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**ORIGINAL
ANDERS**

VOLUME 1 OF 3

STATE OF SOUTH CAROLINA

In The Court of Appeals

No Respondent's Brief Filed

ANDERS RESPONSE BRIEF

APPEAL FROM LEXINGTON COUNTY

Robin B. Stilwell, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CURTIS T. JOHNSON,

APPELLANT

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

COURT OF COMMON PLEAS NONJURY

STATE OF SOUTH CAROLINA,

PLAINTIFF,

VS.

KERWIN S. PARKER AND CURTIS T.
JOHNSON,

DEFENDANTS.

TRANSCRIPT

OF

RECORD

07-GS-32-1540 - 1542
07-GS-32-1473 - 1475

September 14th - 18th, 2009
Lexington, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILLWELL, Judge; and a jury.

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17 Transcribed by Pamela E. Green, Circuit Court Reporter
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P R O C E E D I N G S

(WHEREUPON, the following takes place within the presence of the entire jury venire.)

THE COURT: This morning, ladies and gentlemen, what we're going to do is pick a jury for this case that we're about to bring before the Court, and what's going to happen is I'm going to ask you a few questions. These aren't the same as qualification questions. That means this isn't going to determine if you're qualified or not, but it is going to determine whether it's appropriate for you to sit in the trial of this case, and the questions I will ask you are specific to the trial in this case.

Do you have the indictments?

SOLICITOR MYERS: Yes, sir.

Your Honor, this is The State versus Kerwin S. Parker. Indictment 2007-GS-32-1540, indictment for murder, 2007-GS-32-1542, indictment for assault and battery with intent to kill, and 07-32-1541, possession of a firearm during the commission of a violent crime.

The State versus Curtis T. Johnson, 07-32-32-1473, indictment for murder, 07-32-1476, indictment for assault and battery with intent to kill, 07-32-1474, indictment for assault and battery with intent to kill, and 1475, possession of a firearm during a violent crime.

1 THE COURT: Thank you very much.

2 All right. Ladies and gentlemen, you've heard the
3 cases announced this morning, and I'm going to read to you
4 the facts as alleged by the State on the indictment, and
5 before I read this to you I need to remind you this is
6 just a charging paper and there, they are mere allegations
7 by the State. Any criminal defendant is presumed innocent
8 until proven guilty beyond a reasonable doubt, and I only
9 tell you that to make sure that you understand that I'm
10 simply reading the allegations. The reason I'm reading
11 the allegations is I'm going to make sure and ask you some
12 questions to make sure you don't have any other knowledge,
13 any other involvement with this case, and it may be
14 necessary for you to know a little bit more about the
15 allegations than simply the names of the defendants.

16 So, in the first indictment, and that is Indictment
17 07-1541, the State versus Kerwin Parker, he is indicted
18 for possession of a firearm during the commission of a
19 violent crime. The State would allege that he did, on
20 November 20, 2006, possess of a firearm or visibly display
21 what appeared to be a firearm during the commission of a
22 violent crime. Specifically, a Smith & Wesson .40 caliber
23 was possessed and fired killing Issac Wilson, striking
24 A.J., committing the crime of assault and battery with
25 intent to kill, and that happening in Lexington County,

1 and the next indictment is 07-GS-1542, State versus Kerwin
2 Parker, assault, assault and battery with intent to kill,
3 and the State would allege, in Lexington County, on
4 November 20, 2006, Curtis D. Johnson did willfully,
5 maliciously, and with malice aforethought commit an
6 assault and battery on one A.J. Wilson with intent to kill
7 the said victim in that the defendant shot the victim with
8 a Smith & Wesson .40 caliber pistol.

9 The next indictment gentleman is Indictment 07-1540,
10 the State versus Kerwin S. Parker an indictment for
11 murder, and in this the State would allege Kerwin S.
12 Parker did, in Lexington County, on November 20th, 2006,
13 did willfully and feloniously and with malice aforethought
14 kill one Isaac Wilson by means of shooting the victim with
15 a Smith & Wesson .40 caliber pistol.

16 All right. Ladies and gentlemen, those are the
17 indictments as they pertain to Mr. Parker.

18 With respect to Mr. Johnson, in Indictment 2007-1473,
19 the State versus Curtis T. Johnson, an indictment for
20 murder, the State would allege that the defendant, Kerwin
21 S. Parker, in Lexington -- excuse me -- Curtis T. Johnson
22 did, in Lexington County, on November 20, 2006, willfully,
23 feloniously, and with malice aforethought kill one Isaac
24 Wilson by means of shooting the victim with a Smith &
25 Wesson .40 caliber pistol and the victim died as a

1 proximate result thereof.

2 In Indictment 2007-1476, the State would allege in
3 the case of the State versus Curtis T. Johnson, this is an
4 indictment for assault and battery with intent to kill,
5 and the State would allege Curtis T. Johnson, while aiding
6 and assisting Kerwin S. Parker, did willfully and
7 feloniously, with malice aforethought, commit an assault
8 and battery on one Walter Gadson with the intent to kill
9 the victim in that the defendant drove the said vehicle
10 into the victim.

11 And in 1474, State versus Curtis T. Johnson, assault
12 and battery with intent to kill. The State would allege,
13 in Lexington County, on November 20, 2006, Curtis T.
14 Johnson, while aiding and abiding, assisting Kerwin
15 Parker, did willfully, with malice aforethought, commit an
16 assault and battery with intent to kill said victim,
17 defendant did shoot and kill said victim with a Smith &
18 Wesson .40 caliber pistol.

19 And in 2010-1475, State versus Curtis T. Johnson,
20 indictment for a possession of a firearm or knife during
21 the commission of a violent crime. The State would
22 allege, in Lexington County, on or about November 20,
23 2006, possess a firearm or visibly displayed what appeared
24 to be a violent, firearm in the commission of a violent
25 crime. Specifically a .40 caliber pistol and the weapon

1 was fired committing, striking one A.J. Wilson committing
2 the crime of assault with intent to kill.

3 Ladies and gentlemen, I'll remind you one more time
4 these are mere allegations made by the State, and we will
5 pick a jury for that case as we proceed today.

6 Now, I need to ask you a few questions before we get
7 started. I have read into the record the allegations and
8 I have read into the record the names of the defendants.
9 Now, those defendants are Mr. Kerwin S. Parker and
10 Mr. Curtis T. Johnson.

11 Is there anyone on the jury pool or in the jury panel
12 who has any personal or professional or familial
13 relationship whatsoever with either of those gentlemen?

14 Are those gentlemen in the courtroom currently?

15 (Defendants stand.)

16 MR. DUNCAN: Your Honor, this is Mr. Kerwin Johnson.

17 THE COURT: Mr. Parker?

18 MR. DUNCAN: Parker.

19 MS. FULLWOOD: And this is Curtis Johnson.

20 THE COURT: All right. Anyone have a personal,
21 professional relationship, familial relationship, or any
22 nature of any relationship whatsoever with these
23 defendants?

24 (No response.)

25 THE COURT: Gentlemen, you may have a seat. Thank

1 you very much.

2 (Defendants comply.)

3 THE COURT: Mr. Parker is represented by Mr. Duncan.
4 Referred to as?

5 MR. DUNCAN: Jack.

6 THE COURT: And Mr. Johnson is represented by Ms.
7 Fullwood.

8 Could each of you introduce yourself and any other
9 attorneys that may be assisting you in defense of these
10 gentlemen?

11 MR. DUNCAN: My name is Jack Duncan, and I'm from
12 Lexington, and the only one representing Kerwin.

13 MS. FULLWOOD: I'm Beth Fullwood, and this is Sara
14 John, assisting me in defending Mr. Johnson, and this is
15 Lisa Williams who works with us as a paralegal.

16 THE COURT: Is there anyone on the jury pool who had
17 any personal, professional, or familial relationship with,
18 of any sort with the attorneys and the staff working on
19 this case in defense of these two gentlemen?

20 (No response.)

21 THE COURT: All right. Ladies and gentlemen, the
22 State, in this matter, is represented by your elected
23 circuit solicitor, Mr. Donnie Myers.

24 Mr. Myers, would you please stand up and introduce
25 yourself and anyone on the staff who may be assisting you

1 in the prosecution of this case, sir?

2 SOLICITOR MYERS: Thank you, Your Honor.

3 My name is Donnie Myers, the solicitor, and Colleen
4 Dixon and I will be representing the State.

5 THE COURT: Ladies and gentlemen of the jury, anyone
6 on the jury panel have a personal, professional, familial
7 relationship with Mr. Myers or anyone who may be
8 representing the State in this matter?

9 (Juror responds.)

10 THE COURT: Yes, ma'am, stand up and state your name.

11 JUROR: Juror 88, Janet Genoe. I know him,
12 Mr. Myers.

13 THE COURT: How do you know him?

14 JUROR: Through his -- Carolyn Anderson.

15 THE COURT: How long have you known him?

16 JUROR: All my life.

17 THE COURT: And given that relationship with
18 Mr. Myers, do you think that that would affect your
19 ability to render a fair and impartial decision based on
20 the law as I give it to you in this case?

21 JUROR: No.

22 THE COURT: You don't think it would affect that,
23 ma'am?

24 JUROR: No.

25 THE COURT: Okay. What is your jury number one more

1 time?

2 JUROR: Eighty-eight.

3 THE COURT: Okay. Good enough. I find that you are
4 qualified to sit on this jury.

5 Anyone else?

6 (No response.)

7 THE COURT: Okay. For purposes -- this is the list I
8 have.

9 Is this the State's list?

10 SOLICITOR DIXON: Yes, sir.

11 THE COURT: Good enough.

12 Ladies and gentlemen, I'm going to read out the names
13 of potential witnesses in this case which may be called by
14 the State or the defense and please, if you have any
15 personal or professional relationships with any of the
16 witnesses that I'm about to call, if you're related to
17 them by blood or marriage in any way, then please stand up
18 and let us know the nature of that relationship.

19 Those witnesses are as follows:

20 Frankie Blue.

21 Lee Connelly.

22 Debra Fleming.

23 Michael Hertz.

24 David MacDougall.

25 Elizabeth Richardson.

- 1 Yolanda Spenser.
- 2 Roger Beaver of the Lexington County Sheriff's
- 3 Department.
- 4 Steve Collins of the Sheriff's Department.
- 5 Henry Dukes of the Sheriff's Department.
- 6 Danny Lewis of the Sheriff's Department.
- 7 Troy Livingston of the Sheriff's Department.
- 8 Oscar McIntosh of the Sheriff's Department.
- 9 Wesley Swinson of the Sheriff's Department.
- 10 Kevin Smith of the Sheriff's Department.
- 11 Jim Hickman of the Sheriff's Department.
- 12 Terry Xanthakus of the Sheriff's Department.
- 13 Candy Kyzer of the Sheriff's 's department.
- 14 Beth Harmon of the Sheriff's Department.
- 15 Barbara McMullen of the Sheriff's Department.
- 16 Wilson Matthews of the Sheriff's Department.
- 17 Olga Cora of the Columbia Police Department.
- 18 Darius Wade of the Columbia Police Department.
- 19 Laura Grimes-Gould.
- 20 Lawrence Ashford.
- 21 Amy Fleming.
- 22 Rebekah Fleming.
- 23 Walter Gadson.
- 24 Jose Hernandez.
- 25 Antoine or A.J. Wilson.

1 Doctor Stephen Fann.

2 Doctor Randall Suarez.

3 Doctor Janice Ross.

4 Blayd Fins.

5 David Black of SLED.

6 Tammy Bannister of SLED.

7 Sheree Brown of SLED.

8 Janice Bryson of SLED.

9 Alexis Hazel of SLED.

10 Jasper Humbert of SLED.

11 Selena Kinard of SLED.

12 Lisa McReynolds of SLED.

13 Nikki Perry of SLED.

14 Ila Simmons of SLED.

15 Amy Stephens of SLED.

16 Doris Yarbrough of SLED.

17 And Karonda Williams of DHEC.

18 Again, anyone on the jury pool who has any
19 professional, personal relationship or is related by blood
20 or marriage to any of those witnesses?

21 (Jurors respond.)

22 THE COURT: All right. Ladies and gentlemen, I'm
23 going to ask you again to state your juror number and your
24 name and state that relationship and with whom please.

25 Yes, ma'am.

1 JUROR: Can I come up and talk with you about that?

2 THE COURT: Sure, you can.

3 Attorneys, you may come forward and hear the, the
4 substance of our conversation.

5 (WHEREUPON, the following takes place outside the
6 hearing of the remaining jurors.)

7 THE COURT: The court reporter has to take down what
8 you say. So, we're all going to kind of get close.

9 JUROR: I used to work as a dispatcher for the 9-1-1.

10 THE COURT: Your name?

11 JUROR: Number 7, Christine Bandeleer. I used to be
12 a dispatcher for the Columbia City Police Department, and
13 Olga Cora was one of the sergeants. I do not feel that
14 it's going to affect any verdict or anything. Just
15 letting you know I do know her.

16 THE COURT: You're telling me you know her, but you
17 can still -- it is your opinion you can fairly and
18 impartially sit on a jury and make a decision regarding
19 the laws of, law that, as I give it to you?

20 JUROR: Yes, it's been over eight years as I had any
21 association with her, and it was not as friends, but just
22 strictly professional as a dispatcher.

23 THE COURT: Thank you very much. I find you're
24 qualified to sit on a jury. Thank you for telling me
25 that.

1 (WHEREUPON, the following takes place within the
2 hearing of the entire jury panel.)

3 THE COURT: Ma'am?

4 JUROR: I'm Olan Dagreman, Juror Number 60. I know
5 Doctor Janice Ross.

6 THE COURT: Say it again.

7 JUROR: I know Doctor Janice Ross.

8 THE COURT: How do you know her, ma'am?

9 JUROR: I work at the same hospital.

10 THE COURT: And given that relationship that you have
11 with Ms. Ross, do you think that that would, in any way,
12 affect your ability to be a fair and impartial juror and
13 render a verdict in accordance with the law as I give it
14 to you?

15 JUROR: No.

16 THE COURT: I'm going to find you qualified. Thank
17 you for telling me that, ma'am.

18 JUROR: Julia Craft, 161.

19 THE COURT: Yes, ma'am.

20 JUROR: I work with Doctor Fann in the hospital.

21 THE COURT: Given that relationship with the doctor,
22 do you feel you can still be fair and impartially sit as a
23 juror in the trial of this case and render a verdict in
24 accordance with the law, with the rules of law as I give
25 it to you?

1 JUROR: I do.

2 THE COURT: Yes, ma'am, you may stay.

3 Yes, ma'am.

4 JUROR: I'm Elizabeth Bryant, Number 19. I have met
5 Doctor Suarez. Don't know him well, but he is an
6 acquaintance of my husband's, and I know Elizabeth
7 Richardson, but she is not a Lexington County resident. I
8 don't know if it's the same one or not. She lives out of
9 Columbia.

10 THE COURT: Given the fact you may know
11 Miss Richardson, and you may know another witness, do you
12 feel you could still render a fair and impartial decision
13 in accordance with the law as I give it to you?

14 JUROR: Yes.

15 THE COURT: Thank you. Have a seat.

16 JUROR: My name is Mercedes Deya, Juror Number 42. I
17 believe I recognize one of the names, Flemming. Not sure
18 if it's the same person.

19 THE COURT: Given the fact you may recognize the name
20 and you may know one of the witnesses, do you think you
21 could still sit as a fair and impartial juror in this case
22 and render a verdict in accordance with the law as I give
23 it to you?

24 JUROR: Yes.

25 THE COURT: Thank you very much. I appreciate that.

1 All right. Ladies and gentlemen. Moving along, I
2 have read the allegations into the record. Is there
3 anyone -- yes, sir?

4 MR. DUNCAN: Can I approach a second?

5 THE COURT: Sure.

6 Ladies and gentlemen, additional potential witnesses
7 are Buck Daniels.

8 Sean Frazier.

9 Frankie Blue.

10 Debra Fields.

11 L.C. Walker.

12 Again, anyone have any personal, professional
13 relationship, or related by blood or marriage to any of
14 those witnesses?

15 (No response.)

16 THE COURT: All right. Let the record reflect there
17 is no response.

18 Ladies and gentlemen, again, I've read into, to the
19 record the facts and the allegations that have been made
20 by the state.

21 Is there anyone who has formed any belief or any
22 opinion or has any independent knowledge of this case?

23 (No response.)

24 THE COURT: Let the record reflect there was no
25 affirmative response.

1 Is there -- does any member of the jury pool have any
2 reason why you do not think that you could be a fair and
3 impartial juror in the trial of this case?

4 (Juror responds.)

5 THE COURT: Yes, sir, please stand up.

6 (Juror complies.)

7 JUROR: Could I speak to you?

8 THE COURT: Yes, sir, please come forward.

9 (WHEREUPON, the following takes place outside the
10 hearing of the remaining jurors.)

11 JUROR: Richard Wright. 184. State of Florida
12 versus William Dean Barbane. William D. Barbane was my
13 son-in-law's parents. They were murdered in Florida,
14 kidnapping, murdered. I don't think I can handle a murder
15 case. I don't care if they're guilty or not guilty. I
16 just don't think I could sit on a jury.

17 THE COURT: For that reason I will find you exempt.
18 You're exempted from the trial of this case, but stay
19 because---

20 JUROR: That's fine. No problem.

21 (WHEREUPON, the following takes place within the
22 hearing of the remaining jurors.)

23 THE COURT: All right. Ladies and gentlemen, is
24 there any member of the jury panel related by blood or
25 marriage or close personal friends with anyone employed by

1 the Eleventh Circuit solicitor's Office or the Attorney
2 General's Office?

3 (No response.)

4 THE COURT: Let the record reflect no affirmative
5 response.

6 Is there any member of the jury panel related by
7 blood or marriage or close personal friends with anyone
8 employed by any state, local, federal, or military or, law
9 enforcement?

10 (Jurors respond.)

11 THE COURT: Let me ask you this before we go through
12 it one-by-one. I'm going to ask you this. Obviously
13 there are a lot of people who know a lot of law
14 enforcement agents. Okay. I'm going to limit this by
15 related to by blood or marriage. Just because you know
16 one I don't, unless that friendship affects your ability
17 to render a fair and impartial verdict in accordance with
18 the law as I give it to you, you don't, you don't need to
19 disclose that because we all, in society, know a lot of
20 law enforcement officers.

21 So, ma'am, I'll be happy to hear from you.

22 JUROR: Juror Number 27. My brother works for the
23 Lexington County Sheriff's Department.

24 THE COURT: Your juror number is what?

25 JUROR: Twenty-seven.

1 THE COURT: Thank you for telling us that. We do
2 appreciate that.

3 Knowing that, do you think you could still fairly and
4 impartially render a verdict in accordance with the law as
5 I give it to you?

6 JUROR: I do.

7 THE COURT: Thank you. I find you're qualified.
8 All right. Ma'am.

9 JUROR: Kay Long. Mary Kay Long, Juror Number 102.
10 My son is a crime scene investigator for the City Police
11 Department in Georgia.

12 THE COURT: Given that, do you still think you could
13 fairly and impartially sit as a juror in the trial of this
14 case?

15 JUROR: I do, Your Honor.

16 THE COURT: Thank you for letting us know.
17 Yes, ma'am.

18 JUROR: Sheila Smith, Juror 157. My husband is a
19 state transport police officer.

20 THE COURT: Given that, do you still think you could
21 fairly and impartially sit as a juror in the trial of this
22 matter?

23 JUROR: Yes.

24 THE COURT: Thank you for pointing that out.
25 Yes, ma'am.

1 JUROR: Robin Smith, Juror 156. My nephew by
2 marriage works for the Lexington County Sheriff's
3 Department.

4 THE COURT: Thank you. Do you think you could still
5 render a fair and impartial verdict in the trial of this
6 case?

7 JUROR: Yes, sir.

8 THE COURT: Yes, ma'am.

9 JUROR: Juror 151, Carol Smith. My brother is a
10 police officer for Chester County.

11 THE COURT: You still feel like you could render a
12 fair and impartial verdict with the law as I give it to
13 you?

14 JUROR: Yes.

15 THE COURT: You are qualified.

16 Has any member of the jury panel ever been employed
17 as a law enforcement officer?

18 (No response.)

19 THE COURT: All right. Let the record reflect no
20 affirmative response.

21 Any member of the jury panel a member of or
22 contributor to any organization that has as its primary
23 purpose the commission of crime or advocacy of victim's
24 rights such as MADD, SADD, CAVE, or CADRE?

25 (No response.)

1 THE COURT: Let the record reflect no affirmative
2 response.

3 Has any member of the jury panel or a family member
4 or close friend ever been the victim of a violent crime?

5 (No response.)

6 THE COURT: Has anyone on the jury panel heard
7 anything, read anything, have any knowledge about this
8 case we're about to bring forth?

9 (No response.)

10 THE COURT: Okay. Let the record reflect no
11 affirmative response.

12 Ladies and gentlemen, anything that I missed?
13 Any additional voir dire questions?

14 SOLICITOR MYERS: None from the State, Your Honor.

15 SOLICITOR DIXON: No, Your Honor.

16 MS. FULLWOOD: No, Your Honor.

17 MR. DUNCAN: No, Your Honor.

18 THE COURT: We're going to proceed to selection of
19 the jury in this matter. What's going to happen is kind
20 of formal, and is just part of a tradition of General
21 Sessions Court, and what's going to happen is the Clerk of
22 Court is going to draw a list of names at random, and what
23 she's going to do is select those names. It is done by
24 computer now. It didn't used to be, but it is done by
25 computer. She's going to pick those names, and when she

1 does, she's going to call your name out, and when she
2 does, what I'm going to ask you to do is come forward.

3 You see this lectern right here in front of me?

4 All you're going to do is come right in front of the
5 lectern, and you're going to -- you'll be walking toward
6 me and just turn around and face the courtroom and you
7 don't have to stand like I do. Maybe be a little more at
8 ease, more than I am, a little relaxed generally speaking,
9 and the attorneys are going to make their peremptory
10 strikes or what they have under the law, which is their
11 right to strike a juror and they may strike a juror for
12 any number of reasons.

13 You won't know the reason and please don't be
14 offended if you get stricken by one of the attorneys.
15 Don't try to figure out why because if you do you'll just
16 be as crazy as we are. You may be stricken. If you are
17 stricken, what will happen, and we'll go through three,
18 one of the attorneys will strike from the trial of this
19 case, and when that happens, just have a seat back in the
20 pool. However, if each of the attorney approves or elects
21 not to make a strike, they will say please swear the
22 juror, please seat the juror.

23 Okay. If all three of the attorneys ask you to be
24 seated, then what I'm going to ask you to do is walk over,
25 get a juror pin, and have a seat in the jury box.

1 We're going to pick 12 jurors and then we're going to
2 pick three alternate jurors. So, when we get done with
3 the selection of the jury, then we can release the
4 remainder of the jury pool downstairs and pick another
5 jury.

6 Okay. Let me say this before I forget about it.

7 Okay. You may have already heard this, but just so that
8 it can't be said that I didn't remind you, if you're not
9 on a jury or if you are on a jury, and you're looking for
10 instructions about where to be and when to be there, the
11 Clerk of Court has a number that you can call and always
12 call that number at the prescribed time or the default
13 time after six o'clock. After six o'clock is meaningful
14 because it gives the Clerk of Court the opportunity to
15 figure out what's going on tomorrow, and she may not know
16 that until after six o'clock. So, after six o'clock.

17 So, without further adieu, we can begin selection in
18 this case.

19 Madam Clerk.

20 (WHEREUPON, a jury panel was selected at this time.)

21 THE COURT: Thank you very much.

22 Ladies and gentlemen, we picked the jury for the case
23 in this courtroom. Judge McMahon is going to select the
24 jury from the remaining jurors. So, what I would ask you
25 to do is -- and, Mr. Fuller, can you take them down to the

1 third floor courtroom?

2 Can you lead them down there?

3 BAILIFF: I don't think we have enough room to put
4 them all down there.

5 (Pause.)

6 THE COURT: All right, ladies and gentlemen. I am
7 going to send you down to the third floor. Judge
8 McMahon's courtroom is down there. I believe he's in
9 Courtroom 38-C. Mr. Boyd, in the back, will lead you down
10 there, and it might be a tight fit for a period of time,
11 but it may be Judge McMahon will give you a break or just
12 a little break so he can either pick from among you a
13 smaller pool and the rest of you can go or he may just
14 pick from the entire pool. I'm going to ask you to go
15 down there. Thank you for being here this morning.
16 Perhaps I'll see you later this week. If I don't, have a
17 great week.

18 (Pause.)

19 THE COURT: All right, ladies and gentlemen. You are
20 the jury for this trial. This trial, I anticipate, is
21 going to take most of the rest of the week, and, like I
22 indicated earlier, I'm going to do everything that I can
23 to be considerate of your time and push things along as
24 quickly as I can. Right now what I'm going to do is
25 release you until 2:00 this afternoon. There are several

1 matters of law, some motions that need to be taken up.
2 Y'all don't need to just be hanging around while we
3 resolve some matters of law. I am going to ask you to be
4 back at 2:00 this afternoon.

5 Now, the bailiff is going to take you back and show
6 you where your jury room is, and he's going to show you
7 where to report and how to come back into the courtroom.
8 What I would ask you is be back before 2:00.

9 Okay. The reason I say that is because we can't
10 start until and unless we have all of you here. It is not
11 a matter of being considerate of my time or the attorney's
12 time. It is a matter of being considerate of each other
13 because if just one of you is not back then the rest of
14 you have to wait. So, please think about your fellow
15 jurors and try to be considerate and be back just, be back
16 on time, and for the remainder of the week, please be
17 timely as well.

18 I'll also tell you this. I haven't sworn you in yet
19 and you haven't really heard anything about the case
20 except the indictment. What I'm going to tell you is
21 something I'm going to tell you a couple of times during
22 the course of this week and that is this. Don't start
23 considering the facts of this case or the allegations.
24 Don't start thinking about it or talking about it or
25 deliberating, either among yourself or with other people.

1 When you go to lunch today, if somebody starts asking you
2 questions about that, then you say I'm on a jury, but I
3 can't talk to you about it right now.

4 Okay. Don't go out and get on the Internet and start
5 looking up names to see if you can do a little help on
6 your own. Okay. The reason I tell you that is not
7 because I don't want you to know about the case. I do.
8 But you see the only thing that you're allowed to consider
9 is the evidence that's considered, that is presented in
10 this courtroom, and that's evidence that is appropriately
11 considered by each side and then admitted by me in
12 accordance with the rules of law.

13 If you consider anything outside of what comes into
14 this courtroom, then it's not fair. It is not fair to the
15 state, it is not fair to the defense, and I'll tell you
16 what, it is not fair to y'all either because if I find out
17 that something like that has happened, and y'all have
18 spent five precious days of your time listening to a case,
19 then it will have all been for naught. Every bit of it.

20 So, let's make sure that we comply with the rules.
21 Don't discuss it outside of the courtroom. If anybody
22 does attempt to discuss it with you, then you take their
23 name down and you come back and let me know about it and
24 we'll take care of it.

25 Thank y'all and I'll see -- y'all be here at 2:00.

1 (WHEREUPON, the following takes place outside the
2 presence of the jury.)

3 THE COURT: All right. It is my understanding we
4 need to have a pretrial competency hearing, is that
5 correct?

6 MS. FULLWOOD: That's correct, Your Honor.

7 THE COURT: You want to go ahead and do that now?

8 MS. FULLWOOD: I believe that the doctor needs to
9 talk to Mr. Johnson for at least a brief period of time.

10 THE COURT: Is 15 minutes enough?

11 MS. FULLWOOD: I can't speak for the doctor, but I
12 can't see why it wouldn't be.

13 SOLICITOR DIXON: We'll check with him, Your Honor.
14 He was supposed to be here at 11:00. He's supposed to be
15 in our office, and I think---

16 THE COURT: Would you rather just come back at 1:30?

17 MS. FULLWOOD: Whatever everybody else wants.

18 SOLICITOR DIXON: I think he can do it relatively
19 quickly.

20 THE COURT: We'll take a ten minute recess now and
21 you tell me if you need that ten minutes or want to go on
22 the record and I'll adjust accordingly.

23 Also, on the record, I want to make as a Court's
24 Exhibit the witness lists that were handed up to the Court
25 and also the defendant's requests for voir dire as

1 collectively as Court's Exhibit 1. Thank you.

2 (WHEREUPON, the defense witness list and the voir
3 dire were marked as Court's Exhibit No. 1 for
4 identification purposes only at this time.)

5 MS. FULLWOOD: Thank you, Your Honor.

6 (WHEREUPON, a short recess was taken at this time.)

7 SOLICITOR DIXON: For the purposes of the hearing,
8 State calls Doctor Michael Gassen.

9 DOCTOR MICHAEL GASSEN, having been
10 first, duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY SOLICITOR DIXON:

13 Q Doctor Gassen, where are you employed?

14 A I work at the South Carolina Department of Mental
15 Health forensic evaluation service.

16 Q What is the forensic evaluation service?

17 A It is an outpatient evaluation program that serves
18 courts throughout the state of South Carolina as far as
19 providing evaluations providing competency to stand trial
20 and responsibility.

21 Q Tell me about your educational background.

22 A I completed my doctorate in clinical psychology in
23 2006. As part of that I completed an internship in
24 Florida at a state hospital. It was a heavily forensic
25 program. I did a lot of competency to stand trial

1 evaluations---

2 MS. FULLWOOD: Your Honor, I will stipulate to the
3 witness' qualifications as an expert witness.

4 THE COURT: Mr. Duncan, your position, sir?

5 MR. DUNCAN: That's fine. I will stipulate.

6 THE COURT: So stipulated.

7 You may move on.

8 SOLICITOR DIXON: Thank you, Your Honor.

9 Q Dr. Gassen, did you receive an order from the Court
10 to examine the defendant, Curtis Johnson, in this case?

11 A Yes, I did.

12 Q Do you have a copy of your report with you?

13 A I do.

14 Q Tell us, doctor, on what date that evaluation was
15 done.

16 A I met with Mr. Johnson on October 2, 2008.

17 Q Who else was present during the evaluation?

18 A The second examiner is a social worker, Tia Taylor.
19 She also works for the Department of Mental Health.

20 Q Okay. Did you obtain any information prior to the
21 evaluation?

22 A Yeah, Ms. Taylor conducted what's called a forensic
23 social work admission assessment in which she called
24 Mr. Johnson's mother and spoke with her and received some
25 background information about him and she asked things

1 about developmental milestones, whether he met those on
2 time, and academic history, employment history, legal
3 history, those kinds of things.

4 Q Did you have any information as to the crimes with
5 which Mr. Johnson is charged?

6 A Yes, as part of the information I received with the
7 court order there were police reports from the -- let's
8 see. It was from the Lexington County Sheriff's
9 Department.

10 Q Okay. Can you tell me how long the evaluation
11 lasted?

12 A Yeah, about two and a half hours.

13 Q Okay. Did you have an opportunity today to speak
14 again with Mr. Johnson?

15 A Yes, I did.

16 Q Are you familiar, doctor, with the definition of
17 competency to stand trial in South Carolina?

18 A Yes.

19 Q And can you tell me, in your opinion, what your
20 opinion is about Mr. Johnson's competency?

21 A My opinion is that he is competent to stand trial at
22 this time.

23 Q Can you tell me what you base that on?

24 A It is my opinion that he does not have any kind of
25 mental illness that would be likely to render him not

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1 competent to stand trial, and even if he did have such
2 mental illness, he's demonstrated, during both interviews
3 that I've had with him, that he has the ability to
4 understand what's going on in the courtroom, to work with
5 his attorney in his own defense, and to understand all the
6 possible consequences and out-comings in his case.

7 SOLICITOR DIXON: One second, Your Honor.

8 (Pause.)

9 Q Doctor Gassen, I know you said you're familiar with
10 the legal definition of competency in South Carolina.

11 Could you tell the Court what that is, please?

12 A In general, I don't have the verbatim statute, but,
13 in general, it's whether or not an individual has a
14 capacity to have a rational as well as factual
15 understanding of the proceedings against them as well as
16 sufficient presentability to assist their attorney in
17 their own defense.

18 Q I know you said that, in your opinion, Mr. Johnson
19 does have, understand the proceedings and can assist in
20 his defense.

21 Can you explain to the Court what exactly it was
22 about your evaluation of Mr. Johnson that led you to that
23 conclusion?

24 A The first time I met with him I asked him a number of
25 questions about how things work in the courtroom, what are

1 pleas that he could enter when he goes to court, the
2 difference between a felony and a misdemeanor, what the
3 judge and what the jury do, what the solicitor and defense
4 attorneys' jobs are, what witnesses do in the courtroom,
5 why people bring in evidence, what are some examples of
6 evidence, and he understood the vast majority of the
7 information we discussed.

8 He also demonstrated the ability to quickly learn and
9 retain the information that he did not seem aware of. One
10 of the things we discussed was the plea of no contest. He
11 didn't seem familiar with that. And, so, I explained to
12 him and he, after I explained it to him, he gave his own,
13 he kind of paraphrased what I told him it meant, and at
14 the end of the forensic interview I asked him again do you
15 remember what that was and he remembered it quite well.
16 So, even if he was lacking a little bit of information
17 about how court proceedings work, he demonstrated the
18 ability to learn anything that he would need to be taught
19 as the proceedings ensue.

20 Q Is there anything else about your evaluation of Mr.
21 Johnson that led you to your conclusion that he was able
22 to assist in his own defense.

23 A I would just add that when I met with him he was able
24 to answer questions relevantly; follow the discussion,
25 interact appropriately, and just didn't seem to have any

Michael Gassen - Direct examination
By Solicitor Dixon

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1 difficulty discussing what was going on with this case.

2 So --.

3 Q Dr. Gassen, did you prepare a report on your
4 evaluation and your conclusions?

5 A Yes, I did.

6 Q Is this a copy of that report?

7 A Yes, this is the report.

8 SOLICITOR DIXON: Your Honor, at this time we would
9 move this into evidence either as a Court's Exhibit or
10 State's Exhibit, whichever you prefer.

11 THE COURT: Any objection?

12 MS. FULLWOOD: No, Your Honor.

13 THE COURT: Two. I'm sorry.

14 (WHEREUPON, the competency report was marked as
15 Court's Exhibit No. 2 for identification purposes only at
16 this time.)

17 SOLICITOR DIXON: I don't have any further questions
18 for Mr. Gassen at this time.

19 THE COURT: Ms. Fullwood, any questions for Mr.
20 Gassen?

21 MS. FULLWOOD: Thank you, Your Honor.

22 THE COURT: Yes, ma'am.

23 CROSS-EXAMINATION

24 BY MS. FULLWOOD:

25 Q Doctor Gassen, I believe your diagnostic impression

1 was adjustment disorder with a depressed mood?

2 A That's correct.

3 Q Is it -- basically that means someone is experiencing
4 emotional upheaval in this case in a sort of depressed way
5 because of a traumatic or big change in their life?

6 A That's correct.

7 Q In layman's terms?

8 A Uh-huh. (Affirmative).

9 Q Okay. Do you have any other diagnoses for
10 Mr. Johnson?

11 A Not at this time. There were other -- there's always
12 a few diagnoses that you want to consider and ask
13 follow-up questions on if there's anything that you think
14 might be present. But at this time I don't think he has
15 displayed or presented with reported or nor have I seen in
16 the records anything that would warrant any additional
17 diagnosis.

18 Q I believe that Mr. Johnson reported to you that he
19 has suffered nightmares and panic attacks following his
20 arrest, is that correct?

21 A He -- yeah, he said that. Initially he did.

22 Q Okay.

23 A By the time I saw him it didn't seem to be an ongoing
24 chronic issue.

25 Q And he has a history of suicide attempts that predate

Michael Gassen - Cross-examination
by Ms. Fullwood

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1 his arrest, is that correct?

2 A I recall at least one, him reporting at least one.

3 Yes, it looks like he reported two.

4 Q Okay. Do you think the past suicide attempts could
5 be a sign that he has some type of chronic depressive
6 disorder?

7 A While that's possible it wouldn't be sufficient to
8 give him a diagnosis of major depression or another
9 depressive disorder because there wasn't really any
10 history or any indication that he was otherwise depressed.
11 I know one of the suicide attempts was more in response to
12 a break-up with a girlfriend that was rough on him. And,
13 so, that would also be more of a situational reaction.

14 Q He also told you that he hears male and female voices
15 inside his head, has out-of-body experiences, believes he,
16 he has heightened senses, a heightened awareness of his
17 surroundings, and can, through his will, make events
18 occur, is that correct?

19 A Yes, he did report that.

20 Q Now, those -- that type of thought process can be a
21 sign of some major mental illnesses, can't it?

22 A Yes.

23 Q And which mental illnesses are they?

24 A Typically you would think that would sound like
25 someone who has a psychotic disorder such as schizophrenia

1 or something like that. However, he didn't really -- his
2 report of these experiences was that he's begun practicing
3 what I would, a lot of people would say are very esoteric
4 spiritual practices, getting into (untranslate) and those
5 things, and he indicated he became interested in those
6 things after he was arrested and detained, and he said
7 it's more a way of -- he says these spiritual practices
8 have been a way of helping him cope with his
9 circumstances.

10 So, the way he described them is more consistent with
11 someone who's actually practicing something of those
12 (untranslate) and, and those other practices than someone
13 with the experience of a psychotic disorder.

14 Q Can you testify, to a reasonable degree of forensic
15 certainty, that Mr. Johnson does not have a psychotic
16 disorder?

17 A I'm not sure what that means exactly, reasonable
18 degree of forensic certainty, but---

19 Q well, to a reasonable degree of certainty in your
20 field.

21 A Yes, I would say, at this time -- I mean it's
22 always -- he's young and it's always possible that someone
23 could be developing a psychotic disorder in his age, but
24 he doesn't show any indication of it during my
25 interactions with him. So, I would say that, yeah, I

Michael Gassen - Cross-examination
by Ms. Fullwood

53

1 would say, with a reasonable degree of certainty, he, that
2 he does not currently meet the diagnostic criteria for any
3 psychotic disorder.

4 Q Is it your testimony he can communicate with others
5 rationally?

6 A Yes, he actually demonstrated that quite well during
7 both of my interviews with him.

8 MS. FULLWOOD: Okay. And I believe that's all the
9 questions I have. Thank you, Your Honor.

10 THE COURT: Thank you.

11 Anything on redirect?

12 SOLICITOR DIXON: No, Your Honor.

13 THE COURT: Anything further of this witness?

14 MS. FULLWOOD: No, Your Honor.

15 THE COURT: Doctor, thank you for being here. I do
16 appreciate it. You may have a seat.

17 Do you wish to dismiss him or is he going to be
18 presented in your case in chief?

19 SOLICITOR DIXON: He can leave, Your Honor.

20 THE COURT: Anything further?

21 MS. FULLWOOD: No, Your Honor.

22 THE COURT: Thanks. Have a great day.

23 Anything further?

24 SOLICITOR DIXON: Nothing from the State, Your Honor.

25 THE COURT: Ms. Fullwood, anything further?

1 MS. FULLWOOD: No, Your Honor.

2 THE COURT: All right. I had the opportunity to hear
3 the testimony of the doctor. I will also state on the
4 record that I have had the opportunity to have some deal
5 of verbal interchange with the defendant last week during
6 a hearing in court and found him to be not only lucid, but
7 very intelligent. He had the ability to make arguments,
8 very cogent arguments, to this Court and he had the
9 ability to convey any and all information that was both
10 relevant and appropriate.

11 Therefore, I do find that he is both competent to
12 stand trial, and I have no evidence that there was any
13 mental defect which would affect his ability to know the
14 difference between right and wrong and accord his conduct
15 to the same at the time of the commission of the crime.
16 Obviously, given testimony that may come out on the
17 record, I would change that, but right now, for purposes
18 of proceeding, find that it is appropriate that we proceed
19 at this time.

20 All right. Anything further?

21 SOLICITOR DIXON: Nothing from the State.

22 THE COURT: I do want to put this on the record just
23 so y'all know. You may have seen me during that testimony
24 typing into my computer. I just want to make sure y'all
25 know that my, my clerk is not allowed to travel with me.

1 So, the only -- Court Administration won't pay for it.
2 So, if I need something, then I'd e-mail my clerk and I
3 was talking to him about charges and matters of law. So,
4 if you see me typing, it's because I might have a question
5 that I'm posing to my clerk, but I can assure you that I'm
6 not telling my wife that I love her or doing some other
7 type of diversion to---

8 SOLICITOR DIXON: We have no objection to you doing
9 that too, judge.

10 THE COURT: I'll take judicial notice of that, and
11 we'll leave that alone for the rest of the week. How
12 about that?

13 It is my understanding we're going to start back at
14 2:00, is that correct?

15 SOLICITOR MYERS: Yes, sir.

16 THE COURT: When we come back we'll go ahead and give
17 opening statements, but is there anything before that we
18 need to take up before the jury comes back?

19 SOLICITOR MYERS: Yes, sir, I have one matter.

20 THE COURT: Yes, sir.

21 SOLICITOR MYERS: We've got a witness that will
22 probably come up this afternoon. He's one of the victims.
23 His name is Walter Gadson, and we have given them his
24 prior rap sheet. On that rap sheet he had a burglary
25 second, which he got a sentence and served some time.

1 He's on probation. He also got a concurrent sentence on
2 failure to stop, and I didn't know whether they wanted to
3 go over his record in any more detail. We could do that
4 now outside the presence of the jury as to those two
5 crimes.

6 THE COURT: Okay. Well, I don't know. I think y'all
7 can probably discuss that between yourself. I know that I
8 don't know what type of questions and cross-examination
9 they may anticipate asking.

10 SOLICITOR MYERS: No, no. What I'm bringing up is
11 whether or not they have any more things that they're
12 going to try to get in---

13 THE COURT: Oh, I understand.

14 SOLICITOR MYERS: ---other than those two.

15 MS. FULLWOOD: He does have a fraudulent check
16 conviction.

17 SOLICITOR MYERS: He has five fraudulent check
18 convictions.

19 MS. FULLWOOD: And I believe there is case law,
20 judge, that says that's a crime involving dishonesty, and
21 I can tell you what the case is.

22 SOLICITOR MYERS: Also, Your Honor, the rap sheet
23 shows that there's three arrests for fraudulent checks. I
24 was informed this weekend that actually it's five, and I
25 think he has been sentenced on all five.

1 THE COURT: Okay. So, those arrests have matured and
2 the convictions as well?

3 SOLICITOR MYERS: Yes, sir.

4 THE COURT: All right.

5 SOLICITOR MYERS: The rap sheet doesn't show that,
6 but I'm informed he's been convicted.

7 THE COURT: Ms. Fullwood, you intend to ask him, to
8 impeach him based on those fraudulent check charges?

9 MS. FULLWOOD: Yes, sir.

10 THE COURT: Yes, sir, Mr. Duncan.

11 MR. DUNCAN: Your Honor, we understand that he is in
12 jail right now, and am I to understand that it's only for
13 CDV that he's in, the reason he's incarcerated now?

14 SOLICITOR MYERS: No, CDV doesn't have anything to do
15 with it. He's incarcerated for two things, fraudulent
16 checks, and they also served a probation violation warrant
17 on him for -- he was on probation for the burglary. He
18 has not been to court on those.

19 THE COURT: Okay. Any further argument on that
20 point?

21 SOLICITOR MYERS: What -- they have a position on the
22 probation violation warrant where he had been to court?

23 We would submit that's not admissible.

24 THE COURT: No, here's my take on that. Okay.
25 Probation violation, there hasn't been a finding by the

1 Court that that's been a willful or intentional violation.
2 I won't allow that.

3 With respect to fraudulent check charges, I find that
4 that is a crime of moral turpitude and my interpretation
5 of the law is they can't impeach him on those crimes of
6 moral turpitude. If there's some case law out there that
7 says that's admissible, then I'd be happy to consider that
8 at which time the witness is presented, but my -- right
9 now my understanding of the law is they would be allowed
10 to impeach him based on those convictions.

11 SOLICITOR MYERS: That's all we have.

12 THE COURT: Anything further?

13 (No response.)

14 THE COURT: I'll see y'all back at 2:00.

15 (WHEREUPON, Court was in recess for the lunch hour.)

16 THE COURT: Are we ready to proceed with the jury and
17 begin with the trial?

18 SOLICITOR MYERS: State's ready.

19 MS. FULLWOOD: One brief matter, Your Honor, and this
20 would be a motion in limine. We're about to get into fact
21 witnesses as I understand it. Of course, these people
22 have given statements and a lot of them, in their
23 statements, sort of bad mouth Mr. Johnson talking about
24 how he wasn't a good boyfriend to one Rebekah Fleming,
25 didn't treat her right, so on and so forth.

1 I would move, as a motion in limine, to remove any
2 prior conduct of his towards Rebekah Fleming under the
3 ground it's inadmissible under Rule 404, and is not
4 relevant under 402, and any probative value it might have
5 is outweighed by the prejudice and should, therefore, be
6 excluded under Rule 403.

7 THE COURT: Thank you very much.

8 Before I hear any argument from the State, just let
9 me say this. It is hard for me to analyze that testimony
10 in a vacuum meaning I don't know in what context it will
11 be offered. But I will say that, you know, certainly it's
12 going to have to meet the standards prescribed under the
13 rules of evidence. It's going to have to be relevant and
14 I'm going to have to make those determinations at the time
15 that it is admitted and I will have to analyze it in
16 context.

17 So, I'm not denying your motion at this point. All
18 I'm suggesting to you is that I need to hear it in context
19 before I make a ruling on that.

20 Now, is there anything further from the State?

21 SOLICITOR DIXON: Your Honor, just to let you know,
22 we have instructed our witnesses not to go into that type
23 of evidence. I think the farthest it may go is that the
24 defendant and his girlfriend had a fight. But as to the
25 contents of the fight or anything else about their

1 relationship, we have instructed our witness already to
2 not go into those kind of details.

3 THE COURT: Good enough.

4 All right. Ms. Fullwood, I would be happy to hear
5 your objections made contemporaneously with any of the
6 testimony elicited by the State.

7 MS. FULLWOOD: Yes, Your Honor.

8 THE COURT: All right. Bring the jury in.

9 (WHEREUPON, the following takes place within the
10 presence of the jury panel.)

11 THE COURT: Y'all can take your seats as you come in.

12 All right. Ladies and gentlemen of the jury, thank
13 you for getting back promptly.

14 We're about to start the trial of this case, and
15 before we get started, let me tell you a few things.
16 First thing, administratively, let me tell you, y'all
17 don't have assigned seats. Y'all can sit wherever you
18 want to, but what I would like is for the three
19 alternates, the three alternates to raise your hand.

20 (WHEREUPON, Jurors raise their hands.)

21 THE COURT: Where is the third?

22 (WHEREUPON, Juror raises their hand.)

23 THE COURT: Okay. Y'all, y'all please continue to
24 sit there. I'm not really concerned in what order. I
25 just want to make sure I can distinguish y'all from the

1 original 12. At some point in time I'm going to appoint a
2 foreperson of the jury, and when I do I'll ask the
3 foreperson to sit in the first seat. But I'm not prepared
4 to do that quite yet, but I will probably either before
5 the day is over, but certainly in fairly short order.

6 As I indicated to you, we're going to start the trial
7 of this case in a few minutes, but it's important for me
8 to tell you a few things about the procedure, how we're
9 going to do things during the trial, just so you'll have a
10 heads-up, some basic fundamental knowledge of what we're
11 doing, basic fundamental knowledge of what your role is,
12 what my role is, and how things will proceed.

13 The first thing I need to tell you is, is, with
14 respect to the criminal defendants in this case, in each
15 and every instance in the State of South Carolina and in
16 the United States of America a criminal defendant is
17 innocent until proven guilty beyond a reasonable doubt.
18 Therefore, these gentlemen, as they sit here right now,
19 are presumed innocent. The Constitution requires that we
20 presume that they are innocent. They will remain innocent
21 until the State meets its burden of proving each and every
22 element of the offense beyond a reasonable doubt.

23 Now, at the close of the case I'm going to charge you
24 as to the law. I'm going to define for you reasonable
25 doubt and tell you the specific laws which apply in this

1 case, but until we get there I'm going to tell you a few
2 things, just generally speaking, how you should conduct
3 yourself and how the trial will go.

4 Now, the way we'll begin is I'll give you a short
5 opening charge. After I have given you the charge, each
6 side will give you a short opening statement.

7 Now, you will hear statements from the attorneys for
8 the State and for the defendants. Now, recognize that
9 that is not evidence. Okay. They work for their
10 respective client, which means they are advocating a
11 position, their arguments, not evidence, and they
12 shouldn't be considered evidence by you. You will
13 consider the evidence which is appropriately admitted in
14 the trial, and that evidence will be admitted after the
15 attorneys have finished giving their opening arguments and
16 what will happen is after those arguments are presented on
17 the Court we're going to hear testimony from witnesses,
18 and we'll hear quite a few witnesses and that will be the
19 appropriately admitted evidence or a portion of the
20 appropriately admitted evidence. That is what you will
21 ultimately consider.

22 You also may see other forms of evidence which may be
23 documents that are presented to you. They can take the
24 form of videos. They can take the form of tapes. It can
25 take many forms, but the evidence will be appropriately

1 submitted, and it will either be on the stand here
2 recorded by the court reporter or there will be
3 documentary evidence, which will be appropriately marked
4 and given to you at the conclusion of the trial.

5 Now, after you've heard all of the evidence which is
6 presented in a case, then what you will hear is closing
7 arguments. Again, just as with opening arguments, those
8 arguments are not evidence. Simply arguments by the
9 attorneys in the case. Then at the close of the case I
10 will give you a charge as to the law, and I will tell you
11 specifically what the definitions of some very important
12 terms are, and I will give you the specific definition of
13 the law as it applies in this case. As indicated to
14 you -- and that's the general form and procedure that
15 we'll take.

16 Okay. As I indicated to you before, it is important
17 for me to tell you your role as opposed to my role in this
18 proceeding. I am the finder of the law. That is, I'm the
19 referee. What I do and my job is to make sure that each
20 side has a fair trial. I basically judge what's
21 admissible and what's not admissible. I judge what you
22 should hear and what you shouldn't hear and I insure that
23 the process is fair, and it's, it's constitutional to the
24 State and the defendants.

25 Now, what I don't do is I don't weigh in on the

1 facts. I don't have anything to say about the facts.
2 That's not my role. I don't determine who's telling the
3 truth, and I don't determine who's not telling the truth,
4 and I don't determine the weight of evidence, and I don't
5 intend to do any of that.

6 If you, at any point in time, think that I am
7 weighing in on the facts or lending any opinion with
8 respect to the facts, please disregard that because I
9 don't have an opinion. I'm just like you in this case and
10 that's all the evidence that's going to be presented in
11 this trial is going to be for the first time I'm hearing
12 it. I haven't heard any of it. It's going to be all
13 fresh and new just like it is to y'all.

14 Now, having said that, I will tell, since I told you
15 what my role is, I'm going to tell you what your role is
16 in the case and that is you are the finders of the facts
17 in this case. You're going to determine what's credible
18 in this case and what's not credible. You're going to
19 weigh the evidence and determine what is important in this
20 case and what is not.

21 As I indicated to you, you're going to get evidence
22 in this case and when you conclude the trial of this case
23 you're going to begin deliberations and you're going to
24 determine what evidence is important and what is not.
25 You're going to determine which witnesses may be credible

1 and should be given a lot of weight or you're going to
2 determine which witnesses may not be so credible and you
3 may not give it any weight.

4 The same is true with any documentary evidence that
5 you may get. You're going to look at it and say, I have
6 this piece of paper, and it was admitted, but it doesn't
7 mean much to me or you may look at it to the contrary and
8 say this is a very important document and we need to
9 really consider this hard. But ultimately that's going to
10 be y'all's responsibility to determine what weight to put
11 upon the evidence, to determine who's credible, who's not
12 credible, and then, after having made that determination,
13 you can come to some sort of a determination as to what
14 the facts are.

15 Again, don't let me encroach upon your province of
16 what the facts are. That is certainly within y'all's
17 discretion. Not mine.

18 Now, what I would also ask you is, during this case,
19 obviously it's going to take a couple of days, maybe as
20 many as four, maybe into Friday. I don't know yet. I'm
21 kind of where y'all are in it. I know there are going to
22 be a good number of witnesses, but I don't know how long
23 it's going to take because I don't know what's going to
24 come up. But what I'm going to ask you is this, and I'm
25 going to tell you this during the course of this week,

1 this same thing several times, i.e., and that is don't
2 start considering the case.

3 You, you know it's not fair to hear just a portion of
4 a story and then start to, start coming to conclusions
5 and, and coming to deliberations. It's just like in your
6 own personal experience, if you have children, and one,
7 you know, little Suzie comes to you and says little Johnny
8 hit me and you're mad as fire as a parent because he
9 shouldn't be hitting her, but then you hear the rest of
10 the story and then you understand that maybe it's not what
11 you thought at first blush.

12 When he will -- it's the same thing in court. You've
13 got to hear the entire story because you're not really
14 going to be able to make an informed and appropriate
15 decision until you've heard the entire story. It's not
16 fair to the State if you just, and it's not fair to the
17 defense, if you just listen to half the story and start
18 making up your mind, making up your mind because, like I
19 said, you won't, you won't have all the facts and you
20 won't be able to make the decision and begin.

21 I want to kind of bring home to you how important
22 that is. We're going to invest some time in this case.
23 The State is, the defense is, and y'all are too, and if
24 you start deliberating before it's appropriate, then we're
25 just going to have to do the whole thing over again. It's

1 not fair to y'all I would submit. So, please wait until
2 the conclusion of the case and until such time as I tell
3 you to start deliberating for you to deliberate because
4 that is the time at which you'll have everything you need
5 to make a decision and to start deliberating in this case.
6 So, if I, if I send you out of the courtroom for a period
7 of time or I send you home for a evening or we take brief
8 recesses, please remember and don't discuss the case and
9 don't start any of your deliberations.

10 I would also tell you, during the conduct of the
11 trial, you're going to hear, from time-to-time, the
12 attorneys stand up and make objections, and you may hear a
13 lot of that and you may not hear a lot of that. On
14 certain witnesses you may have a lot of witnesses and
15 certain witnesses you may not have very many objections.
16 What I would suggest to you is not to hold against that,
17 against either of the attorneys, the State or the defense
18 or the defendants in this case, because that's the role of
19 the attorneys.

20 The attorneys are here advocating the position for
21 their respective clients. They're going to make
22 objections. That's what they're supposed to do.

23 Now, after they've made an objection -- and, and as I
24 indicated, that's their job because they have some
25 question and argument as to whether things should be

1 admissible or not be admissible. Ultimately I'm the
2 referee. So, I'm going to decide, okay, is that
3 admissible or is that not admissible.

4 Okay. Now, when I make a ruling I'm going to rule in
5 favor of one side, and I'm going to rule against one side
6 because that's the way it goes. It's black and white.
7 I'm going to let it in or I'm not.

8 Now, don't think that because I rule in favor of one
9 side or the other that I am biased or prejudiced toward
10 one side or against one side or the other. I certainly am
11 not. I simply am making a very sterile determination as
12 to whether evidence is admissible or not. Don't think
13 that I have any bias one way or the other. I certainly
14 don't.

15 As I indicated to you, I haven't heard any of these
16 witnesses. I haven't seen any of the evidence. As the
17 saying goes, I don't have a dog in this fight. The only
18 thing I'm concerned about is that everything is fair. So,
19 please don't think that I have bias one way or the other,
20 and the other thing that I -- don't hold it against either
21 attorney. If I've ruled against one of these attorneys,
22 it means nothing other than I'm just making a sterile
23 determination.

24 From time to time, as well while we're conducting the
25 trial, there may be an objection or a matter of law that I

1 just need some time on. It may be -- it may not be black
2 and white. It may not be easy for me to make that
3 determination. I may want to hear some other things from
4 the attorneys. And, so, in that event what I would ask
5 you to do is just step out for a while, y'all get a break,
6 and we'll stay in here and we'll discuss those issues and
7 I'll make determinations about those issues.

8 It is my intent, as I indicated, to get you in and
9 out of here just as quickly and expeditiously as I
10 possibly can. Like I said, from time to time we're going
11 to take breaks. It's just the nature of the beast. I'm
12 going to have to take some breaks so that I can be
13 deliberate and make some good decisions. So, that will
14 happen from time to time as well. When you go out, as I
15 said, don't discuss the case please.

16 Now, with respect to your cell phones and your
17 Blackberries and all of that, I know everyone has one.
18 Okay. What I'm going to ask you is when you come into the
19 courtroom, just turn them off. Okay. No vibrations,
20 nothing. Just turn them off because if you're getting
21 vibrating messages and you've got a Blackberry, you've got
22 things like that, then it's just going to distract you
23 from what we're doing here today. And as I indicated to
24 you, this is an important case. Okay. This is important
25 for everyone. You know, obviously, that it's important to

1 the defendants, equally important to the State, and I
2 would suggest to you it's equally important to you. So,
3 give your full attention to it, if you would, please.

4 During your breaks, if you need to check on messages,
5 then certainly do that. But while we're in the courtroom,
6 please focus on the task at hand, and I can assure you
7 that I'll be focused on the task at hand. I don't have my
8 cell phone in here. It is turned off and it's back in
9 chambers. So, I'm not going to be looking at it either,
10 and I've told these attorneys before I have my computer up
11 here, and from time-to-time you may see me typing, but
12 that's not because I'm just saying hello to the world. My
13 law clerk is back in Greenville and from time-to-time I'm
14 going to have legal questions and I may be contemplating
15 the charge on the law that I'm going to give you based on
16 what evidence comes up. So, if you see me on that
17 computer, I'm sending him a message telling him you need
18 to do some work for me in connection with this case, not
19 another case, not in anything in my chambers, but with
20 this case.

21 So, ladies and gentlemen, I thank you for listening
22 to me and I thank you for lending me your patience. At
23 this point you will hear opening arguments.

24 Yes, ma'am.

25 SOLICITOR DIXON: Thank you, Your Honor.

1 May it please the Court?

2 THE COURT: Yes, ma'am.

3 SOLICITOR DIXON: Jealousy, anger, the need for
4 revenge, wicked intent, those are strong words. They're
5 strong emotions. Jealousy is a powerful motivator. It
6 will make a person do things they may not normally do. It
7 will cause a fist fight between two men over the
8 affections of a woman. A fist fight begins with anger and
9 inevitably it ends with someone wanting revenge, wanting
10 it so badly that they'll get it in whatever way they can.
11 When you take that jealousy and that anger and you combine
12 it with that need for revenge and a wicked intent, that
13 leads to murder.

14 Ladies and gentlemen, the State will prove to you, in
15 the late night hours of November 19 and the early morning
16 hours of November 20, 2006, what occurred is as simple as
17 what I've just told you. Two men had affection for one
18 woman. One of those men is Curtis Johnson seated here in
19 the courtroom. The other, a man named Isaac Wilson.

20 The confrontation between these two men and Isaac's
21 roommate, Walter Gadson, started as a fist fight somewhere
22 on a road in Richland County. When that fist fight's
23 over, you will hear testimony that Isaac and Walter went
24 home.

25 But it was at that point, ladies and gentlemen, that

1 the state will show that the defendant, Curtis Johnson,
2 and his older brother, Kerwin Parker, made a decision.
3 They made the decision to follow Isaac Walter back to
4 their apartment and to seek revenge. And because that
5 made, they made that decision, what started as a simple
6 fist fight ended with the sound of a car's impact into a
7 body and a flurry of gunshots. You're going to hear
8 testimony from two of the men who were injured that night.
9 One of them, Walter Gadson, the man on the receiving end
10 of that car's impact, the other one, Isaac Wilson's cousin
11 and roommate, A.J. Wilson, one of the men on the receiving
12 end of those gunshots.

13 Also, in the apartment that night, were two women,
14 Curtis Johnson's ex-girlfriend, Rebekah Fleming, and her
15 sister, Amy. You're going to hear testimony from them.
16 These people are going to tell you what they remember,
17 what they heard, and what they saw before and during and
18 after the gunshots. You're also going to hear testimony
19 from another neighbor that lived in that apartment
20 complex, a man who didn't know any of the parties, but
21 witnessed some of what happened that night.

22 When you hear from Walter Gadson he is going to tell
23 you that when the defendants arrived at the apartment
24 complex there was another confrontation, a verbal
25 confrontation between Walter, Isaac, and A.J., one of whom

1 was armed, and the defendant, Kerwin Parker, who got out
2 of his vehicle and Walter's going to tell you that at some
3 point during that verbal confrontation the car that the
4 defendants had arrived in started coming towards them.
5 Someone hit the gas, and when that happened, testimony's
6 going to prove that Walter and Isaac and A.J. turned and
7 they ran. They ran back towards their apartment, back
8 towards safety, but safety is not what they found.

