

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Richland County

Honorable Jocelyn J. Newman, Circuit Court Judge

ROBIN G. REESE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001110

APPENDIX

LAURA R. BAER
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

JESSICA KINARD
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

RECEIVED

DEC 27 2017

S.C. SUPREME COURT

INDEX

INDEX	i
TRANSCRIPT OF TRIAL (February 28 – March 2, 2012) ¹	1
DIRECT APPEAL DOCUMENTS	
FINAL BRIEF OF APPELLANT	1186
FINAL BRIEF OF RESPONDENT	1210
COURT OF APPEALS OPINION (Op. No. 2014-UP-300)	1258
REMITTITUR	1260
POST-CONVICTION RELIEF DOCUMENTS	
APPLICATION FOR POST-CONVICTION RELIEF	1261
STATE’S RETURN.....	1268
TRANSCRIPT OF POST-CONVICTION RELIEF HEARING (August 30, 2016)	1273
APPLICANT’S PROPOSED ORDER GRANTING POST-CONVICTION RELIEF	1339
ORDER OF DISMISSAL	1353
MOTION TO AMEND PURSUANT TO RULE 59(e)	1364
STATE’S RETURN TO MOTION	1367
ORDER DENYING MOTION	1370
INDICTMENTS	1372
SENTENCING SHEETS	1376

¹ Pages 629, 725, and 1090 from the trial transcript are missing and were not included in the Record on Appeal for Petitioner or her co-defendant in their direct appeal cases. Petitioner’s Counsel contacted the court reporters involved with the trial but neither of them had retained a copy of the 2012 trial transcript.

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 10-GS-40-0039 et al
	)	
Henry Gray and Robin Gray Reese,	)	
	)	
Defendants.	)	

TRANSCRIPT OF JURY TRIAL

The within jury trial was held in the above-captioned action on February 28-March 2, 2012, before The Honorable Thomas G. Cooper, Jr. in General Sessions Court for Richland County, South Carolina; attended by Counsel, as follows:

APPEARANCES:

K. Luck Campbell, Solicitor
 April Sampson, Solicitor
 Nicole Simpson, Solicitor
 5TH JUDICIAL CIRCUIT SOLICITOR'S OFFICE
 Appearing for State of South Carolina

Andrew Farley, Esq.
 Appearing for Defendant Robin Reese

Mathias Chaplin, Esq.
 Appearing for Defendant Henry Gray

Transcribed for Karen Ambroziak, Court Reporter
DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 901
 Johns Island, South Carolina 29457
dGarrison@sccourts.org

INDEX

Index of Testimony	3
Index of State's Exhibits	9
Index of Defense Exhibits	9
Index of Court's Exhibits	9
Motion to Sever	10
Selection of Jury	61
Batson Motion (Granted)	88
Motion to Sequester	104
Selection of Jury	113
Welcome by the Honorable Thomas G. Cooper	132
Opening Statement by Solicitor	142
Opening Statement by Mr. Farley	157
Opening Statement by Mr. Chaplin	162
Motion to Correct Scrivener's Error	337
Motion to Produce Statement	341
Examination of Defendants' Right to Testify	836
Defense Reese's Motion for Directed Verdict	877
Defense Gray's Motion for Directed Verdict	878
Charge Conference	1105
Closing on Law by Solicitor Campbell	1111
Closing Argument by Mr. Farley	1148
Closing Argument by Mr. Chaplin	1162
Closing Argument by Solicitor Simpson	1179
Charge by the Honorable Thomas G. Cooper	1206
Verdict	1235
Sentence	1264

INDEX OF TESTIMONY

(Witnesses Called by State)

MATTHEW BUCK

Direct by Ms. Campbell	174
Cross by Mr. Farley	183
Cross by Mr. Chaplin	184

HARRY DELAGE

Direct by Ms. Campbell	192
Cross by Mr. Farley	201
Cross by Mr. Chaplin	204

ROGER GILLAN

Direct by Ms. Simpson	209
Cross by Mr. Farley	232
Cross by Mr. Chaplin	238
Redirect by Ms. Simpson	240
Recross by Mr. Chaplin	241

ANGELO "Little Ricky" BOYD

Direct by Ms. Campbell	242
Cross by Mr. Farley	254
Cross by Mr. Chaplin	258
Redirect by Ms. Campbell	262
Recross by Mr. Farley	263
Recross by Mr. Chaplin	264

DONETTI PERRY

Direct by Ms. Sampson	274
Cross by Mr. Farley	296
Cross by Mr. Chaplin	306
Proffer Examination by Mr. Chaplin	319
Redirect by Ms. Sampson	331
Recross by Mr. Farley	331

INDEX OF TESTIMONY
(Witnesses Called by State)

MARY ANDERSON

Direct by Ms. Sampson	347
Cross by Mr. Farley	362
Cross by Mr. Chaplin	370
Redirect by Ms. Sampson	379
Recross by Mr. Farley	380
Recross by Mr. Chaplin	331

KEVIN THOMAS

Direct by Ms. Sampson	382
Cross by Mr. Farley	389
Cross by Mr. Chaplin	390
Redirect by Ms. Sampson	392

KARA CHASE

Direct by Ms. Sampson	393
Cross by Mr. Farley	422
Cross by Mr. Chaplin	428
Redirect by Ms. Sampson	440

IDA MENENDEZ

Direct by Ms. Campbell	444
Cross by Mr. Farley	450
Cross by Mr. Chaplin	452

CLARENCE SUMPTER

Direct by Ms. Campbell	454
Cross by Mr. Farley	463
Cross by Mr. Chaplin	464
Redirect by Ms. Campbell	472
Recross by Mr. Chaplin	473

AMBER HARDY

Direct by Ms. Simpson	474
Cross by Mr. Farley	478
Cross by Mr. Chaplin	483

INDEX OF TESTIMONY
(Witnesses Called by State)

HEATHER RAMOS

Direct by Ms. Campbell	493
Cross by Mr. Farley	496

KEVIN REESE

Direct by Ms. Sampson	497
Cross by Mr. Farley	502
Cross by Mr. Chaplin	504

ROBERT McCracken

Direct by Ms. Campbell	508
Cross by Mr. Farley	517
Cross by Mr. Chaplin	519

MALIK AKBAR

Direct by Ms. Campbell	523
Cross by Mr. Farley	543
Cross by Mr. Chaplin	550

MARCELLIUS "BLOOM" BROOKS

Direct by Ms. Sampson	552
Cross by Mr. Farley	579
Cross by Mr. Chaplin	585

KATIE UKRA

Direct by Ms. Simpson	600
Cross by Mr. Farley	613
Cross by Mr. Chaplin	615
Redirect by Ms. Simpson	622
Recross by Farley	626

SANOVIA THOMPSON

Direct by Ms. Campbell	634
Cross by Mr. Farley	647
Cross by Mr. Chaplin	651
Redirect by Ms. Campbell	652

INDEX OF TESTIMONY
(Witnesses Called by State)

ISSAC WEATHERS

Direct by Ms. Sampson	654
Cross by Mr. Farley	661
Cross by Mr. Chaplin	664

BRADLEY MARCUS

Direct by Ms. Sampson	671
Proffer Examination by Ms. Sampson	691
Cross by Mr. Farley	710
Cross by Mr. Chaplin	716
Redirect Examination by Mr. Sampson	726
Recross by Mr. Chaplin	728

CAMPBELL STREETER

Direct by Ms. Campbell	731
Cross by Mr. Farley	744
Redirect by Ms. Campbell	745
Recross by Mr. Farley	746

ROBERT McCracken (Recalled)

Direct by Ms. Campbell	747
Cross by Mr. Farley	752

WILLIAM PEGRAM

Direct by Ms. Campbell	757
Cross by Mr. Farley	804
Cross by Mr. Chaplin	815
Redirect by Ms. Campbell	826
Recross by Mr. Farley	828
Recross by Mr. Chaplin	829

INDEX OF TESTIMONY

(Witnesses Called by Defense)

ADEL SHAKER

Direct by Mr. Chaplin	843
Direct by Mr. Farley	865
Cross by Ms. Campbell	870
Redirect by Mr. Chaplin	901
Redirect by Mr. Farley	902
Recross by Ms. Campbell	904

SANDRA CONRADI

Direct by Mr. Farley	907
Direct by Mr. Chaplin	916
Cross by Ms. Campbell	917
Redirect by Mr. Chaplin	918

MELQUANNA “

Direct by Mr. Farley	920
Cross by Ms. Campbell	929
Redirect by Mr. Farley	933

ROBIN REESE

Direct by Mr. Farley	935
Cross by Ms. Campbell	953
Redirect by Mr. Farley	986

KIKI BURNS

Direct by Mr. Chaplin	992
Cross by Ms. Sampson	999
Redirect by Mr. Chaplin	1003

INDEX OF TESTIMONY
(Rebuttal Witnesses Called by State)

CLAY NICHOLS

Direct by Ms. Campbell	1007
Cross by Mr. Farley	1012
Cross by Mr. Chaplin	1013

KEVIN THOMAS

Direct by Ms. Simpson	1030
Cross by Mr. Farley	1032

WILLIAM PEGRAM

Direct by Ms. Campbell	1034
Cross by Mr. Farley	1038
Direct by Mr. Chaplin	1041

INDEX OF STATE'S EXHIBITS

Number	Description	Entered
1-5	Photographs	219
6-13	Photographs	215
14-18	Photographs	221
19-25	Photographs	221
32-40	(Withdrawn)	Withdrawn
41-50	(Withdrawn)	Withdrawn
51-57	Photographs (pre-autopsy)	ID Only
58	Photograph	458
59	Photograph	458
60-71	Photographs	458
72	Metal Chair	462
73-76	Cell Phone Records - Nextel	510
77	Video	545
78	SLED DNA report	630
79	Board with diagram	633
80-83	Photographs	734
84	Statement	ID Only
85	Statement	ID Only
86	Blowup of aerial view	712
87	Blowup of aerial view	712
88	Statement	785
89-92	Autopsy Photographs	840
93	Video	810
94	CD	844
95	Medical records of Kenneth Mack	953

INDEX OF DEFENSE EXHIBITS

(None Entered)

INDEX OF COURT'S EXHIBITS

Juror Note	1234

25 MR. CHAPLIN: May I approach, Your

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

11

1 Honor?

2 THE COURT: Sure.

3 MR. CHAPLIN: (Tendering).

4 THE COURT: Thank you. Anything?

5 MR. FARLEY: Your Honor, I have
6 submitted one for competency.

7 THE COURT: Where did you submit it?

8 MR. FARLEY: To the Clerk of Court,
9 Your Honor, but that was when Mr. Chaplin moved
10 to sever.

11 THE COURT: All right.

12 MS. CAMPBELL: And, Your Honor, if
13 I may hand up, the State has a memorandum in
14 opposition to the Motion for severance.

15 THE COURT: Okay.

16 MS. CAMPBELL: I've provided copies
17 to the defendants.

18 THE COURT: All right.

19 (BRIEF RECESS)

20 (DEFENDANTS PRESENT)

21 THE COURT: Stayed seated. Who is
22 going to argue? Are both parties going to
23 argue?

24 MR. CHAPLIN: Argue the Motion to
25 sever, Your Honor?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

12

1 THE COURT: Yes.

2 MR. CHAPLIN: Yes, both parties
3 are.

4 THE COURT: Let's proceed with that.
5 Mr. Farley?

6 MR. FARLEY: Your Honor, we are making
7 this Motion to sever based on -- well, the first
8 basis is that I think it's going to be
9 difficult, logistically, presenting these cases
10 to the jury. I think that the jury would be
11 confused about the culpability of both of the
12 defendants.

13 I think that as far as having it not be
14 prejudicial to each of the defendants that it
15 would be a favor to them to have it severed so
16 that the jury can precisely understand what they
17 are charged with and what they are accused of.

18 To try jointly, I believe, confuses the
19 issues to the point where I think the jury is
20 going to have a difficult time understanding
21 what's going on.

22 I also think that there are some PCR
23 issues and appellate issues with have the two
24 tried together, that I think would be
25 prejudicial to the cases and to ---

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

13

1 THE COURT: How so?

2 MR. FARLEY: (No verbal response).

3 THE COURT: How so?

4 MR. FARLEY: Again, I think that the
5 defendants themselves -- the case is so
6 convoluted that I think it's going to be very
7 difficult for a jury to understand the
8 difference between the first beating and the
9 second beating for each of the two defendants.

10 THE COURT: Tell me, from a factual
11 standpoint, what you believe to be the separate
12 issues that should be tried separately. I
13 understand your ---

14 MR. FARLEY: Again, Your Honor, I
15 think what it really comes down to is what the
16 level of participation, if any, my client had in
17 this beating. I think that's ---

18 THE COURT: You refer to a beating.
19 Tell me what you're talking about.

20 MR. FARLEY: (No verbal response).

21 THE COURT: On the record.

22 MR. FARLEY: Yes, sir.

23 THE COURT: I know that you have back
24 in chambers but there is nothing on the record.

25 MR. FARLEY: I understand. The State

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

14

1 is accusing my client and her codefendant of
2 beating the victim and also they're alleging
3 that the victim had two or had different
4 instances of physical violence. I believe that
5 it is prejudicial to my client to be caught up
6 with the rest of the incidences when I don't
7 think that she had any participation at all.

8 THE COURT: Okay. Without seeking
9 any defense strategy, it's just that you take
10 the position that the State would, at a minimum,
11 have to prove that she was there?

12 MR. FARLEY: Yes, and participated.
13 Yes, Your Honor. I think also given the very
14 serious nature of these charges that it's only
15 fair to my client to have her own charge and
16 trial, be tried alone, by herself.

17 THE COURT: Mr. Chaplin?

18 MR. CHAPLIN: Thank you very much,
19 Your Honor. Your Honor, I am not going to try
20 to repeat things that Attorney Farley said, but
21 I would like to point out, Your Honor, that I
22 would like to join in his Motion to sever. I
23 think that you have a copy of my Motion in front
24 of you.

25 Most importantly, Your Honor, my

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

15

1 client, Henry Gray, intends to fully challenge
2 all of the evidence here in front of him. We
3 believe that trying him jointly, particularly
4 with his sister, would definitely compromise his
5 ability to do that.

6 We believe that a joint trial in this
7 particular matter, Your Honor, is inappropriate.
8 Your Honor, I believe that a joint trial would
9 severely prejudice Mr. Gray with his ability to
10 properly provide a defense and also avoid any
11 particular *Bruton* issues and things that might
12 not be admissible at a trial had he been tried
13 singularly versus a trial with codefendants.

14 I think that a single trial with just
15 Mr. Gray, Your Honor, would allow the jury to
16 focus solely on my client's culpability, guilty
17 or lack therefore and avoid irreparable harm if
18 they get confused looking at other individuals
19 that may be tried at the same time. I believe
20 that there is going to be a lot of different
21 information presented to the jury in this
22 particular matter. There's going to be a lot of
23 different defendants -- excuse me. A lot of
24 different witnesses and there's going to be a
25 great deal of testimony regarding attacks on

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

16

1 that particular day; or, for lack of a better
2 word, "beatings", that had nothing to do with
3 Henry Gray. We believe that the jury, hearing
4 that and then being asked to go back in the room
5 and deliberate with regards to the culpability
6 of my client, as it pertains to the victim's
7 death, would definitely confuse the matter. I
8 think the likelihood that they would just paint
9 him with the same brush that they may paint
10 someone else in this particular case is
11 certainly a danger.

12 As far as the issue that was raised
13 earlier as far as PCR, uh, the potential for PCR
14 matters, Your Honor, I would just like to say
15 that it is my utmost intent to provide effective
16 counsel to my client with regards to this
17 matter. We've met on numerous occasions and we
18 have serious concerns with regards to the jury
19 simply getting confused when they go back to
20 deliberate, trying to figure out -- 'Well, I
21 know that I heard this, but who does it apply
22 to? Does it apply to Marcellius Brooks, does it
23 apply to Henry Gray, does it apply to Robin
24 Reese Gray, does it apply to any of them?'

25 We believe that with all the different

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

17

1 players involved and the jury having to
2 determine culpability on three different levels,
3 we believe that there is a serious concern, that
4 they' going to be confused.

5 Now, Your Honor, I think that it would
6 be in my client's best interest to apply him to
7 have a separate trial to avoid just the
8 appearance that this might happen.

9 Now, Your Honor, and in the
10 alternative, if you do not believe that a
11 separate trial for Henry Gray is appropriate, I
12 would simply ask that I be allowed to recall
13 witnesses that maybe Mr. Farley has already
14 called so that I can do my case in chief, so
15 that it would be clear to the jury what
16 defendant is being discussed and they can
17 associate the responses with Henry Gray. So
18 that we don't have the situation where we have a
19 witness on the stand and Mr. Farley is
20 questioning them about his client, I am question
21 my -- I am crossing them about my client, and
22 we've got redirect going on. It's just going to
23 be, I believe, very confusing for the jury to
24 determine in the case exactly what was said
25 about Henry Gray.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

18

1 The fear that I have, Your Honor, is
2 that when they go back and deliberate, they are
3 not going to remember the facts as they were
4 presented at trial and my client could suffer
5 irreparable harm. As his attorney, I have to
6 argue things that people might say, even though
7 that's a possibility, my biggest concern is the
8 fact that Henry Gray has waited a long time to
9 get his day in court to adequately address all
10 these issues. I just want the ball to be
11 pitched fair, straight across the plate, no
12 curves, so that we can catch it and we can go.
13 I think that having everybody all together, the
14 way that it is being suggested by the State to
15 do it, is going to be confusing and it is not
16 going to give Mr. Gray his day in court as he's
17 -- as he deserves.

18 THE COURT: Thank you. What is the
19 State's position?

20 MS. CAMPBELL: Thank you. May it
21 please the court. Your Honor, I was provided a
22 memorandum which sets forth both the facts as
23 well as the law as it applies to this case.

24 I know we briefly spoke in chambers and
25 the defense has addressed issues piecemeal, so I

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

19

1 can just give you a brief summary of the facts
2 so that we're not confused.

3 There has been mention of two separate
4 assaults. On the day this incident occurred,
5 they've alleged that the victim was actually in
6 an altercation with Robin Reese's daughter,
7 Melquanna in this case.

8 At that point there had been a snowball
9 fight, and there will be testimony regarding
10 that, with Marcellius Brooks, the codefendant
11 who we are not going forward with in this trial.
12 Marcellius Brooks came over, tackled the victim,
13 Kenneth Mack, in this case. There was an
14 assault at that point in which three other
15 individuals became involved. None of those
16 individuals was Robin Reese or her brother,
17 Henry Gray. That assault was dispersed
18 eventually.

19 The victim went towards Henry Gray's
20 apartment in the complex, not realizing that
21 Henry Gray was related to Robin Reese, the
22 thirteen year old daughter of -- or to Miss
23 S the daughter of Robin Reese.

24 Marcellius Brooks then takes Ms.
25 Reese's daughter to Ms. Reese, who is playing

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

20

1 video poker at a Mini Mart down the street. At
2 that point, they tell them about the fight that
3 just occurred. Robin Reese is upset, she is
4 like 'that's not enough, he didn't get enough.'

5 At some point she actually called her
6 brother, Henry Gray. The victim, Kenneth Mack,
7 is actually on his way to Henry Gray's home, not
8 realizing that Henry Gray is actually the uncle
9 to the girl. While on the phone, Mr. Gray was
10 given the information regarding the earlier
11 assault. The victim attempted to pull away from
12 him. Gray then sweeps his feet out from under
13 him and begins to attack him at that point. A
14 short time later ---

15 THE COURT: Where?

16 MS. CAMPBELL: This is where the
17 final assault occurred, inbetween the two
18 buildings.

19 THE COURT: It was not at the ---

20 MS. CAMPBELL: It was not at the
21 Mini Mart. Ms. Reese is actually on her way to
22 the codefendant's, Henry Gray's, home. That is
23 where the second assault occurs.

24 At this point, when Ms. Reese arrives,
25 she actually picking up a metal chair and began

State of South Carolina v. Henry Gray et al

21

Case No. 10-GS-40-0039 et al

Jury Trial of February 27-March 2, 2012

/ before The Honorable Thomas G. Cooper, Jr.

1 to beat the victim with in. Both Reese and
2 Henry Gray are kicking and stomping the victim
3 throughout and at some point it is alleged that
4 he, too, took the chair and beat the victim with
5 it.

6 Both of them walked off together, Your
7 Honor, and left the victim there for dead.

8 So with respect as to the confusion of
9 two separate assaults and who is involved, it's
10 only alleged that Henry Gray and Robin Reese are
11 involved in this second assault; which was
12 planned, there was a phone call from Reese to
13 Gray. Your Honor, all the evidence in this case
14 as to each defendant will be the same physical
15 evidence and eyewitness testimony.

16 The joinder of defendants is proper if
17 there is some common scheme or activity, serious
18 act, involving all the defendants in all charged
19 defenses. Both defendants are charged with
20 murder and lynching first degree. The State
21 intends to show that the hand of one is the hand
22 of all applies in this case, as well.

23 Additionally, Your Honor, defendants
24 who are charged with murder are not entitled to
25 a joint (sic) trial as a matter of right.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

22

1 They're only entitled to that where they would
2 suffer some significant prejudice, and I have
3 heard no -- nothing from the defense which would
4 show such prejudice, such prejudice in this
5 case.

6 I believe both counsel have mentioned
7 differing degrees of culpability with respect to
8 these defendants. Again, the hand of one is the
9 hand of all applies in this case.

10 Additionally, Your Honor, are court
11 upheld, *State v Chaffee*, that is an insufficient
12 grounds for severance.

13 Additionally, Your Honor, the defense
14 has mentioned that they would be prejudiced
15 because some evidence would be admissible as to
16 one but not as to the other. That, too, has
17 been held as an insufficient ground for
18 severance.

19 I believe that counsel for Mr. Gray
20 mentioned Bruton issues. However, Your Honor,
21 there are no Bruton issues in this case.
22 Neither defendant gave a statement implicating
23 the other in the incidents ---

24 THE COURT: There are no statements?

25 MS. CAMPBELL: There is a statement

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

23

1 from Robin Reese but not with respect to the
2 assault or the involvement ---

3 THE COURT: Does it mention him?

4 MS. CAMPBELL: It doesn't mention
5 Henry Gray in that statement.

6 THE COURT: We can deal with her
7 admissions.

8 MS. CAMPBELL: Exactly, Your Honor.
9 We do not have any -- and even if there were,
10 for that to be the appropriate remedy in that
11 matter, rather than severance, again, Your
12 Honor, our -- our court has stated, our Supreme
13 Court has stated that severance should only be
14 granted where there is a serious risk that a
15 joint trial would compromise a specific trial by
16 codefendants or prevent a jury from making a
17 reliable judgment about a codefendant's guilt.
18 Your Honor, that is just not present in this
19 case based on the facts in this case and the
20 evidence to be presented and under the case law
21 as it has been held in South Carolina.

22 THE COURT: Reply?

23 MR. CHAPLIN: Briefly, Your Honor.
24 Respectfully, Your Honor, I would say that the
25 State's version of the fact are incorrect and

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

24

1 they do not speak to the evidence that was
2 imparted to me in my discovery. I do believe
3 that trying them together is going to prevent
4 the jury from making a reliable judgment
5 regarding my client. I have some serious
6 concerns about the State's theory of the hand of
7 one is the hand of all in this particular
8 matter.

9 THE COURT: Are the facts such that
10 either party could claim that they were not at
11 the locale where this took place? Is that your
12 theory? I am trying not to ask you to disclose
13 any trial strategy, but -- but that may be some
14 basis for not trying them together, if one
15 defendant was in Florida and one defendant was
16 in Chicago.

17 They're alleging that both your clients
18 were present at the scene of the victim's
19 assault and/or death. So that certainly is an
20 element that I must consider.

21 Whether one acted separated or not,
22 obviously I don't know. But if both parties are
23 present, as the State says, and the crime
24 occurred as the State said, the mere fact that
25 one party may testify against the other -- one

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

25

1 party may say, 'I am not culpable but the other
2 party is culpable.' That happens in every
3 trial, every trial where there are joint
4 defendants.

5 What I am trying to find is a
6 difference in this case than a -- and frequently
7 there are Bruton issues. One party gives a
8 statement accusing the other of committing the
9 crime. As the State says -- it is not a Bruton
10 issue when one defendant accused the other
11 defendant in trial. That's not a Bruton issue.
12 A Bruton issue arises when statements are given
13 to the police accusing the other, and the State
14 wishes to review those statements for the
15 purpose of convicting the other party because a
16 witness says the other party did it. That's
17 where Bruton becomes a serious issue.

18 Because -- well, -- but the mere fact
19 that one party may say that the other party did
20 it or didn't do it, or maybe they both say
21 neither did it or that the other did it, that's
22 pretty typical in trials where there are more
23 than one defendant.

24 Mr. Farley, you had something that you
25 wanted to share?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

26

1 MR. FARLEY: I was only going to join
2 with Mr. Chaplin and say that we dispute the
3 facts that the Solicitor put forward. Again,
4 I'd say that we believe it would be difficult to
5 try this case with the parties joined and we
6 respectfully ask for a separate trial.

7 THE COURT: Well, facts being
8 difficult is not a sufficient basis.

9 Now, I will do this. If you wish to
10 separate those counsel tables so that the jury
11 has some idea of separation, that's perfectly
12 fine. I have no problem with that. If you want
13 to separate so that the jury doesn't perceive
14 that these are joint participants in whatever
15 the State says that they participated in, uh, I
16 have no problem with that.

17 But I don't think -- I just haven't
18 heard -- when the State chooses to try
19 codefendants and are prepared to do so, the
20 burden shifts to the defendants to show me
21 something -- to show the court other than
22 'prejudice to my client' or 'my client would get
23 a better or fairer deal if they were separated.'

24 If they are separated, that causes
25 problems, too. One, you have to engage in two

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

27

1 trials. Secondly, to -- well, that involves
2 witnesses, that involves a lot of things, trial
3 preparation. That in and of itself should not
4 be a reason to deny your Motion but it's
5 something that I've got to consider.

6 I am not sure that I agree with you,
7 Mr. Chaplin, that a jury cannot sort it out.
8 It's my responsibility to try to make it as
9 clear -- to make the choices as clear as I can
10 to them. You may be right, they may get
11 confused in the jury room.

12 The fact that there are two separate
13 charges as to each defendant may be a source of
14 some confusion. I don't think the confusion in
15 and of itself, unless there's -- unless there is
16 something that you're not telling me that, uh,
17 that would be a substantial reason to grant
18 separate trials.

19 We've got the same -- the State charges
20 two people for a crime, or three, the State says
21 that they can prove that all three defendants
22 were present when the event took place.

23 I think that there's got to be more
24 than has been provided for me to grant your
25 Motion, so it's denied.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

28

1 Anything further from the State?

2 MS. CAMPBELL: No, Your Honor.

3 THE COURT: Any other case law that
4 you wish to review, Mr. Farley?

5 MR. FARLEY: No, Your Honor.

6 MR. CHAPLIN: I would like the
7 state to restate the last name in the case that
8 they cited, State v. Shacknee (phonetic) or ---

9 THE COURT: C-h-a-f-f-e-e, 285 South
10 Carolina 21, 328 SE 2nd 464. There are other
11 cases out there in, I believe, that same line of
12 reasoning. Here's a copy of *Chaffee*.

13 Is that correct, Solicitor?

14 MS. CAMPBELL: I'm sorry. Is what
15 correct, Your Honor?

16 THE COURT: The citation that I just
17 gave Mr. Chaplin.

18 MS. CAMPBELL: I believe so. All
19 the citations which I have referred to are in
20 the memo that I provided to both counsels for
21 the defense.

22 THE COURT: Oh, you have already
23 provided it

24 MS. CAMPBELL: Yes, within the
25 memo. Not actual case copies, Your Honor.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

29

1 THE COURT: This is the case law.
2 Mr. Farley, Mr. Chaplin, respectively, anything
3 else?

4 MR. CHAPLIN: No.

5 MR. FARLEY: No, sir, Your Honor.

6 THE COURT: We will select this jury
7 and then send them home and do the pretrial.
8 Any objection to that procedure, from the State?

9 MS. CAMPBELL: No, sir.

10 THE COURT: From the defense?

11 MR. FARLEY: No, sir.

12 MR. CHAPLIN: No, sir.

13 THE COURT: All right. Any requests
14 for voir dire?

15 MS. CAMPBELL: May I approach,
16 (tendering).

17 MR. CHAPLIN: I think that I
18 passed up Mr. Gray's, Your Honor.

19 THE COURT: All right, let me look.
20 I have Mr. Gray's. I think all of these would
21 be included in my general voir dire.

22 MS. CAMPBELL: Judge, there is one
23 other Motion that ---

24 THE COURT: I'm trying to do
25 something else.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

30

1 MS. CAMPBELL: It can wait.

2 THE COURT: All right. Okay?

3 MS. CAMPBELL: The Motion is
4 concerning the offer, that the defendant Henry
5 Gray has rejected the offer.

6 MR. CHAPLIN: That is correct,
7 Your Honor.

8 THE COURT: I have the lawyers here,
9 Your Honor, and I just want to make sure that I
10 didn't misstate what the deal was -- in exchange
11 for testimony, with Mr. Brooks.

12 THE COURT: Okay.

13 MS. CAMPBELL: The deal is that the
14 State has made him no promises. Of course he
15 hopes that down the line his plea (sic) will be
16 dismissed, reduced or that he will get some
17 reward for his testimony if it is truthful. But
18 there have been no promises made as far as any
19 sentencing, special probation or anything of
20 that sort. Of course he hopes that this will
21 all help him down the line, but he's not been
22 made any promises.

23 THE COURT: And his name is what?

24 MS. CAMPBELL: Marcellius Brooks.

25 THE COURT: He is a codefendant?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

31

1 MS. CAMPBELL: He has a pending
2 murder charge and lynching.

3 THE COURT: Does that apply to Robin
4 Reese, as well?

5 MS. CAMPBELL: Yes, sir, the same
6 testimony.

7 THE COURT: Okay. Mr Chaplin?

8 MR. CHAPLIN: Yes, sir. I
9 understand the response to that Motion. Your
10 Honor, I would like to just take that a step
11 further if I could and point out that in State v
12 Lavelle (phonetic), and I will provide the State
13 with a copy of this, -- I apologize, I only made
14 one. My understanding of this is that if he
15 does take the stand, meaning Marcellius Brooks,
16 that I do have the ability to ask him about this
17 potential sentence.

18 THE COURT: Correct. That's correct.

19 MR. CHAPLIN: Okay.

20 THE COURT: That's ---

21 MR. CHAPLIN: That's all that I
22 needed. Thank you.

23 MS. CAMPBELL: Your Honor, I think
24 -- his lawyer is here and I think he's in
25 agreement with everything that I said.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

32

1 THE COURT: If they have something to
2 put on the record, that's fine.

3 FEMALE: Your Honor, we don't have
4 anything to add now. There have been no offers
5 or no deals made with Mr. Brooks in exchange for
6 his testimony.

7 THE COURT: Is your client
8 incarcerated?

9 FEMALE: Yes, sir.

10 THE COURT: All right. Thank you
11 very much. Is the State ready for the jury?

12 MS. CAMPBELL: State is ready, Your
13 Honor.

14 THE COURT: Defense ready?

15 MR. FARLEY: Defense is ready.

16 MR. CHAPLIN: Yes, Your Honor.

17 THE COURT: Counsel for the defense,
18 you may tell me how you want to strike -- what
19 order? You have ten strikes. Mr. Farley, you
20 have ten strikes. A total of twenty. I assume
21 that you want to split it ten and ten.

22 MR. CHAPLIN: Well, -- (pause).

23 THE COURT: It's up to you. If you'd
24 like twenty and Mr. Farley gets none.

25 MR. CHAPLIN: No. I have ten.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

33

1 THE COURT: State has ten and the
2 defense has twenty. You might talk about that
3 while they are up their way up.

4 (DEFENSE COUNSEL SIDEBAR WITH CLIENTS)

5 MR. CHAPLIN: May I approach, Your
6 Honor.

7 THE COURT: With -- somebody.

8 (OFF RECORD BENCH CONFERENCE)

9 THE COURT:

10 (JURY PANEL IN)

11 THE COURT: Good morning, Ladies and
12 Gentlemen. This is the court of General
13 Session. This is, as I explained to you this
14 morning, the criminal division which hears
15 criminal matters. Those of you who are to be
16 selected on a jury this afternoon will be
17 sitting on a criminal jury.

18 I am going to tell you something about
19 it. I need to find out certain things, whether
20 you know anything about this case or have any
21 connection with it one way or the other. But
22 I'll tell you about the case in just a minute.

23 As you no doubt know, the prosecuting
24 entity in any criminal case is theoretically the
25 State but in, uh a court of law, uh, that State

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

34

1 is represented by the prosecuting entity. In
2 this case and in South Carolina the prosecuting
3 entity is known as the Solicitor's Office. In
4 some states they call them District Attorneys,
5 some states they are called the State's
6 attorney. But in South Carolina it is the State
7 Solicitor's Office.

8 The State Solicitor's Office is -- the
9 State Solicitor is Mr. Dan Johnson, who is your
10 elected State solicitor. Now, Mr. Johnson will
11 not be actually involved in the trial of the
12 case this case but several of the deputy and
13 assistant solicitors are. I am going to
14 introduce them to you. The individual attorneys
15 who are going to be trying this case are Ms.
16 Katherine Luck Campbell, Ms. April Sampson and
17 Ms. Nichole Simpson. I will ask that they
18 please stand.

19 SOLICITORS: (Comply)

20 THE COURT: Is there any member of
21 the jury panel related or connected by blood,
22 marriage or employment or who is a close
23 personal acquaintance of any one of these three
24 attorneys that work in the State Solicitor's
25 Office? Thank you.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

35

1 I neglected to say that when you stand
2 and identify yourself, I want you to identify by
3 your juror number and not by name. We've found
4 over the years that jurors prefer to be
5 identified, in criminal court particularly, by
6 their numbers and not by their names. You are?

7 JUROR NUMBER 31: Juror Number 31,
8 Your Honor.

9 THE COURT: Mr. 31, what is your
10 connection with these three attorneys?

11 JUROR NUMBER 31: I know Ms. Sampson
12 quite well, close personal friends. I am a
13 former employee of her.

14 THE COURT: All right. In what
15 capacity?

16 JUROR NUMBER 31: I was a law clerk to
17 Ms. Sampson when she was with the public
18 defender's office.

19 THE COURT: All right. Do you have
20 any contact with her at the present time?

21 JUROR NUMBER 31: We do see each other
22 and have taught classes together as recently as
23 last year.

24 THE COURT: Do you feel that that
25 factor would interfere with your ability to give

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

36

1 both the State and the defendants a fair and
2 impartial trial?

3 JUROR NUMBER 31: Not at all.

4 THE COURT: Thank you very much.

5 Anybody else? (No response).

6 Does anybody know or have any
7 acquaintance with the State solicitor, Mr. Dan
8 Johnson? Any member of the jury panel know Mr.
9 Johnson or have any connection with him, either
10 from a political standpoint or from a personal
11 standpoint? Yes, ma'am, your number please?

12 JUROR NUMBER 155: 155.

13 THE COURT: Yes, ma'am. Can you tell
14 me about it, just briefly.

15 JUROR NUMBER 155: Personal friend.

16 THE COURT: Is that through business
17 or through social or church or something like
18 that?

19 JUROR NUMBER 155: Social and
20 church.

21 THE COURT: Ms. 155, do you feel that
22 that would in any way interfere with your
23 ability to give both the State and the
24 defendants a fair and impartial trial?

25 JUROR NUMBER 155: No, sir.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

37

1 THE COURT: All right. Yes, sir,
2 your number?

3 JUROR NUMBER 134: 134, I worked as
4 a youth arbitrator with the Richland County
5 Sheriff's Department and I've had dealings with
6 Mr. Johnson.

7 THE COURT: Sheriff's Department?
8 When he was with the Sheriff's Department?

9 JUROR NUMBER 134: And we also
10 worked with him since he's been with the
11 Solicitor's Office, as well.

12 THE COURT: All right. Tell me again
13 what ---

14 JUROR NUMBER 134: Youth
15 arbitrator.

16 THE COURT: Are you still in that
17 position?

18 JUROR NUMBER 134: I volunteer.

19 THE COURT: All right. Mr. 134, do
20 you feel that that fact would in any way
21 interfere with your ability to give both the
22 State and the defendants a fair and impartial
23 trial?

24 JUROR NUMBER 134: No, Your Honor.

25 THE COURT: Thank you very much.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

38

1 Anybody else? (No verbal response).

2 Now, since the State Solicitor's Office
3 has a lot of conduct with law enforcement, they
4 work hand in hand with law enforcement, I need
5 to ask if any member of the jury panel or any
6 member of your family is involvement in law
7 enforcement, either you or any member of your
8 family or close personal acquaintance -- are
9 involved in any branch of law enforcement, which
10 would include the Richland County Sheriff's
11 Office, the City of Columbia Police Department,
12 the State Law Enforcement Division/SLED, the
13 FBI, DEA, any military police force, Forest
14 Acres. Any police force that you or a member of
15 your family or really close personal
16 acquaintance are involved in. Anybody? Yes,
17 sir/

18 JUROR NUMBER 183: Juror 183. My
19 daughter works for Richland County.

20 THE COURT: Sheriff's Office?

21 JUROR NUMBER 183: Yes, sir.

22 THE COURT: Is this a Richland County
23 case?

24 MS. CAMPBELL: It's a City case,
25 Your Honor.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

39

1 THE COURT: All right, this is a City
2 of Columbia case. Mr. 183, would that fact --
3 do you think that that fact would in any way
4 interfere with your ability to give both the
5 State and the defendants a fair and impartial
6 trial?

7 JUROR NUMBER 183: Not at all.

8 THE COURT: Thank you very much.
9 Your number?

10 JUROR NUMBER 168: 168.

11 THE COURT: Yes, sir?

12 JUROR NUMBER 168: We are close
13 friends with the assistant police chief for
14 Columbia?

15 THE COURT: All right. Do we have
16 his name?

17 JUROR NUMBER 168: Les Wiser.

18 THE COURT: Solicitor, is Mr. Wiser
19 involved in the trial of this case in any way?

20 MS. CAMPBELL: No, sir.

21 THE COURT: Mr. 168, the fact that
22 you do have that friendship with that gentleman,
23 do you feel that that would in any way interfere
24 with your ability to give both the State and the
25 defendants a fair and impartial trial?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

40

1 JUROR NUMBER 168: NO, sir.

2 THE COURT: Thank you very much.

3 Yes, ma'am?

4 JUROR NUMBER 233: Number 233.

5 THE COURT: Yes, ma'am?

6 JUROR NUMBER 233: My brother works
7 with -- (inaudible due to coughing in
8 courtroom).

9 THE COURT: Your brother?

10 JUROR NUMBER 233: Yes, sir.

11 THE COURT: Ms. 233, do you feel that
12 that would in any way interfere with your
13 ability to give both the State and the
14 defendants a fair and impartial trial?

15 JUROR NUMBER 233: No, sir, it
16 would not.

17 THE COURT: Thank you very much.

18 Yes, sir.

19 JUROR NUMBER 64: Juror 64.

20 THE COURT: All right.

21 JUROR NUMBER 64: The question made is
22 that it is current law enforcement, is that
23 correct?

24 THE COURT: No, sir. Any former or
25 current.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

41

1 JUROR NUMBER 64: And there was
2 another issue made just at the end, as well, but
3 my former wife, I think, went to school with
4 Solicitor Campbell and they were friends at the
5 time. On the law enforcement issue, my father
6 was with the FBI for twenty-one years.

7 THE COURT: As a result of your
8 former wife's friendship with Ms. Campbell, were
9 you also involved in that friendship?

10 JUROR NUMBER 64: Not closely; no,
11 sir.

12 THE COURT: All right. Mr. 64, would
13 those two factors -- do you feel that that would
14 in any way interfere with your ability to give
15 both the State and the defendants a fair and
16 impartial trial?

17 JUROR NUMBER 64: No, sir.

18 THE COURT: Thank you very much, Mr.
19 264. Anybody else?

20 JUROR NUMBER 75: Juror 75.

21 THE COURT: All right, let me find
22 you on the list. All right, sir?

23 JUROR NUMBER 75: I am a retired law
24 enforcement officer, formerly with the Richland
25 County Sheriff's Office. My brother is also

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

42

1 with the Richland County Sheriff's Office.

2 THE COURT: May I ask what position
3 that you held with Richland County?

4 JUROR NUMBER 75: I was a desk
5 sergeant and a criminal investigator, thirty
6 years ago.

7 THE COURT: And your brother?

8 JUROR NUMBER 75: He was in the
9 forensics unit and the bomb squad.

10 THE COURT: Is he still active?

11 JUROR NUMBER 75: Not with the
12 Sheriff's Office. He's Director of Safety for
13 Richland ---

14 THE COURT: Okay. Mr. 75, do you
15 feel that the fact that you have been employed
16 by law enforcement and that your brother also,
17 would that in any way interfere with your
18 ability to give both the State and the
19 defendants a fair and impartial trial?

20 JUROR NUMBER 75: No, it wouldn't.

21 THE COURT: Thank you very much.
22 Anybody else? (No response).

23 I will carry that one step further and
24 ask if any member of the jury panel, yourself,
25 are a supporter of groups that have as their

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr

43

1 primary function the support of law enforcement.
2 For example, groups such as the Troopers
3 Association, the Sheriff's Association, Citizens
4 Against Violent -- I've forgot the name of that
5 group. Any group that you support, either
6 voluntarily or financially, that not only has as
7 their primary support -- function to support law
8 enforcement, but even the support of victims,
9 victims' rights, that sort of thing. Like
10 Sister Care or other groups. I know some
11 neighborhoods have the neighborhood watch
12 programs. Those kinds of things, where you
13 either volunteer your time or your finances to
14 support any of these groups. Any member of the
15 jury panel?

16 JUROR NUMBER 64: 64.

17 THE COURT: Which groups do you --
18 how do you support them?

19 JUROR NUMBER 64: I have contributed
20 to the Sheriff's Association before, I've worked
21 with Sister Care in the past and have also done
22 some work for shelters for abused women.

23 THE COURT: Thank you very much, Mr.
24 64. Anybody else? (No response). Nobody
25 donates to the Troopers Association? Yes,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

44

1 ma'am, your number please?

2 JUROR NUMBER 82: I have in the past
3 contributed to the State Troopers Association
4 but I haven't for several years.

5 THE COURT: Ms. 82, do you feel that
6 that would in any way interfere with your
7 ability to give both the State and the
8 defendants a fair and impartial trial?

9 JUROR NUMBER 82: No, sir.

10 THE COURT: Anybody else? (No
11 response). All right.

12 Now, the defendants in this matter
13 today -- there are two defendants. I am going
14 to ask each of them to stand as I call their
15 name. Robin Gray Reese. Ms. Reese, would you
16 stand and face the jury, please.

17 DEFENDANT REESE: (Complies).

18 THE COURT: Any member of the jury
19 panel related by blood, connected by marriage or
20 employment or close personal acquaintance of Ms.
21 Robin Gray Reese? Anybody know Ms. Reese? (No
22 response).

23 Ms. Reese is represented in this matter
24 today by Mr. Andrew Farley. I need to know if
25 any member of the jury panel is related by

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

45

1 blood, connected by marriage or employment or
2 close personal acquaintance of Mr. Andrew
3 Farley, who practices law in both Lexington and
4 Richland counties, and whether you have been --
5 whether you know him or have been represented or
6 are represented by him or have been represented
7 by him at any time in the past.

8 Your number, please?

9 JUROR NUMBER 43: 43.

10 THE COURT: Mr. 43, how do you know
11 Mr. Farley?

12 JUROR NUMBER 43: Network events.

13 THE COURT: Richland County?
14 Lexington County?

15 JUROR NUMBER 43: Lexington.

16 THE COURT: How would that, meeting
17 him at those meetings, group meetings, -- do you
18 have any other contact with him other than?

19 JUROR NUMBER 43: No.

20 THE COURT: No social or business-
21 relation?

22 JUROR NUMBER 43: No.

23 THE COURT: Let me ask you, Mr. 43,
24 would that fact in any way interfere with your
25 ability to give both the State and the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

46

1 defendants a fair and impartial trial?

2 JUROR NUMBER 43: It shouldn't be a
3 problem.

4 THE COURT: Thank you very much.
5 Anybody else? (No response).

6 The second defendant in this case today
7 is Mr. Henry L. Gray. Mr. Gray, would you stand
8 and face the jury?

9 DEFENDANT HENRY GRAY: (Complies)

10 THE COURT: Any member of the jury
11 panel related by blood, connected by marriage or
12 employment or close personal acquaintance of Mr.
13 Henry L. Gray? If so, please stand. Does
14 anybody know Mr. Gray. (No response).

15 Mr Gray is represented in this matter
16 today by Mr. Mathias Chaplin, who practices law
17 here in Richland County. I need to know if any
18 member of the jury panel is related by blood,
19 connected by marriage or employment or close
20 personal acquaintance of Mr. Mathias Chaplin or
21 who are being represented by or who has been
22 represented by him or a member of his firm at
23 any time in the past? Any member of the jury
24 panel.

25 Number 75?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

47

1 JUROR NUMBER 134: 134.

2 THE COURT: Sorry. Wild guess.

3 JUROR NUMBER 134: I know Mr.

4 Chaplin, his brother and sister-in-law, but --

5 I've handled some advertising for his brother's

6 firm.

7 THE COURT: So you have a business
8 relationship?

9 JUROR NUMBER 134: With his
10 brother, yes.

11 THE COURT: All right. Mr. 134,
12 would that fact, again, in any way interfere
13 with your ability to give both the State and the
14 defendant a fair and impartial trial in this
15 case?

16 JUROR NUMBER 134: No, sir.

17 THE COURT: Thank you very much.

18 Now, Ladies and Gentlemen, what I hold
19 in my hand are two sets of indictments. These
20 are merely the formal documents by which the
21 case is brought into court. They are not
22 evidence of anything. I can read them to you or
23 tell you about them, and you're not to presume
24 anything as to the guilt or innocence of the
25 defendant(s) based on the fact that I have read

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

48

1 these indictments to you.

2 Any individual in this state, this
3 county, this state, this nation, is presumed
4 innocent of the charges brought against them by
5 the State until the State proves those charges
6 to a jury beyond a reasonable doubt.

7 As I say, they are merely the documents
8 by which the case -- cases -- are brought into
9 court.

10 I need to tell you what they are, so I
11 need to -- I need to know if you know anything
12 about these cases. The cases are the same as to
13 both defendants.

14 Ms. Reese and Mr. Gray are charged,
15 first, with lynching in the first degree in that
16 on or about February 13th, 2010, they banded
17 together, two or more person constituting a mob,
18 for the premeditated purpose and with intent of
19 inflicting violence upon the body of Kevin Mack
20 -- Kenneth Mack, -- such violence resulting in
21 the death of Kenneth Mack. That's the first
22 charge, lynching in the first degree as to both
23 parties.

24 The second charge as to both parties is
25 murder, in that Robin Gray Reese and Henry L.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

49

1 Gray did, in Richland County, on or about
2 February 13th, 2010, willfully, feloniously, and
3 intentionally kill the victim, Kenneth Mack,
4 with malice aforethought, either express or
5 implied, by means of physical assault; and the
6 victim did die as a proximate result thereof, in
7 Richland County, in violation of the Code of
8 Laws of the State of South Carolina.

9 Now, Solicitor, it is my understanding
10 that this allegedly took place in Gonzales
11 Gardens, which is on Forest Drive?

12 MS. CAMPBELL: By Providence
13 Hospital.

14 THE COURT: Forest Drive, across from
15 Providence Hospital. Now, I don't know whether
16 there was any publicity about this case, I don't
17 know if there was any television coverage but I
18 need to know from each of you if you know
19 anything about this case, heard anything about
20 this case, read anything about this case.
21 Remember, it was February 13th, 2010, two years
22 ago. Or if you discussed it at work or with
23 someone who lived in Gonzales Gardens -- or
24 perhaps you live in Gonzales Gardens and may
25 have heard something about this case back in

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

50

1 2010, or even as late as this week, that it may
2 be coming to trial, that sort of thing. Any
3 member of the jury panel? Mr. 143?

4 JUROR NUMBER 134: 134.

5 THE COURT: I'm trying. Mr. 134,
6 yes, sir? I need you to come up here and tell
7 me about it. I don't want you telling the rest
8 of the jury what you might know about this case.

9 (SIDEBAR WITH JUROR NUMBER 134)

10 THE COURT: Anybody else?

11 JUROR NUMBER 64: Yes, sir.

12 THE COURT: Please approach the
13 bench.

14 (SIDEBAR WITH JUROR NUMBER 64)

15 THE COURT: Anybody else?

16 JUROR NUMBER 228: 228.

17 THE COURT: Let me speak to you,
18 please.

19 (SIDEBAR WITH JUROR NUMBER 228)

20 THE COURT: Anybody else? (No
21 response). Anybody on the jury panel live in
22 that apartment complex, Gonzales Gardens? (No
23 response). All right.

24 Any member of the jury panel, or any
25 member of your family, ever been the victim of a

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

51

1 violent crime? Any member of the jury panel or
2 any member of your family who have ever been the
3 victim of a violent crime? I will just let you
4 stand one at a time and tell me your numbers.

5 JUROR NUMBER 322: 322.

6 THE COURT: Just a minute, let me
7 find you on the list. Let me just ask you a
8 very few questions. Was it you or a member of
9 your family?

10 JUROR NUMBER 322: Member of my
11 family.

12 THE COURT: How long ago?

13 JUROR NUMBER 322: Ten years ago.

14 THE COURT: Ten years. That matter
15 is resolved at this point, from a legal
16 standpoint?

17 JUROR NUMBER 322: Yes, it has
18 been.

19 THE COURT: Can you tell me what the
20 crime was?

21 JUROR NUMBER 322: My sister was
22 murdered.

23 THE COURT: Mr. 322, based on that
24 fact, that life history that you have, do you
25 feel that you can be fair and impartial in a

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

52

1 case like this?

2 JUROR NUMBER 322: Yes, I do, Your
3 Honor.

4 THE COURT: Thank you, very much, Mr.
5 322.

6 JUROR NUMBER 80: 80.

7 THE COURT: Yes, sir. You or a
8 member of your family.

9 JUROR NUMBER 80: Member of my family.

10 THE COURT: How long ago?

11 JUROR NUMBER 80: January 7th, 1987.

12 THE COURT: Can you tell me the
13 nature of the crime?

14 JUROR NUMBER 80: My father was
15 brutally murdered, the crime was never solved.

16 THE COURT: Mr. 80, based on that
17 fact, that life history that you have, do you
18 feel that you can be fair and impartial in a
19 case like this and be fair to both the State and
20 to the defendant(s)?

21 JUROR NUMBER 80: Yes, sir, I do.

22 THE COURT: Thank you very much, Mr.
23 80. Anybody else? Mr. 64?

24 JUROR NUMBER 64: Yes, sir.

25 THE COURT: You or a member of your

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

53

1 family?

2 JUROR NUMBER 64: Member of my family.

3 THE COURT: How long ago?

4 JUROR NUMBER 64: About ten years ago.

5 THE COURT: Tell me the nature of the
6 crime?

7 JUROR NUMBER 64: My sister was
8 kidnaped at shotgun point and assaulted
9 throughout -- (pause).

10 THE COURT: Is that matter resolved
11 at this point?

12 JUROR NUMBER 64: Yes, sir.

13 THE COURT: Mr. 64, I will ask you
14 again, based on that fact, that life history
15 that you have, do you feel that you can be fair
16 and impartial in a case like this, to both the
17 State and the defendants in this case?

18 JUROR NUMBER 64: Yes, sir.

19 THE COURT: Thank you very much, Mr.
20 64. Anybody else? (No response).

21 I'll turn that around. Has any member
22 of the jury panel or any member of your family
23 been accused of committing a violent crime;
24 accused to the point that law enforcement got
25 involved, not just -- Mr. -- your number,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

54

1 please, again?

2 JUROR NUMBER 80: 80.

3 THE COURT: Yes, sir. Tell me -- is
4 it the same case?

5 JUROR NUMBER 80: No, sir.

6 THE COURT: Different case?

7 JUROR NUMBER 80: (Affirmative nod).

8 THE COURT: You or member of your
9 family?

10 JUROR NUMBER 80: Member of my family.

11 THE COURT: What was the nature of
12 the crime?

13 JUROR NUMBER 80: Accused of armed
14 robbery.

15 THE COURT: How long ago?

16 JUROR NUMBER 80: Two years ago.

17 THE COURT: In Richland County?

18 JUROR NUMBER 80: Yes, sir.

19 THE COURT: Is that matter resolved
20 at this point?

21 JUROR NUMBER 80: No, sir.

22 THE COURT: Still pending?

23 JUROR NUMBER 80: Yes, sir.

24 THE COURT: Again, Mr. 80, based on
25 that fact, that life history that you have, do

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

55

1 you know of any reason why you could not be fair
2 and impartial in a case like this, to both
3 parties in this case?

4 JUROR NUMBER 80: (Negative gesture).

5 THE COURT: Still feel the same way?

6 JUROR NUMBER 80: I still feel the
7 same way.

8 THE COURT: Yes, sir?

9 JUROR NUMBER 118. 118.

10 THE COURT: You or a member of your
11 family?

12 JUROR NUMBER 118: Me.

13 THE COURT: How long ago?

14 JUROR NUMBER 118: I don't remember
15 the specific time. I was in middle school,
16 eight, ten, twelve years ago.

17 THE COURT: Can you tell me the
18 nature of the crime that you were accused of?

19 JUROR NUMBER 118: It was just
20 after Columbine. I was accused of plotting in a
21 school shooting.

22 THE COURT: Is that matter resolved?

23 JUROR NUMBER 118: We had enough
24 lawyers to make it go away. There was no legal
25 action taken, but I was evicted from school, I

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

56

1 was expelled.

2 THE COURT: Was that in Richland
3 County?

4 JUROR NUMBER 118: No, that was in
5 Florence County.

6 THE COURT: Based on that fact, Mr.
7 118, do you feel that you can be fair and
8 impartial with that life experience?

9 JUROR NUMBER 118: No, I do not.

10 THE COURT: Thank you very much, sir.
11 Anybody else? (No response).

12 Any member of the jury panel, and I
13 meant to mention this a few minutes ago, do any
14 work with prisoners who are released from
15 prison? The Alston Wilkes Society? I mentioned
16 Sister Care and several other groups. Any
17 member of the jury panel who works with the
18 Alston Wilkes Society, as a volunteer or based
19 on contribution/financial contributions? (No
20 response).

21 Ladies and Gentlemen, I am going to
22 read out a list of potential witnesses in this
23 case. It is rather lengthy but I won't get
24 through it until I get started. The question is
25 the same as to each, is there any member of the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

57

1 jury panel related by blood, connected by
2 marriage or employment or who is a close
3 personal acquaintance of any of the following
4 individuals -- if any of these potential
5 witnesses are present, when I call your name
6 please stand so that the jury can identify you:

7 Angelo Boyd
8 Kenneth Archie
9 Isaac Weathers
10 Marcellius Brooks
11 Malik Akbar
12 Kara Chase
13 Thomas Joseph
14 Mary Anderson
15 Sanovia Thompson
16 Donetti Perry
17 Tyeshie Kiki Burns
18 Amber Hardy
19 Vallery Goodwin
20 Melquanna
21 Gunze Wilson
22 Antonio Porterfield
23 Robert Griffin
24 Sandra Ramey
25 Heather Ramos

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

58

1 Officer Matthew Buck with the Columbia
2 Police Department

3 Officer Harry Delage with the Columbia
4 Police Department

5 ID Technician Roger Gillan with the
6 Columbia Police Department

7 Investigator Ida Menendez with the
8 Columbia Police Department

9 Investigator Clarence Sumpter with the
10 Columbia Police Department

11 Investigator Robert McCracken with the
12 Columbia Police Department

13 Investigator Lance Reeves with the
14 Columbia Police Department

15 Officer William Buffington with the
16 Columbia Police Department

17 Officer Antonio Green with the Columbia
18 Police Department.

19 Hold on a minute. Yes, ma'am, your
20 number?

21 JUROR NUMBER 135: 135.

22 THE COURT: Which of these names do
23 you know?

24 JUROR NUMBER 135: Investigator
25 Sumpter.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

59

1 THE COURT: Clarence Sumpter?

2 JUROR NUMBER 135: Yes, sir.

3 THE COURT: How do you know
4 Investigator Sumpter?

5 JUROR NUMBER 135: When he was our
6 resource officer at Columbia High School.

7 THE COURT: Any other contact that
8 you have with him, socially or from any other --
9 go the same church or anything like that?

