

VOLUME ONE OF TWO

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY
William Jeffrey Young, Circuit Court Judge

C.A. No.: 2011-GS-45-00095

The State of South Carolina Respondent

v.

Marc Anthony Palmer Appellant

APPELLATE CASE NO. 2013-000700

RECORD ON APPEAL

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Greenville, SC 29601
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Appellate Division
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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT #2 (CD)

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF WILLIAMSBURG)

THIRD JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

INDICTMENT NO.2011-GS-45-0095

vs.)

MARC ANTHONY PALMER,)

VERDICT FORM

DEFENDANT.)

1. As to the charge of Murder, we, the jury, unanimously find the Defendant:

☒ Guilty

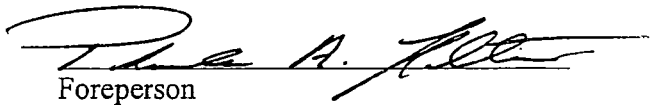
☐ Not Guilty

2. As to the charge of Possession of a Weapon During the Commission of a Violent Crime,
we, the jury, unanimously find the Defendant:

☒ Guilty

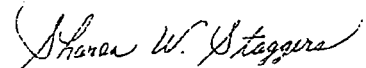
☐ Not Guilty

Dated this 14th day of March, 2013.


Foreperson

Kingstree, South Carolina.

A CERTIFIED TRUE COPY


SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY

STATE OF SOUTH CAROLINA

COUNTY OF Williamsburg
 STATE VS.
Marc Anthony Palmer

AKA:

Race: 2 Sex: M Age: 27DOB: SS#:Address: Seaboard RoadCity, State, Zip: Lane, SC 29564DL#: 0100334169 SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
 TO: Murderin violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTORNEY Marvin, Doward Keith8443

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: To Count 2☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

Fine: \$ _____

; 14-1-206 (Assessments 107.5 %) \$ _____

; 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____

; 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

; 56-5-2995 (DUI Assessment) \$12 \$ _____

; 56-1-286 (DUI Breath Test) \$25 \$ _____

reviso 47 9 (Public Def/Prob) \$500 \$ _____

14-1-212 (Law Enforce Funding) \$25 \$ _____

14-1-213 (Drug Court Surcharge) \$150 \$ _____

50-21-114(BUI Breath Test Fee) \$50 \$ _____

56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

reviso 90 5 (SCCJA Surcharge) \$5 \$ _____

% to County (if paid in installments) \$ _____

OTAL \$ _____

Clerk of Court/ Deputy Clerk: Sharon W. StaggersCourt Reporter: Melissa Singletary

CCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-GS-45-0095A/W#: M685318Date of Offense: 10/27/2010S.C. Code § : 16-03-0010CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

Presiding Judge

Judge Code: 2156Sentence Date: March 14, 2013

STATE OF SOUTH CAROLINA

COUNTY OF Williamsburg
STATE VS.
Marc Anthony Palmer

AKA:

Race: 2 Sex: M Age: 27

DOB: SS#:

Address: Seaboard Road

City, State, Zip: Lane, SC 29564

DL#: 0100334169 SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Possession of a Weapon

in violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Dorothy V. Parr

8443

Haryn, Howard Keith

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: Count 1☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

Fine:

14-1-206 (Assessments 107 5 %)

14-1-211(A)(1) (Conv. Surcharge) \$100

14-1-211(A)(2) (DUI Surcharge) \$100

56-5-2995 (DUI Assessment) \$12

56-1-286 (DUI Breath Test) \$25

reviso 47.9 (Public Def/Prob) \$500

14-1-212 (Law Enforce. Funding) \$25

14-1-213 (Drug Court Surcharge) \$150

50-21-114(BUI Breath Test Fee) \$50

56-5-2942(J) (Vehicle Assessment) \$40/ea

reviso 90.5 (SCCJA Surcharge) \$5

% to County (if paid in installments)

OTAL \$

Clerk of Court/ Deputy Clerk

Court Reporter.

SCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-GS-45-0095

A/W#: M685518 No Warrant KUB

Date of Offense: 10/27/2010

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years

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INDICTMENT/CASE#: 2011-GS-45-0095

A/W#: M685518 No Warrant KUB

Date of Offense: 10/27/2010

S.C. Code § : 16-23-0490

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Clerk of Court/ Deputy Clerk

Court Reporter.

SCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-GS-45-0095

A/W#: M685518 No Warrant KUB

Date of Offense: 10/27/2010

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSWHEREFORE, the Defendant is committed to the ☒ State Department

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
WARRANT NO.:M685318

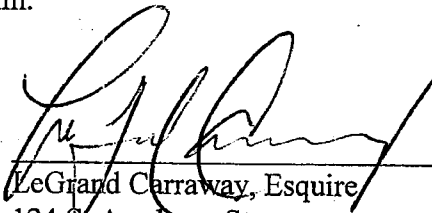
THE STATE,)
Plaintiff,)
vs.)
MARC PALMER,)
Defendant.)

MOTION FOR SPEEDY TRIAL

FILED
11 MAR 24 AM 9:07
CLERK OF COURT
KINGSTREE, S.C.

NOTICE IS HEREBY GIVEN that the undersigned attorney for the above named Defendant, MARC PALMER, does hereby assert that the Defendant is being denied his right to a speedy trial pursuant to both the United States Constitution and the South Carolina Constitution.

AND FURTHER the Defendant hereby demands an immediate trial or the dismissal of any related indictment which may be pending against him.

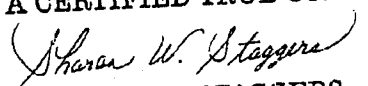


LeGrand Carraway, Esquire
124 S. Academy Street
P. O. Box 819
Kingstree, SC 29556
843/ 355-7222 Phone
843/ 354-3206 Fax
carrawaylaw@ftc-i.net
Attorney for the Defendant

Kingstree, South Carolina

March 24th, 2011

A CERTIFIED TRUE COPY


SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
WARRANT NO.:M685318

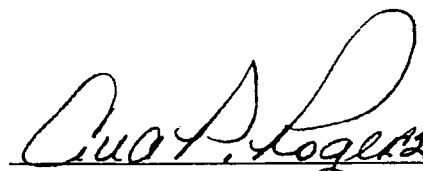
THE STATE,)
Plaintiff,)
vs.)
MARC PALMER,)
Defendant.)

CERTIFICATE OF SERVICE

FILED
11 MAR 24 AM 9:07
CLERK OF COURT
KINGSTREE, S.C.

I hereby certify that a copy of the foregoing **MOTION FOR SPEEDY TRIAL** has this day
been served by hand-delivering a copy thereof, to the following at the address shown below, on this
24th day of March, 2011.

Ms. Kimberly V. Barr, Assistant Solicitor
Office of the Solicitor
Third Judicial Circuit
125 W. Main Street, 3rd Floor
Kingstree, South Carolina 29556


Ava P. Rogers
Law Office of LeGrand Carraway
124 S. Academy Street
P. O. Box 819
Kingstree, SC 29556
843/ 355-7222 Phone
843/ 354-3206 Fax
carrawaylaw@ftc-i.net
Attorney for the Defendant

Kingstree, South Carolina

March 24th, 2011

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

Case No. : 2011-GS-45-0095

PLAINTIFF,)

Warrant No.: M-685318

VS.)

SECOND MOTION FOR
SPEEDY TRIAL

MARC ANTHONY PALMER,)

DEFENDANT.)

A CERTIFIED TRUE COPY
Sharon W. Staggars
SHARON W. STAGGARS
CLERK OF COURT
WILLIAMSBURG COUNTY

NOTICE IS HEREBY GIVEN that the undersigned attorney for the above named Defendant, Marc Palmer, does hereby assert that the Defendant is being denied his right to a speedy trial pursuant to both the United States Constitution and the South Carolina Constitution.

AND FURTHER the Defendant hereby demands an immediate trial or the dismissal of any related indictment which may be pending against him.



William J. Barr, Esquire
Barr Law LLC
108 North Academy Street
Kingstree, SC 29556
(843) 355-5444-phone
(843) 355-5194-fax
barrlaw@ftc-i.net
Attorney for Defendant

Kingstree, South Carolina
March 26, 2012

FILED
12 MAR 26 PM 4:48
CLERK OF COURT
KINGSTREE, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

STATE OF SOUTH CAROLINA)

PLAINTIFF,)

VS.)

MARC ANTHONY PALMER,)

DEFENDANT.)
_____)

IN THE COURT OF GENERAL SEESIONS
THIRD JUDICIAL CIRCUIT

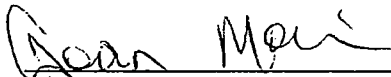
Case No. : 2011-GS-45-0095

Warrant No.:M-685318

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Second Motion for Speedy Trial has this day
been served by via us mail a copy thereof, to the following at the address shown below, on the
26th day of March, 2012.

Kimberly v. Barr, Asst. Solicitor
Third Judicial Circuit Solicitor's Office
125 W. Main Street, 3rd Floor
Kingtree, SC 29556


Joan Morris
Legal Assistant
Barr Law LLC
108 North Academy Street
Kingtree, SC 29556

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CLERK OF COURT
KINGTREE, S.C.

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

) IN THE COURT OF GENERAL SESSIONS
) THIRD JUDICIAL CIRCUIT
) CASE NUMBER: 11-GS-45-95

The State of South Carolina,

vs.

NOTICE OF INTENT TO APPEAL

Marc A. Palmer,

Defendant.

TO: KIMBERLY V. BARR, WILLIAMSBURG COUNTY SOLICITOR'S OFFICE:

Pursuant to SC Code Section 18-9-10, et. seq., SC Code of Laws Ann., 2010, and the South Carolina Appellate Court Rules, Rule 203, YOU WILL PLEASE TAKE NOTICE, that the Defendant, Marc A. Palmer, through his undersigned attorney, hereby provides his Notice of Intent to Appeal. The basis for the Notice of Intent to Appeal is as follows.

PROCEDURAL HISTORY

On May 5, 2011, the Williamsburg County Grand Jury issued a two count indictment charging the Defendant with Murder and Possession of a Weapon During the Commission of a Violent Crime. The Defendant asserted his right to a jury trial and this matter was heard during the term of Court scheduled for the week of March 11, 2013.

On March 14, 2013, the Defendant was found guilty and sentenced to life in prison, without the possibility of parole, as to the Murder charge. The Defendant was sentenced to an additional five years regarding the Possession of a Weapon During the

CERTIFIED TRUE COPY

Page -1-

Sharon W. Staggars
SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY

WILLIAMSBURG COUNTY
CLERK OF COURT
KINGSTREE, S.C.

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Commission of a Violent Crime, to run concurrent with the Murder sentence.

APPELLATE GROUNDS

The Defendant intends to raise the following grounds in his appeal:

1. The Court erred in refusing to dismiss this case after the State violated the Defendant's right to a speedy trial.

2. The Court erred in allowing the Defendant's pre-trial statement to be introduced into evidence as the Defendant's constitutional rights were violated when the statement was taken and therefore the statement was inadmissible evidence.

3. The Court erred in failing to grant a directed verdict at the close of the State's case.

4. The Court erred in failing to grant a directed verdict at the close of all of the evidence.

5. The Court erred in failing to grant a mistrial after the Defendant properly objected to a witness testifying about taking and successfully passing a polygraph examination.

6. The Court erred in failing to grant the Defendant's motion for a new trial based upon the polygraph examination testimony and all other matters raised above.

7. The Court erred in imposing any type of sentence on the Possession of a Weapon During the Commission of a Violent Crime after sentencing the Defendant to life without parole on the Murder charge.

8. Further, Defendant bases his appeal on such other grounds

as may be evidenced from the Court's Return, the pleadings and record in this case, and the statutory and case law for the state of South Carolina.

RESPECTFULLY SUBMITTED:

Florence, South Carolina
March 15, 2013



E. GUY BALLENGER
ATTORNEY FOR DEFENDANT
P.O. BOX 107
FLORENCE, SC 29503
843-662-6301 (telephone)
843-664-8384 (facsimile)
SC BAR NUMBER: 72499

Page -3-

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)
State of South Carolina)
v.)
Marc A. Palmer,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
FOR THE THIRD JUDICIAL CIRCUIT
CASE NUMBER.: 11-GS-45-95

MOTION IN LIMINE

The Defendant, by and through his undersigned attorney, hereby moves, *in limine*, for an Order as follows:

1. Suppressing the statement given by the Defendant to Williamsburg County Sheriff's Officers on October 29, 2010.
2. In the event that the Defendant's statement is not suppressed, redacting any reference to polygraph examinations.
3. Dismissing both charges in this case (Murder, Possession of a Weapon during the Commission of a Violent Crime) due to the fact that the Defendant's constitutional rights have been violated, to wit, the Defendant's right to a speedy trial as afforded under the Sixth Amendment of the U.S. and South Carolina Constitutions.

The basis of the Defendant's motions is as follows:

I. GENERAL FACTS

1. On October 27, 2012, Therriis Keels (hereinafter victim) died from three gun shot wounds to the body. Defendant Marc Palmer gave a statement to law enforcement on October 29, 2010. The Defendant was arrested on November 15, 2010. A two count

A CERTIFIED TRUE COPY

Sharon W. Staggers

**SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY**

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Williamsburg County
Clerk of Court
Kingstree SC

indictment (Murder, Possession of a Weapon During the Commission of a Violent Crime) was issued by the Williamsburg County Grand Jury on May 5, 2011. The Defendant has been incarcerated ever since his arrest on November 15, 2010.

Initially, the Defendant was represented by the Williamsburg County Public Defender's Office (Legrand Carraway, Esq.). The first bond hearing was held on December 9, 2010. Bond was denied at that time. A Motion for Reconsideration of Bond and Motion for Speedy trial was filed on March 24, 2011, and a second bond hearing and the first Speedy Trial Motion Hearing was held on or about March 31, 2011. Bond was denied by the Honorable Howard P. King by virtue of the Order Setting bond filed on April 4, 2011. The Order Setting Bond also addressed Defendant's Motion for a Speedy Trial and stated, that "Bond denied because no change of circumstances since December 9, 2010. Magistrate to conduct preliminary hearing within 15 days. State to furnish discovery materials under Rule 5 if proper request has been made within 10 days of today's date. Plea offer within 30 days. Speedy trial motion and reconsideration of bond on May 9th term without showing of change of circumstances." Mr. Carraway was relieved during the pendency of this action and W. James Hoffmeyer, Esq. was appointed to represent the Defendant. Mr. Hoffmeyer moved to be relieved as counsel on October 4, 2011 and subsequent to the filing of the motion, an Order was issued relieving Mr. Hoffmeyer. The Defendant's third attorney, William J. Barr, was appointed on December 15, 2011 and relieved by virtue of an Order filed August 24, 2012. The undersigned was appointed on August 16, 2012.

This matter is scheduled for jury selection on March 11, 2013.

II. SUPPRESSION OF STATEMENT

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2. The Defendant gave a statement to law enforcement on October 29, 2010. Investigator Creech began the interview and read the Defendant his *Miranda* warnings. The transcript of the interview states in pertinent part that:

Question by Inv. Creech: "Do you wish to talk to us."

Answer by Defendant: "I wish to talk to you, but I need for you to call Charles Barr too."

Question by Inv Creech: "You want him here?"

Answer by Defendant: "I want him to come, yes."

Question by Inv. Creech: "Before you talk with us?"

3. A statement obtained as a result of a custodial interrogation is inadmissible unless the suspect was advised of and voluntarily waived his rights. *Miranda v. Arizona*, 384 U.S. 436 (1966). If a suspect was advised of his *Miranda* rights and made a statement the burden is on the State to prove by a preponderance of the evidence that the Defendant's rights were voluntarily waived. *State v. Washington*, 96 S.C. 54, 370 SE 2d 611 (1988). A statement is not admissible unless it was voluntarily made and the voluntariness requirement is in addition to the intelligent waiver mandate of *Miranda*. *State v. Middleton*, 288 S.C. 21, 3339 SE 2d 692 (1986). Statements elicited during interrogation are only admissible if the prosecution can establish the suspect "knowingly and intentionally waived his privilege against self incrimination and his right to retained or appointed counsel." *Miranda, Id.*

"Whether or not there has been an intelligent waiver of right to counsel depends upon the particular facts and circumstances of each case, including the background, experience, and conduct of the accused." *State v. Pendergrass*, 270 S.C. 1, 239 SE 2d

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750 (1977), citing *Johnson v. Zerbst*, 304 U.S. 458, 58 S.Ct 1019, 82 L.Ed.2d 854 (1973).

In the instant case, Defendant immediately requested counsel upon questioning by law enforcement. At this point in the interrogation, all questioning should have ceased.

"If a suspect invokes her right to counsel, police interrogation must cease unless the suspect herself initiates further communication with police. but police officers are not required to cease questioning a suspect unless her request for counsel is unambiguous." *State v. Wannamaker*, 346 SC 495, citing *Davis v. United States*, 512 U.S. 452 (1994).

As the Defendant made an unambiguous request for counsel, all questioning was required to cease after the Defendant invoked the privilege, unless the Defendant initiated contact again. In this interrogation, as set forth above, law enforcement continued the interrogation after the Defendant invoked his privilege.

Based upon the foregoing, the Defendant prays for an Order suppressing his statement prior to the trial of this case.

III. REDACTION OF STATEMENT REGARDING POLYGRAPH EXAMINATION

4. Law enforcement officers referenced a polygraph examination while interrogating the Defendant (see page 23 of statement). Reference to any polygraph examination is irrelevant and has no probative or evidentiary value even if the Defendant submitted to a polygraph examination. Further, the polygraph reference in this case was offered by law enforcement under the theory that the Defendant could prove that what was he was telling law enforcement was true. This is improper burden shifting. Therefore, any reference to a polygraph examination has more prejudicial value than probative value, is improper burden shifting, and as such, should be redacted from the Defendant's

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statement.

IV. DISMISSAL OF CHARGES FOR FAILING TO GRANT SPEEDY TRIAL

5. The Defendant is afforded the right to a speedy trial pursuant to the Sixth Amendment of the United States Constitution. In *Barker vs. Wingo*, 407 U.S. 514 (1972), the Supreme Court set forth a four part balancing test to determine whether the right to a speedy trial had been violated. The four part balancing test considers 1) the length of the delay, 2) the reason the government assigns to justify the length of the delay, 3) the defendant's responsibility to assert his right, and 4) prejudice to the Defendant.

The Defendant asserts, as to factors one and two, that this case has been pending for over two years, and that, to the best of Defendant's counsel's knowledge, this matter has never been scheduled for trial until March 11, 2013 and the Defendant has been afforded no reason for the delay. As to the third factor, the Defendant asserted his right approximately four months after his arrest and the State was on notice that the Defendant desired to exercise his right to speedy trial. Regarding the fourth factor, the Defendant has been prejudiced.

"Prejudice....should be assessed in light of the interests of defendant which the speedy trial right was designed to protect. This Court has identified three such interests (I) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired. *Barker v. Wingo*, Id. The Defendant asserts that the length of the delay has caused oppressive pretrial incarceration, increased the anxiety of the accused, and prejudiced the Defendant's case in that this is a highly eye witness driven case. The State has virtually no evidence connecting the Defendant to this crime, other than eye witness testimony. The Defendant

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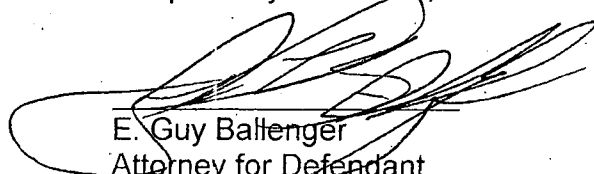
may call some of the State's witnesses in his case in chief in the event that the Defendant in fact testifies. The length of time between the murder and trial will be over two years. "There..... is prejudice if defense witnesses are unable to recall accurately events of the distant past. Loss of memory, however, is not always reflected in the record because what has been forgotten can rarely be shown." *Barker v. Wingo, Id.*

The remedy for a violation of a defendant's speed trial right is dismissal of the indictment. *Strunk v. United States*, 412 U.S. 434 (1973). Accordingly, the Defendant hereby moves for an Order dismissing the indictments that are the subject of this case for a violation of the Defendant's right to a speedy trial.

The Defendant reserves the right to amend and supplement this motion at any time prior to trial as necessary to supplement any additional facts, relevant statutory or case law, and to allege any additional matters as counsel continues to prepare this case for trial.

This motion shall be heard on March 11, 2013, or, at some other time as is convenient for Court and counsel prior to the jury being sworn in this matter.

Respectfully submitted,



E. Guy Ballenger
Attorney for Defendant
Post Office Box 107
Florence, South Carolina 29503
(843) 662-6301

February 27, 2013
Florence, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

COURT OF GENERAL SESSIONS

Marc Anthony Palmer,
PLAINTIFF,
v.
The State of South Carolina
DEFENDANT.

TRANSCRIPT OF HEARING
C/A #:2011-GS-45-00095

Williamsburg County Courthouse
March 11-14, 2013

BEFORE:

HONORABLE WILLIAM JEFFREY YOUNG, PRESIDING JUDGE.

APPEARANCES:

Kimberly V. Barr, Esquire
Attorney for State

Guy Ballinger, Esquire
Attorney for Marc A. Palmer

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

1 (Court in session 3-11-13)

2 The Court: Alright madam solicitor are you ready to
3 call your first case?

4 Ms. Barr: The State is ready Your Honor. At this time
5 Your Honor the State calls indictment number 2011-GS-45-095
6 State vs Marc Anthony Palmer. Your Honor this is an
7 indictment for murder and possession of a weapon during the
8 commission of a violent crime. Mr. Palmer is represented by
9 attorney Guy Ballinger and the State is ready for trial.

10 The Court: Alright ladies and gentlemen we are about
11 to begin the case of State vs Marc Anthony Palmer and the
12 indictment reads, he's no. with two charges one for murder
13 and one for possession of a weapon during a violent crime.
14 The indictment reads as follows that Marc Anthony Palmer
15 did in Williamsburg County on or about October 27, 2010
16 willfully and with malice forethought killed one Therri
17 Keels by means of shooting the victim and that the said
18 Therri Keels died as a proximate result thereof in
19 violation of Section 16-3-10 of South Carolina code 1976 as
20 amended. Count two reads that Marc Anthony Palmer did in
21 Williamsburg County on or about October 27, 2010 possess or
22 visibly display a firearm during the commission or
23 attempted commission of a violent crime in violation of
24 Section 16-23-490 of the code of laws of South Carolina as
25 amended. Now ladies and gentlemen let me remind you the

1 fact that the defendant was charged and indicted in no way
2 means that he is guilty of the charge. The defendant has
3 plead not guilty and therefore the State has the burden of
4 proving each and every allegation of these charges beyond
5 a reasonable doubt. Now ladies and gentlemen I do need to
6 ask you some question concerning or that the attorneys have
7 asked that I ask you in order to so they can strike the
8 jury and the reason that you are under oath is that this is
9 such an important stage of the trial. Just like a house
10 must have a firm foundation to protect those who live in it
11 so must the jury be have a firm foundation in the jury for
12 those who participate the solicitor for the State and the
13 defendant. Now ladies and gentlemen the first question I
14 have has, is any member of the jury panel or do they know
15 the defendant Marc Anthony Palmer or the alleged victim
16 Therris Keel? If so please stand and would the defendant
17 please stand. You may be seated. Is there any member of the
18 jury panel who has a close personal or business
19 relationship or is related by blood or marriage to either
20 the defendant or the alleged victim? If so please stand.
21 Alright. No one is standing. Ladies and gentlemen this is
22 a list of possible witnesses in this trial and I'm going to
23 go through the entire list and see if anybody knows these
24 witnesses. Debra Collins of the Williamsburg County
25 Sheriff's Office, Sergeant, well I'm going to go through

1 the whole list then I'm going to ask who you know.
2 Detective Debra Collins of the Williamsburg County
3 Sheriff's Office, Sergeant Juan Ballard of the Williamsburg
4 County Sheriff's Office, Investigator Pamela Jean Wrenn of
5 the Williamsburg County Sheriff's Office, Agent J. Mark
6 Creech South Carolina Law Enforcement Division, Agent
7 Stephanie M. Stanley South Carolina Law Enforcement
8 Division, Agent Katie Urka of South Carolina Law
9 Enforcement Division, Agent Lori Giles of the South
10 Carolina Law Enforcement Division, Agent Ila N. Simmons
11 South Carolina Law Enforcement Division, Agent Melissa
12 Wallace South Carolina Law Enforcement Division, Agent
13 Janice Bryson South Carolina Law Enforcement Division, Dr.
14 Nicholas I. Batalis Medical University of South Carolina,
15 Officer Vincent Staggers Kingstree Police Departement,
16 Harriet York, of the Williamsburg County 911 Dispatcher,
17 Evelyn Keels, Ester Keels, Jeffery Scott formerly of the
18 Williamsburg County Sheriff's Office, Wayne McFadden, Maire
19 Morris, Maurice Smith, Levar Wesley Walker, Karel Kennedy,
20 Gleen Kennedy, Jener Lee Epps, Joseph Tyrone Sabb, Fredrick
21 Chandler, Deandre Albert Chatfield, Brittany Croskey,
22 Detrel V. Matthews, Oneal Matthews, Michael Anthony
23 Montgomery, Shanequa Ravenel, Dominique McBride, James
24 Edward Palmer, and Yogi Patel. Does any member of the jury
25 panel have related by blood or marriage or have a close

1 personal or business with any of the possible witnesses in
2 this case? If so please stand. Yes sir what is your juror
3 number?

4 Mr. White: 189, Harriet York.

5 The Court: Will the fact that you know Harriet York
6 make it so that you can't be fair and impartial to the
7 State and to the defendant in this case?

8 Mr. White: I don't think so.

9 The Court: You can be fair and impartial?

10 Mr. White: Yes sir.

11 The Court: Thank you sir and what's your name?

12 Mr. White: Benjamin White.

13 The Court: Ok Mr. White. Yes ma'am.

14 Mrs. Brown: Jener Lee Epps.

15 The Court: Jener Lee Epps?

16 Mrs. Brown: Yes that's my brother-in-law.

17 The Court: Ok and just the fact that it's your
18 brother-in-law were to make it so that you couldn't be fair
19 and impartial to the State or the defense in this case?

20 Mrs. Brown: I wouldn't think so.

21 The Court: You think you could be fair and impartial?

22 Mrs. Brown: Yes sir.

23 The Court: Alright, thank you ma'am. Any one else?
24 Alright, thank you. Alright the attorneys who are trying
25 this case are Mrs. Kimberly Barr for the Williamsburg

1 County Solicitors Office or I get confused, would like to
2 introduce yourself Ms. Barr and the other members of your
3 staff.

4 Ms. Barr: Thank you Your Honor. If it pleases the
5 Court. Good morning ladies and gentlemen my name is
6 Kimberly Barr. I'm prosecuting this case against Mr.
7 Palmer. I'll be assisted by Lieutenant Debra Collins of the
8 Sheriff's Department. Seated with me is Linda Woods she's
9 an office manager at the Solicitor's office and also Mrs.
10 Keels mother of Therris Keels. In addition to being a
11 prosecutor I also practice law with the law offices of
12 Ronard Sapp, I have worked with Mr. Chad and also worked
13 with Helen McFadden.

14 The Court: Mr. Ballinger if you would like to
15 introduce yourself and your law firm.

16 Mr. Ballinger: Thank you Your Honor. May I please the
17 court?

18 The Court: You may.

19 Mr. Ballinger: Ladies and gentlemen my name is Chad
20 Ballinger I told you earlier I'm from Florence. I practice
21 with the law firm Ballinger, Barth, Hoefer, and Lewis. It's
22 myself, Rick Hoefer, Kevin Barth, Mike Ballinger, and Nick
23 Lewis. To my right is Mr. Palmer and his parents Mary
24 Palmer and James Palmer.

25 The Court: Thank you Mr. Ballinger. Has any member of

1 the jury panel ever been represented by either of these
2 attorney of any one in their law firms or are you related
3 by blood or marriage to either of these attorneys? If so
4 please stand. Alright thank you. Ms. Barr have you seen Mr.
5 Bellinger's question?

6 Ms. Barr: I have Your Honor.

7 The Court: Are there any objections?

8 Ms. Barr: No sir.

9 The Court: Ladies and gentlemen has any member of the
10 jury panel or their family members ever been the victim of
11 the specific crime of murder or manslaughter or been the
12 victim of any other generally violent crime? If so please
13 stand, alright come down here please I'm going to talk to
14 you privately.

15 **(Court and counsel meet with juror)**

16 The Court: Does any member of the jury panel have such
17 strong feeling regarding the crime of murder or any other
18 offense involving a firearm that they could not render a
19 fair trial to a person charged with murder or charge
20 related to the possession or use of a firearm? If so please
21 stand. Thank you. Is any member of the jury panel aware of
22 any bias or prejudice towards either the State or the
23 defendant in this case? If so please stand. Is there any
24 member of the jury panel who is a member of the grand jury
25 that indicted this case? If you so please stand. Thank you

1 no one is standing. Is there any member of the jury panel
2 who is a member of or contributor to any group which has as
3 it's primary concern the promotion of law enforcement or
4 victims rights? Such groups would include but certainly not
5 be limited to Mother Against Drunk Driver, Students Against
6 Drunk Drivers or Citizens Against Violent Crime? If so
7 please stand. Thank you no one is standing. Is any member
8 of the jury panel know of any reason whatsoever why he or
9 she should not serve as a juror in this case with
10 particular emphasis being placed on your ability to be fair
11 and impartial to the State and the defendant of this case?
12 If so please stand. Thank you. Does the State have any
13 additional questions it would like for me to ask?

14 Ms. Barr: We do not Your Honor, thank you.

15 The Court: Does the defense have any additional
16 questions?

17 Mr. Ballinger: No sir Your Honor.

18 The Court: Alright thank you. Now ladies and gentlemen
19 what's going to happen. Do you all have any objections with
20 them just standing in place?

21 Ms. Barr: No sir.

22 Mr. Ballinger: No Your Honor.

23 The Court: When your name is called if you'd please
24 stand where you're at I'm not going to make you come down
25 here it's just hard to navigate through all this and then

1 the State and the defense will have an opportunity to
2 strike you. Please don't take it personally if you're
3 stricken as a juror. They can strike you for any reason or
4 no reason except for race or gender and ladies and
5 gentlemen we'll continue that process until we have twelve
6 jurors and two alternates, thank you. You may proceed.

7 Clerk: Juror number 99, Lurenzia Mack. What say you
8 for the State?

9 Ms. Barr: Present Mrs. Mack

10 Clerk: What say you for the defense?

11 Mr. Ballinger: Please excuse Mrs. Mack from this trial
12 only.

13 Clerk: You may be seated. Juror number 46, Mickie
14 Davis. What say you for the State?

15 Ms. Barr: Please present Mrs. Davis.

16 Clerk: What says you for the defense?

17 Mr. Ballinger: Please excuse Mrs. Davis from the trial
18 only.

19 Clerk: You may be seated. Juror number 86, Cheryl
20 Hughes. What say you for the State?

21 Ms. Barr: Please excuse Mrs. Hughes from trial of just
22 this case.

23 Clerk: Please be seated. Juror number 178, Brian
24 Tisdale. What say you for the State?

25 Ms. Barr: Please present Mr. Tisdale.

1 Clerk: What say you for the defense?

2 Mr. Ballinger: Please excuse Mr. Tisdale from this
3 trial only.

4 Clerk: Juror number 3, Jamman Barr. What say you for
5 the State?

6 Ms. Barr: Please present Mr. Barr.

7 Mr. Ballinger: Please swear Mr. Barr.

8 Clerk: I'm sorry.

9 Mr. Ballinger: Please swear Mr. Barr.

10 Clerk: Please step forward into the jury box. Juror
11 number 61, George Fraizer. What say you for the State?

12 Ms. Barr: Please present Mr. Frazier?

13 Clerk: What say you for the defense?

14 Mr. Mr. Ballinger: Please swear Mr. Frazier.

15 Clerk: Please take your seat in the jury box Mr.
16 Frazier. Juror number 27, Joanne Ciszewski. What say you
17 for the State?

18 Ms. Barr: Please present Mrs. Ciszewski.

19 Clerk: What say you for the defense?

20 Mr. Mr. Ballinger: Please swear Mrs. Ciszewski.

21 Clerk: Please take your seat in the jury box. Juror
22 number 113, Donald McGill. What say you for the State?

23 Ms. Barr: Please present Mr. McGill.

24 Clerk: What say you for the defense?

25 Mr. Mr. Ballinger: Please swear Mr. McGill.

1 Clerk: Please go take your seat in the juror box.

2 Juror number 31, Connie Coker. What say you for the State?

3 Ms. Barr: Please present Mrs. Coker.

4 Clerk: What say you for the defense?

5 Mr. Mr. Ballinger: Please excuse Mrs. Coker from this
6 trial only.

7 Clerk: Please be seated. Juror number 97, Terry Love.
8 What say you for the State?

9 Ms. Barr: Please present Mr. Love.

10 Clerk: What say you for the defense?

11 Mr. Mr. Ballinger: Please excuse Mr. Love from this
12 trial only.

13 Clerk: Please be seated. Juror number 150, Christopher
14 Salters. What say you for the State?

15 Ms. Barr: Please present Mr. Salters?

16 Clerk: What say you for the defense?

17 Mr. Mr. Ballinger: Please swear Mr. Salters.

18 Clerk: Please come take your seat in the jury box Mr.
19 Salters. Juror number 85, Jacquelyn Huggins. What say you
20 for the State?

21 Ms. Barr: Please present Mrs. Huggins.

22 Clerk: What say you for the defense?

23 Mr. Mr. Ballinger: Please swear Mrs. Huggins?

24 Clerk: Please come take your seat in the jury box Mrs.
25 Huggins. Juror number 136 Jimmy Owens. What say you for the

1 State?

2 Ms. Barr: Please present Mr. Owens.

3 Clerk: What say you for the defense?

4 Mr. Ballinger: Please excuse Mr. Owens from this trial

5 only.

6 Clerk: Please be seated Mr. Owens. Juror number 12,

7 Leslie Britt. What say you for the State?

8 Ms. Barr: Please present Mrs. Britt.

9 Clerk: What say you for the defense?

10 Mr. Ballinger: Please swear Mrs. Britt.

11 Clerk: Please come take your seat in the jury box Mrs.

12 Britt. Juror number 189, Benjamin White. What say you for

13 the State?

14 Mr. Ballinger: Please swear Mr. White.

15 Ms. Barr: We'll excuse Mr. White for the trial just

16 this case.

17 Clerk: Please be seated. Juror number 173, Charles

18 Taylor. What say you for the State?

19 Ms. Barr: Please present Mr. Taylor.

20 Clerk: What say you for the defense?

21 Mr. Ballinger: Please excuse Mr. Taylor from this

22 trial only.

23 Clerk: Please be seated Mr. Taylor. Juror number 192,

24 Abraham Williams. What say you for the State?

25 Ms. Barr: Please present Mr. Williams.

1 Clerk: What say you for the defense?

2 Mr. Ballinger: Please swear Mr. Williams.

3 Clerk: Please take your seat in the jury box Mr.
4 Williams. Jury number 179, Davenick Tisdale. What say you
5 for the State?

6 Ms. Barr: Please present Mr. Tisdale.

7 Clerk: What say you for the defense?

8 Mr. Ballinger: Please swear Mr. Tisdale.

9 Clerk: Please take your seat in the jury box. Juror
10 number 55, Anthony Edwards. What say you for the state?

11 Ms. Barr: Please excuse Mr. Edwards from the trial of
12 just this case.

13 Clerk: Please be seated Mr. Edwards. Juror number 7,
14 Lonnie Belding. What say you for the state?

15 Ms. Barr: Please present Mr. Belding.

16 Clerk: What say you for the defense?

17 Mr. Ballinger: Please excuse Mr. Belding for this
18 trial only.

19 Clerk: Please be seated Mr. Belding. Juror number 87,
20 Christie Hughes. What say you for the State.

21 Ms. Barr: Please present Mrs. Hughes.

22 Clerk: What say you for the defense?

23 Mr. Ballinger: Please swear Mrs. Hughes.

24 Clerk: Please take your seat in the jury box. Juror
25 number 112, Rachel Mcfadden. What say you for the State?

1 Ms. Barr: Please present Mrs. Mcfadden.

2 Clerk: What say you for the defense.

3 Mr. Ballinger: Please swear Mrs. Mcfadden.

4 Clerk: Please take your seat in the jury box Mrs.
5 Mcfadden. Juror number 194, Rhonda Williams. What say you
6 for the State?

7 Ms. Barr: Please present Mrs. Williams.

8 Clerk: What say you for the defense?

9 Mr. Ballinger: Please excuse Mrs. Williams from this
10 trial only.

11 Clerk: Please be seated. Juror number 104, Ann
12 McCormick. What say you for the State?

13 Ms. Barr: Please excuse Mrs. McCormick from the trial
14 of just this case.

15 Clerk: Please be seated. Juror number 39, Ever Cooper.
16 What say you for the State.

17 Ms. Barr: Please present Mrs. Cooper.

18 Clerk: What say you for the defense?

19 Mr. Ballinger: Please swear Mrs. Cooper.

20 Clerk: Please take your seat in the jury box.

21 The Court: Two alternates will be one and two.

22 Clerk: Juror number 5, Gleen Baxley. What say you for
23 the State?

24 Ms. Barr: Please present Mr. Baxley.

25 Clerk: What say you for the defense?

1 Mr. Ballinger: Please excuse Mr. Baxley from this
2 trial only.

3 Clerk: Please be seated. Juror number 6, Rodney
4 Baxley. What say you for the State?

5 Ms. Barr: Please present Mr. Baxley.

6 Clerk: What say you for the defense?

7 Mr. Ballinger: Please swear Mr. Baxley.

8 Clerk: Please take your seat in the jury box Mr.
9 Baxley. Juror number 29, Chancely Coker. What say you for
10 the State?

11 Ms. Barr: Please present Mrs. Coker.

12 Clerk: What say you for the defense?

13 Mr. Ballinger: Please excuse Mrs. Coker from this
14 trial only.

15 Clerk: Please be seated. Juror number 94, Shemeka
16 Kennedy. What say you for the State?

17 Ms. Barr: Please present Mrs. Kennedy.

18 Clerk: What say you for the defense?

19 Mr. Ballinger: Please swear Mrs. Kennedy.

20 Clerk: Please take your seat in the jury box.

21 The Court: Will you please call out the name of the
22 jury when they're all seated.

23 Clerk: We have juror number 3, Jamman Barr, juror
24 number 61, George Frazier, juror number 27, Mrs. Joanne
25 Ciszewski, juror number 113, Donell McGill, juror number

1 150, Christopher Salters, juror number 85, Jacquelyn
2 Huggins, juror number 12, Leslie Britt, juror number 192,
3 Abraham Williams, juror number 179, Davenick Tisdale, juror
4 number 87, Christie Hughes, juror number 112, Rachel
5 Mcfadden, juror number 39, Ever Cooper, and alternate one
6 juror number 6, Rodney Baxley, and alternate two is juror
7 number 94, Shemeka Kennedy.

8 The Court: Alright thank you and ladies and gentlemen
9 you all will be our jury for this case. Ladies and
10 gentlemen those of you who were not selected I'm going to
11 excuse you for the afternoon with instructions. When do you
12 want to call back.

13 Ms. Barr: Judge I do have a matter regarding jury
14 selection if Your Honor pleases.

15 The Court: Ok you all want to bring it up. Those of
16 you who have been selected as the jurors I'm going to ask
17 that you all go into your jury room for a few minutes. We
18 have some matters for me to take up and ladies and
19 gentlemen if you all could go back over into the auditorium
20 for a minutes and then we'll let you all know when we'll
21 need you thank you. Please do not discuss anything about
22 the case while you're back there thank you. Alright Ms.
23 Barr keep it some what low I understand they can hear you
24 so I'm not going to have a microphone.

25 Ms. Barr: Yes sir Your Honor please the court. At this

1 time we would make a motion under Batson vs Kentucky in
2 support of that motion Judge we would submit to the court
3 that the defense in this case exercised its challenges
4 against eleven jurors. Juror 99 who is a black female,
5 juror number 20 who is a white male, juror number 178 who
6 is white male, juror number 31 who is white female, juror
7 number 97 who's a white male, juror number 136 who's a
8 white male, juror number 173 who's a white male, juror
9 number 7 who's a white male, juror number 194 who's a black
10 female, alternates strikes were against juror number 5
11 who's a white and juror number 29 who's a black female.
12 Your Honor out of those nine names or during numbers that
13 I called out of the eleven juror numbers that I called nine
14 of those jurors are Caucasian jurors we take the position
15 that those jurors are a protected class of citizens and
16 that the defense should be called upon to provide a race
17 neutral or gender neutral reason as to why they exercised
18 those strikes in the manner that they did.

19 Mr. Ballinger: Thank you Your Honor may I please the
20 court.

21 The Court: And then she will have to then prove that
22 that's facet correct and go ahead sir.

23 Mr. Ballinger: Thank you Judge, Your Honor I noticed
24 the court that as Ms. Barr did the first strike that Mr.
25 Palmer exercised was against an African American female. He

1 had all of his strikes at that point in time if he was
2 selecting jurors based on race he would obviously used a
3 strike at that point in time Your Honor. Judge is number 20
4 my notes reflect.

5 The Court: Alright lets just kind of go down the list.

6 Mr. Ballinger: Yeah if you'll give me the list Ms.
7 Barr provided.

8 The Court: The next one being Mrs. Mickie Davis is
9 that...

10 Mr. Ballinger: Number 46 I believe.

11 The Court: Yes.

12 Mr. Ballinger: Your Honor my notes reflect that she
13 got some kind of employment with Williamsburg County as
14 does her husband I think is a teacher. Judge there's
15 clearly a connection between the county prosecution, I
16 simply strike county employees when the Sheriff's Office
17 makes a case for the county.

18 The Court: Alright Ms. Barr.

19 Ms. Barr: Judge if I may if I could ask the court if
20 we can allow the court to go through his then I'll respond.

21 The Court: Ok that fine if want to do it that way.

22 Ms. Barr: Thank you Judge.

23 The Court: Next would be Mrs. Brian Tisdale.

24 Mr. Ballinger: Number is that 61 Your Honor?

25 The Court: 178.

1 Mr. Ballinger: Yes sir Your Honor Mr. Tisdale is
2 employed with South Carolina Natural Resources and for
3 obvious reasons I felt there was potentially a law
4 enforcement connection and then maybe even be potentially
5 sympathetic to law enforcement and that's the bases for
6 that strike.

7 The Court: Alright next will be juror number 31, Tammy
8 Coker. Excuse me Connie Coker.

9 Mr. Ballinger: Yes sir Your Honor my notes reflect
10 that she employed with the Department of Social Services.
11 I do a substantial amount of Family Court work as well and
12 just very familiar DSS child abuse and neglect cases and
13 there not prosecution but when they get involved in folks's
14 lives I thought that anybody involved with DSS may
15 potentially be sympathetic to law enforcement.

16 The Court: Mrs. Terry H. Love juror number 97.

17 Mr. Ballinger: Your Honor Mrs. Love was employed with
18 the United States Postal Service and again too I just feel
19 based on his employment he may have some sympathies for law
20 enforcement.

21 The Court: Alright Mr. Jimmy E. Owens.

22 Mr. Ballinger: Your Honor I believe that that was my
23 client's, he made the specific call on that case and it's
24 my understanding that because he was Hemmingway resident
25 and that he worked for the steel company in the electrician

1 field. Well let me, let me explain further. Your Honor him
2 being an electrician, the analytical mind may be a factor
3 in this case and based on his analytical skills we just
4 don't think that he'd be a suitable jury for Mr. Palmer. He
5 could sway the other jurors based on some of his training
6 and there's some technical issues Judge regarding the
7 vehicles and mechanic the condition of Mr. Palmer's car is
8 very important factor in this case Judge and if he had any
9 more knowledge about those things he potentially sway the
10 jurors.

11 The Court: Alright juror number 173, Charles A.
12 Taylor.

13 Mr. Ballinger: Again Judge he was a plant supervisor
14 and given his supervisory capacity if he was appointed
15 foreman and were potentially unsympathetic to my client
16 then again there would be potentially improper influence.
17 I tend to just not seek supervisors Your Honor.

18 The Court: The next one would be Lonnie M. Belding.

19 Mr. Ballinger: Your Honor if I recall correctly his
20 daughter, he responded in reference to the question Your
21 Honor apposed and he had a daughter that was involved in a
22 criminal case as he were a victim or at the very least a
23 witness.

24 The Court: The next one would be Rhonda A. Williams,
25 she's a black female. Rodney A. Baxley the proposed

1 alternate juror.

2 Mr. Ballinger: Judge his wife is a registered nurse in
3 the operating room. I'm familiar with the relationship a
4 lot of operating room nurses have with law enforcement.
5 There's a lot of contact between operating nurses and law
6 enforcement because you know you've got wrecks or traumas
7 things of that nature so I found that especially nurses in
8 the operating room can be sympathetic to law enforcement.

9 Clerk: Isn't it Glenn Baxley not Rodney, you said
10 Rodney.

11 The Court: Actually they struck both of them, so this
12 would be Rodney Baxley I'm sorry. Glenn Baxley, right.

13 Mr. Ballinger: Right I was correct on my summation on
14 Mr. Glenn Baxley.

15 The Court: Ok, alright and then would that be Chancely
16 Coker?

17 Mr. Ballinger: Yes sir Your Honor she's the paramedic
18 and again paramedics as registered nurses in the operating
19 room have a close working relationships with law
20 enforcement.

21 The Court: Alright thank you.

22 Mr. Ballinger: Thank you Judge.

23 The Court: Ms. Barr.

24 Ms. Barr: Your Honor indicating the reasons I was kind
25 of going through my jurors list in terms of the jurors who

1 were seated. Judge I would take the position that some of
2 the reasons advanced to the court for the strike at
3 pretextual in nature. For example one of the reasons
4 advanced for striking a white jurors is because of the
5 employment being in government related employment. The
6 defense thought that they would be sympathetic to the
7 state, however the defense seated juror number 27 who was
8 retired from the County Transit Authority and she would be
9 no different from the white male juror who's retired from
10 the United States Post Office in terms of government
11 employee. That particular juror was a white male who was
12 struck by the defense, however juror number 27 is a black
13 female and she had the same type retirement from government
14 employment and she was seated. Judge I was actually trying
15 to go through the list to see whether or not any of the
16 jurors who were seated whether they were from Hemmingway
17 because that was another reason advanced. Also Judge
18 another reason was advanced by the defense was that they
19 did want anybody who was in the medical field. They used
20 that a reason to strike a paramedic and they used that a
21 reason to strike a juror who is not employed with the
22 medical field but his wife is a nurse as I understand, but
23 Judge at the same time they seated juror number 12 who is
24 a black female. She worked at Georgetown Hospital as a CNA
25 and actually her brother is a witness on this case, but

1 she's a black female and they seated her and Judge in all
2 candor I hadn't had quite an opportunity to go down the
3 through everybody. Also Judge it was advanced that they
4 didn't want jurors from Hemmingway however juror number 27
5 is from Hemmingway. Your Honor if you look at juror number
6 61 he's a black male he's from Hemmingway. Judge if you
7 also look at juror number 87 although she's a white female
8 she's through Hemmingway as well and the defense seat her
9 and Judge we would take the position obviously some of the
10 reasons that were advanced by the defense are in fact
11 pretextual that they applied those to white to strike the
12 jurors but at the same time similarly situated black jurors
13 were seated and so we obviously would take position that
14 that is in direct violation of Batson vs Kentucky we ask
15 that our motion be granted.

16 The Court: Batson?

17 Ms. Barr: Batson vs Kentucky and that our motion be
18 granted we'd be allowed to re-strike the jury.

19 Mr. Ballinger: Briefly on the prior Your Honor?

20 The Court: Yes sir.

21 Mr. Ballinger: Judge the situation with the Hemmingway
22 jury that I think I clarified Mr. Palmer was concerned
23 about the Hemmingway connection but my concern was I
24 believed that individual that was stricken was a mechanic
25 and I discussed the mechanical issues in this case. Judge

1 as to the county employee that was seated when other county
2 individuals were stricken. She was a bus driver for the
3 county Judge she wasn't employed within the county walls
4 like with the DSS or anything like that. I mean although it
5 technically a county employee I'm just not concerned that
6 a bus driver out amongst the community is going to have
7 similar law enforcement leanings so I just ask the court
8 respectfully deny Ms. Barr's motion. Thank you Judge.

9 The Court: The defense has stricken and I'm not
10 convinced that the answers that were race neutral and
11 therefore I am going to strike this jury. We will re-strike
12 the entire panel. So if you can bring the entire panel back
13 in put the jurors back into the pool and then we will start
14 over. Let me see the attorneys for just a minute.

15 **(Re-strike Jury)**

16 Clerk: Juror number 99, Lurenzia Mack. What say you
17 for the State?

18 Ms. Barr: Present Mrs. Mack.

19 Clerk: What say you for the defense?

20 The Court: See the attorneys for one more second.

21 Ms. Barr: I'm sorry madam Clerk what was juror's
22 number?

23 Clerk: Juror number 62, Angela Fulton? What say you
24 for the State?

25 Ms. Barr: Present Mrs. Fulton.

1 Clerk: What say you for the defense?

2 Mr. Ballinger: Please excuse Mrs. Fulton for this
3 trial only.

4 Clerk: Please be seated Mrs. Fulton. Juror number 84,
5 Anthony Hucks Jr. What say you for the State?

6 Ms. Barr: Present Mr. Hucks.

7 Clerk: What say you for the defense?

8 Mr. Ballinger: Please swear Mr. Hucks.

9 Clerk: Please take your seat in jury box. Juror number
10 16, Willie Brown. What say you for the State?

11 Ms. Barr: Present Mr. Brown.

12 Clerk: What say you for the defense?

13 Mr. Ballinger: Please excuse Mr. Brown from this trial
14 only.

15 Clerk: Please be seated. Juror number 43, Roger
16 Cumbee. What say you for the State?

17 Ms. Barr: Please present Mr. Cumbee.

18 Clerk: What say you for the defense?

19 Mr. Ballinger: Please swear Mr. Cumbee.

20 Clerk: Please come take you seat in the jury box Mr.
21 Cumbee. Juror number 65, Louis Gamble. What say you for the
22 State?

23 Ms. Barr: Present Mr. Gamble.

24 Clerk: What say you for the defense?

25 Mr. Ballinger: Please swear Mr. Gamble.

1 Clerk: Please take your seat in the jury box Mr.
2 Gamble. Juror number 72, Africa Graham. What say you for
3 the State?

4 Ms. Barr: Please present Mrs. Graham.

5 Clerk: What say you for the defense?

6 Mr. Ballinger: Please swear Mrs. Graham.

7 Clerk: Please take your seat in the jury box. Juror
8 number 90, Robert June.

9 Ms. Barr: I'm sorry ma'am what was her name.

10 Clerk: Juror 90, Robert June. What say you for the
11 State?

12 Ms. Barr: Please excuse Mr. June from the trial of
13 just this case.

14 Clerk: Please be seated. Juror number 160, Lincoln
15 Singletary. What say you for the State?

16 Ms. Barr: Please present Mr. Singletary.

17 Clerk: What say you for the defense?

18 Mr. Ballinger: Please swear Mr. Singletary.

19 Clerk: Please take your seat in jury box. Juror number
20 82, Phoebe Hilton. What say you for the State?

21 Ms. Barr: Please present Mrs. Hilton.

22 Clerk: What say you for the defense?

23 Mr. Ballinger: Swear Mrs. Hilton.

24 Clerk: Please take your seat in the jury box. Juror
25 number 94, Shemeka Kennedy. What say you for the State?

1 Ms. Barr: Please present Mrs. Kennedy.

2 Clerk: What say you for the defense?

3 Mr. Ballinger: Please swear Mrs. Kennedy.

4 Clerk: Please take your seat in the jury box. Juror
5 number 29, Chancely Coker. What say you for the State?

6 Ms. Barr: Please present Mrs. Coker.

7 Clerk: What say you for the defense?

8 Mr. Ballinger: Please excuse Mrs. Coker for this trial
9 only.

10 Clerk: Please take your seat. Juror number 6, Rodney
11 Baxley. What say you for the State?

12 Ms. Barr: Please present Mr. Baxley.

13 Clerk: What say you for the defense?

14 Mr. Ballinger: Please swear Mr. Baxley.

15 Clerk: Please take your seat in the jury box. Juror
16 number 5, Gleen Baxley.

17 Ms. Barr: Please present Mr. Baxley.

18 Clerk: What say you for the defense?

19 Mr. Ballinger: Please excuse Mr. Baxley for this trial
20 only.

21 Clerk: Please be seated. Juror number 39, Ever Cooper.
22 What say you for the State?

23 Ms. Barr: Please present Mrs. Cooper.

24 Clerk: What say you for the defense?

25 Mr. Ballinger: Please swear Mrs. Cooper.

1 Clerk: Please take your seat in the jury box. Juror
2 number 104, Ann McCormick. What say you for the State?

3 Ms. Barr: Please excuse Mrs. McCormick.

4 Clerk: Please be seated. Juror number 194, Rhonda
5 Williams. What say you for the State?

6 Ms. Barr: Please present Mrs. Williams.

7 Clerk: What say you for the defense?

8 Mr. Ballinger: Please excuse Mrs. Williams from this
9 trial only.

10 Clerk: Please be seated. Juror number 112, Rachel
11 Mcfadden. What say you for the State?

12 Ms. Barr: Please present Mrs. Mcfadden.

13 Clerk: What say you for the defense?

14 Mr. Ballinger: Please swear Mrs. Mcfadden.

15 Clerk: Please take your seat in the jury box. Juror
16 number 87, Christie Hughes. What say you for the State?

17 Ms. Barr: Present Mrs. Hughes.

18 Clerk: What say you for the defense?

19 Mr. Ballinger: Please swear Mrs. Hughes.

20 Clerk: Please take your seat in the jury box. Juror
21 number 7, Lonnie Belding.

22 Ms. Barr: Present Mr. Belding.

23 Clerk: What say you for the defense?

24 Mr. Ballinger: Please excuse Mr. Belding from this
25 trial only.

1 Clerk: Please be seated Mr. Belding. Juror number 55,
2 Anthony Edwards.

3 Ms. Barr: Please excuse Mr. Edwards.

4 Clerk: Please be seated Mr. Edwards. Juror number 179,
5 Davenick Tisdale. What say you for the State?

6 Ms. Barr: Please present Mr. Tisdale.

7 Clerk: What say you for the defense?

8 Mr. Ballinger: Please swear Mr. Tisdale.

9 Clerk: Please take your seat in the jury box.

10 The Court: Two alternates, one and -

11 Clerk: Juror number 192, Abraham Williams. What say
12 you for the State?

13 Ms. Barr: Present Mr. Williams.

14 Clerk: What say you for the defense?

15 Mr. Ballinger: Please swear Mr. Williams.

16 Clerk: Please take your seat in the jury box. Juror
17 number 173, Charles Taylor. What say you for the State?

18 Ms. Barr: Present Mr. Taylor.

19 Clerk: What say you for the defense?

20 Mr. Ballinger: Please swear Mr. Taylor.

21 Clerk: Please take your seat in the jury box.

22 The Court: Please call out the names.

23 Clerk: Juror number 84 Anthony Hucks Jr., juror number
24 43 Rodger Cumbee, juror number 65 Louis Gamble, juror
25 number 72 Africa Graham, juror number 160 Lincoln

1 Singletary, juror number 82 Phoebe Hilton, juror number 94
2 Shemeka Kennedy, juror number 6 Rodney Baxley, juror number
3 39 Ever Cooper, juror number 112 Rachel Mcfadden, juror
4 number 87 Christie Hughes, juror number 179 Davenick
5 Tisdale, alternate number one is juror number 192 Abraham
6 Williams and alternate two is juror number 173 Charles
7 Taylor.

8 The Court: Thank you ladies and gentlemen you all have
9 been selected as jury for this panel. I'm going to send you
10 back to the jury room for just a minute and then I'll bring
11 you right back out, thank you.

12 **(Jury exits)**

13 The Court: Alright is there any objection the jury
14 that has been selected or the manner in which they have
15 been selected from the State?

16 Ms. Barr: None from the State.

17 The Court: From the defense?

18 Mr. Ballinger: None from defense Your Honor.

19 The Court: Alright thank you. Ladies and gentlemen you
20 all who were not selected again if you could call back
21 after six tonight. Is that when they would call in and then
22 we'll see when you might be need again. Thank you for
23 service today and have a nice afternoon.

24 **(Panel excused)**

25 The Court: Alright what I'm going to do is I'm going

1 to bring the jury back in and then dismiss them for the
2 afternoon with instructions to be back here at nine thirty.
3 Lets bring our jury back in. I'll swear them in the
4 morning.

5 **(Jury back in)**

6 The Court: Ladies and gentlemen I'm going to dismiss
7 you at this time with instructions to be back here at nine
8 thirty tomorrow morning, when we will start the trial of
9 this case. Please do not discuss this case with anyone and
10 the best way not to discuss it is to don't say a word about
11 it. Just don't tell anybody that I got selected and that
12 way it won't prompt a conversation. In the morning right
13 before you get here I'm going to ask that amongst
14 yourselves you determine and this would be from the twelve
15 primary jurors not the alternates. Who you want to be your
16 fore person on the jury and that person would be the jury
17 spokesperson in the court and would lead the discussion in
18 through deliberation in the jury room. So if you all could
19 select who you want to have when you first come out. If I
20 could have that person would sit in this end seat, the two
21 alternates would sit in the two end seats here. The rest of
22 you can move about as you like when we break. You want to
23 sit in a different seat that's ok you're not glued to those
24 seats. Ladies and gentlemen have a nice afternoon and we
25 will see you tomorrow morning right at nine, thank you.

1 (Jury excused for the day)

2 The Court: Alright what would be your pleasure. I'll
3 do what you all want to do. If you all want to take a short
4 break and then come back and do your pre-trial motions or
5 do you want to take a long break. It depends on how long
6 they are.

7 Mr. Ballinger: They're not terrible long Your Honor I
8 think if Your Honor just give me fifteen minutes to freshen
9 up my thoughts I'd be ready to go.

10 The Court: Is that ok with you all.

11 Ms. Barr: Judge I will tell you as relate to the
12 motion to suppress Agent Creech of SLED will testify in
13 that regard if necessary and I told him to be here at two.

14 The Court: Ok well that makes a difference were going
15 to take a short lunch break and we'll be back at two
16 o'clock.

17 (Lunch Break)

18 (Court in session)

19 The Court: Alright Mr. Ballinger I understand you have
20 some motions to be made.

21 Mr. Ballinger: I do Your Honor. Thank you Judge may it
22 please the court. Your Honor there's actually four matters
23 that have been raised I don't know if Your Honor has a copy
24 of my motion in....

25 The Court: I don't, I have it filed.

1 Mr. Ballinger: I was submitted for filing
2 approximately two weeks ago Judge, but in that motion there
3 are three issues. One is a motion to suppress for violation
4 of Mr. Palmer's right to a speedy trial. The second issue
5 is a motion to suppress a statement that was given on
6 October 29, 2010 by Mr. Palmer. I also requested that any
7 reference to a polygraph examination and any statements be
8 redacted. Ms. Barr has indicated that she can agree to that
9 request and lastly I filed a subpoena served it upon
10 Williamsburg County Sheriff's Officer. Ms. Barr for
11 personal files for investigator McFadden and staggers Ms.
12 Barr has objected to that so we ask the court to do that.
13 Your Honor as to the motion to dismiss based on the failure
14 to grant a speedy trial. Again Judge this crime allegedly
15 occurred on October 27, 2010. Mr. Palmer's statement was
16 given on 10/29/2010, the arrest was made of Mr. Palmer on
17 November 15, 2010 and an indictment issued a two count
18 indictment which is before Your Honor on May 5, 2011 was
19 issued. Judge Mr. Palmer's initial bond hearing was held on
20 December 9, 2010 which is approximately a month and a half
21 well a little less that month.

22 The Court: Were talking two years almost.

23 Mr. Ballinger: We are yes sir, yes sir Judge and after
24 the first bond was initialed on December or excuse me
25 issued on December 9, 2010 Mr. Palmer filed a motion for

1 reconsideration of bond and a motion for speedy trial which
2 was heard on or about March 31, 2011. Judge King issued an
3 order which required a hearing during the May 9, 2011 term
4 at which time the speedy trial motion would be renewed or
5 reviewed rather as would the bond order. Judge I don't know
6 if that hearing ever took place. Ok Judge I hear it did not
7 take place but the motion was renewed and a hearing was
8 held in July of 2011. Your Honor despite these motions this
9 case was not I think officially put on the docket until
10 January of this year and then at that time it was continued
11 one more time to this term Your Honor. Judge the case on
12 point is Barker vs Wingo.

13 The Court: I think he's had what this you're his
14 fourth attorney?

15 Mr. Ballinger: I am Your Honor.

16 The Court: Did he relieve them or did they move?

17 Mr. Ballinger: I know Mr. Barr moved to be relieved
18 which was his most recent attorney before me. I think there
19 is a consent order on relieving his third lawyer Mr.
20 Hoffmeyer and I believe the first Mr. Carraway from the
21 public defender office had a conflict Your Honor. Obviously
22 the first conflict was certainly not Mr. Palmer's fault the
23 other two that would be what the court decided. For the
24 record Your Honor Barker vs Wingo it is a United States
25 Supreme Court case which is cited in the motion Your Honor

1 there's a four part test in determining whether or not a
2 defendant's right to speedy trial was violated. One the
3 length of the delay from the arrest to the trial. The
4 second reason, excuse me factor is the reason why there was
5 the delay. The third is whether or not the defendant
6 asserted his right promptly and the fourth factor is
7 whether or not the defendant suffered any prejudice. Your
8 Honor it's our position that in over a two year delay in
9 bringing this matter to trial is an indorment amount of
10 time. Ms. Barr can speak to the reasons, but clearly Mr.
11 Palmer asserted his right from the very outset. As the
12 prejudice Your Honor...

13 The Court: He consented to Mr. Barr getting off the
14 case in August is that corrected?

15 Mr. Palmer: No

16 The Court: Don't talk to me talk to your lawyer.

17 Mr. Ballinger: Judge apparently he says he wanted to
18 go forward with Mr. Barr. Mr. Barr says that apparently
19 there was a break down in communications is what he's
20 telling me and Mr. Barr moved to be removed. Thank you
21 Judge.

22 The Court: Ms. Barr.

23 Ms. Barr: Yes sir.

24 The Court: There's a lot of Barr in here.

25 Ms. Barr: Judge I may be able to shed just a little

1 bit of light on it. Mr. Carraway initially was representing
2 Mr. Palmer from December of 2010 up until probably late
3 March early April of 2011. Mr. Carraway did not have a true
4 conflict to the extent that he could not represent the
5 defendant. At one time Mr. Carraway represented the victim
6 on a completely unrelated charge. The defendant did not
7 feel comfortable and Judge Mr. Carraway is a public
8 defender he's going to have situations where he's
9 represented different sides in unrelated cases. So we did
10 not believe that that was legal ground to have disqualified
11 to represent him, but Mr. Palmer understandably so didn't
12 feel comfortable. Then at that point the court appointed
13 Attorney General Hoffmeyer to represent Mr. Palmer. Mr.
14 Hoffmeyer filed a motion for bond reconsideration in July
15 of 2011. That was heard before Judge James. Judge James
16 actually set his bond at fifty thousand dollars and certain
17 conditions of his bond about curfew and that sort of thing.
18 At Mr. Palmer's insistence Mr. Hoffmeyer filed a motion to
19 be relieved as council. That was granted in December of
20 2011.

21 The Court: That was at Mr. Palmer's insistence?

22 Ms. Barr: It did as a matter of fact Judge Cothran
23 noted he granted the motion that the court will appoint
24 another attorney if the defendant has a problem with this
25 attorney he will represent himself, because he was

1 basically telling Mr. Hoffmeyer you need to file this
2 motion you need to file that motion and Mr. Hoffmeyer
3 indicated that he didn't believe in his professional
4 judgement that some of the motions had merit. The court
5 then appointed Mr. William Barr to represent the defendant.
6 Mr. Barr filed a motion to be relieved as council and I
7 believe that Mr. Palmer consented. So Judge to the extent
8 that the delay was caused by the defense.

9 The Court: Sir your not going to be able to speak to
10 your lawyer while I'm listening to her it's interfering
11 with my hearing, alright go ahead.

12 Ms. Barr: Your Honor to extent that the delay was
13 caused by the defendants actions with regard to his counsel
14 we would serve that it's not proper for him now to say
15 because I fired all of these lawyers and my court is two
16 years after I was arrested I'm now somehow prejudice based
17 on my own conduct. I just simply don't think that that
18 argument has merit in addition I don't know if Mr.
19 Ballinger finished his argument as it relates to the motion
20 for a speedy trial but Judge I will submit that the length
21 of time between the arrest and trial is not so long that it
22 would create prejudice to the defendant. There have been
23 cases where the delay is actually been longer. Particularly
24 when you're talking about a murder case in addition Judge
25 I don't see that there have been any allegation made that

1 the defendant has suffered prejudice as a result of the
2 delay and we would submit that it's through his own conduct
3 so we ask that motion be denied.

4 The Court: Was Mr. McKnight involved in this?

5 Ms. Barr: At one point he was yes sir.

6 The Court: So you're now the fourth defendant?

7 Mr. Ballinger: That's correct Your Honor.

8 Ms. Barr: He'd be the fifth lawyer Judge.

9 The Court: Fifth attorney. Mr. Ballinger how is your
10 client unfairly prejudice. I mean we're going to go ahead
11 and have the trial.

12 Mr. Ballinger: I understand Judge, the prejudice
13 argument is simply that this is very highly eye witness
14 driven case. Judge these witnesses the case now being with
15 the age on it may have difficulty recalling.

16 The Court: Well that certainly may be to your
17 advantage.

18 Mr. Ballinger: That's true Your Honor but Mr. Palmer
19 also wanted me to note and I understand Ms. Barr's position
20 as far as the attorneys but he has information that another
21 case was called during the December 11 term on the case
22 where that individual Quincy Williams did not request a
23 speedy trial but that matter was heard as oppose to Mr.
24 Palmer's.