9 Walter's going to tell you that before he made it
10 back to the apartment, back to the patio, he was struck
11 from behind by a car and he's going to tell you who was
12 driving that car. A.J. Wilson is going to tell you that
13 he made it to the apartment, made it to that patio, which
14 pictures will show you and evidence will show is
15 surrounded by a tall wooden privacy fence. A.J.'s going
16 to tell you that the defendants pursued him and his
17 cousin, Isaac, onto that patio. He's going to tell you
18 that that's where he was standing when he was shot and
19 he's going to tell you who shot him.

20 Isaac Wilson cannot tell you who fired the two shots
21 that injured his chest and ended his life, but when you're
22 instructed on the law at the end of this case, ladies and
23 gentlemen, you will learn that, in South Carolina, the
24 state doesn't have to prove who pulled that trigger, who
25 fired those shots because when more than one person acts

1 together in committing a crime they're responsible for not
2 only their own actions, but the actions of the other party
3 as well.

4 Besides the eyewitnesses that were there that night,
5 we're going to bring forth members of law enforcement from
6 the Columbia Police Department and from the Lexington
7 County Sheriff's Department. They're going to tell you
8 about their investigation. They're going to tell you when
9 and where the defendants were taken into custody. They're
10 going to tell you what they had on them and what they had
11 near them. You're going to hear about the evidence
12 collected off of that patio.

13 We're going to bring forth an expert in gunshot
14 residue. We're going to provide for you an expert in
15 firearms who will tell you that the shell casings
16 collected off of that patio match a .40 caliber Smith &
17 Wesson handgun purchased by Kerwin Parker and found in his
18 possession after the shooting. We're going to bring forth
19 an expert in D.N.A. and he's going to talk about the
20 process that he went through to match blood found on the
21 defendant's shoes to Isaac and A.J. Wilson. You're going
22 to hear testimony from the doctor who treated Walter
23 Gadson's wounds. You're going to hear testimony from the
24 doctor who treated A.J. Wilson's gunshots, and you're
25 going to hear testimony from the doctor who performed the

1 autopsy on Isaac Wilson.

2 Throughout this trial, ladies and gentlemen, we're
3 going to present you a lot of witnesses and you're going
4 to see a lot of evidence, but at the end of the day what
5 it comes down to is jealousy. What it comes down to is
6 that need for revenge. You take that jealousy and that
7 revenge, you add it to the intent to commit a wicked act
8 and throw in a deadly weapon and what you have is a
9 assault and battery with intent to kill of Walter Gadson,
10 what you have is assault and battery with intent to kill
11 of A.J. Wilson, and what you have is the murder of Isaac
12 Wilson.

13 Thank you.

14 THE COURT: Yes, ma'am.

15 MS. FULLWOOD: May it please the Court, Your Honor?

16 THE COURT: Yes, ma'am, please.

17 MS. FULLWOOD: Ladies and gentlemen of the jury, I'm
18 not going to beat around the bush with you. This is not a
19 who done it. I know who did it and it was Curtis Johnson.
20 Curtis Johnson hit Walter Gadson with the car. Curtis
21 Johnson shot a gun and shot A.J. Wilson and Isaac Wilson.
22 You might be wondering why are we here then.

23 Well, I'll tell you why. It has to do with the fact
24 that Curtis Johnson did not do those acts with malice.
25 You see, for a person to commit murder or assault and

1 battery with intent to kill, they have to do those acts
2 with malice. It's a state of mind and it's something that
3 the prosecution has to prove with you, to you, to all of
4 your satisfaction beyond a reasonable doubt as well as the
5 fact that he pulled the trigger or, or pushed the
6 accelerator. They have to prove his state of mind.
7 Malice means doing something with a wicked intent, with
8 evil intent. It means doing a wrongful act with no
9 excuse, just out of meanness, just to do it.

10 But that is not the case here. The law recognizes
11 that at times people are justified in their actions when
12 circumstances exist that even reasonable people would
13 probably act the same way under similar circumstances and
14 that's the case here.

15 Yes, there were two young men who liked the same
16 women, woman, Isaac Wilson and Curtis over there. He was
17 nineteen years old when this happened. He had been dating
18 a girl named Rebekah Fleming. They were broken up at the
19 time, but still she was eight months pregnant with his
20 child and they maintained a friendship. It wasn't as if
21 they weren't speaking to each other. She began to also
22 like Isaac and Isaac came to hate Curtis.

23 One night, while Curtis was alone in his car, Isaac
24 and Walter Gadson got behind him at a stoplight that was
25 red, pulled him out of the car, punched him, and held a

1 gun to him, and basically stuffed him up and scared him
2 pretty good.

3 Now, they, they didn't beat him to a pulp, but they
4 scared him really bad. He went home, told his parents
5 about what had happened, and he told his older brother,
6 Kerwin. Kerwin is eight years older than Curtis. He's
7 always kind of looked after him, babysat for him, helped
8 with his homework. He looks up to Kerwin. He loves him
9 and the brothers decided that they needed to go talk to
10 these other men.

11 They knew that no matter who Rebekah ended up with,
12 that Curtis and she would always have to have some type of
13 a relationship because they were about to have a child
14 together, and they knew that Curtis could not live the
15 rest of his life looking over his back for jealous people
16 trying to ambush him, for, just out of spite. So, they
17 didn't go over there with intent to hurt anybody. They
18 went over there to try to say, fellows, let's try to work
19 this out so we can all get along.

20 What did they find when they get there?

21 These men's, men come at them with guns. They are
22 armed. Worse than that, they point the gun. First at
23 Kerwin, cock it. Curtis, he's really scared. There's his
24 brother he loves so much, so dearly, in moral danger. He
25 honks the horn and he puts the car in gear and all of a

1 sudden walter turns the shotgun on him. He accelerates,
2 and, yes, to save his own life, he hit walter. He ran
3 into a tree and that tree was by the patio of the
4 apartment these men were in.

5 well, when he looks over to his side to see what's
6 going on he sees these men have some kind, somehow got his
7 brother onto that patio. He sees Isaac holding a shotgun
8 to his brother while A.J. is hitting on him and beating on
9 him. He's scared to death. He doesn't know what to do.
10 He's up in the car against the tree. He remembers that
11 his brother kept a gun and we're not talking about a
12 Saturday night special. We're talking about a gun that he
13 bought and was entitled to have legally, and he gets it
14 out of the driver's side window out of, away from the
15 patio, fires it, a warning shot, hoping these fellows
16 realize if there's another gun involved they'd stop, let
17 his brother go, and they could be done with it, but they
18 don't.

19 They keep fighting him. They keep the gun pointed at
20 him. He manages to get out of the car and he shoots and
21 in his terror and his fear and his apprehension about what
22 was going to happen to his brother he shot until that gun
23 was empty. The law recognizes that, under certain
24 circumstances, you are entitled to use force, including
25 deadly force, to save your own life. The law also

1 recognizes that, under certain circumstances, you are
2 entitled to use force, even deadly force, to save the life
3 of another person. Under those circumstances you are not
4 acting with malice and you are not committing the crime of
5 a murder or the crime of assault and battery with intent
6 to kill.

7 I'd urge all of you to pay close attention to any of
8 the evidence that will go to show you what Curtis' state
9 of mind was, and when you hear it all I think you'll agree
10 with his position. I'd also ask you to remember that even
11 though these two brothers are on trial here today together
12 because they're charged in the same incident, each of them
13 is entitled to have the evidence examined individually
14 against him. In other words, your verdict has to be
15 personal to each individual. It's not a collective
16 verdict.

17 You're about to hear the evidence of what happened
18 that night. I'm going to sit down and be quiet, but I
19 think, when you hear it, all you'll conclude that a
20 reasonable person would have thought the same things that
21 Curtis was thinking and you'll find that Curtis is not
22 guilty.

23 Thank you.

24 THE COURT: Mr. Duncan.

25 MR. DUNCAN: Ladies and gentlemen, my name is Jack

1 Duncan from here in Lexington. Kerwin has asked me to
2 represent him in this matter.

3 I took to heart, to heart about the jury system. I
4 have been fortunate enough to see trials in different
5 countries. My wife is a new citizen after coming here
6 from Bogota, Columbia. We studied for her citizenship
7 exam, and, of course, besides Ben Franklin and George
8 Washington and Thomas Jefferson, I was a little surprised,
9 out of a hundred questions, there were ten to twelve
10 questions solely about the jury system and the rights of
11 citizens to serve on juries. So, is -- that is a strong
12 emphasis that this country pays to and makes new citizens
13 learn.

14 You're going to hear a lot from, a lot of folks that
15 were there that night. You're going to hear from people
16 who spoke to Curtis and Kerwin that evening. You're going
17 to hear CSI type stuff, crime scene investigation
18 evidence. You'll hear witnesses from the prosecution
19 contradict each other. You will hear witnesses who
20 weren't interviewed for a month or so after this happened.

21 You're going to have to use your own abilities to
22 reason and think and to compare emotional just
23 heartbreaking testimony, but testimony that is not
24 supported by science and the facts, hard facts found.

25 These indictments are the paperwork necessary to

1 bring these charges to court. The indictment one says
2 from Curtis Johnson, the defendant, shot the victim, A.J.
3 Wilson. That's Curtis Johnson. Kerwin Parker's
4 indictment says the defendant shot the victim, A.J.
5 Wilson. Just like there's one steering wheel on a car,
6 I'll submit there's one trigger on a gun. I don't think
7 the State can have it both ways. All the CSI evidence,
8 Curtis Johnson, supports the fact that Curtis Johnson
9 pulled that trigger, as he will tell you, until the gun
10 was empty.

11 Now, he had a reason for it, but -- now, in a few
12 minutes from now you're going to hear testimony from
13 somebody who was there who was grievously injured, A.J.
14 Wilson. He's going to contradict that hard evidence, that
15 CSI evidence. So, you've got to decide which you believe,
16 and I'll remind you, folks, it seems like every week
17 there's a story in the paper or on T.V. about people
18 released from prison because off erroneous and mistaken
19 eyewitness testimony.

20 The judge is going to tell you about the high
21 standard that the prosecution has, beyond a reasonable
22 doubt. You have to decide whether or not all of this
23 evidence is contradictory, is to be believed beyond a
24 reasonable doubt. They're going to ask you to believe
25 part of what some witnesses say, but other parts of those

1 same witnesses they don't want you to believe and you've
2 got to decide that.

3 Now, you can decide to believe part of the testimony,
4 but I just want you to think about what testimony is
5 supported by the hard evidence, the crime scene
6 investigation, the CSI stuff, and what is not. Kerwin and
7 Curtis both spoke to the police that night. They were
8 separated, but they told the same story. We want you to
9 think about how you're supposed to believe part of the
10 testimony from the same witness and then hold the State to
11 the burden of beyond a reasonable doubt.

12 Kerwin and Curtis' stories haven't changed. We
13 submit that's reasonable doubt that Kerwin is guilty of
14 murder or intending to harm anyone. I want you to listen
15 for evidence that Kerwin Parker had an evil heart and had
16 malice that evening. I submit you won't find any.

17 Thank you.

18 THE COURT: Any exceptions to my opening statement or
19 opening statement, any parts?

20 SOLICITOR DIXON: None from the State, Your Honor.

21 MS. FULLWOOD: None from Curtis Johnson, Your Honor.

22 MR. DUNCAN: None, Your Honor.

23 THE COURT: Ladies and gentlemen, you've heard
24 opening statements, mine and those from each of the
25 parties, and now you're about to enter the phase where

1 you're going to hear evidence in this case, of the case,
2 but it's important that I swear you. You've already taken
3 an oath this morning when you answered questions from the
4 Court and my voir dire questions, but now you must take
5 the oath of jurors.

6 So, if you would, please take the oath as
7 administered by the Clerk of Court.

8 (WHEREUPON, the jury was placed under oath at this
9 time.)

10 THE CLERK: Is there anyone who could not take the
11 verdict, the oath?

12 I'm sorry.

13 (No response.)

14 CLERK: Juror's sworn, Your Honor.

15 THE COURT: We're about to begin the testimony. We
16 may be in here for a long stretch of time. I like to take
17 pretty, breaks pretty often. I've made like that
18 genetically. So, I'm going to tell you -- but if I'm not
19 taking breaks enough and you have an emergency, that is
20 you really need to go to the restroom or there's something
21 bearing upon your conscience and you need to take a break,
22 I'll ask you raise your hand and get my attention, and if
23 we need to take a break we will. I would rather you
24 listen to the testimony and be focused than to be thinking
25 about something else like how bad you have to go to the

1 bathroom or need a drink of water or something like that.

2 Also, I want to tell you one more thing. From time
3 to time I may stand up. I am a fairly hyperactive man in
4 a fairly sedentary job, but if I stand up, don't take
5 anything from that. I'm just standing up.

6 You may proceed.

7 SOLICITOR DIXON: Thank you, Your Honor.

8 The State calls Amy Fleming.

9 AMY FLEMING, being first duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION

12 BY SOLICITOR DIXON:

13 Q How, Amy, how old are you?

14 A Twenty-four.

15 Q Where do you live?

16 A 802 Central Drive.

17 Q Where is that?

18 A West Columbia, South Carolina.

19 Q Do you have any kids?

20 A Yes.

21 MR. DUNCAN: Your Honor, we're having a little
22 trouble hearing over here.

23 Q Pull that microphone down. Try and speak into the
24 microphone.

25 Did you say you had kids?

Amy Fleming - Direct examination
by Solicitor Dixon

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1 A Yes.

2 Q How do, many do you have?

3 A Two.

4 Q How old are they?

5 A I have a two year old and a five month old.

6 Q Boys or girls?

7 A A girl and a boy.

8 Q Who is the father of those children?

9 A Walter Gadson.

10 Q Amy, do you know the defendants, Curtis Johnson and
11 Kerwin Parker?

12 A Yes.

13 Q How do you know them?

14 A Curtis Johnson is my sister's ex-boyfriend and Kerwin
15 Parker is Curtis' brother.

16 Q In November of 2006, about how long had you known the
17 defendants?

18 A I known Curtis maybe a year.

19 MR. DUNCAN: Judge, I'm sorry, but it is very
20 difficult to hear her. She is muffled by the---

21 THE COURT: Ma'am, it's not your fault. The
22 acoustics in this courtroom aren't necessarily the best in
23 the world. So, what I'm going to ask you to do is speak
24 straight into it. Try to speak loudly. And if we're
25 continuing to have problems, I ask you to come forward a

1 little bit. Thank you, ma'am.

2 Q Okay. Amy, how long had you known the defendants in
3 November of 2006?

4 A I known Curtis maybe a year. I seen Kerwin on and
5 off. Didn't know him all that well.

6 Q Where were you living in November of 2006?

7 A 86 Foxmore Lane.

8 Q Who were you living with?

9 A A.J. Wilson and Isaac Wilson.

10 Q Anyone else living there at that time?

11 A Walter Gadson.

12 Q Had you ever seen either of the defendants over at 86
13 Foxwood Lane?

14 A Yes, Curtis Johnson.

15 Q You know why he would have been there?

16 A Dropping Rebekah's kids off while they went to
17 school.

18 Q Can you tell me what you were doing on the night of
19 November 19?

20 A Sitting at home on the computer.

21 Q At some point did you leave the apartment?

22 A Yes.

23 Q Why did you leave the apartment?

24 A Rebekah Fleming called me.

25 Q Do you know where Rebekah called you from?

Amy Fleming - Direct examination
by Solicitor Dixon

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1 A My dad's house.

2 Q Amy, I'm going to show you a map and ask you if you
3 can identify a couple of addresses for me. If I can work
4 this thing.

5 Can you see that?

6 A Uh-huh. (Affirmative).

7 Q Identify for me on that map 86 Foxwood Lane where you
8 were living in November of 2006.

9 A Want me to stand up?

10 Q You know what, I got a pointer for you. See if this
11 works.

12 Okay. Just push that button. There you go.

13 A Right there.

14 Q Where were you living in November of 2006?

15 A Right here, 86 Foxrun Lane.

16 Q Back in November of 2006, where was your father
17 living?

18 A 3430 Broad River Road.

19 Q You said you received a phone call from Rebekah.
20 Do you know what time that was?

21 A Like 11:30.

22 Q And as a result of that phone call, what, if
23 anything, did you do?

24 A I went to my father's house.

25 Q Who did you go to your father's house---

- 1 A with Isaac Wilson and Walter Gadson.
- 2 Q Okay. Whose car did you take?
- 3 A Isaac Wilson's.
- 4 Q Why did you take Isaac's car?
- 5 A At the time I didn't have a license or a car.
- 6 Q When you got to your father's house, tell us what
7 happened.
- 8 A When we got there I walked upstairs. My dad met us
9 at the door. He was like, no, they wasn't coming in.
10 Isaac and Walter walked back downstairs. I walked into
11 the apartment.
- 12 Q Beside Rebekah and your father, was anyone else at
13 the apartment?
- 14 A Curtis Johnson.
- 15 Q After you went inside, what did you do?
- 16 A He walked out. We started getting the kids together.
- 17 Q Okay.
- 18 A Getting them dressed.
- 19 Q Then what happened?
- 20 A Got them dressed, went downstairs, got in the truck,
21 headed back to---
- 22 Q Whose truck did you get into?
- 23 A Rebekah Fleming's.
- 24 Q When you got into the truck, did you see Isaac or
25 Walter or Curtis still there?

Amy Fleming - Direct examination
by Solicitor Dixon

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- 1 A No.
- 2 Q What happened next?
- 3 A We got in the truck and went back to Isaac's house.
- 4 Q Do you know about what time you arrived back at the
- 5 apartment?
- 6 A No.
- 7 Q What happened when you got back to the apartment?
- 8 A Me and Rebekah was sitting around talking.
- 9 Q I'm going to show you another picture and ask if you
- 10 recognize what this is.
- 11 A Yes.
- 12 Q What is that?
- 13 A That's the layout of Isaac's apartment.
- 14 Q Okay. Can you just briefly kind of tell us about the
- 15 layout?
- 16 A When you first walk in that's the living room. You
- 17 walk in. There go the kitchen, the bathroom, the washing
- 18 machine and dryer. That's a part of the kitchen. When
- 19 you walk through, that's the dining room. That's like
- 20 part -- all this is the living room. That's the back
- 21 patio.
- 22 Q Okay. You got back to the apartment and you said you
- 23 and Rebekah were hanging out.
- 24 Where were you hanging out?
- 25 A In the living room.

1 Q Who else was at the apartment?

2 A Her three kids.

3 Q Anybody else?

4 A A.J.

5 Q Okay. What was A.J. doing?

6 A I think he was laying on the chair.

7 Q At some point later that night did you see Isaac and
8 Walter?

9 A Yes.

10 Q About how long after you got to the apartment did you
11 see Isaac and Walter?

12 A Maybe five or ten minutes.

13 Q Okay. Tell me what the next thing you remember is.

14 A They came in. They were talking about what happened.

15 Q Uh-huh. (Affirmative).

16 A Before we know it, I, I heard a knock.

17 Q Okay. Do you know about how long it was that you had
18 been home when you heard that noise?

19 A No.

20 Q Okay. After you heard that noise, what's the next
21 thing that happened?

22 A Isaac and Walter got up and started walking towards
23 the back patio door.

24 Q Did any of them have anything with him?

25 A Isaac had his shotgun.

Amy Fleming - Direct examination
by Solicitor Dixon

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- 1 Q Okay. What did they do?
- 2 A They all walked outside.
- 3 Q Who is they?
- 4 A Isaac and Walter. A.J. followed along not too long
- 5 behind them.
- 6 Q When you say they walked outside, did you see where
- 7 they went?
- 8 A No.
- 9 Q After they went outside, did you hear anything?
- 10 A All I heard was you've been sleeping with my
- 11 girlfriend.
- 12 Q Okay. Did you recognize the voice?
- 13 A Yes.
- 14 Q Whose voice was that?
- 15 A Curtis Johnson.
- 16 Q Did you hear anything else?
- 17 A You could hear the truck revving up.
- 18 Q What is the next thing that you saw?
- 19 A The next thing I saw, Isaac walks back into the
- 20 house.
- 21 Q Before that, did you hear anything else?
- 22 A I can't recall.
- 23 Q Okay. At some point did you lead, leave the bottom
- 24 floor of that apartment?
- 25 A Yes.

Amy Fleming - Direct examination
by Solicitor Dixon

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1 Q why did you do that?

2 A My nephew was walking around as they were shooting.
3 So, I kind of tossed them upstairs.

4 Q You said they were shooting, how did you know they
5 were shooting?

6 A I could hear gunshots.

7 Q When you tossed your nephew upstairs, what is the
8 next thing you did?

9 A As I was walking down the stairs Isaac was coming off
10 the patio.

11 Q Tell me, using that pointer, where you went when you
12 came downstairs.

13 A As he was walking from this way coming in I was
14 walking from this way coming in.

15 Q When you saw Isaac, what, if anything, happened?

16 A He said I'm shot. As he was going to the floor I was
17 going to the floor.

18 Q Where were you?

19 A We were right here on the corner.

20 Q When you say he was going to the floor, what do you
21 mean?

22 A Like he was dropping.

23 Q What, if anything, did you do?

24 A I went down with him.

25 Q What's the next thing that you saw or heard?

Amy Fleming - Direct examination
by Solicitor Dixon

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1 A I could hear A.J. calling me, Amy, help me, Amy, help
2 me.

3 Q what did you do?

4 A I walked up through the kitchen to the patio door.

5 Q what did you see?

6 A I seen A.J. laying down right here. He was just
7 saying Amy, help me, Amy, help me.

8 Q Did you notice anything about A.J.?

9 A His face was bleeding.

10 Q Did you see anyone else on the patio?

11 A I could see Kerwin.

12 Q okay. Can you describe for me what Kerwin looked
13 like?

14 A He had a bald head -- well, a short haircut.

15 Q Okay. where did you see Kerwin?

16 A Like right there.

17 Q when you saw him, was he inside the patio fence?

18 A Like half way.

19 Q okay. And what, if anything, did you hear Kerwin
20 say?

21 A All I heard was I should kill all of you.

22 Q okay. Did you see Kerwin with anything?

23 A Yes.

24 Q And what did you see him with?

25 A I seen him with the gun.

1 Q Can you describe what the gun looked like for me?

2 A All I know, it was long and silver.

3 Q After you saw Kerwin on the patio, what happened
4 next?

5 A I think I had my phone in my hand and I think that's
6 when I called 911.

7 Q Okay. Amy, I'm going to show you a CD and ask if you
8 recognize this.

9 A Yes, ma'am.

10 Q And can you tell me what that CD says.

11 A Fleming, 9-1-1 call.

12 Q Are there any initials on that CD?

13 A Mine.

14 Q Have you heard the contents of this CD before?

15 A Yes, ma'am.

16 Q When did you hear that?

17 A I think the first time we was going to trial.

18 Q When you heard that CD, is that a fair and accurate
19 copy of the 9-1-1 call that you made that night?

20 A Yes, ma'am.

21 Q And is that your voice on that CD?

22 A Yes, ma'am.

23 SOLICITOR DIXON: Your Honor, at this time we'd offer
24 this as State's 1 into evidence.

25 THE COURT: Any objections?

Amy Fleming - Direct examination
by Solicitor Dixon

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1 MS. FULLWOOD: No, Your Honor.

2 MR. DUNCAN: No, sir.

3 THE COURT: So, admitted without objection.

4 (WHEREUPON, the CD was marked as State's Exhibit No.

5 1 and received into evidence at this time.)

6 SOLICITOR DIXON: Your Honor, we ask permission, at
7 this time, to publish the CD to the jury.

8 THE COURT: You may do so.

9 (WHEREUPON, State's Exhibit No. 1 was published to
10 the jury at this time.)

11 Q Amy, was that your voice on the tape?

12 A Yes.

13 Q Can you tell the jury, Amy, as you were on the phone
14 with 9-1-1, what were you doing?

15 A Looking for my baby father.

16 Q Who was that?

17 A Walter Gadson.

18 Q Amy, I have one more question for you.

19 Had you ever seen Kerwin Parker drive a vehicle?

20 A Yes.

21 Q And do you think you would recognize that vehicle if
22 you saw it again?

23 A Yes.

24 Q I'm going to show you a photograph, Amy, and ask if
25 you can recognize this car.

Amy Fleming - Direct examination
by Solicitor Dixon

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1 A Yes, ma'am.

2 Q Can you tell me whose car that is?

3 A Kerwin Parker's.

4 Q Is that an accurate picture of this car?

5 A Yes.

6 SOLICITOR DIXON: At this time we move this
7 photograph into evidence as State's Exhibit 2.

8 THE COURT: Any objection?

9 MS. FULLWOOD: If I could just briefly see it.

10 THE COURT: Yes, ma'am.

11 MS. FULLWOOD: Probably not.

12 (Pause.)

13 MS. FULLWOOD: No objection.

14 THE COURT: So, admitted as State's Exhibit No. 2.

15 (WHEREUPON, the photograph was marked as State's
16 Exhibit No. 2 and received into evidence at this time.)

17 SOLICITOR DIXON: Your Honor, Court's indulgence.

18 THE COURT: Yes, ma'am.

19 (Pause.)

20 Q Amy, answer any questions the defense may have.

21 CROSS-EXAMINATION

22 BY MS. FULLWOOD:

23 Q Miss Fleming, you gave the police two statements
24 about what happened that night, correct?

25 A Yes.

Amy Fleming - Cross-examination
By Ms. Fullwood

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1 Q And the first statement you gave was on November 20,
2 the same day that this happened, correct, and then you
3 gave the other one the next day, correct?

4 A Yes.

5 Q Okay. Now, it is your testimony that you and Isaac
6 and Walter went over to your father's house?

7 A Yes.

8 Q Okay. In your first statement you told the police
9 that it was you, Walter, and A.J. that went to your
10 father's house, didn't you?

11 A I can't remember.

12 Q Okay. Have you had a chance to look at your
13 statement before today?

14 A Yes.

15 Q This last sentence of the last paragraph, if you
16 could, just look at it for me, is that correct?

17 A Yeah.

18 Q Okay. First you told them it was you, Isaac, and
19 A.J., and then you told them it was you, Isaac, and
20 Walter, correct?

21 A Yes.

22 Q Regardless of which men went with you, isn't it a
23 fact that once you got there, the men you were with, tried
24 to get into your dad's house to get at Curtis?

25 A They didn't try to get into my dad's house. We all

Amy Fleming - Cross-examination
By Ms. Fullwood

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1 walked upstairs.

2 Q Your father wouldn't let them in his house, would he?

3 A Yes.

4 Q They -- you're saying that---

5 A He wouldn't let them in. No, he wouldn't.

6 Q All right. So, he would not let Walter and Isaac in
7 his house---

8 A No.

9 Q ---correct, because they were after Curtis, correct?

10 SOLICITOR DIXON: Objection, Your Honor. Calls for
11 speculation.

12 THE COURT: Your position on that?

13 MS. FULLWOOD: Either she -- if she knows I think she
14 can say.

15 THE COURT: I'm going to sustain the objection to the
16 extent that she can't testify as to things that -- she,
17 she can't testify as to what was in the witness' minds,
18 but she can testify as to what happened.

19 MS. FULLWOOD: Okay.

20 Q Your father wouldn't let them in the house, correct?

21 A Correct.

22 Q Why didn't you and Rebekah go back to your place with
23 Walter and Isaac in their car?

24 A We all couldn't fit in his car.

25 Q What kind of car did he drive?

Amy Fleming - Cross-examination
By Ms. Fullwood

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1 A He had a Honda Accord, I think.

2 Q Okay. Isn't it really because you know that, knew
3 that Isaac and Walter were going to go and try to do
4 something to Curtis?

5 A I didn't know what they were going to do. I'm not in
6 their mind.

7 Q Did you hear them talking about that they were going
8 to go get Curtis?

9 A No.

10 Q No.

11 Later on you heard them talking about it, right, when
12 they got back to your house?

13 A Yes.

14 Q They were laughing about it, weren't they?

15 A I won't say laughing about it so much. They were
16 talking about it.

17 Q They were mad about it, weren't they?

18 A They were talking about it.

19 Q They were talking about it.

20 In fact, you told the police that Isaac, Walter, and
21 A.J. were in the kitchen talking maybe ten to twenty
22 minutes, correct?

23 A If that's what I said.

24 Q Would you like to see your statement?

25 It's the highlighted portion at the bottom of the

1 page.

2 A That's what I wrote.

3 Q Okay. Well, is it true?

4 A If I wrote it.

5 Q All right. So, you and your sister and her children
6 went in one car back to your house?

7 A Back to his house.

8 Q Back to Isaac's house.

9 okay. You stopped at the Exxon Station on the way,
10 right?

11 A Yes.

12 Q And then the two of you got back before the fellows
13 got back, right?

14 A Yes.

15 Q Okay. How long do you think you and Rebekah hung
16 around the house before the men got back?

17 A Maybe five, ten minutes.

18 Q All right. Now, as soon as Isaac, Walter, and A.J.
19 realized that Curtis and Kerwin had come over to Walter's
20 house, Walter and Isaac's house, and were outside, Walter
21 went and got a shotgun, didn't he?

22 A No.

23 Q No?

24 A Walter did not go and get the shotgun.

25 Q Well, Isaac went and got a shotgun?

Amy Fleming - Cross-examination
By Ms. Fullwood

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1 A Yes.

2 Q So, Isaac went and got a shotgun and he loaded it
3 inside the house, didn't he?

4 A It was already loaded.

5 Q How do you know that?

6 A He kept it in a closet.

7 Q Kept it in a closet.

8 where did walter keep his gun?

9 A Walter didn't have a gun.

10 Q He didn't?

11 Are you sure about that?

12 A I'm positive.

13 Q All right. Because at that time Walter was on
14 probation, right?

15 A Yeah.

16 Q So, if you admitted back then or maybe everyone knows
17 now, if he's still on probation -- well, he is still on
18 probation, isn't he?

19 A I don't know.

20 Q You don't know?

21 well, if anybody admits Walter had a gun that night,
22 that would be a violation of his probation, wouldn't it?

23 A Of his probation. Not mine.

24 Q All right. He was your boyfriend, right?

25 A At the time.

1 Q All right. You have a child by him?

2 A Yes, I do.

3 Q You wouldn't want the father of your child to go to
4 jail, would you?

5 A He's there now.

6 Q Okay. Now, when -- do you know about what time you
7 called 9-1-1?

8 Do you have any recollection of that?

9 A No.

10 Q No.

11 And I -- from hearing that tape, you were really
12 upset and excited, right?

13 A Yes.

14 Q All right. Where were you standing while you were
15 talking to the police?

16 A I was walking back and forth looking for him.

17 Q Pardon me?

18 A I was walking back and forth looking for Walter
19 Gadson.

20 Q And, so, you were not in one place during that call?

21 A No.

22 Q Okay. And did you make that call before or after you
23 went upstairs with Rebekah and the children?

24 A After.

25 Q After.

Amy Fleming - Cross-examination
By Ms. Fullwood

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1 All right. You have a sister named Yolanda Spenser?

2 A Yes.

3 Q And, Miss Fleming, isn't it true that, shortly after
4 this incident, you told Yolanda that Walter had a shotgun
5 outside the apartment and he wracked it and pointed it at
6 Kerwin?

7 A I guess. Yeah, I guess.

8 Q Okay. And isn't it true you told your sister,
9 Yolanda, shortly after this incident that you moved
10 Walter's shotgun out of the apartment after the shooting?

11 A No.

12 Q You deny you told your sister that?

13 A I did not tell her that.

14 Q Didn't you tell your sister, Yolanda, shortly after
15 the incident, that someone named Lay Lanny, who grew up
16 with Isaac, may have hidden some of these mens' guns and
17 drugs in her apartment at Church Hill Apartments?

18 A No.

19 Q Haven't you told your sister, Yolanda, that when
20 Walter gets upset he loses his mind?

21 A No.

22 MS. FULLWOOD: Okay. Beg the Court's indulgence.

23 THE COURT: Yes, ma'am.

24 (Pause.)

25 MS. FULLWOOD: Thank you, Your Honor. No further

1 questions.

2 THE COURT: Mr. Duncan.

3 CROSS-EXAMINATION

4 BY MR. DUNCAN:

5 Q Miss Fleming, did Walter have drugs on him that
6 night?

7 A To my knowledge, no.

8 Q Okay. Did A.J. have drugs on him that he wanted
9 hidden too?

10 A Not to my knowledge.

11 Q So, you're saying they didn't have drugs, they didn't
12 have guns, but Walter definitely wracked and pumped that
13 shotgun, didn't he?

14 A That's what I was told.

15 Q Now, when you came down the stairs, did you see what
16 kind of clothes Curtis had on?

17 A I can't recall.

18 Q Okay. You don't remember that at all?

19 A (Witness nods affirmatively.)

20 Q Do you remember -- I'm sorry. You have to answer.

21 A No.

22 Q Do you remember what kind of clothes that Kerwin
23 Parker had on?

24 what colors?

25 A No.

Amy Fleming - Cross-examination
by Mr. Duncan

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1 Q Okay. Now, this conversation in the apartment after
2 the roadside beat-down that involved Walter, Isaac, and
3 A.J. bragging about what they'd done to Curtis, didn't it?

4 A Yes.

5 Q I'm sorry, ma'am. I couldn't hear you.

6 A Yes.

7 Q Okay. And after the shooting and the shots went off,
8 you ran to your friend's house in that same apartment
9 complex, didn't you?

10 A After I made the 9-1-1 call, yes.

11 Q Okay. Did, did you have your vehicle there?

12 A I don't have a car. I didn't have a car.

13 Q Whose vehicle was this?

14 A Isaac's.

15 Q Okay. And who else's?

16 A Rebekah's.

17 Q Rebekah's.

18 Okay. Did the police search Rebekah's car after
19 this?

20 A I don't know.

21 Q You didn't see that?

22 A (Witness nods negatively.)

23 MR. DUNCAN: Thank you.

24 THE COURT: Redirect.

25 SOLICITOR DIXON: Briefly, Your Honor.

1 REDIRECT EXAMINATION2 BY SOLICITOR DIXON:3 Q Amy, you told Ms. Fullwood that you gave two
4 statements?

5 A Uh-huh. (Affirmative).

6 Q Do you remember when you gave your first statement?

7 A Right after everything happened.

8 Q Do you remember when you gave your second statement?

9 A Yes, at the hospital.

10 Q When you give, gave that first statement, can you
11 tell the jury how you were feeling?12 A I was in a state of shock. I was stressed. I was,
13 was, I was under a lot of stress.14 Q There was also a question too asked to you, Amy,
15 about taking separate cars.

16 A Uh-huh. (Affirmative).

17 Q Can you tell the jury why you and Rebekah didn't ride
18 back to the apartment with Isaac and Walter.19 A Isaac had a Honda Accord. Rebekah had -- it was me,
20 Rebekah, and her three kids.21 Q There's also some questions, Amy, about something
22 that you told your sister.23 Now, did you see Walter with a gun the morning of
24 November 20?

25 A No.

Amy Fleming - Redirect examination
by Solicitor Dixon

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1 Q Did you see Walter point a gun at anyone?

2 A No.

3 Q Did you see Walter wrack a gun?

4 A No.

5 Q Thank you, Amy

6 THE COURT: All right. Anything further in recross?

7 MS. FULLWOOD: Beg the Court's indulgence.

8 (Pause.)

9 MS. FULLWOOD: No further questions, Your Honor.

10 MR. DUNCAN: No further questions, Your Honor.

11 THE COURT: Thank you, Miss Fleming. You may step
12 down.

13 Next witness.

14 SOLICITOR DIXON: Thank you, Your Honor.

15 The State calls Rebekah Fleming to the stand.

16 REBEKAH FLEMING, being first duly
17 sworn, testified as follows:

18 THE COURT: Miss Fleming, before you get started, I
19 want you to speak clearly and loudly into that microphone.
20 The acoustics in here are bad, and if you don't speak up,
21 then not everybody's going to be able to hear you.

22 Okay. Thank you.

23 DIRECT EXAMINATION

24 BY SOLICITOR DIXON:

25 Q State your name for the record and spell it.

Rebekah Fleming - Direct examination
by Solicitor Dixon

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1 A Rebekah Fleming. R-E-B-E-K-A-H. F-L-E-M-I-N-G.

2 Q I can already tell, Rebekah, you're going to have to
3 move that microphone a little closer to you.

4 Okay. Rebekah, how old are you?

5 A Twenty-two.

6 MR. DUNCAN: Judge, I'm sorry. We can't hear that at
7 all.

8 SOLICITOR DIXON: Your Honor, I'm not sure that
9 microphone is on.

10 THE COURT: It's on. You're very soft-spoken and
11 that's okay, but today, in this one instance, you're going
12 to have to be a little bit louder so everybody can hear
13 you.

14 Can you do that for me?

15 (Witness nods affirmatively.)

16 THE COURT: Thank you.

17 Q Rebekah, let's try this again.

18 How old are you?

19 A Twenty-two.

20 Q Do you have any children?

21 A Four.

22 Q How old are they?

23 A Two boys and two girls.

24 Q How old are they?

25 A Six, five, four, and two.

Rebekah Fleming - Direct examination
by Solicitor Dixon

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1 Q what are their names?

2 A Gabriel, Righteous, Destiny, and Christopher.

3 Q Do you know the defendants, Curtis Johnson and Kerwin
4 Parker?

5 A Yes, ma'am.

6 Q How do you know them?

7 A Curtis was my ex-boyfriend.

8 MS. FULLWOOD: Your Honor, we still can't hear.

9 THE COURT: Miss Fleming, it might be different from
10 the way you usually speak, but you're going to have to
11 speak up, and I'm not, I'm not getting on you. I'm not
12 really. But if they can't hear you, then it's not fair to
13 them because then you're just testifying to Miss Dixon,
14 and the jury, and then they can't hear you. So, even if
15 it feels uncomfortable, I need you to speak loudly.

16 okay.

17 Q All right. Rebekah, do you know the defendants?

18 A Yes, ma'am.

19 Q That's much better.

20 How do you know them?

21 A Curtis was my ex and I know his brother through
22 Curtis.

23 Q Okay. In November of 2006, how long had you known
24 the defendants?

25 A Almost two years.

1 Q Okay.

2 A Almost.

3 Q Can you tell me, in November of 2006, what your
4 relationship with Curtis Johnson was?

5 A We were friends.

6 Q Were you dating?

7 A No, ma'am.

8 Q Can you tell me, in November of 2006, what your
9 relationship was with Isaac Wilson?

10 A Talking.

11 Q Okay. When you say talking, what do you mean?

12 A Hard to explain. Not dating, but talking about it.

13 Q Okay. Rebekah, can you tell me, prior to November of
14 2006, had you ever seen either of the defendants over at
15 Isaac's apartment at 86 Foxwood Lane?

16 A Curtis had been there several times.

17 Q Why had Curtis been there?

18 A Curtis and me went to the same school and my sister
19 would watch my kids while I was in school.

20 Q Do you remember where you were the night of
21 November 19?

22 A My father's house.

23 Q What were you doing at your father's house?

24 A Braiding Curtis hair.

25 Q Beside yourself, was anybody else there?

Rebekah Fleming - Direct examination
by Solicitor Dixon

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- 1 A My kids, Curtis, and my father.
- 2 Q At some point did you make a phone call to your
- 3 sister?
- 4 A Yes, ma'am.
- 5 Q After that phone call to your sister what happened?
- 6 A My sister came.
- 7 Q Did you see anyone else with your sister?
- 8 A No, ma'am, I didn't see her.
- 9 Q After your sister came, what happened?
- 10 A After she came they basically -- my father wouldn't
- 11 let them in.
- 12 Q When you say they, who do you mean?
- 13 A Well, I didn't really see anybody, but---
- 14 Q Did you hear anybody?
- 15 A I think I heard Walter. I didn't hear Isaac.
- 16 Q Okay. Did anyone come in the apartment?
- 17 A No, ma'am.
- 18 Q Okay. At some point did your sister come in?
- 19 A Yes, ma'am.
- 20 Q And when your sister came in, what did you do?
- 21 A I was getting the kids ready.
- 22 Q When your sister came in the apartment, was anyone
- 23 else there?
- 24 A My father.
- 25 Q Where had Curtis gone?

1 A He had left.

2 Q Okay. After you got your kids ready, where did you
3 go?

4 A We had went to the gas station.

5 Q Okay. After the gas station, where did you go?

6 A Isaac's house.

7 Q When you got to Isaac's house, do you know what time
8 it was?

9 A No, ma'am.

10 Q Can you -- was it during the day?

11 A It was at night.

12 Q When you got back to Isaac's house, what were you
13 doing?

14 A We kind of got there like at the same time a couple
15 of minutes after, after each other.

16 Q When you say we got there at the same time, who do
17 you mean?

18 A Me and Amy was together and Walter and Isaac got
19 there after like three minutes afterwards.

20 Q Okay. So, you didn't drive together?

21 A No, ma'am.

22 Q Okay. After you all got back to the apartment, what
23 did you do?

24 A Went -- well, went in the house and A.J. was there.
25 He was there on the computer.

Rebekah Fleming - Direct examination
by Solicitor Dixon

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1 Q Okay. what happened?

2 A I was getting the kids ready for bed.

3 Q Where was everyone?

4 A A.J. was on the computer, my kids was in the living
5 room, and Isaac and Walter and Amy was in the kitchen.

6 Q Okay. what, if anything, happened next?

7 A They were talking as far as what happened.

8 Q Okay. At some point did anyone exit the apartment?

9 A Walter did.

10 Q Okay. Did anyone go with Walter?

11 A No, he just went out the front door and then came
12 back in.

13 Q All right. what happened next?

14 A Isaac went upstairs and got his shotgun.

15 Q And where did Isaac go with that shotgun?

16 A He came back downstairs and got the bullets out the
17 closet.

18 Q Then what did he do?

19 A He loaded the shotgun in the kitchen.

20 Q Okay. what did he do next?

21 A They -- Walter Gadson had heard the music and was
22 like -- he knew that they were out there.

23 Q Okay. when you say they were out there, who do you
24 mean?

25 A Kerwin Parker and Curtis Johnson.

- 1 Q What happened next?
- 2 A They went outside.
- 3 Q Who went outside?
- 4 A Isaac Wilson, A.J., and Walter Gadson.
- 5 Q And when they went outside, Rebekah, where did they
- 6 go?
- 7 Where did they exit the apartment?
- 8 A The patio.
- 9 Q What is the next thing you remember?
- 10 A The next thing I heard, I'm sure it was Kerwin like
- 11 we was going to fight.
- 12 Q Did you hear Kerwin say anything else?
- 13 A No, ma'am.
- 14 Q What happened after Kerwin said we're going to fight?
- 15 A I heard a car rev up.
- 16 Q Did you see anything at that point?
- 17 A When the car rev up I saw it hit the patio and I saw
- 18 it hit someone. I didn't see who that person was.
- 19 Q Okay.
- 20 A All I know is I saw that person fly.
- 21 Q Where were you in the apartment when you saw this?
- 22 A In the living room on the floor with my kids.
- 23 Q Where -- how could you see what, what was happening
- 24 outside?
- 25 A Through the patio door.

Rebekah Fleming - Direct examination
by Solicitor Dixon

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1 Q After you saw the car hit somebody, what happened
2 next?

3 A I seen somebody hop over.

4 Q When you say hop over, what do you mean?

5 A I'm not sure if it was over the truck or over the
6 A.C. thing, but I seen somebody hop over.

7 Q Can you describe what that person looked like.

8 A I didn't see the person. I just saw a black hoodie.

9 Q A black hoodie?

10 A Yes, ma'am.

11 Q After you saw that person jump over, where did they
12 jump over to?

13 A To the patio.

14 Q What did you do then?

15 A It was somebody on the backside of the patio where
16 the blinds are.

17 Q Okay.

18 A And---

19 Q That person that you saw jump over onto the patio,
20 did they have anything with them?

21 A A gun.

22 Q Can you describe for me what the gun looked like?

23 A It was gray.

24 Q What did you see next?

25 A I seen them shoot whoever was on the back patio.

1 Q Do you remember how many times they shot?

2 A At least two or three.

3 Q Can you---

4 MR. DUNCAN: I'm sorry. I couldn't hear.

5 THE WITNESS: At least two or three.

6 THE COURT: Speak up for me if you could. Thank you.

7 Q Could you see the person they were shooting at?

8 A No, ma'am.

9 Q Why not?

10 A Because the blinds were covering that side of the
11 patio.

12 Q After you saw this person in the black hoodie fire
13 two or three shots, shots, what did you do?

14 A Took my kids upstairs. Two of them.

15 Q Did you hear anything else?

16 A After that I basically screamed to my sister to bring
17 me the kids, my son.

18 Q What did you do with your kid, Rebekah?

19 A I put them in A.J. bed.

20 Q Then what did you do?

21 A Went back downstairs to the kitchen.

22 Q When you got back downstairs to the kitchen, what did
23 you do?

24 A I saw Amy and I saw Isaac fall.

25 Q Okay. What happened next?

Rebekah Fleming - Direct examination
by Solicitor Dixon

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- 1 A I checked his pulse, turned him.
- 2 Q Did he have a pulse?
- 3 A Yes, ma'am.
- 4 Q What, if anything, did you do?
- 5 A I turned him over, seen how many times he was shot.
- 6 Q Could you see how many times he'd been shot?
- 7 A Yes, ma'am.
- 8 Q How many times?
- 9 A Twice.
- 10 Q What happened next?
- 11 A After that my sister came in because Amy couldn't
- 12 find Walter.
- 13 Q What did you do?
- 14 A Went outside and found Walter for her.
- 15 Q When you went outside, Amy, where did you go, I'm
- 16 sorry, Rebekah, where did you go?
- 17 A I'm sorry. Like down the sidewalk.
- 18 Q What, if anything, did you see?
- 19 A Walter was under some stairs.
- 20 Q Could you tell if he'd been injured?
- 21 A Yes, ma'am, there was an injury to his left leg, but
- 22 I'm not sure. He had a belt around it.
- 23 Q What did you do next?
- 24 A Went back to the house and told Amy that I found him
- 25 and that he wasn't shot.

1 Q And then what happened?

2 A I went back with Isaac.

3 Q When you were in the kitchen with Isaac after Amy
4 left, did you see anyone else?

5 A Not at that particular point.

6 Q Okay. At any point that night---

7 A Yes, ma'am.

8 Q ---were, when you were in the kitchen, did you see
9 anyone else?

10 A Yes, ma'am.

11 Q Who did you see?

12 A Curtis Johnson.

13 Q Describe for me what Curtis looked like.

14 A Tall.

15 Q Can you describe what his hair looked like?

16 A He had a ponytail.

17 Q Okay. What, if anything, did you see or hear Curtis
18 do while you were in the kitchen?

19 A He said to me is this the nigga (sic) you love.

20 Q And do you know who he was talking about?

21 A Isaac.

22 Q What, if anything, did you see him do?

23 A He kicked Isaac.

24 Q Where did he kick Isaac?

25 A I'm pretty sure he kicked him between his legs.

Rebekah Fleming - Direct examination
by Solicitor Dixon

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1 Q What was Isaac doing at that point?

2 A He was just laying.

3 Q Was he talking?

4 A He told me it was going to be okay, but not at that
5 point he wasn't.

6 Q After Curtis said that to you and kicked Isaac, what,
7 if anything, happened next?

8 A I heard somebody saying help over and over.

9 Q Do you know who that person was?

10 A No, ma'am.

11 Q What did you do?

12 A I went to the patio.

13 Q What, if anything, did you see?

14 A I saw A.J. there.

15 Q Could you tell if A.J. had been hurt?

16 A Yes, ma'am.

17 Q How could you tell?

18 A His----

19 Q Take some deep breaths, Rebekah.

20 A His bleeding and it looked like some of the part of,
21 some of his mouth was gone.

22 MS. FULLWOOD: Your Honor, I'm sorry. We couldn't
23 hear that.

24 THE WITNESS: It looked like the top part of his
25 mouth was gone.

1 Q When you went outside on the patio and saw A.J., was
2 anyone else there?

3 A No, ma'am.

4 Q Did anyone follow you?

5 A Yes, ma'am, Curtis Johnson.

6 Q where did he follow you from?

7 A The kitchen.

8 Q And what, if anything, did you see or hear him do?

9 A He kicked A.J.

10 Q Do you know where he kicked A.J.?

11 A He kicked him on his left leg.

12 Q what, if anything, did you say?

13 A I asked him what was he doing, that A.J. didn't have
14 anything to do with it.

15 Q And what happened then?

16 A He backed out the patio.

17 Q At any point that night did you see Kerwin Parker?

18 A No, ma'am.

19 Q Rebekah, had you ever had an opportunity to see
20 Kerwin Parker's car before?

21 A Yes, ma'am.

22 Q Do you think you would recognize a picture of it if
23 you did?

24 A Yes, ma'am.

25 Q I'm going to show you what's been marked as State's

Rebekah Fleming - Direct examination
by Solicitor Dixon

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1 Exhibit 2, and ask you do you recognize this vehicle.

2 A Yes, ma'am.

3 Q Can you tell us whose vehicle that is?

4 A Kerwin Parker.

5 Q That's all the questions I have for right now.

6 Answer anything the defense has. Okay.

7 MS. FULLWOOD: May it please the Court?

8 THE COURT: Yes, ma'am.

9 CROSS-EXAMINATION

10 BY MS. FULLWOOD:

11 Q Miss, Miss Fleming?

12 A Yes, ma'am.

13 Q Like your sister, you gave two statements to the
14 police, didn't you?

15 A Yes, ma'am.

16 Q Okay. Now, you're telling us today that you were
17 lying on the floor with your children in the living room
18 area?

19 A I wasn't lying. I was just sitting there.

20 Q Just sitting?

21 A Yes, ma'am.

22 Q Okay -- with your children in the living room when
23 you saw the truck go by?

24 A Yes, ma'am.

25 Q Okay. And do you mind coming down here and showing

1 us where you were sitting?

2 A (Witness comes down from the stand.)

3 Right here.

4 Q And basically that truck kind of hit this and headed
5 into a tree over here?

6 A Yes, ma'am.

7 Q Okay. But now, isn't it a fact that there's actually
8 a fence that goes on the back of the patio and on all the
9 sides of the patio?

10 A There's a fence right here.

11 Q Okay.

12 A I mean it's a fence, but there's an opening.

13 Q This is the opening?

14 A Yes, ma'am.

15 Q And then all of this is a fence?

16 A Yes, ma'am.

17 Q Okay. So, you only saw a brief second of that,
18 didn't you?

19 A Yes, ma'am.

20 Q Because that's the only amount of -- that's the only
21 time that truck would have been where you could have seen
22 it, right?

23 A Uh-huh. (Affirmative).

24 Q Okay. Now, you can go ahead and have a seat.

25 A (Witness returns to the stand.)

Rebekah Fleming - Cross-examination
by MS. Fullwood

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1 Yeah.

2 Q What is your testimony today as far as who was
3 driving that truck?

4 A I didn't see the person who was driving the truck.

5 Q Okay. But immediately after this incident, your
6 position was that Kerwin was driving the truck, wasn't it?

7 A Yes, ma'am.

8 Q And you have basically changed your position?

9 A I mean I'm saying I, I didn't see the person who was
10 driving the truck.

11 Q But earlier you did tell the police that you did see
12 who was driving the truck?

13 A If that's what I said.

14 Q Okay. And where did Walter get that gun from?

15 A What gun?

16 Q Huh?

17 A Walter?

18 Q I mean Isaac.

19 Where did Isaac get that gun from?

20 A I saw him go upstairs. I didn't see where he got it
21 from.

22 Q Okay. Now, Isaac was the young man that you'd been
23 talking some to, right?

24 A Yes, ma'am.

25 Q And I imagine you'd been over there socializing with

1 him a fair amount, right?

2 A Yes, ma'am.

3 Q But you didn't know where, where he kept that gun?

4 A No, ma'am.

5 Q Never seen it before?

6 A No, ma'am.

7 Q Had you ever seen any guns in that house?

8 A That was my first time.

9 Q Okay. And where did he get the ammunition from?

10 A In the closet by the front door.

11 Q And where were A.J. and Walter while Isaac was
12 getting the shotgun and loading the shotgun?

13 A I think they were in the kitchen. I think A.J. was
14 still at the computer though.

15 Q Was Walter then with Isaac?

16 A No, Walter was still downstairs.

17 Q What was Isaac talking about when he was going to get
18 the gun and then loading it?

19 A He wasn't talking about anything. He just went and
20 got it.

21 Q He didn't make any statements at all as to why he was
22 going to go get a gun?

23 A He just went upstairs and got it.

24 Q Just went and got a gun.

25 Well---

Rebekah Fleming - Cross-examination
by Ms. Fullwood

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1 A I mean at that point he wasn't talking about anything
2 as far as---

3 Q Well, what was Isaac, Walter, and A.J. talking about
4 as they were leaving the house and going outside?

5 They had to have been talking about something, right?

6 A At some point, yeah, they was talking about something
7 before he went and got the gun, but---

8 Q what were they talking about?

9 what were they saying?

10 A Walter and Isaac was in the kitchen bragging to A.J.
11 about what happened.

12 Q what did they say happened?

13 A They said that they jumped Curtis at a stoplight.

14 Q At a stoplight.

15 Bragging about it?

16 A Yes, ma'am.

17 Q And, in fact, that's not the first time that Walter
18 and Isaac had a little plot to jump Curtis, is it?

19 A Yes, ma'am.

20 Q There had been a plot earlier to jump Curtis, what,
21 at a Wal-Mart, is that correct?

22 A I'm not sure about that.

23 Q While he was on his way to work?

24 A I'm not sure about that.

25 Q Well, haven't you is, told Curtis that Walter and

1 A.J. had this man to go jump him prior to that night?

2 A But it wasn't at Wal-Mart.

3 Q It wasn't at a Wal-Mart?

4 A No, ma'am.

5 Q Where were they going to do it?

6 A Cross Roads Apartments.

7 Q Cross Roads Apartments?

8 A It wasn't nothing. It was more of an argument.

9 Q And any other time since you heard them talking about
10 let's go do something to Curtis?

11 A No, ma'am.

12 Q You never warned Curtis about that before the fact,
13 did you?

14 A No, ma'am.

15 SOLICITOR DIXON: Objection, Your Honor, relevance.

16 THE COURT: I'll allow her to answer the question.

17 THE WITNESS: I didn't know.

18 Q You just told us you knew, but you didn't---

19 A I didn't know about this time. I didn't know.

20 Q But what I'm trying to say, you had never told him
21 that they had planned to jump him at Cross Roads, right?

22 A Because they wasn't planning to jump him. They was
23 more of an argument.

24 Q You mean they wanted to confront him?

25 A I'm sorry. It was more of basically just an argument

1 like I said.

2 Q But that never came to be?

3 A No, ma'am.

4 Q All right. Now, Walter had a gun too, didn't he?

5 A I'm not sure.

6 Q You're not sure?

7 A No, ma'am.

8 Q A.J. had a gun too, didn't he?

9 A I'm not sure.

10 Q You're not sure?

11 A I didn't see A.J. with a gun that night.

12 Q So, you know Isaac had a gun?

13 A Yes, ma'am.

14 Q But you're not sure if Walter or A.J. had a gun?

15 A I didn't see Walter or A.J. with a gun.

16 Q Okay. But are you while, saying you're not sure?

17 Are you saying they could have, but you just didn't
18 see it?

19 A I'm saying I didn't see Walter Gadson or A.J. Wilson
20 with a gun.

21 Q Now, you testified today that you saw Curtis kick
22 Isaac between the legs, is that correct?

23 A Yes, ma'am.

24 Q But on November 20, the same day that this happened,
25 you gave the police a statement that you wrote out in your

1 own hand, didn't you?

2 A Yes, ma'am.

3 Q And in that statement you state Curtis came in and
4 kicked Isaac on his right side?

5 A Yes, ma'am.

6 Q All right. And don't you think your memory of what
7 happened would be fresher right after it happened than
8 three years later?

9 A I don't think that right after -- I mean we all was
10 in shock. So, right after giving a statement, I mean---

11 Q Okay. But that's pretty specific, though, isn't it,
12 right side?

13 A I mean I know he kicked him.

14 Q So, you're trying to tell us you're not sure where he
15 was kicked?

16 A I'm telling you he was kicked.

17 Q Okay. Are you telling us though that you're not sure
18 where he was kicked?

19 A Yes, ma'am.

20 Q All right. Now, when this happened -- when Walter
21 and A.J. and Isaac went out there, you heard Kerwin
22 talking, didn't you?

23 A Yes, ma'am.

24 Q And what you heard him say, and I'm reading from your
25 statement, I heard him say we don't have to shoot no one.

1 We can fight it out or we can just talk about it, correct?

2 A Yes, ma'am.

3 Q And then you went, go on to say that shortly after
4 that you heard the truck speed up?

5 A Yes, ma'am.

6 Q All right. You've written Curtis quite a few letters
7 since he's been in jail, haven't you?

8 A Yes, ma'am.

9 Q And you've admitted to him that you didn't tell him
10 things he needed to know as far as Walter and Isaac
11 planning violence against him, correct?

12 A That was after---

13 Q Let me ask you this. Let me show you this letter.
14 This is the letter that you wrote Curtis.

15 A Yes, ma'am.

16 Q Okay. Could you read for the jury the sentences that
17 are underlined in green there?

18 SOLICITOR DIXON: Your Honor, I'm sorry, but we've
19 never seen this, and if she's going to ask the witness to
20 read specifically from the letter, we either ask that the
21 whole letter be published or we're able to look at it.

22 THE COURT: Can you just show it to the State and let
23 them have the opportunity to review it?

24 MS. FULLWOOD: Be glad to.

25 THE COURT: I don't know whether there's going to be

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1 a motion to have it admitted into evidence or not.

2 Do you have several letters you're wishing to admit?

3 MS. FULLWOOD: I'm not seeking to admit the letters.
4 I'm basically impeaching her.

5 THE COURT: I understand. Do you have several
6 letters you're going to show her?

7 MS. FULLWOOD: Possibly, yes, sir.

8 THE COURT: The only reason I ask is if you're going
9 to review some of these letters that will be submitted to
10 the witness, it may be a good time to take a break so you
11 can have a few minutes to review those so you can see the
12 substance of those letters and we've been at it for an
13 hour and 40 minutes. So, it might be an appropriate time
14 to take a break.

15 SOLICITOR DIXON: Yes, sir.

16 THE COURT: Ladies and gentlemen of the jury, as I
17 indicated to you, we will be taking breaks from time to
18 time, and I think now is a convenient time to take a
19 break. Like I said, we've been at it an hour and 40
20 minutes. So, what I'm going to ask you to do is retire to
21 your jury room and I will ask you to please not discuss
22 the case and don't begin any of your deliberations.

23 Before you go in there, I want to ask -- where's
24 Miss McGraw?

25 (Juror McGraw raises hand.)

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1 THE COURT: You're going to be the foreperson of the
2 jury. So, when you come back in, I want you to sit in the
3 hot seat, first seat. Y'all can trade if you want. No
4 assigned seat.

5 Miss McGraw, I will tell you, you don't have any
6 specific prescribed duties other than you are the
7 foreperson of the jury. You will publish the verdict when
8 the same is requested. You will present any questions to
9 the Court either in writing or verbally at the appropriate
10 time if there are any questions from the jury, but over
11 and beyond that you're -- you will exercise the duties of
12 the foreperson of the jury.

13 Okay. Thank you very much.

14 If y'all, y'all can go retire.

15 (WHEREUPON, the following takes place outside the
16 presence of the jury panel.)

17 THE COURT: All right. We will take about a 15
18 minute break.

19 Now, Miss Fleming, I remind you you're still under
20 oath, and you are testifying in this case. That means
21 you can't talk to anybody about your testimony.

22 Okay. Now, you can talk to them about football
23 yesterday if you want to or Monday night football tonight
24 or whatever, but you can't talk to them about your
25 testimony.

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1 Okay. That's off limits.

2 Do you understand?

3 (Witness nods affirmatively.)

4 THE COURT: You can step down and take a break as
5 well.

6 Be back in 15 minutes.

7 (WHEREUPON, a short recess was taken at this time.)

8 THE COURT: Ready to proceed?

9 SOLICITOR DIXON: State's ready.

10 THE COURT: Jury's ready.

11 Bring them in.

12 MS. FULLWOOD: Was the State wanting to be heard on
13 the -- it is my understanding you just wanted to see the
14 contents of the letters they were going to use for
15 impeachment purposes?

16 SOLICITOR DIXON: Yes, Your Honor.

17 MS. FULLWOOD: Okay.

18 THE COURT: You're doing a good job, but you might
19 still need to remember to speak up.

20 (WHEREUPON, the following takes place within the
21 presence of the jury.)

22 THE COURT: Ms. Fullwood, I believe it's your
23 witness.

24 MS. FULLWOOD: Thank you, Your Honor.

25 CONTINUED CROSS-EXAMINATION

1 BY MS. FULLWOOD:

2 Q You had testified about Walter and Isaac planning to
3 jump Curtis or something on a previous occasion, right?

4 A Yes, ma'am.

5 Q But you said it didn't involve Wal-Mart?

6 A No, ma'am.

7 Q Did you write this letter to Curtis while he's been
8 waiting for his trial?

9 A Yes, ma'am.

10 Q Could you read this sentence that's underlined in
11 green for us?

12 A When they was going to jump you at Wal-Mart I asked
13 them not to go, but Amy knew what time you had to work
14 because you told them you had a job working at Wal-Mart
15 from 11:00 to 7:00.

