

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS
Hon. George C. James, Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2017-001749

Lamar Dontray Williams, Petitioner.

v.

State of South Carolina, Respondent.

APPENDIX

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VOL. I

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Lamar Dontray Williams,)
 S.C.D.C. No. 285568,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 OF THE THIRTEENTH JUDICIAL CIRCUIT

2014-CP-23-7031

ORDER DISMISSING PCR APPLICATION

ENTERED COMPUTER

FILED-CLERK OF COURT
 PAUL B. WILKES ESQUIRE
 GREENVILLE, CO. SC
 2017 JUL 2 AM 10:23

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed December 22, 2014. Respondent made its Return on or about June 3, 2015. An evidentiary hearing into the matter was convened on June 14, 2016, at the Greenville County Courthouse in Greenville, South Carolina. Applicant was present at the hearing and represented by J. Falkner Wilkes Esquire. Patrick Schmeckpeper Esquire, of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant testified on his own behalf. Applicant's trial counsel, Larry H. Cooke, Esquire, also testified. Other witnesses testifying at the PCR hearing were Paula Taylor, James M. Stewart, and Glenn Shannon. The record includes a copy of Applicant's records from the Greenville County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's PCR Application, and Respondent's Return.

I. PROCEDURAL HISTORY

Applicant is presently incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant for murder (2011-GS-23-2011), first-degree burglary (2011-

GS-23-2010), kidnapping (2011-GS-23-2013), attempted armed robbery (2011-GS-23-2012), conspiracy (2011-GS-23-2014), and possession of a weapon during commission of a violent crime (2011-GS-23-2011). Larry H. Cooke, Esq. (Counsel or trial counsel), represented Applicant at trial. Co-defendant Richey Boyd was tried jointly with Applicant. The Honorable Carmen T. Mullen presided over the trial, which spanned February 13-16, 2012.

Applicant was found guilty by a jury. Judge Mullen sentenced Applicant to concurrent terms of life for first-degree burglary and murder, 20 years for attempted armed robbery, 30 years for kidnapping, 5 years for conspiracy, and 5 years for possession of a weapon during the commission of a violent crime. The Court of Appeals affirmed the convictions in State v. Williams, Op. No. 2014-UP-262 (June 30, 2014). The remittitur was sent on July 16, 2014. This PCR proceeding was timely commenced on December 22, 2014.

PCR Application

Applicant alleged in his application that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. Failing to properly investigate the crime scene;
 - b. Failing to investigate "the mileage from the crime scene, to where I was at that would have collaborated my alibi witnesses testimony, which would also have allowed counsel to effectively cross examine the State's witnesses."
 - c. Failed to interview Iesha Scruggs before trial or adequately question her during trial.
 - d. Failed to object to the alibi charge.
 - e. Failed to obtain a DNA expert.
 - f. Failed to object to improper evidence.
 - g. Failed to obtain a ballistics expert.
 - h. Failed to object to the State's vouching for the credibility of their witnesses.
 - i. Failed to move for a mistrial "after the clerk told the jury, it shall try the case on improper charge intimidation or attempted intimidation of a potential witness."
 - j. Failed to object to the "hand of one is the hand of all" jury charge.



- k. "[P]rejudiced me per S.C.R.Crim.Procedure Rule 29 (b); on or about February the 18th 2012. I called him when I got the first statement from Willie Taylor exonerating me."

Of the foregoing grounds for relief, Applicant presented evidence and argument only as to the ground alleging trial counsel's failure to investigate the mileage from the scene to Applicant's claimed location some hours after the murder (ground b above). At the hearing, Applicant claimed that trial counsel should have called Glenn Shannon as a trial witness to rebut the trial testimony of prosecution witness Wendy Bridges, who testified that after the murder, Applicant gave her a gun in a paper bag to deliver to Mr. Shannon. The court will also address this claim for relief in this order.

II. APPLICABLE LAW

In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient.

Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has considered the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed their testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the trial transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Counsel's testimony to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.

Failure to investigate mileage from crime scene to Neeley Road in Laurens and failure to establish a timeline to travel that distance

At trial, Scottie Butler and Jeff Dornberg were called by the State to testify. Butler and Dornberg admitted their involvement in the incident. Butler had pled guilty to an accessory charge and Dornberg had pled guilty to voluntary manslaughter. Both were awaiting sentencing at the time of Applicant's trial. Butler and Dornberg testified at trial that Applicant played a substantial



part in planning the burglary of the victim's home, the goal being to steal drugs and money. Butler and Dornberg testified the robbery went bad and the victim was shot and killed by Applicant. Butler and Dornberg testified that they, Applicant, and the remaining perpetrators (Willie Jermaine Taylor and Richey Boyd) rode from the scene with Butler driving. Butler testified that he dropped off Taylor on High Valley Road in Greenville, Boyd on Blake Street in Greenwood, and then Applicant on Neeley Road in Laurens.

At the time of trial, Applicant had other pending criminal charges and was paying his bail bondsman in installments. Kristine Sterling testified at trial that she was Applicant's girlfriend at the time of the murder and that Applicant spent the night before the murder with her at her home on Neeley Road in Laurens (she testified she was not Applicant's girlfriend at the time of trial but that they still talked every day). She testified that they got up around 8:00 a.m., left the house around 9:15 a.m., went to an ATM in Laurens, and that between 9:30 a.m. and 10:00 a.m., she took Applicant to make a bond premium payment at Reliable Bonding in Laurens. At trial, she produced a receipt showing payment of \$100 to Reliable on the day of the murder. No time was on the receipt.

Iesha Scruggs testified at trial that she was working Reliable Bonding the morning of the murder. She testified she saw Applicant the morning of the murder when he came in to make a payment on a bond. She identified the receipt with her initials on it and testified that Applicant came in to make the payment between 8:30-10:00 a.m. She testified Applicant was the first person to make a payment that day, and that she knew he came in before 10:00 because she had a training session that day, the session started at 10:00 a.m., and no one else came in after 10:00.

Applicant called two witnesses at the PCR hearing on the travel/timeline issue, Paula Taylor and James M. Stewart. They testified that they reviewed the trial testimony of Butler and

Dornberg to develop the path of travel between the murder scene at 49 Valley Road in Travelers Rest and 7742 Neeley Road in Laurens, where Butler and Dornberg claim Applicant was dropped off by Butler some hours after the murder. Relevant trial testimony indicated that the murder occurred between 7:15-7:25 a.m. and that Applicant was dropped off on Neeley Road in Laurens before 10:00 a.m. The testimony of Butler and Dornberg established a path of travel from Valley Road in Travelers Rest to High Valley Road in Greenville to Blake Street in Greenwood to Neeley Road in Laurens.

PCR witness James Stewart testified that he is retired from law enforcement and that he has been qualified as an expert witness in accident reconstruction and that he is a certified accident reconstructionist. Mr. Stewart testified that he obtained Scottie Butler's path of travel from Butler's trial testimony and then consulted Google Maps to determine the shortest path of travel from the murder scene on Valley Road in Travelers Rest, to High Valley Road in Greenville, to Blake Street in Greenwood, and then to Neeley Road in Laurens. He testified that he rode as a passenger while Ms. Taylor drove the Google route. He testified it was a 108 mile trip and that it took him and Ms. Taylor 3 hours and 2 minutes to make the trip. He calculated that in order to make the trip from 7:25 a.m. to 10:00 a.m., one would have to travel at 90 miles per hour and catch all 56 traffic lights on green.

Trial counsel testified at the PCR hearing that he did not consider calling a witness such as Mr. Stewart regarding the time it would take to drive the route described by Scottie Butler. Trial counsel testified that he did argue the point to the jury in his closing argument. Therein, he stated to the jury

Now you tell me, you tell me how [Applicant] could have killed Mr. Cruell up in the upper part of Greenville County at 7:30 in the morning, and by the testimony of the State's own witnesses dropped somebody off on White Horse Road, dropped off some other guys over in Laurens, and then drove [Applicant]



back to his house, and he was still able to go to the bail bonding company between 8:30 and 10:00 and make a payment. Does that make any sense? You cannot drive--it's my contention that cannot drive from the upper part of Greenville County in the rush hours in the morning, day, 7:30, a quarter until 8:00, drop somebody off on White Horse Road, drop somebody off in Laurens, and then drive all the way to Greenwood and do that in less than an hour and a half, two hours. It seems impossible. And then be dressed to go make a bail bond payment [by 10:00 a.m.], and then go to the social security office. (Tr. pp. 560-561)

The court first notes that trial counsel's argument to the jury slightly misstated the route described by Scottie Butler, specifically in that Butler testified that he dropped off a participant in Greenwood, then drove Applicant to Laurens. The slight misstatement is of no import. Whatever the case, the gist of the timeline/travel argument was made by trial counsel. Applicant claims that trial counsel's argument to the jury would have been buttressed by actual testimony from a witness (such as Mr. Stewart) that the route taken from Travelers Rest to Greenville to Greenwood and then to Laurens would have taken such a length of time that it would have been impossible for Applicant to have been present at the scene of the murder. Applicant claims counsel was ineffective for not calling such a witness and that there is a reasonable probability that he would not have been found guilty if such testimony had been before the jury.

A cursory glance of the trial transcript would perhaps result in this court finding deficient performance and prejudice on this particular ground for post-conviction relief. However, a close review of the record compels this court to conclude that counsel was not deficient, and that even if he were, Applicant has not met his burden of establishing a reasonable probability that the result of the trial would have been different. While evidence of Applicant's guilt was not overwhelming, the evidence, as a whole, presented to the jury convinces this court that such timeline/travel testimony would not likely have yielded a different result. The jury heard testimony from three participants (Butler, Dornberg, and Willie Taylor) in the crimes that Applicant helped plan the robbery, rode with them some days before to scout the scene, and rode back with them to carry out

the crime. These witnesses were effectively cross-examined by trial counsel and by counsel for co-defendant Boyd, and their potential biases were exposed for the jury to consider. The jury heard testimony from witness Wendy Ann Bridges that she and Applicant had some sort of romantic relationship and that, several days after the murder, Applicant gave her a gun in a paper bag to take to a one-legged black man named Glenn at the Cadillac Apartments in Laurens. She testified she did so. She further testified that Applicant told her he had heard about the murder and was worried that because Butler and Dornberg were his friends and had been arrested, everybody would think he was involved. She testified that Applicant asked her to take him to Lexington to his mother's house, which she did. She testified that on the way to Lexington, Applicant made a statement to the effect that if someone were ever looking for him, he'd go to "Charleston, San Antonio, or something like that."

The jury heard testimony from Neil Haltiwanger, who was living in Lexington, S.C. with Applicant's mother at the time of the murder (they were not living together at the time of trial). He testified that several days after the murder, Applicant came by his house after having never been by there before. He testified that Applicant arrived with a female friend and that Applicant immediately asked if he could look on his computer for information about a crime in Greenville. Haltiwanger testified that the next morning, Applicant knocked on his bedroom door and asked if he come in and talk to him. Haltiwanger testified that Applicant told him he had gone into a man's house with some buddies looking for about \$10,000. Haltiwanger said Applicant told him that he "shot the guy" and that a bullet ended up in his shoe. Haltiwanger testified he told Applicant to turn himself in but that Applicant said he would not because he would not get a fair trial and that he might go to Arizona or Virginia. Haltiwanger testified that Applicant made a phone call and that he heard Applicant say to whomever he was talking that they needed to "get rid" of an

unnamed female "because she was talking". Haltiwanger testified that Applicant told him that he had given the gun he used in the murder to a friend so he could melt it down, and that he had given his clothes to a friend to burn.

Haltiwanger was cross-examined by both defense counsel and it was revealed that he was currently on probation for ABHAN and that he had been convicted of giving false information to the police.

As noted above, the jury heard testimony from Kristine Sterling that Applicant had been with her in Laurens at the time of the murder, and she and Iesha Scruggs testified Applicant had made a bail bond payment at or before 10:00 a.m. the day of the murder.

The jury also heard testimony from Jennifer Burnette that Dornberg admitted to her that he had killed the victim but then denied it the next day. The jury heard from Greenville County inmate Michael Antonio Williams that while he was in jail he had a conversation with Dornberg after Dornberg had been arrested. Williams claimed that Dornberg told him that he had shot the victim but that "everybody is saying [Applicant] did it. So I'm going to let him take the rap for it, and [Applicant] wasn't even there."

The court concludes that even though the evidence against Applicant was far from overwhelming, the jury was presented with starkly differing factual scenarios at trial. The jury sifted through the different scenarios and concluded that Applicant was guilty, either under the accomplice liability theory or under the theory that he actually shot the victim. Based on the totality of the trial evidence, the court concludes from a factual standpoint that Applicant has failed to establish the outcome of the trial would have been different if a witness such as Mr. Stewart had given the testimony at trial that he gave at the PCR hearing.

Failure to call Glenn Shannon to Testify

The Applicant claims trial counsel was ineffective for not locating Glenn Shannon and calling him to testify at trial. Shannon is the one-legged black man to whom Wendy Bridges allegedly delivered a gun at Applicant's arrest several days after the murder. Shannon testified at the PCR hearing that he does have one prosthetic leg. He stated that he frequented the Cadillac Motel in Laurens in 2010 and that he was the person around that had one leg. He testified that no one brought him a bag with a gun inside, and he testified that no one contacted him about testifying at trial. Shannon testified that he lived with Applicant's mother. Trial counsel confirmed at the PCR hearing that he did not look for the one-legged man.

The court concludes Mr. Shannon was not a credible witness and that his PCR testimony should be discounted. Even though the credibility of many trial witnesses, both for the State and for Applicant, was called into question, the court concludes that there is not a reasonable probability that Mr. Shannon's testimony would have altered the outcome of the trial.

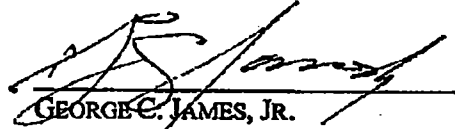
IV. CONCLUSION

Based on the foregoing, the court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this court to grant his application for post-conviction relief. Applicant failed to demonstrate that trial counsel's performance was unreasonable under prevailing professional norms or that even if it were, that there is a reasonable probability that the outcome of the trial would have been different. Therefore, this application for post-conviction relief is denied and dismissed with prejudice.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

July 5
~~June~~, 2017
Sumter, SC


GEORGE C. JAMES, JR.
Presiding Judge



*see 9/12/17
JW*

State of South Carolina
County of Greenville

Court of Common Pleas

Lamar D. Williams)
)
 Applicant,)
 v.)
 State of South Carolina,)
)
 Defendant.)

Transcript of Record
2014-CP-23-7031

June 14, 2016
Greenville, South Carolina

B E F O R E:

The Honorable George James, Judge.

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

J. Falkner Wilkes, Esquire
Attorney for the Applicant

Patrick Schmeckpeper, Esquire
Attorney for the State of SC

Lisa Scott
Circuit Court Reporter

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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No Exhibits.

P R O C E E D I N G S

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THE COURT: Okay. This is 2014-CP-23-7031.
Mr. Schmeckpeper is here -- here for the State.
Mr. Wilkes, you represent the Applicant.

MR. WILKES: I do, Your Honor.

THE COURT: Okay. Ready to go?

MR. WILKES: I am.

THE COURT: Anything you want to put on the
record before, or you want to just go ahead and
start?

MR. WILKES: Not from the Applicant.

MR. SCHMECKPEPER: Your Honor, I would like to
put on the record that we have victims here,
Ms. Shirleene Cruel and Mr. Wallace Cruel
(phonetic). These are the grandparents.

THE COURT: Where is Mr. Williams, Lamar
Williams?

(The Applicant was personally present, together
with counsel.)

THE COURT: All right. Mr. Williams is in the
courtroom. You're Lamar Dontray Williams?

THE APPLICANT: Yes, sir.

THE COURT: All right. Anything y'all want to
put on the record before we begin?

1 MR. WILKES: No, sir.

2 THE COURT: Okay. Call your first witness.

3 MR. WILKES: Thank you, sir. We'll call Paula
4 Taylor to the stand.

5 (Witness approached.)

6 THE CLERK: Paula Taylor?

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Place your left hand on the bible
9 and raise your right hand.

10 THE WITNESS: (Complying.)

11 PAULA TAYLOR,

12 having been produced and first duly sworn as a
13 witness on behalf of the Applicant, testified as
14 follows:

15 THE CLERK: Thank you. You may be seated.

16 THE WITNESS: (Complying.)

17 THE CLERK: Please state your full name for the
18 record.

19 THE WITNESS: Paula Sue Taylor.

20 THE CLERK: Thank you.

21 DIRECT EXAMINATION

22 BY MR. WILKES:

23 Q. Ms. Taylor, did you perform an analysis of the
24 time line as far as the driving of the codefendants
25 in this case?

1 A. Yes, sir, I did.

2 Q. Tell me how you came upon the actual time line
3 or the series of events that led up to your
4 calculating a route for the supposed getaway from
5 the murder?

6 A. I went to the transcripts from the original
7 trial. And per the witnesses that -- that testified
8 about the timing and where they left from -- left
9 from, each drop-offs they -- they did before the
10 end -- end result, so there were two different
11 timings.

12 There was a 7:25 that someone had testified in
13 the original trial of perhaps that could be the time
14 that they left, so we went with that.

15 And then we -- we also based it off the 911
16 call that would've been 7:51, so we did two -- two
17 calculations.

18 Q. Okay. And who -- which witness was it that
19 testified to the chain of events as far as leaving
20 the murder scene and where they went? Do you
21 remember which witness that was?

22 A. That would've -- well, I have two of them.

23 Q. Okay.

24 A. The first would've been the driver, which
25 would've been Scotty Butler. And then it was

1 confirmed by -- by Charles Dornburg.

2 THE COURT: Charles who?

3 THE WITNESS: Dornburg.

4 BY MR. WILKES:

5 Q. Now, did you turn -- if I show you an exhibit
6 for you to refer to, did you condense that testimony
7 down into a route that you transposed onto these two
8 boards?

9 A. Yes.

10 Q. Okay. Can I ask you to go through these two?

11 MR. SCHMECKPEPER: And, Your Honor, I'm just
12 going to make my objection at this point. I don't
13 think we've had any testimony establishing this, at
14 least for an expert in routes or are qualified in
15 any manner to give her opinion on which routes were
16 taken.

17 THE COURT: Before we get to that, I don't have
18 any context of what y'all are talking about. I
19 don't know anything about what the facts are or even
20 what the Applicant was accused of doing.

21 MR. WILKES: We will get to that. I was going
22 to wait until Mr. Cooke testified.

23 THE COURT: It would help me understand what
24 she's talking about ---

25 MR. WILKES: I can do that, Your Honor.

1 THE COURT: --- but I'll leave that up to you.

2 MR. WILKES: I -- I can do that. I was going
3 just going right to the critical issue ---

4 THE COURT: Okay.

5 MR. WILKES: --- and kind of feel in the
6 background later.

7 THE COURT: All right.

8 BY MR. WILKES:

9 Q. Paula, tell me from the record what was the
10 basic allegations in the case?

11 A. That Mr. Williams was at 49 Valley Road in
12 Travelers Rest where there was a robbery and murder
13 that occurred.

14 And I was -- I'm an investigator and I was
15 hired by his friend originally just to do the
16 timetable to see how long it would take to get from
17 Travelers Rest to the drop offs of where these
18 people were dropped off after the event and then
19 back to where he needed to be at ten o'clock.

20 So that was the original -- that's why I'm
21 here. I'm the original person that was asked to do
22 that time line.

23 Q. Okay. And you -- you developed a time line
24 based on the testimony of two codefendants, correct?

25 A. Yes. In the original trial.

1 Q. That testified against ---

2 A. Yes.

3 Q. --- Mr. Williams? Okay.

4 A. Said that he was in the car with them. And
5 when they left the murder scene that morning, which
6 route they went and who they dropped off. And this
7 was just to determine the time line as to whether or
8 not this defendant could be somewhere at ten o'clock
9 after committing this crime.

10 Q. Okay. So ---

11 THE COURT: Was the murder at the address in
12 Travelers Rest, or did he leave from there and do
13 it?

14 MR. WILKES: It was at the address in Travelers
15 Rest, and Mr. Williams was accused of being part of
16 it. There were at least two other individuals who
17 testified ---

18 THE COURT: Okay.

19 MR. WILKES: --- and then said that they were
20 involved in it and he was involved in it.

21 THE COURT: All right.

22 BY MR. WILKES:

23 Q. Now, the end time from the testimony at trial
24 was the ten o'clock when the witness testified he
25 had showed up in -- where was it?

- 1 A. Laurens.
- 2 Q. -- Laurens.
- 3 A. Angel's Bail Bondsman in Laurens.
- 4 Q. In Laurens to make a payment, and she testified
5 that it was definitely before 10:00 when he showed
6 up, correct?
- 7 A. Yes.
- 8 Q. Okay. Now, there was also from the record, you
9 recall a witness that testified that he was with her
10 that night?
- 11 A. Yes.
- 12 Q. And she testified to that at trial?
- 13 A. Yes.
- 14 Q. And so that -- that was the testimony that's
15 contradicting each other, his alibi witness and then
16 the two witnesses that testified they were involved
17 in it and he was with them?
- 18 THE COURT: Who was with -- who was his alibi
19 witness?
- 20 MR. WILKES: Christine Sterling and that's in
21 the record. She testified that he was with her all
22 night, which would've ruled out the possibility of
23 him being involved.
- 24 THE COURT: And when y'all are talking about
25 ten o'clock, you're talking about a.m. or p.m.?

1 MR. WILKES: A.m. So at ten o'clock a.m., the
2 record shows that he showed up at his bail bondsman
3 in Laurens to make a payment, and she testified to
4 that. I don't recall there being anything to refute
5 that.

6 So the question then for us was, and at the
7 time of the trial would've been, is it even possible
8 to do what the two codefendants that said he was
9 there? Could it -- could it possibly have happened
10 that they could've made it from Travelers Rest to do
11 all the things they said they did and to -- for him
12 to be in Laurens at ten o'clock?

13 THE COURT: Okay.

14 MR. WILKES: So that is -- that is the key
15 issue. And I'm sorry, I probably should've started
16 with that.

17 BY MR. WILKES:

18 Q. So you began with two times as a starting
19 point, correct?

20 A. Yes.

21 Q. Tell -- tell me what the two times were.

22 A. All right. I originally just went by -- I
23 didn't have the transcripts when I very first went,
24 so I just went by based on what Ms. Sterling told me
25 the events were.

1 Q. Wait. And you've read the transcript?

2 A. Yes. Yes, I have.

3 Q. So what -- what was the time that the witness
4 said -- there -- there was an eyewitness that was a
5 family member ---

6 A. Yes.

7 Q. --- that was at the scene. What time did that
8 person give as far as the event?

9 A. Her -- her original testimony was that at 7:25
10 her brother-in-law came up the back untying himself
11 from a cord saying that her son had been shot.

12 Q. Okay.

13 A. And the 911 call was also at 9:51. So I did
14 the time line based on the two times.

15 THE COURT: 7:51?

16 THE WITNESS: Seven -- that's -- that's the 911
17 call.

18 THE COURT: You said 9:51.

19 THE WITNESS: I'm sorry. Excuse me. I'm
20 sorry.

21 BY MR. WILKES:

22 Q. And that's a.m., correct?

23 A. A.m. A.m., yeah. 7:51 a.m. was the 911 call.
24 And the mother testified in court that she was told
25 that he was shot at 7:25 ---

1 Q. Now ---

2 A. --- so that's why I did both of those.

3 Q. Okay. And your ending time was the time the
4 witness testified he was in Laurens making his bail
5 bondsman ---

6 A. Yes.

7 Q. --- meeting his bail bondsmen?

8 A. Yes.

9 Q. Okay. Now, did you transcribe that route onto
10 your -- your boards for Jim Stewart?

11 A. Yes.

12 Q. Okay. And how did you -- did you take the
13 route from the testimony of the codefendants?

14 A. They didn't give a specific route as to what
15 they took. I based it on them just leaving the
16 original stop, and then they testified to each drop
17 off of defendants.

18 Q. Okay.

19 A. And I just did the Google map and went the
20 shortest route because I don't know exactly what
21 route they went. Took the shortest route, and we
22 counted every stoplight, stop signs, school zones.
23 This was a morning in October when school was -- was
24 in, so there were school zones, traffic lights, stop
25 signs, railroad tracks and ---

1 Q. And you -- did you record that or did you
2 drive?

3 A. I drove.

4 Q. Okay.

5 A. And Mr. Stewart recorded it.

6 Q. And does the graph that you have, does that
7 accurate -- accurately show the possible routes --
8 shortest routes, between the two points, one in
9 Travelers Rest and the ending point at the bail
10 bondsman in Laurens?.....

11 A. Yes, sir.

12 MR. WILKES: Okay. If I can have just one
13 second, Judge.

14 (Counsel conferring with defendant.)

15 MR. WILKES: That's all I have of this witness,
16 Your Honor.

17 THE WITNESS: Okay.

18 THE COURT: All right. Cross-examination?

19 CROSS-EXAMINATION

20 BY MR. SCHMECKPEPER:

21 Q. Good morning, Ms. Taylor.

22 A. Good morning.

23 Q. A couple questions for you. You said you read
24 the record; is that correct?

25 A. I beg your pardon?

1 Q. You -- you said that you've read the record?

2 A. Yes, sir.

3 Q. But you weren't physically at the bail bondsman
4 company when Mr. Williams -- or Mr. Williams
5 reportedly made -- paid his bond?

6 A. No, sir.

7 Q. Now, did you go talk to the bail bondsman?

8 A. I have spoken with him, yes.

9 Q. I think it was a woman actually.

10 A. Yes. And I actually spoke.

11 Q. You spoke with her?

12 A. I did not speak with her. She's no longer with
13 the company, but I spoke with the lady that was
14 still there, that was there at the time that she
15 worked.

16 Q. She didn't testify at trial?

17 A. I just ---

18 Q. That woman you talked to?

19 A. No, sir.

20 Q. Did you talk to the codefendants?

21 A. One of them.

22 Q. Which one?

23 A. Jeff Dornburg.

24 MR. SCHMECKPEPER: Beg the Court's indulgence?

25 THE COURT: All right.

1 MR. SCHMECKPEPER: I have no further questions
2 for this witness.

3 THE COURT: Redirect?

4 MR. WILKES: None, Your Honor.

5 THE COURT: Okay. You can leave now.

6 THE WITNESS: Okay.

7 (Witness left the stand.)

8 THE COURT: Next witness.

9 MR. WILKES: Call Jim Stewart, Your Honor.

10 (Witness entered.)

11 MR. WILKES: May that witness be excused, Your
12 Honor?

13 THE COURT: Any objection?

14 MR. SCHMECKPEPER: I have no objection.

15 (Previous witness excused for the day.)

16 THE CLERK: Mr. Stewart?

17 THE WITNESS: Yes, ma'am.

18 THE CLERK: Place your left hand on the bible
19 and raise your right hand.

20 THE WITNESS: (Complying.)

21 JAMES STEWART,

22 having been produced and first duly sworn as a
23 witness on behalf of the Applicant, testified as
24 follows:

25 THE CLERK: Thank you. You may be seated.

1 THE WITNESS: (Complying.)

2 THE CLERK: Please state your full name for the
3 record.

4 THE WITNESS: James Michael Stewart.

5 DIRECT EXAMINATION

6 BY MR. WILKES:

7 Q. Mr. Stewart, what do you do for a living?

8 A. I'm retired law enforcement.

9 Q. What did you do when you were in law
10 enforcement?

11 A. Well, I was an accident investigator. I'm
12 board certified in reconstruction. I was an
13 investigator in violent crimes, and I worked with
14 the FBI in violent crimes and also in accident
15 reconstruction.

16 Q. And tell me a little bit about what you do to
17 be qualified to do accident reconstruction.

18 A. Well, I've been to the schools for accident
19 basic reconstruction school and then advanced
20 reconstruction, and then what they call CARS. It's
21 Computer Automated Reconstruction.

22 And which is a total of -- well, the skills
23 continue and they continually advance. And I went
24 to IPTM in Florida, and also went to North Western
25 for training accident reconstruction. And I've been

1 doing it for a long time.

2 I was injured in the line of duty back in 1995.
3 I had several injuries. Of course, I got shot one
4 time in my right shoulder, and I've had 43
5 surgeries. That's why I'm like I am now, so -- but
6 I try to stay doing something. I'm not a good couch
7 potato.

8 Q. In doing accident reconstruction, does that
9 involve timing frequency of lights, analysis of
10 speed, distance, calculations such as that?..

11 A. All the above, yes.

12 Q. And how many times have you testified as an
13 expert in those matters in the State courts?

14 A. Many. I mean, I couldn't give you a number.
15 I've done it many times.

16 Q. And have you been qualified as an expert a
17 number of those times?

18 A. Yes. North Carolina and South Carolina.

19 MR. WILKES: Okay. And at this time, Your
20 Honor, we would offer Mr. Stewart as an expert in
21 accident reconstruction, which includes calculations
22 pertinent to travel and speed?

23 THE COURT: Any questions or objections?

24 MR. SCHMECKPEPER: We're talking about accident
25 reconstruction, calculations of travels and speeds.

1 Talking about immediately prior to an accident; is
2 that correct?

3 THE WITNESS: That's correct.

4 MR. SCHMECKPEPER: Your Honor, I have no
5 objection to his qualifications as accident
6 reconstructionist. I'm not sure that's relevant to
7 calculating an unknown route based on testimony in
8 transcript that clearly isn't immediately before any
9 accident.

10 THE COURT: Okay. Well, I think he's -- he's
11 an expert in accident reconstruction, but I would
12 assume that I can drive a route from Travelers Rest
13 to Laurens. Everybody in this room could ---

14 MR. WILKES: We could.

15 THE COURT: --- and testify how long it took.
16 They could always be crossed on that, but I'm going
17 to qualify him as an expert for whatever tactical
18 affect that has on his testimony, it may bear it out
19 when he -- the applicability of his expertise may
20 bear itself out in relation to what he testifies to.
21 We'll wait and see.

22 MR. WILKES: Thank you, Your Honor.

23 BY MR. WILKES:

24 Q. Now, Mr. Stewart, in calculating the route,
25 you -- you calculated the route with Ms. Taylor and

1 you drove that route, correct?

2 A. That's correct.

3 Q. Or she drove the route, and you did the ---

4 A. That -- that's correct.

5 Q. --- recordation and analysis? Tell -- tell me

6 when you do this, do you calculate in all of the

7 factors involved in the travel including signals,

8 stops, speed limits, school zones, all that?

9 A. Yes. We -- what we did was, in order to come
10 up with a -- an accurate time, you have to not only

11 do stop signs, school zones, construction sites.

12 Any traffic hindrances whatsoever, you have to take

13 into consideration everything that -- that is any

14 type of variance on your speeds.

15 You have speed zones that go from 65 to 55 to
16 35 and back to 45, so you have different speed zones
17 that continually change, so it all takes affect on
18 the time.

19 And what we did is, when we travel those
20 routes, we noted the different speed zones. We
21 noted stop signs, yield signs, traffic signals,
22 school zones, fire zones where they had the flashing
23 lights, any construction sights.

24 We even wanted to note any law enforcement
25 agencies that we saw running radar to city, county,

1 transport police, Highway Patrol, in the different
2 areas and college zones that we had to go through
3 because -- and railroad crossings, of course,
4 because it all hinders time as far as, you know, on
5 the route.

6 The other thing that I did was, also went and
7 notified the highway department and the local
8 agencies that handle the traffic signals because all
9 your lights sequence differently. They all have
10 basically sequences that if nobody's at the light,
11 they have a timing sequence that they -- they will
12 change -- continually change.

13 But every light -- if you have a highway that's
14 just straight, there's no turning, of course the
15 lights are going to sequence different than the
16 other light that if somebody's going straight can
17 have a left turn or a right turn.

18 So what we did is, we sequence timed the lights
19 and tried to come up with an average sequence time.
20 And I did a chart as best I could. My writing is
21 not the best. I could show you here. I set the
22 maximum allowance headway's where the cycle -- the
23 cycled lights is -- most cycled lights. This is
24 average of 60 seconds city, 45 seconds is the
25 highway. There's 2.5 second interval changes.

1 And what I did was, I did from 49 Valley Road
2 all the way to 214 High Valley Road, and then rode
3 it all the way down to the whole route, which the
4 entire route had 56 traffic signals.

5 Well, if you take 56 traffic signals and you
6 break down all the sequencing, you have to add that
7 time in. This is just for one car mind you. So you
8 take the second timing for one car and you add those
9 sequence times back into the formula, you have to
10 add that time back into the travel time.

11 And that's not taking into account stop signs,
12 other vehicles, construction sites, yield signs, or
13 anything else. So you have to take that time and
14 add it back into the travel.

15 Well, just doing this here, leaving at the time
16 that we came up with, there's absolutely -- you
17 know, we come up with -- the speed is just ungodly.
18 I think it was 90 miles per hour would have to be
19 travelling, and they still couldn't have made it.
20 And that was with no lights, that lights would've
21 had to been sequenced perfectly for them to have to
22 go through every light at green and no other
23 hindrances.

24 Q. Okay.

25 A. And certainly no other hindrances.

1 Q. So are you saying that if they -- according to
2 the -- to the testimony of record, if they were to
3 have left at the time they say and Mr. Williams to
4 be in Laurens at the bail bondsman prior to ten
5 o'clock without traffic lights, without a stop sign,
6 they would have to go how fast?

7 A. Ninety plus miles per hour. And that was --
8 that wasn't to the bail bondsman. That was to
9 Christine Sterling's house.

10 Q. Okay.

11 A. They couldn't have made it there to Christine
12 Sterling's house before ten o'clock.

13 Q. Okay. And how much further was it ---

14 A. Fifteen -- 15 more miles.

15 Q. Okay. So how far is the total distance? Do
16 you remember?

17 A. Total distance is 108 miles.

18 Q. So they would've had to have gone over 94 miles
19 an hour for how many miles?

20 A. One hundred and eight miles.

21 Q. And run how many -- go through how many stop
22 lights?

23 A. Fifty-six.

24 Q. Without stopping?

25 A. Without stopping.

1 Q. At 94 miles an hour to make it?

2 A. Ninety-four miles per hour to make it, yes.

3 And I had also -- like I said, and that's just the
4 days that we went. We went several different times
5 during the day, at the end of the day, and at the
6 exact day.

7 And the exact day that we did was -- just for
8 instance, it was -- we recorded four county sheriffs
9 units in Greenville County; seven highway patrol
10 units, marked and unmarked; three Laurens County
11 sheriffs; four Greenville County sheriffs; four
12 Greenville -- Greenwood City Police Departments;
13 three state transport police for a total of 25
14 police units along the route. So, I mean, there's
15 no way you can speed without getting stopped.

16 Q. Okay.

17 A. And...

18 Q. Okay. And were there other considerations
19 other than just the traffic signals?

20 A. Oh, yes. School zones, yield signs. Their
21 traffic was -- I mean, this was in the morning time.
22 Some of the roads, you know, I also checked -- went
23 back and checked that the amount of traffic that is
24 on these roads, and then, of course, they give you,
25 you know, between numbers because of the different

1 timing, between 15 and 30,000 cars at this time,
2 between 20,000 at this time. So you can't give an
3 exact amount of cars, but the traffic at certain
4 times -- I mean, for instance between Highway 25
5 between Greenville and Greenwood, of course there's
6 going to be less amount of vehicles that are in
7 between Travelers Rest and Greenville travelling,
8 but you still have a traffic -- a good bit of
9 traffic.

10 You have truck -- you have tractor trailers
11 travelling that, you know, are going to be at a -- a
12 definitely timed factor in there. So you have
13 traffic, you have other yield signs, stop signs,
14 other lights, emergency vehicles. We run into other
15 emergency vehicles at the time. You have to take
16 all that into consideration.

17 Q. Okay. If there were no law enforcement on the
18 road, if there was absolutely no other car on the
19 road that day, that morning, and they stopped for no
20 signal, no light, it's possible to make it at least
21 within 15 miles of the destination at 94 miles an
22 hour; is that right?

23 A. Well, it's always a possibility, but I think
24 you have a better chance of winning the lottery.

25 Q. Okay. Now, from your analysis of the traffic

1 signal timing, the traffic frequency on the highway
2 or the particular roads, the number of law
3 enforcement, was it, in your opinion, possible to
4 make it according to the testimony, the times given,
5 with the testimony in the record?

6 A. No.

7 Q. Okay.

8 A. No.

9 Q. And tell me on the map, did you attempt to find
10 the quickest possible route?

11 A. We did. We -- we even travelled the toll road
12 because we thought maybe the toll road's gonna be
13 quicker being that there's no lights on the toll
14 roads, but actually the toll road is a longer route.

15 Q. Okay.

16 A. You just cut out a little short distance, but
17 then you have to pick up back roads to go back and
18 then you pick up, you know, more stop signs, more
19 four-way stop signs, more hindrances than you do, so
20 you can't -- I mean, it took more time.

21 Q. Now, of course you didn't run this route on the
22 actual day of the murder?

23 A. We did run it on the actual day of the murder.
24 We ran it three, four different times.

25 Q. On the same day of the year or the day or the

1 time? How -- how do you say that? The day of the
2 murder ---

3 A. We didn't do it the same of the murder, the
4 exact same day, no. We did it a year after.

5 Q. Okay.

6 A. You know, I mean, a couple years later. I'm
7 sorry. A couple years later.

8 Q. Do you think your analysis of the timing would
9 be accurate given the difference in time between
10 murder and the time that you ran the route?

11 A. I think it would be very close, yes.

12 MR. WILKES: Okay. Nothing further from
13 Mr. Stewart.

14 THE COURT: Cross-examination?

15 MR. SCHMECKPEPER: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. SCHMECKPEPER:

18 Q. Good morning, Mr. Stewart.

19 A. Good morning.

20 Q. Please excuse my voice. I've been a little
21 under the weather.

22 The first question I want to ask you is
23 probably a dumb question. This -- this timeline is
24 based off of testimony in the record, correct?

