yes, sir.

14 Q Okay. If you could go ahead and answer that question
15 as to the several fingerprints?

16 A Sure. That paper indicates that I turned in 5
17 separate cards with latent print detail on it, some -- some
18 amount of latent prints. Again, it doesn't tell me whether
19 some of them were duplicate lifts or not. But I did turn
20 in 5 cards, yes, sir.

21 Q All right.

22 A Which would have been the one that identified.

23 Q When you take fingerprints -- I'm not nearly as smart
24 as you when it comes to this. What a fingerprint basically
25 tells us in this situation is that somebody touched that

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1 hat?

2 A Yes, sir.

3 Q It doesn't say where they were or when they touched it
4 or anything of that nature. All you can testify to is
5 someone touched that hat?

6 A That's correct.

7 MR. KENT: Thank you. That's all the questions I
8 have.

9 THE COURT: Redirect, Mr. Meadors?

10 MR. MEADORS: No, sir. Thank you, Your Honor.

11 THE COURT: All right. Thank you, Mr. Nesbitt. You
12 may step down.

13 (The witness leaves the witness stand.)

14 THE COURT: All right. You may call your next
15 witness.

16 MR. MEADORS: Marie Hodge.

17 MARIE A. HODGE, being first
18 duly sworn, testified as follows:

19 MR. MEADORS: Your Honor, Lieutenant Nesbitt is
20 leaving if that's okay. We request he be allowed.

21 THE COURT: Yes. You are excused, Mr. Nesbitt. Thank
22 you for coming.

23 CLERK: Please state your name. Spell your last name
24 for the record.

25 MS. HODGE: Marie A. Hodge, H-o-d-g-e.

1 DIRECT EXAMINATION BY MR. MEADORS:

2 Q Good morning.

3 A Good morning.

4 Q Would you tell the jury about yourself, background
5 training, and in particular your training in the field of
6 fingerprints.

7 A I will ---

8 MR. KENT: Your Honor, I stipulate to this witness'
9 expertise.

10 THE COURT: You stipulate to her qualifications?

11 MR. KENT: We will stipulate to her qualifications.

12 THE COURT: As an expert ---

13 MR. KENT: As an expert, yes, sir.

14 THE COURT: All right. You may still want to get into
15 it briefly, but in view of that stipulation, I would
16 qualify her as an expert in the field of fingerprint
17 processing and identification.

18 MR. MEADORS: Thank you.

19 THE COURT: All right.

20 Q You've been so accepted as you have been several times
21 before, correct?

22 A Yes.

23 Q Just briefly explain to these folks about ---

24 A Yes. My initial training in fingerprint
25 identification?

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1 Q Just about latent.

2 A Latent prints?

3 Q Yes.

4 A Well, initial training was back -- way back when I
5 worked for the FBI identification division many years ago.
6 I've been working with Sumter Police Department for 38
7 years and have always dealt in some form with fingerprint
8 identification. In 2005 we received the AFIS system, which
9 is Automated Fingerprint Identification System. I think
10 Lieutenant Nesbitt mentioned something about television.
11 So I call this my CSI machine. And this is what I do now,
12 been doing that since 2005 and have processed approximately
13 about 1800 cases with an average of about 2 latent prints
14 per -- per case so far.

15 Q Just briefly, though. The difference between a latent
16 print, an ink print ---

17 A A latent print is basically a fingerprint that you've
18 left behind, that you can't see with a naked eye. In other
19 words, you can't see it, it has to be processed for you to
20 be able to see. An ink rolled print is a known print
21 that's been taken from someone where, you know, you place
22 their fingerprint or their finger on an ink pad and roll it
23 onto a piece of paper; that's an ink rolled print.

24 Q So is the idea basically you see if you can find some
25 latent prints or unknown prints and compare them to a known

- 1 print?
- 2 A Correct.
- 3 Q Is that basically it?
- 4 A Correct.
- 5 Q And you come in and based on your experience and your
6 examination of the latent print with a known print, you
7 give an opinion as to who's made that print?
- 8 A Yes.
- 9 Q Okay. How long have you been doing this?
- 10 A I've been doing this full-time since 2005.
- 11 Q And did you have an occasion to examine some latent
12 prints that Lieutenant Nesbitt had lifted?
- 13 A Yes.
- 14 Q Okay. And you don't send prints to SLED?
- 15 A No, sir.
- 16 Q You do all those in-house?
- 17 A Yes, sir.
- 18 Q I actually do them for some proceedings, Sumter
19 County, Lee County. I've done some for Clarendon County,
20 Manning P.D., Bishopville P.D. So we -- we kind of help
21 our surrounding counties because SLED is so backlogged, it
22 helps out those areas.
- 23 Q And I think the Lieutenant said you checked -- for
24 this case you checked for prints first before this was sent
25 to SLED for DNA?

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1 A Correct.

2 Q All right. Now, so you all are part of that. You're
3 handling the hat a little bit?

4 A Actually, I never handled the hat.

5 Q Not you, somebody?

6 A Right.

7 Q You get what's marked -- what do you get? What does
8 Nesbitt give you?

9 A The first thing that I received would have been the
10 actual decal from the hat.

11 Q This is included, again, in State's 21. Keep that
12 together.

13 A Yes, this was actually brought to me and photographed
14 into the system in his presence. His initials and date
15 appear first, and then my initials and date right under
16 that, the same date. And then at that time I don't know if
17 you all can -- you all can see this too good. But this
18 black stuff around in here is the black powder where the
19 actual fingerprint on the decal is in this black area.

20 So even after processing, it's very difficult to see.
21 So it's a lot easier to see it if you lift that and place
22 it on a white background, that way you can see the actual
23 details. So I requested that he lift the fingerprint, so
24 that we could get a better look at it in the AFIS system.

25 Q So it's lifted, it's back with you. What do you do?

1 A I receive the lift. And once, again, I've got my
2 initials and the date. And I mark that as No. 1. The
3 first thing I do is analyze the latent for quality. Okay?
4 So we actually photograph it into the system, and it brings
5 up the detail of those ridges. And you have to be able to
6 identify different ridge points.

7 In other words, in all of your ridges that you have on
8 your fingers, they're not just plain. Okay. There are
9 some points that are called identification points that
10 could be a ridge that's going this way and then it splits
11 into 2. Right where it splits is called a bifurcation, so
12 you would mark that point. That would be a point of
13 identification.

14 There's ending ridges, short ridges, what we call
15 closures where you might have a ridge coming and then it
16 comes and splits out and goes back together again. And
17 that little area we call an enclosure.

18 So you have to go through all that and make sure you
19 mark all those points and examine that for quality. And
20 then once you do that, you plot those points. I don't know
21 if you remember if you all watch NCIS or CSI, sometimes
22 they'll show the AFIS up there, and you'll see these little
23 green or blue circles. Those are actual -- those have
24 actually been marked points of identification. Okay. And
25 then you send that through the system, and it searches all

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1 the known prints on file.

2 Q Did you plot them, the points?

3 A Yes, I did.

4 Q Okay. And do you have anything with you?

5 A Yes, I do. After it was plotted, sent to the system,
6 then what we do is the system will bring us back a certain
7 number of prints. And they'll -- we'll usually request 30.
8 In other words -- I explain a little bit about the AFIS
9 system. The AFIS system looks at those little points that
10 you've plotted, and it goes through all the thousands of
11 prints on file, and it tries to find the same
12 configuration.

13 In other words, if you've got 1, 2, 3, 4, 5, it will
14 try to look to find that same configuration. It will bring
15 you back the best possibilities. It's up to you as an
16 examiner to examine those prints side by side to make sure
17 you've got a match; and so that's what I did.

18 And it brought me back the correspondence or the
19 different responses that it picked out. And I examined
20 them side by side and was able to make an identification on
21 the one print that I was able to put in the file.

22 Q So you sent it through AFIS?

23 A Yes.

24 Q So as a result of that, did you get something?

25 A Yes, I did.

1 Q What did you get?

2 A I was able to identify -- let me get my report that
3 you all have. Okay. I was able to identify the latent
4 fingerprint as belonging to Antrell Felder.

5 It's also, I think, important to note that the system
6 does not bring me up that name. At first it just brings me
7 up a number. So I still don't know who it is. I have to
8 look that number up in a separate system to be able to get
9 the name to go along with it.

10 So I had no idea it was him until after I looked up
11 that number.

12 Q And then what did you do?

13 A I notified the detectives that I had received this
14 information, and generated a report.

15 Q And then when was that?

16 A That was actually on the same day that the lift was
17 made on, July 18th of '08 -- 2008.

18 Q So on July '08 ---

19 A 18th.

20 Q --- of '08 you identified that print on that hat as
21 Antrell Felder?

22 A Antrell Felder, yes, sir.

23 Q And you tell the law enforcement?

24 A Yes.

25 Q Can you tell me what finger that was?

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1 A Yes, sir, it would have been the finger No. 3, which
2 is the right middle finger. The fingers are numbered
3 starting with the right hand. The thumb would be No. 1, 2,
4 3, 4, 5. And then the left hand, 6, 7, 8, 9, 10.

5 Q And looking at what -- this came from 21. Where was
6 the print lifted from this label?

7 A Okay. This would be on the hat like this. This would
8 be ---

9 Q Assuming you're taking the facts -- as in your expert
10 opinion, that would have been on the front of the label?

11 A It would have been right here.

12 THE COURT: All right. Don't just chat.

13 MS. HODGE: Excuse me.

14 A It would have been right here.

15 Q Right here?

16 A Yes, sir.

17 Q Show the jury?

18 A Okay. It would have been right here, this side right
19 here.

20 Q And it was your third ---

21 A Yes, sir.

22 Q I don't mean to be rude or anything, but it was this
23 finger?

24 A Yes, it was the right middle finger.

25 Q So basically, it would have been like this, correct?

1 A Yes, sir. I have prepared a chart if you need that.

2 Q Okay.

3 A When we talk about preparing a chart. We bring the
4 latent print up side by side with the known print. And
5 I've actually marked the identification points so to speak
6 so that they're clearly visible so that you can kind of
7 follow along.

8 It's also important to note that it's not just the
9 points that have to match. Okay. All of the ridges that
10 don't have points have to be the same. So everything has
11 to match, even the ridges that don't have any
12 identification points, have to be the same on each print.

13 (Fingerprints, 2 pictures, marked for identification
14 as State's Exhibit No. 44.)

15 COURT REPORTER: State's 44.

16 MR. KENT: No objection.

17 THE COURT: All right. State's No. 44 admitted
18 without objection.

19 (State's Exhibit No. 44 received in evidence.)

20 Q Ms. Hodge, your opinion as an expert in the field of
21 fingerprint identification and processing, who made the
22 print on the label on State's 17, with the third middle
23 finger?

24 A Antrell Felder.

25 Q Now, there's some question about some other prints

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1 that were provided you or other lifts, excuse me?

2 A There were -- yes, there were several latent prints
3 that were actually on the bill that were lifted. There
4 were 5 cards that were submitted to me. But I think there
5 were -- 3 were actually duplicate lifts. The other 2 were
6 of this ---

7 Q And maybe -- I think they might may know, but what's
8 it a duplicate to?

9 A He had lifted the same print more than once, just to
10 make sure that he could get it the best that he could. And
11 then the other print was not sufficient for identification.
12 It was right on the other side of the bill.

13 Q Okay. So how many were there all together?

14 A 2. 2 latent images were lifted from this decal, but
15 only 1 was sufficient in my opinion for identification.

16 Q And the others were duplicates?

17 A Yes.

18 Q Okay. Now, did you examine any other items of
19 evidence in this case?

20 A No, sir.

21 Q Let me just ask you, if you could look at this report.
22 See if you recognize that?

23 A Oh, I'm sorry. Yes, there were latent lifts that were
24 removed from the suspect's vehicle, Antrell Felder's
25 vehicle. There were 13 latent lifts that I examined. And

1 I did make some identification. On one of those, of
2 course, to finger No. 8 of Antrell Felder. That's his car.

3 Q Okay. Specifically, what did you find in there?

4 A I was able to process 1, 2, 3, 4, 5 of those latent
5 images out of the ones that were submitted were good enough
6 to be put through the AFIS system. 1 of the images that
7 was lifted from a lottery ticket that was found in the car,
8 it was identified as finger No. 8 of Antrell Felder.

9 Q So which one is 8?

10 A It was left hand. Like I said, the right hand you
11 start, 1, 2, 3, 4, 5. 6, 7, 8. So this was the left
12 middle finger.

13 Q So you found a lottery ticket in his car with his
14 print on it?

15 A Yes, that was submitted -- submitted by the
16 technicians that processed those particular items.

17 (Lottery tickets in plastic bag marked for
18 identification as State's Exhibit No. 45.)

19 COURT REPORTER: State's 45.

20 MR. KENT: No objection.

21 THE COURT: State's 45 admitted without objection.

22 (State's Exhibit No. 45 received in evidence.)

23 Q Is that what you're talking about, the lottery ticket?

24 A Yes, sir. It's got my initials and marked on the
25 back.

Ms. Hodge - Cross by Mr. Kent

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1 Q So the car was processed, and those are your results
2 out of all the lifts, correct?

3 A Yes, correct.

4 Q Are the lifts not identifiable?

5 A None of the other lifts came back as identified to
6 anybody else. There were more than 1 that were put through
7 the system, they just weren't identified.

8 MR. MEADORS: Beg The Court's indulgence.

9 THE COURT: Yes, sir.

10 MR. MEADORS: Thank you.

11 THE COURT: Cross examination, Mr. Kent.

12 MR. KENT: Thank you.

13 CROSS EXAMINATION BY MR. KENT:

14 Q Ms. Hodge, I don't want to be rude. What is your
15 title over at -- are you a Lieutenant?

16 A No. I'm a civilian employee, an AFIS examiner.

17 Q So I just don't want to disrespect your title at all.

18 A It's okay.

19 Q So you wouldn't mind if I just call you Ms. Hodge?

20 A That's fine.

21 Q Ms. Hodge, tell me a little bit about fingerprints. I
22 just want to make sure that I understand -- and I
23 appreciate your testimony. I just want to make sure I
24 understand specifically.

25 MR. MEADORS: I apologize. I left my glasses.

1 Q Understanding your testimony, you're basically just
2 given latent prints. You don't go out to the scene, or in
3 this situation, you don't go out to the scene?

4 A I don't go out to scenes at all. No, sir.

5 Q Never go out to the scene?

6 A No, sir.

7 Q You just rely on what the officers give to you?

8 A Correct.

9 Q But I still can ask you some questions about
10 fingerprints and things. With your vast knowledge you know
11 more than any of the rest of us.

12 A Thank you.

13 Q There's certain subjects and certain items where
14 you're more likely to get a fingerprint from, aren't there?

15 A Yeah, I would say in my opinion, yes.

16 Q Sort of like a substance, just like this -- and I'm
17 pointing at the jury box. A smooth substance, things of
18 that nature, you can still get fingerprints from?

