

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable William H. Seals, Circuit Court Judge

RECEIVED

MAY 18 2018

S.C. SUPREME COURT

JAMES R. ROSE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-002052

APPENDIX

ROBERT M. DUDEK
Chief Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

MEGAN H. JAMESON
Senior Assistant Deputy Attorney General

Rembert Dennis Building
1000 Assembly Street
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
	)	CASE NO. 2012-GS-10-3310
	)	2012-GS-10-3311
STATE	)	2012-GS-10-3312
	)	2012-GS-10-3313
	)	
VS.	)	
	)	TRANSCRIPT OF RECORD
JAMES ROSE,	)	
	)	
DEFENDANT.	)	

VOLUME I OF II

December 9, 10, 11, and 12, 2013

Charleston, South Carolina

B E F O R E:

The Honorable Stephanie McDonald, Judge; and a Jury.

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

Jennifer Shealy, Assistant Solicitor
Jessica Baldwin, Assistant Solicitor
For the State

Martha Kent Runey, Esquire
Megan Ehrlich, Esquire
For the Defense

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(DW) - DENOTES DEFENSE WITNESS

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<u>E X H I B I T S</u>			
<u>STATE NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMIT</u>
1	Photo - Floor Plan	72	72
2	Photo	72	72
3	Photo	72	72
4	Photo	72	72
5	Photo	72	72
6	Photo	72	72
7	Photo	72	72
8	Photo	72	73
9	Photo	73	73
10	Photo	73	73
11	Photo	73	73
12	Photo	73	73
13	Photo	73	73
14	Photo	73	73
15	Photo	73	73
16	Photo	73	73
17	Photo	74	74
18	Photo	74	74
19	Photo	74	74
20	Photo	74	74
21	Photo	74	74
22	Photo	74	74

23	Photo	74	74
24	Photo	74	74
25	Photo	74	75
26	Photo	75	75
27	Photo	75	75
28	Photo	75	75
29	Photo	75	75
30	Photo	75	75
31	Photo	75	75
32	Photo	75	75
33	Photo	75	76
34	Photo	75	76
35	Photo	76	76
36	Photo	76	76
37	Photo	76	76
38	Photo	76	76
39	Photo	76	76
40	Photo	76	76
41	Photo	76	76
42	Photo	77	77
43	Photo	77	77
44	Photo	77	77
45	Photo	77	77

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46	Photo	77	77
47	Photo	77	77
48	Photo	77	77
49	Photo	77	77
50	Photo	77	78
51	Photo	78	78
52	Photo	78	78
53	Photo	78	78
54	Photo	78	78
55	Photo	78	78
56	Photo	78	78
57	Photo	78	78
58	Photo	78	78
59	Photo	79	79
60	Photo	79	79
61	Photo	79	79
62	Photo	79	79
63	Photo	79	79
64	Photo	531	531
65	Photo	531	531
66	Photo	531	531
67	Photo	531	531
68	Photo	79	79
69	Photo	79	80

70	Photo	80	80
71	Photo	80	80
72	Photo	80	80
73	Photo	80	80
74	Photo	80	80
75	Projectile	81	81
76	Projectile	81	81
77	Shoes	81	81
78	Shirt	81	81
79	Hoodie	81	81
80	T-Shirt	81	81
81	Shirt	81	81
82	3 Latent Print Cards	81	81
83	Swab No. 1	81	81
84	Swab No. 2	81	82
85	Swab No. 3	82	82
86	Swab No. 4	82	82
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88	(NOT MARKED)		
89	(NOT MARKED)		
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102	Photo	142	142
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<u>COURT'S NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMIT</u>
1	Lineup 1/24/11 0450 by Tawana Alston	90	
2	Array of Photos	91	
3	Lineup 1/24/12 0431 by Antoine Aiken	114	
4	Array of Photos	115	
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16	Jury Note	665	

1 MS. SHEALY: Judge, what I put on your bench is just
2 an updated witness list.

3 THE COURT: Okay.

4 MS. SHEALY: One name is handwritten on the bottom,
5 Michael Spruill.

6 THE COURT: That's fine.

7 MS. SHEALY: And, Judge, just so you will know, Ms.
8 Runey and I and Ms. Ehrlich and I are going to meet this
9 afternoon. That list will be very much abbreviated.

10 THE COURT: Oh, wonderful. Okay. All right.

11 MS. SHEALY: And then the other ---

12 THE COURT: And I will make sure and tell the jury that
13 this is just potential witnesses, that we expect this to
14 last three to four days; is that right?

15 MS. SHEALY: We were thinking -- and we are going to
16 make an effort today to see what all we can kind of speed it
17 up a little bit.

18 THE COURT: Okay. Great.

19 MS. SHEALY: So we may be able to finish -- if we --
20 you are going to allow us to start tomorrow; is that right?

21 THE COURT: Yeah. Yeah.

22 MS. SHEALY: Okay. We are thinking maybe Thursday ---

23 THE COURT: Okay.

24 MS. SHEALY: -- is when we will be finished.

25 THE COURT: Well, and let me ask you this question: Do

1 y'all want to do motions this afternoon or do you want to do
2 them tomorrow?

3 MS. SHEALY: I don't think we have any.

4 THE COURT: Oh. Okay. Great.

5 MS. SHEALY: Judge ---

6 THE COURT: Because I mean weren't you in trial last
7 week?

8 MS. SHEALY: Yes.

9 THE COURT: Okay. All right.

10 MS. SHEALY: Judge, the other thing is we are only
11 going forward on the murder indictment.

12 THE COURT: Okay.

13 MS. SHEALY: Not any of the others.

14 THE COURT: Just the murder indictment. And I don't
15 know if I have a copy of the indictment.

16 MS. SHEALY: I've got a copy right here.

17 THE COURT: If you will just hand me the one indictment
18 we are going forward on. Well, that will streamline things
19 significantly.

20 MS. SHEALY: Right. And I don't know what your
21 position is on pre-marking exhibits.

22 THE COURT: I prefer it if you can. But I'm not going
23 to be evil to you if you didn't, ---

24 MS. SHEALY: I have ---

25 THE COURT: --- hopeful. As to how I feel that day.

1 We'll see.

2 MS. SHEALY: I have a stack of State's exhibit labels
3 that are white, ---

4 THE COURT: Okay.

5 MS. SHEALY: --- not red. Is that okay?

6 THE COURT REPORTER: That's fine.

7 MS. SHEALY: Okay. So I will try to get all that
8 organized today.

9 THE COURT: That will be great.

10 MS. SHEALY: And I will find out from them which ones
11 they have objections to.

12 THE COURT: Yeah, if y'all could use this afternoon or
13 part of it to do that I think that will streamline things
14 significantly. It's just so much easier and fluid for the
15 jury. And then what we can do if there are some we know you
16 don't have objections to we can read down that list and
17 enter them without objection and that just saves time, you
18 know, ---

19 MS. SHEALY: That would be great.

20 THE COURT: --- during the process so. But if there's
21 a reason for record purposes that y'all can't do that, I'm
22 fine with that too. I certainly understand. It's different
23 than in a civil context.

24 All right. Let's look at the voir dire. All right.
25 Are there any objections to the voir dire requested by the

1 State?

2 MS. RUNEY: No, ma'am.

3 THE COURT: Okay, any objections from the State to any
4 of the defendant's requested voir dire?

5 MS. SHEALY: Your Honor, regarding questions 11 and 12
6 I think that you will be instructing the jury as to what the
7 burden is and presumption of innocence. I don't know that
8 it is necessary to query them what they think it is now.

9 THE COURT: I generally -- I mean I always ask that
10 question: Is there anyone who cannot follow the law as the
11 court gives it to you? And usually that is sufficed.

12 Is there a particular reason why you want 11 and 12 or
13 has anyone ever charged to ask that before in voir dire?

14 MS. RUNEY: No, Your Honor, if you will instruct them
15 about following the law, your instructions ---

16 THE COURT: Well, and I say repeatedly -- for example,
17 when I ask them if they know anything about the case I will
18 read them the indictment and inform them that the indictment
19 is not evidence, that the defendant has pled to not guilty,
20 the burden is on the State, what the State's burden is, no
21 one in South Carolina ever has to prove themselves innocent.
22 And there's a lot throughout the trial and then in the
23 charges itself so.

24 MS. RUNEY: I believe that is sufficient. Thank you.

25 THE COURT: Okay, then I will not ask 11 to 12. And

1 some of these come in -- they get asked. For example,
2 anything about the facts of the case when I ask read the
3 indictment, that will give anybody a chance. I always ask
4 if anyone has read, heard anything. But I will ask the
5 specific media question as well, because I think that could
6 be important.

7 Now on the witness list it looks like Sarah and Alise
8 have gone through and checked to see which names are repeats
9 on it. And I think what Detective Derrick Boyd - let me
10 see - was the only one I think that wasn't on the State's
11 list. Or it may be and I just missed it.

12 But when I read this witness list out if anybody -- I
13 will ask if I've left anybody out. So if y'all will just
14 follow along and prompt me at that point if I've left anyone
15 out.

16 All right. So are we are not going to have a motion to
17 suppress the ID any longer? I mean I'm just trying to
18 figure out which motions we may have. Ms. Shealy said she
19 wasn't sure we had any.

20 MS. RUNEY: Your Honor, I had filed that motion because
21 there was a six-pack lineup showed to two of the witnesses.

22 THE COURT: Okay.

23 MS. RUNEY: I would request a hearing ---

24 THE COURT: Okay.

25 MS. RUNEY: --- on that.

1 THE COURT: Okay.

2 MS. RUNEY: I think it would be very brief.

3 THE COURT: All right. And what about the bad acts
4 motion, motion to exclude testimony of prior bad acts; is
5 that an issue?

6 MS. RUNEY: The only thing that I'm aware of is
7 potential testimony of some drug use, and Mr. Shealy says
8 that she is not going to elicit that testimony.

9 MS. SHEALY: And it is regarding the conduct that
10 evening. There will be testimony though, Judge, about Mr.
11 Rose buying drugs from the victim in the case previously, my
12 victim selling drugs.

13 But one of the witnesses had indicated that Mr. Rose
14 had used cocaine that evening. I told Ms. Runey that I
15 intend to stay away from that.

16 THE COURT: Okay.

17 MS. SHEALY: And I am going to instruct that
18 witness ---

19 THE COURT: Not to say that?

20 MS. SHEALY: Yes.

21 THE COURT: Okay. If you can make extra careful to
22 instruct the witness.

23 MS. SHEALY: I will try. I will ---

24 THE COURT: All right. Then Ms. Runey, what we will do
25 on that is if an issue comes up we will address it at the

1 time. And if at any point you want to had -- be heard
2 before we get to that point, I'm happy to do it.

3 So we will do the motion to suppress the ID, motion in
4 limine State's statements. So we need a Denno hearing as
5 well or ...?

6 MS. SHEALY: I do not intend to offer his
7 statement ---

8 THE COURT: Okay.

9 MS. SHEALY: --- in our case in chief.

10 THE COURT: Okay. Then do we want to hold off in case
11 that becomes an issue?

12 MS. SHEALY: Yes, ma'am.

13 THE COURT: All right.

14 MS. SHEALY: And, Your Honor, if we could just revisit
15 the Bigger's issue.

16 THE COURT: Yes.

17 MS. SHEALY: The two witnesses who did lineups, they
18 knew him prior to that occasion.

19 THE COURT: Okay.

20 MS. SHEALY: And that's why I thought there was no need
21 for that. I do intend -- can I consult with Ms. Martha Kent
22 for just a second?

23 THE COURT: Of course. Of course.

24 (Counselors confer.)

25 MS. SHEALY: Okay. I think she thinks in an abundance

1 of caution we should ---

2 THE COURT: Okay. I'm happy to do that. That's no
3 problem.

4 Motion in limine to prevent introduction of photographs
5 of the body of the deceased, Jennifer, if you're planning on
6 doing that, just let me see the photographs and we will get
7 ready to hear that.

8 MS. SHEALY: I will. And I'm not intending to do that.

9 THE COURT: Okay.

10 MS. SHEALY: Because they're only autopsy photos ---

11 THE COURT: Okay.

12 MS. SHEALY: --- that are difficult. But what I would
13 like to do is show the x-rays that are, you know, colored
14 x-rays, that show where the bullets ---

15 THE COURT: Okay.

16 MS. SHEALY: --- ended up --

17 THE COURT: All right.

18 MS. SHEALY: --- through our pathologist.

19 THE COURT: I doubt there will be a 403 problem with
20 that. But I'm happy for you to put whatever you need to on
21 the record to protect it. Okay.

22 MS. RONEY: I think the x-rays will be fine.

23 THE COURT: All right.

24 MS. RONEY: There were just some other autopsy
25 pictures ---

1 THE COURT: Yeah, I generally I not going to let
2 autopsy photos ---

3 MS. SHEALY: I don't ---

4 THE COURT: --- in absent -- some are even -- I -- I do
5 generally grant motions to sequester witnesses, not just the
6 State's witnesses but if there are witnesses, period.

7 You know, obviously the victim -- well, not the victim
8 here. But if there is a representative for the victim, that
9 person would be able to remain and the case agent. And
10 obviously the defendant is here. But I will grant the
11 motion to sequester. Other than that -- okay.

12 MS. RUNEY: Thank you.

13 THE COURT: Well, then why don't -- let me -- here is
14 the question I wanted to ask. I don't know if -- who is
15 here today or if the witnesses are all coming tomorrow do we
16 just want to do the Bigger's hearing in the morning when
17 everybody is here?

18 MS. SHEALY: That would be helpful to me, Judge.

19 THE COURT: Okay.

20 MS. SHEALY: Just because I don't have the printout.

21 THE COURT: Okay.

22 MS. SHEALY: Would you like us to do that before we get
23 started in the morning? Because one witness is my second
24 witness, and then the other witness is my third witness.

25 THE COURT: I mean I think if we can -- if I tell the

1 jury to be here at 10:00 and we start that at 9:30 will that
2 give us enough time to do it?

3 MS. RUNEY: I think so.

4 MS. SHEALY: Or 9:15?

5 THE COURT: 9:15. 9:15 is fine. I'm fine with that.

6 MS. SHEALY: Okay.

7 THE COURT: Okay. Well, let's do that. Yeah, I mean I
8 rather if that is the second witness that will work out well
9 because then that person won't have to come back ---

10 MS. SHEALY: Right.

11 THE COURT: --- twice. Okay. Anything else we need to
12 take -- y'all want two alternates?

13 MS. SHEALY: Yes, Your Honor.

14 MS. RUNEY: Yes.

15 MS. SHEALY: We lost an alternate last week and we only
16 had one and ---

17 THE COURT: Yeah, I heard about that. So what will be
18 five and ten and then two alternates.

19 MS. SHEALY: Yes, Your Honor.

20 THE COURT: All right. Well, it sounds like y'all are
21 pretty organized. I really appreciate it.

22 (Break for scheduling discussions of other matter.)

23 (WHEREUPON, jury panel enters courtroom December 9, 2013,
24 11:42 A.M.)

25 THE COURT: All right. Have we got everybody?

1 THE BAILLIFF: We've got everybody.

2 THE COURT: All right. Thank you so much. And thank
3 you for your patience, ladies and gentlemen. We had a few
4 things we needed to coordinate in the two courtrooms before
5 we selected our jury.

6 The case that we will be trying in this courtroom this
7 week is the State of South Carolina versus James R. Rose,
8 Indictment Number 2012, General Sessions 10, 3312.

9 The indictment alleges as follows: That in
10 Charleston County on or about January 24th of 2012 with
11 malice of forethought James R. Rose did kill and murder
12 Leland Shannon by means of shooting the victim and that
13 Leland Shannon did die in Charleston County as a proximate
14 result thereof on January 24th, of 2012, in violation of
15 South Carolina law.

16 Ladies and gentlemen, this indictment is not evidence.
17 It is merely the instrument that brings the case into court
18 for a jury of 12 Charleston County citizens to consider.

19 This defendant Mr. Rose has pled not guilty to the
20 charge set forth in this indictment. He is presumed
21 innocent of this allegation throughout the proceeding. That
22 only changes if 12 jurors unanimously agree that the State
23 has met its burden of proving him guilty beyond a reasonable
24 doubt.

25 No citizen in South Carolina is ever required to prove

1 himself innocent. He is presumed innocent the entire time
2 and the burden remains with the State of South Carolina.

3 Now is there any member of the panel who knows Mr.
4 James R. Rose, Mr. Leland Shannon, or who has heard about or
5 knows about the incident alleged in this indictment; if so,
6 please stand.

7 (WHEREUPON, there was no response.)

8 THE COURT: All right. Is there any member of the
9 panel who has seen any publicity regarding this case or do
10 you recall any television or newspaper accounts about the
11 case; if so, please stand. Know anything about the case
12 whatsoever.

13 (WHEREUPON, there was no response.)

14 THE COURT: All right. I'm going to have Ms. Shealy
15 introduced the folks at her table. And then Ms. Runey will
16 do the same.

17 Ms. Shealy.

18 MS. SHEALY: Thank you. I'm Jennifer Shealy. I'm an
19 assistant solicitor in the solicitor's office in Charleston.
20 This is Jessica Baldwin. She is my co-counsel.

21 During the trial we will have our paralegal, Shameka
22 Smith, sitting at the table with us and Detective James
23 Perkins from the Charleston County Sheriff's Department.

24 THE COURT: Thank you, ma'am. Is any member -- I
25 wanted to go through these first, and then I will switch

1 over.

2 Is any member of the panel related to by blood or
3 marriage or a close personal friend of or do you know Ms.
4 Jennifer Shealy, Ms. Jessica Baldwin, Shameka Smith, or
5 James Perkins; if so, please stand.

6 Also, please stand if you have ever been represented by
7 Ms. Jennifer Shealy or Ms. Jessica Baldwin.
8 (WHEREUPON, there was no response.)

9 THE COURT: Is any member of the panel related to by
10 blood or marriage or a close personal friend of or an
11 acquaintance of any employee of the Ninth Circuit
12 Solicitor's Office; if so, please stand.

13 (WHEREUPON, potential juror stands.)

14 THE COURT: All right. Mr. Bouch.

15 POTENTIAL JUROR: Your Honor, my daughter's longtime
16 boyfriend is an assistant solicitor, Mr. Stoney.

17 THE COURT: Mr. Stoney?

18 POTENTIAL JUROR: Yes, ma'am.

19 THE COURT: All right. Mr. Bouch, you will not be
20 selected as a juror on the trial of this case. Juror Number
21 17 will be excused.

22 POTENTIAL JUROR: Thank you.

23 THE COURT: And you are welcome to go ahead and go
24 back. We are not picking any other juries in here today so.

25 Yes, sir, Mr. Bouch.

1 POTENTIAL JUROR: Go downstairs or go home?

2 THE COURT: I think if you will just call back after
3 six o'clock tonight you will be in good shape.

4 POTENTIAL JUROR: Thank you, Your Honor.

5 THE COURT: Okay. Thank you, sir.

6 Mr. Buxton.

7 POTENTIAL JUROR: I am cousins with Scarlet Wilson, the
8 solicitor.

9 THE COURT: Y'all are first cousins?

10 POTENTIAL JUROR: Second cousins.

11 THE COURT: Second cousins. All right.

12 POTENTIAL JUROR: Or thereabouts.

13 THE COURT: Okay. I may have to hear a matter
14 regarding that. Would anything about that in any way
15 interfere with your ability to be fair and impartial in the
16 trial of this case?

17 POTENTIAL JUROR: No.

18 THE COURT: All right. I'm going to hear from the
19 attorneys in that. I'm likelihood going to excuse you, but
20 we need to take a look at our numbers. Okay. Thank you,
21 sir.

22 If I could get the lawyers up. Let's go ahead and
23 address that.

24 (WHEREUPON, bench conference as 11:47 a.m. as follows:)

25 THE COURT: I think we have enough people. I'm

1 inclined to let him go. Y'all want to argue about it one
2 way or another? I mean they are second cousins.

3 MS. RUNEY: I would like for him to be excused.

4 THE COURT: Any reason why we shouldn't excuse him?

5 MS. SHEALY: Because he said he thought he could be
6 fair and impartial.

7 THE COURT: Right. Well, I think he probably can. But
8 he's still a relative. And that's the kind of thing I would
9 disclose if I had a cousin.

10 MS. EHRLICH: And for the client's benefit ---

11 THE COURT: Well ---

12 MS. EHRLICH: For the client's benefit.

13 THE COURT: You have the trust issue?

14 MS. EHRLICH: Yes.

15 THE COURT: All right. I got it. All right. Mr.
16 Buxton, we are certain that you can be fair and impartial.
17 But out of an abundance of caution you are excused. Thank
18 you, sir. That is Juror Number 32.

19 All right. Anybody else have a relative or close
20 personal friend at the Ninth Circuit Solicitor's Office?
21 (WHEREUPON, there was no response.)

22 THE COURT: Thank you, sir. All right. Ms. Runey.

23 MS. RUNEY: I am Martha Kent Runey. I represent James
24 Rose. And this is Megan Ehrlich. She will be assisting me
25 too. She is a lawyer for Mr. Rose as well.

1 THE COURT: Thank you. Is any member of the panel
2 related to by blood or marriage or a close personal friend
3 of or have you ever been represented by Ms. Martha Kent
4 Runey or Ms. Megan Ehrlich of the Public Defender's Office;
5 if so, please stand?

6 (WHEREUPON, there was no response.)

7 THE COURT: Does any member of the panel have a
8 relative or close personal friend who works at the
9 Charleston County Public Defender's Office; if so, please
10 stand.

11 (WHEREUPON, potential juror stands.)

12 THE COURT: Yes, sir.

13 POTENTIAL JUROR: I believe Joannie Sawyer is a
14 paralegal there. And she is a very dear friend of mine.

15 THE COURT: All right. And what is your juror number,
16 please, sir?

17 POTENTIAL JUROR: One seventy-seven.

18 THE COURT: One seventy-seven. Does Ms. Sawyer still
19 work at the Public Defender's Office; is she there?

20 MS. RUNEY: We have Joannie Driggers.

21 THE COURT: Joannie Driggers?

22 POTENTIAL JUROR: Yes, Joannie Driggers.

23 THE COURT: Sir, would that in any way interfere with
24 your ability to be fair and impartial in the trial of this
25 case?

1 POTENTIAL JUROR: I don't think so.

2 THE COURT: Can you be fair? I need ---

3 POTENTIAL JUROR: Yes.

4 THE COURT: You can. All right. Well, I will hear
5 from the lawyers shortly. But I'm going to ask you to
6 remain with us at this time. Okay.

7 All right. Ladies and gentlemen, I'm going to ask a
8 few questions that are related to this case. This will work
9 in a similar manner as we did this morning.

10 Most of them are pretty innocuous, but there might be
11 one or two that seeks information that is personal, private,
12 or private to you; or there may be information that we need
13 to bring you up to the bench to ask for follow-up on.

14 But generally I'm going to ask that you do just as
15 we've been doing this morning, that you stand, give us your
16 name and juror number, and then pursuant to oath that you
17 took this morning give us the answer to the question.

18 After I see the attorneys for just a short minute up at
19 the bench I'm going to read a witness list to you. It is a
20 long witness list.

21 But the lawyers have assured me that they will be
22 paring that list down this afternoon. So I don't want you
23 to be in shock when we read you this lengthy list.

24 This case is expected to start tomorrow morning because
25 we have a number of matters to work on to get it ready this

1 afternoon. And we are hoping to end it by Thursday, Friday
2 morning at the latest.

3 But if in any event, if you will listen to the witness
4 list that I'm getting ready to read. And if you know anyone
5 at the end of the questioning, we will get you to stand and
6 tell us which witness you might know and what your
7 relationships with them are. But if I could get the lawyers
8 to come up just very quickly first.

9 (WHEREUPON, bench conference 11:52 a.m. as follows:)

10 THE COURT: Any matters with respect to Number 177?

11 MS. SHEALY: I think he said he could be fair. So I
12 don't have ---

13 THE COURT: He did. Do y'all have any issue with
14 that?

15 MS. RUNEY: No.

16 THE COURT: Okay. All right. Thank you.

17 (WHEREUPON, end of bench conference.)

18 THE COURT: No objections. All right. The potential
19 witnesses in this case include Joy Mills, Brian Williams,
20 Antoine Aiken, Lillie Wilson, Clarence Hush, Brandon
21 Cantrell, Tawana Alston, Ishmal Weston, Sofia Wiley, Amber
22 Wiley, Matt Wiley, Everlina Bickham, Andrea or Andrea -- is
23 it Gezovich?

24 MS. SHEALY: I believe that's correct.

25 THE COURT: Gezovich, Deanna Henderson, Michael

1 Spruill, Detective Mitchell Wilson of the Charleston County
2 Sheriff's Office, Lietutenant Michael Conkey of the Sheriff's
3 Office, Detective Christopher Hochreiter of the Sheriff's
4 Office, Detective James Perkins of the Sheriff's Office,
5 investigator Erin Meyer of the Sheriff's Office, Deputy Alan
6 Ali of the US Marshals Service, detective Sheri Church of
7 the Sherriff's Office, Detective Paul McManigal of the
8 Sherriff's Office, Detective Charles Lawrence of the
9 Sherriff's Office; Jason Riley, Sherriff's Office; James
10 Mills, Sherriff's Office; Kathy Kjellman -- is it Kjellman
11 or Kjellman?

12 MS. SHEALY: It is actually Kjellman (ph = Chellman).

13 THE COURT: Kathy Kjellman of the Sheriff's Office,
14 Brent Roy of the Sheriff's Office, Dr. Zulfizar Khan of the
15 Sherriff's Office -- I'm sorry, Detective Zulfizar Khan of
16 the Sherriff's Office, Detective Christina Smith of the
17 Sheriff's Office, Detective Rob Colson of the Sherriff's
18 Office, Andrew Coker of the North Charleston Police
19 Department, Lisa Kubisco of the North Charleston Police
20 Department, Detective Mike Thompson of the Sheriff's Office,
21 Detective Derrick Boyd of the Sheriff's Office, Sergeant
22 Heyward -- what is that agency, SACDC; do we know?

23 MS. BALDWIN: Sheriff Al Cannon Detention Center.

24 THE COURT: Oh, from the Detention Center. Okay.
25 Sergeant Heyward from the Charleston County Detention

1 Center, Lorica Pitts of SLED, Michele Eichenmiller of SLED,
2 Megan Fletcher of SLED, Nikki Perry Hughes of SLED; Selena
3 Kinard, SLED; Doris Yarbrough, SLED, Maryann Boehm, SLED;
4 John Roberts, SLED; Ila N. Simmons of SLED, Patricia Crooks
5 of SLED, Amy Stephens of SLED, Lee Marie Tormos, MD, of the
6 Medical University; Eowyn Corcrah of MUSC, Raymond Edwards,
7 MUSC; Scott Ramsey is the Deputy Coroner; W. Ashton Ennis,
8 MUSC; Aden Wasch of Charleston County EMS, Michael Davis of
9 Charleston County EMS; Melissa Brinton of MUSC; Captain
10 Dorothy Simmons of MUSC Public Safety, and Officer Howard
11 Lucas of MUSC Public Safety.

12 Did I leave any names off of that list?

13 MS. SHEALY: No, but I think we may have had a
14 misspelling.

15 THE COURT: Okay.

16 MS. SHEALY: Ms. -- Number 52, Aden Wasch is actually
17 Adam Wasch.

18 THE COURT: Oh, Adam Wasch of Charleston County EMS.
19 Thank you. Any further names from the defense?

20 MS. RUNEY: No, Your Honor.

21 THE COURT: Okay. Is any member of the panel related
22 to by blood or marriage or a close personal friend of or
23 have some relationship with any of the potential witnesses
24 that we read from this list; if so, please stand.
25 (WHEREUPON, potential juror stands.)

1 THE COURT: Yes, sir.

2 POTENTIAL JUROR: I used to work at MUSC. Would that
3 count?

4 THE COURT: Well, did you work with any of these
5 specific individual?

6 POTENTIAL JUROR: I don't know the names, but I might
7 know the faces.

8 THE COURT: Well, let me ask you -- what is your juror
9 number, please, sir?

10 POTENTIAL JUROR: Thirty-six.

11 THE COURT: Would any potential relationship interfere
12 with your ability to be fair and impartial in the trial of
13 this case?

14 POTENTIAL JUROR: No.

15 THE COURT: Thank you, sir.

16 (WHEREUPON, potential juror stands.)

17 THE COURT: Yes, sir.

18 POTENTIAL JUROR: Juror 236, Sheri Church of the
19 Sheriff's Department is a good friend of mine.

20 THE COURT: Is a good friend of yours?

21 POTENTIAL JUROR: Yes.

22 THE COURT: And she may be called as a witness. She
23 may not. But if she is a witness in this case would that in
24 any way interfere with your ability to be fair and
25 impartial?

1 POTENTIAL JUROR: I don't believe so.

2 THE COURT: Can you be fair and impartial?

3 POTENTIAL JUROR: Yes. Yes, I can.

4 THE COURT: Thank you, sir. I didn't know if I saw --

5 yes, sir, if you will stand up for me so I can hear you.

6 (WHEREUPON, potential juror stands.)

7 POTENTIAL JUROR: Juror 128. I might know Mr. Mills

8 indirectly ---

9 THE COURT: Mr. Mills.

10 POTENTIAL JUROR: --- through the neighborhood ---

11 THE COURT: All right, let me ---

12 POTENTIAL JUROR: --- with the police department.

13 THE COURT: From the police department. You might know

14 him but you're not sure?

15 POTENTIAL JUROR: I don't know his first name.

16 THE COURT: Okay. What is Mr. Mills' first name?

17 MS. SHEALY: James.

18 THE COURT: James.

19 MS. SHEALY: He goes by Jim.

20 THE COURT: Jim or James Mills.

21 POTENTIAL JUROR: The one I know, I don't know his

22 first name. I just know him ---

23 THE COURT: Okay.

24 POTENTIAL JUROR: --- through the neighborhood

25 association.

1 THE COURT: And give me your juror number if you would.

2 POTENTIAL JUROR: One twenty-eight.

3 THE COURT: One twenty-eight. And sir, the fact that
4 you might know him, would that interfere in any way with
5 your ability to be fair and impartial?

6 POTENTIAL JUROR: No, Your Honor.

7 THE COURT: Thank you, sir. I appreciate that. That
8 is exactly what we need to know.

9 Anybody else? Okay.

10 POTENTIAL JUROR: Excuse me, Your Honor.

11 THE COURT: Yes. I need y'all to stand if you need to
12 give me information. Yes, sir?

13 (WHEREUPON, potential juror stands.)

14 POTENTIAL JUROR: Michael Woody, Juror Number 297. I
15 don't if you have not gotten to it yet, but I'm college
16 friends with the defendant's attorney.

17 THE COURT: Oh, that's fine. Which attorney?

18 POTENTIAL JUROR: Mrs. Runey.

19 THE COURT: Ms. Runey. And you said 297 I believe?

20 POTENTIAL JUROR: Yes, ma'am.

21 THE COURT: All right. Sir, would that in any way
22 interfere with your ability to be fair and impartial?

23 POTENTIAL JUROR: No, it wouldn't.

24 THE COURT: Okay. Thank you, sir. Anybody else know
25 any of the attorneys, know Mr. James R. Rose, the defendant,

1 or think you might know any of the potential witnesses; if
2 so, please stand.

3 POTENTIAL JUROR: Your Honor, if I could add.

4 THE COURT: Yes. It's possible if it's the man I know,
5 that his wife works for my employer ---

6 THE COURT: All right. And ---

7 POTENTIAL JUROR: --- in a different division.

8 THE COURT: Who is your employer?

9 POTENTIAL JUROR: It's a bank.

10 THE COURT: I'm sorry?

11 POTENTIAL JUROR: It's a local bank.

12 THE COURT: Okay. So his wife might work for ---

13 POTENTIAL JUROR: If it's the same gentleman.

14 THE COURT: Okay. All right. Thank you, sir. I
15 appreciate that. Anybody else?

16 (WHEREUPON, there was no response.)

17 THE COURT: Okay. Thank you.

18 All right. Is any member of the panel a former member
19 of law enforcement in any capacity? If you've ever served
20 in law enforcement, please stand.

21 (WHEREUPON, potential juror stands.)

22 THE COURT: Yes, sir.

23 POTENTIAL JUROR: Yes, ma'am. Used to be a security
24 officer on Kiawah Island.

25 THE COURT: All right. And what's your juror number,

1 please, sir?

2 POTENTIAL JUROR: It's 296.

3 THE COURT: Two ---

4 POTENTIAL JUROR: John Wood.

5 THE COURT: Two ninety-six?

6 POTENTIAL JUROR: Yes, ma'am.

7 THE COURT: Okay. Thank you, sir. Anybody else?

8 (WHEREUPON, there was no response.)

9 THE COURT: Okay.

10 Is any member of your family or any close friend of
11 yours for any juror employed by a law enforcement agency; if
12 so, please stand and give us the name of the family member
13 and the agency that they work for.

14 (WHEREUPON, potential juror stands.)

15 THE COURT: Yes, sir.

16 POTENTIAL JUROR: Kenny Barfield. He worked for the
17 City of Charleston, Ryan Brown.

18 THE COURT: All right. What's your juror number,
19 please, sir?

20 POTENTIAL JUROR: One seventy-seven.

21 THE COURT: One seventy-seven. All right. All right.

22 POTENTIAL JUROR: Ryan Brown works for the City of
23 Charleston. I think that's it.

24 THE COURT: Okay. And, sir, would knowing those folks
25 or any relationship you might have with them in any way

1 interfere with your ability to be fair and impartial in this
2 case?

3 POTENTIAL JUROR: I don't think so.

4 THE COURT: Well, can you be fair in this case?

5 POTENTIAL JUROR: Yes.

6 THE COURT: Thank you, sir.

7 Who does Kenny Barfield work for now?

8 MS. SHEALY: He currently works for our office.

9 THE COURT: Okay. He currently works for the
10 Solicitor's Office, so I see him around all the time. So I
11 thought he did.

12 Sir, you will not be selected as a juror on the trial
13 of this case. You are Juror Number 177?

14 POTENTIAL JUROR: Yes.

15 THE COURT: Sir, you are excused from this case. If
16 you would call back after six o'clock tonight we will have
17 further instructions. Thank you, sir.

18 Yes, sir, if anybody who has a relative or close
19 personal friend, y'all go ahead and stand now.

20 (WHEREUPON, potential juror stands.)

21 THE COURT: Yes, ma'am.

22 POTENTIAL JUROR: Number 289, Jimmie Cannon. My
23 husband is a retired deputy for Berkeley County.

24 THE COURT: For Berkeley County?

25 POTENTIAL JUROR: Yes.

1 THE COURT: All right. Thank you, ma'am.
2 (WHEREUPON, potential juror stands.)
3 THE COURT: Yes, ma'am.
4 POTENTIAL JUROR: We have a friend of ours is David
5 Gobel. I think he works as a bailiff here ---
6 THE COURT: I can't hear you, ma'am. I'm so sorry.
7 Works here as a bailiff you think?
8 POTENTIAL JUROR: Yes, he did.
9 THE COURT: What is your juror number?
10 POTENTIAL JUROR: One eighteen.
11 THE COURT: One eighteen?
12 POTENTIAL JUROR: Yes.
13 THE COURT: Okay. Thank you, ma'am.
14 (WHEREUPON, potential juror stands.)
15 THE COURT: Anybody else? Yes, sir.
16 POTENTIAL JUROR: Your Honor, I have a former in-law,
17 brother-in-law, who is I think with the Sheriff's Office.
18 THE COURT: What is his name?
19 POTENTIAL JUROR: It's Grady Brown.
20 THE COURT: Brady Brown? Grady Brown or Brady Brown?
21 POTENTIAL JUROR: Grady.
22 THE COURT: Grady Brown. Okay. And what is your juror
23 number, please, sir, again?
24 POTENTIAL JUROR: One twenty-eight.
25 THE COURT: One twenty-eight. All right. Thank you,

1 sir.

2 Anybody else?

3 (WHEREUPON, there was no response.)

4 THE COURT: Okay.

5 Has any member of the panel or any member of your
6 immediate family had any criminal charge handled by the
7 Charleston County Solicitor's Office; if so, please stand or
8 come see me shortly. We will have a catch all time just as
9 we did earlier this morning.

10 (WHEREUPON, there was no response.)

11 THE COURT: Has any member of the panel or any close
12 relative or close personal friend been a victim of a crime;
13 if so, please stand or come see me shortly.

14 (WHEREUPON, there was no response.)

15 THE COURT: Has any member of the panel or any member
16 of your family ever been a victim of crime in which drugs
17 played a part; if so, please stand or come see me shortly.

18 (WHEREUPON, there was no response.)

19 THE COURT: Has any member of the panels immediate
20 family or close person friend ever been convicted of a
21 crime -- (sneeze) bless you -- that involves drugs; if so,
22 please stand or come see me shortly.

23 (WHEREUPON, there was no response.)

24 THE COURT: Is any member of the panel or any member
25 of your immediate family affiliated with a victim's

1 rights organization or an organization which promotes
2 law-enforcement such as Citizens Against Violent Crime,
3 CAVE; People Against Rape, PAR; Mothers Against Drunk
4 Driving, MAD; or Parents Empowered to Save Teens, PEST; or
5 any community watch organization or similar such
6 organization; if so, please stand.

7 (WHEREUPON, there was no response.)

8 THE COURT: Does any member of the panel know any
9 member of the victim's family or did you know or work with
10 the victim or any member of his family? And the victim's
11 name here was Leland Shannon. If so, please stand or come
12 see me shortly.

13 (WHEREUPON, there was no response.)

14 THE COURT: Does any member of the panel or any close
15 member of your family or close personal friends live in or
16 near the Lincolnville area or did you or they live in the
17 Lincolnville area within the past three years; if so,
18 please stand or come see me shortly.

19 (WHEREUPON, there was no response.)

20 THE COURT: Does any member of the panel hold any
21 personal, political, or religion belief that would prevent
22 you from sitting in judgment of another person or for being
23 a fair and impartial juror in the trial of this case; if so,
24 please stand.

25 (WHEREUPON, there was no response.)

1 THE COURT: Would any member of the panel have any
2 problem following the law as the court gives it to you even
3 if you believe that it is inappropriate or unfair; if so,
4 please stand.

5 (WHEREUPON, there was no response.)

6 THE COURT: Has any member of the panel already formed
7 any opinion about this case; if so, please stand or come see
8 me shortly.

9 (WHEREUPON, there was no response.)

10 THE COURT: Does any member of the panel know of any
11 reason whatsoever why you could not be fair and impartial to
12 both the defendant and the State in this case, do you know
13 of any reason whatsoever why you should not be seated as a
14 juror on the trial of this case, or do you need to respond
15 to one of the previous questions; if so, if you will please
16 form a line in the center of the room and we will bring you
17 up one at a time with the attorneys if this applies to
18 anybody.

19 Any reason you can't be fair and impartial in this case
20 or anything you need to bring to my attention or anything
21 you need to answer about a previous question.

22 I can get my lawyers to come forward too.

23 (WHEREUPON, bench conference as follows with attorneys:)

24 MS. SHEALY: Can I bring one thing to your attention?

25 THE COURT: Yes.

1 HS. SHEALY: I advised Ms. Ehrlich and Ms. Runey about
2 this earlier about that one of the jurors, Number 236 ---

3 THE COURT REPORTER: I can't hear you.

4 THE COURT: We can't hear you.

5 MS. SHEALY: Regarding Juror 236 ---

6 THE COURT: Right.

7 MS. SHEALY: --- we found out from our office that Meg
8 Sprinkle---

9 THE COURT: Right.

10 MS. SHEALY: --- one of our attorneys, had indicated
11 that it was one of her friend's aunts. I have now learned
12 it is actually her ex-husband's aunt.

13 THE COURT: Her ex-husband's aunt?

14 MS. SHEALY: Uh-huh. She -- the aunt may not know that
15 this is -- I had to let them know that during jury
16 qualification that it was a friend.

17 THE COURT: Anything y'all want to address with respect
18 to that or do you want me to just let her go? I don't have
19 an opinion really one way or another. She may be in the
20 line to come forward, but I don't think so.

21 MS. RUNEY: Two thirty-six?

22 THE COURT: Two thirty-six? I mean do y'all want her
23 to be cut loose or does it -- do you care?

24 MS. RUNEY: I would ask for her to leave.

25 THE COURT: Okay. I'll -- we will excuse her. But I

1 will do that when I let these -- after I hear from these
2 folks. Thank you.

3 (WHEREUPON, end of bench conference with attorneys.)

4 THE COURT: All right. Yes, ma'am.

5 THE BAILIFF: Two twenty-two.

6 THE COURT: Two twenty-two. Come on up. Come on up.

7 (WHEREUPON, potential juror steps forward.)

8 THE COURT: That's okay. Hi, there.

9 POTENTIAL JUROR: My cousin was murdered five years ago
10 in Georgetown.

11 THE COURT: Your cousin was murdered?

12 POTENTIAL JUROR: It was a Georgetown case ---

13 THE COURT: I'm sorry it happened.

14 POTENTIAL JUROR: And I'm really close friends with
15 Sean Patrick. He is a retired detective for North
16 Charleston.

17 THE COURT: For North Charleston. All right. Would
18 anything about that, either your cousin's murder or your
19 friendship with Sean Patrick in any way interfere with your
20 ability to be fair in this case or to serve as a juror in
21 this case?

22 POTENTIAL JUROR: (Shakes head.)

23 THE COURT: No?

24 POTENTIAL JUROR: No.

25 THE COURT: Okay. Thank you. Juror Number 222 will

1 remain with us.

2 THE COURT: Yes, sir.

3 THE BAILIFF: Two ninety-six.

4 (WHEREUPON, potential juror steps forward.)

5 THE COURT: Yes, sir.

6 POTENTIAL JUROR: Two things. My sister about 15 years
7 ago I believe was prosecuted for an incident with some
8 animals in her apartment.

9 THE COURT: Where? Do you remember where that was?

10 POTENTIAL JUROR: That would have been -- that would
11 have been I think ---

12 THE COURT: Not here? Was it here?

13 POTENTIAL JUROR: No, it wasn't here.

14 THE COURT: Okay. Thank you. All right.

15 POTENTIAL JUROR: The other thing was that my ex-wife's
16 sister had been raped.

17 THE COURT: Okay.

18 POTENTIAL JUROR: And that was here in Charleston.

19 THE COURT: And was prosecuted here?

20 POTENTIAL JUROR: Was prosecuted here. Happened in
21 Mount Pleasant.

22 THE COURT: Okay. Would anything about any of those
23 situations in any way interfere with your ability to be fair
24 and impartial in this case?

25 POTENTIAL JUROR: No, ma'am.

1 (WHEREUPON, bench conference with attorneys as follows:)

2 THE COURT: Okay. Thank you, sir.

3 (WHEREUPON, bench conference with attorneys as follows:)

4 MS. SHEALY: I couldn't hear him ---

5 THE COURT: His ex-wife's sister was raped in Mt.

6 Pleasant and at some point the Solicitor's Office tried the

7 case. I don't know anything else about it. I can inquire

8 further or we can address that ---

9 MS. RUNEY: I think he said he had one sister ---

10 THE COURT: Because his own sister had ---

11 MS. RUNEY: --- a crime involving animals.

12 THE COURT: --- some kind of animal cruelty problem in
13 another area.

14 MS. SHEALY: Oh, okay.

15 THE COURT: He didn't know where.

16 MS. SHEALY: Thank you.

17 (WHEREUPON, end of bench conference with attorneys.)

18 (WHEREUPON, resume bench conference with attorneys and
19 potential jurors.)

20 THE COURT: Yes, ma'am.

21 THE BAILIFF: Seventy-one.

22 THE COURT: Seventy-one?

23 THE BAILIFF: Yes, ma'am.

24 THE COURT: Thank you, sir.

25 (WHEREUPON, potential juror steps forward.)

1 POTENTIAL JUROR: Hi.

2 THE COURT: Hi.

3 POTENTIAL JUROR: The statement about family member.

4 THE COURT: Family member?

5 POTENTIAL JUROR: Or drugs or.

6 THE COURT: Yes, ma'am.

7 POTENTIAL JUROR: My uncle in the '80's he did time for

8 drugs.

9 THE COURT: He did time for drugs in the '80's?

10 POTENTIAL JUROR: Yes.

11 THE COURT: And thank you for telling us exactly what

12 we need to know. Would that in any interfere with your

13 ability ---

14 POTENTIAL JUROR: No.

15 THE COURT: --- to be fair in this case?

16 POTENTIAL JUROR: No.

17 THE COURT: Okay. Thank you, ma'am. Appreciate that.

18 Yes, sir?

19 THE BAILIFF: Number 1.

20 THE COURT: Number 1.

21 (WHEREUPON, potential juror steps forward.)

22 THE COURT: Yes, sir.

23 POTENTIAL JUROR: I apologize.

24 THE COURT: Yes, sir. That's no ---

25 POTENTIAL JUROR: Your question was immediate family a

1 victim of a violent crime.

2 THE COURT: Yes, sir.

3 POTENTIAL JUROR: My father was murdered.

4 THE COURT: I'm sorry, sir. Would anything about that
5 interfere with your ability to be fair in this case? And I
6 certainly understand if it would. But it's -- you tell us.

7 POTENTIAL JUROR: They were black.

8 THE COURT: You think you might have a problem?

9 POTENTIAL JUROR: I might.

10 THE COURT: All right. You will not be tried as a
11 juror in the trial of this case.

12 Juror Number 1 is excused.

13 Sir, please call back tonight after six o'clock.

14 THE BAILIFF: Thirty-six.

15 THE COURT: Yes, sir.

16 (WHEREUPON, potential juror steps forward.)

17 POTENTIAL JUROR: Well, I understand attorneys here are
18 officers of the court?

19 THE COURT: Sure.

20 POTENTIAL JUROR: I lived in Los Angeles in Boyle (ph)
21 Heights for a number of years. And I understand a little
22 bit more about ---

23 THE COURT: Talk a little softer.

24 POTENTIAL JUROR: I understand a little bit more about
25 racial profiling and I worked at ---

1 THE COURT: With ---

2 POTENTIAL JUROR: Well, I worked in an industry where
3 also racial profiling has come up.

4 THE COURT: Which is what?

5 POTENTIAL JUROR: Cooking.

6 THE COURT: Cooking.

7 POTENTIAL JUROR: I lived in the Florida Keys.

8 THE COURT: What are you trying to tell me?

9 POTENTIAL JUROR: What I'm trying to tell you is I
10 don't know ---

11 THE COURT: You don't know if you can be fair?

12 POTENTIAL JUROR: I don't know if -- it's -- I can be
13 fair. Because I can understand the laws and the most
14 important thing is what the case is. But dealing with
15 personal relationships with people who may or may not have
16 done that at some point in time.

17 Do you know what I mean?

18 THE COURT: Huh-uh.

19 POTENTIAL JUROR: Okay. It's like I ran -- I worked in
20 Boyle Heights.

21 THE COURT: Okay.

22 POTENTIAL JUROR: Picket fences, lots of gangs.

23 THE COURT: Okay.

24 POTENTIAL JUROR: I lived there a number of years, and
25 I saw a lot of stuff. I saw ---

1 THE COURT: Let me ask you this. Can you listen to the
2 evidence and the law and be fair and impartial in this case?

3 POTENTIAL JUROR: Yes.

4 THE COURT: Okay. You are just concerned you may know
5 more information about background in ---

6 POTENTIAL JUROR: About background and stuff like that.

7 THE COURT: In California?

8 POTENTIAL JUROR: In California.

9 THE COURT: Okay.

10 POTENTIAL JUROR: Because I lived -- I lived another
11 life there.

12 THE COURT: Sure. Sure.

13 POTENTIAL JUROR: And I didn't have anything to do with
14 it, but I was more like a person with just small stuff.

15 THE COURT: Okay. Well, here is what I'm going to
16 instruct the jury. And I will tell them -- if you're -- if
17 anybody is picked, I tell them that they are limited to
18 consideration of only the evidence that comes in this trial.
19 They have to put aside their outside influences and not
20 allowed to do any research or do any reading or research and
21 only decide the case based on the facts and the law here.
22 Can you do that?

23 POTENTIAL JUROR: Yes..

24 THE COURT: Okay.

25 POTENTIAL JUROR: And I also have to limit my web

1 crawling. I'm a -- I'm a amateur web crawler.

2 THE COURT: Well, you can web crawl. You just can't
3 web crawl about anything related to this case.

4 POTENTIAL JUROR: Okay.

5 THE COURT: All right. Thank you, sir.

6 (WHEREUPON, bench conference with attorneys as follows:)

7 THE COURT: Okay. Anybody that y'all have an issue
8 with?

9 MS. SHEALY: I might have an issue with that guy.

10 THE COURT: He's going - I'm not going to have him on
11 the jury. They will never stop talking if we do.

12 All right. Anybody else? Number one I have already
13 excused. The others that came forward were 222, 296, and
14 71. I'm going to let them go too. Anybody else -- any from
15 the defense?

16 MS. RUNEY: That concerns me ---
17 (Counselors confer.)

18 MS. RUNEY: What was her number?

19 THE COURT: Two-twenty-two.

20 MS. RUNEY: That concerns me that it was a cousin
21 and ---

22 THE COURT: Here's the concern that I have, that she
23 was tearing up as she was trying to talk to me at the bench.
24 And I think she probably thinks she can be fair. But it's
25 already made her uncomfortable. That's 222.

1 Do y'all have any strong feelings one way or another?

2 MS. SHEALY: I understand, Judge, if you decide to keep
3 her off; but our position would be I'm sure that will always
4 be emotional for her. She did indicate she could put it
5 aside to consider it.

6 THE COURT: She did. And I'm sure that she would hope
7 to be able to do that. Just because I think the emotional
8 reaction up here I'm going to go ahead and let her go.

9 So I'm going to let Number 236, that's Meg's
10 ex-husband's aunt; 222; and Number 1, I've already excused;
11 and Number 36. Anyone else that y'all have any issue with?

12 MS. SHEALY: No, ma'am.

13 (WHEREUPON, end of bench conference.)

14 THE COURT: Any further voir dire requests from either
15 the State or the defense?

16 MS. SHEALY: No, Your Honor.

17 MS. RUNEY: No, Your Honor.

18 THE COURT: Okay.

19 All right. Jurors 236, 222, 1, and 36 are excused from
20 the trial of this case. Please call back after six o'clock
21 tonight for further instructions.

22 THE CLERK: Your Honor, did you mean 36?

23 THE COURT: Number 36, Number 1, 236 and 222. So yes,
24 I did. If I didn't say that, I apologize. It's 236 and 36.

25 THE CLERK: Thank you very much.

1 THE COURT: Okay. Thanks.

2 All right. Anything further from the State or the
3 defense before we pull these sheets?

4 MS. SHEALY: No, Your Honor.

5 THE COURT: All right. The strikes will be five and
6 ten and two alternates.

7 (Pause for Clerk's discussion with the Court.)

8 THE CLERK: Ready to strike, Your Honor?

9 THE COURT: Counsel ready to strike?

10 MS. SHEALY: Yes, Your Honor.

11 THE COURT: Okay.

12 MS. RUNEY: Yes, ma'am.

13 THE CLERK: Thank you very much. Ladies and gentlemen,
14 whenever I call your name if you would please gather your
15 belongings and make your way to this podium in the middle of
16 the courtroom. Once you get to the podium, turn and
17 face the back of the room and I will instruct you from that
18 point on.

19 Juror Number 13, Yolanda Blatch. What say you for the
20 State?

21 MS. SHEALY: Please excuse the juror from this trial.

22 THE CLERK: Ma'am, if you would please return to your
23 seat. You have been excused from the trial of this case.

24 Juror Number 157, Emily Long. What say you for the
25 State?

1 MS. SHEALY: Please swear the juror.

2 THE COURT: What say you for the defendant?

3 MS. RUNEY: Beg the Court's indulgence.

4 Please seat Ms. Long.

5 THE CLERK: Ma'am, if you would please make your way to
6 the jury box. You have been selected as a juror in the
7 trial of this case.

8 Juror Number 52, Stephanie Corbett.

9 What say you for the State?

10 MS. SHEALY: Please swear the juror.

11 THE CLERK: What say you for the defendant?

12 MS. RUNEY: Please excuse Ms. Corbett.

13 THE CLERK: Ma'am, if you would return to your seat.
14 You have been excused from the trial of this case.

15 Juror Number 80, Willie Franklin.

16 What say you for the State?

17 MS. SHEALY: Please swear the juror.

18 THE CLERK: What say you for the defendant?

19 MS. RUNEY: Please seat Mr. Franklin.

20 THE CLERK: Sir, if you would please make your way to
21 the jury box. You have been selected as a juror in the
22 trial of this case.

23 Juror Number 133, Jessica Blalock.

24 What say you for the State?

25 MS. SHEALY: Please swear the juror.

1 THE CLERK: What say you for the defendant?

2 MS. RUNEY: Please seat Ms. Blalock.

3 THE CLERK: Ma'am, if you would please make your way to
4 the jury box. You have been selected as a juror in the
5 trial of this case.

6 Juror Number 8, Joshua Bannister.

7 What say you for the State?

8 MS. SHEALY: Please swear the juror.

9 THE CLERK: What say you for the defendant?

10 MS. RUNEY: Please excuse Mr. Bannister.

11 THE CLERK: Sir, if you would please return to your
12 seat. You have been excused from the trial of this case.

13 Juror Number 71, Valeria Edwardsbobo.

14 What say you for the State?

15 MS. SHEALY: Please swear the juror.

16 THE CLERK: What say you for the defendant?

17 MS. RUNEY: Please seat Ms. Edwardsbobo.

18 THE CLERK: Ma'am, if you would please make your way to
19 the jury box. You've been selected as a juror in the trial
20 of this case.

21 Juror Number 125, Jasmine Holmes.

22 What say you for the State?

23 MS. SHEALY: Please swear the juror.

24 THE CLERK: What say you for the defendant?

25 MS. RUNEY: Please seat Ms. Holmes.

1 THE CLERK: Ma'am, if you would please make your way to
2 the jury box. You have been selected as a juror in the
3 trial of this case.

4 Juror Number 283, Jennifer Voeks.

5 What say you for the State?

6 MS. SHEALY: Please excuse the juror.

7 THE CLERK: Ma'am, if you would please return to your
8 seat. You have been excused from the trial of this case.

9 Juror Number 25, Eddrina Brown.

10 What say you for the State?

11 MS. SHEALY: Please swear the juror.

12 THE CLERK: What say you for the defendant?

13 MS. RUNEY: Please seat Ms. Brown.

14 THE CLERK: Ma'am, if you would please make your way to
15 the jury box. You have been selected as a juror in the
16 trial of this case.

17 Juror Number 119, Jilverto Hernandez.

18 What say you for the State?

19 MS. SHEALY: Please swear the juror.

20 THE CLERK: What say you for the defendant?

21 MS. RUNEY: Please seat Mr. Hernandez.

22 THE CLERK: Sir, if you would please make your way to
23 the jury box. You have been selected as a juror in the
24 trial of this case.

25 Juror Number 2, Debbie Austin.

1 What say you for the State?

2 MS. RUNEY: Please swear the juror.

3 THE CLERK: What say you for the defendant?

4 MS. RUNEY: Please excuse Ms. Austin.

5 THE CLERK: Ma'am, if you would please return to your

6 seat. You have been excused from the trial of this case.

7 Juror Number 45, Randall Coaxum.

8 What say you for the State?

9 MS. SHEALY: Please excuse the juror from this trial.

10 THE CLERK: Sir, if you would please return to your

11 seat. You have been excused from the trial of this case.

12 The State has exhausted three of its five strikes.

13 Juror Number 36, Troy Carrington.

14 MS. RUNEY: He was excused.

15 THE CLERK: Thank you.

16 Juror Number 296, John Wood.

17 What say you for the State?

18 MS. SHEALY: Please swear the juror.

19 THE CLERK: What say you for the defendant?

20 MS. RUNEY: Please excuse Mr. Wood.

21 THE CLERK: Sir, if you would please return to your

22 seat. You have been excused in the trial of this case.

23 Juror Number 146, Steven Knudson.

24 What say you for the State?

25 MS. SHEALY: Please swear the juror.

1 THE CLERK: What say you for the defendant?
2 MS. RUNEY: Beg the Court's indulgence.
3 MS. RUNEY: Please excuse Mr. Knudson.
4 THE CLERK: Sir, if you would please return to your
5 seat. You have been excused from the trial of this case.
6 The defense has exhausted five of its ten strikes.
7 Juror Number 287, Bradford Walker.
8 What say you for the State?
9 MS. SHEALY: Please swear the juror.
10 THE CLERK: What say you for the defendant?
11 MS. RUNEY: Please seat Mr. Walker.
12 THE CLERK: Sir, if you would please make your way to
13 the jury box. You have been selected as a juror in the
14 trial of this case.
15 Juror Number 88, Eugene Gadsden.
16 What say you for the State?
17 MS. SHEALY: Please swear the juror.
18 THE CLERK: What say you for the defendant?
19 MS. RUNEY: Please seat Mr. Gadsden.
20 THE CLERK: Sir, if you would please make your way to
21 the jury box. You have been selected as a juror in the
22 trial of this case.
23 Juror Number 238, Matthew Scherer.
24 What say you for the State?
25 MS. SHEALY: Please swear the juror.

1 THE CLERK: What say you for the defendant?

2 MS. RUNEY: Please excuse Mr. Scherer.

3 THE CLERK: Sir, if you will please return to your
4 seat. You have been excused from the trial of this case.

5 Juror Number 282, William Vellenoweth. Sorry about
6 that, sir.

7 What say you for the State?

8 MS. SHEALY: Please swear the juror.

9 THE CLERK: What say you for the defendant?

10 MS. RUNEY: Bed the Court's indulgence.

11 THE COURT: Certainly.

12 MS. RUNEY: Please seat Mr. Vellenowet.

13 THE COURT: Sir, if you would please make your way to
14 the jury box. You have been selected as a juror in the
15 trial of this case.

16 Juror Number 53, Clyde Cromwell.

17 What say you for the State?

18 MS. SHEALY: Please swear the juror.

19 MS. RUNEY: What say you for the defendant?

20 MS. RUNEY: Please seat Mr. Cromwell.

21 THE CLERK: Sir, if you would please make your way to
22 the jury box. You have been selected as a juror in the
23 trial of this case.

24 Juror Number 138, Viola Jones.

25 What say you for the State?

1 MS. SHEALY: Please excuse the juror from the trial of
2 this case.

3 THE CLERK: Ma'am, if you would please return to your
4 seat. You have been excused from the trial of this case.

5 The State has one strike remaining.

6 Juror 118, Mary Low.

7 THE CLERK: What say you for the State?

8 MS. SHEALY: Please swear the juror.

9 THE CLERK: What say you for the defendant? Ma'am,
10 hold tight right there.

11 MS. RUNEY: Please excuse Ms. Low.

12 THE CLERK: Ma'am, if you would please return to your
13 seat. You have been excused from the trial of this case.

14 THE COURT: The defendant has three strikes remaining.
15 Juror Number 29, Ida John Bryant.

16 What say you for the State?

17 MS. SHEALY: Please excuse the juror from the trial of
18 this case.

19 THE COURT: Ma'am, if you would please return to your
20 seat. You have been excused from the trial of this case.

21 The State has exhausted all of its strikes.

22 Juror Number 10, Andrew Bergstrom. Any challenges from
23 the State?

24 MS. SHEALY: No, Your Honor. Please swear the juror.

25 THE CLERK: What say you for the defendant?

1 MS. RUNEY: Court's indulgence.

2 Please seat Mr. Bergstrom.

3 THE CLERK: Sir, if you would please make your way to
4 the jury box. You have been selected as the twelfth juror
5 in the trial of this case.

6 Now striking for our first alternate. Strikes are one
7 and two.

8 Juror Number 145, Shawn Knee.

9 What say you for the State?

10 MS. SHEALY: Please swear the juror.

11 THE CLERK: What say you for the defendant?

12 MS. RUNEY: Please seat Mr. Knee.

13 THE CLERK: Sir, if you would please make your way to
14 the jury box. You have been selected as our first alternate
15 in the trial of this case.

16 I'm striking for our second alternate. Strikes are one
17 and two.

18 Juror Number 297, Michael Wooddy.

19 What say you for the State?

20 MS. SHEALY: Beg the Court's indulgence for just a
21 moment.

22 THE COURT: Certainly.

23 MS. SHEALY: Please excuse the juror for the trial of
24 this case.

25 THE CLERK: Sir, if you would please return to your

1 seat. You have been excused from the trial of this case.
2 The State has exhausted its only strike.

3 Juror Number 187, Susan Morris.

4 Any challenges from the State?

5 MS. SHEALY: No challenges.

6 THE CLERK: What say you for the defendant?

7 MS. RUNEY: Please seat Ms. Morris.

8 THE CLERK: Ma'am, if you would please make your way to
9 the jury box. You have been selected as the second
10 alternate in the trial of this case.

11 Thank you, Your Honor.

12 THE COURT: Thank you, sir.

13 Are there any matters of law from either the State or
14 the defense regarding the selection and composition of the
15 jury?

16 MS. SHEALY: None from the State.

17 MS. RUNEY: None from the defense.

18 THE COURT: Okay. Thank you.

19 Ladies and gentlemen, you have not been selected as
20 jurors on the trial of this case, so I am going to excuse
21 you for the day.

22 If you would, please call back tonight after six
23 o'clock to the number on your Juror information card. And
24 the juror information line will give you the necessary
25 information which will either be when to come in or call

1 back Wednesday after 6:00 or at some point it will tell you
2 that you are excused for the week. So if you will call back
3 after 6:00 we would much appreciate it. Thank you very much
4 for your patience.

5 (WHEREUPON, excused panel exits courtroom.)

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

7 And thank you ladies and gentlemen. You will be our
8 jurors and our very important two alternate jurors on the
9 trial of this case which we will begin tomorrow morning.

10 As I indicated, it is expected to last about three
11 days. And we have matters we need to work on this afternoon
12 to get the exhibits pre-marked and try to streamline things
13 for you.

14 The lawyers have promised me they are going to pare
15 down that witness list, and they are going to work on that
16 some this afternoon as well.

17 I also have a pretrial matter I need to take up with
18 the attorneys in the morning with one witness that we wanted
19 to bring in tomorrow and not make them come twice. So I am
20 going to be meeting with them around nine o'clock. I'm
21 going to ask y'all to come in at 10 o'clock.

22 Normally we start around 9:30, but there is no reason
23 for me to make y'all just and wait back in the jury room
24 while we handle our issue of law. So I'm going to ask y'all
25 to come in tomorrow at 10 o'clock.

1 Please don't have any independent research tonight or
2 try to look up anything about the case. You really don't
3 know quite enough yet to do that research, but it would be
4 improper to do so.

5 You are limited to consideration of the evidence that
6 comes in here in the courtroom either through a witness on
7 the stand or by way of evidence that's admitted, documents,
8 stipulations. No outside information at all.

9 I don't know if there will be any news coverage of this
10 case. I do occasionally get requests from the media to come
11 in. I have not received one yet. But there may be somebody
12 sitting in here tomorrow or Wednesday.

13 If any does occur, please don't read it or watch it or
14 look at it. Just disregard it. Because again, you are
15 limited to consideration of only what you hear here in the
16 courtroom. And I think as we all know, reporters sometimes
17 tend to editorialize things and very rarely do they get
18 everything right. So you're not to look at any outside
19 materials at all.

20 Likewise, ladies and gentlemen, you are not allowed to
21 communicate information about your jury service or about the
22 case with anyone. You are not even allowed to discuss it
23 with each other until it is given to you for deliberation.

24 And the reason for that is if you have only heard two
25 witnesses and you can go ahead and start deciding it, you

1 haven't heard the whole puzzle yet; you've heard just a
2 piece of it. So that would not be proper.