25 The Court: Ms. Barr.

1 Ms. Barr: Judge I'm familiar with the Quincy William's
2 case it's a murder case. It was not called for trial it's
3 still pending.

4 The Court: Alright based upon the criteria. It is two
5 years out I've seen longer and again the apparently a
6 highly technical case we've got over thirty something
7 witnesses named in this. One of the reason obviously it
8 appears to be at least Mr. Palmer being unsatisfied with
9 his attorneys I think he's now got a great attorney. You've
10 tried cases in front of me before and been very successful.
11 I understand that he has asserted this right at point in
12 time as he should have but I don't find where he's could be
13 unfairly prejudice in this matter and I'm going to deny
14 your motion.

15 Mr. Ballinger: Thank you Your Honor. Judge as to the
16 second motion he has moved to suppress his statement which
17 was given again on October 29, 2010. Your Honor and I
18 understand I simply raised our objection to the
19 admissibility of his statement and I'll let Ms. Barr
20 proceed from here thank you.

21 The Court: Alright Ms. Barr are you ready to proceed
22 with presenting evidence showing that his statement was
23 given freely and voluntarily?

24 Ms. Barr: Judge we are we call on Agent Mark Creech.

25 The Court: Alright come forward and be sworn.

1 Clerk: Place your left hand on the Bible and raise
2 your right hand. Do you solemnly swear and affirm that the
3 testimony that you're about give is the truth, the whole
4 truth, and nothing but the truth so help you God?

5 Mr. Creech: I do.

6 Clerk: Ok please take your seat in the witness box.

7 Mr. Creech - Examination by Ms. Barr

8 Ms. Barr: Sir state your full name for the record.

9 Mr. Creech: Full name John Mark Creech.

10 Ms. Barr: Alright and sir where are you employed?

11 Mr. Creech: South Carolina Law Enforcement Division
12 better known as SLED by acronym.

13 Ms. Barr: Alright and you are a certified police
14 officer?

15 Mr. Creech: That is correct.

16 Ms. Barr: How long have you been employed with SLED?

17 Mr. Creech: I've been employed thirteen and a half
18 years with SLED and I worked over twelve years in Clarendon
19 County. I've got almost 26 years law enforcement.

20 Ms. Barr: No sir back in October of 2010 did you
21 respond to a request Williamsburg County Sheriff's
22 Department to assist them in the investigation of a death
23 involving Therriis Keels?

24 Mr. Creech: Yes I did.

25 Ms. Barr: Alright and as part of your assisting our

1 agency did you take a statement from the defendant?

2 Mr. Creech: I interviewed Mr. Palmer yes ma'am.

3 Ms. Barr: Alright and what date was the did that
4 interview take place?

5 Mr. Creech: I'd have to look at the...

6 Ms. Barr: Alright let me do this. Let me hand you
7 what's been marked for identification purposes only as
8 court's exhibit number one.

9 (Court's Exhibit Number One)

10 Mr. Creech: This is a SLED Miranda form it is dated
11 October 29, 2010 at 4:40 p.m. and that is my handwriting at
12 the time.

13 Ms. Barr: Alright tell us when you said it's a Miranda
14 Rights form tell us everything that you would have advised
15 he defendant as to his rights.

16 Mr. Creech: On this particular day I was called by I
17 believe it was Deborah Collins by phone telling me that
18 Marc Palmer was at the Sheriff's Department. He was one of
19 there a suspect of there's in this investigation and they
20 asked me to come in and help interview him. We were in the
21 Chief Deputy's office. Myself, Investigator Wayne McFadden
22 and Investigator Gene Lail I believe is her last name. This
23 Miranda Rights form is places Williamsburg Sheriff's Office
24 date is 10/29/10 4:44 p.m. and I read him before we ask any
25 question you must understand your rights. You have the

1 right to remain silent anything you say can be used in
2 court as evidence against you. You are entitled to talk to
3 a lawyer now at the present now or at anytime during
4 questioning. If you cannot afford an attorney one will be
5 appointed for you without cost. If you decided to answer
6 any questions, decide to answer questions without a lawyer
7 present you'll still have the right to stop answering
8 questions at anytime. You also have the right to stop
9 answering questions anytime until you talk to a lawyer and
10 I asked him if understood that to put the check marks
11 beside it and he did.

12 Ms. Barr: Alright based upon your observations of him
13 did appear to be understanding what you were saying?

14 Mr. Creech: Yes ma'am.

15 Ms. Barr: Did he appear to be under the influence of
16 alcohol or drugs or anything like that?

17 Mr. Creech: No ma'am.

18 Ms. Barr: Did he give responses that were appropriate
19 to your questions?

20 Mr. Creech: He stated he understood what I was reading
21 to him.

22 Ms. Barr: Have any concerns about his competency?

23 Mr. Creech: No ma'am.

24 (Court's Exhibit Number Two)

25 Ms. Barr: Alright now sir I'm going to also hand you

1 what's been marked as court's exhibit number two and I
2 believe that the statement that Mr. Palmer gave to you was
3 recorded.

4 Mr. Creech: I did not record it I believe Wayne
5 McFadden recorded it.

6 Ms. Barr: Did you have an opportunity to review it
7 prior to your testimony?

8 Mr. Creech: Yes ma'am.

9 Ms. Barr: The recording that you reviewed prior to
10 your testimony that was the, it accurately reflects the
11 conversation that was taken place that day?

12 Mr. Creech: Yes ma'am.

13 Ms. Barr: Judge we would just play maybe about the
14 first five or ten minutes of the recording as it relates to
15 the giving of the Miranda.

16 The Court: Alright.

17 Mr. Ballinger: Your Honor if I could just approach.

18 The Court: Sure and this is just audio?

19 Ms. Barr: Yes sir.

20 **(Recording played)**

21 Ms. Barr: Agent Creech there's a first of all identify
22 for the court the voices on that recording.

23 Mr. Creech: Mine and Marc Palmer's.

24 Ms. Barr: Alright and there is a point on the
25 recording that the defendant says well I'll talk to you but

1 I want Charles Barr too.

2 Mr. Creech: I want you to call Charles Barr too.

3 Ms. Barr: Now at that point did you ask for further
4 clarification about whether or not he wanted counsel to be
5 there before he spoke to you?

6 Mr. Creech: I asked him do you want him here.

7 Ms. Barr: Ok and what was his response?

8 Mr. Creech: Yes I would like for him to come.

9 Ms. Barr: Ok and what was the next conversation?

10 Mr. Creech: My next conversation was before you will
11 talk to us.

12 Ms. Barr: That was the question you asked to him?

13 Mr. Creech: That is correct.

14 Ms. Barr: And what was his response?

15 Mr. Creech: He said no I'm going to talk to you.

16 (Court's Exhibit Number Three)

17 Ms. Barr: I'm going to hand you now what's been marked
18 as court's exhibit number three. The transcribed statement
19 there and do you need your case file up there with you?
20 Would you like that up there with you? And let me do this
21 I'm going to give the court the court's exhibit and I'll
22 let you just look at a copy how about that.

23 Mr. Creech: That'll be fine.

24 Ms. Barr: If you'll look at page one of court's
25 exhibit number three. Are you with me?

1 Mr. Creech: Yes ma'am.

2 Ms. Barr: Now if we go down to line seventeen. You ask
3 him do you wish to talk to us. Is that correct?

4 Mr. Creech: Yes ma'am.

5 Ms. Barr: And his response was I wish to talk to you
6 but I need you to call Charles Barr too. Is that right?

7 Mr. Creech: That is correct.

8 Ms. Barr: And your next question to him was you want
9 him here. Is that right?

10 Mr. Creech: Yes ma'am.

11 Ms. Barr: His answer was I want him to come yes.

12 Mr. Creech: Yes ma'am.

13 Ms. Barr: And your next question was before you talk
14 with us.

15 Mr. Creech: Yes ma'am.

16 Ms. Barr: And then his response was ok I'll talk with
17 you. Is that right?

18 Mr. Creech: I believe his response was no I will talk
19 with you or I'm going to talk with you.

20 Ms. Barr: The no did not actually appear in the
21 transcript does it?

22 Mr. Creech: I doesn't appear to be.

23 Ms. Barr: And did when he said no it was in response
24 to your question. You want him here before you talk with
25 us.

1 Mr. Creech: Yes ma'am.

2 Ms. Barr: And you continue to get clarification about
3 that. Is that correct?

4 Mr. Creech: That is correct.

5 Ms. Barr: And you asked him that's what I'm asking.

6 Mr. Creech: Yes ma'am.

7 Ms. Barr: And his response was?

8 Mr. Creech: Ok well what do you want to know.

9 Ms. Barr: Ok and that's when you all proceeded to talk
10 about..

11 Mr. Creech: No ma'am, that's when I asked him again
12 the question on the form. Are you willing to talk with us
13 and he said yes sir and then I read the waiver paragraph at
14 the bottom of the form. And I asked him to sign if he was,
15 if he understood that and he signed it.

16 Ms. Barr: Alright and so in the part of the tape where
17 you're saying are you sure are you ok. That's what I'm
18 talking about that's when he proceeds to sign the Miranda
19 waiver form?

20 Mr. Creech: Well I asked him before you talk to us and
21 he said no I'm going to talk to you. I said that's what I'm
22 asking and he said ok what do you want to know and then I
23 went back to the question on the form. Which is are you
24 willing to talk to us. His answer was yes sir and then I
25 read the waiver of rights. Do you understand your rights,

1 do you understand what you're rights are. I'd rather read
2 it off my Miranda but I read him that bottom paragraph.

3 Ms. Barr: Ok here you go I'll just hand you my copy of
4 court's exhibit number one.

5 Mr. Creech: The waiver of rights says I've read this
6 statement of my rights. I understand what my rights are I
7 am willing to talk now without a lawyer present. I
8 understand and know what I'm doing. No promises or threats
9 have been made to me and no pressure or coercion of any
10 kind has been used against me. I asked him to sign there if
11 he understood it and he signed his name and I witnessed it
12 along with Investigator McFadden.

13 Ms. Barr: Alright and as it relates to page two of the
14 transcript of that recorded statement. The top of page two
15 line one says are you willing to talk with us and what was
16 his response?

17 Mr. Creech: Yes.

18 Ms. Barr: And the question was do you understand your
19 rights, do you understand what your rights are, do you want
20 to talk to us, do you want to talk to us without a lawyer
21 present. And what was his response to that question?

22 Mr. Creech: That's where I read that paragraph and
23 asked him did he understand it and he said yes. I asked him
24 to sign there stating he understood it and he signed it.

25 Ms. Barr: In terms of having him talk with you or with

1 any other law enforcement official did anyone threaten him
2 in any way?

3 Mr. Creech: No ma'am.

4 Ms. Barr: Did anybody in there promise him anything in
5 order to get him to speak with you?

6 Mr. Creech: No ma'am.

7 Ms. Barr: And were you aware that he was in college at
8 the time that this happened?

9 Mr. Creech: No ma'am.

10 Ms. Barr: Were you not aware that as part of the
11 investigation that he claimed that he went to Williamsburg
12 Technical College? Did that surprise you that he was a
13 student?

14 Mr. Creech: I believe that was part of the interview
15 that he told me he had classes that night but at the time
16 I didn't know that.

17 Ms. Barr: I understand based upon your understanding
18 your interaction with him do you believe that he understood
19 all of his rights as were advised?

20 Mr. Creech: Yes ma'am.

21 Ms. Barr: Alright that's all the questions that I
22 have. Please answer any questions that the court or the
23 defense may have.

24 Mr. Ballinger: Thank you Your Honor may I please the
25 court?

1 The Court: Yes sir.

2 Mr. Ballinger: Afternoon Mr. Creech.

3 Mr. Creech: Good afternoon.

4 Mr. Ballinger: You were contacted by whom in order to
5 assist in taking the statement from Mr. Palmer?

6 Mr. Creech: I believe it was Deborah Collins who
7 called me. I was out on 52 north of here and I turned
8 around and came back.

9 Mr. Ballinger: And you testify that yourself,
10 Investigator Collins, and Investigator McFadden were all in
11 the interview?

12 Mr. Creech: No sir that's not correct.

13 Mr. Ballinger: Ok who was all present?

14 Mr. Creech: Myself, Investigator McFadden, and
15 Investigator Lail, Gene Lail.

16 Mr. Ballinger: And about what time did the interview
17 begin on October 29, 2010?

18 Mr. Creech: I believe around 4:40 in the afternoon.

19 Mr. Ballinger: So if he signed the waiver of rights
20 form that would begin would have been at the beginning of
21 the interview. Is that correct?

22 Mr. Creech: Negative. I'm sorry explain that question
23 again please.

24 Mr. Ballinger: I'm looking at the waiver of rights
25 form that you testified to.

1 Mr. Creech: With the 4:40 at the top.

2 Mr. Ballinger: Is that the ending time of the
3 statement or is that the beginning?

4 Mr. Creech: That's the beginning I filled out the top
5 part and then I went through his Miranda Rights and then he
6 signed at the bottom. So he would have signed sometime
7 after 4:40.

8 Mr. Ballinger: And approximately how long do you
9 believe the interview was?

10 Mr. Creech: At least thirty minutes I'm not exactly
11 sure.

12 Mr. Ballinger: And was he allowed to leave after the
13 interview?

14 Mr. Creech: As far as I know he was yes sir.

15 Mr. Ballinger: And when you read him his rights and
16 got him to sign that form. He pretty quickly asked to speak
17 with his attorney Charles Barr, is that correct?

18 Mr. Creech: He didn't ask to speak to him he asked us
19 to call him.

20 Mr. Ballinger: Did you take that to mean he wanted a
21 lawyer?

22 Mr. Creech: That's why I asked him the next question.
23 Do you want him here.

24 Mr. Ballinger: Are you aware of any other portion of
25 his statement where he request a lawyer again?

1 Mr. Creech: Yes sir toward the end of the statement
2 after he told us. You want me explain what he told us?

3 Mr. Ballinger: Yes sir please.

4 Mr. Creech: Just kind of briefly?

5 Mr. Ballinger: Yes sir.

6 Mr. Creech: Basically he stated that he was not there
7 at the time of the murder. He had knew Therriis Keels. He
8 had saw him earlier around 3:30 and I believe it was a
9 place called The Bullpen. They had some words, Therriis said
10 basically you know I could rob you. He left went to town
11 came to Kingstree I believe he went to school around 6 or
12 7. He got gas went back to Greeleyville to this club around
13 10. He said Therriis was there he did not have any words
14 with Therriis and that he left and wasn't even there when
15 the shooting happened and that he had gone to I believe
16 Lane or Andrews area riding around. Ran out of gas called
17 his cousin Cornelius to come and give him some gas. This
18 was around 3:00 a.m. and that's when he learned that
19 Therriis had been killed.

20 Mr. Ballinger: And do you have the transcribed
21 statement in front of you?

22 Mr. Creech: Yes sir.

23 Mr. Ballinger: Alright will you turn to page...

24 Mr. Creech: And to follow up on your question after he
25 gave us the story about his whereabouts and I went back

1 through do you have an alibis? Do you have anybody that can
2 prove you were at these places? Did you go in any stores
3 that we can check the cameras to prove that you were such
4 and such place at such and such a time? He said no. I got
5 a phone call because on the tape reviewing it this weekend
6 you can hear my phone go off and I believe I stepped out
7 and then when I stepped back in Investigator McFadden was
8 talking with him and about some clothes or something. And
9 then at some point toward the end of the interview I
10 basically told him look we want to find who did this if you
11 didn't do it we want to clear you and I asked him to
12 corroborate and at some point there toward the end he said
13 that he wanted to talk to he wasn't going to say anything
14 else he wanted to talk to a lawyer and I ended the
15 interview.

16 Mr. Ballinger: So the record will be clear will you
17 turn to page 22 on the transcribe statement please the very
18 bottom, page 22 line 25.

19 Mr. Creech: Yes.

20 Mr. Ballinger: And that's line 24 reflects that is
21 says questions by Agent Creech, correct?

22 Mr. Creech: Yes.

23 Mr. Ballinger: And you go to page 23 line 6. What was
24 your question to Mr. Palmer?

25 Mr. Creech: Will you take a polygraph.

1 Mr. Ballinger: And what was his answer?

2 Mr. Creech: A polygraph why do I have to take a
3 polygraph.

4 Mr. Ballinger: Question.

5 Mr. Creech: To clear yourself. (Mr. Palmer's response)
6 Hopefully I have cleared myself this is what's going on
7 you're telling me I didn't have on what I had on and I
8 guess he's talking about whatever the clothing issue that
9 him and McFadden had talked about and now you are talking
10 about polygraph I believe I need to talk to Charles Barr.
11 Okay.

12 Mr. Ballinger: And then what did he say again after
13 that?

14 Mr. Creech: Something about calling Charles Barr.

15 Mr. Ballinger: And did you continue to ask him a
16 question? Just read line 16 please.

17 Mr. Creech: I'm just telling you if you want to try to
18 clear yourself that's one way to do it. I don't know if
19 you're telling me the truth or not that would be one way to
20 clear yourself. Answer: Charles Barr sir. So you don't have
21 anything else to say? No sir, you asked me to talk to you
22 and now you want to put me in a polygraph. You all are
23 telling me I didn't have on what I had on when I clearly
24 had on what I had on and everybody saw what I had on.
25 Question: I just want a polygraph to see if your story is

1 straight you don't have an alibi and nobodies to say that
2 they saw you. Answer: No I don't have an alibi. Question:
3 You ain't got no alibi or anything? Answer: No I want to
4 talk to Charles Barr. And that was the end of it.

5 Mr. Ballinger: So he referenced Charles Barr four
6 times in that exchange on page 23 and 24 correct?

7 Mr. Creech: Yes sir, but at that point I didn't ask
8 him anymore questions I was just basically seeing if he
9 would be willing to take a polygraph to clear himself. To
10 prove that he what he was telling us was true. Which is
11 strictly voluntary.

12 Mr. Ballinger: Did you tell Mr. Palmer at any point
13 about signing the Miranda Form that he was not waiving any
14 rights?

15 Mr. Creech: That he was not waiving any rights?

16 Mr. Ballinger: Correct.

17 Mr. Creech: No sir I mean I think the I read the
18 Miranda Form I mean I think it's pretty clear word for
19 word.

20 Mr. Ballinger: Nothing further Your Honor, thank you.

21 The Court: Any redirect?

22 Ms. Barr: Just one quick question. Agent Creech you
23 indicated that to the best of your knowledge the defendant
24 was not under arrest at that time?

25 Mr. Creech: That is correct.

1 Ms. Barr: Do you know when he was actually arrested?

2 Mr. Creech: I don't but according to this arrest
3 warrant you just handed me it was 11/15.

4 Ms. Barr: So about two weeks later?

5 Mr. Creech: That's what it looks like yes ma'am.

6 Ms. Barr: That's all the question I have Judge.

7 The Court: Any recross based on the redirect?

8 Mr. Ballinger: No sir Your Honor.

9 The Court: Alright thank you. You may step down.

10 Ms. Barr: Judge that would be that State's
11 presentation on that issue about the voluntariness of the
12 statement.

13 Mr. Ballinger: Thank you Judge.

14 The Court: Mr. Ballinger would you like to call your
15 client for this specific purpose?

16 Mr. Ballinger: Yes sir yeah I would. Without waving
17 any other.

18 The Court: Naturally strictly for this purpose.

19 Clerk: Place your left hand on the Bible raise your
20 right hand. Do you solemnly swear that the testimony you
21 are about to give it the truth, the whole truth and nothing
22 but the truth so help you God?

23 Mr. Palmer: Yes I do.

24 Clerk: Ok please sit in the witness box.

25 The Court: Alright you may proceed.

1 Mr. Ballinger: Thank you Your Honor may I please the
2 court.

3 (Examination by Mr. Ballinger)

4 Q: State your full name for the record.

5 A: Marc Anthony Palmer.

6 Q: Mr. Palmer you just heard Agent Creech testify
7 about the statement you gave on October 29, 2010,
8 is that correct?

9 A: Yes I did.

10 Q: What would you like to add or clarify with regards
11 to that statement in your opinion?

12 A: The reason why I was brought there in the first
13 place was because I was placed under arrest. Investigator
14 Deborah Collins when she pulled me over she told me that I
15 was under arrest for murder. Then when I got there they
16 told me that I wasn't under arrest and then he told me. I
17 kept asking for Charles Barr and I told him my mom said
18 when I, you know, to speak to Charles Barr before you talk
19 to anybody so I need to speak to Charles Barr. And actually
20 Investigator Deborah Collins she took my cell phone so I
21 couldn't call Charles Barr myself and my mom she had to
22 come pick it up the next day. She had to come pick the cell
23 phone up the next day from the Sheriff's Office and she
24 took my driver's license so I couldn't go anywhere. When
25 they start questioning me I was just basically I was

1 scared. I mean they was telling me I was under arrest for
2 murder and then one second they're telling me I'm not and
3 then so they like well you talk to us and tell us this that
4 and the third. So finally when I was like well alright
5 alright you know. They bring me the waiver and then
6 Investigator McFadden he brings out the recorder the
7 recorder and he turns it on then and then after I signed it
8 everything and they read it to me again and I'm think and
9 I'm like you know hold up I want you to call Charles Barr
10 you know and they asked me will you talk to me I'm like
11 well I want you to call Charles Barr too because I'm
12 suppose to have an attorney present before I talk to
13 anybody. Then you know I guess I was just kind of scared
14 because you know they telling me that they trying to blame
15 me for killing somebody so then he's like and basically it
16 made me look like I can't go nowhere. So he asked me you
17 know well are you willing to talk to us and I was yeah I'll
18 be willing but I just wanted a lawyer present but he was
19 like so will you talk to us and I told him yeah. Then I
20 guessed without an attorney present and I was like well
21 look I'll talk to you.

22 Q: Why did you tell him you'd talk to him if you
23 wanted your lawyer present?

24 A: I was scared and I never been through nothing like
25 this before like ever in my life.

1 Mr. Ballinger: How old are you Mr. Palmer?

2 A: I'm 29.

3 Mr. Ballinger: How far did you go in school?

4 A: I got about two years of college education.

5 Mr. Ballinger: And you've been in trouble I think one
6 time before?

7 A: Yeah actually I was arrested three time. I was
8 arrested one time in New York, and twice in Atlanta. Both
9 of them simple possession of marijuana.

10 Mr. Ballinger: Nothing anything really serious where
11 you'd be subject to custodial interrogation?

12 A: No nothing that'll land me in jail for anything
13 more than 30 days.

14 Mr. Ballinger: And is there anything that was said
15 between you and law enforcement that is not reflected on
16 that tape regarding your statement?

17 A: Yeah before he took out the recorder they put the
18 thing in front of me the waiver in front of me and said
19 well you're not really waiving your right. That's exactly
20 what Mark Creech said to me. He said you're not really
21 waiving your rights. I signed it man I was scared man these
22 people telling me one minute one second I'm locked up for
23 I'm under arrest for murder and the next they're telling me
24 I'm not you know she's taking she took my driver's license
25 and my cell phone so I couldn't call anyone.

1 Mr. Ballinger: How did you get home that day?

2 A: I had to wait until they finished searching the car
3 and after they finished I had to wait until another officer
4 came back to the Sheriff's Department with my driver's
5 license and then but she still had the cell phone though
6 and my mom she had to. I left I was just scared I left and
7 another officer. My mom had to come back the next day and
8 pick up her cell phone.

9 Mr. Ballinger: Anything else we've left out you think
10 Judge Young needs to be aware of?

11 A: No that's it.

12 Mr. Ballinger: Nothing further from me Your Honor.

13 The Court: Thank you Ms. Barr.

14 (Redirect by Ms. Barr)

15 Ms. Barr: Mr. Palmer what point and time during your
16 interview did you not become scared anymore or were you
17 scared the whole time?

18 A: I was scared the whole time.

19 Ms. Barr: The whole time?

20 A: Yeah.

21 Ms. Barr: Through out that whole exchange, well first
22 of all you had a chance to read your attorney's script
23 right?

24 A: Yes.

25 Ms. Barr: So the entire time you talked to the police

1 you were scared the whole time?

2 A: Yes.

3 Ms. Barr: And what were you afraid of?

4 A: Because these people were saying basically someone
5 was saying something about me wearing different clothes and
6 basically people trying you were trying to implicate the
7 police was trying to implicate me on a murder.

8 Ms. Barr: But what were you afraid of? What were you
9 afraid was going to happen? Tell me what you were afraid
10 of. I understand you were a suspect but tell me in your
11 mind but tell me what were you afraid of? Why were you
12 scared?

13 A: Because you were saying that I was people were
14 saying I was under arrest for murder then people. I mean
15 you would be scared to if someone said if someone's telling
16 you that someone said you killed someone.

17 Ms. Barr: Who were you. Who told you, you was under
18 arrest for murder?

19 A: Investigator Deborah Collins it's on her cruiser
20 when she pulled me over that day. It's on her cruiser.

21 Ms. Barr: It's on her cruiser that she told you, you
22 were under arrest for murder?

23 A: Yeah the camera the surveillance camera when that
24 blue light comes on that camera comes on.

25 Ms. Barr: How do you know that did you see a camera?

1 A: No.

2 Ms. Barr: Well how do you know that though?

3 A: Because it's suppose to isn't it?

4 Ms. Barr: No I'm asking you. You talked about that
5 Deborah Collins has you believe she has a video camera in
6 her car in her patrol car.

7 A: They should shouldn't they?

8 Ms. Barr: No I'm asking you. Let me ask you just
9 answer the question. Do you believe that Lieutenant Collins
10 had a video camera in her patrol car?

11 A: Yeah.

12 Ms. Barr: Why do you believe that? Did you ever see
13 it?

14 A: No.

15 Ms. Barr: Did anybody ever tell you that it was there?

16 A: Not in her car.

17 Ms. Barr: Did anybody so that's just an assumption
18 that you made?

19 A: No I was told that there's cameras in all police
20 cars.

21 Ms. Barr: My specific question is who told you that
22 Deborah Collins had a camera in her patrol vehicle? Nobody
23 did that.

24 A: No one told me that Deborah Collins individually
25 had one.

1 Ms. Barr: I understand that but you said something is
2 on a recording out of Deborah Collin's vehicle. So if
3 that's the case I want to know how you received that
4 information. Is that an assumption that you made? That she
5 had a camera in her car.

6 A: That was actually it is an assumption.

7 Ms. Barr: Ok that's all the question as far as that's
8 concern. Now let me ask you this you never answered your
9 lawyer this question when he asked you how you got home.
10 You start talking about how somebody took your cell phone
11 and somebody supposedly took your driver's license but you
12 didn't answer that question. How did you get home?

13 A: I drove home.

14 Ms. Barr: And to be fair you candidly admitted this
15 isn't your first interaction with law enforcement regarding
16 criminal activity is it?

17 A: Not criminal activity no, no.

18 Ms. Barr: Yeah this isn't the first time and you
19 clearly were not under arrest that day, right?

20 A: Well afterwards no.

21 Ms. Barr: Ok let me play something for you right quick
22 and tell me if agree with it or disagree. Have you heard
23 the part of the recording that I played while Agent Creech
24 was on the stand? Did you hear that?

25 A: Excuse me.

1 Ms. Barr: Did you hear the recording that I played
2 while Agent Creech was on the stand?

3 A: Yes.

4 Ms. Barr: That's your voice?

5 A: Yes.

6 Ms. Barr: Now let me be clear when I play it if you
7 could just hold off and not say anything so that the court
8 reporter doesn't pick this up pick you up at the same time.

9 **(Video recording is played)**

10 Ms. Barr: You're certainly intelligent enough to
11 understand what that means right?

12 A: Yeah.

13 Ms. Barr: Alright so when an officer told listen you
14 can invoke your rights at any point and time. You can stop
15 answering question in the middle of asking questions. You
16 understood what that meant right?

17 A: Yeah.

18 Ms. Barr: You had the right to just say no listen I'm
19 not going to talk to you guys anymore I'm out of here. You
20 could have done that right?

21 A: Yes.

22 Ms. Barr: And there was not an arrest warrant on file
23 in your hand that would have prevented you from getting up
24 there walking out was there?

25 A: No I didn't but quite frankly he was telling me I

1 was under arrest one minute then telling me I wasn't the
2 next. So I didn't know you could tell me I'm under arrest
3 yet well we going to place you under arrest right now as
4 soon as I if I say no.

5 Ms. Barr: And of course the only persons word that we
6 have that anybody ever possibly told you that you were
7 under arrest is your word right?

8 A: Well actually my lawyer he asked for the video
9 surveillance tape of that camera for her car but no one the
10 police ain't cooperating.

11 Ms. Barr: And again you are making an assumption that
12 that evidence even exist and you don't even know that to be
13 the case do you? Do you?

14 A: No.

15 Ms. Barr: Thank you that's all the questions I have.

16 The Court: Mr. Ballinger re-direct.

17 Mr. Ballinger: No sir Your Honor.

18 The Court: Thank you, you may step down.

19 Mr. Ballinger: Judge can I beg the Court's indulgence.
20 No further testimony Your Honor. Judge briefly --- Your
21 Honor the South Carolina case on point is State vs
22 Wanamaker South Carolina Supreme Court 346 SC 495. If I may
23 approach Judge. Your Honor Wanamaker stands for the
24 proposition that if a suspect invokes her right to counsel
25 police interrogation must cease unless the suspect herself

1 initiates further communication with police. The police
2 officer is not required to cease questioning the suspect
3 unless her request for counsel was unambiguous. Your Honor
4 it's our position that request for counsel was unambiguous
5 from the outset. He said he wanted to talk to Charles Barr
6 and Judge we believe the interrogation should have ended at
7 that point and time. Wanamaker also obviously cite Miranda
8 Your Honor and some other cases and I just hand that to the
9 Court. That's our position in support of our motion to
10 suppress Your Honor. We ask that the State suppress
11 entirety. In the alternative Judge we at least ask that the
12 Court suppress the ending period of the statement when he
13 again revoked his right to counsel which was on page.

14 The Court: Revoked or invoked?

15 Mr. Ballinger: Excuse me invoked yes sir I'm sorry. It
16 would begin on page 23 line 11 as to his attorney, but
17 there's also some references to polygraphs in there. So we
18 would ask that page 23 line 6 forward be redacted in the
19 event that the entire or suppressed in the event the entire
20 statement is not suppressed. Thank you Judge.

21 The Court: Ms. Barr.

22 Ms. Barr: Judge we would respectfully object to the
23 motion and we would cite the State, the case of State vs
24 Kennedy 510 South Eastern Second 174 I'll provide a copy to
25 the Court as well and Judge essentially the relative part

1 of that is found on page 2 on the right side of the page,
2 first full paragraph and it talks about Tomley testified
3 after a petitioner stated that he thought he might wanted
4 an attorney. Tomley told the petitioner that if he wanted
5 an attorney the solicitor could not speak with him any
6 further. Tomley testified the petitioner then stated call
7 the solicitor back in here, lets go ahead and get this over
8 with and Judge that's essentially the case that we have
9 here. In fact the case that we have here the facts are more
10 unambiguous than in this case. The officer clearly was
11 asking for clarification on the issue about whether or not
12 he was invoking his right to counsel and judge I played the
13 relevant portion of the tape twice because I wanted it to
14 be clear when Agent Creech asked him do you want Mr. Barr
15 here before you start talking to us. And he said no I'll
16 talk to you all what do you want to know. So in that case
17 we would take the opposition Judge that he freely and
18 voluntarily waived his right to counsel. He's after
19 somebody has acknowledged that he was not under arrest,
20 that he was intelligent, he'd gone to school, he knew his
21 right to counsel, he knew that he had the opportunity if he
22 wanted to, to just get up and leave and he voluntarily
23 chose not to do so. So we would take the position that the
24 statement is in compliance with Miranda and all the cases
25 that follow Miranda. Judge we would also if the Court

1 weren't inclined to redact certain portions of the
2 transcript and the video tape or audio tape that relates to
3 I think it starts on page 23 we would have no objection to
4 that.

5 The Court: Alright I've listened to the audio, I've
6 read the transcript and I read this waiver. It certainly
7 seems to me that he gave it freely and voluntarily. He re-
8 instituted the conversation with the officer and it really
9 matches up better when you listen to it because you see the
10 pace of the conversation. In the transcript you don't know
11 what pace is but when you listen to it. It's clear that the
12 officer is just getting a clarification as to whether he
13 wanted him to call Mr. Barr or whether he was actually
14 invoking his right to have an attorney present even if he
15 had. He still he started the conversation back. He said he
16 wanted to talk he said I'll talk to you and then he goes on
17 for twenty something more pages talking with him. I don't
18 know how much clearer it could be that he waived his right
19 and started talking again. I do believe at the end that
20 once they've brought up the on page 23 the polygraph it's
21 clear the end he invoked and there were no more questions
22 at that point and time. So I am going to take out all the
23 stuff about the polygraph because that comes right before
24 Charles, when he asked for Mr. Barr to be present.

25 Mr. Ballinger: Correct Your Honor.

1 The Court: I think that would be inadmissable anyway.
2 So I guess line 5 on page 23 would be where the transcript
3 would end. Nothing about will you take the polygraph or
4 anything after that would come. Thank you.

5 Mr. Ballinger: Thank you Judge.

6 Ms. Barr: Judge while we're on the statement there are
7 certain portions of it Your Honor please I think perhaps I
8 guess I have an abundant precaution. We ask to be redacted
9 and Judge if I may beginning on page 9 line 25 leading up
10 to page 10 lines 7 where it talks about hey they think Mike
11 did it because he had robbed Mike I don't even know that
12 dude like that it's just a coincidence because I seen the
13 dude right before he must have robbed him. It was crazy he
14 must have robbed him like soon as I left or something. This
15 was before he got shot and then the next day it was like
16 how did my name get dragged into it. Judge we would take
17 the position that all of that those statement are hear say
18 based on what I guess the defendant may have heard about
19 what somebody else may have done. So we would move to
20 redact that portion. We'd also move to redact beginning on
21 page 13 lines 15 through 25. It talks about the same
22 incident about the guy named Mike. So we would request
23 lines 15 through 25 be redacted on page 14 lines 21 through
24 25 the defendant says, well the question is asked I'm
25 looking at your rap sheet and you don't have any violent

1 crimes the only thing that you've got is distribution
2 right. His answer is I know marijuana. Judge we would and
3 it goes on page 15 lines 1 through 7. As it links to his
4 record at least I believe in our case and chief that that
5 may not be admissible if he chooses to testify perhaps but
6 we would move to redact that. There's also reference to
7 character evidence of the victim starting at page 16 lines
8 19 through 25 and starting again on page 17 lines 1 through
9 4 with the ends and we want you to do the same. We would
10 move to have that redacted as it relates to character
11 evidence of the victim and we would think that that would
12 be improper.

13 The Court: Alright.

14 Mr. Ballinger: Judge let me just get some
15 clarification I think on the first set that she'd like to
16 have redacted where it references Mike.

17 Ms. Barr: I'm sorry page 9 starting on line 25 and...

18 The Court: Your position is that that's self serving
19 hearsay is that correct? That would be hearsay and that
20 it's a self serving statement.

21 Ms. Barr: Right because he is basically accusing
22 somebody else of committing the crime. It leads up to page
23 10 1 through 7 lines 1 through 7.

24 Mr. Ballinger: Let me find it Your Honor. Your Honor
25 it's clear on page 9 line 25 that his cousin Mr. Canty told

1 Mr. Palmer that Canty though Mike did it because ...

2 The Court: That's a couple layers of hearsay then.

3 Mr. Ballinger: Yes sir and I understand that but I do
4 think continuing you on line 1 my client's statement that
5 I don't even know him like that. It was just coincidence
6 because I saw him I saw the dude that being Therriis right
7 before he must have dropped him it's crazy. I mean he's
8 talking about personal knowledge there Your Honor.

9 The Court: Well he's not. He said he must have he's
10 assuming so.

11 Mr. Ballinger: Yes sir.

12 The Court: So I agree with that part it's hearsay and
13 inadmissable.

14 Mr. Ballinger: Yes sir Your Honor and page 13 lines 15
15 through 25. My client testified my cousin just said Therriis
16 got killed. That would be hear say Your Honor.

17 The Court: That's hear say and then the next one is on
18 15 about his prior records. We don't want that coming in
19 anyway.

20 Mr. Ballinger: That's correct Your Honor well it's not
21 appropriate at this point and time if he does testify we'll
22 deal with it but stay the State case and chief here that
23 would be improper. Finally page 16 Judge we can consent to
24 a redaction page 16 lines 19 through 25 and lastly page 17
25 1 through 4. Thank you.

1 The Court: I find that what the prosecutor wants to
2 take out is appropriate and then we will redact the
3 statement to take out those and the ones that you did by
4 consent would be prejudicial to your client ... Alright any
5 other motions?

6 Mr. Ballinger: Your Honor I served the department with
7 a subpoena regarding personal files for two investigators
8 for which she's objected to. We believe they're proper but
9 she can advise Your Honor as to why she thinks subpoena
10 should be...

11 The Court: Why would they be relevant in this case?

12 Mr. Ballinger: It's my understanding and I may be
13 wrong, they were employed with the Williamsburg County
14 Sheriff's Office and if they were relieved for falsifying
15 evidence and my client's case that would certainly be
16 relevant. I'm not alleging that I'm just I need to know
17 potentially why they're no longer there and it's not
18 privileged Your Honor so that the relevance is simply was
19 something amiss in my client's case because they were the
20 investigators that were here when these case were made and
21 now they're no longer Your Honor.

22 The Court: Ms. Barr.

23 Ms. Barr: Judge I filed a notice of motion a motion to
24 quash the subpoenas on February 13, 2013 and essentially I
25 alleged a couple of grounds. The subpoena failed to allow

1 a reasonable time for compliance. That the subpoena
2 requires disclosure of privileged or otherwise protected
3 manner and no exception a waiver replies. Specifically what
4 I'm referring to is he requested the entire personal file
5 which may contain information about beneficiaries, social
6 security numbers, birth dates and that sort of things.

7 The Court: I think he's consenting that that's not
8 what he wants. He just wants to see the reason for
9 termination.

10 Ms. Barr: Judge I think that one that that's not
11 relevant to this case unless there is a specific allegation
12 that somebody did something wrong with connection to the
13 defendants case. I don't think that the production of a
14 personnel file is relevant to this issue. Those officers
15 they'll be here to testify and certainly if he believes
16 that there's something that he should impeach them with or
17 could impeach them with.

18 The Court: Well how would he know if he hadn't looked
19 at the file.

20 Ms. Barr: Well Judge he can ask them whether or not
21 they're still employed and what circumstances or for the
22 reason they are no longer employed.

23 The Court: But if they said made the statement I left
24 on good terms and in the file there is a disciplinary
25 statement saying he's fired because. How would he know that

1 otherwise?

2 Ms. Barr: Judge I'm not sure. I guess the answer to
3 your question I don't know how he would know that. Some of
4 the information I think would warrant an objection by me
5 and it may be that we might have to have an in camera
6 hearing on that matter but I think just to ask for
7 somebodies entire personal file.

8 The Court: I would certainly limit it and what I would
9 limit it to is any dismissal for cause. If there's anything
10 in there where they were dismissed for bad conduct or
11 anything like that. I'll at least let him look at it. I'm
12 not saying I'm going to let him ask him questions about it
13 but if they were dismissed for bad conduct concerning
14 misbehavior on another case. I would then consider whether
15 it's admissible but I think he's got to be able to look at
16 just that portion. Maybe if you state on the record that
17 they were not dismissed for cause or anything or than a
18 good conduct separate than that's one thing. I'm going to
19 let him look at that particular part of the file.

20 Mr. Ballinger: Any disciplinary type history.

21 The Court: It'd be in I'm not going to let you go back
22 and fish all the way from the first day they were employed.
23 As to whether they got caught or something like that. If
24 their termination of being with the county is because they
25 did something improper on another case I think ought to be

1 able to at least see that.

2 Mr. Ballinger: Thank you Your Honor.

3 **(Court dismissed for the day)**

4 **(Court in session 3-12-13, jury in)**

5 The Court: Mrs. Graham it's my understanding that you
6 are a senior in high school is that correct?

7 Graham: Correct.

8 The Court: Did you not want to go to school this week
9 or do you want to be on the jury?

10 Graham: I wanted to go to school but I missed your
11 question yesterday.

12 The Court: Do you want to go to school? So you want to
13 get off the jury then? What we have done is what you do
14 with the alternates. You have a blind draw out of a hat and
15 Mr. Charles Taylor, Mr. Taylor you will now be a primary
16 juror you won't be an alternate. So that will mean you are
17 relieved and Mr. Taylor you will now be the primary juror.
18 Who have you all decided will be your fore person and
19 what's your name please ma'am?

20 Foreperson: Phoebe Hilton.

21 The Court: Alright Mrs. Hilton thank you for being
22 fore person. You may go ahead and go and Mr. Taylor if
23 you'd move into the slot then we'll start. Ladies and
24 gentlemen before we begin this trial I want to tell you
25 that this trial probably be different from what you might

1 expect. You know most people never have an opportunity to
2 attend an actual court session as you are today and may
3 think from watching tv, movies, or reading books that
4 trials are always full of high drama, intense action, and
5 riveting circumstances. Now let me back up one second
6 please swear the jury.

7 Clerk: Please stand and raise your right hand. Do you
8 solemnly swear or affirm that you shall and will and truly
9 try case number 2011-GS-45-095 the State vs Marc Anthony
10 Palmer indicted for murder and render a true verdict
11 according to the law and evidence so help you God?

12 Jury: I do.

13 Clerk: Ok you may be seated.

14 The Court: Thank you I was going to ask you to say
15 something about that in just a minute so it kind of
16 triggered my mind on that but again you make think from
17 watching a movie high drama, intense action and riveting
18 circumstances. While all those things may be true at times.
19 This trial is not for entertainment purposes. This is a
20 real trial which is a fundamental part of our democracy and
21 it's a search for the truth in an effort to make sure that
22 justice is done. Searching for the truth and insuring that
23 justice is done is often deliberate, repetitive, and slow.
24 The exact opposite of what you may have seen on tv, movies,
25 or read in books. Now ladies and gentlemen this court room

1 has a place of honor that is dedicated to the protection
2 and the preservation of our citizens rights through what
3 has been called and what I truly believe to be the greatest
4 justice system ever created. The attorneys who are
5 appearing before you are advocates for the parties they
6 represent but first and foremost they are officers of this
7 court. Who are sworn to uphold the integrity and the
8 fairness of our judicial system and to help you as jurors
9 in your search for the truth. Ladies and gentlemen you
10 should expect them to be professional, competent, and
11 ethical in the representation of their client's interest,
12 but remember just a few minutes ago you all took an oath to
13 listen to the evidence in this case and to reach a fair and
14 just verdict. Your expected to be professional, reasonable,
15 and ethical as well and again let me thank you for
16 excepting this important responsibility of jury duty. Now
17 ladies and gentlemen what I'm going to tell you now is
18 intended just to serve as an introduction to this case.
19 These remarks are not a charge on the law of this case. I
20 will charge you the law that is applicable to this case at
21 the end of the trial. This is merely an explanation of the
22 procedures that we will follow so that you may better
23 understand what may be happening. Let me say up front
24 ladies and gentlemen you will not be able to take notes
25 during this trial, therefor it's especially important that

1 you listen closely throughout the trial. Now ladies and
2 gentlemen the defendant is charged in this case by
3 indictment number 2011-GS-45-095 of the charge of murder
4 and possession of a weapon during the commission of a
5 violent crime. The elements of these charges will be
6 explained to you later and let me remind you as I did
7 yesterday. That the indictment charging the defendant is
8 simply the document by which this case is brought into
9 court and is not in any sense whatsoever any evidence of
10 the allegations contained there in. The defendant has plead
11 not guilty to the charge contained in the indictment so the
12 State therefore has the burden of proving all the elements
13 of the charges in the indictment beyond a reasonable doubt
14 and it will be your duty ladies and gentlemen to decide
15 whether the State has met that burden. Now your purpose is
16 to determine the facts in this case. You are to determine
17 the facts from the testimony that you'll hear from the
18 witness stand and any other evidence that is introduced
19 here in court. It will be up to you to determine the
20 inferences which you feel may be properly drawn from the
21 evidence that is presented and ladies and gentlemen it's
22 especially important that you perform your duty diligently
23 and conscientiously because ordinarily there is no way to
24 correct an erroneous determination of facts by a jury. On
25 the other hand but with equal emphasis the same law that

1 makes you the judges of the facts makes me the judge of the
2 law. The law is given to you by me is the only law that you
3 may consider. You must accept the law as I give it to you
4 and follow it even though you might disagree. I can not
5 tell you what the facts are and you can not disagree with
6 me about what the law is or what you think the law should
7 be. Your job as jurors is to take the law as I give it to
8 you and apply it to the facts as you find them and from the
9 witnesses or any other exhibits presented and after hearing
10 the evidence you will deliberate and render a true and just
11 verdict under the oath that you just took as jurors. Now
12 ladies and gentlemen until I advise you to begin your
13 deliberations at the conclusion of the case. You are not to
14 discuss the case with anyone, including your fellow jurors.
15 You may not use a computer, a cell phone, or other
16 electronic device with communications capabilities while in
17 attendance at trial or during your deliberation. Now you
18 may use these devices when we break for lunch or when you
19 go home for the evening, but even then you cannot use them
20 to disclose information about the case when you're not in
21 court. Information about the case would include but
22 certainly is not limited to information about a party, a
23 witness, an attorney, or a court officer. Any news accounts
24 about the case. Any information collected through juror
25 research or any topic that is raised during the testimony

1 or offered by any witness or any information collected
2 through juror research or any other topic that you think
3 might be helpful in deciding this case. The idea ladies and
4 gentlemen is that all of the information that you will need
5 to render a verdict in this case should come from within
6 the four walls of this court room. Now ladies and gentlemen
7 as I said after the case is submitted to you, you must
8 discuss it only in the jury room with your fellow jurors
9 and the attorney and the parties in this matter are advised
10 that they are not to talk to you at all concerning this. So
11 if you see somebody who's involved in this case in a rather
12 small area of this court house where and then don't even
13 say hello they're not being unfriendly they're merely
14 following my instruction. Now ladies and gentlemen it's
15 very important that you keep an open mind and not decide
16 any issue in this case until all of the evidence has been
17 presented. The attorneys have made their closing arguments
18 and I have instructed you on the law. Ladies and gentlemen
19 it is your solemn responsibility to determine the guilt or
20 innocence of the defendant and your verdict must be based
21 solely on the evidence that is presented in this trial and
22 on the law as I give it to you at the close of the trial.
23 Now ladies and gentlemen in just a moment the solicitor
24 will make what is called an opening statement where she
25 will explain to you what she believes the issues are in

1 this case. The attorney for the defendant may also make an
2 opening statement but he's not required to do so. Let me
3 remind you that what the attorneys tell you during their
4 opening statements is not evidence in this case. It is only
5 their contention as to what they believe the evidence will
6 show and what the issues are. Now ladies and gentlemen from
7 time to time through this trial you may hear one of the
8 attorney say something like Your Honor may we, I believe we
9 have a question or matter of law to take up with or Your
10 Honor may we approach the bench or some times I might find
11 it necessary to excuse you to your jury room for a short
12 period of time while the attorneys and I discuss a matter
13 of law. Now the reason for this is as I said, you are the
14 judges of the fact and I'm not suppose to tell you what the
15 facts are so when I'm discussing matters of law with the
16 attorneys it may be necessary for me to comment on the
17 facts in connection with whether a particular law applies
18 or not. As I said I'm not suppose to tell you what the
19 facts are so I'll excuse from the court room while these
20 discussions take place. I'll see you will in no way be
21 influenced by anything that I might say or do in connection
22 with the facts. Also during the trial you may hear one of
23 the attorneys make an objection to certain evidence that is
24 about to be presented. Whether I sustain which would be to
25 grant the objection or overrule the objection which would

1 be to deny it should not be construed that I favor one side
2 over the other. I do not, nor should you infer that the
3 objecting party is trying to hide something from you. In
4 this court as in all situations in life there are specific
5 rules that must be followed and the attorneys as officers
6 of this court are merely trying to follow the rules of
7 evidence in making their objections and I am only ruling
8 based upon what I believe the law of the state of South
9 Carolina to be concerning the evidence that is about to be
10 presented. Ladies and gentlemen in determining what the
11 true facts are in this case you must decide whether or not
12 the testimony of a witness is believable. It will be my
13 responsibility as the trial judge to rule as a matter of
14 law as to whether certain evidence and testimony is
15 admissible. Once the testimony is admitted whether or not
16 you as jurors decide to believe is solely for you to
17 determine. Ladies and gentlemen in deciding whether to
18 believe a witness you have a right to consider the interest
19 of any witness, the bias of any witness, the prejudice of
20 any witness, the opportunity for the witness to have
21 actually observed the matters and things about which the
22 witness may testified and the way the witness acts on this
23 witness stand. Ladies and gentlemen you have a right to
24 consider anything that is in the record that will help you
25 evaluate the testimony of the witness. That means ladies

1 and gentlemen that it is your responsibility and your duty
2 to pay close attention to the witnesses, to observe the
3 witnesses and to listen to the witnesses and to pay close
4 attention to the attorneys and to the court. Ladies and
5 gentlemen please don't let your mind wonder over these next
6 several days, but give strict attention to the testimony in
7 this case. So at the end of all the testimony after the
8 argument of counsel and the charge on the law by me you
9 will then be in a position to determine what the true facts
10 are and apply those facts to the law and thus render a true
11 and just verdict. Now madam forelady in addition as I said
12 it will be your responsibility to preside in the jury room
13 and be the jury spokes person here in court. It will also
14 be your duty to write down the verdict on the verdict form
15 that will be provided to you but I'll give you further
16 instructions with that at the end of the trial. Now in
17 order to preserve everyone's rights I'll give the parties
18 an opportunity to object to anything that I've stated. Does
19 the State have any objection to anything that I've stated
20 to the jury?

21 Ms. Barr: No Your Honor.

22 The Court: Does the defense have any objection?

23 Mr. Ballinger: No sir Your Honor.

24 The Court: Thank you. Alright ladies and gentlemen we
25 will now begin the trial of this case. Ms. Barr for the

1 State.

2 Ms. Barr: Thank you Your Honor may it please the
3 court?

4 The Court: Yes.

5 Ms. Barr: Mr. Ballinger, madam forelady, ladies and
6 gentlemen of the jury good morning. I had an opportunity
7 and a pleasure to meet some of well all of you yesterday.
8 Let me begin by telling you all and thanking you all for
9 your jury service and when I say that I say that most
10 sincerely. I understand that you all did not volunteer to
11 come here obviously to hear a murder case you were
12 subpoenaed to be here, required to be here but I appreciate
13 the time that you've given this case so far. I appreciate
14 in advance the attention that you will give this case. This
15 is an important case for the Keels family. It is an
16 important case for the Palmer family and so for that reason
17 we ask that you pay very close attention not only to what
18 you'll hear in terms of testimony from the witness stand,
19 but from what you see in terms of evidence that will come
20 in the case. Now what I'm going to do is because a lot of
21 times with jurors we keep you all waiting. We tell you
22 hurry up and then we tell you to wait. I'm going to try to
23 streamline the case so that we can move quickly. We
24 understand that your time is valuable and we'll honor that,
25 but if you'll allow me a few moments just to kind of tell

1 you what the case is about. Therris Keels I'll tell you a
2 little bit about the victim. He was had just turned thirty
3 right before his life was taken. He lived in Greeleyville
4 as the defendant Marc Palmer just as he did. Therris had a
5 mom and a dad who love him he had siblings who loved him.
6 Now let me conceive some points Therris Keels was not a
7 perfect person none of us are, myself included. Therris had
8 some crosses to bare in his life he suffered from mental
9 illness and candidly he suffered from a foot problem. Folks
10 what I hope and expect that you will see though throughout
11 this case is that Therris Keels did not deserve to die.
12 Back in October 27, 2010 Therris was hanging in this little
13 I call it a hole in the wall but it's a little night club
14 in Greeleyville. On C E Murray Boulevard I don't know if
15 you all are familiar with Greeleyville but it's a little
16 distance down from the high school and he was hanging out
17 with some friends and was having a good time and what I
18 expect to appear throughout the course of this trial was
19 prior to that day Therris and the defendant Marc Palmer had
20 a history of animosity between them they didn't get along
21 so well. There were prior, prior incident where the two of
22 them had actually physically fought. There was an incident
23 that actually occurred between the two of them the day
24 Therris was killed about seven hours before when they got
25 into an argument. Now what I expect that you will hear from

1 various witnesses who were there at that time is that a
2 little before 11 o'clock at night the victim in the case
3 Mr. Keel was walking with a friend that the defendant
4 walked from across the street. The victim who was unarmed
5 posed no threat to anyone was shot violently in stomach by
6 the defendant and folks if that were not bad enough you'll
7 further hear that for good measure he came back while
8 Therriis was on the ground and shot him in the head for good
9 measure and he left. Now I'll be candid with you all some
10 of the individuals who were there that night they did often
11 times what a lot of people do when they witness a crime
12 like that. People run people don't want to be involved
13 because it is a horrible horrible way to die but those
14 folks are going to come here today and they're going to
15 tell you what they observed that night. In addition you
16 will hear from the physician who did the autopsy on Mr.
17 Keel's body who will tell you about the cause of death. You
18 will hear from some law enforcement officials who were
19 there that night and who investigated the murder and one of
20 the things that I thought about while the Judge was making
21 his opening comments was he said that the court room is for
22 the protection and perseverance of citizens rights and I
23 wrote it down because I'd never heard it phrased like that
24 before. I thought it was very appropriate and very
25 articulate because we all as citizens have a fundamental

1 right to life, liberty, and the pursuit of happiness. The
2 defendant that day made a decision that Therris Keels no
3 longer had the basic fundamental right for that at the
4 conclusion of this case we're going to ask that you return
5 a guilty verdict. Thank you all so much.

6 The Court: Thank you. Mr. Ballinger.

7 Mr. Ballinger: Thank you Your Honor may I please the
8 court.

9 The Court: Yes sir.

10 Mr. Ballinger: Ms. Barr, good morning ladies and
11 gentlemen my name is Guy Ballinger I'm from Florence as I
12 said I represent Mr. Palmer. Ladies and gentlemen I will be
13 brief because a lot of the things I'm going to tell you are
14 some what repetitive and thing that you already heard. So
15 I'm not sure if any of you all have served on a jury
16 before. Some of you may or this could be completely new to
17 everybody. Folks in the United States the jury system is
18 they way that we in essence solve problems. People have
19 disputes over money they go to civil court and the jury
20 helps decide the facts for them. If somebody is charged
21 with a crime they come to criminal court where we are today
22 obviously and the jury determines the facts of the case and
23 as Judge Young told you and Ms. Barr told you that is your
24 job this week is to determine the facts of the case. I will
25 do everything in my power along with Ms. Barr to move this

1 case along as quickly as we can because your time is
2 valuable we understand that. We anticipate that we will be
3 done by Thursday or Friday so that is the goal. We thank
4 you for your service I do understand that you didn't
5 volunteer to come but thank you again for your service and
6 your time. Ladies and gentlemen at the end of the case
7 Judge Young as he told you is going to charge you or tell
8 you what the law in this state is and he's going to tell
9 you that the State has the burden and they have the
10 requirement to prove every element in this case beyond a
11 reasonable doubt. That's a term you're familiar with I'm
12 sure hear it on tv all the time. You probably wondering how
13 do we define reasonable doubt. One way it's been defined as
14 it would cause a reasonable doubt causes a person to
15 hesitate to act that's one definition of it. Another
16 definition of reasonable doubt which I like to think of is
17 Mr. Palmer is entitled to the benefit of the doubt, the
18 benefit of the doubt we say that a lot of times in normal
19 conversation and so that's what reasonable doubt means in
20 my mind ladies and gentlemen that Mr. Palmer's entitled to
21 the benefit of the doubt. Ladies and gentlemen you heard
22 about evidence or in other words information that's going
23 to be presented to you by the State that they believe
24 proves their case. This is going to come in the form of eye
25 witness testimony people that were there at the scene, it's

1 going to come from law enforcement officials, it's going to
2 come from people with SLED, it's going to come for a doctor
3 at MUSC about the cause of the death of the victim. I
4 submit to you ladies and gentlemen that most of the
5 evidence from the eye witnesses will be very conflicting
6 very conflicting there is absolutely no physical evidence
7 that links Mr. Palmer to this crime again if that changes
8 through the trial of this case then I will when I close I
9 will acknowledge that and tell you all because I'm not
10 trying to mislead you. What I know about this case right
11 now the State's not going to be able to put forth any
12 physical evidence with Mr. Palmer is involved in this case.
13 As to the eye witnesses please listen carefully to their
14 testimony. Many of them have given previous statements to
15 law enforcement or other individuals and they'll have to
16 tell those stories again. Their version of the events again
17 this week please listen to any inconsistencies and consider
18 that when you're attempting to reach a verdict. We too
19 recognize that the Keels family has suffered a terrible
20 loss any information that solicited by me that will
21 potentially disparage you that's my... however I do have a
22 job to do to make sure all the evidence is presented to you
23 folks. Please don't think that we're trying to disparage
24 Mr. Keel's or minimize the tragedy to his family but the
25 question for you ladies and gentlemen at whose hands did

1 Mr. Keel's suffer this tragedy. We submit to you that it
2 was not Mr. Palmer. We believe after the presentation of
3 all evidence that a not guilty verdict will be appropriate
4 when you're asked that you issue a ... thank you.

5 The Court: Thank you Mr. Ballinger.

6 Mr. Ballinger: Thank you.

7 The Court: Ms. Barr you may call your first witness.

8 Ms. Barr: State calls Harriet York.

9 Clerk: Please place your left hand on the Bible and
10 raise your right hand. Do you solemnly swear that the
11 testimony you are about to give will be the truth, the
12 whole truth, and nothing but the truth so help you God?

13 York: I do.

14 Clerk: Ok you may take your seat in the witness box.

15 **(Exam by Barr)**

16 Ms. Barr: Good morning Mrs. York.

17 York: Good morning.

18 Ms. Barr: State your full name for the record please.

19 York: Harriet Regina York.

20 Q: Mrs. York where do you work?

21 A: Williamsburg County 911.

22 Q: Tell the ladies and gentlemen of the jury what you
23 do for a living.

24 A: I'm a dispatcher I take the calls talk on the radio
25 give them to the officers.

1 Q: How long have you been employed as a dispatcher?

2 A: Seventeen years.

3 Q: You've been with Williamsburg County the entire
4 time?

5 A: The entire time.

6 Q: Alright when a person makes a call into 911 is that
7 call recorded?

8 A: Yes it is.

9 Q: That's the normal practice and protocol for your
10 job?

11 A: Yes.

12 Q: Now you were working back on the night of October
13 27, 2010?

14 A: That's correct.

15 Q: On that occasion did you respond to a 911 call
16 regarding the shooting that occurred in Greeleyville?

17 A: Yes I did.

18 Q: That call also was recorded?

19 A: Yes.

20 Q: Have you had an opportunity to listen to that
21 recording?

22 A: Yes I have.

23 Q: I'm going to show you what's been marked for
24 identification purposes as State's exhibit number five. Is
25 that the 911 recording in connection with the shooting in

1 Greeleyville?

2 A: Yes it is.

3 Q: Judge we would move in State's exhibit number five.

4 The Court: Any objection?

5 Mr. Ballinger: No objection.

6 The Court: No objections State's exhibit number five
7 is admissible.

8 (State's Exhibit Number Five)

9 Ms. Barr: Judge we would also move to publish.

10 The Court: Ok please publish.

11 Ms. Barr: Thank you.

12 (Recording played)

13 Q: Mrs. York I've stopped the recording at that time
14 I need to ask you some follow up questions. The first
15 female voice that we hear on that call, whose voice is
16 that?

17 A: That's my voice.

18 Q: Ok, alright and it appears at some point later we
19 hear a second female voice on the call?

20 A: That's correct.

21 Q: Who's that second individual?

22 A: Phatrell Wallace.

23 Q: I'm sorry.

24 A: Phatrell Wallace.

25 Q: Ok and Mrs. Wallace works for 911 as well?

1 A: Yes.

2 Q: She's seated right here in the court room?

3 A: That's correct.

4 Q: Now do you know the identity of any of the
5 individuals the male individuals who was on the
6 conversation with you? Do you know who they were?

7 A: No

8 Q: Alright now there is a point in the call where you
9 say, come on young man I'm trying to get some help here.
10 Why did you say that?

11 A: Because sometimes it helps the people relax and go
12 ahead and tell me what I need to know.

13 Q: The individual who identified himself as being
14 Jonathan. Did you have any hesitation or did he seem to
15 have any hesitation with giving information to you, about
16 his identity?

17 A: I thought so.

18 Q: Have you ever had that to happen in the course of
19 prior 911 calls? Where people will make a call but seem
20 hesitant to say who they are?

21 A: Right.

22 Q: That's happened to you before?

23 A: Yes.

24 Q: It appears and you correct me if I'm wrong at some
25 point the call was terminated from the male caller. I guess

1 who ever the last person was that you spoke with or that
2 Mrs. Wallace spoke with it seems that call was terminated.

3 A: Right.

4 Q: Was that terminated by 911 or by the person who
5 called in?

6 A: We don't hang up so he must have disconnected.

7 Q: No there is also some portions that continue on
8 with the 911 call, kind of tell the ladies and gentlemen of
9 the jury what happens after that call was terminated in
10 terms of what's said. What I'm trying to get at are there
11 any other further conversations with any of the people who
12 call in or you at that point dispatching out EMS or the
13 police?

14 A: We're dispatching out and getting somebody to the
15 scene basically.

16 Q: Do you have a regulation or would it help you to
17 see the CAD report to tell us about what time that call
18 came in?

19 A: I need to see the report.

20 Q: While you're there just kind of tell us what a CAD,
21 C-A-D report is.

22 A: I'm going to need my glasses I think I left them on
23 my chair.

24 Q: What time did the 911 call first come in to
25 dispatch?

1 A: 10:38.

2 Q: a.m. or p.m.?

3 A: p.m..

4 Q: 10:38 p.m. Ok alright thank you. That's all the
5 question that I have please answer any questions that Mr.
6 Ballinger or the court may have for you.

7 The Court: Mr. Ballinger.

8 **(Cross by Ballinger)**

9 Mr. Ballinger: Thank you Your Honor. Good morning
10 ma'am.

11 A: Good morning.

12 Q: Ma'am you don't have any information as to who the
13 shooter was based on the 911 telephone call?

14 A: No I ...

15 Mr. Ballinger: Nothing further Your Honor.

16 The Court: Thank you. Any re-direct?

17 Ms. Barr: No Your Honor.

18 The Court: Thank you ma'am you may step down.

19 Ms. Barr: Maurice Smith.

20 The Court: Any objection to this witness being excused
21 from the court room?

22 Ms. Barr: Judge we ask that she be excused thank you.

23 Mr. Ballinger: Without objection Your Honor.

24 The Court: Thank you ma'am.

25 Ms. Barr: Maurice Smith they've gone to get her. Judge

1 may we approach. The defendant has no objection to State's
2 exhibit number 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16.

3 Mr. Ballinger: That's correct Your Honor.

4 The Court: Alright they will be admitted into evidence
5 and may be published as you so choose.

6 (State's Exhibit Numbers 6, 7, 8, 9, 10, 11, 12, 13, 14, 15
7 and 16)

8 Ms. Barr: And judge we've also got State's exhibit
9 number 4 I think it's my understand the defendant doesn't
10 object to that as well.

11 The Court: Is that correct?

12 Mr. Ballinger: That's correct Your Honor.

13 (State's Exhibit Number 4)

14 The Court: That was number 5 that just went in right?

15 Ms. Barr: Yes sir.

16 Clerk: Place your left hand on the Bible and raise
17 your right hand. Do you solemnly swear or affirm that the
18 testimony that you are about to give is the truth, the
19 whole truth, and nothing but the truth so help you God.

20 Mr. Smith: Yes.

21 Clerk: Ok please take your seat in the witness box.

22 Ms. Barr: May I please the court?

23 The Court: Yes ma'am.

24 **(Examination by Barr)**

25 Ms. Barr: Mr. Smith let me get you to state your full

1 name for the record.

2 Mr. Smith: Maurice Smith.

3 Q: Alright and there was an issue earlier about your
4 restraints and that was the reason for the delay in you
5 coming into the court room?

6 A: Yes

7 Q: Obviously we see that you have a prison uniform on.
8 You're currently incarcerated in the Department of
9 Corrections?

10 A: Yes.

11 Q: Why are you there?

12 A: Drug charges.

13 Q: First of all did you plead guilty to the drug
14 charges or were you found guilty of the drug charges?

15 A: Plead.

16 Q: How long ago was that?

17 A: September last year.

18 Q: What is your term of imprisonment that you're
19 serving?

20 A: I got a ten year non violent sentence.

21 Q: How old are you?

22 A: I'm 35.

23 Q: Prior to your pleading guilty to drug charges where
24 did you live?

25 A: Prior to that, right here in Williamsburg County,

1 Greeleyville.

2 Q: Greeleyville, now Mr. Smith let me ask you this.
3 You were subpoenaed to testify in this case?

4 A: Yes.

5 Q: Did anybody from law enforcement promise you
6 anything in order to get you to testify?

7 A: No.

8 Q: Did anybody from law enforcement threaten you in
9 anyway to get you to testify?

10 A: No.

11 Q: Did myself or anyone from my office promise you
12 anything to get you to testify?

13 A: No.

14 Q: Did anyone or myself threaten you in anyway to get
15 you to testify?

16 A: No.

17 Q: Now you indicated that before your incarceration
18 you lived in Greeleyville?

19 A: Yes.

20 Q: Did you know the victim in the case Therris Keels?

21 A: Yes.

22 Q: How did you know Therris?

23 A: I met him through a lady that I was dealing with
24 who was related to them through her brother.

25 Q: Now the defendant Marc Palmer did you know him

1 prior to your incarceration?

