

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Certiorari to Pickens County

Letitia H. Verdin, Circuit Court Judge

RECEIVED
NOV 28 2017
SC Court of Appeals

TAVISH DOMINIQUE YEARGIN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-001324

A P P E N D I X

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

ALPHONSO SIMON, JR.
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT NOVEMBER 18-20, 2013	1
FINAL BRIEF OF APPELLANT	617
FINAL BRIEF OF RESPONDENT	646
COA OPINION 2016-UP-043	692
APPLICATION FOR FORENSIC DNA TESTING	696
TRANSCRIPT OF HEARING MAY 25, 2017	701
ORDER DENYING APPLICATION FOR FORENSIC DNA TESTING	712
INDICTMENTS AND SENTENCING SHEETS	715

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

STATE OF SOUTH CAROLINA

PLAINTIFF)

vs.

TAVISH DOMINIQUE YEARGIN

DEFENDANT)

) COURT OF GENERAL SESSIONS

) 2011-GS-39-2148; 2149

ORIGINAL

) TRANSCRIPT OF RECORD

November 18-20, 2013

Pickens, South Carolina

B E F O R E:

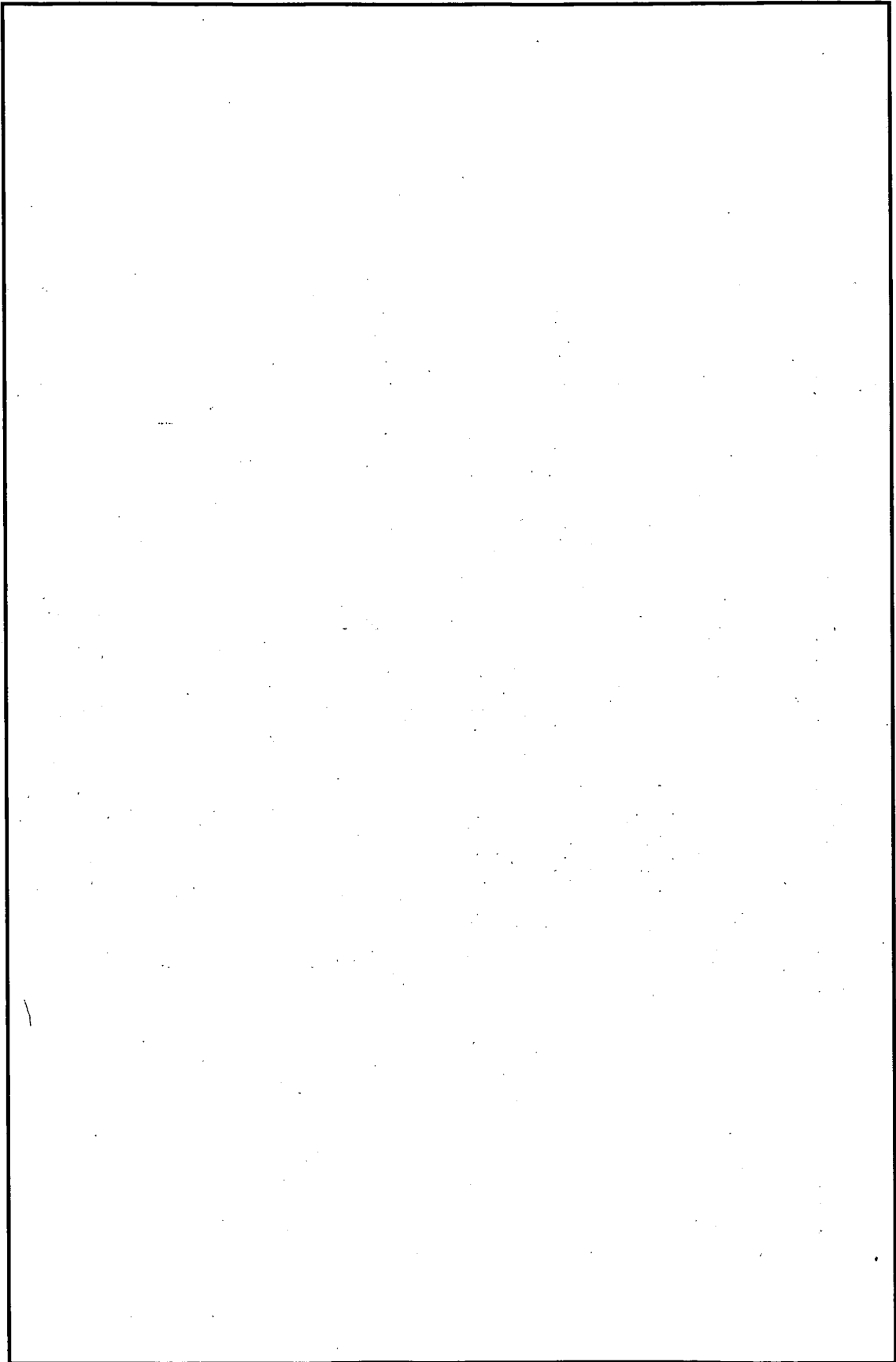
THE HONORABLE ROBIN B. STILWELL, Judge; and a jury.

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

DOUG RICHARDSON, ESQ.
BRANDI HINTON, ESQ.
Attorneys for the State

JOHN DEJONG, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter



INDEX OF WITNESSES

MARGARET HINSON

Direct By Ms. Hinton	74
Cross By Mr. Dejong	87
Redirect By Ms. Batson	102

HAROLD SLOAN

Direct By Ms. Hinton	105
Cross By Mr. Dejong	108

JOSQUEZE THOMAS

Direct By Ms. Hinton	110
Cross By Mr. Dejong	112

DAVID ALEXANDER

Direct By Ms. Hinton	115
Cross By Mr. Dejong	122

ADAM WESTMORELAND

Direct By Mr. Richardson	130
Cross By Mr. Dejong	134

JUSTIN MITCHELL

Direct By Mr. Richardson	144
Cross By Mr. Dejong	150

BEN DOW

Direct By Mr. Richardson	153
Cross By Mr. Dejong	190

BEN DOW

Direct By Mr. Richardson	229
Cross By Mr. Dejong	235

LANE BYERS

Direct By Mr. Richardson	238
Cross By Mr. Dejong	242

TONY ROBINSON

Direct By Mr. Richardson	243
Cross By Mr. Dejong	266

ANDY GARRETT

Direct By Ms. Hinton	286
Cross By Mr. Dejong	290

SCOTT TICKNOR

1	Direct By Ms. Hinton	.292
	Cross By Mr. Dejong	.299
2	KAYLA WILLIAMS	
3	Direct By Mr. Richardson	.307
	Cross By Mr. Dejong	.357
4	Redirect By Mr. Richardson	.386
5	NYIA UTSEY	
6	Direct By Mr. Richardson	.391
	Cross By Mr. Dejong	.435
7	Redirect By Mr. Richardson	.466
8	JAMES ARMSTRONG	
9	Direct By Ms. Hinton	.477
	Cross By Mr. Dejong	.486
10	CHRIS GARY	
11	Direct By Ms. Hinton	.488
	Cross By Mr. Dejong	.512
12	JAMES FULCHER	
13	Direct By Ms. Hinton	.527
	Cross By Mr. Dejong	.535
14	SHANE BRUMMITT	
15	Direct By Mr. Richardson	.542
	Cross By Mr. Dejong	.547
16	Redirect By Mr. Richardson	.551
17	TAVISH YEARGIN	
18	Examination By The Court	.556
19	» > O < «	
20	Opening Statement by Ms. Hinton	.60
	Opening Statement by Mr. Dejong	.63
21	Closing Statement by Mr. Richardson	.569
	Closing Statement by Mr. Dejong	.583
22	Jury Charge	.596
	Verdict	.608
23	Sentencing	.615
	Certificate of Reporter	.616
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COURT EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	NCIC for Juror No. 63	34	34
2	NCIC for Juror No. 111	34	34
3	Stipulation	226	226

STATE'S EXHIBITS

1	Photograph	116	116
2	Photograph	157	157
3	Photograph	157	157
4	Photograph	148	148
5	Photograph	79	79
6	Photograph	260	260
7	Photograph	260	260
8	Photograph	173	173
9	Photograph	176	176
10	Photograph	173	173
11	Photograph	260	260
12	Not an Exhibit		
13	Photograph	79	79
14	Photograph	254	254
15	Photograph	256	256
16	Photograph	256	256
17	Photograph	184	184

1	18	Photograph	184	184
2	19	Not an Exhibit		
3	20	Photograph	188	188
4	21	Not an Exhibit		
5	22	Photograph	180	180
6	23	Photograph	180	180
7	24	Not an Exhibit		
8	25	Projectile	483	483
9	26	Not an Exhibit		
10	27	License Plate	263	263
11	28	Family Dollar Receipt	261	261
12	29	BB Gun	264	264
13	30	Yearhing Fingerprint Card	511	511
14	31	Lab Report	485	485
15	32	Fingerprint Card	504	504
16	33	Fingerprint Card	504	504
17	34	Fingerprint Card	508	508
18	35	Fingerprint Card	508	508
19	36	Fingerprint Card	508	508
20	37	Fingerprint Card	508	508
21	38	Fingerprint Card	508	508
22	39	Fingerprint Card	508	508
23	40	Document	522	546
24	41	Letter	522	546
25	42	Letter	522	546

1 THE COURT: All right, ladies and gentlemen,
2 welcome to courtroom four. I know that downstairs I asked
3 you several questions related to your qualifications to
4 serve as jurors, generally, in the county of Pickens.
5 Now, I'm going to pose questions to you which are designed
6 to determine whether it's appropriate, whether it's
7 suitable and whether you're qualified to serve as jurors
8 in this specific case that we are calling to bar today.
9 And we calling to bar today the case of the State vs.
10 Tavish Dominique Yeargin.

11 Now, ladies and gentlemen, I am going to read to
12 you the allegations on the Indictments. That have been
13 prepared by the State. Now, it's important for me to tell
14 you before I read the allegations to the State, that in
15 each and every criminal proceeding in the United States of
16 America, in the State of South Carolina, and in this
17 County of Pickens, the Defendant is presumed innocent
18 until proven guilty beyond a reasonable doubt by the State
19 of South Carolina. The State has the burden of proving
20 each and every element of the offense beyond a reasonable
21 doubt. The Defendant retains his presumption of innocence
22 until such time as the jury collectively determines that
23 the State has met its burden of proof. So, as we sit here
24 right now, the Defendant in this case, Mr. Yeargin,
25 retains that presumption of innocence. And the State has

1 the burden of countering that.

2 Now, I tell you all of that because I'm going to
3 read to you the allegations on the Indictment that the
4 State has prepared. I want to make sure that you
5 understand that those are the allegations of the State.
6 Just because I read those to you as the Judge, does not
7 mean that I am telling you that these are the facts in
8 this case. The jury will make a determination of what the
9 facts are in this case. But it's important for me to tell
10 you what the allegations are. So, that you can then
11 intelligently answer the questions that I pose to you when
12 we start asking questions and do qualification for this
13 specific case. So, ladies and gentlemen, I will read
14 those to you.

15 The first Indictment is the State vs. Tavish
16 Dominique Yeargin, Indictment No. 2011-GS-39-2148,
17 indictment for murder. The State would allege that Tavish
18 Dominique Yeargin did in Pickens County, on or about
19 September 17th, 2011, unlawfully and with malice
20 aforethought, kill Sean Timothy Dinneon by means of
21 shooting the victim. And that Sean Timothy Dinneon did
22 die as approximate result thereof.

23 Ladies and gentlemen, the second charge before
24 the Court is the State vs. Tavish Dominique Yeargin,
25 Indictment No. 2011-GS-39-2149 for grand larceny. And in

1 this Indictment the State would allege that Mr. Yeargin
2 did in Pickens County on or about the 17th day of
3 September, 2011 feloniously take and carry away the
4 personal property of Sean Timothy Dinneon, specifically a
5 Pontiac Grand Prix with a total value of more than
6 \$2,000.00. With intent to deprive the owner of such
7 property.

8 Now, ladies and gentlemen, the reason why I told
9 you that is so I can ask you this question specifically.
10 Is there anyone among you who has any prior knowledge, any
11 prior opinion or any prior disposition regarding the
12 allegations of this case? If answer is yes, please stand
13 up and state for the record your name and your juror
14 number. And then tell me specifically, without telling me
15 what your knowledge is, specifically tell me if you have
16 that prior knowledge.

17 Yes, sir.

18 PROSPECTIVE JUROR: My juror number is 68, my
19 name is Adam Hill. And I knew the guy, he lived with me.

20 THE COURT: Okay. All right. Given that fact,
21 do you think you could be a fair and impartial juror in
22 the trial of this case?

23 PROSPECTIVE JUROR: Probably not.

24 THE COURT: Okay. I'll entertain strikes for
25 cause in that event, Counsel.

1 All right, you can have a seat, sir.

2 Yes, sir.

3 PROSPECTIVE JUROR: William Hutson, 75. I read
4 about this case a couple of years ago.

5 THE COURT: In the newspaper?

6 PROSPECTIVE JUROR: On a blog.

7 THE COURT: Okay. Do you think given that fact
8 that you can be a fair and impartial juror in the trial of
9 this case?

10 THE CLERK: Yes, sir.

11 THE COURT: Okay. All right. Thank you, very
12 much, I appreciate you telling me that.

13 Okay. All right, ladies and gentlemen of the
14 jury, I'll ask you, is there anyone among you has a
15 personal or professional relationship with the Defendant,
16 Mr. Tavish Dominique Yeargin in this case?

17 All right, let the record reflect no affirmative
18 response.

19 Ladies and gentlemen, Mr. John DeJong of the
20 Pickens County Public Defender's Office is representing
21 the Defendant in this case. Is there anyone among you who
22 has a personal, professional or family relationship with
23 Mr. DeJong?

24 There was no response.

25 Ladies and gentlemen, the State in this matter

1 is represented by Mr. Doug Richardson of the Pickens
2 County Solicitor's Office, is there anyone among you who
3 has a personal, professional relationship with
4 Mr. Richardson or anyone employed by the Thirteenth
5 Circuit Solicitor's Office?

6 THE COURT: All right, let the record reflect no
7 affirmative response.

8 Ladies and gentlemen, I'm going to read to you a
9 list of potential witnesses in this case. I don't know if
10 that this is an inclusive list of witnesses in this case,
11 it maybe more than those who actually testify, it maybe
12 less. However, as we sit here right now, these are the
13 potential witnesses in this case. So, what I'll ask you
14 to do is after I call them out I'm going to ask you the
15 same question about whether you have any personal,
16 professional or family relationship with any of these
17 potential witnesses. And those are as follows. Nyia
18 Utsey, Kayla Williams, Adam Westmoreland, David Alexander,
19 David Stanley, Ben Dow, Michael Owens, Tony Robinson,
20 Michael Baker, Lane Byers, Margaret Hinson, Andy Garrett,
21 Justin Mitchell, Dr. James Fulcher, Chris Gary, James
22 Armstrong, Julie Martin, Toby Bradley, Courtney Burgess,
23 Tazsnick Utsey, Scott Ticknor, Harold Sloan, Sam Williams,
24 Art Taylor, Josqueze Thomas, Clarissa Mack, Tavish
25 Dominique Yeargin or Tracy Mayfield.

1 Ladies and gentlemen, anyone among you has a
2 personal, professional or family relationship with any of
3 those individuals?

4 Yes, sir.

5 PROSPECTIVE JUROR: Yeah, I do. One of them my
6 grandmother.

7 THE COURT: All right, state your name and juror
8 number.

9 PROSPECTIVE JUROR: Adam Hill, number 68.

10 THE COURT: Okay. And one of them is your
11 grandmother? And I believe you have given us a previous
12 response before. Okay, thank you, for pointing that out,
13 I appreciate that.

14 Anything -- any -- anyone else?

15 Yes, ma'am.

16 PROSPECTIVE JUROR: You read a name, Julie
17 Martin. I know a Julie Martin in Greenville County. I
18 don't know if it's the same person or not.

19 THE COURT: Okay. Let's just say hypothetically
20 that it is the same person, if she were to take the stand
21 here would it effect your ability to be a fair and
22 impartial juror in the trial of this case and render a
23 verdict in accordance with the law as I give it to you?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Okay, thank you for telling me, I

1 appreciate that.

2 Yes, sir.

3 PROSPECTIVE JUROR: 159, Lloyd Worsham, you
4 named a person Tony Robinson.

5 THE COURT: Yes, sir.

6 PROSPECTIVE JUROR: I know Tony Robinson.

7 THE COURT: Okay. Again, I'll ask you the same
8 question. If it's the same person, would it effect your
9 ability to be a fair and impartial juror in the trial of
10 the case?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Okay. Thank you, very much, I
13 appreciate that, sir.

14 All right, ladies and gentlemen, is there anyone
15 among you who is related by blood or marriage to an
16 employee of the Pickens County Sheriff's Office?

17 Yes, ma'am.

18 PROSPECTIVE JUROR: Carol Whitmire, 155.

19 THE COURT: Yes, ma'am.

20 PROSPECTIVE JUROR: My son's a sergeant in
21 Pickens County.

22 THE COURT: Sheriff's department?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: Given that fact do you think you
25 could be a fair and impartial juror in the trial of this

1 case, ma'am?

2 PROSPECTIVE JUROR: Yes. And his wife also
3 works in the LEC, but I think I can be.

4 THE COURT: Okay. Thank you for telling me I
5 appreciate that.

6 Anyone else?

7 There was no response.

8 All right. Is there anyone among you who is a
9 member of any advocacy group, any organization which
10 advocates for criminal prosecution? That is like MADD,
11 Mother's Against Drunk Driving or SADD, Students Against
12 Drink Driving or any other like organization that
13 advocates for criminal prosecution and law enforcement?

14 THE COURT: Yes, ma'am.

15 PROSPECTIVE JUROR: I'm a member of MADD.

16 THE COURT: What's your juror number?

17 PROSPECTIVE JUROR: Marlene Chapman, 22.

18 THE COURT: Okay. Do you think given that fact
19 that you could still be a fair and impartial juror in the
20 trial of this case?

21 PROSPECTIVE JUROR: Yes, I do.

22 THE COURT: Okay, thank you for telling me. I
23 appreciate it.

24 All right. Anyone among you or an immediate
25 family member ever been the victim of a violent crime such

1 as an assault and battery?

2 All right, let the record reflect no affirmative
3 response.

4 And I know I've already had one affirmative
5 response the this question, has anyone read any media
6 stories, any other type of article or newspaper account of
7 this specific case or the allegations related to this
8 case?

9 I know, sir, you've already answered that
10 question.

11 PROSPECTIVE JUROR: Can I sit down?

12 THE COURT: Yes, sir.

13 Okay. Good enough.

14 Is there anyone among you who has either been in
15 employed by law enforcement or who ahs an immediate family
16 member employed by law enforcement? And that's not just
17 Pickens County, any law enforcement agency:

18 PROSPECTIVE JUROR: I do.

19 THE COURT: Yes, sir.

20 PROSPECTIVE JUROR: My daddy.

21 THE COURT: Okay, I gotcha.

22 Yes, ma'am.

23 PROSPECTIVE JUROR: I do. Sara Harris, 62. I
24 have a son-in-law with Greenville County.

25 THE COURT: With Greenville County? Okay. He's

1 with the sheriff's department, is that correct?

2 PROSPECTIVE JUROR: Yeah.

3 THE COURT: Okay. Do you think given that fact
4 that you can still be a fair and impartial juror in the
5 trial of this case?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay. Thank you, very much, I
8 appreciate that.

9 I'm sorry, yes, ma'am.

10 PROSPECTIVE JUROR: My brother is a member of
11 the North Carolina State Highway Patrol.

12 THE COURT: Okay. I know who are but for the
13 record would you state your name and juror number?

14 PROSPECTIVE JUROR: Marlene Chapman, 22.

15 THE COURT: Okay. All right. You think you
16 could still be a fair and impartial juror in the trial of
17 this case?

18 PROSPECTIVE JUROR: Yes, I do.

19 THE COURT: Okay, thank you for tell me that, I
20 appreciate it.

21 Anyone else?

22 There was no response.

23 Is there any member of the jury panel regularly
24 attend Crosswell Baptist Church located on South Fish Trap
25 Road in Pickens County?

1 All right, let the record reflect there was no
2 response.

3 Is there any member of the jury panel who is a
4 friend or family member or related to Sean Dinneon?

5 Yeah, I know you've given your response. Just
6 for the record, your name and juror number?

7 PROSPECTIVE JUROR: Adam Hill, juror 68.

8 THE COURT: Okay. All right, good enough.

9 All right, anyone else?

10 There was no response.

11 Is there any -- is there anyone of you who for
12 whatever reason feels that you cannot be a fair and
13 impartial juror in the trial of this case and render a
14 verdict in accordance with the law as I give it to you?

15 Okay, let the record reflect no affirmative
16 response.

17 Yes, sir. You've indicated that, again, for the
18 record.

19 PROSPECTIVE JUROR: Yeah.

20 THE COURT: I understand.

21 All right, any additional questions in voir
22 dire?

23 MR. RICHARDSON: None from the State, Your
24 Honor.

25 MR. DEJONG: None on behalf of Yeargin, Your

1 Honor.

2 THE COURT: All right, ladies and gentlemen,
3 what we're doing to do now have is we're going to proceed
4 with jury strikes. Preemptory challenges. Where we're
5 actually going to pick the jury for this case. What
6 happens is your name will be called out based on a
7 randomly generated listing from the Clerk's Office. The
8 attorneys will then have the opportunity to make strikes,
9 preemptory challenges. The State has the opportunity to
10 make five strikes and the defense has ten strikes. What
11 will happen is your name is called out, the attorneys are
12 going to say one or three or four things. Either, present
13 the juror or seat the juror. So, if you hear that twice
14 from both sides then you have been selected to sit on this
15 jury. But if you here from either of the sides, please
16 excuse the juror from the trial of this case or please
17 strike the juror, then you will have been stricken from
18 the trial of this case.

19 Now, attorneys and litigants have the
20 opportunity, have great latitude and discretion in making
21 preemptory challenges and can do it for just about any
22 reason. So, I wouldn't try to deduce exactly why it is
23 that you may have been stricken or may have been put on
24 the jury. Because as I indicated to you, have wide
25 latitude in making those decisions. So, when your name is

1 called, what I would ask that you do is where why stand,
2 just please stand up. Please stand up. The jurors -- the
3 attorneys will then make those peremptory challenges,
4 those jury strikes. And you will either sit back down if
5 you are stricken or will ask you to come have a seat in
6 the jury box. If you're asked to come have a seat in the
7 jury box, bring all of your positions with you that you
8 have in the courtroom today and just have a seat where the
9 bailiffs indicate that you should sit. All right.

10 So, without further ado, I'll turn it over to
11 you Mr. Welborn.

12 THE CLERK: As I call your name, please stands
13 in place.

14 Juror number 47, John H. Finley.

15 John H. Finley, a white male, came forward.)

16 What says the State?

17 MR. RICHARDSON: Excuse Mr. Finley from the
18 trial of this case.

19 THE CLERK: Okay, if you would have a seat,
20 please sir.

21 Juror 73, Patricia Howard.

22 (Patricia Howard, a white female, came forward.)

23 What says the State?

24 MR. RICHARDSON: Please present Ms. Howard.

25 THE CLERK: And the Defense?

1 MR. DEJONG: Please excuse this juror from the
2 trial of this case.

3 THE CLERK: If you'd have a seat, please, ma'am.
4 Juror number 43, Sherry L. McCoy.

5 (Sherry L. McCoy, a white female, came forward.)
6 What says the state?

7 MR. RICHARDSON: Please present Ms. McCoy.

8 THE CLERK: What says the Defense?

9 MR. DEJONG: Swear the juror.

10 THE CLERK: If you'd come forward please, ma'am,
11 and have a seat in the jury box.

12 Juror number 83, Tracey D. Keith.

13 (Tracey D. Keith, a black female, came forward.)

14 What says the State?

15 MR. RICHARDSON: Present Ms. Keith.

16 THE CLERK: And the Defense?

17 MR. DEJONG: Please swear the juror.

18 THE CLERK: If you would come forward please,
19 ma'am, and have a seat in the jury box.

20 Juror number 130, Oscar Rosario.

21 (Oscar Rosario, a Hispanic male, came forward.

22 What says the State?

23 MR. RICHARDSON: Please present Mr. Rosario.

24 THE CLERK: What says the Defense?

25 MR. DEJONG: Please swear the juror.

1 THE CLERK: If would come forward please, sir,
2 and have a seat in the jury box.

3 Juror 155, Carol Whitmire.

4 (Carol Whitmire, a white female, came forward.)

5 What says the State?

6 MR. RICHARDSON: Please present Ms. Whitmire.

7 THE CLERK: And the Defense?

8 MR. DEJONG: Please excuse this juror from the
9 trial of this case.

10 THE CLERK: If you'd have a seat please, ma'am.

11 Juror number 68, Adam C. Hill.

12 (Adam C. Hill, a white male, came forward.)

13 What says the state?

14 MR. RICHARDSON: Please present Mr. Hill.

15 THE COURT: Like to strike for cause, sir?

16 MR. DEJONG: Yes, sir, Your Honor. I apologize,
17 I thought you had already excused him, I apologize.

18 THE COURT: I'll allow the strike for cause in
19 this instance.

20 MR. DEJONG: Thank you, Your Honor.

21 THE CLERK: His strike does not count?

22 THE COURT: Does not count.

23 THE CLERK: Juror 22, Marlene M. Chapman.

24 (Marlene Chapman, a white female, came forward.)

25 What says the State?

1 MR. RICHARDSON: Please excuse Ms. Chapman from
2 the trial of this case.

3 THE COURT: Okay, if you would, have a seat
4 please, ma'am.

5 Juror number 160, Ronald O. Yeagley.

6 (Ronald Yeagley, a white male, came forward.)

7 What says the State?

8 MR. RICHARDSON: Please excuse Mr. Yeagley from
9 the trial of this case.

10 THE CLERK: If you'd have a seat please, sir.

11 Juror number 128, John G. Roesch.

12 (John Roesch, a white male, came forward.)

13 What says the State?

14 MR. RICHARDSON: Please present Mr. Roesch.

15 THE CLERK: And the Defense?

16 MR. DEJONG: Excuse this juror from the trial of
17 this case.

18 THE CLERK: If you would, have a seat please,
19 sir.

20 Juror number 86, Hannah R. Knight.

21 (Hannah Knight, a white female, came forward.)

22 What says the State?

23 MR. RICHARDSON: Please present Ms. Knight.

24 THE CLERK: And the Defense?

25 MR. DEJONG: Swear the juror.

1 THE CLERK: If you would come forward, please,
2 have a seat in the jury box.

3 Juror number 28, Alice Compton.

4 (Alice Compton, a white female, came forward.)

5 What says the State?

6 MR. RICHARDSON: Please present Ms. Compton.

7 THE CLERK: And the Defense?

8 MR. DEJONG: Please excuse this juror from the
9 trial of this case.

10 THE CLERK: Have a seat please, ma'am.

11 Juror number 75, William A. Hudson.

12 (William Hudson, a white male, came forward.)

13 What says the State?

14 MR. RICHARDSON: Please excuse Mr. Hudson from
15 the trial of this case.

16 THE CLERK: If you would have a seat, sir.

17 Juror number 44, Sharon Ann Ellis.

18 (Sharon Ellis, a white female, came forward.)

19 What says the State?

20 MR. RICHARDSON: Please present Ms. Ellis.

21 THE CLERK: And the Defense?

22 MR. DEJONG: Excuse this juror from the trial of
23 this case.

24 THE COURT: If you would, have a seat please,
25 ma'am.

1 Juror 31, Jessica L. Cothran.

2 (Jessica L. Cothran, a white female, came
3 forward.)

4 What says the State?

5 MR. RICHARDSON: Please present Ms. Cothran.

6 THE CLERK: And the Defense?

7 MR. DEJONG: Swear the juror.

8 THE CLERK: If you would come forward, please,
9 and have a seat in the jury box.

10 Juror number 62, Sara Harris.

11 (Sara Harris, a white female, came forward.)

12 What says the State?

13 MR. DEJONG: Sixty-two?

14 THE CLERK: Sixty-two.

15 MR. DEJONG: Thank you, sir, I'm sorry.

16 THE CLERK: What says the State?

17 MR. RICHARDSON: Please present Ms. Harris.

18 THE CLERK: And the Defense?

19 MR. DEJONG: Please excuse the jury from the
20 trial of this case.

21 THE CLERK: If you would have a seat please,
22 ma'am.

23 Juror number 91, Anthony J. Lilley.

24 (Anthony J. Lilley, a white male, came forward.)

25 What says the State?

1 MR. RICHARDSON: Please present Mr. Lilley.

2 THE CLERK: What says the Defense?

3 MR. DEJONG: Please excuse this juror from the
4 trial of this case.

5 THE CLERK: If you would have a seat please,
6 sir.

7 Juror 77, Tamra E. James.

8 (Tamra James, a white female, came forward.)

9 What says the State?

10 MR. RICHARDSON: Please present Ms. James.

11 THE CLERK: And the Defense?

12 MR. DEJONG: Swear the juror.

13 THE CLERK: If you would come forward, please,
14 have a seat in the jury box.

15 Juror number 27, Patrick W. Cleary.

16 (Patrick Cleary, a white male, came forward.)

17 What says the State?

18 MR. RICHARDSON: Please present Mr. Cleary.

19 THE CLERK: What says the Defense?

20 MR. DEJONG: Please swear the juror.

21 THE CLERK: If you would come forward please,
22 sir, have a seat in the jury box.

23 Juror number 93, Randall S. Looper.

24 (Randall S. Looper, a white male, came forward.)

25 What says the State?

1 MR. RICHARDSON: Please present Mr. Looper.

2 THE CLERK: And the Defense?

3 MR. DEJONG: Swear the juror.

4 THE CLERK: If you would come forward please,
5 sir, have a seat in the jury box.

6 Juror number 21, Timothy D. Bryson.

7 (Timothy Bryson, a white male, came forward.)

8 What says the State?

9 MR. RICHARDSON: Please present Mr. Bryson.

10 THE CLERK: And the Defense?

11 MR. DEJONG: Please swear the juror.

12 THE CLERK: If you would come forward, sir, have
13 a seat in the jury box.

14 Number 78, Jonathan D. Jenkins.

15 (Jonathan D. Jenkins, a white male, came
16 forward.)

17 What says the State?

18 MR. RICHARDSON: Please present Mr. Jenkins.

19 THE CLERK: And the Defense?

20 MR. DEJONG: Please swear the juror.

21 THE CLERK: If you would, come forward, sir,
22 have a seat in the jury box.

23 Juror Number 139, Susan Steele.

24 (Susan Steele, a white female, came forward.)

25 What says the State?

1 MR. RICHARDSON: Please present Ms. Steele.

2 THE CLERK: And the Defense?

3 MR. DEJONG: Excuse this juror from the trial of
4 this case.

5 THE CLERK: If you would, have a seat please,
6 ma'am.

7 Juror number 89, Kimberly L. Lecroy.

8 (Kimberly Lecroy, a white female, came forward.)

9 What says the State?

10 MR. RICHARDSON: Please present Ms. Lecroy.

11 THE CLERK: And the Defense?

12 MR. DEJONG: Please swear the juror.

13 THE CLERK: If you would come forward, please,
14 have a seat in the jury box.

15 Juror number 2, Julia N. Alexander.

16 (Julia Alexander, a white female, came forward.)

17 What says the State?

18 MR. RICHARDSON: Please present Ms. Alexander.

19 THE CLERK: And the Defense?

20 MR. DEJONG: Excuse this juror from the trial of
21 this case.

22 THE CLERK: Okay, if you would, have a seat
23 please, ma'am.

24 Juror number 63, Wanda Harris.

25 (Wanda Harris, a black female, came forward.)

1 What says the State?

2 MR. RICHARDSON: Your Honor, may we approach?

3 THE COURT: Sure.

4 (WHEREUPON, an off-the-record bench conference
5 was held in the presence of the jury but out of
6 the hearing of the jury.)

7 THE COURT: All right, Mr. Richardson.

8 MR. RICHARDSON: Your Honor, would move to
9 strike this juror for cause.

10 THE COURT: Okay, that motion is granted.

11 Ms. Harris, you may sit down, please, ma'am.
12 You've been stricken from the trial of the case, ma'am.

13 THE CLERK: Juror number 5, Carey M. Anthony.
14 (Carey M. Anthony, a white female, came
15 forward.)

16 What says the State?

17 MR. RICHARDSON: Please present Ms. Anthony.

18 THE CLERK: And the Defense?

19 MR. DEJONG: Please excuse this juror from the
20 trial of this case.

21 THE CLERK: If you would have a seat please,
22 ma'am.

23 Juror number--

24 THE COURT: I believe that's 10, Mr. DeJong.

25 MR. DEJONG: Thank you, Your Honor.

1 THE CLERK: Juror number 159, Lloyd M. Worsham,
2 Jr.

3 (Lloyd A white male, came forward.)

4 What says the State?

5 MR. RICHARDSON: Please present Mr. Worsham.

6 MR. DEJONG: Please swear the juror.

7 THE CLERK: If you would come forward please,
8 sir, have a seat in the jury box.

9 THE COURT: Okay, ladies and gentlemen, I
10 believe that's 12. We'll pick two alternates. Strikes
11 are two and one.

12 MR. DEJONG: Two for me, Your Honor, right?

13 THE COURT: Yes, sir, absolutely.

14 MR. DEJONG: Thank you, Your Honor.

15 THE CLERK: For the first alternate juror number
16 106, Diane P. Murphy.

17 (Diane Murphy, a white female, came forward.)

18 What says the State?

19 MR. RICHARDSON: Please present Ms. Murphy.

20 THE CLERK: And the Defense?

21 MR. DEJONG: Swear the juror.

22 THE CLERK: If you would come forward please,
23 ma'am, have a seat in the jury box.

24 Juror number 131, Julie Ross.

25 (Julie Ross, a white female, came forward.)

1 What says the State?

2 MR. RICHARDSON: Please present Ms. Ross.

3 THE CLERK: And the Defense?

4 MR. DEJONG: Please excuse this juror from the
5 trial of this case.

6 THE CLERK: If you would have a seat please,
7 ma'am.

8 Juror number 111, Gregory Norman.

9 (Gregory Norman, a black male, came forward.)

10 What says the State?

11 MR. RICHARDSON: Please excuse Mr. Norman from
12 the trial of this case.

13 THE CLERK: If you'd have a seat please, sir.

14 Michael J. Kennedy. (There was no juror number
15 assigned to this juror.)

16 (Michael Kennedy, a white male, came forward.)

17 What says the State?

18 MR. RICHARDSON: Please present Mr. Kennedy.

19 THE CLERK: What says the Defense?

20 MR. DEJONG: Please excuse this juror from the
21 trial of this case.

22 THE CLERK: If you would have a seat please,
23 sir.

24 Juror number 76, Chelsea D. James.

25 (Chelsea James, a white female, came forward.)

1 What says the State?

2 MR. RICHARDSON: Please present Ms. James.

3 THE CLERK: And the Defense?

4 MR. DEJONG: Please swear the juror.

5 THE CLERK: If you'd come forward please, ma'am,
6 and have a seat in the jury box.

7 THE COURT: Okay, gentleman, any issues or
8 matters of law to take up with respect to the
9 qualification or selection of this jury?

10 MR. RICHARDSON: None from the State, Your
11 Honor.

12 MR. DEJONG: Your Honor, I would raise a Batson
13 motion in this case. Obviously, the State struck juror --

14 THE COURT: I understand, let's do it in-camera.
15 What I'll do is I'm going to have the Bailiffs take this
16 jury and put them in the jury room.

17 Ladies and gentlemen, we're going to take up a
18 matter of law, a motion before the Court which I must
19 necessarily hear outside your presence. So, if you'd,
20 please, go into your jury room, please don't discuss the
21 case, we'll come back in fairly shortly.

22 Ladies and gentlemen, the rest of you --

23 Mr. Bailiff, if you would take the rest of the
24 jurors out into the hall, please, so that we can take up a
25 matter of law.

1 (WHEREUPON, the jury left open court at
2 approximately 11:30 a.m.)

3 THE COURT: All right, it's my observations that
4 they're no jurors remaining in the courtroom. Therefore,
5 Mr. DeJong, I'll be happy to hear your motion, sir.

6 MR. DEJONG: Thank you, Your Honor. Two basic
7 issues, Your Honor with regard to Batson. The first being
8 as to juror number 111, Norman Gregory. He is from all
9 appearances of African-American decent, Your Honor. He
10 was struck, I don't know why. Other than all I can say is
11 on appearances at this point in time, he was struck on
12 less than a racially, neutral basis, Your Honor. The
13 other one I raise, Your Honor, we had a bench conference
14 with regard to juror number 63.

15 THE COURT: Yes, sir.

16 MR. DEJONG: Who was a female, African-American
17 or who from all appearances of African-American decent.
18 That one, Your Honor, you did granted a motion for cause
19 on that one. The problem I have with that, Your Honor,
20 the State certainly has at its disposal, all of powers of
21 the government, they are the government. Certainly, they
22 have information that I am not privy to. I am not privy
23 to that until they decide to request a bench conference.
24 And then share with the Court a prior record that I have
25 no way of knowing about until we're in jury selection. So

1 again, Your Honor, with regard to juror 11, I certainly
2 take issue with the fact on that juror. I have stated my
3 reasons with regard to juror number 63, Your Honor.

4 THE COURT: Mr. Richardson.

5 MR. RICHARDSON: Your Honor, regarding his first
6 reason, the reason why I struck him, tell you the truth he
7 was a youth basketball coach and I had no idea that when I
8 struck him that he was African-American. The reason I
9 struck him is because when I looked down he has on his
10 wrap sheet, his NCIC, which I possess right here, a
11 manufacture, possession of controlled substance that he
12 was convicted on, a felony. That's the reason I struck
13 him. I'm not sure Mr. DeJong's other complaint really how
14 to address that other than we get wrap sheets and we run
15 them and we strike them before they even get to him. I'm
16 not sure what the complaint is there.

17 THE COURT: Okay. All right.

18 MR. RICHARDSON: I can make this an Exhibit as
19 well as the other one he was complaining about if you
20 would like.

21 THE COURT: Yes, sir. If you would take those
22 two Exhibits, I know that you have for juror number 63,
23 Ms. Harris, who had a wrap sheet that you presented at the
24 bench, if you would, please, identify that and submit it
25 as Court's Exhibit No. 1. Then, with respect to jury

1 number 111, Mr. Gregory Norman, if would, please, present
2 that to the Court Reporter as Exhibit No. 2.

3 MR. RICHARDSON: , Okay.

4 (WHEREUPON, Court's Exhibits Nos. 1 & 2 were
5 marked for identification and received into
6 evidence.)

7 THE COURT: Okay, you ready, April?

8 THE COURT REPORTER: Yes, sir.

9 THE COURT: Can you pass me Court's Exhibit No.
10 2? I did have the opportunity to review Court's Exhibit
11 No. 1.

12 Mr. DeJong, would you like to have the
13 opportunity to review Court's Exhibit No. 1 and Court's
14 Exhibit No. 2 to verify the fact that the State's
15 representation is accurate?

16 MR. DEJONG: I would like to if I may, Your
17 Honor.

18 THE COURT: Yes, sir.

19 MR. DEJONG: Thank you, Your Honor.

20 THE COURT: Okay. All right. I respectfully
21 deny the Defendant's motion. I do find that there is an
22 articulable race/gender neutral reason for striking of
23 both jurors. Number 63 and 111. Court's Exhibit No. 1
24 and No. 2 clearly indicate that there are convictions
25 which were, again, an articulable neutral reason for the

1 strikes. I also find that based on the qualification of
2 jurors in the State of South Carolina, they're
3 disqualified from serving on this jury. With respect to
4 the disclosure of criminal records to the Defense
5 pre-trial, with respect to jurors, I just comment that
6 ordinarily that's not a practice in the state as far as I
7 know. Perhaps, and I wouldn't argue whether it should be
8 or not, but I'm really not in the position, as the Court,
9 to remedy the situation unless I know before the fact. I
10 didn't have the opportunity before the fact to make any
11 rulings with respect to disclosure of a criminal record.
12 Therefore, this Court was in a compromised position in
13 remedying the situation before the fact.

14 Also, in looking at the selection of this jury I
15 find that there's no prejudice to the Defendant and I'll
16 respectfully deny the motion. And I would suggest to you
17 that I'm not exactly sure what the remedy was on the
18 motion that you were making. If it was a disqualification
19 of this jury, then I deny it. Striking of a new jury on
20 that basis. Okay?

21 All right, anything else?

22 MR. DEJONG: Not with regard to selection of the
23 jury, Your Honor.

24 THE COURT: Okay. If we can, just bring in all
25 of the other jurors and I will dismiss them.

1 I presume they're no other issues with respect
2 to the qualification and selection of this jury?

3 MR. RICHARDSON: None from the State, Your
4 Honor.

5 THE COURT: Okay.

6 MR. DEJONG: Based on, Your Honor's, ruling,
7 none on behalf of Mr. Yeargin, Your Honor.

8 THE COURT: Okay, good enough.

9 (WHEREUPON, the jury venire came into open court
10 at approximately 11:37 a.m.)

11 THE COURT: All right, I called you back in the
12 courthouse just to tell you you can go. I did want to say
13 thank you for being part of this process today. My
14 condolences to you for not having been selected for this
15 jury, perhaps next time. We'll be selecting additional
16 juries this week. I do not anticipate that we will select
17 another jury today. Therefore, you will be dismissed for
18 the day. Mr. Welborn can tell you where to go exactly to
19 check out. You should call back tonight after six o'clock
20 to determine what business will be before the court
21 tomorrow. Right now as far as I know, we will be
22 continuing in this case. Therefore, we won't be selecting
23 a jury in the morning. And I anticipate that probably
24 we'll go through the balance of the day tomorrow as well.

25 So, right now as I sit here, I'm thinking there

1 won't be anymore additional jury selection until
2 Wednesday. Now, don't hold me to that because I can make
3 no guarantees. I don't know what's going to happen in
4 this case or the cases that come behind it either. But if
5 I don't see you again this week, just let me restate to
6 you and reiterate to you that I appreciate your service on
7 the jury this week. If I don't see you again have a great
8 weekend, have an excellent weekend. And for all of you
9 Clemson graduates, the Citadel's coming to town this
10 weekend. Okay. All right. Y'all have a great day.

11 (WHEREUPON, the jury venire left open court at
12 approximately 11:39 a.m.)

13 THE COURT: All right, Mr. DeJong, I believe
14 that you had a motion that you wanted to place on the
15 record before we begin the trial of this case?

16 MR. DEJONG: Your Honor, my first motion at this
17 point in time would be for a mistrial. I realize the jury
18 has not been sworn. Certainly, mean no disrespect to,
19 Your Honor, but in introducing Counsel on the record, you
20 referred to me as the Public Defender. Now, that is a job
21 I carry proudly, it is a distinction on the street that I
22 love. No disrespect to, Your Honor, I think it has no
23 place in the courtroom as far as introduction to juries
24 goes. We all know Public Defenders are not real lawyers.
25 If you don't believe so, Your Honor, I challenge you to

1 survey my clientele. 80 percent of them, if you ask them
2 if they have a lawyer, they will say, No, I have a Public
3 Defender. Justice Black, when he was penning Gideon vs.
4 Wainwright, I do not have the case in front of me, Your
5 Honor, but I believe when he pinned that decision, he said
6 anything that would cast a Defendant in a lessor or lower
7 light, that should not be allowed in the courtroom. And
8 again, Your Honor, please, I mean no disrespect to you.
9 But it should not be there.

10 I think by referring to me as the Public
11 Defender immediately in the jury's mind, cast my client in
12 some level, some socioeconomic group where I don't know
13 but the common thread in our society seems to be that
14 that's where all the crimes are committed. And are the
15 crimes are committed there and that's why all the Public
16 Defender's, who aren't real lawyers, represent them. So
17 again, Your Honor, meaning no disrespect to you but I
18 respectfully request a mistrial at this time.

19 THE COURT: Okay.

20 Anything further from the State? Argument From
21 the State?

22 MR. RICHARDSON: Your Honor, just briefly. I
23 would think we need some kind of specific prejudice that's
24 been developed through something like that of that nature.
25 That's all I have.

1 THE COURT: Mr. DeJong, do you have any case law
2 that stands for the proposition that that's prejudicial to
3 the Defendant?

4 MR. DEJONG: I don't, Your Honor. The only
5 thing I do is refer back to Gideon vs. Wainright. I do
6 not have the case before me. Your Honor, I'm a little
7 flatfooted by doing that in all candor. Again, I mean no
8 disrespect to, Your Honor.

9 THE COURT: I understand, I understand. And
10 giving the given the opportunity to do it, again, I
11 probably wouldn't refer to you as a Public Defender. But
12 I will tell you that I proudly served as a Public Defender
13 in the Thirteenth Judicial Circuit, as well, on the
14 Indigent Defense contract and I have nothing but the
15 upmost respect for the Public Defender's Office. You are
16 the true champions of the criminal justice system. I say
17 that without reservation. I don't think that, however,
18 that designation suffers -- or excuse me, visit any
19 prejudice upon the Defendant in this case. I think the
20 jurors know that just by their own common knowledge that
21 there are two sides in each respective case. And one side
22 is represented by a lawyer and the other side is
23 represented by a lawyer. The designation of that lawyer,
24 I think, makes absolutely no difference.

25 I recognize, of course, I dealt with the same

1 clientele that you did, the clientele from time to time
2 takes some exception to be represented by what they
3 designate a free lawyer and they want a real lawyer
4 instead. However, I'll tell you that my interaction with
5 juries and with the general public doesn't necessarily
6 indicate the same thing. I find that generally speaking
7 the Public Defender's are held in high regard. And they
8 are practicing members of the bar, they do good work. And
9 those people who have come on to our jury have very little
10 experience in the criminal justice system. I note that
11 those people who did have charges before, who had occasion
12 to be associated with criminal justice system, didn't make
13 on to the jury. Essentially, what you got on that jury is
14 fairly well moderately educated middle class people. And
15 I don't think that there's any indication on the record or
16 antidotally that they have a problem with Public Defender.
17 So, I respectfully deny the motion. All right.

18 If you find a case that says that I'm wrong in
19 that regard, I'll be happy to entertain it any time
20 through this trial.

21 MR. DEJONG: Thank you, Your Honor.

22 THE COURT: Any time.

23 MR. DEJONG: Okay, thank you.

24 THE COURT: Anything further?

25 MR. DEJONG: Yes, sir. I would request that the

1 witnesses be sequestered, Your Honor. There are numerous
2 witnesses on this witness list. Most of whom candidly are
3 law enforcement. There are a couple of what I refer to as
4 co-defendants of my client who are going to testify for
5 the State is my understanding. They are certainly on the
6 witness list. Actually, I think their testimony is
7 absolutely crucial to the State's case, Your Honor. There
8 have been statements, some conflicting statements. So,
9 for that reason I would just request that all witnesses be
10 sequestered, Your Honor.

11 THE COURT: Position of the State?

12 MR. RICHARDSON: We don't have a problem with
13 that, Judge.

14 THE COURT: Okay. All right. I'll issue an
15 order for sequestration for the witnesses.

16 MR. DEJONG: One more easy one, Your Honor.

17 THE COURT: Yes, sir.

18 MR. DEJONG: On the witness list, the Court will
19 note witness number six, Ben Dow.

20 THE COURT: Yes, sir.

21 MR. DEJONG: And witness number nine, Michael
22 Baker. At the time these allegations arose, both of those
23 gentleman were detectives with Pickens County Sheriff's
24 Office. Both of them now have been elevated to a
25 Magistrate's positions in the county. Which I have no

1 problem with that. I would request, however, that
2 throughout the course of this trial, that they not be
3 referred to as Judge or anything else that would note a
4 distinction that they have now become Magistrate's for
5 Pickens County, Your Honor.

6 THE COURT: Yes, sir. Okay.

7 Position from the State in that regard?

8 MR. RICHARDSON: No argument.

9 THE COURT: Yeah, I think that's appropriate.
10 And when you, obviously, when we prepare their testimony,
11 when you ask them what they do, they may just have to be
12 fairly vague about that and we'll refer to them as officer
13 or Mr.

14 MR. RICHARDSON: I'm thinking -- Mr. DeJong and
15 I had discussed that. What I was going to do is Back two
16 years ago were you employed with the Pickens County
17 Sheriff's Office?

18 THE COURT: Yes, sir.

19 MR. RICHARDSON: Just go right to that. Instead
20 of it all referring to what they do now.

21 THE COURT: Yes, sir, I think that's the better
22 way to do it.

23 Okay, anything else, Mr. DeJong?

24 MR. DEJONG: Finally, Your Honor, in looking at
25 the State's witness list, having gone over discovery that

1 was provided me, it appears that we are going to get into
2 Rule 404(b) matters. That would come in, Your Honor, in
3 that my client was -- well, let me back up just a little
4 bit if I may. The case that we are trying as, Your Honor,
5 noted in reading the Indictment, the alleged offense date
6 is September the 17th of 2011. On September -- well,
7 actually my client was arrested on September 21st of 2011.
8 There are allegations out of Spartanburg, Your Honor, that
9 my client committed an armed robbery of a bank in
10 Spartanburg. I believe that would have been on September
11 the 20th, some three days after this alleged offense
12 occurred, the offense that he is on trial for. I don't --
13 I pose that, Your Honor, because I'm not sure under what
14 prong of 404(b) the State is intending on trying to bring
15 that in. I can certainly guess but I don't know that I
16 want to stand here and guess at this point in time. The
17 thing that always somewhat fascinates me, and I have
18 closed my book, see if I can find the dog ear here. I'm
19 sorry, Your Honor.

20 THE COURT: That's all right.

21 MR. DEJONG: Well, the whole thrust of that is
22 that in this case -- well, I will guess. I suspect
23 they're going to use it for identification. That would be
24 the only thing. They may have come up with something else
25 other -- better than I can but that would be it. And, of

1 course, Your Honor, has not heard any of this case and
2 knows nothing about the case. As far as identity goes, I
3 can't believe that the State would need this for identity.
4 Again, they have two co-defendants that are going to
5 testify. Who I wish I could raise an objection to their
6 identity but I can't come up with anything. So, I
7 certainly think they are going to do an identification of
8 my client. And certainly being there and probably a whole
9 lot more stuff.

10 But I think in this case, again, Your Honor,
11 maybe a little bit at a disadvantage here, but I think in
12 this case, to allow any evidence as to that bank robbery
13 on September the 20th of 2011 to come in, I certainly
14 think should be excluded under Rule 403(b) that the
15 prejudicial nature of that testimony would certainly
16 outweigh. If you get into anything beyond identification,
17 as I read 404(b) as applied to this case, Your Honor,
18 there can only be prejudice to the Defendant in the eyes
19 of the jury.

20 THE COURT: Mr. Richardson.

21 MR. RICHARDSON: Thank you, Your Honor. I'm
22 sorry, I've got a terrible cough. Seems to come and go on
23 me. A little bit about the facts so you can understand
24 where we're coming through identity. The Defendant, when
25 he robbed this bank in Spartanburg, I believe it was a

1 BB&T. What he did is he took a check that was the
2 victim's check. And he wrote a note on the back of that
3 check. And went into the bank and I can't remember
4 specifically what that note says but it says something to
5 the nature of Give me all your money or I'm going to kill
6 you. We want to introduce that check. First of all,
7 there's a nexus between him and the victim. And in
8 addition to that, we have the identity that Mr. DeJong has
9 brought up.

10 In addition to that, Your Honor, we have
11 surveillance in the bank showing him wearing a particular
12 black jacket that was found in Asheville, which is
13 ultimately where they were arrested. So, if you
14 understand we have a flight scenario and they're trying to
15 get money to pay for their flight. Which they ultimately
16 did. They went to a hotel and got arrested. And that
17 would also be another reason we would put in it as part of
18 the flight. Which goes to a state of mind. I do have
19 case law which says that flight is admissible. In fact,
20 I've got one case here, State v. Pagan where the guy
21 commits a crime a year after -- while he's on bond, a year
22 after -- after his -- his initial charge where he's
23 running from the police. And that Court allowed that
24 particular crime in as part of the flight. So, really
25 there's identification aspect of it and there's also

1 flight aspect of it. And that's the position the State's
2 coming from on that, Your Honor.

3 THE COURT: Okay. All right. I know that we
4 had spoken pre-trial about the 404(b) motion and we had --
5 we had collectively determined that it was best to
6 actually have a in-camera hearing with the proponent of
7 that testimony when he gets here, before he's called to
8 testify. So, we'll have a in-camera hearing and I'll hear
9 it. Let me say that it sounds to me like under a 404
10 identity analysis, that it could be admissible. However,
11 under a 403 analysis, I'm somewhat dubious. And if it
12 comes in -- well before it comes in I'll apply fairly
13 strict scrutiny to it. And if it does come in, it will
14 have to be admitted, it seems to me at this point, very
15 surgically with limited reference. And eliciting only
16 that testimony which provides identity. As opposed to
17 outstanding charges. And other events that may have
18 happened concurrently. It may only be the presentation of
19 the check. But having that said that, I'm just leaning
20 forward a little bit and just talking out loud. We'll
21 conduct that in-camera hearing and we'll go from there and
22 determine if, in fact, it's admissible under 404 and 403
23 analysis.

24 Yes, sir.

25 MR. DEJONG: Let me sit here too long, Judge, I

1 just thought of something else.

2 THE COURT: Yeah.

3 MR. DEJONG: With regard to the witness Margaret
4 Hinson.

5 THE COURT: Yes, sir.

6 MR. DEJONG: Who is witness number, I'm sure
7 she's on here, there she is.

8 THE COURT: Number 11.

9 MR. DEJONG: Number 11.

10 THE COURT: Yes, sir.

11 MR. DEJONG: In viewing all the discovery, she
12 was never able to identify my client. I don't know that
13 the State plans on doing any in court identification by
14 that particular witness. But I am going to ask that the
15 Court not allow and in court identification by Margaret
16 Hinson of my client. It was clear in the discovery that I
17 got, the statements she's made, that she saw a man but she
18 could not identify who he was. And on that basis it was
19 dark. And on that basis, I would move that she not be
20 allowed to do an in court identification, Your Honor.

21 THE COURT: Okay.

22 MR. DEJONG: And, Your Honor, that's going to be
23 Ms. Batson's witness, so if it's okay, she will address
24 you on that issue.

25 THE COURT: Okay.

1 MS. HINTON: Good morning, Judge.

2 THE COURT: Yes, ma'am.

3 MS. HINTON: The only thing that she would --
4 she would not identify that he was the man out there that
5 night. That's not going to be her testimony. The only
6 thing she would identify him as being a prior resident of
7 the home where the victim lived. That he had rented that
8 house from them prior. Him and his family. That would be
9 to only reference to her knowing who he is.

10 THE COURT: Okay. All right. Is...

11 MR. DEJONG: I'm somewhat puzzled, Your Honor.
12 Did she gave a statement to that effect?

13 MS. HINTON: She never gave a written statement,
14 Your Honor. There is an audio recording.

15 MR. DEJONG: I know the State doesn't have to
16 give me everything but that is brand spanking new news to
17 me, Your Honor. That is not part of my discovery.

18 THE COURT: Was the audio turned over?

19 MR. DEJONG: There were allegations by my
20 client's sister who they knew. But this is the first time
21 I have heard that Margaret Hinson knew Tavish Yeargin. I
22 did not get that in discovery.

23 THE COURT: Okay. So.

24 Now, the State -- you indicate that you turned
25 over that audio in discovery, is that correct?

1 MS. HINTON: That's correct, Your Honor.

2 THE COURT: Do you deny that you received that
3 audio tape in discovery?

4 MR. DEJONG: I got audio tapes, Your Honor, but
5 I don't recall anything in that audio tape of her saying
6 that he had ever lived there before.

7 THE COURT: Okay.

8 MR. DEJONG: She doesn't know -- actually she
9 talked to the person that made a phone call. It's my
10 understanding the State's position is that was my client.
11 She made no indication that she knew who that person was.

12 MS. HINTON: And she maintains that, Judge. The
13 only thing that she will say is that she knew that his
14 family had rented from the victim prior.

15 THE COURT: Okay. Okay. All right. I -- you
16 can make that contemporaneous objection when it's elicited
17 on the record. I'm not listening to it in context right
18 now with the testimony. However, based on what I've heard
19 so far, I believe I would be inclined to let that in.

20 MR. DEJONG: Thank you, Your Honor.

21 THE COURT: Okay.

22 All right, anything additional?

23 MR. RICHARDSON: Nothing from the State, Your
24 Honor. Except, could I use the restroom?

25 THE COURT: Yeah, I'm going to take a five

1 minute break before we start.

2 MR. DEJONG: Now, that's one thing the Solicitor
3 and I agree on, Your Honor.

4 THE COURT: Yeah, I know. Y'all are on the same
5 sheet of music. So now, what you I anticipate doing is to
6 come back, giving them the initial charge and then letting
7 y'all mark your opening statement and then take a break
8 for lunch and come back after lunch. Is that okay?

9 MR. DEJONG: Very good, Your Honor.

10 THE COURT: Do y'all need any tough love on
11 opening statements? That is, do you need time?

12 MR. DEJONG: I have never had that pleasure of
13 trying a case in front of you before, Your Honor. So, I'm
14 not sure of your definition of tough love.

15 THE COURT: Should I limit you to 10 minutes, to
16 five minutes, to 15 minutes?

17 MR. DEJONG: Twenty.

18 THE COURT: How about 15? You can do it in 15.
19 I think that studies would show that they quit listening
20 to you after 15 minutes in any event.

21 MR. DEJONG: I'll just dispense with the Court,
22 how about that?

23 THE COURT: Okay. All right, you can do that.
24 And if you can avoid effecting that foghorn, leghorn voice
25 that you were using in jury challenges, maybe you can get

1 through it a little bit more quickly.

2 MR. DEJONG: I've been accused of many things on
3 that one, Your Honor.

4 THE COURT: Okay, we'll come back on record
5 at -- in five minutes.

6 (WHEREUPON, a short break was taken.)

7 THE COURT: Ready for the jury?

8 MR. RICHARDSON: State's ready.

9 MR. DEJONG: Ready for the Defense, Your Honor.
10

11 THE COURT: All right, you can bring them in,
12 please.

13 (WHEREUPON, the jury came into open court at
14 approximately 12:07 p.m.)

15 THE COURT: All right, ladies and gentlemen, I'm
16 sorry to have made you waited just a little bit but we had
17 to matters of law to take up before we begin the trial of
18 this case. We're are about to begin the trial of this
19 case. And I intend to give you a very brief opening
20 statement to the charge on the law. Just give you some
21 idea about the process that we will follow, the procedure
22 of the trial. And then also give you an idea of what your
23 role is as jurors in this case. And distinguish that from
24 my role as the Judge in the case. So, let me, before I
25 get started, let me remind you of what I've already told

1 you this morning in jury qualifications. In this case,
2 just as in any criminal case in the United States of
3 America or the State of South Carolina or the County of
4 Pickens, the Defendant is presumed innocent until proven
5 guilty beyond a reasonable doubt by a jury of 12 of his
6 peers. The State has the burden of proving each and every
7 element of the offense, of each offense, beyond a
8 reasonable doubt.

9 So you, in this case, you will look at the
10 evidence presented in this case and determine whether the
11 State has met its burden of proving each and every element
12 of the offense beyond a reasonable doubt. Now, until such
13 time as you make that determination or you determine that
14 they have not met that burden of proof, the Defendant is
15 presumed innocent. And he wears as we sit here a cloak of
16 innocence. And he is innocent until you make a
17 determination as the jury in this case.

18 Now, ladies and gentlemen, you will make that
19 determination after a review of the evidence that's
20 presented in this case. You are the finders of fact.
21 That is you will determine what the facts are in this
22 case. Evidence will be presented. You will review it
23 then determine what the facts are. You are the sole and
24 exclusive finders of fact in this case. I do not have any
25 opinion with respect to the facts in this case. And I am

1 precluded legally from having an opinion about the facts
2 in this case. Whatever I say doesn't matter with respect
3 to the facts. You determine what the facts are in this
4 case from the evidence that's presented in trial. If
5 during the course of this trial you hear me say anything
6 that suggests to you that I have an opinion one way or the
7 other about what the facts are, what the facts should be
8 or what you should determine, then please disregard that.
9 Because I honestly do not have an opinion about the facts
10 of case. You are the sole and exclusive finders of fact.

11 Now, I am the finder of the law. So, I will
12 make determinations as to the law in this case. I will
13 make findings and rulings regarding the procedure, the
14 process, the introduction of evidence in the case. I am
15 essentially what amounts to an objective referee. An
16 umpire calling balls and strikes. I'm going to make sure
17 that we follow the legal procedure and process. And I'm
18 going to make sure that when the attorneys make objections
19 to evidence, that that evidence which is appropriate under
20 the law and under the rules of evidence as introduces in
21 the trial of this case. Again, when I make those
22 decisions, I'm not making any commentary on the facts of
23 the case whatsoever, it is just a sterile analysis of the
24 law as I believe it to be.

25 Also know that during the case that when the

1 attorneys make objections, I must necessarily rule for one
2 and against the other. So, please don't think that
3 because I rule for one side and against the other that I
4 have any predisposition or prejudice for against either
5 side, I truly do not. I'm making, again, just a sterile,
6 objective decision based on the law as I know it to be.

7 Now, we will start this case after I finish
8 giving you this short opening charge, then attorneys will
9 have the opportunity to make opening statements to you.
10 Now, opening statements, closing statements, those
11 comments, those arguments from the attorneys, is not
12 evidence in the case. That is simply argument for their
13 respective position. They're advocating their cause.
14 That's not evidence to be considered by you. They will
15 each have the opportunity to make opening statements
16 wherein they will introduce themselves, their client and
17 their theory of the case. After having heard opening
18 statements from each side, then the State will begin its
19 presentation of its case. And we will begin presenting
20 evidence.

21 You will hear evidence in this case from
22 witnesses and you may receive evidence in several
23 difference forms. Evidence can take several different
24 forms. It can be the flesh and blood eye witness
25 testimony from a witness who takes stand, it could be

1 documentary evidence, it could be audio tapes, it could be
2 video tapes, it could be physical objects which are place
3 into the record. And you will receive all of that
4 evidence from each side as they produce their case and
5 present their case.

6 Now, after the State has had the opportunity to
7 present its evidence -- and the way they will do that is
8 they will call witnesses and they'll introduce evidence
9 through the witnesses. The State will have the
10 opportunity to ask questions to examine those witnesses.
11 Then the Defense will have the opportunity to
12 cross-examine any of those witnesses as well. After the
13 State has presented all of its evidence, then the
14 Defendant has the opportunity to present evidence as well.
15 If the Defense chooses to do that.

16 After having heard all of the evidence that's to
17 be presented in this case, then we will go to closing
18 arguments. Just as I suggested to you with opening
19 arguments, that's not evidence in this case. Because once
20 you hear that evidence -- or once you have -- once we get
21 to closing arguments you would have already heard all of
22 the evidence that's to be presented in this case. And the
23 lawyers will then be arguing about the evidence that was
24 presented in the case. And advocating their position. So
25 again, that will be not be evidence in the case you would

1 have already heard all of the evidence.

