

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Orangeburg County

Honorable Diane Schafer Goodstein, Circuit Court Judge

DESHAWN LEE POWELL,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-002099

APPENDIX

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1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF ORANGEBURG)

3
4 STATE OF SOUTH CAROLINA,)
5 Plaintiff,) TRANSCRIPT
6 versus) OF
7 DESHAWN LEE POWELL,) RECORD
8 Defendant.) 2011-GS-38-0015

9
10
11 May 15th - 17th, 2012
12 Orangeburg, South Carolina

13 B E F O R E:

14 THE HONORABLE EDGAR W. DICKSON, Judge, and a jury.
15

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

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21 Attorneys for the Defendant

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23 HARRY DOT WALKER
24 Circuit Court Reporter

25 Transcribed by Pamela E. Green, Circuit Court Reporter

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1 P R O C E E D I N G S

2
3 (WHEREUPON, the following takes place within the
4 presence of the jury panel.)

5 THE COURT: Ladies and gentlemen, we are getting ready
6 to begin the trial of the State versus Deshawn Powell.

7 Before we get started, since you are now the jury in
8 this trial, we need to swear you in as jurors. So, if y'all
9 would please stand, raise your right-hand, the clerk is
10 gonna swear you in.

11 (WHEREUPON, the jury was placed under oath at this
12 time.)

13 THE COURT: All right. Y'all may be seated.

14 All right. Ladies and gentlemen, we're getting ready
15 to try the case of the State versus Deshawn Powell. What
16 I'm going to say to you now is to, is essentially an
17 introduction to the trial of the case. It is not a charge
18 on the law. I will do that at the conclusion of the trial.
19 This is merely sort of an overview or an explanation of what
20 you can expect as far as the procedure that the trial is
21 going to proceed under.

22 Mr. Powell is charged, by an indictment, with the crime
23 of murder, and I'll explain to you what the elements of, of
24 murder are later on in the trial. The indictment is simply
25 the charge by which this case is brought into Court and it

1 is not evidence of any of the allegations that it contains.

2 The defendant has pled not guilty. The State,
3 therefore, has the burden of proving each of the elements of
4 the indictment beyond a reasonable doubt, and it will be
5 your duty to decide whether the State has met its burden.

6 Your job is to find and determine the facts. You are
7 the sole judges of the facts. If, at anytime during this
8 trial, I make a comment regarding the facts, you must
9 disregard it. You are to determine the facts from the
10 testimony that you hear from this witness stand and from any
11 other evidence that is introduced in court. It is up to you
12 to determine the inferences that you feel may properly be
13 drawn from this evidence. It is important that you
14 determine and perform your duty of determining the facts
15 diligently and conscientiously because ordinarily there's no
16 way to correct an erroneous determination of facts by a
17 jury.

18 The law that makes you the judges of the facts also
19 makes me the judge of the law. The law, as given by this
20 Court, is the only law you may consider. You must accept it
21 and follow it even though you may disagree with it. I can
22 not tell you what the facts are, and you can not disagree
23 with me about what the law is or should be. Your job is to
24 take the law as I give it to you and apply it to the facts
25 as you find them from the testimony of the witnesses and

1 other evidence that is introduced. After doing that, you
2 will render your verdict, a true and just verdict, under the
3 solemn oath that you just took as jurors.

4 Until I advise you to begin your deliberations, and I
5 told you earlier that that will not be until the very end of
6 the case, you must not discuss this case with anyone
7 including fellow jurors, friends, family members, and anyone
8 involved in this case. After the case is submitted to you
9 you must discuss it only in the jury room among your fellow
10 jurors. The attorneys and parties to this case have been
11 advised that they are not to talk to you at all. So, if you
12 see anyone in this case and they do not even say hello, they
13 are not being unfriendly. They are following my
14 instructions.

15 During the trial, do not read, listen to, or watch any
16 news reports or read anything in the newspaper or on the
17 Internet about this case. You must not consider anything
18 that you may have read or heard about this case outside the
19 courtroom, and you are not to investigate anything about
20 this case. It is important that you keep an open mind and
21 not decide any issue in this case until all of the evidence
22 has been presented. That is one reason why you are not
23 allowed to even talk about it until you've heard all the
24 evidence.

25 Now, after you have heard all the evidence presented

1 and I have instructed -- and you've heard closing arguments
2 of counsel and I have instructed you on the law of this
3 case, you will have to decide this matter. It is your sole
4 responsibility to determine the guilt or innocence of the
5 defendant, and your verdict must be based solely on the
6 evidence as it is presented to you in this trial, and on the
7 law as I instruct you during and at the close of the trial.

8 In a moment the solicitor will make what is called an
9 opening statement in which he will explain to you what the
10 solicitor believes to be the issues in this case. The
11 attorney for the defendant may also make a opening statement
12 although she's not required to do so.

13 What the attorneys tell you during their opening
14 statements is not evidence. It is only their contentions as
15 to what the issues in this case are. The evidence in this
16 case will be presented to you by testimony of sworn
17 witnesses from this witness stand and by exhibits that may
18 be introduced into evidence.

19 From time to time, during the trial, the attorneys may
20 have a question of law or a matter of law to discuss with me
21 or they may ask to approach the bench or sometimes I may
22 find it necessary to excuse you from the courtroom while I
23 discuss matters of law with the attorneys. The reason for
24 this is because you are the judges of the facts and
25 sometimes, when I am discussing matters of law with the

1 attorneys, it may be necessary for me to comment on the
2 facts in connection with a ruling that I am making. I am
3 not suppose to tell you what I think about the facts, and so
4 I will excuse you from the courtroom while these discussions
5 take place so that in no way will you be influenced by
6 anything that I might say or do in connection with the
7 facts.

8 In determining the true facts in this case, you must
9 decide whether or not the testimony of a witness is
10 believable. It will be my responsibility to rule, as a
11 matter of law, as to whether certain testimony is
12 admissible. But once the testimony is admitted, whether or
13 not you believe it is solely for you to determine.

14 In deciding whether or not to believe a witness, you
15 have the right to consider the interest of any witness, the
16 bias of any witness, the prejudice of any witness, the
17 opportunity for the witness to have seen the matters and
18 things about which the witness may testify, and the way the
19 witness acts on the witness stand. You have a right to
20 consider anything that is in the record that will help you
21 evaluate, evaluate the testimony of a witness.

22 That means that it is your duty to pay close attention
23 to each witness, to observe them, to listen to them, and to
24 pay close attention to the attorneys and the Court. Please
25 give strict attention to the testimony in this case so that

1 at the end of all the testimony, after the arguments of
2 counsel and the charge, and my charge on the law to you, you
3 will then be in a position to determine what the true facts
4 are and apply the law to those facts and thus render a true
5 and just verdict.

6 All right. Mr., Mr. Sorenson. Oh, Mr. Bell.

7 SOLICITOR BELL: Please the Court?

8 THE COURT: Yes, sir.

9 SOLICITOR BELL: Ms. Hinds, Mr. Mellard.

10 Ladies and gentlemen of the jury, rage. Rage is why
11 we're here today.

12 On the early morning of November 3rd, 2010, Wendy
13 Noel, and you also know, find they call her Niki, came back
14 to [REDACTED] Jameson Street, which is the home of Arthur Riley.
15 She'd been there a couple hours earlier. This is probably
16 around 5:00AM, give or take a few minutes. She, she'd been
17 gone from the, that house. When she left, Mr. Riley was
18 there. There were a couple individuals, individuals there.

19 When she came back there wasn't anybody there. The
20 door was somewhat opened. She looked in and she saw Mr.
21 Riley laying on the floor. She backed out quickly and went
22 down a couple of houses, was able to get someone to call the
23 Sheriff's Department. The Sheriff's Department responded
24 and came out there, and they found that Mr. Arthur Riley was
25 laying face up dead in the front living room of his house at

1 that particular location.

2 what you will also hear, ladies and gentlemen, other
3 people had been there earlier, and that, at some point, a
4 person known as New York or the defendant, Deshawn Powell,
5 was there as well. And one of the witnesses will tell you
6 that he saw New York or Deshawn Powell beating Mr. Riley,
7 beating him severely.

8 You will also find out, later on, that Mr. Riley died
9 of blunt trauma force or had blunt trauma injuries, but he
10 also had somewhere around 40 stab wounds on his body, and
11 that's why I used the term rage. This wasn't just one or
12 two stab wounds. This was 40, which led to his death.

13 That's why we're here, ladies and gentlemen. Deshawn
14 Powell is charged with the crime of murder in the State of
15 South Carolina.

16 My name is Harrison Bell. Along with Donald Sorenson,
17 we're prosecutors, we're solicitors. We represent the State
18 of South Carolina. It is our job to prove a person who has
19 been charged with a crime in the State of South Carolina
20 guilty beyond all reasonable doubt. We have the burden of
21 proof. We have to prove that person's guilty.

22 The defendant has nothing to dig. He doesn't have to
23 put up any evidence. He doesn't have to testify. He's
24 presumed innocent at this point. As I said, it's our job.

25 As I just said to you, Deshawn Powell has been charged

1 with the crime of murder in South Carolina. Murder is
2 defined in South Carolina as the unlawful killing of a human
3 being or of a person with malice aforethought either
4 expressed or implied. So, that's what the State has to
5 prove during this case. We have to prove that a person was
6 killed with malice aforethought.

7 That malice just means ill will or hatred. It's not
8 anything that we can truly prove. We have to show, by the
9 evidence, that malice existed. Malice can only, can simply
10 exist a second before the person starts to commit the crime.
11 That's all it means. Just so it's before the crime was
12 committed.

13 Express and implied malice doesn't mean two types of
14 malice. It just means the way you prove it.

15 Express malice is, for instance, somebody goes up to
16 somebody and says I'm gonna kill you, and then shoots them,
17 stabs them or they lie in wait or they plan to kill them.
18 What some people would call premeditated.

19 Express -- or implied malice can be from the factors or
20 surrounding the crime, which you have to look at. The use
21 of a deadly weapon, for example, is a, an example of implied
22 malice that you, the jury, can take, and that's what the
23 State has to do. We have to prove our case by bringing
24 witnesses and evidence for you, the jury, to come and find
25 the facts in this case.

1 So, how do you find the facts?

2 Well, as I said, we present witnesses. It's up to you
3 to determine whether those witnesses are telling the truth,
4 whether they're credible, believable. That's your job,
5 ladies and gentlemen. That's what we ask you to do.

6 You also look at the evidence, any evidence that's
7 brought, any exhibits that are brought, and I know you're
8 just going there and say well, how do we tell that
9 somebody's telling us the truth or not.

10 Well, I wish I could tell you. I can suggest a way. I
11 suggest you do it like you do it every day in your life.
12 You know when you talk to a friend or a family or even a
13 stranger and you listen to what they say and how they say
14 it, and you know whether, generally whether they're telling
15 you the truth or whether they're, whether they're handing
16 you a bunch of bull.

17 That's how you do it. It's not a -- no difference.
18 You didn't come through this door and change your life
19 forever. You're just the same as you were out there. Use
20 the same life experiences and common sense to figure out if
21 people are telling the truth or not.

22 Now, as I said, ladies and gentlemen, the State has the
23 burden of proof. We have to prove a person guilty beyond
24 all reasonable doubt.

25 Now, what I will tell you is reasonable doubt is not a

1 hundred percent without a doubt, beyond a shadow of a doubt.
2 It's just beyond all reasonable doubt. It's been said that
3 reasonable doubt is doubt, is proof that leaves a juror
4 firmly convinced of the guilt of the defendant. That's one
5 definition of reasonable doubt.

6 But that's for you to decide, and at the end of the
7 case what we will happen is after you listen to all the
8 witnesses presented, you have all the exhibits that have
9 been put in, His Honor, Judge Dickson, will charge you the
10 law, and you apply the facts to that law to reach a verdict.
11 Verdict comes from the Latin meaning to speak the truth, and
12 that's what we're here for, on a truth seeking mission.

13 What I will tell you also, ladies and gentlemen, is
14 that this trial is gonna last a day or two. It doesn't mean
15 it's important if it's short or not. I mean it's important
16 from both sides. It's important for the defendant. His
17 liberty's at stake. It's important for the State. A man
18 has been murdered, and we're here to enforce the laws and to
19 seek justice for that person or the family of Arthur Riley.

20 It's not gonna be like TV. We're not gonna solve this
21 in an hour. We're not gonna have the police have the first
22 30 minutes and the prosecution the second 30 minutes and we
23 solve it at the end of the hour. It doesn't happen like
24 that. In real life it doesn't happen like that. We don't
25 have fancy machines that come up with the answer to

1 fingerprints and DNA in 20 seconds.

2 We do have physical evidence that which will be
3 presented and shown. But as I said, this isn't TV. This is
4 real life. All we can ask you, ladies and gentlemen, is to
5 listen carefully, and when you're asked to deliberate, just
6 to think about things, to put things together that have come
7 on.

8 At the end of this case, ladies and gentlemen, the
9 State is sure, very confident that, at the end, you will
10 find that the State is proven its case, and that you will
11 find the defendant, Deshawn Powell, guilty of the crime of
12 murder.

13 Thank you.

14 THE COURT: Thank you, Mr. Bell.

15 Okay.

16 MS. HINDS: Good afternoon, ladies and gentlemen. My
17 name is Peggy Hinds. That is Doug Mellard, and we're also
18 here today to represent Deshawn Powell.

19 He's here today, as you have heard, charged with the
20 most serious crime that someone can be charged with. He's
21 charged with murder. We don't take that charge lightly, and
22 we don't believe you do either.

23 Mr. Powell, it is important to know, however, that he
24 comes you, that he comes before you today an innocent man.
25 He's innocent. I submit to you he's innocent. But, more

1 importantly, in our system of justice, he remains innocent
2 throughout today and into tomorrow and until the end of this
3 trial. That is our justice system.

4 A charge is simply an accusation. It's mere words,
5 ladies and gentlemen. It's not proof. It is words that
6 carry no more weight than gossip you hear on the streets or
7 innuendo you may have heard somebody or somebody just
8 talking street talk. That's all it is at this point, ladies
9 and gentlemen, is mere words.

10 Do not confuse the solicitor's accusations with the
11 truth. It isn't. You will be here determining what the
12 truth is.

13 Now, we agree that the solicitor's burden, and his
14 burden is entirely on them, is to try and convince you that
15 Mr. Powell caused the death of Mr. Riley. We -- they must
16 do that, as the solicitor stated, based on the evidence and
17 the testimony that they're gonna present to you in the next
18 few days.

19 But please keep in mind that it's got to be based on
20 that evidence, and it's not could he have done it or might
21 he have done it. At the end of this trial, you must be
22 satisfied that he did do it, and we submit that the State is
23 not gonna be able to meet that burden.

24 I don't know how many of you jurors are very good at
25 directions. I'm not. I'm notoriously bad. I'm talking

1 about knowing intuitively north from south or east from west
2 or being able to navigate around in your car. If I've been
3 some place I'm okay. I can get back there and get home.
4 But if I'm going some place that I haven't been to before,
5 I'm terrible. I need to rely on some kind of aid.

6 Back in the old days it would of been maps. Now more
7 often it's Google maps or Mapquest or some kind of maybe
8 application on your smart phone, and I use that to be able
9 to get from Point A to Point B. I use that when I don't
10 have family or friends who can tell me oh, go down about a
11 mile and make a left at the gas station or go down to where
12 the old hospital is. But if I'm not able to, to be clearly
13 told how to get some place, I use that aid.

14 Sometimes it works. But you know what, ladies and
15 gentlemen, sometimes it just doesn't. It will get me a good
16 bit of the way. It will get me to a major interstate. It
17 will get me to a major highway. Sometimes it will even get
18 me to maybe the right road.

19 But many times, when I'm relying on that aid, what will
20 happen is, at the end, just when I think I'm arriving at my
21 final destination or should be arriving at my final
22 destination, the directions tell me to go right when I
23 realize after that I should of gone left or it will miss
24 some dog-leg that, for whatever reason, didn't show up on
25 that application. And no, ladies and gentlemen, it didn't

1 get me to where I needed to be.

2 I submit to you that sometimes it, it goes wrong and I
3 submit to you that the representations that the State are
4 going to make leading you on this path it's going to lead
5 you to the wrong ultimate destination. I submit to you that
6 we will not dispute many of the twist and turns or stretches
7 in the evidence that the State presents to you. It will be
8 times when we are in agreement about what happened. But
9 what we are saying is where the State is ultimately trying
10 to, to lead you is the wrong destination.

11 And I suspect, from my use of this analogy, that the
12 State may, may try to turn this around and say something
13 like yes, they are leading you to a dead-end meaning the
14 death of Mr. Riley. I submit to you we're not, we're not
15 trying to be cavalier about this in any way, shape, or form.
16 It is a tragedy to Mr. Riley's family and friends that, that
17 his death occurred.

18 Nobody is disputing that. Our hearts go out to them.
19 We do not take it lightly. We do not think that you will
20 take it lightly. The death of anybody before their time is
21 a tragedy.

22 At the end -- but the route that the solicitor is going
23 to take you down only goes so far. Then we submit it goes
24 wrong. It does not lead you to the truth.

25 I am in agreement with Mr. Bell. Please listen very

Frank Williams - Direct examination
by Solicitor Bell

1 carefully to the evidence. There is going to be a lot of
2 stuff presented to you. Please listen, please wait until
3 the end to make your final determination. But remember,
4 throughout this, that Mr. Powell sits there an innocent man,
5 he remains an innocent man, and he can only be convicted if,
6 at the end of all of this, you are convinced, beyond that
7 reasonable doubt, that he caused the death of Arthur Riley.
8 We submit the State will not be able to do that.

9 Thanks, ladies and gentlemen.

10 THE COURT: All right. Thank you, Ms. Hinds.

11 Is the State ready to call its first witness?

12 SOLICITOR BELL: Yes, sir.

13 THE COURT: All right. Mr. Bell.

14 SOLICITOR BELL: The State would call Frank Williams.
15 Deputy Williams.

16 FRANK WILLIAMS, being first duly
17 sworn, testified as follows:

18 CLERK: Thank you. Will you please state your name for
19 the record and then you can have a seat.

20 WITNESS: Deputy Williams with the Orangeburg County
21 Sheriff's Department.

22 COURT REPORTER: Your full name, sir?

23 WITNESS: Deputy Frank Williams, Orangeburg County
24 Sheriff's Office.

25 DIRECT EXAMINATION

Frank Williams - Direct examination
by Solicitor Bell

1 BY SOLICITOR BELL:

2 Q Deputy Williams, how long have you been with the
3 Sheriff's Department?

4 A Five years this month.

5 Q Five years this month.

6 And how long have you been in law enforcement?

7 A Five years.

8 Q What kind of training have you had in regards to law
9 enforcement?

10 A The basic training for the academy, the academy and I
11 guess like a different training for self-defense and stuff
12 like that.

13 Q Okay. Deputy Williams, I'm gonna ask you to speak up
14 so all---

15 A Okay.

16 Q ---these jurors can hear you.

17 Okay. So, you got to raise your voice a little bit.

18 A Just basic training with the academy and different
19 self-defense training and the different training like that.

20 Q Okay. And what are your duties as a deputy with
21 Orangeburg County Sheriff's Office?

22 A To serve and protect the public.

23 Q Okay. Do you work a particular shift?

24 A Yes, sir, Bravo shift.

25 Q Excuse me?

Frank Williams - Direct examination
by Solicitor Bell

1 A Bravo shift.

2 Q What's Bravo shift?

3 THE COURT: Speak up.

4 WITNESS: Yes, sir.

5 Q What's that time from?

6 A Well, we rotate every two weeks. 6:30 to 7:00 morning
7 to night, and then two weeks after, 6:30 at night to 7:00 in
8 the morning.

9 Q Okay. Do you have a particular area that you patrol or
10 is it county wide?

11 A It's county wide. Most -- mostly Orangeburg and North
12 Neeses and Sally in that area is considered north region.
13 That's usually where I am, north region.

14 Q Okay. Deputy Williams, let me direct your attention
15 back to November 3rd of 2010.

16 Do you remember that?

17 A Yes, sir.

18 Q Were you working that day?

19 A Yes, sir.

20 Q When -- what shift were you working?

21 A Bravo shift.

22 Q Bravo shift?

23 A Night shift.

24 Q So, you were working from what time to what time?

25 A 6:30 at night to 7:00 in the morning.

Frank Williams - Direct examination
by Solicitor Bell

1 Q Okay. Did you have an occasion to receive a call to go
2 to Jameson Avenue in the early morning hours of
3 November 3rd?

4 A Yes, sir.

5 Q And where did you go to?

6 A We first responded to -- we was going to [REDACTED] Jameson.

7 Q Okay. And who -- were you by yourself?

8 A No, sir, I had training with Deputy Dukes.

9 Q Okay.

10 A John Dukes.

11 Q All right. And did you go to that address?

12 A Yes, sir, we were -- as we were -- we was going to [REDACTED].

13 Q Excuse me?

14 A [REDACTED] Jameson---

15 Q Okay.

16 A ---is where we responded to.

17 Q All right. And were you the first one, first deputy
18 there?

19 A Yes, sir, me and Deputy Dukes.

20 Q Okay. What did you find when you got there?

21 A When we got to [REDACTED] Jameson we noticed Ms. Niki Bryant
22 walking down the street, and she told us that to go to the
23 house up the street, which was [REDACTED] Jameson.

24 Q Did you, did she show you which house---

25 A Yes, sir.

- 1 Q ---or did she just tell you to go there?
- 2 A She, she walked us up to the house and showed us which
3 house it was.
- 4 Q Okay. How did you -- were you in your vehicle and went
5 up to her?
- 6 Is that how you made contact with her?
- 7 A Oh, we were -- I got -- we got -- I stepped out and
8 made contact with her. He stayed in the vehicle.
- 9 Q Okay. She identified herself as who?
- 10 A Ms. Niki Bryant.
- 11 Q Okay. And so y'all went down to [REDACTED] Jameson?
- 12 A Right. Yes, sir. ect
- 13 Q What did you do when you got there? ex
- 14 A We asked her to stand to the side in and we approached the
15 house, and when we approached the house we noticed the, the
16 victim lying in the, in the doorway --
- 17 Q Okay.
- 18 A -- in a pool of blood.
- 19 Q All right. And which doorway?
- 20 A The front door.
- 21 Q Okay. Were you still -- were you and Deputy Dukes
22 still the only deputies there?
- 23 A Yes, sir, at that time.
- 24 Q Okay. What did you do when you, once you noticed that
25 person that was laying down?

Frank Williams - Direct examination
by Solicitor Bell

1 A When we noticed that we secured the outside perimeter
2 of the residence, and the block beside it, and we backed off
3 until our backup got there.

4 Q And what do you mean by secure?

5 A Make sure nobody was around the outside of the house.

6 Q And how did you do that?

7 A Visually walking and looking.

8 Q So, you went around the house and made sure there's
9 nobody around the house?

10 A Right, we didn't go both at the same time. He went to
11 that side while I stayed where I could still see at an
12 angle, and then I went to the other side where he could
13 still see at an angle.

14 Q Okay. And there was nobody else there?

15 A No, sir.

16 Q Okay. And so the -- y'all backed off.

17 Did you go inside at that time?

18 A No, sir.

19 Q Okay. And then what happened after you backed off?

20 A We waited till backup and we noticed some, several
21 bloody footprints coming out the house --

22 Q Okay.

23 A -- in the step area.

24 (WHEREUPON, an aerial photograph was marked as State's

25 Exhibit No. 1 for identification purposes only at this

1 time.)

2 Q Okay. Let me do this while I'm thinking about it. Let
3 me show you what's been marked as State's 1.

4 Have y'all seen it?

5 Let me show you State's 1 and ask if you recognize
6 this.

7 A Yes, sir.

8 Q What is that?

9 A That's the overview of Jameson and what we call the
10 hill area.

11 Q Okay. All right. And does that accurately reflect how
12 the Jameson, Jameson area and all that looked or laid down?

13 A Yes, sir, at that, that time, yes, sir.

14 SOLICITOR BELL: Okay. Your Honor, we'd offer this as
15 State's 1.

16 THE COURT: Any objection?

17 MS. HINDS: No objection.

18 THE COURT: State's 1 in evidence.

19 (WHEREUPON, State's Exhibit No. 1 was received into
20 evidence at this time.)

21 Q Okay. Can you step down so the jury -- just want to
22 point out a couple things. I'll try to hold it as best I
23 can.

24 A (Witness comes down from the stand.)

25 Q Okay. Let's kind of do it -- we're probably gonna have

Frank Williams - Direct examination
by Solicitor Bell

- 1 to do it half and half just so that everybody can see.
2 All right. Can you point out---
3 THE COURT: wherever.
4 Q ---where Jameson is?
5 A This is Jameson.
6 Q Okay. Can you show about where you went to when you
7 first responded to it?
8 A We was in this -- when we first -- we were around in
9 this area.
10 Q okay. And then [REDACTED] is where?
11 A Right in this area.
12 Q okay.
13 A Right here.
14 Q okay. All right.
15 THE COURT: And do y'all -- I don't know that everybody
16 on the jury could see that.
17 Do y'all mind?
18 SOLICITOR BELL: I was going to go to the other end.
19 THE COURT: okay. All right.
20 Q Come on down a little bit so that these -- again, show
21 where Jameson Avenue is. You might have to back off over
22 there.
23 A It's, it's right in here, Jameson.
24 Q okay. And show where you first responded to.
25 A Right there.

- 1 Q And, and the house where you found the body?
- 2 A Right there.
- 3 Q Okay.
- 4 THE COURT: You can take your seat.
- 5 A (Witness returns to the stand.)
- 6 Q How long did it take for some backup to come?
- 7 A I'm not exactly sure. I'd say two minutes. Around two
- 8 minutes.
- 9 Q All right. And, and how many officers came at that
- 10 point?
- 11 A It was two others I can recall at, at that time. It
- 12 was Lieutenant Stokes and Deputy Rogers.
- 13 Q Okay. What happened when they arrived?
- 14 A When they got there, myself and Deputy Rogers what we
- 15 call secured the residence, make sure nobody else was inside
- 16 for EMS to come check the victim.
- 17 Q Okay. So, that means what, you went inside the
- 18 residence?
- 19 A Yes, sir.
- 20 Q And what are you looking for?
- 21 A A suspect, anybody inside.
- 22 Q Did you find anything, anybody inside?
- 23 A No, sir, just Mr., the victim, Mr. Riley.
- 24 Q Okay. Can you describe what you saw inside, when you
- 25 went inside?

Frank Williams - Direct examination
by Solicitor Bell

1 A When we first went in Mr. Riley was laying in a pool of
2 blood with his head toward the front door, and the, the
3 couch was all, was kind of -- the cushion was off a little
4 bit, and there's some other items throwed around on the
5 floor in the living room area.

6 Q Okay. All right. And you looked in the other rooms
7 other than the living room?

8 A Yes, sir.

9 Q And you looked around in there?

10 A Yes, sir.

11 Q There's nobody there.

12 What did you do once you found that nobody else was in
13 the house?

14 A We backed out. We went back out and started securing
15 the, putting the crime scene tape up, and while we were
16 doing that EMS went inside to check the victim's status.

17 Q And by putting up crime scene tape, why are you, why
18 are you doing that?

19 A So we know who comes out and not comes in to keep a log
20 of who comes in the crime scene.

21 Q Okay. Now, what happened at that point once you were
22 doing that?

23 Was anybody else called to come out there?

24 A Yes, they are. It's what we call protocol. We
25 initiate protocol and investigators responded from crime

- 1 scene.
- 2 Q Okay. So, when you initiated protocol, what do you do?
- 3 A We advise dispatch what -- we advise our supervisor
- 4 what's going on. He advises dispatch and they, they contact
- 5 whoever the on-call captain or supervisor is on.
- 6 Q And they call detectives out and crime scene
- 7 investigators?
- 8 A Right. Yes, sir.
- 9 Q Okay. After doing that, what, what did you do?
- 10 A When Mr., Mr. Icoff, Investigator Icoff got there we
- 11 went around to different houses seeing if anybody had heard
- 12 anything.
- 13 Q Okay. And you made -- did you make contact with a
- 14 couple places?
- 15 A Yes, sir.
- 16 Q Where were they in relation to this house?
- 17 A The one I actually went to by myself was I think
- 18 between [REDACTED] and [REDACTED] Jameson, and the lady there advised
- 19 that, that her mama had went to work. She heard some noise.
- 20 But she thought it was her mama going to work.
- 21 Q Okay. And after you and Detective Icoff went around,
- 22 what exactly did you do?
- 23 A Well, I went back to the scene and started on the
- 24 crime, crime scene log.
- 25 Q Okay. And what, what is a log?

Frank Williams - Direct examination
by Solicitor Bell

1 A Just noting whoever comes inside the tape into the
2 crime scene area. You have to write their name down and who
3 they work for.

4 Q Let me take you back.

5 When you first made contact with the person that
6 identified themselves as Niki Bryant, can you describe how
7 she was acting?

8 A She was nervous. She was visibly shaking, shaking and
9 she appeared upset.

10 Q Okay. Deputy Williams, I asked you the date,
11 November 3rd.

12 Do you recall what time that you responded out there?

13 A We got the call around 5:33, and we, we got -- they got
14 us arriving around 5:40.

15 Q 5:40AM?

16 A Yes, ma'am. Yes, sir.

17 Q Okay.

18 A Yes, sir.

19 Q Okay. Thank you, Deputy Williams. Please answer any
20 questions defense may have for you.

21 THE COURT: Ms. Hinds.

22 MS. HINDS: Just very briefly.

23 CROSS-EXAMINATION

24 BY MS. HINDS:

25 Q So, you, you were the first one who responded along

- 1 with your partner, correct?
- 2 A Yes, ma'am.
- 3 Q And Ms. Bryant had taken you to that residence,
- 4 correct?
- 5 A Right. Yes, ma'am. She didn't go all the way up to
- 6 the yard. At that time we told her to stand back. But she
- 7 showed us which house it was.
- 8 Q Okay. How far away was she?
- 9 A Like the next street. There's a lot next to it. Right
- 10 there in that yard. In front of that yard in the roadway.
- 11 Q Okay. And you told her to kind of stay back?
- 12 A Yes, ma'am.
- 13 Q And you approached the house?
- 14 A Yeah, and Deputy Dukes, yes, ma'am.
- 15 Q Okay. And that's when you saw the body at the front of
- 16 the house?
- 17 A Yes, ma'am.
- 18 Q Okay. Did you do any other -- did you look any closer
- 19 other than at the body and try to---
- 20 A We, we -- I seen the, the footprints on the steps. I
- 21 didn't -- I walked up to the step, but not on to the
- 22 footprints.
- 23 Q Okay. So, you didn't actually go inside?
- 24 A Not at that time---
- 25 Q Did you---

Frank Williams - Cross-examination
by Ms. Hinds

- 1 A ---no, ma'am.
- 2 Q Okay. So, at that point you didn't have any suspects,
3 right?
- 4 A No, ma'am.
- 5 Q Okay. And you had no idea of who may have committed
6 this crime, correct?
- 7 A No, ma'am.
- 8 Q And was that the extent of your involvement in this
9 case?
- 10 A Yes, ma'am.
- 11 Q Thank you. No further questions.
- 12 THE COURT: All right. Anything on redirect?
- 13 SOLICITOR BELL: Nothing further from the State, Your
14 Honor.
- 15 THE COURT: All right. Thank you, Deputy Williams.
16 You may step down.
- 17 WITNESS: Thank you.
- 18 SOLICITOR BELL: We ask that he be excused, Your Honor.
- 19 THE COURT: Any objection?
- 20 MS. HINDS: No objection.
- 21 THE COURT: You are excused. Thank you, sir.
- 22 WITNESS: All right. Thank you, sir.
- 23 THE COURT: Next witness.
- 24 SOLICITOR SORENSON: The state calls Wendy Noel.
- 25 THE COURT: Okay.

Wendy Noel - Direct examination
by Solicitor Sorenson

1 WENDY NOEL, being first duly sworn,
2 testified as follows:

3 CLERK: Thank you. Will you please state your name for
4 the record?

5 WITNESS: Wendy Noel.

6 CLERK: And you may have a seat.

7 WITNESS: Thank you.

8 THE COURT: Your witness.

9 SOLICITOR SORENSON: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY SOLICITOR SORENSON:

12 Q Ms. Noel, I need to make sure you keep your voice up
13 nice and loud. In fact, why don't you move up a little bit,
14 a little bit closer to that microphone and slide your chair
15 up if you need to.

16 A (Witness complies.)

17 Q If you would, tell the jury how old you are.

18 A Thirty-four.

19 Q And you live here, here in Orangeburg County?

20 A Yes.

21 Q Okay. And how long have you lived here in Orangeburg?

22 A Since 2002.

23 Q And where were you from originally?

24 A Connecticut.

25 Q And before you moved here in 2002, where did you live

Wendy Noel - Direct examination
by Solicitor Sorenson

1 prior to that?

2 A In Florida.

3 Q In Florida.

4 How long have you lived in Florida?

5 A All my life.

6 Q So, you were born in Connecticut and grew up in
7 Florida?

8 A I was born in Florida and then to Connecticut before I
9 came here.

10 Q Okay. All right. You said you'd been in Orangeburg
11 from 2002?

12 A Yeah.

13 Q All right. And, Ms. Noel, do you have another name
14 that, that people out on the street know you by?

15 A Yes, Niki.

16 Q Niki.

17 And what about do you have a last name---

18 A Bryant.

19 Q ---that you use sometimes?

20 A Bryant.

21 Q Bryant.

22 Niki Bryant?

23 A (Witness nods affirmatively.)

24 Q Okay. And now, Ms. Noel, can you tell the jury -- I

25 mean what do you do for a living currently?

Wendy Noel - Direct examination
by Solicitor Sorenson

1 A I trick.

2 Q Okay. What do you mean by that?

3 A Prostitution.

4 Q And back in 2010, November specifically of 2010, is
5 that what you were doing for a living back then also?

6 A Yes.

7 Q I'd like for you just to -- as far as your prior
8 record, Ms. Noel, do you have a conviction in 2007 for
9 receiving stolen goods?

10 A Yes.

11 Q And, in fact, back in 2010, in November of 2010, were
12 you still on probation for that, for that 2007 charge?

13 A Yes.

14 Q And were you aware, back in November of 2007, whether
15 probation actually had a, a warrant out for your arrest?

16 A Yeah, they did.

17 Q Okay. Is that taken care of now?

18 A Yes.

19 Q Now, I'll ask you, Ms. Noel, the victim in this case,
20 Arthur Riley, did you know Mr. Riley?

21 A Yes.

22 Q All right. And tell the jury how you know Mr. Riley.

23 A I use to live with Mr. Riley.

24 Q Okay. And how long ago was that that you lived with
25 him?

Wendy Noel - Direct examination
by Solicitor Sorenson

1 A In 2008.

2 Q 2008.

3 And where was that that you lived with him?

4 A At the same house on Jameson.

5 (WHEREUPON, five photographs were marked as State's

6 Exhibit Nos. 2 through 6. Two diagrams were marked as

7 State's Exhibit Nos. 7 and 8. All of the above exhibits

8 were for identification purposes only at this time.)

9 Q Okay. All right. I'm showing you State's Exhibit No.

10 2.

11 Do you recognize that, that house in that photograph?

12 A Yes.

13 Q Okay. And whose house is that?

14 A It's Arthur's house.

15 Q Okay. Is that the house where you lived with him---

16 A Yes.

17 Q ---that you lived in?

18 And in November of 2010, is that the house that, that

19 Mr. Riley was living in then?

20 A Yes.

21 SOLICITOR SORENSON: Your Honor, we'd offer State's No.

22 2 into evidence.

23 MS. HINDS: No objection.

24 THE COURT: All right. State's No. 2 is in evidence

25 without objection.

1 (WHEREUPON, State's Exhibit No. 2 was received into
2 evidence at this time.)

3 Q Okay. All right. So, that's the house that, back in
4 November of 2010, that Mr. Riley was living in?

5 A Yes.

6 Q Where is that house located at, ma'am?

7 A On Jameson Avenue.

8 Q Do you know what the address is?

9 A [REDACTED].

10 Q [REDACTED].

11 How long did you know Mr. Riley?

12 A Since 2007.

13 Q Okay. And you'd indicated to the jury that you had
14 lived with him for a time?

15 A Yes.

16 Q And how long, how long did you, did you live with him?

17 A About seven months.

18 Q All right. Now, what -- tell the jury -- I mean what,
19 what went on in Arthur Riley's house on Jameson?

20 A It was a crack house.

21 Q Okay. And what do you mean by that?

22 I mean what, what, what typically -- on a, on a typical
23 night what happened in that house?

24 A People come in there, they smoke crack, they sell
25 crack, drinking, tricking. You know a little bit of

Wendy Noel - Direct examination
by Solicitor Sorenson

1 everything.

2 Q Okay. Is that pretty, pretty much an every day---

3 A Yes.

4 Q ---thing?

5 All right. Let me ask you, you had said that you're

6 34?

7 A Yes.

8 Q How old was Mr. Riley when he died back on -- do you
9 know?

10 A I believe he was in his sixties.

11 Q He was a little bit older than you obviously?

12 A Yes.

13 Q All right. And was that house like that the same when
14 you lived with him several years ago also?

15 A Yes.

16 Q All right. Let me ask you about the defendant, Deshawn
17 Powell, Ms. Noel.

18 Do you know the defendant?

19 A Yes.

20 Q Okay. How long have you known the defendant?

21 A About two years --

22 Q Okay. And what---

23 A -- before now.

24 Q Huh?

25 A Before now. So, like two years before that happened.

Wendy Noel - Direct examination
by Solicitor Sorenson

1 Q Two years before that happened. So, three and a half
2 years or so now?

3 A Yes.

4 Q Okay. And what, what, if anything, did you know
5 Mr. Powell by?

6 A New York.

7 Q New York.

8 Did you know, back in November of 2010, did you know
9 his real name?

10 A No.

11 Q You knew him just at that time by his nickname --

12 A New York.

13 Q -- New York?

14 All right. And let me ask you, back in 2000, November
15 2010, did you know where, where Mr. Powell was living back
16 then?

17 A Yes.

18 Q And where was that?

19 A Coleman and Ashley.

20 Q Okay. And who, who was he living with at that house?

21 A I believe his mom.

22 Q His mom.

23 All right. Ms. Noel, I want to turn your attention, if
24 I could, to the, to the night of November 2nd, kind of
25 into the early morning hours of November 3rd, okay, of

Wendy Noel - Direct examination
by Solicitor Sorenson

1 2010.

2 All right. Around midnight or so that night, where
3 were you hanging out?

4 A I was at Art's house somewhere around midnight,
5 somewhere between midnight and 2:00.

6 Q Okay. So, that's what my next question would be.

7 Did there come a time when you left the house?

8 A Hu huh. (Negative).

9 Q All right. You said that was between midnight and
10 2:00, somewhere in there?

11 A Midnight.

12 Q All right. And who -- when you were at the house right
13 before you left, who else was at Art's house that, that
14 morning?

15 A Just Red and this other tall dude.

16 Q Okay. And is Red a male or a female?

17 A A female.

18 Q Okay. And then you said another tall dude?

19 A Yes.

20 Q All right. Did you, at the time, know that guy's name?

21 A No.

22 Q All right. Have you since come to, to learn his name?

23 A Yes.

24 Q And what, what is it?

25 A Todd.

Wendy Noel - Direct examination
by Solicitor Sorenson

- 1 Q Todd.
- 2 Okay. But did you know Todd otherwise back then?
- 3 A Not really, no.
- 4 Q Okay. You said Red and---
- 5 A And Todd.
- 6 Q ---the tall dude that you now know as Todd, they were
- 7 both at the house?
- 8 A Uh-huh. (Affirmative).
- 9 Q Okay. What about Art or Arthur, was he there?
- 10 A Yeah, he was there.
- 11 Q Okay. What did you know him by?
- 12 A Who, Art?
- 13 Q Uh-huh. (Affirmative).
- 14 A Art.
- 15 Q Art.
- 16 Okay. All right. And what was the reason initially
- 17 that you were over at Art's house that morning?
- 18 A To get some crack.
- 19 Q Okay. And were you gonna spend some time with anybody
- 20 particular at that house?
- 21 A Yeah, when I got there Art, Art asked me to stay and,
- 22 you know, be his company for the night.
- 23 Q Okay. And did something end up happening that led to
- 24 you then leaving though?
- 25 A Yeah, Slick ended up coming by and telling me that

Wendy Noel - Direct examination
by Solicitor Sorenson

1 somebody was outside with some money or something like that.

2 So, I ended up leaving with Slick and Ebony.

3 Q Okay. Now, who is Slick?

4 Do you know Slick's name?

5 A I don't know his real name, no.

6 Q Is that a male or a female?

7 A A male.

8 Q Okay. And he had somebody else with him?

9 A Yes.

10 Q What was that person's name?

11 A Ebony.

12 Q Okay. Is that a male or a female?

13 A It's a male.

14 Q So, two guys?

15 A Yes.

16 Q Okay. Were they in a vehicle?

17 A Ebony was driving, Slick had his bicycle, but we
18 dropped Slick off at Bojangles' when we left. So, Slick put
19 his bike in the trunk, and then, when we dropped him at
20 Bojangles', he rode off on his bike.