10 JUROR NUMBER 135: No.

11 THE COURT: All right. Ms. 135,
12 based on the fact that you know that person, do
13 you think that would in any way interfere with
14 your ability to give both the State and the
15 defendant a fair and impartial trial?

16 JUROR NUMBER 135: I don't think
17 so.

18 THE COURT: Thank you very much.
19 Continuing:

20 Officer Antonio Green with the Columbia
21 Police Department

22 Officer Donna Martin with the Columbia
23 Police Department

24 Officer Amy Stephens with the Columbia
25 Police Department

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

60

1 Sergeant A.L. Thomas with the Columbia
2 Police Department

3 Sergeant Michael Babin with the
4 Columbia Police Department

5 Sergeant William Pegram with the
6 Columbia Police Department

7 Harvey Schropshire with State Law
8 Enforcement Division

9 Katie Ukra with State Law Enforcement
10 Division

11 Leonard Bradley with State Law
12 Enforcement Division

13 Russell Redd, an emergency medical
14 technician

15 Kevin Thomas, also an emergency medical
16 technician

17 Dr. Jeter P. Taylor, III

18 Dr. Bradley Marcus

19 Dr. Clay Nichols

20 (OFF RECORD BENCH CONFERENCE)

21 THE COURT: A couple more names,
22 Ladies and Gentlemen:

23 Kimberly Gathers

24 Detective Bobby Watkins with the
25 Columbia Police Department

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

61

1 MS. CAMPBELL: He's a private
2 investigator.

3 MR. CHAPLIN: I'm sorry -- he is a
4 private investigator. Yes, sir.

5 THE COURT: All right, (continuing):
6 Dr. Adel Shaker

7 MR. CHAPLIN: Forensic
8 pathologist.

9 THE COURT: A forensic pathologist.
10 And:

11 Dr. Sandra Conradi.
12 Any other names?

13 MR. CHAPLIN: No, sir.

14 MS. SAMPSON: No, sir.

15 THE COURT: Anything further from the
16 State?

17 MS. SAMPSON: No, Your Honor.

18 THE COURT: From the defense?

19 MR. CHAPLIN: No, sir.

20 MR. FARLEY: No, Your Honor.

21 THE COURT: Madame Clerk, give us a
22 jury -- oh, wait a minute. Hold on. Approach
23 the bench.

24 (OFF RECORD BENCH CONFERENCE)

25 THE COURT: Give us a jury.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

62

1 CLERK: Ladies and Gentlemen, as I
2 call your number, please come to the microphone.
3 Please restate your number and your place of
4 occupation. Bring any personal items that you
5 may have with you. Juror Number 94 (black
6 male).

7 JUROR NUMBER 94: Number 94, Home.

8 CLERK: What says the State?

9 MS. CAMPBELL: Please present the
10 juror.

11 CLERK: What says Defendant Reese?

12 MR. FARLEY: Please present the juror.

13 CLERK: What says Defendant Gray?

14 MR. CHAPLIN: Please seat the
15 juror.

16 CLERK: Please have a seat in the jury
17 box.

18 (JUROR NUMBER 94 SEATED)

19 CLERK: Juror Number 168 (white male).

20 JUROR NUMBER 168: Juror Number
21 168, I work for South Carolina ETV as an
22 electrical manager for the engineering
23 department.

24 CLERK: What says the State?

25 MS. CAMPBELL: Please present the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

63

1 juror.

2 CLERK: What says Defendant Reese?

3 MR. FARLEY: Please excuse the juror.

4 CLERK: Return to the back of the

5 courtroom.

6 (JUROR NUMBER 168 EXCUSED)

7 CLERK: Juror Number 207 (black

8 female).

9 JUROR NUMBER 207: I'm 207 work for
10 Blue Cross-Blue Shield.

11 CLERK: What says the State?

12 MS. CAMPBELL: Please present the
13 juror.

14 CLERK: What says Defendant Reese?

15 MR. FARLEY: Please present the juror.

16 CLERK: What says Defendant Gray?

17 MR. CHAPLIN: Please seat the

18 juror.

19 CLERK: Please have a seat in the jury
20 box.

21 (JUROR NUMBER 207 SEATED)

22 CLERK: Juror Number 319, (black
23 female).

24 JUROR NUMBER 319: Number 319, home
25 health practitioner.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

64

1 CLERK: What says the State?

2 MS. CAMPBELL: Please excuse the
3 juror.

4 CLERK: Please return to the back of
5 the courtroom.

6 (JUROR NUMBER 319 EXCUSED)

7 CLERK: Juror Number 112, (white
8 male).

9 JUROR NUMBER 112: Juror 112,
10 professional golfer.

11 CLERK: CLERK: What says the State?

12 MS. CAMPBELL: Please present the
13 juror.

14 CLERK: What says Defendant Reese?

15 MR. FARLEY: Please excuse the juror.

16 CLERK: Return to the back of the
17 courtroom.

18 (JUROR NUMBER 112 EXCUSED)

19 (NOTE: Skipped Juror Number 118)

20 CLERK: Juror Number 155 (white
21 female).

22 JUROR NUMBER 155: Juror Number
23 155, insurance agent.

24 CLERK: CLERK: What says the State?

25 MS. CAMPBELL: Please present the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

65

1 juror.

2 CLERK: What says Defendant Reese?

3 MR. FARLEY: Please excuse the juror.

4 CLERK: Return to the back of the

5 courtroom.

6 (JUROR NUMBER 155 EXCUSED)

7 CLERK: Juror Number 237.

8 JUROR NUMBER 237: Juror Number

9 237, self-employed in photography.

10 CLERK: What says the State?

11 MS. CAMPBELL: Please present the

12 juror.

13 CLERK: What says Defendant Reese?

14 MR. FARLEY: Please seat the juror.

15 CLERK: What says Defendant Gray?

16 MR. CHAPLIN: Please seat the

17 juror.

18 CLERK: Please have a seat in the jury

19 box.

20 (JUROR NUMBER 237 SEATED)

21 CLERK: Juror Number 80, (white male).

22 JUROR NUMBER 80: Juror 80, safety

23 materials inspector.

24 CLERK: What says the State?

25 MS. CAMPBELL: Please excuse the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

66

1 juror.

2 CLERK: Return to the back of the
3 courtroom.

4 (JUROR NUMBER 80 EXCUSED)

5 CLERK: Juror Number 120, (white
6 male).

7 JUROR NUMBER 120: Juror 120, I am
8 a Physics professor at USC.

9 CLERK: What says the State?

10 MS. CAMPBELL: Please present the
11 juror.

12 CLERK: What says Defendant Reese?

13 MR. FARLEY: Please excuse the juror.

14 CLERK: Return to the back of the
15 courtroom.

16 (JUROR NUMBER 120 EXCUSED)

17 CLERK: Juror Number 75 (white male).

18 JUROR NUMBER 75: Juror Number 75. I
19 am presently a project manager in IT for the
20 State Workers Compensation Commission.

21 CLERK: What says the State?

22 MS. CAMPBELL: Please present the
23 juror.

24 CLERK: What says Defendant Reese?

25 MR. FARLEY: Please present the juror.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

67

1 CLERK: What says Defendant Gray?

2 MR. CHAPLIN: Please excuse the
3 juror.

4 CLERK: Please return to the back of
5 the courtroom.

6 (JUROR NUMBER 75 EXCUSED)

7 CLERK: Juror Number 226, (white
8 male).

9 JUROR NUMBER 226: 226, I am a
10 sales manager for Hartsville.

11 CLERK: What says the State?

12 MS. CAMPBELL: Please present the
13 juror.

14 CLERK: What says Defendant Reese?

15 MR. FARLEY: Please excuse the juror.

16 CLERK: Please return to the back of
17 the courtroom.

18 (JUROR NUMBER 226 EXCUSED)

19 CLERK: Juror Number 165, (black
20 male).

21 JUROR NUMBER 165: Number 165,
22 self-employed.

23 CLERK: What says the State?

24 MS. CAMPBELL: Please excuse the
25 juror.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

68

1 CLERK: Please return to the back of
2 the courtroom.

3 (JUROR NUMBER 165 EXCUSED)

4 CLERK: Juror Number 271, (white
5 female).

6 JUROR NUMBER 271: Number 271,
7 Michelle Walker, Medicare finance accountant.

8 CLERK: What says the State?

9 MS. CAMPBELL: Please present the
10 juror.

11 CLERK: What says Defendant Reese?

12 MR. FARLEY: Please present the juror.

13 CLERK: What says Defendant Gray?

14 MR. CHAPLIN: Please seat the
15 juror.

16 CLERK: Please have a seat in the jury
17 box.

18 (JUROR NUMBER 271 SEATED)

19 CLERK: Juror Number 299, (black
20 female).

21 JUROR NUMBER 299: I'm Juror 299,
22 Blackwood.

23 CLERK: What says the State?

24 MS. CAMPBELL: Excuse the juror.

25 CLERK: Please return to the back of

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

69

1 the courtroom.

2 (JUROR NUMBER 299 EXCUSED)

3 CLERK: Juror Number 241, (white
4 male).

5 JUROR NUMBER 241: Juror 241,
6 specialist for Westinghouse.

7 CLERK: What says the State?

8 MS. CAMPBELL: Please present the
9 juror.

10 CLERK: What says Defendant Reese?

11 MR. FARLEY: Please present the juror.

12 CLERK: What says Defendant Gray?

13 MR. CHAPLIN: Please excuse the
14 juror.

15 CLERK: Please return to the back of
16 the courtroom.

17 (JUROR NUMBER 241 EXCUSED)

18 CLERK: Juror Number 222, (white
19 female).

20 JUROR NUMBER 222: Juror Number 222,
21 office manager with Columbia Medical.

22 CLERK: What says the State?

23 MS. CAMPBELL: Please present the
24 juror.

25 CLERK: What says Defendant Reese?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

70

1 MR. FARLEY: Please seat the juror.

2 CLERK: What says Defendant Gray?

3 MR. CHAPLIN: Please excuse the
4 juror.

5 CLERK: Please have a seat in the back
6 of the courtroom.

7 (JUROR NUMBER 222 EXCUSED)

8 CLERK: Juror Number 159, (white
9 female).

10 JUROR NUMBER 159: Number 159, I am
11 a homemaker.

12 CLERK: What says the State?

13 MS. CAMPBELL: Please present the
14 juror.

15 CLERK: What says Defendant Reese?

16 MR. FARLEY: Please seat the juror.

17 CLERK: What says Defendant Gray?

18 MR. CHAPLIN: Please excuse the
19 juror.

20 CLERK: Please have a seat in the back
21 of the courtroom.

22 (JUROR NUMBER 159 EXCUSED)

23 CLERK: Juror Number 313, (black
24 male).

25 JUROR NUMBER 313: Number 313.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

71

1 CLERK: What says the State?

2 MS. CAMPBELL: Please present the
3 juror.

4 CLERK: What says Defendant Reese?

5 MR. FARLEY: Please seat the juror.

6 CLERK: What says Defendant Gray?

7 MR. CHAPLIN: Please seat the
8 juror.

9 CLERK: Please have a seat in the jury
10 box.

11 (JUROR NUMBER 313 SEATED)

12 CLERK: Juror Number 33, (white male).

13 JUROR NUMBER 33: Juror 33, retired
14 USMC, retired Homeland Security.

15 CLERK: What says the State?

16 MS. CAMPBELL: Please present the
17 juror.

18 CLERK: What says Defendant Reese?

19 MR. FARLEY: Please excuse the juror.

20 CLERK: Please return to the back of
21 the courtroom.

22 (JUROR NUMBER 33 EXCUSED)

23 CLERK: Juror Number 320, (white
24 female).

25 JUROR NUMBER 320: Oh, 320.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

72

1 CLERK: What says the State?

2 MS. CAMPBELL: Please present the
3 juror.

4 CLERK: What says Defendant Reese?

5 MR. FARLEY: Please seat the juror.

6 CLERK: What says Defendant Gray?

7 MR. CHAPLIN: Please seat the
8 juror.

9 CLERK: Please have a seat in the jury
10 box.

11 (JUROR NUMBER 320 SEATED)

12 CLERK: Juror Number 114, (white
13 female).

14 JUROR NUMBER 114: 114, I work for
15 Dr. (inaudible) as a dental hygienist.

16 CLERK: What says the State?

17 MS. CAMPBELL: Please present the
18 juror.

19 CLERK: What says Defendant Reese?

20 MR. FARLEY: Please present the juror.

21 CLERK: What says Defendant Gray?

22 MR. CHAPLIN: Please excuse the
23 juror.

24 CLERK: Please return to the back of
25 the courtroom.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

73

1 (JUROR NUMBER 114 EXCUSED)
2 CLERK: Juror Number 187, (black
3 female).
4 JUROR NUMBER 187: Number 187, co-
5 manager of Bi-Lo.
6 CLERK: What says the State?
7 MS. CAMPBELL: Please present the
8 juror.
9 CLERK: What says Defendant Reese?
10 MR. FARLEY: Please seat the juror.
11 CLERK: What says Defendant Gray?
12 MR. CHAPLIN: Please seat the
13 juror.
14 CLERK: Please have a seat in the jury
15 box.
16 (JUROR NUMBER 187 SEATED)
17 CLERK: Juror Number 31, (white male).
18 JUROR NUMBER 31: 31, with Ravenel
19 Bender.
20 CLERK: What says the State?
21 MS. CAMPBELL: Please excuse the
22 juror.
23 CLERK: Please return to the back of
24 the courtroom.
25 (JUROR NUMBER 31 EXCUSED)

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

74

1 CLERK: Juror Number 196, (white
2 male).

3 JUROR NUMBER 196: 196, United
4 States Army.

5 CLERK: What says the State?

6 MS. CAMPBELL: Please present the
7 juror.

8 CLERK: What says Defendant Reese?

9 MR. FARLEY: Please excuse the juror.

10 CLERK: Return to the back of the
11 courtroom.

12 (JUROR NUMBER 196 EXCUSED)

13 CLERK: Juror Number 183, (black
14 male).

15 JUROR NUMBER 183: Juror Number
16 183, United States Army Chaplain.

17 CLERK: What says the State?

18 MS. CAMPBELL: Please present the
19 juror.

20 CLERK: What says Defendant Reese?

21 MR. FARLEY: Please seat the juror.

22 CLERK: What says Defendant Gray?

23 MR. CHAPLIN: Please excuse the
24 juror.

25 CLERK: Please have a seat in the back

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

75

1 of the courtroom.

2 (JUROR NUMBER 183 EXCUSED)

3 CLERK: Juror Number 293, (black
4 female).

5 JUROR NUMBER 293: Juror Number 293.

6 CLERK: What says the State?

7 MS. CAMPBELL: Please present the
8 juror.

9 CLERK: What says Defendant Reese?

10 MR. FARLEY: Please seat the juror.

11 CLERK: What says Defendant Gray?

12 MR. CHAPLIN: Please seat the
13 juror.

14 CLERK: Please have a seat in the jury
15 box.

16 (JUROR NUMBER 293 SEATED)

17 CLERK: Juror Number 176, (white
18 female).

19 JUROR NUMBER 176: I'm Juror 176.

20 CLERK: What says the State?

21 MS. CAMPBELL: Please present the
22 juror.

23 CLERK: What says Defendant Reese?

24 MR. FARLEY: Please excuse the juror.

25 CLERK: Return to the back of the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

76

1 courtroom.

2 (JUROR NUMBER 176 EXCUSED)

3 CLERK: Juror Number 47, (white male).

4 JUROR NUMBER 47: Juror Number 47, I

5 am a sales manager for Ben Arnold.

6 CLERK: What says the State?

7 MS. CAMPBELL: Please present the

8 juror.

9 CLERK: What says Defendant Reese?

10 MR. FARLEY: Please seat the juror.

11 CLERK: What says Defendant Gray?

12 MR. CHAPLIN: Please seat the

13 juror.

14 CLERK: Please have a seat in the jury

15 box.

16 (JUROR NUMBER 47 SEATED)

17 CLERK: Juror Number 309, (white

18 female).

19 JUROR NUMBER 309: Juror Number

20 309, I am a registered nurse with the South

21 Carolina Department of Mental Health.

22 CLERK: What says the State?

23 MS. CAMPBELL: Please present the

24 juror.

25 CLERK: What says Defendant Reese?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

77

1 MR. FARLEY: Please excuse the juror.

2 CLERK: Return to the back of the
3 courtroom.

4 (JUROR NUMBER 309 EXCUSED)

5 CLERK: Juror Number 11, (white
6 female).

7 JUROR NUMBER 11: Juror 11, I am a
8 self-employer gardener.

9 CLERK: What says the State?

10 MS. CAMPBELL: Please present the
11 juror.

12 CLERK: What says Defendant Reese?

13 MR. FARLEY: Please present the juror.

14 CLERK: What says Defendant Gray?

15 MR. CHAPLIN: Please excuse the
16 juror.

17 CLERK: Please return to the back of
18 the courtroom.

19 (JUROR NUMBER 11 EXCUSED)

20 CLERK: Juror Number 228, (black
21 female).

22 JUROR NUMBER 228: Juror Number
23 228.

24 CLERK: What says the State?

25 MS. CAMPBELL: Please excuse the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

78

1 juror.

2 CLERK: Return to the back of the
3 courtroom.

4 (JUROR NUMBER 228 EXCUSED)

5 CLERK: Juror Number 16, (white male).

6 JUROR NUMBER 16: Juror Number 16.

7 CLERK: What says the State?

8 MS. CAMPBELL: Please present the
9 juror.

10 CLERK: What says Defendant Reese?

11 MR. FARLEY: Please seat the juror.

12 CLERK: What says Defendant Gray?

13 MR. CHAPLIN: Please excuse the
14 juror.

15 CLERK: Please return to the back of
16 the courtroom.

17 (JUROR NUMBER 16 EXCUSED)

18 CLERK: Juror Number 64, (white male).

19 JUROR NUMBER 64: Juror 64, President
20 and CEO of South Carolina Business Ministry.

21 CLERK: What says the State?

22 MS. CAMPBELL: Please excuse the
23 juror.

24 CLERK: Please return to the back of
25 the courtroom.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

79

1 (JUROR NUMBER 64 EXCUSED)

2 CLERK: Juror Number 322, (white
3 male).

4 JUROR NUMBER 322: 322. Regional
5 operations manager with an IT company.

6 CLERK: What says the State?

7 MS. CAMPBELL: Please present the
8 juror.

9 CLERK: What says Defendant Reese?

10 MR. FARLEY: Please excuse the juror.

11 CLERK: Return to the back of the
12 courtroom.

13 (JUROR NUMBER 322 EXCUSED)

14 CLERK: Juror Number 212, (black
15 male).

16 JUROR NUMBER 212: Juror Number 212,
17 truck driver.

18 CLERK: What says the State?

19 MS. CAMPBELL: Please present the
20 juror.

21 CLERK: What says Defendant Reese?

22 Any challenge for cause?

23 (SIDEBAR WITH CLERK)

24 CLERK: Okay. What ---

25 MS. CAMPBELL: What?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

80

1 (SIDEBAR BETWEEN SOLICITOR & DEFENSE COUNSEL)

2 THE COURT: Ms. Campbell?

3 MS. CAMPBELL: May we approach?

4 THE COURT: Sure.

5 (OFF RECORD BENCH CONFERENCE)

6 THE COURT: Madam Clerk.

7 CLERK: What says the State?

8 MS. SAMPSON: Please present the
9 juror.

10 CLERK: What says Defendant Reese?

11 MR. FARLEY: Please seat the juror.

12 CLERK: What says Defendant Gray?

13 MR. CHAPLIN: Please seat the
14 juror.

15 CLERK: Please have a seat in the jury
16 box.

17 (JUROR NUMBER 212 SEATED)

18 CLERK: Juror Number 288, (black
19 male).

20 JUROR NUMBER 288: Juror 288,
21 unemployed.

22 CLERK: What says the State?

23 MS. CAMPBELL: Please excuse the
24 juror.

25 CLERK: Please return to the back of

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

81

1 the courtroom.

2 (JUROR NUMBER 288 EXCUSED)

3 CLERK: Juror Number 6, (black male).

4 JUROR NUMBER 6: Number 6.

5 CLERK: What says the State?

6 MS. SAMPSON: Please present the
7 juror.

8 CLERK: What says Defendant Reese?

9 MR. FARLEY: Please seat the juror.

10 CLERK: What says Defendant Gray?

11 MR. CHAPLIN: Please seat the
12 juror.

13 CLERK: Please have a seat in the jury
14 box.

15 (JUROR NUMBER 6 SEATED)

16 CLERK: Juror Number 127, (white
17 female).

18 JUROR NUMBER 127: Number 127, I'm
19 a waitress.

20 CLERK: What says the State?

21 MS. SAMPSON: Please present the
22 juror.

23 CLERK: What says Defendant Reese?

24 MR. FARLEY: Please present the juror.

25 CLERK: What says Defendant Gray?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

82

1 MR. CHAPLIN: Please excuse the
2 juror.

3 CLERK: Please return to the back of
4 the courtroom.

5 (JUROR NUMBER 127 EXCUSED)

6 CLERK: Juror Number 43, (white male).

7 JUROR NUMBER 43: I am Juror 43, I am
8 a financial advisor.

9 CLERK: What says the State?

10 MS. SAMPSON: Please excuse the
11 juror.

12 CLERK: Please return to the back of
13 the courtroom.

14 (JUROR NUMBER 43 EXCUSED)

15 CLERK: Juror Number 59, (black male).

16 JUROR NUMBER 59: 59, and I work at
17 GameStop.

18 CLERK: What says the State?

19 MS. SAMPSON: Please excuse the
20 juror.

21 CLERK: Please return to the back of
22 the courtroom.

23 (JUROR NUMBER 59 EXCUSED)

24 CLERK: Juror Number 204, (black
25 female).

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

83

1 THE COURT: Approach the bench.
2 (OFF RECORD BENCH CONFERENCE)
3 THE COURT: 204 is excused.
4 (JUROR NUMBER 204 EXCUSED)
5 CLERK: Juror Number 84, (white male).
6 JUROR NUMBER 84: 84.
7 CLERK: What says the State?
8 MS. SAMPSON: Please present the
9 juror.
10 CLERK: What says Defendant Reese?
11 MR. FARLEY: Please seat the juror.
12 CLERK: What says Defendant Gray?
13 MR. CHAPLIN: Please seat the
14 juror.
15 CLERK: Please have a seat in the jury
16 box.
17 (JUROR NUMBER 84 SEATED)
18 CLERK: Juror Number 233, (white
19 female).
20 MS. CAMPBELL: May I approach?
21 THE COURT: Approach.
22 (OFF RECORD BENCH CONFERENCE)
23 JUROR NUMBER 233: 233, stay-at-
24 home mom.
25 CLERK: What says the State?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

84

1 MS. SAMPSON: Please present the
2 juror.

3 CLERK: What says Defendant Reese?

4 MR. FARLEY: Please seat the juror.

5 CLERK: What says Defendant Gray?

6 MR. CHAPLIN: Please excuse the
7 juror.

8 CLERK: Please have a seat in the back
9 of the courtroom.

10 (JUROR NUMBER 233 EXCUSED)

11 CLERK: Juror Number 53, (white
12 female).

13 JUROR NUMBER 53: Juror 53, I'm a
14 homemaker.

15 CLERK: What says the State?

16 MS. SAMPSON: Please present the
17 juror.

18 CLERK: What says Defendant Reese?

19 MR. FARLEY: Please seat the juror.

20 CLERK: What says Defendant Gray?

21 MR. CHAPLIN: Please excuse the
22 juror.

23 CLERK: Please return to the back of
24 the courtroom.

25 (JUROR NUMBER 53 EXCUSED)

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

85

1 CLERK: Juror Number 162, (white
2 female).
3 JUROR NUMBER 162: Juror 162, nurse
4 at Columbia Heart Clinic.
5 CLERK: What says the State?
6 MS. SAMPSON: Please present the
7 juror.
8 CLERK: What says Defendant Reese?
9 MR. FARLEY: Please seat the juror.
10 CLERK: What says Defendant Gray?
11 MR. CHAPLIN: Please seat the
12 juror.
13 CLERK: Please have a seat in the jury
14 box.
15 (JUROR NUMBER 162 SEATED)
16 CLERK: Juror Number 164, (white
17 female).
18 JUROR NUMBER 164: Juror 164,
19 retired.
20 CLERK: What says the State?
21 MS. SAMPSON: Please present the
22 juror.
23 CLERK: What says Defendant Reese?
24 MR. FARLEY: Please seat the juror.
25 CLERK: What says Defendant Gray?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

86

1 MR. CHAPLIN: Please excuse the
2 juror.

3 CLERK: Please return to the back of
4 the courtroom.

5 (JUROR NUMBER 164 EXCUSED)

6 CLERK: Juror Number 82, (white
7 female).

8 JUROR NUMBER 82: Juror Number 82,
9 staff attorney.

10 CLERK: What says the State?

11 MS. CAMPBELL: Excuse the juror.

12 CLERK: Return to the back of the
13 courtroom.

14 (JUROR NUMBER 82 EXCUSED)

15 CLERK: Juror Number 220, (white
16 female).

17 JUROR NUMBER 220: Juror Number
18 220.

19 CLERK: What says the State?

20 MS. SAMPSON: Please present the
21 juror.

22 CLERK: What says Defendant Reese?

23 MR. FARLEY: Please seat the juror.

24 CLERK: What says Defendant Gray?

25 MR. CHAPLIN: Please seat the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

87

1 juror.

2 CLERK: Please have a seat in the jury
3 box.

4 (JUROR NUMBER 220 SEATED)

5 THE COURT: Any objection to the jury
6 selection process, from the State?

7 MS. CAMPBELL: Yes, sir.

8 THE COURT: Approach, please.

9 (OFF RECORD BENCH CONFERENCE)

10 THE COURT: Ladies and Gentlemen of
11 the panel who were not chosen to serve on the
12 jury, and member of the jury, there is a legal
13 matter that I need to take up with the
14 attorneys. I hate to ask you to just sit here,
15 so we're just going to take about a fifteen
16 minutes recess.

17 I will expect you back in your seats --
18 now, the jury as selected so far, they need to
19 go to the jury room. The remainder members of
20 the jury panel, I am going to ask you to be back
21 in your seats -- well, let's make it twenty
22 minutes, at 5:30.

23 It will take me a few minutes to get
24 this matter resolved with the attorneys. I hate
25 to put you to the point of staying here but - as

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

88

1 soon as that's -- as soon as I finish with them,
2 I will be back in here and we will wind this up.
3 But an issue has arisen that I need to take care
4 of. So just stand at-ease for about twenty
5 minutes. Use the restroom, whatever you need to
6 do.

7 (JURY & JURY PANEL OUT)

8 THE COURT: Ms. Campbell, what is
9 your Motion?

10 MS. CAMPBELL: My Motion ---

11 THE COURT: On the record.

12 MS. CAMPBELL: Pursuant to Batson,
13 specifically as to race. Taking each of them,
14 of the twenty -- excuse me, how many strikes
15 were used? Of the eighteen strikes that were
16 used, all by one by both parties were for ---

17 THE COURT: Both defendants?

18 MS. CAMPBELL: Both defendants,
19 (affirmative nod). --- were white. The only
20 one that was used by Mr. Chaplin was a white
21 male who was a chaplain in the military and his
22 daughter also worked at Richland County
23 Sheriff's Department. I don't think that there
24 is any issue with that one.

25 There are some others when we finish,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

89

1 but those -- can I take them one defendant at a
2 time?

3 THE COURT: No, I think the burden is
4 on them to provide a race neutral reason.

5 MS. CAMPBELL: Okay.

6 THE COURT: Okay.

7 MR. CHAPLIN: May I speak, Your
8 Honor?

9 THE COURT: We're going down the
10 list. Go ahead, do you want to put something on
11 the record?

12 MR. CHAPLIN: No, I wanted to
13 respond but I think I'm going out of turn, so
14 let me wait.

15 THE COURT: Right.

16 MR. CHAPLIN: Thank you.

17 THE COURT: Juror 168 was stricken by
18 Defendant Reese. What is the race neutral
19 reason?

20 MR. FARLEY: She is related to the
21 assistant police chief.

22 THE COURT: It's a he.

23 MR. FARLEY: Sorry. 168, David
24 Kurlowich. We were worried about him having law
25 enforcement.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

90

1 THE COURT: It was his friend, wasn't
2 it?

3 MR. FARLEY: Sorry. I made the law
4 enforcement connection.

5 THE COURT: That's correct. You're
6 right. Juror 112? By Defendant Reese.
7 Professional golfer.

8 MR. FARLEY: I don't have any other
9 reason than my client said to strike him.

10 THE COURT: 155, stricken by
11 Defendant Reese.

12 MR. FARLEY: Again, I don't have a
13 specific reason, Your Honor.

14 THE COURT: Number 120, stricken by
15 Defendant Reese. Physics professor.

16 MR. FARLEY: I guess she wanted
17 someone who wasn't necessarily a professor.

18 THE COURT: I am looking for race-
19 neutral reasons now.

20 Number 75, stricken by Defendant Gray.

21 MR. CHAPLIN: 175?

22 THE COURT: 75.

23 MR. CHAPLIN: Retired law
24 enforcement, Your Honor. We were concerned
25 about bias.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

91

1 THE COURT: Number 226, stricken by
2 Defendant Reese.

3 MR. FARLEY: I don't have a reason in
4 my notes, Your Honor.

5 THE COURT: All right. 241, stricken
6 by Defendant Gray. Works at Westinghouse.

7 MR. CHAPLIN: The witness' (sic)
8 presence when she was standing up and presenting
9 herself, Your Honor.

10 MS. CAMPBELL: It's a man.

11 THE COURT: It's a man.

12 MR. CHAPLIN: I'm sorry. Mark
13 Shaffer. I just wrote "presence".

14 THE COURT: Juror 222, stricken by
15 Defendant Gray.

16 MR. CHAPLIN: Affiliation with the
17 medical center, Your Honor.

18 THE COURT: Affiliation with the
19 medical center?

20 MR. CHAPLIN: I am concerned about
21 bias.

22 THE COURT: 159, stricken by Gray?

23 MR. CHAPLIN: Margaret Kight.
24 Presence.

25 THE COURT: Presence? Housewife.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

92

1 Number 33, stricken by Defendant Reese.

2 MR. FARLEY: I don't think we had any
3 necessary reason, Your Honor.

4 THE COURT: Number 114, stricken by
5 Defendant Gray?

6 MR. CHAPLIN: Yes, Tiffany's
7 husband is a doctor. Actually -- excuse me --
8 Tiffany works for doctor. She is a dental
9 hygienist.

10 THE COURT: Right.

11 MS. CAMPBELL: I would just point
12 out, Your Honor, that the first alternate that
13 he put on is an R.N.

14 THE COURT: What does a dentist --
15 what's ---

16 MR. CHAPLIN: The concern there --
17 and obviously I probably didn't have as many
18 options when the -- at the end of this ---

19 THE COURT: Excuse me -- just go tell
20 him what we are doing. Go ahead.

21 MR. CHAPLIN: Was that someone
22 with medical knowledge, or maybe limited medical
23 knowledge, may be back there trying to assist
24 the jury in trying to interpret what the
25 witnesses might be saying.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

93

1 THE COURT: All right. Why did you
2 strike Bob Brown?

3 MS. CAMPBELL: I was consistent. I
4 struck all the attorneys.

5 THE COURT: Juror Number 196,
6 stricken by Defendant Reese. Mighty good
7 looking uniform.

8 MR. FARLEY: 196. Just the
9 affiliation with the United States Army, I
10 guess.

11 THE COURT: Be more specific.

12 MR. FARLEY: Felt that he would feel
13 kin more to the law enforcement aspect.

14 THE COURT: 176, stricken by
15 Defendant Reese.

16 MR. FARLEY: I guess it was just the
17 juror's presence. To be completely honest we
18 didn't, uh, I didn't think that we had that -- I
19 really don't have any reason for it on my notes.

20 THE COURT: Number 309, stricken by
21 Defendant Reese.

22 MR. FARLEY: I was worried about the
23 affiliation with the Department of Mental Health
24 and the State.

25 THE COURT: Number 11, stricken by

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

94

1 Defendant Gray.

2 MR. CHAPLIN: Your Honor, I am
3 going to say that it was Tracy's presence. Our
4 concern was would she really try to understand
5 the facts of the case or would she just
6 basically be so frightened that she would just
7 paint everybody with the same brush.

8 THE COURT: I didn't hear her say
9 that she was frightened.

10 MR. CHAPLIN: Well, again, her
11 presence gave us that impression. We had a
12 concern.

13 THE COURT: Number 16, stricken by
14 Defendant Gray.

15 MR. CHAPLIN: Michael's wife is a
16 registered nurse. Again, medical knowledge. I
17 am not saying that he would go home and discuss
18 everything with the person, but if proximate
19 causation is an issue and he has a conversation
20 with her he might come back and try to educate
21 the group.

22 THE COURT: The wife is a nurse?

23 MS. CAMPBELL: The wife is a nurse?

24 MR. CHAPLIN: Who is Joy,
25 (affirmative nod), married to Joy and that's an

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

95

1 RN. Am I mistaken?

2 MS. CAMPBELL: That is when we get
3 back to why he didn't strike the nurse herself
4 as an alternate when he had two strikes left.

5 MR. CHAPLIN: We will discuss that
6 when we get there.

7 THE COURT: Juror 322, stricken by
8 Defendant Reese.

9 MR. FARLEY: That was the gentleman
10 who said that he'd had someone murdered in his
11 family. We felt that was a concern.

12 MR. CHAPLIN: I concur.

13 THE COURT: 127, stricken by
14 Defendant Gray.

15 MR. CHAPLIN: Level of comfort
16 with her education and her place of employment,
17 Your Honor.

18 THE COURT: Where does she work?

19 MR. CHAPLIN: Waffle House.

20 THE COURT: What is the significance
21 of Waffle House?

22 MR. CHAPLIN: Are you waiting on
23 my response?

24 THE COURT: Yeah.

25 MR. CHAPLIN: I guess my -- when I

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

96

1 read that that my impression was that, uh,
2 (pause) -- Waffle House is generally known to be
3 a kind of, uh, real dangerous spot at times. It
4 attracts a lot of questionable individuals. I'm
5 sure she would have to deal with these people.
6 She may have preconceived notions as to how they
7 are and -- (pause) -- I think she's had a lot of
8 familiarity with people like who live over there
9 at Gonzales Gardens.

10 THE COURT: Bias. Number 233,
11 stricken by Defendant Gray.

12 MR. CHAPLIN: I can't be certain
13 of this one, Your Honor. I think that I spoke
14 with my client on this one.

15 THE COURT: Housewife.

16 MR. CHAPLIN: And, uh, -- (pause).

17 THE COURT: 53, stricken by Defendant
18 Gray.

19 MR. CHAPLIN: Her husband, Your
20 Honor, is an unemployed investigator for the
21 South Carolina Accident Fund. Probably that's
22 the last place he worked. Just felt that -- the
23 idea that she is affiliated with an investigator
24 concerns us.

25 THE COURT: 164, stricken by

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

97

1 Defendant Gray.

2 MR. CHAPLIN: Your Honor, we are
3 talking about *Batson*. I'm surprised that she is
4 still in the list because she's seventy-four,
5 she's retired and -- we just didn't feel
6 comfortable with her, where she is at in life
7 right now.

8 THE COURT: Be careful what you say
9 about old people.

10 MR. CHAPLIN: I am getting old
11 myself, but -- (pause).

12 THE COURT: I was in high school with
13 her.

14 MR. CHAPLIN: Were you really?

15 THE COURT: No, but chronologically I
16 could have been.

17 MR. CHAPLIN: Really? Well, I'm
18 fifty-two, so I'm not talking about old people.
19 Believe me, I'm not.

20 THE COURT: Ms. Campbell?

21 MS. CAMPBELL: Your Honor, I think
22 some of them are self-evident but to go back
23 through some of them, I feel -- medical
24 knowledge, especially being married to someone
25 in the medical field, I would note that when

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

98

1 they had at least two more strikes on the first
2 alternate that they chose to put a nurse
3 herself, not someone married to a nurse, not the
4 dental hygienist, but someone with actual
5 medical knowledge and they chose to put her on.

6 In addition to that, Your Honor, as far
7 as this about how he didn't want to put on the
8 one lady because she worked at Waffle House and
9 would be exposed to people that be -- know
10 people in the Gardens or something of that
11 nature, he then did put on a supervisor of a
12 Pilot convenience store, which is the local gas
13 station. Anyone who is ever exposed to people
14 that tend to violent -- I find those two reasons
15 to be disingenuous.

16 MR. CHAPLIN: I think Attorney
17 Luck Campbell is basing that on her personal
18 knowledge. I have no clue what Pilot gas
19 station and what type of clientele that they
20 have. That was not a part of my decision making
21 process and ---

22 THE COURT: Here's the deal.

23 MR. CHAPLIN: --- as far as the
24 nurse, Your Honor, that we did put on, was she
25 white or black?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

99

1 MS. CAMPBELL: She's white.

2 MR. CHAPLIN: Thank you.

3 MS. CAMPBELL: But you put her on
4 and she's a nurse and that makes it a non-
5 neutral reason to strike all these other medical
6 people.

7 MR. CHAPLIN: But it certainly
8 challenges the Batson issue. She white,
9 (affirmative nod).

10 THE COURT: Yeah. The vast majority
11 of your strikes were white. That in and of
12 itself is not reason enough to grant the State's
13 Motion. However, I -- are you finished?

14 MS. CAMPBELL: Yes, sir.

15 THE COURT: I've counted, one, two,
16 three, four, five, six, seven, eight, nine, ten,
17 eleven of our strikes, combined, for which you
18 have been unable to give a race neutral reason
19 for your strikes. That, to me, is evidence that
20 your strike were pretextual and gives rise to
21 the implication that they are race-based.

22 Twenty-one out of twenty-two strikes --
23 sorry. What's the number?

24 MS. CAMPBELL: Nineteen and three,
25 so twenty-two.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

100

1 THE COURT: Yeah, based on the
2 alternates. Were strikes of white.
3 Overwhelmingly strikes of whites for which I
4 find you cannot give satisfactory answers for
5 the strikes. I am going to grant the State's
6 Motion.

7 Now we are going to have to talk about
8 how we proceed from here. I am going to send
9 them all home, because the law says that -- I
10 believe -- that those -- we will draw again,
11 reshuffle the names. That you would not be, of
12 those named -- well, let me back up.

13 I do find that one, two, three, four,
14 five, six, seven of your strikes -- reasons
15 given -- are not pretextual, that they have some
16 basis in my mind for the strikes.

17 The penalty, so to speak, for using
18 strikes in a pretextual manner is that on the
19 second draw you would not be allowed to use
20 those strikes again. Do you understand?

21 MR. CHAPLIN: So what is that
22 number?

23 THE COURT: You can use the seven and
24 I will give you the names.

25 MS. CAMPBELL: Of who you can't

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

101

1 strike.

2 THE COURT: You cannot strike -- I
3 will just call them out, you cannot strike --
4 write them down:

5 112,
6 155,
7 120,
8 226,
9 241,
10 222,
11 159,
12 33,
13 176,
14 11,
15 16,
16 233,
17 53, or
18 164.

19 Understood?

20 MS. SAMPSON: And I believe 114
21 goes back to the medical reason, pretextual.

22 THE COURT: I agree. Take 114 off.
23 When I went through it the first time, I felt
24 that it was reasonable but -- so add 114 to the
25 list.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

102

1 MR. CHAPLIN: Okay.

2 THE COURT: The jury is not going to
3 be happy, folks.

4 MR. CHAPLIN: So how is it going
5 to be explained to them, Your Honor?

6 THE COURT: You want me to tell them
7 the truth?

8 MR. CHAPLIN: No, I'm asking you
9 what you are going to tell them.

10 THE COURT: I am going to tell them
11 that we will redraw in the morning.

12 MR. CHAPLIN: Okay.

13 THE COURT: Ten o'clock, we will
14 start over.

15 (BATSON MOTION CONCLUDED)

16 (JURY PANEL IN COURTROOM)

17 (DEFENDANTS PRESENT)

18 THE COURT: Be seated. Get the jury
19 back.

20 (JURY IN)

21 BAILIFF: Jury's present.

22 THE COURT: Ladies and Gentlemen of
23 the jury and Ladies and Gentlemen of the jury
24 panel, I know I am going to hear some groans.
25 I have determined that there have been some

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

103

1 problems, legal problems, with the jury
2 selection process. As a result, I have ordered
3 and am ordering that this jury be drawn again or
4 selected again. We will start that process at
5 10:00 o'clock tomorrow morning. I will ask all
6 of you -- this jury is disbanded -- the entire
7 jury panel is to return to the jury assembly
8 room at 10:00 o'clock tomorrow morning, at which
9 time we will redraw the jury in this case.

10 Have a pleasant evening. Thank you
11 very much.

12 (JURY PANEL EXITS)

13 THE COURT: Juror 118 -- and is 134
14 still here? We will -- you need not return for
15 this case but there may be other cases in the
16 jury assembly room, you need to check with them.
17 As far as this case goes, two people said that
18 they did not feel that they could be fair and
19 impartial and I've excused both of them -- you
20 (118) and 134. Thank you very much.

21 (JUROR NUMBER 118 EXCUSED)

22 (JUROR NUMBER 134 EXCUSED)

23 THE COURT: Counsel, are you ready to
24 take up pretrial Motions?

25 MR. CHAPLIN: Your Honor, could I

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

104

1 get about three minutes.

2 THE COURT: Sure, let's take five
3 minutes.

4 (BRIEF RECESS)

5 (DEFENDANTS PRESENT)

6 THE COURT: I have four Motions that
7 I think have not been addressed. First is the
8 Motion to sequester. Any problem with that,
9 Solicitor?

10 MS. CAMPBELL: No, Your Honor, we
11 have no problems with questioning of lay
12 witnesses but experts and law enforcement should
13 be allowed, and of course the victim's family.

14 THE COURT: Are they witnesses?

15 MS. CAMPBELL: No.

16 THE COURT: Is that satisfactory, Mr.
17 Chaplin?

18 MR. CHAPLIN: Sir?

19 THE COURT: She is free to sequester
20 all but law enforcement.

21 MR. CHAPLIN: All but law
22 enforcement?

23 THE COURT: Yes.

24 MR. CHAPLIN: Yes.

25 THE COURT: Is that agreeable?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

105

1 MR. FARLEY: That's agreeable.

2 THE COURT: How about Mr. Gray?

3 MR. CHAPLIN: Your Honor, is there
4 a reason why law enforcement can't be
5 sequestered?

6 THE COURT: I just want to know your
7 position.

8 MR. CHAPLIN: I believe that the
9 lay witnesses and law enforcement should not be
10 in the courtroom when testimony is going on.

11 THE COURT: I cannot prevent the
12 investigating officer from being present.

13 MS. CAMPBELL: Your Honor, they've
14 got all the statements from police, all the
15 reports and everything else like that. It is of
16 course in your discretion ---

17 THE COURT: I'm going to do it. I'm
18 going to grant it except for your chief
19 investigating officer. We've apparently got a
20 lot of witnesses in this case, there may be
21 conflicting stories. I don't know.

22 MS. CAMPBELL: In law enforcement?

23 MR. CHAPLIN: Yes.

24 THE COURT: Have a seat, Mr. Chaplin.

25 MR. CHAPLIN: Thank you.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

106

1 MS. CAMPBELL: I am just trying to
2 expedite the trial process.

3 THE COURT: I understand.

4 MS. CAMPBELL: Does that include
5 experts, Your Honor? Traditionally they're
6 allowed to ---

7 THE COURT: No. Not experts.

8 MS. CAMPBELL: Okay.

9 MR. CHAPLIN: No objection.

10 THE COURT: Now, other than that, is
11 the admissibility of statements, a *Jackson v*
12 *Denno*?

13 MS. CAMPBELL: No, we aren't
14 offering any statements.

15 THE COURT: They aren't offering any
16 statements.

17 MR. CHAPLIN: Your Honor,
18 basically I wanted to make sure that that was
19 established. So there are no statements?

20 THE COURT: I don't know if there are
21 any statements? They've said that they are not
22 going to offer any statements.

23 MR. CHAPLIN: You're not going to
24 offer any?

25 MS. CAMPBELL: If we were to change

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

107

1 our mind -- there's only one statement from
2 Defendant Reese. If we were to change our mind,
3 we would alert the court prior to -- and we'd
4 have a hearing.

5 THE COURT: All right. So --
6 understood? Everybody understands?

7 MR. CHAPLIN: So we would -- we
8 would have to have a hearing if they decide to
9 offer it?

10 THE COURT: Correct.

11 MR. CHAPLIN: Your Honor, may the
12 defense have the same latitude if we decide to
13 offer, that we could also have a *Jackson v Denno*
14 hearing?

15 MS. CAMPBELL: They don't ---

16 THE COURT: A *Denno* hearing is to
17 determine ---

18 MR. CHAPLIN: I apologize, Your
19 Honor.

20 THE COURT: --- the voluntariness of
21 a statement given to law enforcement.

22 MR. CHAPLIN: Yes, sir. I
23 apologize.

24 THE COURT: Any *Lyle* evidence?

25 MS. CAMPBELL: None at this time,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

108

1 Your Honor.

2 THE COURT: There's no *Lyle* evidence,
3 according to the State. You are not planning on
4 offering any *Lyle* evidence?

5 MS. CAMPBELL: No, sir, we're not
6 aware of any that would be ---

7 THE COURT: Admissible.

8 MS. CAMPBELL: --- admissible in
9 this case.

10 THE COURT: All right. Then the only
11 other Motion is the ---

12 MS. CAMPBELL: If they open the
13 door, we ---

14 THE COURT: I understand. We can
15 take that up in-camera if it becomes necessary.

16 MS. CAMPBELL: Yes, sir.

17 THE COURT: The only other thing is
18 the autopsy photographs. That's the only other
19 Motion that I see.

20 MS. CAMPBELL: You'd have to rule
21 on that as it comes up.

22 THE COURT: Your Honor, my normal
23 rule on photographs is that if they assist your
24 pathologist in determining the cause of death,
25 then they are admissible. If they are just for

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

109

1 shock value, then they would not be admissible.

2 But I will review them at the proper time.

3 MS. CAMPBELL: I will show them to
4 Your Honor. In this case there is some issue as
5 to cause of death, which may make them more
6 relevant.

7 THE COURT: Any other pretrial
8 Motions?

9 MR. CHAPLIN: We've already done
10 the deal.

11 THE COURT: Yes, sir.

12 MR. CHAPLIN: Your Honor, when
13 will we set the record for ---

14 THE COURT: Before any witness,
15 testifies?

16 MR. FARLEY: We have no further
17 Motions, Your Honor.

18 THE COURT: How about the defendants'
19 -- you work that out. All right. Anything
20 else?

21 MR. FARLEY: Nothing further, Your
22 Honor.

23 MR. CHAPLIN: No, Your Honor. I
24 just want to make sure that I understand. I
25 just want to summarize, can I do that?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

110

1 THE COURT: Yes, sir.

2 MR. CHAPLIN: So as far as the
3 Motion to sequester, that's been granted except
4 for experts and the chief investigator.

5 There is no Denno issue, because the
6 State is not offering any statements. If they
7 change their minds, ---

8 MS. CAMPBELL: We will have a
9 hearing.

10 MR. CHAPLIN: --- we will have a
11 hearing. Okay. At this point I'll say that's
12 been granted, Your Honor.

13 THE COURT: Well, it is what it is.

14 MR. CHAPLIN: Okay. And there's
15 no Lyle.

16 THE COURT: No Lyle evidence. I'll
17 protect you, in both cases.

18 MR. CHAPLIN: And as far as
19 photographs are concerned, Your Honor, I don't
20 know that I understood your ruling.

21 THE COURT: I am going to have to
22 review it. I guess that if the medical examiner
23 needs certain photographs to demonstrate his
24 testimony, regarding cause of death or anything
25 else, then I will probably allow it, usually do.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

111

1 MR. CHAPLIN: Okay. And as far as
2 setting the record, we will do that just before
3 testimony ---

4 THE COURT: Y'all work it out. I
5 don't have anything to do with that. They know
6 the Rules.

7 MS. CAMPBELL: There were a number
8 of photo identifications done in this case with
9 witnesses, but all of them knew them by name and
10 sight. If there are identification issues, I
11 don't know how you want to handle that, but I
12 wanted to bring it to your attention.

13 THE COURT: First time in-court
14 identifications are admissible. The question is
15 whether these are the result of identification
16 by lineup, in which case we'd have to do a ---

17 MS. CAMPBELL: I believe under
18 *McLeod* that you don't have to actually do a
19 hearing.

20 THE COURT: You don't, if they know.
21 If they know them, why would you have to do it?

22 MS. CAMPBELL: And, finally, Your
23 Honor, we would renew our reciprocal Rule 5. We
24 have inquired of the Defense and they say that
25 they have no reports or anything to turn over to

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

112

1 us, and we just want to put that on the record.

2 MR. CHAPLIN: Should we find
3 something that we need to turn over, we will do
4 it before tomorrow.

5 THE COURT: Thank you.

6 (COURT IN RECESS)

7 (TRANSCRIPT CONTINUED NEXT PAGE)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 FEBRUARY 28, 2012 9:00 A.M.

2

3 (DEFENDANTS PRESENT)

4 THE COURT: Is the State ready to
5 proceed?

6 MR. FARLEY: The State is ready.

7 THE COURT: Is the defense ready to
8 proceed?

9 MR. FARLEY: We are.

10 THE COURT: Ready for the jury?

11 MS. SAMPSON: Yes, Your Honor, we're
12 just getting our family back in here. I
13 apologize.

14 THE COURT: Ready for the jury?

15 MR. FARLEY: We are.

16 THE COURT: Bring in the jury.

17 (JURY ENTERS COURTROOM)

18 THE COURT: Good day, ladies and
19 gentlemen of the jury, thank you for your
20 patience. I will tell you, we've just -- we've
21 been working on resolving these issues and we're
22 ready to go forward the strike of the jury.

23 Now, I will say, let me make this first
24 announcement, Juror number 204, you're excused
25 for this trial. She needs to go back down to

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

114

1 the jury assembly room.

2 All right. Madam Clerk, give us a
3 jury. Ladies and gentlemen, the same procedure
4 as yesterday, but we're going to try to expedite
5 and move right along today.

6 CLERK: Juror number 294 (white male).

7 THE COURT: Number and occupation.

8 PROSPECTIVE JUROR: Juror 294, Mount
9 Valley Foundation.

10 THE CLERK: What says the State?

11 MS. SAMPSON: Please present the juror.

12 THE CLERK: What says Defendant Reese?

13 MR. FARLEY: Please seat the juror.

14 THE CLERK: What says Defendant Gray?

15 MR. CHAPLIN: Please seat the juror.

16 THE CLERK: Please have a seat in the
17 jury box.

18 (JUROR NUMBER 294 SEATED)

19 CLERK: Juror Number 228 (black
20 female).

21 (JUROR BEFORE COUNSEL)

22 PROSPECTIVE JUROR: 228 Fire House
23 Subs.

24 THE CLERK: What says the State?

25 MS. SAMPSON: Please excuse the juror.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

115

1 THE CLERK: Please return to the back
2 of the courtroom.

3 (JUROR NUMBER 228 EXCUSED)

4 CLERK: Juror number 11 (white
5 female).

6 (JUROR BEFORE COUNSEL)

7 PROSPECTIVE JUROR: Juror 11,
8 self-employed as a gardener.

9 THE CLERK: What says the State?

10 MS. SAMPSON: Please present the juror.

11 THE CLERK: What says Defendant
12 Reese?

13 MR. FARLEY: Please seat the juror.

14 THE CLERK: What says Defendant Gray?

15 MR. CHAPLIN: Please seat the juror.

16 THE CLERK: Please have a seat in the
17 jury box.

18 (JUROR NUMBER 11 SEATED)

19 CLERK: Juror Number 59, (black male).

20 (JUROR BEFORE COUNSEL)

21 PROSPECTIVE JUROR: Juror 59, Game Stop.

22 THE CLERK: What says the State?

23 MS. SAMPSON: Please excuse the juror.

24 THE CLERK: Please return to the back of
25 the courtroom.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

116

1 (JUROR NUMBER 59 EXCUSED)

2 CLERK: Juror number 164, (white
3 female.)

4 (JUROR BEFORE COUNSEL)

5 PROSPECTIVE JUROR: Juror 164,
6 retired, South Carolina Department of the
7 Health & Human Services.

8 THE CLERK: What says the State?

9 MS. SAMPSON: Please present the
10 juror.

11 THE CLERK: What says Defendant
12 Reese?

13 MR. FARLEY: Please seat the
14 juror.

15 THE CLERK: What says Defendant
16 Gray?

17 MR. CHAPLIN: Please seat the
18 juror.

19 THE CLERK: Please have a seat in
20 the jury box.

21 (JUROR NUMBER 164 SEATED)

22 CLERK: Juror number 64, (white
23 male.)

24 PROSPECTIVE JUROR: Juror 64,
25 President of South Carolina Biomedical.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

117

1 THE CLERK: What says the State?

2 MS. SAMPSON: Please excuse the
3 juror.

4 THE CLERK: Please return to the
5 back of the courtroom.

6 (JUROR NUMBER 64 EXCUSED)

7 CLERK: Juror 293, (black
8 female).

9 PROSPECTIVE JUROR: Juror 293.
10 I'm a baker at Still Hope.

11 THE CLERK: What says the State?

12 MS. SAMPSON: Please present the
13 juror.

14 THE CLERK: What says Defendant
15 Reese?

16 MR. FARLEY: Please present the
17 juror.

18 THE CLERK: What says Defendant
19 Gray?

20 MR. CHAPLIN: Please present the
21 juror.

22 THE CLERK: Have a seat in the
23 jury box.

24 (JUROR NUMBER 293 SEATED)

25 CLERK: Juror number 162, (white

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

118

1 female).