2 After you hear closing arguments from each of
3 the attorneys, then I'll give you a closing charge on the
4 law. And I'll tell you all the law that is relevant to
5 the evidence that you heard in this case. Now, the reason
6 I don't give you the charge on the law in the first place
7 is because I don't know yet what all of law will be. I
8 haven't heard any of this evidence either. I haven't
9 heard any of the witnesses. I haven't seen anything
10 that's to be presented today. So, I am like you, seeing
11 all of this for the first time. So, I don't know exactly
12 what will be relevant in a charge on the law in this case
13 until I've heard it just like you have. All right.

14 Now, during the course of this case, after I --
15 well, let make sure that you know. After I've given you a
16 charge on the law in this case and you've heard all the
17 evidence, I'll ask you to retire to your jury room. And
18 then you can begin your deliberations. In those
19 deliberations, again, you will determine based on the
20 evidence what the facts are in this case. And you will
21 apply the law as I give it to you to the facts of the
22 case. And then you will make a determination as to
23 whether the State has met its burden of proof in this
24 case. Please don't begin any of your deliberations about
25 this case, any of your discussions about this case until I

1 instruct you to do so. That will be at the end of the
2 case when you've heard all the evidence and when I have
3 given you a charge on the law.

4 And you know, of course, why that is in your own
5 common sense. And that is because it's not appropriate
6 for you to begin considering any case until you've heard
7 everything that relates to that case. You know in your
8 own common experience with either your children or your
9 friends or your acquaintances that someone may tell you a
10 story. And you may think very strongly that that person
11 is right and you have all the facts that bear upon that
12 issue. But when you hear the other side, that is the
13 other child relate his or her respective side of the
14 story, you recognize that there is another side of it.
15 And you recognize that you may not have had all of the
16 facts to inform your opinion, to inform your decision.
17 So, in this case, again, it's exactly like your common
18 experience. Don't begin your deliberations, don't discuss
19 it with one another until you've heard everything and
20 received a charge on the law from me at the end of the
21 case.

22 Also know that we will be taking breaks. We'll
23 be going to lunch. After you hear opening arguments we're
24 going to go to lunch. Then we'll hear testimony this
25 afternoon. Then we'll break for the evening and probably

1 come back tomorrow morning. While we're on breaks,
2 please, don't discuss the case with any of your
3 significant others, with your friends, with your family
4 because you will be deliberating in essence. Because they
5 will invite you to discuss the case. And then you will
6 begin telling them, this is what I saw, this is what I
7 heard and you start making qualitative decisions about
8 what you saw and what you heard. And essentially what
9 you're doing is your deliberating about the evidence and
10 trying to deduce facts from the evidence. So, during the
11 pendency of this case if we take a break, when we take a
12 break, don't discuss it with anyone else. It's only
13 appropriate that you discuss it with the 12 jurors who
14 ultimately decide this case. After I've given you the
15 authority to begin your deliberations.

16 Also know that when we take breaks, don't go on
17 the internet. Don't get out your smart phone or go to
18 your place of business or home and try to find out
19 something about this case. I don't know whether you
20 could, frankly. However, know that the on thing that's
21 appropriate for your consideration in this case is that
22 which is presented in court, under the law and under the
23 rules of evidence. If you consider anything else that is
24 no submitted in accordance with the rules of evidence in
25 this courtroom, then you will have tainted your

1 deliberations. So, when you go home, when you take a
2 break, just put it out of your mind. And when you come
3 back into the courtroom begin listening again. Already.

4 Now also, during the course of this trial we're
5 going to take pretty steady and even breaks. Me, I got to
6 take a break about every hour to an hour and a half.
7 Okay? And I found that works, generally, for most people.
8 So, we'll take a break about every hour, hour and a half
9 so we can just stop and refresh, recharge ourselves and
10 then come back in and listen to the testimony. If at any
11 point in time during these proceedings, any one of you
12 needs to take a break, even if we've only been at it ten
13 minutes or five minutes, if you need to take a break,
14 please, get my attention or the Bailiffs attention and let
15 us know. Because understand, that you are the 14 most
16 important people in the courtroom right now. And it's
17 very important that you're focused and paying attention to
18 what's being presented on the stand. And I would rather
19 you tell me, I'm not getting anything right now because I
20 really need to take a break for whatever reason. I would
21 rather you tell me that than you sit there and just think
22 to yourself, Boy, this is -- I just want to get out of
23 here for a period of time so I can take a break. So, tell
24 me and we'll take that break. We'll take that break.

25 Now, the first thing I'm going to do before we

1 begin those opening statements from counsel, I'm going to
2 ask the Clerk to swear you in in this case. You have
3 taken an oath earlier this morning to tell the truth in
4 jury qualification. But this oath is going to be truly
5 and verily try the case, try this specific case in
6 accordance with the law as I give it to you.

7 Mr. Welborn.

8 THE CLERK: If you would, please, stand. Again,
9 if you'd answer by saying, I will, after the oath. Raise
10 your right hand.

11 (WHEREUPON, the jury was sworn.)

12 THE CLERK: Thank you, you may be seated.

13 THE COURT: Ms. Hinton.

14 OPENING STATEMENT

15 MS. HINTON: Thank you, Your Honor, may it
16 please the Court?

17 THE COURT: Yes, ma'am.

18 MS. HINTON: Mr. DeJong.

19 Ladies and gentlemen, good afternoon, my name is
20 Brandi Hinton and I'm an assistant solicitor here in
21 Pickens County. And I want to start by thanking you for
22 being here. And the Judge did a great job of thanking you
23 earlier and explaining to you just how important you are
24 in this process. But we want to thank you personally as
25 well for your sacrifices. Because it is a sacrifice to be

1 here. You've given up your jobs, your time with your
2 family to serve this very important function. And all
3 across America this morning people just like you gathered
4 and sacrificed to serve on a jury. It's a very
5 interesting time in our country. We are asked to
6 sacrifice everyday. The government shutdowns. The
7 layoffs with the economy. And I can't help but think of
8 Chris Cox. And some of you may know who Chris Cox is.
9 Chris Cox is a South Carolina native. And during the
10 government shutdown, Chris Cox went to the Lincoln
11 Memorial in Washington, D.C. and he mowed the grass. He
12 didn't mow the grass because he was going to get rich
13 doing it or because he was going the get famous, he did it
14 because it had to be done. You are here today not because
15 you're going to get rich, Mr. Welborn's already told you
16 that. And you're not likely to get famous. You're here
17 because it has to be done. So, I want you to know that
18 all of us in the courthouse sincerely appreciates your
19 sacrifices.

20 You told us earlier a little bit about you, so
21 I'll tell you a little bit what about we do as Solicitors.
22 Solicitors are charged with prosecuting crimes in their
23 respective counties. So, as the assistant solicitor for
24 Pickens County, it is our duty to prosecute crimes that
25 occur in Pickens County. Now, the Judge read to you the

1 Indictment in this case and that stated that on September
2 the 17th, 2011, Tavish Yeargin murdered Sean Dinneon. And
3 as the Judge told you, the Indictment is not evidence, it
4 does not prove Mr. Yeargin's guilt, it's merely the path
5 by which we get here today. When a crime is committed,
6 warrants are issued. Those warrants are sent to the
7 courthouse, they make their way to our office. When a
8 case is ready to come to trial, we turn those warrants
9 into indictments. And they're sent to the Pickens County
10 Grand Jury. And once they're true billed, they're ready
11 to present to you. So, while it's not evidence, it merely
12 the pathway to get here, that's a little bit about how we
13 got to where we are today.

14 Now, you will not hear about how Sean Dinneon
15 died from a single gunshot wound at the Crosswell Baptist
16 Church parking lot in Pickens County from me. You will
17 hear it from the eye witnesses. From the medical team.
18 From law enforcement. And the detectives. You will hear
19 the story from the people who lived it. And I ask that
20 you pay close attention to what you hear. I know that you
21 will. Because each witness, each piece of evidence is
22 part of a larger picture. And at the end when all the
23 witnesses have testified and all the evidence is in, that
24 larger picture will prove that Tavish Yeargin murdered
25 Sean Dinneon. Thank you.

1 THE COURT: Mr. DeJong.

2 OPENING STATEMENT

3 MR. DEJONG: Thank you, Your Honor, may it
4 please the Court.

5 Ms. Hinton.

6 Mr. Richardson.

7 A few moments ago when His Honor read those
8 Indictments, I wish I could have climbed into each one of
9 your minds. What did your mind say when the word murder
10 came out of His Honor's mouth? Because you see, ladies
11 and gentlemen, what fascinates me by that is murder, as we
12 so often commonly think of murder, as our Supreme Court
13 has said, murder is not always murder. That's a good
14 convoluted statement if I ever heard one. Murder, as His
15 Honor read the Indictment, is the taking of a life of
16 another with malice aforethought. I think there maybe
17 another word in there.

18 Now, that malice aforethought, ladies and
19 gentlemen, is something when His Honor was talking about
20 elements of a crime and that the State must prove each and
21 every element, that is an element that must be proved
22 beyond a reasonable doubt. I just wanted to look at the
23 Indictments here. Make sure unlawfully and with malice
24 aforethought. Well, I was right, that's what it says.
25 You can have murder. There can be such things as

1 self-defense, defense of another, heat of passion,
2 basically a negligence. And it all involves a person's
3 life may be taken. But when you start getting into those
4 elements, ladies and gentlemen, even though we still often
5 use the word murder, legally, they are not murder as we so
6 often take the word in our society. We are bombarded by
7 the word murder.

8 And now, I guess because we all try to be
9 politically correct, we say, homicide. You say tomato, I
10 say tomato. Same difference. So, whether you call
11 homicide or murder, as we go through this case, I ask you
12 to remember that one of the elements of this charge of
13 murder that the State must prove beyond a reasonable
14 doubt. And we'll talk about reasonable doubt when we come
15 to the conclusion of this case. I don't want to get
16 involved in that too much now. But we will talk
17 reasonable doubt when we come to the conclusion. As His
18 Honor has shared with you that's when you will have all of
19 the evidence, closing statements. You'll have to listen
20 to us again. And a charge on the law from the Judge that
21 you make that determination. So, we'll talk about
22 reasonable doubt a little more a little later on.

23 Another thing that I ask you to consider in this
24 case, and I think in this case equally important, is what
25 we call credibility of witnesses. Believability of

1 witnesses. What do they have to gain by their testimony?
2 What do they have to lose by their testimony? Do they
3 have an agenda in testifying? So, I ask you to keep that
4 in mind as we go through this case.

5 Now, His Honor, has shared with you a
6 parenthetically, I think I've been introduce, I'm John
7 DeJong. I practice law here in Pickens County. I have
8 also seated at counsel table with me, obviously, is
9 Mr. Yeargin. And seated on the other side of Yeargin is
10 Ms. Teal Johnson who also practices law in my office. She
11 will be sitting with me throughout trial and may be in and
12 out. But just so you know who she is so you don't have to
13 be guessing who she might be.

14 Now, as I said, Mr. Yeargin is sitting at
15 counsel table beside Ms. Johnson. And I don't want to
16 beat a dead horse to death but this is of the utmost
17 importance in our system of criminal justice as it exists.
18 And that is this, ladies and gentlemen. There's a
19 presumption of innocence. That is not merely a legal
20 theory. It is not legal mumbo jumbo that comes out of the
21 lawyers mouths. It is a substantial right afforded every
22 citizen of this country. And today more particularly of
23 Pickens County that is charged with a crime. Sometimes
24 that presumption of innocence is likened to a cloak of
25 righteousness wrapped about the shoulders of the

1 Defendant. All times I ask the jury, look at my client
2 closely. He's dressed in an opened collar shirt, trousers
3 though that's not the important part of his wardrobe
4 today.

5 I want you to look at him a little more closely
6 because if you look at him a little more closely, here's
7 what you will see. From the very top of his head to the
8 very soles of his feet, all the way off to his left, all
9 the way off to his right, he's covered with something more
10 precious than any wardrobe that could ever be purchased.
11 And what he is covered with is that presumption of
12 innocence. And that presumption of innocence does not
13 leave him when I sit down and shut up here in a minute and
14 this case moves forward. It does not leave him when after
15 the first witness testifies or the second or the third or
16 the fourth. Indeed, it does not leave him after His Honor
17 charges you on the law at the conclusion of this case. It
18 does not leave them until or unless you, the 14 now, the
19 12 who will deliberate, find that the State has proved,
20 the Government has proved their case beyond a reasonable
21 doubt.

22 And I always reiterate, certainly the Judge has
23 commented on it and shared with you, and oftentimes I
24 would say and I do, I represent the innocent, Mr. Tavish
25 Dominique Yeargin today. It's kind of like when the word

1 murder is read. When I say that, what goes through your
2 mind? I think it would be with easy for you to say,
3 innocent. How in the world? He was arrested for these
4 charges. And yes he surely was. But we could tear up
5 those arrest warrants. Because they are meaningless as to
6 where we stand today. And then it may go through your
7 mind, okay forget the arrest warrants for a moment, His
8 Honor read the Indictments. And he did indeed. But you
9 see what we do ladies and gentlemen, for purposes of where
10 we are right now, we tear up those Indictments. Those
11 Indictments are purely 100 percent meaningless as to where
12 we are in this case right now.

13 There are no facts in this case. None. Not the
14 first one until or unless you the 12, now 14, the 12 of
15 you go back to deliberate, you decide what is a fact, what
16 is not a fact. Or if there are any facts in this case.
17 That's purely up to you and that is your prerogative as
18 the jury. Today you can make no mistakes. You're
19 perfect. If I make a mistake, if His Honor makes a
20 mistake, the government makes a mistake, somebody will
21 correct us. But you are absolutely perfect today.
22 Whatever your decision may be. And I ask, don't forget
23 that murder is not always murder and don't forget to think
24 about the credibility of witnesses. Once you have seen
25 and heard all that, and got the charge on the law, then

1 you go back and deliberate. You bring back -- beg your
2 pardon.

3 After you have heard, seen, listened to the
4 charge on the law, come back and say, Tavish Dominique
5 Yeargin is not guilty of murder. They're lots of kinds of
6 murder. Not guilty of the grand larceny. And listen to
7 that testimony closely also, please. Try this case under
8 your oath. When all is said and done bring back a verdict
9 of not guilty. Thank you so much for your time.

10 THE COURT: All right, ladies and gentlemen of
11 the jury, we're going to take a break for lunch. What I
12 would ask you is to please be back at a quarter till 2:00.
13 That gives you about an hour and 15 minutes. We'll come
14 back and we'll begin testimony in this case. So, I will
15 see you back then. Please, do not discuss the case.
16 Don't do any self help. Just eat lunch, come back and
17 we'll start the case. Okay? Y'all have a great lunch.

18 (WHEREUPON, the jury left open court at
19 approximately 12:36 p.m.)

20 THE COURT: All right, Counsel, anything to put
21 on the record before we take recess for lunch?

22 MR. RICHARDSON: Nothing from the State.

23 MR. DEJONG: Nothing from the Defense, Your
24 Honor.

25 THE COURT: Okay, good. Thank you. Y'all have

1 a great lunch.

2 (WHEREUPON, a lunch break was taken.)

3 THE COURT: It's my understanding that we have
4 all the jurors. Y'all ready for the jury?

5 MR. RICHARDSON: Excuse me, Your Honor, I have
6 just one brief issue.

7 THE COURT: Okay.

8 MR. RICHARDSON: That came to mind.

9 THE COURT: -Okay.

10 MR. RICHARDSON: When Detective Dow testifies,
11 there's going to be testimony that a license plate was
12 found in a drainage implement near where the stolen car
13 was abandoned. That license plate when ran came back
14 stolen off a van. That license plate has the Defendant's
15 fingerprints on it. Which is my purposes of, obviously
16 putting it in. So, what I guess came to mind was, it came
17 off a stolen van. I wanted to have testimony as to where,
18 if the license plate didn't go to that car, where did it
19 come from? But I thought I should bring it up to the
20 Court, certainly have Mr. DeJong make arguments in that
21 regard.

22 THE COURT: All right.

23 MR. RICHARDSON: I apologize, I have a bad
24 cough.

25 THE COURT: I understand. I know, you told me

1 that already and I can tell you got a cough drop in your
2 mouth and that's okay. No worries. What's the purpose
3 for which the testimony is introduced?

4 MR. RICHARDSON: Well, what happened, you not
5 knowing totally, in a nutshell what happens is he kills
6 the victim and they steal the victim's car. It's a Grand
7 Prix. So, we have the Grand Prix out there, we always
8 have this license plate that was near the scene and it's
9 all folded up. And it's thrown into a drainage ditch.
10 And there's also his fingerprints on that.

11 THE COURT: Okay.

12 MR. RICHARDSON: So, that the purpose of his
13 testimony.

14 THE COURT: Okay. So, there's a separate
15 license tag near the scene of the crime, that when
16 discovered and forensics are performed on it, it's got his
17 fingerprints on it?

18 MR. RICHARDSON: That's correct.

19 THE COURT: Okay. And it is it being introduced
20 to put him at the scene of the crime?

21 MR. RICHARDSON: Yes, Your Honor. It is.

22 THE COURT: Okay. Okay. All right.
23 What's your position?

24 MR. DEJONG: I'm a bit befuddled here. This
25 license plate was found nowhere near the incident of the

1 alleged shooting. The license plate was actually found
2 somewhere off of Augusta Road in Greenville. The alleged
3 shooting took place on North Fish Trap Road, I believe,
4 this side of the Greenville County line. So, in terms of
5 putting it at the scene, I don't see that. Now, I think,
6 if I'm catching the gist of what he's trying to say here,
7 I would object. I probably can't object to the fact that
8 it was a stolen license plate. Of course, I have direct,
9 cross-examine on that issue, certainly. As far as a
10 license plate off of a stolen van, I think that goes one
11 step too far. There's no allegation that my client had
12 anything to do with the theft of the van that the license
13 plate came off of. That, I object to that part coming in.

14 THE COURT: Right.

15 MR. RICHARDSON: I was not clear, evidently. I
16 apologize. The van -- if I said -- the license plate was
17 stolen off the van. And that license plate was found
18 where the vehicle that was stolen, after the murder, was
19 found. In other words, that vehicle was abandoned some
20 days later.

21 THE COURT: Yeah.

22 MR. RICHARDSON: And it was found -- the license
23 plate was found there. That area, near that car.

24 THE COURT: Okay. Right now, I'm -- I'm just
25 having a hard time sequentially determining the sequence

1 of events and why exactly it's being introduced. But
2 generally I get it. But in the introduction of evidence,
3 the first thing I have to know to is what's the purpose
4 for which it's being introduced? Because the entire
5 analysis hinges on that question. So, I don't know that
6 exactly yet. I have the same concern that Mr. DeJong has
7 about a suggestion that there was a stolen car. So -- and
8 you just -- I think you just rectified that. And that is
9 the evidence is going to be that there was this license
10 tag that was reported stolen, found near some area that
11 has some relevance to the crime. And I'm not straight on
12 that yet. That had his fingerprints on it, right?

13 MR. RICHARDSON: That's correct, Your Honor.

14 THE COURT: Okay. Okay. All right. Then given
15 that, for right now, in limine, and this isn't a final
16 ruling on it because I haven't seen it in context and I
17 haven't heard the sequence of events, then giving that
18 limitation that Mr. DeJong spoke of, that is there is a
19 suggestion that there is a stolen car or a stolen van, I'm
20 inclined to let it in. Okay?

21 MR. RICHARDSON: You're inclined to let in the
22 license plate?

23 THE COURT: I'm inclined to let it in, that's
24 right. And again, I don't know exactly yet and I don't
25 know where it was found and I haven't heard the testimony.

1 So, at the time you might want to stop and say this is
2 what I'm about to do. So, I can understand more clearly
3 why it's being introduced and the purpose for which it's
4 being introduced. Because again, that's really the first
5 step of the analysis.

6 MR. RICHARDSON: And, Your Honor, I'm sorry, I
7 may have been premature.

8 THE COURT: Okay. No, no, you're fine, I'm
9 happy you brought it up. Because I can anticipate it now.
10 Okay?

11 Okay, y'all ready for the jury?

12 MR. DEJONG: Ready for the Defense, Your Honor.

13 MR. RICHARDSON: State's ready.

14 THE COURT: All right, bring them in.

15 (WHEREUPON, the jury came into open court at
16 approximately 1:55 p.m.)

17 THE COURT: All right, good afternoon, welcome
18 back. All right, we're ready to begin the introduction of
19 evidence in this case.

20 So, at this point, Mr. Richardson, the state's
21 case.

22 MR. RICHARDSON: We're ready, Your Honor.

23 MS. HINTON: Thank you, Your Honor, the State
24 would call Margaret Hinson to the stand.

25 THE CLERK: Ma'am, if you would place your left

MARGARET HINSON-DIRECT BY MS. HINTON

1 hand on the Bible, raise your right.

2 MARGARET HINSON, after being duly
3 sworn, testified as follows:

4 THE CLERK: Ma'am, if you would, have a seat,
5 state your name for the record, please.

6 THE WITNESS: My name is Margaret Hinson. I
7 live at [REDACTED] Leath Lane in Easley.

8 DIRECT EXAMINATION

9 BY MS. HINTON:

10 Q Okay, Ms. Hinson, if you'll speak up, we got the
11 air on back here so it's really hard to hear, okay?

12 A Okay.

13 Q All right. Ms. Hinson, you told us what your
14 address is but will you state it one more time and loudly
15 for the record.

16 A All right. I stated [REDACTED] Taletha Lane, Easley,
17 South Carolina.

18 Q Okay. And do you know or did you know Sean
19 Dinneon?

20 A Yes, I did.

21 Q Where is Sean Dinneon house in relation to your
22 house?

23 A Straight across the street from mine.

24 Q Okay. And what's his address, do you know his
25 address?

MARGARET HINSON-DIRECT BY MS. HINTON

1 A [REDACTED] Additon Drive, I think that's his.

2 Q Is that in Pickens County do you know?

3 A Pickens County, Easley.

4 Q Do you live if Pickens County?

5 A Yes.

6 Q Tell me a little bit about how you know

7 Mr. Dinneon and the relationship that y'all had.

8 A We moved there first me and my husband, on
9 Leath. And Sean and his wife Sylvia moved straight across
10 from us about 2001.

11 Q Okay. So had you known Mr. Dinneon since 2001?

12 A Yes.

13 Q Okay. The whole time that you knew Mr. Dinneon,
14 did he live across the street?

15 A Yes.

16 Q Did he ever live with you?

17 A Yes.

18 Q When did he live with you?

19 A 2007, 2006, 2007.

20 Q Okay. Where was he living on September the 17th
21 of 2011, who was he leaving with?

22 A At my house with me.

23 Q Okay. Who else lived in your home at that time?

24 A My grandson, David, and his wife Heather and
25 their little girl. And my other grandson, Chris.

MARGARET HINSON-DIRECT BY MS. HINTON

1 Q Okay. When Mr. Dinneon was not living in his
2 home, was it vacant?

3 A No. He had other people living up there a lot
4 of the times. But sometimes it was vacant.

5 Q Okay. Are you familiar with Tavish Yeargin?

6 A I know Tavish but I don't really recall Tavish.
7 I knew him when he lived across there but he never come
8 down to the house but every once in a while, but that was
9 to visit Lonzo [ph], one of my friend's.

10 Q Lonzo [ph] was one of your friend's?

11 A Yes.

12 Q And when you said that he lived over there,
13 where did he live?

14 A He lived in Sean's house.

15 Q Did anyone live there with him to your
16 knowledge?

17 A His mother.

18 Q What's her name?

19 A Teresa.

20 Q Okay.

21 A And I think his brother's name is Charles, he
22 lived there. And he had two or three kids living there,
23 too. Small kids.

24 Q Okay. When they lived in Sean's home did, you
25 know them very well?

MARGARET HINSON-DIRECT BY MS. HINTON

1 A I know his mother pretty good.

2 Q Would you say that you were cordial with his
3 mother, would y'all speak?

4 A Yes.

5 Q Did y'all remain in contact?

6 A Yes, we remained in contact..

7 Q Okay. Do you know if Tavish and his family
8 moved out of that home?

9 A Yes, I know they moved out.

10 Q And do you know when they moved out?

11 A No, I don't remember when they moved out. Two
12 or three years, you know, before this happened.

13 Q Okay. And when you say this happened, what are
14 you talking about?

15 A I mean, about the car and Sean and all.

16 Q Okay. When you said you kept in contact with
17 Teresa, Tavish's mom, how would y'all keep in contact?

18 A We'd call each other every now and then. We'd
19 make sure -- we'd ask how they was or how we was, all of
20 that. Make sure that we was all all right.

21 Q Did you have her phone number?

22 A I had it, yes I had her phone number.

23 Q Did she have your phone number?

24 A Yes, she had my phone number.

25 Q Did Mr. Dinneon own any vehicles to your

MARGARET HINSON-DIRECT BY MS. HINTON

1 knowledge?

2 A Yes, he owned two of them.

3 Q What type of vehicles did he own?

4 A He owned a Grand Prix, a teal green. And he
5 owned a dark blue Laser [verbatim] Mitsubishi.

6 Q Okay. And Ms. Hinson, I'm going to show you
7 what's been previous marked as State's Exhibit No. 13, do
8 you recognize that?

9 A Yes, I know that one.

10 Q What is that?

11 A That's the Grand Prix.

12 Q Okay. And I'm also going to show you State's
13 Exhibit No. 5, do you recognize that?

14 A The grand -- the Lancer, the Mitsubishi.

15 Q Okay. It is your -- whose cars were these?

16 A To the best of my knowledge they were Sean's.
17 Sean claimed the cars.

18 Q All right.

19 Your Honor, at this time, the State would
20 like to move State's Exhibit No. 13 and No. 5 into
21 evidence.

22 THE COURT: Any objection?

23 MR. DEJONG: Without objection.

24 THE COURT: All right, without objection the
25 same is admitted into evidence.

MARGARET HINSON-DIRECT BY MS. HINTON

1 (WHEREUPON, State's Exhibits Nos. 5 & 13 were
2 marked for identification and received into
3 evidence.)

4 BY MS. HINTON:

5 Q Margaret, do you have any personal knowledge
6 whether Mr. Dinneon was trying to sell those vehicles?

7 A I don't think he ever put them on Facebook or
8 anything like that. But he was going to sell the
9 vehicles.

10 Q Okay. Do you have any personal knowledge of how
11 much he wanted for each of the vehicles?

12 A He wanted, I think, six, \$7000.00 for each one
13 of them.

14 Q Okay. So for each car he wanted \$7000?

15 A Yes.

16 Q Did you receive a phone call on September the
17 17th of 2011?

18 A Yes.

19 Q And what number did they call?

20 A They called my number but I don't know what
21 number it was.

22 Q Okay. Was it a cell phone or a house phone?

23 A It sound like a cell phone.

24 Q I'm sorry, the number that called you, was it
25 your cell phone that rang or your house phone?

MARGARET HINSON-DIRECT BY MS. HINTON

1 A My house phone.

2 Q Okay. And was -- was it a male or female that
3 was calling you?

4 A A male.

5 Q Okay. And what were they calling about?

6 A Sean's cars.

7 Q And what specifically about Sean's cars?

8 A That they was wanting to look at them.

9 Q Okay. How many times did they call that day?

10 A My phone? I only answered it once. But I think
11 they called it twice.

12 Q Okay. And do you know whether or not they
13 called Mr. Dinneon at all?

14 A I think they called him on his cell phone.

15 Q Okay. That evening, of September the 17th of
16 2011, did anyone arrive to look at those cars?

17 A Yes, they did.

18 Q Okay. Around what time did they arrive?

19 A About eight o'clock that night.

20 Q Okay. This was back in September, was it light
21 out?

22 A It was dusk, dark, just getting dark.

23 Q Okay. Did that strike you as strange?

24 A Yes, it struck me as strange.

25 Q Why is that?

MARGARET HINSON-DIRECT BY MS. HINTON

1 A Because you don't go to look at someone's car to
2 buy in the dark you, you go in the daytime. That would be
3 my opinion of it.

4 Q Okay. When they arrived did they come to your
5 house?

6 A No, they went straight to Sean's.

7 Q Did you ever go to Sean's house that evening?

8 A Yeah. Sean went up there first. I told him I'd
9 be up there in a few minutes and I went up on there.

10 Q Okay. When you walked up there, tell me how
11 many people were up there when you got up there.

12 A Well, when I walked up there -- you have to go
13 up like a slight hill to get to Sean's house. And a guy
14 was standing down there. And he looked like he was
15 scared, wringing his hands. And I went on up by him and I
16 went up there and there was two ladies up there, two
17 girls.

18 Q Okay. Can you describe for me, let's start with
19 the male, what did he look like?

20 A He had -- he weren't fat but he was kind of
21 stout built.

22 Q What race was he?

23 A Black.

24 Q Okay. When you went up the hill and you saw the
25 two ladies, describe them to me.

MARGARET HINSON-DIRECT BY MS. HINTON

1 A They was a white girl up there, she was kindly
2 fat. And she looked like she had shoulder length, blonde
3 hair. And the girl, the other little girl, she was black.
4 Looked to be about 5'3 and all. She had had a ponytail in
5 her hair and had black hair and all.

6 Q And you said that the black male was down at the
7 bottom wringing his hands.

8 A Yeah, he looked like he was wringing his hands
9 when I went by him.

10 Q Okay. Did he ever come up the hill?

11 A He come half way back up it.

12 Q Okay. Do you know the names of any of the
13 people that were there?

14 A I didn't know them at the time. Because I
15 didn't know who they was.

16 Q Okay. When you got up there, what was
17 Mr. Dinneon doing?

18 A He was -- had the pulled the Grand Prix in front
19 of the Lancer trying to jumper it off to get it to crank.

20 Q Okay. Do you know what they arrived in
21 Sean's -- at Sean's house, what kind of vehicle they
22 arrived in?

23 A No, I don't know the vehicle. But it was
24 sitting on the other side in the shade. And I don't know
25 what kind of vehicle it was.

MARGARET HINSON-DIRECT BY MS. HINTON

1 Q Okay. Was it down on the street or was it up in
2 the driveway?

3 A It was up in the driveway.

4 Q Okay. And you said it was parked in the shade?

5 A Yeah, it was parked up under a tree in the
6 shade.

7 Q Could you see it well?

8 A No, I couldn't see it well.

9 Q Okay. Did -- did the people who arrived at
10 Sean's house remain at Sean's house?

11 A No, they left shortly after.

12 Q Okay. When they left, what did you say to Sean
13 Dinneon?

14 A I told Sean that they was not going to buy his
15 car, that I don't think they had that much money.

16 Q And why did you say that?

17 A Because of the language the girls was using,
18 them and Sean and all that.

19 Q Okay. And so after you told him that you didn't
20 think they were going to buy it, what else did you tell
21 him?

22 A I told him to come on, you know, let's go back
23 down to my house, leave it alone.

24 Q Did y'all go back to your house?

25 A Yes, we went to my house and he brought the car

MARGARET HINSON-DIRECT BY MS. HINTON

1 down there.

2 Q What car?

3 A The Grand Prix, the one that they was, you know,
4 looking at. And he parked it over on the other side of my
5 house on my septic tank. And I asked him to move it off
6 of there. And when he moved it back off of there, he
7 pulled it back in front of my house.

8 Q Okay. Do you know why he didn't bring the
9 Lancer down?

10 A He couldn't get it cranked.

11 Q Okay. Do -- did they ever come back to Sean's
12 to buy the car?

13 A Yes, they come back.

14 Q Okay. When they came back did you go back up to
15 Sean's house?

16 A No, I wouldn't go back up there.

17 Q Okay. When they came back did they pull up to
18 the driveway?

19 A They pulled up to Sean's driveway.

20 Q Did Sean go back up there?

21 A Yes.

22 Q Had Sean been drinking that day?

23 A He was heavily intoxicated.

24 Q Do you know what he had been drinking?

25 A Steel Reserves 211 Malt Liquor.

MARGARET HINSON-DIRECT BY MS. HINTON

1 Q Was he drinking while they were there looking at
2 the car?

3 A Yes, he was drinking.

4 Q Okay. When Sean went back up there, did you
5 stay outside?

6 A No, I didn't stay outside, I went -- well, he
7 asked me to get him a beer. And I told him that I
8 wouldn't go up there, take it up there. I'd sit it on the
9 porch, he can come back down there and get it.

10 Q Did you set it on the porch for him?

11 A Yeah, I set it on the porch for him.

12 Q Was that the last time you saw Mr. Dinneon?

13 A Yeah, that was the last time I saw him.

14 Q Okay. Do you know if they stayed up at Sean's
15 house?

16 A I don't think they stayed up there very long.
17 Because they was supposed to take the car on a test drive.
18 And Sean told me that he would be back in 10 to 15
19 minutes. That he didn't have no license or insurance or
20 anything on the Grand Prix. They were going to just take
21 it around the block.

22 Q Okay. After they left to test drive it, what
23 did you do, if anything?

24 A Well, I went in there and I sat down and waited
25 for Sean to come back in 10 to 15 minutes. When he didn't

MARGARET HINSON-DIRECT BY MS. HINTON

1 come back, I went and looked for him.

2 Q Okay. And when you say you went to look for
3 him, where did you go?

4 A First, Heather Ann Main, that's my grandson's
5 wife, we walked up there to Sean's house. We looked all
6 the way around the house, at the swimming pool and all and
7 we didn't see him. And so, when we come back to my house,
8 we got in my car and I went to the Hot Spot and circled
9 the block and all to see if we could see him. To see if
10 they had put him out anywhere or done something to him.

11 Q Why were you concerned about where Sean was?

12 A It's the way that they acted and all up there.
13 I didn't trust them.

14 Q Did you find him?

15 A No, I didn't find him.

16 Q Okay. After you went to the Hot Spot -- when
17 you say the Hot Spot, which Hot Spot are we talking about?

18 A The one on 123.

19 Q Is it near anything?

20 A The racetrack.

21 Q After the Hot Spot, where did you go?

22 A We went back home. And I got the phone book --
23 or Heather got the phone book, we was fixing to call
24 Pickens County to come out there. And Heather was looking
25 in there for the number to Pickens County and David, my

MARGARET HINSON-DIRECT BY MS. HINTON

1 grandson, was standing in the door and he said, You ain't
2 got to look no further, Grandma, because the cops just
3 went on Sean's.

4 Q Okay. Did this cops ever come to see you?

5 A They did later but Baker come first.

6 Q When you Baker, you're referring to Detective
7 Michael Baker?

8 A Yes.

9 Q Did he come speak with you?

10 A Yes, he come talk with me.

11 Q Okay. Was that when you learned what happened
12 to Sean Dinneon?

13 A He didn't tell me at first. He asked me some
14 questions and all. Then he finally told me that Sean had
15 been shot.

16 Q Okay.

17 MS. HINTON: Ms. Hinson, that's all the
18 questions I have at the moment, please, answer any that
19 Mr. DeJong may have. Thank you.

20 THE WITNESS: All right, thank you.

21 MR. DEJONG: May it please the Court?

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. DEJONG:

25 Q Ms. Hinson, how long have you lived at [REDACTED]

MARGARET HINSON-CROSS BY MR. DEJONG

1 Toletha Lane?

2 A Ever since 1999.

3 Q For a good while?

4 A Yes, a pretty good while.

5 Q All right. And if you know, how long did Mr. --

6 how do you pronounce his name?

7 A Dinneon?

8 Q How long did Mr. Dinneon live across the road

9 from you?

10 A I think that him and his wife moved in in 2001.

11 Q 2001, all right. All right. Now, Mr. Dinneon

12 moved in with you about 2007, correct?

13 A Yes.

14 Q Did his wife move in with you?

15 A No, his wife had left him.

16 Q I see. Okay. So, he had lived with you from

17 2007 through September the 17th of 2011?

18 A No, his wife come back and Sean went back home

19 with her.

20 Q When was that?

21 A I don't think it was 2007 because my husband

22 died in 2005. 2006, 2007, that's when it would be.

23 Q So, he came to live with you in 2007 and then

24 his wife came back?

25 A The following summer, 2008.

MARGARET HINSON-CROSS BY MR. DEJONG

1 Q 2008?

2 A Yes.

3 Q How long did he stay then?

4 A Until she passed away.

5 Q Okay. Then he moved back in with you?

6 A No, he didn't move back in with me.

7 Q Okay. All right. Well, I want to go back to
8 this time that you say that Mr. Yeargin and his mother and
9 his brother lived up there. Now, I presume you were
10 saying they lived in Mr. Dinneon's house?

11 A Yes, sir, they did.

12 Q And while they were living in Mr. Dinneon's
13 house, Mr. Dinneon was living with you?

14 A No, sir.

15 Q Where was he living?

16 A He was going to go to Iraq. He was at Tamara's
17 [ph]. And then he come back and stayed with them until he
18 got ready to go to Iraq.

19 Q All right. Well, who looked after his property
20 while he was gone?

21 A Teresa and they was supposed to live there. And
22 Tamara, this other girl that he knew.

23 Q Okay. Did you help look after it?

24 A Not then I didn't.

25 Q All right. Did you ever go up there and visit

MARGARET HINSON-CROSS BY MR. DEJONG

1 with these folks?

2 A I think I went up there one time to see Teresa.
3 Most of the time we talked on the phone, things like that.

4 Q Okay. All right. Well, when this phone call --
5 or when you got this call on September 17th of 2011, did
6 you recognize the voice?

7 A No, sir, I did not.

8 Q Okay. And back peddling here a little bit, how
9 long did -- well, I don't know if I asked you, let me ask
10 you this way. Do you know when you say Mr. Yeargin and
11 his mother and brother moved into Mr. Dinneon's house?

12 A No, sir, I do not.

13 Q How long -- do you know how long they lived
14 there?

15 A No, sir, I don't.

16 Q Other than his mother, did you have any contact
17 with anyone?

18 A Yeah, I had spoke to Tavish. And I talked to
19 his other brother, you didn't see him too much. But
20 Tavish, yes. Tavish had come down there at the house a
21 couple of times.

22 Q So, you talked to him on occasion, right?

23 A Yes, Tavish I did.

24 Q All right. But on September the 17th of 2011,
25 you did not recognize Tavish's voice?

MARGARET HINSON-CROSS BY MR. DEJONG

1 A I didn't see Tavish.

2 Q You didn't recognize his voice on the phone
3 call?

4 A No, sir, I did not.

5 Q So, you can't say that that was Tavish Yeargin
6 that called you?

7 A No, sir, I can't.

8 Q Okay. The number that you -- you say you
9 received a phone call, that was your house phone?

10 A That was my home phone.

11 Q You have caller ID on that phone?

12 A Yes.

13 Q Do you know what number that came from?

14 A Baker checked it when he come but I didn't.

15 Q No, ma'am, I'm sorry, I'm not trying to be rude
16 to you, okay? Not what anybody told you, do you
17 personally know what number that--

18 A No, sir, I don't.

19 Q -- came from. All right. It wasn't from Tavish
20 Yeargin's mother?

21 A Oh, okay.

22 Q I'm sorry?

23 A I didn't know.

24 Q Well, you knew Ms. -- you knew Tavish's mother,
25 what was her name by the way?

MARGARET HINSON-CROSS BY MR. DEJONG

1 A Teresa.

2 Q Teresa. You knew Teresa, right?

3 A Yeah, I've talked to Teresa.

4 Q And you knew her phone number?

5 A I didn't know her phone number.

6 Q Maybe I missed -- you said you communicated by
7 phone?

8 A Yeah, every once in a while but not very often.

9 Q So, you would call her, right?

10 A I don't recall I called her. I think she called
11 me most of the time.

12 Q So, the upshot of it was you don't know a call
13 that you say came in maybe one, one that you answered that
14 you know of, you don't know who it came from?

15 A No, sir. Because Sean thought that it come from
16 Jonathan or Justin, another guy that was trying to buy his
17 cars.

18 Q All right. Well, let's just move forward to
19 there. Now, were you present when Sean -- Mr. Dinneon got
20 those calls?

21 A I answered the first call..

22 Q Right.

23 A But I don't remember the second call.

24 Q All right. Well, I'm not asking you what
25 Mr. Dinneon may have said but did he give any indication

MARGARET HINSON-CROSS BY MR. DEJONG

1 that he recognized the caller on the other -- whoever was
2 calling him?

3 A He said he didn't.

4 Q He said?

5 A He said he didn't know who it was.

6 Q He did not know who it was?

7 A Yeah.

8 Q I'm sorry, I'm a little hard of hearing, ma'am,
9 we got a fan blowing back here so bear with me, okay? You
10 said Mr. Dinneon was going to sell these vehicles, that
11 being the Grand Prix and the Lancer?

12 A Both of them.

13 Q Correct. Had he advertised in the newspaper?

14 A Not to my knowledge that I knew of.

15 Q Well, he was going to sell them, that would be
16 logical that the word was out there somehow that he was
17 going to sell these cars?

18 A Yes, sir.

19 Q Okay. Now, you said some people came over, I
20 gather this was on the 17thm, is that correct?

21 A Come to Sean's? Yes, sir. They come up to
22 Sean's.

23 Q Okay. Now, so that I am clear, when those
24 people came, they went directly to Mr. Dinneon's house?

25 A Yes, sir, they did.

MARGARET HINSON-CROSS BY MR. DEJONG

1 Q They did not come to your house?

2 A No, sir, they didn't.

3 Q Now, Sean, Mr. Dinneon, was down at your house
4 when they came?

5 A Yes, sir.

6 Q And then he went up to his house?

7 A Yes.

8 Q And then some moments later you went up there?

9 A Yes, sir, I did.

10 Q You did not go together, correct?

11 A Huh-uh.

12 Q Now, what time of the night was this?

13 A I think they got there about eight o'clock.

14 Q Okay. And you say you saw a man standing down
15 the driveway a little bit?

16 A Yes, sir.

17 Q You couldn't identify that man?

18 A I didn't know who he was.

19 Q Right. And certainly you had seen Mr. Yeargin
20 while he was living up there at Mr. Dinneon's house,
21 right?

22 A Yes, sir, Tavish, yes, sir I had seen him.

23 Q And you had seen him on more than one occasion?

24 A Yes, sir.

25 Q And you couldn't identify that person as being

MARGARET HINSON-CROSS BY MR. DEJONG

1 Mr. Yeargin?

2 A That was not Tavish.

3 Q Okay.

4 A I knew that it was not Tavish.

5 Q Okay, thank you, ma'am. So, that was not

6 Mr. Yeargin standing in the driveway that you

7 characterized him as wringing his hands?

8 A Yes, it was someone else. And I think they told
9 me it was his brother. But Tavish, I did not see him that
10 night.

11 Q Okay. So, you never saw Tavish on the night --
12 when we say Tavish, we're talking about Mr. Yeargin,
13 right?

14 A Yes.

15 Q Okay. You never saw Tavish on the night of
16 September the 17th, 2011?

17 A No, sir, I did not.

18 Q Okay. When the people first came, this man that
19 was standing down the driveway, let's just forget about
20 him for if minute, okay? I gather there were three people
21 that came?

22 A Yes.

23 Q And that was one male, that we said we were
24 going to forget?

25 A Yes.

MARGARET HINSON-CROSS BY MR. DEJONG

1 Q And two females?

2 A Two females.

3 Q All right. One white female, one black female?

4 A Yes, sir.

5 Q Now, who -- were they doing the talking to Sean,
6 Mr. Dinneon?

7 A Yes, they was talking to Sean.

8 Q Were they saying they wanted to buy the cars?

9 A I don't think so. Because I think they said the
10 boy at the bottom of the hill is going to buy the cars.

11 Q But that was not Tavish Yeargin?

12 A No. To me -- I had seen Tavish more than I had
13 the other one and I knew that it was not Tavish standing
14 down there.

15 Q All right, ma'am. But nonetheless they were the
16 ones talking to Mr. Dinneon?

17 A Yes, sir.

18 Q And they were the ones, shall we say, that were
19 setting up the deal?

20 A Yes, I think so.

21 Q All right. Now, they leave and they come back,
22 right?

23 A Yes, sir.

24 Q Now, do you see a male when they come back?

25 A I didn't see any of them. Because I did not go

MARGARET HINSON-CROSS BY MR. DEJONG

1 back up there for fear.

2 Q Okay. So, you can't say when they came back if
3 it was the same two females who had been there earlier?

4 A No, I don't know who it was that came back the
5 last time.

6 Q I'm sorry, I misunderstood. I thought you had
7 gone back up?

8 A No, I didn't go back up.

9 Q Once those two females and that unknown male who
10 left.

11 A Yes.

12 Q You don't know who came back?

13 A No, I don't know who come back up there.

14 Q Well, I gather -- well, you said Mr. Dinneon
15 brought the Grand Prix back and parked it in front of your
16 house?

17 A Yes.

18 Q About how far would you say, Ms. Hinson, it is
19 from your front porch to Mr. Dinneon's front porch, if he
20 has a front porch?

21 A He had a front -- it was a pretty good piece.
22 You have to walk up a walkway -- driveway to get to his
23 house.

24 Q Okay. All right. Are you familiar with the
25 Jetco a across the street?

MARGARET HINSON-CROSS BY MR. DEJONG

1 A No, sir.

2 Q No, you're not. Let me think. I'm trying to
3 get some idea of the distance, okay? Did you say a
4 football field?

5 A No. I would say from about at the back of this
6 room to the end of that.

7 Q To that wall?

8 A Yes.

9 Q And there's a road in between?

10 A No, the road goes up to Sean's house from my
11 house.

12 Q Okay.

13 A And it's about that far.

14 Q But your house would be on Toletha Lane?

15 A Yes.

16 Q And his house was on another street?

17 A Additon Street.

18 Q Right. So there wasn't a road that went in
19 between there?

20 A Yes, sir.

21 Q So there was?

22 A Yes, sir.

23 Q Two lane road, four lane road?

24 A Two.

25 Q Okay. And when whoever it was that came back,

MARGARET HINSON-CROSS BY MR. DEJONG

1 you didn't go back up there?

2 A No, sir, I did not.

3 Q And you didn't see what kind of car they were
4 driving?

5 A No, sir.

6 Q And I gather Sean, Mr. Dinneon left, correct?

7 A Yeah, he left my house then and drove the Grand
8 Prix back up to his house.

9 Q Okay. So, that's why I'm getting a little
10 confused. When the two female and the unknown male came
11 the first time, the Grand Prix was at his house?

12 A Yes, sir.

13 Q Then did he move the Grand Prix after they left?

14 A Yes. He brought the Grand Prix after they left
15 to my house.

16 Q Okay.

17 A Because I had asked Sean not to go with them to
18 sell the Grand Prix and he brought it down to my house and
19 parked it.

20 Q Now, when they came back, is that where the
21 Grand Prix was?

22 A Yeah, he carried the Grand Prix back to his
23 house when they pulled back up in the driveway.

24 Q Okay. So, they don't come to your house, they
25 went back up to the driveway?

MARGARET HINSON-CROSS BY MR. DEJONG

1 A They went back to Sean's. They didn't come to
2 my house, period.

3 Q So, who came back you cannot say?

4 A No, I don't know who came back.

5 Q What kind of car came back you cannot say?

6 A No.

7 Q What time -- well, what date was it that
8 Detective Baker came to see you?

9 A The same night that Sean was shot, the 17th.

10 Q The 17th. About what time, do you know?

11 A It was 10:30, somewhere along in there.

12 Q After September the 17th of 2011, when you spoke
13 to Detective Baker.

14 A Yes.

15 Q Did you talk to any cops after that?

16 A I don't think so.

17 Q Nobody ever came out and talked to you again?

18 A Baker kept coming back and some other cops come
19 with Baker.

20 Q Okay. Did you ever share with either, not on
21 the 17th, after the fact, did you ever share with any of
22 those cops Mr. Yeargin living there at the time?

23 A No, sir.

24 Q So, I gather the first time that came out, that
25 Tavish had lived up there is when you were talking to the

MARGARET HINSON-CROSS BY MR. DEJONG

1 prosecutor, is that correct? These people over here.

2 A No, they already knew that Tavish had lived
3 there. Baker knew that they had lived there.

4 Q I understand what you're saying, ma'am, but
5 that's not my question. My question is the first time you
6 ever said anything about it is when you were talking to
7 these people?

8 A And Baker.

9 Q Okay. When?

10 A The 17th, that night.

11 Q So, you told Detective Baker on the 17th that
12 Tavish Yeargin had lived up there?

13 A He already knew that Tavish had -- he asked me
14 who all had Sean -- had lived up there in his house.

15 Q I'm not trying to quiver with you, Ms. Hinson,
16 but is it your testimony that you told Detective Baker on
17 the 17th, September the 17th of 2011, that Tavish Yeargin
18 had lived in Sean Dinneon's house?

19 A No, I don't think I did. Because I don't think
20 it was even mentioned that night.

21 Q All right. Okay. So, my question is, when did
22 you mention it before today that Tavish Yeargin had lived
23 in that house?

24 A I don't remember.

25 Q Okay. Now, you say that Mr. Dinneon was

MARGARET HINSON-CROSS BY MR. DEJONG

1 intoxicated?

2 A He was heavily intoxicated.

3 Q Had he been drinking that day?

4 A Heavy.

5 Q Okay. How do you know?

6 A I was with him all day.

7 Q Okay. Now, was he heavily intoxicated before he
8 ever left your house?

9 A To go to his house?

10 Q Yes, ma'am.

11 A Yes.

12 Q And albeit he was heavily intoxicated, he asked
13 you to get him a beer and you put one out on the porch for
14 him?

15 A Yes, sir, I did.

16 MR. DEJONG: One moment, please, Your Honor.

17 THE COURT: Yes, sir.

18 MR. DEJONG: Thank you, Ms. Hinson.

19 THE COURT: Any redirect?

20 MS. HINTON: Just briefly, Your Honor.

21 THE COURT: Yes, ma'am.

22 REDIRECT EXAMINATION

23 BY MS. BATSON:

24 Q Ms. Hinson, how long -- now, September the 17th
25 of 2011 is the date in question. How long prior to that

MARGARET HINSON-REDIRECT BY MS. HINTON

1 had it been that Tavish and his family had lived in Sean's
2 house, do you know how long it had been?

3 A I don't remember, I really don't.

4 Q Are we talking days, weeks, months, years?

5 A Probably a year, maybe over a year.

6 Q And you said that -- you told Mr. DeJong that
7 you had caller ID?

8 A Yes.

9 Q And did that number come up on your caller ID
10 when it called?

11 A Yes, it come up.

12 Q Did you provide that number to anyone?

13 A To Baker.

14 Q Okay. When you say Baker, we're talking about
15 Detective Baker?

16 A Detective Baker.

17 Q Okay. And you stated that Mr. Dinneon had been
18 talking to a Jonathan or Justin?

19 A A Jonathan or Justin that he had met at the Hot
20 Spot a couple of weeks before then.

21 Q Okay. After everyone arrived at Mr. Dinneon's
22 house that evening, did you ever hear them call anybody by
23 that name?

24 A I think I did. Because when I walked up there,
25 Sean was still trying to jumper off the car. And he come

MARGARET HINSON-REDIRECT BY MS. HINTON

1 around -- when he come around the car and all and the boy
2 that was standing at the bottom of the driveway was
3 walking back up the hill, I think they introduced him.

4 Q Okay.

5 A I can't be for sure but Jonathan or Justin one.

6 Q Okay. And you said that they had a car that
7 they had parked in the shade?

8 A Yeah, they parked it in the tree. Up under the
9 tree that was sitting in front of Sean's house.

10 Q Did you ever go under that tree and look at that
11 car?

12 A No, sir -- no, ma'am, I did not.

13 Q Did you ever look in the windows?

14 A No.

15 Q Did you ever open any of the doors to it?

16 A To that car?

17 Q To their car?

18 A No, I didn't.

19 Q And I think we established that Mr. Dinneon had
20 been drinking heavily that evening. And you said that you
21 had been with him all day, had you been drinking?

22 A No, I don't drink.

23 MS. HINTON: That's all I have, Your Honor.

24 THE COURT: Recross?

25 MR. DEJONG: Nothing on recross. Thank you,

MARGARET HINSON-REDIRECT BY MS. HINTON

1 Your Honor.

2 MS. HINTON: Your Honor, may she be excused?

3 THE COURT: Yes, ma'am.

4 MR. DEJONG: No objection, Your Honor.

5 THE COURT: Thank you, you may step down.

6 THE WITNESS: Thank you.

7 THE COURT: Thank you for being here.

8 You may call your next witness.

9 MS. HINTON: Thank you, Your Honor, the State
10 would call Harold Sloan.

11 THE CLERK: If you would, place your left hand
12 on the Bible, raise your right.

13 HAROLD SLOAN, after being duly sworn,
14 testified as follows:

15 THE CLERK: Have a seat and state your name for
16 the record. You'll have to speak up into the microphone.

17 THE WITNESS: Harold Sloan.

18 DIRECT EXAMINATION

19 BY MS. HINTON:

20 Q Okay, speak up a little bit louder for me
21 Mr. Sloan, where are you employed?

22 A The City of Greenville.

23 Q Okay. How long have you been with the city?

24 A Two years.

25 Q Okay. And what do you do for the city?

HAROLD SLOAN-DIRECT BY MS. HINTON

1 A I drive a truck.

2 Q Okay. Cut right to it, did officers come to
3 your house on September 18th of 2011?

4 A Yes.

5 Q Okay. And where do you live? Or were did you
6 live at the time?

7 A Twelve Backwater Way, Greenville, South
8 Carolina.

9 Q Is that in Greenville County?

10 A Greenville County.

11 Q Okay. And do you know what they were coming to
12 your house in reference to?

13 A The telephone, the sell phone.

14 Q Okay. When they asked you about the sell phone,
15 did you know who that cell phone belonged to?

16 A Yes.

17 Q Who did that cell phone belong to?

18 A Taz's.

19 Q What's Taz's full name? First and last.

20 A I can't pronounce her first name, I know it
21 starts with a U.

22 Q Okay. Can you spell it?

23 A U-S-T-E-Y, I think.

24 Q Okay. Does -- what HER full first name, do you
25 know?

HAROLD SLOAN-DIRECT BY MS. HINTON

1 A Taz, I just call her Taz.

2 Q All right. That's fine. How do you know Taz?

3 A By her grandbaby..

4 Q Okay. Your grandbaby is related to Taz how?

5 A By her daddy -- by my wife -- Kirk, his name's

6 Kirk, her son.

7 Q Okay. So, is your son the father of Taz's baby?

8 Your stepson?

9 A Yes, yes.

10 Q All right. Do you know Tavish Yeargin at all?

11 A That's her brother.

12 Q Whose brother?

13 A Taz.

14 Q All right. How did you know that Taz had that

15 phone?

16 A I got the -- I got where I had -- I had three

17 lines so I got -- I got the line for her.

18 Q And why did you do that?

19 A It's for the grandbaby, you know, for contacting

20 for the grandbaby. And, you know, she needed help. You

21 know, if we could help her out with things.

22 Q Okay. And so, did she have that number back in

23 September of 2011?

24 A Yes.

25 Q Does she still have that number?

HAROLD SLOAN-DIRECT BY MS. HINTON

1 A No.

2 Q Okay. When officers asked you about that cell
3 phone did you provide them with that information?

4 A Yes.

5 Q Do you know who the provider was of that cell
6 phone? What cell phone carrier it was?

7 A It was T-Mobile.

8 Q Okay.

9 MS. HINTON: Mr. Sloan, I don't have anything
10 else, please answer anything that Mr. DeJong might have.

11 MR. DEJONG: Thank you, Your Honor, may it
12 please the Court?

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. DEJONG:

16 Q Mr. Sloan, I'm hard of hearing and I've got a
17 fan roaring back here. Taz and Tav sound a lot alike.
18 The phone you are talking about was for Taz, T-A-Z, right?

19 A That's correct.

20 Q Okay. I want to be sure, it's Taz, not Tavish?

21 A No.

22 Q Okay. Although Taz and Tavish are brother and
23 sister?

24 A That's correct.

25 Q Okay. On September the 17th of -- yeah,

HAROLD SLOAN-CROSS BY MR. DEJONG

1 September -- September the 17th, 2011, as far as you know,
2 Taz had that cell phone, right?

3 A Taz, yeah. T-A-Z.

4 Q And who might or might not have had access to
5 that phone, you don't have any idea, do you?

6 A No, sir.

7 Q Okay. Who may have placed phone calls or a
8 phone call from that phone, you don't know; do you?

9 A Not at all.

10 MR. DEJONG: Okay. Thank you, sir.

11 THE COURT: Any redirect, ma'am?

12 MS. HINTON: No, Your Honor. May he be excused?

13 THE COURT: Yeah.

14 Thank you for being here, I appreciate it. You
15 may step down.

16 All right, you may call your next witness.

17 MS. HINTON: Thank you, Your Honor, the State
18 would call Josqueze Thomas.

19 THE CLERK: Place your left hand on the Bible,
20 raise your right.

21 JOSQUEZE THOMAS, after being duly
22 sworn, testified as follows:

23 THE CLERK: Thank you. If you would, have a
24 seat. State your full name for the record, please.

25 THE WITNESS: My name is Josqueze Thomas.

JOSQUEZE THOMAS-DIRECT BY MS. HINTON

DIRECT EXAMINATION

BY MS. HINTON:

Q Hi, Mr. Thomas, how are you?

A I'm good.

Q Mr. Thomas, do you know Taznick Utsey?

A Yes, I do.

Q How do you know her?

A She's my ex girlfriend.

Q Okay. Were y'all dating back in September of 2011?

A Yeah, we were.

Q Okay. Do you know Tavish Yeargin?

A Yes, I do.

Q How do you know him?

A That's Taz's brother.

Q Okay. When we say Taz, are we talking about Taznick.

A Yeah, Taznick.

Q Is Taz a nickname?

A Yes.

Q Okay. Do you know Kayla Williams?

A Yes, I know Kayla Williams.

Q And do you know Nyia Utsey?

A Yes, I know Nyia Utsey.

Q Okay. All right. Were you with Tavish Yeargin

JOSQUEZE THOMAS-DIRECT BY MS. HINTON

1 on September the 17th of 2011?

2 A Yes.

3 Q Okay. And where were you when you were with
4 him?

5 A At that house.

6 Q Whose house?

7 A Taznick's house.

8 Q Were you living there at that time?

9 A No.

10 Q What were y'all doing that day?

11 A Played ball earlier and we just drunk the rest
12 of the night, really.

13 Q Okay. When you were Taznick's house with Tavish
14 Yeargin, do you remember Tavish asking you anything?

15 A You said do I remember him asking me anything?

16 Q Yeah.

17 A Not really. I saw him, I don't remember him
18 asking me really anything.

19 Q Okay. You don't recall him wanting you to give
20 him anything?

21 A No, not me. Not give me anything.

22 Q Okay. Did you recall him asking anybody for
23 anything?

24 A No, not really.

25 Q Did you see Tavish Yeargin with a phone that

JOSQUEZE THOMAS-DIRECT BY MS. HINTON

1 day?

2 A Yeah, I seen him with a phone.

3 Q Do you know whose phone he had that day?

4 A Taz's phone.

5 Q Okay. And is Taz Taznick?

6 A Yes.

7 Q Okay.

8 MS. HINTON: That's all I have, Mr. Thomas, just
9 answer any questions that Mr. DeJong might have.

10 THE WITNESS: Okay.

11 MR. DEJONG: Thank you, you may it please the
12 Court?

13 THE COURT: Yes, sir.

14 ///

15 ///

16 CROSS-EXAMINATION

17 BY MR. DEJONG:

18 Q And how many people were at the house that day?

19 A It was me, Taznick, Chris, Tav and Quala and the
20 other sister Angel.

21 Q Was Kayla there? Kayla Williams?

22 A Was Kayla there? No, she wasn't there at the
23 time.

24 Q Was Nyia Utsey there?

25 A Yeah, I think she was a little later on.

JOSQUEZE THOMAS-CROSS BY MR. DEJONG

1 Q Okay. What time of the day would you say Nyia
2 Utsey got there?

3 A About 11 or 12 because she gave me a ride home.

4 Q Eleven or 12 in the morning?

5 A At night.

6 Q Okay. All right. Now, you say you saw
7 Mr. Yeargin with Taz's phone, right?

8 A Yeah.

9 Q But that phone was certainly accessible to the
10 other people that were there in the house as well, was it
11 not?

12 A Yeah, of course.

13 Q Okay. So basically, anybody could have used
14 that phone that day?

15 A Yeah.

16 Q That was there?

17 A Yes.

18 Q I mean, that was, I guess, kind of common
19 knowledge, if you need to make a phone call or wanted to
20 make a phone call, use Taz's phone, right?

21 A True.

22 Q So, there was you, Tavish -- how many other
23 males?

24 A Their cousin Chris, me, I think, there was
25 really -- and hold on. It was me, Tav, Chris, I'm not

JOSQUEZE THOMAS-CROSS BY MR. DEJONG

1 sure if Mike was there, we was drinking, so.

2 Q Okay. Y'all were drinking?

3 A Yeah, that night we was drinking.

4 Q Okay. Did you get messed up?

5 A Not too messed up.

6 Q A little messed up?

7 A A little messed up.

8 Q All right. So--

9 A Not too wasted.

10 Q That's why you can't really remember, right?

11 A Yeah, it's still a blur. It's always been a
12 blur, really.

13 Q All right. So, even the fact of saying what you
14 say of the fact of seeing Tavish with a phone, that could
15 be a blur too, right?

16 A I'm sorry?

17 Q Well, the fact that you said you saw Tavish with
18 the phone, right?

19 A Well, I'm not a big drinker. So, I'm like a
20 okay drinker so I'm like aware of lot of stuff.

21 Q Well, we've already established that you were a
22 little messed up?

23 A Yeah, a little.

24 Q All right. So, and everything was a blur right?

25 A Yeah.

JOSQUEZE THOMAS-CROSS BY MR. DEJONG

1 Q So, you can't really say?

2 A No, I really can't to be honest with you.

3 MR. DEJONG: Thank you, sir, no further
4 questions.

5 THE COURT: Redirect?

6 MS. HINTON: No, Your Honor. May he be excused?

7 MR. DEJONG: No objection.

8 THE COURT: You may be excused, you can step
9 down. Thank you, I appreciate it.

10 Yes, ma'am.

11 MS. HINTON: Thank you, Your Honor. The State
12 would call David Alexander.

13 THE CLERK: If you would, place your left hand
14 on the Bible, raise your right.

15 DAVID ALEXANDER, after being duly
16 sworn, testified as follows:

17 THE CLERK: If you would, have a seat and state
18 your name for the record, please.

19 THE WITNESS: David Alexander.

20 DIRECT EXAMINATION

21 BY MS. HINTON:

22 Q Mr. Alexander, if you'll just speak up, we got a
23 loud unit back here, okay?

24 A Okay.

25 Q Mr. Alexander, where do you live?

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 A [REDACTED] South Fish Trap Road.

2 Q Okay. Is that in Pickens?

3 A Yes.

4 Q Okay. And what is located directly across the
5 street from your home?

6 A Crosswell First Baptist Church.

7 Q Okay. I'm going to show you what's been marked
8 as State's exhibit No. 1. Do you recognize what this is?

9 A Yes, that's the church parking lot and this is
10 my front yard right here.

11 Q Okay.

12 Your Honor, at this time the State would
13 like to move State's Exhibit No. 1 into evidence and have
14 permission to publish it to the jury.