2 A: Yes.

3 Q: How is it that you knew him?

4 A: From the areas in the neighborhood.

5 Q: Did he live in Greeleyville?

6 A: Yeah well not in Greeleyville in Lane.

7 Q: In lane?

8 A: Yeah.

9 Q: How far is Lane from Greeleyville if you know?

10 A: About ten minutes.

11 Q: When was the last time you saw Marc Palmer?

12 A: The night of the incident.

13 Q: The night of the shooting?

14 A: Yes.

15 Q: Do you see him Mr. Palmer in the court room today?

16 A: Yes.

17 Q: Would you point him out to the ladies and gentlemen
18 of the jury? He is the young man seated at the defense
19 table wearing the black?

20 A: Yes.

21 Q: Now the last time you saw him did he look like he
22 looks now?

23 A: No he had dreads.

24 Q: Sorry.

25 A: He had dreads.

1 Q: Dreadlocks?

2 A: Yes.

3 Q: Now you've told me about knowing the victim Mr.
4 Keels. Did you tell me how long you've know Mr. Palmer?

5 A: Maybe a year or better.

6 Q: Within that year or better before the night of the
7 shooting how often do you think you would see him?

8 A: Practically every other day.

9 Q: Every other day?

10 A: Yes.

11 Q: And under what circumstances would you see him?

12 A: I would see him walking by the house or riding by
13 or up at the store up at the shop.

14 Q: How would you characterize your relationship with
15 him or I don't whether you had one or not. Whether or not
16 you all were friends, acquaintances, associates, or what.

17 A: We were cool associates but I never..

18 Q: Now you mentioned the shop and I'm going to have
19 you do something for me. Judge for the record I'm
20 publishing State's exhibit number 4.

21 The Court: Which has been admitted into evidence by
22 consent. Is that correct Mr. Ballinger?

23 Mr. Ballinger: That's correct Your Honor.

24 Q: Mr. Smith can I get you to step down for a moment
25 for me. Guys if there's anyway we can pull it up closer

1 that would be great if not that's fine. Alright Mr. Smith
2 calling your attention to what's been admitted as State's
3 exhibit number 4. Do recognize the area that's depicted
4 within that exhibit?

5 A: Yes.

6 Q: Tell the ladies and gentlemen of the jury how it is
7 that you recognize the area.

8 A: I know the street, I know the churches, the shop,
9 fish shop, Clinton's house, the truck shop.

10 Q: Let me do this here stay right there. What is the
11 name of this street here?

12 A: C E Murray Boulevard.

13 Q: C E Murray Boulevard. What is the name of this
14 cross road here?

15 A: That's the 521 coming in from ...

16 Q: In terms of the fish shop that you've talked about.
17 Do you see that on this particular exhibit?

18 A: Yes.

19 Q: Tell me where it is that you see the fish shop.

20 A: Here.

21 Q: Is that right here?

22 A: Right there.

23 Q: In terms of you saying that you talking about the
24 club. Do you see that on this particular exhibit?

25 A: The club's right here.

1 Q: It's the building right next door to the fish shop?

2 A: Yes.

3 Q: Do you know a fellow by the name of Wesley Walker?

4 A: Yes.

5 Q: Does Wesley Walker live off of C E Murray
6 Boulevard?

7 A: Yes.

8 Q: Do you see his home depicted in this exhibit?

9 A: It's right here.

10 Q: Right here?

11 A: Yes.

12 Q: That's Wesley Walker's house.

13 A: Wes house.

14 Q: Tell me where the truck stop is located on C E
15 Murray road.

16 A: Right across the street from Wes's house.

17 Q: Right here?

18 A: Yes.

19 Q: There is this place there that you all call the
20 Masonic Lodge?

21 A: Yes right here.

22 Q: That's here?

23 A: Across from the shop.

24 Q: It's across from the shop?

25 A: Yes.

1 Q: Now I'm going to get you to have a seat. I'll pull
2 you back up in just a minute. You may have a seat please.
3 Prior to the night of October 27, 2010 did you ever know
4 there to be any conflict or any animosity between Therris
5 Keels and Marc Palmer?

6 A: Yes I pulled up to the shop one night and they were
7 fighting.

8 Q: What kind of time frame are we talking about before
9 Therris was killed?

10 A: It wasn't the same night it might of been like a
11 week or two before.

12 Q: A week or two before?

13 A: Yes.

14 Q: So you pulled up to the shop here?

15 A: Yeah I was on the side of the lodge, yes.

16 Q: You were on the side of the lodge here?

17 A: I wasn't parked there. I was parked under that sign
18 on the side of the road. I parked behind the car that they
19 were in front of.

20 Q: Tell me when you pulled up tell the ladies and
21 gentlemen of the jury what you saw.

22 A: They were fighting Therris was on top of him.

23 Q: Was on top of who?

24 A: Marc.

25 Q: Ok Marc Palmer the defendant?

1 A: Yes the defendant.

2 Q: Then what happened after you saw Therris on top of
3 Marc?

4 A: Roger separated them.

5 Q: Say again.

6 A: Roger separated them. Broke the fight up.

7 Q: What's Roger's last name?

8 A: Williams.

9 Q: Roger Williams separated them?

10 A: Yes.

11 Q: What happened after Roger Williams separated them?

12 A: They got up, Therris was standing between the car
13 and Roger on this side of him and Marc went back to his car
14 and said he said that it wasn't over.

15 Q: He said it wasn't over?

16 A: Yes.

17 Q: Who did he say that to?

18 A: He just said it.

19 Q: Just said it.

20 A: He just said it and got in the car and left.

21 Q: He got in the car and left. In terms of the vehicle
22 that the defendant was driving that day. Do you recall what
23 kind of vehicle he got into and drove of from?

24 A: The Neon.

25 Q: No in the near year period of time that you knew

1 him have you always known him to drive that particular
2 vehicle?

3 A: He drove that it's a white Lumina he drove too.

4 Q: Which vehicle did he drive more frequently?

5 A: I saw that Neon more lately.

6 Q: I'm going to hand you what's been admitted as
7 State's exhibit 12, 13, 14, and 15. Are these photographs
8 of the vehicle in which the defendant was driving at the
9 time he and Therris Keels had the fight?

10 A: That's the car.

11 Ms. Barr: Prior to the night of the shooting had you
12 observed and altercation between the defendant Marc Palmer
13 and a fellow by the name of Dominique McBride?

14 A: Yes.

15 Q: How soon before the shooting did that incident
16 occur?

17 A: Some weeks before that too.

18 Q: Some weeks before?

19 A: Yes.

20 Q: Where did it happen at?

21 A: Right by the fish right in front of the fish shop.

22 Q: That same general area where Mr. Palmer had the
23 altercation with Mr. Keels?

24 A: Yes ma'am.

25 Ms. Barr: Tell us about that and what you observed.

1 A: We were all out there and I don't know what was
2 happening on that side of the street but then they started
3 fighting.

4 Q: When you say they who are you talking about?

5 A: Marc and Dominique.

6 Q: Ok

7 A: They were fighting over there and some boy
8 Dominique beat him up and then he had a gun on him that
9 night. He dropped the gun.

10 Q: Ok

11 A: He was asking them to let them give him the gun.
12 When I heard that I got in the truck and left.

13 Q: Ok

14 A: I left them up there.

15 Q: Do you know what kind of gun it was?

16 A: I have no idea.

17 Q: Was it I'm assuming it was a pistol.

18 A: It was a pistol.

19 Q: Let's go back to the night of October 27, 2010 the
20 night Therris was killed. Tell us within the hour before
21 the shooting where were you?

22 A: Before the shooting I was.

23 Q: Around 9 o'clock where were you?

24 A: Across from the lodge sitting in front of the
25 lodge.

1 Q: Typically when you all go there what do you all do
2 there?

3 A: Just talk mingle amongst whoever's out there.

4 Q: Hang out have a good time?

5 A: Yeah.

6 Q: Does the shop as you all call it. Does that place
7 serve alcohol?

8 A: Yes.

9 Q: Did you see Mr. Keels within an hour of the
10 shooting?

11 A: Yes.

12 Q: Tell me what kind of mind set was he in?

13 A: He was Therriis just being Therriis happy, go lucky,
14 talking back and forth.

15 Q: Who all were in your inner circle that night so to
16 speak?

17 A: Myself, Wes, Trel, what the dude name Kirk he was
18 there.

19 Q: Let me ask you something you, you gonna have to
20 tell me who these people are. Who's Wes, what's his full
21 name?

22 A: Wes is the dude lives in house right across from
23 the truck shop.

24 Q: Alright that's Mr. Walker?

25 A: Yes.

1 Q: Alright who is Trel?

2 A: Trel he's a friend of Marc's.

3 Q: What's his full name?

4 A: I don't know his last name I know him by Trel.

5 Q: He's a friend of Marc?

6 A: Yes.

7 Q: That night when was the first time you saw Marc
8 Palmer?

9 A: When we were all there together talking. He came
10 over spoke to everybody.

11 Q: Let me do this. Let me get you to step down one
12 more time for me. I'm going to get you your exercise today.
13 If you will kind of point to where Mr. Palmer was when you
14 talked about you all kind of were hanging out and he came
15 over and spoke to everybody.

16 A: We were right here. I was on the side.

17 Q: This is in front of the lodge?

18 A: Yes.

19 Q: And who all was standing out there with you at that
20 time.

21 A: Wes, Trel, Kirk it was some more people out there.

22 Q: Did you see how the defendant got out there to the
23 club?

24 A: No ma'am.

25 Q: Did you see whether or not he was riding with

1 somebody or whether or not he was driving a vehicle?

2 A: No ma'am.

3 Q: So you never saw his vehicle that night?

4 A: No ma'am.

5 Q: No you talked about him having using two vehicles.
6 I terms of the Dodge Neon that you identified in these
7 exhibits. Does it have a peculiar color?

8 A: Yes it's like a greenish blueish.

9 Q: Is there anything else and I'll publish these later
10 but is there anything else that is peculiar about this
11 particular vehicle in terms of how it runs?

12 A: The belt squeals.

13 Q: Has it always been that way?

14 A: Yes.

15 Q: I'm not talking about this night I'm talking about
16 prior nights when you saw Marc. Would you notice the sound
17 of his vehicle?

18 A: Every time he would crank that car up the belt
19 would squeal about a mile a mile and half down the road and
20 then I guess just eventually wear out.

21 Q: So you all are in this circle with Therris Keels
22 and you said that you saw Marc. Tells us about that.

23 A: He walked up he spoke to us everybody in the circle
24 and then he went back to Therris he said I'll see you
25 later.

1 Q: Ok

2 A: Then he disappeared.

3 Q: In terms of the people being in the circle how many
4 of them were in that circle?

5 A: Between five and nine, eight nine of us.

6 Q: So when you say these folks or everybody was it a
7 general where a general hello. Like if all these people are
8 here and I come and I just say hey how you all doing or did
9 he speak to everybody individually?

10 A: He shook some hands.

11 Q: Did he shake Mr. Keel's hand?

12 A: No.

13 Q: You're testimony is that he said what to Mr. Keels?

14 A: I'll see you later.

15 Q: At that point in time where did he go, Marc go?

16 A: I think he walked back towards the shop I'm not
17 sure.

18 Q: At that point and time what did Mr. Keels do?

19 A: He stood there he went alright. He stood the there
20 with us and then he went over to the shop later once TT
21 came over.

22 Q: Alright again you're going to have to help me with
23 the nicknames. Who is TT? What's his real name?

24 A: I don't know his real name.

25 Q: He went and started walking with TT.

1 A: They went into the shop and then came back and went
2 up to Wes's house.

3 Q: So Therriis and TT go into the shop. Then they come
4 out then they go to Wes's house. Is that here?

5 A: Yes.

6 Q: Tell us what happened after they went to Wes's
7 house.

8 A: They went up to Wes's house they were gone for a
9 little bit. Then I heard them coming out the yard laughing
10 and talking.

11 Q: When you say them you talk about?

12 A: TT and Therriis when I looked back I saw them coming
13 out. They got out up the sidewalk a little piece.

14 Q: Ok show us here about where they got out.

15 A: They came out the yard like this and got maybe here
16 and Therriis stopped. When Therriis stopped that's when I saw
17 Marc coming.

18 Q: Hold on when Therriis stopped you said that's where
19 you say Marc.

20 A: Yes.

21 Q: Point to where you saw Marc.

22 A: He was coming across the road. Like slanted to me.

23 Q: He was coming across the road here?

24 A: From this side.

25 Q: At that point did you see his car?

1 A: No ma'am.

2 Q: The interaction that you had with Therris and the
3 time that you observed him that night did he have. Did you
4 ever see a gun on him?

5 A: No.

6 Q: Did you ever see Therris with a gun on him?

7 A: No ma'am.

8 Q: So you see Marc then tells us what happens at that
9 point.

10 A: He came out across the road towards Therris, Therris
11 was already stopped. Therris --- I saw him gesture put his
12 hands up as I guess he might of let him know I didn't have
13 a gun or whatever. Marc had the gun pointing out at the
14 time. Marc shot him and he stood there. Therris he still
15 standing there then he shot him again. He was still there
16 and then he fell slow Marc turned went go back across the
17 road here this way and came back shot him again and went off
18 the road.

19 Q: When he fired the third shot where was Therris?

20 A: He was already on the ground.

21 Q: You indicated that prior to making the third shot
22 Marc walked and came back?

23 A: Yes.

24 Q: Which direction did he walk to?

25 A: Back towards this way.

1 Q: This way here?

2 A: Across yes.

3 Q: When Therris fell where did his body land? Can you
4 show us on here?

5 A: Here. Yes right off the sidewalk.

6 Q: Is there a yellow dividing line in that roadway?

7 A: Yeah.

8 Q: I see...In terms of where Therris's body fell. Would
9 it have been right on the centerline or would it have been
10 closer to the edge of the house?

11 A: Closer to the edge of the road.

12 Q: After the third shot was fired where did Marc go?

13 A: He ran off back up this way.

14 Q: Where was TT at this point?

15 A: TT had already run down here.

16 Q: When you're observing this tell the jurors where you
17 were when you see the shooting.

18 A: I was right here in front of the lodge.

19 Q: What did you do after saw the shooting?

20 A: I was standing I saw everything going on. I came
21 down to where Therris was, once I got there I pulled out my
22 phone to call 911 and at the same time Trel was standing
23 right beside me he pulled his out too. I asked him if was
24 about to call 911 and he said yeah. He calling now, dropped
25 my phone back in my pocket.

1 Q: When you saw Therris, when you first ran over to him
2 was he still alive?

3 A: Yes.

4 Q: Tell us what you observed.

5 A: I saw him he was laying there, he was laying there
6 and I saw him take his last breath.

7 Q: Had you ever seen anything like that before?

8 A: No.

9 Q: Tell us when you first saw Mr. Palmer when he came
10 into the circle and spoke to everybody and made the comment
11 to Therris I'll see you later. How was he dressed?

12 A: He had on I don't know if they were jeans or slacks
13 I know he had pants on. He had a hoodie on it was a dark
14 hoodie I don't remember it was black, blue, gray or what I
15 know it was a dark colored hoodie.

16 Q: When you saw Mr. Palmer come across the road at the
17 time that he shot Therris. How was he dressed?

18 A: It was like he had the hood over his head and you
19 know it was just like a dark image there. I knew it was him
20 I knew it was a person.

21 Q: Why are you so confident and say you knew it was
22 him?

23 A: I know his walk I see him, I see him a lot I saw him
24 a lot.

25 Q: What was the time frame between the moment that Mr.

1 Palmer comes over and tells Mr. Keels I'll see you later and
2 the time that the shooting happened? How much time went by?

3 A: Maybe 20 30 minutes at the most.

4 Q: Would Marc Palmer typically come out and hang out
5 for a while at the club?

6 A: Yes.

7 Q: Was that a normal practice for him?

8 A: Yes always.

9 Q: When you all would kind of get together and hang out
10 how long would he typically stay?

11 A: Maybe a hour or two we were back and forth.

12 Q: That night when he came out and made the comment to
13 Therriis. How long did he stay that night?

14 A: I didn't see him after he spoke to us he
15 disappeared. I didn't see him again until crossing the road
16 down there.

17 Q: So was it more or less than five minutes?

18 A: Less than five, five at the most.

19 Q: Would that have been unusual for him to come and
20 stay five minutes and leave?

21 A: Basically yeah.

22 Q: Now you know a young lady by the name Brittany
23 Croskey?

24 A: Yes.

25 Q: Did you know here back then on the night of the

1 shooting?

2 A: Yes.

3 Q: Was she there when this happened?

4 A: Yes.

5 Q: Can you tell us where, if you know, at the time of
6 the shooting?

7 A: She was parked right here in front of the lodge.

8 Q: Was she in her car or was she standing outside?

9 A: Outside her car.

10 Q: Did you see her after immediately after the shooting
11 after you went over to check Therris? Did you ever see her
12 again?

13 A: Yes.

14 Q: What was her demeanor and mind set at that time?

15 A: She had a shock look like she couldn't believe it.
16 She was afraid.

17 Q: You've already testified that you never saw the
18 defendant's vehicle that night.

19 A: Yes.

20 Q: After the shooting did you hear something a sound
21 that was familiar to you?

22 A: Yes.

23 Q: Tell the jury about that.

24 A: He shot him and run back up the road I heard get in
25 the car, slam the door and then crank the car the belt was

1 squealing and spin off.

2 Q: How did you recognize that sound?

3 A: The squealing belt.

4 Q: Was that the same sound you heard many times before
5 when he was driving the Neon?

6 A: Yes ma'am.

7 Q: I'm curious about this little area here that's
8 before the garage. How does one get in that area?

9 A: It's a road it's almost like a four way so dirt road
10 that runs up beside the shop. It goes out to 521.

11 Q: So somebody could drive down see Murray Boulevard
12 this way then make a left turn here?

13 A: Either way.

14 Q: Or right turn?

15 A: Yes ma'am.

16 Q: Can someone get to this roadway from what you've
17 identified as 521?

18 A: Yeah.

19 Q: How would they do that?

20 A: You come down 521 make a left or right on it.

21 Q: Is that a paved road like C E Murray Boulevard right
22 here?

23 A: No it's a gravel road.

24 Q: On this particular exhibit and have you ever been
25 back there?

1 A: Yes.

2 Q: Is that gravel road is it wide enough where you can
3 come and just make a u-turn back there?

4 A: No you couldn't u-turn but it's spots where it's
5 house here you could turn into the yard or this space right
6 here. There's space right here where you could turn where
7 they have stuff parked.

8 Q: Ok you can have a seat sir. When you, a few follow
9 up questions if I may. Did you after the shooting give a
10 statement to law enforcement?

11 A: Yes.

12 Q: In terms of what you told the police do you recall
13 what information if any you gave to them.

14 A: I told them basically the same thing I just said
15 today.

16 Q: Did you tell them that Marc Palmer was the person
17 who shot Therris Keels?

18 A: No not exactly that night during that time.

19 Q: Tell me why not exactly.

20 A: Because during the time I was doing things of my
21 own. I just didn't want to be involved, not want to be
22 involved in it but just wanted to stay out of the police
23 way.

24 Q: You had your own legal trouble?

25 A: Yes I had my own legal trouble I was dealing with

1 at the same time.

2 Q: Now as we sit here in this court room. The person
3 who shot Therriis Keels that night is who?

4 A: Marc Palmer.

5 Q: You have any doubts in your mind about that?

6 A: No doubts at all.

7 Q: None whatsoever?

8 A: None whatsoever.

9 Ms. Barr: That's all the questions I have if you will
10 please answer the questions the defense counsel and judge
11 may have for you.

12 The Court: Mr. Ballinger.

13 **(Cross examination by Ballinger)**

14 Mr. Ballinger: Thank you Your Honor may I please the
15 court. Good morning Mr. Smith.

16 Mr. Smith: Good morning.

17 Q: Now you just testified that the first statement you
18 gave to law enforcement was basically the same thing as your
19 testimony today?

20 A: Yes.

21 Q: Although you didn't identify who the shooter was?

22 A: Yes.

23 Q: You telling me that's the same thing?

24 A: Excuse me.

25 Q: That's the same thing. Leaving out the shooter is

1 the same thing you just told this jury?

2 A: I just didn't say who it was.

3 Q: What was the purpose of law enforcement asking you
4 questions it was to find out what you knew was it not?

5 A: Yes.

6 Q: And you didn't tell them everything you knew did
7 you?

8 A: Not exactly.

9 Q: That's because you didn't know who the shooter was
10 correct?

11 A: No I knew.

12 Q: And then you gave another statement to law
13 enforcement a couple months ago didn't you?

14 A: Yes.

15 Q: While you were in the Department of Corrections?

16 A: Yes.

17 Q: And that statement was similar to what you just told
18 this jury correct?

19 A: Yeah.

20 Q: Did you mention any type of special walk in your
21 first statement?

22 A: Yes, no not in the first statement.

23 Q: And you said in order to stay out of the police's
24 way back in 2010 correct?

25 A: Correct.

1 Q: Wouldn't in order to courage favor with the police
2 wouldn't you've told them everything you knew in order to
3 help them out?

4 A: Say that again.

5 Q: In order to get favor from the police wouldn't you
6 tell them everything you knew back in 2010 while you were
7 doing things you shouldn't be doing?

8 A: No I didn't want to speak to them period.

9 Q: How long have you known Marc?

10 A: A year, year and half at the most.

11 Q: And how many conversations did you have with Marc
12 before October 27, 2010?

13 A: A few not many.

14 Q: And your current sentence is for drug possession or
15 drug distribution?

16 A: Trafficking and possession.

17 Q: Trafficking in what?

18 A: Crack cocaine.

19 Q: And you got a ten year sentence?

20 A: Yes.

21 Q: Were you in court or at the Williamsburg County
22 Detention Center on December 15, 2011?

23 A: Yes.

24 Q: Did you see Mr. Palmer there?

25 A: Yes.

1 Q: Did you all have an argument?

2 A: He had an argument.

3 Q: You gave a statement against him as you've testified
4 today shortly after that didn't you?

5 A: No I gave a statement just last month.

6 Q: Correct which would have been February 2013.

7 A: I saw Marc in 2011.

8 Q: There was information in my file that said your
9 statement to SLED was dated February 13, 2012. Would you
10 disagree with that?

11 A: 2012, no I don't remember that.

12 Q: So the SLED information is wrong on when they took
13 your statement?

14 A: Could be I don't remember talking to them on 2012.

15 Q: So your testimony is SLED has incorrect dates on the
16 second interview that you gave them?

17 A: They could.

18 Q: So assuming the SLED date is correct you gave a
19 statement substantially different from what you testified
20 today two months after you had an argument with Marc?

21 A: The only difference in my statement would have been
22 I didn't say that Marc did it the first time.

23 Q: Don't you think that's relevant in a murder
24 investigation?

25 A: Yes.

1 Q: What were you in court for in December 2011?

2 A: A bond.

3 Q: On the charges that you were initially sentenced on?

4 A: Yes.

5 Q: When were you sentenced on these drug possession
6 charges?

7 A: Where?

8 Q: When?

9 A: September of last year.

10 Q: September of 2012?

11 A: Yes the 13th.

12 Q: So you had pending charges then when you gave your
13 statement of February 2012?

14 A: Yes.

15 Q: You weren't trying to help yourself out with the
16 statement at that point in time?

17 A: No.

18 Q: How much did trafficking carry?

19 A: I don't know.

20 Q: It's around 25 isn't it? Twenty-five years?

21 A: I didn't help the State. If I was going to help the
22 State, it wouldn't have been that. I could have done other
23 things and been home.

24 Q: So tell me if I'm wrong you're looking at a 25 year
25 sentence for trafficking in crack, correct?

1 A: Yeah if you say.

2 Q: Those charges were pending as of February 2012 when
3 you gave your second statement assuming the SLED information
4 is right, correct?

5 Ms. Barr: Judge I'd object to the question because it
6 assumes facts not in evidence.

7 The Court: Sustained.

8 Mr. Ballinger: I withdraw that question Your Honor.

9 Q: Mr. Smith you testified that Mr. Palmer had
10 dreadlocks when you knew him as of October 27, 2010?

11 A: Yes.

12 Q: How long were they?

13 A: They weren't that long.

14 Q: And you testified that you've witnessed two fights
15 between Marc. Well one between Marc and Therriis and one
16 between Marc and Dominique McBride correct?

17 A: Yes.

18 Q: Did Therriis have any problems with anybody else in
19 the Greeleyville community?

20 A: No.

21 Q: Your testimony is only him and Marc Palmer are the
22 only two people in Greeleyville or was the only person I
23 Greeleyville that Therriis couldn't get along with?

24 A: I wouldn't say that but I knew of what happened to
25 him from the fight that I saw before.

1 Q: But what I'm telling you is there other people in
2 the Greeleyville community which Therriis did not get along
3 with?

4 A: I didn't know of any.

5 Q: Were you drinking that night at the club?

6 A: No.

7 Q: Let's look at this map make sure I'm clear. This is
8 the lodge?

9 A: The lodge.

10 Q: And you were standing directly in front of the
11 lodge?

12 A: Yes.

13 Q: What are those big things sticking up to the right
14 there beside the lodge?

15 A: Where?

16 Q: You can come around if you need to.

17 A: Those look to be trees in that yard beside it's a
18 house right there. This is the house right here.

19 Q: And the trees weren't blocking your view if you're
20 directly in front of the lodge?

21 A: I'm here.

22 Q: You're out in the road?

23 A: Yeah the sidewalk. I was parked I was standing right
24 behind my between my truck and Trel's truck.

25 Q: So it's common practice just to hang out by the road

1 on the sidewalk and talk?

2 A: Yes.

3 Q: Describe the clothes again Mr. Smith that Mr. Palmer
4 allegedly had on.

5 A: He had on pants and the dark colored hoodie.

6 Q: You don't know what colored pants?

7 A: No.

8 Q: Was Therris and TT Sabb together at the club that
9 night?

10 A: Yes they went inside the club.

11 Q: They walked in together?

12 A: Yes.

13 Q: Do you recall about what time that was when Therris
14 got in the club?

15 A: I don't know exactly what time he got up there.

16 Q: Give me a ball park.

17 A: I couldn't tell you if he was there before I got
18 there or not. He came up where we were while we were there
19 talking.

20 Q: What time were you there talking?

21 A: I was up there between from 9 until sometime after
22 it had happened.

23 Q: So you think about 9 o'clock when you arrived?

24 A: Assume.

25 Q: Did Mr. Palmer speak to Brittany at the lodge?

1 A: No I never saw him go over there. He came to where
2 we were.

3 Q: You were at the lodge the whole night is that
4 correct I mean that's relevant to this time?

5 A: I was standing in front of the lodge yes.

6 Q: Out there by the sidewalk as we clarified?

7 A: Yes.

8 Q: And Brittany's car was parked between you and the
9 lodge?

10 A: Yes.

11 Q: In the little grassy area between you and the lodge?

12 A: There was another group there. We were ...

13 Q: In that grassy area between you and the lodge?

14 A: Exactly and as you can see the sidewalk yeah.

15 Q: So Brittany was there when Marc came up and spoke
16 to everybody?

17 A: Yeah they were out there.

18 Mr. Ballinger: I don't have anything further Your
19 Honor.

20 The Court: Thank you Ms. Barr any redirect?

21 Ms. Barr: Just a few questions in follow up Judge and
22 I'll be brief.

23 **(Redirect by Barr)**

24 Q: Mr. Smith so that we're clear about the dates. You
25 indicated that you were in court in December of what year

1 when you saw Mr. Palmer?

2 A: Well the bond was December of 2011.

3 Q: December 2011?

4 A: Yes.

5 Q: You plead guilty what month what year?

6 A: Last year of September.

7 Q: September 2012?

8 A: Yes.

9 Q: January of 2013 a couple months ago?

10 A: I was subpoenaed to come down.

11 Q: You were subpoenaed to come down?

12 A: That's when I gave the statement.

13 Q: So you got a subpoena from the State while you were
14 in prison?

15 A: Yes.

16 Q: You were transported here for the first trial?

17 A: Yes.

18 Q: And it was later postponed?

19 A: Yes.

20 Q: So when you came here and you gave the statement
21 that was in January of 2012 which is a year ago or January
22 2013?

23 A: This year 13.

24 Q: I'm going to hand you a transcript. Is that the
25 transcript of your statement and you can look through it if

1 you need to. Is that the transcript of the statement that
2 you gave to Investigator Gene Wren of the Sheriff's Office?

3 A: Yes.

4 Q: What's the date on that statement?

5 A: It's January 30, 2013.

6 Q: 2013 is that right?

7 A: Yes ma'am.

8 Q: Now as of January 30, 2013 did you have any pending
9 criminal charges?

10 A: No ma'am.

11 Ms. Barr: That's all the questions I have thank you.

12 The Court: Any recross based upon here redirect?

13 Mr. Ballinger: No sir Your Honor.

14 The Court: Thank you, you may step down. Alright this
15 is a good time to take a recess. We'll take a 15 minute
16 recess if you all want coca-cola or cup of coffee I'll give
17 you time to do that. Bring them back in we'll come back in
18 at 11:45, thank you. Please do not discuss anything about
19 the case.

20 **(Jury Break & Court Recess)**

21 The Court: Anything before we bring the jury?

22 Ms. Barr: None from the State Your Honor.

23 Mr. Ballinger: None from the defense Your Honor.

24 The Court: Let's bring our jury in.

25 **(Jury In)**

1 The Court: State ready to call it's next witness?

2 Ms. Barr: Yes Your Honor call Wesley Walker.

3 The Court: Come forward and be sworn.

4 Clerk: Place your left hand on the Bible raise your
5 right hand. Do you solemnly swear or affirm to tell the
6 truth, the whole truth, and nothing but the truth so help
7 you God?

8 Walker: Yes.

9 Clerk: Ok have a seat on the witness stand please.

10 **(Exam by Barr)**

11 Ms. Barr: Mr. Walker state your full name for us.

12 Walker: Levar Wesley Walker.

13 Q: Mr. Walker you were subpoenaed to testify in this
14 case?

15 A: Yes ma'am.

16 Q: I need you to make sure to keep your voice up for
17 me ok?

18 A: Yes ma'am.

19 Q: Where do you live?

20 A: Greeleyville, SC.

21 Q: How long have you lived in Greeleyville?

22 A: About 35 years.

23 Q: Let me if I can have you step down out the witness
24 chair and I want to have you identify your residence from
25 State's exhibit number 4 ok?

1 A: Yes ma'am.

2 Q: Make sure to keep your voice up so the court
3 reporter can hear you, but I need you to turn around so back
4 is not to the jury ok. If this is C E Murray Boulevard and
5 if this is the truck stop in this are. Tell me where your
6 home would be.

7 A: Right here.

8 Q: Is that Williams Lane there?

9 A: Right here.

10 Q: You've lived at that address for 35 years?

11 A: Yes ma'am.

12 Q: That must have been since birth because you can't
13 be much older than 35.

14 A: 35.

15 Q: Did you know the victim in the case Therriis Keels?

16 A: Yes ma'am.

17 Q: How long have you known Therriis?

18 A: My whole life.

19 Q: Are you related to him or you just know him from the
20 neighborhood?

21 A: Just know from the neighborhood.

22 Q: On the night of October 27, 2010 were you at home
23 when that shooting happened?

24 A: Yes ma'am.

25 Q: Tell us how your day began that day.

1 A: Normal day..

2 Q: Were you working at the time do you remember?

3 A: No ma'am.

4 Q: We've identified through another witness some of the
5 buildings in this area. Do you see what you all call the
6 fish market in this area?

7 A: Yes ma'am.

8 Q: Where do you see it?

9 A: Right here.

10 Q: There's a little night club that you all call the
11 shop on C E Murray Boulevard do you see that in the exhibit?

12 A: Right here.

13 Q: What about the Masonic Lodge do you see that in the
14 exhibit as well?

15 A: Right here.

16 Q: On that day tell me you saw Therris that day?

17 A: Yes ma'am.

18 Q: Do you recall about what time it was when you saw
19 him?

20 A: Between 4 o'clock and 4:30.

21 Q: Where was it when you first saw him? Where were you
22 all?

23 A: At the shop.

24 Q: Do you know the defendant Marc Palmer?

25 A: I don't really know him but I've seen him around.

1 Q: You've seen him around before?

2 A: Yes ma'am.

3 Q: Have you ever see prior to October 2010 the type of
4 vehicle that he drove?

5 A: No ma'am.

6 Q: You've never seen his vehicle?

7 A: I've seen his vehicle but I hadn't seen it earlier
8 that day.

9 Q: In any point and time before October 2010 had you
10 ever seen the type of vehicle that he drives, at any point
11 and time?

12 A: No ma'am.

13 Q: You've never seen his vehicle ever?

14 A: Yeah I've seen it.

15 Q: That's what I'm asking. What kind of vehicle was he
16 known to drive?

17 A: Little small car a little Neon.

18 Q: Do you recall what color it was?

19 A: Light green light blueish.

20 Q: I'm going to hand you what's been marked as State's
21 exhibit number 15 does that appear to be the type vehicle
22 the defendant was driving around the time this happened?

23 A: Yes ma'am.

24 Q: Do you have an independent recollection about what
25 time it was the shooting occurred?

1 A: Between 10 o'clock and 10:30.

2 Q: Around the area of 10 o'clock tell us where you
3 were, tell us who all was out there in the area, and what
4 the events lead up to the shooting.

5 A: I was at my house.

6 Q: You can use this pointer that will help you a little
7 bit.

8 A: I was at my house on the side of the house and my
9 cousin Joseph Sapp.

10 Q: What do they call Joseph what's his nickname?

11 A: TT. He had called me on the outside and Therris was
12 like on the corner of the house about to walk off. TT was
13 about to go to his house to get his other car to jump the
14 car so I could drive his other car back.

15 Q: TT was going to get some jumper cables you said?

16 A: Jumper cables.

17 Q: Where was his other car at?

18 A: Parked out here. I was up on this side and him and
19 Therris walked off.

20 Q: Where did they go?

21 A: Like in front of my house and I saw a guy on the
22 opposite side of the sidewalk.

23 Q: You're pointing at the wooded area here on C E
24 Murray Boulevard which is in front of your house?

25 A: Yes ma'am.

1 Q: You saw somebody walking on the sidewalk?

2 A: Yes ma'am.

3 Q: Then tell us what happened.

4 A: I saw the guys run over across the road and I just
5 saw, I hear two gun shots and I ran behind the neighbor
6 house.

7 Q: You indicated that you ran behind your neighbor's
8 house but where are you pointing?

9 A: Right here.

10 Q: Is that a mobile home there?

11 A: Yes ma'am.

12 Q: Before you heard the gunshots did you hear any
13 conversations between the man who did the shooting and
14 Therris?

15 A: The only thing I heard was my cousin TT say.

16 Mr. Ballinger: Objection hear say Your Honor.

17 The Court: Sustain.

18 Ms. Barr: Judge I don't know if it'll be offered for
19 the truth of the matter asserted. Well let me do it this
20 way.

21 The Court: Rephrase your question.

22 Ms. Barr: When TT and Therris were walking this way.
23 What if anything did Therris do when you observed the man
24 coming across the road? What did Therris do at that point
25 did he acknowledge that man in any way?

1 A: He had stopped.

2 Q: Okay Therris stopped.

3 A: Hold his hands out.

4 Q: Okay show the jury how Therris held his hands out.

5 A: Hold his hands out and said I know you got your gun.

6 Q: That's what Therris said?

7 A: Yes.

8 Q: Have you ever seen a gun on Therris that night?

9 A: No ma'am.

10 Q: Any other weapon on Therris that night?

11 A: No ma'am.

12 Q: When Therris said I know you've got your gun. Where
13 was the man standing?

14 A: In the middle of the road on Therris side of the
15 road.

16 Q: On Therris's side of the road in front of your
17 house?

18 A: Yes ma'am.

19 Q: Did you see the man actually pull out a gun?

20 A: I saw him reach in his pants from his pants pocket
21 and pull out the gun and shot Therris two times and that's
22 when I ran.

23 Q: Now kind of describe that individual if you will the
24 person who shot Therris.

25 A: The only thing I know I saw a ponytail puffed up

1 with hair.

2 Q: A ponytail puffed up with hair?

3 A: Yes ma'am. Next thing you know then I ran behind my
4 neighbor house.

5 Q: Don't go there yet with me I'm not there with you
6 yet. You said you saw a ponytail scruffed up with hair,
7 that's your words?

8 A: Yes ma'am.

9 Q: And you've identified it as a man?

10 A: Yes ma'am.

11 Q: So you could tell that the person who shot Therris
12 was a man?

13 A: Yes ma'am.

14 Q: Could you tell whether the person was African-
15 American or Caucasian, a black guy or white guy?

16 A: Couldn't tell but I know the hair was puffed.

17 Q: How was the person dressed?

18 A: Had on dark clothes.

19 Q: Prior to October 2010 you testified that you saw the
20 defendant sometimes he would drive a light greenish blue
21 Neon the little small car is how you described it?

22 A: Yes ma'am.

23 Q: In those instances where you saw him before the
24 night of the shooting how did he wear his hair?

25 A: Ponytail puffed out.

1 Q: Now when you say a ponytail was it a straight
2 ponytail like a woman takes her hair and slicks it back up
3 in a ponytail it's long ponytail?

4 A: More puff out.

5 Q: Do you know whether or not it was and you tell me
6 I don't want to put words in your mouth but I'm trying to
7 be clear. Do you know whether or not he had dreadlocks at
8 the time?

9 A: No ma'am.

10 Q: You're not sure?

11 A: No ma'am.

12 Q: You just remember them being puffed up?

13 A: Yes ma'am.

14 Q: And you've seen him wear his hair in a ponytail like
15 that before?

16 A: Yes ma'am.

17 Q: You indicated after the shooting. How many shots did
18 you hear?

19 A: Two.

20 Q: Two shots. After the shooting what happened?

21 A: I ran behind the house, my neighbor's house on the
22 corner. So probably like what two or three seconds I came
23 out and I saw right up in here a car had crank up the tail
24 light on the road right here.

25 Q: Let me be clear let me make sure I understand what

1 you're saying. Can I hold that? Are you familiar with this
2 little pathway back here?

3 A: Yes ma'am.

4 Q: Have you ever been there before in the pathway?

5 A: I walked through it yes ma'am.

6 Q: You've walked through it?

7 A: Yes ma'am.

8 Q: Is the pathway from here to here is that wide enough
9 where a car could come down this way and then u-turn? How
10 would a vehicle get back here and go back out that way?

11 A: Well I know there's a little entrance right.

12 Q: Right in there?

13 A: Yes ma'am.

14 Q: So a driver of that vehicle would have had to turn
15 around there in here to go facing that way?

16 A: Yes ma'am.

17 Q: You indicated that when you're standing here you had
18 a direct line of sight to where that garage and that little
19 pathway is?

20 A: Yes ma'am.

21 Q: What part of the vehicle did you see?

22 A: The tail lights?

23 Q: Tail lights?

24 A: Yes ma'am.

25 Q: So from that are you telling us that the vehicle

1 would have been backed up in here with the front of the
2 vehicle headed this way?

3 A: Up in the trail facing the road, facing the other
4 road 521.

5 Q: Alright so the back of the vehicle was facing which
6 road?

7 A: C E Murray Boulevard.

8 Q: The back of the vehicle was facing C.E. Murray
9 Boulevard?

10 A: Yes ma'am.

11 Q: And the front of the vehicle was facing Society
12 Street I think that's Society Street or 521?

13 A: 521.

14 Q: At that point could you tell anything about the make
15 and model of the vehicle that was parked that way?

16 A: I just know it was the tail lights was kind of round
17 like the end of the car.

18 Q: Once that vehicle left here do you know where it
19 went once it went down that path?

20 A: No ma'am.

21 Q: Did you see it anymore that night?

22 A: No ma'am.

23 Q: Tell us what happened after you saw the vehicle
24 leave and let me ask you this. Do you remember whether or
25 not the vehicle left you know how a lot of people get in

1 their car they take their time crank it up and leave or
2 would you characterize it in terms of the manner in which
3 the driver left. Was the driver taking his or her time or
4 was the driver in a hurry?

5 A: Crank the car I heard rock because it's a rock road.
6 So when I hear the rocks it must of spin out.

7 Q: Now when Therris was shot and feel where did his
8 body land and you can use this?

9 A: Between a pole and a sign.

10 Q: Mr. Walker just to be candid are you here to say you
11 know with absolute certainty who the shooter of Therris
12 Keels is?

13 A: No ma'am.

14 Q: Fair enough. Let me ask you when you came back up
15 and you saw Therris who else was around there when you came
16 and saw his body?

17 A: By the time I came from behind the house my neighbor
18 house Deandre Chatfield.

19 Q: When you came to Therris who did you tell me was the
20 first person there?

21 A: Deandre Chatfield.

22 Q: Did you recognize any other individuals who came out
23 there that night?

24 A: Yes.

25 Q: Who else did you recognize?

1 A: Marie.
2 Q: Marie Morris?
3 A: Yes.
4 Q: How did you know Marie?
5 A: She was my neighbor.
6 Q: Who else did you recognize?
7 A: Trel Matthews.
8 Q: That's Detrel Matthews?
9 A: Yes ma'am.
10 Q: Anybody else?
11 A: That's all I could remember.
12 Q: You ever heard of this guy they call Big Moe?
13 A: Yes ma'am.
14 Q: You know Big Moe?
15 A: Yes ma'am.
16 Q: Do you know his real name?
17 A: No ma'am.
18 Q: Was Big Moe out there that night?
19 A: Yes ma'am.
20 Q: Now when Detrel Matthews came out there what if
21 anything did you all do when you saw Therriis?
22 A: Stand over him and Therriis was trying to say
23 something but we couldn't understand what he was saying so
24 Trel had called 911.
25 Q: Trel called 911?

1 A: Yes ma'am and I got his phone they gave me
2 dispatcher. They gave the dispatcher my address Williams
3 Lane because they said it happened on C.E. Murray Boulevard
4 and she said where at and I let here know that it was in
5 front of my house 4 Williams Lane.

6 Q: We previously heard the 911 recording in this case.
7 You are one of the individuals on there who says you live
8 on Williams Lane?

9 A: Yes ma'am.

10 Q: And Detrel Matthews was the other individual?

11 A: Yes ma'am.

12 The Court: Mr. Ballinger can you move back just a
13 little that'll take care of the sight line of the foreman
14 and the jury.

15 Q: Do you remember seeing TT after Therriis was killed?

16 A: No ma'am.

17 Q: Did anybody ever go back in your house after Therriis
18 was killed?

19 A: No ma'am.

20 Q: How did the victim end up with the sheet over him?

21 A: My grandma came to the door and hand me the sheet
22 and tell me to put it over him and I tell them I ain't doing
23 that with Deandre he put the sheet over him.

24 Q: Why did you say you weren't going to do that?

25 A: That's the first time I ever see a dead body so I

1 couldn't take that.

2 Q: Did anyone who was around Therris after he was shot
3 did anyone check to see whether or not he was still living
4 or still breathing?

5 A: No ma'am.

6 Q: Did you see the wounds that he had that night?

7 A: No ma'am.

8 Q: So you don't know which part of his body he was shot
9 in?

10 A: No ma'am.

11 Q: At that time when you're on the phone with 911 do
12 you know at that time whether or not he's alive or dead?

13 A: I just hear somebody said that he dead.

14 Q: I'm going to publish what's been admitted as State's
15 exhibit number 6. Does this reflect Mr. Keels's body after
16 you all put a sheet over it?

17 A: Yes ma'am.

18 Q: I'm trying to get your house in there if you see it.

19 A: Yeah I see it.

20 Q: Tell me if you can see in that particular exhibit
21 where your home would be.

22 A: Right here.

23 Q: In this particular exhibit we see the body line in
24 the roadway?

25 A: Yes ma'am.

1 Q: So in terms of where you saw the shooter come from.
2 He would have been on this side?

3 A: This side.

4 Q: The place where Mr. Keels's body is resting. Is this
5 the same place that he was initially shot at or was he
6 further to the middle of the roadway?

7 A: Same place.

8 Q: When Mr. Keels approached the shooter and had his
9 hands out and said I see you got your gun. When he said that
10 did it appear to you that he knew the person who had shot
11 him?

12 A: Yes ma'am.

13 Q: I'm going to publish State's number 7. Prior to your
14 grandmother giving you the sheet. Is this where Mr. Keels's
15 body is?

16 A: Yes ma'am.

17 Q: Of course we see the yellow crime scene tape there?

18 A: Yes ma'am.

19 Q: Where is your house on this particular exhibit?

20 A: Right here.

21 Q: Does your grandmother live in that home?

22 A: Yes ma'am.

23 Q: Who actually went in the house and got the sheet if
24 you know?

25 A: My grandma when she was already in the house. She

1 just called me to the door because I was standing some where
2 over there and she called me to the door and tell me to put
3 the sheet over him but I gave the sheet to Deandre.

4 Q: I'm going to publish State's number 8. So that we'll
5 familiarize ourselves with this particular scene. Where
6 would the garage and the entrance to that little pathway for
7 the garage be?

8 A: Right over there.

9 Q: When Therris walked with his arms outstretched and
10 said I know you got your gun. Where was the person who shot
11 him at?

12 A: Right over there.

13 Q: And he came from which direction?

14 A: From this side and he crossed.

15 Q: Did you remember ever seeing this person before
16 Therris walked out and made that comment?

17 A: No ma'am.

18 Q: Mr. Walker do you recall seeing any shell casings
19 on the ground at the time?

20 A: Yeah when the police got there.

21 Q: Did you see them collect the shell casings from the
22 ground?

23 A: Yes ma'am.

24 Q: I'm going to publish State's exhibit number 10. This
25 is Mr. Keels's body under the sheet here, is that right?

1 A: Yes ma'am.

2 Q: Can you tell me if you recognize what I'm pointing
3 to there?

4 A: A bullet.

5 Q: That's one of the ones that was in the roadway?

6 A: Yes ma'am.

7 Q: I think you previously identified State's exhibit
8 number 15 as being the vehicle that the defendant was known
9 to drive at the time of the shooting, is that right?

10 A: Yes ma'am.

11 Q: We're going to publish State's exhibit number 12.
12 That's the rear of that same vehicle?

13 A: Yes ma'am.

14 Q: When you say when you talked about having a specific
15 memory of the taillights based upon your standing by the
16 mobile home and seeing it across the roadway. Describe it
17 how the taillights again for me.

18 A: Kind of round.

19 Q: Do they look at all similar to the taillights that
20 are in this vehicle?

21 A: Yes ma'am.

22 Q: Sir you can have a seat. Can you tell us what your
23 height is?

24 A: Ma'am.

25 Q: Can you tell us how tall you are?

1 A: 5'4"

2 Q: In terms of the individual who shot Mr. Keels what
3 was his height? How would you estimate his height?

4 A: Him and Therris were about the same height.

5 Q: Say again.

6 A: Him and Therris were about the same height.

7 Q: And how tall was Therris in your estimation?

8 A: Probably about 5'7" 5'8".

9 Q: Did you give a statement to law enforcement on the
10 night of the shooting? Was it the next day?

11 A: That Friday.

12 Q: What day of the week did this happen on?

13 A: A Wednesday.

14 Q: I'm curious in terms of the diagram of the aerial
15 scene of the area. First of all how long would you say that
16 you were either outside on C.E. Murray Boulevard or standing
17 in your yard? How long do you think you were there before
18 the actual shooting happened?

19 A: About 5 minutes.

20 Q: In terms of the aerial view and I'll just hold it
21 here so I don't have to tape it back up. Did you at any
22 point in time ever see a vehicle come from C.E. Murray
23 Boulevard either to make a left turn into that little
24 pathway where the truck stop is or to make a right turn in
25 that pathway where the truck stop is?

1 A: I haven't seen no vehicle that had went back there.

2 Q: At all?

3 A: No ma'am.

4 Q: If a vehicle had went back there within say 15
5 minutes before the shooting how would that vehicle have
6 gotten by there if you didn't see it?

7 A: Like I said just before this happened I was in the
8 house. By the time I walked out my back door and came to the
9 side of the house. At the time Joseph which is TT and
10 Therriis had walk off to get in front of the house. It just
11 happened that quick.

12 Q: You indicated that you gave a recorded statement to
13 the police that Friday. So about two day after the shooting
14 happened is that right?

15 A: Yes ma'am.

16 Q: In that statement you indicated a belief that some
17 people out there knew who the killer was but was not
18 telling?

19 A: Yes ma'am.

20 Q: That was your belief back then?

21 A: Yes ma'am.

22 Q: Tell us why you thought that.

23 A: Because everybody was up there to the shop and the
24 guy came from next the shop way.

25 Ms. Barr: I beg the Court's indulgence.

1 Q: I need to make sure I'm clear about something. You
2 indicated earlier in your testimony that after the shooting
3 happened you saw the taillights from a vehicle. Mr. Walker
4 if you need to come down and see where I'm pointing at you
5 can certainly feel free to do that. You testified that from
6 your house after the shooting you saw the taillights of a
7 vehicle go out that way?

8 A: Yes ma'am.

9 Q: So just to be clear. If you did not see a vehicle
10 to come off of C.E. Murray Boulevard and drive into there
11 either by making a left turn or by making right turn coming
12 from here. If you didn't see that vehicle and that vehicle
13 never entered the pathway from C.E. Murray Boulevard what
14 other way could that vehicle of gotten in there?

15 A: Came from this way here turned around.

16 Q: Did Mr. Therriis Keels do you know if he ever had
17 cell phone?

18 A: No ma'am.

19 Ms. Barr: Sir I believe that's all the questions I
20 have. Please answer any questions that the defense council
21 or court may have.

22 The Court: Mr. Ballinger.

23 Mr. Ballinger: Thank you Your Honor may I please the
24 court?

25 The Court: Yes sir.

1 **Cross by Ballinger)**

2 Q: Afternoon sir. Do you have any knowledge of
3 anybody, let me ask you this way. Were you at the club
4 at any point and time that particular night?

5 A: No sir.

6 Q: Do you have any information if Joseph TT Sapp and
7 Therris were at the shop or the club before this shooting?

8 A: No sir.

9 Q: At any point and time did you ever see anybody
10 pacing back and forth right in the vicinity of the shooting
11 under that particular light?

12 A: No sir.

13 Q: Did you ever go to the Masonic Lodge that night?

14 A: No sir.

15 Q: Did you see what the shooter was wearing?

16 A: Had on dark clothes.

17 Q: That would be pants and?

18 A: Like a hoodie.

19 Q: Was the hoodie over his head?

20 A: No sir.

21 Q: So the hoodie was off and that's how you were able
22 to see the ponytail you describe?

23 A: Yes sir.

24 Q: Did you see if the shooter had a mask on?

25 A: I haven't said that.

1 Q: Sir?

2 A: I haven't said that he had a mask on.

3 Q: So your testimony is he did not have a mask on?

4 A: No sir.

5 Q: Did he have a mask on or not?

6 A: No sir.

7 Q: We've all referenced the gravel road correct?

8 A: Yes sir.

9 Q: Sir I just referenced the gravel road we've been
10 talking about?

11 A: Yes sir.

12 Q: If you continued up the gravel road as you saw the
13 car and went up to 521. You see that road going through
14 those woods?

15 A: Yes sir.

16 Q: You know where that leads?

17 A: Yes sir.

18 Q: Where?

19 A: Down this road called Bloody Bucket.

20 Q: Is that back, describe that area back there.

21 A: Just another little neighborhood.

22 Q: Would it be a fair description to say it's back in
23 the woods.

24 A: No sir.

25 Q: So it's just what a residential neighborhood going

1 through there?

2 A: Yes sir.

3 Q: If you go does it eventually lead to a main highway?

4 A: Yeah Bloody Bucket.

5 Q: Blood Bucket is the main highway?

6 A: Yeah.

7 Q: Where can you get to from Bloody Bucket Road?

8 A: A road they call River Road.

9 Q: Sir did you ever hear the vehicle I know you said
10 you testified you heard the tires spin. Did you hear any
11 other distinguished sounds?

12 A: No sir.

13 Q: You didn't hear a fan belt squeal?

14 A: No sir.

15 Q: About how far and I know this is a guestimate
16 because you don't know exactly where the vehicle was on that
17 road, but could you try to estimate how far in either feet
18 or yards you were from that vehicle when you saw the
19 taillights?

20 A: I can't remember that.

21 Q: I mean was it like a football field or was it closer
22 than that?

23 A: Probably about a football field.

24 Q: So approximately and I'm not holding you to this
25 which is approximately 100 yards?

1 A: Yes.

2 Q: The hoodie you referenced do you, excuse me, do you
3 recall any design on the front?

4 A: No sir.

5 Q: Do you recall if it had a fur collar?

6 A: No sir.

7 Q: You don't recall or it didn't have a fur collar?

8 A: No sir.

9 Q: Which one no fur collar?

10 A: No fur collar.

11 Q: And I was correct on no design on the front correct?

12 A: Yes sir.

13 Q: You think it was a flight jacket or not?

14 A: Yes.

15 Q: Ok you think it was a flight jacket?

16 A: I know it was a hoodie because I see because my old
17 hoodie the head part to the back.

18 Q: Alright so you testified you thought it was a flight
19 jacket?

20 A: A hoodie.

21 Q: I got a different understanding maybe of a flight
22 jacket than you do. So is a flight jacket the same thing as
23 a hoodie?

24 A: I don't know I don't wear no hoodies or nothing.

25 Q: Is it kind of puffy or is it tight to the?

1 A: Some of them be tight.

2 Q: Was this one tight or was this one puffy?

3 A: I couldn't tell it was kind of dark.

4 Q: Fair enough. You testified you knew Mr. Keels all
5 your life correct?

6 A: Yes sir.

7 Q: Were you all just acquaintances or were you all
8 really close friends? Describe your relationship with Mr.
9 Keels.

10 A: We was friends if I see him I speak to him that's
11 about it.

12 Q: Are you aware if he was having any difficulties with
13 anybody else in the community?

14 A: No sir.

15 Q: You gave a statement to law enforcement did you not?

16 A: Yes sir.

17 Q: In that statement did you tell law enforcement that
18 Mr. Keels had broke into houses in the past.

19 Ms. Barr: Objection relevance.

20 The Court: Sustained.

21 Mr. Ballinger: Your Honor I think it would go to
22 potential motive with another individual in the community
23 if he had been somebody been another victim.

24 Ms. Barr: Judge I'm sorry may we.

25 The Court: You may. Objection again sustained council

1 proceed as directed.

2 Mr. Ballinger: Thank you Your Honor.

3 Q: Last question Mr. Walker the long and short of it
4 is you don't know who the shooter was that particular night?

5 A: No sir.

6 Mr. Ballinger: No further questions Your Honor.

7 Ms. Barr: I don't have any redirect.

8 The Court: Thank you, you may step down. How long do
9 you think your next witness will be.

10 Ms. Barr: I was just getting ready to say Judge. I
11 think the next witness will be about the same length about
12 30 to 40 minutes I didn't know whether you wanted to break
13 for lunch.

14 The Court: Let's go ahead and break for lunch. Ladies
15 and gentlemen we are going to break for lunch. I'm going to
16 have you back here I'm going to give you a hour and a half.
17 That gives you time to get around and get back. Be here a
18 little bit before 2 o'clock we're going to start right back
19 at 2 o'clock. Thank you please do not discuss anything about
20 the case.

21 **(Jury break for lunch)**

22 The Court: The court will be in recess until 2 p.m..

23 **(Court recess for lunch)**

24 **(Court in session)**

25 Ms. Barr: Judge I've had exhibits marked State's 17

1 through 22. They relate to the autopsy and I didn't know
2 whether or not the defendant has any objections I'll let him
3 speak.

4 Mr. Ballinger: I've seen them Your Honor I don't have
5 any objections.

6 The Court: Ok 17 through 22 are admitted without
7 objection. Please let's bring the jury in.

8 (State's Exhibit Numbers 17 through 22)

9 **(Jury back in from lunch)**

10 The Court: Ladies and gentlemen I hope you had a
11 pleasant lunch at least it's starting to clear up a
12 little bit out there. Is the State ready to proceed?

13 Ms. Barr: State's ready.

14 Mr. Ballinger: Defendant's ready Your Honor.

15 The Court: Call your next witness.

16 Ms. Barr: We call Dr. Nicholas Batalis. Dr. Batalis if
17 you'll go up to where the Clerk is with the Bible she'll
18 swear you in.

19 Clerk: Place your left hand on the Bible and raise your
20 right hand please. Do you solemnly swear that the testimony
21 you are about to give is the truth, the whole truth, and
22 nothing but the truth so help you God?

23 Batalis: I do.

24 Clerk: Take your seat in the witness box.

25 Ms. Barr: May I please the court?

1 The Court: Yes ma'am.

2 Ms. Barr: Good afternoon Dr. Batalis.

3 Batalis: Good afternoon.

4 Ms. Barr: If you will state your full name for the
5 record and spell your last name for the benefit of the court
6 reporter.

7 Batalis: My name is Nicholas Ike Batalis, B-A-T-A-L-I-
8 S.

9 **(Exam by Barr)**

10 Q: Alright and you had a little bit of a journey today
11 getting here.

12 A: Yeah drove up from Charleston.

13 Q: You work at the Medical University of South
14 Carolina?

15 A: Yes.

16 Q: What do you do there?

17 A: I'm employed there as a Forensic Pathologist.

18 Q: Before we start talking about what that means. Would
19 you give the ladies and gentlemen a little bit of
20 information about your background, particularly educational
21 background, degrees and so forth?

22 A: Sure. So after finishing college I then went on to
23 medical school for four years at NEM University School of
24 Medicine. After completing medical school then moved down
25 to Charleston to the Medical University of South Carolina

1 to do a four year residency in anatomical and clinical
2 pathology. So a general pathologist would be one if a
3 surgeon takes a biopsy of a tumor or to see if you have
4 cancer. A pathologist would be the one that looks at that
5 under the microscope and tell them what they have. A
6 pathologist would also help if you get blood work done. We
7 would be the ones that would work with your physician to
8 help interpret and figure out if there's any disease
9 processes. So it was a four year training period after that
10 point you take the nationalized board exam. I passed that
11 then went onto the one year specialized training in forensic
12 pathology in Dallas, Texas. Again at the end of the one year
13 your just focusing on forensic pathology completed another
14 national examination. At which point I came back to MUSC on
15 faculty where I've been for about five years.

16 Q: And sir of course you are a licensed medical doctor?

17 A: Yes.

18 Q: Have you ever prior to today had an occasion to
19 testify in the State Courts of South Carolina or any other
20 state as an expert witness in the field of forensic
21 pathology?

22 A: Yes several times in South Carolina and also in
23 North Carolina and Texas.

24 Q: You were licensed as a physician and you were a
25 forensic pathologist back in October 2010, is that correct?

1 A: Yes.

2 Q: Judge we would at this time consider Dr. Batalis as
3 an expert in the field of forensic pathology.

4 The Court: Any objection?

5 Mr. Ballinger: No objection Your Honor.

6 The Court: Ladies and gentlemen normally a person can
7 not give opinion testimony and normally when they testify
8 they can only testify as to what they saw, heard, smelled,
9 tasted, or felt. However there's an exception when somebody
10 is qualified because of education or experience that they
11 can give an opinion we refer to them as expert witnesses.
12 Now I'm going to qualify Dr. Batalis as an expert, but what
13 that means for you is that he can give an opinion about what
14 he did and whether or not you chose to except his opinion
15 is up to you as jurors to determine that. You should not
16 give it any greater weight or lesser weight because he's an
17 expert, but you give it the weight you think deem is
18 appropriate along with all the other evidence that you're
19 having in this case. Thank you, you may proceed.

20 Ms. Barr: Thank you.

21 Q: Dr. Batalis tell me and tell the jury what exactly
22 is an autopsy.

23 A: Sure let me just back up one second and speak about
24 forensic pathology. So forensic pathology is at the field
25 of medicine where we interpret injuries and determine a

1 cause and manner of death primarily through conducting
2 autopsies. An autopsy is a post mortem exam in which we use
3 to again document any natural disease or any injuries
4 present that could of led to someone's death. Our general
5 process for an autopsy, a body would be brought to use at
6 MUSC. We would bring it into our autopsy suite we would take
7 photographs as we receive the body before we do anything.
8 We would then disrobe the body, clean the body up, take
9 another set of photographs after the body is cleaned up. We
10 then move onto the external examination which is basically
11 looking at the outside of the body. This includes hair
12 color, eye color just basics like that, but then also scars,
13 tattoos, and then if there's any trauma noting the trauma
14 and noting that. After we finish with the external exam we
15 then move to the internal exam. In which we make a couple
16 surgical type incisions to open up the body. Then we go
17 through each organ one by one and dissect the organs again
18 looking for any natural disease or any trauma and any
19 injuries to the person. At the conclusion of that we then
20 would put together a report and also submit samples for
21 toxicology testing and then possibly microscopic testing
22 which would be looking at tissues under the microscope. Once
23 we get all the information together we would publish our
24 report.

25 Q: In terms of your practice of performing an external

1 exam and internal exam. You did that in connection with the
2 body of Therriis Keels?

3 A: I did.

4 Q: When did you receive the body or MUSC receive the
5 body and when did you begin your autopsy?

6 A: I performed this autopsy on October 28, 2010 at 11
7 AM.

8 Q: Do you know how old Mr. Keels was at that time?

9 A: I'm sorry could you repeat.

10 Q: Do you know how old Mr. Keels was at that time?

11 A: It looks like at that time he would have been had
12 just turned 30 years old.

13 Q: What was his birthday according to your report?

14 A: I have it as September 29, 1980.

15 Q: So about a month before he reached his 30th
16 birthday. Does that seem right?

17 A: About a month after his 30th birthday I believe.

18 Q: Tell me when you first observed the body note any
19 significant observations that you made about the body in
20 terms of evidence of interest.

21 A: Once we got the body disrobed and cleaned up there's
22 really two prominent injuries that we saw on the body. There
23 was a gun shot wound of the head and then a gun shot wound
24 on the abdomen.

25 Q: Could you tell based upon further examination

1 whether there was entrance and exit wounds for either
2 injury?

3 A: Yes both gun shot wounds had an entrance and both
4 gun shot wounds had a corresponding exit wound.

5 Q: Is it a part of the practice of the Medical
6 University or you in particular to photograph a persons body
7 when a autopsy is done?

8 A: Yes.

9 Q: Was that done in connection with this case?

10 A: Yes.

11 Q: I'm going to hand you what's been admitted as
12 State's exhibits 17 through 22 and ask you to recognize
13 what's depicted in the photographs.

14 The Court: These are without objections is that correct
15 Mr. Ballinger?

16 Mr. Ballinger: That's correct Your Honor.

17 The Court: Without objection they're admitted.

18 A: Yes I recognize these photographs.

19 Q: How is it that you recognize the photographs?

20 A: These were photographs that I took at the time of
21 the autopsy.

22 Q: In terms of your record keeping. How is it that you
23 all are able to keep a hold of a specific autopsy by records
24 and by individual and that sort of thing?

25 A: So each time a body comes to us for examination

1 they're assigned an unique accession number. This one was
2 FA10752 which essentially means it was the seven hundred and
3 fifty second examination we did in the year 2010.

4 Q: F-A what does that stand for?

5 A: That mean forensic autopsy which like this one
6 dealing with injuries or deaths occurring outside of the
7 hospital it's just a prefix we use.

8 Q: When you all received the body of Mr. Keels he was
9 fully clothed?

10 A: I believe so.

11 Q: Dr. Batalis can I get you step off of the witness
12 stand for me and you may bring your pointer if you need to.
13 Dr. Batalis I'm going to publish what's been admitted as
14 State's exhibit number 17 and can you tell us the what's
15 depicted in that particular photograph?

16 A: So this photograph from the decedent that came to
17 us is wearing a hat. So this is the under surface of the
18 decedent's hat and staining much of the under surface there
19 is some blood.

20 Q: When we say the decedent we're talking about Mr.
21 Keels?

22 A: Yes.

23 Q: Tell us the significance of the number that's below
24 the hat.

25 A: Again this was the unique identifying numbers

1 assigned to this case so all the labels for each picture
2 will have that identifying number.

3 Q: I'm going to publish State's exhibit number 18 and
4 if you will tell us about that particular exhibit.

5 A: So State's exhibit 18 is the hat flipped on the
6 other surface. I believe this would be the front of the hat.
7 This would be the right side if it was on someone's head the
8 left side and again there's a hole near the top of the hat
9 with some blood around it.

10 Q: Now in terms of that particular exhibit you
11 indicated that there's a hole with some blood around it. Can
12 you just point to where that is?

13 A: So the hole would be right there.

14 Q: What if any significance does the hole relate to in
15 terms of the victims injury?

16 A: The hole in the hat when the hat was placed on the
17 decedent's head corresponded with an exit wound that we saw
18 on his scalp.

19 Q: Does that suggest anything to you in terms of
20 whether or not the victim was wearing the hat at the time
21 he received the injury to the head?

22 A: Yes it would indicate that he was wearing the hat
23 when he was shot.

24 Q: I'm going to publish State's exhibit number 19. Tell
25 us about what's depicted in that photograph.

1 A: So this is a picture here of the left side of the
2 decedent's face and what we see here on the cheek this round
3 legion here is a gun shot entrance wound. Near the bottom
4 of it there's a little bit of an abrasion which helps tell
5 us that the bullet was heading in that direction as it
6 entered the body.

7 Q: Can you tell us a little bit about the pathway that
8 the bullet would have taken?

9 A: Sure so this bullet again entered kind of the left
10 side of the cheek bone here. The exit wound ended up on the
11 top of the head just to the right. So as that bullet after
12 it tracked through the cheek it then entered into the skull
13 it went through both sides of the brain before that and
14 exiting the ride side of the skull.

15 Q: I'm going to show you State's exhibit number 20 and
16 I'll put them side by side so you can explain what's
17 depicted in number 20.

18 A: So State's exhibit 20 is the picture here on our
19 left hand side and this depicts the stellate or kind of star
20 shaped injury on the top of the head as the exit wound that
21 corresponds to this entrance wound. So again the bullet
22 would have entered near the left cheek traveled through the
23 skull and brain. Then entered the scalp and again this is
24 the right side of the head so somewhere in this area.

25 Q: If you will sir tell us about State's exhibit number

1 21.