3 Once you do start hearing information and you're not
4 allowed to discuss it with anybody outside. And by that,
5 means face-to-face, telephone, tweet.

6 Believe it or not, we have had jurors before who went
7 home and put things on Facebook after the trial. That is
8 not allowed. You would think that I don't need to explain
9 that. But it happens, so I add it to my list of things to
10 go over.

11 So I'm going to release y'all for the day. I'm going
12 to ask you to go right back in the back chambers. They will
13 show you where to report in the morning.

14 And I know Sam wants to meet with y'all to get your
15 cell phone numbers and other contact information. We will
16 see you back at 10 o'clock in the morning.

17 Anything further that y'all want me to instruct the
18 jury before they leave for the day?

19 MS. SHEALY: Nothing from the State.

20 MS. RUNEY: No, Your Honor.

21 THE COURT: All right. Well, we will see y'all in the
22 morning at 10 o'clock. Thank you very much.

23 And ma'am, if you want to come up. I know you had a
24 doctor's appointment Wednesday. Let's touch base about
25 that.

1 (WHEREUPON, bench conference with juror regarding
2 appointment with doctor.)

3 (WHEREUPON, panel out 12:43 p.m.)

4 (WHEREUPON, end of bench conference.)

5 THE COURT: Thank you. She has a dentist appointment
6 Wednesday morning at nine o'clock. If we can possibly work
7 around that, I'm going to.

8 We will have some issue of law I will need to work with
9 y'all on I'm sure. Or we can start talking about jury
10 charges. But I think she can get back in time. She
11 promised that they're not going to gas her up or otherwise
12 have her in a way that she won't be able to hear.

13 Yes, ma'am?

14 MS. SHEALY: One thing that I wanted to put on the
15 record.

16 THE COURT: Sure.

17 MS. SHEALY: Regarding Juror Number 282.

18 THE COURT: Yeah.

19 MS. SHEALY: William Vellenoweth. I'm not sure that's
20 how you pronounce his last name. Vellenoweth.

21 THE COURT: Okay.

22 MS. SHEALY: When we were at jury qualification earlier
23 this morning I advised Mr. Ehrlich and Ms. Runey that he
24 goes to church with Shannon Elliott from our office.

25 THE COURT: Okay.

1 MS. SHEALY: I'm not sure that he would know that she
2 works in our office.

3 THE COURT: Okay.

4 MS. SHEALY: But they had the benefit of that
5 information during selection.

6 THE COURT: Okay. Well, he didn't stand up and say
7 that he knew anybody so.

8 Anything on that?

9 MS. RUNEY: No.

10 MS. SHEALY: I'm just making sure that the record is
11 abundantly clear ---

12 THE COURT: Okay.

13 MS. SHEALY: --- that we advised her of that
14 connection.

15 THE COURT: Okay. Thank you. Anything further?

16 MS. SHEALY: No, Your Honor.

17 THE COURT: All right. Anything we need to take up
18 before I let y'all go for the day? And I know y'all are
19 going to try to pre-mark some exhibits. We will be back at
20 9:15 to do our Bigger's hearing or put whatever y'all need
21 to put on the record. And if there is anything else we need
22 to address at this time -- that time, we can do that. All
23 right?

24 MS. SHEALY: All right. Thank you.

25 THE COURT: Thank you. Good job, y'all.

1 (WHEREUPON, recess for the day, December 9, 2013,
2 12:44 p.m.)

3 (WHEREUPON, resumed December 10, 2013, 9:20 a.m.)

4 THE COURT: All right. I believe you are going to do
5 our Bigger's hearings this morning; is that correct?

6 MS. SHEALY: That is correct. And we also did meet
7 regarding the evidence.

8 THE COURT: Oh, wonderful. Okay.

9 MS. SHEALY: Do you want me to put on the record what
10 we have agreed to?

11 THE COURT: Sure.

12 MS. SHEALY: Okay. We have agreed to State's Exhibit 1
13 through 74 with the exception of 64, 65, and 67 that we
14 would like to handle whenever you are interested, Judge.
15 Those are the x-ray pictures.

16 THE COURT: Okay.

17 MS. SHEALY: The first item is not actually a
18 photograph. It is a diagram.

19 THE COURT: Okay.

20 MS. SHEALY: Okay. Do you want to take up the x-rays
21 now?

22 THE COURT: Let's go ahead. I think now is a good time
23 to do it. We sort of talked about it yesterday. But I
24 understand there's a 403 issue. And then whatever else the
25 defense needs to let me know about so.

1 MS. SHEALY: I'm going to hand up the actual ---

2 THE COURT: Okay.

3 MS. SHEALY: --- x-rays that we would like to use.

4 THE COURT: And y'all come on up. You don't have to
5 ask permission to approach unless you are just worried you
6 will get out of practice and you want to. Somebody told me
7 that one time in Berkeley. They said you might not require
8 it but I don't want to forget to do it elsewhere.

9 MS. SHEALY: Okay. So I'm going to hand up to you,
10 Judge, State's Exhibit's Number 64, 65, ---

11 THE COURT: All right.

12 MS. SHEALY: --- 66, and 67.

13 THE COURT: Do you want to just take a look at them?
14 These are copies of the x-rays.

15 MS. SHEALY: Yes, Your Honor. All right. Ms. Runey,
16 I'm happy to hear from you.

17 MS. RUNEY: Judge, I don't have a lengthy argument as
18 to those x-rays. I just don't feel like that they are
19 necessary.

20 Dr. Tormos who did the autopsy did a fantastic job
21 explaining what she did and the cause of death of Mr.
22 Shannon. I just don't think they're necessary for the jury
23 to make their decision and assess her testimony.

24 THE COURT: All right. Well, Ms. Shealy, starting with
25 Exhibit 64 what is the necessity of this or the relevance of

1 this?

2 MS. SHEALY: Well ---

3 THE COURT: We may have to wait until we hear the
4 doctor's testimony to take it up.

5 MS. SHEALY: It just -- she -- the pathologist when she
6 is explaining what occurred -- I mean what she found ---

7 THE COURT: Right.

8 MS. SHEALY: --- she can show the shotgun pellet ---

9 THE COURT: Okay.

10 MS. SHEALY: --- and where it was located. I have not
11 attempted to put any autopsy pictures in, ---

12 THE COURT: Okay.

13 MS. SHEALY: --- you know, about putting any pictures
14 of the body.

15 THE COURT: Okay.

16 MS. SHEALY: But this would just in assisting to her in
17 being able to describe that.

18 THE COURT: And would that be -- what is the difference
19 between 65 and 66 other than ---

20 MS. SHEALY: They are two different angles. They are
21 two different bullets. Is that right?

22 THE COURT: Come on up.

23 MS. SHEALY: I'm sorry, ---

24 THE COURT: That's okay.

25 MS. SHEALY: --- I just need to make sure that's right.

1 It shows the position of two different bullets.

2 THE COURT: Well, I thought -- I think I can see two on
3 each one. Am I incorrect, or is it a mirror ---

4 MS. SHEALY: It looks like there are two right there.

5 THE COURT: Okay.

6 MS. RONEY: And some of those are the stickys that they
7 stuck on him ---

8 THE COURT: Right.

9 MS. SHEALY: But I believe, Judge, that and that
10 (pointing) are the two bullets -- I mean I can take one
11 away, but.

12 THE COURT: I think you need to pick one of those.

13 MS. SHEALY: Okay. When she gets out ---

14 THE COURT: And we will use Exhibit 66. And you need
15 to make sure -- I mean those are so perfect that they would
16 be stickys, but that she points out ---

17 MS. SHEALY: Oh, she will.

18 THE COURT: --- what everything is so you don't think
19 there are more bullets than there actually were.

20 MS. SHEALY: Oh, yes, certainly.

21 THE COURT: And then 67 is ...?

22 MS. SHEALY: That shows -- beg the Court's indulgence.

23 THE COURT: Sure.

24 MS. SHEALY: Judge, you know what, let me get that
25 straight with the pathologist.

1 THE COURT: Okay.

2 MS. SHEALY: The reason I say that is I think that is a
3 bullet. And if that's accurate then ---

4 THE COURT: Okay.

5 MS. SHEALY: --- one of these is entrance and not an
6 actual bullet.

7 THE COURT: All right.

8 MS. SHEALY: So let me double check that.

9 THE COURT: We will hold off and before we bring the
10 pathologist in address this again. You know, under the 403
11 analysis I certainly don't find that there is a type of
12 gruesome photos that we often have a Rule 403 about. And to
13 the extent that they help the pathologist explain her
14 testimony to the jury I think they are certainly relevant.

15 And the probative value is not substantially outweighed
16 by any prejudice to the extent that we don't overdo it. So
17 I'm going to allow one of the chest photos and then possibly
18 the head photo.

19 But I need to make sure we can describe exactly what
20 that is. We may need to just do it in camera before we put
21 her up before the jury. But I am going to allow some of the
22 photos in. Okay.

23 MS. SHEALY: And then Judge for purposes of our record
24 then State's Exhibit 1 through 63 there is no objection to
25 their admission.

1 THE COURT: All right, one through sixty-three will be
2 admitted without objection.
3 (WHEREUPON, State's Exhibit 1, photograph, was marked for
4 identification.)
5 (WHEREUPON, State's Exhibit 1 was admitted into evidence.)
6 (WHEREUPON, State's Exhibit 2, photograph, was marked for
7 identification.)
8 (WHEREUPON, State's Exhibit 2 was admitted into evidence.)
9 (WHEREUPON, State's Exhibit 3, photograph, was marked for
10 identification.)
11 (WHEREUPON, State's Exhibit 3 was admitted into evidence.)
12 (WHEREUPON, State's Exhibit 4, photograph, was marked for
13 identification.)
14 (WHEREUPON, State's Exhibit 4 was admitted into evidence.)
15 (WHEREUPON, State's Exhibit 5, photograph, was marked for
16 identification.)
17 (WHEREUPON, State's Exhibit 5 was admitted into evidence.)
18 (WHEREUPON, State's Exhibit 6, photograph, was marked for
19 identification.)
20 (WHEREUPON, State's Exhibit 6 was admitted into evidence.)
21 (WHEREUPON, State's Exhibit 7, photograph, was marked for
22 identification.)
23 (WHEREUPON, State's Exhibit 7 was admitted into evidence.)
24 (WHEREUPON, State's Exhibit 8, photograph, was marked for
25 identification.)

1 (WHEREUPON, State's Exhibit 8 was admitted into evidence.)
2 (WHEREUPON, State's Exhibit 9, photograph, was marked for
3 identification.)
4 (WHEREUPON, State's Exhibit 9 was admitted into evidence.)
5 (WHEREUPON, State's Exhibit 10, photograph, was marked for
6 identification.)
7 (WHEREUPON, State's Exhibit 10 was admitted into evidence.)
8 (WHEREUPON, State's Exhibit 11, photograph, was marked for
9 identification.)
10 (WHEREUPON, State's Exhibit 11 was admitted into evidence.)
11 (WHEREUPON, State's Exhibit 12, photograph, was marked for
12 identification.)
13 (WHEREUPON, State's Exhibit 12 was admitted into evidence.)
14 (WHEREUPON, State's Exhibit 13, photograph, was marked for
15 identification.)
16 (WHEREUPON, State's Exhibit 13 was admitted into evidence.)
17 (WHEREUPON, State's Exhibit 14, photograph, was marked for
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25 (WHEREUPON, State's Exhibit 41 was admitted into evidence.)

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18 (WHEREUPON, State's Exhibit 56, photograph, was marked for
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23 (WHEREUPON, State's Exhibit 57 was admitted into evidence.)
24 (WHEREUPON, State's Exhibit 58, photograph, was marked for
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1 (WHEREUPON, State's Exhibit 58 was admitted into evidence.)
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8 (WHEREUPON, State's Exhibit 61, photograph, was marked for
9 identification.)
10 (WHEREUPON, State's Exhibit 61 was admitted into evidence.)
11 (WHEREUPON, State's Exhibit 62, photograph, was marked for
12 identification.)
13 (WHEREUPON, State's Exhibit 62 was admitted into evidence.)
14 (WHEREUPON, State's Exhibit 63, photograph, was marked for
15 identification.)
16 (WHEREUPON, State's Exhibit 63 was admitted into evidence.)
17 MS. SHEALY: And then 68 through 74.
18 THE COURT: Sixty-eight through seventy-four are
19 admitted without objection.
20 MS. SHEALY: Those are also photographs.
21 THE COURT: Okay.
22 (WHEREUPON, State's Exhibit 68, photograph, was marked for
23 identification.)
24 (WHEREUPON, State's Exhibit 68 was admitted into evidence.)
25 (WHEREUPON, State's Exhibit 69, photograph, was marked for

1 identification.)
2 (WHEREUPON, State's Exhibit 69 was admitted into evidence.)
3 (WHEREUPON, State's Exhibit 70, photograph, was marked for
4 identification.)
5 (WHEREUPON, State's Exhibit 70 was admitted into evidence.)
6 (WHEREUPON, State's Exhibit 71, photograph, was marked for
7 identification.)
8 (WHEREUPON, State's Exhibit 71 was admitted into evidence.)
9 (WHEREUPON, State's Exhibit 72, photograph, was marked for
10 identification.)
11 (WHEREUPON, State's Exhibit 72 was admitted into evidence.)
12 (WHEREUPON, State's Exhibit 73, photograph, was marked for
13 identification.)
14 (WHEREUPON, State's Exhibit 73 was admitted into evidence.)
15 (WHEREUPON, State's Exhibit 74, photograph, was marked for
16 identification.)
17 (WHEREUPON, State's Exhibit 74 was admitted into evidence.)
18 MS. SHEALY: Then we have Items 75 through -- through
19 98.
20 THE COURT: Okay.
21 MS. SHEALY: Seventy-five through ninety-eight.
22 THE COURT: Are those without objection?
23 MS. SHEALY: Yes, Your Honor.
24 THE COURT: Okay, 75 through 98 are admitted without
25 objection.

1 (WHEREUPON, State's Exhibit 75, was marked for
2 identification.)
3 (WHEREUPON, State's Exhibit 75 was admitted into evidence.)
4 (WHEREUPON, State's Exhibit 76, was marked for
5 identification.)
6 (WHEREUPON, State's Exhibit 76 was admitted into evidence.)
7 (WHEREUPON, State's Exhibit 77, was marked for
8 identification.)
9 (WHEREUPON, State's Exhibit 77 was admitted into evidence.)
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11 identification.)
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14 identification.)
15 (WHEREUPON, State's Exhibit 79 was admitted into evidence.)
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17 identification.)
18 (WHEREUPON, State's Exhibit 80 was admitted into evidence.)
19 (WHEREUPON, State's Exhibit 81, was marked for
20 identification.)
21 (WHEREUPON, State's Exhibit 81 was admitted into evidence.)
22 (WHEREUPON, State's Exhibit 82, was marked for
23 identification.)
24 (WHEREUPON, State's Exhibit 83 was admitted into evidence.)
25 (WHEREUPON, State's Exhibit 84, was marked for

1 identification.)
2 (WHEREUPON, State's Exhibit 84 was admitted into evidence.)
3 (WHEREUPON, State's Exhibit 85, was marked for
4 identification.)
5 (WHEREUPON, State's Exhibit 85 was admitted into evidence.)
6 (WHEREUPON, State's Exhibit 86, was marked for
7 identification.)
8 (WHEREUPON, State's Exhibit 86 was admitted into evidence.)
9 (WHEREUPON, State's Exhibit 87, was marked for
10 identification.)
11 (WHEREUPON, State's Exhibit 88 - no exhibit offered.)
12 (WHEREUPON, State's Exhibit 89 - no exhibit offered.)
13 (WHEREUPON, State's Exhibit 90, was marked for
14 identification.)
15 (WHEREUPON, State's Exhibit 90 was admitted into evidence.)
16 (WHEREUPON, State's Exhibit 91, was marked for
17 identification.)
18 (WHEREUPON, State's Exhibit 91 was admitted into evidence.)
19 (WHEREUPON, State's Exhibit 92, was marked for
20 identification.)
21 (WHEREUPON, State's Exhibit 92 was admitted into evidence.)
22 (WHEREUPON, State's Exhibit 93, was marked for
23 identification.)
24 (WHEREUPON, State's Exhibit 93 was admitted into evidence.)
25 (WHEREUPON, State's Exhibit 94, was marked for

1 identification.)
2 (WHEREUPON, State's Exhibit 94 was admitted into evidence.)
3 (WHEREUPON, State's Exhibit 95, was marked for
4 identification.)
5 (WHEREUPON, State's Exhibit 95 was admitted into evidence.)
6 (WHEREUPON, State's Exhibit 96, was marked for
7 identification.)
8 (WHEREUPON, State's Exhibit 96 was admitted into evidence.)
9 (WHEREUPON, State's Exhibit 97, was marked for
10 identification.)
11 (WHEREUPON, State's Exhibit 97 was admitted into evidence.)
12 (WHEREUPON, State's Exhibit 98, was marked for
13 identification.)
14 (WHEREUPON, State's Exhibit 98 was admitted into evidence.)
15 MS. SHEALY: And then we'll have -- I think probably we
16 are going to have to take that up too at the time regarding
17 jail call ---
18 THE COURT: Okay.
19 MS. SHEALY: --- that was reported. And so I have not
20 included that number.
21 THE COURT: All right. And if y'all have a copy of
22 that that you want me to listen to at lunch before -- you
23 know, so that I can understand what your arguments are ---
24 MS. SHEALY: Okay.
25 THE COURT: --- that is probably -- will be helpful.

1 MS. SHEALY: And we provided our list to your court
2 reporter ---

3 THE COURT: Great.

4 MS. SHEALY: --- and the guide.

5 (Pause for discussion with court reporter by Ms. Shealy.)

6 MS. RUNEY: One through seventy-five are pictures. And
7 then these are actual items on the list; right, Jennifer?

8 MS. SHEALY: Right.

9 THE COURT: What are these? You said these, Martha
10 Kent; what?

11 MS. SHEALY: Let me -- maybe I can make it more clear.
12 One through seventy-four with the exception of 64, 63, 66,
13 and 67 are photographs. And then beginning on the list with
14 Number 75 those are individual items of evidence. And so at
15 this point they are admitted through Number 98.

16 THE COURT: Okay.

17 MS. SHEALY: I'm just going to stick the photographs up
18 here. And Your Honor, I think that was all the housekeeping
19 that we had.

20 THE COURT: All right. Well, no, I appreciate y'all
21 doing that. That saves an immense amount of time.

22 MS. SHEALY: Yes, I'm sorry; Ms. Runey just pointed one
23 other thing out. I apologize. She had an objection
24 yesterday to Items 88 and 89.

25 THE COURT: Okay.

1 MS. SHEALY: And I agreed to take those out.

2 THE COURT: All right.

3 MS. SHEALY: So there's no Item 88 or 89.

4 THE COURT: So it would be 75 through 87 and 90 through
5 98 are admitted without objection. Eighty-eight and
6 eight-nine have been marked off.

7 MS. SHEALY: That's correct.

8 THE COURT: Okay.

9 MS. SHEALY: Are you ready for me to call my first
10 witness?

11 THE COURT: I am. Thank you, ma'am.

12 MS. SHEALY: Tawana Alston.

13 THE COURT: All right. Ma'am, if you would come on in
14 and we will -- oh, they are outside. Okay.

15 Okay, ma'am, if you will come on up and we will swear
16 you in. Thank you.

17 (WHEREUPON, the witness was duly sworn.)

18 THE CLERK: Once you are seated state your first and
19 last name and then spell your last for the record.

20 MS. ALSTON: Tawana Alston, A-L-S-T-O-N.

21 (TAWANA ALSTON, having first been
22 duly sworn, testified as follows:)

23 DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON (IC):

24 Q. Ms. Alston, were you present the evening that your
25 boyfriend, Leland Shannon, was shot?

1 A. Yes, ma'am.

2 Q. Okay. And after that occurred where did you go?

3 A. To my grandmother's house.

4 Q. Okay.

5 A. To call my mother and then we went to the hospital.

6 Q. And when you went to the hospital did the police

7 approach you and want to start talking with you there?

8 A. Not right off hand. About an hour or then.

9 Q. Okay. And did y'all then travel to the Sheriff's

10 Department?

11 A. Yes, ma'am.

12 Q. While there did you give a statement?

13 A. Yes, ma'am.

14 Q. And did an officer approach you with a photographic

15 lineup?

16 A. Yes, ma'am.

17 Q. Prior to that, let me ask you, at the time that the

18 shooting occurred when Leland was shot where were you

19 located in relationship to the house?

20 A. I was outside on the back porch.

21 Q. Okay. And showing you what's been marked as State's

22 Exhibit Number 1. I think it is going to come up on the

23 screen behind him. If you could look at it. You can

24 actually point to the screen. Would you point where that

25 porch is.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON (IC):

1 A. Right -- no, I can't tell on this.

2 Q. You can't tell -- I will show you a photograph then.

3 A. Okay.

4 Q. I'm showing you State's Exhibit 2. Can you point out
5 the porch?

6 A. Right here (pointing). I was standing right here.

7 Q. Okay. And tell the judge if you would what you saw
8 what happen when you were out on the porch.

9 A. When I walked out to the porch I leaned on the banister
10 right up in here (pointing). Smoked a ---

11 THE COURT: I'm sorry, stood right up where?

12 A. Right here (pointing).

13 Q. Let me show you another photograph, State's 3. Let me
14 clear that real quick. Okay. Show us where you were
15 standing.

16 A. Right here (pointing).

17 Q. Make a little mark for us.

18 A. (Witness complied.)

19 THE COURT: Okay. So to the left of the door?

20 THE WITNESS: Yes, sir.

21 THE COURT: Thank you.

22 BY MS. SHEALY:

23 Q. And what happened while you were outside smoking a
24 cigarette?

25 A. Once I turned -- smoked a cigarette and I flicked it, I

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON (IC):

1 turned around. I had a tall figure dressed in all black in
2 my face with a shotgun that said freeze Bitch.

3 Q. Okay. But before that when you were -- why don't you
4 tell us about when you were leaving the house that night.
5 When you walked out on the porch was anybody following you?

6 A. As I was walking out Onyx came up behind me.

7 Q. Okay. And Onyx, what is his real name?

8 A. James.

9 Q. James. What is his last name?

10 A. Rose.

11 Q. Okay. And which door did y'all leave the house from?

12 A. Just that right here (pointing).

13 Q. Okay. Could you tell the judge please where James Rose
14 went?

15 A. Downstairs into a gray Neon that was parked right here
16 (pointing).

17 Q. And that was a gray Neon car?

18 A. Yes, ma'am.

19 Q. And what is the next thing that you saw happen?

20 A. When I turned around -- when I flicked the cigarette
21 and turned around I had a tall person standing in my face
22 with a shotgun.

23 Q. Okay. What happened next?

24 A. They said freeze Bitch. I froze. Put my hands up like
25 this (motioning.) Another figure came up from the side

1 running up the stairs. Came out like that and started
2 shooting. I fell over the banister like this (motioning)
3 and crawled under the porch and got all the way around and
4 ran to a neighbor's house.

5 Q. Okay. Now do you know James Rose?

6 A. Yes.

7 Q. How long have you known him?

8 A. Since 1997.

9 Q. Did y'all in fact date for a short period of time?

10 A. For two days.

11 Q. Okay. When you went to the police station did the
12 police officers show you a form and advise you of certain
13 things regarding the lineup process?

14 A. No, ma'am.

15 Q. Well, let me show you this and ask you if you can
16 identify it.

17 A. Yes, ma'am.

18 Q. Okay.

19 MS. SHEALY: Your Honor, may I have this marked as a
20 court's exhibit?

21 THE COURT: You may. That will be marked as Court's 1.
22 (WHEREUPON, Court's Exhibit 1, lineup 1/24/11, 0450, by
23 Tawana Alston, was marked for identification.)

24 Q. While I am marking that if I can go ahead and ask you
25 if this is the photo array that the police officer showed

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON (IC):

91

1 you?

2 A. Yes, it is.

3 THE COURT: And we are going to mark ---

4 MS. SHEALY: May I have that marked ---

5 THE COURT: --- that as Court's 2?

6 MS. SHEALY: Thank you.

7 (WHEREUPON, Court's Exhibit 2, array of photos, was marked
8 for identification.)

9 BY MS. SHEALY:

10 Q. When you gave a statement, your statement to the
11 police, Ms. Alston, who did you tell them was responsible
12 for the killing of Leland Shannon -- or at that time, the
13 shooting of Leland Shannon?

14 A. Onyx.

15 Q. Onyx. And that's the nickname for James Rose?

16 A. Yes, ma'am.

17 Q. Now I'm showing you what's been marked as Court's
18 Exhibit 1. Could you tell the judge please whether or not
19 the initials by the numbers one through seven are in fact
20 your initials or someone else's?

21 A. They are mine.

22 Q. Speak up just a little bit.

23 A. They are mine.

24 Q. And at the bottom where it says witness signature whose
25 signature is that?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON (IC):

1 A. That's mine.

2 Q. When the officers gave you the photo array, State's --
3 Court's Exhibit 2, what did they ask you to do?

4 A. To pick out the person that I saw who was there.

5 Q. Okay. And could you tell the jury -- excuse me, I'm
6 sorry, the judge whether or not you indicated on that lineup
7 who was there?

8 A. Yes, ma'am.

9 Q. The circle around the one photograph, is that who was
10 the person there?

11 A. Yes, ma'am.

12 Q. And within that circle are those initials?

13 A. Yes, ma'am.

14 Q. Now when the officers handed you that did they in any
15 way indicate to you who you should pick out?

16 A. No, ma'am.

17 Q. Are you the one who gave them the name James Rose?

18 A. Yes, ma'am.

19 Q. Okay. Now when you circled this did you intend to mean
20 that he was the one with the gun?

21 A. No, ma'am.

22 Q. Who was he in what happened that evening?

23 A. He was the one that was there that I saw first.

24 Q. Okay. And when you saw him come down the stairs and go
25 towards that car did he get in the vehicle?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON (IC):

1 A. Yes, ma'am.

2 Q. Do you remember where in the vehicle he got?

3 A. No, ma'am.

4 Q. Did the officers ask you to label who you had
5 identified to describe who it was? On Court's Exhibit 1 is
6 that your handwriting?

7 A. Yes, it is.

8 Q. And could you tell the judge what you indicated on that
9 form.

10 A. I picked him because he was one in the house with us.

11 Q. Okay. And what does the remainder of that sentence
12 say?

13 A. And he told freeze Bitch.

14 Q. Okay. When it says and he told freeze Bitch were you
15 referring to James Rose?

16 A. When I was doing the lineup they told me to pick the
17 person that I saw first, and after the person that I saw
18 what was the next thing that I heard.

19 Q. Okay. And what did you indicate was the next think
20 that you heard?

21 A. Freeze Bitch.

22 Q. Would you tell the court whether or not you're saying
23 that James Rose said freeze Bitch?

24 A. He didn't say that. It was the tall guy.

25 Q. Would you please tell the judge if you would, when you

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON (IC):

1 were presented with Court's Exhibit 2 was it folded in this
2 fashion or was it unfolded?

3 A. It was folded with another piece of paper on top.

4 Q. Okay. And could you demonstrate to the court if you
5 would how they showed you the lineup just using this as a
6 separate paper.

7 A. And I have to ---

8 Q. Speak up.

9 A. It was put face down like this (motioning) with the
10 paper on top. And they handed it to me like this
11 (motioning). And I removed it. And they asked me to pick
12 out the person that I saw.

13 THE COURT: Okay, can she hold it up so I can see what
14 she's doing? I'm so sorry, ma'am.

15 MS. SHEALY: Could I have her stand maybe right on that
16 ledge?

17 THE COURT: If you just hold it up and show me.

18 THE WITNESS: (Motioning.)

19 THE COURT: Okay, like that?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: All right.

22 THE WITNESS: It was facedown like this (motioning).

23 And they told me to remove the paper ---

24 THE COURT: Okay.

25 THE WITNESS: --- and circle the person that I saw.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON (IC):

1 THE COURT: Thank you. So all six of the pictures were
2 showing when you removed the paper?

3 A. Yes, ma'am.

4 THE COURT: Thank you.

5 BY MS. SHEALY:

6 Q. And when you were shown this lineup did you have any
7 difficulty in finding the person who left that house that
8 night?

9 A. No, ma'am.

10 Q. Did you have any difficulty finding the person who got
11 in that car that night?

12 A. No, ma'am.

13 Q. And again, you said you've known James Rose since when?

14 A. 1997.

15 MS. SHEALY: If I could indulge just a moment.

16 Ms. Alston, I have no further questions. Please answer
17 any that the defense may have.

18 THE COURT: Cross-Examination.

19 CROSS-EXAMINATION BY MS. RUNEY OF TAWANA ALSTON (IC):

20 Q. Good morning, Ms. Alston.

21 A. Good morning.

22 Q. When you walked out onto that porch that night it was
23 late, wasn't it?

24 A. Yes, ma'am.

25 Q. And it was dark?

CROSS-EXAMINATION BY MS. RONEY OF TAWANA ALSTON (IC)

- 1 A. Yes, ma'am.
- 2 Q. And this trailer is out in the country?
- 3 A. Yes; ma'am.
- 4 Q. And you weren't expecting anybody to come there?
- 5 A. No, ma'am.
- 6 Q. And you said when you turned around you saw a tall
- 7 figure ---
- 8 A. A tall person.
- 9 Q. --- and that's when you saw the shotgun?
- 10 A. Yes, ma'am.
- 11 Q. And was that shotgun in your face?
- 12 A. Yes, ma'am, it was pointed at me like this (motioning).
- 13 Q. And you said that person was not James Rose?
- 14 A. No, it was not.
- 15 Q. Where was James standing?
- 16 A. He was in the car.
- 17 Q. Did he ever get out of the car?
- 18 A. No.
- 19 Q. And you don't know who that man is that had the shotgun
- 20 in your face?
- 21 A. No, ma'am.
- 22 Q. Is that the only person you saw with a gun?
- 23 A. No, I saw a short, chunky dude with like a nine
- 24 millimeter or either a forty-five.
- 25 Q. And he came up onto the porch?

CROSS-EXAMINATION BY MS. RUNEY OF TAWANA ALSTON (IC)

- 1 A. He came up running onto the porch into the house.
- 2 Q. In the door?
- 3 A. Yes, ma'am.
- 4 Q. And where were you at that point?
- 5 A. With my hands standing up like this (motioning) on the
- 6 porch.
- 7 Q. Were they already inside the house when you jumped
- 8 underneath the porch?
- 9 A. Yes, ma'am.
- 10 Q. And so you didn't see what happened inside the house?
- 11 A. No, I did not.
- 12 Q. And there is somebody still in this gray car out in the
- 13 yard?
- 14 A. I assume so.
- 15 Q. Did you see anything else happened after you jumped
- 16 under the porch?
- 17 A. No, because I ran to a neighbor's house to knock on the
- 18 door for help. And then I ran to my grandmother's house.
- 19 Q. And then your grandmother took you to MUSC?
- 20 A. No, I called my mother and she took me to MUSC.
- 21 Q. And that is where you met with the police?
- 22 A. Yes.
- 23 Q. Do you remember who that was?
- 24 A. It was so many of them. At this time, no, I do not.
- 25 Q. When you were taken there were you -- did you give a

- 1 statement first or were you shown the lineup first?
- 2 A. I think it was a statement first.
- 3 Q. So you wrote your statement, and that got to be the
- 4 middle of the night at that point; right?
- 5 A. Yes.
- 6 Q. You have been up all day and almost all night, correct?
- 7 A. Yes.
- 8 Q. And then you stayed there longer to look at this photo
- 9 lineup?
- 10 A. Yes.
- 11 Q. And did you tell me you don't remember which detective
- 12 showed you this lineup?
- 13 A. No, ma'am.
- 14 Q. Okay. That's good. Was this the only photographic
- 15 lineup that you were shown?
- 16 A. Those six photos, yes.
- 17 Q. These six photos?
- 18 A. Yes, ma'am.
- 19 Q. And you were asked to show the police who you saw first
- 20 that night?
- 21 A. Yes.
- 22 Q. And by first you mean you saw James Rose in the car?
- 23 A. Inside the house.
- 24 Q. And when was that?
- 25 A. When I came from out of the bathroom.

CROSS-EXAMINATION BY MS. RUNEY OF TAWANA ALSTON (IC)

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- 1 Q. And when you came out of the bathroom was that
2 immediately before you went out on the porch to smoke a
3 cigarette?
- 4 A. Yes.
- 5 Q. Do you remember what time it was?
- 6 A. Between 11:45, 12 o'clock.
- 7 Q. And James had gotten there in this gray Neon car?
- 8 A. Yes.
- 9 Q. Who did he come to the trailer with?
- 10 A. I have no idea.
- 11 Q. Had you been at the trailer all day?
- 12 A. Yes.
- 13 Q. Had you been asleep or ...?
- 14 A. Earlier that day I was.
- 15 Q. When was that?
- 16 A. Earlier that day. It was afternoon time.
- 17 Q. So all you know is that James got there at some point?
- 18 A. Uh-huh.
- 19 Q. And you don't know how he got there?
- 20 A. He came in the Neon.
- 21 Q. And when the police showed you these pictures and you
22 saw this man that you had dated before, James Rose, you
23 identify him; correct?
- 24 A. Yes.
- 25 Q. And that is because he had been at the trailer that

CROSS-EXAMINATION BY MS. RUNEY OF TAWANA ALSTON (IC)

1 day?

2 A. Yes.

3 Q. Not because he had a gun?

4 A. No.

5 Q. And not because he shot anybody?

6 A. No.

7 Q. And you put your signature on this form, correct?

8 A. Yes, I did.

9 Q. And that the signature is to signify that you did this?

10 A. I did what?

11 Q. Picked out this person.

12 A. Yes, I did.

13 Q. And that you were telling the truth?

14 A. Yes.

15 MS. RUNEY: That's all I have. Thank you.

16 THE COURT: Okay. Any redirect?

17 MS. SHEALY: No redirect.

18 THE COURT: Okay. Ma'am, you may step down. Thank
19 you.

20 MS. SHEALY: And we would just ask that she remain
21 outside.

22 THE COURT: Yes, pursuant to the order. Thank you.

23 MS. SHEALY: We would call Mr. Wilson.

24 THE COURT: All right, sir. If you will come on up and
25 we will swear you in. Thank you.

1 (WHEREUPON, the witness was duly sworn.)

2 THE CLERK: Sir, once you are seated if you would
3 please state your first and last name and spell your last
4 for the record.

5 THE WITNESS: Mitchell Wilson, W-I-L-S-O-N.

6 (MITCHELL WILSON, after having been
7 sworn, testified as follows:)

8 DIRECT EXAMINATION BY MS. SHEALY OF MITCHELL WILSON (IC):

9 Q. Detective Wilson, would you advise the court whether or
10 not you were a detective on January 24th, 2012.

11 A. I was.

12 Q. And as a part of your role in the investigation of
13 James Rose did you administer a lineup to Tawana Alston?

14 A. I did.

15 Q. Showing you what's been marked as Court's Exhibit 1 and
16 Court's Exhibit 2, I ask you whether you can identify those
17 two exhibits.

18 A. Yes, ma'am, this is the lineup I was showed on January
19 24th, ---

20 Q. Okay. Do you ---

21 A. --- 2011.

22 Q. I'm sorry, 2012?

23 A. Yes.

24 Q. Okay. Who asked you to administer the lineup; do you
25 recall?

1 A. Detective Perkins.

2 Q. And do you recall where you were when it was
3 administered?

4 A. We were at our headquarters at 3505 Pinehaven Drive.

5 Q. Were you aware of whether or not Ms. Alston had
6 previously given a statement before that lineup was
7 administered; do you recall?

8 A. I think she was in the process of giving a statement.

9 Q. Okay. And do you know who actually formed that lineup,
10 who put the array together; do you remember?

11 A. I believe it was Detective Perkins.

12 Q. Now during the process there are items numbered on the
13 form before you show her the lineup ---

14 MS. SHEALY: Judge, do you want me to go through those
15 or the document itself since it is in evidence?

16 THE COURT: I'm fine just to review the documents, ---

17 THE COURT: Okay.

18 THE COURT: --- but if -- however you want to do it is
19 fine.

20 MS. RUNEY: That's fine.

21 THE COURT: Okay.

22 BY MS. SHEALY:

23 Q. So we see her initials by the numbered entries on the
24 form.

25 A. One through seven, yes, ma'am.

DIRECT EXAMINATION BY MS. SHEALY OF MITCHELL WILSON (IC)

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1 Q. Were you present when -- you read those things to her
2 or she read them herself?

3 A. Yes, I would read those to her and ask her if she
4 understood. She would say yes. And I'd say well can you
5 initial your initials next to each one as I read them off..

6 Q. During that process did you at any point indicate to
7 her who you believed James Rose was?

8 A. No.

9 Q. Did you ask her to identify James Rose, or who did
10 you -- what did you ask her to do?

11 A. I asked her to take a look at the photos and see if she
12 recognized anybody from the night of the incident. And
13 myself as an independent administer I don't know who the
14 person was that -- on the lineup anyway.

15 Q. So did you point towards any photograph?

16 A. No, I didn't.

17 Q. And when you asked her to write who she chose, was that
18 her language?

19 A. That was.

20 Q. And again, you asked her to identify who she saw out
21 there that evening?

22 A. Yes, ma'am.

23 Q. And that would be related to the shooting of Leland
24 Shannon?

25 A. It would.

1 Q. Was there any further discussion with her about what
2 your goals were with that lineup process?

3 A. No, there's a statement in here that says I will not be
4 able to provide her with any information from the lineup,
5 that I would get Detective Perkins or the case agent to
6 discuss the lineup with her if she -- who she picked out or
7 anything like that.

8 Q. You're talking about at the conclusion of it?

9 A. Yes, once I was done.

10 Q. Okay. And showing you Court's Exhibit 2, that document
11 is folded?

12 A. Yes, sir.

13 Q. Could you advise the court whether or not it was folded
14 when you showed it to her?

15 A. It was. This is how I received it (motioning), folded
16 like this.

17 Q. Okay. And what's the purpose of folding it that way?

18 A. Because I believe this is a jail generated lineup and
19 it has their -- somebody's names on the back of them. So it
20 was folded over to keep their identities from the witness
21 seeing who they were.

22 Q. And did you question her at all about what she wrote on
23 the form, or did you just have her write in?

24 A. No, I just -- once picked out who she picked out I said
25 well can you just give me a brief statement of why you

DIRECT EXAMINATION BY MS. SHEALY OF MITCHELL WILSON (IC)

1 picked that person. And that's in her own words what she
2 wrote.

3 MS. SHEALY: I have no further questions. Answer any
4 the defense may have.

5 THE COURT: Thank you. Cross-Examination.

6 CROSS-EXAMINATION BY MS. RUNEY OF MITCHELL WILSON (IC):

7 Q. Good morning, Detective.

8 A. Good morning.

9 Q. Did you transport Mr. Alston from MUSC?

10 A. To be honest, I can't be 100 percent if I did or I
11 didn't.

12 Q. If she would -- if you would have brought her or other
13 officer brought her to the Sheriff's Department would she be
14 kept in a room by herself?

15 A. We have interview rooms. She would have probably been
16 placed in the interview room until the detective was able to
17 talk to her and get her statement.

18 Q. And when she -- after she was shown the lineup was she
19 free to leave?

20 A. Once I got the lineup secured I left her and I
21 presented it to the case agent. And that was all the
22 involvement I had. I don't know how much further
23 interviewing there was with her or not.

24 Q. So after you showed her this lineup you didn't have any
25 more contact with Ms. Aiken?

CROSS-EXAMINATION BY MS. RONEY OF MITCHELL WILSON (IC)

1 A. No.

2 Q. That all I have. Thank you.

3 THE COURT: Okay. Any redirect?

4 MS. RONEY: No, redirect.

5 THE COURT: All right, sir, you may step down. Thank
6 you.

7 THE WITNESS: Just leave this up here?

8 THE COURT: Yes, you will leave it up here -- there and
9 I will grab it in just a minute. Thank you.

10 MS. SHEALY: Antoine Aiken.

11 THE COURT: All right, sir, if you will come on up and
12 we will swear you in.

13 (WHEREUPON, the witness was duly sworn.)

14 THE CLERK: Sir, once you are seated if you would
15 please state your first and last name and spell your last
16 for the record, please.

17 THE WITNESS: Antoine Aiken, A-I-K-E-N.

18 DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN (IC):

19 Q. Mr. Aiken, would you tell the court, please, where you
20 were the late evening hours of January 23rd spilling into
21 the morning hours of January 24th, 2012.

22 A. At a trailer at the corner of West Carolina and
23 Westbrook.

24 Q. And who lived in that trailer?

25 A. Leland Shannon.

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN (IC)

- 1 Q. Who?
- 2 A. Leland Shannon.
- 3 Q. Okay. And do you know who James Rose is?
- 4 A. Yes.
- 5 Q. How long have you known James Rose?
- 6 A. Probably about 15 years.
- 7 Q. Do you see him in the courtroom?
- 8 A. Yes.
- 9 Q. Okay. Where is he seated?
- 10 A. Behind you.
- 11 Q. What did you call James Rose?
- 12 A. Onyx.
- 13 Q. And did he have another nickname?
- 14 A. "O".
- 15 Q. "O".
- 16 THE COURT: I'm sorry, "O"?
- 17 MS. SHEALY: "O".
- 18 BY MS. SHEALY:
- 19 Q. On January 24th in those early morning hours could
- 20 you -- or even the evening hours of the 23rd would you tell
- 21 the judge whether or not James Rose came to Leland Shannon's
- 22 home?
- 23 A. Yes.
- 24 Q. And in fact that day did he come more than one time?
- 25 A. Yes.

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN (IC)

1 Q. If we could focus on the last time that he came. Could
2 you tell the judge whether or not you answered the door when
3 he got there?

4 A. Yes.

5 Q. And would you tell the judge what you saw in the back
6 yard as you opened the door.

7 A. Mid-size, four-door car parked by the deck, facing out
8 toward the road.

9 Q. Okay. And where was Mr. Rose when you saw that?

10 A. I was letting him in.

11 Q. And would you tell the judge whether or not there was
12 anyone in the car.

13 A. Yes, there was -- there was somebody in the car.

14 Q. Okay. Did you ask Mr. Rose anything about that?

15 A. Yes.

16 Q. And what did he say?

17 A. He told me I didn't know 'em, I didn't have to worry
18 about it.

19 Q. That you didn't?

20 A. Yeah.

21 Q. Now a little later did Mr. Rose leave the house?

22 A. Yes.

23 Q. And could you describe to the judge please how that
24 happened?

25 A. As in what, the confrontation?

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN (IC)

1 Q. Yes, if you will just explain as Mr. Rose left to leave
2 what happened.

3 A. He just said that he was going to be back.

4 Q. Okay. And where did he go?

5 A. He left out the kitchen and went to the back -- through
6 the back door.

7 Q. Okay. I'm showing you what's been marked as State's
8 Exhibit 1. I'm showing you this diagram.

9 A. Okay.

10 Q. It's going to come up on the screen. Can you explain
11 to us if you would, what is this area?

12 A. That is the back deck.

13 Q. Okay. And would you point to the area where you saw
14 the car.

15 A. Right here (pointing).

16 Q. Okay. And is this -- what is this (pointing)?

17 A. That is the backdoor.

18 Q. When you opened the door for Mr. Rose to come in, was
19 it this door or the front door or the backdoor?

20 A. This door (pointing).

21 Q. When he -- where had he been inside the house before he
22 left?

23 A. He was sitting right here (pointing). The trailer is
24 right there (pointing).

25 Q. Okay. What does this brown thing depict?

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN (IC)

1 A. The table.

2 Q. The kitchen table?

3 A. Yes.

4 Q. As you saw Mr. Rose leave could you show us the path he
5 took.

6 A. (Witness complied.)

7 Q. And would you advise us whether or not Leland Shannon
8 moved as James Rose was leaving?

9 A. Shortly after.

10 Q. Okay. Where did he go?

11 A. He came this a way (pointing).

12 Q. Tell the judge what happened at that point.

13 A. At that point by the time he got to the corner right
14 where I was stopped at I heard a gunshot. And he met
15 somebody at the corner right here (pointing). And they
16 tussled. But before he -- they tussled he told them how it
17 ain't going down like this. And they tussled for a second
18 and disappeared back behind the wall.

19 Q. Okay. Now when you were telling us that Mr. Rose left
20 this way, how long after his going this way was Julio
21 walking that way -- and Julio is Leland Shannon?

22 A. Yes. Probably about ten -- ten seconds.

23 Q. Ten seconds. Okay. What happened next after you heard
24 the tussling?

25 A. I heard a gunshot.

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN (IC)

1 Q. Okay. And what did you do.

2 A. There was a rifle right here (pointing). I went to go
3 get it, but it wasn't there. So at the time I ran over here
4 and grabbed something when I heard another gunshot.

5 By the time I got around to the corner my cousin was
6 falling on the ground. I just flew apart and I ran to the
7 door. Went out this door onto the porch. Came down. Went
8 around in the woods over here (pointing).

9 Q. Let me slow you down just for a second. After that
10 initial gunshot did you hear any other gunshots?

11 A. I heard the first gunshot before I seen anybody, and
12 then I heard two more.

13 Q. And when you saw the tussling could you see with whom
14 Leland Shannon was tussling?

15 A. No.

16 Q. Did you -- did you get an idea of height or ---

17 A. I got an idea of height. And he had on all black.

18 Q. I'm sorry, what did you say about his height?

19 A. I just know that he was tall and had on all black.

20 THE COURT: All black?

21 MS. SHEALY: All black.

22 A. All black.

23 Q. When you went around to the wooded area back there
24 could you hear everything from the yard?

25 A. Once I got to the wood area I heard everything's in the

1 back room, go to the back room.

2 Q. You heard -- you heard someone say that?

3 A. Someone says that from outside. And I heard whoever
4 was in the house they ran to the back room. At that time I
5 heard Joy, who was in this room (pointing), I heard her
6 screaming.

7 Q. Okay. And Joy was Leland Shannon's daughter?

8 A. Yeah.

9 Q. When you heard everything is in the back room did you
10 recognize that voice?

11 A. Yes.

12 Q. And whose voice was that?

13 A. Onyx.

14 Q. Okay. When do you move from the woods?

15 A. Shortly after Tawana came running around the back side
16 of the trailer around past me I was -- they ran up the
17 driveway.

18 Q. And what did you see if anything in the back door?

19 A. By that time I was moving through the woods toward the
20 backyard. And then I heard another gunshot. And then I
21 heard somebody say hurry up, ya'll, you are taking too long,
22 come on.

23 Q. Did you recognize that voice?

24 A. Yes.

25 Q. And whose voice was that?

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN (IC)

1 A. Onyx.

2 Q. Okay. And after hearing that did you see what happened
3 in the backyard regarding the vehicle?

4 A. I just seen the tall fellow came out, got in the car.
5 And I seen Onyx in the -- in the driver's seat drove off.

6 Q. Okay. Could you tell whether or not there was another
7 person in this vehicle?

8 A. I couldn't tell.

9 Q. Now that evening after that happened did you eventually
10 go back into the home?

11 A. Yes.

12 Q. And what did you find when you got back in there?

13 A. I found my cousin on the ground. He had -- I didn't
14 know where he was shot at, but there was a lot of blood on
15 the floor. And I seen his daughter on top of him calling
16 911. And she was hysterical. They couldn't understand what
17 she was saying.

18 Q. Let me interrupt you there. We will go into that a
19 little bit later, okay. Did you eventually go to the
20 hospital that evening?

21 A. Yes.

22 Q. Did you also go to the Sheriff's Department that
23 evening?

24 A. Yes.

25 Q. Could you tell the judge whether or not you gave a

1 statement that evening?

2 A. Yes.

3 Q. Did you tell the whole truth in that statement? Do you
4 need to look at your statement?

5 A. No, I don't need to look at my statement. I told the
6 truth, but I held out ---

7 Q. What did you hold out?

8 A. I held out Onyx's name at first in the statement.

9 Q. Okay. When you went to the Sheriff's Department and
10 you gave that statement did they ask you to do a
11 photographic lineup?

12 A. Yes.

13 Q. And I am going to ---

14 MS. SHEALY: Your Honor, if I may at this time have
15 these two documents marked as Court's exhibits?

16 THE COURT: Yes, what are they?

17 MS. SHEALY: One ---

18 THE COURT: The same?

19 MS. SHEALY: Yes, one is the -- entitled the report of
20 photographic physical lineup.

21 THE COURT: All right. That will be Court's 3.

22 MS. SHEALY: And then array itself.

23 THE COURT: Okay. That array will be Court's 4.

24 (WHEREUPON, Court's Exhibit Number 3, lineup, was marked for
25 identification.)

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN (IC)

1 (WHEREUPON, Court's Exhibit Number 4, array of lineup, was
2 marked for identification.)

3 Q. Okay, Mr. Aiken, I'm going to show you Court's
4 Exhibit 3 and ask you if you recall seeing that that
5 evening?

6 A. Yes.

7 Q. Did the officer go over some things with you and you
8 initialed beside the numbers?

9 A. Yes.

10 Q. And does that document also reflect your signature?

11 A. Yes.

12 Q. Okay. Showing you Court's 4 I ask you first was this
13 shown to you?

14 A. Yes.

15 Q. Was it folded this way when it was shown to you?

16 A. Yes.

17 Q. Tell this court if you would whether you made an
18 identification from this array that evening.

19 A. No, I did not.

20 Q. And why did you not?

21 A. Because I mean -- I mean not to make it sound bad, but
22 I was angry and I was trying to resolve the situation
23 myself.

24 Q. Okay. So did you even tell the police Onyx's name in
25 your first statement?

1 A. No.

2 Q. On the form, Court's Exhibit 3, can you indicate to the
3 court what you in fact wrote on that?

4 A. At this time I could not make a positive
5 identification.

6 Q. Okay. Did the police try to point anybody out to you
7 in this array?

8 A. No.

9 Q. And you just said you could not make a positive ID.
10 Now a little later that day did you give another statement?

11 A. Yes.

12 Q. Did something change in your mindset between the first
13 statement and the second?

14 A. Yes.

15 Q. And what was that?

16 A. I didn't withheld the name no more.

17 Q. I'm sorry?

18 A. I didn't withhold the name.

19 Q. Okay.

20 MS. SHEALY: And, Your Honor, if I could similarly have
21 these two documents, the first being the photographic
22 physical lineup form and the second array.

23 THE COURT: At the second ---

24 MS. SHEALY: At the second time.

25 THE COURT: Okay. That will be Court's 5 and 6.

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN (IC)

1 (WHEREUPON, Court's Exhibit Number 5, lineup form, was
2 marked for identification.)

3 (WHEREUPON, Court's Exhibit Number 6, array, was marked for
4 identification.)

5 Q. Mr. Aiken, regarding the one that we had just
6 previously discussed could you tell me -- could you tell me
7 what time is reflected on that form for that lineup looking
8 at Court's Exhibit 3.

9 A. Zero four thirty-one.

10 Q. Okay, so that was four o'clock in the morning?

11 A. Yes.

12 Q. And then showing you Court's Exhibit 7 -- I'm sorry,
13 what is that -- Court's Exhibit 5 did you go through a
14 similar process with the officer regarding that form?

15 A. Yes.

16 Q. And are these your initials by each of the numbered
17 entries?

18 A. Yes.

19 Q. And did you -- whose signature is this on the witness
20 signature page?

21 A. Mine.

22 Q. Do you remember whether or not it was two different
23 officers that were involved in these lineups, or do you
24 remember?

25 A. I don't remember.

1 Q. Were you then shown Court's Exhibit 6?

2 A. Yes.

3 Q. Tell the judge if you would, did anyone point to
4 someone and say you need to identify him?

5 A. No.

6 Q. Okay. Who did you in fact identify?

7 A. Onyx.

8 Q. And how did you do that; who drew the circle?

9 A. I drew the circle and initialed it.

10 Q. Okay. And when you say Onyx you are talking about
11 James Rose?

12 A. Yes.

13 Q. When you identified him at that point could you tell
14 the judge what statement you wrote on Court's Exhibit 5?

15 A. Said he is responsible for my cousin's murder, they all
16 left together, he basically was the one who was -- who
17 planned the whole thing.

18 Q. Okay. And again, at any time during either of these
19 two lineup situations did the officer try to get you to
20 point to someone in particular?

21 A. No.

22 Q. I have no further questions. Please answer any the
23 defense may have.

24 THE COURT: Okay. Cross-examination.

25 CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN:

26

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN (IC)

- 1 Q. Good morning, Mr. Aiken.
- 2 A. Good morning.
- 3 Q. You said you've known James Rose for 15 years?
- 4 A. I mean not straight.
- 5 Q. Not straight?
- 6 A. Huh-huh, not straight.
- 7 Q. You are not from Charleston, are you?
- 8 A. Yes, I am.
- 9 Q. Did you -- have you ever lived anywhere else besides
- 10 Charleston?
- 11 A. Yes.
- 12 Q. How long have you been back here?
- 13 A. Four years.
- 14 Q. And did you know him as Onyx, or did you know that his
- 15 real name was James Rose?
- 16 A. I knew his real name was James Rose.
- 17 Q. And y'all would hang out together?
- 18 A. Yeah.
- 19 Q. And ya'll were friends?
- 20 A. Yeah.
- 21 Q. And he was friends with Leland Shannon?
- 22 A. Yes.
- 23 Q. And you said that James had been there several times
- 24 that day to that trailer; is that correct?
- 25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN (IC)

1 Q. Tell me about each of those times. Do you remember
2 about when that was?

3 A. The first time it was me and my cousin. We was outside
4 sitting by the tree drinking some liquor. Leland was
5 cooking something. He came up with a female.

6 Q. Did you know that female?

7 A. Amber Wiley. We was having a discussion about college
8 and stuff. So that was the first time he came. The second
9 time was a couple of hours was after that, later that night.
10 And then ---

11 Q. What did he come there for the second time?

12 A. I think he came to get some weed and some cocaine.

13 Q. And that is what happened at that trailer, right?

14 A. Yes.

15 Q. And do you know who brought James Rose to that trailer?

16 A. No.

17 Q. Do you know what time it was?

18 A. No.

19 Q. Do you know how long he stayed?

20 A. About ten -- about ten, fifteen minutes.

21 Q. Ten minutes?

22 A. About ten -- somewhere between ten and fifteen minutes.

23 Q. With his ride waiting for him outside?

24 A. Yes.

25 Q. And did they ever get impatient and come to the door?

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN (IC)

- 1 A. I can't recall.
- 2 Q. Who else was there with you on the second trip?
- 3 A. Tawana, Leland, Ishmal, Joy. There was other people
- 4 there, but they was leaving out.
- 5 Q. Were you having a party?
- 6 A. My cousin, it was his birthday. He came -- went over
- 7 there I guess to drink. And he left out with the people he
- 8 was with, and it was just me ---
- 9 Q. Not your cousin, Leland Shannon?
- 10 A. No, ---
- 11 Q. A different ---
- 12 A. One of my other cousins.
- 13 Q. What is his name?
- 14 A. Sammy.
- 15 Q. Okay. So it was a birthday party for Sammy?
- 16 A. Yeah, he just came through. Did a shot with him and he
- 17 left out.
- 18 Q. And was it dark then?
- 19 A. Yes.
- 20 Q. So you're not sure of the time, but it was dark?
- 21 A. Not sure of the time.
- 22 Q. And that is when James Rose left the second time,
- 23 correct?
- 24 A. Yeah, that when he can't get -- he left -- that's when
- 25 he came the second time and left shortly after that.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN (IC)

1 Q. So you don't know who it was with, but he -- did you
2 see the car?

3 A. No.

4 Q. Do you know if they were parked in front or the back?

5 A. No.

6 Q. Do you remember what door he came in?

7 A. The back door.

8 Q. Is the back door the door that everybody used?

9 A. Yes.

10 Q. You can kind of turn down a side street and come behind
11 the trailer; is that correct?

12 A. Yes.

13 Q. And what you testified to today is that James Rose was
14 back again at that trailer?

15 A. Yes.

16 Q. And so that was the third time he had been there?

17 A. Uh-huh.

18 Q. And you don't know who brought him there or how he got
19 there?

20 A. I mean I seen -- the third time I seen the car parked
21 right there behind -- behind -- behind the deck of the
22 trailer. It was parked right there by the deck.

23 Q. And the car was facing ---

24 A. The road.

25 Q. --- toward the driveway?

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN (IC)

1 A. Yes, it was facing going out.

2 Q. Not facing the trailer?

3 A. No.

4 Q. How long did James stay there before the shooting
5 occurred?

6 A. How long did he stay in the house -- the trailer?

7 Q. Uh-huh.

8 A. About five to seven minutes.

9 Q. Five to seven minutes?

10 A. Yeah.

11 Q. And did he come back for more weed?

12 A. I don't know what he came back for that time. I just
13 know he -- before he left the second time he said he was
14 going to be back.

15 And when he came back that time I wasn't in -- I wasn't
16 in the vicinity of the kitchen where they was talking, my
17 cousin and him. I was in the living room. I wasn't really
18 paying no attention what they were talking about at the
19 time.

20 Q. So Leland and James Rose were sitting down at the
21 kitchen table ---

22 A. Yes.

23 Q. --- talking?

24 A. Yes.

25 Q. And James said I'm leaving?

- 1 A. I mean ---
- 2 Q. He just left out?
- 3 A. --- he was -- yeah, I'll talk with you later.
- 4 Q. Do you remember how long it was between James's second
- 5 trip to the trailer and the third trip?
- 6 A. I want to say about forty-five minutes to an hour.
- 7 Q. Can you tell me what time he came back, or you don't
- 8 know? But you were awake and you were there?
- 9 A. Yes.
- 10 Q. So when James left, a man in all black came in the
- 11 house?
- 12 A. Yes.
- 13 Q. When you came around that corner where the laundry area
- 14 is, that's when you saw the man in all black?
- 15 A. No, when he came around the corner. When my -- when my
- 16 cousin got up to go lock the door we heard a gunshot.
- 17 Simultaneously as soon as we heard the gunshot the fellow
- 18 who was in all black met my cousin right there at the
- 19 corner. That's the first time I seen the fellow in all
- 20 black.
- 21 Q. So there was a shot before Leland even got to this
- 22 person?
- 23 A. Yes.
- 24 Q. He is going to see what is going on?
- 25 A. Yes.

CROSS-EXAMINATION BY MS. RONEY OF ANTOINE AIKEN (IC)

1 Q. And then you said normally there is a shotgun in that
2 kitchen area?

3 A. I mean there usually be a rifle right there, ---

4 Q. All right.

5 A. --- but it wasn't there.

6 Q. And the man in all black he had on a mask as well?

7 A. Yes.

8 Q. And how would you describe him?

9 A. A slender, tall dude, probably about six -- around
10 6'1", 6'2".

11 Q. What type of mask?

12 A. Just a black mask.

13 Q. Like a ski mask?

14 A. Yeah.

15 Q. Then you heard two more gunshots?

16 A. Yes.

17 Q. And you ran?

18 A. No, I was coming around the corner after I heard the
19 first shot. By the time I grabbed something I heard another
20 shot. And by the time I got to the corner another shot went
21 off and my cousin was falling to the floor. I just had in
22 my hand -- what in my hand I just threw it and I ran to the
23 front door.

24 Q. And you threw a pot?

25 A. Yes.

1 Q. You didn't think to go get a gun, did you?

2 A. I mean the gun -- the gun that was supposed to be there
3 wasn't there.

4 Q. And so what I believe you testified to earlier is that
5 you ran to the wooded area beside the trailer?

6 A. Yes.

7 Q. So if you are looking out of the trailer is that on
8 your left-hand side or your right-hand side?

9 A. If I were looking out of the trailer versus what, the
10 front yard or the backyard?

11 Q. Did you run out of the front door or the back door?

12 A. I ran out of the front door.

13 Q. And what side did you run to, the left or to the right?

14 A. To the right.

15 Q. And that is where there is a cement-like basketball
16 court and a church to the right?

17 A. The church is up front. When you come out the front
18 door onto the porch, to your right is the woods. The church
19 is directly in front of you.

20 Q. Okay. And you hid in that wooded area?

21 A. Yes.

22 Q. How far away were you from the trailer?

23 A. From me to you.

24 Q. And you could hear people inside of the trailer?

25 A. I could hear them -- I could hear them coming from the

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN (IC)

1 front -- from the back of the trailer -- or from the back
2 door of the trailer to the back bedroom.

3 Q. Like stomping or running?

4 A. Yeah.

5 Q. And did you know Joy was in that back bedroom?

6 A. Yes.

7 Q. And so you got close enough to the trailer where you
8 could hear a voice that you identified as Onyx's voice?

9 A. Yes.

10 Q. So you came out of the -- out of the wooded area and
11 close ---

12 A. No, still it was in the woods. From the trailer --
13 from the woods to the trailer it ain't nothing but like ten
14 feet.

15 Q. And you were moving towards the back yard?

16 A. Towards the back of the trailer in the woods.

17 Q. Where the suspects supposedly are?

18 A. On the other side of the trailer (pointing).

19 Q. And that is when you saw the tall guy?

20 A. Yeah.

21 Q. You only saw one other person?

22 A. I only seen one person.

23 Q. And you told Ms. Shealy that you did not give Onyx's
24 name, you didn't give the name of "O" or James Rose when you
25 first met with the police?

1 A. No.

2 Q. And you said that you were angry and you wanted to
3 resolve the situation yourself. What do you mean by that?

4 A. I mean eye for an eye.

5 Q. I'm sorry?

6 A. Eye for an eye.

7 Q. You were going to kill somebody?

8 A. The thought crossed my mind.

9 Q. So you didn't want the police to arrest James Rose; you
10 wanted to be able to go after him yourself?

11 A. That was my initial thought. But after a while I
12 thought about it, decided to leave it up to the law.

13 Q. So in your first lineup you didn't make an
14 identification?

15 A. No.

16 Q. And that was at 4:31 in the morning?

17 A. Yes.

18 Q. And you gave a statement to the police?

19 A. Yes.

20 Q. And did -- at some point did you leave the Sheriff's
21 Department?

22 A. After I get my statement they took me back to the
23 hospital and I was there until I left with my aunt and my
24 uncle and my cousin's brother.

25 Q. Was Tawana Alston taken back to the hospital?

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN (IC)

1 A. I can't recall. But -- yeah, she was. Because she was
2 there when they finally couldn't do no more for him. They
3 told me that they let him go. Yeah, she was -- she was at
4 the hospital.

5 Q. And how did you come back into contact with the
6 detective?

7 A. When we got back to the hospital -- I was at my aunt's
8 house. And I walking down the street to go take a shower,
9 change clothes.

10 Q. In Lincolnville?

11 A. Yes, in Lincolnville. And the detective was coming
12 down the road. He had my cousin's wife pulled over. And I
13 guess she -- they were looking for me. I don't know. But
14 she pointed at me. And they came and told me they needed me
15 to come back down, downtown for questioning.

16 Q. Do you remember what time it was when you took -- were
17 walking down the street?

18 A. Probably was about 10:30 -- about 10:30, 11 o'clock;
19 somewhere around that.

20 Q. In the morning?

21 A. Yes.

22 Q. And you had been up all night and wanted to shower?

23 A. Yes.

24 Q. When you say your cousin's wife, that's Mr. Shannon's
25 wife?

- 1 A. Yes.
- 2 Q. And she was with Detective Perkins?
- 3 A. He -- I don't know -- it was he pulled her over on the
4 side of the road. And I guess she was coming down my uncle
5 and aunt's house.
- 6 Q. On the way to Leland's parent's house?
- 7 A. Yes.
- 8 Q. And she pointed you out to Detective Perkins?
- 9 A. Yes.
- 10 Q. And at that point did you get in the car with him
11 or ---
- 12 A. Yeah, ---
- 13 Q. --- did you go home?
- 14 A. --- I got in the car with him.
- 15 Q. And what did he say to you?
- 16 A. Well, before I got in the car he just came up to me,
17 told me he needed me to come back downtown because of he's
18 got some more questions he's got to ask me. I got in the
19 car with him and I -- we left.
- 20 Q. Did you think that was odd that you needed to answer
21 more questions?
- 22 A. No, I mean I knew it wasn't odd.
- 23 Q. You what?
- 24 A. I didn't think it was odd.
- 25 Q. And how did the second lineup come about?