15 MR. DEJONG: Can I take one more look at that,
16 please?

17 Without objection, Your Honor.

18 THE COURT: All right, the same is moved into
19 evidence.

20 (WHEREUPON, State's Exhibit No. 1 was marked for
21 identification and received into evidence.)

22 MS. HINTON: Thank you, Your Honor.

23 THE COURT: Have you marked all of those?

24 THE COURT REPORTER: I have not, sir.

25 THE COURT: Okay, as you introduce them, if

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 you'd give them to the Court Reporter so she can mark them
2 and record them into the record, please.

3 (WHEREUPON, State's Exhibit 1 was
4 published to the jury.)

5 BY MS. HINTON:

6 Q Mr. Alexander, I think there's a laser pointer
7 up here. Okay, can you tell us where your yard is on this
8 picture?

9 A This is my fence right here.

10 Q Okay. And what is that the view from?

11 A They probably took that picture -- right there I
12 got a gate right here from my front yard but that's right
13 at the corner of my house. Which would be right here.

14 Q Okay. And what rooms are on the front of your
15 home?

16 A My kitchen and my living room.

17 Q Okay. So, let's go to September the 17th of
18 2011. Were you home that evening?

19 A Yes.

20 Q What were you doing?

21 A Watching TV.

22 Q Okay, what were you watching?

23 A Football.

24 Q Okay. Do you remember what day it was. What
25 day of the week?

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 A Yes, it was a Saturday night.

2 Q All right. And when -- now, at night can you
3 see the parking lot as well as you can see it here?

4 A Yeah, I mean, obviously, not that good but you
5 can see that -- that's the view that I get from the
6 kitchen window right there.

7 Q Okay. All right. Now, on that night, on
8 September the 17th of 2011, did you notice anything in the
9 church parking lot that evening?

10 A Yeah. I seen two cars, they entered this right
11 here and pulled and parked right in this area right here.
12 One behind the other.

13 Q You said you saw two cars, do you know what kind
14 of cars they were?

15 A I wasn't real sure but I could tell one of them
16 was a Mustang.

17 Q Okay. Was the Mustang the first or the second
18 car to enter?

19 A The second car.

20 Q All right. And when you noticed them, and I
21 think you said they entered here, is that correct?

22 A Yes, ma'am.

23 Q And pulled around to about right here?

24 A About right there.

25 Q Okay.

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 A One behind the other.

2 Q Okay. When you saw those cars pull in, what
3 were you doing?

4 A I was fixing me something to drink. I just had
5 walked in from my living room to my kitchen.

6 Q Okay. And just to be clear, was it an alcoholic
7 beverage?

8 A No.

9 Q Had you been drinking that night?

10 A No, I don't drink.

11 Q Okay. When you saw the cars pull in, what did
12 you see next?

13 A Like I said, I was kind of looking in my living
14 room, watch the game still and glancing out the window.
15 And I seen some people kind of get out. I thought they,
16 was just talking. But then I could hear some muffle
17 because my windows was down. I could hear some maybe
18 cursing, stuff like that.

19 Q Okay. Let me stop you real quick. When you say
20 you saw people get out, did you see male, female --

21 A I don't even really know if I seen them get out
22 of the cars because I was watching the game. Like I said,
23 I just kind of glanced back out there and I seen maybe two
24 or three people together.

25 Q Okay.

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 A And I kept glancing back in there at the game.
2 And then I could tell maybe it was kind of getting a
3 little heated, I could hear them.

4 Q Okay. Were these people inside their vehicles
5 or outside?

6 A Outside.

7 Q Okay. All right. So, when you hear them
8 arguing, did you see anything else?

9 A No.

10 Q Okay. What happens next?

11 A I get my drink, I'm getting ready to walk back
12 into the living room and I look out the window again and I
13 see some glass fly. So, I walk over, I figure it was a
14 bottle or somebody broke a windshield or something. So, I
15 walk over to the other window and go to lift it up. By
16 the time I lift the window, I hear one or two gunshots.

17 Q Okay. After you hear that, what do you see?

18 A I don't really see nothing. I didn't even see
19 them get back in the car. I just heard something, you
20 know, real fast. Maybe something say, Get in the car,
21 let's go. Then the cars, they got together and the cars
22 was gone. Just that fast.

23 Q Okay. How did the cars exit?

24 A This drive right here, they left and went back
25 down that way.

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 Q All right. Who was -- what -- well, we know one
2 of them was a Mustang. Was the Mustang the first or the
3 second car to leave?

4 A It would have been the second one to go.

5 Q All right. So, after the cars leave, what
6 happens?

7 A I watched them go on down the road a ways and
8 the hill goes down so I couldn't really see too far. And
9 then I just kind of looked back over in the parking lot,
10 about right here, and I seen, it looked like a blanket or
11 something, I wasn't sure what it was. Then, I -- since
12 the gun shots I said I probably need to call 911. So I
13 called 911.

14 Q Okay.

15 A And told them I thought somebody been shot. And
16 that was about it.

17 Q Okay. And you said right about here you say you
18 saw a blanket?

19 A Yes, ma'am.

20 Q Did you ever think it was anything other than a
21 blanket?

22 A Well, I kind of figured it was a body because I
23 heard the shots.

24 Q Okay.

25 A By I didn't notice it when the cars first pulled

DAVID ALEXANDER-DIRECT BY MS. HINTON

1 off, until I watched the cars. And I looked back over
2 there and I seen it. So.

3 Q After you noticed the body, what did you do?

4 A I called 911.

5 Q Okay. Did you ever go over to the church
6 parking lot?

7 A No. I talked to the 911 operator and she
8 said -- I said, I'm not sure it's a body, I just see
9 something lay in the parking lot. And I said, I'm not
10 going over there.

11 And she said, No, you stay in your house.

12 So, that's what I did.

13 Q Do you have any idea what time of night this
14 was?

15 A 9:30, 9:45.

16 MS. HINTON: Mr. alexander, that's all I have
17 right now, if you will answer any questions Mr. DeJong may
18 have.

19 CROSS-EXAMINATION

20 BY MR. DEJONG:

21 Q Mr. Alexander, this was about 9:30, 9:45 on
22 Saturday evening?

23 A Yes, sir.

24 Q Okay. Now, I'm trying to look at this picture
25 here. Does your -- I guess it's hard to say but you said

DAVID ALEXANDER-CROSS BY MR. DEJONG

1 you were looking from the corner of your front yard, is
2 that correct?

3 A From my kitchen -- you mean this picture?

4 Q Yeah, the picture.

5 A Yeah, it's kind of the corner of my house right
6 there.

7 Q So, your house would be setting back further
8 this way?

9 A Correct.

10 Q To the left or to the right?

11 A To the left.

12 Q All right. Now, I noticed there's is pole here
13 that looks like it's in the right away across from your
14 house, I don't see any lights on that pole?

15 A They're not.

16 Q Are there any lights in that parking lot.

17 A Yes, sir. There would be one there and then
18 there's one -- there's another pole, not that pole but
19 there's another pole about middle way of these trees. It
20 might be directly behind that pole. But I would say it
21 was in line with this pole.

22 Q Do you know if those lights were on that evening
23 or not?

24 A Yes, sir, they was on.

25 Q But then you say the two cars pulled in and they

DAVID ALEXANDER-CROSS BY MR. DEJONG

1 pulled in more towards the Fish Trap Road side?

2 A Correct.

3 Q Right?

4 A Correct.

5 Q Now, did you watch people get out the vehicles?

6 A I didn't see them get out of the vehicles.

7 Q So, you can't say if people got out of both
8 vehicles or only one vehicle?

9 A Correct.

10 Q Okay. And I'm not sure if you or the solicitor
11 said but there was terminology used that there was an
12 argument, is that. . .

13 A Correct.

14 Q Okay. Now, I know from based on -- what I
15 gather you said, you couldn't identify who was who out
16 there in the parking lot outside of the cars?

17 A No, sir.

18 Q Okay. But could you identify as between male
19 and female voices?

20 A No, sir.

21 Q Okay. So you don't know?

22 A Because I had my windows down and I had my air
23 on, you know.

24 Q Okay. So your house was pretty much closed up?

25 A Uh-huh.

DAVID ALEXANDER-CROSS BY MR. DEJONG

1 Q Okay. But now you did hear breaking glass?

2 A I didn't hear the glass, I was walking towards
3 my living room.

4 Q Uh-huh.

5 A And, you know, how the glass under lights, I
6 just seen it through --

7 Q So, you saw glass flying?

8 A Yes, sir.

9 Q Okay. You saw it flying, you don't hear it
10 land, you didn't hear it break?

11 A No, sir.

12 Q Now, the glass that was flying, could you see
13 where it came from?

14 A No, sir.

15 Q When the vehicles pulled into the parking lot, I
16 just want to be sure, the car that you said was a Mustang,
17 that was behind the other car?

18 A Correct.

19 Q Directly behind it?

20 A Correct.

21 Q Would you say it was pulled right up on its
22 bumper?

23 A Maybe three or four foot apart.

24 Q Okay. So, the Mustang was backed off a little
25 bit from the other car, correct?

DAVID ALEXANDER-CROSS BY MR. DEJONG

1 A Correct.

2 Q Okay. Now, before they left the church parking
3 lot, did you've ever see either of those vehicles move?

4 A No. I'm not sure. I think one time I said they
5 did move but I wasn't sure about that.

6 Q Okay. And you're not sure today?

7 A I'm not sure about it.

8 Q All right. And then when they left, they came
9 out of the, I guess the upper --

10 A Right here.

11 Q Thank you.

12 A This another one, uh-huh.

13 Q Did they go left or right?

14 A They would have went back to the right of the
15 screen. Back towards my gates on my fence there.

16 Q Okay. Well, let me get oriented then. If
17 you'll help me out. If I turn right out of the drive that
18 they came out of --

19 A Right here, yeah.

20 Q Where am I headed?

21 A You mean, where would you be headed? You'd be
22 headed towards Whitehorse Road in Greenville County.

23 Q Okay.

24 A This road comes out on Whitehorse Road.

25 Q That's if you come out left?

DAVID ALEXANDER-CROSS BY MR. DEJONG

1 A You mean, if you went the way I seen the cars
2 go?

3 Q Yes.

4 A This way? Yes, sir.

5 Q Towards Whitehorse Road?

6 A Yes, sir.

7 Q Okay. If you went out right, would that be back
8 toward 123?

9 A Yes, sir.

10 Q Okay.

11 A Uh-huh.

12 Q Okay. All right. But there's no doubt in your
13 mind that there was an argument going on out there?

14 A No, sir. I heard that.

15 Q What the argument was about--

16 A I couldn't tell you.

17 Q You don't know?

18 A It was just over so fast.

19 Q All right. And you heard one gunshot?

20 A I'm not sure about that.

21 Q Okay.

22 A It might have been an echo from the building or
23 the church or something. I'm not sure about that.

24 Q I know you said maybe one, maybe two and that
25 was my next question?

DAVID ALEXANDER-CROSS BY MR. DEJONG

1 A Right.

2 Q When a gun fires or can be an echo?

3 A Yeah, and that's a big church, you know.

4 Q Right.

5 A Uh-huh.

6 Q So, at best you can say you heard one gunshot?

7 A One, yeah.

8 MR. DEJONG: Thank you, Mr. Alexander.

9 THE WITNESS: Okay.

10 THE COURT: Any redirect?

11 MS. HINTON: No, Your Honor. May he be excused?

12 MR. DEJONG: No objection.

13 THE COURT: Thank you for being here, sir. I
14 appreciate it.

15 Ladies and gentlemen, we're going to take a
16 short break. We've got 15 minutes, we've been at it for
17 about an hour and 15 minutes or so. So, let's take a
18 break, we'll come back in and we'll resume testimony at
19 that time. Please, don't discuss the case.

20 (WHEREUPON, the jury left open court at
21 approximately 2:56 p.m.)

22 THE COURT: Okay, you're Mr. Ellis, I presume?

23 MR. ELLIS: Yes, sir.

24 THE COURT: I signed your order. I see that
25 you're taking pictures and that's okay. And I know you

DAVID ALEXANDER-CROSS BY MR. DEJONG

1 know this, just make sure you're not taking any pictures
2 of the jurors, okay?

3 MR. ELLIS: Certainly, Your Honor.

4 THE COURT: Okay. All right. Thank you, very
5 much.

6 Okay, be back on the record in ten or 15
7 minutes.

8 (WHEREUPON, a short break was taken.)

9 THE COURT: All right, ready for the jury?

10 MR. RICHARDSON: State's ready, Your Honor.

11 MR. DEJONG: So is the Defense.

12 THE COURT: All right.

13 (WHEREUPON, the jury came into open court at
14 approximately 3:10 p.m.)

15 THE COURT: Okay, is the State ready to call
16 their next witness?

17 MR. RICHARDSON: Yes, Your Honor, may it please
18 the Court. The State calls Adam Westmoreland.

19 THE CLERK: Place your left hand on the Bible,
20 raise your right.

21 ADAM WESTMORELAND, after being duly
22 sworn, testified as follows:

23 THE CLERK: Thank you. If you would, have a
24 seat and state your name for the record, please.

25 THE WITNESS: My name is Adam Westmoreland.

ADAM WESTMORELAND-DIRECT BY MR. RICHARDSON

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Sir, where are you currently employed?

A Currently employed with the South Carolina Highway Patrol.

Q Okay. And how long have you been with the highway patrol?

A About two years now.

Q Okay. So, back on September the 17th of 2011, were you with the highway patrol then?

A No, sir, at the time I was employed as a deputy with the Pickens County Sheriff's Office.

Q Okay. Sir. At that time, back in June [verbatim] 17th of 2011, what capacity were you employed? Road patrol or?

A Yes, road patrol.

Q How long have you been in law enforcement, sir?

A For about a total of five and a half years now.

Q Okay. Let me take your memory back to that night, September the 17th of 2011. Were you dispatched to Crosswell Baptist Church?

A Yes, sir.

Q Okay. Now, where is a Crosswell Baptist Church located?

A It's within Pickens County, just off of Highway

ADAM WESTMORELAND-DIRECT BY MR. RICHARDSON

1 123 off of South Fish Trap Road.

2 Q Okay, sir. Now, when you arrived at that scene,
3 were you the first there on location?

4 A Yes, sir.

5 Q Okay. Can you just explain to the jury briefly,
6 what did you view when you arrived at the scene?

7 A When I first pulled up there was a street light
8 within the parking lot. I observed--

9 MR. DEJONG: Your Honor, I'm sorry, I don't mean
10 to apologize -- I apologize for interrupting. Could we
11 get him a little closer to the mic?

12 THE WITNESS: My bad, I'm sorry.

13 BY MR. RICHARDSON:

14 Q I should have told you that, I'm sorry.

15 A I'm kind of heavy, it's a little hard for me to
16 fit in here.

17 Q Yes, sir.

18 A Pulled up to the church, there was a street
19 light in the parking lot. I observed a male laying down
20 on the ground in the parking lot. No one else around him.

21 Q Okay. And in that type of scenario, what is
22 your first step? What's the first thing that you do as a
23 deputy sheriff?

24 A My first -- my first action was to approach him
25 while keeping an eye for anybody else. Once again, there

ADAM WESTMORELAND-DIRECT BY MR. RICHARDSON

1 was no one readily in the area. When I tried to make
2 contact with him, I observed that he was face down and was
3 nonresponsive, there was blood on the ground.

4 Q Okay. Sir. Now, at this point in time do you
5 actually make any calls or what's going on at this point?

6 A I did note that he had shallow breathing so I
7 called EMS, advised my supervisors and requested
8 additional assistance. And began to look around to secure
9 the immediate scene.

10 Q Okay, sir. And that's the next question that I
11 was going to go to. When you refer to securing the scene,
12 what exactly do you do to do that?

13 A Well, at the time, taking a quick visual scan to
14 look for any readily available evidence. At that time,
15 just stay close with the victim at the time until
16 additional help could arrive. Department Stanley arrived
17 within minutes and we took crime scene tape and surrounded
18 the scene.

19 Q Okay, sir. Now, it is part of your duties at
20 this point in time to attempt to revive the victim in any
21 way?

22 A Due to the level of injuries that he had, I
23 didn't feel it in my capacity to be able to assist him.

24 Q Okay. And you secured the tape -- did you
25 testify, correct me if I'm wrong, did you say you secured

ADAM WESTMORELAND-DIRECT BY MR. RICHARDSON

1 the scene with tape?

2 A Yeah, crime scene tape.

3 Q Crime scene that we see yellow?

4 A Yes, sir.

5 Q Okay. After doing that, did you -- at any time

6 did you notice any weapons, any guns or anything of that

7 nature?

8 A No, sir.

9 Q Did you notice any shell casings or anything of

10 that nature at the time?

11 A I don't recall seeing any, no, sir.

12 Q Yes, sir. Now, once you secured the scene, are

13 there other people that you feel that you need to call in

14 such a situation?

15 A We did call our forensics unit as well as

16 administration. Our immediate supervisor responded to the

17 scene. As well as our -- what's called our Scene ID Unit,

18 they responded to initiate an investigation as well.

19 Q Okay. Scene ID is the forensics?

20 A Yes, sir.

21 Q Okay.

22 A As well our investigations division.

23 Q Okay. Such as Detective Dow?

24 A Yes, sir.

25 Q Okay. And at that point in time, are you -- do

ADAM WESTMORELAND-DIRECT BY MR. RICHARDSON

1 you have any -- did you have any further investigation or
2 anything like that in this case?

3 A While I was there one vehicle did pull up. To
4 my recollection. An elderly woman and a younger male.
5 They made contact with me and advised that they had
6 witnessed an event there. At that time I did -- I had
7 them stand by and witness statements were collected from.
8 As well as the original complaint that called this in.

9 MR. RICHARDSON: Okay. Thank you, sir. That's
10 all the questions I have. Please answer any questions
11 Mr. DeJong has for you.

12 THE COURT: Cross-examination?

13 MR. DEJONG: Thank you, Your Honor, may it
14 please the Court.

15 CROSS-EXAMINATION

16 BY MR. DEJONG:

17 Q Now, Trooper Westmoreland, then Deputy
18 Westmoreland. All right. So, what time did you get
19 dispatched, do you know?

20 A Honestly, sir, it was two years ago, I don't
21 recall. I know it was late at night.

22 Q Okay. What do you consider late at night?

23 A I know we were doing a road check. It would had
24 to have been either 10:00 p.m. or later to my
25 recollection.

ADAM WESTMORELAND-CROSS BY MR. DEJONG

1 Q All right, sir. So you receive a call, you
2 respond to Crosswell Baptist Church, right?

3 A Yes, sir.

4 Q Tell me, if you can, Trooper, what the lighting
5 is like out there, please.

6 A From the picture, on the backside, the furthest
7 pole away, is actually a street light that cascades down
8 into the parking lot.

9 Q Casts down into the parking lot?

10 A Yes, sir.

11 Q Okay. Now, this person that you say you saw
12 laying face down, about where was he? And I don't know
13 where the whatchamajigger is. Oh, the thing right in
14 front of him, I thought that was one of his weapons. I
15 don't know how you use that thing. Well, you know how use
16 it?

17 A What do you need me to do?

18 Q It's got some of pointer on it.

19 A Okay. There's the light there.

20 Q Okay.

21 A Honestly, sir. I know he was closer, and you
22 can help me with this, please. This is a view from the
23 roadway facing the parking lot, is that correct?

24 Q My understand is, yes.

25 A Okay. To my recollection he was somewhere

ADAM WESTMORELAND-CROSS BY MR. DEJONG

1 within this area, as far as his location.

2 Q Well, was he within the church parking lot?

3 A If I recall correctly, yes, sir.

4 Q Okay. So, he was more in this area right in
5 here?

6 A That sounds correct.

7 Q Okay. All right. Now, when you arrived was
8 there anyone else present at the scene?

9 A Not immediately, no, sir.

10 Q Okay. Well, you say you called other people --
11 well, let me back off before I get to that. How long did
12 you stay there?

13 A By myself?

14 Q The whole evening?

15 A A long period of time, it was several hours.

16 Q So, you called a big bunch of people, right?

17 A Yes, sir.

18 Q Do you have any idea how many people tromped
19 through that crime scene that night?

20 A I don't have my notes in front of me. I mean,
21 at the time, unfortunately they've been left at the
22 sheriff's office.

23 Q Okay. Well, I'll give you the whole thing if
24 you want me to. Well, let me just do that.

25 A But I do know it was recorded as to who entered

ADAM WESTMORELAND-CROSS BY MR. DEJONG

1 and exited.

2 Q I believe this is a copy of your report, Trooper
3 Westmoreland.

4 A Thank you, sir.

5 Q What I'm specifically interested in -- well, let
6 me first establish that that is your report.

7 A Yes, sir, it does appear to be.

8 Q What I'm specifically interested is in the third
9 page, the number of people that were on that scene.

10 A Yes, sir.

11 Q Did you list all those names?

12 A Honestly sir, I don't recall whether this was in
13 my initial narrative or whether this was a supplemental
14 added in by someone else.

15 Q Nonetheless it was generated by you?

16 A Yes, sir.

17 Q How many people tromped through that scene that
18 night?

19 A According to this, 19.

20 Q Nineteen?

21 A Yes, sir.

22 Q All right, sir. If you want to keep that, I'll
23 let you keep it.

24 A If you didn't mind, thank you.

25 Q Yeah. So, 19 people were out there. Now, let's

ADAM WESTMORELAND-CROSS BY MR. DEJONG

1 talk a little bit more about where you say the body was
2 laying. Somewhere, basically, right in here. You correct
3 me if I'm wrong.

4 A I believe so.

5 Q All right. Now, in this area it's pretty dark?

6 A Yes, sir. I mean, it's relatively well lit
7 enough to see what's going on.

8 Q But as I understand it, you said this street
9 light back here cast the light down?

10 A Yes, sir.

11 Q Not out. So you're getting some, for one of a
12 better term, secondary lighting from that street light but
13 not a great deal?

14 A Okay.

15 Q Now, on this pole, just so we're clear, and for
16 the record I'm referring to State's Exhibit 1, on this
17 pole right here, there are no lights?

18 A It doesn't appear to be, I can't recall.

19 Q All right. So, the closest light would be this
20 light back here?

21 A Yes, sir.

22 Q That casts it light down?

23 A Yes, sir.

24 Q Was that the only light to the best of your
25 recollection?

ADAM WESTMORELAND-CROSS BY MR. DEJONG

1 A I can't say that with any certainty, I
2 apologize.

3 Q That's all right.

4 A It has been some time.

5 Q If you don't know, you don't know. Can't know
6 what you don't know, right? Now, other than you
7 responding -- well, let me ask you this. You said you got
8 there and you saw, I believe, a male laying in the parking
9 lot?

10 A Yes, sir.

11 Q Is that correct? Now, did you immediately check
12 on the male or did you immediately check trying to secure
13 the area to see if anybody else was around there?

14 A Upon initially exiting my vehicle, I did do a
15 scan to make sure there were no other parties present that
16 I could see. Not seeing anyone I approached the now
17 victim. Which at the time was, I believe, still. . .

18 Q Well, let me ask you this, where did you or was
19 your patrol car when you got there?

20 A Off side to the far left.

21 Q I'm sorry?

22 A Off view to the far left.

23 Q Over here?

24 A Yes, sir.

25 Q Okay. So I gather you had your headlights on?

ADAM WESTMORELAND-CROSS BY MR. DEJONG

1 A Yes, sir.

2 Q It was dark out there, right?

3 A Yes, sir.

4 Q Okay. And you're facing this way?

5 A Yes, sir.

6 Q Okay. Now, would you have been on Fish Trap or
7 were you actually in the parking lot?

8 A No, sir, if I recall correctly I stopped short
9 of the parking lot for a safety point.

10 Q Okay. So, I gather that means you were on Fish
11 Trap Road?

12 A Yes, sir.

13 Q Okay. So -- and there's trees, obviously, a
14 tree line here that would be to the right of the church,
15 correct?

16 A Correct.

17 Q Some distance away?

18 A Yes, sir.

19 Q And there's a tree line behind the church?

20 A Yes, sir.

21 Q Did you ever go in that tree line?

22 A Once again, I apologize, but I can't recall.

23 Q That's fine. Now, did you -- were you
24 personally involved with retrieving anything from the
25 parking lot or the roadway or anything else?

ADAM WESTMORELAND-CROSS BY MR. DEJONG

1 A No, sir. My primary responsibility was to make
2 sure that no unauthorized persons were to enter the scene
3 at that time.

4 Q So. All 19 of those people that came through
5 there were authorized, right?

6 A Well, at the time, due to the situation upon my
7 first arrival, the victim was still breathing. Not very
8 well to my recollection but he was still making chest
9 movement. That's why the rest of these individuals were
10 there just to try to resuscitate him as best as possible.

11 Q I could be wrong, sometimes I am. But would you
12 refer to your report, I was under the impression that your
13 report said he was not breathing?

14 A I apologize, I was incorrect on that.

15 Q Okay. So, your report indicates that he was not
16 breathing?

17 A Yes, sir.

18 Q All right. So, when the Solicitor asked you if
19 you rendered any aid, I guess, you said it was due to
20 his -- the nature of his injuries you didn't attempt to?

21 A Correct.

22 Q But at that point in time you didn't know the
23 nature of his injuries, correct?

24 A When I first approached I did check and there
25 was copious amounts of blood still coming out of his

ADAM WESTMORELAND-CROSS BY MR. DEJONG

1 person.

2 Q Yes, sir. And you noticed he wasn't breathing?

3 A Yes, sir.

4 Q All right. How long did it take a second person
5 to get there?

6 A I couldn't give you an exact estimate, it was
7 not long.

8 Q All right.

9 A Myself and Deputy Stanley weren't far apart.

10 Q Who was the second person on the scene?

11 A Deputy Stanley, David Stanley.

12 Q Okay. Now, you have me at a disadvantage, you
13 got my report?

14 A I'm sorry, here you go.

15 Q Thank you, sir. I'll give it back to you if you
16 need it.

17 A Yes, sir.

18 Q Okay. The injuries themselves, I believe, you
19 said you noticed this individual was bleeding, how he got
20 those injuries you can't say, can you?

21 A No, sir, I'm not a doctor.

22 Q Okay. We can stand here and speculate all day
23 but we're not going to do that, you just don't know?

24 A Correct.

25 Q Okay.

ADAM WESTMORELAND-CROSS BY MR. DEJONG

1 MR. DEJONG: Thank you, Trooper.

2 THE COURT: Any questions on redirect?

3 MR. RICHARDSON: Thank you, Your Honor.

4 BY MR. RICHARDSON:

5 Q Trooper, let me ask you, as Mr. DeJong so
6 eloquently said, everybody tromped through the area. I'm
7 going to hand you your report. Is this the same report
8 that he was referring to?

9 A Yes, sir.

10 Q Okay. How many medics, EMS, were at the scene?

11 A I count seven medical staff and three from the
12 Coroner's Office.

13 Q Three from the Coroner's Office?

14 A Yes, sir.

15 Q Seven and three?

16 A Yes, sir.

17 Q Is that ten?

18 A Yes, sir.

19 Q And how many police officers are listed?

20 A Nine, sir.

21 Q Are there any civilians listed on there?

22 A No, sir.

23 MR. RICHARDSON: Thank you, that's all the
24 questions I have.

25 THE COURT: Recross, sir?

ADAM WESTMORELAND-CROSS BY MR. DEJONG

1 MR. DEJONG: No thank you, Your Honor.

2 THE COURT: All right.

3 MR. DEJONG: No objection to him being excused,
4 Your Honor.

5 THE COURT: All right.

6 Trooper, you can step down. Thank you, I
7 appreciate your being here, sir.

8 THE WITNESS: Thank you..

9 MR. RICHARDSON: The State calls Justin
10 Mitchell.

11 THE CLERK: Place your left hand on the Bible,
12 raise your right.

13 JUSTIN MITCHELL, after being duly
14 sworn, testified as follows:

15 THE CLERK: If you would, have a seat and state
16 your name for the record, please.

17 THE WITNESS: First name Justin, last name
18 Mitchell.

19 DIRECT EXAMINATION

20 BY MR. RICHARDSON:

21 Q Mr. Mitchell, where are you presently employed?

22 A I'm currently full-time with Williams EMS,
23 part-time Pickens County EMS, part-time Belton EMS.

24 Q How long have you been with EMS?

25 A 'Approximately seven years now.

JUSTIN MITCHELL-DIRECT BY MR. RICHARDSON

1 Q Okay. Sir, were you working back on September
2 the 19th -- excuse me September the 17th of 2007?

3 A I do believe so, yes, sir.

4 Q And at that time were you working Pickens County
5 EMS?

6 A Yes, sir, I actually had just come on full-time
7 with Pickens County.

8 Q Okay. Sir. Do you recall being dispatched to a
9 shooting scene?

10 A Yes, sir.

11 Q At Crosswell Baptist Church?

12 A Yes, sir, I do.

13 Q Okay. Was anybody riding with you or were you
14 in the unit alone or how does that work?

15 A My partner, Chevy Harrelson, she was with me.
16 We were working medicate together.

17 Q And when you arrive at a scene -- let me ask you
18 this. When you arrive at a scene involving a shooting and
19 they're no police officers there, do you go in?

20 A No.

21 Q Why not?

22 A Safety issue.

23 Q Okay. In this particular situation had police
24 officers arrived yet?

25 A Yes, sir, we had about -- we had staged about 10

JUSTIN MITCHELL-DIRECT BY MR. RICHARDSON

1 minutes after getting close to where the scene was at
2 Crosswell, went out, took us about 18 minutes to get to a
3 staging location near the area. Then about -- excuse me,
4 about five to seven minutes afterwards the sheriff's
5 office cleared us to enter.

6 Q Okay. Sir. At that time do you recall seeing a
7 subject or a victim on the ground?

8 A I do after -- yes, sir, when I pulled up I saw a
9 male subject laying on the ground.

10 Q Okay, sir. And were you able to review your
11 reports prior to today?

12 A Just once or twice, not much.

13 Q All right. And do you recall what you did once
14 you saw the male subject?

15 A Immediately checked for a pulse. He was
16 pulseless. He was apneic, which means he was not
17 breathing. No signs of life form. I had my partner,
18 Chevy, pretty much cut the back of his shirt because he
19 was laying face down on the ground, on his stomach. And
20 she cut the back of his shirt and I did a three lead
21 placement with a cardiac monitor on his back.

22 Q Okay, sir.

23 MR. DEJONG: May we approach, Your Honor?

24 THE COURT: Yes, sir.

25

JUSTIN MITCHELL-DIRECT BY MR. RICHARDSON

1 (WHEREUPON, an off-the-record bench conference
2 was held in the presence of the jury but out of
3 the hearing of the jury.)

4 BY MR. RICHARDSON:

5 Q Sir, let me show you what's what been previously
6 marked as State's Exhibit No. 4. Do you recognize that as
7 him being the victim that you worked on that night. You
8 can take it in your hand if you'd like.

9 A From the picture along, with it being dark as it
10 is, I mean, I feel sure it's him.

11 Q Okay, sir.

12 Your Honor, at this time we would move
13 State's 4 into evidence.

14 THE COURT: Objection, sir?

15 MR. DEJONG: Other than my objection as stated
16 at the bench, Your Honor. I'll be happy to put it on the
17 record at the appropriate time.

18 THE COURT: Yes, sir. And I believe your
19 objection was as to relevance and its unduly prejudicial
20 under 403?

21 MR. DEJONG: Correct, Your Honor.

22 THE COURT: Okay. I respectfully overrule the
23 motion, find it's relevant and that it's not unduly
24 prejudicial under 403 analysis. It's admitted over
25 objection. That's State's Exhibit number?

JUSTIN MITCHELL-DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Four. State's Exhibit No. 4.
2 (WHEREUPON, State's Exhibit No. 4 was marked for
3 identification and received into evidence.)

4 BY MR. RICHARDSON:

5 Q Okay, sir, is that the position that you found
6 the victim at Crosswell Baptist?

7 A Yes, sir.

8 Q Okay. And what -- there's a little pointer --
9 right up there on the Judge's desk is a little pointer.
10 Can you point to the leads that you're referring to?

11 A Lead one, lead two, lead three. It's the same
12 as if it were on the front. White over right and smoke
13 over fire. Which basically means this would be the white.
14 Because the patient's laying on the ground, you're having
15 to work from the back end, so it's basically like your
16 mirrored image. So, white would be on the left shoulder.
17 The black would be on the right shoulder. And the red
18 would be down at the patient's right side, around the
19 waistline area.

20 Q What's the purpose of those?

21 A Those are where the cardiac monitor, they are
22 what determines the rhythm interpretation. They're what
23 feeds the electrical, lack of better terminology,
24 electrical waves. It shows those waves, basically.

25 Q Is that med into a. . .

JUSTIN MITCHELL-DIRECT BY MR. RICHARDSON

1 A It's fed into a larger box from three wires that
2 goes into a larger box which converts the signal over into
3 something that we can read.

4 Q Okay, sir. And did you, in fact, read that
5 signal box?

6 A Yes, sir. It was confirmed three lead asystole.
7 Which means no heartbeat. Nothing. The heart's not
8 having any form of mechanical or electrical capture on the
9 cardiac monitor.

10 Q Okay, sir. And once you do that and you have
11 that information coming from that particular instrument,
12 what do you do?

13 A That point in time, after got on the scene,
14 check for a pulse, all of that, saw what I saw on the
15 cardiac monitor, I decided to call the coroner.

16 Q Okay, sir. Did you, in fact, call the coroner?

17 A Yes, I did.

18 Q Is that part of your duties?

19 A Yes, sir.

20 MR. RICHARDSON: Thank you. That's all the
21 questions I have. Please answer any questions Mr. DeJong
22 has for you.

23 THE COURT: Mr. DeJong.

24 MR. DEJONG: Thank you, Your Honor, may it
25 please the Court.

JUSTIN MITCHELL-DIRECT BY MR. RICHARDSON

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. DEJONG:

4 Q Mr. Mitchell, the Solicitor refers to this
5 person as the victim, you don't know if he's a victim of
6 anything at that point in time, do you?

7 A No, sir.

8 Q What you know is there is a person there who
9 isn't breathing anymore?

10 A Correct.

11 Q Okay. How that happened, you don't know?

12 A No, sir.

13 Q What led up to him being there, you don't know?

14 A No, sir.

15 Q The nature and the extent of his injuries, you
16 don't know?

17 A No, sir.

18 Q Y'all you know is he's there?

19 A Yes, sir.

20 Q Now, well all you know is he's not breathing,
21 correct?

22 A Correct.

23 Q No heartbeat, however you put it. When you got
24 there -- well, let me ask you this. How many EMS units
25 responded to Crosswell Baptist Church on September the

JUSTIN MITCHELL-CROSS BY MR. DEJONG

1 17th of 2011.

2 A One actually EMS unit responded. Then the
3 supervising unit followed suit as well as rescue
4 personnel.

5 Q Okay. Now, how many police officers were there
6 when you got there?

7 A I do not recall.

8 Q One, two, more than one?

9 A I don't know.

10 Q You don't know?

11 A I don't remember.

12 Q All right. So, where this person was lying --
13 well, where was he lying?

14 A On the ground.

15 Q Okay. Well, there's a road that goes in front
16 of Crosswell Baptist Church, right?

17 A Correct.

18 Q And I believe that is North Fish Trap?

19 A That's South Fish Trap.

20 Q South Fish Trap?

21 A South Fish Trap, yes, sir.

22 Q All right, I stand corrected. Well, the
23 question is, was he in the roadway, was he in the parking
24 lot, where was he?

25 A He was in the parking lot. He not in the

JUSTIN MITCHELL-CROSS BY MR. DEJONG

1 roadway.

2 Q Now, you responded and there's one other person
3 on your unit, right?

4 A Yes, sir.

5 Q And then supervisors and everybody else come in,
6 right?

7 A Yes, sir.

8 Q And do they all come to where the body is?

9 A No, sir. In fact, when we confirmed that there
10 was a DOA, the supervisor did cancel any rescue personnel
11 who had not made it on the scene yet did cancel.

12 Q Well, how many EMS personnel were there, if you
13 know?

14 A On, as far as Pickens County EMS that night, on
15 shift, it was just the two of us.

16 Q Okay. Once you call the coroner, did you leave?

17 A We waited until she got on scene and said it was
18 okay for us to leave and then we cleared up.

19 Q Was anything taken from this person by EMS?

20 A No, sir.

21 Q Okay. So basically, all that was done, his
22 shirt was cut, the leads were put on him, nothing and that
23 was the end of your involvement?

24 A We checked for pulse and that's correct, yes,
25 sir.

JUSTIN MITCHELL-CROSS BY MR. DEJONG

1 MR. DEJONG: Thank you Mr. Mitchell, I have no
2 further questions.

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

5 THE COURT: All right, sir, thank you. I
6 appreciate you being here.

7 MR. RICHARDSON: May he be excused?

8 MR. DEJONG: No objection to him being excused,
9 Your Honor.

10 THE COURT: Sure, yeah.

11 MR. RICHARDSON: The State calls Ben Dow to the
12 stand.

13 THE CLERK: Place your left hand on the Bible,
14 raise your right hand.

15 BEN DOW, after being duly sworn,
16 testified as follows:

17 THE CLERK: Thank you, be seated. State your
18 name for the record.

19 THE WITNESS: Benjamin Dow.

20 DIRECT EXAMINATION

21 BY MR. RICHARDSON:

22 Q Sir, where were you employed back in
23 September 17th of 2011?

24 A I was a detective with the Pickens County
25 Sheriff's Office.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q Okay, sir. And how long had you been in law
2 enforcement at that time?

3 A Since 2005, I believe.

4 Q Yes, sir. And that particular day were you
5 actually working?

6 A It was a Saturday, I was on call at that time of
7 night. I worked during the day but I was on call at
8 night.

9 Q Can you just explain real briefly?

10 A Okay. At that time as a detective, we had a
11 weekend duty rotation where we come in on Saturday
12 mornings. So, I'm assigned cases and start following up
13 on any cases that needed investigation that came in. We
14 usually work until about 4:30. In the nighttime we're on
15 call for any calls that may have come in for both Saturday
16 and Sunday night. And also Sunday we work during the day,
17 just like we would have on Saturday.

18 Q Okay. Now, in fact, were you called to a scene?

19 A I was.

20 Q Okay, where was that?

21 A It was at the Crosswell Baptist Church on Fish
22 Trap Road in Easley, South Carolina.

23 Q Okay, sir. And when you got there were there
24 other personnel present yet?

25 A There were.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q Do you recall, I know it's been a while, do you
2 recall who was present?

3 A I recall Deputy Westmoreland being on scene. I
4 believe by that time Lieutenant Tony Robinson had arrived
5 on scene, who was with the forensics unit. Lieutenant
6 Robbie Thomas was there and also Sergeant McKinney was
7 there, also, along with David Stanley to the best of my
8 recollection right off hand.

9 Q Okay, sir. And you had been in lawsuit for a
10 long time?

11 A Yes, sir.

12 Q Was the scene secured?

13 A It was.

14 Q Okay. And did you notice any civilians on the
15 scene?

16 A I did notice a few civilians standing off to the
17 side speaking with one of the deputies. I don't exactly
18 recall what their names were but I do remember them been
19 on the scene.

20 Q Okay, sir. And what else did you notice? Did
21 you notice at the scene in and of itself?

22 A Just looking at the scene, when I arrived on the
23 scene, I noticed the body laying in the parking lot. It
24 was covered with a sheet at that time. Several feet away
25 from the body was apparently some sort of broken liquor

BEN DOW-DIRECT BY MR. RICHARDSON

1 bottle. And on further away from the body, past the
2 liquor bottle was also a tennis shoe.

3 Q Okay, sir. Let me hand you what's previously
4 been marked for identification State's Exhibit No. 2 and
5 State's Exhibit No. 3:00. Can you identify those?

6 A That is the way the scene looked when I arrived.

7 Q Okay, sir. And you didn't take those pictures?

8 A No, sir, I did not.

9 Q Was that taken by Forensic ID Unit?

10 A It was. It was taken by Lieutenant Robinson.

11 Q Okay. Does that accurately depict what you saw
12 on the evening of September the 17th of 2011?

13 A It does.

14 MR. RICHARDSON: Your Honor, at this time the
15 State would move State's Exhibit No. 3 and 2 into
16 evidence.

17 MR. DEJONG: Your Honor, I have no objection to
18 State's Exhibit No. 3. I do object to State's Exhibit No.
19 2.

20 THE COURT: Okay, what's the objection, sir?

21 MR. DEJONG: The objection is, Your Honor,
22 relevancy, prejudicial effect, probative value. There is
23 nothing in State's 2 which would indicate any relevance,
24 if you will to State's 3 of where the shoe was found. I
25 think this officer can testify to it. But certainly not

BEN DOW-DIRECT BY MR. RICHARDSON

1 as far as the picture goes. I do not think that picture
2 or those pictures of State 2 has any relevancy whatsoever
3 with regards to the shoe at this point in time. And I
4 would therefore object to it based upon relevancy,
5 probative value and prejudicial effect, Your Honor.

6 THE COURT: All right, I'll respectfully
7 overrule your objection. He's testifying that these are
8 pictures of the crime scene and he's testified to the date
9 and time of the same. And its accuracy based on the date
10 and time. And I'll allow the same into evidence as
11 State's Exhibits 2 and 3.

12 Is that what you said, Mr. Richardson?

13 MR. RICHARDSON: That's correct, Your Honor.

14 THE COURT: Okay.

15 (WHEREUPON, State's Exhibits Nos. 2 & 3 were
16 marked for identification and received into
17 evidence.)

18 BY MR. RICHARDSON:

19 Q Detective Dow, I'm referring to State's Exhibit
20 No. 2, sir. Can you explain to the jury what it is that
21 picture is showing?

22 A Yes.

23 Q Okay.

24 A Here we have the body of the victim. The victim
25 is only wearing one shoe. Up here at this first cone is

BEN DOW-DIRECT BY MR. RICHARDSON

1 broken, appears to be a liquor bottle. Up at the second
2 cone is a another tennis shoe that appears to match the
3 same one as this one right here.

4 Q Okay, sir. And let me also refer to -- I'm
5 recovering to State's Exhibit No. three now, sir.

6 A Okay. This is just shooting back from the
7 tennis shoe back towards the victim. You have the tennis
8 shoe here, the liquor bottle here at this traffic cone and
9 then the victim on past that traffic cone.

10 Q Okay, sir. And this is at Crosswell Baptist
11 Church?

12 A It is.

13 Q Okay, sir. And was he -- was he covered? Was
14 the victim covered at the time or?

15 A He was.

16 Q You when came on scene?

17 A He was.

18 Q Okay. Once you arrive at the scene, Detective,
19 what did you do?

20 A I made contact with Detective Westmoreland who
21 was the initial responding officer. Just wanted him to
22 kind of fill me in on what had taken place so far. He
23 provided, if I remember correctly, he provided me with the
24 victim's driver's license which identified who he was. He
25 also stated that Deputy Stanley was across the street

BEN DOW-DIRECT BY MR. RICHARDSON

1 speaking with a witness, who was Mr. Alexander that you
2 heard from earlier. I did not ask who the other people
3 were at that time who was still on the scene as far as
4 individuals you asked for earlier. After speaking with
5 Deputy Westmoreland, I went over to Mr. Alexander's house,
6 made contact with him and spoke with him about what he had
7 seen.

8 Q So we're clear, I'm sorry for interrupting.

9 A Yes, that's fine.

10 Q Mr. Alexander is the individual that testified
11 somewhat earlier?

12 A He is. He testified earlier.

13 Q Okay, go ahead, I'm sorry.

14 A In speaking with Mr. Alexander, he explained to
15 me what he's already testified to today, but that night --

16

17 MR. DEJONG: I'm going to object, Your Honor, to
18 that. Two grounds. Number one, he is testifying to
19 hearsay. Number two he's doing nothing but attempting to
20 bolster the State's witness. And I object on both
21 grounds, move that it not be allowed in and that the jury
22 be given an instruction to disregard the testimony.

23 THE COURT: Okay. All right. I'll sustain the
24 objection.

25 The -- ladies and gentlemen, one witness cannot

BEN DOW-DIRECT BY MR. RICHARDSON

1 testify as to another witness' testimony under the law or
2 the rule regarding hearsay. And one witness can't bolster
3 another witness' testimony by essentially recounting the
4 same. This officer testified and he was setting the scene
5 in that regard. And to the extent that it bolstered this
6 other witness' testimony, I charge you to discount that
7 and disregard it.

8 Go ahead, Mr. Richardson.

9 MR. RICHARDSON: Thank you, Your Honor.

10 BY MR. RICHARDSON:

11 Q Okay, sir. You interviewed Mr. Alexander?

12 A That's correct.

13 Q Okay. After you interviewed Mr. Alexander, what
14 did you do then in furtherance of your investigation?

15 A I then went back to the scene to see if I could
16 find any other leads that maybe there. At that time, once
17 I returned back over there, Coroner Kelly uncovered the
18 victim. We saw where he had been shot in the shoulder.
19 Basically, just viewed the body and the injuries he had.
20 I also at made contact with Captain Karl Hudson who was on
21 the scene who was the OIC or Officer In Charge for the
22 weekend. Once, he viewed the body we determined there was
23 nothing else that we could do at that point on the scene.
24 I checked the victim's wallet for any other identification
25 he had or anything that may lead to some sort of lead on

BEN DOW-DIRECT BY MR. RICHARDSON

1 this. I took position of his DL, I gave Officer Hudson--

2 Q I'm sorry, to interrupt you.

3 A That's okay, go ahead.

4 Q When you say DL?

5 A I'm sorry, driver's license. I'm sorry, drive's
6 license. I took possession of his driver's license. He
7 did have a military identification card in his wallet with
8 his picture. I provided that to Captain Hudson. By that
9 time Lieutenant Thomas had already left the scene. I
10 contacted him either by radio or by telephone, I don't
11 remember which one. And asked him to check the Citco Gas
12 Station which was at the corner of South Fish Trap and 123
13 to see if they had any sort of outside cameras that may
14 have shown the victim come through there with anybody that
15 he may have been with.

16 I provided Captain Hudson with the military
17 identification of the victim, asked him to go to the
18 Sav-A-Ton Gas Station, show his ID, see if he had been in
19 there earlier. I took his driver's license photo or his
20 driver's license with his photo on it, went to the Hot
21 Spot on 123 near the racetrack. Let me back up. Before
22 we left, I could hear the cars still racing at Greenville
23 Pickens Speedway. I didn't know if this was a result of
24 something that may have stemmed from an altercation at the
25 racetrack. I knew several officers were working security

BEN DOW-DIRECT BY MR. RICHARDSON

1 there. I first called, at that time it was Detective Gary
2 Anthony, to find out if he had any fights over there
3 involving the victim. He stated he couldn't think of any.
4 I then called Detective Baker who also working security
5 there. Detective Baker told me he was familiar with the
6 victim but he said he had not seen him at the racetrack.
7 I explained to him what was going on. He was familiar
8 with the victim but couldn't provide any leads at that
9 time. From there I asked Captain Hudson to go to the
10 Sav-A-Ton. I went to the Hot Spot.

11 Q So we're clear for the jury so they understand
12 where you're talking about, when you say the Citco and the
13 Sav-A-Ton.

14 A Yes, sir.

15 Q What roadway are you talking about?

16 A We're talking about the Sav-A-Ton on 123. If
17 anybody knows where the Greenville Pickens Speedway is, it
18 is right in front of the Greenville Pickens Speedway. The
19 Hot Spot is also on 123 near the entrance of the
20 fairgrounds on 123.

21 Q Once again, so we're clear for the jury, clear
22 for me.

23 A Okay.

24 Q I'm not familiar with Pickens County, initially,
25 but Crosswell Church is approximately how far from the Hot

BEN DOW-DIRECT BY MR. RICHARDSON

1 Spot and the, I believe, you said the Sav-A-Ton?

2 A Crosswell is probably a half mile to a mile from
3 where these gas stations are.

4 Q Okay. What, if anything, did your investigation
5 ascertained?

6 A Okay, I was informed by Lieutenant Thomas when
7 he went to the Citco, they had no cameras outside. So, we
8 had to dismiss that at that time. I went to the to Hot
9 Spot, spoke with the clerk and showed the victim's ID and
10 asked if he had been earlier. She said she was familiar
11 with the victim and thought he had been in earlier. And I
12 asked her if I can look at the store video to see if he
13 was with anyone at that time. They called the manager in,
14 the manager came, started the video for me. We went back
15 over a course of several hours to see if the victim had
16 actually come into the Hot Spot. We did not view him come
17 into the Hot Spot over that course of time.

18 Q Let me ask you this.

19 A Yes.

20 Q Why did you think it maybe important to see if
21 the victim had come into the Hot Spot?

22 A Chances are if he came into the Hot Spot with a
23 situation that transpired from what I was told from the
24 witness, Mr. Alexander, he'd probably been with someone at
25 the Hot Spot. I thought that if we could find out if he

BEN DOW-DIRECT BY MR. RICHARDSON

1 was with anyone at the Hot Spot, we could start tracking
2 from there to see if we can get a lead on anything.

3 Q Did you get any leads from the Hot Spot?

4 A No, sir, we did not. Not from the Hot Spot
5 video.

6 Q From that point what did you do?

7 A While we were still there trying to view the
8 video over the course of time, I received a call from
9 Detective Baker who advised that he had gone to
10 Ms. Hinson's residence and spoken with her.

11 MR.. DEJONG: Your Honor, I'm going to have to
12 jump in here again, we're getting close to hearsay.

13 BY MR. RICHARDSON:

14 Q Don't tell me what --

15 I'm sorry, Your Honor, I apologize.

16 THE COURT: Right now, I don't think you posed
17 an objection and I haven't heard any hearsay. Therefore,
18 I'm not going to rule on anything except to give just a
19 general admonition against hearsay.

20 MR. DEJONG: Very well, Your Honor.

21 THE COURT: All right, you may proceed,
22 Mr. Richardson.

23 MR. RICHARDSON: Thank you.

24 BY MR. RICHARDSON:

25 Q Detective, don't tell me anything Detective

BEN DOW-DIRECT BY MR. RICHARDSON

1 Baker said, okay? But you had that conversation with
2 Detective Baker?

3 A I did, yes.

4 Q Okay. And from that conversation, what did you
5 do?

6 A From the conversation I had with Detective
7 Baker, I was given a phone number. And from that phone
8 number that I was given, I contacted Verizon Wireless to
9 see, their law enforcement line, to see if I could get the
10 information for the subscriber of that phone number. When
11 I gave them the phone number, they told me that it was a
12 T-Mobile number and they provided me with their law
13 enforcement line. I contacted T-Mobile, they faxed me the
14 appropriate paperwork so I explained what I was
15 investigating. And signaled the information so I could
16 get the personal information of the subscriber for that
17 number.

18 Q Okay. Now, once you got that information, where
19 did you go?

20 A After receiving the information -- first of all,
21 you want me to tell who the information came back to?

22 Q Yes.

23 A All right. The information I received came back
24 to Mr. Harold Sloan of 12 Bridge Water -- Backwater Way, I
25 believe, it is in Greenville.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q That Mr. Harold Sloan, is that who testified
2 earlier?

3 A It is.

4 Q Okay. At that point in time, what did you do?

5 A By this time it was approximately four o'clock,
6 4:30 in the morning. Captain Hudson and I left with we
7 were at with Detective Baker by that time and went to 12
8 Backwater Way, basically, looking for the car. We weren't
9 able to locate--

10 Q Whoa, whoa, whoa. You said you were looking for
11 the car, what car were you looking for?

12 A We were looking for the victim's Pontiac Grand
13 Prix.

14 Q Okay. Continue, I'm sorry.

15 A Yes, sir. We left going to the address for
16 Mr. Sloan to see if we could locate the victim's Pontiac
17 Grand Prix. Which where we were going into Greenville
18 County. We agreed we'd do a drive through to see if the
19 car was there. If were to be there, we'd contact
20 Greenville County and meet up with them to explain what
21 was going on. But once we drove through we did not see
22 the car anywhere.

23 Q Okay, sir. What did you do at that point? So,
24 is this still Saturday evening?

25 A This is -- this a getting into early Sunday

BEN DOW-DIRECT BY MR. RICHARDSON

1 morning. Four o'clock, 4:30 a.m. around that time.

2 Q Okay.

3 A Once we got to Mr. Sloan's residence, I checked
4 one of the tags in the parking lot to make sure is that we
5 were at the right residence, which we were. There were no
6 lights on, we did not see the car. So therefore, we left
7 to pick up with the investigation on what we could find
8 the next morning.

9 Q And did you, in fact, do that?

10 A We did.

11 Q Okay. The next morning I was contacted -- I
12 contacted Lieutenant Byers to advise him of what was going
13 on, who is the lieutenant over criminal investigations,
14 would have been my immediate supervisor. He came in on
15 Sunday morning and worked with me from there. We went
16 back to Mr. Sloan's residence that morning to see if we
17 could get anyone to the door. We could not get anyone to
18 the door the first time we went by. During the day we
19 were trying to find ways of how we could figure out who --
20 or how we could find that phone. Because we thought if we
21 could find the phone, then the car would be close by. We
22 contacted T-Mobile, asked them to ping the phone. Which
23 means to see if they could get a location on the phone.
24 We asked them to do that. They did give us a--

25 MR. DEJONG: Your Honor, I'm going to object,

BEN DOW-DIRECT BY MR. RICHARDSON

1 that's hearsay.

2 THE COURT: As to the information obtained from
3 T-Mobile?

4 MR. DEJONG: Yes, sir. It was obviously
5 gathered for law enforcement purposes. There's certainly
6 a statement by somebody that I don't have an opportunity
7 to cross-examine.

8 THE COURT: Okay. All right, I respectfully
9 overrule, you may proceed.

10 MR. DEJONG: Thank you, Your Honor.

11 BY MR. RICHARDSON:

12 Q You may proceed.

13 A Okay. With the information provided we tried --
14 they could only give us a radius within a mile of where
15 the phone was being pinged. We went to that general area.
16 At that time we were looking for a needle in a haystack
17 trying to find this Pontiac Grand Prix. Within a certain
18 square mile radius. We checked several apartment
19 complexes, several back roads and never could find it.

20 - Later on in the day we went back to
21 Mr. Sloan's residence and first made contact with his
22 wife. Ms. Sloan advised Mr. Sloan was not there. We -- I
23 don't believe we advised her at that time of exactly what
24 we were investigating. We just said we need to speak with
25 him in reference to a crime that took place the night

BEN DOW-DIRECT BY MR. RICHARDSON

1 before in Pickens County. She said that he was off--

2 MR. DEJONG: Objection to what she said.

3 THE WITNESS: I'm sorry.

4 BY MR. RICHARDSON:

5 Q Don't say what she said.

6 A We were told he was not home. We left at that
7 time, checked the phone, check some more areas for the
8 car, came back later on and Mr. Sloan was home.

9 Q And ultimately, you had a conversation with
10 Mr. Sloan?

11 A We did, yes.

12 Q Okay. And that conversation, where did that
13 lead you to?

14 A After speaking with Mr. Sloan we went to Taznick
15 Utsey's residence.

16 Q So, we're clear, who is Taznick Utsey to the
17 Defendant?

18 A Taznick Utsey is the Defendant's sister.

19 Q Okay.

20 A I believe.

21 Q Where did she live at that time?

22 A At that time -- let me give you the exact name
23 of the apartment complex. It was an apartment complex in
24 Greenville County close to where we were looking for the
25 phone to begin with. I want to say it was Shamrock

BEN DOW-DIRECT BY MR. RICHARDSON

1 Apartment, if I remember correctly. We went to her
2 apartment complex and made contact with her.

3 Q Okay. And, of course, we've heard her boyfriend
4 testify but at that point in time did you -- were you able
5 to establish some suspects?

6 A Yes.

7 Q Okay.

8 A In speaking with her we were able to establish
9 the Defendant as a suspect along with Nyia Utsey and Kayla
10 Williams.

11 Q Okay. And this -- at this point in time we are
12 Sunday just after Saturday?

13 A Yes, sir. This would have been Sunday evening.

14 Q Okay. Once you ascertained that, what did you
15 do?

16 A It was pretty late in the day by that time.. We
17 came back, started doing our homework on the three
18 suspects we had received information on. Monday morning
19 we came back into work, contacted SLED, asked them to send
20 me a photo lineup with Ms. Utsey in it. I could not -- I
21 did not have a last name for Kayla at that time. And
22 also, I had not received -- or did not get a photo lineup
23 of the Defendant at that time. The only one I was certain
24 of was Ms. Nyia Utsey.

25 Q Yes, sir.

BEN DOW-DIRECT BY MR. RICHARDSON

1 A I went back later on that morning and spoke with
2 Ms. Hinson and showed her the photo lineup.

3 Q That's Barbara Hinson?

4 A It is. I went back to Ms. Hinson's residence,
5 showed her the photo lineup containing Ms. Utsey, she was
6 unable to pick her out of the photo lineup as one of the
7 people at the -- that she saw the night the car was
8 missing.

9 Q Okay, sir.

10 A While we were there I received a call from the
11 United States Marshall Service saying they had located the
12 victim's vehicle at Potomac and -- at Potomac Avenue and
13 Pleasant Ridge Avenue in Greenville. From there I left
14 Ms. Hinson's residence and went to that location.

15 Q You say the victim's vehicle, we're referring to
16 the Grand Prix?

17 A We are.

18 Q Where was -- okay, did you go to where the Grand
19 Prix was?

20 A I did.

21 Q At that time?

22 A Yes. After I left Ms. Hinson's I went directly
23 to where the Grand Prix was.

24 Q Was Detective Baker with you at that time?

25 A No, he was not.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q Okay. At some point in time did Detective Baker
2 come to that --

3 A He did, yes.

4 Q All right. Now, the location of the vehicle,
5 the Grand Prix, how far, approximately, was that location
6 from the Defendant's sister's home?

7 A From the Shamrock Apartments where we were at
8 the day before?

9 Q Yes, sir.

10 A I would say within a mile from that location.

11 Q Okay, sir.

12 Beg the Court's indulgence?

13 THE COURT: Sure.

14 BY MR. RICHARDSON:

15 Q Let me show you what's been marked for
16 identification purposes as State's Exhibit 10 and State's
17 Exhibit 8. Can you identify those, please, sir?

18 A That is the victim's Grand Prix.

19 Q Is that the location where the--

20 A It is--

21 Q --Grand Prix --

22 A It is. It is there at the location I gave on
23 Pleasant Ridge Avenue and Potomac Avenue in Greenville.

24 Q Okay, sir. Does that accurately depict that
25 vehicle and that area as you saw it when you arrived?

BEN DOW-DIRECT BY MR. RICHARDSON

1 A It does.

2 Q Okay. And was that the -- that was the Sunday?
3 That was Sunday?

4 A This would have been Monday.

5 Q Monday?

6 A Yes, sir.

7 Q So, that would have been the 19th of September?

8 A Yes.

9 Q Okay, sir.

10 Your Honor, at this time the State would
11 offer State's Exhibit 8 and 10 into evidence.

12 THE COURT: Any objections, sir?

13 MR. DEJONG: Without objection, Your Honor.

14 THE COURT: All right, without objection the
15 same is moved into evidence.

16 Have they been marked?

17 THE COURT REPORTER: No, sir.

18 (WHEREUPON, State's Exhibits Nos. 8 & 10 were
19 marked for identification and received into
20 evidence.)

21 BY MR. RICHARDSON:

22 Q Okay, sir, I'm going to show you, referring to
23 State's Exhibit 10. Can you tell the jury what that is a
24 picture of, Detective?

25 A That is the front of the victim's Grand Prix.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q And where is that Grand Prix located?

2 A At that current time the -- it was at Pleasant
3 Ridge Avenue and Potomac Avenue in Greenville.

4 Q Okay, sir. And I'm referring to State's Exhibit
5 8, Detective, can you tell the jury what that is?

6 A That is the rear of the same car at the same
7 location.

8 Q Okay, sir. And while at the scene, did you call
9 anybody else to come out to this scene?

10 A At that scene there was myself, several people
11 from the Marshall's Task Force, Detective Baker and
12 Detective Taylor eventually arrived on the scene. And
13 Investigator Owens was with me at that time.

14 Q Okay. And was any ID units or forensic units
15 called out to that scene?

16 A Not at this time. When I received a call from
17 the Marshall Task Force saying they had located the
18 vehicle, I immediately contacted Lieutenant Robinson, who
19 was the lieutenant over our forensics unit and advised him
20 of the car being located. He instructed me to have the
21 next duty wrecker in route to bring the car back to
22 Pickens County for it to be processed in our impound yard.

23 Q Okay, sir. And were you there when the wrecker
24 arrived and impounded that vehicle?

25 A I believe I was, yes.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q Okay, sir. At some point in the time, was some
2 other evidence discovered at the scene?

3 A While we were there at that the scene we, I
4 guess for lack of a better term, canvassed the area,
5 checked the area for anything that would be substantial to
6 this case. At the back of the car was found a screw that
7 looks like it would be a screw to hold a license plate in
8 place on the car. I believe that was found by Detective
9 Baker. Also found by Detective Baker in a storm drain was
10 a license plate that had been rolled up.

11 Q Hold on one second.

12 A Yes, sir.

13 MR. RICHARDSON: Your Honor, at this time I
14 would like to approach if I may, sir?

15 THE COURT: Yes, sir you may.

16 (WHEREUPON, an off-the-record bench conference
17 was held in the presence of the jury but out of
18 the hearing of the jury.)

19 BY MR. RICHARDSON:

20 Q I apologize, Detective. And you -- did you
21 testify what else was found at the scene?

22 A At the scene was found the screw behind the car
23 which looks like it would be a screw to hold a license
24 plate on to the car. Behind the car, probably 20 feet
25 behind the car was a storm drain. It was checked by

BEN DOW-DIRECT BY MR. RICHARDSON

1 Detective Baker. And the license plate that had been
2 rolled up was in the drain.

3 Q Okay, sir, let me hand you what's been marked as
4 State's Exhibit No. 9, can you identify that?

5 A That is the license place that was found within
6 the drain.

7 Q Okay.

8 Your Honor, at this time the State moves
9 State's 9 into evidence.

10 THE COURT: Objection, sir?

11 MR. DEJONG: No objection as to the Exhibit
12 itself, Your Honor.

13 THE COURT: Yes, sir, I understand.

14 Without objection, the same is moved into
15 evidence as State's Exhibit No. 9.

16 (WHEREUPON, State's Exhibit No. 9 was marked for
17 identification and received into evidence.)

18 BY MR. RICHARDSON:

19 Q Just very briefly, Detective, so the jury can
20 see it, it that the license plate?

21 A It is.

22 Q How far from the vehicle was it found?

23 A I would say, to the best of my recollection,
24 maybe around 20 feet.

25 Q Okay, sir. And I want you to answer me yes or

BEN DOW-DIRECT BY MR. RICHARDSON

1 no.