19 A It would be a lot easier.

20 Q A lot easier than trying to get off, say, carpet or
21 clothing?

22 A Correct

23 Q And why is that? Could you explain that to the jury
24 why there's certain ---

25 A A smoother surface, of course, you know you're going

Ms. Hodge — Cross by Mr. Kent

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1 to leave a better image because of the raised ridges. The
2 raised ridges actually have little tiny pores. And through
3 those pores, of course, you have sweat and setaceous oils
4 that could be deposited on the surface. Of course, a
5 shiny, flat surface is going to receive more of that, I
6 guess, liquid so that you can process it easier. If you've
7 got something that's porous, it's a little bit harder to
8 get but you can. If it's porous material such as paper,
9 then you use the chemicals that Lieutenant Nesbitt talked
10 about, that actually brings out, you know, the details of
11 the ridges. So it's -- you know, some surfaces are easier.
12 Carpet would really be difficult.

13 Q We don't always leave fingerprints; isn't that
14 correct? We can't always get a fingerprint where
15 somebody ---

16 A You can't always get a good, legible fingerprint.
17 Depending on the amount of sweat or setaceous oils, some
18 times there's too much and, of course, it's going to smear.
19 Some times the fingers may be extremely dry so you don't
20 get as much of a -- as much detail as you need to be able
21 to make an identification.

22 Q And for example, I've been sitting at that defense
23 table the entire day. We would assume there you'd probably
24 get some of my fingerprints. But there's a good chance you
25 might not?

1 A You'd probably get some of your fingerprints. But
2 would we be able to identify them or not, you know, because
3 you're going to have print over print over print over
4 print.

5 Q And the other problem is there could be other people
6 who were there before, who were sitting there, who could
7 also leave prints?

8 A Correct.

9 Q Explain the problem with that, that some times you get
10 duplicate fingerprints of different individuals. Could you
11 explain some times we have a bunch of different
12 fingerprints in areas? Do you understand what I'm saying?

13 A Not really.

14 Q I'm very confusing.

15 A If you've got, like I say, a public area, like a
16 store, counter top, you're going to get many different
17 fingerprints. So, you know, the circumstances on how those
18 fingerprints came to be there, we can't tell you. We can
19 only tell you that those prints are there.

20 Q So when we talk about fingerprint identification and
21 the expert testimony required, we can't tell you who else
22 was in an area, but we can tell you one specific person
23 either touched something or was there?

24 A Correct.

25 Q So we can't say who else touched, say, right here --

Ms. Hodge - Cross by Mr. Kent

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1 and I'm pointing at the jury stand -- or where I'm sitting.
2 We can't tell you who else was there, but we can say if my
3 fingerprint was lifted, at least we know Shaun Kent was
4 there or Shaun Kent touched it?

5 A Yes, if it's an identifiable print. If there are
6 other fingerprints there that you can't identify, then you
7 couldn't be able to tell who was there.

8 Q And like we're talking about item No. 17 where we were
9 lift. I think you got 5 prints, 3 were duplicates, but
10 there were 2 other ---

11 A Well, there were at least 2 images -- 2 fingerprint
12 images on that decal.

13 Q Yes, ma'am. And you were only able to identify 1?

14 A Correct.

15 Q And there were others that were not -- we just weren't
16 able to identify them?

17 A There was the other one -- the other one didn't have
18 enough ridge detail to be able to identify.

19 Q So you don't know whose that is?

20 A We don't have -- no, I cannot include or exclude
21 anybody in that fingerprint.

22 Q And we can't tell where someone else touched anywhere
23 else on the hat? Someone else could have touched somewhere
24 else, we just didn't get a lift from anywhere else?

25 A Correct.

1 Q And fingerprinting is like a time machine. We can't
2 tell something touched it?

3 A No. There's no way you can date the fingerprint.

4 Q And from the lottery tickets that were found inside
5 the vehicle to that hat, we can't say someone's touched it
6 on this date or touched it 6 weeks before. We have no
7 clue?

8 A No idea.

9 MR. KENT: Thank you so much. I appreciate it.

10 THE COURT: Redirect?

11 MR. KENT: No, sir. Thank you.

12 THE COURT: All right. Thank you, Ms. Hodge. Please
13 step down.

14 (The witness leaves the witness stand.)

15 MR. MEADORS: I ask Ms. Hodge be allowed to leave.

16 THE COURT: Any objection?

17 MR. KENT: No objection, Your Honor.

18 THE COURT: All right. Ms. Hodge, you are excused.
19 Thank you for coming.

20 MR. MEADORS: Just one second, Your Honor.

21 (Pause.)

22 MR. MEADORS: Truman Duggin.

23 TRUMAN P. DUGGIN, being first
24 duly sworn, testified as follows:

25 CLERK: Please state your name. Spell your last name

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1 for the record.

2 TRUMAN DUGGIN: Truman Paul Duggin, D-u-g-g-i-n.

3 DIRECT EXAMINATION BY MR. MEADORS:

4 Q Good morning.

5 A Good morning.

6 Q What's your rank?

7 A As of September 1st, I returned to the police
8 department. July 1st I retired as a lieutenant. And I
9 have returned and am a Sr. Detective basically doing the
10 same thing. They don't hire you back at the rank you
11 retire at.

12 Q Would you just briefly tell these folks about Truman
13 Duggin. You know, where you're from, your education, and I
14 know you're retired. But tell me a little bit about your
15 tenure please?

16 A I arrived here in Sumter in 1987 with the Air Force.
17 I retired after 20 years of service. I retired as a E-8 or
18 senior master sergeant. My last 5 years I was reserve
19 police officer, to kind of start my police career a little
20 bit early before I retired out of the Air Force.

21 I came in to the police department in 1993. And so I
22 retired from the Air Force. And then a little over 18
23 years of service. I was in -- these last 2 months I went
24 into retirement and came back.

25 I have 14 years experience as a crime scene

1 investigator. I received my bachelor's degree in
2 criminology from St. Leo's University. I attended the
3 South Carolina Criminal Justice Academy for my basic law
4 enforcement training. And have attended numerous classes
5 for forensics and crime scene-type processing.

6 I also received numerous -- I attended numerous
7 classes, seminars throughout the State of South Carolina
8 concerning crime scene processing, forensics. I'm a member
9 of international association of identification and the
10 South Carolina association of identification. And for 5
11 years I was the sergeant of arms at this organization that
12 is basically crime scene investigators and coroners that
13 get together for training and that type of thing.

14 In general sessions court I've been certified as an
15 expert witness in blood stain pattern analysis, firearms,
16 and crime scene investigation.

17 Q Is it fair to say you love your job, don't you?

18 A Definitely. I came back.

19 Q Tell the folks, back in July of 2008, Lieutenant, what
20 specifically was your job?

21 A I was the investigative services section, we're part
22 of the detective division. And what -- supervisor of that
23 covers the evidence room, the AFIS -- the fingerprint
24 identification system, which I am also certified on, and
25 polygraph. The crime scene investigators and forensic, we

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1 have a laboratory where we process evidence.

2 Q And in this case, what was your role?

3 A I -- in this particular case my role was to process a
4 vehicle that had been seized by investigators and taken to
5 our city impound. It is a secure facility. It's in the
6 downtown area. And to serve a search warrant on it, to
7 determine who was in the vehicle.

8 Q And tell the ladies and gentlemen how you did it, what
9 you did, and what were your results, please?

10 A Yes, sir. The city investigators obtained a search
11 warrant for the vehicle. And on July 25 at 2:15 p.m. I
12 executed this search warrant in our city impound.

13 Q What did you do?

14 A And as part of this search warrant, my first matter of
15 business is to photograph the vehicle from several
16 different angles before I touch it. This is the vehicle as
17 it was when I received it. And so I photographed it. I'm
18 looking for items that would identify the owner of the
19 vehicle or occupants of the vehicle. And I did find
20 paperwork inside the vehicle.

21 I processed for fingerprints using black powder. And
22 I also was looking for DNA-type evidence, hair and blood
23 and things of this nature.

24 Q State's 11, is that the vehicle you processed?

25 A Yes, sir, State's 11 is the vehicle that I processed.

1 Q And I think all this pretty much has been stipulated
2 to. But looking at your report, Lieutenant Duggin, can you
3 just tell the folks what you found?

4 A The evidence that I collected at the scene from the
5 vehicle, a switchblade knife from the trunk, 4 lottery
6 tickets from the passenger's seat, 4 CDs from the front
7 seat, a CD player, partial pack of Newports from the
8 passenger seat, a vehicle bill of sale, insurance card,
9 registration, Piggly Wiggly receipt from driver's seat,
10 2 blood swabs from the steering wheel radio control knob,
11 3 latent print cards from the right fender, a Gamecock
12 Finance Company receipt from under the passenger seat.

13 I photographed the vehicle, collected the items,
14 tested stains for the presence of blood, and collected
15 swabs and developed prints with using black powder.

16 Q And 39, what is this? It's already in evidence.

17 A Item 39 is an envelope that contains 2 separate
18 envelopes of swabs. These are swabs that I took, 1 being
19 from the radio control button on the steering wheel at the
20 time of the search warrant on July 25 at 3:45 p.m. The
21 other swab was from a Piggly Wiggly receipt that I seized
22 from the vehicle. And in the laboratory I processed it on
23 July 28, 2008 at 12:15 p.m. and got a blood sample from
24 that.

25 And these blood samples were sent to SLED for further

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1 analysis. And they are the labels that SLED puts on them
2 also.

3 Item No. 38 is swabs. These would be what we would
4 call a touch DNA swab. You have blood, other bodily fluids
5 that you can get DNA from. DNA, the science has gotten
6 down to where you can just take -- for instance on this --
7 the sweat that was on the frame of the glasses -- the
8 sunglasses from the victim. I swabbed those and was able
9 to send them to SLED for analysis.

10 MR. MEADORS: Your Honor, at this point I guess,
11 respectfully, I'd offer Lieutenant Duggin as an expert in
12 the field of crime scene investigation to include
13 fingerprint processing.

14 MR. KENT: No objection.

15 THE COURT: All right. Mr. Duggin will be qualified
16 -- will be qualified as set forth by the prosecution as an
17 expert.

18 Again, ladies and gentlemen, that means that he may
19 give an opinion regarding his findings based upon the
20 findings and evidence that he has examined.

21 All right.

22 MR. MEADORS: Thank you, sir.

23 Q What's your next item?

24 A Item 37. Item 37 is a swab that was obtained at SLED
25 from the ball cap. After the ball cap was processed for

1 latent prints, it was packaged in this box and sent to SLED
2 for further analysis by their laboratory for DNA. So this
3 is the -- their pouch with the envelope containing their
4 DNA sample.

5 Q And that's already in without objection. That's
6 State's 32 (sic)?

7 A Yes, sir.

8 Q I want you to look at all that, Lieutenant.

9 A Items 40, 41, and 42 are gunshot residue evidence
10 collection kits. Part of my protocol during a shooting
11 incident, people that -- such as witnesses, victims, and
12 suspects, we try to get a sample from their hands. When
13 people fire guns, it's normally with their hands. And when
14 a gun is discharged or fired, there's a blast that comes
15 out from the barrel of the cylinder, the action. And it
16 leaves a residue. And so to help us ascertain who might
17 have shot a gun, we do this test.

18 I have a test that was done on William McKenzie, one
19 Kayla McFadden, and Antrell McFadden. Antrell McFadden is
20 Exhibit No. 40. Kayla McFadden is 41. And the victim,
21 William McKenzie, is Exhibit No. 42.

22 The important thing about gunshot residue is it has to
23 be done in a timely manner, within a living subject it has
24 to be done within 6 hours. The material is very transient.

25 Q Is there a difference between a dead subject,

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1 respectfully, and a living subject as far as taking gunshot
2 residue and their retention of gunshot residue on the
3 person deceased versus alive?

4 A On a person that is alive, we have a 6-hour window.
5 From the time when we're notified until the time that -- we
6 have 6 hours to perform this test or gather the items to
7 send to the state laboratory.

8 If a person is deceased, they're not moving. We don't
9 have to worry so much about the residue being wiped from
10 their hands. We will bag their hands with paper bags. And
11 we have an undetermined amount of time. A lot of times
12 it's done at the scene, at the hospital. Where this one
13 was done was at the hospital. And then we can do them also
14 at autopsy. But we try to do them before autopsy to gather
15 in a timely manner.

16 But after the 6-hour window, our protocol -- SLED's
17 protocol is to not collect.

18 Q And if you're living, you've still got fluids going
19 through and moisture, correct?

20 A Yes, sir.

21 Q If I was to fire a gun right now and 6 hours and 1
22 minute later, you wouldn't test me, correct?

23 A That's correct.

24 Q Just, you won't do it?

25 A No, sir. SLED's protocol is not to do it, and we have

1 to follow their guidelines.

2 Q And there's commonsense factors come into that. If
3 you don't know where I've been?

4 A That's correct. That's correct. If you wash your
5 hands, you -- it's like I say, it's like powder over your
6 hands. You can't see this. And if you rub it, it can come
7 off. Wash your hands, it can come off. Or you could go
8 and do something else that would cause this.

9 Q So the protocol is after 6 hours because of all these
10 facts, you won't test a person, correct?

11 A That's correct.

12 Q Did the GSR on State's 42 -- 40, 41, and 42, which I
13 believe you said are the McFaddens, Antrell, Trell, Kayla,
14 and the deceased in this case, William McKenzie that all
15 came back negative for gunshot residue on their hands?

16 A All 3 came back negative.

17 State's Exhibit 43 is a file from our computer where
18 we downloaded the camera that was found on the victim.
19 It's -- there's the entire file is on this disk, and it has
20 the photos -- the actual video of the birthday party it
21 looks like, from what we could tell. There's a cake. And
22 it looks like it might have been over at Croswell Park.

23 Q Now, you said, you actually did this?

24 A Yes, sir, I downloaded this into my camera and put it
25 in the -- in the file for this case.

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1 Q I show you what's been entered as State's 28, does
2 that relate to what you're just talking about?

3 A State's Exhibit 28 is the camera that was turned in as
4 evidence from the victim.

5 Q You downloaded something on there. And you've looked
6 at it and I've looked at it, right?

7 A Yes, sir.

8 Q And it's a party. You said Croswell Park?

9 A Yes, sir.

10 Q You put that on here?

11 A That's correct.

12 Q So it's still on here, too, I reckon?

13 A It should be, yes, sir.

14 MR. MEADORS: I believe State's 43 is in also, Your
15 Honor, without objection, just for the record.

16 THE COURT: All right. State's No. 43 is admitted
17 into evidence.

18 (State's Exhibit No. 43 received in evidence.)

19 (A bench conference was held off the record in the
20 presence of the jury, but out of the hearing of the jury.)