21 Q Okay. So, there was -- let me back you up a little
22 bit.

23 So, there, there -- Ebony had a vehicle?

24 A Uh-huh. (Affirmative).

25 Q And what kind of vehicle was that?

1 A I'm not exactly sure what the vehicle was. It was just
2 white.

3 Q A white vehicle.

4 Okay. So, you ultimately ended up leaving Art's house
5 and leaving with this guy named Slick and this other guy
6 named Ebony?

7 A Yes.

8 Q Okay. And you testified before that was somewhere
9 between midnight and two o'clock in the morning?

10 A Yes.

11 Q Okay. Were you paying attention to the exact time?

12 A Not exactly, no.

13 Q All right. Tell the jury what was the reason that you
14 left with them.

15 A To go trick.

16 Q With who?

17 A Ebony.

18 Q Ebony.

19 All right. And you had mentioned a few moments ago
20 that you ultimately ended up leaving Slick at the
21 Bojangles'?

22 A Bojangles', yes.

23 Q That's the Bojangles' over on the bypass there?

24 A Yes.

25 Q Is that right?

Wendy Noel - Direct examination
by Solicitor Sorenson

1 And do you know where he went at that point in time?

2 A No, I'm not sure.

3 Q Okay. Let me ask you this, Ms. Noel.

4 When you left that morning between midnight and two,

5 two o'clock with, with those two guys, did -- was Art

6 expecting you to leave at that point in time?

7 A No.

8 Q And why not?

9 A Because he, he was expecting me to spend the night with
10 him.

11 Q And where did you ultimately end up going then with
12 Ebony?

13 A On Seawright.

14 Q Let me back you up.

15 When you left the house to, to go get in that, that
16 white car with the two of them, did you see anybody else at
17 that point in time outside of Art's house?

18 A Yes.

19 Q And who was it that you saw outside of Art's house?

20 A New York was outside and this other guy, D-Shop.

21 Q Okay. And New York had -- the defendant?

22 A Yes.

23 Q Okay. And this other guy, what was his nickname?

24 A D-Shop.

25 Q D-Shop.

1 Okay. And do you know his real name?

2 A No.

3 Q You talked to them at all or --?

4 A Yeah, when I was walking out, I wasn't really paying
5 attention cause I was still putting my cell phone and
6 charger and stuff back in my pocketbook, and New York said
7 hey, Niki, how you doing, I haven't seen you in a while.
8 So, I happened to look up and, you know, see who that was
9 and that's when I noticed him standing there.

10 Q Okay. Did you have any conversation with, with the
11 other guy, D-Shop?

12 A Not really. I just walked out. That's all I could
13 say.

14 Q All right. So, you, you left then and ultimately went
15 with this guy Ebony---

16 A Yeah.

17 Q ---over to Seawright Street?

18 A Yes.

19 Q Is that right?

20 Okay. Now, did you, did you see Slick anymore after
21 you left---

22 A No.

23 Q ---him at Bojangles'?

24 A No.

25 Q All right. Now, did there come a time that morning

Wendy Noel - Direct examination
by Solicitor Sorenson

1 when you ended up going back over towards Art's house on
2 Jameson?

3 A Yes, Ebony had to go pick up his wife from work at five
4 o'clock. So, we left his house at five o'clock, and he
5 dropped me on Jameson and Campus and I walked the rest of
6 the way to Art's house.

7 Q And Jameson and Campus is -- how close is that to Art's
8 house?

9 A It's the next corner.

10 Q The next what?

11 A The next corner at the block.

12 Q All right. And showing you -- have you seen this map
13 before, Ms. Noel?

14 A Yes.

15 Q Okay. And that, that blue box, is that where, where,
16 where Art's house is---

17 A Yes.

18 Q ---on Jameson?

19 A Yes.

20 Q Okay. So, he dropped you off at Campus and Jameson --

21 A Yeah.

22 Q -- is that right?

23 So, that's basically a block down, is that right?

24 A Yes.

25 Q Okay. Now, tell the jury then when you, after you got

Wendy Noel - Direct examination
by Solicitor Sorenson

1 dropped off there by Ebony, what, what you did?

2 A I walked to Art's house, and when I got there I knocked
3 on the door, and when I knocked on the door it opened
4 partially. And, so, I looked in the little crack when it
5 opened partially, and I just saw like the lamp shade, the
6 lamp shade was off the lamp, and the lamp was on the floor,
7 and the cushions were off the couch, and the coffee table
8 was turned over. It looked like, you know, messy.

9 Q Okay.

10 A So, I looked around the other side of the door through
11 the crack and all I could see was Art's bald head shining on
12 the floor.

13 Q What did you then do, Ms. Noel?

14 A I got scared and I ran -- I backed up and I ran off the
15 porch, and I ran, ran, ran back towards Campus Drive, and
16 like two houses down I noticed a car was starting in the
17 yard like probably warming up to go to work. So, I ran into
18 their yard and knocked on the door and asked them to call
19 the police.

20 Q Okay. And did they call, they call the police?

21 A Yes.

22 Q Okay. Let me ask you this.

23 Did you see -- when you looked in, besides seeing Art's
24 bald head on the floor, did you see anybody else around
25 Art's house---

Wendy Noel - Direct examination
by Solicitor Sorenson

- 1 A No.
- 2 Q ---at that point in time?
- 3 A No.
- 4 Q Anybody else out on the street?
- 5 A No.
- 6 Q All right. And what time do you think it now is?
- 7 A It had to be after five o'clock cause we left Ebony's
- 8 house at five o'clock.
- 9 Q All right. Was it still dark out?
- 10 A Yes.
- 11 Q Had the Sheriff's Office end up showing up?
- 12 A Yes.
- 13 Q Okay. And where was it that you met them?
- 14 A At the, the same lady that called the police. I, I
- 15 stayed at her house until they pulled out. I met them in
- 16 her yard.
- 17 Q Okay. And did you tell them kind of what you had seen?
- 18 A Yeah, I told them I think somebody's in trouble two
- 19 houses down and they told me to get in the car and point the
- 20 house out to them and I got in the car with them and pointed
- 21 the house out.
- 22 Q So, you showed them the house?
- 23 A Yes.
- 24 Q Okay. Now, that morning, did you, did you tell that
- 25 initial officers that you talked to, did you give them your,

- 1 your correct name?
- 2 A No.
- 3 Q What name did you tell them?
- 4 A Niki Bryant.
- 5 Q And why, why did you lie to them about your name?
- 6 A Because I didn't want to get in trouble. I had
- 7 warrants.
- 8 Q Did they ultimately figure out your name that morning?
- 9 A Yes.
- 10 Q Okay. In fact, you ended up getting arrested that
- 11 morning---
- 12 A Yes.
- 13 Q ---on that warrant?
- 14 A Yes.
- 15 Q Is that right?
- 16 Do you recall, Ms. Noel, a day or so later, Commander
- 17 Bamberg with the Sheriff's office showing you a lineup to
- 18 see if you recognized somebody that you saw out there that
- 19 night?
- 20 A Yes.
- 21 Q I'm showing you this.
- 22 Is that the lineup they showed you?
- 23 A Yes.
- 24 Q And did you pick somebody out of that lineup?
- 25 A Yes.

Wendy Noel - Direct examination
by Solicitor Sorenson

1 Q And who is that that you saw on the lineup?

2 A Number six. That's New York.

3 Q That's New York.

4 And did you indicate to them that you had seen him out
5 there that night?

6 A Yes.

7 SOLICITOR SORENSON: Your Honor, at this time we'd
8 offer this into evidence.

9 MS. HINDS: No objection.

10 THE COURT: What is it, State's---

11 SOLICITOR SORENSON: It hadn't been marked yet. I want
12 to show it.

13 THE COURT: Okay.

14 SOLICITOR SORENSON: Nine.

15 THE COURT: State's 9. Okay.

16 (WHEREUPON, the photographic lineup was marked as
17 State's Exhibit No. 9 for identification purposes only at
18 this time.)

19 THE COURT: All right. And State's 9 is without
20 objection, is that correct, Ms. Hinds?

21 MS. HINDS: That's correct.

22 THE COURT: Okay. State's No. 9 is in evidence.

23 SOLICITOR SORENSON: Thank you.

24 (WHEREUPON, State's Exhibit No. 9 was received into
25 evidence at this time.)

Wendy Noel - Direct examination
by Solicitor Sorenson

1 Q And, Ms. Noel, is that your initials next to where,
2 where that person circled?

3 A Yes.

4 Q And yet again, who is, who is that that you picked out
5 of this lineup that, that---

6 A That's New York.

7 Q And where is the last time you saw him that night?

8 A On the porch walking out of Art's house. He was going
9 in.

10 Q You were walking out, he was going up to the door?

11 A He was going in.

12 Q Going in.

13 Were you aware, back in November of 2010, whether,
14 whether he and Art knew each other?

15 A Yeah, they knew each other.

16 SOLICITOR SORENSON: I beg the Court's indulgence.

17 THE COURT: Okay.

18 (Pause.)

19 Q That'd be all I have, Ms. Noel. Please answer any
20 questions that Ms.---

21 THE COURT: Ms. Hinds.

22 Your witness, Ms. Hinds.

23 MS. HINDS: Just a couple.

24 THE COURT: Okay.

25 CROSS-EXAMINATION

Frank Williams - Cross-examination
by Ms. Hinds

1 BY MS. HINDS:

2 Q So basically your testimony is, at some point, you were
3 at Art's and then you were leaving to go some place with
4 Ebony and Slick, correct?

5 A Uh-huh. (Affirmative).

6 Q Okay. And as you're leaving, you're saying that
7 Mr. Powell and somebody else was approaching and going up to
8 the house, correct?

9 A They were walking into the house as I was leaving.
10 They were---

11 Q They were walking into the house?

12 A Yes.

13 Q And that would be D-Shop?

14 A Right.

15 Q Who else was still in the house when you left?

16 A I don't think anybody else was still there.

17 Q You don't think or you don't know?

18 A I'm not exactly sure. The only other people that were
19 there were Red and, and Todd and Art had told him that, you
20 know, he was -- since he was having company for the night
21 that he wanted them to leave. But I'm not sure if they left
22 before I, before I did or after.

23 Q Okay. So, they had been told to leave?

24 A Yeah.

25 Q Okay. While you were present there, did anybody argue

Frank Williams - Cross-examination
by Ms. Hinds

- 1 with Art?
- 2 A While I was there?
- 3 Q Uh-huh. (Affirmative).
- 4 A No.
- 5 That night?
- 6 Q When you were leaving, was anybody arguing---
- 7 A No.
- 8 Q ---with Art?
- 9 A No.
- 10 Q No one was arguing.
- 11 Okay. Had there, had there been other people in the
- 12 house prior to your leaving---
- 13 A Yes.
- 14 Q ---during the day?
- 15 Who else was there earlier?
- 16 A A guy named Greek showed up coming by. He left.
- 17 Q Green, who, what, Green?
- 18 A Greek, Monkey Doe came by. He left. That was way
- 19 earlier, and I believe that's it.
- 20 Q Did either one of them have any kind of argument with
- 21 Art?
- 22 A No.
- 23 Q Was Art upset that you were leaving?
- 24 A He wasn't happy about it, but he wasn't like upset.
- 25 Q Okay. And you don't know if anybody else could of gone

Frank Williams - Cross-examination
by Ms. Hinds

1 in after you?

2 That's correct---

3 A No.

4 Q ---cause you left?

5 A No.

6 Q Okay. When you get back after 5:00 or 5:30 in the
7 morning --

8 A Uh-huh. (Affirmative).

9 Q -- could you again describe to me -- as you're walking
10 up to the house, correct?

11 A I walked up to the house, and I knocked on the door.
12 It opened by itself partially from, I guess from the
13 pressure of my knock, and I could see the lampshade is off
14 the lamp on the floor. The coffee table was turned over.
15 The cushions were off the couch. You know, it looked really
16 messy. So then I looked around the other side of the door,
17 and I just saw Art's bald head on the floor.

18 Q And you could see that because of what light?

19 A The street light outside.

20 Q The street light outside.

21 And it's pretty much right in front of the house?

22 A Right in front of the house.

23 Q Is that correct?

24 A Yeah.

25 Q And when -- this house has, to the front door, there's

1 a porch out front?

2 A Uh-huh. (Affirmative).

3 Q Is that correct?

4 A Yes.

5 Q Okay. Did you notice anything on the porch?

6 A No.

7 Q Okay. All right. So, when you get back -- and back
8 there you don't notice anything, but you go up and you do
9 knock?

10 A Uh-huh. (Affirmative).

11 Q Kind of opens a little bit --

12 A Uh-huh. (Affirmative).

13 Q -- correct?

14 You see Art, you're upset, you try, try to find
15 somebody to call the cops, correct?

16 A Uh-huh. (Affirmative).

17 Q At some point the cops do come, right?

18 A Yes.

19 Q And then they bring you partially back to the house?

20 A All the way back to the house.

21 Q Okay. But I mean did they bring you right up to the
22 front steps?

23 A Right up to the front door. No, not to the front
24 steps. Just to the -- they parked in the road and they told
25 me to get out the car, and I stayed by the trunk and they

Frank Williams - Cross-examination
by Ms. Hinds

1 walked up to the door.

2 Q They walked up to the door, not you?

3 A Hu huh. (Negative).

4 Q When you walked up to the steps initially, did you see
5 any bloody footprints?

6 A No.

7 Q Okay. When the cops got there and looked at the scene,
8 did they check your feet?

9 A Yes.

10 Q And they didn't find any blood on you?

11 A No.

12 Q Okay. When you were there and found Art, was that
13 street lamp the only light that was on?

14 A Yes.

15 Q Okay. When you got back with the officers, was there
16 anything, was there---

17 A There was---

18 Q ---was it---

19 A No, when they opened the door there was another light
20 on inside.

21 Q Okay. And that light hadn't been on before?

22 A No.

23 Q When you saw Mr. Powell going into Art's, can you tell
24 me what he was wearing?

25 A He was wearing a long trench coat.

Frank Williams - Cross-examination
by Ms. Hinds

- 1 Q Did you notice anything else?
- 2 A The collar was flipped up.
- 3 Q The collar was what?
- 4 A Flipped up.
- 5 Q Tipped up?
- 6 A Flipped up.
- 7 Q Flipped.
- 8 When you left the house Art was fine, correct?
- 9 A Yes.
- 10 Q Okay. And I don't have any further questions. Thank
- 11 you.
- 12 A Thank you.
- 13 THE COURT: Anything on redirect?
- 14 SOLICITOR SORENSON: No, sir.
- 15 THE COURT: All right. Ms. Noel, you may step down.
- 16 WITNESS: Thank you.
- 17 THE COURT: Is she excused?
- 18 Okay. Any objection, Ms. Hinds?
- 19 MS. HINDS: No objection.
- 20 THE COURT: All right. Ms. Noel, you're excused.
- 21 Next witness.
- 22 SOLICITOR SORENSON: State calls Darrell Jones.
- 23 DARRELL JONES, being first duly sworn,
- 24 testified as follows:
- 25 CLERK: Thank you.

Darrell Jones - Direct examination
by Solicitor Sorenson

1 Will you please state your name for the record?

2 THE COURT: You, you can sit down.

3 CLERK: Please have a seat.

4 THE COURT: Yeah. Yeah.

5 WITNESS: Darrell Jones.

6 THE COURT: Okay.

7 DIRECT EXAMINATION

8 BY SOLICITOR SORENSON:

9 Q All right. Darrell, if you give us your, make sure you
10 keep your voice up nice and loud.

11 All right. Darrell, quick tell the jury how old you
12 are.

13 A I'm 34 years old.

14 Q Thirty-four.

15 And where did, where did you grow up?

16 A Syracuse, New York.

17 Q Okay. And how long have you been down here in
18 Orangeburg?

19 A Fifteen years.

20 Q Okay. Since you were about 19 or so?

21 A Yes.

22 Q And who do you live with here?

23 A My grandparents.

24 Q Grandparents.

25 All right. And let me just kind of ask you, you been,

Darrell Jones - Direct examination
by Solicitor Sorenson

1 you been in a little bit of trouble in the past.

2 I think, looking at your record, you got a 2002 forgery
3 conviction and another one in 2006, is that right?

4 A Yes.

5 Q Okay. All right. Let me ask you do you have --
6 Darrell, do you have a nickname that you go by?

7 A D-Shop.

8 Q D-Shop.

9 S-H-O-P?

10 A Yes.

11 Q Okay. And that's pretty much what people out on the
12 street know you by?

13 A Yes.

14 Q Okay. And let me ask you this, Darrell.

15 Do you -- did you know the victim in this case, Arthur
16 Riley?

17 A Yes, a little bit.

18 Q Okay. And how, how long do you think you had known Mr.
19 Riley before, before his death?

20 A About a year or so.

21 Q Okay. And what did you know him by?

22 A Art.

23 Q Art.

24 And how often, in that year or so that you knew Mr.
25 Riley, how often did you, did you hang out with Art?

Darrell Jones - Direct examination
by Solicitor Sorenson

- 1 A Say like once a month.
- 2 Q All right. And where was that usually at?
- 3 A At his house.
- 4 Q At his house.
- 5 And where was his house located at?
- 6 A Jameson Avenue.
- 7 Q Jameson Avenue.
- 8 All right. What would you usually do when you'd go
- 9 over there to Art's house?
- 10 A Just talk and look for girls and stuff like that.
- 11 Q Okay. Do you drink?
- 12 A Yeah, we drink a little bit, yeah.
- 13 Q Okay. Do you do any drugs?
- 14 A Nah, not me.
- 15 Q Not you.
- 16 Other people doing drugs there---
- 17 A Yeah.
- 18 Q ---sometimes?
- 19 A Yeah.
- 20 Q All right. How about, how about the defendant, Deshawn
- 21 Powell, Mr. Jones, do you know Mr. Powell?
- 22 A Yes.
- 23 Q Okay. And how long have you known Mr. Powell?
- 24 A Eight to ten years.
- 25 Q Okay. And what name, or if anything, did you know him

Darrell Jones - Direct examination
by Solicitor Sorenson

- 1 by?
- 2 A New York.
- 3 Q New York.
- 4 Okay. Did you know his real name back then?
- 5 A Yeah, the first, his first name, yeah.
- 6 Q All right. So, you knew -- what was that? What do
- 7 you---
- 8 A Deshawn.
- 9 Q Deshawn.
- 10 All right. And was he somebody -- was Mr. Powell
- 11 somebody that you hung around with?
- 12 A I hung with his brother.
- 13 Q With his brother.
- 14 Is his brother older or younger than, than him?
- 15 A He's older than him.
- 16 Q Older.
- 17 Is that how you met the defendant?
- 18 A Yes. Yes.
- 19 Q All right. And back in November of 2010 did you know
- 20 where he was staying at?
- 21 A Who?
- 22 Q Mr. Powell.
- 23 Did you know where he was staying at back in 2010?
- 24 A Yes.
- 25 Q And where was that at?

Darrell Jones - Direct examination
by Solicitor Sorenson

1 A Culbreth.

2 Q Culbreth.

3 Is that close to, to where Art lived in Jameson, on
4 Jameson?

5 A Yeah, it's a couple blocks away.

6 Q A couple blocks away.

7 Same neighborhood, same general area?

8 A Yes.

9 Q Okay. All right. And, Mr. Jones, I want to turn your
10 attention back to the night, the night that Art got killed.

11 What had you been doing that, earlier that evening?

12 A We'd been drinking and we went to the club.

13 Q All right. What club was that that you had gone to?

14 A Shorty's.

15 Q Shorty's.

16 And where is that located at or where was that located
17 at?

18 A About -- I don't know the name of the street.

19 Q Okay. But here in Orangeburg?

20 A Yeah, here in Orangeburg.

21 Q Okay. How far away from, from Art's house on Jameson
22 is it located?

23 A About a -- about two miles away.

24 Q Okay. All right. And about what time did you end up
25 leaving that, that club that night?

Darrell Jones - Direct examination
by Solicitor Sorenson

- 1 A 2:00, 2:30, 2:00.
- 2 Q Okay. 2:00, 2:30, somewhere in there?
- 3 A (Witness nods affirmatively.)
- 4 Q All right. And who did you leave the club that night
- 5 with?
- 6 A I don't remember the guy's name that gave us a ride.
- 7 Q Okay. Who -- somebody else get a ride with you though?
- 8 A Yeah, me and Deshawn got dropped off.
- 9 Q Okay. Mr. Powell, the defendant?
- 10 A Yeah.
- 11 Q Okay. So, he had been at the club also?
- 12 A Yes.
- 13 Q Okay. Had y'all been hanging out together at the club?
- 14 A Yeah. Yes. Yeah, I mean -- yeah.
- 15 Q All right. So, the two of y'all basically got a ride
- 16 from somebody?
- 17 A Yes.
- 18 Q Okay. I think you said -- do you remember who, who
- 19 that person was that gave you the ride?
- 20 A No.
- 21 Q And where did you end up getting dropped off?
- 22 A Norman Street.
- 23 Q Norman Street.
- 24 And where is that at?
- 25 A Right by Art's house.

Darrell Jones - Direct examination
by Solicitor Sorenson

- 1 Q Okay. Is that a, what, a paved road or a dirt road?
2 A Dirt road.
3 Q Okay. I'm showing you State's Exhibit No. 1.
4 Is that, is that Norman Street that runs, you know,
5 basically right into---
6 A Yes.
7 Q Almost right into Mr.---
8 A Yes.
9 Q ---Mr. Riley's house?
10 Let me ask you, when you had been at the club earlier
11 that night, Darrell, had you been drinking?
12 A Yes, sir.
13 Q Been drinking a little or a lot?
14 A A lot. A lot.
15 Q What about Mr. Powell, had he been drinking there too?
16 A Yeah, but he wasn't drinking as much as me.
17 Q Not quite as much as you?
18 A No.
19 Q All right. And after you got dropped off there at
20 Norman Street and Jameson, what, what did you do then,
21 Mr. Jones?
22 A I walked towards Art house, house to see if he, he had
23 any girls or something there.
24 Q Okay. And what about Mr. Powell, was he still with
25 you?

- 1 A Yeah, he was sort of behind me a little bit, yeah.
- 2 Q Okay. Was he going the same direction you were going,
3 up to Art's house?
- 4 A Yes.
- 5 Q Okay. And did you actually get to Art's house?
- 6 A Yes.
- 7 Q Okay. Tell, tell the jury what happened when you got
8 to Art's house.
- 9 A Art let me in. I asked Art is there any girls here and
10 he said you can go check. He -- and then he let me in, but
11 he didn't wanted Deshawn to go in.
- 12 Q Okay. So, let me ask you, did you go in the house?
- 13 A Yeah, I go in, looks around, I ain't seen nobody. So,
14 I was -- I'm on my way back out.
- 15 Q Okay. And tell, tell the jury what's going on when
16 you're, when you're on the way back out.
- 17 A As I was on the way back out, him and Deshawn was
18 discussing about why he couldn't come in. He let me in, but
19 why he couldn't come in. So, it was a little discussion,
20 arguing over that, and I was, I was telling him it ain't
21 worth it, ain't nobody here, so let's leave, it's not even
22 worth the argument. So, so, they, they start getting more
23 aggressive and arguing a little bit more.
- 24 Q Okay. Tell the jury kind of what happened then.
- 25 A I was trying to break the argument up and they just

Darrell Jones - Direct examination
by Solicitor Sorenson

1 started shoving each other.

2 Q Okay.

3 A While I, I was trying to break up, Art cussed me out
4 saying get the hell out. Deshawn even told me to get the
5 hell out. I mean leave, leave us, leave us alone. They can
6 handle it they self.

7 Q Okay.

8 A So, I left.

9 Q Okay. All right. What, what was -- what, if anything,
10 was Mr. Powell saying to Art while they were, were arguing
11 and tussling at the door?

12 A I don't remember the exact words. It was --.

13 Q Okay.

14 A So --.

15 Q And what was he upset about?

16 A Not coming in. He allowed me to come in, but he was---

17 Q Okay.

18 A ---wondering why he couldn't get in.

19 Q Okay. All right. What did you do then after the two
20 of them had both been basically cussing you and told you to
21 leave them alone?

22 What did, what did you do at that point in time?

23 A I walked off. I walked off.

24 Q Okay. And where did you walk to?

25 A To the road.

Darrell Jones - Direct examination
by Solicitor Sorenson

- 1 Q Okay.
- 2 A About 30 or 40 yards away. Then I saw Red.
- 3 Q Okay. And who is Red?
- 4 A I don't know her real name.
- 5 Q Okay. Is it a female?
- 6 A Yeah, she female.
- 7 Q So, she was out in the road area?
- 8 A Yeah.
- 9 Q Okay. Was she by herself or anybody with her?
- 10 A She was by herself at that time.
- 11 Q Okay. Did you ultimately see anybody else out there in
- 12 the road near her?
- 13 A Yeah, later on. A little bit -- like a couple houses
- 14 up. That's when Todd -- I saw Todd.
- 15 Q Okay.
- 16 A But at first it's just me and Red out there talking.
- 17 Q Okay. And now did you know Red back then?
- 18 A Yeah.
- 19 Q Okay. So, you knew her, knew her by nickname, knew her
- 20 by face?
- 21 A Yeah.
- 22 Q Okay. This other guy that you called Todd, did you,
- 23 back in November of 2010, did you know his name back,
- 24 back---
- 25 A No.

Darrell Jones - Direct examination
by Solicitor Sorenson

1 Q ---at that point in time?

2 A No, I couldn't give you a name.

3 Q Describe him, what he looked like.

4 A He was a taller guy.

5 Q Tall guy.

6 Okay. And, so, you're out there at the road now with
7 Red and then you see Todd.

8 Where is Mr. Powell at?

9 A He was still like on the porch area.

10 Q Okay.

11 A Art's porch.

12 Q All right.

13 A He was still arguing.

14 Q With Art?

15 A Yeah.

16 Q Okay. Tell the jury then -- what, what happened then,
17 Darrell?

18 Tell what's going on.

19 A Once I saw Todd, he was like man, go get your boy,
20 right. So, so, I went back trying to get New York, and it
21 was still cussing -- Art was still cussing me out. Well,
22 you back again. I told you I can handle this, and he, he
23 cussed me out even more.

24 Q Okay. And then tell them -- what -- so, what, what
25 were you observing going on?

Darrell Jones - Direct examination
by Solicitor Sorenson

- 1 What were you trying to do?
- 2 A I was just trying to break them, break them up, break
3 them apart from each other. It was just tussling, fighting
4 a little bit.
- 5 Q Okay. All right. And do you see anybody, anybody
6 start throwing punches?
- 7 Did you see anybody hitting anybody?
- 8 A Yeah. Yeah, he swung a couple times, yeah.
- 9 Q All right. Who's he?
- 10 A New York swung, swung at him a couple times, but Art
11 was fighting back too.
- 12 Q Okay. And that's going right -- where is that all
13 taking place?
- 14 A Right, right by the door.
- 15 Q Okay.
- 16 A Close by the door.
- 17 Q Okay. Inside or outside?
- 18 A Inside.
- 19 Q Inside?
- 20 A Right.
- 21 Q Just inside the front door?
- 22 A Right.
- 23 Q Okay. All right. And what are you trying to do at
24 this point in time?
- 25 A I was trying to stop everything. I'm telling them it's

Darrell Jones - Direct examination
by Solicitor Sorenson

1 not worth it, you know, what you doing this for. Art, Art
2 was cussing me out himself. He was like man, get the F out
3 of here. I can handle this.

4 Q Okay.

5 A I was like man.

6 Q Okay.

7 A But I ain't seen no knife, no guns, no weapon.

8 Q I was gonna ask you.

9 Did you see, at any point in time, him with a weapon?

10 A No.

11 Q Okay. What did you do at that point in time?

12 A I'm, I'm walking off. I walked off after, after that.

13 Q Okay. And what did you do when you walked off?

14 A I went home.

15 Q All right. Did you say anything when you got back out
16 in the road?

17 A Did I---

18 Q When you got back out in the yard, did you do anything
19 to try to get them to stop when you were out in the road---

20 A Yeah.

21 Q ---or in the yard?

22 A I was saying, I was saying yo, the police is coming. I
23 was telling them the police is coming, the police coming,
24 chill, stop, stop.

25 Q Okay. And why were you, why were you yelling and

Darrell Jones - Direct examination
by Solicitor Sorenson

1 saying that?

2 A So he could -- so he could stop fighting Art. So they
3 just break it up.

4 Q Okay.

5 A You know, I'm threatening them saying the police is
6 coming so they could stop.

7 Q Okay. Were you concerned with what was going on in
8 there?

9 A Yes. Yeah. Yes.

10 Q Yeah.

11 Bear with me one second.

12 (Pause.)

13 Q And what did you end up doing at that point in time?
14 After you yelled that the police were coming, did, did
15 he stop?

16 A I didn't see. I couldn't see inside.

17 Q Did he come out?

18 A Yeah, later on. After I walked off about, I say about
19 a hundred yards up towards my house, I saw him come out the
20 house.

21 Q Okay. And were you still around with Red---

22 A No.

23 Q ---and the other guy, Todd, at that point in time?

24 A No, they left. They left already.

25 Q Okay. And did you have any more conversation with him

Darrell Jones - Direct examination
by Solicitor Sorenson

1 at that point in time when you said when you saw him come
2 out of the house?

3 A Right. He was too far behind me when he left.

4 Q Okay.

5 A We didn't really talk.

6 Q Now, did you, at any point in time, go back and check
7 on Art?

8 A No, no, cause I didn't think it was that much damage
9 been done.

10 Q You said you were about a hundred yards or so down the
11 street when you saw him come out of the house?

12 A Well, like fifty to a hundred. Yeah, in eyesight. I
13 could see him. He was---

14 COURT REPORTER: He was within what?

15 SOLICITOR SORENSON: Eyesight.

16 Q And the rest of that day, Darrell, did you, did you
17 talk at all with Red or Todd or the defendant the rest of
18 that day then?

19 A No, not after that, no.

20 Q Okay. Did there come a time, a day or so later, when,
21 when the Sheriff's office came and got you?

22 A Yeah.

23 Q Okay. And do you remember Investigator Kittrell?

24 A Yes.

25 Q Okay. You gave a statement to him at that point in

1 time I think on November 4th?

2 Does that sound about right?

3 A Yeah, I thought it was a little bit after. But yes, I
4 guess that's right. I thought it was around the 6th.

5 Q Okay. Let me show you your statement.

6 Is that your statement you gave to, to the Sheriff's
7 office?

8 A Yes. Yes, this is it.

9 Q Okay. And what day does that say on it down at the
10 bottom?

11 A It says the 4th.

12 Q Okay. And that's your handwriting, right?

13 A Yeah.

14 Q And did you tell them what you had seen happening?

15 A Right.

16 Q Is that right?

17 A Yes.

18 Q Okay. Let me back you up a little bit, Darrell.

19 when you, when you came back to the door and you said
20 at that point in time New York and Art were at the door
21 arguing, okay, do you remember now, a year and a half later,
22 what, what he was saying to, to Art?

23 A He was mostly wondering why he let me in. It was
24 mostly like why didn't you let me in, what's wrong with me.

25 Q Okay.

Darrell Jones - Direct examination
by Solicitor Sorenson

- 1 A Like he's gonna let me in this bitch.
- 2 Q Okay.
- 3 A It was like -- it was something like that.
- 4 Q Okay. So, that's what you told the police a year and a
- 5 half ago when it was fresh in your mind, right?
- 6 A (Witness nods affirmatively.)
- 7 Q And do you remember -- let me ask you this.
- 8 You, you had told me a little while ago, I think I'd
- 9 asked you, did you see anybody throwing any blows, is that
- 10 correct?
- 11 A Yeah.
- 12 Q You remember me asking you that question?
- 13 A Right.
- 14 Q Who did you see---
- 15 A They both---
- 16 Q ---hitting---
- 17 A They both was swinging.
- 18 Q Okay.
- 19 A They both was.
- 20 Q But you saw---
- 21 A Yeah, he was---
- 22 Q ---Deshawn Powell---
- 23 A Yeah, he was winning.
- 24 Q ---hitting, hitting Art?
- 25 A Yeah, he was winning a little bit.

Darrell Jones - Direct examination
by Solicitor Sorenson

- 1 Q He was winning?
- 2 A Yeah.
- 3 Q He's a lot younger than Mr. Riley?
- 4 A Yeah.
- 5 Q Right?
- 6 A Yeah.
- 7 Q But at no point in time did you see anything in his
- 8 hand?
- 9 A Right.
- 10 Q Is that correct?
- 11 A Right.
- 12 Q You didn't tell the police you did, right?
- 13 A Right.
- 14 Q All right. And after giving that statement, do you
- 15 remember a day or so later, I believe on the following day
- 16 on the 5th, investigators showing you a photo lineup and
- 17 asking you if you, if you recognized the person that you
- 18 knew---
- 19 A Yeah.
- 20 Q ---by New York?
- 21 A Yes.
- 22 Q All right. And did you pick him out of that lineup?
- 23 A Yes.
- 24 Q Number four?
- 25 A Yes, yes.

Darrell Jones - Direct examination
by Solicitor Sorenson

1 Q Circle it and initial it?

2 A Yes.

3 (WHEREUPON, a lineup was marked as State's Exhibit No.
4 10 for identification purposes only at this time.)

5 SOLICITOR SORENSON: At this time we would offer I
6 believe it's Exhibit 10 into evidence.

7 MS. HINDS: No objection.

8 THE COURT: State's what?

9 SOLICITOR SORENSON: Ten.

10 THE COURT: State's 10 in evidence without objection.

11 (WHEREUPON, State's Exhibit No. 10 was received into
12 evidence at this time.)

13 Q And you picked out, when they showed you this lineup on
14 November 5th, photograph number four, is that right?

15 A Yes.

16 Q And who is that in photo number four?

17 A New York.

18 Q New York.

19 The defendant, Mr. Powell?

20 A Yes.

21 Q And why did you, why did you pick him out and circle
22 him and point him out to, to the police officers?

23 A They asked me did I know New York, was me and New York
24 together that night, and that's the truth.

25 Q Okay. And did you tell them, at that point in time,

Darrell Jones - Direct examination
by Solicitor Sorenson

1 what you saw New York doing?

2 A Yeah, I told them everything. Yeah, I told them what
3 happened, yeah.

4 Q Okay. What did you tell them that, that you saw him
5 doing to Art that night?

6 When you, when you picked him out of this lineup on
7 November 5th, what did you tell investigators with the
8 Sheriff's Office you saw Mr. Powell doing to Art?

9 A Fighting Art. Fighting. They was fighting.

10 Q Do you remember telling them you saw him basically
11 beating him to death?

12 MS. HINDS: Your Honor, objection. He's putting words
13 in the witness' mouth.

14 THE COURT: Pardon. I'll sustain the objection.

15 Just ask him what he said, what he said or you can, you
16 can refresh his memory, but---

17 SOLICITOR SORENSON: Your Honor?

18 THE COURT: Okay.

19 SOLICITOR SORENSON: I'm gonna use this now I guess.

20 THE COURT: All right. That's fine.

21 Q Do you remember filling out this little affidavit with,
22 with that lineup?

23 That help kind of refresh your memory, Mr. Jones, about
24 what you told on November 5th, a day or so after this
25 happened, what you told, told the Sheriff's Office you saw

Darrell Jones - Direct examination
by Solicitor Sorenson

1 Mr. Powell doing to, to your, to Mr., to Art?

2 A Yeah, he was beating him, yeah.

3 Q Beating him what?

4 A It says beat to deaf.

5 Q To deaf.

6 I mean obviously is that what you meant? I mean---

7 A Nah.

8 Q what, what did you mean?

9 A Beating him. He was beating him, beating the hell out
10 of him or beating him.

11 Q okay. And that's what you told them on November 5th,
12 the last time you saw Mr. Powell inside that house what he
13 was doing, is that correct?

14 A Yes.

15 SOLICITOR SORENSON: Begging the Court's indulgence.

16 (Pause.)

17 Q Let me just ask you, ask you if you, if you remember,
18 Mr. Jones, when you, when you went in -- I believe you
19 testified a moment ago, a little while ago that you
20 initially -- Art let you in and you just kind of did a quick
21 look around, is that right, to see if there were any girls
22 inside?

23 A Yeah.

24 Q What was the condition of the inside of Mr. Riley's
25 house?

Darrell Jones - Direct examination
by Solicitor Sorenson

1 I mean was it, stuff turned over, cushions all on the
2 ground, tables knocked over, and things of that nature?

3 A It was messy in there, but it wasn't no tables knocked
4 over.

5 Q Okay. Did you go back in the bedroom?

6 A No.

7 Q You didn't go back in the bedroom?

8 Was there any blood on the floor?

9 A No.

10 Q Okay. All right. Thank you, Mr. Jones. Please answer
11 any questions Ms. Hinds has.

12 THE COURT: Ms. Hinds, your witness.

13 MS. HINDS: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. HINDS:

16 Q And just to clarify, when you, when you were telling
17 the police officers about the fight, your testimony is that
18 they were fighting hard, correct?

19 A Yeah, they was, they was fighting pretty hard. I mean
20 not, not crazy fighting like throwing each other across the
21 room. It wasn't like that. It was, it was---

22 Q A fist fight?

23 A Yeah. Yeah.

24 Q Okay.

25 A Like went back and forth.

Darrell Jones - Cross-examination
by Ms. Hinds

1 Q Did you literally mean, when you said that he was
2 fighting him to deaf, which is what you put, D-E-A-F, is
3 that correct?

4 Is that what you put on there?

5 A Yes.

6 Q Okay. Did you literally mean as in he was killing him?

7 A No, no, no, he just beating him, just beating him. He
8 was winning.

9 Q And the fight went on for a little while, didn't it?

10 A I thought about ten, ten or fifteen minutes.

11 Q And, and at some point Art thought he had it, didn't
12 he?

13 A Yeah, yeah, Art---

14 Q He didn't---

15 A ---was getting -- yeah, yeah.

16 Q Art was giving as good as he was getting at some point?

17 A Yes. Yes.

18 Q Is that correct?

19 A Yes.

20 Q Okay. And you never saw Mr. Powell with any kind of
21 weapon?

22 A No, he couldn't. They wouldn't even let us in the club
23 with a weapon. They, they checks -- they check us at
24 Shorty's for weapons, and he wouldn't even be able to get in
25 the club with a weapon.

Darrell Jones - Cross-examination
by Ms. Hinds

1 Q And the last time you saw Mr. Riley he was still alive,
2 correct?

3 A Correct.

4 Q And the last time you saw Mr. Powell he was at the
5 front door fighting, but he wasn't anywhere else inside the
6 house, correct?

7 A Right. Right.

8 Q Okay. Can you tell me what Mr. Riley was wearing at
9 the time?

10 Do you remember?

11 A No, I don't remember.

12 Q Okay.

13 A He had---

14 Q But he had clothes on, right?

15 A Yeah, yeah, it was -- yeah, he had some clothes. I
16 believe -- he wasn't naked. He was not naked.

17 Q Okay.

18 A I know that.

19 Q How about Mr. Powell, do you remember what he was
20 wearing?

21 A No, I don't remember.

22 Q At any point did you see Todd go up, go up to the
23 house?

24 A No.

25 Q At any point did you see Red go up to the house?

Darrell Jones - Cross-examination
by Ms. Hinds

1 A No.

2 Q Okay. How far away were they standing from the house?

3 A About here to the door, to the double door.

4 Q Okay. A good distance away.

5 Based on what you saw that night, do you have any
6 reason to believe that Mr. Powell stabbed Mr. Riley?

7 A I, I couldn't believe it. When I heard it the next day
8 I couldn't believe it.

9 Q Cause you never saw a knife, correct?

10 A Right.

11 Q In your explanation it was, was -- well, let me ask you
12 this.

13 Was it a pretty good normal fist fight?

14 A Yeah, normal.

15 Q I think you testified it was before, nobody was
16 throwing each other across the room or anything like that,
17 right?

18 A Correct.

19 Q And I believe you said you had known Deshawn for,
20 Mr. Powell for a good long while?

21 A Yes.

22 Q Okay. The last thing you know, Mr. Powell and Mr.
23 Riley were fighting, correct?

24 A Yes.

25 Q When you tried to intervene, they wouldn't allow you

Darrell Jones - Cross-examination
by Ms. Hinds

1 to, correct?

2 A Correct.

3 Q And that includes Mr. Riley?

4 A Right, they both cussed me out.

5 Q Okay. And you tried more than once, correct?

6 A Yeah. Yeah.

7 Q Okay.

8 A Twice. Yeah, I even threatened to say the police was
9 there.

10 Q Okay. When you ultimately went, left and went home,
11 Mr. Riley was alive, correct?

12 A Yeah. Yes, when I left he was still alive, yes.

13 Q Okay. And you don't know what happened after that,
14 correct?

15 A Correct.

16 MS. HINDS: One moment.

17 (Pause.)

18 MS. HINDS: Nothing else, Your Honor.

19 THE COURT: Anything on redirect?

20 SOLICITOR SORENSON: Just real briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY SOLICITOR SORENSON:

23 Q Was it your testimony, Mr. Jones, that when you left
24 that he was, the way I think you phrased it earlier, was
25 that he was beating the hell out of Art, is that correct?