2 A Okay.

3 Q On this. Did that license plate, was it
4 reported stolen?

5 A Yes, sir.

6 Q Now, did you do any type of forensic work or
7 anything of that nature with that vehicle?

8 A No.

9 Q Any further than what you. . .

10 A No. Everything that was collected there,
11 whoever collected the items had gloves on and placed them
12 in plastic baggies. The license plate was left just as it
13 is to return it to Pickens County to turn it over
14 Lieutenant Robinson for him to perform forensics on it.
15 All the items that were collected there were secured in
16 the trunk of my car and brought back to Pickens.

17 Q At some point in time did officer Robinson give
18 you a represent?

19 A He did.

20 Q Okay. Let me show you what's been marked
21 State's Exhibit 28, can you identify that, please, sir?

22 A That is the receipt that was given to me by
23 Officer Robinson.

24 Q Okay, sir. When you received this receipt, what
25 did you do?

BEN DOW-DIRECT BY MR. RICHARDSON

1 A After I received the represent, I believe I
2 received a copy of it, I went to -- can I see that one
3 more time?

4 Q Sure. And I'm referring to State's Exhibit 28
5 that's been marked for identification.

6 A Okay. In reference to the receipt, it's a
7 Family Dollar receipt store number 0190 which is on
8 Augusta Street in Greenville. I went to that location,
9 and it also has the timestamp on the receipt. I asked to
10 look at the video that they have in the store on that date
11 and time to see if I could develop anymore leads inference
12 to the case.

13 Q Okay, sir. Simply while Mr. DeJong is looking
14 another that, you -- Lieutenant Robinson is the one that
15 processed the vehicle at the Pickens County Sheriff's
16 Office?

17 A He is, yes.

18 MR. RICHARDSON: Your Honor, at this time, the
19 State would move State's Exhibit 28 into evidence.

20 THE COURT: Any objection, sir?

21 MR. DEJONG: Well, yes, Your Honor. There's no
22 foundation at this point in time other than he received
23 that from somebody. I think there has to be more of a
24 foundation laid before the State can introduce that just
25 based on what the witness said. It may be introduced

BEN DOW-DIRECT BY MR. RICHARDSON

1 later on and may not be an objection. But I do object to
2 it at this time point in time.

3 THE COURT: Yes, sir.

4 Mr. Richardson.

5 MR. RICHARDSON: Your Honor, I can do it that
6 way, later on is fine.

7 THE COURT: Okay.

8 We should do that, I'll sustain the objection.

9 BY MR. RICHARDSON:

10 Q After you went to the Family Dollar, did you
11 testify that you looked at the video?

12 A I did, yes, sir.

13 Q Okay, sir. And after you looked at the video,
14 did you obtain any pictures off that video?

15 A Yes. Pictures and I had the actual video.

16 Q Okay, sir. And let me hand you what's been
17 marked previously marked as State's Exhibit 22 and 23, can
18 you identify those please, sir?

19 A These are still photos from the video that I
20 took from the Family Dollar.

21 Q Okay, sir. And do those accurately depict --

22 A They do.

23 Q As you saw it from the video?

24 A Yes, sir, they do.

25 Q Okay, sir. Is there a date on there?

BEN DOW-DIRECT BY MR. RICHARDSON

1 A The date that's on here is 9/18/2011.

2 Q Okay, sir.

3 MR. DEJONG: Without objection, Your Honor.

4 THE COURT: All right, without objection, the
5 same is admitted. State's Exhibits. . .

6 MR. RICHARDSON: 22 and 23.

7 THE COURT: Okay.

8 (WHEREUPON, State's Exhibits Nos. 22 & 23 were
9 marked for identification and received into
10 evidence.)

11 BY MR. RICHARDSON:

12 Q Okay, Detective, I'm going to show you what's
13 now been placed into evidence as State's Exhibit 22. When
14 you saw that video was there anything in particular that
15 stood out to you?

16 A It appears to be the Defendant.

17 Q Okay, anything else?

18 A Right here is the car that the Defendant drove.
19 Based on the wheels and the color of the car and also the
20 shape of the hood, it appears to be the same car as we
21 recovered that belonged to the victim.

22 Q Okay, sir. And what color jacket would you say
23 that is?

24 A Right here, he's wearing a black color jacket.

25 Q Yes, sir. And is this just a further video of

BEN DOW-DIRECT BY MR. RICHARDSON

1 the same?

2 A These are just different vantage points of the
3 same video, it's the same person.

4 Q Okay. Let me show you what's been marked as
5 State's Exhibit 13. Is that the Grand Prix?

6 A That is the victim's, car, yes.

7 Q Okay, sir.

8 A The thing that stood out with this and also the
9 pictures from the video are the wheels. Also, the shape
10 of the hood and the color of the car appear to all be the
11 same.

12 Q Okay, sir. And the date on the receipt, did it
13 correspond with the date on the picture at the Family
14 Dollar.

15 A It did, yes.

16 Q Was that date before or after--

17 A The date was after the victim had been shot.

18 Q Okay, sir. Now, at some point, did you receive
19 any information on the location of the suspects?

20 A I did, yes.

21 Q Okay, sir. When you received that information,
22 what did you do?

23 A I contacted -- actually, I was contacted by
24 Lieutenant Byers and told him I would meet him at the
25 sheriff's office. It was approximately 12:00 a.m. And

BEN DOW-DIRECT BY MR. RICHARDSON

1 also we were met there by Detective Baker. From there we
2 went to Asheville, North Carolina.

3 Q Okay, sir. And had the -- had the Defendant
4 been placed into custody in Asheville, North Carolina?

5 A At that time he was placed in the custody in
6 Asheville, North Carolina.

7 Q Who did that?

8 A The United States Marshall Service Task Force.

9 Q And was anybody else placed into custody?

10 A Also along with the Defendant was his sister,
11 Nyia Utsey and also, I guess lack of a better term, Nyia's
12 girlfriend, Kayla Williams.

13 Q Were all suspects, Ms. Utsey, Ms. Williams and
14 the Defendant placed into your custody at that time?

15 A At that time they were in custody of the
16 Marshall Service and also Asheville City Police
17 Department.

18 Q Okay. Was there also an individual that went
19 there from the Pickens County Sheriff's Office?

20 A Yes, sir. Deputy Scott Ticknor is a member of
21 the US Marshall's Task Force and he was up there with them
22 when the three Defendants were arrested.

23 Q Okay. And what was the date of the arrest?

24 A I believe it was the -- it was the 21st.

25 Q September 21st?

BEN DOW-DIRECT BY MR. RICHARDSON

1 A Yes, sir.

2 Q 2011?

3 A Yes, sir.

4 Q And while you were in Asheville, did you -- did
5 you come across a blue Mustang?

6 A We did. There was the blue Mustang sitting in
7 the end parking lot of the Sleep Inn Motel in Asheville,
8 North Carolina.

9 Q Okay, sir. And was that Mustang remarkable to
10 you in some way?

11 A It matched the description of the Mustang that
12 were given to us earlier as far as the wheels, tinted
13 windows and the color of the Mustang.

14 Q Okay, sir. Let me show you what's been marked
15 State's Exhibit 17 and 18 for identification purposes.
16 Can you identify that, please, sir?

17 A Yes, sir. This is the Mustang that was located
18 in the parking lot of the motel.

19 Q On both Exhibits?

20 A It is.

21 Q Okay, sir.

22 A The -- on Exhibit 18 is the inside of the
23 Mustang. On Exhibit 17 is the exterior of the Mustang.

24 Q Does that accurately depict what you saw that
25 day?

BEN DOW-DIRECT BY MR. RICHARDSON

1 A It does, yes.

2 Q And that was from September 21st.

3 A September 21st, yes.

4 Q Of 2011?

5 A Yes, sir.

6 MR. DEJONG: No objection as to State's Exhibit
7 No. 17. I do object to State's Exhibit No. 18 that there
8 appears to be a weapon on the floorboard of that vehicle.
9 There have been no foundation laid at this point in time
10 as to a weapon or anything else. I hesitate to even point
11 out what is in there but I no other way of doing it. At
12 that point in time, Your Honor, I object to 18 coming in.

13 THE COURT: I'll respectfully overrule the same.
14 I believe that he indicated that that was a picture that
15 fairly and accurately represented the scene at the time.
16 And given that I would think that it is admissible and
17 appropriate foundation has been laid. Overrule the same
18 and admit the over objection as State's Exhibit Nos?

19 MR. RICHARDSON: Seventeen and 18.

20 THE COURT: Seventeen and 18.

21 (WHEREUPON, State's Exhibits Nos. 17 & 18 were
22 marked for identification and received into
23 evidence.)

24 BY MR. RICHARDSON:

25 Q Can you tell the jury, I'm referring to State's

BEN DOW-DIRECT BY MR. RICHARDSON

1 Exhibit 17 that's now in evidence, what that shows?

2 A This is the Mustang that the three were
3 traveling in when they were arrested in North Carolina.

4 Q And can you show -- this is State's Exhibit 18.

5 A This is the passenger seat of the Mustang that
6 they were traveling in.

7 Q Okay. Now, did you search that vehicle?

8 A I did.

9 Q Personally?

10 A Yeah, after.

11 Q I'm sorry.

12 A Go ahead.

13 Q Personally, did you personally search it.

14 A I did. After getting to North Carolina I
15 realized what we needed to do, I met with a investigator
16 with the Asheville Police Department, I worked with him,
17 he obtained a search warrant for one of the rooms and also
18 the vehicle. After getting the search warrant, went back
19 executed the search warrant on the vehicle and I searched
20 the car myself.

21 Q And did you obtain any evidence from the
22 Mustang?

23 A From the mustang, as I searched it, the gun,
24 when I was searching the interior of the car, the gun was
25 up under the passenger seat. For photographic purposes, I

BEN DOW-DIRECT BY MR. RICHARDSON

1 had the forensic person from Asheville City Police there
2 doing the photographing and any forensic work that needed
3 to be done. They had gloves on, they pulled the gun out
4 from under the seat to photograph it.

5 Q And if you can point to that with your laser?

6 A Yeah, the gun right here was under the passenger
7 seat right here.

8 Q What did you do with that? So, we're clear for
9 the jury, that's a BB gun, right?

10 A It is. It is a BB gun.

11 Q What did you the with that gun?

12 A I took possession of the gun to bring back to
13 Pickens. I secured it in the trunk of my car.

14 Q Okay, sir. Let me show you what's been marked
15 as State's Exhibit 9 that's been secured by our ID folks.
16 Can you identify that, please sir?

17 A That appears to be the same gun that's pictured
18 here.

19 Q Okay, sir. And once you obtained that gun, you
20 may have testify to this, I apologize, what did you do
21 with it?

22 A I secured it in the trunk of my car to bring
23 back to Pickens County.

24 Q Did you bring it back to Pickens County?

25 A I did and turned it over to Lieutenant Robinson.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q And one of Lieutenant Robinson's duties is to
2 handle evidence?

3 A It is, yes.

4 Q And while you were -- did you also -- you
5 weren't there during the time of the arrest of the three
6 subjects?

7 A No, I wasn't.

8 Q But at some point in time did you enter the room
9 of the Defendant, that the Defendant had rented at that
10 hotel?

11 A I did.

12 Q What was the hotel? Do you recall the hotel?

13 A It was the Sleep Inn in Asheville, North
14 Carolina.

15 Q Okay, sir. And when you did that, did somebody
16 take pictures?

17 A Yes, the Asheville City Police, their forensic
18 unit, like I said, was on scene. They also went into the
19 room and photographed everything in the room as it was
20 when the Defendant was arrested.

21 Q And let me show you what's been marked now as
22 Exhibit 20 for identification purposes. What is that,
23 sir?

24 A This is the Defendant's jacket laying on the bed
25 in the motel room. It appears to be the same jacket that

BEN DOW-DIRECT BY MR. RICHARDSON

1 he was wearing in the Family Dollar video.

2 Q Okay, sir. And does that accurately depict how
3 you saw it?

4 A It does, yes.

5 Q Okay.

6 MR. RICHARDSON: Your Honor, we move State's
7 Exhibit 20 into evidence.

8 MR. DEJONG: Without objection, Your Honor..

9 THE COURT: All right, without objection, same
10 is admitted and moved into evidence as State's 20.

11 (WHEREUPON, State's Exhibit No. 20 was marked
12 for identification and received into evidence.)

13 BY MR. RICHARDSON:

14 Q Okay, sir. If you could just tell the jury what
15 that picture -- excuse me.

16 A Okay --

17 Q Excuse me, one second. I'm referring to State's
18 Exhibit 20. Can you, please, sir?

19 A This is the motel room that the Defendant was
20 staying in when he was arrested at that motel. This is
21 the coat that the Defendant appears to be wearing in the
22 Family Dollar video.

23 Q Okay, sir. And so we're clear, the other two
24 suspects, Nyia Utsey and the other one's escaping my mind.

25 A Kayla Williams.

BEN DOW-DIRECT BY MR. RICHARDSON

1 Q Thank you, Kayla Williams. Did they have a
2 separate room?

3 A Yes, they had a separate room.

4 Q Okay. At some point in time were all three put
5 into your custody or custody of the Pickens County
6 Sheriff's Office?

7 A Not that night. The Defendant was taken by
8 Asheville City Police. Also, Kayla Williams was taken by
9 Asheville City Police. And eventually, after a while at
10 the motel, Ms. Utsey was taken by the Asheville City
11 Police.

12 Q Okay, sir. And ultimately?

13 A Ultimately, they were extradited back to South
14 Carolina.

15 Q Okay, sir. And they're certain process that you
16 have to go through --

17 A Yes, sir.

18 Q -- for extradition from another state?

19 A Yes, sir.

20 MR. RICHARDSON: Beg the Court's indulgence?

21 THE COURT: Yes, sir.

22 MR. RICHARDSON: That's all the questions I
23 have, please answer any questions Mr. DeJong has.

24 MR. DEJONG: Thank you, Your Honor, may it
25 please the Court?

BEN DOW-DIRECT BY MR. RICHARDSON

1 THE COURT: Absolutely.

2 CROSS-EXAMINATION

3 BY MR. DEJONG:

4 Q State's Exhibit No. 18, that's a BB gun, right?

5 A Yes, sir, that is correct.

6 Q No question about that?

7 A That's correct.

8 Q BB guns don't shoot and kill people, do they?

9 A Not ordinarily they don't.

10 Q We cannot say and you're not saying that that BB
11 gun had anything whatsoever to do with this alleged
12 incident on September the 17th of 2011?

13 A At that time, I didn't know exactly what kind of
14 gun it was. And I brought it back for the purpose of if
15 it had been altered in some way to where it could fire a
16 projectile that would essentially kill someone.

17 Q I understand that. After all of that, you're
18 not saying State's Exhibit No. 18, which has a picture of
19 a BB gun in it, had anything at all to do with the
20 allegations of what you say happened on September the 17th
21 of 2011?

22 A If you're asking me if that's the gun that
23 killed the victim, no I don't believe it is.

24 Q Did it have anything to do with it?

25 A That I don't know.

BEN DOW-CROSS BY MR. DEJONG

1 Q And you don't have any evidence that it did, do
2 you?

3 A No so far, no, sir.

4 Q All right. Now, I note when you were talking
5 about the Family Dollar store, you say that appears to be
6 the Defendant?

7 A Yes, sir.

8 Q You need to see them?

9 A Sir.

10 Q You need to see them?

11 A Sir?

12 Q You need to see them?

13 A No, I know what you're speaking of.

14 Q You're not sure it's the Defendant, it appears
15 to be the Defendant?

16 A It appears to be the Defendant, yes.

17 Q But you're not sure?

18 A I'm pretty sure it's the Defendant.

19 Q Okay, well --

20 A It is the Defendant.

21 Q Well, that's not what you testified to earlier,
22 you said it appeared to be the Defendant. Those -- that's
23 a big difference between appears and it is.

24 A Okay.

25 Q So you changing your testimony?

BEN DOW-CROSS BY MR. DEJONG

1 A No, I'll stick with appears.

2 Q All right. Now, what you say is the vehicle
3 outside the store, need to see it?

4 A No, sir.

5 Q At that point in time this person that you say
6 appears to be the Defendant is already in the store,
7 correct?

8 A That's correct.

9 Q Who saw him get out of the vehicle?

10 A In the video it shows him getting out of the
11 vehicle. Or it shows him coming from that car after
12 getting out of the vehicle.

13 Q Now, which is it? Does it show him getting out
14 of the car or does it show him coming from the direction
15 of the car?

16 A It shows his feet getting out of the vehicle.

17 Q Well, what is distinctive about his feet?

18 A Other than you don't see -- let me see the
19 pictures here. If you notice on the top part of the car
20 here, the top part of the car is cut off here. So, when
21 he gets out of the car you don't see the top part of his
22 body, you see his feet coming from the car. And then he
23 walks into the store to where the video catches his full
24 body.

25 Q My question remains, what's distinctive about

BEN DOW-CROSS BY MR. DEJONG

1 his feet?

2 A That they are attached to the person that
3 appears to be the Defendant.

4 Q Okay. Now, the car itself in State's Exhibit, I
5 guess, that is 22, correct?

6 A Yes.

7 Q All right. You say that's a Grand Prix?

8 A The wheels are consistent with the picture of
9 the Grand Prix. Also, the shape of the hood and the
10 color.

11 Q Tell me how many other sets of wheels like that
12 in Pickens County?

13 A That I can't tell you.

14 Q They're not that unique, are they?

15 A That I can't tell you, I don't know.

16 Q No. So, you can't say that that is the car?

17 A I can say it's consistent with that car.

18 Q Sure. But you can't say it's the car?

19 A Based on the picture of the person in the video,
20 I can say that it's consistent with the car.

21 Q And that's an assumption on your part, correct?

22 A I would -- presented all the evidence, I would
23 assume it's correct.

24 Q Still an assumption?

25 A Yes.

BEN DOW-CROSS BY MR. DEJONG

1 Q Okay. Now, you're on call of the nighttime
2 hours of September the 17th of 2011?

3 A That's correct.

4 Q By the way, where are the pictures of
5 Ms. Williams and Ms. Utsey's room? Did you make any
6 pictures of those?

7 A I believe pictures were made, I can't tell you
8 why they're not here.

9 Q All right. Oh, one other point. You referred
10 to Ms. Williams as being Ms. Utsey's girlfriend?

11 A Yes.

12 Q Did your investigation reveal that they were in
13 some type of relationship?

14 A Yes.

15 Q Okay. Now, Mr. Yeargin was -- well obviously,
16 Ms. Utsey was his sister?

17 A That's correct.

18 Q And he was involve in no relationship whatsoever
19 with Ms. Williams based on your investigation?

20 A Based on my investigation, no.

21 Q All right. Now, you what time did you get out
22 to Crosswell Baptist Church on September the 11th -- I
23 mean, September the 17th of 2011?

24 A I can't give you an exact time, I would say it
25 was probably close to 10 o'clock or so.

BEN DOW-CROSS BY MR. DEJONG

1 Q When you got there how many people were there?

2 A There were several deputies there. EMS was
3 there. Also, there were several rescue workers there, as
4 well.

5 Q Were they all in the parking lot at Crosswell
6 Baptist Church?

7 A Some were in the parking lot. I believe a few
8 deputies were at Mr. Alexander's house speaking with him.

9 Q All right. So, when you got there how many
10 deputies were in the parking lot?

11 A The best I can recall, three, I believe.

12 Q All right. Was EMS there?

13 A They were.

14 Q Okay. Were you there when the coroner got
15 there?

16 A Yes.

17 Q Okay. Were you there when all the other law
18 enforcement personnel got there?

19 A They were there before I was.

20 Q Okay. So, certainly there were a lot of people
21 on this alleged crime scene when you got there?

22 A That's correct.

23 Q All right. Now, I note you referred to this
24 person who we now know is deceased as the victim. When
25 you got there, you didn't know that he was a victim of

BEN DOW-CROSS BY MR. DEJONG

1 anything, did you?

2 A I didn't know anything about the status of what
3 was going on.

4 Q All right. And actually, what transpired out
5 there in the parking lot on September the 17th of 2011,
6 how that person ended up in that parking lot, you don't
7 know?

8 A At that time or right now?

9 Q Of you're own personal knowledge, not what
10 people have told you, you don't know?

11 A That is correct.

12 Q Now, the shoe, were you -- before we get to the
13 shoe, were you involved in the collection of evidence out
14 at the church parking lot on September 17th of 2011?

15 A No, I wasn't.

16 Q All right. So, the shoe that you described in
17 State's Exhibit 2 and State's Exhibit 3, if you need to
18 see them, you said it appeared to match the shoe that was
19 on the diseased person's body; is that correct?

20 A That is correct.

21 Q Was any testing done?

22 A Not that I know of.

23 Q Okay. So again, it just appeared to match the
24 shoe?

25 A Yes.

BEN DOW-CROSS BY MR. DEJONG

1 Q Okay. Now, how the diseased person became
2 separated from his shoe, again, you have no personal
3 knowledge of that happening?

4 A Other than what people told me.

5 Q Correct. And where, I think it's on one of
6 these Exhibits you pointed out. Let me hand them back to
7 you. Again, I'm still referring to State's Exhibit and 3,
8 you said there was a liquor bottle?

9 A Yes, sir.

10 Q Which Exhibit is that in?

11 A It's actually in both but you can see them best
12 in 2.

13 Q Two?

14 A Yes, sir.

15 Q Was that a liquor bottle?

16 A Right here, yes, sir.

17 Q Okay. Now, does it appear to be broken?

18 A Yes, sir.

19 Q Shattered?

20 A Yes, sir.

21 Q But that bottle met the parking lot with some
22 force and it shattered?

23 A That's correct.

24 Q Now, so basically what you did, you interviewed
25 Mr. Alexander, is that correct?

BEN DOW-CROSS BY MR. DEJONG

1 A Yes, I spoke to Mr. Alexander.

2 Q All right. And then you go back -- well, where
3 did you interview him, at his the house?

4 A At his residence, yes.

5 Q So, that would have across the street from the
6 parking lot where this deceased person was found?

7 A Correct.

8 Q Okay. So, after you talked to Mr. Alexander,
9 you go back across the street?

10 A Correct.

11 Q Now, you then say, I believe you looked at the
12 body of the deceased person?

13 A Yes.

14 Q Did you know he was deceased at that point in
15 time?

16 A Based on what EMS told us and -- yes.

17 Q Now, you then canvassed these various gas
18 stations, right?

19 A Yes, sir.

20 Q Everything with negative results?

21 A That's correct, yes.

22 Q So, nothing there. Now, you call Greenville
23 Pickens Speedway and talked to some officers there?

24 A While I was still at the scene, yes, sir, I did.

25 Q Ultimately, you talked to -- well -- well, based

BEN DOW-CROSS BY MR. DEJONG

1 on a two IDs, you shared with Detective Baker, the names
2 on those IDs?

3 A Yes.

4 Q By the way, was one a driver's license or was it
5 a ID card?

6 A One was a, I believe, it was a driver's license.
7 The other -- or it may been an ID card, I can't say for
8 sure. The other was his Military ID.

9 Q So, you give Defendant's Exhibit Baker his name?

10 A Yes, sir.

11 Q And he indicates to you that he is familiar with
12 Sean Dinneon?

13 A That's correct.

14 Q Did he share with you that that is in a personal
15 capacity or professional capacity?

16 A No, sir, it was a professional capacity.

17 Q All right, sir. Now -- now, we get to, I guess,
18 we're late into -- no, we're not we're on a Saturday
19 morning. Now, we're on the 18th, all right. Now, you
20 finally, I gather from one of a better term, cleared the
21 scene at some time around four, five o'clock in the
22 morning?

23 A No, I left the scene long before that.

24 Q Oh, okay.

25 A There were still units on the scene. And, I

BEN DOW-CROSS BY MR. DEJONG

1 believe, the body was still on the scene when I left the
2 scene.

3 Q Okay. Now, you're getting with T-Mobile?

4 A Yes, sir.

5 Q All right. Now, I want to be very clear because
6 I'm kind of hard of hearing. The phone number that you
7 called and sent paper work to T-Mobile, it came back to
8 Harold Sloan?

9 A That's correct.

10 Q Now -- the train derailed, I lost my train of
11 thought. Okay. So, that number simply came back to
12 Harold Sloan?

13 A That's correct.

14 Q Okay. And then somewhere I gather you decided
15 that Taz -- that was Taz's phone?

16 A It was Taznick. We were told by Mr. Sloan -- he
17 is the subscriber, he let's her use the phone.

18 Q Now, that's Taz?

19 A Taz, yes.

20 Q Not Tavish?

21 A Taznick.

22 Q That's Mr. Yeargin's sister we're talking about?

23 A Yes. Yes.

24 Q All right. Now, you and Lieutenant Byers then
25 go to her house -- well actually, you go looking for the

BEN DOW-CROSS BY MR. DEJONG

1 car and can't find the car, right?

2 A Yes, sir.

3 Q Well, let me ask you this, Kayla Williams, was
4 she charged?

5 A Yes, sir, she was.

6 Q What was she charged with?

7 A Murder and grand larceny.

8 Q Nyia Utsey, was she charged?

9 A The same.

10 Q Murder and grand larceny?

11 A That's correct.

12 Q All right, sir. To your knowledge they're not
13 on trial today?

14 A No, sir.

15 Q Have they gone to trial?

16 MR. RICHARDSON: Objection, Your Honor.

17 MR. DEJONG: Withdraw the question, Your Honor.

18 THE COURT: All right, sustained.

19 BY MR. DEJONG:

20 Q Now ultimately, you end up at Potomac and
21 Pleasant Ridge, correct?

22 A That's correct.

23 Q That's where I gather State's Exhibit 10 and 8
24 come into play?

25 A Yes, sir, that is correct.

BEN DOW-CROSS BY MR. DEJONG

1 Q Now, those were taken where the car was
2 recovered?

3 A Yes, sir.

4 Q When the car got there you don't know?

5 A That I don't know.

6 Q How the car got there you don't know?

7 A No, I don't.

8 Q Okay. When the car was allegedly taken, did you
9 know whether or not it had a tag on it?

10 A I believe from information we received it did
11 not have a tag.

12 Q Okay. And the tag that was found was found some
13 20 feet away from the car?

14 A Yes, sir.

15 Q In a storm sewer?

16 A Yes, sir.

17 Q Okay. And not on the car?

18 A Not on the car.

19 Q All right. You're not -- well, strike that.
20 Now, at that point in time, investigator Owens is with
21 you?

22 A He is, yes.

23 Q Okay. Then Baker came later on, is that
24 correct?

25 A Yes, we met there about the same time.

BEN DOW-CROSS BY MR. DEJONG

1 Q Okay. The -- well, you went to Asheville, North
2 Carolina?

3 A That's correct.

4 Q And Baker went to Asheville, North Carolina?

5 A That's correct.

6 Q Did you talk to Utsey?

7 A We did.

8 Q Did you talk to Ms. Williams?

9 A We did.

10 Q All right. After you talked to Ms. Utsey and
11 Ms. Williams -- well let take them one at a time. After
12 you talked to Ms. Utsey in Asheville, did you talk to her
13 again?

14 A I did.

15 Q Okay. And when was the second time you talked
16 to her?

17 A I believe, I want to say it was March but let me
18 check to make sure. It was on April the 30th, 2012.

19 Q All right. So, some six or seven months after
20 you talked to her in Asheville, you talked to her again.
21 Where did you talk to her the second time?

22 A At the Pickens County sheriff's office.

23 Q When you talked to her -- before you talked to
24 her in Asheville, did you tell her she was being charged
25 with murder and grand larceny?

BEN DOW-CROSS BY MR. DEJONG

1 A She knew. She had already been served with her
2 warrants then.

3 Q She had?

4 A Yes, sir.

5 Q Okay. How about Ms. Williams? You talked to
6 her in Asheville on September the 21st, correct?

7 A Yes, sir.

8 Q 2011?

9 A Yes, sir.

10 Q Did you ever talk to her again?

11 A No.

12 Q Okay.

13 A Only in the car ride back from extradition but
14 nothing more came of the conversation than what came of it
15 the first time.

16 Q Mr. Yeargin didn't fight extradition, did he?

17 A No, I don't believe he did.

18 MR. DEJONG: May I have one moment please, Your
19 Honor?

20 THE COURT: Yes, sir.

21 MR. DEJONG: Thank you, Detective Dow.

22 THE COURT: Redirect, sir?

23 MR. RICHARDSON: No redirect, Your Honor.

24 THE COURT: Thank you, Detective, I appreciate
25 it, sir. You may step down.

1 All right, I think we've pretty much reached the
2 end of a fruitful day as far as introduction of testimony
3 is concerned. I'll ask you one thing, Mr. Richardson,
4 Ms. Hinson, y'all have a very, very short witness?
5 Because I don't want to go much past five o'clock today.

6 MR. RICHARDSON: Your Honor, we don't. The next
7 one's not.

8 THE COURT: Okay, good enough.

9 All right, ladies and gentlemen, we'll go ahead
10 and go into recess for the evening. Please be back here
11 at 9:30 tomorrow. I would appreciate it if you would all
12 be prompt. Not out of consideration for the attorneys or
13 for me, but out of consideration for each other. Because
14 if one of you elects not to show up at the appointed time,
15 then the rest of you just have to wait on that one
16 individual. And that just makes this trial last longer
17 perhaps into Wednesday. And I don't know about Thursday.
18 I'm about to ask the attorneys after I release y'all what
19 our timing is. Because I'm interested to know and I know
20 you all are as well. I'll let you know tomorrow morning
21 what I hear from them tonight.

22 As I told you earlier, don't discuss the case.
23 Somebody is going to invite you discuss it with them.
24 Just keep your powder dry. Tell them, I'll discuss it
25 with you as much as I need at the end of the case. I'll

1 discuss it with you after it's all over. But for now,
2 just resist the temptation, watch some Monday night
3 football and don't think about it. And come back tomorrow
4 morning at 9:30 and we'll begin the case. All right.
5 y'all have a great evening.

6 (WHEREUPON, the jury into open court at
7 approximately 4:52 p.m.)

8 THE COURT: All right, gentleman anything
9 further this afternoon?

10 MR. RICHARDSON: Your Honor, I have two things,
11 briefly.

12 THE COURT: Yes, sir.

13 MR. RICHARDSON: First, I think Mr. DeJong
14 slipped one by the goalie. I didn't object but he went
15 into something regarding the victim and a professional
16 relationship with the detective. Your Honor, I'm going to
17 object to anything coming out in that regard. I just
18 didn't stand up quite fast enough on that. But from here
19 on out I'm going to object to any type of a thing. I just
20 want to clarify that.

21 THE COURT: I understand. I did note that he
22 moved on rather quickly after that.

23 Mr. DeJong, anything you want to say about that?

24 MR. RICHARDSON: It was nice.

25 MR. DEJONG: Your Honor, he brought it up.

1 THE COURT: Yeah, I understand.

2 MR. DEJONG: I had that right to ask him on
3 cross-examination. I didn't go any further with it.

4 THE COURT: I understand. And there was no
5 objection and nothing to be ruled upon. I think
6 Mr. Richardson's concern is that you just leave it alone
7 for the remainder of the trial. Unless, of course, it
8 becomes relevant and admissible.

9 MR. DEJONG: So, you're saying I can't ask
10 Detective Baker that question?

11 THE COURT: I don't know. We'll have to wait
12 and see.

13 MR. DEJONG: Okay.

14 THE COURT: I don't know in what context that
15 information may be elicited.

16 MR. DEJONG: Very well, Your Honor.

17 THE COURT: As I sit here I would think it would
18 be a fairly dubious relevance. But I don't know that
19 right now. Okay. All right.

20 Mr. Richardson.

21 MR. RICHARDSON: Also, it is the Court's wish --
22 we talked about Mr. DeJong has 404 stuff that he's
23 objected to.

24 THE COURT: Uh-huh.

25 MR. RICHARDSON: It is the Court's wish that we

1 do a tomorrow morning, first thing out of the bat, any
2 type of testimony that we need the do in that regard?

3 THE COURT: You intend on calling him tomorrow?

4 MR. RICHARDSON: I'm sorry?

5 THE COURT: You intend calling him tomorrow?

6 MR. RICHARDSON: Yeah, it's several. We guess
7 we would probably get to them -- at least some of them.

8 THE COURT: Okay. And the testimony that you
9 want to elicit is related to an additional crime in
10 Spartanburg County, is that correct?

11 MR. RICHARDSON: That's correct, your Honor.

12 THE COURT: Okay. All right, tomorrow morning
13 at 9:00.

14 That's too early for you, Mr. DeJong?

15 MR. DEJONG: Your Honor, when you're as old as
16 me, I realize between 9:00 and 9:30, that's only 30
17 minutes, but that's the longest 30 minutes of my day, Your
18 Honor. But if you say 9:00, I shall be here at 9:00.

19 THE COURT: Well, Ms. Johnson can be here in
20 your stead if you are infirmed and geriatric.

21 MR. DEJONG: Getting pretty close.

22 THE COURT: I trust that she can carry your
23 water if she needed to.

24 MR. DEJONG: I'm sorry, Your Honor?

25 THE COURT: I trust she can carry your water if

1 she needed to.

2 Let's be here at 9:00 and we'll take up those
3 issues. It may be that y'all can discuss it. In light of
4 what I told you, it -- I understand that you want to
5 introduce that evidence. And it sounds to me like what
6 you want to get in, the relevant portion of what you want
7 to get in is that he presented a check to a teller at a
8 bank that was from the victim. So he--

9 MR. RICHARDSON: That's correct.

10 THE COURT: From victim that was in his
11 possession, right? Then you want to get in the video
12 surveillance that shows him wearing that very same jacket
13 that's already been testified to?

14 MR. RICHARDSON: That's correct.

15 THE COURT: Okay. All right.

16 MR. RICHARDSON: But the problem, Your Honor,
17 the problem we're going to run into, if you're talking
18 about -- if you're going down the line of not wanting to
19 present any type of evidence whatsoever that there was a
20 robbery at BB&T. But the check has writing on it. Fro
21 the Defendant. That -- I can't remember what it states
22 but it's something of the unlawful of give me all your
23 money or I'm going to kill you on back of the check.

24 THE COURT: I gotcha. On the back of the check?
25 I know what your concern is Mr. Richardson. And this is,

1 how do you get it in without disclosing that? We may be
2 able--

3 MR. RICHARDSON: Yeah, I'm trying to do it --

4 THE COURT: We may be able to redact a portion
5 of it. This is my problem as I sit here right now. Under
6 Rule 403 the question is, is that unduly prejudicial? If
7 you introduce evidence of an additional crime that has not
8 been adjudicated, then can you unring that bell? Is that
9 going to give the jury the indication that he's committed
10 this other crime, therefore, he must have committed this
11 as well. And that's what I'm concerned about. I just
12 want to make sure that if, in fact -- if, in fact, this
13 Defendant, Mr. Yeargin, is found guilty of this offense,
14 then he's found guilty of this offense and not others.
15 Makes the record much more sound. And it makes your
16 conviction, if, in fact, you get one, much, much, much
17 more secure on appeal.

18 MR. RICHARDSON: I completely understand where
19 the bench is coming from on that. Here, can I just pass
20 up a copy --

21 THE COURT: Yeah.

22 MR. RICHARDSON: So, you can see exactly what
23 I'm talking about.

24 THE COURT: Sure. Yeah. Okay.

25 MR. RICHARDSON: And where it's blacked out,

1 Your Honor, what happened is a detective over there in
2 Spartanburg was able to put some kind of substance on it
3 that allowed us to see what name was on there.

4 THE COURT: Okay. All right. So, he -- so the
5 Defendant blacked out this portion of it, is that what
6 you're saying?

7 MR. RICHARDSON: Somebody other than our
8 authorities.

9 THE COURT: Okay. I gotcha, I gotcha.

10 MR. RICHARDSON: I would assume he did.

11 THE COURT: So, how were you then able to deduce
12 that this was a check or an instrument from the victim's
13 account?

14 MR. RICHARDSON: Because when they -- what
15 happened is they got the check from the institution, BB&T
16 in Spartanburg. And we're going to have testimony coming
17 in from somebody who was able to put a liquid of some
18 type, some substance on there that allowed that
19 information to be seen. So, you can kind of see it. I
20 guess it lightened the ink.

21 THE COURT: I understand. I understand.

22 MR. RICHARDSON: We're going to have her testify
23 as an expert to that, I guess. Because I'm not sure how
24 it was done, Your Honor.

25 THE COURT: Okay. Okay. This is -- I'm not

1 going to rule on it right now. I told you what my concern
2 is. Again, it's fairly comical that the portion that is
3 not necessarily objectionable has been redacted and the
4 portion that is has not been. But I'm going -- I
5 understand what the issue is, I'm going to sit on it and
6 we'll talk about it tomorrow morning. But it may be that
7 we redact it all. Depending on whether I determine that
8 it's admissible entirely. I think that it is admissible
9 for purposes of identity. And, of course, 404(b). But
10 the circumstances and the language that he's written on
11 there is problematic under Rule 403.

12 Do you have anything you want to add at this
13 point? Or you just want to talk about it tomorrow?

14 MR. DEJONG: I'll with, Your Honor's,
15 permission, I'll do as, Your Honor, I'll sit on it
16 tonight.

17 THE COURT: All right.

18 MR. RICHARDSON: Also, Your Honor, I would add
19 to that another argument. I'm going to look at it little
20 bit more and add a little bit case law on the flight
21 factor of it. Committing crimes in the midst of flight
22 which goes to showing. . .

23 THE COURT: Yeah, I think that under a 404(b)
24 analysis, it is admissible. I don't think there's much
25 question about that. It's the 403 that I'm concerned

1 with.

2 MR. RICHARDSON: Yes, sir. And I understand
3 what the Court's saying.

4 THE COURT: Okay.

5 MR. RICHARDSON: I don't mean to argue.

6 THE COURT: No, it's okay, I understand. I
7 understand.

8 Okay, anything additional for this afternoon?

9 MR. DEJONG: Nine o'clock in morning.

10 THE COURT: I like to start at 7:30 Mr. DeJong
11 but I'm giving you the hour and a half.

12 MR. DEJONG: You know you say that, Your Honor--

13 THE COURT: Let's go ahead an recess. This will
14 be off the record.

15 (WHEREUPON, the proceedings were concluded for
16 the day to be reconvened on November 19, 2013.)

17

18

19

20

21

22

23

24

25

1 November 19, 2013

2 THE COURT: All right, we're back on the record
3 in the case of The State vs. Tavish Dominique Yeargin. I
4 believe when we had adjourned yesterday evening, we were
5 discussing an evidentiary issue regarding the check that
6 was presented to the teller at the Spartanburg bank. And
7 y'all have had the opportunity to discuss that so I'll let
8 y'all tell me what your discussion have resolved.

9 MR. DEJONG: Your Honor, sorry, I did not mean
10 to interrupt you.

11 THE COURT: No, you're okay.

12 MR. DEJONG: This morning, briefly before coming
13 into the courtroom, I offered the State that I would
14 stipulate that my client was in possession of a check that
15 belonged to the deceased. That would be the entirety of
16 the stipulation, Your Honor. But as part of that
17 stipulation, it's not a stipulation but part of the
18 agreement, and I don't know if the State is going to
19 accept it or not, then there would be no reference to any
20 of the allegations of the Spartanburg bank robbery. Now,
21 there may be some other talk about checks. And I'll face
22 that when we come to it. But what I'm very candidly am
23 trying to do with that stipulation is keep any reference
24 out of this trial as to that alleged bank robbery in
25 Spartanburg.

1 THE COURT: Okay.

2 MR. DEJONG: I have to pass it back to the State
3 at this point in time.

4 THE COURT: Okay, Mr. Richardson.

5 MR. RICHARDSON: Yes, Your Honor. In light of
6 the way -- and just to kind of give you a background, as
7 far as the ID and the flight aspect of it, I still think
8 it goes to flight, that type of thing. But in the
9 abundance of precaution, we're going to have the
10 Co-defendants testify. And the Co-defendants are going to
11 put him -- are going to ID him. However, there's also
12 going to be testimony from them about checks that the
13 Defendant had of the victim's. And that a way they were
14 trying to get money to flight -- to get money to flee the
15 state. With all that said, and maybe I didn't need to say
16 anything, we are agreeable to the stipulation as the
17 Defense has presented it that he was in possession of the
18 victim's checks subsequent to the murder. And if that
19 stipulation is agreed upon by the Court, then we will have
20 no testimony from the Spartanburg individuals, as that
21 check will not be introduced or attempt to introduce that
22 check. Nor will we attempt to introduce any type of video
23 from the BB&T.

24 Now, I will need some time to speak to the
25 Co-defendants about that because they were going to

1 reference the check with the robbery.

2 THE COURT: Okay.

3 MR. RICHARDSON: At the BB&T. And we're just
4 going to leave that all out of the conversation totally.

5 THE COURT: Okay.

6 MR. DEJONG: One thing, I didn't quite hear
7 Mr. Richardson, I think I did, you said you would not
8 attempt to introduce the check that was allegedly used in
9 the bank robbery?

10 MR. RICHARDSON: That's correct. We have a
11 written stipulation that's stated by the Court or by
12 myself or however the Court wishes to do it, that he was
13 in possession of the victim's checks subsequent to the
14 murder in Spartanburg.

15 THE COURT: Okay.

16 MR. DEJONG: I don't like the use of the word
17 murder, I don't.

18 THE COURT: I understand.

19 MR. RICHARDSON: Now, subsequent to the incident
20 date, I don't have a problem.

21 THE COURT: Y'all can agree to the language and
22 either I can publish it or we can put in writing, however
23 you want to do it. I defer to you in that regard. I
24 mean, it's y'all's case. So, I'll let you do it however
25 you want to do it. If you want to give me some language

1 or if you just trust me to recite it.

2 MR. DEJONG: I would prefer, I think, it to be
3 in writing, Your Honor.

4 THE COURT: Okay. Well then, you know, I know
5 y'all -- we don't have much time, we have some time right
6 now. Y'all take whatever time you need. You can do it
7 tomorrow morning. I don't know when you're going to rest
8 the State's case but we'll have some time at this point.
9 We'll have some time. And, I mean, we can -- if -- right
10 now I don't know if all the jurors are here but I told
11 them to be here at 9:30, I believe, if I'm not mistaken.
12 So, if y'all want to type it up real quick, we won't start
13 until y'all are ready. I anticipate y'all won't need more
14 than a half an hour to do that.

15 MR. DEJONG: My main concern, Your Honor, is
16 that these Co-defendants are testifying. I agree with,
17 Your Honor, we don't need to do it exactly right now. We
18 need to do it before the State rests, obviously.

19 THE COURT: Okay.

20 MR. DEJONG: My greater concern is that the
21 State have time to talk to the Co-defendants who are going
22 to be testifying. That they know that they are not to
23 testify about the Spartanburg bank robbery. So, I would
24 as at this time be spent by the State to talk to their
25 witnesses.

1 THE COURT: Okay.

2 MR. DEJONG: I see some other folks in the
3 courtroom, are in of these folks. . .

4 THE COURT: Okay. Well, what I'll do is I'll
5 stand down and y'all tell me when you're ready for me,
6 okay? I don't want to start any later than a quarter till
7 the hour. And if you need a little bit more time let me
8 know. I'll just say with respect to your stipulation, I
9 think that's a good stipulation. Ultimately, that's about
10 where I wanted to arrive. However, I wasn't going to
11 limit you. That's a lot cleaner way of introducing that
12 evidence than the path that we're down before. I was,
13 essentially, and a lot of times in these issues,
14 particularly when they're close, I vacillate a little bit
15 and my opinion evolves. I told you I was going to sit on
16 it last night. But I really arrived at the very place I
17 started. Which is I do agree that it's admissible under
18 404 analysis. However, under 403 analysis, I had some
19 issues.

20 So, what I was going to do, ultimately, was
21 allow you to get it in. But absent any of the evidence of
22 the robbery. Essentially, he had it, he presented it, but
23 with everything redacted. And then allow your forensics
24 people to indicate that that check was his. But this
25 cleans it up significantly it seems to me. And you arrive

1 at the very same place that you would have otherwise. So,
2 I think it's wise for the Defense and the State. I think
3 you get to the same place a lot more cleaner.

4 MR. RICHARDSON: Very good, Your Honor.

5 THE COURT: Okay. All right. Y'all just let me
6 know when you need me, okay?

7 (WHEREUPON, a short break was taken.)

8 All right, ladies and gentlemen, we had an
9 opportunity to discuss in chambers some media reports
10 yesterday that may have come out in some of the legal
11 media, televised media. And there was a concern that
12 there may have been published in those reports that there
13 was an additional alleged crime that took place in
14 Spartanburg. Specifically, the one that we've been
15 talking about and we have talked about excluding from this
16 case. Which is reports of allegations of an armed robbery
17 in Spartanburg. So, based on the discussions with the
18 counsel in this case, I'm going to bring the jury in and
19 ask them under oath whether any had occasion to see, hear,
20 listen to or read any media accounts regarding this case
21 yesterday or yesterday evening.

22 To the extent that we have any affirmative
23 responses, then we will -- we'll bring those individuals
24 out individually and ask questions related to what they
25 may have heard. And then deal with it appropriately based

1 on what type of response we get from those jurors.

2 Gentlemen, is that a fair and accurate account
3 of our discussions and the resolution?

4 MR. RICHARDSON: It is from the State's
5 perspective.

6 MR. DEJONG: On behalf of Mr. Yeargin, it is,
7 Your Honor.

8 THE COURT: Okay. All right, let's bring the
9 jury in.

10 (WHEREUPON, the jury came into open court at
11 approximately 9:43 a.m.)

12 THE COURT: All right, ladies and gentlemen,
13 good morning, welcome back. It's good to see you again
14 this morning. Thank you for being on time, I appreciate
15 it. This morning I need to start out by asking you a
16 question and posing a question to you. I remind you that
17 you continue under your oath that you took yesterday to
18 tell the truth. And I'm not suggesting that you wouldn't,
19 I just remind you of that. Did anyone yesterday evening
20 or afternoon have occasion to see, read, listen to any
21 media accounts of the proceedings yesterday?

22 You did, sir?

23 JUROR: I seen a news report.

24 THE COURT: Okay, hold on. What I'm going to do
25 is I'm going to ask you specific questions about that.

1 But I'm going to do it outside the presence of the jury.
2 You're not in any type of trouble, I just need to know. I
3 just need to know what happened and what you saw and what
4 was related in that account. Okay? So, what I'm going to
5 ask is for all of you to go back, please, to your jury
6 room, please don't discuss the case yet.

7 And if you'll stay, please, sir. And I'm just
8 going to ask you questions related to what you saw, okay?

9 (WHEREUPON, the jury left open court at
10 approximately 9:45 a.m.)

11 THE COURT: All right, sir, tell me your name
12 and juror number.

13 JUROR: Timothy Bryson.

14 THE COURT: Al right, Mr. Bryson. Again, I
15 remind you that you continue under your oath. What did
16 you hear on -- tell me what was the news source and relate
17 to me what you heard.

18 JUROR: It was the Channel 4 news.

19 THE COURT: Yes, sir.

20 JUROR: Evening news.

21 THE COURT: Yes, sir.

22 JUROR: And it just had a picture of the man
23 that got shot and picture of the Defendant.

24 THE COURT: Okay.

25 JUROR: On the news.

1 THE COURT: Okay. Did you hear anything else or
2 take away anything else at all that from that news report?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Okay. All right. So, I don't want
5 to put words into your mouth but I'm trying to define it
6 real well. On the news all you saw was the picture of the
7 Defendant and picture of the Victim?

8 JUROR: Yes, sir.

9 THE COURT: And just saw their names,
10 essentially.

11 JUROR: Yes, sir.

12 THE COURT: And no other additional information
13 at all was relayed to you or you remember taking away from
14 that report.

15 JUROR: No, sir. It just stayed what the
16 Defendant was accused of.

17 THE COURT: Okay. All right. Said what he was
18 accused of specifically in this trial that we conducted
19 yesterday?

20 JUROR: Yes, sir.

21 THE COURT: Okay. Good enough. All right.
22 Thank you, I appreciate that, you can return to your jury
23 room. Thank you, I appreciate you letting me know. And I
24 thank you for being honest with me as well.

25 All right, gentlemen, any issues, any motions

1 that we need to take up with respect to this matter?

2 MR. RICHARDSON: None from the State, Your
3 Honor.

4 THE COURT: Sir?

5 MR. DEJONG: Your Honor, the -- his response, I
6 realize we're really tap dancing here. His response, the
7 last response, What he was accused of.

8 THE COURT: Right.

9 MR. DEJONG: That concerns me. I don't think
10 there's any way of further questioning him without opening
11 Pandora's Box.

12 THE COURT: Yes, sir.

13 MR. DEJONG: But the statement of other than
14 what he was accused of does cause me a great deal of
15 concern. It could have been just what we are dealing with
16 here. It could have also included accusations of the
17 Spartanburg bank robbery. Out of an abundance of caution,
18 Your Honor, I'm going to ask that that juror be excused.
19 And that one of the alternates be seated in his place,
20 Your Honor.

21 THE COURT: Okay. All right.

22 Any objection to that from the State?

23 MR. RICHARDSON: Your Honor, I'll leave it in
24 the Court's discretion.

25 THE COURT: All right. I don't think that he

1 saw anything that would prejudice the Defendant in this
2 case. But I do agree out of an abundance caution it's the
3 right thing to do. I certainly don't want after the fact
4 there to be any second guessing or any incriminations
5 about whether we were absolutely fair. And to the extent
6 that it may be claimed after the fact that we had a juror
7 who was exposed to information outside of the evidence
8 produced in this courtroom, I think it's just better
9 discretion to use one of the alternates. That's why
10 they're there. So, what we'll do is --

11 Would you bring Mr. Timothy Bryson back into the
12 courtroom?

13 All right, Mr. Bryson, I'm going to excuse you
14 from the trial of the case. Not because you've done
15 anything wrong because you haven't. Matter of fact, you
16 did the right thing. Which was you answered honestly the
17 question that posed to you. And these cases are very
18 sensitive. Particularly, in a case of this nature where
19 you got a Defendant who is fashioning a significant
20 charge. So, it's important for me to make sure that it's
21 absolutely fair. And there's absolutely no perception.
22 Not even a perception. Whether it's real or imaginable,
23 that there's no perception that any jury verdict was a
24 consequence or result of something that was seen outside
25 of the courtroom.

1 There was a report yesterday that you referenced
2 that had some information it in, at least that I heard had
3 some information in it, that wasn't relevant to this
4 proceeding. And that's the concern for the Court at this
5 point. So, I'm going to excuse you from this case. That
6 might be good news to you, I don't know. But I appreciate
7 you being here. And I appreciate everything that you've
8 done. If you'll call back in on the juror line tonight
9 after 6:00, we may end up pulling another case tomorrow or
10 Thursday, I don't know. But I appreciate your being
11 honest and I applaud you for that. You did the right
12 thing. And I'm sorry, you won't get to sit with us for
13 the rest of this case. As I suggested that might be good
14 news to you. But thank you, very much and I'll excuse
15 you. And I'm going to place you with the first alternate.
16 Okay. Thank you, sir, I appreciate it.

17 (WHEREUPON, Juror No. 21, Timothy
18 Bryson, was excused.)

19 THE COURT: Okay. So, we're going to replace
20 Mr. Bryson with Ms. Diane P. Murphy, Juror number 106.
21 Okay.

22 All right. Having conducted that business,
23 ladies and gentlemen, we'll bring the remainder of the
24 jury in. I'll advise them that there has been a
25 replacement. And I'll go ahead and publish the

1 stipulation, enter it into the record as Court's Exhibit
2 number?

3 THE COURT REPORTER: Three.

4 THE COURT: Three. Okay. All right. So, I'll
5 have you mark that while they're coming into the
6 courtroom.

7 (WHEREUPON, Court's Exhibit No. 3 was marked for
8 identification and received into evidence.)

9 MR. RICHARDSON: Your Honor.

10 THE COURT: Yes, sir.

11 MR. RICHARDSON: Will you explain to them what a
12 stipulation is?

13 THE COURT: Yes, sir.

14 (WHEREUPON, the jury came into open court at
15 approximately 9:53 a.m.)

16 THE COURT: All right, good morning, again,
17 ladies and gentlemen. You may have noticed that
18 Mr. Bryson, Juror 21, I've excused from the trial of this
19 case. And it was because he inadvertently saw a media
20 report on this. And out of a wealth of caution, I decided
21 that it was appropriate that in a sensitive case like
22 this, both to the State and the Defendant that it was
23 appropriate that he be excused for the remainder of this
24 trial.

25 So, Ms. Murphy, Juror number 106, you're now one

1 of the 12 jurors on this case. I think -- I hope that
2 both of you see how important alternates are. This
3 happens during the course of a trial. Particularly, when
4 it may go several days. So, it's always important that we
5 have alternates who are ready to go on to the 12 person
6 jury.

7 So, ladies and gentlemen, in this case, we have
8 been here this morning for about an hour working on this
9 case. And as a result of discussions between the
10 attorneys, the attorneys have come to a stipulation as to
11 the facts in this case. Now, a stipulation is an
12 agreement between the parties to a case wherein they agree
13 to certain facts. You can accept this stipulation as
14 facts in your consideration. That is when I publish this
15 to you it is an agreement between the parties that this,
16 in fact, is true. And you can accept it at face value.

17 And in this case, ladies and gentlemen, the
18 parties have come to the following stipulation. That
19 after September 17th, 2011, Tavish Dominique Yeargin had
20 physical possession of a personal check belonging to
21 Mr. Sean Timothy Dinneon. The fact has been stipulation
22 by the below parties.

23 Ladies and gentlemen, I've made this a Court's
24 Exhibit No. 3. When you go back to your deliberations I
25 will allow you to take this stipulation in writing so that

1 you have the opportunity to look at it and see what has
2 been stipulated to by the parties.

3 All right. Ladies and gentlemen, before we get
4 started again today, I was caught fairly unaware that
5 there was a media report in this case. I knew that there
6 might be some printed media reports but I didn't know that
7 there would be any type of video in this case. And that
8 caught me flatfooted. So, I'm going to reiterate
9 something that I told you yesterday but put a little bit
10 finer point on it. And that is, don't look, don't read,
11 don't listen to any media reports on this case while it's
12 still pending. I think that probably we'll be through
13 tomorrow, although I'm not sure. That's what I'm shooting
14 for any in event. But tonight when you go home or this
15 afternoon when we take a break for lunch, please avoid any
16 media reports on this case. As I suggested to you
17 yesterday, the only thing that's relevant and that's
18 appropriate that you consider is that which is presented
19 in court, under the rules of law and under the rules of
20 evidence. If you listen to anything else then you will
21 have tainted your deliberations. So, I'm afraid I didn't
22 put a real fine point on that yesterday and I take all the
23 blame for that. So, having said that, we'll go ahead and
24 get started with the case.

25 Mr. Richardson, I believe it's your case, sir.

1 MR. RICHARDSON: Thank you, Your Honor. The
2 State calls Michael Baker to the stand.

3 THE CLERK: Place your left hand on the Bible,
4 raise your right hand.

5 MICHAEL BAKER, after being duly sworn,
6 testified as follows:

7 THE CLERK: Have a seat, state your name for the
8 record, please.

9 THE WITNESS: Michael Baker.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION

12 BY MR. RICHARDSON:

13 Q Detective, were you employed with the Pickens
14 County Sheriff's Office back on November -- excuse me
15 September 17th, 2011?

16 A I was.

17 Q Okay, sir. And in what capacity were you
18 employed?

19 A I was a investigator for Pickens County
20 Sheriff's Office.

21 Q How long had you been in law enforcement?

22 A In 2011, approximately nine years.

23 Q Okay, sir. Now, were you working the actual day
24 of September the 17th of 2011?

25 A I was. I was working an off duty job at the

MICHAEL BAKER-DIRECT BY MR. BAKER

1 Greenville Pickens Speedway.

2 Q Okay, sir. Did you an occasion to assist
3 Detective Dow in this incident?

4 A I did. Detective Dow called me the night I was
5 working that off duty job and advised me of a call out
6 involving the Victim, Mr. Dinneon, being shot and found
7 dead in the Crosswell Baptist Church parking lot. He
8 asked me if there had been any disturbances involving the
9 victim at the race that night.

10 Q Okay. Detective, I'm going to -- that
11 microphone system is not working.

12 A It didn't seem like it was.

13 Q Right. So, if you can speak up loud enough so
14 that this last juror can hear you.

15 A Sure.

16 Q Do you want me state it all over again?

17 A That's fine, you can proceed. He asked me --
18 Detective Dow asked me if there had been disturbances that
19 night involving the Victim, Mr. Dinneon. I advised him I
20 had not seen Mr. Dinneon or heard of any disturbances that
21 particular night.

22 Q Okay, sir. And then from that point did you
23 proceed anywhere?

24 A I did. After the race was over, I knew -- it
25 was a Saturday, the 17th was a Saturday. I knew Detective

MICHAEL BAKER-DIRECT BY MR. BAKER

1 Dow would be working by himself. Since it was a call out.
2 And no one else would be working. So, I left the race and
3 went to -- I knew where Mr. Dinneon lived and I went to
4 speak to his neighbor, Margaret Hinson, after leaving the
5 race.

6 Q Okay. And you, in fact, speak with Ms. Hinson?

7 A I did.

8 Q Okay. And at that particular time did you
9 obtain a telephone number from Ms. Hinson?

10 A I did.

11 Q What did you do with that telephone number?

12 A I forwarded it on to Detective Dow.

13 Q Okay. Did you also go to the Victim's house?

14 A I did.

15 Q Okay. And at the house did you notice any
16 vehicles?

17 A I did. I noticed a Mitsubishi Lancer. Older
18 model.

19 Q I'm sorry?

20 A Older model Mitsubishi Lancer.

21 Q Let me show you what in evidence as State's
22 Exhibit 5. Do you recognize that?

23 A I do. That's the vehicle parked in the Victim's
24 driveway that I saw that night.

25 Q Okay, sir. And did you do anything in regards

MICHAEL BAKER-DIRECT BY MR. BAKER

1 to that vehicle?

2 A I contacted or I notified Lieutenant Robinson to
3 see if he could process the vehicle.

4 Q Okay. And do you know if Lieutenant --
5 Lieutenant Robinson's with the Forensics ID Division?

6 A That's correct, Pickens County Sheriff's Office.

7 Q And do you know if Lieutenant Robinson processed
8 that vehicle?

9 A He did. I met with him in the driveway and he
10 did process the vehicle.

11 Q Okay, sir. And at any time did you put out any
12 bolos or anything of that nature?

13 A I did. I BOLO-ED a vehicle that was missing
14 from the driveway, supposedly the Victim's vehicle. And I
15 had it entered into NCIC.

16 Q Okay. And just for the jury, what is a BOLO?

17 A BOLO, Be On The Look Out For. Basically, gives
18 officers -- give it to communications. Communications
19 then forwards it to the officers that are working that
20 night as well as surrounding agencies. To be on the look
21 out for the vehicle description, color, make, model,
22 things of that nature.

23 Q Okay, sir. And does that also go into the
24 general NCIC system?

25 A That's right. The NCIC, National Crime

MICHAEL BAKER-DIRECT BY MR. BAKER

1 Information Center, I had dispatched, logged that vehicle
2 in. So, that if the tag or VIN had been run by any other
3 agency in the country, it would have shown up stolen.

4 Q Yes, sir. And that would be in the case of a
5 car that you're looking for where the drive is pulled over
6 for speeding or something of that nature?

7 A That's correct.

8 Q And the BOLO went out for what type of vehicle?

9 A A 2006 Pontiac Grand Prix.

10 Q Okay. And was that 2006 Pontiac Grand Prix
11 eventually found?

12 A It was.

13 Q Okay. Did you proceed to go to the scene of
14 that vehicle, where that vehicle was found?

15 A I did. It was on the 19th of September. I
16 believe Detective Dow notified me that it had been
17 recovered on Potomac Avenue in Greenville. And I
18 responded there to assist Detective Dow with processing
19 the scene.

20 Q Okay, sir. Let me show you what's been marked
21 Plaintiff's -- excuse me, State's Exhibit 8. What is
22 that?

23 A That's the 2006 Pontiac Grand Prix.

24 Q And State's Exhibit 10?

25 A That's the same vehicle.

MICHAEL BAKER-DIRECT BY MR. BAKER

1 Q Okay. And back to State's Exhibit 8, is there a
2 license tag on the back of that vehicle?

3 A There is not.

4 Q Did you do any investigation around that
5 vehicle?

6 A I did. I looked around the vehicle, I found
7 below where the license plate would normally be on the
8 ground, a screw. Looked like someone may have taken off
9 the license plate. And looked around the area. And about
10 10, 15 feet from the location of the car, on the same side
11 of the road, there was a storm drain. Looked inside the
12 storm drain and saw what appeared to be a folded up
13 license plate.

14 Q And about how far from the vehicle was that?

15 A About 10 to 15 feet, on the same side of the
16 road.

17 Q And when you -- when you -- let me show you
18 State's Exhibit 9. Can you identify that, please, sir?

19 A That's the license plate I located in the storm
20 drain.

21 Q Okay, sir. And is that the condition it was in
22 when you located it?

23 A It is.

24 Q When you located it, what exactly did you do?

25 A I had another Detective with me, Detective

MICHAEL BAKER-DIRECT BY MR. BAKER

1 Taylor photograph the location. Then I removed it with a
2 latex glove. I didn't unfold it, I didn't try to see what
3 the numerics were on the tag. Gave it to Detective Dow
4 and he bagged it. And that's all I did with it.

5 Q Okay, sir. When you say bagged it?

6 A He put it in I put it in a -- I put it in a
7 brown paper bag and then he took control of it from there.

8 Q Did you say, were you or were you not wearing
9 gloves at that time?

10 A I was wearing latex gloves.

11 MR. RICHARDSON: Beg the Court's indulgence.

12 Thank you, Detective, please answer any questions

13 Mr. DeJong may have for you.

14 THE COURT: Cross-examination.

15 MR. DEJONG: Thank you, Your Honor, may it
16 please the Court?

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. DEJONG:

20 Q So, your investigation in this case was limited
21 to the nighttime hours of September the 17th or early
22 morning hours of September the 18th. And what you
23 indicated the recovery of the vehicle on September the
24 19th?

25 A Yes, sir.

MICHAEL BAKER

1 Q Okay. Now, with the screw that you said you
2 found, was it processed by forensics, do you know?

3 A I believe I turned it over as well. I found
4 several things around the vehicle, some cigarette butts.
5 And to the best of my knowledge everything was turned over
6 for processing.

7 Q Okay. Were the cigarette butts turned over?

8 A Yes, sir, I believe so.

9 Q Okay. To your knowledge, was any testing done
10 on those?

11 A I'm not sure what Lieutenant Robinson did as far
12 as testing.

13 Q Okay. Now, on the license plate you say that
14 was 10 to 15 feet away?

15 A Yes, sir.

16 Q Okay. And what area of Greenville was this
17 located in?

18 A Not all that familiar with Greenville. It was
19 Potomac avenue. And I would say that was more down the --
20 more down near the Whitehorse Road side of Greenville.