21 THE COURT: Proceed, Mr. Meadors.

22 MR. MEADORS: Certainly.

23 Q Lieutenant, this is -- in addition to this video ---

24 A Yes, sir.

25 Q --- to be efficient or whatever reason, did you put

1 something else on here?

2 A When I downloaded the -- the disk, I downloaded it
3 down into the file, the crime scene file, so it has the
4 crime scene photos.

5 Q And some of which are already in evidence?

6 A Some of which are already in evidence, yes, sir.

7 THE COURT: Just by way of information, ladies and
8 gentlemen of the jury, when something like this is done
9 when technology is involved and a disk is involved -- I had
10 told you earlier that anything that is admitted into
11 evidence will go with you when you go back to the jury
12 room. And, of course, this is now in evidence and you
13 would have the right to view this video if you wish to
14 while you're in the jury room.

15 The way we would handle that is that we would have the
16 equipment here in the courtroom, and bring you back into
17 the courtroom and play it for you if you wanted to see it
18 further while you were deliberating your verdict. But you
19 will have plenty of opportunity to see it for as long as
20 you would like if you wish to do so.

21 MR. MEADORS: Thank you. Your Honor, we would like to
22 publish this.

23 THE COURT: Yes, sir, you may publish it.

24 (CD of 911 calls marked for identification as State's
25 Exhibit No. 46.)

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1 COURT REPORTER: State's No. 46.

2 THE COURT: All right. State's No. 46 admitted into
3 evidence without objection.

4 (State's Exhibit No. 46 received in evidence.)

5 (Pause.)

6 THE COURT: Mr. Meadors, I'm going to get my 12-year
7 old grandson come up here and help you with that.

8 (Pause.)

9 MR. MEADORS: Your Honor, could the lieutenant come
10 down here?

11 THE COURT: Yes.

12 (The witness steps down from the witness stand.)

13 (A bench conference was held off the record in the
14 presence of the jury, but out of the hearing of the jury.)

15 THE COURT: All right. Ladies and gentlemen, what
16 we're going to do while they're working to getting the
17 technology equipment and things ready to show to you, we've
18 been in the courtroom now about an hour and 10, 15 minutes.
19 We'll go ahead and take a short recess at this time, make
20 sure everything is booted up, and ready to go when you come
21 back in.

22 So if you would, go to your jury room for about 10
23 minutes or so. Take a break. Don't talk about this case.
24 And we'll send for you very shortly.

25 (The jury retires to the jury room at 11:00 a.m.)

1 THE COURT: Okay. Counsel, let's take a brief recess,
2 10 minutes. Thank you.

3 (A recess was taken.)

4 (The witness returns to the witness stand.)

5 THE COURT: All right. Back on the record with regard
6 to the matter of The State versus Antrell Felder. The
7 defendant, Mr. Felder, is present in the courtroom with his
8 counsel. The state is present and represented by Mr.
9 Meadors. And I believe the equipment has been keyed up and
10 we're now ready to go; is that correct, Mr. Meadors?

11 MR. MEADORS: The state's ready.

12 THE COURT: All right. Anything before we bring the
13 jury in?

14 MR. KENT: Very, very quickly. They are going to be
15 playing State's Exhibit No. 43. We had a side conference
16 with you, in which I indicated I don't have a problem of
17 what they intend on offering. I've been told there's some
18 other pictures on there that they're not going to put forth
19 to the jury. Based upon your instructions, you're not even
20 going to send No. 43 back. If they wanted to play that
21 back again, you would simply play the portion for the jury.
22 So I don't have an objection to what they intended on
23 giving to the jury. But there's some other stuff ---

24 THE COURT: All right. That's correct. No. 43 is
25 admitted into evidence for the limited purposes of these

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1 particular things as reviewed by counsel. And if the jury
2 wishes to review those more, once they retire to deliberate
3 their verdict, it will be done with the equipment being set
4 up here in the courtroom and make sure that only that part
5 of the video disk is played.

6 All right.

7 MR. MEADORS: Judge, we've -- by the thanks of defense
8 counsel, we've really saved a good bit of time putting this
9 evidence in. We really have. I know Your Honor knows
10 that. The only just saving a little more time -- really
11 the only left to close. And I don't think they have an
12 objection just 2 seconds let me ---

13 THE COURT: Go ahead. Take your time. If it will
14 save a little time, that's worthwhile; that's what I like
15 for counsel to do.

16 (Pause.)

17 (Plastic bag of money marked for identification as
18 State's Exhibit No. 47.)

19 (South Carolina driver's license marked for
20 identification as State's Exhibit No. 48.)

21 (Box containing clothes marked for identification as
22 State's Exhibit No. 49.)

23 MR. KENT: Without objection.

24 (Brown envelope, buccal swabs -- A. Felder, marked for
25 identification as State's Exhibit No. 50.)

1 THE COURT: 47, 48, and 49 have been admitted without
2 objection; is that right?

3 MR. MEADORS: And 50, just a buccal swab of Mr.
4 Felder. We stipulate to the results. I just want to make
5 sure this is the end of it.

6 THE COURT: That's 50?

7 MR. MEADORS: 50.

8 THE COURT: Okay.

9 (Pause.)

10 THE COURT: All right. Anything else, Mr. Meadors?

11 MR. MEADORS: Nothing.

12 THE COURT: So with that we've admitted 47, 48, 49,
13 and 50 without objection; is that right?

14 MR. CHANDLER: Yes.

15 (State's Exhibit Nos. 47, 48, 49, and 50 received in
16 evidence.)

17 THE COURT: Okay. All right. Anything else now, Mr.
18 Meadors, before we bring the jury in?

19 MR. MEADORS: No, sir. Thank you.

20 THE COURT: All right. Mr. Kent?

21 MR. KENT: Just briefly, Judge. I understand they're
22 going to be playing the video that was taken off of the
23 camera which was found on the victim. I've discussed with
24 Mr. Meadors, I don't have an objection to the video. But,
25 of course, I wouldn't want anyone to describe what's in the

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1 video. I don't they can describe. They can just play the
2 video.

3 THE COURT: Speaks for itself.

4 MR. KENT: Exactly.

5 THE COURT: Okay.

6 MR. MEADORS: He couldn't if he wanted to, Judge.

7 THE COURT: He wasn't there. Yes.

8 MR. KENT: Just making sure. I don't make any
9 objection if that's it.

10 THE COURT: All right. I think the only way that they
11 can comment on what's in the video is if they -- like
12 videos in a police car or something like that where the
13 officer is there. I think you've got one situation. But
14 where it's just playing a video that was seized, I don't
15 think they can comment on it.

16 All right. Bring the jury in please.

17 (The jury returns to the courtroom at 11:20 a.m.)

18 BAILIFF: Your Honor, we have all the jurors present
19 in the courtroom.

20 THE COURT: All right. Thank you. And thank you,
21 ladies and gentlemen. And thank you for your patience. We
22 took a little bit longer recess than I had planned to, but
23 this gave the attorneys the opportunity to review some
24 evidence and to go ahead and agree upon it and introduce it
25 into evidence and to save us a little bit of time in the

1 long run. So that has been done and we are now ready to go
2 forward.

3 The state was presenting the testimony of Lieutenant
4 Duggin. And can continue to do so.

5 Mr. Meadors.

6 MR. MEADORS: Thank you, Your Honor. We are now
7 ready ---

8 Q Lieutenant, what we are about to play came off State's
9 28, correct?

10 A That's correct.

11 MR. MEADORS: For the record, it is State's 43. And
12 we would ask the investigator to play the tape.

13 (State's Exhibit No. 43 played in open court.)

14 MR. MEADORS: Thank you, investigator.

15 Q Truman, you don't know the folks in that video?

16 A No, sir, I don't.

17 Q I'm going to show you what's marked State's 46. I
18 believe it's without objection. Are you familiar with the
19 911 tape in this case?

20 A Yes, sir.

21 MR. MEADORS: Your Honor, we're going to now -- may we
22 approach?

23 THE COURT: Yes, sir.

24 (A bench conference was held off the record in the
25 presence of the jury, but out of the hearing of the jury.)

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1 THE COURT: All right. Ladies and gentlemen, Exhibit
2 No. 46 is the 911 tape of the call to police headquarters.
3 There are other things on that 911 tape. The only part
4 that is in evidence is the ones that are relevant to this
5 case, and that is what the state is going to publish at
6 this time.

7 Again, while you have the right to listen to it now,
8 you also have the right to have it played for you while
9 you're deliberating in the jury room. And if you do desire
10 to listen to this just in the courtroom, just advise the
11 court while during the course of your deliberations, and
12 we'll make sure that the relevant portions are played for
13 you.

14 MR. MEADORS: Thank you, Your Honor.

15 THE COURT: This, of course, is audio only.

16 (State's Exhibit No. 46 played in open court.)

17 MR. MEADORS: Judge, could I ask -- could we go back
18 to the first call, since it wasn't on it, do you mind?

19 THE COURT: Yes. Go back. Is this the end of it?

20 MR. MEADORS: Yes, sir, that was the end of it.

21 THE COURT: All right. Go back to the point where you
22 picked it up with the amplification. But you go back,
23 start at the beginning, pick it up to the point where it
24 was amplified.

25 MR. MEADORS: Thank you.

1 (Pause.)

2 (State's Exhibit No. 46 was played in open court.)

3 MR. MEADORS: Thank you.

4 THE COURT: All right.

5 MR. MEADORS: And I will put this back in State's 46.

6 THE COURT: All right. State's 46 is in evidence.

7 (State's Exhibit No. 46 received in evidence.)

8 THE COURT: All right. Mr. Meadors, you may proceed.

9 MR. MEADORS: Thank you, sir.

10 Q Were the buccal swabs of the defendant sent to SLED
11 along with any other swabs you took for comparison?

12 A Yes, sir. State's Exhibit 50 is buccal swabs from Mr.
13 Felder. And they were sent along with the other items for
14 comparison to SLED.

15 MR. MEADORS: Your Honor, 50, it's already been
16 entered during the break.

17 Q State's 47 has also been entered and 48. Please tell
18 the jury what these are?

19 A Item 47 is some money that was taken from the victim
20 at the hospital, and his I.D. card is item No. 48. It says
21 William McKenzie. It's his South Carolina driver's
22 license.

23 Q This is State's 49, Lieutenant. And if you have a
24 record you can refer to without looking at these, can you
25 tell us -- it's already in, 49 -- what's in State's 49?

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1 A State's 49 will be the clothing items that were
2 recovered from the hospital, the sweat pants, socks,
3 bandana, underwear, black tank top, and shoes -- things of
4 this nature. They're clothing items that the victim had on
5 at the time of the shooting.

6 Q What color sweat pants?

7 A Gray sweat pants.

8 MR. MEADORS: Beg The Court's indulgence.

9 THE COURT: Yes.

10 (Pause.)

11 (CAD report, 2 pages, marked for identification as
12 State's Exhibit No. 51.)

13 (CAD report, 4 pages, marked for identification as
14 State's Exhibit No. 52.)

15 COURT REPORTER: 51 and 52.

16 MR. MEADORS: Without objection, Your Honor.

17 THE COURT: 51 -- State's 51 and 52 admitted without
18 objection.

19 (State's Exhibit Nos. 51 and 52 received in evidence.)

20 Q Do you know what CAD means?

21 A Yes. Our computer system at the police department.

22 Q Is it automated dispatch?

23 A I believe that's correct.

24 Q Computerized-automated dispatch?

25 A Yes, sir.

1 Q And what's been entered now as 51 and 52 are the
2 Computer automated dispatches for Harry Street and
3 ?

4 A Okay, sir.

5 Q And specifically, just on the one of 51, which is
6 dealing with Harry Street, are you familiar that it does
7 not have the second call on there for some reason, that we
8 all heard just now, but that's not on the CAD sheet for
9 some reason?

10 A That's correct. I don't see that second call.

11 Q But did you hear it on the 911 tape?

12 A Yes, sir.

13 Q The second call?

14 A Yes, sir.

15 MR. MEADORS: I beg Your Honor's indulgence.

16 THE COURT: Yes.

17 (Pause.)

18 MR. MEADORS: That's all I have. Thank you.

19 THE COURT: All right. Cross examination, Mr. Kent?

20 MR. KENT: Thank you.

21 CROSS EXAMINATION BY MR. KENT:

22 Q I don't care what some -- I'm going to call you
23 lieutenant. Lieutenant, how are you doing?

24 A Just fine.

25 Q We went through a lot of testimony, so bear with me a

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1 second so I can go through everything. Tell us about the
2 car. I think the first thing we talked about was the car
3 that was processed?

4 A Yes, sir.

5 Q And I think you indicated that you started processing
6 the car on the 25th?

7 A That's correct.

8 Q The car was received at some -- that's just when you
9 started processing it?

10 A That's whenever I did the search warrant, yes.

11 Q And the car was in you all's impound lot. No one
12 could get to the car or anything of that nature?

13 A Only authorized personnel.

14 Q Do you know when the car actually became property of
15 Sumter County or when they seized the car?

16 A I believe it was on the 18th.

17 Q The 18th, the day that the shooting happened?

18 A I believe so. I don't have the record.

19 Q So just because you didn't get the car on the 25th,
20 that just means that's when you got to the car and the
21 search warrant -- you mentioned search warrant. Do you
22 want to explain that to the jury so they understand what
23 we're talking about, why it took so long?

24 A The vehicle would have been put into the impound. And
25 detectives at a later date would obtain a search warrant.

1 And that search warrant would be given to me to execute on
2 the vehicle. And the time lapse between -- I don't recall.
3 I could have had other things I was doing. Part of the
4 investigation detectives were working investigation. They
5 got the search warrant, give it to me. I have X amount of
6 days to execute. The vehicle was in a secured location.

7 Q So when we get the car, I think your testimony was
8 that you go through that car with a fine tooth comb?

9 A I'd like to think so.

10 Q You'd like to think you're about as detailed and
11 organized as possible to get -- and I think your testimony
12 on direct was -- as much of the evidence out of the car as
13 we possibly can get?

14 A That's correct.

15 Q And we do that to make sure we have everything out
16 there, we want to have it in reports, we want to have it
17 detailed, we want to have it documented so there's no
18 question down the road what was inside of this vehicle?

19 A That's correct.

20 Q And you did a bunch of tests on the vehicle. I think
21 you mentioned a bunch of tests to the jury that you did on
22 that car?

23 A I did presumptive tests for blood on items, I
24 processed with black powder. So the real testing that I
25 did was just for the items that looked like it might have

Lieutenant Duggin -- Cross by Mr. Kent

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1 had blood on it.

2 Q Might have had blood?

3 A That's correct.

4 Q Were you also -- Lieutenant, were you also on the
5 crime scene that night? Did you take pictures of the crime
6 scene and things of that nature?

7 A No, sir, I wasn't involved with anything other than
8 the vehicle ---

9 Q Other than the testing of the vehicle?

10 A That's right.

11 Q So you couldn't testify if there was any blood found
12 on the vehicle or anything of that nature. I think we
13 talked about some of the pictures. Do you know if there
14 was blood on the scene?