2 PROSPECTIVE JUROR: Juror 162,
3 nurse, Columbia Heart Clinic.

4 THE CLERK: What says the State?

5 MS. SAMPSON: Please present the
6 juror.

7 THE CLERK: What says Defendant
8 Reese?

9 MR. FARLEY: Please seat the
10 juror.

11 THE CLERK: What says Defendant
12 Gray?

13 MR. CHAPLIN: Please seat the
14 juror.

15 THE CLERK: Please have a seat in
16 the jury box.

17 (JUROR NUMBER 162 SEATED)

18 CLERK: Juror 94, (black male).

19 PROSPECTIVE JUROR: Juror number
20 94, I'm employed at Owens Field.

21 THE CLERK: What says the State?

22 MS. SAMPSON: Please present the
23 juror.

24 THE CLERK: What says Defendant
25 Reese?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

119

1 MR. FARLEY: Please seat the
2 juror.
3 THE CLERK: What says Defendant
4 Gray?
5 MR. CHAPLIN: Please seat the
6 juror.
7 THE CLERK: Please have a seat in
8 the jury box.
9 (JUROR NUMBER 94)
10 CLERK: Juror Number 19, (black
11 male).
12 PROSPECTIVE JUROR: Juror Number
13 19, employed with Dick Smith Nissan.
14 THE CLERK: What says the State?
15 MS. SAMPSON: Your Honor, may we
16 approach?
17 (OFF RECORD BENCH CONFERENCE)
18 MS. SAMPSON: Please present the
19 juror.
20 THE CLERK: What says Defendant
21 Reese?
22 MR. FARLEY: Please present the
23 juror.
24 THE CLERK: What says Defendant
25 Gray?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

120

1 MR. CHAPLIN: Please present the
2 juror.

3 THE CLERK: Please have a seat in
4 the jury box.

5 (JUROR NUMBER 19 SEATED)

6 CLERK: Juror number 314, (white
7 female).

8 PROSPECTIVE JUROR: 314,
9 unemployed.

10 THE CLERK: What says the State?

11 MS. SAMPSON: Please excuse the
12 juror.

13 THE CLERK: Please return to the
14 back of the courtroom.

15 (JUROR NUMBER 314 EXCUSED)

16 CLERK: Juror number 67, (white male).

17 PROSPECTIVE JUROR: Number 67, civil
18 engineer for the URS Corporation.

19 THE CLERK: What says the State?

20 MS. SAMPSON: Please present the juror.

21 THE CLERK: What says Defendant Reese?

22 MR. FARLEY: Please excuse the juror.

23 THE CLERK: Please return to the back of
24 the courtroom.

25 (JUROR NUMBER 67 EXCUSED)

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

121

1 CLERK: Juror number 322, (white male.)

2 PROSPECTIVE JUROR: Juror number 322,
3 Regional Operations Manager for the IC
4 Company.

5 THE CLERK: What says the State?

6 MS. SAMPSON: Please present the juror.

7 THE CLERK: What says Defendant Reese?

8 MR. FARLEY: I'm sorry, Madam Clerk, can
9 you tell me that number again, I apologize.

10 THE CLERK: 322.

11 MR. FARLEY: Please excuse the juror.

12 THE CLERK: Please return to the back of
13 the courtroom.

14 (JUROR NUMBER 211 EXCUSED)

15 THE CLERK: Juror number 82, (white female).

16 PROSPECTIVE JUROR: Juror number 82, staff
17 attorney for William K. Stevens, Jr.

18 THE CLERK: What says the State?

19 ATTORNEY5: Please excuse the juror.

20 THE CLERK: Please return to the back of
21 the courtroom.

22 (JUROR NUMBER 82 EXCUSED)

23 THE CLERK: Juror number 299.

24 PROSPECTIVE JUROR: Juror number 299,
25 employed with AMCO Regional Plastics.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

122

1 THE CLERK: What says the State?

2 MS. SAMPSON: Please excuse the juror.

3 THE CLERK: Please return to the back of
4 the courtroom.

5 (JUROR NUMBER 299 EXCUSED)

6 THE CLERK: Juror number 16, (white male).

7 PROSPECTIVE JUROR: Juror number 16, E
8 Commerce Consultant.

9 THE CLERK: What says the State?

10 MS. SAMPSON: Please present the juror.

11 THE CLERK: What says Defendant Reese?

12 MR. FARLEY: Please seat the juror.

13 THE CLERK: What says Defendant Gray?

14 MR. CHAPLIN: Please seat the juror.

15 THE CLERK: Please have a seat in the jury
16 box.

17 (JUROR NUMBER 16 SEATED)

18 THE CLERK: Juror number 313.

19 PROSPECTIVE JUROR: Number 313, I work at
20 schools.

21 THE CLERK: What says the State?

22 MS. SAMPSON: Please excuse the juror.

23 THE CLERK: Please return to the back of
24 the courtroom.

25 (JUROR NUMBER 313 EXCUSED)

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

123

1 THE CLERK: Juror number 114.

2 PROSPECTIVE JUROR: Number 114, Dental
3 Hygienist, (white female.)

4 THE CLERK: What says the State?

5 MS. SAMPSON: Please present the juror.

6 THE CLERK: What says Defendant Reese?

7 MR. FARLEY: Please seat the juror.

8 THE CLERK: What says Defendant Gray?

9 MR. CHAPLIN: Please seat the juror.

10 THE CLERK: Please have a seat in the jury
11 box.

12 (JUROR NUMBER 114 SEATED)

13 CLERK: Juror number 43, (white male.)

14 PROSPECTIVE JUROR: Juror 43, financial
15 advisor.

16 THE CLERK: What says the State?

17 MS. SAMPSON: Please excuse the juror.

18 THE CLERK: Please return to the back of
19 the courtroom.

20 (JUROR NUMBER 43 EXCUSED)

21 CLERK: Juror number 309, (white female)

22 PROSPECTIVE JUROR: Juror number 309,
23 Registered Nurse with the Department of
24 Mental Health.

25 THE CLERK: What says the State?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

124

1 MS. SAMPSON: Please present the juror.

2 THE CLERK: What says Defendant Reese?

3 MR. FARLEY: Please seat the juror.

4 THE CLERK: What says Defendant Gray?

5 MR. CHAPLIN: Please seat the juror.

6 THE CLERK: Please have a seat in the jury
7 box.

8 (JUROR NUMBER 309 SEATED)

9 CLERK: Juror number 70, (white male)

10 PROSPECTIVE JUROR: Juror number 70,
11 Quality Director for Hanson North America.

12 THE CLERK: What says the State?

13 MS. SAMPSON: Please present the juror.

14 THE CLERK: What says Defendant Reese?

15 MR. FARLEY: Please seat the juror.

16 THE CLERK: What says Defendant Gray?

17 MR. CHAPLIN: Please excuse the juror.

18 THE CLERK: Please return to the back of
19 the courtroom.

20 (JUROR NUMBER 70 EXCUSED)

21 THE CLERK: Juror number 249, (white
22 female).

23 PROSPECTIVE JUROR: Juror 249, Customer
24 Service Manager for Tripp's Fine Cleaners.

25 THE CLERK: What says the State?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

125

1 MS. CAMPBELL: Please present the juror.

2 THE CLERK: What says Defendant Reese?

3 MR. FARLEY: Please seat the juror.

4 THE CLERK: What says Defendant Gray?

5 MR. CHAPLIN: Please excuse the juror.

6 THE CLERK: Please return to the back of
7 the courtroom.

8 (JUROR NUMBER 249 EXCUSED)

9 CLERK: Juror Number 6, (black male).

10 PROSPECTIVE JUROR: Number six, Manager at
11 Wendy's.

12 THE CLERK: What says the State?

13 MS. SAMPSON: Please present the juror.

14 THE CLERK: What says Defendant Reese?

15 MR. FARLEY: Please seat the juror.

16 THE CLERK: What says Defendant Gray?

17 MR. CHAPLIN: Please seat the juror.

18 THE CLERK: Please have a seat in the jury
19 box.

20 (JUROR NUMBER 6 SEATED)

21 THE CLERK: Juror number 117, (white
22 male.)

23 PROSPECTIVE JUROR: 117, I teach
24 Consultants for the State Logic Commission.

25 THE CLERK: What says the State?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

126

1 MS. SAMPSON: Please present the juror.

2 THE CLERK: What says Defendant Reese?

3 MR. FARLEY: Please excuse the juror.

4 THE CLERK: Please return to the back of
5 the courtroom.

6 (JUROR NUMBER 117 EXCUSED)

7 CLERK: Juror number 288, (Black male).

8 PROSPECTIVE JUROR: Juror 288, unemployed.

9 THE CLERK: What says the State?

10 MS. SAMPSON: Please excuse the juror.

11 THE CLERK: Please return to the back of
12 the courtroom.

13 (JUROR NUMBER 228 EXCUSED)

14 CLERK: Juror number 155, (white female).

15 PROSPECTIVE JUROR: Juror 155, Mutual
16 Insurance Agency.

17 THE CLERK: What says the State?

18 MS. SAMPSON: Please present the juror.

19 THE CLERK: What says Defendant Reese?

20 MR. FARLEY: Please present the juror.

21 THE CLERK: What says Defendant Gray?

22 MR. CHAPLIN: Please seat the juror.

23 THE CLERK: Please have a seat in the jury
24 box.

25 (JUROR NUMBER 155 SEATED)

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

127

1 CLERK: Juror 237.

2 PROSPECTIVE JUROR: Juror number 237,
3 self-employed.

4 THE CLERK: What says the State?

5 MS. SAMPSON: Please present the juror.

6 THE CLERK: What says Defendant Reese?

7 MR. FARLEY: Please seat the juror.

8 THE CLERK: What says the Defendant Gray?

9 MR. CHAPLIN: Please excuse the juror.

10 THE CLERK: Please return to the back of
11 the courtroom.

12 (JUROR NUMBER 237 EXCUSED)

13 CLERK: Juror 196, (white male).

14 PROSPECTIVE JUROR: Juror number 196,
15 United States Army.

16 THE CLERK: What says the State?

17 MS. SAMPSON: Please present the juror.

18 THE CLERK: What says the Defendant Reese?

19 MR. FARLEY: Please present the juror.

20 THE CLERK: What says the Defendant Gray?

21 MR. CHAPLIN: Please excuse the juror.

22 THE CLERK: Please return to the back of
23 the courtroom.

24 (JUROR NUMBER 196 EXCUSED)

25 CLERK: Juror 231.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

128

1 PROSPECTIVE JUROR: Juror 31, Attorney for
2 Baker, Ravenel, Bender.

3 THE CLERK: What says the State?

4 MS. SAMPSON: Please excuse the juror.

5 THE CLERK: Please return to the back of
6 the courtroom.

7 (JUROR NUMBER 31 EXCUSED)

8 CLERK: Juror number 135, (black female).

9 THE COURT: You want to talk to me?

10 PROSPECTIVE JUROR: Yes, sir.

11 (OFF RECORD BENCH CONFERENCE)

12 THE COURT: Ms. House, 135, you're
13 excused from the trial of this case.
14 You may have to go back downstairs to
15 check in.

16 (JUROR NUMBER 135 EXCUSED)

17 THE CLERK: Juror number 53, (white female.)

18 PROSPECTIVE JUROR: Juror number 53. I'm a
19 homemaker.

20 THE CLERK: What says the State?

21 MS. SAMPSON: Please present the juror.

22 THE CLERK: What says Defendant Reese?

23 MR. FARLEY: Please seat the juror.

24 THE CLERK: What says Defendant Gray?

25 MR. CHAPLIN: Please seat the juror.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

129

1 THE CLERK: Please have a seat in the jury
2 box.

3 (JUROR NUMBER 53 SEATED)

4 CLERK: Juror number 207, (black
5 female).

6 PROSPECTIVE JUROR: 207, Blue Cross, Blue
7 Shield.

8 THE CLERK: What says the State?

9 MS. SAMPSON: Please present the juror.

10 THE CLERK: What says Defendant Reese?

11 MR. FARLEY: Please seat the juror.

12 THE CLERK: What says Defendant Gray?

13 MR. CHAPLIN: Please seat the juror.

14 THE CLERK: Please have a seat in the jury
15 box.

16 (JUROR NUMBER 207 SEATED)

17 THE COURT: Any objection to the jury
18 selection process from the State?

19 MS. SAMPSON: No, sir.

20 THE COURT: From the defense?

21 MR. FARLEY: No, Your Honor.

22 MR. CHAPLIN: No, Your Honor.

23 THE COURT: Great. All right.

24 Thank you very much. All right. Thank you
25 very much ladies and gentlemen. Whoa,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

130

1 whoa, whoa, whoa. I am going to excuse
2 you. I'm going to ask you to return to the
3 jury assembly room.

4 I don't think we have another
5 trial. I know I don't but we have several
6 judges here trying cases. I don't think we
7 have another case scheduled for today.
8 It's my understanding there probably would
9 be one scheduled for tomorrow but I'm not
10 sure about that.

11 In the meantime, first I want to
12 thank you for your patience. I know this
13 is probably a little longer jury selection
14 process than is normal, but it had to be
15 done this way. I also want to thank you
16 for your willingness to come and serve, sit
17 and serve and hear these matters. They are
18 difficult matters. They need to be
19 resolved in our community, and you are the
20 only way we can do that. I tell jurors,
21 all the time, this system can do without
22 me, it can do without these attorneys, but
23 it can't do without you.

24 You're such an important part of
25 the judicial system of this county, this

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

131

1 state, and this nation. In your role,
2 you're individual role, was written into
3 the Constitution of the United States.
4 That's how important your service is, so I
5 know it's a -- sometimes you might feel
6 it's burden and you'd rather be doing
7 something else but it's not only your civic
8 responsibility, but it is a part of the
9 judicial system from the days of our
10 founding fathers. You know, we're not the
11 only one but one of the few jury systems,
12 judicial systems in the world. People come
13 from all over the world and copy this
14 system because they know it works and they
15 know it's the best system ever devised by
16 mankind. We don't do battle by -- trial by
17 battle anymore, that sort of thing.
18 Anyway, just with that little bit of thanks
19 on my part, you're now excused. Please
20 return to the Jury Assembly room.

21 (JURY PANEL DISMISSED)

22 THE COURT: All right. Madam
23 clerk, swear the jury, please.

24 (JURY SWORN)

25 THE CLERK: Thank you, you may

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

132

1 be seated.

2 THE COURT: All right. Ladies and
3 gentlemen, as we begin the trial, I want to
4 take a few minutes just to describe our
5 procedure to you and give you some other
6 thoughts before the actual attorneys start
7 with their opening statements and the
8 witnesses.

9 The first thing I want to tell you
10 is, this trial may be different than what
11 you might expect. Many people do not have
12 the opportunity to attend actual court
13 sessions, as you're now doing, and may
14 think from watching television or movies or
15 reading books that trials are always full
16 of a lot of action and riveting
17 circumstances and are over within in a half
18 hour or an hour. While all of these things
19 may be true at times, this trial is not for
20 entertainment. It's a fundamental part of
21 our democracy, a search for the truth. In
22 an effort to make sure justice is done
23 between the parties before the Court.
24 Searching for the truth and making sure
25 that justice is done is often a slow and

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

133

1 deliberate and repetitive process, the
2 opposite of what you may have seen on
3 television or movies, or read in books.
4 This courtroom is a place of honor
5 dedicated to the protection and
6 preservation of citizen's rights through,
7 what has been called, the greatest justice
8 system ever created.

9 The attorneys appearing before you
10 are advocates for the parties they
11 represent. But first and foremost, they
12 are officers of this Court, sworn to uphold
13 the integrity and fairness of our judicial
14 system and to help you in the search for
15 the truth. You should expect them to be
16 professional, competent, and ethical in the
17 representation of their clients. But
18 remember, also, that you've just taken an
19 oath to try this case and reach a fair and
20 just verdict, and you are also expected to
21 be professional, reasonable, and ethical.
22 As I mentioned to you yesterday, there are
23 two indictments that have been filed with
24 regard to each defendant. The indictments,
25 again, are simply the charge by which the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

134

1 case or cases are brought into Court. They
2 are not, in any sense, evidence of the
3 allegations that the indictments contain.
4 The defendant has pled Not Guilty to these
5 indictments -- both defendants have pled
6 Not Guilty to both of these indictments.
7 The State, therefore, has the burden of
8 proving each of the elements of the
9 indictments beyond a reasonable doubt to
10 you.

11 It will be your duty, ladies and
12 gentlemen, to decide whether the State has
13 met that burden. You are to determine the
14 facts from the testimony you hear and any
15 other evidence that's presented during the
16 course of the trial.

17 It's especially important that you
18 perform your duty in determining the facts
19 diligently and consciously because
20 ordinarily there is no way to correct an
21 erroneous determination of the facts by a
22 jury. When you comply with your oath to
23 impartially determine the facts of this
24 case, you will have fulfilled your duty as
25 jurors and no one will have a right to

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

135

1 criticize your verdict. And on the other
2 hand, and with actual emphasis, the same
3 law that makes you the judge of the facts,
4 makes me the judge of the law. You must
5 accept and follow the law even though you
6 may disagree with it. I cannot tell you
7 what the facts are. You should not
8 disagree with me about what the law is, or
9 what the law should be. Your job is to
10 take the law as I explain it to you, apply
11 the facts as you find them to the testimony
12 of the witnesses and any other evidence and
13 after doing that, you will render your
14 verdict, a true and just verdict under the
15 solemn oath you just took as jurors.

16 Now, the procedure that we will follow is
17 basically that the State will present its
18 evidence first, in the form of witnesses
19 testimony and/or exhibits that will be made
20 a part of the record. The defendant will
21 then have the opportunity to present their
22 defenses, bearing in mind, now, that there
23 is no burden on the defendants to present
24 any case or any evidence at all.

25 Following that, the attorneys will

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

136

1 be allowed to sum up their case, and I'll
2 instruct you on law in the State of South
3 Carolina as it applies to this case. And
4 after that, the case will be turned over to
5 you for a decision.

6 Now, let me remind you of two
7 legal principles. First is what we call
8 the legal yardstick you will use in
9 determining or measuring the evidence in
10 this case. That legal yardstick is known
11 as the burden of proof. In a criminal
12 case, the burden of proof, that is the
13 responsibility for proving the case, is on
14 the State to prove guilt to you beyond a
15 reasonable doubt. Should the State fail to
16 meet that burden of proof, it will be your
17 duty to find the defendants Not Guilty.
18 There is absolutely no burden whatsoever on
19 the defendants to prove or disprove
20 anything. .

21 There is no burden on the
22 defendants to testify or present any
23 evidence because the burden is and remains
24 on the State of South Carolina to prove
25 guilt to you beyond a reasonable doubt.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

137

1 Secondly, I ask you to recall my earlier
2 comment to the entire panel concerning the
3 presumption of innocence. This is a
4 cardinal and fundamental rule of law that a
5 defendant will always be presumed innocent
6 of the crime or crimes for which he or she
7 has been indicted.

8 The presumption of innocence, in
9 other words, is not a simple legal theory.
10 It's not just a legal phrase; it is a
11 substantial right to which any accused,
12 including these defendants, are entitled.
13 And until I advise you to begin your
14 deliberations, I'm going to ask you not to
15 discuss this case with anyone including
16 your fellow jurors, family, friends or
17 anyone else obviously involved in the case.
18 And only after the case is submitted to
19 you, shall you discuss the case and doing
20 so, then only in the jury room with your
21 fellow jurors.
22 It's important that you keep an open mind,
23 not decide any issue in this case until all
24 the evidence has been presented to you and
25 the parties have made their closing

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

138

1 arguments and I've instructed you on the
2 law of the State as it applies to this
3 case.

4 Now, in just a moment, the attorney for the
5 State will make what is known as an opening
6 statement. The attorney will explain to
7 you what the issues are in the case or at
8 least what the attorney thinks the issues
9 are in the case. The attorneys for the
10 defendants will also make opening
11 statements.

12 The attorneys, what the attorneys tell you
13 in their opening statements, is not
14 evidence in this case. It's only their
15 contention as to what the issues are and
16 what the evidence will show. The evidence
17 in this case will be presented to you by
18 testimony, by sworn witnesses from this
19 witness stand and any other exhibits that
20 may be introduced during the course of the
21 trial.

22 Now, from time to time during any trial,
23 you may hear one of the lawyers say
24 something like 'Your Honor, I believe we
25 have a question of law or matter of law to

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

139

1 discuss with you', or 'may we approach the
2 bench', or sometimes I myself might find it
3 necessary to excuse you from the courtroom
4 for a short period of time while the
5 attorneys and I discuss a matter of law.
6 The reason for this is because you are the
7 judges of the facts. The reason, and
8 sometimes when I am discussing matters of
9 law with the attorneys, it may be necessary
10 for me to make some comment about the facts
11 or whether a particular law applies or does
12 not apply. I'm not supposed to tell you
13 what I think the facts are, so I'll excuse
14 you from the courtroom while these
15 discussions take place so that you will not
16 be influenced in any way by anything that I
17 might say or do in connection with the
18 facts in the case. In determining what the
19 true facts are, you must decide whether or
20 not the testimony of the witnesses is
21 believable.
22 Deciding whether to believe a witness, you
23 have the right to consider whether the
24 witness has any interest in the result of
25 the trial, whether the witness is

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

140

1 prejudiced towards either the State or the
2 defendant(s), the opportunity for the
3 witness to have seen the matters and things
4 about which the witness may testify and the
5 way the witness acts on the witness stand.
6 Now, ladies and gentlemen, you and I do not
7 ask questions. We do not offer any
8 exhibits. This is not C.S.I. Your duty is
9 to listen openly and honestly, keep an open
10 mind, do not form any conclusions or
11 judgments until you have received all the
12 evidence, the arguments of counsel, and my
13 final instruction to you.
14 It is your duty to pay close attention to
15 these witnesses, observe the witnesses and
16 pay close attention to the attorneys. Try
17 not to let your thoughts wander, but please
18 pay strict attention to the testimony so at
19 the end of the trial, you will be in a
20 position to determine what the true facts
21 are, apply the law to those facts, and
22 render a true and just verdict.
23 Now, if you cannot hear a particular
24 witness, or myself, or one of the
25 attorneys, please let me know so we can

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

141

1 have them speak up more clearly or perhaps
2 you can move closer to the front, if that
3 is your choice. The seats don't have any
4 numbers on them. I want you to sit where
5 you are most comfortable during the course
6 of the trial.

7 If you need to bring something to my
8 attention during the course of the trial,
9 please notify one of the bailiffs. If you
10 need to contact me, it may be necessary for
11 the bailiff to require that you put your
12 request in writing so we can have a record
13 of your concerns. I will answer your
14 questions as quickly as I can, to the
15 law -- the extent the law permits me to do
16 so.

17 Now, ladies and gentlemen, I have provided
18 you, Mr. Bailiff, with -- Mr. Whittle.

19 THE BAILIFF: Yes, sir, we have them.

20 THE COURT: Notepads and pencils for your
21 use. If you wish to take notes, that's
22 fine. Go ahead and give them to them.

23 THE BAILIFF: Right now?

24 THE COURT: Yes, please. All right.

25 Ladies and gentlemen, let me just say that

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

142

1 these notes, if you choose to make notes,
2 they are for your use only. They are not
3 to be used to try to convince somebody else
4 that you took a note that they didn't take. /
5 They are for your own recollection at such
6 time as you may need them, if and when the
7 jury deliberates in this case. You may
8 want to put your jury number on them,
9 because at the end of the day, you'll leave
10 them here and you'll reclaim them, and
11 during the lunch break, too, and you'll
12 want to get them back, the proper one with
13 your number on it. So you may want to go
14 ahead and do that.

15 All right. Ladies and gentlemen, I want to
16 thank you for your kind attention. I trust
17 you'll give the same kind attention to the
18 attorneys as they begin with their opening
19 remarks. We'll now begin with opening
20 statements.

21 MS. SIMPSON: Thank you, may it
22 please the court. Members of the jury,
23 on February 13th of 2010, the defendants,
24 Robin Reese and Henry Gray, had a choice,
25 and the victim, Kenneth Mack, lost his life

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

143

1 as a result of their decision and their
2 choices on that day.

3 Now, this is a case about murder. And while
4 every murder case that comes through this
5 courtroom is important and is serious, I
6 submit that this is truly tragic.

7 And I say that, because we shouldn't be
8 here today. This did not have to happen.
9 You should not have to decide this case.
10 Judge Cooper should not have to be on the
11 bench presiding over this case. The
12 victim's family and friends should not be
13 sitting in this courtroom.

14 And perhaps, most importantly, the victim,
15 Kenneth Mack, should still be alive, but he
16 is not alive. At the end of this case,
17 after you've heard all the evidence, it
18 will come down to simply this, the bottom
19 line, so to speak, that he didn't have to
20 die.

21 And we are here today because of the
22 defendants' actions, Henry Gray and Robin
23 Reese, and the choices that they made on
24 that day.

25 Now, this is murder, and it is up close and

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

144

1 personal. They didn't use a gun where
2 perhaps all you would have to do is pull
3 the trigger.
4 They brutally beat the life out of the
5 Kenneth Mack. What must it take to slam a
6 heavy metal chair into another person, to
7 continue to kick and stomp and punch him
8 while he is unconscious, unarmed, where the
9 threats and the insults fall upon deaf
10 ears. He is unable to fight back. What
11 must it take? Well, for Kenneth Mack on
12 February 13, 2010, it took the defendants,
13 Henry Gray and Robin Reese. You're going
14 to hear about that brutal assault.
15 You won't hear about it from the victim,
16 because he is not here to tell us, but
17 there are witnesses, because this happened
18 during the day, a number of people out and
19 about, a very cold day in February.
20 The victim suffered a skull fracture,
21 hemorrhaging to the brain, bleeding on the
22 brain, cerebral contusions and edema.
23 Multiple lacerations, abrasions and
24 contusions about the face and body and
25 witnesses would describe the event. It was

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

145

1 like he was laid out cold. His head was
2 going back and forth like one of those
3 bobble head dolls. His face was bloody.
4 One witness even had to turn her head
5 because she had never seen anyone beaten
6 like that before.
7 Some of these witnesses called 9-1-1, but
8 what did the defendants do? They calmly
9 walked away and went about their daily
10 business as though nothing had happened,
11 leaving Kenneth Mack in the snow, cold and
12 alone, to die.
13 So what happened on February 13, 2010 in
14 Gonzales Gardens? What happened that day?
15 Well, you're going to hear from a number of
16 witnesses, and they're each going to have a
17 piece of the story, of the puzzle, to tell
18 you. They're going to tell you what they
19 saw, what they observed, what they heard
20 that day, and each of them have one piece
21 and through these witnesses, you're going
22 to learn about a timeline of events. While
23 the testimony will take a long time, I can
24 tell you that the timeline for this
25 incident as a whole, was fairly short.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

146

1 So what do we learn? Well, the victim,
2 Kenneth Mack, and Melquanna S
3 Robin Reese's thirteen year old daughter,
4 were having a conversation. At some point
5 Melquanna became aggravated or annoyed with
6 the victim and punched him in the face. He
7 grabbed her jacket and threw a snowball at
8 her, because it was snowing. It was around
9 the time of the big storm.
10 Some witnesses would describe this
11 interaction as playful, he put her to the
12 ground. But another witness you'll hear
13 from today, a codefendant in this case,
14 Marcellius Brooks, viewed it differently.
15 He came over, rushed over, tackled Kenneth,
16 knocking him off Melquanna, and they began
17 to tussle towards the bushes. Couple of
18 licks in, Melquanna came over, got her
19 licks in, a few kicks, couple of punches.
20 But they're on the ground and three other
21 guys came over. You're going to hear their
22 names. Some of them have nicknames which
23 you'll hear. You will also hear that their
24 names are Kenneth Archie, Thomas Joseph and
25 Angelo Boyd. Each of them, briefly, get

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

147

1 their licks in and one eventually pulls
2 them off, the fight disperses, as fights
3 often do. They go about their way. The
4 victim goes running down towards the bottom
5 of the complex.

6 Angelo Boyd and Marcellius Brooks, who you
7 are going to hear from, take Melquanna to
8 see her mother, Robin Reese, to tell her
9 what happened. Ms. Reese is at the Mini
10 Mart playing video poker because that's
11 what she does. They knew that's where she
12 would be. They took her and went to the
13 store. They went in and they said here is
14 what happened.

15 Robin Reese, upset, 'He put his hands on my
16 daughter?' Brooks and Boyd are saying, 'we
17 took care of it', you know. A unfortunate
18 response, 'we took care of it.'

19 'Oh no, he didn't get enough.' She was so
20 upset, so angry about it, what did she do?
21 She finished playing her video poker game
22 and then they all left. Melquanna was in
23 the store, too, didn't seem too upset and
24 they left.

25 Now, things don't happen in a vacuum, so as

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

148

1 this is occurring the victim is on his way
2 to see Henry Gray. Now, unbeknownst to
3 him, Henry Gray is the uncle of Melquanna,
4 Robin Reese's daughter.
5 As he walks up, he is kind of knocked up
6 from the first fighting, a little bit. He
7 goes up while Henry Gray is getting a phone
8 call. That phone call is from his sister,
9 Robin Reese, telling him about what
10 happened.
11 As I said, almost simultaneously, he grabs
12 at the victim and pulls him. And the
13 victim says, 'I'm not going anywhere. Just
14 do what you have to do.'
15 At that point, Henry Gray sweeps his feet
16 out from under him, causing Kenneth to fall
17 to the concrete. Crack! He hit the
18 ground, and he doesn't move again.
19 Robin Reese and Melquanna are coming up.
20 'That's him. That's him, Kenny, laying on
21 the ground.' They tell Melquanna to go
22 inside. At this point, the beating begins,
23 kicking, punching, that's not enough.
24 There is a big heavy metal chair and Robin
25 Reese goes and grabs that chair and slams

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

149

1 it into the victim several times. Like a
2 rag doll, he is not moving. He is not
3 responding. They're yelling, cursing, no
4 response, continuing to kick and stomp and
5 punch.

6 Henry Gray even gets the chair and gets in
7 his few licks. The victim is left for
8 dead, 'because they just walk away. As I
9 said, some people saw this, and they called
10 9-1-1.

11 Did the defendants call 9-1-1? No.

12 When that mother, when she was so upset
13 about

14 her daughter, did she call the police? Did
15 she tell anyone? No.

16 But people did call 9-1-1, and they
17 responded. I submit, it was too late,
18 because a short time later Kenneth Mack was
19 pronounced dead.

20 I submit to you that that final attack,
21 that brutal attack by the defendants, Robin
22 Reese and Henry Gray, resulted in Kenneth's
23 death.

24 Now, you're going to hear about the course
25 of the investigation. You're going to hear

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

150

1 from law enforcement who responded to the
2 scene, crime scene investigators who came
3 out, collected evidence, processed the
4 scene. The investigators who talked with
5 witnesses and through the course of that
6 investigation, you're going to learn what
7 led them to both the defendants, Robin
8 Reese and Henry Gray.

9 Good afternoon, members of the jury, my
10 name is Nicole Simpson. I along with my
11 co-counsel, Senior Solicitor Luck Campbell,
12 and Assistant Solicitor April Sampson,
13 together we represent the State of South
14 Carolina, the citizens of Richland County,
15 and the victims in this case.

16 Now, as solicitors, it is our job to
17 prosecute all crimes that occur here in
18 Richland County. As a result of their
19 actions, the defendants have been charged
20 with two separate charges, Murder and
21 Lynching in the first degree.

22 I want to take a moment and thank you for
23 your service in this case, for your time,
24 your patience, and your attention. I know
25 we've already required a lot of it from

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

151

1 you. We're going to ask you for more. I
2 can tell you we thank you because this case
3 is important. It is important to the
4 State. It is importance to the defense,
5 and it is important to the victim's family
6 and friends. While it could do without the
7 judges and the lawyers, it cannot do
8 without you, so I thank you.

9 Now, as Judge Cooper stated earlier, there
10 is a very important concern in our criminal
11 law, and that is all defendants are
12 presumed innocent until proven guilty, and
13 that is as it should be. No defendant
14 should ever be required to come in this
15 courtroom and prove him or herself
16 innocent.

17 As the State, we bear the burden of proof
18 in this case just as we do in the
19 prosecution of every criminal case. Now, I
20 can tell you that we welcome that burden
21 here, today. Now, the defendants, as I
22 said, have been charged with two separate
23 offenses, Lynching in the first degree and
24 Murder.

25 Well, Lynching, briefly, in the first

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

152

1 degree, is where there is an act of
2 violence by a mob which results in the
3 death of another person. Now, a mob
4 consists of two or more people, I submit
5 Henry Gray and Robin Reese. Their acts of
6 violence, their brutal beating, resulted in
7 the death of Kenneth Mack. Lynching,
8 first degree.

9 Now, they're also charged with Murder. And
10 murder is probably one of the most serious,
11 if not the most serious offense, that we
12 have in this state, but yet it has probably
13 the shortest definition, a person is guilty
14 of murder if he kills another with malice
15 aforethought.

16 Members of the jury, this case reeks of
17 malice and you're going to hear about it.
18 Now, there's one more other very important
19 principle that I want to talk to you about
20 that we recognize, and it is often referred
21 to as "the hand of one is the hand of all."
22 What that means is that when two people are
23 acting together in the commission of a
24 crime, the act of one is the act of all; so
25 it does not matter who struck the fatal

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

153

1 blow as long as they were acting together.
2 The hand of one is the hand of all.
3 Now, I said that we must prove to you
4 beyond a reasonable doubt these elements.
5 What exactly is proof beyond a reasonable
6 doubt? Well, I can tell you that there are
7 very few things in this world that we know
8 with absolute certainty. And the law does
9 not require the State to produce proof that
10 overcomes all doubt or any possible doubt,
11 only that doubt which is reasonable and
12 sometimes referred to as proof that leaves
13 you firmly convinced of the defendant's
14 guilt.
15 Now, the Honorable Judge Cooper is the
16 judge of the law in this case. He will
17 instruct you, the jury, on the law as you
18 are to apply it to the facts and the
19 evidence that you hear in this case.
20 If ever there is a discrepancy between what
21 His Honor says and what any of the
22 attorneys in this case say, you are to
23 follow his rulings to you. Now, with that
24 said, members of the jury, each of you here
25 today is wearing a black robe because

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

154

1 individually and collectively you must
2 decide, and only you can decide, if the
3 defendants are guilty of these crimes.
4 Now, with that said, you're not here to
5 solve a mystery. As Judge Cooper said,
6 this isn't CSI. You aren't investigating.
7 And as the prosecution, it is our job to
8 give you all the tools you need to do your
9 jobs. And we plan to do just of that
10 through the evidence produced during this
11 trial. Now, some of that evidence will be
12 physical evidence that you can see, touch,
13 feel, hear, such as the chair, photographs,
14 audio recordings, video recordings, things
15 of that nature, but most of the evidence,
16 especially in a case like this, is going to
17 come from the testimony right here on this
18 witness stand, and you're going to hear
19 from a number of witnesses.
20 You're going to hear from law enforcement
21 officers who responded to the scene, crime
22 scene investigators, as well as witnesses
23 to the first assault on Kenneth Mack and
24 witnesses to the second assault on Kenneth
25 Mack.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

155

1 You're also going to hear from some expert
2 witnesses, such as the forensics
3 pathologist who is going to talk to you
4 about how Kenneth died and that the second
5 attack is the reason for his death.
6 You're going to hear from some other
7 witnesses and through all these witnesses
8 you're going to learn several things: that
9 on that day, Robin Reese and Henry Gray had
10 a choice, but Robin Reese didn't think that
11 the defendant had gotten enough, so she
12 made the phone call, there's the plan. And
13 then she and Henry Gray, acting together,
14 beat the life from Kenneth Mack.
15 Now, when each witness takes the stand, it
16 will be up to you to judge their
17 credibility. You can believe all of what a
18 witness says, you can believe nothing that
19 a witness says, or you can believe some of
20 what a witness says. That is up to each of
21 you, but we do ask that you consider
22 several things when that witness takes this
23 stand. Such as:
24 What was the witness's demeanor on the
25 stand? Was that witness hesitant or

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

156

1 forthright in testifying?

2 Was the testimony of that witness
3 consistent within itself and is it
4 corroborated with other evidence in
5 this case?

6 Perhaps, most importantly, did that witness
7 have any reason to be biased or prejudice
8 in this case?

9 Members of the jury, there's a quote in
10 this courthouse, and I only came upon it
11 just probably a matter of a month ago.
12 It's on the back hall. I don't cross back
13 there very much because it's Family Court.
14 It's very small, but I submit to you that
15 it should perhaps be posted on the front
16 doors of the courthouse. It's a quote from
17 President Theodore Roosevelt. It says that
18 no man is above the law, no man is below
19 it, and we ask no man's permission when we
20 require him to obey it.

21 Members of the jury, that quote embodies
22 the essence of this case because the
23 defendants, Robin Reese and Henry Gray, had
24 no right to do what they did, and Kenneth
25 Mack didn't deserve to die. He should

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

157

1 still be alive.

2 At the end of this case, my co-counsels
3 will come before you, and they are going to
4 ask you for a verdict that speaks the
5 truth. Because it is said that truth is
6 the mother of justice. That is your job,
7 your duty here today, to find the truth and
8 to seek justice.

9 At the end of this case, I submit to you
10 there will be only one just verdict that
11 the evidence will support and that justice
12 will demand, and that will be a verdict
13 finding Henry Gray guilty of Lynching in
14 the first degree, guilty of Murder. A
15 verdict finding Robin Reese guilty of
16 Lynching in the first degree and guilty of
17 Murder. Guilty.

18 Thank you.

19 THE COURT: Mr. Farley?

20 MR. FARLEY: Thank you, Your Honor.

21 May it please the Court.

22 Ladies and gentlemen of the jury, my name
23 is Andrew Farley. I'm an attorney. I
24 practice here in Columbia. I also practice
25 in Lexington.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

158

1 Ms. Robin Reese has asked me to represent
2 her here today against these charges of
3 Lynching in the first degree and Murder.
4 Now, in a criminal trial, as the
5 prosecution has explained to you, the
6 prosecution brings their case forward
7 first. They bring all of their witnesses
8 forward and then only then does the defense
9 get to put forward their case.
10 When the prosecution brings their case
11 forward, when they bring their theory
12 forward, when they bring their witnesses
13 here to testify, I want you to listen to
14 those witnesses. I want you to listen to
15 what those witnesses have to say. I want
16 you to do so, and I want you to listen very
17 closely because I don't believe that you're
18 going to find the picture that the
19 prosecution would like you to believe.
20 There is going to be some differences.
21 There is going to be some discrepancies,
22 and you'll find that it didn't exactly
23 happen the way the prosecution would like
24 you to believe it happened.
25 Now, in preparing for this trial, I've

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

159

1 gotten to know Ms. Robin Reese very well,
2 and I can tell you Ms. Reese is a single
3 mother. She is currently in school
4 furthering her education, and she is the
5 mother of two children. One of those
6 children is involved in this case. As you
7 heard the prosecution refer to her, it's
8 her child, Melquanna S. known as,
9 "Lucy." Lucy is thirteen years old.
10 You're going to hear about Lucy through the
11 witnesses here today. The evidence is
12 going to show, through these witnesses,
13 that Lucy was with her mother and left to
14 go get her nails done, because if you
15 remember, it was February 13th, the day
16 before Valentine's Day. She was walking
17 across the apartment complex in order to
18 get her nails done when she was approached
19 by Mr. Mack.
20 I think the evidence is further going to
21 show that it's not just a snowball fight.
22 This is something a little bit more,
23 something a little bit sinister. Mr. Mack,
24 who was a middle aged man, put his hands on
25 a 13-year-old girl. She felt threatened

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

160

1 enough to slap him.

2 I believe the evidence is also going to
3 show that Mr. Brooks felt that when he
4 observed this, he thought it was enough
5 that he had to intervene.

6 As you heard the prosecution recount, he
7 tackled Mr. Mack off of this 13-year-old
8 girl.

9 You're going to hear from other witnesses
10 who are also going to show that when my
11 client did hear this, she was very upset.
12 She was the mother. She was very upset.
13 Further evidence is going to show that she
14 didn't conspire to do any harm to Mr. Mack.
15 The evidence is going to show she called a
16 family member, her brother, just like
17 anyone would do if that were the case.
18 Further evidence, I believe will show, that
19 what happened when she came upon Mr. Mack
20 is a very, very different story than what
21 the prosecution would like you to believe.
22 We're going to show through witnesses that
23 there isn't a very clear idea of what
24 exactly what happened with Mr. Mack and
25 we're also going to show through expert

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

161

1 witnesses that there are different
2 explanations of what could have happened to
3 Mr. Mack and we'd ask you to listen to all
4 of those witnesses closely.

5 Now, please remember, in this case, after
6 listening to all the evidence and all the
7 witnesses that the burden to prove these
8 charges is on the prosecution, and they
9 have to prove it beyond a reasonable doubt.

10 A reasonable doubt is something that would
11 give a person pause to say, 'Well, wait a
12 minute, I'm not too certain about this. I
13 need to look at this a little bit closer'
14 or maybe they'd just say, 'I'm not sure.'

15 So you have to be able to convict the
16 defendant Ms. Robin Reese of these charges
17 beyond a reasonable doubt.

18 We believe that when you hear the evidence,
19 when you hear these witnesses, when you
20 look at all of this stuff together, when
21 you hear the experts, when you put all the
22 pieces together, the gruesome picture that
23 the prosecution painted is not going to be
24 exactly there. We ask you to look at those
25 discrepancies in the witnesses' testimony.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

162

1 Once you've done so, we ask you to put all
2 of these pieces together in the jury room
3 and to deliberate, and we ask you to return
4 and to give a verdict in this case, the
5 only verdict that's going to be possible
6 when you put all the pieces together, and
7 that's going to be a verdict of Not Guilty
8 of the charge of Lynching in the first
9 degree and Murder.

10 Thank you very much.

11 MR. CHAPLIN: Good afternoon, ladies and
12 gentlemen. My name is Mathias Chaplin, and
13 I represent Henry Gray.

14 Henry has been charged with Murder and
15 Lynching in this particular case, and he
16 has pled Not Guilty.

17 Do any of you have any idea what the end of
18 the world sounds like?

19 MS. SIMPSON: Objection, Your Honor.

20 MR. CHAPLIN: Well, if you were to ask
21 my client.

22 THE COURT: Go ahead.

23 MR. CHAPLIN: Thank you very much,
24 Your Honor. If you were to ask my client
25 that question, he would tell you it sounds

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

163

1 like being wrongfully accused. It sounds
2 like being arrested. It sounds like being
3 incarcerated. It sounds like being taken
4 away from your family. It sounds like
5 being forced to sit in a courtroom,
6 shackled. It sounds like pure and utter
7 despair.

8 As the State said earlier, the State is
9 going to have to prove that what they're
10 alleging my client did, that he did it
11 beyond a reasonable doubt and that's why
12 this is so sad; because, you see, the State
13 is not going to be able to do that.

14 As it was presented to you earlier, it is
15 something that would make you pause, that
16 would make a reasonable person suspect
17 well, maybe that's not how it really
18 happened. Is there any other alternative?
19 Could there possibly be another answer to
20 this? Those are the kind of things you're
21 going to be considering when you go back
22 into the jury room. The most troubling
23 thing that you're going to have to deal
24 with in this particular case -- excuse me,
25 bailiff -- is that there is a third

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

164

1 defendant in this case, but you see, this
2 chair is empty. He's not here. And you
3 didn't hear the State talk about this
4 person a great deal.
5 In fact, what the State said about this
6 person was ridiculous, and I will tell you
7 that the evidence in this case will show
8 that Marcellius Brooks had a choice on that
9 particular day and made a bad choice. The
10 evidence will show that this did not have
11 to happen. The evidence will show that
12 Brooks and his thugs beat the life out of
13 the deceased. Again, the evidence is going
14 to show that Brooks did more than just get
15 his licks in, ladies and gentlemen. The
16 evidence will also show that after Brooks
17 and his thugs did this that they did a
18 celebratory dance acknowledging that.
19 Ladies and gentlemen, the State describes
20 what happened to Ken Mack as -- by Brooks
21 and his guys as, getting a little knocked
22 up. I assure you the evidence is going to
23 show that is not the case.
24 The State would like you to believe that
25 there were two attacks, and you're going to

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

165

1 hear a lot about that through this trial.
2 I just want you to keep an open mind and
3 pay close attention, because you see, there
4 were numerous attacks, numerous attacks
5 upon Ken Mack. Who was involved in most of
6 these attacks? Marcellius Brooks.
7 The State talks about many hands. Yes,
8 there were many hands involved in this
9 case, but they didn't tell you about
10 several other people that were involved in
11 this matter that aren't even here at trial
12 today, but we will do that for you.
13 When you look at an item and you notice
14 that there is an expiration date on it, you
15 don't always take it as gospel, but you
16 look at the item, you touch it. You feel
17 it. Sometimes you sniff it to determine
18 whether or not it's any good. That's what
19 you're going to have to do with the
20 evidence in this particular case, in
21 particular with the evidence that the State
22 is going to present to you; because as you
23 see, the State is going to get to go first,
24 and they're going to try to tell you their
25 theory of the case. I suggest to you that

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

166

1 their theory of the case has gaping holes.
2 The evidence will show that they are not
3 able to prove beyond a reasonable doubt
4 that Henry Gray is guilty of Lynching and
5 of Murder.

6 So I want you to keep an open mind about
7 this entire thing. I don't want you to
8 believe what the State says simply because
9 they get to go first. And lastly, I don't
10 want you to hold it against my client and
11 think he's guilty just because he's sitting
12 here at the defense table with shackles on
13 his feet.

14 Henry Gray has been charged with Murder.
15 He has been charged with Lynching. The
16 State has not given you in their opening
17 the complete story. We will do that for
18 you.

19 Henry Gray is not guilty, ladies and
20 gentlemen, and we intend to show that, and
21 I suggest to you again that the State will
22 not be able to present their case and
23 convince you of his guilt beyond a
24 reasonable doubt.

25 Finally, we believe that once you've heard

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

167

1 all the evidence in this case, you will
2 return a verdict for my client of not
3 guilty on all counts, and I thank you very
4 much for listening to me today.

5 THE COURT: All right. Ladies and
6 gentlemen of the jury, we're going to take
7 a lunch break at this time.

8 Now, I have a couple of things I want to
9 talk to you about before we take our break.
10 First off, I'm going to ask you not to
11 discuss this case among yourselves when you
12 return to the jury room, or with anyone
13 else over the lunch break, and I'll give
14 you this caution again in the evening. In
15 these days, contemporaries of social media,
16 internet, tweets, blogs, the whole nine
17 yards, jurors may be tempted to try to find
18 out something about a case. I don't know
19 if there was any press coverage in this
20 case when it occurred, but I'm going to
21 instruct you not to do any independent
22 research. The South Carolina Supreme Court
23 has issued an order that every trial judge
24 must caution every trial jury about doing
25 independent research. You are going to

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

168

1 hear all the evidence right here in this
2 case from which to make a decision. It
3 would be highly improper for you to go out
4 and try to do your own independent research
5 and try to figure out something that you
6 may have a question about.
7 I use as the example the automobile
8 accident involving the Mayor of the City of
9 Columbia several years ago. Well, if a
10 juror was somehow involved in trying the
11 case of whether there were some damages due
12 to the lady that was hit, it may be very
13 tempting just to ride out to the corner of
14 Gervais and Pickens Streets and see if I
15 can figure out how that thing happened.
16 Well, that's what I mean about independent
17 research. Unfortunately, I had a case not
18 long ago in Lexington County where a juror
19 did independent research. The whole trial
20 has to be done over. I had -- when I
21 investigated, other members of the jury
22 told me that she came in and 'told me she
23 had looked up the defendant and so and so
24 and so and so.' She denied it originally.
25 Eleven other jurors said 'No, she did. She

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

169

1 told us she did.' I had to fine her the
2 cost of Lexington County putting on that
3 trial, which was some \$3,000, and I had
4 to -- I gave her a jail sentence. It was
5 minimal, I admit, but she sat in the
6 Lexington County jail for six hours and
7 watched other folks come and go.
8 Now, I don't say that to threaten anybody.
9 I just say it -- we didn't used to have to
10 have this problem. All you had to worry
11 about was whether jurors would read the
12 newspaper the next day because there may
13 have been press sitting in the courtroom.
14 Now, there is no telling with a hand-held
15 electronic device, I think some of you even
16 were maybe IT people that know a lot more
17 about this than I do. I'm going to caution
18 you, do not, please do not, I'll preface it
19 with, please, try to do any independent
20 research about this case. You're going to
21 hear it all right here. You make a
22 decisions based on what you hear, not what
23 somebody else said outside the confines of
24 this courthouse.
25 Now, with that little speech, I'm going to

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

170

1 excuse you for your lunch hour.

2 When you return to the jury room, -- the

3 bailiffs are going to show you where your

4 jury room is -- don't go back down to the

5 jury assembly room. Just come back up to

6 the third floor to the jury room. When

7 you reconvene, I'm going to ask you to

8 select one of your members to be the

9 foreperson of the jury. It can be any

10 juror except the last two jurors chosen.

11 They're going to serve as our alternate

12 jurors in case we need them, but it could

13 be any other member of the jury. That

14 person, once selected, will take the seat

15 where the gentleman who was first selected

16 is sitting now -- with the green shirt and

17 jacket on -- and maintain that seat

18 throughout the trial. The rest of the

19 seats, as I mentioned earlier, don't have

20 any numbers on them, so I want you to sit

21 where you're most comfortable.

22 All right. Thank you. I'm going to ask

23 you to return to the jury room at 2:30.

24 That will give you about an hour for lunch.

25 We'll see you at 2:30, at which time we'll

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

171

1 start the actual testimony in this case.

2 Now, if anybody has any childcare problems.

3 For example, I know childcare institutions

4 require pick up by a certain time. If any

5 of you have those concerns, please let the

6 bailiff know, and we'll try to accommodate

7 your schedule. We'll generally run to

8 around -- no later than six o'clock but

9 depending on who, what witness is on the

10 stand and what we can get done, we're

11 starting a little late in the week, so I'm

12 going to try to push through to make sure

13 we get this trial done by Friday, but

14 please let us know if you have any concerns

15 about childcare or something like that

16 where you have to be.

17 Thank you very much ladies and gentlemen.

18 We'll see you at 2:30.

19 (JURY OUT @ 1:23 P.M.)

20 THE COURT: 2:30. Thank you very much.

21 MS. SAMPSON: Your Honor, is she still on
22 bond?

23 THE COURT: Mr. Farley, what's the bond
24 situation for your client?

25 MR. FARLEY: The bond -- she went there

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

172

1 yesterday, apparent he wasn't there. He's
2 supposed to be bringing that letter this
3 afternoon.

4 DEFENDANT REESE: I told them I had to be
5 at court at 10:00.

6 THE COURT: I can't understand her. What
7 is she saying?

8 MR. FARLEY: She said he was supposed to be
9 here to bring that letter. I don't guess he
10 has arrived yet.

11 DEFENDANT REESE: I went down there.

12 THE COURT: I've got to have a letter.

13 MR. FARLEY: We don't have it at this time,
14 Your Honor.

15 THE COURT: You'll have to eat lunch on the
16 County.

17 MR. FARLEY: I understand.

18 THE COURT: All right. She is in custody
19 until we get that letter.

20 (LUNCH RECESS)

21 (DEFENDANT PRESENT)

22 THE COURT: All right. Defense ready for
23 the jury?

24 MR. FARLEY: We are, Your Honor.

25 THE COURT: I'm sorry. Is the State ready

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

173

1 to proceed?

2 MS. SAMPSON: The State is ready, Your
3 Honor.

4 THE COURT: Is the defense ready to
5 proceed?

6 MR. FARLEY: Yes, Your Honor.

7 MR. CHAPLIN: Yes.

8 THE COURT: Anything?

9 MR. CHAPLIN: Yes, Your Honor. Prior to
10 the jury coming in, I do have a matter that
11 I'd like to take up.

12 THE COURT: Go ahead.

13 MR. CHAPLIN: Your Honor, earlier I made a
14 Motion to sever the trial of Robin Reese
15 and Henry Gray. Your Honor, I would like
16 to renew that Motion based on the contents
17 of the attorney for Robin Reese's -- based
18 on the opening statement that was provide
19 to the Court. I'm greatly concerned with
20 regards to that statement implicated my
21 client in any way. And I would like to
22 once again, renew that Motion and have the
23 court rule on it at this time.

24 THE COURT: Motion is denied.

25 MR. CHAPLIN: Thank you, Your Honor.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

174

1 THE COURT: Remember, opening statements
2 are not evidence of any means.

3 MR. CHAPLIN: I understand.

4 THE COURT: Bring the jury, please.

5 (JURY IN @ 2:48 p.m.)

6 THE COURT: I have a childcare note from
7 Juror 16. That's all. That tells me what
8 I need to know.

9 BAILIFF: All jurors are present, Your
10 Honor.

11 THE COURT: All right. Thank you very
12 much.

13 Juror 11, thank you for agreeing to serve
14 as foreperson of the jury.

15 All right. Solicitor, call your first
16 witness.

17 MR. CAMPBELL: Thank you, Your Honor. The
18 State calls Officer Buck.

19 MATTHEW BUCK, being duly sworn to
20 tell the truth, the whole truth and nothing
21 but the truth, testified, as follows:

22 DIRECT EXAMINATION

23 BY SOLICITOR CAMPBELL:Q You talk really
24 loud, but just to be safe?

25 A There you go.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

175

1 Q Officer Buck, how long have you been
2 an officer?

3 A Five years.

4 Q What police department are you?

5 A Columbia Police Department.

6 Q Have you always been with them?

7 A Yes.

8 Q And where, what did you do prior to
9 that?

10 A I worked as UPS as an unloader.

11 Q What level are you as an officer?

12 A Master patrol officer.

13 Q What are your duties normally as a
14 master patrol?

15 A Respond to disturbance calls, civil
16 disturbance calls, write traffic tickets,
17 respond to fights, burglaries, investigate
18 minor crimes of shoplifting, things like
19 that.

20 Q And that's what you've been doing the
21 entire five years with the Columbia Police
22 Department?

23 A Yes.

24 Q And do you receive training in order
25 to do that?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

176

1 A Yes.

2 Q What kind of training?

3 A We go to the Criminal Justice Academy,
4 and then there's other classes that we can
5 ask that, you know, be put in to and get
6 extra help from there.

7 Q And what kind of classes have you
8 taken besides the training?

9 A I've taken radar training, DataMaster
10 which is a breath test for DUIs. I've
11 taken field training officer, officer stuff
12 like that.

13 Q I'm going to go to why we're here.
14 Were you working on February 13, 2010?

15 A Yes.

16 Q And what was your assignment that day?

17 A My assignment was to work in the south
18 region part of Columbia which is the
19 Gardens and Taylor Street, King and Bratton
20 areas of the specific south region.

21 Q When you say The Gardens, what do you
22 mean?

23 A The Gardens is an apartment complex
24 right there across from Providence
25 Hospital.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

177

1 Q Is that also known as Gonzales
2 Gardens?

3 A Yes.

4 Q So you were patrolling that area?

5 A I might have been several blocks away.
6 We go over to different parts of the city
7 depending upon call volume and where we're
8 dispatched to for.

9 Q And on February 1st, did you receive a
10 call to go to the Gardens?

11 A Yes.

12 Q And what was that call?

13 A Myself and another officer received a
14 call in reference to a fight at that
15 location. When we got in the area, we
16 weren't flagged down or anything like that.
17 We couldn't see anybody actively fighting,
18 just normal foot traffic that we see on a
19 normal day.

20 Q So the call you received was for a
21 fight?

22 A Yes.

23 Q When you got there, where exactly did
24 you go?

25 A We went in. Normally by the time we

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

178

1 respond to these fight calls in The Gardens
2 people have already dispersed and left.
3 We started circulating for what we would
4 perceive as suspects involved in the fight.

5 Dispatch gave us descriptions and we
6 started trying to piece that together and
7 look if anyone matched those descriptions.

8 Q And in this case, you said dispatch
9 gave you a description. Do you remember
10 what that description was?

11 A There were several occupants involved
12 in the fight. I remember somebody was
13 wearing a red hoodie or hat. I believe one
14 was wearing a black sweat shirt or
15 something like that but it's ---

16 Q Was this a one-on-one fight or a group
17 of individuals?

18 A At the time we didn't know. They just
19 said several people were fighting. We
20 didn't know if it was two on two, or one on
21 eight. We didn't know.

22 Q Okay. And -- so when you got there,
23 you said there was nobody in the area?

24 A Nobody that flagged us down or no one
25 was actively fighting.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

179

1 Q So what did you do?

2 A We just started paroling the area
3 trying to locate possible suspects based
4 off of descriptions that we were given.

5 Q Did you find any?

6 A I didn't personally. Another officer
7 actually located somebody that matched the
8 description going into an apartment.

9 Q All right. We'll deal with that in a
10 little bit. What did you do after that,
11 after he found that person?

12 A We received a call about somebody who
13 was laid out between two buildings. After
14 we dealt with that one suspect -- or the
15 one individual, we went and located the
16 person that was laying in between the two
17 buildings.

18 Q How far away from where you all were
19 and where the suspect was, how much
20 distance were there between those two?

21 A There's actually a community center
22 for that apartment complex. It's in the
23 middle. There's a building here which is
24 close to Forest Drive, so there's buildings
25 that run this way. Then there's the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

180

1 community center with a service road. We
2 made contact on the other side of the
3 community center. If I had to guess, maybe
4 fifty yards.

5 Q But within walking distance?

6 A Yes.

7 Q And did you go to where -- you said
8 you went to where the person was laying or
9 did you?

10 A Yes, I was the first one that actually
11 located him laying in between the two
12 buildings unresponsive.

13 Q And you said -- what was his
14 condition? You said unresponsive?

15 A Yeah, his condition was I thought he
16 might have, you know, was drunk or what
17 have you -- excuse me, whatever. He was
18 unresponsive. We did a sternum rub to him.
19 He didn't wake up.

20 Q Let me stop you. What's a sternum
21 rub?

22 A A sternum rub is when you take the
23 knuckles of your fist and you push real
24 hard into their breastbone like that to try
25 to wake them.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

181

1 Q Did that work?

2 A No, it didn't.

3 Q Did he respond at all to the sternum
4 rub?

5 A No.

6 Q So then what did you do?

7 A We called EMS right away. We actually
8 had EMS step it up. We could hear him
9 almost gargling or snoring like. We could
10 see his fists were clenched up almost as
11 though he was having a seizure-type thing.

12 Q What did that mean to you?

13 A That he needed some medical treatment
14 immediately.

15 Q So what did you tell EMS?

16 A That, you know, we got a call that he
17 was laid out between the two buildings and,
18 you know, we had received a fight call
19 earlier, we were not sure if it was all
20 related or anything at the time.