21 Q All right, sir. And certainly, how that license
22 plate got there, you don't know?

23 A I do not.

24 Q Who put it there, you don't know?

25 A No, sir.

MICHAEL BAKER

1 Q Or how many people may have handled it, you
2 don't know?

3 A No, sir.

4 MR. DEJONG: One moment, please, Your Honor.

5 THE COURT: Yes, sir..

6 MR. DEJONG: Thank you, Detective Baker.

7 MR. RICHARDSON: Nothing further from the State
8 of this witness, Your Honor.

9 THE COURT: All right.

10 Thank you, sir, I appreciate you being here.
11 You may step down.

12 MR. RICHARDSON: Your Honor, can this witness be
13 excused?

14 THE COURT: Sure, yeah. Absolutely.

15 Mr. DeJong, you don't intend to recall this
16 witness, do you, sir?

17 MR. DEJONG: I beg your pardon?

18 MR. RICHARDSON: I was asking if Detective Baker
19 can be excused.

20 MR. DEJONG: To be excused?

21 MR. RICHARDSON: Yes.

22 MR. DEJONG: No objection.

23 THE COURT: Okay, that's what I thought.

24 MR. RICHARDSON: He's close by.

25 THE COURT: Okay.

MICHAEL BAKER

1 MR. RICHARDSON: Your Honor, the state calls
2 Lane Byers to the stand.

3 THE CLERK: Place your left hand on the Bible,
4 raise your right.

5 LANE BYERS, after being duly sworn,
6 testified as follows:

7 sworn{,}testified as follows:{F}

8 THE CLERK: Have a seat, state your name for the
9 record, please.

10 THE WITNESS: Lane Cole Byers.

11 DIRECT EXAMINATION

12 BY MR. RICHARDSON:

13 Q You're a lieutenant at the Pickens County
14 Sheriff's Office, is that correct?

15 A Yes, sir.

16 Q How long have you been employed with law
17 enforcement?

18 A I worked full-time for about 29 plus years. I was
19 part-time reserve officer for about two and a half years
20 before that.

21 Q Okay. So, you were employed back in September
22 of 2011?

23 A Yes, I was.

24 Q Okay sir. And did you become involve in the
25 incident that we're here about today?

LANE BYERS-DIRECT BY MR. RICHARDSON

1 A Briefly I did. There at the beginning.

2 Q Okay. I will tell you that the microphones in
3 our is not working. So, if you can speak up a little bit.

4 A Okay.

5 Q I'm hearing you pretty good time, I'm not sure
6 about back here.

7 A Okay.

8 Q Did you initially -- was your initial
9 involvement to assist Detective Dow?

10 A Yes.

11 Q Okay. How did you do that.

12 A Sunday morning Detective Dow made contact and
13 briefed me on what had happened the night before. Since
14 he was working by himself I came out to assist him, have
15 somebody with him while he was questioning people and
16 talking to people that day.

17 Q Okay. And did you, in fact, go over to the
18 Holder house with Detective Dow?

19 A No. We went -- earlier that day we went to a
20 Harold Sloan's house.

21 Q Excuse me, Sloan?

22 A Yeah.

23 Q I misspoke whim.

24 A And we spoke with him. We made a couple of
25 stops there. He was not home but he did come in later and

LANE BYERS-DIRECT BY MR. RICHARDSON

1 he spoke to us while we were there.

2 Q Okay. And then after that, did you assist
3 Detective Dow in any other way?

4 A Detective Dow called me on Monday and ask that a
5 car had turned up. And that's what we had been looking
6 for on Sunday. And he asked that I get there at the
7 request of another officer just to make sure that nobody
8 touched that car. Because I was in Greenville, he was
9 not.

10 Q Okay. So, did you actually go to the scene of
11 that vehicle?

12 A I did.

13 Q Let me show you State's Exhibit 8. Do you
14 recognize that?

15 A Yes, I do.

16 Q What is that?

17 A That appears to be the car that called us that
18 we had been looking for that day on Monday.

19 Q Okay, sir. And once you arrived at the scene,
20 did you stay with that car the entire time?

21 A I did.

22 Q Okay. And at some point in time, was that car
23 impounded?

24 A Yes, that day. We took it from that scene to
25 our impound lot in Pickens County.

LANE BYERS-DIRECT BY MR. RICHARDSON

1 Q Okay. And did you -- were you there when, in
2 fact, the -- well, when you impound a car, do you have a
3 wrecker truck come out?

4 A Yeah, we called for one of our wreckers to come
5 out and pick it up.

6 Q Okay. And did you witness the wrecker picking
7 it up?

8 A I did.

9 Q Now, was anybody at the scene touching that
10 vehicle?

11 A No.

12 Q Okay. And when the wrecker drive hooked it up,
13 did he touch it?

14 A Not the body of the car. He had hooks that he
15 used to reach under it and hooked it and skid it up on to
16 the flat bed. You can see in the background. He had
17 gloves on his hands. And he touched the tire. He
18 reached up -- he never touched the actual body of the car.

19 Q Okay, sir. And did you stay with that vehicle
20 the entire time to the impound lot?

21 A I did. I followed him back from there and
22 stayed right behind him all the way.

23 Q Is the impound lot located right down here at
24 the law enforcement center?

25 A It is. It's on the top of the hill right there

LANE BYERS-DIRECT BY MR. RICHARDSON

1 on the property there at the sheriff's office.

2 Q And at that point, was the car turned over to
3 Lieutenant Tony Robinson?

4 A It was. Lieutenant Tony Robinson, of course.
5 it's a secured lot. So he had to come out and open the
6 gate to let us in. And he took possession of the vehicle
7 at that point in time.

8 Q And at that point in time you were relieved--

9 A I was relieved of. . .

10 MR. RICHARDSON: That's all the questions I
11 have. Please answer any questions Mr. DeJong may have for
12 you.

13 CROSS-EXAMINATION

14 BY MR. DEJONG:

15 Q Do you know ho long the car had been there,
16 Detective Byers?

17 A I do not know.

18 Q You don't know how it go there?

19 A I do not know.

20 Q Don't know who put it there?

21 A No, it was just found there.

22 Q You were simply involved to make sure that once
23 you got there nobody else touched the car?

24 A That's true.

25 Q And that was your involvement with this

LANE BYERS-CROSS BY MR. DEJONG

1 investigation?

2 A That was pretty much it.

3 MR. DEJONG: Thank you, sir. I have no further
4 questions:

5 THE COURT: Any additional questions?

6 MR. RICHARDSON: No further questions, Your
7 Honor.

8 MR. DEJONG: No objection to him being excused
9 Your, Honor.

10 THE COURT: Thank you, sir, I appreciate your
11 being here.

12 THE WITNESS: Thank you.

13 THE COURT: Have a great day.

14 MR. RICHARDSON: The State calls Lieutenant Tony
15 Robinson to the stand.

16 THE CLERK: Place your left hand on the Bible,
17 raise your right.

18 TONY ROBINSON, after being duly sworn,
19 testified as follows:

20 THE CLERK: Have a seat, state your name for the
21 record, please.

22 THE WITNESS: Tony Dale Robinson.

23 DIRECT EXAMINATION

24 BY MR. RICHARDSON:

25 Q Okay Lieutenant, our system's down so the

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 microphones are off, so if you can speak up, I'd
2 appreciate it.

3 A Okay.

4 Q Loud enough so this juror back here can hear
5 you.

6 A All right.

7 Q You are a lieutenant with the Pickens County
8 sheriff's Office, is that correct?

9 A I am.

10 Q Okay. And how long have you been employed with
11 the Pickens County Sheriff's Office..

12 A I've been a full-time employee for 24 years.

13 Q Okay. Is that how long you've been in law
14 enforcement?

15 A I was a reserve officer for a few years before
16 that. So, I have been about 27 years total.

17 Q Okay. And what do you do for the Pickens County
18 Sheriff's Office?

19 A I'm the lieutenant, the supervisor over the
20 forensic and the property and evidence unit.

21 Q Okay, sir. And were you that on September the
22 17th of 2011?

23 A I was.

24 Q Okay. Can you just tell the jury in general
25 what you're duties are.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 A We respond to crime scenes. We're the people
2 responsible for photographing, documenting the crime
3 scene, collecting the evidence and having evidence
4 analyzed that needs to be analyzed.

5 Q Okay, sir. And, in fact, did you respond to
6 Crosswell Baptist Church on September the 17th of 2011?

7 A I did.

8 Q And upon responding to there, what did you
9 observe?

10 A The scene, some units had already arrived on the
11 scene and they had roped off the parking lot area. There
12 was a body covered under a sheet laying in the middle of
13 the parking lot.

14 Q And did you take -- is part of your duties to
15 take pictures?

16 A Yes, sir, I photographed that scene.

17 Q Okay, sir. Showing you State's Exhibit No. two,
18 sir, do you recognize that?

19 A I do.

20 Q What is that?

21 A That's a photograph of the body that's in the
22 parking lot that is covered by -- I believe EMS covered
23 the body with a sheet.

24 Q Did you take that photograph?

25 A I did.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 Q Is that the way you observed it upon your
2 arrival to the scene?

3 A That's the way it looked when I arrived, yes,
4 sir.

5 Q And Plaintiff's -- excuse me, State's Exhibit
6 No. 3, I think I'm in a civil trial, State's Exhibit No.
7 3?

8 A I took that photograph, also. That's a
9 photograph of a shoe, a tennis shoe, that was laying some
10 distance from the body.

11 Q Okay, sir. Now, is part of your duties,
12 Lieutenant, to make measurements?

13 A It is.

14 Q Did you make may measurements this night?

15 A I did.

16 Q Did you make any measurements in relation from
17 the body to that shoe?

18 A Yes, I did.

19 Q Can you relate those measurements to the jury?

20 A The shoe is 41 feet 10-inches from the body.

21 Q Okay, sir. And also at the scene, refer back to
22 State's Exhibit No. 2, you said it was 41 feet?

23 A Forty-one feet 10-inches.

24 Q Okay, sir. Is there also on there, if you can
25 take a laser pointer. Point this out, it's kind of hard

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 to see. Is there also a bottle located?

2 A Yes. That's a broken bottle right here.

3 Q Okay, sir. And that bottle is -- did you take
4 measurements of the bottle, distance wise?

5 A I did. I measured the location of the bottle.
6 It was -- the bottle was actually close to the body but I
7 measured it from the curbs and from the road to the
8 position of the bottle.

9 Q Okay.

10 A Or the pieces of the bottle. It was scattered
11 over the pretty good area.

12 Q It was a broken bottle?

13 A Yes, sir.

14 Q Is that correct? So, when your measurements,
15 when you're making the measurements of that, were you
16 measuring it from a particular part -- piece of the bottle
17 or how did that work?

18 A I think I measured just to about whether that
19 cone is that was that used to mark the area where the most
20 of the debris was from the bottle.

21 Q Okay. So, if you can point to the cone.

22 A The cone's right here. And the bottle is in
23 that area right there.

24 Q Okay, sir. Now, part of -- well, let me ask you
25 this. Was the crime scene secured when you got there?

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 A It was.

2 Q Were any civilians or lay or any people walking
3 through the scene?

4 A No.

5 Q And is part of your forensic duties as a
6 forensic officer to certainly detain all the evidence but
7 also to look for weapons?

8 A It is.

9 Q Okay. Did you look for weapons that evening?

10 A I did.

11 Q Did you find any weapons?

12 A No weapon was found at the scene.

13 Q Okay, sir. Did you also -- and part of your
14 duties to look for things such as bullets that are unfired
15 or shell casings that have been fired, is that part of
16 your duties?

17 A That's part of our duties, yes, sir.

18 Q Okay. Did you look for those at the scene?

19 A I did.

20 Q And did you find any?

21 A No, we found a bullet wound on the body but we
22 found no other bullets. I found no bullets in the parking
23 lot, no spent shell casings or anything like that in the
24 parking lot.

25 Q Okay, sir. And other than documenting this

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 scene with measurements and pictures, did you do anything
2 else at the scene?

3 A No, sir.

4 Q Okay. Now, did you go, at some point in time,
5 to the to Defendant's home?

6 A I did.

7 Q Excuse me, not the Defendant's home, the
8 Victim's home?

9 A The Victim's home, yes, sir, that same night.

10 Q Okay. What was the purpose of going there?

11 A Detectives had gone there and there was a
12 vehicle there that they wanted me to process there for
13 fingerprints.

14 Q Okay, sir. And did you process that vehicle for
15 fingerprints?

16 A I did.

17 Q Do you remember what kind of vehicle it was?

18 A A Mitsubishi Lancer.

19 Q Show you State's Exhibit 5, do you recognize
20 that, sir?

21 A I do, that's the vehicle.

22 Q And when you process that vehicle for
23 fingerprints, what do you do?

24 A Fingerprint processing is a process where when
25 was leave a fingerprint it's the moisture from your skin

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 that you transfer onto an object. We use a powder during
2 substance that we dust on with a brush and it adheres to
3 that moisture that you leave behind. It works better on
4 some surfaces than it does on others. And I processed
5 that car for fingerprints.

6 Q Okay, sir. And were you able to obtain any type
7 of latent prints from this vehicle?

8 A I did obtain at least, I know, one latent
9 fingerprint lift from that vehicle.

10 Q Okay. When you obtained that, how do you -- how
11 do you secure it?

12 A Well, once the powder adheres to the latent
13 print, you can see it at that point. Then we can take
14 tape and lift it off and place on it onto a index card.

15 Q Okay. Did you do that?

16 A I did.

17 Q Okay. What did you do with the index card?

18 A I kept it with me and kept it in evidence until
19 I had it analyzed or had it compared.

20 Q Okay. Did you -- are you able to analyze
21 fingerprints.

22 A I can analyze fingerprints, yes.

23 Q In this particular case did you analyze these --

24 A I did not analyze these fingerprints in this
25 case, no.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 Q Why did you not analyze these fingerprints in
2 this case?

3 A I didn't have access to any card -- any known
4 fingerprints from the individuals that it needed to be
5 compared to.

6 Q Okay. So, what did you do with the
7 fingerprints.

8 A I took them to Greenville forensic division and
9 they compared them for me.

10 Q Okay. And does Greenville also have a
11 capability of run fingerprints through the computer?

12 A They do have that capability, yes, sir.

13 Q And who did you give it to in Greenville?

14 A Christopher Gary with Greenville County
15 Forensics.

16 Q As far as you know Mr. Gary analyzed those
17 prints?

18 A He did.

19 Q Okay, sir. Now, is part of your duties also to
20 obtain an autopsy in a death case such as this?

21 A I attended the autopsy of Mr. Dinneon in this
22 case, yes, sir.

23 Q Okay. And did you obtain any evidence from the
24 autopsy?

25 A I did.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 Q Let me show you what's been marked as State's
2 Exhibit 25, do you recognize that?

3 A I do.

4 Q What is that?

5 A That's I call it a projectile. That's the
6 bullet that was removed from Mr. Dinneon's body.

7 Q Okay. Who gave you that projectile?

8 A I was there when Dr. Fulcher, who performed the
9 autopsy, removed the bullet and I took it directly from
10 him.

11 Q Who secured it into that bag?

12 A This bag was -- it was secured into this bag.
13 The inner bag I secured it in. And the outer bag, it was
14 secured by the analyst who looked at the bullet.

15 Q Okay. I'm sorry, they're two bags there.

16 A Yes.

17 Q What did you -- where did you take that once you
18 got it from Dr. Fulcher?

19 A I took it back to Pickens County Sheriff's
20 Office and had it secured in evidence.

21 Q Okay. And then?

22 A Later on I carried it to Greenville to have it
23 compared to a case over there to see if it matched a
24 weapon that they had in evidence in Greenville.

25 Q Okay, sir. And did you put any type of markings

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 on those bags? Did you put any particularized type of
2 markings--

3 A Our case number and it's got the description.
4 It says, Projectile removed from Sean Dinneon and the date
5 and time it was removed.

6 Q What's the case number?

7 A Our Pickens County Sheriff's Office case number
8 is 11-22349.

9 Q Okay, sir. At some point -- at some point did
10 you receive a call about an abandoned Grand Prix?

11 A Detective Dow notified me of the Grand Prix on
12 Monday the 19th.

13 Q And when was the first time you saw that Grand
14 Prix?

15 A When they towed it to the Pickens County
16 Sheriff's Office impound yard.

17 Q Okay. And this impound yard, is it a secured
18 facility?

19 A It is.

20 Q Located at the law enforcement center?

21 A It's a fenced in lot, fenced in area at the law
22 enforcement center.

23 Q Bobwire across the top of the fence?

24 A That's correct.

25 Q Let me hand you what's marked as State's Exhibit

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 14, can you identify that?

2 A That's a picture of the Grand Prix that was
3 towed in on that day.

4 Q Does that accurately depict the Grand Prix?

5 A It does.

6 Q On that day.

7 A It does.

8 Q Did you take that picture?

9 A I did.

10 MR. RICHARDSON: Your Honor, the State moves
11 State's Exhibit 14 into evidence.

12 THE COURT: Okay, sir.

13 MR. DEJONG: No objection, Your Honor.

14 THE COURT: All right, without objection the
15 same is admitted into evidence.

16 MR. DEJONG: Thirteen or 14?

17 MR. RICHARDSON: It's 14.

18 MR. DEJONG: Thank you, sir.

19 MR. RICHARDSON: Yes, sir.

20 (WHEREUPON, State's Exhibit No. 14 was marked
21 for identification and received into evidence.)

22 Q So, once it's impounded and it's into your lot,
23 your impound lot, what do you do?

24 A My job with that car was to process that car for
25 evidence. And I began by photographing it.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 Q Okay. So, that was the first step was to
2 photograph it?

3 A First step was to take photographs of that car.

4 Q And after you photograph it -- you've been asked
5 to to process this car, is that right?

6 A That is correct.

7 Q Okay. After you photograph it, do you start
8 processing the car?

9 A I do.

10 Q And in general, what do you do to process a
11 vehicle?

12 A Processing involves looking for evidence in the
13 vehicle. And it includes any swabs, looking for any type
14 of evidence, visually that you may see and fingerprints.
15 And processing for fingerprints at some point during that
16 time.

17 Q Okay, sir.. Did you, in fact, process this Grand
18 Prix for fingerprints?

19 A I did.

20 Q Sir, let me show you what's marked State's
21 Exhibit 15 and State's Exhibit 16. Can you identify those
22 photographs, please, sir?

23 A This is photographs of the car as I began the
24 process of putting the dust on the car. And these
25 pictures just show what I was starting to see as I was

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 applying the powder. I'm starting to see fingerprints
2 develop on the car.

3 Q Did you -- do those photographs accurately
4 depict what you were seeing?

5 A They do.

6 Q They accurately depict -- you took these
7 photographs?

8 A I did.

9 Q Do they accurately depict the photographs as you
10 took them?

11 A Yes, they do?

12 Q These photograph were taken the day the car was
13 impounded.

14 A Yes, sir, right after they brought it in.

15 MR. RICHARDSON: Your Honor, State moves State's
16 Exhibit 15 and 16 into evidence.

17 THE COURT: Any objection, sir?

18 MR. DEJONG: Without objection, Your Honor.

19 THE COURT: All right, without objection the
20 same is admitted into evidence as State's 15 and 16.

21 (WHEREUPON, State's Exhibits Nos. 15 & 16 were
22 marked for identification and received into
23 evidence.)

24 BY MR. RICHARDSON:

25 Q And Lieutenant, I believe you were testifying to

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 this, referring to State's 16 that's now in evidence, I
2 believe there's a laster pointer there, can you show the
3 jury where you're dusting?

4 A Well, I'm dusting the entire car but the powder
5 is going to adhere to anything that maybe a fingerprint.
6 And not every fingerprint's a good fingerprint. Sometimes
7 it's a smear or smudge, doesn't mean we can match it. But
8 I took this photograph just to show that I am starting to
9 see evidence of fingerprints. You can see some here,
10 here. There were -- you can't see them as well on this
11 black surface here but they were actually starting to
12 appear all the way around the car as I was processing.

13 Q Okay, sir. And likewise, I'm referring to
14 State's Exhibit 15, what are you showing?

15 A The same thing. Those are, I think that's on
16 that back spoiler area where I was starting to see some
17 prints in that area, also.

18 Q Okay, sir. Now, at this point in time, are you
19 able to develop prints that you could lift?

20 A Yes. I developed at least probably 30 to 31
21 latent lifts. Or took 31 latent lifts off of that car.

22 Q Okay. And those latent lifts, what did you do
23 with those?

24 A The same thing I did with the one from the other
25 car. I delivered all the latent lifts to Greenville to be

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 compared.

2 Q And is it the name process where you pull a
3 latent off and you put it on some type of...

4 A Pull it off and -- I put them on a plain, white
5 index card.

6 Q Okay, sir. And who did you give that to in
7 Greenville?

8 A The same person, Christopher Gary at Greenville
9 County Forensics.

10 Q And did you give them to him for the purpose of
11 having those analyzed and matched?

12 A Yes, sir.

13 Q Okay. And prior to your -- well, let me ask
14 you. This. Did you actually physically take those over
15 to Greenville --

16 A I did.

17 Q -- and give them to Gary?

18 A I did. On the 20th, this next day.

19 Q The next day. And prior to that where do you
20 keep them?

21 A In -- locked in the sheriff's office in this
22 evidence area.

23 Q Is that secured?

24 A It is.

25 Q In addition to lifting fingerprints, dusting and

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 that type of thing, do you also look for evidence within
2 the vehicle?

3 A I do.

4 Q Okay, sir. And do you also take pictures of
5 inside the vehicle?

6 A Yes, I do.

7 Q Okay. Let me show you what's State's Exhibit 6,
8 7 and 11. Can you identify these?

9 A These are photos that I took of the interior of
10 the vehicle.

11 Q And that was the day impound?

12 A It is.

13 Q So, this accurately depicts the vehicle as you
14 photograph it?

15 A It does.

16 Q And also as you saw it?

17 A Yes, sir.

18 MR. RICHARDSON: Your Honor, at this time the
19 State offers State's Exhibit 6, 7 and 11 into evidence.

20 THE COURT: Any objection?

21 MR. DEJONG: Without objection, Your Honor.

22 THE COURT: All right, without objection, the
23 same is introduced into evidence.

24 (WHEREUPON, State's Exhibits Nos. 6, 7 & 11 were
25 marked for identification and received into

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 evidence.)

2 BY MR. RICHARDSON:

3 Q Sir, what's that a picture of?

4 A That's a picture of the Grand Prix with the
5 driver's door opened showing this interior driver's area.

6 Q And can you point out to the jury where the gear
7 shift is in the vehicle?

8 A Here.

9 Q Okay, sir. I'm referring to State's Exhibit 7.
10 What's that Lieutenant Robinson?

11 A That's a photo of the same vehicle from the
12 passenger side with the passenger side door opened.

13 Q Okay, sir. Can you with that pointer show the
14 jury where the key ignition switch is in this particular
15 vehicle?

16 A (The witness complies.)

17 Q Thank you, sir. And referring to State's
18 Exhibit 11, what is in that photo?

19 A That's with the back doors opened and it shows a
20 set of jumper cables on the backseat. And there's a piece
21 of paper right here.

22 Q What's that piece of paper?

23 A I looked at it and found that it's a receipt
24 from the Family Dollar store in Greenville.

25 Q Okay, sir. Did you take that receipt into

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 evidence?

2 A I did.

3 Q Let me show you what's marked State's Exhibit
4 28, do you recognize that?

5 A Yes, sir. This is the receipt that was in the
6 car.

7 MR. RICHARDSON: Your Honor, State would now
8 move State's Exhibit 28 into evidence.

9 THE COURT: Any objection, sir?

10 MR. DEJONG: Without objection, Your Honor.

11 THE COURT: Without objection the same is
12 admitted into evidence.

13 (WHEREUPON, State's Exhibit No. 28 was marked
14 for identification and received into evidence.)

15 BY MR. RICHARDSON:

16 Q Okay, sir, I'm going to hand you back State's
17 Exhibit 28, sir. Did you attempt to process that?

18 A I processed it for fingerprints, yes.

19 Q Were you able to lift any fingerprints?

20 A No, no fingerprints developed on it.

21 Q Okay, sir. Is there -- can you tell me is there
22 a date and time stamped on that receipt?

23 A 9/18/11 at 10:14 a.m.

24 Q Okay, thank you?

25 A I'm assuming that's a.m.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 Q Detective, did you also receive in your
2 possession a license plate?

3 A I did.

4 Q And who gave that to you?

5 A Detective Dow.

6 Q Okay. When Detective Dow gave that to you, what
7 did you do with it?

8 A I secured it in evidence. It was folded up and
9 I unfolded it then processed it for fingerprints, also.

10 Q Okay. Let me ask you, I'm referring to State's
11 Exhibit No. 9, what is that?

12 A That's the license plate. And that's the way
13 he -- that the way -- it's my understanding, that's the
14 way it was found, it was bent like that.

15 Q I'm referring to State's Exhibit 27, do you
16 recognize that?

17 A I do.

18 Q What is that?

19 A That's the license plate you see in that
20 photograph.

21 Q And that license plate is no longer folded, who
22 unfolded it?

23 A I unfolded it.

24 Q Why?

25 A So I could process it for fingerprints.

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Your Honor, at this time the
2 State offers State's Exhibit 27 into evidence.

3 MR. DEJONG: No objection, Your Honor.

4 THE COURT: All right, without objection the
5 same is admitted into evidence.

6 (WHEREUPON, State's Exhibit No. 27 was marked
7 for identification and received into evidence.)

8 BY MR. RICHARDSON:

9 Q Sir, handing you back State's Exhibit 27, it
10 appears to be some darken material across it, does that
11 have anything to do with you?

12 A It does. That's what fingerprint powder looks
13 like when you put fingerprint powder on a surface.

14 Q Did you process this plate?

15 A I did.

16 Q And in processing this plate, were you able to
17 lift any fingerprints?

18 A I did.

19 Q And once again, what did you do with those
20 fingerprints?

21 A The same process as before, they were all
22 secured in our evidence and then I delivered them to
23 Greenville on the 20th.

24 Q At some point did you receive into evidence a BB
25 gun?

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 A I did.

2 Q Okay. And who gave you that?

3 A Detective Dow.

4 Q Okay, sir. Let me hand you what's been marked
5 State's 29. And for the comfort of the jury and the
6 Court, have you secured this?

7 A I have..

8 Q Okay. Will you, please, open that, sir, and
9 tell me if you can identify that?

10 A This is the BB gun that I received from
11 Detective Dow on the 22nd of September.

12 Q Okay, sir. And when you received that, what did
13 you do with it?

14 A I secured it into evidence.

15 MR. RICHARDSON: Your Honor, Honor at this time
16 the State would offer State's Exhibit 29.

17 THE COURT: Any objection, sir?

18 MR. DEJONG: Without objection, Your Honor.

19 THE COURT: All right, without objection the
20 same is admitted into evidence.

21 (WHEREUPON, State's Exhibit No. 29 was marked
22 for identification and received into evidence.)

23 MR. RICHARDSON: Beg the Court's indulgence?

24 THE COURT: Yes, sir.

25 BY MR. RICHARDSON:

TONY ROBINSON-DIRECT BY MR. RICHARDSON

1 Q And sir, the scene, Crosswell, Baptist Church,
2 I'm referring to State's Exhibit 1, is that Crosswell
3 Baptist Church?

4 A That's the parking lot of the church, yes.

5 Q Is that where you went?

6 A Yes.

7 Q At the time. And just in reference to the
8 photos that you took of the body, can you show the jury
9 about where the body was when you arrived?

10 A The body was actually in this first parking
11 place at this entrance. There's two entrances. There's
12 one here and there's another entrance over here. The body
13 was in this area right here.

14 Q And where was the shoe?

15 A The shoe was actually over here about the -- at
16 the next parking place over.

17 Q Okay, sir. And that particular area there, is
18 that in Pickens County?

19 A It is.

20 Q Okay, sir.

21 MR. RICHARDSON: That's all the questions I
22 have, please answer any questions Mr. DeJong may have for
23 you.

24 MR. DEJONG: May it please the Court?

25 THE COURT: Yes, sir.

TONY ROBINSON-CROSS BY MR. DEJONG

CROSS-EXAMINATION

BY MR. DEJONG:

Q Lieutenant Robinson, what's been marked as State's Exhibit 29, is that a BB gun?

A It is.

Q Now, shoots little pellets?

A That is correct.

Q There any gas pulsation on that BB gun?

A I do not know.

Q Did you look at it at all?

A No, other than to secure it in that box, I didn't. I don't know much about them so I didn't mess with it.

Q So, there's no doubt in your mind that 29 year veteran in police work and as forensic officer for however long, that's a BB gun?

A That's a BB gun.

Q Ain't no two ways about it?

A That's correct.

Q Thank you, sir. Well, let me ask you, hasn't been modified?

A No.

Q Plain 'ole every day BB gun?

A Yes, sir.

Q Did you do any forensics on that?

TONY ROBINSON-CROSS BY MR. DEJONG

1 A I did not do any forensics on that BB gun.

2 Q Okay. Now, let's talk a little bit about the
3 license plate. That would be -- thank you, sir. State's
4 Exhibit No. 27. You unfolded it and you processed it?

5 A I did.

6 Q How many fingerprints did you lift off of this?

7 A Probably maybe two to three lifts.

8 Q Okay. Did all those go to Greenville?

9 A They did.

10 Q Now, let's talk a little bit about fingerprints
11 in general. Fingerprints, you can lift fingerprints,
12 correct?

13 A That is correct.

14 Q Not in all cases but as you said, depending on
15 the surface and the weather?

16 A Sometimes they're there, sometimes they're not.

17 Q Okay. But when we talk about fingerprints, you
18 cannot, by lifting a fingerprint, say how long a
19 fingerprint has been there?

20 A That's correct. I cannot say how long it's been
21 there.

22 Q And any fingerprints on this license plate, if
23 hypothetically it had been placed on a car, you couldn't
24 say that the fingerprints on that plate was fingerprints
25 when it was placed on a car could, you?

TONY ROBINSON-CROSS BY MR. DEJONG

1 A No.

2 Q Or when it was removed by the car?

3 A No, sir, I couldn't say.

4 Q If it had been attached to the car. Or
5 fingerprints could be something simply handling. Someone
6 that handled --

7 A Yes.

8 Q The license plate?

9 A Yeah.

10 Q But in terms of placement, unplacing it, if
11 there is such a word, you can't -- fingerprints don't tell
12 us that?

13 A No, sir.

14 Q And indeed, sometimes where there maybe some
15 fingerprints, someone else could have handled that
16 particular item or object and you wouldn't lift
17 fingerprints, correct?

18 A That's correct.

19 Q All right, sir. Now, so you lifted two to three
20 prints from the license plate. And those went to Mr. --
21 what's his name?

22 A Christopher Gary in Greenville?

23 Q In Greenville, okay. To your knowledge, I'm not
24 asking you what if any results there were, but to your
25 knowledge were all those latents processed off of the

TONY ROBINSON-CROSS BY MR. DEJONG

1 license plate?

2 A To my knowledge -- processed as you mean
3 compared?

4 Q Well, processed by Mr. Gary?

5 A Well, he would have compared them, yes.

6 Q Yes.

7 A I'm sure he did.

8 Q Not necessarily my good choice of words on my
9 part but you understood what I was saying, okay. Now, the
10 receipt from the Family Dollar store, again, you testified
11 it has a date, time and stamp on it, right? If you need
12 the see it--

13 A No, I remember..

14 Q And again, the same -- there was no fingerprints
15 on that?

16 A No fingerprints.

17 Q Okay. Do fingerprints stay on paper.

18 A It's harder to process paper. And I haven't had
19 much success with paper as I do with harsh metal and cars
20 and things like that.

21 Q But again, in your processing of the vehicle,
22 when that piece of paper got in the vehicle, you don't
23 know?

24 A Only based on the date and time stamp, it
25 happened after the incident at the church parking lot.

TONY ROBINSON-CROSS BY MR. DEJONG

1 Q Right. Some -- what was the date and time stamp
2 on that?

3 A It was the 18th, which was the -- and I assume
4 that meant 10:00 in the morning, roughly. So, it was 12
5 hours.

6 Q Quite a few--

7 A Yeah.

8 Q Your math is better than mine. About 12 hours
9 after this alleged incident in the parking lot. But
10 beyond that, I mean, assuming the date and time stamp is
11 correct, it couldn't have gotten there before, correct?

12 A That's correct.

13 Q It could have only been there sometime after 10
14 whatever it was in the morning?

15 A That's correct.

16 Q And again, how it got there and who put it
17 there --

18 A I do not know.

19 Q Don't know. Okay. Now, you were given a good
20 bit of stuff. Let me ask you this, were keys ever
21 recovered to this vehicle?

22 A No keys were ever found to the vehicle.

23 Q All right. There was talk, I think, about what
24 appeared to be a license bolt, screw?

25 A There was a bolt.

TONY ROBINSON-CROSS BY MR. DEJONG

1 Q Did you Mrs. that?

2 A I did.

3 Q Fingerprints?

4 A No.

5 Q All right. Now, you say there were some 31
6 latent prints lifted from the Grand Prix, correct?

7 A I probably need to correct that. If I lifted I
8 didn't separate the list. I turned 33 total lifts over to
9 officer Gary at Greenville. If I pulled a couple there
10 one or two from the car, probably in the upper 20's on the
11 Grand Prix.

12 Q Okay. When you say one or two on the car, now
13 are you talking about the Grand Prix?

14 A No, I'm talking about the Lancer in the Victim's
15 driveway.

16 Q How many did you pull off the Lancer, do you
17 recall?

18 A No more than one or two that. That car was
19 real -- very dusty. It had been sitting a long time and
20 it was difficult to process.

21 Q Well, that's a matter of curiosity, I guess.
22 But I asked you if something is dusty fingerprints are
23 hard to get it?

24 A It makes it a lot harder. You got to realize
25 when you touch a surface, you're transferring the moisture

TONY ROBINSON-CROSS BY MR. DEJONG

1 from your fingers on to the surface. But it there's a
2 layer of dust onto the object that you're touching, you're
3 transferring the moisture from you finger on to that layer
4 of dust. Makes it much more difficult for us to get what
5 we need to compare the fingerprint.

6 Q Any swabs taken from the Grand Prix?

7 A Yes.

8 Q What kind of swabs?

9 A I took some swabs for DNA from the interior
10 areas of the Grand Prix.

11 Q Was DNA obtained?

12 A I never sent those off to be analyzed after I
13 obtained -- I did that obtain because I didn't know if I
14 would obtain any usable fingerprints off the Grand Prix.
15 Once I obtained usable fingerprints, I didn't do anything
16 else with the swabs.

17 Q So, you don't process all the evidence that you
18 find?

19 A We process to the point that we feel like we
20 processed enough. Then if I had not found any
21 fingerprints on the Grand Prix then I would have had those
22 swabs analyzed.

23 Q Well -- so, what you're saying is when you
24 identify one person, then bingo, it's all over, we're not
25 going to look for anybody else?

1 A Based on what I saw with this case we determined
2 we didn't need to go any further with the swabs. When you
3 compile all the evidence together.

4 Q Well, what you saw in the case and what you
5 determined, were you aware that there were three alleged
6 suspects in this case?

7 A I was aware of that, yes.

8 Q And the fact that there were three alleged
9 suspects in this case didn't bother you when it came to
10 looking at fingerprints and/or swabs?

11 A I believe all three suspects were compared with
12 the fingerprints.

13 Q But as to the interior of the vehicle, were any
14 fingerprints taken?

15 A I did not find any fingerprints on the interior.

16 Q And the swabs were taken from the interior of
17 the vehicle, right?

18 A I did that because I know that it's more
19 difficult to obtain fingerprints from the inside of a car
20 than it is from the outside. So, that's why I swabbed the
21 inside.

22 Q Right. But if you had tested or had tested
23 those DNA swabs, that may have shown you something
24 different from the fingerprints on the outside, correct?

25 A I didn't think it would. So, that's why I

TONY ROBINSON-CROSS BY MR. DEJONG

1 didn't do it.

2 Q Well, I understand that. Are you a DNA expert?

3 A No, sir.

4 Q All right. Now, certainly, my fingerprints
5 could be on the outside of the vehicle but doesn't
6 necessarily mean I was in the vehicle, does it?

7 A True.

8 Q All right. And somebody else's DNA could be in
9 the vehicle that would place them in the vehicle?

10 A That's true.

11 Q Now. So, you took swabs that you didn't have
12 tested, you had fingerprints that you had analyzed, we
13 talked about the receipt. Anything else you found in the
14 car?

15 A No, sir.

16 Q Okay. Now, was a gun, other than this BB gun,
17 ever turned over to you?

18 A No, sir, no gun was found.

19 Q And you actually went to the Crosswell Baptist
20 Church parking lot, right?

21 A I did.

22 Q And when was that?

23 A The night of the 17th of September.

24 Q Okay. And when you went out there and took
25 pictures on that night -- I guess my question is, what

TONY ROBINSON-CROSS BY MR. DEJONG

1 kind of camera did you use?

2 A A Nikon.

3 Q Does that camera have a flash attachment on it?

4 A It does.

5 Q Flash attachment you have to use when it's dark,
6 correct?

7 A Yes, sir.

8 Q And you had to use a flash attachment that
9 night?

10 A Yes, sir.

11 Q Because it was dark in that parking lot?

12 A It was not totally dark, there are some street
13 lights in the area but it was fairly dark, yes.

14 Q Right. Well, it was certainly dark enough that
15 you had to use a flash attachment?

16 A Anytime at night I would use a flash, yes, sir.

17 Q Okay. Now, we can come back to that, I guess,
18 here in a moment. Let's talk about this -- I don't know
19 what State's Exhibit it was, what you said was the
20 projectile that you recovered from -- there it is, thank
21 you, ma'am.

22 A projectile you recovered from Dr. Fulcher
23 at the autopsy?

24 A That's right.

25 Q Well, let me ask you this. Is that a BB gun

TONY ROBINSON-CROSS BY MR. DEJONG

1 pellet?

2 A I'm no ballistic expert but no, sir, that's not
3 a BB gun pellet.

4 Q All right, sir. Now, you said you took that
5 back to Greenville to be analyzed with a Greenville case?

6 A That is correct.

7 Q Now, just so we're perfectly clear here, that
8 Greenville case had nothing to do with Mr. Tavish
9 Dominique Yeargin, did it?

10 A Not that I'm aware of.

11 Q That was a totally --

12 A Totally opposite, different case.

13 Q Right. Okay. I just wanted to make sure we're
14 clear on that. And other than that test, was any other
15 test of any sort run on that particular projectile?

16 A No, because no other weapon was found to compare
17 it to.

18 Q Other than that BB gun, right?

19 A Right. And there was no reason for that.

20 Q All right. Now, when you went out to Crosswell,
21 I know you're the forensic man but do you actually go
22 looking for evidence?

23 A Yes, sir.

24 Q All right. So, you went out there on the night
25 of September the 17th. About what time did you get there,

TONY ROBINSON-CROSS BY MR. DEJONG

1 if you remember?

2 A It was about 10:00, 10:15.

3 Q Okay. All right. And when you got there were
4 other law enforcement officers there?

5 A That's correct.

6 Q How many, do you know?

7 A At least three to four that I can remember.

8 Q Was EMS still there?

9 A EMS had been there. They usually wait for the
10 coroner to arrive, so they were probably still on the
11 scene.

12 Q Was the coroner there when you got?

13 A No.

14 Q Okay. So, when you get there you see a body, I
15 thought I heard you say A body covered by a sheet laying
16 in the middle of the parking lot?

17 A I said the middle, yes, I did say that.

18 Q All right.

19 A But it's actually more toward to road end.

20 Q But then I understand you said the body was
21 laying more up here?

22 A Yes, sir.

23 Q So, it wasn't actually in the middle of the
24 parking lot?

25 A Yes, sir.

TONY ROBINSON-CROSS BY MR. DEJONG

1 Q Okay. Now, on the -- and this picture was not
2 made on September the 17th?

3 A No, I took that several days later.

4 Q And during the date light, obviously, right?

5 A Obviously.

6 Q All right. Let's -- the shoe that you took a
7 picture of on State's Exhibit No. 3, you took it into
8 evidence?

9 A I did.

10 Q Okay. Other than looking at the shoe and the
11 shoes, did you do any other testing on it?

12 A No, that shoe matched the other shoe was still
13 on the victim and there was nothing else to do with it.

14 Q Just by visual appearance you matched it?

15 A Yes.

16 Q Now, when you took the picture of the shoe, did
17 you know whether the shoe -- well, let me back up. This
18 was like a tennis shoe?

19 A Yes, sir.

20 Q Sneaker, running shoe, whatever we call them now
21 a days, they have laces in it?

22 A Yes, sir.

23 Q Was the shoes unlaced when you took that
24 picture?

25 A I do not remember. I probably took other

TONY ROBINSON-CROSS BY MR. DEJONG

1 pictures closer up of it but I don't have that.

2 Q Okay. If I handed you this picture of a closer
3 can you --

4 A You can try that.

5 Q Would that help you any?

6 A It appears it's still laced from what I can
7 tell.

8 Q Well, perhaps laced is not a good choice of
9 words. Can you tell whether it was tied or not?

10 A I can't say for sure if it was tied.

11 Q And again, I don't want to beat the horse but?

12 A It doesn't look like it tide but.

13 Q Okay, very good. Thank you, sir. Now, as far
14 as the -- you said the shoe was 41 feet and 10-inches from
15 the body that was covered with the sheet?

16 A I think measured from the shoe to the victim's
17 head, yes.

18 Q All right. Now, the broken bottle, perhaps
19 State's Exhibit 13 might show that a little better. This
20 I believe you indicated was the shattered glass?

21 A Yes, it is.

22 Q And in looking at that shattered glass, did that
23 battle hit with a certain amount of force to shatter the
24 way it did?

25 A I would think so, yes.

TONY ROBINSON-CROSS BY MR. DEJONG

1 Q In other words, my question is in looking at it
2 and your experience and expertise as a forensic person,
3 that was more than just having dropped it on the pavement?

4 A Yes. It was scattered enough that it was
5 thrown.

6 Q It was what?

7 A It was probably thrown from some distance.

8 Q Thrown. Okay. All right. Did you collect that
9 glass?

10 A I did.

11 Q Did you attempt to process it for fingerprints,
12 if any?

13 A I did.

14 Q Were any prints lifted?

15 A No.

16 Q Okay. Now, as far as between the shoe, the
17 broken glass and the body, you can't say what the sequence
18 of events is and how they got there?

19 A No, sir.

20 Q Okay. I'm not going to put the picture back up
21 unless you need it, but as far as, as I recall your
22 testimony, as far as the bottle, any distance from that
23 between the body covered by the sheet and the glass, you
24 didn't measure that?

25 A I don't think I took any specific measurements

TONY ROBINSON-CROSS BY MR. DEJONG

1 but it's within two to three feet.

2 Q Pardon me?

3 A It's within two to three feet. And it's
4 scattered all through that area. But I didn't make take a
5 measurement of that.

6 Q Okay. All right. You lost me there. I'm
7 sorry. You said two to three feet. Was the glass
8 scattered two to three feet?

9 A The glass was probably scatter over a larger
10 area than that. But if you look at the body then the
11 glass is within two to three feet away.

12 Q Two to three feet of the body?

13 A Of the body, yes, sir.

14 Q Okay. All right. When you went and processed
15 the Lancer, excuse me, did you process both the inside and
16 the outside or just the outside?

17 A I believe I processed the inside, also. Nothing
18 was found on the inside.

19 Q Pardon me?

20 A Nothing was found on the inside.

21 Q Nothing was found on the interior. Showing
22 you -- let me just put it back up here. State's Exhibit
23 No. 11. This is -- is this the front seat or the
24 backseat?

25 A Backseat.

TONY ROBINSON-CROSS BY MR. DEJONG

1 Q Okay. So, actually this receipt you say you
2 found was in the backseat of the vehicle?

3 A You can see it in that photograph. It's in the
4 floorboard, actually. Right in the middle.

5 Q Okay. Well, what I'm looking at right here
6 appears to be a black container.

7 A That's probably a cup holder.

8 Q Okay. So, the piece of paper, as I'm looking at
9 this picture is in the cup holder?

10 A It's kind of on top of the cup holder, yes.

11 Q Not on the floorboard?

12 A Right.

13 Q Now, these would appear to be jumper cables?

14 A They are.

15 Q Did you process them?

16 A Didn't, probably not, because there wasn't much
17 there to work with on fingerprints. Surface area wise.

18 Q Is that where -- is that the position the jumper
19 cables were in when you first opened the doors to the car?

20 A Yes.

21 Q Four door vehicle?

22 A It is four door.

23 Q And the front, I guess this is the best one that
24 I can come up with. The front seat -- well, the vehicle
25 itself had a middle console, right? I picked up the wrong

TONY ROBINSON-CROSS BY MR. DEJONG

1 one. Let me try a different one here. Middle console.

2 A Yes.

3 Q All right. And then I guess for one of a better
4 term, bucket seats in the front?

5 A Yes.

6 MR. DEJONG: One moment, please, Your Honor.

7 THE COURT: Yes, sir.

8 BY MR. DEJONG:

9 Q You got out there about 10 something, is that
10 correct?

11 A Yes.

12 Q Ten at night?

13 A Yes.

14 Q Speaking out there, I'm sorry, Crosswell Baptist
15 Church parking lot?

16 A Yes.

17 Q Was there still -- referring you back to the
18 shattered glass, was there moisture around that shattered
19 glass?

20 A Yes.

21 Q Indicate something would have still been in the
22 bottle when it shattered?

23 A Yes.

24 Q Okay.

25 MR. DEJONG: Thank you, Lieutenant Robinson.

TONY ROBINSON-CROSS BY MR. DEJONG

1 MR. RICHARDSON: No further questions from the
2 State, Your Honor.

3 THE COURT: All right, thank you, sir. I
4 appreciate it.

5 All right, we're going to take a brief break.
6 So, ladies and gentlemen, if you would retire to your jury
7 room, we'll take a brief break and come back in and resume
8 testimony. All right. Thank you.

9 (WHEREUPON, the jury left open court at
10 approximately 11:08 a.m.)

11 THE COURT: All right, Mr. Richardson, how many
12 additional witnesses do you intend to call?

13 MR. RICHARDSON: Judge, I'm looking at seven.

14 THE COURT: Seven?

15 MR. RICHARDSON: That's cutting out -- we've cut
16 out about three from Spartanburg.

17 THE COURT: Okay. So, you anticipate probably
18 mid-afternoon today you should be done or -- I mean, going
19 at the same clip we're going, that would be my
20 anticipation. Or through the rest of the day?

21 MR. RICHARDSON: Yes, I think I could finish my
22 case today.

23 THE COURT: Yeah.

24 MR. RICHARDSON: Of course, Mr. DeJong may
25 cross-examine for lengthy periods of time.

1 THE COURT: How -- I saw on your witness list
2 you have two witnesses, do you still intend to call those
3 witnesses or are you still waiting to see?

4 MR. DEJONG: All candor, Your Honor --

5 THE COURT: Yes, sir.

6 MR. DEJONG: Mr. Mayfield will not be a witness.
7 We cannot locate him. And certainly, at this point in
8 time, we don't know if Mr. Yeargin will testify or not.

9 THE COURT: Okay. All right, good enough. All
10 right, I just kind of wanted to have a since and give the
11 jury an idea of where we're headed. If Mr. Yeargin
12 testifies you anticipate taking between an hour, two hours
13 collectively?

14 MR. DEJONG: Probably.

15 THE COURT: Okay. All right.

16 MR. DEJONG: I'm never a long-winded on direct
17 as I am on cross. I'll be the first to admit that.

18 THE COURT: Yeah, I understand. And
19 appropriately so.

20 Okay, we'll be in recess for 10 or 15 minutes
21 and come back in and resume testimony.

22 MR. DEJONG: Thank you, Your Honor.

23 (WHEREUPON, a short break was taken.)

24 THE COURT: Okay, ready for the jury?

25 MR. RICHARDSON: State's ready.

1 MR. DEJONG: Ready for the Defense, Your Honor.

2 (WHEREUPON, the jury came into open court at
3 approximately 11:22 a.m.)

4 THE COURT: Okay. Mr. Richardson, I believe
5 it's your case.

6 MS. HINTON: Your Honor, the State would call
7 Andy Garrett.

8 THE CLERK: If you would place your left hand on
9 the Bible, raise your right.

10 ANDY GARRETT, after being duly sworn,
11 testified, as follows:

12 THE CLERK: Thank you. If you would have a
13 seat, state your name for the record, please.

14 THE WITNESS: William Andrew Garrett.

15 DIRECT EXAMINATION

16 BY MS. HINTON:

17 Q Mr. Garrett, where are you employed?

18 A Mike Holcombe's Tire and Auto Service in Easley.

19 Q All right. Are you working today?

20 A Yeah.

21 Q All right. Well thank you for being here. How
22 long have you been a tow truck driver?

23 A Around six years, five to six years.

24 Q How is your company connected to the Pickens
25 County Sheriff's Office?

WILLIAM ANDREW GARRETT-DIRECT BY MS. HINTON

1 A I think the way I understand it, all wreckers
2 that meet certain criteria are able to be on a county
3 rotation. It's just a list with the wrecker names and
4 they pick -- well, I guess they just go down the list
5 until whoever answers the phone, that's who gets the call.

6 Q Okay. Were you on that rotation on
7 September 19th of 2011?

8 A Yes.

9 Q Were you called out to a location of a Grand
10 Prix?

11 A Yes, ma'am.

12 Q Do you remember where that Grand Prix was
13 located?

14 A It was somewhere off of August Road in
15 Greenville in that area.

16 Q When you got there do you recall who was on
17 scene?

18 A Yeah, Lane Byers, being there was so many of
19 them, there was a lot of police people there.

20 Q Were they all law enforcement?

21 A Yeah.

22 Q Let me show you what's been marked as State's
23 Exhibit No. 8 that's in evidence, do you recognize that
24 scene?

25 A Yes, ma'am.

WILLIAM ANDREW GARRETT-DIRECT BY MS. HINTON

1 Q Okay. Are you located on that picture?

2 A Yes, ma'am.

3 Q Okay. Is that your wrecker?

4 A Yes, ma'am.

5 Q What kind of wrecker is that?

6 A That's a Chevrolet 5500, it's a rollback.

7 Q Okay. And a rollback, what does that mean?

8 A The bed actually comes off of the frame of the
9 truck, it tilts down in front of the car.

10 Q Okay. How do you load a car on to a rollback?

11 A You just get in front of it or behind it, tilt
12 the bed back down in front of it. And it's got a winch
13 cable with two chains. I guess it's got a hook on each
14 chain about this long. It's probably about eight each
15 chain. And then you just slide up under the car and hook
16 to the front end of it. Winch it up on the truck.

17 Q All right. Did you put anything -- did you wear
18 any protective gloves?

19 A Yeah, I wear gloves on every call.

20 Q Every call?

21 A Yes, ma'am.

22 Q Did you where gloves on this call?

23 A Yes, ma'am.

24 Q Describe how you loaded that Grand Prix on to
25 that rollback?

WILLIAM ANDREW GARRETT-DIRECT BY MS. HINTON

1 A Well basically, I just pulled up in front of it.
2 Close enough to where I can get to the truck -- I mean,
3 the cable's 50 foot long. So, I can pull from 50 foot
4 away. Close enough, I crawled up under the car and hooked
5 it to the A-frames on the front tires. And then just drug
6 it up on the truck.

7 Q Did you have to touch it to load it?

8 A If I touched anything it would have been the
9 inside of the tire when I laid down under it.

10 Q Did you have to touch the outside at all?

11 A No, ma'am.

12 Q And after you loaded the Grand Prix onto your
13 rollback, where did you go?

14 A I went straight from the scene to Pickens County
15 Law Enforcement Center.

16 Q Okay. When you got there did you go to any
17 place in particular at the law enforcement center?

18 A I went straight to their storage lot.

19 Q Okay. And is that a security area as best you
20 can tell?

21 A Yes, ma'am.

22 Q Okay. Could you drive right in?

23 A No.

24 Q How did you get in?

25 A I think Lane Byers followed me from the scene to

WILLIAM ANDREW GARRETT-DIRECT BY MS. HINTON

1 the sheriff's department. And I guess he made a call --
2 or they knew we were coming. And Tony come out and opened
3 the gate and let us in.

4 Q Once you got inside what did you do?

5 A Found a place to where I think there would be
6 enough room for the car, tilted the bed back and unhooked
7 my chains from it. And you can rock the bed back and
8 forth, it's a hydraulic system and rock it back and forth
9 enough to where the car just slide off the bed.

10 Q Okay. Do you know if there are any keys to this
11 car?

12 A I don't think so, I don't have a clue. I don't
13 think so.

14 Q After you dropped that Grand Prix off in the
15 impound lot, is that the only involvement you had in this
16 case?

17 A Yes, ma'am.

18 MS. HINTON: Mr. Garrett, that's all I have.

19 Answer any questions Mr. DeJong might have, please.

20 THE WITNESS: Okay.

21 MR. DEJONG: May it please the Court.

22 CROSS-EXAMINATION

23 BY MR. DEJONG:

24 Q Mr. Garrett, how the car got there you don't
25 know, do you.

ANDY GARRETT-CROSS BY MR. DEJONG

1 A No.

2 Q How long it had been there you don't know?

3 A No, sir.

4 Q Who put it there you don't know?

5 A No, sir.

6 Q Was this a rear wheel or front wheel drive
7 vehicle?

8 A The Grand Prix is a front wheel drive vehicle.

9 Q So, you just lift that up, then the back wheels,
10 are they free wheels?

11 A Yes, they're free wheels. Unless the parking
12 break's pulled. You know, just from past experiences.

13 Q Was the parking break on on this vehicle?

14 A I don't think so, I don't remember.

15 Q Okay. Well, had the parking break been on, it
16 would have made some squealing, squelching noise, I
17 suspect, when you pulled it back up on the truck?

18 A Yeah. Well actually, the front tires make noise
19 because if the vehicle's in park, it's just being drug.

20 Q Is that what happened on this vehicle?

21 A Yeah, yeah.

22 Q So, you don't go inside the vehicle--

23 A No, sir.

24 Q Take it, I gather?

25 A No, sir.

ANDY GARRETT-CROSS BY MR. DEJONG

1 MR. DEJONG: Thank you Mr. Garrett.

2 MS. HINTON: No redirect, Your Honor. May he be
3 excused?

4 THE COURT: Yes, ma'am.

5 Thank you, Mr. Garrett, I appreciate you being
6 here, sir.

7 MR. DEJONG: No objection to him being excused,
8 Your Honor.

9 THE COURT: All right.

10 MS. HINTON: Your Honor, the State would call
11 Scott Ticknor.

12 THE CLERK: Place your left hand on the Bible,
13 raise your right.

14 SCOTT TICKNOR, after being duly sworn,
15 testified as follows:

16 THE CLERK: If you would have a seat, state your
17 name for the record, please.

18 THE WITNESS: My name is Scott Ticknor.

19 DIRECT EXAMINATION

20 BY MS. HINTON:

21 Q And the microphone system is out, if you would
22 just speak up for us.

23 A Super.

24 Q Where are you currently employed?

25 A I'm employed with the sheriff's office in

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 Pickens County.

2 Q How long have you been there?

3 A Since the mid 90's.

4 Q Okay. And what capacity are you employed there?

5 A I work the warrants fugitive section.

6 Q How long have you been in that section?

7 A A little over 12 years.

8 Q Okay. Did you first become involved in a case
9 with Mr. Yeargin on September the 20th of 2011?

10 A That is correct.

11 Q Okay. And was that at a Wal-Mart in Travelers
12 Rest?

13 A Yes, ma'am.

14 Q Okay. Speak up just a little bit for me.

15 A Yes, ma'am.

16 Q Can you tell the Court what transpired to set
17 that up?

18 A Earlier that morning we received a tip that the
19 person in question would be at this location. We took a
20 team up there and things didn't go as well as planned.

21 MR. DEJONG: Your Honor, I'm sorry, I can't
22 hear. May I move in the corner?

23 THE COURT: Sure, yes, sir, you may.

24 MR. DEJONG: I'm sorry, Ms. Hinton.

25 MS. HINTON: That's all right.

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 BY MS. HINTON:

2 Q Go ahead.

3 A Things didn't go as well as planned and the
4 vehicle in question took off. There was a small chase
5 that went down State Park Road and then we were called off
6 the chase.

7 Q Let's back up a little bit.

8 A Yes, ma'am.

9 Q Who was with you? Not names but was it just
10 Pickens County that was involved in this?

11 A No, ma'am. I'm a special deputy with the US
12 Marshall Task Force and our office was called in to come
13 up and assist in this case.

14 Q Okay. And are you able to disclose the details
15 of how this operation was supposed to happen?

16 A In some form I can. We receive tips just like
17 anything else. And informants and things of that nature.
18 And we got some tip that this would be transpiring in that
19 area. So, we grabbed a group of guys went up there and
20 set up and things just didn't go as planned. And they
21 were able to escape that day.

22 Q What was your goal in meeting at the Wal-Mart in
23 Travelers Rest?

24 A To take down the subject in question.

25 Q Okay. Was -- did you have any information of

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 whether he was alone or whether he would be with other
2 people?

3 A We understood that he was going to be with other
4 people and there was a vehicle in play. It was a blue
5 Mustang that we're talking about and that's what we were
6 looking for at the time.

7 Q I believe you testified that there was a small
8 chase that happened, can you tell us a little bit about
9 that?

10 A The vehicle was able to get out to the end of
11 the parking lot, hit State Park Road. Myself and a couple
12 other people were involved. The chase went through Sandy
13 Flats, I believe, it is down through there. And the
14 speeds were high so they went ahead and called that chase
15 off.

16 Q Okay. And called it off for what reason?

17 A For safety. The vehicle was passing on double
18 yellow lines and things of that nature.

19 Q Okay. So, were you able to catch up to the car
20 that day?

21 A No. No.

22 Q Did you become involve in this case again in
23 Asheville, North Carolina?

24 A Yes, ma'am. Received a call about eight o'clock
25 on the 21st. And was asked to come to Asheville and we

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 met in a parking lot up there. Where we received a tip,
2 also, that the persons in question were at a motel. We
3 staged at a bank parking lot up the road. And then when
4 we got the go ahead I came in and I made contact with the
5 clerk at the motel. Showed some photographs of some
6 people of interest. She confirmed two rooms for us. And
7 then we went up and took two times -- or three teams. One
8 team outside and two teams on the inside.

9 Q Okay. Let me stop you real quick. When you
10 showed the photographs to the clerk, how many photos did
11 you show her?

12 A I had three photographs.

13 Q Okay. What were the sex and the race of the
14 people you showed her?

15 A We were looking for two females and one male.

16 Q Do you know the race of the females?

17 A I believe it was a black female and a white
18 female.

19 Q What about the male?

20 A A black male.

21 Q Was the clerk able to provide you with
22 information of where they were staying?

23 A Yes. She provided two room numbers. Without
24 any question.

25 Q When you received those room numbers did you go

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 to those rooms?

2 A Yes, we did.

3 Q Did all of you go to one room?

4 A No. One team went outside and covered the back
5 of the building. Then one team went to one of the rooms
6 at the 300 hall then he went to the other room.

7 Q Okay. All right. Who was in the room that you
8 took down?

9 A The room that I took down, there was a lady that
10 answered the door. A young lady, I don't remember her
11 name. And then the gentleman in question.

12 Q Okay. Can you point to the gentleman in
13 question that was --

14 A Right over here.

15 Q And let the record reflect that he pointed to
16 the Defendant.

17 The woman that answered the door, was she
18 involved at all in this case to your knowledge?

19 A Not to my knowledge, no.

20 Q All right. Let's talk about entering that room
21 specifically. Do you recall how that process went?

22 A I made first entry myself and Joe Distori. And
23 on our way in we noticed the gentleman at the back of the
24 room. And from what I understand on the radio, we heard
25 that he was trying to make exit out the back window. I

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 guess he was confronted there with weapons and flashlights
2 so he came back -- it's my understanding that he came back
3 in and we met him.

4 MR. DEJONG: Your Honor, I'm going to object.
5 If he's guessing -- that's guessing, that's not evidence
6 and I move that that be stricken. If he knows he can
7 testify to that. But I heard, I guess.

8 THE COURT: Okay. I'll let you restate the
9 question and you can answer that question again. I didn't
10 hear the guessing so clearly but you may be right, let's
11 try it again.

12 MR. DEJONG: Thank you, Your Honor.

13 BY MS. HINTON:

14 Q When you entered the room of where the Defendant
15 was, what did you observe him doing?

16 A I observed -- we moved the female out the door
17 immediately and I went in and I observed him in the middle
18 of the room coming from the back of the room. The window,
19 it's lined right up with the door. I went towards him, he
20 was coming back towards us. There was radio traffic that
21 I heard as we were entering that he was coming out the
22 window, somebody was coming out the window. And like I
23 said, that would have been him, he was the only other
24 person in the room, so.

25 Q All right. He comes back to the center of the

SCOTT TICKNOR-DIRECT BY MS. HINTON

1 room, what do you do?

2 A We take him down to the ground and handcuff him
3 with no incident.

4 Q Okay. Were you involved in any questioning of
5 any of the people that evening?

6 A I was notified by Deputy Dow when I went down to
7 the next room, there was two females in the room and a
8 small child. And I was asked by Deputy Dow to interview
9 Ms. -- I don't know if I'm going to pronounce her name
10 correctly, Utsey.

11 Q Okay, what's her first name?

12 A Nyia. And I pulled her out of earshot of Kayla
13 and mirandized her and ask her a few questions about the
14 case.

15 Q Okay. Aside from that did that end your
16 involvement in this case?

17 A Yes, it did.

18 MS. HINTON: That's all I have at this time,
19 please answer any questions Mr. DeJong might have.

20 MR. DEJONG: Thank you, Your Honor, may it
21 please the Court?

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. DEJONG:

25 Q Deputy Ticknor?

SCOTT TICKNOR-CROSS BY MR. DEJONG

1 A Yes, sir.

2 Q I want to go back. I believe you said on the
3 night of September the 20th you went to the Wall-Mart in
4 Travelers Rest, is that correct?

5 A Yes, sir.

6 Q And--

7 A Wasn't nighttime, it was in the late afternoon,
8 sir. It was still light out.

9 Q Daylight hours.

10 A Yes, sir.

11 Q Did you see who was driving the vehicle?

12 A No, sir.

13 Q Did you see if it was male or female?

14 A No, sir.

15 Q Okay. So, you don't know who was driving the
16 vehicle?

17 A No, sir, I do don't.

18 Q Okay. And ultimately, three people were taken
19 into custody, that was up in North Carolina?

20 A Yes, sir.

21 Q Two females and one male?

22 A Yes, sir.

23 Q The Mustang, did you ever run the tags or
24 anything on that car to check the ownership on it?

25 A No, sir. I seen -- the Mustang was at the back

SCOTT, TICKNOR-CROSS BY MR. DEJONG

1 of the Sleep Inn on the right-hand corner standing in
2 front of the building. And the team that went around back
3 were the ones that was supposed to have done that.
4 Because they passed that vehicle.

5 Q So, you don't know who the vehicle was
6 registered to today?

7 A I don't.

8 Q Okay. Now, do you know how many people were in
9 the vehicle when it left the Travelers Rest parking lot?

10 A No, sir.

11 Q How close did you get to that vehicle?

12 A Just the rear view of it.

13 Q I'm sorry, sir?

14 A Just the rear view of it. I saw it going down
15 the road, sir.

16 Q All right. So did it ever come into the parking
17 lot?

18 A It did. At the bottom corner, there were some
19 officers set up down there and that's when the radio
20 traffic came about and that's when the vehicle chase
21 ensued.