Darrell Jones - Redirect examination
by Solicitor Sorenson

1 A Yeah.

2 Q Is that correct?

3 A Yes. Yes.

4 Q Was he on top of him?

5 A He was over -- he was over him, yes.

6 Q Was Art on the ground with him over him?

7 A Yeah. Yeah.

8 Q At that point in time you said I mean, and no doubt
9 about it, that you never saw a weapon, is that correct?

10 A That's correct.

11 Q Okay.

12 SOLICITOR SORENSON: That's all I have. Thank you.

13 MS. HINDS: One quick, further question.

14 THE COURT: Yes, ma'am.

15 RECROSS EXAMINATION

16 BY MS. HINDS:

17 Q Did you ever see any blood on Mr. Riley?

18 A No.

19 Q Thank you.

20 THE COURT: All right. You may step down.

21 May he be excused?

22 SOLICITOR SORENSON: No objection.

23 THE COURT: Okay.

24 MS. HINDS: No objection.

25 THE COURT: All right. You may be excused.

1 All right. We're gonna take about a ten minute break.
2 This is the midafternoon break.

3 Remember you've just heard some of the testimony. You
4 can not begin talking about this case yet. You can talk
5 about anything else. Not about this case yet.

6 Okay. Y'all are excused for about ten minutes.
7 Stretch your legs, go to the restroom, get a drink. We'll
8 be back in a few minutes.

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

10 THE COURT: State ready to proceed?

11 SOLICITOR SORENSON: Yes, sir.

12 THE COURT: Defense ready to proceed?

13 MS. HINDS: Yes, sir.

14 THE COURT: Okay. All right. Bring the jury in
15 please.

16 Thank you, ma'am.

17 (WHEREUPON, the following takes place within the
18 presence of the jury.)

19 THE COURT: They just told me that you need to make
20 sure the witnesses speak up a little louder.

21 SOLICITOR SORENSON: Yes, sir.

22 THE COURT: Okay. So, if y'all want to take that as a
23 precautionary.

24 SOLICITOR SORENSON: Yes, sir.

25 THE COURT: All right. Mr. Sorenson, you ready for the

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 next witness?

2 SOLICITOR SORENSON: State calls Ronnette Stevenson.

3 RONNETTE STEVENSON, being first duly
4 sworn, testified as follows:

5 CLERK: You may have a seat and please state your name
6 for the record.

7 WITNESS: Ronnette Stevenson.

8 DIRECT EXAMINATION

9 BY SOLICITOR SORENSON:

10 Q Spell your first name please.

11 A R-O-N-N-E-T-T-E.

12 Q Okay. You need to make sure you speak up nice and
13 loud. Okay. All 12 of those, 14 of the jurors need to be
14 able to hear you.

15 okay?

16 A Okay.

17 Q All right. Ronette, do you live here in Orangeburg?

18 A Yes, sir.

19 Q And where do you live here in Orangeburg?

20 A [REDACTED] Ashley Avenue, Orangeburg, South Carolina.

21 Q Okay. And is that -- where is that in relationship to,
22 to Art's house on Jameson?

23 How far away?

24 A Like a street over.

25 Q Okay. Pretty close walking distance?

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

- 1 A Yes.
- 2 Q Okay. And how long have you lived in that house?
- 3 A Oh, well, my mother actually lived there like 18 years.
- 4 I was off and on out of town back and forth. I'm gonna say
- 5 about ten years for me.
- 6 Q Okay. All right. And do you, do you have a nickname
- 7 that you go by, people out there on the street know you by?
- 8 A Big Red.
- 9 Q Big Red.
- 10 All right. And let me ask you this.
- 11 Do you, Ronette, do you know the defendant, Deshawn
- 12 Powell?
- 13 A Yes, sir.
- 14 Q Okay. And how do you know Mr. Powell?
- 15 A By living in the back of me.
- 16 Q Okay. Where -- on what -- do you know what street he
- 17 was living on?
- 18 A On Culbreth.
- 19 Q Culbreth.
- 20 Okay. And how is -- how is his house in relation to
- 21 your house?
- 22 A I mean it's right in the back of my truck.
- 23 Q Okay. Kind of back up to your trailer, backs up
- 24 basically to his, the back of his house?
- 25 A Yes.

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 Q Okay. And how long do you think you've known
2 Mr. Powell?

3 A Probably about two years.

4 Q Okay. Is that two years prior to, to this stuff that
5 we're here about?

6 A Yes.

7 Q Okay. And what, what, if any, name did you know him
8 by?

9 A New York.

10 Q Okay. All right. How about, how about the victim in
11 this case, Arthur Riley, do you know Mr. Riley?

12 A Yes.

13 Q Okay. And how long do you know Mr. Riley?

14 A About five years.

15 Q Okay. And do you know where Mr. Riley lived?

16 A On Jameson.

17 Q And did you have an occasion to go hang out at, at his
18 house on Jameson?

19 A Yes, sir.

20 Q And how often do you think you did that?

21 A Probably like, probably two to three times out of a
22 month.

23 Q Okay. And what typically would you do when you hung
24 out over at his house?

25 A Play cards, drink, get high, talk mess to each other.

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 Q That was pretty much just kind of a typical evening
2 over there?

3 A Yeah.

4 Q And let me ask you this while I'm thinking about it.

5 Do you, do you know a guy from Chester, South Carolina
6 by the name of Marlos Stevenson?

7 A No, sir.

8 Q Okay. So, he's no relation to you that you're aware
9 of?

10 A No, sir.

11 Q Now, Ronnette, I want to turn you back, back to the
12 night of November 2nd into the, the morning of
13 November 3rd --

14 A Uh-huh. (Affirmative).

15 Q -- of 2010.

16 All right?

17 A Okay.

18 Q Were you -- were you over at Art's house that day?

19 A Yes.

20 Q Okay. And what were you doing over at Art's house?

21 A Drinking, getting high, playing cards, chatting with
22 people I ain't seen in a while.

23 Q Okay. And who is it that you, that you were chatting
24 with that night?

25 A Todd, Monkey Doo. I can't recall all of the other

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 names. It was a young lady that I ain't, had seen in a
2 while.

3 Q Okay. All right. And does there come a time that
4 night where you ended up leaving Art's house?

5 A Yes, cause Art had said that he was fixing to have
6 company. He was fixing to play house.

7 Q Okay. And who are, who are you still with at that
8 point in time?

9 A Me and Todd left together.

10 Q Okay. All right. And Todd, is Todd outside getting
11 ready to testify next?

12 A Yes, sir.

13 Q Okay. And I think you said a few moments ago he was
14 somebody you hadn't seen in a while?

15 A Yes.

16 Q All right. Now, when Art told you he was getting ready
17 to clear out, that he was getting ready to have company, did
18 you know what he was talking about?

19 A Yes, he getting ready to have, get his groove on.

20 Q Okay. And is there somebody else that had showed up
21 there?

22 A Niki.

23 Q Niki.

24 And did you know Niki?

25 A Yes, I knew of her.

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

- 1 Q Okay. What, what, what did you know of Niki back then?
- 2 A That she tricks.
- 3 Q So, you testified that, that you ended up leaving with
- 4 Todd?
- 5 A Yes, sir.
- 6 Q Okay. Now, when you went outside, did you see anybody
- 7 outside when you first left Art's house?
- 8 A There was nobody outside at first.
- 9 Q Okay. Did there come a time when you saw somebody
- 10 outside?
- 11 A Yeah, we was walking and come, and as we leaving I ran
- 12 into D-Shop and New York.
- 13 Q Okay. And New York, that's the defendant you're
- 14 talking about?
- 15 A Yes, sir.
- 16 Q Okay. D-Shop's the young man that had just left---
- 17 A Yes, sir.
- 18 Q ---who just testified last?
- 19 And where -- so, where were they at when you ran into
- 20 the two of them?
- 21 A They was coming up. They was coming up Jameson. We
- 22 was leaving off Jameson.
- 23 Q Okay. And did either one of them say anything or ask
- 24 you anything at that point in time?
- 25 A Yes, New York asked me who at Art house, and I said New

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 York -- Art and them closed down cause he's having company.

2 Q Okay. And---

3 A He continued to walk.

4 Q Okay. He have any reply to that when you told him
5 that?

6 A Yes, he was like well, he gonna open the door for me.

7 Q All right. And what, what did you do at that point in
8 time?

9 A Kept it moving.

10 Q Okay. Were you kind of basically walking with Todd?

11 A Yes.

12 Q Okay. Did y'all have anywhere kind of in particular
13 that you were going at that point in time?

14 A I was actually going on, on my way home.

15 Q And where, where, if you're aware, did, did New York
16 and D-Shop go?

17 A They went towards Mr. Art house.

18 Q Okay. Now, were you paying initially any attention to
19 what was going on?

20 A No.

21 Q Okay. What's the next thing that kind of drew your
22 attention that morning?

23 A As we, as we was walking, I, I turned around and I seen
24 D-Shop and I said D-Shop what's going on, and he was like
25 man, he in there beating, beating Mr.---

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 THE COURT: Hold. Okay. Hold on one second.

2 Yes, sir.

3 MR. MELLARD: She's gonna testify as to something
4 somebody else said, it would be hearsay, Your Honor.

5 THE COURT: Okay. What was---

6 SOLICITOR SORENSON: I believe it's present sense
7 impression. She basically asked her what, what's going on
8 and he's indicating what he was observing.

9 THE COURT: All right. And you just asked her what
10 she -- what was your question again?

11 SOLICITOR SORENSON: I'd asked her basically what
12 happened next cause she said that D-Shop had come up and
13 then she had asked D-Shop what was going on up there, and
14 she was in the process of saying what his response was --

15 THE COURT: Okay.

16 SOLICITOR SORENSON: -- when Mr. Mellard objected.

17 THE COURT: All right. Okay. I'm gonna overrule the
18 objection. I'm gonna let it go in, okay, as present sense
19 in, impression.

20 I'll note your objection --

21 MR. MELLARD: Yes, sir.

22 THE COURT: -- so it can be preserved on the record.
23 Okay. Go ahead.

24 Q So, you asked him what's going on up there?

25 A Yes.

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 Q And what, what is -- what was D-Shop's response to
2 that?

3 A Man, he in there beating, beating that man, and I was
4 like that's F'ed up, go stop him, and he say he did try, but
5 they kicked him out.

6 Q Okay. All right. And do you remember whether D-Shop
7 attempted to go back up to the house?

8 A I really can't say. I don't know.

9 Q All right. Were you paying any more attention really
10 to what was going on up there?

11 A No.

12 Q Okay. And where do you think you were at when all this
13 was taking place?

14 A I was.

15 Q Were y'all out in front of Art's house or down the
16 road---

17 A No, down the road.

18 Q ---down the road a little?

19 A Down the road a little bit.

20 Q Okay. All right. Let me ask you.

21 Do you remember seeing, at some point in time, outside
22 that evening, after you had left Art's house, the guy by the
23 name of Slick?

24 A Yes, he was just passing through.

25 Q Okay. And do you know Slick's real name or --?

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 A Hu huh. (Negative).

2 Q Did you see him go up to the house at all?

3 A No.

4 Q Okay. All right. Where did y'all go at that point in
5 time after you had that conversation with D-Shop when he
6 came back up to you about he told he was in there beating
7 him?

8 A We was on the way actually going out -- Todd was
9 actually going away taking, walking me home, and then D-Shop
10 asked where we could find some liquor from, and I say right
11 here down the dirt road. So, on the process of us going
12 down the dirt road, New York came behind and said what the
13 fuck -- oh, excuse me. What the F is going on and D-Shop
14 said that we was going to buy some liquor, and he was like
15 who buying, and D-Shop said he was. I said well, I had a
16 dollar on it, and then we just kept walking. But we never
17 got the liquor. We never got the liquor.

18 Q Okay.

19 A In the process of coming back, we was walking back, but
20 we was walking slowly behind them, him and D-Shop, and he
21 turned around and said yo, Red, y'all don't need to come
22 back up this way. And I -- that's when I had told Todd, I
23 said I had a bad, bad feeling. I had, you know, I say I'm
24 not even going back up that way.

25 Q Okay. By that way, which direction is that way, up

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 near whose house?

2 A They was going back towards Art way.

3 Q Okay. Towards Art's house?

4 A Yes.

5 Q Okay. So, did you end up going back by Art's house?

6 A No. I went -- I was down the dirt road. When I seen
7 clear of them, that's when I came back up and Todd walked me
8 home.

9 Q Okay. And how was he acting when he kind of made those
10 comments to you?

11 A He was strange. I mean I never seen him that, I never
12 seen him in that, that stage, you know what I'm saying. It
13 was like it was something on his mind or something was
14 bothering him or something. I never seen him like that.

15 Q All right. Did you remember going home?

16 A Yes.

17 Q And once you got to the house, you said Todd walked you
18 out, home?

19 A Todd walked me home.

20 Q Okay. Did you end up staying at your house at that
21 point in time?

22 A Yes, sir.

23 Q All right. Who's the next person that you ended up
24 dealing with that day?

25 A Mr. -- the officer. The detective.

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

- 1 Q Shumpert?
- 2 A Shepherd. Shepherd.
- 3 Q Okay. Is that Shumpert?
- 4 A Shumpert. However, you say it.
- 5 Q You call him Shepherd?
- 6 A Yeah.
- 7 Q All right. He's with -- who does he work for,
- 8 Sheriff's office?
- 9 A Sheriff's office.
- 10 Q Okay. And where, where did you see him that morning?
- 11 A At night he came and picked me up from my house.
- 12 Q Okay. And did you have any idea, when he came by your
- 13 house, what he was picking you up about?
- 14 A No.
- 15 Q Okay. Did you end up going -- where did you end up
- 16 going with him?
- 17 A To the Sheriff's Department.
- 18 Q Okay. Did you end up giving him a statement at that,
- 19 that---
- 20 A Yes, sir.
- 21 Q ---that morning?
- 22 A Yes, sir.
- 23 Q Okay. And what did you, what -- did you give a
- 24 statement about what you had seen that night and heard?
- 25 A What I had heard, you know.

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 Q Do you remember, later on, that, while you're at the
2 Sheriff's Office on, on the 3rd, them showing you a line up
3 also?

4 A Yes.

5 Q All right. who did you pick out of that lineup they
6 showed you?

7 A New York.

8 Q Okay. And you circled and initialed number two?

9 A Yes.

10 (WHEREUPON, the lineup was marked as State's Exhibit
11 No. 11 for identification purposes only at this time.)

12 SOLICITOR SORENSON: At this time I'd offer State's 11
13 into evidence.

14 MR. MELLARD: No objection.

15 MS. HINDS: No objection.

16 THE COURT: All right. State's 11 in evidence without
17 objection.

18 (WHEREUPON, State's Exhibit No. 11 was received into
19 evidence at this time.)

20 Q In the lineup you picked, he was in photo number two,
21 is that correct?

22 A Yes, sir.

23 Q And you picked them out of that and that was that, that
24 same morning?

25 A New York.

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 Q That was that morning that Lieutenant Shumpert picked
2 you up from your house?

3 A Yes.

4 Q Let me ask you this.

5 Do you and Lieutenant Shumpert get along?

6 A He might get along with me, but I really don't get
7 along with him.

8 Q You don't like him?

9 A No.

10 Q Now, Ronnette, did you ever, you ever see anybody with
11 a weapon that night?

12 A Nope.

13 Q And when, when D-Shop came out to the road and told you
14 that, that New York was up in there beating Art, did you
15 ever go up to the house to see what was going on in there?

16 A No.

17 Q Okay. Did you observe Todd go up to the house?

18 A No.

19 Q He's pretty much around you?

20 A Yeah.

21 Q Okay. And from the time you got dropped off to your
22 house until the time the Sheriff's Office came to pick you
23 up, did you talk to anybody about what you had seen that
24 night?

25 A No.

Ronnette Stevenson - Direct examination
by Solicitor Sorenson

1 Q Did you leave your house at all --

2 A No.

3 Q -- from the time you got to the house --

4 A No.

5 Q -- until---

6 A No.

7 Q And when you were done, when they were done with you at
8 the Sheriff's office, where did, where did Lieutenant
9 Shumpert take you?

10 A Back to [REDACTED] Ashley.

11 Q Back to your house?

12 A Yes.

13 SOLICITOR SORENSON: Okay. Beg the Court's indulgence.
14 (Pause.)

15 Q Thank you. Please answer any questions Mr. Mellard has
16 for you.

17 Okay, Ms. Stevenson?

18 A Okay.

19 THE COURT: Mr. Mellard, your witness.

20 MR. MELLARD: Thank you.

21 CROSS-EXAMINATION

22 BY MR. MELLARD:

23 Q I believe you said you didn't like Mr. Shumpert?

24 A Right.

25 Q why, why not?

Ronnette Stevenson - Cross-examination
by Mr. Mellard

1 A Cause he talked to you nasty and I had a bad experience
2 with, you know, as far as my background and my childhood and
3 how I was talked to and he remind me of it.

4 Q So, he talks to you nasty?

5 A Yeah.

6 Q Like what?

7 A I mean he just -- I mean he's nasty. He just -- it's a
8 way to talk to a person --

9 Q Okay.

10 A -- I mean without screaming and being nasty, you know
11 what I'm saying.

12 Q I got you. I got you.

13 And, so, you've had dealings with that, Shumpert
14 before?

15 A Yes.

16 Q Okay. And -- now, back on November 3rd, you, you
17 went to Arthur Riley's house?

18 A Uh-huh. (Affirmative).

19 Q Okay. And I believe you told the police you got there
20 around what, at two o'clock in the morning, somewhere around
21 in there?

22 A Yeah, around that. I don't remember the time.

23 Q Okay. And then you said you, you were there getting,
24 getting messed up I assume?

25 A Yeah.

Ronnette Stevenson - Cross-examination
by Mr. Mellard

1 Q And, and I assume by messed up you're talking about
2 doing some drugs?

3 A Yeah, alcohol.

4 Q Okay.

5 A Playing cards.

6 Q Okay.

7 A Kicking it, just talking.

8 Q what kind of drugs are you doing?

9 A Crack cocaine.

10 Q Crack cocaine.

11 Okay. And you weren't the only one at Art's house?

12 A No.

13 Q Okay. I -- there was, I believe you said, a Monkey Doo
14 was there?

15 A Monkey Doo. It was quite a few. But I don't know all
16 their names.

17 Q There's, there's a Greek there too, wasn't there, a
18 Greek?

19 A Not the time that I was there.

20 Q There wasn't -- it wasn't a Greek?

21 A Not the time that I was there. I mean he was there
22 earlier.

23 Q Okay.

24 A But he wasn't there after I -- he said that he was
25 playing house and he was having company. He wasn't there

Ronnette Stevenson - Cross-examination
by Mr. Mellard

- 1 then.
- 2 Q You didn't tell the police that Greek got into a
3 argument with---
- 4 A That was the day before. That was the day before now.
- 5 Q Okay. That was the day before?
- 6 A The day before.
- 7 Q All right. And you witnessed that argument?
- 8 A No, I didn't. I didn't. I mean they was arguing, but
9 I didn't know what they, what they was arguing about.
- 10 Q Okay.
- 11 A I didn't pay that no attention.
- 12 Q Okay. And, and Greek was there on November 3rd, but
13 you weren't there when he was there, correct?
- 14 A That was, that had to been November 2nd, ain't it?
- 15 Q Okay. Okay. November 2nd?
- 16 A Had to been.
- 17 Q Okay. And, so, a lot of people come and go to Art's
18 house, is that fair---
- 19 A Yeah.
- 20 Q ---fair to say?
- 21 A Yes.
- 22 Q All right. You, you didn't see any fight or anything
23 like that?
- 24 A No.
- 25 Q Okay. Now, back in November of 2010 I believe you

Ronnette Stevenson - Cross-examination
by Mr. Mellard

1 testified you lived at [REDACTED] Ashley Avenue?

2 A Yes, sir.

3 Q And that's kind of near Art's house?

4 A Yes, it's a walk, in walking distance.

5 Q And that was pretty close to where Deshawn Powell
6 lived?

7 A Right in the back of me.

8 Q About 217 feet or so?

9 A I couldn't tell you that. I don't know myself.

10 Q I got you.

11 Take to you about what, maybe 51 seconds to walk to his
12 house?

13 A Not even 51 seconds.

14 Q Okay. It would be less than that?

15 A Yes.

16 Q Okay. What was that -- what was Mr. Powell wearing
17 when you saw him?

18 A I, I don't recall. I know it was a jacket. I just
19 recall a jacket. I don't even recall the color of it.

20 Q Okay.

21 All right. One second, Your Honor.

22 (Pause.)

23 MR. MELLARD: No more questions.

24 THE COURT: Anything on redirect?

25 SOLICITOR SORENSON: No, sir.

Todd Wise - Direct examination
by Solicitor Sorenson

1 THE COURT: All right. Ms. Stevenson, thank you ma'am.

2 WITNESS: Thank you.

3 THE COURT: You're excused.

4 May she be excused?

5 SOLICITOR SORENSON: No objection from the State.

6 MS. HINDS: No objection.

7 THE COURT: Okay. Ms. Stevenson, you're excused.

8 Thank you, ma'am.

9 WITNESS: Thank you.

10 THE COURT: All right. Ready for your next witness?

11 SOLICITOR SORENSON: State calls Todd Wise.

12 THE COURT: Todd Wise?

13 SOLICITOR SORENSON: Wise.

14 THE COURT: Okay.

15 TODD WISE, being first duly
16 sworn, testified as follows:

17 CLERK: Okay. You may have a seat and please state
18 your name then for the record.

19 WITNESS: Todd Wise.

20 DIRECT EXAMINATION

21 BY SOLICITOR SORENSON:

22 Q All right. Todd, make sure you keep your, keep your
23 voice up nice and loud for me.

24 okay?

25 A Yes, sir.

Todd Wise - Direct examination
by Solicitor Sorenson

- 1 Q All right. Todd, how old are you?
- 2 A Forty-two.
- 3 Q Forty-two.
- 4 And where, where did you grow up?
- 5 A Between here and California.
- 6 Q Okay. How long have you been in Orangeburg?
- 7 A Been back here about ten years.
- 8 Q Okay. And Todd, let me ask you, do you know, know the
- 9 defendant, Deshawn Powell?
- 10 A Yes, sir.
- 11 Q Okay. And how do you know Mr. Powell?
- 12 A From the neighborhood.
- 13 Q Okay. And how long you think you've known him for?
- 14 A About four or five years.
- 15 Q Okay. Four or five years.
- 16 And what given -- what name did you know him by?
- 17 A New York.
- 18 Q New York.
- 19 How about, how about the victim in the case, Arthur
- 20 Riley, do you know Mr. Riley?
- 21 A For about a year or two.
- 22 Q About a year or two?
- 23 A Uh-huh. (Affirmative).
- 24 Q All right. What, what name did you know him by?
- 25 A Art.

Todd Wise - Direct examination
by Solicitor Sorenson

- 1 Q Art.
- 2 And do you know where Art was living back in 2010?
- 3 A On Jameson.
- 4 Q On Jameson?
- 5 A I can't tell you the exact address on Jameson.
- 6 Q Showing you State's Exhibit No. 2, is that the house
- 7 that Art was living in?
- 8 A Yes, sir.
- 9 Q And how was -- describe for me, for the jury your
- 10 relationship with Art.
- 11 A Just somewhere to hang out. Just know him from the
- 12 neighborhood.
- 13 Q Okay. You said you only knew him for about a year
- 14 prior before, before he was killed?
- 15 A Yes, sir.
- 16 Q All right. And I want to turn your attention, Todd,
- 17 back -- let me ask you.
- 18 Do you have any kind of nickname that you go by on the
- 19 street or does everybody know you by Todd?
- 20 A Everybody know me by Todd.
- 21 Q All right. Turning your attention back to that kind of
- 22 night of November 2nd into the morning of November 3rd of
- 23 2010, where had you been kind of hanging out that night,
- 24 that evening?
- 25 A Earlier I was on 33 until I went over to the, Art's

Todd Wise - Direct examination
by Solicitor Sorenson

1 house.

2 Q Okay. And about what time -- do you have any idea
3 about what time it was that you got over to Art's that
4 night?

5 A It had to be between 12:00 and I'd say between 12:00,
6 1:30, two o'clock.

7 Q Okay. And who did you end up kind of hanging out with
8 over at Art's house?

9 A Red.

10 Q Red.

11 And that was Red that just left the courtroom?

12 A Yes, sir.

13 Q Okay. And do you know her pretty well?

14 A Yes, sir.

15 Q Okay. And what, what were y'all doing at Art's?

16 A Actually we was just hanging out, just drinking,
17 getting high. That's pretty much it.

18 Q Okay. All right. And did there come a time -- was Red
19 pretty enough the main person that you were talking with and
20 hanging out with?

21 A Yes, sir.

22 Q Okay. And was Art at his house?

23 A He's there.

24 Q Okay. Did you interact with him much at all or --?

25 A Here and there. He was back and forth from room to

Todd Wise - Direct examination
by Solicitor Sorenson

1 room.

2 Q Okay. And did there come a time when a, when another
3 female showed up at the house?

4 A Niki.

5 Q Okay. Did you know Niki?

6 A Just by reputation.

7 Q Okay. And did you know what Niki kind of did for a
8 living back then?

9 A It was by reputation.

10 Q And did there come a time that, that night that you and
11 Red got asked to leave the house?

12 A Shortly after Niki arrived.

13 Q Okay. Do you know why it was that you were given?

14 A They had a date.

15 Q Okay. All right. And did the two of you-all then,
16 then leave?

17 A Yes, sir.

18 Q Okay. And tell the jury, when you left, when you left
19 Art's house, did you go out the front door?

20 A Yes.

21 Q The front door?

22 A The front door.

23 Q All right. And tell the jury what -- anybody --
24 encounter anybody outside when y'all, when you were heading
25 out?

Todd Wise - Direct examination
by Solicitor Sorenson

- 1 A D-Shop and New York.
- 2 Q Okay.
- 3 A Yes, sir.
- 4 Q All right. D-Shop that testified---
- 5 A Yes.
- 6 Q ---that was up here a little while ago?
- 7 A Yes, sir.
- 8 Q And New York?
- 9 A Yes, sir.
- 10 Q The defendant you're talking about?
- 11 A Yes, sir.
- 12 Q All right. And where was -- where were the two of them
- 13 when you first saw them?
- 14 A Coming up the sidewalk.
- 15 Q Okay. The sidewalk up to the---
- 16 A Yes, up -- leading to the front door.
- 17 Q Okay. And did you, you already testified that you knew
- 18 New York.
- 19 How about D-Shop, did you know him back then?
- 20 A I know, I know him, but I don't really know him. I
- 21 know him from the neighborhood and we interact here and
- 22 there. But that's pretty much it.
- 23 Q Okay. It wasn't somebody you were friends with
- 24 otherwise though?
- 25 A No, sir.

Todd Wise - Direct examination
by Solicitor Sorenson

- 1 Q And while the two of them are walking up the sidewalk,
2 do you know where Art was at that point in time?
- 3 A Standing in the door.
- 4 Q All right. And what did you then proceed to do as you
5 were walking out the sidewalk?
- 6 A We passed them and turned to go up the dirt road.
- 7 Q Okay. And that dirt road, is that, is that Dorman
8 Street that kind of runs --
- 9 A Yes, sir, that's it.
- 10 Q -- almost across the house and down --
- 11 A Yes, sir.
- 12 Q -- just down a little ways?
- 13 A That's it.
- 14 Q Okay. And what -- tell the jury what happened that you
15 were kind of proceeding towards that dirt road.
- 16 What, what, what happened?
- 17 A Oh, they was just -- they was a little argument about
18 Art didn't want anybody in the house.
- 19 Q Okay. And that's when you could hear that as you were
20 walking?
- 21 A Yes, sir, as we walked off.
- 22 Q Okay. Who was he arguing with?
- 23 Could you tell that?
- 24 A Just New York and D-Shop.
- 25 Q Okay. All right. And what, what did y'all end up --

Todd Wise - Direct examination
by Solicitor Sorenson

1 what do you recall going to do at that point in time?

2 A I was going out the dirt road to buy some alcohol.

3 Q Okay. And do you remember if you, if you got any
4 alcohol that night that you remember or --?

5 A Oh, we couldn't get it. We went down there, but they
6 didn't come to the door. We was coming back up.

7 Q Okay.

8 A We encountered them.

9 Q Okay. Tell the jury -- and you had been drinking that
10 night.

11 A Yes, sir.

12 Q Smoking that night?

13 A Yes, sir.

14 Q Red had been also?

15 A Yes, sir.

16 Q Okay. Obviously you hadn't been around -- had you been
17 around D-Shop earlier at all?

18 A No, I hadn't.

19 Q Okay. Had you been around New York earlier at all?

20 A No, I hadn't.

21 Q Okay. So, you don't know what they had been doing
22 earlier that night, is that right?

23 A I don't.

24 Q All right. All right. So, what happened then after
25 you're trying to get the liquor and couldn't get the liquor?

Todd Wise - Direct examination
by Solicitor Sorenson

1 A I just leave and coming back up the dirt road I
2 encountered D-Shop, and that's when he, he said New York is
3 beating Art or trying to kill him at some point.

4 THE COURT: I'm noting your objection for the record
5 again --

6 MS. HINDS: Yes, sir.

7 THE COURT: -- right?

8 Okay. Sorry. Just wanted to get that on the record at
9 this time.

10 SOLICITOR SORENSON: Yes, sir.

11 THE COURT: Okay. Go ahead.

12 Q All right. So, he's trying to beat him, trying to kill
13 him, and that's what D-Shop told you---

14 A Yes, sir.

15 Q ---at that point in time?

16 All right. And I'll repeat then, did you see New York
17 or was he with him?

18 A I didn't see him.

19 Q Okay.

20 A I never saw him.

21 Q All right. What, what, if anything, did you say to
22 D-Shop at that point in time?

23 A That he needed -- if that's the case he needed to go
24 get him.

25 Q Okay. And do you know if he went back up to the house

Todd Wise - Direct examination
by Solicitor Sorenson

1 or did he leave where you were at least?

2 A He, he did cross the street. He did across, cross the
3 street. I don't recall if he went in the house or not, but
4 he did cross the street.

5 Q Okay. All right. Let me ask you.

6 Do you know a guy that goes by the nickname Slick?

7 A Yes, sir.

8 Q Do you remember seeing Slick out there in the street---

9 A In passing.

10 Q ---in that area?

11 In passing.

12 Did you have any conversation with him that you recall?

13 A Not that I recall.

14 Q Okay. Is that around the same kind of time frame that
15 all this was going on then?

16 A Yes, sir.

17 Q Let me ask you this, Todd.

18 Did you ever go up to the house to see what was going
19 on?

20 A No, sir.

21 Q Okay. Let me ask you, that, that house that Art's
22 there, what -- do you have any idea why he wanted to get in
23 the house?

24 A Actually I don't know why he did it. I just have an
25 opinion.

Todd Wise - Direct examination
by Solicitor Sorenson

- 1 Q All right.
- 2 MS. HINDS: Objection, Your Honor.
- 3 A Okay.
- 4 THE COURT: All right. I'll sustain -- I will sustain
- 5 that objection.
- 6 Q What did a lot of people do in Art's house?
- 7 A Sell drugs.
- 8 Q Is that a place where people go to not only do drugs,
- 9 but also to---
- 10 A Yes, sir.
- 11 Q ---buy drugs?
- 12 A Yes, sir.
- 13 Q Okay. At that point in time -- well, you had said,
- 14 Todd, that you, you never went up to the house to see what
- 15 was going on other than what D-Shop told you was going on,
- 16 is that right?
- 17 A That was it.
- 18 Q All right. Did -- where did you -- did you ultimately
- 19 end up going home then?
- 20 A I was -- after, after that conversation with D, D-Shop
- 21 and Slick, we would argue about it, we all went our separate
- 22 ways.
- 23 Q All right. You went home?
- 24 A Yes, sir.
- 25 Q Did you talk to anybody else about what had happened

Todd Wise - Direct examination
by Solicitor Sorenson

1 that night---

2 A No, sir.

3 Q ---until the Sheriff's Office?

4 A That's when I found out what happened.

5 Q Did you end up giving them a statement, to, to the
6 Sheriff's Office the, the next day or so?

7 A Yes, sir.

8 Q Okay. And obviously by your testimony is such that you
9 never went up to the house, therefore, did you ever see
10 anybody with a weapon up at the house?

11 A Never. Never saw it.

12 SOLICITOR SORENSON: Court's indulgence.

13 THE COURT: Yes, sir.

14 (Pause.)

15 Q Thank you, Todd. Please answer any questions that Mr.
16 Mellard may have.

17 A Okay.

18 THE COURT: Who is it? Who is it?

19 Oh, Ms. Hinds.

20 MS. HINDS: Yes, sir.

21 THE COURT: Okay. Ms. Hinds. All right.

22 MS. HINDS: I have very little questions.

23 CROSS-EXAMINATION

24 BY MS. HINDS:

25 Q To recap your testimony, you didn't actually see what

Todd Wise - Cross-examination
by Ms. Hinds

1 happened, correct?

2 A No, ma'am.

3 Q Okay. You heard some arguing, is that correct?

4 A Yes, ma'am.

5 Q Okay. And you heard arguing with, between Art and you,
6 and with D-Shop, is that correct?

7 A Yes, sir. Yes, ma'am. Yes, ma'am.

8 Q That's fine.

9 And you, you said you didn't have, really have any
10 conversation with Slick?

11 A Yeah, I never had a conversation with him.

12 Q You're just having a fight?

13 A Just in passing.

14 Q Okay. And you never saw anybody with any kind of
15 weapon that night?

16 A Never.

17 Q Okay. And the last time you saw Art he was alive, is
18 that correct?

19 A Yes, ma'am.

20 Q Okay. And you don't know what D-Shop did after that,
21 correct?

22 A I really don't know.

23 MS. HINDS: Okay. I don't have any further questions.

24 THE COURT: All right. Anything on redirect?

25 SOLICITOR SORENSON: Nothing else, Your Honor.

1 THE COURT: All right. Mr. Wise, you're excused.
2 Thank you, sir.

3 WITNESS: Yes, sir.

4 THE COURT: All right. Can I see both of y'all for a
5 second?

6 (WHEREUPON, a bench conference was held out of the
7 hearing of the jury at this time.)

8 THE COURT: All right. Ladies and gentlemen, we
9 weren't discussing the facts of the case now. Just so y'all
10 will know.

11 What we're trying -- what I was trying to figure out is
12 how long the next witness was gonna be. The next witness is
13 gonna be more lengthy than the witnesses that we've heard so
14 far, and since it is now about 25 till 5:00, and this is
15 your first day on the job, we figure this will be a good
16 time to stop.

17 Now, let me remind y'all of a couple things. I know
18 y'all are getting tired of me saying this. You can not talk
19 about this case among yourselves or to anyone. You can not
20 read anything, watch anything on TV, check anything on the
21 Internet, ride by the scene where these things happened, or
22 anything like that. Everything you're gonna need to find
23 out you're gonna find out here in the courtroom.

24 Okay. Now, tomorrow morning, I've got a matter I've
25 got to take care of at nine o'clock. It shouldn't last too

1 long. And, so, we're gonna start at 9:30. So, if y'all
2 would -- it will give y'all some time to get everything
3 done, straight at your house. If y'all will be back in the
4 jury room at 9:30 we'll get started.

5 okay. Thank y'all very much. Y'all have been very
6 attentive and I appreciate it. Thank y'all.

7 (WHEREUPON, the following takes place outside the
8 presence of the jury.)

9 THE COURT: If y'all will just make sure we got all the
10 exhibits straight, exhibits -- now I can't say it right.
11 Exhibits straight before you leave I'll appreciate it, and
12 we'll see y'all in the morning. Okay.

13

14

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

16

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Wednesday, May 16th, 2012

THE COURT: Okay. Yes, sir.

SOLICITOR SORENSON: I had mentioned back in chambers yesterday, Your Honor, that while Mr. Powell didn't give a written statement, he does --.

THE COURT: All right. We need -- I need quiet in the courtroom. Thank you.

All right, sir.

SOLICITOR SORENSON: Mr. Powell didn't give a written statement. He was advised of his rights by Lieutenant Shumpert and did, did indicate to Lieutenant Shumpert that he had not been at the victim's residence, and basically didn't know what he was talking about, and I do believe, I do believe that we would attempt to, to get that into evidence.

So, I'm -- in talking at the time, we probably need to do a very brief Jackson v. Denno hearing at some point in time.

THE COURT: Okay.

SOLICITOR SORENSON: It will be our second witness.

Do you want to do it briefly right now or take a break after the first witness and do it?

I'll leave that up to Your Honor.

THE COURT: Why don't we just take a break after the

1 first witness.

2 Is that all right with you?

3 MS. HINDS: Yes, sir, that's exactly what I thought
4 would be better.

5 THE COURT: Okay. And that way it would be a good
6 break cause you---

7 SOLICITOR SORENSON: The first witness will be, take a
8 little while. So, that will be---

9 THE COURT: Yeah, and I figured that it would be a good
10 break for the jury at that point.

11 Okay. All right.

12 SOLICITOR SORENSON: Thank you.

13 THE COURT: All right. All right. And, Mr. Bell, you
14 said you were ready?

15 SOLICITOR BELL: Yes, Your Honor.

16 THE COURT: All right.

17 MS. HINDS: We're ready.

18 THE COURT: Okay. I just didn't know who was gonna
19 speak.

20 okay. okay. All right. Would you tell her to go
21 ahead and get the, get the jury in please?

22 (WHEREUPON, the following takes place within the
23 presence of the jury.)

24 THE COURT: We're a little later than I had planned to
25 start this morning, but we're going, we'll be going I think

1 relatively quickly this morning.

2 Just so you'll know what's going on, we're going to
3 take the State's next witness. Then we're gonna take a
4 break. It may be a little bit of an extended break than
5 normal, and then we'll come back and finish up the morning
6 before we take a lunch break just so y'all will understand
7 where we're going today.

8 okay. If y'all would give everybody your undivided
9 attention like you did yesterday.

10 Mr. Bell, you ready?

11 SOLICITOR BELL: Yes, Your Honor.

12 THE COURT: Okay. Thank you, sir.

13 SOLICITOR BELL: The State calls Lieutenant Gerald
14 Carter.

15 GERALD CARTER, being first duly sworn,
16 testified as follows:

17 CLERK: You may have a seat and please state your name
18 for the record.

19 WITNESS: Gerald David Carter.

20 DIRECT EXAMINATION

21 BY SOLICITOR BELL:

22 Q Where are you employed, sir?

23 A With the Orangeburg County Sheriff's office.

24 Q And what is your title?

25 A I'm Lieutenant over forensic services.

Gerald Carter - Direct examination
by Solicitor Bell

- 1 Q Okay. And how long have you been in law enforcement?
- 2 A Nineteen years.
- 3 Q How long have you been with Orangeburg County?
- 4 A Nineteen years.
- 5 Q And what training have you had in law enforcement?
- 6 First your general training in law enforcement.
- 7 A My general training was the basic academy. When I went
- 8 through it it was an eight weeks course to become a
- 9 certified officer for the State of South Carolina.
- 10 Q Okay. And you said you're in charge of crime scene?
- 11 A I said forensic services. But it's crime scene
- 12 investigation.
- 13 Q Okay. What training have you had in regards to crime
- 14 scene or identification services?
- 15 A I've got a total of a thousand hours or so
- 16 approximately of, of formal training at different schools
- 17 and, and colleges. Specifically I'm a graduate of, graduate
- 18 of the National Forensic Academies ten week course at the
- 19 University of Tennessee. I completed the internship with
- 20 SLED's forensic unit. I'm certified through the
- 21 International Association of Identification as a crime scene
- 22 investigator.
- 23 I've had -- I've completed courses in, in blood pattern
- 24 analysis, blood stain pattern analysis with the forensic,
- 25 National Forensic Academy, with the Central Piedmont

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1 Community College in North Carolina at a forensic unit which
2 trains forensic investigators. I completed blood stain
3 pattern analysis there.

4 I've completed fingerprint comparison and
5 classification with the South Carolina Criminal Justice
6 Academy to name a few of the bigger schools that I've been
7 to.

8 Q Okay. And how long have you been doing crime scene or
9 identification in your work?

10 A I was actually assigned to the crime scene
11 investigation unit about seven years ago.

12 Q Okay. And, so, you've had seven years experience in
13 working crime scenes in Orangeburg County?

14 A Yes, sir, I have.

15 Q Okay. Have you ever been qualified as an expert as a
16 crime scene investigator in the Courts of the State of South
17 Carolina?

18 A Yes, sir.

19 Q How many times?

20 A One time.

21 SOLICITOR BELL: Your Honor, we would offer Lieutenant
22 Carter as an expert in crime scene identification.

23 THE COURT: Any objection?

24 MR. MELLARD: No objection.

25 THE COURT: He is so noted as an expert in crime scene

Gerald Carter - Direct examination
by Solicitor Bell

1 investigation.

2 SOLICITOR BELL: Thank you, Your Honor.

3 Q Lieutenant Carter, did you have an occasion to be
4 called out on the early morning hours of November 3rd of
5 2010?

6 A Yes, sir.

7 Q Where were you called?

8 A I was called to Jameson Avenue in reference to a death
9 scene investigation.

10 Q Okay. And what county is that, was that address
11 located?

12 A Sir?

13 Q What county is that address located?

14 A Orangeburg County.

15 Q And do you recall about what time you were, you were
16 called out?

17 A I arrived on scene -- I think the exact time was like
18 6:59AM.

19 Q And were there other officers on the scene prior to
20 your arrival or when you got there?

21 A Yes, sir, there were officers from our patrol unit and
22 I believe other criminal investigators were also already on
23 scene.