21 Q And did EMS respond?

22 A Yes.

23 Q Did they take him away or where did
24 they take him?

25 A They took him to Richland Memorial.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

182

1 EMS ambulance showed up with one of their
2 supervisors that drive separately. All
3 three of them went in ambulances to the
4 hospital.

5 Q After that what did you do?

6 A After that, we were leaving. I
7 believe there was a lady at the end of the
8 building that actually called, saying she
9 witnessed the guy laying on the ground.
10 She ended up calling. We spoke to her
11 momentarily. I went to the hospital.

12 Q So you did not stay and take a
13 statement from that witness?

14 A No.

15 Q Is that part of your job?

16 A Sometimes, but not regularly.
17 Normally investigators handle all that.

18 Q So it wasn't unusual for you to just
19 find out her information and leave?

20 A Correct.

21 Q You said there was another officer
22 with you. Who was with you?

23 A Officer Delage.

24 Q All right. Do you normally work two
25 and two, together like that?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

183

1 A Yes. I worked together -- he actually
2 trained me and we've been together for a
3 while.

4 Q Beg the Court's indulgence.

5 DIRECT EXAMINATION CONTINUED

6 Q And where did all of this occur, in what
7 county?

8 A In Richland County.

9 MS. CAMPBELL: No further
10 questions, Your Honor.

11 THE COURT: Cross-examination.

12 CROSS EXAMINATION

13 BY MR. FARLEY:

14 Q Officer, when you responded to this, I know
15 you said you responded to a report of a fight.
16 Did you say that everyone had dispersed from the
17 time you arrived?

18 A We didn't see anybody actively fighting at
19 that location. Like I said, it's not uncommon
20 for people to have fights or what people
21 perceive to have fights and leave by the time we
22 respond, once we are actually right there and
23 see it happen.

24 Q Can you say again how you went down to find
25 the body then you came back?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

184

1 A We had received a phone call from somebody
2 saying that the individual was laid out in
3 between the two buildings. After we were done
4 dealing with the incident on the other building.

5 Q And when you arrived between those two
6 buildings, do you remember what two buildings
7 those were?

8 A The G and the F building, I think.

9 Q Did you see my client at all, Ms. Robin
10 Reese?

11 A No, there was nobody, there was nobody
12 around those two buildings.

13 Q Okay. So you didn't see anything that may
14 have occurred?

15 A No.

16 Q Or anything that would give rise to the
17 injuries that were suffered by Mr. Mack?

18 A No.

19 MR. FARLEY: Thank you officer. Please
20 answer any questions defense counsel has.

21 THE COURT: Mr. Chaplin.

22 MR. CHAPLIN: Thank you very much.

23 CROSS EXAMINATION

24 BY MR. CHAPLIN:

25 Q Officer Buck, good afternoon. How are you?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

185

1 A Good.

2 Q I'm Mathias Chaplin. I represent Henry
3 Gray in this matter. So my questions are going
4 to be focused on his lack of involvement in this
5 matter. Let me just start off by getting some
6 things clear that I'm not quite certain about.
7 Now, you said you've been a police officer how
8 long?

9 A About five years, five-and-a-half years.

10 Q Okay. During that time you were trained
11 how to make reports?

12 A Correct.

13 Q And you were told that the reports needed
14 to be thorough?

15 A Based off of information that we have at
16 the time.

17 Q Okay. And they need to contain everything
18 that you're aware of at the time?

19 A Correct.

20 Q And it's your testimony that the report
21 that you prepared is a thorough report?

22 A Based off of the information that I had at
23 the time, yes.

24 Q Okay. All right. Then let's begin. I
25 think you indicated that you got a call about a

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

1 fight?

2 A Correct.

3 Q And that fight involved what description of
4 people? Who did the fight involve, did it tell
5 you?

6 A If I can recall, it was several people
7 fighting and dispatch gave us the descriptions
8 of certain people, of what they were wearing.

9 Q What were the descriptions?

10 A The best I can recall is a red shirt, black
11 shirt, red hat. I know red was in there. You
12 know, most of the time we go to these locations
13 and we don't find anything as far as fights or
14 what-have-you.

15 Q Did dispatch tell you where this fight took
16 place?

17 A If they did, I don't recall.

18 Q So you're not quite certain on that. You
19 stated earlier that you weren't certain whether
20 or not a fight that you referenced and the fact
21 that someone was lying in between F and G
22 building, you don't know if they were related or
23 not?

24 A At the time, no.

25 Q Okay. Do you recall if dispatch ever said

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

187

1 to you that the fight involved a man and a
2 woman?

3 A I do not recall, no.

4 Q Now, you indicate that you spoke with a
5 lady at this, the location where you found the
6 person lying?

7 A Correct.

8 Q Do you know who that person was?

9 A I don't -- can't recall off the top of my
10 head, but I believe it's the first witness on
11 that incident report.

12 Q Would it help if I showed you the incident
13 report?

14 A Sure.

15 MR. CHAPLIN: May I approach, Your Honor?

16 THE COURT: Yes.

17 MR. CHAPLIN: Thank you.

18 THE WITNESS: (Upon review), -- Yes,
19 Ms. Kara Chase is the one that actually
20 called about the individual that was laid
21 out in between the buildings.

22 DIRECT EXAMINATION CONTINUED

23 BY MR. CHAPLIN:

24 Q Did you speak with Kara Chase?

25 A Only briefly. I believe the other Officer

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

188

1 may have spoken more in depth with her. At that
2 time, I was en route to the hospital to find the
3 condition of the individual.

4 Q When you spoke with her, do you know what
5 she said?

6 A I don't recall offhand.

7 Q But you don't have anything in your report
8 that suggests she told you anything?

9 A Just the best I could recall that she had
10 just seen an individual laying out in between
11 the two buildings. She was the one that called.

12 Q So that's what she told you. She saw
13 somebody laying out in between the two
14 buildings?

15 A Yes.

16 Q And that was Kara Chase?

17 A Yes.

18 Q Thank you. Now, your report goes on to
19 talk about the fact that you saw someone running
20 into an apartment?

21 A Right.

22 Q Would you like to review the report again?

23 A No, I'm familiar with it.

24 Q And who is that person?

25 A At the time, Officer Delage actually saw

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

189

1 the individual running into that apartment, so
2 he made contact with the lady in that building.

3 Q Okay. Well, I'm reading your report and
4 you actually say more than that. Can I show it
5 to you again?

6 A Sure.

7 Q Thank you. I'm just calling your attention
8 to the first page, the bottom portion?

9 A Right.

10 Q Okay. So who is witness number two from
11 your report?

12 A It would be Vallery Goodwin.

13 Q Vallery Goodwin?

14 A Kiki Burns.

15 Q Okay. That's your report?

16 A You said witness number two?

17 Q Yes. On the first paragraph of your
18 statement, you say that a witness number two,
19 and I don't want to read it out loud. I'd like
20 you to tell me.

21 A Right. You want me to?

22 Q Yes.

23 A Okay. Okay.

24 Q Witness Number Two, if you would please
25 start there?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

190

1 A M.P.O. Delage made contact with witness
2 number two.

3 Q Okay.

4 A Ms. Goodwin who lives at S6 was asked who
5 was the unknown black male that entered her
6 apartment.

7 Q Okay. And your report goes on to say that
8 the black male was who?

9 A Witness number two stated she did not know
10 his name except that he goes by Bloom and that
11 he had already left the area.

12 Q Okay. Do you know now who Bloom is?

13 A Now, I do, yes, now.

14 Q Who is he?

15 A Marcus Brooks -- Marcellius Brooks.

16 Q So I just want to summarize real quick.
17 You came -- you got information about a fight?

18 A Correct.

19 Q You saw a body between the F and G
20 buildings?

21 A Correct.

22 Q You don't know if a fight and that are
23 related?

24 A Correct.

25 Q You came upon Kara Chase?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

191

1 A Yes.

2 Q Kara Chase told you she saw someone laying
3 out between the two buildings?

4 A Correct.

5 Q And another witness told another Officer in
6 your report that they saw Bloom in the area?

7 A Correct.

8 MR. CHAPLIN: Thank you very much.

9 REDIRECT EXAMINATION

10 BY MS. CAMPBELL:

11 Q Officer Buck, did you, you have been asked
12 questions about who you saw at the scene of
13 where Mr. Mack was lying, did you see Henry
14 Gray?

15 A No.

16 Q Did you see Robin Reese?

17 A No.

18 THE COURT: No further questions.

19 THE COURT: Anything further?

20 RECROSS-EXAMINATION

21 BY MR. FARLEY:

22 Q Just not, I don't mean to repeat, but you
23 did not see my client anywhere near the
24 building?

25 A No, there was nobody.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

1 MR. FARLEY: Thank you, Officer.

2 THE COURT: Mr. Chaplin, anything else?

3 MR. CHAPLIN: Nothing further. Thank you very
4 much.

5 THE COURT: Thank you very much. May this
6 witness be excused? Without objection?

7 MR. CHAPLIN: No objection.

8 MR. FARLEY: No objection, Your Honor.

9 (WITNESS STEPS DOWN)

10 THE COURT: Next witness.

11 MS. CAMPBELL: The State calls Officer Delage,
12 D-E-L-A-G-E.

13 (WITNESS TAKES STAND)

14 HARRY DELAGE, being duly sworn to tell
15 the truth, the whole truth and nothing but the
16 truth, testified, as follows:

17 DIRECT EXAMINATION

18 Q So it's Corporal Delage?

19 A Yes, ma'am.

20 Q How long have you been with the Columbia
21 Police Department?

22 A Almost ten years.

23 Q Ten years?

24 A (No verbal response).

25 Q And can you tell me how you progressed

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

193

1 through the ranks?

2 A I started out as a patrol officer. I moved
3 up to a master patrol officer, field training
4 officer, into the current rank of corporal.

5 Q How do you go about doing that? Is it
6 training, or is it automatic or how does that
7 work?

8 A Each step of field training you go through
9 training process to learn how to do other steps
10 of the process, and then a corporal oral test,
11 written test.

12 Q And how much training have you had as an
13 officer? Is it ongoing or do you just get ---

14 A Yes, it's continuous. We always try to get
15 at least two classes.

16 Q And as a corporal, what are your duties?

17 A My current assignment is over the warrant
18 team. We basically, right now, go out to serve
19 the warrants, courtesy summonses, bench
20 warrants, those types of issues.

21 Q In February of 2010, what was your
22 position?

23 A Patrol officer, Master Patrol Officer.

24 Q And what were your duties as Master Patrol
25 Officer?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

194

1 A Respond to calls, calls for service.

2 Q Things of that nature?

3 A Accidents, things of that nature.

4 Q All right. On February 13, 2010 is that
5 what you were doing?

6 A Yes, ma'am.

7 Q Okay. And who were you working with at
8 that time that day?

9 A Officer Buck was one of the officers on my
10 shift.

11 Q And did you all receive a call to go to
12 Gonzales Gardens?

13 A We did.

14 Q So what did you do?

15 A We responded a call at Gonzales Gardens in
16 reference to a fight that was near one of the
17 buildings near McDuffie Street.

18 Q Now, I'm going to stop you. Where is
19 McDuffie Street in reference to Gonzales
20 Gardens?

21 A It's parallel right beside it. McDuffie
22 Street is one of the northern -- excuse me, I
23 believe it would be the eastern border. Then
24 you have Forest Drive.

25 Q So it joins Forest Drive?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

195

1 A Yes, ma'am.

2 Q At the corner of McDuffie and Forest Drive,
3 what is to the right?

4 A Providence Hospital.

5 Q Okay. No?

6 A Is across the street?

7 Q Is across the street. If you're standing
8 on McDuffie with your back to Providence
9 Hospital, is Gonzales Gardens there on the right
10 or the left?

11 A They're on the right.

12 Q And what is on the left?

13 A It's like a -- there's a fish market. I
14 believe it's the seafood market now. Next to
15 that it's an open air type market there.

16 Q So you all, I think you just said, you went
17 to McDuffie Street?

18 A Yes, ma'am.

19 Q You were the first call?

20 A Yes, ma'am.

21 Q What did you see when you got there?

22 A We saw nobody. I saw nobody. We
23 circulated the area. We didn't see anybody.
24 Nobody was flagging us down.

25 Q Is that unusual?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

196

1 A In some cases. In this particular case
2 with a fight of that nature, we thought we would
3 have been flagged down by somebody but we
4 weren't flagged down by anybody. So we continued
5 to circulate the area.

6 Q At any point did you find anyone or see
7 anyone running?

8 A Did we find anyone?

9 Q Or did you see anyone running?

10 A I saw a gentleman step into an apartment.
11 It matched a description that was given to us by
12 our dispatchers.

13 Q So what did you do?

14 A I'm sorry?

15 Q I'm sorry. What did you do based on that?

16 A I stopped my vehicle, notified Officer Buck
17 that I was possibly going to get out with a
18 potential person that may have been involved in
19 the incident that we had gotten the call and
20 told him what building I was at and where I was
21 going to be going. He came over and met me and
22 then I made contact with that apartment.

23 Q Okay. And I want to be clear on something
24 because I think I might have been confused for a
25 second there. You all are in separate cars or

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

197

1 in one car together?

2 A Separate.

3 Q So you are in separate cars. When you
4 drive there, people can see marked cars,
5 correct?

6 A Yes, they do.

7 Q You're not in undercover cars, correct?

8 A No, ma'am.

9 Q So you're driving. You see someone going
10 in a building that matches the description?

11 A Yes, ma'am.

12 Q So, based on that, you do what?

13 A I got out of my vehicle. Notified Officer
14 Buck that I would have somebody come over to
15 where I was at just in case it turned into
16 something of a serious nature. For safety
17 reasons I had him come over there, as well.

18 Q And then what did you do?

19 A I went up to the Apartment S6, knocked on
20 the door. A lady came to the door. I
21 identified -- obviously identified myself as a
22 police officer and asked her who the gentleman
23 was that had came into her apartment.

24 Q And I assume and I shouldn't make
25 assumptions, were your dressed has you are

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

198

1 today?

2 A Yes, ma'am.

3 Q What did she state when you asked her that?

4 A At first she was -- I would say a little
5 standoffish. It seemed like she was a little
6 hesitant at first. But then I told her, you
7 know, 'I saw a gentleman walk into your
8 apartment. Who was that person?' She told me,
9 'Well I only know him by a nickname.' She gave
10 me his nickname, Bloom. I asked, 'Well, is he
11 here?' She said no, that he had left.

12 Q Okay. So based on that what did you do?

13 A Just took the rest of her information just
14 in case something came of it later, I would have
15 her information to be able to come back to talk
16 to her.

17 Q Based on -- then what happened?

18 A As we were leaving from her apartment going
19 back to our parole vehicles, we got a call over
20 the radio about someone was calling in a person
21 down on the ground between, I think it was the F
22 and the G buildings of Gonzales Gardens which
23 was only, maybe -- once we got back to our
24 vehicles and we got to a service road. It would
25 be only maybe seventy to a hundred yards away

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

199

1 from where we were parked, where we were at, but
2 not within the line of sight.

3 Q Okay. But within walking distance, would
4 that be fair to say?

5 Q Yes, ma'am.

6 A So did you go there?

7 A Yes, ma'am.

8 Q What did you find?

9 A We observed the victim on the ground,
10 appeared to -- at the particular time looked
11 like he had just fallen. There was nobody
12 around him. I mean, there was nobody around.

13 Q Nobody around him?

14 A Which is odd in another sense because --
15 being a sunshiny day like that, there's usually
16 people in and around and out and about like
17 that. But there was nobody around him. It was
18 just myself and Officer Buck and the victim on
19 the ground.

20 Q And what was his condition?

21 A From what it appeared, it looked like he
22 had fallen and he had sustained an injury to his
23 face like maybe he busted his nose and his lip,
24 but he was -- looked like he might have been
25 starting to have a seizure or something -- and

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

200

1 I'm not a medical professional, obviously, so we
2 naturally relayed that to the dispatchers. EMS
3 was there fairly quickly, put him on the gurney
4 and got him to the hospital.

5 Q Was he conscious? Could you tell?

6 A No. We tried to do a sternum rub on him
7 just to see if we could get a response with no
8 results as far as a response.

9 Q Were you able to find anyone who witnessed
10 anything at that time?

11 A A young lady approached us after everybody,
12 EMS had put him on the gurney and got him into
13 the ambulance and left. We were going back to
14 our patrol vehicles and I do not know the lady's
15 name. She came from the end of the F building I
16 believe it was, and we approached her and asked
17 her if she saw anything. She elaborated a
18 little bit but was unwilling to talk about it at
19 that time. Only gave us her name and a phone
20 number.

21 Q Do you remember what name she gave you?

22 A No, ma'am.

23 Q And who did the report in this case, you or
24 Officer Buck?

25 A I'm sorry?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

201

1 Q Who made the report in this case, you or
2 Officer Buck?

3 A Officer Buck.

4 Q Is that unusual for just one officer to
5 make the report?

6 A No, ma'am.

7 MS. CAMPBELL: Beg the Court's
8 indulgence. No further questions, Your Honor.

9 THE COURT: Cross-examination, Mr.
10 Farley.

11 CROSS EXAMINATION

12 BY MR. FARLEY:

13 Q Thank you. Corporal Delage?

14 A Yes, sir.

15 Q Is that correct?

16 A That's correct.

17 Q Corporal Delage, I know you said that you
18 responded to the incident scene because of a
19 report of a fight?

20 A Yes, sir.

21 Q And you didn't discover any fight or
22 anything at that time?

23 A No, sir.

24 Q And it was -- you were investigating
25 someone who you may have thought fled from the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

202

1 scene? Is that when you received another call
2 saying that you had -- that there was a body
3 laying in between two buildings?

4 A When we didn't find anything at the initial
5 fight call location. We began to circulate the
6 area based on the descriptions that were given
7 to us over the radio of who was possibly
8 involved in the fight. As we were circulating
9 the area, I saw a gentleman step into that
10 particular apartment matching the description of
11 somebody that may have been involved in the
12 fight. And then, after making contact with the
13 apartment of, I believe it was Ms. Goodwin,
14 she -- after we had a discussion with her and we
15 were leaving, we got a call about a gentleman
16 down between those two buildings.

17 Q And that's when you went to -- I think you
18 said it was the F and G building that you went
19 down to that building?

20 A Yes, sir.

21 Q And I believe your testimony was that you
22 didn't observe anyone around those buildings; is
23 that correct?

24 A Around the F and G building?

25 Q Around the F and G building. When you went

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

203

1 down to the F and G building responding to the
2 second call, you said that there was no one
3 around?

4 A There was no one around, and then as -- as
5 we were leaving after the ambulance was leaving
6 going back to our vehicles, we had to walk down
7 between the buildings. It was probably fifty or
8 sixty yards, a young lady approached us from
9 over there.

10 Q And you testified you thought that there
11 was a person down and it looked like he had
12 fallen?

13 A Yes, sir.

14 Q Is that correct?

15 A (Affirmative nod)

16 Q But there was no one else around?

17 A No, sir.

18 Q Okay. And you didn't observe my client,
19 Ms. Robin Reese at any time?

20 A I'm sorry?

21 Q You didn't observe my client Robin Reese at
22 any time?

23 A No, sir.

24 Q So, is it fair to say that you have no
25 information or knowledge of my client in that

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

1 incident?

2 A That's correct. No, sir.

3 Q Thank you, sir.

4 A Okay.

5 THE COURT: Mr. Chaplain?

6 MR. CHAPLIN: Thank you very much.

7 CROSS EXAMINATION

8 BY MR. CHAPLIN:

9 Q Corporal Delage, I know you've answered a
10 lot of questions so far. I don't mean to pick
11 on you. I just want to try to understand this
12 report a little bit better?

13 A Sure.

14 Q And what occurred on that date, so let me
15 go straight to what I'm concerned about. Have
16 you had an opportunity to see Officer Buck's
17 report?

18 A Have I?

19 Q Yes, sir.

20 A Yes, sir.

21 Q You have. Would it surprise you if I told
22 you that he has four descriptions of unknown
23 people listed as suspects?

24 A No, sir.

25 Q It wouldn't, okay. And if I get that

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

205

1 number wrong, the State is going to correct me,
2 but there's several people listed as suspects
3 here.

4 Now, you said you saw someone that matched
5 the description that you received?

6 A Yes, sir.

7 Q Could you just tell us a little bit more
8 about that description?

9 A About the description?

10 Q Yes, sir.

11 A We received over the radio transmission
12 through dispatch.

13 Q Yes, sir.

14 A I believe an eyewitness or witness to the
15 event of descriptions of people that were
16 involved in the fight up by McDuffie Street.

17 Q By McDuffie Street?

18 A Yes, sir.

19 Q Is that up by the -- near the open air
20 market in that area?

21 A Yes, sir.

22 Q So based on what you were told, you saw
23 someone that matched that description, and maybe
24 I'm not asking it right, but could you just tell
25 me what that description is?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

206

1 A The description was a black male.

2 Q Yes, sir.

3 A Wearing a black hoodie, with a red type
4 backpack or satchel on his back.

5 Q Okay.

6 A That was the only description that was
7 given of that particular individual.

8 Q Okay. Pretty unique, a red satchel on his
9 back?

10 A Yes, sir.

11 Q So you spotted someone matching that
12 description running into an apartment?

13 A Saw a person, I wouldn't say running.

14 Q Okay.

15 A The gentleman, as I was coming down the
16 main corridor of Gonzales Gardens, I was looking
17 between the buildings. I looked to the left by
18 the S building and saw someone matching that
19 description stepping up onto the stoop and into
20 the doorway of S6.

21 Q Okay. And did you -- and you went to the
22 doorway and asked for that person?

23 A Once I pulled over my patrol car, notified
24 Officer Buck where I was going to, so he would
25 come over to that way for safety reasons, then I

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

207

1 approached the front and knocked on the door
2 where Ms. Goodwin came to the door.

3 Q Ms. Goodwin came to the door and -- did you
4 search the place or did you ask her what
5 happened to the person or what?

6 A I did. I said where is the gentleman that
7 stepped into your apartment? And she said,
8 'what are you talking about?' I said, 'I just
9 saw a gentleman walk into your apartment wearing
10 a black hoodie, a red satchel back pack. We're
11 looking into an incident out here. Where did he
12 go?' She said, 'Well, he is no longer here.'
13 First she told me his nickname.

14 Q And what was that?

15 A She told him his name was Bloom.

16 Q Today do you know whose nickname is Bloom?

17 A Marcellius Brooks.

18 Q Marcellius Brooks. Okay. How long was it's
19 before you saw the person step into the house
20 that you got to the door and asked for that
21 person to come out or whatever you asked?

22 A Maybe three minutes, four minutes.

23 Q Three minutes. And there are back doors and
24 front doors to these units?

25 A There are.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

208

1 Q And you -- sir?

2 A That particular apartment, S6, is almost in
3 the middle of the building, almost.

4 Q Right.

5 A So I would not be able to see the back
6 door, no.

7 Q All right. Thank you. And then, finally,
8 you said you spoke with a young lady up at
9 McDuffie area or where?

10 A No.

11 Q When did you speak with somebody that you
12 didn't recall the name of?

13 A That was down at the F and the G building.

14 Q That was down at the F and G building?

15 A Yes, sir.

16 Q Okay. Finally, -- but the fight that you
17 received a call about was not down by the F and
18 G building. It was up at the McDuffie?

19 A That's correct.

20 Q That's correct. Thank you very much.

21 THE COURT: Redirect?

22 MS. CAMPBELL: No, Your Honor.

23 THE COURT: All right. You may come
24 down, sir.

25 (WITNESS STEPS DOWN)

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

209

1 THE COURT: May this witness be
2 excused? Without objection?

3 MR. FARLEY: Without objection, Your
4 Honor.

5 MR. CHAPLIN: Without objection.

6 THE COURT: Next witness.

7 MS. SIMPSON: The State calls Roger
8 Gillan.

9 (WITNESS TAKES STAND)

10 ROGER GILLAN, being duly sworn to tell
11 the truth, the whole truth and nothing but the
12 truth, testified, as follows:

13 DIRECT EXAMINATION

14 BY MS. SIMPSON:

15 Q Officer Gillan, have you been employed with
16 the Columbia Police Department?

17 A Going on six years, now.

18 Q Six years. And what are your present duties
19 while there?

20 A Currently, I'm a parole PFC with the City
21 of Columbia, Metro Region.

22 Q And what, as a patrolman, what does that
23 include? What types of things?

24 A Answering calls for service, investigating
25 motor vehicle accidents, shootings, stabbings,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

210

1 pretty much everything you would expect a police
2 officer to do.

3 Q So all the types of calls that come in,
4 you're actually the responder?

5 A Yes.

6 THE COURT: Officer, could you pull up
7 to the microphone a little bit? I can't quite
8 hear you. Thank you.

9 DIRECT EXAMINATION CONTINUED

10 BY MS. SIMPSON:

11 Q Now, back in February of 2010, were you
12 actually working in your present capacity?

13 A No, I was not.

14 Q What were you doing?

15 A I was with the crime scene unit. I was a
16 crime scene investigator with that unit.

17 Q Okay. As a crime scene investigator, what
18 do they do?

19 A We respond to calls of service for scenes
20 which may include murder, rape, major crime,
21 auto break-in's, burglaries, major crimes of a
22 serious nature, murder, pretty much all the
23 calls of service that need to be processed for
24 evidence.

25 Q And you don't actually just respond on your

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

211

1 own. You're called out there by the
2 investigators with respect to the case?

3 A We are called usually by a line unit or a
4 supervisory to the line unit.

5 Q So someone else makes the decision of
6 whether you all come out?

7 A Correct.

8 Q Can you tell the jury a little bit about
9 your educational and training background with
10 respect to crime scene investigation?

11 A Yes. I've got a four year degree,
12 Bachelors of Science degree in Crime Scene
13 Investigation. During those four years I was in
14 college, I also worked with the local sheriff's
15 department, processing the crime scene as an aid
16 to them. I worked for the crime scene unit here
17 for approximately two-and-a-half years, and I
18 also did my internship with the Columbia Police
19 Department crime scene units.

20 Q And we talked generally about crime scene
21 investigation and I know a lot of us are
22 familiar with things on TV. What types of
23 things does that include? What types of things
24 are you looking for and do you do?

25 A We generally look for anything that could

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

212

1 be considered evidence: fibers, hairs, blood,
2 any type of bodily fluids, pieces of clothing
3 that might be tore off, anything down to a bush
4 that might be out of place or messed up from a
5 fight.

6 Q And when you respond as a crime scene
7 investigator, do you have all the facts about
8 the case?

9 A No, not generally.

10 Q All right. So, you're just looking for any
11 type -- anything that could possibly be
12 evidence?

13 A Yes.

14 Q And do you know the evidentiary value of
15 that evidence, necessarily, as soon as you
16 collect it?

17 A No, not as soon as we collect it.

18 Q I'm going to turn your attention back to
19 February of 2010. Did you have occasion to
20 become involved in this case?

21 A Yes, I did.

22 Q And how did you become involved?

23 A I was the crime scene officer on call at
24 the particular time of this incident. I was
25 called out

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

213

1 by the line supervisor.

2 Q And do you recall where you responded?

3 A Gonzales Gardens, Garden Plaza
4 Apartments, Building

5 Q Okay. Was this a little -- when you
6 arrived, what did you see?

7 A When I arrived, I noticed there were
8 several officers on the scene. They did have
9 the scene cordoned off with yellow tape that
10 said crime scene. There was an officer posted
11 at the crime scene tape controlling the point of
12 entry, logging in names of people who entered
13 the scene, as well, as exited the scene.

14 Q And let me back up just a little bit. With
15 respect to the crime scene tape and the
16 patrolman, what is the purpose of securing the
17 scene?

18 A The purpose of securing a scene is to try
19 to negate any of the evidence disappearing or
20 being contaminated or tampered with.

21 Q Do you potentially make that scene as large
22 as it possibly could be?

23 A Yes.

24 Q But you don't necessarily know where all
25 the scene took place?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

1 A Correct.

2 Q Now, you said other officers were present
3 when you arrived, was the victim still at the
4 location?

5 A No. The victim had already been
6 transported by Richland County ambulance.

7 Q I'm going to show you what has been marked
8 as State's Exhibit six, seven, eight, nine, ten,
9 eleven, twelve and thirteen. Can you tell me
10 whether you recognize these photographs?

11 A (Upon review), yes, I do recognize these
12 photographs. These are photographs I had taken
13 whenever I arrived on the scene at the location
14 I was told as the crime scene at Gonzales
15 Gardens.

16 Q And do they fairly and accurately depict
17 the scene as you observed it that day?

18 A Yes, they do.

19 MS. SIMPSON: Your Honor, at this time
20 the State would seek to introduce State's
21 Exhibits 6 through 13 into evidence.

22 THE COURT: Any objections?

23 MR. FARLEY: No objection.

24 MR. CHAPLIN: No objection.

25 MS. SIMPSON: And permission to

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

215

1 publish.

2 (SO ENTERED AS STATE'S EXHIBITS 6 THRU 13)

3 DIRECT EXAMINATION CONTINUED

4 BY MS. SIMPSON:

5 Q All right. Describe for the jury exactly
6 where this is OO in State's Exhibit 6?

7 THE COURT: Let him get up, show the jury.

8 WITNESS: All right. This is going to
9 be the Gonzales Gardens Apartments.

10 MS. SIMPSON: You can actually step
11 down. Would it assist to get a little
12 closer? We have these blown up?

13 WITNESS: This would be the Gonzales
14 Gardens Apartments. This is building
15 This side over here just past this building
16 is Forest Drive. This end over here is
17 Kentucky Street.

18 MR. CHAPLIN: I'm sorry. I understand why
19 you wouldn't use the mike but I'm having
20 trouble hearing.

21 THE COURT: Well, why don't you move over
22 there because he's talking to the jury.

23 MR. CHAPLIN: Okay. Got it.

24 DIRECT EXAMINATION CONTINUED

25 BY MS. SIMPSON:

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

1 Q On State's Exhibit ---

2 THE COURT: Sit on that chair -- either
3 that or the stairs.

4 MR. CHAPLIN: This is fine.

5 DIRECT EXAMINATION CONTINUED

6 BY MS. SIMPSON:

7 Q Are these essentially just different angles
8 of the location?

9 A Yes, that's just different angles. I
10 usually drive out one way, try to take photos if
11 I need to make a panorama of the photos to have
12 a whole scene.

13 Q Okay. So all of these would add up to kind
14 of a big picture?

15 A Yes.

16 Q You get closer over here. What building
17 are we here?

18 A That's L building.

19 Q L Building. All of this is the area
20 included within the crime scene tape because it
21 was expanded, right?

22 A Yes.

23 Q And these are at the Gonzales Gardens.

24 A Right.

25 Q Now, I want to show you, do you photograph

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

217

1 the scene before you do anything to it?

2 A Yes, I do.

3 Q What's the purpose of that?

4 A The purpose of that is to capture any
5 evidence that may be there but due to weather or
6 other factors could potentially, we could
7 potentially lose it. We want to document as
8 much of the scene as possible before we start
9 messing with the scene because any of us
10 entering the scene could potentially destroy it.

11 Q So you document it before you mark, before
12 you collect?

13 A Yes.

14 Q And I noticed that -- tell us what we're
15 seeing in here. What was the weather like?

16 A It was very cold, snow, and I believe the
17 temperature that night was just above freezing
18 so the snow hadn't actually melted.

19 Q This was back on February 13th?

20 A Yes.

21 Q And again, another picture depicting pretty
22 much the same general scene area.

23 A Yes.

24 Q I want to show you -- after you've
25 photographed and you're looking for things that

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

218

1 may or may not have evidentiary value, how do
2 you go about preserving that?

3 A Generally the first thing we do is, of
4 course, after we photograph the whole scene, I
5 do an initial inspection of the scene to see
6 what may be evidence and what needs to be
7 marked. Once I do determine that, I'll
8 photograph the evidence from a far away angle,
9 medium angle, medium distance and close up
10 distance. I'll then take that evidence and
11 place it into a bag. I'll seal the bag and
12 place it into a box that I carry with me to
13 later place into the property room.

14 Q When you said you marked the scene, are
15 these marked with numbers, letters?

16 A Yes, they're numbered, tent placards.

17 Q I'm going to show you State's Exhibits one
18 through five. If you can, tell me whether or
19 not you recognize these. Do you recognize
20 State's Exhibits one through five?

21 A Yes, I do. Those are photos I've taken
22 into evidence.

23 Q And do they fairly and accurately depict
24 the evidence as you preserved it that day?

25 A Yes, it does.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

219

1 MS. SIMPSON: Your Honor, at this time
2 the State would seek to introduce State's
3 Exhibit one through five into evidence.

4 THE COURT: Any objection?

5 MR. FARLEY: No objection, Your
6 Honor.

7 MR. CHAPLIN: No objection, Your Honor.

8 (SO ENTERED AS STATE'S EXHIBITS 1 THRU 5)

9 DIRECT EXAMINATION CONTINUED

10 MS. SIMPSON:

11 Q We have several markers in these pictures.
12 If you could, step down. I noticed they're
13 numbered. You said you do -- in State's Exhibit
14 1, tell us what we're seeing.

15 A There are a couple of the markers are
16 marking the buttons that were found on the
17 ground here.

18 Number seven is actually marking this bush that
19 has been trampled over.

20 And there is a few markers here that depict what
21 appeared to be a blood trail, there is a red
22 rust stain the ground that appeared to be a
23 blood stain.

24 Q But you weren't sure. It didn't test
25 necessarily positive for blood, but you were

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

220

1 marking every possible thing?

2 A Yes.

3 Q These items, I believe you can see in one
4 through seven is the general area.

5 A Right.

6 Q What do we see in State's Exhibit 2? Is
7 that just a closer up view?

8 A Yes, that's a close up view, at a slightly
9 different angle, marking or depicting the same
10 evidence markers.

11 Q Okay. And State's Exhibit 3. In this
12 area, let me ask you a little bit - oh, I'm
13 sorry. It seems fairly contained right here
14 where you were marking evidence?

15 A Yes, it is. Again this is the same area.
16 It's just the last photos were taken from this
17 angle over here and I moved over to this angle
18 taking photos.

19 Q And then in State's Exhibit 4, I believe
20 this is just a closer up view, as well?

21 A Yes, it is.

22 Q And State's Exhibit 5, the bush?

23 A Yes.

24 Q Right.

25 MS. SIMPSON: And, Your Honor,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

221

1 permission to give these to the jurors. I'd
2 like to pass around to publish?

3 THE COURT: All right.

4 DIRECT EXAMINATION CONTINUED

5 BY MS. SIMPSON:

6 Q Next I'm going to show you State's
7 Exhibit 14, 15, 16, 17, and 18. Do you
8 recognize these, as well?

9 A (Upon review), yes, I do. Again, those are
10 photographs I took while on the scene, and they
11 do accurately depict how it was on the scene.

12 MS. SIMPSON: Your Honor, at this time I would
13 introduce State's Exhibit 14 through 18 into
14 evidence.

15 THE COURT: Any objection?

16 MR. FARLEY: No objection, Your Honor.

17 MR. CHAPLIN: No objection, Your Honor.

18 (SO ENTERED AS STATE'S EXHIBITS 14 THRU 18)

19 DIRECT EXAMINATION CONTINUED

20 BY MS. SIMPSON:

21 Q Again, we're back to the markers. This is
22 still kind of a general far away depiction.
23 Number three represented in State's Exhibits 18,
24 can you tell us what that is or what you thought
25 that was?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

222

1 A That's what appeared to me to be a blood
2 scrape, a blood stain, or a blood drop on the
3 ground.

4 Q You said those are just reddish brown
5 stains?

6 A Yes.

7 Q But you couldn't positively determine?

8 A Correct.

9 Q And I believe this is the same thing in
10 State's Exhibit 17?

11 A Yes, it is.

12 Q We notice in State's Exhibit 18 that you
13 actually have a ruler or marker?

14 A Yes, this would be the medium photograph I
15 took. After taking that, I placed a scale by
16 the rust-colored stain and through the bush.

17 Q Okay. And why to you put a scale?

18 A To be able to depict exactly the size of
19 the drops if ever we need it.

20 Q And State's Exhibit 15?

21 A This is a close-up of marker number one,
22 which is a button that appeared to have come off
23 of a piece of clothing.

24 Q And State's Exhibit 16?

25 A That would be marker number two, which is

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

223

1 also another button that is very similar to the
2 button number one, marker number one. It's a
3 button that appeared to come off of clothing.

4 Q But you can't confirm whether that was
5 actually the button that came off. That's what
6 you saw?

7 A Right.

8 Q Evidence that you found at the scene?

9 A Yes.

10 Q And you never mark evidence with the same
11 marker?

12 A Correct.

13 Q Okay. I'm going to show you next, State's
14 Exhibits 19, 20, 21, 22, 23, 24, and 25 and ask
15 do you recognize these?

16 A (Upon review), yes, I do. Again, these are
17 photographs I took at the scene, depicting the
18 scene as I saw it.

19 Q Okay. I know the numbers are a little
20 contained or covered by the snow in here?

21 A Yes.

22 Q Can you tell us what we're seeing? I
23 believe this is marker number nine and marker
24 number eight represented in State's Exhibit 25
25 and 24?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

224

1 A The reddish brown stains that continue
2 around the corner of the L building toward the
3 service road over here. Again, I'm just putting
4 markers or numbers down to depict where that
5 trail led to.

6 Q And this is a probable trail that you don't
7 show?

8 A Yes.

9 Q Do the elements affect the ability to ---

10 A Yes.

11 Q --- preserve a crime scene?

12 A Yes, especially with snow.

13 Q Is that what we're seeing in State's
14 Exhibits 23 and 22?

15 A Yes, these would be depicting what appeared
16 to be a blood droplet which were reddish brown
17 stains.

18 Q And State's Exhibit 21 and 20 and 19?

19 A Yes.

20 Q Tell us about this order. I believe it's
21 the bush?

22 A Yes, Exhibit 19 would be a bit closer-up
23 view of the bush that you saw in the other
24 photographs that looked to be trampled. Within
25 that bush, there is what appeared to be an

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

225

1 earring laying down here on the ground and that
2 would also appear to be marker number seven and
3 a closer up view of what appeared to be an
4 earring with the scale on it.

5 Q Finally, Officer, I'm going to show you'll
6 what's been marked as State's Exhibits 26, 27,
7 28, 29, 30, and 31, can you tell me whether you
8 recognize these?

9 A (Upon review), yes. I do recognize these.
10 Again, these are photos I took while on the
11 scene at Gonzales Gardens.

12 Q Your Honor, at this time the State would
13 introduce State's Exhibits 26 through 31 into
14 evidence?

15 MR. FARLEY: No objection, Your
16 Honor.

17 MR. CHAPLIN: No objection, Your Honor.

18 (SO ENTERED AS STATE'S EXHIBITS 26 THRU 31)

19 DIRECT EXAMINATION CONTINUED

20 BY MS. SIMPSON:

21 Q Okay. I believe these might be a little
22 out of order. In State's Exhibit 26 we see
23 marker ten. Can you tell us what that is?

24 A Yes, marker ten, again, is what appeared to
25 be the blood trail.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

226

1 COURT REPORTER: I'm sorry. I can't
2 hear that. I didn't understand that.

3 THE COURT: Turn that way so the court
4 reporter can hear you better.

5 THE WITNESS: Marker number ten is
6 going to again, depict what appeared to be a
7 blood trail from around the corner. Marker ten
8 is another reddish brown stain that appeared to
9 be blood but was not tested positive for blood.

10 DIRECT EXAMINATION CONTINUED

11 BY MS. SIMPSON:

12 Q Again, you're just looking for anything
13 out?

14 A Yes.

15 Q And State's Exhibit 27, is that pretty much
16 the same thing?

17 A Yes. That's what we basically an overall
18 shot from the outside.

19 Q State's Exhibit 28, I believe marker eleven
20 is depicted in that picture?

21 A Yes, marker number eleven is where is where
22 the trail -- what appeared to be blood trail is
23 the end of it, the last part of it I could find.
24 With the snow and all, some of it was wiped out,
25 but that was the last one I could find.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

227

1 Q And then State's Exhibits 30 and 31, I
2 believe these are marker twelve?

3 A Yes. These would be right in the same
4 area. I believe that's right around the grill.
5 There's another reddish brown stain that
6 appeared to be blood.

7 Q Thank you.

8 A Uh-huh.

9 Q Now, forensically, at a crime scene, were
10 you necessarily looking for shell casings in
11 this scene?

12 A No. Not necessarily. I was looking for
13 anything that could have been evidence, whether
14 it be shell casings, hairs, fibers, torn
15 clothing, buttons, trampled bushes, anything
16 that I thought could have been evidence.

17 Q Would you have expected in a scene like
18 this to find fingerprint evidence?

19 A No. Not in a scene like this. Due to the
20 weather conditions outside, it would have made
21 fingerprints pretty much impossible to obtain.

22 Q And collection of DNA, that, too, would
23 have been fairly difficult?

24 A Yes. It would have been difficult. I did
25 take swabs but again with the snow, it would

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

228

1 dilute the evidence.

2 Q And when you collect the swabs, can you
3 tell us what it means to collect a swab?

4 A Yeah, the area of the stains, generally
5 with something that looked like a blood stain,
6 I'll take a swab at the beginning of it, the
7 middle of it and the end of it. Just in case
8 it's not the same person. Usually I'll get
9 depictions of the beginning, middle and end.
10 I'll take that.

11 There is a box that you fill out with all
12 the information. The swab is basically a large
13 Q-Tip.

14 The first swab you take what is called a
15 control sample. You don't swab the area where
16 the blood, of the substance that may be blood,
17 that you suspect is blood. You don't swab that.
18 You swab next to that. That way you get can get
19 an accurate depiction of what might be, what
20 chemicals might be in that area. It helps to
21 drop those chemicals when they do the analysis.
22 You put a control into a box. You seal the box
23 up. You take a swab which is a Q-tip and you
24 swab the material that you're wanting tested,
25 put that into a separate up box. You seal that

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

229

1 box. You put both boxes into an envelope, you
2 label it, and seal that envelope, as well.

3 Q And you don't actually do the testing of
4 these items, correct?

5 A Correct.

6 Q You just collect and preserve and while
7 these items are in your custody, are they
8 tampered or altered with in any way?

9 A No. They are not.

10 Q And you took several swabs in this case,
11 correct?

12 A Yes.

13 Q And submitted them, but you don't make the
14 determination of whether those are actually
15 tested?

16 A Correct.

17 Q Did you also have occasion to do some
18 additional processing in this case on March the
19 9th of 2010?

20 A Yes, on March the 9th I received a request
21 to process a chair that was recovered from the
22 scene, and I did process that chair.

23 Q Okay. When you processed the chair, what
24 were you looking for?

25 A The work request to process that was sent

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

230

1 out to me was for visible and nonvisible blood
2 for DNA testing.

3 Q So visible and nonvisible?

4 A Yes, whenever I test the chair, I actually
5 looked at the chair for visible and non-visible
6 blood, for what might have been blood, as well
7 as any hairs, fibers, any other evidence that
8 may have been on the chair.

9 Q And did you observe any visible blood on
10 this chair?

11 A No. I did not observe any visible blood
12 whatsoever on this chair.

13 Q What was your next step once you didn't
14 observe any visible blood?

15 A My next step, I used UV light, ultraviolet
16 light, which is also commonly known as a black
17 light, that will commonly fluoresce fibers and
18 hairs and other materials. I didn't get
19 anything of that test.

20 The next test I did was long wave and short
21 wave alternating light source. Which, again,
22 fluoresces other materials and fibers and hairs.
23 I didn't get anything with that.

24 The next step I did was BlueStar, which is
25 a chemical that you mix with water and spray on

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

231

1 the items you want to process. And if that
2 BlueStar comes in contact with any blood it
3 reacts with the protein and fluoresces. It's a
4 bright blue fluorescence. When you get that
5 fluorescence, you take a swab and you should
6 have a DNA sample from that.

7 Q And did you actually, were you able to get
8 positive results from the BlueStar test?

9 A Yes. I did get positive results from the
10 BlueStar star test.

11 Q Did you swab those?

12 A Yes, I did swab those. I turned them into
13 evidence and then once they were logged into
14 evidence, I did hand deliver them to SLED for
15 analysis.

16 Q Okay. And SLED they actually, someone else
17 is responsible for testing for DNA?

18 A Correct.

19 Q Is that the extent of your involvement in
20 this case?

21 A Yes, that is the extent of the involvement.

22 Q Okay. And I notice -- it's kind of dark in
23 some of the pictures that we've observed. About
24 what time of the day were you actually out there
25 processing the scene?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

232

1 A This was late night, early morning. It was
2 dark.

3 Q Okay. And you're called out later in the
4 investigation?

5 A Correct.

6 Q And how long does it take you to process?
7 Can it take a decent amount of time?

8 A There is no set, hard and fast rule of how
9 long it takes. It takes you however long it
10 takes you to process the scene. It depends on
11 what evidence you find, what evidence that
12 you're trying to find. It can take hours,
13 literally. Well, in this particular scene I
14 believe I was there for three to four hours on
15 it.

16 MS. SIMPSON: Nothing further. Please
17 answer any questions from the defense.

18 THE COURT: Cross-examination.

19 CROSS-EXAMINATION

20 BY MR. FARLEY:

21 Q Officer Gillan?

22 A Yes.

23 Q Now, if I'm not mistaken, the photographs
24 that were shown to you by counsel were all in
25 the L Building; is that correct?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

233

1 A Can you repeat that?

2 Q I'm sorry. All of the photograph exhibits
3 that the prosecutor has just shown you?

4 A Yes.

5 Q Were those all taken at the L building?

6 A Yes, they were.

7 Q So the crime scene that you were working
8 on, that was at the -- right next to the L
9 building?

10 A Yes, it was.

11 Q Okay. Where -- is it fair to say that you
12 really didn't have any conclusive findings from
13 that, as far as the reddish stains that you said
14 you had looked at?

15 A I wouldn't call them inconclusive findings.
16 There was evidence that was collected. I'm not
17 sure what the results of the analysis were or
18 even if the swabs taken from that were analyzed.

19 Q But you did testify that due to the
20 weather?

21 A Due to the weather, it did compromise
22 evidence, yes.

23 Q And you said that you also -- you said that
24 you also tested the chair?

25 A Yes. I analyzed or examined the chair for

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

234

1 evidence.

2 Q Yes. Did you recover the chair?

3 A No, I did not recover the chair.

4 Q So that's another time. All of your crime
5 scene investigation was limited to the area
6 known in Building

7 A Yes.

8 Q Is that correct?

9 A On the scene, that's where my investigation
10 took place. The chair actually took place in
11 our laboratory.

12 Q Okay. So you only tested the chair in a
13 laboratory, but all of your crime scene
14 investigation was contained in Building
15 That's fair to say, right?

16 A Yes.

17 Q And you testified that when you observed
18 the chair that you saw no blood on the chair at
19 all?

20 A Not from a visual inspection.

21 Q So there was no blood on the chair when you
22 observed it?

23 A No, sir, there was no visible blood on the
24 chair.

25 Q And -- please forgive me if I need a little

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

235

1 clarification on these things. You said that
2 you then did UV lighting; is that correct?

3 A Yes.

4 Q Ultraviolet lighting?

5 A Yes.

6 Q And the results of that test?

7 A The results of that test, I did the not
8 find any type of fibers or hairs from that test.

9 Q Okay.

10 A That test isn't a test for blood. It's
11 more or less for fibers and other material.

12 Q Okay. And then, please forgive me and I
13 may need a little bit more elaboration on this?

14 A Uh-huh.

15 Q You said the long wave, short wave?

16 A Yeah. Long wave and short wave light.

17 Q I'm sorry. Can you repeat that slightly
18 slower, I'm sorry?

19 A Yes, sir. It's long wave and short wave
20 light, an alternating light source.

21 Q All right. So a long wave and short wave
22 light source?

23 A Yes.

24 Q And that is to?

25 A It is different spectrums or wave lengths

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

236

1 of light. Each spectrum or wave length has the
2 opportunity or the ability to pick up a
3 different type of fiber or hair that one wave
4 length doesn't necessarily pick up. So you
5 basically cycle through all the wave lengths and
6 see if you can find anything through that.

7 Q And that turned up no blood or hair or
8 fibers?

9 A Correct. And again, that method is also
10 not used for blood, it's used for fibers and
11 other body fluids.

12 Q So that test also was negative.

13 A. Yes.

14 Q Then you said -- please forgive me again,
15 blue star?

16 A Yes, BlueStar.

17 Q S-t-a-r?

18 A Yes.

19 Q Is that correct?

20 A Right.

21 Q Okay. It sounded like "blue scar" a few
22 times. So I wanted to make sure that was
23 correct.

24 A Yes.

25 Q BlueStar is another test.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

237

1 A Correct.

2 Q And you briefly explained that test as
3 turns on the proteins or ---

4 A It's a chemical agent. The basics of it,
5 is a chemical agent you mix with water. Once
6 you mix with water you spray the item. If there
7 is blood present, it will fluoresce -- there a
8 bright blue fluorescence.

9 Q And you said that test did turn up
10 something?

11 A Yes, it did.

12 Q And what exactly did that turn up?

13 A The test did fluoresce and I did swab the
14 fluorescence. I did deliver those swabs to SLED
15 for analysis. I can't testify to what their
16 findings or analysis were.

17 Q How much fluorescence was on the chair?

18 A It lit up pretty well, sir.

19 Q All right. And did you, at any time,
20 observe my client at the scene or anywhere,
21 your crime scene investigation?

22 A No, sir.

23 MR. FARLEY: Thank you, Officer Gillan.
24 Please answer any questions counsel may have.

25 THE COURT: Mr. Chaplin.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

238

1 MR. CHAPLIN: Thank you.

2 CROSS EXAMINATION

3 BY MR. CHAPLIN:

4 Q Officer Gillan, just to back up for a
5 second, when did you take these pictures?

6 A I took these pictures on the 13th of
7 February, 2010.

8 Q Okay. And those pictures are from an area
9 right by the L building?

10 A Yes, they are.

11 Q What happened at the L building?

12 A From what I observed at the scene, it may
13 have been involved in a fight or assault. I was
14 asked to process the scene for any evidence of
15 that.

16 Q Did you take any pictures between the F and
17 G building?

18 A No, I did not.

19 Q Now, before you -- you have quite an
20 impressive resume, by the way.

21 A Thank you.

22 Q Before you began this, did you review all
23 the reports that were associated, I mean that
24 were available at the time?

25 A I did confer with the officers that were on

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

239

1 the scene to get as much facts as I could about
2 what happened and what possibly happened. At
3 the time that I did process the scene, I
4 processed the scene location wise according to
5 what I was told on the scene by the officers.

6 Q Now, when you were getting the facts, were
7 you ever told that there might have been more
8 than one attack?

9 A No, I was just told that an individual had
10 been assaulted and I was shown the area around
11 the old building and I was told that was the
12 area that he was assaulted at.

13 Q Okay. Now, I mean, this is kind of
14 obvious from the pictures, but it was snowy
15 during this time?

16 A Yes, sir, it wasn't snowing but it had
17 snowed beforehand and there was snow on the
18 ground.

19 Q Things like snow, was there any ice?

20 A I don't remember there being any ice.
21 The ground was wet, though.

22 Q Okay. But maybe some of the hard surfaces
23 could have been slick?

24 A It could have been.

25 Q Yeah. I don't think I have anything else.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

240

1 I thank you very much.

2 THE WITNESS: Okay.

3 THE COURT: Redirect?

4 MS. SIMPSON: Briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. SIMPSON:

7 Q You stated that when you arrived, you spoke
8 with officers and they said that is where an
9 assault had occurred, that they were aware of,
10 right?

11 A Yes.

12 Q And pointed in the direction of the L
13 building?

14 A Yes.

15 Q For an assault?

16 A Correct.

17 Q And they never said that that's where the
18 victim's body was actually found, correct?

19 A No. I don't recall ever being told that's
20 where the victim actually was at.

21 Q Thank you.

22 THE COURT: Anything further?

23 MR. FARLEY: No recross.

24 THE COURT: Anything?

25 MR. CHAPLIN: Just real quick.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

241

1 RE CROSS EXAMINATION

2 BY MR. CHAPLIN:

3 Q So the pictures that we have don't
4 necessarily show where the body was found?

5 A Correct. They show the scene that was
6 explained to me as where the assault had
7 occurred.

8 Q So it was explained to you that the assault
9 had occurred at the L building?

10 A Correct. That's the information I got from
11 the officers on the scene.

12 Q Thank you very much.

13 THE COURT: All right. You may have
14 come down. Thank you very much.

15 (WITNESS STEPS DOWN)

16 THE COURT: May this witness be
17 excused? Without objection?

18 MR. CHAPLIN: He may be excused.

19 MR. FARLEY: No objection, Your
20 Honor.

21 THE COURT: Next witness.

22 MS. CAMPBELL: Thank you. The State
23 calls Angelo Boyd.

24 THE COURT: What was the name?

25 MS. CAMPBELL: Angelo Boyd,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

242

1 B-O-Y-D, Jr.

2 (WITNESS TAKES STAND)

3 ANGELO BOYD, JR., being duly sworn to
4 tell the truth, the whole truth and nothing but
5 the truth, testified, as follows:

6 DIRECT EXAMINATION

7 BY MS. CAMPBELL:

8 Q Can you state your name for the record,
9 please?

10 A Angelo Boyd.

11 Q How old are you?

12 A Eighteen.

13 Q Have we ever met before?

14 A No, ma'am.

15 Q Do you work?

16 A Yes, ma'am.

17 Q Where do you work at?

18 A Zaxby's.

19 Q Zaxby's. How long have you been there?

20 A Like six months.

21 Q Okay. I'm going to take you back to
22 February of 2010, okay?

23 A Okay.

24 Q You would have been how old then?

25 A Sixteen.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

243

- 1 Q Sixteen. Where did you live then?
- 2 A McDuffie.
- 3 Q McDuffie?
- 4 A Yes, ma'am.
- 5 Q Okay. That's right next to the Gonzales
- 6 Gardens?
- 7 A Yes, ma'am.
- 8 Q And how long had you lived there?
- 9 A A long time.
- 10 Q A long time? Since you were little?
- 11 A Yes, ma'am.
- 12 Q And on February 13, 2010, what were you
- 13 doing?
- 14 A Ma'am?
- 15 Q What were you doing that day?
- 16 A I don't remember.
- 17 Q You don't remember. Do you remember
- 18 meeting up with somebody you know as Bloom?
- 19 A Yes, ma'am.
- 20 Q And do you know what Bloom's first name is?
- 21 A Marcellius.
- 22 Q Okay. But you call him "Bloom"?
- 23 A Yes, ma'am.
- 24 Q How did you meet with him that day?
- 25 A I guess he was going to the store or I was

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

244

- 1 walking to the store.
- 2 Q Y'all weren't in school that day?
- 3 A No, ma'am.
- 4 Q How come? Do you remember? Was it because
- 5 it snowed?
- 6 A I don't remember.
- 7 Q Okay. You don't remember. So you all were
- 8 walking towards the market?
- 9 A Yes, ma'am.
- 10 Q What market are you talking about?
- 11 A Cousin's Mini Mart.
- 12 Q And is that on Forest Drive?
- 13 A (Affirmative nod).
- 14 Q I need you to say out loud?
- 15 A Yes, ma'am.
- 16 Q Okay. And you live on McDuffie?
- 17 A Yes, ma'am.
- 18 Q So you were coming from your house toward
- 19 Forest Drive?
- 20 A No, I was coming from down the hill and we
- 21 had met right there.
- 22 Q Were you all planning to meet up?
- 23 A No. We just happened to see each other and
- 24 I knew him, so I spoke.
- 25 Q How long had you known him?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

245

- 1 A He went to school with my sister, I think.
2 So I say, a long time.
3 Q Were y'all friends?
4 A Um-humm.
5 Q Okay. So you all start walking in the same
6 direction?
7 A Uh-huh.
8 Q I'm sorry?
9 A Yes, ma'am.
10 Q So what did you see as you guys were
11 walking?
12 A I saw a man grabbing on a young lady and
13 she was screaming.
14 Q Okay. I'm going to stop you. Did you know
15 the man?
16 A No, ma'am.
17 Q Did you know the young lady?
18 A Yes, ma'am.
19 Q What was her name?
20 A Melquanna.
21 Q How did you know her?
22 A Me and her brother went to school since
23 elementary.
24 Q Were you friends with her?
25 A You could say that.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

246

- 1 Q So you see her and she is with a man?
- 2 A Yes, ma'am.
- 3 Q And what is going on?
- 4 A The dude, the man was grabbing on her arm
- 5 like he was trying to tell her to 'come here' or
- 6 something. She was yelling "Stop."
- 7 Q Okay. He was touching her arm?
- 8 A Yes, ma'am.
- 9 Q Do you remember if it was her right or her
- 10 left arm?
- 11 A No, ma'am.
- 12 Q Okay. But just her arm, that was it?
- 13 A (Affirmative nod).
- 14 Q So what happened after that?
- 15 A Ma'am?
- 16 Q What happened? You saw him on her arm and
- 17 you saw her and you heard her tell him to stop?
- 18 A Yes, ma'am.
- 19 Q And then what happened?
- 20 A The dude kept pulling on her, and he threw
- 21 her to the ground. That's when Marcellius had
- 22 ran and tackled the man to the ground and I had
- 23 walked over there, and we had told -- we asked
- 24 her what was happening, and she was like 'he was
- 25 grabbing on me' and we told her to hit him.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

247

1 Q You told her to hit him. Now, I'm going to
2 stop you. When Mr. Brooks -- would it be fair
3 that Mr. Brooks knocked him down?