15 A As far as the scene, no. On the vehicle, yes, but not
16 on the scene.

17 Q I guess I'm just trying to figure out why we were
18 testing for blood in the vehicle. It was just a question.

19 A Refer to the search warrant ---

20 Q Please do.

21 A My tasking was the description of property sought, any
22 and all evidence related to the crime of murder, to include
23 firearms, ammunition, blue jeans, blue jean shorts, DNA
24 latent prints, paperwork regarding ownership. So blood
25 would be one way to identify someone in a vehicle -- to

1 identify a person.

2 Q Earlier when you were talking to the solicitor, you
3 mentioned that we send things to SLED, touch DNA?

4 A That's correct.

5 Q And I know there are 2 schools of thought on touch
6 DNA. Some people don't like touch DNA. Some people do
7 like touch DNA. Does South Carolina still test touch DNA?

8 A Yes.

9 Q And explain to the jury exactly what touch DNA
10 actually is?

11 A Basically, we have 2 types that we use. Looking at
12 now, which DNA is so far advanced now. Blood, semen,
13 saliva -- any bodily fluid can contain DNA, your genetic
14 fingerprint if you will.

15 So the obvious would be blood at a scene. We have
16 advanced so far now that we can touch items. For instance,
17 if I have a gun, I want to see if I can show ownership to
18 whoever's handled that gun. I can swab this gun and --
19 particularly for instance -- I've done this before -- is
20 around the chickering of the handle. Maybe the trigger,
21 the hammer -- any place where there's kind of a rough
22 surface to where some of the cells on your hand could sluff
23 off on. So what we're looking at is basically items that
24 are invisible to the eye that we collect using a Q-tip and
25 sending it to the state laboratory for them to analyze.

Lieutenant Duggin - Cross by Mr. Kent

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1 I can test an area, and I would not know whether I had
2 anything on it or not. Doorknobs going into crime scenes,
3 things of this nature. We take it because that's the
4 protocol and send it on. Cable T.V. -- the cable is hooked
5 up into a T.V. It's common practice to swab that, because
6 there's a possibility that the person -- the last person
7 that touched it left some cells.

8 And when we get to, per se, a rental car, now you end
9 up with a hodge podge of these cells. Some would come in
10 real handy. Some you kind of -- you're going to expect to
11 get back a lot of unknowns or it would be like a soup of
12 DNA. You won't know -- you won't be able to make any type
13 of determination.

14 So the obvious is to look for blood. And in the
15 vehicle I did find some blood, as on the Piggly Wiggly
16 receipt. There was other areas that looked like it might
17 have been blood, and I tested it using -- it's called a
18 mcfells (phonetic) reagent. And it's a test that we use.
19 And we take a sample and put it in a bottle, pop a couple
20 little ampules. And if it turns blue or purple, it's
21 blood. If it doesn't turn blue or purple, it's not blood.

22 So I did these and I did find -- in the steering wheel
23 it's got the little controls for the radio. There was a
24 spot of blood there, so I did test it and took a sample.

25 Q When you're talking about DNA evidence and things of

1 that nature, can DNA be transferred from one scene to
2 another scene? Is that possible?

3 A Yes.

4 Q Is it possible somebody can, say, walk through mud and
5 then transfer mud someplace else, and you can tell that
6 this person who walked through mud was in one location and
7 then at another location? And I'm just using that as an
8 example. And I'm not an expert.

9 A I -- I -- I believe you could. If you saw the same
10 pattern, you could -- you could logically make that
11 assumption.

12 Q What about something like blood. Somebody walked in
13 blood and then transferred blood into another area. Does
14 that happen?

15 A That's correct, yes.

16 Q And we call that transference?

17 A That's right.

18 Q I mean, things like that nature happen?

19 A Yes.

20 Q Like if someone is at a crime scene, and walks through
21 a crime scene and contaminates the crime scene, walks
22 through blood, and then walks some place else, they can
23 transfer that from one scene to another scene?

24 A That's correct.

25 Q And that's one of the things we test for when we're

Lieutenant Duggin - Cross by Mr. Kent

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1 testing for blood, we're seeing if anything's been
2 transferred from one scene to another scene?

3 A That's correct.

4 Q Okay. You talked about gunshot residue?

5 A Yes, sir.

6 Q I'm going to make sure I understand exactly what
7 you're testifying to. When someone fires a weapon, the
8 projectile fires out if I'm not mistaken ---

9 A Yes.

10 Q --- and metal particles go backwards usually?

11 A Not necessarily backwards. When a gun is fired,
12 you're going to have muzzle blast. So coming out of the
13 end of the gun will be a blast from the explosion. And it
14 will have particles of metal, could have copper, lead. If
15 it's a revolver, at the front of the revolver, the cylinder
16 before the barrel, there's a force come from the bullet to
17 enter into the barrel, because there's going to be a small
18 gap. So if the cylinder is not quite in perfect alignment
19 with the barrel, which happens with cheap guns or guns that
20 have a lot of use, as the bullet enters into that, you may
21 have some scraping of the bullet to where it -- little
22 shavings -- and these are all microscopic -- would come
23 off. First there would be part of the explosion coming out
24 of that part also.

25 So there's -- if it's an automatic weapon, as the gun

1 fires, the -- the explosion will be coming out the end of
2 the barrel. As the slide comes back and the shell casing
3 is ejected, there will be residue coming out there also.

4 So it's basically you're having an explosion in your
5 hands, and this stuff just goes -- emits outwards. And it
6 can get on your hands.

7 Q And so when you -- a great example, thank you so much.
8 When you talk about testing for gunshot residue, we're
9 testing the metal particles we talked about on an
10 individual's hands to see if it's possible that they
11 handled the firearm in the 6-hour window?

12 A That's correct. And it's more than metals, but, yes.

13 Q I'm ---

14 A Certain compounds the analyst is looking for.

15 Q And usually you can tell right then if someone has
16 handled -- actually, if someone has fired a firearm within
17 that 6-hour window?

18 A That's correct.

19 Q And you mentioned the 6-hour window. That's basically
20 for living people?

21 A Yes, sir.

22 Q But we can actually test that gunshot residue there.
23 We can actually test it on clothing also, can't we?

24 A That is at the discretion of the SLED analyst, yes.

25 Q It can be tested on clothes?

Lieutenant Duggin - Cross by Mr. Kent

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1 A Yes.

2 Q And that lasts longer than our 6-hour window on
3 clothing and things of that nature?

4 A That's correct. It could have been from previous
5 incidents, so you don't really have that time line.

6 Q You don't have a time line?

7 A Don't have a time line.

8 Q Because it will last a lot longer, unless someone's
9 gone through it and washed it away or cleared an item away.
10 But it's longer than the 6-hour window because there's not
11 the secretion as we have on hands and the human factor of
12 wiping hands or washing?

13 A That's correct.

14 Q Back to the car. I didn't hear any testimony about
15 gunshot residue test on the inside of the vehicle or on the
16 top of the vehicle or anything of that nature. Did we do
17 any of those type of test?

18 A No, sir. During my examination and photography if
19 there had been something that would have been obvious or
20 something that I could have seen that would have led me to
21 that, I would have collected it. But there was -- there
22 was nothing obvious like where you had a gun blast.

23 Q Nothing obvious on the white vehicle that you examined
24 that we testified that would have showed that there was gun
25 blast from inside the vehicle or very close to the vehicle?

- 1 A That's right.
- 2 Q So there was nothing on ---
- 3 A I didn't see anything like that.
- 4 Q Nothing on the top of the car, assuming someone had a
5 gun on the top of the car and was firing over the top of
6 the car or from inside the car?
- 7 A I don't recall seeing anything like that.
- 8 Q We talked about DNA and testing. I want to make sure
9 we go over the blood. You tested the inside of the vehicle
10 for blood swabs and things of that nature that you were
11 looking inside of the vehicle. You tested the inside of
12 the vehicle?
- 13 A Yes.
- 14 Q Any blood swab, any transference, any DNA evidence
15 whatsoever to the victim, William McKenzie, inside of the
16 white vehicle?
- 17 A No, sir, there was nothing.
- 18 Q Anything whatsoever to tie the victim, William
19 McKenzie, to the inside of that white vehicle at all?
- 20 A No, sir, none that I found.
- 21 Q So of all of the evidence that we've talked about --
22 and I think you talked about there was blood on the
23 steering wheel and thing of that nature, that was just of
24 Mr. Felder, Antrell Felder?
- 25 A Yes.

Lieutenant Duggin - Cross by Mr. Kent

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1 Q So his DNA was in the car?

2 A Yes.

3 Q But there was no blood of Mr. McKenzie inside of the
4 car, there was nothing on the driver's side floor mat of
5 Mr. McKenzie's blood or the passenger side floor mat of
6 anything of Mr. McKenzie's whatsoever?

7 A No, sir.

8 Q Lieutenant, you talked about the CAD sheets, and I'm
9 not going to try to go back and forth over these. Do you
10 understand -- can you read these CAD sheets, because I have
11 some trouble with them?

12 A It takes some time to read one, yes, to understand it.

13 Q If you could -- and if you cannot, just tell us you
14 cannot. But I'm handing you State's Exhibit 51, State's
15 Exhibit 52. But is there anywhere you can tell the jury
16 what time those 911 phone calls were made?

17 A Yes, sir. State's Exhibit No. 51 ---

18 Q I'm going to stop you so I make sure I understand.
19 State's Exhibit No. 51 is the Street burglary
20 call, the initial phone call?

21 A That's correct.

22 Q Okay.

23 A Stacey Caughman -- the call received by dispatch was
24 00:37 and 14 seconds. So 12:37 a.m.

25 Q 12:37 and 14 seconds is when the call came through to

1 your dispatcher? Is that what we're saying, I just want to
2 make sure. I'm not trying to confuse you. Make sure I
3 understand.

4 A According to -- it says call received?

5 Q Yes, sir.

6 A 37:14.

7 Q Okay. 12:37 and 14 seconds?

8 A Yes.

9 Q Is that correct? And that's what the call received on
10 the CAD sheet?

11 A That's correct.

12 Q What about State's Exhibit No. 52, does it have a call
13 received on that one?

14 A State's Exhibit 52, the call to 123 North Highland is
15 call received at 39 -- 00:39 minutes 51 seconds.

16 Q And that's when that one says the call is actually
17 received?

18 A According to this CAD report?

19 Q According to that CAD?

20 A Yes, the way I understand it.

21 Q The way you understand it, of course. But either way,
22 whatever number, there's a bunch of time numbers on there;
23 is that correct?

24 A Yes.

25 Q Can you tell us what the other time numbers are on

Lieutenant Duggin -- Cross by Mr. Kent

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1 there?

2 A There's a -- it looks like a transmit time, a dispatch
3 time, and in route time, an on-scene time, departed times.
4 And it has other times -- like log code units, some that
5 I'm not familiar with.

6 Q That's fine. But the jury will have those with them.
7 They can look at it and they can figure out what time they
8 come through?

9 A Yes.

10 Q But that's your cursory understanding of what those
11 times mean?

12 A That's correct.

13 Q Lieutenant Duggin -- Duggin or Duggin?

14 A Duggin.

15 Q Lieutenant Duggin, we talked about going over the
16 crime scene and how detailed and how organized. You
17 testify quite often, I think you mentioned?

18 A Yes, sir.

19 Q How often do you think you testify?

20 A Several times a year.

21 Q Several times a year?

22 A Yes, sir.

23 Q And it's hard to memorize everything that happens on a
24 case. We don't like to testify from memory. I saw you
25 going through your file.

- 1 A That's correct.
- 2 Q And why don't we like to testify from memory?
- 3 A Sometimes we forget.
- 4 Q Sometimes we just happen to forget?
- 5 A Yes, sir.
- 6 Q Is there anything inside of the file that indicates
- 7 whether or not the windows in this white vehicle that you
- 8 looked at were tinted or not tinted?
- 9 A The only thing that I have as far as a written report,
- 10 no, the photos they show there was something there, just
- 11 because of the way it was removed.
- 12 Q But there's nothing in the report, there's nothing
- 13 that jumps out on that day 3 or 4 years ago that you felt
- 14 was necessary to write down?
- 15 A No, sir.
- 16 Q And if there was, because we're always worried about
- 17 scene contamination and things of that nature. If somebody
- 18 had washed the car or washed the inside of the car or
- 19 vacuumed the car or tried to hide evidence; that's
- 20 something you would have written down, isn't it?
- 21 A If it was something that I had noticed, yes, sir.
- 22 Q And we talked about CSI. I'm going to ask one of my
- 23 dumb CSI person, but I watch all that stuff. And they were
- 24 spraying that luminol stuff everywhere to see if blood --
- 25 does that stuff really exist?

Lieutenant Duggin -- Cross by Mr. Kent

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1 A It has its place.

2 Q It has its place?

3 A Yes, sir.

4 Q So we can tell if someone tried to really wash and
5 clean and hide evidence of blood inside?

6 A Yes, sir.

7 Q Do we have any evidence whatsoever that anyone tried
8 to hide any evidence in this car, wash the car, anything
9 that would try to hide what this car was?

10 A No, sir. The best -- I'd have to go back to look at
11 my photos. But just like a typical car, nothing -- nothing
12 done to it.

13 Q Okay. And you got the car on the 25th. From your
14 understanding the car was given to the Sumter Police
15 Department on the same day of the shooting?

16 A Yes, sir, I believe it was on the same day.

17 (Pause.)

18 Q Last question. Lieutenant, there is no way whatsoever
19 to connect the blood on the steering wheel in this case to
20 this incident at all, is there?

21 A No, sir, is just shows the suspect's blood is in his
22 car.

23 MR. KENT: Thank you so much, I appreciate it.

24 THE COURT: Redirect?

25 MR. MEADORS: Yes, sir, thank you.

1 REDIRECT EXAMINATION BY MR. MEADORS:

2 Q Truman, just a few questions.

3 A Yes.

4 Q Was there any evidence that the victim was shot in the
5 defendant's car that you're aware of?

6 A No, sir.

7 Q He asked you about the car. Had you seen that car
8 before you inspected it?

9 A No, sir.

10 Q You don't know whether it was tint on it before or
11 not?

12 A No, sir, I don't.

13 Q And through the -- just your own eyes and your
14 experience ---

15 MR. MEADORS: Beg The Court's indulgence.

16 THE COURT: Yes.

17 (Pause.)

18 Q State's 26, did you take that picture?

19 A This is a photo that I took while I was at the impound
20 doing the search warrant.

21 Q In your expertise and common sense, what does that
22 appear to you to be on that window?

23 A It looks like there's horizontal marks that's left by
24 -- left from the removal of sun screen, sun shade.

25 Q Tint?

Lieutenant Duggin - Redirect by Mr. Meadors

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1 A Tint, yes, sir.