25 A. That's correct.

1 Q. So testimony on the front end comes off the
2 victim's family, when they found the victim -- when
3 the victim's body was found and when they called 911
4 and also testimony from the codefendants; is that
5 correct?

6 A. That's correct.

7 Q. And on the back end, it's coming from Ilesha
8 Scruggs (phonetic) and Christina Sterling?

9 A. I'm pretty sure, yes.

10 Q. So back end ten o'clock a.m.?

11 A. Excuse me?

12 Q. So the back end is roughly ten o'clock a.m.?

13 A. Roughly, ten o'clock, yes.

14 Q. But your analysis doesn't take in -- take into
15 account the fact that they might not have been
16 correct on that time; is that fair to say?

17 A. I mean, from what I understand, she had
18 someplace that she had to be, so...

19 Q. Who did?

20 A. Ilesha Scruggs, the bonds person.

21 Q. And did you speak with Ilesha Scruggs?

22 A. I didn't specifically speak with her, but I
23 understand Ms. Taylor spoke with her.

24 Q. So understanding what her testimony was, if she
25 was mistaken about that time, that changes the

1 analysis? Maybe -- if maybe it was noon instead of
2 10:00 a.m. and she uses the same thing, that changes
3 the analysis; is that correct?

4 A. Of course it would change the analysis.

5 Q. Let's talk -- let's talk about the route you
6 ran. So you went quick -- went the quickest
7 possible route?

8 A. That's correct.

9 Q. Where did you go? From the actual scene of the
10 crime to the bail bondsman, where did you go in
11 between?

12 A. To all the stops that was told that were made.

13 Q. Okay. So what were those? Whose -- whose
14 houses are those?

15 A. We went to 49 Valley Road. From there, we went
16 to ---

17 Q. And whose -- whose house was that?

18 A. --- High Valley Road. I'm not sure. I don't
19 have the names of each people. I know there was a
20 drop -- people were dropped off at each one of those
21 places.

22 THE COURT: Let me get something straight. Is
23 49 Valley Road the scene of the murder?

24 THE WITNESS: That's the scene of the murder,
25 yes, sir.

1 THE COURT: Okay. So that wasn't a stop?

2 THE WITNESS: That wasn't a stop. That's where
3 we started from.

4 THE COURT: All right.

5 THE WITNESS: We started at 49 Valley Road and
6 went from there to High Valley Road, which is in
7 Greenville. And from there, they -- one person was
8 dropped off I understand. And then from that
9 point ---

10 BY MR. SCHMECKPEPER:

11 Q. The 145 Blake Street?

12 A. Blake Street was in -- right there at
13 Greenwood. It was by the college.

14 Q. And then 7742 Neely Ferry Road?

15 A. That's where Mr. Willy was dropped off.

16 THE COURT: And what was that address again?

17 MR. SCHMECKPEPER: 7742 Neely ---

18 THE WITNESS: --- Neely Ferry Road.

19 BY MR. SCHMECKPEPER:

20 Q. Now, I thought you said at some point you went
21 by Christine Sterling's house?

22 A. That's Christine Sterling's house, Neely Ferry
23 Road.

24 Q. And that's in Laurens?

25 A. Yes.

1 Q. And that's the route you ran every single time?

2 A. Yes.

3 Q. And we don't know -- you made each of these
4 stops every single time?

5 A. Yes. But we've also run it -- run it without
6 making -- I mean, we didn't stop -- we -- we've gone
7 without stopping.

8 Q. You went by each of these locations every
9 single time?

10 A. That's correct.

11 Q. And, obviously, you weren't in the car when
12 these happened? You didn't personally witness any
13 of this?

14 A. No.

15 Q. Didn't talk to Ilesha Scruggs? Did you talk to
16 Christine Sterling?

17 A. Yes.

18 Q. So at no point did you make this route without
19 going by Christine Sterling's house?

20 THE COURT: Say that again.

21 BY MR. SCHMECKPEPER:

22 Q. At no point did you run this route without
23 running by Christine Sterling's house; is that
24 correct?

25 A. That's correct.

1 Q. Even though in Ilesha Scruggs' testimony,
2 Christine's -- or Christine Sterling was not at the
3 bail bondsman office; is that fair to say?

4 A. I don't know.

5 Q. The record is what the record is; is that
6 correct?

7 A. Yeah.

8 Q. Even though also in the codefendant's
9 testimony, Christine Sterling was not in the
10 vehicle?

11 A. I don't -- I don't know what you're talking
12 about. I don't...

13 Q. I'll -- I'll just put it this way: You -- you
14 ran by Christine Sterling's house every time?

15 A. That's correct. Yes.

16 MR. SCHMECKPEPER: I have no further questions.

17 THE COURT: Redirect?

18 MR. WILKES: None, Your Honor.

19 THE COURT: Any objection to me asking him a
20 question or two?

21 MR. WILKES: None at all.

22 THE COURT: All right. Mr. Stewart, how long
23 did it take you?

24 THE WITNESS: To take us for the trip?

25 THE COURT: Yes, sir.

1 THE WITNESS: Three hours and two minutes.

2 THE COURT: Three hours and two minutes. And
3 how many times did you drive it?

4 THE WITNESS: Four times.

5 THE COURT: How many times did it take -- did
6 it that exact amount of time, every time?

7 THE WITNESS: It took us within that -- within
8 a matter of three or four-minute time.

9 THE COURT: And that's 108 miles?

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. Any follow-up to that from
12 the Applicant?

13 MR. WILKES: No, sir, Your Honor.

14 THE COURT: State?

15 MR. SCHMECKPEPER: Briefly, Your Honor -- no.
16 I don't have any questions.

17 THE COURT: Okay. Step down. Thank you.

18 (Witness excused.)

19 THE COURT: Okay. Next witness?

20 MR. WILKES: Call Mr. Glenn Shannon, Your
21 Honor.

22 (Witness approached.)

23 THE CLERK: Mr. Shannon?

24 THE WITNESS: Yes, ma'am.

25 THE CLERK: Place your left hand on the bible

1 and raise your right hand.

2 THE WITNESS: (Complying.)

3 GLENN SHANNON,

4 having been produced and first duly sworn as a
5 witness on behalf of the Applicant, testified as
6 follows:

7 THE CLERK: Thank you. You may be seated.

8 THE WITNESS: (Complying.)

9 THE CLERK: Please state your full name for the
10 record.

11 THE WITNESS: My name is Glenn M. Shannon.

12 THE CLERK: Spell your last name.

13 THE WITNESS: S-h-a-n-n-o-n.

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MR. WILKES:

17 Q. Mr. Shannon, do you know Mr. Williams?

18 A. Yes, I do.

19 Q. Okay. And were you acquainted with him back in
20 October of 2010?

21 A. Yeah, through his mother. That's how I met
22 him.

23 Q. Okay. And did you frequent the Cadillac -- I
24 think it's an apartment; is that right?

25 A. Yes.

1 Q. The Cadillac down in Greenwood?

2 A. Laurens.

3 Q. That's Laurens. I'm sorry. In Laurens?

4 A. Yes. Briefly, I did, yes.

5 Q. Okay. And at that time, did anybody contact
6 you about a case involving Mr. Williams?

7 A. No.

8 Q. Okay. If I -- show you a picture. Did you
9 know Christine Sterling or who Christine Sterling
10 was?

11 A. Yes. I met her. That was his girlfriend.

12 THE COURT: I'm sorry. I couldn't understand
13 him.

14 THE WITNESS: That was, yes, I did.

15 THE COURT: That was ---

16 THE WITNESS: --- his girlfriend.

17 THE COURT: Okay.

18 MR. WILKES: May I approach, Your Honor?

19 THE COURT: Yes, sir.

20 BY MR. WILKES:

21 Q. I'd like you to look at a picture. Do you
22 recognize that person?

23 A. No.

24 Q. Okay. Did anyone in October of 2010 bring you
25 a bag with a gun in it?

1 A. No, sir.

2 Q. When -- when you were at the Cadillac or around
3 in Laurens at that time in 2010, you had suffered an
4 injury to your leg, correct?

5 A. That was previously before I got there.

6 Q. No, I know. But -- but you did -- you -- you
7 have one leg?

8 A. I'm a disabled veteran, yes.

9 Q. Okay. And you have a prosthetic leg?

10 A. I have an artificial limb, yes, sir.

11 Q. Okay. And at the time back in 2010, were you
12 aware of any other black males that had one leg at
13 the Cadillac?

14 A. I was the only one.

15 Q. Okay. As far as you know, might you be the
16 only one in Laurens? You -- you don't know of
17 anyone else then that -- that would've matched that
18 description during that time?

19 A. No. I mean, I frequently shop there, so
20 everybody was there when they met me.

21 Q. Okay. And at that time, nobody -- not just for
22 Mr. Williams' side, but the police, nobody ever
23 contacted you in 2010 about Mr. Williams' case?

24 A. No.

25 Q. Okay. If you'd been contacted about

1 Mr. Williams' case, would you have come to court and
2 said the same thing that you are saying today?

3 A. Same thing I'm saying today.

4 MR. WILKES: Okay. Nothing further from
5 Mr. Shannon.

6 THE COURT: Cross?

7 MR. SCHMECKPEPER: Briefly.

8 CROSS-EXAMINATION

9 BY MR. SCHMECKPEPER:

10 Q. Good morning, Mr. Cooke. At the very -- I'm
11 sorry.

12 A. Mr. Shannon.

13 Q. Mr. Shannon. I apologize. Good morning,
14 Mr. Shannon.

15 A. Good morning.

16 Q. How long have you known the Applicant?

17 A. It was briefly. I met him through his mother.

18 Q. Do you know his mother or anything?

19 A. Huh?

20 Q. Do you know ---

21 A. Me and his mother's been together. Used to be
22 there a little bit. I was living with his mother.

23 Q. And are you still with his mother?

24 A. No. That -- that -- that relationship lasted
25 very briefly.

1 MR. SCHMECKPEPER: I have no further questions.

2 MR. WILKES: Nothing further. If he may be
3 excused, Your Honor.

4 THE COURT: Any objection?

5 MR. SCHMECKPEPER: No objection.

6 THE COURT: Thank you, Mr. Shannon.

7 (Witness excused.)

8 THE COURT: Next witness?

9 MR. WILKES: We'll call Larry Cooke, Your
10 Honor.

11 THE COURT: Larry Cooke?

12 MR. WILKES: Yes, sir.

13 (Witness approached.)

14 THE CLERK: Mr. Cooke, please place your left
15 hand on the bible and raise your right hand.

16 THE WITNESS: (Complying.)

17 LARRY COOKE,
18 having been produced and first duly sworn as a
19 witness on behalf of the Applicant, testified as
20 follows:

21 THE CLERK: Thank you.

22 THE WITNESS: Thank you.

23 THE CLERK: You may be seated.

24 THE WITNESS: (Complying.)

25 THE CLERK: Please state your full name for the

1 record.

2 THE WITNESS: Larry Cooke.

3 DIRECT EXAMINATION

4 BY MR. WILKES:

5 Q. Mr. Cooke, do you recall your representation of
6 Mr. Williams?

7 A. Yes, I do.

8 Q. And do you recall the testimony of Wendy
9 Bridges?

10 A. The girl who had taken him down to Columbia.

11 Q. The girl -- the -- do you recall the testimony
12 of the witness that testified that she was given a
13 gun in a bag and asked by Mr. Williams to take a gun
14 and a bag to the Cadillac Motel and give it to
15 Mr. Greg Shannon?

16 A. I do.

17 THE COURT: Glenn or Greg?

18 MR. WILKES: It's -- it's Glenn.

19 THE COURT: Okay.

20 MR. WILKES: -- I'm sorry. -- Glenn Shannon.

21 THE COURT: So she testified that the Applicant
22 gave her a gun "in a bag" or "and a bag?"

23 MR. WILKES: In a bag. And put a -- put a gun
24 in a bag and asked her to take it to the Cadillac
25 and give it to Mr. Greg Shannon. I don't think

1 he -- I don't think her testimony was specifically
2 his name. It was I think referred to as the
3 one-legged black man at the Cadillac Motel. And
4 they may've actually said Glenn in the record, but
5 I'm -- I'm not absolutely sure. It's on page -- her
6 testimony is on page 302 and 303 ---

7 THE COURT: Okay.

8 MR. WILKES: --- of the record.

9 THE WITNESS: May I get something out of my
10 brief case, Judge?

11 THE COURT: Yes, sir.

12 THE WITNESS: Thank you.

13 MR. WILKES: On 304, Your Honor, she did
14 actually testify and get to when she was asked,
15 "Give it to who?" and she said, "Glenn." And then
16 later said, "He was the black guy with one leg," and
17 that's on page 304.

18 THE COURT: And while you're getting that, did
19 she testify she actually gave it to him?

20 MR. WILKES: Yes.

21 THE COURT: Okay.

22 MR. WILKES: Yes.

23 BY MR. WILKES:

24 Q. Mr. Cooke, I'll ask you another question if
25 that's okay?

1 A. All right.

2 Q. You were, I assume, aware through discovery
3 that Wendy Bridges would testify that she received a
4 gun in a bag from Mr. Williams and took it to
5 Mr. Shannon?

6 A. Correct.

7 Q. What efforts were made to find Mr. Shannon?

8 A. Yeah, I was trying to trying to -- trying to
9 remember exactly. I don't recall looking for
10 anybody like that... I really don't.

11 Q. Okay.

12 A. It seemed like to me, somebody -- somebody
13 involve in that transaction either died or went
14 missing in action. I can't remember.

15 Q. Well, Wendy Bridges testified, correct?

16 A. Yeah.

17 Q. And her testimony was she got a gun in a bag
18 and took ---

19 A. Right.

20 Q. --- it to Glenn Shannon?

21 A. Right.

22 Q. Now, you had the information, I assume, from
23 the police report indicating that information? In
24 other words, before trial discovery had revealed she
25 would testify to those facts?

1 A. Yes. Let me mention something kind of ---

2 Q. Yes, sir.

3 A. --- making everybody understand a little bit.
4 When I was originally appointed on this case,
5 they -- they gave it -- they gave the case
6 originally to John Mauldin with what they thought
7 might've -- it might've ended up being a death
8 penalty case.

9 So John Mauldin and that group conducted the
10 preliminary hearing. They did most of -- most of
11 everything. And when I got involved in it, it was
12 at the time that -- that the defendant, when they
13 decided not to go for the death penalty. I went
14 down to see him. And the first time I saw him ---

15 THE COURT: Talking about Mr. Mauldin or the
16 defendant?

17 THE WITNESS: First time I saw the defendant
18 was -- looking at my notes, it was 11/22 of '09. So
19 that's after John Mauldin and they had done all the
20 preliminary work, as I say the preliminary hearings
21 and everything else, so I got involved at it -- in
22 it at that time.

23 BY MR. WILKES:

24 Q. Now, you -- you went to trial on the case,
25 correct?

1 A. I did, yes.

2 Q. You were, therefore, the captain of the ship?

3 A. Yeah.

4 THE COURT: Wait just a second. 2009? This --
5 according to the sentencing sheet, this happened in
6 October of 2010.

7 MR. WILKES: That year may -- may be off.

8 THE COURT: Okay. I'm just trying to get it
9 straight, so I don't have to come back to all this.

10 If the shooting occurred or the murder occurred
11 in October of 2010, then how did he see him in
12 November of 2009?

13 MR. WILKES: He may've misstated the date. I'm
14 not sure.

15 THE COURT: Okay.

16 MR. WILKES: Can you check that and see?

17 THE WITNESS: According to -- I grabbed the
18 wrong file.

19 Okay. Well, whatever the -- whatever that
20 paperwork indicates, I'll have to look at the file
21 and I've got so many things here.

22 THE COURT: Okay.

23 MR. WILKES: For the record, John Mauldin is
24 our Chief Public Defender.

25 THE COURT: Right.

1 THE WITNESS: Okay. I got involved in it, it
2 looks like, Judge, 6/20 of 2011. I'm sorry.

3 THE COURT: Okay.

4 BY MR. WILKES:

5 Q. So at the time you prepared for trial, you were
6 aware of what Wendy Bridges' testimony would be?

7 A. Yeah, I had her statement. Yes.

8 Q. Okay. And you would've been aware through the
9 police reports in the discovery the name of Glenn
10 Shannon and the connection to the Cadillac Motel or
11 apartments, whichever it is?

12 A. Yes.

13 Q. Okay. And you, I believe, said as far as you
14 know, there was no search for Mr. Shannon?

15 A. No.

16 Q. Okay. And at the time leading -- at the time
17 leading up to trial, did you conduct any kind of
18 analysis, time line analysis, on the distance or the
19 route that Dornburg or the other codefendant gave to
20 see if it was even possible to do what they said
21 they did?

22 A. Well, I really never thought that was important
23 simply because my client wasn't there.

24 Q. True, but ---

25 A. I mean, he -- he -- he -- his -- the whole

1 thing is, he was never there. So really as far as
2 the time line, I don't know why we'd ever gotten
3 involved in that.

4 Q. Right. But if he was not there then -- then
5 they -- they gave a story of how he's involved and
6 it's implausible because it wouldn't be possible to
7 do that would be a -- that would be a legitimate
8 thing to -- to establish on the defense, would it
9 not?

10 A. Well, yeah, I guess it would be.

11 MR. WILKES: Okay. I have no further questions
12 of Mr. Cooke.

13 THE COURT: Cross-examination? Wait a second,
14 Mr. Cooke. Mr. Cooke?

15 THE WITNESS: I'm sorry.

16 CROSS-EXAMINATION

17 BY MR. SCHMECKPEPER:

18 Q. Got a couple questions for you, Mr. Cooke.
19 First talk about -- beg the Court's indulgence.

20 Let's talk about your -- the witnesses you
21 called at trial.

22 A. Beg your pardon?

23 Q. You called a number of witnesses at trial; is
24 that correct?

25 A. Yeah, I did. Yes.

1 Q. Who were those witnesses? Was it Christine
2 Sterling and Ilesha Scruggs? Those were the two
3 main ones?

4 A. As far as I remember, yes.

5 Q. What was Christine Sterling's story?

6 A. Well, it's in the transcript there. I think
7 that he had spent the night with her and ---

8 Q. Was with her continuously until he paid the
9 bail bondsman?

10 A. Yeah. Yeah, they spent the night together and
11 ran a couple of errands. I think it started off
12 going to get some money, and then they would go to
13 the ATM to do all that.

14 And then they were going to the Social Security
15 Office. And he didn't have his ID, so they left
16 there. There was no video available from the Social
17 Security Office. We were told that I think because
18 it was new -- a new office, they had hadn't set up
19 the video equipment.

20 Q. So according to Christine Sterling, the
21 applicant wasn't at 49 Valley Road in Travers Rest
22 committing murder?

23 A. Right.

24 Q. He didn't go drop off the codefendants and then
25 pick her up and then go to the bail bondsmen?

1 A. Yeah, he was -- he was with her that morning,
2 yes.

3 Q. And none of the codefendants put Applicant with
4 Christine Sterling that morning? The codefendants
5 said he was there committing the robbery and murder?

6 A. Yes.

7 Q. And then Ilesha Scruggs didn't put the
8 Applicant with Ms. Sterling; is that correct?

9 THE COURT: Say that again.

10 BY MR. SCHMECKPEPER:

11 Q. Ilesha Scruggs, the bail bondsman, according to
12 her testimony, Ms. Sterling wasn't even there that
13 morning?

14 A. Well, yeah. According -- according to what she
15 said, after we discovered this receipt which had no
16 time on it, it had a date that Lamar Williams paid X
17 amount of dollars to -- to Ilesha the morning of the
18 crime. And she said she remembered it being ten
19 o'clock and that he came in and made the payment.
20 Did not see anybody else with him.

21 That was -- that was all I had, I mean, just a
22 receipt without a -- it had a date, but it didn't
23 have a time.

24 Q. So if the route somebody's going off to
25 calculate the times is from the scene of the murder

1 to the codefendants' -- the codefendants' houses, to
2 Christine Sterling's house, to the bail bondsman's
3 office, there's no testimony in the record to
4 support that specific route, is there?

5 A. I -- I -- I don't know. I mean, I -- I have no
6 idea. I mean, we weren't there. We -- we were --
7 he was with his lady friend. I mean, he went to the
8 bail bondsman at ten o'clock in the morning, he was
9 there. That's what she testified to. That was --
10 that was it. Either they believed our alibi witness
11 or we were in trouble.

12 Q. And just to be clear, Christine Sterling didn't
13 testify that the Applicant picked her up in the
14 morning on the way to go to the bail bondsman
15 office, correct?

16 A. I'm sorry. Do what now?

17 Q. Did Christine Sterling say during her testimony
18 that the Applicant picked her up that morning and
19 then they went to the bail bondsman's office
20 together?

21 A. Yes.

22 Q. Or did she -- or did she testify that they were
23 together the entire time?

24 A. He spent the night there as I recall. He spent
25 the night there. Her grandmother and somebody came,

1 and he couldn't stay the whole weekend at his
2 grand -- she wouldn't let him. So I think he got up
3 that morning or they got up and they ran those
4 errands and supposedly ended up at the bail bondsman
5 at ten o'clock in the morning.

6 Q. So what I'm asking is, Christine Sterling's
7 testimony then doesn't support the time line we saw
8 earlier?

9 A. No. I mean, no. I mean, he wasn't there. The
10 time line situation still having a hard time was, he
11 was not at the scene of the crime, so the time and
12 the miles had nothing to do with us. He was at the
13 bail bondsman at ten o'clock and obviously couldn't
14 have been in Travelers Rest at the same time.

15 MR. SCHMECKPEPER: May I beg the Court's
16 indulgence?

17 THE COURT: Okay.

18 MR. SCHMECKPEPER: Do you have a transcript
19 with you?

20 THE WITNESS: I have one over there in my cart,
21 yeah.

22 MR. SCHMECKPEPER: I have a copy if you want
23 it.

24 THE WITNESS: Okay. Excuse me, Judge.

25 THE COURT: Okay.

1 (Counsel retrieving transcript from his cart.)

2 THE WITNESS: I have it now.

3 BY MR. SCHMECKPEPER:

4 Q. If you could turn your attention to page 560,
5 and we're looking at roughly line 19, through 561,
6 line 11, and if you could just review that.

7 A. 550?

8 Q. 560.

9 A. 560. Okay. I've got 560. What do you want to
10 do now?

11 Q. Well, the question I have for you, after
12 hearing this time line testimony this morning and
13 referencing your argument, isn't it true that you
14 made that same argument to the jury?

15 A. I did.

16 Q. That you told the jury this is what -- this is
17 what the -- this is what the codefendants' testimony
18 is, and this is when the bail bondsman testified he
19 was at the bail bondsman office, and it's not
20 possible to make that commute?

21 A. Yes. I mean, yes. I mean, that was the
22 whole -- that was our alibi was it. He -- he
23 couldn't -- he couldn't have been there. He was
24 with her. The time -- the timing had nothing to do
25 with it. It was the receipt that she claimed she

1 remembered that he was there that morning.

2 Q. And of course that depends on the memory of the
3 bail bondsman being correct?

4 A. Totally.

5 Q. And the fact that the -- that the jury finds
6 the other witness credible?

7 A. The jury obviously didn't believe either one.
8 They didn't believe -- well, I say either one. They
9 didn't believe his girlfriend and didn't believe the
10 bail bondsman...

11 Q. And if the jury doesn't believe the girlfriend
12 or the bail bondsman, the time line doesn't matter
13 anyway; is that fair to say?

14 A. Oh, absolutely. I mean, this is -- I mean, we
15 didn't have anything going for us to be quite honest
16 with you until they found that receipt somewhere in
17 her billfold. I can't remember, but it was -- it
18 was found as this case was getting ready to come to
19 trial.

20 Q. Now, let's turn to Mr. Shannon if you don't
21 mind. Would you turn your attention to page 270?

22 A. (Complying.)

23 Q. And just respect concerning Investigator
24 Hammond's testimony.

25 THE COURT: 270?

1 MR. SCHMECKPEPER: Yes, Your Honor.

2 BY MR. SCHMECKPEPER:

3 Q. Isn't it true that even Mr. Hammond -- or
4 Investigator Hammond, a law enforcement officer,
5 testified that he attempted to locate Mr. Shannon
6 but was unable to?

7 A. Yep.

8 MR. SCHMECKPEPER: And I beg the Court's
9 indulgence. I apologize. I'm trying to jump around
10 the transcript.

11 THE COURT: Okay.

12 BY MR. SCHMECKPEPER:

13 Q. Finally, please turn your attention to page
14 263.

15 A. 253 or -63?

16 Q. I apologize. 223. I misspoke.

17 A. 223.

18 Q. Now, before we get there, let's talk about the
19 State's evidence in this case. It's fair to say
20 that there were several witnesses pointing to the
21 Applicant as the shooter; is that correct?

22 A. Correct.

23 Q. Several of those were his codefendants?

24 A. Right.

25 Q. But were there also non-codefendants who

1 pointed to the Applicant as the shooter?

2 A. Correct.

3 Q. Who were they?

4 A. One was Ms. Haltiwanger.

5 Q. That's the mom's boyfriend, right?

6 A. Yeah. Yeah, who basically said that he
7 admitted to him that he had ---

8 THE COURT: Whose mom's boyfriend?

9 MR. SCHMECKPEPER: The Applicant's mother's
10 boyfriend. I apologize, Your Honor.

11 THE COURT: I thought the Applicant's mother's
12 boyfriend was Mr. Shannon.

13 MR. SCHMECKPEPER: It was a different
14 boyfriend, Your Honor.

15 THE COURT: Okay. What was his last name?

16 MR. SCHMECKPEPER: Haltiwanger.

17 BY MR. SCHMECKPEPER:

18 Q. I think his testimony starts on 445.

19 A. 445?

20 Q. And that's H-a-l-t-i-w-a-n-g-e-r.

21 Didn't the Applicant -- didn't the Applicant
22 admit to Mr. Haltiwanger that he was involved in an
23 armed robbery and a shooting?

24 A. Yep. Yes, he did.

25 Q. And did Mr. Haltiwanger have any reason to lie?

1 A. No, he didn't. Except -- except that my client
2 told me Mr. Haltiwanger didn't like him.

3 Q. Did he say that at trial?

4 A. Beg your pardon?

5 Q. Did Mr. Haltiwanger admit to not liking the
6 Applicant at trial?

7 A. I think I tried to bring out the fact that he
8 might've not liked my client, but he was -- and the
9 fact that he had some false information to the
10 police officer before. He had a little bit of a
11 record, which might indicate he -- he made things
12 up, especially the false information to the police
13 officer. I think that was involved, but anyhow,
14 that did -- he did -- he did say the client admitted
15 that.

16 Q. That was -- and I apologize for making you jump
17 around, but if you could go back to page 200 -- or
18 622?

19 THE COURT: All right. And what was on page
20 223? That's where I am. Whose testimony was that?
21 Henry Christopher Hammond?

22 MR. WILKES: That's the officer.

23 MR. SCHMECKPEPER: That's the officer, Your
24 Honor, and he ---

25 THE COURT: Who's page 270?

1 MR. SCHMECKPEPER: I might've misspoke, Your
2 Honor. I'm on 623. I might've said 223.

3 THE COURT: Okay. What was page 270?

4 MR. SCHMECKPEPER: Your Honor, I believe that
5 was Christopher Hammond.

6 THE COURT: Okay. What was page -- you said
7 623, not 223?

8 MR. SCHMECKPEPER: Yes, Your Honor.

9 THE COURT: All right. I'll -- I'll find that
10 later. I'm not -- I'm not following your page
11 numbers ---

12 MR. SCHMECKPEPER: And I apologize, Your Honor.
13 I'm just ---

14 THE COURT: --- but it's important for me to
15 have all this down so I can go back and read it.

16 MR. SCHMECKPEPER: Yes, Your Honor.

17 THE COURT: So page 560 to 6 -- 561, page 270,
18 and page 623?

19 MR. SCHMECKPEPER: Yes, Your Honor.

20 THE COURT: And then page 445?

21 MR. SCHMECKPEPER: Yes, I believe so, Your
22 Honor.

23 THE COURT: Okay. Go ahead.

24 BY MR. SCHMECKPEPER:

25 Q. Looking at page 622, you made a motion for a

1 directed verdict?

2 A. I did.

3 Q. And the judge, after hearing all the testimony
4 and evidence presented in the case, denied your
5 directed verdict, correct?

6 A. Correct.

7 Q. And the judge also found that there was
8 overwhelming evidence of guilt in this case?

9 A. Yes.

10 THE COURT: The judge found that?

11 MR. SCHMECKPEPER: Your Honor, I think on page
12 7, the judge said, "I think there was overwhelming
13 evidence in this case."

14 THE COURT: Page 7?

15 MR. SCHMECKPEPER: I'm sorry. Page 623, line
16 7. The judge said, "And I think there was
17 overwhelming evidence of guilt in this case," and
18 denied Mr. Cooke's ---

19 THE COURT: We all agree that's irrelevant,
20 right? What the judge said, he didn't say it in
21 front of the jury?

22 MR. SCHMECKPEPER: No, Your Honor. He didn't
23 say it in front of the jury. I think he said
24 that ---

25 THE COURT: And this is Chief Judge Mullin?

1 MR. SCHMECKPEPER: Yes, Your Honor. And I
2 think that carries a lot of weight. And after
3 hearing everything, considering the fact that in
4 Strickland when there's overwhelming evidence of
5 guilt, it's very hard to show ineffective assistance
6 of counsel.

7 THE COURT: Okay. All right. Well, I -- I
8 respectfully disagree with your take on it, but I
9 understand what you're saying.

10 Go ahead. Go ahead. Any redirect?

11 MR. WILKES: Yes, sir. Just a couple of
12 questions.

13 REDIRECT EXAMINATION

14 BY MR. WILKES:

15 Q. Mr. Cooke, you argued to the jury that in your
16 opinion it would be impossible to make that drive
17 within the times allotted from the record?

18 A. I might have.

19 Q. Roughly, on page 561, you just testified I
20 think. See if I can pin that down.

21 THE COURT: Line 3.

22 MR. WILKES: Thank you, Your Honor.

23 BY MR. WILKES:

24 Q. Beginning at line 3 on 561 through line 11, you
25 made an argument to the jury that you couldn't make

1 that drive in that amount of time.

2 A. Yeah, and be -- and be at the bondsman at ten
3 o'clock in the morning.

4 Q. Did you offer any evidence to support that
5 argument to the jury?

6 A. No. I think -- I think in the transcript or in
7 the trial, the lady, the bail bondsman, testified it
8 would take at least 30 minutes to drive from Laurens
9 to Greenville. I do not -- I do not carry it any
10 further than that.

11 THE COURT: What town -- was the bail bondsman
12 in Laurens?

13 MR. WILKES: Yes. The bail bondsman is in
14 Laurens, and that -- and she ---

15 THE COURT: Who was in Greenwood?

16 MR. WILKES: Christine.

17 (Brief discussion off the record.)

18 MR. WILKES: Okay. Greenwood is the Blake
19 Road.

20 THE COURT: I got it.

21 MR. WILKES: That would've been at the drop
22 off.

23 THE COURT: All right. Because the argument on
24 page 561 says, "It is my contention you cannot drive
25 from the upper part of Greenville County in the rush

1 hour in the morning, say 7:30, quarter to 8:00, drop
2 somebody off on Whitehorse Road, drop somebody off
3 in Laurens, and then drive all the way to
4 Greenwood."

5 MR. WILKES: That might've been a misstatement.
6 I think the testimony was the first stop was 214
7 High Valley Road and then 145 -- and that -- that's
8 in Greenville.

9 THE COURT: But Whitehorse -- Whitehorse is not
10 a player in this?

11 MR. WILKES: I don't think Whitehorse is. I
12 think that was a mis ---

13 THE COURT: Okay.

14 MR. WILKES: --- misspeak. I think it's 214
15 High Valley Road, Greenville, and then 145 Blake
16 Street in Greenwood, and then 7 -- 742 Neely Ferry
17 Road in Laurens.

18 THE COURT: Gotcha. Okay.

19 MR. WILKES: Nothing further of Mr. Cooke, Your
20 Honor.

21 THE COURT: Anything else from the State of
22 this witness?

23 MR. SCHMECKPEPER: Nothing, Your Honor.

24 THE COURT: Thank you, Mr. Cooke. You can step
25 down.

1 (Witness excused.)

2 THE COURT: Next witness?

3 MR. WILKES: May he be excused, Your Honor?

4 MR. SCHMECKPEPER: I've got him for a couple
5 more cases, Your Honor.

6 MR. WILKES: Sorry.

7 THE COURT: All right. Any additional
8 witnesses?

9 MR. WILKES: If I can have just one second.

10 THE COURT: All right.

11 (Counsel conferring briefly with Applicant.)

12 MR. WILKES: No further witnesses, Your Honor.

13 And I do have a few things that I will point out
14 from the record so the Court will understand what
15 our argument is.

16 THE COURT: You want to do that as part of your
17 case while I go -- go through -- are you going to
18 have any witnesses, Mr. Schmeckpeper?

19 MR. SCHMECKPEPER: No, Your Honor.

20 THE COURT: All right. Go ahead.

21 MR. WILKES: If I may?

22 THE COURT: Yes.

23 MR. WILKES: Particularly addressing first the
24 testimony of Wendy Bridges, Wendy Bridges, the
25 record shows it was her testimony that she received

1 a bag and a gun or a gun in a bag from Mr. Williams
2 and was told to take it to Mr. Shannon at the
3 Cadillac, which she says she did to the jury, told
4 the jury that which is pretty damning evidence in
5 the case.

6 The importance of that is, is that there was no
7 search for Mr. Shannon who could've been found. I
8 mean, there's just not a lot of one-legged black men
9 at the Cadillac or even in Laurens. So he has been
10 found. He could've been found. He would've
11 testified and contradicted ---

12 THE COURT: Well, where -- where is the
13 evidence -- I know you found it. Where is the
14 evidence where he was to be found between the time
15 of Mr. Cooke's appointment and the time of trial?

16 MR. WILKES: Well, I -- I don't know if we can
17 account for all of that time, but -- but the
18 question is, there was no search done by the
19 defense. If -- if they had done a reasonable
20 search, that would be different, but there's no
21 search done by the defense and it was evidence that
22 she was a critical witness. And the only person
23 that could testify and contradict her was Mr. Glenn
24 Shannon who was the person that was supposed to
25 receive the gun.

1 The importance of that as far as the transcript
2 goes, on page 584 the State argued specifically that
3 there wasn't any challenge to testimony about
4 getting rid of this gun and giving it to Nicole
5 Bridges.

6 On page 584 in her closing -- or in the closing
7 argument, the State argued, and I will quote from
8 line 10, 11, and 12, "And they didn't challenge her
9 about that." There's no question that happened.
10 And he goes on to talk about told his girlfriend,
11 "Take the gun and give it to this man. Get rid of
12 it."

13 The State specifically argued that there was
14 absolutely no challenge to that testimony. Well,
15 there couldn't be. The only testimony that there
16 could be would come from Mr. Shannon. And it goes
17 on and on about -- and throughout the case talking
18 about, you know, what Ms. Bridges testified to and
19 that her testimony is on 299 and it extends through
20 I believe until page 313.

21 THE COURT: That's Ms. Bridges?

22 MR. WILKES: That's Ms. Bridges where she
23 testified to this whole scenario about having a gun
24 in the bag.

25 THE COURT: And she was whose girlfriend?

1 MR. WILKES: One of his girlfriends.

2 THE COURT: One of his girlfriends?

3 MR. WILKES: Was the testimony.

4 THE COURT: And Christine Sterling was also a
5 girlfriend?

6 MR. WILKES: The better girlfriend.

7 THE COURT: Okay.

8 MR. WILKES: So from the standpoint of making
9 some attempt to challenge that testimony, the
10 defense didn't undertake a proper search for
11 Mr. Shannon and didn't find him consequently and did
12 not obtain the only evidence that could have
13 challenged Ms. Bridges.

14 And, of course, on page 270, Officer Hammond
15 testified that, I mean, clearly the one-legged man
16 exists. He said he looked for him, but did not
17 locate him, but that was it. So we know he exists.
18 They knew he existed at the time. It wasn't made
19 up.

20 THE COURT: Well, did Mr. Williams give
21 anybody -- give his lawyer -- well, there's nothing
22 in the record about him giving his lawyer any
23 contact information for Glenn.

24 MR. WILKES: No. All we know is that Glenn
25 frequented the Cadillac at that time, and so he is

1 the proverbial one-legged man, but ---

2 THE COURT: What I'm trying to figure out is,
3 you found him. You had to find out where to find
4 him. You're saying it's just enough that they
5 didn't even try.

6 MR. WILKES: They didn't even try. They made
7 no effort whatsoever. And in this -- in this world
8 of computers, it's hard not to find someone.

9 THE COURT: All right.

10 MR. WILKES: It's impossible not to -- well,
11 not impossible, but it's very difficult not to find
12 a one-legged black man in Laurens, South Carolina.
13 I mean, that's just hard to imagine that they could
14 not have located him as easily as it could've been
15 done.

16 THE COURT: Okay.

17 MR. WILKES: The -- the route information -- my
18 understanding from the record and Mr. Cooke
19 confirmed that, but my understanding of the record
20 is that there was no evidence put up as far as that
21 being a complete impossibility. That's not a
22 complete impossibility in the sense that if you
23 could drive from here to Laurens at over 94 miles an
24 hour to get within 15 miles of the destination.

25 I mean, I guess that certainly -- that's not

1 possible. I mean, it's just not possible to do. So
2 the question becomes, as far as the case -- theory
3 of the case is that he's not there. He didn't
4 participate in it. He got picked out by some
5 codefendants. And under that theory of the case,
6 you know, Mr. Cooks says, "Well, you know, why --
7 why would we need to -- why would it matter?"