16 Q So, in the letter you said they were going to jump
17 him at the Wal-Mart, right?

18 A Yes, ma'am.

19 Q Which is correct, what you put in the letter or what
20 you're telling us here today?

21 A I mean if I wrote that then it's obviously correct.

22 Q Okay. And haven't you said that Walter has asked you
23 to lie for him in connection with what happened out there
24 on November 20?

25 A Yes, ma'am.

1 Q Because he has, hasn't he?

2 A Yes, ma'am.

3 Q All right. And you and your sister, Tabitha, went to
4 see Walter at the hospital the night that happened, right?

5 A No, ma'am.

6 Q The next day?

7 A Me and my sister, Amy.

8 Q Okay. And didn't he tell you at the hospital that he
9 was fixing to shoot Kerwin when all this broke out?

10 A Yes, ma'am.

11 Q Okay. And at some point, on the night of the 20th,
12 did you and Amy leave the kids in the apartment and start
13 to drive away from the apartment?

14 A We wasn't allowed to go back in.

15 Q Didn't the police stop the two of you while you were
16 driving your car in the complex?

17 A After we gave our statement.

18 Q Okay. And at that appointment you were leaving,
19 correct?

20 A Yes, ma'am.

21 Q All right. But your children were still back at the
22 apartment, weren't they?

23 A By that time my mom had got there.

24 Q What time was it that the police stopped you?

25 A I don't know the exact time.

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1 Q Had the sun come up yet?

2 A No, ma'am.

3 Q Where were you going?

4 A To the hospital.

5 MS. FULLWOOD: No further questions.

6 THE COURT: Mr. Duncan, cross.

7 CROSS-EXAMINATION

8 BY MR. DUNCAN:

9 Q Yes, ma'am, as you were, been saying, you wrote
10 Curtis in jail a lot, didn't you?

11 A Yes, sir.

12 Q And in your letters you told him it wasn't his fault
13 that night, didn't you?

14 A Yes, sir.

15 Q You told the solicitor that you heard two to three
16 shots?

17 A Yes, sir.

18 Q Was that one burst and that was all you heard or---

19 A That wasn't all I heard. That was what I heard
20 before I went upstairs.

21 Q Okay. You heard other shots?

22 A Yes, sir.

23 Q When did you hear those?

24 A While coming downstairs.

25 Q I'm sorry?

1 A while coming down.

2 Q Did you tell the police that in any of your
3 statements?

4 A I'm not sure if I did or not.

5 Q You didn't do that, did you?

6 A No, sir.

7 Q You never told anybody about that?

8 Your two statements didn't mention any of this,
9 correct?

10 A Yes, sir.

11 Q Now, you also -- tell me, who was the shooter?
12 what did the shooter have on?

13 A A black hoodie.

14 Q A black---

15 A Hoodie.

16 Q Black---

17 A Hoodie.

18 Q Who was in the black hoodie?

19 A I didn't see the person.

20 Q What did Kerwin have on?

21 A I didn't see Kerwin at all.

22 Q You didn't see Kerwin at all?

23 Your statement that night said you saw Kerwin driving
24 the car, and Kerwin tried to hit them and run these people
25 down, didn't you?

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- 1 A Yes, sir.
- 2 Q You were just making up stuff that night, weren't
- 3 you?
- 4 A I wasn't making up stuff.
- 5 Q Were you lying then or are you lying now?
- 6 A I'm not lying now and I wasn't lying then. I was in
- 7 shock.
- 8 I mean what would you expect?
- 9 I was in shock.
- 10 Q You told the police that you saw Kerwin driving the
- 11 car and that Kerwin tried to run those people down and
- 12 you're just telling us now that that's not true, you just
- 13 made it up?
- 14 A I'm not saying that I made it up. I'm saying that I
- 15 was in shock.
- 16 Q So, when you're in shock, you just make stuff up?
- 17 A What would you do if you were in shock?
- 18 Q I'm just asking---
- 19 A Okay. I'm telling you I---
- 20 Q I don't---
- 21 A I was in shock.
- 22 Q I'm sorry. I don't want to interrupt you.
- 23 You weren't making stuff up that night?
- 24 You didn't know what you said?
- 25 A I know what I said.

1 Q But it wasn't true, right?

2 A None of what was true?

3 Q That statement you gave the police.

4 A Yes, some of it was.

5 Q Some of it was?

6 A Some of it. I was in shock.

7 what do you expect?

8 I was pregnant and I was in shock. Didn't know what
9 was going on.

10 Q When you're telling the truth -- let me ask you
11 another question. Excuse me.

12 When you're just making stuff up, when you're lying
13 about something, do you twitch?

14 Do you bite your lip?

15 You suck on your lip?

16 How does somebody tell when you're not telling the
17 truth, when you just make stuff up?

18 A I couldn't tell you that.

19 Q You don't have a -- you don't have a twitch or some
20 kind of---

21 A No, I couldn't tell you that.

22 Q So, how is the jury supposed to know when you're
23 telling the truth if you don't show any outside
24 manifestations?

25 They can't tell when you're telling the truth, can

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1 you?

2 A You're right.

3 Q Because you just randomly make up stuff.

4 A No, sir, that's wrong. I don't make up stuff.

5 MR. DUNCAN: Thank you.

6 THE COURT: Redirect?

7 SOLICITOR DIXON: Briefly, Your Honor.

8 THE COURT: Yes, ma'am.

9 REDIRECT EXAMINATION

10 BY SOLICITOR DIXON:

11 Q Rebekah, did you see Walter Gadson with a gun that
12 night?

13 A No, ma'am.

14 Q Did you see A.J. Wilson with a gun that night?

15 A No, ma'am.

16 Q Who was the person -- describe the person that you
17 saw get out of the car with the gun.

18 A I saw a person with a black hoodie on and had a gray
19 gun.

20 Q Did you see their face?

21 A No, ma'am.

22 Q Did you know whose car it was?

23 A Kerwin Parker.

24 SOLICITOR DIXON: Thank you. No further questions.

25 THE COURT: Any recross limited to redirect?

1 MS. FULLWOOD: No, Your Honor.

2 THE COURT: Thank you, ma'am. You may step down.

3 SOLICITOR MYERS: Walter Gadson.

4 WALTER GADSON, being first duly
5 sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY SOLICITOR MYERS:

8 Q Mr. Gadson, how old are you?

9 A I'm 23.

10 Q You're presently in the Lexington County Jail, is
11 that right?

12 A That's correct.

13 Q Is this correct, that on November 4 of 2004, that you
14 were sentenced for a burglary crime?

15 A Correct.

16 Q You got five years suspended on the service of two
17 years and five years probation?

18 A Correct.

19 Q And you were also sentenced on a failure to stop
20 charge?

21 A Correct.

22 Q You got two years suspended on six months to run
23 concurrently?

24 A Correct.

25 Q Did you serve any time on that charge?

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By Solicitor Myers

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1 A The burglary.

2 Q Yes, sir.

3 A Yes, I did.

4 Q Now, since November 20, 2006, on up until 2007, were
5 you charged with some fraudulent checks?

6 A Yes.

7 Q I think it's five of them?

8 A Correct.

9 Q And were you given a chance to pay those checks off?

10 A To an extent, yes.

11 Q Could you pay them off?

12 A Unfortunately because I lost my---

13 MS. FULLWOOD: Objection, Your Honor. Irrelevant,
14 the details. Move to strike his testimony.

15 THE COURT: I understand. I'll overrule your
16 objection. I'll allow him to ask his question.

17 Q As a result of not being able to pay the checks off,
18 have you been sentenced to jail now?

19 A Correct.

20 Q And you're in jail on those fraudulent check charges
21 too?

22 A Correct.

23 Q Now, you were at 86 Fox Run at the apartments on
24 November 20 of 2006 when the shooting happened?

25 A Correct.

1 Q Now, I want to talk with you a little bit.

2 when -- by the way, where were you staying

3 November 20, 2006?

4 A 86 Fox Run Lane.

5 Q whose apartment was that?

6 A Isaac Wilson's apartment.

7 Q At that time, who was staying with you?

8 A At that time it was me, A.J., Isaac, and Amy.

9 Q Who was Amy?

10 A The mother of my children, my girlfriend at the time.

11 Q Had you and Amy always stayed there at those
12 apartments, 86 Fox Run?

13 A No, we didn't always stay there.

14 Q Prior to staying there on November 20th, where did
15 you and Amy live?

16 A We stayed at 716 Suma Crest. I can't remember the
17 exact apartment number, but we stayed in the apartment
18 complex called Cross Roads.

19 Q Who stayed there at Cross Roads Apartments?

20 A Well, Rebekah came and stayed with us first. She had
21 lost her place or whatnot. So, we allowed her and her
22 kids to come stay with us.

23 Q Rebekah is Amy's sister?

24 A Correct.

25 Q Did Rebekah have any children there?

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1 A Yes, she had three at the time and was pregnant with
2 one.

3 Q Did any of the children stay there at Cross Roads?

4 A They did.

5 Q Now, during that time, who was Rebekah dating?

6 A She and her and Curtis were broken up from what I was
7 told, you know, but they still conversed with each other.
8 But she was kind of sort of talking to my best friend,
9 Isaac.

10 Q When you say Curtis, who are you talking about?

11 A Curtis Johnson.

12 Q You see him in the courtroom?

13 A Yes, sir.

14 Q Where is he?

15 A Sitting over there.

16 Q Which one is he?

17 A The one, light skin, dark shaded hair.

18 Q What color tie has he got on, the yellow one or the
19 other?

20 A Well it looks kind of black and gray, you know,
21 brown, grayish, or something like that, lines going like
22 this. I can't really see that well.

23 Q The one on the far end or the one in the middle?

24 A The one sitting next to the two ladies.

25 Q Right here?

1 A Correct.

2 Q Did Curtis ever stay at an apartment that you were at
3 overnight?

4 A He did stay overnight a few times.

5 Q Would Rebekah be there with you?

6 A Correct.

7 Q Before you were staying at Cross Roads, where did you
8 stay before that?

9 A At 86 Fox Run with Isaac.

10 Q Okay. So, you stayed with Isaac and then you moved
11 out to Cross Roads and you moved back into 86, is that
12 right?

13 A Correct.

14 Q When did you first meet Isaac?

15 A I met Isaac in ninth grade in Mr. Welding's science
16 class.

17 Q Where did y'all go to school?

18 A At Holly Hill Robert High in Holly Hill, South
19 Carolina.

20 Q So, you've known him a good while.

21 How about A.J., how long have you known him?

22 A I met A.J. some time in 2006 when I came home from
23 prison and when Isaac came home from the military. I met
24 A.J. when he was staying at Beach Tree Place at that time.

25 Q Now, there came a time you said you got out of prison

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1 on that burglary charge?

2 A Correct.

3 Q And Isaac had just come back from where?

4 A The military.

5 Q He was in the Army?

6 A Yes.

7 Q And then y'all got back together and when did y'all
8 move to Columbia?

9 A It was later that year because he came home in
10 September. We were talking about doing our music and we
11 moved to Columbia the latter part of that year.

12 Q What year?

13 A 2006.

14 Q 2006 or 2005?

15 A I mean 2005. Yeah, I came home in 2005, yeah.

16 Q So, y'all kind of came up together?

17 A Correct.

18 Q Now, let's move on up to November of 2006.

19 You're back at 86 Fox Run, right?

20 Who all is staying there with you?

21 A It's me, Amy, A.J. and Isaac.

22 Q Four of y'all?

23 A Correct.

24 Q Now, on the day we're talking about, that night, did
25 you or Amy or any of you have an occasion to leave the

1 apartment to go try to find Rebekah?

2 A Yes.

3 Q And why, why did you go try to find her?

4 A well, Amy ended up receiving a phone call.

5 Q Amy got a phone call from Rebekah?

6 A Yeah, I don't know the extent or the details of the
7 call, but it was just basically come and get me and my
8 kids.

9 Q Where did you go to?

10 A To her father's house, which was at Cyprus Runs
11 Apartment.

12 Q Was that over by Broad River Road?

13 A Correct.

14 Q How did you get over there?

15 A We rode in Isaac's car.

16 Q Isaac's car.

17 You -- who else was in the car?

18 A Amy and Isaac.

19 Q Did A.J. go with you?

20 A No.

21 Q What did he do?

22 A He stayed at the house.

23 Q He stayed at the apartments?

24 A Correct.

25 Q When you get over to her father's house, does anybody

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1 go inside?

2 A Well, we all went upstairs and her father did open
3 the door because an officer ended up coming at that time.
4 We didn't go in, but---

5 Q You didn't go in?

6 A Yeah, we didn't go into the apartment. Amy
7 eventually ended up going in.

8 Q Amy went in.

9 Who else was at the apartment?

10 A Curtis was there.

11 Q Curtis who?

12 A Curtis Johnson.

13 Q Who else?

14 A I know the kids were there, Rebekah, and her father.

15 Q You and Isaac, do y'all stay in your car or you go up
16 to the door or what?

17 A Well, we were in up towards the door, yeah.

18 Q Did you see Curtis Johnson?

19 A Yes.

20 Q Where was he?

21 A He was inside the apartment.

22 Q Did you or Isaac talk with him?

23 A Well, him and Isaac had some words through the door.

24 To say what they were, to be exact, I can't say, but they

25 had some words through the doorway.

1 Q Through the door?

2 A Correct.

3 Q Now, they had words.

4 was it any kind of physical altercation or just
5 words?

6 A Just words.

7 Q Did you and Isaac stay there?

8 A No.

9 Q What did y'all do?

10 A Well, Curtis left first. Then we were sitting in the
11 car proceeding to leave and, you know, ranting and raving.
12 I guess he was upset because he felt like -- excuse me --
13 you know, this guy wants to do him bodily harm and kept
14 passing him messages back and forth about how he was going
15 to fight---

16 MS. FULLWOOD: Your Honor, we're having trouble
17 hearing over here.

18 SOLICITOR MYERS: Pull that microphone---

19 THE COURT: The acoustics are bad. So, if you'll
20 just speak into the microphone please.

21 A Again, basically, when we got in the car, me and
22 Isaac were just kind of like conversing and he was
23 basically saying, you know, he wanted to confront Curtis
24 because he was making verbal threats about how he was
25 going to harm him because of him dealing with Rebekah.

1 Q There were some words by, between Curtis Johnson and
2 Isaac over Rebekah, is that right?

3 A Correct.

4 Q Now, let me show you this right here.

5 Have you seen this before?

6 A Yes, sir.

7 Q It's been identified -- this is over off Fox Run, St.
8 Andrews Road, Apartments?

9 A Correct.

10 Q Y'all leave here, the three of you, Isaac, you, and
11 Amy?

12 A No, just -- oh, yeah. When we went to Broad River,
13 yeah, it was---

14 Q Broad River?

15 A Correct.

16 Q When you leave Broad River, who's in the car?

17 A Me and Isaac.

18 Q What happened to Amy?

19 A She was upstairs getting Rebekah and the kids.

20 Q How was Amy going to leave her father's?

21 A Rebekah had a truck at the time, an Explorer.

22 Q Where does Curtis go?

23 You are dis -- Johnson?

24 A He leaves too.

25 Q Where does he go?

1 A We ended up going to Monticello Road.

2 Q Did y'all follow him?

3 A Yes.

4 Q Who's driving?

5 A Isaac.

6 Q Whose car are you in?

7 A Isaac.

8 Q Now, when you leave Broad River Road, here's I-20,
9 how do you get over to Monticello?

10 A We took 20 -- we took I-20 straight down to
11 Monticello Road and got to this light that's off the exit
12 ramp.

13 Q You got to a stoplight?

14 A Yes.

15 Q And over here at Monticello Road, what happened when
16 y'all got up to that light there off the exit of I-20?

17 A When we got to the light we didn't really corner him
18 off because we didn't pull up behind him. We got on the
19 side of him and Isaac rolled the window down, he rolled
20 his window down. They was having some words back and
21 forth. Then Curtis said something to me. Then he leaned
22 over in his car. When he---

23 Q What you mean he leaned over in his car?

24 A Like towards his passenger's seat. That's when I got
25 out the car and me and him got into a physical---

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1 Q why did you get out the car?

2 A Because I felt he probably had a weapon of some sort
3 and I was going to defend myself.

4 Q You get out of the car with Isaac and what do you do?

5 A Go toward his car and---

6 Q Whose car?

7 A Curtis.

8 Q Curtis Johnson?

9 A Correct.

10 Q What happened when you got up to Curtis Johnson's
11 car?

12 A We got into a physical altercation.

13 Q What you mean a physical altercation?

14 A Like a fist fight.

15 Q Did that happen inside the car or outside the car?

16 A I was outside the car. He was kind of inside the
17 car.

18 Q Did you hit him?

19 A Yes, I did.

20 Q Did he hit you?

21 A Yes, sir, he did.

22 Q Did you have a gun on you at the time?

23 A No.

24 Q Did you ever see Curtis Johnson with a gun on him at
25 that time?

1 A At that time, no.

2 Q Now, what happened after you and Curtis Johnson hit
3 each other there?

4 A Then Isaac got out of the car, came around, and he
5 struck him a couple of times.

6 Q Who struck who?

7 A Isaac struck Curtis.

8 Q All right. Was that outside the car or inside the
9 car?

10 A Well, we were outside of the car.

11 Q Where was Curtis Johnson?

12 A Inside his car.

13 Q Did Isaac have any kind of weapon on him?

14 A No.

15 Q Did you see Curtis Johnson with any type of weapon he
16 had inside the car?

17 A Not at that time.

18 Q What happened after he, Curtis Johnson, and Isaac got
19 into it?

20 A Well, after Isaac stopped, he hit him -- may have hit
21 him three or four times, wasn't that many, and he sped off
22 and he yelled out the window before he made the turn---

23 Q Who yelled out the window?

24 A Curtis Johnson yelled out the window, when we made
25 the right turn onto Monticello, y'all gonna get y'all's.

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1 Q Y'all gonna get y'all's.

2 Did you proceeded to follow?

3 A No, we went back and got on to go home, 86 Foxwood
4 Lane.

5 Q So, y'all get back on 20 and headed towards 86
6 Foxwood where---

7 A Correct.

8 Q Now, when y'all get back over to the apartments and
9 everything is back over there, after, after five, ten
10 minutes, who all is back at 86 Fox Run?

11 A It was Rebekah, her three children, Amy, A.J., me,
12 and Isaac.

13 Q Okay. Same people who had been there before except
14 now Rebekah's back over there with her three kids, is that
15 right?

16 A Correct.

17 Q Now, y'all talking about what happened over at
18 Monticello Road?

19 A Yes, we did.

20 Q Now, while you're at 86, some time later, do y'all
21 notice a vehicle outside?

22 A Well, I did.

23 MS. FULLWOOD: Your Honor, I'm going to object to the
24 leading at this point. A lot of these questions have been
25 suggesting the answer and we're getting to the critical

1 testimony.

2 THE COURT: I understand. I'll just caution you not
3 to lead counsel.

4 You may proceed, sir.

5 Q Did you notice any unusual vehicle outside?

6 A Yes, I did.

7 Q What kind of vehicle was this?

8 A I stepped outside and I saw a mid-size S.U.V.

9 Q A what now?

10 A A mid-size S.U.V.

11 Q Why did that arouse your attention?

12 A Because when it drove by it drove by slow and then it
13 was backed in.

14 Q Let me stop you right there.

15 Drove by the front of the apartment or the back of
16 the apartment?

17 A The backside of the apartment.

18 Q I want to show you this.

19 You've seen this aerial photograph before, haven't
20 you?

21 A Yes.

22 Q Can you see this clearly?

23 A I mean I can come up to it. I can project my voice.

24 Q You'll have to stay right there and talk loud so she
25 can pick that up in this microphone.

1 A Okay.

2 Q I want you to hold this right here, and if you mash
3 the top of that thing the light will come on.

4 Any -- where on here is 86, apartment, at Fox Run?

5 A Yes.

6 Q This right there?

7 A Right there in the middle.

8 Q Where did you see this vehicle come by?

9 A When it came because there's a little space between
10 our patio. When it drove up right in here, that's when I
11 first spotted it.

12 Q Were you inside the apartment or outside?

13 A I was inside the apartment.

14 Q You said there's a little space. This is a diagram
15 of the apartment and the patio.

16 Which space are you talking about?

17 A Right there.

18 Q Right here by the air conditioner?

19 A Correct.

20 Q And why now did that arouse your attention?

21 A Because it drove by slow.

22 Q Okay. And you said it parked somewhere?

23 A It parked over here and it backed in. It wasn't
24 backed in like I would be if somebody was trying to back
25 in correctly. It was backed in, in this area where it can

1 go straight on out if it wanted to.

2 Q Now, there's a tennis court off here and there are
3 some trees.

4 A Uh-huh. (Affirmative).

5 Q Was it on the bottom part of this photo on the trees
6 or on the other side of the trees?

7 A It was on the bottom part.

8 Q Right here?

9 A Yeah.

10 Q Which way was it facing?

11 A Facing going towards that---

12 Q Apartment?

13 A Correct.

14 Q Did, did you recognize that vehicle?

15 A To an extent, yes, and to an extent, no.

16 Q What do you mean by that?

17 A Because I had verified to Rebekah what type of
18 vehicle that her, you know, baby father's brother drove.

19 Q You had verified it?

20 A Yeah, when I, when I went outside and I peeked and I
21 saw a suspicious vehicle out there I came back in and I
22 asked her what type---

23 Q Asked who?

24 A Rebekah.

25 Q Okay.

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1 A What kind of vehicle does Curtis' brother drive.

2 Q And who is Curtis Johnson's brother?

3 A Kerwin Parker.

4 Q Over there at Monticello Road, when you and Isaac got
5 into it with Curtis Johnson, what kind of vehicle was
6 Curtis Johnson driving then?

7 A He was driving a white Mitsubishi Mirage.

8 Q Was it an S.U.V. or sedan or what?

9 A It was a sedan.

10 Q That wasn't a white Mitsubishi Mirage sedan over
11 there?

12 A No, that was a mid-sized S.U.V., a Mazda Tribute to
13 be exact.

14 Q When you saw that car backed in or that truck or
15 S.U.V., whatever you call it, what did y'all do then?

16 A Well, I came back in the house. Like I said, I
17 verified it with Rebekah and then I still state to just
18 everybody that was in the house that that vehicle was out
19 there. That's when Isaac went upstairs and got his
20 shotgun.

21 Q Isaac went upstairs and got his shotgun?

22 A Correct.

23 Q What happened after Isaac went upstairs and got the
24 shotgun?

25 A We came down -- well, we came downstairs. I

1 proceeded to go out the door first.

2 Q Which door?

3 A The patio door.

4 Q Out by the patio?

5 A Yes.

6 Q Okay. You go out first?

7 A I go out first.

8 Q Who comes out second?

9 A Isaac comes out second.

10 Q Anybody else come out?

11 A Then A.J. comes out behind Isaac.

12 Q When y'all come out -- I'm going to hand you this
13 small one again. You come out this, this back door, patio
14 back there?

15 You come out there?

16 A Correct.

17 Q Do you stay on the patio or do you walk on out?

18 A No, we walk out into the actual---

19 Q Walk out in the what?

20 A To the actual driveway if you want to call it that.

21 Q What do you see when the three of you get out there?

22 A When we got out there that's when we got a real good
23 visual of the truck that was in this area right here.
24 Once all three of us came into view now that I know it was
25 Curtis who was driving the vehicle---

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1 Q How did you know it was Curtis driving the vehicle?

2 A Because once you get further down I saw him get out
3 the driver's side.

4 Q You saw Curtis Johnson---

5 A Correct, get out the driver's seat.

6 Q What happened?

7 A When he saw us, he was right here, he started blowing
8 the horn on the car. That's when Kerwin Parker came
9 through the middle and---

10 Q Who?

11 A Kerwin Parker.

12 Q Came through the middle of what?

13 A It's a little pathway right here between the
14 apartments and the townhomes and he came through the
15 little pathway. When he came through the pathway he had a
16 stick, rod, something in his hand at the time. He made
17 some statements why y'all drop my brother, yada yada.

18 Q Said what?

19 A Made some statement about why y'all jump my brother.
20 My statement to him was well, I didn't really jump him. I
21 fought him, you know, and I can't control another man, you
22 know, decide to hit him after the fact.

23 Q Let me ask you this.

24 When Kerwin Parker, when he comes right in this area
25 between the apartments---

1 A Uh-huh. (Affirmative).

2 Q ---did he get out of that black S.U.V. to get over
3 there or he just walked---

4 A Obviously he was proceeding to go around the front
5 because he didn't get out the truck from when I saw him.

6 Q He didn't get out the truck?

7 A When I saw him he was walking through the front side
8 out the pathway, and obviously he came through like this
9 and was standing in this area.

10 Q After he said why did y'all do that to my brother,
11 what happened after that?

12 A Then he dropped the object he had in his hand, which
13 was like -- at the time I thought it was a stick, but it
14 was a long, you know, pole type object. He dropped it.

15 Q Let me ask you something.

16 Can you identify this photograph?

17 A That's the object that he had in his hand.

18 Q That's the object he had in his hand?

19 A Correct.

20 SOLICITOR MYERS: We offer this for identification
21 purposes.

22 THE COURT: Simply for identification purposes?

23 SOLICITOR MYERS: No, we offer it as an exhibit.

24 THE COURT: Any objection?

25 MS. FULLWOOD: Like to see it first, what it is.

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1 THE COURT: Certainly.

2 MS. FULLWOOD: No objection, Your Honor.

3 THE COURT: All right. Without objection, it is
4 admitted.

5 (WHEREUPON, the photograph was marked as State's
6 Exhibit No. 3 and received into evidence at this time.)

7 Q It is a yellow number there, number nine, and that's
8 the rod right by it?

9 A Correct.

10 Q When he came out of those apartments he had this rod
11 in his hand?

12 A Yes.

13 Q I'll stop you right then. You said why did y'all do
14 that to my brother, he had the rod in the hand, and you're
15 fixing to tell us what happened then?

16 A Yeah, he dropped the rod, and when he dropped the rod
17 he pulled his pants leg up, bent down, and reached for
18 something. I can't say what it was, but when he went down
19 and reach for whatever it was that was in his leg, that's
20 when I heard A.J. said he had a gun.

21 Q All right. There were three of you out there, you,
22 A.J., and Isaac?

23 A Correct.

24 Q Did any one of the three of you have a gun?

25 A Yes.

1 Q who was that?

2 A Isaac had the shotgun.

3 Q who?

4 A Isaac.

5 Q Did you have a gun?

6 A No.

7 Q Did you see A.J. with a gun?

8 A No.

9 Q A.J. yells---

10 MR. DUNCAN: Judge, we object to any hearsay.

11 THE COURT: I understand. I don't know that he---

12 SOLICITOR MYERS: I can clear that up.

13 Q Was Kerwin Parker right there with you when he made
14 that statement?

15 A As far as---

16 Q When Isaac made that statement about he's got a gun.

17 A No, A.J. made the statement.

18 MR. DUNCAN: Judge, I move to strike. It is still
19 hearsay.

20 SOLICITOR MYERS: No, if it's made in the presence of
21 the defendant, it's not hearsay if he's present.

22 MS. FULLWOOD: That's not correct.

23 MR. DUNCAN: Judge, that's not the law.

24 THE COURT: Okay. I find that that is hearsay
25 evidence. It is an out-of-court statement and I will

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1 exclude that evidence and I will sustain the objection.

2 SOLICITOR MYERS: We'll say it's part of the res
3 gestae, Your Honor, under that theory.

4 THE COURT: Okay. Of A.J.?

5 SOLICITOR MYERS: A.J. making that statement would
6 bring it all in conclusion under State versus Adams.

7 THE COURT: Okay. The defense's position on that?

8 MR. DUNCAN: Your Honor, we have a matter of law to
9 take up.

10 MS. FULLWOOD: Yes, sir.

11 THE COURT: Ladies and gentlemen, you may see we have
12 an issue to take up with respect to the admissibility of
13 some evidence. It is a hearsay issue and I need to
14 hear -- the, the attorneys wish to make some arguments on
15 the law as to that issue. So, I'm going to ask you retire
16 to the jury room. Please don't discuss the case. We'll
17 bring you back out here shortly.

18 Thank you.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 THE COURT: All right. Gentlemen, as I understand
22 it, the witness, Mr. Gadson, was about to testify or the
23 State was eliciting testimony of what A.J. said at the
24 time. The State's position is that that's an exception
25 under the hearsay rule as res gestae and/or excited

1 utterance.

2 SOLICITOR MYERS: Excited utterance also, Your Honor,
3 and also as to whether it's really hearsay or not because
4 we're not offering it for the truth of the matter of
5 whether or not Kerwin Parker had a gun. It's what action
6 these fellows took after that statement was made. So, we
7 don't even think it's hearsay to begin with.

8 THE COURT: All right. Okay. Be happy to hear from
9 you, Mr. Duncan.

10 MR. DUNCAN: Judge, under res gestae or excited
11 utterance, Rule 803 says it had to be a startling
12 condition the declarant made while under distress or this
13 person cannot testify as to any state of mind of the
14 declarant. Right now they're -- we don't have any
15 testimony that it was a startling event. We have some,
16 somebody reaching to scratch their foot or their ankle and
17 that's it.

18 THE COURT: Okay.

19 MR. DUNCAN: We've got rank hearsay that will --
20 right now it's hard to unring the bell since the argument
21 has been made in front of the jury for a long period of
22 time, and we would ask to strike and for a curative
23 instruction.

24 THE COURT: Okay. What is your argument with respect
25 to the State's position that it is not hearsay because it

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1 was not offered to prove the fact asserted?

2 MR. DUNCAN: I think it is offered to prove the facts
3 asserted. They want to try to put a gun in my client's
4 hand. That is the fact.

5 THE COURT: I understand. Any rebuttal from the
6 State?

7 SOLICITOR MYERS: No, sir, it's not offered for the
8 proof. It is not offered, and if, if out at night
9 someone's around your apartment and they say why did you
10 do that to my brother previously that night, and they've
11 got a metal pipe in their hands, and they drop it and go
12 to their ankle, I think that's pretty excitable times.

13 THE COURT: Is the -- I'm just moving a little
14 forward.

15 Do you anticipate this witness will testify he did,
16 in fact, have a gun in his hands?

17 SOLICITOR MYERS: Not at that time.

18 THE COURT: At some point he'll testify that he had a
19 gun in his hand?

20 It's all right---

21 SOLICITOR MYERS: No, sir, he won't put a gun in his
22 hand because when the car hit him he's pretty much out of
23 it. As a matter of fact, he puts the gun in Curtis
24 Johnson's hand.

25 THE COURT: Okay. All right. Good enough. If y'all

1 will allow me just a second. I'm just going to ponder it
2 for just a second and look at it based on not only the
3 evidence, but some case law that I have as well.

4 (Pause.)

5 THE COURT: All right. I previously ruled it was
6 hearsay, and then there was an argument tendered by the
7 State as to present sense or impression and or excited
8 utterance on which much of the history of our law has been
9 characterized as res gestae. Based on the context in
10 which it was offered, I will find that it was an exception
11 and will allow it to be put into the record. Certainly
12 the, the defense will have the opportunity to
13 cross-examine on that issue as to whether, in fact, he did
14 see a gun or whether it was an impression.

15 Anything further?

16 SOLICITOR MYERS: No, sir.

17 THE COURT: Yes, ma'am.

18 MS. FULLWOOD: Yes, sir, I would ask that the Court
19 direct the solicitor to stop asking leading questions.
20 You know, I let it go for a while because it would move
21 things along and kept us from getting bogged down in minor
22 details, but now we're coming to the crucial incident and
23 we're still having it or a style where we're having to
24 recap what was just said, and then -- and I object to that
25 form of questioning.

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1 THE COURT: I understand.

2 SOLICITOR MYERS: I certainly don't think I'm leading
3 to begin with, but I won't lead any more. But as to
4 recaps, when you have all these people involved, I have to
5 ask him over again and say things to make sure we know who
6 we're talking about. But as far as the leading, I don't
7 think I have been, but if I was I'll stop.

8 THE COURT: I understand. I cautioned you not to
9 lead and obviously the rules don't allow you to do so. It
10 is within the Court's discretion to allow you to under
11 certain circumstances, and all I can tell you, Ms.
12 Fullwood, is if you hear a leading question, then you just
13 have to object contemporaneously because I can't
14 anticipate it, and I can't do it myself. I'm not going to
15 do it sua sponta.

16 MS. FULLWOOD: I understand.

17 THE COURT: I understand. But the general caution is
18 don't lead, and I recognize there have been some leading
19 questions.

20 Okay?

21 MS. FULLWOOD: Yes, sir.

22 THE COURT: Thank you very much. Bring the jury back
23 in.

24 MR. DUNCAN: Judge, very briefly. While they're
25 still out, how long do you anticipate going?

1 THE COURT: About 5:30. We're going to try to get
2 four witnesses in today, but are we going to be limited to
3 three?

4 SOLICITOR MYERS: When they get through
5 cross-examining him, our next witness has a dialysis
6 problem, and he is scheduled for six o'clock. We may have
7 to break without putting him on.

8 THE COURT: I understand.

9 MR. DUNCAN: Just curious.

10 THE COURT: It is my intent, 5:30ish.

11 SOLICITOR MYERS: We'll probably get there.

12 (WHEREUPON, the following takes place within the
13 presence of the jury panel.)

14 THE COURT: Y'all have seats over there?

15 None of them disappeared, did they?

16 FOREMAN: We don't down too far.

17 JUROR: We're alternates.

18 THE COURT: I told you I wasn't going to assign
19 seats, but maybe I will.

20 All right. Mr. Solicitor, you may proceed.

21 THE SOLICITOR: Thank you, Your Honor.

22 CONTINUED DIRECT EXAMINATION

23 BY SOLICITOR MYERS:

24 Q Mr. Gadson, we're at the point that Kerwin Parker
25 comes around the apartments, got a metal rod in his hand.

1 A Correct.

2 Q He drops the metal rod and reaches down to his pants
3 legs, and you were trying to tell us what happened then.
4 would you proceed?

5 A At that time that's when I heard A.J. said he had a
6 gun. I can't say that he had a gun, but that's what was
7 said.

8 Q What happened after you said he's got a gun?

9 A A.J. ran towards the patio.

10 Q Ran towards where?

11 A The patio.

12 Q The patio?

13 A Correct, which, you know, going back towards the
14 apartment because---

15 Q The one y'all had just come out of?

16 A Correct.

17 Q Okay.

18 A Then Isaac proceeds to start running as well.

19 Q Where is Isaac running towards?

20 A Towards the patio as well.

21 Q Has Isaac still got the gun in his hand?

22 A He has the gun in his hand, but it's pointed to the
23 ground. He never pointed the gun. When he started
24 running off of, I guess natural reflexes, the gun swung
25 because it was in his right hand and he swung the gun. At

1 the angle I was at I took a few steps behind him, and when
2 he swung the shotgun and released it it came towards me.
3 Natural instinct, I caught the gun thinking it may go off.
4 So, I caught the gun.

5 Q What did you do when you caught the gun?

6 A When I caught the gun, that's when Curtis revved up
7 the truck. I turned toward the truck and I was going to
8 try to shoot the truck to stop it from hitting me because
9 he revved up the truck before I even presented the gun up.
10 Never pointed the gun at no one else but the truck.

11 Q Now, let's look back at this aerial photograph, and I
12 don't think this has been offered in, Your Honor.

13 We offer in this aerial photographer as an exhibit.

14 THE COURT: Any objection?

15 MS. FULLWOOD: None, Your Honor.

16 MR. DUNCAN: None.

17 THE COURT: All right. So admitted I believe as
18 State's No. 4.

19 (WHEREUPON, the aerial photograph was marked as
20 State's Exhibit No. 4 and received into evidence at this
21 time.)

22 Q About where were you and Isaac and A.J. when all of
23 you started scattering?

24 A I was right here more towards this curve. Isaac was
25 a few steps in front of me and A.J. was maybe a few steps

1 behind Isaac. But he was the closest to the patio at the
2 time.

3 Q Were y'all mostly in the roadway or off the roadway?

4 A We were in the middle of the road. We were in this
5 area.

6 Q Now, the two of them start running back to where?

7 A Towards the patio. They basically just took off and
8 ran this way, ran straight up, was a little slow, not too
9 steep, but run up it to get towards the patio.

10 Q Approximately where were you when you got the gun
11 from Isaac?

12 A I was right here.

13 Q And what did that S.U.V. truck do?

14 A When he revved up the -- well, he didn't rev up the
15 gas. He put the car in gear and came towards me. He was
16 right here, put the car in gear, and came towards me. As
17 he was proceeding towards me I caught the gun and was
18 turning, and I did went to pull the trigger, but the
19 safety was on the gun. Then I proceeded to try to run up
20 towards the patio.

21 Q What happened?

22 A Before I could even get anywhere near it, by the time
23 I got up on the sidewalk the truck was on my behind. Next
24 thing, you know, I run into a wall. I got thrown from the
25 truck and I fell into some bushes. When I got up I looked

1 over and I saw---

2 Q Let me stop you right there. The truck hit you.

3 Did it hit you in the truck or from behind?

4 A It hit me from behind and ran me into the wall.

5 Q What wall are you talking about it ran you into?

6 A It's a wall right here that kind of sort of separates
7 the patio that we had from the patio that goes to the
8 person's apartment that's right there. It's a little wall
9 there with a little meter box and everything on it and
10 it's, like I said, a little space with the A.C. unit.

11 Q Does this diagram help you any?

12 A Yeah, that's the wall right here.

13 Q The wall by the air conditioner?

14 A Correct.

15 SOLICITOR MYERS: Okay. And, Your Honor, this hasn't
16 been offered into evidence either, and we would offer this
17 in as an exhibit.

18 THE COURT: Any objections?

19 MS. FULLWOOD: No objection.

20 MR. DUNCAN: No objection.

21 THE COURT: So introduced.

22 (WHEREUPON, the diagram was marked as State's Exhibit
23 No. 5 and received into evidence at this time.)

24 Q After the truck hit you, where did you land? About
25 where?

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1 A Some bushes and shrubs right behind this wall, little
2 wooden fence, whatever you want to call it. I fell up
3 under that. When I looked over I saw Curtis step over the
4 truck. I guess the truck was kind of stuck in this little
5 corner, and I saw him get out with the pistol in his hand.

6 Q Did you see where the truck came to rest after it hit
7 you?

8 A In this area.

9 Q There's a tree right there.

10 Was it anywhere near that tree that you know of?

11 A I do know there's a tree there. I don't know if it
12 hit the tree, but I know that it hit me into the wall.

13 Q You said you're out here under some bushes.

14 A I'm right here under some bushes.

15 Q That's the lawn on this exhibit right here, No. 5.
16 That's the long thing when you're looking out the patio.
17 That's that long walk?

18 A Correct.

19 Q Now, who did you see get out of that black truck that
20 just run over you?

21 A Curtis.

22 Q Curtis who?

23 A Parker. I mean Curtis Johnson.

24 Q And could you see what, if anything, he had in his
25 hand?

1 A He had a pistol in his hand.

2 Q What happened then?

3 A Well, when I saw him get out the truck with the
4 pistol in his hand I got up and I tried to run, but then I
5 fell to the ground. And when I looked down, that's when I
6 saw my leg going one way and my body going the other. So,
7 then I got up and I tried to hop a couple of paces and I
8 was -- when I got up and ran I fell about right here, and
9 I hopped all the way to about right here, then I crawled
10 from here all the way to here, and there were some
11 apartments over there, and I was sitting right by the
12 stairs by someone's apartment.

13 Q Did you go behind those apartments or in front of
14 those apartments?

15 A I went in through the little space that Kerwin came
16 through, went through the little walkway, and crawled all
17 the way down here.

18 Q As you were out at the end of those bushes or as you
19 were going between the apartment and crawling and getting
20 around the front of those other apartments, did you hear
21 anything?

22 A Yeah, I started hearing gunshots when I got about,
23 when I started crawling. That's when I started hearing
24 gunshots.

25 Q Now, when Curtis Johnson got out of the truck with

1 the gun in his hand, which direction did he have---

2 A Directly toward the patio.

3 Q Y'all's patio?

4 A Correct.

5 Q Could you see who was over in the patio?

6 A I couldn't see. At that time I did not see who was
7 on the patio.

8 Q What happened to Kerwin Parker during all this time
9 when Isaac and them started running?

10 What happened to Kerwin Parker?

11 A That's a question I still don't know the answer to.
12 I didn't see him.

13 Q You don't know where he went?

14 You don't know where he went?

15 A I don't know.

16 Q When you crawled back around those apartments, did
17 you ever see him around there?

18 A No.

19 Q Did you ever see him any more?

20 A No.

21 Q As you were trying to crawl around you said you heard
22 shots.

23 About how many?

24 A I heard several shots. More than five.

25 Q Do you know what happened around there at the patio

1 or inside the house?

2 A I can't say because I was the first person that was
3 injured, and, like I said, I crawled around there. So, I
4 didn't see anything that, you know, happened after the
5 fact of me getting hit and crawling away.

6 Q You saw Kerwin Parker that night and you saw Curtis
7 Johnson?

8 You saw both of them that night?

9 A I did see both of them that evening, yes.

10 Q Did they have the same type of haircut?

11 A No.

12 Q Curtis Johnson, the one who ran over you --

13 A Correct.

14 Q -- what type of hair did he have?

15 A At that time he had long hair.

16 Q Long hair?

17 A Yeah, he had long hair.

18 Q Kerwin Parker, the guy with the rod, what was his
19 hair like?

20 A He had a short haircut.

21 Q Parker's short and Johnson's long?

22 A Correct.

23 Q Let me ask you this. From the time that y'all had
24 that altercation out at Monticello Road---

25 A Uh-huh. (Affirmative).

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1 Q ---how much longer was it to the point where Curtis
2 Johnson ran over you?

3 Minutes, half an hour, hour?

4 A It had to be at least an hour or better. It wasn't
5 no five minutes like we got into a fight, then went home,
6 came right back, no. It was an extended amount of time
7 because we sat there and conversed about the situation for
8 a while.

9 Q When you got back over to those apartments over
10 there---

11 A Uh-huh. (Affirmative).

12 Q ---did you remain conscious or what happened to you?

13 A Well, I was kind of going in and out. After hearing
14 a bunch of several gunshots I did hear my girlfriend at
15 the time. I heard her saying I can't find my baby daddy
16 on the phone with the police officers. I then -- well,
17 I'm not sure if it was her or Rebekah who had the girl
18 that lived down---

19 MR. DUNCAN: Judge, I'm going to object to any
20 hearsay here.

21 Q I'm not asking you what anybody did, but did somebody
22 try to render you some aid to your leg?

23 A Yes.

24 Q What did they do, whoever it was?

25 A They took the belt off my waist and wrapped it around

1 my leg and stopped most of the bleeding.

2 Q Can you identify this?

3 A Yes.

4 Q You've seen that before?

5 A That's my belt.

6 Q Is that the belt you were wearing that night?

7 A Yes, it is.

8 Q Did you wear that belt when you were run over?

9 A Yes, I did.

10 Q Somebody wrapped this around your leg?

11 A Correct.

12 SOLICITOR MYERS: We offer that into evidence.

13 MS. FULLWOOD: No objection.

14 MR. DUNCAN: No objection.

15 THE COURT: So admitted as State's No. 6.

16 (WHEREUPON, the belt was marked as State's Exhibit
17 No. 6 and received into evidence at this time.)

18 Q I've shown this to you before.

19 A Yes.

20 Q The tip of this belt, before the two defendants
21 showed up at the apartments that night, was the tip
22 missing like that?

23 A No, it was on.

24 Q It was on?

25 A Correct.

Walter Gadson - Direct examination
By Solicitor Myers

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1 Q Did you ever see Isaac any more that night?

2 A No.

3 Q Did you ever see A.J. any more that night?

4 A No.

5 Q Did you ever see Curtis Johnson any more that night?

6 A No.

7 Q Kerwin Parker?

8 A No.

9 Q Where eventually were you taken?

10 A To Lexington Medical Center.

11 Q What was the condition of your leg?

12 A I had a broken femur bone.

13 Q Did you have to be operated on?

14 A Yes, they had to do emergency surgery and put a metal
15 rod in my leg.

16 Q If you would, at this time, answer any questions they
17 have for you.

18 A All right.

19 THE COURT: Ms. Fullwood.

20 CROSS-EXAMINATION

21 BY MS. FULLWOOD:

22 Q Mr. Gadson.

23 A Yes, ma'am.

24 Q Whose idea was it to follow Curtis up I-26 and ambush
25 him on the Monticello Road exit?

1 SOLICITOR MYERS: Objection to the form of the
2 question.

3 THE COURT: I'm going to overrule your objection.
4 She can ask it. The jury can infer from it what they
5 will. They've heard the testimony as well.

6 You may ask the question.

7 Q Whose idea was it to do that?

8 A Well, we didn't ambush nobody.

9 Q Whose idea was it to do that?

10 A Well, Isaac wanted to confront him.

11 Q All right. You were just along for the ride?

12 A Yes, I was with them.

13 Q Okay. Were you part of his muscle?

14 A No, I'm not his muscle. I'm his best friend.

15 Q Okay. Don't you think a good friend would tell a
16 friend not to do something like that?

17 A Not necessarily. Under certain circumstances, not
18 necessarily.

19 Q Oh, okay, and this is one of those circumstances
20 where you wouldn't tell a friend not to do that?

21 A Well, you've got to look at it from his standpoint.
22 He wanted to know why this guy wanted to do him bodily
23 harm.

24 Q I see.

25 Of course, it was you and Isaac who were planning on

Walter Gadson - Cross-examination
By Ms. Fullwood

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1 jumping Curtis in the Wal-Mart, right?

2 A No.

3 Q You never did that?

4 A It was a confrontation to find out what was the
5 issue.

6 Q I see.

7 Well, no matter how you want to, what word you want
8 to use to describe what you and Isaac went around, around
9 trying to do, you didn't tell this part of what happened
10 that night to the police after it happened, did you?

11 A Yeah, because I was in the hospital sedated.

12 Q Uh-huh. (Affirmative).

13 But you gave a statement to the police, didn't you?

14 A Yeah, of what I could remember at that point in time.

15 Q And what you told the police that night is that you
16 went on straight back to y'all's apartment with Rebekah
17 and Amy, didn't you?

18 A Because they asked about what happened at the house.
19 They never asked about what happened in-between.

20 Q Let me get your statement.

21 Have you had a chance to look at your statement?

22 A Yes.

23 Q Okay. And you wrote this yourself, didn't you?

24 A Yes.

25 Q Nobody wrote it out for you?

1 A No.

2 Q Read what I have highlighted in yellow there.

3 A So, we got the kids and followed Rebekah back to the
4 house.

5 Q So, you told the police in your statement that you
6 got the kids and went from Mr. Fleming's house, Rebekah's
7 daddy's house, back to your house, right?

8 A At that time, yes.

9 Q That was a lie, wasn't it?

10 A Not necessarily because they didn't ask me
11 specifically what happened between that series of events.
12 If they did, I would have answered the question.

13 Q Where in here does it say at all---

14 A Where does it say he asked me the question?

15 Q No, sir, I'm asking you the question. Yes or no.

16 A Yes or no what?

17 Q Does your statement contain anything about what
18 happened at the Monticello Road exit?

19 A No.

20 Q All right. When is the first time you admitted to
21 somebody what you and Isaac had done up there?

22 A I'm not sure of the exact time when I told someone
23 that I did it, but I know I did do so.

24 Q Who did you tell?

25 A I'm not sure who is the person that I told, but I did

1 tell someone.

2 Q When?

3 A I just said that I don't remember.

4 Q Was it in 2006?

5 A I just said that I do not remember when I told the
6 person about that particular incident, but I did tell
7 someone that---

8 Q Was it in 2007?

9 A It could have been in 2006 or 2007, but I did state
10 that this, there was an altercation between us on
11 Monticello Road.

12 Q But you don't remember when and you don't remember
13 who told you that too, is that your testimony?

14 A Nine times out of ten I told it to the investigators
15 who was investigating the situation of the case. However
16 you want to put it.

17 Q All right. Now, when you were stopped up there on
18 Monticello Road, you testified that you got out of the car
19 because you thought Curtis was going for a weapon?

20 A Correct.

21 Q Is that right?

22 A Correct.

23 Q Tell us why in the world, if you were in a car that
24 could drive away, would you get out of a car if you
25 thought the person next to you had a gun or was going for

1 a gun and could shoot you?

2 Couldn't you just drive away?

3 A How can I drive away if I'm not the driver?

4 Q Oh, I see. So, that makes perfect sense to you?

5 A Does to you.

6 How could I drive a car that I'm not driving?

7 Q I see.

8 Was Isaac deaf?

9 You couldn't control him?

10 A I can't control what another man does.

11 Q I see.

12 Actually you got out of that car with a gun, didn't
13 you?

14 A No, I didn't because---

15 Q And so did Isaac, didn't he?

16 A No, we didn't because I don't possess any firearms.

17 Q And you two fellows beat on Curtis, didn't you?

18 A Fist fight. I fight with my hands.

19 Q I see.

20 You proud of it?

21 A No, but what I'm saying is I did not have a gun.

22 Q Uh-huh. (Affirmative).

23 A At that particular in point in time I had no gun in
24 my hand and there was no gun in my vehicle.

25 Q In fact, you guys have pulled him out of that car so

Walter Gadson - Cross-examination
By MS. Fullwood

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1 you could beat on him, didn't you?

2 A No, we didn't.

3 Q Okay. And you had a gun later on that night too,
4 didn't you?

5 A I caught the gun that Isaac tossed.

6 Q Let's talk about that. Let's talk about that.

7 Describe this gun that Walter had, I mean that your
8 Walter -- the -- describe this gun that Isaac had.

9 A It was a 12 gauge shotgun.

10 Q Okay. Well, tell us what it looked like.

11 How long was it?

12 A It's a black shotgun.

13 Q Show us with your hands how long it was.

14 A Roughly about this long.

15 Q And you're telling us he was running holding the gun
16 down by his side?

17 A I did not say that.

18 Q Then how was he running?

19 A I said he had the gun pointed towards the ground.

20 When he proceeded to run, when he turned to run off,

21 instant reaction, this is what he did and tossed the gun,

22 and I caught it because it came towards me.

23 Q It just slung out of his hand and you caught it like
24 that?

25 A If you were in the situation you would have seen it

1 happened. You're going by what you're told.

2 Q And then you had a gun?

3 A Yes, I did have a gun in my hand at that time.

4 Q And you're saying that you went to cock the gun or---

5 A No.

6 Q ---take the safety off?

7 A No, I turned because he hit the gas on the truck.

8 Q So, you turned to shoot Curtis?

9 A Shoot the truck from coming at me.

10 Q With Curtis in the truck?

11 A Yes, he was in the truck.

12 Q And you're saying the safety was on?

13 A Because the gun didn't fire.

14 Q So, you're sure about that?

15 A The gun didn't fire.

16 Q Didn't you just testify the safety was on?

17 A I'm assuming the safety was on because the gun didn't
18 fire.

19 Q Didn't you testify, when Mr. Myers was questioning
20 you, that the safety was on?

21 A Yes, I did.

22 Q All right then. At the same time that this happened
23 you were on probation, weren't you?

24 A Yes.

25 Q And you're still on probation, aren't you?

1 A No.

2 Q You're not?

3 A Not to an extent.

4 Q Not to an extent. You're either on probation or
5 you're not on probation.

6 A It is a big misunderstanding. You wouldn't
7 understand the situation.

8 Q I just want a yes or no answer.

9 Are you on probation right now?

10 A I can't give that answer.

11 Q You can't?

12 You don't know if you're on probation or not?

13 A Because of the stipulations of the situation I cannot
14 give that answer.

15 Q What does that mean?

16 A I was told I was terminated by my probation officer.

17 Q Uh-huh. (Affirmative).

18 A So, a case has come up now that I still owe some
19 funds, but it is not said that I am still on probation. I
20 haven't been told that I was still on probation. I have a
21 case that I have had to take care of with the probation
22 officer.

23 Q Regardless, the probation office still thinks it has
24 some authority over you, doesn't it?

25 A If that's how you feel, then yeah.

1 Q well---

2 A I don't know.

3 Q Are they trying to say that they have some authority
4 over you?

5 A All they want is their money. They don't have no,
6 nothing, you know.

7 Q And if you don't do what the probation office says,
8 what happens to you?

9 A I did everything---

10 SOLICITOR MYERS: Objection, Your Honor. This is
11 irrelevant. It's already been brought out he may or may
12 not be on probation. The details are irrelevant.

13 MS. FULLWOOD: Judge, I'm going somewhere with this.

14 THE COURT: I understand. I understand. With
15 respect to the question that you asked, he answered it.
16 May have not been a suitable answer for you, but he
17 answered it. The jury can infer what they want from that
18 answer, but what I would tell you is move along on the
19 question and you may arrive at that point at which you
20 want to arrive.

21 Q You have rules you have to follow when you're on
22 probation, right?

23 A Correct.

24 Q And if you don't follow the rules you can be sent to
25 prison, right?

Walter Gadson - Cross-examination
By Ms. Fullwood

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1 A Yes.

2 Q Some of the rules -- one of the rules deals with
3 handling guns, doesn't it?

4 A Yes, it is.

5 Q And what is this?

6 A I signed the gun at, when I was released from prison.

7 Q Uh-huh. (Affirmative).

8 And what does this say you're supposed to do about
9 guns?

10 You're not supposed to be around them, not supposed
11 to possess them, not supposed to handle them.

12 You're not supposed to have had anything to do with
13 guns, correct?

14 A Correct.

15 Q Okay. So, even if you had a gun out there that
16 night, you would deny it because it would be a violation
17 of your probation, correct?

18 A I wouldn't deny it because I just told you I caught
19 that shotgun and I haven't.

20 Q And they're still trying to say that you're subject
21 to their rules right now, correct?

22 A I just told you that. I do not know.

23 Q So, you don't know.

24 well, if it turns out you're right, if you admit
25 having a gun out there that night, they could come after

1 you for a probation violation?

2 A I---

3 SOLICITOR MYERS: Objection, Your Honor.

4 THE COURT: Hold on.

5 SOLICITOR MYERS: Objection, Your Honor. That's
6 speculation. That's back from 2006 if---

7 THE COURT: I understand. If I understand your
8 question, it is if you had a gun it would be a violation
9 of your probation?

10 Is that your question?

11 MS. FULLWOOD: That's right, then and now.

12 THE COURT: You may ask that question.

13 Q Okay. If you had the gun, it would be a violation of
14 your probation?

15 A Correct.

16 Q All right. Now, what did you tell Rebekah you wanted
17 her to lie for you about in court?

18 A I never really told her to lie.

19 Q Not really.

20 A I didn't say Rebekah go lie for me.

21 Q All right. No further questions.

22 A Yeah.

23 THE COURT: Mr. Duncan.

24 CROSS-EXAMINATION

25 BY MR. DUNCAN:

Walter Gadson - Cross-examination
by Mr. Duncan

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1 Q Mr. Gadson, your written statement, let me show you
2 if I can.

3 That's your writing, is it not?

4 A Yes, it is. It is.

5 Q So, you know before even looking at it that it's your
6 writing?

7 A I know that's what I wrote.

8 Q And you know that you wrote it was said that Curtis
9 and Isaac had an altercation, which was the word you just
10 used with Ms. Fullwood, an altercation, but I wasn't told
11 about that.

12 So, you're denying in this statement you were even
13 there?

14 A They had an altercation before that, a verbal
15 altercation.

16 Q Okay. So---

17 A And that was the altercation that happened outside of
18 the apartments we had at that time. This supposed set-up
19 that y'all were talking about earlier, that was that
20 particular altercation.

21 Q So, the Wal-Mart altercation is what you're talking
22 about, but you don't say that here.

23 A Never had a Wal-Mart altercation.

24 Q So, this statement talks about the events of November
25 the 20th, and you're telling us that just in the middle of

1 that statement you wrote one sentence that talked about
2 some time months before, right?

3 SOLICITOR MYERS: Could I get him to refer to, to the
4 page and line because I may want to offer---

5 THE COURT: If you will, Mr. Duncan, reference what
6 you're---

7 MR. DUNCAN: Judge, I don't have a line. I mean
8 it's---

9 THE COURT: You can point it out to Mr. Myers if
10 you'd like to.

11 MR. DUNCAN: Okay.

12 (Pause.)

13 THE COURT: All right, sir. Having done so, you may
14 proceed.

15 Q Read that page to yourself, please.

16 A Yes.

17 What about it?

18 Q That entire page talks about the events of
19 November 20th, doesn't it?

20 A No.

21 Q Okay. You say we got the kids -- no, I'm sorry.

22 So, that altercation is the one that you decided you
23 were going to lie about by not telling anybody?

24 A I didn't lie about it. It wasn't asked about.

25 Q So, you knew it was something you had done wrong, but

Walter Gadson - Cross-examination
by Mr. Duncan

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1 you just didn't want to tell anybody?

2 A No, I wasn't asked about it at the time.

3 Q Okay. You're the one who got out of the car?

4 You're the one who started the fight on the side of
5 the road, isn't it?

6 A Not necessarily.

7 Q Not necessarily.

8 Okay. Your buddy Isaac pulls up, he's in the car,
9 and Curtis is in his car, right?

10 A Yes.

11 Q So, who got out of the car?

12 A I did.

13 Q So, you ran over and started the fight?

14 A Because I thought he was going for a weapon of some
15 sort.

16 Q Okay. So, you're the hot head and started this?

17 A No, not the hot head.

18 Q Okay. You were the cool collected one that got out
19 of the car?

20 A No, but when you think to yourself, you think
21 someone's going for a firearm too.

22 Q All right, sir. Not necessarily, Mr. Gadson.

23 Wouldn't you think to yourself someone's going for a
24 firearm?

25 What kind of clothes did Curtis have on that night?

1 A That I'm not sure of.

2 Q You don't know?

3 A I said that I'm not sure of. I can't recollect.

4 Q What kind of clothes did Kerwin have on?

5 A That I can't recollect as well.

6 Q And I didn't quite hear what your answer to Ms.
7 Fullwood was.

8 You kind of asked Rebekah to lie for you?

9 A I didn't kind of ask her.

10 Q You asked her to kind of lie?

11 I mean---

12 A I didn't ask her to lie.

13 Q So, she just made that up?

14 A I'm not saying she made it up. Might have been
15 worded wrong, but I didn't ask her to indefinitely go on
16 the stand and just lie for me. No, I didn't do that.

17 Q So, Mr. Gadson, you've got an explanation for
18 everything.

19 You shade everything, don't you?

20 A No, I don't shade everything. I'm telling it like it
21 is.

22 Q Kind of, you know, that may have been the way, I
23 might be, I might not be on probation, you've got an
24 explanation to shade the truth every time words come out
25 of your mouth, don't you?

Walter Gadson - Cross-examination
by Mr. Duncan

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1 A No, I tell it like it is. You see it the way I, you
2 see it and I see it the way I see it.

3 Q Okay. I want you to, if you could, show us again how
4 Isaac started, had the shotgun like this.

5 A Pointing directly to the ground. He never pointed at
6 anybody.

7 Q And in your statement that you gave the police that
8 night, you didn't say he started to throw it down and out
9 of a reflex I caught it, did you?

10 A I'm not sure. I can't remember what I said. Like I
11 said, when I wrote my statement, I was in the hospital
12 sedated.

13 Q And in that statement you said Isaac threw the gun to
14 me.

15 A No, he threw a gun towards me and I caught it.

16 Q Okay. Towards you.

17 Okay. You sure that's what your statement said?

18 A Like I said, at that particular time I was sedated.
19 I'm not sure what it said word-for-word, but I know what
20 happened. You can say what you want to say, but I know
21 what happened.

22 Q Let me ask you, on the question and answer page that
23 I'm referring to, would you read for me what it says
24 there?

25 That's your statement, correct?

- 1 A I didn't write this.
- 2 Q But you signed it, didn't you?
- 3 A Yeah.
- 4 Q Did you read it before you signed it?
- 5 A Briefly, yeah.
- 6 Q Briefly.
- 7 So, you're saying---
- 8 A When I signed that I was in the hospital.
- 9 Q So, the officer is misrepresenting what you were
- 10 saying?
- 11 A I'm not saying he was misrepresenting what I was
- 12 saying, but I was in the hospital at that time.
- 13 Q Read for me, if you would, where it's outlined in
- 14 orange.
- 15 What does it say?
- 16 A Both colors?
- 17 Q Orange.
- 18 A Isaac throws the gun to me and runs back into the
- 19 house.
- 20 Q Isaac throws the gun to me.
- 21 A To me, towards me, same difference.
- 22 Q Okay. Now, did you -- do you remember telling --
- 23 there was an ambulance called, wasn't there?
- 24 A I didn't call the ambulance.
- 25 Q An ambulance showed up?