24 Q Okay. Were there any other personnel besides law
25 enforcement around?

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by Solicitor Bell

1 A Not on scene, no, sir.

2 Q Okay. When you arrived, what, what did you do?

3 what was the first thing you did?

4 A First I spoke with investigators. It was Lieutenant
5 Shumpert was on scene. He's lieutenant in criminal
6 investigations, and he basically gave me a, a brief scenario
7 of what the scene entailed.

8 Q Okay. And, so, after you were briefed about what, what
9 was found, what did you do?

10 Did you start your process or --?

11 A Well, in my, in my discussions with the criminal
12 investigators, at that point in time I decided it would be
13 better to have a search warrant in this particular case
14 instead of searching without one. So, I advised
15 investigations to obtain a search warrant for the property.

16 Q Did they?

17 A Yes, they did.

18 Q Okay. And, so, how long did that take?

19 A It took a while. I can't remember specifically. It
20 may of been over an hour before I actually got the, the
21 search warrant in hand.

22 Q Okay. And during the time you were waiting for the
23 search warrant, nobody went in or around the crime scene, is
24 that right?

25 A No, sir.

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by Solicitor Bell

1 Q Had it been somehow preserved?

2 A Once the initial officers got there, did a protective
3 sweep, they then secured it and from that point forward, you
4 know, nobody would go in the house.

5 Q Okay. Once you were, got the search warrant and were
6 able to start entering the premises, what was the first
7 thing you did?

8 A What I always do on, on all of my crime scenes is I do
9 a walk through so I can see firsthand exactly what the crime
10 scene is gonna be so I can start formulating a plan to
11 process it. So, that's what I did. I walked through the
12 scene, including the exterior of the house, walkway leading
13 to the house, and then to the house itself.

14 Q And let me just show you what's in evidence as State's
15 2, and just ask if you recognize that photograph.

16 A Yes, sir, State's Exhibit 2 would be a photograph that,
17 that I took.

18 Q And that's the house that you were at?

19 A This would be, just a general photograph of the front
20 of the house where the incident occurred.

21 Q Okay. So, you -- what did you do by starting your,
22 trying to see what's what?

23 A Once I walked through I saw there was a good bit of, of
24 blood evidence. There was blood stain evidence, which was
25 on the exterior and interior of this residence.

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1 On this particular day there was a threat of rain. So,
2 it was more imperative for me to do the exterior first, to
3 collect, preserve, document, collect any evidence that might
4 would of been washed away. So, I processed the exterior of
5 the residence.

6 Q Okay. And what were you doing?

7 what does processing mean?

8 A Processing is a fancy way of saying documenting the
9 evidence and then collecting it.

10 Q Okay. And how do you document it?

11 A In this case I document it both by photograph first and
12 then by sketch.

13 Q Okay. And let me show you what's been marked as
14 state's 3 for identification, and ask you if you recognize
15 this.

16 A Yes, sir, this would of been a photograph again of the
17 front of the residence where the incident took place, and I
18 had the yellow triangular placards that have numbers on them
19 to designate various pieces of evidence. In this particular
20 case, most of it or all of it except for item number four,
21 are gonna be blood stains.

22 Q Okay.

23 A Item number four was a cigarette butt.

24 Q And then you took this picture?

25 A Yes, I did.

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by Solicitor Bell

1 Q And that's how it appeared on the -- on November 3rd,
2 2010?

3 A Yes, it is.

4 SOLICITOR BELL: Your Honor, we'd offer State's 3 into
5 evidence.

6 THE COURT: Any objection?

7 MR. MELLARD: No objection.

8 THE COURT: State's 3 in evidence without objection.

9 (WHEREUPON, State's Exhibit No. 3 was received into
10 evidence at this time.)

11 SOLICITOR BELL: Okay. If I may publish to the jury,
12 Your Honor?

13 THE COURT: Yes, sir.

14 Q And laying these placards that are in State's 3, that's
15 kind of the first step after you've identified areas, is
16 that right?

17 A Yes, sir, what would I normally -- what I do and I did
18 in this case, I would take general pictures with the
19 placards so you can see that, what it looks like with
20 nothing introduced into the scene. Then I'd go back, put
21 the numbered placards similar to what you see on TV, the
22 little triangle placards, rephotograph it and that will give
23 you a location. You start, start to get a feel for where
24 the evidence was at.

25 Q And then what did you do?

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1 A Once I photographed it, what I would do then is come
2 back and take the dimensions. Actually measure from a fixed
3 point, and have dimensions, which would be put into a
4 sketch. So, again, I can do a sketch and it can show where
5 the evidence was specifically within the, within the scene.

6 Q Okay. And after you do the sketch, what do you do?

7 A Then I would proceed to collection.

8 Q Okay. And for all the blood stains that you had, what
9 about how -- how do you, how do you collect those?

10 A All right. Those would of been collected with a swab
11 sample, a Q-tip swab. These swabs are individually wrapped
12 two to a package. So, each one is sterile in, in its own
13 packaging. I would of moistened these swabs with sterile
14 water, obtained a standard or a swab from each stain, and
15 then allowed it to dry and then, and then seal it.

16 (WHEREUPON, State's Exhibit Nos. 12 through 33 were
17 marked for identification purposes at this time.)

18 Q Okay. Let me show you -- I want to show you three
19 items of evidence, what have been marked as State's 17 for
20 identification.

21 (Pause.)

22 Q State's 19 and State's 25 for identification and
23 collectively what are those?

24 A Okay. State's 17 is a sealed, heat sealed package,
25 which contains the coin envelopes that I use to package

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1 individual samples I take with the Q-tips. Each of these
2 coin envelopes would contain a sample from a different
3 location where I, I marked as evidence at the scene.

4 These appear to be -- it's my initials on each one, and
5 it appears to be the number identified by numbers as how I
6 identified those that day outside. The exterior evidence
7 was identified by number. That was State's 17.

8 SOLICITOR BELL: We'd offer that into evidence, Your
9 Honor.

10 THE COURT: Any objection?

11 MR. MELLARD: No objection.

12 THE COURT: State's 17 is in evidence without
13 objection.

14 (WHEREUPON, State's Exhibit No. 17 was received into
15 evidence at this time.)

16 A State's 19.

17 Q Yes, sir.

18 A Looks like State's Exhibit 19, again, was a coin
19 envelope that's been resealed in a heat sealed pouch. The
20 envelope bears my initials and it would of contained two
21 swabs from a, evidence at the scene, blood evidence at the
22 scene.

23 This particular one was a blood droplet which was on
24 top of a footwear impression on the porch, and this is the
25 sample I took from the droplet on top of the footwear.

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1 SOLICITOR BELL: We'd offer that as State's 19 into
2 evidence.

3 THE COURT: Any objection?

4 MR. MELLARD: No objection.

5 THE COURT: All right. State's 19 is in evidence
6 without objection.

7 (WHEREUPON, State's Exhibit No. 19 was received into
8 evidence at this time.)

9 A State's Exhibit 25, again, is a coin envelope with my
10 initials. This is where I collected a, Q-tip swab samples
11 from a droplet of blood on the porch.

12 SOLICITOR BELL: We would offer State's 25 into
13 evidence.

14 MR. MELLARD: No objection.

15 THE COURT: All right. State's 25 is in evidence
16 without objection.

17 (WHEREUPON, State's Exhibit No. 25 was received into
18 evidence at this time.)

19 Q Okay. Now, Lieutenant Carter, after you, after you
20 collected the outside evidence, you then went inside?

21 A Right, I would of proceeded into the house through the
22 front door --

23 Q Okay.

24 A -- which leads into the living room.

25 Q Okay. Describe to the jury what you found inside if

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by Solicitor Bell

1 you would.

2 A Well, the scene inside was very graphic. The victim
3 was lying with his face up right in front of the front door
4 in the living room on the floor. He was basically
5 unclothed. He had a t-shirt wrapped around his left arm.
6 He has his socks on and a pair of I believe what we
7 determined was, was underwear wrapped around his ankles.
8 That was the victim.

9 There was a great deal of blood. There was a lot of
10 volume blood from where the victim lied on the floor. There
11 was also blood stain patterns within the living room. A
12 good many of those patterns were footwear impressions that
13 were either transferred or either stepped in blood that was
14 on the floor. There were some wood impact pattern. There
15 was some blood on the exterior of the front door, a pattern.
16 There were blood droplets on the floor in the living room.

17 One chair was overturned. A potted plant was
18 overturned. There was a handgun found on a couch to the
19 left. If you come in the front door of the living room,
20 there was a couch to, against the wall to your left. There
21 was a small handgun there, which I found. The handgun had a
22 good bit of blood transfer all over it. That was the living
23 room basically.

24 Q Okay. And what did you do when you started processing
25 in the living room?

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1 Did you---

2 A My first step would of been to photograph.

3 Q Okay. And then did you sketch?

4 A I did sketch the living room.

5 Q The same way you sketched the outside?

6 A Yes, sir.

7 Q Let me show you what's been marked as State's I believe
8 it's 8 and ask if you recognize this.

9 A Yes, sir, this would be a blowup of the sketch I did
10 specifically of the living room.

11 Q Okay. And that was part of your processing the crime
12 scene?

13 A Yes, it was.

14 Q Okay. And, of course, it's blown up.

15 Is that your writing and that's what you produced?

16 A Yes, sir.

17 SOLICITOR BELL: Okay. Your Honor, we'd offer State's
18 8 into evidence.

19 THE COURT: Any objection?

20 MR. MELLARD: No objection.

21 THE COURT: All right. State's 8 is in evidence
22 without objection.

23 (WHEREUPON, State's Exhibit No. 8 was received into
24 evidence at this time.)

25 Q Okay.

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1 THE COURT: Mr. Bell, I'm glad you brought that this
2 morning.

3 SOLICITOR BELL: Thank Mrs. Crateman. She found it for
4 me.

5 THE COURT: Do you need to get where you can see it?

6 MR. MELLARD: I will.

7 THE COURT: Okay.

8 MR. MELLARD: I'll find a spot.

9 THE COURT: All right.

10 Q Okay. And after doing the diagram or getting your
11 dimensions, what else did you do in processing the scene?

12 A As is pretty much the same as the outside. Once it's
13 documented, photographed, the dimensions for a sketch, then
14 I would proceed to collect evidence.

15 Q Okay. And you put down your triangle?

16 A I put down the yellow placards again. On the interior,
17 because there was so many individual pieces of evidence
18 outside, I switched to lettering. I used letters to mark
19 the evidence on the inside of the house.

20 Q Okay. If you'll step down and show the jury kind of
21 the living room where State's 8 would be, your diagram of
22 the living room.

23 A (Witness comes down from the stand.)

24 This would of been the front door. The porch would of
25 been out here. I came in through the front door. This is

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1 the, a representation of the victim from laying right in
2 front of the front door.

3 It was volume blood around the body marked with a
4 t-shirt at the time. I didn't know it was anything on it.
5 But there was a t-shirt around his arm. He had his socks on
6 and his underwear around his ankles. There was a necklace,
7 gold necklace, near, adjacent or beside his knees.

8 This chair was overturned. This planter was
9 overturned. The rest of the lettering you see, A, I, H, D,
10 and so on, these were individual pieces of evidence in the
11 room. I've got it, I've got it right here. You can go down
12 the list, A, B, C, and D were -- there was two -- a pair of
13 flip flops, a cigarette lighter, and a gold necklace.

14 Around the body there were footwear impressions along
15 the side of the body over in this area. There were
16 cigarette butts which were collected in this area, and, in
17 general, that's a, a good -- that's what, that's what I saw
18 that morning. That's a representation of what I saw when I
19 processed the living room.

20 Q Okay. And you took samples of the spots of blood in
21 there?

22 A Yes, sir, everything that's marked is, is blood and
23 footwear, blood and footwear, blood drop. Anywhere where it
24 shows blood evidence I would of taken a sample.

25 Q Okay. Let me show you what's been marked as State's

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1 18, and I'll also, in conjunction with State's 20 and 21.

2 Let me show these to you and ask you what they are.

3 A All right. State's Exhibit 20, which is my Item Number
4 I, okay, this would be a 90-degree or close to a 90-degree
5 blood droplet that was on the living room floor right here
6 near the front door kind of between the victim and the wall
7 and the front door, and that's a spot from where it would of
8 been.

9 Q Okay.

10 A That's I.

11 SOLICITOR BELL: We'd offer State's 20 into evidence.

12 THE COURT: Any objection?

13 MS. HINDS: No objection.

14 THE COURT: State's 20 is in evidence without
15 objection.

16 (WHEREUPON, State's Exhibit No. 20 was received into
17 evidence at this time.)

18 A State's Exhibit 21, this is, would be a second
19 90-degree droplet which was found on the floor in the living
20 room next to I. It's my Item Number H, and as you can see
21 it's right here. Right beside I.

22 SOLICITOR BELL: Okay. We'd offer State's 21 into
23 evidence.

24 THE COURT: Any objection?

25 MR. MELLARD: No objection.

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1 THE COURT: All right.

2 (WHEREUPON, State's Exhibit No. 21 was received into
3 evidence at this time.)

4 A State's Exhibit 18 are gonna be swab samples I took
5 from the scene of blood evidence. I believe, if I'm not
6 mistaken, this includes items from the living room, but also
7 items from the rest of the house.

8 Q Okay.

9 A But this is -- State's Exhibit 18 is gonna be blood
10 swabs from blood evidence at the scene.

11 Q And they correspond with your letters that you put on
12 your diagram?

13 A Yes, sir, it does. Coin envelopes would have the item
14 number on them that correspond with my sketch.

15 SOLICITOR BELL: We'd offer 18 into evidence.

16 THE COURT: Any objection?

17 MR. MELLARD: No objection.

18 THE COURT: Eighteen is in evidence without objection.

19 (WHEREUPON, State's Exhibit No. 18 was received into
20 evidence at this time.)

21 Q Okay. Were there -- you can have a seat for a moment.

22 A (Witness returns to the stand.)

23 Q And while we're still in the living room, let me show
24 you what's been marked as State's 6 and ask if you can
25 identify that.

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1 A All right. State's Exhibit No. 6 is a photograph that
2 I took at the scene. It would of been the living room area.
3 It would of been after I placed the evidence marking
4 placards out, and you'll see the lettered placards in the
5 photo.

6 Q And that basically is showing what's depicted in, in
7 State's 8?

8 A Yes, sir, from the front door. When I walked in,
9 that's what I saw.

10 SOLICITOR BELL: Okay. Your Honor, we'd offer State's
11 6 into evidence.

12 THE COURT: No objection?

13 MR. MELLARD: No objection.

14 THE COURT: All right. State's 6 is in evidence
15 without objection.

16 (WHEREUPON, State's Exhibit No. 6 was received into
17 evidence at this time.)

18 SOLICITOR BELL: And we'd ask -- can we publish to the
19 jury?

20 THE COURT: You may.

21 Q And also show you what's been marked as State's 4.

22 A State's No., No. 4 is another photo I took in the
23 living room. It's on the opposite corner. From the front
24 door, as you walk-in, till you, to the left corner, there's
25 a door which leads into a hallway. Again, it has the

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1 evidence marking placards out. These placards are marking
2 footwear, other blood evidence -- footwear impressions. I'm
3 sorry. Footwear impressions in blood, some other blood
4 evidence, the gun which is on the couch, and two cigarette
5 butts.

6 Q Okay.

7 A And this is what it looked like that morning.

8 SOLICITOR BELL: And we'd offer this, we'd offer this
9 as State's 4, Your Honor.

10 THE COURT: Without objection?

11 MR. MELLARD: Without objection.

12 SOLICITOR BELL: May we publish to the jury?

13 THE COURT: You may. State's 4 is in evidence without
14 objection.

15 (WHEREUPON, State's Exhibit No. 4 was received into
16 evidence at this time.)

17 Q Okay. Let me show you what's been marked as State's 29
18 and ask you if you can, can identify that.

19 A Yes, sir, this is gonna be the, the gold chain I spoke
20 of, which is marked on the sketch that was found beside the
21 victim's knees on the floor.

22 SOLICITOR BELL: We'd offer this in evidence as State's
23 29.

24 MR. MELLARD: No objection.

25 THE COURT: State's 29 in evidence without objection.

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1 (WHEREUPON, State's Exhibit No. 29 was received into
2 evidence at this time.)

3 Q Okay. And let me also show you what's been marked --
4 I'm gonna hand both of these to you, State's 23 and 24, and
5 ask if you can identify that.

6 A Yes, State's Exhibit 23 is gonna be my Item J. This
7 was a cigarette butt which was collected from the floor of
8 the living room. It would of been across from the front
9 door on that side of the living room near the, the couch.

10 SOLICITOR BELL: Okay. We offer State's 23 into
11 evidence.

12 MR. MELLARD: No objection.

13 THE COURT: State's 23 is in evidence without
14 objection.

15 (WHEREUPON, State's Exhibit No. 23 was received into
16 evidence at this time.)

17 A And State's Exhibit 24 is another cigarette butt which
18 was collected from the living room floor near the sofa
19 across the living room from the front door.

20 SOLICITOR BELL: Okay. We'd offer State's 24 into
21 evidence.

22 MR. MELLARD: No objection.

23 THE COURT: State's 24 is in evidence without
24 objection.

25 (WHEREUPON, State's Exhibit No. 24 was received into

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1 evidence at this time.)

2 Q Let me show you what's been marked as State's 32, and
3 ask if you can identify that please.

4 A Yes, sir, State's 32 is my Item Number L that will be
5 marked in the sketches. This was a .32 caliber revolver,
6 U.S. Revolver Company. It's a fairly old revolver. It was
7 collected off the couch in the living room.

8 SOLICITOR BELL: Okay. State would offer State's 32
9 into evidence.

10 THE COURT: Any objection?

11 MR. MELLARD: No objection.

12 THE COURT: All right. State's 32 is in evidence
13 without objection.

14 (WHEREUPON, State's Exhibit No. 32 was received into
15 evidence at this time.)

16 Q And that's pretty much all the stuff that you found in
17 there?

18 A In the living room, yes, sir.

19 Q And you're taking up for everything that looks
20 interesting to you I guess is the---

21 A Anything. In this particular case, at this point in
22 time, we're working with what's known as an unknown suspect.
23 So, you don't know what's -- you know, you collect
24 everything cause you don't know what's gonna be important.

25 Q Okay.

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1 A So, you just collect everything that you think might be
2 important.

3 Q Did you go anywhere else besides the living room of
4 that house?

5 A Yes, sir, I did search throughout the house.

6 Q Okay. And did you do a, the diagram of that?

7 A The whole overall house, yes, sir.

8 Q Let me show you what's been marked as State's 7 and ask
9 if you can identify that.

10 A Okay. Okay. Yes, sir, State's No. 7 is a second
11 sketch I did of the scene of the residence, and it's a
12 general sketch of the entire house or the interior of the
13 entire house.

14 Q Okay. And that's your writing and --?

15 A Yes, sir, that's my writing and it's the sketch that I
16 prepared.

17 SOLICITOR BELL: State would offer seven into evidence,
18 State's 7.

19 THE COURT: State's 7 in evidence without objection.

20 (WHEREUPON, State's Exhibit No. 7 was received into
21 evidence at this time.)

22 Q And, Lieutenant Carter, if you will come down and put
23 State's 7 up on the -- and show us kind of what -- give us
24 kind of where the living room is, and then what, what you
25 did from there out from the living room.

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1 A Once I documented the living room and I left from here,
2 this is a, a common hallway, if you will, of several rooms.
3 I went to the bedroom, stopped there and photographed, and
4 obviously did this sketch. There were transfer blood stains
5 on this mattress that was flipped up on the side. So, I
6 documented that, but I photograph and collected swabs from R
7 and S. I believe one's from the mattress and one's from the
8 sheet.

9 Once I left there I went into this bedroom. Nothing
10 small -- I didn't find anything that I thought was of
11 evidentiary value in that room.

12 The bathroom, I didn't see anything in there that I can
13 collect or document that would, would be evidence in this
14 case.

15 I went in this section of the bedroom. There was no
16 bed set up. It was more or less being used for like storage
17 for different things. There was blood stain transfer on
18 the, the interior of this door. I would of documented by
19 photograph, sketch, and took swabs. There was transfer also
20 on this wall of this storage room that would be Item T.
21 Again, I would of documented it and collected swabs from
22 there.

23 Once I got through here, then I proceeded into the
24 dining room area. This is one big room. My lines for my
25 dimensions might go out. But that's one big room. The

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1 dining area is here. The kitchen's in the back.

2 In this room there was transfer of blood on the light
3 switch cover, which is my Item Number V. In this particular
4 case I collected the cover and sent it to the lab for
5 further testing.

6 This is the den area which collects to the dining room
7 and the, the living room. I found nothing in this room of
8 evidentiary value, and this is actually the carport, and
9 there was nothing of evidentiary value there.

10 Q Okay. You can sit down.

11 (Witness returns to the stand.)

12 Q Let me show you what's been marked as State's 5 and ask
13 if you can identify that.

14 A Yes, sir, State's No. 5 is a photograph I took from
15 inside the bedroom where the mattresses were turned up, and
16 it's a photograph of that mattress and how I found it turned
17 up off the bed.

18 Q Okay. And does it show any other, anything else on it?

19 A Yes, sir, it's showing the blood stain on the underside
20 of the mattress. It's, it's in this area, but it's there.

21 SOLICITOR BELL: Okay. We'd offer State's 5 into
22 evidence.

23 THE COURT: Any objection?

24 MR. MELLARD: No, sir.

25 THE COURT: State's 5 in evidence without objection.

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by Solicitor Bell

1 (WHEREUPON, State's Exhibit No. 5 was received into
2 evidence at this time.)

3 SOLICITOR BELL: Publish to the jury?

4 THE COURT: You may.

5 Q And what did you do with that, the transfer of that, of
6 that strain?

7 A I took, collected Q-tip swab samples of it.

8 Q Let me show you what's been marked as State's 22.

9 A State's 22 would be swabs that I collected from that
10 mattress.

11 SOLICITOR BELL: Okay. We'd offer state's 22 into
12 evidence.

13 THE COURT: Any objection?

14 MR. MELLARD: No objection.

15 THE COURT: State's 22 in evidence without objection.

16 (WHEREUPON, State's Exhibit No. 22 was received into
17 evidence at this time.)

18 Q Let me show you what's been marked state's 26.

19 A State's 26 is going to be the light switch cover, my
20 Item Number V, from the dining room area that I collected
21 from the scene.

22 SOLICITOR BELL: We'd offer state's 26 into evidence.

23 MR. MELLARD: No objection.

24 THE COURT: State's 26 in evidence without objection.

25 (WHEREUPON, State's Exhibit No. 26 was received into

Gerald Carter - Direct examination
by Solicitor Bell

1 evidence at this time.)

2 Q Okay. Now, once you had all these items that you
3 collected, what did you pass, what did you do with them?

4 A Once I collected everything I secured it together and
5 then transported it back to the Sheriff's office to be
6 secured into evidence storage.

7 Q And you did that?

8 A Yes, sir.

9 Q And let me ask you, for instance, let me come back to
10 what's been marked as State's 17, which are the exterior
11 swabs out on the sidewalk and porch and Items, State's 19
12 and 25. They're kind of packaged different and treated
13 different.

14 Can you explain that, Lieutenant Carter?

15 A What we look for in a scene like this is obviously
16 there's a lot of blood evidence, and obviously a substantial
17 amount of blood is gonna be from the victim. But what we're
18 looking for is items of evidence that are, that stand out,
19 that may possibly have been deposited or left behind by the
20 suspect. We're looking for DNA evidence that could be used
21 in the case.

22 In this particular case, State's Exhibit 19, which is
23 my Item 18.1, was a blood droplet. This blood droplet got
24 greater attention because it was actually on top of a
25 footwear pattern, a bloody footwear pattern on the porch.

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1 Therefore, the blood droplet came after the footwear. It's
2 two different events, and for that reason I felt it was a
3 possibility that it may pertain to the case, and, and
4 possibly be on to the suspect.

5 Q Okay.

6 A State's Exhibit 19.1 also is a 90-degree droplet. It
7 was on the porch and there were three droplets together.
8 Again, this -- I sent it to be examined at SLED at the lab,
9 have a DNA analysis done. The reason for that is our victim
10 was in the living room. I don't believe he made it outside
11 of the residence once he was attacked on the inside. A
12 90-degree droplet is a droplet that is affected by gravity
13 basically. It dripped off of something.

14 The only conclusion I could draw at the scene was that
15 something or someone was there with a significant,
16 sufficient amount of blood on an object or a hand or some
17 other surface that gravity was able to draw it off with a
18 drip, and that's why I wanted to see where, you know, this
19 might of been from a suspect.

20 Q Okay. And also drawing your attention to State's 18,
21 20, and 21 that are packaged, similarly treated differently.

22 Can you tell us why those were treated differently?

23 A State's Exhibit 20, my Item Number I, again, for the
24 same reasoning, was a 90-degree droplet, which you could see
25 earlier in the sketch was above where the victim was laying,

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1 and, again, this dripped off of something. I definitely --
2 you know, there was no way for me to know what it came from,
3 but I felt that it was important to see if this DNA matched
4 the victim or possibly a suspect because of the way it was
5 deposited on the floor.

6 It, it simply dripped off of something, and I'm not
7 sure where if the victim made it to this point in the living
8 room before he succumbed, succumbed to his attacker and fell
9 to the floor where he was. It dripped off of something, and
10 that's why it was sent to SLED.

11 Q Okay.

12 A Item Number H was right beside Item Number I, that's
13 State's Exhibit 21, for the same reasoning. It stood out.
14 We look for patterns, and it stood out, these two drops in
15 the living room.

16 Another reason we look at this, the victim was,
17 appeared to have been attacked by a sharp object. Didn't
18 know if it was a knife. Didn't know what it was at the
19 time.

20 It's not uncommon, in these types of cases and with the
21 violence involved in this particular case, for the attacker
22 to injure himself. Again, this blood was dripping from
23 somewhere. It may of been the suspect. That's why we
24 collected it and sent it to the lab.

25 Q And, and when you're collecting, you have no idea who?

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by Solicitor Bell

1 You have no suspect, no nothing, no---

2 A No idea.

3 Q ---no idea what happened?

4 A We didn't have a suspect at the time. So, we were
5 collecting everything and, and later specific samples were
6 sent to the SLED laboratories for these reasons. We needed
7 to see because it stood out. It's the -- these patterns
8 stood out, these drops stood out in the scene.

9 Q And furthermore, Lieutenant Carter, you stated that you
10 had extensive training in blood pattern analysis, is that
11 correct?

12 A Yes.

13 Q You stated that, other than the volume blood from the
14 victim on the floor or whatever, that there were like some
15 patterns on the door and, and---

16 A Yes, sir.

17 Q ---drops and all that.

18 Can you explain these, these blood places that were up?

19 A The -- there were several drops and they're marked in
20 the, in the photographs. On the front door, I'll start
21 there. It was the exterior where the drops were of the
22 front door which indicated it may of been opened. It's
23 something we tried to discern from the scene. It may of
24 been opened. If it was closed, it would of been shielded
25 from the activity inside the living room. It may of been

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1 opened. Those drops appear to have been airborne and
2 descending when they struck the door.

3 Now, what caused them I really can't say. There's no
4 way for me to determine what caused them. Only they were
5 airborne and they were coming down when they struck the
6 door.

7 Q Could they have come from the victim himself?

8 A It's possible.

9 Q Okay. And we have -- I mean how, how would that be?

10 A During the, the attack, it was, it was very violent.
11 Like I say, he was injured with a sharp object up high or on
12 his body, around his neck, shoulders. If he were still
13 fighting or struggling, he could of slung -- this could of
14 been cast off his hands in the air, any number of ways it
15 could of been projected into the air and then just happened
16 to strike the door as it was coming down.

17 Q How about if he got nicked in an artery?

18 Of course, hit an artery?

19 MR. MELLARD: Your Honor, we'd object. Now we're
20 starting to get into speculation here.

21 THE COURT: Yeah, he, he can testify as to what he
22 found and what his opinion of what happened. But I'd, I'd
23 rather him just -- you can just ask him what he thinks
24 happened.

25 Q Let me ask, in your expertise and training, have you

Gerald Carter - Direct examination
by Solicitor Bell

1 been -- you know the term arterial, arterial blood?

2 A Yes, sir.

3 Q What is that?

4 A Arterial blood is when an artery is breached or cut.

5 This blood would be projected by your heart, by the very

6 pumping of your heart, and projected out from the artery.

7 It would make a very specific pattern.

8 Q Did you see any of that in this residence?

9 A No, sir, I actually did not.

10 Q You also stated that you saw some footprints

11 throughout, is that correct?

12 A Yes, sir.

13 Q Did you send those off to be analyzed other than for

14 blood or the foot, footprint pattern?

15 A No, sir, they weren't actually sent to an analyst.

16 Q Did you look at some footwear to see if it, it could

17 be?

18 A The footwear which was recovered during the

19 investigation, the shoes that were presented to me, I did

20 compare visually that, that shoe pattern to the patterns

21 that were left on the floor, the impressions, and they were,

22 they were dissimilar. They weren't the same pattern.

23 Q So, nothing was sent off to SLED for further analysis

24 as the footwear analysis on these footwear patterns you

25 think?

Gerald Carter - Direct examination
by Solicitor Bell

1 A No, sir, the first step would be to look and see if
2 it's close. If it is similar, there's a possibility, then
3 for detailed analysis, I would of sent the photographs and
4 the shoes, the shoes to be collected to SLED for a footwear
5 examiner to do a detailed analysis.

6 Q But you had been presented no footwear that, that came,
7 rose to that level?

8 A No, sir, none of it was -- none of the shoes I saw were
9 close.

10 Q Okay. And now some of these items that you collected
11 and took back were taken to SLED, is that correct, as you---

12 A Yes, sir.

13 Q And who does the transfer, transporting?

14 A That would of been my evidence custodian, Kimberly
15 Pugh.

16 Q And what -- how do you do that?

17 Do you take it to back and you -- what do you do?

18 A I actually logged the evidence into the evidence
19 storage area for the Sheriff's Office, and I'll, I'll tell
20 her I need, which items I need to go to SLED, and, and she
21 transports them for me --

22 Q Okay.

23 A -- or for the Sheriff's Office.

24 Q All right. And that was done in this case?

25 A Yes, sir.

Gerald Carter - Direct examination
by Solicitor Bell

1 Q All right. Now, besides -- after you've done the crime
2 scene, finished up that and taken all the evidence, did you
3 do anything else in this investigation?

4 A Yes, sir, at a later point I collected some, some other
5 evidence that was pertaining, pertinent to the case.

6 Q Well, did you do anything near, near term of the---

7 A I attended the autopsy.

8 Q Okay. And when did you do that?

9 A That would of been the next day on the 4th I believe.

10 Q Okay. And where did that---

11 A On the 4th.

12 Q And where did that occur?

13 A At Newberry Pathology.

14 Q And who was the person that performed the autopsy?

15 Do you know?

16 A I believe it was Doctor Ross.

17 Q And you were present while the autopsy was performed?

18 A Yes, sir, I was.

19 Q And doctor -- you observed Doctor Ross take various

20 items of evidence?

21 A Yes, sir, I witnessed the entire autopsy.

22 Q Okay. And did you -- in fact, did you obtain various
23 items of evidence?

24 A Yes, sir, once the autopsy's completed, the items were
25 actually signed over or released to me.

Gerald Carter - Direct examination
by Solicitor Bell

1 Q Okay. Let me show you what's been marked as State's 27
2 and ask if you recognize that.

3 A This would of been a sample that was collected from the
4 victim, Arthur Riley, at autopsy.

5 Q what kind of---

6 A It's aortic blood.

7 Q Okay. And let me show you collectively what's been
8 marked as State's 30 and ask if you --

9 A State's No. 30, this would of been the remainder of the
10 evidence collected from the victim at autopsy. There are
11 various standards for DNA testing, toxicology testing, the
12 standards obtained by Doctor Ross. They would of been
13 signed over to me by Doctor Ross, and then I transported
14 straight to SLED from Newberry.

15 SOLICITOR BELL: Okay. So, do you have any objection
16 to me offering them?

17 MR. MELLARD: No.

18 SOLICITOR BELL: We'd offer State's 27 and 30 into
19 evidence.

20 THE COURT: State's 27 and 30 are in evidence without
21 objection.

22 (WHEREUPON, State's Exhibit Nos. 27 and 30 were
23 received into evidence at this time.)

24 Q And you transported state's 27 and 30 directly to SLED?

25 A Directly to SLED, yes, sir.

Gerald Carter - Direct examination
by Solicitor Bell

1 Q Okay. And after going to the autopsy, did you do
2 anything else in this investigation?

3 A Prior to collection of Buccal swabs?

4 Q I'm, I'm leading to you -- I -- I'm leading there.

5 A Yeah, I can't think of anything after autopsy.

6 Q Okay. You mentioned something about Buccal swabs.

7 Did you collect some Buccal swabs, swabs somewhere?

8 A Yes, sir, I did collect Buccal swabs from the
9 defendant.

10 Q Okay. What are -- first of all, what are Buccal swabs?

11 A Again, that's a fancy way of saying Q-tip swabs from
12 the mouth, oral swabs from the mouth.

13 Q Okay. Let me show you what's been marked as State's
14 31.

15 A State's 31 would, in fact, be, that's my handwriting,
16 the four swabs that I collected from Deshawn Powell here at
17 this courthouse on January the 10th of this year.

18 Q Okay. And you packaged this up and --?

19 A Yes, sir, I packaged the, the inner envelope and it
20 would of been sealed by Kimberly Pugh, my evidence
21 custodian, and she, I believe, she transported to SLED.

22 SOLICITOR BELL: Okay. State would offer State's 31
23 into evidence.

24 MR. MELLARD: No objection.

25 THE COURT: All right. State's 31 in evidence without

Gerald Carter - Direct examination
by Solicitor Bell

1 objection.

2 SOLICITOR BELL: Thank you.

3 (WHEREUPON, State's Exhibit No. 31 was received into
4 evidence at this time.)

5 Q Okay. Thank you, Lieutenant Carter. Please answer any
6 questions that the defense may have.

7 THE COURT: All right. Mr. Mellard, it's your witness.

8 CROSS-EXAMINATION

9 BY MR. MELLARD:

10 Q I just got a couple questions.

11 A Yes, sir.

12 Q You said you collected some Buccal swabs on
13 January 10th of this year?

14 A Yes, sir.

15 Q Okay. And that was to get DNA?

16 A Right, to get a standard of an individual.

17 Q Okay. And the individual you got the standard from was
18 Mr. Powell?

19 A Yes, sir.

20 Q Okay. Now, back to the, the, the November, when you
21 went out to, to the scene --

22 A Yes, sir.

23 Q -- it's my understanding that you collected, all this
24 evidence we see here, cause you're looking for DNA?

25 A Basically, yes, sir.

Gerald Carter - Cross-examination
by Mr. Mellard

1 Q Okay. And when you go to the scene you take photos and
2 you do the sketches and everything like that and there's a
3 sketch over here.

4 Do you do all this yourself?

5 A Yes, sir.

6 Q Draw it out?

7 A Yes, sir.

8 Q You -- you're very meticulous with it?

9 A Yes, sir.

10 Q Do you pay attention to detail?

11 A Yes, sir.

12 Q How long does it take you to draw something like that?

13 A A while. Those aren't as bad as some that I've done.

14 Q Okay.

15 A It takes a little longer cause I try to get it -- it's,
16 it's marked not to scale.

17 Q Uh-huh. (Affirmative).

18 A It's not to an exact scale. But I try to get the, the
19 sketches proportionally right so it looks right to someone
20 else. It looks like what I saw that morning.

21 Q Okay. And my understanding is you collected stuff
22 outside of the residence and you did that first cause you
23 thought it was gonna rain?

24 A Yes, sir.

25 Q Oh, okay. And once you got outside the residence, and

Gerald Carter - Cross-examination
by Mr. Mellard

1 tell me I'm wrong, there was -- I believe it was an Item 1,
2 it was like a Bud Light beer bottle?

3 A Yes, sir.

4 Q Right.

5 And then Item 2 you found a cigarette butt. I believe
6 that was---

7 A Yes, sir.

8 Q Okay. And then there's an Item 4, there's another
9 cigarette butt.

10 A Yes, sir.

11 Q And I believe that one had a red stain on it?

12 A Yes, sir.

13 Q You thought that might of been blood?

14 A Didn't know, but I thought it might be.

15 Q Okay. Then there were the footprints.

16 Now, those are Items 5, 6, 7, 8, 9, 10, 11, 12.

17 A Yes, sir.

18 Q All right.

19 A That would be on the walkway.

20 Q Okay. And you got, collected swabs, samples from all
21 those footprints?

22 A Yes, sir.

23 Q Okay. And you got a blood drop off the front porch?

24 A Yes, sir.

25 Q That would be item -- you got a sample from that?

Gerald Carter - Cross-examination
by Mr. Mellard

- 1 A Uh-huh. (Affirmative).
- 2 Q And that was 16 on your note?
- 3 A It may of been 16. I know it was 19.1, .2, .3.
- 4 Q Right.
- 5 A And there were several droplets---
- 6 Q Several.
- 7 A ---on the front porch.
- 8 Q Right.
- 9 You got a bloody footwear impression on the front
- 10 porch. I believe that was Number 17.
- 11 A It may of been. There was---
- 12 Q May of been?
- 13 A There was several on the front porch.
- 14 Q There's another one on the front porch I believe is
- 15 Item 18?
- 16 A Eighteen, that's -- yes, sir.
- 17 Q Okay. And then you got a blood droplet on top of Item
- 18 18.
- 19 A Yes, sir.
- 20 Q And then you, you just said about the three blood
- 21 droplets close to each other on the front porch. That's
- 22 19.1, and 19.2---
- 23 A Yes, sir.
- 24 Q ---19.3.
- 25 All right. You got samples from all those?

Gerald Carter - Cross-examination
by Mr. Mellard

- 1 A Yes, sir.
- 2 Q You found some more bloody footwear impressions on the
3 door mat I believe on the front porch?
- 4 A Yes, sir.
- 5 Q That would be 20 and 21?
- 6 A Twenty and twenty-one, yes, sir.
- 7 Q And then you get some footprints from the front storm
8 door. I mean -- I'm sorry. Fingerprints.
- 9 A There were, there were some lifted from the storm door,
10 yes, sir.
- 11 Q All right. I got you.
- 12 That's 22, 23, and 24 by it?
- 13 A Yes, sir.
- 14 Q Now, what I'm counting is, that's about 27 items you
15 got from outside of the residence?
- 16 A That sounds about right.
- 17 Q Okay. And those you would of marked with numbers?
- 18 A Yes, sir.
- 19 Q And then, when you went inside you, you used a, you
20 used a different way of---
- 21 A Right.
- 22 Q You used the alphabet?
- 23 A Yes, sir.
- 24 Q All right. And when you walked inside you saw blood
25 stain pattern on the exterior of the front door?

Gerald Carter - Cross-examination
by Mr. Mellard

- 1 A Yes, sir.
- 2 Q All right. That was Item P?
- 3 A Yes, sir.
- 4 Q All right.
- 5 A That sounds right.
- 6 Q All right. You saw some transfer blood stain patterns
7 on the exterior of the front door?
- 8 A Yes, sir.
- 9 Q All right. And that was Q?
- 10 A Okay.
- 11 Q You saw some transfer blood stain patterns on the
12 interior of the front door knob?
- 13 A The knob, yes, sir.
- 14 Q All right. And that was Q-2?
- 15 A Yes, sir.
- 16 Q And then near the bottom you found Items A and C, which
17 is the flip flop?
- 18 A Yes, sir.
- 19 Q All right. You found a cigarette lighter?
- 20 A Yes, sir.
- 21 Q That would be Number B.
22 The gold necklace?
- 23 A Yes, sir.
- 24 Q Item D.
25 You found the revolver?

Gerald Carter - Cross-examination
by Mr. Mellard

- 1 A Yes, sir.
- 2 Q Which appeared to maybe have some blood on it?
- 3 A Yes, sir.
- 4 Q Make sure. That was Item F.
- 5 You found some more cigarette butts. One was on the
- 6 living room floor next to the shelf?
- 7 A Yes, sir.
- 8 Q That would be Item J?
- 9 A Right.
- 10 Q Found another cigarette butt on the living room floor
- 11 near the couch?
- 12 A K.
- 13 Q Item K.
- 14 A Think so.
- 15 Q That was it?
- 16 A Yes, sir.
- 17 Q In the living room there was blood on the floor between
- 18 the couch and the shelf. That was Item N.
- 19 A Yes, sir.
- 20 Q There was blood on the floor near the corner of the
- 21 shelf. That was Item M.
- 22 A Yes, sir.
- 23 Q All right. You found bloody footwear impressions on
- 24 the living room floor near the body's feet. That was Item
- 25 B.

Gerald Carter - Cross-examination
by Mr. Mellard

1 A Yes, sir.

2 Q All right. And there's bloody footwear impressions on
3 the living room floor between the body and the couch. That
4 was F. That was F.

5 A Yes, sir.

6 Q All right. And there's bloody footwear impression on a
7 chair cushion in the living room?

8 A Uh-huh. (Affirmative).

9 Q That was G.

10 A Uh-huh. (Affirmative).

11 Q And then Item H and I, y'all been talking about.
12 That's State's 20 and 21. That was the 90-degree blood
13 droplets on the living room floor near the front door.