2 A: I suppose I mentioned earlier we had two gun shot
3 wounds. The one on the head that we just covered he also
4 additionally had a gun shot wound on the trunk. So there
5 was an entrance wound on the front of the body near on the
6 front of the abdomen. This is a picture of the decedent's
7 back and just above the tag you can see a small injury right
8 here and this is gun shot exit wound for the second gun
9 shot.

10 Q: Tell us if you will tell us about State's number 22.

11 A: So State's exhibit 22 is a high power a much more
12 focused picture of the gun shot wound the exit wound that
13 we just saw on the lower back.

14 Ms. Barr: Madam Clerk may I have this marked as an
15 exhibit please.

16 The Court: Any objection?

17 Mr. Ballinger: No Your Honor.

18 The Court: Which would these be? Number 23 no
19 objection.

20 (State's Exhibit Number 23)

21 Q: I'm going to publish what's been admitted as State's
22 exhibit number 23 and tell us about what's depicted in that
23 photograph.

24 A: So when I was describing the autopsy process I said
25 the first thing we do is take a picture of the decedent or

1 the body as they come to us before we've done any
2 manipulation. So that's essentially what we're looking at
3 here. So after we brought the body into our suite we placed
4 it on the table and so this is how we found it as how we
5 first saw the decedent. You can see he was clothe in a blue
6 shirt, hat, and sunglasses.

7 Q: Tell me what these things are here if you know.

8 A: These here are EKG or Electro Cardiogram pads. These
9 would have been placed by the personal responding to him to
10 check if his heart was beating and see what sort of heart
11 beat he had.

12 Ms. Barr: Judge we've got what's been marked for
13 identification purposes as State's exhibit number 24 and we
14 move to introduce.

15 The Court: Is that without objection?

16 Mr. Ballinger: Without objection Your Honor.

17 The Court: Alright very well thank you.

18 (State's Exhibit Number 24)

19 Q: Dr. Batalis I'm going to have you talk about one
20 more photograph then I'll have you take a seat. This has
21 been admitted as State's exhibit number 24. First of all let
22 me have you look at it and see if you recognize it.

23 A: I do recognize it, it's another photograph that I
24 took.

25 Q: Publishing State's exhibit number 24 tell the ladies

1 and gentlemen of the jury what's depicted in that
2 photograph.

3 A: So State's exhibit 24 is showing the front surface
4 of the decedents of his abdomen and the seen here in the
5 middle of the picture here is the gun shot entrance wound.
6 So we just saw the injury in the back that was the exit
7 wound. So this would be the bullet entered the body here
8 passed through the liver and part of the spine and then
9 exited the back at the picture we just saw before.

10 Q: And sir we publish number 22 and number 21 side by
11 side. Can we see the entrance and exit wounds?

12 A: Yes in this exhibit here and for orientation this
13 would be the belly button so about halfway up the abdomen
14 is the entrance wound the circular lesion here and then on
15 the back side this actually corresponds to about the same
16 level as far as how far from the top of the head we see the
17 gun shot exit wound.

18 Q: In terms of the corresponding entrance and exit
19 wounds to the abdomen and to the back technically. Does that
20 suggest anything to you about the positions of the shooter
21 and the victim at the time he sustained that injury?

22 A: Yes.

23 Q: Tell me what that suggest to you.

24 A: So regarding the injury on the abdomen. This bullet
25 essentially traveled almost directly front to back through

1 the decedent. It did travel just very slightly a little bit
2 downward and a little bit towards the right side, but so
3 when the gun was fired it was essentially square on with the
4 decedent.

5 Q: I don't want to put words in your mouth you tell me
6 if I'm wrong or if I'm right. In terms of what that bullet
7 wound suggest. Does it suggest to you that the shooter and
8 the defendant I mean the victim were both upright when the
9 victim sustained that particular injury?

10 A: They could have been.

11 Q: Tell us how you proceeded with your autopsy and what
12 your finally conclusions were.

13 A: So the gun shot wounds that we've been describing
14 for the last few minutes those were the major findings in
15 the autopsy. You didn't have any evidence of any significant
16 natural disease and again as a result of the bullet
17 traveling through the brain that could have been a fatal
18 injury. The bullet that went into the abdomen went through
19 the liver and caused a good deal of bleeding from that. So
20 his cause of death was determined to be gun shot wound to
21 the head and trunk. So accounting for both of those gun shot
22 wounds.

23 Q: So either one of those bullet wounds would have
24 killed him?

25 A: Yes.

1 Q: In terms of examining other organs of his body. You
2 didn't observe any other disease process like cancer or
3 anything else that would have caused his death?

4 A: No he seemed to be as healthy.

5 Q: Dr. Batalis as part of autopsy you all typically run
6 a toxicology screen on the victim?

7 A: Yes we do we collect the blood samples during the
8 course of the autopsy and send them to a national laboratory
9 for extensive testing for both drugs of abuse and also all
10 sorts of over the counter medications and such.

11 Q: Why do you all do that as a part of the autopsy, run
12 a drug screen?

13 A: In some cases it can help tell us what the cause of
14 death is. If somebody doesn't have any trauma but we may
15 have to decide if they died from an overdose or from natural
16 disease. Even in cases where we're fairly certain we have
17 a cause of death such as a bad car accident, having that
18 toxicology information can help put the whole case together.
19 Put things in context so we know what was in the decedent's
20 system at that time.

21 Q: Tell me what were the results of the toxicology
22 screen that was done on Mr. Keel?

23 A: Mr. Keel's his toxicology was positive for a couple
24 different items. There was some caffeine which I think
25 everybody knows what that is, some nicotine and one of it's

1 breakdown products so from some sort of tobacco.

2 Q: Alright slow down for just a second for me. Caffeine
3 it's coffee, colas, chocolate all kind of stuff?

4 A: Coffee, tea, colas.

5 Q: Nicotine, how does one get nicotine where's that
6 come from?

7 A: Predominantly this would be through smoking
8 cigarettes through using chew chewing tobacco. Through use
9 of tobacco in some manner.

10 Q: Please continue.

11 A: He also had a drug called pseudoephedrine in his
12 system and a breakdown product of that. So pseudoephedrine
13 is Sudafed it's an over the counter medication.

14 Q: And what is typically Sudafed used to treat?

15 A: Sudafed typically used to treat sinus congestion
16 kind of upper respiratory symptoms.

17 Q: Like a Benadryl or something like that?

18 A: It's not Benadryl but it may be used along with
19 Benadryl.

20 Q: I understand. Anything else?

21 A: In addition the decedent had some cocaine in his
22 system so parent cocaine and also a breakdown product of
23 cocaine. And then one other drug was detected called
24 benztropine this is a drug that's used for a few different
25 things. It can be used to treat a disease, Parkinson's

1 disease. It can be used to treat certain diseases but we
2 also tend to see it mixed in with cocaine so a lot of the
3 cocaine that people think they're using is a pure product
4 a lot of times there's impurities in it and so somebody down
5 the road has mixed other white powdery substance with the
6 cocaine in order to increase the amount they can sell.

7 Q: Did the cocaine finding, caffeine finding, other
8 findings in the toxicology screen in any way contribute to
9 the victim's cause of death?

10 A: No the gun shots to the head and the trunk were the
11 fatal causes.

12 Q: In terms of how you all classify death in this case.
13 Can you give the jury an idea of how forensic pathology,
14 pathologist would classify the manner of cause of death?

15 A: Sure so the cause of death is going to be the
16 disease or process which lead to the person's death. So in
17 this case it again it was the gun shot wounds to the head
18 and abdomen predominantly due to bleeding. Manner of death
19 is how that cause of death comes about. So for a gun shot
20 wound if I would shoot myself we would consider that a
21 suicide. Death at the hands of another person so if I were
22 to shoot someone else that would be considered a homicide.
23 So in this case the manner of death was determined to be
24 homicide.

25 Q: I have a quick question about the medication that

1 you indicated could be used to treat Parkinson's that was
2 the example. Do you know whether or not medication could be
3 used to treat any type of emotional or physiological
4 conditions?

5 A: I'm not aware off hand.

6 Ms. Barr: I believe that's all the questions that I
7 have. If you will please answer any questions that the Court
8 or Mr. Ballinger may have.

9 The Court: Mr. Ballinger.

10 Mr. Ballinger: Thank you Your Honor may I please the
11 court very briefly?

12 The Court: Yes.

13 **(Cross by Ballinger)**

14 Q: Doctor from your review of the toxicology report
15 would you be able to render an opinion on whether Mr. Keels
16 was using cocaine the night of the shooting?

17 A: Yes so the fact that again I mentioned he had parent
18 drug cocaine and also the breakdown product. Cocaine has a
19 very quick half life so you put cocaine in your system it's
20 a matter of I don't know exactly off hand 30 minutes to a
21 hour or two before that's going to get broken down. So the
22 fact that we found that parent cocaine in his system would
23 mean that he used it I would say within hours of his death.

24 Q: Doctor does your unit perform any type of property
25 inventory when the body comes to you or has that already

1 been done?

2 A: When the body comes to us like we saw in the picture
3 with the clothing. We notate the clothing that we remove
4 from the body. We then put that on an inventory sheet and
5 then sign it over we usually sign it over to an officer who
6 attends the autopsy or comes later.

7 Q: How about anything that would be in a decedent's
8 pockets or anything of that nature or has that already been
9 inventoried?

10 A: Again it depends on case to case. Some jurisdictions
11 and some law enforcement don't go through the pocket and
12 don't remove anything other ones go ahead and do go through
13 the pockets.

14 Q: Did you find anything in Mr. Keel's pockets when you
15 performed the autopsy?

16 A: Yes so in addition to clothing that he was wearing.
17 In the pockets we found a disposable lighter, an open
18 package of candy, a container of prescription nasal spray,
19 and a colored I would describe it as a cooper colored tube
20 with a rubber piece on one end.

21 Q: You have any idea what that would be used for?

22 A: I can't remember off hand without seeing the picture
23 as far as exactly what I was describing.

24 Mr. Ballinger: No further questions Your Honor.

25 The Court: Any re-direct?

1 Ms. Barr: No Your Honor. Judge we asked that the
2 witness be excused.

3 Mr. Ballinger: Without objection Judge.

4 The Court: Thank you Doctor.

5 Ms. Barr: Judge the State will call Brittany Croskey.

6 The Court: Come forward and be sworn.

7 Clerk: Place your left hand on the Bible and raise your
8 right hand. Do solemnly swear that the testimony you are
9 about to give is the truth, the whole truth, and nothing but
10 the truth so help you God?

11 Ms. Croskey: Yes.

12 Clerk: Ok you may take your seat in witness box.

13 Ms. Barr: Ms. Croskey state your full name for us and
14 spell your last name.

15 Ms. Croskey: Brittany Croskey, C-R-O-S-K-E-Y.

16 **(Exam by Barr)**

17 Q: You look really young. How old are you?

18 A: 22.

19 Q: Do you go to school?

20 A: Yes.

21 Q: You live here in Williamsburg County?

22 A: Yes.

23 Q: How long have you lived in Williamsburg County?

24 A: My whole life.

25 Q: I need you to do something for me make sure that you

1 keep your voice up for me ok?

2 A: Yes.

3 Q: You were subpoenaed to testify in this case?

4 A: Yes.

5 Q: I'm going to ask you some background information
6 then I'll ask you about the night of the shooting. Did you
7 know Therriis Keels prior to the day he was killed?

8 A: Yes.

9 Q: How did you know him? Were you related to him or you
10 just knew him from the neighborhood?

11 A: Just knew him from the neighborhood.

12 Q: In an average say month how often would you see him?

13 A: A couple of times.

14 Q: A couple of times a month?

15 A: Uh-huh (affirmative response).

16 Q: Here's another thing I have to tell you. When you
17 respond make sure you say yes or no as opposed to uh-huh or
18 huh-uh because the court reporter's taking down everything
19 you say and we want to make sure we record your answer the
20 right way, fair enough?

21 A: Yes.

22 Q: Prior to October 27, 2010 did you know the defendant
23 Marc Palmer?

24 A: Yes.

25 Q: Did you know him by I've heard some people call it

1 his government name Marc Palmer or did you know him by a
2 nickname?

3 A: Driver.

4 Q: You knew him by Driver?

5 A: Yes.

6 Q: How long have you known him?

7 A: Not that long.

8 Q: What's not that long give me some idea. Maybe a
9 month, a year, somewhere in between?

10 A: Yes.

11 Q: Ma'am?

12 A: Somewhere in between.

13 Q: Somewhere in between a month and a year that's long
14 spread. Can you narrow it down just a little bit for me?

15 A: About probably a year.

16 Q: When you would see him sometimes would it be in
17 Greeleyville?

18 A: Yes.

19 Q: Do you know where he lives or where he's from?

20 A: No.

21 Q: When you typically see him in Greeleyville where
22 would you normally see him at?

23 A: Around town different places.

24 Q: Have you ever seen him at this place called the shop
25 on C.E. Murray Boulevard?

1 A: Yes.

2 Q: Prior to October 27, 2010 which would be the day
3 that Therris was shot. How many times do you think you saw
4 him at the shop on C.E. Murray Boulevard?

5 A: That night?

6 Q: No before then how many, in the year long period of
7 time that you've known him how many times do you think you
8 saw him at the shop on C.E. Murray Boulevard before that
9 night?

10 A: About 3-4 times something like that.

11 Q: You indicated that you would see him other places
12 about town is that right?

13 A: Yes.

14 Q: Do you know what kind of vehicle he drove?

15 A: Yes.

16 Q: What kind of vehicle did he drive?

17 A: A Neon.

18 Q: I'm going to hand you what's been previously
19 admitted as State's exhibit number 15 is that vehicle that
20 the defendant was known to drive?

21 A: Yes.

22 Q: Very quickly do you recognize the defendant in the
23 court room?

24 A: Yes.

25 Q: Where is he? Your pointing at the table where the

1 lawyer and the gentlemen in the black suit is?

2 A: Yes.

3 Ms. Barr: Your Honor please let the record reflect that
4 the witness has identified the defendant.

5 The Court: The record will so reflect.

6 Q: Miss Croskey does the defendant look now in terms
7 of his appearance the same way he would of looked when you
8 last saw him in October of 2010? Does he look the same?

9 A: Some what.

10 Q: What about his hair style does that look the same?

11 A: No.

12 Q: What's different about it?

13 A: His hair is cut.

14 Q: How was it the last time you saw him around the
15 streets of Greeleyville back in 2010?

16 A: He had hair.

17 Q: Does he have like this fella here or does he have,
18 kind of tell me I don't want to tell you I don't want to put
19 words in your mouth. You tell me how his hair was when you
20 say he had hair.

21 A: Like long hair enough to put in a pony tail.

22 Q: Have you ever seen him wearing it in a pony tail
23 before?

24 A: Yes.

25 Q: Can I get you to step down please. Miss Croskey if

1 I could get you to stand right here. Make sure to keep your
2 voice up nice and loud, court reporter's behind you I'm get
3 you to hold this for me. This are does it look familiar to
4 you C.E. Murray Boulevard?

5 A: Yes.

6 Q: Previous witnesses have testified that this is the
7 shop of the fish area, fish market or what ever does that
8 look about where it was?

9 A: Yes.

10 Q: What is this build here across the street from it?

11 A: The Lodge building.

12 Q: Do you recognize this area here?

13 A: That's the mechanic.

14 Q: That's the mechanic place the garage?

15 A: Yes I believe.

16 Q: You were out here on C.E. Murray Boulevard the night
17 that Therriis was shot is that right?

18 A: Yes.

19 Q: This area is Williamsburg County?

20 A: Yes.

21 Q: Tell us do you remember what time you got there?

22 A: No.

23 Q: Was it dark or was it light out when you got there?

24 A: Dark.

25 Q: Who if anybody was with you?

1 A: Jeff, LeRoy, and DJ.

2 Q: What were you all doing out there just kind of
3 hanging out?

4 A: Yes.

5 Q: Was that a place in the community where people kind
6 of got together and socialized?

7 A: Yes.

8 Q: Was that unusual for people to get together and
9 socialize?

10 A: No.

11 Q: Did you ever go into the club or the shop as they
12 call it that night?

13 A: No.

14 Q: Tell me how did you get out there?

15 A: I drove.

16 Q: You drove your vehicle? Where'd you park your
17 vehicle?

18 A: In front of the lodge right there.

19 Q: Do you know a fella by the name of Maurice Smith?

20 A: Yes.

21 Q: That who they call Big Moe?

22 A: Yes.

23 Q: Was he out there that night?

24 A: Yes.

25 Q: Do you remember where his vehicle was parked?

- 1 A: Probably like stand area.
- 2 Q: What kind of vehicle was he driving?
- 3 A: I'm not sure.
- 4 Q: Did you see Mr. Keels out there that night?
- 5 A: Yes.
- 6 Q: Where did you see him and tell me what was he doing
- 7 when you saw him when you first saw him that night?
- 8 A: Like over there towards the shop.
- 9 Q: Was anybody with him?
- 10 A: No.
- 11 Q: Did you see Mr. Palmer out there that night?
- 12 A: Yeah.
- 13 Q: Did he well you said you didn't go in the shop
- 14 right?
- 15 A: No.
- 16 Q: Did you know whether or not he ever went into the
- 17 shop that night?
- 18 A: No.
- 19 Q: Did you know whether or not he ever came into the
- 20 Masonic Lounge, Lodge?
- 21 A: He didn't come.
- 22 Q: Tell me about the moments leading up to the
- 23 shooting. Kind of tell me where you were, tell me what you
- 24 saw, and what happened.
- 25 A: We were just standing outside my car talking and I

1 happened to look down the road.

2 Q: Point to where you're looking.

3 A: Down here towards the mechanic. I noticed someone
4 on the right, right there before you get there.

5 Q: There's a street light there?

6 A: And they was pacing back and forth under the light.

7 Q: Show me where they were walking to and from. When
8 you say pacing back and forth.

9 A: Right here back and forth right there. That's when
10 I told my cousin Jeff you see that person standing under the
11 light or what ever well pacing back and forth under the
12 light. So we looked and then that's when the person went
13 across the street and the person met Therriis was like meet
14 right there in the road.

15 Q: In terms of seeing this individual kind of pacing
16 back and forth. When he was doing that did the way in which
17 he was walking seem familiar to you at all?

18 A: Yes.

19 Q: Tell us why.

20 A: He had like a certain walk to him.

21 Q: You said he had a certain walk to him. Who did you
22 see walking like that on anytime before Therriis got killed
23 that night?

24 A: Marc.

25 Q: Ma'am?

1 A: Marc.

2 Q: Marc Palmer?

3 A: Yes.

4 Q: Tell me when you talk about the walk kind of
5 describe it to the jurors. I know you're not asked to do
6 that everyday but kind of describe the walk to us.

7 A: Like tip toe kind of it's noticeable you knew it.

8 Q: It's noticeable how?

9 A: It's would be noticeable if you had seen it before.

10 Q: It would be noticeable if you've ever seen it
11 before. You talked about this person pacing back and forth
12 and you talked about this person walking into the roadway.
13 Tell us what happened from that point.

14 A: Then I heard a shot fired.

15 Q: Okay.

16 A: When Therris had his hands up a shot was fired. His
17 hands was still up.

18 Q: Tell me when you say Therris had his hands up
19 demonstrate to me how Therris had his hands up.

20 A: Like (illustrating).

21 Q: Where was Therris when you saw him with his hands
22 held up, can you kind of point to where he would have been?

23 A: Like going to the middle of the road.

24 Q: Then what happened?

25 A: And then another shot fired and that's when he

1 dropped. And then the person went over him and shoot him
2 again.

3 Q: And then what did the person do?

4 A: I'm not sure.

5 Q: What did you do when you saw all this?

6 A: I was shocked just looked at the ground and dropped.

7 Q: Have you ever seen anything like that before?

8 A: No.

9 Q: How did you feel to see that?

10 A: Just was shocked.

11 Q: What did you do after you saw that person stand over
12 Therris and shoot him again?

13 A: I got in my car and went the opposite way and left.

14 Q: Did you ever come back that night?

15 A: Yeah.

16 Q: When you came back that night were the police
17 already there by that time?

18 A: Yes.

19 Q: What about Therris was his body still there?

20 A: Yes.

21 Q: Did you hear anything that Therris might of said or
22 this individual might of said once they were in the roadway.

23 Mr. Ballinger: Objection hear say.

24 The Court: Sustain.

25 Q: Where did the person go after standing over Therris

1 and shooting him?

2 A: I didn't see him.

3 Q: When you left and when I said left I don't mean in
4 your car but when you actually saw the shooting and turned
5 around and left which way did you go? You can kind of point
6 that out to us.

7 A: Say that again.

8 Q: After you saw Therriis shot for the last time which
9 way did you go? Not in car but in terms of walking off which
10 way did you go?

11 A: I was still at my car.

12 Q: Ok you still stayed there and again kind of point
13 to that area for us. After immediately after the shooting
14 I mean withing a second after the shooting do you know who
15 was around you remember who was around you?

16 A: Not really only the people that was in my car.

17 Q: Do you remember whether or not Maurice was out
18 there?

19 A: I'm not sure.

20 Q: Do you know which building this is here that's
21 further down C.E. Murray Boulevard?

22 A: Not sure.

23 Q: What about this street here can you see on there
24 what that is?

25 A: Yes.

1 Q: Is that Tucker Street or Tucker Lane?

2 A: Yes.

3 Q: Have you ever been in this little pathway back here
4 where the truck stop is?

5 A: No.

6 Q: You can have a seat. Miss Croskey after the shooting
7 I imagine that that was... I imagine that that was the talk
8 of the town if you will for a period of time?

9 A: Yes.

10 Q: A lot of people were talking about what happened?

11 A: Yes.

12 Q: After the shooting did you have an opportunity to
13 talk with friends or family members or people in the
14 neighborhood about what you saw and that sort of thing?

15 A: Yes.

16 Mr. Ballinger: Objection Judge I think we're about to
17 venture ...

18 The Court: I'm sorry I didn't hear rephrase the
19 question.

20 Mr. Ballinger: I think the question was did Miss
21 Croskey have the opportunity to speak with friends and
22 family members about the essences was what their opinion was
23 of what happened that night.

24 The Court: She can say she spoke with them or not. She
25 can't say what they said.

1 Mr. Ballinger: Thank you.

2 Q: You actually spoke with family members, friends,
3 neighbors and so forth about what you saw that night is that
4 right?

5 A: Yes.

6 Q: Did you also give an interview to law enforcement
7 in connection with the investigation of Therris's murder?

8 A: Yes.

9 Q: When you spoke with your family members, your
10 neighbors, your friends and that sort of thing. When you
11 were asked who do you think did this. Who did you tell them
12 that you thought did this?

13 A: Marc.

14 Ms. Barr: Ma'am that's all the questions that I have
15 at this point. If you will please answer any questions that
16 Mr. Ballinger may have.

17 The Court: Mr. Ballinger.

18 Ms. Barr: Do you need this?

19 Mr. Ballinger: Yeah just leave it up. Judge can we take
20 up a matter of law before I question this witness.

21 The Court: You may.

22 Mr. Ballinger: Out of the presence of the jury.

23 The Court: Ladies and gentlemen this will give you all
24 a short early afternoon break as well. I will send you to
25 the jury room please do not discuss anything about the case

1 while you're back there, thank you.

2 **(Jury Break)**

3 Mr. Ballinger: Thank you Judge Your Honor I just wanted
4 to clear up some hearsay, potential hearsay problems before
5 they were raised in front of the jury. Judge I plan on
6 asking or impeaching Miss Croskey on the prior statement
7 that she gave date November 4, 2010. Judge the relevant
8 portion is page 17 line 4 and I don't think this is
9 objectionable. The question was page 16 line 25, who was the
10 first person to come to your mind when you looked under that
11 light and told Jeff and them who was that guy walking under
12 the light. Answer was I didn't have a feeling. Clearly she
13 can be impeached on that I think the problematic portion I
14 saw page 17 line 9 excuse line 7, at what point did you
15 start thinking that I could be the Driver. The answer when
16 people started talking it started being around Greeleyville
17 with people talking about it. So clearly Judge it's our
18 position she's saying she didn't have any personal knowledge
19 of it. That she heard it from other people that clearly
20 hearsay but I think it's being offered for impeachment
21 purposes and not for truth of the matter asserted and I
22 wanted to clear that up.

23 The Court: Ms. Barr.

24 Ms. Barr: Judge I don't have an objection to that with
25 him asking her.

1 The Court: I wouldn't think you would.

2 Mr. Ballinger: It's hearsay it's just...

3 The Court: You're going to be asking her that?

4 Mr. Ballinger: Yes sir, right and that's all I have
5 Judge thank you.

6 The Court: Since we got the jury out why don't we all
7 take a ten minute break. Court will be in recess until 3
8 o'clock.

9 **(Court in recess)**

10 **(Jury in and court in session)**

11 The Court: It looks like we've got all of jurors you
12 may proceed.

13 Mr. Ballinger: Thank you Your Honor may I please the
14 court?

15 The Court: Yes sir.

16 Mr. Ballinger: Good afternoon Miss Croskey.

17 Croskey: Good afternoon.

18 **(Cross by Ballinger)**

19 Q: Ma'am are you related to Therriis Keels?

20 A: No.

21 Q: How do you know Mr. Palmer?

22 A: I've seen him around.

23 Q: So do you have any type of communication with him
24 any type of relationship. When you say you know you've seen
25 him before?

1 A: Yes.

2 Q: What do you refer to, do you call refer him as Marc
3 or the Driver?

4 A: Driver.

5 Q: Why is that?

6 A: That's just the name I hear.

7 Q: So you don't have any specific information as to why
8 he has that name?

9 A: No.

10 Q: Have you ever called name to Mr. Palmer's face?

11 A: No.

12 Q: Because you all have never had a conversation
13 correct?

14 A: No.

15 Q: You testified that you've seen Mr. Palmer three or
16 four times in the year prior to this incident is that
17 correct?

18 A: Yeah.

19 Q: Prior to the shooting on 10/27/2010 did you see Marc
20 Palmer that day at all?

21 A: No.

22 Q: I think you testified to this earlier but you were
23 at the Masonic Lodge out in the grassy area in front of the
24 lodge in your vehicle correct?

25 A: Yes.

1 Q: Did you ever go to the club or the shop that night?
2 A: No.
3 Q: You and Maurice Smith also know as Big Moe you all
4 are friends?
5 A: Yes.
6 Q: Do you know Marc and Maurice are friends?
7 A: I'm not sure.
8 Q: Ma'am you testified you saw someone pacing under a
9 light about the shooting occurred is that correct?
10 A: Yes.
11 Q: How long was that individual pacing when you, give
12 me a time frame on what you saw as far as that?
13 A: About a couple of seconds.
14 Q: This was across street from where Mr. Keels was?
15 A: Yes.
16 Q: So you didn't see anybody come out of the bushes you
17 saw somebody pacing back and forth?
18 A: Yes.
19 Q: What was this individual that you saw pacing under
20 the light what were they wearing?
21 A: Dark clothes.
22 Q: Can you describe the clothing anymore other than
23 dark?
24 A: No.
25 Q: Could you tell if the shirt or the jacket or

1 whatever the person had on their upper body had any type of
2 logos on it?

3 A: No.

4 Q: Did the person have on a mask?

5 A: I don't know.

6 Q: Did the person have on a hoodie?

7 A: I don't know.

8 Q: Was there anything about the person's hair that
9 stuck out in your mind?

10 A: No.

11 Q: Did you see Joseph 'TT' Sapp and Therriis at the shop
12 prior to this incident taking place?

13 A: No.

14 Q: Were you under the influence of marijuana on this
15 evening?

16 A: No.

17 Q: You all weren't smoking blunts in the car?

18 A: No.

19 Q: You sure?

20 A: Yes.

21 Q: You gave a statement to law enforcement did you not?

22 A: Yes.

23 Q: Do you recall when you gave that statement?

24 A: Yes.

25 Q: If I represented to you with November 4, 2010 would

1 that sound to be accurate about a week after the incident?

2 A: I can't remember when it was.

3 Q: You testified today that you knew that that
4 individual that came across the street was Marc because of
5 his walk, correct?

6 A: I assume it was him because of his walk.

7 Q: That's what you testified today because of his walk
8 you assumed that that was Marc, correct?

9 A: Yes.

10 Q: Do you remember what you told Investigator Lail when
11 she asked you that question?

12 A: No.

13 Q: If you had a feeling who it was you remember what
14 your response was?

15 A: I'm not sure.

16 Q: Let me show this to you.

17 Mr. Ballinger: May I approach Your Honor.

18 The Court: You may.

19 Q: Does this appear to be a copy of the statement that
20 you gave to Investigator Lail?

21 A: Yes.

22 Q: On page 17 actually starting on page 16 line 25,
23 line 23. The question was if you think back really serious
24 about just the person under the light and forget everything
25 else. Who was the first person to come to your mind when you

1 looked under that light and told Jeff and them who is that
2 guy walking under that light and what is your answer?

3 A: I didn't have a feeling.

4 Q: Question, you didn't have any feeling? What was your
5 response.

6 A: No ma'am.

7 Q: Question, at what point in time did you start
8 thinking it could be the Driver, answer.

9 A: When people started talking it started being around
10 Greeleyville with people talking about it.

11 Q: Question, then you started putting this person with
12 what you know about the Driver, answer.

13 A: Yes ma'am.

14 Q: So when you gave this statement to law enforcement
15 you didn't have any independent knowledge that it was Marc
16 Palmer did you?

17 A: Yes.

18 Q: That's not what you told the investigator. You told
19 the knowledge you had that it was Marc Palmer was from what
20 other people told you. Isn't that what you told Investigator
21 Lail?

22 A: Yes, but I don't remember that.

23 Mr. Ballinger: I don't have any further questions Judge
24 thank you.

25 The Court: Any re-direct?

1 Ms. Barr: Yes Judge just a few minutes. Your Honor may
2 I approach the witness?

3 The Court: You may.

4 **(Re-direct by Barr)**

5 Q: Miss Croskey does this appear to be a transcript of
6 the statement that you gave to law enforcement?

7 A: Yes.

8 Q: What's the date of that statement?

9 A: November 4, 2010.

10 Q: So that was over two years ago right?

11 A: Yes.

12 Q: Have you actually either heard that statement that
13 you gave to law enforcement or have you read the transcript
14 of that statement?

15 A: Heard it.

16 Q: You heard it. You've heard somebody playing it on
17 audio tape to hear it back?

18 A: No ma'am.

19 Q: That's what I'm asking. Have you ever heard anybody
20 play it for you?

21 A: No ma'am.

22 Q: Have you read the transcript? Have you read this
23 document before your testimony today?

24 A: No.

25 Q: This will be the first time you've seen it?

1 A: Yes.

2 Q: On November 4, 2010 when you gave this statement.
3 Do you know whether or not Marc Palmer had been arrested at
4 that point?

5 A: No ma'am.

6 Q: You don't know or he hadn't been arrested?

7 A: I don't know.

8 Q: Mr. Ballinger asked you some questions about that
9 statement and I'm going to go over some things with you if
10 I can. If we look at page 16 of your statement and if you
11 start at line 18. You see where I'm pointing there?

12 A: Yes.

13 Q: You were asked the question was there anything that
14 put you in the frame that this was Driver. Do you see that
15 question?

16 A: Yes.

17 Q: What was your response to that question?

18 A: Yes ma'am.

19 Q: When the question next was asked of you, was that
20 because of his walk. Do you see that?

21 A: Yes.

22 Q: What was your answer?

23 A: Yes ma'am.

24 Q: I need to clarify the point. When Mr. Ballinger
25 asked you cross examination how many times you had seen the

1 defendant and he asked you was it four times. Do you
2 remember that question he asked you?

3 A: Yes.

4 Q: Now was it four times that you saw him at the shop
5 or was it four times you saw him period in the whole span
6 of the year?

7 A: At the shop.

8 Q: You've seen him more than four times in a year
9 right?

10 A: Yes.

11 Q: Again referring to your statement specifically page
12 18 starting on line 25. You see where I'm pointing at where
13 I've highlighted?

14 A: Yes.

15 Q: The question's asked to you, usually when you go up
16 there how many times would you say that you've seen Driver.
17 Did you see that question?

18 A: Yes.

19 Q: What was your answer?

20 A: All the time.

21 Q: And the next question, so it's kind of a little
22 unusual now that you think about it that he wasn't there?

23 A: Yes ma'am.

24 Q: After the night of the shooting did you ever within
25 the months period of time after the shooting did you ever

1 go back to that club to that shop?

2 A: No ma'am.

3 Q: Did you ever see Mr. Palmer, Marc Palmer in
4 Greeleyville after the shooting?

5 A: No.

6 Q: No?

7 A: No.

8 Q: You testified earlier in your statement that you use
9 to see him in Greeleyville all the time?

10 A: Yes.

11 Q: Before the shooting?

12 A: Yes.

13 Q: But you didn't see him Greeleyville anymore after?

14 A: No.

15 Ms. Barr: That's all the questions I have.

16 The Court: Any Re-cross?

17 Mr. Ballinger: Yes sir Your Honor.

18 **(Re-cross by Ballinger)**

19 Q: Now lets back up a little bit on your statement on
20 page 16 you and Ms. Barr used. Question, did you
21 notice anything about this person's walk, answer.

22 A: No ma'am not really.

23 Q: Then she asked you and you and Ms. Barr went through
24 this, is there anything that put you in the mind frame that
25 it was the Driver. You say what was your answer?

1 A: Yes ma'am.

2 Q: And the question is, and that was because of his
3 walk. And your response was?

4 A: Yes ma'am.

5 Q: So actually the investigator told you it was because
6 of his walk and then you said yes ma'am. Is that accurate
7 as on this paper?

8 A: No.

9 Q: Your first response to the question did you notice
10 anything about his walk was no ma'am. True?

11 A: Yes.

12 Mr. Ballegner: Nothing further Judge.

13 Judge. Thank you. You may step down. Any objection to
14 this witness being excused.

15 Ms. Barr: No Your Honor.

16 Mr. Ballinger: No sir Your Honor.

17 The Court: Thank you.

18 Mr. Ballinger: Judge we would I don't have any
19 objection to her being excused but we would reserve the
20 right to recall her if we need to.

21 The Court: We'll leave her under subpoena subject to
22 your recall.

23 Ms. Barr: Judge may we approach.

24 The Court: Yes ma'am.

25 **(Counsel approach)**

1 Ms. Barr: This with Lieutenant Sherod Timmons may I
2 have all the other witness go into the auditorium please.

3 Clerk: Place your left hand on the Bible raise your
4 right hand. Do you solemnly swear or affirm to tell the
5 truth, the whole truth, or nothing but the truth so help you
6 God?

7 Mr. Timmons: I do.

8 Clerk: Have a seat in the witness box.

9 The Court: You may proceed.

10 Ms. Barr: Please the Court. Lieutenant please state
11 your full name and spell your first name and last name for
12 the court reporter please.

13 Mr. Timmons: It's Louie Sherod Kimmons, T-I-M-M-O-N-S.

14 **(Exam by Barr)**

15 Q: Sir, where are you employed?

16 A: Williamsburg County Sheriff's Office.

17 Q: How long have you been employed with the Sheriff's
18 Office?

19 A: Since January of 1999, 15 years.

20 Q: 15 years. You are a certified police officer?

21 A: I am.

22 Q: What is your current job title?

23 A: Housing of evidence and training.

24 Q: How long have you been employed in that capacity?

25 A: Since October 22, 2012.

1 Q: Prior to you being placed in that position who
2 occupied that position as the evidence custodian?

3 A: Jeffrey Scott.

4 Q: Mr. Scott is no longer employed with the Sheriff's
5 Office?

6 A: He is not.

7 Q: Do you know where he is employed now?

8 A: I think he's teaching for Horry-Georgetown Tech.

9 Q: Tell me what your responsibilities are as it relates
10 to being an evidence custodian as part of your duties.

11 A: As officers work cases they collect evidence. It's
12 signed over to me. At that point if it needs processing
13 through SLED then I would have it carried over to SLED and
14 SLED will do their analysis on it.

15 Q: In October 2010 Lieutenant Jeffrey Scott was working
16 in that physicians crime scene and evidence custodian?

17 A: He was.

18 Q: When he left the Sheriff's Department last year you
19 basically took over his position?

20 A: I did.

21 Q: All of the evidence related to criminal cases that
22 were logged in by Lieutenant Scott during his tenure were
23 then later assigned to you?

24 A: They were.

25 Q: Tell me what type of procedures do the Sheriff's

1 Office employ in making sure that evidence remains
2 uncontaminated and protected until the case goes to trial.

3 A: It's in an evidence room over at the Sheriff's
4 Office, well actually the Detention Center.

5 Q: Who maintains or who has access to that evidence
6 room?

7 A: Just me.

8 Q: Prior to you taking over it would have been just
9 Lieutenant Scott?

10 A: That's correct.

11 Q: I'm going to hand you what's been marked for
12 identification purposes as State's exhibit number 25. Do you
13 recognize this particular exhibit?

14 A: I do.

15 Q: At my request did you go and collect and gather
16 evidence that was submitted in connection with this case?

17 A: I did.

18 Q: Is this part of the evidence package?

19 A: It is.

20 Q: In terms of any names on there does Lieutenant
21 Scott's name appear on that particular exhibit?

22 A: It does it appears as the sealing official.

23 Q: This is evidence that relates to the shooting of
24 Therris Keels?

25 A: It is.

1 Ms. Barr: Your Honor we would move in State's exhibit
2 25.

3 The Court: Any objection at this time?

4 Mr. Ballinger: No Your Honor.

5 The Court: State's exhibit number 25 submitted with
6 objection.

7 (State's Exhibit 25)

8
9 Q: Tell me tell the jurors what State's 25 is.

10 A: It's a clear seal bag on the inside of the bag
11 there's a brown envelope. There's also three metal
12 containers that contains what is marked as shell casings.

13 Q: Three shell casings?

14 A: Yes.

15 Ms. Barr: Thank you sir that's all the questions that
16 I have.

17 Mr. Ballinger: No questions Your Honor.

18 The Court: Thank you, you may step down. Any objection
19 to this witness being excused?

20 Ms. Barr: No sir.

21 Mr. Ballinger: No Your Honor.

22 Ms. Barr: Call Detrel Matthews

23 Clerk: Step forward place you left hand on the Bible
24 raise your right hand. Do you solemnly swear or affirm to
25 tell the truth, the whole truth, and nothing but the truth.

1 so help you God?

2 Mr. Matthews: Yes ma'am.

3 Clerk: Ok have a seat in the witness box.

4 Ms. Barr: Mr. Matthews I'm sorry please state your full
5 name for the record.

6 Mr. Matthews: Detrel Matthews.

7 **(Exam by Barr)**

8 Q: Mr. Matthews you live here in Williamsburg County?

9 A: Yes ma'am.

10 Q: How long have you lived in Williamsburg County?

11 A: All my life.

12 Q: All your life how long is that?

13 A: 31.

14 Q: Are you married?

15 A: Yes.

16 Q: Do you have any children?

17 A: Yes.

18 Q: Did you know the victim in the case Therris Keels?

19 A: Yes ma'am.

20 Q: Tell the ladies and gentlemen of the jury how is it
21 you knew Therris.

22 A: We were related.

23 Q: Your related and of course you've known him all your
24 life?

25 A: Yes ma'am.

1 Q: He grew up in Williamsburg County?

2 A: Yes ma'am.

3 Q: How did the two of you get along?

4 A: Good.

5 Q: Mr. Matthews before I start talking about this
6 particular incident and some of the events leading up to the
7 incident I'm going to go ahead and ask you. Have you ever
8 been convicted of a crime?

9 A: Yes ma'am.

10 Q: Tell the ladies and gentlemen of the jury what type
11 of crime have you been convicted of.

12 A: Possession of a firearm and simple possession of
13 marijuana.

14 Q: Were you probation regarding any federal charges
15 around the time that this incident happened where Therriis
16 was killed?

17 A: Yes I was on federal parole.

18 Q: You were on federal parole?

19 A: I was.

20 Q: Are you off federal parole now?

21 A: Yes ma'am.

22 Q: You've indicated that you've known Therriis all your
23 life, he's a relative of yours. Did you know the defendant
24 Marc Palmer?

25 A: I knew of him when I came home.

1 Q: When you say you came home where'd you come home
2 from?

3 A: Penitentiary 2010 February.

4 Q: February 2010 and how long after your release from
5 the penitentiary did you come to know Mr. Palmer?

6 A: Like a month after.

7 Q: How did you meet him?

8 A: From some of my family members use to be at they
9 house.

10 Q: So Therris would have passed in October 2010 you
11 were released in February 2010. So you knew the defendant
12 for about eight months?

13 A: Yes ma'am.

14 Q: During that eight month period of time how often
15 would you see him?

16 A: From time to time probably three time out of the
17 week.

18 Q: Typically where would you see Mr. Palmer?

19 A: Riding around in Greeleyville.

20 Q: Kind of tell me about how well you knew him. Did you
21 consider yourselves to be friends or acquaintances,
22 associates or just kind of knew him from the area?

23 A: I just knew him from the area. He was alright he
24 never been nothing to me.

25 Q: Now was he actually from Greeleyville?

1 A: I don't where he was from. He lived in Lane.

2 Q: Do you know how far Lane is from Greeleyville?

3 A: About ten minutes.

4 Q: Prior to the shooting of Therris back in October did
5 you ever have any occasion to see any conflict, any
6 animosity, any arguments or anything of that nature between
7 the defendant and between Therris Keels?

8 A: Yes there's a lot of arguing.

9 Q: How many times did you see them argue?

10 A: Once.

11 Q: In terms of it's relation to the murder. How many
12 days or weeks or months prior to the murder did you see that
13 argument or whatever however you would describe it between
14 Mr. Keels and Mr. Palmer?

15 A: Maybe a month or so.

16 Q: Is there some event or anything that would stand out
17 in your mind as to when this, the argument occurred?

18 A: No ma'am.

19 Q: Was there any point in time where you saw the
20 defendant have a firearm, a pistol?

21 A: I see he had fought somebody and something fell from
22 out his waist but I didn't know exactly what it was but it
23 appeared to be a gun or something that fell.

24 Q: You say him fighting somebody, is that right?

25 A: Yes ma'am.

1 Q: You saw something fall out of his waist is that
2 right?

3 A: Yes ma'am.

4 Q: Here's one thing I have to tell you when you answer
5 questions you have to make sure to say yes or no because
6 when you say uh-huh or huh-huh the court reporter might not
7 be able to understand that fair enough?

8 A: Ok.

9 Q: You saw something fall out of his waist and it
10 appeared to be a gun?

11 A: Yes.

12 Q: When did that happen?

13 A: After a homecoming game.

14 Q: After the homecoming game. Is that C.E. Murray's
15 homecoming game?

16 A: Yes.

17 Q: Do you know how long that was before the night that
18 Therris was killed?

19 A: C.E. Murray homecoming I think around the 15th of
20 October or something like that.

21 Q: Around the 15th of October?

22 A: I think.

23 Q: Who was he fighting that day Mr. Palmer?

24 A: A guy named Dominique.

25 Q: Who started the fight?

1 A: I really don't know who started the fight but I know
2 who started fighting I don't know if it was over or not.

3 Q: Who did you see strike the first blow or swing or
4 what? Who did you see do that?

5 A: I think Marc had swing first.

6 Q: How did the fight end?

7 A: I don't know how the fight ended because I left.

8 Q: Was Maurice Smith there when that fight happened?

9 A: Who's Maurice Smith?

10 Q: So you didn't know any fella they call Big Moe?

11 A: Yes.

12 Q: Was Big Moe there when that happened?

13 A: I don't remember there a lot of people out there.
14 I really can't tell who all was out there.

15 Q: You indicated that you saw something fall from Marc
16 Palmer. What part of his body did it fall from?

17 A: His waist.

18 Q: You said it appeared to be a gun?

19 A: Yes.

20 Q: Why do you say it appeared to be a gun?

21 A: Because it was like black. It was dark out there I
22 really couldn't see.

23 Q: When it hit the ground did it make a sound?

24 A: It made a thump.

25 Q: Mr. Matthews did you recall being interviewed by law

1 enforcement subsequent to the shooting of Therris Keels?

2 A: Yes.

3 Q: You remembered being interviewed by Lieutenant
4 Deborah Collins and Investigator she was Lail back then do
5 you remember that interview?

6 A: Yes.

7 Q: Do you remember also on a separate occasion being
8 interviewed by Wayne McFadden who was working at the
9 Sheriff's Department then?

10 A: Yes.

11 Q: In terms of your conversation or your interview with
12 Wayne McFadden. Was that recorded or not recorded?

13 A: I don't know.

14 Q: Did you ever make a request of him not to record the
15 conversation?

16 A: No ma'am.

17 Q: When you had the interview with Wayne McFadden where
18 were you physically located when you spoke to him?

19 A: I was at the Sheriff's office.

20 Q: When you had the interview with Lieutenant Collins
21 and Investigator Lail where were you physically when that
22 conversation took place?

23 A: Sheriff's office.

24 Q: Was that on two separate occasions or was that the
25 same day?

1 A: Two separate occasions.

2 Q: While you had the conversation with Wayne McFadden
3 in the Sheriff's office. Did you tell him in fact that what
4 fell from the defendant's waist was a .45 caliber pistol?

5 A: I never told him exactly what caliber pistol it was
6 because I really didn't know, but I just told him I thought
7 it was a pistol that fall out of his waist.

8 Q: Did you tell him at any point in time that you
9 picked up a .45 caliber pistol?

10 A: No ma'am.

11 Q: Did you ever at any point in time tell him that Marc
12 Palmer asked for the pistol back?

13 A: No ma'am.

14 Q: Did you ever at any point and time tell him that you
15 would not give the pistol back to Mr. Palmer because he
16 threatened to shoot Mr. McBride.

17 A: No ma'am.

18 Q: Did you ever at any point and time tell him that you
19 kept the pistol for a couple of days?

20 A: No ma'am.

21 Q: Did you ever at any point and time tell Mr. McFadden
22 that the defendant called you repeatedly to get the gun
23 back?

24 A: No ma'am.

25 Q: Did you ever at any point and time tell Mr. McFadden

1 that you gave the pistol back to the defendant within three
2 to four days after the incident with Mr. McBride?

3 A: No ma'am.

4 Q: Now in terms of your record. You've been candid
5 about that and I appreciate that. Would it have been a
6 violation of your parole have you in fact picked up the
7 weapon and kept it for a couple of days?

8 A: Yes ma'am.

9 Q: Would you have gotten in trouble with your parole
10 officer?

11 A: Yes ma'am.

12 Q: Did you know whether or not Mr. McFadden had a
13 conversation with your parole officer when he was
14 investigating this murder?

15 A: I don't know if he did. He said he did but I don't
16 know.

17 Q: Did he seek your assistance in trying to find out
18 who killed your cousin?

19 A: Excuse me.

20 Q: Did Mr. McFadden try to get your assistance in
21 trying to determine who killed Therris?

22 A: Yes ma'am.

23 Q: I may have asked you this and if I'm repeating
24 myself please accept my apologies. How often would you see
25 Therris within say the month or two leading up to his death?

1 A: Like two or three days out of the week.

2 Q: It was pretty frequently. Were you all close?

3 A: Yes.

4 Q: Do you know whether or not he was receiving any type
5 of treatment for any mental health problems?

6 A: Yes I think, yes.

7 Q: Had you ever seen him after he came from mental
8 health and got any medication from mental health?

9 A: Yes.

10 Q: How would he act after he got the treatments from
11 mental health?

12 A: Drowsy sleepy.

13 Q: Let's talk about that night. You were out on C.E.
14 Murray Boulevard on the night of the shooting?

15 A: Yes ma'am.

16 Q: Did you see Mr. Palmer out there that night?

17 A: Yeah he came out there.

18 Q: Do you recall and I understand it's been two years
19 ago so if you don't that's fine, but do you recall about
20 what time it was that you saw him?

21 A: No.

22 Q: Do you know whether it was light outside or if it
23 was dark?

24 A: It was dark.

25 Q: Where were you at when you saw him?

1 A: I was talking to Therris.

2 Q: Was there anyone else around you at that time?

3 A: Just me and Therris.

4 Q: Tell me what happened when you first saw Mr. Palmer
5 that night.

6 A: He walked up he shook my hand and looked at Therris
7 turn around and walked off.

8 Q: Did he shake anybody else's hand or did he talk to
9 anybody else?

10 A: Yeah he shake of couple of people hands I think.

11 Q: So in terms of the people and when I say around you
12 I guess I need to be more clear. I don't mean like
13 physically in your presence, but in terms of people who were
14 in that area who Mr. Palmer addressed that night. Who were
15 they? Give me some names of some people who he spoke to.

16 A: I know he shook my cousin hand.

17 Q: Who's your cousin?

18 A: Freddie Chandler.

19 Q: Freddie Chandler ok.

20 A: And I guess Big Moe and Deandre.

21 Q: Big Moe and Deandre?

22 A: Yeah.

23 Q: What's Deandre's last name?

24 A: Chatfield.

25 Q: Do you know where he is Deandre Chatfield? Do you

1 know where he is?

2 A: Iowa.

3 Q: He's in Iowa.

4 A: Yes.

5 Q: When the defendant went and spoke to everybody and
6 shook some hands. You indicated that he looked at Mr. Keels?

7 A: Yes.

8 Q: He didn't shake his hand?

9 A: No.

10 Q: He didn't say hey how you doing like he did to
11 everybody else?

12 A: No ma'am.

13 Q: What did he do after he looked at Therriis?

14 A: He left he shook a couple people hands and I think
15 my cousin asked him was he coming back he said yes.

16 Q: He said he was coming back?

17 A: Yeah he got in his car and left.

18 Q: When you say he got in his car which vehicle did he
19 get into?

20 A: A green Neon.

21 Q: Have you seen him driving that vehicle before?

22 A: Yes.

23 Q: Is there anything peculiar aside from the color of
24 the vehicle in terms of the mechanics and how it operated
25 that stood out?

1 A: It run loud.

2 Q: Run loud sir?

3 A: Yes.

4 Q: Did it always do that?

5 A: Yes I guess.

6 Q: Do you remember it doing that when he said I'll be
7 back or I'll see you later or whatever he said that night
8 before the shooting? You remember it doing that?

9 A: Yes when he left yes.

10 Q: When he left where was Therris?

11 A: Therris still was talking to me and I was just
12 walking off.

13 Q: Tell us what happened next.

14 A: I went back over to the group of guys we was talking
15 about music and just talking talking and then Therris was
16 walking off. He was walking kind of fast so I saw him
17 walking off going down the road. He was talking about music
18 and all kind of other stuff so I say about ten minutes later
19 or something we heard gun shots. Well I heard gun shots so
20 I hide behind the truck and...

21 Q: Where were you standing when you heard gun shots?

22 A: In front of Big Moe truck.

23 Q: Where was Big Moe's truck parked?

24 A: On the opposite side of the road from the fish
25 market.

1 Q: Would that be by the lodge?

2 A: Yeah by the Mason Lodge.

3 Q: When you heard the shots did you look in any
4 particular direction?

5 A: No I ducked.

6 Q: Where'd you go to after you ducked?

7 A: In front of the truck grille.

8 Q: Say again sir.

9 A: In front of the truck grille.

10 Q: Then what happened?

11 A: After the gun shots I got up and TT was walking down
12 the road and said somebody just shot Therris down.

13 Q: When you say TT you're talking about Joseph Sapp?

14 A: Yes I guess that's his name.

15 Q: You don't know him by his real name?

16 A: No.

17 Q: Now in terms of you interactions you testified
18 previously that you saw Mr. Palmer relatively frequently
19 during eight months between the time you were released and
20 the time Therris was killed, right?

21 A: Yes.

22 Q: Typically when he would come and I'm assuming the
23 shop would be where the guys would get together and
24 socialize have a good time shoot the breeze so to speak.
25 That would way you all would kind of hang out a little bit?

1 A: Yes.

2 Q: When you would see Mr. Palmer there was it typical
3 for him to come and leave right away or would he stay around
4 for a while?

5 A: He would stay around most the time he sit in his car
6 or he talk every now and then to a couple people.

7 Q: The night that Therris was killed how long did Mr.
8 Palmer stay after he greeted everybody except Mr. Keels?

9 A: Not long enough right after.

10 Q: What's not long?

11 A: Two to three minutes.

12 Q: Two to three minutes?

13 A: Yes.

14 Q: Would that had been unusual for him?

15 A: I guess not.

16 Q: To be fair and to be clear did you actually see the
17 shooting of Therris?

18 A: No ma'am.

19 Q: After the shooting happened what did you do?

20 A: After TT came down the road and said somebody just
21 Therris down. Me and Deandre and Moe walked down the road
22 and right before we got up to Therris we heard a car crank
23 up. So I backed off because I didn't know if the person
24 whoever shot him was coming back out to shoot him again.
25 They never came back out, like they left out or whatever.

1 Q: Say that again?

2 A: It's like the car left out instead of coming forward
3 I guess it went out the opposite direction.

4 Q: I may need you to help me understand what you're
5 saying. Will you mind stepping out of the witness chair for
6 a moment. You recognize the area that's depicted on that
7 exhibit State's number 4 that this is C.E. Murray Boulevard?
8 If this is C.E. Murray Boulevard here and if this is the
9 shop and the fish place and this is the lodge ok. Now did
10 you know somebody named Wayne or somebody named Wes Walker?

11 A: Yes.

12 Q: Do you know where they live?

13 A: They live down the road I guess right here.

14 Q: That house?

15 A: Yeah.

16 Q: Now you said after you heard the shot. First of all
17 where were you standing when you heard the shot? If you can
18 point that out.

19 A: I was if this the lodge we was right there in front
20 of the lodge.

21 Q: And when you heard the shot you said you duck and
22 ran?

23 A: No I didn't run I ducked behind this truck.

24 Q: And after the shooting you said you talking about
25 something about a vehicle leaving?

1 A: Yes, when we was walking up well we left from right
2 here and went walking up. I said when we was walking up to
3 Therri's a car crank up and that's when I stopped about right
4 up in there or whatever. Then it went out this right here
5 would be the road because the truck stop there's a little
6 road right there that runs out from the truck stop.

7 Q: You said the car cranked up?

8 A: Yes.

9 Q: The car cranked up. Where was the car when you say
10 the car cranked up where was it?

11 A: I guess it was on this road right here.

12 Q: Did you see it or did you simply hear it?

13 A: I hear it I didn't saw it.

14 Q: When you say it cranked up. Are you saying you heard
15 the sound of the car cranking up?

16 A: Yes.

17 Q: Did you hear the sound of the car driving off?

18 A: Yes, leaving out.

19 Q: What type of pathway is that back there is that
20 paved or graveled or what?

21 A: It's like a rock road.

22 Q: So you then heard the vehicle going out?

23 A: Yes.

24 Q: You never saw the vehicle?

25 A: No.

1 Q: Did a vehicle when you say it went out. Did it come
2 out this way toward C.E. Murray Boulevard or did it go back
3 toward Highway 521?

4 A: Highway 521.

5 Q: How long do you think you were actually out there
6 on C.E. Murray Boulevard before the shooter left?

7 A: I say about an hour or so.

8 Q: Were you standing out there the whole time or did
9 you go into the shop at all?

10 A: No I stayed out there the whole time.

11 Q: At any point and time during that hour period of
12 time that you were out there before the shooting did you
13 ever see a vehicle come in from this way on C.E. Murray
14 Boulevard or this way on C.E. Murray Boulevard and turn in
15 that little pathway by the truck stop?

16 A: No ma'am.

17 Q: In fact when you testified that you heard the
18 vehicle leaving. How would the vehicle had been able to get
19 there if you didn't see it come in from C.E. Murray
20 Boulevard?

21 A: It may have come in from 521.

22 Q: Can you point to where it would of had to come in
23 from?

24 A: Right here on this road.

25 Q: Do you know where the Money Saver is in

1 Greeleyville?

2 A: Yes.

3 Q: Where is it? Can you see it on this aerial photo?

4 A: It would be down here I don't know if it's on here.

5 Q: It would be down this back this way but you couldn't
6 see it on what we have here?

7 A: No ma'am.

8 Q: Do you know and if you don't that's fine about how
9 far it is the Money Saver from this location? Is that more
10 than a mile or less than a mile?

11 A: A half a mile.

12 Q: About a half a mile. If a vehicle, let me ask you
13 this. If a vehicle left out this way if it as you testified
14 you heard the vehicle here come down that little roadway.
15 If the vehicle had gone by the Money Saver would that
16 vehicle had to would the driver would of had made a right
17 turn on 521 or left turn on 521?

18 A: A left.

19 Q: In terms of how the direction of the traffic is. I
20 don't know if you can see that little vehicle there?

21 A: Yes.

22 Q: If the vehicle made a left turn onto 521 would it
23 had been in this lane?

24 A: Yes it would be in the far lane.

25 Q: Point to it for the jurors.

1 A: Right here.

2 Q: Traffic coming down this way would have been at the
3 lane closes to where you would turn into that little pathway
4 is that right?

5 A: Yes.

6 Q: Let me ask you something. Now I'm going to hand you
7 what's already been marked as State's exhibits 14 and 15.
8 Do you recognize the vehicle that is depicted in that
9 particular exhibit?

10 A: That's Marc's car.

11 Q: That's Marc's vehicle, Mr. Palmer's vehicle?

12 A: Yes.

13 Q: And that's the vehicle you saw that night when he
14 came up and shook everybody's hand?

15 A: Yes.

16 Q: Now there's something interesting about the vehicle
17 I want to ask you about. On State's exhibit number 14 is
18 there something peculiar about the tires on that particular
19 exhibit?

20 A: The hubcap is missing on the front.

21 Q: Which one on the driver side or passenger side?

22 A: Driver side.

23 Q: Is this kind of how it looked back then?

24 A: Yes.

25 Q: Mr. Matthews when you talked about the hubcap

1 missing on the driver side. Can you point to the exhibit and
2 show the jurors where you're talking about specifically?

3 A: Right here.

4 Q: Prior to October 2007 you ever seen anybody else
5 drive a vehicle like that other than Mr. Palmer?

6 A: No ma'am.

7 Q: That's a pretty unique color would you agree with
8 me?

9 A: Yeah.

10 Q: Did you ever see anybody else have a vehicle that
11 color with the front hubcap missing?

12 A: No ma'am.

13 Q: Is that something that would stand out to you?

14 A: Yes ma'am.

15 Q: Mr. Matthews in terms of the shooting and the
16 vehicle being in that little pathway by the truck stop. Did
17 you make any connection at all between the person who had
18 shot Therris and that vehicle leaving out of the pathway?

19 A: No ma'am.

20 Q: Do you know whether or not the person who shot
21 Therris was the same person who's vehicle was in that
22 pathway?

23 A: No ma'am I really don't know.

24 Q: Did you assume that at the time?

25 A: Yes ma'am.

1 Q: Tell me why you assumed that. Why you made the leap
2 from ok this must this was the person that killed Therriis
3 and was also the same person that drove the vehicle out the
4 pathway.

5 A: Because during the time after he got shot we was
6 walking up to Therriis the car crank up and left out. So I'm
7 assuming who ever done it ran back and got in their car and
8 left.

9 Q: In terms of the time frame and I imagine in that
10 moment that this person is killed it probably seems a lot
11 longer than what it actually was, but in terms of the time
12 frame. How much time went by from the time you heard the
13 shot until you heard the vehicle crank up and leave?

14 A: Enough time for me to walk down the road to Therriis.

15 Q: Tell me how long that took.

16 A: About five minutes.

17 Q: You think it took five minutes?

18 A: Three minutes five minutes somewhere in that area.

19 Q: When the vehicle cranked up and left that little
20 pathway could you tell whether or not the vehicle left at
21 a normal pace where somebody driving the vehicle or could
22 you tell whether or not the vehicle appeared to have left
23 in a hurry?

24 A: It just left it didn't left real fast but.

25 Q: Now after the shooting you went over to Therriis,

1 right?

2 A: Yes.

3 Q: You saw that he had been shot?

4 A: Yes.

5 Q: Tell me who called 911 and that sort of thing?

6 A: I called 911.

7 Q: Using your cell phone?

8 A: Yes.

9 Q: Now there is a person we've heard the 911 recording.
10 There is a person on the 911 recording in addition to Mr.
11 Walker. Do you recall him being on the phone with 911 at the
12 time Wes I said Mr. Walker how about Wes Walker?

13 A: Yeah I think he was on the phone. I know Deandre was
14 on the phone.

15 Q: There is a person who identified himself as Jonathan
16 do you know who that individual was on the 911 call who said
17 he was Jonathan?

18 A: No ma'am.

19 Q: In terms of when you were there and you all placed
20 the call. Did you ever identify yourself as being Jonathan?

21 A: No ma'am.

22 Q: Did Mr. Deandre Chatfied ever identify himself as
23 being Jonathan?

24 A: I can't recall.

25 Q: Was there anybody named Jonathan in that group while

1 on that 911 call?

2 A: No.

3 Q: In addition to Therris being a relative of yours.

4 Did he also have a relationship with your child?

5 A: Yes he's my son's godfather.

6 Q: He's your son's godfather?

7 A: Yes.

8 Q: I believe you gave the statement previously and you
9 indicated before the shooting happened Therris had come up
10 to you and asked you for some money?

11 A: Yes five dollars.

12 Q: And what did you say when he asked you for five
13 dollars?

14 A: I told him I'd go buy him something to drink.

15 Q: You didn't want to give him the five dollars?

16 A: No I was just going to buy him something to drink.

17 Q: Let me just ask you. Mr. Keels had a drug problem?

18 A: Yes ma'am.

19 Q: Did you have a conversation with him about that in
20 relation to your son?

21 A: Yes.

22 Q: What was that conversation that you had with him?

23 A: Just telling him he need to slow down.

24 Q: Do you know whether or not the defendant ever sold
25 drugs?

1 A: No ma'am.

2 Q: You don't know or he didn't?

3 A: I don't know.

4 Q: You were there when the police got there? :

5 A: No ma'am I left.

6 Q: Did you believe before EMS and the police got there?

7 A: Yes I left and I came back.

8 Q: Why did you leave?

9 A: To pick my wife up from work.

10 Q: When you got back there was police still on the

11 scene?

12 A: Yes.

13 Q: What about EMS was there EMS trucks out there?

14 A: They wouldn't let you walk out.

15 Q: How long do you think you stayed out there when you

16 came back after you picked up your wife?

17 A: Not long because she was tired.

18 Q: Did you ever see Marc Palmer come back as he had

19 stated earlier that he would be back?

20 A: No ma'am.

21 Q: If I represented to you that it was over two weeks

22 after he was arrested. Did you ever see him at the shop or

23 any place on C.E. Murray Boulevard between the time that

24 Therris was killed and the time of his arrest?

25 A: No ma'am.

1 Ms. Barr: That's all the questions that I have please
2 answer any questions that the defense might have.

3 The Court: Mr.. Ballinger.

4 Mr. Ballinger: Thank you Judge. Your Honor can we take
5 a short break there's no transcription of his audio
6 statement so we're going to have to find the pertinent
7 portions of his audio statement.

8 The Court: Alright well the jurors probably won't mind
9 that. Ladies and gentlemen take another short break. Be back
10 in about ten minutes please do not discuss anything about
11 this case while your on break.

12 **(Jury break)**

13 The Court: Mr. Ballinger I understand you've got a copy
14 of the transcript.

15 Mr. Ballinger: I do Your Honor ready to proceed.

16 The Court: Alright let's bring our jury back in.

17 **(Jury in)**

18 The Court: Alright Mr. Ballinger.

19 Mr. Ballinger: Thank you Your Honor may I please the
20 Court. Good afternoon Mr. Matthews.

21 **(Cross by Ballinger)**

22 Q: Mr. Matthews do you know how Mr. Palmer was wearing
23 his hair on October 27, 2010?

24 A: No sir not really normally he used to have braids.

25 Q: He normally had braids but you can't recall

1 specifically how his hair style was?

2 A: No sir.

3 Q: And are braids the same thing as dread locks?

4 A: No sir.

5 Q: Then describe what a braid is.

6 A: Like a corn row the hair goes straight to the back
7 or with a design in it.

8 Q: He normally had braids or corn rows and not the big
9 dread, correct?

10 A: Correct.

11 Q: You referenced a fight between Marc and Mr. Keels.
12 Do you have any knowledge about a fight between Roger
13 Williams and Marc?

14 A: No sir.

15 Q: Did you see the fight between Marc and Therriis or
16 you just know about it?

17 A: I just knew about it.

18 Q: Did you see Marc in the shop the night of the
19 shooting?

20 A: No sir I said he came to the shop but I didn't say
21 in the shop.

22 Q: But he never went in?

23 A: No sir.

24 Q: So did he, he walked up to you or he pulled up in
25 his vehicle and he parked?

1 A: He pulled up he parked he got out he shook hands
2 which I was talking to Therri I ain't know who all he was
3 talking to. But he walked up to me and shook my hand and
4 then he walked off.

5 Q: The car he pulled up in was it loud or not?

6 A: He car normally was loud.

7 Q: But the car he pulled up in that night?

8 A: Yeah it was his car.

9 Q: So it was loud in your opinion? When you say loud
10 it's got a muffler problem or it's got a fan belt squealing?

11 A: Muffler problem or something.

12 Q: No squealing?

13 A: Yeah it probably squeal when he crank it up some.

14 Q: Was it was squealing when he drove up?

15 A: Yeah it wasn't squealing it was just loud.

16 Q: Did Marc have on a goodie when you saw him when he
17 pulled up and went up and shook hands with you and some
18 other people?

19 A: I really didn't pay him no attention he just shook
20 my hand and walked off.

21 Q: So you don't know what he had on or you don't recall
22 what he had on?

23 A: I don't recall.

24 Q: You gave a statement to Investigator Lail and
25 Collins correct?

1 A: Yeah I gave a statement to them.

2 Q: That state was dated November 2, 2010 does that
3 sound to be accurate?

4 A: I guess so.

5 Q: Does this appear to be the statement that you gave?

6 A: Yes sir it has my name on it.

7 Q: And on page 30 the questions by Lieutenant Collins
8 line 14. Question earlier you said after the shooting you
9 heard a car. What was your answer?