Walter Gadson - Cross-examination
by Mr. Duncan

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1 A Yeah.

2 Q And an ambulance attendant, an E.M.T., came to see
3 you, didn't he?

4 A Yes.

5 Q And he examined you?

6 A Yes.

7 Q And they put you on a stretcher and took you to the
8 hospital?

9 A Yes.

10 Q You remember telling the E.M.T. that you were struck
11 by a vehicle backing up?

12 A No, I didn't.

13 Q You didn't do that?

14 You didn't tell the E.M.T. --

15 A No.

16 Q -- the vehicle was backing up?

17 A No, I didn't.

18 Q All right.

19 A That vehicle came at me head on.

20 Q Okay. Did you tell -- you heard Amy testify, didn't
21 you?

22 A I did.

23 Q Did you tell Amy you tried to shoot Kerwin?

24 A No, not Kerwin, no.

25 Q Okay. But you were pulling that trigger?

1 A I pulled it once towards the truck, yes, I did.

2 Q Okay. And---

3 A To try to stop the truck from coming at me, yes, I
4 did.

5 Q This shotgun that's a pump shotgun, wasn't it?

6 A I believe it was. Not too sure, but I believe it
7 was.

8 Q You had to cock it?

9 You had to pump it, didn't you?

10 A No, I didn't.

11 Q Okay.

12 A The reason why I didn't is because one thing is he
13 always pumps his own gun.

14 Q Isaac always pumps his own gun?

15 A He's from the military. He has tactics.

16 Q So, you knew -- you're saying he knew he kept it
17 pumped, ready to fire?

18 A Not necessarily, but he's an Army guy. He has his
19 own tactics.

20 Q I'm sorry. Not necessarily.

21 All right. Who had the drugs that night?

22 A I don't know nothing---

23 Q Did you---

24 A I don't know nothing about no drugs.

25 Q Did you have any hallucinogenic drugs on you?

Walter Gadson - Cross-examination
by Mr. Duncan

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1 A Don't sell any drugs. Never done any drugs.

2 Q Did A.J. have these hallucinogenic drugs on him?

3 A I can't speak for another man.

4 Q So, you don't know if he was doing any hallucinogens
5 or not?

6 A As far as I know, A.J. or Isaac, none of them done
7 any drugs or had any drugs.

8 Q Okay. Excuse me, me just a second.

9 (Pause.)

10 Q Do you remember filing an automobile insurance claim?

11 A I did.

12 Q And, in fact, you were paid \$15,000 by Nationwide,
13 weren't you?

14 A Yeah.

15 Q And your story you're telling us here today is very
16 different from what you told Nationwide, isn't it?

17 A No.

18 Q You told Nationwide the same thing?

19 A I told them that it was more than just a car
20 accident, but they said being I was struck by a vehicle I
21 still had the right to sue the insurance company. That's
22 what I was told and I was told to do that by someone.

23 Q And, in fact, you told the insurance company -- well,
24 right. Let me back up.

25 You just told Mr. Myers that you don't know where

1 Kerwin and you don't know where Isaac were, that the last
2 time you saw either one of them---

3 A Was when they was running towards the patio.

4 Q When they were running.

5 So, you didn't tell Nationwide that they were
6 fighting on the patio?

7 A That's what I assumed, but I couldn't see it.

8 Q So, that's what you told Nationwide, isn't it?

9 A I'm not sure if I told them that or not. If you can
10 prove it you can prove it. I can't recollect telling them
11 that.

12 Q So, you're backtracking because you know you told
13 Nationwide that, aren't you?

14 A No, I'm not.

15 Q You backtrack on everything, don't you?

16 A No, I'm not. You don't intimidate me. No, I'm not.

17 Q Do you ever tell a straight story?

18 A Yes, I do.

19 SOLICITOR MYERS: Laying a foundation for an
20 inconsistent statement requires him to prove it with who,
21 what, when, and where, and---

22 THE COURT: Are you done with that line of
23 questioning?

24 Q Sir, I can tell you, on December 20, 2006, at 7:43,
25 did you give a statement to Nationwide?

Walter Gadson - Cross-examination
by Mr. Duncan

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1 A I don't remember the exact date and time, but I do
2 remember giving a statement to Nationwide.

3 Q And you gave a statement to the adjustor about what
4 happened that evening?

5 A I told them everything. I told them about the
6 shooting and everything.

7 Q And you told them that Curtis was trying to protect
8 his brother because you were about to jump on Kerwin,
9 didn't you?

10 A No, I didn't.

11 Q You didn't tell the Nationwide adjustor that?

12 A No, I didn't.

13 Q Do you remember---

14 SOLICITOR MYERS: Judge, if he could furnish a copy
15 of it so we may want to---

16 THE COURT: I understand. Do you have a copy of it?

17 MR. DUNCAN: It's been subpoenaed. I have notes---

18 SOLICITOR MYERS: He's cross-examining on a statement
19 he doesn't have?

20 THE WITNESS: I never said---

21 MR. DUNCAN: I'm asking if he said those things.

22 THE WITNESS: I never said it.

23 SOLICITOR MYERS: We object.

24 THE COURT: Hold on.

25 You're asking him questions on the statement?

1 MR. DUNCAN: I'm asking him about I understand he
2 gave a statement.

3 SOLICITOR MYERS: He's asking about specific stuff
4 now.

5 THE COURT: Okay. All right. You're not offering
6 any statement into evidence, is that correct?

7 MR. DUNCAN: Well---

8 THE COURT: I understand you're asking---

9 MR. DUNCAN: We have a subpoena, judge, because we
10 don't -- we're waiting---

11 THE COURT: This is what I'll allow you to do, and
12 I'll ask you to ask him specific questions, and he can
13 answer either yes or no or he can answer I don't know, but
14 I'll let you ask him specific questions.

15 All right. You may proceed.

16 SOLICITOR MYERS: But we would still like the
17 statement because his notes might be different from what
18 that statement is, and then if it's something there I want
19 to put in from that statement, I don't have it and I can't
20 use his notes.

21 THE COURT: I understand. Do you have -- will y'all
22 approach please?

23 (WHEREUPON, a bench conference was held out of the
24 hearing of the jury at this time.)

25 MR. DUNCAN: That's all. Thank you.

Walter Gadson - Redirect examination
by Solicitor Myers

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1 THE COURT: Redirect, sir.

2 REDIRECT EXAMINATION

3 BY SOLICITOR MYERS:

4 Q Did Curtis Johnson live in those apartments out there
5 in that exhibit?

6 A 86 Fox Run Lane on Church Hill, no, he did not.

7 Q Did Kerwin Parker live in those apartments?

8 A No, he did not.

9 THE COURT: Recross limited to redirect?

10 MS. FULLWOOD: No, sir.

11 THE COURT: All right. Thank you, Mr. Gadson. Step
12 down, sir.

13 All right. Ms. Dixon, Mr. Myers, is that your last
14 witness for the day?

15 SOLICITOR MYERS: The next witness we have, Your
16 Honor, he has a doctor's appointment at six o'clock. So,
17 we would like to defer till tomorrow.

18 THE COURT: Yes, sir.

19 MR. DUNCAN: Your Honor, if he's going to be in
20 Lexington County Jail, that's fine. We'd like for him to
21 be subject to our calling him during our case.

22 THE COURT: Okay.

23 MR. DUNCAN: We understood he had been brought from
24 another state.

25 THE COURT: I understand. He continues under

1 subpoena if, in fact, there has been a subpoena issued for
2 him.

3 All right. Ladies and gentlemen, that's all the
4 testimony we're going to have today. We're going to try
5 to end each day around somewhere between 5:30 and 6:00,
6 and that's a lot of latitude I know. I'm not trying to be
7 wishy washy in that regard. Sometimes, as you see, a
8 witness might finish early or he might go a long time.
9 So, we're going to try to finish in that timeframe.

10 We're going to go ahead and call it a day, and I'm
11 going to ask you to be back here tomorrow at 9:30. Going
12 forward during the week, just so you'll know, I'm going to
13 try to start a little bit earlier than that so we can wrap
14 this case up. But tomorrow, because of some scheduling
15 issues that we have, I'm going to ask you to be back at
16 9:30.

17 I'm going to give you the same caution that I've
18 given you before. Don't discuss the case. I know many of
19 you are married or you have good friends and they may want
20 to ask you about it. Please don't discuss the case with
21 anyone this evening. Just tell them I'm on a jury, and
22 I'm hearing about it, and when it's over I'll discuss it
23 with you.

24 Okay. Mr. Myers, anything you want to add?

25 SOLICITOR MYERS: May we approach one minute?

1 THE COURT: Sure. Absolutely.

2 You ready to excuse the jury?

3 SOLICITOR MYERS: Just one second.

4 (WHEREUPON, a bench conference was held out of the
5 hearing of the jury at this time.)

6 THE COURT: All right. Ladies and gentlemen, I said
7 9:30. 10:00.

8 Okay. Some issues we need to take up. Like I told
9 you before, sometimes we may take up some issues outside
10 of your presence, but that's to streamline and make the
11 whole proceedings a little bit more efficient. So, thank
12 you so much for your service today and I'll see you
13 tomorrow morning. Have a good evening. Don't stay up too
14 late watching football.

15 (WHEREUPON, the following takes place outside the
16 presence of the jury.)

17 THE COURT: All right. Ladies and gentlemen, that's
18 all. If there's nothing else for the Court today we'll
19 adjourn for the day and be back tomorrow at 9:30 to hear
20 the motions.

21 Okay. And if counsel wants to come forward, I want
22 to ask you something real quick.

23

24 (WHEREUPON, Court was in recess for the evening.)

25

1 Tuesday, September 15th, 2009

2
3 (WHEREUPON, the following takes place outside the
4 presence of the jury.)

5 THE COURT: Ready to go on the record?

6 MR. DUNCAN: Your Honor, the first thing I'd like to
7 do is request the last witness, Walter Gadson, be brought
8 back over for some additional questioning. We received,
9 last night after court, the audiotape of his interview
10 with Nationwide in December of 2006, and we have provided
11 that file and the entire tape to the Solicitor's Office.

12 THE COURT: All right. Is there an objection from
13 the State for recalling that witness?

14 SOLICITOR DIXON: Yes, sir, we're through with him.
15 If they want to put him up in their case we have no
16 problem with that, but---

17 THE COURT: Okay.

18 MR. DUNCAN: Your Honor, to assist the jury and keep
19 the testimony continuous, I think I would assist the jury,
20 since they have his testimony fresh in their mind, that
21 this is just a natural extension of his testimony from
22 yesterday.

23 THE COURT: I understand. That very well may be, and
24 I understand why it's sensitive for you to call the
25 witness. However, he has been released, and this case has

1 been pending for a substantial amount of time. I don't
2 know about the availability of the tape and whether it had
3 been available heretofore, but I will allow you to call
4 him as a witness in your case. But being as he has been
5 released as a witness for the State, at this point you're
6 just going to need to call him in your case. I recognize
7 it's sensitive to you, but that's what we're going to have
8 to do.

9 All right.

10 MR. DUNCAN: Your Honor, in addition, we would
11 like -- I'm sorry. I didn't mean to interrupt. We would
12 like the shotgun brought in and the gray hooded sweatshirt
13 to use in questioning the next several witnesses.

14 SOLICITOR DIXON: All of the evidence is available,
15 Your Honor. It is locked up in the Solicitor's Office. I
16 don't know if we have a custody person here right now, but
17 we can certainly get one here soon.

18 THE COURT: Good enough. You'll make that available
19 for the defense to use in, as it deems fit.

20 MS. FULLWOOD: I would also like brought into the
21 courtroom the marijuana and 12 pills of Ecstasy that were
22 found last week in connection with this case, and I would
23 need those items this morning.

24 SOLICITOR DIXON: And, Your Honor, at this point the
25 State would make a motion in limine to exclude that

1 evidence as it has no relevance to what we're actually
2 hearing. There were some drugs found on one of the
3 victims, but unless the defense can, in any way, connect
4 to the events of that night, we don't think it is relevant
5 before the jury.

6 THE COURT: What is the argument as to relevance?

7 MR. DUNCAN: Judge, we believe these were
8 hallucinatory drugs, and that the victim's perception and
9 whether or not he's taken those drugs that evening are
10 very relevant to his state of mind, his ability to
11 perceive things.

12 THE COURT: If I remember correctly from the
13 cross-examination, there were specific questions written
14 that asked about the perception or the position of drugs
15 of the victims, and, therefore, I find it is relevant.

16 SOLICITOR DIXON: That evidence is here as well, Your
17 Honor.

18 THE COURT: All right.

19 MS. FULLWOOD: Is it in the courtroom?

20 SOLICITOR DIXON: It is locked up in the Solicitor's
21 Office. They're getting somebody from the Sheriff's
22 Office to come over. They've got the keys. We can't get
23 to it.

24 THE COURT: That's just logistics. We have handled
25 it as a practical matter.

1 MS. FULLWOOD: I'm just trying to let the State know
2 I need it this morning.

3 SOLICITOR DIXON: If we need to wait until the
4 Biggers hearing we can certainly do that or proceed with
5 that hearing and have it hopefully before---

6 THE COURT: Let's go ahead and proceed with the
7 hearing we anticipated. I believe an identification
8 hearing. Let's go ahead and proceed with that, and then
9 I'll afford you a little bit of time to get all of that
10 ready.

11 Okay. Understanding that I want to start as close to
12 ten o'clock as I -- because that's what I told the jury.

13 SOLICITOR DIXON: Yes, sir.

14 THE COURT: All right. Proceed.

15 SOLICITOR DIXON: For purposes of the Neil v. Biggers
16 hearing, Your Honor, the State would call A.J. Wilson to
17 the stand.

18 THE COURT: All right.

19 A.J. WILSON, being first duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY SOLICITOR DIXON:

23 Q You go by a nickname?

24 A A.J.

25 Q How old are you?

1 A Twenty-seven.

2 Q Have you ever testified in court before?

3 A No.

4 Q Before November of 2006, have you ever been a victim
5 of a crime before?

6 A No.

7 Q How far did you go in school?

8 A 12th grade.

9 Q Graduate from high school?

10 A Yes.

11 Q Where were you living the night of November 19 of
12 2006?

13 A 86 Fox Run Lane.

14 Q Before that night, had you ever met either Curtis
15 Johnson or Kerwin Parker?

16 A No.

17 Q Let's talk about that night.

18 At some point that night did you and your cousin and
19 Walter have a verbal confrontation with someone?

20 A No.

21 Q At some point that night did y'all go outside the
22 apartment?

23 A Yes.

24 Q And when you went outside the apartment, did you see
25 someone?

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1 A Not at first until we started along, and then we saw
2 someone come around the building.

3 Q Let me show you this which has been marked as State's
4 4.

5 Do you recognize this?

6 A Yes.

7 Q What is it?

8 A The apartment complex.

9 Q Can you tell me on here where 86 Fox Run Lane is?

10 A Right there.

11 Q Where were you when you first saw that person coming
12 in-between the apartment buildings?

13 A In this area.

14 Q Where was he?

15 A Coming around the front toward us.

16 Q Can you tell me, A.J., what time of day was that?

17 A It was at night.

18 Q Are there any street lights out there?

19 A Yes.

20 Q Could you see this person pretty clearly?

21 A Yeah.

22 Q Describe that person for me.

23 A Short haircut.

24 Q Was it a male or a female?

25 A Male, short haircut, probably like -- I'm not sure of

1 the height, but probably was about my height, 5'6" and a
2 half, maybe 5'7".

3 Q what color was he?

4 A Black.

5 Q When you saw this person, were you under the
6 influence of any drugs or alcohol?

7 A No.

8 Q Who was with you when you saw this person?

9 A Isaac and Walter.

10 Q All right. When you saw him, can you tell me what
11 was going on?

12 A I just know he came towards us and asked why did they
13 do that to his brother.

14 Q Okay. What were you feeling at that point?

15 A I was just trying to figure out what was going on.

16 Q When he was saying these things, how far away from
17 you was he?

18 A Probably a couple of feet. Probably the way that,
19 that burgundy chair is from where I'm at.

20 Q When you were standing there, what were you looking
21 at?

22 A I was looking at him.

23 Q What part of him were you focusing on?

24 A His face.

25 Q Why were you focusing on his face?

1 A That's just what I was looking at.

2 Q Okay. How long were you standing there talking to
3 that person or interacting with that person?

4 A Maybe -- I'd say about thirty seconds, close to a
5 minute. I can't really remember.

6 Q After that minute was over, what happened?

7 A I saw him reaching for something, and I just said he
8 got a gun, and I turned around and started running.

9 Q After you started running, did you see that person
10 again?

11 A Yes, not -- well, after the fact. Like after a
12 little while.

13 Q Okay. When you saw him again, where were you?

14 A I was on the patio.

15 Q Okay. Can you tell me what the lighting was like on
16 the patio?

17 A The lighting had the -- the light from the inside of
18 the apartment was shining outside and I could see his
19 face.

20 Q Are there street lights out there?

21 A Yes, lights near the dumpster I believe.

22 Q How far away from you was he the second time you saw
23 him?

24 A Not that far. Probably about the same area. Just
25 about close -- that's probably about -- that little stand

1 right there.

2 Q Okay. When you saw him a second time, what were you
3 focusing on?

4 A I was looking at him.

5 Q Okay. Did he have anything with him?

6 A I saw him pointing the gun.

7 Q How was he holding the gun?

8 A I don't know which hand, but like that.

9 Q Were you looking at him or the gun or his face?

10 A I was still looking at him. I was in shock. Just
11 looking.

12 Q Were you scared?

13 A Yeah.

14 Q How long did you look at him?

15 A Probably like three or four seconds.

16 Q When those three or four seconds was over, what
17 happened?

18 A Then he shot the gun.

19 Q A.J., at some point, did someone ask you to look at a
20 photo lineup in this case?

21 A Yes.

22 Q Do you remember who that was?

23 A Yes.

24 Q Who was it?

25 A Detective Collins.

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1 Q Where were you when Detective Collins asked you to
2 look at a lineup?

3 A In Atlanta at the rehab center.

4 Q How long after the shooting was that?

5 A Probably three -- two, three months.

6 Q Okay. When he asked you to look at the lineup, did
7 he tell you why he wanted you to look at a lineup?

8 A Yes.

9 Q Why?

10 A To find out like if there was anybody I recognized on
11 the photo lineup.

12 Q Between the time of the shooting and the time that he
13 showed you the photo lineup, did anybody show you any
14 other pictures?

15 A No.

16 Q So, you said you were at the Shepherd Center.
17 Was anybody else with you when Detective Collins
18 showed you that photo lineup?

19 A Yes.

20 Q Who was it?

21 A My mother.

22 Q When Detective Collins showed you the lineup, what,
23 if anything, did he say to you?

24 A I may or may not see the person on the, on the paper.

25 Q Okay.

1 A I think that's how. I can't remember what he
2 actually said.

3 Q Did he, in any way, suggest to you if the person was
4 in the lineup that you should pick out?

5 A No.

6 Q Did he, in any way, suggest which picture you should
7 pick out?

8 A No.

9 Q Did he point to any of the pictures?

10 A No.

11 Q Okay. Can you describe for me the lineup you looked
12 at?

13 A Yes.

14 Q Go ahead.

15 A You said describe the lineup?

16 Q Was it one picture, more than one picture?

17 A It was a couple of pictures.

18 Q Were the pictures in color or black and white?

19 A I can't remember. I think black and white.

20 Q Can you tell me, do you remember what the pictures
21 looked like?

22 A Yes.

23 Q Were they full body shots or---

24 A They were head shots.

25 Q When you looked at that lineup, did you see anyone

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1 that you recognized?

2 A Yes.

3 Q Who did you recognize?

4 A The person that was, the person that came towards us
5 whenever he was outside and had the short haircut, black
6 male.

7 Q Was that the same person you saw on the patio with
8 the gun?

9 A Yes.

10 Q Okay. Were you able to pick that photograph out?

11 A Yes.

12 Q Okay. When you picked that photograph out, how sure
13 are you that the person you picked out in that lineup is
14 the person that shot you that night?

15 A A hundred percent.

16 Q How long did you look at those pictures before you
17 picked that person out?

18 A Probably like two seconds.

19 Q I am going to show you -- I'm going to show you a
20 document and ask if you recognize this.

21 A Yes.

22 Q What is this?

23 A A photo lineup.

24 Q Is that the lineup that Detective Collins showed you
25 that day?

1 A Yes.

2 Q Is that what it looked like that day?

3 A Yes.

4 Q Can you tell me what in that lineup you picked out?

5 A Number three.

6 Q Number three.

7 Are you certain that that is the person that had the
8 gun and shot you that night?

9 A Yes.

10 Q When you picked out number three, did Detective
11 Collins ask you to circle that?

12 A When I picked it, yes.

13 Q Did he ask you to sign it?

14 A Yes.

15 Q Were you able to sign it?

16 A No.

17 Q Why not?

18 A Because I had my mind -- got shot on my hand and
19 couldn't move it.

20 Q Whose signature is this?

21 A My mother.

22 Q Did you witness her sign it?

23 A Yes.

24 SOLICITOR DIXON: Your Honor, at this time we'd mark
25 State's 7.

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1 THE COURT: I don't know if you intend to introduce
2 that in your case in chief.

3 You intend to do so?

4 SOLICITOR DIXON: Yes, sir.

5 THE COURT: For the purposes of the proceeding right
6 now I want to mark it as a Court's Exhibit so we can
7 distinguish it from a State's Exhibit. At the appropriate
8 time it's admitted we can modify its designation to a
9 State's Exhibit. But I want to make sure it is segregated
10 for the time being because we send the evidence to the
11 jury on Thursday and Friday and may not after the, all
12 time has gone by be able to distinguish it. So, for right
13 now, it will be 3. We can modify its characterization if
14 and when it is admitted into evidence.

15 Does the defense wish to be heard at this time with
16 respect to the picture?

17 MS. FULLWOOD: Those pictures involve Mr. Parker.

18 MR. DUNCAN: As far as the marking, I don't object to
19 the marking.

20 THE COURT: I've admitted it as a Court's Exhibit and
21 wanted to make sure you had an opportunity to be heard
22 regarding that. Didn't think so, but I wanted to make
23 sure.

24 MR. DUNCAN: No, sir.

25 THE COURT: Good enough.

1 (WHEREUPON, the photographic lineup was marked as
2 Court's Exhibit No. 3 and received into evidence for
3 purposes of the in camera hearing only at this time.)

4 Q The person that you saw that night outside of the
5 apartment complex and inside, the person with the gun, do
6 you see that person in the courtroom today?

7 A Yes.

8 Q Can you point him out for me?

9 A Yes.

10 Q Go ahead.

11 A Right.

12 Q Tell me what he's wearing.

13 A The white shirt with the green tie.

14 SOLICITOR DIXON: Beg the Court's indulgence.

15 (Pause.)

16 SOLICITOR DIXON: No further questions.

17 THE COURT: Questions from the defense?

18 MS. FULLWOOD: Beg the Court's indulgence.

19 (Pause.)

20 MS. FULLWOOD: Your Honor, I guess what's confusing
21 me is, is this is the only identification that they intend
22 to have this witness make or, or, or are they trying to do
23 another one too?

24 THE COURT: Another -- let's pose that question to
25 them.

1 Is this witness' identification of just one of the
2 defendants?

3 SOLICITOR DIXON: This is the only photographic
4 lineup we will be entering with this witness, yes, sir.

5 THE COURT: All right. I presume that answers that
6 questions, Ms. Fullwood.

7 CROSS-EXAMINATION

8 BY MR. DUNCAN:

9 Q Mr. Wilson, were you shown any other lineups?

10 A No.

11 Q You were never shown any other lineup?

12 A Nope.

13 Q Are you certain?

14 A As far as I remember.

15 Q You're under oath.

16 A Yes.

17 Q You understand that?

18 A Yes.

19 Q All right, sir.

20 Just beg the Court's indulgence.

21 THE COURT: Yes, sir.

22 (Pause.)

23 MR. DUNCAN: No questions, Your Honor.

24 THE COURT: Anything further from the State?

25 SOLICITOR DIXON: No, Your Honor.

1 SOLICITOR MYERS: Yes, sir, we'd call Detective Steve
2 Collins.

3 SOLICITOR DIXON: I'm sorry. Not from this witness.

4 THE COURT: You may step down.

5 STEVE COLLINS, having been first
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR MYERS:

9 Q Who are you employed by?

10 A Lexington County Sheriff's Department.

11 Q How long, Steve?

12 A About ten years.

13 Q Did you work on this case?

14 A Yes, sir.

15 Q Are you one of the chief investigating officers?

16 A Yes, sir.

17 Q Did you have occasion to go out to the apartment
18 complex on 11/20/06?

19 A Yes, I did.

20 Q Did you see the person who just testified, A.J.
21 Wilson?

22 Did you see him out there?

23 A No, I did not.

24 Q When was the first time that you saw him, A.J.
25 Wilson?

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1 A The next day or two I went to Richland Memorial
2 Hospital where he was in the Intensive Care Unit. That
3 was the first time I met A.J. Wilson.

4 Q What did you observe about his condition in the
5 Intensive Care Unit?

6 A He was alert, but obviously gravely injured. His
7 face was bandaged, his hand was bandaged. He was
8 obviously in pain and not able to communicate very well.

9 Q Okay. Were you able to discuss the events of the
10 incident with him in the hospital?

11 A No, sir, I would say no.

12 Q When was the next time that you saw A.J. Wilson?

13 A I believe it was January 4th, but right in the
14 beginning of January of the following year, '07, when I
15 went to the Shepherd Center in Atlanta.

16 Q Why did you go to the Shepherd Center in Atlanta?

17 A Because of information that had been relayed to me
18 through one of the victim's advocate's at the Sheriff's
19 Department was A.J. was able to communicate and assist at
20 that point into the investigation which had taken place.

21 Q And when you went to Atlanta on January 4, is that
22 '07?

23 A Yes, sir.

24 Q When you went to the Shepherd's Center in Atlanta,
25 were you able to talk with A.J. Wilson?

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1 A Yes, I was.

2 Q Would he communicate with you?

3 A Yes, he could.

4 Q And you saw him where, outside the hospital in---

5 A No, inside the hospital in the room that was his room
6 in the hospital.

7 Q Was anyone else present?

8 A His mother was in the room, yes, sir.

9 Q Okay. Were you able to discuss the events of
10 11/20/06 at the apartment complex with A.J. Wilson?

11 A Yes, sir, we were.

12 Q Was he able to communicate with you?

13 A Yes, he was.

14 Q And did you ask him anything about the person who had
15 shot him?

16 A Yes.

17 Q And what did he say?

18 A He gave me a description that he was average build,
19 black male. The thing that was interesting was the
20 description of the hair. He described the person that
21 shot him as having short hair.

22 Q Why was that significant?

23 A The two defendants in the case, Mr. Parker and Mr.
24 Johnson, the night of the incident had very significantly
25 different hair. Mr. Johnson having long hair and

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1 Mr. Parker having a very short haircut.

2 Q All right, sir. Did you have a photographic lineup
3 prepared when you went there?

4 A Yes, sir, I did.

5 Q I hand you what's been marked as Court's Exhibit
6 No. 3.

7 Do you recognize that?

8 A Yes, sir, that is the photo lineup that was prepared
9 by the Sheriff's Department.

10 Q And in that photographic lineup, are those
11 photographs in color or black and white?

12 A It is in black and white.

13 Q And how many photographs are in there?

14 A Six.

15 Q Now, did you present that to A.J. Wilson?

16 A Yes, sir, I did.

17 Q Before you presented it to him, did you ask him
18 whether or not he could possibly identify the person that
19 shot him?

20 A Yes, sir, I did.

21 Q What did he say?

22 A He said he thought that he may be able to pick him
23 out.

24 Q Okay. Now, when you handed that photographic lineup
25 to him, what did you tell him about it?

1 A I told him that the photo lineup is going to contain
2 six pictures. The person in the photo lineup may or may
3 not be present in the photographic lineup, to take as much
4 time as he needed to identify the person, and make sure
5 that he was sure that he was identifying the correct
6 person.

7 Q Did you suggest to him, in any way, which photograph
8 he should pick out?

9 A No, sir.

10 Q Was anything marked on the photographic lineup to
11 indicate the picture he should pick out?

12 A No.

13 Q What, if anything, did you do to suggest to him which
14 photograph to pick out?

15 A I did nothing to suggest which photograph to pick
16 out.

17 Q When you handed the, these six photographs on one
18 page to him, was he able to look at it?

19 A Yes, sir.

20 Q And while he was looking at it, did you help him in
21 any way to examine it?

22 A No, sir, I did not.

23 Q Was he in bed or in a chair?

24 A He was in bed.

25 Q Where were you?

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1 A I was standing in proximity to the bed he was laying
2 in. I was at an angle where I would see him and he had
3 the photo in front of him.

4 Q And did he look at the photographs?

5 A He did look at the photographic lineup, yes, sir.

6 Q Was he able to pick any one of the photographs out?

7 A He did indicate that he believed that he was able to
8 pick one of the photographs, yes.

9 Q What did you ask him to do?

10 A Circle the number that corresponded with the person
11 that he identified as the person that he had seen that
12 evening.

13 Q And did he circle a, a number?

14 A Yes, he did.

15 Q Which one?

16 A Number three.

17 Q Now, on this photographic lineup, it's got number
18 three and it's got a circle around it.

19 who put that circle around it?

20 A A.J. put that circle around it.

21 Q Down at the bottom it says I have viewed the above
22 photographs and have selected photograph number and the
23 word letter, the number three is written there.

24 A Yes, sir.

25 Q Who wrote in that number?

1 A A.J. wrote that.

2 Q He was able to write in three?

3 A He was able to write in three, yes, sir.

4 Q And to circle three?

5 A Yes, sir.

6 Q How long did it take him to pick out number three?

7 A He picked out the picture of the defendant relatively
8 quickly, matter of seconds. He went right to that
9 picture.

10 Q Did you, did you observe any hesitation from him
11 in---

12 A No, sir, he did not.

13 Q Did you ask him how sure he was that number three was
14 the person who shot him?

15 A Yes, sir.

16 Q What did he say?

17 A He said 100 percent sure.

18 Q Down at the bottom he testified that his mother
19 signed that?

20 A Correct.

21 Q Did you witness his mother signed that?

22 A Yes, sir.

23 Q What was the reason for her signing it?

24 A A.J. had significant injury to the hand which he
25 writes with. I wanted him to participate in the photo

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1 lineup as much as he could, but signing his name was
2 beyond his ability to participate. His mother was there
3 and had witnessed the events. So, as another witness, I
4 asked her to sign her son's name and her name indicating
5 that I was doing what I should do I believe.

6 Q He couldn't sign it. So, you had another person in
7 the room sign it?

8 A Yes.

9 Q What did that mean?
10 What was she witnessing?

11 A That I had not been -- the same things that we --
12 that I would not have suggested it, that she was aware
13 that that was her son who had picked the picture out in
14 the photo lineup, those things.

15 Q Could she observe him picking out number three or
16 not?

17 A I can't speak for her. She was in the room when the
18 event took place, but I do not know what exactly her line
19 of sight on the situation was. But I believe she could
20 have.

21 Q Did A.J. merely circle the number three and write the
22 number three or did he speak the number three?

23 A No, he told me that it was number three. He verbally
24 indicated. I knew he was indicating he was picking
25 photograph number three.

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1 Q So, you had his mother to sign as a witness that
2 that's the one he picked out?

3 A Yes, sir.

4 Q Now, since April 4th of '07, when this document was
5 completed at the Shepherd Center in Atlanta---

6 A Yes, sir.

7 Q ---whose possession has that been in since?

8 A It's been in my possession with the case file on this
9 case.

10 Q Did you bring it into court today?

11 A Yes, sir.

12 Q Has it been altered in any way since January 4th of
13 '07?

14 A No, it appears to me to be exactly like it was the
15 day that A.J. did that.

16 Q Now, number three, the person he picked out---

17 A Yes.

18 Q ---had you seen that person before January 4 of '07?

19 A Yes, sir.

20 Q When had you seen him?

21 A I met Mr. Parker the morning of the incident. Would
22 have been November 20, 2006.

23 Q Were you in his presence for a good while?

24 A Yes, sir, I was.

25 Q Do you see him in the courtroom?

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1 A Yes, sir, I do.

2 Q Where is he?

3 A He is sitting next to his attorney, Jack Duncan, to
4 Mr. Duncan's right.

5 Q The one over here with the kind of green tie on?

6 A Yes, sir.

7 Q What is his name?

8 A Kerwin Parker.

9 Q Who is number three in the photographic lineup?

10 A Kerwin Parker.

11 Q The photograph, number three, do you know when that
12 photograph was taken?

13 A I believe that was taken when he was booked into the
14 Lexington County Sheriff's Apartment. It appears to be a
15 jail booking photo.

16 Q For this crime?

17 A Yes, sir, for this crime.

18 Q And that would have been when he was arrested on
19 November 20 of '06?

20 A Yes, that should have been when that photograph was
21 taken.

22 Q This is a booking photograph?

23 A Yes, sir.

24 Q And the booking photograph that he was arrested for
25 this crime is the same photograph used in Court's Exhibit

1 No. 3---

2 A Yes, sir.

3 Q ---of the photographic lineup?

4 A Correct.

5 SOLICITOR MYERS: That's all we have, Your Honor.

6 THE COURT: Cross-examination, sir.

7 CROSS-EXAMINATION

8 BY MR. DUNCAN:

9 Q Detective Collins, all of those people in those
10 photos have jumpsuits on, and they're taken as mug shots
11 at a jail, are they not, suggesting these people that,
12 that one of these people has been arrested, at least one
13 has been arrested so that your suggestion was that
14 somebody was in custody?

15 A I guess that is possible, yes.

16 Q Okay. Because every one of those is a mug shot.

17 A Every one of those, yes, sir, does appear to be from
18 the background to be a mug shot, yes. I'm familiar with
19 the background.

20 Q Did you ask Mr. Wilson if he had any memory problems?

21 A No, I did not.

22 Q Did you ask him if he was high that night on any kind
23 of hallucinogen?

24 A No, I had nothing to indicate that he would have been
25 and I did not ask that question.

Steve Collins - Cross-examination
- by Mr. Duncan

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1 Q That would be a couple of important questions, would
2 it not?

3 A Yes, it could be, yes, sir.

4 Q Okay. And for a reason you chose not to ask them?

5 A No, I did not.

6 MR. DUNCAN: Thank you.

7 REDIRECT EXAMINATION

8 BY SOLICITOR MYERS:

9 Q On the Court's Exhibit No. 3, the photographic
10 lineup, are there any numbers across the chest of any of
11 these people?

12 A No, sir.

13 Q Anything in here that shows the names of these people
14 who are identified that is in the jail or something?

15 A No, sir.

16 Q And the wall behind each one, is it the same?

17 A It is.

18 Q Is there any writing on this photographic lineup that
19 indicates anything as to jail or mug shot?

20 A No, sir, if you did not know that's where it was
21 taken you wouldn't have anything to indicate that.

22 SOLICITOR MYERS: Thank you.

23 MR. DUNCAN: Follow-up.

24 RECROSS EXAMINATION

25 BY MR. DUNCAN:

1 Q Detective, isn't it true Mr. Wilson had been
2 arrested?

3 So, he knew what a mug shot was?

4 A I don't have Mr. Wilson's criminal history in front
5 of me. I don't believe he was ever arrested in Lexington
6 County. So, I'm not sure. You'd have to ask him if he is
7 aware what our jail facility and our photographs look
8 like.

9 Q But if he had been arrested and had had a mug shot
10 taken, he certainly would know these were mug shots?

11 A That's -- if he had seen his picture of his mug shot,
12 yes, it is possible, but I can't answer for his knowledge.
13 But it is possible.

14 MR. DUNCAN: Thank you.

15 REDIRECT EXAMINATION

16 BY SOLICITOR MYERS:

17 Q At the time you talked with A.J. Wilson, was he aware
18 that two people had been arrested in the incident on
19 November 20 of, of when he was shot?

20 A I believe that he was aware that they had been
21 arrested, yes, sir.

22 SOLICITOR MYERS: Thank you.

23 THE COURT: Anything further?

24 All right. Okay. Anything further from the state?

25 SOLICITOR MYERS: No, sir.

1 THE COURT: All right. You may step down. Thank you
2 very much.

3 Any argument from the State or the defense?

4 MR. DUNCAN: We would object on the argument that it
5 was unduly suggestive on the basis of the totality of the
6 circumstances.

7 THE COURT: Mr. Myers.

8 SOLICITOR MYERS: We take exception to it being
9 suggestive. We submit that it is a very, very, likeness
10 of the people in there. As to the victim observing the
11 person he picked out in the lineup for 30 seconds to a, a
12 minute, State versus Drayton is directly on point at 361
13 S.E. 2d 329, 1987. In that case the person saw his car
14 stopped at a light, observed the driver for 30 seconds to
15 a minute, and that I -- is said that that was appropriate.

16 Also, the Court has said that when the victim is the
17 one who selects a person from a photographic lineup, that
18 a victim's degree of attention is more acute than a mere
19 passerby, and that's State versus Jones, 79, State versus
20 Gamble, 80, and a whole hosts of other cases.

21 We submit, under Drayton, State versus Anderson,
22 State versus Denson, which is cited a lot, that the victim
23 had an opportunity to view the witness in a lighted area
24 for a sufficient period of time. He talks about his
25 degree of intention was focused on the face the first

1 time. The second time, the face and the gun. His
2 description, two people involved. He picks out a person
3 with short hair. The Defendant Parker has short hair.
4 The Defendant Johnson has long hair.

5 The level of certainty, he demonstrated that he was a
6 hundred percent certain, even though there are other cases
7 with less than a hundred percent, there, that's also
8 appropriate. And under the conditions of the testimony,
9 Your Honor, we submit it is not suggestive and that it is
10 admissible.

11 THE COURT: Okay. All right. Thank you, gentlemen.

12 I viewed the testimony in light of the Court's
13 finding in State versus Moore wherein the test was to
14 determine whether the out-of-court identification process
15 was unduly suggestive, and, if so, was that identification
16 so unreliable that no mistaken identification existed, and
17 in State versus Joan, Supreme Court goes on to say that
18 reliability is the lynchpin, and I have reviewed the
19 reliability test based on the five enumerated factors in
20 Neil versus Biggers. I'll not recite those factors into
21 the record.

22 However, in light of that, I find it was not unduly
23 suggestive and that the identification was a reliable
24 identification when viewed in light of the five factors
25 enumerated in Neil versus Biggers, and, therefore, I find

1 it is admissible.

2 Anything further?

3 MR. DUNCAN: No, sir.

4 MS. FULLWOOD: No, Your Honor.

5 THE COURT: All right. So, we've got all the jury?

6 BAILIFF: Yes, Your Honor.

7 THE COURT: Call---

8 SOLICITOR DIXON: Your Honor, if we could have a five
9 minute break to get the evidence the defense has requested
10 in the courtroom.

11 THE COURT: That's what we'll do.

12 Let's start at 10:30 with our witnesses. Okay.

13 SOLICITOR DIXON: Thank you, Your Honor.

14 (WHEREUPON, a short recess was taken at this time.)

15 THE COURT: Are we ready to proceed?

16 SOLICITOR DIXON: Your Honor, there's such a large
17 amount of evidence I think they're still digging through
18 it. So, I can go check and see if we have to, time to get
19 it in here. I apologize.

20 THE COURT: That's okay. You want to wait or go
21 ahead and call your witness and have them bring it in and,
22 if necessary, before we take a break, take a break before
23 cross-examination?

24 SOLICITOR DIXON: Which ever.

25 THE COURT: I'd had the jury wait long enough. If we

1 have to take a break or short pause before
2 cross-examination for what's coming in from the evidence
3 room, we can do that.

4 SOLICITOR DIXON: Okay.

5 THE COURT: Bring the jury in.

6 (WHEREUPON, the following takes place within the
7 presence of the jury panel.)

8 THE COURT: All right. Ladies and gentlemen, I trust
9 you had a good evening. I'm sorry I kept you waiting a
10 little bit today. We were taking up a matter of law and
11 it went a little bit longer than I anticipated. That's
12 going to happen from time to time, and I try to limit it
13 to the extent that I can.

14 Before we get started today I'll pose a question to
15 you and that is did any of you discuss the case or have
16 occasion to be approached by anyone who wanted to discuss
17 the case with you?

18 (No response.)

19 THE COURT: Okay. Let the record reflect there are
20 no affirmative responses to the question.

21 All right. You may proceed, Ms. Dixon.

22 SOLICITOR DIXON: Thank you, Your Honor.

23 The State calls A.J. Wilson.

24 A.J. WILSON, having been first
25 duly sworn, testified as follows:

A.J. Wilson - Direct examination
by Solicitor Dixon

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1 DIRECT EXAMINATION

2 BY SOLICITOR DIXON:

3 Q A.J., how old are you?

4 A Twenty-seven.

5 Q where do you live right now?

6 At any point you need to take a break, let me know.

7 Let's start over. How old are you?

8 A Twenty-seven.

9 Q where do you live?

10 A 147 Crosseth Lane, South Carolina.

11 Q Who are you living with?

12 A My parents.

13 Q November of 2006, where were you living?

14 A 86 Fox Run Lane, Columbia, South Carolina.

15 Q who did you live there with?

16 A Isaac---

17 Q who is Isaac?

18 A ---Wilson, my cousin.

19 Q How old was Isaac?

20 Do you know?

21 A I think, at the time, he was 21.

22 Q Had you known Isaac your whole life?

23 A Yes.

24 Q Did y'all grow up together?

25 A Yes.

1 Q When did you and Isaac first start living together?

2 A August of '06.

3 Q Where were you living before that?

4 A I was in Florida.

5 Q Okay.

6 A Orlando, Florida.

7 Q Where was Isaac living before that?

8 A Before, before---

9 Q Before---

10 A Before '06?

11 Q Uh-huh. (Affirmative).

12 A He was in Iraq for a little while and then he moved
13 down, he came back down.

14 Q When y'all moved in together, was there anyone else
15 living in that apartment?

16 A Not at the time.

17 Q At some later point before November of 2006 or during
18 November of 2006, did anybody else move into the
19 apartment?

20 A Yes.

21 Q Who was that?

22 A Amy and Walter.

23 Q How did you know Amy and Walter?

24 A They were friends of ours.

25 Q Before November of 2006 did you know either Curtis

A.J. Wilson - Direct examination
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1 Johnson or Kerwin Parker?

2 A No.

3 Q Had you ever heard their names before?

4 A Yes, I heard Curtis name before. Not Kerwin.

5 Q How did you know Curtis' name?

6 A Rebekah used to talk to him.

7 Q Can, can you tell me, A.J., late night, November 19
8 of 2006, where were you?

9 A At home.

10 Q What were you doing?

11 A I was sleeping.

12 Q At some point did you wake up?

13 A Yes.

14 Q Why did you wake up?

15 A Isaac called me and told me they got into a fight.

16 Q What did you do?

17 A I just went downstairs and waited for him to come
18 down, come home.

19 Q When you got downstairs, was anyone there?

20 A Amy and Rebekah was there.

21 Q Did they have anybody with them?

22 A Rebekah kids was there.

23 Q How long was it before anybody else got to the
24 apartment?

25 A When I came downstairs, it probably was like two or

1 three minutes, Isaac and Walter walked through the door.

2 Q Everybody's back at the apartment.

3 what are you doing?

4 A I'm just sitting down in the chair. Then I'm, I'm
5 just sitting down in the chair.

6 Q Let me show you something that has been previously
7 marked, A.J. This is State's Exhibit 5. Let me see if I
8 can do this today.

9 All right. A.J., do you recognize this?

10 A Yes.

11 Q Make sure everybody can see it. I'm going to give
12 you a pointer, A.J.

13 A All right.

14 Q You can use this when you're talking about stuff on
15 this diagram.

16 okay?

17 A Okay.

18 Q All right. Tell us what this is.

19 A That's the apartment, 86 Fox Run Lane.

20 Q Okay. Is that the downstairs or the upstairs?

21 A That's the downstairs.

22 Q Okay. When everybody got back to the apartment, can
23 you just kind of tell us where everybody was?

24 A I was like around this area and Isaac, and Walter,
25 Amy, and Rebekah, and the rest of them was over here.

1 Q Is that---

2 A I was around this area.

3 Q What area of the apartment is that?

4 A This is the living room area where the T.V. and stuff
5 was that, and at this is the, the kitchen, and this area
6 is just the dining area.

7 Q Okay. That area that's at the top of that diagram,
8 what is that?

9 A That's the patio.

10 Q Okay. The patio, can you describe it for us?

11 A That right there is a fence, and that's a little
12 walkway. You can, and it's, just come in and out of the
13 apartment. That's the sliding door.

14 Q Okay.

15 A That's the air-conditioning unit.

16 Q That fence, do you know how tall it is?

17 A It's tall.

18 Q Okay. How tall are you, A.J.?

19 A I'm like 5'6" and a half, about 5'7".

20 Q Is it taller than you?

21 A Yes.

22 Q Is it a wooden fence, metal fence?

23 A Wooden fence.

24 Q Can you see through the fence?

25 A No.

1 Q You guys are all hanging out in the apartment?

2 A Uh-huh. (Affirmative).

3 Q What happens next?

4 A Then Walter said he hears somebody, they must be
5 outside.

6 Q What, if anything, did you do?

7 A I just asked him who is it. So, he then went
8 outside.

9 Q What happened next?

10 A He came back in and said that's them outside.

11 Q When he said that's them, did you know who he meant?

12 A Yeah, they was talking about Curtis.

13 Q What happened next?

14 A Then Isaac got his shotgun.

15 Q Do you know where he got it from?

16 A I didn't pay attention to where he got it from, but
17 he got his shotgun. Then he walked outside.

18 Q Why did you walk outside, A.J.?

19 A Because I told Isaac I wanted to go out there with
20 him and find out what was going on just in case something
21 went down.

22 Q When you went outside, who all went outside?

23 A Me, Walter, and Isaac.

24 Q Did Isaac have the shotgun at that point?

25 A Yes.

A.J. Wilson - Direct examination
by Solicitor Dixon

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1 Q How was Isaac holding the shotgun?

2 A When he was walking outside he had it pointed like
3 this right here. Like pointed to the left.

4 Q At that point did he have it pointed at any, anybody?

5 A No.

6 Q Did Walter have a gun?

7 A No.

8 Q Did you have a gun?

9 A No, I had---

10 Q Did you have anything else on you?

11 A My jacket was on me. I had some Ecstasy pills and a
12 dime bag of weed.

13 Q Had you taken any Ecstasy that night?

14 A No.

15 Q Had you smoked any weed that night?

16 A No.

17 Q Had you done any drugs that day at all?

18 A No.

19 Q The three of you went outside?

20 A Uh-huh. (Affirmative).

21 Q Where did you go?

22 A We walked -- so, it is another -- we walked into the
23 street.

24 Q Let me show you another and see if this helps. This
25 has previously been marked as State's 4.

- 1 Can you tell us what that is?
- 2 A That's the apartment.
- 3 Q Okay. Can you show us with that pointer which one
- 4 was your apartment?
- 5 A That one right there.
- 6 Q When you walked out of the patio, where did you go?
- 7 A We got up to about this area right here.
- 8 Q Did you see any vehicles outside?
- 9 A Yes.
- 10 Q Can you show us with that pointer where the vehicle
- 11 was parked?
- 12 A Parked over in this area.
- 13 Q Can you tell us which way it's pointing?
- 14 A Pointed towards our apartment.
- 15 Q You said you walked out onto the street?
- 16 A Uh-huh. (Affirmative).
- 17 Q What did you see?
- 18 A We then saw somebody come from around the front area
- 19 coming towards meeting us.
- 20 Q From the front area?
- 21 A Yeah.
- 22 Q What do you mean?
- 23 A Coming around the side on---
- 24 Q Is there a space between those apartment buildings?
- 25 A Yes, a little walkway right up in that area between

1 that apartment side and this side.

2 Q When you saw someone coming between that space, can
3 you tell us what did he look like?

4 A He had short hair, medium sized, probably like -- I'm
5 guessing 5'7".

6 Q Could you tell what race he was?

7 A Black.

8 Q Okay. How close did you get to this person?

9 A He got about a couple of feet to each other about, to
10 that right now, to where I'm at right now.

11 Q Where, where were you standing when you were that
12 close to him?

13 A I was in the middle. We was in this area right here.

14 Q What time of day was this, A.J.?

15 A At night.

16 Q Any street lights out there?

17 A Yes, there's a street light -- I can't remember
18 exactly where the street light is, but it was enough light
19 for me to see his face.

20 Q When you're standing a couple of feet away from this
21 person, what are you looking at?

22 A I'm just looking at him.

23 Q Is, is there any specific part you're focusing on?

24 A I'm just looking at his face.

25 Q What, if anything, happened while you were standing a

1 couple feet away from that person?

2 A He asked why y'all did that to my brother.

3 Q Did you recognize this person at that point?

4 A No.

5 Q Had you ever seen him before?

6 A No.

7 Q And he says why did y'all do that to my brother?

8 A Uh-huh. (Affirmative).

9 Q What happens next?

10 A Then Issac asked is there a problem.

11 Q At this point does Isaac still have that shotgun?

12 A Yes.

13 Q How is he holding it?

14 A Same way. That's why I remember him holding it like
15 that.

16 Q Did you ever see Isaac point that shotgun?

17 A No.

18 Q Did he ever point it at the person standing there?

19 A No.

20 Q Did he ever point it at the car?

21 A No.

22 Q Isaac makes his response and then what happens?

23 A Then he -- the guy said to them, thing one more time,
24 why y'all did that to my brother.

25 Q Okay.

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1 A Isaac said the same thing, is there a problem.

2 Q At that point did Isaac point the shotgun at him?

3 A No.

4 Q What happens next?

5 A Then I seen the guy with the short hair reaching for
6 something. So, I imagined it was a gun. So, I said he
7 got a gun and I took off running.

8 Q Okay. Did you see a gun at that point?

9 A No.

10 Q Between the time that this guy with the short hair
11 walked up to you and the time you yelled he's got a gun
12 and turned around to run, do you know about how long that
13 was?

14 A Might have been 30 seconds to a minute.

15 Q During that time did you make any threats towards
16 this person?

17 A No.

18 Q Did you say anything to him at all?

19 A No.

20 Q All right. He reaches for something, you scream he's
21 got a gun, and you turn around to run?

22 A Uh-huh. (Affirmative).

23 Q Where do you run?

24 A Back towards the apartment, towards the patio.

25 Q Okay. Towards the patio.

1 Are you running towards that entrance to the patio?

2 A I'm running towards like, turning around going back
3 to see the apartment, back inside our apartment.

4 Q At that point did you hear anything?

5 A I heard gunshots.

6 Q Did you make it onto the patio?

7 A Yes.

8 Q Did you make it inside?

9 A Yes.

10 Q What did you do?

11 A I ran up the stairs and then I just turned around and
12 didn't see Isaac. So---

13 Q Did that worry you?

14 A Yes. So, I was scared because I knew I didn't have a
15 gun, but then I didn't see Isaac. So, I ran back outside
16 to go help him.

17 Q Okay. Let me go back to this other diagram, A.J.,
18 State's 5.

19 Show us on that diagram, when you ran inside, where
20 did you go?

21 A I ran inside here and I came up the, these stairs.
22 Yeah, that's a door. These are the set of stairs right
23 here.

24 Q How far up the stairs did you make it?

25 A I made it to about right here.

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1 Q Okay.

2 A That's when I turned around. I didn't see Isaac.

3 Q Did you hear anything at that point?

4 A I still heard gunshots, but I didn't see nothing from
5 right where I was at.

6 Q You're half-way up the stairs?

7 A Uh-huh. (Affirmative).

8 Q Don't see Isaac?

9 A Yeah.

10 Q What did you do?

11 A I turned back around and ran back out the sliding
12 door, and then I saw somebody was on top of Isaac with
13 long hair in this area.

14 Q Let me stop you.

15 When you say someone was on top of Isaac, what do you
16 mean?

17 A I -- like over him, just leaning over him.

18 Q Could you tell if Isaac had been hurt?

19 A No.

20 Q Did you see, at that point, anybody other than Isaac
21 and that person with the long hair?

22 A Yes.

23 Q Okay. Let me ask you before we go there.

24 That person with the long hair, did you see their
25 face?

1 A No.

2 Q Okay. Somebody's on top of Isaac.

3 What are you doing?

4 A I ran to the person. I was trying to pull them off
5 of Isaac.

6 Q Were you throwing punches?

7 A No, I was trying to pull them off.

8 Q What is the next thing that you remember seeing?

9 A That's when I looked -- I happened to look to my
10 right in this area.

11 Q Uh-huh. (Affirmative).

12 A And that's when I saw somebody, the same guy who
13 approached us around the building, saw him off the side of
14 the A.C. unit on the inside of the A.C. unit.

15 Q On the inside of the A.C. unit.

16 Was he inside the patio?

17 A Yes.

18 Q When you saw that person with the short hair, you
19 said it was the same person you had seen earlier, how far
20 away from you was he?

21 A Not far. Probably the same distance because he was
22 in this area, and I was around that area where the A.C.
23 unit is. So, I would say a couple feet.

24 Q What was the lighting like from, from the patio?

25 A I could see the light from the apartment is shining.

1 Street lights right outside.

2 Q Was there a light shining out there on the patio?

3 A You can't really see a light, but it's a light out
4 there, yes.

5 Q Are you certain the person you saw on the patio was
6 the same person you saw earlier?

7 A Yes.

8 Q When you see this person with the short hair on the
9 patio, what is he doing?

10 A He's just standing there.

11 Q And then what is he doing?

12 A I stood up and looked at him and he just pulled a gun
13 and just shot.

14 Q Did you say anything to you?

15 A No.

16 Q Did he say anything to you?

17 A No.

18 Q Did he make any gestures?

19 A No.

20 Q You said he pointed the gun at you?

21 A Uh-huh. (Affirmative).

22 Q Could you tell what kind of gun it was?

23 A No.

24 Q Did you see anything about it?

25 A No, I didn't pay any -- I just saw him pointing the

1 gun and just shot.

2 Q Okay. When you're looking at him at that point
3 before he raises the gun, what are you looking at?

4 A I was looking at his face.

5 Q Safe to say you were scared?

6 A Yeah, just looking at him just trying to figure out
7 what he's going to do.

8 Q You said that he pointed the gun at you?

9 A Uh-huh. (Affirmative).

10 Q Did he shoot the gun?

11 A Yes.

12 Q Do you know where you were hit?

13 A Yes.

14 Q Where were you hit?

15 A On the side.

16 Q Is that your right side you're indicating?

17 A On my right side, yeah.

18 Q After that, what do you remember?

19 A Just dropping to the, onto the concrete area on the
20 patio.

21 Q Okay.

22 A That's what I remember.

23 Q Do you remember the police arriving?

24 A Yes, I remember them arriving. I didn't really -- I
25 kind of was out of it. So, I, I know they was out there,

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1 but I don't really remember.

2 Q Before the police arrived, A.J., do you remember
3 being shot any more?

4 A No.

5 Q Okay. After the police arrived, what happens to you?

6 A I guess they just put me in the ambulance.

7 Q Do you know what hospital they took you to?

8 A They took me to -- I believe they said it was
9 Lexington Hospital first, and then they transferred me to
10 Richland Hospital.

11 Q Okay.

12 A I can't remember the name of it.

13 Q So, you're at a hospital in Richland.

14 Do you know what they did at the hospital?

15 A I know I had -- I know they wired my mouth shut.
16 They had my mouth wired together.

17 Q Why did they have your mouth wired?

18 A They said I had gotten shot in the mouth. My whole
19 top row was gone and they just had my mouth wired.

20 Q Where else were you shot?

21 A My right-hand. My upper right-hand right here, and
22 my back, and I got a couple of them right up in this area
23 and my mouth. That's about it.

24 Q You have scars on your shoulder---

25 A Yes.

1 Q ---that you didn't have before?

2 A Yes.

3 Q Okay. How long were you in the hospital?

4 A I was in the hospital in Columbia for about two
5 weeks.

6 Q Okay. You were in the hospital in Columbia.

7 Did you go to another hospital?

8 A Yes.

9 Q Where did you go?

10 A The Shepherd Center in Atlanta. A place for spinal
11 cord injury.

12 Q Did you have a spinal cord injury?

13 A Yes.

14 Q Can you tell us about that?

15 A I can't move my -- like I'm paralyzed from half my
16 stomach down. I can't move my legs, got to use a catheter
17 to use the bathroom, you know. I really can't control
18 anything.

19 Q Is that a result of the shot that hit you in the
20 back?

21 A Yes.

22 Q Have the doctors told you, A.J., are you ever going
23 to be able to walk again?

24 A Yeah, they said I won't.

25 Q While you were at the Shepherd Center, did anyone

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- 1 from Lexington County Sheriff's Department come see you?
- 2 A Yes.
- 3 Q Who was that?
- 4 A Detective Collins.
- 5 Q When Detective Collins came to see you, did he ask
- 6 you anything?
- 7 A Yes.
- 8 Q What did he ask you?
- 9 A He showed me a picture saying somebody may or may not
- 10 be in the photo.
- 11 Q Okay.
- 12 A That's what I can remember.
- 13 Q He asked you to look at a lineup?
- 14 A Yes.
- 15 Q And he told you someone may or may not be in this
- 16 lineup?
- 17 A Uh-huh. (Affirmative).
- 18 Q In-between the night of the shooting and Detective
- 19 Collins showing you a lineup on that day in the Shepherd
- 20 Center, had you seen any pictures?
- 21 A No.
- 22 Q Okay. When he showed you that lineup, tell us again
- 23 what he told you.
- 24 A The person may or may not be in the picture.
- 25 Q Did he, in any way, suggest to you if you should pick

1 someone out?

2 A No.

3 Q Did he tell you pick this person?

4 A No.

5 Q Did he point at anybody?

6 A No.

7 Q Who else was there with you when he showed you that
8 lineup?

9 A My mother.

10 Q I'm going to show you, A.J., something that has been
11 marked as a Court's Exhibit, and ask if you recognize
12 this.

13 A Yes.

14 Q And can you tell us what that is.

15 A It's the photo lineup.

16 Q Is that the lineup that Detective Collins showed you
17 that day?

18 A Yes.

19 Q Okay. When you looked at that lineup, A.J., were you
20 able to pick someone out?

21 A Yes.

22 Q And can you tell us who the person is that you picked
23 out?

24 How do you know that person?

25 A I saw them that night.

1 Q Is that the person that you saw with the short hair?

2 A Yes, the short hair that came around the, around the
3 building to met, meet us in front.

4 Q Is that the person you saw on the patio shoot you
5 with the gun?

6 A Yes.

7 Q How certain are you?

8 A A hundred percent.

9 Q When Detective Collins showed you that lineup, how
10 long did it take you to pick him out?

11 A About two or three seconds.

12 Q Are you certain today that that is the person that
13 shot you?

14 A Yes.

15 Q Okay. Can you tell us what number in that lineup you
16 picked out?

17 A Number three.

18 Q All right. When you picked out number three, did
19 Detective Collins ask you to do anything to that piece of
20 paper?

21 A He asked me to circle it.

22 Q Were you able to circle it?

23 A Yes.

24 Q Did he ask you to sign it?

25 A Yes.

1 Q Were you able to sign it?

2 A No.

3 Q Why not?

4 A Because my hand had these bars in it, fixated on it.
5 I couldn't move it.

6 Q Was anybody else there with you?

7 A Yes, my mother.

8 Q Did your mother sign it?

9 A Yes.

10 Q Did you see her sign it?

11 A Yes.

12 SOLICITOR DIXON: Court's indulgence for a moment,
13 Your Honor.

14 THE COURT: Yes, ma'am.

15 (Pause.)

16 Q A.J., that person that was on the patio with the gun,
17 the one that shot you, do you see him in the courtroom
18 today?

19 A Yes.

20 Q Can you point him out for us please?

21 A Right there. The white shirt on and the green tie.

22 Q Are you certain?

23 A Yes.

24 SOLICITOR DIXON: No more questions at this point,
25 Your Honor.

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by Ms. Fullwood

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1 THE COURT: Cross-examination.

2 MS. FULLWOOD: Beg the Court's indulgence.

3 (Pause.)

4 CROSS-EXAMINATION

5 BY MS. FULLWOOD:

6 Q Good morning, Mr. Wilson.

7 A Good morning.

8 Q You knew there was bad blood on Isaac's part with
9 Curtis, correct?

10 A When you say bad blood, what do you mean by that?

11 Q Isaac didn't like Curtis, is that correct?

12 A I'm not sure.

13 Q You're not sure?

14 A No.

15 Q Well, okay. Let me put it like this.

16 Didn't you know there were bad feelings between those
17 two men?

18 A As far as I know from when they -- only thing I know
19 about is that night when everything happened. I didn't
20 know anything about Walter and me, Isaac and Curtis.