1 A. Same exact way.

2 Q. Was it their idea to show you one or did you say I want
3 to look at another lineup?

4 A. I mean when I got there they talked to me. They told
5 me that basically my cousin, Joy, and Tawana told them that
6 I knew who the person was.

7 He didn't come out and say it, but he was like they've
8 already told us you're good friends with them because you
9 know who it is.

10 So and I told him the reason why I withheld my first
11 statement, the name on my first statement. So I wrote the
12 second statement and I put his name in it and I circled the
13 picture.

14 Q. So I think what you're telling me -- you correct me if
15 I'm wrong, okay?

16 A. Yes.

17 Q. You went back to the Sheriff's Department with
18 Detective Perkins?

19 A. Yes.

20 Q. And because they had talked to Tawana and Joy they
21 didn't think that were telling the truth in the first
22 statement?

23 A. Yes, they felt like I was leaving something out.

24 Q. And so they wanted you to give a new statement?

25 A. Yes.

1 Q. One that would fit with what Tawana said?

2 A. Well, I wouldn't say fit with what she said. But fit
3 what I -- just put what I left out.

4 Q. Well, the first statement you gave didn't fit with the
5 second one?

6 A. No, both the statements fit. They say the same exact
7 thing. It is just the name was left out.

8 Q. Was Tawana at the Sheriff's Department at this time?

9 A. No.

10 Q. And did you tell -- what was the reason you told them
11 that you left the name out?

12 A. I told them because -- at that time I was living with
13 my grandmother and I didn't want any kind of repercussions
14 to come back towards her.

15 Q. And were you asked who was the first person that you
16 saw before this incident happened?

17 A. Repeat that again.

18 Q. What did the detective ask you when he showed you the
19 second lineup?

20 A. I can't remember exactly what he asked.

21 Q. So when you were making the identification were you
22 saying that James Rose was the person who shot Leland
23 Shannon?

24 A. No.

25 Q. Were you saying that James Rose was there?

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN (IC)

1 A. He was there.

2 Q. And you had not talked to James Rose?

3 A. Prior to?

4 Q. Making this identification, between the shooting and
5 this ---

6 A. No

7 Q. --- identification? And he never said anything to you
8 about planning anything?

9 A. No.

10 MS. RUNEY: Beg the Court's indulgence.

11 THE COURT: Certainly.

12 MS. RUNEY: That's all I have. Thank you.

13 THE COURT: Okay.

14 MS. SHEALY: I have no further questions.

15 THE COURT: All right. Sir, you may step down.

16 (Witness complied.)

17 MS. SHEALY: We call Mr. Wilson.

18 THE COURT: All right, sir, come on up. You are still
19 under oath. Thanks.

20 EXAMINATION BY MS. SHEALY OF MITCHELL (IC):

21 Q. Detective Wilson, would you tell the court whether you
22 also administered a lineup to Antoine Aiken on January 24th?

23 A. I did.

24 Q. Showing you Court's Exhibit 3 could you tell the judge
25 what time you administered the lineup.

EXAMINATION BY MS. SHEALY OF MITCHELL (IC):

1 A. Zero-four-thirty-one.

2 Q. Okay. And where did that take place?

3 A. At headquarters on Pinehaven Drive.

4 Q. And does that document reflect Mr. Aiken's initials by
5 each numbered entry?

6 A. It does.

7 Q. And the witness signature is whose?

8 A. Mr. Aiken's.

9 Q. And did you in fact read him the entire form as part of
10 your protocol?

11 A. I did.

12 Q. Okay. Showing you Court's Exhibit 4 could you tell us
13 whether or not this is the array that you showed Mr. Aiken?

14 A. It is.

15 Q. And the folded paper would reflect what? Why is it
16 folded?

17 A. Because there's names we fold them under to keep the
18 identity so they can't be influenced by who is on the
19 picture with the names.

20 Q. Okay. When you showed him the photographic lineup did
21 you in any way suggest to him who you wanted him to pick
22 out?

23 A. No, I didn't

24 Q. And did you instruct him in any way that someone who
25 was involved was on that array?

EXAMINATION BY MS. SHEALY OF MITCHELL (IC):

1 A. No, I didn't.

2 Q. Okay. And at any time did you indicate to Mr. Aiken
3 that you wanted him to identify somebody on that array?

4 A. No.

5 MS. SHEALY: I have no further questions of this
6 witness.

7 THE COURT: Okay. Any cross-examination?

8 MS. RUNEY: No, Your Honor.

9 THE COURT: Thank you. You may step down.

10 MS. SHEALY: Charles Lawrence.

11 THE COURT: Yes, sir, if you will come on up and we
12 will swear you in.

13 THE CLERK: Sir, once you are seated if you would
14 please state your first and last name, spelling your last
15 for the record.

16 MR. LAWRENCE: Charles Lawrence. Lawrence,
17 L-A-W-R-E-N-C-E.

18 (WHEREUPON, the witness was duly sworn.)

19 (CHARLES LAWRENCE, having first
20 been duly sworn, testified as follows:)

21 DIRECT EXAMINATION BY MS. SHEALY OF CHARLES LAWRENCE (IC):

22 Q. Detective Lawrence, are you currently a detective at
23 the Charleston Sheriff's Department?

24 A. That's correct.

25 Q. And back in January of 2012 were you similarly a

1 detective then?

2 A. Yes.

3 Q. Were you involved in the investigation of James Rose?

4 A. That's correct.

5 Q. Do you recall whether or not you showed a lineup to
6 Antoine Aiken?

7 A. Yes, I did.

8 Q. Okay. Showing you State's exhibit -- excuse me. I'm
9 sorry. Court's Exhibit 5. Could you tell us whether or not
10 that document accompanied your showing him the array of
11 photographs?

12 A. Yes, ma'am, that's correct.

13 Q. Okay. And beside each numbered entry, those initials,
14 who initials are those?

15 A. Mr. Aiken's initials.

16 Q. And at the bottom of the document the witness
17 signature?

18 A. That would be his signature.

19 Q. Okay. Showing you Court's Exhibit 6, I ask you whether
20 this is the photo array you showed him?

21 A. Yes, ma'am, that's correct.

22 Q. Okay. And when you showed him this document,
23 Court's 6, there was no folding of that paper; is that
24 correct? In other words, this document doesn't have the
25 names on it ---

DIRECT EXAMINATION BY MS. SHEALY OF CHARLES LAWRENCE (IC)

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1 A. Correct.

2 Q. --- that sometimes photo arrays have?

3 A. Okay, yes, that's correct.

4 Q. Okay. So you showed him this actual document?

5 A. Yes, ma'am.

6 Q. And would you first please tell the court did you
7 suggest to Mr. Aiken which photograph if any he should
8 chose?

9 A. Never.

10 Q. Okay. Did you tell him the name of the person you were
11 looking for?

12 A. No, I didn't have that information. No.

13 Q. Okay. And in fact did Mr. Aiken circle an entry on the
14 array?

15 A. That's correct.

16 Q. Go ahead.

17 A. Yes, ma'am, prior to advising him of the procedures if
18 he saw the person I advised him to circle it and at that
19 point in time he was -- once he circled it he would put the
20 date and time. His initials, the date and time.

21 Q. And could you tell us what date and time that was?

22 A. Yes, ma'am, January 24th, 2012, 12:35 p.m. And Antoine
23 Aiken's initials right there ---

24 Q. Very good.

25 A. --- above the picture.

1 Q. Was there anything said to you to suggest which photo
2 he should circle if any?

3 A. I'm sorry, could you repeat that?

4 Q. Did you suggest to him at all which one he should
5 chose?

6 A. Never.

7 Q. I have no further questions.

8 THE COURT: Okay. Thank you. Cross-examination.

9 MS. RUNEY: I don't have any questions. Thank you.

10 THE COURT: All right. Sir, you may step down. Thank
11 you.

12 THE WITNESS: Thank you.

13 MS. SHEALY: Your Honor, it would be the State's
14 position that in light of the testimony of Ms. Alston, Mr.
15 Aiken, Detective Wilson, and Detective Lawrence there has
16 been nothing in the record to suggest that anything
17 suggestive was done on the part of law enforcement.

18 THE COURT: Okay. Yes, ma'am.

19 MS. RUNEY: Your Honor, in regards to Tawana Alston's
20 identification of Mr. Rose I do not think that there has
21 been any testimony that Mr. Wilson purposefully suggested
22 anything to her, but asking her to identify the first person
23 that she saw is misleading. And that she did identify James
24 as the person that she saw but not as the shooter.

25 THE COURT: I don't think that either of the witnesses

DIRECT EXAMINATION BY MS. SHEALY OF CHARLES LAWRENCE (IC)

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1 testified that he was the shooter, did they?

2 MS. RUNEY: No, they did not.

3 THE COURT: Okay.

4 MS. RUNEY: I think that that is unclear from the
5 identification process. As far as Aiken is concerned the
6 fact that he did not identify anybody and then he was
7 released to be around other witnesses and discuss the case
8 his second identification becomes unreliable because it has
9 now been tainted. He's discussed it with others.

10 THE COURT: Was there any testimony that he did discuss
11 it with others? I didn't hear any.

12 MS. RUNEY: I do not think that he testified of their
13 discussions. But they were together.

14 THE COURT: Okay.

15 MS. RUNEY: And then he comes in hours later and picks
16 out Mr. Rose. I just ask the court to take those things
17 into consideration when ruling on the identification
18 process.

19 THE COURT: Okay. Thank you. Ms. Shealy, could you
20 bring me the Court's exhibits.

21 MS. SHEALY: Sure.

22 THE COURT: I just need to look at everything.

23 (Ms. Shealy complied.)

24 THE COURT: Thank you. All right. Under the totality
25 of the circumstances I do not find that the identification

1 process was unduly suggestive as to either Antoine Aiken or
2 Ms. Tawana Alston.

3 We heard from both of the witnesses and the officers
4 who were involved. The arrays themselves are not unduly
5 suggested -- suggestive. And although both of the
6 individuals knew Mr. Rose who they referred to as Onyx for
7 some 15 years prior to picking him out of the lineup they
8 still followed the proper procedure -- or the officers
9 followed the proper procedure in having him chosen from the
10 lineup.

11 The fact that Mr. Aiken - and I don't want to even say
12 changed his story, because he didn't. He just omitted
13 identifying Onyx, or Mr. Rose, the first time he went to
14 view the lineup.

15 But he was pretty clear on the stand that that was
16 because at the time he was quite upset and considering
17 taking matters into his own hands.

18 I don't find anything unreliable or suggestive, and I'm
19 going to allow both identifications.

20 Okay. Anything further, anything else you want to put
21 on the record?

22 MS. SHEALY: Nothing further from the State. Thank
23 you.

24 THE COURT: All right.

25 MS. RUNEY: No, Your Honor.

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1 THE COURT: All the jurors are here. Is there anything
2 that we need to take up before we bring them in?

3 MS. SHEALY: No. I would ask for a quick restroom
4 break.

5 THE COURT: We will.

6 MS. SHEALY: Okay.

7 THE COURT: Let's take about a 10 minute and give my
8 court reporter a quick break and then we will get started.
9 And I have my brief intro that I will give them. And then
10 we will do openings.

11 MS. SHEALY: Thank you.

12 THE COURT: Okay. Thank you.

13 (WHEREUPON, break was had at 10:33 a.m.)

14 (WHEREUPON, resumed 10:46 a.m.)

15 THE COURT: Are y'all ready.

16 MS. SHEALY: Yes, Judge. Judge, ---

17 THE COURT: Yes.

18 MS. SHEALY: --- I've shown four photographs to the
19 defense and they have no objection to State's Exhibits 100,
20 101, 102, and 103.

21 THE COURT: All right. State's 100 through 103 are
22 admitted without objection.

23 (WHEREUPON, State's Exhibit Number 100, photo, was marked
24 for identification.)

25 (WHEREUPON, State's Exhibit Number 100 was admitted into

1 evidence.)

2 (WHEREUPON, State's Exhibit Number 101, photo, was marked
3 for identification.)

4 (WHEREUPON, State's Exhibit Number 101 was admitted into
5 evidence.)

6 (WHEREUPON, State's Exhibit Number 102, photo, was marked
7 for identification.)

8 (WHEREUPON, State's Exhibit Number 102 was admitted into
9 evidence.)

10 (WHEREUPON, State's Exhibit Number 103, photo, was marked
11 for identification.)

12 (WHEREUPON, State's Exhibit Number 103 was admitted into
13 evidence.)

14 THE COURT: All right. Anything else before we bring
15 the jury?

16 MS. SHEALY: Nothing further.

17 THE COURT: All right. Let's bring them on it. Thank
18 you, sir.

19 (Break)

20 (WHEREUPON, jury enters 10:56 a.m.)

21 THE COURT: I'm sorry, ladies and gentlemen. I am
22 trying to coordinate our schedule for in between lunch time
23 and the afternoon this week and next week. Thank you for
24 your patience.

25 I will tell you the attorneys did get quite a lot of

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1 work done late yesterday afternoon and this morning, and
2 they have streamlined the evidence and agreed on what they
3 can agreed on; and that will help this trial run much more
4 smoothly and efficiently. So I certainly do appreciate
5 their doing that.

6 THE COURT: As I indicated yesterday, let's go ahead
7 and swear ya'll and then I'll tell you about this case a
8 little bit.

9 (WHEREUPON, the jury was duly sworn.)

10 THE CLERK: Thank you. If there is any juror that
11 cannot adhere to this oath if you would please stand at this
12 time.

13 Please let the record reflect that all jurors are
14 seated and have taken the oath.

15 THE COURT: Thank you, sir.

16 And thank you. Ladies and gentlemen, as I indicated
17 yesterday, the case that we are about to try is the case of
18 State of South Carolina versus James Rose, defendant.

19 The defendant is charged by the indictment filed in
20 this court with murder. The elements of this charge will be
21 explained to you later when I charge you on the law at the
22 end of the case after you have heard the closing arguments
23 of the attorneys.

24 As we discussed during the jury selection process - and
25 this is critical - the indictment is not evidence. It is

1 just the charge that brings the case into court for you, a
2 fair and impartial jury, to consider. And it is not
3 evidence whatsoever of the allegations that it contained.

4 The defendant has pled not guilty to the charge in this
5 indictment, and the State therefore has the burden of
6 working to prove each of the elements of the indictment
7 beyond a reasonable doubt. And it will be your duty, ladies
8 and gentlemen, collectively to decide whether the State has
9 met that burden.

10 For that reason the State sits closest to the jury and
11 is the first party that you will hear from in the case.
12 That is the tradition in our courts that the party bearing
13 the burden of proof sits closest to the jury.

14 The defendant has no responsibility whatsoever here.
15 He has nothing to prove, nothing at all. He doesn't have
16 to explain anything, and he doesn't have to answer
17 anything. Because this whole process is to determine by
18 applying the law and applying your analysis in the
19 inferences that you draw from the evidence whether or not
20 the State meets its burden of proof as to each element of
21 its charge. And it must meet its burden of proof beyond a
22 reasonable doubt.

23 And that's the standard you will apply, ladies and
24 gentlemen. It's the standard that I'll define for you in
25 greater detail during my charge on the law at the end of the

1 case.

2 I will tell you now that reasonable doubt is that doubt
3 which would make an honest, conscientious, and sincere juror
4 searching for the truth in a case hesitate to take some
5 action.

6 What you will be applying is an analysis to each --
7 each element, each and every element of the charge, is am I
8 convinced, am I firmly convinced as to this element that the
9 State has established that element or met its burden as to
10 that element beyond a reasonable doubt.

11 If you answer yes to the first element of the charge
12 then you will go on to the next. And at the end of your
13 deliberation collectively and unanimously if your answer is
14 yes that the State has met its burden of proof as to each of
15 the elements then you will return a verdict of guilty
16 because you will have found unanimously that the State has
17 met its burden of proving each element of the charge beyond
18 a reasonable doubt.

19 But if your answer is no collectively and unanimously
20 as to any one element of the charge then you will have found
21 that the State has failed to meet its burden of proof and
22 you must return a verdict of not guilty.

23 Your purpose as jurors is to find and determine the
24 facts of the case. You are the sole judges of the facts.
25 And if at any time I make any comment regarding the facts

1 you must disregard it because I would be invading your
2 province as the judges of the facts.

3 You determine those facts from the testimony you hear
4 from the witness stand and from the other evidence that is
5 introduced in court. It is up to you to determine the
6 inferences which you feel may be properly drawn from that
7 evidence.

8 And there are a number of exhibits that have been
9 entered into evidence during the trial. At times one of the
10 parties may want to publish that evidence to you and they
11 will hand it to you. I don't want you to feel like you have
12 to study it at that time.

13 You certainly can if you like. But you will have all
14 of the items that have been actually admitted into evidence
15 in the jury room with you for your deliberation. Okay.

16 On the other hand, the same law that makes you the
17 judges of the facts makes me the judge of the law. The law
18 that the court gives you is the only law you may consider,
19 and you must accept it and follow it even if you disagree
20 with it.

21 Just as I cannot tell you what the facts are, you
22 cannot disagree with the court as to what the law should be.
23 And I promise if I get it wrong, there are two places in
24 Columbia that won't hesitate to correct it.

25 As I said, your job is to take the law as the court

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1 gives it to you and apply it to the facts as you find them
2 from the testimony and the other evidence.

3 We discussed this a little bit yesterday. But I want
4 to go over it again. And I will probably advise you every
5 time you leave the room, to go back to your jury room or to
6 go to lunch or at the end of the day, until you begin your
7 deliberations you're not allowed to discuss the case or what
8 you think about the case with anyone. And that includes
9 your fellow jurors.

10 You're not allowed to discuss your jury service or the
11 case with anyone outside of the court system. You're just
12 not allowed to discuss it at all.

13 And that means face-to-face, in person, telephone,
14 tweet, Facebook, blog entry. The list, I can't even give
15 you a list of all the ways that we have to communicate now.
16 But I think y'all understand you're just not allowed to
17 discuss it.

18 And that will cause quite a problem if we have any
19 issue with that. The reason we emphasize it each time is
20 that it happens. And I just don't want it to happen during
21 our trial.

22 As I indicated yesterday, I don't know that there will
23 be any press coverage of this matter. But if there is,
24 please don't listen to any or watch any press coverage or
25 read about anything that might be printed in any kind of

1 news or on the Internet. Because again, you're limited to
2 the evidence that comes in here in court.

3 Once the case is submitted to you for deliberation -
4 and you will know that because you will get the verdict
5 form. You will get all of the evidence back there with you
6 in the jury room and the bailiff will let you know that it
7 is time to deliberate. You are only permitted to discuss it
8 in your jury room and with your fellow jurors.

9 I like to remind everybody that during the trial if you
10 run into one of the lawyers or one of the witnesses or
11 anyone in the hall and they run the other way, please don't
12 hold it against them. They are not being rude to you. They
13 know they are not allowed to talk to you. So please be
14 mindful of that.

15 Likewise, please don't hold it against these attorneys
16 if anyone objects frequently during the trial. I'm not sure
17 how many objections we get -- will get. I just call them as
18 I see them. I don't keep a tally of who objected the most.
19 That's part of my duty as the judge on the law.

20 And as I indicated, these are good lawyers. And
21 when there is an indication or a feeling that they need to
22 put something on the record or call to my attention a
23 violation of the rules of court that that is their job in
24 doing it.

25 We are not trying to keep anything from you if we have

State vs. James Rose

1 to send you out to talk about some legal matters on the
2 record. We do try to get that done in the morning before
3 you get here, at lunch, and after you leave during the day.

4 But there will be times that issues will come up that I
5 will have to stop and convene with them. So I just ask you
6 to give us your patience on that.

7 Ladies and gentlemen, it is your solemn responsibility
8 to determine the guilt or innocence of the defendant. And
9 your verdict must be based solely on the evidence as it is
10 presented during this trial and on the law as I instructed
11 you at the close of the trial.

12 As I've indicated before, the defendant has pled not
13 guilty to the charge in the indictment. He is presumed
14 innocent throughout the entire preceding. And that only
15 changes if 12 jurors unanimously and collectively agree at
16 the end of the trial that the State has met its burden as to
17 each and every element of the charge.

18 In just a minute I'm going to call on the solicitor to
19 give her opening statement in this case. The lawyer's
20 opening statements and arguments in what they say are not
21 evidence. But the opening statements are essentially a
22 roadmap of what they think that the evidence will show you.
23 So listen carefully.

24 And we will pass out your notebooks to you in just a
25 minute. We can go ahead and pass those out now if you want

1 to. That would be great. I can keep talking while they
2 pass them out.

3 I do like the juries to have the notebooks available if
4 you want to take notes. You certainly don't have to. There
5 have been lots of studies about how different people learn
6 and process information. Some people do it by writing and
7 typing. Y'all are going to see me working back and forth
8 from a legal pad and my computer throughout the preceding.
9 So I do understand it helps to take notes.

10 One caution about that. Don't let your note taking get
11 you so involved with it that it keeps you from watching the
12 witness in the witness box. Body language and demeanor and
13 how a person testifies is really important. And I think we
14 all know from our life experience sometimes the way somebody
15 says something can be every bit as important as what they
16 actually say.

17 We take a break about every hour and a half, give y'all
18 a chance to stretch and take a quick break. If something
19 happens and you need to take a break and you can sense that
20 there's not one coming up any time soon - and this is for
21 the lawyers and the folks at the tables as well - just raise
22 your hand. We will take a quick break right then. I
23 certainly don't want anybody to be more uncomfortable than
24 your already are having to be here not necessarily by
25 choice.

1 But also if you are uncomfortable it will keep you from
2 being able to give your full attention to what is going on
3 in the courtroom. So we will certainly take a break if you
4 raise a hand.

5 I probably won't be the one that sees it because I'm
6 focusing elsewhere. But my law clerk and our staff from the
7 Clerk's Office are very good at catching that and they will
8 bring it to my attention.

9 We usually break for lunch around 12:30. Sometimes we
10 will tinker with that a little bit if we can find a better,
11 more logical place to stop.

12 Generally go to about 5:30 in the afternoon. If
13 anybody has a child care issue that that is going to cause a
14 problem with, for example, you've got to be on the other
15 side of Park West by six o'clock and they're going to charge
16 you five dollars a minute if you're not there, please let me
17 know that. We do try to accommodate it. We can't always.
18 But we will give you a chance to make arrangements if we
19 can't.

20 Okay, are there any objections to these opening remarks
21 as I have given them?

22 MS. SHEALY: None, from the State.

23 MS. RUNEY: No, Your Honor.

24 THE COURT: Okay. Then I will call on Ms. Shealy to
25 give the opening statement on behalf of the State.

OPENING BY MS. SHEALY

1 MS. SHEALY: May it please the Court.

2 THE COURT: Yes, ma'am, thank you.

3 MS. SHEALY: Ms. Runey.

4 **OPENING BY MS. SHEALY:**

5 Good morning. On January 24th, 2012, James Rose and a
6 tall, masked gunman and a short, stocky gunmen killed Leland
7 Shannon. They rode together to Shannon's home. Leland
8 Shannon was shot four times with two different types of
9 ammunition.

10 Let me tell you a little bit about Leland Shannon.
11 First of all, his friends called him Julio. So you will
12 probably hear us refer to him as Julio. He lived in
13 Lincolnville.

14 He had a girlfriend named Tawana Alston. Everybody
15 called her Nikki. He had a daughter named Joy who had just
16 moved back in with him when this happened.

17 Julio did some carpentry work. He was a window tinter.
18 He cooked for his friends. And he sold drugs.

19 James Rose was known as Black, Onyx, "O". Different
20 people would call him different nicknames. And he bought
21 drugs from Julio. And as it was getting closer to January
22 24th Onyx, he was getting mad. He was getting madder. He
23 was getting very mad.

24 Onyx didn't like the way Julio was charging. Onyx
25 wanted his respect. He told a friend that night, I am going

OPENING BY MS. SHEALY

1 to go get my respect back.

2 So what does Onyx do? He arms himself with at least
3 two men with masks and at least two different types of
4 weapons. He orchestrated the killing. Onyx, he wanted
5 what Julio had. He arrived with these goons, his men, in a
6 four-door, gray sedan. And Onyx left with them fleeing the
7 scene.

8 Ladies and gentlemen, the State has the burden of
9 proving to each of you that James Rose is guilty of murder.
10 And he is. The other guys, the ones with masks, they have
11 never been caught.

12 You are here to decide the case against James Rose.
13 Judge McDonald as she indicated, at the close of all the
14 evidence and after we've had an opportunity to give our
15 closing argument to you she will instruct you what the law
16 is in this case.

17 And James Rose is guilty under the hand of the one is
18 the hand of all. That is what we call the law. And she
19 will give you the full instruction as to what that law
20 means.

21 But I will tell you that the hand of one stands for
22 this: If a crime is committed by two or more people who are
23 acting together in committing a crime, the act of the one is
24 the act of all.

25 A person who joins with another to accomplish an

OPENING BY MS. SHEALY

1 illegal purpose is criminally responsible for everything
2 done by the other person which occurs as a result.

3 When you get your men together, y'all get the weapons
4 together, and y'all get the masks together and you go in
5 there and shoot a man in his home with a 16-year-old in
6 the house and a daughter in the house, you are guilty of
7 murder.

8 If two or more people are together acting together
9 assisting each other in committing a crime, the act of one
10 is the act of all.

11 A principal in the crime which Mr. Rose was, is one who
12 act -- is one who either actually commits the crime is the
13 shooter or who is present aiding and abetting or assisting
14 in the committing of the crime.

15 When a person does an act in the presence of and with
16 the assistance of another the act is done by both. It
17 doesn't matter who actually commits the crime. You are all
18 guilty.

19 You don't get to get two men and put them in masks and
20 have weapons and give a signal and they kill someone and get
21 away with it. You are as guilty as they are.

22 Ladies and gentlemen, this case isn't a scientific
23 case. You know how all the television shows now are all
24 about science and all of this miraculous stuff that they do.
25 This case is about witnesses, people who knew and talked to

OPENING BY MS. SHEALY

1 Onyx ahead of time, the people who were at Julio's that
2 night, the people who talked to Onyx afterwards.

3 There is no question he set this thing in motion, that
4 he and his men rode their together with guns and masks.
5 That evening he entered the house you will hear the
6 witnesses tell you James Rose enters the house and he leaves
7 the house. But upon his leaving, masked gunmen come in. No
8 regard for who is in the home.

9 The State does not have to prove to you - and I want to
10 set this out early on - we don't have to prove that we know
11 which one did what while they were in the house.

12 We know they entered. We know they killed Leland
13 Shannon, left him to die. He dies later at the hospital.
14 Shoot him four different times, two different types of
15 ammunition.

16 You don't have to prove to you who pulled the trigger.
17 We have to prove to you that they acted together. They
18 acted together to take this man's life.

19 You will hear from several of the witnesses that after
20 the events occur you will find out where everybody goes.
21 And the ones who knew Julio go to the hospital to see how he
22 is doing.

23 And Detective Perkins, seated right behind their table,
24 in the Charleston County Sheriff's Department they -- they
25 go to the hospital and when Leland Shannon is still in

OPENING BY MS. SHEALY

1 surgery start talking to the people who were there that
2 night. You will hear directly from them. Can you imagine
3 their emotional state that evening.

4 James Rose, he had the motive. James Rose he had the
5 gall. James Rose, he had the buddies. And he caused the
6 death of Leland Shannon. They shot him. And they shot him.
7 And they shot him. And they shot him. And then what did
8 they do? They were hoping to take his stash.

9 Thank you.

10 THE COURT: Thank you.

11 Yes, ma'am.

12 OPENING BY MS. RUNEY:

13 Ms. Shealy just told you this is a story of guns and
14 drugs, wheeling and dealing, late night deals, people coming
15 and going, a dangerous lifestyle.

16 And James Rose and Leland Shannon were both involved in
17 that lifestyle. They ran in the same circles. They were
18 friends. They had some of the same friends. And they both
19 dealt in drugs. And yes, that is true because James Rose
20 bought drugs from Leland Shannon. He did the same day this
21 happened.

22 And to be quite honest with you, I can't tell you what
23 these witnesses are going to say, what they are going to say
24 when they come and sit on this witness stand and testify
25 before you.

OPENING BY MS. RONEY

1 I can't tell you that because they have never told the
2 same thing, never told the same story. It may be a
3 different version today, tomorrow, or back then right when
4 this happened two years ago.

5 From the minute the Charleston County Sheriff's Office
6 responded to this shooting the inaccurate stories were
7 flying. And so, yes, there will be the element of surprise
8 for all of us in here.

9 As I mentioned earlier, James had bought drugs that
10 evening earlier in the day. And there had been a discussion
11 about the price. The price had gone up. And two witnesses
12 that you will hear from, Tawana Alston and Antoine Aiken,
13 they knew that. And they were there.

14 So James Rose was the natural assumption for these two,
15 and they rolled with it. And so when they met with the
16 detective that is what they told him. And that is what the
17 detectives did, went forward and after James Rose.

18 Ms. Shealy also mentioned to you that you will not hear
19 a lot about physical evidence. There will be some things
20 that are admitted into evidence, but none of those things
21 link James Rose to this murder.

22 And it is certainly understandable for friends, family,
23 and even law enforcement to want to find the person who did
24 this, the desire for someone to be held responsible.

25 Someone has lost their life. And regardless of

OPENING BY MS. SHEALY

1 someone's lifestyle, no one deserves to be shot down like
2 this. No one deserved what happened to Leland Shannon. But
3 not at the hands of an innocent man who is not a killer.
4 James Rose bought drugs, but he is not a killer. And he did
5 not kill his friend.

6 His future stands on all the lies that have told in
7 this case. What a scary thing. And you will hear those.
8 And sadly these are the same stories that you will be left
9 to make a decision with.

10 And when you hear all of the testimony in this case you
11 will know that you have made the right decision when you
12 find James Rose not guilty.

13 THE COURT: Thank you. Call your first witness,
14 please.

15 MS. SHEALY: Thank you. Ishmal Weston.

16 THE COURT: All right, sir, if you will come on up and
17 we will swear you in.

18 (WHEREUPON, the witness was duly sworn.)

19 THE CLERK: Sir, once you are seated state your first
20 and last name and spell your last for the record.

21 MR. WESTON: Ishmal Weston, W-E-S-T-O-N.

22 (ISHMAL WESTON, after having been
23 sworn, testified as follows:)

24 DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON:

25 Q: Ishmal, if you would please tell the jury how old you

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

- 1 are.
- 2 A. I'm 17.
- 3 Q. Okay. And where are you living currently?
- 4 A. In Jacksonville, Florida, with my brother.
- 5 Q. With your brother?
- 6 A. Yes, ma'am.
- 7 Q. Are you in high school now?
- 8 A. Yes, ma'am.
- 9 Q. And will you be returning to Jacksonville after you
- 10 testify?
- 11 A. Yes, ma'am.
- 12 Q. Could you tell the jury please if you would back in
- 13 2012 where did your father live in a relationship to where
- 14 Julio lived?
- 15 A. Right next door.
- 16 Q. Right next door?
- 17 A. Yes, ma'am.
- 18 Q. Okay. And did you live with your father or were you
- 19 only visiting your father back then?
- 20 A. I was just visiting my father.
- 21 Q. Did your mother live in the Charleston area?
- 22 A. No, ma'am, she had stayed in Summerville.
- 23 Q. Summerville, okay. If you would please; did you know
- 24 Leland Shannon, Julio?
- 25 A. Yes, ma'am.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

- 1 Q. And could you describe for the jury if you would
2 whether you would ever go over to Julio's house.
- 3 A. Can you say that again?
- 4 Q. Would you ever go over to Julio's house?
- 5 A. Yes, ma'am.
- 6 Q. Okay. Tell the jury what you would do when you would
7 go over there?
- 8 A. Play the game and talk to him and stuff.
- 9 Q. Play what?
- 10 A. I would just play the game.
- 11 Q. And when you say games what are you talking about?
- 12 A. Like the Xbox.
- 13 Q. Okay.
- 14 A. Like Call of Duty and stuff.
- 15 Q. What?
- 16 A. Like Call of Duty.
- 17 Q. Okay, do you know what I need you to do if you would,
18 please, can you talk just a little bit louder for us.
- 19 A. Oh, okay.
- 20 THE COURT: Thank you.
- 21 Q. It's kind of hard, but if you need to get closer to the
22 microphone, that's great. Would Julio ever cook for you?
- 23 A. Sometimes.
- 24 Q. Okay.
- 25 A. For like everybody.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

- 1 Q. He would cook for everybody?
- 2 A. Yes, ma'am.
- 3 Q. When you would go over to Julio's would he ever tell
- 4 you you needed to leave?
- 5 A. Sometimes.
- 6 Q. Okay. And would you leave?
- 7 A. Yes, ma'am.
- 8 Q. Who was Ross?
- 9 A. He was just like a friend I had know from my daddy.
- 10 Q. Okay. And is Ross a big guy?
- 11 A. Yes, ma'am.
- 12 Q. Do you remember what Julio's girlfriend's name was?
- 13 A. We just call her Nikki.
- 14 Q. Nikki. And did you know Joy?
- 15 A. No, ma'am.
- 16 Q. Did you ever meet Julio's daughter?
- 17 A. I had met her like the first night on the accident or
- 18 what happened.
- 19 Q. Okay.
- 20 A. That's the first time I met her.
- 21 Q. That is the first time you had ever met her?
- 22 A. Yes, ma'am.
- 23 Q. Tell us if you would whether or not you knew James
- 24 Rose.
- 25 A. Yes, ma'am, I knew him.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 Q. Okay. And how long had you know him?

2 A. My daddy had knew him for a while, so I see him come
3 around the house like sometimes.

4 Q. Okay. And what did you call him, what ---

5 A. Onyx.

6 Q. --- nickname?

7 A. Onyx.

8 Q. Now before January 24th, 2012, had you ever seen Onyx
9 over at Julio's house?

10 A. Before?

11 Q. Uh-huh. Had you ever see him there before that date?

12 A. No, ma'am, not really. I don't be over there all the
13 time.

14 Q. Okay. Well, let's talk about the 24th then. And
15 actually let's talk about the 23rd, the night it turns into
16 the 24th.

17 A. Yes, ma'am.

18 Q. Had you seen -- had you been over to Julio's that day
19 when it was daylight?

20 A. When it was daylight, for a little bit.

21 Q. Okay. And were there people coming and going that day?

22 A. No, ma'am, not really.

23 Q. Okay. Did you go over there and leave and then come
24 back?

25 A. Yes, ma'am.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 Q. Tell us about that.

2 A. I just like go over there to see what he was doing.

3 And if he ain't doing nothing really, I just go back to my
4 dad's house and wait until later on.

5 Q. And then you do what?

6 A. Go over there and play the game and stuff.

7 Q. Okay. Did you see Onyx over at Julio's that night?

8 A. Yes, ma'am.

9 Q. And could you tell the jury whether he was with anyone
10 or ---

11 A. He was ---

12 Q. --- you saw anyone?

13 A. He was with some white boy.

14 Q. A white boy?

15 A. Yes, ma'am.

16 Q. And was the white boy outside of the car or in the car?

17 A. He was inside the car.

18 Q. Were you in that house when -- when Onyx came in that
19 time?

20 A. Yes, Your Honor.

21 Q. And can you tell the jury what happened when he was in
22 there that time?

23 A. First they was talking. And then I guess they would
24 start arguing. I guess Onyx ain't had enough money to buy
25 something or whatever. So then Julio told him no or

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

- 1 whatever. So he had left.
- 2 Q. Okay. Describe if you would when -- when Onyx left on
- 3 that occasion how did he appear?
- 4 A. He was like a normal.
- 5 Q. Okay. Was he happy; was he angry; was he sad?
- 6 A. I really don't know.
- 7 Q. Okay. Did you see Onyx again that night?
- 8 A. Yes, ma'am.
- 9 Q. And tell us about when you saw him again.
- 10 A. I guess he came back with some different people in a
- 11 different car.
- 12 Q. Okay. Well, let's do this: Tell me who was inside
- 13 Julio's house when Onyx came back -- was that the last time
- 14 he came back?
- 15 A. Yes, ma'am.
- 16 Q. When Onyx came back over for the last time who was
- 17 inside Julio's home?
- 18 A. It was me, was Julio, his daughter Nikki, and Ross.
- 19 Q. Okay. And let me show you what's been marked as
- 20 State's Exhibit 1. Do you see it on the screen?
- 21 A. Yes, ma'am.
- 22 Q. Hold on just a second. Can you orient us; can you
- 23 figure out what is what in this picture?
- 24 A. Yes, ma'am.
- 25 Q. Now talk loud enough for everybody to hear, okay?

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

- 1 A. Yes, ma'am.
- 2 Q. This area right here, those steps lead where?
- 3 A. On the porch.
- 4 Q. Okay. This is the porch?
- 5 A. Yes, ma'am.
- 6 Q. And what is this?
- 7 A. That's the door.
- 8 Q. Okay, I'm not doing a very good job with this. Let me
- 9 let you make the markings, okay?
- 10 A. Yes, ma'am.
- 11 Q. If you would -- okay, that's the door?
- 12 A. Yes, ma'am.
- 13 Q. What does that door lead to; what is that area of the
- 14 house?
- 15 A. It like leads to where the washing machine and stuff
- 16 at.
- 17 Q. Okay. The laundry area?
- 18 A. Yes, ma'am.
- 19 Q. Well, let's back and do State's Exhibit 2. What does
- 20 that picture show us?
- 21 A. The house.
- 22 Q. And if you could, using this pointer -- or maybe you
- 23 could do it with the red. Point to the back porch.
- 24 A. (Witness complied.)
- 25 Q. And point to the front porch.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 A. (Witness complied.)

2 Q. Okay. I'm showing you State's Exhibit 4. If you walk
3 in that door from the porch is that the area of the laundry
4 room?

5 A. Yes, ma'am.

6 Q. Okay. And when you turn where do you turn to go into
7 the kitchen area; can you show us that on that photograph?

8 A. You turn right.

9 Q. Okay. Once you've done that, showing you State's 16 is
10 that the kitchen area?

11 A. Yes, ma'am.

12 Q. So when Onyx came back for the last time that night
13 you indicated that Ross, Nikki, and Julio's daughter was
14 there?

15 A. Yes, ma'am.

16 Q. And was Julio there?

17 A. Yes, ma'am.

18 Q. Describe what happened once Onyx got to the house.

19 A. When Onyx came back I guess everything was fine or
20 whatever. So he came back to get what he wanted. And then
21 I think Nikki she went outside to go smoke a cigarette. So
22 then Ross had went outside too. And then I guess the dudes
23 in the car had told Ross to tell Onyx to hurry the "F" up.
24 So Ross came back in the house to tell Onyx. Then Onyx told
25 Julio that he needed to hurry up.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 Q. Okay.

2 A. Then after that happened then I guess Onyx had got what
3 he wanted and then as soon as he went outside and the door
4 closed we heard Nikki scream.

5 Q. Okay. So let's slow down just a little bit for a
6 second if we could. Where were you when all of this was
7 going on?

8 A. I was in the living room.

9 Q. Okay. And showing you State's Exhibit 16 -- okay,
10 that's 16. Show us where the living room is in connection
11 with that room.

12 A. (Witness complied.)

13 Q. Okay. And showing you State's Exhibit 17 what does
14 that show us?

15 A. Like the whole living room.

16 Q. Okay. In looking at State's 14.

17 A. Yes, ma'am.

18 Q. Could you tell us -- point to us where the kitchen is
19 in that photo.

20 A. Right here (pointing).

21 Q. And in this photo where would the back door be that led
22 to that deck, that porch area in the back?

23 A. Over there (pointing).

24 Q. Could you using this photograph show us which way Onyx
25 left when he left?

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 A. He came out from here and went around there (pointing).

2 Q. Now when that happened could you tell us what do --

3 what do you hear after he heads towards that door?

4 A. We heard Nikki had screamed and then Julio got up to go
5 see what was going on.

6 Q. Okay. And show us which way Julio walked.

7 A. The same way Onyx did.

8 Q. Okay. What happened then?

9 A. Well, he got stopped right here (pointing). And then I
10 could hear, like see people like, like coming inside the
11 house.

12 Q. What do you mean you could hear them?

13 A. Like they're bolstering in the house. I can hear
14 stomping and stuff.

15 Q. Okay.

16 A. And then he stopped right here (pointing). And then I
17 saw like a -- like a black shadow like a shotgun type
18 pointing towards me. And then I was shocked.

19 Q. Okay. Let me slow you down there and let's erase what
20 we've got up there. I know you are better at this than I
21 am. Where do you see the black shadow?

22 A. I saw the black shadow like around here. Because it
23 was dark inside.

24 Q. And what are you talking about; what did it look like?

25 A. It just looked like something pointed towards him.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 Q. Towards Julio?

2 A. Yes.

3 Q. Where was Julio when that happened?

4 A. He was like right here (pointing).

5 Q. Okay. Then what happened?

6 A. And then I guess Julio had grabbed the person that was
7 pointing the gun or something towards him. And then they
8 was fuss -- like fighting a little bit. And then that's
9 when Ross had got up and he had run to the side door.

10 Q. Okay. Now when you're talking about the side door
11 which one are you talking about?

12 A. The front porch area where that first porch at.

13 Q. Okay. So let's go back to 17 for a second. And would
14 you hit that clear button for me, Ishmal.

15 A. (Witness complied.)

16 Q. In looking -- if the person who took this picture would
17 have been standing in the kitchen ---

18 A. Yes, ma'am.

19 Q. Okay. Show us where that front door is.

20 A. Right here. It's like you can't really see it. The
21 refrigerator.

22 Q. I'm showing you State's Exhibit 18. Is that the front
23 door?

24 A. Yes, ma'am.

25 Q. And you see Ross head that way?

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 A. Yes, ma'am.

2 Q. What did you do?

3 A. I had to stand there for a little bit to see what was
4 going on. I was shocked. But as soon as Ross got up and
5 started running I was trying to run behind him. But you
6 know he is a big fellow. So I couldn't get around him. So
7 I just had to -- went in the back bathroom.

8 Q. Okay. Let me ask you this first. When you were
9 telling us earlier that Onyx left and then you heard the
10 guys making the noise in the laundry room ---

11 A. Yes, ma'am.

12 Q. --- how long was it between those two things happening?

13 A. Like it happened so fast I don't really know.

14 Q. Okay. So Onyx goes towards the back door and then you
15 hear the other guys come in?

16 A. As soon as Onyx went back toward the back door we heard
17 Nikki scream first.

18 Q. Okay. Before -- before you heard the sounds of the
19 guys come in?

20 A. Yes, ma'am.

21 Q. And you've told us then you couldn't get out that door?

22 A. No, ma'am.

23 Q. Were you going to go out the porch door ---

24 A. Yes, I was going to go out that door.

25 Q. That door?

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 A. Yes, ma'am.

2 Q. Okay. What about the back door near the laundry room,
3 were you going to head that way again?

4 A. No, ma'am.

5 Q. And you did what instead; you headed where?

6 A. I went to the back bathroom.

7 Q. Okay. And when you say the back bedroom in looking at
8 State's 19 can you show the jury please where the bedrooms
9 are located in that house?

10 A. Back there (pointing).

11 Q. Okay. And showing you State's Exhibit 23. Is this the
12 bedroom -- bathroom that you went to?

13 A. Yes, ma'am.

14 Q. Now let me ask you about the two bedrooms, going back
15 to 19 for a second. When you walk down the hall is there a
16 bedroom straight in front of?

17 A. Yes, straight ahead.

18 Q. Okay.

19 A. Straight to the back.

20 Q. Tell the jury whose bedroom that was if you know.

21 A. Nobody really had stayed there until like my Uncle
22 Kirby would come down and he would stay in that room. But
23 nobody really go back there.

24 Q. Was there something different about that door, that
25 bedroom that is right in front of you when you go down the

1 hall?

2 A. Well, the door is always locked. Like every time he
3 leave he lock the door with the key.

4 Q. Who did?

5 A. My uncle.

6 Q. Your Uncle Kirby?

7 A. Yes.

8 Q. Okay. What about when Julio was there was that door
9 kept locked?

10 A. Yes, ma'am.

11 Q. And showing you State's Exhibit 41. Is that a picture
12 of -- let's see. No, I'm sorry. I'm sorry, I've got the
13 wrong number. State's Exhibit 21. Had you ever got back in
14 that bedroom?

15 A. When my Uncle Kirby been here.

16 Q. Okay.

17 A. Been there.

18 Q. So that is that bedroom that is all the way to the
19 back?

20 A. Yes, ma'am.

21 Q. Do you recall whether not that door was closed in the
22 evening in question?

23 A. Yes, ma'am, it was closed.

24 Q. Okay. And it had a lock on the outside of the door?

25 A. Yes, ma'am, I think so.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 Q. So you're heading towards the bathroom, and you've
2 indicated Ross is headed out the front door?

3 A. Yes, ma'am.

4 Q. Y'all had heard Nikki scream?

5 A. Uh-huh.

6 Q. What happens next; ---

7 A. Yeah, I just heard like ---

8 Q. --- did you hear some gunshots?

9 A. Like one gunshot.

10 Q. Okay. Then what happened?

11 A. Then I went in the bathroom and closed the door. I was
12 like behind the bathroom door. So then I hear people --
13 like you can tell people been in the house like searching
14 for stuff because cabinets and stuff been opened, then like
15 closing ---

16 Q. Where did that noise seem to be coming from, what area
17 of the house?

18 A. From like the living room and the kitchen.

19 Q. Okay. And you were hearing what now?

20 A. Like cabinets opening, like stuff being flipped over,
21 like tear up trying to find something.

22 Q. Okay. Then what happened?

23 A. Then I guess they was coming down the hallway and they
24 went inside the room where Nikki -- where Julio daughter
25 been.

1 Q. Okay.

2 A. Because she was studying for college.

3 Q. Julio's daughter was studying?

4 A. Yes, ma'am.

5 Q. And you could hear -- what could you hear from the
6 bathroom?

7 A. I couldn't really hear them talking because it sound
8 like something over their mouth.

9 Q. What do you mean it sounded like something was over the
10 mouth?

11 A. Like muzzle. Like I don't.

12 Q. Okay. The bathroom that you were in, was it actually
13 beside the room that you are talking about?

14 A. Yes, ma'am, it is like right next door.

15 Q. So while this bedroom is straight ahead, as you go down
16 that hall and that bedroom is straight ahead, when you are
17 in the hall to the left what is the first room you pass?

18 A. That is that first room where she was at.

19 Q. A bedroom ---

20 A. Yes, ma'am.

21 Q. --- where Joy was?

22 A. Yes, ma'am.

23 Q. And then the next room down is what?

24 A. The next room on the left-hand side?

25 Q. Yeah.

- 1 A. Then that's the bathroom.
- 2 Q. That's where you were?
- 3 A. Yes, ma'am.
- 4 Q. Was this a mobile home?
- 5 A. Yes, ma'am.
- 6 Q. Was it relatively easy to hear within the house?
- 7 A. Yes, ma'am, because the wall is thin.
- 8 Q. Okay. So you said the voices sounded muffled. Could
- 9 you hear anything that they said?
- 10 A. No, not -- it just sound like they were asking her like
- 11 where the stuff at, like where the money and stuff at.
- 12 Q. Did they ---
- 13 A. She was ---
- 14 Q. --- ask it politely, Ishmal?
- 15 A. No, like they was like -- like angry -- like angry with
- 16 it like mad.
- 17 Q. Well, with the Court's permission could you tell us
- 18 what you heard them say? Go ahead and use a word even if
- 19 it's not a word you usually use in front of people you don't
- 20 know.
- 21 A. Well, I didn't really hear no cursing. It was like
- 22 just give me money or something like that.
- 23 Q. Okay. Did you recognize the voices at all?
- 24 A. No, ma'am.
- 25 Q. Where did they then go after you heard them in Joy's

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 room?

2 A. Then I guess they left out of Joy's room and then they
3 went into the back bathroom like the room, the back room.

4 Q. This room that you're talking about (pointing)?

5 A. Yes, right there.

6 Q. Okay.

7 A. And then it sound like they bust open the door because
8 the door be locked. And then somebody had came to the
9 bathroom door and been like who in here. But I was scared,
10 so I didn't answer them.

11 Q. Okay. What was the next thing that happened?

12 A. Then you heard them like tearing up the back room and
13 stuff. And then I guess they found what they wanted and
14 then they had left. I heard them run out the house. And
15 they got in the car. I heard like doors close. But I don't
16 like know how much doors had closed.

17 Q. You don't know how many doors closed?

18 A. No, ma'am.

19 Q. Okay. Was there any other sound coming from the car
20 after they closed the doors?

21 A. And like when they got on the street like all I heard
22 was like skurr, like a skirt, like they peeled off, they
23 speed off and left.

24 Q. Okay. What did you do then?

25 A. Then I will still in that bathroom. I had wait until I

1 heard his daughter screaming for help and stuff. And then I
2 came out the bathroom.

3 Q. When you came out of the bathroom what area was Julio's
4 daughter in?

5 A. She was like on top of Julio like by the -- the washing
6 machine is.

7 Q. Okay.

8 A. The laundry room.

9 Q. I'm showing you State's Exhibit 4. And can you hit
10 that clear button for me again, Ishmal.

11 A. (Witness complied.)

12 Q. Could you show the jury where Joy was when you saw her.

13 A. She was like over there (pointing).

14 Q. Okay. And did you seek Leland?

15 A. Yes, ma'am.

16 Q. Where was he?

17 A. He was laying down like right here (pointing).

18 Q. What did you do at that point?

19 A. Then I was just -- I stand there, and then I had jumped
20 over Julio. And I went over to get my daddy.

21 Q. And did you in fact to get your daddy?

22 A. Yes, ma'am.

23 Q. And did you go back over to Julio's house that night?

24 A. No, ma'am, because my daddy told me to stay in the
25 house.

DIRECT EXAMINATION BY MS. SHEALY OF ISHMAL WESTON

1 MS. SHEALY: I beg the Court's indulgence just a
2 moment.

3 THE COURT: Certainly.

4 BY MS. SHEALY:

5 Q. Ishmal, I have no more questions for you. But if you
6 would, please answer any the defense may have.

7 A. Okay.

8 THE COURT: Cross-examination.

9 MS. RONEY: Thank you, Your Honor.

10 CROSS-EXAMINATION BY MS. RONEY OF ISHMAL WESTON:

11 Q. Ishmal, I just have a couple of questions for you.

12 A. Yes, ma'am.

13 Q. You were here in Charleston -- or Lincolnville living
14 with your father; is that correct?

15 A. No, I was going to him like on the weekend.

16 Q. So you were still in Jacksonville but coming down to
17 visit?

18 A. No, I had lived down here -- I was -- I was living down
19 here and then I was staying with my momma like temporary.
20 But I go -- I go see my daddy on the weekend and stuff like
21 that.

22 Q. Where does your mother live?

23 A. In Summerville.

24 Q. Okay. And were you in school in Summerville?

25 A. Yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF ISHMAL WESTON

1 Q. And if you stayed over at your fathers your dad would
2 take you to school?

3 A. No, because I only go over there for the weekend and
4 then I go back to my momma's house on Sunday.

5 Q. And this weekend had you stayed over longer?

6 A. No, ma'am.

7 Q. And when you heard all the commotion that night you ran
8 to the bathroom?

9 A. Yes, Your Honor.

10 Q. And you were behind the door?

11 A. Yes, ma'am.

12 Q. So you didn't see anybody with a gun?

13 A. All I saw was like a black image. I didn't really see
14 no person or who did it.

15 Q. And when you came out and you saw that Mr. Shannon was
16 on the ground, you jumped over him and ran to your father's?

17 A. Yes, sir. Yes, ma'am.

18 Q. I'm sure you haven't ever seen anything like that
19 before?

20 A. No, ma'am.

21 Q. And you didn't come back over after ---

22 A. No.

23 Q. --- going over to your father's house?

24 A. No, ma'am.

25 Q. Did your father come back over?

CROSS-EXAMINATION BY MS. RUNEY OF ISHMAL WESTON

1 A. Yes, he came over to see what -- to see what was going
2 on. And then he told her to call the police and stuff like
3 that.

4 Q. And did your father stick around until the police
5 came?

6 A. I don't -- I really don't know.

7 Q. Do you know if your father talked to the police?

8 A. No, ma'am.

9 Q. You don't know if he did or he did not talk to them?

10 A. I don't know. I was in the house. I was in shock.

11 Q. And he never took you to talk to the police or anybody
12 with the Sheriff's Department?

13 A. No, ma'am.

14 Q. Did you ever go back over to that house?

15 A. No, ma'am.

16 Q. And you never talked with any detectives -- you never
17 told anybody in law enforcement that you were in the house
18 when this happened?

19 A. No, ma'am.

20 MS. RUNEY: Beg the Court's indulgence. That's all I
21 have. Thank you.

22 THE COURT: All right. Thank you. Any redirect?

23 MS. SHEALY: No, Your Honor. I would ask that he be
24 excused from his subpoena so he can return to Florida.

25 THE COURT: Okay. Sir, you may step down. And you are

CROSS-EXAMINATION BY MS. RUNEY OF ISHMAL WESTON

1 excused. Thank you.

2 THE WITNESS: All right. Thank you.

3 THE COURT: Yes, sir.

4 MS. SHEALY: We would call Antoine Aiken.

5 THE COURT: All right, sir, come on up and we will
6 swear you in.

7 (WHEREUPON, the witness was duly sworn.)

8 THE CLERK: Sir, you would please state your first and
9 last name and spell your last for the record.

10 MR. AIKEN: Antoine Aiken, A-I-K-E-N.

11 (ANTOINE AIKEN, after having been
12 sworn, testified as follows:)

13 DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN:

14 Q. Antoine, if you would please tell the jury how old you
15 are.

16 A. Thirty-five.

17 Q. And where did you grow up?

18 A. First 15 years in Lincolnville and the other part North
19 Carolina.

20 Q. Is that because a parent moved one place?

21 A. Yeah.

22 Q. Who moved?

23 A. My mother.

24 Q. Okay. And why did she move?

25 A. Closing of the shipyard.

1 Q. I'm sorry?

2 A. The closing of the shipyard.

3 Q. Oh, they were closing the shipyard. Okay. Are you
4 related to or were you related to Leland Shannon, Junior?

5 A. Yes, we was first cousins.

6 Q. Okay. And how was that relationship; his -- which of
7 his parents was related to your parent?

8 A. His mother and my father.

9 Q. His mother and your father, okay. What about his
10 father, do you call him your uncle?

11 A. Yes.

12 Q. And is Leland Shannon, Sr., in the courtroom?

13 A. Yes.

14 Q. He is seated right back there on the front row?

15 A. Yes.

16 Q. Now you told us that you lived in Fayetteville for a
17 while; is that correct?

18 A. Yes.

19 Q. Did you get into some criminal trouble while you were
20 in North Carolina?

21 A. Yes.

22 Q. Do you have a 2002 conviction for possession of drug
23 paraphernalia?

24 A. Yes.

25 Q. And do you have in 2004 possession with intent to

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 distribute cocaine and a distribution of cocaine charge?

2 A. Yes.

3 Q. And then what about in South Carolina in 2012 did you
4 get in trouble for possession of cocaine?

5 A. Yes.

6 Q. Are you in fact on probation for that now?

7 A. Yes.

8 Q. Okay. Tell us a little bit if you would about your
9 relationship. Did you call him Julio?

10 A. Yeah.

11 Q. Can you tell the jury a little bit about y'all's
12 relationship. How often would y'all see each other?

13 A. Practically like every day.

14 Q. Practically every day? Where were you living at the
15 time?

16 A. (Inaudible.)

17 Q. I'm sorry?

18 A. I was staying with my grandmother at the time.

19 Q. Staying with your grandmother. Is that where you live
20 now?

21 A. Yes.

22 Q. Focusing your attention then back to January of 2012
23 was Julio living in a mobile home?

24 A. Yes.

25 Q. And showing you State's Exhibit 2. And it's going to

1 come up on that screen in front of you. Is that a picture
2 of Julio's trailer?

3 A. Yes.

4 Q. Show us if you would what is the front porch.

5 A. (Pointing).

6 Q. Okay. And obviously then the back deck or the back
7 porch is where?

8 A. (Pointing).

9 Q. Where is the road that you drive down to get to the
10 trailer? Can you point in right -- the direction that you
11 would be coming down a road to get there?

12 A. What do you mean, the driveway?

13 Q. Well, if you're standing on the front porch, on the
14 front porch, is there a road ahead of you that you turn off
15 of to get back to the trailer?

16 A. Yes, I come right beside it right here (pointing).

17 Q. And is there something in front of that trailer on the
18 same property; is there another building ---

19 A. Yes, a church.

20 Q. And in looking at that photo -- and I'm going to get
21 you to stand. I think it might be a little easier. Could
22 you stand for a second. I'm showing you this pointer. Show
23 us where the church is in relationship to that mobile home.

24 A. Directly in front of the porch probably about 100
25 yards.

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 Q. Okay. Now on the other side of the trailer -- I'm
2 going to show you some pictures just so we can get an idea
3 of how it is it set up out there. Okay. Showing you
4 State's Exhibit 100. Are we looking at the front of the
5 mobile home or the back?

6 A. The front.

7 Q. And what is over in this area (pointing)?

8 A. The woods.

9 Q. Okay. Showing you State's Exhibit 101. Hold on just a
10 second and let me clear that screen. If you could, what
11 does that photograph depict; what side of the trailer is
12 that?

13 A. That is the left side of the trailer.

14 Q. If you're looking at the trailer?

15 A. If you're looking at the trailer, yes.

16 Q. So in other words over here is the front of the
17 trailer?

18 A. Over where?

19 Q. Over this -- oh, I'm sorry. Over this way (pointing)?

20 A. Yes. The front of the trailer was on this side.

21 Q. Okay. And then this is the side with the woods
22 (pointing)?

23 A. Yes.

24 Q. This might help us a little bit. State's 102. Where
25 are the woods in that picture?

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 A. Over there (pointing).

2 Q. Okay. And then this is the beginning of the back
3 porch?

4 A. Yes.

5 Q. Okay. Or back deck. Talking about Julio, did he sell
6 drugs?

7 A. Yes.

8 Q. Did he do any other type of work?

9 A. He did carpentry work.

10 Q. Okay. And tell us whether Julio would sell it from his
11 house?

12 A. Excuse me?

13 Q. Would Julio sell his drugs from his house?

14 A. Yes.

15 Q. Okay. Did Julio also cook for his buddies?

16 A. Yes.

17 Q. And focusing your attention then to -- well, let me ask
18 you something first. Do you know James Rose?

19 A. Yes.

20 Q. And how long have you know him?

21 A. Like I say, I mean probably about half of my life.

22 Q. Half your what?

23 A. Half of my life.

24 Q. Half of your life, is that what ---

25 A. Yes.

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 Q. --- you're saying? Okay. Were y'all young boys
2 together?

3 A. I mean be involved on the basketball court when I was
4 younger. He used to be out there playing ball too.

5 Q. Okay. And what do you call James Rose?

6 A. Onyx.

7 Q. Does he go by any other names that you are aware of?

8 A. Just Onyx and "O". That's it.

9 Q. And "O". What did people call you?

10 A. Ross.

11 Q. What is your full name?

12 A. Antoine Aiken.

13 Q. Okay. Is your middle name Renard?

14 A. Antoine Renard Aiken.

15 Q. Now do you know Joy Mills then, Julio's daughter?

16 A. Yes.

17 Q. And could you tell the jury how long Joy had been
18 living with Julio at the time that this happened; do you
19 remember?

20 A. She got there a few days prior to that. Probably about
21 I want to say about three or four days prior to that, that
22 incident.

23 Q. Who else lived at the home with him?

24 A. Tawana.

25 Q. Okay. And does Tawana go by a nickname?

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 A. Nikki.

2 Q. And she was who to Julio?

3 A. His girlfriend.

4 Q. Did you know the kid, Ishmael Weston?

5 A. Yes.

6 Q. And how did you know him?

7 A. His father lived next door and he would come over every
8 now and then.

9 Q. When Ishmal would come over there, what was he doing
10 while he was there?

11 A. Playing video games. Just sitting around. Just like a
12 little kid being in grown people's business. That's it.

13 Q. Being in grown people's business?

14 A. Yeah.

15 Q. Would you ever have to tell him to leave or Julio tell
16 him to leave?

17 A. Yeah, we had before.

18 Q. Now focusing your attention then to January 23rd, the
19 day that -- the events occurred early morning on the 24th.
20 So the day before. What was going on over at Julio's house
21 that day?

22 A. I mean it was just like a normal day.

23 Q. Okay. Meaning what? I mean ---

24 A. Just cooking. I was over there drinking.

25 Q. Who all was there? Were there different people there

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 at different times?

2 A. They were different people there at different times of
3 the day. I can't remember everybody.

4 Q. Okay. Were you there at all when it was daylight?

5 A. Yeah, I was there.

6 Q. And can you tell the jury whether or not you saw Onyx
7 over there during the day?

8 A. Yeah.

9 Q. Do you remember who he came with?

10 A. Came with -- it was him and Amber, Amber Wiley.

11 Q. And who is Amber Wiley?

12 A. I mean at that time I thought it was his girlfriend.

13 Q. Okay. Did you actually know Amber from Lincolnville?

14 A. I mean out at the club, hanging there. But not know
15 personal or nothing like that.

16 Q. Y'all weren't close?

17 A. No.

18 Q. Now when Onyx arrives there with Amber Wiley do you
19 know how they got there, what mode of transportation?

20 A. I don't remember what vehicle they was driving in. But
21 I mean it was a vehicle. That got -- they got there in a
22 vehicle.

23 Q. And do you know whether or not the person inside the --
24 that drove them there got out of the car?

25 A. I just seen them two.

1 Q. You didn't see what?

2 A. I just seen them two.

3 Q. Them two. Okay. Now during that time how long would
4 you say Onyx stayed on that occasion?

5 A. I don't know. Well, we talked for a while. So
6 estimated time roughly about ten -- ten, fifteen minutes.

7 Q. Okay. And during that time with Julio did you hear
8 anything that Onyx was telling Julio?

9 A. No, we all was just out in the yard. So whatever Julio
10 conversated about then earlier that day, I don't know.

11 Q. Okay. What about later, did you ever leave Julio's
12 during the day?

13 A. Yeah, I left -- after that first time I was over there
14 I left. Me and his brother left. Because we was sitting
15 down drinking. We left. I went to the house. His brother
16 went to the house. And then when we came back it was dark.

17 Q. Okay. When you came back did you come back with any
18 other people to celebrate something?

19 A. Yeah, one of my other cousins.

20 Q. What were y'all celebrating?

21 A. It was his birthday.

22 Q. What did you do when you got to Julio's to celebrate?

23 A. We just took a couple of shots.

24 Q. Okay. Other than that cousin did other people join you
25 when you went back there that day?

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 A. Yeah, there was some other people there.

2 Q. Do you see Onyx again that night?

3 A. Yes.

4 Q. And when you saw Onyx could you tell the jury whether
5 or not the people who came over to have a shot were they
6 still there?

7 A. They were still there. But they -- at that point in
8 time they were leaving out.

9 Q. They were leaving. And when they were leaving who was
10 coming?

11 A. When he -- he was already there. But they were
12 leaving.

13 Q. Okay. When he came back that time could you tell the
14 jury after your -- the other group left, who was inside the
15 house?