14 A Yes, sir.

15 Q Some more bloody footwear impression on the floor by a
16 potted plant.

17 A Yes, sir.

18 Q That was O.

19 Then you went to the bedroom.

20 A Uh-huh. (Affirmative).

21 Q All right. I believe you saw that the mattress had
22 been flipped on its side. So, you got transfer blood stains
23 on the bottom of the bed mattress.

24 A Yes, sir.

25 Q That was Number R, and then some transfer of blood

Gerald Carter - Cross-examination
by Mr. Mellard

- 1 stains on the sheet.
- 2 A Yes, sir.
- 3 Q Bed sheets. That was S.
- 4 And then in the storage room you saw some transfer of
- 5 blood stains on the wall next to the kitchen?
- 6 A Yes, sir.
- 7 Q All right. That would be Item T.
- 8 A Uh-huh. (Affirmative).
- 9 Q And then in the storage room you found transfer blood
- 10 stains next to the door knob.
- 11 A In which room now?
- 12 Q That was the storage room.
- 13 A Yes, sir.
- 14 Q All right. And that was Item U.
- 15 A Uh-huh. (Affirmative).
- 16 Q And then in the dining room I believe you saw the light
- 17 switch?
- 18 A The light switch, yes, sir.
- 19 Q Light switch, and that was Item Z.
- 20 That was about 22, 23 items by, by my count?
- 21 A Yes, sir.
- 22 Q We're looking at about 50 items you collected?
- 23 A That's about right.
- 24 Q And, as you said, you took all those items and you
- 25 collected them because you felt it might be important?

Gerald Carter - Cross-examination
by Mr. Mellard

1 A Might be.

2 Q Might have DNA on them.

3 All right. When you found the body, he was wearing I
4 believe socks, underwear, and a t-shirt?

5 A Yes, sir, that was attached to the body.

6 Q All right. One second.

7 (Pause.)

8 MR. MELLARD: That's all the questions we've got.

9 THE COURT: Anything on redirect?

10 SOLICITOR BELL: None.

11 THE COURT: All right. Lieutenant Carter, you may step
12 down. You're excused.

13 WITNESS: Thank you.

14 THE COURT: Thank you, sir.

15 All right. Ladies and gentlemen, as I mentioned
16 earlier this morning, after the first witness we're gonna
17 take a, a relatively extended break. It's gonna take about
18 20 minutes. So, we've got a little bit of time back in the
19 jury room.

20 Let me remind you, you have not heard all the evidence
21 in this case. You can not talk about what you've heard so
22 far.

23 Okay. You can talk about the NBA, what happened last
24 night if you want to, but the start of football season. But
25 not about this.

1 All right. Thank y'all.

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

4 THE COURT: All right. We're gonna do the Jackson v.
5 Denno?

6 SOLICITOR SORENSON: Yes, sir.

7 THE COURT: Okay.

8 (WHEREUPON, according to the log sheet of the court
9 reporter, Lieutenant James Shumpert testified at this time.
10 However, there is no audio recording for the testimony.)

11 DESHAWN POWELL, being first duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. MELLARD:

15 Q Mr. Powell, I'm gonna talk to you about one specific
16 thing, all right, and I want you to focus on this one
17 specific thing.

18 A Yes, sir.

19 Q And that is the conversation you had with Mr. Shumpert,
20 with Lieutenant Shumpert.

21 A Yes, sir.

22 Q Okay. Now, you have heard him say that Lieutenant
23 Shumpert put you in a car at your house and asked you
24 questions.

25 Is that true?

Deshawn Powell - Direct examination
by Mr. Mellard

1 A No.

2 Q All right. Did Lieutenant Shumpert go over your
3 Miranda rights form with you in a, in a car?

4 A No, sir.

5 Q Did he pull out a little tiny card --

6 A No, sir.

7 Q -- and did he tell you you had the right to remain
8 silent?

9 A No, sir.

10 Q Did he tell you that anything you say could be used
11 against you?

12 A No, sir.

13 Q Did he tell you you had a right to a lawyer?

14 A No, sir.

15 Q Did he tell you you didn't have to answer any
16 questions?

17 A No, sir.

18 Q Did he tell you you could stop answering questions at
19 anytime?

20 A No, sir.

21 Q Did he -- did y'all discuss anything at your house on
22 the morning of November 3rd, 2010?

23 A No, sir.

24 Q All right. Now, at some point were you taken to the
25 Sheriff's Office?

Deshawn Powell - Direct examination
by Mr. Mellard

- 1 A Yes, sir.
- 2 Q All right. And at the Sheriff's Office, did Lieutenant
3 Shumpert read you your rights?
- 4 A No, sir.
- 5 Q Did he pull out a form?
- 6 A No, sir.
- 7 Q Did he try to get you to initial any form?
- 8 A No, sir.
- 9 Q All right. And at the police station did he tell you
10 you had the right to remain silent?
- 11 A No, sir.
- 12 Q Did he tell you that anything you say could be used
13 against you?
- 14 A No, sir.
- 15 Q Did he say that you had a right to a lawyer --
- 16 A No, sir.
- 17 Q -- at the police station?
- 18 All right. Now, at anytime did you ask for a lawyer at
19 the police station?
- 20 A Yes, sir.
- 21 Q All right. And when did you ask for a lawyer at the
22 police station?
- 23 A Well, I asked as soon as they try to come at me with a
24 question about a fight and a killing.
- 25 Q All right. So, let me just back up.

Deshawn Powell - Direct examination
by Mr. Mellard

1 when you got to the police station, what happened?

2 what's the first thing that happened?

3 A well, when I got to the police station they took me in
4 a room.

5 Q okay. And describe the room to me.

6 A As you're walking in, there's a chair there where the
7 bag was in there, and another chair, and a table, and then
8 it's Barbara Walters, the woman --

9 Q okay.

10 A -- and Shumpert right here. He say have a seat. When
11 I sat down he took the handcuffs off me.

12 Q All right. And were there any cameras in the, in the
13 room?

14 A Yes, there's a camera in the corner behind me somewhere
15 like I think it was right over there at the corner
16 somewhere. Actually right there cause he took pictures of
17 me.

18 Q okay. And were there any tape recorders there?

19 A No, sir.

20 Q okay. And at what point did you ask for a lawyer?

21 A As soon as they -- the first question they came out
22 with I asked for a lawyer.

23 Q okay.

24 A I said it.

25 Q And when you asked for a lawyer, did they stop

Deshawn Powell - Direct examination
by Mr. Mellard

1 questioning you?

2 A That's when he started putting his hands on me.

3 Q And when you say put his hands on you, what are you
4 talking about?

5 A Like son, you know what you're doing here. You're in
6 some serious stuff, you know.

7 Q All right. And did you ever tell Lieutenant Shumpert
8 at the police station or Code 100 or whatever you want to
9 call it that you were not at Art's house, Arthur Riley's
10 house?

11 A I said something like that.

12 Q You said what?

13 A I told him -- I says it's a way how they came at me.

14 Q Uh-huh. (Affirmative).

15 A I knew like I didn't want to incriminate myself --

16 Q Uh-huh. (Affirmative).

17 A -- cause you asked me, they asked me what, you know,
18 the woman, the woman, Barbara, she came to me. She was
19 sitting there, and she said son, you beat him up pretty bad.
20 why did you have to kill him.

21 Q And that was after you asked for a lawyer?

22 A No, that was right before.

23 Q Okay.

24 A That was the first question was the woman. He was
25 standing there. The woman came out and said -- I said woa,

Deshawn Powell - Direct examination
by Mr. Mellard

1 I don't know what you're talking about, where's my lawyer.

2 Q Okay. And at that point they started asking you
3 questions?

4 A That's when he came touching me.

5 Q Okay.

6 A Son, you know what you talking -- you in some deal --
7 you in some serious stuff, you know. I don't want to curse.

8 But---

9 Q All right.

10 A ---he was real violent at that time---

11 Q All right. Now---

12 A ---and I was cooperating.

13 Q Okay. Now, just to recap, at anytime that you were at
14 your house --

15 A Yes, sir.

16 Q -- did you give any statements to Shumpert?

17 A No, sir.

18 Q Okay.

19 A Not at all.

20 MR. MELLARD: One second.

21 (Pause.)

22 Q All right. So, you said you did make a statement at
23 the police station?

24 A What you mean---

25 Q Is that right?

Deshawn Powell - Direct examination
by Mr. Mellard

1 A What you mean a statement?

2 Q No, let me, let me just ask you this question.

3 Did you ever tell Shumpert that you were at Art's house
4 while you were at the police station?

5 A Did I ever tell him that?

6 Q (Nods affirmatively.)

7 A No, I never told him that.

8 Q Well, now hold on cause that's what I want to clarify.
9 I mean I don't know if you understood my question or not.

10 Now, did -- all right. We're at the police station,
11 correct?

12 Just go with me. Me and you are at the police station.

13 A I hear you.

14 Q All right. Shumpert -- they're saying that Shumpert
15 told you, he asked you and you, asked you a question and you
16 said you were never at Art's house. You were not at Art's
17 house.

18 Did you make that statement?

19 A He never asked me.

20 Q All right. You -- did you ever make a statement like
21 that?

22 A I asked him I don't know what they talking about,
23 where's my lawyer.

24 Q Okay. All right. No more questions.

25 THE COURT: Anything on cross?

Deshawn Powell - Cross-examination
by Solicitor Sorenson

1 SOLICITOR SORENSON: Just a couple things.

2 CROSS-EXAMINATION

3 BY SOLICITOR SORENSON:

4 Q Mr. Powell, do you -- you're aware of your rights,
5 right?

6 A Yes, sir.

7 Q You've been through this before, right?

8 Is that correct, you've had police advise you of your
9 rights in the past, is that correct?

10 A Minor stops in the streets.

11 Q Okay. Also had something a little more serious than
12 that a few years prior to this also you were charged with,
13 right?

14 Another homicide?

15 MR. MELLARD: Your Honor?

16 Q You were advised of, you were advised of your rights?

17 MR. MELLARD: I'm gonna object to that.

18 SOLICITOR SORENSON: He can answer if he's ever been
19 advised of his rights.

20 THE COURT: Yeah, I, I understand that, and actually
21 the issue is whether he's Mirandized here. Now whether he
22 understood his rights or anything else. Was he Mirandized
23 here.

24 Go ahead.

25 Q All right. It's your, it's your testimony, Mr. Powell,

Deshawn Powell - Cross-examination
by Solicitor Sorenson

1 that you, on this day in question, they never advised you of
2 your rights?

3 A They never did.

4 Q Nobody ever did?

5 A No one.

6 Q Okay. All right. And let me just make sure I
7 understand this cause I kind of -- I thought you said it one
8 way, one way, and then the other way.

9 But are you now saying that you never told Lieutenant
10 Shumpert, at any point in time that, that day, that you were
11 not at the victim's house the night before?

12 A I never told him nothing like that.

13 Q You never told him that?

14 A Never told him nothing like that.

15 SOLICITOR SORENSON: Okay. That's all I have.

16 THE COURT: Anything on redirect?

17 MR. MELLARD: No.

18 THE COURT: All right. All right. You may step down.

19 WITNESS: Thanks.

20 THE COURT: I am -- I'm gonna make a finding that, by a
21 preponderance of the evidence, he made a voluntary statement
22 after he was Mirandized and that statement's gonna be
23 limited to the fact that he did not know what the police was
24 talking about and he was not there. You're not going in
25 any---

1 SOLICITOR SORENSON: That's correct.

2 THE COURT: Okay. All right.

3 SOLICITOR SORENSON: That he wasn't at the victim's
4 house the night before and that he didn't know what they
5 were talking about, is that, that correct?

6 THE COURT: That's correct.

7 Okay. And I'll -- yes, sir.

8 MR. MELLARD: My understanding is that -- I just want
9 to make sure we, we understand what, what the statements
10 involve.

11 THE COURT: Right.

12 MR. MELLARD: Now my understanding is his testimony was
13 he wasn't there.

14 THE COURT: Right.

15 MR. MELLARD: That he wasn't there. Now, it's not I
16 wasn't there the night before, I wasn't there the morning or
17 the day after. My understanding is what was testified to
18 was he wasn't there.

19 THE COURT: Yeah, that's, that's what---

20 MR. MELLARD: And that's all we're gonna talk about, he
21 wasn't there.

22 SOLICITOR SORENSON: Right, but in response to them,
23 explaining to them what they're there for, a homicide that
24 just happened that -- I mean we're talking -- I mean eight
25 hours later if that.

1 THE COURT: Okay. Here's, here's what Lieutenant
2 Shumpert said unless I'm, unless I wrote it down wrong.

3 SOLICITOR SORENSON: Yes, sir.

4 THE COURT: He said that Mr. Powell said he did not
5 know what he was talking about and he said he was not there.

6 SOLICITOR SORENSON: Right, and that was in response to
7 him basically telling him what they were there for. So --.

8 THE COURT: Yeah, he -- you can -- he can say what he
9 was there for --

10 SOLICITOR SORENSON: Right.

11 THE COURT: -- cause he detained him.

12 SOLICITOR SORENSON: Right.

13 THE COURT: But, but---

14 SOLICITOR SORENSON: Right.

15 THE COURT: I mean that's, that's where we are.

16 SOLICITOR SORENSON: Yeah, right, and that was his
17 response to that, to them detaining him.

18 THE COURT: Right.

19 SOLICITOR SORENSON: And telling him why they were
20 detaining him --

21 THE COURT: Right.

22 SOLICITOR SORENSON: -- was that I wasn't there, don't
23 know what you're talking about.

24 THE COURT: Right. Exactly.

25 Okay. All right. We're gonna take a short, a short

1 break and we'll be back in about ten minutes and pick up.

2 All right. Who's next?

3 SOLICITOR SORENSON: Probably him.

4 THE COURT: Oh, okay.

5 SOLICITOR SORENSON: Shumpert.

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

7 THE COURT: All right.

8 MR. MELLARD: Your Honor, I just want to make sure the
9 record reflects our objection to your previous ruling.

10 THE COURT: Okay. All right.

11 Mrs. Harry Dot?

12 COURT REPORTER: Yes, sir.

13 THE COURT: Just so we can note on the record, the --
14 Mr. Mellard exempted, objected to my ruling in the Jackson
15 v. Denno hearing, and we're preserving that objection on the
16 record.

17 Thank you, sir.

18 (Pause.)

19 THE COURT: All right. State ready to proceed?

20 SOLICITOR SORENSON: Yes, sir.

21 THE COURT: Defense ready to proceed?

22 MR. MELLARD: Yes.

23 THE COURT: All right. If you'll bring the jury on
24 back in.

25 Y'all still need to set that up?

1 SOLICITOR SORENSON: No.

2 THE COURT: Okay.

3 (WHEREUPON, the following takes place within the
4 presence of the jury.)

5 THE COURT: The state's prepared to call the next
6 witness?

7 SOLICITOR SORENSON: Yes, sir.

8 THE COURT: All right.

9 SOLICITOR SORENSON: State calls Lieutenant James
10 Shumpert.

11 THE COURT: All right. Lieutenant Shumpert.

12 JAMES SHUMPERT, being first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY SOLICITOR SORENSON:

16 Q Good morning, Lieutenant.

17 A Good morning.

18 Q If you would, tell the jury where is it that you're
19 employed.

20 A I work for the Orangeburg County Sheriff's Office.

21 Q And how long have you been with the Orangeburg County
22 Sheriff's Office?

23 A Thirteen to fourteen years.

24 Q Okay. And is that your entire law enforcement career
25 been with the Sheriff's Office there?

James Shumpert - Direct examination
by Solicitor Sorenson

1 A No, sir.

2 Q All right. Where do you work prior to the Sheriff's
3 office?

4 A I use to work for public safety and DJJ in Columbia.

5 Q okay. And how long did you work there?

6 A Approximately three years.

7 Q So, so, about how many years total you have in law
8 enforcement now?

9 A About 17.

10 Q Seventeen.

11 All right. And can we tell the jury what your current
12 duties are with the Sheriff's office?

13 A I'm lieutenant over criminal investigations. It's my
14 job to supervise all investigations in Orangeburg County.

15 Q okay. How long have you been employed in, about in
16 that capacity?

17 A Approximately about two years, and just before that I
18 was the sergeant over criminal investigations. So, that's
19 about another year. So, approximately three years
20 altogether.

21 Q As a supervisor in investigations?

22 A Yes, sir.

23 Q okay. Now I want to turn your attention, Lieutenant,
24 if I could, back to, on the morning of November 3rd, 2010.

25 Did you have, have an occasion that morning to respond

James Shumpert - Direct examination
by Solicitor Sorenson

1 out to [REDACTED] Jameson Avenue?

2 A I did.

3 Q Okay. And why, why were you responding out there that
4 morning?

5 A We had got a phone call that there was a deceased body
6 at Jameson Avenue at that residence, and I got a call from
7 dispatch to respond.

8 Q Okay. Were there other officers on the scene when you
9 got there already?

10 A Yes, sir. Yes, sir.

11 Q Okay. And had the scene been secured by the time you
12 got there?

13 A It was.

14 Q Okay. Did you have an opportunity to, to ever go
15 actually into the, physically into the residence of [REDACTED]
16 Jameson that morning?

17 A No, I don't recall going in. But I went in the yard.

18 Q Okay. Now, were you aware, that morning, whether the
19 deputies that were out there, whether they had a witness on
20 scene that they had a hold of?

21 A Yes, sir.

22 Q Okay. Who was that that they had out there with them
23 that morning?

24 A Wendy Noel.

25 Q Okay. And was she questioned that morning by, by your,

James Shumpert - Direct examination
by Solicitor Sorenson

1 your office?

2 A Yes, she was.

3 Q Now, was she truthful with y'all initially?

4 A No, she was not.

5 Q Okay. Had she even give you the correct name
6 initially?

7 A No, she didn't.

8 Q Okay. And that day, but especially that morning out
9 there, did she, at any point in time that morning, implicate
10 Mr. Powell as being or even bring up his name at all that
11 morning?

12 A No, she didn't.

13 Q All right. Now, did you then leave the scene and begin
14 kind of working on the follow-up investigation trying to,
15 trying to determine what had happened?

16 A I did.

17 Q And at some point in time that morning did you learn of
18 somebody that may of been in the home at some point in time
19 on Jameson earlier in that night?

20 A Yes.

21 Q Okay. And what name was that that you had heard that
22 might of been out there at some point in time that night?

23 A Anthony Gardner.

24 Q Okay. And Mr. Gardner, does he have a nickname that he
25 goes by on the street?

James Shumpert - Direct examination
by Solicitor Sorenson

- 1 A He does.
- 2 Q And what is that nickname?
- 3 A Monkey Doo.
- 4 Q Did you have an opportunity to speak to Mr. Gardner
- 5 then that morning of November 3rd, 2010?
- 6 A I did.
- 7 Q As a result of talking to Mr. Gardner, did you then get
- 8 some names of another couple people that, that were in the
- 9 home that night when he had left the home?
- 10 A Yes, I did.
- 11 Q Okay. And who -- what names did Mr. Gardner provide to
- 12 you---
- 13 A Well, at the time---
- 14 Q ---at that point in time?
- 15 A At the time he gave the name of Ronnette Stevenson.
- 16 Ronnette Stevenson, and also Wendy Noel, which was called
- 17 Niki, and Todd. He didn't know his last name at that time.
- 18 Q Okay. Did he actually give you---
- 19 A He just know him by Todd.
- 20 Q ---Ronnette Stevenson's name or did he give you her
- 21 nickname?
- 22 A He gave me a nickname of Red.
- 23 Q Okay. And did you figure out who that was?
- 24 A Yes, I figured out who she was living with.
- 25 Q Okay. And who, who is Red?

James Shumpert - Direct examination
by Solicitor Sorenson

1 A Ronnette Stevenson.

2 Q Okay. And obviously Ms. Noel or Niki, y'all had her?

3 She was in custody at that point in time?

4 A She was.

5 Q Okay. So, that morning then, after talking to
6 Mr. Gardner, Lieutenant, did you then attempt to either
7 locate either this Todd person or, or Red?

8 A Tried to locate both.

9 Q Did you find either one of them that, that, that
10 morning of November 3rd?

11 A We was unable to find Mr. Wise, but we did locate Ms.
12 Stevenson.

13 Q Okay. And where was that that you found her?

14 A We found her at her residence, residence located,
15 located at Coleman and Ashley Street. She has a trailer
16 that, that -- if you look at it, it's facing Ashley. But
17 she actually live on Ashley, but it sits on the corner of
18 Ashley, the corner.

19 Q Showing you State's Exhibit No. 1.

20 Do you, do you -- can you see that, that trailer in
21 this picture?

22 A Yes, sir, that's the trailer right here.

23 Q Okay.

24 A That would be her trailer.

25 Q Okay. So right where my finger is?

James Shumpert - Direct examination
by Solicitor Sorenson

- 1 A It is.
- 2 Q Okay. And that's where Ms., Ms. Stevenson was located
- 3 that day, that morning?
- 4 A Yes, sir.
- 5 Q Okay. And did you, did you go talk to her?
- 6 A I did.
- 7 Q Okay. Did you talk to her at her trailer or did you
- 8 take her somewhere?
- 9 A I briefly talked to her at her trailer. Then I brung
- 10 her back to the office.
- 11 Q And did she give a statement to, to you that morning
- 12 then?
- 13 A She did.
- 14 Q And as a result of talking to her, were there a couple
- 15 other names that had come up from the first time?
- 16 A It was.
- 17 Q What were those names?
- 18 A She just gave us two street names by the name of D-Shop
- 19 and New York.
- 20 Q Okay. And that morning did she ultimately pick out
- 21 photograph number two out of this lineup indicating who, who
- 22 New York was?
- 23 A She did.
- 24 Q Okay. And who is that that's in photograph number two?
- 25 A Deshawn Powell.

James Shumpert - Direct examination
by Solicitor Sorenson

1 Q Okay. That's the defendant?

2 A Yes, it's him.

3 Q And as a result of getting those names from Ms.
4 Stevenson -- let me ask you now.

5 She -- you had brought her back to the Sheriff's
6 office, right?

7 A I did.

8 Q Now, is she a person that you've dealt with in the
9 past?

10 A I have.

11 Q Okay. And you got a good relationship with her?

12 A No.

13 Q She care for you?

14 A Not at all.

15 Q Okay. And why is that?

16 A I, I was the lead investigator with an incident where
17 it was a murder case and her son was implicated, and I was
18 seeing her for a while.

19 Q Okay. And he was actually convicted in that, that
20 case?

21 A Yes, he was.

22 Q Now, did you also later learn -- so, she had given you
23 the, the nickname D-Shop and New York and obviously y'all,
24 y'all determined who New York was, right?

25 A We did.

James Shumpert - Direct examination
by Solicitor Sorenson

1 Q Okay. Did you learn, at that point in time, where New
2 York was staying at?

3 A I did.

4 Q And where was that?

5 A Next door to Ms. Stevenson.

6 Q Okay. And going back to State's Exhibit No. 1, is that
7 house located in, in that diagram?

8 A Yes, right here.

9 Q Okay. That's the house that's got the blue box around
10 it?

11 A It is.

12 Q So it's right basically I guess kind of back up into
13 the Stevenson trailer pretty much?

14 A Yeah, like sits at her back-door.

15 Q Okay. All right. Did you have an opportunity then to
16 go over to that house on Coleman and attempt to find the
17 defendant, Mr. Powell?

18 A I did.

19 Q Okay. And did you go over there by yourself?

20 A No, I did not.

21 Q Who else went over there with you?

22 A At the time it was Sergeant Furtick and Investigator
23 Harter.

24 Q And showing you State's Exhibit -- show it to him one
25 second.

James Shumpert - Direct examination
by Solicitor Sorenson

1 (Pause.)

2 SOLICITOR SORENSON: Your Honor, I believe at this time
3 we're gonna offer -- it's gonna be six photographs. It's
4 State's Exhibits 12 through 15 and 33. I believe all those
5 are without objection.

6 THE COURT: Is that correct, Ms. Hinds, or Mr. Mellard?

7 MS. HINDS: That is correct.

8 THE COURT: Okay. State's 12 through 15 are---

9 (Pause.)

10 THE COURT: State's 12 through 33---

11 SOLICITOR SORENSON: State's 12 through 15.

12 THE COURT: State's 12 through 15 and 33---

13 SOLICITOR SORENSON: And 33.

14 THE COURT: ---are in evidence without objection.

15 SOLICITOR SORENSON: Thank you.

16 THE COURT: Okay. Photos.

17 (WHEREUPON, State's Exhibit Nos. 12 through 15 and
18 State's Exhibit No. 33 were received into evidence at this
19 time.)

20 Q All right. Now, Lieutenant Shumpert, let me show you
21 State's Exhibit No. 12.

22 What's depicted -- what is that a general photograph
23 of?

24 A That's a photo of the residence --

25 Q Okay.

James Shumpert - Direct examination
by Solicitor Sorenson

1 A -- of Deshawn's and his mom.

2 Q Okay. And tell the jury, when you went up to the house
3 that day, you indicated that you, Sergeant Furtick, and
4 Investigator Harter?

5 A Correct.

6 Q All right. Tell the jury, when you got there, kind of
7 what, what happened as you pulled up in the yard and went up
8 to Mr. Powell's house.

9 A All right. When we pulled up in the yard, like I said,
10 it sits on like a, a corner there. When we got out the
11 vehicles, we noticed it was a vehicle on the side and it
12 occupied some subjects in the car. So, I told Sergeant
13 Furtick and Harter to check those subjects out that was in
14 the vehicle.

15 Q Is that the vehicle in State's Exhibit No. 33?

16 A That's it.

17 Q And is that -- obviously this photograph was taken a
18 little bit later that morning.

19 A Yes.

20 Q Is that correct?

21 Is that one of the suspects that were, or suspects,
22 individuals that was, that was at that vehicle that's in the
23 picture?

24 A Yes, sir.

25 Q And who went over and made contact with that vehicle

James Shumpert - Direct examination
by Solicitor Sorenson

1 and the two subjects in that vehicle?

2 A Sergeant Furtick and Harter.

3 Q Okay. And what did you then do, Lieutenant Shumpert?

4 A Well, I went to the front door, and I knocked on the
5 door, and --.

6 Q Showing you State's Exhibit No. 12.

7 Now, is that the door that you went up and knocked on?

8 A It is.

9 Q Okay. When you knocked on that door, what -- did you
10 get a response?

11 A Yes, sir, a lady on the inside said come in.

12 Q Did you open the door and go in at that point in time?

13 A It was like -- it wasn't locked or nothing. I just
14 pushed it and went on it.

15 Q Okay. And who, who did you encounter when you went
16 inside?

17 A Deshawn's mom.

18 Q Okay. And where was she located at?

19 Do you remember?

20 A It was in a bedroom off to your left.

21 Q Okay. Let me ask you this.

22 When you initially kind of walked up to knock on that
23 door, kind of where was your attention at that point in time
24 when you go up and are, are knocking on the door?

25 A The front door.

James Shumpert - Direct examination
by Solicitor Sorenson

- 1 Q Okay. Obviously what kind of case are you
2 investigating at this point in time?
- 3 A A homicide.
- 4 Q Okay. All right. So, you go in.
5 Did you make contact then with Mr. Powell's mother
6 inside the residence?
- 7 A Yeah, it was another individual I believe that said was
8 his brother as well.
- 9 Q Okay. And did you indicate to them who you were there
10 wanting to talk to?
- 11 A Correct. I did.
- 12 Q Okay. And what did they do when you asked them if
13 Mr. Powell was in the residence?
- 14 A The brother went back into the back room like he was
15 going to look for him, and once he said he's not here, the
16 mom said she would try to call him on his cell phone.
- 17 Q Okay. Did you see her then appear to make a cell phone
18 call?
- 19 A Yeah, she made a cell phone call. She called somebody.
- 20 Q All right. So -- and obviously you didn't see him and
21 he didn't appear to be to you anywhere in that residence---
- 22 A No.
- 23 Q ---at that point in time, right?
- 24 A Hu huh. (Negative).
- 25 Q What did you then do after she made a cell phone call

James Shumpert - Direct examination
by Solicitor Sorenson

1 indicating she was gonna attempt to contact Mr. Powell?

2 A Well, I was -- I came back out the door and Sergeant
3 Furtick had, was coming around the corner and we met there
4 on the front porch.

5 Q Okay. So, you go back out the door onto the front
6 porch, do you notice something at that point in time that
7 you didn't notice when you initially knocked on the door
8 and, and went in?

9 A Yeah, it was like a small knife that was on the porch
10 that was closed.

11 Q Okay. And showing you State's Exhibit No. 13, does
12 that depict that knife in that, in that photograph?

13 A It does.

14 Q Okay. And No. 14, is that a close-up of that knife?

15 A That's a close-up.

16 Q Okay. And what did that knife appear -- when you
17 observed it at that point in time, did it appear to have
18 something on it?

19 A It, it appeared to have a red stain on it. It appeared
20 to me to be blood. But I wasn't sure at that time.

21 Q Okay. Now, have you basically walked over that area
22 when you initially went in the house?

23 A Yes, I did.

24 Q Now, at any point in time were you looking down at your
25 feet as you were approaching the front door initially?

James Shumpert - Direct examination
by Solicitor Sorenson

1 A No, like I said, it was a murder investigation. My
2 main focal point was that front door. I didn't want nobody
3 to come out that door or somebody come out, possibly hurt
4 one of us.

5 Q Let me show you State's Exhibit No. 28.

6 Is that, that knife that, that was photographed that
7 you, you observed and photographed?

8 A Yes, sir.

9 Q Okay. And it was -- obviously it was collected after
10 it was photographed that morning?

11 A It was.

12 SOLICITOR SORENSON: Your Honor, at this time we'd
13 offer State's 28 into evidence.

14 THE COURT: Any objection?

15 MR. MELLARD: No objection.

16 THE COURT: State's 28 in evidence without objection.

17 (WHEREUPON, State's Exhibit No. 28 was received into
18 evidence at this time.)

19 Q And obviously when you saw it that day, was it opened
20 like that on the front porch?

21 A No, it was not.

22 Q Now, at some point in time when all that was going on,
23 did, did Mr. Powell ultimately show back up at his house?

24 A He did.

25 Q Okay. And how, how did he arrive there?

James Shumpert - Direct examination
by Solicitor Sorenson

1 Was he in a car or on foot?

2 A He was walking off.

3 Q Coming up?

4 A He was coming up Ashley Street.

5 Q Okay. And what did -- what was done with him as he
6 approached, as he approached his residence and came into his
7 yard?

8 A He was immediately detained.

9 Q Okay. And after he was detained, do you remember
10 where -- where was he initially placed then when he was
11 detained?

12 A In back of one of the patrol vehicles.

13 Q Okay. And what, if anything, then did you do with him
14 out there at the scene in the back of that patrol vehicle?

15 A I Mirandized him.

16 Q Okay. And by Mirandized him, what -- tell the jury
17 what you mean by that.

18 A That's when you advise the individual cause the
19 defendant's have certain rights. So, you just read them the
20 Miranda warnings.

21 Q Okay. And do y'all -- do you typically carry a card
22 with you or anything that has those rights on it in case you
23 need to read them to somebody out there on the street or
24 something?

25 A I do.

James Shumpert - Direct examination
by Solicitor Sorenson

1 Q Okay. And do you have one of those cards with you
2 today?

3 A I do.

4 Q Okay. Can you pull it out and kind of read it for the
5 jury what the, the rights that you went over with
6 Mr. Powell, if they're the same ones on the card you have
7 today, read them for the jury, how you would of gone over
8 them with Mr. Powell that morning or that, that afternoon.

9 A It's a small card that we carry sometimes and we don't
10 normally have the paperwork in the field. We actually have
11 someone initial their rights. So, before they say anything
12 to incriminate---

13 MR. MELLARD: Objection, Your Honor. That's not the
14 question that he was asked.

15 THE COURT: If you just answer the question about read
16 the rights please, sir.

17 A Ask the question again.

18 Q Can you just -- well, initially, let me ask you this.
19 I mean how come you carry a card like that with you?

20 A Just to make sure that before somebody, the defendant,
21 says anything, we want to read them their Miranda warnings
22 to understand that they do have rights.

23 Q Okay. And would you now read them kind of as, as you
24 went over them with -- and is that card -- is that the same
25 card you had with you back---

James Shumpert - Direct examination
by Solicitor Sorenson

1 A Yes.

2 Q ---on November 3rd?

3 A No, sir.

4 Q It's not the same?

5 A It's not the same.

6 Q Does it got the same rights on it as the card you had?

7 A Got the same rights, yes, sir.

8 Q So, you go over them as you, as you would of gone over
9 them with Mr. Powell that morning.

10 A Okay. The card says you have the right to remain
11 silent. Anything you say can and will be used against you
12 in a Court of law. You have the right to speak to an
13 attorney, and to have an attorney present during any
14 questioning. If you can not afford a lawyer, one will be
15 provided for you at the government expense.

16 Knowing and understanding your rights as I have
17 explained them to you, are you willing to answer my
18 questions or make a statement at anytime without a lawyer
19 present.

20 Q Okay. And at that point in time did you admonish,
21 since he's -- by detain him, is he handcuffed?

22 A Yes, he was.

23 Q Okay. Did you explain to him kind of why you were
24 detaining him?

25 A I did.

James Shumpert - Direct examination
by Solicitor Sorenson

1 Q And what did you explain to him or what did you tell
2 him was, was kind of going on and what you were
3 investigating?

4 A I was telling him -- I told him that we was there for
5 the investigation of a homicide that took place on Jameson
6 Avenue.

7 Q Okay.

8 A Well, I said murder, but I didn't say homicide.
9 Murder.

10 Q Murder?

11 A Yes, sir.

12 Q All right. And at that point in time, after advising
13 him of his rights, did, did the defendant, Mr. Powell, say
14 anything to you?

15 A He did.

16 Q What did he say?

17 A He said---

18 MR. MELLARD: Objection, Your Honor. We would renew
19 our previous---

20 THE COURT: Yeah, and I will note your objection. I
21 will overrule the objection on the basis of my earlier
22 decision and allow you to go forward. But I will note your
23 objection so it's preserved on the record.

24 MR. MELLARD: Okay. Thank you, Your Honor.

25 THE COURT: Go ahead.

James Shumpert - Direct examination
by Solicitor Sorenson

1 Q What did he say to you at that time?

2 A He said, he said that he didn't, he didn't have no idea
3 what I was talking about, and he was never at the guy's
4 house.

5 Q Okay. All right. Now, at that point in time was he
6 ultimately -- were you kind of finished up as far as
7 photographing and collecting the knife out there?

8 Was he transported to, to investigations?

9 A Yes, he was.

10 Q Okay. And I'm showing you State's 15 and 16.

11 Was he photographed while he was there?

12 A He was.

13 Q All right. And those photographs show him kind of --
14 is that---

15 A Those were---

16 Q Where are those taken at?

17 A That was taken in the interview room.

18 Q Okay. And -- so, that was, as far as the kind of
19 sweatshirt and sweatpants, that's what he was wearing when
20 he came up?

21 A Yes, sir, he was.

22 Q All right. And, and that yellow one I guess is kind of
23 more of a headshot, is that---

24 A Correct.

25 Q ---correct?

James Shumpert - Direct examination
by Solicitor Sorenson

1 A Yes, sir.

2 Q Did he appear to have any injuries on to his face or
3 anything like that?

4 A No, sir.

5 Q Did it appear that he had been in a, a fight that,
6 that, recently?

7 A No, sir.

8 Q Now, was his clothing and his, his, the shoes he was
9 wearing, collected and tested or looked at at that point in
10 time?

11 Are you aware?

12 A I'm not sure. I can't -- I'm not sure.

13 Q That's something that would of typically been done
14 though as far as -- especially I mean --?

15 A Yes, sir.

16 Q After you're done with him, kind of photographing him
17 and, and investigations, was he, he arrested and charged
18 with murder at that point in time?

19 A No, he was not.

20 Q What, what, what happened with him after you finished
21 with him over at the office?

22 A Oh, we let him go.

23 Q All right. Now, were there still, at that point in
24 time, some other witnesses that you, names that you had that
25 you still wanted to kind of look for and, and potentially

James Shumpert - Direct examination
by Solicitor Sorenson

1 interview?

2 A Yes, sir.

3 Q Okay. And who were those other names that you would,
4 that you kind of heard from that you still hadn't talked to?

5 A Well, we still hadn't talked to Todd Wise and then
6 we're trying to figure out who was this D-shop guy that---

7 Q Okay.

8 A ---we learned about.

9 Q Okay. Let me ask you that day, did you also have an
10 opportunity that afternoon, on November 3rd, to, to
11 interview a guy Thurmond Keitt?

12 He goes by Slick.

13 A Slick. Yes, we talked with Slick, but I forgot who
14 took his statement.

15 Q Okay. Let me show you---

16 A I can't remember who took it.

17 Q Does that refresh your memory or --?

18 A Yes.

19 Q Okay. And that was on that November 3rd also?

20 A It was.

21 Q Okay. All right. Now, as far as Todd goes, did you,
22 did you ultimately figure out who, who Todd Wise was and,
23 and find him that day?

24 A I did, later on that day.

25 Q Okay. And take a statement from Mr. Wise?

James Shumpert - Direct examination
by Solicitor Sorenson

1 A We did, yes, sir. Yes, sir.

2 Q And at some point in time did y'all figure out who
3 D-Shop was?

4 A Yes. Yes, sir.

5 Q Okay. And was -- do you know what his name is, was his
6 real name now?

7 A I think it's Darrell something. Beg your pardon one
8 second.

9 (Pause.)

10 A Darrell Jones.

11 Q Darrell Jones.

12 And did y'all ultimately get Mr. Jones in and take a
13 statement from Mr. Jones?

14 A I did.

15 Q Okay. And did that happen that same day that y'all
16 were beginning the investigation or afterwards?

17 A Afterwards.

18 Q Okay. And when was that afterwards?

19 A I want to say it was the very next day after.

20 Q Very -- okay. And as a result of then talking to those
21 witnesses, did, did y'all ultimately get a warrant for Mr.
22 Powell's arrest?

23 A We did.

24 Q Okay. And when, when and where was, was that served on
25 him?

James Shumpert - Direct examination
by Solicitor Sorenson

1 A It was like the very next morning we went back to his
2 residence, but he wasn't there. So we learned that he was
3 at another location, a doctor's office. So, we went there
4 and he was inside the doctor's office.

5 Q Okay. Well, what doctor -- do you remember where that
6 was or what --?

7 A Right there off of John C. Calhoun, across from that
8 gas station. I want to say it was -- I don't know the
9 doctor's names. I think it's a chiropractor. No, sir, I
10 don't know the doctor's name.

11 Q He was taken into custody at that point in time---

12 A He was.

13 Q ---there?

14 Okay. Let me ask you how old -- are you aware of how
15 old Mr. Powell was at the time of this incident?

16 A Yes, sir.

17 Q How old was he at that time?

18 A Twenty-five.

19 Q He appear to be, from your observations of him back in
20 November of 2010, to be physically fit?

21 A Yes, sir.

22 Q And the person that you, you talked with on November
23 3rd and then ultimately was arrested a day or so later, do
24 you see him here in the courtroom?

25 A I do.

James Shumpert - Direct examination
by Solicitor Sorenson

1 Q All right. Can you point him out for the jury?

2 A Sitting right there next to Mr. Mellard with the blue
3 shirt on---

4 Q Blue shirt?

5 A ---and the glasses.

6 Q Okay. Okay. And let me kind of back up. Just a
7 couple more things, Lieutenant.

8 When you, when you talked to him out there at the scene
9 and he told you that he didn't know what you, you were
10 talking about and he hadn't been, hadn't been over at
11 Jameson, did you threaten him to get him to talk to you?

12 A No, I did not.

13 Q Did you promise him anything?

14 A No, I didn't.

15 Q Force him to talk to you?

16 A No.

17 Q Okay. Did he appear to -- I mean understand at least
18 what you were asking him about?

19 A He did.

20 Q Okay. And appear to volunteer or voluntarily waive his
21 rights and, and talk to you at least in this limited amount
22 there at the scene?

23 A He did.

24 SOLICITOR SORENSON: Beg the Court's indulgence.

25 THE COURT: Take your time.

James Shumpert - Direct examination
by Solicitor Sorenson

1 (Pause.)

2 Q Thank you, lieutenant. Please answer any questions I
3 guess Mr. Mellard has for you.

4 THE COURT: Mr. Mellard, your witness.

5 MR. MELLARD: Just a couple questions.

6 CROSS-EXAMINATION

7 BY MR. MELLARD:

8 Q What, what time did you get to Deshawn's house that
9 morning?

10 A Which morning?

11 Q The first morning---

12 A The morning.

13 Q ---you got there?

14 A Well, I don't remember the time.

15 Q You don't remember the time?

16 A No, I do not.

17 Q All right. And then you took -- I believe you said you
18 took pictures of him, and that was that same morning, that
19 first morning that you saw, talked to him?

20 These pictures right there.

21 A Correct, yes, sir.

22 Q What time were these pictures taken?

23 A You talking about the time, I don't know. That was
24 almost two years ago.

25 Q You don't remember?

James Shumpert - Cross-examination
by Mr. Mellard

1 A I don't remember the time.

2 Q Okay. Morning, afternoon, you don't, you don't
3 remember?

4 A It was during, after we just got through talking to
5 Ronnette Stevenson. That's when we learned that he lived
6 next door. So, we went back over there to pick him up.