21 Q Okay. Well, do you remember the day at the hospital
22 when Detective Collins showed you that lineup?

23 A Yes.

24 Q Okay. And do you remember he asked you a little bit
25 about what happened that night and about your living

1 arrangements and things of that nature?

2 Do you remember that?

3 A Not really.

4 Q You don't remember talking to him?

5 A I remember talking to him, but I don't remember if he
6 asked me those questions.

7 Q Do you remember telling him, on that day, that you
8 knew that there were bad feelings between Curtis and Isaac
9 over Rebekah?

10 A No, I didn't tell him that.

11 Q You deny that you told him that?

12 A Yeah, I deny that.

13 Q Okay. Now, is it your testimony that you were in the
14 bed asleep---

15 A Yes.

16 Q ---when they went off?

17 A Yes, they weren't -- I didn't see them when they left
18 or anything. I was in the bed asleep.

19 Q What time did you go to bed that evening?

20 A I think I went to bed -- I really don't remember that
21 exact time.

22 Q Where did you work at that time?

23 A At Shaw Industries.

24 Q Shaw Industries.

25 All right. I mean had you, had you gone and put on

1 your pajamas and everything?

2 A No, I didn't do all that. I don't -- I just had my
3 regular clothes on. I just went and laid in the bed. I
4 just don't remember what time it was.

5 Q So, what woke you up was a call from Isaac?

6 A Yes.

7 Q And he said he'd got into something with Curtis
8 Johnson?

9 A Yes, he just told me he and Walter got into an
10 altercation with Curtis.

11 Q And why, as a result of that, did you get up to wait
12 for him?

13 A So I could find out what happened.

14 Q Why did that interest you?

15 A I mean he called and told me he got into a fight.
16 So, I just wanted to know why he got into a fight.

17 Q But he specifically said with Curtis, right?

18 A Yes.

19 Q So, you did know that there were some bad feelings
20 between those men, right?

21 A No.

22 Q You didn't know?

23 A No.

24 Q All right. When -- it turned out it was Isaac and
25 Walter who had gotten into that fight, right?

1 A Uh-huh. (Affirmative).

2 Q And they came back to that apartment and they were
3 bragging about it, weren't they?

4 A Not bragging. I asked them what happened and they
5 began telling me.

6 Q Uh-huh. (Affirmative).

7 A I wasn't coming in the house laughing about it. I
8 asked them and they told me.

9 Q They talked about it for ten to twenty minutes,
10 didn't they?

11 A To -- I don't remember.

12 Q Okay.

13 A I doubt they had talked about it that long. I can't
14 really remember.

15 Q And you even saw a scratch on Isaac's arm, is that
16 right?

17 A Yes.

18 Q All right. Now, let me ask you this. First of
19 all -- let me get around here so I'm not in anybody's way.

20 Okay. This little area on the patio, what is that?

21 A It's a closet.

22 Q Did it have a door or was it open like that?

23 A It had a door.

24 Q Had a door?

25 A Yes.

1 Q Okay. You decided to go out of the apartment with
2 Walter and Isaac I think you've testified, you said in
3 case something went down, is that correct?

4 A Yes.

5 Q Okay. What did you think could possibly go down that
6 you would need to go outside for?

7 A I know they got into an argument somewhere else, and
8 if the guys came to the apartment I figured, well, I know
9 something was going to happen. I didn't know what. So, I
10 told them I was going to go out there with them.

11 Q Okay.

12 A Just in case something would happen.

13 Q You -- did you see Walter go get his gun?

14 A Walter didn't have a gun.

15 Q I'm sorry. Did you see Isaac go get his gun?

16 A I didn't remember Isaac getting his gun. I remember
17 he went outside with the gun, but I don't remember where
18 he got the gun from.

19 Q Did you see him loading it?

20 A I didn't see him load it.

21 Q Did you hear him pump it?

22 A I didn't hear him pump it.

23 Q It is your position that Walter didn't have a gun?

24 A Yeah, Walter didn't have a gun.

25 Q It is your position that you didn't have a gun, did

1 not have a gun, but you went outside then unarmed with
2 another man with a gun in case something went down?

3 A I went outside with him to find out what's going on,
4 yes, just in case something would happen.

5 Q Now, it's also your position that you weren't
6 intoxicated that evening?

7 A No, I wasn't.

8 Q Okay. But you had some marijuana and some Ecstasy in
9 your pocket, didn't you?

10 A Yes.

11 Q Let me show you this.

12 A Uh-huh. (Affirmative).

13 Q Does this look like what was in your pocket?

14 A Yes.

15 Q Now, was it in the pocket or the lining of the
16 jacket?

17 A I don't remember where it was at. I think I had it
18 in my jacket, my jacket pocket. I'm not sure where it
19 was.

20 Q Okay. And -- okay. Well, first of all, this
21 plant-like material, what's that?

22 A That's marijuana.

23 Q And these different colored pills, what is that?

24 A Ecstasy pills.

25 Q Where did you get that Ecstasy?

1 A I got it from -- someone asked me if, at my job, if I
2 knew anybody who had some because they was wanting some.
3 I told them yes. So they gave me the money and I went and
4 got it.

5 Q I see.

6 When was that?

7 A I think that was -- that might have been Saturday,
8 Saturday night I believe it was.

9 Q Saturday night?

10 A Yes.

11 Q What about the marijuana, where did you get that?

12 A The marijuana was mine.

13 Q So, it's your position that you were a middleman in a
14 drug sale about this Ecstasy?

15 A Say what now?

16 Q It's your position that you were the middleman in a
17 drug sale of this Ecstasy?

18 A I won't say middleman, but I had it. So, I guess
19 that's what you want to call it.

20 Q Well, you took money from somebody, right?

21 A Yes.

22 Q And you went and got drugs?

23 A Yes, I did.

24 Q They were for somebody else. It wasn't for you.

25 A No, it wasn't for me.

1 Q What does Ecstasy do when you take it?

2 A I don't know. I never took it.

3 Q You never took it?

4 How in the world would you know where to get it?

5 A Because I had a friend that sold it. So, that's how
6 I know where to get it.

7 Q How did you know your friends sold it?

8 A Because I used to be with, with him and I know he
9 sold drugs.

10 Q But your testimony is that you never ever have taken
11 any Ecstasy.

12 A Never took any Ecstasy.

13 Q All right. Then is it your position that you're a
14 drug dealer?

15 A I'm not a drug dealer.

16 Q Well, can you tell me, sir, why were you carrying
17 around in your jacket 12 pills of Ecstasy?

18 A I don't know. I just had it on me.

19 Q It's your position it wasn't for me?

20 A It wasn't for me, but I had it in my jacket.

21 Q But you were carrying it around?

22 A Yes, I was.

23 Q Now, you said you went outside and with, with Isaac
24 and Walter and you were in the middle of those fellows?

25 A Yes.

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by Ms. Fullwood

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1 Q And you said, you heard Kerwin said why did you do
2 that to my brother, right?

3 A Yes.

4 Q Didn't you also hear him say we can talk it out?

5 A I didn't hear that part.

6 Q You didn't hear that part?

7 A No.

8 Q Okay. You said you were scared. So, you ran inside.

9 A Yes.

10 Q Why in the world then didn't you just call the police
11 at that point?

12 A I mean everything was happening so fast. Excuse me.
13 Everything was happening so fast. I didn't think to call
14 the police. The only thing I was worrying about was
15 getting to safety and where I didn't see my cousin,
16 worrying about trying to go help him out.

17 Q You sure you weren't also worried about maybe trying
18 to get rid of some drugs?

19 A No.

20 Q You sure you also weren't worried about trying to
21 hide a gun or a shotgun?

22 A No.

23 Q But you didn't call the police.

24 A I didn't call the police.

25 Q And your position is you ran back outside, unarmed,

1 to help, and you knew that shots were being fired?

2 A Yes.

3 Q Now, isn't it true that after you were shot your
4 memory becomes hazy about this incident?

5 A No, I just got shot and I just dropped straight to
6 the floor of the patio.

7 Q Okay. Didn't you tell Detective Collins that you
8 remembered being shot and then the next minute, memory you
9 had was waking up and realizing that you had been shot?

10 A I remember being shot and I dropped to the floor, and
11 that's all I remember at that point in time.

12 MS. FULLWOOD: Your Honor, I'd move to admit these
13 drugs in evidence.

14 THE COURT: Any objection from the State?

15 SOLICITOR DIXON: No objection, Your Honor.

16 THE COURT: Admitted into evidence as Defendant's 1.

17 MS. FULLWOOD: Yes, sir, it is.

18 (WHEREUPON, some drugs were marked as Defendant's
19 Exhibit No. 1 and received into evidence at this time.)

20 MS. FULLWOOD: Your Honor, I beg the Court's
21 indulgence.

22 THE COURT: Yes, ma'am.

23 (Pause.)

24 CROSS-EXAMINATION

25 BY MR. DUNCAN:

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by Mr. Duncan

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- 1 Q Mr. Wilson, to be obvious, this was a very
2 high-stress situation, wasn't it?
- 3 A What's that mean?
- 4 Q High stress situation?
- 5 A High stress?
- 6 Q Stress.
- 7 A I don't, I don't really understand that.
- 8 Q Okay. Were you upset, excited?
- 9 Was your adrenaline flowing?
- 10 Was it something that caused you to have some, you
11 know -- I don't know of another word for stress.
- 12 A Well, no.
- 13 Q No.
- 14 Okay. It wasn't a high stress situation?
- 15 A No.
- 16 Q Your cousin, Isaac, has this shotgun like this,
17 correct?
- 18 A No.
- 19 Q Okay.
- 20 A He had it towards his body like that right there,
21 yeah.
- 22 Q So, this is the way he had it?
- 23 A Yes.
- 24 Q Did you see if his finger was on the trigger?
- 25 A No, I didn't.

1 Q So, you don't know if that was the case or not?

2 A No, I don't know if he had his finger on the trigger
3 or not.

4 Q So, he was walking outside toward Kerwin and he had
5 this in his hands, and you're saying that it was not a
6 high stress situation?

7 A No, I don't think that. I don't understand what that
8 means, high stress situation, no.

9 Q Okay. And your testimony is you didn't see him load
10 it?

11 A I didn't see him load it.

12 Q Were you aware he did load it?

13 A I wasn't aware if it even had any bullets in it.

14 Q Okay.

15 A I didn't think he was going to use it anyway. So, I
16 didn't think it was loaded anyway.

17 Q You knew he'd been in a fight.

18 A Uh-huh. (Affirmative).

19 Q And Walter had been bragging about kicking Curtis'
20 behind, hadn't he?

21 A No, there was no bragging.

22 Q Walter wasn't bragging at all?

23 A No.

24 Q He's not that kind of person?

25 A I don't know if that's the kind of person he is, but

1 that particular night no one was bragging.

2 Q I'm going to ask you if you can identify something.

3 A Uh-huh. (Affirmative).

4 Q I'm sorry. You need to answer yes or no.

5 A what you want me to do?

6 Q Can you identify it?

7 A Yes.

8 Q Would you tell us what that is?

9 A That's the patio.

10 Q That's the patio of Unit 86?

11 A Yes.

12 Q That's looking -- all right. And just to get
13 oriented here -- I'm sorry. It would be from say this
14 point on the interior wall, somewhere, and I'm not being
15 exact here, of course, but -- or from the door.

16 Is, is that the view from the door?

17 A Yes, it's like I'm facing the fence, like I'm facing
18 that fence.

19 Q Okay. So, it would be this angle, correct?

20 Is that a fair approximation, kind of a 45-degree
21 angle to---

22 A I'm not sure.

23 Q Okay. But it shows the units over to the side, too,
24 doesn't it?

25 A Yes.

1 MR. DUNCAN: Okay. Your Honor, I'd like to introduce
2 this into evidence.

3 THE COURT: I'm sorry. Any objection from the State?

4 SOLICITOR DIXON: Your Honor, we don't have an
5 objection if Mr. Duncan can tell us when the picture was
6 taken?

7 MR. DUNCAN: December of 2006.

8 SOLICITOR DIXON: No objection.

9 THE COURT: So admitted as Defendant's Exhibit 2.

10 MR. DUNCAN: Sorry. Late November or December of
11 2006.

12 (WHEREUPON, the photograph was marked as Defendant's
13 Exhibit No. 2 and received into evidence at this time.)

14 Q Mr. Wilson, have you read about people being released
15 from prison because of eyewitnesses being wrong?

16 A No.

17 SOLICITOR DIXON: Objection.

18 THE COURT: Restate the question, I'm sorry, and this
19 is not for you to answer.

20 Restate the question.

21 Q I said have you read about people being released from
22 prison because eyewitnesses were wrong?

23 THE COURT: Okay. I sustain the objection.

24 SOLICITOR DIXON: Thank you.

25 MR. DUNCAN: Your Honor, I'd like to be heard. I've

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1 got additional questions that lead into---

2 THE COURT: Okay. All right. Ladies and gentlemen
3 of the jury, what I'm going to ask you to do is retire to
4 your jury room for a few minutes so I can take up this
5 matter of law.

6 (WHEREUPON, the following takes place outside the
7 presence of the jury panel.)

8 THE COURT: I'll be happy to hear from you.

9 MR. DUNCAN: Your Honor, I intended to follow-up and
10 ask him if he had heard about these people being released
11 because the eyewitness testimony was contradicted by
12 scientific tests. My next question would be were you
13 aware those tests were done here, were you aware of the
14 results of those tests, does that put any doubt in your
15 mind as to what you saw because of the results of those
16 tests here in this case.

17 THE COURT: All right. I'll hear from the State. Go
18 ahead.

19 SOLICITOR DIXON: Your Honor, I'm sorry. I guess I'm
20 a little confused. Obviously any tests that were done may
21 be presented. If Mr. Duncan wants a minute to present
22 that, that's fine. But asking this witness about the
23 effect of other cases and other identification just
24 doesn't have any relevance. If Mr. Duncan wants to ask
25 his witness about his identification, then that's fine.

1 But other identification and cases that may have been
2 overturned don't have any bearing on this one.

3 THE COURT: All right. I'll let you ask him if he
4 knows that of any tests that were performed, and if his
5 answer is no, then obviously that line of questioning is
6 gone. It may be you'd like to proffer that question to
7 him here so you know the answer to that before you proceed
8 with that line of questioning, and I'll allow you to
9 proffer that question.

10 CONTINUED CROSS-EXAMINATION

11 BY MR. DUNCAN:

12 Q Mr. Wilson, were you aware Curtis Johnson had gunshot
13 residue on his hand?

14 A No, sir.

15 Q Were you aware that Kerwin Parker did not have
16 gunshot residue on his hand?

17 A Did not know.

18 MR. DUNCAN: Okay. I would have two follow-up about
19 his -- does that put any doubt in his mind.

20 THE COURT: Well, if his response to those questions
21 is no, that he wasn't aware of any of that, then does that
22 not obviate the later line of questioning?

23 MR. DUNCAN: The question would be at that point -- I
24 so inartfully put it, judge, was that if that were the
25 case, would that change your mind or put doubt in your

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1 mind.

2 THE COURT: You have the results of a test you wish
3 to present to him?

4 MR. DUNCAN: Yes, sir, I mean the State, the State,
5 in their opening argument, opening statement indicated
6 they were going to present scientific testimony.

7 THE COURT: Okay. If you have -- and I think the
8 question that the State has, and, Ms. Dixon, you can
9 correct me in any particular that you want to, but I think
10 it is a foundation issue and if the test is presented and
11 you ask him questions based upon the test, then the
12 appropriate foundation has been laid.

13 MR. DUNCAN: All right.

14 THE COURT: Is that appropriately stated from the
15 State's perspective?

16 SOLICITOR DIXON: That would be our issue.
17 Mr. Wilson doesn't have any knowledge about these tests.
18 I don't know how he can ask about -- that's essentially my
19 point. If you'd like to introduce it through this
20 witness, then you can and you're welcome to ask him
21 questions about it.

22 MR. DUNCAN: Your Honor, I think I still would be
23 allowed to ask if that is the case, that Mr. Parker had no
24 gunshot residue on his hand, and that Mr. Johnson did have
25 gunshot residue on his hand, would that change or shake

1 his belief as to who shot him.

2 THE WITNESS: No, it wouldn't.

3 THE COURT: Yeah, I---

4 SOLICITOR DIXON: Your Honor, my only other issue is
5 he would have to lay a foundation about whether or not
6 Mr. Wilson knows what gunshot residue is or what this
7 means. This is not an expert witness.

8 THE COURT: I understand. I'll allow you to ask that
9 question. I don't know what he's going to say, but the
10 objection, appropriately stated by the State, is you're
11 asking him questions about other cases and the dismissal
12 of cases, and or the acquittal of defendants based upon
13 this type of evidence. That's inappropriate and I find
14 that that is inadmissible. If you want to ask him
15 questions about the existence of testing and gunshot
16 residue and how it affects his opinion as he sits here
17 today, I'll allow you to do that.

18 MR. DUNCAN: All right, sir.

19 SOLICITOR DIXON: Thank you, Your Honor.

20 THE COURT: Yes, ma'am.

21 Okay. Ready to proceed, sir?

22 MR. DUNCAN: Yes, sir.

23 THE COURT: Bring the jury in.

24 (WHEREUPON, the following takes place within the
25 presence of the jury panel.)

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1 THE COURT: You may proceed.

2 CONTINUED CROSS-EXAMINATION

3 BY MR. DUNCAN:

4 Q Mr. Wilson, were you aware that scientific testing
5 was done in your case, in this case?

6 A No.

7 Q Were you aware that gunshot residue tests to
8 determine if someone has recently fired a weapon were
9 conducted on Curtis Johnson and they were positive for
10 gunshot residue?

11 A No, sir.

12 Q Were you aware that gunshot residue tests to indicate
13 whether or not someone had recently fired a firearm had
14 been conducted on Kerwin Parker and that those tests were
15 negative?

16 A No, sir.

17 Q Were you aware that Curtis Johnson has conceded that
18 he shot---

19 SOLICITOR MYERS: Objection. Objection. Objection,
20 Your Honor, to what one said.

21 THE COURT: All right.

22 MR. DUNCAN: If he's aware of it, judge, that Curtis
23 Johnson says---

24 SOLICITOR MYERS: Objection. Objection.

25 THE COURT: I'm going to ask y'all to leave for just

1 another minute if you would, please.

2 (WHEREUPON, the following takes place outside the
3 presence of the jury panel.)

4 THE COURT: The question that was posed to the
5 witness was are you aware that Curtis Johnson
6 acknowledges---

7 MR. DUNCAN: No, that he shot Mr. Wilson.

8 THE COURT: So, the question is are you aware that
9 Curtis Johnson acknowledges that he shot Mr. Wilson?

10 MR. DUNCAN: Yes, sir.

11 THE COURT: First I want to hear from Mr. Johnson.
12 Is there any objection from Mr. Johnson regarding
13 that statement regarding that being entered into the
14 record?

15 MS. FULLWOOD: No, Your Honor. We conceded as much
16 during the opening arguments.

17 THE COURT: Be happy to hear from the State.

18 SOLICITOR MYERS: Your Honor, the defense, neither
19 one of them, can put statements by a defendant into the
20 record on cross-examination just like they could not ask a
21 police officer what the defendant told them. That is
22 inadmissible and there's several cases on it. It is only
23 after the defendant's testified that that can be brought
24 out and there are several cases. I can find them for you
25 right now. There is a distinction between them.

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1 THE COURT: Does the defendant intend to testify in
2 this case?

3 MS. FULLWOOD: I would prefer not to have to make a
4 commitment at this time. I would say though that what Mr.
5 Duncan is seeking to put into evidence is a statement
6 against penal interest, for whatever that's worth.

7 THE COURT: I understand. Given that the defendant
8 is---

9 SOLICITOR DIXON: Your Honor, I'm sorry. The witness
10 needs to take a break.

11 THE COURT: Stand down.

12 Given the defendant, at this time, doesn't know
13 whether he will testify or not -- strike that question.
14 I'm not going to let you ask it at this time and obviously
15 the reason is the State, they had the opportunity to
16 cross-examine, but obviously I'm not going to make a
17 decision whether or not Mr. Johnson will make a decision
18 regarding testimony. I recognize he's going to the
19 restroom. So, let's take a five-minute break.

20 Okay. Thank you.

21 (WHEREUPON, a short recess was taken at this time.)

22 THE COURT: Bring the jury in.

23 (WHEREUPON, the following takes place within the
24 presence of the jury.)

25 THE COURT: All right. Ladies and gentlemen, I'm

1 sorry I had to send you out. I don't like sending y'all
2 out and taking up matters of law, but sometimes we start
3 arguing issues and more comes out than y'all need to hear.
4 You know, right before you left there was an objection to
5 a question that was posed by Mr. Duncan, and I have ruled
6 that that is inadmissible, and, therefore, I'm going to
7 ask the record be stricken with respect to that one
8 sentence, and what that means is that sentence is not
9 appropriate for your consideration. Once you do begin
10 deliberations, strike that from your memory. It's not
11 appropriate. You should not consider that.

12 All right. Mr. Duncan.

13 CONTINUED CROSS-EXAMINATION

14 BY MR. DUNCAN:

15 Q Mr. Wilson, do you have memory problems?

16 A No.

17 Q You've never had memory problems?

18 A No, sir.

19 Q Do you remember, just a couple minutes ago, telling
20 Ms. Fullwood several times you didn't remember things?

21 A No, I didn't say that.

22 Q You didn't say that?

23 A No.

24 Q Just a couple minutes ago?

25 A No.

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1 Q The fact that Mr. Kerwin Parker had no gunshot
2 residue on his hands and the, that Mr. Curtis Johnson had
3 gunshot residue on his hands, does that put any doubt in
4 your mind?

5 A No.

6 Q As far as -- hang on one second.

7 THE COURT: Yes, sir.

8 Q Mr. Wilson, you've indicated you were shown a lineup,
9 correct?

10 A Yes.

11 Q And that you identified Mr. Kerwin Parker?

12 A You asked did I identify him?

13 Q You've identified Mr. Kerwin Parker?

14 A Yes.

15 Q Okay. Now, just a few minutes ago you told us you'd
16 not been shown any other form of lineup, didn't you?

17 A Yes.

18 Q Okay. Is that a true statement?

19 A Yes.

20 Q You've never been shown any other lineup?

21 A No.

22 Q And you still say you don't have any memory problems?

23 A I sure don't.

24 Q I'm going to ask you if you can identify the
25 signature at the bottom of that page?

1 A Yes.

2 Q And that's a lineup, isn't it?

3 A Yes, it is.

4 Q It's not the same as this lineup, is it?

5 A No.

6 Q It's a second lineup?

7 A Okay.

8 Q And it's different people, isn't it?

9 A Yes.

10 Q You want to change your testimony?

11 A I sure don't.

12 Q I'm sorry. Do you -- who's signature is on that?

13 A That's my signature, yes.

14 Q Okay. That's your signature---

15 A Uh-huh. (Affirmative).

16 Q ---and the date is what?

17 A So -- 4/7.

18 Q 10/4/07 or is it -- I'm sorry. Okay. 10/4/07 is
19 your testimony.

20 Are you sure about that?

21 A Yes.

22 MR. DUNCAN: Could I have this marked for
23 identification please?

24 (WHEREUPON, the photographic lineup was marked as
25 Defendant's Exhibit No. 3 for identification purposes only

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by Mr. Duncan

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- 1 at this time.)
- 2 Q You understand what a lineup is?
- 3 A Yes.
- 4 Q These are both lineups, right?
- 5 A Yes.
- 6 Q That's your signature on this one too, isn't it?
- 7 A Yes.
- 8 Q And it's the same as the second lineup?
- 9 A Yes.
- 10 Q But you're telling the jury this is a forgery?
- 11 This---
- 12 A No, I---
- 13 Q You---
- 14 A I'm not saying that. I don't remember, I don't
- 15 remember that one. I just don't remember.
- 16 Q But you don't have any memory problems?
- 17 A I don't have any memory problems, but I know who shot
- 18 me.
- 19 Q No matter what the facts are, you know who shot you?
- 20 A I know who shot me, yes.
- 21 Q Did you receive any visits in the hospital from
- 22 people who were there that evening?
- 23 A No, I didn't.
- 24 Q You never saw---
- 25 A You said when I was first into the hospital in

1 Columbia?

2 Q Either hospital.

3 A Yes, I had a visitor. Amy came to see me when I was
4 in Atlanta.

5 Q Rebekah Fleming never came to see you?

6 A No.

7 Q And Amy and Walter came to see you?

8 A Yes.

9 Q Do you remember telling them you don't know who shot
10 you?

11 A I sure didn't.

12 Q You didn't tell them that?

13 A No.

14 Q That's because your memory doesn't ever fail you,
15 does it?

16 A Sure don't.

17 Q That evening you told us that -- let me back up a
18 sec. I'm sorry.

19 Ecstasy is a hallucinatory drug, is it not?

20 A I'm not sure.

21 Q And marijuana affects your memory, doesn't it?

22 A I'm not sure.

23 Q If you were under the influence of a hallucinatory
24 drug that evening, how would this jury know that?

25 How would they know you were under, not under the

A.J. Wilson - Cross-examination
by Mr. Duncan

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- 1 influence of a hallucinatory drug that evening?
- 2 A I don't know they would know, but I know I wasn't.
- 3 Q You're saying you weren't?
- 4 A I wasn't on any drugs. No marijuana, no Ecstasy,
- 5 pills, nothing.
- 6 Q But you certainly didn't volunteer it to anybody---
- 7 A Volunteer what?
- 8 Q ---that, that your, you were dealing drugs or
- 9 whatever?
- 10 A No, I wasn't dealing drugs.
- 11 Q And you haven't been charged---
- 12 A No, I wasn't.
- 13 Q ---even though you possessed those?
- 14 A Yes.
- 15 Q And out there outside the house you said he's got a
- 16 gun?
- 17 A uh-huh. (Affirmative).
- 18 Q I'm sorry?
- 19 A Yes, sir.
- 20 Q You were just guessing, weren't you?
- 21 A When I seen somebody reach for something I wasn't
- 22 going to stay there to find out.
- 23 Q Okay. But I'm saying isn't it fair to say you were
- 24 just guessing?
- 25 A Yeah, I was.

- 1 Q And you're saying that Isaac had the gun like this?
- 2 A Uh-huh. (Affirmative).
- 3 Q He was ready to fire it, wasn't he?
- 4 A He didn't look like he was going to fire it.
- 5 Q Okay.
- 6 A He just had it still in the same spot the whole time.
- 7 Q But he's ready to do something with it, isn't he?
- 8 A I'm not sure what was going on in his mind, what he
- 9 was going to do with it.
- 10 Q But you knew he was upset?
- 11 A Yeah, I knew he was upset, but I didn't know if he
- 12 was going to actually shoot anybody or not.
- 13 Q So, you never saw anybody hold it like this, did you?
- 14 A No, not that I remember.
- 15 Q Okay. How about Walter?
- 16 A Uh-huh. (Affirmative).
- 17 Q Did you see him point the weapon and try to fire it?
- 18 A No, I didn't.
- 19 Q You heard him testify to that, though, didn't you?
- 20 A Say that again.
- 21 Q You heard him testify he tried to, he held the
- 22 shotgun up and tried to fire it?
- 23 A Oh, yes, I heard him testify to that.
- 24 Q Okay. But you didn't see that?
- 25 A I didn't see that. I already ran into the house.

A.J. Wilson - Cross-examination
by Mr. Duncan

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1 Q Okay. When you saw Detective Collins at the
2 hospital, you mentioned running into the house and up the
3 stairs, did you?

4 A I can't remember if I did or not. More than likely I
5 told them, but I can't say because I don't remember.

6 Q Okay. But you don't have any memory problems?

7 A I have no memory problems.

8 Q So, would it surprise you to learn you never
9 mentioned it?

10 A I know I mentioned it, but I can't say because I
11 don't really remember if I did, but I know for a fact I
12 more than likely did.

13 Q So, it should be in Detective Collins' report,
14 shouldn't it?

15 A If I said it it would be in there.

16 Q If you said it it would be in there?

17 A Yes.

18 Q All right. Were you aware your hospital records say
19 you were shot by a shotgun?

20 A No.

21 Q Okay. At least twice?
22 You're not aware of that?

23 A No, I'm not.

24 MR. DUNCAN: Just one second, Your Honor.

25 THE COURT: Yes, sir.

1 (Pause.)

2 Q When you were shown that lineup, you knew this was a
3 mug shot, didn't you, of Kerwin Johnson?

4 A I'm not sure. I just saw the picture and picked what
5 I saw. It was Kerwin Parker.

6 Q And---

7 A Not Kerwin Johnson.

8 SOLICITOR MYERS: May we approach the bench, Your
9 Honor?

10 THE COURT: Yes, sir.

11 (WHEREUPON, a bench conference was held out of the
12 hearing of the jury at this time.)

13 SOLICITOR MYERS: I found a sheet of paper, judge,
14 that I had misplaced. So---

15 THE COURT: All right.

16 Q Did you know that Kerwin Johnson was hit with a
17 bullet that night?

18 A No.

19 Q I'm sorry. Kerwin Parker.

20 A No.

21 Q Okay. Mr. Wilson, you have a December 18, 2004,
22 conviction for a fraudulent check, do you not?

23 A Yes.

24 MR. DUNCAN: That's all. Thank you.

25 THE COURT: Redirect?

A.J. Wilson - Redirect examination
by Solicitor Dixon

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1 SOLICITOR DIXON: Briefly, Your Honor.

2 THE COURT: Yes, ma'am.

3 REDIRECT EXAMINATION

4 BY SOLICITOR DIXON:

5 Q You okay right now, A.J.?

6 You need a break?

7 A Oh, no, I'm good.

8 Q A couple of questions about that night.

9 A Okay.

10 Q Were you high on drugs?

11 A No.

12 Q Had you smoked weed?

13 A No.

14 Q Had you taken any Ecstasy?

15 A No.

16 Q Had you taken any other drugs that night?

17 A No.

18 Q Did you have a gun that night?

19 A No.

20 Q Did you hit anybody?

21 A No.

22 Q Did you threaten anybody?

23 A No.

24 MS. FULLWOOD: Your Honor, outside the scope of
25 redirect.

1 SOLICITOR DIXON: Your Honor, they asked about his
2 interaction with the defendants.

3 THE COURT: I will allow those questions.

4 Q Did you threaten anyone?

5 A No, ma'am.

6 Q Did you see Isaac threaten anyone?

7 A No, ma'am.

8 Q Did you see Isaac hit anyone?

9 A No, ma'am.

10 Q A.J., were you a drug dealer?

11 A No, ma'am.

12 Q Are you a drug dealer?

13 A No, ma'am.

14 Q Ms. Fullwood asked you a question, A.J., about not
15 calling the police.

16 A Uh-huh. (Affirmative).

17 Q Do you remember that?

18 A Yes.

19 Q How long was it between when you ran inside and when
20 you were shot?

21 A I'd say about two minutes at the most.

22 Q Okay. After you went outside---

23 A Uh-huh. (Affirmative).

24 Q ---and you were shot, were you able to move?

25 A No.

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by Solicitor Dixon

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1 Q If you had been able to move and get to a phone,
2 would you have called the police?

3 MS. FULLWOOD: Objection. Leading.

4 THE WITNESS: I'm not sure.

5 THE COURT: I will allow you to ask the question. Go
6 ahead. It has been asked and answered. It is in the
7 record. You can restate it if you want to, but it has
8 been asked and answered.

9 Q A.J., if you had been able to move after being shot,
10 would you have called the police?

11 A I'm not sure.

12 SOLICITOR DIXON: No further questions.

13 MR. DUNCAN: Your Honor, at this time I move to
14 introduce what has been marked for identification.

15 THE COURT: Any objections to---

16 SOLICITOR DIXON: I'm sorry?

17 MS. FULLWOOD: Your Honor, I have a question
18 regarding one issue Ms. Dixon brought up.

19 THE COURT: You need to---

20 MS. FULLWOOD: Not for Your Honor, but for the
21 witness.

22 THE COURT: I understand. Y'all are bringing two
23 issues to me at the same time. Let's talk about first the
24 admissibility of that exhibit that was marked for
25 identification.

1 Is there an objection from the State?

2 SOLICITOR DIXON: I'm not sure, Your Honor. I'm not
3 sure which one we're talking about.

4 THE COURT: Mr. Duncan, if you would, show that to
5 her please.

6 SOLICITOR DIXON: No objection.

7 THE COURT: So moved into evidence as Defendant's
8 Exhibit No. 3.

9 MS. FULLWOOD: I will say for the record that I have
10 no objection.

11 THE COURT: Okay.

12 (WHEREUPON, Defendant's Exhibit No. 3 was received
13 into evidence at this time.)

14 RECROSS EXAMINATION

15 BY MS. FULLWOOD:

16 Q Ms. Dixon asked you about whether or not you had a
17 gun that night.

18 A Yes.

19 Q Okay. Did the police swab your hands or take
20 samplings from your hands in any other way so they could
21 perform gunshot residue tests on your hands?

22 A I'm not sure.

23 Q Okay. Ms. Dixon asked you about when you went
24 outside. She asked you about what you saw. She asked you
25 if you saw Curtis and Isaac fighting.

A.J. Wilson - Recross examination
by Ms. Fullwood

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1 Correct?

2 A Not in those words I don't think.

3 Q Okay. You went over to where Curtis and Isaac were,
4 correct?

5 A Yes.

6 Q So, when she went over there, once she went over
7 there, there, were two men, you and either Curtis or
8 Isaac, standing over one man?

9 A I'm not sure. I just know one person along with him
10 was standing over Isaac.

11 Q And you were too when you got over there?

12 A And, at that time, I was trying to pull him off of
13 Isaac.

14 Q And, at that time, do you know where Walter was?

15 A No.

16 Q Thank you, sir.

17 SOLICITOR DIXON: Your Honor, I'm sorry. Because of
18 that I have a follow-up if the Court would allow it.
19 Not -- that's fine, judge.

20 THE COURT: I think we have delved into this matter
21 enough. So, Mr., Mr. Wilson, I'm going to ask you to step
22 down. Thank you very much.

23 SOLICITOR MYERS: Call Detective Steve Collins.

24 THE COURT: Yes, sir.

25 STEVE COLLINS, having been first

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1 duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY SOLICITOR MYERS:

4 Q Steve, by whom are you employed?

5 A Lexington County Sheriff's Department.

6 Q In a, what capacity?

7 A I am a detective with the major crimes unit.

8 Q How long have you been in law enforcement?

9 A I've been in law enforcement for about 14 years, and
10 I was a military police officer prior to that.

11 Q Were you one of the officers assigned to this case?

12 A Yes, sir, I was.

13 Q Did you have an occasion to go out to Church Hill
14 Apartments, 86 Fox Run, on 11/20/06?

15 A Yes, sir, I did.

16 Q Let me ask you something if I could, Steve. I want
17 to refer to this map please. It's got 86 Fox Run Lane.

18 Tell the jury where that is located.

19 A Lexington County. The apartment is located between
20 St. Andrews and Bush River Road. You can enter the
21 apartments either way.

22 Q If you went down I-20 and heading towards Spartanburg
23 on 26, and you got up on St. Andrews Road, how would you
24 get up to the apartments?

25 A You would drive down St. Andrews Road heading away

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1 from Interstate 26. It would probably be about two miles
2 down on your left-hand side roughly.

3 Q How far is that from where I think Bush River comes
4 back into St. Andrews?

5 How far is that?

6 Is it very far?

7 A No, no, not very far at all. Where the church sits
8 right there at that road, no.

9 SOLICITOR MYERS: Your Honor, I don't think it's been
10 offered into evidence. We offer this map into evidence.

11 THE COURT: Any objection?

12 MS. FULLWOOD: No, Your Honor.

13 THE COURT: Okay. Admitted into evidence as State's
14 Exhibit, admitted into evidence as State's Exhibit 7.

15 (WHEREUPON, the map was marked as State's Exhibit No.
16 7 and received into evidence at this time.)

17 Q What are the two roads on either side of the
18 apartment complex?

19 A St. Andrews and Bush River.

20 Q Which way would Bush River be?

21 A Towards the top of the map where Lexington is
22 located.

23 Q And down below---

24 A Would be Bush River.

25 Q Is all that apartment complex within the County of

1 Lexington?

2 A Yes, sir, that is.

3 Q Did you have occasion to go out there that night?

4 A Yes, sir.

5 Q On November 20?

6 A Yes, sir, I did.

7 Q Did you see A.J. Wilson at the apartment complex on
8 11/20/06?

9 A No, sir, I did not.

10 Q When was the first time you saw him?

11 A Notes that the first time I met A.J. Wilson was
12 November 27 at Richland Medical Center.

13 Q Were you able to talk with him at the Richland
14 Hospital?

15 A I could talk with him, but due to his medical
16 condition he was not able to answer questions or
17 participate in an interview.

18 Q What do you mean?

19 A He had been shot. His face -- his jaw was -- I don't
20 know the medical term, but it appeared to be wired shut.
21 He wasn't able to communicate. He knew who he was, where
22 he was, but to participate in the type of interview that I
23 wanted to conduct, he was not able to with the injuries.

24 Q When was the next time you saw A.J. Wilson?

25 A January 4th, 2007, at the Shepherd's Center in

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1 Atlanta.

2 Q What was your purpose for going to see him at the
3 Shepherd's Center in Atlanta?

4 A I had photo lineups I wanted to show, and I wanted to
5 conduct an interview with him and get his account of the
6 incident that I was investigating.

7 Q Was that about the first time you had an opportunity
8 to talk with him?

9 A Yes, that would be the first time that I---

10 Q Was he able to communicate with you on January 4,
11 '07, in Atlanta?

12 A Yes, sir, he was.

13 Q Did you talk with him about what happened that night?

14 A Yes, sir, I did.

15 Q Was he able to give you a description of the person
16 who shot him?

17 A He gave me a description of the person he said shot
18 him, yes.

19 Q Did you ask him whether or not he could identify that
20 person?

21 A Yes, sir, I did.

22 Q What did he say?

23 A He said he believed he could.

24 Q Now, was there a photographic lineup for a period
25 that you had when you went down there?

1 A Yes, sir, there is a photographic lineup.

2 Q I hand you this document.

3 Do you recognize that?

4 A Yes, sir, that is the document I took with me to
5 Atlanta.

6 Q How many photographs are on that sheet of paper?

7 A There are six.

8 Q On that sheet of paper, are there any names on it?

9 A No, sir, there are no names on that.

10 Q Did you hand those six photographs on that sheet of
11 paper to A.J. Wilson?

12 A I handed the sheet of paper with the six photographs,
13 yes.

14 Q What kind of instructions did you give?

15 A I told him that the picture may or may not include
16 the person from the incident that we believed was there,
17 that he needed to take as much time as he wanted to to
18 make sure the person that he wanted was in the
19 photographic lineup.

20 Q Did you indicate to him, in any way whatsoever, which
21 photograph he should select?

22 A No, sir, I did not.

23 Q Was there anything on that sheet of paper to indicate
24 which photograph A.J. Wilson should select?

25 A No, sir.

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- 1 Q Did you ask him to look at the photographs?
- 2 A Yes, sir, I did.
- 3 Q Did he look at them?
- 4 A Yes, sir, he did.
- 5 Q After he looked at them, tell us whether or not he
- 6 was able to select a photograph of the person involved on
- 7 November 20, '06.
- 8 A Yes, sir, he did.
- 9 Q And how did he indicate that?
- 10 A He said verbally that it was number three, and also
- 11 he was able to circle the number that corresponded with
- 12 that photograph.
- 13 Q So, each one of these photographs had a number?
- 14 A Yes, sir, each one of the photographs is numbered
- 15 sequentially one to six.
- 16 Q And he circled which numbered photograph?
- 17 A Number three.
- 18 Q Was there also a place then for him to write which
- 19 number?
- 20 A Yes, sir, there is.
- 21 Q Was he able to do that?
- 22 A Yes, sir, he was able to write the number three.
- 23 Q Did you, in any way, indicate to him that number
- 24 three should be selected or picked out?
- 25 A No, sir, I did not.

1 Q After that was done, did you sign this sheet of
2 paper?

3 A Yes, sir, I do sign the, a sheet of paper.

4 Q Was it dated?

5 A Yes, sir, it is.

6 Q What date?

7 A January 4, 2007.

8 Q Did anyone else sign that paper as a witness?

9 A Yes, A.J.'s mother.

10 Q Now, why did she sign it as a witness?

11 A Because A.J., due to the injury to his hand, was
12 unable to sign that photograph or that photo lineup. So,
13 she signed his name indicating that it was him and then
14 she signed validating that signature, I guess, would be
15 the way I had explained---

16 Q That would be selected photograph number three?

17 A Yes, sir.

18 Q Did she participate, in any way, with him selecting
19 photograph number three?

20 A No, sir.

21 Q Did she have any participation whatsoever other than
22 witnessing that paper with her signature?

23 A No, she had no participation in the interview.

24 SOLICITOR MYERS: Your Honor, at this time we would
25 offer this photographic lineup as an exhibit.

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by Solicitor Myers

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1 THE COURT: Yes, sir, that's subject to the previous
2 objections that were made by Mr. Duncan and Ms. Fullwood.

3 Any additional objections to be put on the record?

4 MR. DUNCAN: No, sir.

5 THE COURT: Ms. Fullwood, any objection?

6 MS. FULLWOOD: No, Your Honor.

7 THE COURT: All right. So moved into evidence. That
8 should be, has been marked previously as a Court's
9 Exhibit, and now shall be characterized as a, State's
10 Exhibit No. 8.

11 (WHEREUPON, the photographic lineup previously marked
12 as Court's Exhibit No. 3 was now marked as State's Exhibit
13 No. 8 and received into evidence at this time.)

14 Q Now, since January 4 of '07 when this photographic
15 lineup was presented to A.J. Wilson, in whose possession
16 has this document been until today?

17 A It has been in my possession with the case file for
18 this incident.

19 Q Who brought that into court today?

20 A I brought that into court today.

21 Q Between January 4 of '07 until today, has this
22 document been tampered or altered in any way whatsoever?

23 A No, it appears the same as it did that day.

24 Q Let's go back to November 2006 out at the apartments.

25 A Yes, sir.

1 Q You said you went out there?

2 A Yes, sir, I did. I responded.

3 Q Anyone arrested out at the apartments that night you
4 were there?

5 A Yes, sir, someone was taken into custody.

6 Q Who was that?

7 A Curtis Johnson.

8 Q Where was Curtis Johnson taken from the apartments?
9 where was he taken from the apartments?

10 A To the Lexington County Sheriff's Department.

11 Q Were you at the Sheriff's Department?

12 A I met him at the Sheriff's Department.

13 Q Did you get a good look at Curtis Johnson at the
14 Sheriff's Department on November 20 of '06?

15 A I got a good look at him at the scene and the
16 Sheriff's Department, yes, sir.

17 Q You saw him at the Sheriff's Department in a little
18 room?

19 A Yes, sir.

20 Q How close were you?

21 A We were seated across the table in an interview room.

22 Q What type of hair did he have that night?

23 A I'd characterize it as long hair, significantly long.

24 Q Did you see Kerwin Parker at the Sheriff's Department
25 on November 20 of '06?

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1 A Yes, sir, I did.

2 Q And where did you see him?

3 A In a conference room.

4 Q And had he been arrested also?

5 A Had been taken into custody, yes, sir. He was also
6 under arrest.

7 Q Did you get a good look at him at the Sheriff's
8 Department on November 20?

9 A Yes, sir, I did.

10 Q What type of hair did he have?

11 A Short. It wasn't quite shaved, but it was short. A
12 little bit similar to what he has today.

13 Q Were they booked in at the Sheriff's Department?

14 A Yes, sir.

15 Q I hand you these two photographs and ask you is this
16 what Curtis Jackson and Kerwin Parker looked like on
17 November 20 of 2006 when they were booked in at the
18 Sheriff's Department?

19 A Yes, sir, that is exactly.

20 SOLICITOR MYERS: Offer these into evidence.

21 THE COURT: Any objection?

22 MS. FULLWOOD: No, Your Honor.

23 MR. DUNCAN: No, Your Honor.

24 THE COURT: Without objection, so marked into
25 evidence as State's Exhibit 9 and 10.

1 (WHEREUPON, the photographs were marked as State's
2 Exhibit Nos. 9 and 10 and received into evidence at this
3 time.)

4 Q State's No. 10, who is that a picture of?

5 A Curtis Johnson.

6 Q And his name is on there?

7 A Yes, sir, his name appears on that photograph.

8 Q And that's what he looked like?

9 A Yes, sir, that's what he appeared, looked like, yes,
10 on that evening.

11 Q Where is Curtis Johnson in the courtroom today?

12 A He is sitting at the table over there.

13 Q Go over and put your hand on his shoulder.

14 MS. FULLWOOD: Your Honor, I'm going to object to
15 physical contact. That's a little---

16 Q Go over and point to him.

17 MS. FULLWOOD: I'll be glad to have him stand up.

18 THE COURT: For purposes of identification, can, can
19 you point to him, sir?

20 THE WITNESS: He's the gentleman seated to Ms.
21 Fullwood's right.

22 SOLICITOR MYERS: Curtis Johnson, stand up.

23 (WHEREUPON, Defendant Johnson complies.)

24 THE COURT: That's the individual you are pointing
25 to?

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1 THE WITNESS: Yes, sir, that's the individual I know
2 as Curtis Johnson.

3 THE COURT: Proceed.

4 Q Do you know whether he was arrested at the scene or
5 somewhere else?

6 A At the scene.

7 Q And State's Exhibit No. 9---

8 A A, a photograph of Kerwin Parker.

9 Q Kerwin Parker?

10 A Yes, sir.

11 Q And that's what he looked like on November 20, 2006?

12 A Yes, sir.

13 Q And where is Curtis Parker, Kerwin Parker in the
14 courtroom?

15 A He is sitting next to his attorney, Jack Duncan, to
16 his right.

17 (WHEREUPON, Defendant Parker stands.)

18 Q That's him?

19 A Yes, sir.

20 Q Who did A.J. Wilson pick out in photograph number
21 three when he was at the Shepherd's Center in Atlanta on
22 January 4?

23 A He picked out Kerwin Parker.

24 Q The same photograph?

25 A Yes, sir, the same photograph.

1 Q As the person that had shot him?

2 A That is what he said, yes, sir.

3 Q When he picked out number three, you said he circled
4 it?

5 A Yes, sir, he circled it.

6 Q And then put a number three down there?

7 A Yes, sir.

8 Q And then you have the signatures down here?

9 A Correct.

10 Q Did you ask him how sure he was that Kerwin Parker is
11 the man that shot him?

12 MS. FULLWOOD: Objection.

13 A Yes, sir, I did.

14 MS. FULLWOOD: Hearsay.

15 SOLICITOR MYERS: That is an exception to the rule.
16 He is asking him if he asked him.

17 MS. FULLWOOD: But if---

18 THE COURT: He can ask, answer if he asked him or
19 not.

20 MS. FULLWOOD: Yes, sir.

21 THE COURT: You're anticipating a second question.
22 He can certainly ask him if he asked him that question.

23 Q And what did he say?

24 MS. FULLWOOD: Objection, Your Honor. Hearsay.

25 SOLICITOR MYERS: It is an exception under the rule,

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1 Your Honor.

2 THE COURT: I'm going to allow that, the response to
3 that question. The defendant has been on the stand and
4 has testified heretofore regarding that same matter.

5 Q What did A.J. Wilson say about how sure he was?

6 A He said he was 100 percent sure.

7 Q When you looked at these six photographs, how long
8 did it take A.J. Wilson to pick out Kerwin Parker as the
9 man who shot him?

10 A He was very quick, a matter of seconds. I did not
11 time it, but it was a matter of seconds from when the page
12 was turned over, he looked at it, until he identified
13 number three.

14 Q Did he hesitate in any manner whatsoever?

15 A I did not perceive any hesitation in his
16 identification.

17 Q Let me ask you this, too, if I could.

18 Going back to the map, No. 7, did you have an
19 occasion to check the distance from the apartment complex
20 to Broad River Road where the lady's father lived?

21 A Yes, sir.

22 Q And about how long or how far was the distance from
23 the apartment complex to 3430 Broad River Road?

24 A I didn't see the exact mileage, but I could drive it
25 several times in about ten minutes roughly depending on

1 lights and traffic conditions.

2 Q Did -- also ask you to check how long it took to go
3 from Hyatt Avenue in Columbia to Monticello Road of this
4 interchange at I-20?

5 A Yes, sir.

6 Q About how long?

7 A Maybe five minutes. It was a shorter drive.

8 Q Approximately how long did it take to get from this
9 area off of Hyatt, Monticello, and I-20 back over to the
10 apartment complex, 86 Fox Run?

11 A Averaged out to be usually about somewhere around 15
12 was the best and somewhere around 20 was the average.

13 Q Is to -- twenty minutes?

14 A Yes, sir.

15 Q You said that Curtis Johnson, the one with the long
16 hair---

17 A Yes, sir.

18 Q ---was arrested at the apartment complex?

19 A Yes, sir.

20 Q Do you know where Kerwin Parker, the one with the
21 short hair, was arrested?

22 A It was at the house on Hyatt Street is what I
23 believe.

24 Q Back over here?

25 A Yes, sir.

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1 Q Please answer any questions they have, Steve.

2 THE COURT: Yes, ma'am.

3 MS. FULLWOOD: Thanks, Your Honor.

4 CROSS-EXAMINATION

5 BY MS. FULLWOOD:

6 Q Detective Collins, you're the case officer in this
7 matter, are you not?

8 A That is correct.

9 Q All right. What are your responsibilities when you
10 are the case officer?

11 A It varied. But eventually to get all of the
12 information from everybody else assisting it, and make
13 sure it is turned over to the Solicitor's Office in a
14 timely manner.

15 Q So, you coordinate gathering all the information?

16 A That's, yes, essentially the main---

17 Q And I want to show you this. This is a CAD incident
18 report, correct?

19 A Correct.

20 Q Concerning this incident?

21 A Yes, it appears to be 86 Fox Run and Bush River, yes.

22 Q What is a CAD incident report?

23 A I don't know what the acronym stands for, but it is
24 basically a record of calls the Sheriff's Department did a
25 dispatch to.

1 Q Sort of your 9-1-1 records?

2 A Essentially, any routine call. Doesn't necessarily
3 have to be 9-1-1, but any call for service, a traffic
4 stop, it's out -- they track anything that we do in the
5 computer system.

6 Q Okay.

7 A That's what I understand it to be.

8 Q And in this particular instance, can you let us know
9 when you got a call and when the sheriff's units got
10 there?

11 A I'm not an expert at reading it, but looking at it,
12 it looks like the time when the scene is called is secure
13 is at 1:28 in the morning. So, I would assume that there
14 was somebody there at that point.

15 Q Well, let's see.

16 well, you folks dispatched cars at 1:31 a.m.?

17 A Okay.

18 Q Is that right?

19 A I will believe that. That is what I'm looking at,
20 yes.

21 Q And you were on the scene at 1:38?

22 A I was not personally.

23 Q Well---

24 A But somebody.

25 Q The department?

1 A Yes, somebody would have gotten there at that point,
2 yes.

3 Q Approximately seven minutes between a call and police
4 response on the scene?

5 A Yeah, looking at that, yeah, I'll agree with that.

6 Q Okay. Mr. Collins, when you talked to Mr. A.J.
7 Wilson in Atlanta, you asked him about what had happened
8 that night, right, on the, November 20?

9 A Yes, we talked about what had taken place, that
10 incident.

11 Q Okay. You basically wrote a narrative of what he
12 told you, correct?

13 A A summary of -- yeah, in the incident report, yes.

14 Q All right. And he told you then that he knew there
15 were bad feelings between Curtis and Isaac over Rebekah
16 and it -- this is Page 10 of your twenty page report.

17 A Yes, sir. Yes, ma'am. I'm sorry.

18 Q Okay.

19 A I mean I'm aware that he knew that. I'm not seeing
20 it in there, but I'm aware that he did tell me that. I
21 know that that did take place, yes.

22 Q Okay. He also told you, at that time, that when he
23 got shot he remembers not being able to move and then the
24 next memory he had was him waking up and realizing that he
25 had also been shot in the face and arm and that's in the

1 bottom of that same page, Page 10?

2 A Yes, sir, that is essentially what I wrote. It is a
3 paraphrase of the interview that was conducted in the
4 Shepherd's Center, yes.

5 Q And that's what he told you then?

6 A Yes.

7 MS. FULLWOOD: Beg the Court's indulgence.

8 THE COURT: Yes, ma'am.

9 (Pause.)

10 MS. FULLWOOD: No further questions.

11 THE COURT: Mr. Duncan.

12 CROSS-EXAMINATION

13 BY MR. DUNCAN:

14 Q Detective Collins, when you responded, you received
15 information a fight had been reported, correct, a fist
16 fight?

17 A No, I believe when -- well, I do know. I don't
18 believe. I know that when I was called by Sergeant
19 McIntosh, it was the sergeant over the investigative
20 shift, that I was responding to a shooting. I knew that
21 we were going to a shooting at that point.

22 Q You spoke to Curtis Johnson almost immediately,
23 didn't you, upon arrival?

24 A Yes, essentially within a matter of maybe five
25 minutes from when I had made contact with Curtis Johnson,

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1 correct.

2 Q He wanted to talk to you, didn't he?

3 A Yes, he did.

4 Q No hesitation, no equivocation, and he was in the
5 police car at that time and wanted to talk to you?

6 A Correct.

7 Q All right. In fact---

8 SOLICITOR MYERS: Objection.

9 THE COURT: Haven't heard the question yet.

10 SOLICITOR MYERS: Objection because I know where he's
11 going and what he's going to do, and it's not admissible,
12 and I don't want to say it before he blurts it out. He
13 can't get into a conversation.

14 THE COURT: There's a prior ruling from the Court. I
15 don't know what the question is going to be---

16 MR. DUNCAN: Mr. Myers can't quite read my mind yet.

17 THE COURT: Just make sure it's consistent with the
18 prior ruling of the Court.

19 Q My question was he spoke to you for a second time
20 just two hours later at the Sheriff's Department, didn't
21 he?

22 A I don't know whether it was that long, but, yes, we
23 did speak again at the Sheriff's Department.

24 Q A short period of time?

25 A Yes, there were a couple of things, but, yes, within

1 two hours at the most.

2 Q Without getting into what he said, both of those
3 statements were consistent, weren't they?

4 A We didn't get into anything really at the apartment
5 complex because simply I wasn't prepared, but he didn't
6 contradict anything that he told me at the apartment
7 complex, but we didn't get into the incident really there
8 because it's not conducive.

9 Q Did -- when you saw Kerwin Parker at the Sheriff's
10 Department, did you notice he had been shot in the right
11 forearm and it had been bleeding?

12 A I do not recall that, no.

13 Q When you spoke to A.J. Wilson at the Shepherd's
14 Center, you filled out a report?

15 A I generated an -- yes. Part of my incident report,
16 yes, that's correct.

17 Q And he never mentioned running up the stairs and
18 going back inside at any time, did he?

19 A A.J. and it's, I mean, semantics. He mentioned -- he
20 told me that he ran back into the apartment. I was taking
21 notes as he was telling me the story, and I may have left
22 out specifically -- I know from that interview with A.J.
23 that he ran into the apartment. I did not write down that
24 he had run up the stairs or any of that. I indicated in
25 my note that he ran, that he ran into the apartment, but I

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1 can't say---

2 Q It's not in the report, is it?

3 A It's not in the incident report. It's in my notes.

4 Q You never provided those notes to the defense, did
5 you?

6 A I have no idea what was provided to the defense. I
7 don't personally do that.

8 Q Do you have your notes with you?

9 A I have it in front of me, yes, sir.

10 Q Can I see those notes?

11 A I have no problem with that.

12 Q Can I see it?

13 A That has nothing to do with that.

14 Q Detective Collins, show me in these notes where it
15 says, where you write down and where it says he told you
16 he went inside.

17 A The part where -- I know what my notes mean. It's
18 when he was running back he says the truck starts coming
19 towards him. They start running, running back. He runs
20 back and sees Curtis on top of him. I'm the one making
21 the notes. I'm not writing verbatim what Mr. Wilson is
22 saying to me, but I am taking notes that I'm aware of what
23 was going on, and then from those notes I put what I
24 thought was relevant in the incident report.

25 Q That would have been on the patio, right, not inside?

1 A Well, he went inside. I know that from what he told
2 me that there was a separation where A.J. Wilson became
3 separated from Isaac Wilson, and he told me that he went
4 back to find out where Isaac Wilson was. I doubt I asked
5 him specifically where he went in the apartment because --
6 I, I apologize. I just didn't think it mattered where he
7 went specifically.

8 Q His ability to see the events would be important,
9 correct?

10 A Obviously.

11 Q And where he was at any point in time would have been
12 important?

13 A Yes.

14 Q Okay. So, how do you decide what facts to put in a,
15 a report and what not to whenever somebody tells you
16 something?

17 How do you decide whether that is important or not?

18 A Because he said he was running. That's fine.
19 They're running where they're running. He realizes that,
20 at some point, he is not with his cousin, Isaac, and he
21 turns around. That's when I picked back up that he goes
22 back to the patio and sees the altercation. When he's
23 seeing stuff that's going on, that is a witness to, that's
24 more important and I dedicated more time to writing that
25 than him simply running.

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1 Q What color clothes did Curtis have on that evening?

2 A He had a -- Curtis had a dark hooded sweatshirt.

3 Q Dark.

4 You mean black?

5 A Black, blue, a dark color, navy possibly. It was
6 dark in color. I believe black.

7 Q How about Kerwin?

8 A A lighter in color kind of a gray sweatshirt is what
9 he had on when I met him at the Lexington County Sheriff's
10 Department.

11 Q I'm going to ask you if you can identify this.

12 A Yes, that is a case file summary.

13 Q And you authored that case file summary, correct?

14 A That is correct.

15 Q Would you read it to the jury slowly please?

16 A On 11/20/2006 the defendants went to the residence of
17 the victim, Isaac Wilson, after there was a dispute that
18 evening between Wilson and Johnson. When Parker and
19 Johnson arrived at the apartment located at Church Hill
20 Apartments, Apartment 86, which is located in the St.
21 Andrews area of Lexington, when Parker and Johnson
22 arrived, there was a vehicle that was seen by Walter
23 Gadson, and he told Isaac and A.J. Wilson that they had
24 parked outside.

25 Not knowing what Parker and Johnson intended, Isaac

1 Wilson retrieved a shotgun. Then he, A.J. Wilson, and
2 Walter Gadson went out the back door. While they walked
3 out they're confronted by Parker who had exited the
4 vehicle and words were exchanged. Johnson, who stayed in
5 the vehicle for his own reasons, put the vehicle in drive
6 and drove towards Gadson, A.J., and Isaac Wilson. Johnson
7 strikes Gadson with the vehicle breaking his leg. A.J.
8 and Isaac Wilson turned to flee and Parker chases them on
9 foot.

10 Johnson---

11 SOLICITOR MYERS: Your Honor, I don't know the
12 relevance of this, and some of this other stuff might be
13 hearsay coming from other people. So, I'm going to have
14 to object on relevance because I don't know what relevance
15 it had and also on hearsay. It is a report. He can
16 question this officer about what he did and all that, but
17 just reading the report, we can put the record in---

18 MR. DUNCAN: Your Honor, Mr. Myers has heard and
19 elicited the stuff that he wants in. Now he objects to
20 stuff I want in. The last sentence or so is when he
21 objects. I think the whole thing has to come in.

22 Mr. Myers---

23 SOLICITOR MYERS: I don't know what he's talking
24 about. I'm just sitting here listening. I can't see any
25 relevance.

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1 THE COURT: I understand. It's a summarization of
2 the events. It's been read probably eighty percent of it.
3 I'm going to allow him to read the remainder of it.

4 Now, the question is whether it's going to be in
5 evidence as another document, but he can publish it in as
6 much as it's fair for the jury's consideration because
7 it's already been read into the record, eighty percent,
8 and essentially what it is is a restatement of his
9 testimony.

10 You may proceed, sir.

11 THE WITNESS: Thank you.

12 Johnson, who crashed the vehicle into the apartment
13 building, then retrieves a handgun from the vehicle.

14 Q He retrieved a handgun?

15 A Yes, sir.

16 Q I couldn't -- apologize. I'm sorry.

17 A I'll speak up from now on. And gets out shooting.

18 During the altercation, Isaac Wilson is shot twice and
19 dies as a result of the wounds, and A.J. Wilson is shot
20 five times and paralyzed from the waist down, and
21 accountings of this statement is confirmed by witnesses
22 and in defense---

23 Q Excuse me one second.

24 Detective Collins, when you interviewed Walter Gadson
25 and took a statement from him---

1 A Yes.

2 Q ---he left out the roadside attack on Curtis Johnson,
3 didn't he?

4 A He left out the altercation between them, yes.

5 Q And his entire statement was trying to make him look
6 good, wasn't it?

7 A I don't know what his intent was when he made the
8 statement, but I, I would agree with that, yes.

9 Q Did he tell you that he picked up or he had this
10 shotgun and tried to shoot?

11 A I know that he told me that he had the shotgun. I
12 would have to go back and read his statement unless you've
13 got a point in there that he says that, and I would
14 stipulate, but I can look back over his entire statement,
15 but I know he had the shotgun. He did admit to that.