10 A: Yes I heard a car.

11 Q: Question, that car you heard when it moved did it
12 sound like his car when it pulled up. What's your answer?

13 A: I don't know.

14 Q: Go ahead keep reading your sentence.

15 A: I don't want to lie but I don't know it wasn't a big
16 car I know that.

17 Q: Question, it sounded like a small car. Answer?

18 A: Yeah.

19 Q: Question, did it sound like a new one you know how
20 some of them have the real smooth sound. Answer?

21 A: At that point in time I was scared and I was scared
22 the car was going to come back forward so I went backwards.

23 Q: Let's just back up. Question, it sounded like a
24 small car. Answer?

25 A: Yes.

1 Q: Did it sound like a new one you know how some of
2 them have the real smooth sound. Answer?

3 A: At that point in time I was scared and I was scared
4 the car was going to come back forward so I went that
5 backwards. That's all I was looking at because I was walking
6 up and the car cranked up and all that stuff.

7 Q: Did you see Mr. TT Sabb at the shop with Mr. Therris
8 prior to the shooting taking place?

9 A: No sir.

10 Q: How was your hairstyle at the time?

11 A: I had dreads.

12 Q: The gun that you think you saw in the fight between
13 Marc and Therris you can't say with certainty it was a gun?

14 A: No I heard it was a black object and it made a thump
15 sound.

16 Q: So I mean it could have been a BB gun for all you
17 know?

18 A: I don't know what it was but I know.

19 Q: It was a black object?

20 A: Yeah

21 Q: So if certainly was a gun you certainly have no idea
22 what caliber it was?

23 A: No sir.

24 Q: When you Mr. Palmer approached you guys shaking
25 hands he didn't say anything to Mr. Keels did he?

1 A: No.

2 Q: He turned around and just walked off?

3 A: Yes.

4 Q: Didn't say a word?

5 A: No.

6 Q: Didn't say I'll see you later?

7 A: No.

8 Q: As far as Mr. Palmer and his associations with
9 everyone at the shop. You said sometimes he'd stay and hang
10 out right?

11 A: Yes.

12 Q: And sometimes he'd stay and just kind of hand out
13 in his car?

14 A: Yes.

15 Q: Sometimes he'd be kind of like a loner for lack of
16 a better term is that fair?

17 A: Yes.

18 Q: So it wouldn't be completely unusual for him to come
19 in and say hey and then go hang out in his car?

20 A: Yeah you could say that.

21 Q: Did the road the gravel road we've all been talking
22 about all day. Do you know if people live on that road? Are
23 there houses on that road?

24 A: There's a trailer on that road.

25 Q: Just one trailer?

1 A: Yeah I don't think nobody live in it I don't know.

2 Q: And the car you heard leave did not leave fast in
3 your recollection?

4 A: No it didn't leave like real fast you know like the
5 car idle up real fast. It just left.

6 Q: Do you know of a physical altercation I know you
7 said you didn't see a physical altercation between Marc and
8 Mr. Keels but do you know of a physical altercation or do
9 you just know of a fight whether it be verbal, physical?

10 A: I just know of a fight.

11 Q: So as far as you know it could be verbal or
12 physical?

13 A: Yes.

14 Mr. Ballinger: Nothing further Your Honor.

15 The Court: Any re-direct from Ms. Barr?

16 Ms. Barr: No Your Honor.

17 The Court: Thank you, you may step down sir.

18 Ms. Barr: Judge can we squeeze in one more witness?

19 The Court: Certainly

20 Ms. Barr: Call Lieutenant Jeff Scott.

21 Clerk: Place your left hand on the Bible raise your
22 right hand. Do you solemnly swear or affirm to tell the
23 truth, the whole truth, and nothing but the truth so help
24 you God.

25 Mr. Scott: I do.

1 Clerk: Have a seat in the witness box please.

2 Ms. Barr: Sir state your full name for me.

3 Mr. Scott: Jeffrey Scott.

4 **(Exam by Barr)**

5 Q: Lieutenant Scott where do you work now?

6 A: I'm currently am an associate professor for Horry-
7 Georgetown Technical College in Conway South Carolina.

8 Q: How long have you worked there?

9 A: Since August of last well I've been working there
10 as an adjutant since 2010 but I came on full time as a full
11 time employee of the college August of last year.

12 Q: Before you started working full time at Horry-
13 Georgetown Tech where did you work?

14 A: I worked at the Williamsburg County Sheriff's
15 Office.

16 Q: What did you do there?

17 A: I was crime scene investigator, evidence custodian,
18 and training officer for the department.

19 Q: Tell me how long you worked at the Sheriff's office?

20 A: Since July of 1999 up until August of 2012.

21 Q: So 13 years?

22 A: Yes.

23 Q: You worked there full time you were a certified
24 police officer?

25 A: That's correct.

1 Q: Sir back on the night of October 27, 2010 leading
2 up to that next morning after midnight. Did you respond out
3 to C.E. Murray Boulevard at that time regarding a shooting
4 death of Therriis Keels?

5 A: Yes I did.

6 Q: Tell us about how began collecting evidence and
7 documenting the scene when you arrived.

8 A: Basically upon arrival when I pulled I noticed that
9 law enforcement and other personnel and EMS was already on
10 the scene. They had already had most of the scene quartered
11 off or taped off where people could not come further for
12 protection purposes to keep it where it wouldn't get messed
13 up. Upon going into the scene I did what we call a walk
14 through. Basically walking through the scene and looking at
15 the scene from different points of view. Looking to see if
16 there's any pieces of evidence that stick out or come out
17 as the walk through again I'm taking. Looking at landmarks,
18 locations of where the victims or piece of evidence might
19 be in coalition to each other and just basically taking down
20 documentation. After that the initial walk through we come
21 into what we call the photographic phase. We photo document
22 any crime scene. Basically we take photographs, general
23 photography is what it's called of the crime scene. Take
24 general photos, mid range photos, close up photos, the
25 surrounding area, pieces of evidence, victims if there's

1 any, or anything related to the crime scene itself.
2 Locations street anything that would be associated with that
3 crime scene.

4 Q: Now when you first arrived out at the scene was Mr.
5 Keels's body still there?

6 A: Yes.

7 Q: When you first got there, there was talk earlier
8 about a sheet being placed over the victim's body. How did
9 you find the victim's body when you first got there?

10 A: When I first got there the victim was covered in a
11 white sheet. That was probably placed over there by an EMS
12 for the purposes of keeping anybody from taking photos or
13 anything like that until it could processed.

14 Q: Let me ask you this. In terms of the white sheet I'm
15 just want to make sure that I'm clear about this point. Do
16 you know from your own personal knowledge whether or not EMS
17 placed the sheet over the victim or whether or not somebody
18 else did?

19 A: As far as that I don't know. It's just most of the
20 time it's kind of a protocol thing on that.

21 Q: In your experience EMS will do that to preserve the
22 dignity of the victim and that sort of thing?

23 A: That's correct I've seen that before.

24 Q: Can I get you to step down for me?

25 A: Yes.

1 Q: Alright I'm going to hand you what's been marked for
2 identification purposes as State's exhibits number 26
3 through 34 and ask if you recognize what's depicted in those
4 exhibits and if you do tell the jury how you do.

5 A: These are all photos of the crime scene.

6 Q: You took those photographs?

7 A: That is correct.

8 Q: And they accurately depict how the scene would have
9 looked when you got there and as you took your pictures?

10 A: That is correct it was a night time scene.

11 Ms. Barr: Judge we would move State's exhibit 26
12 through 34 in.

13 The Court: Any objection?

14 Mr. Ballinger: No sir Your Honor.

15 The Court: 26 through 34 admitted.

16 (State's Exhibit Numbers 26 through 34)

17 Q: Mr. Scott calling your attention to and I'm
18 publishing now State's exhibit 26. Sir as it relates to that
19 particular exhibit. You photographed the victim's body in
20 the roadway?

21 A: That is correct.

22 Q: Tell us what this yellow line here is on that
23 particular exhibit.

24 A: Basically that's sheriff's tape or do not cross
25 tape. In most crime scenes this type of tape is put up to

1 basically protect the area where a crime scene would be
2 located. Basically it's just to keep onlookers out or
3 anybody you know personnel that does not need to be in the
4 crime scene they're to be back behind this side of the tape.
5 It's to protect the integrity of this the interior of the
6 crime scene.

7 Q: In terms of that particular photograph, we've seen
8 other photographs in which the victim is laying there but
9 the sheet is over him. Which set of pictures would have been
10 taken first the one where the sheet is over him or the ones
11 where the sheet is not over him?

12 A: The photographs that were taken first would have
13 been with the sheet over him. That was the initial look of
14 what the crime scene would have been when I first pulled up
15 there. The sheet was over so basically with general
16 photography I would have taken a set of photographs of the
17 entire scene in it's orientation with the sheet over him
18 just to show this is what it actually looked like when I
19 arrived. Once the sheet was taken off we re-photographed the
20 entire scene again same orientation but showed the actual
21 victim in the scene without the sheet so it shows the proper
22 look of what the scene would've looked like.

23 Q: You've indicated to us what the yellow tape is for.
24 There also appears to in this particular exhibit to be
25 yellow items on the roadway. Tell me what's the significance

1 of those items and what they are.

2 A: In general photography where we photograph a scene,
3 we do a scene in two different ways. We photograph it
4 without scale or without marker to give it a natural
5 orientation, that gives you the natural look of how the
6 scene is as if you were to come straight up to it and
7 naturally see it without anything there this is what it
8 would look like. After we do general photography in that
9 nature then we would come back and start marking pieces of
10 evidence that we might find in the scene. Such as any piece
11 of evidence that's pertinent to what happened at the scene.
12 These yellow markers indicate pieces of evidence whether it
13 be where they're at, it helps understand orientation of
14 where they're located in proximity to a house, road sign,
15 victim, location of where there at in the actually in the
16 roadway. It kind of give you an orientation so when the
17 photograph is taken it says ok this piece, this piece, and
18 this piece is here and it gives you an idea of where they're
19 located.

20 Q: How many yellow markers are there depicted in this
21 particular exhibit?

22 A: In this one we have four markers.

23 Q: In some of the other exhibits may be more clear, but
24 can you see in there where marker number one would be?

25 A: Marker number one is located just above the head and

1 to this side right here in near the roadway of the victim.

2 Q: And in terms of marker number one tell me, you would
3 have placed marker number one by what particular piece of
4 evidence?

5 A: Marker number one placed beside a shell casing.

6 Q: Alright I'm going to come back to this one I'm jump
7 forward just so we can kind of see that. I'm publish State's
8 exhibit number 28. Can you point out specifically where the
9 item of evidence would have been where you placed exhibit
10 marker number one?

11 A: The item of evidence that we're looking for that
12 we're trying to mark for identification is right here, this
13 shiny brass shell casing. So we place a one to it so when
14 we take a photograph of it in general photography you'd be
15 able to see it in it's orientation and it'll give you a
16 location of where it's at.

17 Q: And in terms of yellow marker number four that would
18 have identified the victims body?

19 A: That is correct.

20 Q: Now I'm going to go back to number 26. If you can
21 see it if you can't that's fine we can show another one. Can
22 you see within that particular exhibit where are markers,
23 we're missing what two and three?

24 A: Two and three.

25 Q: Yes can you tell us where those are?

1 A: Markers two and three are located almost side by
2 side of each other in the roadway.

3 Q: Let me jump a little bit to State's exhibit number
4 31 I'll publish and tell us what's depicted in that
5 particular photograph.

6 A: In this photograph marker two is depicting more of
7 a mid range photograph of a shell casing that was located
8 in the roadway.

9 Q: Alright and I'm publish number 32. Tell us about
10 that.

11 A: In this photograph it's more of a kind of a general
12 photograph, number two depicts where the shell casing is.
13 It's trying to give you an orientation of what it is that's
14 out in the roadway. What were looking at brass looking shell
15 casing right here.

16 Q: Up in the top right portion of that particular
17 exhibit you see a mile marker not a miler marker, a yellow
18 marker for item number three?

19 A: That is correct.

20 Q: What is that marked to show?

21 A: Another shell casing in this area.

22 Q: Would that be depicted in State's exhibit number 33?

23 A: That is correct another brass shell casing depicted
24 on placard number three.

25 Q: So in terms of the total shell casings that were

1 recovered by you from the scene. How many shell casings were
2 recovered?

3 A: We had three shell casings.

4 Q: Publish State's number 27. Point in that particular
5 exhibit as to the three shell casings of where they were
6 recovered.

7 A: Number one is a shell casing located close to the
8 victim near the top of his head. Shell casing for number two
9 and three were nearly almost side by side and that was in
10 the roadway adjacent to his feet.

11 Q: Sir were you able to determine the caliber of gun
12 that or the caliber of casings that would have located and
13 recovered next to the victim's body?

14 A: That is correct.

15 Q: Let me publish State's exhibit number 34 and
16 identify for us the significance of that particular exhibit.

17 A: What this is this is a hand stand of one of the
18 shell casings that was recovered at the scene. Depicting
19 it's a .45 auto Winchester.

20 Q: .45 auto Winchester?

21 A: Winchester .45 auto.

22 Q: So that caliber shell casing was from a .45 caliber
23 pistol?

24 A: That's correct.

25 Q: Now before I have you sit down. Often times you've

1 had to participate in the investigation of other murder
2 cases?

3 A: That's correct.

4 Q: Many throughout your career with the Sheriff's
5 office?

6 A: Yes.

7 Q: In some instances your able to recover a murder
8 weapon and in some instances your not?

9 A: That's correct.

10 Q: Did you were you all able to recover a murder weapon
11 in connection with this case?

12 A: Not that I know of, shell casings.

13 Q: Now sir are you familiar with the Greeleyville
14 community?

15 A: Yes.

16 Q: Are you familiar with the are in which the shooting
17 occurred?

18 A: That's correct.

19 Q: That area is located within Williamsburg County?

20 A: That is correct.

21 Q: Now there's been some testimony about a truck stop
22 that's located on C.E. Murray Boulevard. Let me do two
23 things first. This is an aerial view of the scene and let
24 me acclimate you to it. If this is C.E. Murray Boulevard,
25 are you familiar with that area?

1 A: Yes.

2 Q: If the high school is here are you familiar with
3 that area?

4 A: Yes.

5 Q: On the aerial photograph State's 4 they've got this
6 as Society Street?

7 A: Yeah or it's Highway 521 Society Street is the name.

8 Q: People use those names for it interchangeably?

9 A: Yes.

10 Q: Are you familiar with the Money Saver store
11 convenience store in Greeleyville?

12 A: Young's is down this end right up in here I'm trying
13 to believe in this little corner area here.

14 Q: Off there?

15 A: Yeah.

16 Q: In terms of the truck stop and the garage, do you
17 see that depicted here?

18 A: Yes this is called Rearden's Garage he works on
19 engines for major truck, heavy equipment, it's a engine
20 shop.

21 Q: Do you recall within a day or two going back out to
22 the crime scene along with some of the other deputies and
23 either talking with witnesses out there or at least being
24 there while other deputies talked with witnesses?

25 A: Yes.

1 Q: Do you remember going out there during an interview
2 with a Mr. Wesley Walker who would have lived here in that
3 are in that home?

4 A: Yeah he believed he lived right here in the little
5 white house on the corner of Williams Road.

6 Q: I'm going to hand you what's been marked for
7 identification purposes as State's exhibit number 35 and ask
8 you if you recognize what's depicted in that particular
9 exhibit?

10 A: Yeah.

11 Q: You do recognize it?

12 A: Yeah.

13 Q: How is that you recognize it?

14 A: This is the front of Rearden's Garage which is
15 located near the little gravel road. C.E. Murray Boulevard
16 runs right in front of it. You can see here's the shop
17 little road right here and this looks like the driveway from
18 the other road that's just adjacent to it go back up into
19 the loop.

20 Ms. Barr: Judge we would move State's exhibit number
21 35.

22 The Court: Any objection Mr. Ballinger.

23 Mr. Ballinger: None Judge.

24 The Court: Without objection State's exhibit 35 will
25 be admitted.

1 (State's Exhibit Number 35)

2 Ms. Barr: Judge we would publish State's number 35.

3 Q: Now in terms of orienting us to where this
4 particular photograph was taken from. If you're standing in
5 front of Mr. Walker's house would you see what's depicted
6 on that particular exhibit?

7 A: Yeah you would be right across. The road would be
8 right here and then you'd be right across from it. So you
9 basically it's kind of like if you take going through here
10 cross the come across it be on your cross road.

11 Q: Tell me what this building is right up in that
12 corner?

13 A: This is what they call Rearden's Garage. It's a
14 truck shop they actually work on big 18 wheelers, heavy
15 machinery, they work on motors, transmissions, things of
16 that nature.

17 Q: When you came out to the scene a day or so later
18 after the murder. Do you remember being in Mr. Walker's yard
19 when he was being questioned about what happened?

20 A: Yeah I was we was kind of out in the yard near the
21 edge of the road. I actually came back out here and
22 re-photographed the scene during the day time hour to help
23 out with the orientation where you could see it during the
24 daylight.

25 Q: When you were standing in Mr. Walker's yard could

1 you look across the roadway at the little lane that you
2 talked to about for Reardon's Garage?

3 A: Yes you can see it.

4 Q: Tell us where that would be in this photograph where
5 that little lane would be.

6 A: It would start right here and it would run up right
7 up this way and basically it makes a turn and comes back out
8 to 521.

9 Q: You didn't have any obstructions in being able to
10 see the pathway for that little area back there?

11 A: No you can see it all the way up to at least to the
12 curve right here before it curves back around.

13 Ms. Barr: We've previously I believe admitted State's
14 number 25 is that correct?

15 Court Reporter: That's correct.

16 Q: Sir I'm not going to open it but is this an exhibit
17 that you're familiar with?

18 A: You mind if I look at it real quick. Yes ma'am.

19 Q: Tell the jury how you're familiar with it and what
20 it contains.

21 A: This piece of evidence contains tins that we
22 actually put evidence into.

23 Q: Tins, T-I-N-S?

24 A: Yeah the little metal tin what we use to put such
25 things as shell casings in. They actually have shell casings

1 in them. They have my date and initials, case number and it
2 has the type of shell casings which is a .45 Winchester.

3 Q: Sir these are the same shell casings that you
4 collected that were shown in the previous exhibits that we
5 talked about during your testimony?

6 A: That is correct.

7 Ms. Barr: I believe that's all the questions that I
8 have. If you will please answer any questions that Mr.
9 Ballinger or the Court may have for you.

10 The Court: Mr. Ballinger.

11 Mr. Ballinger: Good afternoon sir.

12 Scott: Yes sir.

13 **(Cross by Ballinger)**

14 Q: Mr. Scott did you or were you responsible for
15 searching the car that was registered in James
16 Palmer's name the Dodge Neon?

17 A: I believe a search warrant was done for that car.

18 Q: But did you do the search or did you take the
19 photographs?

20 A: I took the photographs I did take the photographs.

21 Q: I believe they're admitted into evidence. Did you
22 when you took pictures of the car did you take a picture of
23 the items that were located in the trunk?

24 A: The entire car was photographed interior and
25 exterior.

1 Q: Do you recall if any pistol cartridges was found in
2 the trunk a box of pistol cartridges?

3 A: I can't remember.

4 Q: Is that appear to be a picture you took?

5 A: Yes that's correct.

6 Q: And what is that picture reflect?

7 A: This depicts a box of I'm trying to see what, it's
8 a .38 special 130 grain full metal jacket.

9 Q: And does that appear to be a picture of the same
10 box?

11 A: That is correct it's Independence is the brand.

12 Mr. Ballinger: I'm going to publish these for the jury
13 I'm just going to pass them around. Well no strike that. So
14 long and short of it a box of .38 special were found in Mr.,
15 the car that's been registered to Mr. Palmer's father?

16 A: That's correct.

17 Q: And the casings that were found at the scene are .45
18 caliber casings?

19 A: That was correct.

20 Q: Any other pistol cartridges found in Mr. Palmer's
21 car?

22 A: Not that I know of I think that was the only ones
23 for photographing.

24 Q: Did you take a picture of any jackets or sweaters
25 or anything of that nature?

1 A: I believe there was some jackets in there.

2 Q: Does this appear to be a picture of a jacket?

3 A: Yes that's correct that's one.

4 Q: And there's another picture. Can you describe the
5 color of the jacket?

6 A: The jacket looks to be blue in color. It looks kind
7 of like a hoodie or zip up type of jacket with some type of
8 design on it with cars trains of that nature.

9 Q: So a blue hoodie jacket with cars and trains type
10 logo is that accurate?

11 A: That's correct.

12 Q: Was another or did you take a picture of another
13 jacket that was in the vehicle?

14 A: Yes that is correct. It looks like a grey kind of
15 heavy coat with orange lining.

16 Q: Does it appear to have maybe fur on the neck?

17 A: It does look like that but like a said it's a heavy
18 coat with a liner.

19 Q: And gray in color?

20 A: Yes.

21 Mr. Ballinger: Nothing further Your Honor thank you.

22 The Court: Any redirect Ms. Barr?

23 Ms. Barr: Just one quickly if I may.

24 **(Redirect by Barr)**

25 Q: Mr. Scott I'm going to hand you what's been marked

1 for identification purposes as State's exhibit number 36 and
2 37. Did you take photographs of what is depicted in those
3 two exhibits?

4 A: That's correct.

5 Q: In State's number 37 and in State's number 36 were
6 these photographs that you took of the inside of the vehicle
7 that you processed in connection with this case?

8 A: That is correct.

9 Ms. Barr: Judge we would now move to admit State's 36
10 and 37.

11 The Court: Any objection.

12 Mr. Ballinger: No sir Your Honor.

13 The Court: Without objection State's exhibit 36 and
14 exhibit 37 are admitted.

15 (State Exhibit 36 and 37)

16 Q: Do these particular exhibits help to identify who
17 either owned or was in possession of the vehicle that you
18 processed?

19 A: Yes.

20 Q: How so?

21 A: The BB&T card that's depicted in these photographs
22 actually has the name of a Marc Palmer.

23 Q: And where was the BB&T card in relation to the
24 vehicle? Where was it specifically?

25 A: Inside the interior of the vehicle.

1 Q: On the front seat?

2 A: Yes.

3 Ms. Barr: Judge that's all the questions that I have
4 for the witness.

5 The Court: Thank you.

6 Mr. Ballinger: Nothing further Your Honor.

7 The Court: Thank you, you may step down.

8 Ms. Barr: Judge I'd love to call it a day and start
9 fresh in the morning.

10 The Court: Well I imagine the jury would like to work
11 a little bit later but we'll go ahead and let them off
12 early.

13 Alright ladies and gentlemen I'm going to release you for
14 the evening with strict instructions that you not speak to
15 anyone concerning what you have heard today and especially
16 do not go out to the scene. Do any of you all live in
17 Greeleyville? Ok then don't go to Greeleyville after the
18 trials over with you can go to Greeleyville but don't go to
19 Greeleyville tonight. Thank you ladies and gentlemen have
20 a nice evening and we'll probably be here all day long so
21 get a good nights sleep. Thank you ladies and gentlemen,
22 9:30.

23 **(Jury excused for the evening)**

24 The Court: Anything we need to take up before we
25 adjourn for the day?

1 Ms. Barr: Judge I'm just going to provide Mr. Ballinger
2 with a copy of the documents that were subpoenaed and I was
3 instructed by the Court to have those provided.

4 The Court: How many witnesses do you think you'll have
5 tomorrow?

6 Ms. Barr: Four at tops Judge.

7 The Court: You think you'll be able to finish them in
8 the morning?

9 Ms. Barr: Probably the longest witness will be Agent
10 Creech who will testify about the statement, but I don't see
11 any reason. If we start at 9:30 I don't see any reason why
12 we can't rest by lunch.

13 The Court: Ok and you think it might finish tomorrow
14 or go into Thursday.

15 Mr. Ballinger: Probably after the State rest I'd need
16 some time to prepare him as to his testimony if he's gonna
17 take ...

18 The Court: Well let's make it a goal to complete the
19 testimony tomorrow even if we have to go a little bit late
20 and that way we can start fresh and argue a charge on
21 Thursday morning.

22 Ms. Barr: You'll let us argue on Thursday morning?

23 The Court: Right.

24 Ms. Barr: Thank you Judge.

25 Mr. Ballinger: Alright.

1 The Court: Court's adjourned until 9:30 tomorrow
2 morning, thank you ladies and gentlemen.

3 (Court adjourned for the evening)

4 (Court in session 3-13-13)

5 The Court: Anything before we bring the jury in, Ms.
6 Barr?

7 Ms. Barr: Judge the only thing I think we have is some
8 SLED exhibits. The defense had stipulated to the
9 admissibility of the reports in lieu of having the SLED
10 agents come here and testify and those are State's exhibit
11 38 through 41.

12 The Court: Those would just be the one that identified
13 the bullets and everything like that?

14 Ms. Barr: Identify some it's DNA report, an evidence
15 processing report, a trace evidence report, and a latent
16 print report.

17 The Court: And I assume they're probably all negative?

18 Ms. Barr: Yes sir.

19 Mr. Ballinger: That's correct Your Honor.

20 The Court: Alright.

21 Mr. Ballinger: We don't have any problems with the
22 admissibility.

23 The Court: Ok well very well and these are exhibits
24 what?

25 Ms. Barr: 38 through 41.

1 (State's Exhibit 38 through 41)

2 The Court: Let's bring our jury in.

3 (Jury in)

4 The Court: Good morning everyone and again thank you
5 for being here promptly this morning and I appreciate
6 that. It's a much nicer day than it was yesterday
7 starting off so hopefully we won't keep you here late
8 tonight. State ready to proceed?

9 Ms. Barr: State's ready Judge.

10 The Court: Defense ready to proceed?

11 Mr. Ballinger: Defense ready Judge.

12 The Court: Alright please call your next witness.

13 Ms. Barr: We call Agent Mark Creech.

14 Clerk: Do you solemnly swear and affirm that the
15 testimony you are about to give is the truth, the whole
16 truth, and nothing but the truth so help you God?

17 Mr. Creech: I do.

18 Clerk: Ok take your seat in the witness box.

19 Ms. Barr: Good morning sir.

20 Mr. Creech: Good morning ma'am.

21 Ms. Barr: If you would please state your full name for
22 the record and spell your last name for the court reporter.

23 Mr. Creech: John Mark Creech, C-R-E-E-C-H.

24 (Exam by Barr)

25 Q: If you will Mr. Creech introduce yourself to the

1 ladies and gentlemen of our jury.

2 A: I'm Mark Creech I'm a senior agent with South
3 Carolina Law Enforcement Division also known as SLED.

4 Q: If you would kind of tell us a little bit about your
5 background, your training, and what it is that you do for
6 SLED.

7 A: I've been with SLED for 13 this past December was
8 13 years. Prior to that I worked with the Clarendon County
9 Sheriff's Office as an investigator for 8 years, I was a
10 Lieutenant in charge of investigations for Manning Pee-Dee
11 for a while. I was an investigator in Third Circuit
12 Solicitors Office for a while I worked over there about
13 twelve and a half years before I went to SLED. I have 26
14 years in come June the first. I have a Bachelor's Degree in
15 Criminology from St. Leo University and have worked a lot
16 of investigations.

17 Q: And essentially tell us what your day to day
18 responsibilities would have been for SLED back in October-
19 November 2010.

20 A: At that time I was a part of what the state was cut
21 into two regions, the northern and the southern region.
22 Williamsburg was part of the southern region which now it's
23 called Pee Dee and I was working in investigation division.
24 Basically what we're an assistant agency and the majority
25 of the time we assist local agencies with crimes that they

1 ask you know for assistance on and we do some investigations
2 on our own like public corruption and things of that nature.

3 Q: Sir you provided assistance to the Williamsburg
4 County Sheriff's Office in connection with the investigation
5 of the murder of Therriis Keels is that right?

6 A: That's correct.

7 Q: And part of your duties or role in that case at that
8 time was to interview the defendant Marc Palmer?

9 A: That is correct.

10 Q: Tell me what date did you conduct the interview did
11 you conduct the interview with Mr. Palmer? And do you need
12 to see your case file to make sure the dates...

13 A: I need to see something with a date on it. On
14 October 27, 2010.

15 Q: Was it the 27th or the 29th?

16 A: I'm sorry it was the 29th.

17 Q: And do you have a copy of the Miranda Waiver form
18 in the case with you?

19 A: I do not I gave that to you.

20 Q: Alright let me give this to you just for
21 identification right now.

22 A: Yes ma'am.

23 Q: Is that what that is?

24 A: Yes ma'am that is a SLED Miranda Rights form.

25 Q: Tell me what you mean when you talk about a Miranda

1 Rights form.

2 A: A Miranda is giving people their right to remain
3 silent. You have the right to remain silent anything you use
4 can be used against you in the court of law. You have the
5 right to talk to a lawyer and have present with you while
6 you're being questioned. If you cannot afford then a lawyer
7 will be appointed to represent you at anytime if you wish.
8 And basically it's a form with those Miranda Rights on it
9 that we go through with people when we talk with them.

10 Q: And you is that part of your normal protocol and
11 procedure when you're interviewing people concerning a
12 crime?

13 A: Suspects of crimes yes ma'am.

14 Q: And you completed one in connection with this case
15 related to Mr. Palmer?

16 A: That is correct.

17 Q: What was the date in which that interview took place
18 and the timing which you would have given the defendant his
19 Miranda Rights?

20 A: That was on October 29, 2010 at 4:40 p.m..

21 Q: In terms of that interview who else was present by
22 based on the signatures that contained on that particular
23 document?

24 A: Myself, Mr. Palmer, Investigator Wayne McFadden, and
25 Investigator Gene Lail was there.

1 Ms. Barr: Your Honor I believe this was previously
2 marked as for ID as State's exhibit number 1 we would move
3 in State's exhibit number 1 at this time.

4 The Court: Any objection?

5 Mr. Ballinger: I just renew the objection that was made
6 pre-trial Your Honor.

7 The Court: Alright State's exhibit number 1 is admitted
8 over the objection of the defense?

9 (State's Exhibit Number 1)

10 Q: Alright and this is the actual original?

11 A: Yes ma'am it is in blue ink and I filled out the top
12 part.

13 Q: In addition to your signature and the signature of
14 Wayne McFadden who else signed this form?

15 A: Mr. Palmer, Marc Palmer.

16 Q: Essentially what you previously testified to about
17 telling the defendant you have the right to remain silent
18 and all that you read that form to him?

19 A: Yes ma'am.

20 Q: Now a couple of questions about that form. Where was
21 the defendant physically when his rights were read to him?

22 A: In the Chief Deputy's office in the Sheriff's Office
23 in Williamsburg County.

24 Q: Now did he seem to understand his rights as you were
25 reading them to him?

1 A: Yes ma'am.

2 Q: Did you have any questions about whether or not he
3 was competent to understand those rights?

4 A: No ma'am.

5 Q: Did he waive his rights and agree to talk with you?

6 A: Yes ma'am.

7 Q: Now was that conversation recorded?

8 A: Yes ma'am.

9 Q: Prior to your testimony did you have an opportunity
10 to listen to that recording?

11 A: I did.

12 Q: And the recording that you listened to was it an
13 accurate depiction of the conversation you had with Mr.
14 Palmer back on October 29, 2010?

15 A: Yes ma'am.

16 Q: I'm going to now hand you what's been marked for
17 identification purposes as State's exhibit number 2 and ask
18 if you recognize this exhibit?

19 A: It is Marc Palmer's statement with Mark Creech and
20 it's got Therriis Keels's name at the top. This is the
21 Williamsburg Sheriff's Office's copy.

22 Ms. Barr: Judge we would move in State's exhibit number
23 2 at this time?

24 The Court: Any objection Mr. Ballinger?

25 Ballinger? Renew the pre-trial objection.

1 The Court: Alright this would be number 2 did you say?

2 Ms. Barr: Yes sir.

3 The Court: Over his objection I will admit it.

4 Ms. Barr: Judge we would move to publish at this time.

5 The Court: You may publish.

6 Q: Alright now Mr. Creech what I would like to do is
7 I'd like to play the tape in it's entirety and then I'm
8 going to come back after the tape has been played and ask
9 you some questions about it.

10 A: Ok.

11 Ms. Barr: And Your Honor as I understand that there
12 were certain portions of the recording that were subject to
13 be redacted by the Court and I'll just essentially pause
14 during the portions that are to be redacted.

15 The Court: Ok as long as you know where to hit the
16 button.

17 Ms. Barr: Yes sir.

18 **(Recording played)**

19 Q: The voices that we hear on the recording those
20 voices belong to who?

21 A: Myself and Marc Palmer.

22 Ms. Barr: Per the Court's instruction.

23 The Court: Take no inference as to guilt or not guilt
24 concerning the redaction. I have ruled this area as not to
25 be part of the testimony and therefore you should give no

1 inference concerning it.

2 Q: That whole exchange initially at the beginning of
3 the interview he makes a comment to you that he wished to
4 talk to you but he wants you to call Charles Bar too and
5 Charles Barr is who as far as you know.

6 A: As far as I know he's a local attorney.

7 Q: Now once he made that comment to you did you try to
8 get clarification on what he meant?

9 A: Yes ma'am.

10 Q: Ok tell us how you got clarification on what he
11 meant.

12 A: My next question was you want him here. His answer
13 was I want him to come yes and my next question was before
14 you talk to us and he said no I'm going to talk to you and
15 then my next question was that's what I'm asking. He said
16 ok what do you want to know. I asked him again are you
17 willing to talk to us, yes, do you understand your rights
18 and I went through the waiver of rights at the bottom and
19 he said yes and he signed.

20 Q: Now when you say you went through the waiver of
21 rights at the bottom. Did you specifically ask him again,
22 do you understand your rights, do you understand what they
23 are, do you want to talk to us, do you want to talk to us
24 without a lawyer present?

25 A: Yes ma'am it's a paragraph that's at the bottom of

1 that. I read that it say I have read this statement of my
2 rights I understand what my rights are. I am willing to talk
3 now without a lawyer present. I understand and know what I'm
4 doing no promises or threats have been to made to me. No
5 pressure or coercion of any kind has been used against me.

6 Q: And that's when he signed that particular form?

7 A: Yes ma'am.

8 Q: Did anybody threaten him in any way to get him to
9 talk to you?

10 A: No ma'am.

11 Q: Did anybody promise him anything in order to get him
12 to talk to you?

13 A: No ma'am.

14 Q: After that statement he was free to go?

15 A: As far as I know yes ma'am.

16 Q: Did he in fact leave after the statement?

17 A: Yes ma'am.

18 Q: Couple of questions about some of the things that
19 he told you about in the statement. He talked about and you
20 all were asking him about this time line, is that right?

21 A: Yes ma'am.

22 Q: We also hear another male's voice on the recording.
23 We hear a female's voice on the recording. Can you identify
24 those voices for the jury?

25 A: The male voice is Wayne McFadden his was an

1 investigator at the Sheriff's Office and the female is Mrs.
2 Gene Lail.

3 Q: She was also an investigator at the Sheriff's
4 Office?

5 A: Yes.

6 Q: As I understand it Mr. Palmer told you he
7 acknowledged that he was at the club on C.E. Murray
8 Boulevard that day?

9 A: Yes ma'am.

10 Q: What time did he say he arrived at the club?

11 A: Well he was there he was at the place called the
12 bullpen around 3-3:30.

13 Q: Not the bullpen, I'm talking about the club on C.E.
14 Murray Boulevard. What time did he say he arrived there?

15 A: He left and went over there about 10 o'clock that
16 night.

17 Q: How long did he tell you that he stayed there?

18 A: 5 or 10 minutes just long enough to go in.

19 Q: He acknowledged seeing the victim there?

20 A: That's correct.

21 Q: You talked about a time frame of about 3 p.m.
22 earlier that day at the bullpen?

23 A: Yes ma'am.

24 Q: What did he tell you about what happened at the
25 bullpen earlier that day, between him and the victim?

1 A: He said they went to the bullpen and the victim made
2 a comment about you know I could rob you and they got in a
3 little argument then he walked of basically.

4 Q: And in terms of how the defendant characterized the
5 victim. Did I understand it correctly in the recorded
6 statement that he said, you all know Therriis is fool?

7 A: Yes ma'am.

8 Q: If in fact the victim actually did tell Mr. Palmer
9 that you know I could rob you if that in fact even occurred.
10 Did the defendant seem to be in fear that he was actually
11 going to be robbed by Mr. Keels according to how he
12 presented it to you?

13 A: He was just telling us a story and said he just
14 walked off and left.

15 Q: And as we can see and hear from the audio recording
16 at certain points of that conversation that he had with you
17 he's actually laughing?

18 A: Yes ma'am.

19 Q: Now he said that he stayed for about 5 to 10 minutes
20 on C.E. Murray Boulevard and then left?

21 A: Yes ma'am.

22 Q: And he tells you that he then from C.E. Murray
23 Boulevard went where?

24 A: Over toward Blakely and then on to Andrews.

25 Q: I wasn't sure whether or not I heard this right.

1 Correct me if I'm wrong did he at some point tell you when
2 he left C.E. Murray Boulevard that he was going to go to the
3 beach?

4 A: Yes ma'am, he said he had planned on going to the
5 beach at sometime but he didn't go to the beach he went to
6 Blakely and to Andrews.

7 Q: Ok so his original statement to you was he was
8 planning to go to the beach at 10 o'clock at night on a
9 Wednesday night?

10 A: Yes ma'am.

11 Q: Then he changed his mind did not go to the beach
12 right?

13 A: That's correct.

14 Q: And then he indicated he went where?

15 A: To Blakely and then on to Andrews.

16 Q: You have an idea, let me ask you this. Are you from
17 Williamsburg County?

18 A: No ma'am.

19 Q: Do you have any idea how far the crime scene is from
20 the Blakely community?

21 A: No ma'am I think I've been to Blakely one time I
22 couldn't tell you how to get there.

23 Q: He told you as I understand it that he drove around
24 until he ran out of gas is that right?

25 A: That's correct, he said he was almost back to

1 Langley he ran out of gas.

2 Q: And how was he able to get from where he ran out of
3 gas until back to his home? What did he tell you about how
4 he was able to do that?

5 A: He called some guy named Smoke.

6 Q: Called somebody named Smoke. Did you ask him for
7 Smoke's real name?

8 A: Yes ma'am.

9 Q: And what was his response to that?

10 A: He said he didn't know.

11 Q: Part of your assisting in this investigation you
12 asked him for Smoke's cell phone number?

13 A: I don't recall that.

14 Q: What time did he tell you he arrived back home?

15 A: He said he didn't go home he got back to Langley it
16 must of been around 3 o'clock.

17 Q: And you asked him 3 a.m. in the morning?

18 A: Yes ma'am.

19 Q: Were you able to have anybody to account for his
20 whereabouts between the time he left or he says he left C.E.
21 Murray Boulevard up until about 3 o'clock in the morning?

22 A: No ma'am.

23 Q: If he stayed at the club on C.E. Murray Boulevard
24 for about 5 or 10 minutes. What time would that put him
25 leaving C.E. Murray Boulevard? If he stayed 5-10 minutes and

1 came...

2 A: Well if he got there around 10 o'clock then 5 or 10
3 minutes it'd been 10, 10 minutes after 10.

4 Q: So from 10:10 p.m. to 3 a.m. leading up to the next
5 morning. Do you know of anybody and did he tell you of
6 anybody who can account for his presence during that over
7 4 hour period of time?

8 A: He did not no.

9 Q: And as a matter of fact he told you he just simply
10 rode around until?

11 A: He ran out of gas.

12 Q: Now certain items were seized and taken to SLED as
13 part of the investigation is that right?

14 A: It's my understanding I didn't seize any items I'm
15 sure the Sheriff's Office did.

16 Q: I'm going to hand you what's been admitted as
17 State's exhibits number 38, 39, 40, and 41. Are these
18 reports from SLED in connection with this case?

19 A: Yes ma'am.

20 Q: What I'm going to do is go over the individual
21 reports why I have you on the witness stand and I'm going
22 to talk about first State's exhibit number 38. Tell me what
23 report that is.

24 A: That is a report from evidence processing.

25 Q: The analyst who processed evidence in that case was

1 named what?

2 A: Janice Bryson and reviewed by Stephanie Stanley.

3 Q: Mrs. Bryson and Mrs. Stanley were employed with SLED
4 at the time?

5 A: I'm assuming yes but I don't know them but if there
6 names were on the report them I'm assuming they were yes
7 ma'am.

8 Q: Those are all SLED reports is that right?

9 A: That's correct.

10 Q: What did Mr. Bryson analyze in connection with this
11 case that's on State's exhibit number 38?

12 A: What's listed on this report is items of evidence
13 it's item 11 jacket with hood.

14 Q: What's item number 12?

15 A: Item 12 is jacket with hood.

16 Q: What was the result of the analysis as it relates
17 to items number 11 and 12 which are jackets with hoods?

18 A: What's on the report is no blood indicated.

19 Q: Tell me what State's exhibit number 39 is?

20 A: That is another report from trace evidence.

21 Q: Who is the analysis that authored that report?

22 A: Person that signed this report is Ila N. Simmons.

23 Q: What particular items of evidence were tested on
24 that report?

25 A: Item number five is just one GSR which is a gun shot

1 residue kit for Therris Keels. Item 11 one brown bag labeled
2 blue hoodie Marc Palmer in quotation mark. Item 12 one brown
3 bag labeled in quotation marks grey coat orange liner Marc
4 Palmer. Item GSR gun shot residue sample labeled right front
5 leg. Item 15 GSR gun shot residue sample labeled left pants
6 leg.

7 Q: Ok as it relates to item number 5 the GSR kit that
8 was done on the victim Mr. Therris Keels. Does the report
9 indicate that no GSR, a gun shot residue was noted on the
10 victim?

11 A: That's what the report indicates.

12 Q: And as it relates to item number 11 which was a
13 brown bag labeled blue hoodie Marc Palmer. Does the report
14 also reflect that there was no gun shot residue found on
15 that particular item?

16 A: That is correct.

17 Q: As it relates to item number 12 one brown bag
18 labeled grey coat orange liner Marc Palmer. Does the report
19 reflect no gun shot residue was found?

20 A: That's what it says yes ma'am.

21 Q: And the GSR sample labeled right pants leg does it
22 also conclude that no GSR was found?

23 A: Yes ma'am.

24 Q: And that the same thing on item 15 which is labeled
25 GSR sample left pant leg?

1 A: Yes ma'am.

2 Q: What's your next report labeled State's exhibit
3 number 40? That the latent prints report?

4 A: Yes ma'am.

5 Q: And that was from SLED analysis Melissa Skipper
6 Wallace?

7 A: Yes ma'am. She was a crime scene agent I know her
8 personally.

9 Q: In this case Melissa Wallace received a cartridge
10 case, a Pepsi can item number 16, a cartridge case item
11 number 9, and two swabs from a Pepsi can is that right?

12 A: That is correct.

13 Q: And I it was probably very poorly worded question
14 let me make sure I'm clear. She received three cartridge
15 casings which are items number 7,8, and 9. Is that right?

16 A: That is correct.

17 Q: And she was not able to associate based on her
18 examination those particular exhibits for any type of
19 identification?

20 A: The result of her analysis on those three cartridge
21 cases is no value for identification. She was checking it
22 for fingerprints.

23 Q: Tell us about item number 16 which is labeled as one
24 Pepsi can listed as being for Marc Palmer. What was the
25 result of that analysis?

1 A: No value for identification.

2 Q: Lets talk about the last report which is State's
3 number 41 which is the DNA analysis. You have that in front
4 of you?

5 A: Yes ma'am.

6 Q: The person who conducted that analysis is who?

7 A: Katie Urka.

8 Q: As a result of that DNA analysis the only DNA that
9 we were able to recover was from the victim Therris Keels,
10 is that right?

11 A: What was sent in was a blood standard from Therris
12 Keels. The results no DNA profile foreign to Therris Keels
13 was developed from finger nail clipping or of Therris Keels.
14 Yeah that answer is that's correct.

15 Q: And also item number 13 talks about a piece of hair
16 on the shirt of the victim?

17 A: Yes ma'am.

18 Q: Now let me ask you about some of your experience if
19 I can. You talked about working in the solicitor's office,
20 the SLED office and the Manning Police Department's office
21 for many many years. In cases where you're involved in
22 investigating a crime does a person who commits a crime
23 always leave forensic evidence like fingerprints or DNA or
24 anything like that? Have you always see that in the cases
25 that you've investigated?

1 A: No ma'am.

2 Q: Give me an example of a case where by somebody might
3 commit a crime but they might not...

4 Mr. Ballinger: Objection to relevance Your Honor.

5 The Court: As to a specific case?

6 Ms. Barr: Just in his experience.

7 The Court: I'm going to let him give an example of he
8 would do that. Overruled.

9 Q: Just generally in terms of what you've actually been
10 involved in, in your career. Have you ever had a case where
11 a person committed a crime but did not leave for example
12 fingerprint evidence?

13 A: The way I'm going to answer that question is in my
14 experience and in processing lots of crime scenes when I was
15 with the Sheriff's Office in Clarendon, Manning, Pee Dee.
16 Especially burglary it's very hard to get an identifiable
17 print because a lot of times they're smudged or of that
18 nature. It's not tv you don't get perfect evidence every
19 time.

20 Q: In terms of these particular items of clothing that
21 were analyzed by SLED for DNA or gun shot residue. The items
22 that were marked as belonging to Marc Palmer. Do you know
23 for certain whether or not the particular items of clothing
24 that were analyzed by SLED were actually the clothing that
25 was worn by the defendant on the night the murder happened?

1 A: No ma'am.

2 Q: In terms of approximately when those items were
3 actually picked up by the Sheriff's Department. Would it
4 have been after the initial interview was conducted on
5 October 29th?

6 A: My understanding is October 29th was the first
7 contact law enforcement had with Mr. Palmer.

8 Q: And that would have been two days after the murder?

9 A: That is correct.

10 Q: We heard some testimony about a GSR kit being run
11 on the victim. Is that right remember that line of
12 questioning?

13 A: Yes ma'am.

14 Q: Why wasn't a GSR kit ran on the defendant?

15 A: I have on idea I can't answer that.

16 Q: Well if the first interaction that the defendant
17 would of had with law enforcement was two days after the
18 murder. Would it have been, could you've even run a GSR kit
19 two days later?

20 A: The longer you wait the harder it is to be able to
21 find gun shot residue. It is very fleeting I mean you can
22 wash your hands and it's gone.

23 Q: So if a person took a shower and we're assuming that
24 somebodies going to take a shower in two day. If a person
25 took a shower would you expect the GSR residue still be on

1 clothing and that sort of thing and washed the clothes after
2 two days?

3 A: I would expect it to be gone.

4 Ms. Barr: So that's all the questions I have. Please
5 answer any questions..

6 The Court: Mr. Ballinger.

7 Mr. Ballinger: Thank you Judge. Good morning Agent
8 Creech.

9 Mr. Creech: Good Morning.

10 **(Cross by Ballinger)**

11 Q: Agent did you interview anybody else well I assume
12 you interviewed a bunch of people in connection with
13 this investigation is that a fair statement?

14 A: Not a bunch of people. My involvement was very
15 limited on this case I interviewed a few people yes sir.

16 Q: Did you interview Maurice Smith?

17 A: Yes sir..

18 Q: Do you remember what date you interviewed Maurice
19 Smith?

20 A: I'm thinking sometime in 2012 maybe January or
21 February but I'm not positive.

22 Q: Does this appear to be page 3 of a summary that you
23 prepared? I can show you the whole thing if you have any
24 doubt but I'm just trying to get that date from you.

25 A: Yes February 13, 2012.

1 Q: So you interviewed Maurice Smith on February 13,
2 2012 correct?

3 A: That is correct.

4 Q: And don't tell me what he told you but he gave you
5 his version of what happened?

6 A: That is correct.

7 Q: And Ms. Barr touched on this. Did it appear to you
8 that Mr. Palmer in the interview held any animosity to Mr.
9 Keels?

10 A: No sir.

11 Q: And you mentioned the gunshot residue kit. You
12 actually obtained the pant's leg samples from Mr. Palmer?

13 A: I did not.

14 Q: Were that obtained from he though that day during
15 the interview? Were his pant's legs swabbed for a gunshot
16 residue right before or right after?

17 A: I don't know, I don't know who swabbed him.

18 Q: Do you know when the Dodge Neon was inventoried?

19 A: They were conducting a search on it that afternoon.

20 Q: So while the interview was on going they were
21 searching his vehicle?

22 A: That's my understanding because whenever I walked
23 about the building whenever we were through with him. They
24 were finishing up with the car and then I left right after
25 that.

1 Q: So the first contact law enforcement had with Mr.
2 Palmer was the interview and the immediate search of his
3 vehicle, correct?

4 A: That's my understanding yes sir as it relates to
5 this yes.

6 Q: How did Mr. Palmer get to the Sheriff's Office?

7 A: I have no idea.

8 Q: And the cartridges cases that were analyzed by SLED
9 were .45 caliber shell casings correct?

10 A: I have no idea. I did not go to the crime scene and
11 Melissa Skipper Wallace is a crime scene agent she would
12 have collected them the night of the crime and then analyzed
13 them at some point in time back at the lab.

14 Mr. Ballinger: Nothing further Your Honor.

15 The Court: Any re-direct?

16 Ms. Barr: Just a couple of follow up questions if I
17 may.

18 **(Re-direct by Barr)**

19 Q: Do you recall when you, where you spoke with Mr.
20 Smith at? Where he was physically when you spoke with
21 him?

22 A: No ma'am.

23 Q: How long to you think you were involved in assisting
24 with the investigation of this particular case?

25 A: When I was called the next day two or three there

1 pretty you know I came over here everyday and then it got
2 less and less. I spent back and forth several weeks but just
3 periodically.

4 Q: Do you think total time from the time you started
5 to the time you finished. Whatever role that you played in
6 the investigation you think it had been more or less that
7 six months total time?

8 A: Well it would have been longer than that because I
9 interviewed Maurice Smith in 2012 that was two years later
10 or a year and a half later.

11 Q: Was anybody else present there when you interviewed
12 Mr. Smith?

13 A: Yes ma'am another agent named Rhett Holden.

14 Ms. Barr: That's all the questions that I have thank
15 you sir.

16 The Court: Any re-cross?

17 Mr. Ballinger: Yes sir.

18 **(Re-cross by Ballinger)**

19 Q: Agent Creech did you contact Mr. Smith or did Mr.
20 Smith contact you to schedule that interview?

21 A: He evidently had talked to Rhett Holden because
22 that's who facilitated it not me.

23 Q: So it's your understanding that Mr. Smith reached
24 out to somebody in SLED in this case...

25 Ms. Barr: Objection Judge that's not what the witness

1 testimony..

2 The Court: Just ...

3 Q: Tell me what you're understanding as to how the
4 meeting was arranged.

5 A: Rhett Holden had arranged a meeting.

6 Q: And you don't have any information who initiated
7 contact or do you?

8 A: As far as about that meeting no I don't know sir.

9 Mr. Ballinger: Nothing further Judge thank you.

10 The Court: Thank you, you may step down. Alright ladies
11 and gentlemen why don't we take about a 10 minute recess and
12 then we'll come back. We'll take a 15 minute recess we'll
13 come back in at 11. Thank you ladies and gentlemen please
14 do not discuss anything about the case.

15 **(Jury in recess)**

16 The Court: Alright court will be in recess until 11
17 o'clock.

18 **(Court in recess)**

19 **(Jury in and court in session)**

20 The Court: Alright I hope you're all refreshed Ms. Barr
21 you may admit you next witness.

22 Ms. Barr: Yes sir Judge we call Mr. Glenn Kennedy.

23 Clerk: Place your left hand on the Bible raise your
24 right hand. Do you solemnly swear or affirm that the
25 testimony you are about to give is the truth, the whole

1 truth, and nothing but the truth so help you God?

2 Kennedy: Yes.

3 Clerk: Ok you may take your seat in the witness box.

4 Ms. Barr: Good morning Mr. Kennedy.

5 Kennedy: Good morning.

6 **(Exam by Barr)**

7 Q: Sir you reside in Williamsburg County?

8 A: Yes.

9 Q: And we going to make you tell your age but how long
10 you live in Williamsburg County?

11 A: 54 years.

12 Q: Are you familiar with the Greeleyville community?

13 A: Pardon.

14 Q: Are you familiar with the Greeleyville community?

15 A: Yes.

16 Q: Did you know the victim in the case Therris Keels?

17 A: Yes.

18 Q: How long have you known him.

19 A: Pretty much his whole life.

20 Q: In terms of the Palmer family, Marc Palmer's family.
21 Did you know any of the any of his family members?

22 A: Yes.

23 Q: Been knowing them for a long time as well?

24 A: Heard of most of my life met some years ago when Mr.
25 Palmer first moved back home.

1 Q: When you say move back home from where if you know?

2 A: I'm not sure.

3 Q: Are familiar with the area in which Therris Keels
4 was shot?

5 A: Yes.

6 Q: We talked about in previous testimony about there
7 being this fish shop or this fish market on C.E. Murray
8 Boulevard. There being something called the shop or a little
9 night club and then there being the Masonic Lodge right
10 across the street. Are you familiar with that area?

11 A: Yes.

12 Q: Are you familiar with the are where the truck stop
13 is?

14 A: The truck stop.

15 Q: Reardon's Garage?

16 A: Oh yes, yes.

17 Q: To be clear you don't have any direct knowledge
18 about the incident that lead to Therris's murder is that
19 fair?

20 A: No.

21 Q: Now subsequent to Therris's murder and subsequent
22 to the arrest of Marc Palmer. Did you get a call from an
23 Elijah Kennedy?

24 A: Yes.

25 Q: Who is Elijah Kennedy to you?

1 A: My cousin.

2 Q: Is Elijah Kennedy still living?

3 A: No.

4 Q: When did he pass?

5 A: A few months ago.

6 Q: Prior to his death where was he living?

7 A: Lane.

8 Q: In terms of the defendant. Do you know where he was
9 living at the time that Therris was killed?

10 A: I know where his parents were living but I don't
11 know if he was living with them or not.

12 Q: Ok where was his parents living?

13 A: On the I call it the Train Road. The road going to
14 Andrews I can't think of the name of it.

15 Q: Was that in Lane as well?

16 A: Yes.

17 Q: Tell me when you got the call from your cousin
18 Elijah. Describe for me his tone.

19 A: He was tone of concern.

20 Q: Tell me what was the conversation about, what was
21 the call about, why did he call you?

22 Mr. Ballinger: Objection to hearsay Your Honor.

23 The Court: Rephrase your question.

24 Q: Did he ask you anything of you as far as the phone
25 conversation?

1 A: Yes he asked me to come down to his house.

2 Ms. Barr: Judge as it relates to this particular
3 testimony about that phone conversation I may need to
4 proffer that outside the presence of jury because I'm going
5 to take the position it's not hearsay.

6 The Court: Ok ladies and gentlemen of the jury I'm
7 going to send you back to the jury room. Get you another
8 little coke if you need another smoke another cigarette
9 you've got time to do that.

10 The Court: Alright Ms. Barr.

11 **(Proffer testimony of Glenn Kennedy)**

12 Ms. Barr: Mr. Kennedy when you received the call from
13 your cousin Elijah Kennedy what did he say to you? Was
14 the reason why he called?

15 Kennedy: He said that there was a car, that Mr. Palmer
16 had asked him about parking a car down to his house and that
17 he had heard that rumors that something was going on with
18 that car. Pretty much just like that and he said the he
19 didn't want get mixed up in anything and asked me what did
20 I think he should do. So he said would come down here so I
21 went down and we discussed the matter.

22 Ms. Barr: That's all I need as it relates to that point
23 and Judge my argument would be that it's not hearsay in
24 terms of it's being offered for the truth of the matter
25 asserted. We're offering it to explain why the witness went

1 out to his cousin's home.

2 Mr. Ballinger: Your Honor I believe portions of that
3 is hearsay within hearsay. I mean Mr. Kennedy is telling or
4 Elijah Kennedy is telling Glenn Kennedy that he heard rumors
5 and Mr. Palmer's contacted him. Is the testimony that Mr.
6 Palmer contacted him about parking his vehicle?

7 Ms. Barr: Right.

8 Mr. Ballinger: Where at Mr. Kennedy's house?

9 Ms. Barr: Yes.

10 The Court: Why would that...Why is that offered not
11 offered to prove the facts asserted?

12 Mr. Ballinger: I wouldn't take the position that it
13 would not be offered to prove the truth of the matter
14 asserted. It's simply being offered to explain why the
15 witness went out to his cousin's house that day. Whether or
16 not it's true it would be offered just to explain why he'd
17 gone out to the house that day. If that call had never taken
18 place he would have no reason to go out to his cousin's
19 house.

20 The Court: Talking about this witness?

21 Ms. Barr: Correct and Judge we would also not have the
22 witness to testify as to what his cousin told him he heard
23 in terms of rumors in the community obviously I wouldn't ask
24 for that.

25 The Court: So what would you propose that he actually

1 testify to?

2 Ms. Barr: That Mr. Palmer called Mr. Kennedy and asked
3 him could he leave his car at his home.

4 Mr. Ballinger: Judge it's clearly the interest...

5 The Court: That's clearly I don't know how it couldn't
6 be hearsay because you're going back to Mr. Palmer on that.
7 So I'm gonna...

8 Mr. Ballinger: And Your Honor I don't have the
9 opportunity to cross examine Mr. Elijah.

10 The Court: Yeah we don't know what happened with that
11 conversation so I would submit and rule that that would be
12 hearsay. Now you can always get the other person here to say
13 that he talked to Mr. Palmer.

14 Ms. Barr: He's deceased I understand Judge I understand
15 the ruling.

16 The Court: Alright thank you.

17 Ms. Barr: Thank you Judge.

18 Mr. Ballinger: Thank you Your Honor.

19 Ms. Barr: We're ready.

20 The Court: Bring them back in.

21 **(Jury in)**

22 **(Continued examination by Barr)**

23 Q: Please the court. Mr. Kennedy we left off where you
24 got a call from you cousin Elijah Kennedy. Based on that
25 conversation what did you do?

1 A: I went to his house that morning.

2 Q: And this is the home in Lanes?

3 A: Yes.

4 Q: When you arrived at the home was Elijah actually
5 there at the house?

6 A: Yes.

7 Q: Was anyone else there?

8 A: No.

9 Q: Did you after arriving at your cousin's house. Did
10 you ever see a teal bluish greenish Dodge Neon there?

11 A: Yes.

12 Q: And I'm going to show you what's been previously
13 admitted as State's exhibits 12, 13, 14, and 15. This the
14 vehicle you saw at your cousin's residence that day?

15 A: Yes looks like it.

16 Q: Tell me was there anything unusual about where that
17 vehicle was at on your cousin's property?

18 A: It was parked behind the shed barn where the horses
19 are kept and the tractors kept behind there.

20 Q: Now give us some idea how that property is situated.
21 First of all when you first arrive on the property do you
22 get to the horse barn first or do you get to your cousin's
23 house first?

24 A: House first.

25 Q: If I'm coming down the road where your cousin's

1 house is would it be on my right or on my left if you're
2 coming from the main road?

3 A: Directly in front.

4 Q: And what would be the approximate distance between
5 your cousin's home and the barn that you talked about the
6 shed that you talked about?

7 A: 50 yards maybe.

8 Q: You indicated the vehicle was parked behind the
9 shed?

10 A: Yes.

11 Q: Would it have been visible from the roadway?

12 A: No.

13 Q: Was that unusual to you at all?

14 A: Yes.

15 Q: Did it cause you any concern?

16 Q: What did you do as a result of your concern?

17 A: Answered some questions from my cousin and then
18 called the Sheriff's Department.

19 Q: When you called the Sheriff's Department did someone
20 from the Sheriff's Department actually come out to your
21 cousin's home that day?

22 A: Yes.

23 Q: You were there when that person arrived? When those
24 persons arrived?

25 A: Yes at the head of the road.

1 Q: Who came in response to that call?

2 A: I don't know the title, Officer McElveen.

3 Q: You talking about Lieutenant Deborah Collins?

4 A: Lieutenant Collins yeah I'm sorry.

5 Q: She's right behind me in the court room?

6 A: Yes.

7 Q: She responded?

8 A: Yes.

9 Q: What did you tell her when she came out?

10 A: I met her at the head of the road so she would know
11 where to go and I told her the car was behind the shed
12 pointed towards it so she would know where to go.

13 Q: What did she do as a, what ultimately happened to
14 the car that day?

15 A: I left before. She then was waiting on whatever it
16 is they do and I left after a few minutes.

17 Q: Do you know whether or not the vehicle was towed
18 from the property that day?

19 A: I was told it was by my cousin.

20 Mr. Ballinger: Objection to hearsay Your Honor I ask
21 that portion be stricken.

22 The Court: Rephrase your question. Jury strike the
23 answer.

24 Q: When was the next time you saw your cousin after
25 that?

1 A: I went down to the house that evening to go hunting
2 and parked my pickup in that area the car was gone.

3 Q: So the vehicle wasn't there at his house anymore?

4 A: No.

5 Ms. Barr: That's all the questions I have thank you
6 sir.

7 The Court: Cross examination?

8 Mr. Ballinger: Briefly Judge.

9 **(Cross by Ballinger)**

10 Q: Mr. Kennedy what was the exact date of this phone
11 call from your cousin?

12 A: I don't know. The exact date?

13 Q: Yes sir.

14 A: I have no idea I don't remember.

15 Q: You remember the month and the year?

16 A: The month no just during the period when all this
17 was happening. I am not a deep person.

18 Q: Do you know when Mr. Palmer was taken into custody
19 by the police?

20 A: No.

21 Mr. Ballinger: Nothing further Your Honor thank you.

22 The Court: Any re-direct?

23 Ms. Barr: Judge if I may can the counsel and I approach
24 the bench very quickly?

25 The Court: You may.

1 (Re-direct by Barr)

2 Q: Mr. Kennedy let me ask you just a couple of
3 questions is I may. You said that you're familiar with
4 the area where the shooting occurred?

5 A: Yes.

6 Q: Now are you familiar with a business called the
7 Money Saver on Highway 521?

8 A: Yes.

9 Q: Have you ever been there before?

10 A: Yes.

11 Q: You already testified that you're familiar with the
12 garage the truck stop Reardon's on C.E. Murray Boulevard?

13 A: Yes.

14 Q: Can you tell us the approximate distance between
15 Reardon's Garage, C.E. Murray Boulevard area where Therriis
16 was killed and the Money Saver?

17 A: A quarter of a mile or less a couple city blocks.

18 Q: Down the road?

19 A: Yeah either way you go there's different ways to go
20 there from there.

21 Q: In terms of the distance between where Therriis was
22 murdered on C.E. Murray Boulevard and the Lane community
23 approximately how far are those two point apart?

24 A: 7 to 8 miles.

25 Q: If you were driving from C.E. Murray Boulevard until

1 Mr. and Mrs. Palmer's house how long do you think it would
2 take you to get there assuming regular traffic conditions?

3 A: Between 10-15 minutes depending upon which way you
4 go. If that long.

5 Mr. Ballinger: Alright that's all the questions I have
6 thank you sir.

7 The Court: Any recross based upon her re-direct?

8 Mr. Ballinger: No sir Your Honor.

9 The Court: Thank you, you may step down.

10 Ms. Barr: Judge we have a very quick witness Mr. Yogi
11 Patel.

12 Clerk: Place your left hand on the Bible raise your
13 right hand. Do you solemnly swear or affirm that the
14 testimony you are about to give is the truth, the whole
15 truth, and nothing but the truth so help you God?

16 Patel: Yeah.

17 Clerk: You can have a seat in the witness box.

18 The Court: You understand you've got to tell the truth?

19 Patel: Oh yes.

20 Ms. Barr: Good morning Mr. Patel. If you would state
21 your full name.

22 Patel: My full name is Yogeshkumar Patel.

23 Ms. Barr: And if you will for the court reporter could
24 you spell your first name and your last name.

25 Patel: First name is Y-O-G-E-S-H-K-U-M-A-R,

1 Yogeshkumar. Last name is Patel, P-A-T-E-L.

2 (Exam by Barr)

3 Q: Mr. Patel where do you work?

4 A: I work at the 521 Money Saver in Greeleyville.

5 Q: How long have you worked there?

6 A: Almost three years.

7 Q: You were in fact working there back in October of
8 2010?

9 A: Yeah.

10 Q: Around the end of October beginning of November of
11 2010. Do you recall deputies of the Williamsburg County
12 Sheriff's Department coming out there to try to get some
13 surveillance footage from the store?

14 A: I recall they came at the store and they try to find
15 out is there something happen in town. I said I don't know
16 so they came at the store and check the videos and the ask
17 me can I make a CD here I said ok and they make a CD.

18 Q: You gave them permission to do that?

19 A: Oh yeah.

20 Q: In terms of the officers coming out there. Did the
21 convenience store have cameras on the outside of the store?

22 A: Yeah I got the cameras.

23 Q: In terms of what the cameras were recording. Could
24 the camera record Highway 521.

25 A: Yeah I got the right side, one on the right side it

1 cover the highway.

2 Q: Do you know whether or not the deputies were
3 actually able to make a CD of the information that they were
4 looking for?

5 A: Oh yeah.

6 Q: They were able to do that?

7 A: Yeah.

8 Q: And that was from the equipment that your business
9 operated?

10 A: Yeah.

11 Q: Prior to this I'm not talking about this night.
12 Prior to this have you ever had an opportunity to go back
13 and review the surveillance footage before?

14 A: No.

15 Q: Do you have any problems with your equipment
16 operating that day?

17 A: Yeah we had a lighting problem one and a half year
18 ago and the camera system and my register and something
19 happened in the ATM everything broke so I put the new one.

20 Q: So you put in a new one?

21 A: Yeah.

22 Q: Was that before the deputies came out with the
23 search warrant? You put in the new one before the deputies?

24 A: No I put that after, after that.

25 Q: How long after?

1 A: It was like six-seven months.

2 Q: Six or seven months after but was your equipment
3 working ok when the deputies came out to get the CD?

4 A: Yeah.

5 Q: Didn't have any problems with your equipment?

6 A: Yeah

7 Ms. Barr: That's all the questions I have Judge for
8 this witness.

9 The Court: Alright Mr. Ballinger.

10 **(Cross by Ballinger)**

11 Q: Mr. Patel how is the time and the date reflected on
12 that camera? How do we know it's accurate is my question?

13 A: I don't know it says the time but first time the
14 officer came in the store and he wants, and I don't know
15 what he's trying to look trying to look maybe a car I don't
16 know. He say I have to make a CD. I say I don't know how to
17 make CD so next day he come back with his own CD and he make
18 the CD.