8 Well, he argued it to the jury. So clearly
9 during the trial, it did seem to matter to try to
10 point out to the jury that the codefendants' story
11 that they're putting him in this car after a murder
12 and doing these things is impossible.

13 So to the extent that -- that that is about the
14 only challenge you can make to their story because
15 nobody else is there and they're simply saying,
16 "Yeah, we were there. We did it, but he did it too
17 and he was there."

18 So the only way to effectively challenge that
19 testimony is to show exactly what Mr. Cooke argued
20 to the jury, that you can argue something to the
21 jury. And if there's no facts in evidence to
22 support it, the jury is not going to buy in to it.

23 And in this case, he certainly could have done
24 that because it is -- it is obvious enough that that
25 was an impossibility for that distance, time, and

1 circumstance that Mr. Cooke argued it to the jury.
2 And if he was going to argue it to the jury, you
3 would have that obligation to attempt to put up
4 proof to support that theory, and that could've very
5 easily been done.

6 THE COURT: Well, I know it's a matter of
7 degree, but some things like that are common
8 knowledge. That's why I don't know whether
9 Mr. Stewart's testimony helps from an expertise
10 standpoint.

11 For example, if you said that you were going to
12 do something at 12:30 today in Sumter, I would know
13 you're not going to make it. If you said you were
14 going to do something at 1:30 in Sumter, I would say
15 you better leave now. So it's all a matter of
16 degree about the jury sitting in the box and
17 knowing, well, I know he can't make it from there to
18 there in that amount of time, so how am I supposed
19 to look at it?

20 MR. WILKES: Well, that's assuming that the
21 jury can make that determination. That assumes that
22 a jury member has made that trip or -- or
23 there's information in the record for them to
24 decipher that. In this case, there's not.

25 Mr. Cooke's argument was the only thing that I

1 think -- I mean, it stated it, but there's no
2 evidence to back it up. And I don't think it is
3 within the common knowledge of somebody to be able
4 to say right now, how fast would you have to drive
5 between here and Sumter, for instance, to get there
6 in this much time? For that to be true, how fast
7 would you have to go?

8 And somebody said -- calculated it and you
9 would have to go and exceed 94 miles an hour between
10 here and Sumter to do that in that amount of time,
11 then the jury would be able to go, there's no way
12 you could get away with that. You can't -- it's
13 impossible. It's practically just impossible. And
14 that's what's important is, it's not something that
15 immediately comes to mind when somebody says here's
16 Travelers Rest. Here's three -- two -- two stops.
17 One. Two. Two -- well, actually three stops before
18 the third stop being Ms. Sterling's house and still
19 15 more miles.

20 So when you say those stops are trying to just
21 go to that location and keep going, not even stop,
22 just go to that location and keep going, it can't be
23 done. The jury can't comprehend that sort of
24 calculation just as a lay person. And that's why I
25 think that putting up the evidence would've been

1 critical to support the argument.

2 If it weren't something that somebody could
3 say, "Well, everybody knows from here to
4 Simpsonville is five miles, but it's not that case.
5 It's several stops and a very complex set of
6 circumstances in between there. And I can't
7 remember exactly what he said, but there was an
8 incredible amount of red lights to go through.

9 And so, you know, when you take -- when you
10 factor all of that in, I think that that would've
11 been necessary for the jury to have before them to
12 make -- to be able to evaluate Mr. Cooke's argument
13 and find that there's facts supporting it.

14 THE COURT: All right. Mr. Schmeckpeper.

15 MR. SCHMECKPEPER: Thank you, Your Honor.

16 With respect to the argument that counsel has
17 put forward that Mr. Cooke was ineffective for
18 failing to present this evidence with respect to how
19 long it would take him drive from here to I guess
20 the scene -- the crime scene to the bail bondsman
21 and all places in between, the State first submits
22 that he hasn't presented sufficient evidence to meet
23 his burden.

24 The route testified to by the expert is not
25 supported by any of the testimony in the record.

1 There's no testimony in the record supporting the
2 finding that the Applicant went from crime scene, to
3 the codefendants' houses, to pick up his girlfriend,
4 and then to the bail bondsman.

5 The only evidence that the State presented was
6 that the Applicant went from crime scene to the
7 house of his codefendant. The evidence that the
8 Applicant presented at trial was that he was with
9 his girlfriend the entire day.

10 So just as a --- just for the purpose of
11 establishing prejudice, I don't think they presented
12 a plausible route or a plausible alternate for the
13 purposes of showing that it was impossible.

14 THE COURT: But they said they took the
15 shortest one.

16 MR. SCHMECKPEPER: Correct. They took the
17 shortest one.

18 THE COURT: And they drove the other ones too.
19 I think they said that.

20 MR. SCHMECKPEPER: Correct, Your Honor, but
21 they also added in an extra stop that wasn't nearby
22 anything. There's no theory -- there's nothing in
23 the record to support going from the crime scene to
24 the bail bondsman's office. There's -- after
25 stopping at the girlfriend's house. So they're

1 adding an extra stop which adds extra time. And the
2 amount of extra time added in that extra stop that
3 wasn't supported by the record isn't in evidence
4 today. So we don't know ---

5 THE COURT: I don't understand what you're
6 saying.

7 MR. SCHMECKPEPER: Your Honor, they said the
8 testimony presented was that the Applicant went from
9 the crime scene to the bail bondsman after stopping
10 at codefendant's houses and his ex -- and his
11 girlfriend's house. There's nothing in the record
12 to suggest that those were the stops he made.

13 The two story -- they're two conflicting
14 stories. One is that he only went to the bail
15 bondsman -- or the codefendants' house and then the
16 bail bondman, that's if you believe the bail
17 bondsman.

18 And the other one from the girlfriend was that
19 he was -- he didn't make any of those stops because
20 he was with her the entire day.

21 THE COURT: Right.

22 MR. SCHMECKPEPER: So in creating their route,
23 they're adding an extra stop in there that isn't
24 supported by the evidence in the record.

25 Second, in order to show ineffective assistance

1 of counsel, you have to show deficiency in the
2 record. I submit there's not deficiency here.

3 As counsel pointed out -- Mr. Cooke pointed out
4 to the jury, and as Your Honor pointed out, that
5 these are the stops that are alleged and there's not
6 way to do that. There's no way to make that in this
7 amount of time.

8 I would submit that the jury heard that
9 argument and they heard all the evidence in the
10 record, and they chose to believe the codefendants
11 and the State's witnesses over defense witnesses.

12 THE COURT: And he says that if you're going to
13 make the argument, you should have the evidence to
14 back it up.

15 MR. SCHMECKPEPER: Your Honor, the evidence is
16 in the record. I mean, what -- what counsel is
17 trying to do is say, "Here's the evidence. He
18 should've presented an expert" or "He should've gone
19 specifically to this -- gone on this avenue and
20 explored this evidence more deeply." That's not
21 what PCR is for.

22 Applicants are not entitled to a new trial just
23 to present a fancier case and present more evidence
24 on one particular issue that in hindsight might look
25 like deserves more attention.

1 I'd submit counsel tried a good case.
2 Unfortunately, there's a lot of evidence against the
3 Applicant. Whether or not it's controlling, the
4 Trial Court, after hearing all the evidence and all
5 the testimony, found that the evidence against
6 Applicant was overwhelming. And Strickland's pretty
7 clear, you -- you have to show prejudice in order to
8 get relief.

9 And whether -- again, whether or not Your Honor
10 decides to honor the lower Court's finding -- or the
11 Trial Court's finding, where there's overwhelming
12 evidence, the case law is quite clear that you can't
13 show prejudice. You have a much harder time showing
14 prejudice.

15 THE COURT: What's the overwhelming evidence?

16 MR. SCHMECKPEPER: Well, the overwhelming
17 evidence, first off, is the testimony of each one of
18 his codefendants.

19 In addition, you have testimony from
20 Mr. Haltiwanger, who has no reason to lie, that
21 Applicant came in -- and I can point it out on page
22 451. The Applicant came in and took -- and
23 Mr. Haltiwanger lives in Lexington. So after
24 fleeing from Greenville to Lexington, he told
25 Mr. Haltiwanger that he shot the guy, and he said he

1 must've been ---

2 THE COURT: Okay. Who lives in Lexington?

3 MR. SCHMECKPEPER: Mr. Haltiwanger and the
4 Applicant's mother at the time. So the Applicant
5 fled Greenville following the robbery and went to
6 stay with his mother and Mr. Haltiwanger.

7 And he apparently was asking Mr. Haltiwanger
8 for advice. And he told Mr. Haltiwanger that he'd
9 shot the guy after telling him that he was involved
10 in an armed robbery. And he said he must've been up
11 on the guy because the bullet or the casing or
12 something went in his shoe. This corroborates
13 the codefendants' testimony.

14 THE COURT: Whose shoe?

15 MR. SCHMECKPEPER: I think it's either his shoe
16 or the codefendants' shoe.

17 The underlying facts of the crime were the
18 Applicant and several codefendants enter into the
19 victim's house and attempt to steal money and drugs.
20 The victim was not supposed to be at the house at
21 that time.

22 And apparently from what -- apparently, what
23 happened was the victim entered the house while the
24 robbery was happening. Applicant attempted to
25 subdue the victim. The victim was fighting back and

1 apparently he tried to get up, and the Applicant's
2 shot in the back.

3 Apparently, he was so close to the victim that
4 the shell casing or the actual bullet, I think,
5 ricocheted and ended up in one of the codefendants'
6 shoes. This was evidence presented by the
7 codefendants, and this was corroborated by
8 Mr. Haltiwanger's testimony.

9 As a result, Your Honor, Strickland is a very
10 harsh standard... You've got to show deficiency and
11 prejudice. And the State submits in light of the
12 counsel's testimony and the arguments he made at
13 trial, can't show deficiency. And then in light of
14 the overwhelming evidence, can't show prejudice.

15 THE COURT: All right. Mr. Wilkes, anything
16 else?

17 MR. WILKES: No, sir.

18 THE COURT: One final question and then we'll
19 be done. These two witnesses, Ms. Taylor and
20 Mr. Stewart, who testified today, what time did they
21 say that they used as start time, 7:15 and 7:51?

22 MR. WILKES: Yes.

23 THE COURT: Or 7:25?

24 MR. WILKES: Both.

25 THE COURT: They did both?

1 MR. WILKES: Both of them. Both of them.

2 Pulling those times out of the transcript.

3 THE COURT: And the end time being 9:59:59
4 a.m.?

5 MR. WILKES: Or ten o'clock.

6 THE COURT: Ten o'clock. All right. Okay.
7 Thank you.

8 Now, Mr. Williams, what I'm going to do is
9 review all this material in detail. I will do one
10 of two things. I will -- I will sign an order that
11 grants your application which means it'll be sent
12 for a new trial. Of course, the State would have
13 the right to appeal that.

14 The other alternative that I will have based on
15 my review of all this is to sign an order that
16 denies your application. As I'm sure your attorney
17 will tell you, you have a certain amount of time
18 within which to appeal that order. Do you
19 understand that?

20 THE APPLICANT: Yes, sir.

21 THE COURT: Do you have any questions?

22 THE APPLICANT: No, sir.

23 THE COURT: All right. Thank you very much.

24 MR. WILKES: Thank you, Your Honor.

25 MR. SCHMECKPEPER: And, Your Honor, I'd just

1 like to say on the record, thank the victims for
2 showing up.

3 THE COURT: All right. And your names again?

4 MR. SCHMECKPEPER: Shirleene and ---

5 THE COURT: I'm sorry?

6 THE FEMALE VICTIM: Shirleene Cruel and Wallace
7 Cruel.

8 THE COURT: Do they want to say anything?

9 THE FEMALE VICTIM: Yes, sir. We would like to
10 say something.....

11 THE COURT: All right. Go ahead. It's not
12 part of the evidentiary record, but you do have the
13 right to speak.

14 THE FEMALE VICTIM: Thank you. We have had
15 five years or more of having to be in court for five
16 years based on Mr. Williams and another gentleman
17 who has been trying to get appeals claiming that he
18 was not there.

19 There was information in which I know that he
20 and the other gentleman came to see my son the night
21 before he was killed. He says he had not been there
22 at all. So if he's saying that he did not show up
23 at my son's house at all, and I know that he was
24 with the gentleman who set this stuff -- this matter
25 up against my son, white truck that came to my son's

1 house in which I saw the evening before my son was
2 killed. My son faced supposedly the killer who came
3 that morning early when I found my son a little
4 after 7:25.

5 When I went down to my son, I ran through the
6 woods through a pathway where my brother-in-law came
7 at 7:25. I usually go walking at that time, and I
8 looked at the clock and it was 7:25 exactly when I
9 went -- I saw my brother-in-law coming to our yard.

10 Two minutes after I ran through my house, down
11 through the woods, Judge, to get to my son. My
12 brother-in-law said, "He was shot. Jay's shot.
13 Jay's shot."

14 When I took off and got down through the woods,
15 it took a few minutes to get to my son's house and
16 to his body that was in the kitchen. He was on his
17 face. At the time I wasn't sure if he had been shot
18 in the head because of all the skin and the blood
19 that was coming from his head, and I didn't know
20 that he had been shot from behind.

21 But I do know that this man was there at my
22 son's house that evening with another gentleman who
23 we know had set this up because he knew my son
24 previously when he had been in jail years ago. And
25 after that, I don't understand why he says he wasn't

1 there at all. If he didn't shoot him, he was no
2 where at all in that area for any reason.

3 These people didn't even know my son. All the
4 people that was in the trial said they had never met
5 my son. So evidently, he had not met my son, but I
6 know that he was there with that gentleman the night
7 before my son was killed. I saw the white truck. I
8 saw. I know who was in that white truck.

9 His ex-girlfriend told me -- or in her
10 statement that I have read that she was talking to
11 them in the yard, my son, and he was talking to his
12 other gentleman and him in his yard the night before
13 he was killed. Why was he there?

14 If he had never been there, if he hadn't killed
15 him, he says he was nowhere around, so why would he
16 have been there that night? And he says he wasn't.
17 He had never seen my son. He didn't even know my
18 son. He admitted he had never seen my son, but then
19 he sits here and tells us that he had never been on
20 the property. They scoped that area for months.

21 We have a deadline -- or we have a line that we
22 have investigated ourselves and we have a time line
23 from the moment we saw two cars that came to our
24 road for months. Whoever was setting this up, and I
25 know who that was as well now, they were setting

1 this up to kill my child. And we saw these cars
2 coming back and forth, up and down our road for
3 months. And we wanted to know what was happening,
4 what was going on.

5 We did not know what was happening, but when
6 the trial came about, when we found out our son was
7 killed and these people that participated, we talked
8 to several of the other -- other men that was
9 involved. They admitted that they were there, but
10 yet they did not know my son. What was their
11 purpose for being there? Was to steal something
12 that he didn't have. He didn't have money that they
13 claimed that he had.

14 In the trial transcripts, as well as in their
15 statements that one says it was \$50,000 that he had.
16 Another statement during the trial said it was
17 \$30,000 that they were coming for. He had none of
18 that.

19 And I don't understand why these people
20 continuously try to pretend that this didn't happen.
21 Where's my boy? If none of this happened, where is
22 he at? He can't speak for himself. We're not able
23 to talk about his case because we have to wait and
24 wait and wait and wait for over five years to tell
25 our son's story.

1 C E R T I F I C A T E O F R E P O R T E R

2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF GREENVILLE

5

6 I, the undersigned, Lisa Scott, Circuit Court
7 Reporter for the Thirteenth Judicial Circuit of the
8 State of South Carolina, do hereby certify that the
9 foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the hearing of the
12 captioned cause, relative to appeal in the Circuit
13 Court for Greenville County, South Carolina, on the
14 14th day of June, 2016.

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

17

18

March 9, 2017

19

20

/s/Lisa Scott



21

Lisa Scott

22

Circuit Court Reporter

23

24

25

I N D E X

(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness
(IC) - Denotes In Camera

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P R O C E E D I N G S

1 THE COURT: Just so I'm clear, y'all.

2 Mr. Cooke, you are representing Lamar Williams; is
3 that correct, sir?

4 MR. COOKE: Yes.

5 THE COURT: And, as well, Mr. Godfrey, you're
6 representing Mr. Boyd; is that correct?

7 MR. GODFREY: That's correct, Your Honor.

8 THE COURT: Are you all ready to go forward on
9 pre-trial motions?

10 MR. WESTON: Yes, sir -- yes, ma'am, Your Honor.

11 P R E - T R I A L M O T I O N S

12 THE COURT: I see you have some filed on behalf of
13 Mr. Boyd, and I don't know if you're joining in as well.

14 MR. COOKE: I join in the severance motion with my
15 cohort over here.

16 THE COURT: Mr. Godfrey, whenever you're ready.

17 MR. GODFREY: May it please the Court.

18 On behalf of Richard Boyd, Judge, we would move for
19 the Court to grant an order quashing the indictments. My
20 client was arrested on April 13th, 2011, on the
21 indictments in this case. The Grand Jury returned true
22 bill indictments on January 10 of 2012. These indictments
23 are in violation of the order of Justice Finney, which was
24 dated March 5, 1999, requiring the State to dispose of all
25

1 criminal cases within 180 days from the date of arrest.

2 Also, Your Honor, the State is in violation of Rule
3 3(c), (d), and (e) of the South Carolina Rules of Criminal
4 Procedure by waiting more than 90 days before taking
5 action on the arrest warrants, by not petitioning the
6 Court for an order delaying action on the warrants, and by
7 not filing any action taken pursuant to Rule 3(c) and (d)
8 with the Clerk of Court.

9 My client filed a pro se motion for a fast and speedy
10 trial, which he served on the Solicitor on August 19,
11 2011. A motion for the fast and speedy trial was ignored
12 by the State, thereby violating my client's rights under
13 the U.S. Constitution, Amendment 6, and the South Carolina
14 Constitution Article 1, Section 14.

15 Your Honor, since the State was tardy and late in
16 doing what they were prescribed to do by law, we would
17 respectfully request that all indictments be quashed.

18 THE COURT: Thank you, Mr. Godfrey.

19 Mr. Weston.

20 MR. WESTON: Thank you, Your Honor.

21 May it please the Court.

22 And I'll address these one at a time.

23 THE COURT: Yes, sir.

24 MR. WESTON: With regard to the first argument by
25 Counsel that pursuant to Justice Finney's order from, I

1 think, 1992 --

2 THE COURT: 1999.

3 MR. WESTON: 1999, that all cases be disposed of
4 within 180 days, Your Honor, I think the Court, obviously,
5 has taken since 1999 a more realistic and reasonable
6 approach. And, as far as I know, Your Honor, no case in
7 this state has been -- no indictment has been quashed
8 because a case has not been disposed of within 180 days
9 without some showing of actual prejudice. Counsel does
10 not even allege any prejudice. So, consequently, Your
11 Honor, we would suggest that their motion should be
12 denied.

13 With regard to Rule 3(c) -- and I think Counsel is
14 aware of this and I do not have it in front of me. The
15 Greenville County Solicitor's Office prosecutes over
16 13,000 -- processes over 13,000 warrants per year. Back
17 in December of 2000, Judge Kittredge, who, at that time,
18 was the chief administrative judge here in Greenville,
19 issued an administrative order whereby he extended the
20 90-day rule -- he, specifically, addressed Rule 3(c),
21 extended it an additional 90 days, making it a total of
22 180 days for the Solicitor's Office to present -- or to
23 comply with Rule 3(c).

24 Now, subsequently, the Supreme Court -- excuse me,
25 Your Honor, the circuit court has said that we have to

1 have officers appear before the Grand Jury who have some
2 personal involvement in the case. And we simply could not
3 have an officer come and testify concerning 5, 10, 15, 20
4 cases. The Grand Jury only meets approximately one week a
5 month for, I think, four days of the one week. As a
6 result, the Solicitor's Office in Greenville, I believe,
7 at the time Judge Kittredge's order was issued, if not
8 then, soon thereafter, took the position that Rule 3(c)
9 was complied with, if you look at Rule 3(c), making other
10 affirmative disposition in writing and filing such action
11 with the office of the Clerk of Court. This has been the
12 procedure that's been in place since right after -- if not
13 2000, right after 2000.

14 In this case, Your Honor, Counsel correctly points
15 out that his client was arrested and served with the
16 warrants in this case on April 13th of 2011. I would pass
17 up -- well, I think the Court has the indictments in front
18 of her.

19 THE COURT: I do.

20 MR. WESTON: If you look on the right-hand corner
21 near the bottom of each indictment, Your Honor, it has a
22 received date from the Clerk of Court's Office.

23 THE COURT: Yes.

24 MR. WESTON: That received date is August 18th of
25 2011, less than 180 days after his client was arrested,

1 thereby, complying with the 180-day rule. Rule 3(c),
2 specifically, says making other affirmative disposition in
3 writing and filing such action with the Clerk of Court.
4 Your Honor, the State's position, and it has been since
5 2000, that the pre-filing of these indictments with the
6 Clerk of Court within 180 days satisfies Rule 3(c).

7 Finally, Your Honor, the Defendant, once again, has
8 not shown or even argued any prejudice to himself as a
9 result of this. And Rule 3(c), according to the cases
10 that I have, Your Honor, State v. Brazell and State v. Lee
11 is administrative. They, specifically, point to the fact
12 that it is not jurisdictional.

13 So the relief sought by this Defendant is not
14 appropriate in terms of quashing the indictment. And it
15 definitely, Your Honor, obviously, would not serve the
16 ends of justice to let a murderer go because something was
17 not filed within 90 days, when, in fact, he's shown
18 absolutely no prejudice to himself.

19 THE COURT: Thank you.

20 Anything further?

21 MR. GODFREY: May it please the Court.

22 The order that Justice Finney signed in 1999 that
23 says the cases need to be disposed of within 180 days from
24 the date of the Defendant's arrest, or there needs to be a
25 written order showing exceptional circumstances, the four

1 corners of this order are what my client stands on. And
2 he, clearly, was not indicted within 180 days.

3 Now, he did, in fact, file a fast and speedy trial,
4 because that is his Constitutional right under the State
5 and Federal Constitution. He wanted to come to court. He
6 wanted to take care of this matter. But, as you know,
7 Judge, under the fast and speedy trial, our courts have
8 ruled that the fast and speedy trial doesn't, actually,
9 begin until a case is indicted. This man has been
10 prejudiced because he wanted to come to court and take
11 care of this and show that he is innocent. And he was
12 forbidden from doing that by the tardy actions of the
13 State.

14 MR. WESTON: If I may just respond briefly, Your
15 Honor?

16 THE COURT: Yes, sir.

17 MR. WESTON: And I'll work backwards.

18 Your Honor, I don't think that the Court should
19 accept that he's been prejudiced because he wanted to come
20 to court and take care of this. Prejudice in the context
21 of what we're talking about today usually means I've lost
22 a witness, someone has died. I wanted to take care of
23 this is not prejudice. It's just a back-end argument when
24 you have no other argument.

25 Now, secondarily, Your Honor, as Counsel correctly

1 pointed out, the Defendant filed this motion. The
2 Defendant was represented by Counsel at the time. His
3 Counsel has not filed any such motion. The State is not
4 required to act upon pro se motions filed by a defendant
5 when they are represented by lawyers. We would,
6 basically, have to do discovery twice, do everything
7 twice. Unless he has been granted an order by this Court
8 to assist in his own representation, we do not have to
9 respond to those motions, Your Honor.

10 THE COURT: Okay. Anything further?

11 MR. GODFREY: I would point out, Judge, that I was
12 not the first appointed lawyer on this case. After a
13 number of months, I became the appointed lawyer on this
14 case when there arose a conflict with the Public
15 Defender's Office. So there was a point in time that my
16 client didn't know who his attorney was because of the
17 conflict situation.

18 But it appears to me if a person has a Constitutional
19 right to a fast and speedy trial, as they do under the
20 South Carolina Constitution and Federal Constitution, that
21 it is an important and fundamental right that he has. And
22 he ought to have been able to exercise it.

23 THE COURT: Mr. Godfrey, when you began representing
24 him, did you file that motion for a speedy trial on his
25 behalf?

1 MR. GODFREY: No, Your Honor.

2 THE COURT: All right. Anything further?

3 MR. WESTON: Your Honor, just to say, the fact that
4 he didn't know who his lawyer was, the State should not be
5 held responsible because the Public Defender's Office
6 failed to notify their client that they represent him.

7 THE COURT: Okay. Well, I can tell you,
8 respectfully, pursuant to Chief Justice Finney's order,
9 obviously, we have evolved a great deal from 1999. We,
10 certainly, now have a case management system that our
11 current Chief Justice Toal has put into place. And I
12 don't see any prejudice in this case, and you haven't
13 articulated any prejudice.

14 As far as your second basis to quash the indictments,
15 I do find the State is in compliance with Rule 3(c)(3).
16 Again, I don't see any violation of that nor any prejudice
17 shown. And, again, I agree with the State, I do think
18 it's administrative, it is not jurisdictional as far as
19 the issue is concerned, so it wouldn't be a basis for
20 quashing the indictment.

21 And, again, lastly, on the motion for a fast and
22 speedy trial, certainly, from the time you took the case,
23 Mr. Godfrey, you could have filed a speedy trial motion.
24 Had it been heard, certainly, a judge could have set a
25 deadline for it, an administrative judge just like

1 anywhere. So I don't see any violation whatsoever under
2 that motion. And, again, you can't tell me or articulate
3 any prejudice. So, respectfully, I'm going to deny your
4 motion to quash the indictments, sir.

5 Thank you.

6 You have a motion to sever?

7 MR. GODFREY: Yes, Your Honor.

8 On behalf of Richey Boyd, we would move the Court for
9 an order granting severance. In the spring of 2011, my
10 client and four co-defendants were arrested and charged
11 with murder, burglary first degree, kidnapping, attempted
12 armed robbery, and possession of a weapon during the
13 commission of a violent crime and, also, criminal
14 conspiracy. Subsequent to the arrest, three co-defendants
15 made statements to law enforcement implicating my client
16 and the fifth Defendant, who is seated here at the table.

17 Subsequent to the arrest, the fifth Defendant, who is
18 here at the table, allegedly made some statements which
19 are against his penal interest, which I'm sure are going
20 to be part and parcel of this case, statements which
21 indicate that he potentially was the shooter. At no time
22 has my client made any statements to law enforcement or
23 anyone else about these charges. He has always maintained
24 his innocence.

25 THE COURT: Just so I'm clear, it is Mr. Williams --

1 am I correct, it is Mr. Williams that made a statement
2 implicating himself? Is that correct?

3 MR. GODFREY: That's correct.

4 THE COURT: Okay.

5 MR. GODFREY: He made it to co-defendants --
6 allegedly made it to co-defendants.

7 THE COURT: Okay.

8 MR. GODFREY: Judge, my client believes and would
9 submit to the Court that it is highly improper and
10 prejudicial for him to go before a jury at the same time
11 that Mr. Williams, who is the alleged shooter, goes before
12 the jury. Mr. Williams allegedly made statements against
13 his penal interest. My client has made no statements at
14 all.

15 If you allow these two people to be tried together,
16 based upon what the jury is going to hear and we're
17 sitting here at the same table, it appears to me that it
18 could lead to some jury confusion and could cause a jury
19 to make unfair and prejudicial inferences against
20 Mr. Boyd, which are not warranted in this case.

21 Judge, under the case of State v. Spears, which is
22 393 S.C. 466, it talks about the substantive rights of a
23 defendant to be tried, actually, by himself. We believe
24 that due process in this case requires that my client be
25 tried separately from Mr. Williams, based upon the

1 evidence that is going to be presented to the jury, and
2 the fact that we're seated here at the table with
3 Mr. Williams. I believe it could cause great problems for
4 the jury and could lead to improper inferences, which
5 would be to the detriment of my client. We believe that
6 due process requires that this case be severed and
7 Mr. Boyd be tried separately.

8 THE COURT: And, just so I'm clear, there are no
9 Bruton issues between these two Defendants; correct?

10 MR. GODFREY: There are no Bruton issues.

11 THE COURT: Thank you, sir.

12 Mr. Weston.

13 MR. WESTON: Thank you, Your Honor.

14 May it please the Court.

15 THE COURT: Yes, sir.

16 MR. WESTON: Counsel is correct. There are no Bruton
17 issues.

18 Let me try to address this in some sort of systematic
19 fashion. Again, Your Honor, what he's talking about is
20 one statement by one witness where the co-defendant gave a
21 confession wherein he says what he did, and he said there
22 were other parties involved. He never mentions
23 Mr. Godfrey's client. So there's no prejudice to him
24 there, although I don't -- I'm not sure whether it would
25 be prejudicial to mention him, but he's not mentioned.

1 Your Honor, if cases could -- if you could get
2 severance simply because the evidence against your client
3 is not going to be the exact same evidence that was
4 presented against another --

5 THE COURT: We would never try defendants together.

6 MR. WESTON: We would never try co-defendants.

7 Your Honor, this is one incident involving five
8 defendants -- as it relates to this motion, involving both
9 of these Defendants from start to finish. This is not a
10 disjointed conspiracy where one Defendant played one part,
11 another Defendant played another part in an ongoing series
12 of events that took place over a period of days or weeks.
13 This is a three- or four-hour event that began with them
14 together and ended with them together. And there is
15 absolutely no reason to sever these cases.

16 He mentioned substantive -- he throws around words
17 like substantive due process, but he's not alleged -- and
18 confusion of the jury, but he's not alleged anything,
19 specifically, where that would happen. And I would submit
20 to the Court, Your Honor, that is not going to happen.
21 We're only talking about two co-defendants. We're not
22 talking about 50.

23 THE COURT: And, again, I know very little about this
24 case, other than what I've been told this morning. But my
25 understanding is their theory of going against both of

1 them on the charge of murder is -- one of them is,
2 obviously, going to be under the hand of one is the hand
3 of all.

4 Is that correct?

5 MR. WESTON: That is correct, Your Honor.

6 THE COURT: And the same facts would be presented as
7 to both Defendants as far as the incident; is that
8 correct?

9 MR. WESTON: That is correct, Your Honor.

10 THE COURT: Anything further?

11 MR. GODFREY: Nothing, Your Honor.

12 THE COURT: Respectfully, I do not think it warrants
13 severance. I think, certainly, the jury can make their
14 own independent decisions as to each of these Defendants.
15 I don't see any prejudice in any way. We're going to go
16 forward with both of them.

17 Any other pre-trial motions?

18 MR. WESTON: Nothing from the State, Your Honor.

19 THE COURT: Gentlemen, you tell me how you wish to
20 proceed. I can take the first three as guilty pleas, if
21 that helps you, or we can go ahead and pull the jury. You
22 tell me. It's 12:55. I haven't been up here in
23 Greenville. I think the last time I held court here was
24 four and a half years ago. So you tell me what your
25 preference is. I don't want to leave your people

1 downstairs and waiting on us. Y'all tell me how you wish
2 to proceed.

3 MR. WESTON: Your Honor, I can do -- the State can
4 proceed either way. However, we have a number of other
5 sort of tangential considerations. One is the Defense
6 lawyers for the three co-defendants are here and are
7 prepared to go forward. I don't know whether the Court
8 would want to do these pleas one at a time, or all three
9 together.

10 But the most important consideration outside the
11 substantive case itself is security. The three
12 co-defendants are going to plead guilty. They will then,
13 at some point, be taken by to the detention center. We
14 don't anticipate they will testify until tomorrow. So,
15 from that standpoint, it might be best served for the
16 deputies who are in charge of security, and because we do
17 have guilty pleas and other defendants being brought up
18 from the law enforcement center that we're able to get
19 that out of the way and get them sort of back to the
20 detention center as the deputies see fit.

21 THE COURT: Okay. So why don't we do this then, why
22 don't we go ahead and send these two Defendants back.

23 Is that what you're asking me to do?

24 And then let me take the three guilty pleas. You
25 just need to tell me what to do with your panel.

1 MR. WESTON: After that, Your Honor, we can then send
2 the three co-defendants back to the detention center.
3 These two can, obviously, be held here at the courthouse
4 with the security here.

5 As to the panel, Your Honor --

6 THE COURT: You tell me what you want to do with
7 them.

8 MR. WESTON: My preference would be to pick the jury,
9 get a panel, and, at least -- at a minimum, get a panel
10 before lunch. That way, we can release the rest of the
11 jurors, possibly, for the day. I'm not sure what
12 Counsel's pleasure is.

13 THE COURT: I just want to make sure that I don't
14 have a problem. Because it will probably likely be that
15 we won't get a panel picked until probably close to -- I
16 don't know how fast y'all are able to do it, but I'm
17 guessing it won't be until close to 1:45ish, something
18 like that.

19 Is that too late to be starving them out, Mr. Weston?

20 I don't want to be inhospitable. And I did used to
21 live here, so I definitely don't want to offend anybody.

22 MR. COOKE: From the Defense standpoint, us Defense
23 lawyers usually take about three hours. So if that gives
24 you any feel --

25 MR. WESTON: I have no objection to waiting until

1 after lunch, so you can send the jury on to lunch
2 beforehand, Your Honor.

3 THE COURT: It really doesn't matter to me either
4 way.

5 Do you have a preference, Mr. Cooke?

6 MR. COOKE: I think we can just go ahead and do the
7 pleas. That would be my preference, do the pleas and
8 let's do a jury after lunch.

9 MR. WESTON: That's fine with me, Your Honor.

10 THE COURT: Okay. Go ahead and let them go.

11 What time do you want to start back? Is that all
12 right?

13 So you tell me what time you're going to bring them
14 back.

15 THE CLERK: 1:30, 2:00, 1:45?

16 THE COURT: I need to let these gentlemen eat a
17 little bit themselves, too. The bailiff says 2:00. Y'all
18 know who the boss is in the courtroom.

19 All right. Well, let's go ahead and take these
20 pleas. I'm happy to do all three together, as long as the
21 attorneys don't object. And we'll take a break in this
22 case.

23 (WHEREUPON, a break was taken.)

24 THE COURT: Gentlemen, is there anything else we need
25 to put on the record before --

1 We're going to come back at 2:00 and pull the jury;
2 is that correct?

3 MR. WESTON: Nothing further from the State, Your
4 Honor.

5 THE COURT: And, gentlemen, the strikes are going to
6 be 10 and five.

7 And are y'all going to do it together, or split them?

8 MR. GODFREY: We're going to strike together.

9 THE COURT: All right. We'll see you at 2:00.
10 Thank you.

11 (WHEREUPON, a lunch break was taken.)

12 THE COURT: We'll go ahead and bring the jury panel
13 in, please.

14 (WHEREUPON, the jury panel entered the courtroom.)

15 THE COURT: Good afternoon, everyone.

16 I regret that I'm saying good afternoon. My name is
17 Carmen Mullen. And I, actually, come from the Fourteenth
18 Judicial Circuit. And they, typically, let the visiting
19 judge do the last jury pool of the day so the jury panel
20 can be angry at them. However, ladies and gentlemen, I
21 hate to say that I did have a house here for five years,
22 so Greenville is a second home to me as most of my family
23 lives here. So I want to go ahead apologize at the
24 beginning for y'all having to wait.

25 I will tell you, ladies and gentlemen, that Monday is

1 always the most difficult day for jury service. It's a
2 lot of hurry up and wait. At this point, there were a
3 number of matters that we had to take care of this
4 morning. I want you to know that the lawyers in this
5 case, as well as myself and every other judge that's
6 holding General Sessions court up here, have been working
7 hard today. But, at this point, ladies and gentlemen, we
8 are ready to begin and pull a jury in the trial of the
9 case that's first before me this week. So that's what
10 we're going to do.

11 So have they been sworn in?

12 THE CLERK: No, ma'am.

13 THE COURT: Do I need to swear them in, or are you
14 going to swear them in for me?

15 THE CLERK: Usually, once they're selected -- but
16 they have been downstairs --

17 THE COURT: This morning?

18 THE CLERK: Yes.

19 THE COURT: Ladies and gentlemen, I'll tell you, it's
20 been four and a half years since I've been here in
21 Greenville sitting as a judge. I've been here many times
22 other than that. But, obviously, different counties do it
23 different ways.

24 What I'm going to do is go through and ask you a
25 number of questions, specifically, related to the trial of

1 this case. Ladies and gentlemen, just like you probably
2 did this morning in answering roll call, if you need to
3 respond to one of my questions, what I need you to do is
4 simply stand, give me your name and juror number, and then
5 respond to the question. I'm going to go ahead and
6 apologize ahead of time, if I stop you or cut you off,
7 it's because I don't want you to blurt out something in
8 front of the rest of the panel that may affect the rest of
9 the panel. So I may ask you to come up and approach me.

10 Additionally, ladies and gentlemen, if there's a
11 question related to this case that you feel is a bit
12 personal and you don't want to announce it in front of the
13 entire panel, I want you to come up and approach and speak
14 to me personally. I will tell you that the attorneys are
15 entitled to be up here. And it will be relatively
16 private. But, again, if it's something you don't feel
17 like disclosing in front of everyone, I want you to come
18 up and speak with me. But, again, ladies and gentlemen,
19 please, understand that under the oath you took this
20 morning, you must render true and full responses. On the
21 side of caution, if you think maybe you need to respond, I
22 need you to go ahead and do it.

23 So with that said, ladies and gentlemen, we are about
24 to begin the trial that is entitled the State of South
25 Carolina v. Lamar Williams and Richey Boyd, who are both

1 charged in indictments that are filed here in Greenville
2 County with the offenses of murder, possession of a weapon
3 during the commission of a violent crime, kidnapping,
4 attempted armed robbery, burglary first, and conspiracy.