16 Q Do you have the statement in front of you?

17 A I have not located it yet, but I will be able to.

18 Q Yeah, I'm sorry.

19 A Do you have it marked or---

20 Q No, it's not there.

21 A No, I don't see any point where he says that he
22 turned and tried to fire the gun if that's what the
23 question was.

24 Q And there's nothing in your notes that he tried, he
25 tried to shoot somebody, tried to shoot the weapon, the

Steve Collins - Cross-examination
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1 shotgun, and, for whatever reason, it just didn't fire?

2 A No, I've got nothing in my notes to put that in---

3 Q And do you know the time that Kerwin Parker was taken
4 into custody?

5 A I was not present. I'm sure I've got it documented
6 in the report exactly. I can look for---

7 Q Does 3:18 sound approximately correct?

8 A I would go with that.

9 Q 3:18 a.m.?

10 A Yeah, it was within an amount of time, and if you
11 told me which is about three hours from the initial
12 incident. That's what I would have guessed. So, yeah.

13 Q Three hours or an hour and a half?

14 A Okay. My math -- that's why I'm a police officer.
15 My math isn't my strong point.

16 Q I'm not the best either, sir. Thank you.

17 THE COURT: Is that all you have?

18 MR. DUNCAN: Yes, sir.

19 SOLICITOR MYERS: Nothing further, but we reserve the
20 right to call him on another point later.

21 THE COURT: Thank you, sir. You may step down,
22 officer. Thank you very much.

23 Gentlemen, do you have a -- do you have a short
24 witness next or do you have a long witness next?

25 SOLICITOR MYERS: I can be short with him.

1 THE COURT: All right. Good enough. If you'd call
2 him to the stand.

3 SOLICITOR MYERS: Mr. Hernandez.

4 JOSE HERNANDEZ, having been first
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY SOLICITOR MYERS:

8 Q Mr. Hernandez, where do you live, sir?

9 A I live at 55 Fox Wood Lane, Columbia, South Carolina.

10 Q And---

11 A Church Hill Apartments.

12 Q Church Hill Apartments?

13 A Right.

14 Q Were you living there on November 20, 2006?

15 A Yes, I did.

16 Q Now, referring to State's Exhibit No. 4, have you
17 seen that before?

18 A Can you turn it a little more this way?

19 MS. FULLWOOD: Your Honor, I'm so sorry to interrupt
20 Mr. Myers, but we need to approach the bench.

21 THE COURT: Okay. If you'd like to come forward.

22 (WHEREUPON, a bench conference was held out of the
23 hearing of the jury at this time.)

24 THE COURT: Ladies and gentlemen, we're going to take
25 a lunch break, and I was discussing some scheduling issues

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by Solicitor Myers

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1 with the attorneys. Ms. Fullwood has another issue in
2 Federal Court. So, she's going to have to make a phone
3 call and see exactly what it is they need of her right
4 now, and then we're going to determine all that, and flush
5 it all out. So, I'm going to ask y'all to go ahead to
6 lunch and come back at two o'clock, and that should give
7 you time to flesh out what happens in Federal Court, and
8 take up any matters outside of your presence that we need
9 to, and I hate to promise you two o'clock because the
10 minute I do I'll become a liar, but to the extent that I
11 can affect it, we'll start promptly at two o'clock.

12 So, please don't discuss the case with anybody or
13 begin your deliberations. Thank you and I'll see you back
14 here at 2:00.

15 Thank you.

16 (WHEREUPON, the following takes place outside the
17 presence of the jury.)

18 THE COURT: Ms. Fullwood, you make a phone call.
19 I'll leave -- I'm not going to go very far at all. If you
20 need me, call me and I'll give you my cell phone, and if
21 you're having an issue, I'll call the federal judge, and
22 let him know we're two days into a week long murder trial.

23 MS. FULLWOOD: Your Honor, I don't want the lawyer to
24 be picked up by the U.S. Marshall in the courtroom.

25 THE COURT: We'll be in recess until two o'clock.

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1 (WHEREUPON, Court was in recess for the lunch hour.)

2 THE COURT: I think we have 14 jurors, and we're
3 waiting for one to come back from lunch. We can just
4 stand at ease until we get a report that the 15th is in.

5 Mr. Myers, I heard you say you thought you'd be
6 finishing up tomorrow afternoon?

7 SOLICITOR MYERS: I think we will.

8 THE COURT: Wow. I've got to see this.

9 SOLICITOR MYERS: Well over lunch I think. I just
10 eliminated eight of her witnesses.

11 THE COURT: Okay. Good.

12 You can put Mr. Hernandez back on the stand. He's
13 under oath. He comes back on the stand, and you can pick
14 up where you left off.

15 SOLICITOR MYERS: Thank you, sir.

16 (WHEREUPON, the following takes place within the
17 presence of the jury.)

18 THE COURT: Mr. Myers, your witness, sir.

19 SOLICITOR MYERS: Thank you, Your Honor.

20 CONTINUED DIRECT EXAMINATION

21 BY SOLICITOR MYERS:

22 Q Introduce yourself to the jury again please.

23 A Jose Hernandez.

24 Q Mr. Hernandez, I think I was asking you where do you
25 live?

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- 1 A 56 Fox Run Lane, Columbia, South Carolina, 29210.
- 2 Q I'm going to ask you to pull this up a little bit
- 3 closer to you.
- 4 A (Witness complies.)
- 5 Q Thank you.
- 6 Is that Church Hill Apartment Complex?
- 7 A Yes, sir.
- 8 Q Did you live there in November of '06?
- 9 A Yes, sir.
- 10 Q Were you living there the night that some shootings
- 11 and things went on near your apartment?
- 12 A Yes, sir.
- 13 Q Referring to No. 4, you have seen this before,
- 14 haven't you?
- 15 A Yes, sir.
- 16 Q Can you see this from where you're seated?
- 17 A Switch it up a little bit this way.
- 18 Q How about that?
- 19 Is that better?
- 20 A That's much better.
- 21 (Witness comes down from the stand.)
- 22 Q I'm going to hand you this pointer right here.
- 23 Point to the jury which one of these apartments you
- 24 lived in on November 20 of '06.
- 25 A Okay. This sign here---

1 Q You can step over a little bit more if you want to.

2 A I live from this apartment here. This one on this
3 side here. That is my backside.

4 Q You're on the second floor?

5 A On the second floor, that is correct.

6 Q Now, something's protruded out right there.
7 what is that?

8 A This one here?

9 Q Yes, sir.

10 A It's probably the shade from the lightbulb right
11 there. There's a light there.

12 Q Right here on the second floor of your apartment,
13 what is this right up here?

14 A It's a chair right there.

15 Q Can you walk out and sit outside?

16 A I walk out, sit outside, yes, sir.

17 Q Now -- and I'm going to pull this a little closer to
18 you if you don't mind.

19 Is that better?

20 A Yes, sir.

21 Q Now, that night after midnight, did you hear anything
22 across the street from your apartments over in this area
23 over here?

24 A Yes, sir.

25 Q Tell the jury what you heard.

Jose Hernandex - Direct examiantion
by Solicitor Myers

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1 A I heard -- it was about 1:30 in the morning. I heard
2 a loud noise.

3 Should I continue?

4 Q Yes, sir.

5 What happened when you heard that loud noise?

6 A When I heard that loud noise I got up the chair --
7 immediately I got up the chair. I heard a shot.

8 Q How many shots?

9 A First one, when I walk through the door to go
10 outside, the back porch, there were two more shots right
11 after that one, bam, bam, bam. When I went outside I
12 look. There was a truck at the second house in the back
13 here.

14 Q There was a what?

15 A The S.U.V.

16 Q S.U.V. truck?

17 A It was jammed between the tree and the end of the
18 house here like a little over the fence there. The truck
19 was stuck right in there, and when I look there were two
20 guys standing there at the back porch. Immediately one
21 walked out and went back to the truck, to the S.U.V. When
22 he got there I could hear the person. I cannot see the
23 person because the S.U.V. was blocking me, but it doesn't
24 block me to see the person that was standing with a gun
25 pointed down. I would see the person clearly.

- 1 Q Let me ask you something right there.
2 You could see a person with a gun?
- 3 A Right.
- 4 Q Which way was he pointing that gun, over your
5 apartment or where?
- 6 A No, right where he was standing on, in the apartment
7 where he's at like onto the floor.
- 8 Q Which one of those apartments was he pointing at?
- 9 A The second apartment. Right back there.
- 10 Q That person with the gun, could you tell anything
11 about him, his hair or anything else about him?
- 12 A The person that had the gun, he was wearing a white
13 t-shirt.
- 14 Q Uh-huh. (Affirmative).
- 15 A He got a very short haircut. I cannot identify him
16 by his face because I didn't see his face as was the other
17 one.
- 18 Q But that one with the gun had a short haircut?
- 19 A A short haircut, that's correct.
- 20 Q What about the other guy you saw out there?
- 21 A The other guy, he went immediately to the, to the
22 S.U.V. And when he got in the S.U.V. I could hear
23 somebody saying don't, please don't shoot. Right after he
24 said that that person fired two shots, boom, boom.
- 25 Q Did the person that fired two shots have long hair or

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by Solicitor Myers

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1 short hair?

2 A The person with the white t-shirt and the very short
3 haircut?

4 Q The other person you saw by the---

5 A The other person was, got very bushy hair with a
6 thick, long tail, very thick, and he walk out of the truck
7 and he went back there to the person where he was. At
8 that very moment before that a lady walked out of the
9 house and I could hear the lady saying, oh, no, no, what
10 you have done. The three of them, they stay there for a
11 little while. It was a very short moment. The lady went
12 back inside the house.

13 The two person, the one with the very short haircut
14 and the other one with the thick ponytail was wearing a
15 dark jacket, jeans. They went back to the street here and
16 they walk somewhere all the way down to here. As a matter
17 of fact, there was five shots altogether.

18 Q Five shots?

19 A Five, yes, sir. They walk all the way down to here
20 and they stop there. There are some mailboxes here, along
21 the tree here. They stop there. There is another light
22 here somewhere, another city light, street light.

23 Q Street lights out there?

24 A Yes, a street light out here somewhere. They stop
25 somewhere around here. The guy is still carrying the gun

1 walking down the street right here. They stop right here
2 somewhere. The guy with the ponytail, he turn around this
3 way. The guy with the gun walk away this way, still have
4 the gun in his hand, and when he got here I could not see
5 no more from my place.

6 Q Yes, sir.

7 A He disappeared there somewhere, but the guy with the
8 ponytail went back inside there with the guy who was
9 laying on the floor and he start kicking the guy. He
10 kicked the guy I'd say probably three, four times. After
11 that he went back to the S.U.V. and tried to get the
12 S.U.V. out, but it was impossible. He walk away. That
13 was my point of view from my house and he walk away.

14 Q Let me ask you, while you're right there, you said
15 when the two of them got right along -- see right here?
16 The two of them got right here?

17 A Yeah.

18 Q Which one had the gun in his hand is, the one with
19 the long hair or the short hair?

20 A The one with the short hair, the one in the white
21 t-shirt.

22 Q You said one went back to the apartments.
23 Was that the long hair or the short?

24 A The one went back, the guy with the long hair,
25 ponytail, thick, went back, went back to where the person

1 was laying down on the floor and start kicking and hitting
2 him a good three or four times, kicking him. Then he went
3 out around the tree here, went between the tree, tried to
4 get the S.U.V. out, but it was impossible to take the car
5 out of there. Then he walk away after that. which way he
6 went, walk away, that I don't remember.

7 Q Okay.

8 A Because even myself, I get a little -- I went inside
9 and relax. That was what I saw from my point of view from
10 my house.

11 Q Now, you said you heard two people say something over
12 there. You said a woman came out and she said something.

13 A Yeah, the lady walked out of the house after he fired
14 the two shot, and the other person was -- says oh, no, oh,
15 no, what you have done, that's what she said. That's why,
16 a little while after that. It, it was a fast time. Not
17 seconds. And she went back in the house.

18 Q Now, you said you heard somebody else say something
19 over there.

20 A I heard the person say please don't, don't shoot.

21 Q Could you tell whether that was a man's voice or a
22 woman's?

23 A It was a man's voice.

24 Q A man's voice?

25 A Yes, sir.

1 Q And after he said, no, no, don't shoot me, what did
2 you hear then?

3 A Two shots.

4 Q Could you see the person pulling the trigger and
5 shooting the gun?

6 A I could see the person from my point of view, from an
7 angle, pointing the gun down, yes, I do. I could see the
8 person. He fired the two shots. I could see that.

9 Q Those other shots, the first shots before you went
10 out, you don't know who shot those?

11 A No.

12 Q You couldn't see that?

13 A The first one -- it was one shot and then, after
14 that, too fast after that one, that one, I don't know. I
15 didn't see nothing with that. The one I saw on the side,
16 yes, I did.

17 Q You can have your seat.

18 A (Witness returns to the stand.)

19 Q Mr. Hernandez, after all of this, did some police
20 cars and police officers arrive at the scene later?

21 A Oh, yes. They were, right immediately, the police
22 officers were there.

23 Q Please answer any questions they have. Thank you,
24 sir.

25 CROSS-EXAMINATION

Jose Hernandez - Cross-examination
by Mr. Duncan

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1 BY MR. DUNCAN:

2 Q Mr. Hernandez, I'm going to ask you if you can
3 identify photos for me.

4 Your Honor, I'll get them marked for identification.

5 (WHEREUPON, three photographs were marked as
6 Defendant's Exhibit Nos. 4 through 6 for identification
7 purposes only at this time.)

8 Q I'll ask you to identify that.

9 A What do you mean by identify?

10 Q Do you recognize that scene?

11 A Do I recognize the picture?

12 Q (Nods affirmatively.)

13 A What is -- yeah, that's a place that's across the
14 street from me, yes, sir.

15 Q In fact, that picture or that photo was taken from
16 your balcony?

17 A This photo was taken from my balcony. Some picture I
18 believe was taken from my balcony, but I don't know if
19 this is one of them.

20 Q Does that look like it was taken from your balcony?

21 A Might be, yes. Yes, sir.

22 Q And it was---

23 A Yes, sir, that's the angle is what, when I leave,
24 yes, sir.

25 Q Is it fair to say that's about a hundred feet or

Jose Hernandez - Cross-examination
by Mr. Duncan

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1 so---

2 A I would say so from what I, from when the back, I
3 leave my house to that distance, I would say about a
4 hundred feet away. I didn't say---

5 Q Okay. Let me ask -- and the one I just asked you,
6 I'm sorry, for the record was marked for identification
7 No. 4.

8 Okay. Marked for identification 5, could you tell me
9 what that appears to be or do you recognize that?

10 A I was not that close that night. It was at night,
11 but a hundred feet away. I could see things and this --
12 this is just about the color of the S.U.V. that was --
13 this is the S.U.V. that was in there.

14 Q To your knowledge, that's---

15 A This is the right picture. This is the tree. This
16 is the, how it got stuck right in there---

17 Q And---

18 A ---but I cannot tell you about plate numbers or
19 things like that. I cannot tell you.

20 Q I'm not asking you for that.

21 Now, Defendant's Exhibit No. 6, I'll show you that
22 also.

23 A What's this?

24 Q Can you identify that also?

25 A Yeah, identified this too, yes.

Jose Hernandez - Cross-examination
by Mr. Duncan

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1 Q Tell us what that is.

2 A This is an S.U.V.

3 Q Okay.

4 A Yes.

5 Q In the place it was that night?

6 Defendant's 4 is a street view with people and
7 Defendant's 5 and 6 are pictures of a truck.

8 Now, there's -- as I understand it, there's a wall---

9 A In my words -- I'm sorry, sir. I don't want to
10 interrupt you. In my words, there is places in this area
11 where they are all the same.

12 Q Okay.

13 A So, this is one of the kind, has to be this one, sir.

14 Q Okay. Now, I'm going to ask you, on this Exhibit
15 No. 4, when you're -- let me see if I can find -- okay.
16 If you could, come down here and/or just show us right
17 here where I'm pointing to.

18 That's a wall, is it not?

19 A I'm not related to this kind of -- because I don't
20 know. There is so many apartments like that that they
21 aren't the same. I don't know which one is this one.

22 Q Okay.

23 A I'm concerned about what I am here today.

24 You follow me?

25 Q Yes, sir.

1 A There is so many places like that that they aren't
2 all the same, the same room, same apartments, and
3 everything. I cannot tell you which one is this one. I
4 cannot tell you.

5 Q This is 86 Fox Run Lane, which has been identified as
6 that middle unit. Okay.

7 A Okay.

8 Q All right. And if you would, come down here for a
9 second if you could.

10 A (Witness comes down from the stand.)

11 Q Let me ask you a couple of questions.
12 Behind the tree is an air conditioning unit?

13 A Yes.

14 Q And you see the air conditioning unit?

15 A Yes.

16 Q And there is a wall behind the air conditioning unit,
17 correct?

18 A There is a small wall that is off the side of the
19 house wall. It's about this high.

20 Q All right.

21 A That's how high it is. It's not high---

22 Q And it points out towards the street, correct?

23 It's not parallel to the street. Let me see. I've
24 got something that's already been put into evidence.

25 Okay. This has already been put into evidence,

Jose Hernandez - Cross-examination
by Mr. Duncan

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1 Defendant's Exhibit 2. There is a wall behind the air
2 conditioning unit, correct?

3 A That's, that's a bolder difference, yeah.

4 Q And that's---

5 A This is the clear view from my house right there.

6 Q So, that---

7 A I'm sorry. You can see how clear it is.

8 Q And that's the damage that was done to the wall---

9 A From the truck. From the S.U.V.

10 Q Okay. Can you draw me---

11 A I can't---

12 Q ---right with your pen---

13 A I can't---

14 Q I would like you to try.

15 THE WITNESS: I would like to say that he's trying to
16 confuse me, sir. I'm not up to that. I just want to do
17 what I have to do. I would like to have a seat.

18 THE COURT: Have a seat. If you don't think you can
19 draw, then you can describe it.

20 Q I'd like you to give it your best effort. You know,
21 Mr. Parker is entitled to the best testimony you can
22 possibly give, wouldn't you say?

23 wouldn't you say that?

24 A would I say that?

25 Q Yes, sir.

1 A I'd say---

2 Q He's entitled to the best possible testimony from
3 you, isn't he?

4 THE COURT: You don't have to answer that question.

5 THE WITNESS: Do my best, yes, sir.

6 Q Okay. With my pen---

7 A Uh-huh. (Affirmative).

8 Q would you take my pen please?

9 would you mark for me in this picture how much, where
10 the S.U.V. was?

11 If you'd like, use Exhibit 6 and 5.

12 A The S.U.V was behind the wall here between the tree
13 and this wall.

14 Q Okay.

15 A It was not sticking to it like onto the, too close to
16 the street or whatever it was. It's showing you that is
17 right between the house and the tree.

18 Q So, is this picture, No. 5, an accurate reflection of
19 where it was that night?

20 A Should be.

21 Q It should be. So---

22 A Should be.

23 Q So, would you agree with me that this S.U.V is
24 blocking the view in-between these two walls?

25 A No, it's not.

Jose Hernandez - Cross-examination
by Mr. Duncan

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1 Q Okay. You're saying this---

2 A No, it's not because if I said to you that is
3 blocking the view and it's blocking for me to see from my
4 point of view from my house I'd be lying to you. I have
5 not come here to do that. I have come here to tell the
6 truth, not to take away and not to add.

7 MR. DUNCAN: Your Honor, I would like to introduce
8 Defendant's Exhibit No. 5 into evidence.

9 THE COURT: Yes, sir.

10 SOLICITOR MYERS: No objection.

11 THE COURT: Without objection, it's introduced as
12 Defendant's Exhibit No. 5.

13 (WHEREUPON, Defendant's Exhibit No. 5 was received
14 into evidence at this time.)

15 MR. DUNCAN: Your Honor, I'd like to publish or show
16 this to the jury.

17 THE COURT: Certainly.

18 Can you continue with your testimony while they're
19 viewing that picture?

20 MR. DUNCAN: And I would like to introduce
21 Defendant's Exhibit No. 6 into evidence at this time also.

22 SOLICITOR MYERS: No objection.

23 THE COURT: All right. So moved into evidence,
24 Defendant's Exhibit No. 6.

25 (WHEREUPON, Defendant's Exhibit No. 6 was received

1 into evidence at this time.)

2 Q Is that an accurate reflection of the position of the
3 S.U.V. in relation to the walls that night?

4 A It might be. It might be. This is a very close
5 picture.

6 Q Okay.

7 A They give you a different view from the points of
8 views, a view of what I'm trying to get into you, but it
9 might be---

10 Q Okay. And what you're saying is that this S.U.V. in
11 this picture was not blocking your view whatsoever?

12 A It was not blocking the view for me to look at the
13 person pointing, going down to the floor, to the person
14 who was on the floor. It was not pointing the view at me.

15 Q And that person was inside on the patio, were they
16 not?

17 A I -- excuse me?

18 Q They were inside---

19 A Yes, they were inside the patio.

20 Q The patio?

21 A Yes.

22 Q They were inside the two walls?

23 A Yes, I would say, I would -- I can't ask -- I don't
24 see the person on the floor. I see the person from my
25 point of view, and I said that I don't know how many times

Jose Hernandez - Cross-examination
by Mr. Duncan

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1 already to you, pointing the gun to the floor, down.

2 Q Okay. You're saying that a person pointing a, a gun
3 down, that your view would not have been blocked in any
4 way by this S.U.V.?

5 A No, it was not.

6 Q I'd like to---

7 A No, it was not.

8 Q Pass---

9 A There is a pretty long distance between the tree and
10 from where these people were standing inside?

11 THE COURT: You may pass it to the jury, sir.

12 Q Mr. Hernandez, if you would, take my pen please.

13 A (Witness complies.)

14 Q would you mark on the floor of the patio where the
15 people were that you saw, where they were standing?

16 A I could mark you the people that was pointing the gun
17 down.

18 Q That's the only person you saw?

19 A That's the only person I, that I saw the person --
20 that was the only view that I have from my house from my
21 wall through the S.U.V. down that I can see the person
22 standing right here, right here, at this point right here,
23 that I can see pointing the gun down. What that person
24 was I don't know, but I know that person was pointing the
25 gun down and I have a clear view for that.

1 Q I'm sorry. Are you finished, Mr. Hernandez?

2 You just marked a line out on the pine straw some
3 three or, feet into the patio.

4 Would you put me an X where the person was standing?

5 A The person pointing the gun?

6 Q Briefly---

7 A I tell you, again, I don't come here to make drawing.
8 I come here to testify for what I saw. You cannot block
9 me out for that because if I change my statement I'd be
10 lying to this Court. I don't come here for that, and I
11 repeat to you, again, I don't come here to take away nor
12 to add. What I saw is what I said. This is my statement.

13 Q So, is it fair then that the person you saw was
14 standing somewhere along this line?

15 A Right where my clear view.

16 MR. DUNCAN: I'd like to hand that to the jury.
17 That's already in evidence. That's Defendant's No. 2.

18 THE COURT: That's No. 2?

19 MR. DUNCAN: Already in evidence.

20 Q So, you can't tell us anything better than a spot, a
21 couple of feet onto the pine straw to a spot three or
22 four feet inside?

23 A No, I can't. I can't, I can't tell. As a matter of
24 fact, I don't even went to that place the following day
25 after somebody showed up at my house the next day because

Jose Hernandez - Cross-examination
by Mr. Duncan

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1 they wanted some information about it.

2 Q All right, sir.

3 A By the time I went out there the truck was gone in
4 the morning.

5 Q All right, sir.

6 A Gone.

7 Q So, just to be certain, I want you to -- on
8 Defendant's Exhibit No. 4, would you mark that photo and
9 show us the area you're referring to?

10 A The area where if -- with an X?

11 Q Yes, sir.

12 A You want me to mark it with an X?

13 Q (Mr. Duncan nods affirmatively.)

14 A Yes, sir.

15 Q All right, sir. Mr. Hernandez, were you aware that
16 there were seven bullet casings recovered from that
17 evening?

18 A I don't know, sir. I heard five shots.

19 Q You---

20 A I'm not aware of anything that happened before or
21 after that. I'm aware that I heard five shots. Now,
22 somebody got hurt through those five shots. That's what
23 I'm aware of. I don't hear nothing before. I don't know
24 nothing after. I know about those five shots that I can
25 hear from my house very close. I don't know nothing about

1 nothing else.

2 Q What kind of time period was this?

3 A In that---

4 Q Five seconds, two seconds?

5 A A little more than that. Five shots, yes, pretty
6 more -- the first three shots were fast, yes, between one
7 second and another, bam, bam, bam.

8 Q Okay. So, you're---

9 A The other two, they took a little longer, yes.

10 Q So, I'm sorry. You're saying the first three shots
11 were quick?

12 A I said to you again, the first shot, boom. After
13 that, probably a second, bam, bam, two more.

14 Q Okay. And that would have been that kind of time
15 period like boom, boom, boom, that quick?

16 A Somewhere, yeah.

17 Q Okay.

18 A Something like that, yes.

19 Q All right. So, you didn't hear seven shots?

20 A No, sir.

21 Q I notice you've got your glasses on and you've been
22 taking them on and off?

23 A I leave it on all the time. No matter what. This is
24 my reading glasses. That's all I use them for.

25 Q Did you have them on that night?

Jose Hernandez - Cross-examination
by Mr. Duncan

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1 A No, sir.

2 Q Okay.

3 A Don't need them. Not to drive either.

4 Q Can you tell us how much time passed between the
5 first three shots and the next two you heard?

6 A The first three shots and then the next two shot, by
7 the time I walk outside was probably right away, second or
8 two. I need to walk out there, that's all to walk out
9 there, and then after that that's when I saw the guy with
10 the gun pointing down, took a little longer for him to
11 fire the two shots after he said please, don't, don't
12 shoot.

13 Q Okay. And you saw the weapon?

14 A I saw the weapon after he walked out with the weapon
15 in his hand, yes.

16 Q So, did you see the weapon as you say he's holding it
17 down?

18 A No, I saw his hands pointing down.

19 Q Okay. So, you didn't actually see that person fire
20 the gun?

21 You didn't see a gun in his hand?

22 A I heard the shot, yes.

23 Q But you didn't see him do it?

24 A I said to you I heard the shot and I said to you
25 again that I saw the guy, the same guy that fired the two

1 shots walking out with the gun in his hand and walked down
2 about a hundred feet away probably with a gun in his hand
3 on his friend.

4 Q But whenever you heard the shots, you can't put the
5 gun in the short haired man's hand, can you?

6 A I don't follow.

7 Q His back was turned to you, right?

8 A He was -- yeah, not completely. He was like off the
9 side.

10 Q He was off to the---

11 A When I see a, at an angle, what I would say a
12 45-degree angle from my house down. His back was not
13 completely---

14 Q When you---

15 A You asked me a question. Let me finish. His back
16 was not completely towards me. He was a little bit off
17 the side pointing the gun towards down. I can see the
18 side completely down.

19 Q But you didn't see the gun in his hand?

20 All you heard was, and saw, was an arm?

21 A But I heard the shots from his hand.

22 Q You don't know who had the gun on the porch and was
23 firing?

24 A Only was one person.

25 Q Where was the second person?

Jose Hernandez - Cross-examination
by Mr. Duncan

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1 A The second person was trying to start the car to go.

2 Q Oh, he was already doing that?

3 A Yes.

4 Q So, who fired the first shot, the first two shots,
5 first two shots, first three shots?

6 A Sir, I don't know. I told you already I don't know.
7 I was in the house in the living room. I heard the shot.

8 Q Okay.

9 A I walk outside and right after that shot I heard two
10 more. Now, you asked me who fired the second two shots, I
11 would say the person that is pointing the gun down. I
12 mean you asked me the same -- you keep asking me the same
13 question, the same question, the same question. I don't
14 know what I'm going to tell you.

15 Q But the bottom line, Mr. Hernandez, is, is you did
16 not see a gun in his hand when that, when you say the
17 shots rang out, did you?

18 A No, I did not see the gun in his hand, no.

19 MR. DUNCAN: Thank you, sir.

20 THE COURT: Ma'am?

21 THE WITNESS: Am I done?

22 THE COURT: Might have a little bit more. Thank you.

23 MS. FULLWOOD: This will probably be brief.

24 CROSS-EXAMINATION

25 BY MS. FULLWOOD:

1 Q Mr. Hernandez, at the time that this went on -- first
2 of all, you're a welder by trade, right?

3 A I'm sorry?

4 Q You're a welder?

5 A I was, yes.

6 Q But you weren't working at the time this happened,
7 right?

8 A Working?

9 Q Weren't you out on disability?

10 A Yes, I'm out on disability, yes.

11 Q Okay. And you were at the time that you witnessed
12 these things, correct?

13 A Yes.

14 Q All right. Am I correct in understanding the reason
15 you were up that late is because you were watching T.V.
16 because your stomach hurt?

17 A Yeah, I watch T.V. sometimes because my stomach hurt
18 because I can't sleep very well. I go, I go back to a
19 late sleep, but different reason. We all do.

20 Q Okay. But on that night you were up late because of
21 not feeling well, is that correct?

22 A I never, I never testified to anybody that I wasn't
23 feeling well.

24 Q Do you remember whether you did or not?

25 A I don't remember if I said that.

Jose Hernandez - Cross-examination
by Ms. Fullwood

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- 1 Q Okay.
- 2 A And if I said that, that I'm late up at night, I
- 3 might have a good reason because sometime I have a little
- 4 bit in my back, but I have to wait until I get some, some
- 5 time to go to sleep, yes.
- 6 Q Okay. Now, Mr. Hernandez, what exactly is the
- 7 disability that you---
- 8 A I'm sorry?
- 9 Q What is the disability that you have?
- 10 A What is the disability that I have?
- 11 Q Uh-huh. (Affirmative).
- 12 A Back injuries.
- 13 Q Back injuries?
- 14 A Yes.
- 15 Q And what injuries do you have to your back?
- 16 A What injuries do I have?
- 17 Q Uh-huh. (Affirmative).
- 18 A Fusions.
- 19 Q Okay.
- 20 A Herniated disk.
- 21 Q Okay.
- 22 A And pinched nerves.
- 23 Q Pardon me?
- 24 A I have pinched nerves in the spinal---
- 25 Q Pinched nerve?

1 A Yes.

2 Q Okay.

3 A Yes.

4 Q Were you getting medical treatment for those
5 problems?

6 A I used to, yes.

7 Q Okay. At the time that this happened in
8 November 2006, were you under a doctor's care?

9 A Just kind of getting off a doctor's care, yes.

10 Q Okay.

11 A I don't need medicine no more.

12 Q Okay.

13 A God helped me.

14 Q So now you're off the medicine?

15 A Yes, no more medication for my injuries and so, so,
16 so.

17 Q But you were still under the doctor's care then?

18 A Probably two years, three years probably, yeah,
19 some---

20 Q Okay.

21 A ---some medication, yes.

22 Q What kind of medication did the doctor give you?

23 A Just simple pain killers probably.

24 Q Pain killers?

25 A That's all, yes.

Jose Hernandez - Cross-examination
by Ms. Fullwood

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1 Q Do you remember the names of any of them?

2 A No, I don't remember none.

3 Q Did you get the prescriptions filled at the drug
4 store?

5 A I get them, yeah, the doctor give it to the drug
6 store, yes.

7 Q So, the doctor would give you a prescription and
8 you'd take it to the---

9 A Of course, yes.

10 Q Of course, yes. I'm not trying to insinuate you got
11 them some other way.

12 A I'm sorry.

13 Q Never mind.

14 A Okay.

15 Q Now, as I understand it, you're telling us you saw
16 one person on the patio?

17 A When I walk out there, yes, the two persons that were
18 standing there and one walk outside to get into the S.U.V.
19 So, the only person who was there along with the person
20 with the white t-shirt and very short haircut, yes.

21 Q Okay. So, one person you saw stay on the patio, is
22 that correct?

23 A For that moment, yes.

24 Q And you say that the other person got in the S.U.V?

25 A The other person got into the S.U.V. That's when the

1 guy, that's when the person pointing the gun down to him
2 fired the two shots.

3 Q And which door did the second man use to get into
4 that S.U.V.?

5 A I'm sorry?

6 Q The man who got into the S.U.V.---

7 A Uh-huh. (Affirmative).

8 Q ---which door did he go into of that car?

9 A Driver's side.

10 Q Driver's side?

11 A Uh-huh. (Affirmative).

12 Q So, you saw him open the door and go into the
13 driver's side?

14 A Yes.

15 Q Okay. And then that left the other man on the patio?

16 A Supposedly the one that was, that was there when he
17 left, yes.

18 Q Exactly.

19 A It's only two of them. Not three. Only two.

20 Q So, if there were any other people on the patio, you
21 didn't see them?

22 A There were no more people on the patio.

23 Q No other people?

24 A Only the lady that walked out after he shot the guy
25 twice.

Jose Hernandez - Cross-examination
by Ms. Fullwood

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1 Q Okay. Did you see the guy who was shot or was he out
2 of your line of view?

3 A I'm sorry?

4 Q Did you see the guy that was shot or was he out of
5 your line of view?

6 A He was out of my---

7 Q He was out of your line of view?

8 A My opinion, my idea, was that he was on the floor,
9 already hurt, because I could see the guy pointing down.
10 So, I could remind me that somebody was on the floor
11 already. That's all I can tell you.

12 Q That's something you assume, not something you saw,
13 is that right?

14 A I didn't see anything on the floor.

15 Q And if there was anyone else there you couldn't see
16 them, is that right?

17 A I don't follow your question.

18 Q Okay. You saw one man. You assume another man was
19 somewhere.

20 You couldn't see him, right?

21 A For somewhere -- I could not see him.

22 Q You said you couldn't see a man on the floor?

23 A No, I didn't see the man on the floor, no.

24 Q Okay.

25 A No.

1 Q All right.

2 A I didn't see that one, no.

3 Q All right.

4 A I would lie if I said to you, yes.

5 Q You didn't see any other one, right?

6 A I see the other one.

7 Q Other than the man you say you saw and the man you
8 say you assume was there, you didn't see anybody else---

9 A No.

10 Q ---on the patio?

11 A No.

12 MS. FULLWOOD: All right. Beg the Court's
13 indulgence.

14 (Pause.)

15 MS. FULLWOOD: Thank you, Mr. Hernandez. No further
16 questions.

17 THE WITNESS: Thank you.

18 SOLICITOR MYERS: No further questions. Thank you,
19 sir.

20 THE COURT: Thank you, Mr. Hernandez. You can stand
21 down.

22 SOLICITOR MYERS: Call Teddy Xanthakus.

23 TEDDY XANTHAKUS, having been first duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

Teddy Xanthakus - Direct examination
by Solicitor Myers

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1 BY SOLICITOR MYERS:

2 Q Theodore, you're in uniform.

3 Who do you work for?

4 A Lexington County Sheriff's Department.

5 Q How long have you been with them?

6 A Twenty-six years.

7 Q What division are you in?

8 A K-9 division.

9 Q Back on November 20 of '06 were you with the
10 Sheriff's Department then?

11 A Yes, sir, and I was assigned to the road patrol.

12 Q That night, after midnight, did you get a call to
13 respond to a certain place in Lexington County?

14 A Yes, sir, dispatch had put out a BOLO over the radio
15 and gave an address to the Church Hill Apartments off Bush
16 River Road and stating that shots were fired, and I was
17 with two other officers at Cromer's and 378 and we
18 responded from there to Church Hill Apartments with shots
19 fired.

20 Q Referring to this map, No. 7, you said you were at
21 Cromer's and 378?

22 A Yes, sir.

23 Q 378 is right along in here?

24 A Correct.

25 Q Where was Cromer's and 378 approximately?

1 A Approximately would be about right here to, off-ramps
2 to I-20.

3 Q When you get the call here, where do y'all proceed?

4 A We proceed to 378 to the ramp to I-20 heading east
5 bound. I believe Master Deputy Bill Finch was out in
6 front. He went to St. Andrews Road to I-26 to St. Andrews
7 Road. Deputy Lewis and I took the Bush River Road exit
8 and took Bush River Road to Church Hill Apartments.

9 Q When you said you were responding, some of you went
10 on St. Andrews Road and some of you went on Bush River
11 Road?

12 A Yes, sir.

13 Q Which road did you go on?

14 A Bush River Road, sir.

15 Q Looking at the aerial photograph, No. 4, would Bush
16 River Road be below or up top?

17 A Bush River Road would be below. St. Andrews Road
18 would be on top.

19 Q Do you know approximately what time you arrived at
20 the apartments?

21 A I want to say about maybe either 1:32 or 1:37. I
22 can't remember.

23 Q When you got there, how did you come into the
24 apartments?

25 Let me hand you this. Tell the jury which way you

Teddy Xanthakus - Direct examination
by Solicitor Myers

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1 came into the apartments.

2 A Okay. I was behind Deputy Danny Lewis.

3 Q Is this Danny Lewis right here?

4 A Yes, sir.

5 Q Okay.

6 A When we got off the interstate we hit Bush River
7 Road, and as we're traveling Bush River Road towards St.
8 Andrews, we made an entrance into the Church Hill
9 Apartments, and we were coming up this driveway here. And
10 as we were circling, if I remember correctly, dispatch was
11 giving us follow-up reports of shots being fired, possible
12 suspect wearing a hoodie sweatshirt, long hair in the
13 middle of the roadway.

14 So, we pulled in. Danny Lewis stopped his patrol
15 car. I stopped behind Danny and I got out. I believe it
16 was right in this area. We do a procedure with, where
17 we're going into a situation that is unknown. We call it
18 a felony car stop, and basically what a felony car stop
19 is, we take cover behind our patrol car vehicles. As the
20 doors are open, we draw our weapons and we make loud
21 verbal commands toward the person in front of us, and we
22 strive to give him verbal instructions on what we want him
23 to do. And for this situation, Deputy Danny Hughes was
24 giving the verbal commands, and I was playing a cover
25 officer, which basically I don't say nothing so there's no

1 confusion in the commands.

2 Q Now, who are they giving commands to?

3 A It was a gentleman that had on like a hoodie jacket
4 type, looked like he had long hair like dreads, wearing
5 dark clothing. That's all I can remember.

6 Q where was he when y'all approached him?

7 A He was actually walking in the middle of the roadway.
8 Let's see. The incident was right here. So, he was about
9 right here. He was walking -- he was like -- he was in a
10 daze. Just walking around.

11 Q And what did y'all end up doing with him?

12 A Deputy Lewis gave him the commands. Actually, the,
13 the gentleman that we encountered in the roadway was
14 following our verbal commands. He turned around backward
15 and -- I'm sorry. As he turned around we told him to walk
16 backwards towards us with his hand up. When he got within
17 a distance, I approached the subject and handcuffed him,
18 okay, for security reasons, and then we escorted him back
19 to the vehicle, to the passenger's side.

20 Q Did you or Deputy Lewis frisk him before you put him
21 in the car?

22 A We patted him down for weapons, and I believe brass
23 knuckles was found in the pocket, right front pocket.

24 Q Now, where was he placed?

25 A After he was, made sure that the handcuffs were

Teddy Xanthakus - Direct examination
by Solicitor Myers

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1 secured and double locked, we placed him in the patrol car
2 in the back seat.

3 Q whose patrol car?

4 A Deputy Lewis' patrol car.

5 Q Now, once you had him secured out there and you said
6 the patrol car is in the background in this area right
7 here?

8 A Yes, sir.

9 Q What did y'all do after you placed him in the patrol
10 car?

11 A Once we got the -- we, we secured the gentleman, and
12 when the other units start arriving on the scene, we
13 needed to secure the back porch of the residence. So, I
14 left Deputy Lewis, once officers got to back up Danny
15 Lewis, and I went up there to secure the back scene of the
16 apartment complex.

17 Q When you got to that apartment complex, did you
18 notice anything out on the patio area?

19 A Yes, sir, there was a vehicle between a tree and the
20 apartment complex and that's what caught our attention.

21 Q What type of vehicle was that?

22 A It was a -- I think it was a dark gray Durango S.U.V.

23 Q I'm going to use these so we won't put so many
24 photographs in. Come down here, please.

25 A (Witness comes down from the stand.)

1 Q This is Defense Exhibit No. 5.

2 Do you recognize that?

3 A Yes, sir.

4 Q Okay.

5 A I recognize the vehicle.

6 Q The patio, where would the patio be?

7 A The patio would be on the passenger's side. So, that
8 would be---

9 Q Passenger's side?

10 A Yes, sir.

11 Q And then on the left side, the driver's side, what's
12 that over there?

13 A A tree.

14 Q And looking at Defense Exhibit No. 6, is that another
15 photograph of the driver's side?

16 A Yes, sir.

17 Q And then looking at Defense Exhibit -- I think that's
18 all.

19 No, State's No. 2, what does that depict?

20 A That is the front end of the vehicle.

21 Q Now, if you could step down here a minute.

22 what is this right over here?

23 A That would be the side wall of the apartment complex,
24 the fence.

25 Q On the other side of the wall is what?

Teddy Xanthakus - Direct examination
by Solicitor Myers

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1 A would be the incident location that, where there was
2 a, a body laying in the patio.

3 Q Do you recognize these three photographs?

4 A Yes, sir.

5 SOLICITOR MYERS: We offer these three in, Your
6 Honor.

7 MS. FULLWOOD: If we could just see which three they
8 are.

9 THE COURT: Yes, ma'am.

10 (Pause.)

11 MS. FULLWOOD: without objection.

12 (WHEREUPON, three photographs were marked as State's
13 Exhibit Nos. 11 through 13 and received into evidence at
14 this time.)

15 Q Come down here.

16 Q (Witness comes down from the stand.)

17 A It's been referred to about an air conditioning unit
18 within the wall inside the patio.

19 Are you familiar with that?

20 A I believe so.

21 Q where is the wall that was right next to the patio on
22 this photograph?

23 A It would be back over here.

24 Q And that's the passenger's side?

25 A Yes, sir.

1 Q Is this a closer-up view in State's No. 12?

2 A Yes, sir.

3 Q And do you see the air conditioning unit in there?

4 A Yes, sir, right back there.

5 Q And then finally, No. 13, is that closer showing the
6 damage on the front of the car when it hit the wall?

7 A Yes, sir.

8 Q You can have your seat back.

9 A Thank you.

10 (Witness returns to the stand.)

11 Q Was anyone in the vehicle when you arrived?

12 A No, sir.

13 Q Looking at the diagram, where is the patio area on
14 there?

15 A The patio would be this area here, sir.

16 Q All right.

17 A That would be the back entrance from the roadway.

18 Q And the car was where?

19 A The car would be about right here.

20 Q Now, you were saying something about, something in
21 that patio.

22 Did you go inside the patio area?

23 A If I remember correctly, somebody was saying on the
24 radio about check the back patio, they believe there is a
25 person hurt in the back patio area. I came around the

Teddy Xanthakus - Direct examination
by Solicitor Myers

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1 corner and I observed a body laying about right here.

2 Q Did you notice anything else in that area?

3 A As I was looking, I believe this was the patio door.

4 At the time, no, sir, I know there was some stuff piled up
5 on the side. I did remember seeing a treadmill and that
6 was about it, and by that time E.M.S. had arrived on the
7 scene I believe.

8 Q Was that person out there, was he deceased or was he
9 alive?

10 A I believe he was alive and E.M.S. had came in and
11 there was a shotgun laying next to the body. While the
12 E.M.S -- I removed the shotgun because of officer safety
13 and for the E.M.S. safety. I didn't know what the
14 condition of the person was that was laying down knowing
15 that he was still being alive. So, I moved the shotgun, I
16 believe, to over here to keep it from a distance and also
17 out of E.M.S.'s way so they could work on the person.

18 Q Did you take possession of that shotgun or you left
19 it there?

20 A I left it there.

21 Q Did you notice anything inside the apartment?

22 A Inside the apartment I did observe a black male
23 laying in I believe it was a clear -- let's see. I guess
24 this would be the kitchen. I believe he was laying about
25 right here, just sprawled out, and noticed that he was

1 laying on the floor and---

2 Q Alive or deceased?

3 A I believe he was deceased at the time.

4 Q You were some of the, one of the first officers on
5 the scene?

6 A My -- yes, sir, I would have to say so.

7 Q Now, after examining that, did you look back out into
8 the roadway anywhere and see anything that you, that
9 caught your attention?

10 A Yes, sir, actually after things started cooling down
11 a little bit and things became a little bit more under
12 control, we were getting the situation a little more under
13 control, I was looking down on the ground and I noticed, I
14 saw a piece of belt, fresh belt, and a blood trail
15 leading -- I believe there's like a little sidewalk or a
16 walkway that was going this way, and I noticed there was a
17 little bit of a blood trail, which at the time I didn't
18 realize a person -- an officer told me that a person got
19 hit by the vehicle and had come over here somewhere and
20 that's where we found him.

21 Q Is that where that blood trail led?

22 A Yes, sir.

23 Q Approximately from that diagram, where was this piece
24 of belt?

25 A The piece of belt was about right here in the roadway

Teddy Xanthakus - Direct examination
by Solicitor Myers

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1 I believe.

2 Q It was in the roadway?

3 A Yes, sir.

4 Q All right. Now, let me show you one more thing here
5 if I could.

6 Referring to Defense Exhibit No. 5, this is the back
7 of that S.U.V. --

8 A Yes, sir.

9 Q -- that was in the tree?

10 A Yes, sir.

11 Q There's a license tag on it?

12 A Correct.

13 Q Did y'all run down the license tag to determine who
14 owned that?

15 A Yes, sir, I did.

16 Q And do you have that?

17 A Yes, sir, instead of going inside the vehicle to try
18 to retrieve the registration I went ahead and called in
19 the tag to our dispatch. Dispatch came back also because
20 I was completing the tow slip or the, for the vehicle, tow
21 slip to put down the owner information. The vehicle came
22 back to a 2002 Mazda S.U.V. Came back to a, an Elizabeth
23 Richardson at 12, excuse me, 1412 Hyatt Avenue, Columbia,
24 South Carolina, 29203 of Richland County.

25 Q Hold on just a minute.

1 What was that address?

2 A The address, sir, was 1412 Hyatt Street.

3 Q Is that right, H-Y-A-T-T?

4 A Yes, sir.

5 Q In Columbia?

6 A Hyatt Avenue I should say.

7 Q You said something about a tow sheet.

8 What do you mean by your tow sheet?

9 A When we're having a vehicle towed, either at the
10 Sheriff's Department, it's a policy that if we're having a
11 vehicle towed, it is my policy that we fill out an
12 inventory tow slip. So, basically what it is, it has the
13 officer's name that did the tow slip, we have the owner's
14 name, the driver's name listed on there. So, if it's
15 towed to a tow company, they would notify the owner
16 saying, hey, we've got your car, you can pick up a copy
17 from the Sheriff's Department, and then bring it to us.

18 Since the vehicle was being towed to the county, to
19 the Lexington County Sheriff's Department compound, we did
20 a tow slip of what -- the best I could of the, the V.I.N.
21 number, the tag number, description of the vehicle, and
22 what from -- I could see from outside the vehicle from
23 looking in what was in plain view, and, so, that was
24 jotted down.

25 Q And once you arrived there with that vehicle, did

Teddy Xanthakus - Direct examination
by Solicitor Myers

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1 y'all allow anyone to go inside of the vehicle while you
2 were there?

3 A No, sir.

4 Q It was secured?

5 A Yes, sir.

6 Q And then you had a tow sheet with somebody to tow it
7 back to the Sheriff's Department?

8 A Correct.

9 SOLICITOR MYERS: We offer these two documents into
10 evidence, Your Honor.

11 THE COURT: Any objection?

12 MS. FULLWOOD: May I examine them?

13 (Pause.)

14 MS. FULLWOOD: No objection.

15 THE COURT: Without objection, State's Exhibits 14
16 and 15.

17 (WHEREUPON, the vehicle registration was marked as
18 State's Exhibit No. 14. The tow sheet was marked as
19 State's Exhibit No. 15. Both exhibits were received into
20 evidence at this time.)

21 Q You said something about E.M.S. people?

22 A Yes, sir.

23 Q E.M.S. folks were on the scene?

24 A Yes, sir.

25 Q Who were they dealing with?

1 A They were dealing with the gentleman on the back
2 porch, and I believe there was another crew working on the
3 man in the kitchen, sir.

4 Q Now, once the E.M.S. people deal with those two
5 victims and remove them or whatever, what do y'all do with
6 that scene out in the street around the car, the patio to
7 the apartment?

8 A What we do, sir, is we have a yellow tape called
9 crime scene tape and basically what we do is we rope off
10 the area to secure, to say that this is a non-restricted
11 entry area. So, we try to keep people out from entering
12 in just to see what's going on. So, we try to preserve
13 the crime scene and wait for the crime scene investigator
14 to show up.

15 Q Later on the crime scene investigators from the
16 Sheriff's Department arrive?

17 A Yes, sir.

18 Q Their function is to do what?

19 A The crime scene investigator basically will come in
20 and evaluate the scene from a distance, and then work
21 their way in, and then they will start taking photographs
22 of the area of what's necessary for evidence. We also
23 have investigators on the scene that are going around
24 knocking on doors, talking to neighbors to see if they
25 heard anything or seen anything.

Teddy Xanthakus - Direct examination
by Solicitor Myers

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1 Q Now, what happened to that S.U.V. vehicle that night?
2 what was done with it?

3 A If I remember correctly, sir, the S.U.V., once crime
4 scene got there, I believe they just wanted to wait to get
5 into the compound so nobody could make entry. We did have
6 the vehicle towed, and then once it was at the compound I
7 believe to, the crime scene took over and did the
8 fingerprint dust or whatever their protocol was for the
9 vehicle at the compound.

10 SOLICITOR MYERS: Answer any questions they have.

11 THE COURT: Yes, sir.

12 MS. FULLWOOD: Beg the Court's indulgence.

13 THE COURT: Yes, ma'am.

14 (Pause.)

15 CROSS-EXAMINATION

16 BY MS. FULLWOOD:

17 Q I wanted to first look at the three pictures the
18 State just put in evidence.

19 Officer, let me show you this picture and ask you, is
20 this another photo of the vehicle that was out there that
21 night?

22 A You mean a different picture than---

23 Q Yeah.

24 A I would say so. I mean I didn't take these pictures.

25 Q I understand.

Teddy Xanthakus - Cross-examination
by Ms. Fullwood

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1 But that's the vehicle, right?

2 A That is the vehicle.

3 Q Okay.

4 A Yes, ma'am.

5 Q And it was wedged between the tree and the patio
6 area?

7 A Yes, ma'am, there was like a fence, retaining wall
8 type. That's how it was wedged in I believe.

9 Q Okay.

10 SOLICITOR MYERS: No objection.

11 MS. FULLWOOD: Move to admit this into evidence.

12 (WHEREUPON, the photograph was marked as Defendant's
13 Exhibit No. 7 and received into evidence at this time.)

14 MS. FULLWOOD: I don't have any further questions.

15 CROSS-EXAMINATION

16 BY MR. DUNCAN:

17 Q Deputy, I don't remember exactly what you said. You
18 moved the shotgun that was immediately next to the
19 person---

20 A Yes, sir.

21 Q ---who was on the back porch?

22 A Yes, sir.

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

24 SOLICITOR MYERS: Thank you, sir. Nothing further.

25 THE COURT: Officer, thank you very much for being

1 here. Please step down.

2 Ladies and gentlemen, I believe, at this point, it's
3 a convenient time to take a short break. Let's take a
4 short mid afternoon break. There are a couple of things
5 that I need to do, and we're going to have somebody to
6 come in and look at the stand and make sure it's working
7 appropriately. So, we're going to take about a 15 minute
8 break and we will begin again at 3:30, and then we will
9 resume the trial of the case.

10 Thank you very much. Please don't discuss the case
11 or begin any deliberations.

12 (WHEREUPON, the following takes place outside the
13 presence of the jury.)

14 THE COURT: Unless there's anything else to take up
15 right now, we'll be back on the record at 3:30.

16 (WHEREUPON, a short recess was taken at this time.)

17 THE COURT: Are you ready for the jury?

18 SOLICITOR DIXON: Yes, sir.

19 MS. FULLWOOD: Yes, Your Honor.

20 (WHEREUPON, the following takes place within the
21 presence of the jury.)

22 THE COURT: You may call the next witness.

23 SOLICITOR MYERS: Danny Lewis.

24 DANNY LEWIS, having been first duly
25 sworn, testified as follows:

Danny Lewis - Direct examination
by Solicitor Myers

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1 DIRECT EXAMINATION

2 BY SOLICITOR MYERS:

3 Q Deputy, you're in a deputy's uniform.

4 How long have you been with the Sheriff's Department?

5 A Almost nine years the 20th of November.

6 Q Were you working with the Sheriff's Department
7 November of '06?

8 A I was.

9 Q Did you have an occasion to go out to the Church Hill
10 Apartments, 86 Fox Run?

11 A I did.

12 Q Where were you when you received a call on
13 November 20?

14 A We was at an Amoco Station there at the corner of
15 Highway 278 and Chromer's Road right off I-20.

16 Q Were you with Teddy Xanthakus?

17 A Yes.

18 Q Were you riding in the same car with him?

19 A No, sir, we were in separate vehicles.

20 Q About what time did you get this call?

21 A Shortly before 1:30 in the morning.

22 Q When y'all got to the apartment -- well, what did you
23 observe in the back of the apartments?

24 A We entered in off the Bush River Road side of Church
25 Hill Apartments. And when you come in, you go by the --

1 the office will be on the right hand side before that
2 curve to the left. When we got to the curve I noticed the
3 vehicle up in the bushes against one of the apartments on
4 the right hand side, and observed a black male in the
5 roadway wearing a hoodie, a dark hoodie.

6 Q What type of hair did he have?

7 A He had long hair, dreaded type.

8 Q And what did you and Teddy do with regard to that
9 person?

10 A I exited the vehicle. I was, I was in a car in front
11 of Teddy. He was behind me, and I got out of the car in
12 the doorway of my car for cover. I drew my weapon and
13 started giving the individual commands. He fit the
14 description of the person we were given information over
15 the radios as we was in route.

16 Q Did y'all approach him?

17 A We didn't approach him. I gave him commands that, so
18 that he ended up back at our vehicle, at the front of my
19 vehicle back over towards the passenger's side.

20 Q What did you do then?

21 A Once Officer Xanthakus had, had him handcuffed, we
22 saw nobody else in the immediate area, went to the back of
23 the vehicle and frisked him for any weapons, took stuff
24 out of his pockets to see what he had on him.

25 Q Who did the frisking?

1 A I did.

2 Q What did you find in his pockets?

3 A Various things among what -- there was a pair of
4 brass knuckles in his right front pocket.

5 Q Let me hand you this bag of stuff here.

6 You recognize that?

7 A Yes, sir, looks like the contents of what I took off
8 him that night.

9 Q You said something about a pair of brass knuckles.
10 Are they there in that bag?

11 A Yes, sir, they are.

12 Q Could you take them out?

13 A (Witness complies.)

14 Q You removed that from him?

15 A Right front pocket, yes, sir.

16 Q Kept it in your possession?

17 A Yes, sir.

18 Q Did you later turn that into evidence?

19 A I did.

20 SOLICITOR MYERS: We offer this into evidence, Your
21 Honor.

22 THE COURT: Any objection?

23 MS. FULLWOOD: No objection.

24 MR. DUNCAN: No objection.

25 THE COURT: Without objection.

Danny Lewis - Direct examination
by Solicitor Myers

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1 SOLICITOR MYERS: We're going to remove that and
2 place it in this envelope.

3 THE COURT: Yes, sir, without objection, set of brass
4 knuckles, State's Exhibit 16.

5 (WHEREUPON, the brass knuckles were marked as State's
6 Exhibit No. 16 and received into evidence at this time.)

7 Q Now, it's one more thing in there, kind of long, a
8 hair pick.

9 Is that on him also?

10 A Yes, sir.

11 Q Okay. You can put that back in the bag?

12 A Okay.

13 Q Whose vehicle was this person placed in?

14 A He was in the passenger rear of my patrol car.

15 Q Now, the S.U.V. that you said was up in the tree by
16 the apartments---

17 A Yes, sir.

18 Q ---what, if anything, was done with that vehicle?

19 A It was towed. I didn't do the tow sheet. Deputy
20 Xanthakus did. As I was maintaining custody of
21 Mr. Johnson and -- but I did follow that vehicle being
22 towed to the Sheriff's Department to be secured for, to be
23 processed later.

24 Q And what was it towed on, Sheriff's Department
25 vehicle or---

1 A No, sir, tow company, and I don't -- I think it was
2 Wingard's. I indicated it was Wingard's Tow Service came
3 and towed the vehicle.

4 Q Were you at the apartments when it was loaded onto
5 the vehicle?

6 A Yes, sir.

7 Q And when the vehicle left the apartments, where did
8 it go?

9 A It went straight to the Sheriff's Department.

10 Q What did you do?

11 A I followed right behind them.

12 Q When you got to the Sheriff's Department, what did
13 y'all do with that vehicle?

14 A It was released to the evidence custodian. I believe
15 it was Sergeant McMullen.

16 Q Now, the person that you took these brass knuckles
17 off, the person that you put in your car, where did you
18 take him?

19 A I took him to the Sheriff's Department to meet with
20 Investigator Collins, the interview room there at the
21 department.

22 Q State's Exhibit No. -- so, can you recognize that?

23 A Yes, sir.

24 Q And who is State's Exhibit No. 10?

25 A Curtis Johnson.

Danny Lewis - Direct examination
by Solicitor Myers

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1 Q And who is Curtis Johnson?

2 A He's the individual that was in the middle of the
3 roadway that night dressed in the dark hoodie who was
4 involved in the shooting.

5 Q And where did you remove the brass knuckles from his
6 person?

7 A From the right front pocket.

8 SOLICITOR MYERS: Answer any questions they have.
9 Thank you.

10 CROSS-EXAMINATION

11 BY MS. FULLWOOD:

12 Q Officer, can you look in here and tell us what all
13 was in his pocket?

14 You told us about the knuckles and the hair pick.
15 What else was in the pocket?

16 A There's several receipts, like Wal-Mart, tape
17 measure, cell phone, couple of coins, looks like some Chap
18 stick, and a neck band with some keys.

19 Q Okay. And that was -- was that all in the right
20 front pocket?

21 A No.

22 Q No?

23 A It was in various and sundries of pockets, but---

24 Q Okay.

25 A ---I made specific notice in my report when I wrote

1 it that that's where those came from.

2 Q Okay.

3 A Because they were considered a weapon.

4 Q All right. But those were the only thing in the
5 pocket?

6 A Yes.

7 Q Or do you remember?

8 A Yes, ma'am, that's all.

9 Q It is the only thing?

10 A Say it one more time.

11 Q Were there other items in that right front pocket?

12 A This could have been. I don't remember.

13 Q You don't remember?

14 A No.

15 MS. FULLWOOD: Okay. That's all the questions I
16 have, Your Honor.

17 THE COURT: Mr. Duncan.

18 MR. DUNCAN: No questions.

19 SOLICITOR MYERS: That's all the questions we have.

20 THE COURT: Thank you, officer. You can step down.
21 Next witness.

22 SOLICITOR DIXON: Sergeant McMullen.

23 BARBARA MCMULLEN, having been first
24 duly sworn, testified as follows:

25 DIRECT EXAMINATION

Barbara McMullen - Direct examination
by Solicitor Dixon

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1 BY SOLICITOR DIXON:

2 Q Sergeant McMullen, where do you work?

3 A Lexington County Sheriff's Department.

4 Q Tell the jury what you do at the Sheriff's
5 Department.

6 A I run the evidence room, supervisor at the evidence
7 room.

8 Q How long have you worked in the evidence room?

9 A Since 2002.

10 Q As part of your duties in the evidence room, do you
11 receive evidence from officers relating to crimes?

12 A Yes.

13 Q And did you have an opportunity to receive any
14 evidence in this case?

15 A Yes.

16 Q Can you tell the jury, on the night of November 20,
17 2006, did you receive a phone call relating to this case?

18 A I did.

19 Q As a result of that phone call, what did you do?

20 A I reported to headquarters and met with Danny Lewis
21 and took possession of a vehicle.

22 Q Can you tell me what you did with that vehicle?

23 A We have a warehouse that has a garage door entrance
24 into it where we secure vehicles that they're going to
25 process, and it protects them from the weather mostly and

1 we secured it inside that building.

2 Q Who has access that, to that building?

3 A Just myself and my two custodians.

4 Q While you were there, did anybody else have access to
5 the vehicle before it was secured?

6 When the tow driver brought it to the shed, did
7 anyone else have access to it between the time he took it
8 off the truck and the time the shed was locked?