2 Q And while you're investigating this, did you know all
3 the facts and statements and potential description, or are
4 you just looking at a car to see what you can find?

5 A I was looking at the car to see what I could find, I
6 wasn't aware of anything specific concerning the tinted
7 windows.

8 Q And to follow back up on Mr. Kent, the blood that was
9 in there, the defendant's blood, didn't have anything to do
10 with this incident, correct?

11 A That's correct.

12 Q Okay. But you did find his fingerprints in there and
13 other items that link the defendant to that car?

14 A That's correct.

15 Q Piggly Wiggly, I think, maybe the lotto?

16 A Piggly Wiggly and a lotto ticket with his fingerprint.

17 Q I believe also you had a blood standard of the victim,
18 William McKenzie, in this case that was sent to SLED,
19 correct?

20 A It was a buccal swab, it was saliva sample.

21 Q Came from Dr. Ross?

22 A Did you say from the victim?

23 Q The victim.

24 A Oh, I'm sorry. Yes, the sample came from Dr. Ross, a
25 blood sample.

1 (State's stipulations, 4 pages, marked for
2 identification as State's Exhibit No. 53.)

3 COURT REPORTER: State's 53.

4 Q Mr. Kent had asked you about DNA?

5 A Yes, sir.

6 Q The swabs that you collected?

7 A Yes, sir.

8 Q A swab that was collected from this hat?

9 A That's correct.

10 Q You all don't do DNA?

11 A We did not do the analysis, correct.

12 Q Okay. You take the swab, send them to SLED?

13 A That's correct.

14 Q That was done in this case, correct?

15 A Yes, sir.

16 Q And are you aware of ---

17 MR. MEADORS: And, Your Honor, at this time might be
18 the appropriate time. He went in to DNA. And just to go
19 ahead -- can I hand him ---

20 THE COURT: You all had a stipulation?

21 MR. MEADORS: Yes, sir. Would you like to look at it
22 and see.

23 THE COURT: All right. Ladies and gentlemen of the
24 jury, marked as Exhibit 53 by agreement of the parties is
25 an agreed stipulation. The stipulation reads as follows:

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1 The attached DNA analysis report, which was prepared by
2 Maryann E. Shehan of the South Carolina Law Enforcement
3 Division, contains the same information and conclusions as
4 to which she would have testified had she been here at
5 trial.

6 And the stipulation is in evidence as is the DNA
7 report. And, Mr. Meadors, you may publish the report
8 through this witness if you would like to.

9 MR. MEADORS: Thank you, sir.

10 (State's Exhibit No. 53 received in evidence.)

11 MR. MEADORS: May I stand here, Judge?

12 THE COURT: Yes, sir.

13 Q This is State's 53, a stipulation. You've seen this
14 before?

15 A Yes, sir.

16 Q And for time purposes, is it fair to say -- what --
17 read the items submitted please, might be the easiest way
18 to do it.

19 A The items submitted from Sumter Police Department to
20 SLED were swabs from the victim's sunglasses, swabs from
21 the radio control button on the steering wheel, swabs from
22 the Piggly Wiggly receipt, swab from a baseball cap; that
23 swab was taken at SLED. And a blood standard from William
24 McKenzie from the autopsy, and buccal swabs from Antrell
25 Felder.

1 Q Explain just very briefly, what's a buccal swab?

2 A A buccal swab, it's another way of obtaining the
3 person's DNA. We used to always just take blood and have
4 to have a blood sample. But now what we do, we go in
5 between the cheek and the buccal side of the tooth, and get
6 down in that gum or up in this area. So between the cheek
7 and gum, if you would, we take 2 Q-tips, and we get a
8 sample of the person's saliva and what they call the buccal
9 cells.

10 Q So it's a non-invasive ---

11 A It doesn't -- it doesn't hurt. It's not like giving a
12 shot or anything. It's like brushing your teeth.

13 Q And on the -- these items are submitted, correct?

14 A That's correct.

15 Q And were these items also -- tell them what items were
16 analyzed, and then tell them the results please?

17 A Items that were analyzed would be a blood standard
18 from William McKenzie, buccal swabs from Antrell Felder,
19 swabs from the victim's sunglasses, swabs from the radio
20 control button on the steering wheel, swabs from the Piggly
21 Wiggly receipt, swab from the baseball cap.

22 The examinations, the DNA analysis was performed on
23 those items.

24 Q Let me stop you here. I know it, but a swab -- tell
25 us what a swab is?

Lieutenant Duggin - Redirect by Mr. Meadors

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1 A A swab is -- it's a Q-tip. It's a sterile Q-tip that
2 we use. And if the blood is drawn, we use distilled water
3 on the Q-tip to obtain the blood.

4 So we have long Q-tips and short Q-tips. So it's just
5 using a Q-tip to obtain the sample.

6 Q Thank you. I didn't mean to interrupt you.

7 A Okay.

8 Q So DNA analysis was performed on those items?

9 A That's correct.

10 Q And what were the results?

11 A The DNA profile developed from item 1, which is the
12 swab from the victim's sunglasses ---

13 Q Would that be what was in as State's 10?

14 A That's correct.

15 Q Okay.

16 A Was a mixture of at least 2 individuals, William
17 McKenzie cannot be excluded as a possible contributor to
18 this mixture.

19 Q Go ahead.

20 A The DNA profile developed on items 2 and 3, which
21 would be the radio control button and the Piggly Wiggly
22 receipt ---

23 Q And, again, those are swabs that you took?

24 A That's correct.

25 Q From the car?

1 A That's correct.

2 Q Okay.

3 A Matches the DNA profile of Antrell Felder. The
4 probability of randomly selecting an unrelated individual
5 having a DNA profile matching these items is approximately
6 1 in 5.6 quadrillion.

7 The next one. The DNA profile developed on item 4.1.

8 Q Which is what?

9 A That would be a swab from the baseball cap.

10 Q Which is State's 17?

11 A That's correct. Is a mixture of at least 2
12 individuals. The DNA profile developed from the major
13 contributor to this item also matches the DNA profile of
14 Antrell Felder. William McKenzie can be excluded as a
15 possible minor contributor to this mixture.

16 Q Major contributor Antrell Felder?

17 A That's correct.

18 Q Victim excluded?

19 A Victim excluded.

20 MR. MEADORS: One second, Your Honor.

21 THE COURT: Certainly.

22 (Pause.)

23 MR. MEADORS: I think that's all. Thank you.

24 THE COURT: Recross, Mr. Kent?

25 MR. KENT: Briefly, Judge.

Lieutenant Duggin - Recross by Mr. Kent

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1 RECROSS EXAMINATION BY MR. KENT:

2 Q Lieutenant Duggin, from No. 53, which you were just
3 reading, I want to make sure I understand correctly. From
4 the hat, a DNA swab was taken?

5 A Yes, sir.

6 Q And in the hat it said the DNA of at least Antrell
7 Felder was found in the hat?

8 A Correct.

9 Q But it says there's another person's DNA found in that
10 hat, doesn't it?

11 A It says there's a mixture of at least 2 individuals.
12 He is the major contributor.

13 Q But there's at least 2 individuals' DNA in that hat?

14 A That's correct.

15 Q And they exclude somebody's DNA from that hat?

16 A They exclude William McKenzie.

17 Q So there's an unknown person's DNA inside of that hat?

18 A That's correct.

19 MR. KENT: Thank you, that's all I have.

20 RE-REDIRECT EXAMINATION BY MR. MEADORS:

21 Q And does that ---

22 MR. MEADORS: Just direct to that, Your Honor.

23 THE COURT: Sir?

24 MR. MEADORS: Can I direct to address that?

25 THE COURT: All right. One more time. We've been

1 going back and forth on this. It should have been
2 organized a little better.

3 Q That's a minor contributor, correct?

4 A That's correct.

5 Q Based on your experience, you may not even be able to
6 tell what gender that is, correct?

7 A That's correct.

8 Q And you might not be able to identify it at all?

9 A That's true.

10 MR. MEADORS: Thank you.

11 THE COURT: Mr. ---

12 MR. KENT: (Shakes head.)

13 THE COURT: Nothing further, Mr. Kent?

14 MR. KENT: Nothing.

15 THE COURT: All right. The witness, you may step
16 down.

17 (The witness leaves the witness stand.)

18 THE COURT: All right. Mr. Meadors, you may call your
19 next witness.

20 MR. MEADORS: Gabriel Blackwell.

21 Your Honor, may I approach?

22 (A bench conference was held off the record in the
23 presence of the jury, but out of the hearing of the jury.)

24 THE COURT: Go ahead, Mr. Bradley.

25 GABRIEL BLACKWELL, being

Officer Blackwell -- Direct by Mr. Meadors

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1 first duly sworn, testified as follows:

2 CLERK: Please state your name. Spell your last name
3 for the record.

4 OFFICER BLACKWELL: Gabriel Blackwell. Blackwell,
5 B-l-a-c-k-w-e-l-l.

6 DIRECT EXAMINATION BY MR. MEADORS:

7 Q Good morning, sir.

8 A Good morning.

9 Q As I do with every witness, tell this jury about you,
10 Mr. Blackwell. Just briefly, where are you from, your
11 background, schooling, and just your training in law
12 enforcement and then where you are now?

13 A All right. I'm from New Haven, Connecticut. I moved
14 to South Carolina in 2002. I joined the Sumter Police
15 Department in September -- September 1st of '05. Now I'm
16 currently employed with Clarendon County Sheriff
17 Department.

18 When I was at the Sumter Police Department, I made the
19 rank of corporal.

20 Q And what are you doing in Clarendon now?

21 A Clarendon, currently I'm a sheriff deputy. I respond
22 to calls for service, back other officers up, and enforce
23 traffic laws and state laws.

24 Q Do you enjoy being in law enforcement, don't you?

25 A Yes, I do, sir.

1 Q And, again, how long were you in Sumter?

2 A Sumter Police Department since from '05 to August
3 2011.

4 Q Now, Officer Blackwell, if I could take you back to
5 July 2008. Specifically, July 17, early morning hours of
6 July 18. You were employed with the Sumter Police
7 Department as a corporal?

8 A No. I was a master patrolman.

9 Q I'm sorry. Master patrolman at that time. And what
10 were your duties as master patrolman?

11 A Respond to calls for service, back other officers up,
12 enforce traffic laws, and, you know, just that's pretty
13 much it.

14 Q Were you on a particular shift?

15 A Yes, I was. I was on Sergeant Cedrica Stubbs' shift.
16 She was my supervisor.

17 Q What time -- what shift -- were you day shift, evening
18 shift?

19 A I was night shift.

20 Q Night shift. All right. So did you have an occasion
21 to respond to a call at ?

22 A Yes, I did, sir.

23 Q And what time was that when you got there?

24 A I was there at 12:37 a.m.

25 Q And what observations if any did you make when you got

Officer Blackwell - Direct by Mr. Meadors

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1 there?

2 A When I got there, there was 3 females at the scene,
3 one name Stacey Caughman; that was the victim who made the
4 call to the police department. She told me she made the
5 call.

6 Q Stacey made the call?

7 A Yes, sir.

8 Q Okay. And you responded to the call, potential
9 burglary?

10 A Yes, sir.

11 Q All right. Did you notice any whether the house had
12 been burglarized or not?

13 A Yes, sir, at the time I talked to Ms. Caughman. She
14 told me that a person broke inside her house. I guess they
15 went through the window. They pulled out the A.C. unit to
16 gain entry into the house.

17 Q When you got there, did she indicate whether or not
18 she'd been inside yet?

19 A No. She told me no.

20 Q Did she tell you what had been taken when you first
21 got there?

22 A When I first got there, she told me -- she told me
23 that 5 pairs of kids Jordans were stolen.

24 Q 5 pairs of kids Jordans. Did you have occasion to go
25 inside then?

- 1 A Yes, I did.
- 2 Q And did she go inside with you then?
- 3 A No. She was standing by the door because -- since she
- 4 told me she hadn't gone inside, I wanted to clear the house
- 5 to make sure nobody was inside so it would be safe for her
- 6 to come inside and then tell me what was actually stolen.
- 7 Q And that's your procedure, right?
- 8 A Yes, sir.
- 9 Q And how did she know there was 5 kids pairs stolen if
- 10 she hadn't been inside?
- 11 A I don't know. She must have went inside. But she
- 12 told me that she did not go inside, because she knew what
- 13 was stolen.
- 14 Q And you made note of that?
- 15 A Yes, I did.
- 16 Q As an officer, did you ask her about that?
- 17 A Yes, sir, I did. When I ---
- 18 Q Go ahead.
- 19 A When I came back outside and then she came inside the
- 20 house, she changed it from 5 kids Jordans to 5 pairs of men
- 21 Jordan. I thought that was kind of unusual.
- 22 Q And when you went inside, did you see anything -- when
- 23 did she tell you it was men's shoes and not children's
- 24 shoes?
- 25 A Once -- once she came inside, she went to her bedroom,

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- 1 and that's when she told me that.
- 2 Q Shoes?
- 3 A Yes, sir.
- 4 Q Anything else she tell you was stolen?
- 5 A No, sir.
- 6 Q On your report it had a table?
- 7 A That's a table was broken in half.
- 8 Q I apologize. Did she say anything was damaged, I'm
- 9 sorry?
- 10 A Yes, the table was broke -- broke in half. She said
- 11 that was damaged.
- 12 Q This was ?
- 13 A Yes, sir.
- 14 Q Looking at your incident report, you have your
- 15 incident report?
- 16 A Yes, I do, sir.
- 17 Q And on time arrived, what time did you arrive?
- 18 A Arrived at 1:00 a.m.
- 19 Q Okay. So you actually didn't get there until 1:00
- 20 a.m., correct?
- 21 A Yes, sir.
- 22 Q And a call had gone out earlier. I just may have mis-
- 23 heard you. But it was a call went out earlier?
- 24 A Yes, sir. A call went out at 12:37 a.m.
- 25 Q But you didn't get there until 1:00?

- 1 A Yes, sir.
- 2 Q And you left at 1:20?
- 3 A No, I don't believe so. I call up for our case
- 4 number. Dispatch will give us the times from there. That
- 5 don't actually mean that we left at 1:20; that just mean
- 6 that's the time that we got our case number.
- 7 Q I apologize. You prepared some notes at the crime
- 8 scene, correction?
- 9 A I did.
- 10 Q Okay. And when you were there, you did not see
- 11 Antrell Felder, did you?
- 12 A No, I didn't.
- 13 MR. MEADORS: Beg The Court's indulgence.
- 14 THE COURT: Yes.
- 15 (Pause.)
- 16 MR. MEADORS: That's all I have. Thank you.
- 17 THE COURT: Cross examination?
- 18 MR. CHANDLER: If it please The Court.
- 19 CROSS EXAMINATION BY MR. CHANDLER:
- 20 Q Glad to have you in Clarendon County.
- 21 A Thank you, sir.
- 22 Q You just get hired as a deputy by Sheriff Garrett?
- 23 A Yes, sir.
- 24 Q Did you start working over there yet?
- 25 A Yes, sir.