22 Q Were you in a marked or unmarked car?

23 A Unmarked car, sir.

24 Q Okay. Well, how close was the closet vehicle to
25 that car, were you the closet?

SCOTT TICKNOR-CROSS BY MR. DEJONG

1 A No, sir.

2 Q How close was the closet vehicle?

3 A At the beginning of it, probably not too close.
4 I mean, they were within eyeshot of it, then it took off.

5 Q Who was in that vehicle, if you know?

6 A I'm not real sure. There was so many other
7 vehicles there, I'm not sure. With the radio traffic two
8 people had got eyeballs on it and that was the only thing
9 I know.

10 Q Okay. So, somebody was a lot closer to the
11 vehicle than you were?

12 A Yes.

13 Q Now, when you went into the room of the person
14 you have identified as Mr. Yeargin, you said there was
15 another female there?

16 A Yes.

17 Q Was she ever questioned, do you know?

18 A I didn't question her, no, sir.

19 Q Okay. Do you know if anybody else did?

20 A I'm not sure.

21 Q Okay. Now, when you went in that room that you
22 say Mr. Yeargin was in, was that window opened or closed?

23 A It looked to be tampered with. I don't remember
24 if it was opened or closed. I just know that he was at
25 the back of it coming towards me when we first made entry

SCOTT TICKNOR-CROSS BY MR. DEJONG

1 into the room.

2 Q Okay. Once he was in the middle of the room,
3 that was that end of it?

4 A That was the end of it, that's correct.

5 Q He didn't attempt to go to the window at that
6 point in time?

7 A Not the time, sir.

8 Q All right. Well, how long were you in the room
9 before he came -- or was in the middle of the room?

10 A Split seconds.

11 Q Sorry?

12 A Seconds, if that long.

13 Q Basically, a split second?

14 A Yes, sir.

15 Q If there is such a thing?

16 A If you say that.

17 Q Almost immediately?

18 A Correct.

19 Q All right. And once you were there and he was
20 taken down there was no resistance, no struggling?

21 A No, sir.

22 Q Now, when you interviewed Ms. Utsey, was anyone
23 else from the Pickens County Sheriff's Office there?

24 A No.

25 Q Okay. Did you file a report of your interview

SCOTT TICKNOR-CROSS BY MR. DEJONG

1 with Ms. Utsey?

2 A I did a supplemental, yes, sir.

3 Q Okay. All right. After the TR -- excuse me,
4 Travelers Rest incident, was a tag number obtained on the
5 Mustang at that point in time?

6 A I believe so.

7 Q Did anybody run that tag?

8 A Someone possibly could have, sir. There was
9 other people in the lead on that case and I wasn't a part
10 of that. I was more of the --

11 Q So, you're weren't the lead on that?

12 A No, sir.

13 Q You were the tag along.

14 A I'm the tag along.

15 Q All right, sir. So, whether it was run or
16 wasn't run you don't know and if it was you don't know
17 what the results were?

18 A That's correct.

19 Q The blue Mustang, I gather during -- well, let
20 me change that a little bit. I guess hearing your
21 testimony there were numerous vehicles out there, were
22 these all US Marshall vehicles or county vehicles or?

23 A There's a -- the task force consists of a lot of
24 county and Marshall people from the Greenville office,
25 Spartanburg office and Pickens office, Anderson office and

SCOTT TICKNOR-CROSS BY MR. DEJONG

1 such.

2 Q Okay. So, it's kind of a mix bag of deputies
3 and you're on--

4 A Right. Deputy marshalls, special deputy
5 marshalls, yes, sir.

6 Q Okay. And that's what all these people were?

7 A Yes, sir.

8 Q Okay. All right. Now, do they drive -- for
9 example, in your case did you drive a Pickens County car?

10 A Yes.

11 Q Okay. Then all the others drive --

12 A Have their --

13 Q -- county cars.

14 A Yes, sir.

15 Q They were all unmarked vehicles?

16 A Yes, sir.

17 Q Who did -- I believe you said you had two
18 pictures?

19 A Say again.

20 Q You had two pictures that you took to the motel?

21 A A couple pictures, yes, sir. I believe I had
22 three pictures of the people in question that were given
23 to me by one of the deputy marshalls. And I was easy
24 enough to strip down from my tack gear and was able to go
25 inside and look sort of the part you may say.

SCOTT TICKNOR-CROSS BY MR. DEJONG

1 Q The -- was there any discussion with the clerk
2 other than just showing her the picture to see if those
3 people were there?

4 A No, sir, I came in and explained to her who I
5 was, showed her the pictures and asked if she could be of
6 assistance. Then she pointed me to two rooms and those
7 are the ones that she said.

8 Q These cars, for one of a better term, the county
9 cars that were involved in the chase in Travelers Rest,
10 were any of those equipped with video cameras?

11 A Not to my knowledge, sir.

12 MR. DEJONG: One moment, please, Your Honor.

13 Q Did you attempt to get any parking lot videos
14 from Wal-Mart on this whole thing?

15 A I didn't.

16 Q Pardon me?

17 A I didn't, sir.

18 Q You did not?

19 A No, sir.

20 Q Okay.

21 MR. DEJONG: Thank you, Mr. Ticknor.

22 MS. HINTON: No redirect, Your Honor. May he be
23 excused?

24 THE COURT: Yes, ma'am.

25 THE WITNESS: Thank you, sir.

SCOTT TICKNOR-CROSS BY MR. DEJONG

1 MR. DEJONG: No objection.

2 MR. RICHARDSON: May it please the Court?

3 THE COURT: Yes, sir.

4 MR. RICHARDSON: The State calls Kayla Williams.

5 THE CLERK: Place your left hand on the Bible,
6 raise your right.

7 KAYLA WILLIAMS, after being duly
8 sworn, testified as follows:

9 THE CLERK: Have a seat, state your name for the
10 record, please.

11 THE WITNESS: My name is Kayla Williams.

12 DIRECT EXAMINATION

13 BY MR. RICHARDSON:

14 Q Okay, Ms. Williams, our system is out, the sound
15 system, so you're going to have to speak really loud,
16 okay?

17 A Okay.

18 Q That mic's not picking you up.

19 A All right.

20 Q Now, Ms. Williams, how old are you?

21 A I'm 22.

22 Q Okay. And are you presently working?

23 A Yes.

24 Q Where are you working?

25 A Columbia Farms.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q All right. And are you married?

2 A No.

3 Q Do you have any children?

4 A No.

5 Q Okay. Ms. Williams, you have been indicted and
6 charged by me for murder, is that correct?

7 A Yes.

8 Q You've also been indicted and charged by me for
9 grand larceny, is that correct?

10 A Yes.

11 Q And that relates to this incident that we're
12 here today about, is that correct?

13 A Yes.

14 Q Okay. And you're here under my subpoena?

15 A Yes.

16 Q Okay. Are you represented by an attorney?

17 A Yes.

18 Q Who are you represented by?

19 A Elizabeth Wiygul.

20 Q Elizabeth Wiygul, is she in this courtroom?

21 A Yes, right there.

22 Q This nice looking young lady here?

23 A Yes.

24 Q Okay. How do you know the Defendant?

25 A He was my ex girlfriend's brother.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. So well, what his ex -- what's your ex
2 girlfriend's name?

3 A Nyia Utsey.

4 Q Okay. Nyia Utsey's also been charged with the
5 murder, is that correct?

6 A Yes.

7 Q She's also been charged with the grand larceny,
8 is that correct?

9 A Yes.

10 Q Okay. How long -- how long have you known the
11 Defendant?

12 A Probably two months, not even that.

13 Q All right. When you say two months you mean two
14 months prior to the incident that we're here about?

15 A Yes.

16 Q And you said Ms. Utsey, Nyia, y'all were -- she
17 was your girlfriend?

18 A Yes.

19 Q Okay. So, y'all had a inmate relationship?

20 A Yes.

21 Q How long had you known her?

22 A For about six months.

23 Q Okay. At the time of this incident, were you
24 living with Nyia Utsey?

25 A Yes.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Am I saying that right? Is it Utsey or Utsey?

2 A Utsey.

3 Q Okay. And where did y'all live?

4 A We lived at InTown Suites in Greenville.

5 Q I'm sorry, can you say that again?

6 A InTown Suites in Greenville.

7 Q InTown Suites is a hotel/motel?

8 A Yes.

9 Q How long had y'all lived there?

10 A A month.

11 Q Okay. A month, when you say a month prior to
12 the incident?

13 A Yes.

14 Q Now, at that time, were y'all working?

15 A Yeah -- oh no, no. Not at that time, no.

16 Q Okay. And so we're clear, you're out on bond
17 right now, is that correct?

18 A Yes.

19 Q Your grandfather posted your bond and got you
20 out of jail?

21 A Yes.

22 Q Do you have any special conditions of bond?

23 A Just I got to work, church, hospital, report to
24 my lawyers and that's it.

25 Q And do you have to wear anything?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Yes.

2 Q What do you wear?

3 A A ankle monitor, GPS, ankle monitor.

4 Q So in effect, you're house arrest, too?

5 A Right, yes.

6 Q Okay. Now, at the time of the incident you
7 stated you and Nyia Utsey were not working?

8 A Yes, right.

9 Q Okay. Let me take your memory back -- I'm going
10 to take your memory back to Friday before the incident
11 took place, okay? September 16th.

12 A Okay.

13 Q Do you remember that time?

14 A Yes.

15 Q Okay. Did you have an occasion to have any
16 contact with the Defendant on that day?

17 A Yes.

18 Q Okay. How did that come to be?

19 A He had called me and told me that he wanted to
20 go get some cars that supposedly was his he said. He had
21 made up some titles that I had later found out was fake.
22 But at that time he was making me believe that they were
23 real for two cars. The Grand Prix and some other car.

24 Q Okay. Did he say where he was going to get
25 these cars?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A He said in Pickens, Easley area.

2 Q All right. Now, did you talk to him about money
3 or anything of that nature?

4 A Yes.

5 Q What did you talk to him about?

6 A I told him I needed gas money because I don't
7 have my job and we needed money.

8 Q Okay. Did he agree to give you money?

9 A Yes.

10 Q Did he tell you how much money he would give
11 you?

12 A Yes.

13 Q How much is that?

14 A About 10, \$20.

15 Q Now, did he call you on a cell phone?

16 A Yes.

17 Q Whose cell phone?

18 A Nyia's.

19 Q All right. But you the conversation with him?

20 A Yes.

21 Q Was Nyia there?

22 A Yes.

23 Q What did y'all do then?

24 A After I hung up with him?

25 Q Yes..

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A He told me that he wanted to meet up with me
2 later on that night to go to his house to see about the
3 cars.

4 Q Okay. So, when you say he, are you talking
5 about the Defendant wanted to meet up with you?

6 A Yes.

7 Q Did y'all meet up?

8 A Yes.

9 Q Okay. Who met?

10 A Me and Nyia met him at his sister Taz's house.

11 Q Okay. Now, let me ask you this, I forgot to ask
12 you. In the hotel room where y'all lived, did anybody
13 else live in that room?

14 A No.

15 Q Did Nyia have a baby?

16 A Oh, yes. Her little baby, yes.

17 Q That baby also lived in that room?

18 A Yes.

19 Q Okay. Where did you go when you left that room
20 that Friday night?

21 A We went to Taz's. Well, we went to his momma's
22 house to drop her son off, then we went to Taz's.

23 Q You went to the Defendant's mother house?

24 A Right.

25 Q And did you go inside?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A No. She went in -- Nyia went in, dropped the
2 baby off, got back in the car, we left and went to Nyia's
3 sister's house.

4 Q Okay. And what's her name?

5 A Taznick Utsey.

6 Q All right. And was that where you picked the
7 Defendant up?

8 A Yes.

9 Q Okay. Now, when you picked the Defendant up,
10 did you -- did you go inside?

11 A No.

12 Q Okay. Did you notice him -- how did he know you
13 were outside? How did he know you -- to come out?

14 A I guess he seen me pull up or he was already
15 standing outside. One of the two, I can't remember.

16 Q Okay. And did he get in the car with you?

17 A Yes.

18 Q Where did he go?

19 A He got in the backseat of my car.

20 Q Okay. Did he have anything in his hands at that
21 time.

22 A No.

23 Q What kind of car were you driving?

24 A A Mustang.

25 Q What color?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Blue.

2 Q Whose Mustang was that?

3 A It's my grandfather's but he gave it to me as a
4 gift.

5 Q Is this a picture of that car?

6 A Yes.

7 Q Excuse me, I'm referring to State's 17. Is that
8 the car you drove from Taz's house?

9 A Yes.

10 Q All right. Who was in the car?

11 A Me, Nyia and Yeargin.

12 Q Okay. Who was driving?

13 A Me.

14 Q And where were you? Excuse me, where was Nyia?

15 A Passenger side.

16 Q Okay. And where was the Defendant?

17 A In the backseat.

18 Q All right. Is this nighttime?

19 A Yes. Well, it's getting late, dark, yeah.

20 Q Okay. What, if anything, does the Defendant
21 tell you to do?

22 A What does he tell me to do?

23 Q Yes.

24 A He tells me which way to go to get to Dinneon's
25 house.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Sean Dinneon's house?

2 A Yes.

3 Q Now, do y'all discuss what you're going to do
4 when you get over to Sean Dinneon's house?

5 A He just tells me that we're going to go get the
6 cars. But he had planned that he wanted to rob him. So.

7 Q When you say he wanted to rob him, who are you
8 referring to?

9 A Yeargin wanted to rob Dinneon.

10 Q Okay. And is he talking about this in the car
11 with you?

12 A Yes.

13 Q In the Mustang?

14 A Yes. Yes.

15 Q Is that on the way over to Sean Dinneon's house?

16 A Yes.

17 Q Is Nyia listening to this conversation?

18 A Yes.

19 Q All right. Does he tell you how he wants to do
20 it?

21 A He wanted to tie him up with zip ties. Knock
22 him out and tie him up.

23 Q Okay. Now, approximately how long, I know it's
24 been a while, but how long does it take you to get from
25 Taz's house to Dinneon's house? Sean Dinneon's house?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Maybe an hour or less.

2 Q Okay. And do y'all stop anywhere prior to going
3 to Sean Dinneon's house?

4 A No.

5 Q Once you get to Sean Dinneon's house, what do
6 you do?

7 A It's dark so he -- I think Nyia gets out and
8 goes and knocks on the door. Nobody's there. No lights
9 are on. So, he tells us to get back in the car and we're
10 going to try the next night.

11 Q Now, when you say he, who are you talking about?

12 A Yeargin.

13 Q The Defendant?

14 A Yes.

15 Q After you left, nobody was home, did you testify
16 to that?

17 A Right, yes.

18 Q After you left Sean Dinneon's house Friday,
19 where did you go?

20 A Back to Taznick's house and dropped Tav off.

21 Q Tav is the Defendant?

22 A Yes.

23 Q Then what?

24 A Then we went and picked up Nyia's baby at her
25 mom's and we went back to the hotel.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. Back to the InTown Suites?

2 A Yes, sir.

3 Q All right. Now, I may have asked you this but
4 where is that located?

5 A Greenville.

6 Q Do you know what road it's on in Greenville?

7 A Do what?

8 Q Do you know what road it's on in Greenville?

9 A Wade Hampton.

10 Q Okay. Okay. Do y'all do anything else with the
11 Defendant that night, Friday night?

12 A No.

13 Q Do you talk the him anymore Friday night?

14 A No.

15 Q Okay. Do y'all, in fact, go to sleep at the
16 InTown Suites?

17 A Yes.

18 Q Do you have contact with the Defendant again on
19 Saturday morning?

20 A Yes.

21 Q Okay. And is this September the 17th?

22 A Yes.

23 Q 2011?

24 A Yes.

25 Q Okay. How do you have the contact?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A He calls Nyia's phone again.

2 Q When you say he, are you talking about the
3 Defendant?

4 A Yes.

5 Q And who answered Nyia's phone?

6 A Me.

7 Q Does Nyia have a cell phone?

8 A Yes.

9 Q And what do y'all discuss?

10 A That he wants to go get the cars again, try
11 again.

12 Q Okay. And do you agree to that?

13 A Yes.

14 Q Okay. Do you talk about money anymore?

15 A Yes.

16 Q Okay. What do you talk about?

17 A I tell him I need gas money.

18 Q All right. Does he agree to give you gas money?

19 A Yes.

20 Q All right. At some point in time do you make
21 physical contact with the Defendant?

22 A Yes.

23 Q Okay, when is this?

24 A Later on in the evening.

25 Q Okay. Do you recall when he called you? Was it

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 morning, evening?

2 A It was around lunchtime.

3 Q Okay. What do y'all do?

4 A When I hang up or?

5 Q Yeah, sure. When you hang up, what do y'all do?

6 A We wait until it gets dark -- well, almost dark.

7 And we go over to Taz's house and -- well, we dropped her
8 baby off again at her mom's house at first.

9 Q So, you go to Nyia's mom's house?

10 A Yes. Then we dropped her baby off, then we go
11 back to Taznick's to pick up Tav.

12 Q By Tav you mean the Defendant?

13 A Yes.

14 Q Tav is a nickname for him?

15 A Yes.

16 Q Okay. When you get to Taznick's house, is that
17 right?

18 A Yes.

19 Q Okay. Was the Defendant there?

20 A Yes.

21 Q Okay. Where were you?

22 A I was in my car.

23 Q All right. Did -- did the Defendant come out?

24 A Yes.

25 Q Okay. What, if anything, did he have in his

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 hands?

2 A He didn't have nothing in his hands.

3 Q Okay. At that point in time do y'all go some
4 where else?

5 A Yes.

6 Q Where do you go?

7 A We go back to his mom's house.

8 Q Okay. And do you recall where his mother lived?

9 A All I know it's near Piedmont Manor in
10 Greenville.

11 Q Okay. What does he do at his mother's house?

12 A That's when he gets the gun from his brother.

13 Q Okay. Did you -- when you say gun, did you see
14 the gun?

15 A Yes.

16 Q Okay. When did you see the gun?

17 A When he pulled it out. When Mike Utsey pulled
18 it out of the closet.

19 Q Now, who is Mike Utsey?

20 A Nyia Utsey's brother.

21 Q Okay. So, he's also the Defendant's brother?

22 A Right.

23 Q Okay. Was this a short gun, a long gun; can you
24 describe the gun to the jury?

25 A It was a long barrel gun.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. At that point in time what does he do?

2 A He gets it and puts it in the trunk of my car.

3 Q Okay. Does he attempt to cover the gun in any
4 way?

5 A He covers it with, I think, a black T-shirt.

6 Q Okay. All right. Now, do you know is the gun
7 loaded?

8 A He told me that the gun wasn't loaded, that
9 nobody was going to get hurt. That it was going to be
10 used for like a prop, you know.

11 Q That's what the Defendant told you?

12 A Yes.

13 Q Okay. Now, after he puts it in the trunk --
14 well, let me ask you this, when he first went back into
15 the room with Mike, did you see them then at that point in
16 time?

17 A Did I see what?

18 Q Did you see when they first went back into the
19 room, Mike and him went back into the room, did you see
20 them together when they first went back there?

21 A No.

22 Q Okay. All right. So, when you leave there you
23 stated he put the gun in the trunk?

24 A Yes.

25 Q Where does he get into the car?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A What do you mean where?

2 Q Where was he sitting in the car?

3 A Oh, when he gets in the car?

4 Q Yes.

5 A In the backseat.

6 Q Okay. And where were you sitting?

7 A In the driver's seat.

8 Q Okay. Where does Nyia sit?

9 A In the front beside me.

10 Q Okay. And on this particular car, is there a

11 way to get from the backseat into the trunk?

12 A Yes.

13 Q Without getting out of the car?

14 A Yes.

15 Q How do you do that?

16 A There's little buttons in the backseats, that's

17 on the back of the seats, that you mash down and you let

18 down the seat.

19 Q Okay. And does that give you full access to the

20 entire trunk?

21 A Yes.

22 Q So, at that point in time when you leave there,

23 where do you go?

24 A We leave there and we start to head over towards

25 Dinneon's. And then he tells me to turn around and go to

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Taylors to go pick up his brother, Charles.

2 Q When you say he, talking about the Defendant,
3 right?

4 A Right.

5 Q Did you know Charles?

6 A I knew him a little bit but not a lot.

7 Q Okay. Where did Charles live?

8 A I'm not sure where he lived. I'm not sure where
9 we went to pick him up. But all I knew it was Taylors.

10 Q All right. So, did you go to Charles' home?

11 A Yes.

12 Q Okay. When you went to Charles' home, what
13 happened?

14 A While we are on our way there he calls him and
15 tells him to be waiting out. To get in the car, we're
16 going to leave. So, we get there, he's there, we--

17 Q And when you say he, I'm going to keep doing
18 that so the jury knows exactly who you're talking about.
19 When you say he, who are you talking about?

20 A Charles. Charles gets in the car, in the back
21 with Tav and we drive to Dinneon's.

22 Q All right. Now, prior to going to Charles'
23 house, did you witness the Defendant call him or anything
24 of that nature?

25 A Yes.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. And where did he call him from?

2 A Nyia's phone.

3 Q Was that -- was he in the Mustang at that time?

4 A Yes.

5 Q What did he tell Charles?

6 A That he's got something he wants him to help him
7 with and to be waiting on him when he gets there.

8 Q Okay. How long did the -- excuse me, how long
9 did the conversation between the Defendant and Charles
10 last, approximately?

11 A Around five minutes.

12 Q Okay. When you get to Charles' house, is
13 Charles there?

14 A Yes.

15 Q And does he get in the car?

16 A Yes.

17 Q All right. Where is Charles sitting?

18 A Behind Nyia.

19 Q All right. Now, at this point in time, where do
20 y'all go?

21 A To Dinneon's.

22 Q Okay. And do y'all talk about what you're going
23 to do when you get to Dinneon's?

24 A Yes.

25 Q Tell the jury what y'all talked about.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Tav talks about that he wants Charles to act
2 like he wants to buy the cars. And that, you know, like
3 one of me or Nyia's his girlfriends. That way there is
4 cover up for that. But he just acts like we're going to
5 buy the cars. And when we do -- when we say we're going
6 to buy the cars, we're going to test drive them. And then
7 that's when we were supposed to steal them.

8 Q Okay. Do y'all talk about how you were going to
9 steal them?

10 A Yeah.

11 Q How?

12 A Test drive them and steal them like that.

13 Q Okay. Does he discuss the gun?

14 A Yeah.

15 Q To Charles?

16 A Yes. Use it as a prop.

17 Q Okay. Now, when this is all taking place, is
18 Charles agreeable to it?

19 A Yes.

20 Q Okay. Why did he need Charles there?

21 A At first I didn't realize what he needed Charles
22 for but then I realized, you know, he needed him because
23 he couldn't -- Dinneon couldn't see Tav.

24 Q Why could Dinneon not see the Defendant?

25 A He never told me why but after all this happened

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 I did figure out why, though.

2 Q Okay. Why is that?

3 A Because they use to live with him and I didn't
4 know that.

5 Q Okay. So, did you ascertain that Dinneon and
6 the Defendant knew each other?

7 A Yes.

8 Q Okay. So, when you get to Sean's house, it is
9 dark outside?

10 A Yes.

11 Q Dark, dark?

12 A Yes.

13 Q Okay. Does your Mustang, does it have a light
14 in it?

15 A Yes.

16 Q Where's that light.

17 A It was up at the top but Tav told me to bust it
18 out.

19 Q I'm sorry, say that again.

20 A Tav told me to bust it out.

21 Q Bust out the light?

22 A Yes.

23 Q If that light is busted out, is there any light
24 in the car after that?

25 A No.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Was the light busted out prior to you getting to
2 the victim's house, Sean Dinneon's?

3 A Yes.

4 Q Prior to getting to the victim's house, is
5 there --- does the Defendant give you anything?

6 A He -- I don't know how he got it but he gave me
7 a BB gun.

8 Q What did he tell you he wanted you to do with
9 that BB gun?

10 A He told me to use it on that -- the lady that
11 Dinneon was with.

12 Q Use it how?

13 A Hit her with it. Point it at her, use it on
14 her.

15 Q Okay. Would you recognize that BB gun if I
16 showed it to you today?

17 A Yes.

18 Q I'm referring to State's Exhibit 29.

19 A Yes, that's it.

20 Q No question about it?

21 A No question.

22 Q When he gave you the BB gun, what did you do
23 with it?

24 A Stuck it in my coat pocket, in the front.

25 Q Okay. Were you wearing a heavy coat?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A A hoodie.

2 Q A hoodie. Is it a sweatshirt?

3 A Yes.

4 Q Okay. And would it hide the gun all the way?

5 A Yes.

6 Q When you get to the -- when you get to
7 Mr. Dinneon's house, who gets out of the vehicle?

8 A Me, Nyia and Charles.

9 Q Where is the Defendant?

10 A He's still in the car.

11 Q Where do you park the vehicle in relation to the
12 house?

13 A I pull upright beside the house and back up.

14 Q Okay. And from that point where do y'all go?

15 A Well, when we get there Dinneon isn't up there.

16 But I guess he sees that somebody's up at his house so he

17 walks up there with his girlfriend. And when he gets up

18 there we ask him about that car, we're the ones that

19 wanted to buy it. And while me and Nyia are up there

20 talking to him, Charles moves on down the hill towards the

21 road. And -- and I guess they get suspicious, wanted to

22 know why he's all the way down at the road, why he ain't

23 up there talking with us. So, I go down there and ask

24 him, What's wrong? And he tells me he don't want to do

25 this. Because he knew, you know, we was about to rob him

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 and everything and he didn't want to do it.

2 Q Talking about he now, we're talking about
3 Charles, right?

4 A Charles, yes. Charles didn't want to go through
5 with it.

6 Q Okay. And did you go back up the hill?

7 A Yes.

8 Q Okay. And then what are -- who are you talking
9 to up the hill?

10 A Going up the hill?

11 Q No, once you're up the hill, who do you talk to?

12 A I tell Nyia that I've got to use the restroom.
13 So, we tell them, Dinneon and his girlfriend, that we got,
14 to use the restroom. So, we were going to go back the Hot
15 Spot to use the restroom.

16 Q Okay. How long do you think you were at the
17 house at this point in time?

18 A Maybe 10, 15 minutes.

19 Q Had y'all gone and looked at the cars? Had
20 y'all looked at the cars yet?

21 A We looked on the outside of the cars but we
22 never got them cranked up.

23 Q Okay. Did you attempt to get them cranked up at
24 that time?

25 A No.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. So, at this point you, I think your
2 testimony is, that you go back to the Hot Spot?

3 A Yes.

4 Q Which Hot Spot is that?

5 A Off of 123.

6 Q All right. And is that fairly close to the
7 Victim's house?

8 A Yes.

9 Q Okay. And what do y'all do at the Hot Spot?
10 Well, let me ask you this. On the way over to the Hot
11 Spot, do y'all have any discussion with the Defendant
12 about what's going on?

13 A He tells us, you know, he's mad at Charles and
14 cursing Charles for not doing what he said he was going to
15 do.

16 Q Okay. Which was what?

17 A Help rob the man.

18 Q Okay. So, when you get to the Hot Spot, what do
19 y'all do?

20 A Me and Nyia get out of the car and go use the
21 restroom. And Charles gets out of the and goes in the
22 store. And when we get done using the restroom, me and
23 Nyia, we go back to the car and leave him there.

24 Q Okay. When you're at the Hot Spot does the
25 Defendant get out the car?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A No.

2 Q When you're at Hot Spot is ever alone in the
3 car?

4 A Yes.

5 Q When you're at the Hot Spot, is he sitting in
6 the front seat or backseat?

7 A Back.

8 Q After you leave the Hot Spot, who's driving?

9 A Me.

10 Q And where is Nyia?

11 A In this passenger side.

12 Q Okay. Defendant's in the backseat?

13 A Right.

14 Q And I may have asked you this, did the Defendant
15 get out at the Hot Spot?

16 A No.

17 Q Where do you go from this point?

18 A Back to Dinneon's house.

19 Q Okay. And what are you talking about doing on
20 the way back to Dinneon's house?

21 A He tells us just to keep to the plan, that
22 Charles -- make like Charles is the one in the car now, in
23 my car when we pull up because he don't get out. Nobody
24 gets out but me and Nyia. So, in case he asks where's the
25 other guy that was with me, which was Charles, I can say

1 that he's in the car.

2 Q Okay.

3 A And so when we get there, me and Nyia get out,
4 we go over to the man.

5 Q The man being Sean Dinneon?

6 A Sean, yes. And his girlfriend isn't there with
7 him.

8 Q His girlfriend is or is not?

9 A Isn't.

10 Q Is not?

11 A Yes.

12 Q Okay.

13 A So, he -- he gets up to the blue car. And he
14 tries to crank it up and it won't crank. So, I think he
15 tries to jump up it off too and it wouldn't start up. So,
16 that's when we get in the Prex [verbatim] -- the Grand
17 Prix.

18 Q Okay. And so, it's you and Nyia dealing with
19 Sean Dinneon?

20 A Right.

21 Q Does the Defendant ever get out of the car?

22 A No.

23 Q And you said that they were trying to jump off
24 the vehicle?

25 A Yes.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Which vehicle were you trying to jump off? Do
2 you recognize, referring to State's Exhibits 5, do you
3 recognize this?

4 A Yes, that's the car that was trying to be jumped
5 off.

6 Q Okay. That was that car you were trying to jump
7 off?

8 A Right.

9 Q Okay. Were you able to get that car started?

10 A No.

11 Q Okay. In your talking with Mr. Dinneon, were
12 you offering prices and things of that nature? How much
13 you wanted to buy the car for?

14 A No because he had already told us that he wanted
15 7000 each for each of them.

16 Q Okay. So, he told you that earlier?

17 A Yes.

18 Q Before you went to the Hot Spot?

19 A Yes.

20 Q So, when you couldn't get that car jumped off,
21 what did you do?

22 A We got in the Grand Prix.

23 Q Okay. And who got in the Grand Prix?

24 A Me and Nyia and Dinneon.

25 Q Referring to State's Exhibit 14, do you

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 recognize that vehicle?

2 A Yes, that's the Grand Prix we got in.

3 Q And who -- you -- who got in that car?

4 A Me and Nyia and Dinneon.

5 Q Dinneon, the Victim?

6 A Yes.

7 Q Okay. And when you were jumping off the Lancer,
8 where they using jumper cables.

9 A Yes.

10 Q Okay. Do you recognize. . .

11 A Yes. Those are the jumper cables they used to
12 jump off the car.

13 MR. RICHARDSON: For the record, we're referring
14 to state's 11.

15 Q When you got in the Grand Prix, who drove?

16 A Me.

17 Q Okay. Where was Nyia?

18 A In the passenger seat.

19 Q Where was Sean?

20 A In the backseat behind her, behind Nyia.

21 Q Was Sean drinking?

22 A Yes.

23 Q Is it fair to say that he was drunk?

24 A Yes.

25 Q Did he have a drink in his hand?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Yes.

2 Q Do you remember what it was?

3 A Some kind of Malts liquor, 711 or something like
4 that.

5 Q Was it in a can or bottle?

6 A Glass bottle.

7 Q It was in a bottle. Had y'all -- had you talked
8 to the Defendant about what you were going to do once you
9 left in one of those cars, about where to go?

10 A No, we never discussed where we were going or
11 nothing like that.

12 Q Okay. Well, when you pulled out of the Victim's
13 driveway at some point in time?

14 A Yes.

15 Q Where did you go?

16 A We ended up at the church.

17 Q Okay. But prior to ending up at the church, did
18 you drive around for a little while?

19 A Yes.

20 Q Where was the Defendant?

21 A In my car.

22 Q Okay. And was he following you?

23 A Yes.

24 Q All right. Was he telling you where to go?

25 A Yes.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

- 1 Q How was he telling you where to go?
- 2 A Turning the turning signal.
- 3 Q Okay. He was driving your Mustang?
- 4 A Right.
- 5 Q The turn signal turn came on -- right turn
- 6 signal came on right, which way would you go?
- 7 A Right.
- 8 Q Now, how long do you think you drove around?
- 9 A Probably 10, 15 minutes.
- 10 Q Then what happened?
- 11 A Then I got tired of driving around and I pulled
- 12 over at the church.
- 13 Q What church is that?
- 14 A I'm not sure what it was called.
- 15 Q Okay. And when you pulled over at the church,
- 16 did you pull aside the road or where did you pull?
- 17 A In the parking lot.
- 18 Q All right. And why were you doing that?
- 19 A To see what Tav wanted to do about getting the
- 20 car.
- 21 Q Okay. So, did you have a conversation with the
- 22 Defendant at that time?
- 23 A No. I told Nyia to get out and go see what her
- 24 brother wanted. What Tav wanted to do next.
- 25 Q Okay. Did Nyia ever get out of the car?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Yes.

2 Q And did she go talk to the Defendant?

3 A Yes.

4 Q All right. And what happened after she talked
5 to the Defendant?

6 A She came back and she realized that she couldn't
7 say nothing in front of Dinneon or it would ruin the plan.
8 So, I told her I'd get out and go see what he wanted to
9 do. So, while I was getting out of the car and making my
10 way to my car where he was, where Tav was at--

11 Q Well, let me -- before we go there, where is the
12 Mustang and where is the Grand Prix in relation to each
13 other?

14 A The Grand Prix was parked in front of the
15 Mustang. So, we had parked in front of my Mustang. So he
16 was like right behind me.

17 Q Okay. So, when you get out do you leave your
18 door opened or closed?

19 A Opened.

20 Q Then what happens?

21 A I start my way to my car to talk to Tav. And
22 Dinneon, I guess, realizes what's going on, he gets out--

23 MR. DEJONG: Objection, Your Honor, as to what
24 she guess he--

25 THE COURT: Okay, sustained.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 BY MR. RICHARDSON:

2 Q Just tell me what Dinneon did, okay. Did he get
3 out of the car?

4 A Yes.

5 Q Then what does he do?

6 A He stumbles around the car and tries to go to
7 the driver's side. And I--

8 Q When you say he stumbles, does he -- is he. . .

9 A He's holding on to the car and like drunk,
10 trying to walk.

11 Q Okay.

12 A And I go past him and get in the car before he
13 does.

14 Q Okay, before that, does Tav, the Defendant, tell
15 you anything?

16 A He tells me to run, go get in the car before he
17 gets in it.

18 Q Okay. And do you get in the car?

19 A Yes.

20 Q What happens now?

21 A I get in and I try to start the car and he gets
22 in on top of me --

23 Q When you say he, you talking about Dinneon?

24 A Dinneon. Gets in on top of me and tries to jerk
25 the keys out of my hand and tries to put it in park. I'm

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 trying to fight back with him to get it back in drive.

2 Q Okay. And at this point in time is he -- are
3 y'all both grabbing at the keys?

4 A Yes.

5 Q And at this point in time is he hitting you?

6 A He's not hitting me, he's just trying to get me
7 out of the car, trying to pull me out.

8 Q Was he saying anything to you?

9 A No, he was just trying to get me out.

10 Q Okay. All right. Where's Nyia during all of
11 this?

12 A I think she gets out of the car, I'm not sure
13 where she is at this time.

14 Q When it started was she sitting in the passenger
15 seat?

16 A Yes.

17 Q Okay. At some point does Sean Dinneon, does he
18 ever get the keys from you?

19 A No.

20 Q Did the keys actually ever come out of the key
21 whole, to socket?

22 A No.

23 Q Okay. Was the car in park or drive?

24 A Park.

25 Q Okay. What happens then?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A It happened so fast. Tav pulled up beside the
2 car, the Grand Prix that we were in. And the window was
3 rolled down on the passenger side of the Grand Prix. And
4 my window won't roll down in my Mustang on the driver's
5 side. So, he opens his door, sticks the gun out and tells
6 him to get up off me or he's going to shoot him.

7 And Dinneon says, Shoot me, I don't care.

8 And he shoots him on top of me.

9 Q Okay. When you say on top of you, Dinneon,
10 where are his legs?

11 A Dangling out of the car.

12 Q So, half of his body in car and half his body is
13 out of the car?

14 A Yes.

15 Q Did you hear the shot?

16 A Yes.

17 Q Did you see the Defendant pull the trigger and
18 shoot him?

19 A Yes.

20 Q As soon as you heard the shot, what did Sean
21 Dinneon do?

22 A Went limp on me.

23 Q Did he say anything after that?

24 A No.

25 Q Yes or no?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A No.

2 Q After he went limp on you, did the Defendant say
3 anything to you?

4 A No.

5 Q What did you do?

6 A I panicked. I pushed him off of me and started
7 the car and drove off.

8 Q When you drove off, did you, coming out of the
9 church, did you take a right or did you take a left?

10 A A left.

11 Q Did you know where you were?

12 A No.

13 Q When you drive off, where is Nyia?

14 A Still there with her brother.

15 Q Okay. So you're alone in the car at that point?

16 A Yes.

17 Q What happens then?

18 A I drive down the road a little bit and I see
19 that they're not behind me, so I kind of slow down. Then
20 I see car lights. And I pull over to the side and it's
21 them. And she tells me to pull all the way over so he can
22 get in the car.

23 Q The Defendant tells you that?

24 A Yes.

25 Q Do you do that?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Yes.

2 Q What does he do?

3 A He gets in the Grand Prix and tells me to get in
4 my Mustang and follow him to his mother's house.

5 Q Did you do that?

6 A Yes.

7 Q And where is Nyia at this time?

8 A In the Mustang with me.

9 Q Okay. Do you go directly to the Defendant's
10 mother house?

11 A Yes.

12 Q What happens there?

13 A When he gets out he goes in his mom's house and
14 brags about shooting Dinneon. That he got her her car
15 back.

16 Q And what do you do -- does he tell you to do
17 anything with the tags?

18 A He tells me to put my tag onto the Grand Prix
19 but I put it on but then I take it back off and put it on
20 my car.

21 Q Did the Grand Prix have a tag?

22 A No.

23 Q At this point in time, did you see the gun
24 again?

25 A Honestly, I don't remember. After I seen it

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 when it was pointing at me, I don't remember seeing it no
2 more.

3 Q Okay. Now, how long do you stay, I'm talk about
4 you stay at his mother's house?

5 A Not more than 10 minutes.

6 Q Then where do you go?

7 A We get her baby and we go back to InTown Suites.

8 Q Get Nyia's baby?

9 A Yes.

10 Q All right. And which car are you driving?

11 A My car, the Mustang.

12 Q All right. Get back to InTown Suites, where do
13 y'all go? Do you go into your room?

14 A Yes.

15 Q Do you stay there the rest of the night?

16 A Yes.

17 Q Was there any further contact with the Defendant
18 that night?

19 A I don't think so, no.

20 Q All right. Okay. Do y'all go to sleep at that
21 time or what do you do?

22 A I was worried about Dinneon and I called the
23 hospital. I called two hospitals. I called St. Frances
24 and Greenville Memorial and asked if he was there. And
25 they said he wasn't. So, we went to sleep.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Okay. The next morning, this would be Sunday
2 morning?

3 A Yes, the 18th.

4 Q Do you have any contact with the Defendant
5 Sunday morning?

6 A Yes.

7 Q How?

8 A Through Nyia's phone.

9 Q Okay. And how did that come to be?

10 A He called. And he told me that he wanted to
11 come stay with us, that we needed to be together, all
12 there of us.

13 Q Why did y'all all three need to be together?

14 A I guess he--

15 MR. DEJONG: Objection, to what she guesses,
16 Your Honor.

17 MR. RICHARDSON:

18 Q Yeah, if you don't know -- if he didn't tell you
19 why you all three needed to be together.

20 A So -- I'm not sure.

21 Q Okay. So, at that point in time do y'all get
22 back up with the Defendant?

23 A Yes.

24 Q Okay. When he called, was that morning or
25 nighttime?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A It was evening.

2 Q Okay. When did you meet back up with him?

3 A Like when or where?

4 Q Both.

5 A We met up it was dark. We met up at Krispy
6 Kreme Doughnuts on 291.

7 Q Okay. So, this would have been September the
8 18th?

9 A Right.

10 Q You said it was dark, can you remember a time?

11 A Probably around 9:00.

12 Q Okay. But it was nighttime?

13 A Yes.

14 Q All right. Did he have the Grand Prix?

15 A No.

16 Q How did he get to Crispy Cream?

17 A Mike Utsey drove him in one of Taz's ex
18 boyfriend's car.

19 Q Okay. And Mike Utsey, is that the individual
20 that give him the gun?

21 A Yes.

22 Q Okay. Did he get in the car with y'all?

23 A Yes.

24 Q Where did y'all go?

25 A Back to InTown Suites.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q All right. And what did you the at InTown
2 Suites?

3 A We went to sleep.

4 Q Okay. Did you wake up again Monday morning?

5 A Yes.

6 Q What did you do then?

7 A He told me that we needed to get the money back
8 from the refund from the hotel, get the 50 back and leave.

9 Q Okay. You had to put down a \$50 deposit?

10 A Right.

11 Q Did you get that money back?

12 A Yes.

13 Q Why did you need that money?

14 A To put in my gas tank.

15 Q Did you have gas in the car at that time?

16 A Not much, no.

17 Q And where did he want you to leave to?

18 A He never said.

19 Q Okay. Where did y'all go at this point in time?

20 A When we got the money back we got in the car and
21 we left and got gas at Hickory Point. And I told him of a
22 place that I thought, you know, might help us with some
23 money. And so, we went all the way to Gatlinburg,
24 Tennessee. It was like for a timeshare thing that you can
25 do to get like \$100. But you had to be married. So, we

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 didn't get that money.

2 Q Okay. Other than the -- did anybody have any
3 money?

4 A No.

5 Q Okay. After you didn't get that money, you said
6 that was Gatlinburg, Tennessee?

7 A Yes.

8 Q After you didn't get that money, what did y'all
9 do?

10 A We -- I went to fill out an application at the
11 Aquarium, Ripley's Believe It Or Not Aquarium. I'm not
12 sure if I turned it in or not but I know I did fill one
13 out. Then when I came back, the phone was ringing. And
14 when I answered it he -- Tav told me to put it on speaker
15 phone so he can hear who it was. And it was my mom
16 telling me that the police was at my grandparents, wanted
17 to know where we was -- where I was. And she asked me
18 where I was. I told her I was in Greenville, I lied to
19 her. And she told me to come home. And I told her I
20 would be coming home. And she said, Okay. And we hung up
21 and I never went home.

22 Q And that conversation happened in Gatlinburg?

23 A Yes.

24 Q At some point in time did you ever leave
25 Gatlinburg?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

- 1 A Yes.
- 2 Q Did you stay overnight up there before you left?
- 3 A I'm not sure.
- 4 Q Okay. Where did you go after Gatlinburg?
- 5 A We left and went to North Carolina.
- 6 Q Okay.
- 7 A I think we stopped at rest stops and slept.
- 8 Q Okay.
- 9 A But other than that.
- 10 Q Okay. At some point in time did you make your
- 11 way back to Spartanburg, South Carolina?
- 12 A Yes.
- 13 Q Why did you go to Spartanburg, South Carolina?
- 14 A Somehow we ended up there while I was driving
- 15 because I didn't know where I was going. And when we got
- 16 there he found -- Tav had found some checks of Dinneon's.
- 17 And he told me to write one out that I had worked for
- 18 Dinneon. And I forgot the amount of money he told me to
- 19 put on it. But I wrote it out and signed it and he told
- 20 me go in SunTrust in Spartanburg and cash it. And I don't
- 21 think -- it wasn't cashed but it was deposited into like a
- 22 checking account or something. And it was to be like
- 23 starter checks. I got starter checks to write bad checks.
- 24 And so.
- 25 Q I mean, this is a method for y'all to get money?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A Right.

2 Q Okay. Why did y'all need to get money?

3 A Because we had no money to get gas, food.

4 Q Why didn't you go back to Greenville? Why
5 didn't you go back to Greenville to get money?

6 A Because we didn't have nowhere to get money.

7 Q Okay. Well, at some point in time did you, in
8 fact, go back to Greenville?

9 A Yes.

10 Q Okay. Or more specifically you go to Travelers
11 Rest?

12 A Travelers Rest, yes.

13 Q Why did you go to Travelers Rest?

14 A My cousin had called me and told me that she
15 wanted to help me out, that she wanted to give me a place
16 to stay. I told her, No. She told me she wanted to buy
17 me something to eat. I told her, No. Then she told me
18 she would give me money. And I told her how much? And
19 she told me about \$300. I told her, Okay. Where do you
20 want to meet? And she told me TR at the Wal-Mart. And I
21 told her that was -- because Tav had told me nowhere near
22 Greenville.

23 Q Why did he not want to go near Greenville?

24 A Because he had -- throughout all this, he was
25 getting his brother Mike to tell us what was going on with

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Dinneon. And that he had been shot and they were looking
2 for the car. And that they had leads about Tav and
3 everything.

4 Q Okay. So when you get to Travelers Rest, what
5 happens there?

6 A He tells me not to go into Wal-Mart parking lot.

7 Q Who's he?

8 A Tav, I'm sorry. Tav told me not to go in
9 Wal-Mart parking lot, to keep driving around and circle
10 around and go back past it. And I did what he said. And
11 then that's when he saw -- he called them The Jump Out
12 Boys. And when he seen them people he started hitting on
13 me and telling me to go. So, I started to go. And that's
14 when the big truck pulled out behind me. And when we came
15 out at the red light I took a right on State Park Road and
16 went down through there and they were still behind me.
17 And he kept telling me to go and hitting me.

18 Q So, he was hitting you? The Defendant was
19 hitting you?

20 A Yes.

21 Q Where was he hitting you?

22 A On my shoulder.

23 Q Okay. And was he telling you anything else
24 about your driving, etcetera?

25 A Yes.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q What?

2 A If we got delayed behind a car he'd tell me to
3 pass it and I did.

4 Q Okay. You were driving that blue Mustang that's
5 been shown?

6 A Yes.

7 Q Eventually, did you get away from the police?

8 A Yes.

9 Q Where did y'all go at that point in time?

10 A Back to Spartanburg.

11 Q Okay. And in Spartanburg, did you still have
12 the Victim's checks, Sean Dinneon's checks?

13 A Yes.

14 Q Okay. And did you attempt to do anything with
15 those checks at a Ingles?

16 A Yes.

17 Q What?

18 A Wrote a check for, I'm not sure how much, but he
19 told me to write it out and it was for food and I signed
20 it. And we ended up getting \$40 I think it was. I'm sure
21 it was.

22 Q Okay. And did you -- at this point did y'all
23 head back out of town, out of Spartanburg?

24 A No.

25 Q Where did you go?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A That's when we. . .

2 Q Let me ask you this, okay? Let me ask you this.
3 At some point in time did y'all end up in Asheville, North
4 Carolina?

5 A Yes.

6 Q Why did you go to Asheville, North Carolina?

7 A Tav told me that there was this girl that he
8 wanted to see in Asheville. So, that's why we went.

9 Q Okay. Did you go to a hotel up there?

10 A Yes.

11 Q What hotel was that?

12 A Sleep Inn.

13 Q Okay. And did the Defendant get a room?

14 A Yes, two rooms.

15 Q Okay. And who was in which room?

16 A Me, Nyia -- Me, Nyia and her baby was in the
17 top, very top room. Tav and the girl was in the second
18 story I think it was.

19 Q The girl he was going to see?

20 A Yes.

21 Q Okay. And when you got there, how long do you
22 think you were there? How long do you think you were at
23 the hotel?

24 A About two hours.

25 Q Okay. Then what happens?

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 A I hear a knock on the door.

2 Q Okay. And what happens?

3 A And I go look out the peep hole on whoever is at
4 that end of the door had their fingers covering it. And I
5 knew it was the police so I opened the door. And they got
6 me and Nyia.

7 Q Okay. And at that point in time was the
8 Defendant in that room?

9 A No.

10 Q Beg the Court's indulgence.

11 I want to go back real quick to the
12 shooting incident, was there ever any blood on you from
13 the Victim?

14 A No. No.

15 Q Did you check that when you got back to the
16 hotel?

17 A Yes.

18 Q All right. And did the Victim ever threaten you
19 with a weapon of any type?

20 A Threaten me with a weapon?

21 Q Yeah, Sean Dinneon ever threaten you in any way
22 with a weapon?

23 A No.

24 Q Did he ever beat you up in any way?

25 A No.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Q Were you harmed after that incident?

2 A No.

3 Q Did you go to the hospital or doctor or anything
4 like that?

5 A No.

6 Q And was there, when Charles was there at the
7 scene back at the Victim's house, were y'all calling him
8 Charles or something else?

9 A We were calling him something else but I can't
10 remember what the name was.

11 Q Okay. But you used -- it wasn't his name?

12 A Right.

13 Q And that photo probably describes it but your
14 Mustang has tinted windows, is that correct?

15 A Right.

16 Q Okay. Let me ask you this, Kayla, the
17 individual that you described today who pulled out a gun
18 and shot Sean Dinneon, is he in this courtroom?

19 A Yes.

20 Q Can you, please, point him out?

21 A Right there.

22 Q What's he got on?

23 A A blue -- bluish dark, like gray shirt.

24 MR. RICHARDSON: Please let the record reflect
25 that she has identified the Defendant.

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 Thank you, that's all the questions I have.
2 Please answer any questions that Mr. DeJong has.

3 THE COURT: Mr. DeJong, how long do you
4 anticipate taking on cross-examination, sir?

5 MR. DEJONG: A good while.

6 THE COURT: Okay, it's probably a good time to
7 take a lunch break, you reckon?

8 MR. DEJONG: (Mr. DeJong nods.)

9 THE COURT: Okay, ladies and gentlemen, we're
10 taking a lunch break. Y'all, please, be back here at two
11 o'clock and we will resume testimony. Please don't
12 discuss the case. Or read or listen or look at any media
13 coverage. Thank you.

14 Hold on, Ms. Williams, stay right there.

15 (WHEREUPON, the jury left open court at
16 approximately 12:38 p.m.)

17 THE COURT: Okay, Ms. Williams, you're still
18 under oath, you're still on the stand. You're welcome to
19 take a lunch break as well as but you may not discuss your
20 testimony with anyone. I know your attorney is here. And
21 looks like you have some family members here but you're
22 not allowed to discuss your testimony in any way, shape or
23 form because you're still on the stand, do you understand?

24 THE WITNESS: Yes.

25 THE COURT: Anything further from counsel before

KAYLA WILLIAMS-DIRECT BY MR. RICHARDSON

1 we break for lunch?

2 MR. RICHARDSON: I'm sorry, Your Honor, I didn't
3 hear you.

4 THE COURT: Anything additional before we break?

5 MR. RICHARDSON: No, sir.

6 THE COURT: Okay.

7 MR. DEJONG: Nothing, Your Honor.

8 THE COURT: Be back at 2:00.

9 (WHEREUPON, a lunch break was taken.)

10 THE COURT: Okay, ready for the jury?

11 Okay. All right, bring them in, please.

12 (WHEREUPON, the jury came into open court at
13 approximately 2:01 p.m.)

14 THE COURT: Ms. Williams, you want to come back
15 up and take the stand, ma'am?

16 All right, Mr. DeJong, your witness, sir.

17 MR. DEJONG: Thank you, Your Honor, may it
18 please the Court.

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. DEJONG:

22 Q Ms. Williams, when you were answering the
23 Solicitor's questions, he asked you if you were here under
24 subpoena today and you responded that you were?

25 A Yeah.

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 Q Are you telling us you have never talked to
2 anyone from the solicitor's office before today?

3 A No.

4 Q You've talked to the solicitor's office, haven't
5 you?

6 A When? Like when they was questioning me?

7 Q Yes. I mean, before this trial you went to the
8 Solicitor's Office and you talked to that man or that
9 woman or somebody in the Solicitor's Office, didn't you?

10 A Yes.

11 Q More than once?

12 A I'm not sure.

13 Q All right. Well, in talking to them, even
14 though you're here under subpoena, you were asked to
15 testify, were you not?

16 A Yes.

17 Q And you said you would testify, didn't you?

18 A Yes.

19 Q So, the fact that you're here under subpoena
20 doesn't mean you're here against your will. You're here
21 because you want to be here, aren't you?

22 A Right.

23 Q Yes, ma'am. And certainly, at this point in
24 time -- well, let me ask you this, what the Solicitor --
25 did the Solicitor promise you anything?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A No.

2 Q They said if you testify they'd take it into
3 consideration, didn't they?

4 A Yes.

5 Q Right. And certainly you're already here
6 testifying today in hopes of getting something out of your
7 testimony, correct?

8 A Yeah.

9 Q Yes, ma'am. Because you're also -- you're
10 charged with murder and you're charged with grand larceny,
11 correct?

12 A Yes.

13 Q Now, let's go back to September the 21st of
14 2011, do you remember this gentleman right here?

15 A Yes.

16 Q Do you remember that gentleman back there with
17 the short goatee?

18 A Yes.

19 Q And did you see them in Asheville?

20 A Yes.

21 Q And did you talk with them?

22 A Yes.

23 Q And that was in the morning hours of September
24 the 17th or September the 18th, correct?

25 A Yes.

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 Q And they repeatedly asked you to tell them
2 everything you knew about what happened on September the
3 17th of 2011, correct?

4 A Yes.

5 Q And you told them you told them everything you
6 knew about September the 17th of 2011 on September the
7 21st, didn't you?

8 A Yes.

9 Q Right. Now, what you testified to today in this
10 courtroom is not what you told this gentleman and that
11 gentleman back there on September the 21st of 2011, is it?

12 A Right. But I was scared.

13 Q Yes, ma'am. And you're still scared, right?

14 A Right.

15 Q And you're so scared now you're looking to get
16 out of this mess, right?

17 A Well, I mean, I'm not trying to put it on him.
18 I mean, he did kill the man because I seen it but.

19 Q Yes, ma'am. Now, on September the 21st when you
20 talked to these two gentlemen, no warrants had been served
21 on you, had they? No arrest warrants?

22 A Yes, one in Pickens -- I mean, Greenville.

23 Q Well, I'm not talking about Greenville, I'm
24 talking about the warrant for murder and the warrant for
25 grand larceny in Pickens County, they have not been served

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 on you at that point in time, correct?

2 A Right.

3 Q And indeed, when you talked to these two
4 gentlemen, not until late in the interview did you know
5 what you were being charged with?

6 A Right.

7 Q Correct?

8 A Yes.

9 Q All right. So now, let's talk about your
10 testimony -- well two things. On September the 21st of
11 2011, when you talked to Detective Dow and Detective
12 Baker, number one you were told that you were being
13 recorded, correct?

14 A Right.

15 Q And as far as you knew you were recorded?

16 A Right.

17 Q Then you were asked to basically put in writing
18 what you had told them in that recording, correct?

19 A Correct.

20 Q Now, on September the 21st of 2011, when you
21 talked to -- and let me just stop here for just a minute.
22 I don't have -- I don't have the capability of playing the
23 audio portion, okay? I do have your written statement and
24 if you need a copy of it, I'll be more than happy to give
25 you a copy of it, okay?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A Okay.

2 Q All right. Now, on September the 21st, when you
3 were talking to these two gentlemen, you never mentioned,
4 you never said anything about September the 16th, did you?

5 A Right.

6 Q You didn't say anything about having gone over
7 there and looked at these vehicles and all that, correct?

8 A Right.

9 Q All right. Now, today you're saying that,
10 right?

11 A Right.

12 Q All right. Well, now, when you were talking to
13 these two detectives on September the 21st -- well, let me
14 back up here a little bit. You and Ms. Utsey were in a
15 relationship?

16 A Right.

17 Q And at that point you certainly wanted this
18 relationship to move forward, right?

19 A Right.

20 Q Okay. And so you wanted to do, I guess, what
21 both of you wanted to do is make each other happy, right?

22 A Right.

23 Q All right. And indeed, Ms. Williams, you were
24 the one that really wanted the Grand Prix, weren't you?

25 A No. No, sir.

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 Q All right. Now, was there not a conversation
2 between you and Mr. Yeargin about you getting rid of the
3 blue Mustang?

4 A He wanted to get rid of it.

5 Q All right. But there was talk that you were
6 afraid that the police had been notified because you had
7 this before anything happened. That your grandfather or
8 parents were going to report that vehicle missing to the
9 police?

10 A No, my grandparents gave me that car.

11 Q Okay. Now, so you were in a relationship with
12 Ms. Utsey, you had known Ms. Utsey for some six months?

13 A Right.

14 Q And y'all met, I believe, at Columbia Farms?

15 A Right.

16 Q Okay. And you work again now for Columbia
17 Farms?

18 A Yes.

19 Q But you weren't -- you had worked for Columbia
20 Farms, you left Columbia Farms, now you're back at
21 Columbia Farms?

22 A Right.

23 Q Now, you'd known Ms. Utsey for about six months?

24 A Right.

25 Q You knew Mr. Yeargin a little bit?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A Yes.

2 Q All right. Not good?

3 A Right.

4 Q All right. You'd seen him in passing as a
5 result of your relationship with Ms. Utsey, right?

6 A Right.

7 Q Now, you tell this jury today that for gas
8 money, what you told the detectives on September 19th, you
9 never got the gas money, correct?

10 A Correct.

11 Q Today you say he gave you gas money, right?

12 A Right.

13 Q What is the truth, which is a lie?

14 A He gave me -- he did give me gas money the first
15 night but the second night he didn't.

16 Q Okay. And that first night is the part that you
17 forgot to tell the detectives in Asheville, right?

18 A You got to understand this happened so fast and
19 I was scared and disoriented and everything.

20 Q Yes, ma'am. Even though they relatedly asked
21 you to tell them everything, right?

22 A Right.

23 Q All right. Now -- now you say on September the
24 16th you're talking to -- my client was talking about and
25 showing you fake titles, right?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A Right.

2 Q Well, why in the world, if he was telling you he
3 had titles to the vehicle, would you have to go test drive
4 the vehicle?

5 A Right. But he showed me that they were fake,
6 though.

7 Q Well, you knew good and well that wasn't the
8 issue, didn't you?

9 A What that?

10 Q That they belonged to him?

11 A Right.

12 Q And yet, according to you today, everything was
13 Mr. Yeargin's plan. You were very significantly involved
14 in the theft of that vehicle?

15 A Right.

16 Q Right. Now, so today you say you went over
17 there, nobody was home and you left?

18 A Right.

19 Q And you got gas money, 10 or 20 bucks?

20 A Ten.

21 Q Okay. Now, so then you say Mr. Yeargin called
22 you and or Ms. Utsey on the 17th?

23 A Right.

24 Q After -- well let me back up a little bit. Now,
25 what day was it that you say you went to pick Charles up?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A The 17th.

2 Q Pardon me?

3 A The 17th.

4 Q Okay. Now, you told Detective Dow and Detective
5 Baker that you didn't have much gas in your car on the
6 17th, right?

7 A Right.

8 Q And yet, according to your testimony today, you
9 drive, as I understood it, almost all the way to Pickens
10 and then you turn around and drive back to Taylors to pick
11 up Charles?

12 A Right. But it wasn't really almost in Pickens.
13 It was like not even half way there.

14 Q Okay. But you were a third piece from Taylors,
15 weren't you?

16 A Right.

17 Q Okay. Now, today you say that Mr. Yeargin gave
18 you what's been marked as State's Exhibit No. 29, which is
19 a BB gun, right?

20 A Yeah.

21 Q All right. Now, you didn't tell Detective Dow
22 or Detective Baker anything about that BB gun, do you?

23 A I'm not sure.

24 Q Do you want to see your statement?

25 A Sure.

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 Q Pardon?

2 A Sure.

3 Q All right. I'll show you this. That's a photo
4 copy that's been provided to me by the State. Okay. If
5 you think that one is different from the one you wrote
6 I'll get the State to give you their's.

7 A I didn't say it in my interview in the
8 recording.

9 Q I'm sorry, ma'am, I can't answer questions
10 today. But if need be -- I'm sorry, I'll just leave that
11 up there. If needs be I'll ask, His Honor, for a
12 opportunity for you to review the CD if you want me to?

13 A I mean, I might not have mentioned it but he did
14 give me the gun. The BB gun.

15 Q But, you know, today you come in here and you
16 say well he gave you this BB gun, he told you to shoot
17 this lady, hit her over the head or whatever. That wasn't
18 significant to you on September, that doesn't mean
19 anything to you on September the 21st when you were
20 talking to Detective Dow and Baker? That just went right
21 out of your mind?

22 A Well, I was -- I was -- I mean, I was in a lot
23 of stress. I had just got caught. I mean, I was thinking
24 all kinds of things. I couldn't remember everything.

25 Q But you remember a lot better 26 months after

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 the fact, right?

2 A I've been remembering each day, yes.

3 Q All right. And on September the 21st when you
4 talked to Detective Dow and Detective Baker, they asked
5 you what was the plan? Speaking of the car.

6 Plan was to hit this guy and take the car.
7 Plan was for Charles to get in the car and drive. I
8 guess, pull off the side of the road. Then hit him, push
9 him out. I don't know.

10 Do you remember saying ask that?

11 A No.

12 Q Okay.

13 MR. DEJONG: Your Honor, may we approach?

14 THE COURT: Yes, sir.

15 (WHEREUPON, an off-the-record bench conference
16 was held in the presence of the jury but out of
17 the hearing of the jury.)

18 THE COURT: Okay, ladies and gentlemen, we're
19 going to take a short recess. And we'll probably come
20 back in in about and half an hour. Mr. DeJong is asking
21 questions related to the CD. And this witness is having a
22 hard time recalling some of that. So, it may be helpful
23 for her and for Mr. DeJong if she had the opportunity
24 again just to listen to it again to refresh her memory.
25 So, during that break what she's going to have the

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 opportunity to do is just to review that audio tape so
2 that she can refresh her memory and perhaps answer some of
3 the questions that are posed to her not only by defense
4 counsel but perhaps in redirect by the Mr. Richardson as
5 well. So, if you'll please return to your jury room.
6 Please, don't discuss the case.

7 (WHEREUPON, the jury left open court at
8 approximately 2:19 p.m.)

9 THE COURT: We'll be in recess. You can just
10 let me know when you're ready.

11 MR. DEJONG: Your Honor, I appreciate you doing
12 this but I would like the instruction she can listen to it
13 but it is not to be discussed with the solicitor or
14 anybody else prior to her coming back on the witness
15 stand.

16 THE COURT: I understand.

17 Ms. Williams, you're going to have the
18 opportunity to listen to it again. But just like when we
19 left for lunch, you're still under oath. Which means that
20 even though you're giving the opportunity to listen to it,
21 you can't discuss that testimony with anyone. So, all
22 you're going to essentially do is sit wherever they want
23 you to sit and just listen to the audio of that initial
24 statement that you gave, okay?

25 MS. WILLIAMS: Okay.

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 THE COURT: All right. Okay. Good enough.

2 MR. DEJONG: Thank you, Your Honor.

3 THE COURT: Yes, sir.

4 MR. RICHARDSON: Your Honor, can we. . .

5 THE COURT: Y'all just come get me when you're
6 ready, okay?

7 (WHEREUPON, a short break was taken.)