7 Q So you -- but the question is you don't know what time
8 and---

9 A If you can let me see what time we took the statement
10 from Ronnette Stevenson. It's right after that.

11 Q All right. So, it -- so, it would be -- okay.

12 So, you -- but to your knowledge, you don't know the
13 time?

14 A Let me look at the statement I can tell you---

15 Q Right.

16 A ---the time.

17 Q But I'm saying unless you look at something you can't
18 tell us when?

19 A It's been almost two years ago.

20 Q Okay. All right. That's, that's fine. All right.
21 That's all the questions we have.

22 THE COURT: All right. Anything on redirect?

23 SOLICITOR SORENSON: Just real real briefly, Your
24 Honor.

25 REDIRECT EXAMINATION

James Shumpert - Redirect examination
by Solicitor Sorenson

1 BY SOLICITOR SORENSON:

2 Q You had said that, as far as figuring out the time, IF
3 you saw Ms. Stevenson's statement that might help.

4 A Yes, sir.

5 Q Let me show you.

6 In looking at her statement -- I'm not sure that
7 there's a time actually written on that.

8 A No, there is no time written.

9 Q All right. Let me ask you.

10 She -- you had testified that she was shown and picked,
11 picked Mr., Mr. Powell out of the lineup that, that day
12 also?

13 A Yes.

14 Q I show you the, kind of the affidavit that went along
15 with that would that help kind of refresh your memory at
16 least in what time that was done?

17 A Yes, sir, she picked Mr. Paul out at 12:17PM.

18 Q Okay.

19 A So, shortly thereafter, once we learned that he lived
20 next door behind her, we went straight back over there cause
21 we didn't realize we was that close to him.

22 Q Okay. So, shortly after noon I guess on November---

23 A Right.

24 Q ---3rd?

25 A Yes, sir.

James Shumpert - Redirect examination
by Solicitor Sorenson

1 Q Okay. Thank you, Lieutenant. That's all I have.

2 THE COURT: Anything on recross?

3 MR. MELLARD: No, sir.

4 THE COURT: All right. You may step down, Lieutenant
5 Shumpert. Thank you, sir.

6 WITNESS: Thank you, Your Honor.

7 THE COURT: Is the State prepared to call its next
8 witness?

9 SOLICITOR SORENSON: Yes, State calls Thurmond Keitt.
10 May Lieutenant Shumpert be excused?

11 THE COURT: Any objection?

12 MR. MELLARD: No objection.

13 THE COURT: Okay. You may be excused if you want to.

14 SOLICITOR SORENSON: If you'll place your left-hand on
15 the Bible and raise your right and listen to the clerk.

16 THURMOND KEITT, being first duly
17 sworn, testified as follows:

18 CLERK: Thank you, sir. You may have a seat and please
19 state your name for the record.

20 WITNESS: Thurmond Keitt.

21 THE COURT: And, Mr. Keitt, try and get as comfortable
22 as you can and you might need to pull that microphone---

23 WITNESS: He's not going to be able to reach it.

24 THE COURT: Okay.

25 DIRECT EXAMINATION

Thurmond Keitt - Direct examination
by Solicitor Sorenson

1 BY SOLICITOR SORENSON:

2 Q Just make sure you keep your voice up nice and loud.

3 All right?

4 A Yes.

5 Q All right. Mr. Keitt, would you tell the jury how old
6 you are?

7 A I'm 49.

8 Q Forty-nine.

9 And obviously, from the uniform you got on, you're
10 currently in the Department of Corrections?

11 A Yes.

12 Q All right. And what are you in the Department of
13 Corrections for?

14 A Forgery.

15 Q Forgery.

16 And when, when did you end up going to the Department
17 of Corrections?

18 A In -- about four months ago.

19 Q About four months ago.

20 And how much, how much longer you got there before you
21 get out?

22 A I got three months.

23 Q Three months.

24 All right. And let me ask you this, Mr. Keitt.

25 Are you from Orangeburg?

Thurmond Keitt - Direct examination
by Solicitor Sorenson

1 A Yes.

2 Q Okay. And you have a nickname that you kind of go by
3 when you're out on the street here in Orangeburg?

4 A Yes, Slick.

5 Q Slick.

6 All right. Do you know the victim in this case, Arthur
7 Riley?

8 A No, I know -- I don't know him personally, but I've
9 seen him around here.

10 Q You've seen him around.

11 All right. How about the defendant, Deshawn Powell,
12 you see him around also out there?

13 A I seen him around, but I don't know him personally.

14 Q Okay. What, what nickname did you, did you know him
15 by?

16 A New York.

17 Q New York.

18 All right. Now, Mr. Keitt, I want to turn, turn your
19 attention back to the night that Mr. Riley was killed.

20 okay?

21 A Okay.

22 Q Do you remember -- did you have an occasion that night
23 to go by Art's house on Jameson?

24 A Yes.

25 Q Okay. And what was the purpose of you going by, by his

Thurmond Keitt - Direct examination
by Solicitor Sorenson

1 house that night?

2 A Well, I was walking down the street and a guy named
3 Ebony came in the car and asked me did I know where any
4 girls at. So, I said well, you can go by, go by Art house
5 and see if, who was in there. So, I went by there and Niki,
6 the girl Niki was there. And, so, Niki came -- me and Niki
7 came out and got in the car with, with Ebony.

8 Q And State's Exhibit No. 2, is that the house that you
9 went by?

10 A Yes.

11 Q Okay. So, you, you showed up basically with, with
12 Ebony?

13 A Right.

14 Q And Ebony was looking for a girl?

15 A Right.

16 Q Is that right?

17 All right, sir.

18 A He stopped me at the top of Coleman up there, I meant
19 Jameson and Gall, and I got in the car with him and came on
20 down there.

21 Q Okay.

22 A I went by Art house and -- well then Niki was there.

23 Q Okay. And what was -- what was Ebony looking for a
24 girl for?

25 A To go trick.

- 1 Q Okay. All right. And when you went in, did you know
2 Niki?
- 3 A Yeah, I mean I seen her around too.
- 4 Q Okay.
- 5 A I know what she do, you know.
- 6 Q Okay. So, that's why you asked her --
- 7 A Yes.
- 8 Q -- and did she ultimately end up leaving with you and,
9 and Ebony?
- 10 A Right.
- 11 Q Okay. And what kind of car were y'all in?
- 12 A A little small white car.
- 13 Q Okay. And when you left -- so, you had actually gone
14 into Art's house, is that right?
- 15 A I went right on the front porch, the front porch.
- 16 Q Okay.
- 17 A Yeah, he was standing there and she was standing there.
- 18 Q Okay.
- 19 A He opened the door.
- 20 Q Okay. And I assume was somebody gonna pay her some
21 money to come with y'all?
- 22 A Right.
- 23 Q Okay. And who is that that was gonna pay?
- 24 A Ebony.
- 25 Q Ebony.

Thurmond Keitt - Direct examination
by Solicitor Sorenson

1 All right. So, when you left it was then basically the
2 three of y'all that were leaving in the vehicle from---

3 A Right.

4 Q ---from the house?

5 A Right.

6 Q All right. Did you see anybody kind of outside when
7 you, when you left and got back, went back to the car?

8 A Yeah, it was people coming up the dirt road. It's two
9 people, two individuals coming up the dirt road right across
10 from Art house. But no, I really couldn't tell who it was,
11 but he did ask me about a cigarette.

12 So, I took to smoking a cigarette and I took the
13 cigarette that I had and throwed it in the middle of the
14 road and got in the car. And when I looked back, the person
15 picking up the cigarette was in the middle of the road.

16 Q Okay. And who was that?

17 A I really couldn't tell exactly who it was.

18 Q Okay. Do you remember---

19 A We was pulling -- he was -- at that time we was pulling
20 off.

21 Q Okay. Do you remember giving a statement to Lieutenant
22 Shumpert later on that day?

23 A Yeah.

24 Q Okay.

25 A Yeah.

Thurmond Keitt - Direct examination
by Solicitor Sorenson

- 1 Q And you've seen that statement, right?
- 2 A Right.
- 3 Q Okay. Did you tell Lieutenant Shumpert who it was that
- 4 asked you for that cigarette?
- 5 A Yeah. Well, it sound like New York.
- 6 Q Okay. Sound like?
- 7 A So, from the accent, you know what I mean?
- 8 Q Okay.
- 9 A That's what it sound like.
- 10 Q And that's the defendant you were talking about, right?
- 11 A Right.
- 12 Q Okay. So, that's what you told them back on November
- 13 3rd of 2010?
- 14 A Right.
- 15 Q That you thought it was New York, right?
- 16 A Yeah.
- 17 Q Okay. And, and did you know them real well?
- 18 A No, not really. I seen him around.
- 19 Q Okay.
- 20 A I seen him around, but I never really had any real
- 21 conversation or contact with him, you know, just being
- 22 around the liquor house up there and drinking and him
- 23 talking, shooting the jive. That was it.
- 24 Q Got you.
- 25 All right. So, you ended up, the three of y'all ended

Thurmond Keitt - Direct examination
by Solicitor Sorenson

1 up leaving.

2 Where did y'all go?

3 A Went to Bojangles' --

4 Q Okay.

5 A -- and bought me a pack of cigarettes and a beer and
6 gave me \$10.

7 Q Okay. And the Bojangles' is over on the bypass kind
8 of---

9 A Right.

10 Q ---connected to the Shell station --

11 A Right.

12 Q -- is that right?

13 All right. And -- all right. And after that, where
14 did you go?

15 A I came back down -- he dropped me off right there by
16 Brown Derby and I was walking down Jameson.

17 Q All right. And that would be Ebony that dropped you
18 off?

19 A That dropped me off right there.

20 Q So, he dropped you off kind of by the Brown Derby, and
21 where on Jameson?

22 How far from Art's house is that?

23 A About a quarter mile.

24 Q Okay.

25 A Something like that.

Thurmond Keitt - Direct examination
by Solicitor Sorenson

1 Q And then you're walking back then towards, in the
2 direction of Art's house?

3 A Right.

4 Q All right. And when you were dropped off there, who
5 was still in that white car?

6 A Niki. Niki was in the car with Ebony.

7 Q Okay. Did you see either one of them anymore that
8 night?

9 A No.

10 Q Okay. So, you go walking.

11 As you kind of get back near Art's house on Jameson,
12 tell the jury, did you come across anybody kind of out in
13 the road area in the vicinity of Art's house?

14 A I ran into the girl, Big Red. Big Red ran into me and
15 telling me about going in Art house and help, help Art out
16 cause he's getting beat up.

17 MS. HINDS: Objection.

18 THE COURT: All right. Sustained. I will sustain that
19 objection.

20 SOLICITOR SORENSON: Okay.

21 THE COURT: Okay.

22 Q All right. But, but -- so, so, Red came up to you?

23 A Right.

24 Q Okay. And let me just ask you, did she tell you to go
25 somewhere?

Thurmond Keitt - Direct examination
by Solicitor Sorenson

- 1 A Yeah, she told me to go over there, the dude.
2 Q All right. Just, just -- did she tell you to go
3 somewhere?
4 A Yeah, she did.
5 Q Okay.
6 A She did.
7 Q Okay. And did you go where she told you to go?
8 A No, I was gonna go in there, but the other guy across
9 the street telling---
10 MS. HINDS: Objection.
11 THE COURT: Well---
12 SOLICITOR SORENSON: He hasn't said anything.
13 THE COURT: I, I -- Mr. Keitt, you can't say what
14 somebody else told you. You can say what you did.
15 WITNESS: Okay.
16 THE COURT: That's all and things like that. But you
17 can't say what somebody said.
18 WITNESS: Okay.
19 THE COURT: Okay.
20 Q We got to back up, and I'll try to, I'll try to cover
21 this with you---
22 A Okay.
23 Q ---a little bit.
24 A Okay.
25 Q I see -- you saw Big Red initially, right?

Thurmond Keitt - Direct examination
by Solicitor Sorenson

- 1 A Yes, sir.
- 2 Q And she told you to go do something, but you said you
3 didn't do it?
- 4 A No, no, no.
- 5 Q Okay. And then you saw somebody.
6 who was the other -- who else did you see out there
7 personally?
- 8 A Todd.
- 9 Q Todd?
- 10 A The dude named Todd. A dude named as Todd.
- 11 Q Okay. Did Todd come up to you also?
- 12 A Yeah, he came up to me.
- 13 Q Okay. Did he -- not, not what he said, but did he tell
14 you not to go do something?
- 15 A That's right. He told me not to go in that house.
- 16 Q Okay. All right. At that point in time was there
17 anybody else out kind of in the vicinity of Art's house?
- 18 A No, the, the guy named D-Shop, he was standing there
19 telling -- he kept telling everybody to run when I was
20 coming up the road. I said run, what am I running for, I
21 ain't did -- I ain't do nothing.
- 22 Q Okay. Was he---
- 23 A I had my ID on me. And, so, I wasn't worried about it.
- 24 Q Okay. And was he saying any reason to run?
- 25 A No.

Thurmond Keitt - Direct examination
by Solicitor Sorenson

1 Q Was he saying anybody was coming?

2 A He said the police.

3 MS. HINDS: Objection, Your Honor.

4 A He said the police was on the way.

5 MS. HINDS: He's going back to what somebody's telling
6 him.

7 THE COURT: All right. All right. Just go ahead.

8 SOLICITOR SORENSON: It's not to be offered---

9 THE COURT: Explain.

10 SOLICITOR SORENSON: It's not be offered for the truth
11 of the matter asserted. D-Shop testified that that's what
12 he was saying, and that explains basically what -- I mean
13 it's not offered for the truth that I mean the cops were
14 coming. I mean it---

15 WITNESS: That's what he told me.

16 THE COURT: All right.

17 SOLICITOR SORENSON: It explains basically what he
18 ended up doing.

19 THE COURT: All right. Just, just so the jury, make
20 sure that the jury understands, if y'all recall the earlier
21 testimony of---

22 SOLICITOR SORENSON: Mr. Jones.

23 THE COURT: ---Darrell Jones was that he said the
24 police were coming, and that's what he's gonna be
25 testifying. He's not testifying -- he's testifying that's

Thurmond Keitt - Direct examination
by Solicitor Sorenson

1 what he heard D-Shop say. Not that that is a true
2 statement.

3 Y'all understand the distinction?

4 (Jurors nod affirmatively.)

5 THE COURT: okay.

6 All right. Go ahead.

7 Q okay. So, you heard him yelling that the cops were
8 coming?

9 A Yeah.

10 Q okay. Did you see any cops anywhere?

11 A Nope.

12 Q Do you have any idea what on earth he was talking about
13 at that point in time?

14 A No, no, no.

15 Q All right. Let me ask you.

16 Did you ultimately end up going up to, up to Art's
17 house?

18 A No, I never, I never approached no one in the yard.

19 Q okay.

20 A I was---

21 Q The second, the second time. Obviously you went up
22 initially when you, when you got Niki, right?

23 A Right, she was on the porch.

24 Q But I'm talking about when you came back the second
25 time, did you ever go up to, up even into Art's yard?

Thurmond Keitt - Direct examination
by Solicitor Sorenson

1 A No.

2 Q Okay. So, have any idea what may of been happening
3 inside that house?

4 A No.

5 Q Where did you end up going then?

6 A I went on up the street, went up the street to the, to
7 the liquor house up the street.

8 Q Okay.

9 A I left from there and went on home.

10 Q Okay. And, and later on that day, did you, did you end
11 up going in to see Lieutenant Shumpert and giving a
12 statement that---

13 A That's what I did.

14 Q ---that I asked you about?

15 A They telling me that the police was looking for me.
16 So, I got on, got on my moms and them phone and called up
17 there, called the complex, and they told me I had to call
18 the investigator office. So, I called the investigator
19 office and I talked to Mr. Shumpert.

20 Q Okay. You went in, and as I said, you gave him a
21 statement---

22 A Right.

23 Q ---at that point in time about basically what you just
24 testified to, is that right?

25 A Yeah.

Thurmond Keitt - Direct examination
by Solicitor Sorenson

1 Q Okay. Thank you, Mr. Keitt. Please answer any
2 questions the defense might have.

3 A Okay.

4 THE COURT: Ms. Hinds.

5 MS. HINDS: Just very briefly.

6 THE COURT: Okay.

7 CROSS-EXAMINATION

8 BY MS. HINDS:

9 Q Mr. Keitt, you don't know what was going on in that
10 house---

11 A No I don't.

12 Q ---the second time you went back, correct?

13 A No, I don't.

14 Q Nothing further. Thank you.

15 THE COURT: Anything on redirect?

16 SOLICITOR SORENSON: Nope.

17 THE COURT: All right. Thank you, sir. You may step
18 down.

19 WITNESS: All right.

20 SOLICITOR SORENSON: Can he be released to go back to
21 SCDC?

22 MS. HINDS: Yes.

23 THE COURT: You may be released. Thank you.

24 MS. HINDS: No objection.

25 WITNESS: All right.

1 SOLICITOR BELL: Thank you, Mr. Keitt.

2 THE COURT: All right. You ready to call your next
3 witness?

4 SOLICITOR BELL: Call Melissa Wallace. She's out in
5 the hall.

6 THE COURT: All right. If y'all -- if anybody needs to
7 stand up, stretch their leg, right now you can do that.
8 Okay. But I just need, I need to stand up every now and
9 then. So, if y'all need to, you're welcome to do that. As
10 soon as she gets up here and gets sworn in you're gonna have
11 to sit back down. Okay.

12 THE COURT: Mrs. Wallace, are you gonna be able to sit
13 comfortably there?

14 WITNESS: I'll manage.

15 THE COURT: Okay. All right.

16 MELISSA WALLACE, being first duly
17 sworn, testified as follows:

18 CLERK: Please have a seat and state your name for the
19 record.

20 THE COURT: And you can turn that chair however you
21 need to.

22 WITNESS: Thank you.

23 THE COURT: Okay. And Mr. Bell will help you if you
24 need any help.

25 WITNESS: My name is, my name is Melissa Skipper

Melissa Wallace - Direct examination
by Solicitor Bell

1 Wallace.

2 THE COURT: All right. Mr. Bell.

3 DIRECT EXAMINATION

4 BY SOLICITOR BELL:

5 Q Mrs. Wallace, where are you employed?

6 A I'm employed by the South Carolina Law Enforcement
7 Division commonly known as SLED.

8 Q And how are you employed at SLED?

9 A I am a special agent assigned to the crime scene latent
10 print department within the forensic laboratory.

11 Q And what specifically do you do?

12 A I respond to and process crime scenes in all 46
13 counties of the State when requested by state, local, or
14 federal agencies. I also process evidence collected from
15 those scenes as well as evidence submitted to our laboratory
16 for latent fingerprints, fingerprint, fingerprint
17 comparisons, footwear and tire tread comparisons, blood
18 stain pattern analysis, and crime scene reconstruction.

19 Q Are you a latent print examiner?

20 A I am.

21 Q Okay. What training have you had in regards to that?

22 A I have a Bachelor of Science Degree from the University
23 of South Carolina in mathematics. I'm a certified police
24 officer in South Carolina. I've also successfully completed
25 courses in basic fingerprint, ridgeology, advanced palm

Melissa Wallace - Direct examination
by Solicitor Bell

1 print comparison techniques, and complex latents. I have
2 also successfully completed the SLED latent print crime
3 scene departments two year in-house training program under
4 Court qualified senior examiners.

5 Q Have you ever been qualified as an expert in the State
6 of South Carolina for latent print examination?

7 A Yes, I have.

8 Q How many times approximately?

9 A At least a dozen.

10 SOLICITOR BELL: Your Honor, we offer her as an expert
11 as a latent print examiner.

12 THE COURT: Any objection?

13 MS. HINDS: No objection.

14 THE COURT: All right. Mrs. Wallace is so qualified as
15 a latent print examiner. Thank you.

16 Q Mrs. Wallace, have you had -- you had an occasion to
17 look at some evidence in this particular case involving the
18 victim, Arthur Riley, that was submitted to you?

19 A I did.

20 Q Okay. I want to kind of do a one at a time.

21 First of all, I want to show you what's been marked,
22 and I'm trying to do this in your order, what's been marked
23 as State's 32 and ask if you recognize that.

24 A This is a handgun that I processed related to this
25 case.

Melissa Wallace - Direct examination
by Solicitor Bell

1 Q Okay. And, first of all, what did -- were you looking
2 for, first of all, when you were examining that, processing
3 that?

4 A If I can refer to my notes?

5 Q Certainly.

6 A For State's 32, it had a DNA request as well as a
7 latent fingerprint request on it. Typically, when there's a
8 dual assignment like that, they come to our department. We
9 collect the DNA sample for our DNA department and forward
10 that on to them as well as do latent processing.

11 Q Okay. And did you examine State's 32 for any latent
12 prints?

13 A I did.

14 Q Did you find anything?

15 A No ridge detail at all on it.

16 Q Okay. What does that mean?

17 A It means there was, there was no fingerprint detail at
18 all.

19 Q Okay. So, you couldn't examine anything in regards to
20 that?

21 A That's correct.

22 Q Couldn't lift any prints?

23 A No, sir.

24 Q No prints to lift?

25 A That's correct.

Melissa Wallace - Direct examination
by Solicitor Bell

1 Q Okay. What else did you do with State's 32?

2 A I swabbed some blood that I observed on there, which
3 also tested positive using phenylfaline, and I forwarded
4 that swab on to our DNA department.

5 Q Let me show you this and ask if you can identify that.

6 A This is the, the envelope that contains the swab that I
7 collected from that gun.

8 SOLICITOR BELL: Okay. We'd offer this into evidence
9 with the next number. I can't remember where we are.

10 MS. HINDS: No objection.

11 COURT REPORTER: Be State's 34.

12 THE COURT: State's 34 --

13 COURT REPORTER: Yes, sir.

14 THE COURT: -- is in evidence without objection.

15 (WHEREUPON, the swab was marked as State's Exhibit No.
16 34 and received into evidence at this time.)

17 Q Okay. And after you swabbed State's 34, took the swab
18 and put it in the envelope, it was sent on where?

19 A To our DNA department.

20 Q Okay. Now, next item, let me show you what's been
21 entered into evidence as State's 28 and ask if you recognize
22 that.

23 A Yes, State's, State's 28 is the knife that I processed
24 in this case.

25 Q Okay. And, again, you were looking for latent prints

Melissa Wallace - Direct examination
by Solicitor Bell

1 on this particular knife?

2 A Yes, there was, was also a DNA request on that as well.

3 Q Okay. Now, as to the, first of all, the latent prints,
4 did you find anything?

5 A No, I did not.

6 Q So, there were no fingerprints on there to find?

7 A That's correct.

8 Q So, you couldn't get any fingerprints from it or not,
9 is that correct?

10 A No fingerprints, that's correct.

11 Q Okay. And after you looked at the fingerprints, what
12 did you do?

13 A Actually I did a visual exam prior to any processing
14 and it was very bloody. At that point, I, I processed it
15 using one of our chemicals, it's a blood stain chemical, and
16 then I swabbed the blade at the hinge for a DNA sample.

17 Q Okay. And showing you again what's marked 28, kind of
18 show where you did the---

19 A You can actually see where -- the entire knife is blue.
20 You can actually see where there's a clean spot. That's
21 where I collected the swab---

22 Q Okay. On the blade?

23 A ---on the blade.

24 Q Okay. And let me show you this, and ask if you
25 recognize that.

Melissa Wallace - Direct examination
by Solicitor Bell

1 A Yes, this is the envelope which contains the swab from
2 that knife.

3 SOLICITOR BELL: Okay. We offer this into evidence as
4 the next exhibit.

5 THE COURT: As soon as it's marked.

6 MS. HINDS: No objection.

7 THE COURT: All right.

8 COURT REPORTER: State's 35.

9 THE COURT: State's 35 --

10 COURT REPORTER: Yes, sir.

11 THE COURT: -- is in evidence without objection.

12 (WHEREUPON, the swab was marked as State's Exhibit No.

13 35 and received into evidence at this time.)

14 Q And you may of stated this, but after you took the
15 swabs and put them in that on State's 35, where, where do
16 they go?

17 A They were forwarded to our DNA department.

18 Q Okay. And let me also show you, let me see, what's
19 been marked or what's in evidence as State's 26, and ask if
20 you recognize that.

21 A Yes, this is the light switch that I processed related
22 to this case.

23 Q Okay. And what kind of request did it have?

24 A It had a, a DNA request and a latent print request.

25 Q Okay. And did you examine it before you did anything

Melissa Wallace - Direct examination
by Solicitor Bell

1 with it?

2 A I did. I did a visual exam. I collected a swab from
3 the visible blood that was on the, the light switch, and
4 then I processed it for fingerprints.

5 Q Okay. Did you find any latent prints?

6 A No ridge detail at all.

7 Q So, nothing to take off or compare to?
8 There's no fingerprints on it?

9 A That's correct.

10 Q Okay. And showing you this envelope, and I ask if you
11 recognize it.

12 A Yes, this is the envelope that contains the swab
13 collected from that light switch.

14 Q Okay. And after you took it it was submitted to the
15 DNA department?

16 A That's correct.

17 SOLICITOR BELL: Offer this as the next---

18 COURT REPORTER: State's 36.

19 MS. HINDS: Without objection.

20 THE COURT: State's 36 is in evidence without
21 objection.

22 (WHEREUPON, the swab was marked as State's Exhibit No.
23 36 and received into evidence at this time.)

24 Q Mrs. Wallace, let's -- let me talk a little bit about
25 your expertise in latent prints.

Melissa Wallace - Direct examination
by Solicitor Bell

1 What are latent prints?

2 A To explain what a latent print is I'll explain what a
3 fingerprint is first. The surfaces of the fingers and palms
4 of the hand as well as the soles of the feet and toes are
5 covered with raised portions of skin called friction ridge
6 skin. Now, the raised portions, which are the ridges, are
7 lined with, with pores that exude sweat. Sweat blows along
8 those ridges and tends to collect.

9 Sometimes the sweat mixes with oils from the facial
10 area, other parts of the body, and making it possible, when
11 an object is touched, to leave an outline of those ridges in
12 sweat or other moisture. That fingerprint that can be left
13 in that moisture is what we refer to as the latent
14 fingerprint, which means hidden or not easily visible, and
15 we have to enhance them in some way to make them more easily
16 visible to the naked eye.

17 Q And, so, what happens when you touch something and what
18 are you leaving behind?

19 A It's not always a fingerprint is left. But if a
20 fingerprint is left, it's left and it's usually sweat or
21 other moisture if it's a latent fingerprint.

22 Q Now, you said that it's not always left.

23 Is that -- what do you mean by that?

24 A It's not like TV. You don't always leave a
25 fingerprint. It's depending on a lot of factors. It could

Melissa Wallace - Direct examination
by Solicitor Bell

1 be the, the surface of the, the item that's touched. The
2 smoother the surface is the better and more receptive it is
3 to receiving a fingerprint. Surface of the hands, someone
4 who has rough or textured hands, callouses, things like
5 that, they have a tendency to leave more broken ridges, and,
6 and fingerprints that aren't as readily identifiable.

7 Also things such as whether it's hot or whether it's
8 cold. If it's, if it's really hot, someone will be
9 excessively sweating, which tends to leave smears and
10 smudges as opposed to the distinct and clear ridges, and if
11 it's really cold outside a person can be not sweating at all
12 and not leave a fingerprint at all just cause there's no
13 moisture on their hands.

14 Q Okay. Are fingerprints permanent things?

15 A A person's fingerprints are permanent until
16 decomposition after death.

17 Q Okay. And I guess I asked you the wrong question.

18 Are latent prints permanent things?

19 A No, they are not. Like I said, they are mostly
20 moisture, which makes them very easily to be damaged.

21 Q Okay. So, are -- they can be, let me ask you this,
22 based on your expertise, they can be easily removed from a
23 surface, latent prints, that is?

24 A Wiped off, they dry out, things like that. Anytime
25 somebody cleans something behind, an item being touched,

Melissa Wallace - Direct examination
by Solicitor Bell

1 those, those fingerprints can be wiped away and heat, things
2 like that. Those all play a factor in, in whether a
3 fingerprint can be recovered as well.

4 Q So, the fact that you didn't find a fingerprint on the
5 gun, the knife, and the light plate switch in this
6 particular case is not surprising to you, is that correct?

7 A No, it's not.

8 Q One moment.

9 (Pause.)

10 Q Thank you, Mrs. Wallace. Please answer any questions,
11 questions the defense may have for you please.

12 THE COURT: Ms. Hinds.

13 CROSS-EXAMINATION

14 BY MS. HINDS:

15 Q Very briefly, Mrs. Wallace.

16 You -- you've mentioned your qualifications. So,
17 you've been through various schools, and had to take various
18 courses to learn how to do what you do, correct?

19 A That's correct.

20 Q And it's important that you do your job in a very
21 thorough manner, correct?

22 A That's correct.

23 Q And your job is essentially, essentially trying to make
24 an identification, if you can, with the evidence that's
25 presented to you to be tested, correct?

Melissa Wallace - Cross-examination
by Ms. Hinds

1 A That's correct.

2 Q And your testimony here this morning is you found no
3 prints on the gun, correct?

4 A That's correct.

5 Q No prints on the knife, correct?

6 A That's correct.

7 Q And no prints on the light switch?

8 A That's correct.

9 MS. HINDS: Nothing further.

10 THE COURT: All right. Anything on redirect?

11 SOLICITOR BELL: Nothing from the State, Your Honor.

12 THE COURT: All right. Thank you, Mrs. Wallace. You
13 may step down.

14 SOLICITOR BELL: We'd ask that she may be excused.

15 THE COURT: Okay. She may be excused.

16 MS. HINDS: No objection.

17 THE COURT: Okay. Can I see y'all, both of y'all for a
18 minute?

19 (WHEREUPON, a bench conference was held out of the
20 hearing of the jury at this time.)

21 SOLICITOR BELL: Sheree Brown.

22 Come up here and be sworn, Ms. Brown.

23 SHEREE BROWN, being first duly
24 sworn, testified as follows:

25 CLERK: Please have a seat and state your name for the

Sheree Brown - Direct examination
by Solicitor Bell

1 record please.

2 WITNESS: Sheree Brown. B-R-O-W-N.

3 DIRECT EXAMINATION

4 BY SOLICITOR BELL:

5 Q Ms. Brown, where are you employed?

6 A SLED, also known -- I mean South Carolina Law
7 Enforcement Division.

8 Q Okay. And how are you employed at SLED?

9 A I'm the forensic technician in the DNA department.

10 Q And what do you -- how long have you been there?

11 A Next month, 18 years.

12 Q And what are your job duties as a forensic technician
13 in the DNA department?

14 A Well, one of my job duties, as technician, is to go
15 down to our evidence control and retrieve evidence that the
16 submitting agency has submitted for testing.

17 Q Okay. And what, what do you do?

18 What kind of, what kind of evidence do you, are you
19 getting?

20 A It's whatever they want to be analyzed for DNA. It
21 could be a blood tube, a swab, anything that's collected at
22 a crime scene.

23 Q Okay. And in this particular case with the victim,
24 Arthur Riley, I want to show you what's been submitted as
25 state's 27 and ask if you handled that.

Sheree Brown - Direct examination
by Solicitor Bell

1 A Yes.

2 Q And what is that?

3 what's is State's 27?

4 A This is a coin envelope that contains a filter paper
5 with a blood standard on it from Arthur Riley.

6 Q Okay. And what did you have to do with that filter
7 paper?

8 A A tube of blood was submitted to SLED by an autopsy of
9 Mr. Riley, and it was submitted, and we stabilized it on
10 filter paper because once you stabilize it it can last for
11 eons.

12 Q Okay. And once you put it on the filter paper, where
13 does, where does that particular filter paper go?

14 A It was, went back into the heat sealed pouch that I
15 received it from, sealed it up, and it stayed within SLED's
16 DNA department.

17 Q Okay. And that's for the, eventually for the, the
18 analyst to look at with other evidence?

19 A Yes.

20 Q Okay. And -- but you took the blood that was submitted
21 in a purple top too and you put it on a particular filter
22 paper for later analysis, is that correct?

23 A Yes.

24 Q Thank you, Ms. Brown.

25 One moment.

Sheree Brown - Cross-examination
by Ms. Hinds

1 (Pause.)

2 SOLICITOR BELL: That's all for Ms. Brown.

3 THE COURT: All right. Anything on cross?

4 CROSS-EXAMINATION

5 BY MS. HINDS:

6 Q Ms. Brown, your job is to take the samples and do the
7 testing, correct, what's required, correct?

8 A Yes.

9 Q You have nothing whatsoever to do with the crime scene
10 and you know nothing about the actual crime, correct?

11 A Correct.

12 MS. HINDS: Nothing further.

13 THE COURT: Anything on redirect?

14 SOLICITOR BELL: Nothing further.

15 THE COURT: All right. Mrs. Brown, you may step down.
16 Thank you, ma'am.

17 WITNESS: Uh-huh. (Affirmative).

18 THE COURT: You may also be excused.

19 SOLICITOR BELL: Yes, Your Honor.

20 THE COURT: Okay. And whose this?

21 Jan Bryson?

22 SOLICITOR BELL: Number 14, Your Honor.

23 JAN BRYSON, having been first
24 duly sworn, testified as follows:

25 CLERK: Thank you. You may have a seat and please

Jan Bryson - Direct examination
by Solicitor Bell

1 state your name for the record.

2 WITNESS: My name is Janice Bryson.

3 DIRECT EXAMINATION

4 BY SOLICITOR BELL:

5 Q Ms. Bryson, where are you employed?

6 A I'm employed by the South Carolina Law Enforcement
7 Division.

8 Q And how long have you been with the South Carolina Law
9 Enforcement Division?

10 A I've been with SLED for 23 years.

11 Q And what do you do with SLED?

12 A I'm a forensic technician in the evidence processing
13 department.

14 Q And what do you do as an evidence technician?

15 A Whenever larger items of evidence are submitted to the
16 lab with a request to look for hair, fiber, blood, or semen,
17 I process the evidence. I collect the evidence, and I make
18 sure that it's routed to the appropriate department.

19 Q Okay. Do you physically actually do something with
20 some types of evidence?

21 A Yes, sir.

22 Q What do you do?

23 A I do a phenylfaline test for the presumptive test of
24 blood and I do a A.P. spot test for the presence,
25 presumptive test for semen.

Jan Bryson - Direct examination
by Solicitor Bell

1 Q And if you find either one, do you do something with
2 it?

3 A Yes, sir, I will collect that evidence and send it to
4 the DNA department for further analysis.

5 Q Okay. Let me show you a couple of items that were
6 submitted to you or may of been resubmitted.

7 First of all, this is State's 29 in evidence.

8 May I ask if you recognize that?

9 It hasn't been opened. So --.

10 A Yes, sir, I do. These are my initials and the date
11 that I processed the evidence.

12 Q Okay. And what is that?

13 A It's a gold chain.

14 Q Okay. And what were you asked to do with that
15 particular piece of evidence?

16 A I was asked just to swab the gold chain for any DNA.

17 Q Okay. Did you find anything?

18 A I just collected the swab and sent it to the DNA
19 department for further analysis and I also collected hair.

20 Q Okay. And let me show you this bag and ask if you can
21 identify the contents of this bag.

22 A Yes, sir, that's the hair. I placed the hair in an
23 envelope and I placed the swab that I collected into a, a
24 coin envelope and initialed. Well, I wrote my name out and
25 then I sealed, initial and date the side of the pouch.

Jan Bryson - Direct examination
by Solicitor Bell

1 Q Okay. And this, this -- did -- this evidence is then
2 sent where?

3 A I gave that directly to Amanda Webb, DNA analyst in the
4 DNA department.

5 SOLICITOR BELL: We offer -- I'm sorry. We offer this
6 into evidence, Your Honor.

7 MS. HINDS: No objection.

8 THE COURT: And that's State's -- well, it is, it is
9 not been marked?

10 SOLICITOR BELL: No.

11 THE COURT: Okay.

12 COURT REPORTER: State's 37.

13 THE COURT: State's 37 is in evidence without
14 objection.

15 (WHEREUPON, the hair was marked as State's Exhibit No.
16 37 and received into evidence at this time.)

17 Q And, Ms. Bryson, I believe that you were also submitted
18 what's been marked as State's, what is State's 28 in
19 evidence.

20 Do you recognize that?

21 A Yes, sir, I do. It has my initials, the SLED lab
22 number, SLED item number, and the day that I processed it.
23 It's a knife.

24 Q Okay. And what were you asked to do on this particular
25 State's 28?

Jan Bryson - Direct examination
by Solicitor Bell

1 A To swab the handle of the knife.

2 Q Okay. And did you do that?

3 A Yes, sir, I did.

4 Q And let me show you what's in this envelope and ask if
5 you recognize it.

6 A Yes, sir, this is a heat sealed pouch I generated. I
7 placed my swab in the coin envelope, seal, initial, and
8 date, and I gave this to Amanda Webb also.

9 Q Okay. And just to be sure, in State's 28, which is the
10 knife, you swabbed the handle?

11 A Yes, sir, I swabbed the handle.

12 Q You didn't do anything with the blade?

13 A No, sir.

14 Q Okay.

15 SOLICITOR BELL: We'd offer this into evidence, Your
16 Honor.

17 MR. MELLARD: No objection.

18 THE COURT: No objection. Okay.

19 COURT REPORTER: State's 38.

20 THE COURT: All right. State's 38 is in evidence
21 without objection. Thank you.

22 (WHEREUPON, the swab was marked as State's Exhibit No.
23 38 and received into evidence at this time.)

24 Q Thank you, Ms. Bryson. That's all I have and please
25 answer any questions the defense may have for you.

Jan Bryson - Cross-examination
by Mr. Mellard

1 MR. MELLARD: I just have two questions.

2 CROSS-EXAMINATION

3 BY MR. MELLARD:

4 Q Did you take swabs?

5 A I'm sorry?

6 Q I said you, you swabbed the item?

7 A Yes, sir, I did.

8 Q And you sent them to somebody else?

9 A That's correct.

10 Q And that's all you did?

11 A Yes, sir.

12 MR. MELLARD: That's all I got.

13 THE COURT: All right. Anything on redirect?

14 SOLICITOR BELL: No, Your Honor.

15 THE COURT: All right. Ms. Bryson, you may step down.
16 Thank you, ma'am.

17 WITNESS: Thank you.

18 THE COURT: Be careful stepping down.

19 SOLICITOR BELL: She may -- may she be excused?

20 THE COURT: You may be excused. Thank you, ma'am.

21 WITNESS: Thank you.

22 THE COURT: All right. Let me see y'all up here.

23 (WHEREUPON, a bench conference was held out of the
24 hearing of the jury at this time.)

25 THE COURT: Ladies and gentlemen, we're gonna take a

1 break for lunch now. I would ask y'all to get back a little
2 earlier, but, as often happens with my day, I've got some
3 things I've got to do in Court at 1:45 that do not have
4 anything to do with this case. So, I'm gonna ask y'all to
5 be back at 2:15 so we can be ready to go with this case.

6 You got -- you're gonna have about two hours for lunch.
7 If you got some things you can take care of at your work or
8 anything like that, you can do that. But you'll be back in
9 the jury room at 2:15.

10 Remember, you have not heard all of the testimony in
11 this case. So, you can not talk about this case among
12 yourselves or with anybody else. I know you get tired of me
13 telling you that. Anyway, y'all are excused. Have a good
14 lunch, and I'll see you back at 2:15.

15 Thank you.

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

18 THE COURT: Appreciate it.

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

20 THE COURT: Yes, sir.

21 SOLICITOR SORENSON: We have the photos and I had
22 attempted to get them it through Lieutenant Shumpert, and I
23 think, when I was reciting the numbers, I may of misspoke
24 and left -- said state's 12 through 15 instead of State's 12
25 through 16. Harry Dot did not have that in evidence.

1 THE COURT: Okay.

2 SOLICITOR SORENSON: I would move it into evidence.

3 THE COURT: And I, and I believe that y'all will --
4 yeah, you did say 15.

5 Okay. So, what you want to do?

6 SOLICITOR SORENSON: I would offer it into evidence.

7 THE COURT: Any objection?

8 MS. HINDS: No, sir.

9 THE COURT: All right. Then 16 is in evidence.

10 SOLICITOR SORENSON: Thank you.

11 THE COURT: And remember what you did.

12 Okay. Thank you, Ms. Hinds.

13 (WHEREUPON, State's Exhibit No. 16 was received into
14 evidence at this time.)

15 THE COURT: All right. Ms. Hinds, is the defense
16 ready?

17 Oh, okay.

18 MS. HINDS: Judge, they went to go get him. We will be
19 in in just a second.

20 THE COURT: Okay. Thank you.

21 (WHEREUPON, the defendant was brought into the
22 courtroom at this time.)

23 THE COURT: All right. Ready?

24 MS. HINDS: Yes, sir.

25 THE COURT: Bring the jury in please, ma'am.

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

3 THE COURT: I hope y'all had a nice lunch. I got to
4 tell you I apologize for us starting a little later. It's
5 my fault. When I try and do things I think I can do them
6 faster than I can and I really can't. So, that's my fault
7 that y'all had waited an extra 15, 15 or 20 minutes to get
8 back started in here today, this afternoon.