9 A No.

10 SOLICITOR DIXON: Thank you, Sergeant McMullen. No
11 further questions.

12 THE COURT: Ma'am.

13 MS. FULLWOOD: No, ma'am. No, sir.

14 MR. DUNCAN: No questions.

15 THE COURT: Thank you very much.

16 SOLICITOR DIXON: State calls Master Deputy Wilson
17 Matthews.

18 WILSON MATTHEWS, having been first duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY SOLICITOR DIXON:

22 Q Deputy Matthews, where do you work?

23 A I work in the Lexington County Sheriff's Department.

24 Q How long have you been in law enforcement?

25 A A little over 28 years.

Wilson Matthews - Direct examination
by Solicitor Dixon

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1 Q How long have you been at the Sheriff's Department?

2 A A little over 28 years.

3 Q What division of the Sheriff's Division, Department
4 do you work in?

5 A I currently work in the traffic division.

6 Q Tell the ladies and gentlemen of the jury what your
7 duties in the traffic division are.

8 A One of our duties is we go out and enforce laws in
9 the county writing citations. The other thing we do is
10 take care of school crossings, funeral escorts, and we
11 also do collision reconstruction, a team of us in the
12 county that do collision reconstruction.

13 Q You say you do collision reconstruction.

14 Can you tell the jury, have you received training how
15 to do that?

16 A Yes, through the South Carolina Criminal Justice
17 Academy. A five week course I had to do, very intense
18 course, and we get, have to complete testing every two
19 weeks the first four weeks, and a major test at the end to
20 get through all the education.

21 Q Is there some kind of certification that you received
22 at the end of that course?

23 A You're not actually certified. We are just given a
24 certificate that said we had completed the training.
25 There is only actually one place in the country that you

1 can actually get certified, and we haven't got certified,
2 but we have completed the training.

3 Q How long ago did you do the training at the justice
4 academy?

5 A I believe it was completed in the late 90's.

6 Q Okay. And can you tell us, between the late 90's
7 when you went to that class and today, have you done how
8 many reconstructions?

9 A Probably have done ten to twelve reconstructions.

10 Q Okay. Were you called out in a case involving 86 Fox
11 Run Lane?

12 A I was.

13 Q Can you tell the jury when you were called out?

14 A I believe it was on October 20 approximately eight
15 o'clock that morning we were called.

16 Q Could it have been November 20?

17 A I'm sorry. November 20.

18 Q That's okay.

19 Deputy, when you received the call and you arrive at
20 the scene, what's the first thing that you do?

21 A The first thing we do is basically document the
22 scene. First thing we do is take pictures. We had our
23 CSI folks assist us in taking the pictures of the scene,
24 and I'll go through and make markings of things we want to
25 make sure are still there. We'll mark skid marks or

Wilson Matthews - Direct examination
by Solicitor Dixon

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1 anything on the roadway or off the roadway, anything we
2 need to know, gouges, things like that.

3 In this situation we had an acceleration mark we had
4 to make notation of. Also there is damage to the building
5 we made notation of.

6 Q Deputy Matthews, let me ask you, how do you know
7 where to start looking?

8 A We look for the physical evidence, any testimony of
9 any witnesses that are there, officers that there are
10 knowing about the scene and looking for physical, looking
11 for gouge marks and skid marks, and in this situation the
12 car has already been moved. So, normally have vehicles
13 there to tell where the vehicles are.

14 Q When you arrived out of the complex at 86 Fox Wood
15 Lane, did you find an acceleration mark?

16 A Yes, ma'am, I did.

17 Q I, I've got some pictures, deputy, I would ask you to
18 look at if you don't mind. If you could, just look
19 through these pictures and identify them for me. Tell me
20 if you know what they are.

21 A These are pictures of that scene that were taken that
22 day that we were out there taking our measurements.

23 Q Are those accurate pictures of the scene the way you
24 saw it on November 20?

25 A These fairly and accurately represent that scene as

1 we found it.

2 SOLICITOR DIXON: Your Honor, at this time there are
3 five pictures we move into evidence.

4 THE COURT: Any objection?

5 MR. DUNCAN: None.

6 MS. FULLWOOD: None.

7 THE COURT: State move into the record as State's
8 Exhibit I believe 17 through 21.

9 (WHEREUPON, five photographs were marked as State's
10 Exhibit Nos. 17 through 21 and received into evidence at
11 this time.)

12 Q I show you State's Exhibit 17, and ask if you can
13 identify that for us.

14 A This is a picture of the accelerator road mark left
15 on the roadway.

16 Q And 18?

17 A Another wide view from across the street showing
18 almost all the scuff mark right there.

19 Q These road marks on the roadway, what are those?

20 A Those are paint marks I placed either in the skid or
21 the scuff mark. These marks don't stay there forever.
22 So, what we do is we make notes with the paint. So, if we
23 come back later, we can find out where that mark was.

24 Q I also see a mark on the curb there.

25 Can you tell me where that mark is?

Wilson Matthews - Direct examination
by Solicitor Dixon

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1 A That mark indicated the place where the right front
2 tire went over the curb into the shrubbery.

3 Q State's 19, tell us what that is.

4 A This, again, is a scuff mark that shows -- I have a U
5 at the beginning to determine where the scuff mark was and
6 follows it on up to the curb.

7 Q And 20 and 21, tell us what those show.

8 A These are close-up pictures of the curve area where
9 the right front tire jumped over the curb.

10 Q Okay. Deputy Matthews, do you have your report with
11 you?

12 A Yes, ma'am, I do.

13 Q Okay. If we could, refer to that report quickly.
14 You told us and obviously we have pictures of an
15 acceleration mark.

16 What is an acceleration mark exactly?

17 A Acceleration mark is a mark that's left when somebody
18 starts a vehicle very hard. They punch the accelerator
19 and it's giving more power to the tire, the car can't
20 keep up, so the car starts spinning and can keep spinning
21 until you let up on the accelerator or the car catches up
22 with the motion of the tires that are spinning, what's
23 left when you accelerate hard.

24 Q And it leaves this kind of mark on the pavement?

25 A That's correct.

1 Q Did you measure the acceleration mark left on the
2 pavement?

3 A Yes, we did.

4 Q How long was it?

5 A Thirty feet ten inches.

6 Q You measured with this paint on the picture where the
7 mark started to where it hit the curb, is that correct?

8 A That's correct.

9 Q And that mark on the curb that we have close-ups and
10 you painted in this picture, what does that mark mean to
11 you?

12 A That tells us that's where the tire hit the curb and
13 went up over the curb. That's where it made contact with
14 the curb.

15 Q That's what these marks are?

16 A That's correct.

17 Q Can you tell us anything about after the vehicle hit
18 the curb?

19 A There were some indications that the vehicle
20 continued through the shrubbery. There was some shrubbery
21 and some pine straw. It continued through there, pretty
22 much straight-lined, until it hit into the patio wall of
23 the apartment building.

24 Q From the time the vehicle hit the curb to where it
25 impacted the apartment building, can you tell us how far

Wilson Matthews - Direct examination
by Solicitor Dixon

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1 that was?

2 A That would have been twelve feet nine inches.

3 Q So, the total you're looking at, over 40 feet, over
4 50 feet?

5 A That's correct.

6 Q Thirty feet and ten inches is the first figure?

7 A That's correct.

8 Q You said the car had impacted the patio wall?

9 A That's correct.

10 Q Was there damage to that wall?

11 A Yes, this wasn't in the drawing we showed. It
12 indicated the wall had been pushed over to the right
13 approximately two feet from where it started from.

14 Q Were there any other marks on that wall that
15 indicated anything to you?

16 A We also noticed, on the right side of the wall, there
17 was a black marking showing where a tire had been spinning
18 against that wall and it left the black mark.

19 Q And what does it mean that the tire was spinning
20 against that wall?

21 A It means apparently it was still being accelerated as
22 it hit that wall, still being accelerated and trying to go
23 forward.

24 Q After it hit the wall?

25 A Correct.

Wilson Matthews- Cross-examination
by Ms. Fullwood

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1 Q Thank you. Answer any questions the defense may
2 have.

3 CROSS-EXAMINATION

4 BY MS. FULLWOOD:

5 Q Ready?

6 A Yes.

7 Q Okay. Deputy, when you examined that car, did you
8 notice there was a bullet hole in the driver's window?

9 A Yes, there was a hole in the driver's window and also
10 I believe the left side window had been hit and broke in.

11 Q Okay.

12 A I'm assuming that was a bullet hole.

13 Q All right. Didn't you find that after the vehicle
14 hit the patio wall it shifted to the left?

15 A That is correct. You can see where it hit the wall
16 and then the car that was gone by the time we got there,
17 but with the, what the deputies on the scene told us, its
18 final resting was always up against the tree that's there
19 in the yard area, and that would shift over a couple of
20 feet over from where it hit until its final rest.

21 Q So, the final resting space was sort of between the
22 wall and a tree?

23 A That's correct.

24 Q And what did you find was the estimated speed of the
25 vehicle as it was approaching the curb?

Wilson Matthews- Cross-examination
by Ms. Fullwood

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1 A We estimated the speed to be between probably 15 and
2 20 miles an hour.

3 Q All right. And would the vehicle have maintained
4 that speed, increased the speed, or decreased the speed as
5 it headed towards the wall and the tree or can you tell?

6 A You can't tell for sure, but from our indications it
7 was a speed accelerated on the roadway and against the
8 wall still appeared to be accelerating. We assumed it
9 would continue, maintain that speed, probably would not
10 pick up speed going through pine straw and bushes like
11 that, but it would probably maintain that speed.

12 Q Were there also some smaller type shrubs or plants
13 that it would have had to have gone through?

14 A There were some small shrubs and they're not real
15 large and they're the smallest in that area.

16 Q That would have prevented the vehicle from gaining
17 additional speed?

18 A That would be correct.

19 Q Thank you, officer.

20 MR. DUNCAN: Beg the Court's indulgence.

21 (Pause.)

22 MR. DUNCAN: No questions.

23 THE COURT: Redirect?

24 SOLICITOR DIXON: No, Your Honor.

25 THE COURT: May---

Wilson Matthews- Cross-examination
by Ms. Fullwood

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1 THE WITNESS: I was under subpoena with the defense.

2 Am I---

3 THE COURT: Do you need him any longer?

4 He indicates he was under subpoena.

5 MS. FULLWOOD: We can release him from our subpoena.

6 THE COURT: All right.

7 SOLICITOR MYERS: Call Henry Dukes.

8 HENRY DUKES, having been first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR MYERS:

12 Q whom are you employed by?

13 A Lexington County Sheriff's Office.

14 Q How long have you been in law enforcement?

15 A Approximately 24 years.

16 Q And what is your position with the Lexington County
17 Sheriff's Department?

18 A I am part of the fugitive apprehension unit. I am
19 assigned to the U.S. Marshall Service Operation Intercept
20 Task Force.

21 Q And being assigned to that unit, you work with
22 various other departments around South Carolina?

23 A Yes, sir.

24 Q Now, did you have an occasion, Henry, to go out to
25 the Church Hill Apartments on November 20 of 2006?

Henry Dukes - Direct examination
by Solicitor Myers

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1 A Yes, sir, I did.

2 Q When you got there, did they have anyone in custody
3 already?

4 A Yes, sir, there was an individual inside a patrol
5 car.

6 Q Did you discuss with some officers out there at the
7 scene to get information from them?

8 A Yes, sir, I did.

9 Q Based on that, what were you then looking for or who
10 were you looking for?

11 A Kerwin Parker.

12 Q Any particular address?

13 A Hyatt Street in Columbia.

14 Q That being in Columbia, what did you do?

15 A I notified my counter part task force officer at the
16 time, Lawrence Ashford, who also is employed by the City
17 of Columbia.

18 Q And what were your instructions to him?

19 A That we possibly had a suspect who was involved in a
20 homicide that was at the Hyatt Avenue address.

21 Q Did you give a name?

22 A Yes, sir, I did. I advised him the individual's name
23 we were looking for was Kerwin Parker.

24 Q Did you give a specific address other than Hyatt
25 Avenue?

1 A Yes, sir, I did. I cannot recall the numbers right
2 now off the top of my head, but we did at that time. I
3 had it in front of me.

4 Q Did you go over to Hyatt Avenue yourself?

5 A Yes, sir, we left the scene on St. Andrews Road of
6 the apartments, myself and another investigator that was
7 assigned to the task force at the time. We traveled to
8 the Hyatt address.

9 Q When you arrived over in Columbia on Hyatt Avenue,
10 were there Columbia police officers there or not?

11 A Yes, sir, there was.

12 Q What did you observe when you got there?

13 A Prior to us getting to the address on Hyatt Avenue we
14 were advised that the individual, Kerwin Parker, had been
15 located by Detective Ashford at that time.

16 Q Okay. Go ahead.

17 A Upon arriving, the front door of the Hyatt Avenue
18 address was open. We could observe an individual sitting
19 in the living room area in a chair. I approached the
20 front door of the address. I was met by Detective Ashford
21 who advised me that Kerwin Parker was there, and that he
22 was in custody, and he was actually sitting in the chair.

23 Q All right, sir. Did you go on inside the home or did
24 you stay out?

25 what did you do?

Henry Dukes - Direct examination
by Solicitor Myers

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1 A I went as far as the front door. I did not enter the
2 residence.

3 Q Okay. Did you, did you observe anyone come out of
4 the house with any particular items?

5 A I observed the mother come out of the house. She was
6 carrying a pair of shoes which she placed on a vehicle
7 that was parked there. I was also advised by Detective
8 Ashford in reference to those were the shoes that the
9 individual had on and that there was also a firearm in the
10 vehicle.

11 Q In the vehicle?

12 A Yes, sir.

13 Q There were other Columbia police officers there
14 around this accompanying all of that, is that correct?

15 A Yes.

16 Q Now, did you have anything to do with those shoes or
17 weapons in the car at that time?

18 A No, sir, the Columbia police officers, there was one
19 that was basically stationed by the vehicle, and then
20 there was one that took possession of the shoes. There
21 was really no reason for me to have any dealing with those
22 shoes. I had another investigator on the way from
23 Lexington that would handle all of that.

24 Q All right, sir. Now, with reference to Kerwin
25 Parker, what, if anything, did you do with him?

1 A Basically when Sergeant Oscar McIntosh with Lexington
2 County arrived on the scene he asked me if I would take
3 and transport Mr. Kerwin Parker to the Lexington County
4 Sheriff's Office, which I agreed I would.

5 Q You took him to the Lexington County Sheriff's
6 Department?

7 A Yes, sir.

8 Q I want to hand you a photograph and see if you can
9 identify it please.

10 Do you recognize State's Exhibit No. 9?

11 A Yes, sir, I do.

12 Q Who is that?

13 A That is Kerwin Parker.

14 Q Is that the man that you transported to the Sheriff's
15 Department on November 20?

16 A Yes, sir.

17 Q And he had what type of hair?

18 A Short hair.

19 Q Now, could you just give me a rough guess about what
20 time we're talking about, night, daylight, or what?

21 A I would want to call it early morning. It was still
22 dark. It was prior to six o'clock.

23 Q Okay. Thank you. Please answer any questions---

24 MS. FULLWOOD: No questions, Your Honor.

25 THE COURT: Mr. Duncan.

Henry Dukes - Cross-examination
by Mr. Duncan

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1 CROSS-EXAMINATION

2 BY MR. DUNCAN:

3 Q Mr. Parker was very cooperative with you, wasn't he?

4 A Yes, sir, he did everything we asked him to.

5 MR. DUNCAN: Thank you, sir.

6 SOLICITOR MYERS: No further questions.

7 THE COURT: Thank you, Mr. Dukes. I appreciate it.

8 SOLICITOR DIXON: State calls Lawrence Ashford, Your
9 Honor.

10 LAWRENCE ASHFORD, having been first
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY SOLICITOR DIXON:

14 Q Mr. Ashford, where do you work now?

15 A I currently am employed by Akel Security and I work
16 for the Federal C.S.O program at the Matthew Perry
17 Courthouse.

18 Q And before you worked at the courthouse, where did
19 you work?

20 A City of Columbia since 1980 until I retired about ten
21 months now ago.

22 Q In November of 2006 you were working for the City of
23 Columbia?

24 A I was working for the City of Columbia and assigned
25 to the United States Marshall Service Task Force.

Henry Dukes - Cross-examination
by Mr. Duncan

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1 Q Can you tell us, as a person working for the City of
2 Columbia assigned to the task force, what were your
3 duties?

4 A My duties there, which I started in '91 with the
5 Marshall Service Task Force, was to locate fugitives. I
6 was a fugitive investigator basically and we looked for
7 people all over the east coast.

8 Q Did you have a, a counterpart in Lexington?

9 A Yes, we did.

10 Q Who was that?

11 A Mr. Henry Dukes.

12 Q Did you get a call from Officer Dukes on November 20,
13 2006?

14 A Yes, ma'am.

15 Q As a result of that call, what did you do?

16 A We received a call. Had just finished one case we
17 were working on about 1:30 in the morning. So, I received
18 a call from him in reference to a possible homicide case
19 or homicide case, and he gave me information in reference
20 to where that suspect may be at.

21 Q And do you remember where that was?

22 A It was at 1412 Hyatt Street in Columbia, South
23 Carolina.

24 Q Okay. As a result of that phone call, what did you
25 then do?

Henry Dukes - Cross-examination
by Mr. Duncan

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1 A I then got some information on the registration of a
2 vehicle, and we -- I met with Sergeant Cora, who was a
3 north region investigator in the City of Columbia, which
4 that street was in her area. We met, had a meeting,
5 discussed what was going on, and she brought along about I
6 think it was four other officers beside her and myself. I
7 think it was six of us.

8 Q Let me stop you for a second.

9 When you met with Sergeant Cora, did you have a name
10 or description to give to her?

11 A Yes, I did.

12 Q What was the name of that description?

13 A Kerwin Parker, black male. I think he was born in
14 the 80's, gave us a brief description.

15 Q Did you share that information with Sergeant Cora?

16 A Yes, I did. We had a meeting prior to going to the
17 house.

18 Q Then you went to the house.

19 Tell us what happened when you got to that address at
20 Hyatt Avenue.

21 A We showed up at the house with two marked cars.
22 Well, maybe three marked cars or four, and my unmarked
23 Crown Vic, and as we pull up to the house we can see the
24 door was open and there was a gentleman standing in the
25 yard.

1 Q okay. Did you interact with that gentleman?

2 A Yes, we did. We talked with him. He was -- he
3 asked us why we were there. We told him we was looking
4 for Kerwin Parker.

5 Q okay.

6 A He said he's in the front room and---

7 Q And what did you do?

8 A At that time we approached the house. We had the
9 house surrounded and myself, I think Sergeant Cora, and
10 maybe one other officer walked to the front door and
11 looked in, didn't see him at first, and when we walked in
12 I think we were approached by the mother and he came out
13 of a side room.

14 Q Did you notice anything at that point about his
15 appearance?

16 A He was dressed except he didn't have shoes on.

17 Q At that point, what did you do?

18 A I explained to him that we were there to detain him
19 and that he needed to get down and needed to check and
20 make sure he wasn't armed or anything.

21 Q Did you frisk him?

22 A Yes, we did.

23 Q okay.

24 A He was cooperative and we placed handcuffs on him.

25 Q At that point, did you ask him anything?

Henry Dukes - Cross-examination
by Mr. Duncan

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1 A We may have asked something. I think we were asking
2 questions. The mother answered them.

3 Q What did his mother tell you?

4 A We asked if there wasn't any guns in the immediate
5 area, and the mother said the gun is in the car.

6 Q Okay.

7 A Her Camry was out in the yard.

8 Q At that point, is Mr. Parker handcuffed?

9 A Yes.

10 Q Okay. What did you do?

11 A At that point I walked outside to put an officer on
12 the car to make sure no one went to the car or tampered
13 with the evidence there if there was any. I never looked
14 at it, and when I came back in I was about to read him his
15 rights, and the sergeant told me she had already read him
16 his rights.

17 Q Did you receive any other information from
18 Mr. Parker's mother?

19 A She volunteered some information I think---

20 MS. FULLWOOD: Your Honor, objection. This sounds
21 like hearsay.

22 SOLICITOR DIXON: I'm sorry, Your Honor.

23 Q Without telling us what she told you, did you receive
24 information from her?

25 A Yes.

Henry Dukes - Cross-examination
by Mr. Duncan

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1 Q Did she bring you anything or did she bring Sergeant
2 Cora anything?

3 A She brought something to Sergeant Cora.

4 Q Mr. Ashford, one more question.

5 When you were patting down Mr. Parker, handcuffing
6 him, did you notice any injuries on him?

7 A No, I did not.

8 Q Did you notice any blood?

9 A No.

10 SOLICITOR DIXON: Thank you. Answer any questions
11 the defense has.

12 MS. FULLWOOD: No questions, Your Honor.

13 THE COURT: Mr. Duncan.

14 MR. DUNCAN: Just one second.

15 (Pause.)

16 MR. DUNCAN: No questions.

17 THE COURT: Redirect is---

18 SOLICITOR DIXON: No, Your Honor.

19 THE COURT: Thank you, officer.

20 SOLICITOR DIXON: State calls Sergeant Olga Cora.

21 Your Honor, to make sure, Mr. Ashford can be released
22 from his subpoena?

23 THE COURT: Any objections?

24 MS. FULLWOOD: No, Your Honor.

25 THE COURT: All right, Mr. Ashford. Have a great

Olga Cora - Direct examination
by Solicitor Dixon

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1 day.

2 OLGA CORA, having been first duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY SOLICITOR DIXON:

6 Q Sergeant Cora, where do you work?

7 A City of Columbia.

8 Q How long have you worked there?

9 A Since November 9, 1987.

10 Q What are your duties at the City of Columbia?

11 A I'm a street supervisor.

12 Q What does that mean?

13 A Patrol, have a 28 day cycle, change.

14 Q Were you working on November 20 of 2006?

15 A I was. We were on night shift.

16 Q Did you receive a call related to this case?

17 A Yes, I did.

18 Q As a result of that call, tell me what you did.

19 A Investigator Lawrence Ashford called me, that he
20 needed to go to check for an alleged suspect at 1412 Hyatt
21 Street, which is right off 4200 North Main within my
22 assigned area, and we met at 3900 North Main Street, North
23 Main and Monticello at the Bi-Lo parking lot. So---

24 Q At that time -- I'm sorry.

25 A So he could give me more information on the issue.

1 Q At that time, did Investigator Ashford give you a
2 description of the person he was looking for?

3 A Yes, he did.

4 Q Did he tell you a name?

5 A Yes, he did.

6 Q After that meeting, did you then go to that address,
7 1412 Hyatt Avenue?

8 A Yes, we did.

9 Q Please tell the jury what happened when you got
10 there.

11 A Well, we drove up to the house. It wasn't bright
12 inside, and we parked right in -- about two houses back.
13 We got out of the car. I instructed four of my people to
14 go to the -- one to the left rear corner and one to the
15 right rear corner so we can have all the exits covered and
16 Ashford and me, we approached. It was a short yard,
17 grassy area, and the door was open to the house.

18 Q Did you approach the door?

19 A Yes.

20 Q And what, if anything, did you see?

21 A Well, a gentleman was standing there and Lawrence
22 Ashford asked him if the individual, Lexington County, was
23 looking for was there and he said he's inside.

24 Q What did you then do?

25 A I told, I told Lawrence Ashford let's go. So, the

Olga Cora - Direct examination
by Solicitor Dixon

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1 door was already open and there was like two little or
2 three little brick steps and we entered the residence.

3 Q Did you see anyone inside the residence?

4 A Immediately a lady came out from the left hand side.
5 There was a door, she came out, identified herself as the
6 lady of the house.

7 Q Did she give you her name at that point?

8 A I don't recall.

9 Q Okay.

10 A But she said she was the owner of the house, and when
11 Lawrence Ashford asked for the, if the individual we were
12 looking for was there, she also said she was his mother.
13 At that point a young gentleman came out from the right.

14 Q Did you notice anything about his appearance?

15 A He was dressed with no shoes.

16 Q Okay. What happened then?

17 A Well, Lawrence Ashford immediately told him to get on
18 the ground and handcuffed him and patted him down.

19 Q Okay. Sergeant Cora, at some point did you and
20 Investigator Ashford begin discussing getting a search
21 warrant?

22 A Yes, we immediately begun talking about a search
23 warrant.

24 Q Did you have any conversation with the lady of the
25 house, Mr. Parker's mother as she identified herself,

1 about that?

2 A Not really, but she indicated don't tear up my house,
3 I'll give you anything y'all need.

4 Q At that point did you ask her to sign a consent to
5 search form?

6 A Yes, I did.

7 Q I'm going to present you with a document, Sergeant
8 Cora, and ask if you can identify that.

9 A Yes, I do.

10 Q What is that?

11 A That's a consent to search form for the residence,
12 yard, cars.

13 Q And who is it that filled out that consent to search
14 form?

15 A I -- that's my handwriting. I filled it out.

16 Q Whose signature is it?

17 A That's Mrs. Richardson's, the lady who identified
18 herself to me as the lady of the house.

19 Q What is Mrs. Richardson's first name?

20 A Elizabeth.

21 Q Okay. Did she sign that in your presence?

22 A Yes, she did.

23 SOLICITOR DIXON: Your Honor, we'd offer this as, as
24 State's Exhibit 22.

25 THE COURT: Any objection?

Olga Cora - Direct examination
by Solicitor Dixon

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1 MS. FULLWOOD: No, Your Honor.

2 MR. DUNCAN: No, Your Honor.

3 THE COURT: Entered into evidence as State's Exhibit
4 22.

5 (WHEREUPON, the consent form was marked as State's
6 Exhibit No. 22 and received into evidence at this time.)

7 Q At some point did the lady who identified herself as
8 Elizabeth Richardson bring you anything?

9 A Yes, she did.

10 Q What did she bring you, if anything?

11 A She went back in the left hand door and came out with
12 a pair of Nike's.

13 Q I'm going to show you an exhibit, Sergeant Cora, and
14 ask you if you can identify them?

15 Are these the shoes that she brought you?

16 A Yes.

17 Q And is this the way they looked that night?

18 A Yes.

19 Q I'm sorry. Let me set these down for you, make sure
20 you can see them.

21 A There was some red around here.

22 Q This one's got a hole in it.

23 Did it have a hole in it that night?

24 A No.

25 SOLICITOR DIXON: Your Honor, we'd mark these for

1 identification, put them back in the back.

2 THE COURT: So marked for identification.

3 (WHEREUPON, the tennis shoes were marked as State's
4 Exhibit No. 23 for identification purposes only at this
5 time.)

6 Q Did you have any information as to whose shoes they
7 were?

8 A According to his mother he went somewhere to clean up
9 and left them somewhere in the kitchen area.

10 Q And he would be who?

11 A Her son.

12 Q Kerwin Parker?

13 A Yes.

14 Q That's all the questions I have. Answer anything the
15 defense has.

16 THE COURT: Any questions?

17 MS. FULLWOOD: No questions.

18 THE COURT: Questions, Mr. Duncan?

19 MR. DUNCAN: Just one second.

20 (Pause.)

21 MR. DUNCAN: No questions.

22 THE COURT: Thank you, officer. You can step down.

23 SOLICITOR MYERS: Call Darius Wade.

24 SOLICITOR DIXON: Your Honor, to make sure, Sergeant
25 Cora can be excused?

Darius Wade - Direct examination
by Solicitor Dixon

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1 THE COURT: Any objections?

2 MS. FULLWOOD: None, Your Honor.

3 THE COURT: All right, Officer Cora. Have a good
4 day.

5 DARIUS WADE, having been first duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR MYERS:

9 Q Officer Wade, who are you employed by?

10 A City of Columbia Police Department.

11 Q How long have you been employed with them?

12 A Approximately four and a half years.

13 Q Were you working back on November 20 of 2006?

14 A Yes, I was, sir.

15 Q Officer Wade, did you have an occasion to go to 1412
16 Hyatt Avenue in Columbia along with Sergeant Cora?

17 A Yes, I did, sir.

18 Q When you got over there, did you go inside the house
19 or did you stay outside?

20 What did you do?

21 A I stood by the, on the porch by the front door.

22 Q Okay. While you were at the porch or the front door,
23 did you observe anybody come out the house with anything?

24 A Not at that time. Investigator Ashford asked me to
25 come walk over to a car with him. He said -- someone said

1 the weapon was inside the glove box, and he just wanted me
2 to stand by until Lexington County crime scene can come
3 and take control of the vehicle.

4 Q You were the one that he asked to secure the vehicle
5 so no one could get in and out?

6 A Yes, sir.

7 Q Did you look inside the vehicle at that time or not?

8 A No, sir.

9 Q So, your job was to secure that vehicle in which a
10 gun was supposed to be inside?

11 A Yes, sir.

12 Q what else did you do?

13 A At that time, I believe a minute or two later,
14 Sergeant Cora exited the residence. She was carrying some
15 gray Nike's that she placed on the trunk of the vehicle
16 and told me to keep an eye on that also until Lexington
17 County crime scene could come and take control of that.

18 Q These tennis shoes, these gray tennis shoes, did she
19 put them on a different car than the one you were watching
20 or the same car?

21 A She put it on the same car than the one I was
22 watching.

23 Q You're now watching a car with shoes on the back?

24 A Yes, sir.

25 Q You said to leave them there until someone from

Darius Wade - Direct examination
by Solicitor Dixon

411

1 Lexington County arrived.

2 Did some officer from Lexington County arrive?

3 A Yes, sir, I believe it was a crime scene
4 investigator.

5 Q You remember his name?

6 A No, I don't, sir.

7 Q This officer from Lexington County that arrived, what
8 did he do?

9 A At that time he said he was the crime scene
10 investigator that took pictures the way everything was,
11 and he went inside the glove box and retrieved the
12 firearm.

13 Q What about the shoes?

14 A He also collected the shoes, took pictures of the
15 shoes where I believe it was placed on the hood of the car
16 and he tagged it into evidence.

17 Q And were you there when the individual who was
18 looking for was arrested?

19 A Yes, I was.

20 Q You saw him?

21 A Yes.

22 Q Have long hair or short hair?

23 A He had short hair.

24 Q About like yours?

25 A Yes, sir.

Oscar McIntosh - Direct examination
by Solicitor Myers

412

1 SOLICITOR MYERS: Appreciate it. Answer any
2 questions they have.

3 THE COURT: Any questions?

4 MS. FULLWOOD: No questions.

5 MR. DUNCAN: No questions.

6 THE COURT: Officer, step down.

7 SOLICITOR MYERS: Call Officer McIntosh.

8 THE COURT: You may step down.

9 SOLICITOR MYERS: May he be excused?

10 MS. FULLWOOD: No objection, Your Honor.

11 THE COURT: You may be excused. Have a great day.

12 OSCAR MCINTOSH, having been first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY SOLICITOR MYERS:

16 Q Who are you employed by?

17 A Lexington County Sheriff's Office.

18 Q How long have you been in law enforcement?

19 A With a total combination, I'm a retired security
20 policeman in the Air Force, I have 27 years.

21 Q Now, Oscar, did you have an occasion, on the date in
22 question, to go out to the Church Hill Apartments?

23 A Yes, sir, on that night I was the supervising
24 sergeant of the investigative response team.

25 Q When you got out there, what, if anything, did you

Oscar McIntosh - Direct examination
by Solicitor Myers

413

1 do?

2 A Upon my initial arrival, Detective Collins arrived
3 shortly after I did and I informed him to assume the lead
4 investigative position and to start the investigation of
5 the individual that was being detained by the patrol
6 units.

7 Q And what else?

8 A Next I kind of surveyed the area, took a look at the
9 view up-front, went around to the view of the front of the
10 apartments to see what was going on on that side. I had
11 my victim's advocates there. They were trying to take
12 care of the two females that were present and we later
13 learned that there were children upstairs, and I had them
14 go up, retrieve those kids, and bring them out of the
15 apartment, and take them to a neighbor's apartment.

16 Q You wanted to get them away from the crime scene?

17 A Absolutely.

18 Q Now, after being over there, by this time, did some
19 crime scene investigators and other Lexington County
20 personnel arrive?

21 A Yes, sir.

22 Q Now, did you have an occasion to observe anything
23 around the back of the apartment?

24 A At the back of the apartment I did observe the S.U.V.
25 that was up against the apartment. I did not actually go

1 onto the patio. So, I did not observe anything there. By
2 that point in time the individual that was shot on the
3 patio had been removed by the ambulance service.

4 Q E.M.S.?

5 A E.M.S., yes.

6 Q Did you go inside the residence to see what was going
7 on in there?

8 A I briefly went in and observed -- this was while I
9 was getting the children out. I observed the male lying
10 on the kitchen floor deceased.

11 Q Okay. Now, you saw the vehicle between a wall and a
12 tree?

13 A That's correct.

14 Q And State's Exhibit No. 14 has been testified to that
15 the, the registered owner on this is what?

16 A Elizabeth Richardson.

17 Q And what's the address?

18 A 1412 Hyatt Avenue in Columbia.

19 Q Okay. Now, did you have an occasion, that night or
20 early morning, to go to 1412 Hyatt Avenue in Columbia?

21 A I did.

22 Q When you got there, did you observe any type of
23 vehicles in the yard?

24 A Yes, this was a -- I believe it was a Toyota Camry
25 sitting to the right of the front door as you're facing

Oscar McIntosh - Direct examination
by Solicitor Myers

415

1 the house.

2 Q And what, if anything, did you do in regard to that
3 car?

4 A In regards to that vehicle, after speaking personally
5 first with Mr. Ashford, there was -- I was told the shoes
6 on the trunk were placed there by them, and that there was
7 a gun in the glove box.

8 Q All right, sir. And as a result of getting this
9 information, what did you do?

10 A I photographed the shoes on the trunk of the car in
11 the position that they were in, collected them and put
12 them into the vehicle, opened the glove box, photographed
13 the pistol in the glove box, removed it, sat it on the
14 seat, and took a picture of it there.

15 Q Did you take some more photographs of that pistol
16 later on?

17 A Yes, I also photographed the serial number on that
18 pistol.

19 Q I'm going to hand you these photographs and ask if
20 you can identify these.

21 A Yes, I can. These are pictures that I took on the
22 night of the incident at that vehicle at 1412 Hyatt
23 Avenue.

24 Q Does that depict the weapon that you talked about?

25 A This is the weapon that I collected.

1 Q And does that depict the shoes you talked about?

2 A Those are the shoes.

3 SOLICITOR DIXON: We offer these in evidence, Your
4 Honor.

5 THE COURT: Any objections?

6 MS. FULLWOOD: None from Mr. Johnson.

7 MR. DUNCAN: None.

8 THE COURT: So admitted into evidence, State's 24
9 through 30.

10 (WHEREUPON, seven photographs were marked as State's
11 Exhibit Nos. 24 through 30 and received into evidence at
12 this time.)

13 Q State's 24, what is that a picture of?

14 A That is a picture of the rear of the vehicle
15 indicating the license plate with the shoes sitting on the
16 trunk.

17 Q You can see the shoes sitting on the trunk?

18 A Yes.

19 Q State's Exhibit No. 25.

20 A Those are the shoes as they are sitting on the trunk.
21 Basically a close-up of the shoes.

22 Q Is that before you removed them from the car?

23 A That's correct.

24 Q State's Exhibit No. 26.

25 A That is the shoes. However, I believe that's the

Oscar McIntosh - Direct examination
by Solicitor Myers

417

1 left foot with the blood on the rear side of the shoe.

2 Q Is that the condition they were when you saw them?

3 A That is the condition that I received them in. That
4 is the condition they were placed on the car.

5 Q Now, who took possession of those shoes?

6 A I did.

7 Q What's been marked as State's 23, can you look in
8 there please?

9 A These are the shoes that I retrieved from the area of
10 the vehicle parked at 1412 Hyatt Avenue.

11 Q What did you do when you got the shoes?

12 A Secured this bag, transported them in my vehicle,
13 transported them to Lexington County, did an evidence form
14 and secured them in the evidence locker in the evidence
15 room.

16 Q They were secured in this bag?

17 A Yes.

18 Q And then turned over to the evidence people at the
19 Lexington County Sheriff's Department?

20 A That's correct.

21 SOLICITOR DIXON: We offer these into evidence.

22 THE COURT: Objections?

23 MS. FULLWOOD: No objection.

24 MR. DUNCAN: No objection.

25 THE COURT: So introduced what has been previously

1 marked for exhibit, identification.

2 (WHEREUPON, State's Exhibit No. 23 was received into
3 evidence at this time.)

4 Q State's Exhibit No. 27, tell us what that is.

5 A That is a handgun, an automatic weapon in the glove
6 box in a plastic bag.

7 Q Was it in the plastic bag when you looked into the
8 glove box?

9 A It was. The position -- the picture that you have in
10 your hand is exactly the way I discovered the weapon when
11 I went into the vehicle.

12 Q You said that you removed the bag from the glove box?

13 A I did.

14 Q And did what?

15 A Laid it on the seat.

16 Q And did what?

17 A Took a picture of it inside that plastic bag on the
18 side of that vehicle.

19 Q Is that No. 28?

20 A That is No. 28.

21 Q What is that up there by the barrel?

22 A That is a bullet which has not been expended.

23 Q Now, were there any other shell casings in there
24 expended or unexpended?

25 A No, sir.

Oscar McIntosh - Direct examination
by Solicitor Myers

419

1 Q State's No. 29.

2 A That is the Smith & Wesson automatic handgun outside
3 of that plastic bag, a clearer picture of it.

4 Q Now, there are some Smith & Wesson writing on there,
5 but some numbers or letters or something on there.

6 what is that?

7 A That's the Alber Smith & Wesson .40 caliber.

8 Q what does that say?

9 A SW40PES.

10 Q Say it again.

11 A SW40PES.

12 Q Now, you said something about the serial number.

13 A That's correct.

14 Q Did you photograph that?

15 A Yes, I did.

16 Q What does State's No. 30 depict?

17 A It depicts the -- on the -- on the barrel, portion of
18 the barrel where the serial number is maintained, and that
19 is the serial number for that weapon.

20 Q What is that serial number?

21 A That serial number is PDK0344.

22 Q When you took the shoes and when you took the pistol
23 in that bag with the book, did you alter them in any way
24 or do anything to change them in any way before you turned
25 them into the evidence people at the Sheriff's Department?

Oscar McIntosh - Direct examination
by Solicitor Myers

420

1 A No, sir, none at all.

2 Q The way you received them is the same condition you
3 received them in?

4 A Absolute same condition.

5 Q This license tag number, what is the license tag
6 number on the car in which the shoes were on and the gun
7 was inside?

8 A 8F9BYW.

9 Q 869BYW.

10 What is the license tag on this car form?

11 A On this South Carolina registration it is 869BYW.

12 Q Same as in the photograph?

13 A Same as in the photograph.

14 Q Who is that car registered to?

15 A Elizabeth Richardson at 1412 Hyatt Avenue, Columbia.

16 Q The same person in which the S.U.V. over there by
17 that tree and the wall is registered to, same address?

18 A That is correct.

19 SOLICITOR MYERS: We offer this registration in
20 evidence, Your Honor.

21 THE COURT: Any objection?

22 MS. FULLWOOD: No objection.

23 MR. DUNCAN: None, Your Honor.

24 THE COURT: So offered into evidence as State's 31.

25 (WHEREUPON, the vehicle registration was marked as

Oscar McIntosh - Direct examination
by Solicitor Myers

421

1 State's Exhibit No. 31 and received into evidence at this
2 time.)

3 Q Well, look into that for me please?

4 Does that gun have a serial number on it you can
5 read?

6 A Yes, sir.

7 Q What is the serial number?

8 A Serial number on this weapon is PDK0344.

9 Q Is that the same gun in this photograph, State's No.
10 30, that we just looked at?

11 A That is exactly the exact same weapon.

12 Q And that gun, was it altered in any way from the time
13 you took it from that car until you turned it into the
14 evidence locker?

15 A No, sir, and as you can tell, this slide was back
16 when the photographs were taken and that slide is still in
17 that same position.

18 Q Is the bullet in there?

19 A We do not place bullets and guns in the same bag.
20 So, that bullet is not in this container.

21 SOLICITOR MYERS: We offer this in evidence, Your
22 Honor, this pistol.

23 THE COURT: Any objection?

24 MS. FULLWOOD: No objection.

25 MR. DUNCAN: No objection.

1 THE COURT: So moved into evidence.

2 (WHEREUPON, the gun was marked as State's Exhibit No.
3 32 and received into evidence at this time.)

4 Q State's 32, the bullet that was along in the evidence
5 with this gun, you turned that in at the same time with
6 the evidence people at the Sheriff's Department?

7 A But separate from the gun.

8 Q But they're both in evidence separately?

9 A Yes.

10 Q That's all I have. Answer any questions the defense
11 may have.

12 CROSS-EXAMINATION

13 BY MS. FULLWOOD:

14 Q Detective, while you were out at Church Hill
15 Apartments, you became aware that there was a vehicle
16 trying to leave that area?

17 A That's correct.

18 Q Okay. And that vehicle contained the Fleming
19 sisters, didn't it, Amy and Rebekah?

20 A That's correct.

21 Q And you directed that that vehicle be stopped, right?

22 A That's correct.

23 Q And at that point you learned that they were
24 witnesses?

25 A Right.

Oscar McIntosh - Cross-examination
by Ms. Fullwood

423

1 Q And you instructed other deputies to interview these
2 women?

3 A That's correct.

4 Q And later on you learned that these women had left
5 three children in that apartment, is that correct?

6 A That's correct.

7 Q And they did not have adult caregivers in that
8 apartment for those children when they left, right?

9 A That's right.

10 Q You had to find a neighbor to take care of the
11 children while their mothers were being interviewed, is
12 that right?

13 A That's correct.

14 Q And did you search the car that those women were
15 driving?

16 A We did not.

17 MS. FULLWOOD: Thank you. No further questions.

18 CROSS-EXAMINATION

19 BY MR. DUNCAN:

20 Q Sergeant, these three children were what ages, one,
21 two, three?

22 A I don't recall their ages, but they were all very
23 small children.

24 Q And they were left alone.

25 Did you take possession of the shotgun?

- 1 A I did not, no, sir.
- 2 Q Do you know who took possession of the shotgun?
- 3 A I'm not sure. I believe it was a crime scene person
- 4 on the scene.
- 5 Q So, you wouldn't know if they did any fingerprints or
- 6 anything with the shotgun?
- 7 A No, sir.
- 8 Q And you don't know what happened to the shells?
- 9 who took those?
- 10 You had nothing to do with those?
- 11 A No, sir.
- 12 Q And did you have anything to do with the collection
- 13 of the spent cartridges from this weapon that were found
- 14 on the scene?
- 15 A No, sir.
- 16 Q And---
- 17 A I think, by the time they started doing those
- 18 collections, I had traveled to the Hyatt Street address so
- 19 I wasn't on the scene when that evidence was collected.
- 20 Q So, those seven spent cartridges were none of your
- 21 responsibility?
- 22 A No, sir.
- 23 THE COURT: Redirect.
- 24 SOLICITOR MYERS: Nothing further.
- 25 THE COURT: All right. Officer, thank you, sir. You

1 can step down.

2 Mr. Solicitor, how many more witnesses do you think
3 you're going to call this afternoon, as many as we can get
4 through before 5:30?

5 SOLICITOR MYERS: We can try to get up to three more
6 if you want to.

7 THE COURT: Let's try to do that.

8 I'm going to take a quick five minute break so anyone
9 who may need to use the restroom can use the restroom, and
10 we'll get up as many as we can until around 5:30. So,
11 ladies and gentlemen, take a break. We'll come back on
12 the record, by my watch, at quarter till the hour. If you
13 need a little bit more time, tell the bailiff to let me
14 know. Please don't discuss the case.

15 (WHEREUPON, the following takes place outside the
16 presence of the jury and a short recess was taken at this
17 time.)

18 THE COURT: When the jury is ready to come in we're
19 ready to receive them.

20 (WHEREUPON, the following takes place within the
21 presence of the jury panel.)

22 SOLICITOR MYERS: Troy Livingston.

23 TROY LIVINGSTON, having been first duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

Troy Livingston - Direct examination
by Solicitor Myers

426

1 BY SOLICITOR MYERS:

2 Q You have a uniform on.

3 Who are you employed by?

4 A Lexington County Sheriff's Department.

5 Q How long have you been in law enforcement, Troy?

6 A A little over 20 years.

7 Q What were your duties in November of 2006?

8 A I was working the road.

9 Q Did you have an occasion to go out to an apartment or
10 not?

11 A No, sir, I did not.

12 Q Where did you go?

13 A I was answering calls in what we call the west
14 district. The initial call was in the north district.
15 Sergeant Black asked me to come by and stand by with
16 Detective Collins and one of the gentlemen involved in
17 this incident.

18 Q You were at the Lexington County Sheriff's
19 Department?

20 A Yes, sir, I was.

21 Q And you were assisting Steve Collins?

22 A Yes, sir.

23 Q Did you have an occasion to walk someone who had been
24 arrested to the booking area at the Lexington County Jail?

25 A Yes, sir, Mr. Curtis Johnson.

Troy Livingston - Direct examination
by Solicitor Myers

427

1 Q Did he have short hair or long hair?

2 A He had long hair, sir.

3 Q When you took him back to the booking area, was that
4 more or less processing him, putting him in jail?

5 A Booking him in, yes, sir.

6 Q What was the, done with the clothes that he had?

7 A The gentleman with the detention center requested his
8 clothes for evidence. What we did was entered the room,
9 they took his clothes off, placed them in a bag. I took
10 custody of the clothes at that time, sir.

11 Q When you take custody of the clothes and everything,
12 do you make an inventory of it?

13 A Yes, sir, we do.

14 Q Did you do that?

15 A Yes, sir.

16 Q Do you have that sheet with you?

17 A Yes, sir, myself and Detective Beaver made one up.

18 Q And this was an inventory of the clothing taken from
19 the defendant who?

20 A Mr. Curtis Johnson.

21 Q Okay. What type of shoes did y'all remove from him?

22 A One pair of size ten and a half, ten and a half black
23 Reebok tennis shoes.

24 Q How did you handle those shoes?

25 A When the bailiff -- well, the bailiff was handing

1 them to me and I had them on rubber gloves in case this
2 was any evidence so I would not contaminate it or it
3 contaminate me, placed them in a bag, and went back and
4 met with Detective Collins and Detective Beaver.

5 Q What, if anything, did you notice about these shoes?

6 A They had some blood spatter on them.

7 Q Is that the reason you were using gloves?

8 A Yes, sir, it was.

9 Q What are the things you put in the bag in the clothes
10 of Curtis Johnson?

11 A Item number one was a P.J. mark, gray sweat shorts.
12 The next item is one pair of blue and white boxers. Item
13 number three was a pair of white socks. Item number four
14 was a Roco wear extra large white t-shirt. Next item was
15 a Roco size waste 34 waste 32/34 black jeans. The next
16 item was a, one Miller High Life black hoodie sweatshirt,
17 ten and a half black Reebok tennis shoes, one penny, a
18 Betatech I.D. for Curtis Johnson, and one Spring LG cell
19 phone serial number 604KPVH0123983.

20 Q And when you completed filling out that inventory and
21 the bag with the clothes of the Defendant Johnson in it,
22 who did you turn that bag of clothes over to?

23 A Detective Beaver.

24 Q Detective Beaver?

25 A Yes, sir.

Troy Livingston - Direct examination
by Solicitor Myers

429

1 Q I'm going to ask you if you would just briefly look
2 through this, and it also has stickers on the side of
3 everything in there.

4 A Do you have a pair of gloves?

5 Q Yes, sir.

6 A Shorts, jeans, I -- Your Honor, is it all right if I
7 lay these on the floor for a second so I can---

8 THE COURT: Yes, absolutely.

9 A Miller High Life jacket, shirt.

10 Q That's all the items in that box?

11 A Yes, sir, those are the items.

12 Q All right, sir. Those are the ones taken from the
13 Defendant Johnson?

14 A Yes, sir.

15 SOLICITOR MYERS: We would offer these in evidence.

16 THE COURT: Any objection?

17 MS. FULLWOOD: No, Your Honor.

18 MR. DUNCAN: No, Your Honor.

19 THE COURT: So introduced in evidence.

20 (WHEREUPON, a pair of black shoes was marked as
21 State's Exhibit No. 33. A box of clothes was marked as
22 State's Exhibit No. 34. Both of the exhibits were
23 received into evidence at this time.)

24 Q Can you try to put those back on---

25 A I'll certainly try, sir.

Troy Livingston - Direct examination
by Solicitor Myers

430

1 Q Just put those on with one hand.

2 State's 33, will you take those out?

3 what did you say about those shoes?

4 A It had some blood splatter on them, sir.

5 Q Did you alter or change those shoes in any way before
6 you put them up?

7 A No, sir.

8 Q Put them back in there.

9 A (Witness complies.)

10 Q Now, State's Exhibit No. 34, you said something about
11 a black hoodie?

12 A Yes, sir.

13 Q Could you pull that out?

14 Okay. Put that back in there. You can kind of throw
15 those other ones back in there.

16 A Yes, sir. Sure.

17 Q Could you answer any questions they have?

18 THE COURT: Questions?

19 MS. FULLWOOD: None, Your Honor.

20 MR. DUNCAN: No questions.

21 THE COURT: Thank you, officer. Appreciate you being
22 here today. You can step down.

23 SOLICITOR MYERS: Call Roger Beaver.

24 ROGER BEAVER, having been first duly
25 sworn, testified as follows:

Roger Beaver - Direct examination
by Solicitor Myers

431

1 DIRECT EXAMINATION

2 BY SOLICITOR MYERS:

3 Q Roger, by whom are you employed?

4 A Currently employed by the South Carolina Department
5 of Labor, License, and Regulation.

6 Q Prior to that who were you employed by?

7 A Lexington County Sheriff's Department.

8 Q How long have you been in law enforcement?

9 A I have approximately 27 and a half years.

10 Q On this case, Roger, you were at the Sheriff's
11 Department November 20?

12 A Yes, sir, I was.

13 Q And did you have an occasion to be at the Sheriff's
14 Department when Troy Livingston was there?

15 A Yes, sir, I was.

16 Q What, if anything, did Troy turn over to you?

17 A Troy turned my, over the clothes that Curtis Johnson
18 was wearing at the time he was booked into the jail.

19 Q And y'all filled out that inventory he just read
20 together?

21 A Yes, sir, I more or less typed it for Troy and
22 assisted him in the typing of that evidence sheet.

23 Q That included the black hoodie he just showed us?

24 A Yes, sir, I was typing. He was telling me out-loud
25 and I was at the computer typing in what he was telling

1 me.

2 Q And shoes and socks?

3 A Yes, sir.

4 Q What, if anything, did you have to do with going to
5 the booking desk with the other defendant, Kerwin Parker?

6 A I escorted Kerwin Parker over to the booking desk
7 later that morning.

8 Q That was you escorting him to the booking desk?

9 A Yes, sir.

10 Q Was his clothes also taken?

11 A Yes, sir, they were taken.

12 Q Did you receive his clothes?

13 A Yes, sir, I did.

14 Q Did he have -- what type of hair did Kerwin Parker
15 have?

16 A He had short hair.

17 Q When you got Kerwin Parker's clothes, was there also
18 an inventory filled out for that?

19 A Yes, sir, there was.

20 Q I, I'm going to hand you these.

21 Is that your name on there?

22 A Yes, sir, it is.

23 Q Are those the items that relate to the Defendant
24 Parker?

25 A Yes, sir.

Roger Beaver - Direct examination
by Solicitor Myers

433

1 Q Could you just examine those briefly for me please?
2 You don't have to pull them all out and look at them.

3 A Yes, sir, that's the sweat pants, sweatshirt. That
4 appears to be everything.

5 Q When you took these clothes from the Defendant
6 Parker, you filled out that inventory sheet, where did you
7 take those clothes?

8 A I carried Kerwin's and entered them into evidence.

9 Q All right, sir. Also with Johnson's, entered them
10 into evidence?

11 A With Curtis Johnson's, I gave those to Crime Scene
12 Investigator Laura Grimes-Gould, who was working on the
13 case also, who had some other evidence to enter into.

14 Q On Parker's clothing that you took from the booking
15 area, they were packed up and inventoried?

16 A I packed them up and inventoried them and put them in
17 a bag, yes, sir.

18 Q You turned those over to the evidence people?

19 A Yes, sir.

20 Q Did you alter them in any way?

21 A No, sir.

22 Q Same condition?

23 A Yes, sir.

24 SOLICITOR MYERS: We offer these in evidence.

25 MR. DUNCAN: No objection.

Roger Beaver - Direct examination
by Solicitor Myers

434

1 MS. FULLWOOD: No objection.

2 THE COURT: So moved into evidence as State's Exhibit
3 35.

4 (WHEREUPON, a box of clothing was marked as State's
5 Exhibit No. 35 and received into evidence at this time.)

6 THE SOLICITOR: Please answer any questions they
7 have. Thank you.

8 MS. FULLWOOD: No questions, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. DUNCAN:

11 Q Officer Beaver, you were present when Kerwin Parker
12 was brought into the jail, weren't you?

13 A Yes, sir, I was.

14 Q And y'all had, as part of the procedure, kept
15 Mr. Parker, Kerwin and Curtis, separate, hadn't you?

16 A Yes, sir, we had.

17 Q So, they had no opportunity to discuss this matter?

18 A That is correct.

19 Q Do you find it significant they both told the same
20 story even though they were separated?

21 SOLICITOR MYERS: Objection.

22 THE COURT: Basis of your objection?

23 SOLICITOR MYERS: Basis of the objection is what was
24 said was consistent or inconsistent is inadmissible.

25 THE COURT: Sir, what was -- restate the question for

Roger Beaver - Cross-examination
by Mr. Duncan

435

1 me.

2 MR. DUNCAN: Does he find it significant they both
3 told the same story.

4 SOLICITOR MYERS: Whatever they were told is not
5 admissible under State versus Gary and Terry and the State
6 versus Joseph Goldson. That's at 562 S.E.2d 663.

7 Anything that was said, consistent or inconsistent, would
8 be inadmissible self-serving, hearsay.

9 THE COURT: I don't recall testimony regarding what he
10 was told by either of them in his direct examination, and
11 given that fact, I'm going to sustain the objection.

12 MR. DUNCAN: Your Honor, I'm not asking for the
13 contents of what Mr., what Mr. Curtis said. I'm not
14 asking for the contents of what Curtis says, but I'm
15 asking if it was consistent, if he finds that significant.

16 SOLICITOR MYERS: The same thing.

17 THE COURT: I understand and I sustain the objection.

18 MR. DUNCAN: All right, sir.

19 Q You talked to my client?

20 A Yes, sir, I did.

21 Q And you heard him make certain statements?

22 A Yes, sir, I did.

23 Q After he had been Mirandized---

24 SOLICITOR MYERS: Objection. That's immaterial and
25 irrelevant. Whether he had been Mirandized or made a

1 statement is immaterial and irrelevant.

2 MR. DUNCAN: He was present when my client was
3 questioned.

4 SOLICITOR MYERS: That makes no difference. That
5 can't be brought out and he knows it.

6 THE COURT: I understand. In direct examination he
7 can testify with respect to any statements that were taken
8 by him.

9 MR. DUNCAN: Yes, sir, and he---

10 SOLICITOR MYERS: No. No, sir, he didn't testify---

11 THE COURT: No, I don't believe he did on direct
12 examination.

13 SOLICITOR MYERS: No, sir.

14 MR. DUNCAN: I'm not limited on cross, Your Honor.

15 THE COURT: I do understand. I do understand that.
16 I just don't know what evidence has been put in the record
17 that he took a statement from---

18 MR. DUNCAN: I'm asking him if he was present.

19 SOLICITOR MYERS: That's inadmissible. Let's take it
20 up outside the presence of the jury.

21 THE COURT: Ladies and gentlemen of the jury, I'm
22 ask, going to ask you retire to your jury room very
23 briefly.

24 (WHEREUPON, the following takes place outside the
25 presence of the jury.)

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1 THE COURT: Okay. All right. Tell me again, state
2 for me the question that you were asking him and the line
3 of questioning that you were trying to illicit from the
4 defendant. Excuse me. I'm sorry. I mean witness.

5 MR. DUNCAN: This witness was present when my client
6 was questioned immediately after being arrested, and I
7 think I'm entitled to ask him what my client said.

8 THE COURT: Okay. All right. The State's position.

9 SOLICITOR MYERS: The State's position is this issue
10 was settled right off the bat in a capitol case, State
11 versus Gary Dubose Terry, and that's at 529 S.E.2d 274.
12 When they tried the -- the defense tried to get in
13 elements, contents, things about Mr. Terry's confession to
14 law enforcement. The Supreme Court ruled that was
15 self-serving hearsay, and was not admissible, and the
16 State versus Joseph Goldson, 562 S.E.2d 663, 2002 case,
17 they held, affirming State versus Terry, that they could
18 not bring out what a defendant said to police officers
19 because it was self-serving hearsay.

20 THE COURT: Okay.

21 SOLICITOR MYERS: Unless the defendant testified.

22 THE COURT: I understand. Ultimately your question
23 was were there, were their respective statements
24 consistent?

25 MR. DUNCAN: Yes, sir, that was one question, but in

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1 addition, you know from what I understand, this was res
2 gestae.

3 SOLICITOR MYERS: No, sir, it's not res gestae, and
4 nothing about Miranda warnings and now he's even wanting
5 to put in the codefendant's confession. These cases say
6 you can't do that.

7 MR. DUNCAN: I'm not asking anything about Curtis.

8 THE COURT: I understand. At this point I'm going to
9 sustain the objection primarily on the same basis as
10 before. I don't have a statement that's going to be put
11 into the record, and not anticipating what's going to be
12 put into the record, I don't know if one will be, perhaps
13 one will, however, I will tell you I will not preclude you
14 from calling this witness in your case in chief if you
15 want to ask him questions relative to the statements that
16 he may have taken.

17 All right. At this point I'm going to find that this
18 that line of questioning is inadmissible.

19 MR. DUNCAN: No further questions.

20 THE COURT: All right. You want to bring the jury
21 back in?

22 SOLICITOR MYERS: Your Honor, the next witness will
23 be the lady that collected the evidence. That will take a
24 good bit of time.

25 THE COURT: When you say a good bit of time, the

1 balance of the remainder of this hour?

2 SOLICITOR DIXON: I believe it will take, for my
3 part, Your Honor, at least thirty minutes. We have a,
4 quite a bit of evidence to enter and that obviously
5 doesn't count whatever questions the defense may have.

6 THE COURT: All right. Do y'all anticipate much
7 cross-examination of that witness?

8 MS. FULLWOOD: Possibly, yes, sir.

9 THE COURT: All right. How many witnesses do you
10 have left?

11 (WHEREUPON, the following takes place within the
12 presence of the jury.)

13 SOLICITOR MYERS: Probably ten or twelve once we have
14 reached an agreement on the chain witnesses.

15 THE COURT: All right. Okay. Okay. I don't want to
16 split it up. I don't want y'all to have your direct
17 examination and then stop it and then y'all come back
18 tomorrow. So, what we'll do is, if it suits everyone's
19 schedules, what we'll do is we will come back tomorrow
20 morning at 9:00 and begin testimony.

21 Any other issues we need to take up before 9:00,
22 matters of law, that need to be taken up by the Court?

23 SOLICITOR MYERS: Not from us.

24 MS. FULLWOOD: No, none, Your Honor.

25 MR. DUNCAN: None.

1 THE COURT: All right. Ladies and gentlemen -- you
2 can step down. Thank you very much. I appreciate your
3 testimony, officer.

4 Ladies and gentlemen, you have just been privy to one
5 of those conversations that we have about scheduling and
6 obviously you heard what I said, nine o'clock tomorrow
7 morning. The next witness that the State anticipated
8 putting up probably will take a little bit longer than the
9 balance of the remaining hour, and I know you've got lives
10 and families and business to tend to. So, I don't intend
11 to keep you past six o'clock, and I'm afraid if we got
12 into that witness we'd be here beyond six o'clock. So, we
13 will begin tomorrow at 9:00 in the morning. I look
14 forward to seeing you then.

15 Please don't discuss the case. Same rules apply. I
16 will ask you that same question tomorrow morning about
17 whether anyone has approached you or whether you had the
18 opportunity to discuss it with anyone. So, be prepared to
19 answer in the negative. See you later. Y'all have a
20 great evening.

21 (WHEREUPON, the following takes place outside the
22 presence of the jury.)