8 THE COURT: Okay, ready to proceed?

9 MR. DEJONG: Ready for the Defense, Your Honor.

10 THE COURT: Okay, good enough.

11 Bring the jury in, please.

12 (WHEREUPON, the jury came into open court at
13 approximately 3:08 p.m.)

14 THE COURT: Okay, Mr. DeJong, your witness, sir.

15 MR. DEJONG: Thank you, Your Honor, may it
16 please the Court.

17 BY MR. DEJONG:

18 Q Now, Ms. Williams, you had an opportunity now to
19 review your session with Detective Dow and Detective
20 Baker, is that correct?

21 A Yes.

22 Q Now, let me back up just one question here, if I
23 may. In your written statement and what you were just able
24 to look at again on your interview, was there any talk by
25 you when you talked to Detective Dow and Baker about a BB

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 gun?

2 A No.

3 Q And actually no talk in there about you doing
4 really anything to Ms. Hinson was there?

5 A No.

6 Q Now, then I think where we left off, we were
7 talking about you have shared with this jury today, this
8 great plan that you say Mr. Yeargin came up with. When
9 you talked to the Detective Dow and Detective Baker on
10 September 21st of 2011, did you tell them any of this
11 plan?

12 A Of everything that was going on, yes. Some of
13 it, yes.

14 Q Which part?

15 A The part where we were going to knock the man
16 out and get the car.

17 Q And I think you put a tag line on that, I guess;
18 right?

19 A Right.

20 Q Right. So, in that the on September the 22st of
21 2011, you didn't know there was a plan, correct?

22 A On when?

23 Q September the 21st of 2011 when you're talking
24 to Detective Dow and Detective Baker. You guessed there
25 was a plan. You didn't know there was a plan, correct?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A Right.

2 Q Right. Now, today you come in and you share
3 with this jury this grand scheme and grand plan that
4 supposedly y'all came up with on September the 17th of
5 2011, right?

6 A Right.

7 Q There was nothing in your statement to Detective
8 Dow and Detective Baker about breaking out a dome light,
9 was there?

10 A No.

11 Q Now, let's talk a little bit about the gun.
12 Now, when you talked to Detective Baker and Detective Dow
13 on September the 21st of 2011, you said you didn't know
14 where the gun came from, right?

15 A Right.

16 Q And you thought maybe it had been put in the
17 trunk of your car, right?

18 A Right.

19 Q But you weren't sure?

20 A Right.

21 Q That was your car, right?

22 A Right.

23 Q And you were driving the car, right?

24 A Right.

25 Q So, either you had to have a key to get in the

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 trunk or you had the little lever on the driver's side,
2 right.

3 A Right. And also you can get through it through
4 the back of the seat.

5 Q Yes, ma'am, I understand that.

6 A Right.

7 Q But in your statement to Detective Dow and
8 Detective Baker, you never said anything about seeing
9 Mr. Yeargin get a gun from Michael Utsey, did you?

10 A Right. But did you notice that they had woke me
11 up?

12 Q No, I didn't notice that.

13 A Yeah, I was asleep for a good minute or two.

14 Q So, you're saying that four days after the fact
15 you can't remember all of this important stuff but 25, 26
16 months after the fact you can remember all this important
17 stuff?

18 A Well, you've got to learn, I seen a man get shot
19 in front of me. I mean, it's traumatic.

20 Q And you were in a motel room with Nyia Utsey
21 when they came in to arrest you?

22 A Right.

23 Q You'd had sleep and you'd had rest, right?

24 A No, sir.

25 Q You hadn't been drinking on this night, had you?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A No, sir.

2 Q You hadn't been doing drugs, had you?

3 A No, sir.

4 Q Clear mind, right?

5 A Yes.

6 Q Now, in your statement that you gave Detective

7 Dow and Detective Baker, you shared with them that

8 Mr. Yeargin never got out of the Mustang, right?

9 A Right.

10 Q Now, today are you saying that he got out of the
11 Mustang?

12 A No.

13 Q Okay. So, he stayed in the Mustang?

14 A Right.

15 Q All right. Never got out?

16 A Right.

17 Q Now, the lighting in that parking lot that you
18 were in, you were closet to the road, right?

19 A Right.

20 Q Wasn't much light there?

21 A Right.

22 Q It was pretty dark?

23 A Uh-huh.

24 Q Hard to see what was going on?

25 A I mean, it wasn't totally dark. I mean, it did

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 have street lights where the church was. It wasn't
2 completely dark.

3 Q But those lights were pretty far removed,
4 weren't they?

5 A They was not that far away no, sir. I could see
6 pretty good.

7 Q Well, getting back to the gun just a moment, you
8 told Dow and Baker -- I'm sorry, to just use their last
9 name but just to shorten it up a little bit, you told Dow
10 and Baker you didn't know where the gun came from, right?

11 A Right.

12 Q Now, the whole night, day, whatever, of
13 September the 17th of 2011, you drove the Mustang until
14 you got to Sean Dinneon's house?

15 A Right.

16 Q Right. Now, did y'all, y'all being the Grand
17 Prix and the Mustang, did they leave Sean Dinneon's house
18 at the same time?

19 A I can't remember who but one of us left first
20 out. But I can't remember who left out first.

21 Q So, you don't know, Mr. Yeargin may have left
22 first in the Mustang?

23 A Right.

24 Q And then you were behind the Mustang?

25 A Well, eventually he was behind me but I'm not

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 sure who left out first.

2 Q Well, how long is eventually?

3 A When I got up the road to the top stop sign.

4 Q I'm sorry?

5 A When I got up to the road to the stop sign he
6 was behind me. He left -- he left first and when I pulled
7 out I didn't know where he went. He circled around and
8 came up behind me. And when I stopped at the stop sign,
9 that's when he came up behind me and started turning his
10 turn signals on.

11 Q I see. Now, when did you say you discussed the
12 turn signal thing?

13 A We never did discuss it. He just started doing
14 it so I followed.

15 Q Okay. So, he was turning a turn signal on, you
16 didn't know whether that was him trying to signal you to
17 do anything, did you?

18 A Right.

19 Q All right. So, you just saw his turn signal and
20 whatever way that was, it was -- you went that way, too?

21 A Right.

22 Q But it was not somewhere along the line that he
23 directed you to look at his turn signals and go that way?

24 A Well, every time I would stop he would follow
25 and turn his turning signal on before we even got to the

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 to stop to turn.

2 Q Well, that's rather normal, isn't it?

3 A So, I mean, it. . .

4 Q Now, when you left Dinneon's house, you were
5 driving the Grand Prix?

6 A Right.

7 Q Ms. Utsey was in the passenger seat?

8 A Right.

9 Q And Dinneon in the backseat?

10 A Right.

11 Q Behind you or behind Ms. Utsey?

12 A Behind Nyia.

13 Q Okay. So he was in the backseat on the
14 passenger side?

15 A Right.

16 Q Now, when you get to the church parking lot, you
17 pull into the church parking lot, you pull into a parking
18 spot?

19 A I'm not sure.

20 Q Nonetheless Mr. Yeargin in the blue Mustang
21 pulls behind the Grand Prix?

22 A Right.

23 Q Doesn't pull up beside it?

24 A Right.

25 Q He stays behind it?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A Yes.

2 Q Now, Ms. Utsey gets out of the Grand Prix, where
3 does she go?

4 A To go talk to Tav at my car behind the Grand
5 Prix.

6 Q Then you get out of the Grand Prix and you go to
7 the Mustang?

8 A Right.

9 Q Now, somewhere in there Mr. Dinneon gets out of
10 the backseat of the Grand Prix and goes to the driver side
11 of the Grand Prix?

12 A Right.

13 Q Now, there still has not been any discussion
14 between you, Nyia and -- or Dinneon about taking the car,
15 has there?

16 A Huh-uh, no.

17 Q So now, you see Dinneon getting back in the
18 Grand Prix, headed for the driver's side, right?

19 A Right.

20 Q Now, you get into the driver's side?

21 A Because Tav, when he sees Dinneon running
22 towards the car to the driver's side, he tells me to run
23 and get in the car.

24 Q Right. Right, I understand what you're saying.
25 And for \$10 worth of gas money you do that, correct?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A Correct.

2 Q Okay. Now -- now there is a struggle that took
3 place between you and Mr. Dinneon?

4 A Correct.

5 Q And in your statement on September the 21st of
6 2011, you described that as Mr. Dinneon grabbing at you,
7 correct?

8 A Uh-huh, yes.

9 Q And indeed, you want to point out to Dow and
10 Baker that you have bruises on your arm where Dinneon has
11 grabbed you?

12 A Right.

13 Q So, it's not just that he was leaning over as
14 you have described to try to get the keys, he was grabbing
15 at you?

16 A Right.

17 Q And actually you had bruises on your arm?

18 A I'm not sure.

19 Q Okay. Well, that's what you shared with Dow and
20 Baker?

21 A Well then I guess so.

22 Q All right. Now, in your statement to Dow and
23 Baker on September the 21st of 2011, you say the car was
24 rolling. Now, I'm not clear on what you're saying today
25 because I understood you to say the car was in park,

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 correct?

2 A Yes.

3 Q Okay. And if I understood you correctly, that
4 the car stayed in park, never got out of park?

5 A Right.

6 Q All right. Now, in your statement you said the
7 car was rolling, correct?

8 A Right.

9 Q Let me ask you this, what point did the beer
10 bottle get broken?

11 A I'm not sure.

12 Q Okay. Was it dropped or was it thrown?

13 A I'm not sure.

14 Q Well, when Mr. Dinneon went around to get into
15 the driver's side of the Grand Prix, did he have a beer
16 bottle?

17 A Yes, when he was coming around to the driver's
18 side, yes, he did.

19 Q Then you say Tav, Mr. Yeargin, pulled up beside
20 the Grand Prix?

21 A Yes.

22 Q All right. Pulled up beside it, how much
23 distance was between the two vehicles?

24 A Probably from here to that table.

25 Q To where?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A To that table that they're sitting at.

2 Q Right here?

3 A Yes.

4 Q Fifteen feet?

5 A Yes.

6 Q I'm not good at distance so I don't really know.

7 But we'll say, I'm almost 6 foot, so yeah, that's a little

8 more than two of me, okay. So, Mr. Yeargin is in the

9 Mustang, approximately 15 feet away from the Grand Prix?

10 A Right.

11 Q Right. Now, Mr. Yeargin never gets out of that
12 vehicle?

13 A Right.

14 Q And a shot is fired?

15 A Right.

16 Q Now, how many shots?

17 A One.

18 Q One shot. Okay. Now there was some words
19 exchanged between Mr. Dinneon -- or Mr. Dinneon is yelling
20 at Mr. Yeargin, correct?

21 A Correct.

22 Q Okay. So, if Mr. Yeargin never got out of the
23 vehicle -- was the window on your Mustang broken?

24 A It wouldn't roll down, yes, it was broke.

25 Q Did he shoot through the window?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A No, he opened the car door.

2 Q But never got out of the car?

3 A Exactly.

4 Q So, he's sitting in the car, that Mustang, 15
5 feet away, actually a little further away from where you
6 and Sean Dinneon were, right? Because it would have been
7 the width of the car?

8 A Right. Because he shot through the window,
9 through the passenger side and we were in the driver's
10 seat, yes.

11 Q So, that Mustang and that Grand Prix, if I put
12 them side by side, are they about equal heights, equal
13 distance from the ground?

14 A I'm not sure.

15 Q Okay. So, in that one shot that was fired, you
16 certainly can't say whether Mr. Yeargin could see if that
17 shot was being fired or not?

18 A Right.

19 Q And indeed, I think you said when you were
20 talking to Baker and Dow, he was simply trying to get him
21 off of you?

22 A Yes, that's what I said in that, yes.

23 Q Mr. Yeargin was trying to get him off of you.
24 Mr. Dinneon was grabbing at you and at that point in time,
25 there's no way for you to know what was being seen by

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 Mr. Yeargin, correct?

2 A Correct.

3 Q You couldn't tell?

4 A Correct.

5 Q Other than he could possibly have seen him
6 grabbing at you, right?

7 A (The witness nods.)

8 Q And I think further in the tape, in the
9 interview on September the 21st of 2011, you were quite
10 adamant with Baker and Dow, he didn't mean to do it,
11 correct?

12 MR. RICHARDSON: I'm going to object to that
13 question. She cannot testify to what the Defendant was
14 thinking, thought process.

15 MR. DEJONG: May I be heard on that?

16 THE COURT: Yes, sir.

17 MR. RICHARDSON: I would ask that we approach.

18 THE COURT: Sure, come on up.

19 (WHEREUPON, an off-the-record bench conference
20 was held in the presence of the jury but out of
21 the hearing of the jury.)

22 BY MR. DEJONG:

23 Q Did you share with Baker and Dow what you
24 believed to be the state of mind to Mr. Yeargin when he
25 shot?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 MR. RICHARDSON: Once again, Your Honor, I
2 object to that question.

3 THE COURT: All right, I sustain that objection.
4 You may move on.

5 MR. DEJONG: Very well. One moment, please,
6 Your Honor.

7 THE COURT: Yes, sir.

8 BY MR. DEJONG:

9 Q In your interview on September 21st of 2011, you
10 stated you were trying to get him, speaking of Dinneon,
11 off of you, correct?

12 A Correct.

13 Q He wouldn't get off of me, the next thing I knew
14 he got shot?

15 A Right.

16 Q So, how he actually got shot, you don't know?

17 A I do know.

18 Q You didn't know on September the 21st of 2011?

19 A But I did know. I mean, like I said, I was
20 traumatized. I had seen so much that whole week.

21 Q When you found out on September the 21st of 2011
22 what you were being charged with, do you remember that?

23 A Right, yes.

24 Q Do you remember what your response was?

25 A What?

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 Q I can't go to jail, I can't go to jail.

2 Correct?

3 A Correct.

4 Q And that's still what you feel today, right?

5 A Yes.

6 Q Now, September the 21st of 2011, when you said
7 when y'all left the church parking lot and you switched
8 drivers and you did all of that, you and Ms. Utsey and
9 Mr. Yeargin went to Mr. Yeargin's and I guess Mr. Utsey's
10 momma's house, correct?

11 A Yes.

12 Q September the 21st of 2011, you said you never
13 got out of the car, correct?

14 A Right.

15 Q And today you got out of the car and report to
16 this jury all these things that you heard Tavish Yeargin
17 say?

18 A Right.

19 Q Which one's the truth, which one's the lie?

20 A I did get out of the car. The only reason I
21 said didn't get out of the car is because I didn't want to
22 be involved in it. I didn't want to get in trouble. And
23 I thought I could say that just to get myself out of it.
24 But it --

25 Q But --

KAYLA WILLIAMS-CROSS BY MR. DEJONG

1 A But I was just scared.

2 MR. RICHARDSON: Objection, Your Honor. Let --

3 THE COURT: Okay, let her finish.

4 A I was scared.

5 BY MR. DEJONG:

6 Q Okay. That's exactly what you're doing today,
7 isn't it?

8 A No, sir?

9 MR. DEJONG: Thank you, ma'am, no further
10 questions.

11 THE COURT: Redirect, sir?

12 REDIRECT EXAMINATION

13 BY MR. RICHARDSON:

14 Q Ma'am, did you also give a written statement on
15 September 22, 2011, do you recall doing that?

16 A I'm not sure.

17 Q If I showed it to you, would that refresh your
18 memory?

19 A Yes, sir.

20 Q Is that your written statement?

21 A Yes. Yes, this is the same one.

22 Q Same one you had before you that Mr. DeJong gave
23 you?

24 A Right.

25 Q And were you -- well, let me ask you this. On

KAYLA WILLIAMS-REDIRECT BY MR. RICHARDSON

1 September the 21st, Mr. DeJong keeps going back to?

2 A Yes.

3 Q Was that directly after your arrest? When you
4 gave that statement?

5 A What the voice recording?

6 Q Yes, ma'am.

7 A Yes.

8 Q Okay. And how long had y'all been on the run?

9 A Since the 17th until the 21st.

10 Q Okay. And while you were on the run, were your
11 sleeping in hotel rooms?

12 A No, sir.

13 Q Were you sleeping in cars?

14 A Yes, sir.

15 Q Okay. Did you get much sleep?

16 A No, sir.

17 Q Okay. When you got to the hotel where you were
18 arrested, had you had any sleep then?

19 A No, sir.

20 Q Were you eating well?

21 A No, sir.

22 Q Were you going down to the steakhouse and eating
23 steaks?

24 A No, sir.

25 Q Why not?

KAYLA WILLIAMS-REDIRECT BY MR. RICHARDSON

1 A We didn't have no money.

2 Q What were you eating?

3 A Stuff that we had got out of the food pantry
4 that we had brought to the hotel at InTown Suites, we had
5 took that and put it in the trunk of the car and been
6 eating on that the whole time until all that happened.

7 Q Okay. When you were arrested were you -- were
8 you tired?

9 A Yes.

10 Q You'd been on the road for three days, were you
11 disoriented?

12 A Yes.

13 Q Were you scared?

14 A Yes.

15 Q How long did the interview last with Detective
16 Dow?

17 A It felt like two hours.

18 Q Do you know how long it lasted?

19 A No, sir.

20 Q You just reviewed it. How long did it take you
21 to review it?

22 A Thirty minutes.

23 Q Okay. And in that 30 minutes were you able to
24 give every single detail as to what happened on that
25 evening?

KAYLA WILLIAMS-REDIRECT BY MR. RICHARDSON

1 A No, sir because I fell asleep. And they woke me
2 up and they asked me how -- did I -- was I awake?

3 And I said, Kind of. I wasn't fully awake.

4 Q Okay. You said you fell asleep, you fell asleep
5 there in the interview?

6 A Yes, sir before they got there.

7 Q All right. And -- and then at some point in
8 time you gave a statement to Detective Dow?

9 A Yes.

10 Q The next day, is that correct?

11 A Yes, because we got caught that night around 11,
12 12o'clock. So, it rolled over to the 22nd, that next day,
13 yes.

14 Q Okay. Now, Mr. DeJong referred to you coming to
15 see me. You've seen me, you've come to talk to me?

16 A Yes. Yes.

17 Q And when we talked, did I tell you what to come
18 in here and say?

19 A No, sir.

20 Q Did I in anyway insinuate or tell you anything
21 that you have said today?

22 A No.

23 Q Who told who what?

24 A I told you what happened.

25 Q You told me what happened?

KAYLA WILLIAMS-REDIRECT BY MR. RICHARDSON

1 A Exactly.

2 Q And what did I tell you I wanted you to tell
3 this jury when you came in here?

4 A The truth.

5 Q You understand that I have in no way made you
6 any promises?

7 A Yes.

8 Q Or deals?

9 A Right.

10 Q I told you that?

11 A Yes, sir.

12 MR. RICHARDSON: Thank you.

13 THE COURT: Any additional questions,

14 Mr. DeJong?

15 MR. DEJONG: Thank you, Your Honor, but I think
16 not.

17 THE COURT: Okay, Ms. Williams, thank you, very
18 much. You may step down.

19 MR. RICHARDSON: The State calls Nyia Utsey.

20 THE COURT: Ms. Utsey, if you'd come around,
21 please.

22 THE CLERK: Place your left hand on the Bible,
23 raise your right.

24 NYIA UTSEY, after being duly sworn,
25 testified as follows:

KAYLA WILLIAMS-REDIRECT BY MR. RICHARDSON

1 THE CLERK: If you would have a seat, state your
2 name for the record, please. Speak into the microphone.

3 THE WITNESS: Nyia Utsey.

4 DIRECT EXAMINATION

5 BY MR. RICHARDSON:

6 Q Pull that -- scoot up a little bit in your
7 chair, okay?

8 A Nyia Utsey.

9 Q Ms. Utsey, how old are you?

10 A Twenty-one.

11 Q And are you -- did you -- how far did you go in
12 school?

13 A I went to the 11th grade.

14 Q And where did you go to school?

15 A Southside.

16 Q All right. And today your presently
17 incarcerated in the law enforcement center, is that
18 correct?

19 A Yes, sir.

20 Q And you're incarcerated there for the charges of
21 murder?

22 A Yes, sir.

23 Q Okay, you're going to need to speak up.

24 A Yes, sir.

25 Q So everybody down here can hear you. Also grand

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 larceny, is that correct?

2 A Yes, sir.

3 Q And that's for this incident that we're here
4 today about?

5 A Yes, sir.

6 Q Okay. Now, how do you know the Defendant?

7 A That's my brother. Well. . .

8 Q Okay, I'm sorry?

9 A The Defendant?

10 Q Yes.

11 A That's my brother.

12 Q Okay. Are y'all -- did y'all live together
13 prior to your arrest or what was y'all's living status?

14 A We was living together for a little while at the
15 time.

16 Q Where did you live.

17 A We lived at Shemwood Piedmont Manor.

18 Q Okay. Is that in Greenville County?

19 A Yes, sir.

20 Q All right. There's been some mention of Taz
21 Utsey, is she kin to you?

22 A Yes, sir.

23 Q Okay. And who is?

24 A She's my sister.

25 Q Okay. And Kayla Williams, you know Kayla

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Williams?

2 A Yes, sir.

3 Q Who is she?

4 A She was my girlfriend at the time.

5 Q Okay. And at the time of this incident?

6 A Yes, sir.

7 Q Okay. Prior to this incident, how long had

8 y'all dated?

9 A Like six months.

10 Q Okay. And when you were -- while you were

11 dating, did you live together?

12 A For a little while, yes, sir.

13 Q Okay. Where did you live?

14 A We lived at InTown Suites.

15 Q Is that in Greenville County?

16 A Yes, sir.

17 Q Is that located on Wade Hampton?

18 A Yes, sir.

19 Q Okay. Now, do you have -- do you have a child?

20 A Yes, sir.

21 Q How old is that child?

22 A He's three.

23 Q Where is that child now?

24 A He's in foster care.

25 Q Okay. Let me take your memory back to

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 September 2011, okay. Specifically September the 16th,
2 that would be Friday. Do you remember having contact with
3 the Defendant on that day?

4 A Yes, sir.

5 Q Can you tell the jury about that contact?

6 A Yes, sir. The Defendant, my brother, he called
7 me and asked me to give him a ride.

8 MR. DEJONG: Excuse me, ma'am, I'm sorry.

9 Can I stand over here, Your Honor, I cannot hear
10 her.

11 THE COURT: Sure. Yes, sir, you may.

12 BY MR. RICHARDSON:

13 Q Which means they may not be able to hear. Pull
14 up a little bit.

15 Your Honor, may approach to adjust the
16 microphone?

17 THE COURT: Yeah, you're welcome to.

18 BY MR. RICHARDSON:

19 Q Okay. So, you had contact with the Defendant
20 Friday, September 16th, 2011, tell the jury about that?

21 A Really it started about Kayla's car or whatever.
22 She tried to get rid of it because her and momma had got
23 into a incident or whatever. My brother--

24 Q Now, when you say, Momma, who are you talking
25 about?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A Janice Bridget, Kayla's mother?

2 Q Okay.

3 A They had got into a little incident to where
4 Kayla came to my house or whatever. My sister house,
5 really. And she had the Mustang. It wasn't her Mustang,
6 it was her grandpa Mustang or whatever. That she needed
7 to get rid of it. My brother told her that she needed the
8 title for it or whatever. And she said she was going to
9 work on trying to get the title or whatever. She tried to
10 go back to her grandpa house to get it but she couldn't
11 get it nor whatever. So then, my brother told her that he
12 got some cars for her or whatever.

13 Q Now, when that conversation was going on, is
14 that -- are y'all all in the same room or over the
15 telephone or how was that?

16 A No, we was out at the front of Piedmont Manner.

17 Q Okay. So, when we're talking about your
18 brother, we're talking about the Defendant?

19 A Yes, sir.

20 Q Okay, go ahead.

21 A Okay, after that conversation or whatever, he
22 told her he had the cars or whatever. And I didn't know
23 that he was talking about Sean's cars or whatever. Well,
24 he told us that he needed a ride. And he told Kayla he
25 was going to give her some gas money or whatever.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay, slow up a little bit. Now, you say he
2 told you he needed a ride?

3 A Yes, sir.

4 Q Okay. Where were y'all when he told you that.

5 A We was on the phone at that time.

6 Q Okay. And where were you and Kayla at that
7 time?

8 A At the motel.

9 Q That's the InTown Suites that you referred to?

10 A Yes, sir.

11 Q Okay. At that point in time what happens?

12 A After he told us that he needed a ride to go get
13 the car or whatever, Kayla told him that she needed some
14 gas money or whatever.

15 And he said, I gotch you.

16 Well, Kayla found--

17 Q Do you know what he meant by, I gotch you?

18 A He was going to give it to her.

19 Q Okay. So then what happened?

20 A Okay, we got my son dressed or whatever. Called
21 my sister and asked her could she watch the baby? She
22 said yeah, she can watch the baby for us.

23 Q So the jury understands, was the baby living
24 with you at that time?

25 A Yes, sir.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Was the baby living in the InTown Suites with
2 you and Kayla?

3 A Yes, sir.

4 Q Okay. So, you go from the InTown Suites to
5 where?

6 A After we left the InTown Suites we went to my
7 sister house.

8 Q What's her name?

9 A Tequala [ph] Utsey.

10 Q Okay. What did you do at Tequala's house?

11 A I dropped my son off.

12 Q Then what did you?

13 A After we dropped the baby off then we went to my
14 mom's to go pick up my brother.

15 Q Okay. And was your brother, the Defendant, at
16 your mother's house at that time?

17 A If I'm not mistaken, yes, sir.

18 Q Okay. So, do you go to your mother's house?

19 A Yes, sir.

20 Q And what do you do then?

21 A We pick him up or whatever. And he -- well, we
22 go in the house or whatever to get him. And he's in
23 there. He told us that what the plan was or whatever.

24 Q Okay. And what exactly did he tell you?

25 A He told us just get Sean to the door and talk to

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 him.

2 Q Okay. And once you got Sean to the door and
3 talked to him, what, if anything, were you going to do?

4 A He was going in the backdoor -- kick the
5 backdoor in, get the car keys and tie him up.

6 Q And when you say, He was going to go in the
7 backdoor, who are you talking about?

8 A My brother.

9 Q Talking about the Defendant?

10 A Yes, sir.

11 Q Okay. Now, at that point in time did he get
12 anything out of the house?

13 A Yes, sir.

14 Q What did he get?

15 A He got the gun.

16 Q Okay. Did you see him get a gun?

17 A Yes, sir.

18 Q What kind of gun was it? A long gun, a short
19 gun or?

20 A It was a long gun.

21 Q Okay. And where did he -- did -- do you know if
22 that gun was loaded or not?

23 A Yes, sir.

24 Q From whom did he get the gun from?

25 A My brother, Michael.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

- 1 Q Your brother, Michael.
- 2 A Yes, sir.
- 3 Q What's Michael's last name?
- 4 A Michael Utsey.
- 5 Q It's Utsey, too?
- 6 A (The witness nods.)
- 7 Q Okay. Do you know if that gun was loaded?
- 8 A Yes, sir.
- 9 Q How do you know it was loaded?
- 10 A Because I seen it.
- 11 Q When you say you seen it, what did you see?
- 12 A I seen him putting the bullets in the gun.
- 13 Q Who put the bullets in the gun?
- 14 A My brother Michael and Yeargin.
- 15 Q Okay. At that point in time, what did y'all do?
- 16 A After that we put -- we got in the car and left
- 17 and he put in it in the trunk.
- 18 Q Who put what in the trunk.
- 19 A The Defendant.
- 20 Q Okay. He put the gun in the trunk?
- 21 A Yes, sir.
- 22 Q Okay. Now, what car were you driving at that
- 23 time?
- 24 A Kayla's Mustang.
- 25 Q Who was driving the Mustang?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A Kayla.

2 Q Where were you sitting?

3 A In the passenger seat.

4 Q Okay. And where was the Defendant?

5 A In the backseat.

6 Q Okay. Now, do you go from there to Sean

7 Dinneon's house?

8 A On that Friday night we did.

9 Q Okay. Did you go anywhere before you went to
10 his house, did you go anywhere else?

11 A The second night we did.

12 Q Okay. Not talking about the second night.

13 Right now I'm just talking about Friday, the night before.

14 A No.

15 Q Did you go directly to his house?

16 A Yes, sir.

17 Q Okay. And did y'all talk about what you were
18 going to do when you went over to his house? Inside the
19 car, did you talk about it?

20 A Not that I remember.

21 Q Okay. So, had you previously discussed that?

22 A Yes, sir.

23 Q Okay. Now, did he -- did the Defendant talk to
24 you about what he was going to do with the gun?

25 A Yes, sir.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q What did he say?

2 A He said he was going to go get him. He might
3 have to pop him in the leg or something.

4 Q Okay. And what did you think he meant by
5 popping him in the leg?

6 A Shooting him in the leg.

7 Q Okay. So, once you get to the Victim's house,
8 what happens then? Let me ask you this, is this daytime
9 or nighttime?

10 A It's nighttime.

11 Q What happened at the Victim's house?

12 A Well, you really couldn't see his house because
13 he had a whole bunch of bushes on top of it or whatever.
14 So, we drove past it. Kayla drove past it or whatever.

15 And he said, That's the house right there,
16 you need to turn back around.

17 And they had this big ole barrel outside in
18 the driveway. And Kayla got out of the car and moved it.
19 And we drove up in the driveway.

20 And Kayla said, ooh, ooh, I want that car,
21 I want that car.

22 My brother told her it had an alarm on it.
23 And he want the blue car. So, my brother told us to get
24 out and knock on the door. We got out, knocked on the
25 door and wouldn't nobody come to door. I was scare that

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Sean was going to come to the door but he wasn't there.

2 Then after that we got back in the car.

3 And he said, What do y'all want to do.

4 I told him I want to go home and get my
5 baby.

6 And we left that night.

7 Q Okay. So, when you say you left, nobody was
8 home. You left--

9 A Sean's house.

10 Q Okay. Where did you go from there?

11 A We went back to my mom's house and dropped my
12 brother off.

13 Q Okay. And then where did you go?

14 A Go pick up my son.

15 Q Then where did you go?

16 A Back to InTown Suites.

17 Q Okay. Did y'all stay at InTown Suites that
18 evening?

19 A Yes, sir.

20 Q Okay. At some point in time did you have a
21 conversation with the Defendant again the next morning,
22 this would be the 17th?

23 A Yes, sir. I think it was that evening.

24 Q Okay. What was -- how was that conversation
25 initiated?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A He called and he said that he needed a ride back
2 up there or whatever.

3 I told him, No, it wasn't my car. I hung
4 up on him.

5 Well, he text and said, That's messed up.

6 I said, What's messed up? I told him I
7 said --

8 He told me that we wouldn't take him up
9 there, that's that messed up.

10 And I told him I said, That's not my car,
11 you're going to have to talk to Kayla.

12 So, I gave Kayla the phone. He told Kayla
13 that she could get all this stuff out of Sean's house.
14 And he was going to give her some gas money.

15 So, she said, Okay.

16 And after that we got dressed and we left.
17 Went to go pick him up and dropped my son off.

18 Q Okay. When you say He, you're talking about the
19 Defendant?

20 A Yes, sir.

21 Q Okay. Now, where did you meet the Defendant
22 that evening?

23 A We met him at Piedmont Manor.

24 Q Okay. And who's home were you at?

25 A My sister.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q All right. And was it daylight out or?

2 A Yes, sir.

3 Q It was still daylight?

4 A Yes, sir.

5 Q Okay. And when you got to -- which sister is
6 this again?

7 A Taz.

8 Q When you got to Taz's house, what did you do?

9 A We went to go pick him up or whatever. And
10 after we picked him up we had to go drop my son off. We
11 had dropped him off at Ms. Close [verbatim] house, then we
12 went back to my mom's house.

13 Q Why did you go back to your mother's house?

14 A He had to get the gun.

15 Q Okay. Let's go back to Friday night. Did he --
16 did he -- did the Defendant remove the gun out of the
17 Mustang?

18 A Yes, sir.

19 Q And where did he take it that night?

20 A He put it back in my mom's house.

21 Q Okay. So, on Saturday night when you go back to
22 your mother's, do you go inside?

23 A Yes, sir.

24 Q Where does he get the gun from?

25 A The closet.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay. And does he cover it up or anything of
2 that nature?

3 A I'm not sure.

4 Q Okay. Where did he take the gun then?

5 A After he put it in the closet?

6 Q Yeah -- no, I'm sorry. This is Saturday night
7 now, I apologize, okay? So, Saturday night when he goes
8 and gets the gun, did he cover it up at that time?

9 A Yes, sir, he covered it up and took it outside
10 and put it in the trunk.

11 Q Okay. And where does he get in the car?

12 A In the backseat.

13 Q Okay. And who is driving?

14 A Kayla.

15 Q And you're in the passenger seat?

16 A Yes, sir.

17 Q Okay. Front passenger seat?

18 A Yes, sir.

19 Q Okay. Now, do y'all discuss at this time what
20 y'all are going to do?

21 A Yes, sir.

22 Q What do y'all discuss?

23 A He told us that--

24 Q When you say, He, you're talking about the
25 Defendant?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A The Defendant, yes. He called Sean and he
2 already talked to Sean and told him that he was going to
3 come buy the cars or whatever.

4 Q Okay.

5 A Okay, we get to McDonald's to put gas in the
6 car. And Kayla is standing in McDonald's paying for the
7 gas.

8 And he was like, No, I can't be seen
9 because they know me. So he said, I need--

10 Q Wait a minute, who says that?

11 A The Defendant.

12 Q Okay. He says he cannot be seen?

13 A Yes, sir.

14 Q Okay. I'm sorry, you kind of hard, so see if
15 you can speak up a little bit more, okay? He says I can't
16 be seen why?

17 A Because they know me.

18 Q Okay. So then what happens?

19 A So, he calls my brother Charles.

20 Q Okay.

21 A And axe [verbatim] him do he want to go with us
22 and be a buyer of the car. At the time Charles said yes
23 he would go with us to be the buyer. So, I had to get out
24 the car and go tell Kayla what was going on. And my
25 brother called Charles back and him and Charles is having

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 a conversation. Then we got Kayla to put the gas in the
2 car and we went to go pick up my brother Charles.

3 Q Y'all going over there to buy tow cars? Or what
4 were you going to do?

5 A That was the plan, to buy the two cars.

6 Q What was the ultimate plan of what you were
7 going to do?

8 A Take the cars.

9 Q Steal the cars?

10 A Yes, sir.

11 Q Okay. Now, do y'all go get Charles?

12 A Yes, sir.

13 Q Where does he live?

14 A In Taylors.

15 Q Okay. After you pick Charles up, what do you
16 do?

17 A After we pick Charles up we go back -- we go to
18 the Defendant's house.

19 Q Okay. And are y'all discussing what you're
20 going to do at this time?

21 A Yes, sir.

22 Q What are you discussing?

23 A My brother, the Defendant, told Charles he was
24 going to have to be the buyer of the car. And me and
25 Kayla was gonna have to talk to the lady and keep her calm

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 so she won't go try to call the police on him.

2 Q And at some point in time did you see a BB gun?

3 A Yes, sir.

4 Q And where was that BB gun?

5 A With Kayla. It was on Kayla.

6 Q Okay. And did the Defendant give her that BB
7 gun?

8 A Yes, sir.

9 Q Okay. Would you recognize that gun if you saw
10 it today?

11 A Yes, sir.

12 Q I'm referring to State's Exhibit 29, do you
13 recognize that?

14 A Yes, sir.

15 Q What is that?

16 A The BB gun.

17 Q That's the BB gun the Defendant gave to Kayla?

18 A Yes, sir.

19 Q And did he discuss with Kayla what he wanted her
20 to do with that BB gun?

21 A Yes, sir.

22 Q And what was that?

23 A Not to let Ms. Hinson go nowhere to call the
24 police. And if she go somewhere, pop her with it.

25 Q Okay. Now, at some point you actually go -- you

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 go directly from Charles' house to Sean's or what?

2 A Yes, sir.

3 Q Okay.

4 A No. No. No.

5 Q Okay, where you go?

6 A We stopped on the side of the road to knock the
7 light out.

8 Q Who wanted to knock the light out?

9 A My brother, the Defendant.

10 Q Why did he want to knock the light out?

11 A So he wouldn't be seen.

12 Q Okay. Is this a, the light interior light in
13 the Mustang?

14 A Yes, sir.

15 Q Do you recall who knocked it out?

16 A The Defendant and my brother Charles.

17 Q Okay. Do you remember how they knocked it out?

18 A They pulled it out.

19 Q Okay. Now, at this point in time do you go to
20 the Victim's house? Sean's house?

21 A After they knocked the light out.

22 Q Okay. Who was driving at this point in time?

23 A Kayla.

24 Q And where are you sitting?

25 A In the passenger seat.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q So Charles and the Defendant were in the
2 backseat?

3 A Yes, sir.

4 Q Okay. Now, when you get to the Victim's house,
5 what do y'all do?

6 A When we get to the Victim's house we hurried up
7 the driveway so he couldn't see who's in the car, really.
8 We hurried and jumped out so he wouldn't see my brother,
9 the Defendant, in the backseat.

10 Q Okay. And did you get out of the car?

11 A Yes, sir.

12 Q Okay. Who else got out of the car.

13 A Kayla and my brother Charles.

14 Q Okay. And once you got out of the car, where
15 did you go?

16 A Sean started copping up the hill and we started
17 talking to him. My brother Charles was standing at the
18 bottom of the hill because he was scared or whatever. And
19 he didn't want to be down with the plan or whatever. So,
20 Sean come up the hill and he started trying to the get car
21 crank or whatever but it wouldn't crank.

22 Q Which car are we talking about he's trying to
23 get cranked?

24 A The blue one.

25 Q Okay. The blue Lancer?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A Uh-huh.

2 Q Okay. All right, go ahead.

3 A So, he couldn't get it crunk. So, he jumped it
4 off with the other car. He pulled it in the front or
5 whatever. He kept slapping those the little thing
6 together. He kept asking Kayla, Do you want to help me?

7 And she said, No.

8 And he put it on there and got the car
9 jumped off or whatever. And he kept telling me to try to
10 find the button to pop the trunk open.

11 Q This is Sean?

12 A Yes, sir.

13 Q And does the Lancer actually get cranked up at
14 one point?

15 A Yes, sir.

16 Q What happens then?

17 A Once it got crunked up Kayla tried to drive it
18 but it shut gown.

19 Q Okay. After it shut down -- and during all of
20 this, where is Charles?

21 A At the bottom of the hill.

22 Q Okay. Where is the Defendant?

23 A In the car.

24 Q In the mustang?

25 A Yes, sir.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay. Once that Lancer, you try to jump the
2 Lancer off, what do you do at this point.

3 A Once the Lancer wouldn't go?

4 Q Yes.

5 A After it wouldn't go we told Ms. Hinson ---
6 because Charles, he come up the hill or whatever. And he
7 told Kayla that if she hit Ms. Hinson with that BB gun or
8 whatever, he was going to punch her in the face. And I
9 stepped back and got in the car and told my brother what
10 was going on. And we told -- after I told him what
11 happened, we told Ms. Hinson that we had to go the
12 restroom or whatever. And after we told her that we got
13 in the car and we dropped my brother Charles off at Hot
14 Spot.

15 Q Okay. So Hot Spot -- you returned from the
16 Victim's house directly to the Hot Spot?

17 A Yes, sir.

18 Q At the Hot Spot -- what road is that Hot Spot
19 on?

20 A I'm not sure.

21 Q Okay. Is it on like a four lane highway?

22 A I don't think so. I know it's some railroad
23 tracks you got to go over.

24 Q Okay. At that Hot Spot, did y'all get out of
25 the vehicle at that time?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A Yes, sir.

2 Q Okay. And did you go to the bathroom?

3 A Yes, sir.

4 Q All right. Where did Charles go?

5 A In front of the store.

6 Q I'm sorry?

7 A In front of the store.

8 Q Okay. What happens after that?

9 A After that me and Kayla get back in the car.

10 And my brother said, I'm tired of this, I'm
11 fixing to get him or whatever.

12 Q Fixing to get him?

13 A Yes, sir.

14 Q Who is he talking about?

15 A Sean.

16 Q Okay. Is -- at that point in time is Charles in
17 the car?

18 A No, sir.

19 Q Why is Charles no longer in the car?

20 A Because he didn't--

21 MR. DEJONG: I'm going to object, Your Honor.

22 Number one, it's been asked and answered, I think. Number
23 two, I don't know why he didn't get in the car and I don't
24 think she knows why he didn't get in the car.

25 THE COURT: I'll sustain that. I believe it has

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 been asked and answered.

2 MR. RICHARDSON: I'll move on.

3 THE COURT: Yes, sir.

4 BY MR. RICHARDSON:

5 Q After that do you go back to Sean's house?

6 A Yes, sir.

7 Q Okay. What do y'all talk about on the way back
8 to Sean's house from the Hot Spot?

9 A He said that he was going to go get him.

10 Q Who said that?

11 A My brother. He said he was tired.

12 Q Okay. And have you seen the gun at this point
13 in time?

14 A Yes, sir, it was in the backseat.

15 Q Okay. And it is the same gun that he got from
16 your other brother?

17 A Yes, sir.

18 Q Okay. So, what do y'all do at this point?

19 A After we get back in the car? I forgot to say
20 something to you. He told Kayla to follow his signals,
21 too.

22 Q I'm sorry, you need to repeat that.

23 A He told Kayla to follow his signals. He was
24 going to give her signals.

25 Q Okay.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A On which way to go, which way to turn.

2 Q Okay. He was saying that on the way over to the
3 Victim's house?

4 A Yes, sir.

5 Q Okay. What do you mean by that?

6 A Because he wanted her -- we was going to test
7 drive the car. He was going to give her signs on which
8 way to go.

9 Q Okay. And how was he going to give those signs?

10 A Turn signals.

11 Q I'm sorry?

12 A Turn signals.

13 Q Okay. Was there any discussion on what --- what
14 about Charles now that Charles was gone?

15 A (The witness shook her head.)

16 Q And when you got to the Victim's house, what did
17 you do?

18 A After we got back to the Victim's house?

19 Q Yes.

20 A We pull up in the driveway. My brother, he
21 switched over and started driving. Me and Kayla get in
22 the car with Sean and test drive the car. And he start
23 following us.

24 Q Okay. So we're clear, which car are you in at
25 this in time?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A Sean's car. The Grand Prix, I think.

2 Q Referring to State's Exhibit 10. Is that the
3 car?

4 A Yes, sir.

5 Q Okay. So who's in that car?

6 A Me and Kayla and Sean.

7 Q And Sean. Okay. Where is Sean in the car?

8 A He is in the backseat.

9 Q Is he drinking?

10 A Yes, sir.

11 Q What was he drinking?

12 A A 40, I believe.

13 Q Okay. Was it a can or glass or what?

14 A A glass bottle.

15 Q All right. As you're driving with him, are
16 y'all talking about the car? What are you talking about?

17 A We got loud music playing.

18 Q Okay. So, you having any conversation
19 whatsoever?

20 A Yes, sir. We asked him like how much do he want
21 for the car. I'm not sure but I think he said 15. I'm
22 not sure, I can't remember. But we asked him how much he
23 wanted for it.

24 Q Now, where is the Defendant at this time?

25 A He's driving Kayla's car behind us.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay. About how long -- as some point in time
2 did you end up in a church?

3 A Yes, sir.

4 Q Okay. Why did you end up there?

5 A Because Kayla got tired of driving.

6 Q All right. What happens at the church?

7 A I get out the car to go ask what happened -- I
8 mean, what my brother want us to do.

9 Q Let me ask you this first, do y'all pull into
10 the church parking lot or are you on the road?

11 A We pull into the parking lot.

12 Q Okay. And who pulls in first?

13 A Kayla.

14 Q All right. And that would be the Grand Prix?

15 A Yes, sir.

16 Q Okay. And does -- where does the Mustang pull
17 in?

18 A Behind it.

19 Q Okay. All right. And that point you do what?

20 A I get out the car and go ask my brother, the
21 Defendant, what he want us to do with the car?

22 And he said, Tell Kayla keep driving.

23 Well, I go get back in the car and try to
24 tell Kayla to keep driving. But I couldn't tell her
25 because Sean's like getting suspicious or whatever. And

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 she was like, Do you want me to go ask him?

2 I said, Yeah.

3 She got out of the car to go ask or
4 whatever my brother, the Defendant, what he want her to do
5 with the car. And I was sitting in the car and Sean was
6 sitting in the backseat. And I guess he noticed the
7 Defendant.

8 MR. DEJONG: Your Honor, I'm going to object to
9 testimony about guessing -- excuse me, if she knows, she
10 knows. If she doesn't know, she doesn't know. But not
11 guessing, please.

12 THE COURT: All right. I'm not so certain it's
13 not just a term of reference. However, I will sustain and
14 say you can't testify to things you don't know. You have
15 to testify to things you know of your own personal
16 experience.

17 BY MR. RICHARDSON:

18 Q Well, how was Sean acting at this time?

19 A He was acting like he knew that that was my
20 brother, the Defendant.

21 Q Okay. So, what does he do.

22 A He get out the car. And Kayla, she started --
23 he get out the car, he started trying to go toward the
24 driver's seat and Kayla started running from the Mustang.
25 And she--

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Kayla starts running which way?

2 A From the Mustang?

3 Q Okay.

4 A And she jumps in the car and her Sean is
5 fighting over the car. He turns it off and she turned it
6 back on, trying to put it in drive.

7 Q Okay, let me ask you this. Who got to the car
8 first?

9 A Kayla.

10 Q Kayla did?

11 A Uh-huh.

12 Q Did she get in the driver seat first or did Sean
13 get in first?

14 A She got in the driver seat.

15 Q Okay. And was Sean holding a bottle at that
16 time?

17 A Yes, sir.

18 Q Did he do anything with that beer bottle?

19 A He threw it behind him.

20 Q He threw it behind him?

21 A Yes, sir.

22 Q Okay. And then -- what happens then?

23 A Kayla finally get the car to go a little bit and
24 his shoe comes off. And she drag him a little bit. And
25 they still fighting over the car.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay. Now, while this is going on, where are
2 you?

3 A I was in the car and I got out.

4 Q You got out?

5 A Yes, sir.

6 Q When you got out did you close the door or what
7 did you leave it open?

8 A I closed it.

9 Q Could you see inside the car?

10 A Yes, sir.

11 Q Was -- was Kayla -- was the Defendant hitting
12 Kayla? Excuse me, was the Victim hitting Kayla?

13 A He was like laying on top of her.

14 Q Okay. Where was his hands?

15 A On the driver seat. And at some point in time
16 he was kind of in the switch.

17 Q Where were Kayla's hands?

18 A Her hands on the steering wheel and in the
19 switch, too. They was fighting a little bit over it.

20 Q Was he hitting her?

21 A Not that I know of. Might be pushing her a
22 little bit.

23 Q Was he trying to get her out of the car?

24 A Yes, sir.

25 Q Okay. What happens then?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A After trying to get her out of the car?

2 Q Yes.

3 A So the Defendant, he drives around and he told
4 Sean he said, Get off her.

5 And Sean looked up at him and said, Kill
6 me.

7 And he had the gun pointed at the window.
8 And he shot him.

9 Q Okay. So, let's back up. Now, he pulls on
10 which side of the car?

11 A The passenger side?

12 Q Okay. And was his -- was the Mustang door
13 opened or closed?

14 A It was opened.

15 Q And did you see the gun?

16 A Yes, sir.

17 Q Okay. And did you see the Defendant fire the
18 gun?

19 A Yes, sir.

20 Q Okay. In which direction did he fire it?

21 A He hung it out the window and he fired it
22 towards Sean.

23 Q What happens then?

24 A After he shot it, Sean was laying on top of
25 Kayla and she pushed him off.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q And what did you do?

2 A I stood there for a little minute and then Kayla
3 took off in the car. And I went back and got in the
4 Mustang with my brother, the Defendant.

5 Q Okay. Did you notice was Sean using any weapons
6 or anything or threatening her in any way? Was Sean using
7 any weapons towards Kayla?

8 A No, sir.

9 Q Okay. Once she pushed him off, where did she
10 go?

11 A She took off in the car.

12 Q Okay. And what did you and the Defendant do?

13 A He told me first he said, Go get his wallet out
14 of his back pocket.

15 I told him, No.

16 Q Go get whose wallet?

17 A Sean's.

18 Q Okay.

19 A And I told him, No.

20 I got in the car with him and we pulled
21 off.

22 Q All right. And where did you go then?

23 A Then we tried to catch up with Kayla. She was
24 driving real fast down the road. We finally caught up
25 with her. And after they that switched cars. She started

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 driving her Mustang and he started driving the other car,
2 the Grand Prix.

3 Q Where did you switch cars?

4 A I think it was like a bridge or something on the
5 side of the road.

6 Q And where did you go, did you stay in the
7 Mustang?

8 A Yes, sir.

9 Q Where did y'all go at that point in time?

10 A We went back to my Mom's.

11 Q Okay. Was the gun in the mustang?

12 A Yes, sir.

13 Q Where was it?

14 A In the trunk.

15 Q Okay. From this point on, where did you go?

16 You said you went back to your Mother's?

17 A Yes, sir.

18 Q At your Mother's house, did everybody go back,
19 the Grand Prix and the Mustang?

20 A Yes, sir.

21 Q What happened at your Mother's house?

22 A My brother got the gun and he went in the back
23 door and I went in the front door and Kayla was still
24 outside. She was taking the tag off her car trying to put
25 it on the Grand Prix car. My brother went in the house to

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 put the gun away. And I went in the house to talk to my
2 mom. And she was like, Where the baby at? She can tell
3 that something was wrong.

4 Q Okay. And did the Grand Prix have a tag on it?

5 A No, sir.

6 Q Okay. Did -- do you know if Kayla ever put her
7 tag on the Grand Prix?

8 A Yes, sir.

9 Q Okay. And did she ever take it back off?

10 A Yes, sir, she did.

11 Q Okay. Now, at this point in time, where do
12 y'all go?

13 A From my Mom's house?

14 Q Yes.

15 A After we left my Mom's house we went to my
16 sister house to go pick up some money.

17 Q Okay. And which car are y'all driving?

18 A The Mustang.

19 Q Who's driving?

20 A Kayla.

21 Q Where's the Defendant?

22 A He's still at my Mom's.

23 Q Okay. Did you get your son?

24 A Yes, sir, I did. But not from that sister
25 house. After we got--

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q I'm sorry, say that again.

2 A Not from that sister house. Not from Taz house.
3 We got the money from Taz house. Then we went to Quala
4 house to go pick up my son.

5 Q Okay, let me get this straight. You went to
6 Taz's house to get some money, how much money did you get?

7 A Like five or ten dollars.

8 Q What was that for?

9 A Gas.

10 Q Then after that you went to?

11 A Quala house to pick up my son.

12 Q Did you get your son?

13 A Yes, sir.

14 Q Now, at this point in time, where did y'all head
15 to?

16 A Back to InTown Suites. After we get some gas,
17 InTown Suites.

18 Q And you got gas, then back to InTown Suites?

19 A Yes, sir.

20 Q Did y'all stay the night at InTown Suites?

21 A Yes, sir.

22 Q Okay. Was your son with you all night?

23 A Yes, sir.

24 Q Okay. The next morning, this would be Sunday
25 morning, what did y'all do?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A We woke up and my brother called us because I
2 guess they heard like the police was at my sister house
3 and saying that somebody was dead or whatever. I mean,
4 not whatever but said that somebody was dead, Sean was
5 dead.

6 Q Okay.

7 A And the call came from her phone. Well my
8 brother called us and said he need somewhere to lay his
9 head at.

10 Q Your brother--

11 A The Defendant.

12 Q Okay. All right. Then did you -- did you go
13 get your brother, what happened?

14 A We didn't go get him right then because Kayla
15 told him she needed some gas money?

16 Q Okay. Did you ultimately go get your brother?

17 A Yes, sir.

18 Q Okay. Where was that?

19 A We met him at Krispy Kreme Doughnuts?

20 Q Okay. Was that morning or evening?

21 A It was that night.

22 Q It was that night?

23 A (The witness nods.)

24 Q So it was after noon on the 18th?

25 A Yes, sir.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Q Okay. And what did he tell you at that point in
2 time, the Defendant?

3 A After we picked him up?

4 Q Yes.

5 A He was supposed to have some gas money but he
6 lost the gas money. And we went back to Intown Suites to
7 stay the night. And I told him, I said, You don't got us
8 in a world of trouble, what do we do?

9 And he just looked like crazy. And he was
10 like, We need to get out of town for a little while. And
11 that's it.

12 Q Okay. And at that time, this is Sunday evening,
13 did you get out of town Sunday evening?

14 A I think so.

15 Q Okay. And where did y'all go?

16 A We went to North Carolina and Tennessee.

17 Q Okay. Do you remember where in North Carolina
18 you went? Tennessee, North Carolina?

19 A Yes, sir.

20 Q Where?

21 A We went to Asheville and somewhere in Tennessee.

22 Q Okay. And at this point do you know that the
23 police are after y'all?

24 A Yes, sir.

25 Q When you're in -- what's the reason for going to

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 Tennessee?

2 A Because we was running from the police.

3 Q Okay. Had you gotten some money at some point
4 in time Intown Suites?

5 A Yes, sir, we got the deposit back.

6 Q All right. How much was that?

7 A \$50.00.

8 Q Okay. What did you do with that?

9 A Put it in gas.

10 Q Okay. Did you have any other money?

11 A No, sir.

12 Q All right. Were you able to get any money up in
13 Tennessee, Maggie Valley?

14 A No, sir.

15 Q Okay. Did y'all try to do something up there to
16 get some money?

17 A Yes, sir, we did. We went to some like places,
18 homeless places or shelters, stuff like that to try to get
19 money.

20 Q Okay. At some point in time do you recall when
21 you left Maggie Valley?

22 A I can't remember.

23 Q Okay. After you left Maggie Valley, do you
24 remember where you slept? Were you sleeping in hotel
25 rooms or where were you sleeping?

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 A We were sleeping in the car.

2 Q Okay. And after you left Maggie Valley, do you
3 recall where you went then?

4 A We went to Asheville.

5 Q Okay. And then how long were you in Asheville?

6 A Like a night, maybe two nights at the most.

7 Q Where did you sleep then?

8 A We slept in rest areas and stuff.

9 Q Okay. At some point in time did you get to
10 Spartanburg, South Carolina?

11 A Yes, sir.

12 Q All right. And when you were in Spartanburg --
13 well let me ask you this, did the Defendant have any
14 checks of the victim's?

15 A Yes, sir.

16 Q Did you see those checks?

17 A Yes, sir.

18 Q Did y'all attempt to do anything with those
19 checks?

20 A Cash them to get money back.

21 Q Were you successful in doing that?

22 A Yes, sir.

23 Q Okay. Do you recall how much money you got?

24 A No, sir.

25 Q All right. Was it -- did there come a time that

1 you went to -- that you went to Travelers Rest?

2 A Yes, sir.

3 Q Okay. Tell the jury about that.

4 A We was in Spartanburg, we went to McDonald's to
5 go charge up the phone. And Kayla's peoples called, her
6 cousin, called her and asked her did she need some money?
7 She said, Yes, she needed some money. And they told
8 her -- asked could she meet them in TR at Wal-Mart. And
9 she said yes she could met them there. So, we get there
10 to TR, Wal-Mart. And my brother's like, Kayla turn the
11 car around because she was going to park the car.

12 He said, I think that's the jump out boys.

13 He told Kayla he said, Step on the gas.

14 As soon as she stepped on the gas it was
15 the police, they start following us. And they got behind
16 us. And there was a car coming, there was one coming this
17 way, one going that way.

18 He told Kayla he said, You gotta go --

19 Q You're saying he told Kayla --

20 A The Defendant.

21 Q Talking about the Defendant?

22 A Yes, sir.

23 He told she had to go around.

24 She was screaming in the car.

25 He said, Chill, Kayla, just chill. Calm

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 down. And he told her how to drive the car.

2 Q Okay. And, ultimately, did you get away from
3 the police?

4 A Yes, sir.

5 Q Okay. After you got away from the police, at
6 some point in time -- well, let me ask you this. Do you
7 know where he got the Victim's checks from?

8 A Yes, sir.

9 Q Where?

10 A When he was staying with him.

11 Q Okay. After that, when you got to -- at some
12 point in time did you get to Asheville?

13 A Yes, sir.

14 Q And where did you go in Asheville?

15 A We went to Ingles to cash the check.

16 Q Okay. All right. But did you ever get to a
17 hotel in Asheville?

18 A Yes, sir.

19 Q Okay. And did y'all get any rooms at that
20 hotel?

21 A Yes, sir.

22 Q Okay. And how many rooms did you get?

23 A It was two rooms.

24 Q All right. And who stayed in which room?

25 A Me and Kayla stay in one room, my brother stay

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 in another room with his girlfriend or his friend girl.

2 Q Okay. And his friend girl, is this somebody you
3 knew?

4 A No, sir.

5 Q Is that why you were up in Asheville?

6 A Yes, sir.

7 Q Okay. What happened then?

8 A The police -- well they went to Applebee's to go
9 get something to eat. Me and Kayla stayed in the hotel to
10 get a shower. When he came back the police came and got
11 us and kicked in the door. We not kicked in our door. He
12 said they kicked in his door.

13 Q And did they arrest you at that time?

14 A Yes, sir.

15 MR. RICHARDSON: Beg the Court's indulgence?

16 THE COURT: Yes, sir.

17 BY MR. RICHARDSON:

18 Q Nyia, lastly, this individual that pulled that
19 gun out and shot Sean Dinneon dead on the night of 9/17 of
20 2011, is he in this courtroom?

21 A Yes, sir.

22 Q Can you point him out?

23 A Yes, sir.

24 Q What's he wearing?

25 A A blue shirt, black shirt.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Please let the record reflect
2 that she had pointed out the Defendant.

3 Thank you, ma'am, please answer any questions
4 Mr.DeJong has for you.

5 THE COURT: Yes, sir, you need to take a break
6 before you get started?

7 MR. DEJONG: I would, Your Honor. It's very
8 difficult trying to sit over here and I don't have access
9 to my notes.

10 THE COURT: Okay.

11 MR. DEJONG: So, if I can have five or 10
12 minutes?

13 THE COURT: Okay, let's take a short break. And
14 I anticipate what will happen is we'll come back, hear the
15 remainder of this testimony and probably break for the
16 day, depending on the discussion I'm about to have with
17 the attorneys. Okay? So, if y'all would go back to your
18 jury room. Please don't discuss the case.

19 (WHEREUPON, the jury left open court at
20 approximately 4:16 p.m.)

21 THE COURT: Mr. DeJong, how much time you intend
22 to spend with this witness? About the same you had with
23 Ms. Williams?

24 MR. DEJONG: Maybe not quite as long but pretty
25 close.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 THE COURT: All right, do you intend to call
2 anymore witnesses today?

3 MR. RICHARDSON: Your Honor, we did. We've
4 actually got our pathologist and James Armstrong is here.

5 THE COURT: Yeah.

6 MR. RICHARDSON: I would respectfully ask the
7 Court to go a little bit later so don't have to re-trip
8 back over here.

9 THE COURT: My problem is I haven't given the
10 jury any indication that we're going to go beyond normal
11 business hours today. I'm willing to go as late a 5:30
12 but don't want to keep them much later than that. Can you
13 fit an additional witness in in that timeframe?

14 MR. RICHARDSON: I guess it's going to depend on
15 cross-examination.

16 THE COURT: We'll see when we end --

17 MR. RICHARDSON: I'm just trying to --

18 THE COURT: Well, you're not going to be able to
19 get them both in, I know that. So, you're going to have
20 to ask one of them to come back, I suspect. I had not
21 anticipated--

22 MR. RICHARDSON: Actually we got three.

23 THE COURT: Okay. So, three additional
24 witnesses after this one?

25 MR. RICHARDSON: That's correct, Your Honor.

NYIA UTSEY-DIRECT BY MR. RICHARDSON

1 THE COURT: Okay. Okay.

2 MR. DEJONG: I would further share with Your
3 Honor, not interrupt you, could very well be a motion
4 during or while the pathologist is testifying.

5 THE COURT: Okay. We'll see how long this will
6 last but I kind of anticipate at this juncture that
7 Ms. Utsey will probably be our last witness today. I
8 don't want to have to bring them back either but we slowed
9 down a little this afternoon and I didn't anticipate that
10 loss little bit of time. So, we probably will have to end
11 up asking them to come back tomorrow morning. So, we'll
12 see but that's the way I'm leaning. All right, we'll come
13 back on the record in about five minutes.

14 (WHEREUPON, a short break was taken.)

15 THE COURT: All right, ready for the jury?

16 MR. DEJONG: Ready, Your Honor.

17 THE COURT: All right, bring them in.

18 (WHEREUPON, the jury came into open court at
19 approximately 4:25 p.m.)

20 THE COURT: Okay, Mr. DeJong.

21 MR. DEJONG: Thank you, Your Honor, may it
22 please the Court?

23 CROSS-EXAMINATION

24 BY MR. DEJONG:

25 Q Ms. Utsey, you are the sister of Tavish

NYIA UTSEY-CROSS BY MR. DEJONG

1 Dominique Yeargin?

2 A Yes, sir.

3 Q And you obviously are testifying in court today,
4 correct?

5 A Yes, sir.

6 Q And in testifying you volunteer either
7 personally or through your attorney that you would
8 testify, correct?

9 A Yes, sir.

10 Q And as part of that volunteering to testify or
11 agreeing to testify, before today you either talked to
12 this man or this woman right here, correct?

13 A Yes, sir.

14 Q How many times?

15 A I think like three.

16 Q Three times?

17 A Yes, sir.

18 Q All right. Now, let me take you back to
19 September the 21st, possibly the early morning hours of
20 September the 22nd, do you recognize this man right here?

21 A Yes, sir.

22 Q Did you talk to him on September the 21st or the
23 22nd of 2011?

24 A Yes, sir.

25 Q And I believe there was another gentleman with

NYIA UTSEY-CROSS BY MR. DEJONG

1 him?

2 A Yes, sir.

3 Q Do you remember his name?

4 A Michael Baker.

5 Q Michael Baker?

6 A Yes, sir.

7 Q So Detective Baker and Detective Dow met with
8 you in Asheville, North Carolina on September the 21st,
9 22nd of 2011?

10 A Yes, sir.

11 Q And at that time you agreed that you would talk
12 with him, correct?

13 A Yes, sir.

14 Q And you did, indeed, talk with him, correct?

15 A Yes, sir.

16 Q And before you talked with him you were told
17 that that interview was going to be recorded, correct?

18 A Yes, sir.

19 Q And to your knowledge was it recorded?

20 A Yes, sir.

21 Q And have you had an opportunity since September
22 the 21st of 2011 to listen to that taped version of your
23 conversation with Mr. Detective Dow and Detective Baker?

24 A Yes, sir.

25 Q All right. Now, let's talk a little bit about

NYIA UTSEY-CROSS BY MR. DEJONG

1 September the 21st of 2011 when you talked to Detective
2 Dow and Detective Baker. When you talked to Detective Dow
3 and Detective Baker on September the 21st of 2011, you
4 never told them anything about a BB gun, did you?