9 But the State's ready to continue with their, with
10 their case, and they will call the next witness right now.

11 All right. Mr. Bell.

12 SOLICITOR BELL: Thank you, Your Honor.

13 Please the Court.

14 State would call Doctor Janice Ross.

15 JANICE ROSS, being first duly
16 sworn, testified as follows:

17 CLERK: Thank you. You may have a seat and please
18 state your name for the record.

19 WITNESS: Janice Edwards Ross.

20 THE COURT: Mr. Bell, your witness.

21 SOLICITOR BELL: Thank you, Your Honor.

22 THE COURT: How you doing?

23 WITNESS: Just fine.

24 THE COURT: Yes, ma'am.

25 DIRECT EXAMINATION

Janice Ross - Direct examination
by Solicitor Bell

1 BY SOLICITOR BELL:

2 Q Doctor Ross, where are you employed?

3 A In Newberry with Newberry Pathology Associates.

4 Q And how are you employed there?

5 A I am the owner of the business and forensic
6 pathologist.

7 Q And can you tell us about your educational background
8 please, ma'am?

9 A Yes, I got a degree, a Bachelor's Degree from the
10 University of South Carolina and my M.D. from Upstate
11 Medical Center in Syracuse, New York where I did further
12 training in pathology.

13 Pathology is the study of disease and we learn how to
14 do autopsies. We learn how to diagnose tumors and leukemias
15 through the use of a microscope in a laboratory. I am
16 further trained in the area of forensic pathology. The word
17 forensic means legal. So, we use our pathology knowledge
18 for legal matters such as rapes, homicides, suicide. We do
19 autopsies. We learn how to do a forensic autopsy to prove
20 matters of death such as homicides and suicides and to
21 document patterns of injury.

22 Q And how long have you been doing today forensic
23 pathology?

24 A For 35 years.

25 Q And are you licensed in the State of South Carolina?

Janice Ross - Direct examination
by Solicitor Bell

1 A Yes.

2 Q Do you have any board certifications?

3 A In three areas of pathology including forensic
4 pathology.

5 Q Have you ever been qualified as an expert in the Courts
6 of the State of South Carolina as an expert in forensic
7 pathology?

8 A Yes.

9 Q Approximately how many times?

10 A Oh, 70 at least times.

11 SOLICITOR BELL: Your Honor, we'd offer Doctor Ross as
12 an expert in forensic pathology.

13 MR. MELLARD: No objection.

14 THE COURT: All right. Ms. -- all right. So noted
15 that Doctor Ross is an expert in forensic pathology.

16 SOLICITOR BELL: Thank you, Your Honor.

17 Q Doctor Ross, I think, as you stated, what you're
18 looking at is basically how a person died in, in your line
19 of work?

20 A Yes.

21 Q Okay. Did you have an occasion, back in November of
22 2010, to examine Arthur Riley --

23 A Yes.

24 Q -- sent from Orangeburg County?

25 A Yes.

Janice Ross - Direct examination
by Solicitor Bell

1 Q What date was that?

2 A It was November 4th, 2010.

3 Q And that was done in Newberry?

4 A Correct.

5 Q Okay. And what happens when you're presented a body
6 for autopsy?

7 What do you do?

8 A The body is brought to us. We do the autopsy in the
9 morgue at the Newberry County Memorial Hospital. It's
10 brought to us in a body bag. We open the bag and photograph
11 every, everything and document the clothing, if there's any
12 present, and then we do photographs of the nude body. We do
13 an external examination and then we do an internal
14 examination.

15 Q Okay. And what state did you find the body in when you
16 first examined it?

17 A Just had a pair of pants or shorts on down, that was
18 down around his ankles.

19 Q And did -- you did an exterior examination.

20 What did your exterior examination show?

21 A It showed multiple injuries most of which were what we
22 call sharp force injury, injuries caused by something sharp,
23 a knife or a, a piece of glass, something sharp. There were
24 some also blunt force injuries. The word blunt force injury
25 means something, an injury from a blunt instrument, a fist,

Janice Ross - Direct examination
by Solicitor Bell

1 a baseball bat, that kind of thing.

2 Q Okay. Were -- let's start with the, the blunt force
3 injury.

4 where did you notice those blunt force injuries?

5 This is externally.

6 A Yes, mostly those were around the head. The, the upper
7 lip had a laceration and bruising from blunt force. The
8 right cheek, the -- I'm sorry. The left cheek and the left
9 eye, there were some abrasions, which is scrapes to the
10 skin, from blunt force injuries over the top of the head.

11 Q Okay. Could you quantify how many of those injuries or
12 was it just a number?

13 A It's hard to differentiate. Maybe four or five.

14 Q Okay. That were visible?

15 A Yes.

16 Q Okay. And did you notice any sharp force injuries
17 about the head?

18 A Yes, most of those were on the right side of the head
19 and some were from the right side of the head around the
20 temple area, the cheek.

21 Q Did you quantify that number?

22 A Yes, there were about 14 of those.

23 Q Just -- and how did you classify those wounds?

24 Were they deep or were they slight or were they---

25 A They were mostly stab wounds. They -- a stab wound is

Janice Ross - Direct examination
by Solicitor Bell

1 a sharp force injury. So is an incised wound. An incised
2 wound just means a cut. All right. A cut from a sharp
3 instrument. A stab wound is defined as being deeper than it
4 is wide at the surface. So, most of these were stab wounds.
5 Some were cuts, incised wounds.

6 Q Okay. And then moving down externally, you went down
7 from the, from the head and the face down to the neck, is
8 that correct?

9 A Yes.

10 Q And did you observe anything around the neck?

11 A There were, again, multiple incised wounds or stab
12 wounds and incised wounds. There were I think ten stab
13 wounds and three cuts, three incised wounds.

14 Q Okay. And how, how were they?

15 A They were going fairly deep into the neck and didn't
16 hit the main artery or the jugular vein, but hit a lot of
17 the arteries and veins going, coming off of those vessels.

18 Q The smaller veins and vessels?

19 A Yes.

20 Q Would the -- would that kind of cut to the smaller
21 veins, would that cause any kind of like sudden spurt or
22 would that be a slow---

23 A The vein---

24 Q ---bleeding process?

25 A The venous blood would be a, a slow.

Janice Ross - Direct examination
by Solicitor Bell

1 Q Okay. And that -- so, that was a total of 13 on the
2 front of the neck?

3 A Mostly right and front, yes.

4 Q Right and front. Okay.

5 A Uh-huh. (Affirmative).

6 Q Going further down, what are the next injuries that you
7 observed?

8 A They were multiple wounds on the back of the neck also.
9 There -- seven of those. They were stab wounds.

10 Q Okay. Which side of the -- just total -- just in
11 the---

12 A Pretty much across the whole back.

13 Q And then we go down to---

14 A The---

15 Q What was the next area that you---

16 A The, the chest. There were seven in the chest.

17 Q Okay. Were there any other wounds, any other injuries
18 or wounds that you noticed below the chest?

19 A Well, there's one wound in the inside of the
20 right-hand.

21 Q Okay. And where was that located on the hand?

22 A Let me get an exact placement. It was on the palmer
23 aspect of the hand just at the base of the index finger.

24 Q Okay. Just one cut there?

25 A Yeah.

Janice Ross - Direct examination
by Solicitor Bell

1 Q Was that like a slice or something or how would you
2 characterize it?

3 A Oh, it was from a sharp instrument. So, it was a, a
4 cut, yes.

5 Q Okay. So, externally to recap, we had, we had blunt
6 trauma, several wounds about the top of the head and the
7 eyes and the lips, is that correct?

8 A Yes.

9 Q And then we had seven stab -- no, sorry.

10 Fourteen stab wounds on the right side of the face or
11 at the temple?

12 A Correct.

13 Q And then we had thirteen stab wounds or ten stab wounds
14 and three other slicing wounds or whatever about the front
15 of the neck?

16 A Front and the right, yes.

17 Q Front and the right?

18 A Uh-huh. (Affirmative).

19 Q And then seven on the back?

20 A Correct.

21 Q And then seven on the chest --

22 A Correct.

23 Q -- is that correct?

24 And then one on the pinkey?

25 A Yes.

Janice Ross - Direct examination
by Solicitor Bell

1 Q Okay. So that's almost around 43 stab wounds?

2 A Forty-two, total.

3 Q Or 42.

4 Plus the blunt force trauma?

5 A Correct. Yes.

6 Q Any other wounds externally?

7 A No.

8 Q What is the next step in your autopsy?

9 A We do a, an internal examination, look at each organ
10 to, from incision to the body.

11 Q Okay. Did you find anything of significance when you
12 did the incision into the body?

13 A Well, we found blood inside the chest cavities and we
14 had a stab wound that continued into the heart from one of
15 the chest wounds. We had also wounds in the lungs from a
16 continuation of the stab wounds from the chest.

17 Q Okay. How much blood did you find inside the chest
18 cavity?

19 A We found a hundred in one side and 50 in the, 50 cc's
20 in one side and 100 cc's on the other side.

21 Q Okay. And you said there was a penetrating stab wound
22 to the heart?

23 A Yes.

24 Q And then two to the lungs?

25 A Yes.

Janice Ross - Direct examination
by Solicitor Bell

1 Q Okay. Were any of those fatal?

2 A They would all be fatal --

3 Q All?

4 A -- in each other -- each one individually.

5 Q Okay. Now, you said you found 100 cc's of blood in the
6 left side of the chest and 50 cc's on the right?

7 A Correct.

8 Q Okay. How many -- what is the volume of blood in the
9 human body of a -- this man was what 6-foot, 165 pounds?

10 A He probably had between 5,500 and 6,000 cc's.

11 Q Now, did you do any other internal examination or find
12 any wounds or anything?

13 A No, we, we -- well, we looked at each organ. There was
14 some blood around the brain from the blunt force injuries.
15 It's just a -- I think a hundred, ten cc's of blood what's
16 called subdural hemorrhage, which indicates blunt force
17 injury of pretty significance, but, at that point, was not
18 totally fatal.

19 Q Okay. How significant an injury is that?

20 A It's significant cause it's -- it shows significant
21 force to, to cause that much hemorrhage.

22 Q I mean if -- by itself, what would it cause a person to
23 do?

24 A It could cause eventual death. My first --
25 unconsciousness.

Janice Ross - Direct examination
by Solicitor Bell

- 1 Q okay. So, it could cause, cause immediate
2 unconsciousness?
- 3 A It could.
- 4 Q Yeah.
- 5 A Within seconds, minutes.
- 6 Q Let me still ask you something that I didn't ask you.
7 Did you have an idea how old the victim was, Mr. Riley?
- 8 A I was given an age of 69.
- 9 Q okay. Did he appear to be the appropriate age---
- 10 A Yes.
- 11 Q ---from what you examined?
- 12 A Yes.
- 13 Q Okay. So, after all this examination, what did you do
14 after you finished the internal examination?
- 15 A Well, while we're doing the -- before we even cut into
16 a lot of the organs we take blood samples and samples of
17 urine if anything is present.
- 18 Q Okay. Well, let me show you one particular sample.
19 This is been marked as State's 27 in evidence, and ask if,
20 this is part of it, but if that was blood that you took
21 during your autopsy?
- 22 A This is the label that would go on the blood sample,
23 yes.
- 24 Q And---
- 25 A And it's in the purple top, yes.

Janice Ross - Direct examination
by Solicitor Bell

1 Q And that was eventually given, I believe, to Lieutenant
2 Gerald Carter in this particular case?

3 A Yes.

4 Q Did you do any other kind of examination on this body?

5 A Just not sure what you're asking.

6 Q Let me -- I'll ask, did you do a sexual assault kit on
7 him?

8 A I'm sorry. Yes, we did.

9 Q And what was the purpose of that?

10 A Due to the fact that the pants were down around his
11 ankles, we just wanted to make sure that there was, see if
12 there was any evidence of somebody else being there, and if,
13 if there were, you know, if he left his DNA on him.

14 Q Okay. Just as a precaution based on what you observed,
15 is that --

16 A Yes.

17 Q Okay. Let me show you -- this is kind of a group.
18 This is State's 30 in evidence, and it's probably most of
19 the sample that those are items that you collected during
20 that particular examination.

21 A Yes, these are what we collect for what we call a rape
22 kit.

23 Q And it's basically like swabs from the, in the case of
24 a male, from the penis and from the rectum and oral swabs
25 and---

Janice Ross - Direct examination
by Solicitor Bell

1 A Yes.

2 Q And you did combings and clippings of the nail and
3 that---

4 A We did -- I don't know if we did nails, but we did the
5 oral, rectal, and penile swabs.

6 Q Okay. And those were given to Lieutenant Carter as
7 well?

8 A Yes.

9 Q Okay. Now, after all your examination, did you reach a
10 conclusion as to death beyond all reasonable and medical
11 certainty?

12 A Yes.

13 Q And what was that?

14 A It's exsanguination, which means to bleed out due to
15 the wounds of the blood vessels, heart, and lungs due to the
16 stab wounds of the neck and chest.

17 Q And based on your experience and expertise, beyond
18 reasonable medical certainty, the type of bleeding that's
19 being done would of been a slow bleeding or would of been a
20 spurting type of bleeding based on the wounds that you
21 observed?

22 A It would of been a slow flow basically. It was no
23 evidence of an artery being cut.

24 Q Okay. And what would happen if an artery had been cut?

25 A Get high blood pressure, propulsion of blood. So, you

Janice Ross - Direct examination
by Solicitor Bell

1 get a, a spatter out, outwards. I didn't, I didn't go to
2 the scene, but I was told there was a lot of blood there but
3 no spatter.

4 Q And a scene with a lot of blood would be consistent
5 with the injuries that you saw?

6 A Yes.

7 Q Okay. He lost apparently what, approximately five,
8 5,000 cc's of blood?

9 A Well, he, he wouldn't lose all his blood. But he, you
10 know, if you lose a significant amount, a third or a half
11 very suddenly, then it causes death.

12 Q Okay. Doctor Ross, I'm gonna show you what's been
13 marked State's 28.

14 You were shown this to, today?

15 A Yes.

16 Q That's a knife, a pocket folding knife?

17 A Yes.

18 Q Are the wounds that you observed on Arthur Riley
19 consistent with what this could cause?

20 A Yes.

21 Q Let me ask you this about all the wounds, the blunt
22 force and the sharp force, did they appear that they
23 occurred contemporaneously, at the same time or near the
24 same time?

25 A Yes.

Janice Ross - Direct examination
by Solicitor Bell

1 Q And there's no indication that there were like two
2 separate sets of wounds and all?

3 They all just kind of happened at the same time?

4 A That's correct.

5 Q And based on your experience and, and expertise, beyond
6 all reasonable medical certainty, is it consistent, even
7 with something in a hand, looking like they're hitting
8 something with that kind of downward force, the stab wounds
9 and the blunt force trauma?

10 A Yes.

11 SOLICITOR BELL: Okay. One moment. I'm catching my
12 train of thought.

13 (Pause.)

14 Q Doctor Ross, again, based on your 35 years experience,
15 how would you characterize the totality of these wounds that
16 you saw beyond all reasonable medical certainty?

17 A You see something like this and, with people in a fit
18 of rage.

19 Q Okay. Just continuously pummeling somebody?

20 A Yes.

21 Q Thank you, Doctor Ross. Please answer any questions
22 the defense may have for you.

23 A Sure.

24 THE COURT: Mr. Mellard.

25 MR. MELLARD: Just a couple questions.

Janice Ross - Cross-examination
by Mr. Mellard

1 THE COURT: All right.

2 CROSS-EXAMINATION

3 BY MR. MELLARD:

4 Q You did the autopsy on Arthur Riley on November 4th

5 --

6 A Yes, sir.

7 Q -- is that correct?

8 And you determined that he, he died on November 3rd?

9 A That was my -- that was given to me by the coroner.

10 Q Okay. Can you be precise about the time of his death?

11 A No.

12 Q All right. And when you examined the body, you noted
13 that, I believe you said, blunt force injuries?

14 A There were some, yes.

15 Q Okay. There were abrasions, I believe lacerations and
16 contusions?

17 A Correct.

18 Q All right. And an abrasion is, is basically a scrape?

19 A That's correct.

20 Q Okay. Arthur Riley didn't die from a scrape?

21 A No.

22 Q Correct?

23 A No.

24 Q All right. And a laceration is a cut, correct?

25 A A laceration is a split of the skin from the blunt

Janice Ross - Cross-examination
by Mr. Mellard

1 force injury. It leaves little pieces of tissue in-between
2 the two edges of the, of the split as opposed to a sharp
3 force instrument, instrument causing a cut, which has no, of
4 the, no tissue in-between.

5 Q Okay. Arthur Riley didn't die from a laceration?

6 A Correct.

7 Q All right. And there was a contusion of the face --

8 A Yes.

9 Q -- correct?

10 And my understanding of a contusion is it's a, it's a
11 bruise?

12 A Correct.

13 Q So, if I like ran into this, this podium, my
14 understanding of a, of a contusion is that the little small
15 blood vessels would kind of get damaged and my hand would
16 swell up?

17 A Yes.

18 Q That's basically what we're talking about here?

19 A Yes.

20 Q All right. So, Arthur Riley didn't die from a
21 contusion?

22 A No.

23 Q All right. Now, you can't determine the time of death.
24 Can you determine what time the blunt force trauma
25 occurred?

Janice Ross - Cross-examination
by Mr. Mellard

- 1 A No. No.
- 2 Q Okay. And can you determine what time the sharp force
3 trauma occurred?
- 4 A No.
- 5 Q All right. Now, he also had stab wounds I believe you
6 said?
- 7 A Yes.
- 8 Q All right. And you said that the stab wounds actually
9 caused his death --
- 10 A Yes.
- 11 Q -- that was the cause of death, and I believe, on your
12 report, you said he died within minutes of, of being
13 stabbed?
- 14 A Yes.
- 15 Q How many minutes are we talking about here?
- 16 A It depends on the situation. He had bad coronary
17 artery disease also. So, he would succumb to bleeding out
18 faster than a younger person with good coronary arteries.
- 19 Q Okay. So, are we talking less than five minutes?
- 20 A Yes.
- 21 Q Four minutes?
- 22 A Hard to say.
- 23 Q Possibly?
- 24 A Possible.
- 25 Q Possibly three minutes?

Janice Ross - Cross-examination
by Mr. Mellard

1 A Possibly.

2 Q Possibly two minutes?

3 A Possibly.

4 Q Possibly one minute?

5 A Possibly.

6 Q All right. Possibly less than a minute?

7 A Yeah, close.

8 Q All right. And what is it again that caused you to
9 perform the, the rape kit?

10 I'm just curious. I didn't hear that.

11 A The way that, that he was found with just I guess his
12 shorts or pants down below his or at his ankle.

13 MR. MELLARD: Okay. One second.

14 (Pause.)

15 MR. MELLARD: That's all.

16 THE COURT: Anything on redirect?

17 SOLICITOR BELL: No, Your Honor.

18 THE COURT: All right. Thank you, Doctor Ross.

19 WITNESS: Thank you.

20 THE COURT: Be careful getting down from there.

21 WITNESS: Thank you.

22 SOLICITOR BELL: We ask that she be excused, of course.

23 THE COURT: Can Doctor Ross be excused unless I hear an
24 objection to it?

25 MS. HINDS: No objection.

1 THE COURT: Okay. Thank you, ma'am.

2 SOLICITOR BELL: Thank you, Doctor Ross.

3 THE COURT: We appreciate it.

4 WITNESS: All right.

5 THE COURT: All right. State ready to call its next
6 witness?

7 SOLICITOR BELL: Yes, sir.

8 State calls Marlos Stevenson.

9 MARLOS STEVENSON, being first duly
10 sworn, testified as follows:

11 CLERK: Thank you.

12 DIRECT EXAMINATION

13 BY SOLICITOR BELL:

14 Q If you would, state your name for the record.

15 A Marlos Stevenson.

16 Q Okay. Make sure you keep your voice up nice and loud.

17 All right, Mr. Stevenson?

18 A Yes, sir.

19 Q All right. Tell the jury, if you would, how old you
20 are?

21 A Twenty-nine.

22 Q Okay. And, Marlos, where, where are you originally
23 from?

24 A Chester, South Carolina.

25 Q Where?

Marlos Stevenson - Direct examination
by Solicitor Bell

1 A Chester, South Carolina.

2 Q Chester, South Carolina.

3 And have you ever lived in Orangeburg County?

4 A No, sir.

5 Q Okay. And obviously, from looking at the, the jumpsuit
6 you got on right now, you're currently incarcerated?

7 A Yes, sir.

8 Q Okay. And what are you currently in prison for?

9 A Crack cocaine.

10 Q Okay. And you were actually prosecuted by the, the
11 U.S. Attorney's Office, the federal government, is that
12 correct?

13 A Yes, sir.

14 Q All right. And what -- did you ultimately end up
15 pleading guilty to something?

16 A Yes, sir.

17 Q Okay. Tell the jury what it is that you pled guilty
18 and when that happened.

19 A I pled guilty to, to 20 years, but I was served ten
20 years.

21 Q Okay. And what was that that you pled to?

22 Do you remember what the charge was?

23 A A distribution of crack cocaine, 50 grams or more.

24 Q And, and when did that happen?

25 When did you plead guilty to that?

Marlos Stevenson - Direct examination
by Solicitor Bell

- 1 A I got sentenced June the 29th last year.
2 Q of 2011?
3 A Yes, sir.
4 Q Okay. And you also, at the time that happened, you
5 were on federal either probation or parole for, for a prior
6 drug offense back in 2005, is that correct?
7 A Yes, sir.
8 Q Okay. So, you also had that to deal with, is that
9 right?
10 A Yes, sir.
11 Q Okay. And also looking at your record, you also had,
12 from back in 2000, so 12 years or so ago, you got charged
13 with magistrate level giving false information to the police
14 --
15 A Yes, sir.
16 Q -- is that correct?
17 Let me ask you. So, you were, you were sentenced back
18 in June of 2011, is that right?
19 A Yes, sir.
20 Q And you received, at that point in time, a ten, a
21 twenty year sentence, is that correct?
22 A No, a ten year sentence.
23 Q A ten year sentence. Okay.
24 A Yes, sir.
25 Q And have you since -- let me ask you, at the time when

Marlos Stevenson - Direct examination
by Solicitor Bell

1 you pled guilty, did you enter into a plea agreement between
2 you, yourself, your lawyer, at the time, and the U.S.
3 Attorney's Office?

4 A Yes, sir.

5 Q Okay. And you agreed, obviously, to plead guilty, is
6 that correct?

7 A Yes, sir.

8 Q Okay. Did you agree, at that point in time, to, to
9 cooperate with law enforcement?

10 A Yes, sir.

11 Q Did you agree to, to testify if that occasion arose?

12 A Yes, sir.

13 Q Okay. And what would happen if you, if you gave, if
14 you lied?

15 What would that do to that plea agreement that you're
16 under at this time?

17 A I would get more time added on, on my federal sentence.

18 Q Okay. And is that still something that's possible if
19 you are found to be not telling the truth?

20 A Yes, sir.

21 Q Okay. Now, did there come a time, Mr. Stevenson, prior
22 to you being sentenced, when you found yourself housed here
23 in the Orangeburg County Detention Center?

24 A Yes, sir.

25 Q Okay. Who put you there?

Marlos Stevenson - Direct examination
by Solicitor Bell

1 I mean how did you end up there?

2 Do you even know?

3 A After I pled guilty, and it was, it was like a space at
4 Lexington County. So, they just moved some of us to, to
5 Orangeburg County.

6 Q So, you kind of moved around while you were waiting --

7 A Yes.

8 Q -- actually getting sentenced and going into a federal
9 prison?

10 A Yes, sir.

11 Q Okay. All right. And do you remember when it was that
12 you, that you showed up here in Orangeburg County, the
13 Orangeburg County Jail?

14 A February 28th of last year.

15 Q Okay. February 28th of 2011?

16 A Yes, sir.

17 Q And how long were you at the Orangeburg County Jail?

18 You remember---

19 A Till, till June, June the 2nd of last year.

20 Q 2011.

21 Okay. February, March, April, and May.

22 So, a little longer than three months?

23 A Yes, sir.

24 Q Does that sound about right?

25 Now, prior to February 28th of 2011, Mr. Stevenson,

Marlos Stevenson - Direct examination
by Solicitor Bell

1 did you know the defendant, Deshawn Powell, prior to
2 February 28th of 2011?

3 A No.

4 Q Ever seen him before?

5 A No.

6 Q Any idea who he was prior to you showing up here in the
7 Orangeburg County Jail?

8 A No.

9 Q Know anything about his legal problems at that time
10 before you showed up at the Orangeburg County Jail?

11 A No, sir.

12 Q Now, did there come a time, Mr. Stevenson, while you
13 were here in Orangeburg where you came to, to know the
14 defendant?

15 A Yes, sir.

16 Q Okay. And tell the jury what -- did, did you, did you
17 learn his name?

18 A No, I just learned his nickname.

19 Q And what was that?

20 A It was New York or either Scoop.

21 Q New York or Scoop?

22 A Yeah.

23 Q Okay. And, and tell the jury then, if you would,
24 Mr. Stevenson, kind of how it came about that you, you got
25 to know New York?

Marlos Stevenson - Direct examination
by Solicitor Bell

1 A Actually I was, I was housed in the same pod with him,
2 and then he -- we used a rec, to talk to a rec---

3 COURT REPORTER: We, we did what?

4 Q Say it again.

5 A I was, I was housed in, in the same pod with him, and
6 to talk to a rec, came right with the bottom tier. Once,
7 once we on rec, they locked down. So, so, every time I---

8 Q And by rec---

9 A But during, during rec he asked me to, to pop his slap
10 for him.

11 Q Okay. Let me back you up just to make sure the jury
12 understands what some of these terms are.

13 By rec, that means -- is there a certain amount of time
14 during the day that you guys are -- if you were -- you said
15 you were in the upper tier or the bottom tier?

16 A I was in the upper tier. He was in the bottom tier.

17 Q Okay. So, a certain amount of time or a certain
18 specific time during the day that the inmate's in the upper
19 tier are let out for recreation time?

20 A Yes, sir.

21 Q Okay. And, and while the upper tier inmates are out
22 for recreation, are the lower tier inmates in their cells or
23 allowed out also?

24 A No, they were in their cells.

25 Q Okay. So basically one, basically one-half out at a

Marlos Stevenson - Direct examination
by Solicitor Bell

1 time, is that correct?

2 A Yes, sir.

3 Q Okay. And, and you -- I believe you testified that
4 Mr. Powell, during that period of time, was down in the
5 lower tier?

6 A Yes, sir.

7 Q So basically, if you were out of your cell for
8 recreation, where would he be?

9 A In his room.

10 Q In his cell, is that correct?

11 A Right.

12 Q All right. And -- now, you made reference, the last
13 thing you said that, Mr. Stevenson, is that he would get you
14 to pop his flat.

15 Is that what you said?

16 A Yes, sir.

17 Q Describe for the jury what that means.

18 What, what do you mean?

19 A Pop his slap mean he take a string and, and, and put
20 it, put it through this small window, window on the door.
21 It's like a little hinge thing. So, once you put it through
22 there, he had to pull it, pull it inside and then -- and
23 just pull it, and the hinge will open. It's like a little
24 old small doorway.

25 Q Okay. would that allow you to then communicate with

Marlos Stevenson - Direct examination
by Solicitor Bell

1 the person that's inside the cell where you could, could
2 talk with that person while you were out?

3 A Yes, sir.

4 Q Okay. And -- all right. And let me ask you this.

5 When you initially kind of first, first encountered
6 Mr. Powell, I mean what did y'all -- did y'all talk about
7 his case initially or anything like that?

8 A No, we haven't started out talking about it.

9 Q Okay.

10 A We just---

11 Q All right. Okay. And let me ask you this.

12 Did, did you know his full name?

13 Did you ever, ever, ever ask him what his full name was
14 or anything like that?

15 A No.

16 Q All right. Did there come a time where you thought you
17 knew what his full name was?

18 A No.

19 Q We'll come back to that in a second. But -- all right.
20 Let me ask you this, Mr. Stevenson.

21 Did you eventually, at some point in time, learn what
22 Mr. Powell was in jail for, what he was charged with?

23 A Yes, sir.

24 Q And what was that, that he indicated he was charged
25 with?

Marlos Stevenson - Direct examination
by Solicitor Bell

1 A Murder.

2 Q Okay. And what was his kind of attitude about, about
3 his charge?

4 I mean --.

5 A It was, it was more like a -- it was more like a brag
6 mode.

7 Q Okay. And let me ask you this.

8 Did there come a time, after you had learned kind of
9 what Mr. Powell was in, was incarcerated for, that you kind
10 of told him anything about your, your life circumstances?

11 A Yes, sir.

12 Q Okay. And what was that that you, that you kind of
13 shared with Mr. Powell?

14 A Actually I told him -- I told him what I was in for and
15 then I told him -- I told him my mom, she was charged for
16 murder, murder too.

17 Q And how long ago did that happen?

18 Was that true?

19 Is that the truth?

20 A Yeah.

21 Q And how long ago did that happen that your mom was
22 charged with murder?

23 A It was in '95.

24 Q Okay. And did you tell him a little bit about your
25 mom's situation?

Marlos Stevenson - Direct examination
by Solicitor Bell

- 1 A Yes, sir.
- 2 Q Were you a witness actually to that event?
- 3 A (Witness nods affirmatively.)
- 4 Q Okay.
- 5 COURT REPORTER: What was his answer?
- 6 Q Were you a witness to that event?
- 7 A Yes, sir.
- 8 Q You need to -- all right. And let me ask you this.
- 9 Did your mom actually go through a trial?
- 10 A Yes, sir.
- 11 Q Okay. And did you tell Mr. Powell about that?
- 12 A Yes, sir.
- 13 Q Okay. And what was his kind of reaction?
- 14 Was it that kind of telling him about kind of some of
- 15 the, some of the experiences that you had had and so forth?
- 16 A He was like, he was like -- he was kind of happy about
- 17 it, and then I explained it to him.
- 18 Q Okay. Did there come a time where he asked you for any
- 19 kind of your advice as to anything about his case
- 20 specifically?
- 21 A Yes, sir.
- 22 Q Okay. And did you, at any point in time, tell him that
- 23 you might be able to help him out --
- 24 A Yes, sir.
- 25 Q -- as far as -- what, what help did you tell him that

Marlos Stevenson - Direct examination
by Solicitor Bell

1 you might be able to give him?

2 A I told him, I told him I can get my mom. She can look
3 up all kind of case laws on the Internet and, and how you,
4 how you beat a, beat a murder charge.

5 Q Okay. All right. And did there come a time then when
6 Mr. Powell actually kind of told you a little bit
7 specifically about his case?

8 A Yes, sir.

9 Q Okay. And what is it -- let me ask you this.

10 Did he ever show you any of his, any of his paperwork
11 that he had gotten in reference to his case?

12 A Yes, sir.

13 Q And what was it that he showed you?

14 A It was some, it was, it was some black and white
15 pictures. One of them was a Lincoln, Lincoln Town Car and
16 one of them was a knife found, found on the step.

17 Q Okay. All right. And did he ever then -- did
18 Mr. Powell ever then tell you anything specifically about
19 what had happened that night in reference to the, to the
20 murder that he---

21 A Yes, sir.

22 Q ---was charged with?

23 And tell the jury what he told you specifically about,
24 about what had happened during that incident?

25 A He told me he was, he was, he was fighting this older,

Marlos Stevenson - Direct examination
by Solicitor Bell

1 older guy cause the guy wouldn't let him sell drugs at his
2 house. It was a fight and, and he turned around and pulled
3 out a knife and stabbed him, stabbed him several times and
4 that he ran home, cleaned himself up. He, he left, left
5 home and went in, went, went into the club. His mother
6 called, called him from the club and told him to get home
7 cause of the sheriff, sheriff office is at the house.

8 So, so, he came home. That's when he said, said if --
9 that's when he showed me the knife, showed me the picture of
10 the knife, the knife he say, he say when the, when the
11 Sheriff's Office came, came inside, and he didn't find the,
12 find the knife. He say they found the knife after they came
13 out. He said -- I said how you go explain this knife. He
14 said just certain police who found it he doesn't like me.
15 So, he must of planted it there.

16 Q Did he indicate to you that, at the time, that his plan
17 was to blame it on the detective for planning it?

18 A Yes, sir.

19 Q Now, did you ask him if there were any, any witnesses
20 that saw what happened?

21 A Yeah, he said it was like, like three.

22 Q All right. Let me ask you this now.

23 You said that you, said you first got there at the very
24 end of February.

25 About how long after you got there to Orangeburg County

Marlos Stevenson - Direct examination
by Solicitor Bell

1 Jail was it that you started having these conversations with
2 Mr. Powell?

3 A Probably like, like two weeks, three weeks.

4 Q Okay. All right. And did there come a time when he
5 stopped talking to you?

6 A Yes, sir.

7 Q Okay. And how long before you were moved out of
8 Orangeburg County did that happen?

9 A Three weeks before I moved out.

10 Q About three weeks before.

11 And that was, I believe, you testified on -- you
12 believe it was June 2nd of 2011 that you were moved out?

13 A Yeah.

14 Q Okay. All right. Did he tell you any -- did you have
15 any other comment or did he tell you any more about his or
16 is that pretty much what he, what he told you about his case
17 and the times that you were able to talk to him?

18 A Yeah.

19 Q Let me ask you -- did you ultimately notify somebody
20 about this information that you had?

21 A Yes, sir.

22 Q Okay. Who is it that you, that you told about this
23 conversation?

24 A It was you -- it was you and my lawyer.

25 Q Okay. You notified your lawyer.

Marlos Stevenson - Direct examination
by Solicitor Bell

- 1 Who, who is your lawyer?
- 2 A Mrs. Edie Murray.
- 3 Q Okay. She's in Columbia I believe?
- 4 A Yes, sir.
- 5 Q Is that where -- and then you said you notified me.
- 6 Did you send a couple letters to our office telling us
- 7 that you had some information?
- 8 A Yes, sir.
- 9 Q Let me ask you this, Mr. Stevenson.
- 10 Now, you indicated that initially you got a ten year
- 11 sentence.
- 12 Have you actually had that sentence cut down a little
- 13 bit since then?
- 14 A Yes, sir.
- 15 Q What, what is your current sentence right now---
- 16 A It's---
- 17 Q ---that you're serving?
- 18 A It's currently 82 months.
- 19 Q Okay. And, obviously, what are you hoping for here
- 20 today?
- 21 A I'm hoping for, for another time cut.
- 22 Q All right. Now, you know that's something that I've
- 23 got nothing to do with, right?
- 24 A Yes, sir.
- 25 Q That's between you, your attorney, and the U.S.

Marlos Stevenson - Direct examination
by Solicitor Bell

1 Attorney's Office, is that correct?

2 A Yes, sir.

3 Q All right. But you indicated that you had signed that
4 plea agreement back when you pled guilty, right?

5 A Yes, sir.

6 Q And part of that was that you were to be truthful, is
7 that correct?

8 A Yes, sir.

9 Q Mr. Stevenson, your testimony here today, is that been
10 absolutely truthful, what you told the jury here today?

11 A Yes, sir.

12 SOLICITOR BELL: Beg the Court's indulgence.

13 (Pause.)

14 Q Just, just one other thing, Mr. Stevenson.

15 The person that, that you had these conversations with
16 that you, you told the jury about, do you see him here in
17 the courtroom?

18 A Yes, sir.

19 Q Can you point him out for the jury as best as you can?

20 A There he go right there.

21 Q What color shirt does he have on for the record?

22 A Blue.

23 Q Sitting at the end of the table?

24 A Yes, sir.

25 SOLICITOR BELL: Okay. Let the record reflect he's

Marlos Stevenson - Direct examination
by Solicitor Bell

1 identified Mr. Powell, Your Honor, please.

2 THE COURT: The record so reflects.

3 Q Thank you, Mr. Stevenson. Please answer any questions
4 that Ms. Hinds has for you.

5 THE COURT: Ms. Hinds, your witness.

6 CROSS-EXAMINATION

7 BY MS. HINDS:

8 Q So, you're here today not because the solicitor found
9 you, but because you found the solicitor, isn't that
10 correct?

11 A Yes, ma'am.

12 Q Okay. You contacted the solicitor's office, correct?

13 A Yes, ma'am.

14 Q You wrote them letters?

15 A Yes, ma'am.

16 Q Okay. But you didn't write to Mr. Powell's attorney,
17 correct?

18 A No, ma'am.

19 Q You didn't write to the police officers?

20 A No, ma'am.

21 Q You wrote directly to the solicitor's office, correct?

22 A Yes, ma'am.

23 Q Okay. And you wrote the solicitor because he's the
24 only person in that room who might have the power to give
25 you what you wanted, correct?

Marlos Stevenson - Cross-examination
by Ms. Hinds

1 A No.

2 Q Are you telling me that -- Mr. Powell's attorney
3 couldn't get you a lesser sentence obviously, could, could
4 they?

5 A No.

6 Q Okay. Could anybody else, but the solicitor, but by
7 helping the solicitor help you help yourself?

8 A Yeah.

9 Q Who, who would that be?
10 who else but the solicitor can help you?

11 A My lawyer.

12 Q Okay. Can your lawyer, without you helping the
13 solicitor, get your, your time lessened?

14 A No.

15 Q Okay. And what you want ultimately is another
16 reduction in your federal sentence, correct?

17 A Yes, sir.

18 Q All right.

19 A Yes, ma'am.

20 Q And, in fact, you wrote that exactly in your letter
21 July 3rd, 2011, to the solicitor, isn't that correct?

22 I mean you flat out, very honest, that's what I want?

23 A Yes, ma'am.

24 Q Okay. You wrote that I want, in return, is a reduce in
25 my federal sentence. You don't get any points if you were

Marlos Stevenson - Cross-examination
by Ms. Hinds

1 to help Mr. Powell, correct?

2 In other words, if you were a defense witness, that
3 wouldn't help you out at all, would it?

4 A No, ma'am.

5 Q Okay. You only get reduced time if you help Mr. Powell
6 go to prison, correct?

7 A Yes, ma'am.

8 Q Okay. So, you never knew Mr. Powell before, correct?
9 You didn't meet him until---

10 A No.

11 Q ---until February of 2011?

12 A Yeah.

13 Q Yeah. And you've never seen him again after you left
14 the Orangeburg Jail?

15 A No.

16 Q Okay. So, basically it was a relatively short period
17 of time that you had any contact at all, correct?

18 A Yes, ma'am.

19 Q And within that time frame, it wasn't like you could
20 communicate back and forth anytime night and day, whenever
21 you wanted to speak, right?

22 A No, not, not really.

23 Q In other words---

24 A In that---

25 Q ---your only opportunity is when you're in here?

Marlos Stevenson - Cross-examination
by Ms. Hinds

1 A Right.

2 Q And, technically, you're not suppose to communicate
3 back and forth, correct?

4 A No, we don't suppose to though, but, but, but guys do
5 it.

6 Q Exactly.

7 A Right.

8 Q But there were -- you still have to devise ways to get
9 around the rules?

10 A Right.

11 Q You're not just all sitting around chewing the fat so
12 to speak, right?

13 A Right.

14 Q Okay. So, you know him for this short period, yet
15 your, your testimony is that Mr. Powell confided, confided
16 probably the most important information in his life to you,
17 a stranger, is that correct?

18 A Yes, ma'am.

19 Q What was he suppose to get from you in return?

20 A I was helping him out with his case. I was go, go get
21 all kind of legal work for him and stuff like that.

22 Q Are you an attorney?

23 A No.

24 Q Okay. So, you really couldn't give him legal advice,
25 could you?

Marlos Stevenson - Cross-examination
by Ms. Hinds

- 1 A Not really. But, but -- not really.
- 2 Q Okay. Now, in your letter in July of 2011 you told the
- 3 solicitor you were currently serving that federal sentence,
- 4 correct?
- 5 A Yes, ma'am.
- 6 Q And the federal sentence, if I get this wrong you
- 7 correct me, but that was a sentence for a conspiracy to
- 8 possess with intent to distribute 50 or more grams of crack
- 9 cocaine, correct?
- 10 A Yes, ma'am.
- 11 Q A good deal of drugs, yes?
- 12 A Yes, ma'am.
- 13 Q And that's why it was in the federal system, correct?
- 14 A Yes, ma'am.
- 15 Q Okay. And basically what you were looking at because,
- 16 as the solicitor stated, you actually had a prior drug
- 17 offense, correct?
- 18 A Yes, ma'am.
- 19 Q So, you were looking at 20 to life, weren't you?
- 20 A Yes, ma'am.
- 21 Q Okay. Now, again, in your July 3rd letter you claim
- 22 that you were locked up at the detention center. I believe
- 23 you put in from March to June. But it's -- actually it was
- 24 February to June, correct, 2011?
- 25 A Yeah.

Marlos Stevenson - Cross-examination
by Ms. Hinds

1 Q Okay. Like -- and as the solicitor said, roughly maybe
2 about three months, right?

3 A Yes, ma'am.

4 Q Okay. And you claimed about how you talked just as
5 you've testified here today?

6 A Yes, ma'am.

7 Q Now, in fact, you claimed y'all had several
8 conversations.

9 Can you give me a number as to how many conversations
10 this might of been in total?

11 Was it more than two conversations?

12 A Yeah.

13 Q Was it more than three?

14 A It was probably about four.

15 Q Probably about four.

16 Okay. And were those conversations limited to when you
17 were talking through that little door that you were talking
18 about?