23 THE COURT: We'll be in recess until 9:00.

24 SOLICITOR DIXON: Before we get off-the-record, I
25 wanted to say, defense counsel and I have spoken as far as

1 the chain for the evidence that went to SLED as
2 concerned -- defense counsel has agreed to allow us to use
3 the SLED intake person and then only the people that
4 actually handled the evidence. Not the people that moved
5 it around in SLED, and I just wanted to make sure we were
6 clear on that before tomorrow because that is what we've
7 always---

8 THE COURT: Is that correct?

9 MS. FULLWOOD: That is correct.

10 THE COURT: That should pull out how many witnesses?

11 SOLICITOR DIXON: That cuts out seven witnesses, Your
12 Honor.

13 THE COURT: Seven witnesses?

14 We can anticipate 12 tomorrow?

15 SOLICITOR DIXON: Twelve witnesses total till the end
16 of our case without those seven.

17 THE COURT: That's what I -- good.

18 Does the defense intend to put up a case?

19 MS. FULLWOOD: Yes, sir.

20 THE COURT: How many witnesses do you anticipate?

21 MS. FULLWOOD: I would say seven or eight maximum.

22 THE COURT: Collectively?

23 MS. FULLWOOD: Yes, sir.

24 THE COURT: All right. Good enough.

25 MS. FULLWOOD: I don't mean to speak for Mr. Parker's

1 counsel, but---

2 THE COURT: I understand. I'm just trying to give --
3 just trying to conceptualize it from a timing perspective.
4 We'll begin tomorrow at 9:00 a.m. We're in recess until
5 that time. Thank you. Thank you.

6

7 (WHEREUPON, Court was in recess for the evening.)

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(WHEREUPON, three pictures were marked as Defendant's Exhibit Nos. 8 through 10 for identification purposes only at this time. Nineteen photographs were marked as State's Exhibit Nos. 36 through 54 for identification purposes only at this time.)

THE COURT: Good morning, ladies and gentlemen. I hope y'all had a good evening.

If anyone had that experience, please raise your hand.

THE COURT: Let the record reflect no affirmative responses.

SOLICITOR DIXON: State calls Laura Grimes-Gould.

LAURA GRIMES-GOULD, having been first

1 duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY SOLICITOR DIXON:

4 Q Laura, where are you living right now?

5 A Stafford, Virginia.

6 Q November of 2006, where were you living?

7 A Columbia, South Carolina.

8 Q In November of 2006, where were you working?

9 A Lexington County Sheriff's Department.

10 Q Can you tell me what you did at the Sheriff's
11 Department?

12 A Yes, ma'am, I was a crime scene investigator with the
13 Sheriff's Department.

14 Q Tell us briefly what kind of training you received in
15 order to be a crime scene investigator.

16 A When I was promoted over to the crime scene
17 department I went through an 80-hour course with SLED. I
18 spent several hours throughout the two-work, two-week
19 course do, going through the different areas of SLED,
20 firearms, latent prints, trace, and D.N.A. I have also
21 had a death and homicide investigation class that was
22 forty hours. That was hosted at the City of Lexington,
23 various latent print courses, and blood spatter course
24 through the University of Tennessee.

25 Q Before you got moved over to the crime scene unit,

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1 how long had you been in law enforcement?

2 A I had been in law enforcement for five years. I
3 began at the Sheriff's Department as a patrol deputy,
4 moved into a school resource officer's position, and then
5 into the crime scene position.

6 Q In November of 2006, how long had you been in crime
7 scene?

8 A About three years.

9 Q Laura, did you receive a call relating to an incident
10 at 86 Fox Run Lane on November 20 of 2006?

11 A Yes, ma'am, I did.

12 Q As a result of that call, what did you do?

13 A I received a phone call probably about 2:00 a.m. that
14 morning requesting that I go to the Fox Run Lane address
15 and I responded.

16 Q Let me ask you, Laura, you said you received a call.
17 How does the crime scene schedule work?

18 A The way the crime scene scheduled worked at that time
19 is we were on a four-week rotation, and three of those
20 weeks were at 8:30 to 4:30 with a call starting out at
21 4:00 a.m. and the last week is an afternoon shift, which
22 is 1:00 p.m. to 9 p.m., but you're on call until four
23 o'clock that following morning. Once you go to work that
24 Friday at 1:00, you're on call until 4:00 a.m. the
25 following Monday.

1 Q So, that Sunday, November 20, you would have been on
2 call at 2:00 a.m.?

3 A Yes, ma'am.

4 Q Okay. Did you go to that crime scene at 86 Fox Run
5 Lane?

6 A Yes, ma'am, I did.

7 Q Describe for me please what you saw when you got
8 there.

9 A When I went to the Fox Run address there was a number
10 of people working, Highway Patrol, Lexington County, Irmo
11 Police Department, and some other members of law
12 enforcement.

13 Q Other than law enforcement, was anyone else at the
14 scene?

15 A I believe that they had one gentleman in the back of
16 Mr. Lewis' patrol car.

17 Q Okay. Was the scene secure at that point?

18 A Yes, the scene was rendered secure at that point.

19 Q When you drove in -- and we have entered in an aerial
20 map.

21 Laura, let me show it to you. This is state's 4.
22 When you came in, can you tell the jury from which
23 side you entered?

24 A Yes, ma'am, I entered from the St. Andrews side of
25 the apartment complex and would have taken that road all

1 the way, and I stopped that, right there to meet with one
2 of the deputies on scene to kind of figure out what was
3 going on and to try to get some information. I heard
4 that, that the majority of the scene was in the back side
5 of the apartment. So, I got back into my patrol car and
6 drove around to about right here where that speed bump is.

7 Q When you got back to that speed bump area, what did
8 you see?

9 A Of course, other patrol cars and there was actually a
10 black hat in the middle of the roadway and a vehicle that
11 had looked like it had been driven up onto the curve
12 almost into the patio area.

13 Q Before we start talking specifically about this
14 scene, Laura, can you tell us, in general, how you go
15 about processing a crime scene?

16 A After I gather information from the deputies or the
17 investigators on scene, I do a general overview,
18 walk-through of the scene, taking mental notes or
19 handwritten notes of what I see or what could be potential
20 evidence at that time, and then I start taking general
21 photographs of the scene as I, I see it.

22 Q And you do all of that before you collect any
23 evidence?

24 A Yes.

25 Q Laura, let's talk about this particular scene.

1 Did you do an initial walk-through?

2 A Yes, I did. While I was doing that initial
3 walk-through I received information that there were three
4 victims and that one of the victim's clothing was at an
5 apartment building next door to 86 Fox Run.

6 Q All right, Laura. I'm going to show you what's been
7 premarked for identification as State's Exhibit 36, and
8 ask if you recognize this photograph.

9 A Yes, this is the clothing that I found at the
10 apartment next door, which was labeled as Apartment 90.
11 So, I had a general idea of where the clothing was.

12 Q Is that what it looked like when you first saw it
13 that evening?

14 A Yes, ma'am.

15 Q We would move this picture into evidence, Your Honor.

16 THE COURT: So moved into evidence as State's---

17 SOLICITOR DIXON: 36, Your Honor.

18 THE COURT: ---State's 36 in evidence.

19 (WHEREUPON, State's Exhibit No. 36 was received into
20 evidence at this time.)

21 Q Laura, let me ask you, in this picture that's kind of
22 a jumble of clothing, do you remember collecting a belt
23 when you collected evidence?

24 A Yes.

25 Q Let me show you State's Exhibit 6.

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1 Is that the belt that you collected?

2 A Yes, ma'am, it is.

3 Q After you collected that clothing, what is the next
4 thing that you did?

5 A I went back to Apartment 86 and started photographing
6 the vehicle that was located up in the patio area so we
7 could get back to the Sheriff's Department.

8 Q At some point was that vehicle towed?

9 A Yes, it was.

10 Q I'm going to show you a picture that's been marked as
11 State's Exhibit 37, and ask if you can identify that.

12 A Yes, this is the area after the vehicle had been
13 removed, a general overview of where the vehicle had sat
14 and the damage that was done to the dividing wall that
15 divided the two apartments.

16 SOLICITOR DIXON: Okay. Your Honor, I believe,
17 without objection, we enter that into evidence.

18 MS. FULLWOOD: That's correct, Your Honor.

19 THE COURT: So entered.

20 State's Exhibit No. 37, is that correct?

21 SOLICITOR DIXON: Yes, sir.

22 (WHEREUPON, State's Exhibit No. 37 was received into
23 evidence at this time.)

24 Q Laura, after that vehicle had been towed away from
25 the crime scene, I know you took a picture of the general

1 area, did you exam in that area for any potential
2 evidence?

3 A Yes, I noticed a black object on the ground right
4 outside the patio area. If you -- you can't see this,
5 this picture, but for general purposes, the patio -- the
6 chair right here, there's a piece of black object right
7 there and I noticed it was leather. I took a photograph
8 of it, and I later determined it was a piece of a belt.

9 Q Laura, I'm going to show you a picture, close-up, of
10 that picture you've got here that's been marked as State's
11 Exhibit 38.

12 Is that a close-up of this picture?

13 A Yes.

14 Q Okay. And I'm also going to hand you this, and ask
15 if you can identify that for me.

16 A Yes, this would have been the end portion of the belt
17 that I saw on the ground.

18 Q And that's what is in this picture?

19 A Yes.

20 SOLICITOR DIXON: Okay. Your Honor, we'd move this
21 into evidence.

22 (WHEREUPON, the portion of the belt was marked as
23 State's Exhibit No. 55 and received into evidence at this
24 time.)

25 Q Laura, you said that piece on the ground near where

1 the car was looked like a piece of a belt.

2 Did it look like it came, the piece from the other
3 apartment?

4 A I wasn't sure at the time.

5 Q Could you compare those pieces for me please?

6 A Yes, ma'am.

7 Do you want me to take them out of the bag?

8 Q That would be fine.

9 A They seem to match up, not perfectly because, of
10 course, they've been separated, but they seem to match up.

11 Q Okay. You can put them back in the bag. Thank you.

12 A (Witness complies.)

13 Q To expedite this a little bit, I'm going to go ahead
14 and hand you this bag.

15 After you had collected that piece of belt, Laura,
16 was there anything else you saw of significance near where
17 the car had been?

18 A Yes, I noticed there was a tree right next to where
19 the car was, and I noticed there was a hole in that tree.
20 It appeared to be a gunshot through the tree, but I wasn't
21 positively sure. So, I photographed it and tried to dig
22 out as much as I could and I did get some metal fragments
23 out of that hole in the tree.

24 Q And after you collected those fragments, Laura, what
25 did you do with them?

1 A I placed them -- the best thing for those type of
2 things are little film containers. So, I placed it in a
3 film container.

4 Q What did you do with it after that?

5 A I sealed it and put it into my vehicle.

6 Q Did you alter it or tamper with it in any way?

7 A No.

8 Q Did you have custody and control of it?

9 A Yes, ma'am.

10 Q After you put it in your vehicle, what did you then
11 do with it?

12 A I went back to the Sheriff's Department to, did the
13 appropriate paperwork, and turned it into the evidence
14 room.

15 SOLICITOR DIXON: Your Honor, at this time we'd offer
16 this metal fragment into evidence.

17 MS. FULLWOOD: No objection.

18 MR. DUNCAN: No objection.

19 (WHEREUPON, the metal fragment was marked as State's
20 Exhibit No. 56 and received into evidence at this time.)

21 Q After you finished processing the scene outside, what
22 is the next thing you did?

23 A I didn't completely finish processing the scene on
24 the outside. I knew that we had a deceased victim on the
25 inside. So, I went ahead on the inside and started

1 photographing the placement of the victim and what needed
2 to be done so the Coroner's Office could take custody of
3 the body.

4 Q Can you tell me where you located that victim?

5 A The victim was located in the kitchen area of the
6 apartment. He was lying on his back with his arms out to
7 the side.

8 Q Could you see any injuries to the victim at that
9 point?

10 A Yes, ma'am, the victim, when he had either laid down
11 or fell, his shirt had risen up to his neck, and there
12 appeared to be two gunshot wounds to his chest.

13 Q After you photographed the victim, what is the next
14 thing you did?

15 A I let the coroner, the coroner on scene. I let him
16 know that I was done doing what I needed to do with the
17 victim, and he called his removal service, and the
18 victim's body was removed from the scene.

19 Q After Mr. Wilson's body was removed, what is the next
20 thing that you did to process that scene?

21 A I went, started taking my numbers and putting numbers
22 down on pieces of evidence that I had found.

23 Q Did you first take any photographs of the scene?

24 A Yes, I took general photographs of the scene. Then I
25 started putting my numbers down.

1 Q All right. I'm going to show you what's been marked
2 as State's Exhibit 39, and ask if you recognize this.

3 A Yes, this is an overall picture of me standing in the
4 patio area, and this is how the scene looked when I
5 started taking my photographs.

6 SOLICITOR DIXON: Your Honor, I think, without
7 objection, we also offer this into evidence.

8 THE COURT: No objection?

9 MS. FULLWOOD: That's correct, Your Honor.

10 MR. DUNCAN: Right.

11 THE COURT: So introduced into evidence.

12 SOLICITOR DIXON: State's 39, Your Honor.

13 (WHEREUPON, State's Exhibit No. 39 was received into
14 evidence at this time.)

15 Q This is the way the scene looked when you arrived
16 there that night?

17 A Yes, ma'am.

18 Q All of these items were still on the patio when you
19 arrived?

20 A Yes, ma'am.

21 Q What is the next thing you did?

22 A Like I said, I placed numbers down on evidence.

23 Q Okay. After you placed the numbers down on the
24 evidence, what did you then begin to do?

25 A I took another overall picture of where the evidence

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1 was marked with my numbers, and then I started taking
2 individual photographs of the evidence.

3 Q Laura, I'm going to show you what's been marked as
4 State's 40 and 41, and ask if you can identify these.

5 A Yes, this is a picture like I had showed you before,
6 but it has my numbers in that photograph.

7 Q Can you tell us what this is in the bottom left hand
8 corner of this picture?

9 A This right here was a shotgun. I believe, when I
10 took the photograph, it cut off the number, but you can
11 see the numbers of the other evidence I had picked.

12 Q And the other picture?

13 A This is, is a close-up picture of the shotgun with my
14 evidence number, number four.

15 SOLICITOR DIXON: Your Honor, we would offer State's
16 40 and 41 into evidence.

17 THE COURT: Any objection?

18 MS. FULLWOOD: No, Your Honor.

19 MR. DUNCAN: None.

20 THE COURT: So moved without objection, next
21 exhibits.

22 (WHEREUPON, State's Exhibit Nos. 40 and 41 were
23 received into evidence at this time.)

24 Q Did you photograph that shotgun?

25 A Yes, ma'am, I did.

1 Q If you could, come back off the stand. We've got it
2 back here. If you could open that for me.

3 A (Witness comes down from the stand.)

4 Q Is that the shotgun you collected from the scene that
5 evening?

6 A I believe so. I would have to check the serial
7 number.

8 Q That's fine if you need to do that.

9 A Yes, ma'am, it is.

10 Q The marks that are on the shotgun, the scuff marks
11 and that stuff, was that all there when you checked that
12 evening?

13 A Yes, ma'am.

14 SOLICITOR DIXON: Offer the shotgun into evidence.

15 THE COURT: Any objection?

16 MS. FULLWOOD: None.

17 (WHEREUPON, the shotgun was marked as State's Exhibit
18 No. 57 and received into evidence at this time.)

19 Q Laura, when you collected and possessed that shotgun,
20 did you do anything to it before you turned it into
21 evidence?

22 A Yes, ma'am, I wanted to render it safe. I checked
23 the safety on the shotgun, and I also took out the shells
24 that were in the shotgun.

25 Q When you took out the shells, Laura, can you tell the

1 jury how you did that?

2 A I went from the bottom part of the shotgun. There's
3 a little clip inside and also two little clip, clips that
4 when you put it in it holds the shell in place. I pushed
5 that and slowly drew the rack part of the shotgun and
6 removed two shell casings.

7 Q After you had removed those two shell casings, Laura,
8 did it appear to be empty to you?

9 A At that moment in time, yes, it did.

10 Q I'm going to ask you if you recognize these.

11 A These are the two shotgun shells I removed from the
12 shotgun. I labeled it on the back saying it was from the
13 shotgun.

14 Q Tell us what kind of shells those are.

15 A They are Federal High Power Number 48.

16 SOLICITOR DIXON: Your Honor, we'd offer these into
17 evidence.

18 THE COURT: Any objection?

19 MS. FULLWOOD: No, Your Honor.

20 MR. DUNCAN: None.

21 (WHEREUPON, the two shells were marked as State's
22 Exhibit Nos. 58 and 59 and received into evidence at this
23 time.)

24 Q Before we go any further in the processing of the
25 crime scene, you mentioned Mr. Johnson was still at the

1 scene when you arrived?

2 A Yes, ma'am.

3 Q Were you asked to perform any crime scene tests on
4 him?

5 A I was requested by the investigator to go ahead and
6 do a G.S.R. or gunshot residue test.

7 Q And I have here a sample G.S.R. kit.

8 would this help you in explaining to the jury how you
9 do that test?

10 A Yes, ma'am.

11 Q If we could, let her use this.

12 A Yes, ma'am.

13 THE COURT: Sure.

14 A All of our G.S.R. kits we get from SLED. They're
15 packaged like this. They're taped. So, when you open
16 them they're in their purest form. Before performing our
17 G.S.R. kits, of course, there is an instruction sheet if
18 you need it. There is an information sheet that we speak
19 to the person about, questions such as their name, if
20 they're living or dead, if they're right-handed or
21 left-handed, any blood or debris on their hands, want to
22 know if the subject had washed his or her hands since the
23 shooting, the subject's occupation, the subject's hobbies,
24 especially if they're into shooting and those type of
25 activities, and a brief description of what the subject

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1 has done from the time of the shooting to the G.S.R.

2 We also -- at the bottom, the shooting information,
3 the date and time of the shooting, the place it has taken
4 place, inside, outside, kitchen area, the type of firearm
5 used if we have that information, the caliber and
6 manufacturing information of the ammunition if we have
7 that information, and the number of shots fired if we have
8 that information. Also, our signature, the date and the
9 time that the G.S.R. kit was completed.

10 When we do G.S.R. we have four small viles, right
11 palm, right back, or, yeah, left and back palms, and with
12 these, when you open them up, there's a little sticky pad
13 on there and you just go with -- so, this is the left
14 palm. You will take it and do the left palm of the hand
15 like this, all around the palm of the hand. Once you're
16 done with that, you close it and you move onto the left
17 back of the hand and do the left back of the hand as well
18 as you do the same thing with the right hand.

19 After you're done with that, you have to do a
20 swabbing of the hand with Q-tips. I generally use two
21 Q-tips and it's -- this is a five percent solution of
22 nitric acid. I placed the nitric acid on the Q-tips, and
23 like you did with the stick keys, you do the same with the
24 Q-tips. This is the left back. You swab the left back of
25 the hand and then you place the Q-tips into the viles.

1 Also what you do is you do a control, just like in
2 any scientific experiment, you take your Q-tip, put the
3 nitric acid on the Q-tip, and I generally do the ankle or
4 the shoulder area of a subject, an area that has been
5 covered by clothing, an area that most likely would not
6 have any type of gunshot residue on that person. That way
7 we have a control on that person.

8 Then lastly, if it is available, you do a swabbing of
9 the cartridge case of the shell casing if you have one.
10 Once you're done with all that you place everything back
11 into the envelope along with the paperwork. You place
12 everything back into the envelope along with the
13 paperwork. You fill out the front part. The subject's
14 name, the officer's name, the officer's badge number,
15 agency name, and a case number, and then you seal it and
16 you place the evidence tape on it and you initial and date
17 the evidence tape. Then you do your paperwork and it's
18 placed back into evidence.

19 Q Thank you, Laura.

20 Did you perform such a test on Curtis Johnson?

21 A Yes, ma'am, I did.

22 Q Let me show you this envelope and ask if you
23 recognize it.

24 A Yes, ma'am, this is the G.S.R. kit that I performed
25 on Curtis Johnson, my name, my badge number at the time,

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1 the Sheriff's Department's information, and the case
2 number.

3 Q Do you know about what time you performed this test?

4 A I performed the test at 2:43 a.m.

5 SOLICITOR DIXON: Your Honor, we'd move this into
6 evidence.

7 THE COURT: Any objection?

8 MS. FULLWOOD: No objection.

9 MR. DUNCAN: None.

10 THE COURT: So moved into evidence without objection.

11 (WHEREUPON, the G.S.R. kit was marked as State's
12 Exhibit No. 60 and received into evidence at this time.)

13 Q Laura, as you're collecting all this evidence, are
14 you making notes about where it's found?

15 A Yes, ma'am.

16 Q Did you make a diagram to show where things are
17 found?

18 A Yes, ma'am, I did.

19 Q Let me show you a diagram and see if you can identify
20 it for us.

21 Laura, do you recognize this?

22 A Yes, that's my drawing of the crime scene.

23 Q I know it's really big right now, but is that an
24 accurate drawing that you did, an accurate blowup of that?

25 A Yes.

1 Q All right. Now, let's start going over what else you
2 collected at this crime scene.

3 All right. Laura, we already talked about the
4 shotgun you collected.

5 A Yes.

6 Q Can you -- I'm going to hand you a pointer, Laura.
7 Maybe that will help.

8 Describe for us what this diagram shows.

9 A This diagram is basically a bird's-eye view of the
10 apartment, the downstairs level of the apartment. All
11 these little numbers and circles is what I collected as
12 evidence. Here on the side is, of course, the numbers
13 with an indication of the evidence. This would be the
14 front to -- yeah, there we go. This would be the front
15 entrance to the apartment.

16 When you walked in there are stairs to the right
17 where you could go to the left or there was a bathroom, a
18 washer, and dryer area. This would be the kitchen area,
19 dining room, and living room. If you -- when you walk
20 this way, this is a sliding glass door that went to the
21 patio area. This would have been a storage closet and
22 this square right here is an air conditioning unit.

23 If you see here, you'll see kind of a ripple line.
24 There is a huge gray tarp that basically had been pulled
25 down over the, looked like maybe some furniture or

1 protecting something up underneath that tarp.

2 Q Now, Laura, the numbers on this map are a little bit
3 small for us to see way back here.

4 Did you do a closer up drawing of the patio area?

5 A Yes.

6 Q Let me show you another exhibit and ask if you
7 recognize this.

8 A Yes, this is just of the patio area itself. This
9 would be the entrance into the patio. Once again, the air
10 conditioning unit, the storage unit, closet, the sliding
11 glass door, window, and, again, that tarp that's covering
12 pretty much, I won't say half, but a quarter to a half of
13 the patio area.

14 Q Okay. Laura, now we already talked about the shotgun
15 you collected.

16 Can you point out for us on that drawing where the
17 shotgun was when you collected it?

18 A Yes, I labeled in the photograph the shotgun as
19 number four. This area right here would have been where I
20 found the shotgun.

21 Q Laura, let's talk about the next evidence you
22 collected on that patio.

23 Did you find any shell casings out there?

24 A Yes, ma'am, I did.

25 Q How many did you find?

1 A I found three shell casings.

2 Q And what were your numbers for those shell casings?

3 A The shell casing numbers were five, seven, and eight.

4 Q Have I handed you five, seven, and eight in that bag?

5 A Yes, ma'am.

6 Q Are those the shell casings you collected that day?

7 A Yes, ma'am.

8 Q Did you take pictures before you collected them?

9 A Yes, ma'am.

10 Q Let me show you these pictures, State's 42 and 43.

11 Are these the pictures you took of those shell
12 casings?

13 A Yes, ma'am.

14 Q Tell us what kind of shell casings they were.

15 A They were a .40 caliber Smith & Wesson shell casing.

16 SOLICITOR DIXON: Your Honor, at this time we offer
17 42 and 43.

18 THE COURT: Any objection?

19 MS. FULLWOOD: No objection.

20 MR. DUNCAN: None.

21 THE COURT: So introduced without objection.

22 (WHEREUPON, State's Exhibit Nos. 42 and 43 were
23 received into evidence at this time.)

24 Q Five, seven, and eight, where did you find those
25 shell casings?

1 A Five was kind of the middle in the patio. Seven and
2 eight were practically -- almost against the exterior wall
3 of the apartment.

4 Q After you collected the shell casings, what did you
5 do with them?

6 A I placed them again in my container. I closed the
7 container, labeled it eight shell casings, and placed them
8 in my patrol vehicle.

9 Q Did you alter them or tamper with them in any way?

10 A No, ma'am.

11 SOLICITOR DIXON: Your Honor, at this time we'd move
12 the three shell casings into evidence.

13 THE COURT: Any objection?

14 MR. DUNCAN: None.

15 MS. FULLWOOD: No objection.

16 THE COURT: So moved into evidence without objection.

17 (WHEREUPON, three shell casings were marked as
18 State's Exhibit Nos. 61 through 63 and received into
19 evidence at this time.)

20 Q What is the next thing you collected off that patio?

21 A Number nine right here, which was a metal pipe.

22 Q I show you this and ask if you recognize it.

23 A Yes, this is the metal pipe I collected.

24 Q Have you -- did you alter it or tamper with it in any
25 way?

1 A No, ma'am.

2 SOLICITOR DIXON: Offer this pipe into evidence.

3 MS. FULLWOOD: No objection.

4 MR. DUNCAN: None.

5 (WHEREUPON, the metal pipe was marked as State's
6 Exhibit No. 64 and received into evidence at this time.)

7 BY SOLICITOR DIXON:

8 Q Laura, besides those shell casings and that pipe, is
9 there anything else you collected off the patio?

10 A Not at that time, no.

11 Q Was there any clothing or anything out there?

12 A Yes, I did select some clothing. I wasn't sure whose
13 clothing, what it was at the time, but later come to find
14 out it was what I labeled as victim number two's clothing.

15 Q In that clothing, did you collect a t-shirt?

16 A Yes.

17 Q When you collected that t-shirt, what did you do with
18 it?

19 A I placed it in a bag, a paper bag, took it to the
20 Sheriff's Department, went and placed it in our crime lab.
21 Since it was bloody, it was still wet. I put it down on
22 some brown paper to let it air dry so when I did package
23 it it wouldn't mildew.

24 Q And after you had done that, what did you do with it?

25 A I put it in another paper bag or a box and I did the

1 paperwork and I turned it into our evidence room.

2 Q All right, Laura. I'm going to ask you do you have
3 gloves up there?

4 A Yes, ma'am.

5 Q I'm going to ask you if you could look inside the bag
6 that's inside this box, and see if you can identify that
7 article of clothing.

8 A Yes, this would have been the t-shirt that I
9 collected off of the patio.

10 Q Other than the fact that it's dry, is that the way
11 that it looked the night that you collected it?

12 A Yes.

13 Q Was it cut like that?

14 A Yes.

15 SOLICITOR DIXON: Your Honor, at this time we would
16 move that t-shirt into evidence.

17 MS. FULLWOOD: No objection.

18 MR. DUNCAN: None.

19 THE COURT: So moved into evidence.

20 (WHEREUPON, the t-shirt was marked as State's Exhibit
21 No. 65 and received into evidence at this time.)

22 Q I'll take that box.

23 All right. Laura, after you collected all that
24 evidence off the patio, what did you then do?

25 A I then went inside and started looking around for

1 evidence that was inside.

2 Q Did you find anything?

3 A Yes, ma'am, I did.

4 Q We've got the patio one up there. Let me see if I
5 can get you back to the one that includes the inside.

6 what is the first thing that you found inside that
7 apartment that you collected?

8 A When I went inside, you'll see number ten right here.
9 Right here depicts like a bar area that divides the
10 kitchen and the dining room from each other. It's an open
11 space and I labeled that as a box with shotgun shells that
12 I found.

13 Q How many shells were inside that box?

14 A When I counted the box there was seven shells.

15 Q Did you collect those?

16 A Yes.

17 Q All right. What is the thing that you collected from
18 inside the apartment?

19 A I looked down and right here in the dining room area
20 I found a projectile. A projectile is the part of the
21 bullet that comes out of the gun.

22 Q And you said it was located where?

23 A This is not an accurate drawing, but it was located
24 in the dining room area. There was a chair and a table
25 and it was probably around this area.

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1 Q Okay. Let me show you what's been marked as State's
2 44 and 45 and ask if you recognize these.

3 A Yes, this is the dining -- this is the carpet.
4 You'll see a dining room chair here. There is a little
5 copper color looking projectile right here. You can see
6 the chair leg right here on the picture and a up-close
7 picture of the projectile.

8 Q All right, Laura.

9 Your Honor, we'd move 44 and 45 into evidence.

10 THE COURT: Any objections?

11 MS. FULLWOOD: No, Your Honor.

12 MR. DUNCAN: None.

13 THE COURT: So moved into evidence without objection.

14 (WHEREUPON, State's Exhibit Nos. 44 and 45 were
15 received into evidence at this time.)

16 Q Is the dining room located near where Mr. Wilson's
17 body---

18 A Like I said, it is beside -- this is the kitchen.
19 This little wall is probably drawn too -- down right here
20 would have been where the kitchen and dining room met
21 together. The victim -- the deceased victim was found
22 right here in the kitchen. The dining room would start
23 right about this area.

24 Q Your said, Laura, you collected that projectile, is
25 that right?

1 A Yes, ma'am.

2 Q When you collected it, again, what did you do?

3 A I again placed it in my little film cannister, placed
4 it in my patrol vehicle, did the paperwork and placed it
5 into evidence.

6 Q Did you alter that projectile or tamper with it in
7 any way?

8 A No, ma'am.

9 SOLICITOR DIXON: At this time we would move that
10 projectile into evidence.

11 THE COURT: Objections?

12 MS. FULLWOOD: None.

13 MR. DUNCAN: No, Your Honor.

14 THE COURT: So moved into evidence without objection.

15 (WHEREUPON, the projectile was marked as State's
16 Exhibit No. 66 and received into evidence at this time.)

17 Q Laura, after you collected all that evidence, what is
18 the next thing you did?

19 A I left.

20 Q Do you know about what time you left?

21 A About five o'clock that morning.

22 Q When you left, where did you go?

23 A I went to the Sheriff's Department.

24 Q What did you do when you got to the Sheriff's
25 Department?

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by Solicitor Dixon

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1 A Went to the Sheriff's Department. Like I stated
2 before, the Sheriff's Department has a secure area for
3 crime investigators only. We can go into this part of the
4 building. You have to have your -- your badge has to have
5 a certain key code to get in and out of the area, and I
6 went in there and started going through my evidence,
7 getting it organized, and started doing the paperwork so I
8 could place it into the evidence room with all my
9 paperwork completed.

10 Q At some point were you asked to perform another test
11 on a different defendant?

12 A Yes, ma'am, I was. I was requested by one of the
13 investigators, I believe Investigator Collins, to perform
14 an additional G.S.R. test on another person.

15 Q And who was that person?

16 A Mr. Parker.

17 Q Can you tell the jury, did you perform the test the
18 same way you performed the one on Mr. Johnson?

19 A Yes, ma'am, I did.

20 Q At what time did you perform the test on Mr. Parker?

21 A I performed the test on him at 6:30 that morning.

22 Q Did you also receive some clothing from Investigator
23 Roger Beaver?

24 A I did.

25 Q Can you tell us what that was?

1 A I was told that that clothing was I believe from
2 Mr. Johnson.

3 Q Okay. Did you tamper or alter that clothing in any
4 way?

5 A No, ma'am, I just took the clothing that was already
6 packaged, along with his paperwork, signed the evidence
7 cards because it came into my custody, and placed all that
8 along with my evidence into the evidence room.

9 Q When you placed all of that into the evidence room,
10 do you remember who you turned it into?

11 A Ms. Harmon because I waited until eight o'clock since
12 I had so much stuff to get it into the evidence custodian
13 themselves.

14 Q After you had turned your evidence into Ms. Harmon,
15 what's the next thing you did?

16 A About that time I was getting a little hungry. So, I
17 went to the Lizard's Thicket to get some breakfast.

18 Q While you were at the Lizard's Thicket, Laura, did
19 you receive a call pertaining to this case?

20 A I did. I received a phone call, I'm not sure from
21 who, that I needed to return back to Fox Run Lane.

22 Q Can you tell us why?

23 A When the maintenance man went to the patio area to
24 clean up stuff, E.M.S. trash and that type of stuff, he
25 pulled back that gray tarp that was covering stuff and

1 found additional shell casings.

2 Q When you were there earlier that morning, had you
3 moved that tarp at all?

4 A No, ma'am, I had not.

5 Q Okay. Did you go back to the scene?

6 A Yes, ma'am, I also requested a fresh pair of eyes to
7 go back with me since I had been up and pretty much out
8 all weekend. I requested that Crime Scene Investigator
9 Jim Hickman go with me to the crime scene. I also believe
10 Investigator Mike Tupps voluntarily went with us back.

11 Q When you arrived back at 86 Fox Run Lane, was anyone
12 there?

13 A Deputy -- I think it was Deputy or Officer Swinson
14 was there with the maintenance man at the patio.

15 Q Was anyone else there?

16 A No, ma'am.

17 Q Had they secured the scene again?

18 A The officer who responded back to the scene secured
19 that scene once again.

20 Q Can you tell us what time you arrived back at the
21 scene?

22 A It was, I believe, around ten, ten o'clock.

23 Q Okay. Could you tell, Laura, in the couple of hours
24 that you had been gone, did it appear to you that anything
25 had been moved?

1 A No, ma'am, the only thing was when the maintenance
2 man pulled back that gray tarp, everything else appeared
3 to be exactly the way that I left it.

4 Q Okay. Did anything appear to be, have been added to
5 the scene?

6 A No, ma'am.

7 Q Did anything appear to have been removed?

8 A No, ma'am.

9 Q At that point, did you and your fellow crime scene
10 investigators process the scene again?

11 A Yes, ma'am, we did.

12 Q All right. Did you find additional evidence at that
13 point?

14 A Yes, ma'am, we did.

15 Q Okay. Laura, I'm going to show you what's been
16 marked as State's 47 and 48, and ask if you can identify
17 these.

18 A Yes.

19 Q Tell the jury what those are please.

20 A Yes, this is Number 21, which is right here. That is
21 when -- that is part of the bar area of the incident
22 location. The bar backed up to almost like a pillar or
23 wall that went to the exterior wall of the apartment.
24 That is where we cut out the wall and found a projectile
25 that was in the wall.

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1 Q Did you collect that?

2 A Yes.

3 Q All right. Let me go ahead and hand you that, this,
4 Laura, and ask if you can open that bag and identify the
5 smaller bag that is inside it.

6 A Yes, this is -- this bag is labeled Number 21, and I
7 always write on, on the outside bag where I found the
8 evidence and it's from the interior wall near the kitchen.

9 Q Did you maintain custody and control after your
10 collection?

11 A Yes.

12 Q Did you alter that piece of evidence or tamper with
13 it in any way?

14 A No, ma'am.

15 SOLICITOR DIXON: Offer that into evidence, Your
16 Honor.

17 THE COURT: Any objections?

18 MR. FULLWOOD: No, Your Honor.

19 MR. DUNCAN: None.

20 THE COURT: So moved into evidence.

21 (WHEREUPON, the projectile was marked as State's
22 Exhibit No. 67 and received into evidence at this time.)

23 Q At that time, Laura, did you collect any other
24 evidence?

25 A Yes, I actually forgot to label it on my diagram, but

1 around this area there was carpet over carpet, like an
2 area rug over the carpet itself. We found a metal
3 fragment and I -- it's Number 22.

4 Q Did you collect that metal fragment?

5 A Yes, ma'am.

6 Q Do you have it there?

7 A Yes, ma'am, and you can see I labeled it Number 22,
8 floor and living room.

9 SOLICITOR DIXON: Your Honor, at this time we'd move
10 that piece of evidence---

11 THE COURT: Objections?

12 MS. FULLWOOD: No, Your Honor.

13 MR. DUNCAN: None.

14 THE COURT: So moved into evidence as State's
15 Exhibit.

16 (WHEREUPON, the metal piece was marked as State's
17 Exhibit No. 68 and received into evidence at this time.)

18 Q Laura, after you had finished processing the crime
19 scene that morning, did you have any other involvement in
20 this case?

21 A Yes, I guess a week later I received a search warrant
22 from Investigator Collins to process the vehicle that I
23 had towed from the, from the incident location to the
24 Sheriff's Department.

25 Q Okay. And where was that vehicle located?

1 A It was located in our evidence shed. Part of our
2 warehouse, part of our warehouse at the end of the
3 warehouse has a garage door so we can put vehicles or
4 large enormous evidence into our warehouse. That way it
5 is protected from weather or from anything else.

6 Q Okay. To gain access to that shed, who did you have
7 to go through?

8 A I had to touch base with one of the evidence
9 custodians and be escorted into that warehouse.

10 Q I'm going to ask you if you could look at this group
11 of pictures and identify it for me please.

12 A Yes, ma'am, this is the vehicle that I had towed from
13 Fox Run and this is damage that occurred on the right
14 corner panel and it was towed that way.

15 Q Okay. The next one?

16 A This is the driver's side door. The window is
17 shattered. It appears to be a hole in the window as well
18 as damage to the driver's side mirror.

19 Q This damage on these two pictures, had you seen that
20 the morning of November 20?

21 A Yes, ma'am.

22 SOLICITOR DIXON: Okay. Your Honor, we'd move 49 and
23 50 into evidence.

24 THE COURT: Any objections?

25 MS. FULLWOOD: No, Your Honor.

1 MR. DUNCAN: None.

2 THE COURT: So moved into evidence as State's
3 Exhibits 49 and 50.

4 (WHEREUPON, State's Exhibit Nos. 49 and 50 were
5 received into evidence at this time.)

6 Q So, as you're examining the car, did you, at some
7 point, begin to look outside the car?

8 A Yes, ma'am.

9 Q Did you begin to collect evidence from the car?

10 A Yes, ma'am, let me back up to verify that it was the
11 car. The VIN number, vehicle identification number, is on
12 the search warrant, and I make sure that search warrant
13 VIN number and the number on the car match each other.
14 Then I went inside the car.

15 Q Did you collect evidence from inside the car?

16 A Yes, ma'am, I did.

17 Q Did you take photographs of that?

18 A Yes, ma'am.

19 Q Briefly tell us what those photographs are.

20 A This is a photographer of inside the car. This is
21 the passenger front side, the seats here, car mats here,
22 and if you look right here you'll -- there's a dime and a
23 shell casing.

24 Q Did you collect that shell casing?

25 A Yes, ma'am.

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by Solicitor Dixon

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1 Q Look at this for me, Laura, and tell me what that is.

2 A This is a shell casing I collected from the passenger
3 floorboard.

4 Q Tell me what kind of shell casing that is.

5 A It is a .40 caliber Smith & Wesson.

6 Q Are those -- is it the same kind of shell casing that
7 you had collected at the crime scene?

8 A Yes, ma'am.

9 Q Did you put that in your custody and control?

10 A Yes, ma'am.

11 Q Did you --

12 A And turned it into evidence.

13 SOLICITOR DIXON: Your Honor, we move the shell
14 casing into evidence.

15 THE COURT: Objections?

16 MS. FULLWOOD: No, Your Honor.

17 MR. DUNCAN: None.

18 THE COURT: So moved into evidence.

19 (WHEREUPON, the shell casing was marked as State's
20 Exhibit No. 69 and received into evidence at this time.)

21 Q Laura, did you collect anything else from that
22 vehicle?

23 A Yes, ma'am, when I opened the glove box, there are
24 some glasses right here, a handicap card, but if you look
25 in this back corner there is a bullet where the shell

1 casing and the projectile are hole and had not been fired.

2 Q Did you collect that?

3 A Yes, ma'am, I did.

4 Q Is that it right there in front of you?

5 A Yes, ma'am, it's the glove box and I put passenger.

6 Q Can you tell us what caliber that bullet is?

7 A A .40 caliber Smith & Wesson.

8 SOLICITOR DIXON: At this time we move that bullet
9 into evidence.

10 MS. FULLWOOD: No, Your Honor, no objection.

11 MR. DUNCAN: None.

12 THE COURT: Moved into evidence without objection.

13 (WHEREUPON, the bullet was marked as State's Exhibit
14 No. 70 and received into evidence at this time.)

15 Q Did you find anything else inside the car?

16 A Yes, ma'am, I opened up the center console of the
17 vehicle and found some music CD's and a black wallet.
18 It's kind of hard to see from a distance, but a black
19 wallet.

20 Q Did you remove that from the car?

21 A I did.

22 Q when you removed the wallet, what did you find?

23 A When I opened the wallet I took a photograph and
24 found a South Carolina driver's license that belonged to
25 Mr. Kerwin Parker.

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1 SOLICITOR DIXON: Your Honor, at this time we move
2 all those photographs into evidence.

3 MS. FULLWOOD: No objection.

4 MR. DUNCAN: None.

5 THE COURT: I don't know how many there are. Four
6 photographs and they're marked as what?

7 THE WITNESS: State's 51, 52, 53, and 54.

8 THE COURT: Okay. 51 through 54 in evidence.

9 (WHEREUPON, State's Exhibit Nos. 51 through 54 were
10 received into evidence at this time.)

11 Q Laura, thank you. Answer any questions the defense
12 may have for you.

13 A Okay.

14 CROSS-EXAMINATION

15 BY MS. FULLWOOD:

16 Q Good morning, Ms. Gould.

17 A Ms. Fullwood.

18 Q Let's first talk about the clothing that you
19 mentioned when Ms Dixon was examining you.

20 That t-shirt that was put in evidence as State's
21 Exhibit 65, that came from the person you more or less
22 arbitrarily designated as victim number two?

23 A Yes, it came from the patio area.

24 Q And who was wearing that white t-shirt?

25 who -- did you designate it as victim number two?

Laura Grimes-Gould - Cross-examination
by Ms. Fullwood

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1 A Victim number two was later designated as A. Wilson.

2 Q So, that would be A.J. Wilson?

3 A Yes, ma'am.

4 Q And did you make a note -- well, first of all, who
5 had you designated as victim number one?

6 A Mr. Isaac Wilson, the deceased was victim number one.

7 Q Isaac Wilson?

8 A Yes, ma'am.

9 Q What did you note that he was wearing when you came
10 on the scene?

11 A Victim number one was dressed in a white t-shirt,
12 blue jeans, black boots, and at that time victim number
13 two and three I labeled as unknown clothing.

14 Q Okay. So, you collected a white t-shirt that A.J.
15 Wilson was wearing?

16 A Yes.

17 Q And then Isaac Wilson was also wearing a white
18 t-shirt?

19 A Mr. Wilson had his t-shirt on. Mr. -- excuse me.
20 Isaac Wilson had his t-shirt on. The t-shirt on the
21 patio, with further information once the case work
22 progressed, belonged to A.J. Wilson who was on the patio.

23 Q Okay. Now, your item number three---

24 A Yes, ma'am.

25 Q ---on your diagram---

Laura Grimes-Gould - Cross-examination
by Ms. Fullwood

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- 1 A Yes, ma'am.
- 2 Q ---what is -- what was item number three?
- 3 A Item number three I labeled as black, as black
- 4 stocking material and inside that material was some type
- 5 of plant material.
- 6 Q Okay. Do you mean by stocking material like a pair
- 7 of women's hosiery?
- 8 A No, ma'am.
- 9 Q What -- can you describe that stocking material?
- 10 A It was a thick black stocking material.
- 11 Q Like a sock?
- 12 A Not a sock. It was nylon.
- 13 Q Okay. And did -- well, in your work, you have seen
- 14 marijuana, correct?
- 15 A Yes, ma'am.
- 16 Q Did it appear to look like marijuana?
- 17 A It was a plant material.
- 18 Q Consistent with marijuana?
- 19 A Yes, ma'am.
- 20 Q All right. And your report states in one place that
- 21 you found it on one of the victims and in another place
- 22 that you found it on top of the air conditioning unit.
- 23 where, in fact, did you find that plant-like
- 24 material?
- 25 A I have it black stocking material containing green

1 plant material on top of the A.C. unit.

2 Q Okay. And the next to the last line, but the, in the
3 first page in your report states black stocking material
4 which contained a plastic bag of plant material was found
5 on one of the victims.

6 A Yes, ma'am.

7 Q Is that referring to the same thing?

8 A I believe so, yes, ma'am.

9 Q So, I guess my question, was it on a person like you
10 say on the first page or was it on top of the air
11 conditioner?

12 A It was on top of the air conditioner unit. I'm not
13 sure how it got there. That line -- one of the deputies
14 could have told me that and I'd put it in my information
15 report.

16 Q Okay. And the item that you have listed as item
17 number ten---

18 A Yes, ma'am.

19 Q ---what was that?

20 A It is a box of shotgun shells.

21 Q All right. And could you show us on your diagram
22 where you found that?

23 A They were found right here. As I said, explained,
24 like the bar area of the kitchen.

25 Q So, right out in the, open in the kitchen on the

Laura Grimes-Gould - Cross-examination
by Ms. Fullwood

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1 counter?

2 A Yes, ma'am.

3 Q Let me show you this photograph that's been marked
4 Defendant's Exhibit 8 and ask you what this represents.

5 A This is a picture of the shotgun shells that are on
6 the counter or bar area of the counter.

7 MS. FULLWOOD: Okay. Your Honor, I move that we
8 introduce this photo in evidence.

9 THE COURT: Any objection?

10 SOLICITOR DIXON: No objection.

11 THE COURT: So moved into evidence as Defendant's
12 Exhibit without objection.

13 (WHEREUPON, Defendant's Exhibit No. 8 was received
14 into evidence at this time.)

15 Q Ms. Grimes-Gould, let me hand you this item and ask
16 if you can identify it.

17 A This would be the box of shell casings that I marked
18 as number ten.

19 Q Those would be the same shell casings that you found
20 on the counter?

21 A Yes.

22 Q How many shells remained in that box when you found
23 it?

24 A Seven.

25 Q Can you look on that box and tell us how many shells

1 it held when it was full?

2 A The full box like you would buy it?

3 Q That's correct.

4 A It says it would hold 25.

5 MS. FULLWOOD: Your Honor, I move to introduce this
6 box of shotgun shells into evidence.

7 THE COURT: Objection?

8 SOLICITOR DIXON: No objection.

9 (WHEREUPON, the shotgun shells were marked as
10 Defendant's Exhibit No. 11 and received into evidence at
11 this time.)

12 Q Ms. Grimes-Gould, that night did you search the
13 storage closet that was off of the patio?

14 A No, ma'am, I did not.

15 Q Did you ever search that closet?

16 A I can't remember. I'm not sure if it was locked or
17 if I just didn't search it.

18 Q Did you ever search the upstairs area of that
19 apartment?

20 A I went upstairs into the area of the apartment, but I
21 did not search under the bed or---

22 Q How about in any closets or anything of that nature?

23 A No.

24 Q Concerning this shotgun after you collected it, did
25 you -- were you made aware that, at a later date, Matt

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1 Martin with the Solicitor's Office discovered a third
2 shell in the shotgun?

3 A Yes, ma'am, I was called and made aware that there
4 was an additional shell casing in the shotgun.

5 Q So, in fact, when the shotgun was collected, it
6 contained three shells, is that right?

7 A I'm not sure how many shells Mr. Martin collected out
8 of the shotgun.

9 Q But it had more than two?

10 A Yes, that's what I was made aware of.

11 Q Do you know where those additional shell or shells
12 are now?

13 A No, I did not collect them.

14 Q Ms. Grimes-Gould, I want to show you what's been
15 marked Defendant Exhibit No. 9, and ask if you can tell us
16 what that is.

17 A Yes, this is the tree that I spoke about earlier and
18 you can see where it definitely has been disturbed.

19 Q Is that the area where you collected a metal
20 fragment?

21 A Yeah, where I tried to dig out as much as I could in
22 the tree.

23 MS. FULLWOOD: Your Honor, I move to admit Defense
24 Exhibit 9 into evidence.

25 THE COURT: Any objection?

1 SOLICITOR DIXON: No objection.

2 THE COURT: So moved into evidence as Defense Exhibit
3 9.

4 (WHEREUPON, Defendant's Exhibit No. 9 was received
5 into evidence at this time.)

6 Q Ms. Grimes-Gould, I would like to show you what's
7 been marked Defense Exhibit 10, and ask if you can tell us
8 what this photograph depicts.

9 A It appears this photograph is on the patio area of
10 the incident location, be standing here looking out
11 towards the roadway and the apartments on the other side
12 of the road.

13 MS. FULLWOOD: Your Honor, I move to admit this
14 photograph into evidence.

15 THE COURT: Objection?

16 SOLICITOR DIXON: No objection.

17 THE COURT: So moved into evidence, Defense Exhibit,
18 without objection.

19 (WHEREUPON, Defendant's Exhibit No. 10 was received
20 into evidence at this time.)

21 Q Ms. Grimes-Gould, were you made aware, at a later
22 time on the 24th of November, I guess three days after
23 you were last there, that a question arose about some
24 plastic bags containing large sums of money had been seen
25 in that apartment and then were later found missing?

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1 A No, ma'am, I have no knowledge of that.

2 Q You don't know anything about that?

3 A No, ma'am.

4 Q On its own?

5 A No, ma'am.

6 MS. FULLWOOD: Beg the Court's indulgence.

7 (Pause.)

8 A No, ma'am.

9 MS. FULLWOOD: No further questions, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. DUNCAN:

12 Q Ms. Grimes-Gould, you found seven shell casings total
13 from the deck?

14 A I found three and when I went back along with
15 Mr. Hickman we found additional ones, yes, sir.

16 Q All right. And, so, counting the one for the car,
17 there were eight shots apparently fired that night?

18 A Yes, sir.

19 Q Was it your job to fingerprint the shotgun?

20 A Yes, if I was requested by the investigating officer.

21 Q Did you do so?

22 A No, sir, I never received -- we have lab requests at
23 the Sheriff's Department. The investigating officers are
24 the officers in charge of the case, fill out these lab
25 requests, then take those lab requests, take out the

1 evidence, and then we process it.

2 Q Were you asked to process the clothing of Kerwin
3 Parker and Curtis Johnson?

4 A No, sir, I was not.

5 Q So, you would not have done any gunshot residue
6 testing on any of those clothes?

7 A No, sir, I did not do those.

8 Q Were you requested or did you process the clothing
9 identified as coming from A.J. Wilson?

10 A No, sir, I did not process any clothing for anyone in
11 this case.

12 Q Okay. You collected Mr. Isaac Wilson's shirt?

13 A I did not collect Mr. Wilson's shirt. That went with
14 him to the autopsy, which Mr., CSI Hickman attended the
15 autopsy.

16 Q And then it was brought back to you and you put it on
17 the brown paper cloth or the brown paper to dry?

18 A No, I did not do anything with any of the autopsy
19 evidence.

20 Q Okay. Maybe I'm confused. I thought you said you
21 processed the t-shirt.

22 A Mr. Wilson, victim number two, Jack J. Wilson's
23 t-shirt I picked up.

24 Q Just his?

25 A Yes.

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- 1 Q Okay. Did you also process his pants?
- 2 A I went and laid everything out and then packaged them
- 3 back up and put them into evidence.
- 4 Q And you did not locate the drugs that were later
- 5 found in the two packages in his pants?
- 6 A No, sir, I did not.
- 7 Q Did you check the pants?
- 8 A No, sir, I just laid them out on the paper.
- 9 Q All right. Just one second you indicated that the
- 10 shotgun -- where is the safety?
- 11 A Right here.
- 12 Q I'm sorry. Down where?
- 13 A It's right here.
- 14 Q It's right there.
- 15 You indicated that you checked the safety?
- 16 A On my report I indicated that the safety was off.
- 17 Q The safety was off when you got it?
- 18 A When I picked it up off of the patio, yes.
- 19 Q Okay. When you took the gunshot residue test from
- 20 Mr. Kerwin Parker, you said it was approximately 6:30 in
- 21 the morning?
- 22 A Yes.
- 23 Q Were you aware he had been in custody of the police
- 24 since approximately 3:00 a.m.?
- 25 A No, sir, I had not. I was out at the scene.

1 Q Okay. Now, on your form here -- let me ask you this.
2 When you're processing for gunshot residue, why do
3 you test the back of the hands?

4 A We were instructed to do the back of the hands
5 because if you're holding a gun when it fires the powder
6 goes on the back of the hands as well as the palm of the
7 hands.

8 Q Okay. Is there more on the back or less or what's
9 the relationship?

10 A I can't answer that question. I'm not an expert in
11 gunshot residue, sir.

12 Q Okay. And is it your -- what is your understanding
13 of what comes out of a weapon when it's fired?

14 Is it a cloud or what---

15 A It's particles from when the gun goes off, you know,
16 smoke, gun powder.

17 Q It is a cloud that envelopes the back of the hands?

18 A I wouldn't say it was a cloud. When I've seen people
19 shoot, it's not like a huge dust cloud. It is a very
20 microscopic---

21 Q It may be an invisible cloud of materials, particles.

22 A I wouldn't say invisible, but, yeah, a small cloud
23 that's very hard to see by the naked eye.

24 Q On this -- is this -- this is a gunshot residue
25 analysis information form.

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1 That's what you have there?

2 A From Mr. Parker, yes.

3 Q Okay. Has that been put into evidence?

4 A I'm not sure.

5 Q It hasn't been offered. On the form it has, has the
6 subject washed his or her hands.

7 SOLICITOR DIXON: Objection.

8 SOLICITOR MYERS: We have a matter, Your Honor. He
9 knows that's not admissible.

10 THE COURT: You need to take that up outside the
11 jury?

12 SOLICITOR MYERS: However you want to do it.

13 THE COURT: The basis of the objection is hearsay on
14 the document itself?

15 SOLICITOR MYERS: Absolutely. Self-serving hearsay.

16 THE COURT: I sustain the objection.

17 MR. DUNCAN: Your Honor, can we be heard?

18 THE COURT: Yes, sir, absolutely.

19 Ladies and gentlemen, we're going to take up a matter
20 of law. If you would, please retire to your jury room.

21 (WHEREUPON, the following takes place outside the
22 presence of the jury.)

23 THE COURT: Remind me, for purposes of the record,
24 Mr. Duncan, I want you to restate your question and then I
25 want Mr. Myers to state his objection on the record that's

1 already been---

2 MR. DUNCAN: Your Honor, can I ask it by doing the
3 way of asking where she got the information from so there
4 will be a record of that?

5 THE COURT: Conceptually, yes. But until I hear the
6 specific question it is hard for me to say it---

7 MR. DUNCAN: Okay.

8 THE COURT: I don't want you to proffer it. I
9 understand you asked her a question about what is said on
10 the document, correct?

11 MR. DUNCAN: That's correct.

12 THE COURT: And the basis of the State's objection,
13 and I don't want to misstate it, is that it's
14 inappropriate hearsay that appears on the document?

15 SOLICITOR MYERS: It's what the defendant told her,
16 yes, sir.

17 THE COURT: Okay.

18 CONTINUED CROSS-EXAMINATION

19 BY MR. DUNCAN:

20 Q Is that, in fact, where you got the information from?

21 A Can you restate the question please?

22 Q The information on this form, where did you get the
23 information from?

24 A I asked Mr. Parker all the questions that are on the
25 form and this is what he told me.

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1 Q Okay. So, that's the basis for the subject
2 information?

3 A Yes.

4 Q Okay. I mean you wouldn't have asked him a number of
5 shots fired or the other information at the bottom?

6 A No, sir.

7 Q Okay.

8 THE COURT: Let me make sure I understand where
9 you're going with it, and that is you filled out a form,
10 where did you get the information from, what was the
11 result.

12 MR. DUNCAN: That's correct.

13 THE COURT: Is that it?

14 Mr. Myers, do you have any objection to that line of
15 questioning specifically?

16 SOLICITOR MYERS: Yes, sir, I do. Anything the
17 defendant said is self-serving hearsay, which we argued
18 about yesterday.

19 THE COURT: All right. Let me see the document.
20 Do you intend to admit this as an exhibit?

21 MR. DUNCAN: No, sir, just the information.

22 THE COURT: Okay. My ruling is you can't testify
23 specifically about anything that he said although she says
24 she talked to him and had a conversation with him. That's
25 fine. Okay.

1 MR. DUNCAN: Your Honor, could I ask the question.
2 Is there -- I would ask -- I also tendered the question,
3 as a result of your conversation with Mr. Parker, did you
4 receive any information that would disqualify this test.

5 SOLICITOR MYERS: That's the same thing. He can't
6 get in the back door what he can't get in the front door.
7 We're just trying to have semantics and a play on words.
8 All this information came from the defendant and under
9 rule, under 804, State Versus Terry, and the other cases I
10 cited yesterday, it's just not admissible.

11 THE COURT: I understand. Okay. And this is my
12 ruling and it is in keeping with my prior ruling. At this
13 stage the defendant -- there's been no statement offered
14 into evidence regarding this defendant, and I'm not going
15 to require him obviously to testify. He may elect or he
16 may not to. At some point in time you may have the
17 opportunity to recall this witness or other witnesses
18 regarding some of these questions. You may have. But at
19 this point, prior to those being admitted, I find it is
20 inappropriate.

21 MR. DUNCAN: That's fine.

22 THE COURT: Okay.

23 MR. DUNCAN: If Your Honor would give me a second. I
24 may not have any other questions.

25 THE COURT: All right, sir.

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1 (Pause.)

2 MR. DUNCAN: I do have a couple others, judge.

3 That's all, but nothing else---

4 THE COURT: All right. Bring the jury back.

5 (Pause.)

6 THE COURT: Ladies and gentlemen, since they're
7 taking a break and using the restroom, let's take our
8 mid-morning break and we'll be back on the record at
9 approximately 10:35 by that clock.

10 THE WITNESS: Your Honor, is it okay if I use the
11 restroom?

12 THE COURT: Yes, ma'am, you can step down. Just
13 don't talk to anybody about your testimony. You're still
14 under oath.

15 (WHEREUPON, a short recess was taken at this time.)

16 (WHEREUPON, fifteen pictures were marked as State's
17 Exhibit Nos. 71 through 85. Two diagrams were marked as
18 State's Exhibit Nos. 86 and 87. All were for
19 identification purposes only at this time.)

20 (WHEREUPON, the following takes place within the
21 presence of the jury.)

22 THE COURT: You may proceed.

23 CONTINUED CROSS-EXAMINATION

24 BY MR. DUNCAN:

25 Q Did you do any gunshot residue testing on Walter

1 Gadson, Isaac Wilson, or A.J. Wilson?

2 A No, sir, I did not.

3 Q Did you -- you took a photograph of the patio as you
4 found it initially?

5 A Yes, sir.

6 Q And when you went back after it had been released to
7 the public so to speak---

8 A Yes, sir.

9 Q ---did you take another photograph to be certain that
10 nothing had been moved or was missing?

11 A I don't recall unless I saw that photograph.

12 Q So, you didn't do it?

13 A I don't remember doing it. Mr. Hickman and Mr. Fipps
14 was there with me.

15 Q That would be the best way to determine that,
16 wouldn't it?

17 A Determine what, sir?

18 Q You indicated that you took a photograph to make
19 certain you had everything as it was when you found it.

20 A Correct.

21 Q And then, when you went back in response to the
22 solicitor's questions, you were saying that you -- when
23 you went back you looked to see if anything had been moved
24 and a photograph would be the best evidence of that,
25 correct?

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1 A Yes, sir, that would have been the best evidence.

2 Q Okay. Thank you.

3 THE COURT: Any redirect?

4 SOLICITOR DIXON: No questions, Your Honor. I just
5 wanted to make sure. I don't think we moved those two
6 exhibits into evidence, and one picture that I left, and
7 from the defense, they don't have any objection to that.
8 So---

9 THE COURT: Any objections?

10 MS. FULLWOOD: No, Your Honor.

11 THE COURT: Ms. Dixon, you may want to identify that
12 one picture that you're discussing.

13 SOLICITOR DIXON: No. 38, Your Honor.

14 THE COURT: And we'll move those into evidence
15 without objection as to successive numbered State's
16 Exhibits.

17 SOLICITOR DIXON: They are 88 and 87, Your Honor.

18 (WHEREUPON, State's Exhibit Nos. 38, 86, and 87 were
19 received into evidence at this time.)

20 SOLICITOR MYERS: I call Jim Hickman to the stand
21 please.

22 JIM HICKMAN, having been first duly
23 sworn, testified as follows:

24 SOLICITOR MYERS: Your Honor, for this witness I
25 think Photographs 71 through 84 have already been marked

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1 and introduced without objection.

2 THE COURT: Moved into evidence.

3 I assume they've been referred to and marked for
4 identification?

5 SOLICITOR MYERS: Yes, sir.

6 THE COURT: All right. They shall all be moved into
7 evidence as at this time.

8 (WHEREUPON, State's Exhibit Nos. 71 through 85 were
9 received into evidence at this time.)

10 DIRECT EXAMINATION

11 BY SOLICITOR MYERS:

12 Q Mr. Hickman, how long have you been in law
13 enforcement?

14 A Approximately 36 and a half years.

15 Q And how long---

16 A Approximately July 10.

17 Q How long were you working?

18 A I worked approximately eleven and a half years for
19 the Lexington County Sheriff's Department.

20 Q What were your duties when you retired?

21 A Senior crime scene officer of Lexington County crime
22 scene unit.

23 Q What is the crime scene unit?

24 A They're individually trained and processed to
25 investigate crime scenes. A crime scene being a place