4 A Ma'am.

5 Q Mr. Brooks knocked him down or did you
6 knock the guy down?

7 A Mr. Brooks.

8 Q How did he knock him down?

9 A He just grabbed him and threw him on the
10 ground.

11 Q Okay. And did the guy say anything?

12 A He was like, 'What are you doing, what are
13 you doing?'

14 Q He was able to talk, though?

15 A Yeah.

16 Q And did Brooks hit him?

17 A No, ma'am.

18 Q What did he do?

19 A He just held the man on the ground.

20 Q And he told me Melquanna to do what?

21 A "Hit him."

22 Q Did she?

23 A Yes, ma'am.

24 Q Did you?

25 A Yes, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

248

1 Q How did you hit him?

2 A I kicked him.

3 Q Where did you kick him at?

4 A I don't remember exactly the place.

5 Q Is it his face, is it his body, do you
6 remember?

7 A I think his face or his body. It was one
8 of the two.

9 Q Was he able to talk?

10 A Yes, ma'am.

11 Q Okay. How many times did you see Melquanna
12 hit him?

13 A Like a couple.

14 Q Okay. And you said you didn't see Brooks
15 hit him at all?

16 A No, ma'am.

17 Q Okay. Did anybody else join in this
18 altercation?

19 A No, ma'am, not that I remember.

20 Q Was anybody else watching?

21 A I think it was a lot of people outside.

22 Q A lot of different people outside?

23 A Yes, ma'am.

24 Q But your statement is the only people
25 fighting are you, the victim/Melquanna and

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

249

1 Mr. Brooks?

2 A Yes, ma'am.

3 Q Once he let her hit Mr. Mack, what
4 happened?

5 A Well, we had -- we was walking her to the
6 store to tell her mother, and the dude had got
7 up and walked off.

8 Q So he got up and walked off?

9 A Yes, ma'am.

10 Q Was he able to walk?

11 A Yes, ma'am.

12 Q Was he able to talk?

13 A Yes, ma'am.

14 Q So y'all take it -- you go to the store?

15 A Yes, ma'am.

16 Q And which store did you go?

17 A Cousin's Mini Mart.

18 Q And what did you do when you got in the
19 store?

20 A We went to the back of the store, told her
21 mother, and I left.

22 Q We who?

23 A Me and Marcellius.

24 Q What did you tell her mother?

25 A That this dude was harassing her daughter

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

250

1 -- and that was it.

2 Q That he was harassing her. Did you say
3 he was inappropriately touching her?

4 A I don't remember exactly.

5 Q But harassing her?

6 A I guess, yeah.

7 Q Okay. What did she say?

8 A I don't remember.

9 Q You don't remember?

10 A No, ma'am.

11 Q Do you remember talking to police back in
12 February of 2010?

13 A Not specifically, but yeah.

14 Q You did talk to them.

15 Q Yes, ma'am.

16 A And your mother was there?

17 A Yes, ma'am.

18 Q And, in fact, they read you your rights at
19 that time, didn't they?

20 A Yes, ma'am.

21 Q And you agreed so talk to them?

22 A Yes, ma'am.

23 Q And you agreed to talk to them without a
24 lawyer?

25 A Yes, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

251

1 Q Okay. Do you remember telling them that
2 when you told Ms. Reese what happened, she
3 jumped up and said, "Hell, no"?

4 A No, ma'am, not specifically.

5 Q Do you remember telling them that her
6 demeanor was she was being mad and looked like
7 she wanted to go find this man?

8 A No, ma'am.

9 Q You don't remember telling him that?

10 A No, ma'am.

11 MR. CHAPLIN: Objection, Your Honor,
12 leading.

13 THE COURT: Overruled.

14 DIRECT EXAMINATION CONTINUED

15 BY MS. CAMPBELL:

16 Q So you don't remember telling him that?

17 A No, ma'am.

18 Q Could you have told him that?

19 A Yes, ma'am.

20 Q Would it have been true?

21 A I mean, it probably could have been true.
22 I just don't specifically remember.

23 Q That's fine. It's been two years, you just
24 don't remember?

25 A Yes, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

252

1 Q After you told her and she responded, what
2 happened?

3 A I left. That was it.

4 Q Did she leave?

5 A I don't remember.

6 Q You don't remember?

7 A I think she stayed in the store, though.

8 Q She stayed in the store. What about
9 Mr. Brooks?

10 A He came out like a minute or two after me.
11 We didn't leave at the same time, but he left
12 the store.

13 Q Did everything seem okay with you, at that
14 time to you?

15 A Uh-huh. I mean, I went my way and he went
16 his.

17 MS. CAMPBELL: Beg the Court's indulgence.

18 DIRECT EXAMINATION CONTINUED

19 BY MS. CAMPBELL:

20 Q And did you know Robin Reese, Melquanna's
21 mother? Did you know her?

22 A I wouldn't say I know her, but yes, ma'am.

23 Q Could you recognize her if you saw her?

24 A Yes, ma'am.

25 Q Do you see her in this courtroom?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

253

1 A Yes, ma'am.

2 Q Where is she?

3 A Right here.

4 Q Can you tell me what she is wearing?

5 A Looks like a blouse or something like that.

6 Q And who is she sitting next to?

7 A This man right here.

8 Q What does he have on?

9 A A black suit?

10 Q Let the record reflect that he has
11 identified Robin Reese.

12 THE COURT: The record so reflects.

13 MS. CAMPBELL: Beg the Court's
14 indulgence.

15 DIRECT EXAMINATION CONTINUED

16 BY MS. CAMPBELL:

17 Q Just a couple more questions. You said you
18 remember speaking with the officers, do you
19 remember telling them that after she, you told
20 her what had happened she stayed there and
21 finished her poker game, Ms. Reese?

22 A I don't remember.

23 Q But it could be true, that's what she did?

24 A Yes, ma'am.

25 Q No further questions, Your Honor.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

254

1 THE COURT: Cross-examination?

2 CROSS EXAMINATION

3 BY MR. FARLEY:

4 Q Mr. Boyd?

5 A Yes, sir.

6 Q You testified that you were walking down
7 the street, and you ran into Marcellius Bloom?

8 A Yes, sir.

9 Q I'm sorry, Marcellius Brooks known as
10 Bloom?

11 A Yes, sir.

12 Q And that is it while you were talking you
13 saw Mr. Mack assault Melquanna S known
14 as Lucy?

15 A Yes, sir.

16 Q And you described that as harassing?

17 A Sir?

18 Q You described him as harassing Lucy?

19 A Yes, sir.

20 Q And you said Mr. Boyd -- can you tell us
21 what Mr. Boyd did again? I mean, Mr. Brooks,
22 Bloom?

23 A Sir?

24 Q What he did again after -- when you saw
25 Kenneth Mack harassing Lucy?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

255

1 A He just ran over there and tackled the man,
2 put him to the ground.

3 Q And he did so because she was screaming?

4 A Yes, sir.

5 Q And she said, "please stop"?

6 A Yes, sir.

7 Q And you ran over there with him?

8 A Yes, sir.

9 Q And you're saying that Mr. Brooks held
10 Mr. Mack down?

11 A Yes, sir.

12 Q And.

13 Q And you kicked Mr. Mack?

14 A Yes, sir.

15 Q How many times did you kick Mr. Mack?

16 A Once.

17 Q Are you charged with anything, Mr. Boyd?

18 A No, sir.

19 Q You're not charged with lynching?

20 A No, sir. Not that I know of.

21 Q But you were investigated by the police?

22 A Yes, sir.

23 Q And they took your statement?

24 A Yes, sir.

25 Q But you haven't been charged with any

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

256

1 crime?

2 A No, sir, not that I know.

3 Q And after that occurred, was it your
4 testimony that you took Mr. -- you and
5 Mr. Brooks took Melquanna, known as Lucy, back
6 to the open air market?

7 A Yes, sir.

8 Q And was Lucy upset?

9 A Kind of, sort of.

10 Q Kind of, sort of? I mean, she was
11 screaming. She'd said "please stop." I mean,
12 was she upset? Was she crying? Was she ---

13 A She wasn't crying.

14 Q Emotional?

15 A She was emotional.

16 Q And that was why you wanted to take her
17 back to her mother?

18 A Yes, sir.

19 Q And you said her mother was upset when
20 she -- when you told her the story of what had
21 happened, what transpired?

22 A She was kind of upset, but I mean, we told
23 her it was already good. So she just looked
24 like she was about to play the machine some
25 more.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

257

1 Q But you didn't observe her?

2 A No.

3 Q You left?

4 A I left.

5 Q So you're not sure exactly what she did
6 after you left?

7 A No, sir.

8 Q So she could have left herself?

9 A Yeah.

10 Q I mean, that's equally possible. You don't
11 know?

12 A I don't know.

13 Q Okay. And you said that you left before
14 Ms. Reese or Lucy or Marcellius Brooks, known as
15 Bloom?

16 A Uh-huh.

17 Q So you left first?

18 A Yes.

19 Q So you don't know what happened after you
20 left?

21 A I don't know what happened after I left.

22 Q But then you saw Mr. Brooks come out after
23 that?

24 A Sir?

25 Q You saw Mr. Brooks come out after that?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

258

1 A Yeah. I saw him.

2 Q So it's equally true, it's possible Ms.
3 Reese left shortly after you two did?

4 A Yes, sir.

5 MR. FARLEY: Thank you Mr. Boyd.

6 Answer any questions ---

7 THE COURT: Mr. Chaplin.

8 MR. FARLEY: --- that Mr. Chaplin may
9 have.

10 MR. CHAPLIN: Thank you very much.

11 CROSS EXAMINATION

12 BY MR. CHAPLIN:

13 Q Hey Angelo, how are you doing?

14 A Good.

15 Q Angelo, tell me again, how old are you?

16 A Eighteen.

17 Q Eighteen, so you were sixteen when this
18 occurred?

19 A Yes, sir.

20 Q Marcellius is a friend of yours, isn't he?

21 A Yes, sir.

22 Q So since February 13, 2010, you've spoken
23 to Marcellius Brooks?

24 A Yes, sir.

25 Q Around how many times?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

259

1 A I don't know.

2 Q Y'all talk daily, weekly?

3 A Whenever I see him, we speak.

4 Q Did you discuss with him that you were
5 coming here today to testify?

6 A No, sir. I didn't know I was coming here
7 today until last night.

8 Q In your statement, you indicated that there
9 were three other people involved in this
10 incident with Ken Mack and you and Marcellius
11 Brooks, and that was Juve, Trigger and Genesis?

12 A Sir?

13 Q Who is Juve, J U V E?

14 A I don't know, sir.

15 Q Okay. Do you remember giving a statement
16 to Investigator Reeves on the 16th of February,
17 maybe 2010?

18 A I mean, it could have been, but I just
19 don't remember specifically.

20 Q Would it help if I let you look at the
21 statement?

22 A I read it.

23 Q You did read it?

24 A Yes, sir.

25 Q So you wouldn't be surprised if I said that

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

260

1 the statement reads that you recall these men to
2 be names Juve, Genesis and Trigger, referring to
3 other people involved in the altercation, but
4 your testimony today is you don't know who Juve
5 is?

6 A No, sir.

7 Q And what about Genesis, do you know who he
8 is?

9 A No. I don't.

10 Q Okay. And what about Trigger, do you know
11 who Trigger is?

12 A No, sir.

13 Q Now, you indicated that when you left the
14 Cousin's Mini Mart, after you allegedly talked
15 to Robin Reese, that you left by yourself?

16 A Yes, sir.

17 Q But the video of that shows that you left
18 with three to four other people including
19 Marcellius Brooks. How could that be?

20 A It might be -- that must not be me, sir.

21 Q Okay. Now, in your statement, you
22 indicated that you kicked Ken Mack in the head?

23 A Yes, sir.

24 Q Beg your pardon?

25 A Yes, sir.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

261

1 Q You did?

2 A (Affirmative nod).

3 Q And you stated that you had on Timberland
4 boots?

5 A Yes, sir.

6 Q Okay. Now, where did this incident take
7 place, near McDuffie?

8 A Yes, sir.

9 Q Near the L building?

10 A Yes, sir.

11 Q Near the L building, okay. Have you ever
12 been arrested?

13 A Yes, sir.

14 Q For what?

15 A Sir?

16 Q For what?

17 A Possession of a sawed-off shotgun.

18 Q And I think it was your testimony that you
19 have not been charged with the attack on Ken
20 Mack?

21 A Yes, sir.

22 Q Even though you admitted that you attacked
23 him?

24 A Yes, sir, I do.

25 Q Okay.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

262

1 A And I wasn't charged.

2 Q Okay. Are you aware whether Juve,
3 Genesis, -- well, you wouldn't know because you
4 don't know them. I apologize.

5 And it's your testimony that after you all beat
6 Ken Mack up by the L building that he was fine?

7 A Yes, sir.

8 MR. CHAPLIN: All right. I have no
9 further questions for -- is it Little Ricky?

10 WITNESS: Angelo.

11 MR. CHAPLIN: Angelo. Thank you.

12 THE COURT: Redirect?

13 MS. CAMPBELL: Thank you, Your
14 Honor.

15 REDIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q Mr. Boyd, you just said when they were
18 questioning you that when you talked to
19 Ms. Reese that you told her it was all good
20 after the fight was over, right?

21 A Yes, sir -- I mean, yes, ma'am.

22 Q And he asked you about being friends with
23 Mr. Brooks. You're also friends with
24 Ms. Reese's son, right?

25 A Yes, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

263

1 Q And you're also friends, as you said
2 earlier, with Lucy?

3 A Yes, ma'am.

4 MS. CAMPBELL: No further
5 questions, Your Honor?

6 THE COURT: Mr. Farley?

7 MR. FARLEY: Beg the Court's
8 indulgence.

9 RECROSS EXAMINATION

10 BY MR. FARLEY:

11 Q Again, I just wanted to establish, you
12 aren't charged with anything in this crime, is
13 that correct?

14 MS. CAMPBELL: Objection, Your
15 Honor. It goes beyond the scope of cross -- I
16 mean, redirect.

17 THE COURT: Well, it's been asked and
18 answered, but I'll allow it. Go ahead.

19 WITNESS: Sir?

20 RECROSS EXAMINATION

21 BY MR. FARLEY:

22 Q I just said you weren't charged in this
23 with any charges?

24 A No, sir.

25 MR. FARLEY: Thank you.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

264

1 RECROSS EXAMINATION

2 BY MR. CHAPLIN:

3 Q Briefly, Angelo, you indicated under oath a
4 second ago, that you do not know Juve, Genesis
5 or Trigger?

6 MS. CAMPBELL: Objection, Your
7 Honor. Goes beyond the scope of redirect.

8 THE COURT: You asked that.

9 MR. CHAPLIN: I did ask that. I just
10 have a follow-up question.

11 THE COURT: Well, he told you he
12 doesn't know.

13 MR. CHAPLIN: Well, then -- may I ask
14 the follow-up question, Your Honor?

15 THE COURT: Ask your question.

16 RECROSS EXAMINATION CONTINUED

17 BY MR. CHAPLIN:

18 Q This report that lieutenant -- that
19 Investigator Reeves took after meeting with you,
20 describes all three of these gentlemen. Do you
21 know who gave him that description?

22 MS. CAMPBELL: Objection, Your
23 Honor.

24 WITNESS: No, sir.

25 THE COURT: Sustained.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

265

1 MR. CHAPLIN: Thank you.

2 MS. CAMPBELL: Your Honor, I'd ask
3 that his answer be stricken from the record,
4 that my objection was sustained.

5 THE COURT: Your objection is
6 sustained. Strike that from the record. Thank
7 you very much. You may come down.

8 (WITNESS STEPS DOWN)

9 THE COURT: The witness is free to go
10 without objection? (No verbal response).
11 You're free to go. Thank you very much.

12 WITNESS: You're welcome.

13 THE COURT: Next witness.

14 MS. SAMPSON: Your Honor, before the
15 next witness, we have a matter of law we need to
16 take up first.

17 THE COURT: All right. All right.
18 Ladies and gentlemen, the attorneys tell me they
19 need to discuss a matter of law with me, so I'm
20 going to ask you to go to the jury room for a
21 few minutes. Let me do that. Just take a short
22 break.

23 Juror Number 16, I have your message.
24 I mean, your note, so we'll finish on time.

25 (JURY OUT @ 4:25 P.M.)

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

266

1 THE COURT: Ms. Campbell (sic).

2 MS. SAMPSON: Yes, sir, Your Honor. We
3 did turn over prior records in this case.
4 Mr. Angelo Boyd has no convictions. Defense
5 counsel went into fact whether or not he had
6 been arrested before which is totally improper.

7 THE COURT: Nobody objected.

8 MS. SAMPSON: Your Honor, by then
9 it's out. We just didn't anticipate it coming
10 because that - it seems simple. We would, at
11 this time however, go through and clarify each
12 and every witness's record so that this doesn't
13 happen again.

14 THE COURT: Are you prepared to do
15 that?

16 MS. SAMPSON: I'm prepared. I just
17 want to know who they intend to impeach and what
18 they intend to impeach with. So that at least
19 ---

20 THE COURT: All right. You can't
21 impeach with arrests.

22 MS. SAMPSON: Correct, but that was
23 just done.

24 THE COURT: It was just done. Well.

25 MS. SAMPSON: I mean, --

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

267

1 THE COURT: I don't know who you're
2 going to call, so I would assume that any person
3 on your witness list would need to set the
4 record.

5 MS. SAMPSON: Yes, sir, and we handed
6 over a number of records. If they want to go
7 through them and tell me who they intend to
8 impeach, if any, with what.

9 THE COURT: Who is the next witness?

10 MS. SAMPSON: The next witness will be
11 either Mary Anderson or Denny Perry.

12 THE COURT: Anderson or Perry.

13 MR. CHAPLIN: Your Honor, I couldn't
14 respond to that until I hear their testimony.

15 THE COURT: Well, yes you can. You
16 cannot impeach on ---

17 MR. CHAPLIN: Based on their record.

18 THE COURT: About their record.

19 MR. CHAPLIN: Okay.

20 THE COURT: You can impeach them
21 under 609 with convictions.

22 MR. CHAPLIN: Okay. Well, let me.

23 MS. SAMPSON: In the last ten years.

24 MR. CHAPLIN: Okay. I understand

25 THE COURT: Or in the last ten years,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

268

1 unless it's a crime of dishonest.

2 MS. SAMPSON: No, sir, the ten years
3 still applies to that part.

4 THE COURT: The ten years does not
5 apply to dishonest.

6 MS. SAMPSON: No, sir. It applies to
7 all.

8 THE COURT: It applies to all. Let's
9 don't get into that. It's not an issue.

10 MS. SAMPSON: Your Honor, it's my
11 understanding with regardless of punishment.

12 THE COURT: Right. Regardless of
13 years.

14 MS. SAMPSON: And then the time limit
15 is always on both parts.

16 THE COURT: Not on dishonest.

17 MS. SAMPSON: No, sir.

18 THE COURT: Under subsection two.

19 MS. SAMPSON: B. Yes, sir.

20 THE COURT: Or B. Do we have an
21 evidentiary matter?

22 MS. SAMPSON: Yes, sir, and I'm losing,
23 as usual.

24 THE COURT: Let's talk about specifics.

25 MS. SAMPSON: Yes, sir. Ms. Anderson

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

269

1 or Perry, is there anything you intend to
2 impeach them with?

3 MR. FARLEY: I do not.

4 MS. SAMPSON: Thank you. Mr. Chaplin?

5 MR. CHAPLIN: Hang on one second.

6 MS. SAMPSON: Your Honor, while he's
7 looking into that, can I inquire as to how long
8 we're going today for purposes of scheduling?

9 THE COURT: I don't know how long your
10 witness is going to be. I have a note.

11 MS. SAMPSON: I don't know what the
12 note is.

13 THE COURT: The juror says "I need to
14 pick my daughter up. Late fees begin at
15 6:00 o'clock." So I'd say we can run until
16 5:30. I don't know where daycare is.

17 MS. SAMPSON: I just want to know for
18 scheduling.

19 MR. CHAPLIN: Your Honor, there is
20 nothing on Ms. Perry that we intend to impeach
21 her with. However, I think Mary Anderson is a
22 different story.

23 MS. SAMPSON: It is my understanding
24 of Ms. Anderson is she has a 2009 conviction for
25 fraud and some old fraudulent checks that are

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

270

1 past the ten-year limit.

2 THE COURT: Is that it?

3 MR. CHAPLIN: Beg the Court's
4 indulgence one second - (pause) - Your Honor,
5 may we approach?

6 THE COURT: Why?

7 MR. CHAPLIN: I'd like to ---

8 THE COURT: There is no jury in here.

9 MR. CHAPLIN: Oh.

10 THE COURT: There is nobody here.

11 Yes, sir. Talking about Mary Anderson, correct?

12 MR. CHAPLIN: Yes.

13 THE COURT: All right. What does the
14 defense believe is impeachable evidence?

15 MR. CHAPLIN: Your Honor, there are
16 some time limit cases here, *State v. Cole*, *State*
17 *v. Jones*.

18 THE COURT: Well, what's the point?

19 MR. CHAPLIN: Well, my point, sir, is
20 that I think under exceptional circumstances we
21 can go beyond the ten years. I think that when
22 you look beyond ten years, Mary Anderson's
23 record is fraught with crimes of dishonesty.

24 THE COURT: Well, what are they?

25 MR. CHAPLIN: Fraudulent checks,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

271

1 multiple, starting in 1982 and -- you know, I
2 understand that people can change, Your Honor,
3 but at the same rate, she is about to go up
4 there and testify to something and I just think
5 that her credibility is definitely an issue and
6 could -- has always been and continues to be.

7 THE COURT: What about the last
8 sentence of B, evidence of a conviction more
9 than ten years old is calculated here is not
10 admissible unless the opponent gives the adverse
11 party sufficient advance written notice of
12 intent to use such evidence to contest the use
13 of such evidence?

14 MR. CHAPLIN: I intended to give them
15 notice when we settled the record.

16 THE COURT: How about it, Ms. Campbell?

17 MS. CAMPBELL: Your Honor, under *State*
18 *v. Culf*, C U L F, the presumption not to allow
19 convictions over ten years old, *State v.*
20 *Cheeseborough* which specifically talks about
21 grand larceny, house breaking that were over
22 twenty years old and why they were excluding.
23 And turn to the plain language of subsection D
24 that anything over ten years should not be
25 admissible. And, Your Honor, in addition to

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

272

1 that, we did turn over this rap sheet in
2 discovery, months ago. He had notice and we had
3 no notice. And we are talking about fraudulent
4 checks.

5 THE COURT: Any convictions within
6 the last ten years?

7 MS. SAMPSON: One that should come in
8 as a fraud conviction in 2009.

9 MR. CHAPLIN: Well, I guess, I'd allow
10 that -- that's basically my argument, Your
11 Honor.

12 THE COURT: Well, I think the ten year
13 limit applies under 609(b). Apparently there
14 has been no written notice given and I'm going
15 to limit you to ten years as stated in the
16 rules.

17 MR. CHAPLIN: And I would just
18 respectfully object to that.

19 THE COURT: Okay.

20 MR. CHAPLIN: Thank you.

21 MS. SAMPSON: Your Honor, if we can
22 just respectfully advise him that we can't go
23 into any arrests at any time.

24 THE COURT: I hope I made that clear.

25 MR. CHAPLIN: You have, Your Honor.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

273

1 MS. SAMPSON: Thank you.

2 THE COURT: Thank you.

3 MS. SAMPSON: And as far as Ms. Perry,
4 you agree there is nothing you can go into,
5 right, Mr. Chaplin.

6 MR. CHAPLIN: As far as arrests?

7 MS. SAMPSON: Or convictions.

8 THE COURT: You have a conviction you
9 can use.

10 MS. SAMPSON: Ms. Anderson, but
11 nothing on Ms. Perry.

12 MR. CHAPLIN: Right. I'm clear.

13 MS. SAMPSON: Thank you.

14 THE COURT: Ready for the jury?

15 MS. SAMPSON: Yes, sir.

16 THE COURT: Bring the jury.

17 (JURY IN @ 4:37 p.m.)

18 BAILIFF: All jurors are present,
19 Your Honor.

20 MS. SAMPSON: Thank you, Your Honor.
21 The State calls Donnetti Perry.

22 THE COURT: Come around Ms. Perry.

23 (WITNESS TAKES STAND)

24 DONNETTI PERRY, being duly sworn to
25 tell the truth, the whole truth and nothing but

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

274

1 the truth, testified, as follows:

2 DIRECT EXAMINATION

3 BY MS. SAMPSON:

4 Q You can just get up near the microphone so
5 the judge can hear your and the jury can hear
6 you, okay? Do you want me to push that down a
7 little? You got it? Ms. Perry, how old are
8 you?

9 A I'm 28.

10 Q And you live here in the Columbia area?

11 A Yes.

12 Q How long have you been living in Columbia?

13 A Twenty years.

14 Q You're whole life?

15 A My whole life.

16 Q Did you go to school here?

17 A Yes.

18 Q Where did you go to high school?

19 A C. A. Johnson.

20 Q Are you familiar with Gonzales Gardens?

21 A Yes.

22 Q And how do you know Gonzales Gardens or are
23 familiar with it?

24 A I live out there.

25 Q You've been living out there?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

275

- 1 A Yeah.
- 2 Q How many years have you actually been
3 living in the Gonzales Gardens area?
- 4 A Six.
- 5 Q Six years?
- 6 A (Affirmative nod).
- 7 Q I'm going to turn your attention back to
8 February two years ago, February 13th. Do you
9 remember that day when it snowed?
- 10 A Yes.
- 11 Q And what were you doing that day? Where
12 were you?
- 13 A In my house.
- 14 Q That afternoon?
- 15 A Yes.
- 16 Q About midafternoon, did somebody come to
17 your door?
- 18 A Yes.
- 19 Q And who came to your door that day, ma'am?
- 20 A Sanovia.
- 21 Q How do you know Sanovia, can you tell this
22 jury?
- 23 A She's my neighbor.
- 24 Q She's a neighbor?
- 25 A Uh-huh.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

276

1 Q When Sanovia came to your door, were you
2 aware of what was going on outside?

3 A No, ma'am.

4 Q Who all was in your house that day, do you
5 remember?

6 A Me and my friend's kids.

7 Q Your friends kid's. Were you actually
8 watching them that day?

9 A Yes, ma'am.

10 Q When Sanovia came to your door, did you
11 have a conversation?

12 A Yes.

13 Q Did she tell you'll that something was
14 going on outside?

15 A Uh-huh.

16 Q As a result of the conversation you and
17 Sanovia had, what did you do?

18 A Went to my door.

19 Q You went to your door? And when you looked
20 out your door, can you tell this jury what you
21 saw?

22 A Six and Mr. Mack were having a
23 conversation.

24 THE COURT: Ma'am, you're going to have to speak
25 up a little bit.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

277

1 WITNESS: Six and Mack was having a
2 conversation.

3 DIRECT EXAMINATION CONTINUED

4 BY MS. SAMPSON:

5 Q Six?

6 A (Affirmative nod).

7 Q A person you knew as "Six"?

8 A Uh-huh.

9 Q And when you said Mr. Mack, they were
10 having a conversation. Did you know Mr. Mack,
11 as well?

12 A No.

13 Q But the person "Six", you knew him?

14 A Yes.

15 Q And you just knew him by the name Six?

16 A Yes.

17 Q Like the number six?

18 A Yes, ma'am.

19 Q How did you know him? Tell the jury how
20 you knew Six, that you saw out there that day
21 with somebody you now know as Mr. Mack?

22 A Because his father stays in the building
23 across from me.

24 Q His father stays in the buildings across
25 from you?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

278

- 1 A Yeah.
- 2 Q In what building were you staying, in what
3 building were you in that day watching the kids?
- 4 A The F building.
- 5 Q The F building?
- 6 A Uh-huh.
- 7 Q Is the F building near the G building?
- 8 A Yes.
- 9 Q Is that the area where you saw the
10 conversation.
- 11 A Yes, ma'am.
- 12 Q Ane when you looked out, was Sanovia still
13 standing there, as well?
- 14 A Uh-huh.
- 15 Q Tell this jury what you saw next?
- 16 A He was asking the man, uh, -- (pause).
- 17 Q And you're under subpoena here today,
18 aren't you?
- 19 A Yes, ma'am.
- 20 Q You don't want to be here?
- 21 A Don't want to be here.
- 22 Q And you are a little upset or scared?
- 23 A Yes.
- 24 Q Can you tell the jury, please, what you saw
25 that day. It's important.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

279

1 A Well, he was asking him, he was, like,
2 looked like he'd been beat up or something.

3 Q Who was saying that?

4 A He was talking to Six and Mr. Mack.

5 Q Mr. Mack, the person you later learned was
6 Mr. Mack?

7 A He was like, 'Man what happened' to you?'
8 We didn't know that he'd had a fight before he
9 came down, and I -- in between -- in the field
10 right there inbetween the G and L building.

11 Q Okay. Did you see something happen between
12 Six and Mr. Mack?

13 A Yes.

14 Q What did you see happen?

15 A They started -- he clipped up the man.

16 Q Okay. And let me ask you?

17 MR. FARLEY: Your Honor, I'm afraid, I
18 can't hear the witness.

19 WITNESS: He clipped him up.

20 DIRECT EXAMINATION CONTINUED

21 BY MS. SAMPSON:

22 Q Who clipped who?

23 A Six clipped Mr. Mack.

24 Q And when you say Six clipped Mr. Mack, what
25 did he do to him?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

280

1 A Swept him, swept his feet from him.

2 Q Swept his feet. What did he use to sweep
3 his feet out from under him?

4 A With his feet.

5 Q With his feet? Kind of like in a motion
6 with his feet to undercut him?

7 A Yes.

8 Q At that point, what happened to Mr. Mack?

9 A He fell.

10 Q Could you tell whether or not he hit
11 anything when he fell?

12 A His head.

13 Q His head?

14 A. (Affirmative nod).

15 Q Up until that point, you said there had
16 been a conversation going on between the two of
17 them?

18 A Yeah. He was just asking him like, 'Man,
19 what happened to you.' He looked like he had
20 already done been in a fight.

21 Q While he was out there, did you see whether
22 or not Six ever got on the phone while you were
23 watching?

24 A Yeah, his phone had rang.

25 Q That's after he got off the phone that he

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

281

- 1 clipped him?
- 2 A Yeah.
- 3 Q Then what happened? Mr. Mack went down?
- 4 A Yes.
- 5 Q And you said he hit his head?
- 6 A Yes, ma'am.
- 7 Q What did Mr. Mack do at that point?
- 8 A Nothing.
- 9 Q Did you ever see him move anymore?
- 10 A Yes.
- 11 Q But at that point was he still down?
- 12 A Uh-huh.
- 13 Q Did he stay down?
- 14 A Yes.
- 15 Q What happened next?
- 16 A They got -- he got to kicking him.
- 17 Q Who kicked who?
- 18 A Six was kicking Mr. Mack.
- 19 Q Could you tell where he was kicking
- 20 Mr. Mack?
- 21 A Just all over.
- 22 Q At some point, did somebody else come down
- 23 to that area between F and G?
- 24 A Yes.
- 25 Q And who else did you see come down there

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

282

1 that day?

2 A Robin.

3 Q Robin. Did you know Robin's last name?

4 A No, ma'am.

5 Q And did you know whether or not Robin was
6 related in any way to Six?

7 A Yes.

8 Q And how was she related?

9 A That's her brother.

10 Q That's her brother?

11 A Yes, ma'am.

12 Q Are you aware whether or not Robin had a
13 child?

14 A Yes.

15 Q And does she have a girl?

16 A Yes, ma'am.

17 Q What's her name?

18 A Lucy.

19 Q Lucy?

20 A Uh-huh.

21 Q Where did you see Robin come from? Tell
22 the jury what you saw when you saw Robin come?

23 A She was coming from her apartment.

24 Q From her apartment area?

25 A Yes, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

283

- 1 Q Did she also live in Gonzales Gardens?
- 2 A Yes, ma'am.
- 3 Q And when she came down to that area, was
- 4 Mr. Mack already down? Had he already gone
- 5 down?
- 6 A Yes.
- 7 Q And had Mr. Gray already started assaulting
- 8 him?
- 9 A Yes.
- 10 Q When Mr. Gray was initially the one he
- 11 swept his feet out, after he got the phone call,
- 12 was he saying anything to the guy on the ground?
- 13 A Yes. But -- yes, he was.
- 14 Q I know it's not pleasant to repeat, but you
- 15 have to tell the jury what did he say?
- 16 A You know like, I can't tell you the exact
- 17 words he was saying but, you know, he was like
- 18 'what you did to my niece'.
- 19 Q Was he cussing?
- 20 A Yes, ma'am?
- 21 Q Was he using a lot of cuss words?
- 22 A Yes, ma'am.
- 23 Q And he was talking to him about his niece.
- 24 A Yes.
- 25 Q And then, at that point, all of this is

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

284

1 happening pretty fast?

2 A Pretty much.

3 Q How far away were you from where this
4 assault is going on?

5 A Like about five doors down.

6 Q About five doors down?

7 A Uh-huh.

8 Q Do you have a clear shot that you can see
9 what's going on?

10 A Yes.

11 Q And hearing what's being said, right?

12 A Yes.

13 Q There was cussing, talking about the niece?

14 A Uh-huh.

15 Q And then Robin comes up?

16 A Uh-huh.

17 Q What happens then?

18 A She was like 'yes, that's him' and started
19 kicking him with saying something like 'I'm
20 going to teach you for messing with my
21 daughter', something like that, something
22 similar to that.

23 Q And you said she started kicking him?

24 A Yes, ma'am.

25 Q And at this point as the person you later

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

285

- 1 learned was Mr. Mack, has he ever gotten up off
2 the ground?
- 3 A No.
- 4 Q And she is kicking him?
- 5 A Uh-huh.
- 6 Q What happens next?
- 7 A Then they got a chair and hit him.
- 8 Q Who got a chair, do you remember?
- 9 A Robin had the chair.
- 10 Q Do you remember where the chair came from?
- 11 A .
- 12 Q . Do you know who lives at ?
- 13 A Eileen.
- 14 Q Eileen. And when she got the chair, what
15 did she do with the chair? Did she actually
16 have to go up somewhere to get the chair?
- 17 A It was right in front of where they was
18 beating him.
- 19 Q Was it on somebody's porch?
- 20 A Laying --you mean against the -- up on the
21 air conditioner.
- 22 Q Up on the air conditioner?
- 23 A Yeah, against the building.
- 24 Q Did she have to get the chair and bring it
25 back over, to where Mr. Mack was?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

286

- 1 A Yes, ma'am.
- 2 Q When she got the chair and brought back
3 over to where Mr. Mack was lying on the ground,
4 what did she do with it?
- 5 A Hit him with it.
- 6 Q Could you tell what part of him she hit
7 with the chair?
- 8 A His body.
- 9 Q His body. Could you tell how many times
10 she hit him with the chair?
- 11 A Like two or three times.
- 12 Q Two or three times?
- 13 A Uh-huh.
- 14 Q Was Mr. Mack still down?
- 15 A Uh-huh.
- 16 Q Was he saying anything at this point?
- 17 A He ain't put up a fight.
- 18 Q Did you see anybody else with the chair?
- 19 A Yes.
- 20 Q Who else got the chair?
- 21 A Her brother.
- 22 Q Her brother?
- 23 A Yeah.
- 24 Q A guy you know as Six?
- 25 A Uh-huh.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

287

1 Q And when he got the chair, what did he do
2 with it?

3 A He hit him with it like two or three times.

4 Q And again, did the victim put up any fight?

5 A (Negative gesture).

6 Q Did you ever see the victim with any
7 weapon?

8 A No.

9 Q Did you ever see the victim resist in any
10 way?

11 A No - (emotional).

12 Q Is there tissue?

13 COURT REPORTER: Is there tissue?

14 THE COURT: (Nods in the affirmative.)

15 MS. SAMPSON: You want tissue? Thank
16 you. Do you want some water?

17 WITNESS: Yes.

18 DIRECT EXAMINATION CONTINUED

19 BY MS. SAMPSON:

20 Q What was going through your mind before
21 witnessing this?

22 A A lot.

23 Q Okay.

24 A I can't really remember.

25 Q Did anybody else show up down there?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

288

1 A There was a lot of us. It was a little
2 crowd of us standing right there.

3 Q Further back?

4 MR. FARLEY: I'm sorry, I couldn't hear the last
5 thing.

6 WITNESS: I said it was a lot of us standing by
7 my apartment.

8 DIRECT EXAMINATION CONTINUED

9 BY MS. SAMPSON:

10 Q And that was further away from where the
11 assault was taking place?

12 A (Affirmative nod).

13 Q At some point did you see Lucy?

14 A Yeah, but that was like later on.

15 Q Later on? Once Mr. Mack was down, did you
16 ever see him get up?

17 A (No verbal response).

18 Q After he had been kicked and hit and hit
19 with a chair, did you see what happened to Six
20 and his sister, Robin?

21 A Yeah, they left.

22 Q They left?

23 A (No verbal response).

24 Q Where did they go? Do you know?

25 A Home.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

289

- 1 Q Home. Whose house would they have actually
2 gone into?
- 3 A He went into his house and she went home.
- 4 Q Does her Dad live down there?
- 5 A Uh-huh.
- 6 Q What apartment does her dad live in?
- 7 A I think like -
- 8 Q -
- 9 A I think.
- 10 Q What apartment did you live in back then?
- 11 A -
- 12 Q
- 13 A (Affirmative nod).
- 14 Q When they left him there, could you tell
15 whether or not he had been hurt?
- 16 A Yeah, we was looking to see if he was still
17 breathing. We tried - we was keeping the kids
18 in my house because they didn't see it. Then
19 the older girl, they was crying. It was a lot
20 of stuff going on at the time.
- 21 Q Could you see actually any injuries or
22 evidence of injuries?
- 23 A All over.
- 24 Q Do you remember seeing blood on his face?
- 25 A Yeah, blood was coming out of his mouth.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

290

1 Q Once they had finished with the assault,
2 did they run off? How did they leave, do you
3 remember?

4 A They walked.

5 Q They walked? Do you remember them saying
6 anything as they left?

7 A No, ma'am.

8 Q After they left, they left the scene. Did
9 the police come?

10 A Yes.

11 Q Did an ambulance come?

12 A Uh-huh.

13 Q And what happened to the victim that was
14 left there on the ground?

15 A They had checked him and put him on the
16 ground.

17 Q Did anybody try to call the police?

18 A Yeah, Sanovia called the police.

19 Q You mentioned that some people were upset
20 and that you didn't want the kids to see what
21 was going on?

22 A Yes, ma'am.

23 Q That day, you didn't actually make contact
24 with the police. I think they found you later.
25 They talked to you?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

291

1 A No. They came back to let us know he was
2 still alive.

3 Q They did come back to let you know?

4 A (Affirmative nod).

5 Q And you actually met with the police and
6 gave them a statement about what you saw?

7 A Yes, ma'am.

8 Q And do you remember doing that on
9 February 16th about three days after this
10 happened?

11 A Probably so.

12 Q If I showed you your statement, would that
13 have the date on it?

14 A Uh-huh.

15 Q Would that be accurate? Do you want to
16 look at it? You don't have to if you don't want
17 to.

18 A I already looked at it.

19 Q You've already looked at it. Okay. So
20 that would be February 16th?

21 A Yes, ma'am.

22 Q And on that same day you mentioned that Six
23 and his sister Robin, did they show you some
24 photographs to try to make sure that they knew
25 who you were talking about?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

292

1 A Yes.

2 Q But you knew them from being around the
3 neighborhood and evening?

4 A Uh-huh.

5 Q I want to show you what's been marked as
6 State's Exhibit No. 66, the second page of that.
7 Do you recognize that?

8 A (Upon review), Um-humm.

9 Q And was that the second set of photographs
10 that were shown to you?

11 A Yeah.

12 Q And when they actually showed you that
13 photograph that day, however, there wasn't any
14 handwriting on this, was there?

15 A No.

16 Q Did they tell you who to pick or who to
17 identify?

18 A No.

19 Q But did you, when you looked at these six
20 photographs, did you recognize one of the people
21 in the photographs?

22 A A couple of them.

23 Q A couple of them. Did you recognize one
24 from the assault that day on the 13th?

25 A Yes, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

293

1 Q Did you tell the police that?

2 A Um-humm.

3 Q Did you circle that and put your initials
4 below it?

5 A Yes.

6 Q Which one did you recognize when you were
7 shown this photograph, these six photographs,
8 I'm sorry?

9 A (Indicating).

10 Q Number two?

11 A. (Affirmative nod).

12 MS. SAMPSON: Your Honor, at this
13 time, I'd like to offer State's Exhibit 66 into
14 evidence.

15 THE COURT: Any objection?

16 MR. FARLEY: No objection.

17 MR. CHAPLIN: No objection, Your Honor.

18 (SO ENTERED AS STATE'S EXHIBIT 66)

19 DIRECT EXAMINATION CONTINUED

20 BY MS. SAMPSON:

21 Q And which one did you recognize when you
22 looked at these six photographs when the police
23 showed them to you? Who was that?

24 A Six.

25 Q This was Six. And again, nobody told you

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

294

1 who to identify or anything like that?

2 A No.

3 Q That same afternoon, did they also --
4 excuse me, that morning, excuse me, did they
5 also show you another set of photographs as
6 shown in State's Exhibit 67. Do you recognize
7 that?

8 A (Upon review), Um-humm.

9 Q And again when you were shown this set of
10 six photographs, there wasn't any handwriting on
11 it?

12 A No.

13 Q And no one told you who to pick anything,
14 did they?

15 A No.

16 Q When you looked at these photographs did
17 you recognize one person?

18 A Yes.

19 Q Did you put a circle around it and put your
20 initials?

21 A Yes.

22 MS. SAMPSON: Your Honor, at this time
23 we'd offer State's Exhibit 67 into evidence.

24 THE COURT: Any objection?

25 MR. FARLEY: No objection.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

295

1 MR. CHAPLIN: No objection, Your Honor.

2 (SO ENTERED AS STATE'S EXHIBIT 67)

3 DIRECT EXAMINATION CONTINUED

4 BY MS. SAMPSON:

5 Q The circle is around number one? Who did
6 you recognize that to be?

7 A Robin.

8 Q Robin. And that would be Six's sister?

9 A Uh-huh.

10 Q And again, no one influenced you or told
11 you who to pick?

12 A No.

13 Q And then, as you mentioned you reviewed
14 your statement, and you gave them a four page
15 statement, I believe, that day about what you
16 saw involving Six and Robin?

17 A Yes.

18 Q The victim in this case, you didn't
19 actually know him. Did you know him, the
20 victim?

21 A No.

22 Q And that day, did you have any idea that
23 there had been any other assault that had taken
24 place prior to this?

25 A No.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

296

1 Q You just know what you saw down there
2 between buildings F and G?

3 A Yes.

4 Q The people, Six and Robin, do you see them
5 here in the courtroom?

6 A Yes.

7 Q Do you mind pointing them out for the jury?

8 A Right there.

9 Q Seated at the table with their lawyers?

10 A Yes.

11 Q The man and the woman?

12 A Yes.

13 Q Not in suits?

14 A Not in suits.

15 MS. SAMPSON: Your Honor, may the
16 record reflect she has identified the
17 defendants?

18 THE COURT: The record so reflects.

19 MS. SAMPSON: Thank you, Your Honor.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. FARLEY:

23 Q Ms. Perry, you testified that you live at
24 Gonzales Gardens; is that correct?

25 A Yes.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

297

- 1 Q And you testified you lived in building
2 A Two.
3 Q ?
4 A (Affirmative nod).
5 Q And can you tell us again what the relation
6 was from to where you saw the incident that
7 you described?
8 A About five doors down.
9 Q Five doors down?
10 A Like where I'm sitting it would be like ---
11 Q Can you tell us in yard or feet?
12 A Probably about -- I can't even tell you.
13 Q I mean, I'm afraid the jury doesn't know
14 how large the door is. Five doors is -- I mean,
15 it wasn't really -- do you think it was
16 thirty feet away, forty feet away?
17 A I don't know. Probably about thirty.
18 Q Where is building -- where is apartment
19 ?
20 A It's right across.
21 Q In the center?
22 A My building is G.
23 Q It's in the center?
24 A The field, yeah, that's where it was.
25 Q Your apartment?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

298

1 A No. My apartment on the end of this
2 building this way.

3 Q So your apartment is on the end?

4 A Uh-huh.

5 Q Of F building?

6 A Uh-huh.

7 Q So it's on one of the ends?

8 A Uh-huh.

9 Q And this took place right in the center?

10 A Uh-huh.

11 Q But you're don't know how far away that
12 apartment was when you saw the incident?

13 A Probably about twenty, twenty-five feet.

14 Q Twenty to twenty-five feet?

15 A I can't really give you've measurements.
16 You know what I'm saying?

17 Q Okay. So you're not sure how far away you
18 were?

19 A No.

20 Q Not in measurements? Okay. But you stood in
21 your doorway?

22 A I have found -- I had came outside. I was
23 standing in the doorway in the beginning and
24 then I came out the door.

25 Q How far out the door did you go?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

299

- 1 A On my porch.
- 2 Q So you were standing on your porch and your
3 still at?
- 4 A .
- 5 Q , correct?
- 6 A Uh-huh.
- 7 Q Okay. And what angle or what perspective
8 were you observing this happen?
- 9 A What you mean?
- 10 Q Well, if I'm you and I'm standing on your
11 porch, were you looking this way or were you
12 looking this way or were you looking straight
13 ahead?
- 14 A I was looking straight. Well, see my body
15 was turned to look straight ahead.
- 16 Q Okay. So you were looking straight ahead,
17 but your apartment is on the end? I'm not sure
18 what you mean. What angle of vision?
- 19 A I was looking to the left.
- 20 Q So you were looking to the left?
- 21 A Yeah.
- 22 Q So the incident was happening to your left?
- 23 A (Affirmative nod).
- 24 Q And how was Mr. Mack lying when you said
25 you observed him?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

300

1 A What you mean how was he lying?

2 Q Well, you were looking at -- the
3 perspective was to your left. So how was
4 Mr. Mack lying?

5 A He was lying on his back.

6 Q And which way were his feet, basically?

7 A What do you mean?

8 Q Well, when you're looked to the left?

9 A Uh-huh.

10 Q And you looked to the incident, what did
11 you see?

12 A He was laying on the ground.

13 Q I mean, what perspective of the victim or
14 Mr. Mack?

15 A Okay. He was lying on the ground so his
16 feet were like facing the street way.

17 Q So his feet were facing the street, and so
18 that was pointing towards you or away from you?

19 A Away from me.

20 Q Away from you, so his head was pointing
21 towards you?

22 A Yeah, basically.

23 Q Okay. And so that was the perspective when
24 you saw all the incident occur?

25 A What do you mean?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

301

- 1 Q I said that was the perspective of Mr. Mack
2 or did he change positions?
- 3 A He had done been in a couple of positions.
- 4 Q He was -- okay. So that wasn't the only
5 position that you observed him in?
- 6 A (No verbal response).
- 7 Q So he shifted positions?
- 8 A (Affirmative nod).
- 9 Q Did he do so on his own?
- 10 A No.
- 11 Q He didn't move and -- he was moved?
- 12 A (Affirmative nod), basically.
- 13 Q How did he change positions is what I'm
14 asking?
- 15 A I guess by being kicked.
- 16 Q Okay. So did he move away from you at all?
17 How did he change positions?
- 18 A Wow.
- 19 Q I mean, Ms. Perry, I know you said you
20 observed him one way, but how did he change
21 positions? You said he didn't stay in that
22 position.
- 23 MS. SAMPSON: Objection, Your Honor. I
24 believe she answered that earlier, that he got
25 kicked.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

302

1 MR. FARLEY: I don't think she answered
2 the question.

3 THE COURT: She said he was kicked.
4 That's why he moved.

5 MR. FARLEY: No. I asked what
6 was a different position that he moved to. Your
7 Honor?

8 THE COURT: Well, I can't answer for
9 her.

10 MR. FARLEY: No, no, no. I'm not
11 asking Your Honor.

12 THE COURT: I mean, she can answer.

13 CROSS EXAMINATION CONTINUED

14 BY MR. FARLEY:

15 Q My question was he changed positions. What
16 position did he then go to?

17 A I can't ---

18 Q So not at all times did you have this same
19 perspective of ---

20 A I'm saying he was still on his back, so --
21 you know, the was just being beaten and -
22 (pause).

23 Q Okay. And how long did you observe
24 Mr. Mack before Ms. Reese arrived?

25 A (No verbal response).

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

303

1 Q How much time passed?

2 A (No verbal response).

3 Q Ms. Perry, would you like a Kleenex?

4 A (No verbal response).

5 THE COURT: Ms. Perry. Ms. Perry, look
6 at me a minute. If you can't answer the
7 question, if you don't remember, you tell him
8 that. If you can answer the question, please
9 try to answer it and we can get over this pretty
10 quick. Okay?

11 CROSS EXAMINATION RESUMED

12 BY MR. FARLEY:

13 Q Are you ready to resume Ms. Perry?

14 A Go ahead.

15 Q How much time had passed?

16 A Like ---

17 Q Since you observed the victim and until my
18 client arrived?

19 A Like five minutes.

20 Q Five minutes?

21 A (Affirmative nod).

22 Q And you said that you then observed
23 Ms. Reese kick the victim?

24 A Yeah.

25 Q Once or?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

304

1 A Numerous times.

2 Q And ---

3 MR. FARLEY: Beg the Court's
4 indulgence one moment.

5 CROSS EXAMINATION CONTINUED

6 BY MR. FARLEY:

7 Q Now, from your perspective -- you said his
8 feet were facing away from you, right?

9 A Yes.

10 Q From your perspective, where was Ms. Reese?

11 A Standing over him.

12 Q On his right side, his left side, behind
13 him?

14 A Left.

15 Q On his left side?

16 A Yes.

17 Q So that was further to your left?

18 A With me looking at it, she would have been
19 like -- (pause). I don't know.

20 Q You don't remember?

21 A No.

22 Q Okay.

23 A I remember but how you're trying to -- how
24 you -- you confusing me on all this angles and
25 how he was moved and all this stuff.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

305

1 Q Well, I'm not trying to confuse you,
2 Ms. Perry. I just trying to get an
3 understanding of your what point of reference
4 was as you were looking at what you saw?

5 THE COURT: Is that a question?

6 MR. FARLEY: No. I was just trying to clarify.

7 CROSS EXAMINATION CONTINUED

8 BY MR. FARLEY:

9 Q Ms. Perry, do you wear corrective lenses?

10 A I don't wear no, no glasses, nothing.

11 Q Do you have 20/20 vision?

12 A 20/20.

13 Q You said you then observed Ms. Reese strike
14 the victim with a chair?

15 A Uh-huh.

16 Q And when you say "strike the victim", are
17 you sure that she didn't just throw it in the
18 general direction?

19 A No.

20 Q So you mean she pick up the chair and
21 struck him with it?

22 A Um-humm.

23 Q Just a few more questions. Ms. Perry, are
24 you friends with Marcellius Brooks?

25 A No. I just know of him.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

306

1 Q You just know of him?

2 A I'm friends with his brother.

3 Q Do you know anybody else who was involved
4 in the other altercation, other fight?

5 A I don't know who was involved in any other
6 fight. I didn't see that.

7 Q Ms. Perry, please answer any questions that
8 Mr. Chaplin may have.

9 THE COURT: Mr. Chaplin.

10 MR. CHAPLIN: Thank you.

11 CROSS EXAMINATION

12 BY MR. CHAPLIN:

13 Q You need some water or something,
14 Ms. Perry?

15 A I'm good.

16 Q You're good?

17 A Uh-huh.

18 Q Okay. Ms. Perry, when you began testifying
19 here today, you said -- correct me if I'm
20 wrong -- that when you came outside, you saw two
21 people arguing or talking?

22 A Uh-huh.

23 Q You did?

24 A Uh-huh.

25 Q Okay. And then did you say that somebody

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

307

- 1 commented on the bruises that someone else had?
- 2 A (No verbal response).
- 3 Q Could you elaborate on that? I am just
- 4 trying to understand.
- 5 A I asked him what happened to him.
- 6 Q What happened to him?
- 7 A Yeah.
- 8 Q Okay. Did you see the victim's face?
- 9 A Yes.
- 10 Q Why did he say -- ma'am?
- 11 A Yes.
- 12 Q And how did it look?
- 13 A It didn't look -- it looked like he had
- 14 been, you know, a couple of scrapes. I wasn't
- 15 close up on him, I couldn't tell you up close
- 16 what his face looked like.'
- 17 Q But you heard what the other person said?
- 18 A Yeah, but they've been side by side.
- 19 Q Got it. But you couldn't see the face.
- 20 The other person commented on the face?
- 21 A Uh-huh.
- 22 Q And said exactly, again?
- 23 A (No verbal response).
- 24 Q 'What happened to you?'
- 25 A Uh-huh.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

308

1 Q Okay.

2 A I don't know the exact words.

3 Q Okay. Well I'm not trying to put words in
4 your mouth?

5 A Okay.

6 Q But there was some comment about his
7 appearance?

8 A Um-humm.

9 Q Got it. Now, you gave a statement. Let
10 me back up for a second. I know that you saw
11 something on that day. I'm not here trying to
12 accuse you of anything. I'm just trying to
13 understand what went on.

14 MS. SAMPSON: Objection, Your Honor. I
15 think he has to ask questions.

16 MR. CHAPLIN: Okay. I will ask a
17 question.

18 CROSS EXAMINATION CONTINUED

19 BY MR. CHAPLIN:

20 Q You gave a statement on the 16th to
21 Mr. Sumpter. Do you remember going down to the
22 police department and giving a statement?

23 A Uh, -- yes.

24 Q You do?

25 A Yes.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

309

1 Q All right. Do you remember what you said
2 in that statement?

3 A Yeah.

4 Q Do you have a copy of it, or would you like
5 to --

6 A I have one.

7 Q You have a copy of it?

8 A (Affirmative nod)

9 Q Okay.

10 A Yes, just give me one second - (reviewing
11 statement).

12 Q Ready?

13 A Yes.

14 Q Okay. I'm reading this statement that was
15 signed by you. I'm reading it and it says,
16 (reading): *"I was home playing with a friend of*
17 *mine's children when Sanovia came to my door and*
18 *said "D, you missing a fight." And I said,*
19 *'What fight?' When I went to the door --*

20 MS. SAMPSON: Objection, Your Honor. I
21 don't think he can read her statement.

22 THE COURT: Just ask her a question.

23 MR. CHAPLIN: Okay.

24 CROSS EXAMINATION CONTINUED

25 BY MR. CHAPLIN:

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

310

1 Q In your statement, didn't you say that when
2 you got to the door that the Mack dude was lying
3 down.

4 A (No verbal response).

5 Q So was he lying down or standing up?

6 A He was on the ground.

7 Q Okay.

8 Q A few minutes ago you stated that they were
9 standing face-to-face?

10 A What you mean?

11 Q When I was asking you how did his face
12 look?

13 A Yeah, he was just asking him this -- but
14 when Sanovia came to my door to tell me, we ran
15 to the door, and he was asking him what happened
16 to him. By the time -- because the baby I had
17 was asleep.

18 A Okay.

19 Q So I didn't want the baby to roll off the
20 chair. So I was going back and by the time I
21 got back to the door, he was on the ground.