16 A. Me, Tawana, Ishmal, Julio, and Joy.

17 Q. And Joy?

18 A. Uh-huh.

19 Q. Now do you recall whether or not when Onyx was there --
20 and this would have been the second time Onyx was there that
21 you saw him that day; is that right?

22 A. Yes.

23 Q. Could you describe for the jury what happened between
24 Onyx and Julio on that occasion?

25 A. Well, evidently got into a little confrontation because

1 what it seemed to me is he wanted more than what he was
2 paying for. My cousin wouldn't front it to him. So he
3 got -- he got mad.

4 Q. Who got mad?

5 A. Onyx.

6 Q. And do you recall whether when he was in there talking
7 to Julio about it were the words heated; did they get into
8 an argument?

9 A. I mean it was at a louder tone than normal.

10 Q. Than normal?

11 A. Yes.

12 Q. Do you recall whether or not someone approached the
13 door to try to hurry Onyx out?

14 A. I mean I can't recall. But it has happened before.

15 Q. Who has -- who has tried to hurry him out before?

16 A. They would come there with -- with Onk.

17 Q. Onk?

18 A. Yeah. I mean it happened. But I can't remember if it
19 happened that night.

20 Q. You're not sure if it was that night, okay. When --
21 how long would you say that -- that Onyx was there on that
22 second time that night when they were having the words about
23 the drugs; do you remember?

24 A. I would probably say about ten minutes.

25 Q. Of the second visit?

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

- 1 A. Probably about ten minutes.
- 2 Q. Do you remember?
- 3 A. I don't really remember how long it was.
- 4 Q. Okay. Well, if you don't remember, just let me know
- 5 you don't remember.
- 6 A. I don't remember.
- 7 Q. Okay. And what happened when he left; was there
- 8 anything eventful when he left that time?
- 9 A. I mean he just said -- I didn't even take him like -- I
- 10 didn't even take it like he was joking about it. But he was
- 11 just saying that he would be back.
- 12 Q. Okay.
- 13 A. Simple as that.
- 14 Q. And in fact did he come back?
- 15 A. Yeah, he came back.
- 16 Q. How much longer after he left that second time did he
- 17 come back for the third time?
- 18 A. About 45 minutes to an hour.
- 19 Q. And what happened when he came back; how did he get in
- 20 the house?
- 21 A. Well, he knocked on the door. Ishmal was right there
- 22 by the window. He seen him. And he was like that's Onyx.
- 23 I'm going to go open the door for him. As I went to open
- 24 the door ---
- 25 Q. You mean you went to open the door?

DIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 A. I went to open the door for him.

2 Q. Okay. Now slow down and tell the jury what you saw
3 when you opened the door.

4 A. Well, when I opened the door the first thing he said to
5 me was I told Julio I was going to be back. But said it in
6 like a joking manner.

7 As I opened the door I seen the car, the four-door,
8 midsized sedan sitting right there by the deck pointed in
9 the direction of going out the yard.

10 Q. Okay. Let me slow you down there for just a second. I
11 am showing you State's 3. Can you show us where the car was
12 that you saw?

13 A. Well, it was -- it was over here, but it was like a
14 little further back.

15 Q. Little further back the other way. Okay, let me show
16 you State's 102.

17 A. Yeah, it would have been right here in this area.

18 Q. Okay. And just draw a circle where the front of the
19 vehicle would have been facing.

20 A. (Witness complied.)

21 Q. Okay. And it was pointed out this way (pointing)?

22 A. Well ---

23 Q. This way (pointing)?

24 A. When you are looking at the trailer it would be to your
25 left. It would be facing the trailer.

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- 1 Q. Showing you State's 3 again. Okay. In that
2 photograph -- I understand you say it was a little bit
3 further back, but if you were leaving from the back yard to
4 get back out on the road, okay, which way would you go from
5 that trailer?
- 6 A. Straight -- straight across to the other trailer.
- 7 Q. How about show us with your finger if you could.
- 8 A. Just go straight on through (pointing).
- 9 Q. And then where would you turn to go back out towards
10 the road?
- 11 A. Right or left.
- 12 Q. Right or left?
- 13 A. Uh-huh.
- 14 Q. Okay. And what way was the vehicle pointed when you
15 saw it when you opened the door?
- 16 A. The same way I started the line.
- 17 Q. Facing that way (pointing)?
- 18 A. Facing that way.
- 19 Q. When you opened the door and you saw Onyx you were
20 getting ready to tell us about seeing the car. You said it
21 was a four-door car. Do you remember what color it was?
- 22 A. It was like -- it was either a gray or a white Neon.
- 23 Q. Okay. And at the time did you remember it being gray?
- 24 A. At the time I thought it was gray. But I mean it could
25 have been white.

1 Q. Okay. When you saw the car could you tell the jury
2 whether or not anything inside the car drew your attention?

3 A. Yeah, it was -- it looked like it was two people inside
4 the car. I asked him about it. He told me I didn't know
5 who that was so I didn't need to worry about it. So me and
6 him we went back and forth about that.

7 Q. Okay. So let me slow you down. Just because when you
8 are saying I and he it can get a little bit confused. What
9 did you say to Onyx?

10 A. I asked Onyx who was in the car. And he told me
11 that ---

12 Q. Let me stop you there. Tell me how Onyx said it to
13 you.

14 A. He was like -- he's like you don't need to know who
15 that is in the car. He's like you don't know them.

16 I came back and I told Onyx how are you going to tell
17 me who I know. He's like well you don't know them so you
18 don't need to worry about it.

19 Q. And after he said that to you did he come on in the
20 trailer?

21 A. We was underneath the trailer. We was right there at
22 the doorway. And shut the door and locked.

23 Q. Okay. Where did he go once he got in the trailer?

24 A. The kitchen.

25 Q. Okay. And showing you State's Exhibit 16. Is this the

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1 kitchen you are talking about?

2 A. Yes.

3 Q. Where did -- what did Onyx do once he got in the
4 kitchen?

5 A. He was sitting down -- the chair is further back. The
6 chair was like right in this area. Sat there in the chair.
7 My cousin Julio was sitting right here in this chair. Ismal
8 was sitting over here (pointing). And I was standing up in
9 the living room over here (pointing).

10 Q. What then happened?

11 A. They were talking at a civil manner. It wasn't like
12 how it was when he left.

13 Q. I wasn't the same way it was the last time he left?

14 A. Yeah. And ---

15 Q. And how long did he stay?

16 A. He didn't stay too long. I mean it was probably like
17 about five minutes.

18 Q. Okay. Was there anything different about how long he
19 stayed that time compared to other times when he comes?

20 A. Usually he come -- usually he come through he come
21 through, you chill for a minute, talk, shoot the breeze.
22 But that time right there was like a lot quicker than
23 normal.

24 Q. When he left would you show the jury please how he
25 leaves from the kitchen. Which way does he go?

1 A. He gets up and walks towards this way (pointing) toward
2 the wall.

3 Q. Okay. And on the other side of that wall, showing you
4 State's Exhibit 6, is that the same wall that you were
5 pointing to on the left?

6 A. Yes.

7 Q. Okay. As you turned that corner, showing you State's
8 Exhibit 4, as you make the turn on that corner, where are
9 you heading?

10 A. Out the backdoor.

11 Q. Okay. Do you need a cup of water?

12 Antoine -- let's just take those down for a second.

13 Can I ask you some more questions? When -- Antoine,
14 when Mr. Rose made that corner to go out the laundry room
15 can you tell us please whether or not Julio does anything.

16 A. He got up to go lock the door behind him.

17 Q. Tell the jury whether or not Julio took the same path
18 that Onyx took.

19 A. Yes.

20 Q. Now could you describe for the jury what happens after
21 Julio turned that corner into the laundry room?

22 A. I mean that's when we heard the first gunshot. And
23 then as he hit the corner somebody -- he met somebody, the
24 fellow -- the tall, slim fellow wearing all black.

25 Q. Now let me interrupt you for a second. When -- when

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1 that happened were you able to see that guy?

2 A. For a brief second.

3 Q. Showing you State's 15. Were you able to see the tall
4 guy -- how did you describe him again? I'm sorry.

5 A. He was a tall, slim fellow.

6 Q. And what type of clothing did he have on?

7 A. He had on all black.

8 Q. Could you see his face at all?

9 A. No, he had on a mask.

10 Q. And when you say a mask what type of mask are you
11 talking about?

12 A. Ski mask.

13 Q. Could you see him in this picture that we are showing,
14 that area shown in that photo?

15 A. Yeah.

16 Q. Okay. Can you point that out to the jury, please.

17 A. (Witness complied.)

18 Q. What happened then, Antoine?

19 A. I mean I was standing over here and ---

20 Q. You were standing where? I'm sorry.

21 A. Over here by this table in the living room.

22 Q. Okay.

23 A. And at that same time everything happened at the same
24 time, the gunshot and my cousin meeting with the dude at
25 that corner.

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1 I turned around to go -- because there was a gun right
2 here (pointing). We had kept a rifle right there. I went
3 to go get that, but it wasn't ---

4 Q. Well, let me slow you ---

5 A. --- there.

6 Q. Let me slow you down for that just a second. I'm
7 showing you State's 16. Was the rifle in that room?

8 A. Yeah, it was supposed to have been right here in this
9 corner. But it wasn't there.

10 Q. So what did you do?

11 A. I just tried to go grab something. The only thing ---

12 Q. What did you grab?

13 A. The only thing I could grab was like a pot. That's the
14 only thing I seen close to me to grab.

15 Q. And what did you do with the pot?

16 A. I went around the corner. I heard another shot. And
17 by the time I got there one more shot went off, so I -- my
18 cousin was falling on the floor. I just threw the pot and I
19 ran out the front door.

20 Q. Okay. And when you say you ran out of the front door,
21 showing you State's 17 again, where is the front door in
22 that photograph; where would it -- you can't see it. But
23 where is it?

24 A. (Witness pointing).

25 Q. Okay. And showing you State's 18. Is that a picture

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1 of the front door?

2 A. Yes.

3 Q. Now if you would, please, tell us again as Onyx -- are
4 you okay?

5 As Onyx got up to leave and Julio was following him how
6 long after that did the tall -- did you hear a shot and did
7 you hear the tussling around in the laundry room?

8 A. Say that again.

9 Q. You told us that Onyx turned that corner to go out the
10 laundry room and that Julio got up behind him. How long
11 after Onyx got up to go out to that back door did all the
12 activity take place in the laundry room with the tall, thin
13 guy with the mask?

14 A. I mean it was like probably about ten seconds.

15 Q. Okay. And when you went outside the front door where
16 did you go?

17 A. I ran to -- to the side of the trailer into the woods.

18 Q. Did you have to go through the front porch to get out?

19 A. Yes.

20 Q. Okay. Draw the path that you took.

21 A. (Witness complied.)

22 Q. And at the end of that red line is where the woods are?

23 A. Yes.

24 Q. Could you hear anything when you were in that area?

25 A. I just -- when I got over there I just heard a voice;

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1 somebody saying go to the back room, everything in the back
2 room.

3 Q. Well, when you said that you heard somebody say it, did
4 you know the voice; did you recognize the voice?

5 A. It sounded like Onyx.

6 Q. Okay. And what did he say?

7 A. Go to the back room, everything in the back room.

8 Q. Showing you State's 101, that being that side of it and
9 the woods here?

10 A. Yes.

11 Q. Do you recall where you were when you heard Onyx say
12 that?

13 A. I was still on the front side of the trailer but in the
14 woods.

15 Q. I'm showing you State's 100. You were still over there
16 but in the woods?

17 A. Yeah.

18 Q. After Onyx said that, did you hear anything else?

19 A. I could hear the running through the trailer coming to
20 the back room toward the side of the woods where I was at.

21 Q. Now you've told us where Ishmal was. Where was Nikki
22 before Rose walked out; do you remember?

23 A. She was -- at the same time when she was going outside
24 to smoke a cigarette when I let him in.

25 Q. When you let him in, she was going out?

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1 A. Uh-huh.

2 Q. And when you saw the tall guy with a mask where was
3 Nikki at that point, or do you know?

4 A. I mean she couldn't get back in at that point because I
5 locked the door. So she was outside.

6 Q. She was still outside. Where was Joy?

7 A. In the bedroom.

8 Q. Now when you saw that one guy in the house did you ever
9 see a second person in the house?

10 A. No.

11 Q. At any point do you hear anyone scream from inside the
12 house?

13 A. Well, after I hear all of the running going to the back
14 of the trailer then I heard shortly after that I heard
15 screams.

16 It was Joy screaming in the bedroom. And at that time
17 I didn't hear nothing else. But then I heard: I'll make my
18 way to the other side of the trailer.

19 And I heard another gunshot.

20 Q. After hearing that gunshot did you hear any other voice
21 that you recognized while you were out there in the woods?

22 A. Yeah.

23 Q. What happened?

24 A. I heard Onyx say ya'll hurry up, come on, you're taking
25 too long.

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1 Q. When you make your way to the back area -- and let me
2 just make sure I understand what you're saying. I'm showing
3 you State's 102. You have told us the car was like right
4 here (pointing), right?

5 A. Yeah.

6 Q. And you had gone around this side of the trailer
7 (pointing)?

8 A. Correct.

9 Q. Okay. Were you able to see what was going on in this
10 area at any point?

11 A. As I was getting around there I seen a fellow, the
12 taller fellow, coming out.

13 Q. You saw him coming out of where?

14 A. Out the back door.

15 Q. Now tell the jury when you were -- when you ran out of
16 the front door and around the trailer how were you feeling
17 when you were in those woods?

18 A. I had a lot of mixed emotions; angry, scared. I mean
19 how would you feel if you were in that situation?

20 Q. Okay. And when you say that you saw the tall guy comes
21 out of the house, which door did he come out of?

22 A. This door right here (pointing).

23 Q. And what did you see him do?

24 A. He got in the car.

25 Q. Did you see James Rose when you saw the tall guy come

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- 1 and get in the car?
- 2 A. He got in the driver's side.
- 3 Q. You saw James Rose get in the driver's side?
- 4 A. Yes.
- 5 Q. Did you ever see another person out there?
- 6 A. No.
- 7 Q. What did you do -- what did the car do?
- 8 A. Pull off.
- 9 Q. And which way did it head?
- 10 A. It just went straight on through to the backyard to the
- 11 other trailer backyard and out the side.
- 12 Q. Over to the main road?
- 13 A. Yeah.
- 14 Q. Okay. What did you do once the car had left?
- 15 A. I went back in.
- 16 Q. And when you went back in which door did you go back
- 17 in?
- 18 A. The same door.
- 19 Q. The back door?
- 20 A. Yeah.
- 21 Q. And when you did so --- and I am showing you State's 4.
- 22 State's 4. Is that the door from the porch?
- 23 A. Yes.
- 24 Q. Tell the jury what you saw when you opened that door.
- 25 A. Julio was laying on the ground on his back, a puddle of

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1 blood. And Joy, his daughter, was on top of him crying and
2 screaming.

3 She was on the phone with the 911 operator. And they
4 couldn't understand what she was saying because she was so
5 hysterical.

6 Q. So what did you do?

7 A. I took the phone from her and I proceeded telling them
8 what happened.

9 Q. Now when you told them what happened -- first tell them
10 what name you gave them --

11 A. Ray.

12 Q. --- for yourself.

13 A. Ray.

14 Q. Okay. And why did you give them the name Ray?

15 A. I mean I just did, because I mean all that in my head
16 was going on in my head at that time.

17 Q. Okay. Had -- you hadn't had a chance to calm down yet?

18 A. Huh-uh.

19 Q. And you said that you gave the operator, the 911
20 operator, information about what had happened?

21 A. Yes.

22 Q. Have you had the opportunity -- have you had the
23 opportunity to actually listen to the 911 call from my
24 office?

25 A. Yes.

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1 Q. And did you initial the disc after you had listened to
2 it?

3 A. Yes.

4 MS. SHEALY: Your Honor, at this time we would like to
5 publish State's Exhibit 96.

6 THE COURT: Any objections? This is one of the ones
7 y'all agreed to?

8 MS. SHEALY: Yes, Your Honor.

9 THE COURT: You may.
10 (WHEREUPON, audio played.)

11 BY MS. SHEALY:

12 Q. A couple of questions about the 911 tape, Antoine. At
13 some point it sounds as if you are calling out to somebody
14 that is outside. Do you remember who that was?

15 A. Issie, the fellow next door, Izzie. He was out -
16 outside.

17 Q. Who is Izard?

18 A. Ishmal's father.

19 Q. Ishmal's father. Okay. And you told the 911 operator
20 that you thought Joy saw what happened?

21 A. Yeah.

22 Q. Did you think at that time Joy had seen what happened?

23 A. I thought to myself, because she was inside the
24 trailer.

25 Q. Okay. And -- okay. After EMS came did they take

1 Leland off pretty quickly?

2 A. Yes.

3 Q. What did you do after that?

4 A. I got a ride right behind him up to the hospital.

5 Q. You got a ride, what? I'm sorry?

6 A. I got a ride up to the hospital.

7 Q. Okay. And when you arrived at the hospital who else
8 was there?

9 A. I mean it was a bunch of us got there at the same time.

10 Q. Oh, let me go back over something real quick. I'm
11 sorry. Tawana, when you left out the front door to go
12 towards the woods did you see Tawana at any point?

13 A. Not until she -- shortly after I got into the woods she
14 came running from the back of the trailer around to the
15 front up the driveway.

16 Q. Okay. And showing you State's 3. Which way around the
17 trailer did she come?

18 A. That way (pointing).

19 Q. Okay. So showing you State's 102 does that show you
20 which way she came around the trailer?

21 A. Yes, she ran around that way (pointing).

22 Q. And did you see where she went after that?

23 A. Yes.

24 Q. Where did she go?

25 A. She ran all the way around the front of the trailer up

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1 the front driveway beside the church. And that's the
2 direction she run.

3 Q. That's the last time you saw her?

4 A. Uh-huh, up until she got back to the hospital.

5 Q. Okay. So when you got to the hospital was Tawana there
6 or did she come there?

7 A. I can't remember if she was there or she got there
8 shortly after I did. But she was there.

9 Q. Did the police come to the hospital?

10 A. Yes.

11 Q. And did you speak to the police while they were there?

12 A. I spoke with them when they took -- they took me
13 somewhere else to speak to me.

14 Q. In the hospital?

15 A. No, outside the hospital.

16 Q. Okay, where -- do you remember where you went?

17 A. I guess it was over there at the jail.

18 Q. The Sheriff's Department?

19 A. Sheriff's Department.

20 Q. Tell the jury if you would, when you got to the
21 Sheriff's Department were you interested in the police
22 finding who did this?

23 A. No, not at that time.

24 Q. I need you to explain to the jury what you were
25 thinking.

1 A. Really just I wanted to get back at 'em.

2 Q. You wanted to get back a whom?

3 A. Onyx.

4 Q. And so did you in fact give a statement to the police?

5 A. Yeah, I did.

6 Q. And did you actually give two statements that night --
7 that day?

8 A. Yes.

9 Q. Now when you gave your first statement to the police
10 did they have you write it?

11 A. Yes.

12 Q. And tell the jury if you would, did you tell the police
13 during that first statement that it was Onyx?

14 A. No, I didn't.

15 Q. Did you ever call the name of James Rose?

16 A. No, I didn't.

17 Q. "O"?

18 A. I said ---

19 Q. Or "O"?

20 A. I think I said "O". But I didn't say Onyx or James
21 Rose.

22 Q. You did not say Onyx or James Rose?

23 A. No.

24 Q. And what was on your mind about what you were going to
25 do?

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1 A. I mean like I said, I just I wanted to retaliate.

2 Q. Okay. Did the police talk to you again?

3 A. Yes.

4 Q. Well, before that, let me ask you: When you were
5 either at the hospital or at the Sheriff's Department did
6 they take samples from your hand?

7 A. Yes.

8 Q. And would that have been from the front and the back of
9 your hand?

10 A. Yes.

11 Q. Do you remember whether that took place at the hospital
12 or if it took place at the Sheriff's Department?

13 A. It took place at the Sheriff's Department.

14 Q. Okay. When you gave the second statement to the police
15 that evening had you gone somewhere between giving your
16 first statement and giving your second?

17 A. Have I did what?

18 Q. Did you go somewhere or were you at the Sheriff's
19 Department the whole time?

20 A. No, I left -- we left the hospital after they -- they
21 couldn't do no more for my cousin, so I went back to my
22 uncle and my aunt's house.

23 Q. Well, let me stop you for a second. When you went to
24 the Sheriff's Department the first time and gave the
25 statement, when you left there where did you go?

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1 A. Back to the hospital.

2 Q. And when you were at the hospital what did you learn
3 about Leland, Julio?

4 A. Pertaining to?

5 Q. Whether he was going to make it.

6 A. Well, the way -- the way they was talking it was like
7 they had to pump so much blood into him and as fast as they
8 was pumping the blood into him it was coming out because he
9 had such a big hole in the back of his leg.

10 Q. Okay.

11 A. And they were telling us that he probably wouldn't make
12 it.

13 Q. Probably what?

14 A. He probably wouldn't make it.

15 Q. Probably wouldn't make it. When you left the hospital
16 had he died at that point?

17 A. Before we left, yeah, he did.

18 Q. Before you left the second time?

19 A. Yes, before we left the hospital he had passed away.

20 Q. Did you talk to the police again that day?

21 A. Yeah, after we left the hospital I rode with my aunt
22 and my uncle, Julio's father and his brother. And I went
23 back to their house. And was over there for a while.

24 And I just the whole ordeal I was wanting to go home
25 and wash up and rest for a little bit. And as I was going

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1 to the house the detective had pulled over Julio's wife, and
2 she seen me walking and she pointed me out and they came
3 over to talk to me and told me that they needed me to come
4 back downtown to talk -- to talk more with them again
5 because they felt like I was withholding something.

6 Q. Were you withholding something?

7 A. Yes.

8 Q. When you went back down there for the second time then
9 did you tell them who was involved?

10 A. Yes.

11 Q. On the first time you gave your statement did they ask
12 you to look at a lineup?

13 A. Yeah, they presented one to me.

14 Q. Excuse me?

15 A. They presented one to me.

16 Q. And tell the jury if you would, was James Rose's
17 picture in that lineup?

18 A. It was.

19 Q. Did you identify him?

20 A. No, I did not.

21 Q. Do you recall what you said when they asked you why you
22 couldn't identify anyone?

23 A. I just basically ---

24 Q. Would it help you to refresh your memory with the
25 document itself, showing you Court's 3?

1 A. At this time I can't make a positive identification.

2 Q. Tell the jury when you gave that first statement and
3 didn't ID him and when you were shown the photo that
4 included James Rose that first time, could you have made an
5 identification?

6 A. Yes.

7 Q. You chose not to?

8 A. Yes.

9 Q. And after the second statement did they similarly ask
10 you to look at an array of photographs?

11 A. Yes.

12 Q. And could you tell the jury whether or not the person
13 that you saw earlier that evening come with the guy in the
14 car and leave with the guy in the car was that person in the
15 lineup?

16 A. Yes.

17 Q. And who was that person?

18 A. James Rose.

19 Q. And were you asked by the police officers at that time
20 to indicate who that person was?

21 A. Yes.

22 Q. Do you recall -- I'm showing you Court's Exhibit 5 if
23 you need it to refresh your memory. Do you recall what you
24 told the police on that occasion?

25 A. Yes.

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1 Q. What did you tell them?

2 A. I said the person responsible for my cousin's murder
3 they all left together, he basically was the one who planned
4 the entire thing.

5 Q. Okay. And if we could go back for just a moment. We
6 have heard -- I'm sorry, when you were shown that array did
7 you circle James Rose's picture at that time?

8 A. Yes.

9 Q. When you were telling us about your going to the
10 hospital after EMS had picked up Julio's body could you
11 describe to the jury how Joy was when she was at the
12 hospital; how did she appear?

13 A. The same as she was on the phone call.

14 Q. Okay. And what about Tawana?

15 A. She was similar.

16 Q. What made you decide the second time that you talked to
17 the police officers to name James Rose?

18 A. I just -- I just thought it over. I mean at that time
19 I was angry. I just thought it over. And it would have
20 been, you know what I am saying, that ain't in my character.
21 That ain't the right -- it wasn't the right thing for me to
22 do. I mean two rights don't make a wrong. So I just set it
23 in the hands of the law.

24 Q. The first time when you gave details to the police but
25 didn't name James -- James Rose, did you tell them what

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1 you're telling us today that happened?

2 A. No, I told them the reason why I didn't identify him in
3 the first place was because, like I said, at that point in
4 time I was staying at my grandmother's house and I didn't
5 want anything bad to come -- you know what I'm saying,
6 happen to her.

7 Q. Okay. So that's why you told the police you didn't
8 tell them the first time?

9 A. Yes.

10 Q. When you did give details to them the first time are
11 they the details you shared with us today?

12 A. Yes, same details.

13 Q. What was the one thing you left out?

14 A. His name.

15 MS. SHEALY: I have no further questions. Please
16 answer any that the defense may have.

17 THE COURT: Well, let's hold off. I think it's a good
18 time for us to take a break. That's okay. The jury has
19 been at it for a while and y'all have as well.

20 So I'm going to ask you to go and have your lunch now.
21 If you will be back by 2:15. I have to take the report of
22 the grand jury in other matters for the month of December at
23 lunch and do some work with them. So we will try to get
24 that done as quickly as we can. But if you will be back in
25 your jury room at 2:15 we should be ready to get started

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1 right then.

2 Please don't discuss the case as it has not been given
3 to you for deliberation. And if ya'll would go ahead and
4 select a foreperson for the jury I would very much
5 appreciate it. Have a nice lunch.

6 (WHEREUPON, jury exits courtroom 12:43 p.m.)

7 THE COURT: Okay. Sir, you may step down. You are
8 still under oath. We will do your cross-examination after
9 lunch when everybody gets back so you can get some lunch.
10 You're not allowed to discuss your testimony with anybody
11 because you are still technically on the stand.

12 WITNESS: Fine.

13 THE COURT: Thank you, sir.

14 (WHEREUPON, witness steps down.)

15 THE COURT: All right. Anything we need to take up
16 before lunch?

17 MS. SHEALY: No, ma'am.

18 THE COURT: All right. Well, y'all have a nice lunch.
19 I'll see y'all back at 2:15.

20 (WHEREUPON, recess for lunch at 12:45 p.m.)

21 THE COURT: Let's bring the jury. Thank you, sir.

22 (WHEREUPON, jury enters 3:03 p.m.)

23 THE BAILIFF: All jurors are present, Your Honor.

24 THE COURT: All right. Thank you, sir. And thank you,
25 ladies and gentlemen. I certainly appreciate your patience.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 We got our grand jury matters handled so we are ready for
2 cross-examination. And, sir, you are still under oath.
3 Thank you.

4 CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN:

5 Q. Good afternoon, Mr. Aiken:
6 A. Good afternoon.
7 Q. We spoke earlier today.
8 A. Yes.
9 Q. And you testify today that you do have drug convictions
10 on your record?
11 A. Yes.
12 Q. And you are in fact currently on probation?
13 A. Yes.
14 Q. And anything you do while you're on probation that is
15 illegal can get you put back in jail, correct?
16 A. Yes.
17 Q. Like selling drugs?
18 A. Yes.
19 Q. And you said that you and Julio were together every
20 day?
21 A. Not every day. But the majority of the time.
22 Q. And you would be at this trailer?
23 A. There and other places I like to go.
24 Q. And selling drugs?
25 A. No.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 Q. And just Julio?

2 A. No, I mean I have. But not -- not the way you make it.
3 I'm saying we together we'd go -- we probably at his
4 sister's house for a cookout or he would go to his mom and
5 dad's house to wash clothes.

6 I might stop over there, be over there. Be at the
7 trailer. I was over there at the trailer. Yes, drug
8 activity did take place.

9 Q. That's where most of it would happen?

10 A. Yes.

11 Q. People were coming and going from there?

12 A. Yes.

13 Q. A lot of activity?

14 A. What do you call a lot?

15 Q. You tell me.

16 A. I mean activity. People came, people go.

17 Q. And lots of different people?

18 A. Probably the same -- the same people, but some
19 different.

20 Q. Same people, came continuous?

21 A. Yes.

22 Q. The day before this shooting happened you and some of
23 your friends were celebrating?

24 A. The day before?

25 Q. The day before. This was about midnight, so the day

- 1 before it turned ---
- 2 A. Yes.
- 3 Q. Celebrating a birthday?
- 4 A. Yes.
- 5 Q. And you were cooking, handing out ---
- 6 A. I wasn't cooking. Julio was cooking.
- 7 Q. Julio was cooking?
- 8 A. Some lasagna.
- 9 Q. And drinking?
- 10 A. Yes.
- 11 Q. And different people would come and go that day?
- 12 A. Well, that day when I was there only -- only for the
- 13 short period of time I'd been there that day Onyx and Amber
- 14 Wiley them were the only two people that came by while I was
- 15 there.
- 16 Q. How about your cousin Sammy and ---
- 17 A. But that was later that day. We went over there to
- 18 have some drinks later for the birthday.
- 19 Q. Okay. And that's when y'all have the shots together?
- 20 A. Yeah.
- 21 Q. And this is a normal day?
- 22 A. Well, I mean cooking, hanging out. Yeah, normal.
- 23 Q. I believe this was a Monday.
- 24 A. I mean I can't recall the day but.
- 25 Q. Sure. That's understandable. And you told us today

1 that James came over several times that day?

2 A. Three times to be exact.

3 Q. Three times. And when you gave a statement to the
4 police did you tell them -- tell them about that?

5 A. I just -- on my first statement I just ran through it
6 real quick. And I can't recall on my first statement
7 exactly everything that I said.

8 Q. Came over one time with Amber?

9 A. Yes.

10 Q. And they were just hanging out?

11 A. I mean we was hanging out. I mean him and Onyx and
12 Julio, they was talking. I don't know what they was talking
13 about. I don't know if he got anything from him.

14 But we had a conversation, me and Onyx, about his
15 girl going to school and her getting a refund back for
16 school.

17 Q. And nothing seemed out of the ordinary?

18 A. No, it was just regular.

19 Q. Okay. And then he came over another time without
20 Amber?

21 A. Well, I was in the house; so I don't know if she was
22 with him or not. I don't know who brought them over there.

23 Q. The second time you ---

24 A. The second time.

25 Q. --- answered the door?

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 A. Yes.

2 Q. And you saw a car outside?

3 A. No. The second time he came over, I was in the house.
4 I don't know who came with him that time. The third time
5 when he came back that's when I seen the car.

6 Q. You let him in the third time?

7 A. Yes.

8 Q. The second time you said he mentioned something about
9 Unk?

10 A. I mean the fellow that comes -- that brings him over
11 sometimes, an older fella. Sometimes he comes there or he
12 be waiting -- he be in there a long time and Unk will come
13 knock on the door and tell him to hurry up.

14 Q. Did that happen this day?

15 A. I can't recall.

16 Q. So you are saying you didn't ask James who that was and
17 he said that's Unk?

18 A. I -- I don't remember.

19 Q. But Unk usually tries to hurry him up if he is ---

20 A. Yeah.

21 Q. --- taking too long?

22 A. Yes.

23 Q. So when James came over the second time and you don't
24 know who brought him, how long was he there?

25 A. I mean he was there for a good little while. I would

1 say probably about in between 10, 15 minutes.

2 Q. And is that about as long as he would usually stay, ten
3 or fifteen ---

4 A. I mean that's about the time frame. Because we will
5 sit around and shoot the breeze.

6 Q. Do you know what time it was?

7 A. No, I don't.

8 Q. Was it daytime, nighttime?

9 A. It was nighttime.

10 Q. It was dark?

11 A. Yes.

12 Q. And who was there?

13 A. At which time, the second time?

14 Q. The second time.

15 A. Me, Tawana, Julio, Ishmal, my cousin Sammy, and one of
16 his friends was there. And there was a couple of other
17 people there, but I don't remember who they was that was
18 there.

19 But they left out. Everybody like left out to go to
20 the club just shortly after Onyx got there.

21 Q. All those people were there and then when Onyx got
22 there the second time they left?

23 A. Yes, because they was already on their way. He just
24 happened to -- when he came up they was already -- we
25 already had took a couple of shots, and they were going

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 to -- about to head up to the club.

2 Q. What time do you usually go to the club?

3 A. Who me?

4 Q. Generally. Any of you.

5 A. It all depends. If I'm going to the Sport Bar probably
6 about six, seven o'clock.

7 Q. Do you think it was that early?

8 A. I don't know.

9 Q. Do you know what club they were going to?

10 A. No.

11 Q. So the second time, James comes is when there is some
12 discussion about the price of the drugs?

13 Q. I mean that's -- that's what I overheard.

14 Q. And the price had gone up?

15 A. No, it was just that he wanted more what he -- he
16 wanted to get -- basically he had a certain amount of money
17 he wanted to get in front of the other part.

18 My cousin says no he wouldn't do it. So he made a big
19 deal about it talking about he done spent money with him all
20 day, you know, came all day and got stuff from him. Why you
21 doing me like that. And that was the whole, basically the
22 whole discussion.

23 Q. And lots of times when you're selling drugs you're
24 going to try to negotiate a price, right?

25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

- 1 Q. So that's not anything out of the ordinary?
- 2 A. And I mean no.
- 3 Q. So at that time you probably didn't think too much
- 4 about it?
- 5 A. Think too much about what?
- 6 Q. Them discussing the price of the drugs.
- 7 A. I mean it wasn't even a price that was discussed. It
- 8 was that he didn't have enough money for what he wanted to
- 9 get and he wanted ---
- 10 Q. The price for the amount, correct?
- 11 A. Yes.
- 12 Q. Okay. That's how much money?
- 13 A. But I mean he wanted more than what he had and he
- 14 wanted to front the other part. And he was going to bring
- 15 the money back later.
- 16 Q. And James left. Did you go outside with him when he
- 17 left?
- 18 A. No.
- 19 Q. Did you see him get in the car when you left him?
- 20 A. No.
- 21 Q. And you don't know what time it was?
- 22 A. No.
- 23 Q. Did you leave after the second time that James came?
- 24 A. No, I was there the whole time.
- 25 Q. Do you remember giving a statement to the police?

1 A. Yes.

2 Q. Okay. And do you remember that you gave them a time?

3 A. I don't know. I mean it's certain -- I mean I might
4 have given it to that night. I did. But right now it's
5 hard to recollect what ---

6 Q. How about if I let you review that.

7 A. You can.

8 MS. RUNEY: Judge, may I approach?

9 THE COURT: You may.

10 BY MS. RUNEY:

11 Q. I'm going to give you a second to look at that.

12 (Document presented to witness.)

13 I'm going to let you hold onto that. I have a copy.
14 Can you tell me and the jury if you gave a time about when
15 you got to the trailer and how long it was before the people
16 busted into the trailer came? Can you read that first line
17 of that statement for me?

18 A. I said I came into the trailer about 11 o'clock. Was
19 there for about 30 to 45 minutes when a knock was on the
20 door.

21 Q. So that would make it about 11:30, 11:45; is that
22 right?

23 A. Yes.

24 Q. And at this time you told the police that you let a
25 gentleman in; is that correct?

CROSS-EXAMINATION BY MS. RONEY OF ANTOINE AIKEN

- 1 A. Yes.
- 2 Q. And that gentleman was talking to your cousin, Leland
- 3 Shannon?
- 4 A. Yes.
- 5 Q. And then you let them know about the man with a gun?
- 6 A. Yes.
- 7 Q. And you didn't tell them James Rose's name?
- 8 A. No, not in my first statement.
- 9 Q. And this was the night that the shooting had happened,
- 10 correct?
- 11 A. Correct.
- 12 Q. What kind of gun did you see that night?
- 13 A. I mean I just told him it was a handgun. I couldn't
- 14 tell you what make it was.
- 15 Q. A small gun?
- 16 A. It was -- I just seen a handgun. I just -- it was -- I
- 17 seen it for a split second.
- 18 Q. And the man with the handgun was not James Rose?
- 19 A. I mean I didn't see any of those fellows. Somebody in
- 20 all black. I couldn't tell you who it was.
- 21 Q. You don't know who it is?
- 22 A. No, I do not.
- 23 Q. And when you gave a statement you also were shown an
- 24 array of pictures to identify?
- 25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 Q. And you said that you could not make a positive
2 identification?

3 A. At that time.

4 Q. But you knew there was a picture of James Rose in it?

5 A. Yes, I did.

6 Q. And you didn't want to identify this person because you
7 wanted to retaliate?

8 A. That's the way I was feeling at that point in time.

9 Q. And you testified earlier today that you thought about
10 killing somebody?

11 A. I mean that's just the way I felt at that point in
12 time. That's how bad it was.

13 Q. So you were going to not cooperate with the police, lie
14 to the police, so that you could go after James Rose
15 yourself?

16 A. It didn't happen.

17 Q. Is that what you were thinking?

18 A. That's what I was thinking.

19 Q. And you were also going to try to find out who these
20 other people that were involved were?

21 A. I mean, yeah.

22 Q. The guy who actually had the gun?

23 A. Yeah.

24 Q. And the guy who actually did the shooting?

25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

- 1 Q. And so after you met with the police that night at the
2 Sheriff's Department they asked you is there anything else
3 you want to add. And what did you say?
4 A. That's all I can remember.
- 5 Q. And did you sign the statement?
6 A. Yes.
- 7 Q. Did you read the last line of this statement that reads
8 I have read or have read to me the foregoing statement which
9 has been freely and voluntarily made by me and it is true
10 and correct to the best of my knowledge?
11 A. Yes.
- 12 Q. So you signed this statement for the police the night
13 of the incident saying that you were telling the truth?
14 A. Yes, I was telling the truth.
- 15 Q. And after this first statement you went back to the
16 hospital?
17 A. Yes.
- 18 Q. Tawana Alston was at the hospital?
19 A. Yes.
- 20 Q. And then you returned to Lincolnville later that day?
21 A. Yes.
- 22 Q. And you were walking down the street ---
23 A. Yes.
- 24 Q. --- going home to wash?
25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 Q. And that's when you saw Detective Perkins?

2 A. Yes.

3 Q. And Detective Perkins had stopped Leland's wife; is
4 that correct?

5 A. Yes.

6 Q. What is her name?

7 A. Andrea.

8 Q. And has she been pulled over by him?

9 A. I -- I mean he was behind her. I don't know if she
10 was -- if he had her pulled over. Because he left her and
11 came straight to me, and she pulled off.

12 Q. So you saw her car with the detective's car behind it?

13 A. Yes.

14 Q. And then he began to talk to you?

15 A. Well, he came and pulled into my grandmother's yard and
16 began to talk to me.

17 Q. And asked you to come back to the Sheriff's Department?

18 A. Yes.

19 Q. Because you hadn't been completely truthful in your
20 first statement; is that correct?

21 A. Just because I left the name out. They -- they told me
22 that Tawana and Joy and had basically told them that I knew
23 who the person was. So I mean that's why they came back and
24 got me just so I could make another statement and put -- and
25 implementing -- instead of saying the gentleman, put his

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 name.

2 Q. And once the police talked to Tawana Alston and Mr.
3 Shannon's daughter Joy ---

4 A. Yes.

5 Q. --- they came back to you?

6 A. Yes.

7 Q. And they told you, listen, Tawana has told us James
8 Rose was involved, ---

9 A. No, ---

10 Q. --- now you tell us?

11 Q. No, they didn't say it like that. What they said was
12 I -- they said they know I know more than what I'm saying.
13 They're saying that I know who the fellow was that was there
14 at the house. They said Tawana had done told them that I --
15 that -- he told me all the time, you know, we're good
16 friends. If -- said if you'll -- if you've got something to
17 hide, if you're afraid of something, you don't need to be.

18 Q. I understand. So because Tawana had told the police
19 that it was James Rose then she said you know James -- they
20 know -- you know James Rose too?

21 A. Yes.

22 Q. So you go back to give a second statement?

23 A. Yes.

24 Q. And instead of using his real name you use what name?

25 A. Onyx.

1 Q. So you don't even say James Rose?

2 A. No, not at all.

3 Q. Is that because you still wanted to get him yourself?

4 A. No; I mean that's the name everybody knew him by, Onyx.

5 Q. So the police were just supposed to go by the name
6 Onyx?

7 A. Well, I mean if you've got a -- if you've got a record
8 your street name is going to go with your record. That is
9 an alias.

10 Q. What you're telling me is lots of people have aliases?

11 A. Yes.

12 Q. You have one, right?

13 A. Yes.

14 Q. And what's that?

15 A. Everybody call me Ross?

16 Q. Okay. And that's for Rick Ross?

17 A. Yeah, pretty much.

18 Q. He is a rapper?

19 A. Yeah.

20 Q. And when you gave the second statement is when you
21 identified the picture ---

22 A. Yes.

23 Q. -- of Onyx?

24 A. Yes.

25 Q. In these two statements, two different statements, you

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 didn't tell the police anything about Amber and James coming
2 over there earlier that day; did you?

3 A. No, I just started from where the argument took place,
4 to the second time.

5 Q. Show me in that first statement where you tell about
6 the argument. Are you talking about the confrontation about
7 the drugs?

8 A. I didn't say in the first statement. I think I said it
9 in the second statement. The first statement I just took
10 place of what happened after I let them in the house.

11 Q. I'm going to give you a copy of your second statement,
12 and I will give you a chance to review that.

13 A. All right.

14 MS. RUNEY: May I approach?

15 THE COURT: You may.

16 (WHEREUPON, document presented to the witness.)

17 BY MS. RUNEY:

18 Q. Point out to me in that second statement where you told
19 the police about the confrontation.

20 A. It's not in -- it's not in there.

21 Q. You said it's not in there?

22 A. It's not.

23 Q. And you didn't tell the police who was present when all
24 of this happened?

25 A. I can't recall. Do you mean as in my statement?

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 Q. Yes, in your statement.

2 A. No, I did not.

3 Q. And that is pretty important because there are
4 witnesses, right?

5 A. Right.

6 Q. You didn't tell the police about the party that day,
7 did you?

8 A. No.

9 Q. You didn't tell them that the car could have possibly
10 been white that you saw out there, did you?

11 A. Well, I didn't -- I didn't -- I don't -- I don't
12 remember if I did or not. But I know I didn't write it in
13 the statement.

14 Q. When you are on the phone with 911 there is another man
15 there. Who was that?

16 A. The next-door neighbor.

17 Q. And what's his name?

18 A. Charles.

19 Q. Charles Weston?

20 A. Yes.

21 Q. And he goes by Izzard?

22 A. Yes.

23 Q. Were you talking to anybody named Eric?

24 A. Who?

25 Q. Eric.

CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 A. Eric, no.

2 Q. It may have been Izzard. It's hard to hear. Do you
3 remember who took you to the hospital?

4 A. No, I don't. I just -- I don't remember who took me.

5 Q. But you saw Tawana when you got there?

6 A. When I got there.

7 Q. And the two of you were taken to the Sheriff's Office
8 together?

9 A. Yes.

10 MS. RUNEY: Beg the Court's indulgence.

11 THE COURT: Certainly.

12 MS. RUNEY: That's all I have. Thank you.

13 THE COURT: Okay. Thank you. Any redirect?

14 REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN:

15 Q. Antoine, just a few follow-up questions. When you
16 talked to the police that night were they interested in what
17 happened the day before or early in the evening or just when
18 the ---

19 A. Just -- just right then and there at that point in
20 time.

21 Q. And when you say then and there you are talking about
22 when Leland Shannon got gunned down?

23 A. Yes. They didn't ask for nothing that led up to the
24 situation from earlier. They wanted to know what
25 happened -- why he got shot.

REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 Q. Okay. And Ms. Runey asked you about your statement
2 indicating that it was about 11 o'clock that last time that
3 James Rose came over there?

4 A. Yes.

5 Q. Let me ask you this: We have heard the 991 tape, and
6 that phone call got made after you had already gone around
7 the trailer and back in?

8 A. Yes.

9 Q. Joy was already on the phone?

10 A. Yes.

11 Q. And I believe on the 911 tape you indicated it had been
12 how many minutes since the whole thing had happened; do you
13 remember?

14 A. No, I don't remember.

15 Q. Okay. Long enough for you to have gone around the
16 trailer and the guys to have left?

17 A. Yeah.

18 Q. Now remember after -- as you were on the phone with 911
19 did officers show up?

20 A. The ambulance showed up when I was on the phone with
21 911 when I was trying to give them -- they couldn't find the
22 trailer.

23 Q. Okay.

24 A. I went outside and I looked. They was coming down the
25 driveway.

REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

- 1 Q. Who was?
- 2 A. The ambulance.
- 3 Q. And how long after that did the police arrive?
- 4 A. He was right there. Right there behind them.
- 5 Q. Right behind them?
- 6 A. Uh-huh.
- 7 Q. Okay. So that night when all of this was going on and
- 8 when you ran out were you sitting there looking at a watch
- 9 as to what time it was?
- 10 A. No.
- 11 Q. The police officer may have a better idea as to what
- 12 time that was, right?
- 13 A. Yeah, the 911 call and the police officer.
- 14 Q. Now regarding what you heard from Tawana and Joy, tell
- 15 this jury if you would, did you say in your second statement
- 16 it was Onyx because Tawana said that?
- 17 A. No.
- 18 Q. Did you say in your second statement that it was Onyx
- 19 because Joy had said that?
- 20 A. No.
- 21 Q. Tell the jury why you put in your second statement it
- 22 was Onyx.
- 23 A. Because I mean like I said in the first statement I
- 24 withheld it because I was feeling that type of the way. I
- 25 was angry. And the only thing I could think of was trying

REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

- 1 to get back at him for what he did to my cousin.
- 2 Q. And that's why ---
- 3 A. As time ---
- 4 Q. I'm sorry.
- 5 A. But as time went by I got a -- all those feeling
- 6 stopped -- they start going away and I just went ahead and
- 7 came up and let the police know who -- what his name was ---
- 8 Q. In ---
- 9 A. --- so they could deal with.
- 10 Q. I'm sorry.
- 11 A. So they could deal with it.
- 12 Q. In your second statement?
- 13 A. In my second statement.
- 14 Q. Tell this jury please if you would, did you pull Onyx's
- 15 name out of a hat?
- 16 A. No.
- 17 Q. Why did you say it was Onyx? Was it Onyx?
- 18 A. I mean he wasn't there. He came there. He came there
- 19 with whoever was that came in the house. They left with
- 20 him.
- 21 Q. Now you told us that earlier in the day the only two
- 22 people you remember coming other than Tawana and Joy and
- 23 Ishmael was Amber, Onyx's girlfriend, and Onyx; that was
- 24 early during the daylight hours?
- 25 A. Yes.

REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 Q. And then you have told us that a different cousin of
2 yours and some friends came over to have the shots?

3 A. Yes.

4 Q. Did you see your cousin yelling outside as the people
5 who were running through the house after they shot Leland
6 Shannon? Was your cousin who you celebrated his birthday
7 with, was he back at the scene?

8 A. No.

9 Q. How about those friends that he came over with, were
10 they back in the yard?

11 A. No.

12 Q. Did you see them drive off with the gunman?

13 A. No.

14 Q. Who did you see take that car out of the yard after
15 Julio had been shot?

16 A. James Rose.

17 Q. Who did you hear yelling instructions to the guys
18 inside after Leland had been shot?

19 A. James Rose.

20 Q. Did you and Tawana and Joy ever get together and just
21 say you know what, let's pin this on James Rose?

22 A. No, we really never talked about it. I mean just that
23 it was -- it was something that really was hurting and
24 nobody really wanted to just talk about the situation.

25 Q. You are talking about when y'all were at the hospital

REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 together?

2 A. Yeah.

3 Q. In the 991 tape you give a description of the car; is
4 that correct?

5 A. Correct.

6 Q. And what color did you say it was on the 911 tape?

7 A. Gray.

8 MS. SHEALY: I beg the Court's indulgence just a
9 moment.

10 THE COURT: Sure.

11 BY MS. SHEALY:

12 Q. Okay. I may have made something unclear, Antoine. In
13 the statement that Ms. Runey showed you, do you still have
14 it up there?

15 A. Yes.

16 Q. Okay. I had mentioned had you put in the time of
17 eleven o'clock on that statement. Could you tell the jury
18 again what does that sentence read as to what time the
19 incident itself occurred.

20 A. On the second statement?

21 Q. The one that starts off I came.

22 A. Oh, I came into the trailer about 11 o'clock.

23 Q. And then continue with that sentence.

24 A. Was there for about 30 or 45 minutes when a knock was
25 on the door. My cousin told me to open it, and I did.

REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 because he said he knew who it was.

2 Q. Okay. And on that occasion you're talking about the
3 third time that James Rose came to the trailer while you
4 were there?

5 A. Yes.

6 Q. When you said I came in, how long had you been into the
7 trailer before James Rose came back that third time?

8 A. It would take -- probably was about two hours.

9 Q. And in that time you celebrated your cousin's birthday?

10 A. Yes.

11 Q. James Rose came once and left?

12 A. Yes.

13 Q. Let's talk about that for just a second. Ms. Runey
14 asked you isn't negotiating prices a part of drug dealing.
15 And you would agree that it is?

16 A. I mean it is a part of any business.

17 Q. Part of any business. When James Rose was there on
18 that second occasion and he and Julio were talking do you
19 remember that conversation because it was different than the
20 usual ones they had?

21 A. It was just a little bit more heated. It was heated
22 than any other conversation in -- a lot of times -- I don't
23 know.

24 I mean they had conversations in the past that were
25 like that, but nothing ever transpired from it. But I mean

REDIRECT EXAMINATION BY MS. SHEALY OF ANTOINE AIKEN

1 it just -- that one right there was a little bit more
2 intense than any other one.

3 Q. That was the most intense conversation they had had ---

4 A. That I had seen.

5 Q. --- in your presence? I have no further questions.

6 Thank you.

7 THE COURT: Thank you.

8 RECROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN:

9 Q. Mr. Aiken, you said that your feelings of wanting to
10 kill James Rose went away?

11 A. Yes.

12 Q. And that's why you decided to give another statement to
13 the police because those feelings went away?

14 A. Yes.

15 Q. But you didn't contact the police to give them another
16 statement, did you?

17 A. No, I did not.

18 Q. They stopped you?

19 A. Yes.

20 Q. And you said that the police didn't ask about what
21 happened earlier that day?

22 A. No, they did not.

23 Q. They just wanted to know what happened?

24 A. They just asked me what happened tonight -- that night.

25 Q. And why Leland Shannon got shot?

RE CROSS-EXAMINATION BY MS. RUNEY OF ANTOINE AIKEN

1 A. Yes.

2 Q. But you never told the police anything about the
3 argument between James Rose and Leland Shannon, did you?

4 A. No, I did not.

5 MS. RUNEY: That's all I have. Thank you.

6 THE COURT: Okay. Thank you.

7 MS. SHEALY: Your Honor, we would ask that he be
8 excused.

9 THE COURT: All right. Sir, you may step down. And
10 you are excused.

11 MS. SHEALY: Tawana Alston.

12 THE COURT: All right. Ms. Alston, come on up and we
13 will swear you in.

14 (WHEREUPON, the witness was duly sworn.)

15 THE CLERK: And ma'am, once you are seated if you would
16 please state your first and last name and spell your last
17 for the record.

18 MS. ALSTON: Tawana Alston. Alston, A-L-S-T-O-N.

19 (TAWANA ALSTON, after having been
20 sworn, testified as follows:)

21 DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

22 BY MS. SHEALY:

23 Q. Ms. Alston, if you would please tell the jury how old
24 you are.

25 A. Thirty-two.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

- 1 Q. And where did you grow up?
- 2 A. Summerville, South Carolina.
- 3 Q. Okay. How far did you go in school?
- 4 A. Tenth grade.
- 5 Q. And are you still living in the Summerville,
- 6 Charleston, area?
- 7 A. Yes, ma'am.
- 8 Q. You've had some problems with the law in the past; is
- 9 that correct?
- 10 A. Yes, I have.
- 11 Q. Do you have three convictions for shoplifting?
- 12 A. Yes.
- 13 Q. Do you have a 2003 unlawful conduct towards a child
- 14 conviction?
- 15 A. Yes.
- 16 Q. Do you have a 2003 burglary third conviction?
- 17 A. Yes.
- 18 Q. And an attempted armed robbery conviction?
- 19 A. Yes.
- 20 Q. Do you have a 2007 property offense conviction?
- 21 A. Yes.
- 22 Q. And an unlawful neglect of a child conviction?
- 23 A. Yes.
- 24 Q. Okay. Now tell us about Julio. How long were you and
- 25 he boyfriend, girlfriend?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

- 1 A. Two years.
- 2 Q. And back in January of 2012 were you living with him?
- 3 A. Yes, I was.
- 4 Q. And were you living with him in the mobile home where
- 5 this incident occurred?
- 6 A. Yes.
- 7 Q. Do you know James Rose?
- 8 A. Yes, I do.
- 9 Q. Tell the jury how long you've known James Rose.
- 10 A. Since 1997.
- 11 Q. Since 1997?
- 12 A. Yes, ma'am.
- 13 Q. How old were you then; do you remember? Were you in
- 14 high school?
- 15 A. Yes.
- 16 Q. And what did you call James Rose?
- 17 A. A friend.
- 18 Q. I'm sorry, by what name did you call him?
- 19 A. Onyx.
- 20 Q. And you consider him a friend?
- 21 A. Uh-huh.
- 22 Q. Would he come to Julio's house and were y'all on
- 23 friendly terms?
- 24 A. We would speak.
- 25 Q. You and Onyx would?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 A. Uh-huh.

2 Q. Now tell us about you, Julio's daughter. When did she
3 move in with y'all?

4 A. About two or three weeks earlier before all that
5 happened.

6 Q. Before this incident happened?

7 A. Yes, ma'am.

8 Q. And did y'all in fact switch bedrooms when she moved
9 in?

10 A. Yes.

11 Q. Which bedroom was yours and Julio's at the time this
12 occurred?

13 A. The first bedroom on the left.

14 Q. At the time that this happened?

15 A. Yes.

16 Q. And who was in the bedroom down at the end of the hall?

17 A. His name was Kirby Douglas.

18 Q. Okay. But when Joy came where was she staying?

19 A. In Julio and I room.

20 Q. Okay. That's what I was asking. So the first one on
21 the left, Joy started staying in?

22 A. Yes.

23 Q. And then you and Julio would stay in ---

24 A. In the living room.

25 Q. In the living room?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

- 1 A. Uh-huh.
- 2 Q. Y'all did not go into Kirby's room?
- 3 A. No.
- 4 Q. Okay. And Kirby was someone who owns the trailer?
- 5 A. Yes, ma'am.
- 6 Q. Now if we could focus your attention then to the day of
- 7 January 23rd that leads into the morning hours of the 24th.
- 8 Were you around Julio's mobile home during the daylight
- 9 hours?
- 10 A. Yes.
- 11 Q. Okay. Do you remember seeing Onyx at any time?
- 12 A. Not that day.
- 13 Q. Not during the day? And then what about that evening,
- 14 were you home in the evening hours?
- 15 A. Yes.
- 16 Q. Did you leave at any point from Julio's and go
- 17 somewhere and come back during the day or the evening?
- 18 A. Yes, I went to my grandmothers and came back.
- 19 Q. Where did your grandmother live?
- 20 A. About five-minute away. The next block over.
- 21 Q. And this is out in Lincolnville?
- 22 A. Yes.
- 23 Q. If you would tell us, were you in your home with Julio
- 24 when Onyx came by?
- 25 A. Yes.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 Q. And did you see Onyx come and go once or just one time?

2 A. Just that one time.

3 Q. Tell us about that occasion. What happened?

4 A. He came, purchased some weed and just left.

5 Q. And left. And then did you see him again later that
6 evening?

7 A. That night once I got out of the tub.

8 Q. Okay. So actually you're saying he comes there twice
9 that night?

10 A. Yes.

11 Q. Am I correct?

12 A. Yes.

13 Q. Okay. So the first time he just bought some marijuana
14 and left?

15 A. Yes.

16 Q. Did you overhear any type of conversation that Onyx was
17 having on that first time over there that evening ---

18 A. No.

19 Q. --- with Julio?

20 A. No.

21 Q. After he left that first time what did you go do?

22 A. I went to take a -- take a bath.

23 Q. And at that -- some point do you see Onyx there again?

24 A. Once I got out of the tub.

25 Q. Where was he when you got out of the tub?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

- 1 A. In the kitchen sitting by the window.
- 2 Q. Okay. And who else was in your home at that point?
- 3 A. It was Ishmal, Ross, and Joy and myself.
- 4 Q. And when you got out of the tub tell the jury what do
- 5 you did.
- 6 A. Got out of the tub. Julio came in, gave me a hug, gave
- 7 me a kiss and I said I love you beautiful with your dusty
- 8 ass. We walked down the hall. I gave Joy a peace sign,
- 9 like this (motioning). Julio gave me a short of a
- 10 cigarette.
- 11 Q. Let me stop you right there. What do you mean by a
- 12 short of a cigarette?
- 13 A. It was a half a cigarette.
- 14 Q. Okay.
- 15 A. He was smoking it. And it was short. And he gave it
- 16 to me.
- 17 Q. Okay. And what did you do with that?
- 18 A. I went outside to smoke the cigarette. Flicked it.
- 19 Turned around and had a double-barrel shotgun to my face.
- 20 Q. Okay. Well, let me slow you down a little bit, okay.
- 21 When you left that kitchen area tell us again who was in the
- 22 kitchen.
- 23 A. Ross, Julio, and Onyx.
- 24 Q. Okay. And did you remember where Ishmal was?
- 25 A. He was sitting in the living room area.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 Q. What would Ishmal do often when he came over to y'all's
2 house?

3 A. Play games with us. Because we ---

4 Q. Is that in the living room area?

5 A. Yes, ma'am.

6 Q. When you took the cigarette to walk outside, showing
7 you State's Exhibit 3 -- this will come up on that screen
8 right in front of you. What door did you exit from when you
9 went to have the cigarette?

10 A. This door right here (pointing).

11 Q. And tell us where it was that you stood while you were
12 smoking.

13 A. Right here (pointing).

14 Q. Okay. And were you -- did you indicate that you were
15 leaning over the rail?

16 A. Yes, I was leaning like this (motioning.)

17 Q. Could you stand up and demonstrate that for us?

18 A. I was standing over like this, smoking a cigarette
19 (indicating).

20 Q. When you were leaving the house do you know where James
21 Rose was?

22 A. When I -- I was walking out of the house he was coming
23 out behind me.

24 Q. And now tell us what was the next thing that you --
25 that happened once you were out. Did James Rose already get

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 out of the house by that point?

2 A. Yes.

3 Q. And what was the next thing that happened to you?

4 A. I flicked the cigarette, turned around, had a gun to my
5 face. He said freeze Bitch. And I did like this

6 (motioning).

7 Q. Now when that happened did you get a look at the person
8 who had the weapon in your face?

9 A. No, because he had on an all black, ski mask.

10 Q. Okay. Could you tell us whether he was tall or whether
11 he was short or anything about his size?

12 A. He was tall and slender.

13 Q. And you indicated he had a ski mask over his face?

14 A. Yes, ma'am.

15 Q. Could you tell anything about the weapon?

16 A. It was a double-barrel shotgun, all black.

17 Q. Did you see at that point where Onyx was?

18 A. He was in the car.

19 Q. Okay. And the car was parked where; can you show up on
20 that photograph?

21 A. Right up in here (pointing)?

22 Q. And when you walked out of the house and when you were
23 leaning over the rail did you see Onyx make it to the car?

24 A. Yes.

25 Q. And what side of the car did he get in if you remember?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 A. The driver's side.

2 Q. What happened after the tall guy put the gun to your
3 face; what happened?

4 A. I just sat there and freeze there. Another short,
5 chunky guy came running up the stairs like this (motioning),
6 shooting and went directly into the house.

7 Q. Was the door open at that point?

8 A. Yes, it was.

9 Q. Did the door close at any time after you and Mr. Rose
10 left the house?

11 A. I have no idea.

12 Q. Okay. Do you know how the door got opened for them to
13 go in?

14 A. It was open when I walked out.

15 Q. Okay. When that happened where did the tall guy go;
16 did you see where he went?

17 A. In the house behind the other guy.

18 Q. And what did you do at that point?

19 A. I fell when -- the other guy with the shotgun was
20 running in like that (pointing). I was standing right here
21 (pointing). I was still putting my hands up. And the other
22 guy turned, turned and went in.

23 And I fell over the banister and I crawled under the
24 porch like this (pointing) all the way around, around the
25 trailer and ran across the street and knocked on the

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 neighbor's door and tell them that something was going on
2 and they needed to call the police.

3 Q. Okay. So hold on just a second for me. Showing you
4 State's Exhibit 102. Okay. Could you show the jury which
5 way -- and you can do it on the screen again, which way you
6 ran.

7 A. Crawl -- I mean I was crawling under the porch and then
8 I ran directly all the way around the side of the trailer.

9 Q. And before we go further about where you went from
10 there, then you initially, the tall guy who initially puts
11 the gun in your face, he goes in the first or he goes in the
12 door second?

13 A. Second.

14 Q. Okay. And the shorter guy, the chunky guy, you
15 indicated as he went up the steps he did what?

16 A. He was shooting as he was coming running in.

17 Q. As he was running up?

18 A. Yes, ma'am.

19 Q. Now when you ran around the trailer did you hear any
20 other shots?

21 A. Just three.

22 Q. Three. And did you keep running or did you stop
23 somewhere before ---

24 A. I kept running.

25 Q. When you say that you ran to a neighbor's house, can

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 you describe for the jury where that neighbor lived in
2 relationship to this trailer?

3 A. Right across the street.

4 Q. Do you know who that is?

5 A. His name is Bryan.

6 Q. And when you ran to Bryan's what did you do once you
7 got to his house?

8 A. I bammed on his door screaming, kicking it, saying
9 please open the door, call the police, something is wrong,
10 something has happened to Julio, you need to call the
11 police.

12 Q. And when you said something was happening to Julio did
13 you indicate what was happening?

14 A. No.

15 Q. Did Brian open the door for you?

16 A. No, he did not.

17 Q. And after he didn't open the door where did you then
18 go?

19 A. I ran to my grandmother's house.

20 Q. And how far did your grandmother live from ---

21 A. The next block over.

22 Q. When you got to your grandmother's house -- well, let
23 me ask you this: As you were running did you see a car
24 leave at any point?

25 A. Yes.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

- 1 Q. And could you see who was inside the car when it left?
- 2 A. No.
- 3 Q. Okay. When you got to your grandmother's what did you
- 4 then do?
- 5 A. I called my mother.
- 6 Q. What ---
- 7 A. And she ---
- 8 Q. I'm sorry. Go ahead.
- 9 A. I called my mother and she came and picked me up.
- 10 Q. From your grandmother's?
- 11 A. Yes, ma'am.
- 12 Q. And where did y'all go?
- 13 A. We rode back by and we saw all the ambulance and stuff.
- 14 And we followed the ambulance straight to MUSC.
- 15 Q. While you were up at MUSC did Joy come up there?
- 16 A. Yes.
- 17 Q. And did Leland's daddy come up there?
- 18 A. Yes.
- 19 Q. And Antoine, did he come up there?
- 20 A. Yes, he was.
- 21 Q. Can you describe for the jury how you were feeling at
- 22 the point when you got to the hospital?
- 23 A. Scared, nervous, shook up.
- 24 Q. And did the police come and want to talk to you while
- 25 you were there?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 A. Yes.

2 Q. And did you in fact talk to the police officer?

3 A. Yes, I did.

4 Q. Let's go back for a second. You told us that the tall
5 guy had on all black?

6 A. Yes, ma'am.

7 Q. Did you get a look at what the shorter guy had on?

8 A. All black.

9 Q. And what about Onyx, do you know what he was wearing
10 that night?

11 A. Red T-shirt, blue jeans, blue or black Nikes.

12 Q. For his shoes, okay. So when you go the hospital were
13 they trying to talk to you while you were at the hospital,
14 the police officers?