5 A I'm not sure if I did. I'm not sure.

6 Q Well, let me ask you this, after you talked to
7 them and that was recorded, did you do a written
8 statement?

9 A Yes, sir.

10 Q All right. Now, you would agree with me that
11 not everything that was in your written statement -- let
12 me back up because that's not clear. Not everything that
13 was discussed and was recorded was put into your written
14 statement, correct?

15 A Correct.

16 Q Pardon?

17 A Yes, sir.

18 Q Okay. But I don't know if you looked at this
19 recently or not but that's a copy of what appears to be
20 your written statement. Take a look at it and tell me if
21 that's it.

22 A Yes, sir.

23 Q All right. Is there anything in that written
24 statement, and I'll give you a moment to read it, about a
25 BB gun?

NYIA UTSEY-CROSS BY MR. DEJONG

1 A No, sir.

2 Q All right. Well, let me back up here just a
3 little bit further before we get too far down that road.
4 You, through your counsel, you volunteered to testify
5 today, correct?

6 A Yes, sir.

7 Q Now, and you talked to the solicitor about three
8 times. In talking -- well you're charged with murder?

9 A Yes, sir.

10 Q And you're charged with grand larceny?

11 A Yes, sir.

12 Q Now, coming back up to September the 21st for a
13 few moments, for just a moment. At the time on
14 September 21st, 22nd, whenever it was, did you know what
15 you were charged with?

16 A No, not really.

17 Q Yes, ma'am. Now, since that time, obviously,
18 you have learned that you have been charged with murder
19 and grand larceny, correct?

20 A Yes, sir.

21 Q And certainly in testifying today -- well, let
22 me ask you this, did the Solicitor's Office promise you
23 anything to get you to testify?

24 A No, sir.

25 Q All right. But certainly there is some wish,

NYIA UTSEY-CROSS BY MR. DEJONG

1 desire, hope on your part that by testifying, it's going
2 to help you get out of your mess of murder and grand
3 larceny, correct?

4 A No, sir.

5 Q Not at all?

6 A No, sir.

7 Q Okay. All right.. Now, let's go back to
8 September the 21st of 2011. There's no mention in that
9 statement of a BB gun, correct?

10 A Yes, sir.

11 Q Pardon?

12 A Correct.

13 Q That is correct, okay. There's no mention in
14 that statement about anybody breaking out a light in the
15 Mustang, is there?

16 A No, sir.

17 Q There is no mention in that statement of some
18 great plan that was in place between -- devised by your
19 brother and or Kayla Williams about how to steal cars, was
20 there?

21 A No, sir.

22 Q There's nothing in that statement or what you
23 told Detective Dow and Detective Baker, about your brother
24 getting a gun from your other brother Michael Utsey, was
25 there?

NYIA UTSEY-CROSS BY MR. DEJONG

1 A No, sir.

2 Q And I think you did talk a little bit about the
3 night before to Detective Dow and Detective Baker, didn't
4 you?

5 A Yes, sir.

6 Q That was on September the 20 -- can we just say
7 September the 21st and you know what I'm talking about?

8 A Yes, sir.

9 Q On September the 21st 2011, you talked a little
10 bit about the night before, correct?

11 A Yes, sir.

12 Q All right. Now, you shared when Mr. Richardson
13 was asking you questions, when Kayla saw that Grand Prix
14 she said, I want that car, I want that car, correct?

15 A Yes, sir.

16 Q Now, you and Kayla were in a intimate
17 relationship at this point in time, correct?

18 A Uh-huh.

19 Q And certainly it was Kayla that wanted the Grand
20 Prix?

21 A Uh-huh.

22 Q Right. Now, so nothing happens on the night of
23 the 16th?

24 A No, sir.

25 Q And indeed when you're talking to Detective Dow

NYIA UTSEY-CROSS BY MR. DEJONG

1 and Detective Baker about the 16th, you don't say anything
2 about where a gun came from, when it was put in the trunk
3 or anything else; do you? You don't talk about a gun on
4 the 16th when you're talking to Dow and Baker, correct?

5 A I'm not sure.

6 Q Well, it is in your statement?

7 A No, it's not.

8 Q All right. And now, as I understand your
9 testimony today, you said on the night of the 17th, if I
10 understood you correctly, that your brother gave you and
11 or Kayla Williams gas money, is that correct?

12 A Yes, sir.

13 Q All right. So, there was money that changed
14 hands on the 17th according to you?

15 A Yes, sir.

16 Q Okay. And were you going to get anything out of
17 this?

18 A No, sir.

19 Q All right. So you know -- well, let me back up
20 a little bit further, I'm sorry. On the 16th, Kayla
21 Williams wanted to get rid of the Mustang, correct?

22 A I think it was before the 16th.

23 Q Okay. But before the 16th or on the 16th but
24 Kayla Williams wanted to get rid of Mustang?

25 A Yes, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q All right. And she wanted to get rid of the
2 Mustang, as I understand your testimony, because she
3 thought the cops may be looking for it?

4 A Yes, sir.

5 Q Okay. Now, then there's a conversation between
6 her and your brother about she needed to get a title this
7 that and the other?

8 A Yes, sir.

9 Q Okay. Was that on the 16th?

10 A I think it was.

11 Q Now at some point in time, I think you mentioned
12 it today, that your brother supposedly had these titles to
13 the Grand Prix and the -- what's the other one, a Lancer?

14 A Yes, sir.

15 Q Okay. But then there was testimony that
16 somebody was going to test drive these cars?

17 A Yes, sir.

18 Q Why would anybody have to test drive a car if
19 they have a title to the vehicle?

20 A That's which he her, to test drive the car.

21 Q Pardon me?

22 A That's what my brother told her, to test drive
23 the car.

24 Q Well, let me ask you this, when you say that
25 your brother lived with Sean Dinneon, did he live with

NYIA UTSEY-CROSS BY MR. DEJONG

1 Sean Dinneon?

2 A Yes, sir, he did.

3 Q They lived in the same house?

4 A Yes, sir.

5 Q Okay. So how long did they live in the same
6 house together, if you know?

7 A Maybe a couple of months.

8 Q Did your momma live there with them?

9 A Yes, sir.

10 Q But there's no doubt in your mind that when your
11 brother and your momma lived at that house, Sean Dinneon
12 was there and lived in the house?

13 A Yes, sir.

14 Q Did you live there?

15 A No.

16 Q Did you go visit?

17 A No.

18 Q You didn't go around?

19 A Huh-uh.

20 Q Okay. Now, on the night of the 17th or the day
21 of the 17th, when is the first time that you had, to the
22 best of your memory today, did you have contact with your
23 brother?

24 A Before the 17th?

25 Q On the 17th.

NYIA UTSEY-CROSS BY MR. DEJONG

1 A Can you repeat the question?

2 Q Yes. What time of the day was it that you had
3 your first talk, conversation with your brother on the
4 17th?

5 A I'm not sure, it might have been six something.

6 Q I'm sorry?

7 A I'm not sure, it might have been at 6:00 or
8 7:00. I'm not sure.

9 Q Morning or nighttime?

10 A Nighttime.

11 Q Okay. And then you go -- you and Kayla go pick
12 him up?

13 A Yes, sir.

14 Q Where do you pick him up?

15 A From my Mom's house.

16 Q All right. Now, again, so that I'm sure, again,
17 you say the gun resurfaced on 17th?

18 A What you mean resurfaced?

19 Q Pardon me?

20 A What you mean resurfaced?

21 Q Well, you saw it again?

22 A Yes, sir.

23 Q When you talked to Detective Dow and Detective
24 Baker on the 21st, you never said that; did you?

25 A I'm not sure.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q Okay. Well, was it in your statement?

2 A No.

3 Q Okay. Now, that statement, if you read the
4 whole thing, it says it's a true and accurate statement;
5 correct?

6 A Yes, sir.

7 Q And Detective Dow and Detective Baker asked you
8 to put everything in that statement that you knew, right?

9 A I'm not sure they asked me to put everything I
10 knew.

11 Q I'm sorry?

12 A I'm not sure they asked me everything I knew.
13 They asked me to put -- they told me -- they gave me the
14 option to write down...

15 Q They did what?

16 A They gave me the option to write a statement.

17 Q Right. And you said you would write a statement
18 based upon what y'all discussed, right?

19 A Yes, sir.

20 Q All right. So, there's nothing in that
21 statement about a gun on the 16th or 17th, is there?

22 A No, sir.

23 Q So, you go to Dinneon's house on September the
24 17th?

25 A Yes, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q You're going to have to answer out loud, young
2 lady, the Court Report's got to get your answer down. You
3 went to Dinneon's house on September the 17th of 2011?

4 A Yes, sir.

5 Q Okay. And what time did y'all get there?

6 A Around seven.

7 Q I'm sorry?

8 A We got there around 7:00, 7:30.

9 Q Seven thirty?

10 A Seven or 7:30. It was dark.

11 Q Okay. So, you picked your brother up around
12 seven, is that what you said?

13 A Yes, sir. I mean, it might have been -- it was
14 dark. I don't remember the time actually but it was dark.

15 Q Okay. Well, after you picked your brother up,
16 did you go straight to Sean Dinneon's house?

17 A On the 17th, no, sir.

18 Q Pardon me?

19 A On the 17th, no, sir.

20 Q All right. Well, did you -- once you and Kayla
21 picked up your brother, did you head toward Sean Dinneon's
22 house?

23 A No, we went to McDonald's put gas in the car.
24 Then, we went to Sean Dinneon's house.

25 Q Okay. Now, did you get all the way to Sean

NYIA UTSEY-CROSS BY MR. DEJONG

1 Dinneon's house before you picked up your brother Charles?

2 A Yes, sir.

3 Q So, you got all the way to Sean Dinneon's house
4 from was it Piedmont Manor you picked your brother up at?

5 A It was around Piedmont Manor.

6 Q Around Piedmont Manor. So you drove all the way
7 from Piedmont Manor -- well you picked your brother up,
8 you're not sure what time, you said around 7:00, stopped
9 at McDonald's and got gas. Who paid for the gas by the
10 way?

11 A On the 17th, my brother.

12 Q Okay. And you drove all the way from there to
13 Easley to Sean Dinneon's house?

14 A Uh-huh.

15 Q You get to Sean Dinneon's house and today your
16 testimony is that then you turn around and you drive all
17 the way back to Taylors.

18 A Yes, sir.

19 Q To pick up your brother Charles. Now, then you
20 from Taylors, again, you drive all the way back to Easley?

21 A Yes, sir.

22 Q Okay. Now, what time did you get to Easley?

23 A I'm not sure what time exactly.

24 Q All right. All right. So, some things you can
25 remember better today than others, is that what you're

NYIA UTSEY-CROSS BY MR. DEJONG

1 telling us?

2 A No, I'm not telling you that.

3 Q Okay. Well, then once you get to Dinneon's, you
4 say that Charles got out of the car, correct?

5 A Yes, sir.

6 Q Your brother Tav, Tavish, stayed in the car, the
7 Mustang?

8 A Yes, sir.

9 Q And you and Kayla get out and talk to Dinneon?

10 A Yes, sir.

11 Q So you and Kayla are talking to Dinneon. You
12 are the people that's trying to strike the deal with
13 Dinneon, right? You're wanting to buy the cars, that's
14 what you're telling him; right?

15 A Yes, sir.

16 Q Pardon me?

17 A Yes, sir. No, we didn't tell him we wanted to
18 buy the car.

19 Q Pardon me?

20 A We didn't tell him we wanted to buy the car.

21 Q What did you tell him?

22 A My brother had already talked to him about it.
23 He told--

24 Q So, you just went up there and said absolutely
25 nothing?

NYIA UTSEY-CROSS BY MR. DEJONG

1 A He had already talked to him about it. When he
2 went up there jumped the car off.

3 Q So, you didn't say anything to Dinneon?

4 A About the car? I asked him how much he wanted
5 for the car.

6 He said, Same price.

7 Q All right. So, it was you and Kayla that was
8 doing the talking when you got to Dinneon's house?

9 A Yes, sir.

10 Q Okay. Now, was not your brother Tavish, he
11 didn't talk to Dinneon, did he?

12 A No, sir.

13 Q He didn't talk to Dinneon than whole night, did
14 he?

15 A No, he talked to him on the phone before we
16 went.

17 Q Were you there when he talked to him on the
18 phone?

19 A No, I wasn't.

20 Q Then you don't know he talked to him, do you?

21 A That's what he told me.

22 Q Now, you leave there, who's driving the Grand
23 Prix?

24 A When we leave there?

25 Q When you leave Dinneon's house, who's driving

NYIA UTSEY-CROSS BY MR. DEJONG

1 the Grand Prix?

2 A Kayla.

3 Q Okay. Let me back up a little bit. You said

4 that you got the Lancer started, was running?

5 A Yes, sir.

6 Q And actually Kayla drove it for a while?

7 A No, it didn't even move the driveway.

8 Q Okay.

9 A She tried to get it go it going but it wouldn't

10 go.

11 Q Did she get in to try to drive it?

12 A Yes, sir.

13 Q Okay. So, it did crank up?

14 A Yes, sir.

15 Q Just didn't stay cranked up?

16 A Yes, sir.

17 Q So now you're leaving Dinneon's house in the

18 Grand Prix. Kayla's driving, where are you seated?

19 A Uh?

20 Q Where are you sitting?

21 A In the passenger seat.

22 Q Where's Dinneon?

23 A In the back.

24 Q With his beer bottle?

25 A Yes, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q Okay. And when do you say that this discussion
2 occurred between your brother and Williams about turn
3 signals?

4 A When we left from the Hot Spot.

5 Q Okay. So, you say that there was a discussion
6 between your brother and Williams when you left the Hot
7 Spot about him giving turn signals?

8 A Yes, sir.

9 Q You're sure of that?

10 A Yes, sir.

11 Q Okay. All right. Well, when you left Dinneon's
12 house, did both cars leave at the same time?

13 A No, sir. When like from the Hot Spot?

14 Q From Mr. Dinneon's house. When Kayla's driving
15 the Grand Prix, who's driving the Mustang?

16 A My brother.

17 Q Okay. So, you leave Dinneon's house, Kayla's
18 driving the Grand Prix, your brother is driving the
19 Mustang, do both cars leave at the same time?

20 A Yes, sir.

21 Q Okay. Not one before the other?

22 A The Grand Prix left out and he went around the
23 corner.

24 Q Okay. So, the Grand Prix was the first one to
25 leave?

NYIA UTSEY-CROSS BY MR. DEJONG

1 A Uh-huh.

2 Q Okay. Now, you finally end up at the church.

3 And the -- do you go talk to your brother first?

4 A Yes, sir.

5 Q Okay. And then Kayla gets out and talk to your
6 brother?

7 A Yes, sir.

8 Q That's your testimony, right?

9 A Yes, sir.

10 Q Okay. Now, then some sort of argument breaks
11 out between Kayla and Dinneon?

12 A Yes, sir.

13 Q Well how -- well was he drunk?

14 A Yes, sir.

15 Q Pretty drunk?

16 A (The witness nods.)

17 Q Correct?

18 A Yes, sir.

19 Q And certainly nobody at that point in time had
20 told Dinneon that there was any idea about stealing the
21 car?

22 A No, sir.

23 Q All right. So, for whatever reason Dinneon
24 then, according to you, gets out of the back seat of the
25 Mustang?

NYIA UTSEY-CROSS BY MR. DEJONG

1 A No, not the Mustang.

2 Q I'm sorry of the Grand Prix?

3 A Uh-huh.

4 Q And goes towards the driver's side?

5 A Yes, sir.

6 Q Now, Kayla also is going to the driver's side,
7 right?

8 A Yes, sir.

9 Q And that's when some struggle breaks out between
10 them?

11 A Yes, sir.

12 Q Do you remember on September the 21st of 2011,
13 do you remember describing or attempting to describe the
14 struggle between Kayla Williams and Dinneon?

15 A Yes, sir.

16 Q What did you say?

17 A Kayla ran from the car and Sean came from the
18 back seat and tried to get on top of her.

19 Q Okay. You say it like -- when you looked out he
20 was trying to rape her or something, do you remember that?

21 A Yes, sir. Like he was trying to hurt her.

22 Q All right. And when you looked at it and when
23 you were telling Dow and Baker about it, that's what it
24 looked like to you, right?

25 A Yes, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q Okay. It looked to you like drunk Dinneon was
2 trying to rap Kayla Williams?

3 A Yes, sir.

4 Q All right. Now, at that point in time, if not
5 before, but somewhere in there you get out of the Grand
6 Prix?

7 A Yes, sir.

8 Q Okay. On September the 21st of 2011, you told
9 Dow and Baker you covered your eyes, right?

10 A I'm not sure.

11 Q You don't remember that?

12 A I'm not sure.

13 Q Don't remember that?

14 A I'm not sure.

15 Q Okay. Well, that's not in your statement
16 either, is it?

17 A (There was no response.)

18 Q That's not in your statement?

19 A No.

20 Q You just don't remember if you said that or not,
21 right?

22 A Yes, sir.

23 Q Okay. When you got to the church parking lot,
24 Kayla goes in the parking lot first?

25 A Yes, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q And the Mustang driven by your brother, pulls up
2 behind the Grand Prix?

3 A Not like right behind but behind, yes, sir.

4 Q So not bumper to bumper, right?

5 A No, sir.

6 Q So, there was some distance?

7 A Yes, sir.

8 Q So, at that point in time there was no
9 appearance that your brother was trying to do anything
10 with the Grand Prix?

11 A No, sir, just told us to keep driving.

12 Q Okay, keep driving. But he did not pull the
13 Mustang right on top of or right bumper to bumper to the
14 Grand Prix?

15 A No, sir.

16 Q Let me ask you this, Ms. Utsey, was it dark out
17 there?

18 A Yes, sir.

19 Q All right. A little light but not much, was
20 there?

21 A No, sir.

22 Q Okay. And you certainly were not under a street
23 light at that point in time, were you?

24 A No, sir, it was pitch dark.

25 Q Do you remember -- do you remember how the

NYIA UTSEY-CROSS BY MR. DEJONG

1 church parking lot looked?

2 A It was just a big ole parking lot.

3 Q Let me show you this one. Does that refresh
4 your memory at all, what the church parking lot looked
5 like?

6 A Yep.

7 Q When you pulled in, were you more back here or
8 more closer?

9 A More closer to the road.

10 Q All right. More in this area right here,
11 correct?

12 A Yes, sir.

13 Q Okay. All right. Now, it wasn't until the
14 struggle broke out between Dinneon and Kayla that your
15 brother pulled the Mustang around beside the Grand Prix?

16 A Yes, sir.

17 Q When he pulled the Mustang around the Grand
18 Prix, how far away was the driver's door of the Mustang,
19 how far away was it from the passenger door of the Grand
20 Prix?

21 A Not that far away. He opened it. It's like
22 about that much away. About that much -- far away.

23 Q Two inches?

24 A It might have been two inches. I'm not sure how
25 many inches it was.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q So, you're saying that the Mustang, when your
2 brother pulled it around, was two inches away from the
3 passenger door of the Grand Prix?

4 A Yes, sir.

5 Q All right. And two inches away from the --
6 well, let me back up. So, the driver's door of the
7 Mustang was two inches away from the passenger door of the
8 Grand Prix?

9 A Yes, sir. I'm not sure how many inches it was
10 but I know he just pulled it around.

11 Q You held your fingers up about that much, right?

12 A Yes, sir.

13 Q Being that close, Ms. Utsey, there was no way
14 that someone could have opened the passenger door -- or
15 excuse me, the driver's door on the Mustang, right?

16 A Right, but he did pull it around. It might not
17 have been two inches but he pulled the car around, he
18 opened the door and laid the gun on top.

19 Q Well, if he was that close, he couldn't open the
20 door. Do you agree with that?

21 A Yes, I agree but he did it.

22 Q All right. All right. So, how many shots were
23 fired?

24 A Just one.

25 Q Where were you when that shot was fired?

NYIA UTSEY-CROSS BY MR. DEJONG

- 1 A Outside the car.
- 2 Q Both cars?
- 3 A Yes, sir.
- 4 Q Okay. You were standing in the parking lot?
- 5 A Yes, sir.
- 6 Q More on the driver's side or passenger side of
- 7 the Mustang or passenger side of the Grand Prix?
- 8 A The passenger side of the Grand Prix.
- 9 Q Okay. So, at that point in time you still
- 10 saying you had not gotten into the Mustang, right?
- 11 A Right.
- 12 Q Okay. When you leave the church parking lot,
- 13 you finally get back to -- well, where do you go?
- 14 A Repeat your question again.
- 15 Q When you left the church parking lot, where did
- 16 you go?
- 17 A I got in the car with my brother and went back
- 18 to my momma's house.
- 19 Q All right. When you got back to your momma's
- 20 house, who went in your mom's house?
- 21 A Me and my brother.
- 22 Q Kayla didn't go in, did she?
- 23 A No, sir.
- 24 Q She never went in, did she? Not that night?
- 25 A Not that night, no, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q And then from there you and Kayla -- well, did
2 you go pick your baby up?

3 A Went to go get some money from my sister, then
4 went to go pick up my baby.

5 Q And then you, your baby and Kayla went to InTown
6 Suites?

7 A Yes, sir.

8 Q Did you sleep that night?

9 A Yes, sir.

10 Q Okay. That would have been the night of Sunday
11 night, September 18th, right?

12 A Yes, sir.

13 Q The next day would have been Monday. Did you
14 sleep Monday night?

15 A No, sir.

16 Q Where were you?

17 A That Sunday night we had to go pick up my
18 brother.

19 Q Okay. So, where did you go?

20 A We went to Tennessee.

21 Q And where in Tennessee did you go?

22 A Pigeon Forge, I'm not sure.

23 Q Okay. Well, when did you go to Maggie Valley?

24 A Maggie Valley?

25 Q Uh-huh.

NYIA UTSEY-CROSS BY MR. DEJONG

1 A It was during the same day, I believe.

2 Q Okay.

3 A Because we was traveling all over.

4 Q Okay. Now, you talked to Dow and Baker on the

5 15th -- excuse me, September 21st of 2011, did you talk to

6 Detective Dow again on April the 30th of 2012?

7 A Yes, sir.

8 Q Pardon me?

9 A Yes, sir.

10 Q And I believe you had your attorney with you at

11 time, didn't you?

12 A Yes, sir.

13 Q Now, do you remember that conversation with

14 Detective Dow on April the 30th of 2012?

15 A With who, Ben Dow?

16 Q Pardon me?

17 A What did you say? Can you repeat the question?

18 Q Do you remember that conversation with Detective

19 Dow, do you remember what you talked about?

20 A Yes, sir.

21 Q Pardon me?

22 A Yes, sir.

23 Q You do or you don't?

24 A Yes, sir.

25 Q Okay. There was no mean of a BB gun on April

NYIA UTSEY-CROSS BY MR. DEJONG

1 the 30th of 2012, was there?

2 A No, sir.

3 Q There was no mention of breaking dome lights on
4 April the 30th of 2012, was there?

5 A No, sir.

6 MR. DEJONG: One moment, please, Your Honor.

7 THE COURT: Yes, sir.

8 BY MR. DEJONG:

9 Q And finally, April the 30th, some few months
10 later, that you start talking about this gun, right?

11 A Yes, sir.

12 Q But on April the 30th of 2012, when you go back
13 with your attorney and talk to Detective Dow, then you
14 knew you had been charged with murder; didn't you?

15 A Yes, sir.

16 Q And you knew you had been charged with grand
17 larceny, didn't you?

18 A Yes, sir.

19 Q And you knew it was time to do something to
20 cover yourself; didn't you?

21 A No, I wasn't trying to cover myself, no, sir.

22 Q Now, when you got to Dinneon's house, I guess
23 the second time on the 17th -- well, the first time you
24 went there you drove all the way there, then you turn
25 around and go back ad get your brother Charles; is that

NYIA UTSEY-CROSS BY MR. DEJONG

1 what you're saying?

2 A Yes, sir.

3 Q And then -- did you stop at Dinneon's house that

4 first time?

5 A Did we stop at his house?

6 Q Yes.

7 A No, sir.

8 Q Okay. So, you just got there and then decided

9 to -- somebody decided to turn around and go get Charles,

10 right?

11 A Yes, sir. He wasn't there.

12 Q Pardon me?

13 A He wasn't there.

14 Q I'm talking about on the 17th. The first time

15 you went on the 17th he wasn't there?

16 A No, sir.

17 Q Okay. So, then you turn around to go get

18 Charles?

19 A Yes, sir.

20 Q Okay. Come back. Then you go to the Hot Spot.

21 What was the purpose of your going to the Hot Spot?

22 A Drop Charles off and for us to use the restroom.

23 Q Not to use the bathroom?

24 A I said use the restroom.

25 Q Okay. Now, at that point in time did you know

NYIA UTSEY-CROSS BY MR. DEJONG

1 Charles was not going to go back with you?

2 A Yes, sir.

3 Q Okay. So, at what point in time did you become
4 aware that Charles was not going to go back with you?

5 A Before we left the house, Dinneon's house.

6 Q To go to the Hot Spot?

7 A Before we went to the Hot Spot we knew he wasn't
8 coming back with us. Okay. All right.

9 Q But then this is the same guy that you said was
10 pulling out the dome light in the Mustang?

11 A Yes, sir.

12 Q Okay.

13 MR. DEJONG: One moment, please, Your Honor.

14 THE COURT: Yes, sir.

15 BY MR. DEJONG:

16 Q So, on September the, I believe the 20th of
17 2011, that's when y'all were going to the Wal-Mart in
18 Travelers Rest, is that right?

19 A Yes, sir.

20 Q Who was who all was in the car then?

21 A Me, Kayla, my brother and my baby.

22 Q All right. Who was driving?

23 A Kayla.

24 Q And she drove the entire time, right?

25 A Yes, sir.

NYIA UTSEY-CROSS BY MR. DEJONG

1 Q She was the one -- did y'all get going pretty
2 fast?

3 A Yes, sir.

4 Q She was driving?

5 A Yes, sir.

6 Q Did she ever attempt to stop?

7 A No, sir.

8 Q All right. Did she ever give any indication
9 that she had enough and was going to stop that Mustang?

10 A No, sir.

11 Q She was running?

12 A Yes, sir.

13 Q And you were running?

14 A Yes, sir.

15 Q When you were at the church parking lot, at what
16 point in time did you say that the beer bottle got broken?

17 A Before Sean ran to get on top of Kayla.

18 Q Was this while the argument was going on
19 between -- or struggle going on between Dinneon and
20 Williams?

21 A Yes, sir.

22 Q Okay. Did he throw the beer bottle?

23 A Yes, sir.

24 Q And he threw it and splattered pretty much
25 around in an area, right?

NYIA UTSEY-CROSS BY MR. DEJONG

1 A Yes, sir.

2 Q Okay. And when he threw it, was it thrown
3 towards Kayla Williams?

4 A No, back behind the car.

5 Q Okay. Did it keep any of the bottle in his
6 hand?

7 A No, sir.

8 MR. DEJONG: Thank you, Ms. Utsey.

9 THE COURT: Any redirect, sir?

10 MR. RICHARDSON: Just briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. RICHARDSON:

13 Q You said -- Mr. DeJong was referring to a
14 statement that you made in April. Do you remember doing
15 that? When you were talking to Detective Dow?

16 A Yes, sir.

17 Q And he referred to, I know it's been a long
18 time, but he referred to you saying that there was -- that
19 you didn't make any mention of a BB gun, do you remember
20 Mr. DeJong asking you that question?

21 A Yes, sir.

22 Q Do you remember stating to Detective Dow that
23 Williams said they would shoot Hinson with a BB gun?

24 A Yes, sir. I'm not sure, it's been a little
25 while but, yes.

NYIA UTSEY-REDIRECT BY MR. RICHARDSON

1 Q It's been a long time, right?

2 A Yes, sir.

3 Q Okay.

4 MR. RICHARDSON: Thank you, ma'am, that's all I
5 have.

6 MR. DEJONG: Nothing on recross, Your Honor.

7 THE COURT: All right, thank you, Ms. Utsey, you
8 can step down. I appreciate you being here, ma'am.

9 MR. DEJONG: No objection to her being excused,
10 Your Honor.

11 THE COURT: All right, sir.

12 Thank you.

13 All right, ladies and gentlemen, it's my
14 understanding that the State will have three additional
15 witnesses tomorrow. And the Defense may or may not
16 present one witness. Which leads me to believe that we
17 will probably take testimony through the morning. And
18 then we'll try to move to argument and charge in the early
19 to mid afternoon. I don't know exactly what will happen
20 because I can't anticipate how long each witness will take
21 to actually put the testimony up. Because I don't control
22 it, as you can see. But that's what I am trying to do and
23 that's what I'm working toward. So, I'm hopeful that we
24 can conclude this matter by close of business tomorrow
25 evening. Don't hold me to that because as I suggested to

1 you, I make no guarantees in that regard. So, if you'd
2 please be back at 9:30 tomorrow morning. Please don't
3 discuss the case with any of your family members, any of
4 your friends. Please avoid all media for this evening as
5 well. I don't know if there will be anything published on
6 any outlet; but for the time being let's not take any
7 chances. Y'all have a good evening. I'll see you
8 tomorrow morning at 9:30.

9 (WHEREUPON, the jury left open court and was
10 excused for the day at approximately 5:07 p.m.)

11 THE COURT: All right, gentlemen, anything
12 additional this evening?

13 MR. RICHARDSON: I'm sorry?

14 THE COURT: Anything additional this evening?

15 MR. RICHARDSON: No, sir.

16 THE COURT: Okay, I'll see y'all back here
17 tomorrow at 9:30. Unless you want to start at 9:00,
18 Mr. DeJong.

19 MR. DEJONG: Tomorrow's hump day, Your Honor,
20 maybe 8:30.

21 THE COURT: Yeah, yeah. Okay, 9:30. I'll be
22 here at 9:00, if y'all need me for anything, y'all let me
23 know. Okay?

24 (WHEREUPON, the proceedings were concluded for
25 the day to be reconvened on November 20th,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

2013.)

1 November 20, 2013

2 THE COURT: Anything we need to take up before
3 we bring the jury in this morning?

4 MR. RICHARDSON: Your Honor, a matter for the
5 State, as I discussed with Mr. DeJong, we have come in
6 receipt of a letter this morning. From a jailer at the
7 Pickens County Law Enforcement Center. And that letter is
8 from the Defendant to the -- to a co-defendant. I
9 provided that letter to Mr. DeJong. Certain redactions
10 have been made. It's our intent to call the jailer and
11 introduce that letter into evidence.

12 THE COURT: Okay. If you would, please, just as
13 a foundational matter, state the circumstances under which
14 the State came into possession of that letter.

15 MR. RICHARDSON: Your Honor, this morning at
16 approximately 8:30, I received a call from Detective Ben
17 dow. At that point in time he told me he was in receipt
18 of two letters. That had come from a jailer at Pickens
19 County Law Enforcement Center. That jailer, Your Honor,
20 is Shane Brummitt, B-R-U-M-M-I-T-T. Your Honor, at that
21 point in time he read both letters to me. I instructed
22 him at that time to bring those letters directly to me at
23 my office and also bring the jailer with him. They
24 arrived in my office, I questioned the jailer on when he
25 received the letters. He said he directly received the

1 letters from the Defendant on Saturday, late afternoon.

2 At that time, Your Honor, I read the letters,
3 took them into possession, gave Mr. DeJong a copy.
4 Mr. DeJong read that letter, both letters in front of me.
5 And then we came to your office for a in-chambers
6 conference.

7 THE COURT: Okay. So, that's Saturday, the
8 evening of Saturday the 16th, they came into possession of
9 the jail?

10 MR. RICHARDSON: That's correct.

11 THE COURT: Then they came into Officer Dow's
12 possession late on the 19th, is that correct?

13 MR. RICHARDSON: Excuse me. Yes, this morning,
14 Your Honor.

15 THE COURT: This morning. So, this morning on
16 the 20th, the State received that letter?

17 MR. RICHARDSON: That is correct.

18 THE COURT: Okay. All right, Mr. DeJong?

19 MR. DEJONG: Thank you, Your Honor, may it
20 please the Court?

21 THE COURT: Yes, sir.

22 MR. DEJONG: I have and was given copies of both
23 letters this morning. I understand the State's burning
24 desire to introduce them. I am not sure what the basis is
25 that they want to introduce them. There's no direct

1 admission in either of those letters as to anything. Both
2 of the letters are addressed to a co-defendant, Ms. Nyia
3 Utsey -- well, they're not addressed to Ms. Nyia Utsey,
4 let me clarify that. There is, I gather on the back of
5 one of the letters, mine are copies on front and back.

6 And it says, To Utsey.

7 The tenor of the letters is asking her to sway
8 her testimony. Now, number one, I don't think Utsey ever
9 got the letters. At least that's what I have been advised
10 off the record, Your Honor. So, I'm not -- I'm not clear
11 what the purpose is that they want to introduce them. If
12 it was for impeachment of their own witness, I could
13 understand it. But I can't see in the letters themselves,
14 I'm not sure that Your Honor had been privy to the
15 letters, that there is anything in there other than a
16 direct admission on my client's part of anything other
17 than what has already been testified to in this courtroom.
18 Obviously, I'm very surprised about getting these this
19 morning. I can't really lay fault to the State, I have to
20 take Mr. Richardson's word as an officer of the court,
21 that this just came into his possession today. And
22 Detective Dow's today.

23 But be that as it may, Your Honor, without
24 knowing the basis, it's hard for me to argue against it or
25 with it, Your Honor. I'm kind of shooting fish in a

1 barrel here.

2 THE COURT: I understand. I understand.

3 And you intend on introducing that letter,
4 Mr. Richardson, by and through the jailer who received it
5 directly from the Defendant?

6 MR. RICHARDSON: That is correct, your Honor.

7 THE COURT: All right. Okay. I haven't heard
8 the foundation from the jailer, yet. However, I tend
9 to -- I tend to believe it would be admissible if he lays
10 the appropriate foundation and indicates that he got it
11 from the Defendant. I have looked at the letter and I
12 haven't read it word for word, but it would appear to me
13 generally speaking what it is, is a request to a another
14 Defendant to tell something less than the truth on the
15 stand. And you know, generally the purpose of its
16 introduction, I would suspect, is essentially to lend to
17 his culpability in this crime, asking another witness to
18 tell an untruth on the stand. Whether it was conveyed to
19 the actually witness or not is a completely and entirely
20 different issue. And I don't think it's relevant to it.
21 It is a voluntary statement by the Defendant that was
22 willfully and voluntarily transferred to a jailer. If he
23 lays the appropriate foundation, I believe that it's
24 admissible. Now, there may be objections to be posed when
25 and if he testifies. But at this point, generally

1 speaking, in a vacuum, I think that it would be
2 admissible.

3 MR. DEJONG: I'm not arguing with, Your
4 Honor's --

5 THE COURT: Yes, sir.

6 MR. DEJONG: -- ruling, but listening to, Your
7 Honor, to me, that by admitting the letters is to say that
8 he's asking somebody to lie or that he is a liar. That's
9 getting into his character. And if we're getting into his
10 character, then I think we're getting on a very, very
11 shaky ground since his character has not been put in issue
12 by the Defense. If he took the witness stand that would
13 be one thing. I think that that can come back and try to
14 use the letters for two reasons. They can -- well,
15 assuming his character was put into evidence, they could
16 use them to attack his character. They could also it to
17 impeach him.

18 But at this point in time, again, I understand
19 Your Honor's ruling and I'm not trying to argue with that,
20 but I just want that to be a part of the record --

21 THE COURT: I understand.

22 MR. DEJONG: -- Your Honor, that I think we're
23 getting into character issues.

24 THE COURT: I understand. I haven't heard the
25 testimony yet. I don't anticipate that it's an

1 impeachment of his character or credibility. I think what
2 it goes to is culpability. That's my understanding of it
3 without having heard the foundation to be laid by the
4 State in this case. So, I'm not suggesting at this point
5 that any evidence with respect to his character is
6 admissible.

7 MR. DEJONG: No further argument on that, Your
8 Honor.

9 THE COURT: Yes, sir.

10 MR. DEJONG: He was not on the witness list,
11 obviously. I doubt seriously if any of the jurors would
12 know the jailer, but out of an abundance of caution, since
13 he was not on the original witness list. I would ask the
14 court to inquire of the jury if any of them know him.

15 THE COURT: I will.

16 Mr. Richardson, what's his name again? I'm
17 sorry. So, I can write it down.

18 MR. RICHARDSON: Yes, sir. Shane Brummitt.
19 Last name spelled, B-R-U-M-M-I-T-T.

20 THE COURT: Shane Brummitt of the Pickens County
21 Detention Center.

22 MR. RICHARDSON: That's correct, Your Honor.

23 THE COURT: All right, good enough.

24 All right, gentlemen, anything further before we
25 bring the jury in?

1 MR. DEJONG: Your Honor, I don't know if you
2 want to entertain it now or wait until the pathologist
3 testifies. I do have a motion if you want to hear it at
4 this point in time, I'll be happy to address it. If you
5 want to wait until he testifies.

6 THE COURT: Let's wait until he testifies. I
7 know the jury, they've been here for a little bit of time,
8 let's go ahead and kick it off so they won't just be
9 waiting for us.

10 MR. DEJONG: Thank you, Your Honor.

11 (WHEREUPON, the jury entered the courtroom at
12 approximately at 9:55 a.m.)

13 THE COURT: All right. Ladies and gentlemen,
14 good morning. I hope everybody had a good evening.
15 Thanks for being timely again today. I have a question
16 before we get started. There may be an additional witness
17 who testifies in this case. So, you know, at the
18 beginning of the case when I was asking questions related
19 to this specific matter, I listed and I read out all the
20 names of all the potential witnesses. And this one was
21 excluded because it wasn't known at that time that he may
22 testify. So, I'll ask you, again, an additional question.
23 Do any of you have any professional, personal or family
24 relationship with Mr. Shane Brummitt of the Pickens County
25 Detention Center?

1 All right, let the record reflect no affirmative
2 response.

3 Okay, Mr. Richardson, I believe it's your case.

4 Or Ms. Hinton.

5 MS. HINTON: Thank you, Your Honor, may it
6 please the Court. The State would call James Armstrong.

7 THE COURT: Y'all want to come up here, real
8 quick?

9 (WHEREUPON, an off-the-record bench conference
10 was held in the presence of the jury but out of
11 the hearing of the jury.)

12 JAMES ARMSTRONG, after being duly
13 sworn, testified as follows:

14 THE CLERK: If you would have a seat, state your
15 name for the record, please.

16 THE WITNESS: James Williams Armstrong.

17 DIRECT EXAMINATION

18 BY MS. HINTON:

19 Q Good morning, Mr. Armstrong.

20 A Good morning.

21 Q Could you tell the jury where you are employed?

22 A I'm employed with the Greenville County
23 Department of Public Safety Forensics Division Crime
24 Laboratory.

25 Q How long have you been there?

JAMES ARMSTRONG-DIRECT BY MS. HINTON

1 A Seventeen years and about ten months.

2 Q And what are your duties in the forensics lab?

3 A I split between two fields. I'm a forensic drug
4 chemist where I analyzed suspected controlled substances.
5 And I'm also a forensics firearms examiner. Where I
6 examine firearms and firearm relate evidence and report my
7 findings from there.

8 Q Can you tell the jury a little bit about your
9 educational background?

10 A Yes, ma'am. I have a Bachelor's in Science
11 Degree in chemistry from Erskin College. I have trained
12 in the area of firearms identification under the direction
13 of a retired firearm examiner from the Philadelphia Police
14 Department for approximately two years. I have attended
15 numerous courses sponsored by the alcohol, tobacco and
16 firearm explosives in the area of firearm identification.
17 I have been through at least four different armor schools
18 concerning how they actually work and identify the
19 functionality of firearms. I have been through 13
20 different firearm manufacturing facilities to watch the
21 making of a firearm from raw material to a finished
22 product. I have also been through at least four different
23 ammunition manufacture and assembly plants to see the same
24 process for ammo. And I'm a member of the Association of
25 Firearm and Tool Market Examiners. And I have also

JAMES ARMSTRONG-DIRECT BY MS. HINTON

1 testified in the area of firearm identification at least
2 35 times in Federal and State Court as an expert.

3 Q So, you have been qualified as an expert in this
4 area 35 times?

5 A Yes, ma'am.

6 Q Do you receive continuous training as part of
7 your duties?

8 A Yes, ma'am, I do.

9 MR. DEJONG: I don't mean to interrupt, Madam
10 Solicitor, I'll stipulate his expertise. I'll take him as
11 an expert I presume as a firearm examination or whatever.

12 MS. HINTON: Thank you, Your Honor. I'd still
13 like to--

14 THE COURT: All right, go ahead. You may
15 proceed.

16 MS. HINTON: Okay.

17 But I appreciate that.

18 So, Your Honor, at this time we would be
19 entering him as an expert in firearms and tool marketing
20 analysis.

21 THE COURT: All right, I take from that--

22 MR. DEJONG: No objection, Your Honor.

23 THE COURT: -- colloquy --

24 MR. DEJONG: I stipulate.

25 THE COURT: Okay, he's so admitted.

JAMES ARMSTRONG-DIRECT BY MS. HINTON

1 Ladies and gentlemen, a witness may be
2 identified in and qualified as an expert witness based on
3 his or her respective experience, expertise or education.
4 A expert witness is presented by either party because a
5 expert witness can testify to opinion testimony that a
6 regular lay witness couldn't testify to. And moreover
7 that expert witness is presented to assist you in your
8 analysis of the testimony and the evidence in the case.
9 However, what you need to understand in that just because
10 someone is qualified and presented as an expert witness,
11 it does not mean that their testimony is anymore valuable
12 or important than any other witness' testimony. It is to
13 be considered just like any other piece of evidence that
14 you receive in this case. That is, you'll determine
15 whether it has weight or value and you'll determine
16 whether that testimony is credible or not credible. Just
17 like you would any other bit of testimony or evidence that
18 you receive in this case.

19 Ms. Hinton.

20 MS. HINTON: Thank you, Your Honor.

21 THE COURT: Yes, ma'am.

22 BY MS. HINTON:

23 Q Mr. Armstrong, as part of your duties do you
24 receive bullets or fragments to analyze?

25 A Yes, ma'am.

JAMES ARMSTRONG-DIRECT BY MS. HINTON

1 Q Will you tell, generally, first, how bullets and
2 is fragments come into your office?

3 A In order for me to receive an item for testing,
4 an agency or the officer will bring a package to your
5 property and evidence room. Where it is then inventoried.
6 And then staged or processed into an area and kept for me
7 to come down to get it. When I receive an item I must
8 have two things. The -- an inventory list or basically a
9 property or chain of custody of that item as well as a
10 request form. Which gives me permission to touch the
11 evidence and examine it. Then I go to the property room,
12 receive those items, take them back to my office and
13 perform my examination.

14 Q And the property room that you're talking about,
15 is that a secured area?

16 A Yes, ma'am, it is.

17 Q Okay. In general, when you have a bullet or
18 fragment to analyze, what's the process that you go
19 through?

20 A When we receive the item, the first thing I do
21 is go in the office, I open the package and inventory what
22 I have. Basically I look at it by -- try to determine the
23 caliber. I weigh the item to get an idea of the caliber
24 as well to make sure of its consistency. And then look at
25 what's called the rifling characteristics that are on the

JAMES ARMSTRONG-DIRECT BY MS. HINTON

1 projectile and the fragment to tell me what kind of
2 firearm that projectile may have come from. If I don't
3 have one to compare it to. Then from there, generate our
4 report.

5 Q So, are there markings on specific bullets?

6 A Yes, ma'am, there are?

7 Q And is part of the analysis to look at those
8 markings?

9 A Yes, ma'am, it is.

10 Q And after you have analyzed a bullet, do you
11 make a report as to your findings?

12 A Yes, ma'am, I do.

13 Q After that report is made, what do you do with
14 the actual, physical evidence?

15 A The evidence is sealed back up and placed back
16 in the property and evidence room for storage or for pick
17 up for other agencies.

18 Q Okay. Did you become involved in the analysis
19 of a bullet or a fragment in the case with Mr. Yeargin?

20 A Yes, ma'am, I did.

21 Q Okay. I'm going to show you what's been marked
22 as State's Exhibit 25, do you recognize that item?

23 A Yes, ma'am, I do.

24 Q Okay. And what do you recognize it as?

25 A This is -- the outer bag is a heat sealed pouch

JAMES ARMSTRONG-DIRECT BY MS. HINTON

1 with my initials and date. A inside the tube appears to
2 be a .22 caliber fire bullet specimen.

3 Q Okay. Has that package been tampered with at
4 all that you can tell?

5 A No, ma'am.

6 Q Does that appear to be in the condition it was
7 when you sealed it into that bag?

8 A It is the same condition?

9 MS. HINTON: Your Honor, at this time the State
10 would like to admit State's Exhibit No. 25 into evidence.

11 THE COURT: Any objection?

12 MR. DEJONG: No objection, Your Honor.

13 THE COURT: All right. Without objection the
14 same is admitted into evidence as State's Exhibit No. 25.

15 (WHEREUPON, State's Exhibit No. 25 was marked
16 for identification and received into evidence.)

17 BY MS. HINTON:

18 Q Mr. Armstrong, in testing that bullet, did you
19 go through the same process that you stated earlier that
20 you do generally?

21 A Yes, ma'am, I do.

22 Q And what were your findings on that bullet?
23 What type of bullet was that?

24 A I found the item to be a .22 caliber fire bullet
25 specimen?

JAMES ARMSTRONG-DIRECT BY MS. HINTON

1 Q Now to be clear, can a .22 caliber bullet come
2 from a handgun?

3 A Yes, ma'am.

4 Q Can it always come from a riffle?

5 A Yes, ma'am.

6 Q Did you compare that bullet to a Greenville
7 County case?

8 A Yes, ma'am, I did.

9 Q And to be clear, did that bullet match up with
10 the firearm in that Greenville County case?

11 A It did not match.

12 Q Were you able to the specifically what type of
13 firearm it came from?

14 A Not specifically. I gave them a general idea
15 based on the riffle and characteristics. It's just a
16 general -- kind of give the idea of -- an investigative
17 guidance as to what type of firearm they may be looking
18 for.

19 Q Do you provide a list of potential firearms?

20 A Yes, ma'am, I did.

21 Q Okay. And you said that you memorialized those
22 findings into a report, is that correct?

23 A That's correct.

24 Q I'm going to show you State's Exhibit 31, do you
25 recognize that?

JAMES ARMSTRONG-DIRECT BY MS. HINTON

1 A Yes, ma'am.

2 Q What is that?

3 A That is a copy of my lab report for this case.

4 Q Okay.

5 Your Honor, at this time the State would
6 move Exhibit 31 into evidence.

7 THE COURT: Any objection?

8 MR. DEJONG: No objection, Your Honor.

9 THE COURT: All right, the same is moved into
10 evidence.

11 (WHEREUPON, State's Exhibit No. 31 was marked
12 for identification and received into evidence.)

13 BY MS. HINTON:

14 Q And just to be clear, Mr. Armstrong, on this
15 package, referring to State's 25, is there a case number
16 associated with that?

17 A Yes, ma'am. I wrote the case number on the
18 package, 1111278. And there's also another case number
19 associated with the Pickens County 11-22349.

20 Q Are those numbers also included on your report?

21 A Yes, ma'am, they are.

22 MS. HINTON: Mr. Armstrong, that's all I have at
23 this time, please answer any questions Mr. DeJong may
24 have.

25 MR. DEJONG: Thank you, Your Honor, may it

JAMES ARMSTRONG-DIRECT BY MS. HINTON

1 please the Court?

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. DEJONG:

5 Q Mr. Armstrong, what's been introduced as State's
6 Exhibit No. 31, which is a copy of your report, do you
7 have a copy up there?

8 A Yes, sir.

9 Q I noticed on the top it says, Subject Tavish
10 Yeargin, Kayla Williams, Nyia Utsey, is that correct?

11 A Yes.

12 Q All right. I want to be perfectly clear on one
13 thing. You analyzed the bullet, you compared that to a
14 Greenville County case?

15 A Correct.

16 Q Tavish Yeargin was not a part of that Greenville
17 County case?

18 A Not that I know of.

19 Q Right. So, that was just more or less for one
20 of a better term, a shot in the dark, right?

21 A That's a possibility, yes, sir.

22 Q All right. Now, the other thing I would ask
23 you, Mr. Armstrong, is this. On your listing of weapons,
24 looks like there's 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12
25 that you noted?

JAMES ARMSTRONG-CROSS BY MR. DEJONG

1 A Yes, sir.

2 Q And then the tag line, Others?

3 A Correct.

4 Q So, even the ones you listed are very common
5 weapons, aren't they?

6 A Correct.

7 Q Fortunately, unfortunately, they are a lot of
8 those on the street, right?

9 A That is correct.

10 Q All right, sir. So simply by saying that could
11 have been one of those weapons, which on our expertise I'm
12 not challenging that, but anyone could have had one of
13 those guns?

14 A Correct.

15 Q All right. So, you're not saying that
16 Mr. Yeargin had one of those guns?

17 A No, sir.

18 Q All right. A purported gun, I guess for one of
19 a better term, has been introduced as State's Exhibit No..
20 29, I will show you that. Have you had occasion to do any
21 analysis on that or anything?

22 A No, sir, have not.

23 Q Okay. And the -- there's no doubt in your mind,
24 though, that the projectile, for one of a better term
25 bullet. We get all confused -- or I get all confused when

JAMES ARMSTRONG-CROSS BY MR. DEJONG

1 we start talking about that. But that was from a .22
2 caliber?

3 A That's correct.

4 Q Wasn't from a BB gun?

5 A That's correct.

6 MR. DEJONG: Thank you, Mr. Armstrong.

7 MS. HINTON: No redirect, Your Honor. May he be
8 excused?

9 THE COURT: Yes, sir.

10 MR. DEJONG: No objection to him being excused,
11 Your Honor.

12 THE COURT: Thank you, sir. Thank you for being
13 here.

14 You may call your next witness.

15 MS. HINTON: Your Honor, at this time we would
16 call Chris Gary to the stand.

17 THE CLERK: Place your left hand on the Bible,
18 raise your right hand.

19 CHRIS GARY, after being duly sworn,
20 testified as follows:

21 THE CLERK: Thank you. If you would, have a
22 seat. State your name for the record, please.

23 THE WITNESS: My name is Chris Gary, G-A-R-Y.

24 DIRECT EXAMINATION

25

CHRIS GARY-DIRECT BY MS. HINTON

1 BY MS. HINTON:

2 Q Mr. Gary, where are you employed?

3 A I work for the Greenville County Department of
4 Public Safety in the forensics division.

5 Q And as a member of the forensic division what,
6 do you do on a daily basis?

7 A I accept latent fingerprint evidence from our
8 technicians as well as technicians from other agencies. I
9 examine the fingerprints and other latent print evidence
10 for their quality. And I compare those fingerprints to
11 any known standards and I issue reports based on my
12 findings.

13 Q And can you tell the Court a little bit about
14 your educational background?

15 A Yes, I have a Bachelor's Degree in biology from
16 the College of Charleston. As well as an Associates in
17 crime law and society.

18 Q And what about training? Have you received any
19 training in this field?

20 A May I make a correction?

21 Q Sure.

22 A I'm sorry, I have a minor in crime law and
23 society, not an associates, I apologize.

24 Q Thank you. Can you tell --

25 MR. DEJONG: Excuse me, Madam Solicitor, can we

CHRIS GARY-DIRECT BY MS. HINTON

1 pull that microphone up just a little closer. If it's
2 working today. Thank you.

3 BY MS. HINTON:

4 Q Could you tell the Court about any training that
5 you have in this field?

6 A In 2009 I was selected along with 14 other
7 classmates from around the country from a variety of
8 agencies, that were knew to latent fingerprint
9 examinations, wanted to become latent fingerprint
10 examiners that were already employed with an agency, they
11 hand selected us and we went to Largo, Florida where we
12 participated in a class that was sponsored by The National
13 Institute of Justice. That class was ten weeks long where
14 we had 400 hours of classroom training over the course of
15 ten weeks. Every other month we would fly down for two
16 weeks at a time. And they had the class broken up into
17 sections.

18 After that training concluded, I also went
19 on to another school that was sponsored by the FBI. And
20 that was at Marshall University in West Virginia. At that
21 training, that was more towards footwear comparisons, as
22 shoe prints as we call them, that was more towards that.
23 But it still deals with latent print examinations because
24 it follows the same examination technique and the same
25 basis as latent fingerprint evidence.

CHRIS GARY-DIRECT BY MS. HINTON

1 Q Are you a member of any organizations?

2 A Yes. I'm a member of the International
3 Association for Identification.

4 Q Are you certified at all?

5 A Yes, I am certified by that agency.

6 Q Okay. And do you receive ongoing training as
7 part of your duties?

8 A Yes. As financial money allows in the budget we
9 do go out and take training. There's accredited training
10 by different -- the IAI normally has accredited bodies
11 that they sponsor the training through. As well as we are
12 annually proficiency tested. Every year we have to take
13 tests to show that we are qualified examiners.

14 Q And how many -- how long have you been doing
15 this?

16 A I have been doing this full-time for over five
17 years now. Part-time for three years with Greenville
18 County. I also had the occasion to intern with the North
19 Charleston Police Department while I was in college. And
20 that was approximately a five to six month internship with
21 them as well.

22 Q And how many prints have you compared.

23 A I've examined tens of thousands of fingerprints.

24 Q Have you ever been qualified as an expert
25 before.

CHRIS GARY-DIRECT BY MS. HINTON

1 A Yes, I've been qualified nine times.

2 Q Is that in General Sessions Court?

3 A Yes, that is.

4 MS. HINTON: Your Honor, at this time the State
5 would move Mr. Gary as an expert in fingerprint
6 examination and identification.

7 MR. DEJONG: No questions, Your Honor.

8 THE COURT: Okay.

9 All right, ladies and gentlemen, I will accept
10 him as an expert witness. The same caveat applies. No
11 preferential treatment is to be given to an expert
12 witness. You consider an expert witness' testimony
13 exactly like you would examine any other piece of evidence
14 presented in the case.

15 Yes, ma'am.

16 MS. HINTON: Thank you, Your Honor.

17 BY MS. HINTON:

18 Q Mr. Gary, can you explain to the jury what a
19 latent print is?

20 A Yes. On the surface of your hand you have
21 raised ridges. Maybe you've noticed them before in the
22 past in just everyday life. Or when you touch glasses or
23 something like that. But we have these raised ridges on
24 the bottom of our hands and bottom of our feet. These are
25 called friction ridges. These ridges kind of act like a

CHRIS GARY-DIRECT BY MS. HINTON

1 stamp that we might have had as a kid. When you touch an
2 object or touch a glass or another object, you may leave
3 behind an impression. And that impression can't really be
4 seen with a naked eye. Sometimes we can if like it's on
5 glass or another surface but normally it can't been seen
6 with a naked eye. And that's what the term latent means.
7 It's Latin for -- it means hidden. And that's why our
8 technicians come along and they apply dust. And like I
9 said, you know, we have the stamp. But inks don't work
10 unless you have -- or our stamps don't work unless you
11 have ink. And that's where sweat and moisture and, you
12 know, if we have blood or anything like that on our hands
13 and we touch another object, that acts as the ink for that
14 stamp.

15 So now, we have moisture onto that surface.
16 This inner replication of the skin on our hands. That's
17 when a technician comes behind and they have -- you might
18 have seen it on television, they have a wand that kind of
19 has some dust on it. And that dust breaks off from the
20 brush and actually adheres to that moisture. So, now we
21 can see it. There's normally black or florescent
22 fingerprint powderer and analysis that adheres to that
23 moisture that's left behind in those ridges. And then we
24 can put tape -- it's kind of -- you know, they sell it as
25 forensic evidence tape. But it's essentially kind of like

CHRIS GARY-DIRECT BY MS. HINTON

1 Scotch tape. It's clear tape and it lifts the fingerprint
2 and we can put it on to a white backing or contrasting
3 background so that we can see it and examine it in the
4 lab.

5 Q Okay. And how is that different from a inked
6 print?

7 A An inked print is also called a known print. An
8 unlike at a crime scene, or fingerprints we leave behind,
9 we don't know who that belongs to. An inked set or a
10 known set, we have the person in front of us, and they are
11 the donor for the fingerprints that are going to be on the
12 card. On the latent fingerprint card or the known
13 standard card, we have their name, we have their address,
14 birthday, their weight, their race and sex and any other
15 physical identifiers that we can associate them, the
16 person that's standing in front of us, with the
17 fingerprints on that card. Their fingerprints are then
18 rolled in either black ink or electronically captured, and
19 placed onto that fingerprint card.

20 Q So, would it be fair to say that latent
21 fingerprints are used to compare an ink prints unknown
22 standards?

23 A That's correct. But we compare the latent
24 fingerprints from seen to known standards.

25 Q Okay. Can you explain to the jury the

CHRIS GARY-DIRECT BY MS. HINTON

1 difference between a partial print and a full print?

2 A Well, ink prints are more of our full prints.
3 Any time you're applying three dimensional structure, such
4 as a finger, there is a lot of shape to it. So,
5 technically any fingerprint is a partial print because
6 there's no way to truly place a 3D object on to a 2D
7 surface such as paper or an object that you're touching.
8 So, any print, technically, is a partial print.

9 A known standard though, it does -- we
10 start from one side of the finger and roll it all the way
11 around. And that's more of what you call a full print.
12 But a partial print, like I said, at a crime scene,
13 generally, when we're touching objects, we aren't putting
14 our finger down and rolling them all the way around. It
15 would be nice but it's generally not what happens at a
16 scene when people are handling different items and
17 touching different objects. So, what we would consider a
18 partial print is when somebody comes down with a finger
19 and just grabs something and leaves. We don't have the
20 full replication of the skin.

21 Q When you are analyzing fingerprints, are you
22 often working with partial prints?

23 A Yes. It is very rare that you would get what
24 you would call a full or known print from a crime scene.

25 Q Can you still analyze a fingerprint with a

CHRIS GARY-DIRECT BY MS. HINTON

1 partial print?

2 A Yes. With fingerprints, all the friction ridge
3 is different, it's unique. In the womb is when we develop
4 our fingerprints. And we carry them through until after
5 we die. So, with fingerprints, all that skin is unique.
6 It's different from any other skin on the body because
7 there's so much going on that fingerprint with those
8 ridges. They aren't just static ridges that start on one
9 side and go all the way across to the other. These
10 ridges, they break, they divide. The pores on top of
11 those ridges, the way they are structured, is all
12 different and makes them all unique. And that makes
13 partial prints able to be compared to known prints so that
14 we can identify these partial prints that's coming from
15 the person on that known print fingerprint card.

16 Q And what kind of equipment do you use to compare
17 these fingerprints.

18 A Unlike television, we don't have fancy computers
19 that we can put a print in and it comes back and it tells
20 us the name, the race, the sex, you know, what they had
21 for dinner. It's not like that in real life. We use a
22 magnify glass to carry out all of our comparisons. We put
23 the magnifying glass over our latent print, we examine it
24 for quality. Look for ridge structures that I was talking
25 about earlier, then compare our known standard to see if

CHRIS GARY-DIRECT BY MS. HINTON

1 the latent fingerprint came from the known prints that we
2 have rolled.

3 Q And is that how they're compared and identified?

4 A Yes, that is.

5 Q Okay. And are there better surfaces for
6 yielding prints?

7 A Yes. The perfect, you know, surface for latent
8 fingerprint is going to be on a surface that is hard and
9 clean. Such as a clean piece of glass. Metal, typically,
10 like polished metal, such as off of a car or a vehicle,
11 those are great surfaces. The dirtier an object is, you
12 know, the oiler, it's not going to leave, you know, the
13 best fingerprint. But the optimal results are gained off
14 of clean, hard surfaces. Whereas other surfaces such as
15 your clothing, you know, things that are porous, they
16 just -- you can't get fingerprints off of those objects,
17 normally.

18 Q Okay. Why are fingerprints a positive means of
19 identification?

20 A Fingerprints are a positive means of
21 identification because no two individuals have the same
22 fingerprint. And also, each finger is different. Every
23 finger on your hand is a different fingerprint. And every
24 fingerprint on each hand is different from everyone else
25 in the world. Fingerprints are really unique because they

CHRIS GARY-DIRECT BY MS. HINTON

1 are the only one true identification purpose. Because in
2 DNA, DNA is shared between two twins but fingerprints are
3 even different among twins. And siblings alike. So,
4 everyone has different fingerprints.

5 Q So just to be clear, no one in the entire world
6 has the same set of fingerprints?

7 A That is correct.

8 Q And each finger on a hand is unique as well?

9 A Yes, that is correct. And like I was talking
10 about with the known fingerprint card, why we roll every
11 finger differently and that's the reason why because every
12 finger is different. So, we'll start with a right known
13 on a known fingerprint card, and that's finger number one.
14 And we'd move 2, 3, 4, 5, 6, 7, 8, 9, 10, making sure that
15 we captured all fingers on the fingerprint card for that
16 reason.

17 Q And you said that your agency will analyze
18 prints from other agencies, do you do that for Pickens
19 County?

20 A Yes, we do that for Pickens County as well.

21 Q Okay. Did you receive prints in this case
22 involving Tavish Yeargin?

23 A Yes, I did.

24 Q Did you receive prints involving Nyia Utsey?

25 A Yes, I did.

CHRIS GARY-DIRECT BY MS. HINTON

1 Q Did you receive involving a Kayla Williams?

2 A Yes, I did.

3 Q And who did you receive those prints from?

4 A I received those latent fingerprints from
5 Lieutenant Tony Robinson with the Pickens County Sheriff's
6 Office.

7 Q Okay. Did he give those directly to you?

8 A Yes. Anytime we receive evidence we do it via
9 property and evidence sheet that keeps track of all
10 transaction of that evidence. That way we can keep track
11 that Tony Robinson gave that evidence to me. He would
12 sign it first then I would sign it right after at the
13 point of transaction. Almost like a receipt at a grocery
14 store if you were to buy groceries. They give you a
15 receipt saying you bought these groceries on this date and
16 time. And that's the same thing we do with evidence to
17 keep track of whose hands it moves to to keep track of it.

18 Q And have those prints been in your possession
19 since Lieutenant Robinson gave them to you?

20 A Yes, they have.

21 Q And how many prints -- or should I refer to them
22 as lifts?

23 A Yes, that will be fine.

24 Q How many lifts did you receive in this case
25 involving these three?

CHRIS GARY-DIRECT BY MS. HINTON

1 A May I examine my notes?

2 Q Sure.

3 A I received 33 latent lifts from Lieutenant Tony
4 Robinson.

5 Q And were those lifts from various surfaces?

6 A Yes, they were.

7 Q And at the time that you received them, did you
8 have any known standards to compare them to?

9 A Lieutenant Tony Robinson submitted some known
10 standards for me to compare the latent fingerprints he
11 lifted to.

12 Q Okay. And where those known standards Tavish
13 Yeargin?

14 A Yes, they were.

15 Q And Nyia Utsey.

16 A Yes, they were.

17 Q And Kayla Williams?

18 A Yes.

19 Q Okay. Was there another potential lead in this
20 case to your knowledge?

21 A To my knowledge at the very beginning, I
22 remember Lieutenant Tony Robinson did give two other names
23 at the very first time he brought these latent
24 fingerprints. But none of individuals are matched. We
25 were also supplied the Victim's elimination prints in this