22 Q Oh. Okay. So you ---

23 A I could see -- at the angle, I could sit in
24 my chair and see the angle where it happened. I
25 could have sit in my house and could have

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

311

1 watched all of it. You know what I'm saying?

2 Q Now, shortly after that very -- that
3 incident, you found out that there had been
4 another attack, did you not?

5 A Um-humm.

6 Q Ma'am?

7 A Yes.

8 Q When did you find that out, like a day
9 later, the same night, when?

10 A Same day.

11 Q The same day?

12 A That neighborhood, everybody talks.

13 Q Everybody what, I'm sorry?

14 A Well, I was talking to myself.

15 Q Okay. So you found that out a day later or
16 the same day?

17 A Later on that day.

18 Q Okay. And you found out that a friend of
19 yours had been arrested in that attack?

20 MS. SAMPSON: Objection, Your Honor, as
21 to hearsay on any other thing other than what
22 she witnessed.

23 THE COURT: Sustained.

24 CROSS EXAMINATION CONTINUED

25 BY MR. CHAPLIN:

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

312

1 Q Were you ever told that Marcellius/Bloom
2 was arrested ---

3 MS. SAMPSON: Objection.

4 THE COURT: Calls for a hearsay answer.

5 MR. CHAPLIN: Thank you.

6 CROSS EXAMINATION CONTINUED

7 BY MR. CHAPLIN:

8 Q So the next day, maybe three days later,
9 you went down to the police station and gave a
10 statement. Did you travel by yourself?

11 A No.

12 Q How did you get there?

13 A I had a ride.

14 Q With who?

15 A Me and Kyle.

16 Q You and who?

17 A Kyle.

18 Q Did you go to the police station at the
19 same time that Sanovia and maybe another witness
20 went there?

21 A Yes. All of us stayed there.

22 Q All of you went there together?

23 A When me and her got there, they was there.

24 Q All right.

25 A They was leaving when we was coming.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

313

- 1 Q I see. When you -- prior to going to the
2 police station that morning, had you had a
3 conversation with the other two witnesses?
- 4 A No.
- 5 Q You never spoke about this incident at all?
- 6 A Yeah, when all of us who was out there.
- 7 Q Okay. So?
- 8 A At the time it was going on.
- 9 Q At the time it was going on and then?
- 10 A We was talking about what was happening.
- 11 Q Right. And then what about the next day?
- 12 Did you talk about it?
- 13 A No.
- 14 Q And what about the following day?
- 15 A (Negative gesture).
- 16 Q So how did you all happen to get to the
17 police station at the same time? How did that
18 come about?
- 19 A I don't know.
- 20 Q Were you surprised to see them when you got
21 to the police station?
- 22 A No.
- 23 Q No?
- 24 A No.
- 25 Q You said something about you were handling

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

314

1 your or babysitting some children, correct?

2 A Five kids.

3 Q Five kids. Could you have been a little
4 distracted that day?

5 A No, they was outdoors playing in the snow,
6 except for the baby.

7 Q Okay.

8 Q So you said the incident took place in the
9 field?

10 A Uh-huh.

11 Q What do you mean by that?

12 A In the middle of the two buildings.

13 Q And that's a grassy area, correct?

14 A It was grassy, I guess.

15 Q What is it now?

16 A Sand.

17 Q Sand?

18 A Uh-huh.

19 Q Okay.

20 Q So you saw Ken Mack's body laying in the
21 grass or the sand or in that area, the field?

22 A No.

23 Q Not on the sidewalk?

24 A (No verbal response).

25 Q Not on the sidewalk?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

315

1 A It was at an angle, so -- it wasn't in the
2 sidewalk. His head hit the sidewalk once he got
3 flipped there.

4 Q I'm sorry. Say it again?

5 A I said his head hit the sidewalk once he
6 got clipped up, you know, but not his whole
7 head, you know. I can't even explain, you know,
8 how he was laying. You know what I'm saying?

9 Q You didn't really see him hit the ground,
10 did you?

11 A I did.

12 Q When you came outside and he was already on
13 the ground, you don't know how he got there, do
14 you?

15 A I seen everything.

16 Q Have you ever heard the name Marcellius
17 Brooks?

18 A (Affirmative nod).

19 Q You have. In what respect? How?

20 A Why?

21 Q No. When did you hear about that name.
22 Let's try that question?

23 A Like later on. See, I don't know this
24 gentleman, his government name, you know what
25 I'm saying?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

316

1 Q You don't know what?

2 A His government name. I didn't know his
3 government name.

4 Q Okay.

5 A So when I was told, I didn't know who they
6 were talking about.

7 Q Okay. Well, you can't talk about what you
8 were told. But anyway, you do know somebody by
9 the name of Bloom?

10 A Yes.

11 Q You do? How long have you know him?

12 A I just know him from being in the
13 neighborhood.

14 Q In the neighborhood. How long have you
15 been in the neighborhood?

16 A Six years.

17 Q And you've known Bloom for six years?

18 A No. I just know people's -- it's an
19 apartment complex. You don't you don't get to
20 know everybody, so I can't say I know him. I
21 see him, 'hey, how you doing?' like that. I
22 don't know him. I don't know nothing about him.
23 You know what I'm saying?

24 Q Right.

25 A So I can't say I know him.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

317

1 Q Where is the L building, do you know?

2 A The L building?

3 Q If you don't, I understand. I'm just
4 curious?

5 A It's like up there going down to the store.

6 Q Up by McDuffie?

7 A Yeah.

8 Q All right.

9 Q Do you know who Ms. Louise is?

10 A Uh-huh.

11 Q Did she see what happened? Did she see the
12 incident?

13 A She said she did.

14 Q She told you that?

15 MS. SAMPSON: Objection, Your Honor, on
16 the hearsay again.

17 THE COURT: Sustained.

18 CROSS EXAMINATION CONTINUED

19 BY MR. CHAPLIN:

20 Q And I think you testified that you didn't
21 speak to anybody the next day about this
22 incident?

23 A Um-humm.

24 Q Sorry?

25 A Um-humm.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

318

1 Q Did you ever see people at Gonzales Gardens
2 wearing tee shirts about this particular ---

3 MS. SAMPSON: Objection, Your Honor.

4 May we approach?

5 THE COURT: Yes, ma'am.

6 (OFF RECORD BENCH CONFERENCE)

7 THE COURT: All right. Let's take a
8 five-minute break. Ladies and gentlemen, this
9 is going to be the last witness for the day, but
10 I do need to discuss this matter with the
11 attorneys, and we need a short bathroom break.
12 Okay.

13 (JURY OUT @ 5:26 P.M.)

14 THE COURT: Ms. Campbell, the witness
15 needs a bathroom break. Will you show her
16 where? Just don't talk with her.

17 MS. SAMPSON: I'll get Dana.

18 THE COURT: We'll get Dana.

19 (BRIEF RECESS)

20 (DEFENDANTS PRESENT)

21 THE COURT: All right. Counsel, the
22 witness is not back yet but -- well, maybe she
23 is.

24 All right. Mr. Chaplin ask -- ma'am,
25 they're going to ask you -- Mr. Chaplin is going

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

319

1 to ask you some questions. The jury is not
2 here, right now. I've got to decide whether to
3 let him ask these questions in front of the
4 jury, but I've got to hear what you have to say
5 first, okay. It gets confusing.

6 WITNESS: No, I understand.

7 THE COURT: All right. Try to get
8 close to the microphone so I can hear what you
9 have to say. Just be to the point.

10 MR. CHAPLIN: I will. Ms. Perry, do
11 you remember giving a statement to my
12 investigator on the 28th of October, 2011.

13 MS. SAMPSON: Your Honor, if I may, he
14 can impeach her if he asks the direct questions.

15 MR. CHAPLIN: Okay. I will ask her.

16 THE COURT: Okay. Identify who
17 you're asking her about.

18 MR. CHAPLIN: Okay. You met with Bobby
19 Watkins of Watkins Investigations and he asked
20 you a series of questions?

21 WITNESS, MS. PERRY: What did he look
22 like?

23 MS. SAMPSON: Your Honor, if he could
24 just ask about the t-shirt question. I think
25 that's what we're here for.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

320

1 MR. CHAPLIN: Your Honor, I don't mean
2 to ---

3 THE COURT: Well, we don't need the
4 whole. That's why I said, be to the point.

5 MR. CHAPLIN: Okay. May I let her look
6 at it?

7 THE COURT: Does she have a copy of
8 it? Did she ever have a copy?

9 MS. SAMPSON: No, sir.

10 MR. CHAPLIN: She can have one now.
11 She signed it. I understand she was given a
12 copy at the time.

13 THE COURT: Have you ever seen that,
14 ma'am?

15 WITNESS, MS. PERRY: Uh-uh.

16 THE COURT: Ma'am, is that your
17 signature on there?

18 WITNESS, MS. PERRY: Where is the
19 signature? Yes. That's my signature.

20 MR. CHAPLIN: Did ---

21 THE COURT: Did he give you a copy of
22 that?

23 WITNESS, MS. PERRY: I don't
24 remember.

25 THE COURT: Ask her your questions.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

321

1 MR. CHAPLIN: Did you ever see
2 people in Gonzales Gardens wearing tee shirts
3 that had Henry Gray and Robin Reese on it?

4 WITNESS, MS. PERRY: No.

5 MR. CHAPLIN: Did you ever say
6 that you did see Lamar, a/k/a Big Baby who is
7 Bloom's brother with such a tee-shirt?

8 WITNESS, MS. PERRY: Not that I
9 recall.

10 MR. CHAPLIN: Do you recall saying
11 that you believe Lamar is the one who was
12 passing - who was wearing the tee-shirts, who
13 you saw wearing it?

14 WITNESS, MS. PERRY: I don't remember
15 seeing nobody wear a tee-shirt.

16 MR. CHAPLIN: Ma'am?

17 WITNESS, MS. PERRY: I don't remember
18 seeing anyone wearing tee-shirts.

19 MR. CHAPLIN: Your Honor, I actually
20 have questions that aren't related to the tee-
21 shirt but I would like to get this done if I
22 could go straight to the point.

23 THE COURT: It's your case.

24 MR. CHAPLIN: Thank you. Did you ever
25 tell Investigator Watkins that you believed it

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

322

1 was the Bloods of McDuffie that beat Ken Mack up
2 on McDuffie Street?

3 WITNESS, MS. PERRY: I told 'em
4 that's what I was told.

5 MR. CHAPLIN: Did you ever
6 identify the Bloods of McDuffie as Marcus,
7 Mushy, Chill Will, K.B. -- he's in jail now?

8 WITNESS, MS. PERRY: If that's the
9 pictures I was shown.

10 MR. CHAPLIN: These are what you
11 were told. Did you ever tell them that they
12 would be at the young girl's house who stayed
13 around the corner? The Bloods, that is?

14 WITNESS, MS. PERRY: No, they said --
15 the supervisor came to my house. He told me
16 that the Bloods be to my house, and if they get
17 caught at my house, then I'm getting put out.

18 MR. CHAPLIN: Okay.

19 WITNESS, MS. PERRY: That's what I
20 was told.

21 MR. CHAPLIN: Right, you identified ---

22 WITNESS, MS. PERRY: See, he called
23 all their government names. I don't know their
24 government names.

25 MR. CHAPLIN: I see. Did you identify

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

323

1 Bloom as a Blood?

2 WITNESS, MS. PERRY: No.

3 MR. CHAPLIN: Did you tell him that
4 gang members have visited you in the past?

5 WITNESS, MS. PERRY: No.

6 MR. CHAPLIN: Are you testifying today
7 because you're afraid of what gang members might
8 do to you?

9 WITNESS, MS. PERRY: No.

10 MR. CHAPLIN: Your Honor, I have a
11 statement that contradicts everything she just
12 said, that she signed.

13 THE COURT: But it's all hearsay,
14 what somebody else told her.

15 MR. CHAPLIN: Your Honor, I think the
16 part about her knowing who the Bloods are and
17 them being at her house ---

18 THE COURT: Well, you can ask her
19 that. You can ask her that.

20 MR. CHAPLIN: Thank you.

21 MS. SAMPSON: He wants to go into gang
22 affiliation in this case. I'm just saying if he
23 opens the door, we're going into his client's
24 gang affiliations.

25 THE COURT: Fine.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

324

1 MS. SAMPSON: And drug dealing
2 affiliations.

3 THE COURT: Ready for the jury?

4 MS. SAMPSON: Your Honor, as far as the
5 tee-shirt issue, how is that relevant or in any
6 way admissible in this trial as to whether or
7 not there were people in the Gonzales Gardens
8 that wear tee-shirts with the defendants'
9 pictures on them - that on back say "Innocent",
10 after the fact.

11 MR. CHAPLIN: Your Honor, if I may, she
12 has testified that she does not know who this
13 person is, she has no --

14 THE COURT: What person?

15 MR. CHAPLIN: I beg your pardon?

16 THE COURT: What person?

17 MR. CHAPLIN: She does not know who
18 Marcellius Bloom is.

19 THE COURT: She doesn't or she does
20 know him?

21 MR. CHAPLIN: She does know him just
22 casually. I think that she knows a great deal
23 more, and I do believe that I would like to
24 examine her more thoroughly in front of the jury
25 to determine whether or not there is a bias

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

325

1 here. Or if maybe she is fearful or something
2 going on as to why her statements are so
3 contradictory.

4 THE COURT: Well, you can't use the
5 statements to impeach her because everything I
6 heard said that so-and-so told her 'that',
7 'this.' So-and-so told her that that. So and
8 so told her something about McDuffie Street. So
9 I mean, how is that -- how can you impeach her
10 with your investigator when her statements are
11 hearsay to start with?

12 MR. CHAPLIN: Okay. Your Honor, I do
13 know that she did say that -- she testified that
14 she has been a person of interest as far as
15 affiliating with gang members and that the Gang
16 Task Force has been to her house.

17 THE COURT: So?

18 MR. CHAPLIN: Well, that's who occupies
19 Gonzales Gardens are the Bloods, and I believe
20 that that's a reason why she is testifying the
21 way she is.

22 THE COURT: Well, you can ask her that.

23 MR. CHAPLIN: I'd like to.

24 THE COURT: But you can't impeach her
25 with that statement is what I'm saying.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

326

1 MR. CHAPLIN: I won't.

2 WITNESS: He just asked me.

3 THE COURT: What?

4 WITNESS: He just asked me was I afraid
5 of the Bloods.

6 THE COURT: Ma'am, all you have to do
7 is say no.

8 WITNESS: Okay.

9 THE COURT: I mean, I don't know what
10 your answer is because I ---

11 WITNESS: That's what I said, "no."
12 That's what I said. I'm confused now.

13 THE COURT: You just have got to tell
14 him as best you can.

15 MS. SAMPSON: Your Honor, we just want
16 to put Mr. Chaplin on notice at this point we
17 think he has opened the door to prior bad acts
18 with their client and why she would be scared of
19 him.

20 THE COURT: Okay.

21 MS. SAMPSON: And that would be
22 something we would be pursuing if he goes there.

23 THE COURT: That's fine. Ready for
24 the jury?

25 MR. CHAPLIN: Beg the Court's

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

327

1 indulgence.

2 THE COURT: I'm trying to get the juror
3 out by 6:00.

4 MR. CHAPLIN: Please bring the jury.

5 THE COURT: Bring the jury.

6 (JURY IN @ 5:40 p.m.)

7 BAILIFF: All jurors are present.

8 THE COURT: Thank you very much. All
9 right. Mr. Chaplin, you may continue.

10 MR. CHAPLIN: Thank you.

11 CROSS EXAMINATION RESUMED

12 BY MR. CHAPLIN:

13 Q Ms. Perry, have you ever been questioned by
14 the Gang Task Force?

15 MS. SAMPSON: Objection, Your Honor.
16 May we approach?

17 THE COURT: Approach the bench.

18 (OFF RECORD BENCH CONFERENCE)

19 THE COURT: Ask your question again.

20 MR. CHAPLIN: Thank you very much.

21 CROSS EXAMINATION CONTINUED

22 BY MR. CHAPLIN:

23 Q Ms. Perry, have you ever been questioned by
24 officials with the Gang Task Force here in
25 Columbia, ma'am?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

328

1 A Excuse me?

2 Q Have you been questioned by anyone with the
3 Gang Task Force here in Columbia, South
4 Carolina?

5 A Yes.

6 Q You have. What did they ask you?

7 MS. SAMPSON: Objection.

8 THE COURT: Sustained.

9 MR. CHAPLIN: Thank you.

10 CROSS EXAMINATION CONTINUED

11 BY MR. CHAPLIN:

12 Q Are you affiliated or a member of ---

13 MS. SAMPSON: Objection, Your Honor.

14 WITNESS: Really.

15 THE COURT: Overruled.

16 CROSS EXAMINATION CONTINUED

17 BY MR. CHAPLIN:

18 Q Are you affiliated with or a member of a
19 gang?

20 A No.

21 Q At this point in time, Ms. Perry, are you
22 aware of an attack on Ken Mack that occurred
23 before the incident you described to the jury?

24 MS. SAMPSON: Objection, as far as hearsay,
25 Your Honor.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

329

1 MR. CHAPLIN: I'm asking her does she know.

2 THE COURT: Overruled.

3 CROSS EXAMINATION CONTINUED

4 BY MR. CHAPLIN:

5 Q I'm sorry. I didn't get your answer.

6 A What you mean do I know? Do I know about

7 ---

8 Q Yes.

9 A I only know from what I was told.

10 Q Do you know somebody by the name of Lamar?

11 A Yes.

12 Q Who is that?

13 A That's Bloom's brother.

14 Q That's Bloom's brother?

15 A Uh-huh.

16 Q And Bloom is the person you say you don't
17 really know. You just casually see, but you
18 know his brother?

19 A Yes.

20 Q Thank you.

21 Q And do you know what Bloom's real name is,
22 government name as you put it?

23 A Now I do, yes.

24 Q What is it?

25 A Marcellius.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

330

1 Q Do you know whether he is a Blood?

2 A No.

3 Q Ms. Perry, are you testifying today out of
4 fear of reprisal when you get back to Gonzales
5 Gardens?

6 A No.

7 Q Earlier you seemed very distraught and
8 upset?

9 A Because I don't want to be here.

10 Q And you went down to the police station on
11 the 16th. Did you want to go there on the 16th
12 of 2010 or were you forced to?

13 A (No verbal response).

14 Q And you -- disregard that. You went down
15 there with your friends, correct?

16 A Uh-huh.

17 Q Yes?

18 A Yes.

19 Q Final question, Ms. Perry, have you been
20 truthful with us today?

21 A Yes.

22 Q All right. Thank you very much.

23 THE COURT: Redirect?

24 MS. SAMPSON: Yes, sir, just one question.

25 REDIRECT EXAMINATION

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

331

1 BY MS. SAMPSON:

2 Q He asked you about knowing Bloom or
3 Marcellius Brooks, are you better friends with
4 Robin Reese and her family? Do you know them
5 better?

6 A Do I know them both?

7 Q Do you know them better than you would know
8 Bloom?

9 A Not really.

10 Q Did you ever do Lucy's hair for her, things
11 like that?

12 A Yes.

13 Q They live actually in the same complex as
14 yours?

15 A Yes.

16 Q And they were actually your neighbors?

17 A Yes.

18 Q And you didn't have any trouble recognizing
19 them that day?

20 A No.

21 MS. SAMPSON: Thank you, Your Honor.

22 THE COURT: Any cross?

23 RECROSS EXAMINATION

24 BY MR. FARLEY:

25 Q Just to clarify, Ms. Reese was your

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

332

1 neighbor?

2 A Is she my neighbor? Yes, yes.

3 Q She lives next to you?

4 A No, not next to me.

5 Q Did she live ---

6 A She stays up the street.

7 Q That's what I mean. She is "not?"

8 A No, huh-uh.

9 Q In the same ---

10 A --- building, no.

11 Q And not the building across from that?

12 A No. Right.

13 Q She is in a different part?

14 A Yeah.

15 Q All right. Thank you, Ms. Perry.

16 THE COURT: Anything further?

17 MR. CHAPLIN: Nothing further, Your
18 Honor. Thank you.

19 THE COURT: All right. You may come
20 down. Thank you very much. You're free to go,
21 ma'am. Thank you very much.

22 WITNESS: Thank you.

23 (WITNESS STEPS DOWN)

24 THE COURT: May this witness be
25 excused? Without objection?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

333

1 MS. SAMPSON: Thank you, Your Honor.

2 MR. FARLEY: No objection, Your Honor.

3 MR. CHAPLIN: No objection, Your Honor.

4 THE COURT: All right. Ladies and
5 gentlemen of the jury, that will conclude the
6 testimony for today. I'm going to ask you to be
7 back in the jury room at 9:30 in the morning at
8 which time we'll continue with the trial. Again
9 I must remind you not to -- please don't discuss
10 this case with anyone else over the evening
11 hours, friends, family or any other instances.
12 I'll ask you not to try to do any independent
13 research about this case. You're hearing it all
14 live right here, like a play unfolding in front
15 of you. So, you know, it's easy -- let me just
16 say that with regard to speaking to your family
17 and friends, they're going to ask you what you
18 did today, obviously, and you can tell them
19 you're on a jury. You're on a criminal jury. I
20 would advise you and request that you not tell
21 them what the case is about. It's so easy. You
22 just don't know who -- somebody else might know
23 something, might have read about it in the
24 paper, might have seen something, might try to
25 say something to you which would influence you,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

334

1 not that you would be influenced but somebody
2 would say 'oh, I know this is what I'd do if I
3 were if your shoes.' It's just conversation
4 that people get into that sometimes can be such
5 that it might influence you one way or the
6 other. All the answers are right here. I'll
7 just ask you to keep it to yourselves over the
8 evening hour. Have a pleasant evening. We'll
9 see you at 9:30 in the morning.

10 (JURY OUT @ 5:51 P.M.)

11 THE COURT: All right. The issue of
12 bond, Mr. Farley.

13 MR. FARLEY: Your Honor, I have not
14 received a new letter from the bondsman. I
15 provided the fax number. I do have the current,
16 or the previous bond paperwork if you care to
17 see that.

18 THE COURT: It's no good.

19 MR. FARLEY: She is not a flight risk.

20 THE COURT: I understand, but the
21 bondsman technically is off the bond once the
22 case starts, once jeopardy attaches the bondsman
23 has no further responsibility.

24 MR. FARLEY: I've explained that to my
25 client, Your Honor, and I also have made

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

335

1 repeated attempts to contact the bond company or
2 to have that letter.

3 THE COURT: Did it occur to you that it
4 may be a financial matter?

5 MR. FARLEY: That did not occur to me,
6 sir.

7 THE COURT: Well, it always occurs to
8 the bondsman. Anyway, I'm sorry. I just have
9 to -- that's my policy. If there is no bond in
10 place, particularly with the seriousness of
11 these charges, I'm going to have to order that
12 she be held in custody.

13 MR. FARLEY: If we were able to get
14 that letter this evening, Your Honor?

15 THE COURT: Well, I live forty miles away.

16 MR. FARLEY: No, no, I meant tomorrow.

17 THE COURT: Tomorrow, absolutely.

18 MR. FARLEY: Thank you, Your Honor.

19 THE COURT: Anytime the bondsman says
20 they will assure her appearance, it's fine with
21 me.

22 MR. FARLEY: Thank you, Your Honor.

23 THE COURT: Thank you. Anything
24 further?

25 MR. FARLEY: Your Honor, if I may ask if

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

336

1 the prosecution could let us know as to how many
2 more witnesses they may have so we can try to,
3 I have an expert witness coming in from out of
4 town, just trying to.

5 THE COURT: You all talk about that.

6 MR. FARLEY: Yes, sir.

7 THE COURT: I hope you'll advise your
8 respective families/clients they are to have no
9 contact with the jury, please.

10 MS. SAMPSON: I've talked to them.

11 THE COURT: The jury should be escorted
12 out by law enforcement, but I don't want any
13 contact with the jury.

14 MR. CHAPLIN: Your Honor, are we still
15 on the record?

16 THE COURT: No. If you want to be on
17 the record, I thought we'd adjourned for the
18 evening.

19 MR. CHAPLIN: I think we're fine.
20 Thank you.

21 THE COURT: We will stand at-ease until
22 9:30 in the morning.

23 MR. CHAPLIN: Thank you.

24 (COURT IN RECESS)

25 (TRANSCRIPT CONTINUED NEXT PAGE)

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

337

1 FEBRUARY 29, 2012 9:30 A.M.

2

3 (DEFENDANTS PRESENT)

4 THE COURT: Is the State ready to
5 proceed?

6 MS. SAMPSON: The State is ready to
7 proceed. There are some housekeeping matters.

8 THE COURT: Is the defense ready?

9 MR. FARLEY: Yes, Your Honor.

10 MR. CHAPLIN: We are, Your Honor.

11 MS. SAMPSON: Your Honor, it has
12 come to my attention in the body of the
13 indictments there is a scrivener's error
14 pursuant to *State v. South Carolina* and *State*
15 *vs. Ripple (phonetic)*, we would move to amend
16 those. The actual code section is correctly
17 reflected and the actual language in the
18 indictment is correct. It's just a
19 typographical error that says 210 rather than
20 210. 15-3-210 is correct code section.

21 THE COURT: Any objection?

22 MR. CHAPLIN: Your Honor, I would
23 object based on the lack of sufficiency notice
24 in the indictment due to that scrivener's error.

25 THE COURT: You have the indictments?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

338

1 MR. CHAPLIN: I do.

2 THE COURT: Well, the language on the
3 face of the indictment correctly states the
4 statutory provision of lynching first degree
5 under the old law before it was changed in
6 June 2010.

7 The body of the charge is described as
8 lynching in the first degree on both of your
9 client's indictments. The language of the body
10 of the indictment indicates -- tracks the
11 language in the statute.

12 The only difference between first
13 degree and second degree is that the victim
14 didn't die. They both allege the death of the
15 victim, Kenneth Mack, so I think your clients
16 were adequately advised of the nature of the
17 charges, and I so grant the Motion.

18 MR. FARLEY: Your Honor, for the
19 record, may I join in counsel's objection?

20 THE COURT: Sure, sure.

21 MR. FARLEY: Thank you.

22 MS. SAMPSON: Your Honor, we do have
23 one other matter. One of the witnesses,
24 codefendants that will be testifying, Marcellius
25 Brooks. At some point he was given a polygraph.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

339

1 It's my understanding the defense would not be
2 allowed to go into anything about the polygraph
3 or the results.

4 THE COURT: Results? That is the
5 State's position?

6 MS. SAMPSON: (Affirmative nod).

7 THE COURT: What's the defense's
8 position.

9 MR. CHAPLIN: Well, Your Honor, I think
10 that we certainly couldn't say to Mr. Brooks
11 that, 'I understand you took a polygraph and you
12 failed it on two occasions', which he did, but I
13 think we could ask the investigator questions
14 surrounding his, uh, -- his -- where he stands
15 with Mr. Brooks' credibility or veracity based
16 on prior interviews he's had with him.

17 THE COURT: Well, you can ask him under
18 the rules about his reputation for truth and
19 honesty, but the results of a polygraph are
20 hearsay.

21 MR. CHAPLIN: That's correct, Your
22 Honor.

23 THE COURT: Secondly, they wouldn't be
24 admissible if you tried to get the polygraph?

25 MR. CHAPLIN: Yes, sir.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

340

1 THE COURT: So you can ask him if he
2 believes him.

3 MR. CHAPLIN: Yes.

4 THE COURT: If he has the language of
5 608 -- 608(a), credibility of the witness may be
6 attacked in support of the evidence in the form
7 of opinion or reputation but the evidence may
8 refer only to character untruthfulness only
9 after the character of a witness for
10 truthfulness has been attacked by opinion
11 character for reputation or otherwise. All
12 right.

13 MR. CHAPLIN: Your Honor, my
14 understanding is I could speak with the
15 investigator with regards to that matter and
16 pursuant to *Grainy*, I do have --

17 THE COURT: You have what?

18 MR. CHAPLIN: It's my understanding
19 that I can question the investigator with
20 regards to Mr. Brook's credibility or
21 truthfulness.

22 I would further suggest if I have
23 information like a conversation between
24 Mr. Brooks and the investigator that clearly
25 shows that he does not believe Mr. Brooks, that

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

341

1 I could use that for impeachment.

2 THE COURT: Impeaching who?

3 MR. CHAPLIN: The investigator.

4 THE COURT: You want to impeach the
5 investigator?

6 MR. CHAPLIN: Should he say that he
7 believes Mr. Brooks is a very honest person.

8 THE COURT: Well, I'm just going to
9 have to go along with what I have here.

10 MR. CHAPLIN: Thank you.

11 MS. SAMPSON: The final matter that we
12 have this morning, Your Honor, is that yesterday
13 during the course of Ms. Perry's testimony, at
14 some point there was a statement that was taken
15 by a private investigator that was produced that
16 we've never seen, by the defense. We did file a
17 reciprocal Rule 5.

18 It's my understanding from Mr. Chaplin
19 he does have some other statements from
20 witnesses. I don't know who. We would ask at
21 this point, just as we have to turn over all of
22 our statements of detectives -- technically we
23 don't have, I guess, until they cross-examine --
24 that he do that or, in the alternative, Your
25 Honor, we would ask if he does produce

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

342

1 statements on witness, we have an opportunity to
2 then take a break and review it and allow the
3 witness to review it to -- instead of just being
4 kind of ambushed with this stuff. I don't know
5 any other way we could do it other than to stop
6 the trial and ask for a time period to review
7 the statements.

8 THE COURT: Are there other statements?

9 MR. CHAPLIN: Your Honor.

10 THE COURT: Taken by an investigator?

11 MR. CHAPLIN: My investigator has met
12 with Kara Chase. I do plan to call him during
13 my case in chief with regards to that
14 conversation and I think that ---

15 THE COURT: What do you mean? He has
16 had a conversation with somebody that is not
17 here? I don't know Kara Chase.

18 MR. CHAPLIN: Okay. Kara Chase is a
19 potential witness for the State.

20 THE COURT: Well, we're going to
21 have to see -- I mean, you're talk about in your
22 case in chief.

23 MR. CHAPLIN: Well, I beg your pardon.
24 Kara Chase is a witness for the State. My
25 expectation is that they're going to call Kara

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

343

1 Chase. I'm going to get into an opportunity to
2 cross-examine her.

3 THE COURT: Absolutely.

4 MR. CHAPLIN: Therefore, then -- I'm
5 going to ask questions. If I have a belief that
6 her responses are contradictory to what she told
7 my investigator, then I have intend to call my
8 investigator and discuss what he discussed with
9 her; which is not hearsay when it's my turn to
10 call witnesses.

11 THE COURT: Okay.

12 MR. FARLEY: Your Honor, I also
13 have -- I join Mr. Chaplin. I also have a
14 statement from Kara Chase and my investigator is
15 here as well.

16 MS. SAMPSON: If they're planning
17 to use it in their case in chief, I don't see
18 how that is not reciprocal Rule 5.

19 THE COURT: Well, it is.

20 MS. SAMPSON: So they have to produce
21 it.

22 MR. CHAPLIN: I only intend to use it
23 for impeachment purposes. If she does not
24 contradict herself, I don't intend to use it.

25 THE COURT: What about Rule 5? Why

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

344

1 haven't you turned it over?

2 MR. CHAPLIN: Because it's my
3 understanding it's not discoverable unless
4 Ms. Chase gets on the stand and says something
5 contrary to that. I've got no clue of what Ms.
6 Chase is going to say when she gets on the
7 stand. If she says something contrary to what
8 she told my investigator, then I plan to bring
9 out that conversation to show that there's a
10 problem with her credibility. But if she tells
11 the truth, I have no problem.

12 Kara Chase never signed a statement
13 with me. I don't a written statement.

14 THE COURT: Let's get the trial
15 started. I am just ---

16 MS. SAMPSON: Okay. Then we're going
17 to move for a recess as soon as he produces
18 again.

19 THE COURT: That's fine.

20 MS. SAMPSON: And, Your Honor, I think
21 he just said and stated -- he is being
22 disingenuous about this because he just said and
23 stated that he planned on putting this
24 information in in his case in chief and he
25 hadn't turned it over to us.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

345

1 MR. CHAPLIN: Your Honor, in the event
2 Ms. Kara Chase is not truthful, then I have no
3 choice. But if Ms. Kara Chase tells the truth,
4 then it will not come in. I'm not saying I'm
5 definitely putting it in in my case in chief.

6 THE COURT: Okay. I'm not going to sit
7 here all morning and speculate about what may
8 come up. We'll deal with it as it comes up.

9 MS. SAMPSON: We would move at
10 this point, Judge, -- I think we have a right to
11 have their statements from them.

12 THE COURT: Well, ---

13 MR. CHAPLIN: I don't have a statement.

14 MS. SAMPSON: I've never not had that
15 turned over. Granted they can do it in the last
16 minute, but they turn them over.

17 THE COURT: Well, it is discoverable if
18 the defendant intends to introduce it as
19 evidence in chief at the trial. I don't know
20 whether he is going to put up any ---

21 MS. SAMPSON: He just said he was
22 putting up the investigator to say that.

23 THE COURT: No, he didn't. He said he
24 might, depending on your witness's testimony.

25 So let's proceed and see what your

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

346

1 witness says. You will get it at that time.

2 Ready for the jury?

3 MS. SAMPSON: Yes, sir.

4 THE COURT: Bring the jury panel,
5 please.

6 (JURY IN @ 10:16 A.M.)

7 BAILIFF: All jurors are present, Your
8 Honor.

9 THE COURT: Good morning. Thank you
10 very much. I apologize for the delay.
11 Sometimes things don't work quite as planned.
12 Does everybody have their notepads?

13 JUROR: No, I do not have my pad.

14 THE COURT: Where are the pads?

15 JUROR: I'm so sorry.

16 THE COURT: All right. Solicitor, call
17 your next witness.

18 MS. SAMPSON: May it please the Court,
19 Your Honor. The State calls Mary Anderson.

20 (WITNESS TAKES STAND)

21 MARY ANDERSON, being duly sworn to tell
22 the truth, the whole truth and nothing but the
23 truth, testified, as follows:

24 DIRECT EXAMINATION

25 BY MS. SAMPSON:

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

347

- 1 Q If you don't mind, scoot up a little bit.
2 It's hard to hear in here. Talk right into that
3 microphone. Is that good?
4 A Yes.
5 Q Ms. Anderson, where do you live, what part
6 of town?
7 A I live at Green Street Apartment
8 (phonetic).
9 Q And how long have you lived in the Columbia
10 area, ma'am?
11 A All my life.
12 Q Do you have any other siblings that live
13 here in Columbia?
14 A Yes, ma'am.
15 Q And specifically, do you have a sister that
16 lives in the Gonzales Gardens area?
17 A She used to live there but she died.
18 Q She died. When did she die, ma'am?
19 A About a year ago.
20 Q Back in February of 2010, did she used to
21 live in Gonzales Gardens?
22 A Me?
23 Q No, your sister.
24 A Yes.
25 Q Okay. Would you go visit her there?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

348

1 A Yes, ma'am.

2 Q I want to turn your attention to February
3 13th, the day you saw something happen there?

4 A Yes, ma'am.

5 Q What building did your sister live in, do
6 you remember?

7 A G-1, I think.

8 Q Was there an area between the buildings
9 where something happened that day that you saw?

10 A Yes, ma'am, uh-huh.

11 Q That day, was it dark or afternoon or what
12 time of day ---

13 A Afternoon.

14 Q I'm sorry, afternoon?

15 A Yes, ma'am.

16 Q Can you tell this jury what you saw that
17 afternoon when you were going on your way to
18 visit your sister?

19 A I was on my way home.

20 Q On your way home?

21 A I saw them, the brother and sister,
22 beating the boy -- kicking and stomping and
23 doing everything to him.

24 Q Okay. When you said you saw a brother and
25 sister, did you know different people that live

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

349

1 in the Gonzales Gardens area?

2 A Yes, ma'am.

3 Q How did you know these people, from seeing
4 them?

5 A Yes, ma'am, I knew them by their daddy.

6 Q By their daddy?

7 A Yes, ma'am.

8 Q Did their daddy live right there?

9 A Yes, ma'am.

10 Q He lived in Gonzales Gardens?

11 A Yes, ma'am.

12 Q Did you know their names or their nick
13 names?

14 A I know Robin. I don't know the brother's
15 name.

16 Q Did you know a nickname for him?

17 A I forgot his nickname.

18 Q Six?

19 A Yes, ma'am.

20 Q And that's how you knew him; is that
21 correct?

22 A Yes, ma'am. Uh-huh.

23 Q Had you been knowing them for a good time
24 before you saw them that day?

25 A Not "good".

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

350

- 1 Q Okay. But you could recognize them when
- 2 you saw them?
- 3 A Yes, ma'am.
- 4 Q You know Robin's name?
- 5 A Yes, ma'am.
- 6 Q You knew him as "Six"?
- 7 A Uh-huh.
- 8 Q That day, tell the jury as you were leaving
- 9 your sister's house, from that G Building, what
- 10 did you see?
- 11 A I seen the boy, they were beating the boy
- 12 down the ground stomping, kicking him, doing
- 13 everything and beating him with an iron chair.
- 14 Q Let me take it step by step, okay. Let me
- 15 just back up a little bit. Are you a little
- 16 nervous here today?
- 17 A Yes, ma'am.
- 18 Q That day when you first looked over and saw
- 19 them, where were they located?
- 20 A By Aileen's apartment.
- 21 Q Aileen's apartment and her daddy's.
- 22 Q Aileen's apartment and her daddy's?
- 23 A Yes, ma'am.
- 24 Q Were they inside or outside?
- 25 A Outside.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

351

- 1 Q Were they in the open area?
- 2 A Yes, ma'am.
- 3 Q And when you saw them when you first saw
- 4 what was going on, did you know who the victim
- 5 was?
- 6 A I didn't know, but I knew he worked at the
- 7 barbershop.
- 8 Q You knew him from working at the barber
- 9 shop?
- 10 A (Affirmative nod).
- 11 Q But you didn't know his name?
- 12 A No, ma'am.
- 13 Q And that's the barbershop down the road,
- 14 right there on Forest Drive, I believe?
- 15 A Uh-huh.
- 16 Q Okay. That day was he standing up or where
- 17 was he when you first looked over?
- 18 A He was on the ground.
- 19 Q And who was there when you looked over at
- 20 first?
- 21 A Six and his sister, Robin.
- 22 Q When you looked over, the guy was on the
- 23 ground, was he moving?
- 24 A No, ma'am, he wasn't moving at all.
- 25 Q And what were they doing to him when you

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

352

1 looked over?

2 A They were beating him, kicking him, doing
3 everything.

4 Q And when you said they were beating him,
5 were they using their fist?

6 A They weren't using their fists. They were
7 using their feet.

8 Q Their feet?

9 A Yes, ma'am.

10 Q Could you tell what kind of shoes they had
11 on?

12 A Robin had on a pair of boots, I think. I
13 don't know what kind of shoes Six had on.

14 Q When they were kicking him and beating him
15 like you said, you said the word "stomp"?

16 A (Affirmative nod).

17 Q They were stomping him?

18 A Yes, ma'am.

19 Q When they were stomping him, they were
20 going that with their feet, too?

21 A Yes, ma'am.

22 Q What part of the body were they beating or
23 kicking, could you tell?

24 A Up in the part, up in here.

25 Q Up in here?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

353

- 1 A Uh-huh.
- 2 Q When they were kicking him and stuff, was
- 3 he resisting in any way?
- 4 A He couldn't move.
- 5 Q Did he have a weapon of any sort?
- 6 A No, ma'am.
- 7 Q And he was down?
- 8 A Yes, ma'am.
- 9 Q Did you ever see him get up?
- 10 A No, ma'am.
- 11 Q After they kicked him and stomped him, did
- 12 you see them hit him with anything else?
- 13 A With the iron chair.
- 14 Q With an iron chair?
- 15 A Yes. I don't know which one hit him with
- 16 an iron chair but one of them.
- 17 Q And what was going through your mind when
- 18 you were watching this?
- 19 A I said, 'Oh, Lord, they're going to kill
- 20 that man.'
- 21 Q Could you even tell how many times they
- 22 kicked him or hit him?
- 23 A I can't tell how many times but I know he
- 24 wasn't moving at all.
- 25 Q Do you remember hearing Robin say anything

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

354

1 about the man on the ground?

2 A Hummm, -- I don't really think so.

3 Q Do you remember giving a statement to the
4 police?

5 A Yes, ma'am.

6 Q When that was fresh in your mind? It's
7 been awhile, right?

8 A Yes, ma'am, two years.

9 Q Do you remember seeing Six on his cell ,
10 phone?

11 A Yeah.

12 Q And then Robin was there, too?

13 A Yes, ma'am.

14 Q And do you remember telling the police what
15 you said right there -- (tendering document to
16 witness).

17 A What does that say? I don't have my
18 glasses.

19 Q You don't have your glasses?

20 A No, ma'am.

21 Q Do you remember her saying, "motherfucker,
22 why you approach my 13-year-old"?

23 A Oh, yeah, I remember that. I remember
24 that.

25 Q Who said that?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

355

- 1 A Robin.
- 2 Q Do you remember Six saying anything?
- 3 A I don't think so.
- 4 Q Okay. Do you remember how long this lasted
- 5 that you -- the part you saw?
- 6 A Lasted for a while. I just went on home.
- 7 Q At some point, did you actually have to
- 8 turn away?
- 9 A Yes, ma'am.
- 10 Q Why was that?
- 11 A Because I ain't never seen nobody get beat
- 12 like that before in my life.
- 13 Q You didn't actually see Six hit the man.
- 14 You just saw him kick him; right?
- 15 A Yes.
- 16 Q And do you remember telling police you
- 17 actually saw him not hitting with his fist but
- 18 ultimately picked up the chair and hit him, as
- 19 well?
- 20 A Uh-huh, (affirmative nod).
- 21 Q After they -- it went on for a while,
- 22 right?
- 23 A Uh-huh, (affirmative nod).
- 24 Q After they stomped him and kicked him and
- 25 hit him with a chair, what did they do?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

356

- 1 A Went in his daddy's house.
- 2 Q How did they get to the daddy's house?
- 3 A Daddy was right next door.
- 4 Q And did they walk?, did they run?
- 5 A Walk.
- 6 Q Did you leave the area?
- 7 A Yes, ma'am.
- 8 Q Did you leave before the police got there?
- 9 A Yes, ma'am.
- 10 Q Did you call the police that day or were
- 11 you aware other people called the police?
- 12 A I ain't had my cell phone with me at the
- 13 time. I'd left it at home. They said other
- 14 people called, a couple of people called.
- 15 Q But this stood out in your mind?
- 16 A Yes, ma'am.
- 17 Q And later did the police contact you about
- 18 getting a statement?
- 19 A Yes, ma'am. Yes, ma'am.
- 20 Q And that statement I just showed you is
- 21 part of it?
- 22 A Uh-huh, (affirmative nod).
- 23 Q And when they talked to you, did they also
- 24 show you some photographs?
- 25 A Yes, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

357

1 Q This was about two or three days after it
2 happened, right?

3 A Yes, ma'am.

4 Q On the 16th, does that sound about right?

5 A Yes, ma'am.

6 Q When they showed you some photographs, I'm
7 going to show you what's being marked as State's
8 Exhibit 68. Do you recognize that?

9 A Yes, ma'am.

10 Q Was this the set of photographs they showed
11 you?

12 A Yes, ma'am.

13 Q Now, when they showed you these photographs
14 though was there any handwriting on this?

15 A No, ma'am.

16 Q Did they tell you who to pick?

17 A No, ma'am.

18 Q When you looked at these six photographs,
19 tell the jury did you recognize anyone?

20 A Yes, ma'am.

21 Q Who did you recognize?

22 A Number two.

23 Q Why did you recognize number two?

24 A Because I know him.

25 Q After that did you circle it and put your

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

358

1 initials and put your name?

2 A Yes, ma'am.

3 MS. SAMPSON: Your Honor, at this
4 time we would offer State's Exhibit 68 into
5 evidence.

6 THE COURT: Objection?

7 MR. FARLEY: No objection, Your Honor.

8 MR. CHAPLIN: No objection, Your
9 Honor.

10 THE COURT: So entered.

11 (SO ENTERED AS STATE'S EXHIBIT 68)

12 DIRECT EXAMINATION CONTINUED

13 BY MS. SAMPSON:

14 Q And who did you recognize that to be?

15 A Six.

16 Q Is that the person that you saw that day?

17 A Yes, ma'am.

18 Q Doing the beating?

19 A Yes, ma'am.

20 Q Is there any doubt that's the person you
21 saw?

22 A No doubt about it. I seen him.

23 Q That same day, did they also show you a
24 second set of photographs?

25 A Yes, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

359

1 Q Oh, let me back up. After you recognized
2 it, did they have sign off on that sheet?

3 A Yes, ma'am.

4 Q And saying that's what you recognized?

5 A. Yes, ma'am.

6 Q I show you what has been marked as State's
7 Exhibit 69. I ask first, do you recognize that?

8 A Yes, ma'am.

9 Q Well, did you look at all of the six
10 photographs?

11 A Yes, ma'am.

12 Q And recognized one of them?

13 A Yes, ma'am.

14 Q When they showed you the photograph, did
15 you tell you who to pick?

16 A No, ma'am.

17 Q And you recognized one?

18 A Yes, ma'am.

19 Q And that's the circle did, and you
20 initialed it?

21 A Yes, ma'am.

22 MS. SAMPSON: Your Honor, at this
23 time we would offer State's Exhibit 69 into
24 evidence.

25 THE COURT: Any objection?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

360

1 MR. FARLEY: No objection, Your Honor.

2 MR. CHAPLIN: No objection.

3 (SO ENTERED AS STATE'S EXHIBIT 69)

4 DIRECT EXAMINATION CONTINUED

5 BY MS. SAMPSON:

6 Q And that was number one that you
7 recognized?

8 A Yes, ma'am.

9 Q Who is the person you recognized there?

10 A Robin.

11 Q At any point did anybody tell you what to
12 say or who to pick or anything?

13 A No, ma'am.

14 Q And you cooperated with the police?

15 A Yes, ma'am.

16 Q Why did you cooperate with the police?

17 A Because I thought that they should have
18 called the policy.

19 Q Did you see anybody else in that area when
20 you saw that last assault, did you see anybody
21 else hitting him or kick him?

22 A No, ma'am.

23 Q Did the guy ever get up off the ground?

24 A No, ma'am.

25 Q Was he able to move after they kicked him?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

361

- 1 A No.
- 2 Q In 2009, I think you got convicted on a
3 fraud conviction.
- 4 A Yes.
- 5 Q Okay. Let me ask you this, the two people
6 that you saw that day on that assault that
7 stands out in your mind?
- 8 A Yes, ma'am.
- 9 Q Do you see them here in the courtroom?
- 10 A Yes, ma'am.
- 11 Q Can you points them out for the jury?
- 12 A Right and right there, Robin and Six.
- 13 Q Seated at the table?
- 14 A Yes, ma'am.
- 15 Q Next to the man in the suits?
- 16 A Yes, ma'am.
- 17 MS. SAMPSON: Your Honor, may the
18 record reflect she has identified the
19 defendants?
- 20 THE COURT: All right. So reflects.
- 21 MS. SAMPSON: Thank you, ma'am. Please
22 answer any questions they have, okay.
- 23 WITNESS: All right.
- 24 THE COURT: Cross-examination.
- 25 MR. FARLEY: Thank you, Your Honor.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

362

1 CROSS EXAMINATION

2 BY MR. FARLEY:

3 Q Ms. Anderson?

4 A Yes.

5 Q You said that you were at your sister's
6 house?

7 A Yes, I was.

8 Q Can you tell me again where your sister's
9 house was in relation?

10 A In the G building.

11 Q In the G building?

12 A Yeah.

13 Q But I mean, was it's in the middle or on
14 the end?

15 A No, on the end.

16 Q Okay.

17 A I came out of the house before everything
18 started throughout.

19 Q Is that on the end towards the road or on
20 the end towards the rest of the completion?

21 A The complex.

22 Q So all the way on this end?

23 A Yeah.

24 Q And then so from your viewpoint, where was
25 the incident? Were you standing on the porch?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

363

- 1 A I was standing in the yard.
- 2 Q You were standing in the yard?
- 3 A Yeah.
- 4 Q From your viewpoint, how were you looking
- 5 at the incident?
- 6 A I was right in front of it. I seen it when
- 7 they kicked the man.
- 8 Q Ma'am?
- 9 A I was in front of them.
- 10 Q No. Were you looking to your right or
- 11 looking to your left?
- 12 A Looking straight at them.
- 13 Q You were looking straight at them?
- 14 A Yeah.
- 15 Q But it was at an angle, right?
- 16 A Yeah.
- 17 Q Okay. So what was the angle?
- 18 A (No verbal response).
- 19 Q If you were on the end and you were
- 20 standing ---
- 21 A I wasn't on the end. I'm trying to tell
- 22 you I wasn't on the end -- I was right there
- 23 where they were beating the man at.
- 24 Q You -- let me just clarify, you weren't on
- 25 the end in front of your sister's house?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

364

1 A No, I wasn't on the end at my sister's
2 house.

3 Q I just thought you said you were in the
4 yard.

5 A No, I didn't say that. You're trying to
6 put words in my mouth.

7 Q No, ma'am. I was just earlier you said you
8 were in her yard?

9 A I'd left her yard and came down there.
10 Everything was -- I have seen everything and I
11 standing there looking.

12 Q Okay. So you left her yard?

13 A Yeah.

14 Q So how far away from the incident, were
15 you?

16 A I was close by.

17 Q Can you tell us ---

18 A Across from my niece and my cousin's
19 apartment.

20 Q Can you tell us how far away from the
21 incident you were?

22 A Not too far.

23 Q I mean, can you give to it us in feet or
24 yards?

25 A I can't do that in the yards.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

365

1 Q Do you know how many feet away you might
2 be?

3 A About one or two feet.

4 Q One or two feet?

5 A Yeah, I was close by when I seen them
6 beating him.

7 Q Well, one or two feet would be right there.
8 I mean, you would be in the altercation,
9 wouldn't you?

10 A No. I was close by, put it that way.

11 Q But not one or two feet?

12 A No.

13 Q So you mean farther away than that?

14 A Not far away. Don't -- (shaking head).

15 Q Okay. Well, but you're not sure how far
16 away you were then?

17 A No. I know I was close to it ---

18 Q All right.

19 A --- when I seen the fight.

20 Q Well, let me ask you this, do you wear
21 corrective lens?

22 A Wear?

23 Q Reading glasses?

24 A Reading glasses. And I had my reading
25 glasses on that day. I could see good out of

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

366

1 them.

2 Q But reading glasses are for close vision?

3 A Yeah.

4 Q You weren't that those, were you?

5 A Yeah.

6 Q You weren't?

7 A No, not that close.

8 Q You were further away?

9 A Yeah.

10 Q But you were reading your reading lasses,
11 which would have affected your far away vision?

12 A Yeah.

13 Q They would have?

14 A Well, I seen what I seen. I seen the
15 fight.

16 Q But you had your reading glasses on?

17 A Yeah.

18 Q Which is for up close reading?

19 A Yeah.

20 Q But you had to have been more than one foot
21 away?

22 A Probably three or four feet. I don't know.
23 I couldn't say how far I was.

24 Q But you were reading glasses.

25 A Yes, sir.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

367

1 Q Okay. And you said earlier that you didn't
2 know ---

3 A No.

4 Q I'm sorry, ma'am. You said you didn't know
5 who hit him with a chair?

6 A I seen somebody with the chair. I don't
7 know which one it was.

8 Q But you can't ---

9 A No.

10 Q You can't say ---

11 A No.

12 Q --- my client hit him with a chair?

13 A Yeah, I can say one of them hit him with a
14 chair. I don't know which one.

15 Q Right. Yes, ma'am, okay. From your
16 perspective, were they on -- when the man was
17 lying on the ground, were they on this side of
18 the body close to you or on the other side?

19 A The other side.

20 Q The other side?

21 A (Affirmative nod).

22 Q And you said Robin struck him once or twice
23 I believe is what you said?

24 A Maybe more than that, I don't knows.

25 Q So actually ---

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

368

- 1 A They were hitting so hard, I couldn't tell.
- 2 Q Okay. I'm only talking about Ms. Reese.
- 3 A Oh, I don't know how many times.
- 4 Q You don't know?
- 5 A I know she was kicking him and beating him
- 6 and stomping him.
- 7 Q Are you sure? Because of your perspective,
- 8 you couldn't have been a little mistaken?
- 9 A No.
- 10 Q And she was yelling at him?
- 11 A No, no.
- 12 Q And you said it lasted for a while, but can
- 13 you tell us what a while is? I mean, is that a
- 14 minute, two minutes, three minutes, five
- 15 minutes?
- 16 A Two or three minutes.
- 17 Q Two minutes?
- 18 A I don't know how long. I had to leave. I
- 19 have couldn't stand it no more.
- 20 Q Okay. And so a while is only like about
- 21 two minutes?
- 22 A Um-humm.
- 23 Q And then you said that Ms. Reese and her
- 24 brother went to their father's house?
- 25 A Yes.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

369

- 1 Q But earlier you said that ---
- 2 A No, I ---
- 3 Q I'm sorry. Go ahead and finish?
- 4 A Nothing.
- 5 Q You said you turned away?
- 6 A I went home.
- 7 Q So you went home?
- 8 A Yeah, after they had beat the man to death.
- 9 Q But you also said that you turned away
- 10 because you didn't want to watch anymore?
- 11 A Yeah, for a while there I looked but ---
- 12 Q Well, how long is a while?
- 13 A About -- one minute.
- 14 Q So you turned away for one minute?
- 15 A Um-humm.
- 16 Q So okay. Are you sure you remember? You
- 17 said they left, but are you sure you remember
- 18 seeing that or is that when you were turned
- 19 away?
- 20 A I seen when they left.
- 21 Q Okay. But you were turned away for a while
- 22 and you don't know what occurred when that
- 23 happened?
- 24 A No.
- 25 Q Okay. And again you can't be sure that my

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

370

1 client struck the man with a chair?

2 A I seen somebody struck him with a chair. I
3 don't know which one.

4 Q Thank you Ms. Anderson, please answer any
5 questions Mr. Chaplin has.

6 CROSS EXAMINATION

7 BY MR. CHAPLIN:

8 Q Good morning, Ms. Anderson, how are you?

9 A Fine.

10 Q Good. Ms. Anderson, my name is Mathias
11 Chaplin. I represent Henry Gray in this matter.
12 My questions to you are going to be focusing on
13 Mr. Gray. Okay?

14 A (Affirmative nod).

15 Q Thank you. Let's go ahead and start with
16 the conviction for fraud, Ms. Anderson. Tell me
17 about that.

18 MS. SAMPSON: Objection.

19 THE COURT: Sustained.

20 CROSS EXAMINATION CONTINUED

21 BY MR. CHAPLIN:

22 Q Ms. Anderson, you live in Gonzales Gardens?

23 A No. I got a brother that stays over there
24 and a sister that used to stay over there.

25 Q So you have a brother and a sister that

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

371

- 1 stay there?
- 2 A. One of them. I've got one brother that
- 3 stay there now. My sister died.
- 4 Q I'm sorry to hear that. You came here
- 5 yesterday to testify, didn't you?
- 6 A Yes, sir.
- 7 Q Who did you come with?
- 8 A Who did I come with?
- 9 Q (Affirmative nod).
- 10 A By myself.
- 11 Q Do you know someone named Lamar?
- 12 A Lamar, (negative gesture).
- 13 Q Do you know someone named Bloom?
- 14 A Yeah. I know about Bloom. I don't know
- 15 about "Lamar." I don't know about his real
- 16 name.
- 17 Q I see. How do you know Bloom?
- 18 A Huh?
- 19 Q How do you know Bloom?
- 20 A He be at my brother's house sometimes,
- 21 Gonzales Gardens.
- 22 Q He's at your brother's house?
- 23 A Yeah.
- 24 Q Would you be surprised that if I told you
- 25 that Bloom is Marcellius Brooks?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

372

1 A Huh?

2 Q If I told you that Bloom is Marcellius
3 Brooks?

4 A I didn't know his first name.

5 Q You didn't?

6 A No, I didn't.

7 Q Okay. Now, on the second of February --
8 excuse me, on the 13th of February, 2010, you
9 said you saw something between the F and G
10 building?