19 Q: So you don't have any way to verify whether the date
20 and time is accurate?

21 A: No.

22 Q: Do you know Mr. Palmer just from coming in the
23 store?

24 A: No it was like a long time ago I don't know.

25 Q: Mr. Marc Palmer do you know him from coming in the

1 store.

2 A: I don't know.

3 Q: You've never called Mr. Palmer the thinker. You
4 didn't know Mr. Palmer as the thinker?

5 A: No.

6 Mr. Ballinger: Nothing further Judge.

7 The Court: Any redirect?

8 Ms. Barr: No judge we ask that the witness be excused
9 so he can go back to work.

10 Mr. Ballinger: No objection.

11 The Court: Thank you sir.

12 Ms. Barr: Call Wayne McFadden.

13 Clerk: Do you solemnly swear or affirm that the
14 testimony you are about to give will be the truth, the whole
15 truth, and nothing but the truth so help you God?

16 Mr. McFadden: I do.

17 Clerk: Ok take your seat in the witness box.

18 Ms. Barr: Mr. McFadden good morning.

19 Mr. McFadden: Hey how you doing.

20 **(Exam by Barr)**

21 Q: Sir you were subpoenaed to testify in this case?

22 A: I was.

23 Q: Back in October-November of 2010 you were employed
24 with the Williamsburg County Sheriff's Office?

25 A: Yes ma'am.

1 Q: And you were an investigator there is that correct?

2 A: That's correct.

3 Q: We have some idea of typically what an investigator
4 would do but just so that you could orient the jury. Tell
5 us what your day to day responsibilities would have been
6 back then.

7 A: In the criminal investigation unit we was assigned
8 the majority of all major cases of the county.

9 Mr. Ballinger: I need you to make sure you keep your
10 voice up for me ok.

11 Q: Explain to us again what your responsibilities would
12 have been at that time.

13 A: We was assigned the command of all major cases in
14 the county.

15 Q: When you say major cases were talking about murders,
16 rapes, robberies all that?

17 A: Yes ma'am.

18 Q: You were a certified police officer at the time?

19 A: Yes ma'am.

20 Q: You participated in investigating the murder of
21 Therris Keels is that correct?

22 A: That's correct.

23 Q: Mr. Keels was killed on C.E. Murray Boulevard in
24 Greeleyville is that right?

25 A: Yes ma'am.

1 Q: In terms of how specifically you would of
2 investigated this case, kind of give us a general idea of
3 what all you would have done as part of the investigation
4 or the department would have done as part of the
5 investigation.

6 A: At the point after I got involved we went to the
7 C.E. Murray are Greeleyville area and started counseling the
8 area started talking to witnesses.

9 Q: You would of I'm assuming spoken to a number of
10 witnesses in the case?

11 A: Yes ma'am.

12 Q: You all issued search warrants?

13 A: Yes ma'am.

14 Q: You issued subpoenas?

15 A: Yes ma'am.

16 Q: Let me ask you a little bit of information just kind
17 of background. We know of course that the defendant was
18 later charged and arrested. Can you give me some information
19 of his age or birth date, his height, his weight and so
20 forth at the time of arrest?

21 A: We referring to Marc Palmer correct?

22 Q: Yes sir.

23 A: The information collected from his South Carolina
24 driver license at that time. He was a black male, age 26 at
25 that time, date of birth 12/19/83, he was 5'8", 165 pounds,

1 black hair, brown eyes.

2 Q: 5'8" 165 pounds?

3 A: Yes ma'am.

4 Q: Do you know where he was, has he always resided in
5 Williamsburg County? Do you know where he was born?

6 A: He had a Lanes address in Williamsburg County. I
7 believe he not originally from here though.

8 Q: What address did he have in Lane?

9 A: 7053 Seaborn Road in Lane South Carolina.

10 Q: In terms of a physical description of Mr. Keels the
11 victim in the case. We've seen some of the autopsy photos.
12 How tall was Mr. Keels and what was his weight?

13 A: Mr. Keels was 5'7", 130, black hair, brown eyes.

14 Q: 5'7", 130 pounds?

15 A: Yes ma'am.

16 Q: You indicated as part of your investigation you
17 would have gone out to the scene is that right?

18 A: Yes ma'am.

19 Q: And we've heard a taped statement that the defendant
20 gave to law enforcement two days after the murder and I
21 believe Agent Creech testified that you were one of the
22 people in the room when Mr. Palmer was interviewed, is that
23 right?

24 A: That's correct.

25 Q: We've heard some of his statements made by him at

1 the time. Do you all try to when you get witnesses
2 statements do you try to follow up on those statements in
3 any form or fashion to either corroborate them or to repute
4 them?

5 A: To corroborate them yes ma'am.

6 Q: Tell me what types of follow up do you all do when
7 you get a statement from somebody, to find out whether or
8 not they're telling you the truth?

9 A: I believe during the statement he proved a alibi
10 certain places he was at, at particular times. For example
11 at the technical school here in Kingstree.

12 Q: Williamsburg Tech?

13 A: Yes ma'am and also at a gas station here in
14 Kingstree.

15 Q: He mentioned that he had, in the tape statement,
16 that he had gone to class that night. You remember that
17 part?

18 A: Yes ma'am.

19 Q: Did you have any conversations with anybody at the
20 school?

21 A: Yes ma'am.

22 Q: And who did don't tell me what the said but who did
23 you have conversations with?

24 A: It was one his instructor at one of the mechanic
25 classes he was attending.

1 Q: You also mentioned well I shouldn't say you
2 mentioned. He mentioned being at a Citgo gas station in
3 Kingstree during his recorded statement?

4 A: Yes ma'am.

5 Q: Did you as part of your investigation go out to the
6 Citgo gas station?

7 A: That's correct.

8 Q: Tell me what was the reason for going out to the
9 Citgo gas station?

10 A: He said that particular time he was actually at the
11 gas station during roughly the time frame of the shooting.

12 Q: Sir do you have a copy of the defendant's statement
13 up there with you?

14 A: No I don't.

15 Q: I'll get back to the part the part about the Citgo
16 in a minute I want to nail down the time frame on that but
17 you went out to the Citgo gas station in Kingstree?

18 A: Yes ma'am.

19 Q: Did you make a request of the personal at the Citgo
20 gas station?

21 A: I asked them can I review the surveillance video for
22 the particular time that he was telling me about.

23 Q: Did they permit you to do that?

24 A: Yes ma'am.

25 Q: At the time Therriis was killed what type of vehicle

1 did the defendant drive?

2 A: It was I would say a teal in color Plymouth Neon.

3 Q: Was it Plymouth Neon or who makes Neons is Plymouth
4 or Dodge? If you know that's fine if you don't that's fine.

5 A: Dodge, Plymouth.

6 Q: How would you describe that color was it distinctive
7 or was it usual color?

8 A: I was a distinct color unusual color.

9 Q: So when you went out to the Citgo gas station and
10 you were looking for a window of time that the defendant's
11 vehicle may have been there. Did you see the defendant's
12 vehicle on any of the surveillance footage during the window
13 of time that he alleged he was there?

14 A: No ma'am.

15 Q: I'm going to hand you what's been marked for
16 identification purposes only as State's exhibit number 3.
17 Is this a copy of the transcript from the recorded interview
18 with Mr. Palmer?

19 A: Yes ma'am.

20 Q: Just so I can make sure that we've got the time
21 frame. If you turn to page 20 just read it to yourself don't
22 read it aloud but you turn to page 20 you start at the
23 bottom. When he's telling you all about being at the Citgo
24 just read that part for me. Starting at line 25 and going
25 to the next page, page 21. And if you will read to line 16.

1 Just want it to be clear I know you haven't seen this but
2 in terms of when the defendant says he was at the Citgo gas
3 station that was between 7:45 and 8 p.m.?

4 A: Yes ma'am.

5 Q: I just want to be clear about that. Talked with his
6 instructors you checked with the surveillance footage from
7 the Citgo gas station and you interviewed some witnesses?

8 A: That's correct.

9 Q: One of the people who you spoke with was a fella by
10 the name of Detrel Matthews you remember that?

11 A: Yes ma'am.

12 Q: Tell me what caused you to interview Detrel and what
13 information were you trying to get from Detrel?

14 A: During while we was in the Greeleyville area we was
15 talking to several individuals. Mr. Matthews name came about
16 in the sense that he had information regarding the murder
17 weapon.

18 Q: Regarding the murder weapon?

19 A: Yes ma'am.

20 Q: And based upon that information that you received
21 you then interviewed Detrel Matthews?

22 A: Yes ma'am.

23 Q: Now we've heard portions of a recorded interview
24 with Mr. Matthews. Were there also times that you spoke with
25 him that were not recorded?

1 A: Yes ma'am.

2 Q: Tell me why was some of the interviews not recorded?

3 A: He didn't want to put them on.

4 Q: Say again?

5 A: He didn't want to have it recorded.

6 Q: He did not want to have it recorded?

7 A: No ma'am.

8 Q: Why not?

9 A: At that time Mr. Matthews was under federal
10 probation and he didn't want to implicate his self as far
11 as violating his federal probation.

12 Q: What would of caused him to violate his federal
13 probation that would have been of concern to him at that
14 time?

15 A: Possession of a weapon violation.

16 Q: He was actually on probation or parolee for having
17 a firearm?

18 A: That's correct.

19 Q: In terms of your conversation with him. Did he
20 provide any information to you off the record that related
21 to the murder weapon?

22 A: Yes ma'am.

23 Q: Tell us about that.

24 A: He confirmed that...

25 Mr. Ballinger: Objection to hearsay.

1 Ms. Barr: Judge this impeachment testimony.

2 The Court: Talk to the attorneys for a second.

3 Objections overruled proceed.

4 Q: Tell us what he said.

5 A: He was able to corroborate that the weapon used was
6 a .45 caliber handgun and he was able to confirm that how
7 he came in possession of handgun was Mr. Palmer and another
8 individual got into an altercation in the Greeleyville area
9 and during that altercation the handgun fell to the ground.
10 He took possession of the handgun and during the course of
11 the next few days Mr. Palmer was calling him to reclaim the
12 handgun. He gave Mr. Palmer back the handgun after a few
13 days.

14 Q: Although you did not record the interview at Mr.
15 Matthews insistence. Did you right a supplemental report
16 about that interview?

17 A: I did.

18 Q: Do you have a copy of that report with you?

19 A: I don't see one.

20 Q: Let me make sure to ask you this. You did several
21 supplemental reports is that right?

22 A: Yes ma'am.

23 Q: And if you talked with witnesses you would make a
24 report about it?

25 A: Yes ma'am.

1 Q: So did you make a supplemental report following your
2 conversation with Mr. Matthews about the murder weapon?

3 A: Yes ma'am.

4 Q: When did you impute that information to your
5 computer and make a supplemental report?

6 A: This was on November 4, 2010.

7 Q: November 4, 2010 is that right?

8 A: Yes ma'am.

9 Q: In terms of giving us a time frame about when this
10 fight between Mr. Palmer and this other individual with the
11 .45 caliber pistol. When did that argument or that fight
12 take place between Mr. Palmer and Mr. I believe Dominique
13 McBride was the other person? When did that happen?

14 A: It was like a few days prior.

15 Q: Does your supplemental report reflect what Mr.
16 Matthews told you about the date that that happened on?

17 A: 10/15/2010.

18 Q: 10/15/2010 so about two weeks, a little under two
19 weeks before Therriis was murdered?

20 A: It was the night of the Kingstree-C.E. Murray
21 football game, yes ma'am.

22 Q: October 15, 2010 and did Mr. Matthews tell you when
23 he gave the gun back to Mr. Palmer?

24 A: What he officially put on record he said that his
25 brother Oniel Matthews was the one.

1 Q: That's what he put on the recorded statement that
2 his brother gave Mr. Palmer back the gun?

3 A: Yes ma'am.

4 Q: But what did he tell you in terms of when if you
5 recall when he gave the gun. Well first of all I might be
6 assuming something. Did he actually tell you that he's the
7 one that gave the gun back to Mr. Palmer off the record?

8 A: Off the record yes ma'am.

9 Q: Was it before the murder?

10 A: It was after the murder.

11 Q: It was after the murder he gave the gun back to Mr.
12 Palmer, the .45 caliber?

13 A: He gave Mr. Palmer weapon before the murder.

14 Q: And we're talking about the gun we're talking about
15 which caliber gun?

16 A: The .45 the .45 caliber gun.

17 Q: Now you are at this time you're investigating the
18 murder case right?

19 A: Yes ma'am.

20 Q: Are you concerned about this probation issue or
21 parole issue or whatever Mr. Matthews has got going on?

22 A: I wasn't.

23 Q: Your priority was?

24 A: The murder.

25 Q: What if anything did you try to do to smooth out any

1 problem that Mr. Matthews might of had with his probation
2 officer?

3 A: First I contacted her by phone she came to came to
4 Kingstree she met with me at the Sheriff's Office. I
5 explained to her what we was investigating and I told her
6 we had an on going investigation going at the time. We had
7 a suspect identified we actually had an eye witness there
8 to say he put the murder weapon back into the individual
9 hand. The only problem is by him saying he had possession
10 of a firearm would violate his federal probation.

11 Q: What were you trying to ask her to do?

12 A: Work with him as much as he could if he could help
13 us with the murder case.

14 Q: And not violate him?

15 A: And not violate him.

16 Q: Did she agree to do that?

17 A: No.

18 Q: Did you tell him that she would not violate him,
19 that she was going to violate him if he put it on record?

20 A: Yeah I mean I stayed straight with him I told him.
21 I ask well Detrel I need your help on this murder case but
22 your probation officer is saying that if you officially
23 paroled make a tape statement while having possession of a
24 firearm she's going to violate you.

25 Q: What did he say at that point?

1 A: He's not cooperating.

2 Q: In terms of you all going out to the scene and
3 further investigating the murder. What caliber pistol was
4 used to kill Therriis Keels?

5 A: .45 caliber.

6 Q: I asked Mr. Matthews this question earlier. Did he
7 tell you why he wouldn't give the gun back to Palmer
8 initially?

9 A: During the fight with him and Dominique.

10 Q: With him we say him who?

11 A: Mr. Palmer and Dominique. The hand gun fell and he
12 was trying to get the handgun back he said he was to shoot
13 Dominique.

14 Q: Who said he was going to shoot Dominique?

15 A: Mr. Palmer.

16 Q: The day that interview was given to the Sherrif's
17 Office by Mr. Palmer photographs of his vehicle was taken
18 that same day, is that right?

19 A: Yes ma'am.

20 Q: Did you ever get inside Mr. Palmer's vehicle?

21 A: Yes ma'am.

22 Q: Did you all obtain a search warrant to allow you to
23 search his car?

24 A: Yes ma'am we did.

25 Q: Lieutenant Scott has already testified about taking

1 the photographs of the car. When you got into Mr. Palmer's
2 vehicle what was the purpose of getting into the vehicle?

3 A: First we were just like first we would get the
4 inventory and we were going through the vehicle and at that
5 point I turned the vehicle on to see if it was running, how
6 it ran. I turned the car on and it made like a loud squeak
7 like the fan belt was making like a loud squeal.

8 Q: Now that's the sound you heard?

9 A: Yes ma'am.

10 Q: Was that of any significance or importance to you
11 when you heard that sound?

12 A: That was something important because that's what the
13 eye witness on the night of the murder said they heard a
14 vehicle when the vehicle cranked up you could hear a fan
15 belt squealing and also the muffler it had a loud running
16 sound from the muffler.

17 Q: In terms of the tires on the vehicle. Was there
18 anything unusual about Mr. Palmer's tires?

19 A: One of his hubcaps was missing. I believe it was the
20 front driver's tire.

21 Q: I'm going to hand you State's exhibit number 14. Was
22 the front driver's tire?

23 A: Yes ma'am.

24 Q: Hubcap was missing? Is that a yes?

25 A: Yes ma'am.

1 Q: Officially who's name was the vehicle registered in?

2 A: I don't have that in front of me Ms. Barr. I do
3 remember it had a 45 day plate on it.

4 Q: Did you request certain information from Department
5 of Motor Vehicle related to ownership of the vehicle?

6 A: Yes ma'am.

7 Q: I'm not going to make this an exhibit I'm just going
8 to show you this. Did you receive that information back from
9 the Department of Motor Vehicles relative to that car?

10 A: Yes ma'am.

11 Q: Who was the official owner of the vehicle?

12 A: His father, Mr. Palmer's father, James Palmer.

13 Q: James Palmer the defendant's father?

14 A: Yes ma'am.

15 Q: And what address was, where did he live as reflected
16 by the DMV records?

17 A: The Lanes area but he use a P.O. Box.

18 Q: There was previous testimony in the case regarding
19 the height of Mr. Keels and the person who shot him, being
20 about the same. In terms of the information that you had
21 tell me again what the defendant's height was and what the
22 victim's height was.

23 A: Mr. Keels was 5'7" 130. Mr. Palmer was 5'8" 165.

24 Q: You talked about going out to Citgo looking at there
25 surveillance footage. Did you go out to the Money Saver in

1 Greeleyville for that same purpose?

2 A: Yes ma'am.

3 Q: Tell me why did you go out to the Money Saver in
4 Greeleyville?

5 A: On that particular day we started we was in the
6 Greeleyville area and then we started going around looking
7 for cameras in the area. I believe we started at the bank,
8 the Bank of Greeleyville. I believe we went down to the Bank
9 of Greeleyville first and just made a circle just to see OK
10 if we could have anything on footage to detect a car or
11 anything anybody leaving out the area at that particular
12 time. At that time I went to the Money Saver to talk with
13 the owner and he allowed me to view the video.

14 Q: You were particularly interested in surveillance
15 footage for 10/27/2010?

16 A: Yes ma'am.

17 Q: The specific time frame that you requested was about
18 what time frame did you request?

19 A: Roughly a time frame the 911 call came out.

20 Q: You went into the Money Saver. Did you view the
21 image from the surveillance tape of Highway 521 around the
22 time frame that the 911 call came in?

23 A: Yes ma'am.

24 Q: You could see that on their surveillance equipment?

25 A: Yes ma'am.

1 Q: Did you download the images from that surveillance
2 equipment onto a separate CD?

3 A: Yes ma'am.

4 Q: When you downloaded onto a separate CD the CD that
5 reflects those images that you downloaded were they the same
6 ones that you saw on the surveillance equipment inside the
7 store?

8 A: Yes ma'am.

9 Q: In terms of that particular surveillance footage you
10 turned it into the Sheriff's Office?

11 A: I did.

12 Q: And at some point later did you all actually take
13 the image from that particular surveillance footage and try
14 to enhance it and make the pictures larger?

15 A: Yes ma'am. I took it to the SLED analyzation unit
16 to have it digitally enhanced.

17 Q: Mr. McFadden I'm going to hand you what's been
18 marked for identification purposes as State's exhibit number
19 45. Do you recognize that particular exhibit?

20 A: Yes ma'am.

21 Q: Tell the jury what it is.

22 A: This is a copy of the surveillance video from the
23 Money Saver in Greeleyville.

24 Ms. Barr: Judge we would move State's exhibit number
25 45 in at this time.

1 The Court: Any objection?

2 Mr. Ballinger: No sir Your Honor.

3 The Court: Without objection State's exhibit 45 is
4 admitted.

5 Q: And I'm also going to hand you what's been marked
6 for identification purposes as State's exhibits number 42,
7 43, and 44 and ask you if you recognize what's depicted in
8 those photographs?

9 A: This is a depiction of a Neon traveling Highway 521
10 roughly about the same time the 911 call came out.

11 Q: When you talk about going to SLED and getting the
12 pictures enhanced would those be the enhanced photograph of
13 what the still images show as it relates to the surveillance
14 video of 521?

15 A: Yes ma'am.

16 Ms. Barr: Judge we would move those exhibits in.

17 The Court: Any objection Mr. Ballinger?

18 Mr. Ballinger: No sir Your Honor.

19 The Court: Without objections 42, 43, 44 are admitted
20 into evidence.

21 (State's Exhibit Numbers 42, 43, 44 and 45)

22 Ms. Barr: Judge we would move to publish State's
23 exhibit number 45.

24 The Court: You may publish it to the jury.

25 Ms. Barr: Mr. McFadden can I get you to come down. I

1 know you hurt your back but I'm not going to have you
2 standing long.

3 Q: Mr. McFadden what date is reflected on the
4 surveillance footage?

5 A: 10/27/2010.

6 Q: What is the time that's reflected on that
7 surveillance footage?

8 A: 10:37 p.m..

9 Q: 22 that's military time right so we just deduct 12
10 from that we get 10:37:16 is that right?

11 A: Yes ma'am.

12 Q: The 911 call came in at what time? I'm just bring
13 you my whole book.

14 A: 10:38.

15 Q: Mr. McFadden can you see the screen from where you
16 are?

17 A: Yes ma'am.

18 Q: There is a and you tell me if I'm wrong a vehicle
19 that's coming down Highway 527 at what point and time here?
20 Can you see that from over there?

21 A: I can't see I don't have my glasses I'm sorry.

22 Q: If I represented to you that that was 10:37:42 would
23 you agree with me?

24 A: Yes ma'am.

25 Q: Go ahead and play that again for me please. Now in

1 terms of the times that I just talked with you about. About
2 the 10 p.m. 37 minutes and 42 second time stamp when I talk
3 about that particular vehicle that's on surveillance footage
4 and I'll give you State's exhibit 42, 43, and 44. Is that
5 the vehicle who's image you had enhanced?

6 A: Yes ma'am.

7 Q: Mr. McFadden I'm going to publish what's been
8 previously admitted as State's exhibit number 42. The time
9 that's reflected on that particular exhibit has 22:37:46 is
10 that right?

11 A: Yes.

12 Q: 10:37:46 is that right?

13 A: Yes ma'am.

14 Q: And we see a vehicle going by the convenience store
15 on 521 at that time?

16 A: Yes ma'am.

17 Q: Now at this time we're going to publish State's
18 exhibit number 43. And again we see that same vehicle also
19 same time stamp 22:37:46?

20 A: Yes ma'am.

21 Q: From where you are and if I need you to step this
22 is really important so I might have to get you to step down
23 if you can't see if from where you are. On that vehicle
24 that's reflected on that particular photograph do you see
25 a hubcap on the driver's side rear tire, here?

- 1 A: Yes ma'am.
- 2 Q: On the rear tire?
- 3 A: You said do I see one?
- 4 Q: Yes a hubcap on the rear tire on the driver's side?
- 5 A: No ma'am.
- 6 Q: You don't see one on the rear?
- 7 A: There's one on the rear.
- 8 Q: I'm sorry I'm have to get you to come down I want
- 9 to make sure we're clear about this point. Mr. McFadden the
- 10 vehicle is here show us where the tail lights are.
- 11 A: Right there.
- 12 Q: Show us where the head lights are. This particular
- 13 image shows the driver's side of the vehicle or the
- 14 passenger's side of the vehicle?
- 15 A: The driver's side.
- 16 Q: Can you see where the rear driver's side tire is?
- 17 A: Right here.
- 18 Q: Do you see a hubcap on that vehicle on that tire?
- 19 A: Yes.
- 20 Q: Now as it relates to the front driver side tire. Can
- 21 you show us kind of where that is?
- 22 A: Right here.
- 23 Q: Do you see a hubcap on the front driver's side tire?
- 24 A: No it's not
- 25 Q: Going to publish State's exhibit number 44. Is that

1 a greater enhanced image of that particular vehicle?

2 A: Yes ma'am.

3 Q: Again show us where the rear driver's side tire is.

4 A: Right here.

5 Q: And what about the front driver's side tire?

6 A: Right there.

7 Q: It doesn't reflect very well on the screen but based
8 upon the images that are in 42, 43, and 44. Can you tell and
9 if can that's great if you can't that's fine the color of
10 that particular vehicle?

11 A: It appear to be a greenish in color.

12 Q: Ok going to publish State's exhibit number 14.
13 That's the defendant's vehicle?

14 A: Yes ma'am.

15 Q: Do you see his rear driver's tire?

16 A: Yes ma'am.

17 Q: Does it have a hubcap?

18 A: Yes ma'am.

19 Q: You see the driver's front tire?

20 A: Yes ma'am.

21 Q: Does it have a hubcap?

22 A: No ma'am.

23 Ms. Barr: Judge we would further move to publish
24 State's 42, 43, and 44 to the jury.

25 The Court: Certainly.

1 Q: Mr. McFadden are you familiar with Greeleyville and
2 Lane communities in Williamsburg County?

3 A: Yes ma'am.

4 Q: If the defendant had left C.E. Murray Boulevard at
5 10:10 p.m. and went straight to the Blakely Lane area of
6 Williamsburg County. If he went straight there you have an
7 idea in your mind about how long it would take somebody to
8 get from C.E. Murray Boulevard to and I'm not asking you
9 what that is, but do you have an idea in your mind about how
10 long it would take somebody to get there from C.E. Murray
11 Boulevard to Lane Blakely community?

12 A: Yes ma'am.

13 Q: If he had in fact left by 10:10 p.m. as he said in
14 his statement would he have any reason to be on 521 in front
15 of the Money Saver at 10:37 p.m.?

16 A: No ma'am.

17 Ms. Barr: Mr. McFadden thank you sir please answer any
18 questions the Court or defense counsel may have for you.

19 The Court: Mr. Ballinger.

20 Mr. Ballinger: Thank you Your Honor may I please the
21 court.

22 **(Cross by Ballinger)**

23 Q: Mr. McFadden where are you currently employed?

24 A:

25 Q: You're not with the Sheriff's Office anymore?

1 A: No sir.

2 Q: Why is that?

3 Mr. Ballinger: Judge we would may have to take up a
4 matter with the Court I'm sorry.

5 The Court: Come forward.

6 Q: Alright Mr. McFadden you've mentioned some footage
7 of the Citgo gas station correct?

8 A: That's correct.

9 Q: Where is that Citgo gas station in where is that
10 located?

11 A: Right here in Kingstree right adjacent to the
12 hospital.

13 Q: And you looked at the footage from again what time
14 period?

15 A: I believe he said he left class at roughly 7:30 give
16 or take. I believe I looked at it up until 12 o'clock that
17 night.

18 Q: You didn't get a copy that did you?

19 A: They couldn't provide a copy of it.

20 Q: Did you check any surveillance from the Young's or
21 the Sunoco gas station?

22 A: Which Young's sir?

23 Q: The Young's in Greeleyville?

24 A: I did.

25 Q: You said you did?

1 A: I did.

2 Q: You don't have a copy of that?

3 A: No sir.

4 Q: Why not?

5 A: Because it didn't depict anything.

6 Q: Let's look at this footage from...Just play it from
7 the start. Alright stop it right here. Did you just see a
8 car go by Mr. McFadden?

9 A: I did.

10 Q: And that was at approximately 22:37:05? Are we
11 pretty close at 22:37:05 at the first car going by?

12 A: Yes sir.

13 Q: There is another car depicted on the screen at
14 22:37:13 is that correct?

15 A: Do you need me to come down.

16 Q: No if you can agree with me that there's a vehicle
17 on the screen at 22:32:13.

18 A: Ok..

19 Q: Alright we agree on that. What I need to get to do
20 Investigator McFadden and if you need to come down do so.
21 Tell me how long it is from the time this first car enters
22 the screen until the time it leaves the screen. I need you
23 to tell me how long the car is on video tape. You gonna have
24 to come down to do that?

25 A: Yeah.

1 Q: And again just tell me about how long that car is
2 on the screen. About how long was it on the screen?

3 A: Two-three seconds.

4 Q: Ok two or three seconds alright and keep play it and
5 when the second one comes by tell me how long car is on the
6 screen right here?

7 A: Roughly 4 seconds.

8 Ms. Barr: I'm sorry I didn't hear the witnesses answer.

9 Mr. McFadden: Roughly 4 seconds.

10 Q: And when the next car comes by tell me about how
11 long?

12 A: The same 3 to 4 seconds

13 Q: 3 to 4 seconds just like the first is that correct?

14 A: Yes sir.

15 Q: Just let it roll to the last when it goes by please
16 tell me. And I just want you to tell me there's going to be
17 one more car that comes by just please tell me what time it
18 is when the fourth car comes by. And what time did the
19 fourth car go by Mr. McFadden?

20 A: 10:39:14.

21 Mr. Ballinger: Thank you that's all I need you can come
22 back up.

23 Q: Alright so Investigator McFadden the first car that
24 went by it took 2 to 3 seconds correct?

25 A: That's correct.

1 Q: The second car that went by it took 3 or 4 seconds
2 correct?

3 A: Correct

4 Q: Third car that went by it took 2 or 3 seconds
5 correct?

6 A: Yes sir.

7 Q: And fourth car came by about a minute later you
8 think the time period that that car was on the screen was
9 similar to the other three cars?

10 A: Yeah 4 or 5 seconds.

11 Q: So based on that video the third car is not going
12 any slower or any faster than any of the other three cars
13 is it in a significant fashion?

14 A: Yes sir.

15 Q: And were the other three vehicle investigated?

16 A: The other three vehicles?

17 Q: Yeah.

18 A: Were the investigated?

19 Q: Yeah.

20 A: No sir.

21 Q: I mean were there picture blown up try to get there
22 tags, try to find out who was driving those other three?

23 A: No sir.

24 Q: So there's two minute window. State's case is based
25 entirely on this vehicle being at the scene and you all

1 didn't investigate the other three vehicles that were there
2 in the immediate vicinity?

3 A: No sir I was looking for a specific vehicle.
4 Specific make and model that had distinct features. That
5 what I was looking for in the video.

6 Q: Do you recall Mr. Palmer's hair style in the initial
7 interview you and Agent Creech performed?

8 A: I believe he had braided hair at that time.

9 Q: Was is it up in a pony tail or anything like that?

10 A: Just braided to the back I believe.

11 Q: When you say braided like corn rows as we would
12 refer to?

13 A: Similar to the gentlemen right here just braided.

14 Q: Those are more like dreadlocks.

15 A: I mean his braided, braided going to the back. I
16 don't have his booking photo in front of me but I recall it
17 was braided I believe.

18 Q: Did you get a signed search warrant Investigator Mr.
19 McFadden?

20 A: Did I get one?

21 Q: Yes sir. Who got the search warrant for the vehicle?

22 A: If I recall correctly it's was Investigator Stagner
23 sir I believe it was. You don't have a copy of the search
24 warrant.

25 Q: Did you, who took possession of the vehicle? When

1 you all found it the Neon.

2 A: I can't recall that sir.

3 Q: You recalled you testified earlier you recalled
4 sitting in it and cranking it up.

5 A: That was at the Sheriff's Office the initial
6 interview with him.

7 Q: So how did it get to the Sheriff's Office I guess
8 is my question?

9 A: I believe he drove it there if I'm not mistaken.

10 Q: Do you remember the date that the car was first
11 seized?

12 A: That was on 10/29/2010.

13 Q: That's when the car was searched at the Sheriff's
14 Office correct?

15 A: That's correct.

16 Q: And that's when you talking about cranking it up?

17 A: Yes sir.

18 Q: I'm looking at an unsigned warrant dated November
19 17, 2010. I'll show you this. Does that look like the
20 affidavit you signed to get the warrant?

21 A: Yes sir.

22 Q: I'm just looking for a signed copy of the order if
23 I show that copy to you it's unsigned. You got a signed one?

24 A: I don't have a copy of the search warrant sir.

25 Q: So how did you all get the car that day is what I'm

1 asking?

2 A: If I'm recalling correctly that was performed behind
3 the Sheriff's Office.

4 Q: Back to this gun. You wrote a report that said
5 Detrel initially saw the gun fall out of waistband during
6 a fight with Dominique McBride correct?

7 A: That's correct.

8 Q: Then you've got another report that says that Oneal
9 Matthews actually had the gun, correct?

10 A: That's correct.

11 Q: So which one is it or do you know?

12 A: I'm sorry.

13 Q: I said which one is it? Did Detrel get the gun
14 allegedly or did Oneal get the gun?

15 A: Allegedly it was Detrel.

16 Mr. Ballinger: I don't have any the further Judge thank
17 you.

18 The Court: Any redirect?

19 Ms. Barr: Just very brief redirect Judge if I may.

20 **(Redirect by Barr)**

21 Q: I need to clear up some matters, you said that you
22 were asked on cross examination that allegedly Oneal
23 Matthews said he had the gun. You remember him asking
24 you that question?

25 A: Yes ma'am.

1 Q: I need to be clear about this point. When you were
2 asked about whether or not Oneal Matthews had the gun. Are
3 we talking about at the time of the shooting or we talking
4 about the incident that happened between Marc Palmer and
5 Dominique McBride? When they said terms of had the gun.

6 A: When I went to talk to Detrel, Detrel wouldn't
7 officially put it on statement that he had possession of a
8 handgun. Detrel told me to talk to his brother Oneal. Myself
9 and Staggers went out to the residence of Oneal Matthews to
10 talk with him. Oneal attempted to give me a statement,
11 claiming ownership of the gun said he was the one that
12 passed the gun back to Mr. Palmer. What I advised Mr. Oneal
13 was I'm not taking a statement from you regarding a false
14 statement because you're trying to cover for your brother
15 Detrel. It doesn't make any sense for me to make an official
16 statement with you, me you and I both know it's a lie.

17 Q: Regardless of who took the gun from Marc and gave
18 it back to Marc before the shooting of Therriis. One of them
19 or I should say both of them are claiming that at the time
20 before Therriis Keels was murdered Mr. Palmer got his gun
21 back?

22 A: Yes ma'am.

23 Q: The .45 caliber gun?

24 A: That's correct.

25 Q: You made a specific supplemental report about the

1 date in which you would have cranked up his vehicle?

2 A: Yes ma'am.

3 Q: And what date was that?

4 A: That was 10/29/2010.

5 Q: Alright and you had a, at the time you did that you
6 had a signed search warrant from the Magistrates Court?

7 A: Yes ma'am.

8 Q: When was Mr. Palmer arrested? I'm going to give you
9 the arrest warrant, a copy of that. When was that arrest
10 warrant served on him?

11 A: 11/25/2010.

12 Q: 11/25?

13 A: Excuse 11/15/2010.

14 Q: 11/15?

15 A: 11/15/2010.

16 Q: And there was a second search warrant that you
17 signed on what particular date?

18 A: 11/17/2010.

19 Q: Two days after he was arrested?

20 A: Yes ma'am.

21 Q: Now did you know anything about his vehicle being
22 at the home of Elijah Kennedy?

23 A: No I didn't.

24 Q: The other vehicle that drove by on that surveillance
25 footage, well all of the vehicles that drove by. Could you

1 see or make out a tag number from those vehicles?

2 A: No ma'am.

3 Q: And in terms of where Reardon's Garage would have
4 been in connection with that surveillance tape. Would
5 Reardon's Garage been here on the right?

6 A: On the right coming to the left.

7 Q: From the right coming toward the left?

8 A: Yes ma'am.

9 Q: Quick question. This is State's exhibit number 4.
10 If Reardon's Garage is here and if this is C.E. Murray
11 Boulevard here and if the shooting happened here. Where
12 would the Money Saver be?

13 A: This is C.E. Murray correct?

14 Q: Yes and Reardon's Garage...

15 The Court: Have it where all the jurors can see it I
16 think you're blocking a portion of it.

17 Q: Let me get you familiarized with where we are. If
18 Reardon's Garage is here. If this is Wayne or Wesley
19 Walker's house here. If this is Good Hope Baptist Church,
20 if this is the shop and the fish market and that's the lodge
21 here. Where would the Money Saver be if this is 521?

22 A: There.

23 Q: Back there?

24 A: Yes ma'am.

25 Ms. Barr: That's all I have thank you Judge.

1 The Court: Any recross based on her redirect?

2 Mr. Ballinger: No sir Your Honor.

3 The Court: Thank you, you may step down.

4 Ms. Barr: Your Honor at this time the State would rest.

5 The Court: Ladies of gentlemen of the jury this is an
6 appropriate time for me to send you to lunch. I'm going to
7 send you out if you could be back here right about two
8 o'clock and we'll start right around then. Have a nice lunch
9 do not discuss the case with anyone while you're out. You're
10 going to get tired of me saying that but I will continue to
11 say it, have a nice lunch.

12 **(Jury excused for lunch)**

13 The Court: Alright are there any motions to be made at
14 this time?

15 Mr. Ballinger: Your Honor for the record Mr. Palmer
16 would move for a directed verdict based on the lack of
17 required evidence that's necessary to prove the elements of
18 murder and the elements of possession of a weapon during the
19 commission of a violent crime. Your Honor there's no
20 physical evidence connecting Mr. Palmer to this incident,
21 there's no murder weapon. Judge we believe the eye witness
22 testimony is lack sufficiency again to submit this matter
23 to the jury. We move for a directed verdict, thank you.

24 The Court: Ms. Barr?

25 Ms. Barr: Your Honor we would respectfully object,

1 submit to the Court that there has been direct and
2 circumstantial evidence in this case. We've got the testimony
3 of eye witness that identifies the defendant as a the
4 shooter. Of course that testimony will have to be judged by
5 credibility standards by the jury. In addition to the direct
6 testimony we got evidence of animosity between the victim
7 and the defendant. We've got witnesses or at least evidence
8 in this record where the defendant had possession of the
9 same type murder weapon that was used to kill the victim.
10 We've got evidence from the surveillance footage that puts
11 the defendant in the area at the time of the murder and we
12 would certainly submit that based on all the direct and
13 circumstantial evidence that there's more than enough
14 evidence in the record for with the jury can conclude that
15 the defendant is guilty and we would respectfully request
16 that the motion be denied.

17 The Court: At this time the Court is more worried about
18 the -- not the weight of the evidence. So at this time I'm
19 going to deny your motion.

20 Mr. Ballinger: Thank you Judge.

21 The Court: You had stated that your client is probably
22 going to testify?

23 Mr. Ballinger: Yes sir that's still the case.

24 The Court: Will the defendant please stand and place
25 him under oath. I got to ask you these questions whether

1 you're going to do it or not. Just stand right there.

2 Clerk: Do you solemnly swear that the testimony you are
3 about to give is the truth, the whole truth, and nothing but
4 the truth so help you God?

5 Mr. Palmer: Yes I do.

6 The Court: You are Marc Anthony Palmer? Please remain
7 standing. Is that correct?

8 Mr. Palmer: Yes sir.

9 The Court: Mr. Palmer at this time I'm going to explain
10 to you certain of your rights. If you do not understand
11 anything that I say please let me know. If you want me to
12 explain anything in further detail please let me know. Do
13 you understand?

14 Mr. Palmer: Yes sir.

15 The Court: We have now reached the stage of the trial
16 where you may present your defense. You have a right to
17 claim the protections given to you by the Fifth Amendment
18 of the United States Constitution. Which says in part that
19 not person shall be compelled in any criminal case to be a
20 witness against himself. This means that you cannot be
21 required to testify in this case. You have a right to
22 testify on your own behalf, however no one can make you
23 testify. This is a personal right and no one can wave this
24 right except for you. Now if you decide to testify you will
25 be subjected to the same rules that have governed other

1 witnesses and you may be examined and cross examined on any
2 relevant issue in this case. In addition if you have any
3 convictions involving dishonesty or false statement or for
4 crimes personal of more than one year and I determine that
5 the prerogative value out ways the prejudicial effect on
6 you. Then the solicitor will be able to introduce your
7 record to attack your credibility. Is there any, are there
8 any convictions that would fall into either of these
9 categories?

10 Ms. Barr: Judge based on the defendant's criminal
11 record, because they're out of state convictions I noticed
12 during his recorded statement he talked about the agent
13 asked him whether or not he had any distribution
14 convictions. He says it was possession Judge and I'm unclear
15 as to the charge is characterized as purchased, possession,
16 manufacture, distribution, or sale. That was in the state
17 of Georgia in 2004 and I'm not sure what the disposition was
18 Judge. He has a number of other charges but I needed just
19 to make sure that that's in fact the case, I noticed that
20 on the recorded statement he indicated that he plead to
21 possession as oppose to distribution.

22 The Court: ... possession wouldn't carry over a year.

23 Ms. Barr: I would not think so.

24 Mr. Ballinger: Judge he tells me he did 20 hours of
25 community service as his punishment.

1 The Court: Well again it's not what he actually served.

2 Mr. Ballinger: I understand I just said it that as far
3 as the severity of the crime.

4 The Court: I would not think that a possession of
5 marijuana is more than one year. Anything else?

6 Ms. Barr: No sir Judge.

7 The Court: Again if you decide to testify the decision
8 in part must be freely, voluntarily, and intelligently made
9 with knowledge of the protections given to you by the Fifth
10 Amendment. If you decide not to testify I will instruct the
11 jurors that they cannot give the fact that you did not
12 testify any consideration whatsoever and there are to be
13 absolutely no prejudice to you because you did not testify.
14 It is left entirely up to you whether or not you want to
15 testify and you may talk with your attorney, any family or
16 friends, but the final decision will be left entirely up to
17 you. Now do you understand what I've explained to you?

18 Mr. Palmer: Yes Your Honor.

19 The Court: Do you have questions about what I've
20 explained to you?

21 Mr. Palmer: Let's say I get asked a question and the
22 incident was incriminating on another charge can I take the
23 Fifth Amendment?

24 The Court: Sir once you're on the stand, you're on the
25 stand and you can be subjected to any cross examination that

1 the prosecution wants to ask you.

2 Mr. Palmer: So if they subject me to another....

3 The Court: Once you're on the stand you're fair game.
4 Just like any other witness is. You'll be treated no
5 differently than any other witness once you take the stand.
6 I'm going to give you over lunch to talk to your attorney
7 about this. So right before the jury comes back in, before
8 it would be time for you to testify I'll ask you the final
9 question at that time. So you may have over lunch to talk
10 to your attorney. Alright thank you. Court's in recess until
11 two o'clock.

12 **(Court is in recess)**

13 **(Court in session)**

14 The Court: Alright Mr. Palmer would you please stand,
15 Mr. Palmer please stand. Let me make sure I may have said
16 something that could have confused you. You asked me the
17 question would you have to answer every question and the
18 answer and I said yeah once you're on stand you got to
19 answer, every relevant question. Once you're on the stand
20 you cannot confer with your attorney. He can make an
21 objection to questions she ask but if I rule that it's
22 admissible then you're going to have to either answer it,
23 you can get off the stand anytime you want to but you won't
24 get a charge but the jury can't hold that against you at
25 that point and time. So have you talked with your attorney

1 about whether, do you have any other questions?

2 Mr. Palmer: No.

3 The Court: Have you talked with your attorney about
4 whether you want to testify or not?

5 Mr. Palmer: Yes sir.

6 The Court: Have you talked to your family or friends
7 about it and do you want to testify?

8 Mr. Palmer: Your Honor I am.

9 The Court: Ok very well you may be seated. Let's bring
10 our jury in.

11 **(Jury in)**

12 The Court: Alright ladies and gentlemen I hope you all
13 had a nice lunch. Is the defense ready to proceed?

14 Mr. Ballinger: Yes sir Your Honor.

15 The Court: You may call your first witness.

16 Mr. Ballinger: Your Honor at this time we call James
17 Palmer.

18 The Court: Alright Mr. James Palmer come forward
19 please.

20 Clerk: Place your left hand on the Bible and raise your
21 right hand. Do you solemnly swear that the testimony you are
22 about to give will be the truth, the whole truth, and
23 nothing but the truth so help you God?

24 Mr. James Palmer: Yes I do.

25 Clerk: You may take your seat in the witness box.

1 The Court: Mr. Ballinger you may proceed.

2 Mr. Ballinger: Thank you Your Honor may I please the
3 court..

4 The Court: Yes sir.

5 **(Exam by Ballinger)**

6 Q: Mr. Palmer state your full name for the record
7 please.

8 A: My name is James Edward Palmer.

9 Q: What is your relationship to Marc Palmer?

10 A: Marc Palmer is my son.

11 Q: Where do you reside Mr. Palmer?

12 A: 7052 Seaboard Road, Lane SC.

13 Q: How old are you sir?

14 A: I just turned 72 on the sixth of this month.

15 Q: There was testimony you've been in the court room
16 all week, correct?

17 A: Yes.

18 Q: You were here when the testimony was entered about
19 moving the Dodge Neon from your house to a another house
20 behind the barn, correct?

21 A: Yes I do.

22 Q: What information do you have regarding the moving
23 of that vehicle?

24 A: Well I was the Mr. Palmer not my son. Me and him we
25 was friends for years Elijah? And now prior to I think of

1 about a week or two after this incident I was told by a
2 cousin...

3 Ms. Barr: Judge I'm going to object to hearsay.

4 The Court: Sustain you cannot what someone else said
5 sir.

6 A: Ok, well I was threatened me and my wife were
7 threatened to stay in the house.

8 The Court: Sustained sir you cannot state that.

9 Q: Don't tell about what anybody told you. Just tell
10 me what you did.

11 A: What I did I spoke to Elijah about moving the car
12 to his house, because he live way back in the woods and I'm
13 on the Andrew Highway. After the incident happened with my
14 son I don't want me and my wife to be in any danger in case
15 something crazy happen. So I asked could I move the car back
16 to his house. So he told me it was ok so I detail cars off
17 and on a little so I detailed his car his truck rather. So
18 I went and I put the car in his yard so the next day...

19 Q: No don't tell don't say what he told you.

20 A: Next day I had to go move the car out of his front
21 yard and put it beside the barn. So then I went back two day
22 later I think it was to do his car his truck rather and I
23 discovered the car was removed. So then I stopped at his
24 daughter house and ask information about it. The car was
25 moved by the Sheriff's Department nobody said_...

1 Q: At the time the vehicle was moved where was Marc
2 Palmer?

3 A: Marc was in jail. My wife and I took Marc and turned
4 him in the week or the week before.

5 Q: Had the car been searched prior to this move?

6 A: It was searched before.

7 Q: You refer to the individual's house where you took
8 it to as Roger?

9 A: Elijah.

10 Q: Elijah ok Elijah Kennedy?

11 A: Yeah he's deceased now.

12 Q: Elijah Kennedy is that correct?

13 A: Yes.

14 Mr. Ballinger: I don't have anything further Judge
15 thank you.

16 The Court: Ms. Barr.

17 Ms. Barr: No I don't have any questions for Mr. Palmer.

18 The Court: Thank you, you may step down sir.

19 Mr. Ballinger: Judge my client instructed me to ask an
20 additional question. Can I beg the Court's indulgence.

21 The Court: You have any objection Ms. Barr? She didn't
22 ask any questions you'd have to go with her permission.

23 Mr. Ballinger: I understand.

24 **(Additional question by Ballinger)**

25 Q: Do you recall what your son had on or was wearing

1 the evening of October 27, 2010?

2 A: No I can't remember because it's been a long time
3 ago. When he left the house I was in lying down because I
4 have a sickness problem.

5 Mr. Ballinger: Fair enough thank you.

6 The Court: Any cross examination on that?

7 Ms. Barr: No Your Honor.

8 Mr. Ballinger: We'd like to call Marc Palmer.

9 The Court: Alright Mr. Palmer come forward and be
10 sworn.

11 Clerk: Place your left hand on the Bible and raise your
12 right hand. Do you solemnly swear and affirm that the
13 testimony you are about to give is the truth, the whole
14 truth, and nothing but the truth so help you God?

15 Mr. Palmer: Yes I do.

16 Clerk: Ok you may take your seat in the witness box.

17 Mr. Ballinger: May it please the court Judge?

18 The Court: Yes sir.

19 **(Exam by Ballinger)**

20 Q: Mr. Palmer state your full name for the record.

21 A: Marc Anthony Palmer.

22 Q: How old are you sir?

23 A: I am 29 years old.

24 Q: Where do you live?

25 A: My permanent residence is 7052 Seaboard in Lane, SC.

1 Q: How far did you go in school Marc?

2 A: Did about a year and half of college for Business
3 Administration in Management and then I did a couple of
4 months at Williamsburg Technical College for auto-mechanics.

5 Q: Are you singled or married?

6 A: Single.

7 Q: You got any kids?

8 A: No.

9 Q: What type of classes were you taking at Williamsburg
10 Tech?

11 A: Auto-mechanic.

12 Q: Do you have any criminal history Mr. Palmer?

13 A: I have one simple possession of marijuana on my
14 record.

15 Q: And that occurred about when?

16 A: The incident happened in February, I think February
17 12, 2004 I think that's the exact date I'm not to sure.

18 Q: So about 8-9 years ago?

19 A: Yes, it was my first day I just registered for
20 college and party.

21 Q: Let's move directly to October 27, 2010. Tell me
22 what happened about the time you got up going forward.

23 A: I guess I can't to much remember what I did from
24 like you know the very beginning of the day but I guess the
25 incident everyone's talking about with me and Therri in the

1 bullpen. I was in the bullpen for a while that's on the
2 Circle in Greeleyville.

3 Q: Would it be reflected on that map or is there anyway
4 you could show us off the map?

5 A: It's not on that map it's off like way off. It's
6 behind the liquor store in Greeleyville.

7 Q: In which direction from C.E. Murray Boulevard?

8 A: It would be down this direction right down here.

9 Q: So you were hanging out at the bullpen?

10 A: Yeah.

11 Q: Tell me what happened while you were at the bullpen.

12 A: Maurice Smith pulled up with Therris Keels in the
13 car and Therris Keels got out of the car and sat down in the
14 chair in the bullpen it's a little like it's a hole it's
15 like a little hole in the woods area. A spot where everybody
16 hangs out and drinks, play cards, or do drugs and whatever.
17 So Therris sat down at he took out some he had a piece of
18 crack in his hand. He sat down on a bench I mean on the
19 chair he hit the piece of crack then about I say 30 seconds
20 or 45 seconds later he says man I had a hundred dollars last
21 night man you turned me down for a hundred dollars and I
22 said I don't got none Therris you know I don't really mess
23 with you like that. So Therris said he said man you saying
24 I'm the police, I was like no I don't think you the police.
25 He was like so you know I robbed somebody last right. So I

1 said yeah I heard about that and he says you know I could
2 of robbed you right you know I could have robbed you before
3 right. I'm like well no I don't think you could of robbed
4 me Therriis so he says yeah, yeah, yeah I could rob you I
5 could rob you right now if I want. So I said no you can't
6 you know what I'm saying then he said you know what I don't
7 even want you, you ain't got enough for me I want a big man
8 he said you small time. So I said alright that's cool
9 because I ain't want no problems with you. I guess we sat
10 there I must of sat there for like another good fifteen or
11 twenty minutes and then I got in my car and I left. I'm not
12 sure about where I went afterwards but I had class as six
13 and I made class. We got out for break on class at around
14 maybe seven it was sometime between 7:15 or something like
15 that. The instructor told, well I thought the instructor
16 said be back at 7:30 but he said, he says that he said to
17 be back at 7:15. It was something we got the times wrong and
18 when I came back to class he told me to leave. I mean I
19 tried to put up a little bit of argument but I left. I went
20 to Citco and I put twelve dollars in my tank. I got me some
21 weed I went and got me some weed I rolled up a blunt, smoked
22 on the way home. When I got home I went to sleep and I woke
23 up around 10 o'clock said I was going to hit up the shop.
24 So I went to the shop out in Greeleyville that's I don't
25 know how long it take but it take a little bit to get there.

1 I went out there I seen a guy I hang out with dude name
2 Freddie Chandler. I seen him I said what's up to him and
3 then I went in the shop, I went and got me a cigarette and
4 I chilled for a little minute watched people play pool. I
5 walked back out the shop and I see Trel, Trel was talking
6 to somebody.

7 Q: Who's Trel?

8 A: Detrel Matthews. So after he finish talking with
9 somebody else I hollered at him I said what's up you know
10 it's good he was like nothing everything straight you
11 alright. I was like yeah I'm good and then I went back to
12 my car and I was about to get on my phone and call another
13 friend but I couldn't phone I looked I was looking around
14 because usually I do that. I'll be on the phone and I'll
15 hang up the phone and I'll put it in my lap or something and
16 when I get out the car it will end up falling you know. I
17 just so I end up losing my phone basically and so I got in
18 my car and I left. I went towards past the Sunoco the Sunoco
19 station it's like a little behind there I think they call
20 it like they call that area back there like Trueball or
21 whatever. So I went to other places to see if something was
22 going on over there because it was a whole bunch of people
23 at the shop I mean I'm not proud about you know what I...

24 Ms. Barr: Judge not responsive to the question.

25 The Court: Sustained.

1 Q: Let me back you up just a little bit Mr. Palmer.
2 Your testimony was you left Lane about 10 o'clock to go to
3 the shop right?

4 A: Yeah.

5 Q: That you when you arrived at the shop you spoke to
6 Detrel Matthews correct?

7 A: Yeah.

8 Q: Did you see Therris Keels at any of that time frame?

9 A: Yes I seen Therris.

10 Q: Did you and Therris exchange any type of greeting?

11 A: No me and Therris didn't exchange any type of
12 greeting. I didn't say anything to him, I never greet
13 Therris or anything like that when I see him. Ever since I
14 known him I ain't never been like that.

15 Q: Alright so you then in essence you left correct?

16 A: Yeah.

17 Q: Where did you when you arrived at the shop where did
18 you park?

19 A: I parked across the street from the seafood store
20 and yeah that's where I parked.

21 Q: The fish market that we've been referring to?

22 A: Fish market yeah.

23 Q: So is that near the did you park near the Masonic
24 Lodge?

25 A: It's on the same side as the Masonic Lodge but it's

1 a little ways you know it's not right in front of the
2 Masonic Lodge.

3 Q: Alright well point to me and then I'll try to get
4 it

5 A: I parked right here that's the Masonic Lodge and I
6 park right here across the street.

7 Q: Come around a show the jury while I hold this where
8 you parked.

9 A: My car was parked right over here.

10 Q: Alright where you just indicated is where you parked
11 when you arrived at the shop correct?

12 A: Yes sir.

13 Q: So you left you got in your car and you left and
14 which way was your facing when you parked? Was it facing
15 towards the Masonic Lodge?

16 A: Yes it was facing towards the Masonic Lodge.

17 Q: And when you got in your car did you just drive out
18 the way your car was facing?

19 A: Yes.

20 Q: Down C.E. Murray Boulevard?

21 A: Yes down C.E. Murray Boulevard pass the Sunoco
22 station.

23 Q: Alright so there's a Sunoco station on that road?

24 A: Yeah.

25 Q: So that's where you did what if anything at the

1 Sunoco station?

2 A: I when I got to the end of the road I made a right
3 and there's a road behind the Sunoco station. So like you
4 pass the Sunoco station and you make a left I went down that
5 road that's Trueball and I went towards a couple house to
6 see if well basically I was trying to make some money. So
7 I went to a couple houses wasn't nobody there so I sat in
8 my car. Sat in my car rolled a blunt and I ride I was going
9 my whole plans was to go to the beach anyway sometime later
10 on that night because I had a friend that's out there that
11 I use to run with from Greeleyville that I met in
12 Greeleyville. So I figured I was going to go out there that
13 night. I left I went down I left through 521 and went down
14 Good Iron pass the Money Saver. I went down Good Iron and
15 I got to Broomstrode Road when I passed 52 I got to
16 Broomstrode Road and I made a left and I went down towards
17 Dulanes and I got on I took Seaboard Road down Seaboard Road
18 I went to I got to Blakely and I decided I was going to ride
19 through Blakely whatever see if I know see a couple people
20 I knew. I ain't really see nobody or run into nobody like
21 that and when I got to I took the end of Blakely it leads
22 to 521, Highway 521. I went down Highway 521 and I went on
23 to Andrews. When I got to Andrews there wasn't no gas
24 stations open and I knew I was low on gas so I didn't take
25 the chance and trying to end up getting stuck between

1 Georgetown and Andrews and I don't even know nobody in
2 between that area so I turned around and I went back home.
3 I almost made it back home but I end up getting stuck on the
4 side running out of gas and getting stuck on the side of the
5 road. So someone stop someone seen me, well basically ever
6 car that pass by I flipped my light and honk the horn.
7 Someone see me and just payed them ten dollars I told them
8 I'll give them ten dollars if they give me some gas. Someone
9 went to there house and got me some gas from their lawnmower
10 or whatever. After that I went back to I went to my cousin
11 house because I know my cousin he be up late at night. So
12 I went to his house and he was telling me everything that
13 you know that he heard he was like...

14 The Court: Sustain.

15 Ms. Barr: Judge if I may and I don't mean to keep
16 interrupting but he's just kind of going on and on and it's
17 not responsive to any question that was opposed by him by
18 his lawyer.

19 The Court: You need to ask him questions.

20 Mr. Ballinger: Alright.

21 Q: That bring me to my next question because you
22 explained several things. Explain why you told well let me
23 ask you this. Is that your vehicle on the Money Saver video?

24 A: It looks like probably yeah.

25 Q: And you were in that vicinity?

1 A: Yeah I was in that vicinity around that time.

2 Q: So I mean you are aware that your car only has or
3 your tire on your driver side only has one hubcap?

4 A: Yeah.

5 Q: You admit that?

6 A: Yes I admit that.

7 Q: So I mean that's your vehicle just based on what you
8 know correct?

9 A: Yeah.

10 Q: So times become very important. How long do you
11 believe it takes to get from your house in Lanes to the
12 club?

13 A: Probably about 10 minutes. You can't speed through
14 Lanes now.

15 Q: And how long were you at the club?

16 A: I don't know I say I was there for I wasn't there
17 to long probably about from 5 to 10 minutes maybe.

18 Q: Why did you leave the club so quickly?

19 A: Well I mean the club was crowded and I couldn't like
20 when I got there it was already a whole bunch of people
21 there. I really went out to the I didn't go to the club to
22 hang out, I went out there so I could make me a little bit
23 of money I just I wanted to go out and I had just spent
24 money on getting my car fixed on Tuesday so I went there to
25 see if I could make a little bit more money, but everybody

1 was out there so I left. It didn't make no point to me just
2 sitting around just hanging out. I do that every night and
3 I just got me a car so I wanted to do something different.

4 Q: You mention having your car fixed. What was the
5 problem?

6 A: It had an oil leak there was some screws that was
7 broken off in the I guess the valve cover. There was a screw
8 broken off in the valve cover and I ended up getting a new
9 valve cover gasket for it and I had to go get some easy out
10 and I ended up well I didn't fix the oil leak fully but I
11 fixed it some. It still had a crack in the crankshaft it's
12 a crankshaft something it was on the side of the engine and
13 it wasn't leaking how it use to leak because before I use
14 to have to buy a gallon of oil every time with a gallon of
15 gas, gallon of oil gallon of gas run together but this time
16 you know it was straight but my car didn't make any noise
17 my car didn't make any noise.

18 Q: Did you have any problems with the fan belt in your
19 car?

20 A: No.

21 Q: Did you have any problems with the muffler in your
22 car?

23 A: No.

24 Q: So describe how your car sounded when you cranked
25 it up.

1 A: You actually you couldn't even hear my car when my
2 car crank up. I got a 1997, it's a 1997 Plymouth Neon and
3 when you turn the ignition you don't hear nothing. I mean
4 I almost messed up my starter trying one time because I
5 didn't know my car was on. You can't even hear it running
6 while it's just sitting there. I mean we can do a however
7 you call that an exhibit if the Court wants to and crank
8 that thing up.

9 Q: Alright Mr. Palmer you gave a statement correct?

10 A: Yes.

11 Q: And you're familiar with your statement that you
12 gave to law enforcement?

13 A: Yes I'm familiar with it.

14 Q: What part of your statement is inaccurate?

15 A: Probably about the part where I ran out of gas or
16 whatever. I mean I was nervous you know.

17 Q: In what particulars was the part about running out
18 of gas because you testified earlier you ran out of gas?

19 A: About that you know when I said I called some dude
20 or whatever besides that everything else that was what it
21 was.

22 Q: Alright so on page 7 let's go back to page 6 line
23 11. They ask you did you see Therriis at the club and what
24 did you say?

25 A: I said yeah.

1 Q: And they asked you, what happened and what was your
2 response?

3 A: Nothing we didn't have any words. He didn't look at
4 me funny or anything I didn't look at him funny or anything.
5 I just stayed clear away from him and that was that.

6 Q: Question was, and you all didn't have any words?

7 A: No we didn't have any words.

8 Q: And the next question is, what time did you leave?

9 A: I wasn't there long I was in there five or ten
10 minutes.

11 Q: Question, you don't know what time it was?

12 A: No I don't know the time. I know that I had got
13 there around ten after because I left the house around. I
14 got out of school early and I still ended coming out around
15 10 o'clock.

16 Q: Then the question was, so you stayed in the club
17 about ten minutes then left. Answer.

18 A: In the club yes sir.

19 Q: And the next question is, and you went to Andrews?
20 And your answer was?

21 A: At first I stopped at Blakely.

22 Q: So is that incorrect? Did you leave out something
23 that happened between you leaving the club and you heading
24 to Blakel in this statement?

25 A: Yeah.

1 Q: And what was that that you testified to earlier?

2 A: Well that was basically me going past the, going
3 behind the Sunoco gas station you know going to different
4 people houses seeing if I could make some money.

5 Q: When you say make money what are you talking about
6 doing Marc?

7 A: Selling drugs.

8 Q: So you were a little apprehensive about telling the
9 cops that you left the club to go sell drugs?

10 A: Yeah I mean I don't really know if I could charged
11 for saying that. That's what I was kind of afraid of.

12 Q: So you did run out of gas at some point?

13 A: Yeah.

14 Q: But you didn't call or did you call an individual
15 named Smoke as you said in your statement?

16 A: No.

17 Q: Mr. Palmer there was some instances in your
18 statement where you were laughing. Explain to the jury why
19 you would laugh when you're being interrogated by the police
20 about a murder.

21 A: I got a nervous tick when I laugh I try you know
22 basically try and make myself feel comfortable somehow but
23 it's a nervous tick. That sometimes I do if I'm nervous or
24 scared or something like that I wasn't you know I wasn't
25 laughing you know I didn't think it was funny it was just

1 I was nervous and I was scared. Peoples trying to tell me
2 that someone said I killed somebody and I know I didn't kill
3 anybody. I know I didn't kill anybody them people were
4 saying you know this person said you had these clothes on.

5 Q: Hang on let me ask you, let's do an exchange here.
6 Let's do it like this. You referenced your clothes. What
7 type of clothing did you have on that evening?

8 A: I had on a white t-shirt and sort of like I say
9 bluish gray Ecko sweat pants. If you don't see them up, like
10 if you see them from afar you might think they was jeans but
11 they had a white stripe on the side and I had on some white
12 retro jordans.

13 Q: How did you have your hair Marc?

14 A: I had my hair braided.

15 Q: On 10-27-2010?

16 A: Yeah I had the corn rows going back I had the corn
17 rows going back it's the same picture I got in my mug shot.

18 Q: And did you have it any type of pony tail type do?

19 A: No.

20 Q: Were you able to put your hair up in any type pony
21 tail?

22 A: Not while I had my hair braided, no.

23 Q: Let's identify some pictures. Can you identify that
24 picture?

25 A: It's a box of .38 special shells.

1 Q: Where are they sitting in this picture?

2 A: In the trunk of my car.

3 Q: In the trunk of the Dodge Neon, correct?

4 A: Yes.

5 Q: And is that just another picture of a different
6 angle?

7 A: Yeah that's another picture at a different angle.

8 Q: Of the what?

9 A: The box of bullets, .38 special bullets.

10 Q: And identify that picture please.

11 A: That's a box of .38 special bullets.

12 Q: Coming from the back of your vehicle?

13 A: From the back of my car yes.

14 Q: Describe to me what's in this picture.

15 A: That's my jacket with the fur around the collar
16 around the hoodie collar.

17 Q: Does it have any type of liner?

18 A: Yeah it has an orange liner.

19 Q: What color is that jacket?

20 A: That's gray.

21 Q: Describe that picture for me please.

22 A: That's the inside of the jacket the liner.

23 Q: Describe to me what this is.

24 A: That's my Ecko hoodie.

25 Q: And what color is it?

1 A: With design in the front.

2 Q: Is that another picture of the hoodie?

3 A: That's another picture of the hoodie.

4 Q: Describe that.

5 A: That's another picture of the hoodie and the full
6 design that's the full design.

7 Q: And describe that photograph.

8 A: That's the trunk of my car with a picture of the
9 hoodie. Same picture of the hoodie.

10 Q: And that is lastly?

11 A: Trunk of my car with the hoodie inside of it.

12 Mr. Ballinger: Your Honor we move to introduce these
13 ten pictures as defendant's one through ten.

14 Court: Any objection.

15 Ms. Barr: No sir.

16 Court: With out objection defense exhibits one through
17 ten are admitted.

18 (Defendant Exhibit Numbers One Through Ten)

19 Q: Alright Mr. Palmer why do you have .38 cartridges
20 pistol cartridges in your vehicle?

21 A: I had a .38 special Smith & Wesson.

22 Q: Tell me about that as it relates to this case?

23 A: Well the fight that they're saying that I got into
24 with Dominique McBride that's the gun supposedly dropped.
25 I had a .38 special on my waist. Me and Dominique we fought

1 before and well I got a messed up leg so he always trips me.
2 He tripped me when we fought before so I kind of didn't like
3 that so when I seen him again, we fought again and the .38
4 dropped. After it dropped somebody must of somebody did pick
5 it up. I don't know who picked it up but I ain't never seen
6 it again after that. I've been trying to find out who had
7 or where it been at but I ain't never you know nobody ain't
8 nobody going to give up no free gun so that was the end of
9 that.

10 Q: Have you ever owned a .45 caliber pistol?

11 A: No.

12 Q: Ever possessed a .45 caliber pistol?

13 A: No I never had a .45 caliber gun I never even fired
14 a .45 caliber gun before in my life.

15 Q: You mentioned you had a messed up leg. Does that
16 cause any problems in your gate or as far as the way you
17 walk?

18 A: The way I walk, I mean maybe if I'm tired if I've
19 been walking as far as that. I kind of you know I kind of
20 work my injury into a little swag or whatever, you know you
21 might not see you might not notice that I got a pin in my
22 leg. You might not notice that.