5 Now, ladies and gentlemen, the State is represented,
6 in this case, by Mr. Jeff Weston.

7 If you would, stand, sir, and face the jury panel.

8 Thank you, sir.

9 Additionally, ladies and gentlemen, Mr. Williams, in
10 this case, is being represented by Larry Cooke.

11 And if you both would stand and face the jury panel,
12 Mr. Williams, along with Mr. Cooke.

13 Thank you, gentlemen.

14 And Mr. Boyd, in this case, Richey Lamont Boyd, is
15 being represented by Mr. Bill Godfrey.

16 Mr. Godfrey, if you and Mr. Boyd would, also, stand
17 and face the jury panel.

18 Thank you.

19 JURY QUALIFICATION

20 THE COURT: Ladies and gentlemen, my questions are as
21 follows: Is there any member of the jury panel related by
22 blood or connected by marriage to either one of the
23 Defendants in this case, that is Mr. Williams or Mr. Boyd?
24 If so, please, stand.

25 (WHEREUPON, there was no response.)

1 THE COURT: Is there any member of the jury panel who
2 is a close personal friend, or share a special
3 relationship with either one of the Defendants in this
4 case, again, Mr. Williams or Mr. Boyd? If so, please,
5 stand.

6 (WHEREUPON, there was no response.)

7 THE COURT: Additionally, ladies and gentlemen, you
8 have been introduced to the attorneys trying this case.
9 Of course, Mr. Weston on behalf of the State, Mr. Cooke,
10 and Mr. Godfrey.

11 Ladies and gentlemen, is there anyone related by
12 blood or connected by marriage to any of the attorneys
13 trying this case?

14 (WHEREUPON, there was no response.)

15 THE COURT: Is there any member of the jury panel who
16 is a close personal friend or share a special relationship
17 with any of the attorneys trying this case?

18 All right. If you would, stand, sir, if you don't
19 mind. And I'm going to ask one other question after that.

20 Is there any member of the jury panel that has ever
21 been represented by any of the attorneys in this case,
22 either now or in the past, or ever been employed by any of
23 the attorneys working on this case? If so, please, stand.

24 (WHEREUPON, there was no response.)

25 THE COURT: Sir, give me your name and juror number.

1 JUROR #76, HENRY GOODWIN: Henry Goodwin, #76.
2 THE COURT: Mr. Goodwin, who do you know?
3 JUROR #76, HENRY GOODWIN: Larry Cooke.
4 THE COURT: How do you know Mr. Cooke.
5 JUROR #76, HENRY GOODWIN: A long time friend from
6 years ago.
7 THE COURT: From years ago?
8 JUROR #76, HENRY GOODWIN: Yes.
9 THE COURT: Do you still speak with him?
10 JUROR #76, HENRY GOODWIN: No.
11 THE COURT: It's been a long time?
12 JUROR #76, HENRY GOODWIN: Yes, ma'am.
13 THE COURT: When is the last time you spoke with him?
14 JUROR #76, HENRY GOODWIN: Some years ago.
15 THE COURT: Mr. Goodwin, let me ask you, if you sat
16 on the jury of this case, could you be fair and impartial
17 in the trial of his case?
18 JUROR #76, HENRY GOODWIN: Yes.
19 THE COURT: You have no doubt?
20 JUROR #76, HENRY GOODWIN: No doubt.
21 THE COURT: All right. Mr. Goodwin, I'm going to ask
22 that you stay with us. And I appreciate you being here.
23 JUROR #76, HENRY GOODWIN: Yes.
24 THE COURT: Yes, ma'am. Your name and juror number?
25 JUROR #230, SHARON BROWN: Sharon Brown, #230.

1 THE COURT: Yes, Ms. Brown.

2 JUROR #230, SHARON BROWN: Mr. Cooke is my husband's
3 former law partner.

4 THE COURT: Okay. Ms. Brown, I'm going to guess that
5 you cannot be fair and impartial. I understand, ma'am. I
6 am going to go ahead and excuse you from the trial of this
7 case. I'm going to go ahead and allow you to leave,
8 Ms. Brown.

9 I simply ask that you call in tonight after 6:00, and
10 follow whatever the prompt says as to whether or not you
11 need to come tomorrow, or it may direct you to call
12 tomorrow night after 6:00. But I appreciate it,
13 Ms. Brown.

14 Thank you.

15 (WHEREUPON, Juror #230, Sharon Brown, exited the
16 courtroom.)

17 THE COURT: Anyone else?

18 (WHEREUPON, there was no response.)

19 THE COURT: Ladies and gentlemen, this incident
20 involves an alleged shooting that occurred back on October
21 18th of 2010, at 7:50 a.m. in the morning at [redacted] Valley
22 Road in Travelers Rest, Greenville, South Carolina, where
23 it is alleged that five persons entered into a conspiracy
24 to invade a home. And that as a result of that invasion,
25 a Wallace Cruell was shot and killed.

1 Ladies and gentlemen, is there any member of the jury
2 panel that has any independent knowledge about this case
3 whatsoever? If so, please, stand.

4 All right. Ladies and gentlemen, what I'm going to
5 do is I want you to give me your name and juror number.
6 And what I'm going to ask that you do is you come forward
7 to me, and speak to me about this case in private. I
8 don't want you saying anything you know about this case in
9 front of the remainder of the panel.

10 All right. So, sir, your name and juror number?

11 JUROR #75, DENNIS GOODWIN: Dennis Goodwin, #75.

12 THE COURT: Okay. Mr. Goodwin, come on up, if you
13 would, right here by my court reporter.

14 And the attorneys come up with me.

15 (WHEREUPON, a sidebar was held with the Court, the
16 attorneys, and potential jurors.)

17 (WHEREUPON, Juror #75, Dennis Goodwin, came forward.)

18 THE COURT: Mr. Goodwin, what do you know about this
19 case?

20 JUROR #75, DENNIS GOODWIN: I live on that road. And
21 I'm kinned to the Cruells.

22 THE COURT: You're kinned to the Cruells?

23 JUROR #75, DENNIS GOODWIN: Yes.

24 THE COURT: Okay. What I'm going to do, Mr. Goodwin,
25 is I'm going to go ahead and remove you from the trial of

1 this case.

2 You're #27; correct?

3 JUROR #75, DENNIS GOODWIN: #75.

4 THE COURT: I'm sorry. You're #75.

5 So I'm going to excuse you. I want to thank you for
6 being here. And I want you to call back after 6:00
7 tonight. And they'll tell you whether or not you need to
8 come back.

9 Thank you, sir.

10 I appreciate it. Make sure you give your badge to
11 the bailiffs.

12 (WHEREUPON, Juror #75, Dennis Goodwin, exited the
13 courtroom.)

14 THE COURT: Ma'am, why don't you come on up.

15 Give me your name and juror number just before you
16 walk up, ma'am.

17 JUROR #27, TOMOCHA BYRD: Tomocha Byrd, #27.

18 THE COURT: Thank you, ma'am.

19 Come on up.

20 (WHEREUPON, Juror #27, Tomocha Byrd, came forward.)

21 THE COURT: Ms. Byrd, nice to meet you.

22 JUROR #27, TOMOCHA BYRD: Nice to meet you.

23 I'm close friends with the Cruells. I'm a family
24 friend.

25 THE COURT: With the Cruell family?

1 JUROR #27, TOMOCHA BYRD: Yes.

2 THE COURT: And have you heard anything about this
3 case?

4 JUROR #27, TOMOCHA BYRD: Just what the news said
5 when it happened. They're close friends.

6 THE COURT: All right. And you don't think you can
7 be fair and impartial?

8 JUROR #27, TOMOCHA BYRD: I can.

9 THE COURT: Are you sure?

10 JUROR #27, TOMOCHA BYRD: Uh-huh.

11 THE COURT: Well, when you say you're close friends,
12 how close of a friend are you to them?

13 JUROR #27, TOMOCHA BYRD: Well, I'm not close friends
14 of the Cruell family. But my cousin is related to the
15 Cruell family.

16 THE COURT: Because of that relationship, what have
17 you heard about the case?

18 JUROR #27, TOMOCHA BYRD: I remember when it took
19 place. I did not attend the funeral. I've just been
20 emotional because my cousin was real close to them.

21 THE COURT: And that was emotional for you; is that
22 correct?

23 JUROR #27, TOMOCHA BYRD: Yeah. It was emotional
24 just because of the kids.

25 THE COURT: Okay. Ma'am, I'm going to go ahead and

1 just excuse you from the trial of this case.

2 But I appreciate you being here. Call back after
3 6:00 tonight.

4 JUROR #27, TOMOCHA BYRD: Okay.

5 THE COURT: Thank you, Ms. Byrd.

6 Ms. Byrd is excused.

7 (WHEREUPON, Juror #27, Tomocha Byrd, exited the
8 courtroom.)

9 THE COURT: Come on up, ma'am.

10 And give me your name and juror number before you
11 walk on up.

12 JUROR #143, MARY MORRIS: Mary Morris, #143.

13 THE COURT: Thank you, ma'am.

14 MR. WESTON: What was the number, Judge? I'm sorry.

15 THE COURT: #143.

16 (WHEREUPON, Juror #143, Mary Morris, came forward.)

17 THE COURT: How are you, Ms. Morris?

18 JUROR #143, MARY MORRIS: I'm good.

19 THE COURT: Yes, ma'am.

20 JUROR #143, MARY MORRIS: I'm close friends with the
21 parents of this child, with the Cruells.

22 THE COURT: The parents of Wallace Cruell, Jr.?

23 JUROR #143, MARY MORRIS: Yes.

24 I was born and raised in Travelers Rest. But the
25 whole family lives there.

1 THE COURT: What do you know -- do you know anything
2 about this case?

3 JUROR #143, MARY MORRIS: No. I don't know nothing
4 about the case, but -- no more than what I've heard on the
5 TV. And my brother was talking about it and stuff.

6 THE COURT: How does your brother know anything about
7 it?

8 JUROR #143, MARY MORRIS: Just from the family.

9 THE COURT: Okay. Based on that relationship with
10 the family, do you think you could be fair and impartial
11 in the trial of this case?

12 JUROR #143, MARY MORRIS: I'm sure I could.

13 THE COURT: Okay. I need you to be more specific.
14 If you were to serve, you would have to put all that
15 aside --

16 JUROR #143, MARY MORRIS: Well, I kind of heard --

17 THE COURT REPORTER: Judge, I can't hear what she's
18 saying.

19 THE COURT: I'm sorry.

20 Ma'am, come on over. I apologize.

21 MR. WESTON: Judge, if I may, I would object to
22 striking her for cause.

23 THE COURT: Okay. I'm going to go ahead and let you
24 go, so you don't have to sit on this case.

25 And call after 6:00 tonight on the juror line. And

1 they'll tell you whether or not you need to come back in.

2 MR. WESTON: Excuse me. The last name is Morris?

3 THE COURT: Morris, yes.

4 MR. WESTON: Thank you.

5 THE COURT: Thank you, ma'am.

6 Ms. Morris is excused.

7 (WHEREUPON, Juror #143, Mary Morris, exited the

8 courtroom.)

9 THE COURT: Yes, ma'am. Your name and juror number?

10 JUROR #198, JENNIFER SUBER: Jennifer Suber, #198.

11 THE COURT: Yes, ma'am. Come on up.

12 (WHEREUPON, Juror #198, Jennifer Suber, came

13 forward.)

14 THE COURT: How are you?

15 JUROR #198, JENNIFER SUBER: I'm all right.

16 THE COURT: Yes, ma'am. How do you know anything

17 about this case?

18 JUROR #198, JENNIFER SUBER: I go to church with most

19 of the Cruells.

20 THE COURT: All right. Do you want me to excuse you

21 from the trial of this case?

22 JUROR #198, JENNIFER SUBER: Yes.

23 THE COURT: Ma'am, I'll go ahead and do that.

24 I appreciate you being here.

25 On the back of your badge is a number to call in

1 tonight after 6:00. It will tell you whether or not you
2 need to come tomorrow.

3 JUROR #198, JENNIFER SUBER: Okay.

4 THE COURT: Thank you.

5 I appreciate it.

6 Ms. Suber is excused, #198.

7 Anyone else?

8 (WHEREUPON, there was no response.)

9 THE COURT: All right. Very well.

10 Thank you all.

11 (WHEREUPON, the sidebar was concluded.)

12 THE COURT: Ladies and gentlemen, the following is a
13 list of potential witnesses in this case. And my question
14 is going to be the same to you, is there any member of the
15 jury panel related by blood, or connected by marriage, or
16 have a close personal friendship, or share a special
17 relationship with any of these potential witnesses.

18 Ladies and gentlemen, this would be people that you break
19 bread with, people that you talk to on a regular basis,
20 not necessarily someone you may go to church with and just
21 say hello at church, but someone you, actually,
22 communicate with on a regular basis.

23 All right. And those potential witnesses are:
24 Shirlene Cruell, Noah Cruell, Deputy Matthew Hegger,
25 Deputy Robert Castillo, Master Deputy Rick Lollis,

1 Investigator Bill Whitlock, Deputy B.L. Osborne,
2 Investigator Eric Whaley, Investigator Antonio Bailey,
3 Dr. Michael Ward, Investigator Chris Hammett, Scottie
4 Butler, Willie Taylor, Jeff Dornberg, Wendy Bridges, Neil
5 Haltiwanger, Michael Williams, Iesha Scruggs, Jennifer
6 Burnette, and Kristine Sterling.

7 Again, ladies and gentlemen, the question is, is
8 there any member of the jury panel related by blood, or
9 connected by marriage, or have a close personal
10 friendship, or share a special relationship with any of
11 these potential witnesses? If so, please, stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: Very well.

14 Ladies and gentlemen, has any member of the jury
15 panel or a member of your immediate family ever been
16 accused of or the victim of an armed robbery? If so,
17 please, stand.

18 Yes, ma'am. Your name and juror number?

19 JUROR #231, ROBBILIN FURMAN: Robbilin Furman, #231.

20 THE COURT: Yes, ma'am.

21 JUROR #231, ROBBILIN FURMAN: I've been the victim of
22 an armed robbery.

23 THE COURT: How long ago was that?

24 JUROR #231, ROBBILIN FURMAN: Approximately 15 years
25 ago.

1 THE COURT: Where was that, ma'am?

2 JUROR #231, ROBBILIN FURMAN: In Pelzer.

3 THE COURT: In where?

4 JUROR #231, ROBBILIN FURMAN: Pelzer, South Carolina.

5 THE COURT: Ma'am, was that case resolved?

6 JUROR #231, ROBBILIN FURMAN: Yes, it was.

7 THE COURT: And the nature of this case where it is
8 an alleged robbery, because of the nature of these
9 charges, would that affect your ability to be fair and
10 impartial in the trial of this case?

11 JUROR #231, ROBBILIN FURMAN: Yes. I believe it
12 would.

13 THE COURT: All right. Ma'am, I'm going to go ahead
14 and excuse you from the trial of this case.

15 I'm going to just simply ask that you call back on
16 the juror line after 6:00 tonight. It will tell you
17 whether or not you need to call up or come back tomorrow.
18 Most likely, it's going to say call Tuesday night after
19 6:00, and tell you what to do.

20 And can you give me again your number, just for the
21 record?

22 JUROR #231, ROBBILIN FURMAN: #231.

23 THE COURT: #231.

24 All right. Thank you, ma'am.

25 You are excused.

1 (WHEREUPON, Juror #231, Robbilin Furman, exited the
2 courtroom.)

3 THE COURT: Anyone else?

4 (WHEREUPON, there was no response.)

5 THE COURT: And, ladies and gentlemen, I want to make
6 that question a little bit broader. Is there any member
7 of the jury panel or a member of your immediate family
8 that has ever been accused of or a victim of a violent
9 crime? If so, please, stand.

10 Sir, your name and juror number?

11 JUROR #73, ROBERT GOLDBERG: Robert Goldberg, #73.

12 THE COURT: And I'm sorry, sir, what was your last
13 name?

14 JUROR #73, ROBERT GOLDBERG: Goldberg.

15 THE COURT: Goldberg. Yes, sir.

16 JUROR #73, ROBERT GOLDBERG: My son was killed in a
17 domestic violence.

18 THE COURT: Okay. Sir, when was that?

19 JUROR #73, ROBERT GOLDBERG: A year and a half ago.
20 Sentencing -- it's going to be sentenced at the end of
21 this month.

22 THE COURT: Okay. And is that a case that was here
23 in Greenville County?

24 JUROR #73, ROBERT GOLDBERG: No, North Carolina.

25 THE COURT: North Carolina?

1 JUROR #73, ROBERT GOLDBERG: Yes.

2 THE COURT: All right. Sir, based on your experience
3 and with your son, can you be fair and impartial in
4 sitting on a case where it is alleged that a violent crime
5 occurred?

6 JUROR #73, ROBERT GOLDBERG: I'm not sure emotionally
7 that I would be ready for that.

8 THE COURT: Okay. Mr. Goldberg, I am going to go
9 ahead and excuse you from the trial of this case.

10 I appreciate you being here.

11 If you would, just call in after 6:00, sir, and it
12 will tell you whether or not you need to report back.

13 JUROR #73, ROBERT GOLDBERG: Thank you.

14 THE COURT: Thank you, sir.

15 (WHEREUPON, Juror #73, Robert Goldberg, exited the
16 courtroom.)

17 THE COURT: Anyone else?

18 (WHEREUPON, there was no response.)

19 THE COURT: Ladies and gentlemen, is there any member
20 of the jury panel that has such strong feelings about
21 firearms that you could not be fair and impartial in a
22 case involving the alleged use or illegal possession of a
23 firearm? If so, please, stand.

24 (WHEREUPON, there was no response.)

25 THE COURT: Is any member of the jury panel or a

1 member of your immediate family a participant of or a
2 member of any group which encourages strict enforcement of
3 criminal laws or modification of our present laws, such as
4 Mother's Against Drunk Driving, which is known as MADD,
5 Citizens Against Violence, CAV? If so, please, stand.

6 (WHEREUPON, there was no response.)

7 THE COURT: Again, ladies and gentlemen, this would
8 be if you are a member of or even just a contributor to.
9 Oftentimes, one of these groups may call you and ask you
10 for a \$25 donation. It would include that as well.

11 (WHEREUPON, there was no response.)

12 THE COURT: Ladies and gentlemen, does any member of
13 the jury panel hold such strong feelings about the use or
14 sale of narcotics that they would be unable to give both
15 the State and the Defendants a fair trial if there was
16 evidence presented of drug sales, or drug use?

17 And let me just repeat that question again. Is there
18 any member of the jury panel that holds such strong
19 feelings about the use of or sale of narcotics that they
20 would be unable to give both the State and the Defendants
21 a fair trial if there was evidence presented of drug sales
22 or use? If so, please, stand.

23 Ma'am, if you would, stand and just give me your name
24 and juror number.

25 JUROR #93, MEREDITH HEYDE: Meredith Heyde. And my

1 juror number is #93.

2 THE COURT: Ma'am, would you come forward and just
3 come talk to me?

4 (WHEREUPON, a sidebar was held with the Court, the
5 attorneys, and potential jurors.)

6 (WHEREUPON, Juror #93, Meredith Heyde, came forward.)

7 THE COURT: How are you?

8 JUROR #93, MEREDITH HEYDE: Good.

9 I don't --

10 THE COURT: Let me give an opportunity for the
11 attorneys to come on up.

12 And I apologize. We have to do it with the court
13 reporter. So just come this way.

14 JUROR #93, MEREDITH HEYDE: That's fine.

15 THE COURT: Yes, ma'am.

16 JUROR #93, MEREDITH HEYDE: I just don't know if it's
17 a conflict of interest, but I do hold a DEA license to
18 prescribe narcotics. So I just wanted to bring that
19 forward.

20 THE COURT: I appreciate it.

21 Do you think that affects your ability to be fair and
22 impartial in this case?

23 JUROR #93, MEREDITH HEYDE: No.

24 I just wanted to let you know.

25 THE COURT: Thank you so much.

1 I appreciate it.

2 You can go ahead and be seated.

3 JUROR #93, MEREDITH HEYDE: Thank you.

4 (WHEREUPON, Juror #93, Meredith Heyde, was seated.)

5 THE COURT: Sir, your name and juror number?

6 Mr. Cooke, come on back.

7 JUROR #134, EDWARD MCMINN: Edward McMinn, #134.

8 THE COURT: Yes, sir. How are you, sir?

9 JUROR #134, EDWARD MCMINN: I'm good.

10 How are you?

11 THE COURT: Very well.

12 JUROR #134, EDWARD MCMINN: My son was addicted to

13 drugs, and there was drug sales. And it's just -- it's a

14 personal thing. And I'm just totally against it

15 entirely.

16 THE COURT: Okay. Well, Mr. McMinn, what I'm going

17 to do is excuse you from the trial of this case.

18 I want to thank you for being here.

19 I want you to call in after 6:00 on the number on the

20 back of your badge. It will tell you whether or not you

21 need to return tomorrow.

22 Thank you, Mr. McMinn.

23 JUROR #134, EDWARD MCMINN: Thank you.

24 THE COURT: I appreciate it, sir.

25 #134 is excused.

1 (WHEREUPON, Juror #134, Edward McMinn, exited the
2 courtroom.)

3 (WHEREUPON, the sidebar was concluded.)

4 THE COURT: Has any member of the jury panel formed
5 or expressed an opinion as to the guilt or innocence of
6 the Defendants in this case, Mr. Williams or Mr. Boyd? If
7 so, please, stand.

8 (WHEREUPON, there was no response.)

9 THE COURT: Is there any member of the jury panel who
10 is conscious of any interest, any bias, or any prejudice
11 for or against the Defendants in this case, Mr. Williams
12 or Mr. Boyd? If so, please, stand.

13 (WHEREUPON, there was no response.)

14 THE COURT: Ladies and gentlemen, does any member of
15 the jury panel know of any reason whatsoever that you
16 cannot give both the State of South Carolina and the
17 Defendants in this case, Mr. Williams and Mr. Boyd, a fair
18 and impartial trial? If so, please, stand.

19 (WHEREUPON, there was no response.)

20 THE COURT: And, again, ladies and gentlemen, I asked
21 this, but I want to make sure again. Is there any member
22 of the jury panel that has seen, heard, or read anything
23 about this case, or have any knowledge about this case
24 whatsoever? If so, please, stand.

25 Yes, ma'am. And I will tell you that's fine, because

1 I didn't ask that expanded question about heard, seen, or
2 read. So that's why I covered it once again.

3 Ma'am, give me your name and juror number.

4 JUROR #202, JUDITH TANCIBOK: Judy Tancibok, #202.

5 THE COURT: Ms. Tancibok, where have you seen or
6 heard about it?

7 JUROR #202, JUDITH TANCIBOK: I heard on the news
8 this morning that the trial was going to take place here
9 today.

10 THE COURT: All right. And, ma'am, without saying
11 what the contents were, did it say anything other than the
12 charges?

13 I can tell you, I did not watch the news here this
14 morning, so.

15 JUROR #202, JUDITH TANCIBOK: It did not -- or I
16 didn't pay any attention to it.

17 THE COURT: Ma'am, I want to make sure that anything
18 you may have heard on the news you understand is not
19 factual. It is not evidence in the case. And I want to
20 make absolutely sure you can decide this case, if you are
21 chosen as a juror, based on the evidence that's
22 presented here in this courtroom uninfluenced by anything
23 you may have heard outside, or on the news, or anywhere
24 else.

25 Are you confident you can do that?

1 JUROR #202, JUDITH TANCIBOK: I am. I'm very
2 confident.

3 THE COURT: Thank you, ma'am.
4 You may be seated.

5 And, sir, give me your name and juror number.

6 JUROR #129, CALEB MCCOY: Caleb McCoy, #129.

7 THE COURT: Mr. McCoy.

8 JUROR #129, CALEB MCCOY: I saw it on the news a few
9 days ago and this morning.

10 THE COURT: Sir?

11 JUROR #129, CALEB MCCOY: I saw it this morning and a
12 few days ago.

13 THE COURT: And a few days ago?

14 JUROR #129, CALEB MCCOY: Yes, ma'am.

15 THE COURT: Sir, again, I want to make sure with you
16 just like the previous juror, you understand again that
17 that is not evidence in this case. And that everything
18 you need to decide in this case, were you to be a juror,
19 is going to be presented here in this courtroom. And I
20 want to make sure that any decision you would make as a
21 juror is uninfluenced by any outside source.

22 Are you confident you can do that?

23 JUROR #129, CALEB MCCOY: Yes, ma'am.

24 THE COURT: All right. Sir, you may be seated.

25 Thank you.

1 Anyone else?

2 (WHEREUPON, there was no response.)

3 THE COURT: Does anyone know of any reason whatsoever
4 that you cannot be a juror in the trial of this case? If
5 so, please, stand.

6 (WHEREUPON, there was no response.)

7 THE COURT: Is there any further questions required
8 of this panel from the State?

9 MR. WESTON: No, ma'am, Your Honor.

10 THE COURT: From the Defense?

11 MR. COOKE: None from the Defense here, Judge.

12 THE COURT: Thank you.

13 MR. GODFREY: None, Your Honor.

14 THE COURT: Thank you, gentlemen.

15 Ladies and gentlemen, what we're going to do is go
16 down a list, and we are going to call your names. I'm
17 going to simply ask, because we are in such tight quarters
18 here, that all you do is stand when your name is called
19 upon. You're going to either be invited to take a seat in
20 the jury box, which will be your indication that, of
21 course, you're on the jury, or you're going to be told to
22 go ahead and take a seat where you are.

23 All right. Ladies and gentlemen, so, again, you
24 don't have to do or say anything. All you have to do is
25 stand when you're called upon.

JURY SELECTION

1
2 THE CLERK: Juror #170, Katherine Robirds.
3 (WHEREUPON, Katherine Robirds, a white female,
4 stood.)
5 THE CLERK: What says the State?
6 MR. WESTON: Seat Ms. Robirds, please.
7 THE CLERK: Thank you.
8 What says the Defendants?
9 MR. COOKE: Swear the lady, please.
10 THE CLERK: Thank you.
11 Please bring your items and have a seat in the jury
12 box.
13 THE COURT: And I apologize, ladies and gentlemen.
14 If you are invited up here, please, bring all your
15 belongings with you.
16 THE CLERK: Juror #19, Ruth Breazeale.
17 (WHEREUPON, Ruth Breazeale, a white female, stood.)
18 MR. WESTON: Present Ms. Breazeale, please.
19 THE CLERK: Thank you.
20 MR. COOKE: Please excuse Ms. Breazeale from this
21 case.
22 THE CLERK: Thank you.
23 You may be seated. You're excused from the trial of
24 this case.
25 Juror #70, Linda Gale.

1 (WHEREUPON, Linda Gale, a white female, stood.)

2 MR. WESTON: Present Ms. Gale, please.

3 THE CLERK: Thank you.

4 MR. COOKE: Please excuse the lady from this case.

5 THE CLERK: Thank you.

6 You may be seated.

7 THE COURT: Very quickly, can I see the attorneys up
8 here?

9 (WHEREUPON, a bench conference was held.)

10 THE COURT: Ladies and gentlemen, I, also, want you
11 to know that we have Mr. Cooke answering on behalf of both
12 Defendants on the strikes. So, please, understand he is
13 simply the spokesman that has been elected between the
14 two. It has to be one or the other.

15 THE CLERK: Juror #196, Johnnie Stokes.

16 (WHEREUPON, Johnnie Stokes, a black male, stood.)

17 MR. WESTON: Excuse Mr. Stokes from this jury,
18 please.

19 THE CLERK: Thank you.

20 You may be seated. You're excused from the trial of
21 this case.

22 Juror #69, Jason Fuller.

23 (WHEREUPON, Jason Fuller, a white male, stood.)

24 MR. WESTON: Present Mr. Fuller, please.

25 MR. COOKE: Swear the gentleman, please.

1 THE CLERK: I'm sorry. What was that?
2 MR. COOKE: Swear the gentleman.
3 THE CLERK: Thank you.
4 You may be seated in the jury box.
5 Juror #202, Judith Tancibok.
6 (WHEREUPON, Judith Tancibok, a white female, stood.)
7 MR. WESTON: Present Ms. Tancibok, please.
8 THE CLERK: Thank you.
9 MR. COOKE: Excuse the lady from this case, please.
10 THE CLERK: Thank you.
11 You may be seated. You're excused from the trial of
12 this case.
13 Juror #129, Caleb McCoy.
14 (WHEREUPON, Caleb McCoy, a white male, stood.)
15 MR. WESTON: Excuse Mr. McCoy from this case, please.
16 THE CLERK: Thank you.
17 You may be seated. You're excused from the trial of
18 this case.
19 Juror #221, Scott Whitworth.
20 (WHEREUPON, Scott Whitworth, a white male, stood.)
21 MR. WESTON: Present Mr. Whitworth, please.
22 THE CLERK: Thank you.
23 MR. COOKE: Swear the gentleman, please.
24 THE CLERK: Thank you.
25 You may be seated in the jury box.

1 Juror #161, Richard Powers.
2 (WHEREUPON, Richard Powers, a white male, stood.)
3 MR. WESTON: Present Mr. Powers, please.
4 THE CLERK: Thank you.
5 MR. COOKE: Please excuse Mr. Powers from this case.
6 THE CLERK: Thank you.
7 You may be seated. You're excused from the trial of
8 this case.
9 Juror #160, Charles Powell.
10 (WHEREUPON, Charles Powell, a white male, stood.)
11 MR. WESTON: Present Mr. Powell, please.
12 MR. COOKE: Please excuse Mr. Powell from this case.
13 THE CLERK: Thank you.
14 You may be seated. You're excused from the trial of
15 this case.
16 Juror #208, Charles Towe.
17 (WHEREUPON, Charles Towe, a white male, stood.)
18 MR. WESTON: I'm sorry. I apologize. What was the
19 number again?
20 THE CLERK: #208.
21 MR. WESTON: Present Mr. Towe, please.
22 MR. COOKE: Excuse the gentleman from this case.
23 THE CLERK: Thank you.
24 You may be seated. You're excused from the trial of
25 this case.

1 Juror #153, Roy Patterson.
2 (WHEREUPON, Roy Patterson, a white male, stood.)
3 MR. WESTON: Present Mr. Patterson, please.
4 THE CLERK: Thank you.
5 MR. COOKE: Swear the gentleman.
6 THE CLERK: Thank you.
7 You may be seated in the jury box.
8 Juror #5, Patrick Bairefoot.
9 (WHEREUPON, Patrick Bairefoot, a white male, stood.)
10 JUROR #5, PATRICK BAIREFOOT: It's Bairefoot.
11 THE CLERK: Bairefoot. I'm sorry.
12 MR. WESTON: Present Mr. Bairefoot, please.
13 THE CLERK: Thank you.
14 MR. COOKE: Swear Mr. Bairefoot, please.
15 THE CLERK: Thank you.
16 You may be seated in the jury box.
17 Juror 60, Matthew Evans.
18 (WHEREUPON, Matthew Evans, a white male, stood.)
19 MR. WESTON: Present Mr. Evans, please.
20 MR. COOKE: Swear the gentleman, please.
21 THE CLERK: Thank you.
22 You may be seated in the jury box.
23 Juror #93, Meredith Heyde.
24 (WHEREUPON, Meredith Heyde, a white female, stood.)
25 JUROR #93, MEREDITH HEYDE: Heyde.

1 THE CLERK: Heyde.

2 MR. WESTON: Present Ms. Heyde, please.

3 THE CLERK: Thank you.

4 MR. COOKE: Please excuse the lady from this case.

5 THE CLERK: Thank you.

6 You may be seated. You're excused from the trial of
7 this case.

8 Juror #64, Brenda Few.

9 (WHEREUPON, Brenda Few, a white female, stood.)

10 MR. WESTON: Present Ms. Few, please.

11 THE CLERK: Thank you.

12 MR. COOKE: Swear Ms. Few, please.

13 THE CLERK: Thank you.

14 You may be seated in the jury box.

15 Juror #66, Julius Finley.

16 (WHEREUPON, Julius Finley, a black male, stood.)

17 MR. WESTON: Present Mr. Finley, please.

18 THE CLERK: Thank you.

19 MR. COOKE: Swear the lady [sic], please.

20 THE COURT: Come on up Mr. Finley.

21 MR. COOKE: What happened? Did I miss something?

22 I -- oh, excuse me.

23 THE CLERK: Juror #113, Matthew Kneeland.

24 (WHEREUPON, Matthew Kneeland, a white male, stood.)

25 MR. GODFREY: What number?

1 THE CLERK: #113.

2 MR. WESTON: Present Mr. Kneeland, please.

3 THE CLERK: Thank you.

4 MR. COOKE: Please excuse the gentleman from this
5 case.

6 THE CLERK: Thank you.

7 You're excused from the trial of this case.

8 Juror #35, Gina Clark.

9 (WHEREUPON, Gina Clark, a white female, stood.)

10 MR. WESTON: Present Ms. Clark, please.

11 THE CLERK: Thank you.

12 MR. COOKE: Please excuse the lady from this case.

13 THE CLERK: Thank you.

14 You may be seated. You're excused from the trial of
15 this case.

16 Juror #39, Carolyn Cribb.

17 (WHEREUPON, Carolyn Cribb, a white female, stood.)

18 MR. WESTON: Present Ms. Cribb, please.

19 THE CLERK: Thank you.

20 MR. COOKE: Please swear the lady.

21 THE CLERK: Thank you.

22 You may be seated in the jury box.

23 Juror #187, Cheryl Simpson.

24 (WHEREUPON, Cheryl Simpson, a white female, stood.)

25 MR. WESTON: Present Ms. Simpson, please.

1 THE CLERK: Thank you.

2 MR. COOKE: Swear the lady, please.

3 THE CLERK: Thank you.

4 You may be seated in the jury box.

5 Juror #2, John Alexiou.

6 (WHEREUPON, John Alexiou, a white male, stood.)

7 MR. WESTON: Present Mr. Alexiou, please.

8 MR. COOKE: Please excuse the gentleman from this

9 case.

10 THE CLERK: Thank you.

11 You may be seated. You're excused from the trial of

12 this case.

13 Juror #148, Lisa Naylor.

14 (WHEREUPON, Lisa Naylor, a white female, stood.)

15 MR. WESTON: Present Ms. Naylor, please.

16 THE CLERK: Thank you.

17 MR. COOKE: Swear the lady, please.

18 THE CLERK: Thank you.

19 You may be seated in the jury box.

20 Juror #96, Daniel Holcombe.

21 (WHEREUPON, Daniel Holcombe, a white male, stood.)

22 MR. WESTON: Excuse Mr. Holcombe from this jury,

23 please.

24 THE CLERK: Thank you.

25 You may be seated. You're excused from the trial of

1 this case.

2 Juror #227, Webster Woods.

3 (WHEREUPON, Webster Woods, a black male, stood.)

4 MR. WESTON: Present Mr. Woods, please.

5 THE CLERK: Thank you.

6 MR. COOKE: Swear the gentleman.

7 THE CLERK: Thank you.

8 You may be seated in the jury box.

9 THE CLERK: Two alternates?

10 THE COURT: Yes.

11 THE CLERK: And the strikes are one and two per
12 alternate?

13 THE COURT: You've got it.

14 THE CLERK: Juror #32, Bonnie Chasteen.

15 (WHEREUPON, Bonnie Chasteen, a white female, stood.)

16 MR. WESTON: Present Ms. Chasteen.

17 THE CLERK: Thank you.

18 MR. COOKE: Excuse the lady from this case, please.

19 THE CLERK: Thank you.

20 You may be seated. You're excused from the trial of
21 this case.

22 Juror #4, Bruce Arnold.

23 (WHEREUPON, Bruce Arnold, a white male, stood.)

24 MR. WESTON: Present Mr. Arnold.

25 THE CLERK: Thank you.

1 MR. COOKE: Excuse the gentleman from this case,
2 please.

3 THE CLERK: Thank you.

4 You may be seated. You're excused from the trial of
5 this case.

6 Juror #163, Jason Quarles.

7 (WHEREUPON, Jason Quarles, a black male, stood.)

8 MR. WESTON: I apologize. What was the number again?

9 THE CLERK: #163.

10 MR. WESTON: Thank you.

11 MR. COOKE: Swear the gentleman, please.

12 THE COURT: Mr. Weston, you get to go first.

13 MR. WESTON: Present Mr. Quarles, please.

14 THE CLERK: Thank you.

15 You may be seated in the jury box.

16 THE COURT: Come forward, Mr. Quarles. It's late in
17 the day for everyone.

18 THE CLERK: Juror #109, John Kelly.

19 (WHEREUPON, John Kelly, a white male, stood.)

20 MR. WESTON: Present Mr. Kelly, please.

21 THE CLERK: Thank you.

22 MR. COOKE: Swear the gentleman.

23 THE CLERK: Thank you.

24 You may be seated in the jury box.

25 THE COURT: Are there any matters of law we need to

1 take up regarding the selection of the jury from the
2 State?

3 MR. WESTON: No, Your Honor.

4 It's my understanding that the last two jurors are
5 the alternates.

6 THE COURT: They are, sir.

7 MR. WESTON: Nothing from the State.

8 THE COURT: From the Defense?

9 MR. COOKE: Nothing, Judge.

10 MR. GODFREY: Nothing, Judge.

11 THE COURT: Well, welcome, ladies and gentlemen. If
12 you'll just sit tight, I'm going to go ahead and release
13 the jury panel.

14 Ladies and gentlemen, I want to thank you for being
15 here. As I'm sure you understand, you were not chosen in
16 the trial of this case. However, I will tell you that
17 Judge Miller just down the hall is trying a relatively
18 short case. And he will be pulling another jury most
19 likely either tomorrow morning or Wednesday morning.

20 Additionally, I anticipate finishing this jury,
21 roughly, Wednesday. And I anticipate pulling another jury
22 possibly on Thursday. We don't know exactly when we will
23 need you, and we, certainly, don't want to keep you here.
24 So I simply ask that you call after 6:00 tonight to the
25 jury line. And it will tell you whether or not you need

1 to report or, in all likelihood, it's going to say call
2 back Tuesday night after 6:00. Ladies and gentlemen,
3 don't call before 6:00, because there will be nothing on
4 the message. Literally, they put it on 5:59 after
5 figuring out what's happening with the cases we're,
6 currently, trying.