11 A Uh-huh, (affirmative nod).

12 Q Who else was out there?

13 A A lot of people were out there looking.

14 Q Do you have names?

15 A No, I don't know the people's names. I
16 don't get to know people.

17 Q You didn't -- you saw people out there, but
18 you didn't know who they are?

19 A No, I don't know.

20 Q Do you know do Donetti Perry?

21 A Perry, no.

22 Q You don't know Donetti Perry?

23 A No.

24 Q Do you know Sanovia Thompson?

25 A Not -- just to know her.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

373

- 1 Q Do you see her out there?
- 2 A Huh?
- 3 Q Did you see her out there?
- 4 A I didn't pay no attention.
- 5 Q Did you see any kids out there?
- 6 A I don't know.
- 7 Q Okay.
- 8 A I couldn't say. I was focusing on one
- 9 thing.
- 10 Q Now, you testified that when you came
- 11 outside -- when you gave a statement -- and I
- 12 think the State has this. They provided it to
- 13 me. On the 16th of February, do you remember
- 14 giving a statement to the police?
- 15 A Yes.
- 16 Q Okay. You said that when you came out that
- 17 the man was lying on the ground?
- 18 A Yeah.
- 19 Q Lying on the ground?
- 20 A Uh-huh.
- 21 Q But I think a little earlier you testified
- 22 that you came out and you saw -- well, let me
- 23 just back up. So you don't know how he got to
- 24 the ground?
- 25 A No, I don't. He was on the ground when I

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

374

1 got out there.

2 Q Okay. So you wouldn't have no way of
3 knowing if he had been beaten before he got to
4 that location?

5 A No, I don't.

6 Q You wouldn't know?

7 A No.

8 Q Then your statement says that around 4:00
9 to 4:30, you were walking through Gonzales
10 Gardens Apartments, but I think all of the
11 report suggests that this occurred some time
12 around 3:00 o'clock?

13 A I don't know what time it was. I didn't
14 have my watch on.

15 Q I know you said something about wearing
16 reading glasses?

17 A Yeah.

18 Q Did you write this report or did somebody
19 else write it for you? Can I show it to you?

20 A Somebody else wrote it for me. I ain't
21 going to lie.

22 Q Okay. Someone else wrote it?

23 A Yeah, I told them what to put down, I told
24 them what I'd seen.

25 Q I see.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

375

1 Q You said you were at your sister's house
2 earlier that day?

3 A Yes.

4 Q What were you doing?

5 A Oh, we be talking. I can't go to my own
6 sister's house?

7 Q Oh, I didn't say that. I just asked you
8 what were you doing?

9 A Just talking, because she was sick.

10 Q Do you know a young lady by the name of
11 Kenyatta Brown?

12 A Kenyatta Brown? No.

13 Q You don't?

14 A (Negative gesture).

15 Q Now, in the statement that you gave to the
16 police, you stated -- well, you did read the
17 statement after you told them what to say,
18 right?

19 A Yeah, I read it.

20 Q Okay. Give me one second. On page two,
21 the question was, (reading):

22 *Did you see Six, meaning Henry Gray, do*
23 *anything to the man?*

24 You answered:

25 *I never seen him actually hit the man.*

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

376

1 A. But I seen him kick the man.

2 Q So why do you think your statement says
3 that you never saw Mr. Gray hit the man?

4 A I seen him. I seen both of them hitting
5 the man.

6 Q So the statement's incorrect?

7 A No, it ain't incorrect.

8 Q So, Ms. Anderson, you live at -- when you
9 went down to the police station on the 16th of
10 February, 2010, you went down with who? What
11 other people went with you that day?

12 A A friend picked me up and took me down
13 there.

14 Q What friend?

15 A I done forgot her name.

16 Q When you got there, did you see any other
17 people?

18 A Yes.

19 Q From Gonzales Gardens?

20 A Yes.

21 Q Who else did you see?

22 A I don't know those people's names. I'm
23 trying to tell you.

24 Q But you know they're from Gonzales Gardens?

25 A Yes, sir.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

377

- 1 Q Did anybody from Marcellius Brooks' family
2 ask you to go and give a statement?
- 3 A I was going to give one anyhow.
- 4 Q My question is did anyone ---
- 5 A No.
- 6 Q Give me one second. Now, I think when you
7 said you came out, you saw -- well, I think you
8 testified today, which is different from your
9 statement, that you saw Mr. Gray kicking and ---
- 10 A Yes, they both was kicking him.
- 11 Q Okay. But at some point you also testified
12 that you saw him stop to talk on a phone?
- 13 A Yeah.
- 14 Q Tell me exactly how that went. You saw him
15 stop the kicking, pick up the phone and -- then
16 stomp and kick some more? Is that what you
17 said?
- 18 A Yes.
- 19 Q Ms. Anderson, I'm about finished here, but
20 I'm a little confused because one time you said
21 that you saw the man -- when you first saw the
22 man, he was lying down?
- 23 A That's right.
- 24 Q But you indicated at other times that he
25 might not have been?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

378

1 A I didn't say nothing like that. Don't put
2 no words in my mouth.

3 Q You said that Mr. Gray hit the man, but in
4 your statement you said you didn't see him hit
5 the man. You stated that you ---

6 MS. SAMPSON: Objection, Your Honor, I
7 think he just asked the question.

8 MR. CHAPLIN: I'm just trying to
9 make sure I have her testimony, correct, Your
10 Honor?

11 THE COURT: Move on.

12 CROSS EXAMINATION CONTINUED

13 BY MR. CHAPLIN:

14 Q Isn't it true that you're aware today that
15 Marcellius Brooks has also been charged in this
16 matter?

17 A No.

18 Q And isn't it true that his family has
19 gotten you to come down here today and testify
20 the way you have?

21 A No.

22 Q Isn't it true that yesterday his family
23 brought you to the courthouse?

24 A No, they didn't.

25 MR. CHAPLIN: No further questions.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

379

1 THE COURT: All right. Any redirect?

2 MS. SAMPSON: Yes, sir, just a couple
3 of questions.

4 REDIRECT EXAMINATION:

5 BY MS. SAMPSON:

6 Q Ms. Anderson, I just have one or two more
7 questions. Okay?

8 A Yeah.

9 Q Back on the 16th after you witnessed this,
10 you went and you gave a statement to the police?

11 A Yes, ma'am.

12 Q Which is consistent with your testimony
13 here today?

14 A Yes, ma'am.

15 Q He asked you about one line about that you
16 never saw him hit, like with his fist, the man.

17 A No.

18 Q But in your statement, which is the part
19 that he didn't point you to, you clarified that,
20 didn't you?

21 A Yes, ma'am.

22 Q Down here at the bottom of the page?

23 A Uh-huh.

24 Q Where you said, "After the sister beat him
25 with a chair, that's when Six picked up the

State of South Carolina v. Henry Gray, et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

380

1 chair and hit him two times."

2 A Yes.

3 Q So you clarified that in your statement
4 that didn't because you didn't want to
5 misrepresent anything to the police?

6 A That's right.

7 Q That was in your statement, too. Thank
8 you. -It?-----

9 RE CROSS EXAMINATION

10 BY MR. FARLEY:

11 Q Ms. Anderson, you did say someone wrote the
12 statement for you, though?

13 A The police wrote it for me.

14 Q The police wrote it for you?

15 A Yes.

16 Q Earlier in your testimony you did say.

17 MS. SAMPSON: Objection, Your Honor.
18 Outside the scope of redirect.

19 THE COURT: I'll allow it. Go ahead.

20 RE CROSS EXAMINATION CONTINUED

21 BY MR. FARLEY:

22 Q Earlier you said you didn't see anyone at
23 with the chair?

24 A I did. I ---

25 Q You couldn't tell which one?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

381

1 A No, I couldn't tell which one.

2 Q Thank you, Ms. Anderson?

3 A You're welcome.

4 RECROSS EXAMINATION

5 BY MR. CHAPLIN:

6 Q Ms. Anderson, going back to what Attorney
7 Campbell asked you, isn't it true that what you
8 did is you gave a statement and then at the end
9 of that statement, the police then came back and
10 said, 'Did you see Mr. Gray do anything to the
11 man?' You said, 'I never seen him actually hit
12 the man.' Then a little while later you said,
13 'Oh, by the way, you asked me if I saw him do
14 anything to the man.'

15 A (Affirmative nod).

16 Q What happened in the middle there?

17 A (No verbal response).

18 Q Did the police and you have a conversation?

19 A No we did not, sir.

20 Q How can you be so sure?

21 A I know. I ain't crazy.

22 Q Thank you.

23 THE COURT: You can come down, ma'am.

24 Thank you very much.

25 WITNESS: You're welcome.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

382

1 THE COURT: You're free to go.

2 WITNESS: Okay. Thanks.

3 (WITNESS STEPS DOWN)

4 COURT: Next witness.

5 MS. SIMPSON: The State calls Kevin
6 Thomas.

7 (WITNESS TAKES STAND)

8 KEVIN THOMAS, being duly sworn to tell
9 the truth, the whole truth and nothing but the
10 truth, testified, as follows:

11 DIRECT EXAMINATION

12 BY MS. SAMPSON:

13 Q Good morning, Mr. Thomas?

14 A Good morning.

15 Q What do you do?

16 A I'm a paramedic with Richland County EMS.

17 Q And how long have you been with Richland
18 County EMS?

19 A Seven years, four months.

20 Q Okay. Were you employed anywhere before
21 that?

22 A Before that I was employed at Lexington
23 Emergency Medical Center?

24 Q Okay. In February you were a paramedic.
25 Can you tell us a little bit about your

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

383

1 training?

2 A As a paramedic, I basically provide
3 prehospital care, advanced life support, take
4 care of basic medical needs until we can get
5 someone to the hospital.

6 Q That's your duty? You're essentially a
7 first responder?

8 A We do more a little bit more than a first
9 responder. We give more care than a first
10 responder.

11 Q Can you tell us a little bit about what you
12 do?

13 A As far as advanced life procedures, if
14 somebody's heart stops beating, if somebody
15 stops breathing, we have measures to take to
16 try to restart those processes. We can beat
17 their -- pump their heart for them. We can
18 breathe for them, give them the medicines to
19 make -- hopefully help with the process to
20 restart the heart.

21 Q And back on February 13 of 2010, were you
22 working in your present capacity -- a couple
23 years ago?

24 A No. I was in paramedic school at the time.
25 I was still an EMT Basic.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

384

1 Q Okay, an EMT Basic. But you were with
2 Richland County EMS?

3 A Right.

4 Q Just in a different position?

5 A Correct.

6 Q And how many calls would you say you've
7 responded to while working in your capacity?

8 A No response.

9 Q Just generally. Is it a lot?

10 A The County averages about 3,500 a month, so
11 I would say I've responded to -- maybe 1,100,
12 maybe.

13 Q A lot?

14 A A lot, yes.

15 Q Do you keep reports of ---

16 A We do, yes.

17 Q --- these responses, these incidents.

18 A Yes

19 Q Do you keep these reports so you can keep
20 up with the information?

21 A Well, at the end of the shift we have to
22 file them away and they keep them in the records
23 anywhere.

24 Q You couldn't personally recall every case?

25 A No. No.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

385

1 Q Would it assist you if you had a copy of
2 your report in this case?

3 A It would greatly, yes.

4 Q Did you have occasion to become involved in
5 this case -- (tendering document).

6 A I'm sorry?

7 Q Did you have occasion to become involved in
8 this case?

9 A Yes. I do remember the call.

10 Q And can you tell us where and when you
11 responded on February 13, 2010?

12 A My memory is it was in the courtyard of
13 Gonzales Gardens, Gonzales Gardens. I
14 don't remember which building it was in the back
15 of.

16 Q But in the Gonzales Gardens?

17 A Yes.

18 Q On your report, is it noted what time you
19 received the call as well as what time you were
20 dispatched?

21 A We received it at -- 911 received it at
22 15:20. We had dispatched at 15:22.

23 Q So that's 3:20 and 3:22 in the afternoon,
24 right?

25 A Correct, yes.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

386

1 Q What exactly did you observe when you
2 arrived?

3 A Upon arrival on the scene, we were probably
4 maybe thirty, thirty-five feet away from the
5 individual. What I notice when had we pulled up
6 was that the patient was lying on the ground. I
7 did notice some movement, but I couldn't tell
8 how severe it was until we got closer up on him.
9 Once we got closer we realized he was having
10 some posturing signs and, so, we followed all
11 out standard protocol.

12 Q So the posturing, is that like a seizure?
13 Can you describe that kind of movement that
14 happens?

15 A It's involuntary -- it's kind of like a
16 seizure but it is more indicative of a brain
17 injury. It's a different part of the brain than
18 a seizure.

19 Q And that it movement you stated is
20 involuntary?

21 A It's involuntary, yes.

22 Q Did you note any kind of injuries to the
23 face or the head?

24 A I did notice some blood on his face. I
25 don't recall any obvious deformities of the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

387

1 skull or anything, no other injuries that I can
2 remember.

3 Q Okay. So maybe just some abrasions and
4 contusions to the face with some swelling?

5 A It was obvious he had been assaulted in
6 some way.

7 Q Was he conscious?

8 A No, he was not conscious.

9 Q In your report, what impression did you
10 note? I believe it will be on ---

11 A Actually, I did not write the call. My
12 partner did.

13 Q Okay.

14 A I can give you the initial assessment that
15 we both did, but you he wrote the call. He
16 spent a little more time with the patient than I
17 did.

18 Q But you were both out there assisting one
19 another?

20 A Yes.

21 Q And so he was unconscious ---

22 A (Affirmative nod).

23 Q --- and at that point what did you all do?

24 A All standard protocol. We put him in full
25 spinal precautions, put him on the back board,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

388

1 put a C collar on him to immobile him as much as
2 we can. We transported him to the back of the
3 unit. I got up front and drove and my partner
4 stayed in the back with the patient.

5 Q And where did you all transport him to?

6 A Richland Emergency Department.

7 Q And when you arrived there, what happened?
8 Was he turned over to the trauma unit?

9 A Correct, we put him in the trauma room,
10 made our report to the trauma doctor on duty, to
11 the nurses. At that point, we stepped back and
12 let them take over. I got the truck together
13 and we prepared for the next call. I don't know
14 what the emergency department did for him. We
15 left the room.

16 Q All right. So that was the extent of your
17 involvement?

18 A Yes, it was -- it was a fast call. We knew
19 we had to get him to the hospital.

20 Q And the hospital is fairly close?

21 A Right. It's less than a three or four
22 minutes transport.

23 MS. CAMPBELL: Thank you.

24 THE COURT: Cross-examination?

25 MR. FARLEY: Yes, sir.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

389

1 CROSS EXAMINATION

2 BY MR. FARLEY:

3 Q Thank you Mr. Thomas. When you arrived on
4 the scene, did you observe anyone there?

5 A I believe there were a couple of people
6 standing outside of their doors, apartment
7 doors. Okay. They were the ones that told us
8 that he had gotten assaulted.

9 Q Do you have any information regarding my
10 client, Ms. Robin Reese?

11 A I'm sorry?

12 Q Do you have any information regarding my
13 client, Robin Reese?

14 A No.

15 Q Did you observe her at all?

16 A Not to my knowledge. The standard protocol
17 is to determine how many patients you have on
18 the scene and if you were able to gather some
19 actual information, that's what we do, but he
20 was our only patient and that's what we focused
21 on.

22 Q But you have no information regarding the
23 defendants today?

24 A No.

25 MR. FARLEY: Thank you Mr. Thomas.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

390

1 THE COURT: Mr. Chaplin?

2 MR. CHAPLIN: Thank you.

3 CROSS EXAMINATION

4 BY MR. CHAPLIN:

5 Q Good morning, Mr. Thomas.

6 A Morning.

7 Q I think we've already discussed that you
8 prepared a report in this matter?

9 A Actually my partner prepared it, but I was
10 on the call with her.

11 Q Okay. All right. So let's just go over it
12 briefly. In the report it says that someone --
13 well, the report indicates that there was an
14 assault by ---

15 MS. SIMPSON: Objection, Your Honor.
16 Improper hearsay.

17 MR. CHAPLIN: I think it was -- the
18 report -- I'm sorry.

19 THE COURT: The report is not in
20 evidence. You can ask him. Ask him what he
21 knows about it.

22 CROSS EXAMINATION

23 BY MR. CHAPLIN:

24 Q Have you reviewed this report?

25 A I have not. This is the first time I've

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

391

1 seen this, when she gave it to me.

2 MR. CHAPLIN: May I approach the
3 witness? I think this report was taken in the
4 normal course of business.

5 THE COURT: Go ahead and ask him a
6 question.

7 MR. CHAPLIN: Okay. I was just giving
8 him a second.

9 CROSS EXAMINATION CONTINUED

10 BY MR. CHAPLIN:

11 Q Mr. Thompson (sic)?

12 A Yes.

13 Q How many people does that report indicate
14 participated in an attack?

15 A The report says three men and one woman.

16 Q Okay. All right. Now, you also indicated
17 that you did not -- you do not know where you
18 picked up the body from?

19 A I don't know between which buildings but it
20 was Gonzales Gardens.

21 Q Okay. So it was at . I'm just going
22 to walk up here. It's at addressed but you
23 don't know if it could have been at the top.
24 You don't know if it could have been in the
25 muddle. You don't know if it could have been at

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

392

1 the bottom. You don't know?

2 A What is that in reference to? Top?
3 Middle?

4 Q Gonzales Gardens.

5 A It was on the Forest Drive side.

6 Q Okay. I think my pen just quit working but
7 Forest Drive is over here? So it could have
8 been anywhere on this side?

9 A Between the buildings, yes.

10 Q Okay. That's approximate. That's about as
11 specific as you can get?

12 A Yes, so far, yes.

13 MR. CHAPLIN: I have nothing further.

14 THE COURT: All right.

15 MR. CHAPLIN: Thank you.

16 THE COURT: Redirect?

17 MS. SAMPSON: Just briefly.

18 REDIRECT EXAMINATION

19 BY MS. SIMPSON:

20 Q Just briefly, what is the name of the
21 victim -- based on the report.

22 A The name in the report is Kenneth Mack.

23 Q All right. Nothing further?

24 THE COURT: Anything further?

25 MR. FARLEY: No further

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

393

1 questions, Your Honor.

2 THE COURT: Anything further?

3 MR. CHAPLIN: (No verbal
4 response). response.

5 THE COURT: You can come down, sir.
6 Thank you very much.

7 (WITNESS STEPS DOWN)

8 THE COURT: May this witness be
9 excused?

10 MS. SAMPSON: Yes, sir.

11 MR. CHAPLIN: No objection.

12 MR. FARLEY: No objection, Your Honor.

13 THE COURT: Without objection.

14 Next witness.

15 MS. SAMPSON: Thank you, Your Honor.

16 MS. SAMPSON: The State would call Kara Chase.

17 (WITNESS TAKES STAND)

18 KARA CHASE, being duly sworn to tell
19 the truth, the whole truth and nothing but the
20 truth, testified, as follows:

21 DIRECT EXAMINATION

22 BY MS. SAMPSON:

23 Q Ms. Chase, how old are you?

24 A. Thirty-two (32).

25 Q And where do you live?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

394

1 A Irvin street.

2 Q Back in 2010, specifically in February
3 of 2010, were you living somewhere different?

4 A Yes, I was on the street then.

5 Q You were on the street?

6 A (Affirmative nod).

7 Q Are you familiar with the Gonzales Gardens
8 area?

9 A Yes, ma'am.

10 Q And did you have an occasion to go over to
11 Gonzales Gardens back in February of 2010?

12 A Yes, ma'am.

13 Q And tell this jury why you would go over
14 there?

15 A I have a friend that stated out there. She
16 is more like a best friend.

17 Q Best friend?

18 A And at the time being that I was in a
19 situation of being homeless, ---

20 Q Uh-huh.

21 A --- I would stay at her house.

22 Q And what was her name?

23 A Synovia Thompson.

24 Q And do you remember where in the complex
25 her house was located?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

395

- 1 A She lived in Apartment .
- 2 Q ?
- 3 A (Affirmative nod).
- 4 Q Are you familiar with the apartment that's
- 5 across from that, which is G, I believe.
- 6 A Yes, ma'am.
- 7 Q Back on February 13th, that afternoon were
- 8 you over there visiting Synovia?
- 9 A Yes, ma'am.
- 10 Q What were you doing that day?
- 11 A We were just outside. We had one of her
- 12 cousin's kids with us. We were just randomly
- 13 outside as usual.
- 14 Q And that's not unusual there, to be outside
- 15 and ---
- 16 A No.
- 17 Q And you're aware it snowed that day. Do
- 18 you remember that?
- 19 A To my recollection right now, no, I don't.
- 20 Q You don't remember that?
- 21 A No, I don't remember the snow.
- 22 Q But that afternoon when you were out there,
- 23 do you remember seeing certain people in a
- 24 beating?
- 25 A Yes, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

396

- 1 Q Tell this jury what you first saw.
- 2 A I saw a man walking down the street.
- 3 Q Did you know him?
- 4 A No, I did not.
- 5 Q Okay.
- 6 A I saw him walking through the area. I was
7 actually down the street. He was up the street.
- 8 Q And when you say the street, was that
9 Forest Drive?
- 10 A (Negative gesture), in the complex area.
- 11 Q The street that runs in the complex?
- 12 A. Between the buildings.
- 13 Q And you were actually outside when you
14 first observed him?
- 15 A Yes, ma'am.
- 16 Q Which area was he coming from, could you
17 tell?
- 18 A He was coming from up the street, which
19 would have been from the BP and the open air
20 area.
- 21 Q The open air market area, so he was walking
22 towards the building where your friend lived?
- 23 A Right. He was coming down the street that
24 way.
- 25 Q What did you observe next?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

397

1 A The man had a couple words with another
2 gentleman. I really couldn't make out what they
3 were saying.

4 Q Where did they meet up and have some words?

5 A The man actually walked up to the other
6 man.

7 Q Okay. Let me differentiate, the man you
8 saw walking down the street?

9 A Yes, ma'am.

10 Q He made contact with another man?

11 A Yes, ma'am.

12 Q Did you know the man that he made contact
13 with?

14 A I knew him as the neighbor across the
15 street.

16 Q Did you know him by a nickname?

17 A Yes, ma'am.

18 Q What nickname did you know him by?

19 A Six.

20 Q So what ultimately turns out to be the
21 victim and Six have a meeting. What area of the
22 complex was that taking place?

23 A They were still right there by the G
24 Building.

25 Q By the G Building?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

398

1 A Right.

2 Q So it was outside?

3 A It was outside.

4 Q And that's when you first observed them
5 exchanging words?

6 A Right.

7 Q And could you tell what they were saying?

8 A No. At the time I could not.

9 Q Okay. And then what did you see happen?

10 A It looked like they had a disagreement.
11 They tried to walk down the street and Six
12 grabbed a man because it looked like obviously
13 the man said something.

14 Q Uh-huh.

15 A So he walked down the street with the man,
16 but he like nudged away, because it looked like
17 the man didn't want to go.

18 Q That's ultimately who becomes the victim in
19 the case?

20 A Right.

21 Q Six, you said, grabbed him?

22 A Right. He tried it to -- he was like, 'you
23 gonna talk to me.' I think they were already
24 talking because you could tell that the man had
25 said something. I just don't know what he said.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

399

1 Q And that would be Six or the other man?

2 A The other man. The man said something
3 first.

4 Q And then Six said something to him but you
5 don't know what was said?

6 A No, ma'am, huh-uh.

7 Q Is that when you saw Six grab the man?

8 A Right. He was going to walk down the
9 street with him.

10 Q By the arm?

11 A. Yeah, they pretty well stayed -- they
12 walked off together. It was just kinda like --
13 it wasn't forceful but it looked like the man
14 didn't want to go with him either.

15 Q So the man didn't want to go with him.

16 A. Right, but he did. He did walk off at
17 first. He did walk off.

18 Q And then what happened?

19 A Something else was said and there was a
20 reaction and the man got hit.

21 Q Which man?

22 A The deceased man.

23 Q And Six, who was the person hitting him?

24 A Six was the man that hit the man.

25 Q Did you see the victim actually go down?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

400

1 A Yeah, he fell on the ground.

2 Q When you saw him hit him, could you tell
3 how he hit him or you just saw him go down?

4 A It looked like when he went to hit him, he
5 kind of missed him, which caught the man off
6 guard which kind of -- that's why I said he was
7 swept off his feet.

8 Q Swept off his feet, so his feet were taken
9 out from under him?

10 A Right. It wasn't because he was hit -- the
11 hit was pretty much almost missed. It was as if
12 he hit him but he didn't hit him where he wanted
13 to hit him.

14 Q So he was trying to hit him with his fist?

15 A Right, it was like a punch.

16 Q And somehow, either with his legs, the man
17 got swept off his feet and he went down?

18 A Right, he did not kick the man down.

19 Q Okay.

20 A It was has if the man lost his balance.

21 Q And then he went down?

22 A Right.

23 Q Who'all was out there?

24 A It was just still them two. By that time
25 Six at one point had walked off.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

401

1 Q And when the man went down, did you see him
2 move any more?

3 A He did move as if to say he was defending
4 himself. He did kinda like, you know, like a
5 sway.

6 Q A bobble head?

7 A. He's on the ground, but it was like he was
8 just, you know, "humph", but he didn't get up.

9 Q Didn't get up?

10 A Right.

11 Q And at that point once he goes down, did
12 you see what Six did?

13 A That's where it kind of gets blurry to me
14 because I don't remember exactly what happened
15 from right there while the man was lying on that
16 particular area. I know Six wasn't right there
17 at the time. I know when the man hit the ground
18 that Six walked off.

19 Q And you just told us -- this happened two
20 years ago?

21 A Yes, ma'am.

22 Q Your memory is a little blurry now.

23 A Yes, ma'am. I'm blind, I'm on dialysis.

24 Q And you don't want to be here either, do
25 you?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

402

- 1 A Honestly, no, I don't.
- 2 Q I understand. You're under subpoena?
- 3 A I have to be here.
- 4 Q And Six and his sister, Robin, were people
5 you knew from being out at Gonzales Gardens?
- 6 A At the time I know I knew them, but I was
7 not as close to Ms. Robin as I am now.
- 8 Q Okay. And this is difficult for you?
- 9 A Right, because our children are best
10 friends.
- 11 Q I understand. Your children are best
12 friends?
- 13 A (Affirmative nod).
- 14 Q And you understand all we're trying to get
15 to is the truth?
- 16 A Yes, ma'am.
- 17 Q Do you remember back when this happened and
18 you gave a statement to the police about what
19 happened?
- 20 A Vaguely, but I do remember it.
- 21 Q Okay. And you just said in your testimony
22 here today now that your daughters are best
23 friends.
- 24 A (Affirmative nod).
- 25 Q That he didn't -- the man just fell down?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

403

1 A No. I said that he was -- what it looked
2 like was that he was intentionally hit, but the
3 hit was a miss. The way from what I saw, the
4 hit was a miss, and because the man was caught
5 off guard from the hit, he hit the ground. He
6 hit the ground hard enough. He stayed down.

7 Q Okay. Let me ask you this, do you remember
8 giving a statement to the police and at the time
9 you were being truthful with them; is that
10 correct?

11 A As far as I know I was.

12 Q Okay. Can you read this statement?

13 A No, ma'am, I cannot.

14 Q Okay. Do you remember telling them back
15 when -- before y'all were best friends that --

16 A No, our kids are best.

17 Q And -- okay.

18 A Our kids are best friends.

19 Q The victim snatched back and the other man
20 swept the victim from under his feet causing the
21 victim to hit his head on the pavement?

22 A Right. That's the same thing that I've
23 been saying the whole time, though.

24 Q Okay. But at that point when you were less
25 acquainted, that's what you said, that he swept

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

404

1 him -- that Six actually did something to the
2 man that caused him to fall down?

3 A Right. I still say that.

4 Q And do you remember giving a second
5 statement on February 22, to another
6 investigator saying Six then kicked Mack's feet
7 out from under him. That Mack must have hit his
8 head when he fell because he didn't get up?

9 A No, I never told nobody that.

10 Q Okay. You don't remember giving a
11 statement to another investigator six days after
12 that?

13 A I remember talking to somebody, but I never
14 said he kicked the man from his feet.

15 Q And that's your testimony here today?

16 A Yes, ma'am.

17 Q Now, you're stating that at some point Six
18 walked off?

19 A He did. It wasn't a continuous thing at
20 that moment.

21 Q Okay.

22 A He did turn around and walk off.

23 Q Do you remember giving a statement to the
24 police back on 16th originally back before y'all
25 were friends saying a few seconds later a female

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

405

1 runs up the street saying "that's him"?

2 A Right. I never said we were never friends.
3 It's just that at the time we were not friends
4 like that. We became closer as our kids became
5 close to each other, because our kids are close
6 in age.

7 Q Okay.

8 A I've always known her. I just didn't
9 associate myself with her because at the time I
10 was new to Gonzales Gardens. I was hanging out
11 up there but I didn't know everybody.

12 Q I understand. I'm not trying to -- please,
13 if I put words in your mouth, I don't mean to.

14 A Right.

15 Q Just so we get straight, though, your
16 relationship has progressed with her?

17 A Correct.

18 Q And this is difficult for you to be here
19 today?

20 A Yes, ma'am, it is.

21 Q But there's no doubt that even hearing your
22 testimony today that Six caused the man to go
23 down, hit his head and then he didn't get up or
24 move?

25 A He did get up after that. I told the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

406

1 police that. I told the investigators that.

2 He did get up from that spot and move, he never
3 stayed right there on that sidewalk.

4 Q Do you remember talking to the police back
5 when this happened and giving them a statement?

6 A No. I tell you, I've been through so much
7 myself that I don't remember everything. I kind
8 of -- I do remember, but I don't remember.

9 Q Do you remember telling police that the
10 words that you now can't remember from your
11 friends, that the victim said "I'm not going
12 anywhere. You just are going to have to do what
13 you do to me here."

14 A I do remember that.

15 Q Okay. Do you remember telling the police
16 that you witnessed the assault that occurred?

17 A I do remember that.

18 Q Do you remember telling the police that the
19 two people that participated in the assault were
20 Robin Reese and the guy you knew as Six, her
21 brother?

22 A Correct, but I also told them that
23 Ms. Reese came around that corner so fast and
24 went back around that corner so fast.

25 Q Okay. Do you remember saying that a female

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

407

1 runs up the street saying "that's him"?

2 A I remember that.

3 Q Do you remember telling police she begins
4 kicking the man repeatedly, picking up an old
5 metal chair and throwing it on top of the victim
6 and hitting him?

7 A I told them that I have remember her
8 hitting but, but I don't remember her picking up
9 that chair.

10 Q Do you remember telling them that the other
11 man continued to kick and stomp the man in his
12 face once the female stopped?

13 A I do.

14 Q Do you remember the victim laid on the
15 ground the whole time this was occurring?

16 A No, because I told them that him he got up.
17 After the man was hit the first time and he laid
18 there, I told them that it looked as if he was
19 doing one of two things. Either he was faking
20 it, so that way nothing else would happen to
21 him, or he was seriously hurt. But I couldn't
22 tell because I'm on one end and he is on the
23 other end.

24 Q Okay. You were far away?

25 A But he did get up from that sidewalk.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

408

1 Q You were far away or close?

2 A Oh -- I was about twenty to thirty feet,
3 maybe.

4 Q Do you remember stating that Six had an
5 construction boots?

6 A I remember that.

7 Q And at the time you stated that you didn't
8 even know Six or Six's sister's real name?

9 A At the time I didn't. Not to -- I didn't
10 know them like that. I knew of their names but
11 not like that, not to say that was the name at
12 the time. I did not know. I was told her name.

13 Q Do you remember talking to the investigator
14 this morning and going over this statement?

15 A Yes, ma'am.

16 Q And you told him that it was correct?

17 A I told him to the best of my memory what
18 I wrote on that paper at the time, yes, ma'am.

19 Q Did you actually write this statement
20 yourself in your own handwriting?

21 A At the time I did, yes.

22 Q You've mentioned now that you can't see
23 well; is that correct?

24 A No, ma'am. I'm legally blind in my left
25 and partially in my right. I don't see your

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

409

1 face right now.

2 Q At the time, were you able to see?

3 A Yes, ma'am.

4 Q And there is no doubt that the two people
5 that you saw that day during the assault?

6 A. Yes, ma'am.

7 Q So that hadn't changed?

8 A No, ma'am.

9 Q So you admit that the substance of what's
10 in this statement that you gave the police back
11 on February 16th is correct?

12 A I believed that it was at the time.

13 Q Do you remember giving a second statement
14 with more details?

15 A No, I do not remember that.

16 Q On February 22?

17 A I do not remember the second statement.
18 I know I talked to somebody, but I don't
19 remember the second statement.

20 Q Do you remember saying Mack -- and you
21 found out his name later, right?

22 A Yeah.

23 A I didn't know the man's name.

24 Q Okay.

25 A The police told me the man's name.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

410

1 Q You told that investigator that you heard

2 Mack tell Six that he was not going?

3 A He said that, "Whatever you're going to do
4 to me, you do it here. I'm not going anywhere."

5 Q And you told that investigator that Six
6 then kicked Mack's feet out from under him?

7 A No, I told him that he hit him and the man
8 was swept off his feet.

9 Q So this investigator got it wrong?

10 A Right, I don't agree with that paper on
11 that.

12 Q Okay. Do you remember telling him that
13 Mack must have hit his head when he fell because
14 he didn't get up?

15 A I did say that it looked like he hit his
16 head when he hit the ground, yes.

17 Q And he just laid there like he was out?

18 A Right. I said that, too, that he was
19 either out or that he was faking it because some
20 people do that. Where they don't want to be
21 abused anymore. They don't want to be taken
22 advantage of, so they fake what's going on.
23 They think if people are thinking that they are
24 hurt that they may walk away from them.

25 Q And then they die?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

411

1 A No, because he didn't just die there.

2 Q Okay. And then you said this is when
3 Robin, Six's sister, came out of the house and
4 said "that's him"?

5 A After the man was lying on the ground. She
6 did come from around the corner.

7 Q Then you told that investigator that Robin
8 and Six began kicking and stomping Mack's head,
9 face, sides and stomach?

10 A I have didn't tell him that because I don't
11 remember them together doing anything.

12 Q You actually told him more details, that
13 one was on one side and the other was on the
14 other side, kicking his head back and forth?

15 A I didn't say that.

16 Q That you then -- that it had gotten so
17 violent that you then were rounding up children
18 to make sure they didn't witness any more?

19 A The man ended up in the middle of the
20 ground. When he got up, he wound up in the
21 middle of the ground.

22 Q That's your testimony now, that he got up?

23 A I been saying that. I've never not said
24 it. It's just that they didn't put it in there.

25 Q Well, when you wrote out the statement in

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

412

1 your own handwriting, you didn't say he got up?

2 A No, I did. I don't remember -- I know I
3 told them, but no, I didn't write it in the
4 statement.

5 Q All right.

6 A But he did get up.

7 Q Do you remember ---

8 A That's when we was rounding up the kids.

9 Q And why were you rounding up the kids?

10 A Because it was too much going on. The kids
11 are actually -- kids are ones that kind be like,
12 'what's that?' These kids nowadays, they don't
13 listen. They want to run up, go see for
14 themselves.

15 Q I understand.

16 A So we were ---

17 Q You were just protecting the kids?

18 A Right.

19 Q Do you remember telling the investigator on
20 February 22nd that 'Robin gets a metal chair
21 from outside of the apartments and hits Mack in
22 the head, at least twice'?

23 A I don't remember that.

24 Q Do you remember telling that same
25 investigator that Six then takes the chair and

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

413

1 hits him?

2 A I do remember that. I just don't remember
3 her.

4 Q Then you talked about how people were
5 calling 9-1-1?

6 A I don't know who called 9-1-1. I know my
7 friend called 9-1-1 and the operator acted like
8 she wasn't listening to her, so I took the phone
9 and I said that there was a man who had just
10 been beaten up and he's laying in the middle of
11 the ground between the F and G building and he
12 needs an ambulance.

13 Q The ambulance did come?

14 A The ambulance did come.

15 Q And took him off?

16 A (Affirmative nod).

17 Q Do you remember telling that investigator
18 Mack never attempted to cover himself during the
19 assault, that it was like he was out cold?

20 A I said that he didn't protect himself. I
21 didn't say that he was out cold. Because he
22 couldn't have been out cold, he was moving.

23 Q Do you remember talking to the police the
24 next day and pointing to the black metal chair
25 that had been used in the assault.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

414

1 A No. I never pointed it out because I never
2 talked to the police in Gonzales Gardens.

3 Q And let me get to that now. When the
4 police responded that afternoon after EMS came
5 and got the victim and everything, did you
6 actually make contact with the police?

7 A They called me. I happened to be standing
8 outside and the police car rolled up. He called
9 me over to his car, and he started asking me
10 questions.

11 Q Okay. And when you talked to the police at
12 that point, you didn't tell him anything about
13 what you had seen?

14 A No.

15 Q Why not?

16 A Because you don't talk to the police in the
17 hood like that.

18 Q Ultimately three days later on the 16th
19 though, you went down to headquarters; is that
20 correct?

21 A Yes, ma'am.

22 Q Why did you go down to the police
23 headquarters?

24 A Because a friend of mine's brother was
25 being accused of a murder that I know he didn't

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

415

1 commit. At least from my point of view I knew
2 he did not commit it.

3 Q And who was that friend?

4 A Marcellius Brooks.

5 Q So you went down there and gave information
6 to the police that's corroborated by all the
7 other witnesses, to protect Marcellius Brooks?

8 A Yes, ma'am.

9 Q Did you tell them the truth?

10 A I believe I did. I tell them to the best
11 of my ability what I saw.

12 Q But that's changed here today now that
13 you're also friends with Robin Reese?

14 A It hadn't changed because I'm friends with
15 Robin. It's changed because I've been on a lot
16 of medicine. Most of the time -- as a matter of
17 fact, I'm not supposed to be out of the
18 hospital. I'm not supposed to be released until
19 March 1st but I left because I felt my kids were
20 more important than what's going on with me
21 right now.

22 Q Do you remember when you met with the
23 police and gave that statement that you wrote in
24 your own handwriting, that we've just gone
25 through, that they then asked you some follow-up

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

416

1 questions about the identity of the two people
2 you saw during the beating that day?

3 A I know they asked questions -- exactly what
4 they asked, I don't remember.

5 Q Okay. And you've reviewed your statement
6 this morning and told investigators from our
7 office that was correct?

8 A To the best of my knowledge with the things
9 that I remember and don't remember, yes.

10 Q I want to show you what's being marked as
11 State's Exhibit 70, do you remember that day
12 when you gave that statement that you were shown
13 some photographs?

14 A Right.

15 Q Showing what has been marked as State's
16 Exhibit 70, do you recognize that?

17 A (No verbal response).

18 Q You can't see any more?

19 A I mean, I see ---

20 Q Does holding it further away help?

21 A No. You've got to bring it a lot closer.

22 Q And you actually looking at the six
23 photographs in this one and you recognized one?

24 A Right.

25 Q And I believe you circled and initialed

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

417

1 number one, is that correct?

2 A Correct.

3 Q That's what you did that day, and then you
4 signed off on the front page of the lineup
5 identification form that that is person that you
6 recognized?

7 A Right.

8 MS. SAMPSON: Your Honor, at this
9 time we'd offer State's Exhibit 70 into
10 evidence.

11 THE COURT: Any objection?

12 MR. FARLEY: No objection, Your Honor.

13 MR. CHAPLIN: No objection, Your Honor.

14 THE COURT: State's Exhibit 70.

15 (SO ENTERED AS STATE'S EXHIBIT 70)

16 DIRECT EXAMINATION CONTINUED

17 BY MS. SAMPSON:

18 Q That also showed you a second set of
19 pictures marked as State's Exhibit 71, do you
20 recognize those?

21 A Yes, ma'am.

22 Q Is that the photo lineup they showed you
23 that day?

24 A Yes, ma'am.

25 Q Did you recognize one of the people as a

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

418

1 person that you saw out there that day?

2 A Yes, ma'am.

3 Q You circled it and initialed it, right?

4 A Yes, ma'am.

5 Q That would be number two in this one?

6 A Yes.

7 MS. SAMPSON: Your Honor, at this
8 time we would offer State's Exhibit 71 into
9 evidence.

10 THE COURT: Objection?

11 MR. FARLEY: No objection, Your Honor.

12 MR. CHAPLIN: No objection.

13 (SO ENTERED AS STATE'S EXHIBIT 71)

14 DIRECT EXAMINATION CONTINUED

15 BY MS. SAMPSON:

16 Q Are these the two people that you
17 recognized from the assault that you witnessed
18 inbetween buildings G and F that day?

19 A Yes.

20 Q And one of these is Six and the other is
21 Robin.

22 A (No verbal response).

23 Q I'm sorry, I'm almost through. I know you
24 don't want to be here.

25 A It's okay.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

419

1 Q In your statement, in your own handwriting
2 when you wrote the "victim snatched back and the
3 other man swept the victim under his feet,
4 causing the victim to hit his head on the
5 pavement." That's what you wrote?

6 A Yes, ma'am.

7 Q Then you wrote, "A few seconds later, a
8 female runs up the street, saying "that's him."

9 COURT REPORTER: You need to slow down.
10 I can't understand that.

11 MS. SAMPSON: I'm sorry. I know
12 that I get carried away.

13 DIRECT EXAMINATION CONTINUED

14 BY MS. SAMPSON:

15 Q Is that right?

16 A (No verbal response).

17 Q Then you wrote, "She begins kicking the man
18 repeatedly, picking up an old metal chair,
19 throwing it on top of the victim." That's what
20 you wrote?

21 A That's what I wrote.

22 Q And "The other man continued to kick and
23 stomp the man in his face once the female
24 stopped."

25 A No. See, ---

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

420

1 Q I'm just asking you if that's what you
2 wrote?

3 A That's what I wrote. Right.

4 Q And then finally, and I'm through, "The
5 victim laid on the ground the whole time this
6 was occurring."

7 A (No verbal response).

8 Q You were with friends, you said, earlier to
9 go down there and tell the police who was there.
10 Did you ever see Marcellius Brooks out during
11 the assault you witnessed?

12 A At one point he did -- a distance away, I
13 remember seeing him walking through. He never
14 walked up where we were.

15 Q Not near the assault?

16 A So -- he didn't know what was going on at
17 the time, but he was cutting through.

18 Q In a different part of the complex?

19 A Right.

20 Q But as far as where the assault was taking
21 place, he wasn't around?

22 A He was not around.

23 Q And the two people you saw participating in
24 the assault were Robin Reese, who you know, and
25 her brother, who you knew as Six?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

421

1 A .(Affirmative nod).

2 Q And you are friends with Marcellius Brooks.

3 Does he have a nickname?

4 A I am friends with Marcellius Brooks.

5 Q Bloom?

6 A Correct.

7 Q And were you aware that he is good friends
8 with Robin Reese, as well?

9 A At the time I did not know.

10 Q Now you know?

11 A As time progressed, yes.

12 Q The two people that you saw committing that
13 assault, do you see them here in the courtroom?

14 A Honestly, they're here but I cannot see
15 them.

16 Q You cannot see them.

17 Q But you're aware they're here in court?

18 A Yes, ma'am.

19 Q And you're aware they've been charged in
20 this matter?

21 A Yes, ma'am.

22 Q You would like to do what you could to help
23 them?

24 A Yes, ma'am, I would.

25 Q Thank you.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

422

1 THE COURT: Cross examination?

2 CROSS EXAMINATION

3 BY MR. FARLEY:

4 Q Thank you, Ms. Chase. I just have a few
5 questions for you. First off, I know that in
6 your prior testimony, you said that your child
7 and Ms. Reese's child are best friends?

8 A Yes, sir.

9 Q And you know my client, Ms. Reese?

10 A Yes, ma'am.

11 Q But you still want to come here and tell
12 the truth, tell your story. Correct?

13 A Correct.

14 Q To tell your story?

15 A Correct.

16 Q And you said -- earlier you said that you
17 saw Ms. Reese come around the corner?

18 A Yes, sir.

19 Q But then you saw her -- I'm trying to see
20 if I have it right. You saw her run away?

21 A Just as fast as she got around the corner
22 was as fast as she went back around the corner.

23 Q Just a little bit of clarity, how much time
24 do you think you spent there then?

25 A It happened so fast, it could -- I don't

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

423

1 even think it was five minutes that she was
2 there.

3 Q She was upset?

4 A She ---

5 Q Did she appear agitated, yes.

6 A Yes.

7 Q At that time, did you have any reason to
8 know why she would have been or is that just
9 what you observed?

10 A At the time I didn't know exactly why she
11 was mad, no.

12 Q You just saw her agitated and upset?

13 A Right. I knew something was wrong but I
14 just didn't know what exactly.

15 Q And you also stated, from your testimony
16 today that you didn't -- you don't recall her
17 striking Mr. Mack with any objects, especially a
18 chair?

19 A I don't remember that. I know it's written
20 in my statement, but I don't remember that. Had
21 it not been read to me, I wouldn't have
22 remembered that I wrote that.

23 Q Can you recall maybe why you wrote that?

24 A I don't know if it was at the time what was
25 going on, just how fast everything was happening

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

424

1 or what it was -- talking to the police. I
2 know -- I'm not saying they put words in my
3 mouth, but at the time there was a lot of stuff
4 I didn't know that based just on what I saw, it
5 kind of fit and I wrote it in my statement.

6 Q I mean, could it have been that you didn't
7 actually mean that you saw her utilize the chair
8 as a weapon?

9 A Right. Yeah. I mean, I don't remember her
10 picking up the chair. I don't.

11 Q Well, in your opinion, to your belief, do
12 you believe Ms. Reese could have picked up that
13 chair and used it as a weapon?

14 MS. SAMPSON: Objection, Your Honor, to
15 her opinion. She is supposed to be testifying
16 to what she saw.

17 THE COURT: Sustained.

18 CROSS EXAMINATION CONTINUED

19 BY MR. FARLEY:

20 Q Well, do you recall her having the chair at
21 all?

22 A No, I don't.

23 Q Okay. And you say she was only there for
24 about five minutes?

25 A If that.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

425

1 Q If even five minutes?

2 A Just as fast as she came around that
3 corner, she went back around that corner.

4 Q Did you see her or observe her leave with
5 anyone else?

6 A Her daughter.

7 Q Her daughter?

8 A And she never made it around the corner.
9 From where I was standing at, I ---

10 Q Well, let me clarify for one second, when
11 you say she never made it around the corner, you
12 mean -- who do you mean?

13 A Her daughter was actually walking down the
14 street, so by the time she got around the corner
15 and got back around, her daughter hadn't even
16 made it past the bush that's on the side of the
17 building.

18 Q Let me clarify that. From your perspective
19 and you're saying that the incident was
20 occurring -- what was your angle of perspective?
21 Was it right in front of you or to the right or
22 ---

23 A That was right in front of me. Where I was
24 standing at and how I could see her coming down
25 the street, that was in front of me.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

426

1 Q When you say see her, you mean -- who do
2 you mean?

3 A I saw her, Ms. Reese, first and give or
4 take a few minutes, I seen her daughter walking.
5 By the time her daughter made it to that bush, -
6 ---

7 Q But you ---

8 A --- Ms. Reese is already walking around the
9 corner, walking her back home.

10 Q But you observed Mr. Gray and the victim?

11 A Yes, sir.

12 Q Was Robin coming around the corner that was
13 in the distance or the other corner?

14 A Far corner.

15 Q Was the incident in between you and the
16 corner that she came around?

17 A Right. It was like they were here, I was
18 here when she appeared.

19 Q So she was coming towards you?

20 A Right.

21 Q And also from your perspective you could
22 see her daughter turn the corner coming towards
23 you?

24 A She never turned the corner.

25 Q Okay. How do you know she was coming then?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

427

1 A I've known her child. I could see her
2 walking this way, but she never made it around
3 that corner.

4 Q And why didn't she make it around the
5 corner?

6 A She didn't make -- the daughter never made
7 it around the corner.

8 Q Well, she was walking out -- did she stop
9 walking?

10 A By the time Ms. Reese made her way around
11 that building, she turned her daughter around
12 and they walked back, so the daughter never made
13 it past -- there's a bush right there on the
14 side of that building. Her daughter never made
15 it past that bush.

16 Q So it's your testimony today Ms. Reese was
17 only there a few minutes and then she left to
18 escort her daughter back?

19 A Right. I've always said that.

20 MR. FARLEY: No further questions
21 Ms. Chase. Please answer anything Mr. Chaplin
22 has.

23 THE COURT: Mr. Chaplin.

24 MR. CHAPLIN: Thank you very much, Your
25 Honor.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

428

1 CROSS EXAMINATION

2 BY MR. CHAPLIN:

3 Q Good morning, Ms. Chase.

4 A Good morning.

5 Q How are you doing?

6 A Good.

7 Q Good. Ms. Chase?

8 A Yes, sir.

9 Q So on the 13th of February 2010, you saw an
10 altercation?

11 A Correct.

12 Q How long after that, did you find out that
13 a friend of yours was in trouble, Marcellius
14 Brooks?

15 A I can't honestly say if it was that
16 afternoon, that evening, but it was like the
17 same day.

18 Q Okay. All right. And you wanted to help
19 your friend, correct?

20 A Yes, sir.

21 Q Okay. So on the 16th of February of 2010
22 you and several other ladies went down to the
23 Columbia Police Department, did you not?

24 A Correct.

25 Q Okay. And I don't know if you all traveled

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

429

1 together but you all got there around the same
2 time; right?

3 A Correct.

4 Q And prior to going to the police station on
5 that morning, the three of you've might have had
6 conversations about this?

7 A I have can honestly say, no. I mean, we --
8 see, I can't really remember.

9 Q Okay.

10 A But I can honestly say for myself I have
11 not talked about this incident up until the last
12 few weeks -- well, the last few days.

13 Q All right.

14 A I don't know if it was something everybody
15 wants to avoid or ---

16 Q Right.

17 A But we just didn't talk about it.

18 Q And you've been sick, as well, too, haven't
19 you?

20 A Yes, sir, I was put on dialysis in back in
21 November of 2010.

22 Q You go down to the police station and -- to
23 help your friend -- and you give a statement?

24 A Correct.

25 Q To the police?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

430

1 A. Yes.

2 Q Then on the 22nd of the same month, you get
3 approached again by another investigator. Do
4 you remember a gentleman by the name of McNeil?

5 A The name sounds familiar but I don't
6 remember him exactly. I can't tell you what he
7 looks like.

8 Q I think ethically he had to identify
9 himself as Marcellius Brooks' investigator,
10 correct?

11 A I don't remember.

12 Q Okay. Well, anyway, then he does a
13 statement that I think they were asking you
14 about here this morning?

15 A (No verbal response).

16 Q But that statement is not your handwriting?

17 A No.

18 Q And you never signed it?

19 A No.

20 Q Did you ever get a copy of it?

21 A No, sir.

22 Q So some of the things that you heard this
23 morning are kind of surprising?

24 A Yes, sir.

25 Q And this whole thing has been real tough on

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

431

1 you, hasn't it?

2 A It has the closer it's gotten to this
3 trial, it has.

4 Q Yeah. Now, Ms. Chase, are you telling the
5 truth to us today?

6 A Yes, sir, to the best of my ability, I am.

7 Q Best of your ability. Okay. Now, you said
8 that at the end of this -- well, right around
9 when the ambulances and things were coming that
10 you saw Marcellius Brooks still in the area?

11 A He was cutting through one of the building.
12 They come down the road and they cut through the
13 daycare.

14 Q Got it. Now, does he live at -- do you
15 know if he lives at Gonzales Gardens?

16 A I don't think. I don't know if he did or
17 didn't.

18 Q Do you know now?

19 A Honestly, I don't think he did.

20 Q All right. But it's your testimony that he
21 was still in the area of Gonzales Gardens?

22 A Right. I believe he -- I remember seeing
23 him with his bookbag, and I later knew that he
24 was going, you know, ---

25 Q Okay.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

432

1 A He was going about his business.

2 Q All right.

3 A As far as I know, he didn't know what was
4 going on.

5 Q So you did see -- your testimony is you saw
6 Mr. Gray and the deceased having a conversation?

7 A Right. The man.

8 Q And I'm not asking you to repeat your
9 testimony again. I'm just ---

10 A Right.

11 Q Unless you want to.

12 A They did have a conversation.

13 Q Okay. And could you see the victim's face
14 during this conversation?

15 A At the time, no.

16 Q No. His back was to you?

17 A On several instances, they was and they
18 wasn't. You know, I'm standing on one end of
19 the building. He's on the whole other end of
20 the building.

21 Q Could you tell if he had been beaten
22 earlier?

23 A No, I could not.

24 Q I probably just have two more questions,
25 Ms. Chase.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

433

1 Q So on the 16th of February when you went
2 down to the police station with the other
3 ladies, you were encouraged to do that by
4 Marcellius Brooks and his family?

5 A No, sir, I did that on my own.

6 Q On your own?

7 A Yes, sir.

8 Q And you just happened to be there with his
9 other witnesses?

10 A Correct.

11 Q Okay. I thank you very much, ma'am.

12 A You're welcome.

13 THE COURT: Any redirect?

14 MS. SAMPSON: Your Honor, I have a
15 matter of law.

16 THE COURT: Is there redirect?

17 MS. SAMPSON: I have a matter of law
18 before I can do my redirect. I tried to bring
19 it up earlier.

20 THE COURT: I'm sorry?

21 MS. SAMPSON: I tried to bring this up
22 earlier to your attention.

23 THE COURT: All right. Ladies and
24 gentlemen, let's take a short break. Let me
25 take this up with the attorneys. Just go to

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

434

1 your jury room. Don't discuss the case among
2 yourselves while you're in the jury room. I
3 will just be a minute.

4 (JURY OUT @ 11:43 A.M.)

5 THE COURT: Yes, ma'am?

6 MS. SAMPSON: May it please the Court,
7 Your Honor. It has come to my attention that
8 the investigator during the course of the
9 cross-examination, he asked her something about
10 being interviewed by a private investigator for
11 the defendant Marcellius Brooks. It is my
12 understanding that she has also been interviewed
13 by Mr. Chaplin's investigator. At this point
14 since she is hostile towards the State, we would
15 like to review her statement and, at this point,
16 I think we would have a right to.

17 THE COURT: Which statement?

18 MS. SAMPSON: The statement taken by
19 his investigator.

20 THE COURT: By Mr. Chaplin's
21 investigator?

22 MS. SAMPSON: Or Mr. Farley's
23 investigator. They both have investigators.

24 THE COURT: What's your position?

25 MR. FARLEY: Your Honor, I didn't --

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

435

1 I'm sorry, do you want to speak?

2 MR. CHAPLIN: No, you go first.

3 MR. FARLEY: I didn't refer to her
4 statement in my -- make any reference to it at
5 all. I have no intention of putting it in at
6 this point when I cross-examined her.

7 THE COURT: How about it Mr. Chaplin?

8 MR. CHAPLIN: Your Honor, I would say
9 the same. The statement that I have referred to
10 is the statement that the State provided me
11 there Mr. McNealy.

12 THE COURT: I thought -- I
13 misunderstood. You said it was Marcellius
14 Brook's investigator. Who is that?

15 MR. CHAPLIN: Well, it is my
16 understanding that ---

17 THE COURT: Who is that?

18 MR. CHAPLIN: It's my understanding
19 that ---

20 THE COURT: What's his name?

21 MR. CHAPLIN: Investigator McNeil.

22 THE COURT: He works for Marcellius
23 Brooks?

24 MR. CHAPLIN: Well, he works for the
25 Public Defender's Office and Marcellius Brooks

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

436

1 has a public defender.

2 THE COURT: All right. And he took a
3 statement?

4 MR. CHAPLIN: From Kara Chase four to
5 five days after ---

6 THE COURT: All right. You asked her a
7 questions about it?

8 MR. CHAPLIN: I did.

9 THE COURT: All right. Turn it over to
10 the State.

11 MR. CHAPLIN: Turn what over to the
12 State?

13 MS. SAMPSON: No, sir. I'm asking for
14 their investigator's.

15 MR. CHAPLIN: She gave me the McNeil
16 statement.

17 THE COURT: All right. Now, ---

18 MS. SAMPSON: Because at this point now
19 the inference is since her testimony has changed
20 since she came to court today, the inference is
21 she has never told anybody else but the police
22 and that the police lied, did not put down
23 everything that she put, things of that nature.

24 I think that I have a right, in the
25 interest of justice to review the statement

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

437

1 taken by their investigators since they were out
2 there, as far as whether or not she has given
3 inconsistent statements before.