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- 1 Q You doing patrols?
- 2 A Yes, sir.
- 3 Q I speed. Sheriff Garrett will talk to you about that
- 4 later I'm sure.
- 5 A All right.
- 6 Q Your job that night was to go and record, confirm that
- 7 a burglary had happened; is that correct?
- 8 A Yes, sir.
- 9 Q You were to respond to a call that came in some
- 10 seconds before 12:37?
- 11 A Yes, sir.
- 12 Q And then the dispatcher radioed you and said, we got a
- 13 report that a place had been broken into on Harry Street,
- 14 right?
- 15 A Yes, sir.
- 16 Q And so between 12:37 and 1:00 o'clock you were aware
- 17 of that call, but you arrived at Harry Street around 1:00,
- 18 did I hear that correctly?
- 19 A Yes, sir. A lot of times we'll be on other calls when
- 20 the calls come out. We have to first handle that call
- 21 before we leave.
- 22 Q So that was about a 20-minute delay?
- 23 A Yes, sir.
- 24 Q And you left after about 20 minutes; is that correct?
- 25 A From Harry Street?

- 1 Q Yes, sir.
- 2 A No.
- 3 Q It said -- I thought it said you left around 1:20?
- 4 A That's -- that's the time that I got the case number.
- 5 Q Oh, I got you.
- 6 A But I didn't leave then.
- 7 Q How long did you -- I'm sorry. How long did you stay
- 8 there?
- 9 A I'm not sure, but I know it was longer than 20
- 10 minutes, because it was too much going on at the time.
- 11 Q Now, when you were there, you saw the fact that the
- 12 air conditioning unit that was built into the house had
- 13 been moved forcefully, did you not?
- 14 A The air conditioning unit was moved out, but there was
- 15 no damage.
- 16 Q Sir?
- 17 A There was no damage to it.
- 18 Q It had been pushed out into the house?
- 19 A No. It was on -- it was pulled out. It was on the
- 20 ground.
- 21 Q Somebody had pulled it out?
- 22 A It was pulled out, but I really can't see somebody
- 23 just pulling it out like that without any, you know,
- 24 damage. There's no damage to the A.C. unit or the window.
- 25 And usually a A.C. unit when the window comes out, it kind

Officer Blackwell - Cross by Mr. Chandler

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- 1 of locks in.
- 2 Q There was broken glass?
- 3 A I don't know.
- 4 Q Didn't see any broke glass at all inside the house?
- 5 A No.
- 6 Q And an A.C. unit had been pulled out?
- 7 A Yes, sir.
- 8 Q That left a hole?
- 9 A The window was open.
- 10 Q The window was open?
- 11 A Yes, sir.
- 12 Q Okay. And so then you went in, and the house looked
- 13 like it had been kind of tossed around, didn't it?
- 14 A I don't remember.
- 15 Q You don't recall?
- 16 A I don't recall as far as clothes being pulled out and
- 17 stuff like that. The only thing I remember is that the
- 18 table was broken.
- 19 Q So you saw a damaged table, correct?
- 20 A Yes, sir.
- 21 Q You went through the house?
- 22 A Yes, sir.
- 23 Q You found no one there?
- 24 A Yes, sir.
- 25 Q Correct?

- 1 A Yes, sir.
- 2 Q No one -- this woman at that point didn't report an
- 3 Emerson television being gone?
- 4 A No.
- 5 Q Are you aware that one was taken from that house?
- 6 A No.
- 7 MR. MEADORS: Objection, Your Honor. Objection.
- 8 THE COURT: What's the objection?
- 9 MR. MEADORS: I don't -- that's not true.
- 10 THE COURT: You can clear it up. You can ask the
- 11 question if he's aware. And then if it wasn't, that's ---
- 12 Q Did she report a video camera being taken?
- 13 A No, sir.
- 14 Q She said at that point she knew that some shoes were
- 15 taken?
- 16 A Yes, sir.
- 17 Q At that point you knew that when you first got there,
- 18 she had told you that she hadn't been in the house. But
- 19 then you suspected that she had been, right?
- 20 A Yes, sir.
- 21 Q But did you ask her if there had been any drugs in the
- 22 house that might have been taken out before you got there?
- 23 A No, sir.
- 24 Q Did you suspect that there might have been something
- 25 illegal at the house that got removed before you got there?

Officer Blackwell - Redirect by Mr. Meadors

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1 A No, sir.

2 Q Did you check the house for anything that might be
3 illegal due to you saying that she might have acted a
4 little oddly about it?

5 A I looked around, but I -- but nothing stand out.

6 Q Did you look in the closets?

7 A Yes, sir.

8 Q And so you don't know what happened between the time
9 that this call came in, you were dispatched about 12:37 and
10 what was removed from that house before you got there if
11 anything, do you?

12 A I don't know.

13 Q Huh?

14 A I say I don't know.

15 Q And isn't it also true in your experience as an
16 officer that once something first happens, people don't
17 completely account for all of the things that are missing;
18 is that right?

19 A Yes, sir.

20 MR. CHANDLER: All right. Thank you.

21 THE COURT: Is that all, Mr. Chandler?

22 MR. CHANDLER: Yes, sir.

23 THE COURT: All right. Redirect, Mr. Meadors?

24 REDIRECT EXAMINATION BY MR. MEADORS:

25 Q She told you shoes, right?

1 A She told me sneakers were stolen.

2 MR. MEADORS: That's all. Your honor, we ask that
3 officer Blackwell be excused and go back to Clarendon
4 County.

5 THE COURT: Anything else?

6 MR. CHANDLER: No, sir.

7 THE COURT: All right. The witness is excused. Any
8 objection to him being excused to be released?

9 MR. CHANDLER: No, Your Honor.

10 THE COURT: All right. Thank you for coming.

11 (The witness leaves the witness stand.)

12 THE COURT: Ladies and gentlemen, Counsel has advised
13 me this is a good stopping place before we go forward.
14 It's a little bit earlier than we would normally stop for
15 lunch, but it's probably a good time for us to stop for
16 lunch. And we're going to do that at this time. It is
17 12:30. What I would like to do would be to take an hour
18 for lunch and be back here at 1:30 and prepared to go
19 forward.

20 And so we will plan to do that if an hour will give
21 all of you time enough to get your lunch and be back in the
22 jury room.

23 Again, I would caution you that over the lunch recess,
24 do not discuss the case with anyone. Do not allow anyone
25 to discuss it with you. And do not talk about the case

1 when you're reassembling in the jury room. Again, any
2 discussion about this matter would be premature at this
3 point.

4 And before we go any further, let me ask the gentleman
5 who had the transportation trouble this morning if you need
6 any transportation or any help with transpiration, tell the
7 bailiff and we can make some arrangements for you and try
8 to help you out with that if there's anything that you need
9 to do, and we will try to take care of that for you if
10 you'll see the bailiff when you leave.

11 With those admonitions, then, I am going to excuse the
12 jury. Ask you to be back in your jury room please at 12:30
13 -- at 1:30. And we'll see you at that time. Thank you.

14 (The jury exits the courtroom at 12:32 p.m.)

15 THE COURT: All right. Let me give the jury just a
16 moment to clear the building, and then we will recess for
17 lunch ourselves.

18 (Pause.)

19 THE COURT: All right. Counsel, we'll be in recess
20 until 1:30.

21 (Court is in recess for lunch.)

22 (Stipulation, 2 pages, marked in evidence as State's
23 Exhibit No. 54.)

24 THE COURT: All right. Now we're back on the record
25 with regard to the matter of The State versus Felder. Mr.

1 Felder is present in the courtroom with his counsel. State
2 is present and represented by Mr. Meadors.

3 And, Mr. Meadors, I did take a little bit of an
4 extended lunch or recess when we came back from lunch to
5 allow the state to kind of assess where they are and what
6 they need to do and where we're going, in what direction
7 this afternoon with this case.

8 What is the state's position?

9 MR. MEADORS: Your Honor, because of that time, we
10 were able to resolve some issues. I think everything is in
11 evidence except one statement which wasn't offered,
12 couldn't be.

13 Anyway, the other thing we have agreed on is State's
14 54.

15 THE COURT: All right.

16 MR. MEADORS: Which is a stipulation that I could just
17 read or I'll just say and then rest.

18 THE COURT: What is it, Mr. Meadors?

19 MR. MEADORS: It says that from to
20 is .3 miles.

21 THE COURT: All right. This is a stipulation.

22 MR. MEADORS: That's all I'll say.

23 THE COURT: And you have agreed that that's a
24 stipulation, Mr. Kent?

25 MR. KENT: Yes, sir, Judge.

1 THE COURT: All right. I'll allow the state then to
2 publish that stipulation, and then what, Mr. Meadors? The
3 state would rest?

4 MR. MEADORS: We would rest.

5 THE COURT: All right. And then that being the case,
6 Mr. Felder ---

7 MR. MEADORS: Your Honor -- that's fine.

8 THE COURT: All right. That being the case, Mr.
9 Chandler and Mr. Kent, what I'd like to do at this time is
10 let me go ahead so we won't have to send the jury out again
11 and discuss with Mr. Felder his Fifth Amendment rights.

12 MR. KENT: Thank you. Judge, just for the record,
13 just for clarity purpose, my understanding of Mr. Felder's
14 prior criminal record that may or may not be useable
15 against him would be a lynching. He also has a prior
16 possession with intent to distribute crack cocaine. I
17 don't know if that would come in, but that would be his
18 usable criminal record.

19 THE COURT: All right. That usually does make a
20 difference as to whether a defendant wishes to exercise his
21 right to remain silent. So the 2 things are a lynching
22 conviction and a ---

23 MR. KENT: A lynching conviction, Judge -- no, a
24 pending lynching charge. I apologize.

25 THE COURT: A pending lynching charge.

1 MR. KENT: And there's a possession with intent to
2 distribute crack cocaine.

3 THE COURT: All right.

4 MR. MEADORS: I knew about the possession with intent
5 to distribute crack, no question about it. I do not think
6 the lynching is a conviction.

7 MR. KENT: He's correct, Judge.

8 THE COURT: I don't think the lynching is admissible
9 under 608, 609, let me see. 609. Prior convictions. And
10 a pending charge would not be admissible. So the one
11 charge that could be used against him would be the -- not
12 the lynching, but the other.

13 All right. Mr. Felder.

14 MR. FELDER: Yes, sir.

15 THE COURT: You may be called as a witness to testify
16 in this case. I want to advise you now of your Fifth
17 Amendment rights. You have the right to invoke the
18 protections given to you by the Fifth Amendment to the
19 Constitution of the United States and a similar counterpart
20 provision of the Constitution of The State of South
21 Carolina. The Fifth Amendment to the Constitution of the
22 United States provides in part that no person shall be
23 compelled in any criminal case to be a witness against
24 himself.

25 This provision of constitutional law means that you

1 cannot be compelled or required to testify in this case.

2 This is a right and a privilege which the law extends to
3 you. It is a personal privilege and no one can waive this
4 right except you.

5 You have the right not to testify, but you also have
6 the right to testify.

7 The Court will grant you the right to consult with
8 your lawyer before you make a decision. The Court will
9 grant you the -- as I say, will grant you the right to
10 consult with Mr. Kent and Mr. Chandler before I require you
11 to make a decision. But if you elect not to testify, your
12 failure to testify cannot be used by the state as an
13 inference of guilt, and I would so advise the jury.

14 In fact, your failure to testify cannot be considered
15 by the jury in its deliberations in any manner whatsoever.

16 If you elect to testify and waive the privilege given
17 to you by the Fifth Amendment to the Constitution and the
18 South Carolina Constitution, I advise you that you would
19 assume the role of a witness in this case, and you would
20 then waive or give up your constitutional privilege against
21 self-incrimination.

22 This means that if you voluntarily take the witness
23 stand and testify, you will then subject yourself to the
24 same rules that govern other witnesses and you may be
25 examined and cross examined on any relevant issues in this

1 case. And you may be impeached to the same extent as any
2 other witness, all of which is subject to the rules of law
3 and the rules of evidence.

4 And what we were just talking about a minute ago is
5 that one of the impeachment matters could be your prior
6 conviction.

7 I further advise you that if you elect to take the
8 witness stand and testify, that this decision on your part
9 must be freely, voluntarily, intelligently, and knowingly
10 made and with full knowledge of the protections given to
11 you by the constitution and with knowledge of the
12 consequences of your election to testify.

13 Do you understand what I have advised you about your
14 Fifth Amendment rights?

15 MR. FELDER: Yes, sir.

16 THE COURT: Have you had a chance to talk with your
17 lawyers about your Fifth Amendment rights?

18 MR. FELDER: Yes, sir.

19 THE COURT: Do you need any more -- do you have any
20 questions that you want to ask me or them about your Fifth
21 Amendment rights?

22 MR. FELDER: No, sir.

23 THE COURT: Are you prepared to advise me now as to
24 whether you do or do not wish to testify in this matter?

25 MR. FELDER: I do not want to testify.

1 THE COURT: Is that decision on your part freely and
2 voluntarily made?

3 MR. FELDER: Yes, sir.

4 THE COURT: And you fully understand your
5 constitutional rights regarding your privilege against
6 self-incrimination?

7 MR. FELDER: Yes, sir.

8 THE COURT: All right. After having been advised of
9 his constitutional rights by both The Court and his
10 attorneys, The Court finds that the defendant has made a
11 free, voluntary, knowing, and intelligent decision to
12 exercise that right, and not to testify in this matter, and
13 The Court will respect that decision.

14 All right. Thank you. You may be seated.

15 Now, just in the interest of moving along and knowing
16 where we stand, Mr. Kent and Mr. Chandler, would the
17 defense after the state rests, would the defense anticipate
18 any other evidence being presented on behalf of the
19 defense?

20 MR. KENT: No, sir, Judge, I do not anticipate putting
21 on a defense.

22 THE COURT: All right. So the appropriate way to go
23 then would be to bring the jury in, publish that
24 stipulation, let the state rest. I will call on you, and
25 the defense can rest. And then I will advise the jury that

1 we've got some legal matters that we need to take care, and
2 I'll just take care of it that way tell them that I didn't
3 want to keep them waiting while we take care of these legal
4 matters, and ask them to be back at 9:30 in the morning to
5 go forward with arguments and charge tomorrow.

6 Is that satisfactory with the state?

7 MR. MEADORS: Yes, sir, thank you.

8 THE COURT: Suit you?

9 MR. KENT: Yes, sir, Judge.

10 THE COURT: All right. Let's do that. Thank you.
11 Bring the jury in.

12 (The jury returns to the courtroom at 2:00 p.m.)