7 So, again, you are excused.

8 And I want to thank you all for being here.

9 (WHEREUPON, the remaining members of the jury panel
10 exited the courtroom.)

11 THE COURT: Can I see the attorneys in this case up
12 here while they're filing out, please?

13 (WHEREUPON, a bench conference was held.)

14 THE COURT: Ladies and gentlemen, again, welcome. As
15 you know, you are my jury. And I want to thank you for
16 being here and thank you for your willingness to serve and
17 help us to resolve this case.

18 Ladies and gentlemen, there are a couple of short
19 things I need to tell you. What I'm going to do is this,
20 I'm going to send you back to your jury room. There's a
21 couple matters I need to take up with the lawyers. I'm
22 going to bring you right back out. And what we intend on
23 doing for the remainder of the day, because it is a couple
24 of minutes after 4:00 and I know y'all are tired, simply,
25 we're going to do opening statements -- or hear opening

1 statements from the attorneys. I'm going to give you a
2 quick brief synopsis of what a trial is, and I'm going to
3 send you home for the day. We're going to come back and
4 really start the evidence in the trial tomorrow at 9:30.
5 I want to make sure that's all right with all of y'all.

6 But one other thing I'm going to ask you to do,
7 ladies and gentlemen, is I need you to choose a
8 foreperson. A foreperson doesn't have any more say than
9 anyone else. They are simply the person who speaks with
10 me about scheduling. And, also, when the case is sent to
11 you for deliberations, they facilitate the conversation.
12 They get everything going and get everyone talking. And I
13 just need among the 12 of you, not the two alternates, but
14 among the 12 of you to come up with a foreperson. And,
15 please, just tell the bailiffs who that is.

16 Additionally, I'm going to ask that the Foreperson
17 take this very front row seat here. As you come and go
18 from the trial, you can change seats, mix it up. The only
19 thing that I ask is that my alternates remain where they
20 are, and my foreperson remain in the same seat.

21 Ladies and gentlemen, again, what I, also, need to
22 tell you is that you are not to discuss this case, not
23 only with anyone else, and I know you're not going to have
24 an opportunity to talk with anyone else right now, but
25 that, also, includes each other. You have heard

1 absolutely no evidence in this case. And there's
2 absolutely nothing to discuss. And, again, it would be
3 wholly inappropriate for you to discuss this case until
4 you have heard all of the evidence in the case, you've
5 heard the arguments from the parties, you've heard my
6 charge on the law, and then it's sent to you for your
7 deliberations.

8 So, again, I'm going to excuse you back to your jury
9 room very briefly. We'll be back with you shortly. And,
10 again, if you'll elect a foreperson for me, and we'll
11 bring you back in here for opening arguments. You're
12 excused.

13 Thank you.

14 (WHEREUPON, the jury was excused from open court at
15 approximately 4:00 p.m.)

16 THE COURT: Ladies and gentlemen, before we take a
17 very brief recess, I know Mr. Jenkinson already told you,
18 those of you who are in the audience, but I want to make
19 absolutely sure that you don't have cell phones on you.
20 If a cell phone does go off during the trial, I'm going to
21 have to take it. We treat this just like church. And,
22 again, I want to make sure that that doesn't happen to
23 anyone. I would hate for you to lose your phone. But,
24 again, if one goes off, it's mine and I'm going to keep
25 it.

1 Additionally, ladies and gentlemen, this is a real
2 tight courtroom. And we are in very close quarters. And
3 I understand the seriousness of the charges. And I want
4 to make sure, ladies and gentlemen, that there is kept to
5 a minimum the comings and goings from the courtroom and
6 any distractions. I want to make sure that this jury can
7 focus on the lawyers and what they're asking the witnesses
8 and how they're responding, as opposed to people coming in
9 and out of the door.

10 Additionally, ladies and gentlemen, I'm going to ask
11 you to keep to a minimum any head bobbing, shaking, or
12 anything like that, agreeing or disagreeing. If for some
13 reason that happens, ladies and gentlemen, I'm going to
14 have to excuse you from the courtroom. And, again, I
15 would never want that to happen.

16 All right. So we're going to take just two or three
17 minutes for the attorneys to take a brief break. We're
18 going to come back in here. I will give a brief opening
19 about the case, and y'all can open and do your opening
20 arguments, and then we'll break for the evening.

21 Thank you.

22 (WHEREUPON, a break was taken.)

23 THE COURT: Is the State ready?

24 MR. WESTON: The State is ready to proceed.

25 THE COURT: Is the Defense ready?

1 MR. GODFREY: Yes, Your Honor.

2 THE COURT: Thank you, gentlemen.

3 Let's bring the jury in.

4 (WHEREUPON, the jury came into open court at
5 approximately 4:17 p.m.)

6 THE COURT: Welcome back, ladies and gentlemen of the
7 jury.

8 At this time, what we're going to go ahead and do is
9 swear you in as the jury in the trial of this case. I am
10 going to give you just a very brief road map of what's
11 going to happen. And then the attorneys are each going to
12 make an opening statement.

13 But, if you would, ladies and gentlemen, to begin, if
14 you would all, please, stand and raise your right hand to
15 accept the oath as the jury in this case.

16 THE CLERK: The response to the oath is "I will."

17 You shall well and truly try case 2011-GS-23-2010,
18 State v. Lamar Dontray Williams, indicted for burglary
19 first degree; 2011-GS-23-2011 for murder and possession of
20 a weapon during the commission of a violent crime;
21 2011-GS-23-2012 for attempted armed robbery; and
22 2011-GS-23-2013 for kidnapping; 2011-GS-23-2014 for
23 conspiracy; and 2011-GS-23-2035 for intimidation or
24 attempted intimidation of a witness or potential witness,
25 and a true verdict render, according to the law and the

1 evidence, so help you God.

2 (WHEREUPON, all jurors said "I will.")

3 THE CLERK: Additionally --

4 THE COURT: Hold on just a minute.

5 MR. COOKE: I think you know what I was going to say.

6 THE COURT: Yes, absolutely.

7 Ladies and gentlemen, just -- you can put your hands
8 down. You are absolutely fine.

9 There was one charge that was read in there that is
10 not a proper charge, and was not a charge. It was the
11 intimidation of a witness. So you are to strike that and
12 disregard it, ladies and gentlemen. That is not a charge.

13 THE CLERK: I'm sorry.

14 THE COURT: That's all right.

15 And we'll go ahead. And you can go ahead and do it
16 as to Mr. Boyd.

17 THE CLERK: Okay.

18 THE COURT: Go ahead and raise your right hands
19 again. We're going to continue, ladies and gentlemen.

20 THE CLERK: Again, the response to the oath is "I
21 will."

22 You shall well and truly try case 2011-GS-23-6381,
23 Richey Lamont Boyd indicted for murder and possession of a
24 weapon during the commission of a violent crime;
25 2011-GS-23-6382 for kidnapping; 2011-GS-23-6383 for

1 burglary first degree; 2011-GS-23-6384 for attempted armed
2 robbery; and 2011-GS-23-6385 for conspiracy, and a true
3 verdict render according to the law and the evidence, so
4 help you God.

5 (WHEREUPON, all jurors said "I will.")

6 THE CLERK: Thank you.

7 INTRODUCTORY REMARKS

8 THE COURT: Thank you, ladies and gentlemen.

9 You may be seated.

10 Ladies and gentlemen, what I'm now going to say to
11 you is to serve as an introduction to the trial of this
12 case. These remarks are not a charge on the law. I am
13 going to instruct you on the law that's applicable to this
14 case at the end of the trial. This is just merely an
15 explanation of what's going to happen and the procedures
16 we're going to follow during this trial so you can better
17 understand what's happening.

18 Ladies and gentlemen, the Defendants in this case are
19 tried -- or charged by an indictment that's filed in this
20 Court with the offenses of murder, possession of a weapon
21 during the commission of a violent crime, kidnapping,
22 attempted armed robbery, burglary first, and conspiracy.
23 The elements of which I'm going to explain to you at the
24 end of this case.

25 I want you to understand, ladies and gentlemen, that

1 these indictments are simply the charge that brings this
2 case here into this courtroom. And it is not in any sense
3 evidence of any of the allegations that it contains.

4 Ladies and gentlemen, the Defendants, Mr. Williams
5 and Mr. Boyd, have pled not guilty to these charges.
6 Therefore, the State has the burden of proving each of the
7 elements of each of the indictments beyond a reasonable
8 doubt. And it's your duty, ladies and gentlemen, to
9 decide whether the State has met that burden.

10 Now, your purpose, as jurors, is to find and
11 determine the facts. You, the jury, are the sole judge of
12 all the facts in this case. If at any time I make any
13 comment regarding the facts of this case, you must
14 disregard it. And, ladies and gentlemen, you are only to
15 determine the facts of this case from the testimony that
16 you're going to hear from witnesses up here on the witness
17 stand, as well as any other evidence that's introduced
18 into the Court. And, ladies and gentlemen of the jury,
19 please, understand that it is up to you to determine the
20 inferences which you feel may properly be drawn from the
21 evidence in the case.

22 Now, please, understand that it is especially
23 important that you perform your duty of determining the
24 facts diligently and conscientiously. Because,
25 ordinarily, there is no way to correct an error in the

1 determination of the facts by a jury.

2 Ladies and gentlemen, on the other hand, and with
3 equal emphasis, the same law that makes you the judges of
4 the facts makes me the judge of the law. The law, as
5 given by the Court, is the only law you may consider. You
6 must accept and follow it, even though you may disagree
7 with it. I cannot tell you what the facts of the case
8 are, and you cannot disagree with me about what the law is
9 or what you think the law should be. Your job is to take
10 the law as I give it to you and apply it to the facts as
11 you find them and from there, render a true and just
12 verdict under the oath you just took.

13 Now, until I advise you to begin your deliberations,
14 you must not discuss this case with anyone, and that
15 includes your fellow jurors, family members, friends, or
16 anyone that's involved in this case. And after the case
17 is submitted to you, you must discuss it only in the jury
18 room with your fellow jurors.

19 The attorneys, the parties, and the witnesses in this
20 case, ladies and gentlemen, have been advised that they're
21 not to talk to you at all during this case. So if you see
22 someone involved in the case and you happen to pass them,
23 maybe at lunchtime or at the end of the day in the
24 elevator or the hallway and they don't even say hello,
25 please, understand they are not being unfriendly. They

1 are simply following my orders. Ladies and gentlemen, a
2 simple comment out in the parking lot or on the street,
3 such as, My goodness isn't it cold out here today, can be
4 misconstrued. And I assure you, it always gets reported
5 back, and we'll have to inquire. And, again, I wouldn't
6 want that to happen. So, out of an abundance of caution,
7 we tell them not to speak to you in any way.

8 Ladies and gentlemen, during the trial of this case,
9 there may be some press coverage, either the newspaper or
10 on the news. And, ladies and gentlemen, I am ordering
11 that you do not watch or research anything about this
12 case. If you happen to pick up a newspaper or you turn on
13 the news and there is something about this case, I want
14 you to turn it off and disregard it.

15 Again, ladies and gentlemen, you are going to get
16 everything you need to decide this case right here in this
17 courtroom. And it would be highly improper for you to be
18 influenced by any outside source. So, again, ladies and
19 gentleman, out of an abundance of caution, please, do not
20 read -- and I'm saying it kindly, but I am ordering you
21 not to read -- if there happens to be something on the
22 news or in the newspaper when we wake up tomorrow morning,
23 I am going to ask you under oath whether or not you have
24 read it or looked at it.

25 All right. Ladies and gentlemen, it's important that

1 you keep an open mind during the trial of this case, and
2 not decide any issue in the case until all of the evidence
3 has been presented, the parties have all made their
4 closing arguments, and I've instructed you on the law in
5 this case. Please understand that it is your solemn
6 responsibility to determine the guilt or the innocence of
7 the Defendants in this case. And your verdict must be
8 based solely on the evidence as it's presented to you in
9 this trial weighing fairly and impartially the evidence as
10 I have every confidence you will.

11 Ladies and gentlemen, in just a moment, the
12 Solicitor, Mr. Weston, is going to make what's called an
13 opening statement, in which he's going to explain to you
14 what the issues are in this case, or what, at least, he
15 thinks the issues are in the case. And then both of the
16 attorneys for the Defendants are going to make opening
17 statements, although they are not required to do so.

18 What these attorneys tell you in these opening
19 statements is not evidence in this case. Again, it is
20 only their contention as to what they believe the issues
21 are. I remind you, ladies and gentlemen, that the
22 evidence in this case is going to be presented to you,
23 again, from the witness stand, as well as any other
24 exhibits that may be introduced during the trial or any
25 stipulations by the attorneys.

1 I want you to know that from time to time during the
2 trial of the case, you may hear one of the lawyers say
3 something like, Your Honor, I believe we have a matter of
4 law we need to take up, or may we approach the bench, or
5 sometimes I, myself, may excuse you back to your jury room
6 to discuss something with the attorneys. I want you to
7 understand something, they're not hiding anything from
8 you. Oftentimes, when I have to rule on a matter of law
9 whether or not certain evidence is admissible in the case,
10 I may make a comment on the case. And, again, I would
11 never want anything I say or do to influence you in your
12 determination of the facts in this case. So, out of an
13 abundance of caution, we do it outside of your presence.

14 Now, ladies and gentlemen, in determining what the
15 true facts are in this case, you must decide whether or
16 not the testimony of the witnesses is believable. It's my
17 responsibility to rule as a matter of law whether or not
18 certain testimony is admitted. But once it's admitted,
19 whether or not you believe it is solely for you to
20 determine.

21 In deciding whether to believe a witness, you have
22 the right to consider the interest of any witness, the
23 bias of any witness, the prejudice of any witness. And
24 you can look at the opportunity that the witness had to
25 have seen the matters and things about what the witness is

1 testifying to. And you can, also, look at the way the
2 witness acts or appears on the witness stand. You have
3 the right to consider anything that is in the record that
4 will help you evaluate the testimony of the witnesses.
5 Ladies and gentlemen, this means it is your duty to pay
6 close attention to the testimony of the witnesses, to
7 observe them, so that at the end of the trial, you can go
8 back to the jury room and recall the testimony that's been
9 put before you.

10 Ladies and gentlemen, because this case is expected
11 to last probably through Wednesday or so, and it's
12 relatively short, I am not going to permit you to take
13 notes. If, at some point, I think it would aid you in
14 some way, we will give you pens and pads. At this time,
15 ladies and gentlemen, I just simply ask that you sit back
16 and listen to the testimony, again, so you can accurately
17 remember it when it comes time to deliberate this case.

18 Ladies and gentlemen, every time I address you, I'm
19 going to ask the attorneys if they have any objections or
20 additions to what I have said. If not, we're going to go
21 ahead and begin the case. And, if so, I'm going to go
22 ahead and speak with you.

23 But at this time, is there anything further from the
24 State?

25 MR. WESTON: Nothing from the State.

1 THE COURT: Anything from the Defense?

2 MR. COOKE: Nothing, Judge.

3 THE COURT: Ladies and gentlemen, we are going to
4 begin the trial of this case.

5 MR. GODFREY: May it please the Court.

6 THE COURT: Yes, sir.

7 MR. GODFREY: May we approach, please?

8 THE COURT: You may.

9 (WHEREUPON, a bench conference was held.)

10 THE COURT: Sir, whenever you're ready.

11 MR. WESTON: Thank you, Your Honor.

12 May it please the Court.

13 THE COURT: Yes, sir.

14 OPENING STATEMENTS

15 MR. WESTON: Ladies and gentlemen, I'm going to
16 re-introduce myself. My name is Jeff Weston. And I am a
17 Prosecutor with the Thirteenth Circuit Solicitor's Office.
18 At the table with me is Investigator Lynn Couch with our
19 office, my trial partner, along with Mr. Chris Hammett, an
20 investigator with the Sheriff's Office here in Greenville,
21 who was responsible for the investigation into this
22 matter. And we will be presenting the case to you.

23 Ladies and gentlemen, I'd like to use my opening
24 statement to briefly do three things: Number one, tell
25 you what this case is about; number two, tell you what we

1 are required and what we intend to prove; and, finally,
2 tell you how we intend to prove it.

3 This case is about a home invasion, a crime that is
4 far too common in our society and community today. It's
5 about five men who conspired together to go into someone's
6 home and rob them, because they thought there was some
7 cash money there. We are required and we intend to prove
8 that these two men, Lamar Williams, seated here in the
9 blue shirt, and Richey Boyd, seated here in the dark blue
10 sweater, along with three others on the morning of October
11 the 18th, 2010, in the wee early morning hours went to the
12 home of Mr. Wallace Cruell, Jr., on High Valley Road up in
13 Travelers Rest, South Carolina, here in Greenville County.
14 They agreed to go there as a group and commit a crime
15 constituting conspiracy, which is the first charge.

16 They -- we will show that they committed a burglary
17 in the first degree. By that, I mean we will show that
18 they entered the residence of another without their
19 consent with the intent to commit a crime therein while
20 armed with a deadly weapon. The evidence will show that
21 three of them were armed with handguns, burglary in the
22 first degree.

23 We will show that they committed the offense of
24 kidnapping, that -- and let me give you the framework.
25 There were five of them, four went in. The driver of the

1 car stayed and waited for them to go in, complete the
2 crime, and come back and get with him and then leave. The
3 four of them that entered, including these two, both of
4 whom were armed, did not realize that the victim's uncle,
5 Mr. Noah Cruell, would be in the home. They wrestled him
6 to the ground, tied him up inside the house, and took him
7 into a room and held him there. One of the four that were
8 in the house held him there while the other three rummaged
9 through the house looking for money.

10 Now, kidnapping in its most obvious form and from
11 what we see on TV is where you stuff somebody in the trunk
12 of a car, take them away and then send a ransom note.
13 That's what we commonly think of as kidnapping. But the
14 Judge will tell you at the conclusion of the trial that
15 kidnapping is the restraint of the liberty of a person,
16 and restraining and inhibiting and preventing their
17 freedom of movement. They tied up Noah Cruell and held
18 him in another room, kidnapping.

19 As I said, they're all charged with conspiracy. And
20 conspiracy is simply the agreement by two or more people
21 to commit a crime. And then, at least, one act in
22 furtherance of that conspiracy. The evidence is going to
23 show, clearly, that not only did these five agree to do
24 this and that they all knew what they planned to do to
25 begin with, but that they went through with the crime. So

1 you've got conspiracy.

2 And, finally, ladies and gentlemen, you've got a
3 murder. During the time they're holding -- one of them is
4 holding Noah Cruell in a room while he's tied up and the
5 other three are rummaging through Wallace Cruell's home,
6 Wallace Cruell, who had just left a few minutes before
7 that to take his children to school, returned home and
8 interrupted their breaking in his home. They struggled
9 with him and wrestled him to the floor. They attempted to
10 tie him up. And when he tried to fight and get up and
11 defend his own home, that man in the blue shirt, Lamar
12 Williams, shot and killed him.

13 Once -- like rats fleeing a sinking ship, once the
14 shot was fired, all four of them freaked out and ran back
15 out of the house. They got back with the fifth man, got
16 in the car, and drove away. And the fifth man dropped
17 them off at the various locations that they told him to.
18 That's what happened, and that's what we intend to prove.

19 Finally, how we intend to prove it. You've heard me
20 say two or three times now about the five of them, but you
21 only see two sitting here. Because the way we're going to
22 prove it is from the testimony of the other three.

23 Now, we're not talking about eyewitness testimony of
24 some stranger who happened to see somebody from a distance
25 and might be wrong or right. We're talking about the

1 three people that confederated with these guys, their
2 cohorts in crime who are going to get on this witness
3 stand and tell you three things, I did what that man told
4 you at the beginning of the trial, I have pled guilty to a
5 lesser offense than murder, but I have pled guilty and
6 admitted my responsibility, and, finally, that I told the
7 police what happened and I named those two to begin with.
8 All three of them are going to tell you that. In
9 addition, you will hear evidence with regard to Lamar
10 Williams having made statements to other people that,
11 clearly, you will find indicates he admitted to this
12 crime.

13 Now, ladies and gentlemen, this is not going to be a
14 high-tech trial. This is not CSI. We're not going to
15 solve this in one hour counting commercials. You won't
16 see any DNA. You won't see any fingerprints. You won't
17 see any blue lights being strobed around the crime scene
18 and you find some aha thing, because it doesn't happen
19 like that in real life most times. This is a crime that
20 the police solved from the inside out.

21 Ladies and gentlemen, if you think about it, does it
22 get any better in terms of evidence that would satisfy you
23 than the people who, actually, committed the crime? We're
24 not talking about one dissatisfied co-defendant that
25 didn't get their share of the loot, or even two who were

1 just mad at the other three. We're talking about three of
2 the five who are going to come in here and tell you that
3 those are the other two. It's not to get themselves off.
4 They're going to admit they pled guilty.

5 When you listen to the testimony, ladies and
6 gentlemen, especially of those three co-defendants,
7 consider this, at the time Scottie Butler, the driver of
8 the car, was arrested, he gave a statement to the police.
9 He did three things. He told them what happened, pretty
10 much the same story I've just told you. He admitted his
11 involvement as the driver of the car. And he named those
12 two.

13 At the time, Willie Taylor was arrested separately
14 from Scottie Butler -- and they're going to tell you they
15 hardly even knew each other. And they're going to tell
16 you they never talked from the morning they were let out
17 of that car. He's going to tell you three things, Willie
18 Taylor will, that he was involved in the crime and it
19 happened pretty much the way I just told you it happened.
20 He's going to tell you that he was responsible, and what
21 he did, and that he was in that house. And he's going to
22 tell you that those are the other two.

23 Jeff Dornberg is going to get on that witness stand
24 and tell you he was the fifth man. He's going to tell you
25 three things. He's going to tell you what happened. And

1 it's going to be pretty much the same story that I just
2 told you. He's going to tell you that he was responsible
3 and that he participated. And he's going to tell you that
4 they were the other two. Three men, three statements
5 separately telling you I did it and these other people did
6 it, and they did it. If that's not enough, ladies and
7 gentlemen, I don't know what is.

8 At the conclusion of this trial, you're going to know
9 three things: Number one, how this crime was committed;
10 number two, that these other three co-defendants did it
11 and have pled guilty to it; and that these are the other
12 two.

13 Thank you.

14 THE COURT: Thank you, sir.

15 Mr. Godfrey.

16 MR. GODFREY: May it please the Court.

17 Ladies and gentlemen, again, my name is Bill Godfrey.
18 I represent Richey Boyd. Seated at the table with Richey
19 and myself is Private Investigator Paul Silvaggio, who's
20 helping me with the case.

21 Richey Boyd has been looking forward to coming to
22 court, because he has wanted to have this matter resolved.
23 As you just heard, he is charged with some serious
24 charges. You can't get much more serious than the charges
25 that he has. When somebody is charged with a crime, the

1 Government over here has to prove it. They have to bring
2 evidence in here and they have to prove beyond a
3 reasonable doubt that my client, Richey Boyd, had
4 something to do with it.

5 You know, as a jury, you're going to hear testimony
6 from this witness stand. You're going to see some
7 pictures that are put into evidence. You may see a couple
8 other physical items that are put into evidence. You're
9 going to see these witnesses up here. One of the things
10 you do as a jury is that you have the right to use your
11 common sense and look at somebody, and look at their
12 demeanor, and how they're acting so you can make a
13 determination as to whether somebody is telling the truth
14 or not.

15 There's going to be very little physical evidence in
16 this case, in fact, about none. What you're going to hear
17 is some people talking. One of the questions that you
18 have when you use your common sense is, what does a person
19 have to gain by saying what they're saying? What does a
20 person have to lose if they don't say what they're saying?
21 Who gains? Who loses? What's the motivation? Those are
22 the important considerations for this case. The demeanor
23 of the witnesses, who wins, who loses, who gains, who
24 loses. That's the crux of this case.

25 Ladies and gentlemen, the Government over here,

1 Mr. Weston, he has to prove to you each and every element
2 of each and every crime beyond a reasonable doubt. What
3 Richey Boyd requests that you do is carefully watch all of
4 the testimony from that witness stand and assess the
5 people who are making the statements. Who has something
6 to win? Who has something to lose? Who's gaining a
7 benefit? Who's losing a benefit? That's what this case
8 is about. We believe that after you have heard all of the
9 evidence -- I should say all of the statements, that when
10 you go back and deliberate, you will find that Richey Boyd
11 is not guilty of any of these charges.

12 Thank you.

13 MR. COOKE: May it please the Court.

14 THE COURT: Yes, sir.

15 MR. COOKE: Ladies and gentlemen, my name is Larry
16 Cooke. I've been practicing law in Greenville for over 40
17 years. I've got a little age on me, as you can tell. It
18 wasn't a senior moment. I was just busy with paperwork
19 over there. And I apologize to anybody I might have
20 called Mr. and Mrs., and that sort of thing.

21 Bill has done a pretty good job telling you folks
22 what this case is all about. Both of our clients are
23 presumed innocent until they're proven guilty beyond a
24 reasonable doubt, and it's up to the State of South
25 Carolina to do that. We don't have to do anything. I

1 mean, we can sit over there and not say a word, not
2 cross-examine a witness, not do anything, and make them
3 prove it to you. That's the greatest thing about our
4 system. We have that right.

5 Of course, we have a right for 12 people, 12 citizens
6 to sit in judgment of us. It's probably the most powerful
7 responsibility known to man is to have your fellow
8 citizens sit here and judge you, and have the power of
9 life and death. It's just an awesome power.

10 So I ask you to, please, consider all that and
11 consider the weight that's on the State of South Carolina.
12 I know you've heard in the past about reasonable doubt.
13 Sometimes, I equate that with the scales of justice.
14 They're evenly balanced when you come in. If you were
15 trying a civil case, if you just barely tip them in your
16 favor, you win a civil case, if I'm suing you for breach
17 of contract or some of that stuff. When you come in here
18 and you're charged with a crime, it's on the State of
19 South Carolina to take those scales that are evenly
20 balanced and get them down here. That's a big, big burden
21 for them to do.

22 I say that at the end of the trial, what you are
23 going to be asking yourself is, where is the beef? Where
24 is the evidence to show that my client is guilty of
25 anything in this case? My client has pled not guilty.

1 He's presumed not guilty until the State strips that away
2 and you find him guilty beyond a reasonable doubt. All 12
3 have to agree. We have plenty of time. I know some of
4 you have other things to do, but, please, give us your
5 close attention. And I think you will find that the State
6 cannot meet that burden of proof.

7 Thank you very much.

8 THE COURT: Thank you.

9 Ladies and gentlemen, we are going to go ahead and
10 break for the night. But, right before we do that, there
11 are a couple of other ground rules I want to tell you
12 before I release you for the remainder of the day.

13 To begin with, if you were able to get into the
14 courthouse today with cell phones or any type of
15 computers, I'm going to ask that you leave them at home or
16 back in your car, because you can get so much information
17 these days on a cell phone. We just ask that you leave
18 them back so no one is tempted in any way. If you need to
19 use a phone for any reason while you're performing jury
20 service, just ask the bailiffs.

21 Again, ladies and gentlemen, I will tell you the
22 bailiffs are here to take care of you. That is their sole
23 job. If you need anything, please, ask them. And, they,
24 of course, will ask me if it's something that requires my
25 order, or they will take care of you.

1 Also, I need to tell you again, you are not to
2 discuss this case with anyone. When you go home tonight
3 and you see a family member, friend, or a loved one and
4 they ask what you're doing at the courthouse, the only
5 thing that you are permitted to say is that you are
6 sitting on a jury involving a criminal trial. You're not
7 allowed to say the parties involved, the lawyers, or the
8 charges. And the reason why is this, inevitably, although
9 they know nothing about the case, they will have to tell
10 you something about something. And they, of course, will
11 be incorrect. And for you to be influenced would be
12 inappropriate. So out of an abundance of caution, don't
13 say anything.

14 Additionally, I told you there may be some press
15 coverage on this, either through the Internet, through the
16 newspapers, TV, possibly radio. Again, you are not to
17 read it. If there is any, I am going to ask you under
18 oath tomorrow whether or not you've looked at it, or read
19 it, or have seen it, heard it, or whatever form it's in.
20 Again, that would be inappropriate.

21 Additionally, ladies and gentlemen, I know you know
22 very little about this case, just what I've told you and
23 what these attorneys have told you in their opening
24 statements. But you are not to do any independent
25 research in this case. Again, that would be highly

1 inappropriate. You're going to have everything you need
2 to decide this case right here in this courtroom. For you
3 to do any type of research like that would, again, be
4 wrong. And I'm instructing you not to do it.

5 Additionally, ladies and gentlemen, this is something
6 that I newly have to charge jury's. If you are a person
7 that blogs, or Facebooks, or does any of these personal
8 websites, or chats, you are not to post on any type of
9 website, or e-mail, or anything else that you are sitting
10 on a jury or what it's about. Because, of course, it
11 could invite conversation. So, again, if you are someone
12 who on a daily basis blogs or puts things up, you are
13 not to state that you are sitting on a jury. And I
14 want to make sure everyone understands and appreciates
15 that.

16 Again, ladies and gentlemen, I remind you that you
17 are not to speak to any of the parties, any of the
18 witnesses, or anyone you happen to see in this courtroom
19 while you are coming and going from the courthouse.
20 Because, again, an innocent conversation out in the
21 parking lot or in the elevator of the courthouse could be
22 misconstrued. And, again, ladies and gentlemen, it always
23 gets reported back, I will tell you that. And I'm going
24 to have to ask you about it.

25 And, lastly, ladies and gentlemen, we are going to

1 begin tomorrow morning at 9:30. I cannot begin until all
2 14 of you are here. So if for any reason you have car
3 trouble or a problem getting here, I need you to call up
4 to the Clerk's Office and tell them. We will send someone
5 to come get you, or we will do whatever is necessary.
6 Because, again, ladies and gentlemen, I can't start until
7 y'all are here. But I do assure you this, once you all
8 are here and we're ready to go -- I'm going to make sure
9 the lawyers are prompt and everyone else is prompt, and
10 we're going to get this case moving.

11 All right. Ladies and gentlemen, I want to thank you
12 for your service again. Please understand how important
13 it is. If you were sitting as a party in this case or any
14 other case, you would want to know that the good people of
15 Greenville County would help you resolve this. And,
16 again, I can tell by looking out that you are a wonderful
17 jury. I know you're going to do a wonderful job with this
18 case.

19 And we look forward to seeing y'all back tomorrow
20 morning at 9:30. You're going to report to your jury
21 room. Your bailiffs are going to tell you where you're
22 going to go in the morning.

23 Again, thank you.

24 Good night. And we will see you at 9:30 in the
25 morning.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 4:50 p.m.)

3 THE COURT: Okay. They're gone?

4 THE BAILIFF: Yes, ma'am.

5 MOTIONS

6 THE COURT: All right. Mr. Godfrey, I think you had
7 a motion that you brought up at the bar that I think you
8 need to renew for our court reporter.

9 MR. GODFREY: May it please the Court.

10 Judge, we would move for a mistrial at this time. We
11 all knew that the intimidation of a State's witness charge
12 was not going to go forward.

13 THE COURT: It was against Mr. Williams only.

14 MR. GODFREY: And, unfortunately, the Clerk was not
15 advised of that. And she verbally told the jury there was
16 an intimidation of a State's charge [sic] that applied to
17 Mr. Cooke's client. The Court then said it was an
18 improper charge, that it was not a charge in this case.

19 Judge, in this particular case, as Mr. Weston just
20 said, it comes down to three witnesses, who were allegedly
21 co-defendants of these clients -- of these people. The
22 jury has heard intimidation of a State's witness. That is
23 in their mind, and I don't know how it can be taken out of
24 their mind.

25 Earlier today, I started off the second motion with a

1 motion of severance, which was denied by the Court. I
2 believe that if the intimidation of a State's witness
3 charge had been part of the charges going forward with
4 Mr. Williams, the Court may have granted the --

5 THE COURT: Severance.

6 MR. GODFREY: -- motion for severance.

7 But, you know, there is no physical evidence in this
8 case. It's witnesses talking. The jury has heard
9 intimidation of a State's witness. How can they get that
10 out of their mind? How can it not raise a question in
11 their mind? And I believe that it creates prejudice to my
12 client. How does the jury know that there wasn't a charge
13 for intimidation of a State's witness that's not going
14 forward on my client? I believe that on a case that is
15 this serious, with these type of charges, people facing
16 potentially two natural life sentences plus 55 years that
17 there needs to be an abundance of caution, and that the
18 trial needs to be as absolutely fair as it can be.

19 Now that those words are out there and in the jury's
20 mind, I don't think a curative instruction can stop it.
21 It's in their mind. The bell -- you can't unring that
22 bell. We would ask for a mistrial.

23 THE COURT: Mr. Cooke.

24 MR. COOKE: Judge, I caught your eye as soon as that
25 was said.

1 THE COURT: I immediately cured it, realizing --

2 MR. COOKE: Well, I know you did. You did your best.

3 But I agree with Bill. I know we've been here a long
4 time today. And -- but I have a client who's in the same
5 boat. I mean, this -- they're depending on nothing but
6 the co-defendants testimony. There's no physical
7 evidence, no nothing, period. And to bring out
8 intimidation of a witness, I think in a case like this --
9 it may not matter in other cases, but in a case like this
10 where there is nothing but that sort of testimony and that
11 sort of evidence, I'm like Bill, I don't believe you can
12 unring that bell either. I think that's going to be in
13 their minds throughout this trial.

14 And to have people charged with the seriousness of a
15 crime like this, as he said, with two life sentences,
16 it's -- I just think we need to take a precaution that we
17 don't let this happen, that we don't let this jury take
18 this case under consideration. I think they're
19 prejudiced. I think they would be.

20 THE COURT: Mr. Weston.

21 MR. WESTON: Your Honor, just briefly. Let me begin
22 by saying that our Supreme Court has said on numerous
23 occasions that the declaration of a mistrial should be a
24 last resort. This was an inadvertent one line, with no
25 context, with absolutely no reference to Mr. Godfrey's

1 client whatsoever. It was cured immediately.

2 Counsel misconstrued -- or is misconstruing the
3 State's case, we've given them, of course, discovery,
4 but -- and while I did tell the jury that the case was
5 going to hinge primarily on the testimony of the three
6 co-defendants, I, by no means, said that was all the
7 evidence we had. There will be other physical things put
8 into evidence, Your Honor, other than just the testimony
9 of the three witnesses.

10 I did not object when Counsel in his opening
11 statement misconstrued what I said about the fact there
12 would be other statements from other people. I didn't
13 object to that. I could ask for a mistrial based on that,
14 Your Honor. But, once again, that was a minor thing, just
15 like this was a minor thing. It was cured immediately.
16 The fact that Counsel says that the jury might now think
17 this applies to his client shows how speculative that is
18 and how specious his argument is.

19 The State's position would be, Your Honor, that it
20 was minor. It was cured immediately. It, clearly, in no
21 way impedes this jury's ability to give their clients a
22 fair trial.

23 THE COURT: Okay. Well, respectfully, I did hear the
24 comment. I did cure it immediately. And not only did I
25 state that that is not a proper charge going forwards, it

1 is not a charge at any time. I did cure it immediately.
2 I, certainly, can give an additional curative instruction
3 during my jury charge as well.

4 So, at this time, I'm going to respectfully deny your
5 motion for a mistrial.

6 I will see y'all tomorrow morning at 9:30.

7 (WHEREUPON, the proceedings were concluded at
8 approximately 4:57 p.m., to be reconvened on
9 Tuesday, February 14, 2012.)

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1 TUESDAY, FEBRUARY 14, 2012

2 THE COURT: Is there anything we need to put on the
3 record, gentlemen, before we bring the jury in this
4 morning and begin?

5 MR. GODFREY: May it please the Court.

6 THE COURT: Yes, sir.

7 MR. GODFREY: The only thing I would like to move, at
8 this point, is to sequester the witnesses. I believe the
9 State has no problem with the co-defendants being
10 sequestered. And, as far as the mother of the victim and
11 Noah Cruell, I have no problem with them being in the
12 courtroom at the same time.

13 THE COURT: Of course.

14 MR. GODFREY: But any other civilian witness or law
15 enforcement witness that is not the chief investigator, we
16 would request that they be sequestered.

17 THE COURT: Okay. Mr. Weston.

18 MR. WESTON: Your Honor, we would state for the
19 record, just from a legal standpoint, the fact that the
20 witnesses have the opportunity to compare testimony is not
21 a sufficient basis for sequestration.

22 However, we would want to make it clear that if the
23 Court rules that the witnesses should be sequestered, two
24 things, basically. One is that any witnesses that the
25 Defense intends to call that we are not aware of --

1 because we keep getting names of new people. We've gotten
2 now -- as of yesterday morning, we got alibi witnesses
3 that we're going to object to at the appropriate time that
4 are now -- we don't know who these people are. It's like
5 herding cats, Your Honor. We don't know who they are. So
6 when someone is out in the hall talking to someone else,
7 we don't know if they're potentially a witness that may be
8 called a day or two from now. And that's our concern.

9 So we would ask -- and we're -- as I said, we're
10 going to object to the introduction -- or to the --

11 THE COURT: The alibi witnesses.

12 MR. WESTON: -- to the use of certain alibi
13 witnesses. But we would ask that both Defense lawyers on
14 the record ask the alibi witnesses to give the Court their
15 names and have them stand so we'll know who they are, and
16 so security will know who they are, so that if they are
17 out in the hall talking to each other and comparing
18 testimony, we can add that to our list of objections.

19 MR. GODFREY: May it please the Court?

20 THE COURT: Yes, sir.

21 MR. GODFREY: We don't have any witnesses.

22 MR. COOKE: I gave him a list of my witnesses
23 yesterday, Judge.

24 MR. WESTON: And, as I said, we're going to object to
25 that, but we'd like to know who they are.

1 MR. COOKE: Most of them, I think you know. One --
2 well, maybe there's two that you don't know. There's a
3 fellow in the jail down there that is a witness in the
4 case.