4 THE COURT: How about that?

5 MR. CHAPLIN: Your Honor, I don't -- I
6 feel that would be highly inappropriate for my
7 client. I mean, it's not Mr. Gray's defense
8 team's fault that her witness that she put on
9 the stand gave her inconsistent answers or
10 responses.

11 THE COURT: Yeah, but what if your
12 investigator -- if she gave inconsistent answers
13 in her testimony today to your investigator, why
14 should that not be a basis for cross examination
15 of this witness?

16 MR. CHAPLIN: Well, then I think then
17 the way to do that would be to have my
18 investigator come in and speak to her if that's
19 what the State requires.

20 THE COURT: No, that's not the issue.
21 The issue is, did she say something to your
22 investigator that's inconsistent with her
23 testimony, her sworn testimony on the stand.

24 MR. FARLEY: Your Honor, may I reply
25 regarding the statement I may have taken.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

438

1 THE COURT: Well, right now I'm not
2 sure yours is in question.

3 MR. FARLEY: Yes, sir, and that's
4 exactly what I was going to.

5 THE COURT: How about it?

6 MS. SAMPSON: Your Honor, the inference
7 has been that she gave the statement to the
8 investigator to try to Marcellius Brooks out. I
9 think any prior statement ---

10 THE COURT: To who?

11 MS. SAMPSON: Well, first to the City
12 police, then to the investigator for Marcellius
13 Brooks. In addition to that, I ---

14 THE COURT: But you have that.

15 MS. SAMPSON: I've got that. In
16 addition to that, these two people sent out
17 investigators to whom she gave statements.

18 THE COURT: I know that.

19 MS. SAMPSON: The only thing we are
20 attempting to do is review those. At this point
21 her testimony has changed and we would have the
22 right to impeach her as to any prior
23 inconsistent statements. Either side has the
24 right to impeach. We don't have to vouch for
25 her credibility under 607.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

439

1 THE COURT: Right.

2 MS. SAMPSON: And that would be
3 the only purpose. We just ask for a moment to
4 review those statements and possibly use those.

5 THE COURT: Yes, sir?

6 MR. FARLEY: I would just reply, Your
7 Honor, that I didn't use any information that I
8 gained in any statement. I didn't refer to my
9 statement. I only referred to her own testimony
10 and the statement that was provided by the
11 State.

12 MS. SAMPSON: It's false -- it's
13 misleading on the court.

14 THE COURT: What are you relying on,
15 Mr. Chaplin?

16 MR. CHAPLIN: Well, first of all, Your
17 Honor, my investigator did speak with Ms. Chase.
18 My investigator does have notes that he has from
19 that conversation. Ms. Chase was hospitalized
20 at the time that he was speaking with her and
21 that's one of the reasons that I never had her
22 sign a statement or review a statement or
23 anything else like that, so that's why it's
24 never been executed. It's only notes. I did
25 not refer to any of that, as you could tell from

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

440

1 my cross. I simply asked her about what was
2 already in evidence.

3 I don't know how fair it would be to
4 challenge her on something that she gave while
5 in the hospital; and I said that to my
6 investigator, as well.

7 THE COURT: All right. The motion is
8 denied. Ready for the jury -- ready for the
9 jury?

10 MS. SAMPSON: Yes.

11 THE COURT: Bring the jury in.

12 (JURY IN @ 11:51 A.M.)

13 BAILIFF: Your Honor, the jury is
14 present.

15 THE COURT: Redirect?

16 MS. SAMPSON: May it please the Court.

17 THE COURT: Yes, ma'am.

18 MS. SAMPSON: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. SAMPSON:

21 Q Ms. Chase, I'm sorry. He asked you some
22 questions about how you got to the police
23 station this day on the 16th, three days after
24 this happened.

25 A Yes, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

441

1 Q Do you remember how you got there?

2 A I rode with Marcellius Brook's brother.

3 Q When you got there, did you intentionally
4 lie to the police about what happened?

5 A No.

6 Q And you actually handwrote your statement?

7 A Yes, ma'am.

8 Q He asked you about a statement you gave to
9 Mr. Brook's investigator that was taken after
10 you talked to the police initially?

11 A Yes, ma'am. I remember talking to
12 somebody. I don't know who they worked for.

13 Q Okay. You didn't know who they worked for?

14 A No.

15 Q Since then, have you also had the
16 opportunity to talk to a private investigator
17 for Ms. Reese?

18 A Yes.

19 Q And which story did you tell them? Do you
20 have a copy of that statement?

21 A No.

22 Q Did they give you a copy?

23 A No.

24 Q Do you know which story?

25 A Yes, I did get a copy.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

442

1 Q Do you have it here today?

2 A No, I don't.

3 Q Do you know which story you told them?

4 A The one I just sat here and just told you.

5 Q How recently was it that they talked to
6 you?

7 A This was sometime last week.

8 Q Last week but when you met with my
9 investigator this morning, you said what was in
10 the statement was true?

11 A I told him to my ability or my knowledge
12 that I could remember, yes. I also told him
13 that there were things I did not remember.
14 When he repeated what was in my statement, I
15 said then 'I don't remember that.'

16 Q Okay. But you told him what was in the
17 statement to the best of your knowledge. To the
18 best of my knowledge, that's what I wrote.

19 Q And that could have been more -- your
20 memory might have been -- have you been on some
21 medications?

22 A Not then I wasn't.

23 Q So back then your mind was clear?

24 A As far as I know it was, yes, ma'am.

25 Q And you knew it was important to tell the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

443

1 truth?

2 A Yes, ma'am.

3 Q And in addition to talking to Ms. Reese's
4 lawyer's investigator last week, did you also
5 talk to Mr. Gray's lawyer's investigator about
6 what happened?

7 A I remember a gentleman coming into my
8 hospital room and referring to him as a doctor.
9 He later said that he did not say he was a
10 doctor. I do remember him saying Henry Gray's
11 name.

12 Q Okay. Do you remember what you told him?

13 A No, I don't remember none of what I told
14 him.

15 Q Did he give you a copy of your statement?

16 A No.

17 Q And as you testified earlier, you would
18 like to help them out in any way that you could?

19 A It's not to help them out in any way. It's
20 to tell the truth.

21 Q Yes, ma'am?, that's what we are talking
22 about.

23 A From what I know, from what I saw.

24 Q When you met with the police and handwrote
25 out your statement, that was the truth as you

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

444

1 knew it at the time?

2 A As far as I knew it was, yeah.

3 MS. SAMPSON: Thank you.

4 THE COURT: Anything further?

5 MR. FARLEY: No further questions, Your
6 Honor.

7 MR. CHAPLIN: Nothing further,
8 Ms. Chase.

9 THE COURT: You may come down. Thank
10 you very much.

11 (WITNESS STEPS DOWN)

12 THE COURT: Approach the bench,
13 Counsel.

14 (OFF RECORD BENCH CONFERENCE)

15 MS. CAMPBELL: State calls Ida Menendez.

16 (WITNESS TAKES STAND)

17 IDA MENENDEZ, being duly sworn to tell
18 the truth, the whole truth and nothing but the
19 truth, testified, as follows:

20 DIRECT EXAMINATION

21 BY MS. CAMPBELL:

22 Q Investigator, where are you employed?

23 A The City of Columbia Police Department.

24 Q What do you do there, ma'am?

25 A I'm an investigator, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

445

1 Q As part of your duties, do you assist other
2 investigators as the lead investigator in the
3 case?

4 A Yes, ma'am, that's correct.

5 Q You were not the lead investigator in this
6 murder case, were you?

7 A No, ma'am.

8 Q Did you've ultimately assist in a task on
9 February 16th, 2010?

10 A Yes, ma'am.

11 Q Can you tell the jury what you did that day
12 and what you were looking for?

13 A I was instructed to locate a large black
14 chair which was being watched over by another
15 officer -- a piece of evidence, -- to collect it
16 and tag it into the property room.

17 Q And where did you go to actually get that
18 piece of evidence?

19 A Gonzales Gardens.

20 Q Specifically, was it between two buildings,
21 F and G?

22 A Yes.

23 Q What type of evidence were you looking for
24 that day when you went back three days after
25 this crime?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

446

1 A This was -- that chair. It was like a lawn
2 chair, a big 'ole metal chair. In fact, I see
3 it in the courtroom right now.

4 Q Okay. What's being marked has State's
5 Exhibit No. 72. When you got there, did you
6 take a crime scene investigator with you to take
7 some photographs?

8 A I believe a crime investigator went out.
9 I'm not sure if he was there with me. I don't
10 recall. I'm pretty sure they took pictures,
11 yes.

12 Q Okay. I'm going to show you'll a series of
13 pictures -- which, of course, are all out of
14 order -- which is Exhibit 58 through 65 and ask
15 if you recognize those?

16 A Yes, ma'am.

17 Q Does that show the general area where you
18 recovered the chair?

19 A Yes.

20 Q Just take a minute to look through them?

21 MS. CAMPBELL: Your Honor, State would
22 offer 58 through 65 into evidence.

23 THE COURT: Any objection?

24 MR. CHAPLIN: Yes. Your Honor, at this
25 point, my clients would object to that under

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

447

1 Rule 403.

2 THE COURT: Let me see them.

3 MR. CHAPLIN: Sir?

4 MR. FARLEY: Your Honor, this is just
5 more prejudicial than probative.

6 MS. CAMPBELL: Yes, Your Honor, may I
7 approach?

8 (OFF RECORD BENCH CONFERENCE)

9 THE COURT: Objection is overruled.

10 MS. CAMPBELL: Thank you, Your Honor.

11 (SO ENTERED AS STATE'S EXHIBITS 58 THRU 65)

12 DIRECT EXAMINATION CONTINUED

13 BY MS. CAMPBELL:

14 Q Your Honor, may the witness step down?

15 A Certainly.

16 Q Can you step down? We'll just go through
17 the photographs with the jury. If you'll get on
18 this side it's easier for the court reporter. A

19 (Complies)

20 Q I'm going to show you what's being marked
21 as State's Exhibit 58. What area does that
22 show?

23 A That's Gonzales Gardens.

24 Q Is that showing the area between Buildings
25 F and G?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

448

1 A Yes, ma'am.

2 Q And specifically State's Exhibit 59, what
3 does that show?

4 A That shows the apartment that the chair is
5 sitting at. That's the chair that we collected.

6 Q And that's how it appeared when you got
7 there that day?

8 A Yes, ma'am.

9 Q Specifically State's Exhibit 62, does that
10 show how the chair was positioned when you got
11 there that day?

12 A Yes, ma'am.

13 Q And the other photographs which are just
14 closeups of those; is that correct?

15 A That's correct. There's only one chair.

16 Q These are all the same chair?

17 A Yes.

18 MS. CAMPBELL: Your Honor, permission
19 to publish?

20 THE COURT: Granted.

21 DIRECT EXAMINATION CONTINUED

22 BY MS. CAMPBELL:

23 Q You can step back up.

24 A Yes, ma'am.

25 Q I show you what's been marked as State's

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

449

1 Exhibit 72. Is this the actual chair you
2 recovered that day?

3 A Yes, ma'am.

4 Q And that's the chair that's depicted in
5 those photographs?

6 A Yes, ma'am, it is.

7 MS. CAMPBELL: Your Honor, at this
8 time I'd like to offer State's Exhibit 72 into
9 evidence.

10 THE COURT: Objection?

11 MR. FARLEY: Objection, Your Honor. We
12 feel that this is far more prejudicial than it
13 is probative. There's already have pictures of
14 the chair in evidence. I don't see why we have
15 to have the actual chair in evidence.

16 THE COURT: Mr. Chaplin?

17 MR. CHAPLIN: I would join in that
18 objection, Your Honor.

19 THE COURT: All right. Overruled.

20 MR. CHAPLIN: Thank you, Your Honor.

21 (SO ENTERED AS STATE'S EXHIBIT 72)

22 DIRECT EXAMINATION CONTINUED

23 BY MS. CAMPBELL:

24 Q So State's Exhibit 72 is the actual chair
25 itself; is that correct?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

450

1 A Yes, ma'am. That's it.

2 Q Once you located the chair, did you then
3 take it into custody?

4 A Yes, ma'am, I did.

5 Q Was it transported back to headquarters?

6 A Yes, it was, right in the back of a patrol
7 car.

8 Q Ultimately it would have been processed by
9 different unit. You wouldn't have done the
10 actually swabbing for the DNA on this chair?

11 A No, ma'am.

12 Q That would have been crime scene?

13 A That's correct.

14 Q But you were the one who was able to locate
15 it and collect it?

16 A Yes, ma'am, and tagged it into property.

17 Q And that was the extent of your involvement
18 in this case?

19 A Yes, ma'am, pretty much.

20 THE COURT: Cross examination?

21 CROSS EXAMINATION

22 BY MR. FARLEY:

23 Q Is it Officer Menendez?

24 A Yes.

25 Q Investigator Menendez?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

451

1 A Yes, sir.

2 Q When did you pick up the chair -- you said
3 you went to the crime scene?

4 A Yes.

5 Q And that was -- do you remember which two
6 buildings that was between?

7 A Between F and G.

8 Q And do you recall what day that was that
9 you?

10 A I don't have notes in front of me. We just
11 testified earlier on that date.

12 Q Was it several days later?

13 A No. It was not long after this incident
14 occurred.

15 Q The next day or a few days?

16 A Again, I don't have notes in front of me,
17 sir. I don't recall how long. It wasn't very
18 long.

19 Q Okay. But this was after. You didn't do
20 anything related to the incident at all?

21 A (No verbal response).

22 Q You were there to collect the chair itself?

23 A Yes.

24 MR. FARLEY: No further questions.

25 MR. CHAPLIN: Thank you.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

452

1 CROSS EXAMINATION

2 BY MR. CHAPLIN:

3 Q Officer Mendez -- Menendez?

4 A Yes.

5 Q Okay. Excuse me. I just want to look at
6 this. So, Officer, you said that you were
7 instructed to go to the crime scene and collect
8 the chair?

9 A Yes, sir.

10 Q Okay. Had you read any previous reports
11 about this investigation prior to doing that?

12 A No, sir.

13 Q Okay. So the testimony was introduced that
14 the crime scene according to State's Exhibit 6
15 was at building Did you go to building

16 A No, sir.

17 Q What building did you go to?

18 A Right over there by Building behind -
19 That's where we collected that particular piece
20 of evidence, the chair.

21 Q Okay. So the crime scene earlier was
22 identified as by building You picked up a
23 chair by

24 A I don't know anything about what you're
25 talking about, but that's where I went, yeah,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

453

1 Building G.

2 Q And how long -- I'm sorry, you might have
3 answered this already. When did you pick up
4 this chair, on what day?

5 A I testified earlier I don't have notes in
6 front of me, sir. The date that I said earlier.

7 Q I'm not trying to -- I just don't remember,
8 was it a week, was it two weeks, was it a month?

9 MS. CAMPBELL: Your Honor, if she
10 can have a copy of her report I think she would
11 be accurate.

12 MR. CHAPLIN: Okay. Thanks. I just
13 wanted to make sure that I had it.

14 MS. CAMPBELL: (Tendering).

15 CROSS EXAMINATION CONTINUED

16 BY MR. CHAPLIN:

17 Q All right. Do you want to take a second
18 and review that?

19 A (Upon review), okay. So your question was,
20 sir? Forgive me.

21 Q On what date did you go and collect this
22 chair?

23 A Okay. February 16th, 2010.

24 Q Okay. So around three to four days later?

25 A Excuse me?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

454

1 Q Do your notes show what the date of the
2 incident was?

3 A My note said the date of the incident is
4 February 16th, 2010.

5 Q Okay. Would it surprise you if I told you
6 the incident was February 13th, 2010?

7 A Sir, all I know is what I've got on my
8 notes right here. It says February 16th.

9 MR. CHAPLIN: Thank you very much,
10 ma'am.

11 WITNESS: You're welcome.

12 THE COURT: Any redirect?

13 MS. CAMPBELL: No, sir.

14 THE COURT: You may come down. Thank
15 you very much.

16 WITNESS: Thank you, Your Honor.

17 (WITNESS STEPS DOWN)

18 MS. CAMPBELL: The State would call
19 Investigator Sumpter, Your Honor.

20 (WITNESS TAKES STAND)

21 CLARENCE SUMPTER, being duly sworn to
22 tell the truth, the whole truth and nothing but
23 the truth, testified, as follows:

24 DIRECT EXAMINATION

25 BY MS. CAMPBELL:

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

455

1 Q Good afternoon.

2 A Good afternoon.

3 Q You are an investigator, correct, now?

4 A Yes -- yes, ma'am.

5 Q How long have you been with the police
6 department?

7 A Approximately 17-and-a-half years.

8 Q Seventeen-and-a-half years. How did you go
9 through the ranks there?

10 A I started out as patrol officer and was
11 promoted to MPO after three or four years,
12 school resource officer, got promoted to
13 investigator.

14 Q How long have you been an investigator?

15 A Approximately three years.

16 Q And in February of 2010, what was your
17 position at that time?

18 A I was an investigator then.

19 Q Okay. And how did you become involved in
20 this case?

21 A We were called out in reference to a death
22 at an apartment complex.

23 Q So by the time that you were called, the
24 victim had passed?

25 A It was my understanding that -- I'm not

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

456

1 sure whether he had already passed, but he was
2 in the hospital; but we were called to
3 investigate that possibility.

4 Q Okay. And where did you go upon being
5 called?

6 A I responded to Gonzales Gardens apartments,
7 and I met with Investigator Perry and then
8 Sergeant McFadden.

9 Q Is it unusual usual for there to be more
10 than one investigator?

11 A No.

12 Q Who was the lady investigator in this case?

13 A At that point, we were told that
14 Investigator Pegram is going to be the lead
15 investigator on the case.

16 Q So what was your going to be your job or
17 your role in that investigation at that point?

18 A To assist the lead investigator on anything
19 he or she may need to come to a conclusion.

20 Q Okay. So once you got to the Gardens, I
21 believe you said you were briefed at that point?

22 A We were briefed initially by Sergeant Babin
23 who was already there, and I met with him and
24 others.

25 Q At that time, did you know anything about

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

457

1 what had happened?

2 A Before I got there, no, ma'am.

3 Q When you were briefed, what were you told
4 had happened?

5 A We were told the individual was in the
6 hospital after he was -- I think he was
7 assaulted by several males at that apartment
8 complex.

9 Q That's all you knew at that time?

10 A At that time, yes.

11 Q So based on that information, what did you
12 do?

13 A We started to follow leads that we had
14 gathered, to try to ascertain what had happened.
15 There was a report from a seafood market right
16 next to the apartment complex that we were
17 responding to.

18 Q And what did you do upon going to the
19 market?

20 A After being told that apparently the young
21 men who was involved in the assault on our
22 victim, we went there to see if they had a video
23 of the -- we had been told they had gone into
24 that restaurant.

25 Q Were you able to view any video?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

458

1 A There was video there, yes, ma'am.

2 Q Yes. What did you see?

3 A What I remember seeing was that there were
4 several young men would come in and approached a
5 lady who was actually in the place. I think she
6 was playing video poker. Then we could see them
7 coming out and all were walking away from the
8 restaurant back toward the complex.

9 Q Of any of those individuals that you saw,
10 did any of them seem to be very upset?

11 A There was some animation from -- I think
12 from the older female but it was hard to tell
13 because there was no audio, it was just video so
14 we could only determine that's possible.

15 Q And as part of your investigation, did you
16 ever speak with a Donetti Perry; do you
17 remember?

18 A. Yes, I did.

19 Q And what did you do with Ms. Perry?

20 A I was asked to have Ms. Perry come in and
21 take a statement and also show her a lineup of
22 individuals that she could recognize.

23 Q And did you take that statement from her?

24 A I think I did.

25 Q Did you tell her what to say in any way?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

459

1 A No, ma'am.

2 Q Do you remember if you wrote it or if she
3 wrote it?

4 A I don't remember. I think she may have
5 written it. I'm not sure.

6 Q I'm going to show you what's being marked
7 as State's Exhibit 67 and 66?

8 MS. CAMPBELL: May I approach, Your
9 Honor.

10 THE COURT: Yes.

11 DIRECT EXAMINATION CONTINUED

12 BY MS. CAMPBELL:

13 Q Investigator Sumpter, do recognize State's
14 Exhibit 66 and 67?

15 A Yes, ma'am, I do.

16 Q What are they?

17 A These are lineups and affidavits for
18 lineups that was shown to Ms. Donetti Perry.

19 Q What date were they shown to her?

20 A The dates here say February 16th, 2010.

21 Q And as the procedure -- what is the
22 procedure that you do when you show her those
23 lineups?

24 A The procedure that we we've been following
25 is the fact that we've just been having the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

460

1 individual that's being interviewed and give
2 them the statement to see if they could identify
3 anybody in the lineup. If they recognizes them,
4 then we ask them how do they know these
5 individuals.

6 Q Did you do that in this case?

7 A Yes.

8 Q Did you in any way tell her which one to
9 pick?

10 A No, ma'am.

11 Q How is that?

12 A If I remember correctly, I have to -- I put
13 it face down on a table and then allow that
14 individual to turn it over themselves, so
15 therefore I'm not handling it when they handle
16 it.

17 Q And you do that in this situation?

18 A Yes.

19 Q Do State's Exhibit 66 and 67, do those
20 accurately reflect what she did that day?

21 A Yes, ma'am.

22 MR. CAMPBELL: At this time we
23 would like to enter State's Exhibit 66 and 67
24 into evidence, Your Honor.

25 THE COURT: Any objection?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

461

1 MR. FARLEY: No objection, Your Honor.

2 MR. FARLEY: No objection.

3 (SO ENTERED AS STATE'S EXHIBIT 66)

4 (SO ENTERED AS STATE'S EXHIBIT 67)

5 DIRECT EXAMINATION CONTINUED

6 BY MS. CAMPBELL:

7 Q On State's Exhibit No. 66, who does

8 Ms. Perry identify or circle?

9 A On this lineup, she circled photo number
10 two.

11 Q And who is in photo number two?

12 A I think this is the young man. I think
13 it's Mr. Gray.

14 Q And how did she identify him?

15 A If I remember correctly, she knows this
16 young man because they both live in the same
17 apartment complex, knows him by name and sight.

18 Q Does she circle and put her initials?

19 A She put her initials and also her name,
20 date and time.

21 Q And that's what you asked her to do?

22 A Yes.

23 Q And then on the first sheet she signs and
24 fills that out?

25 A Yes, ma'am.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

462

1 Q And that states that she picked number two?

2 A Yes, ma'am.

3 Q On State's Exhibit No. 67, did she do the
4 same thing?

5 A Yes, ma'am.

6 Q She filled out the front page with her name
7 and identifying information?

8 A Yes.

9 Q And she picked which number on State's
10 Exhibit No. 67?

11 A On this lineup, she picked photo number
12 one.

13 Q And who is in photo number one?

14 A I think this is Ms. Reese, Ms. Reese.

15 Q Did she say how she knew her?

16 A Again she indicated that this individual
17 lives in the complex that she lives and she
18 knows them by name and sight.

19 Q And she circled that one and put her name
20 on that one, as well?

21 A Yes.

22 Q Did she hesitate at all when she picked
23 these two photo lineups?

24 A No, ma'am.

25 Q Did you tell her who to pick or in any way

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

463

1 indicate that she should pick anybody?

2 A No, ma'am.

3 MS. CAMPBELL: Beg the Court's
4 indulgence. Thank you. Please answer any
5 questions that the defense may have.

6 THE COURT: Cross examine?

7 MR. FARLEY: Yes, sir.

8 CROSS EXAMINATION

9 BY MR. FARLEY:

10 Q First, I want to apologize. I caught that
11 you are an investigator but I didn't seem to
12 catch your last name?

13 A Sumpter.

14 Q Sumpter. Investigator Sumpter, I know you
15 said that you testified that you responded to a
16 call in Gonzales Gardens and you said you
17 interviewed Ms. Donetti Perry?

18 A Yes.

19 Q Is that correct?

20 A. (Affirmative nod).

21 Q And you said -- please correct me if I'm
22 wrong, she wrote the statement for your. You
23 didn't write it for her?

24 A I don't remember writing it for her. I
25 think she did write it.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

464

1 Q And then she just came down and gave you
2 the lineup. Was that the extent of your
3 assistance in the investigation?

4 A I'm sorry, I can't hear you.

5 Q Then you testified to the lineup?

6 A Yes, sir.

7 Q Was that the extent of your assistance in
8 the investigation?

9 A I assisted the lead investigator,
10 Investigator Pegram, on whatever was needed to
11 conduct the investigation.

12 Q That was the primary thing of what you just
13 testified to; is that correct?

14 A Yes, sir.

15 Q Okay. And that's primarily only on the
16 identification in the lineup.

17 A As far as I can remember.

18 MR. FARLEY: Thank you Mr. Sumpter,
19 answer any questions Mr. Chaplin may have.

20 CROSS EXAMINATION

21 BY MR. CHAPLIN:

22 Q Investigator Sumpter, so you weren't the
23 lead investigator on this case, but you played
24 what role? I'll go with that?

25 A As an investigator assisting the lead.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

465

1 Q Got it. So have you read the report that
2 was prepared by the lead investigator of your
3 investigation?

4 A When you say report, which record are you
5 talking about?

6 Q That would have been prepared by
7 Investigator Pegram.

8 A Specifically which report are you referring
9 to?

10 A I read some, yes.

11 Q You knew you had to testify today and you
12 reviewed the documents, right?

13 A Yes.

14 Q Thank you. You said you came -- you were
15 called about an incident. You responded to a
16 call about an incident?

17 A Yes, sir.

18 Q Okay. And I think said that the people of
19 interest in that incident were some young men?

20 A Initially that's what we were told, yes.

21 Q That's what you were told. Okay. So what
22 were you told about that incident?

23 A That there was an assault involving several
24 young men on another young man and a young lady
25 was also involved.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

466

1 Q Were these the young men that were depicted
2 in the video?

3 A From my understanding, yes, sir.

4 Q Now, are you familiar with Gonzales
5 Gardens?

6 A Somewhat.

7 Q Somewhat. So when you responded to your
8 call, you responded to an area up by McDuffie?

9 A Yes, sir.

10 Q Forest Drive?

11 A Yes.

12 Q That would have been near -- I don't want
13 to put words in your mouth. That would have
14 been nearby the Blue Ocean fish market?

15 A If that's the name of that fish market.

16 Q Seafood or something like that. All right.
17 So you responded to an incident that occurred up
18 by McDuffie?

19 A The incident I was being told had occurred
20 on Gonzales Gardens property.

21 Q Yes.

22 A Which was right there on McDuffie street.

23 Q Okay. But you weren't called about an
24 incident that which you should between at any
25 other location, like at F and G, were you?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

467

1 A Not at that time.

2 Q Not at that time. And as a result of
3 responding to that call, did you interview
4 anybody?

5 A I think I assisted in an interview with a
6 young man who lived across street from the
7 incident location.

8 Q Is that it? That's the only interview you
9 did?

10 A As far as I can remember.

11 Q In your investigation about that first
12 incident which the State asked you about in
13 their direct, what did you learn happened?

14 MS. CAMPBELL: Objection. That is very
15 broad, Your Honor. I mean, the investigation is
16 several things.

17 THE COURT: All right.

18 MR. CHAPLIN: I'll try to rephrase it
19 to make it more specific.

20 THE COURT: Yes.

21 CROSS EXAMINATION CONTINUED

22 BY MR. CHAPLIN:

23 Q You investigated the incident that you were
24 called out to respond to near McDuffie, correct?

25 A That was the initial response, that's why

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

468

1 we were there, yes, sir.

2 Q And you did an investigation?

3 A Yes, sir.

4 Q Okay. And what did you learn from your
5 investigation of that?

6 MS. CAMPBELL: Again, Your Honor, it's
7 the investigation is several days.

8 THE COURT: Overruled. If you can
9 answer it, go ahead.

10 WITNESS: Can you repeat the question,
11 please.

12 MR. CHAPLIN: And I don't mean vague or
13 confusing.

14 CROSS EXAMINATION CONTINUED

15 BY MR. CHAPLIN:

16 Q I'm simply asking, trying to elicit -- when
17 you investigated the incident, you found out
18 that someone had been attacked; correct.

19 A Yes, sir.

20 Q And do you know who that person was?

21 A Kenneth Mack was the one who was the victim
22 that we were told had been attacked.

23 Q Okay. And did you find out who attacked
24 Kenneth Mack?

25 A The initial investigation revealed that

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

469

1 Mr. Mack was assaulted by several young men and
2 there was a young girl also involved in that
3 particular incident.

4 Q And you testified earlier that you read the
5 reports supporting this investigation, correct?

6 A Yes, sir.

7 Q So do you recall the names of those young
8 men?

9 A There were several names mentioned. One
10 was Marcellius Brooks.

11 Q Marcellius Brooks.

12 A The other names that I can recall was
13 Joseph -- One was somebody named Thomas Joseph
14 and Brandon something maybe.

15 Q Okay. Do you recall nicknames or street
16 names that might have involved in that attack?

17 A No, sir, I don't remember.

18 Q You don't remember. Do you recall if the
19 name Henry Gray was involved in that attack?

20 A Initially?

21 Q In the attack up at McDuffie?

22 A The attack at McDuffie was only the young
23 men I just mentioned. Those names were
24 mentioned.

25 Q Did so as far as the first incident, the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

470

1 attack at McDuffie that did not involve Henry
2 Gray, correct?

3 A His name didn't come up at that point, no,
4 sir.

5 Q Thank you. Did your investigation reveal
6 the extent of the attack on Kenneth Mack?

7 A In terms of?

8 Q How badly beaten he was?

9 A I wasn't privy to the medical reports, but
10 we were initially told that after that initial
11 assault Mr. Mack did walk away. Now how bad he
12 was injured at that point, I don't know.

13 Q So you don't have any idea the I extent of
14 his injuries from that first attack?

15 A Not specifically, no, sir.

16 Q Okay. Final question. As far as the
17 people -- Investigator, as far as the
18 individuals involved in that attack near
19 McDuffie that your investigated, do you know if
20 all of those young men were arrested for their
21 involvement?

22 A I don't think all of them.

23 Q Who do you know was arrested.

24 A I think Marcellius Brooks, if I remember
25 correctly, was arrested.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

471

1 Q And the rest, nothing happened to them, to
2 your knowledge?

3 A At this point, I don't remember.

4 Q Has an investigator, could you tell us why?

5 A No, because I wasn't the lead. I was just
6 assisting the lead on what his conclusions were.

7 Q Based on your fifteen years of experience,
8 do you have any idea?

9 MS. CAMPBELL: Objection, Your Honor,
10 calls for speculation. He just said he wasn't
11 the lead investigator.

12 THE COURT: Go ahead. I'll allow it.

13 WITNESS: What was your question,
14 again?

15 CROSS EXAMINATION CONTINUED

16 BY MR. CHAPLIN:

17 Q I think you indicated earlier you're quite
18 experienced as an investigator.

19 A Yes, sir.

20 Q You established out of the young men that
21 you were told attacked Mr. Mack, only one was
22 arrested. So I'm asking you, based on your
23 seasoned experience as an investigator, can you
24 help us understand why Mr. Brooks was the only
25 one arrested from that first attack?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

472

1 A It was the decision of the lead
2 investigator to make those decisions. It was
3 his decision to make that arrest, so we relied
4 on his expertise in that area.

5 Q So you don't know?

6 A I mean, it's his case so he makes the
7 decisions on the arrests.

8 Q Okay. I'll try to ask him. Thank you very
9 much.

10 THE COURT: Any redirect?

11 MS. CAMPBELL: Briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. CAMPBELL:

14 Q Investigator Sumpter, they asked you
15 about -- you went there to investigate the
16 first -- the attack and you went to McDuffie
17 Street?

18 A Yes, ma'am.

19 Q You later learned there was a second
20 attack?

21 A Yes, ma'am.

22 Q In that first attack, Mr. Mack was able to
23 get up and walk away from that first attack?

24 A Yes, ma'am.

25 Q That second attack involved Henry Gray and

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

473

1 Robin Reese?

2 A Yes, ma'am.

3 Q Was he able to get up and walk away from
4 that attack?

5 A No, ma'am.

6 MS. CAMPBELL: No further questions,
7 Your Honor.

8 THE COURT: Redirect? Recross?

9 MR. CHAPLIN: Yes.

10 MR. FARLEY: Go ahead.

11 RECROSS EXAMINATION

12 BY MR. CHAPLIN:

13 Q Investigator Sumpter, did you prepare a
14 report regarding the second attack?

15 A No, I did not.

16 Q So it's your testimony that you're not sure
17 the extent of his injuries in the first attack
18 but its hearsay that you were told he got up.
19 Were you there at the second attack?

20 A I wasn't there either at the first or
21 second attack.

22 Q So everything that you've been testified to
23 is what you've been told?

24 A Everything I'm testifying to is what we
25 discovered during the course of our

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

474

1 investigation.

2 Q Basically things that you were told?

3 A Discovered in our investigation.

4 Q But you didn't discover in your
5 investigation how badly beaten he was, Mr. Mack
6 was, in this first attack?

7 A I'm pretty sure it's in the case file, the
8 extent of his injuries but I don't recall. I
9 don't remember exactly how badly he was injured.

10 MR. CHAPLIN: Thank you very much.

11 THE COURT: All right, sir. You may
12 come down.

13 (WITNESS STEPS DOWN)

14 WITNESS: Thank you.

15 THE COURT: May this witness be
16 excused.

17 MR. FARLEY: No objection.

18 MR. CHAPLIN: No objection.

19 THE COURT: All right. Next witness.

20 MS. SIMPSON: The State calls Amber
21 Hardy.

22 (WITNESS TAKES STAND)

23 AMBER HARDY, being duly sworn to tell
24 the truth, the whole truth and nothing but the
25 truth, testified, as follows:

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

475

1 DIRECT EXAMINATION

2 BY MS. SAMPSON:

3 Q Good afternoon, Ms. Hardy?

4 A Yes.

5 Q How old are you?

6 A Forty-three (43).

7 Q And what type of work do you do?

8 A I am a pharmacy manager.

9 Q What pharmacy do you manage?

10 A That's what I was doing during the
11 incident. I have since switched companies.

12 Q Okay. Back on February 13th of 2010, where
13 were you working?

14 A C.V.S.

15 Q And on that day, did something occur for
16 you to call the police?

17 A Yes. I had a shoplifter.

18 Q And you worked for C.V.S. in what capacity?

19 A The manager.

20 Q As part of your duties, how were you
21 involved with shoplifters?

22 A Taking care of the customers. You know,
23 protecting the store assets, as well as the
24 employees. And part of my rule, as well, as
25 loss prevention.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

476

1 Q So you would actually follow up on the
2 shoplifters?

3 A Yes.

4 Q On that day, your stated you called 9-1-1?

5 A Uh-huh -- yes, ma'am.

6 Q And as you were following the shoplifters
7 and you were on the phone with the police, did
8 you also see an altercation?

9 A Yes.

10 Q And where did you see that?

11 A On McDuffie Street.

12 Q On McDuffie?

13 A Yes.

14 Q And where were you at that point? Were you
15 in your car, were your standing out?

16 A I was following the shoplifter in my car
17 and when I saw the fight occur, my car was on
18 Forest Drive between the gas station and the
19 beginnings of the Gardens.

20 Q Okay. McDuffie actually runs like this to
21 Forest Drive, correct?

22 A Yes.

23 Q And you saw the fight on McDuffie?

24 A Yes.

25 Q At that point, you observed about four

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

477

1 black males?

2 A Yes.

3 Q And one black female?

4 A Yes, ma'am.

5 Q And they were beating up another black
6 male?

7 A Yes.

8 Q And all of them, were they kind of taking
9 turns?

10 A Uh-huh.

11 Q And how long would you say this happened.
12 I know you weren't looking at your watch but how
13 long?

14 A Maybe five minutes. It seemed like
15 forever.

16 Q But it was just because of the fight, but
17 it was probably about -- it was a matter of
18 minutes?

19 A Yes.

20 Q Correct? After the assault, did the young
21 men who were assaulting the one guy, did they
22 leave?

23 A The ones that were hitting him?

24 Q Yes.

25 A Yes. They walked away from him.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

478

1 Q Okay. Did you see what direction they
2 went?

3 A They went -- they're still on the same side
4 of the street and they walked to the open air
5 market, the little grocery store there.

6 Q The other guy, did you see him get up?

7 A Yes.

8 Q You told police about this, correct?

9 A Yes.

10 Q Rather than follow the shoplifter, did you
11 go back to your store?

12 A Well, I had lost the shoplifter at that
13 point.

14 Q Okay.

15 A So after the incident happened, I went back
16 to the store.

17 Q And you actually -- I believe on the same
18 day gave a statement to law enforcement about
19 this?

20 A Yes, ma'am.

21 MS. SAMPSON: Thank you.

22 THE COURT: Cross examination?

23 CROSS EXAMINATION

24 BY MR. FARLEY:

25 Q Thank you, Ms. Hardy. You don't live in

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

479

1 Gonzales Gardens?

2 A No, sir.

3 Q And you don't often go to Gonzales Gardens?

4 A Well, actually I would go over there quite
5 a bit because we had a lot of shoplifters, so it
6 wouldn't be ---

7 Q But you weren't going for social calls or
8 anything of that nature?

9 A No.

10 Q So you were familiar with the Gardens but
11 only in the capacity of being manager at the
12 CVS?

13 A Yes.

14 Q No other reason for you to go over there?

15 A No.

16 Q And no other connection you have to
17 Gonzales Gardens?

18 A Correct.

19 Q And you said you were following a
20 shoplifter out of your store. That's -- in the
21 process of following that shoplifter, is that
22 when you came upon this incident you're
23 describing?

24 A I had been following the shoplifter for
25 some time around the Gardens area, and while I

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

480

1 was on the phone with the police is -- and I had
2 lost the shoplifter, she slipped away, that's
3 when I saw the fight occur.

4 Q Okay. And I hate to go back over this
5 again, but you said this was how many males?

6 A Four or five.

7 Q Four or five males. You didn't recognize
8 any of them?

9 A Recognize them from?

10 Q I mean, you have no recognition of them --
11 had you seen them before, know who any know of
12 them were?

13 A No.

14 Q And you said this lasted for about five
15 minutes?

16 A I can't be certain.

17 Q About five minutes, but you said it seemed
18 like it was a really long time?

19 A Uh-huh.

20 Q So you're saying it was a pretty emotional
21 incident, I'm sure, to observe that?

22 A It was brutal.

23 Q And after that you said the assailants
24 walked away?

25 A Yes.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

481

1 Q Did you say there was a female?

2 A Yes.

3 Q Did you see her leave at all?

4 A She was with a group, as well.

5 Q Did you see her leave at all?

6 A She stayed with the group -- I mean, they
7 were all together.

8 Q So you just saw them break up, didn't
9 see ---

10 A They all walked together to the store and
11 walked into the open air market.

12 Q Okay.

13 Q And how far away were you from that
14 incident, do you think?

15 A Maybe from here to the wall, about that
16 wall. It wasn't -- it was fairly close. The
17 buildings are pretty close to McDuffie and
18 Forest is, you know, right there at the corner
19 so we were pretty close.

20 Q This is okay if you don't recall, but do
21 you recall if that were any -- did you notice of
22 the building lettering or what buildings you
23 were around or what buildings this took place
24 at?

25 A Not really. It was at the beginning of the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

482

1 second building.

2 Q Right. I was just curious because I know
3 you're not often there, but you're did say it
4 was up by McDuffie?

5 A Uh-huh, yes.

6 Q McDuffie Drive?

7 A Uh-huh.

8 Q And did you -- you came upon them. You
9 didn't happen to see anything prior to that? I
10 mean, you weren't there at its inception?

11 A Well, I don't know when and where that was,
12 so -- I looked over and there was a group of men
13 and a female and then the fight broke out and --

14 Q Is it fair to say it was already in
15 progress?

16 A No, because I had to have seen it from the
17 beginning because I have been driving on
18 McDuffie and Manning looking for the shoplifter.
19 So -- I mean, I was up and down that street.

20 Q But did you see how the fight got start
21 then?

22 A No.

23 MR. FARLEY: Give me one second.

24 CROSS EXAMINATION CONTINUED

25 BY MR. FARLEY:

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

483

1 Q Ms. Hardy, let me ask you this question.

2 You said it was a pretty bad beating.

3 A It was.

4 Q Did you see the person who was getting

5 beaten up, did you see him try to defend

6 himself?

7 A Yes.

8 Q Did he try to defend himself?

9 A Yes.

10 Q Did you see him get up?

11 A He was putting his hands up trying to

12 defend himself, to deflect the kicks and the

13 punches. They were just taking turns and he

14 would fall and they would kick him and punch him

15 and like karate kicks like you would break a

16 board in half.

17 MR. FARLEY: Well, thank you for being

18 here today. Please answer any questions

19 Mr. Chaplin has.

20 THE COURT: Mr. Chaplin.

21 CROSS EXAMINATION

22 BY MR. CHAPLIN:

23 Q Good afternoon, Ms. Hardy. Do you remember

24 calling it in -- or you were on it be phone with

25 9-1-1 when you started to see this, this

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

484

1 incident, correct?

2 A Yes.

3 Q All you were trying to do is get some
4 merchandise back for your store that a
5 shoplifter took, right?

6 A Yes, sir.

7 Q All of a sudden, you're in the middle of
8 something like that?

9 A Yes.

10 Q So -- I appreciate your coming here today
11 and helping us try to understand this. So the
12 first thing I want to do is I want to establish
13 where it is that you saw this occur and, you
14 know, you would think that I would have a pen
15 that would write on that wall and I don't, but
16 I'm just going to walk over there and see if I
17 can point out -- now, this is Forest Drive -- if
18 I can. We are going to have some maps to help
19 everybody understand this later on, but if this
20 is Forest Drive, your store is over here?

21 A Correct.

22 Q And let's say this is McDuffie. Let's say
23 that's running across this way?

24 A That would be Manning.

25 Q Okay.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

485

1 A And then McDuffie would be down a little
2 further.

3 Q A little further?

4 A Uh-huh.

5 Q So what you saw occurred around McDuffie,
6 true?

7 A (No verbal response).

8 Q Well, let me say if I can be more general,
9 it occurred somewhere at the top -- in this
10 area? I'm saying that as opposed to down here
11 where buildings F and G are located?

12 A I'm not familiar with the letters of the
13 buildings.

14 Q Yeah, I didn't think you would be. All
15 right. Well, let's just go with what you
16 understand. But you saw -- there's an open air
17 market at the top, too. Are you familiar with
18 or aware of that seafood market?

19 A Well, there is a seafood market and then
20 there is a hair ----

21 Q Hair shop, nail shop.

22 A (Affirmative nod).

23 Q Okay. All right. So what you saw was near
24 McDuffie and Manning, up here?

25 A It was on Manning is another street on the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

1 other side of the open air market.

2 Q Okay.

3 A Manning, open air market where there's like
4 three or four stores, McDuffie, which lines up
5 with the buildings.

6 Q Okay. All right. Well, I promise to try
7 to bring a better diagram next time but --
8 anyway, let's move on.

9 A Okay.

10 Q You say -- well, you gave a statement and
11 you said you were in the turn lane of Forest
12 Drive and McDuffie?

13 A Correct.

14 Q And you looked out to your left?

15 A Yes.

16 Q And you saw a group of men beating another
17 man?

18 A And a female.

19 Q And a female, yes?

20 A Yes.

21 Q Now, let me just ask this. Did you ever
22 see a man on top of a girl or on top of a
23 female?

24 A No.

25 Q You never did?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

487

1 A No.

2 Q So if that's what started the incident, you
3 didn't see the beginning of the incident because
4 you never saw that, right?

5 A I don't know at what path the beginning of
6 the whole situation was.

7 Q Right. So you're not certain that you saw
8 the first attack, the initial attack. You're
9 not certain of that?

10 A I don't know if mine was the first or ---

11 Q Second, third or what?

12 A Right.

13 Q You just know what you saw?

14 A Right.

15 Q Got it. And what you saw, you saw a group
16 of men and a girl and they were -- I had the
17 pleasure of listening to your tape, and I think
18 I even heard you scream a few times every time
19 you would see somebody get kicked to the ground?

20 A (Affirmative nod).

21 Q Do you recall that?

22 A (Affirmative nod).

23 Q And based on the inflection in your voice
24 throughout this tape ---

25 MS. SIMPSON: Objection, Your Honor,

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

488

1 with respect to the inflection of her voice.

2 THE COURT: Just wait a minute, what's
3 the objection, specific? It's not a speaking
4 objection. Please rephrase your question.

5 MR. CHAPLIN: Thank you.

6 CROSS EXAMINATION CONTINUED

7 BY MR. CHAPLIN:

8 Q Do you recall screaming when you were
9 talking to 9-1-1?

10 A Possibly.

11 Q Do you recall ever asking them to hurry?

12 A Probably, yes.

13 Q Yes. I'm not trying to torture you, ma'am.
14 I'm just trying to help this jury understand ---

15 A Right.

16 Q --- what went on. I think you said earlier
17 that you saw the victim getting kicked and
18 punched?

19 A (No verbal response).

20 Q Yes, ma'am?

21 A Yes, yes.

22 Q And you would say what you saw up there by
23 Forest Drive and McDuffie was pretty brutal?

24 A Yes.

25 Q Now, at any point did you see the victim on

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

489

1 the ground? I mean, did you see the person they
2 were beating on the ground?

3 A He was mostly on the ground.

4 Q So would I be exaggerating if I said that
5 he got kicked in the head a few times?

6 A He got kicked everywhere.

7 Q Everywhere. Did you ever see this group of
8 men and a girl chase a man?

9 A No.

10 Q Never. Now, beg your indulgence one
11 second. I think you said -- how many men did
12 you think there were?

13 A Four or five.

14 Q Four or five?

15 A It was hard to see and I couldn't tell
16 exactly how many because they were moving. You
17 know. They weren't stationary.

18 Q And based on what you saw, did you ever see
19 anybody pick up a chair, a metal chair and hit
20 anyone?

21 A No.

22 Q You said that the person that was attacked
23 walked away. When he was walking, did he ever
24 fall in the process?

25 A The way that he stood up was as if you were

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

490

1 spun around, you know, as a child and you try to
2 walk straight and you can't because your
3 equilibrium is off. He just -- he -- it seemed
4 like it took him a while to get his composure
5 back, and it was like he was reaching out to
6 grab something to brace himself, you know, to
7 help himself up.

8 Q Okay. Last question. Is what you saw more
9 than a slap and a kick?

10 A Yes.

11 Q Much more?

12 A Yes.

13 MR. CHAPLIN: Thank you. All right.
14 I don't have anything else.

15 THE COURT: Redirect?

16 MS. SIMPSON: No, Your Honor.

17 THE COURT: All right. Thank you very
18 much, ma'am. You may come down. You may be
19 excused.

20 (WITNESS STEPS DOWN)

21 THE COURT: All right. Ladies and
22 gentlemen of the jury, we're going to take our
23 lunch break at this time. It's about ten
24 minutes to one. I'll ask you to be back in the
25 jury room at two o'clock. Don't discuss the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

491

1 case among yourselves or with anyone. I hope
2 that you have a pleasant lunch. We'll see you
3 at two o'clock.

4 (JURY OUT @ 12:53 P.M.)

5 THE COURT: All right. Can we get them
6 back up about 1:45 so we won't have a delay
7 getting started at two o'clock?

8 DEPUTY: Yes, sir.

9 THE COURT: Mr. Chaplin?

10 MR. CHAPLIN: Sir?

11 THE COURT: I want to start promptly
12 at two o'clock.

13 MR. CHAPLIN: Yes, sir.

14 THE COURT: I'm asking law enforcement
15 to have your clients here. Two o'clock. Thank
16 you very much.

17 (LUNCH RECESS)

18 (DEFENDANTS PRESENT)

19 THE COURT: Is the State ready to proceed?

20 MS. SAMPSON: Your Honor, if we could
21 discuss scheduling.

22 THE COURT: Yes.

23 MS. SAMPSON: We anticipate
24 finishing the vast majority of our case today.
25 We might have two or three witnesses in the

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

492

1 morning. One is an expert we scheduled in the
2 morning, so the defense will know, we anticipate
3 we'll finish tomorrow morning.

4 THE COURT: That includes your forensic
5 people.

6 MS. SAMPSON: That includes my
7 forensics people, as well as the DNA and all
8 that -- including the forensics pathologist,
9 would be all that, is what I anticipate.

10 THE COURT: Good. Now -- okay.
11 We'll just roll this afternoon.

12 MS. SAMPSON: Yeah, I'm just saying.
13 I've been making some scheduling decisions. It
14 should be two or three, at the most, witnesses
15 in the morning. Of course, that's barring any
16 unknown delays.

17 THE COURT: All right. Anything
18 further before we bring the jury?

19 MR. FARLEY: Nothing, Your Honor.

20 MR. CHAPLIN: Nothing.

21 THE COURT: Bring the jury in.

22 (JURY IN @ 2:00 P.M.)

23 THE COURT: All right. Thank you,
24 ladies and gentlemen. We're going to continue
25 with the trial. I hope you had a pleasant

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

493

1 lurch. Solicitor, call your next witness.

2 MS. CAMPBELL: Thank you, Your

3 Honor. We call Heather Ramos.

4 (WITNESS TAKES STAND)

5 HEATHER RAMOS, being duly sworn to tell
6 the truth, the whole truth and nothing but the
7 truth, testified, as follows:

8 DIRECT EXAMINATION

9 BY MS. CAMPBELL:

10 Q Good afternoon, Ms. Ramos. Where do you
11 work?

12 A Sprint Nextel.

13 Q How long have you worked there?

14 A Eighteen years.

15 Q And what is your position?

16 A I am a subpoena analyst.

17 Q What exactly is a subpoena analyst?

18 A A subpoena analyst assists in legal
19 requests, complying. We interpret those
20 records. We authenticate those records and then
21 part of my duties, I serve as custodian of
22 records.

23 Q At Sprint, do you all keep the cell phone
24 records in the normal course of your business?

25 A Yes, we do.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

494

1 Q What records do you normally keep?

2 A We maintain subscriber information, call
3 detail records which would include calls that
4 are made to our subscribers phone, calls that
5 are received from other parties to our
6 subscribers phone, the date and the time that
7 those calls took place, the duration. In
8 addition, we also keep cell site information,
9 which is the information of the cell sites or
10 cell towers that are used when the call is first
11 made and when a call is terminated from the
12 Sprint network.

13 Q In this case, were you given a subpoena?

14 A Yes.

15 Q In fact, were you given subpoenas for two
16 phone numbers?

17 A Correct.

18 Q Do you remember those phone numbers?

19 A Not offhand, no. I'm sorry.

20 MS. CAMPBELL: May I approach, Your
21 Honor.

22 THE COURT: Yes.

23 DIRECT EXAMINATION CONTINUED

24 BY MS. CAMPBELL:

25 Q I'm going to show you what's been marked as

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

495

1 State's Exhibits 73 through 76 and see if you
2 recognize those.

3 A Yes, these are call detail records that
4 Sprint has produced to the Columbia Police
5 Department for, I believe, two phone numbers
6 that belong to Sprint Nextel.

7 Q Can you give me the phone numbers?

8 A Yes. The first phone number is area code
9 and

10 Q And State's Exhibits number 75 and 76,
11 those are pages taken from State's Exhibit 73
12 and 74, correct?

13 A That's correct.

14 Q And do all of those exhibits accurately
15 reflect the records that you provided to the
16 Columbia Police Department based on the
17 subpoena?

18 A Yes.

19 MS. CAMPBELL: Your Honor, at this
20 time we'd ask to introduce State's Exhibits 73
21 through 76 into evidence?

22 THE COURT: Any objection?

23 MR. FARLEY: No objection, Your
24 Honor.

25 MR. CHAPLIN: No objection, Your Honor.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

496

1 (SO ENTERED AS STATE'S EXHIBIT 73 THRU 76)

2 MS. CAMPBELL: Thank you Ms. Ramos. I
3 keep wanting to say your name wrong. Thank you
4 Ms. Ramos, please answer any questions the
5 defense has for you.

6 CROSS EXAMINATION

7 BY MR. FARLEY:

8 Q Can you state general exactly what numbers
9 those were.

10 A I apologize, sir. I don't have the records
11 in front of me. I don't have them memorized.

12 Q But you were the one who analyzed the
13 subpoenas and just provided the records of the
14 numbers at the top?

15 A I didn't provides the records. I am a
16 custodian of records and I would authenticate
17 the records that were provided.

18 Q And you authenticated those records?

19 A Yes, sir, I did.

20 MR. FARLEY: No further questions.

21 MR. CHAPLIN: Nothing from the defense.

22 THE COURT: All right. You may come
23 down. Thank you very much.

24 (WITNESS STEPS DOWN)

25 THE COURT: May this witness be

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

497

1 excused?

2 MR. FARLEY: No objection, Your Honor.

3 THE COURT: Without objection.

4 MR. CHAPLIN: Without objection.

5 MS. SAMPSON: The State calls Kevin
6 Reese.

7 (WITNESS TAKES STAND)

8 KEVIN REESE, being duly sworn to tell
9 the truth, the whole truth and nothing but the
10 truth, testified, as follows:

11 DIRECT EXAMINATION

12 BY MS. SAMPSON:

13 Q Investigator Reese, where are you employed?

14 A City of Columbia Police Department.

15 Q And what do you do there, sir?

16 A I'm an investigator.

17 Q And as an investigator, what do your duties
18 include?

19 A I work for the capital -- am assigned to
20 the V Cap Unit to investigate all violent crimes
21 and homicides.

22 Q And you're usually a lead investigator in a
23 homicide case?

24 A Yes.

25 Q But in this case it was assigned to Sgt.

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

498

1 Pegram; is that correct?

2 A That's correct.

3 Q So your role in this case was to assist
4 him?

5 A That's correct, it was very limited.

6 Q Very limited.

7 A (Affirmative nod).

8 Q Specifically I want to talk about Mary
9 Anderson. Did you have an opportunity to
10 interview Ms. Anderson on February 16th of 2010?

11 A Yes, ma'am.

12 Q Where did that interview take place, sir?

13 A At my office at One Justice Square, which
14 is the Police Department.

15 Q That's right off Washington Street
16 downtown?

17 A Washington and Lincoln.

18 Q What was the purpose of you interviewing
19 Ms. Anderson on that day?

20 A I was asked by Investigator Pegram to
21 interview Ms. Anderson in reference to a case he
22 was working which was a homicide.

23 Q And specifically, you were not the lead
24 investigator in this case so you weren't as
25 familiar, let's say, with the facts?

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

499

1 A No, I, wasn't.

2 Q And when you interviewed Ms. Anderson that
3 day, can you tell this jury basically how you
4 went about interviewing her and how that got
5 reduced to writing in statement form?

6 A Okay. I don't recall how we got in touch
7 with Ms. Anderson but about ten o'clock in the
8 morning, she was at my office. Well, Pegram
9 asked her to come down or I asked her on the
10 16th and I explained to her what we needed to --
11 I wanted to talk to her about. She indicated
12 that she understood and, of course, after that
13 we went to do a statement form.
14 She first gave me her synopsis of what she saw,
15 and then I went over it again with her and I
16 reduced it to writing.

17 Q And in this case, did you tell her what to
18 say or suggest in any way what she should tell
19 you?

20 A No, I did not.

21 Q Was she, in fact, quite forthcoming about
22 what she had observed in Gonzales Gardens on
23 February 13th when this occurred?

24 A Absolutely. Yes, she was.

25 Q And specifically I want to show you this

State of South Carolina v. Henry Gray et al
Case No. 10-GS-40-0039 et al
Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

500

1 three-page statement form, is that a statement
2 form or is that a copy of it?

3 A This is it. Yes, that's correct. That is
4 the form.

5 Q And when you were interviewing her, was
6 anybody else, any other witnesses, any other
7 people present that could have been influenced
8 her in any way from what she was telling you?

9 A I don't know.

10 Q In this case when you took her statement
11 and in some cases do you write what they say or
12 is it what she said in this case?

13 A In this case, I wrote the statement.
14 That's not uncommon for -- especially for me as
15 an investigator -- an investigator to write
16 statements for people; for, you know, various
17 reasons, but our hope is she talked and I wrote
18 what she spoke.

19 Q And you actually reduced what she told you
20 in writing?

21 A I did.

22 Q And then afterwards I believe there is
23 about a page, page-and-a-half of some questions
24 and answers that you followed up on?

25 A Yes, ma'am.