15 A. No, they came and got us one by one and took us to a
16 little substation, that thing on Rivers.

17 Q. To be interviewed?

18 A. Yes, ma'am.

19 Q. And when you left the hospital what was Julio's
20 condition at that point? What was going on with Julio?

21 A. At that time they wasn't telling us anything. They
22 were I guess they were working on him.

23 Q. Do you know whether he was in surgery?

24 A. No, ma'am, I didn't.

25 Q. You don't know. How were you doing emotionally when

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 they -- when you went down to the police station?

2 A. Not good.

3 Q. And by the time you got to the police station is it
4 getting to be later and later in the morning of the 24th?

5 A. Yes.

6 Q. When you gave your statement to the police you wanted
7 to get things right if you could; is that right?

8 A. Yes.

9 Q. Did you try to give them as much information as you
10 could?

11 A. Yes.

12 Q. And if you would, how many people did you see
13 altogether if you saw Onyx with the red shirt and the tall
14 guy with all black, and then the shorter guy had on what
15 again?

16 A. All black.

17 Q. And then was there anybody else in the backyard that
18 you saw or in the car?

19 A. At that time I -- I couldn't tell you. I could have
20 been -- total it was three. But it could have been more.
21 I'm not sure at this time.

22 Q. Okay. And when you talked to the police did you give
23 them the best recollection you could at that time?

24 A. Yes.

25 Q. What were you worried about while you were at the

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 police station?

2 A. If Julio was all right.

3 Q. And while you were at the police station did you -- did
4 they swab -- did they do a technique on your hands on the
5 front and on the back?

6 A. The front, the back, my arms and my legs.

7 Q. And you allowed them to do that?

8 A. Yes.

9 Q. Now did you actually give two statements?

10 A. Yes.

11 Q. Tell me the circumstances for the second statement;
12 were you still at the Sheriff's Department?

13 A. Yes -- no, that's -- the second statement was the next
14 day when they came to pick me up from my house.

15 Q. Okay. And when you say the next day do you mean later
16 that same day ---

17 A. Yes.

18 Q. --- of the 24th?

19 A. Yes.

20 Q. Did they talk to you at your house or did they take you
21 back to the police station?

22 A. They took me back to the police station.

23 Q. And what were the police interested in trying to
24 understand better when they talked to you the second time?

25 A. Who was there, what happened and stuff like that.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 Q. Okay. So I want to make sure that I am clear. What
2 did you see James Rose do when you were out on that porch?

3 A. Ran out and got in the car.

4 Q. Okay. And what did you see the tall guy in all black
5 do?

6 A. Stand in front of me with a shotgun.

7 Q. And what did you see the short, stocky guy do?

8 A. Run in shooting.

9 Q. Run in shooting. Now while you were at the police
10 station did they also show you a photo array?

11 A. Yes.

12 Q. Now I'm going to show you Court's Exhibits 1 and 2 just
13 in case you need to refresh your memory. Did the police
14 officer go through a series of questions to make sure that
15 you understood that the person may be in there or may not be
16 in there?

17 A. Yes.

18 Q. And when you took a look at that photo array, who did
19 you identify?

20 A. Onyx, Mr. James Rose.

21 Q. And you identified him as being who that night?

22 A. The person that I saw inside of the house.

23 Q. Okay. And if I could take those exhibits back again.
24 Did the officers offer you the opportunity to write down
25 what your comments were recording who this was?

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 A. Yes, they did.

2 Q. Okay. And if you would please, tell the jury what you
3 wrote.

4 A. I picked him because he was the one in the house with
5 us and told freeze Bitch.

6 Q. Now when you say and told freeze Bitch, were you
7 referring to James Rose at that point?

8 A. When they gave me that and they told me to write
9 down -- they told me to circle the person that I saw first.
10 Which I did, which was Mr. Rose.

11 And then they told me to write down anything that
12 happened after that. And that was what I heard, freeze
13 Bitch.

14 Q. Okay. So will you tell the jury whether or not it was
15 James Rose that said freeze Bitch.

16 A. No, it was not.

17 Q. When you finished your statement the first time did you
18 go back to the hospital or did you go home?

19 A. I went back to the hospital.

20 Q. And when you were at the hospital what did you learn
21 about Julio?

22 A. That he wasn't going to make it.

23 Q. And when that happened; was it after that that you went
24 back and gave your second statement?

25 A. Yes.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 Q. And you had gone home after the hospital?

2 A. Yes.

3 Q. Had you had any sleep that night?

4 A. No.

5 Q. And was Julio someone that you loved?

6 A. Yes.

7 Q. And earlier that evening you had a shotgun put at your
8 face?

9 A. Yes, ma'am.

10 MS. SHEALY: I beg the Court's indulgence just a
11 moment.

12 BY MS. SHEALY:

13 Q. The car that you told us about that was outside, what
14 kind of car was it?

15 A. It was a gray -- a silver Neon, four-door.

16 Q. A Neon is the model?

17 A. The brand of the car, the model.

18 Q. And did you tell the police that when you spoke to them
19 that night?

20 A. Yes.

21 Q. A gray Neon?

22 A. Yes.

23 MS. SHEALY: I have no further question. Answer any
24 that the defense may have.

25 THE COURT: Okay.

DIRECT EXAMINATION BY MS. SHEALY OF TAWANA ALSTON:

1 THE COURT: Cross-examination.

2 MS. RONEY: Thank you.

3 CROSS-EXAMINATION BY MR. RONEY OF TAWANA ALSTON:

4 Q. Good afternoon, Ms. Alston.

5 A. Good afternoon.

6 Q. You do know my client, James Rose?

7 A. Yes, I do.

8 Q. In fact you dated James?

9 A. For two days.

10 Q. Two days? And when was that?

11 A. In 1997.

12 Q. Is that when you met him?

13 A. Yes.

14 Q. But then after that things were okay between y'all?

15 A. Yes.

16 Q. And Ms. Shealy asked you about your record?

17 A. Yes.

18 Q. And that you've been in trouble before?

19 A. Yes, I have.

20 Q. Just started out with smalls things like shoplifting,
21 right?

22 A. Yes.

23 Q. And then you were convicted of attempted armed robbery?

24 A. Yes.

25 Q. And burglary third?

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 A. Yes.

2 Q. And was that at the same time that you were convicted
3 of unlawful conduct towards a child?

4 A. No.

5 Q. Different occasion?

6 A. Yes.

7 Q. And when you gave a statement to the police after this
8 happened, you wanted to be accurate; right?

9 A. Yes.

10 Q. And you wanted to include everything?

11 A. Yes.

12 Q. Because you wanted whoever was responsible for this to
13 be held accountable, right?

14 A. Yes.

15 Q. And so you were taken to the Sheriff's Department,
16 right?

17 A. Yes, ma'am.

18 Q. And you gave a statement to Detective Church?

19 A. Yes, ma'am.

20 Q. A female officer?

21 A. No, it was a male.

22 Q. It's a man. Did you write out that statement?

23 A. Yes, I did.

24 Q. And at that time you were also shown a photographic
25 lineup?

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

- 1 A. Yes, ma'am.
- 2 Q. And when they asked you to give a statement the
- 3 detective said tell me what happened?
- 4 A. Yes.
- 5 Q. And so you just started writing?
- 6 A. Yes, ma'am.
- 7 Q. And you -- did they tell you a time when to start
- 8 writing or ---
- 9 A. No, ma'am. They told me to write exactly what went
- 10 down to best of my knowledge.
- 11 Q. Because they wanted to know why this happened?
- 12 A. Yes, ma'am.
- 13 Q. And you testified earlier today that James came out of
- 14 the trailer behind you?
- 15 A. Yes.
- 16 Q. And then somebody else held a shotgun to your face ---
- 17 A. Yes.
- 18 Q. --- and said freeze, Bitch?
- 19 A. Yes.
- 20 Q. So what you're telling me is that James did not put a
- 21 shotgun in your face?
- 22 A. No, he did not.
- 23 Q. Do you remember telling the police that night that
- 24 James held a shotgun to your face?
- 25 A. At that time when everything was happening he was the

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 only person that I saw, physically, face. And that was the
2 only person that was on my mind because I was mad at the
3 situation that what happened. And everything that was in my
4 mind was all him.

5 Q. And so because he was there, you said that he had a
6 shotgun in your face?

7 A. I said someone had a shotgun in my face. I did not say
8 he had a shotgun in my face.

9 Q. I'm going to give you a copy of your statement and let
10 you review that.

11 A. No problem.

12 MS. RUNEY: May I approach, Your Honor?

13 THE COURT: You may.

14 (WHEREUPON, document provided to the witness.)

15 Q. You initially write a paragraph, kind of a summary.
16 And then the detectives write questions and you answer those
17 to kind of clarify what you had written in the initial
18 paragraph; is that correct?

19 A. Yes.

20 Q. And what the question by the detective is, when you
21 were on the back porch who did you see first. And you
22 answer what? I'm sorry, it's about four lines down on the
23 second page.

24 A. The person -- did you say the fourth question?

25 Q. The second question. The third and fourth line. You

1 were on the back porch. Who did you see first?

2 A. I don't have that on here.

3 Q. On the second page.

4 A. I'm on the second page. The first question is how long
5 did you know James. The second question was when you --

6 okay, when you was on the back porch who did you see first.

7 I answered James. Well, I was confused at that time. I was
8 only thinking about the first person I saw, and it was him.

9 Q. And that is what you've told us here today?

10 A. Yes.

11 Q. You saw James. Okay. And then they ask you did this
12 person have a gun and if so describe it. And what do you
13 answer?

14 A. First James Rose, all black, shotgun, two --
15 double-barreled. What did he say. Freeze, Bitch.

16 Q. So after you tell them about James Rose they ask you
17 what did he say, and you said freeze Bitch; right?

18 A. Uh-huh.

19 Q. And then they start to ask you about the other people
20 that were there that night and you go on to describe the
21 short guy with the what you think is a nine millimeter,
22 right?

23 A. Yes.

24 Q. And then there is a tall, skinny guy?

25 A. Yes.

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 Q. And you write out your descriptions and you list how
2 many suspects?

3 A. Three. Four.

4 Q. Four people. And suspect Number 4 you list as the
5 driver of the car; is that correct?

6 A. I say saw someone, can't describe who it was.

7 Q. You don't know who it is, ---

8 A. No.

9 Q. --- but this person was in the driver's seat?

10 A. Yes, ma'am.

11 Q. And then they don't write out a question, but your
12 answers are related to who had what gun?

13 A. Yes, ma'am.

14 Q. And you told them what you knew?

15 A. Yes, ma'am.

16 Q. And at the same time that they showed you the
17 photographic lineup where you circled James's picture?

18 A. Yes, ma'am.

19 Q. And you wrote out that you picked him because he was at
20 the house with you?

21 A. Yes, ma'am.

22 Q. And he told freeze Bitch, is that what you wrote out?

23 A. Yes.

24 Q. Or what you're telling me today is that you didn't mean
25 that James Rose said that?

- 1 A. No.
- 2 Q. And at that point you were free to go?
- 3 A. Yes.
- 4 Q. You say you went back to the hospital?
- 5 A. Yes, ma'am.
- 6 Q. Did the police take you back to the hospital?
- 7 A. Yes.
- 8 Q. And was Antoine Aiken there?
- 9 A. Yes, he was.
- 10 Q. Was he transported back to the hospital with you?
- 11 A. In separate cars.
- 12 Q. And the next day you went home and the police came back
- 13 to your house?
- 14 A. Yes, ma'am.
- 15 Q. You don't mean the trailer?
- 16 A. Well, yeah, the trailer.
- 17 Q. You went back to the trailer?
- 18 A. Yes.
- 19 Q. And the police came and picked you up there?
- 20 A. Yes.
- 21 Q. And took you back for a second statement?
- 22 A. Yes.
- 23 Q. And was that because they wanted more information?
- 24 A. I guess. They wanted me to write another statement to
- 25 the best of my knowledge from what I did from the previous

CROSS-EXAMINATION BY MR. RONEY OF TAWANA ALSTON

1 night.

2 Q. And you had already told them everything, right?

3 A. Yes.

4 Q. So I'm guessing you are probably wondering why you had

5 to go back and do this again?

6 A. Yes.

7 Q. And they asked you some of the same questions?

8 A. Yes, they did.

9 Q. Like what type of gun did Onyx shoot at you with? Do

10 you remember them asking you that?

11 A. No. The only thing they asked me was what type of gun

12 that I saw first. And that was the shotgun. They asked me

13 who the first person I saw. And it was Onyx.

14 Q. And I'm going to give you a copy of your second

15 statement, Ms. Alston, and give you a chance to review that

16 if I may.

17 THE COURT: You may.

18 (WHEREUPON, document provided to the witness.)

19 Q. Have you had a chance to review it?

20 A. (Witness nods head.)

21 Q. Okay. Now do you remember telling the detective that

22 Onyx had at a shotgun in your face?

23 A. No. Onyx couldn't have the shotgun in my face because

24 he was in the car. And the person that had the shotgun in

25 my face is taller than what Onyx is.

1 Q. Do you think you wrote it out wrong in the statement?

2 A. Yes.

3 Q. Because this statement does read that Onyx had it in
4 your face.

5 A. Uh-huh.

6 Q. And that he is the one that said freeze Bitch to you?

7 A. The questions when they were given me was: Who was the
8 first person that you saw? Onyx. What was the first thing
9 that you saw? It was the shotgun. What was the first thing
10 you heard? Freeze Bitch.

11 And all that is just like running together and it's
12 trying to make me say that he was the one that was doing it,
13 had the gun and said it. But it was not him with the gun to
14 my face.

15 I don't know who was the one with the gun to my face,
16 but I know it wasn't him because he is shorter than that
17 person who had the gun to my face.

18 And when I had the gun to my face all I heard was
19 freeze Bitch and other gunshots. That's all I heard it.

20 Q. And so the police were pressuring you to answer their
21 questions?

22 A. They was pressuring me to answer their questions, but
23 at the same time too I was upset from the previous night.

24 Q. So they're asking you the questions, not writing them
25 down on the paper and having you sit there and write pretty

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 quickly?

2 A. Yes.

3 Q. And so when you wrote that Onyx shot at you, that
4 wasn't true?

5 A. No.

6 Q. And when you wrote on the photographic lineup form,
7 when you wrote out I picked him because he was there ---

8 A. Because he was the first one that I saw. That was the
9 question they asked me.

10 Q. And you wrote out the part about he told freeze Bitch,
11 because that was the information that the police were
12 looking for?

13 A. No, that was not. They asked me who was the first
14 person I saw. It was Onyx. Then they said: After that
15 what did you do? I went outside. What happened? I saw a
16 tall figure with a shotgun to my face.

17 And then they said: What happened? The person said
18 freeze Bitch. Then what happened? The second subject ran
19 in the house shooting. What did you do? I fell over the
20 banister, crawled under the porch and went to the neighbor's
21 house to bang on the door.

22 Q. So that was a mistake when you wrote Onyx said freeze
23 Bitch and shot at me?

24 A. Yes.

25 Q. And so the police want to clarify that and ask you that

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

- 1 again. And they say what happened after Onyx shot at you.
2 At that point did you correct them?
3 A. At this point in time I don't remember.
4 Q. At any time since giving this statement did you go back
5 to the Sheriff's Office ---
6 A. No, I ---
7 Q. --- to say that is not how it happened?
8 A. No.
9 Q. And they continued to ask you the same questions like
10 how many people were there, right?
11 A. Yes, ma'am.
12 Q. And they said how many people were there total. And
13 you answered four?
14 A. Yes, ma'am.
15 Q. And so then they had you to list them out?
16 A. Yes, ma'am.
17 Q. And you wrote Onyx, comma, shotgun on the third page of
18 your statement. At that point did you just want to get out
19 of there?
20 A. No, I was just trying to help to the best of my
21 knowledge that I knew that was going on.
22 Q. Was it easier just to say what they wanted to hear?
23 A. Yes -- no. No.
24 Q. But you didn't correct them when you wrote it the
25 fourth time?

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

- 1 A. I didn't write anything the fourth time.
- 2 Q. You also wrote Jeffrey Rose?
- 3 A. They asked me who do you think is involved in all of
- 4 this that you know Onyx be with.
- 5 Q. Who is Jeffrey Rose?
- 6 A. His brother.
- 7 Q. And you know his brother from knowing James, right?
- 8 A. Yes.
- 9 Q. And is James's brother tall?
- 10 A. Yes.
- 11 Q. And so that's why you thought it might be him?
- 12 A. Yes.
- 13 Q. Because James is there and then there was a tall guy?
- 14 A. Yes.
- 15 Q. So you wrote that down for the police?
- 16 A. I wrote that down for myself because I was trying to
- 17 help.
- 18 Q. And then you gave some information about a
- 19 brother-in-law. I'm assuming that's a brother-in-law of
- 20 James?
- 21 A. Yes.
- 22 Q. And you said that might be the short guy?
- 23 A. Yes.
- 24 Q. But you weren't able to identify either of the people
- 25 that were there?

- 1 A. No, ma'am.
- 2 Q. It was simply because they were always together?
- 3 A. Who was always together?
- 4 Q. James and his brother?
- 5 A. Yes.
- 6 Q. And then on the fourth page they ask you again to
- 7 clarify your story. Is that your handwriting after that
- 8 question?
- 9 A. Yes, it is.
- 10 Q. And what did you write?
- 11 A. After what question?
- 12 Q. Can you clarify your statement in reference to the
- 13 parties involved.
- 14 A. There were four guys. Onyx had that shotgun. There
- 15 was a short, fat, brown-skinned guy. He had a handgun, nine
- 16 millimeter. He was in all-black. Onyx red T-shirt. Onyx's
- 17 brother Jeffrey had on an all black jumpsuit. He ran up
- 18 with Onyx and met the driver. I cannot tell who it was. A
- 19 short, fat, brown-skinned guy named Matt.
- 20 Q. And after that, they asked if you want to add anything;
- 21 and you say no?
- 22 A. Yes.
- 23 Q. And at that point you got to go home?
- 24 A. Yes.
- 25 Q. And is that your signature at the bottom of the

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 statement?

2 A. Yes, it is.

3 Q. And above that is a statement that says that this is
4 true and accurate as to the best of your knowledge?

5 A. At the end of that it says in a statement with my
6 initials.

7 Q. I'm talking about just above your signature, what does
8 that say?

9 A. I have read the foregoing statement which has been
10 freely and voluntarily made by me and it is true and correct
11 to the best of my knowledge.

12 Q. And you wanted to tell the truth because you wanted the
13 people who were responsible to be caught?

14 A. Yes.

15 Q. Because you knew if you identified them they would be
16 arrested?

17 A. Yes.

18 Q. But it's your testimony today that James Rose did not
19 have a shotgun?

20 A. Not at my face, no, he did not.

21 Q. And he did not have a handgun?

22 A. Not -- no.

23 Q. And he did not say anything to you?

24 A. No.

25 MS. RUNEY: Beg the Court's indulgence.

1 THE COURT: Certainly.

2 BY MS. RUNEY:

3 Q. One more thing, Ms. Alston. You and Julio were not the
4 only people at that trailer?

5 A. No, we were not.

6 Q. Joy?

7 A. Yes.

8 Q. Rick Ross?

9 A. Yes.

10 Q. Ishmal Weston?

11 A. Yes.

12 Q. And when these guys in the car with the guns arrived
13 you went under the house?

14 A. Yes.

15 Q. And so you didn't see what happened inside the trailer?

16 A. No.

17 Q. And you didn't see Julio get shot?

18 A. No.

19 Q. You ran to the neighbor's house?

20 A. Yes.

21 Q. And you were screaming on the door for him to call 911?

22 A. Yes.

23 Q. And do you know that guy?

24 A. Yes, I do.

25 Q. And what's his name?

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

- 1 A. His name is Brian.
- 2 Q. How do you know Brian?
- 3 A. Through the neighborhood. And he cuts my hair
- 4 sometimes.
- 5 Q. And his name is Brian Williams?
- 6 A. I don't know his last name. But I know his name is
- 7 Brian.
- 8 Q. And from Brian's house you went to your grandmother's
- 9 house?
- 10 A. Yes.
- 11 Q. And your mother picked you up there and took you to
- 12 MUSC?
- 13 A. Yes.
- 14 Q. So you never went back to the trailer before going to
- 15 the hospital?
- 16 A. No.
- 17 Q. And you testify today that a neighbor told you that
- 18 something had happened to Julio?
- 19 A. No, I said something -- I told the neighbor to call the
- 20 police, something is going on, something is wrong with
- 21 Julio, call the police.
- 22 Q. But you knew to go to MUSC?
- 23 A. No, when we got there my mother -- my mother came to
- 24 pick me up. We followed the ambulance from the trailer
- 25 straight to MUSC.

CROSS-EXAMINATION BY MR. RUNEY OF TAWANA ALSTON

1 Q. But you didn't go back?

2 A. I did not go back inside of that trailer.

3 Q. That's all I have.

4 MS. RUNEY: Thank you.

5 THE COURT: All right. Redirect.

6 MS. SHEALY: Thank you.

7 REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON:

8 Q. Ms. Alston, tell the jury were you trying to lie to the
9 police when you gave your statements that night?

10 A. No.

11 Q. And in looking at your first statement -- do you have a
12 copy of it? Do you have up in the corner what time the
13 interview started and what time it ended?

14 A. Yes, I do. It started at 3:50 a.m. and ended at -- I
15 don't know if that's five o'clock or 5:09.

16 Q. Okay. And the first paragraph of the first statement
17 that you gave to police, would you read that to the jury
18 please.

19 A. My statement one or the first statement?

20 Q. The one that had the times up in the corner.

21 A. Julio, Joy, along with myself and Antoine, a.k.a. Ross,
22 we all was in the house enjoying ourselves when Onyx, a.k.a.
23 James Rose, came in. We were all drinking. I went to take
24 a shower. Came back. Smoked a Newport on the back porch.
25 Onyx came up behind me. Went to a gray four-door Neon.

REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON

1 Q. Stop there for a second, please. If you could read
2 that sentence again slowly for us starting with came back.

3 A. Came back ---

4 Q. Well, go a little further back. It would make more
5 sense. I went to take a shower.

6 A. I went to take a shower. Well, I was in the shower.
7 So I didn't mean to say shower. Came back. Smoked a
8 Newport on the back porch. Onyx came out behind. Went to a
9 gray four-door Neon.

10 Q. Okay. So stop there. The first paragraph that you
11 give the police you indicate that when you came out, Onyx
12 came out behind you and he went to a gray, four-door Neon?

13 A. Yes.

14 Q. Continue reading.

15 A. I flicked the Newport, turned around. I had a shotgun
16 in my face.

17 Q. Stop there. In that sentence when you tell the police
18 that you flicked the Newport, turned around and had a
19 shotgun in your face, did you say that Onyx put the shotgun
20 in your face?

21 A. No, I did not.

22 Q. Continue.

23 A. Then came a short, fat guy came up with like a
24 nine-millimeter. The short -- the shot -- it's -- he shot.

25 Q. He shot.

REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON

1 A. My first reaction was to drop. Then I crawled under
2 the porch and ran to the neighbor's and he said he was going
3 to call the police. I then ran and called my mother to come
4 and get me. And we came in straight to MUSC.

5 Q. And then what does the next line say?

6 A. The only thing I heard was freeze Bitch and shots.

7 Q. Okay. So right out-of-the-box on that early morning
8 hours after this incident had occurred you tell the jury
9 that Onyx when he came out the house went to the car?

10 A. Yes.

11 Q. A gray Neon?

12 A. Yes.

13 Q. And you have a shotgun in your face?

14 A. Yes.

15 Q. And you heard what?

16 A. Shots. Freeze Bitch and then shots.

17 Q. And when you tell the police before they start asking
18 you a whole bunch of questions, that's what you told them?

19 A. Yes, ma'am.

20 Q. Is that first paragraph in your handwriting?

21 A. Yes, it is.

22 Q. And then for the rest of the time period they're asking
23 you question after question after question?

24 A. Yes, ma'am.

25 Q. Is that correct? Let's go over on the second page of

REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON

1 that statement. Ms. Runey directed you to the third
2 question at the top of page where it said: Did this person
3 have a gun; if so, describe it. When you're answering this
4 question tell us who you are talking about as you're
5 answering. What's the first thing that you said?

6 A. The first I said was first James Rose.

7 Q. Okay. Then what do you say?

8 A. All black shotgun, two double-barrels.

9 Q. Okay. Now are you telling the police in that sentence
10 that it is James Rose with the double-barrel shotgun or
11 that first there was James Rose then there was the guy with
12 the double-barrel shotgun?

13 A. First there was James Rose, then the guy with the
14 shotgun.

15 Q. Now Ms. Runey's also asked you about bringing up the
16 names of Jeffrey Rose and Matt. This was at -- during the
17 time of your second statement; is that correct?

18 A. Yes, ma'am.

19 Q. At by the time you gave your second statement you had
20 had the opportunity to go back to the hospital and then go
21 home; ---

22 A. Yes.

23 Q. --- is that correct?

24 A. Yes.

25 Q Tell the jury, were you trying to figure out who the

REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON

1 other two people were?

2 A. Yes, I was.

3 Q. Well, tell us about Jeffrey Rose. Were he and his
4 brother tight?

5 A. Yes.

6 Q. Was his brother tall?

7 A. Yes.

8 Q. Was his brother slender?

9 A. Yes.

10 Q. Tell us about Matt. Who is Matt's wife; ---

11 A. Amber.

12 Q. --- do you know? Is that his wife or his sister?

13 A. Sister. I don't know his wife.

14 Q. Okay. So Matt is Amber Wiley's brother?

15 A. Yes, ma'am.

16 Q. Who was his girlfriend at the time?

17 A. Yes.

18 Q. Who was Rosen's girlfriend at the time?

19 A. Amber.

20 Q. So when you're trying to put two and two together you
21 think the tall, skinny guy; James Rosen has got a tall,
22 skinny brother that hangs out with him?

23 A. Yes.

24 Q. Short, stocky guy; his girlfriend's brother?

25 A. Yes.

REDIRECT EXAMINATION BY MS. SHEALY OF MS. ALSTON

1 Q. Is that correct?

2 A. Yes, ma'am.

3 Q. They're always together?

4 A. Yes, ma'am.

5 MS. SHEALY: I have no further questions.

6 THE COURT: Okay. Yes, ma'am.

7 **RECROSS-EXAMINATION BY RONEY OF MS. TAWANA ALSTON:**

8 Q. Ms. Alston, in between you being at the hospital and
9 going home and then going to the Sheriff's Department you
10 were trying to figure out who this was?

11 A. Yes.

12 Q. And figure out who those people were that were in black
13 and wearing masks?

14 A. Yes.

15 Q. And this was the talk of Lincolnville, wasn't it?

16 A. The talk?

17 Q. People were talking about this, weren't they?

18 A. Yes, they were.

19 Q. And that's why -- that where you got some of this
20 information?

21 A. No, it's not.

22 Q. You didn't talk to anybody about what had happened?

23 A. No.

24 Q. You didn't talk to anybody about James Rose?

25 A. Well, my family.

RECROSS-EXAMINATION BY RUNEY OF MS. TAWANA ALSTON

1 Q. And people weren't calling around talking about what
2 happened, where they?

3 A. If they were, I have no recollection of it. No one
4 called me about it.

5 Q. And when the detective asked you specifically what type
6 of gun did Onyx shoot at you with, you answered a double
7 barreled shotgun; didn't you?

8 A. Yes, I did.

9 Q. And that's because the police wanted you to answer that
10 question?

11 A. No, they asked me who I saw first, which was him. All
12 those -- when they was asking me those questions, the things
13 that they were asking me were still in my mind who did I saw
14 first, what did I saw after that, and what was said. And
15 that's what's all that was going in my head as I was writing
16 this down.

17 Q. So when you answered these questions your responses
18 were not the truth, right?

19 A. Yes, they are the truth. They're the truth to my
20 knowledge of what happened. Who did you see first? Onyx.
21 What was the next thing that you did? Saw a double-barreled
22 shotgun. What came after that? Freeze, Bitch. All those
23 were still in my mind going on in the time as I am writing
24 this.

25 Q. The answer to the question, what type of gun did Onyx

RE CROSS-EXAMINATION BY RUNEY OF MS. TAWANA ALSTON

1 shoot at you with. And you answer double-barreled shotgun.

2 That is not the truth, it is?

3 A. No, it's not.

4 Q. And you wrote that?

5 A. Yes, I did.

6 Q. And you signed a statement saying it was the truth?

7 A. Yes, I did.

8 Q. So some of these statements that you wrote were not
9 true?

10 A. My statement is true except for that part right there.

11 Q. So some is true and some is not true?

12 A. All is true except for that part right there.

13 Q. That James Rose did not shoot at you?

14 A. Yes.

15 Q. And you knew as a result of what you told the police
16 that somebody would be arrested?

17 A. Yes.

18 Q. It didn't concern you that you had said that James Rose
19 shot at you and it wasn't the truth?

20 A. Yes, it did concern me.

21 Q. Did you ever go to correct that with the detectives?

22 A. No, I did not.

23 MS. RUNEY: That's all I have. Thank you.

24 MS. SHEALY: Nothing further.

25 THE COURT: Ma'am, you may step down.

RE CROSS-EXAMINATION BY RUNEY OF MS. TAWANA ALSTON

1 MS. SHEALY: May she be excused, Your Honor?

2 THE COURT: She may. And you're excused, ma'am. Thank
3 you.

4 THE WITNESS: Thank you.

5 MS. SHEALY: The State calls Brian Williams.

6 THE COURT: Thank you. Let's take one minute. We need
7 to take about a ten-minute break. I need to let everybody
8 stretch.

9 And I know we need to stop at 5:30 today. I did
10 receive the note, and I appreciate that. So y'all take
11 about a quick ten-minute break.

12 Do not discuss the case yet. And I will plan with the
13 attorneys for the rest of the afternoon.

14 (WHEREUPON, jury exits courtroom 4:35 p.m.)

15 THE COURT: Do we have one or two more witnesses we can
16 get in?

17 MS. SHEALY: We do. We have -- I think what we will do
18 is we will do two.

19 THE COURT: Okay. That would be great.

20 MS. SHEALY: Pretty close, and that will be it.

21 THE COURT: All right. That sounds perfect.

22 MS. SHEALY: Okay.

23 THE COURT: All right.

24 MS. SHEALY: Thank you.

25 THE COURT: Okay.

RE CROSS-EXAMINATION BY RONEY OF MS. TAWANA ALSTON

1 (WHEREUPON, break 4:36 p.m.)

2 (WHEREUPON, Court's Exhibit Number 7, juror note, marked for
3 identification.)

4 (WHEREUPON, Court's Exhibit Number 8, juror note, marked for
5 identification.)

6 THE COURT: Are we ready for the Jury?

7 MS. SHEALY: Yes, Your Honor.

8 MS. RONEY: Yes, Your Honor.

9 THE COURT: All right. Let's bring in the jury.

10 (WHEREUPON, jurors enter courtroom 4:47 p.m.)

11 THE BAILIFF: The jury is all present, Your Honor.

12 THE COURT: All right. Thank you, sir. And thank you,
13 ladies and gentlemen. Ms. Baldwin, call your next witness.

14 MS. BALDWIN: Thank you, Your Honor. The State calls
15 Brian Williams.

16 THE COURT: All right, sir, if you will come on up and
17 we will swear you in.

18 (WHEREUPON, the witness was duly sworn.)

19 THE CLERK: Sir, once you are seated if you would
20 please state your first and last name and spell both your
21 first and last name.

22 MR. WILLIAMS: Brian Williams, B-R-I-A-N,
23 W-I-L-L-I-A-M-S.

24 (BRIAN WILLIAMS, after having been
25 sworn, testified as follows:)

DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS

- 1 DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS:
- 2 Q. Afternoon, Mr. Williams.
- 3 A. How are you doing?
- 4 Q. Good. How are you? How about telling the jury a
- 5 little bit about yourself. Where did you grow up?
- 6 A. Lincolnville.
- 7 Q. Live there still?
- 8 A. Still.
- 9 Q. Do you work?
- 10 A. Yes, I do. I'm a barber in the community. My family
- 11 has owned the barbershop for about 33 years. And I cut
- 12 their -- cut hair there. And I also have my own trucking
- 13 company.
- 14 Q. Do you know the victim, Leland Shannon?
- 15 A. Oh, yeah.
- 16 Q. How do you know him?
- 17 A. We were raised up together. I met him back about
- 18 seven, eight years old.
- 19 Q. Did he ever do any work for you?
- 20 A. Yeah, he remodeled my home.
- 21 Q. Do you know the defendant, James Rose?
- 22 A. Yeah.
- 23 Q. How do you know him?
- 24 A. Same neighborhood. Just in the streets just being
- 25 together.

DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS

1 Q. Where are you living currently?

2 A. 146 right on the corner right across the street where
3 the incident happened.

4 Q. You say right across the street?

5 A. Well, right -- yeah, because my house was parallel to
6 the road. Like ---

7 Q. Is there a church right there?

8 A. Yeah, right next to the church.

9 Q. Okay.

10 A. My house is right across the street from the church,
11 and where the incident happened was beyond the church. So
12 it is like walking from here to the second door on the
13 outside.

14 Q. I'm going to bring you into the night of January 23rd,
15 2012, into the 24th. What were you doing that evening?

16 A. That night?

17 Q. Yeah.

18 A. I was sleeping. I was sleeping, and that night I was
19 awoke by my wife by the bamming on the front door. And my
20 wife, she came in because I was in the bedroom my side right
21 next to the front door. And she said Brian, somebody is at
22 the front door bamming on the front door.

23 So I woke up and went down and I said who is it. And
24 the person said this is Nikki. I said who is that. And she
25 kept on going this is Nikki, this is Nikki, this is Lee's

DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS

1 daughter. I said I don't know no Nikki. I know Sabrina,
2 which I was raised up with her sister. And she was ---

3 Q. Let me stop you there real quick. When you say let
4 me -- when she was banging on the door saying it's Nikki,
5 it's Nikki, what was her tone of voice; was she calm?

6 A. No, she was crying, screaming, you know, still bamming
7 on the door. Because I'm still shaken out of my sleep. And
8 she was telling me that Julio got shot. And I said who.
9 She said Leland, Leland just got shot.

10 So she was down there pleading and begging to come in,
11 and I didn't know this person. So in the meanwhile when she
12 said Leland I automatically dialed 911, went upstairs and
13 put my pants on. And that's when I shot across the street.

14 Q. And what happened -- you went over to the house?

15 A. Yes.

16 Q. Leland's house? What happened when you got there.

17 A. When I got there I was in between -- when I got in
18 between -- by the time I got in between the two trailers I
19 heard some more crying.

20 And when I got around the trailer it's like you've got
21 to come up a deck. And when I got up there I saw the
22 daughter down there with her -- with Leland. And when I saw
23 him laying in a pool of

24 Q. Take your time. What did -- when you say you heard
25 crying and you saw Joy there, what was Joy like?

DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS

1 A. She was crying trying to aid her father.

2 Q. Was she calm?

3 A. No.

4 Q. Was she quietly crying?

5 A. No, she -- you know, she was crying out loud.

6 Q. Was she saying anything?

7 A. I can't remember. Because actually when I saw him in
8 that state I said -- I just left. And I said to myself I
9 need to go get your dad and your brother.

10 Q. Did you at any point see the defendant that day, the
11 day of the incident?

12 A. The defendant?

13 Q. Yeah, see Mr. Rose?

14 A. Oh, it was that day. It was earlier. I don't -- I
15 don't know if you remember, but it was like earlier that
16 day, like 11:00, 12:00, something like that. And I was
17 playing in the yard with my kids. And I heard somebody say
18 what's up "B". And he was in the car and he was going in
19 the driveway.

20 Q. Which driveway?

21 A. The driveway down, you know, where the incident
22 happened at.

23 Q. Was he with anybody?

24 A. He was with a male, but I don't remember. I ain't look
25 or anything like that.

DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS

1 Q. Okay. So say one more time what did you do after you
2 saw Joy and Leland inside the trailer.

3 A. I went and got -- like I said when I saw him in that
4 condition I went and got Mr. Shannon and Pat, his brother,
5 and his dad. Well, his brother and his dad. Pat is his
6 brother. And Mr. Shannon. I left.

7 Q. You left and went and got them?

8 A. Yeah, I ran.

9 Q. Did you come back to the scene?

10 A. Yeah, I came back to the scene. And when I came back
11 to the scene I parked my truck in my yard and me and Pat
12 rode together, and Mr. Shannon come in a separate car. And,
13 you know, we started running. And when I turned around.
14 His brother just stopped, you know, because they were
15 already loading him.

16 Q. When you came back were the police there?

17 A. An ambulance. They was already loading him in an
18 ambulance.

19 MS. BALDWIN: Beg the Court's indulgence?

20 THE COURT: Sure.

21 BY MS. BALDWIN:

22 Q. Mr. Williams, when you saw James Rose earlier in the
23 day in the car you said there was a man in there. Can you
24 tell us whether or not there was a female in there?

25 A. No.

DIRECT EXAMINATION BY MR. BALDWIN OF BRIAN WILLIAMS

1 Q. Do you remember?

2 A. No, it was just him and another guy.

3 MS. BALDWIN: No further questions. Please answer any
4 questions Ms. Runey has.

5 THE COURT: Cross-Examination.

6 CROSS-EXAMINATION BY MS. RUNEY OF BRIAN WILLIAMS:

7 Q. Good afternoon, Mr. Williams.

8 A. How are you?

9 Q. I know this is difficult for you. I just have a few
10 questions. When this woman came to your door she was
11 screaming it's Nikki, it's Nikki.

12 A. Uh-huh.

13 Q. And you didn't know who Nikki was?

14 A. Huh-uh.

15 Q. So at that point you didn't open the door?

16 A. No.

17 Q. But you could hear her saying Julio got shot, ---

18 A. Uh-huh.

19 Q. --- Leland got shot?

20 A. Right.

21 Q. And then you knew immediately who it was?

22 A. No, I still didn't know.

23 Q. Oh, I'm sorry, you didn't know who the female was?

24 A. No, I knew who ---

25 Q. But did you know who she was talking about?

CROSS-EXAMINATION BY MS. RUNEY OF BRIAN WILLIAMS

- 1 A. Yes, ---
- 2 Q. And ---
- 3 A. --- that's when I automatically dialed 911.
- 4 Q. That was your friend and your neighbor, ---
- 5 A. Oh, yes.
- 6 Q. --- Leland Shannon?
- 7 A. Yes.
- 8 Q. And so you called 911?
- 9 A. Right.
- 10 Q. And you also ran over to the house?
- 11 A. Yes.
- 12 Q. Were you still on the telephone with 911?
- 13 A. At that time, no.
- 14 Q. You had already hung up?
- 15 A. Right.
- 16 Q. And when you went over to the trailer you saw Joy with
- 17 her father?
- 18 A. Right.
- 19 Q. And you saw Antoine Aiken?
- 20 A. No one else.
- 21 Q. No one else was there?
- 22 A. No.
- 23 Q. Just Joy and her father?
- 24 A. Right. She didn't even know I was there. Because it
- 25 happened so quick. I ran over there and didn't care who was

CROSS-EXAMINATION BY MS. RUNEY OF BRIAN WILLIAMS

1 still in the yard, didn't care what situation I was in. I
2 was just going to help him.

3 Q. To get Mr. Shannon?

4 A. Right.

5 Q. Absolutely. And did you see a young teenager there,
6 around 14 years old?

7 A. Again, no one. I got up to the front stairs, saw him
8 laying in a pool of blood. I came back out. I ran back out
9 to my house.

10 Q. Was ---

11 A. When I came I seen Mr. Aiken and like three or four
12 other people in the yard.

13 Q. Okay. So when you came back with Mr. Shannon you
14 saw ---

15 A. With his brother.

16 Q. --- Mr. Aiken?

17 A. Right.

18 Q. Okay. And Patrick Shannon?

19 A. Right.

20 Q. And Joy obviously?

21 A. Right.

22 Q. And a couple of other people; do you remember who else
23 was there?

24 A. Yeah, Little Ishmal.

25 Q. Who you knew from staying with his father in the

CROSS-EXAMINATION BY MS. RONEY OF BRIAN WILLIAMS

1 neighborhood?

2 A. Yeah, right next-door.

3 Q. So he was there?

4 A. Uh-huh.

5 Q. Was his father there?

6 A. I didn't even see his dad.

7 Q. So just Ishmal?

8 A. Right.

9 Q. That's all.

10 MS. RONEY: Thank you.

11 THE COURT: Thank you. Any redirect?

12 MS. SHEALY: I have no questions, Your Honor.

13 THE COURT: Okay. Sir, you may step down and be
14 excused.

15 MS. SHEALY: Deanna Henderson.

16 THE COURT: All right. Ma'am, if you would come on up
17 and we will swear you in.

18 (WHEREUPON, the witness was sworn.)

19 THE CLERK: Ma'am, once you are seated if you could
20 please state your first and last name and spell your last
21 for the record.

22 MS. HEANDERSON: Deanna Henderson. The last name, did
23 he say spell it.

24 MS. SHEALY: Spell your last name.

25 MS. HENDERSON: H-E-N-D-E-R-S-O-N.

CROSS-EXAMINATION BY MS. RUNEY OF BRIAN WILLIAMS

1 (DEANNA HENDERSON, having
2 first been duly sworn, testified as follows:)
3 **DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:**
4 Q. Ms. Henderson, and if you would please tell the jury
5 how old you are.
6 A. Twenty-nine.
7 Q. And where are you from?
8 A. Ridgeville.
9 Q. Ridgeville area?
10 A. Yes, ma'am.
11 Q. Where do you currently reside?
12 A. In Ladson.
13 Q. And in what area in Ladson?
14 A. Summerville Mobile Home Park.
15 Q. And the Summerville Mobile Home Park is there a street
16 called Cindy Drive?
17 A. Yes, ma'am.
18 Q. And do you in fact live on Cindy Drive?
19 A. Yes, ma'am.
20 Q. Back in January of 2012 did you live on Cindy Drive?
21 A. Yes, ma'am.
22 Q. If I could start with did you know Leland Shannon?
23 A. Yes.
24 Q. Did you know him as Leland or as Julio?
25 A. As Julio.

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

- 1 Q. Okay. And how did you know him?
- 2 A. He tint my windows on my vehicle.
- 3 Q. He tinted your windows?
- 4 A. Uh-huh.
- 5 Q. And what area of town are you familiar with that he
- 6 lived in?
- 7 A. Lincolnville.
- 8 Q. Do you know Onyx?
- 9 A. Yes.
- 10 Q. And do you see Onyx in the courtroom? Look over the
- 11 whole courtroom.
- 12 A. Yes.
- 13 Q. Okay. Where is Onyx?
- 14 A. Right here (pointing).
- 15 Q. Okay. Now in that mobile home park -- first of all,
- 16 tell us how did you know Onyx.
- 17 A. I know Onyx from coming over playing chess with one of
- 18 my baby daddies.
- 19 Q. With one of your baby daddies?
- 20 A. Uh-huh.
- 21 Q. Oh, let me ask you something real quick. Do you have a
- 22 conviction for 2006 for financial transaction card fraud?
- 23 A. I do.
- 24 Q. And you were put on probation for that?
- 25 A. Uh-huh.

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

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1 Q. Okay. Now the baby daddy that you're talking about,
2 what is his name?

3 A. James.

4 Q. James. And when Onyx would come over and play chess
5 with James do you know where Onyx was living?

6 A. In the mobile home park.

7 Q. Excuse me?

8 A. He was staying in the park.

9 Q. The same mobile home park?

10 A. Uh-huh.

11 Q. If I show you State's Exhibit 29 can you -- do you know
12 which trailer that is to the left?

13 A. Uh-huh.

14 Q. And could you tell us whether that is where Onyx was
15 living?

16 A. Yes.

17 Q. Did you know Deanna, who Onyx lived there with?

18 A. Amber and Matt and his fiancée.

19 Q. Okay. You know what, I'm going to need you to do is
20 talk a little bit louder for me.

21 A. Yes, ma'am. Amber, Matt, and his fiancée.

22 Q. Okay. So they all lived in that trailer?

23 A. Uh-huh.

24 Q. And did you get to know Onyx from him coming over to
25 play chess with James?

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 A. Barely, yes.

2 Q. Barely, is that what you said?

3 A. Uh-huh.

4 Q. Okay. Prior to January 24th could you -- and the days
5 leading up to January 24th would you tell the jury whether
6 or not Onyx ever spoke to you about Julio.

7 A. He spoke to me once about Julio. I can't exactly
8 remember exactly how many days or whatever. He came over
9 one night and we were switching out DVD's and ---

10 Q. Y'all were what? I'm sorry?

11 A. Switching our DVD's.

12 Q. Okay.

13 A. We borrowed each other's DVD's. And he was upset that
14 he went to Julio to buy some green but he was taxing him for
15 it.

16 Q. Okay. So let's talk about those terms that you're
17 using.

18 A. Oh, I'm sorry.

19 Q. He would to buy some did you say green?

20 A. Yes, marijuana.

21 Q. Now are you talking marijuana?

22 A. Yes, ma'am.

23 Q. And Onyx was complaining because Julio was taxing him?

24 A. Yes, ma'am.

25 Q. What does that term me?

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 A. He was putting the price up higher than what I guess
2 it's usually.

3 Q. Okay. And when Onyx had that discussion with you could
4 you tell the jury what his demeanor was like; how was he
5 acting?

6 A. At that time it was just like he just said "F-it" and
7 that was it.

8 Q. Well, when you say he said "F-it", with the court's
9 permission if you could tell us exactly what he said.

10 A. He just said when Julio was taxing him he didn't buy
11 it, he said said fuck that, to keep that.

12 Q. Okay. And now focusing your attendance at the morning
13 hours of January 24th, daylight on January 24th, could you
14 tell the jury whether or not you had the occasion to Onyx to
15 see that day?

16 A. Is that the day that -- I was at work that morning and
17 he was calling my phone or whatever. Once I got home around
18 one ---

19 Q. Wait a minute. Let's talk about that for a second. He
20 was calling your phone?

21 A. Yes.

22 Q. Did you talk to him when he called you ---

23 A. I didn't talk to him. I don't remember. I didn't talk
24 to him.

25 Q. And did he call you one time, or did he call you more

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 than one time?

2 A. He called me more than once.

3 Q. Okay. So what then happened?

4 A. Once I came home, he came over. He knocked on the
5 door. We sat on the porch. And he was like -- he told me
6 if anybody came by looking for him or wanted to know if he
7 stayed in the trailer park to say that he didn't stay there.

8 Q. Okay. Can you say that a little bit slower for us,
9 Deanna?

10 A. I'm sorry. He said that if anybody came by looking for
11 him or wanted to know if he stayed in the trailer park, that
12 he didn't stay there.

13 Q. Okay. And did he ask you about whether you had heard
14 anything?

15 A. Yeah, he asked me -- or either I asked him. I can't
16 remember. About what -- the home invasion. I think he
17 asked me about if I heard what happened in Lincolnville. I
18 said I heard on the news that it was a home invasion in
19 Lincolnville.

20 Q. Did y'all have a discussion about whether it mentioned
21 who the victim was on the news?

22 A. I asked him I wonder who got shot in Lincolnville. And
23 he replied and said Julio.

24 Q. When you asked him who got shot, he said who?

25 A. Julio.

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 Q. Okay. Did he ask you anything else about the news
2 story?

3 A. He asked me was the person that got shot did the news
4 say living or dead. I told I didn't know, they just said he
5 got shot and the person was transported to MUSC.

6 Q. Okay. Now when you were having this conversation with
7 Onyx you were at -- on your porch at your --

8 A. Yes, ma'am.

9 Q. --- mobile home? And could you describe for the jury,
10 please, how did Onyx appeared when he was asking you all of
11 these questions; how did he look?

12 A. How did he look?

13 Q. How did his mood seem to be?

14 A. A little nervous. Just a little tense.

15 Q. Okay. And do you remember about what time it was that
16 y'all had this conversation; you would have gotten off work
17 at what time?

18 A. I got off work at 1:00.

19 Q. Now what happens next after he had that conversation
20 with you?

21 A. We are having a conversation, and we are on my porch.
22 My back is turned towards him. And he is facing the road.
23 And a black, Dodge Charger started to proceed to pass.

24 He asked me if I'd seen a black, Dodge Charger in the
25 trailer park. I told him yeah, it was an unmarked Berkeley

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

- 1 County. Because he always comes through the trailer park.
- 2 Q. Okay. And what happened after that?
- 3 A. He asked me to walk down the steps to see exactly where
- 4 it went.
- 5 Q. Did you do that for him?
- 6 A. Yes.
- 7 Q. And what did you tell him?
- 8 A. Before I could get to the end of the trailer the police
- 9 or whoever came rushing in the yard.
- 10 Q. Okay. When you say they came rushing in the yard, were
- 11 there police on foot and police in cars or ---
- 12 A. They had vehicles, but they were already out of the
- 13 vehicles on foot.
- 14 Q. Okay. And when that happened did the police put James
- 15 Rose in a police car?
- 16 A. Yes.
- 17 Q. After Onyx -- and I'm sorry, Onyx is what you call him.
- 18 After Onyx was put in the police car could you describe to
- 19 the jury what happened next?
- 20 A. He was put in the police car and he ---
- 21 Q. What did you do?
- 22 A. I was standing in my yard.
- 23 Q. Okay. And do you at some point approach the police
- 24 car?
- 25 A. Yeah, one of the officers said that he wanted to speak

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 with me.

2 Q. Okay. What happened when you approached the police
3 car?

4 A. Onyx then apologized to me for bringing the commotion
5 to my house. Because I have kids. And I asked him -- I was
6 like babe, you shot Julio? And he nodded his head.

7 Q. Showing the jury ---

8 A. And held his head down.

9 Q. Show the jury, I'm sorry, how ne nodded.

10 A. He just like nodded his head and held his head down
11 (motioning).

12 Q. I'm sorry, what?

13 A. He nodded his head and held his head down.

14 Q. And held his head down?

15 A. Yes, ma'am.

16 Q. Now did you give a statement to the police about what
17 we have just talked about?

18 A. Yes.

19 Q. A written statement? I will show you a copy just to
20 refresh your memory. Do you recall whether you gave it on
21 that same day or the next day?

22 A. I think it was the next day or something. I know it
23 wasn't the same day.

24 Q. And when you gave the statement to the police did you
25 mention the part about him holding his head down when you

DIRECT EXAMINATION BY MS. SHEALY OF DEANNA HENDERSON:

1 were asked the question?

2 A. No.

3 Q. Tell the jury why you didn't tell the police, why you
4 didn't tell the police that that day.

5 A. I really don't have a reason. I just didn't.

6 Q. You just didn't? And again, earlier that morning when
7 you saw Onyx, what did he say to do if anybody was looking
8 for him or asked if you knew him?

9 A. He told me if anybody came by looking, for them to say
10 that he didn't stay in the trailer park and I didn't know
11 him.

12 Q. And that you didn't know him?

13 A. Uh-huh.

14 Q. I have no further questions. Please answer any that
15 the defense may have.

16 THE COURT: Thank you. Cross-examination.

17 CROSS-EXAMINATION BY MS. RUNEY OF DEANNA HENDERSON:

18 Q. Good afternoon, Ms. Henderson.

19 A. Hi.

20 Q. That was kind of a crazy day at your house, wasn't it?

21 A. Yes, ma'am.

22 Q. There were several police cars and SUV's?

23 A. Yes, ma'am.

24 Q. And many many police officers?

25 A. Yes.

CROSS-EXAMINATION BY MS. RUNEY OF DEANNA HENDERSON

1 Q. And they came rushing towards your house?

2 A. Uh-huh.

3 Q. And they put James Rose on the ground?

4 A. They did.

5 Q. And handcuffed him?

6 A. Yes, ma'am.

7 Q. And after they handcuffed him they pulled him away and
8 put him in one of their vehicles?

9 A. Yes, ma'am. I think it was a black Suburban.

10 Q. And you were probably nervous at that time, I'm
11 guessing?

12 A. Yes, ma'am.

13 Q. And they let you talk to James?

14 A. Yes, ma'am. One of the officers. I was in the yard
15 walking back to the shed. One of officers said do you want
16 to speak with him.

17 Q. And he wanted to tell you that he was sorry that he had
18 brought this commotion to your house?

19 A. Yes, ma'am.

20 Q. Because the streets in that neighborhood are small,
21 everybody's houses are pretty close together; and I'm sure
22 this was a huge commotion?

23 A. Oh, yes. And you have a kid?

24 A. Yes, ma'am.

25 Q. You have a child with a man who is a cousin of Leland

CROSS-EXAMINATION BY MS. RUNEY OF DEANNA HENDERSON

1 Shannon's, right?

2 A. Yes, ma'am.

3 Q. Okay. So you are not related to him but your child
4 would be?

5 A. Yes.

6 Q. Okay. And when the detectives let you talk to Onyx and
7 he said I'm sorry I've brought this mess to your house, I'm
8 sure they're kind of right on you as well?

9 A. Yes.

10 Q. Many of them?

11 A. It was one of them.

12 Q. One?

13 A. It was one.

14 Q. That went up with you?

15 A. Yes.

16 Q. Okay. But there were many police officers around?

17 A. Oh, yes, ma'am.

18 Q. Okay. And at this point he's going to jail?

19 A. Yes.

20 Q. And it's safe to say he wasn't happy he was going to
21 jail?

22 A. No.

23 MS. RUNEY: Beg the Court's indulgence. That's all I
24 have. Thank you, Ms. Henderson.

25 MS. HENDERSON. Yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF DEANNA HENDERSON

1 THE COURT: Any redirect?

2 MS. SHEALY: No, Your Honor. We would just ask that
3 she be excused.

4 THE COURT: All right. Ma'am, you may step down and be
5 excused. Can we get one more?

6 MS. SHEALY: Your Honor, I think our next witness could
7 take after 5:30, so we probably can stop here.

8 THE COURT: Okay. Ladies and gentlemen, our next
9 witness may run a little longer. And I know that some of us
10 need to get on the road by 5:30. So we are going to break
11 for today.

12 I ask that y'all be back in the jury room by 9:30 in
13 the morning. I appreciate the juror who moved her
14 appointment for us. That way we can start a little earlier.

15 I hope you have a nice evening. Please don't discuss
16 the case. Don't do any independent research. Again, I
17 don't think there will be any media coverage. But please
18 don't read or watch or listen to anything if there is.
19 Thank you, ladies and gentlemen. Have a nice evening.

20 (WHEREUPON, jurors exits courtroom 5:14 p.m.)

21 THE COURT: All right. What's our lineup for tomorrow?
22
23 Do we have -- think we will move pretty quickly through the
24 witnesses?

25 MS. SHEALY: We have several quick witnesses.

State vs. James Rose

1 THE COURT: Okay.

2 MS. SHEALY: At some point tomorrow we will be putting
3 our evidence custodian in.

4 THE COURT: All right.

5 MS. SHEALY: That will be relatively lengthy.

6 THE COURT: Sure.

7 MS. SHEALY: And there are a few officers that we are
8 going to debate tonight about whether we are putting them up
9 or not.

10 THE COURT: Okay.

11 MS. SHEALY: And then I really think we could finish
12 our case tomorrow.

13 THE COURT: That would be great, okay.

14 MS. SHEALY: I have some SLED agents, Judge.

15 THE COURT: Okay.

16 MS. SHEALY: I know one of them was expected to be
17 needed in Jasper County Department tomorrow morning ---

18 THE COURT: Okay.

19 MS. SHEALY: --- which would not conflict with this.

20 THE COURT: Okay.

21 MS. SHEALY: I will double check on that when I get out
22 of court today.

23 THE COURT: All right. That would be perfect. They
24 could hit us on the way back from Jasper.

25 MS. SHEALY: That's what I had ---

State vs. James Rose

1 THE COURT: That's kind of on the way.

2 MS. SHEALY: That's the last message I left her was
3 that maybe she could just travel here ---

4 THE COURT: Okay.

5 MS. SHEALY: --- when she finished there. So I think
6 we can finish tomorrow.

7 THE COURT: All right. Well, I've got a draft of the
8 jury charges ready. I will print those for you and have
9 them for you in the morning. Y'all send me whatever you
10 like.

11 I do have a hand of one charge and a mere presence
12 charge. Y'all may need to argue about that at -- you know,
13 when we have a charge conference. But I just think it is
14 helpful to have a draft to work from. So we will print that
15 for tomorrow.

16 MS. SHEALY: I don't know what your policy is about
17 whether we would argue and charge at -- do you have a cutoff
18 time that you ---

19 THE COURT: I don't really have a cutoff time, but I
20 like to not -- I mean, you know, once we are getting into
21 3:00 and four o'clock I realize that it's not going to work
22 for keeping the jury here. So it really kind of depends on
23 what we also have to do this week.

24 I know I've got a hearing Friday morning I think
25 actually with Jessica. I mean there are things I can do

State vs. James Rose

1 while the jury is out if for some reason we need to wait
2 until Friday morning. But we may get ---

3 MS. SHEALY: Well, we still have Thursday.

4 THE COURT: Right. We may get far enough Thursday to
5 send it to the jury.

6 MS. SHEALY: I'm confused about what day we're on.

7 THE COURT: Today is Tuesday.

8 MS. SHEALY: So --

9 THE COURT: But I'm assuming ---

10 MS. SHEALY: Right.

11 THE COURT: --- you are going to take up most of
12 tomorrow.

13 MS. SHEALY: Right. And I think we might in a position
14 Thursday morning to argue that.

15 THE COURT: Okay.

16 MS. SHEALY: Okay.

17 THE COURT: Sounds good to me. Thank y'all.

18 MS. SHEALY: Thank you.

19 THE COURT: All right.

20 MS. RUNEY: Thank you.

21 THE COURT: All right. We will be at ease. I will see
22 y'all at 9:30 in the morning.

23 MS. SHEALY: Thank you, Judge.

24 THE COURT: Thank you.

25 (WHEREUPON, recessed January 10, 2014, 5:17 p.m.)

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1 (January 11, 2014)

2 MS. SHEALY: We have added State's 104 which is a
3 photograph. I've shown it to the defense. They have no
4 objection.

5 THE COURT: Okay. No objection, all right. State's
6 104 will be admitted without objections.

7 (WHEREUPON, State's Exhibit 104, photo, was marked for
8 identification.)

9 (WHEREUPON, State's Exhibit 104 was admitted into evidence.)

10 MS. SHEALY: And then regarding previously marked 75,
11 91, and 93, they were all in a bag from SLED.

12 THE COURT: Okay.

13 MS. SHEALY: With the defense's permission ---

14 THE COURT: Okay.

15 MS. SHEALY: --- we have opened that bag to mark the
16 bag itself ---

17 THE COURT: All right.

18 MS. SHEALY: --- and to put the stickers on the
19 individual items.

20 THE COURT: I appreciate that. That makes so much more
21 sense to have all that ready to go.

22 MS. SHEALY: Okay.

23 MS. RUNEY: What are those you numbered? I'm sorry?

24 THE COURT: Seventy-five, ninety-one, and ninety-three
25 I think.

State vs. James Rose

1 MS. SHEALY: And then now the SLED bag itself was
2 marked 105.

3 THE COURT: Okay.

4 MS. SHEALY: And then our Exhibit's 85 and 86 which
5 were previously admitted we have taken those out of the SLED
6 bag and marked the SLED bag 106.

7 THE COURT: And I assume -- any objections to 105 and
8 106, the bags themselves?

9 MS. RUNEY: I do not, no, ma'am.

10 THE COURT: Okay. Thank you. All right. Great.
11 Whenever y'all are ready.

12 (WHEREUPON, State's Exhibit Number 105, bag, marked for
13 identification.)

14 (WHEREUPON, State's Exhibit Number 105 admitted into
15 evidence.)

16 (WHEREUPON, State's Exhibit Number 106, bag, marked for
17 identification.)

18 (WHEREUPON, State's Exhibit Number 106 admitted into
19 evidence.)

20 (Break 9:40 a.m. to play audio of phone call from Charleston
21 County Detention Center.)

22 THE COURT: Okay. Is there any objection to the jail
23 call?

24 MS. RUNEY: Yes, ma'am.

25 THE COURT: All right. What's the basis of the

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1 objection?

2 MS. RUNEY: My first objection is I assume that the
3 State is planning to introduce this jail call under the
4 hearsay 804(b)(3), statement against interest.

5 Your Honor, our position is that this is not a
6 statement against interest. First of all, it is unclear
7 what Mr. Rose is talking about. It's unclear who he is
8 talking to. And he begins the conversation by trying to
9 find his girlfriend.

10 He has just been arrested. He is looking for her.
11 They share a phone. They have several phones amongst them.
12 And the discussion is about getting in touch with her and
13 one of the phones they use is in the car that was seized by
14 the Sheriff's Department.

15 So for that reason, we don't think that it should be
16 admitted under that hearsay rule.

17 THE COURT: Okay.

18 MS. RUNEY: The third -- the second objection is under
19 Rule 403 relevancy, why it is relevant that he is trying to
20 get in touch with his girlfriend. My position is that it is
21 not relevant. It is certainly confusing to the jurors. If
22 we didn't -- if we had more background about what this
23 conversation is about, if we had and the person that he was
24 talking to. We don't know those things. And because of
25 that, we don't know what he is trying to say.

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1 It's speculation to say that his phone is in there and
2 then that means that he was in that car to commit this
3 crime. Also, once this car was seized by the Sheriff's
4 Office they found nothing that put James Rose in that car.

5 THE COURT: Did they find a phone?

6 MS. RUNEY: They did.

7 MS. SHEALY: They did, Your Honor.

8 THE COURT: Okay.

9 MS. RUNEY: We don't know whose phone that is. And the
10 fact that there was a phone in there, I don't know if this
11 testimony will be presented; but in the discovery James's
12 girlfriend is in that car. She may be even in that car when
13 the Sheriff's Office takes it.

14 But she does give statements to detectives that she is
15 in that car with the owner of the car the day after this
16 happened going to her probation office.

17 THE COURT: Who is the owner of the car?

18 MS. RUNEY: Everlina Bickman. And she is on the
19 witness list.

20 THE COURT: Okay. So 403, general relevance ---

21 MS. RUNEY: Yes, ma'am.

22 THE COURT: --- and the hearsay exception?

23 MS. RUNEY: Yes, ma'am.

24 THE COURT: All right. Ms. Baldwin or Ms. Shealy, talk
25 to me about what the significance of the phone is -- I mean

State vs. James Rose

1 if we can tell from the outgoing calls if there is anything
2 that ties it to the defendant and what the relevance of the
3 phone call is.

4 MS. BALDWIN: Your Honor, it's the State's position
5 that that jail call ties Mr. Rose to that car. That car
6 that was seized by police is a four-door, gray Neon which is
7 exactly what the witness say they saw outside of the house
8 when the incident occurred.

9 THE COURT: Okay.

10 MS. BALDWIN: They also say they saw Mr. Rose drive
11 away in that car. So we believe that statement ties it all
12 together.

13 THE COURT: Okay. I couldn't quite understand in the
14 telephone call what he was trying to get the other
15 individual to do.

16 MS. BALDWIN: In that telephone call it sounds like he
17 is trying to get the other individual to dial his girlfriend
18 at the time, Amber Wiley.

19 THE COURT: To find out if there was a phone in the car
20 or what? I mean ---

21 MS. BALDWIN: To -- he's got his clothes and
22 belongings at the -- at the house. And the State also
23 believes that is important, Your Honor, to identify that
24 that location where Amber Wiley lived was where Mr. Rose
25 also lived. That is where the car was found.

1 THE COURT: Okay. Let me take a look -- I understand
2 certainly why it would be relevant if he were concerned
3 about his DNA being in the car, if he were concerned about a
4 phone that may have belonged to him being in the car.