5 MR. WESTON: We'd like his name, Judge.

6 MR. COOKE: He's on the list. His name is Michael
7 Williams. And then you have a witness on there who's a
8 lady from Laurens, who is a witness for him. And she has
9 nothing to do -- I mean, she was not with my client the
10 date this alleged thing happened. She just happens to be
11 a witness of mine. I mean, I don't have to tell you what
12 she's got to say --

13 MR. WESTON: We're not asking what she's going to
14 say --

15 THE COURT: Okay. Gentlemen, we don't need to argue
16 over this.

17 I am going to go ahead and sequester the witnesses.
18 And it's good for both sides.

19 So let's invite whoever is not the main investigator,
20 who is not the victim's mother or immediate family
21 member -- they, of course, can remain. Anyone else needs
22 to go ahead and exit the courtroom. I am quite sure that
23 they all know there is nothing in this courthouse that is
24 not videotaped, I don't care where you stand, or where you
25 go, or where you talk. So I would, certainly, suggest

1 that no one be discussing any testimony. Because it's
2 going to be caught on film anyway.

3 Gentlemen, thank you. I appreciate it.

4 MR. WESTON: Your Honor, just for the record, also, I
5 have shown and I have placed in the corner here a placard
6 that is demonstrative of the crime scene involving --
7 basically, it depicts the two homes involved in this. It
8 doesn't have anything specific, other than that. And the
9 initial witness will, basically, testify and identify the
10 two houses just to give the jury some perspective.

11 THE COURT: Okay. That's fine.

12 Do you have a pointer or anything, or do you need
13 one?

14 MR. WESTON: No, ma'am.

15 We're going to ask her to come down and just kind of
16 point to them. It won't take very long.

17 THE COURT: We're big on pointers in Beaufort. I
18 don't know why, but, apparently, we are. Okay.
19 that sounds good. As long as they can see it, that's
20 fine.

21 Anything else we need to do before we bring the jury
22 in this morning?

23 MR. WESTON: Your Honor, may I have one moment?

24 THE COURT: Yes, sir.

25 (Pause.)

1 (WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7,
2 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 were
3 marked for identification only.)

4 THE COURT: Are we ready to go?

5 MR. WESTON: Yes, Your Honor.

6 THE COURT: Is the Defense ready to go?

7 Bring them on in, sir.

8 (WHEREUPON, the jury came into open court at
9 approximately 9:35 a.m.)

10 THE COURT: Good morning, ladies and gentlemen.
11 Welcome back.

12 Thank you all for being here so prompt.

13 At this time, we're going to go ahead and begin
14 taking evidence in this case.

15 The State will call their first witness.

16 MR. WESTON: Thank you, Your Honor.

17 May it please the Court.

18 The State would call Ms. Shirlene Cruell.

19 THE COURT: Ms. Cruell, if you'll, please, come
20 forward to be sworn.

21 THE CLERK: If you'll place your left hand on the
22 Bible and raise your right.

23 THE BAILIFF: Right here.

24 MS. SHIRLENE CRUELL: I'm sorry.

25 THE COURT: That's okay.

1 WHEREUPON,

2 SHIRLENE D. CRUELL,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 You may be seated.

6 Would you, please, state your name for the record.

7 THE WITNESS: My name is Shirlene D. Cruell.

8 THE CLERK: Thank you.

9 THE COURT: Thank you, ma'am.

10 DIRECT EXAMINATION

11 BY MR. WESTON:

12 Q Ms. Cruell, let's go ahead and begin by acclimating
13 the jury and the Court as to who you are. You are the
14 mother of the victim in this case, Mr. Wallace Cruell,
15 Jr.; is that correct?

16 A I am.

17 Q How old are you, Ms. Cruell?

18 A I am 61 years old.

19 Q And where do you live?

20 A I live at [redacted] Valley Road in Travelers Rest.

21 Q Is that in Greenville County?

22 A That is, sir.

23 Q All right. Are you employed, Ms. Cruell?

24 A I am retired, but I am, also, a gospel recording
25 artist.

1 Q All right. And are you married?

2 A I am.

3 Q And who's your husband?

4 A My husband is Wallace Cruell, Sr.

5 Q And this is your husband seated right here?

6 A He is seated in the courtroom here.

7 Q And about how long -- not about, excuse me. How long
8 have y'all been married?

9 A We've been married for 44 years.

10 Q I had a feeling you would know the exact number of
11 years.

12 And in addition to Wallace Cruell, Jr., do you have
13 any other children?

14 A I have a daughter.

15 Q And how old is she?

16 A My daughter is 43.

17 Q Okay. Let me direct your attention to the aerial
18 photograph that's been placed to your left. Do you
19 recognize the streets listed at the bottom -- excuse me.

20 Would you just step down from there a moment right
21 next to you?

22 A (Witness complied.)

23 Q And I'm going to need you to speak up loudly since
24 you won't be at the microphone, so that the juror all the
25 way down at the far end can hear you.

1 All right. Do you recognize the two streets that are
2 listed at the bottom?

3 A Yes.

4 Q Would you tell the jury what those streets are, and
5 just kind of point to them?

6 A This is Bethany Baptist Road that comes down to a
7 point and stops at the main street, which is Valley Road.

8 Q And do you see -- this is an aerial photograph. Do
9 you see your home in this picture?

10 A Yes.

11 Q Would you point to it for the jury, please?

12 A This is our home here.

13 Q All right. And, now, did your son, Wallace Cruell,
14 live near you?

15 A Yes, he did.

16 Q And would you point to his home for the jury, please?

17 A This is my son's home here.

18 Q Now, it's obvious, but, just for the record, assuming
19 you were going down Valley Road, show the jury how you
20 would reach your son's home in a car.

21 A Here is our home and our driveway. He is several
22 feet -- maybe 100 feet from our -- from the main road from
23 our driveway. And it's a long extended driveway, which
24 used to be an old railroad area there. And this is the
25 end of our land stretch where he has an acre of land.

1 Q And I'm going to ask you about that in a moment. In
2 between the two homes, there appears to be sort of a
3 pathway. Would you just kind of point to that and show
4 the jury what I'm talking about?

5 A Here is the patio. From the patio, there is an open
6 stretch of area there that we cleaned off and made a
7 pathway there to go to our son's home.

8 Q All right. You can return to your seat, ma'am.

9 A (Witness complied.)

10 Q Let me show you what has been pre-marked as State's
11 Exhibit No. 5, and ask you if you recognize this, ma'am?

12 A Yes. This is our son's home.

13 Q All right. And is that the front or the back?

14 A This is the front.

15 Q All right. Let me show you what has been pre-marked
16 as State's Exhibit No. 3. Do you recognize that, ma'am?

17 A Yes.

18 Q What is that?

19 A This is the back patio area of our home.

20 Q All right. And what's been marked as State's Exhibit
21 No. 4, do you recognize this, ma'am?

22 A Yes. This is, also, another stretch of the back of
23 our home from the patio going to the pathway there.

24 Q So State's Exhibit Nos. 3 and 4 are the back of your
25 home?

1 A Yes.

2 Q And State's Exhibit No. 5 is the front of your son's
3 home?

4 A Yes.

5 Q And let me show you what's been marked as State's
6 Exhibit No. 2. Do you recognize that, ma'am?

7 A Yes, I do.

8 Q What is that, ma'am? What does that depict?

9 A This is the front of his home, the entrance.

10 Q To your son's home?

11 A Yes.

12 MR. WESTON: The State would introduce State's
13 Exhibit Nos. 2, 3, 4, and 5.

14 THE COURT: Have you shown them to the Defense?

15 MR. COOKE: No objection.

16 MR. GODFREY: Without objection.

17 (WHEREUPON, State's Exhibit Nos. 2, 3, 4, and 5 were
18 admitted into evidence.)

19 MR. WESTON: Permission to publish to the jury, Your
20 Honor?

21 THE COURT: You may, sir.

22 BY MR. WESTON:

23 Q Ms. Cruell, you have a picture in your hand --

24 A Yes.

25 Q -- that you brought to the witness stand. Would you

1 tell the jury what the picture depicts?

2 A This is a picture of our son.

3 Q All right. And this was taken sometime shortly
4 before his death?

5 A During Easter time of that year before he died.

6 Q And it's been marked as State's Exhibit No. 1?

7 A (Witness nodded.)

8 MR. WESTON: Your Honor, the State would ask to move
9 State's Exhibit No. 1 into evidence. I've shown it to
10 Defense Counsel already.

11 THE COURT: No objection?

12 MR. GODFREY: Without objection.

13 MR. COOKE: None here.

14 THE COURT: It's in evidence.

15 (WHEREUPON, State's Exhibit No. 1 was admitted into
16 evidence.)

17 MR. WESTON: Permission to publish it, Your Honor?

18 THE COURT: You may, sir.

19 BY MR. WESTON:

20 Q Now, who all lives in your home, ma'am?

21 A My husband and I. My daughter has just recently
22 moved in since our son died.

23 Q And how old is your daughter, you said?

24 A She's 43.

25 Q Okay. Was she living there back in October of 2010?

1 A No.

2 Q So it was just the two of y'all at that time?

3 A Yes.

4 Q Now, was your husband working in October of 2010?

5 A Yes. He has a small business, a lawn care business.
6 And he and my son worked together.

7 Q And by your "son," do you mean Mr. Wallace Cruell?

8 A Wallace, Jr., yes.

9 Q Did y'all call him -- have a nickname for your son?

10 A Jay was his nickname.

11 Q And you can refer to him as Jay, if you like, ma'am.

12 A Thank you.

13 Q Now, in October of 2010, what were the living
14 arrangements in your son's home?

15 A At the time, he was living there with his girlfriend
16 and with his two boys.

17 Q And how old are his children, ma'am?

18 A The children are eight, almost nine, and 12, the
19 oldest boy.

20 Q All right. And was -- and I assume both of these
21 children were in school at the time, back in October of
22 2010?

23 A Yes. He had taken them to school. We saw him leave.

24 Q Okay. Just --

25 A I'm sorry.

1 Q They were attending school at that time; correct?

2 A Yes.

3 Q Now, was his wife working at this time -- his
4 girlfriend, his fiancée, as you referred to her?

5 A Yes, she was at that time.

6 Q Where was she working?

7 A She was working at McDonald's at Furman.

8 Q All right. And, now, normally -- and were you
9 familiar or are you -- were you familiar with the
10 routine -- the morning routine in their home with regard
11 to getting the kids up, and getting them to school, and
12 that kind of thing?

13 A Yes, sir.

14 Q About what time did your husband's [sic] girlfriend
15 leave to go to McDonald's, generally?

16 A My son?

17 Q No. His girlfriend.

18 A Oh, I'm sorry. She has different shifts. And,
19 sometimes, the shifts that she's on takes her either later
20 in the morning or early in the morning. And this shift
21 took her earlier in the morning.

22 Q At about what time would she be leaving?

23 A I guess it was around maybe 6:00 or so. I'm not
24 quite sure.

25 Q And, on those mornings when she had to be at work at

1 6:00, who was responsible for taking your grandchildren to
2 school?

3 A My son.

4 Q And about what time would he do that?

5 A He left around 7:10, 7:15 that morning.

6 Q All right. Now, I'm going to direct your attention
7 to October the 18th of 2010, the morning of October 18th,
8 2010, the morning that your son was killed. And I know
9 this is going to be difficult for you, so I won't linger
10 too long on that. But I need to ask you some basic
11 questions about what happened that morning, and what you
12 saw.

13 You were at home that morning; is that correct?

14 A Yes, sir.

15 Q And where was your husband?

16 A He was in the house with me.

17 Q All right. And did your husband leave the home that
18 morning?

19 A He did. We were about to go walking, but he decided
20 to go hunting a little bit before they went to work.

21 Q All right. And so he was outside the home when you
22 first received news of any kind of an incident?

23 A Yes. He had walked down through the woods there near
24 our home, down through the woods area there. And I had
25 just seen my son drive in his driveway at 7:25. I looked

1 at my clock, because I was about to leave at 7:30 to go
2 walk. And he arrived back from taking the kids to school
3 at exactly 7:25.

4 Q So you saw him pull up in his driveway just from a
5 distance?

6 A Yes. I was standing in my den, and my window faces
7 the front of the road area.

8 Q Okay. So, now, tell the jury what happened next
9 after you saw your son and you just kind of moved, I
10 assume, or he went in the house or whatever, but you
11 didn't see him anymore. Tell the jury the events that
12 occurred next.

13 A At 7:25, I was about to go. I turned around and my
14 brother-in-law was coming around the front of the house --

15 Q Okay. Excuse me. Now, I'm going to interrupt you.

16 A I'm sorry.

17 Q No, no. I apologize for having to interrupt you.
18 But I'm going to interrupt you if I need to ask you a
19 question. And I apologize in advance for that.

20 A Okay.

21 Q You said your brother-in-law was coming around the
22 house. What is your brother-in-law's name?

23 A Noah Mack Cruell.

24 Q All right. And he was coming around your house?

25 A He was coming from the back area to around the front

1 of the house. And I spotted him. And I was wondering why
2 in the world was he coming around the front of the house
3 with no shoes and hardly any clothes on. And he had a
4 drop cord wrapped around his wrist, and he was struggling
5 trying to get it off of him.

6 And I saw him and I ran to the door. And I asked
7 him, Why in the world are you out here in this cold.
8 Because it was cold that morning. And all he could say
9 was that Jay shot. Jay shot.

10 And I asked him, What did you say?

11 And he said, Jay shot.

12 And I took off out the back door from my house. And
13 I ran down the path, and ran in his back door where it was
14 torn off the hinges. And I --

15 Q Excuse me, ma'am, for interrupting. Do you need a
16 moment, ma'am?

17 A I'm fine.

18 Q All right. Once we get through this, I promise I
19 won't linger long on it. Once you entered the home, where
20 was your son in the home?

21 A In the kitchen floor.

22 Q All right. And did you make any attempts to see what
23 his condition was? Did you go over to him, or something
24 like that?

25 A Yes. I went over to him and shook him trying to wake

1 him up. And he wouldn't answer me.

2 Q And so what did you do next, ma'am?

3 A I tried to find a phone. The house was in shambles.
4 I couldn't find the phone and --

5 Q Did you, finally, find a phone, ma'am?

6 A I, finally, found the phone. And I picked it up and
7 dialled 911. And --

8 Q All right. And did you see anyone else in the home?

9 A There was no one else in the house.

10 Q All right. Now, just going back briefly, ma'am. You
11 said something about the back door. What was the
12 condition of the back door?

13 A The door was torn off of its hinges. It was tilted
14 sideways. I just couldn't understand why the door was
15 that way.

16 Q Okay. Ma'am, I only have a couple more questions for
17 you, I promise, Ms. Cruell.

18 Now, back at your home before all of the -- before
19 your uncle, Noah Cruell -- your brother-in-law -- excuse
20 me, Noah Cruell, came to the home, did you see anyone
21 other than your son pulling in and your husband going off
22 to hunt that morning.

23 A No, I did not.

24 Q Did you hear any gunshots or anything like that, or
25 anything suspicious that morning?

1 A No, I did not.

2 Q Now, you said your -- and this is the last question I
3 have for you, ma'am, I promise.

4 You said your brother-in-law, Noah Cruell, just kind
5 of said, Jay shot. Would you -- did he seem to be very
6 excited and upset?

7 A My brother-in-law has an impediment, which causes him
8 to stutter, slow to speak. And he has a memory of
9 slowness. And so that's why I kept asking him. Because
10 he was sort of stuttering a little bit, and I couldn't
11 quite get what he was saying.

12 Q Now, your brother-in-law, you said, has some
13 communication deficiencies; is that correct?

14 A Yes.

15 Q Would it be safe to describe him as slow?

16 A Yes, he is.

17 Q Does he know right from wrong?

18 A Yes, he does.

19 Q Does he know the truth from a lie?

20 A Oh, yes.

21 Q And, now, where was your brother-in-law living at the
22 time of this incident?

23 A He was living with my son.

24 Q So your son is -- had in the home with him, his
25 girlfriend, their two children, and his brother -- uncle,

1 Noah Cruell; is that correct?

2 A Yes.

3 MR. WESTON: And I think that's all I have, Your
4 Honor.

5 THE COURT: Yes, sir.

6 MR. WESTON: Thank you, ma'am.

7 THE COURT: Thank you.

8 You can keep your seat.

9 Any questions from the Defense?

10 MR. GODFREY: May it please the Court.

11 I have no questions for Ms. Cruell.

12 THE COURT: Thank you.

13 Mr. Cooke.

14 MR. COOKE: I have just a couple.

15 CROSS-EXAMINATION

16 BY MR. COOKE:

17 Q Ms. Cruell, you have a very nice voice. I can
18 understand why you do some recordings. I have just a
19 couple of questions.

20 How many acres do y'all have there?

21 A Total 8.5.

22 Q How many?

23 A 8.5.

24 Q And the driveway to your son's house, did you hear
25 any cars or anything that morning?

1 A No, sir.

2 Q Okay. And how long had your son been living there

3 behind you?

4 A About 17 years.

5 Q Okay. And had he been away for any period of time?

6 A Yes, he had.

7 Q And tell me how long he had been away from the house.

8 A He was gone for five years.

9 Q Okay. And why was he gone for five years?

10 A Because he was incarcerated. He was incarcerated for

11 drugs.

12 Q He was incarcerated for drugs?

13 A Yes.

14 Q Okay. And he served five years?

15 A Five years, yes, sir.

16 Q Now, did Mr. Noah Cruell live there with your son?

17 A Yes, he did.

18 Q How long did he live there?

19 A I would say maybe five, six years, or so.

20 Q And did he leave for a period of time?

21 A No, not from his home, no, sir.

22 Q Do you know whether he's ever been to prison for

23 selling drugs?

24 MR. WESTON: Objection, Your Honor.

25 THE COURT: Basis?

1 MR. WESTON: Your Honor, he's laid no foundation.
2 And what he's doing is trying to put in the criminal
3 record of someone that hasn't even testified yet. There
4 are specific rules with regard to that type of evidence
5 coming in, Your Honor.

6 THE COURT: All right.

7 MR. WESTON: And this is not an appropriate way to
8 try to do that.

9 MR. COOKE: My response to that is they're the ones
10 that mentioned Noah Cruell, and the fact that he
11 stuttered, and he was slow, and he had a hard time -- in
12 other words, that he was dumb, I guess, is, basically,
13 what they're saying. That's what I kind of got from it.
14 And I'm trying to say that he didn't -- well, I'll get it
15 later on. I withdraw it --

16 THE COURT: From a different witness.

17 Ladies and gentlemen, strike that question.

18 MR. COOKE: I withdraw the question.

19 BY MR. COOKE:

20 Q So Noah Cruell lived there five years?

21 A I believe so, yes.

22 Q And they were all living there in the trailer?

23 A Yes.

24 Q How many bedrooms are in the trailer?

25 A Three.

1 Q So there was Noah, your son, two children, and his
2 girlfriend?

3 A Yes.

4 MR. COOKE: Excuse me just a minute.

5 (Pause.)

6 MR. COOKE: Thank you, ma'am.

7 I have no further questions.

8 THE COURT: Thank you.

9 MR. WESTON: I just have one question on redirect,
10 Your Honor.

11 THE COURT: Yes, Mr. Weston.

12 REDIRECT EXAMINATION

13 BY MR. WESTON:

14 Q How old was your son?

15 A 36 years old.

16 Q 36?

17 A Yes.

18 MR. WESTON: That's all I have, Your Honor.

19 THE COURT: Thank you.

20 You may step down, Ms. Cruell.

21 MR. WESTON: Your Honor, may we approach?

22 THE COURT: You may.

23 (WHEREUPON, a bench conference was held.)

24 THE COURT: Ladies and gentlemen of the jury, we are
25 waiting for a quick moment for the next witness to get

1 here. So I am going to take a quick break. I'm going to
2 send you back to the jury room to get a cup of coffee.

3 Again, do not discuss this case. It would not be
4 appropriate to do so among each other as well. And we'll
5 bring you right back in the courtroom.

6 Thank you.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 9:56 a.m.)

9 THE COURT: All right. We're going to be at ease for
10 about five minutes or so. If y'all will let me know when
11 the next witness comes.

12 (WHEREUPON, a break was taken.)

13 MR. WESTON: Your Honor, Mr. Noah Cruell is now
14 present in the courtroom, and he is available to testify.

15 Before the jury comes back, I wanted to go through
16 his criminal convictions, which are not that lengthy, but
17 I wanted to make sure there was no issue with regard to
18 what matters can be used for impeachment.

19 He has a 1998 driving under the influence, driving
20 under suspension, and uninsured -- and driving uninsured
21 vehicle; 1990, driving under suspension; 1991, criminal
22 domestic violence; 1997, possession of crack, and
23 manufacturing and distribution of crack --
24 manufacturing/distribution of crack. That's just one
25 conviction.

1 MR. COOKE: That was --

2 MR. WESTON: 1997 -- I'm sorry. On the -- in 1997,
3 possession of crack and manufacturing/distribution of
4 crack.

5 THE COURT: Okay.

6 MR. COOKE: So he was convicted of possession and
7 manufacturing or distribution of crack in 1997?

8 MR. WESTON: Exactly.

9 MR. COOKE: How about the CDV?

10 MR. WESTON: Let me do it one more time.

11 THE COURT: Actually, I've got it for the record.
12 Let me tell you. In 1988, a DUI and DUS and an uninsured;
13 1990, DUS; 1991, criminal domestic violence; 1997,
14 possession of crack and a manufacturing/distribution of
15 crack.

16 MR. WESTON: That is correct, Your Honor.

17 Your Honor, it would be the State's contention --
18 well, I'm sorry, Your Honor. I would ask -- I'm not sure
19 what the Court's -- where the Court would come down on the
20 admissibility of these offenses.

21 The State's position is that none of these offenses
22 are admissible. They're beyond 10 years.

23 THE COURT: The last one was in 1997. So none of
24 them are admissible.

25 MR. COOKE: Well, I think, Your Honor, considering

1 that the State's whole case is premised on the fact that
2 they were up there to rob the victim in this case, who was
3 a drug dealer, I think -- the very fact that his uncle
4 lived there and a significant amount of cocaine was found
5 there on the premises by the officers, I think it would be
6 very important to prove the reason he lived there, that he
7 was, also, a main player in the transaction of drugs from
8 that particular trailer, Judge.

9 I would think that although it might be outside the
10 10 years that Your Honor would consider allowing that.
11 The gentleman served five years.. So five years from --
12 let's see. That would be two, I think --

13 THE COURT: Wait a minute. Wait a minute.

14 It's my understanding that it was the victim. That's
15 what I heard from his mother, not the uncle --

16 MR. WESTON: His question regarding the drugs was
17 withdrawn, Judge. There's no testimony in the record with
18 regard to him serving any time.

19 MR. COOKE: Wait a minute.

20 You gave me his criminal record. His criminal record
21 said that this gentleman right here served five years on a
22 crack charge, Mr. Noah Cruell.

23 MR. WESTON: Your Honor, I think --

24 MR. COOKE: Let me -- can I get through?

25 MR. WESTON: He was sentenced to five years --

1 MR. COOKE: That's exactly right.

2 MR. WESTON: You said "served."

3 MR. COOKE: That's exactly right, in 1997. If you
4 add five years, Judge, that takes it within the 10 years.
5 I think the time runs from the time of the end of the
6 sentence, not --

7 THE COURT: I understand that. It's the time that
8 his parole or his probation is over.

9 MR. WESTON: And he doesn't have that information,
10 Your Honor. He was sentenced to five years is the only
11 information that he or I have.

12 THE COURT: I do think -- under a 403 analysis,
13 probative versus prejudicial, I do think it's probative as
14 to why he is there. We can paint this picture for the
15 jury that he is a sweet, innocent bystander that was there
16 or -- again, tie it up, or that he is, in fact, part of
17 what happens at this house, which is allegedly a drug
18 trade.

19 I am going to allow them to ask him about the
20 distribution of crack charge, and the possession of crack
21 charge. But the other ones are not admissible. They're
22 too far in the past, and are not relevant in this case in
23 any way, shape, or form.

24 MR. WESTON: Yes, ma'am.

25 THE COURT: He can ask about the 1997 conviction.

1 But, of course, if he admits to it, we're done.

2 MR. WESTON: Yes, ma'am, Your Honor.

3 THE COURT: All right. Anything further?

4 Are you all ready to go?

5 MR. WESTON: Yes, sir -- yes, ma'am, Your Honor.

6 THE COURT: And is there any issue as to competency
7 as to this next witness?

8 MR. WESTON: I have interviewed Mr. Cruell on two
9 occasions, Your Honor. And while I think his
10 sister-in-law's depiction of him as being somewhat --
11 having deficient communication skills and being slow is
12 correct, there's no doubt in my mind he understands right
13 from wrong and the truth versus a lie. But Counsel is
14 free to voir dire, if they would like.

15 THE COURT: Do you have any concerns, Mr. Cooke, or,
16 Mr. Godfrey?

17 MR. GODFREY: May it please the Court.

18 Knowing Mr. Weston the way that I do, I believe that
19 he is competent, based on what Mr. Weston has said.

20 THE COURT: Okay. Do you have any voir dire?

21 MR. COOKE: No.

22 THE COURT: Okay. Let's bring the jury in.

23 (WHEREUPON, the jury came into open court at
24 approximately 10:06 a.m.)

25 THE COURT: Welcome back, ladies and gentlemen.

- 1 A Travelers Rest.
- 2 Q Where do you live?
- 3 A (There was no response.)
- 4 Q Where do you live, sir?
- 5 A I stay with my brother.
- 6 Q All right. And is that up in Travelers Rest?
- 7 A Yeah.
- 8 Q And did you live with your nephew, Noah [sic] Cruell,
9 at sometime?
- 10 A Yeah.
- 11 Q And you've got to speak loudly so everybody can hear
12 you.
- 13 A Yeah.
- 14 Q Were you living with Noah [sic] Cruell back in
15 October of 2010?
- 16 A Yes, sir.
- 17 Q The morning of October 18th, tell the jury what
18 happened that morning.
- 19 A His dog was barking, and I raised up.
- 20 Q Lean a little forward closer to the microphone.
- 21 A (Witness complied.)
- 22 Q Thank you, sir.
- 23 A I raised up. I was wondering what the dog was
24 barking about.
- 25 Q When you say you "raised up," where were you at?

- 1 A Laying down.
- 2 Q In the house?
- 3 A Yes.
- 4 Q And this was in your nephew's house?
- 5 A Yes.
- 6 Q And you were wondering what the dogs were barking at.
7 What happened next, sir?
- 8 A I heard something bust through the door.
- 9 Q And then what happened, sir?
- 10 A Then I seen some -- then somebody came in.
- 11 Q And then what happened, sir?
- 12 A That tied me up.
- 13 Q Who tied you up?
- 14 A Two of them.
- 15 Q How many of them do you remember seeing altogether?
- 16 A About three of them.
- 17 Q All right. And two of them tied you up, you said?
- 18 A Yes.
- 19 Q What did they use to tie you up, sir?
- 20 A A drop cord.
- 21 Q All right. And did they have guns?
- 22 A I believe they did.
- 23 Q I'm sorry?
- 24 A I believe they did.
- 25 Q All right. And did they say anything to you?

- 1 A Yes, sir.
- 2 Q What did they say, sir?
- 3 A Asking about money.
- 4 Q They were asking you about money?
- 5 A Yeah.
- 6 Q Do you remember what they said about money?
- 7 A Yes, sir. They asked me did I know where it was at.
- 8 And I told them, No.
- 9 Q Where it was at?
- 10 A Yeah.
- 11 Q All right, sir. And what did they do with you? You
- 12 were on the floor in the living room when they came in?
- 13 A Yeah.
- 14 Q Once they tied you up, what did they do with you?
- 15 A Toted me back into the other room.
- 16 Q They toted you back into the back room?
- 17 A Yes, sir.
- 18 Q Is that a bedroom?
- 19 A Something like a bedroom.
- 20 Q All right. And did you see them searching the house?
- 21 A No, sir. I was in the back. I heard them back
- 22 there.
- 23 Q All right. And, now, where was Jay?
- 24 A He was gone.
- 25 Q All right. Taking the kids to school?

- 1 A Yes, sir.
- 2 Q All right. Now, while you -- when you were in the
3 bedroom, did any of them stay in there with you?
- 4 A Yes, sir, one of them did.
- 5 Q All right. And the one that stayed -- well, did
6 you -- what happened when you were in the room with the
7 one person? What happened next?
- 8 A He asked me questions.
- 9 Q All right. Did Jay come back home?
- 10 A Yes, sir, later on.
- 11 Q Were you still in the room being held in there?
- 12 A Yeah.
- 13 Q Let me ask you this, just to be clear. Were you
14 being held against your will?
- 15 A Yes, sir.
- 16 Q You didn't want to stay in there?
- 17 A No.
- 18 Q Did they let you leave?
- 19 A No.
- 20 Q Okay. Now, when Jay came home, tell the jury what
21 you heard and saw.
- 22 A I heard some scuffling back there. It back in the
23 back room where he was at.
- 24 Q Where who was at?
- 25 A Jay.

1 Q All right. And then what did you hear, sir?

2 A I heard a gun go off back there.

3 Q Tell the jury, sir, how many gunshots you remember
4 hearing.

5 A One.

6 Q Are you sure it was just one?

7 A Yes.

8 Q All right. And once you heard the gunshot, then what
9 happened? What happened to the person that was in the
10 room with you?

11 A He left.

12 Q All right. And did you hear anything once the
13 gunshot -- did you hear anything in the other room once
14 the gunshot went off?

15 A No.

16 Q What did you do then when the person left the room?

17 A I got up.

18 Q And then what did you do?

19 A Took the drop cord off of me.

20 Q And then what did you do, sir?

21 A I went to Shirlene's house.

22 Q I'm sorry?

23 A I went to Shirlene's house.

24 Q Shirlene, you mean your sister-in-law?

25 A Yes.

- 1 Q Did you tell her what happened?
- 2 A Yes.
- 3 Q All right. Did you still have the drop cord hanging
4 off your arm when you got there?
- 5 A Yes.
- 6 Q All right. Were you pretty upset and scared?
- 7 A Yeah.
- 8 Q Now, when you came out of the room, did you see Jay?
- 9 A Yes, sir. He was laying on the floor.
- 10 Q All right, sir. Now, after you talked to your
11 sister-in-law, the police came; is that correct?
- 12 A Yes, sir.
- 13 Q And when the police came, did you talk to them?
- 14 A Yes, sir.
- 15 Q Did you tell them pretty much the same thing you've
16 told us today?
- 17 A Yes, sir.
- 18 Q All right. And did they ask you about whether or not
19 your nephew, Jay, was involved with drugs?
- 20 A (Witness shook his head.)
- 21 Q The police I mean. Did the police ask you that?
- 22 A Yes, sir.
- 23 Q And did you have occasion to show them any sites in
24 the backyard?
- 25 A Yes, sir.

1 Q And what did you show them? What were you looking
2 for?

3 A Drugs.

4 Q Did you know that that was possibly where your
5 nephew, Jay, may have kept some drugs?

6 A Yes, sir.

7 Q Okay. And you thought -- you showed them where you
8 thought they might be?

9 A Yes, sir.

10 Q Thank you.

11 Just a couple more questions, sir. The men who came
12 into the house, did you know any of them.

13 A No, sir.

14 Q Were they wearing masks or have something covering
15 their face?

16 A Yes, sir, I believe they did.

17 Q All right. Do you know whether they were wearing
18 gloves?

19 A Yes, sir, I believe they was.

20 Q All right. And did they -- aside from tying you up
21 and holding you, did they beat you up, or anything like
22 that?

23 A No, sir.

24 Q And, as far as you know, sir, had you ever met any of
25 these men before?

1 A No.

2 Q Okay. You didn't recognize anybody's voice or
3 anything like that, did you?

4 A No.

5 MR. WESTON: Thank you, sir.

6 Answer any questions they may have for you.

7 MR. GODFREY: May it please the Court.

8 THE COURT: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. GODFREY:

11 Q Good morning, Mr. Cruell.

12 I just have a couple questions for you. When Wallace
13 took the children to school, were you there in the house
14 alone?

15 A Yeah.

16 Q Now, when the door got busted open, you say three
17 people came in?

18 A Yes, sir, I believe so.

19 Q Can you describe those people?

20 A No, sir.

21 Q Did you see how the people got to the house?

22 A No, sir.

23 Q Do you remember talking to the police down at police
24 headquarters that morning?

25 A Yes, sir.

1 Q Did the police take the clothes that you were
2 wearing?

3 A Yes, sir.

4 Q Did the police do something to your hands like
5 washing your hands?

6 A Yes, sir.

7 MR. GODFREY: Nothing further, Your Honor.

8 MR. WESTON: Just one question on recross --
9 redirect, Your Honor.

10 THE COURT: Okay.

11 REDIRECT EXAMINATION

12 BY MR. WESTON:

13 Q When the police took your statement down at the
14 police station, did you cooperate with them?

15 A Yes, sir.

16 Q When they did whatever they did washing your hands or
17 whatever, did you cooperate with that?

18 A Yes, sir.

19 Q Did you have anything to hide?

20 A No.

21 Q Did you do anything to invite these men into the
22 house?

23 A No, sir.

24 Q Did you want them in the house?

25 A No, sir.

1 MR. WESTON: All right. Thank you, sir.

2 MR. COOKE: May it please the Court.

3 CROSS-EXAMINATION

4 BY MR. COOKE:

5 Q Just a couple of questions, Mr. Cruell.

6 You said you heard, I believe, a loud noise. Was
7 that the back door? Did you hear the back door open?

8 A Yeah.

9 Q Okay. Did it sound like somebody kicked it open?

10 A Yes.

11 Q And did you recognize anybody there?

12 A No.

13 Q Okay. And you said you weren't sure if they had
14 gloves or not?

15 A Yes, sir.

16 Q And you, also, said that you weren't sure whether
17 their faces were covered?

18 A No, sir.

19 Q And you, also, said you couldn't recognize any of
20 them?

21 A No, sir.

22 Q Okay. You had never seen them before?

23 A No.

24 Q And you did know your -- you did know that your
25 nephew was selling drugs, didn't you?

1 A Yes.

2 Q You did know that, didn't you?

3 A (There was no response.)

4 Q Correct?

5 A Yes, sir.

6 Q And he was selling drugs out of that house where you
7 lived; correct?

8 A (There was no response.)

9 Q You lived there?

10 A Yes, sir.

11 Q And his two children lived there?

12 A Yes, sir.

13 Q And his wife lived there?

14 A (There was no response.)

15 Q Or girlfriend?

16 A Girlfriend.

17 Q Okay. And he was selling drugs with those people
18 living there in the house; is that correct?

19 A Yes, sir.

20 Q Mr. Cruell, you yourself have sold drugs in the past,
21 haven't you?

22 A A little bit.

23 Q You served some time for it, didn't you?

24 A Yeah.

25 MR. WESTON: Objection, Your Honor.

1 THE COURT: Okay. He's asked and answered it.

2 Move on.

3 BY MR. COOKE:

4 Q Mr. Cruell, were you helping your son [sic] at that
5 time sell drugs?

6 A No.

7 MR. WESTON: Objection to the characterization, Your
8 Honor. It's his nephew.

9 MR. COOKE: Nephew. Excuse me.

10 BY MR. COOKE:

11 Q Your nephew, were you helping him sell drugs there?

12 A (There was no response.)

13 Q You're under oath, Mr. Cruell.

14 THE COURT: You need to answer the question, sir.

15 THE WITNESS: Yes, sir.

16 BY MR. COOKE:

17 Q So you were helping him sell drugs as well?

18 A (There was no response.)

19 MR. COOKE: I have no further questions.

20 THE COURT: Anything further from the State?

21 MR. WESTON: No, ma'am, Your Honor.

22 THE COURT: You may step down, Mr. Cruell.

23 The State will call their next witness.

24 MR. WESTON: Your Honor, the State would ask
25 that Mr. Cruell be allowed to be excused from his

1 subpoena.

2 THE COURT: Any objection from the Defense?

3 MR. GODFREY: No objection.

4 MR. COOKE: I do have an objection to that, yes, I
5 do.

6 THE COURT: All right. We're just going to ask him
7 to stay back there. And, at the next break, I'll take it
8 up.

9 MR. WESTON: Your Honor, the State would call Officer
10 Matthew Hegger of the Greenville County Sheriff's Office.

11 THE CLERK: Officer Hegger, if you would, come
12 forward to be sworn in.

13 Please place your left hand on the Bible and raise
14 your right hand.

15 WHEREUPON,

16 MATTHEW CHARLES HEGGER,

17 after first having been duly sworn, testified as follows:

18 THE CLERK: Thank you.

19 You may be seated.

20 THE WITNESS: Good morning.

21 THE COURT: Good morning, sir.

22 THE CLERK: Please state your full name for the
23 record.

24 THE WITNESS: My full name is Matthew Charles Hegger.

25 THE CLERK: Thank you.

DIRECT EXAMINATION

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BY MR. WESTON:

Q Officer Hegger, with whom are you employed?

A I'm employed with the Greenville County Sheriff's Office.

Q And how long have you been at the sheriff's office?

A Approximately three years.

Q What is your rank, sir?

A What's my rank?

Q Yes, sir.

A Deputy two.

Q And, generally, describe to the jury without going into a whole bunch of detail what your duties are. Are you a road officer or --

A I'm a uniform patrol officer, which, basically, means we take calls for service from the public.

Q Back in October of 2010, were you assigned to the Travelers Rest area, or northern area of Greenville County?

A I was, sir.

Q All right. Did you have an occasion to respond to Valley Road in Travelers Rest?

A I did, sir.

Q And about what time did you receive the call?

A I received the call at approximately 7:49 in the

1 morning.