23 Q: One witness testified that she knows it was you
24 based on the way you walk. What's your response to that?

25 A: I mean I really doubt that because I mean I don't

1 walk the same all the time it kind of depends. Sometimes I
2 might walk sometimes I might you know be hunched over and
3 you know walk on the tip of my toes or something. Sometimes
4 I might walk straight up and I might be just strutting or
5 something.

6 Q: Do you recall which witness this person that said
7 that in this case?

8 A: Yeah Brittany Croskey.

9 Q: Explain how do you know Brittany or do you know
10 Brittany?

11 A: The first time I seen Brittany it was at her cousin
12 Toot house. She was there she was at her cousin Toot house
13 or whatever. That was the first time I seen her and then
14 after that I just see her around the neighborhood you know
15 she buy she be buying weed sometimes she bought weed
16 sometimes from me you know but other than that or you know
17 we might sit in the rec center, we might sit in the rec
18 center and smoke. She be in her car and I use to be in my
19 car you know she with her friends or her friend and I'm by
20 myself or either with a couple people that I be with and we
21 do our think. But we ain't really associate or hang out or
22 nothing like that but she ain't never call me out my name.
23 Not to my face this the first time I ever heard of that when
24 I got my paper work.

25 Q: In this regard you're referring to her calling you

1 the driver?

2 A: Yeah.

3 Q: So really only two people or let me ask you this.
4 Who's identified you positively as the shooter in your case?

5 A: Maurice Smith they call him Big Moe.

6 Q: And do you have any relationship with Maurice Smith?

7 A: No I ain't never had no relationship with Maurice
8 Smith. Maurice Smith do his thing I do my thing and that's
9 the end of that. I don't associate with Moe or nothing like
10 that. The whole time I been out there he on a totally
11 different, he on a totally different you know it's a totally
12 different crew. Moe do his thing and I do my thing we ain't
13 never clashed. I ain't never bought no work from Moe or none
14 of that.

15 Q: Alright so what is explain your last comment. I mean
16 what does Big Moe do out there on the street?

17 A: I mean Big Moe he a weight man he sell he sell
18 weight, he sell weighted drugs.

19 Q: So him, anybody else besides Big Moe and Mrs.
20 Croskey identified you to your knowledge as to the shooter
21 in this case?

22 A: No.

23 Q: Everybody else, well what has everybody else said
24 about that? What has been their response as to who was the
25 shooter?

1 A: Everybody else said they didn't know.

2 Q: Tell me about the... Have you reviewed the SLED
3 evidence?

4 A: Yeah, I reviewed everything.

5 Q: What does the gunshot residue reports reflect? Any
6 gunshot residue found?

7 A: No.

8 Q: On any of your clothes?

9 A: No.

10 Q: Any blood found on any of your clothes?

11 A: No.

12 Q: Did you remove anything from your vehicle by way of
13 clothing or weapons from 10/27 until the time law
14 enforcement searched your vehicle?

15 A: No I didn't actually I went to my house to get them
16 .38 specials out because I didn't know what the dude got
17 killed with. I figured he got, I figured someone whoever's
18 took my .38 special probably shot him with that. I didn't
19 know what was what so when they pulled me over I was
20 Kingstree then.

21 Q: They pulled you over explain what happened, explain
22 that.

23 A: I was in Kingstree.

24 Q: What was the date?

25 A: This was October 29th I was in Kingstree and

1 basically I needed some money because I couldn't go nowhere
2 I couldn't hustle or anything. Everything was shut down
3 someone told me the police was looking for me and I was in
4 panic mode because I ain't know what to think and they was
5 talking about the dude family was looking for me. So I mean
6 so I ain't know what to think I just needed some money so
7 I can lay low with it until I figured this whole thing would
8 blow over but I didn't know. The police ended up pulling me
9 over Office Investigator Collins she told me I was under
10 arrest for murder. So I told I said I didn't kill anybody...

11 Q: Where were you in Kingstree when you got pulled
12 over?

13 A: I was right there at that Home Furnishing parking
14 lot. That's where they pulled me over behind that public
15 school administration building right there in that parking
16 lot right there.

17 Q: So and you were headed home you said when you got
18 pulled?

19 A: No actually I was trying to get in touch with
20 Charles Barr.

21 Q: But you mentioned you were trying clean, you were
22 trying to clean the car out?

23 A: Yeah I was trying to clean my house not the car my
24 house because I didn't want you know. I didn't know what was
25 going on I didn't know any information about this case or

1 whatever. I knew but that one thing I did know was that that
2 .38 was missing and I had .38 special shells in my house and
3 I had to get that out of my mom's and pop's crib.

4 Q: So you had them in the house and in the car?

5 A: They was in the house before they was in the car.
6 I went to when I went to the house I took them out.

7 Q: I got you. So that was your way of trying to conceal
8 them was putting them in the car?

9 A: Yeah.

10 Q: So if you were trying to hide something in relation
11 to this case it would have gone in your car?

12 A: Yes.

13 Q: Is that correct?

14 A: Yes.

15 Q: I think you touched on it but do you admit or deny
16 that you weren't around Greeleyville much anymore or the
17 shop or anywhere after this incident occurred?

18 A: No I received information that...

19 Ms. Barr: Objection

20 The Court: Sustain do not answer that question.

21 Q: Do you admit or deny that you were not around?

22 A: No I wasn't around.

23 Q: These individuals that have said that you did it.
24 Do they have any motive?

25 A: I mean, Moe, me and Moe got into an argument on

1 December 15, 2011 in the jail. Even though we didn't clash
2 like that on the street when I seen him in jail he was going
3 to court and I guess I was trying to be friendly or whatever
4 and I told the Sergeant I was like yeah that dude be
5 grilling the hell out of some neck bones. So because he had
6 a cookout or whatever and I ain't going to front I went over
7 there freeloader grab me a plate and dipped off. But yeah
8 and so he said I guess he I ain't know what was wrong with
9 him he was like don't say nothing to me. So then I was like
10 where that come from you know what I'm saying I ain't know
11 we had beef I ain't did nothing to you. So he said....

12 Q: Don't testify to what he said. Apparently there was
13 some dispute?

14 A: Yeah.

15 Q: That you weren't aware of as of December 11 is that
16 correct?

17 A: December 15, 2011 and then you know two months later
18 he change his statement he change two months later he drop
19 a statement saying that he think it he think it was my walk
20 and then a year after that he say he know it was me because
21 of my walk. I mean as far as Brittany go I don't know her
22 I don't know her like that, you know I don't know her like
23 that. You never know what people got against you until or
24 what people you know how people feel about you until you get
25 put in a position to where somebody can hurt you.

1 Q: Is there anything else that we left out that this
2 jury needs to know that you've not already told?

3 A: Yeah me and Therris we done got into it before I
4 mean we done had plenty of incidents to where you know we
5 fall out and it ain't nothing. I didn't hold I don't hold
6 nothing to Therris, I don't hold nothing to him because he
7 had a problem. I ain't never hold nothing to him I ain't
8 never had no animosity or want to you know hurt Therris or
9 anything. Even when me and Therris got into it about I say
10 the last time we got into it before October 27th Therris
11 wanted to fight me and I went to his cousin and I went to
12 his cousin I was like man I went to his cousin, I said man
13 talk to your cousin man. Holler at him man you know and then
14 his cousin flipped on me so then I went and I hollered at
15 Trel and I was Detrel Matthews I was like talk to them dudes
16 man you know what I'm saying I ain't trying to have no beef
17 with none of them dudes you know. I mean that was that but
18 I mean in situations before Therris did had someone tell
19 me...

20 Ms. Barr: Objection to hearsay.

21 The Court: Sustain, sir don't say anything what anyone
22 else said she made an objection.

23 A: I done picked Therris up before from Therris's house
24 this is like months before that incident. I told him it was
25 going to cost him five dollars to come you know for me to

1 pick him up and take him to town. He said something, I pick
2 him up I take him to town he gets out the car he flips and
3 says.

4 Ms. Barr: Judge I'm going to object hearsay.

5 The Court: Sustain.

6 A: Ok well I don't really know how to tell you all the
7 situation but long story short we done had problems before
8 I didn't let Therris I didn't roll Therris around after all
9 of them problems and then you know I done spoke to him after
10 all of that. I ain't going to hold no grudge on Therris I
11 ain't like that I ain't that type of person. I'm the type
12 of person you know I help you before I hurt you. I ain't
13 never did nothing messed up to that dude. Only problem only
14 enemy I really had was probably Dominique McBride and that
15 was it like as far as when I had hard feelings.

16 Ms. Barr: Judge he's just kind of going on and on and
17 on it's not responsive.

18 The Court: Sustain Mister --- Sir would you ask him
19 questions and ...

20 Mr. Ballinger: I'm done Your Honor.

21 The Court: Thanks, we're going to take a ten minute
22 recess and then we'll have cross examinations. You may not
23 confer with your attorney at this point in time because
24 you're on the stand but we'll take a ten minute recess.

25 **(Court and jury out for recess)**

1 (Court and jury in session)

2 The Court: Ms. Barr you may proceed.

3 Ms. Barr: Thank you Your Honor.

4 (Cross by Barr)

5 Q: Mr. Palmer you testified earlier that when you gave
6 recorded statement to SLED that there were points in that
7 interview that you were laughing. Do you remember your
8 lawyer asking you about that?

9 A: Yes.

10 Q: And you said that the reason why you were laughing
11 was because it was a nervous habit, right?

12 A: Yes.

13 Q: And you didn't mean anything by it that's just
14 something you do when you get nervous?

15 A: Yes.

16 Q: Now you're on trial for murder?

17 A: Yes.

18 Q: You nervous now?

19 A: Yes I am.

20 Q: Not laughing any during your testimony though have
21 you?

22 A: No my lawyer told me not to.

23 Q: Lawyer told you not to laugh?

24 A: He told me check that so I checked it.

25 Q: You also said that because you were a dope dealer

1 you did not tell the police your true whereabouts after you
2 left C.E. Murray Boulevard, right?

3 A: I never said I was a dope dealer.

4 Q: Well I mean that's what you are right? A person who
5 sells dope is a dope dealer right?

6 A: I never said I was dope dealer.

7 Q: I'm asking you.

8 A: I never said I sell dope.

9 Q: Didn't we just establish that that you sell dope.
10 I mean are we messing words here?

11 A: I never said I sell dope.

12 Q: Well lets say it now. You sell dope? Let's just be
13 clear. Do you sell drugs? Don't look at him look at me. Do
14 you sell drugs?

15 A: Yes I sell drugs.

16 Q: Alright then you're a dope dealer right?

17 A: I didn't say I sell dope.

18 Q: What's the difference? I don't know I mean that's
19 your profession. What's the difference?

20 A: There's plenty of different drug out there.

21 Q: Alright well you tell me what you sold.

22 A: I hadn't take the Fifth Amendment yet.

23 Q: You want to take the fifth. You don't want to
24 incriminate yourself is that right?

25 A: That's right.

1 Q: You gave a recorded statement saying that you ran
2 out of gas and you called somebody named Smoke, right? Is
3 that right?

4 A: Yes that's right.

5 Q: And you've told this jury that oh don't worry about
6 that because you were lying right?

7 A: Yes.

8 Q: And you said that you were lying because you were
9 nervous right?

10 A: Yes.

11 Q: And you were nervous because you don't want to get
12 any trouble about your drug activities right?

13 A: I didn't say I was nervous because I didn't want to
14 get in trouble about my drug activities. I just said I was
15 nervous.

16 Q: Then why did you lie about Smoke? Why did you make
17 that name up?

18 A: It was just, it was just a lie.

19 Q: Why?

20 A: Just a lie.

21 Q: Why?

22 A: I don't know I just I lied.

23 Q: Because you were nervous?

24 A: I lied.

25 Q: Because you were nervous?

1 A: I mean yeah I was nervous.

2 Q: So what we know today is that when you're nervous
3 you'll lie right?

4 A: No.

5 Q: Sir?

6 A: No.

7 Q: That's not the case?

8 A: No that's not the case.

9 Q: I misunderstood all your previous testimony?

10 A: When my life is on the line, when my life is on the
11 line then I need to tell the truth I'm going to tell the
12 truth.

13 Q: Well you'll tell the truth quote un-quote 'the
14 truth' to the extent that it will benefit you according so
15 you say.

16 A: I didn't say it benefit until it benefit me. My life
17 is on the line and I need to tell the truth, I tell the
18 truth that's what I said.

19 Q: And that's fine let me just be clear. You say that
20 on October 29, 2010 Lieutenant Deborah Collins stopped you
21 about a block from this court room right?

22 A: Yes.

23 Q: And you claim that she told you at that time you're
24 under arrest for murder right?

25 A: Yes she did.

1 Q: And you were scared for your life back then right?

2 A: Yes.

3 Q: And you lied after you went to the Sheriff's
4 Department and gave a statement didn't you?

5 A: Agent Mark Creech told me that I wasn't under arrest
6 for murder.

7 Q: I understand all that but the point of the matter
8 is you lied didn't you?

9 A: Yes.

10 Q: Now you told us that Big Moe you all had the
11 disagreement I think you said December 12, 2011?

12 A: December 15.

13 Q: December 15, 2011?

14 A: Yes.

15 Q: So that's been more than a year ago right?

16 A: Yes.

17 Q: When you all had that little disagreement argument
18 what ever you want to call it. Where were you when that
19 happened?

20 A: I was in Williamsburg County Detention Center.

21 Q: And he was there as well?

22 A: Yes.

23 Q: On his drug charges?

24 A: I don't know what charges he was there on.

25 Q: Ok you all had this whatever it was December 15,

1 2011 and you say that you told him something about a neck
2 bone in a cookout?

3 A: Yeah.

4 Q: Now if I understand it correctly you weren't
5 arrested November 15, 2010 right?

6 A: Yes.

7 Q: So you telling me that you had been in jail from
8 November of 2010 until December of 2011 when you supposedly
9 had this argument with Maurice Smith right?

10 A: Yes.

11 Q: So when you went to cookout you had the neck bones?

12 A: That was before I got locked up.

13 Q: That was before you got locked up?

14 A: Yeah.

15 Q: Long before you got locked up right?

16 A: It was a little while after me and Dominique
17 McBride's last fight.

18 Q: Before the shooting before you killed Therris?

19 A: I didn't kill Therris.

20 Mr. Ballinger: Object to the form.

21 The Court: She's on a cross examination.

22 A: It was little while after me and Dominique McBride's
23 fight because when I got there Dominique was there.

24 Q: Don't tell me all that I'm just saying in terms of
25 when you supposedly had this, listen to my question you have

1 to listen to my question then give me your answer. When you
2 supposedly had this thing where you go to a cookout and
3 something about a neck bone when did that happen?

4 A: That happened sometime in October.

5 Q: Before Therriis died?

6 A: Yes before Therriis died.

7 Q: Alright so whatever that was and we I guess we'll
8 just have to take your word that that actually happened.
9 Whatever that was that didn't prevent you from hanging out
10 from Moe did it?

11 A: I didn't hanging out with Moe.

12 Q: That didn't prevent you from having contact with him
13 did it?

14 A: I'm not to sure you said what didn't prevent me from
15 having contact with him.

16 Q: Whatever the thing about the neck bone and the
17 cookout whatever that was that didn't prevent you from
18 having any contact, let me finish my question please sir.
19 That did not prevent you from having any contact, being
20 friendly or being hospitable or whatever it was to Moe did
21 it?

22 A: There wasn't no argument there.

23 Q: Ok as a matter of fact the day Therriis was killed
24 you acknowledged going to the bullpen and seeing Maurice
25 bring Therriis there right?

1 A: Yes I did.

2 Q: At that time you'd go out to the bullpen. They all
3 go out there to sell dope to guys who smoking dope out there
4 right, right?

5 A: I mean I can't speak for everybody.

6 Q: Well speak for yourself. You done went out there and
7 sold drugs to people out at the bullpen didn't you right?

8 A: Well I mean isn't that irrelevant to the situation.

9 Q: Well you just answer my question. Don't look at him
10 look at me, look at me. You sold drugs to people hanging out
11 a the bullpen right?

12 A: Yes.

13 Q: You've sold drugs to Therris right?

14 A: Yes.

15 Q: And the reality of it is when Therris told you at
16 the bullpen you small time. He was talking about you just
17 a small town drug dealer right? That's what he was telling
18 you right?

19 A: Yes.

20 Q: And you told him, you claim that Therris said he
21 could rob you?

22 A: Yes.

23 Q: And you said no I ain't worried about that right?

24 A: Yes.

25 Q: You weren't worried about that were you?

1 A: No.

2 Q: Therriis was a little small framed guy right, right?

3 A: Yeah.

4 Q: 130 pounds right?

5 A: Yeah.

6 Q: You about 160 right?

7 A: Yeah.

8 Q: And you had some little added protection on you
9 didn't you?

10 A: No.

11 Q: You carried a gun didn't you?

12 A: No.

13 Q: You weren't worried Therriis right?

14 A: No I wasn't worried about him.

15 Q: Well you claim that you didn't carry a gun but I
16 thought you just admitted to this jury that you carried a
17 .38?

18 A: Yes I did.

19 Q: So you toted a gun, right?

20 A: Not in that day no I lost the .38 when me and
21 Dominique McBride had a fight.

22 Q: You just lost it?

23 A: Someone picked it up and I never found out who had
24 it.

25 Q: You never found out who had it? Your momma and daddy

1 when who you got in this courtroom today they know you sell
2 dope?

3 A: I never said I sold dope.

4 Q: They know you carry a gun? They didn't know that did
5 they?

6 A: No.

7 Q: They didn't know you had that lifestyle did they?

8 A: I mean you know maybe, maybe not I don't know I
9 can't speak for them.

10 Q: Now since this incident happened you kind of cleaned
11 yourself a little bit right? You kind of cleaned yourself
12 up right?

13 A: Yeah.

14 Q: You don't normally in your everyday life walk around
15 with a suit on and I tie do you?

16 A: No.

17 Q: And you got your hair all nice and trimmed and cut
18 for your trial right?

19 A: Well actually I had my if I still had my hair and
20 I had somebody that could braid my hair like a female that
21 could braid in jail. I'd come I'd be in here with corn rows
22 on but you know I twisted my hair I locked my hair up when
23 I was in jail I decided to lock my hair up myself just out
24 of boredom and just out of fun.

25 Q: Just out boredom out of fun you cut all your hair

1 off that's what you telling me?

2 A: No I said I locked my hair.

3 Q: When did you cut your hair?

4 A: I cut my hair I say probably about two weeks ago.

5 Q: Two weeks ago. So you had this long hair that this
6 jury could see how you looked back in 2010 and you decided
7 two weeks before trial to cut your hair is that right?

8 A: Actually...

9 Q: Just yes or no two weeks before trial is when you
10 decided to cut your hair?

11 A: Yes.

12 Q: Now the fight that you had with Dominique McBride
13 that happened on October 15, 2010?

14 A: I don't know the exact date.

15 Q: You don't remember that but you could remember the
16 exact date that you had a conversation with Maurice about
17 some neck bones?

18 A: Well I was going to court and you know you don't get
19 out of that cell everyday. So when you leave out the cell
20 you kind of tend to stick you know everything that goes on
21 around you.

22 Q: You don't have any reason to dispute the account
23 that this happened on October 15, 2010 the incident with
24 Dominique McBride I mean? You don't dispute that do you?

25 A: No I don't dispute that.

1 Q: And when that happened Big Moe was out there right?

2 A: I don't know if Big Moe was out there.

3 Q: Detrel Matthews was out there right?

4 A: Yeah he was out there.

5 Q: Deandre Chatfield was out there, right?

6 A: I don't know.

7 Q: And all of this happened where specifically in
8 Greeleyville?

9 A: That happened in the Masonic Lodge parking lot.

10 Q: Right across from where the club and the fish market
11 is right?

12 A: Yeah.

13 Q: Now the incident that happened when you Therriis
14 fought where did that happen at?

15 A: Me and Therriis never had a fight.

16 Q: You all never had a fight?

17 A: Never had a fight never.

18 Q: Didn't happen?

19 A: Never ever ever had a fight not a physical fight no.

20 Q: Never happened?

21 A: No never happened.

22 Q: When you came out to the club the night of the
23 shooting. I need to ask you about that because I think you
24 kind of gave me some, gave your lawyer some conflicting
25 responses. You testified that you left your house at 10

1 o'clock is that right?

2 A: Yeah I left around ten.

3 Q: That's your testimony to the jury right?

4 A: Yes I don't know the exact time but I know it was
5 around 10 o'clock. I don't remember the exact but I know it
6 was around ten.

7 Q: Did you leave straight from your house and go to the
8 club on C.E. Murray Boulevard?

9 A: Yes.

10 Q: How long it take you to get there?

11 A: I can't say probably about ten maybe ten minutes a
12 little more than that.

13 Q: What time did you get to the club?

14 A: I can't really tell you because I don't know.

15 Q: Well let me ask you this. You gave this statement
16 to law enforcement two days after the murder right?

17 A: Yes.

18 Q: And you would agree to me or with me that your
19 memory regarding where you were times you were there. It was
20 certainly fresher two days after the murder than it is two
21 years after the murder right?

22 A: I mean maybe I've been obsessing over that day for
23 the past two years and four months so.

24 Q: I understand that but your answer to my question
25 would be yes? I mean that's just common sense right?

1 A: I don't know I don't think so if you think about it.

2 Q: So you don't think two days after the murder you
3 would have a better memory of where you were and what time
4 you left the club than you would now two and half years
5 later? Is that what you're telling me?

6 A: Yeah I mean you got to think about it like this I
7 got locked up I'm on trial for murder...

8 Ms. Barr: Mr. Palmer I didn't ask you a question.

9 Mr. Ballinger: Well he gets a chance to explain.

10 The Court: You'll get a chance to redirect.

11 Q: When you gave your statement I'm going to call your
12 attention to page 6. Agent Creech asked you on line 20 what
13 time did you leave, right?

14 A: Yes.

15 Q: Your response was I wasn't there long I was there
16 five or ten minutes right is that you're response?

17 A: It says what time did you leave club.

18 Q: Where you see no no no you're answer starting with
19 line 21 to line 22 where does it say anything about the
20 club? At this point you're saying I wasn't there long I was
21 there five or ten minutes. That's what that says right?

22 A: Yes.

23 Q: Then Agent Creech asked you, you don't know what
24 time it was. Is that what he asked you?

25 A: Yeah.

1 Q: And your response was, no I don't know the time I
2 know that I had gotten there around ten o'clock because I
3 got out of school early, right?

4 A: Yes, read the rest.

5 Q: You read the rest.

6 A: I got out of school early and I still ended coming
7 out around ten o'clock.

8 Q: Go back to the previous page. When you testified and
9 you gave this well not testified but when you gave this
10 statement, I know I have gotten there around ten o'clock.
11 If we're not talking about the club what are we talking
12 about, you got where around ten o'clock?

13 A: Yeah that's what we talking about.

14 Q: Well that's what you said right?

15 A: Yeah and I said I left the house around ten too. I
16 didn't know the exact time but it been in between that time
17 frame.

18 Q: So that was one of the other little lies you told
19 in terms of when you left and when you came and all that
20 stuff?

21 A: It wasn't no lie I just don't know the exact time.
22 I'm not no human or nothing like that I just didn't know.

23 Q: What you want to do and what you need to do is put
24 yourself in Greeleyville legitimately because they caught
25 your vehicle on that surveillance camera isn't it?

1 A: No.

2 Q: No you know that if you left that club and ten after
3 ten and you supposedly went in the direction of your house
4 you wouldn't have no business in that area within a minute
5 of that 911 call being placed would you?

6 A: Ms. Barr you're the one who's saying I left the club
7 at ten after ten.

8 Q: No no no I didn't give a recorded statement to the
9 police you did that didn't you?

10 A: Well you show me in my statement where I says I left
11 the club ten after ten.

12 Q: Let me tell you something, let me ask you something,
13 I mean let you know something. The way that this works sir
14 is that you have to answer the questions that opposed to you
15 ok do you understand that?

16 A: Yes.

17 Q: You can do that?

18 A: Yes I can do that.

19 Q: You acknowledge that you told the police that you
20 only stayed at the club five or ten minutes?

21 A: Yes.

22 Q: Now, let me talk about this gun and this ammo and
23 all this other stuff. You said that on your direct testimony
24 that you took the ammunition out of your house for the .38
25 right?

1 A: Yes.

2 Q: And you, I'm assuming we're talking about the house
3 in Lane right?

4 A: Yes.

5 Q: And you took it out because you knew that Therriis
6 had gotten shot right?

7 A: Yes.

8 Q: And you didn't want it to come around any kind of
9 way back to you right?

10 A: I didn't know exactly what he got shot with so I
11 took the bullets out because my .38 was gone and I figured
12 it might you know if he got shot with that then and maybe
13 my fingerprints are still on it then I'll probably be I'll
14 be in some real trouble you know.

15 Q: So you're telling me at this point now you have no
16 idea what he's shot with right?

17 A: Yes I had no idea.

18 Q: This according to you right but at the same time
19 within two days of the date of his murder. You're worried
20 about it some kind of way coming back to you right, right?

21 A: Because someone told me the police is looking for
22 me.

23 Q: I didn't ask you the reason I just asked you to
24 answer yes or no to the question.

25 A: Yes.

1 Q: Within two days of Therri's murder having
2 absolutely no knowledge what kind of gun he was killed with.
3 You were worried about it coming back to you right?

4 A: Yes.

5 Q: And so you took the evidence out of your house to
6 get rid of it right?

7 A: Being that he didn't get killed with a .38 it wasn't
8 evidence.

9 Q: But you didn't know that though right according to
10 you right?

11 A: No I didn't know that.

12 Q: You had no idea that he what kind of weapon he was
13 killed with back on October 29 did you?

14 A: No.

15 Q: But you just said know you let it slip and said that
16 he wasn't killed with a .38 you just said that right?

17 A: Yes.

18 Q: Then you knew back October 29th didn't you?

19 A: No.

20 Q: Now let me go back to the whole ammo stuff. You
21 wanted to take it out of your house, because you didn't want
22 the police coming to your house executing a search warrant
23 and finding ammunition there right?

24 A: I didn't want them to find the .38 special
25 ammunition and just dude ended up getting killed with a .38.

1 I mean that you know that would look real bad for me.

2 Q: I got you. So you accentually didn't want any
3 evidence linking you to this crime right? That was your
4 concern right?

5 A: Yeah that's why I took them .38 specials shells out
6 of my home.

7 Q: And so we know that when you believe that some
8 things going to come back to you, you don't have any problem
9 getting rid of evidence do you, right?

10 A: Yeah.

11 Q: Yeah you'll get rid of evidence if you think it's
12 going to come back to you right?

13 A: I mean but I didn't do anything that's why I just
14 wanted to get rid of, it wasn't evidence because I didn't
15 do anything really.

16 Q: The .38 wasn't really evidence because Therriis
17 wasn't killed with a .38 right?

18 A: No.

19 Q: Now you go it out the house the day that you gave
20 the statement to SLED?

21 A: Yes.

22 Q: So Therriis is killed on the night of October 27th
23 right?

24 A: Yes.

25 Q: So for the entire 24 hour period of time on the 28th

1 you're not worried about taking the .38 ammo out your house
2 right?

3 A: It didn't really occur to me.

4 Q: And it wasn't until coincidentally when you're
5 stopped by the police the same day you just happen to think
6 I better get this .38 ammo out my house. That's when it
7 dawned on you that day right?

8 A: Yeah.

9 Q: Now you have already testified that you were not
10 stopped with the ammo until you got to Kingstree right?

11 A: Yeah.

12 Q: How long did it take you to get from your house in
13 Lane to where you were stopped in Kingstree?

14 A: Well I didn't go to my house I mean I didn't come
15 from my house when I went to Kingstree.

16 Q: How did you get how did you put the ammo in your car
17 then?

18 A: I put the ammo in car from my house but I didn't go
19 straight from my house to Kingstree.

20 Q: Ok I'm sorry I may have misunderstood. I thought you
21 said that on the 29th it dawned on you I better get this
22 ammo out my house for this .38 special and I did it that
23 day.

24 A: Yeah.

25 Q: When did you do it then is my question?

1 A: Take the .38 shells out the house?

2 Q: Yeah.

3 A: I did it on that day.

4 Q: Ok when?

5 A: It was in the morning time.

6 Q: Alright so what time were you stopped by the police?

7 A: That was around four thirty I think.

8 Q: Alright so where did you leave when you left that
9 morning after you took the ammunition out of your house
10 where'd you go to?

11 A: I can't even I ain't going to lie to you I can't
12 remember.

13 Q: Now and of course you told me that you had been
14 playing this time from around in your head for the last two
15 years right so?

16 A: The night of the murder, the night of that murder
17 yes, yes that's been on my mind for the past year for the
18 past two years that night but as far as the 29th and all
19 that afterwards I mean I was in panic mode because people
20 was talking about I killed somebody and I ain't you know.

21 Q: That's fine. So you take the ammo out your house
22 that morning right?

23 A: Yeah.

24 Q: And from that morning up until about three thirty,
25 four o'clock when you see Investigator Collins you riding

1 with it in your trunk right?

2 A: I didn't see Investigator Collins.

3 Q: Well whatever had before you pulled over. From the
4 time you left your house that morning when you were really
5 concerned about getting it out your house because you don't
6 want the police to find it there until three or four o'clock
7 that afternoon when you have your first interaction with law
8 enforcement. The entire time according to you, you riding
9 around with it in your trunk right, sir?

10 A: Yeah.

11 Q: So you would have passed all kind of wooded areas
12 right, sir?

13 A: All kind of wooded areas.

14 Q: Yeah I mean between your house to Kingstree you
15 would have passed all kind of wooded areas right?

16 A: Yeah.

17 Q: You would have had an opportunity to throw the ammo
18 in the woods if you wanted to right?

19 A: Yeah.

20 Q: You would have passed all kinds of convenience
21 stores right?

22 A: Yeah.

23 Q: You would of had an opportunity to throw the ammo
24 in the garbage can if you wanted to right?

25 A: Yeah.

1 Q: Right and you were really concerned about you being
2 caught with some evidence on the case right?

3 A: I was concerned it just didn't that I mean that
4 didn't really occur to me.

5 Q: It didn't occur to you to throw away the evidence
6 when you tried to get rid of the evidence before the police
7 could get to your house?

8 A: Well I didn't know it was evidence.

9 Q: But you thought it was according to you right?

10 A: No I said let me take it out the house because the
11 police was coming to my house.

12 Q: Yeah you were concerned according you back then you
13 were concerned that Therriis might of got killed with a .38
14 so you wanted to get the ammo out your house right?

15 A: Yeah.

16 Q: We don't need to keep going around that issue right?

17 A: Yeah.

18 Q: So you're concern was at that time getting the stuff
19 and getting rid of it right?

20 A: Yes.

21 Q: And you passed by all this wooded area didn't throw
22 it out the window right?

23 A: Yeah.

24 Q: You passed by all these convenience store didn't
25 throw it in the dumpster right?

1 A: Yes.

2 Q: And you just riding around with your trunk for hours
3 on end right?

4 A: I guess that was my mistake.

5 Q: Now you talked about some of the SLED reports in
6 this case and let me ask you a couple of questions before
7 hand. All of the clothes that were recovered from your
8 trunk. When did you put those in there?

9 A: Are you talking about the hoodies?

10 Q: Yeah the hoodies and whatever all this is in your
11 trunk.

12 A: I put those that I don't know that that was even
13 that was probably I keep those in the car.

14 Q: You keep them in there right?

15 A: Yeah I keep those in the car.

16 Q: So they were in there the night that Therriis got
17 killed right?

18 A: Yeah.

19 Q: They was in there the night before Therriis got
20 killed right?

21 A: Yeah.

22 Q: You weren't wearing that time when you went out to
23 C.E. Murray Boulevard right?

24 A: No.

25 Q: So the fact they didn't have any gunshot residue on

1 it well we wouldn't expect them to have any gunshot residue
2 because you weren't wearing them that night?

3 A: No I didn't you wouldn't expect them to have gunshot
4 residue because I didn't shoot nobody.

5 Q: Beyond that ultimately a jury will decide that but
6 it wouldn't have helped law enforcement to do a GSR kit on
7 those clothes because you weren't even wearing them when you
8 went out there were you?

9 A: No.

10 Q: And the fact that it didn't have any DNA on it well
11 that's not surprising because you didn't have them on when
12 you were out there at the club the night of the shooting
13 right?

14 A: No.

15 Q: This .38 caliber pistol that you had. When did you
16 get that?

17 A: I'm not to sure I don't remember.

18 Q: Well you remember the night of the 29th, 27th because
19 it's stuck in your memory. How long before the shooting had
20 you had the pistol?

21 A: I don't know maybe a couple months before.

22 Q: Couple months before where did you get it from?

23 A: I got it out from Summerville out in Carolina some
24 one from the Carolina Trader.

25 Q: I'm sorry?

1 A: From the Carolina Trader you know it's like a it's
2 a place where they sell things and stuff when they sell guns
3 out of them.

4 Ms. Barr: Judge we would move to publish State's number
5 I'm sorry defense number 2.

6 The Court: You may.

7 Q: Mr. Palmer this a picture of the .38 caliber special
8 bullets that were found in your vehicle the date of October
9 29th right?

10 A: Yes.

11 Q: And you said that you bought the gun from where
12 again now?

13 A: Some guy out in Summerville.

14 Q: How much did you pay for it?

15 A: I paid 150 dollars.

16 Q: Did you register it?

17 A: No.

18 Q: I was an illegal gun purchase wasn't it?

19 A: I don't know I thought it was legal.

20 Q: You got paperwork on it?

21 A: No I don't have paperwork.

22 Ms. Barr: We would publish Your Honor please State's
23 exhibit number I'm sorry defense exhibit number 1.

24 (Defendant's Exhibit Number 1)

25 Q: Is that the ammunition as well?

1 A: Yes.

2 Q: That the box?

3 A: That's the same box.

4 Q: You got 50 bullets in there?

5 A: No it's not it holds 50 bullets but 50 bullets
6 aren't in the box.

7 Q: When you bought the ammunition you bought it with
8 50 in it though right?

9 A: Yeah I bought it with 50 in it.

10 Q: You need 50 bullets?

11 A: That's how many came in the box.

12 Q: Really and you think you needed that many?

13 A: I didn't know they sell smaller boxes than that.

14 Q: I call your attention to defense exhibit number 6.
15 Is that the hoodie that was recovered from your vehicle on
16 the 29th?

17 A: Yes.

18 Q: And you were not wearing that hoodie when you were
19 out there at the club on October 27th were you?

20 A: No.

21 Q: So it really kind of didn't surprise you that all
22 the test on that hoodie came back negative right? It didn't
23 really surprise you right?

24 A: No.

25 Q: Tell me what's in defense exhibit number 5.

1 A: That's the inside of my other gray jacket.

2 Q: Tell me about defense number 4.

3 A: That's the outside of it. You can see the fur collar
4 on it too.

5 Q: The fur collar is up here?

6 A: Up move your hand up some more.

7 Q: Here?

8 A: No move it to the right.

9 Q: To the right here?

10 A: To the right down some more.

11 Q: Right here?

12 A: Move it to the right no move it up. Hold on can I
13 get up and point to it?

14 Q: Well I'll tell you what let me just be clear. The
15 fur collar of this particular jacket is somewhere here this
16 is the bottom of the jacket right?

17 A: Yeah.

18 Q: And really no surprise to you that all that stuff
19 came back negative because you didn't have it that night
20 right?

21 A: I wasn't wearing it no.

22 Q: When you had the argument with Therriis the day of
23 his murder you said Big Moe was around there and this is at
24 the bullpen?

25 A: No actually he dropped Therriis off and he drove off.

1 Big Moe don't stay around there he know that's.

2 Q: Who else was out there?

3 A: I can't it was a lot of people. I can't really.

4 Q: You had this little fella Therris basically diminish
5 you right?

6 A: He didn't diminish me.

7 Q: I mean he tells you, you small time right?

8 A: I mean it I ain't pay no attention to Therris like
9 that.

10 Q: I understand that but he call you small time. He was
11 even worried about you right? He disrespected you, right?

12 A: I mean it wasn't nothing to me. I know Therris was
13 mad because you know I didn't mess with him like that.

14 Q: Yeah but he disrespected you right, right?

15 A: Yeah.

16 Q: And when you are a dope dealer and you walking
17 around with a gun. You command respect right?

18 A: But I wasn't walking around with a gun then.

19 Q: I understand then I'm not talking about then I'm
20 talking about in general. When you're a dope dealer and
21 you're walking around with a gun you command respect right?

22 A: I'm not well I didn't say I never said I was a dope
23 dealer.

24 Q: I'm talking about in general now stay with me. When
25 you are a dope dealer and you're walking with a gun you

1 command respect right?

2 A: As a man I expect someone to respect me.

3 Q: And when somebody disrespects you or disses you as
4 my niece say there's a price to be payed for that right?

5 A: No it's no. You're trying to insinuate that I would
6 do something because he was talking that but no.

7 Q: So Mr. Palmer if you're not the dope dealer and
8 you're not disrespected by Therriis, you're not toting a gun.
9 What would be the reason for you carrying a pistol? Why
10 would you either buy one?

11 A: Reason for me carrying a pistol and buy one.

12 Q: Yeah if you not trying to project a certain or you
13 just hard like that or you just a thug like that or whatever
14 it is. Let me finish my question. If you not trying to
15 project that image why are you carrying a pistol?

16 A: To protect myself.

17 Q: Protect yourself. You want everybody to know not to
18 mess with you right?

19 A: I didn't even tell people I had a gun when I had a
20 gun.

21 Q: I'm not asking you that. You wanted people to know
22 not to mess with you right?

23 A: No I didn't want I didn't care I don't care what
24 people that's night me I don't care about people. The whole
25 point of hustling basically you got to keep getting money.

1 If you let every little thing that this person and that
2 person get to you then I mean you going to fall off. You
3 going to be focusing on trying to run around and checking
4 everybody else and not getting money. So that I mean why
5 would I study that.

6 Q: But you've already told us that a whole bunch of
7 people were standing around when you got that, that gun feel
8 from you when you had the fight with Dominique McBride
9 right?

10 A: Yeah.

11 Q: And so many people standing around and according to
12 you, you didn't even know who all was out there and who
13 actually got the gun right according to you right?

14 A: Yes.

15 Q: So everybody who was out there and saw the argument
16 and the fight that you had with Dominique McBride they would
17 of knew you carried a gun right?

18 A: I mean at that point in time I guess they seen that
19 gun fell so they knew then and there.

20 Q: Yeah and that was two weeks before this murder
21 right?

22 A: I don't know when that fight was.

23 Q: You would agree with me that it happened about
24 October 15 right?

25 A: I can't agree with you when it happened because I

1 don't remember when me and Dominique fought.

2 Q: Alright now you said that you carried a gun for
3 protection right?

4 A: Yeah.

5 Q: And it was important for you to have protection
6 because you knew you were doing something illegal right?

7 A: No it was important for me to have protection
8 because I've been hurt before so I made sure that and people
9 carry a lot of other people carry guns. I mean you just you
10 saying you trying to say like I'm the only person walking
11 around Greeleyville with guns or I'm the only person that's
12 out in Greeleyville hustling but you got it twisted.

13 Q: Alright it was important for you for whatever reason
14 to carry protection right?

15 A: Yes.

16 Q: So from the time that this incident happened with
17 Dominique and the gun. When somebody when that gun fell and
18 somebody picked it up. You didn't have a gun at that point
19 according to you right?

20 A: No.

21 Q: So you went all the way from that time, all the way
22 until the day Therris was murdered and you didn't have not
23 protection?

24 A: No.

25 Q: And you still walking around selling dope?

1 A: I ain't never told you I sold dope.

2 Q: And you still waking around selling drugs right?

3 A: Yes.

4 Q: So from all this time before you worried about your
5 protection and having a gun right?

6 A: Yes.

7 Q: And you want this jury to believe that after that
8 incident with Dominique after he fought you. You all of a
9 sudden you not worried about you protection anymore. That's
10 what you want us to believe?

11 A: I mean I worried about protecting myself but at the
12 same time I was getting into a situation and after I had
13 that fight with Dominique you know it was like I don't need
14 to be carrying no I realized I don't need to be carrying no
15 gun because what if I would have hit Dominique up beside
16 head with that gun. I would of end up going to jail for
17 assault second the first degree or second degree. I would
18 been ended up doing time or what if I would have got mad and
19 I would have shot him you know what I'm saying so I couldn't
20 I wasn't studying getting no other gun it just that wasn't
21 me.

22 Q: You said you were worried about what if you had went
23 to jail for assault and battery degree?

24 A: I don't know second or first I don't how that goes
25 I mean I just learned about little charges like that just

1 now when I was in jail but back then I was like you know
2 what if I lost my cool and actually did something stupid.
3 I mean as you can see I had a fight I fought the man with
4 the gun on my waist. I could of used the gun right if I was
5 that type of person.

6 Q: Didn't you tell me you dropped the gun? Didn't you
7 just tell the jury that?

8 A: It feel out of my waist.

9 Q: Right so you said somebody took it right?

10 A: I don't yeah somebody took it I don't know who.

11 Q: So what point and time was you suppose to use it if
12 it feel out your waist and somebody took it?

13 A: Before we started fighting. You trying to make me
14 seem like a bad person but I fought the man with a gun on
15 my waist.

16 Q: Did you work during this time?

17 A: Did I work?

18 Q: Yeah were you working anywhere? Not your hustle now
19 I'm talking about a legitimate job.

20 A: I mean not real legitimate job I help my dad detail
21 cars every now and then you know. You know when I got my car
22 I pick up junk every now and then. Sometimes I hustle out
23 I go to TJ Maxx and --- and find some cheap name brand
24 clothes and come back to the country and hustle those off
25 for a good price. I mean it's a lot of ways you can make

1 money and I you know use to sell bootleg DVDs too CD all
2 that.

3 Q: I guess I'm going to just assume that you don't have
4 no concealed weapons permit right?

5 A: No.

6 Q: Other than that conversation that you had with
7 Maurice in 2011. You didn't have any other problems or
8 anything with him right?

9 A: No.

10 Ms. Barr: That's all the questions Judge thank you.

11 The Court: Redirect.

12 Mr. Ballinger: Thank you judge, I'll be brief.

13 **(Redirect by Ballinger)**

14 Q: What is dope in your mind, that heroin?

15 A: Well I'm from New York so dope is heroin.

16 Q: Ok so when you say you don't sell dope you saying
17 you didn't sell heroin, correct?

18 A: Yeah I ain't sell any heroin.

19 The Court: You all need to take a short break?

20 Mr. Ballinger: We probably got it resolved Your Honor
21 thank you.

22 Ms. Barr: Judge if we could please just take a three
23 minute break I just need to make a copy.

24 Court: Ladies and Gentlemen I'm going to let you all
25 stretch it's getting late in the afternoon so, you all can

1 go back in the jury room just a few minutes get a sip of
2 water use the restroom if you need to we'll bring you right
3 back out here.

4 **(Jury break)**

5 **(Jury in)**

6 The Court: Alright Mr. Ballinger you may proceed.

7 Mr. Ballinger: Thank you Judge.

8 **(Redirect continued by Ballinger)**

9 Q: Mr. Palmer I'm going to hand you a photocopy of a
10 picture. Can you identify that?

11 A: That's the picture that he took when he booked me
12 in on November 15.

13 Q: Of 2010?

14 A: 2010.

15 Q: And that's you?

16 A: Yeah.

17 Q: And that's how your hair was at that time?

18 A: Yeah it was braided I had corn rows not dreads.

19 Mr. Ballinger: Your Honor I move to introduce this
20 picture as defense exhibit number 11.

21 The Court: Any objection Ms. Barr?

22 Ms. Barr: No sir.

23 The Court: Alright defense exhibit number 11 is
24 admitted into evidence.

25 Mr. Ballinger: If I could publish it for the jury Your

1 Honor.

2 The Court: You may.

3 Q: And so you were aware that there was a picture of
4 your hair as it was at that point in time when you cut your
5 hair is that correct?

6 A: Yeah, yeah I was aware.

7 Q: And when you, whenever a fight is referenced between
8 you and Therris. You admit that you all had some type of
9 verbal altercation at the bullpen but you all never had any
10 physical fights is that correct?

11 A: No we never had any physical fight.

12 Mr. Ballinger: I don't have anything further Judge
13 thank you.

14 The Court: Any recross?

15 Ms. Barr: Very very briefly. Your Honor may I see the
16 last exhibit?

17 The Court: Just pass it.

18 **(Recross by Barr)**

19 Q: Mr. Palmer I'm going to publish, is it marked as an
20 exhibit?

21 Mr. Ballinger: Yes it's 11.

22 Q: Mr. Palmer I'm going to publish defense exhibit
23 number 11. That is your booking photo?

24 A: Yes ma'am.

25 Q: And that's how you would of looked back on November

1 15, 2010?

2 A: Yes ma'am.

3 Q: You look a whole lot different on there than you do
4 today don't you?

5 A: I was having a rough time then.

6 Q: I understand that so the answer to my question is
7 yes?

8 A: Yeah.

9 Q: You look a whole lot different don't you?

10 A: Yes ma'am.

11 Q: And when this picture was taken this was almost
12 three weeks after Therriis got killed wasn't it?

13 A: Yes.

14 Q: So in terms of how you look right then and there
15 with your particular hair style this day. The only thing
16 that this particular exhibit shows us is how you looked on
17 this day right on the 15th November 2010 right?

18 A: I mean other than you know the braids getting real
19 fuzzy yeah. That was the same hair I ain't never get noone
20 to braid my hair.

21 Q: That wasn't my question did you understand my
22 question?

23 A: Yeah.

24 Q: My question was the only thing that that particular
25 exhibit shows is how your hair looked on November 15, 2010

1 right?

2 A: Yes.

3 The Court: Alright thank you, you may step down.

4 Mr. Ballinger: Your Honor I have to very short
5 witnesses but they are kind of no standby until the morning.
6 They were.

7 The Court: Alright ladies and gentlemen we are going
8 to break for the day now. So I'm going to let you go home
9 it's a nice day with instructions that you be back here at
10 9:30 tomorrow morning just like you were this morning. So
11 thank you very much. Please do not discuss anything about
12 the case and do not go to Greeleyville thank you.

13 **(Jury excused for the evening)**

14 The Court: Is there anything we need to take up outside
15 now that the jury is gone?

16 Ms. Barr: Not from.

17 Mr. Ballinger: Not from the defense Your Honor.

18 The Court: Alright let me see the attorneys in
19 chambers.

20 **(Court in session 3-14-13)**

21 The Court: Anything that we need to take up before we
22 bring our jury in. We've lost one juror. My understanding
23 he's in the hospital so we will put Mr. Cody. So we'll have
24 to pull our alternate this morning that means we'll just
25 have 12. I guess this will probably be the last day.

1 Ms. Barr: Judge the only thing that State would like
2 to take up before the jury comes in. We anticipate the
3 defense will call a fella by the name of Michael Montgomery
4 in there case.

5 The Court: And he's on the witness list?

6 Ms. Barr: Correct and Judge I don't to what extent
7 they'll get into this allegation about this individual being
8 robed by the victim the day before the murder. My
9 understanding and all the prior interviews with him was
10 that, he was drunk passed out in his car. People told him
11 the next day that the victim took his money, but I don't
12 think that he knows that from his own personal knowledge.

13 The Court: If he doesn't know it from his own personal
14 knowledge he's not going to be able to testify to it.

15 Ms. Barr: To that point?

16 The Court: Right.

17 Ms. Barr: I just wanted...

18 The Court: Otherwise it's pure hearsay.

19 Mr. Ballinger: I understand, I understand.

20 The Court: Ok let's bring out jury in.

21 **(Jury in)**

22 The Court: Mr. Williams because you all notice that
23 your missing a juror he's in the hospital. So Mr. Williams
24 you will now move down and become one of the primary jurors
25 at this time. Alright I hope you all got a good nights rest

1 we will continue on, Mr. Ballinger.

2 Mr. Ballinger: Thank you Your Honor may I please the
3 court?

4 The Court: Yes.

5 Mr. Ballinger: At this time the defense calls Michael
6 Montgomery.

7 The Court: Alright Mr. Montgomery. Come forward Mr.
8 Montgomery and be sworn.

9 Clerk: Place you left hand on the Bible and raise your
10 right hand. Do you solemnly swear or affirm that the
11 testimony you are about to give will be the truth, the whole
12 truth and nothing but the truth so help you God?

13 Montgomery: Yes.

14 Clerk: Ok you may take your seat in the witness box.

15 Mr. Ballinger: Mr. Montgomery state your full name for
16 the record please.

17 Mr. Montgomery: Michael Anthony Montgomery.

18 **(Exam by Ballinger)**

19 Q: Where do you live sir?

20 A: Lanes, South Carolina.

21 Q: How old are you?

22 A: 37.

23 Q: What do you do for a living?

24 A: I paint and body around a shop in Lanes.

25 Q: Do you recall the evening of October 26, 2010?

1 A: Yes sir.

2 Q: What did you do on October the evening of October
3 26, 2010?

4 A: I was home sir.

5 Q: Did you ever at some point and time leave your
6 house?

7 A: I left that morning but that afternoon I was home
8 the entire day I was back home around I would say around
9 like 10:30 - 11:00. The remainder of the afternoon until the
10 Sheriff's Department came to my house, my girlfriend's house
11 actually.

12 Q: We may have our days confused I'm talking about
13 Tuesday evening 10/26 which would be the night before this
14 alleged shooting occurred?

15 A: Where was I that day that night?

16 Q: Correct. The day before the shooting occurred.

17 A: Ok at what time are you asking me?

18 Q: Approximately 8 p.m..

19 A: 8 p.m. I think I was at a friend of mine's house I
20 don't know exactly what time it was that day. It could of
21 been 8 it could have been 9 I'm not sure, but I was at a
22 friend of mine's house I know until a certain point that
23 night.

24 Q: Did you ever go to the club located in Greeleyville
25 that night?

1 A: No sir.

2 Q: Did something happen to you that night that, well
3 let me ask you this way. Do you believe you were robbed that
4 night?

5 Ms. Barr: Judge.

6 The Court: Sustained.

7 Q: Did you ever go to Frank Conyer's club the night of
8 October 26, 2010?

9 A: If we're talking about the same dates that we're on
10 right now, that's the club yeah that's the place that I was
11 at a friend of mine's house. That's his house I was at his
12 house it wasn't a club.

13 Q: Ok I got you. So you were at Frank Conyer's house
14 the night of 10/26/2010?

15 A: Yes.

16 Q: Did you go to sleep at Mr. Conyer's house?

17 A: Yes sir I did.

18 Q: And when you woke up ...

19 A: I woke up realized I was at my location and I called
20 my girlfriend and told her what had happened. We both to Mr.
21 Keels house and at that point I walked up explained to her
22 what had happened.

23 Q: What had happened?

24 A: Well I missed some money her son had...

25 Ms. Barr: Judge we're going to object.

1 The Court: Sustain, unless he knows from his own
2 personal knowledge.

3 Q: Do you have any personal knowledge not from what
4 anybody told you as to how your money became missing?

5 A: Well that was the only way because he was the only
6 one.

7 The Court: Sustain.

8 Q: Just answer yes or no. Do you have any personal
9 knowledge other than what somebody told you?

10 A: Well no sir. I mean no one had to tell me.

11 Q: But you went to Mr. Keels mother's house?

12 A: Correct.

13 Q: At any point and time were any threats made?

14 A: Well I demanded that I wanted my money and...

15 The Court: Sir you're not going to be allowed to go
16 into that and you need to be careful on the questions you're
17 asking on that. My last warning on that.

18 Mr. Ballinger: Yes sir.

19 Q: Alright well lets move you 10/27/2010, which would
20 have been the next day Wednesday correct? Where were you
21 around 10:30 that particular evening?

22 A: Ok that's the next day ok?

23 Q: Correct.

24 A: I was at home.

25 Q: Have you ever owned or possessed a firearm?

1 A: Yes sir.

2 Q: Alright and what caliber?

3 A: It was a 12 gauge.

4 Mr. Ballinger: Nothing further Your Honor.

5 The Court: Thank you, Ms. Barr.

6 **(Cross by Barr)**

7 Q: Mr. Montgomery you testified that you went to the
8 home of the victims mother on October 27th is that right?

9 A: Yes ma'am.

10 Q: Ok and you and I don't want you to tell me what she
11 said or what anybody else said just specifically talking
12 about what you said. You told her you want your money back?

13 A: Yes.

14 Q: Now at the time what type of vehicle did you have?

15 A: It was Chevy Silverado that's not mine that's my
16 girlfriend's truck she was driving.

17 Q: But that was the vehicle you would've been driving
18 and getting around in?

19 A: Yeah.

20 Q: A Chevy Silverado?

21 A: Yeah.

22 Q: And that is a SUV or truck type vehicle?

23 A: Yeah.

24 Q: Now during the time in October 2010 were you living
25 in Greeleyville?

1 A: No.

2 Q: Now let me just make sure and put some things on the
3 record. About how tall are you?

4 A: I say about 5'8".

5 Q: And you've got a short haircut. Have you worn your
6 hair like that for the last ten years?

7 A: Yes I have.

8 Q: Within the last ten years have you ever had long
9 hair?

10 A: No ma'am.

11 Q: Have you ever had braids?

12 A: No ma'am.

13 Q: Have you ever had dreads within the last ten years?

14 A: No ma'am.

15 Q: About how much do you weigh?

16 A: On average maybe 135 maybe 140.

17 Q: And you're not do you wear glasses?

18 A: No.

19 Q: Do you see the defendant in the court room, Mr.
20 Palmer?

21 A: Yes.

22 Q: Is he wearing glasses at this time?

23 A: Yes.

24 Q: Do you know a fella they call Big Moe?

25 A: I don't know him personally but I've heard the name

1 before. I don't know him personally.

2 Q: Were you anywhere in the area of the shop on C.E.
3 Murray Boulevard at the time Therris Keels was murdered?

4 A: No ma'am.

5 Q: And as a matter of fact the police actually came and
6 interviewed you correct?

7 A: That's right.

8 Q: Did you corroborate with the police?

9 A: Yes ma'am.

10 Q: Matter of fact you voluntarily gave them a DNA
11 sample right?

12 A: That's right.

13 Q: You voluntarily submitted yourself to a polygraph
14 right?

15 Mr. Ballinger: Objection.

16 The Court: No overruled.

17 Q: You volutarily submitted yourself to a polygraph
18 right?

19 A: Correct.

20 Q: Anything they asked of you, you gave it to them
21 right?

22 A: That's correct.

23 Q: And you were cleared by the police?

24 A: Correct.

25 Ms. Barr: That's all the question I have thank you sir.

1 The Court: Any redirect?

2 Mr. Ballinger: One question Your Honor.

3 **(Redirect by Ballinger)**

4 Q: You testified that you're girlfriend was driving the
5 Silverado at the time?

6 A: Yes sir.

7 Q: Did you have, you didn't have your own personal
8 vehicle at the time?

9 A: No sir.

10 Q: Alright did you have access to any other vehicles?

11 A: No sir.

12 Mr. Ballinger: Nothing further Judge thank you.

13 The Court: Thank you, you may step down.

14 Ms. Barr: Judge we'd ask that he be excused to go back
15 to work.

16 The Court: Any objection?

17 Mr. Ballinger: No objection Judge.

18 The Court: Thank you have a nice day sir.

19 Mr. Ballinger: Your Honor at this time we call Joseph
20 Sabb.

21 Clerk: Place your left hand on the Bible raise your
22 right hand. Do you solemnly swear that the testimony you're
23 about to give will be the truth, the whole truth, and
24 nothing but the truth so help you God?

25 Sabb: Yes.

1 Clerk: Take your seat in the witness box.

2 Mr. Ballinger: Mr. Sabb state your full name for the
3 record please.

4 Sabb: Joseph Tyrone.

5 **(Exam by Ballinger)**

6 Q: Do you have a nickname?

7 A: TT.

8 Q: Where do you live Mr. Sabb?

9 A: Manning.

10 Q: And that's in Clarendon County?

11 A: Yes.

12 Q: How old are you sir?

13 A: 42.

14 Q: What do you do for a living?

15 A: I just started a new job, L&J, Incorporated.

16 Q: Ok what do you do there?

17 A: Utility.

18 Q: Mr. Sabb do you recall the evening of October 27,
19 2010?

20 A: Yes.

21 Q: Tell me from about 9:30 or so that night forward.
22 Tell me where you were and the relevant events.

23 A: I was at my cousin house and I needed I brought my
24 car up there and I was playing the radio and my battery
25 died. I was only there like maybe 15 minutes.

1 Q: What's your cousin's name?

2 A: Wayne Sabb his mother is Mrs. Sue Sabb and so now
3 it's time for me to go try and get some jumper cables
4 because I needed to go because I had to go back to work.

5 Q: Let me ask you one more. Is Wayne's house the
6 location where you were located on C.E. Murray, C.E. Murray
7 Boulevard?

8 A: Yes.

9 Q: Alright continue.

10 A: So now I'm coming from around the house walking,
11 which it was dark, the street light was out. I'm walking to
12 go get the guy on the street to get the cables, I see
13 whether anybody had some cables and all of a sudden Therri
14 came up to me real fast. He like hit me with it's dark
15 because he ran into me like and hit me in my chest. I need
16 you take me home take me home now, please take me home. I
17 said Therri I can't I got to go get some jumper cables. So
18 he said ok I'll go with you, I'll walk with you to go get
19 them. So we started off walking and all of a sudden he went
20 towards the highway like going across the highway and so I
21 kept walking and as I kept walking I heard say, I know you
22 strapped I know you got your gun on you. Then when I look
23 back I was looking into a mask a white mask. Once I looked
24 into the mask I started running and I heard one shot and
25 then that was kind of like it. Which he was on my right.

1 When we started walking he was on my right. Then like I say
2 he veered off to the right going across, across the road and
3 when I saw the mask I ran. I heard one shot while I was
4 running but that's all I can you know.

5 Q: Do you recall what the individual with the mask was
6 wearing?

7 A: He had dark, it was dark I saw dark colored clothes
8 that's about it.

9 Q: Do you know Mr. Marc Palmer?

10 A: Don't know him, seen him before don't know him.

11 Q: Did you at any point and time see anyone pacing
12 under the streetlight that you referenced?

13 A: No because I was on the other side of the house
14 which, I would have to get up to see who walked the streets.
15 Because I was on a blind side like.

16 Q: So when you left out of Wayne's house you took a
17 left?

18 A: Yes I took a left.

19 Q: Alright and you all went up the right side of the
20 sidewalk?

21 A: When I left Wayne's house I took a left, it's kind
22 of like it more like a like this is the house more like
23 around to go then I'm making a left.

24 Q: And which direction did the shooter come from in
25 relation to where you and Therris were on the road?

1 A: Across from the other side of the road.

2 Q: At any point and time were you at the club or what's
3 known as the shop prior to this incident?

4 A: No.

5 Q: Did you notice anything about the shooter's walk or
6 run?

7 A: No.

8 Q: Nothing stood out?

9 A: No because when, when I turned around they was like
10 facing each other like this. At a stand still.

11 Q: Did you notice anything regarding the shooter's
12 hairstyle?

13 A: No.

14 Q: Did the individual with mask on have a hoodie on?

15 A: I couldn't tell.

16 Mr. Ballinger: Nothing further Your Honor.

17 The Court: Ms. Barr.

18 Ms. Barr: Thank you Your Honor.

19 **(Cross by Barr)**

20 Q: I have a couple of questions if I may. You know a
21 fella by the name of Levar Wesley Walker?

22 A: Yes.

23 Q: How do you know him?

24 A: My cousin is his step mother.

25 Q: Alright and they live in that little white house on

1 the corner?

2 A: That same house I'm talking about?

3 Q: When we get the projector screen up I'm going to ask
4 you about that house if I can. How long do you think you
5 were out there before the shooting happened?

6 A: It wasn't that long I say like, because like I said
7 earlier I mean on the statement. I just came from Lake City
8 me and a friend of mine. It probably wasn't it wasn't 15
9 minutes 20 minutes.

10 Q: Can you come down out the witness stand for me for
11 a minute. This is an aerial photo of the scene where the
12 murder happened. So I can get you to orient yourself, this
13 is C.E. Murray Boulevard here. This is Good Hope Church.
14 This is the shop and the fish market, you with me?

15 A: Yes.

16 Q: This is Wes house. You familiar with that area where
17 the garage is?

18 A: Yes.

19 Q: You know where your at. Let me ask you when Therri
20 approached you and lets come over a little bit more. When
21 Therri first approached you when you were going to get your
22 jumper cables. Point to the jurors where you were.

23 A: This is the house right?

24 Q: Yes that's Wesley's house.

25 A: I was right kind of like right here.

1 Q: Ok, where was your vehicle?

2 A: Right here.

3 Q: And where were you going to get your jumper cables?

4 A: I was going to the shop to see whether anybody had
5 a jump, jumper cables.

6 Q: So you were walking from the side of the house?

7 A: From the side of the house.

8 Q: You were walking in the direction of the shop there?

9 A: Yeah.

10 Q: Where did Therriis meet you at the roadway? Where did
11 he meet you at?

12 A: He met me...

13 Q: Tell me again where you were coming from when you
14 first saw Therriis.

15 A: I was coming from right here where my car was
16 parked.

17 Q: And for the record that's on the side of Wes's
18 house?

19 A: That's on the side of the house yes.

20 Q: You saw Therriis coming from which direction?

21 A: I walked, I came from the side right here and he was
22 coming from there at the shop.

23 Q: And you said that he was in a hurry said let me get
24 a ride?

25 A: Yes he was in a hurry because he kind of like more

1 like, like I say it was dark. He kind of like ran into me.

2 Q: And he told you can I ride with you please give me
3 a ride?

4 A: Yeah he told TT can you please take me home, please
5 take me home, and I told him like I say. I told him I
6 couldn't because I needed some jumper cables and that's when
7 he say, well I'll go with you to get some we can find some.
8 I said ok.

9 Q: Now I want to show you a picture. Is it going to
10 bother you to see his body in the roadway?

11 A: Yes because I was traumatized by it I mean from
12 that. I mean I ain't want to you know, I never seen it I
13 don't want to see it.

14 Q: Alright well let me do this. What I'm going to do
15 is just cover up the image of his body. That'll help?

16 A: Yeah that'll help.

17 Ms. Barr: Judge we are publishing State's exhibit
18 number 26.

19 The Court: Alright which is in evidence.

20 Q: Alright Mr. Sabb you're familiar with that
21 particular scene?

22 A: Meaning?

23 Q: Are you familiar with this area here?

24 A: Yes yes.

25 Q: This is Wes's house here is that right?

1 A: Yeah.

2 Q: This is Wes's house here is that right?

3 A: Yes.

4 Q: You indicated that you were coming on the side of
5 Wes's house right?

6 A: Yeah from like that side right there.

7 Q: Therris was coming down walking toward you in the
8 roadway here?

9 A: No no he bumped into me right in here, right up in
10 here like.

11 Q: Now demonstrate for me. If I'm you and you're in the
12 front of Wes's house would Therris had been on your right
13 or your left? Show me where Therris was if I'm you.

14 A: Ok he came like this.

15 Q: Ok he came toward you first?

16 A: Yeah like this, like please take me home please take
17 me home like that.

18 Q: Once he did that which way did you go?

19 A: I turned, I went walking up towards the shop.

20 Q: So let's say if, this is for demonstrative purposes
21 only. If this is Mr. Wes's house here and I'm you and I am
22 walking as you were from the side of the house. It would
23 have been from the right side of the house right?

24 A: No it was more like, yeah it was from right side
25 yeah from the right yeah from the right.

1 Q: Yeah if your back is to the house it would be from
2 the right side?

3 A: Yeah from the right side.

4 Q: So if I'm you and this is the house and you're
5 coming on the right side of the house and you're walking
6 out. You see Therris when you're in like in the front yard.
7 Is that right?

8 A: Yeah.

9 Q: Tell me how Therris comes to you if I'm you.

10 A: He came like, like this.

11 Q: Ok and then which direction did you go in once he
12 came to you and asked you for a ride?

13 A: That way.

14 Q: Alright point me where you. So you went walking this
15 way?

16 A: Yeah I went walking that way.

17 Q: Did you walk in the yard...Did you walk in the yard
18 or do you think you were walking in the street at this
19 point?

20 A: No sidewalk.

21 Q: You were walking on the sidewalk?

22 A: Yes.

23 Q: So you start walking on the sidewalk and he's asking
24 you about getting a ride and is he still on your right at
25 this point?

1 A: Yeah he's still on my right.

2 Q: You indicated at some point he was not walking side
3 by side.

4 A: Yeah I looked and he wasn't beside me.

5 Q: When you say you looked?

6 A: I just kind of looked like that.

7 Q: When you looked, you looked to your right?

8 A: Yeah I looked to my right.

9 Q: And Therris was no longer around you?

10 A: He was no longer there?

11 Q: No longer there. Ok if you're Therris tell me show
12 the jurors where Therris was when you looked to your right
13 and noticed he wasn't with you anymore. If you're Therris
14 and I'm you.

15 A: He started out with me walking and then once I
16 looked.

17 Q: Right walking together and then what happened?

18 A: He did like this, went towards the highway.

19 Q: So you both before he starts walking toward the
20 highway. You both are on the sidewalk right?

21 A: Yes.

22 Q: Alright and then he leaves you at some point?

23 A: Yes.

24 Q: So if I'm you and I'm still if this is the house.
25 The sidewalk is in front of the house right? So if I'm you

1 and I'm walking along the sidewalk. Therri is doing what
2 when you look and see that he's no longer side by side with
3 you?

4 A: He was going walking towards the highway.

5 Q: Stand to me with where he was at first when you all
6 are walking together.

7 A: Like this.

8 Q: Ok so he veered off?

9 A: He veered off I kept walking.

10 Q: You kept walking straight on the sidewalk. Alright
11 and then you looked back.

12 A: Then I looked back and that's when I saw him walking
13 towards the guy.

14 Q: Alright and when you say the guy. This is the man
15 that you saw come across the street right? Now in terms of
16 this particular exhibit that's published. This a street
17 light there, here, this right there?

18 A: Are you asking me?

19 Q: Yes sir.

20 A: I think the street light is on the other side. I
21 don't know whether this is a street light or not I mean but
22 the light on the other side was out.

23 Q: So you're telling me as far as State's exhibit
24 number 26. You're not sure that this wooden pole here is a
25 street light?