5 I need to look at some -- the law to see if 804(b)(3)
6 applies here. I'm not sure that it is actually a statement
7 that is so far contrary to the defendant's pecuniary
8 interest other than the fact that he references DNA that it
9 would come within 804(b)(3). But I will look at some cases.
10 If you've got any, I'm happy to hear.

11 MS. BALDWIN: We can pull some, Your Honor. I would
12 say ---

13 THE COURT: I can pull them while y'all work. I mean
14 I

15 MS. RUNEY: Your Honor, if I could just add one thing.

16 THE COURT: Sure.

17 MS. RUNEY: I believe that the testimony would show
18 that nobody could identify this specific car. It's the same
19 type of car. There's been some testimony that it was a gray
20 car or a white car or a silver car. And this ---

21 THE COURT: I thought it was a gray Neon. I thought
22 that ---

23 MS. BALDWIN: That is what Tawana Alston identified the
24 car as being..

25 THE COURT: Okay.

State vs. James Rose

1 MS. RUNEY: She does. But I think that Antoine Aiken
2 said that it could have been white. And then another
3 witness I can't remember said possibly silver.

4 It is the same type of car that is described, but
5 nobody gives a license plate number or any special sticker
6 that is on it or, you know, damaged part or anything like
7 that.

8 THE COURT: Okay.

9 MS. RUNEY: I would just add that. And the other bit
10 of information that I would provide to the court is that
11 also in statements that were given to the police Amber
12 Wiley, Mr. Rose's girlfriend, who he is trying to find on
13 the phone, gives a statement immediately after this to
14 Detective Church that she went to court in Berkeley County
15 the day after this happened and that James Rose went with
16 her and that that was for an eviction hearing.

17 Their trailer is in Berkeley County and they were being
18 evicted from that trailer. I think that's important to know
19 because he is talking about getting his clothes and stuff.

20 Thank you.

21 THE COURT: Sure.

22 MS. BALDWIN: Your Honor, just for the record, it's the
23 State's positions that this would actually fall under
24 801(D)(2) as an admission by a party opponent, not a
25 statement against interest.

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1 THE COURT: Okay. And it may well fall under
2 801(D)(2). The problem becomes if the assertion that he
3 wasn't in any way connected with that car is an argument
4 that is to be made, the fact that he is worried about his
5 DNA being found in it makes the call more relevant than less
6 so.

7 And the 403 standard is that the prejudice must
8 substantially outweigh the relevance. So if it falls within
9 a hearsay exception, I am probably going to let it in under
10 403.

11 But let me just read a little bit of law while the
12 trial goes forward. And I think that 801(D) -- (D)(2) may
13 be more of where we are headed than 804. But let's just
14 look at it and see.

15 If he's concerned about his DNA, I'm not sure why he
16 would be but for the fact that he's worried they are going
17 to find it in that particular car.

18 MS. RUNEY: Well, then I would have to listen to it
19 again. And I don't want ---

20 THE COURT: Yeah, we do need to listen to it again.
21 Because it was somewhat unclear to me and but for his
22 references to that I don't -- to that being the DNA I don't
23 know that it would be relevant because he -- the folks
24 obviously were trying to talk -- they know those calls are
25 being recorded.

State vs. James Rose

1 MS. RUNEY: I think what he says is that they've taken
2 that girl's car, they think they're going to find my DNA in
3 that car.

4 THE COURT: That's what I heard.

5 MS. BALDWIN: And, Your Honor, I also think the fact
6 that he references a phone being inside of there, the phone
7 that he was using ---

8 THE COURT: Yeah.

9 MS. BALDWIN: --- being inside that car.

10 THE COURT: In any event, the State is going to need to
11 lay some foundation any way regarding the car, the search,
12 the police officer that investigated and processed the car.
13 I imagine we are going to hear some of that this morning.

14 MS. SHEALY: You should.

15 THE COURT: So I need -- I'm got to hold off ----

16 MS. RUNEY: Yes, ma'am.

17 THE COURT: --- until that is laid anyway. And then we
18 can certainly listen to the tape again. Because as I
19 indicated, I intended to listen to it last night. Couldn't
20 get it to get my computer to play it. So I apologize for
21 that.

22 Anything else we need to take up before we bring the
23 jury?

24 MS. SHEALY: No, I was just going to mention to
25 security that Clarence Hush should be our second witness.

State vs. James Rose

1 Thank you.

2 THE COURT: Okay. Anything else from the defense
3 before we bring the jury?

4 MS. RUNEY: No, ma'am. Thank you.

5 THE COURT: All right. Let's bring them on in. Thank
6 you.

7 (WHEREUPON, the jurors enters courtroom 9:53 a.m.)

8 THE BAILIFF: Jurors are all present, Your Honor.

9 THE COURT: Thank you, sir, and thank you ladies and
10 gentlemen. Good morning. I hope y'all had a nice evening.
11 The State and the defense are ready to proceed with the
12 trial. So I will call on Ms. Shealy and Ms. Baldwin to call
13 their next witness.

14 MS. BALDWIN: Thank you, Your Honor. The State calls
15 Brandon Cantrell.

16 THE COURT: All right. Mr. Cantrell, if you will come
17 on up, we will swear you in.

18 (WHEREUPON, the witness was duly sworn.)

19 THE CLERK: After you are seated if you could please
20 state your first and last name and then spell your last for
21 the record. Speak into the microphone, please.

22 MR. CANTRELL: My name is Brandon Cantrell. It's
23 C-A-N-T-R-E-L-L.

24 DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL:

25 Q. Good morning, Brandon. How old are you?

- 1 A. I'll be 20 this Sunday.
- 2 Q. Happy early birthday.
- 3 A. Thank you.
- 4 Q. Do you work currently?
- 5 A. I actually just had a job interview yesterday.
- 6 Q. Do you go to school?
- 7 A. Yes.
- 8 Q. Where do you go to school?
- 9 A. Trident Tech.
- 10 Q. Trident. Where do you live now?
- 11 A. At the same house I've lived the past 15 years.
- 12 Q. And where is that?
- 13 A. Wilmore Acres, Cindy Drive.
- 14 THE COURT REPORTER: I'm sorry, I didn't hear that.
- 15 A. Cindy Drive.
- 16 Q. Just make sure you speak up into that mike so the court
- 17 reporter can hear you.
- 18 THE COURT: That's Cindy Drive; is that right?
- 19 THE WITNESS: Yes, ma'am.
- 20 BY MS. BALDWIN:
- 21 Q. Do you know the defendant, Mr. Rose?
- 22 A. He looks different. But yeah.
- 23 Q. Where do you see him?
- 24 A. I'm pretty sure that's him right there, right?
- 25 Q. How do you know him?

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 A. Well, he lives down the street from me in the
2 neighborhood. And we hung out from time to time and smoked.
3 But other than that, you know, that was pretty much our
4 relationship.

5 Q. What do you mean by smoked?

6 A. Marijuana.

7 Q. Where did he live?

8 A. Like it's on Cindy Drive as well. I don't know the
9 address. It's the green and white trailer.

10 Q. I'm going to show you State's Exhibit 29. It will come
11 up on the screen in front of you. What is that?

12 A. That is where he lived.

13 Q. And what did you call the defendant; what name did you
14 call him?

15 A. Onyx or "O".

16 Q. Did you -- who did the defendant live with; do you
17 know?

18 A. As far as I knew just his girlfriend. And I think she
19 had a kid or two kids as well if I'm not mistaken. I'm not
20 a hundred percent sure on that.

21 Q. Did you know his girlfriend's name?

22 A. No, I just hung out with him. I never even went inside
23 or anything.

24 Q. I'm going to show you State's Exhibit 28. Do you know
25 what that is?

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

- 1 A. Yeah, that was his girlfriend's car.
- 2 Q. So you said you and the defendant smoked ---
- 3 A. Yes, ma'am.
- 4 Q. --- marijuana together? Did you ever purchase drugs
- 5 together?
- 6 A. Yes, ma'am.
- 7 Q. Okay. How often did that happen?
- 8 A. I mean it was under at dozen times. It wasn't very
- 9 often.
- 10 Q. Did you ever go over to Lincolnville to get those
- 11 drugs?
- 12 A. Yes, ma'am.
- 13 Q. Okay. Do you know the address of the place in
- 14 Lincolnville you went to?
- 15 A. No, ma'am.
- 16 Q. Okay. Can you describe the house you would go to?
- 17 A. There was like a church kind of like in the front. And
- 18 then he went down a little dirt road. And then it was like
- 19 a trailer, to a doublewide on the right. And then there was
- 20 another house on the left. And that was the house. I don't
- 21 really exactly remember what it looks like. It has been
- 22 like two years so.
- 23 Q. When you guys would go to buy drugs there did -- who
- 24 would drive usually?
- 25 A. Me every time.

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 Q. So just tell the jury a little bit about the last time
2 you guys went to go over there to get drugs. Did you drive
3 that time?

4 A. No, ma'am. The last time that we went I actually had
5 asked him if he could find me anything. And he told me that
6 he couldn't. You know, that he would call as a friend. And
7 I was supposed to take him, but I had a really bad oil leak
8 with my car at the time so I told him I didn't want to
9 drive. And it was getting kind of late. It was about 8:30,
10 nine o'clock. About that time. And I had school the next
11 day.

12 So about maybe around nine o'clock he called me again
13 and told me that he had a ride. And that was with Unk. And
14 us three we drive to the house in Lincolnville.

15 Q. Let me stop you real quick. Do you know who Unk is?

16 A. No, ma'am, that was the first time I met him.

17 Q. Do you know what he -- do you remember what he looked
18 like?

19 A. He had like a bald head and -- or shaved head. There
20 was a few missing teeth. Kind of like a caramel color.

21 Q. And do you remember the date that y'all went to go get?

22 A. The day?

23 Q. The date.

24 A. No.

25 Q. January 23rd of 2012?

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 A. Honestly I couldn't tell you. It was just another day
2 of looking for weed and smoking in high school.

3 Q. All right. So you guys went over to Lincolnville to
4 get some drugs. And what happened when you got there?

5 A. Well, we got there. And usually, you know, we wait
6 about 10 or 15 minutes. Well, usually it was just me and
7 "O". But it took like 30, 45 minutes later. And so Unk
8 called him to see what was going on.

9 Q. When you say him, who do you mean?

10 A. "O". And "O" told him that he was coming out in a
11 second. And I think he still hadn't came out, so then Unk
12 went and knocked on the door and a guy came out, and they
13 were talking.

14 And Unk came back to the car. And then maybe about two
15 minutes later that's when "O" came out. And he told me that
16 he couldn't get anything. And, you know, I guess they had
17 got into an argument. Because he seemed pretty mad but.
18 And then ---

19 Q. What did they say again? What did "O" say?

20 A. He said that well that he couldn't get anything and
21 that -- man, I can't

22 Q. Do you remember -- what was his demeanor when he came
23 out?

24 A. I mean he was upset. Cleanly he was mad. But I would
25 be mad too if I went somewhere and waited for an hour and

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 couldn't get anything.

2 Q. It was about an hour that he was in there?

3 A. Yes, ma'am. It was a good -- it was a long time.

4 Q. Did you ever go inside?

5 A. No, ma'am.

6 Q. And typically when you guys would go over there how
7 long was he inside?

8 A. Usually it's about 10 or 15 minutes at the top, you
9 know, like a normal situation would go.

10 Q. And you said that Unk drove over there. Do you
11 remember what Unk's car looked like?

12 A. It was like a Dodge like caravan almost. Like kind of
13 like an SUV. But it wasn't like an SUV. It was a little
14 bit smaller, almost like a car.

15 Q. After "O" came back outside what did y'all do?

16 A. We left and we went --- and we stopped at EBT next
17 to -- between Waffle House and the Sonoco. And "O" gave him
18 \$5.00 for gas money. And Unk went inside and got I think it
19 was \$4.03 in gas. I just remember it was being weird.

20 Because he gave him a whole five. And I was like, oh, he
21 must have bought like a Black or something. And then ---

22 Q. When you say -- what do you mean by that, he must have
23 bought ---

24 A. Like a black of milds.

25 Q. Okay.

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 A. I don't know. I just remember it wasn't the whole five
2 dollars. And then after we left the station they dropped me
3 off at my house and then I went inside and went to sleep.

4 Q. What was "O" doing while y'all were at the gas station?

5 A. He was in the car and he was just trying to call like
6 to see if he could find anyone else to find -- you know, get
7 any weed from.

8 Q. Do you know who he was talking to?

9 A. No, ma'am.

10 Q. What was he acting like; was he calm, ---

11 A. I mean ---

12 Q. --- upset?

13 A. He was still a little upset from not being able to have
14 anything. But, you know, I guess he was calming down as he
15 was trying to get in touch with whoever.

16 Q. Do you remember what "O" was wearing?

17 A. I what to say it was the red shirt.

18 Q. And you said after the gas station they took you home
19 and dropped you off?

20 A. Uh-huh.

21 Q. Do you remember about what time of night that was?

22 A. I would say close to 11:00 because I was -- it was
23 pretty late.

24 Q. And Brandon, do you remember giving a statement to the
25 police about this whole incident?

DIRECT EXAMINATION BY MS. BALDWIN OF BRANDON CANTRELL

1 A. Yes, ma'am, the next day at school.

2 Q. At school?

3 A. Yes, ma'am.

4 Q. Where were you going to school at that time?

5 A. Stratford High.

6 Q. And you -- did you know anything about what had
7 happened in Lincolnville ---

8 A. No, it completely threw me off. Like I was sitting in
9 my second period class and then the SRO pulled me out and
10 took me to the SRO office. And there was two detectives
11 there. They started asking me a bunch of questions.

12 MS. BALDWIN: Beg the Court's indulgence.

13 BY MS. BALDWIN:

14 Q. Brandon, I don't have any more questions for you. Just
15 answer any questions from Ms. Runey, please.

16 THE COURT: Thank you. Cross-examination.

17 CROSS-EXAMINATION BY MS. RUNEY OF BRANDON CANTRELL:

18 Q. Good morning.

19 A. Good morning. I just want to clarify this morning that
20 after you went to the trailer in Lincolnville with Mr. Rose
21 and the man that you know as Unk, you pulled up there; James
22 goes in, right?

23 A. Yes, ma'am.

24 Q. You and Unk are in the car?

25 A. Uh-huh.

CROSS-EXAMINATION BY MS. RONEY OF BRANDON CANTRELL

1 Q. And it seems like longer than normal?

2 A. Yeah.

3 Q. And when you mean -- when you say longer than normal,
4 when you and James would go there you would stay in the car
5 and he would go in?

6 A. Yes, ma'am.

7 Q. And it would usually be about 10 to 15 minutes?

8 A. Yes, ma'am.

9 Q. At this time it seemed longer?

10 A. Uh-huh.

11 Q. And so did one of you go try to get him, tell him to
12 come on or ---

13 A. Yes, ma'am, Unk went and knocked on the door and a guy
14 in a green shirt came to the door and they talked or
15 conversated. And that's when Unk came back to the car and
16 we waited for a little bit longer and he tried calling him.

17 Q. He tried to call him?

18 A. Yes, ma'am.

19 Q. And then James came out to the car?

20 A. Well, yeah, a little bit after they talked. Yeah.

21 Q. And when he came back to the car he told you that he
22 couldn't get anything?

23 A. Yes, ma'am.

24 Q. And that was the sole reason that you had gone over
25 there ---

1 A. Yeah.

2 Q. --- to get some weed?

3 A. Yeah, because I just give, you know, him my money and
4 he gets it, you know, along with whatever he gets.

5 Q. You said this whole trip ---

6 THE COURT REPORTER: I'm sorry, I didn't hear the end
7 of that.

8 A. I just, you know, I give him my money and he just gets
9 it, you know, with whatever he gets.

10 Q. So this whole trip was a waste?

11 A. Yes, ma'am.

12 Q. And so he wasn't able to provide what you wanted?

13 A. Uh-huh.

14 Q. Okay. When you left there you went to the Burden of
15 Proof Gas Station?

16 A. Uh-huh.

17 Q. What road is that on?

18 A. That's on College Park Road.

19 Q. And is that close to your home --

20 A. It's on ---

21 Q. --- on a Cindy Lane?

22 A. It's on the way home, yes, ma'am. It's about three
23 miles maybe.

24 Q. About three miles from your home?

25 A. Uh-huh.

CROSS-EXAMINATION BY MS. RUNEY OF BRANDON CANTRELL

1 Q. Okay. And James Rose stayed in the car?

2 A. Yes, ma'am.

3 Q. Because at that point he is still trying to find you
4 some weed?

5 A. Well, yes, I assume for him too as well.

6 Q. Right. Okay. So he is on the phone trying to find
7 some?

8 A. Uh-huh.

9 Q. Okay. And you said he had started to calm down?

10 A. Uh-huh.

11 Q. And this guy named Unk had gone into the store to pay
12 for the gas?

13 A. Yes, ma'am.

14 Q. Okay. And do you remember about what time that was?

15 A. I would say maybe like 10:45ish. Because I got home
16 around 11:00 or so.

17 Q. Were you ever shown a video that was taken from that
18 Burden of Proof Gas Station?

19 A. Just a picture of Unk. And that was the following day
20 after the cops asked me questions.

21 Q. Like a still picture taken from a video?

22 A. Yes, ma'am.

23 Q. So when they came to your school the next day ---

24 A. Well, actually the SRO officer just called me to his
25 office and he had a picture on his phone and he showed me

CROSS-EXAMINATION BY MS. RONEY OF BRANDON CANTRELL

1 that picture. And I said yes, that was Unk. And then that
2 was it. That is all that --- 29:06

3 Q. And you verified that you had been to that BP Gas
4 Station?

5 A. Yes, ma'am.

6 Q. Okay. At that point you were taken to the Sheriff's
7 Department?

8 A. No, ma'am.

9 Q. Did anybody come interview you at school?

10 A. After that there was nothing until the solicitor came
11 and he tried to talk to me. And I told him I didn't want to
12 talk, you know, because I felt like I wasn't involved. And
13 I didn't, you know, want to get any more involved. I felt
14 like I had already done my part.

15 And then later, a couple of months later, this was
16 about a few weeks ago, that's when he came and, you know,
17 gave me like a form to come here. And ---

18 Q. You really didn't want to come here?

19 A. No, ma'am. But I mean I -- I have to.

20 Q. I see. So did you drop James off -- did Unk drop James
21 Rose off first?

22 A. Honestly I'm not 100 percent clear on that. I'm pretty
23 sure I was dropped off first, but I don't remember.

24 Q. Okay. If I let you review a statement that you gave to
25 the police would you remember giving that statement?

CROSS-EXAMINATION BY MS. RUNEY OF BRANDON CANTRELL

1 A. Yes, ma'am.

2 Q. Okay.

3 MS. RUNEY: Your Honor, may I approach the witness?

4 THE COURT: You may.

5 (WHEREUPON, document provided to witness.)

6 Q. When they asked you to give a statement, you wrote down
7 a summary of what you remembered from that night?

8 A. Yes, ma'am.

9 Q. And this was taken approximately two days after this
10 happened?

11 A. Uh-huh.

12 Q. And you reference in your statement that "O" called
13 someone about a 15?

14 A. Uh-huh.

15 Q. And by a 15 you mean \$15 worth of -- worth of weed?

16 A. Yeah.

17 Q. Okay. And if you could read me the line that follows
18 that. I'm not sure if you can see where you wrote that.
19 It's at the end of that paragraph, while Unk was paying "O",
20 while Unk was paying.

21 A. Yeah, well, while Unk was paying for gas "O" called
22 someone about a 15.

23 Q. Okay. So trying to find \$15 ---

24 A. Yes, ma'am.

25 Q. Okay. And then you tell the police what time you got

CROSS-EXAMINATION BY MS. RUNEY OF BRANDON CANTRELL

1 back to the neighborhood. What time did you tell them?

2 A. Well, I told them about 11:30, about 11:15, 11:30.

3 Q. 11:15, 11:30. Okay. And if that's what you write back
4 then you probably remembered it a little bit better back
5 then?

6 A. Uh-huh.

7 Q. And then after your paragraph the police start writing
8 down questions and having you answer those. And at the very
9 end of your statement on Page 4 the detective asked you
10 where did y'all go after the gas station. And you wrote
11 what?

12 A. Straight to Wilmore Acres and dropped "O" off at his
13 house and then dropped me off at my house.

14 MS. RUNEY: Beg the Court's indulgence.

15 THE COURT: Certainly.

16 MS. RUNEY: That's all I have. Thank you.

17 THE COURT: Okay. Any redirect?

18 MS. BALDWIN: Just briefly, Your Honor.

19 REDIRECT EXAMINATION MS. BALDWIN OF BRANDON CANTRELL:

20 Q. Brandon, do you recall what day you gave that
21 statement?

22 A. No, ma'am.

23 Q. Can you look on that statement and tell me?

24 A. January 25th, 2012.

25 Q. And you gave a statement to the Sheriff's Office to the

REDIRECT EXAMINATION MS. BALDWIN OF BRANDON CANTRELL

1 officers?

2 A. The detectives.

3 Q. Detectives?

4 A. Yes, ma'am.

5 Q. And you mentioned a picture being shown to you?

6 A. Yes, ma'am.

7 Q. Who showed you that picture?

8 A. It was Officer Rivers, the SRO officer at Strafford.

9 Q. The SRO officer ---

10 A. Yes, ma'am.

11 Q. --- for your school? Okay. Do you remember Unk making
12 any phone calls when you guys were at the gas station?

13 A. No, ma'am. The only time he was on the phone was while
14 we were at the house. And that was when he was trying to
15 call "O" and when his girlfriend called him to rush him to
16 get home. Because we were only supposed to be gone ---

17 Q. Oh, when did -- when did his girlfriend call him?

18 A. While we were at the house.

19 Q. While y'all ---

20 A. Before he tried calling "O". Yeah.

21 Q. I see.

22 MS. BALDWIN: I don't have any further questions.

23 THE COURT: Okay. Anything further?

24 MS. RUNEY: No, Your Honor.

25 THE COURT: All right. Sir, you may step down. And

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
	)	CASE NO. 2012-GS-10-3310
	)	2012-GS-10-3311
STATE	)	2012-GS-10-3312
	)	2012-GS-10-3313
	)	
VS.	)	
	)	TRANSCRIPT OF RECORD
JAMES ROSE,	)	
	)	
DEFENDANT.	)	

VOLUME II OF II

December 9, 10, 11, and 12, 2013

Charleston, South Carolina

B E F O R E:

The Honorable Stephanie McDonald, Judge; and a Jury.

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

Jennifer Shealy, Assistant Solicitor
 Jessica Baldwin, Assistant Solicitor
 For the State

Martha Kent Runey, Esquire
 Megan Ehrlich, Esquire
 For the Defense

Phyllis Norton, CVR *Nationally Certified Verbatim Court Reporter*
 636 Long Point Road, Unit G, #74, Mt. Pleasant, South Carolina 29464
 (843) 958-5083 PNorton@sccourts.org

REDIRECT EXAMINATION MS. BALDWIN OF BRANDON CANTRELL

1 you are excused.

2 MS. SHEALY: Clarence Hush.

3 THE COURT: All right, sir, if you will come right over
4 here we will swear you in.

5 MR. HUSH: Thank you.

6 (WHEREUPON, the witness was duly sworn.)

7 THE CLERK: Sir, once you are seated if you would
8 please state your first and last name and spell your last
9 for the record.

10 MR. HUSH: Clarence Hush, H-U-S-H.

11 (CLARENCE HUSH, after having been
12 sworn, testified as follows:)

13 DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH:

14 Q. Mr. Hush, if you would please tell the jury how old you
15 are.

16 A. Fifty-three.

17 Q. And were you brought over to Charleston from the
18 Berkeley County jail?

19 A. Yes, ma'am.

20 Q. Are you facing a grand larceny charge over there?

21 A. Yes, ma'am.

22 Q. And were you arrested on that charge in September of
23 this year?

24 A. Yes.

25 Q. Okay. Now let's talk a second about your criminal

1 history. You don't like talking about it too much? You've
2 got quite a number of convictions for drug charges; is that
3 correct?

4 A. Yes, ma'am.

5 Q. And they back up quite a few years into the '90's; is
6 that correct?

7 A. Yes, ma'am. Also, all of that happened in Florida too.

8 Q. In Florida?

9 A. Yes, ma'am.

10 Q. Are you from Florida?

11 A. Yes, ma'am.

12 Q. Okay. So you had also in addition to your drug charges
13 you have a resisting arrest with an officer charge; do you
14 remember that, that was back in Florida?

15 A. No, ma'am, I don't know about that.

16 Q. You don't remember that one? When did you move from
17 Florida?

18 A. 2005.

19 Q. Okay. So possession of cocaine while you were in
20 Florida and another possession of cocaine in Florida, drug
21 paraphernalia, quite a number of drug offenses; is that
22 right?

23 A. Yes, ma'am. Other than that for ten years. I've been
24 clean for the last seven.

25 Q. Been clean for the last seven?

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 A. Yes, ma'am.

2 Q. Okay. Back in -- first of all, do people call you Unk;
3 do some people call you Unk?

4 A. No.

5 Q. You don't know they call you Unk?

6 A. No.

7 Q. Okay. Did you know a guy named Black?

8 A. Yes.

9 Q. And did you live in the same trailer park that he did?

10 A. Yes, ma'am.

11 Q. Did you have access to a vehicle back in January 2012?

12 A. Yes, ma'am.

13 Q. And whose vehicle was that?

14 A. My wife.

15 Q. And what type of vehicle was it?

16 A. It was a black Nissan.

17 Q. Did you ever give Black any rides from that vehicle?

18 A. Yes, a couple.

19 Q. And could you tell the jury whether or not you ever
20 gave him a ride out to Lincolnville?

21 A. Yes, once.

22 Q. And when you went there was it a mobile home behind a
23 church?

24 A. I don't remember the church. I know I took it to a
25 mobile home that had a big yard in it, a big front yard.

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

- 1 Q. And you had only taken it there how many times?
- 2 A. Once.
- 3 Q. And on the occasion that you went did anybody else go
- 4 with y'all; was there ---
- 5 A. Yeah.
- 6 Q. And describe that person.
- 7 A. It was a young, white male.
- 8 Q. Did you know his name?
- 9 A. No.
- 10 Q. While you were there could you tell the jury whether --
- 11 did the white kid get out of the car?
- 12 A. No.
- 13 Q. And did you get out of the car?
- 14 A. Yes.
- 15 Q. Before you got out of the car did Black get out of the
- 16 car?
- 17 A. Yes.
- 18 Q. Why do you get out?
- 19 A. Because he was in the house for about 35 or 40 minutes
- 20 or something, and my wife was blowing up the phone wanting
- 21 her car.
- 22 Q. Your wife was blowing up your phone ---
- 23 A. My phone, right.
- 24 Q. --- because she wanted her car back?
- 25 A. Right.

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 Q. Okay.

2 A. Because I told her we was going to be gone probably
3 about 20 minutes. And I didn't know it was going to take as
4 long as it did.

5 Q. Well, when you got out of the car what did you do?

6 A. I went to the door and knocked on the door, and this
7 guy come to the door, a big, dark-skinned cat come to the
8 door. And I ask him, you know, tell Black to come on
9 because I was going to go.

10 Q. Okay. You said it was a big, black-skinned fellow?

11 A. Dark-skinned guy.

12 Q. Dark-skinned guy?

13 A. Right.

14 Q. And you mean he was ---

15 A. Yeah, yeah ---

16 Q. --- stout?

17 A. Right.

18 Q. What did you tell him?

19 A. I told him to tell Black to come on because, you know,
20 my wife blowing up my phone, she wanted her car back. And
21 he walked away from the door and come back a couple of
22 minutes later -- not even a minute or so and just said -- he
23 said he's coming right now.

24 Q. Okay.

25 A. And I went and got back in the car.

1 Q. When -- what -- do you remember what -- how you got
2 into the trailer or how Black got into the trailer, or do
3 you remember which door you went in?

4 A. The same -- the front -- I guess that's the front door
5 where we went.

6 Q. Okay. Do you remember walking up some stairs?

7 A. Yes.

8 Q. When the big guy answered the door and went and came
9 back and told you he'll be there in a minute could you hear
10 what the conversation was?

11 A. No, I just know -- it sound like it was -- because I
12 had been shooting the bull or whatever, just kicking it.

13 Q. Kicking it?

14 A. Yeah.

15 Q. Do you return to the car after you went to the door?

16 A. Yes.

17 Q. And tell the jury if you would how much longer was it
18 before Black got in the vehicle.

19 A. Probably about five minutes.

20 Q. Okay.

21 A. Five or six minutes he came out.

22 Q. When he got back in the car can you describe for the
23 jury how he was acting?

24 A. Well, he got in the car just like normal. But you know
25 what I'm saying. And we -- you know, we pulled off. And he

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 is showing me how to get out.

2 Because I've never been to Lincolnville. I've never
3 been over there. So he showed me how to get there and how
4 to leave.

5 And I was mad at the time, you know, because wasn't
6 supposed to be gone that long. My wife made. "O" mad, you
7 know. And he was a little antsy a little bit. But other
8 than that, you know, everything seemed normal.

9 Q. He was a little antsy?

10 A. Yeah.

11 Q. Well, tell the jury what he said.

12 A. Well, he didn't really say that much until we was -- we
13 was out of Lincolnville. And he was like man you know they
14 disrespected, man; I'm going to get my respect back. That
15 was that. You know what I'm saying.

16 We got on College Park Road. I stopped at the BP Gas
17 Station. He gave me \$10. I put that in the gas tank and we
18 went off. I dropped him and the little young dude off. And
19 I pulled in the yard.

20 Q. Okay. Now you don't really like being here testifying
21 against somebody, do you?

22 A. No.

23 Q. Okay.

24 A. But I'm telling you what happened.

25 Q. Well, tell me a little bit more then about how Black

1 appeared when he was in the car. You said antsy.

2 A. Yeah, but it's hard -- it was hard to describe, you
3 know, somebody is a little antsy, maybe a little ticked off
4 or something but.

5 Q. A little ticked off?

6 A. Could have been, you know.

7 Q. Well, Mr. Hush, haven't you previously said that he was
8 mad?

9 A. I remember that. But I know I'm telling you what I
10 think -- you know, what I remember him saying.

11 Q. Do you remember him saying - and excuse my language -
12 that's fucked up, when he came back out into the car?

13 A. He didn't say that when we was at the place. We was
14 riding on the road, he said that was fucked up. Also he was
15 on the phone. He could have been telling somebody on the
16 phone it was fucked up.

17 Q. Okay.

18 A. Do you see what I'm saying?

19 Q. When he was talking to the person on the phone is that
20 when he said the stuff about getting his respect back?

21 A. No.

22 Q. He would say that to you?

23 A. Yeah, he was just talking in general. And most of the
24 time I had my radio on and I didn't want to hear that.

25 Because, like I said, we was suppose to have been done 20

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 and we was gone like 45 minutes.

2 Q. Okay. And after you dropped him off did you hear from
3 him again that night?

4 A. No.

5 Q. Well, did he ask you whether you would take him back
6 out there?

7 A. I don't remember.

8 Q. You don't remember him asking you again if you would
9 take him back out there?

10 A. He probably did. But I know once I got -- once I got
11 back in the trailer park and gave my wife her car back that
12 was -- it was a no anyway. I couldn't take him on my back.

13 Q. Do you remember telling my investigator that he called
14 you back and wanted another ride out there and you told him
15 no?

16 A. Maybe. So -- almost two years ago. You know what I'm
17 saying? It's possible.

18 Q. And you don't like being here today?

19 A. No, period.

20 Q. But James Rose intended to get his respect back?

21 A. That's what he said.

22 Q. Did he say he was going back out there to get his
23 respect back?

24 A. No, he didn't never say that to me.

25 Q. And you haven't told us previously that's what he said?

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 A. No, ma'am, I don't remember telling you that.

2 Q. Do you remember the police stopping you when you were
3 in the mobile home park to talk to you about this?

4 A. I remember the next -- the next day after the night
5 before -- the next day after the night we took -- we went
6 over there.

7 My wife drives a school bus. She came to the house
8 about nine o'clock. And about five after 9:00 she -- I was
9 in the house cooking breakfast for her. She came in the
10 house. She said Babe have you looked out the door. I said
11 no. She say you need to look out the door.

12 I looked out the door. There was about 15, 20 officers
13 down towards where James live at. You know, that's what's
14 his name. But I knew him as Black. That's all I -- you
15 know. And I mean so I looked out the door and like okay.
16 You know what I'm saying? Because I would go back in the
17 house.

18 One of the officers came and knocked at the door. And
19 he asked for somebody. And I'm like well I don't know who
20 that person is.

21 Three days after that they came back and asked did I
22 know a Sea Dog or "C". Which that is what some people call
23 me. And I said yeah, that's me.

24 He was asking me about did I know James Rose. And I
25 was like I don't know no James Rose. He said Onyx. I said

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 I don't even know Onyx. He said the dude down the street.

2 I said you are talking about Black? He said yeah. I

3 said -- he say -- I say okay that's what I called him.

4 And the reason that happened is that I saw him one day

5 walking with his son -- because there's a lot of young,

6 black men don't take time out with their sons. And he

7 impress me with that. I didn't know what type of guy he was

8 or nothing. But we kicked it off because we was talking

9 about footfall. I like sports. And evidently he did too

10 with his son. So and that is how all of that started. You

11 know, I know ---

12 Q. That's how y'all's relationship started?

13 A. Right. Right. You know, I just knew him like about

14 two weeks. You know what I'm saying? If -- if it was that

15 long before all of this took place.

16 Q. And you saw him with his child and thought then that he

17 was a good father?

18 A. Yes.

19 Q. Okay. And when you took him out to Lincolnville that

20 day did you know y'all were going to buy drugs?

21 A. No, ma'am. I was on probation.

22 Q. You were on probation?

23 A. Yes, ma'am.

24 Q. You thought you were just ---

25 A. He said ---

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 Q. --- taking him ---

2 A. He said -- he asked me to give him a ride over to a
3 friend's house. And I -- and he told me the little white
4 dude, he say this my white boy, you know, like -- like he
5 was his son or something. I say okay, cool. You know what
6 I'm saying? I had no idea where he was going. I'd never
7 been to Lincolnville until that time.

8 Q. Do you remember giving a statement to the police?

9 A. Yes.

10 Q. Where were you when you gave the statement?

11 A. In my house.

12 Q. Okay. And I'm going to show you this and ask -- it
13 might help you refresh your memory. You don't have your
14 glasses?

15 A. Yes, ma'am. No, ma'am.

16 Q. Are they reading glasses?

17 A. Yes, ma'am. Well, let ask you this question: Do you
18 remember them asking you did Black seem to be upset when
19 y'all left the house; do you remember them asking you that?

20 A. No.

21 Q. Well, do you remember telling them no, but he said he
22 was going to get his respect back?

23 A. Oh, yeah, I remember saying he was going -- yeah.
24 Because that's what he said, you know.

25 Q. That he was going to get this respect back?

DIRECT EXAMINATION BY MS. SEALY OF CLARENCE HUSH

1 A. Right.

2 MS. SHEALY: Beg the Court's indulgence for just a
3 moment.

4 THE COURT: Certainly.

5 MS. SHEALY: Mr. Hush, I don't have any further
6 questions. Please answer any that the defense may have.

7 MR. HUSH: Okay.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION BY MS. RUNEY OF CLARENCE HUSH:

10 Q. Good morning, Mr. Hush.

11 A. Good morning.

12 Q. You were transported here because you have a pending
13 charge; is that correct, in Berkeley County?

14 A. Yes, ma'am.

15 Q. And you know that Berkeley County and Charleston County
16 crimes in those counties are prosecuted by the same office?

17 A. No, I didn't.

18 Q. You don't want to be here?

19 A. No, but I have to be here.

20 Q. And you don't want to be in jail?

21 A. That is true too.

22 Q. And at the time that the police were interviewing you,
23 you weren't real thrilled about the police coming to your
24 house because you were on probation?

25 A. Right.

- 1 Q. And that was for a drug conviction?
- 2 A. Yes.
- 3 Q. In 2009?
- 4 A. Yes, ma'am.
- 5 Q. But you have finished that probation?
- 6 A. Yes, ma'am.
- 7 Q. But you gave them a statement anyway?
- 8 A. Yes, ma'am.
- 9 Q. And you told them exactly what you know about that
- 10 night?
- 11 A. Yes, ma'am.
- 12 Q. And you've told us today that James seemed normal in
- 13 the car?
- 14 A. Right, he was just, you know, a little tense. You know
- 15 it wasn't -- I ain't going to say he was super mad or mad,
- 16 because he didn't -- you know, some people mad they -- they
- 17 lash out. But he didn't ---
- 18 Q. But nothing ---
- 19 A. He didn't act like that.
- 20 Q. But nothing seemed out of the ordinary?
- 21 A. No, no, not to me anyway. I don't know.
- 22 Q. And so you pulled up to this trailer and you are
- 23 waiting for James to come out?
- 24 A. Yes, ma'am.
- 25 Q. And I'm sure you're very aware of the time because your

CROSS-EXAMINATION BY MS. RUNEY OF CLARENCE HUSH

1 wife is not happy?

2 A. Exactly.

3 Q. And you saw several people coming and going from that
4 house?

5 A. True.

6 Q. And when James finally came out and y'all were able to
7 leave, you are ready to get home?

8 A. Yes, ma'am.

9 Q. Because you weren't supposed to be gone that long?

10 A. True.

11 Q. But you needed gas?

12 A. Right.

13 Q. And James was going to give you money for gas ---

14 A. He did.

15 Q. --- for taking them?

16 A. He did.

17 Q. And he gave you \$5.00?

18 A. \$10.00.

19 Q. \$10.00. And you stopped where?

20 A. At the BP Gas Station.

21 Q. And where is that located?

22 A. Right over 26 on College Park.

23 Q. On your way home?

24 A. On my way home.

25 Q. College Park Road?

- 1 A. Right.
- 2 Q. Okay. Do you remember about what time you stopped at
- 3 the BP Gas Station?
- 4 A. Probably about ten minutes outside of 11:00.
- 5 Q. Ten minutes after 11:00?
- 6 A. Yes, ma'am.
- 7 Q. Okay. And when you were interviewed by the police did
- 8 they show you a video surveillance from that?
- 9 A. No, ma'am. But they told me that they had one.
- 10 Q. That they had one?
- 11 A. Yes, ma'am.
- 12 Q. So they were able to verify that you were at the BP Gas
- 13 Station?
- 14 A. Yes, ma'am.
- 15 Q. Okay. And James is sitting in your car at the gas
- 16 station?
- 17 A. Yes, ma'am.
- 18 Q. As well as the white boy ---
- 19 A. Yes, ma'am.
- 20 Q. --- that you took there? Okay. And you went in to
- 21 get -- pay for the gas?
- 22 A. Pay for the gas, right.
- 23 Q. Okay.
- 24 A. Came by the pump.
- 25 Q. Okay. And at that point everything seemed normal?

CROSS-EXAMINATION BY MS. RUNEY OF CLARENCE HUSH

- 1 A. Yes, ma'am.
- 2 Q. And you went home?
- 3 A. Yeah.
- 4 Q. Dropped James off?
- 5 A. Yes, I dropped him out and I went in my house.
- 6 Q. You dropped the teenager off?
- 7 A. Yeah.
- 8 Q. And then you went home?
- 9 A. Went home, yes, ma'am.
- 10 Q. Okay. And then what did you do when you went home?
- 11 A. Excuse my French. I got my ass chewed out.
- 12 Q. I bet you did.
- 13 A. Yes, ma'am.
- 14 Q. Did you go to bed?
- 15 A. Yeah, we went to bed. That's what people do when they
- 16 go home.
- 17 Q. That's right. Or when you get chewed out?
- 18 A. Yeah, get chewed out.
- 19 Q. Okay. So you dropped James off around 11:30?
- 20 A. Yes.
- 21 Q. And that's what you told the police?
- 22 A. Yes, ma'am.
- 23 Q. Okay. And when you gave a statement to the police you
- 24 thought that you have gotten the times mixed up a little bit
- 25 and you called the detective back to verify that you had

1 given them the right time?

2 A. Yes, ma'am, I initially told them we left around like
3 it was like eight -- eight something, like 8:40.

4 Q. Yes.

5 A. But it was really like 9:40 or ten -- (cough), because
6 it was some show on that my wife liked to look at that come
7 on at ten o'clock. And that was the only reason I got away
8 with getting the car.

9 Because normally she don't let me hold the car. We
10 got -- we got -- we've got this thing that we're home there
11 at 10:30. Anything after -- anything in the streets after
12 10 o'clock ain't nothing good.

13 Q. But she was watching the show?

14 A. Right. Right.

15 Q. She let you go?

16 A. Right, I got away.

17 Q. Okay. And so when you realized that you had given them
18 the wrong time ---

19 A. I called them and he said it was okay that they -- you
20 know, that they got in on video that I stopped at the BP,
21 you know, to make up the other time so.

22 Q. So the video at the BP verified what time you had been
23 there and approximately what time you got home because they
24 knew how far ---

25 A. How ---

CROSS-EXAMINATION BY MS. RUNEY OF CLARENCE HUSH

1 Q. --- the BP was from your house?

2 A. Right, right.

3 Q. Okay. And what they told you is they don't ---

4 MS. SHEALY: Object to hearsay, Your Honor.

5 THE COURT: Sustained.

6 BY MS. RUNEY:

7 Q. You didn't go back in and give another statement to
8 correct that to the police?

9 A. No.

10 Q. They told you not to worry about it?

11 A. Right.

12 Q. And since you have been in jail in Berkeley County,
13 investigators have come to visit you to talk about
14 testifying here?

15 A. Yes, once.

16 Q. Once. The solicitor's investigator came to talk to
17 you?

18 A. True.

19 Q. And my investigator came to talk to you as well?

20 A. Yes, ma'am.

21 Q. Okay. And you told them that James said I'm going to
22 get my respect back but he wasn't angry, right?

23 A. Yeah. I told your solicitor -- I mean your
24 investigator the same thing that I told them.

25 Q. That's right. And you also told my investigator that

1 the solicitor's office, their investigator, was trying real
2 hard to get you to say that he was mad and angry and upset;
3 right?

4 A. Yeah, maybe. I don't remember, but I think so. I'm
5 not sure.

6 Q. But he acted pretty normal?

7 A. Depends on what you call normal. Everybody that is
8 normal don't act the same way. Ain't no two people alike.

9 A. That is true.

10 A. So if I'm mad and you don't know me, you don't know if
11 I'm mad or not. If I'm antsy that don't mean I'm antsy
12 because I want to go do something different.

13 Q. That is true.

14 A. That's as well everybody else in here.

15 Q. Yes, sir. Thank you so much.

16 A. No problem.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION BY MS. SHEALY OF CLARENCE HUSH:

19 Q. Mr. Hush, you were saying that you don't know -- you
20 don't know how people react to anger?

21 A. Right.

22 Q. Some people can keep it inside and it can stir up,
23 right?

24 A. Yes, ma'am.

25 Q. And you indicated that when Black was with you he

REDIRECT EXAMINATION BY MS. SHEALY OF CLARENCE HUSH

1 didn't lash out?

2 A. No, he was just -- he didn't lash out. You know, he
3 was just on the phone. He say man I'm going to get my
4 respect back.

5 Q. Okay.

6 A. But that -- and that was that. You know what I'm
7 saying?

8 Q. And ---

9 A. And most of the time he was talking. I'm listening at
10 my radio and I'm mad because I'm going to get -- you know, I
11 know what ---

12 Q. You are going to get in trouble?

13 A. --- I've got to get -- you know, when I get home. Do
14 you know what I'm saying? You know, most gentlemen that
15 have got wives like mine, you know, you respect that. It's
16 her car. You know what I'm saying? She was doing me a
17 favor for a friend.

18 Q. Yeah.

19 A. You know, so.

20 Q. You of course were not with Black later that
21 evening ---

22 A. No.

23 Q. --- and into the early morning hours?

24 A. No.

25 Q. So you wouldn't know if in fact he lashed out later,

1 right?

2 A. No.

3 Q. Thank you.

4 THE COURT: All right. Sir, you may step down.

5 MR. HUSH: Thank you, ma'am.

6 MS. SHEALY: We will call Joy Mills.

7 THE COURT: All right, Ms. Mills, if you'll come on up
8 and we will swear you in. Thank you.

9 (WHEREUPON, the witness was sworn.)

10 THE CLERK: And ma'am, once you are seated if you could
11 please state your first and last name and then spell your
12 last name for the record.

13 THE WITNESS: My name is Joy Mills, M-I-L-L-S.

14 MS. SHEALY: Okay, I can tell already, Joy, that we are
15 going to have to get you to speak up a little bit. Can you
16 pull that microphone a little closer to your mouth or point
17 it down. And just do it -- try to speak up for us if you
18 can.

19 (JOY MILLS, having been first duly
20 sworn, testified as follows:)

21 DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS:

22 Q. Okay. How old are you?

23 A. Twenty-two.

24 Q. And was Leland Shannon, Jr., your father?

25 A. Yes, ma'am.

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

- 1 Q. Where did you grow up?
- 2 A. I grew up in Summerville and in Charleston.
- 3 Q. Okay. And did you go to high school in Summerville?
- 4 A. Yes, ma'am.
- 5 Q. Where did you graduate from?
- 6 A. Berkeley High School.
- 7 Q. And are you currently in school?
- 8 A. Yes, ma'am.
- 9 Q. Where to go to attend school?
- 10 A. I go to Trident Technical College on the Berkeley
- 11 campus.
- 12 Q. What are you studying?
- 13 A. Cosmetology.
- 14 Q. Prior to going to Trident Tech were you doing some
- 15 online schooling?
- 16 A. Yes, ma'am, I was.
- 17 Q. What was that?
- 18 A. For psychology.
- 19 Q. And that was through an internet ---
- 20 A. Yes.
- 21 Q. --- educational system?
- 22 A. Yes, ma'am.
- 23 Q. Let's focus back to January of 2012. Could you tell
- 24 the jury whether you had moved in to live with your father?
- 25 A. Yes, ma'am, I had.

1 Q. Do you remember the date that you moved in by any
2 chance?

3 A. Well, I moved in around December.

4 Q. Okay.

5 A. Early beginning of January.

6 Q. Or the early beginning of January?

7 A. Yes. I know it was like December 30 between the first.

8 Q. And was Tawana Alston living there with y'all?

9 A. Yes, ma'am.

10 Q. Now we heard testimony there are two bedrooms in that
11 house. And which bedroom were you staying in?

12 A. The first one.

13 Q. When you say the first one you are talking about as you
14 go down the hall?

15 A. Yes, ma'am, as you go down the hall it's the first one
16 on the left.

17 Q. Antoine Aiken, he is who to you?

18 A. My cousin.

19 Q. And did you know Ishmal Weston?

20 A. I seen him a couple of times.

21 Q. Okay. And who was he?

22 A. He was the next-door neighbor's son.

23 Q. And would he come over to your dad's house some?

24 A. Yes, ma'am.

25 Q. Do you know James Rose?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

- 1 A. Yes, ma'am.
- 2 Q. And how long have you known him?
- 3 A. Ever since I was younger. Him and my father used to be
- 4 around each other.
- 5 Q. Okay. They would hang out together, know each other?
- 6 A. Yes, ma'am.
- 7 Q. Did you have a close relationship with James Rose?
- 8 A. No, ma'am.
- 9 Q. Now once you moved into your father's house or even
- 10 before that would your -- would James Rose come over to see
- 11 your father?
- 12 A. When I was in Lincolnville before that I mean they
- 13 would talk whenever he drove down the street or whatever.
- 14 Now when I moved in he used to come over.
- 15 Q. Joy, can you talk -- it may just be me, but can you
- 16 talk up just a little bit louder for me. I guess I am
- 17 rustling these papers.
- 18 A. Yes, ma'am.
- 19 Q. Let's focus then on the day in question which would be
- 20 January 23rd, 2012, spilling into January 24th, okay?
- 21 A. Okay.
- 22 Q. Tell us whether or not you saw James Rose at your
- 23 father's house while it was still daylight outside?
- 24 A. Yes, ma'am, I did.
- 25 Q. Okay. And was he by himself or was he alone, or do you

1 know?

2 A. From as far as I knew he was by himself.

3 Q. Okay. And did you see him inside your dad's house or
4 outside your dad house?

5 A. Outside and inside.

6 Q. And that was during the daylight hours?

7 A. Yes, ma'am.

8 Q. Now did you see him again once it got dark?

9 A. Yes, ma'am.

10 Q. And could you describe for the jury, please, who was
11 inside the house when you saw James Rose.

12 A. It was me, my father, James Rose, my cousin Antoine,
13 Tawana, and Ishmal.

14 Q. And could you hear what James Rose and your dad were
15 talking about?

16 A. Earlier they were talking about marijuana prices going
17 up.

18 Q. Okay.

19 A. He was mad because my father told him that the price
20 went up.

21 Q. Did you hear your father say anything back to James
22 Rose?

23 A. He said that his price went up so your price has to go
24 up. And I walked off after that.

25 Q. When they were talking could you describe to the jury

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 whether or not it was a calm conversation or did it get
2 heated?

3 A. He even had a little tension in his voice. But my
4 father didn't really have any tension in his voice.

5 Q. Were you there when he left; did you see when James
6 Rose left on that occasion?

7 A. No, ma'am, I didn't.

8 Q. Why -- where were you?

9 A. I believe I was in the back of the house.

10 Q. And when you say the back of the house are you talking
11 about the bedroom you described?

12 A. Yes, ma'am, I was in my room.

13 Q. Do you know whether James Rose got any marijuana at
14 that time?

15 A. From as far as I know he did.

16 Q. Okay. Do you know specifically?

17 A. No, ma'am.

18 Q. Do you see James Rose again that evening?

19 A. Yes, ma'am.

20 Q. Could you describe for the jury what happened?

21 A. It was -- I was in the living room doing schoolwork and
22 my father, him, Antwan, and Tawana, and Ishmal was all in
23 the kitchen.

24 Q. And you were where doing homework at that point?

25 A. In the living room.

1 Q. So you had gone from your bedroom back to the living
2 room?

3 A. Yes, ma'am.

4 Q. Did you see James Rose come in?

5 A. Yes, ma'am.

6 Q. And while they were all back at the kitchen table could
7 you describe what was going on back there as it related to
8 how people were getting along at the kitchen table?

9 A. Everybody seemed fine. They were drinking and talking.

10 Q. Okay. What happened next?

11 A. Next I started getting a headache and I told them I was
12 going to go lay down.

13 Q. And you went to lay down which room did you go to?

14 A. I went to my bedroom, the first door on the left.

15 MS. SHEALY: Beg the Court's indulgence just a second.

16 THE COURT: Certainly.

17 MS. SHEALY: I'm sorry, Judge. I've got to grab one
18 thing. Okay.

19 Q. Joy, showing you what has been previously marked as
20 State's Exhibit 24. It is going to show up on the screen
21 right in front of you. Is this the bedroom that you were
22 in?

23 A. Yes, ma'am.

24 Q. Okay. And showing you State's Exhibit 25, is that a
25 snack you were eating when you were in the back room?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

- 1 A. Yes, ma'am.
- 2 Q. And is that one cell phone or two cell phones?
- 3 A. Two cell phones. One was mine.
- 4 Q. When you went back to the bedroom what were you doing?
- 5 A. I was talking to my boyfriend at the time.
- 6 Q. And you were talking to him -- he was in there with you
- 7 or you are talking to him on the phone?
- 8 A. I was talking to him on the phone.
- 9 Q. What happened with your phone when you were back there?
- 10 A. It ran out of minutes.
- 11 Q. So what did you do?
- 12 A. I went into the living room and I asked my father for
- 13 his phone. He told me no because he was waiting on a phone
- 14 call. So he told me to get Antoine's phone.
- 15 Q. And did you take Antoine's phone back to your bedroom?
- 16 A. Yes, ma'am, I did.
- 17 Q. When you went out there to get the phone was James Rose
- 18 still there?
- 19 A. No, ma'am.
- 20 Q. He was not still there when you went back to get the
- 21 phone?
- 22 A. Yes, ma'am.
- 23 Q. I'm sorry, he was or he wasn't?
- 24 A. He wasn't.
- 25 Q. Okay. So did you see when he left?

1 A. No, ma'am.

2 Q. When you get back to the phone -- well, first of all,
3 tell me where was your father when you went to get your
4 phone?

5 A. He was standing in the kitchen.

6 Q. And showing you State's Exhibit 14, can you show me on
7 that photograph where father was standing?

8 A. He was standing right up in there (pointing).

9 Q. Okay. And what happened right when you got back to
10 your bedroom?

11 A. I was talking on the phone to Mike, and the next couple
12 of minutes I started hearing scuffling. And after that I
13 started hearing gunshots. And he was like what is that.
14 And I said I don't know, let me get off the phone.

15 Q. At first did you believe that they were real gunshots?

16 A. No, I thought it was just him playing his -- from my --
17 was father playing his modern day warfare game.

18 Q. Playing his what? I'm sorry.

19 A. Modern day warfare game.

20 Q. Okay. When did you get concerned?

21 A. When I didn't hear anybody in the living room anymore.

22 Q. And what happened then?

23 A. Then Ish- -- well, somebody ran past me back -- past my
24 room and went to the back.

25 Q. And you do know who that was?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 A. I believe it was Ishmal because he was heavy set and he
2 had on black-and-white that night.

3 Q. Was your bedroom door open?

4 A. Yes, ma'am.

5 Q. What is the next thing that happens?

6 A. I see two people running past my room and going to the
7 back. I believe they thought -- they went into the back
8 room. Because there was a hole in the floor in the back
9 room. And they kicked the door open, rammaged -- rambled
10 around in there.

11 I tried to get out my bed, but then by the time I heard
12 them turn around I hurried up and jumped back into my bed
13 and put the covers over me and act like I was sleeping.

14 Q. Okay. So let's break that down a little bit. You've
15 indicated that you heard scuffling in the kitchen ---

16 A. Yes, ma'am.

17 Q. --- and you heard gunshot?

18 A. Yes, ma'am.

19 Q. Do you remember whether you heard one or several
20 gunshots?

21 A. I heard several. I heard about three or four.

22 Q. And then you see Ishmal run past you?

23 A. Yes, ma'am.

24 Q. What made you believe that the other two people then
25 went into the back room?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 A. Because the backroom door was closed. That door and
2 the bathroom door. And they kicked the door.

3 Q. Okay.

4 A. So it just popped right open. You could hear it pop
5 right open.

6 Q. And when you say they kicked the door, did you see them
7 kick the door?

8 A. No, I just heard like a foot or something hit the door
9 wide open.

10 Q. Okay. And heard some sound to open that door. And you
11 did -- you then heard what in that back bedroom; you were
12 saying that you heard some other noises in the back bedroom?

13 A. Like they were rumbling through stuff, just scuffling
14 around looking and acting like they were going to find
15 something.

16 Q. Okay. After that you indicated you got back in your
17 bed?

18 A. Yes, ma'am.

19 Q. And what did you do?

20 A. I just laid there.

21 Q. And what did you do with your covers?

22 A. I put them back over me and I was watching out my door,
23 because I had my TV on.

24 Q. What happened after that?

25 A. They came into my room.

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 Q. Tell the jury about that.

2 A. Came into my room with a double barrel shotgun and a
3 single barrel shotgun, and had one to my chest and one to my
4 head, and told me to pull the covers back Bitch.

5 And I didn't pull it back quick enough so they pulled
6 it back for me. And I'm listening to the voice. I'm
7 hearing that it's Onx- -- well, James Rose's voice telling
8 me to pull it back. And he's saying well where is the shit
9 at Bitch. And I said I don't what you're talking about.

10 He asked me the question again. I had my hands up. I
11 said I don't know what you're talking about. There was
12 another person in the room with him. And his finger was on
13 the trigger but he didn't pull it. He told him fuck that
14 Bitch, she don't know shit.

15 Q. Who said that?

16 A. Onyx. And then they walked out the room.

17 Q. Okay. So let's slow that down a little bit, okay.
18 When you say that two guys approached your bed, can you show
19 me again where on you they pointed the gun?

20 A. The double-barrel was at my head this far away. And
21 the single-barrel was this far away from my chest.

22 Q. And what did the person that you say was Onyx what did
23 he have on?

24 A. He had on a red shirt, a navy blue jacket, dark-colored
25 jeans. And he had a ski mask on with his mouth cut out and

1 his eyes cut out.

2 Q. And what did the other guy look like?

3 A. He was short and stocky. He had a forest green shirt
4 on with a navy blue jacket and dark jeans ---

5 Q. Okay.

6 A. --- with a ski mask on.

7 Q. Did they -- when the second person said "f" that, she
8 doesn't know anything, what happened?

9 A. They just walked out of my room.

10 Q. They what?

11 A. Walked out of the room and walked towards back towards
12 the kitchen area.

13 Q. When they went back toward the kitchen did you hear
14 anything else be said?

15 A. Yes, ma'am ---

16 Q. And Joy, you're going to have to speak up just a little
17 bit for me.

18 A. Yes, ma'am. They walked past my father. And I guess
19 one of them was about to shoot him, and he said fuck that
20 nigger he is about to die anyway.

21 Q. Could you hear them leave the house?

22 A. Yes, ma'am.

23 Q. And what did you do once they left the house?

24 A. Once they left the house I tipped-toed around into the
25 living room and made sure nobody was in there. And I

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 started walking towards the kitchen because I still haven't
2 seen my father. And when I went in there I just saw blood
3 and I ran and slipped and tried to help -- into the blood
4 and tried to help my father.

5 Q. Okay. Now Joy, showing you State's Exhibit 6. Can you
6 point if it is in this picture where you slipped?

7 A. There (pointing), and in here (pointing).

8 Q. And where was your father?

9 A. He was laying right here (pointing).

10 Q. Do you know what happened with Ishmal?

11 A. No, ma'am.

12 Q. Now ---

13 MS. SHEALY: You can just take that photo down.

14 Q. Now Joy, what did you start doing with your father?

15 A. I then tried to slip him over and try to see where he
16 was shot at. And he was shot in his left leg in the thigh.
17 I had a basket of dirty clothes right there so I tried to
18 grab some clothes out of there to block the bleeding on his
19 left leg.

20 And then my cousin ran back in while I was on the phone
21 with 911 trying to tell them where I was at.

22 Q. Were you able to talk to 911?

23 A. No, the only thing I was doing was screaming.

24 Q. Okay. And when you say that your cousin came back in,
25 you're talking about Antoine?

1 A. Yes, ma'am.

2 Q. Did he take your phone from you to talk to 911?

3 A. Yes, ma'am.

4 Q. While your father was laying there were his eyes open
5 or closed?

6 A. They were slightly open. But before the ambulance came
7 they were starting to close. He was starting to roll he
8 eyes and look around other places. Wasn't functioning on
9 me.

10 Q. Okay. Now when the ambulance got there what happened
11 with you?

12 A. They pulled me off the top of him. Because they -- I
13 wouldn't let him go. And then made me go outside.

14 Q. And when you went outside did you have shoes on?

15 A. No, ma'am.

16 Q. I'm sorry to have to ask you all this, Joy. But when
17 you went outside did somebody come and give you a ride
18 somewhere?

19 A. My granddaddy got me.

20 Q. Okay. That's your granddaddy that's in the courtroom?

21 A. Yes, ma'am.

22 Q. Where did y'all go once your grandfather picked you up?

23 A. Went to the house and got me some shoes and picked up
24 my grandma and went to the hospital.

25 Q. And when you say you went to the house, you are talking

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 about whose house?

2 A. My granddaddy's house.

3 Q. And you had to get shoes from whom?

4 A. My grandma.

5 Q. Now when you got to the hospital could you describe to
6 the jury how you were feeling?

7 A. I was in shock. I still wasn't understanding what was
8 going on.

9 Q. Okay. And did you in fact talk to the police officers?

10 A. Yes, ma'am.

11 Q. And did they take you from the hospital to interview
12 you at the station?

13 A. Yes, ma'am.

14 Q. Now when you left the house after trying to attend to
15 your father did you still have on the clothes that you had
16 when you were trying to help him when you got to the
17 hospital?

18 A. Yes, ma'am.

19 Q. And could you tell the jury whether or not your clothes
20 had blood on them?

21 A. Yes, ma'am, I was saturated from the blood. I had long
22 hair then at the time. I had blood in my hair. I had blood
23 all on my arms and down in between my toes.

24 Q. And when they took you down to the station -- or
25 actually they did your gun -- they did your hands at MUSC;

1 is that right?

2 A. Yes, ma'am.

3 Q. And when they asked you if they could check your hands
4 and do some swapping and do a kit on you, did you agree to
5 that?

6 A. Yes, ma'am.

7 Q. Did the officer notice something about your hands?

8 A. Yes, ma'am.

9 Q. What was that?

10 A. Blood.

11 Q. Now when you got down to the Sheriff's Department what
12 was going on when you left your father at the hospital?

13 A. They had him in intensive care while my family was down
14 in the waiting room while they you were trying to do
15 surgery.

16 Q. And when you left the hospital did you leave your
17 grandfather and you grandmother too?

18 A. Yes, ma'am.

19 Q. So the police took you to the station without the two
20 of them?

21 A. Yes, ma'am.

22 Q. When you got there do you -- did they immediately
23 interview you or did they have to wait to interview?

24 A. They had to wait a second because I wasn't calm enough.
25 They had to go buy me a pack of cigarettes.

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 Q. Did you tell them whether you would be able to talk
2 unless you had some cigarettes?

3 A. Yes, ma'am. Because I still wasn't calm. I didn't
4 smoke anything since then, and I needed a cigarette.

5 Q. And were they interviewing other people while you were
6 there?

7 A. They had Tawana was there. But I think she already had
8 I think. And then my cousin -- well, Antoine. But I think
9 he already left.

10 Q. So when they interviewed you could you describe to the
11 jury how you were thinking that night; was it very clear to
12 you what all had happened?

13 A. No, ma'am.

14 Q. Did you try to do your best in talking to them?

15 A. Yes, ma'am, I did.

16 Q. And did you give a statement?

17 A. Yes, ma'am.

18 Q. Now when you gave your statement to the police did you
19 tell them about the guy in the red shirt?

20 A. Yes, ma'am.

21 Q. And what if anything did you tell them about his voice?

22 A. I told them that I knew it, I remember it.

23 Q. But at that time did you tell them it was James Rose?

24 A. No, ma'am. It didn't register to me because I was
25 still in shock.

1 Q. When you told -- but you told them that the guy had on
2 a red shirt?

3 A. Yes, ma'am.

4 Q. And that you knew the voice?

5 A. Yes, ma'am.

6 Q. After you gave your statement to the police that night
7 who picked you up -- do you go back to the hospital?

8 A. Yes, ma'am.

9 Q. And when you went back to the hospital what did you
10 learn about your father?

11 A. A couple of hours later he ended up dying.

12 Q. Were you at the hospital when that happened?

13 A. Yes, ma'am.

14 Q. And who picked up from the hospital?

15 A. My boyfriend at the time.

16 Q. Joy, were you able to go to your father's wake?

17 A. No, ma'am.

18 Q. Why was that?

19 MS. RUNEY: Objection, Your Honor.

20 THE COURT: Sustained.

21 A. Because ---

22 THE COURT: Sustained.

23 Q. They are not going to let you answer that, okay. The
24 way that you were describing how you felt that evening did
25 it continue for several days afterwards?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 A. Yes, ma'am.

2 MS. RUNEY: Objection, Your Honor.

3 THE COURT: Sustained.

4 BY MS. SHEALY:

5 Q. Joy, you gave a lengthy statement to the police
6 officers when they took your statement, right?

7 A. Yes, ma'am.

8 Q. And were you doing your best to try to answer their
9 questions?

10 A. Yes, ma'am.

11 Q. So could you describe for us when you were saying you
12 weren't thinking straight so you think that later you began
13 thinking straight, or did that continue?