2 Q And what was the nature of -- what did dispatch tell
3 you the nature of the call was?

4 A The call came in as a possible suicide. Obviously,
5 the suspect -- excuse me, the victim was shot in the head.

6 Q All right. And so you responded to the scene; is
7 that correct?

8 A I did, sir.

9 Q And when you arrived at Valley Road, what did you
10 find as you pulled up?

11 A When I pulled up the long driveway to the house at
12 Valley Road, I saw a black female, which I thought was
13 going to be the mother of the victim. In responding to
14 the call, I knew it was a possible gunshot victim.

15 Q And where was she at?

16 A She was at the front of the house frantically waiving
17 me down as to tell me where her son was. I asked her --

18 Q And I think I asked you this. Is the -- Valley
19 Road, is that in Greenville County?

20 A It is, sir.

21 Q All right. And once you got out of the car, did you
22 speak to the woman?

23 A I did very shortly.

24 Q And, after you spoke with her, what did you do?

25 A I asked her where the victim was. And she pointed

1 into the house. I ran into the house. At that point in
2 time, I located the victim.

3 Q And, just for the record, the woman you spoke with
4 first, was that Shirlene Cruell?

5 A Yes, sir, it was.

6 Q And is that her seated here in the red?

7 A Yes, sir, it is.

8 Q You recognize her?

9 A Yes, sir.

10 Q And so you went inside, and what did you find again?

11 A When I went inside the house -- it's a very narrow
12 trailer, house. As soon as you enter the front door, you
13 can see the living room area and, also, partially into the
14 kitchen. And there's a little dining room, I would say,
15 kind of a breakfast table. I saw a pair of legs on the
16 floor. That was the victim. He was laying face down.

17 Q And would you describe the victim to the jury in
18 terms of his race, height, weight, and any physical
19 characteristics?

20 A He was a black male. And, obviously, he was face
21 down. I couldn't tell any facial features or anything
22 like that. He had long dreadlocks, fairly long.

23 Q I think you said he was lying face down?

24 A He was, sir.

25 Q How was he dressed?

1 A I can't recall.

2 Q Do you remember whether he had on shoes?

3 A Yes, sir, he did.

4 Q All right. And was -- did you see any blood around
5 the victim?

6 A As he was laying face down, it appeared to me that
7 there was a little bit of blood around his head area.

8 Q And did you think that there was -- did that give you
9 any indication, initially, as to where he may have been
10 shot -- or where he may have been injured? Excuse me.

11 A Initially, when the call came out, it was a possible
12 gunshot to the head. And I couldn't really determine
13 whether it was to the head or chest area.

14 Q Did you check the victim's pulse to, basically, see
15 if there was anything you could do to revive him?

16 A The first thing I did when I entered the house, I
17 went up to the suspect -- the victim, excuse me. I
18 checked to see if he was breathing, any vital signs,
19 anything like that. He didn't have any vital signs.

20 Q What did you do next after you sort of secured the
21 circumstances surrounding the victim?

22 A Immediately after doing that, what I went ahead and
23 did was cleared the house, and made sure there was nobody
24 in there.

25 Q Tell the jury what that means, cleared the house.

1 A Clearing the house, basically, means you go from room
2 to room to make sure there's nobody in the house, whether
3 it's a child, suspect, another victim, checking the
4 closets, underneath the beds, basically, anywhere somebody
5 could hide.

6 Q And did you find anyone?

7 A I did not.

8 Q So you had an opportunity, at that time, to sort of
9 walk through the entire house?

10 A Correct.

11 Q What would you -- how would you characterize the
12 condition of the house, the kitchen area, the bedroom
13 areas? Were they neat?

14 A To me, it seemed like maybe somebody was going
15 through things, maybe ransacked or -- it didn't look very
16 neat. But it looked like it was a little bit messy.

17 Q All right. And describe -- did you have occasion to
18 see the back door of the house?

19 A I did, sir.

20 Q Would you describe to the jury the condition of the
21 back door?

22 A Again, when I first arrived on scene and went up to
23 the victim, he wasn't breathing. At that time, I looked
24 up and saw that the back door was open. And when the back
25 door was open, I saw a black male standing there at the

1 door peering in at me.

2 Q Did you later determine who that male was?

3 A At that point in time, no. But I told him --

4 Q No. Listen to my question. Did you later determine
5 who that male was?

6 A I did.

7 Q Who was the male?

8 A He was the father of the victim.

9 Q Wallace Cruell, Sr.?

10 A Yes, sir.

11 Q What did you tell him to do?

12 A I told him to leave, go back around front, and stay
13 with his wife.

14 Q Did he seem to present any sort of threat to you
15 standing there at that time?

16 A No, sir.

17 Q He was just getting ready to contaminate the crime
18 scene?

19 A Correct.

20 Q After you got him situated out of the home, what did
21 you notice about the back door?

22 A The back door was wide open. And I believed it was
23 forced entry.

24 Q What was it that led you to believe that about the
25 door?

1 A It looked to be tampered with.

2 Q In what manner?

3 A Possibly pried open or kicked.

4 Q Now, once you had gotten the house cleared and what
5 have you, did you have an opportunity to speak with
6 Mr. Noah Cruell?

7 A I did, sir.

8 Q And did Mr. Cruell tell you what -- give you a
9 statement, an oral statement?

10 A He gave me an oral statement. And it was kind of
11 hard to understand him at the time. I didn't know if he
12 had a mental disability, or what. But he did give me some
13 vital information at that point in time.

14 Q What did he tell you?

15 A He told me that he was in the house at the time, and
16 that three black males came into the house, tied him up,
17 and took him to the back room. And one of the gentlemen
18 stuck a gun to the back of his head and said, Where's the
19 money?

20 Q Did he tell you anything else about what happened?

21 A Yes, sir, he did.

22 Q What else did he tell you, sir?

23 A He told me, at one point in time, when he was in the
24 back room with one of the males and he was guarding him,
25 the other males went into the other room. At that point

1 in time, the brother -- or not the brother, but
2 Mr. Wallace Cruell, Jr., came back home. The -- Noah
3 Cruell told me that he heard one gunshot. And then he
4 heard all the people in the house take off and leave.

5 He untied himself from whatever he was tied up with.
6 I think it was like a USB cord, or something like that.
7 He took that off and went to #5 where the parents of the
8 victim lived, up that little -- it's like a little dirt
9 path that goes up to the house, and he got help.

10 Q If you would, step down for one moment, sir, to look
11 at the aerial placard right here.

12 A (Witness complied.)

13 Q And I'm going to ask you to raise your voice a little
14 bit since you're not with the microphone anymore.

15 Would you show the jury -- do you recognize that,
16 first, as to where that is?

17 A I do.

18 Q All right, sir. And does that accurately depict the
19 two houses and the streets, basically?

20 A Yes, sir.

21 Q All right. Now, which house did you respond to?

22 A This one right here.

23 Q And, generally, just show the jury about where you
24 would have parked your car, not exactly, but just,
25 generally, what area. Would it have been the front, the

1 back, or all the way back down the road?

2 A When I first came in, I took a left onto the actual
3 driveway here. I came around the corner and parked my car
4 right about in this area, right about here.

5 Q Now, at the time you arrived, were there -- you were
6 the first officer on scene; is that right?

7 A I was the first officer on scene, yes, sir.

8 Q Was there any other emergency personnel there?

9 A Negative, sir.

10 Q Did any emergency personnel arrive while you were
11 there, or shortly thereafter?

12 A Shortly thereafter.

13 Q Who arrived -- I mean, what emergency personnel type
14 came?

15 A Another deputy responded, because I called out for
16 backup knowing the facts -- or the information that I got
17 from Noah that there were three black males that tied him
18 up, and we had one gunshot victim. At that point in time,
19 what I did, I notified our dispatch to put out a BOLO,
20 to be on the lookout, for three black males,
21 possibly dressed in dark clothing, black clothing with
22 handguns.

23 Q All right. And what was -- I think you mentioned
24 another officer arrived on scene. Did EMS arrive?

25 A Yes, sir, they did.

1 Q And did they immediately come in and go into the
2 house?

3 A At that point, no. Because --

4 Q And tell the jury why.

5 A At law enforcement, when we get a call such as this,
6 EMS is going to be staged. And, basically, all that means
7 is that they're waiting on us to go in and clear the
8 house, which is what I did. Because once I clear it and I
9 give them the okay to come in, that means it's secure and
10 they're not going to get hurt. And that's, basically,
11 what staging means.

12 Staging means they're, basically, going to wait for
13 me to give the okay for them to come in. And that's
14 exactly what I did.

15 Q Okay. You can retake your seat, sir.

16 Thank you.

17 A (Witness complied.)

18 Q After the second officer arrived on scene, did any
19 dog tracking officers arrive on scene?

20 A They did a short time after that.

21 Q And what was your next duty after sort of clearing
22 the house for EMS? I assume after you cleared it, they
23 were allowed to go in?

24 A Correct.

25 Q And what was the next thing that you did?

1 A The next thing I did with the other deputy, we went
2 ahead and taped off the house and, also, the end of the
3 driveway, which is back at the beginning of the road.

4 Q Back -- all way back down?

5 A Where Valley Road meets the driveway.

6 Q And why do you do that?

7 A It's a crime scene.

8 Q And is this the yellow tape we see all the time?

9 A That's the yellow tape you see.

10 Q All right. And did you have an occasion to transport
11 Mr. Cruell to the law enforcement center?

12 A I did, sir.

13 Q Now, you weren't involved in the taking of his
14 statement; is that correct?

15 A Negative.

16 Q Now, once you got to the law enforcement center, was
17 there -- did you get -- were you involved in the process
18 of either securing or delivering a search warrant for the
19 premises?

20 A I did, sir.

21 Q And did you do that?

22 A I did.

23 Q You brought the search warrant back to the premises,
24 the physical papers?

25 A I brought Noah Cruell to the law enforcement center.

1 At that point in time, from the investigator, I brought a
2 search warrant from the LEC, law enforcement center, back
3 to the actual incident scene and gave it to the
4 investigator on scene.

5 Q All right, sir. From your -- and about how long were
6 you on this scene? Counting the time you went back to the
7 law enforcement center to the time you, finally, left the
8 scene -- left Valley Road that morning or that day, about
9 how long were you there?

10 A I arrived on scene around 8:00, 7:49. And I
11 didn't -- I think I went back around 12:30, about
12 lunchtime.

13 Q So you were there about four or five hours?

14 A Four or five hours, yes, sir.

15 Q Now, during the entire time you were there, did you
16 see any obvious signs or obvious evidence -- aside from
17 the three black males description from Noah Cruell, did
18 you see any other obvious signs or obvious evidence that
19 would link any perpetrators to this -- any particular
20 perpetrators to this crime?

21 A No, sir.

22 Q All right. Thank you, sir.

23 Did you have any other involvement in this case after
24 that morning?

25 A No, sir.

1 MR. WESTON: All right. Thank you, sir.
2 Answer any questions Counsel may have for you.

3 MR. GODFREY: May it please the Court.

4 CROSS-EXAMINATION

5 BY MR. GODFREY:

6 Q Good morning, Deputy Hegger.

7 A Good morning, sir.

8 Q I see you brought some paperwork with you this
9 morning. Is that a copy of your incident report?

10 A Yes, sir, it is.

11 Q You spoke with Noah Cruell on the scene?

12 A I did, sir.

13 Q And he told you that three black males went in the
14 house?

15 A Yes, sir.

16 Q Could he provide a description whatsoever?

17 A He said between 20 years old to early 30's, black
18 males, wearing possible dark clothing, black in color.

19 Q Now, to back up for a second. When you first started
20 testifying, you indicated that you were dispatched to a
21 possible suicide; is that right? How is that determined?

22 A It comes out from whoever calls our dispatch.
23 Dispatch will, actually, let us know what type of call it
24 may be. That doesn't mean it's going to be that type of
25 call.

1 Q And when you went in, you made a determination that
2 it wasn't a suicide?

3 A At that point in time, it's a death investigation.

4 Q Are you trained in a course on manner of death?

5 A No, sir.

6 Q Now, regarding Mr. Cruell -- or Noah Cruell, you
7 talked to him and you took an oral statement from him
8 there at the scene?

9 A Just an oral statement, yes, sir.

10 Q And then it was your job to take him to the law
11 enforcement center to meet with the investigators?

12 A I was directed by the investigator on scene.

13 Q Did you take an oral statement from Shirlene Cruell?

14 A Just, basically, her involvement from the time she
15 was, actually, notified from Noah.

16 Q And you found out from that that she arrived after
17 everything had already happened?

18 A She arrived after Noah told her what had happened.
19 She was on the scene. She walked down the trail.

20 Q Did you utilize any type of audio recording or video
21 recording when you talked to Noah Cruell?

22 A No, sir.

23 MR. GODFREY: That's all I have, Your Honor.

24 MR. COOKE: I have no further questions.

25 Thank you.

1 MR. WESTON: Nothing on redirect, Your Honor.
2 THE COURT: Yes, sir.
3 MR. WESTON: Your Honor, the State would ask that
4 this witness be allowed to be excused.
5 THE COURT: Any objection?
6 MR. COOKE: None.
7 MR. GODFREY: No objection.
8 THE COURT: Deputy Hegger, you're excused, sir.
9 Thank you.
10 THE WITNESS: Yes, ma'am.
11 THE COURT: The State will call their next witness.
12 MR. WESTON: Your Honor, the State will call Officer
13 Robert Castillo.
14 THE CLERK: Good morning, Officer.
15 If you'll come forward to be sworn in, please.
16 Please place your left hand on the Bible and raise
17 your right hand.
18 WHEREUPON,
19 ROBERT CASTILLO,
20 after first having been duly sworn, testified as follows:
21 THE CLERK: Thank you.
22 You may be seated.
23 Please state your name for the record.
24 THE WITNESS: Deputy Robert Castillo.
25 THE CLERK: Thank you.

DIRECT EXAMINATION1
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BY MR. WESTON:

Q Deputy Castillo, with whom are you employed?

A The Greenville County Sheriff's Office.

Q And about how long have you worked there?

A Four years.

Q What is your rank?

A I am a deputy two.

Q All right. And did you have an occasion to respond to [redacted] Valley Road in Travelers Rest, South Carolina, on the morning of October 18th, 2010?

A Yes.

Q And when you arrived on scene, what did you find?

A Well, I responded to the scene in response to a call for assistance by Deputy Hegger. When I arrived on scene, Deputy Hegger, EMS, and Slater/Marietta Fire Department were already on the scene. I was advised by Deputy Hegger as to what took place in the incident.

At that time, myself and Deputy Hegger did a perimeter, cleared a perimeter of the property, a quick clear of the perimeter. And we proceeded to string up crime scene tape at that time.

Q All right. And did you remain on scene until investigators arrived?

1 A Yes, sir.

2 Q And what was -- what did you do next with regard to
3 the investigation -- or facilitating the investigation of
4 this incident?

5 A The investigators were on scene, as well as my
6 sergeant at the time. My sergeant informed me that I
7 would need to take -- I believe it's Ms. Jones, which is
8 the victim's wife, down to the law enforcement center to
9 meet with investigators.

10 Q That would be Angela Jones?

11 A Yes, sir.

12 Q And you took -- so you took her to the law
13 enforcement center; is that correct?

14 A Yes, sir.

15 Q Was it for purposes of her to provide a statement?

16 A That's my assumption.

17 Q Okay. And, after that, did you return to the crime
18 scene?

19 A No, I did not.

20 Q And so about how long were you out there?

21 A Probably about 30 to 45 minutes.

22 MR. WESTON: All right. Thank you, sir.

23 That's all I have for this witness.

24 THE COURT: Anything?

25 MR. GODFREY: May it please the Court.

CROSS-EXAMINATION

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BY MR. GODFREY:

Q Deputy Castillo, when you arrived on the scene, was Ms. Angela Jones already there?

A No, sir.

Q About how long was it before she showed up? Do you recall?

A I would guess that it was probably about a half hour.

Q About a half an hour. And did you enter the residence at [REDACTED] Valley Road?

A I did.

Q And the purpose for that was to sweep the inside?

A That was already taken care of by Deputy Hegger. The reason for me entering the residence at that time was to meet with him and gain some knowledge as to what had taken place.

Q And then, after you talked to Deputy Hegger, that's when you and he went out and put up crime scene tape?

A We did. We walked around the perimeter of the building quickly just to make sure there was nothing else outside potentially. And, at that time, we did ask everybody to stay outside of the residence. And we proceeded to put up crime scene tape.

Q Now, at that -- and then it became your duty to take Ms. Jones to the law enforcement center?

1 A Yes.

2 Q Did you take any oral statements from Ms. Jones?

3 A I did not.

4 Q Did you ask Ms. Jones -- or did Ms. Jones tell you
5 anything regarding the description of the suspects?

6 A No, sir.

7 Q Did you have any conversation with her about this
8 incident from Travelers Rest down to the law enforcement
9 center?

10 A She was pretty upset at the time. I do not recall
11 having a whole lot of conversation with her.

12 Q But, based on what you know, she wasn't there at the
13 time of the incident; is that correct?

14 A That's correct, sir. She was at work.

15 MR. GODFREY: Nothing further.

16 MR. COOKE: Nothing from this side, Judge.

17 THE COURT: Any redirect?

18 MR. WESTON: Yes, ma'am, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. WESTON:

21 Q Counsel asked you about her not being there at the
22 time of this incident, and you implied that she was at
23 work. Where was she working?

24 A She was working at the McDonald's off of Old Buncombe
25 Road and Poinsett. It's that little shopping center

1 there --

2 Q Up near Furman?

3 A Up near Furman, northern area command.

4 Q Did you have to go pick her up from there or was
5 she -- did she come back to the crime scene, or what?

6 A She arrived on the scene. And how she was notified,
7 I do not know. It would be a guess that it was probably a
8 family member on the scene.

9 Q And did she arrive after you were already there?

10 A Yes, sir.

11 MR. WESTON: Thank you, sir.

12 THE COURT: Anything further?

13 MR. GODFREY: Nothing further.

14 MR. COOKE: Nothing further.

15 THE COURT: Any objection to Deputy Castillo being
16 released from anyone?

17 MR. GODFREY: No objection.

18 MR. COOKE: No objection.

19 THE COURT: You're released from subpoena, sir.

20 The State will call their next witness.

21 MR. WESTON: The State will call B.L. Osborne.

22 THE CLERK: Sir, if you'll come forward to be sworn
23 in.

24 Place your left hand on the Bible and raise your
25 right hand.

1 WHEREUPON,

2 BRIAN OSBORNE,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 You may be seated.

6 Please state your name for the record.

7 THE WITNESS: Brian Osborne.

8 THE CLERK: Thank you.

9 DIRECT EXAMINATION

10 BY MR. WESTON:

11 Q Deputy Osborne, with whom are you employed?

12 A The Greenville County Sheriff's Office.

13 Q And how long have you been with the sheriff's office?

14 A Right at seven years.

15 Q And what is your rank?

16 A Deputy. I'm a K-9 handler.

17 Q I'm sorry?

18 A Deputy K-9 handler.

19 Q Did you have an occasion to respond to Valley Road
20 in Travelers Rest on the morning of October 18th, 2010?

21 A I did.

22 Q About what time did you arrive on scene?

23 A Let me look at my notes right fast.

24 I arrived at 8:24.

25 Q And when -- what was the nature of the call for you

1 to come -- the call for service? What was your
2 understanding?

3 A I had been advised there was a gunshot victim, and
4 that they needed a possible track, and needed my K-9
5 partner's assistance.

6 Q Just for the -- my and the jury's edification, when
7 you say "they needed a possible track," what does that
8 mean, generally?

9 A Generally, the suspect, whether it's this particular
10 incident or another, has left the scene and law
11 enforcement does not know exactly where they are. And
12 they've called myself or another K-9 handler to see if we
13 can track the suspect wherever they've gone to.

14 Q So when you arrived on scene, did you -- I assume you
15 had a dog with you?

16 A I did.

17 Q What's the name of your dog?

18 A His name is Mikey.

19 Q How long have you worked with this dog?

20 A Three years.

21 Q And without going into detail, because we don't need
22 to necessarily qualify you and qualify the dog very much.

23 A Sure.

24 Q Mikey has been trained to track?

25 A Yes.

1 Q And has he gotten certifications?

2 A He's nationally certified through the North American
3 Police Association.

4 Q Now, is he a drug dog?

5 A He's a drug -- he's a dual purpose patrol dog.

6 Q Tell the jury what that means.

7 A He does a little bit of everything. He's a narcotics
8 dog, tracking, trailing, and apprehension dog.

9 Q All right. And when you got to the scene, was this
10 your first time ever being on this property?

11 A Yes, it was.

12 Q All right. And what were you told concerning the
13 specifics of this particular case, and the parameters that
14 you would be working under?

15 A The only thing that I knew is there was a gunshot
16 victim inside the residence, and that, reportedly, three
17 black males had left the scene in some direction. They
18 were the ones that did this. They had left. And that's
19 about all I knew.

20 Q All right. Let me ask you to step down a moment, and
21 look at the aerial photograph on the placard there.

22 A (Witness complied.)

23 Q I need you to raise your voice a little bit since you
24 don't have the microphone with you.

25 A Okay.

1 Q Do you recognize that as the location that you
2 arrived at --

3 A Is this --

4 Q Let me finish my question, please.

5 A I'm sorry.

6 Q Do you recognize that as the location that you
7 arrived at on October 18th of 2010?

8 A Yes.

9 Q All right, sir. And where -- using either Valley
10 Road or -- how did you -- where did you pull in? Tell the
11 jury where you pulled in, and pretty much where you parked
12 your car or your truck.

13 A This is the first time I have seen this actual
14 picture.

15 Q Okay.

16 A So let me make sure.

17 Is this #**13** right here?

18 Q Yes.

19 A When I pulled -- when I came down Valley Road, I
20 pulled in the long driveway here. There were a lot of
21 emergency vehicles, patrol cars, ambulances, and fire
22 trucks. So I, actually, had to park somewhere in this
23 area here.

24 Q Okay. Now, do you recognize the top house there as
25 the crime scene?

1 A Yes.

2 Q Did you have occasion to deal with the bottom house,
3 the house right below that?

4 A This one right here?

5 Q Yes, sir.

6 A Yes, sir, I did.

7 Q Were you advised as to whose home that was?

8 A This one, what I was told, was the victim's parents
9 residence.

10 Q Okay. And show the jury -- well, let me ask you
11 again -- just stay right there for a moment, because I
12 want you to tell the jury what you did with Mikey.

13 Once again, were you given any comparison samples,
14 for example?

15 A Are you talking about a scent article?

16 Q Yes, sir. Tell the jury what a scent article is.

17 A Before I tell you what that is, let me explain how
18 the canines track. They can scent discriminate, which
19 means when we walk into a house or a restaurant and, for
20 instance, someone is making vegetable soup, we smell
21 vegetable soup. A K-9 will pick out the tomatoes, the
22 chili. Every ingredient that's in that soup, they can
23 discriminate between.

24 A scent article is used in tracking to where if I
25 have a contaminated area and I have, say, a shirt, for

1 instance, that somebody has worn, shoes, whatever it may
2 be, I can put my dog on that. And he will be able to
3 discriminate from any of the tracks that are in that
4 particular area, based on that.

5 But to answer your question, I did not have a scent
6 article that day.

7 Q Now, a scent article or a scent, as you were
8 describing, I think you used a very good analogy of the
9 soup. For instance, a dog is tracking me, would he track
10 just my body odor, or my body smell?

11 A What he's, actually, tracking is called skin rafts.
12 We're all pulling off skin rafts whether we're sitting
13 here, walking. Millions of dead skin cells is what it is.
14 It's a make up of your chemical analysis of your body,
15 deodorant, soaps, any perfume, anything like that.

16 The skin rafts of your particular cells are as unique
17 as your fingerprint. So each person has a different
18 smell, so to speak, than somebody else does.

19 Q Did you -- were you given a comparative article that
20 morning?

21 A A scent article?

22 Q A scent article, yes, sir.

23 A I did not have a scent article.

24 Q What were you told in terms of direction of travel of
25 the possible suspects?

1 A The only thing that I knew --

2 Q And you can use the map, if you'd like.

3 A The only thing that I knew is that the suspects had,
4 reportedly, from what I had been told, came in the back of
5 the residence. And I did not know exactly where they had
6 left from, possibly out the back as well. But I did not
7 know that.

8 Do you want me to go ahead and just tell you?

9 Q Yes, sir. Tell us to what you did, what you and
10 Mikey did.

11 A Now, that's what I was told when I arrived. I had to
12 walk my dog up the driveway to the residence itself. Now,
13 you have to understand, on this particular day, again,
14 there's emergency vehicles all over this property.
15 Emergency personnel, between fire, EMS, sheriff's office
16 are all around the front yard, as well as family members
17 and everything else.

18 So when I rounded this curve right here, I see all of
19 these people walking around. It makes it very difficult
20 to find a particular track. So I went ahead and told the
21 officers that were already on scene that I was not going
22 to try to attempt any kind of track in the front, because
23 it's pretty much useless at that point. I don't know who
24 I'm tracking.

25 So I go around to the back of the residence where I

1 had been told that the suspects had come in. I placed my
2 dog up on the back porch in a down position. That's just
3 standard operating procedure when we start tracking. That
4 way, we get his mind to understand what's about to happen.
5 He's hooked up to a tracking harness. I've got a 15-foot
6 leash that he uses when we're tracking --

7 Q What is a 15-foot leash? I apologize for
8 interrupting.

9 A It is 15 feet of leash that I hook onto his tracking
10 harness, which wraps around his body.

11 Q And why is it 15 feet? Is there something particular
12 about that length?

13 A Well, when we're tracking, or doing an area search,
14 or anything like that, it gives him more area to move
15 around to work the area. It, actually, gives me more of
16 an avenue of escape in case something does happen. He's
17 got 15 feet out in front of me. At this particular time,
18 I used 15 feet. Now, I use 20 to give me an extra five
19 feet of reactionary time in case my dog does locate
20 somebody. I've got -- when you do this kind of work,
21 every little avenue of help helps.

22 Q Speaking of which, you asked about avenues of help --
23 or you just mentioned avenues of help. Are there usually
24 officers assigned to sort of walk with you to provide some
25 sort of security?

1 A There are.

2 Q And what is their role?

3 A Their role is to protect me and to make sure that --
4 usually, in a perfect situation -- and there's never a
5 perfect situation in law enforcement -- I would have three
6 cover officers. One who is assigned directly to me, which
7 means he stays right behind me. Two others would kind of
8 flake off behind him, behind my cover. And their main
9 goal is to watch the surroundings around me to see if
10 anybody has moved, if they've spotted anybody to let me
11 know.

12 My job is to watch the dog. I can't watch everything
13 else around me. That's what they're there for.

14 Q Would you tell the jury what you did -- you said you
15 didn't check the front of the house because so many people
16 had tracked through it. What did you do next?

17 A Again, I downed my dog just as a cue to him that
18 we're about to start tracking on the back porch. I gave
19 him his track command. And what he does -- you have to
20 work several hours with dogs to understand what I'm
21 looking for.

22 When he starts his track, he's going to give me
23 certain, what we call, distinct behavior changes. And if
24 you don't know how my dog operates, you won't know what to
25 look for, but I do. When he gave me these distinct

1 changes and I saw them, I knew immediately he was on a
2 track. He gave them as soon as he came off the back
3 porch.

4 We found a track -- he found a track through --
5 there's a -- for lack of a better term, a path through
6 these woods right here. And I'm not sure exactly the
7 length of this trail. But we followed the track from the
8 back of the victim's residence, all the way up and into
9 the yard to about right in here, the victim's parents
10 house. There were fresh footprints in the dew of the
11 grass. It was early in the morning. There were fresh
12 footprints coming into this area.

13 Once we got right in here, he had given me what we
14 call negative behavior changes, which means he'll check
15 over here. Certain little things happen, and he'll check
16 over here. And certain little things happen. And I know,
17 because I've experienced several tracks, and thousands of
18 hours of training with this dog that the track has ended
19 at that point. At which point, I left the investigators
20 and other personnel on the scene there. There was no more
21 tracking.

22 Q Now, did you, for lack of a better word, reach any
23 positive results as a result of your track that morning?

24 A Well, I positively knew I was tracking someone, no
25 doubt about that. I knew I was tracking someone. One,

1 because there's fresh dew prints -- or fresh footprints in
2 the dew. But about midways up the trail, we happened to
3 come across what I thought at the time, just going by it
4 real quickly, was a computer cord of some type, like you
5 would plug into a computer, or a phone jack, or something
6 like that. It looked like it had been tied in a loop
7 situation, basically, to resemble some type of restraining
8 device, which was laying about midways, I would say, give
9 or take, on this trail.

10 Q And did you take -- pick up the cord?

11 A I did not, no, sir.

12 Q What did you do, ultimately, with relationship to the
13 cord?

14 A Once I finished my track, I let my cover guys, which
15 was Deputy Whitlock, he was there with me. He went back
16 and secured. When I say "secured," he made sure nobody
17 came and tampered with this cord that was laying on the
18 trail.

19 Q At some point, at the conclusion of your activities,
20 did you talk to Investigator Chris Hammett to kind of just
21 let him know what you had found?

22 A I gave him a run down of what I had done, where the
23 track that I had been tracking had stopped, and what we
24 had found. And, at that point, I was finished with my
25 aspect of the case.

1 Q Did you advise Investigator Hammett about the
2 computer cord on the trail?

3 A I did -- well, if I didn't, Deputy Whitlock did. One
4 of us did advise him.

5 Q You can -- well, before -- you can resume your seat.

6 A (Witness complied.)

7 Q Did you have any further involvement in this case
8 after the morning?

9 A After the morning?

10 Q Yes, sir.

11 A No, sir, I did not.

12 Q And about how long were you out there, just
13 generally?

14 A Can I look at my notes right quick?

15 Q Yes, sir.

16 A Every time a K-9 is deployed, we keep pretty detailed
17 records. I arrived at 8:24 that morning. I began the
18 track at 8:45. At 9:00, the track ended, which means I
19 was finished with my K-9 partner. And I cleared -- excuse
20 me, I told you incorrectly. 8:45 is when I started the
21 track. 9:00 is when I ended. I left the scene at 9:40
22 that morning. Because I just remained on perimeter to
23 make sure no one else came in and secured the scene.

24 MR. WESTON: Thank you, sir.

25 Please retake you seat.

1 That's all I have, Your Honor.

2 THE COURT: Yes, sir.

3 MR. GODFREY: May it please the Court.

4 CROSS-EXAMINATION

5 BY MR. GODFREY:

6 Q Deputy Osborne, how long have you and Mikey been
7 together?

8 A Since October of 2009.

9 Q And I'm guessing he's with you 24/7?

10 A Yes, sir, except for today. He gets irritated when I
11 leave him by himself all day.

12 Q Well, I've got to go back over this, because I don't
13 really completely understand it. And I've got to ask the
14 question. You didn't find anything that you could -- a
15 scent item?

16 A A scent article, no, sir, I did not.

17 Q So the dog is trying to pick up the odor from dead
18 skin cells?

19 A Yes, sir.

20 Q And there are millions of dead skin cells?

21 A Each person drops millions of -- they're called skin
22 rafts. You're having them fall right now. They're
23 falling off of me as I speak.

24 Q Okay. So when you got on scene and you talked to
25 Deputy Hegger, he advised you that potentially you're

1 looking for three black males?

2 A Yes, sir.

3 Q Did you have a good idea about which way they left?

4 A Which way they left, no, sir. The only thing I knew
5 is that they had came in the back door and had possibly
6 left out of the back door. But I did not know for
7 certain.

8 Q Well, did you start Mikey in the house next to the
9 back door trying to -- I mean, how do you --

10 A I did not -- he did not go in the house at all.

11 Q Well, since there's so many skin cells -- I mean, I
12 know you tracked somebody. I know Mikey tracked somebody?

13 A Yes, sir.

14 Q But do you know -- you have no idea really who he
15 tracked?

16 A I do not know exactly who I tracked, no, sir.

17 Q Now, one of the problems that you and Mikey had was
18 the amount of foot traffic that had been around there?

19 A There was some contamination, quite a bit of it.

20 Q Because when you got there, there were emergency
21 personnel, fire trucks, other officers?

22 A Yes, sir.

23 Q And it made it very difficult for Mikey?

24 A It made it difficult for me to determine who we were
25 exactly tracking. My dog, he's trained to follow human

1 odor. He can't look up and tell me exactly who he's
2 tracking. He found it rather quickly, so it wasn't
3 difficult for him.

4 Q Now, other than this particular day, you were
5 involved in this case on November the 17th of 2010,
6 weren't you?

7 A Excuse me?

8 Q November the 17th of 2010, weren't you, dispatched
9 when they were arresting Willie Jermaine Taylor? Do you
10 remember that?

11 A I do not remember that.

12 Q Do you remember the day that Mikey had to go in the
13 attic?

14 A My dog has been in several attics. You're going to
15 have to be more specific --

16 MR. WESTON: Excuse me, Your Honor. Just to save
17 time -- and I don't have it in front of me. Counsel is, I
18 think, referring to his incident report. If he could take
19 about one minute to let him look at his report, it would
20 probably refresh his memory and move this along.

21 THE COURT: Would you like to refresh your
22 recollection, Deputy?

23 THE WITNESS: Yes, ma'am, absolutely.

24 THE COURT: Let's hand him a copy of the report.

25 THE WITNESS: Thank you, sir.

1 (Pause.)

2 THE WITNESS: Yes. I do remember this.

3 BY MR. GODFREY:

4 Q Officer, you have had the opportunity to review your
5 report?

6 A Yes, sir.

7 Q Has that refreshed your memory?

8 A It does.

9 Q Were you dispatched out when Willie Jermaine Taylor
10 was --

11 A As far as dispatch, no, sir, I was not. I was
12 contacted by a liaison for the U.S. Marshals.

13 Q Okay. But you were requested to come out for help?

14 A I did go to the scene, yes, sir.

15 Q And when you got there, there were already other
16 deputies on scene?

17 A There was.

18 Q And Willie Jermaine Taylor was, actually, coming out
19 and being placed in custody?

20 A There was a black male coming out. I don't know who
21 he was, or I didn't at the time.

22 Q Okay. Well, in your report, you indicated, When I
23 arrived, I noticed several other deputies already on
24 scene, and a black male later identified as Willie
25 Jermaine Taylor coming out of the front door?

1 A Later identified.

2 Q Now, on this occasion, you did search the attic?

3 A Yes, sir.

4 Q You went in the house. And that was at the request
5 of other officers; correct?

6 A Yes, sir.

7 Q I've got to ask this, because I don't know. How does
8 Mikey get in the attic?

9 A Very, very carefully. He is, actually, trained to
10 climb the attic space.

11 Q Really?

12 A Yes. Sometimes, he has to be prompted to do that,
13 but he is, actually, trained.

14 Q And he gets down the same way?

15 A Have you -- when you were a child, you worked a
16 yo-yo.

17 Q Yeah.

18 A That's similar to how I get him back down. He's on
19 another type of harness and I have to lower him back down.
20 He will try to climb, but he goes a little too quick. And
21 I don't want to injure him, so I'll lower him down slowly.

22 Q Okay. When Mikey got up to the attic, he indicated
23 on something; right?

24 A He did.

25 Q And you carefully approached, because you didn't know

1 what it was either?

2 A Well, what I was, originally, doing with placing him
3 in the attic was to make sure that there was nobody in the
4 attic. He was given a certain command, which meant to
5 look for a person.

6 What I'm feeling when I'm doing that -- he's still on
7 a leash. If there's a possibility he can work on a leash
8 without harming himself or me, he's on a leash. If not, I
9 can turn him off. But either way, he's going to give me
10 an indication if he's located somebody. At this point,
11 he's on a lead -- or a leash. And I'm not feeling any
12 resistance on the lead, or anything like that. It just
13 kind of stopped, which was curious to me because that's
14 not how he works.

15 So I had to peek up into the attic to see what my dog
16 was doing. And he was, actually, in a downed position.
17 Now, there's a couple different reasons why he would be in
18 a downed position. One, he's either found narcotics, or
19 he's found an article. Either way, I was somewhat upset
20 with him, I guess you could say, because I had not told
21 him to find narcotics or articles. But he had
22 spontaneously downed. And I had to figure out why he had
23 downed. So, yes, I had to approach that area very
24 carefully.

25 Q Smart dog.

1 A He is a very smart dog.

2 Q What did you find?

3 A Sir?

4 Q What did you find?

5 A There was a handgun, a wallet, and a small bag of
6 marijuana underneath the insulation.

7 Q And were you informed -- or did Willie Taylor tell
8 you that he put those items up there?

9 A I had -- I believe I heard that from another
10 investigator, that Willie Taylor had informed them that he
11 had placed those items up in the attic prior to coming
12 out.

13 MR. GODFREY: Thank you, Deputy Osborne.

14 I appreciate it.

15 THE WITNESS: Yes, sir.

16 THE COURT: Anything further?

17 MR. COOKE: No questions.

18 THE COURT: Anything further?

19 MR. WESTON: Nothing further, Your Honor.

20 THE COURT: Deputy Osborne, you may be excused, sir.

21 THE WITNESS: Thank you.

22 THE COURT: Thank you.

23 MR. WESTON: Your Honor, may we approach?

24 THE COURT: You may.

25 (WHEREUPON, a bench conference was held.)

1 THE COURT: Ladies and gentlemen, we're just
2 discussing scheduling of where we think the case is going
3 to go, and how long it's going to take. At this time,
4 it's about 11:10, and we are waiting on another witness.
5 I'm going to send you back to your jury room for just a
6 few minutes. We'll go ahead and take another morning
7 break. Again, get a cup of coffee, refresh yourselves.

8 I have to remind you, ladies and gentlemen, do not
9 discuss the case. Again, it wouldn't be appropriate to do
10 so. You haven't heard all the evidence. Go back and,
11 again, refresh yourselves. And we'll bring you right back
12 in.

13 Thank you.

14 (WHEREUPON, the jury was excused from open court at
15 approximately 11:10 a.m.)