13 BAILIFF: Your Honor, we have all the jurors present
14 in the courtroom.

15 THE COURT: All right. Thank you very much, ladies
16 and gentlemen. And thank you for your promptness in being
17 back here. And I will need to ask you now as I did this
18 morning when you came in after having been away from the
19 courthouse if anyone has attempted to discuss this matter
20 with you or contact you in any way regarding this case over
21 the lunch recess, I would need to know about it now.

22 (No response.)

23 THE COURT: Negative response. And, again, that's
24 good.

25 And I don't think there has been any publicity, but if

1 anyone has read any news stories or heard any broadcast
2 media regarding this case over the lunch recess, again, I
3 would need to know about that now.

4 (No response.)

5 THE COURT: And, again, negative response, and that's
6 good.

7 All right. The state was and still is in the process
8 of presenting any evidence or testimony for you that they
9 wish to present. And, Mr. Meadors, you may proceed.

10 MR. MEADORS: Please, Your Honor. Your Honor, the
11 final matter, State's 54, which is -- it's admitted in
12 evidence -- for the record, a stipulation between the
13 defense and the state through the representative attorneys
14 that from heading to Broad Street, taking a left,
15 and then taking a right on Highland Avenue,
16 , is .3 miles.

17 THE COURT: All right. Ladies and gentlemen, that is
18 the stipulation that has been entered into by the parties
19 and you should accept that fact as true, because the
20 parties have stipulated that fact into the record.

21 All right. Mr. Meadors?

22 MR. MEADORS: Your Honor, The State of South Carolina
23 rests.

24 THE COURT: All right. The state has announced that
25 they have rested; that means that you have heard all of the

1 evidence that you will hear from the state at this time.

2 And now the defense will have a right to present any
3 testimony or evidence to you that they wish to present.

4 Mr. Kent or Mr. Chandler?

5 MR. KENT: Your Honor, at this time we will not be
6 placing on a defense, and the defense would rest.

7 THE COURT: All right. The defense has announced that
8 they have rested. Now that means that you have heard all
9 of the testimony that you will hear in connection with this
10 matter. There are several things that need to be done,
11 some we have to do this afternoon as a matter of law, and
12 we're going to go ahead and do those.

13 And after we take care of those matters of law, the
14 only things that remain to be done will be the arguments of
15 counsel and the instructions on the law by The Court. But
16 even though it is fairly early in the afternoon, because of
17 these matters of law that we have to do and some other
18 commitments that are involved, I am -- and I hate to bring
19 you back up here right after lunch, but I am going to
20 adjourn for the rest of the afternoon. I want you to feel
21 that you have all the time that you need to consider all of
22 the issues in this case and not rush by the lateness of the
23 hour, especially since it gets dark early now. And we have
24 got some matters of law that we have got to take care of
25 that will mean it would be a while before we would be --

1 you would be able to get this case.

2 So we are going to adjourn as far as you are
3 concerned, while we take up these matters of law and do the
4 things that we need to do, so that we will be ready to go
5 in the morning with the arguments and charge.

6 Over the evening recess, again, do not discuss this
7 case with anyone. Do not allow anyone to discuss it with
8 you. Do not listen to any broadcast media or news stories
9 about it. Again, kind of put this matter out of your minds
10 until tomorrow morning when you will come back and you will
11 hear the arguments of counsel and the instructions on the
12 law by The Court, and then you will be allowed to go to
13 your jury room to deliberate your verdict.

14 So I am going to excuse you for the rest of the
15 afternoon. Ask you to be back in the jury room tomorrow
16 morning at 9:30.

17 I don't think -- I think it was a rather unusual
18 situation, it's not likely that it's going to happen again.
19 But if you do have transportation problems or any
20 particular problems that are going to prevent you from
21 getting here on time, let us know in plenty of time in
22 advance, and we can help with transportation problems if
23 you have any transportation problems, if you don't mind
24 riding in a police car. We can take care of those kind of
25 things.

1 So if you do have any problems, just call the clerk's
2 office and let us know. Otherwise, try to be here promptly
3 or maybe a few minutes before 9:30 so we can start at 9:30.

4 Thank you. We'll see you tomorrow.

5 (The jury exits the courtroom at 2:05 p.m.)

6 THE COURT: All right. Mr. Kent, Mr. Chandler,
7 motions on behalf of the defense.

8 MR. KENT: Thank you, Judge. May it please The Court.
9 First, Judge, at this point in time I think it's necessary
10 for the defense to renew all motions made during the course
11 of the trial. Amongst those motions -- I want to make sure
12 I didn't leave any out.

13 I think we made a motion of prosecutorial misconduct.

14 We made a motion for dismissal based upon discovery
15 violations as well as -- The Court addressed that in its
16 own way. However, I think it is time to renew that motion
17 for prosecutorial misconduct and move for a dismissal.

18 Additionally, to that, all of the motions that we made
19 for suppression, things of that nature that we made during
20 the course of the trial. I think that the major motion
21 that we made was during the testimony of one of the
22 witnesses that testified whether or not Antrell Felder
23 established -- when he gave a fake name, I don't think they
24 ever actually established that he actually wasn't the
25 person, but I'm just re-establishing the motion that I made

1 earlier.

2 Specifically, Your Honor, at this time I think it's
3 necessary pursuant to South Carolina Rules of Criminal
4 Procedure, I think it's Rule 19, for directed verdict,
5 taking the evidence in the light of the non-moving party --
6 most favorably to the non-moving party who is in this case
7 the State of South Carolina on behalf of the defense and
8 pursuant to the rules, we make a motion for directed
9 verdict, directing a verdict of acquittal in favor of
10 Antrell Felder based upon the evidence that the state put
11 forth.

12 They have an individual who's saying that he could
13 identify the person who did this shooting, and then he told
14 the officers that he probably could identify the individual
15 who did the shooting. He was taken -- he was given a line-
16 up. The person who the state alleges, we are trying
17 Antrell Felder who actually was in the line-up, identified
18 him as knowing the person who was in the line-up and said
19 he couldn't pick the shooter out.

20 The DNA evidence that they actually provided, the DNA
21 inside of the hat, they actually had DNA of a third party,
22 an unknown third party, not including the victim.

23 The car they presented inside of the case -- if
24 anything, Your Honor, there's some outstanding evidence of
25 whether or not the car that was reported by witnesses on

1 the scene was a car with white handles -- I mean, with
2 silver handles and tinted windows.

3 Based upon all of this evidence, Your Honor, I don't
4 think the state has met the burden of proving their case.
5 So for this reason, pursuant to the rule and pursuant what
6 I'm required to make at directed verdict motion based upon
7 -- thank you. And, renewing all prior motions.

8 THE COURT: All right. First of all, with regard to
9 all the motions made at this point, that's easy to deal
10 with. The Court -- I feel that the rulings made on those
11 motions, including the motion for prosecutorial misconduct
12 and the other motions, the ruling was correct. The Court
13 would decline to change any of those rulings, especially
14 the one with regard to prosecutorial misconduct.

15 The Court heard testimony in connection with that and
16 arguments of counsel. Originally ruled that there would be
17 no sanctions in connection with it. But after reflecting
18 on it overnight I determined that I thought that sanctions
19 were appropriate, but not dismissal.

20 And the sanctions that I imposed were the -- much to
21 the chagrin of the state, with the exclusion of the witness
22 Deonte Frierson, because of what I considered to be
23 prosecutorial misconduct.

24 More than that, it flew in the face of the Order which
25 I had passed on January the 27th of 2010. And that was the

1 reason for ruling on it as I did.

2 The other rulings confirmed as is that one.

3 Now, the only issue that we need to deal with is the
4 motion under Rule 19 for directed verdict. Mr. Meadors.

5 MR. MEADORS: May it please The Court.

6 MR. KENT: Judge, I apologize.

7 THE COURT: Excuse me.

8 MR. KENT: I also forgot to mention -- I also made the
9 motion for burglaries -- to admit the burglaries pursuant
10 to the third-party guilt case law and things of that
11 nature. I just wanted to bring that up also so we could
12 affirm ---

13 THE COURT: Well, that was one of the motions that was
14 made during the course of the trial. And again, I feel
15 that the correct ruling was made on that as well. Okay.

16 MR. KENT: Thank you, Judge. I'm sorry.

17 MR. MEADORS: Thank you. May it please The Court.

18 THE COURT: Yes, sir.

19 MR. MEADORS: Your Honor, under the rules, I think any
20 evidence tending to prove the defendant's guilt is
21 competent evidence. Your Honor discussed that. We believe
22 there is considerable direct and circumstantial evidence of
23 the defendant's guilt.

24 We have 2 eyewitnesses to the incident who described
25 the individual with white shirt, dark pants. Both -- one

1 said hat at least. Another says red hat and identifies
2 that hat.

3 The defendant in his own statement had said that he
4 was wearing a white shirt and pants earlier in the night.

5 In addition to that, Your Honor, there was a white car
6 described in the statement, 4-door white car. We traced
7 that to the defendant's mother, that is consistent with
8 eyewitnesses' testimony, I believe, of the car that came
9 forward that the person wearing what I just stated got out,
10 shot. Dispute as to how many shots are fired; that's for
11 the jury. But they saw this individual shoot and kill our
12 victim.

13 The hat is at the scene, Your Honor, that was on the
14 shooter. We believe that's been proven direct and
15 circumstantially. That hat has the DNA of the defendant.
16 It also has his fingerprints on it, Your Honor, which we
17 believe is, again, direct and circumstantial -- as far as
18 eyewitness and his fingerprints.

19 Judge, in addition to that, although we don't have to
20 prove motive. A camera, which through the testimony of
21 officers contained the birthday party of the defendant's
22 girl friend was in the possession of the victim, which ties
23 him to a burglary, which we believe was the motive that the
24 defendant killed the victim shortly after the break in.
25 The timing, we think -- there's a break-in, a call, a few

1 minutes later there's the killing point 3 miles from there,
2 Your Honor.

3 We think all the evidence taken together in the light
4 most favorable to the state does show that there is
5 evidence to prove the guilt of the defendant.

6 THE COURT: All right. Would you like to respond?

7 MR. KENT: No, sir.

8 THE COURT: All right. Rule 19 of the South Carolina
9 Rules of Criminal Procedure control the matter of motions
10 made at this point. Rule 19 (A) specifically provides that
11 the court shall direct a verdict in the defendant's favor
12 on any offence charged in the indictment after the evidence
13 on either side is closed if there is a failure of competent
14 evidence tending to prove the charge in the indictment.

15 I've always felt that the use of the word competent in
16 that rule is unfortunate because it implies believable or
17 credible evidence. But I do not believe that that's the
18 way competent is meant in that rule. I think the word
19 competent as used in the rule means admitted evidence or
20 evidence in the record.

21 And the rule goes on to clarify that by saying in
22 ruling on this motion, the trial judge shall consider only
23 the existence or non-existence of the evidence and not its
24 weight.

25 Most of the points which -- most if not all of the

1 points which are made on behalf of the defendant by Mr.
2 Kent are matters that go to the weight of the evidence and
3 not to its existence.

4 I think there is evidence in the record, both direct
5 and circumstantial, that place the defendant at the scene.
6 There is evidence by which it could be inferred from the
7 record -- could be -- the jury could find from the record
8 that the defendant was the individual who fired the shot,
9 even though there are no -- there's no direct testimony to
10 that. There is both circumstantial evidence of that and
11 direct evidence of his wearing the hat and his DNA on the
12 hat, and the hat that was found at the scene and the other
13 things that Mr. Meadors has referred to.

14 I believe if I were to direct a verdict, I would be
15 weighing the testimony and inserting my judgment for that
16 of the jury. And I do not believe I could do this, so I
17 would respectfully deny the motion.

18 MR. KENT: Thank you, Judge.

19 THE COURT: All right.

20 MR. KENT: Just a few other things, just to cover
21 myself on the record, Judge.

22 THE COURT: Sure, that's what I want you to do.

23 MR. KENT: Number one, yesterday at the close of trial
24 I had mentioned the fact that when Detective Potteiger was
25 testifying, he mentioned the fact that there were some

1 other burglaries at the residence. You asked myself and
2 Solicitor Meadors to talk about this if it was something
3 that we could handle, whether or not it was something that
4 I wanted a curative instruction for.

5 I talked to Solicitor Meadors. As you remember when I
6 was crossing him, I kind of glazed over it because I didn't
7 want to bring more notice to the jury.

8 THE COURT: Right.

9 MR. KENT: He's assured me that he does not plan on
10 arguing it. More street talk and not a mistake, nothing
11 that would actually be evidence -- I think would bring more
12 light to it if I brought it up and asked for a curative
13 instruction.

14 The solicitor told me he does not plan on bringing it
15 up. There's nothing in evidence and nothing that he can --
16 I just wanted to place that on the record.

17 Number 2, Judge. I started doing this lately in
18 trials based on whether they may or may not come back and
19 may be appealed. There's always questions on strategy on
20 defense attorneys.

21 By way of strategy, I think if one is reading this
22 later will notice that we didn't do a lot of objections and
23 stipulated to a lot of the evidence. Those are strategy
24 decisions. I just started doing this in most trials now,
25 just these are strategy decisions. We made the decision

1 that certain evidence, that we just felt it was easier just
2 to allow it all in rather than fighting over it.

3 I know there will be some questions about why did we
4 allow the DNA evidence in without fighting over it? Why
5 did we allow the chain evidence in without fighting over
6 it?

7 Myself and Mr. Chandler upon thinking about it just
8 decided it was in the best strategy of our client and our
9 defense to not fight over that evidence and simply allow it
10 in.

11 THE COURT: All right. That's fine. And I appreciate
12 you putting that on the record, because the matters of
13 strategy -- I am always pleased and happy when lawyers do
14 make those kind of strategy decisions rather than just
15 trying to object to everything. And I think that that's a
16 lawyer's role in the case is to make those kind of
17 decisions and to determine what is the best interest of the
18 client. And I appreciate that.

19 I also want to put on the record -- because we did not
20 go into it and I told you that we would if it ever came up,
21 and I'm not going to go into it in detail because it never
22 did come up.

23 But you will recall at the beginning of this trial the
24 solicitor had a matter that he wanted to discuss with me.
25 I did discuss the matter with him and I told him we would

1 address that if and when it came up.

2 What that dealt with was the alleged ---

3 MR. MEADORS: Judge ---

4 THE COURT: You don't want to put that on the record?

5 MR. MEADORS: Your Honor, can I approach?

6 THE COURT: Yes.

7 (A bench conference was held off the record.)

8 THE COURT: That issue that Mr. Meadors mentioned to
9 me was an alleged statement that the defendant made to a
10 potential witness. I told Mr. Meadors we'd deal with it if
11 the witness was presented. The witness was never
12 presented, so it never became an issue as to whether that
13 was a violation of the Order.

14 MR. MEADORS: Judge, for the record, I was trying to
15 comply with your Order ---

16 THE COURT: You were.

17 MR. MEADORS: --- I had not been involved, and it was
18 not ---

19 THE COURT: You were. You exactly were. There's no
20 question about that, and that's why that was the whole
21 issue. And I just wanted to say he was doing it in an
22 attempt to comply with The Court's Order of January 27,
23 2010, but it never became an issue because the witness was
24 never called.