14 A. At first I wasn't. And it took some time like for me
15 to really register everything that had really happened. And
16 once it started coming back to me I remember who it was.

17 Q. Okay. Are you saying that it was James Rose now just
18 because you know he got arrested for it?

19 A. No, ma'am.

20 Q. Has anybody tried to talk you into saying it was James
21 Rose?

22 A. No, ma'am. My family wouldn't even talk to me about
23 anything.

24 Q. What do you mean they wouldn't talk to you about
25 anything?

DIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 A. They didn't want me to be more upset than what I
2 already was.

3 Q. When you were there that evening -- and this would have
4 been after people went down the hall and came back to your
5 room -- the guy in the red shirt was who?

6 A. Onyx.

7 MS. SHEALY: Beg the Court's indulgence just a moment.

8 THE COURT: Certainly.

9 MS. SHEALY: Joy, I have no further questions. Please
10 answer questions the defense has.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION BY MS. RUNEY OF JOY MILLS:

13 Q. Good morning, Ms. Mills.

14 A. Good morning.

15 Q. I know this is hard for you. I'm sorry you have to be
16 here. I just have a couple of questions. You gave a
17 statement to the police as you told Ms. Shealy earlier?

18 A. Yes, ma'am, I did.

19 Q. And you were upset at the time because this had just
20 happened?

21 A. Yes, ma'am.

22 Q. It was all very fresh?

23 A. Yes.

24 Q. And what the detectives did is they had you sit down
25 with some lined paper that they gave you and write down what

CROSS-EXAMINATION BY MS. RUNEY OF JOY MILLS

1 you remembered about what had just happened?

2 A. Yes, ma'am.

3 Q. And you did your very best to do that?

4 A. Yes, ma'am.

5 Q. And then after that they asked you some follow-up
6 questions?

7 A. Yes, ma'am.

8 Q. Where they would write them out and you would answer
9 them?

10 A. Yes, ma'am.

11 Q. So a general writing down of what you could remember
12 and then you answered specific questions?

13 A. Yes, ma'am.

14 Q. And because you had been so upset and you had just come
15 from the hospital they let you have some cigarettes and calm
16 down?

17 A. Yes, ma'am.

18 Q. Okay. And then you wrote out what you knew?

19 A. Yes, ma'am.

20 Q. Okay. And in that statement you told the police that
21 two masked men came into your room?

22 A. Yes, ma'am.

23 Q. What you have told us here today?

24 A. Yes, ma'am.

25 Q. One had a single-barrel shotgun and the other had a

1 double-barrel shotgun.?

2 A. Yes, ma'am.

3 Q. And they both had masks on?

4 A. Yes, ma'am.

5 Q. And one man had on a red shirt?

6 A. Yes, ma'am.

7 Q. And one man had on a green shirt?

8 A. Yes, ma'am.

9 Q. And that's what you told them that -- it was the middle
10 of the night when you were having to give the statement,
11 right?

12 A. Yes, ma'am.

13 Q. And that's what you told them in the middle of the
14 night because that's what happened?

15 A. Yes.

16 Q. That two men with a red shirt -- one with a red shirt,
17 one with a green shirt and both of them had masks on?

18 A. Uh-huh.

19 Q. Came into your room, asked you to pull back the covers?

20 A. Yes, ma'am.

21 Q. And when the police wanted to know a little bit more or
22 some more details they asked you to describe the two men?

23 A. Yes, ma'am, I did.

24 Q. And you gave a description along with the description
25 of the guns, and that description was one had a

CROSS-EXAMINATION BY MS. RUNEY OF JOY MILLS

1 double-barrel shotgun and was with the tall guy and one
2 single-barrel shotgun was with the short guy because that is
3 what happened? And they also wanted to identify anybody who
4 was there?

5 A. Uh-huh.

6 Q. Presumably so they could interview those people. And
7 you told them who was there, correct?

8 A. Yes.

9 Q. The exact question was who all was at the house during
10 the shooting, and you responded my father, his girlfriend
11 who is Tawana, right; my cousin, that is Antoine; --

12 A. Yes.

13 Q. --- and myself?

14 A. Yes.

15 Q. Because that was true?

16 A. Yes.

17 Q. After you knew that the men were gone you wanted to
18 come out and check on your father?

19 A. Yes.

20 Q. When you came out of the room no one was there besides
21 your father?

22 A. Yes.

23 MS. RUNEY: Beg the Court's indulgence.

24 THE COURT: Okay.

25 MS. RUNEY: That's all I have. Thank you, Your Honor.

1 THE COURT: Thank you. Any redirect?

2 MS. SHEALY: Just briefly, Your Honor.

3 REDIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS:

4 Q. Ms. Mills, I'm going to hand you a copy of your
5 statement if you need it to refresh your memory. Ms. Runey
6 was asking you start writing down the details in free-hand
7 initially ---

8 A. Yes, ma'am.

9 Q. --- before they started asking you questions? And you
10 indicated you were -- she asked you questions about did you
11 say that one was tall. And you indicated that one was
12 shorter; is that right?

13 A. Yes, ma'am.

14 Q. Now on Page 3 of your statement tell the jury if you
15 would, looking at the last sentence, what did you tell the
16 police -- well, let's go back, Joy, for a second. Look at
17 the first page of your statement.

18 A. Okay.

19 Q. Do you see at the top of the page as to what time the
20 statement was taken?

21 A. It was taken three o'clock in the morning.

22 Q. Three o'clock in the morning. And on Page 3 what did
23 you indicate in that last sentence about the tall guy?

24 A. Also I think I heard that voice before and I think that
25 it was the tall man that said it.

REDIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 Q. So you gave the officers that detail when you were
2 writing your statement?

3 A. Yes, ma'am.

4 Q. And on Page 4 at the bottom of the page when you were
5 asked to describe the tall guy what color shirt did you
6 indicate he had on?

7 A. A red shirt.

8 Q. What kind of pants?

9 A. Dark. Jeans.

10 Q. And what do you say about his voice there?

11 A. A dark voice.

12 Q. A dark voice. Did the short guy have on a ski mask as
13 well?

14 A. Yes, ma'am.

15 Q. And you were in the room until they came into your
16 room?

17 A. Yes, ma'am.

18 Q. I have no further questions.

19 THE COURT: Anything further?

20 MS. RUNEY: No, Your Honor.

21 THE COURT: Okay. Ma'am, you may step down. Thank
22 you.

23 All right, ladies and gentlemen, let's take about a
24 ten-minute break. I can give the lawyers a break and see
25 what the rest of our plan for the morning is.

REDIRECT EXAMINATION BY MS. SHEALY OF JOY MILLS

1 Please don't discuss the case yet as you have not yet
2 heard all the evidence and it has not been given to you for
3 deliberation. Thank you.

4 (WHEREUPON, jury exits courtroom 11:06 a.m.)

5 THE COURT: Okay. We would be at ease for 10 minutes.

6 (WHEREUPON, break 11:07 a.m.)

7 (WHEREUPON, resumed.)

8 THE COURT: Everybody ready for the jury?

9 MS. SHEALY: We are.

10 THE COURT: Thank you.

11 (WHEREUPON, break awaiting jury).

12 (WHEREUPON, jury enters courtroom 11:20 a.m.)

13 THE BAILIFF: All present, Your Honor.

14 THE COURT: All right. Thank you, sir. Thank you,
15 ladies and gentlemen. Counsel, call your next witness.

16 MS. BALDWIN: Thank you, Your Honor. The State calls
17 Deputy Chris Hochreiter.

18 THE COURT: All right. Deputy, if you will come on up
19 we will swear you in.

20 (WHEREUPON, witness was sworn.)

21 THE CLERK: If you would please, state your first and
22 last name and spell your last for the record.

23 THE WITNESS: Christopher Hochreiter. Last name is
24 H-O-C-H-R-E-I-T-E-R.

25 (CHRISTOPHER HOCHREITER, having

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DIRECT EXAMINATION BY MS. BALDWIN OF CHRISTOPHER HOCHREITER

1 been duly sworn, testified as follows:)

2 DIRECT EXAMINATION BY MS. BALDWIN OF CHRISTOPHER HOCHREITER:

3 Q. Deputy Hochreiter, where do you work?

4 A. The Charleston County Sheriff's Office.

5 Q. And what is your position there?

6 A. I am a patrol deputy at this time.

7 Q. What does that involve?

8 A. Responding to calls for service, traffic stops, and
9 things like that.

10 Q. And what do you mean by calls for service?

11 A. Whenever someone calls our dispatch I'm sent -- I'm
12 sent to the call if it is in the area that I'm assigned to.

13 Q. Did you respond to a call at West Carolina Avenue
14 in Lincolnville, South Carolina, on January 24th of 2012?

15 A. Yes, ma'am, that's correct.

16 Q. Is that in Charleston County?

17 A. Yes, ma'am.

18 Q. What did you do when you got there?

19 A. Well, we were -- should I say what kind of call we were
20 sent to?

21 Q. Sure.

22 A. All right. We were originally dispatched to a
23 disturbance at that location. And while I was on my way we
24 received information that someone had been shot. So that is
25 what's referred to as a Code 3 response with lights and

1 siren on our vehicle.

2 The -- my first objective to a call like that whenever
3 I arrive on the scene is to ensure whatever was happening
4 before I arrived on the scene is no longer happening once I
5 arrive on the scene. So when I arrived on the scene I
6 established that there was nothing violent going on, it was
7 then my objective to secure the scene so EMS could arrive.

8 Q. What time were you dispatched to the scene?

9 A. Around 12:30 a.m.

10 Q. Do you need to refer to your report?

11 A. If I may. Sure.

12 Q. Just to refresh your memory?

13 A. I'm sorry, we were dispatched from 12:40. I arrived at
14 12:44.

15 Q. How did you approach the house?

16 A. We -- I came in through the driveway. And the entrance
17 to the house is actually at the rear of the house. So I
18 walked around to the rear.

19 Q. And when you walked around to the rear what did you
20 see?

21 A. I saw a black male who was pointing into the house.
22 And whenever I turned and looked to the house from the rear
23 I observed a black male who was laying on the floor of the
24 kitchen area residence, a large amount of blood, and a black
25 female who was on his left, left side with a towel and both

1 of her hands on his upper-left thigh area.

2 Q. And what was her demeanor?

3 A. She was hysterical. I could hear yelling from my
4 vehicle. And that was 50 to 60 feet away from the house.

5 Q. After you witnessed on that, what did you do?

6 A. I advised my supervisor of the situation. After the
7 scene was secured I notified dispatch and EMS came on the
8 scene to do what was needed with the victim.

9 Q. What did EMS do with the victim?

10 A. They placed him on a stretcher, and he was going to the
11 ambulance very quickly. And they transported him.

12 Q. While they were doing that, what were you doing?

13 A. I spoke to the original black male. He was first
14 contact. That was Mr. Aiken, Antoine Aiken.

15 Q. And did Mr. Aiken tell you what happened?

16 A. He gave me a brief synopsis of what he had saw, yes,
17 ma'am.

18 Q. Were you trying to get a whole statement from him?

19 A. No, due to do the severity of the case, everything that
20 was going on I had -- it was a brief conversation. But he
21 did give me the high points so to speak.

22 Q. Did you talk to the complainant as well?

23 A. The original complainant that we were given, Brian
24 Williams, he walked over from his residence after EMS has
25 transported the victim. And I spoke with him very briefly.

1 Q. And what did you do after you spoke with Mr. Aiken?

2 A. After -- while I was speaking to Mr. Aiken EMS had
3 already taken the victim. We made sure no one else was in
4 the house and we secured it with crime scene tape and
5 started a crime scene log.

6 MS. BALDWIN: Beg the Court's indulgence. I have no
7 further questions for you, Deputy.

8 THE COURT: Okay. Cross-examination.

9 CROSS-EXAMINATION BY MS. RONEY OF CHRISTOPHER HOCHREITER:

10 Q. Of course your first responsibility as the responding
11 officer is to secure the scene?

12 A. That's correct.

13 Q. Make sure that anybody that is injured is treated or
14 taken by EMS to a hospital?

15 A. Yes, ma'am.

16 Q. Make sure that there is nobody else in the house?

17 A. Uh-huh.

18 Q. And before gathering information you just simply need
19 to make sure everybody was safe?

20 A. Yes, ma'am. That's correct.

21 Q. But as a responding officer you are also responsible
22 for gathering information?

23 A. Yes, ma'am.

24 Q. And that is because after this call is over you have to
25 document what you did, who you saw, and anything that you

CROSS-EXAMINATION BY MS. RUNEY OF CHRISTOPHER HOCHREITER

1 were told?

2 A. Yes, ma'am.

3 Q. And when you become a deputy sheriff you go through a
4 lot of training?

5 A. Yes, ma'am.

6 Q. And some of that training involved what to include in
7 an incident report?

8 A. Yes, ma'am.

9 Q. What to ask witnesses?

10 A. To a certain extent.

11 Q. I guess I could say that a little bit better. What
12 information you should gather?

13 A. Yes, ma'am, that is correct.

14 Q. And the importance of including all that you can?

15 A. Yes, ma'am.

16 Q. Because you want to be complete?

17 A. As complete as I can in situations. That is fair.

18 Q. As complete as you can as the responding officer?

19 A. Yes, ma'am.

20 Q. And that is because the information that you collect
21 will be given to detectives? In ---

22 A. In most cases, yes, ma'am.

23 Q. --- some cases? In a case like this ---

24 A. Yes, ma'am.

25 Q. --- this information is going to go to somebody else?

- 1 A. Yes, ma'am.
- 2 Q. It is going to go to other officers especially
- 3 detectives; if it is a case where somebody is prosecuted, it
- 4 is going to go to the prosecutor's office?
- 5 A. Yes, ma'am.
- 6 Q. Usually it will go to defense attorneys?
- 7 A. Uh-huh.
- 8 Q. And all of those people rely on that information?
- 9 A. Yes, ma'am.
- 10 Q. And that's why you want to make sure that you include
- 11 everything that you can?
- 12 A. Yes, ma'am.
- 13 Q. If people don't give you the information, you can't put
- 14 it in your report?
- 15 A. No, I can't.
- 16 Q. And you have to rely on them to give you that
- 17 information? You have no other way to collect that?
- 18 A. No, no, I don't.
- 19 Q. Okay. This was an emergency type of situation?
- 20 A. Yes, ma'am.
- 21 Q. So you have to get what information that you can?
- 22 A. That's right.
- 23 Q. Certainly understand that. But you are doing your best
- 24 to do that?
- 25 A. Yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF CHRISTOPHER HOCHREITER

1 Q. Secure the scene, take care of people that are injured,
2 people who are upset?

3 A. That's right.

4 Q. But then there is time after that to plan?

5 A. Yes, ma'am.

6 Q. Okay. And that is what you did this day?

7 A. Yes, ma'am.

8 Q. I believe you testified earlier that you listed Brian
9 Williams as the complainant?

10 A. Yes, ma'am.

11 Q. And he had called 911?

12 A. That's my understanding.

13 Q. And so that is why he is listed as a witness?

14 A. Yes, ma'am.

15 Q. Okay. And you have a form incident report where you
16 add the information?

17 A. Yes, ma'am.

18 Q. Okay. And so each time you do an incident report it is
19 going to ask for the -- or contain the same information?

20 A. Yes, you could say that.

21 Q. Well, the blanks for that information?

22 A. Yes, ma'am.

23 Q. There may not be a response to that block of
24 information?

25 A. Sometimes, no.

- 1 Q. Okay. But you add what you can?
- 2 A. Uh-huh.
- 3 Q. You were able to ascertain the victim's name; is that
- 4 correct?
- 5 A. Yes, ma'am.
- 6 Q. And you list the victim as Leland M. Shannon, Jr.?
- 7 A. Uh-huh, that's correct.
- 8 Q. And then you're to list the relationship to the
- 9 subject?
- 10 A. Uh-huh, that's correct.
- 11 Q. And as to Subject Number Three what is the relationship
- 12 that you have listed?
- 13 A. Boyfriend.
- 14 Q. And to make that clear, he is -- you have him listed as
- 15 a boyfriend of somebody else on your report?
- 16 A. That is correct.
- 17 Q. And who is that?
- 18 A. The only name I was given for that was a black female
- 19 by the name of Limehouse was her last name.
- 20 Q. So her full name is unknown, but the information about
- 21 a Limehouse was given?
- 22 A. Yes, ma'am.
- 23 Q. Okay. So there had been a black female who is the
- 24 girlfriend of Leland Shannon on the scene?
- 25 A. That is what I was told, yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF CHRISTOPHER HOCHREITER

1 Q. Okay. And she was not there at the time that you were
2 present?

3 A. No, she was not.

4 Q. And so the information that is listed for her would be
5 given out to other officers?

6 A. I'm not sure what you -- what you mean.

7 Q. What I'm asking you is when you get information on the
8 subject you give that to other officers to be on the lookout
9 for these people?

10 A. For the Limehouse subject I don't -- I wouldn't give
11 information as a be on the lookout.

12 Q. You didn't have that much ---

13 A. No.

14 Q. Okay. But you didn't speak with a witness that you list
15 on your report as Mr. Antoine Aiken?

16 A. That's correct.

17 Q. And he was not able to give you any information; when I
18 say information, I mean a name of anybody that had come into
19 the house?

20 A. Do you mean besides the victim?

21 Q. Correct.

22 A. No, no, the -- no, he wasn't.

23 Q. He could not give you a name for any of the
24 perpetrators?

25 A. No, ma'am.

1 Q. And nobody was able to give you any license plate
2 number on a car that had been there?

3 A. No, ma'am.

4 Q. The information that was given to you was that this
5 incident involved a shotgun?

6 A. That's correct.

7 Q. And you had no other information about any type of
8 handguns ---

9 A. No

10 Q. --- at that point?

11 A. No.

12 THE COURT: I think they probably got that water for
13 the juror who was coughing if he wants it. If nobody wants
14 it, that fine. Thank y'all for doing that though. I
15 appreciate it. If anybody else needs to get a cough drop,
16 now would be a good time to do it.

17 MS. BALDWIN: That's all I have. Thank you.

18 THE COURT: All right. Any redirect?

19 MS. BALDWIN: Briefly, Your Honor.

20 REDIRECT EXAMINATION BY MS. BALDWIN OF CHRISTOPHER

21 HOCHREITER:

22 Q. Deputy, was anybody able to provide you with a
23 description of the vehicle -- of the suspect? Sorry.

24 A. I guess a Mr. Aiken provided a brief description that
25 was a gray sedan.

REDIRECT EXAMINATION BY MS. BALDWIN OF CHRISTOPHER
HOCHREITHER

1 Q. And then a call such as this, this type of incident,
2 your role is not to play detective; correct?

3 A. Not whenever we first -- when I first get on the scene,
4 no.

5 Q. You weren't trying to get a whole written statement?

6 A. No.

7 Q. I believe those are all the questions I have.

8 THE COURT: Okay. Thank you, sir. You may step down.

9 MS. SHEALY: James Perkins.

10 THE COURT: Could I see the lawyers real quick just
11 before we put this witness up.

12 (WHEREUPON, bench conference was had.)

13 (WHEREUPON, the witness was duly sworn.)

14 THE CLERK: Sir, once you are seated if you would
15 please state your first and last name and spell your last
16 for the record.

17 THE WITNESS: James Perkins, P-E-R-K-I-N-S.

18 DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS:

19 Q. Detective Perkins, please tell the jury where you are
20 employed.

21 A. Charleston County Sheriff's Office.

22 Q. And how long have you been employed there?

23 A. Thirteen years.

24 Q. And how long have you served as a detective there?

25 A. A little over eight years.

1 Q. Regarding the investigation and this case involving
2 James Rose could you tell the jury what the first thing you
3 did as a detective -- are you the lead detective in the
4 case?

5 A. Yes, ma'am.

6 Q. What was the first thing that you did?

7 A. I got a call from Sergeant Boyd in reference to a
8 shooting. While in route I spoke with other detectives that
9 would be assisting me in the case, Detective Colson,
10 Detective Kahn, and Detective Church.

11 I went to the scene. While at the scene I was being --
12 I was in contact with medical personnel as relates to the
13 victim. By the time I got there the victim had already been
14 transported. So I was in contact with them. And they were
15 advising me of the severity of his injuries.

16 Q. When you arrived at the scene were there family members
17 still present at the scene?

18 A. The only one there was the daughter Joy.

19 Q. Where did you go from the scene?

20 A. When I left the scene I went to the hospital.

21 Q. And you indicated that you were calling other
22 detectives. Did you ask that any of those detectives report
23 to the hospital?

24 A. Yes, ma'am.

25 Q. And those where who.

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 A. Detective Kahn and Detective Colson.

2 Q. When you got to the hospital what was going on?

3 A. It was extremely chaotic. Emotions was high as it
4 relates to the family and friends of the victim. And
5 Detective Kahn was attempting to get an interview done on
6 Joy.

7 Q. On Joy?

8 A. Yes, ma'am.

9 Q. Okay. Where y'all having much success with dealing
10 with all of that at the hospital?

11 A. Somewhat. But it was -- it was a lot going on, you
12 know, with the -- with the, you know, physicians and
13 everything and the emotions, nurses coming in, checking on
14 him, seeing if they needed anything so.

15 Q. What did you decide to do this because of that?

16 A. Relocate to the Sheriff's Office.

17 Q. And when you were relocated back at the Sheriff's
18 Department did you have other detectives assisting you?

19 A. Yes, I did.

20 Q. Okay. When you got there were -- people called it like
21 a substation. Where were y'all actually located?

22 A. 3505 Pinehaven Drive. That's actually our
23 headquarters.

24 Q. And the detective building is a little bit -- is
25 separate from the main building?

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 A. Yes, ma'am. It is right behind it.

2 Q. Did you in fact interview Joy Holmes?

3 A. Yes, ma'am, along with Detective Kahn and Colson.

4 Q. And during that process can you describe to the jury
5 how her emotions were?

6 A. Her emotions were very up and down. She knew that she
7 needed to speak with us as it relates to injuries that her
8 father had sustained as it relates to the incident.

9 But she also was feeling the emotions because he was
10 injured. And it was at the hospital. So it was emotions
11 was high at times.

12 Q. Now as lead detective could you tell the jury whether
13 you would walk in on various interviews that were taking
14 place?

15 A. As a lead detective what you do is you try to gather
16 all the information, but some of the most pertinent
17 information as it relates to the case. And so as they are
18 interviewing people I'm going from one interview room like
19 with Joy and Ms. Alston.

20 Q. Okay. Do you recall how many times Antoine Al- --
21 Antoine Aiken was interviewed?

22 A. Yes, ma'am. Twice.

23 Q. And was that at one sitting or was there one at the
24 station and then one later?

25 A. The initial one was done at the station, at the

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 Sheriff's Office.

2 Q. There has been some testimony about an officer finding
3 Mr. Aiken and asking for another statement. Was that you?

4 A. No, ma'am.

5 Q. Who was that?

6 A. That was Detective Lawrence.

7 Q. And his first name is Charlie?

8 A. Charles Lawrence.

9 Q. Is Charles Lawrence also African-American?

10 A. Yes, ma'am.

11 Q. And do you know -- why did y'all make the decision to
12 interview him again?

13 Q. When I spoke with him I collected his GSR and I did the
14 initial interview with him. And when I was speaking with
15 him you can -- I can tell by my experience that he was
16 withholding some information. He wasn't being dishonest.
17 He was just ---

18 MS. RONEY: Objection, Your Honor.

19 A. --- withholding.

20 THE COURT: His characterization?

21 MS. RONEY: Speculating ---

22 THE COURT: Sustained.

23 MS. RONEY: --- as to what ---

24 THE COURT: Sustained.

25 BY MS. SHEALY:

1 Q. You decided that you wanted to talk to him again
2 because you thought he had more information?

3 A. Yes.

4 Q. Now you mentioned to us that you did the GSR on him.
5 For the benefit of the jury what are you talking about?

6 A. It's called a gunshot residue test.

7 Q. And would you describe to the jury how that -- how the
8 samples are taken?

9 A. Pretty much what you do is you ask a few questions.
10 Left, right-handed. You then take what is -- it looks
11 somewhat of a top of a soda can. But it has a sticky
12 plaster on the bottom -- bottom side of it. And you place
13 it on their hands, both sides. And then you take a cotton
14 swab, add some liquid to it. And then you swab his hands.
15 You then send that off to the South Carolina Law Enforcement
16 Division to be analyzed.

17 Q. In addition to performing that on both sides of the
18 hand do you also check another part of their body; do you do
19 the same thing with another part of their body?

20 A. Yes, ma'am, you get what is called a control substance.
21 That's an area where in -- there wasn't -- there would not
22 be any gunshot residue like a leg, a shoulder, the back.

23 Q. And in fact did you do that with Antoine Aiken?

24 A. I did. I did the leg.

25 Q. While you were -- y'all were in the process of

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 initially interviewing everyone did you later get some
2 information about the condition of the victim?

3 A. I did.

4 Q. And what did you learn?

5 A. I learned that he had succumbed to his injuries.

6 Q. Now after those additional statements were taken could
7 you please tell the jury who were y'all looking for?

8 A. After the initial statements was collected and taken
9 and viewed we was looking for James Rose also known as Onyx
10 or "O" or Black.

11 Q. And what type of vehicle were you looking for?

12 A. A gray sedan. A gray Neon.

13 Q. So we are talking about the morning hours of January
14 24th when you are talking to the people initially?

15 A. Yes, ma'am.

16 Q. Could you tell the jury whether or not you had listed
17 the assistance of the Marshal's Office in finding James
18 Rose?

19 A. Yes, we did. We elicited the assistance of the
20 Marshal's Office.

21 Q. And did you in fact find James Rose?

22 A. We did.

23 Q. And that would have been on the 24th?

24 A. Yes, ma'am.

25 Q. Tell the jury where y'all located him.

1 A. We located him at Cindy Drive.

2 Q. Now was that his home address or that was someone
3 else's address?

4 A. That was not his home address. That was Deanna
5 Henderson's address.

6 Q. And when officers were patrolling that Cindy Drive area
7 did y'all just see him to approach him?

8 A. I tasked Deputy Ali (ph) with the US Marshals to assist
9 us in locating him. I wasn't on the scene when he was
10 located. But that is what I was advised.

11 Q. And that was at Ms. Henderson's home?

12 A. Yes, ma'am.

13 Q. Could you tell the jury whether or not a gray Neon was
14 located?

15 A. Yes, ma'am.

16 Q. And where was the gray Dodge Neon located?

17 A. In front of Mr. James Rose's residence.

18 Q. And showing you what has been previously marked as
19 State's Exhibit 28 I ask you whether that is the gray Neon
20 that you located.

21 A. Yes, ma'am, it is.

22 Q. Can you tell by that photograph - I'm not sure if you
23 can tell by that photograph - which mobile home James Rose
24 was living in. Can you tell by that photograph?

25 A. No, ma'am.

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

- 1 Q. Okay. I am showing you State's Exhibit 29.
- 2 A. Yes, ma'am.
- 3 Q. That was the mobile home that he lived in?
- 4 A. Yes, ma'am.
- 5 Q. Now did you determine who else lived at that Cindy
- 6 Drive address?
- 7 A. Yes, ma'am, we did.
- 8 Q. And who else lived there?
- 9 A. Amber Wiley, Matt Wiley -- Matthew Wiley, and Sophia
- 10 Wiley. Amber Wiley ---
- 11 Q. That was -- I'm sorry.
- 12 A. Amber Wiley is reportedly the girlfriend of Mr. Rose.
- 13 Matt and Sophia Wiley are married.
- 14 Q. Now when you located Mr. Rose was he then arrested?
- 15 A. Yes, ma'am.
- 16 Q. And after his arrest who else did y'll hope to identify
- 17 in this case?
- 18 A. The other two suspects that was reportedly inside the
- 19 residence that was masked.
- 20 Q. Okay. And tell the jury, have those efforts been
- 21 fruitful?
- 22 A. No, ma'am.
- 23 Q. Has anybody else been arrested in this case?
- 24 A. Not as of yet.
- 25 Q. Once Mr. Rose was arrested were you -- did you obtain

1 some buccal swabs from him?

2 A. Yes, ma'am, I did.

3 Q. Okay. And describe to us the process of obtaining
4 buccal swabs.

5 A. Okay. Buccal swabs are very -- buccal swabs look
6 similar to a Q-tip. And they are in some type of plaster
7 like a Band-Aid.

8 You open up the buccal swabs. You then swab the gum,
9 teeth area to collect DNA. And then you place it in a
10 sterile container. After you place it in the sterile
11 container you seal it, put the time and the date on it. And
12 you sent that to Columbia to the South Carolina Law
13 Enforcement Division to be analyzed.

14 Q. Okay. Now did you put it in a gold envelope at that
15 point or not?

16 A. I'm sorry?

17 Q. After you got the swabs how do you turn this into
18 evidence; are they in the case that the swabs came in, or do
19 you put them in a gold envelope?

20 A. I put them in a gold envelope.

21 Q. Okay. Well, then showing you what has been previously
22 marked as State's Exhibit 95 could you tell me whether - you
23 are going to have to kind of look through the plastic - are
24 those the swabs you obtained?

25 Q. Do I need to open it?

DIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 A. Yes, ma'am.

2 (WHEREUPON, exhibit was not opened.)

3 Q. As it relates to any evidence in a case, once an
4 officer has retrieved the evidence do you turn it into your
5 evidence compound?

6 A. I do.

7 Q. And can you tell the jury whether or not that is a
8 secure compound?

9 A. It is.

10 MS. SHEALY: I beg the Court's indulgence for just a
11 moment.

12 THE COURT: Certainly.

13 MS. SHEALY: Detective Perkins, I have no further
14 questions. Answer any please the defense may have.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Cross-examination.

17 **CROSS-EXAMINATION BY MS. RONEY OF DETECTIVE PERKINS:**

18 Q. Good morning, Detective Perkins.

19 A. How are you doing, ma'am?

20 Q. Good, thank you. At the time of this case or this
21 incident you were a detective as you are now?

22 A. Yes, ma'am.

23 Q. And you got a call in the middle of the night to be
24 assigned to this case?

25 A. Yes, ma'am.

1 Q. You respond to the scene first?

2 A. Initially, yes, ma'am.

3 Q. And there is a responding officer there?

4 A. Yes.

5 Q. And he is gathering information?

6 A. He is tasked with gathering somewhat information but

7 making sure that he controls the scene.

8 Q. Absolutely. And that is why you are assigned as the

9 case agent to interview witnesses and gather more

10 information ---

11 A. Yes, ma'am.

12 Q. --- than the responding officer was able to do?

13 A. Yes, ma'am.

14 Q. Okay. And you become the case agent not for just that

15 night or the next day or even the next day, right?

16 A. I'm sorry?

17 Q. You are the case agent throughout the entire ---

18 A. Yes, ma'am.

19 Q. --- case? From when the incident happens, from when

20 someone is arrested, for any pretrial hearings, ---

21 A. Yes.

22 Q. --- and for this trial that we are here for today?

23 A. That is correct.

24 Q. And as part of your job as the case agent you have to

25 repair -- prepare reports?

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

- 1 A. Yes.
- 2 Q. And have witnesses interviewed either by you or other
3 detectives?
- 4 A. That is correct.
- 5 Q. And on the night of January the 24th - or the early
6 morning is a better description - you and other detectives
7 had brought in witnesses to interview them?
- 8 A. That is correct.
- 9 Q. And you had other detectives to actually sit down and
10 do some of these interviews so that you could go around and
11 be in part of all of the interviews?
- 12 A. Well, I was pretty much overseeing the interviews like
13 I earlier stated to collect particular pertinent
14 information.
- 15 Q. And that is so you don't just have information from one
16 witness, you heard about all that is going on in the case?
- 17 A. Yes, ma'am.
- 18 Q. Because you are responsible for this case?
- 19 A. Yes, ma'am.
- 20 Q. And you are responsible for making an arrest for the
21 people who did this?
- 22 A. That's correct.
- 23 Q. So as part of your gathering of information you learned
24 about a woman named Tawana Alston?
- 25 A. Yes.

1 Q. And she was there at this trailer in Lincolnville the
2 night Leland Shannon was shot?

3 A. Yes.

4 Q. And you knew that she was the girlfriend of Leland
5 Shannon?

6 A. I had been informed that she was the girlfriend.

7 Q. And you had been informed that she knew James Rose?

8 A. Yes.

9 Q. Who she had dated?

10 A. Yes.

11 Q. And you also were able to be involved with the
12 interview of Antoine Aiken who was also present at the
13 scene?

14 A. Yes.

15 Q. As well as Ms. Holmes who is the daughter of Mr.
16 Shannon?

17 A. Correct.

18 Q. Did you ever interview a young man named Ishmal Weston?

19 A. No, I did not.

20 Q. Were you aware that there was a teenager named Ishmal
21 Weston at the trailer?

22 A. No, ma'am, I was not.

23 Q. And if you are not made aware of information you can't
24 follow up on that, can you?

25 A. No, I cannot.

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

- 1 Q. Were you made aware that Brian Williams had called 911?
- 2 A. I was aware that there was numerous reports. But I
- 3 wasn't aware by name that it was Brian Williams.
- 4 Q. If you had, you would have interviewed him?
- 5 A. Yes, ma'am.
- 6 Q. And if you couldn't get there, you would have gotten
- 7 another detective to interview him?
- 8 A. Yes, ma'am.
- 9 Q. And as the case agent you are responsible for keeping a
- 10 case file, right?
- 11 A. That is correct.
- 12 Q. And what that includes is anything related to the case?
- 13 A. Yes, ma'am.
- 14 Q. Every single report?
- 15 A. I'm sorry?
- 16 Q. An incident report?
- 17 A. Oh, yes, ma'am.
- 18 Q. Witness statements?
- 19 A. Yes, ma'am.
- 20 Q. Could have multiple from different witnesses?
- 21 A. Yes.
- 22 Q. Any photographic lineups?
- 23 A. Yes, ma'am.
- 24 Q. Notes that you or other detectives have made?
- 25 A. Yes, ma'am.

1 Q. If they have handed them over to you?

2 A. Uh-huh.

3 Q. And of course all of this is for many reasons. But the
4 most important is for you to investigate the case and find
5 out who did it?

6 A. Yes, ma'am.

7 Q. And also as part of your responsibilities is to testify
8 in court as you are today?

9 A. Yes, ma'am.

10 Q. And early on in this case shortly after Mr. Rose's
11 arrest you testified at a preliminary hearing?

12 A. I did.

13 Q. And what a preliminary hearing is for is to determine
14 whether there was probable cause?

15 A. Yes.

16 Q. To arrest someone?

17 A. Yes.

18 Q. And you testify in that court?

19 A. Yes.

20 Q. And it is an important part of the process?

21 A. It is.

22 Q. And you testify under oath like you are today?

23 A. Correct.

24 Q. And sometimes there is a court reporter, but the
25 proceedings are always recorded?

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 A. Correct.

2 Q. A solicitor is present at that preliminary hearing in
3 court? Not Ms. Shealy but another solicitor?

4 A. Yes, ma'am.

5 Q. And that solicitor asked you questions?

6 A. Yes.

7 Q. And then I'm able to ask you questions like I am today?

8 A. Yes, ma'am.

9 Q. And we see each other often at the preliminary
10 hearings?

11 A. We do.

12 Q. And James Rose was at his preliminary hearing?

13 A. I don't recall. He may have been there.

14 Q. That is fair. But I did cross-examine you? Okay. And
15 when you testified there, you want to be accurate?

16 A. I'm sorry?

17 Q. When you testify there, you want to be accurate?

18 A. I do.

19 Q. Okay. Do you remember or what type of gun that any of
20 the witnesses said that James Rose had?

21 A. It was several. I would say more than two.

22 Q. That he possessed two guns.

23 A. No, that it was different -- we were advised at one
24 point that he had a shotgun. At one point it was a black
25 handgun. At one point it was a double-barrel shotgun.

1 Q. Would you say that it is accurate that at the
2 preliminary hearing that you testified that he had a handgun
3 and that he shot at Ms. Alston?

4 A. That's correct.

5 Q. And as a result of your investigation how many people
6 did you understand were in this car that came to the
7 trailer, shot at Mr. Shannon and left?

8 A. We received information that it was potentially as many
9 as three -- three to four subjects or suspects.

10 Q. Three to four?

11 A. Yes.

12 Q. So it was not clear to you how many people were there?

13 A. Well, you have got to understand the emotions. And
14 that's one of the reasons that they were interviewed and
15 re-interviewed because emotions and everything that was
16 involved. So we had to make sure we was as accurate as we
17 possible could be.

18 Q. When you say re-interviewed witnesses do you mean
19 Antoine Aiken and Tawana Alston?

20 A. Yes, ma'am.

21 Q. Those are the only two witnesses that you got two
22 different statements from, correct?

23 A. Yes, ma'am.

24 Q. And that was within a couple of days after that
25 happened?

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

- 1 A. Yes, ma'am.
- 2 Q. After the week of the incident did you ever interview
3 Tawana Alston or Antoine Aiken again?
- 4 A. After a week?
- 5 Q. After the week of January 23rd and January 24 did you
6 ever interview them again?
- 7 A. I did not re-interview Antoine. I'm not sure on Tawana
8 Alston.
- 9 Q. But you know you got two statements within 48 hours of
10 the incident?
- 11 A. That's correct.
- 12 Q. So after their two statements it wasn't clear how many
13 people had come to that trailer and shot Mr. Leland and left
14 together?
- 15 A. No.
- 16 Q. You said you collected the gunshot residue kit from Mr.
17 Aiken?
- 18 A. Yes.
- 19 Q. And I couldn't quite hear well. Did you say you
20 collected it from his hands?
- 21 A. Yes.
- 22 Q. So how someone would hold a gun or a weapon?
- 23 A. No, I said which -- the dominant hand.
- 24 Q.. Dominant hand?
- 25 A. Yes. We do both hands, but I was asking as it relates

1 to doing it you would ask if you are left or right-handed.
2 Q. And if he tells you it is the left-hand, that is the
3 one you test as the dominant?
4 A. No, we just document it that that's what he indicated.
5 Q. Okay.
6 A. We test them both the same.
7 Q. And you tested them both?
8 A. I collected -- I collected samples off of them both. I
9 didn't -- I don't do the test.
10 Q. Left and right?
11 A. Yes, ma'am.
12 Q. Okay. You are right. And his leg?
13 A. No, we get a controlled substance off his leg.
14 Q. To compare what you collect from his hands?
15 A. Correct.
16 Q. Okay. Did you take Mr. Aiken's clothes into evidence?
17 A. No, we did not.
18 Q. And a swab was not done on his clothes?
19 A. No, a swab was not done on his clothes.
20 Q. As a result of your investigation it was or was not
21 your understanding that Mr. Rose actually fired the gun?
22 A. Our understanding initially as you have heard by the
23 testimony, our understanding initially was that he did fire
24 a gun. As the investigation evolved it was our
25 understanding that potentially he may not have fired the gun

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 but he was there.

2 Q. So when you did testify at the preliminary hearing at
3 that point it was your understanding that Mr. Rose had fired
4 the gun?

5 A. Oh, yes, ma'am.

6 Q. And you gathered that information from the witnesses
7 that you interviewed?

8 A. Correct.

9 Q. As part of your investigation?

10 A. Correct.

11 Q. Do you know who called 911?

12 A. I knew that Joy. Because I spoke with her. I know
13 that she had called 911. But of course that timeframe in
14 the morning hearing gunshots I would assume that someone
15 else would be calling 911.

16 Q. Neighbors? Neighbors?

17 A. Correct.

18 Q. So if you testified at the prelim, preliminary hearing,
19 that Ms. Alston called the -- called 911, that was a
20 mistake? That is not your understanding now is it?

21 A. She advised that she had ran to call 911.

22 Q. She -- she told you that she called 911?

23 A. Meaning that she was getting assistance I later came to
24 know.

25 Q. Who was really Brian Williams?

1 A. That is correct.

2 Q. But you didn't know who Brian Williams was?

3 A. Correct.

4 Q. Only that she had run from the trailer and told you
5 that she was going to call 911?

6 A. That is correct.

7 Q. And going back one more time to the preliminary
8 hearing. At that point it was your understanding that the
9 only people in the trailer were Tawana, Antoine, and Joy?

10 Q. And if I told you that that preliminary hearing was in
11 March of 2012, that would sound about right?

12 A. Correct.

13 Q. Okay. And that was a little less than two months after
14 this happened?

15 A. Correct.

16 Q. And again, you had to rely on what you had been told?

17 A. Correct.

18 Q. Were you present when a search was done on the trailer
19 at Carolina Avenue? After this happened they searched the
20 scene for anything of evidentiary values. Were you present
21 for that or had you already gone to the ---

22 A. I left.

23 Q. And you would receive any search warrants or
24 evidence -- lists of evidence that was collected from that
25 part of your case file?

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 A. Correct.

2 Q. And because even if you weren't there for that, it is
3 important for you to know to continue to investigate?

4 A. Yes, ma'am.

5 Q. And especially in this case because Mr. Rose had been
6 the only one that had been arrested?

7 A. That is correct.

8 Q. Are you aware of any drugs that were found in the
9 trailer?

10 A. There was drugs located in the trailer from my
11 understanding.

12 Q. And where were those drugs located?

13 A. I can't -- I don't want to -- I don't -- I don't not
14 want to know -- I don't know definitively where they was
15 located. I just know that some was collected inside the
16 residence.

17 Q. And when you see drugs do you mean marijuana, cocaine,
18 heroin; do you remember what it was?

19 A. I do not.

20 Q. Do you know if these bags were in drugs -- if these
21 drugs were in bags were those bags tested for fingerprints?

22 A. As far as what was being tested, that was done by my
23 supervisor. He handled all of the evidentiary testing, even
24 what I collected like the buccal swabs, the GSR's, he was
25 directed to handle everything as it relates to the evidence

1 and what was tested.

2 Q. You don't do the testing?

3 A. No.

4 Q. But you would receive the results of that testing?

5 A. That's correct.

6 Q. I want to ask you about this Dodge Neon. A Dodge Neon
7 was seized by the Sheriff's Office, correct?

8 A. Correct.

9 Q. Okay. And I believe that I asked you about a car that
10 was seen on the scene at the preliminary hearing. Because
11 that is pretty important, right?

12 A. Potentially.

13 Q. Because at that point you're looking for a car that
14 drove these -- one or two shooters and some others to the
15 scene and then left in this car?

16 A. Potentially.

17 Q. Were you aware that that car that was seized belonged
18 to a Ms. Everlina Bickman?

19 A. Bickman.

20 Q. Bickman.

21 A. Yes, ma'am.

22 Q. So as the case agent you know that a gray car that was
23 ceased belongs to Everlina Bickman. Do you know how she
24 knows James Rose? She is a friend of Ambers; is that right?

25 A. Yeah, I was going to say a friend, yeah.

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 Q. Amber Wiley is James Rose's girlfriend or was his
2 girlfriend at the time?

3 A. Yes, ma'am.

4 Q. And as a result of that you went to look for Ms.
5 Bickman?

6 A. Correct.

7 Q. And her car?

8 A. We had her vehicle.

9 Q. Right.

10 A. Yes.

11 Q. Right. And did a lot of forensic tests on that
12 vehicle?

13 A. We collected a lot of stuff to be tested.

14 Q. You're right, collected. And you learned that James's
15 girlfriend had been in that car with Ms. Bickman?

16 MS. SHEALY: Object to hearsay, Your Honor.

17 THE COURT: Sustained.

18 Q. The car was on Cindy Lane?

19 A. Correct.

20 Q. James Rose was arrested on Cindy Lane across the street
21 from where he lives?

22 A. Correct.

23 Q. And as you testified on direct, nobody else was ever
24 arrested in this case?

25 A. Not as of yet.

1 Q. Does that mean you are still investigating?

2 A. We're always investigating. We have two other suspects
3 that we are currently still looking for.

4 Q. When you brought the witnesses to the Sheriff's
5 Department that night you kept them in separate rooms?

6 A. Correct.

7 Q. And then you released them all to go back to the
8 hospital?

9 A. They were released. Not together. When they was at
10 the office they was always separated, never together to
11 discuss anything as it relates to the incident. Because we
12 was trying to collect the information. So they were always
13 separate.

14 But when we released them after we had finished
15 interviewing they were released to go home, to go the
16 hospital or wherever they choose.

17 Q. You didn't want them to talk to each other? So they
18 could give independent statements?

19 A. Correct.

20 Q. And you picked them up originally from the hospital and
21 took them to the Sheriff's Office?

22 A. I personally did not. My detectives that was assisting
23 me in the case, they picked them up and had them separately
24 in vehicles and taken to the Sheriff's Office?

25 Q. But they were transported by police officers?

CROSS-EXAMINATION BY MS. RUNEY OF DETECTIVE PERKINS

1 A. I'm sorry?

2 Q. They were transported to your department by police
3 officers?

4 A. Correct.

5 MS. RUNEY: Beg the Court's indulgence. That's all I
6 have. Thank you.

7 THE COURT: Okay. Redirect.

8 THE COURT: Thank you, Your Honor.

9 REDIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS:

10 Q. Detective Evans, you're familiar that when items of
11 evidence are collected pursuant to a search warrant that an
12 evidence technician takes them into evidence; is that
13 correct?

14 A. Yes, ma'am.

15 Q. And do they log -- are you familiar with the fact that
16 log in the information on every item of evidence that they
17 receive?

18 A. Yes, ma'am.

19 Q. I am going to show you that log of evidence in this
20 case and allow you a moment to look through it. And if you
21 could, tell the jury whether there were any drugs located
22 pursuant to the search warrant.

23 (Pause for review of documents.)

24 Q. You don't see any?

25 A. No.

1 Q. Okay. So when Ms. Runey was asking you about whether
2 drugs were found, you were just mistaken?

3 A. Yes.

4 Q. Okay. Now that you have had the time to refresh your
5 memory, were there any drugs taken from the scene?

6 A. As it relates to that evidence, no, ma'am.

7 Q. Okay. And Ms. Runey was asking about the name of
8 Ishmal Weston?

9 A. Yes.

10 Q. And Tawana Alston had been interviewed two times; is
11 that correct?

12 A. Yes.

13 Q. And one of those times was by Nick Waggoner and Charles
14 Lawrence?

15 A. Correct.

16 Q. You weren't present for that interview, were you?

17 A. No, ma'am.

18 Q. And but as an officer you had access to all the
19 statements in the case?

20 A. That's correct.

21 Q. Showing you that second interview and looking at
22 Page 3, could you indicate to the jury whether in fact the
23 name Ishmal Weston was provided by Tawana Alston?

24 A. It was.

25 Q. And what was the date of that statement?

REDIRECT EXAMINATION BY MS. SHEALY OF JAMES PERKINS

1 A. January 24.

2 Q. When Ms. Runey was asking you about whether or not you
3 were aware that Tawana Alston had dated James Rose ---

4 A. Yes.

5 Q. --- do you know for how long or how long ago it was
6 that they dated?

7 A. No, I did not know how long.

8 Q. And regarding the vehicle that was owned by Everlina
9 Bickman you indicated she was friends with Amber Wiley?

10 A. That's correct.

11 MS. SHEALY: I have no other questions. Thank you.

12 THE COURT: Okay. Anything further?

13 MS. RUNEY: No, Your Honor.

14 THE COURT: All right. Sir, you may step down.

15 THE WITNESS: Thank you.

16 THE COURT: Thank you. Well, let me see. Do you have
17 a relatively brief witness we can put up or ---

18 MS. SHEALY: Can we approach?

19 THE COURT: Sure. Come on up.

20 (Bench conference.)

21 THE COURT: All right. Ladies and gentlemen, we have a
22 few issues we need to deal with at lunch. But the next
23 witness may take a little while. So I'm going to ask that
24 you go ahead and go to lunch now. Please don't discuss the
25 case. You have not heard all the evidence yet. If y'all

1 will be back in your jury room at 1:45. That should give us
2 plenty of time to finish what we need to do before y'all get
3 back. Thank you.

4 (WHEREUPON, jury exits courtroom December 11, 2013,
5 12:19 p.m.)

6 THE COURT: All right. That is just a draft of what
7 may or may not be relevant. There are a few things in there
8 we can take out.

9 For example, I imagine we will hear some expert
10 testimony at some point. So I will put that in. Whether
11 the defendant chooses to testify or not, we can leave that
12 in or not. And I will talk to him probably when we get back
13 would be a good time to do that.

14 Why don't y'all be back between 1:30 and 1:45. We can
15 talk about jury charges at the end of the day. I don't
16 think we are going to get to that point today.

17 But anything that y'all want to add to it y'all can
18 certainly send me tonight and we can, you know, modify those
19 as needed. It just always helps me to have a draft to work
20 off of.

21 All right. Anything we need to take up before y'all
22 leave for lunch?

23 MS. SHEALY: Not from the State, Your Honor.

24 MS. RUNEY: No, Your Honor.

25 THE COURT: All right. I will see y'all then about a

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1 little before 1:45. We will be at ease. Thank you.

2 (WHEREUPON, resumed after lunch 12/11/2013.)

3 THE COURT: Anything we need to take up before we bring
4 the jury?

5 MS. SHEALY: Just briefly, Judge.

6 THE COURT: Sure.

7 MS. SHEALY: We have three stipulations that we've
8 agreed to.

9 THE COURT: Oh, wonderful.

10 MS. SHEALY: I wasn't sure if you like them marked as
11 Court's exhibits or ...?

12 THE COURT: I think it's easier to mark them as court's
13 exhibits. But y'all -- I really don't have a preference.

14 MS. SHEALY: Okay.

15 THE COURT: As long as they are in, they're in.

16 MS. SHEALY: And what I would ask to do is at the
17 completion of our evidence is to read this into the record.

18 THE COURT: Okay. Any objection to that?

19 MS. RONEY: Are you going to read them or ...?

20 MS. SHEALY: I usually read them.

21 MS. RONEY: That's fine.

22 THE COURT: I'm happy to read them if you want me to,
23 or she can. That work?

24 MS. RONEY: Yes, ma'am.

25 (WHEREUPON, Court's Exhibit marked 9, stipulation, was

1 marked for identification.)

2 (WHEREUPON, Court's Exhibit Number 10, stipulation, was
3 marked for identification.)

4 (WHEREUPON, Court's Exhibit Number 11, stipulation, was
5 marked for identification.)

6 THE COURT: Do you think y'all are going to finish your
7 case today?

8 MS. SHEALY: I do.

9 THE COURT: All right. Well, why don't I go ahead and
10 talk to Mr. Rose about his constitutionally rights.

11 MS. SHEALY: Sure.

12 THE COURT: I think now would make -- be a good time to
13 do it. Sir, if you could stand up for me. I need to make
14 sure you can hear me. And I need to ask you a few
15 questions.

16 I know that your attorneys have gone over all of this
17 with you, because you have excellent attorneys. But I need
18 to make sure that you understand that your Fifth Amendment
19 right to remain silent.

20 As you probably heard me tell the jury before we picked
21 the jury at the beginning of the trial, and I will tell them
22 again at the trial, the defendant has no burden here. You
23 are presumed innocent and you don't have to put up any case
24 whatsoever. That is completely a strategy decision for you
25 to work out with your lawyers.

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1 Likewise, you have the absolute constitutional right to
2 remain silent. And if you choose not to testify, I will
3 instruct the jury that they can't hold that against you,
4 can't talk about it, can't mention it. It can't be a part
5 of their deliberations or thought process when they are
6 deliberating at all. In fact you may see I included that
7 language in my charge. Just I think it is helpful to have.

8 Do you understand that right to remain silent, sir?

9 MR. ROSE: Yes, I do, Your Honor.

10 THE COURT: Have you had enough time to talk with your
11 lawyers about that?

12 MR. ROSE: Yes, I have.

13 THE COURT: And y'all don't have to tell me now. It is
14 a decision that you will make once the State rests its case.
15 But do you have any questions for the court about that right
16 to remain silent?

17 MR. ROSE: No, I don't, Your Honor.

18 THE COURT: Okay. Anything further y'all would like
19 for me to instruct him about?

20 MS. RUNEY: No, ma'am.

21 THE COURT: Anything further from the State you think I
22 need to mention?

23 MS. SHEALY: No, Your Honor.

24 THE COURT: All right, sir. Thank you so much.

25 MR. ROSE: You're welcome.

1 THE COURT: I just needed to make sure you understood
2 that. I know you do because I know your lawyers. But we
3 will go ahead and get the jury out and hear the rest of the
4 State's case and see how far we get today. Okay. All
5 right. Are y'all ready for them?

6 Yes, sir. Thank y'all for being so organized and
7 efficient by the way.

8 (WHEREUPON, break awaiting jury.)

9 (WHEREUPON, jury enters courtroom 1:59 p.m.)

10 THE BAILIFF: The jurors are all present, Your Honor.

11 THE COURT: Thank you, sir. And thank you, ladies and
12 gentlemen. I hope you had a nice lunch. And we are ready
13 to continue with the trial. So I will call on -- hang on.
14 (Note presented to the Court.)

15 THE COURT: That shouldn't be a problem. Just for
16 court's counsel benefit, I've got a note. Two members of
17 the jury need to be excused as close to 5:15 for childcare
18 purposes.

19 Y'all don't have to apologize. We appreciate your
20 patience and your kind attention. One needs to be in West
21 Ashley to pick up a seven-month-old as close to 5:30 as
22 possible.

23 We are moving pretty efficiently today. So that is not
24 a problem. I will just let everybody know. So thank you.

25 Are you ready to proceed?

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1 MS. SHEALY: Erin Myer.

2 THE COURT: Good afternoon. If you will come on up we
3 will swear you in.

4 (WHEREUPON, the witness was duly sworn.)

5 THE CLERK: Once seated if you would please state your
6 first and last name and spell your last.

7 THE WITNESS: My name is Erin Meyer. My last name is
8 spelled M-E-Y-E-R.

9 (ERIN MEYER, having first been duly
10 sworn, testified as follows:)

11 DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER:

12 Q. Officer Meyer, if you would please tell the jury where
13 you are employed.

14 A. I work for the Charleston County Sheriff's Office in
15 the Forensics Services Division.

16 Q. And how long have you worked for the Sheriff's
17 Department?

18 A. Seven years.

19 Q. And how long in the forensic division?

20 A. Six years.

21 Q. Would you describe to the jury what your unit does?

22 A. We respond to scenes, process crime scenes, collect
23 evidence, preserve evidence, and maintain evidence at the
24 Sheriff's Office.

25 Q. And would you advise the jury what SLED is.

1 A. We refer to SLED as a parent agency, State Law
2 Enforcement Division, located in Columbia. They process and
3 analyze a lot of our evidence that we don't have
4 capabilities to do here in Charleston.

5 Q. Okay. Regarding this case, the State versus James
6 Rose, could you tell the jury whether or not you were the
7 evidence technician in this case.

8 A. I was.

9 Q. And if you would start by telling us where you first
10 reported.

11 A. I responded to Lincolnville, West Carolina Avenue.

12 Q. And I'm showing you State's Exhibit 2. It is going to
13 come up on a screen right in front of you. Is that the
14 location where you reported?

15 A. Yes, ma'am.

16 Q. And tell us how it is you go about examining a home,
17 for example, if it is the scene of a crime. What do you
18 first do when you get there?

19 A. When we respond on the scene we usually speak to the
20 officers or the investigators, whoever might be there. Get
21 some initial information from them and then if it is just me
22 there or if I have a coworker there we will do what we call
23 a walk-through and for security reasons make sure our scene
24 is secure and see what we have.

25 Q. Okay. And the yellow tape that is reflected on the

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

- 1 back porch there, what is that?
- 2 A. Crime scene tape, barrier tape.
- 3 Q. And what is the purpose of it?
- 4 A. To secure the scene. To keep ---
- 5 Q. Keep other people ---
- 6 A. To keep people out.
- 7 Q. Okay. What I would like for you to do, first of all
- 8 did you prepare the diagram in State's 1?
- 9 A. Yes, ma'am.
- 10 Q. Okay. And if you would, let's begin with the back
- 11 porch area if we could. I'm showing you what has been
- 12 previously marked as State's Exhibit 3 again. Which door
- 13 did you enter the house from?
- 14 A. This door (pointing). The back door.
- 15 Q. Okay. And you can actually point to that screen.
- 16 A. (Witness complied.)
- 17 Q. Okay. And showing you State's Exhibit 4, is that the
- 18 scene as you open the door?
- 19 A. Yes, ma'am.
- 20 Q. Showing you State's Exhibit Number 5, is that a little
- 21 tighter shot as you are entering towards the kitchen?
- 22 A. Yes, ma'am.
- 23 Q. Now if you could describe to the jury, is there a saw
- 24 on the floor?
- 25 A. Yes, ma'am. It is a bench saw.

1 Q. Would you point to that. Why don't you put a check by
2 that.

3 A. (Witness complied.)

4 Q. And prior to the saw there is a blue book bag?

5 A. Yes, ma'am.

6 Q. Can you put a check by that for us?

7 A. (Witness complied.)

8 Q. When you were looking in this area what were you
9 looking for?

10 A. Do you mean initially when I entered the scene?

11 Q. Yes. Well, when you came back to the laundry room area
12 to look for evidence ---

13 A. During processing?

14 Q. Yes.

15 A. Okay. We initially go through and do a set of
16 photographs and then we come back and we start identifying
17 with certain areas we want to process.

18 This particular area I'm looking for -- we had gotten
19 information that he had been shot. So we are looking for
20 shell casings, projectiles, ricochets, pieces, fragments,
21 any firearms, anything that would be of any kind of
22 evidentiary value.

23 Q. Okay. And showing you State's Exhibit 6, is that a
24 picture as you turn that corner ---

25 A. Yes, you turn ---

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1 Q. --- from the laundry room?

2 A. --- that corner and looking back.

3 Q. Now in looking at that, is there a gap in the counter
4 to your -- if you are looking at the picture on the right?

5 A. Yes, ma'am.

6 Q. Mark that area for us.

7 A. (Witness complied.)

8 Q. Okay.

9 MS. SHEALY: Now if we can clear that. Clear that
10 picture. If you will go back to seven for me. And then can
11 you clear the marks. Okay.

12 Q. This is a closer up a photograph of the saw that you
13 were talking about?

14 A. Yes, ma'am.

15 Q. And would you explain to the jury what if anything you
16 noticed about the saw.

17 A. There was -- there is a piece of the guard, the saw
18 blade guard, right here missing that had been broken off.

19 Q. And showing you State's Exhibit 8, what does that
20 reflect?

21 A. That is a piece with a projectile in it.

22 Q. Okay. Could you check that mark -- or circle it for
23 us.

24 A. (Witness complied.)

25 Q. And so that was actual projectile; ---

1 A. Yes, embedded in the ---

2 Q. --- is that correct?

3 A. --- in the guard in that piece of plastic.

4 Q. Okay. Showing what has been marked as State's Exhibit
5 75, I ask you whether that is the projectile that you
6 gathered.

7 A. Yes, ma'am.

8 Q. And how can you tell that by looking at that package?

9 A. It has got my label on it, my initials, my signature.
10 I sealed it. That is the piece of this -- the guard right
11 here. And that is consistent with the bullet that was
12 inside of the guard.

13 Q. Okay.

14 MS. SHEALY: And, Your Honor, with the Court's
15 permission I'm going to open that packet.

16 THE COURT: Certainly.

17 MS. SHEALY: I will have to cut the packet open. Okay.

18 Q. Ms. Meyer, when you were saying that there was a piece
19 of the saw depicted in that photograph is that the piece of
20 the saw?

21 A. Can you flip it over?

22 Q. (Complied.)

23 A. Yes, ma'am.

24 Q. That does show up better. Okay. And the projectile
25 itself, is that what I am showing you now?

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1 A. Yes, ma'am.

2 Q. And those were found then on the floor where the piece
3 was next to the saw?

4 A. Yes, ma'am.

5 Q. Now after you collected this did you later submit
6 projectiles to SLED?

7 A. Yes, ma'am.

8 Q. Now showing you what has been previously marked as
9 State's Exhibit 10 -- well, first of all, let's look at
10 nine.

11 MS. SHEALY: That's State's Exhibit 8. If we could
12 look at State's 9. Or is that State's 9?

13 BY MS. SHEALY:

14 Q. Okay. Is that just another depiction of the projective
15 with the piece of plastic?

16 A. Yes, ma'am.

17 Q. Showing you State's Exhibit 10, I notice in this
18 photograph there is a stove in that gap; is that correct?

19 A. Yes, ma'am.

20 Q. Was this photograph taken the night of the incident?

21 A. No, ma'am. I returned out to the scene.

22 Q. Okay. And can you tell the jury why you returned out
23 to the scene?

24 A. I think there were new people moving into this house.

25 And they were installing a stove. They had contacted -- and

1 noticed something shiny embedded in the cabinet down here
2 (pointing) from the inside.

3 They had called the detective division. And one of the
4 detectives sent me back out there to take a look.

5 Q. Okay. And showing you State's Exhibit 11.

6 MS. SHEALY: If we could get rid of that check.

7 ASSISTANT: (Complied.)

8 BY MS. SHEALY:

9 Q. Can you show the jury what is depicted in this
10 photograph. What is significant?

11 A. There is a mark on the floor next to the scale that
12 represents -- or is consistent with being a ricochet mark.
13 And then up here in the front of the cabinet -- do you want
14 me to ---

15 Q. Yeah, if you can circle the areas you are talking
16 about, that might may it helpful for us.

17 A. Okay.

18 Q. And you refer to that as what?

19 A. A ricochet. A projectile ricocheted off of the floor.
20 And went into the cabinet right here (pointing). Went into
21 the wood.

22 Q. And showing you State's 12. Is that a closer up
23 shot ---

24 A. Yes.

25 Q. --- of that area?

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- 1 A. Yes, ma'am.
- 2 Q. What did you do once you found that hole?
- 3 A. Photographed it obviously. And then I dug out the wood
- 4 from the cabinet as best I could without coming in contact
- 5 with the projectile to preserve whatever condition it is.
- 6 Q. And then showing you State's Exhibit 13, what does that
- 7 picture reflect?
- 8 A. That is the projectile that I pulled from the cabinet.
- 9 Q. Okay. Showing you State's Exhibit 76 I ask you whether
- 10 that package contains that projectile.
- 11 A. Yes, ma'am.
- 12 Q. And again with this projectile did you then send it to
- 13 SLED?
- 14 A. Yes.
- 15 Q. Okay. Was there anything else of an evidentiary nature
- 16 in that laundry room area that you recall?
- 17 A. No, ma'am.
- 18 Q. If we then could move to Photograph 14. What does this
- 19 picture reflect?
- 20 A. You are coming in -- this picture shows from the
- 21 laundry room kind of out towards the kitchen and living
- 22 room.
- 23 Q. And then 15, you are making your way through the
- 24 house ---
- 25 A. Yes, ma'am.

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- 1 Q. --- at this location? And then 16?
- 2 A. It would be the kitchen area, eating area.
- 3 Q. And then 17?
- 4 A. Living room.
- 5 Q. Do you see the hall that leads to the bedroom in that
- 6 picture?
- 7 A. Yes, ma'am.
- 8 Q. And then 18, that is the door that leads to the ---
- 9 A. The front door.
- 10 A. Front porch. Okay. Once you go down that hall,
- 11 showing you State's 20, is that the bedroom straight down
- 12 the hall?
- 13 A. Yes, ma'am, at the end of the hall.
- 14 Q. And when you went into the bedroom were you also
- 15 looking for anything that might be connected to the case?
- 16 A. Yes.
- 17 Q. And were you sure whether when you found things they
- 18 would be connected to the case?
- 19 A. Not -- no, we never do.
- 20 Q. In bedroom -- we will refer to that as Bedroom 1.
- 21 A. Thank you.
- 22 Q. In Bedroom 1, I am showing you -- I think you can see
- 23 it in that photograph actually, Photograph 21. Could you
- 24 tell the jury whether or not you found a BB gun.
- 25 A. Yes, ma'am.