16 THE COURT: Very well.

17 And, Hollie, just for the record, that sidebar was
18 truly scheduling purposes that we were discussing.

19 It's my understanding that we're waiting on a witness
20 that's just a couple minutes away. Someone is going to
21 let me know when that witness is here and ready to go?

22 MR. WESTON: Yes, Your Honor.

23 THE COURT: And we'll go ahead and take a break until
24 then.

25 MR. COOKE: Judge, I agree to cut Mr. Cruell loose.

1 THE COURT: All right. Mr. Noah Cruell, you are
2 excused, sir.

3 Thank you.

4 You may leave, sir, if you like.

5 We're at ease for 10 minutes until someone let's me
6 know about the next witness.

7 (WHEREUPON, a break was taken.)

8 THE COURT: It's my understanding that the witnesses
9 are here.

10 MR. WESTON: Yes, sir -- yes, ma'am, Your Honor.

11 THE COURT: Let's go ahead and bring the jury on in.

12 (WHEREUPON, the jury came into open court at
13 approximately 11:27 a.m.)

14 THE COURT: Welcome back, ladies and gentlemen.

15 The State will call their next witness.

16 MR. WESTON: Your Honor, the State would call
17 Dr. Michael Ward.

18 THE COURT: Dr. Ward, if you'll come forward to be
19 sworn.

20 THE CLERK: Sir, please, place your left hand on the
21 Bible and raise your right hand.

22 WHEREUPON,

23 MICHAEL EUGENE WARD, M.D.,

24 after first having been duly sworn, testified as follows:

25 THE CLERK: Thank you.

1 American Board of Pathology in both anatomic and forensic
2 pathology.

3 Q And have you done post-graduate studies, and
4 research, and seminars, and training in those two areas?

5 A I have. There's continuing medical education that I
6 do in both anatomic and forensic pathology. I have
7 authored papers in forensic pathology, and presented
8 various studies or lectures here at Clemson, and at the
9 Coroner's Association, and around the state.

10 Q Have you testified in proceedings before with
11 regard -- and, basically, you perform autopsies?

12 A I do. I perform autopsies to determine cause and
13 manner of death.

14 Q And have you testified in proceedings before with
15 regard to your performance of autopsies?

16 A Yes, I have.

17 Q Approximately how many?

18 A Well over 100 times.

19 MR. WESTON: Your Honor, the State would offer
20 Dr. Ward as an expert in the field of forensic pathology.

21 MR. GODFREY: No objection.

22 MR. COOKE: No objection.

23 THE COURT: Ladies and gentlemen, typically, a
24 witness can only testify to what they've seen, heard,
25 specific facts. We allow a person who is deemed an expert

1 either by education and/or experience to give not only
2 their testimony, but, also, their opinion.

3 Ladies and gentlemen, in this case, Dr. Ward is being
4 qualified in the area of forensic pathology. He can give
5 you his opinion in that area. And, of course, his opinion
6 is to be used as you see appropriate, and as you compare
7 it to other evidence in the case.

8 MR. WESTON: Thank you, Your Honor.

9 BY MR. WESTON:

10 Q Dr. Ward, would you describe to the jury what an
11 autopsy is, and how an autopsy is done, and what its
12 function is?

13 A An autopsy is a detailed physical examination
14 performed on a person who has died. It -- its function is
15 to determine -- enable us to or assist us to determine
16 cause and manner of death, so that we look for natural
17 disease processes that may be present, any congenital
18 abnormalities that may be present, or any trauma that may
19 have led to or contributed to a person's death.

20 Q Did you have an occasion to perform the autopsy on
21 Wallace Cruell, Jr.?

22 A Yes, I did.

23 Q When did you perform that autopsy?

24 A On October 29th, 2010.

25 Q The 29th or 19th?

1 A 19th.

2 Q All right. And was it your understanding that he had
3 died the day before?

4 A That is correct.

5 Q And where would the autopsy have been performed?

6 A The autopsy was performed at the Greenville County
7 Morgue, which is on the grounds of Greenville Memorial
8 Hospital.

9 Q And who was present for the autopsy -- well, just,
10 specifically, was the investigator involved in the case,
11 Chris Hammett, present for the autopsy?

12 A He was.

13 Q And what were you told -- are you given background
14 information when you perform an autopsy just to assist you
15 to determine what you're looking for?

16 A Yes, I am.

17 Q What were you told about this case prior to beginning
18 the autopsy?

19 A I was told that it appeared that this gentleman had
20 taken his children to school. And when he came back,
21 returned to his home, apparently, he became involved in
22 some form of an altercation and was, subsequently, later
23 found dead in his home.

24 Q All right. And when you perform an autopsy, is the
25 victim usually clothed in the clothing that they had at

1 the time of their death? Do they still have on the same
2 clothes usually?

3 A Yes. After a person is pronounced dead, nothing
4 changes. So if they were clothed when they died and when
5 they were pronounced dead, then they are transported to us
6 in exactly the same fashion as they were at the scene.

7 Q Does your autopsy include, at least, a peripheral
8 examination of the clothing?

9 A Yes, it does.

10 Q And did you do that in this case?

11 A I did.

12 Q All right. And would you tell the jury what you did,
13 the basics of the autopsy, and what your conclusions were?

14 And let me ask you this before you begin. And I
15 apologize to keep interrupting. Do you have any kind of
16 drawing of the body that was -- that you use in reaching
17 your conclusions regarding the autopsy?

18 A Yes, I do.

19 Q Could you show me that, please, without holding that
20 up to the jury yet?

21 A (Witness complied.)

22 Q Thank you, sir.

23 And let's just begin. If you would, just hold up and
24 show the jury the anatomical drawing that you use for
25 describing or explaining the results of the autopsy. Just

1 kind of show it to the jury, and tell them what it is.

2 And, if you would, just step down here, in fact, that
3 might help.

4 A Do you want me to demonstrate the wounds now, or just
5 the diagram?

6 Q Yeah. Let's just -- I tell you what. Let's do it
7 however you want to do it. Tell us what you found first,
8 and talk about that first, I think. I'm sorry.

9 A That's quite all right. One of the questions was,
10 what is an autopsy? And the process of the autopsy is to
11 do an external examination. And that includes looking at
12 the clothing of the decedent. I'm then present and make
13 removal of the clothing, examining it as we go through
14 layer at a time. I examine the outer surface of the body
15 for any signs of disease or trauma. We document that
16 diagrammatically [sic], photographically, and in the
17 written word.

18 And then we proceed with the internal examination,
19 again, to document any natural disease that's present.
20 But, in this situation, I'm looking for a continuation of
21 the trauma from the outside of the body to the inside of
22 the body and I'm documenting that.

23 That being said, one of the things we do is to
24 develop a body diagram, which is where I draw the wounds
25 present on the body onto this diagram.

1 And if I may step down?

2 THE COURT: You may sir.

3 (WHEREUPON, the witness stepped down from the witness
4 stand.)

5 THE WITNESS: This is a very simplified body diagram.
6 It's the front and back surface, so the anterior and
7 posterior surface of the body. Mr. Cruell had a single
8 gunshot wound. It entered his right upper back. So it's
9 this circle here on the right upper back. It passed from
10 his back to his front, and from his right to his left to
11 exit the left anterior chest just below the level of the
12 clavicle.

13 It's path included ribs on the back right, the right
14 upper lobe lung, the aorta, which is this big vessel that
15 takes blood from the heart to the rest of the body, then
16 out the anterior chest at the level of the second rib and
17 then out the skin. So no missile was recovered at the
18 time of autopsy.

19 On the inside of Mr. Cruell's chest, there was 1,300
20 milliliters of blood in the right chest cavity. And
21 there's not supposed to be any blood there. So,
22 basically, he bled out from this trauma to his lung into
23 his aorta and into his chest cavity.

24 MR. WESTON: Thank you, sir.

25 Your Honor, the State would -- and I don't think

1 we've marked it:

2 Doctor, you can resume your seat.

3 (WHEREUPON, the witness returned to the witness
4 stand.)

5 MR. WESTON: Your Honor, the State would like to mark
6 it.

7 THE COURT: Has the Defense seen it?

8 MR. GODFREY: Yes, Your Honor. No objection.

9 MR. COOKE: I'd just like to see it one more time,
10 please.

11 (WHEREUPON, State's Exhibit No. 20 was marked for
12 identification only.)

13 MR. WESTON: Your Honor, the State would offer this
14 exhibit as State's Exhibit No. 20, and ask that I be
15 allowed to publish it to the jury.

16 THE COURT: You may, sir.

17 (WHEREUPON, State's Exhibit No. 20 was admitted into
18 evidence.)

19 BY MR. WESTON:

20 Q Do you have another copy of this, Doctor, in case you
21 need to refer back to it?

22 A I do.

23 Q Doctor, in addition to the bullet wound that entered
24 his back and exited his chest, did you find any other
25 physical wounds to the body?

1 A Yes, I did.

2 Q Would you tell the jury about that?

3 A On the upper forehead, just into the hairline, was a
4 rectangular-shaped laceration or tearing of the skin.
5 This laceration was about one and a half inches in length,
6 and, roughly, a half an inch in width. It extended all
7 the way through the skin of the scalp, and beneath the
8 skin of the scalp was visible the underlying bone.

9 Q Do you have any conclusion as to what could have
10 caused that type of injury?

11 A It's, certainly, an injury caused by a blunt object.
12 This object would have been rectangular in its shape with
13 enough mass or weight to it to be able to cause that much
14 trauma to the skin. I could, certainly, speculate as to
15 what that object might have been.

16 Q That's okay. That's fine, Doctor.

17 Did you examine the organs of the body as part of the
18 autopsy?

19 A Yes, I did.

20 Q Did you find anything unusual about any of them?

21 A The only unusual findings were consequences of the
22 gunshot wound to the chest. There was blood in the lungs
23 as a result of hemorrhage from the gunshot wound. And
24 there was a paleness to the kidneys as a result of
25 profound blood loss. But, other than that, there were no

1 abnormalities.

2 Q Were you able to form a conclusion as to whether or
3 not Mr. Cruell could have died of natural causes?

4 A Mr. Cruell did not die from natural causes.

5 Q Would you tell the Judge -- the jury, first, what was
6 the cause of his death?

7 A Mr. Cruell died as a result of a gunshot wound to the
8 chest.

9 Q And how would you characterize the manner of death?

10 A The manner of death would be homicide.

11 Q And tell the jury what homicide is.

12 A Homicide is death at the hands of another individual.
13 The cause of death was caused by another individual.

14 MR. WESTON: Thank you, sir.

15 Answer any questions Counsel may have for you.

16 MR. GODFREY: May it please the Court.

17 CROSS-EXAMINATION

18 BY MR. GODFREY:

19 Q Dr. Ward, I just have a couple of questions. I want
20 to make sure I understand. To be clear, it was a single
21 gunshot wound?

22 A That is correct.

23 Q So it was one bullet or one missile?

24 A That's correct. One entrance to the back, one exit
25 to the front.

1 Q Now, from your examination of the wound, could you
2 tell what caliber it was, the caliber of the missile
3 bullet?

4 A No, sir.

5 Q Are you, sometimes, able to determine that?

6 A I do not speculate on caliber based on the wound, no.

7 MR. GODFREY: Okay. Thank you.

8 MR. COOKE: I have a couple questions.

9 CROSS-EXAMINATION

10 BY MR. COOKE:

11 Q The clothes were on the victim, or the deceased;
12 correct?

13 A Yes, sir.

14 Q Could you tell if there was any gunshot residue?

15 A I looked at the back of the clothing. I saw no
16 evidence of gunshot residue.

17 Q Okay. Could you step down? I'd just like you to
18 help me with something. I saw your picture there.

19 A (Witness complied.)

20 Q Would you demonstrate for the jury, assuming I'm the
21 body, where that shot entered the body on me. Just play
22 like I'm the victim.

23 A The entrance wound is right upper back, roughly, in
24 this region here.

25 Q Okay.

1 A It passes from Mr. Cruell's back to his front.

2 Q Okay.

3 A And from his right to his left, through the upper
4 lobe of the right lung. As it crosses the midline, it
5 transects the aorta, that large blood vessel. And then it
6 exits out the front side of the body. The clavicle is
7 here.

8 So it's, roughly, in this region here just to the
9 left of the midline. So entrance back, across midline to
10 exit out the front.

11 Q Okay. So let me use you. So if I've got a gun and I
12 shoot you in the back. You're shot in here, it comes out
13 here; correct?

14 A Yes, sir.

15 Q Now, if I'm left-handed, I'm going to have to -- this
16 is more like a right-handed shot --

17 MR. WESTON: Objection, Your Honor. That calls for
18 pure speculation.

19 MR. COOKE: Well, he's your expert.

20 MR. WESTON: And what you're asking calls for
21 speculation.

22 THE COURT: If he can answer it, he will. I
23 understand your objection.

24 But, Dr. Ward, if you can answer the question, that's
25 fine. If you can't --

1 BY MR. COOKE:

2 Q It's more logical, based on your examination of the
3 body, that someone who is right-handed had to hold that
4 gun to shoot from this part of the body to make it come
5 out this part of the body?

6 A That's if given the scenario that we are in this
7 position.

8 Q Okay.

9 A If I am in this position --

10 Q Right.

11 A -- then it would be just as easy -- or easier to be
12 left-handed.

13 Q But I'm saying -- let me ask it this way. If the
14 incident report indicated -- let's just assume this. If
15 the incident report indicates that the man is on his
16 stomach and he's shot in the back, wouldn't that indicate
17 to you that it was a right-handed person?

18 MR. WESTON: Objection, Your Honor, I'm going to
19 renew --

20 BY MR. COOKE:

21 Q In your medical opinion --

22 MR. WESTON: If I could finish my objection, Your
23 Honor. I want to renew my objection, and add to it that
24 he has not been qualified as a ballistics expert. And I
25 think this is an inappropriate question for him. He is an

1 expert in forensic pathology, not ballistics.

2 THE COURT: But he can talk about the pathway of a
3 bullet, which he can testify to. He is qualified.

4 BY MR. COOKE:

5 Q What say ye, Doc?

6 A I say that if I'm on my stomach that you can shoot me
7 with either your left hand or right hand.

8 Q I know you're trying, Doc. But I'm asking you what's
9 the probability of shooting somebody with your left hand
10 around like this --

11 MR. WESTON: Your Honor, I object.

12 MR. COOKE: No further questions.

13 MR. WESTON: Now, he's asking about probabilities.

14 MR. COOKE: No further questions.

15 THE COURT: Dr. Ward, if you want to answer, you may,
16 sir.

17 THE WITNESS: I think the difficulty I have with this
18 area of questioning is that we have the bullet -- or have
19 the muzzle of the gun adjacent to my body. And that's
20 simply not the case. There is no gunshot residue present
21 on the clothing, so that puts the muzzle of the gun from
22 the body, at least, two to three feet, possibly more.

23 And, given that scenario, it could be right-handed,
24 or it could be left-handed. It doesn't have to be an
25 awkward shot with the muzzle of the gun up next to the

1 body. If the body is on the ground, it, certainly, can be
2 right-handed or left-handed. I can't tell you which one
3 it is, but it could, certainly, be either one.

4 THE COURT: Thank you, Dr. Ward.

5 MR. COOKE: No further questions.

6 MR. WESTON: I have one question on redirect, Your
7 Honor.

8 THE COURT: Yes, sir.

9 REDIRECT EXAMINATION

10 BY MR. WESTON:

11 Q So the scenario that Counsel just put forth to you
12 was false in terms of your findings?

13 MR. COOKE: I object to that. He doesn't know
14 whether it's false or not. He just said it could be
15 either way --

16 MR. WESTON: He said it could not happen.

17 THE COURT: Okay. Y'all, don't argue your objections
18 in front of the jury. I think you need to rephrase it,
19 Mr. Weston.

20 MR. WESTON: All right.

21 BY MR. WESTON:

22 Q Counsel stood here and had you stand right in front
23 of him -- or right behind him and held the gun right to
24 your back. Did I hear you correctly when you said that
25 that could not have happened in this case?

1 A That's correct. This is a distance range gunshot
2 wound.

3 Q So the scenario he gave you is not in any way
4 applicable to the facts of this case?

5 A At that muzzle to target distance, that is correct.

6 MR. WESTON: Thank you, sir.

7 RE-CROSS-EXAMINATION

8 BY MR. COOKE:

9 Q You have no idea at what distance that shot was
10 fired, do you?

11 A I know it's a distance range gunshot wound greater
12 than two to three feet.

13 Q You said you had no training in gunshot wounds; is
14 that correct?

15 A No, sir.

16 MR. COOKE: Okay. I have no further questions.

17 THE COURT: Anything further, Mr. Weston?

18 MR. WESTON: No, ma'am, Your Honor.

19 THE COURT: Anything further of Dr. Ward?

20 Any objection to him being excused?

21 (WHEREUPON, there was no response.)

22 THE COURT: You are excused, Dr. Ward.

23 Does the State want to call their next witness?

24 MR. WESTON: Yes, Your Honor.

25 The State would call Investigator Chris Hammett.

1 Your Honor, I didn't hear whether you allowed
2 Dr. Ward --

3 THE COURT: I already excused Dr. Ward.

4 MR. WESTON: Thank you, Your Honor.

5 THE CLERK: Raise your right hand and place your left
6 hand on the Bible.

7 WHEREUPON,

8 HENRY CHRISTOPHER HAMMETT,
9 after first having been duly sworn, testified as follows:

10 THE CLERK: Please state your name for the record.

11 THE WITNESS: Henry Christopher Hammett.

12 DIRECT EXAMINATION

13 BY MR. WESTON:

14 Q Investigator Hammett, with whom are you employed?

15 A The Greenville County Sheriff's Office.

16 Q How long have you been with the sheriff's office?

17 A Approximately 15 years.

18 Q And what is your -- I said Investigator Hammett, I'm
19 assuming you're an investigator with the sheriff's office?

20 A That's correct. My actual rank is a deputy two, but
21 my title is investigator.

22 Q And you investigate -- how long have you been an
23 investigator approximately?

24 A Approximately, nine years.

25 Q All right. As part of your duties, do you have an

1 occasion to investigate homicides?

2 A Yes. I'm assigned to the homicide unit with the
3 criminal investigation division.

4 Q And just to give the jury just a little bit of brief
5 background. In a homicide situation that, let's say,
6 you're assigned as the investigator, would you be
7 considered the lead person in the investigation?

8 A Yes, sir. That's correct.

9 Q And you would pretty much direct officers -- direct
10 the officers and -- other officers involved in the case to
11 perform certain tasks or duties?

12 A Correct.

13 Q Did you have an occasion to respond on October 18th
14 of 2010, to the shooting that we are -- that brings us
15 here today?

16 A I did.

17 Q And how did you -- about what time did you receive a
18 call on this, just ballpark?

19 A I believe it was approximately 8:15 that morning.

20 Q And did you respond to the scene?

21 A Yes, I did.

22 Q Who did you receive a call from? Do you remember?

23 A The actual call that I received was from Sergeant
24 Cromartie, who is a uniform patrol supervisor.

25 Q So when -- and what was the nature of the call? What

1 was the nature of the call that you were going to respond
2 to?

3 A It was a deceased person who had been the victim of
4 an apparent gunshot wound.

5 Q All right. And when you arrived, were there any
6 other investigators on scene?

7 A As far as investigators, no, sir.

8 Q Did any other investigators arrive on scene?

9 A Yes, sir.

10 Q Who would that be?

11 A Investigator Eric Whaley, and myself.

12 Q And did he assist you in the investigation that
13 morning?

14 A Yes, he did.

15 Q All right. And so when you first got there, what was
16 the -- what did you find in terms of what was going on?

17 A Upon my arrival at the scene, as I turned into the
18 driveway, which was depicted here, the long gravel
19 driveway, there were emergency vehicles, patrol vehicles,
20 and a fire truck, I believe from Slater-Marietta Fire
21 Department, all lined pretty much down that road.

22 And then as I approached closer to the actual
23 residence itself, I observed that it was taped off with
24 the yellow sheriff's office crime scene tape to secure it
25 so no one could enter on the perimeter, or into the

1 residence.

2 Q When you got there, did you go into the residence?
3 What did you do when you first got there? I'm sorry.

4 A Initially, when I got there, I spoke with Sergeant
5 Cromartie and the reporting deputy, which is Deputy
6 Hegger.

7 Q Did they pretty much brief you on what they found?

8 A Yes, sir, they did.

9 Q What did you do next?

10 A Initially, when I spoke with Sergeant Cromartie, we
11 were told -- or I was told by her that there was a witness
12 to the incident who, also, resided at the incident
13 location, which was found to be Noah Cruell.

14 Q All right. Now, were you able to immediately direct
15 anyone to go in and search the premises?

16 A No, sir, I was not.

17 Q Now, you had already been -- had you been advised
18 that the premises had been cleared for suspects, and what
19 have you?

20 A Yes, sir, at that time, I was.

21 Q Now, back to the question that I previously asked
22 you. Were you able to immediately go in and search the
23 premises?

24 A No, sir, I was not. We have to have a search warrant
25 to enter the premises, or consent to search. And, as I

1 was en route to the location, I contacted Investigator
2 Bailey and requested that he complete a search warrant,
3 and have the Judge sign it while I was en route to
4 expedite the processing of the scene.

5 And I, also, contacted forensics to have them en
6 route so they would arrive at approximately the same time
7 I did.

8 Q All right. Did you have an occasion to see Noah
9 Cruell that morning?

10 A I did.

11 Q And did you talk to Mr. Cruell?

12 A Very briefly. Basically, the information I received
13 had come from Sergeant Cromartie and Deputy Hegger. I,
14 initially -- once I saw Mr. Cruell, I asked that he be
15 transported to the law enforcement center so that he could
16 be interviewed further away from the scene.

17 Q All right. And did you direct an investigator, or
18 anyone at the law enforcement center to interview him?

19 A Yes, sir. I asked Investigator Bailey if he would
20 interview Mr. Cruell.

21 Q Did you have an occasion to see Ms. Angela Jones that
22 morning?

23 A No, sir. I did not, actually, see her.

24 Q All right. And did you direct any investigators or
25 other officers to take any action with relationship to

1 her?

2 A Yes, sir, I did. I was informed that she was on the
3 scene, and that she was the live-in girlfriend of the
4 victim. And I requested that Investigator Whaley respond
5 to where she was being kept outside of the crime scene and
6 speak with her.

7 Q All right, sir. And you were advised that the victim
8 had children; is that correct?

9 A Yes, sir.

10 Q Did you -- now, at this point, did you form any
11 conclusions as to what had happened on the scene, and the
12 motivation behind this death?

13 A Definite conclusions, no, sir. We began to formulate
14 a theory that it appeared this was a home invasion or a
15 burglary that had been interrupted by the victim.

16 Q All right. Now, were the victim's children present
17 on the scene when you arrived?

18 A No, sir, they were not.

19 Q Did you make any arrangements to check on them?

20 A Yes, sir, I did. We were told that the victim had
21 just returned from dropping his children off at school.
22 So we were able to determine, I believe, through speaking
23 with Ms. Jones what respective schools the children were
24 in. And I then asked Sergeant Cromartie if she would,
25 either herself or have a deputy check at those respective

1 schools just to confirm that the children did get to
2 school okay.

3 Q All right. And did you find out about that?

4 A Yes, sir. Subsequently, Sergeant Cromartie advised
5 me after the fact that she had, indeed, confirmed -- I
6 believe, if I'm not mistaken, that it was Deputy Lollis
7 that went to the school or schools and confirmed that the
8 children were okay, and they were in class where they were
9 supposed to be, and they were fine.

10 Q All right. Now, did you have an occasion to speak
11 with Officer Osborne with regard to the dog tracking?

12 A Yes, I did.

13 Q Would you tell the jury about that?

14 A Yes. Deputy Osborne, who you saw testify earlier,
15 the K-9 handler, advised me that due to considerable foot
16 traffic on the scene, which is -- unfortunately, it's a
17 necessary evil because we have to go on to that scene.
18 So, unfortunately, it was disturbed a little bit.

19 He was unable to track in the front area where the
20 emergency vehicles were located. He did, also, indicate
21 to me that after that, he went around and did -- was able
22 to go through a path that led -- there's a dirt path that
23 led from the victim's residence to his parents home -- to
24 the victim's parents home. And that he had observed some
25 footprints in the dew on the grass around the victim's

1 parents' home, which, subsequently, we were able to pretty
2 much account for being the victim's family after we got
3 their accounts of what had happened that morning.

4 Q Did Deputy Osborne indicate he had found anything
5 along the trail -- along the path?

6 A Yes, sir, he did. He advised me that in walking
7 through that path, he had observed some type of electrical
8 cord, or power cord of some type. He was unable to
9 specify exactly what it was, because he didn't touch it.

10 Q Did you go to that site?

11 A I did, sir.

12 Q And what did you find?

13 A I found the cord laying there. It appeared to have a
14 tie loop in it laying at the edge of the path.

15 Q I'll show you what's been marked -- pictures of
16 what's been marked as State's Exhibit Nos. 15 and 16, and
17 I'll ask you if you recognize those?

18 A Yes, sir, I do.

19 Q Tell the jury what they are.

20 A These are two photographs of the cord that Deputy
21 Osborne was referring to that we found along the path that
22 Noah Cruell had used after this incident occurred.

23 MR. WESTON: Your Honor, the State would offer these
24 as State's Exhibit Nos. 15 and 16.

25 MR. GODFREY: Without objection.

1 THE COURT: Mr. Cooke?

2 MR. COOKE: No objection.

3 THE COURT: Without objection.

4 (WHEREUPON, State's Exhibit Nos. 15 and 16 were
5 admitted into evidence.)

6 MR. WESTON: Permission to publish to the jury?

7 THE COURT: Yes, sir.

8 BY MR. WESTON:

9 Q You have a bag in your hand that you've brought with
10 you today from the evidence room. Can you tell the jury
11 what that is?

12 A According to the labeling on it, it is an Energizer
13 USB cord that was found on the trail.

14 Q Is that the cord that was found on the trail that you
15 were just shown the pictures of?

16 A Yes, sir, it is.

17 MR. WESTON: Your Honor, the State is prepared to
18 offer this as an exhibit. Counsel hasn't seen it yet.
19 They're welcome to look at it.

20 MR. COOKE: I have not seen it.

21 THE COURT: Come on up and take a look.

22 MR. WESTON: Your Honor, if Counsel would like to
23 come up here and see it, so we don't show it to the jury.

24 THE COURT: Come on up.

25 (Pause.)

1 BY MR. WESTON:
2 Q Investigator, did you secure the cord?
3 A No, sir, I did not.
4 Q Who did?
5 A Forensic Technician Bucholz, who was a forensic
6 processing technician at the time.
7 Q And did you, basically --
8 A At my direction.
9 Q Is this the cord that was found on the road that
10 morning -- on the path that morning?
11 A Yes, sir, it is.
12 MR. WESTON: Your Honor, the State would offer this
13 as State's Exhibit No. 21.
14 MR. GODFREY: Without objection.
15 MR. COOKE: No objection.
16 THE COURT: Without objection.
17 (WHEREUPON, State's Exhibit No. 21 was marked for
18 identification and admitted into evidence.)
19 BY MR. WESTON:
20 Q I notice the cord still has some dirt on it. Is
21 that -- it hasn't been cleaned or anything?
22 A No, sir. It hasn't been cleaned.
23 Q And it's not too dirty, but it has a little dirt on
24 it. And you said the cord had a loop in it; is that
25 correct?

1 A Yes, sir.

2 Q Did you reach any conclusion as to what the loop was
3 for?

4 A Yes, sir. It appeared to be where it had been used
5 as some type of restraining device. It had that
6 appearance.

7 Q Now, did you speak with Mr. Cruell that morning, the
8 victim's father?

9 A Wallace Cruell, Sr.?

10 Q Yes, sir.

11 A Yes, sir, I did.

12 Q And did he provide you with information as to where
13 he was when these incidents took place?

14 A Yes, sir, he did. Mr. Cruell advised me that he had
15 been deer hunting somewhere on that property -- in the
16 vicinity of that property that morning.

17 Q All right. Did you speak with Mrs. Cruell that
18 morning?

19 A The morning of the incident on the scene, I do not
20 believe I spoke with Mrs. Cruell.

21 Q Did you speak with her at a later time?

22 A Yes, sir.

23 Q Was she able to provide you any information
24 concerning what she knew about this incident and her
25 involvement in it?

1 A Yes, sir. Basically, she stated that Mr. Cruell,
2 Noah, had come to her house somewhat panic stricken and
3 told her that Jay -- or the victim had been shot.

4 Q All right. And did she tell you what she did?

5 A Yes sir. I believe she said she went down to the
6 location, along with Wallace Cruell, Sr., and contacted
7 911 when they got there and found the victim.

8 Q You walked the path; is that correct, between the two
9 houses at some point that morning?

10 A Yes, sir, I did.

11 Q And did you see any footprints along the path?

12 A Yes, sir, I did.

13 Q Given the conversations that you had with Mr. Cruell
14 and Mrs. Cruell, and what you had been told about Noah
15 Cruell going up and down the path, were the footprints of
16 any use to you in terms of your investigation?

17 A No, sir, they were not. We were able to determine
18 that that's -- they were going to belong to the family
19 members.

20 Q All right. Now, as you were continuing your
21 preliminary investigation, did you receive a call from
22 Investigator Antonio Bailey from the law enforcement
23 center regarding the search warrant?

24 A Yes, sir, I did. Antonio -- or Investigator Bailey
25 had contacted me, advised me that the search warrant had

1 been signed by the Judge, and was in hand, and was going
2 to be brought to the scene.

3 Q All right. Now, let's step out of this particular
4 case for a moment. And, obviously, it's applicable to
5 this case, but I would like for you to tell the jury what
6 the procedure in this kind of investigation is as far as
7 gathering evidence.

8 Now, you testified that when you arrived on scene,
9 EMS, fire department, and a number of officers were
10 already there. Is -- was the victim's body still on
11 scene?

12 A Yes, sir, it was.

13 Q All right. After you got there, did you go into the
14 house? Tell the jury what the protocol is.

15 A The basic protocol in a death investigation is that
16 once we have the search warrant signed by the Judge,
17 myself or the lead investigator, along with a forensic
18 technician or a forensic sergeant, and a representative
19 from the Greenville County Coroner's Office will all enter
20 the scene at the same time. The reason for that is so
21 that one or the other does not disturb something before
22 all three of us get to see it as it is found initially.

23 The EMS, of course -- well, starting with the
24 responding deputies, they have to go into that location
25 prior to the search warrant being obtained. Because, at

1 that point, it's a matter of life and death. They need to
2 make sure the victim is, apparently, deceased, or can be
3 rendered medical aid. And then EMS -- once it is cleared
4 by deputies and rendered safe, then EMS, or fire
5 department, or both will enter the residence to check the
6 victim's condition, or pronounce that person as deceased.

7 And once that is done, then when the detectives or
8 investigators respond to the scene, we do it with the
9 search warrant and enter it at the same time with the
10 coroner and the forensics technician. Once the three of
11 us enter together, we do what is, basically, called a walk
12 through of the scene. In other words, we walk through
13 just, basically, to get a concept of what happened inside
14 the residence.

15 Once that initial walk through is complete, then
16 myself and the coroner's representative will exit the
17 location to allow the forensic technician to videotape and
18 photograph the interior of the residence without us
19 disturbing it.

20 Q And was that protocol followed in this case?

21 A Yes, sir, it was.

22 Q Now, when you first went into the scene, would you
23 tell the jury, generally, what you found, especially as it
24 relates to the victim and the condition of the premises?
25 Did you enter through the front or the rear door?

1 A Yes, sir. We, actually, entered -- the three of us
2 entered through the front door. That would be myself,
3 forensics, and the deputy coroner that was there. We
4 entered through the front door of the residence, which
5 is -- there's a small porch and steps. And we entered
6 through the front door so as to, hopefully, not disturb
7 any evidence found at the point of entry where the suspect
8 had come through the back door.

9 Once we entered in through the front door there, it
10 goes into the den area. As you enter that area, there was
11 a small desk on the right, like a computer desk. And
12 there was a small hallway that went around the corner to
13 what appeared to be a child's bedroom. To the left was
14 the remaining side of the living room area where the
15 master bedroom was attached. And then past the master
16 bedroom -- or what appeared to be the master bedroom, past
17 that was the -- I guess you would call it like a breakfast
18 area or dining area leading into the kitchen.

19 Q Before you leave the living room, what was the
20 condition of the living room?

21 A It was disheveled. There was a video game system
22 half off a shelf, half in the floor. There was a love
23 seat directly adjacent to the door to the master bedroom
24 that was -- it appeared to be askew. It was sitting caddy
25 corner. I don't know if it had been like that previously.

1 There was a knife found on that love seat. And then there
2 was a blanket or comforter type item lying in the floor in
3 the living room area.

4 Q Let me show you what's been pre-marked as State's
5 Exhibit Nos. 6 through 10 for identification purposes, and
6 ask you if you recognize these pictures?

7 A (Witness reviewed the pictures.)

8 Q Do you recognize the pictures?

9 A I do, yes, sir.

10 Q And start with State's Exhibit No. 6, what does that
11 depict?

12 A State's Exhibit No. 6 would depict the view from
13 inside the living room area towards the front door.

14 And State's Exhibit No. 7 --

15 Q I'm sorry. They're out of order.

16 A State's Exhibit No. 7 would, also, be a photograph
17 from inside the living room area. And instead of to the
18 right side being the front door, this is more angled to
19 the left side to show the hallway to the bedroom.

20 Q And State's Exhibit No. 8, sir?

21 A State's Exhibit No. 8 is, actually, a photo from the
22 area of the front door pointing towards the master bedroom
23 and the area leading into the kitchen.

24 Q And State's Exhibit No. 9?

25 A State's Exhibit No. 9 would, also, be a photo from

1 the front door area towards the master bedroom. But it's
2 with a slight more angle towards the -- to include what I
3 would refer to as like a breakfast room area.

4 Q All right, sir. And State's Exhibit No. 10?

5 A State's Exhibit No. 10 would be a photo, basically,
6 of the living room area floor where the comforter or
7 sleeping-bag-type item was laying in the floor.

8 Q All right, sir. And do all these pictures depict the
9 different angles of the living room, basically?

10 A Yes, they do.

11 Q And were these pictures taken by the forensics
12 officer that morning?

13 A Yes, they were.

14 Q Do they accurately depict the state of affairs of the
15 living room when you entered this morning?

16 A Yes.

17 MR. WESTON: Your Honor, the State would offer these
18 as State's Exhibit Nos. 6 through 10.

19 THE COURT: Any objection?

20 MR. GODFREY: Without objection.

21 MR. COOKE: No objection.

22 THE COURT: Without objection.

23 (WHEREUPON, State's Exhibit Nos. 6, 7, 8, 9, and 10
24 were admitted into evidence.)

25 MR. WESTON: Permission to publish, Your Honor?

1 THE COURT: You may, sir.

2 BY MR. WESTON:

3 Q Now, once you leave the living room -- you walked in
4 the living room, where did you go next in the home?

5 A From the living room area, we, initially, went
6 towards where the body would be located, which it was
7 lying in the floor right at the kitchen area, just past
8 the doorway to the master bedroom.

9 Q All right. And how was -- what was the condition of
10 the body in terms of position?

11 A The victim, at that point, was laying face down, both
12 legs straight, and the arms were slightly bent at the
13 elbows. But he was lying on his stomach face down.

14 Q I'm going to show you what's been pre-marked for
15 identification as State's Exhibit No. 11, and ask you if
16 you recognize that picture?

17 A Yes, sir, I do.

18 Q And what does that depict?

19 A This is a photograph of the kitchen of the incident
20 location taken from the point of view of just where the
21 body was located.

22 Q And is that the way the kitchen looked the morning
23 you entered into it on the day of the incident?

24 A Yes, sir, it is.

25 Q And is it an accurate depiction of the kitchen area

1 that morning?

2 A Yes, sir, it is.

3 Q Was it, also, taken by the forensics officer?

4 A Yes, sir, it was.

5 MR. WESTON: Your Honor, the State would offer this
6 as State's Exhibit No. 11.

7 THE COURT: Any objection?

8 MR. GODFREY: None.

9 MR. COOKE: No objection.

10 THE COURT: Without objection.

11 (WHEREUPON, State's Exhibit No. 11 was admitted into
12 evidence.)

13 BY MR. WESTON:

14 Q If you would, just kind of hold this up. You don't
15 need to come down here. If you would, just hold this up.
16 I'm going to publish it in a moment, but just kind of hold
17 it up for the jury. And just show them where the body
18 would have been below or around this picture.

19 A Relative to this picture, right where the frame cuts
20 off here, this is sort of where the kitchen area comes
21 into what you would consider the dining area or breakfast
22 room area, however you want to term it, and the body would
23 have been laying here in the door.

24 MR. WESTON: Thank you, sir.

25 Permission to publish, Your Honor?

1 THE COURT: Yes, sir.

2 BY MR. WESTON:

3 Q So once you -- how would you characterize -- the jury
4 has a picture of it. How would you characterize the
5 kitchen area?

6 A It was very cluttered, dishes. There was food out.
7 There was numerous clothing items stacked against the
8 wall. It was just very cluttered and in disarray.

9 Q And did you have an occasion to go into the bedroom
10 of the home?

11 A Yes, sir, I did.

12 Q And how would you characterize those rooms?

13 A In reference to the master bedroom or both?

14 Q Start with the master bedroom.

15 A The master bedroom, again, as I stated, was right off
16 the living room side where the kitchen was located. It
17 appeared to be ransacked where someone had gone through
18 looking for something. There was a suitcase found on the
19 bed. There were some shoe boxes. I believe there was a
20 drawer that was askew. But it had the appearance of
21 someone having searched that room.

22 The other room appeared to be, basically, a child's
23 room, a younger person's room, which had the appearance of
24 your typical child's room. It wasn't -- didn't appear to
25 have been affected by this.