25 MR. MEADORS: It was not exculpatory, obviously.

1 THE COURT: Yes, it was not exculpatory. Okay. All
2 right.

3 Now, Mr. Meadors, you will argue first. How much time
4 are you going to need?

5 (Pause.)

6 THE COURT: I never like having to argue against the
7 clock myself when I was practicing law, but I like to have
8 some idea. And the simple reason for that is one early
9 case and early on, Mr. Chandler can appreciate this. Early
10 on in a civil case, the first case that I was -- one of the
11 early civil cases, simple garden-variety automobile wreck,
12 I did not ask the lawyers how much time they needed to
13 argue. I thought it was something that could be handled in
14 15 minutes. And 55 minutes later the defense lawyer was
15 still going.

16 MR. MEADORS: Just one lawyer is going to be arguing?

17 THE COURT: I don't know. I was going to ask them.
18 How are you all going to handle it?

19 MR. KENT: It's just going to be myself, Judge, and I
20 will speak 1 minute longer than Mr. Meadors.

21 THE COURT: Okay.

22 MR. MEADORS: Judge, with the exception of a few
23 things, I realize it as I get older that brevity is the key
24 to life ---

25 THE COURT: It's like I tell my preacher, anything

1 more than 20 minutes is lost anyhow. But ---

2 MR. MEADORS: If I was to say 35, and I'll try to be
3 30, would that be okay?

4 THE COURT: That would be fine. I'll give you both
5 40.

6 MR. KENT: And I'll go 36, possibly 31.

7 THE COURT: All right. We'll say 40 minutes. That
8 will be plenty of time.

9 MR. MEADORS: Thank you.

10 THE COURT: All right. Let's talk about -- and,
11 Counsel, come step up. I've got a proposed verdict form
12 here I'd like for you to look at.

13 (A bench conference was held off the record.)

14 THE COURT: All right. Counsel, now, on the charges,
15 my general charge will include reasonable doubt,
16 presumption of innocence, credibility, burden of proof.
17 And then, of course, the charge on the specific 2 offences
18 in this case, that is murder and the possession of the
19 weapon.

20 The instructions will also tell the jury not to go to
21 count 2 unless they were to find him guilty of count 1.

22 And, of course, the charge on the defendant not
23 testifying.

24 Any other special requests on behalf of the state, Mr.
25 Meadors?

1 MR. MEADORS: You said direct and circumstantial?

2 THE COURT: Direct and circumstantial as well. And I
3 didn't say that, but, yes, credibility and direct and
4 circumstantial, yeah. Okay.

5 What about you?

6 MR. KENT: I'm assuming you'll give a charge about the
7 defendant not testifying?

8 THE COURT: I said that.

9 MR. KENT: I didn't know if I heard you say that or
10 not.

11 THE COURT: And I believe we discussed earlier you did
12 not want a charge or request on voluntariness of the state;
13 is that correct?

14 MR. KENT: Judge, like I told you, it was very
15 voluntary.

16 THE COURT: All right. All right. Counsel, then we
17 will get those things together and be ready to go tomorrow
18 morning at 9:30. Please be here on that time so we could
19 be ready to go right at 9:30, otherwise, on this case we
20 will be in recess until 9:30 tomorrow morning.

21 (Pause.)

22 MR. KENT: I don't know if you said expert testimony.
23 I'm sure there will probably be a charge on that?

24 THE COURT: Okay. We do need a charge on expert too.
25 Good.

1 MR. KENT: Judge, 9:30 in the morning?

2 THE COURT: 9:30 at Mr. Meadors' request.

3 (Court is in recess.)

4 (Friday, November 18, 2011.)

5 THE COURT: Back on the record in the matter of State
6 versus Felder. Mr. Felder is present in the courtroom with
7 his counsel, Mr. Chandler and Mr. Kent. The state is
8 present and represented by Mr. Meadors.

9 I've been advised that all the jurors are here. We're
10 ready to go in to closing statement at this time. Anything
11 before we bring the jury in, Mr. Meadors?

12 MR. MEADORS: No, sir. I'm just going to get these
13 ready.

14 THE COURT: That should have been done before now.

15 All right. Bring the jury in please.

16 MR. CHANDLER: Judge, could we approach just a moment
17 please?

18 THE COURT: Wait just a minute, Mr. Bradley. Yes.

19 (A bench conference was held off the record.)

20 THE COURT: Bring the jury.

21 (The jury returns to the courtroom at 9:37 a.m.)

22 BAILIFF: Your Honor, we have all the jurors present
23 in the courtroom.

24 THE COURT: All right. Thank you. Ladies and
25 gentlemen of the jury, thank you for your promptness in

1 being back here this morning. I do need to ask you today,
2 as I have every day when you have been away from the
3 courthouse. If anyone has approached you or tried to talk
4 with you about this matter whatsoever over the evening
5 recess, I would need to know about it now.

6 (No response.)

7 THE COURT: Negative response, and that's good.

8 If anyone has read any news stories or heard any
9 broadcast media regarding this case over the evening
10 recess, I would also need to know about that now.

11 (No response.)

12 THE COURT: Again, negative response, and that's good.

13 As I told you yesterday, you have now heard all of the
14 testimony in this case. And there are only 2 things that
15 remain to be done; those are the arguments of counsel, and
16 the instructions on the law by the court.

17 I will tell you now, as I did at the first of this
18 case, that the arguments of counsel are not evidence in
19 this case. They are simply the lawyers' views of what they
20 think the evidence shows.

21 You will decide this case based upon the evidence you
22 have heard from this witness stand and from any exhibits
23 that have been introduced into evidence and not based on
24 what the lawyers say. But the lawyers do have the right,
25 and not only the right but the duty on behalf of their

1 clients to address you now and to give you their views of
2 what they think the evidence shows in the form of closing
3 statements or summations.

4 When they have completed their closing statements or
5 summations, I will then instruct you on the law, and you
6 will be allowed to go to your jury room to deliberate and
7 decide and render your verdict in this case.

8 You will hear first from Mr. Meadors on behalf of the
9 state, and then you will hear from Mr. Kent on behalf of
10 the defendant.

11 Mr. Meadors.

12 MR. MEADORS: May it please The Court.

13 THE COURT: Yes, sir.

14 CLOSING STATEMENTS BY MR. MEADORS ON BEHALF OF THE STATE:

15 Mr. Foreman, ladies and gentlemen, good morning.
16 First of all, I do want to thank you for being here. I
17 mean that, thank you. Thank you for being here. Thank you
18 for the attention you've given all of us. Just thanks, for
19 being a juror is not easy. But without all of you, there
20 would be no system. And it's this system that's what is
21 important. And I realize this week you've been sitting --
22 this isn't called for games. This isn't fun. This week is
23 as serious and real as it gets. This may be the most
24 important case I've ever tried.

25 There are 2 crimes here, really, maybe 3. This crime,

1 the murder of Mr. McKenzie, potentially the day in court he
2 was denied for that -- I don't know whether he did it or
3 not. But the other crime is that this court was denied --
4 Lady Justice was denied her right to hear that other case.
5 That's why this case is important.

6 I'm going to very briefly talk to you about the law,
7 His Honor, the law, he's the law.

8 I'm going to speak briefly on the burden, because the
9 burden is important. And it's beautiful. It's beyond a
10 reasonable doubt. It's not beyond all doubt. I think His
11 Honor will tell you, you never prove anything beyond all
12 doubt, all possible doubt; that's not the burden. We don't
13 have to prove someone's guilt beyond all possible doubt.
14 It's beyond a reasonable doubt, beyond a doubt that makes
15 reasonable people hesitate to act, you're firmly convinced.
16 You may have a question or some doubt.

17 In my 25 years I realize sometimes questions are just
18 questions. Some fine attorneys try to make something a
19 reasonable doubt when it's not; but that's your decision.
20 Beyond a reasonable doubt, beyond a doubt that makes
21 reasonable people hesitate to act, firmly convinced.
22 Sounds like good old common sense. If you know, are you
23 firmly convinced?

24 Now, what's the charge? The charge is murder. I
25 don't think anybody in this courtroom, in this county, in

1 this world would disagree that you all believe the person
2 who shot that -- shot Mr. McKenzie on July 18 -- if you
3 believe it's the defendant, it's murder; that act is
4 murder. I don't think there will be a dispute about that.
5 Going on the street, getting out of the car and gunning him
6 down. No GSR on his hands. Cigarette -- is a dead man
7 walking. He didn't know it.

8 I don't think there will be any dispute you find that
9 person is the defendant -- it's murder. Unlawful,
10 malicious, not justifiable. It wasn't as if he was caught
11 coming in your home in the home with family there, that he
12 did in self-defense. No, sir. No, ma'am.

13 We believe the evidence shows in this case the victim
14 became the aggressor, became the hunter, and as I'll tell
15 you became the judge and became you all. It's murder.

16 There are the other few brief legal things I want to
17 go over before I get the facts.

18 This right here is called closing arguments. I never
19 thought it was a great name for it because arguments imply
20 we can talk. You may say, John, hey, tell me about this.
21 Juror No. 4, let me talk to you about that. We can't do
22 that. But it allows us to give you the reasonable
23 inferences from the facts that come from this witness
24 stand; that's all. We can't go out and bring in other
25 facts, can't make stuff up. I know Mr. Kent won't and I

1 won't. But we can argue reasonable inferences from this
2 stand.

3 And then you all go back to the jury room with your
4 collective minds, your eyes, your ears -- you heard
5 everything. You decide what the facts are. What's
6 credible? What's believable?

7 His Honor is going to tell you the law that governs
8 that, but you decide the facts. And you do use your common
9 sense.

10 He's going to tell you certain things like, well, you
11 can believe all of what a witness says or you can believe
12 part of what a witness says. It's up to you all to decide
13 that. He'll tell you all that.

14 Other evidence he's told that's important in this
15 case -- direct evidence is what you see, hear, smell, and
16 touch.

17 And circumstantial evidence, proof of a chain of facts
18 -- the proof of a chain of facts and circumstances --
19 proving the chain of facts and circumstances indicating an
20 existence of a fact.

21 The fingerprints in the hat. That was his hat that
22 was in the middle of the roadway, where he got out of the
23 car and shot him. Proof of a chain of facts and
24 circumstances indicating the existence of a fact -- the
25 existence of a fact.

1 The judge is going to tell you, it doesn't require any
2 greater degree of proof for direct or circumstantial
3 evidence. They both weigh the same. You all can consider
4 both of them.

5 Some prosecutors they'd rather have a good old
6 circumstantial evidence case, because you can't make this
7 up, all these factors coming around as I'm going to go
8 through lead -- every way you turn in this case it leads to
9 the defendant. It leads to Stacey Caughman. Everywhere
10 you turn with the facts -- and that's what circumstantial
11 evidence case is. You really couldn't make it all up.

12 But when you prove the chain of facts and
13 circumstances, it leads to the fact he murdered William
14 McKenzie. There would be no need for these officers --
15 they couldn't do it to prove all these and put these things
16 together -- with all due respect.

17 Let's take it like it happened. And you all listened.
18 The evening of July 17, 2008 to July 18 -- and by the end
19 of the day all this happened, this was all day, that this
20 is this case.

21 What do we know? What do the facts show? What are
22 the reasonable inferences?

23 Well, we know that there was a 911 call about a
24 burglary.

25 (911 tape played in open court.)

1 The defendant leaves.

2 (Pause.)

3 This is the 911 phone call.

4 (911 tape played in open court.)

5 William McKenzie is taking his last breath. 12:37.

6 Burglary. 12:39:54. Shots fired at point 3

7 miles. This is real.

8 What happens next? What happens next?

9 He's laying on the ground. And I don't think anybody
10 knows it yet. But in his pocket is a camera, video, which
11 testimony shows is from Stacey -- the defendant's girl
12 friend's child's birthday party; that's proof of a chain of
13 facts and circumstances indicating the existence of a fact.
14 What the victim -- helps establish motive, which we don't
15 have to. But we know he's laying on the ground.

16 And what do we know next? The McFaddens come into our
17 world. You can't make that up. They're at Sada's house on
18 Sims Street. Sada was Mr. Antrell, Trell, McFadden's girl
19 friend. They were just there when the tape started, when I
20 started this tape. I mean, did all of us know this would
21 happen? No. So they decide they're going to go get
22 cigarettes, drinks. One says cigarettes, one says going to
23 get drinks; that's not a reasonable doubt. The stories
24 aren't exactly perfect. I submit to you if everything was
25 exactly the same, that's when you should worry. The real

1 world is people do see things a little bit differently and
2 explain it differently.

3 That's what you all have to decide based on the
4 credibility, believability.

5 They're scared. They've never seen a killing before.
6 I hope they never see another one.

7 Kayla says, I see somebody get out. I think they
8 shoot. They go around, I see them shoot again. I don't
9 know how many shots were fired.

10 Maybe there was a shot fired and everything. Who
11 knows? But she sees somebody shot. She sees what she says
12 she thought somebody kick. She was behind the car, I think
13 she said. But she thought they were kicked.

14 It's not a reasonable doubt if there's not bruises on
15 that face. The doctor said on the darker persons, they may
16 not show up. I looked here and here. I opened up the
17 body, I could see bruises better.

18 Were they visible to my eyes? No.

19 Could they have been there? Yes.

20 That's not a reasonable doubt. He was dead. He was
21 shot. Don't get side tracked with those issues. Focus on
22 the murder.

23 She says white pants -- excuse me, dark pants, white
24 shirt. Says a hat. What else did she say? She describes
25 the victim's clothes, gray sweat pants, light shirt.

1 They're in evidence. I'm not saying you have to look at
2 them. But you heard Truman Duggin say, gray sweat pants.
3 White shirt. Pretty good. Pretty good.

4 What does he say? What does Trell say? Trell is
5 scared. He's been a hard worker his whole life, simply at
6 the chicken plant, didn't like the smell. But he's been a
7 hard worker. He gives cigarettes to the guy. He ran this
8 way right after the shot. He said they ran that way. Who
9 cares? They're not exactly sure. They were both scared;
10 that's not relevant to this killing. Please don't get side
11 tracked by those. They were both there. They both saw a
12 person get out of the white car with tinted windows, come
13 around and shoot. Get out of the driver's side and come
14 around and shoot.

15 He says white shirt, black pants, red hat.

16 Now, he couldn't remember pointing it out to the
17 police officer. The police officer said he pointed the red
18 hat out to me.

19 And Mr. Kent said, was it on the shooter? Yes, sir,
20 it was on the shooter.

21 You know, he may be a little scared to tell it all,
22 but he did. It's people like that -- and I'm not saying --
23 they are true, almost heros that come out here that live on
24 the street and come out here testifying and doing what's
25 right. Yeah, I saw it. Yeah, he was wearing that. You