1 A: I don't know.

2 Ms. Barr: Judge we would move State's exhibit number
3 46 in at this time.

4 The Court: Any objection?

5 Mr. Ballinger: No objection.

6 The Court: Without objection State's exhibit 46 is
7 admitted.

8 Ms. Barr: Permission to publish 46?

9 The Court: Please.

10 Q: Now Mr. Sabb I'm going to publish State's exhibit
11 number 46. Let me just let you know that, Wes's house would
12 be back this way and this is the sidewalk, is that right?

13 A: Yes.

14 Q: And this is the sidewalk that you initially and
15 Therris initially were walking down to go get some jumper
16 cables is that right?

17 A: Yeah.

18 Q: And across the street is that where you saw the
19 person coming from?

20 A: Yes he was coming from across the street.

21 Q: And you see a wooden pole there?

22 A: Yes.

23 Q: Is that the light pole that was across the street?

24 A: That's it.

25 Q: You indicated that, as you and Therris are walking

1 down this sidewalk here. Therris starts to go toward the
2 roadway is that right?

3 A: Yes.

4 Q: Now the individual who shot Therris came from where
5 if you can point to that?

6 A: Came from towards the shop side like that way coming
7 from there, the shop.

8 Q: Where did they meet up in the roadway?

9 A: Kind of like halfway in the highway. Not all the way
10 in the highway, kind of like halfway as I can remember.

11 Q: And you said that as you're walking along the
12 sidewalk and Therris walks off. You heard him say, I know
13 you're strapped I know you got your gun?

14 A: Yes.

15 Q: Now when you heard him say that did you see
16 anything? Did you see his arms out?

17 A: I can't remember.

18 Q: You don't remember whether or not Therris had his
19 arms out?

20 A: I can't remember.

21 Q: Did you ever hear anything that the shooter said to
22 Therris?

23 A: Never said anything.

24 Q: As they meet in the roadway you hear Therris say I
25 know you're strapped?

1 A: Yes.

2 Q: You said you looked back and you saw what you
3 thought was somebody wearing a mask, is that right?

4 A: Yeah.

5 Q: Now you said when you saw the person wearing a mask
6 you then took off running?

7 A: I took off because I know it wasn't good.

8 Q: Now in terms of when you took off. You heard the
9 shot being fired right?

10 A: Yes.

11 Q: And when you heard the shot being fired you ran?

12 A: I was running at the time.

13 Q: At the time you heard the shot being fired?

14 A: After seeing the mask.

15 Q: And you were in fact running so fast that you
16 actually pulled a muscle in your leg?

17 A: Yes I did.

18 Q: Tell the ladies and gentlemen of the jury where you
19 ran to.

20 A: I ran, I had to stop because I pulled my muscle so
21 I ran. I didn't run to far like maybe Mr. Junior Stagger's
22 house, Kenneth Jackson house. I pulled up at Kenneth Jackson
23 house that's when I stopped running.

24 Q: Now in terms of that aerial map would Kenneth
25 Jackson's house be in any relation to?

1 A: It should be on there.

2 Q: Would it be near the moose lodge?

3 A: It would be Kenneth Jackson house, that would be I
4 think Keels Lane then the masonic lodge.

5 Q: Alright come here for me. If we're back at in front
6 of Wes's house here. If we're back here tell us which area
7 you ran to when you heard the shot.

8 A: I ran, I probably I pulled up probably about right
9 here which is Kenneth Jackson house.

10 Q: So you're going this direction on C.E. Murray
11 Boulevard you would actually get to Kenneth Jackson's house
12 before you got to the moose lodge?

13 A: Yes.

14 Q: Where did you go from Kenneth Jackson's house?

15 A: I went, the told me what happened what happened. I
16 told them somebody shot Therriis.

17 Q: And then you went where.

18 A: And then I went and I still asked for jumper cables.

19 Q: Even after the shooting?

20 A: Yes even after the shooting it was time for me to
21 go I mean you know, I was it scared the heck out of me. I
22 went to the shop and then everybody else started ok lets get
23 the, they wasn't hearing me about no jumper cables. Some
24 went back to the scene, some cranked the cars and boogied.

25 Q: Did you go back to the scene and did you see

1 Therris's body in the roadway?

2 A: No I couldn't take it no I didn't.

3 Q: You did not?

4 A: I got my car but I didn't, I didn't see the body I
5 had to go around I couldn't see it. I didn't want to see to
6 be honest.

7 Q: Now and you can have a seat sir thank you. Big Moe
8 was out there?

9 A: Yes Big Moe was, he wasn't, he was at the lodge
10 should I say.

11 Q: Detrel was out there?

12 A: Trel was out there.

13 Q: Deandre Chatfield was out there?

14 A: I saw him.

15 Q: Wes was out there?

16 A: He was at the house.

17 Q: He was at the house ok. You said that you've never
18 seen anything like that right?

19 A: Never did in my life.

20 Q: Did you see where the shooter got the gun from?

21 A: No.

22 Q: Have you ever fired a gun before?

23 A: Never did.

24 Q: You ever seen a gun being fired before, like
25 somebody hunting or whatever?

1 A: Not exactly remember I don't you know.

2 Q: Do you know that when a gun fires that there's a
3 flash that comes from muzzle? You've heard of that right?

4 A: I heard of that.

5 Q: The flash is a light right, would you agree with me
6 on that?

7 A: Yes.

8 Q: Now do you know Marc Palmer? Have you ever seen him
9 before?

10 A: I've seen Marc but don't know him.

11 Q: He's seated in the courtroom?

12 A: Yes.

13 Q: He's wearing glasses, now?

14 A: Yes.

15 Q: Where was, where did the first shot hit Therriis?

16 A: I have no idea.

17 Q: When the first shot was fired. I'm going to get you
18 to stand back for a minute. When the first shot was fired,
19 if I'm Therriis ok at the time of the shooting. How is his
20 shooter, what's the position of his shooter if I'm Therriis?

21 A: They was more like, they was like face to face.

22 Q: They were face to face like you and I are now.

23 A: Yeah.

24 Q: If I'm Therriis and you're the shooter and we're face
25 to face. Where are you in relation to Therriis, if I'm

1 Therris?

2 A: If you Therris.

3 Q: Yes. Where are you at this time when the shooting
4 happens?

5 A: I was like ahead, ahead of both of them really.

6 Q: Let me do this so we can understand. Let's just
7 pretend like this is the roadway where the shooting
8 happened. I'm Therris and Wes's house is behind me. You got
9 me so far?

10 A: Yeah.

11 Q: If Therris and the shooter are face to face where
12 are you at this point, if I'm Therris?

13 A: If you Therris Ok you Therris and I'm the shooter?

14 Q: Right. You're behind Therris right?

15 A: Yes I'm behind Therris.

16 Q: And further up right?

17 A: Yes. I'm more like in the front I left see, they was
18 like I was in the front and they were over back in the back
19 of me.

20 Q: I understand that's what I'm getting at. If I'm
21 Therris and you're the shooter and Therris and the shooter
22 are face to face at the time of the shot right?

23 A: Yes.

24 Q: You're down the road in the back of Therris right.
25 I mean you're further down the road right?

1 A: Yeah I'm further down the road, not that far but I'm
2 further down the road.

3 Q: When you hear the shooting you would have had to of
4 looked back to see the shooting right?

5 A: No once I saw the mask I kind of like took off. When
6 I was running I heard the shot. I never to my recollection
7 I can't remember actually seeing him point the gun and shot
8 him you know. Like I say once I saw the mask I know it
9 wasn't good and like I told you on my way when I was
10 running, that's when I heard the shot.

11 Q: How many shots did you hear?

12 A: I heard one shot.

13 Q: Just one?

14 A: One.

15 Q: So when you ran down to Wes Jackson's house did you
16 hear anymore shots?

17 A: I couldn't hear because music was playing and I was
18 running and scared you know I was running real fast and I
19 didn't hear anymore shots.

20 Q: How long did you stay at the scene before leaving?

21 A: I didn't stay to long because like I said like I
22 told you, I was scared as I don't know what I didn't stay
23 that long.

24 Q: Did you ever have a conversation with Maurice?

25 A: Never did in my life. Who Maurice?

1 Q: They call Big Moe.

2 A: Oh Big Moe yes.

3 Q: Mr. Sabb as a part of the investigation the police
4 came and took an interview from you. You remember that?

5 A: Yes.

6 Q: Do you remember giving a recorded statement to
7 Investigator Wayne McFadden on November 1, 2010?

8 A: I can remember giving the statement because they
9 came by numerous times.

10 Q: And took statements and was talking to people in the
11 community right? Is that right?

12 A: Yes.

13 Q: Certainly in the days leading or the days after the
14 murder, your memory in terms of what happened you would
15 agree with me was probably fresher within two days after the
16 murder as opposed to two years after the murder. Would that
17 be fair to say?

18 A: That would be fair.

19 Q: That's just common sense really.

20 A: Yes.

21 Q: In terms of the statement that you gave to the
22 police. I'm going to show you a transcript indicating a date
23 of November 1, 2010 at 4:55 p.m.. Does that appear to be a
24 transcript of the statement that you gave to the police back
25 then?

1 A: Yes.

2 Q: You spoke with Wayne McFadden and you all actually
3 were at the Auction in Greeleyville right?

4 A: Yes that's where I use to work.

5 Q: He came out along with Investigator Staggers to talk
6 with you about what you'd seen is that right?

7 A: Yes.

8 Q: And he essentially just asked you kind of tell me
9 what happened right, is that right?

10 A: Yes.

11 Q: Do you recall telling him at the time that and I'm
12 specifically for counsel and the court's benefit referring
13 to page 2 of that transcript. That Therris came and you said
14 I've got to get me a jump and Therris said I'll go with you
15 to get a jump. You said he came up walking fast I saw a dude
16 with a mask that came by and I saw him in the dark. I didn't
17 know who he was to speak to him and he didn't say nothing
18 so I kept walking. Then I noticed that Therris wasn't beside
19 me anymore or behind me anymore as a matter of fact he went
20 toward the dude and when he came walking toward Therris.
21 Therris asked him are you packing or holding a gun or
22 whatever and it was bam. I heard one shot and after I heard
23 that shot I looked back, dude had a mask on and I started
24 running.

25 A: Yes.

1 Q: So in terms of giving a statement to the police a
2 couple of days after the murder you told them that you heard
3 the shot and then you started running, is that right?

4 A: I guess I mean, because like I said I was
5 traumatized by that.

6 Q: That's a pretty traumatizing event.

7 A: It is.

8 Q: When say that you saw the mask, about how far were
9 you from Therriis when you saw that?

10 A: Probably about from here to the guy right there.

11 Q: Ok stop me when I get to the guy you're talking
12 about that you were from.

13 A: Right there.

14 Q: Right here?

15 A: Him on the right.

16 Q: My right?

17 A: Yes.

18 Q: The officer?

19 A: Yes the officer.

20 Q: And if you're where you are now in the witness
21 chair. You're about that far from Therriis?

22 A: I was about that far yes.

23 Q: And I'm really bad with distances. Tell me how far
24 a distance you think that is.

25 A: I say probably like 15 yards should I say. Maybe 15

1 to 20 yards you know I can't be exact, probably like 15 to
2 20 yards.

3 Q: And the shooter and Therris they're about that same
4 height right?

5 A: I little like I said I never did really got to
6 actually look at the shooter, but seeing as though they was
7 standing like nose to nose.

8 Q: Nose to nose right?

9 A: Yeah.

10 Q: So would Therris's back had been to you when you
11 looked back and saw what you describe to be the mask?

12 A: No Therris, when I looked back. If I would have been
13 to the side of Therris when I looked back I looked I saw
14 both of them when I looked back but Actually I was looking
15 really at the shooter really. To see who he was I mean you
16 know to see who he was I mean.

17 Q: What part of Therris's body did you see when you
18 looked back?

19 A: More like his back really, more like his back, maybe
20 the side.

21 Q: I'm going to have Investigator Collins stand up.
22 With my heels on are we about the same height?

23 A: Yes.

24 Q: When you looked back and saw the guy that you
25 thought was wearing a mask. Were they kind of face to face

1 as Investigator Collins and I are standing now?

2 A: Yeah they was more like face to face, but not that
3 close but face to face.

4 Ms. Barr: Mr. Sabb thank you so much, I don't have any
5 further questions.

6 The Court: Any redirect Mr. Ballinger?

7 Mr. Ballinger: Briefly Your Honor.

8 **(Redirect by Ballinger)**

9 Q: Mr. Sabb you're sure that the light that you've
10 referenced the streetlight was out?

11 A: I'm pretty sure, I'm pretty sure it was out.

12 Q: And you're sure the suspect came from the direction
13 of the shop?

14 A: Absolutely.

15 Q: Ms. Barr referenced your statement I'm going to get
16 you to read another portion of it. This is a copy of page
17 10 of your statement given on 11/1/2010. I'm going to read
18 you the question, I'll just ask you to give the answer.
19 Question, was it a lighted area where he was walking,
20 answer.

21 A: No.

22 Ms. Barr: Judge I'm sorry can counsel tell me which
23 page were on.

24 Mr. Ballinger: I'm sorry page 10 line 16.

25 A: You want me to read it out?

1 Q: Yeah just read your full answer there.

2 A: No it wasn't really that light because it's just not
3 that light right there. There's only one light and that
4 light is kind of like towards the garage where he was. He
5 wasn't near the garage so he was coming up.

6 Q: Well that's the question. The question is, so he was
7 coming up and then read your answer.

8 A: Yeah he was coming up. What I don't understand like
9 I told you all is somebody at the shop had to have seen the
10 dude because I don't even know who the dude is because of
11 the mask.

12 Q: So like you just said in your statement. The shooter
13 was not near the garage?

14 A: No he never made it near I mean, he wasn't at the
15 garage no.

16 Q: So would've been coming from a different area from
17 the garage?

18 A: Yeah because he came from the shop side.

19 Mr. Ballinger: Nothing further Your Honor.

20 The Court: Any recross?

21 Ms. Barr: Yes.

22 **(Recross by Barr)**

23 Q: Now when you said he came from the shop side, you
24 talking about the shop side of the road right?

25 A: The shop and the shop side of the road.

1 Q: In terms of the distance between the garage and shop
2 we're talking about a basically a block right?

3 A: Yeah basically a block.

4 Q: And there's a sidewalk there?

5 A: No.

6 Q: No there's not in front of the shop?

7 A: In front of the, I think so I think they just put
8 it there I think if I'm not mistaken.

9 Q: In terms of when you saw the shooter coming from the
10 shop side. That would be consistent with a person walking
11 back and forth up from the shop and back down in front of
12 that wooded area right?

13 A: Are you asking me did I see him walking back and
14 forth?

15 Q: No I'm not asking you if you saw it. I'm just asking
16 in terms of what you would have saw the shooter do if he
17 were in fact walking up down in that wooded area...

18 Mr. Ballinger: Objection Your Honor that's cause for
19 speculation.

20 The Court: Sustain.

21 Q: Well let me ask you this and further referencing
22 your statement that you given back on November 1, 2010. I'm
23 going to refer to page 9 ok. One of the investigators ask
24 you did you notice where he ran.

25 A: No I didn't.

1 Q: Let me just do it this way. Let me kind of go from
2 your statement. The question was asked, did you notice where
3 he ran. Do you see that, you see right the question is
4 asked?

5 A: Yes.

6 Q: Now when we talking about where he ran there talking
7 about the shooter right?

8 A: Yes.

9 Q: And you're answer was, no when he shot I hauled
10 tail. Whether he ran straight up or in the woods I don't
11 know like I told you at Freddie's Garage, I don't know. The
12 first shot I ran I know he had dark colored clothing on,
13 because I wasn't even focusing on him nor Therriis because
14 I had already told Therriis I'm not going that way. I've got
15 to go get me a jump I'm out of here. Is that what you've
16 told them?

17 A: Yes.

18 Ms. Barr: Thank you sir.

19 The Court: Thank you sir you may step down. Any
20 objection this witness being released?

21 Mr. Ballinger: None from the defense Your Honor.

22 Ms. Barr: None from the State.

23 The Court: Thank you. Mr. Ballinger who are we calling?

24 Mr. Ballinger: Karel Kennedy Your Honor.

25 Clerk: Place your left hand on the Bible and raise your

1 right hand. Do you solemnly swear or affirm that the
2 testimony you're about to give is the truth, the whole
3 truth, and nothing but the truth so help you God? You got
4 to say yes or no.

5 Kennedy: Yes.

6 Clerk: You may step in the witness box.

7 **(Exam by Ballinger)**

8 Q: Mr. Kennedy would you state your full name for the
9 record please sir?

10 A: Karel Dion Kennedy.

11 Q: How do you spell you first name?

12 A: K-A-R-E-L

13 Q: And Kennedy is K-E-N-N-E-D-Y? Is that a yes?

14 A: Yes sir.

15 Q: Where do you live Mr. Kennedy?

16 A: In Greeleyville, South Carolina.

17 Q: How old are you?

18 A: 21.

19 Q: You in school, you working, what's your situation?

20 A: I'm working.

21 Q: What do you do for a living?

22 The Court: Which take out sir I didn't hear that.

23 A: I work at W. Lee Flowers.

24 Q: Alright and let's move to the evening of October 27,
25 2010. Do you recall that evening?

1 A: Some what not really.

2 Q: Whether you recall seeing Marc Palmer at the club
3 or the shop on 10/27/2010?

4 A: I wasn't there.

5 Q: Did you give a statement to law enforcement about
6 this incident on or about 11/1/2010?

7 A: Yes.

8 Q: Did you tell law enforcement that you were at the
9 club on 11/1/2010?

10 A: I was there before it happened. We left probably 30-
11 35 minutes before it happened.

12 Q: So you were at the club on October 27, 2010 correct
13 and you testified you were there approximately 30 minutes
14 before the shooting occurred correct? While you were at the
15 club that evening did you see Marc Palmer?

16 A: I thought I did but I can't really remember.

17 Q: Did you tell law enforcement that you saw Marc
18 Palmer?

19 A: I don't recall I can't really remember.

20 Q: Alright well I'm going to show you a document and
21 will you read that for me?

22 Mr. Ballinger: Judge we would object to the witness
23 reading, well I don't have a problem with him reading it but
24 if he's going to read it out loud and if it's a report from
25 an officer he didn't author the report we'd object to him

1 reading it out loud if it's not his written statement.

2 The Court: Unless he identifies it as his statement
3 it's ...

4 Mr. Ballinger: It's going to be his statement.

5 The Court: He needs to identify that as his statement.

6 Mr. Ballinger: Well the document is field interview but
7 yeah the contents of it is his statement.

8 The Court: If he says it's his statement.

9 Mr. Ballinger: Correct, yes sir.

10 Q: You were interviewed by law enforcement on November
11 1, 2010 is that correct?

12 A: I reckon so.

13 Q: Did you tell law enforcement...

14 A: May I read this?

15 Q: You can read, yeah read that then I'm going to ask
16 you.

17 A: Some of that is true.

18 Q: Ok hang on and we'll let you clarify but does that
19 document refresh your memory?

20 A: It refreshes my memory.

21 Q: Did you tell law enforcement you saw Marc at the
22 club that night?

23 A: Yes.

24 Q: Did you describe what he had on?

25 A: I knew he had on a hoodie I know that. He had on a

1 hoodie he was there, when we were there he came probably he
2 probably stayed out there probably for like 15 minutes, but
3 when I left he wasn't there.

4 Q: Do you recall his hairstyle?

5 A: He usually keep it in a ponytail. Sometimes he have
6 braids but usually in a ponytail.

7 Q: But you don't recall, my question is do you recall
8 specifically that night his hairstyle?

9 A: Ponytail.

10 Q: Based on your statement what did you tell law
11 enforcement he had on that night?

12 A: He had on a hoodie.

13 Q: But what did you tell law enforcement that he had
14 on that night in your statement?

15 A: On the paper it says hoodie, white t-shirt, and blue
16 jeans.

17 Q: Is there hoodie anywhere in your statement?

18 A: No.

19 Q: So what did you tell law enforcement?

20 A: He had on a white t-shirt and blue jeans.

21 Q: What else did he, you mentioned one more thing?

22 A: Glasses.

23 Q: You did describe his hairstyle for law enforcement
24 did you?

25 A: Yes.

1 Q: Did you have a nickname for Mr. Palmer, just
2 something you called him something other than Marc Palmer?

3 A: Everybody call him Driver.

4 Q: And why is that?

5 A: I couldn't tell you why it's just that's what a lot
6 of people know him by.

7 Q: Have you ever had a conversation with Mr. Palmer?

8 A: Yeah he use to go to Williamsburg Tech. We had a few
9 conversations not really a lot.

10 Q: So you all would be acquaintances?

11 A: I wouldn't say that but I would say me and him had
12 a conversation a couple times, probably twice.

13 Q: Did you ever see Brittany Croskey at the club the
14 night of this shooting?

15 A: Yeah she was there.

16 Q: She was at the club?

17 A: No where we were, everyone I was with was across the
18 street including her at the mason lounge.

19 Q: Do you know if Brittany was there at anytime when
20 Mr. Palmer was there?

21 A: I can't remember.

22 Q: Do you know of any argument or altercation between
23 Marc and Therriis Keels at the club that night?

24 A: Not that night.

25 Q: So to your knowledge they didn't have any words,

1 correct?

2 A: Not that night.

3 Q: And at some point you left the club and went over
4 to the Masonic Lodge is that right?

5 A: No I was never at the club, because one my daddy
6 didn't allow that. So me personally I would stay in the car
7 a lot of the time across the street. I never really showed
8 my face inside that building.

9 Q: But you testified earlier you were at the club that
10 night and you told.

11 A: Let me explain this to you. Being at the club there
12 when you say that means that everything over basically they
13 call it the club. Don't just sit there and say ok you walk
14 here and it's right, everything over there is considered the
15 club except the fish market.

16 Q: Very good well I appreciate you clarifying that so
17 you were just in that basic area?

18 A: I was in the area.

19 Q: When you saw Marc in the area where did you see Mr.
20 Palmer?

21 A: He came by like walking by.

22 Q: So were you at the Masonic Lodge when he came
23 walking by?

24 A: Yeah.

25 Q: Did Mr. Palmer come to the Masonic Lodge and greet

1 everybody while you were there?

2 A: Yeah he came by he spoke. It wasn't no conversation
3 though he, what's up you all what's going on, and then he
4 left.

5 Q: Alright so when you left the area was Marc to your
6 knowledge still in the club area?

7 A: No he was gone before I left. Like I said he came
8 by, like you said he spoke, but when I left he wasn't there.

9 Q: You tell law enforcement that or did you have it the
10 other way around with law enforcement?

11 A: What do you mean? It's on that paper but he wasn't
12 there.

13 Q: So you told law enforcement that Driver was still
14 at the club when you left correct?

15 A: That's what I told law enforcement.

16 Mr. Ballinger: Nothing further Your Honor.

17 The Court: Cross examination?

18 Ms. Barr: Yes sir.

19 **(Cross by Barr)**

20 Q: Mr. Kennedy you've indicated that you all knew the
21 defendant by the nickname was Driver, is that right?

22 A: That's correct.

23 Q: And you also testified that during this time he
24 would wear he hair up in a ponytail?

25 A: Correct.

1 Q: And that's how he had his hair fixed that night up
2 in a ponytail is that correct?

3 A: Correct.

4 Q: And sometimes when a man has the long hair they'll
5 sometimes have it braided back, right?

6 A: Yes ma'am.

7 Q: And then sometimes and you've kind of seen you
8 friends who choose to wear their hair long they'll put it
9 up in a ponytail right, is that right?

10 A: Yes ma'am.

11 Q: Now in addition to the defendant being known by the
12 nickname Driver and in addition to the defendant having the
13 ponytail, he was also wearing glasses that night wasn't he?

14 A: He always does.

15 Q: Always wears glasses?

16 A: Always.

17 Ms. Barr: That's all the questions I have.

18 The Court: Do you need a recross?

19 Mr. Ballinger: No sir Your Honor.

20 The Court: Thank you, you may step down. Any objection
21 to this witness being relieved?

22 Mr. Ballinger: No sir Your Honor.

23 Ms. Barr: None from the State sir.

24 The Court: Thank you sir.

25 Mr. Ballinger: Defendant rest Your Honor.

1 The Court: Alright thank you. Ladies and gentlemen I'm
2 going to send you back to the jury room for a few minutes
3 while we take up a matter of law. Please do not discuss
4 anything about the case while you're back there, thank you.

5 **(Jury excused)**

6 The Court: Alright are there any motions to be made at
7 this time?

8 Mr. Ballinger: Judge now that all the evidence is
9 closed I just renew my motion for directed verdict.

10 The Court: Alright Ms. Barr?

11 Ms. Barr: Judge we would certainly raise the same
12 argument that we did initially. The belief that this is a
13 question for the jury that there's substantial evidence in
14 record for which this jury can find the defendant guilty of
15 both counts and we would respectfully request that the
16 motion be denied.

17 The Court: Ok I am going to deny the motion it's even,
18 quite frankly there's actually more evidence in now that
19 would let me send it to the jury.

20 Mr. Ballinger: Judge hold on I'm discussing one other
21 matter with my client. For the record Your Honor my client
22 believes that the reference to polygraph was improper it was
23 objected to and since it was admitted then that would
24 entitle him to a mistrial, I'd move accordingly thank you
25 Judge.

1 The Court: Ms. Barr.

2 Ms. Barr: Your Honor the reference to the polygraph was
3 from a witness not the defendant. It didn't collate to
4 whether or not the defendant refused to take a polygraph
5 it's typically in a context where we'll see that objection
6 raised and as a matter of fact the court specifically
7 excluded that portion from being played during the course
8 of his statement. So we would certainly argue that that
9 objection and the motion for a mistrial is improper and that
10 the testimony by Mr. Montgomery that he took a polygraph is
11 certainly relative evidence. Also Judge I just.

12 The Court: It would be different if it was Mr.
13 Montgomery's trial.

14 Ms. Barr: Correct I agree.

15 The Court: The fact that it's his trial it makes no
16 difference what so ever and I would not grant a mistrial on
17 that bases.

18 Mr. Ballinger: Thank you Your Honor.

19 The Court: Any other motions?

20 Mr. Ballinger: No sir Judge.

21 The Court: Alright you all have both had an opportunity
22 to read the charge. At this point and time are there any
23 opposed changes to the charge for the jury?

24 Ms. Barr: Not from me Judge.

25 The Court: And I had made the statement unless somebody

1 objects I intend to send a verbatim copy of the charge to
2 the jury when they go back to their deliberations.

3 Mr. Ballinger: No objections Your Honor.

4 The Court: Alright you all want about 15 minutes before
5 we bring the jury back in. Thank you court will be in recess
6 for 15 minutes.

7 **(Court in recess)**

8 **(Court in session)**

9 The Court: Alright let's bring our jury in.

10 **(Jury in)**

11 The Court: Alright ladies and gentlemen all the
12 evidence that's going to be presented in this case has been
13 presented to you. Now is the time where the State and the
14 defendants will give you their summations, after that I will
15 charge you on the law that is applicable to this case. Is
16 the State ready to proceed?

17 Ms. Barr: State's ready Judge.

18 The Court: Defense ready to proceed?

19 Mr. Ballinger: Ready Your Honor.

20 The Court: Alright, Ms. Barr.

21 **(Closing by Ms. Barr)**

22 Ms. Barr: Thank you Your Honor may it please the court,
23 Mr. Ballinger, madam forelady, ladies and gentlemen of the
24 jury good morning. I want to start today picking up kind of
25 where I left off on Tuesday morning and I want you, I want

1 to personally thank each and everyone of you all for
2 attentiveness this week. I have to say that there have been
3 a couple cases I've prosecuted over the years and during the
4 trial I'll periodically as a matter of habit just kind of
5 look over at the jurors just to see if they're paying
6 attention. Interestingly enough last week when we trying a
7 case one of the jurors actually fell asleep during the trial
8 and I'm so grateful that you all were very attentive jurors.
9 I'm tempted to kind of sneak a peek every now and then and
10 look at you and I saw that each of you were firmly affixed
11 to witnesses, to the exhibits that were presented to the
12 trial, and that tells me that you take your job this
13 afternoon very seriously and again for that I thank you and
14 think that Mr. Ballinger would probably share my comments
15 in that regard. The way that our court rooms work I'll have
16 a chance to make an opening statement about law in the case,
17 meaning Attorney Ballinger will then stand up and direct to
18 you any opposing remarks to you and then I get to come back
19 again and have another opportunity for me to tell why I
20 think you all should find the defendant guilty. Now because
21 I have a second opportunity I'm going to be very brief
22 during this exchange. The defendant is charged with two
23 counts that you all have heard of. He's charged with murder
24 and he's charged possession of a weapon during the
25 commission of a violent crime. Now let me just kind of share

1 with you what I think the Judge will about the law as it
2 relates to those particular charges and laws that relates
3 to any criminal case. A person who's charged with murder,
4 in the trial the State has to prove a couple of things.
5 Murder is the unlawful killing of another with malice or
6 forethought, and malice or forethought it sounds like a
7 legal mouthful but it's really relatively simple in terms
8 of it's explanation. Malice is and can be shown by evidence
9 that the defendant had some type of ill will or hatred or
10 bad blood toward the victim. And there can be expressed
11 instances of malice for example if somebody says I hate that
12 SOB I'm going to kill them. That's express because that's
13 what somebody said or somebody rights that, that's express.
14 There also forms of malice that are called implied. You can
15 imply that there was hatred against the victim by the
16 defendant based on some of the evidence in the case and I
17 think what the Judge may tell you about implied knowledge
18 is that for example if you have someone lying in wait for
19 a victim, if you have someone planning out the acts
20 necessary to commit murder. That's evidence of implied
21 malice and malice coupled with the word forethought,
22 forethought means you have to have the malice in your heart
23 prior to killing the victim. Doesn't have to be for any
24 extended period of time. It could be minutes, it could be
25 hours, folks it could even be seconds, but the malice has

1 to exist to have prior to the killing and so when you all
2 go back to the jury room and deliberating about this case.
3 I want you to think about how the level of planning would
4 have taken for an individual, the defendant in this case,
5 park his vehicle in that little pathway across the street
6 from where Therris Keels was coming from and I want you to
7 think about the level of planning it took for somebody to
8 back of the vehicle out because they know when I kill this
9 guy I've got to be able to haul tail and get out of there.
10 All of those facts we would submit to you are evidence of
11 a malice or forethought. The defendant is also charged with
12 possession of a weapon during the commission of a violent
13 crime. In South Carolina if you commit a violent crime and
14 you use a certain type of weapon. If the jury finds you
15 guilty of committing that violent crime you also should find
16 the defendant guilty of possession of weapon during the
17 commission of a violent crime. I'll go ahead and tell you
18 in South Carolina murder is a violent crime. In South
19 Carolina a pistol is a deadly weapon. So if you find the
20 defendant guilty of murder you should also find him guilty
21 of possession of a weapon during the commission of a violent
22 crime. Now one other thing, two other things I want to tell
23 you about right quick. The Judge is going to tell you it was
24 abundantly clear during this trial he's going to tell you
25 about credibility of witnesses and credibility of witnesses,

1 it sounds like it's a big legal principal but it's not. You
2 all judge people's credibility every day in your life. You
3 all have children and you're sitting down stairs and you
4 hear this noise and you run up stairs and you see your kid
5 standing there in the room with a ball in his hand and you
6 see where there's a hole in the wall. Well did you see your
7 kid take the ball and hit the wall to create the hole no.
8 Is there anybody else there, the circumstances by which he
9 has the ball in the hand that's circumstances that could
10 lead you to determine whether or not the child did that in
11 that incident. When you're child comes in and you're talking
12 and your talking well did you throw the ball and your child
13 says no. When you making a decision based on what to believe
14 your judging a persons credibility. Credibility means
15 believability, can I believe what this individual has told
16 me. In this case we had many many witnesses and many of them
17 had a whole lot to say and you all as jurors when you go
18 back there. You will have to recall each of their testimony
19 and when you do that I ask you when you judge their
20 credibility, I want you to do a couple of things for me
21 please ma'am, please sir. Ask yourself, witness A how can
22 I believe witness A. Does witness A testimony is it
23 corroborated by other witnesses who were there. Is witness
24 A's testimony corroborated by some of the other evidence in
25 the case like the photographs. Does witness A have a

1 particular motive or particular reason to testify for or
2 against the State. So when you start talking about
3 credibility and you all are trying to determine who you
4 should believe in this case. I want you to think about those
5 things and I want you to ask yourself those questions and
6 I think those responses will be your guiding light and will
7 aid you in rendering a verdict that's just and true in this
8 case. Folks, you all have a big burden on your hand I think
9 the jury system is the most important system in the world.
10 At the end of the day everybody in this courtroom wants
11 what's fair, what's just, and what's right. Now -- tell you
12 you know Mr. Ballinger and I don't agree what that is in
13 this case, but everybody agrees that we want a verdict that
14 speaks the truth. We think that we've got the twelve most
15 intelligent, most honest, most earnest jurors to hear and
16 decide that case. Decide these issues and folks we would ask
17 that, at the appropriate time when I get to come back before
18 you again I would ask that you all render a just verdict,
19 you render a true verdict, and you render a verdict that
20 reflects the truth and I submit to you that that would be
21 verdicts of guilty. Thank you all.

22 The Court: Thank you Ms. Barr. Mr. Ballinger for the
23 defense.

24 Mr. Ballinger: Thank you Your Honor may I please the
25 court?

1 The Court: Yes sir.

2 **(Closing by Ballinger)**

3 Mr. Ballinger: Good morning ladies and gentlemen. I
4 agree whole heartedly with Ms. Barr as to everyone's
5 attention, as to everyone's complete involvement with the
6 case that you've notice from time to time I'd look at you
7 guys and scope you out. Trust me it wasn't meaning to stare
8 at you just see if you were paying attention and I know
9 beyond a shadow of a doubt that everybody was and I and Mr.
10 Palmer thank you for that. I agree with Ms. Barr also that
11 you have a very serious duty obviously in a murder case.
12 It's the most important case you can sit on in the criminal
13 justice system and I recognize that. Ladies and gentlemen
14 as we said on Monday or as I told you on Monday and the
15 Judge told you he's going to tell you again. Your job as a
16 jury is to determine the facts in this case and as you know
17 when the lawyers are done with their summations or their
18 closing arguments the Judge is going to tell you that again,
19 it is your job as the jury to determine the facts and then
20 apply the law to the facts as you find them. Folks I also
21 told you on Monday that this was a case where there was
22 absolutely no physical evidence of crime being committed,
23 I stand by that. If you're inclined to believe that the
24 Money Saver video is physical evidence just hold that
25 thought and I'll address that further, but I stand by my

1 statement that there's absolutely no physical evidence that
2 a crime was committed in this case and again I'll address
3 the Money Saver video here shortly. Ms. Barr notes and again
4 the judge is going to tell you that the credibility or the
5 believability of the witnesses is also very important. Folks
6 I submit to you that every witness in this case has frankly
7 been inconsistent in some regard. I will deal with Mr.
8 Palmer's statement later too, but I believe under all the
9 statements that were given Mr. Palmer's has been the most
10 consistent from day one, but again that's going to be your
11 determination as to who you believe. Folks Ms. Barr touched
12 on some of the elements that the state has to prove in order
13 to convict Mr. Palmer. Everyone of those elements has to be
14 met beyond a reasonable doubt and we've talked about what
15 reasonable doubt is, that's the benefit of the doubt. Under
16 the law Mr. Palmer is entitled to any benefit of any doubt
17 that you folks may have, whether it's because any of the
18 witnesses were inconsistent, whether it's because there's
19 a complete lack of physical evidence, anything that would
20 cause you to hesitate to act or any benefit that Mr. Palmer
21 has he's entitled to the benefit of the doubt under the law.
22 So how has the State attempted to reach their verdict? How
23 have they attempted to prove their case beyond a reasonable
24 doubt? Two ways folks, completely contradictory eye witness
25 testimony and secondly coincidence. Those are the two types

1 of evidence that the state has submitted. Let's talk about
2 the eye witness testimony. There are two in the case that
3 came in and said, I know Marc Palmer was the shooter in this
4 case, two people. Maurice Smith also known as Big Moe and
5 Brittany Croskey. Those are the only two people that the
6 State has to attempt to say they knew who the shooter was
7 and that shooter was Marc Palmer. Folks Mr. Smith came in

8 from the Department of Corrections, he's been convicted of
9 some type of drug distribution offense, which is completely
10 consistent to what Mr. Palmer's testimony was yesterday.
11 That not only was he a drug dealer and again I'll get into
12 his statement more, but also Mr. Smith was a big time drug
13 dealer and that can't be more true than what you all saw
14 here in the courtroom. I mean he came in after conviction
15 and testified on behalf of the State. Let's look at Mr.
16 Smith's statements he gave three of them in fact, had a lot
17 of difficulty getting his story straight. First statement
18 he gave absolutely no mention of Marc Palmer being the
19 shooter, this statement was given very close in time to the
20 actual incident and there's actually not evidence, no
21 statement from Maurice Smith that he thought it was Marc
22 Palmer and that he knew it was Marc Palmer that's statement
23 number one. Statement number two was given to SLED
24 Investigator Creech, remember I asked him on cross
25 examination about when did Maurice Smith give his second

1 statement. The answer was February of 2012, mind you his
2 charges were pending as of December 2011 when him and Mr.
3 Palmer had some type of verbal altercation. So you got a
4 verbal altercation between Mr. Smith and Mr. Palmer and then
5 you've got pending drug charges when he gives a statement
6 to SLED in February of 2012. Gets convicted September of 12
7 which is after his second statement and then gave his third
8 statement that was reduced to writing in the form of a
9 transcript about two months ago and his testimony was no I
10 was being truthful because I'd already been convicted I
11 didn't have anything to gain from the state, not true,
12 absolutely not true. He was curing favor with the State with
13 his February of 2012 statement while his trafficking charges
14 were pending you remember I asked him what was he initially
15 charged with trafficking, that is a much more serious
16 offense than what he was actually convicted of and sentenced
17 on. If he was convicted of trafficking he was looking at a
18 bunch of time, but instead he told State what they wanted
19 to hear in exchange for help on his charges. So that's Mr.
20 Palmer's position on Mr. Smith's statement. Now the direct
21 testimony of Mr. Palmer yesterday I asked in Ms. Barr's
22 cross and she's good at what she does, no doubt about that
23 great cross examination, but there was a big spectacle made
24 of the fact that everybody knows that a witness's memory is
25 more accurate immediately after an event than several years

1 down the road. Well that's true I mean I agree with her, I
2 bet we can all agree that that's common sense, but that goes
3 specifically to Maurice Smith's statement. The one he made
4 directly after the incident didn't mention Marc Palmer, he
5 didn't know who it was, didn't talk about swag couldn't
6 identify anybody from a swag none of that's in the first
7 statement he gave immediately after the incident. So Ms.
8 Barr and I can agree on something and that's that memory is
9 usually more fresh immediately after and incident so please
10 consider that as Mr. Smith's statement. The second witness
11 is Brittany Croskey that allegedly puts Mr. Palmer as the
12 shooter. She testified and gave a statement, she testified
13 this week that she knew it was Mr. Palmer because he walked
14 with this swag that we talked about, but when we went
15 through her statement she didn't really tell law enforcement
16 that. When they first asked her about some type of swag or
17 anything that stuck out about his walk and I'm paraphrasing,
18 her answer was no I don't recall anything and then
19 investigator wants to get into in essences you sure he
20 didn't have a swag. My point is her first answer was no to
21 the question of do you recall anything about his walk,
22 that's very important ladies and gentlemen. She also said
23 that she didn't have any information about this shooting
24 other than what people had been talking. Those are here two
25 statement in her written statement, no she didn't recall

1 anything specific and the only thing she knew is what people
2 had been talking. Please consider that in considering Mrs.
3 Croskey's statement. Folks the other way the state has tried
4 to identify Mr. Palmer in this case is by his vehicle and
5 specifically by the sound of his vehicle and there's
6 conflicting testimony all throughout the case as to whether
7 or not the car made noise. Detrel Matthews I believe said
8 it made noise, Maurice Smith said it made noise, Wes Walker
9 said it did not make noise, and he'd of been the closes one
10 to the vehicle when it left out. He said he saw a car leave
11 out with round headlights, ladies and gentlemen you all got
12 the pictures in front of you of the car. I mean those
13 headlights look more square to me than round and again
14 that's a perfect example of what you guys are determining,
15 these are facts that you all called upon to determine. But
16 again Mr. Walker's got a vehicle with round lights leaving
17 the scene. You got pictures of the Dodge Neon with square
18 lights and Mr. Walker would have been in the best position
19 to hear a vehicle if it was in fact loud. Mr. Palmer said
20 my car is not loud it's a small little Neon, doesn't have
21 a fan belt problem and it doesn't have a muffler, Wes Walker
22 corroborates that. So if you believe Mr. Walker about the
23 vehicle there was no loud associated with it and therefore
24 the person that drove that vehicle down the road, drove a
25 vehicle who didn't make noise and I think there's evidence

1 before you in the regarding. Again taillights become the
2 most important consideration in that fact. Another way the
3 State has attempted to identify Mr. Palmer is through his
4 hair. What the shooter's hair was like night and as with
5 everything else there's conflicting testimony throughout the
6 entire case. A couple witnesses said he had dreadlocks,
7 there's a picture in front of you ladies and gentlemen. Mr.
8 Palmer said this is how my hair was at the time of the
9 shooting, the picture you have in front of you I think was
10 taken in November of 2010, but the testimony from Mr. Palmer
11 was my hair looked the same a couple of weeks prior or a
12 week prior whatever the case may be in October of 2010. So
13 I mean you got evidence in front of you reflecting the
14 hairstyle and again we've heard ponytail, we've heard
15 dreadlocks, but you've got in front of you what his hair was
16 like on that particular day. And clearly with the braided
17 style, braided, better term simply attached to his head you
18 know flat, but we all know ponytails stick up and dreadlocks
19 are not flat and they're not attached to the head. That's
20 the testimony from some of these eye witnesses that they
21 were positive that the shooter had a ponytail or that he had
22 dreadlocks. I submit to you that's not correct ladies and
23 gentlemen and again on Ms. Barr's very skilled cross
24 examination she wanted you to believe that by shaving his
25 head, Mr. Palmer was trying to conceal and inferences were

1 made that he concealed the .45. Ladies and gentlemen if he
2 was concealing evidence I don't know why he would leave dark
3 clothing in a vehicle, ammunition in a vehicle. I mean if
4 you're going to conceal evidence aren't you going to conceal
5 anything that could possible link you to any type of crime
6 if you've got the time and the opportunity and the motive
7 to do that and you're going to do it and that's what the
8 State is, that's the State's position that that's what he's
9 done. You're going to do it you're going to get rid of
10 everything. Your not going to leave ammunition in your
11 vehicle, your not going to leave dark clothing in your
12 vehicle. Just ask yourself does that make any sense. All the
13 evidence in the records is that the shooter in fact did have
14 on dark clothing and I mean there's some inconsistencies as
15 to the exact color but everybody agrees that the shooter had
16 on dark clothing. Per Mr. Kennedy the night at the club he
17 just testified what he testified isn't consistent too, but
18 what he told law enforcement was Marc had on a white t-
19 shirt, pants and his glass on, glasses but he said and he
20 had his glass on. So that was Mr. Kennedy's original
21 statement of what Mr. Palmer had on that evening, a white
22 t-shirt, not any dark clothing. But in any event a dark
23 colored hoodie was found in Mr. Palmer's car. Again if that
24 was evidence of a crime and he's concealing evidence he
25 surely would have concealed that but he didn't. In fact law

1 enforcement got a hold of it, sent it to SLED and they
2 tested it for gunshot residue and they tested it for blood
3 and other items which is afford you into evidence you can
4 see exactly what was tested and what type of test. There's
5 gunshot residue and it's blood all those came back negative.
6 Ladies and gentlemen all these inconsistencies, all these
7 things that jump out and say just something's not right I
8 wonder if that is reasonable doubt ladies and gentlemen. As
9 Ms. Barr explained to you also the State has to prove the
10 legal term of malice or forethought she did a good job of
11 explaining it to you and it's just simply a evil intent or
12 ill will or to put it in simpler term bad blood, somebody
13 has prior to committing a murder and the State has to prove
14 that malice or forethought just like everything else and
15 that's beyond a reasonable doubt. How they attempted to
16 prove malice or forethought, again they brought in a bunch
17 of witnesses to say there was some type of bad blood between
18 Marc and Therris Keels, but I mean you heard Mr. Palmer's
19 testimony about Therris's threat that he was going to rob
20 him or no that he wasn't going to rob him because he was
21 small time and how the supposedly enraged or made Mr. Palmer
22 angry because he was disrespected. He said I wasn't angry
23 he said that was Therris, that was Therris, and apparently
24 Investigator Creech thought the same thing because I asked
25 him cross examination when you interviewed Mr. Palmer did

1 you seem to think that Mr. Palmer had any bad blood or ill
2 will towards Therris Keels and Investigator Creech said no
3 I mean it didn't come off to me that way. Another attempt
4 to prove this malice or forethought was bringing Mr. Smith
5 in to say that when Marc saw Therris at the club he told him
6 he'd see you later. He's the only person at the club who
7 said that. Every other witness saw that exchange between
8 those men at the club and not a single other one of them
9 said anything was said between Marc Palmer and Therris
10 Keels, and we've talked about Mr. Smith's statement and why
11 he may not be telling the truth. There's absolutely no other
12 witness to say that Marc said anything to Therris at the
13 club that night. I specifically recall Detrel Matthews
14 saying no I was standing right there and Marc never said
15 that, I asked him did he say anything to him Detrel said no
16 and Detrel was standing right there. Alright folks with all
17 this conflicting evidence the question becomes is where does
18 that leave everybody, and where it leaves you is to consider
19 what we know. What is not in dispute and lets look at what
20 we know. We know that without a doubt that a .45 caliber
21 pistol was used, we know that without a doubt that was the
22 murder weapon. We know we don't have a murder weapon in
23 evidence, nobody knows where the .45 is. We know that there
24 is no gunshot residue on any of the items tested or any
25 blood found on any of the items tested. We know that there

1 are no fingerprints on the .45 caliber casings that were
2 recovered at the scene and frankly ladies and gentlemen that
3 could be the most tragic thing in this case I mean if Mr.
4 Palmer is innocent like he says he is and there were prints
5 on those cartridges by whoever loaded that gun he'd be
6 exonerated. So I mean he's potentially terribly damaged by
7 the lack of evidence because again there's absolutely no
8 fingerprints that can be identified on the .45 caliber
9 casings. Folks we know that a Dodge Neon being driven by Mr.
10 Palmer came by the Money Saver on 10/27 at 10:37:46 p.m..
11 We also know that four other vehicles went by that Money
12 Saver camera in that time period that we're referencing,
13 four other vehicles. We know that Mr. Palmer was at the club
14 somewhere in the ten o'clock hour and again State made a big
15 production about him not being able to recall exactly what
16 time he got there and exactly what time he left. When the
17 State's witnesses haven't been able to exact anything either
18 so I mean and again it's common sense. Where you were at an
19 exact time two years ago I mean it's hard to do. I can't
20 tell you exactly you know what time I left my house to go
21 somewhere to a location two years ago but so we've got in
22 the ten o'clock area. He left his house about 10 o'clock
23 which puts at the club about 10:10 I mean again give or take
24 and then we've got him leaving the club and he shows up on
25 that video. The most important part of that video ladies and

1 gentlemen and Investigator McFadden and I went through this.
2 Marc Palmer is not speeding or going any faster than any of
3 the other four cars that went by. I mean if he's fleeing the
4 murder scene he's moving and that's the State's case and
5 that's the State's theory and that's what the State thought
6 they could prove by showing you that video is that there
7 theory of the case is right. That he parked his car that he
8 jumped in it and he sped away from the scene and the
9 speeding away from the scene makes sense makes absolute
10 sense. If I was the State that would've been my theory of
11 the case I mean everybody knows that when you murder
12 somebody and you get in your car and get out of there you
13 going to speed away from the scene it's common sense, but
14 that Dodge Neon went by at the same pace as the other three
15 cars that went by on that video. And that's not a driver wit
16 a guilty conscious that just shot somebody three times.
17 Folks the last I think piece of evidence that the State will
18 harp on is Mr. Palmer's statement. He did give a statement
19 to law enforcement a couple days after the incident. At the
20 same time his car was inventoried at that time so this
21 theory that he's hiding his car, heck his car had already
22 been searched when it was moved to the other location for
23 the reasons that his father testified to so that's
24 unimportant I mean all the evidence that the State
25 introduced from the vehicle what they got from 10/29 so I

1 just want to put that before you but you know clearly Mr.
2 Palmer is not trying to hid the car or you know hid evidence
3 because heck the car had already been searched by law
4 enforcement anyway. So I'll leave that for your
5 consideration. The back of his statement he admitted that
6 the part about where did you go after, after you left the
7 club was inconsistent he didn't tell the cops the truth, he
8 told you that and the reason he didn't tell you the truth
9 was because he didn't want to tell the cops that he went to
10 smoke pot and go sell some drug. I don't think I'd want to
11 tell the cops that either and I think more importantly what
12 that shows if he was trying to conceal his involvement in
13 a murder he might of told them that but instead he's worried
14 about, he's not worried about being convicted of a murder
15 he's worried about getting potential drug charges. He's
16 worried about being questioned further or arrested for
17 selling drugs if he tells the cops he's selling drugs, but
18 folks at this stage in the game he's got no choice but to
19 come completely clean. He's charged with murder he ain't
20 charged with a little drug case, but that's what he was
21 worried about when he told the inconsistent parts about
22 where he was after he left the club. If he'd of known that
23 he was going to get charged with murder he said man I, I
24 went by the Young's like I told you I rolled a blunt and
25 then I headed to Blakely to sell some more drugs I mean, but

1 again he knew he didn't commit a murder so he wasn't
2 concerned about his story in a murder case. That's the most
3 important fact about his statement. So as we said or as I
4 said ladies and gentlemen State's tried to use two things
5 to prove their case completely inconsistent eye witness
6 testimony and coincidence and that's him being on the video
7 at the Money Saver. Again as to his testimony Mr. Palmer
8 didn't have to testify, but he did he subjected himself to
9 cross examination so you all could hear his story. He also
10 told you about, I mean if he hadn't of testified you'd of
11 heard nothing about any criminal history he had unlike a lot
12 of the State's witnesses Mr. Palmer has very limited
13 criminal history. He has possession drug offense and I want
14 to make one more comment on the video. You remember the
15 owner of the stores testimony we don't really know that
16 beyond a shadow of a doubt that that date and time is
17 accurate on that Money Saver because he said I don't know
18 how the time is kept on that thing I don't know how it
19 operates but I mean that was his testimony, but again that's
20 another fact determination for the jury. None of the
21 vehicles that also passed on that video were ever
22 investigated. Ladies and gentlemen everybody is sympathetic
23 and feels bad and you can't put into words I mean what the
24 Keels family has been through, but that does not relieve the
25 State's burden for proving their case beyond a reasonable

1 doubt and ladies and gentlemen I submit to you that they
2 failed to do that and we would ask that you return a verdict
3 of not guilty as to both charges. Thank you very much for
4 your consideration.

5 The Court: Thank you Mr. Ballinger.

6 Mr. Ballinger: Thank you Judge.

7 The Court: Ms. Barr.

8 **(Reply closing by Barr)**

9 Ms. Barr: Ladies and gentlemen I whenever I prosecute
10 a case particularly a murder case. It ways on me because
11 there is so much at stake and it's inevitably you have
12 tragedy on both sides. You've got the family of a victim who
13 has lost a loved one in the most tragic way. Not in a way
14 where they've lived a long life and they just die of natural
15 causes and old age like we all hope and pray that God
16 blesses us to do. It's not in some kind of accident or
17 illness or anything along that line. It's that somebody
18 decided to play God and take the life of a loved one and
19 when you add on the fact that Therris Keels had just reached
20 his 30th birthday it makes it even more tragic. It's tragic
21 for Mr. Palmer's family too. My heart goes out to his family
22 as well just as Therris had a mom and dad, Mr. Palmer has
23 a mom and a dad and I made a conscientious decision not to
24 ask Mr. Palmer any question because I think quite frankly
25 his family as the Keels family have lost a lot. The only

1 thing that I can say about that is regardless of how this
2 case comes out Marc Palmer's family will get to see him
3 again. Therri's Keels's family will not, will never see him
4 again and you know told you all that Therri's was not a
5 perfect person that nobody's perfect I meant that. I knew
6 all the testimony would come out about drugs being in his
7 system. I knew those things would come out but you know at
8 the end of the day, Mr. Keels was a human being and nobody
9 deserved to die that way. Nobody deserved to be gun down
10 like an animal in the middle of the road and that's exactly
11 what happened to him. And folks when I talked about the
12 defendant cutting his hair, I wasn't talking about it
13 because I thought he was trying to conceal evidence on his
14 hair. I was talking about it because he is trying to present
15 an image to you of a person he is not. You know he comes
16 into this courtroom he wants to portray himself as
17 conscientious, studies, and you know he hits all the high
18 marks. Young man not married check, no children check,
19 college student check, clean cut check, nice suit check,
20 nice tie check, shiny shoes check. He wants to create the
21 best possible impression on this jury but it's a lie. The
22 image that you saw in this courtroom this week folks that's
23 a lie and just like he told me when I'm asking him
24 questions, don't get it twisted. Ladies and gentlemen you
25 all cannot get it twisted because this is not the person

1 that you see in the courtroom is not the same individual who
2 in his private life back on October 27, 2010 took a .45
3 caliber pistol and loaded to bullets into the victims body.
4 You see this individual and you all saw some parts of it
5 during cross examination, you know my boss Mr. Sabb always
6 tells me Kim when you're cross examining the witness or
7 defendant make sure you press them for details. He said
8 because most of them will have a story to tell you know
9 they've been sitting around since whatever the crime
10 happened and they've had time to think and for them they're
11 on trial this is the most important day in their life so
12 they're preparing for it. And he tells me that when you have
13 a defendant who's charged with a crime. He would have
14 thought about that crime and that and everything surrounding
15 that day a whole lot more than you would of. So he will
16 prepare a story and what you have to do to get to the truth
17 is press him for details. He tells me the devil is in the
18 details because when they prepare the script they don't
19 think about what if somebody ask me about this because if
20 I'm telling a lie, a person telling a lie is not going to
21 remember all the details and the facets of their lie. So he
22 kind of got all swift and it was amusing to watch because
23 on direct testimony when he's being questioned about his
24 lawyer I'm sitting there and I was looking at him and so
25 he's sitting in this witness chair and he's done all the

1 good things a witness is suppose to do. He turns around in
2 his chair, he's talking appropriately, sound very
3 intelligent, he's making good eye contact with the jurors,
4 he's hitting all the high marks now. He ain't no dumb fella
5 by any means, he's not as smart as he thinks he is, but he
6 ain't dumb fella by no stretch of the imagination. So he
7 gets up and he wants to present this image to you of who he
8 wants you to believe he is, but the image and his reality
9 are conflicting because they're not the same. When I was
10 preparing for this case and I'm thinking about the evidence
11 that'll be presented. I always get knots in my stomach, and
12 I didn't understand and I couldn't understand. Godly how
13 could somebody be so braze and just to come up and shot
14 somebody with all these people around, what in the world who
15 does that, who does that. How can somebody just be cold
16 blooded like that and I was talking about the case with a
17 friend of mine and she told me well Kim he wanted an
18 audience and it's like the light went off, the light bulb
19 went off your right. He was that bold and he was that brazen
20 and that bad and that cold blooded because he wanted an
21 audience and folks he didn't just want any audience. He
22 wanted particular audience. You see when he got into that
23 argument with Therris about a week or two before Therris was
24 murdered and Therris gets the best of him. Remember Maurice
25 that testify to Therris what he saw Therris was on top of

1 him. Well after that argument what does the defendant say,
2 this ain't over, it ain't over and for him it wasn't. Now
3 you all heard the evidence, you all saw the autopsy photos.
4 Therriis was a small frame fella he was about 130 pounds and
5 for him to get the best of this 165 pound guy in front of
6 all of these people and shame him and embarrass him and
7 disrespect him like that. That's why it wasn't just
8 important for the defendant to have an audience it was
9 important for the defendant to have a certain kind of
10 audience. You know back in the day when I was a little girl
11 my mother had a saying and her saying was wherever you show
12 out is where you get whore out, and from what she was
13 telling me is if you go and you embarrass me by showing your
14 behind at school well I'm go and I'm going to cut your
15 behind at school. Essentially that was her message to me and
16 for the defendant he could not have this 135 pound man who
17 has a crack addiction and who he called fool show him up in
18 front of all these people. So when he goes out to the club
19 and he parks his car right off C.E. Murray Boulevard this
20 teal color Neon with a hubcap missing for everybody to see,
21 he did that for a reason. When he goes up in the circle and
22 he's shaking Deandre's hand, and he's shaking Detrel
23 Matthew's hand, and he's shaking Moe's, and when he gets to
24 Therriis he says I'll see you later. He did that for a
25 reason, see he wanted that group which was the same group

1 of people that were there when Therriis got the best of him,
2 the same group of people when Dominique McBride got the best
3 of him, same group of people. When he went there that night
4 and started shaking all these hands he wanted them to know
5 I'm the man. There's a consequence for disrespecting me and
6 I'm going to let you all know that I'm the man. See that
7 little and you all saw he was when I was asking him
8 questions. Got that little cockiness that little New York
9 arrogance that I heard people talk about. You're not going
10 to disrespect this man on the street and just let that be
11 that. Now lets talk about this time line. When I told you
12 all that the defendant's not as smart as he thinks he is but
13 he's a smart fella. You know somebody people can talk so
14 fast think you know I'm a fast talker I can sell my game.
15 Sometime people really can run their mouth a little bit to
16 much and what the defendant did not realize was that there
17 was a surveillance tape of him in the scene in the area when
18 this happened. So when he gave that statement to law
19 enforcement two day after the murder. He didn't realize
20 they had on surveillance camera and you honestly believe we
21 didn't have that footage in here do you really think he
22 would have got on that stand and said well yeah I was really
23 in the area, because all before now when he was talking to
24 SLED I wasn't nowhere near Greeleyville, I wasn't nowhere
25 near C.E. Murray Boulevard when that happened. Man I was

1 somewhere else I was in Blakely, Andrews, or wherever he
2 said he was but see we got him dead to right and you all
3 know this now. He was able to sit here and hear everybody
4 testify, see all the pictures, all the surveillance tape.
5 So he is smart enough to admit only what he has to admit.
6 He's only going to go so far. Now let's talk about this time
7 line. Here's what we know from the evidence. Mr. Keels was
8 murdered October 27, 2010 on October 15, 2010 the defendant
9 gets into his second fight with this Dominique McBride fella
10 and when he testified, what was interesting about that he
11 said well see you know Dominique this my second fight with
12 him and Dominique hurt me in the first fight and hurt my leg
13 and now I got pins in my leg, thought that was interesting.
14 During this fight .45 caliber pistol falls from his waist,
15 Detrel Matthews picks up the pistol, who is afraid to give
16 it back to the defendant because he was afraid the defendant
17 would kill Dominique McBride so he holds it for a few days.
18 He's holding onto the gun. Now let me tell you before I go
19 to the next step why that's significant and the things that
20 I would ask you to remember about Detrel Matthews. Detrel
21 Matthews had got out of prison, federal prison in February
22 2010. Shortly after he gets out of prison he meets Mr.
23 Palmer and they become buddies, associates, or whatever you
24 want to call it. October 2010 eight months after Detrel
25 Matthews gets out of prison he sees this fight between

1 Dominique and Mr. Palmer. Now Detrel Matthews got on the
2 witness stand and says well yeah I saw the fight and I saw
3 something fall from Marc Palmer's waist band but I don't
4 know what it was I assume it was a gun but I don't know I
5 couldn't sure and I heard something hit the ground but I
6 don't know if it was a gun. I said well Mr. Matthews did you
7 tell Investigator McFadden that it was a gun, no I ain't
8 told him that. Did you tell him it was a .45 caliber pistol,
9 no. Did you tell him you kept it for a couple of days, no.
10 Did you tell him that Palmer kept calling you asking for it
11 back, no. Did you tell him that a few days before the murder
12 you gave the .45 pistol back to him, no I didn't tell him
13 that I ain't tell him that. So when we call Investigator
14 McFadden to the stand I asked him about that and he said yes
15 ma'am I had that conversation with Mr. Matthews because at
16 that time he said he wasn't going to go on record now,
17 because he was on federal parole and it would be a violation
18 of his parole to have a firearm. At this point and time
19 Investigator McFadden he ain't worried about not little gun
20 charge he's worried about trying to solve a murder. So he
21 then goes to his parole officer and says listen ma'am I got
22 a murder down here Williamsburg County, I got somebody that
23 puts the murder weapon in the defendant's hand can you
24 please just not violate this guy if he comes forward and he
25 tells me the truth. Parole office says no if he goes on

1 record and he says that he had a gun I'm going to violate,
2 which essentially means Detrel going back to jail. So Detrel
3 likes no Mr. McFadden I know Therris is my cousin and all
4 but I'm not going there I'm sorry you got to do the best
5 that you can. Now let me tell you this here's how you know
6 that Detrel Matthews had that gun. If it's true when he
7 testified that he never had a gun from Mr. Palmer, why in
8 the world would Wayne McFadden be talking to his parole
9 officer. I mean if the only thing he told Wayne because we
10 have to assume at this point that Wayne McFadden just pulled
11 that back out the sky somewhere, but if he never told Wayne
12 McFadden that he took .45 caliber pistol from the defendant
13 and gave it back to him a couple of days before the victim
14 was murdered why in the world would his parole even come up.
15 Why would the officer have a need to even go and talk to his
16 parole officer. That's how you know in fact the statement
17 that Detrel Matthews made Wayne McFadden were in fact true
18 and you know folks at the end of day Detrel Matthews is
19 going to have to live with the fact that he gave the same
20 gun to the defendant that was used to take out the life of
21 his cousin. He's going to have to live with that, regardless
22 of how this comes out he's going to have to live with that
23 for the rest of his life. There was also testimony that a
24 week or two before the killing, the defendant and the victim
25 get int a fight at the shop and again we talking about the

1 same little area on C.E. Murray Boulevard. The victim gets
2 the better of the defendant, the defendant don't have a gun
3 at this time. This fight occurs in front of a crowd of
4 people including Big Moe. The defendant tells the victim
5 this ain't over. Now we also know that somewhere between
6 October 16, 2010 and October 24, 2010 Detrel Matthews
7 returns that .45 caliber pistol to the defendant. Now what
8 I would submit to you is that whenever the defendant had
9 that fight with Therris he hadn't gotten his gun back yet.
10 Now let's talk about the day of October 27th. 3 o'clock 3:30
11 p.m. defendant's at the bullpen and they've always talked
12 about the bullpen being, he said that the bullpen is the
13 place where people go to smoke drugs, drink, and play cards.
14 Well at about 3 o'clock 3:30 that day the defendant gets
15 into an argument with Therris. Therris tells him you just
16 small time. Therris says and he talking about Therris talk
17 all that full talk talking about you know I could rob you
18 but you just small time and Mr. Palmer says in that case no
19 I ain't worried about you robbing me and he wasn't worried
20 because he was packing. Now what we know from his testimony
21 which is his statement. He's during the trial he's changed
22 that time line a little bit because see now he's got to
23 change the time line to account for why his car was on 521
24 at the time line the time that 911 call came in, but see
25 when you look at his statement to SLED he said he wasn't

1 nowhere in the area when the shooting happened. So now he's
2 set in court he's recognized all they got my car so I'm
3 going to have to modify my time line just a little bit.
4 Where as before when he was talking to SLED he said that he
5 arrived at the shop at 10 o'clock now in his statement to
6 you, he said he leaves home at 10 o'clock he says it takes
7 him about 10 to 15 minutes to get from his home in Lane to
8 the shop on C.E. Murray Boulevard. So that would put him
9 arriving at the shop somewhere between 10:10 and 10:15 p.m..
10 He arrived at the shop, he speaks to everybody shakes hands
11 and tells Therri I'll see you later. He testified he stayed
12 there 5-10 minutes would essentially have him leaving the
13 shop somewhere between 10:10 and 10:20 p.m. he leaves. Now
14 here's what we know, at 10:37 p.m. the Money Saver which is
15 between a quarter mile and a half a mile down from the crime
16 scene captures an image of the defendant's vehicle passing
17 by. What we also know is that at 10:38 p.m. somebody makes
18 a call to 911 to report that Therri is murdered. Now here's
19 what we don't know because we essentially have to believe
20 what the defendant tells us. Here's what we don't know.
21 After 10:38 p.m. up until 3 o'clock in the morning the next
22 day, nobody knows where Marc Palmer is. No one has any idea
23 in that nearly four and half hour time frame where Marc
24 Palmer is, that's a long time. Now he tells you well I was
25 just driving around you know trying to do my little hustle

1 trying to sell my drugs because I need my money. Now let me
2 get this right now you leave the shop where people are out
3 buying drugs. It's according to him the reason why he left
4 because it was too crowded out there, there were too many
5 people out there. So you're a salesman right, you got the
6 people who are interested in buying your product a whole
7 bunch of them out there at the shop. So you leave the place
8 where you got the most opportunity to sell your product and
9 make some money and according to him he would have you
10 believe he then drives around from house to house, door to
11 door trying to find people in the middle of the night to
12 sell dope to and he wants you to believe that. Now it's been
13 a long time since people come to my house soliciting
14 business but I declare I ain't never had nobody come at 12,
15 1, 2, and 3 o'clock in the morning now, but that's his story
16 so he wants you to buy that. Let me talk about two more
17 things and I'll be done. Testimony from Maurice Smith, I
18 prosecuted Maurice Smith. Maurice Smith came in this court
19 room he plead guilty and I was standing basically in the
20 same position I'm standing right now and as I recollect his
21 testimony when Mr. Ballinger asked him what were you
22 convicted of he said distribution and trafficking. So this
23 notion that somehow he was trying to curry favor with the
24 state by reducing his charge I would submit to you that's
25 not true. The man did his wrong, he pled guilty straight up