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- 1 Q. And can you show the jury where that is located?
- 2 A. It is right there on top of the dresser.
- 3 Q. So that is a gun that you don't use real bullets with;
- 4 is that correct?
- 5 A. Correct, BB, air-soft gun.
- 6 Q. And then did you also locate in Photograph 22 is --
- 7 what is that?
- 8 A. It is a 22-caliber rifle.
- 9 Q. And a 22-caliber rifle is not a shotgun; is that
- 10 correct?
- 11 A. Correct.
- 12 Q. And was there a magazine with that rifle?
- 13 A. Yes, ma'am.
- 14 Q. Okay. And did you also find in Photograph 27 -- now is
- 15 that in the same room?
- 16 A. Yes, ma'am.
- 17 Q. Are their shotgun shells in that box?
- 18 A. Yes.
- 19 Q. And underneath that box are there some other type of
- 20 ammunition?
- 21 A. Some 22-caliber ammunition in the box right here
- 22 (pointing).
- 23 Q. And so those are the items that you found in Bedroom 1?
- 24 A. Yes, ma'am. It's a nightstand next to the bed.
- 25 Q. And I'm sorry, what type -- what caliber ammunition was

1 that?

2 A. Twenty-two.

3 Q. Twenty-two. Then did you make your way to Bedroom 2?

4 A. Yes, ma'am.

5 Q. Prior to that was there a bathroom that you passed as
6 you exited Bedroom 1?

7 A. Yes.

8 Q. And then as you are exiting it, it would have been on
9 your right side?

10 A. Yes, ma'am.

11 Q. And showing you State's Exhibit 23, is that the
12 bedroom?

13 A. That's the bathroom.

14 Q. Oh -- the bathroom?

15 A. Yes, ma'am.

16 Q. Okay. Then the bedroom that you next come to, that
17 being what we will call Bedroom 2, I am showing you
18 Photograph 24. Can you tell me whether you looked in that
19 area?

20 A. Yes, ma'am.

21 Q. And showing in 25, State's 25, were those the items
22 that were found on the bed?

23 A. Yes, ma'am.

24 Q. And did you take the cell phone into evidence?

25 A. Both cell phones. Yes, ma'am.

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1 Q. Are there two -- can you show us the two cell phones;
2 can you point that out? It's a little dark in that area.

3 A. (Witness complied.)

4 Q. Okay. And so both of those cell phones were taken into
5 evidence?

6 A. Yes, ma'am.

7 Q. And showing State's Exhibit 25 -- no, I'm sorry, 26.
8 What door are we looking at?

9 A. That is Bedroom Number 2's door. The same bedroom you
10 just showed the picture of with the bed.

11 Q. And so the hall is where in that picture?

12 A. Right outside the door.

13 Q. Okay. And did you find that gun behind that door?

14 A. Yes, ma'am.

15 Q. And what type of gun was that?

16 A. It is a bolt-action rifle. I think it is a Mossberg
17 22.

18 Q. Okay. And just for those who may not be as familiar
19 with guns, that is not a shotgun; ---

20 A. Correct.

21 Q. --- is that correct? And it is not a 357-magnum?

22 A. Correct.

23 Q. And it is not a 38-special?

24 A. Correct.

25 Q. When you -- when you finish going through the entire

1 house, items of evidence you would collect, there was some
2 cell phones I think found on the kitchen table; is that
3 correct?

4 A. Yes, ma'am.

5 Q. But regarding the items that we've discussed today,
6 these photographs reflect of where you found them; is that
7 correct?

8 A. Correct.

9 Q. Now turning your attention to a different address, did
10 you have the occasion to go over to Cindy Drive?

11 A. Yes, ma'am.

12 Q. And did you in fact have a search warrant ultimately to
13 go into Cindy Drive?

14 A. Yes, ma'am.

15 Q. Showing you what has been marked as State's Exhibit 28,
16 can you tell the jury what that photograph reflects?

17 A. My vehicle. The house we were executing a search
18 warrant on and the other side of my vehicle. And then a
19 Dodge Neon.

20 Q. How about point those things out to us.

21 A. Dodge Neon (pointing), my vehicle (pointing), the
22 trailer (pointing).

23 Q. And when you arrived at the scene was the Neon in that
24 location?

25 A. Yes, ma'am.

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1 Q. I am showing you State's Exhibit 29. Does that reflect
2 the mobile home that you entered and searched?

3 A. Yes, ma'am.

4 Q. And also 30?

5 A. Yes, ma'am.

6 Q. Just another angle. And then 31 reflects the address?

7 A. Yes, ma'am.

8 Q. And that address was ?

9 A. Yes, ma'am.

10 Q. Okay. Now in discussing the vehicle, showing you
11 State's Exhibit 32, did y'all open the doors and photograph
12 the vehicle as it appeared when you initially saw it?

13 A. When I arrived on the scene my sergeant was already
14 there. But he had advised me that we would be towing that
15 vehicle back to the evidence compound for processing later.
16 And the owner was on the scene and wanted some items out of
17 the vehicle.

18 Just habit and per policy we photograph if we are going
19 to bring a vehicle back to execute a search warrant on it we
20 would photograph it in its entirety prior to transport in
21 case there's any evidence that shifts or moves or slides
22 under the seat during transport. It's just for
23 documentation purposes.

24 Q. Okay. So a couple of things. Who was the owner; do
25 you have that name?

1 A. I think it was Everlina.
2 Q. Okay.
3 A. Is that right? I don't know.
4 Q. Everlina.
5 A. Is it Everlina?
6 Q. And showing you how the vehicle appeared on the inside,
7 showing you State's 33, that is the back seat area?
8 A. Yes, ma'am.
9 Q. And showing you 34, front seat passenger area?
10 A. Yes, ma'am.
11 Q. And I notice a pack of cigarettes there; is that
12 correct?
13 A. Yes.
14 Q. State's Exhibit 35, is that a pocketbook in the ---
15 A. Floorboard, ---
16 Q. --- floorboard?
17 A. --- the passenger-side. Yes, ma'am.
18 Q. And 36, just a closer up photograph of that?
19 A. Yes, ma'am.
20 Q. I noticed that the keys are in the car.
21 A. Yes.
22 Q. Were the keys in the car when you approached the
23 vehicle?
24 A. Yes, that -- that vehicle -- those photographs document
25 the way we found the vehicle.

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- 1 Q. Okay. And 37?
- 2 A. Yes, ma'am.
- 3 Q. And 38. On this photograph had you changed the
- 4 position of the pocketbook?
- 5 A. Yes, she had -- she was on the scene requesting some
- 6 items out of the vehicle. She was notified that we were
- 7 going to be taking it.
- 8 Q. And 39, it's hard to tell in that picture. But the
- 9 jury will have the actual photograph. Does it have the name
- 10 of the prescription on that bottle? I don't know if you can
- 11 see it -- get from where you are.
- 12 A. Do you mean the individual's name it is prescribed to?
- 13 Q. Yes.
- 14 A. Everlina Bickman.
- 15 Q. Okay. After taking those photographs to assure how it
- 16 appeared when you arrived did you then search the residence
- 17 itself?
- 18 A. Yes, ma'am.
- 19 Q. And showing you State's Exhibit 40 then, is that how
- 20 you entered ---
- 21 A. Yes.
- 22 Q. --- the mobile home that evening ---
- 23 A. No.
- 24 Q. --- or that afternoon?
- 25 A. No, that is the backdoor.

1 Q. Oh, that's the back door. Okay. Is that how you
2 entered or not?

3 A. No.

4 Q. You entered through the front door?

5 A. Yes, ma'am.

6 Q. Okay. I'm not sure I have a photograph of the front
7 door. Let's see. Okay. Showing you 29, that's the front
8 door?

9 A. Yes.

10 Q. Okay. As you entered through that door what was to
11 your right as you entered the door?

12 A. A bedroom.

13 Q. I'm showing you State's Exhibit 40. Oh, I'm sorry, I'm
14 showing you State's Exhibit 41. Is that the bedroom to the
15 right?

16 A. We entered through there (pointing). And that's the
17 living room straight ahead. You go down that little I guess
18 little doorway there to the right would be the bedroom.

19 Q. Okay. Showing the State's Exhibit 43. Show us where
20 that front door was.

21 A. The front door in here. And that is the bedroom in the
22 front.

23 Q. Okay. If we could concentrate on that bedroom then.
24 Showing you State's Exhibit 44. Does that reflect how the
25 bedroom appeared when you went in?

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1 A. Yes, ma'am.

2 Q. And just acclimate us to the picture. The front door
3 is where of the trailer?

4 A. Here and to the left (pointing).

5 Q. Okay. Now located on that blue and red bedspread what
6 is that red area next to the pillow?

7 A. A piece of clothing. A red shirt.

8 Q. And showing you State's Exhibit 47 and then 48. That
9 is the red shirt that you've mentioned?

10 A. Yes, ma'am.

11 Q. If we could go back one second to Photograph 40 showing
12 the back door of the trailer.

13 A. I took that.

14 Q. What are those black things depicted on the ground?

15 A. There were a pair of black tennis shoes out there on
16 the back porch we collected.

17 Q. They were outside?

18 A. Yes, ma'am.

19 Q. Showing you State's Exhibit 77. Could you tell the
20 jury whether or not those are the ---

21 A. Can I open it?

22 Q. Yes, you may.

23 A. Yes, ma'am.

24 Q. Could you show the jury those shoes. I have just
25 handed you some gloves.

- 1 A. Thank you. (Witness complied.)
- 2 Q. Okay. We can go back to Photograph 48. Here I will
- 3 just take those. And again, there's the red shirt that was
- 4 on the bed in that bedroom?
- 5 A. Yes, ma'am.
- 6 Q. I'm showing you State's Exhibit 78. Could you tell the
- 7 jury whether or not it is that red shirt.
- 8 A. (Complied by showing exhibit.)
- 9 Q. Okay. If we could show the State's 45 -- actually go
- 10 back to 44, please. Looking at State's Exhibit 44 again,
- 11 what is that with the polka dotted fabric?
- 12 A. A little coffee-table, a little side table.
- 13 Q. And did you find any kind type of identification on
- 14 that table? I'm showing you State's Exhibit 46.
- 15 A. The identification that we found came from a wallet in
- 16 that little stand underneath the TV.
- 17 Q. Underneath the television -- oh, okay.
- 18 A. Yes, ma'am.
- 19 Q. Okay. And whose identification was that; what name
- 20 appeared?
- 21 A. James Rose.
- 22 Q. Okay. Now showing you State's Exhibit 49. What does
- 23 that picture depict?
- 24 A. The red hoodie that was hanging on the back of the
- 25 bedroom door.

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1 Q. Is that the big door that was opened in the previous
2 picture?

3 A. Yes, ma'am.

4 Q. And did you in fact collect the red hoodie?

5 A. Yes, ma'am.

6 Q. Showing you State's Exhibit 79. If you could show the
7 jury what's located in that bag.

8 A. (Witness complies.)

9 Q. Okay. After you finish looking in that bedroom did you
10 go elsewhere in the house and look in other bedrooms and
11 bathrooms?

12 A. Yes, ma'am. There was another bedroom located at the
13 other end of the house.

14 Q. Showing you 43 again, just to orient us. Which way was
15 the other bedroom located in looking at this picture?

16 A. Behind you.

17 Q. Well, can you do it on this ---

18 A. Oh.

19 Q. Can you do it on the screen?

20 A. (Witness complied.)

21 Q. Very good. And was there a bathroom headed that way as
22 well?

23 A. Yes, there is a kitchen and a hallway. And once you go
24 down the hallway there is a bathroom and a bedroom.

25 Q. Showing you State's Exhibit 50.

1 A. That's actually the master bedroom, so there -- the
2 bathroom actually connected to the bedroom and the hallway.
3 Q. Okay. So you said there are two doors to that bedroom?
4 A. Yes, ma'am.
5 Q. I mean that bathroom. I'm sorry.
6 A. Yeah.
7 Q. Showing you State's Exhibit 50. Could you tell us what
8 is located in that picture.
9 A. The placard next to Placard B is another red shirt.
10 Q. And in Photograph 51?
11 A. Next to Placard C is another red shirt.
12 Q. And showing you State's Exhibit 80 and 81.
13 A. This is "B" (displaying). And this is "C"
14 (displaying).
15 Q. Okay. Now while you are folding that up, you had
16 mentioned to us earlier that after you took the photographs
17 of the Neon that it was going to be towed?
18 A. Yes, ma'am.
19 Q. And where would it have been towed to?
20 A. The Charleston County Sheriff's Office, the evidence
21 compound, the forensic services lab. We process all of our
22 vehicles. That's where all of the evidence is housed,
23 stores, where our offices are.
24 Q. Showing any State's Exhibit 29 again.
25 MS. SHEALY: If we could clear that.

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1 Q. Can you see in that photograph the tail end of the Neon
2 behind your cars?

3 A. Yeah, that was like the tow trucks.

4 Q. Okay. And then showing you State's Exhibit 104. Does
5 that picture reflect the tow truck on the other side of the
6 trailer?

7 A. Yes, ma'am.

8 Q. Now did you have the opportunity to inventory the
9 vehicle -- or search the vehicle? I'm sorry.

10 A. I did once back at the compound, yes.

11 Q. Okay. And when doing so there was a search warrant for
12 that vehicle; is that correct?

13 A. Yes, ma'am.

14 Q. I'm showing you what has -- well, first of all tell us
15 what you first did to process the vehicle. What did you do?

16 A. There are several procedures we go through and we
17 execute search warrants. And I mentioned before, we take
18 over all photographs before we move or touch anything. And
19 then once you're finished we go over all photographs she
20 photographed in detail whatever you need to and begin
21 processing the fingerprints or evidence or whatever it is
22 that you need to.

23 Q. Okay. Showing you State's 52. Could you tell the jury
24 what that photograph reflects?

25 A. The numbers that are in the photograph represent latent

1 prints. We photograph them. Once I process the vehicle
2 with black powder we lift the print but we like to
3 photograph and number them first so you can recall where on
4 the car we located them.

5 Q. And do those numbers reflect the areas that you located
6 them?

7 A. Yes.

8 Q. And similarly with 53 and then 54; is that correct?

9 A. Yes, ma'am.

10 Q. And once you took -- well, also, I'm sorry, 55, 56, and
11 I think 57. And those numbers reflect where you saw prints?

12 A. Yes.

13 Q. Now what do you do with the prints once what you
14 receive them? Once you lift them?

15 A. Once we -- once we -- we lift the tape, put it on the
16 card. We usually number the card and print some information
17 on the back. And then they will be examined for AFIS for
18 comparisons if they are quality enough.

19 Q. And showing you what has been marked as State's
20 Exhibit 87. Does this reflect the latent prints that you
21 lifted?

22 A. Yes, ma'am.

23 Q. Where do you send those once you have lifted them?

24 A. North Charleston Police Department they have an AFIS
25 examiner.

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- 1 Q. And do they have an examiner named Andy Coker and
2 Lisa -- I'll get Lisa's last name.
- 3 A. Ku-bith ---
- 4 Q. What is it?
- 5 A. Ku-bis-kee (ph).
- 6 Q. Ku-bis-ko (ph)?
- 7 A. Kubisko, yes, ma'am, they do.
- 8 Q. And those latent prints were then sent to North
9 Charleston and examined by Mr. Coker and Ms. Kubisko; is
10 that correct?
- 11 A. Yes, ma'am.
- 12 Q. Now discuss with us if you would when you were saying
13 if they had enough ridge detail. What does that mean?
- 14 A. Everybody's fingers have what we call ridge detail.
15 They are identifiable to you individually. You leave oils
16 in the closets and whatever you touch.
- 17 We use, for example, black powder to lift those, make
18 them more identifiable. We lift them on a card and it
19 gets -- on a tape and it gets put on a card.
- 20 Depending -- a lot of -- a lot of things can affect the
21 quality of a print. You can look at -- I can look at a
22 fingerprint and see one or two ridges or I can look at one
23 and have a full finger. A lot of it depends on
24 environmental factors, rain, heat, has the car been washed.
- 25 So sometimes you have to have enough ridge detail for

1 it to go into the AFIS machine or be qualify enough for the
2 AFIS machine to be able to recognize it as a print.

3 If it's not, you can always do comparisons. But it
4 is not unusual to get -- lift prints that are not AFIS
5 quality.

6 Q. And that would be the role of Mr. Coker and Ms. Kubisco
7 on whether or not you could do that?

8 A. Yes, ma'am.

9 Q. And obviously if someone was being careful not to leave
10 fingerprints, you may not have any success in finding their
11 prints on a vehicle?

12 A. Correct, or vehicles a lot of times they get washed or
13 cleaned up, heavy rain.

14 Q. And what about the use of gloves?

15 A. It would leave a different pattern.

16 Q. And if they were rubber gloves would it leave any
17 pattern?

18 A. A rubber glove pattern.

19 Q. Yeah.

20 A. Yes, ma'am.

21 Q. Showing then what now has -- let's see -- let's go back
22 to the vehicle. Was there a package of Newport cigarettes
23 in there?

24 A. Yes, ma'am.

25 Q. And did you in fact process that package of cigarettes?

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1 A. I did.

2 Q. And did you also send that to North Charleston?

3 A. Yes, ma'am.

4 Q. And showing you State's 82. If you can identify it
5 from the outside, that's fine.

6 A. Yes, ma'am.

7 Q. And those were sent?

8 A. Yes.

9 Q. Okay. What else did you do to the either the interior
10 or the exterior of the Neon regarding the door handles?

11 A. We collected the DNA in the form of what we call touch,
12 touch-DNA.

13 Q. When you say you collected it in that form, what do you
14 mean?

15 A. DNA can be left in a lot of different manners. In this
16 particular case we are collecting something referred to as
17 touch-DNA. It is just ah-feel-yals (ph) that are left by
18 just randomly touching something. We do that by -- by using
19 a swab. And we swab the area and then package the swab,
20 seal it up and sent it for processing.

21 Q. And you are sending it to SLED for processing?

22 A. Yes, ma'am.

23 Q. And regarding this vehicle where did you make those
24 efforts?

25 A. We did the interior door latches of all four doors.

- 1 Q. Showing you 83, 84 -- well, let's do it this way so it
2 will be a little bit more clear. Showing you State's
3 Exhibit 83. Is that from the driver's side, interior door
4 latch?
- 5 A. Yes, ma'am.
- 6 Q. And 84. From the driver's side, rear passenger seat,
7 interior door latch?
- 8 A. Yes, ma'am.
- 9 Q. And 85 is the passenger side, interior door latch?
- 10 A. Yes, ma'am.
- 11 Q. And 86 is the passenger side, rear seat interior door
12 latch?
- 13 A. Yes, ma'am.
- 14 Q. Which of those items if any were sent to SLED?
- 15 A. The front passenger seat interior door latch and at the
16 rear passenger on the passenger side interior door latch.
- 17 Q. Wait. Say that -- say that to me again.
- 18 A. The front passenger interior door latch.
- 19 Q. Okay.
- 20 A. And then ---
- 21 Q. Point -- point on the car as to what you are talking
22 about. Just which side.
- 23 A. Right here (pointing). And this door, the interior.
- 24 Q. So those two were send to SLED?
- 25 A. Yes, ma'am.

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1 Q. To see if there were any DNA ---

2 A. Yes, ma'am.

3 Q. --- that could be matched?

4 A. Yes, ma'am.

5 Q. Did you realize that there were two suspects that had
6 not arrested ---

7 A. No, we don't ---

8 Q. --- or did you even know that?

9 A. No, we -- the detectives usually stay pretty busy. We
10 very seldom have an opportunity to communicate well. So we
11 collect everything that we need to collect, everything that
12 may be possible at the time when we have the opportunity.

13 So at that time I really -- other than the information
14 I was given when responded on the scene and this possibly
15 being the suspect vehicle I just tradition is you just make
16 sure you get everything you can. So I collected from all
17 four doors.

18 Q. Okay. Very good. Now did you receive some items that
19 came from autopsy?

20 A. Yes.

21 Q. And not only autopsy but MUSC separately?

22 A. Yes, ma'am.

23 Q. Were you aware that Leland Shannon underwent surgery
24 prior to dying?

25 A. Yes.

1 Q. Okay. And regarding the items that you found at --
2 that you received from MUSC, could you tell the jury whether
3 or not there was any wadding found?

4 A. Yes, Detective Colson -- usually a detective responds
5 to the hospital if there is a victim there. He had
6 responded to the hospital and they had given him a piece of
7 wadding. And I believe there was another piece that was
8 either removed from him or found once they were operating
9 that was given to ---

10 Q. On Mr. Shannon?

11 A. Yes, ma'am.

12 Q. Once -- and then they were given to him, to another
13 officer. I had to go down the next morning and pick it up.
14 So two pieces of wadding came from MUSC ER.

15 Q. When we are talking about wadding can you describe to
16 the jury what you mean by wadding?

17 A. Wadding is something you traditionally find in a
18 shotgun cartridge. It is the piece of plastic that
19 separates powder from the pellets. It gets projected just
20 like the pellets do. Frequently sometimes comes apart, stay
21 together. But it is usually a large piece of plastic. Can
22 come cork sometimes. But it is usually plastic.

23 Q. Showing you State's -- well, first let me ask you did
24 you also receive the clothing of Leland Shannon from
25 autopsy?

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1 A. Yes, ma'am.

2 Q. Showing you what's been marked as State's Exhibit 90.
3 We are not going to open this right now. But can you tell
4 me whether or not that is the clothing that was found?

5 A. Yes, ma'am.

6 Q. Okay. I'm going to show you photographs of the
7 clothing. Showing you State's Exhibit 68.

8 MS. SHEALY: Can we clear those checks?

9 Q. What does that picture project?

10 A. A red -- a white T-shirt that has been stained with
11 blood.

12 Q. Showing you State's Exhibit 69. Is that an over-shirt?

13 A. Yes, ma'am.

14 Q. State's Exhibit 70?

15 A. Shorts. A pair of blue cargo shorts.

16 Q. State's Exhibit 71?

17 A. Boxer shorts.

18 Q. State's Exhibit 72?

19 A. White tank top stained with blood.

20 Q. And is there anything else depicted in that photograph
21 of interest?

22 A. The hole.

23 Q. Okay. Can you point the hole up -- can you circle it
24 for us.

25 A. (Witness complied.)

1 MS. SHEALY: You can take that down now.

2 Q. In addition to those items were there other items of

3 clothing that were turned into evidence from him?

4 A. Yes, ma'am.

5 Q. Okay. And what did those include?

6 A. Are you referring to the items that came back from

7 autopsy?

8 Q. Yes. I can ask you, if that might make it easier. Was

9 there a pair of black and blue Nike tennis shoes?

10 A. Yes, ma'am.

11 Q. A pair of black socks?

12 A. Yes.

13 Q. A black zip up hoodie?

14 A. Yes.

15 Q. A blue T-shirt?

16 A. Yes.

17 Q. I think that may have been the one we just saw ---

18 A. Yes.

19 Q. --- a photograph of. And then is it customary at

20 autopsy for them to take samplings of fingernails and hair

21 and a blood spot while they are being autopsied?

22 A. Yes.

23 Q. That MUSC takes those items?

24 A. Yeah, they collect a lot. Anything -- we don't

25 traditionally empty pockets and stuff like that other than

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1 making sure that don't have a gun or something in there.

2 But they go to autopsy the way that we usually find them.

3 So we will get stuff back from autopsy that would
4 include the contents of their pockets to projectiles that
5 have been removed from them, anything they may have pulled
6 out while they were conducting the autopsy to include all of
7 the clothing.

8 Q. Okay. And in addition to the clothing that was
9 returned and the wadding were there also some pellets from
10 the left thigh ---

11 A. Yes.

12 Q. --- of Mr. Shannon returned?

13 A. Yes, ma'am.

14 Q. And when we are talking about pellets we are talking
15 about shotgun pellets?

16 A. Yes, ma'am.

17 Q. Showing you 92 does that container reflect the
18 projectiles?

19 A. Yes, ma'am.

20 Q. And was that in -- that was not sent to SLED, the
21 projectiles?

22 A. Correct.

23 Q. Okay. Let me hold those. They are contained within
24 this package?

25 A. Yes, ma'am.

1 Q. Was there also a projectile from the left chest cavity
2 return to -- turned to y'all?

3 A. Yes, ma'am.

4 Q. And showing you State's Exhibit 91. I ask you whether
5 that is the projectile from the left chest cavity?

6 A. Yes.

7 Q. Now was that sent to the SLED?

8 A. Yes.

9 Q. And is this the projectile that MUSC turned over to
10 evidence?

11 A. Yes, ma'am.

12 Q. Having come from his chest?

13 A. Yes, ma'am.

14 Q. And then showing you State's Exhibit 93. Was there a
15 projectile and fragment from Mr. Shannon's head?

16 A. Yes, ma'am.

17 Q. And that was -- did this go to SLED?

18 A. Yes, ma'am.

19 Q. And is this the projectile and fragment that you sent
20 to SLED?

21 A. Yes, ma'am.

22 Q. Did you also obtain -- well, first of all did you
23 perform any gunshot kit on anyone in this case?

24 A. Yes.

25 Q. Who did you do that on?

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1 A. James Rose.

2 Q. And tell us how you went about collecting for the GSR
3 analysis.

4 A. GSR is collected from individual's hands, person's
5 clothing. The particle collectors and you dab somebody's
6 clothing or hands and it collects particles. You tube it,
7 seal it, secure it, and put it in the envelope. And it goes
8 to SLED.

9 Q. Well, when you do someone's hand do you do both hands?

10 A. Yes, ma'am.

11 Q. Do you do front and back?

12 A. Yeah, inside fingers, up their arms, inside their
13 hands.

14 Q. I'm going to show you what has been marked State's
15 Exhibit 94. When you -- when someone collects for GSR
16 analysis is it important to note what time it was collected?

17 A. Yes.

18 Q. And do you know the reason for that?

19 A. No.

20 Q. Okay. So we can ask our SLED analysis -- analyst. But
21 you do have to note what time it was collected?

22 A. Yes.

23 Q. If you would please, in 95 we have the gunshot residue
24 kit of Joy Holmes, James Rose, Antoine Aiken, and Tawana
25 Alston. Could you tell the jury, please, what time the

1 gunshot residue tests were taken?

2 A. On all four?

3 Q. Yes, please.

4 A. Joy Holmes was collected on the 24th at 250 in the

5 morning.

6 Q. Zero two fifty?

7 A. Zero two fifty.

8 Q. James Rose was collected on the 24th at 1810.

9 Q. Which is what time?

10 A. 6:10.

11 Q. 6:10 on the 24th.

12 A. In the evening. Antoine Aiken collected on the 24th at

13 310 in the morning.

14 Q. Zero three ten?

15 A. Yes, ma'am.

16 A. Yes, ma'am. And Tawana Alston was collected on the

17 24th at 0445 in the morning.

18 Q. Did you also receive some buccal swabs in the case?

19 A. Yes, ma'am.

20 Q. And from whom did you receive those; do you remember?

21 A. James Rose -- oh, what officer or collection ---

22 Q. Well, both.

23 A. --- from the person?

24 Q. Both.

25 A. Detective Colson actually submitted them into evidence.

DIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 Q. Okay.

2 A. But based on his description they were collected from
3 James Rose.

4 Q. And showing you -- just a second. Okay, here we go.
5 Showing you State's 95. Could you tell the jury whether or
6 not that is the buccal swab taken from James Rose.

7 A. Yes.

8 Q. And did that go to SLED?

9 A. Yes.

10 MS. SHEALY: I beg the court's indulgence just a
11 moment.

12 Okay. A couple more questions. I'm sorry.

13 BY MS. SHEALY:

14 Q. When you were looking in the Neon did you find any cell
15 phones in the Neon?

16 A. Yes.

17 Q. And where were they located?

18 A. Okay, that's what I thought. We recovered two cell
19 phones. I just didn't want to get them mixed up. We
20 recovered two cell phones. There was a black Kio Sierra
21 from the front passenger interior drawer compartment and a
22 silver LG from the front passenger interior door
23 compartment.

24 Q. Okay. Showing you State's Exhibit 34. Can you show us
25 in that photograph where the cell phones have been located?

1 A. (Pointing.)

2 Q. There is an indentation there where you can leave things?

3 A. Yes, ma'am.

4 Q. Okay. And you found both of those cell phones in that
5 area?

6 A. Yes, ma'am.

7 Q. Now looking back at State's 2 and 3. Could you discuss
8 with us please for the jury how well lit was the area that
9 night; is there some artificial lighting in those
10 photographs?

11 A. Yes, ma'am, there's -- still several officers on the
12 scene. And I'm sure their headlights are on. But our flash
13 is strong enough to make that apparently lighted.

14 Q. Do you remember whether or not there was a streetlight
15 near that trailer?

16 A. I don't recall.

17 Q. Looking back at two, that photograph doesn't refresh
18 your memory as to where another light may have been?

19 A. No.

20 Q. Okay.

21 A. As you can see the headlights over there. So I'm
22 thinking that -- that reflection of the glass is from my
23 camera.

24 Q. The reflection where?

25 A. Off the window off the -- of the front of the -- right

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1 there (pointing).

2 Q. Is from your camera?

3 A. Yes, ma'am.

4 Q. Okay. In looking at the backyard did it appear that
5 someone had driven off from that area?

6 A. It was hard to tell. The ground was wet and when you
7 look at the grass it was that time of year where everything
8 was dying off. It was difficult to tell.

9 Q. Okay. And regarding the areas that you swabbed for DNA
10 in the car, those being the handles, you would agree that
11 obviously people don't use the handles to close a door?

12 A. Correct.

13 Q. In looking at the photographs where you took
14 fingerprints, for example let's look at 52. Is some of the
15 smudging on that car from the actual substance that you put
16 on the vehicle?

17 A. Yeah, you -- that powder that we use adheres to
18 moisture. So you can see moisture drops, raindrops,
19 smudges.

20 Q. Okay. Very good. Thank you. I have no further
21 questions. Please answer any that the defense may have.

22 THE COURT: Cross-examination.

23 CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER:

24 Q. Good afternoon, Ms. Erin Myers.

25 A. Hi.

1 Q. The first thing that you did when you responded to
2 Carolina Avenue is that you get a quick debriefing on the
3 scene and you need to clear the residence?

4 A. This particular incident, yes, we still -- it still
5 needed to be cleared.

6 Q. And so if you responded and that hadn't been done yet,
7 that's what you do?

8 A. Most definitely, yes.

9 Q. And that is for safety purposes?

10 A. Yes.

11 Q. For several reasons, make sure nobody else was in
12 there, witnesses or suspects, and for the officer's safety
13 who are looking for evidence?

14 A. Yes, ma'am. I don't think our -- our concern with
15 doing that, both doors were within sight of the officers but
16 it was what had not been cleared inside.

17 Q. Absolutely. And you are quickly told the situation?

18 A. Yes, ma'am.

19 Q. And you are told that the suspect had not gone past the
20 kitchen area?

21 A. They did not believe the suspect had gone past the
22 kitchen area. A lot of the information we receive on the
23 scene is taken with a grain of salt I guess. We don't
24 eliminate. We don't not do something just because somebody
25 told us this.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Q. Sure. You're going to collect evidence ---

2 A. If we feel like it is got an evidentiary value.

3 Q. Absolutely. And even if you're not sure, you're still
4 going to collect that?

5 A. Yes, ma'am.

6 Q. And that is because you could test that piece of
7 evidence later and find out that it's important or you could
8 find out more information from witnesses and detectives that
9 would make that piece of evidence important ---

10 A. Yes, I mean ---

11 Q. --- or relevant?

12 A. In some cases it is not testable.

13 Q. Absolutely.

14 A. It may have been under certain circumstances but it may
15 not be now for some reason. And then there are
16 circumstances where it is just not relevant.

17 Q. And at that point you aren't sure what's relevant so
18 you want to be overly cautious about collecting things?

19 A. Yes, ma'am.

20 Q. If there is any doubt you want to take it with you?

21 A. Yes, ma'am.

22 Q. And you told us on direct that you did collect this
23 projectile that had hit the saw guard?

24 A. Yes, ma'am.

25 Q. And a piece of the saw guard was still on the

1 projectile?

2 A. The projectile was imbedded in the plastic piece, yes,
3 ma'am.

4 Q. And based on the position of the saw where the
5 projectile struck that saw guard, that tells you that the
6 shot was coming from the doorway?

7 A. The trajectory, yes.

8 Q. And from close range?

9 A. Not necessarily. It doesn't -- it doesn't say how
10 close.

11 Q. No, it doesn't tell you how close.

12 A. Give you a direction.

13 Q. Right, it gives you a direction. But that saw was not
14 that far away from that door?

15 A. Right, um ---

16 Q. That ---

17 A. I think we ---

18 Q. --- laundry area is not a big room?

19 A. Correct.

20 Q. Okay.

21 A. We did measurements. But it couldn't have been five,
22 seven feet, may ten at the most.

23 Q. Okay. And you in this case have collected several
24 firearms on Caroline Avenue, Cindy Lane?

25 A. Yes, ma'am.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Q. Any of those firearms sent to SLED for any type of
2 testing?

3 A. I -- no, I don't think so. No.

4 Q. Your job as an evidence technician is also to collect
5 evidence from other offices?

6 A. Yes, ma'am.

7 Q. And you document those things in your computer system
8 in a report and keep track of all of those?

9 A. Yes, ma'am.

10 Q. And just by example, the GSR kit, you may not have
11 collected the kit on that person but you keep it stored at
12 Charleston County Sheriff's Office and keep track of it?

13 A. Yes, ma'am.

14 Q. Now you testified that you processed the gray 2005
15 Dodge Neon that we have seen in these pictures?

16 A. Yes, ma'am.

17 Q. And when you arrived on Cindy Lane to process that
18 vehicle you weren't the first office there?

19 A. No, ma'am.

20 Q. And at Dodge Neon had just been seized from Ms. Bickman
21 as a result of the search warrant?

22 A. I don't know if they physically seized it from her,
23 like got her out of the vehicle. I know that Everlina -- is
24 that ---

25 Q. Yes.

1 A. Ms. Bickman. Okay. I was advised that was her vehicle
2 and that we would be taking it. I don't know the
3 circumstances behind -- I don't know what you are calling
4 seized I guess.

5 Q. You just showed up and the car had been parked for you
6 to process?

7 A. I showed up and I was advised by my supervisor that
8 we're going to be taking the car back to the compound.

9 Q. And before you take it back to the compound you've got
10 to takes some pictures?

11 A. We do overall -- yeah.

12 Q. Ms. Bickman was there and wanted to take some items out
13 of the car?

14 A. Yes, ma'am.

15 Q. Including her medication?

16 A. Yes, ma'am.

17 Q. And you photographed those; to be safe ---

18 A. Yes.

19 Q. --- you have those things documented?

20 A. Yes, ma'am.

21 Q. And some of her clothes were in that car, her work
22 clothes were in the car?

23 A. Okay. Are you -- I don't know ---

24 Q. There was a lot of stuff in the car?

25 A. There was -- from the pictures there was a towel and a

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

- 1 pair of tennis shoes.
- 2 Q. And some clothes?
- 3 A. And a laundry bag in the back seat.
- 4 Q. And in the back there was some cleaning materials?
- 5 A. I don't recall there being any cleaning materials. I
- 6 saw a laundry bag and a pair of tennis shoes ---
- 7 Q. A laundry bag, there were some clothes in the laundry
- 8 bag?
- 9 A. Yes, ma'am.
- 10 Q. Okay.
- 11 A. Don't know whose clothes they were. I'm sorry, I'm
- 12 assuming that they are hers from what you're telling me.
- 13 Q. All of those things were not taken into evidence?
- 14 A. No, ma'am.
- 15 Q. Okay. And that car was taken into custody the next
- 16 day? This is the day after the shooting.
- 17 A. This was like -- yeah, I think this was like 12 hours
- 18 later. I don't think -- I think the incident actually
- 19 occurred really early in the morning, and on the same
- 20 day ---
- 21 Q. Right. You are right.
- 22 A. --- we recovered the car.
- 23 Q. Okay. You are right. You took this car back and
- 24 processed it for latent prints?
- 25 A. Yes, ma'am.

1 Q. And when you are gathering evidence like fingerprints
2 you have got to compare this to something ---

3 A. No ---

4 Q. Somebody -- well, you don't actually do it. But you're
5 going to need information from the detectives or witnesses
6 to figure out who to compare these fingerprints with that
7 were taken from the car?

8 A. Not always.

9 Q. Do the detectives ---

10 A. You don't need -- you don't need -- you don't need an
11 individual's name or you don't need any information on any
12 subject or suspect in order to run them through AFIS.

13 Q. To see if you find any fingerprints that are in a
14 computer ---

15 A. AFIS ---

16 Q. --- system to match them up?

17 A. AFIS will do its own match.

18 Q. Okay.

19 A. I don't -- they don't -- from my understanding they
20 don't put any -- any names or anything of that. You run the
21 print solely by itself without any previous information.

22 Q. So in this case you didn't need any previous
23 information?

24 A. I think some of them were AFIS quality. And I think
25 some of them were not.

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Q. So AFIS quality you have to have a number -- a certain
2 number of matches on the fingerprint ridges?

3 A. Your lift has to be quality. It has to be good enough
4 in order for the system to be able to see it and recognize
5 it.

6 I don't know how that -- I don't know how the system
7 functions. But I'm assuming it's based on ridge detail that
8 you have to have a certain amount of ridge detail for the
9 computer to recognize it and be able to compare it.

10 Q. You also swabbed the handles of this car for touch DNA?

11 A. Yes, ma'am.

12 Q. And touch-DNA can be left by cells from a -- the
13 person's hands or skin, and you're going to have to collect
14 DNA swabs from a known person to compare these things to;
15 correct?

16 A. No, not always. The circumstances behind your case
17 meet the requirements -- when somebody's DNA is collected
18 and a profile is developed from that sample of DNA. If that
19 case meets the federal requirements for that profile to be
20 uploaded into CODIS, a system called CODIS, you don't have
21 to have anybody to compare it to. It ---

22 Q. And that system ---

23 A. --- doesn't ---

24 Q. --- looks for a match from the swabs you have
25 collected?

- 1 A. Similar to the way AFIS works, yes. You ---
- 2 Q. But that was not the situation in this case?
- 3 A. I would have to look and see. The circumstances behind
- 4 this case it would have qualified. I am thinking - you
- 5 would have to ask the SLED people - it would have qualified
- 6 for it to be uploaded in the CODIS if they would have
- 7 developed a profile. It does go quicker if we do have a
- 8 standard to compare it to.
- 9 Q. You collected from each door because you weren't sure
- 10 at that point where the suspects were sitting?
- 11 A. Correct, or how many suspects there were.
- 12 Q. Right. And even if a person had been in that car
- 13 getting in one door, at some point they could have touched
- 14 another door?
- 15 A. Sure. Yes.
- 16 Q. It is safer to test every door?
- 17 A. Right.
- 18 Q. As far as ---
- 19 A. I don't know that my thought process was because they
- 20 got in one door and out the other. I think it would just be
- 21 because we don't know how many or who was involved so
- 22 collect all you can.
- 23 Q. And because you had collected these samples a swab from
- 24 James Rose was also collected?
- 25 A. Yes.

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1 Q. And that is so that it can be sent to SLED to see if
2 his touch-DNA is on any of these doors?

3 A. Yeah, like I said, I'm not sure if the swabs got sent
4 prior to us even having the standard from James. I don't
5 know. I would have to look. I'd like to look at the
6 submission sheets and let you know if you want to give me a
7 minute.

8 Yes, they went up -- they went up together. So we
9 probably sent them up to have them compared to each other.

10 Q. A swab with James's DNA on it and the swabs that were
11 taken from the car?

12 A. Correct.

13 Q. It's safe to say that touch-DNA can easily be left
14 behind?

15 A. Yes, ma'am. Yes, ma'am. It is difficult to collect;
16 but it's frequently left, yes.

17 Q. And in this case you did the four on the door?

18 A. Correct.

19 Q. Also taken into evidence were James Rose's clothes when
20 he was arrested, correct?

21 A. Yes, ma'am.

22 Q. Any you found no blood on those clothes?

23 A. I don't recall examining the clothes for blood. I know
24 the clothes were collected from him later on that day. And
25 I'm not -- I didn't do the collection of those clothes.

1 Those clothes were turned in to us. So I don't know if I
2 particularly examined them for blood.

3 Q. And you didn't see any blood on any of the red shirts
4 that were collected from Cindy Lane where James lived with
5 Amber Rose?

6 A. I don't recall seeing any blood on those shirts.

7 Q. Amber Wiley. You didn't -- you don't recall?

8 A. I don't recall seeing any blood on those shirts.

9 Q. Did you lift any latent prints from the house on
10 Carolina Avenue?

11 A. No, ma'am. We processed for prints, but we did not
12 lift any.

13 Q. So what that means is you dusted; you just didn't lift
14 any?

15 A. Yes, ma'am.

16 MS. RUNEY: Beg the Court's indulgence. Your Honor,
17 may we approach?

18 THE COURT: You may.

19 (WHEREUPON, bench conference as follows:)

20 MS. EHRLICH: One of the jurors is sleeping. I think
21 they may need a break. The guy on the first row, second
22 seat over on the left.

23 THE COURT: Okay. I've been -- I've been watching him.
24 Has he been out for long?

25 MS. EHRLICH: I don't know. I just noticed him five

CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 minutes ago.

2 THE COURT: All right. I'll go ahead and give them a
3 break right now.

4 (WHEREUPON, end of bench conference.)

5 THE COURT: All right. Thank you. Ladies and
6 gentlemen, it appears that we need a break to stretch and
7 get a cup of coffee or do whatever needs to be done to make
8 sure everyone is awake and alert. So I'm going to ask you
9 to run -- return to your jury room for about ten minutes.

10 Please don't discuss the case yet. I will give the
11 lawyers a break as well, and we will take a break. See you
12 back in ten minutes. Thank you.

13 (WHEREUPON, jury exits courtroom 3:15 p.m.)

14 (WHEREUPON, off-record discussions.)

15 THE COURT: Anything further anybody else need to put
16 on the record with respect to that?

17 MS. EHRLICH: Your Honor, I think we will just keep an
18 eye on him.

19 THE COURT: Okay. We can read anything back that y'all
20 want to read back or go over anything. Do you just want to
21 watch it for moving forward?

22 MS. EHRLICH: I think we will just keep an eye on him.

23 THE COURT: Okay. Thank y'all.

24 (WHEREUPON, break 3:18 p.m.)

25 (WHEREUPON, resume 3:29 p.m.)

1 THE COURT: Thank you very much.

2 MS. SHEALY: Your Honor?

3 THE COURT: Yes.

4 MS. SHEALY: I actually over the break spoke with the
5 pathologist regarding the photos, if I could clarify.

6 THE COURT: Sure.

7 MS. SHEALY: And I have spoken with Ms. Runey and Ms.
8 Ehrlich.

9 THE COURT: All right.

10 MS. SHEALY: So the first one State 64 is pretty
11 self-explanatory. Those are the shotgun pellets ---

12 THE COURT: Sure.

13 MS. SHEALY: --- in the victim's thigh. It's an x-ray.
14 State 65 is actually out of order with State 66. State 66
15 is as taken by the ER doctors. It's an x-ray. And it shows
16 both two bullets in the chest. The projectile, excuse me,
17 was removed by the ER doctors. This one was in the chest
18 cavity; it wasn't removed. State 65 was taken by the
19 pathologist. It's an x-ray taken by the pathologist. And
20 it shows the projectile that's in the chest cavity. And
21 it's actually moved from higher up to lower down.

22 Q. Okay. And then State 67 shows the bullet that is in
23 the victim's head along with some fragments in the wound on
24 the side there. And those would be all that we are seeking
25 to admit.

CROSS-EXAMINATION BY MS. RONEY OF ERIN MEYER

1 THE COURT: And I understand that the defense has an
2 objection. And the basis was I think Rule 403 and what
3 else?

4 MS. RONEY: That's all.

5 THE COURT: Okay.

6 MS. RONEY: I don't have any further argument as to
7 those.

8 THE COURT: All right. As I indicated before, I do
9 think that they are relevant and will aid the pathologist in
10 her testimony. We limited I think one that was cumulative.
11 And there are only four instead of five.

12 I just don't find under Rule 403 that there is any
13 prejudice and certainly not such that would substantially
14 outweigh the relevance.

15 That being said, let's not belabor it. I mean but I
16 think she can use it to demonstrate where the bullets were,
17 what she had to do at autopsy so.

18 MS. SHEALY: So they are admitted, Your Honor?

19 THE COURT: I will admit them. But I will give them a
20 chance to object contemporaneously before I do that. Okay.

21 MS. SHEALY: Thank you, Your Honor.

22 MS. RONEY: Like I said, Your Honor, as just as that
23 they not remain up. If she can just put them up there, let
24 her testify.

25 THE COURT: Right, we won't leave them up there for any

1 inordinate amount of time. You can put them up. She can
2 identify it and say what it is and then move on.

3 Usually a pathologist isn't up there for very long
4 anyway in this type of case so. Okay. Anything else we
5 need to take up before we bring the jury? Is the
6 pathologist next?

7 MS. SHEALY: Is what? I'm sorry?

8 THE COURT: Is the pathologist next?

9 MS. SHEALY: No, our SLED people are next.

10 THE COURT: The SLED people are next. Okay. Because
11 just whenever y'all do have an expert I will give the
12 little spiel I always give about expert witnesses and why
13 they are allowed to give their opinions.

14 MS. SHEALY: Well, I think we will start with
15 stipulations.

16 THE COURT: Okay. All right.

17 MS. SHEALY: Actually I am going to do the -- read the
18 stipulations in.

19 THE COURT: Before the SLED people?

20 MS. SHEALY: I was.

21 THE COURT: All right. Well, Ms. Roney just finished
22 her cross. Are you going to have any redirect?

23 MS. SHEALY: Just very brief.

24 THE COURT: All right. Then we will do that and then
25 you can take it in whatever order you like.

CROSS-EXAMINATION BY MS. RONEY OF ERIN MEYER

1 MS. SHEALY: Okay. Thank you.

2 THE COURT: And if we get everybody in today, fine. If
3 we don't, I do want to make sure we leave at least by maybe
4 ten after 5:00, 5:15 to accommodate those two jurors with
5 childcare issues and also the fact that they seem to be
6 falling out on us a little but today. I think they are just
7 tired.

8 MS. SHEALY: It's every time when I put up evidence the
9 evidence -- everybody gets lulled. Okay.

10 THE COURT: Sarah says she has candy to pass out if
11 that would help the sugar.

12 MS. SHEALY: All right. I'm going to tell Shameka
13 about the x-rays going in quickly.

14 THE COURT: All right. And we can go ahead and bring
15 them. Thank you.

16 (Break awaiting jury.)

17 THE COURT: While we wait on them, did y'all have a
18 chance to look at the proposed jury charges or did y'all
19 want to do that tonight and talk about them tomorrow?

20 MS. SHEALY: We both were indicating we would love to
21 be able to do that tonight.

22 THE COURT: That's perfectly fine.

23 MS. RONEY: Thank you, Judge.

24 THE COURT: You are welcome.

25 MS. SHEALY: Would you want to handle the jail

1 recording issue?

2 THE COURT: I think Ms. Runey indicated she needed to
3 hear it again. Do we want to play it again now or -- when
4 were you planning putting that in anyway?

5 MS. SHEALY: If we were following the order that we
6 set out we would like to do it right before the -- well,
7 we could actually do it after the pathologist. But
8 otherwise ---

9 THE COURT: So we have got the SLED people, the
10 pathologist, then possibly the recording. We can deal with
11 that later this afternoon if we need to.

12 MS. SHEALY: Okay.

13 THE COURT: I mean I don't know if we are going to have
14 time to listen to it now and again. Okay.

15 (WHEREUPON, jurors enters courtroom December 11, 2013,
16 3:36 p.m.)

17 THE BAILIFF: All present, Your Honor.

18 THE COURT: Thank you, sir. And thank you, ladies
19 and gentlemen. I understand y'all had some coffee. I
20 have got my diet Coke. So we are ready to continue. The
21 cross-examination is complete. Any redirect?

22 MS. SHEALY: Just a few, Your Honor. Thank you.

23 REDIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER:

24 Q. Ms. Meyer, Ms. Runey was asking you about whether any
25 of the guns that were found at the West Carolina address had

REDIRECT EXAMINATION BY MS. SHEALY OF ERIN MEYER

1 been sent off for testing; is that correct?

2 A. Yes, ma'am.

3 Q. And they had not?

4 A. Correct.

5 Q. And again, one was a Ruger rifle and one was a Mossberg
6 rifle?

7 A. Yes, ma'am.

8 Q. Neither of those were shotguns?

9 A. Correct.

10 Q. Neither of those are handguns?

11 A. Correct.

12 Q. Neither is a 38-special?

13 A. Correct.

14 Q. And neither is a 357-magnum?

15 A. Correct.

16 Q. And when she was asking you about Rose's clothes you
17 are talking about the ones that he had on that afternoon
18 when he was arrested; ---

19 A. Yes, ma'am.

20 Q. --- is that correct? And when you told us that -- I
21 think you were asking -- answering Ms. Runey's question.
22 But when you went to West Carolina and attempted to lift
23 fingerprints did you indicate you did not lift any?

24 A. Right, we processed the fingerprints but we did not
25 recover any.

1 Q. Explain that to a jury how it is that in a house where
2 people were located that you cannot get prints.

3 A. There's a lot of reasons why you may not be able to
4 lift a print.

5 A. This particular situation based on the information that
6 we obtained, entrance was made through the laundry room door
7 which was also made from our information by EMS.

8 So we had a lot of cross-contamination. We processed
9 for prints. There's a lot of reasons you don't get them.
10 It could have been contaminated with blood, smudged,
11 smeared. And we had a lot of traffic in and out of that the
12 laundry room prior to me getting there.

13 Q. Okay. And regarding the possibility of finding
14 fingerprints on the car what type of conditions could affect
15 the ability for you to be able to find prints from the
16 evening before on a car?

17 A. Heat, rain, cold, any -- any kind of weather, washing
18 the vehicle, wiping down the vehicle, the vehicle brushing
19 up against some -- I mean there's a lot of reasons.

20 I mean fingerprints aren't in stone. It's just your
21 oils resting on top of a surface. They can be easily
22 removed or smudged. It happens all the time.

23 Q. It is not like TV?

24 A. Correct. No, it's not like TV.

25 Q. I have no further questions. Thank you.

RECROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 THE COURT: Okay. Anything further?

2 RECROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER:

3 Q. Investigator Meyer, you lifted latent prints from the
4 interior and the exterior of the vehicle?

5 A. I'd have to actually look at the individual cards and
6 my photographs. I need my fingerprint cards. If you have
7 the photographs of the vehicle with my numbers on the
8 outside of the vehicle I need to see those.

9 THE COURT: Do you know the exhibit numbers?

10 MS. SHEALY: Would you like for us to bring ---

11 THE COURT: That would ---

12 MS. SHEALY: Pull those up?

13 THE COURT: --- be very helpful.

14 MS. RUNEY: And I can hand her State's Exhibit Number
15 87 which is her 22, LPC.

16 THE WITNESS: Latent print card.

17 THE COURT: Thank you.

18 BY MS. RUNEY:

19 Q. And could you tell me if those are from the interior
20 and exterior of the car?

21 A. Do you want me to go through them each individually
22 with you?

23 A. You don't have to. I believe the label on the outside
24 does that tell you where they were from where they were
25 lifted in the car?

1 A. Correct. But I don't know which one. I guess that is
2 what you are asking me.

3 THE COURT: Just look through them and see if you have
4 a note on them or there is any notation. I think what's
5 she's asking is were there any taken from the interior of
6 the car as well, correct?

7 MS. RUNEY: I am.

8 THE COURT: Thank you.

9 A. The -- I can go to the photographs quicker. If you can
10 go to the next one I can tell you. One through six are from
11 the outside. Seven, eight, outside. Night, ten, eleven,
12 and 12 outside. Thirteen, fourteen, fifteen, from the
13 exterior. There is 16 exterior. Seventeen and eighteen is
14 exterior. Nineteen looks like it is possibly from the
15 interior side of the window. I can pull that card.
16 Nineteen looks like it is from the interior side of the
17 window.

18 And then the other like 20, 21, 22.

19 MS. SHEALY: I don't know that those photos we have in
20 evidence.

21 THE COURT: Okay.

22 BY MS. RUNEY:

23 Q. I'm really just asking you took latent print cards from
24 the inside and the outside of the car?

25 A. correct.

RE CROSS-EXAMINATION BY MS. RUNEY OF ERIN MEYER

1 Q. Okay. That's all. Thank you.

2 THE COURT: Thank you. Anything further?

3 MS. SHEALY: Nothing further.

4 THE COURT: Ma'am, you may step down.

5 MS. SHEALY: Your Honor, as she is leaving I do have
6 three stipulations I would like to read into the record.

7 THE COURT: All right. Let's make sure we get all the
8 evidence together. Thank you.

9 MS. SHEALY: Are you ready for me just to read this?

10 THE COURT: Sure. Go ahead.

11 MS. SHEALY: Attorneys for the State and the defendant
12 agree that regarding State's Exhibits 97 and 98 fingerprint
13 analyst Andrew Coker and Lisa Kubisco of the North
14 Charleston Police Department if they were called to
15 testimony they would testify as to the results contained in
16 those reports.

17 Stipulation Two, items of evidence regarding gunshot
18 residue, bullets, projectiles, and DNA were admitted.
19 Attorneys for the State and the defendant agree that
20 regarding those exhibits the proper chain of custody was
21 followed.

22 And Stipulation Three, attorneys for the State and
23 Defendant agree that Detective Rob Colson of the Charleston
24 County Sheriff's Department collected sample from Tawana
25 Alston at 040 -- 0445 hours for the purpose of determining

1 whether her hands had the presence of gunshot residue and
2 that Detective Colson deliver the samples to the CCSO
3 Evidence Compound.

4 Attorneys for the State and the defendant agree that
5 Detective James Perkins of the Charleston County Sheriff's
6 Office collected samples from Antoine Aiken at 0310 hours
7 for the purpose of determining whether his hand had the
8 presence of gunshot residue and that Detective Perkins
9 delivered the same to CCSO Evidence Compound.

10 Attorneys for the State and the defendant agree that
11 Detective Zulfiqar Kahn of the Charleston County Sheriff's
12 Office collected samples from Joy Holmes at 2:50, 0250 hours
13 for the purpose of determining whether her hands had the
14 presence of gunshot residue and that Detective Kahn
15 delivered the samples to the CCSO Evidence Compound and
16 attorneys for the State and the defendant agree that
17 Investigator Erin Meyer of the Charleston County Sheriff's
18 Office collected samples from James Rose at 1810 hours for
19 the purpose of determining his hands had the presence of
20 gunshot residue and that Investigator Meyer delivered the
21 samples to the CCSO Evidence Compound.

22 THE COURT: Thank you. Ladies and gentlemen, a
23 stipulation is in agreement, admission or understanding made
24 in judicial proceedings by the parties or their attorneys.

25 Stipulation are binding upon those who make them. If

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1 counsels for the parties have stipulated to any fact, you
2 are to regard that fact as having been conclusively proven
3 as to the party or parties making the stipulation or
4 agreement. Okay.

5 Call your next witness, please.

6 MS. BALDWIN: Thank you, Your Honor. The State calls
7 John Roberts.

8 (WHEREUPON, the witness was duly sworn.)

9 THE CLERK: Once you are seated if you will please
10 state your first and last name and spell your last for the
11 record.

12 THE WITNESS: My name is John Roberts, R-O-B-E-R-T-S.

13 (JOHN ROBERTS having been sworn,
14 testified as follows:)

15 **DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS:**

16 Q. Agent Roberts, where are you employed?

17 A. I work for the South Carolina Law Enforcement, more
18 commonly called SLED.

19 Q. And how long have you been at SLED?

20 A. I've been at SLED since 2005.

21 Q. You are currently what unit?

22 A. I'm in the Arson Investigations Unit.

23 Q. Back in May of 2012 what unit were you in?

24 A. I was in the Trace Evidence Unit.

25 Q. And tell us about trace evidence. What does that unit

1 involve?

2 A. Trace evidence is the analysis of evidence that you
3 generally cannot see with your naked eye. What we did in my
4 department was analyzed gunshot residue. We analyze paint,
5 fiber, glass, explosives, bank dye packs, arson analysis. I
6 believe that's it.

7 Q. And what were your duties when you were in that unit?

8 A. When I was in trace what I mainly did was gunshot
9 residue analysis.

10 Q. What's your educational background?

11 A. I have a bachelor's science degree in Chemistry from
12 Texas A&M Corpus Christi. When I got my degree and I moved
13 back up here to South Carolina I got my job at SLED and I
14 went through our in-house training program in gunshot
15 residue.

16 What that consisted of was me following my lieutenant
17 around who was a court qualified examiner, gunshot residue,
18 and learning how to work the evidence.

19 I learned how to intake evidence. I learned how to
20 process the evidence for use on the analytical instruments.
21 I learned how to run the instruments. I learned how to pull
22 stuff off. I learned how to generate data. I learned how
23 to write reports. And finally I learned how to testify.
24 And I learned how to testify by going and watching him.

25 When I was done with all of that they gave me a test.

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 All the people that were in my department had been there
2 long before I was. So they were all qualified. And they
3 gave me a test.

4 It was much like a courtroom setting except instead of
5 y'all sitting there just listening to me they sat there and
6 listened to me and then they asked questions and more
7 question and more questions until I felt like I had been
8 grilled.

9 Once I passed that test I was given my own cases to
10 work. And that's what I did from basically the beginning of
11 2006 until near the end of 2012.

12 Q. So Agent Roberts, you have testified in court before?

13 A. I have.

14 Q. About how many times?

15 A. Seventy times.

16 Q. Your Honor, at this time we would like to qualify Agent
17 Roberts as an expert in trace evidence.

18 MS. RUNEY: No objection.

19 THE COURT: Okay. Any voir dire?

20 MS. RUNEY: No, ma'am.

21 THE COURT: All right. Agent Roberts is so qualified
22 as an expert in the area of trace evidence. Ladies and
23 gentlemen, normally a witness cannot give opinion testimony.
24 Usually when a person testifies they must testify to
25 something that they saw, heard, did, sense, or experienced.

1 We have an exception in our law for witnesses who are
2 qualified by their education or experience in some
3 particular field. When those witnesses are so qualified
4 they are permitted to give their opinion in certain areas in
5 the area in which they are qualified.

6 That doesn't mean that you must accept any expert
7 witness's opinion. You consider it just as you would any
8 other evidence in the case and you give it the weight that
9 you would give any other witness's testimony, and that is
10 the weight that you see fit. Thank you.

11 MS. SHEALY: Thank you, Your Honor.

12 BY MS. SHEALY:

13 Q. Agent, tell the jury a little bit about gunshot
14 residue. What is it?

15 A. Sure. Gunshot residue is the term that we give to the
16 particles that are ejected from a firearm when it's fired.
17 I don't mean the bullet. That's somebody else that's going
18 to talk about that.

19 Gunshot residue is the chemicals that are in the primer
20 of a firearm. Now when you look at the back of a bullet it
21 is two circles basically. There's the outer circle and the
22 inner circle.

23 The inner circle is usually a differently colored disk,
24 and that contains chemicals. Those chemicals are pressure
25 sensitive, and they explode when they are struck by the

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 primer or the striker of the firearm.

2 Those chemicals explode and they light the powder
3 charge that is in the cartridge case to force the bullet
4 down the barrel. You hit your paper target.

5 And what we look for in a trace when we are asked to do
6 a gunshot residue analysis is the chemicals that are
7 contained in the primer. Basically what we're looking for
8 are lead, barium, and antimony.

9 Q. And how do you guys test for those chemicals?

10 A. There are two different ways that somebody can be
11 tested for gunshot residue. And they are generally
12 contained in one gunshot residue kit. A gunshot residue kit
13 has particle list which are aluminum discs with carbon
14 sticky tape on them. And they are labeled right palm, right
15 back; left palm, left back.

16 And when I say right back, I mean the back of the hand.
17 Because that's what we test in general for gunshot residue
18 is we test the hands because they are closest to the firearm
19 when it goes off.

20 Those discs are uncapped and dabbed on the hands much
21 like you would dab a bingo dabber, B12. Stamp it. That's
22 what you do. Left palm, left palm comes out. Left palm
23 particle lift comes out and you stamp the hand until it goes
24 non-sticky. You put it away. You do the next three areas
25 with the exact same way.

1 The other type of sampling is a swab. And it is a
2 cotton swab like you would go to Wal-Mart and you would buy
3 cotton Q-Tips, that is exactly what this is except enclosed
4 in the gunshot residue kit is a very little vile of dilute
5 nitric acid. Now nitric acid is used to dissolve any
6 metals which is what we are looking for when we are testing
7 for gunshot residue. We're looking for lead and barium and
8 antimony. All three are metals.

9 The swabs are just you drop some dilute nitric acid on
10 them and you swab the hands. You just run them like you are
11 trying to run out marking on a piece of paper with an
12 eraser. And those come in four different viles. And they
13 are labeled right palm, right; left palm, left back.

14 So you need two samples for each area of the hand taken
15 two different ways.

16 Q. Thank you. Agent Roberts, I'm going to show you
17 State's Exhibit 94. Can you tell me what that is?

18 A. Can I open it?

19 Q. Yes. Do you need any scissors?

20 A. Yeah, they took my knife away from me. Scissors or a
21 knife would be.

22 Q. And for the record does that -- what is that yellow
23 tape that is on there?

24 A. I can explain -- this -- that would be easier than
25 going in the envelope. This is an evidence package that

DIRECT EXAMINATION BY MS. BALDWIN OF JOHN ROBERTS

1 comes into SLED. Basically it is a brown envelope with some
2 writing on it.

3 What makes this different from any other brown envelope
4 with writing on it is that it had several things on it that
5 mean something to me.

6 First of all this yellow tag at the top that says L12
7 01088. That is a lab number. "L" stands for laboratory.
8 Twelve stands for the year that we got it which was 2012.
9 And then its case number was 1088. So it was the 1,088th
10 case that we got that year.

11 Each case that comes into SLED into the laboratory gets
12 its own number L12, L13. In three weeks it will be L14.
13 What happens is it comes into SLED. It's logged in. It's
14 put in an envelope like this. It is given a tag like this.

15 And then on the back there is some yellow tape applied.
16 And it is pressure sensitive and tear sensitive. So the
17 person who submits it signs their initials where it says
18 initials and signs date where it says date.

19 In this case it was sealed up. It hasn't been broken
20 since 4/16 of 2012.

21 Q. Actually, Agent Robert, you don't need to open it up.
22 What do those labels on the front say that envelope
23 contains?

24 A. What this evidence -- or what this envelope contains
25 are four -- four gunshot residue kids. And they are from

1 according to the outside of the envelope, Joy T. Holmes,
2 James Rose, Antoine Aiken, and Tawana Alston.

3 Q. And on each of those labels does it indicate what time
4 the kit was done?

5 A. It does.

6 Q. And why are those times important?

7 A. The times are important because we have a protocol that
8 says that no more than six hours pass between the time of an
9 incident and the time that a gunshot residue kit collected
10 from somebody.

11 If I go out and I shoot my firearm and then I put my
12 firearm down and I don't touch it and I just sit there and I
13 breath, within six hours I will have lost any material that
14 could have been deposited on my hand by that firearm if all
15 I do is just sit there and breath. I don't have to touch
16 anything. I just sit there.

17 If I shoot my firearm and I go out and I start touching
18 things, if I go to the range because I'm not lucky enough to
19 have a range at my house, I've got to drive some place and
20 shoot, I go and I shoot. I put my gun up. I get back in
21 the car.

22 I've touched the door handle of my car. I've touched
23 the trunk of my vehicle because that's where I put the ammo
24 for my firearm. I've touched my clothes. Because I
25 reholster my firearm I have to move my clothes out of the