19 Is that basically how you were communicating?

20 A Yeah.

21 Q Okay. And since y'all talked to each other you should
22 know some other stuff about Mr. Powell.

23 Did you talk about anything else?

24 A No, basically we was talking about books and all kind
25 of stuff like that. I use to pass him books too, stuff like

Marlos Stevenson - Cross-examination
by Ms. Hinds

- 1 that.
- 2 Q Okay. And in all that time you, you didn't learn his
3 name other than New York, correct?
- 4 Is that your---
- 5 A Right.
- 6 Q Cause that's what your testimony was.
7 Okay. Do you know his mama's name?
- 8 A No, ma'am.
- 9 Q Do you know his brother's name?
- 10 A No, ma'am.
- 11 Q Okay. Do you know where he went to school?
- 12 A No, ma'am.
- 13 Q Do you know his favorite sport?
- 14 A No, ma'am.
- 15 Q Do you know his favorite team?
- 16 A No, ma'am.
- 17 Q Do you know anything else personal about him that you
18 can recollect?
- 19 A No, ma'am.
- 20 Q Okay. Now, in your letter to the solicitor, you
21 actually referred to Mr. Powell as Darius, did you not?
- 22 A Yes, ma'am.
- 23 Q Okay. You called him Darius in that letter in July.
24 So, you didn't even get his name right, did you?
- 25 A No.

Marlos Stevenson - Cross-examination
by Ms. Hinds

1 Q Okay. Now, the solicitor did not initially respond to
2 that July letter, is that correct?

3 A No.

4 Q Okay. So, you had to write him again, right?
5 You wrote him later in that same year?

6 A (Witness nods affirmatively.)

7 Q Okay.

8 A Yes, ma'am.

9 Q Is that because you were desperate because you knew or
10 you had heard that Mr. Powell might be going to trial in
11 January?

12 A No, I wasn't desperate.

13 Q Okay. Well, if his trial had been in January, and you
14 hadn't been in touch with the solicitor, you wouldn't be
15 able to, to testify against him and get your downward
16 departure, isn't that correct?

17 A Right.

18 Q So, you wrote another letter, correct?

19 A Yeah.

20 Q Excuse me?

21 A Yes, ma'am.

22 Q Okay. And in that letter you sort of begged him to
23 write you back, correct, write you or your attorney?

24 A I wouldn't call it begging. But, yeah.

25 Q Okay. And then you wished him happy holidays, isn't

Marlos Stevenson - Cross-examination
by Ms. Hinds

1 that correct?

2 A Yes, ma'am.

3 Q Okay. So, the solicitor is your friend, correct?

4 A No, he's not my friend.

5 Q Okay. But, again, in your letter the solicitor, on
6 December 17th, 2011, you referred to Mr. Powell as Darius,
7 correct?

8 A Yes, ma'am.

9 Q Okay. All right. Let's talk a little bit about the
10 plea agreement that you entered into.

11 You, you pled guilty to that drug charge, correct?

12 A Yes, ma'am.

13 Q Now, that didn't have anything to do with Mr. Powell,
14 correct?

15 A No, ma'am.

16 Q Okay. You entered into that agreement on
17 January 6th, 2011, correct?

18 A Yes, ma'am.

19 Q Okay. You didn't even know Mr. Powell then, did you?

20 A Say it again.

21 Q If you -- you entered into your federal agreement in
22 January of 2011, correct?

23 A Yeah.

24 Q Okay. Had you met Mr. Powell in January of 2011?
25 would you even know he?

Marlos Stevenson - Cross-examination
by Ms. Hinds

- 1 A Yeah, when I been at -- in June, right?
2 You said June?
3 Q I'm talking about in January of 2011---
4 A No.
5 Q You didn't---
6 A Yeah.
7 Q ---know he existed, correct?
8 A Right.
9 Q Cause that's about two months before you hit the
10 Orangeburg Jail, correct?
11 A Yes, ma'am.
12 Q All right. But you knew -- you had been sentenced,
13 after that January agreement, to provide information to
14 whoever, correct?
15 A Yes, ma'am.
16 Q In other words, the more that -- the more solicitors
17 you could help out, the better position you might be in,
18 correct?
19 A Yes, ma'am.
20 Q Okay. And you actually cooperated when you entered
21 into that agreement, correct?
22 A Yes, ma'am.
23 Q Okay. And you agreed to give the government
24 information about the criminal activity of other people in
25 that agreement, correct?

Marlos Stevenson - Cross-examination
by Ms. Hinds

1 A Yes, ma'am.

2 Q Okay. In exchange for cooperating with the government,
3 you get what's called the downward departure in the federal
4 system?

5 A Yes, ma'am.

6 Q Okay. And that's basically where they reduce your
7 sentence, correct?

8 A Yes, ma'am.

9 Q Okay. Now, when you initially signed that agreement
10 you had not been sentenced, is that correct?

11 A No, ma'am.

12 Q All right. You, you plead and enter in the agreement
13 and then you get sentenced later, correct?

14 A Yes, ma'am.

15 Q So, you were looking for an opportunity, weren't you,
16 to try to get that initial sentence, initial sentence
17 downward?

18 A Yes, ma'am.

19 Q Okay. You were looking for somebody to set up,
20 correct?

21 You were looking at 20 years to life in prison, that's
22 correct?

23 A Yes, ma'am.

24 Q Okay. Now, in your letter to the solicitor, the first
25 one in July --

Marlos Stevenson - Cross-examination
by Ms. Hinds

1 A okay.

2 Q -- you told him that you had assisted the federal
3 government in several other cases.

4 would that be correct?

5 A Yes, ma'am.

6 Q So, you've snitched before, is that correct?

7 A Yes, ma'am.

8 Q I believe your exact words were I assist the federal
9 government in multiple cases.

10 A (Witness nods affirmatively.)

11 Q Okay. And in that letter---

12 COURT REPORTER: What was your answer?

13 WITNESS: Yes, ma'am.

14 Q Okay. Our numbers might be, might be different at this
15 point. I think in your letter you said you were currently
16 serving 108 months, is that --

17 A Uh-huh. (Affirmative).

18 Q And I believe your testimony here today was that
19 actually it came down some, correct?

20 It came down?

21 A Yeah, it came down to, to 82 months.

22 Q Okay. All right. So, in July of 2011, when you start
23 writing the solicitor, you weren't serving a life sentence,
24 right?

25 A No.

Marlos Stevenson - Cross-examination
by Ms. Hinds

- 1 Q Okay. You weren't even serving that nine year
2 sentence, correct?
- 3 A Yeah, I was serving it then. It ain't get reduced down
4 till, till 12/5.
- 5 Q Okay.
- 6 A 12/05.
- 7 Q 12/05?
- 8 A Right.
- 9 Q Okay.
- 10 A Of last year.
- 11 Q But basically in the letters to the solicitor, and even
12 here today --
- 13 A Uh-huh. (Affirmative).
- 14 Q -- you're looking for an even better deal, correct?
15 You're looking for a lesser sentence?
- 16 A Yes, ma'am.
- 17 Q Okay. So, we go from 20 to life, to 108, to now 82,
18 and you're looking for it to be reduced again, correct?
- 19 A Yes, ma'am.
- 20 Q Okay. Seems like you hit the jackpot, didn't it?
21 Eighty-two is a far cry from life, isn't it?
- 22 A Yes, ma'am.
- 23 Q A lot less time, isn't it?
- 24 A Yes, ma'am.
- 25 Q And less than 82 would be even better, isn't it?

Marlos Stevenson - Cross-examination
by Ms. Hinds

1 A Yes, ma'am.

2 Q Okay. Do you plan to testify against anyone else?

3 A No, ma'am.

4 Q Not at this time, right?

5 A Yes, ma'am.

6 Q Okay. So, pretty much you're a professional snitch,
7 aren't you?

8 A Yes, ma'am.

9 MS. HINDS: I don't have anything further.

10 THE COURT: Anything on redirect?

11 SOLICITOR BELL: Just, just a couple things, Your
12 Honor.

13 REDIRECT EXAMINATION

14 BY SOLICITOR BELL:

15 Q Mr. Stevenson, you hadn't provided any other
16 information about, about anybody else that you were housed
17 with at Orangeburg to, to the, my office, have you?

18 A No. No, sir.

19 Q Okay. And you were there for three and a half months?

20 A Yes, sir.

21 Q or three months or so and a couple days?

22 A Yes, sir.

23 Q He's, he's the only person you've contacted us about
24 having information regarding, is that correct?

25 A Yes, sir.

Marlos Stevenson - Redirect examination
by Solicitor Bell

1 Q I just want to make sure I get a couple dates right
2 that Ms., Ms. Hinds had asked you about.

3 She had referenced, and I don't know for sure if she
4 showed you these letters, but you had, you had written a
5 letter to my office back on July 3rd of 2011, is that
6 correct, addressed to my boss, is that correct?

7 A Yes, sir.

8 Q All right. And do you remember myself and my
9 investigator, Investigator Turner, coming and seeing you a
10 couple weeks after that over in Lexington County?

11 A Yes, sir.

12 Q And my notes indicate, bless you, that it was on
13 July 15th of 2011.

14 Does that sound accurate?

15 A Yes, sir.

16 Q Okay. So, we had come and met with you a couple weeks
17 after that, is that correct?

18 A Yes, sir.

19 Q And then Ms. Hinds had asked you about this other
20 letter dated December 17th of, of the last year, of 2011,
21 is that correct?

22 A Yes, sir.

23 Q And what was the purpose -- do you recall why you sent
24 this letter to me?

25 And if you kind of look at it, if it kinds of help

Marlos Stevenson - Redirect examination
by Solicitor Bell

1 refresh your memory as to what was going on that you were
2 afraid was gonna happen, and why you sent that letter to me
3 back in December?

4 A (Witness complies.)

5 Q Were you getting ready to get moved somewhere?

6 A Yeah, I was, I was fixing to get moved back to
7 Petersburg. I was coming back down here so I can get
8 resentenced.

9 Q Okay. So, you were here in South Carolina at that
10 time?

11 A Yes, sir.

12 Q All right. And you ultimately ended up going, going
13 back to Petersburg, is that correct?

14 A Yes, sir.

15 Q That's actually where we had to go and get you from, is
16 that correct?

17 A Yes, sir.

18 Q Okay. So, you basically were letting me know where you
19 were, and, in fact, you'd be here in Lexington for a short
20 period of time?

21 A Yes, sir.

22 Q Ms. Hinds asked you -- I mean obviously you're not an
23 attorney, right?

24 A Yes, sir.

25 Q Is that correct, or Mr. Powell, Powell was actually

Marlos Stevenson - Redirect examination
by Solicitor Bell

1 getting legal advice from you?

2 You been locked up for a while now, pretty significant
3 portion of time?

4 A Yes, sir.

5 Q Let me ask you, in your, your times that you've been in
6 jails and prisons around not only South Carolina, but also
7 now up in Virginia, are there a lot of kind of jailhouse
8 lawyers and people that like to give legal advice while
9 they're locked up?

10 A Yes, sir.

11 Q Is that pretty common?

12 A Yes, sir.

13 Q Thank you, Mr. Stevenson.

14 MS. HINDS: I have nothing further.

15 THE COURT: All right. Thank you, sir. You may, you
16 may step down.

17 Y'all want to take a break now or y'all want to---

18 SOLICITOR BELL: The next witness is pretty short. So
19 --

20 THE COURT: Okay. Let's go ahead and let's take the
21 next witness and then---

22 SOLICITOR BELL: State calls Sergeant Furtick.

23 PHILLIP FURTICK, being first duly
24 sworn, testified as follows:

25 CLERK: Thank you.

Phillip Furtick - Direct examination
by Solicitor Bell

1 THE COURT: This way.

2 CLERK: Please state your name for the record.

3 WITNESS: Phillip Furtick.

4 DIRECT EXAMINATION

5 BY SOLICITOR BELL:

6 Q Sergeant Furtick, good afternoon.

7 A Yeah, how you doing?

8 Q I'm good.

9 Can you tell the jury where, where is it that you're
10 employed?

11 A Orangeburg County Sheriff's Office.

12 Q And how long have you been with the Sheriff's office?

13 A A little over eight years.

14 Q Okay. And what are your current duties and
15 responsibilities there?

16 A Sergeant with a special operation team. I work
17 bloodhounds and assist CID in certain cases.

18 Q And CID is the investigative division, is that right---

19 A Yes, sir.

20 Q ---criminal investigative division, and I'm going to
21 turn your attention back to, to November 3rd of 2010.

22 Did you have an opportunity to be assisting
23 investigators that morning in reference to a homicide that
24 occurred?

25 A Yes, sir.

Phillip Furtick - Direct examination
by Solicitor Bell

1 Q Okay. And do you recall going with other officers out
2 to a house on Coleman Avenue that day looking for an
3 individual?

4 A I did.

5 Q And who is it that you went out there with that day?

6 A Lieutenant Shumpert and Investigator Harter.

7 Q Harter.

8 Okay. And who is it -- do you remember who it was
9 y'all were looking for?

10 A I believe his nickname was New York.

11 Q Okay. Did you know who the person was that you---

12 A I had a name---

13 Q Okay.

14 A ---that date, yes, sir.

15 Q Did you know who he was otherwise?

16 I mean---

17 A No, sir.

18 Q Okay. And showing you State's Exhibit No. 12, is that
19 the house that y'all went to?

20 A Yes, sir.

21 Q Okay. And tell the jury, when y'all arrived on the
22 scene, kind of what your, what your role was or what you did
23 when you got there?

24 A Myself and Investigator Harter and Lieutenant Shumpert
25 all went to this place looking for a fellow who had the name

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1 as, a picture of him. We all three walked up to the house
2 together. It was a car parked on the side of the house. It
3 was -- had two occupants in it.

4 Myself and Harter went to the car to rule out or
5 identify the people in the, in the vehicle, and Shumpert
6 went to the house, and was talking to a lady inside the
7 house.

8 Q All right.

9 A I think it was the fellow we was looking for, his
10 mother.

11 Q All right. So, you, you and Investigator Harter went
12 and dealt with, I guess, first of all, to make sure that New
13 York wasn't one---

14 A Yes, sir.

15 Q ---of the two individuals in the car?

16 A That's correct.

17 Q And I show you State's Exhibit No. 33.

18 Is that the car that you went over to?

19 A Yes, sir.

20 Q Okay. And do you remember, is that person that's in
21 the picture, was that one of the people you talked to?

22 A Yes, sir.

23 Q Okay. And, obviously, was either one of those people
24 in that car the subject that you were looking for, New York?

25 A No, sir.

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by Solicitor Bell

1 Q Okay. Now, after you got done kind of ascertaining
2 that, what, what did you and Investigator Harter do at that
3 point in time?

4 A We went to assist Shumpert inside the house.

5 Q Okay. And do you -- as you kind of approached the
6 house, tell the jury kind of where, where Shumpert was and
7 kind of what---

8 A Shumpert was standing just inside the door talking to
9 the occupant inside the house. When I got to the top of the
10 steps, Shumpert turned around and we was meeting each other
11 at the, at the door at the top of the steps and we saw the
12 knife on the, on the ground in front of the door.

13 Q Okay.

14 A On the porch.

15 Q Okay. And that's, that's the porch that you're talking
16 about---

17 A Yes, sir.

18 Q ---in State's Exhibit No. 12?

19 A Yes, sir.

20 Q And State's Exhibit No. 13 shows the knife of kind of a
21 closer up of that knife?

22 A Yes, sir.

23 Q Okay. When you first saw that, where was Lieutenant
24 Shumpert when you first saw that?

25 A He was still -- he was coming right out of the door --

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1 Q Okay.

2 A -- looking toward me, facing me.

3 Q Okay. And how about Investigator Harter, was he---

4 A He was behind me.

5 Q Okay. Had he been with you the whole time---

6 A Yes, sir.

7 Q ---up till then?

8 Okay. Thank you, sergeant. That'd be all I have.

9 THE COURT: All right. Who---

10 MS. HINDS: No questions.

11 THE COURT: All right. Thank you, sir. You may step
12 down.

13 WITNESS: Thank you, judge.

14 THE COURT: Appreciate it.

15 SOLICITOR BELL: May he be excused, Your Honor?

16 THE COURT: Yeah, you may be excused.

17 WITNESS: Thank you.

18 THE COURT: All right. I'm -- we're gonna take a short
19 break now. So, this is our mid afternoon break. Again, you
20 have not heard all the testimony in the case and can not
21 begin talking about it. But I'm gonna let y'all take about
22 a ten minute break, and then we'll come back in here and
23 continue with the State's case.

24 Thank y'all very much.

25 (WHEREUPON, the following takes place outside the

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1 presence of the jury.)

2 SOLICITOR BELL: Could we have a 15 minute break?

3 THE COURT: Sure.

4 SOLICITOR BELL: I have to go downstairs.

5 THE COURT: Okay.

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

7 THE COURT: Okay. All right. Would you bring the jury
8 on back out?

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

11 THE COURT: Ladies and gentlemen, we're ready to
12 continue with the State's case.

13 You ready to call your next witness?

14 SOLICITOR BELL: Yes, Your Honor.

15 Please the Court.

16 State would call Amanda Webb.

17 AMANDA WEBB, being first duly
18 sworn, testified as follows:

19 CLERK: Thank you. Please state your name.

20 WITNESS: Amanda Webb.

21 CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY SOLICITOR BELL:

24 Q Ms. Webb, where are you employed?

25 A The South Carolina Law Enforcement Division also known

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1 as SLED.

2 Q And how are you employed there?

3 A I'm a DNA case work analyst.

4 Q And how long have you been employed at SLED as a DNA
5 case work analyst?

6 A A little over four years.

7 Q Could you tell the jury a little bit about your
8 educational background?

9 A I have a Bachelor's in Forensic Chemistry from Marshall
10 University and also a Master's in Forensic Science also from
11 Marshall University.

12 Q And what training -- what other training have you had
13 in terms of the field of DNA?

14 A Upon completion of my degrees I was hired on at SLED,
15 and that's when I did all of my training under another Court
16 qualified analyst at SLED, and went through their training
17 program and, and passed all of the tests, and I was able to
18 become an independent DNA analyst.

19 Q And you said -- how long have you been an independent
20 DNA analyst?

21 A Approximately three years.

22 Q Okay. And have you ever been qualified as an expert
23 DNA analyst in the Courts of the State of South Carolina?

24 A Yes, about ten times.

25 Q About ten times in the Courts of General Sessions or

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1 Common Pleas?

2 A Yes.

3 SOLICITOR BELL: Okay. Your Honor, we offer Ms. Webb
4 as an expert in the field of DNA, DNA analysis.

5 MS. HINDS: No objection, Your Honor.

6 THE COURT: All right. She is so noted as an expert in
7 DNA analysis.

8 okay.

9 Q As a preliminary matter, Ms. Webb, could you tell the
10 jury what is DNA?

11 A DNA is a chemical found in the body. It's, it's unique
12 to each individual except in the case of identical twins.
13 Half of it's passed down from your mother and half's passed
14 down from your father, and in the forensic aspect, what I do
15 is I will get evidence in from cases and try to develop
16 profiles from evidentiary items, and then also I get known
17 standards in, and that's a, a DNA swab or a blood sample
18 collected from an individual so we know where that sample
19 has come from and who it belongs to.

20 And, so, I will compare the evidence, any DNA evidence
21 samples to the known standards of, of a victim or a suspect
22 so I can either include, exclude, or, or come up with a
23 result.

24 Q And the value of DNA evidence is, as you said, because
25 every individual -- it's unique to every individual except

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1 identical twins, is that correct?

2 A Yes, that's correct.

3 Q Okay. And what -- how do you, how do you do the DNA
4 analysis?

5 A First off, I will also do a testing for body fluids.
6 So, if there's a request for any certain body fluid, I will
7 test for blood or saliva or semen, and from there I, I will
8 take samples to, to the DNA process, and, and basically what
9 you do is you just put some chemicals on the, on the item.
10 Usually it's, it's swabs of blood or, or a cutting from
11 sheets or clothing and the chemicals will pull the DNA off
12 of that item, and then it's ran through some
13 instrumentation, and then at the end I get the results that
14 I can compare to the known standards.

15 Q And what are you comparing on the DNA?

16 A Basically each person's DNA will repeat a certain
17 number of times. It's the same bit of DNA. It just repeats
18 over and over. And, so, that gives you a number of how many
19 repeats there are, and you might see them, if you're allowed
20 to look at my reports in, in the deliberation room, I have a
21 chart with numbers, and those numbers are the repeats that I
22 look at.

23 And, so, I will compare the numbers that are listed for
24 the evidence items to the numbers that are for the
25 standards. It's sort of like a mailing address. Sometimes

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1 you only get partial information. We call it a partial
2 profile. But you prefer a full information. Like a partial
3 information will be maybe a street number. But full
4 information will be a street number, the street name, the,
5 the zip code, the, the county. So, we prefer full
6 information. But that's sort of what it's equated to.

7 Q And you're looking at different sites along the DNA
8 strand, is that correct?

9 A That's correct. Different locations of DNA and how
10 many times they repeat.

11 Q Okay. And the more matches of those locations, the,
12 the stronger the match, is that correct?

13 A That's correct.

14 Q Okay. And you -- in the DNA science, these locations
15 that you look at, they have like a known frequency of the
16 repeating?

17 Is that -- that's been studied over?

18 A Yes, that's, that's correct.

19 Q Okay. And that's how you figure out probabilities I
20 guess of, you know, a match or not a match, is that correct?

21 A That's correct. I calculate statistics of the, the
22 frequency of populations, of a profile in the population.

23 Q Okay. Let's turn to this case specifically, and, first
24 of all, let me show you what's been marked as State's,
25 State's 35. Hold on a moment. State's 27 and State's 31,

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1 and ask if you've seen those.

2 A Yes, I have. State's Exhibit No. 9 is a blood standard
3 from the victim, Arthur Riley, and I can tell that I did
4 have this in my custody and my possession and analyze it
5 because I have my initials on here from where I tested it
6 previously, and this is just the standard that I used, that
7 I know is from the victim that I can compare any evidence
8 samples to.

9 And then also State's Exhibit No. -- this is 31,
10 correct?

11 Q Yes, 31.

12 A I'm sorry.

13 Again, I recognize this because I've written my
14 initials on it, and I, I analyzed this earlier. It's oral
15 swabs from Deshawn Powell, and, again, it's just a known
16 standard that I use to compare any evidence profiles to this
17 individual.

18 Q Okay. So, these are the two known standards you had to
19 compare any items that were submitted, is that correct?

20 A That's correct.

21 Q Okay. First of all, and I don't know the time
22 reference, but we have collectively State's 30, which I
23 think were taken from the autopsy of the sexual assault kit.

24 Did you examine any of those items?

25 A Yes, that's correct. I did.

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1 Q Okay. And you compared them to both the standards of
2 the victim and the defendant, which are State's 27 and 31?

3 A Yes, I did.

4 Q Okay. What were your results out of that?

5 A Since it was a sexual assault kit collected, I tested
6 for semen first, and I didn't find any semen on the -- there
7 were oral swabs and rectal swabs collected. I didn't find
8 any semen on those. There was penile swab collected and
9 there was semen indicated. So, I tried to develop a DNA
10 profile, and the DNA profile came back matching the victim.

11 Q Okay. And there was nothing else, from nobody else?
12 It was just solely to him, is that correct?

13 A That's correct.

14 Q Okay. All right. Now we've got other items that you,
15 that you were submitted.

16 First, let me see if I can -- okay. Let me show you
17 what's been marked as State's 20 and ask if you recognize
18 that.

19 A Yes, I do. I, I performed analysis on this as well and
20 it was listed as a swab from the living room floor next to
21 the front door on the left side.

22 Q Okay. And what, what were your results on that?

23 A I tested it for blood and blood was indicated. And,
24 so, I attempted to develop a DNA profile. A partial DNA
25 profile was developed and it matched the victim, Arthur

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1 Riley.

2 Q And no other?

3 Just only to him?

4 A That's correct.

5 Q Okay. Let me show you what's been marked as State's 19
6 into evidence, and ask if you've seen that.

7 A Yes, this is a swab from the front porch on top of a
8 footwear impression.

9 Q Okay. And what were your results from that one,
10 State's 19?

11 A I tested it for blood, blood was indicated, and that
12 profile matched the DNA profile of the victim, Arthur Riley.

13 Q Okay. I show you what's been marked as State's 14, I
14 mean State's 21, and ask if you've seen that.

15 A Yes, I have. I tested this as well and this is swabs
16 from the living room floor next to the front door left side.

17 Q Okay. And what were your results on that?

18 A Blood was indicated and the DNA profile developed from
19 that blood matched the victim, Arthur Riley.

20 Q Okay. Let me show you what's been marked as State's 25
21 into evidence and ask if you recognize that.

22 A Yes, it is swabs from the front porch.

23 Q Okay. And what were the results of your analysis on
24 that?

25 A Blood was indicated on it as well, and it also matched

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1 the DNA profile of Arthur Riley.

2 Q Okay. Okay. This is State's 22.

3 Do you recognize that?

4 A Yes, this is swabs from the bottom of the mattress.

5 Q Okay. And what were the results of that?

6 A And blood was indicated and a, a partial DNA profile
7 was developed from this item, and Arthur Riley could not be
8 excluded as a contributor to the item.

9 Q And what, what do you -- what does that mean?

10 A I didn't have enough to statistically calculate a
11 match, a number for a match, a statistical calculation, and,
12 therefore, I, I can't, can't, could not say match. But
13 every part of the DNA that showed up is the same as Arthur
14 Riley's. There was, there was no other DNA to indicate that
15 it was anyone else there.

16 Q Okay. And let me show you what's been marked as
17 State's 36 and ask if you recognize that.

18 A Yes, it is a swab from the front of a light switch.

19 Q Okay. And what were the results of, of your analysis?

20 A Blood was indicated. But no human DNA was detected on
21 this item, and essentially what that means is, first, it --
22 in the testing for DNA, one of the first steps you do is try
23 to find out how much DNA you have to work with, and, in this
24 instance, there wasn't any DNA detected on this item. So,
25 there wasn't -- there either was such a small amount that

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by Solicitor Bell

1 none was detected or there just wasn't any DNA there at all.

2 Q Okay. Let me show you what's been marked as State's 34
3 into evidence, and then ask if you recognize that.

4 A Yes, it is a swab from the inside of a barrel of a
5 revolver.

6 Q Okay. And what did your analysis show on that?

7 A Blood was indicated and the DNA profile developed from
8 that blood matched the victim, Arthur Riley.

9 Q And that was -- you, you drew a statistical profile of
10 that?

11 A Yes, I did.

12 Q Okay. Let me show you -- they're two items in State's
13 37, and ask if you have seen both of those.

14 A Yes, I have. Those are a swab from a gold necklace and
15 hair from a gold necklace.

16 Q Okay. And what did your analysis show on those items?

17 A The DNA profile developed from both of those items is
18 consistent with the DNA profile of Arthur Riley.

19 Q Okay. And what does consistent mean?

20 How, how -- why -- how are you characterizing that?

21 A Basically it matches. I didn't do a statistic on that
22 because it was Arthur Riley's gold chain. We were actually
23 looking for DNA that wasn't his, somebody else, and since it
24 was his, I didn't put a statistical calculation to it.
25 We -- I expected to find his DNA on his own chain.

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by Solicitor Bell

1 Q Okay. Let me show you what's been marked as State's
2 23, and ask if you recognize that.

3 A Yes, this is a cigarette butt.

4 Q Okay. And what was the results of the analysis on
5 that?

6 A The DNA profile from that cigarette butt was from an
7 unidentified individual.

8 Q Okay. Did you -- you ran it against the known
9 standards of the victim and the defendant?

10 A Yes, correct, both of them, and it didn't match either.

11 Q So they were excluded from that?

12 A That's correct.

13 Q Okay. And finally, State's 24, and ask you about that.

14 A That's from another cigarette butt.

15 Q And what were the results of your analysis?

16 A This was a mixture of at least two individuals.
17 Sometimes when, when more than one person will contribute
18 DNA to a item, like if they touched or handled the item or,
19 maybe in this instance, possibly two people might of smoked
20 from that cigarette, you can find a mixture of DNA meaning
21 you can see that there's more than one person there, and
22 that's what I have here is a mixture of at least two
23 individuals on the cigarette butt.

24 And the DNA profile developed from the major
25 contributor, meaning that person donated more DNA to that.

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by Solicitor Bell

1 cigarette butt, they're the major contributor, is from an
2 unidentified male individual, and then the minor contributor
3 is from another unidentified individual, and Arthur Riley
4 and Deshawn Powell are excluded from this item.

5 Q Okay. So that means that neither one of them
6 contributed on the two cigarette butts, is that correct?

7 A That's correct.

8 Q Okay. And two more.

9 First off, let me show you what's been marked as
10 State's 35 and ask --.

11 A Yes, this is a swab from the blade at the hinge of a
12 folding knife.

13 Q Okay. What were your results on State's 35?

14 A Blood was indicated on this item and the DNA profile
15 from this item matched the profile of Arthur Riley.

16 Q Did you do any statistical number on that particular
17 one?

18 A Yes, I did.

19 Q And what, what were your results?

20 A Basically the probability of randomly selecting an
21 unrelated individual having a DNA profile matching this item
22 is approximately one in 15 trillion, and that's just a
23 calculation of how rare the DNA profile is in the
24 population.

25 Q Okay. Just out of curiosity, do you know the

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by Solicitor Bell

1 approximate, approximation, the approximate population of
2 the earth?

3 A Yes, the world is about seven billion.

4 Q And a trillion is how much in relation to a billion if
5 you can --.

6 A Yeah, it's about a thousand times more.

7 Q And, finally, let me show you what's been marked as,
8 I'm sorry, what's been marked as State's 38, and ask if you
9 recognize that.

10 A Yes, I do. This is a swab from the knife handle.

11 Q Okay. And what were your analysis?

12 A The DNA profile developed from the knife handle matched
13 the DNA profile of Arthur Riley.

14 Q And did you do a quantitative analysis on that?

15 A Yes, I did.

16 Q And what was that?

17 A That was a probability of one in 210 quadrillion.

18 Q Okay. Which is even more than 15 trillion?

19 A Yes, that's correct.

20 Q Multiple another thousand I believe, plus?

21 A Another 100,000.

22 Q Okay. So, the two items, State's 35 and 38, were taken
23 from a knife that you were sent, matched the DNA with the
24 victim, Arthur Riley, is that correct?

25 A That's correct.

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by Solicitor Bell

1 Q Ms. Webb, I, I think I got through it all. Thank you
2 very much. Please answer any questions the defense may
3 have.

4 A Thank you.

5 THE COURT: Ms. Hinds, your witness.

6 MS. HINDS: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. HINDS:

9 Q Good afternoon.

10 A Good afternoon.

11 Q I'll ask you if you bear with me if I mispronounce
12 things. Obviously I don't know this stuff as well as you.

13 Earlier you stated that only identical twins have
14 identical DNA patterns, isn't that correct?

15 A That's correct.

16 Q Okay. And that's true with a hundred percent of the
17 DNA found?

18 A Yes, that's correct.

19 Q Okay. In a forensic situation---

20 THE COURT: Ms. Hinds, can you -- would you -- and Mr.
21 -- would you speak up just a little bit more if you don't
22 mind?

23 MS. HINDS: Certainly. Sorry.

24 THE COURT: Thank you.

25 Q In a forensic situation, is it true that only 15 loci

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by Ms. Hinds

1 and a gender locust, and this is where I'm gonna
2 mispronounce, a malignin are analyzed, is that correct?

3 A That's correct.

4 Q Okay. And those loci represent less than one percent
5 of a total amount of the cellular DNA?

6 A I believe that's correct, yes.

7 Q Okay. Now, my understanding is there's two
8 subspecialties of genetics that are incorporated in this
9 forensic analysis, and that would be molecular genetics and
10 population genetics?

11 A That's correct, and both of those are used in our
12 testing.

13 Q Okay. And the, the molecular genetics incorporates the
14 actual lab work leading to the generation of the DNA
15 profile?

16 A Yes, that's correct.

17 Q Okay. Once there's a match between a suspect's profile
18 and the evidential DNA profile, then a statistical analysis
19 is done where you're asked how many other people in the
20 world might have the same profile or the likelihood of that,
21 isn't that correct?

22 A Yes, that's correct.

23 Q That's pretty much what you were alluding to with the
24 trillion and quadrillion numbers?

25 A Yes, correct.

Amanda Webb - Cross-examination
by Ms. Hinds

1 Q Okay. Now, the need for population genetics
2 demonstrates why, unless you analyze a hundred percent of
3 the DNA, that you could never be a hundred percent certain
4 that a particular individual matches another potential
5 sample, is that not correct?

6 A It's, it's been shown in our forensic testing that, as,
7 as you stated, we test maybe less than one percent of the
8 whole genetic profile. But the locations that we test in
9 forensics, when you add up all of those 15, plus the gender
10 locusts, thus far has been unique to each individual except
11 identical twins.

12 Q Okay. Are you telling me that you can be a hundred
13 percent certain, absolutely 100 percent certain?

14 A That it's an individual, yes.

15 Q Okay. Now, the DNA technology used in this case is
16 called polymery chain reaction or PCR?

17 A Yes, that's correct.

18 Q Okay. And that's a pretty sensitive technology?

19 A Yes. Yes, it's sensitive.

20 Q Okay. And that allows for DNA analysis of just a few
21 cells of the sample, correct?

22 A Yes, that's correct.

23 Q Okay. And when you're handling that sample, can you
24 tell the jury what kind of precautions you take?

25 A Yes, always before starting a, a case, we, we clean our

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by Ms. Hinds

1 bench areas, our work areas with bleach and water or an
2 antiseptic, and we, of course, wear gloves and lab coats and
3 it's a sterile area, and you only have evidence from one
4 case open at one time. You never have multiple items from
5 different cases open, and, and out of their packages at the
6 same time. And that's just a way to prevent any sort of
7 contamination from yourself to the item or from other cases
8 to that case.

9 Q So, so, you wear gloves so that, if you were to touch
10 an item with your bare hands, it would be possibly you could
11 maybe transfer onto that sample, correct?

12 A Yes, that's correct.

13 Q And how often do you change your gloves when you're in
14 the laboratory?

15 A I change my gloves as often as necessary. When I'm
16 handling -- from different cases, absolutely between
17 different cases, and, and just when it's -- especially when
18 I'm handling larger items like underwear or, or some type of
19 cutting where I'm actually handling the, the item itself.
20 I'll change gloves after that.

21 Q And, again, that's because there could be an
22 inadvertent transfer and that's why you do that as a
23 precaution, correct?

24 A Yes, that's correct.

25 Q Okay. And I think you've already answered my next

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by Ms. Hinds

1 question, which is that you clean and sterilize your work
2 area often, and, again, that's due to the sensitivity of the
3 test, correct?

4 A Yes, that's correct.

5 Q Okay. Now, getting back to what you were testifying to
6 before that mixed sample, that's a situation where you find
7 a DNA profile from more than one person on a particular
8 sample.

9 would that be correct?

10 A Yes.

11 Q Okay. Do the DNA results indicate the race of the
12 donor?

13 A No, they do not.

14 Q How about the age of the donor?

15 A No.

16 Q Okay. Okay. Does it indicate when the sample got on
17 the evidentiary sample?

18 A No, it does not.

19 Q Okay. Does it indicate how it got there?

20 A No, it does not.

21 Q All right. You testified that you tested a swab from
22 the inside end of a barrel of a U.S. revolver?

23 A Yes, I did.

24 Q Okay. And you found DNA consistent with Mr. Riley,
25 correct?

Amanda Webb - Cross-examination
by Ms. Hinds

- 1 A Yes, that's correct.
- 2 Q Okay. You didn't find any DNA consistent with
- 3 Mr. Powell, correct?
- 4 A I did not. That's correct.
- 5 Q Okay. And you also tested the swab from the front,
- 6 front porch made by the footwear impression?
- 7 A Yes, I did.
- 8 Q And that was consistent with Mr. Riley also, correct?
- 9 A Yes, that's correct.
- 10 Q And no DNA from Mr. Powell?
- 11 A No.
- 12 Q Okay. So, it was a -- if this was a pretty, pretty
- 13 bloody crime scene, is it fair to say it would be expected
- 14 that you would, might find a footwear impression in blood
- 15 from the victim on the perpetrator's shoes?
- 16 In other words, that it was gotten on the, on a
- 17 suspect's shoes?
- 18 A I suppose that's possible if the, if the, if the victim
- 19 had stepped in the suspect's shoes.
- 20 Are you saying that---
- 21 Q If the blood is, is at the scene, you might be able to
- 22 find the victim, or excuse me, the suspect's blood, excuse
- 23 me, the victim's blood on the suspect's shoes?
- 24 A Yes, that's, that's possible if the suspect was there
- 25 at the time.

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by Ms. Hinds

1 Q All right. Now, you tested the swab from the living
2 room floor next to the front door on the left side, right?

3 A Yes, that's correct.

4 Q And that was also consistent with Mr. Riley?

5 A Yes, that's correct.

6 Q And not consistent with Mr. Powell?

7 A No, not consistent with Mr. Powell.

8 Q And the swab from the front porch was also consistent
9 with Mr. Riley?

10 A Yes, that's correct.

11 Q And not consistent with Mr. Powell?

12 A No.

13 Q And you found three loci of the 16 loci tested
14 consistent with Mr. Riley's on the bottom of the mattress?

15 A There were three loci that matched Mr. Riley's standard
16 completely, and then there was a fourth loci that had half
17 of the DNA from Mr. Riley present.

18 Q Okay. But nothing from Mr. Powell, correct?

19 A That's correct.

20 Q And when you did the penile swabs, again, you found Mr.
21 Riley's DNA or DNA consistent with Mr. Riley's?

22 A Yes, that's correct.

23 Q And nothing from Mr. Powell?

24 A No, nothing from Mr. Powell.

25 Q And because of the swab from the knife, and, again,

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by Ms. Hinds

- 1 found that consistent with Mr. Riley?
- 2 A Yes, that's correct.
- 3 Q And nothing from Mr. Powell on that knife?
- 4 A No.
- 5 Q Okay. You also did one of the cigarette butts, and
- 6 that DNA was consistent with an unidentified individual,
- 7 correct?
- 8 A Yes, that's correct. One of them was.
- 9 Q In other words, it didn't match either Mr. Riley or
- 10 Mr. Powell?
- 11 A No, it didn't match either of them. It was somebody
- 12 else.
- 13 Q But because of the standards you had, you don't know
- 14 who that might be, correct?
- 15 A That's correct. I didn't receive any other standards.
- 16 So I can only compare it to the two of them.
- 17 Q Okay. But there, again, was no DNA consistent with
- 18 Mr. Powell?
- 19 A No, not with Mr. Powell.
- 20 Q Okay. And you analyzed the second cigarette butt and
- 21 found a mixed sample consistent with Mr. Riley as well as a
- 22 second unidentified individual, correct?
- 23 A It was, it was a mixture, the second cigarette butt.
- 24 Mr. Riley was not on it. There was an unidentified male
- 25 individual.

Amanda Webb - Cross-examination
by Ms. Hinds

1 Q okay. But you didn't find Mr. Powell's DNA on that
2 either, right?

3 A No, I did not.

4 Q okay. As far as the cigarette butt goes, it indicates
5 that somebody else's DNA was on it, and you didn't find
6 either, is that correct?

7 A That's correct.

8 Q okay. You also analyzed the swab from the gold
9 necklace, and you found that consistent with Mr. Riley?

10 A Yes.

11 Q Not consistent with Mr. Powell?

12 A Yes, that's correct.

13 Q And that would be the same for the hair from the
14 necklace?

15 A Yes.

16 Q okay. And there were footprints in the blood at the
17 crime scene.

18 Were you asked to check the soles of any shoes
19 belonging to Mr. Powell?

20 A No, I was not.

21 Q okay. The police report also indicated that the bloody
22 crime scene had a splattering of blood, is that correct?

23 A I'm not sure. I---

24 Q okay. They don't, they don't share that part with you
25 itself?

Amanda Webb - Cross-examination
by Ms. Hinds

1 A No, it's usually just what they send in for DNA. The
2 testing is only what I hear about.

3 Q Okay. Were you asked to test any clothing items
4 belonging to Mr. Powell?

5 A No, I was not.

6 Q So, in summation, even with the aid of this highly
7 sensitive technology, you found absolutely no DNA consistent
8 with Mr. Powell on the items that were given to you,
9 correct?

10 A That's correct. Mr. Powell's DNA profile was not found
11 on any of the items I tested.

12 Q Thank you.

13 THE COURT: Anything on redirect?

14 SOLICITOR BELL: No, Your Honor.

15 THE COURT: All right. Thank you, ma'am. You may step
16 down. Appreciate it.

17 WITNESS: Thank you, Your Honor.

18 SOLICITOR BELL: Ask that she be excused.

19 THE COURT: You may be excused.

20 WITNESS: Thank you.

21 THE COURT: Okay. All right. State prepared to call
22 its next witness?

23 SOLICITOR BELL: Your Honor, I think that all the
24 evidence items, all the items are in evidence. I think we
25 can check with Madam Court Reporter.

1 (Pause.)

2 SOLICITOR BELL: Thank you.

3 Your Honor, the State would rest at this time.

4 THE COURT: All right. Ladies and gentlemen, the State
5 has concluded its presentation of the evidence. We still
6 have other things obviously to take care of, but this is a
7 time that we will take as a break while I discuss some
8 matters with the attorneys. The break should not be too
9 long. But I'm gonna let you go back into the jury room
10 while I take up some matters with the attorneys.

11 Again, you have only heard the State's case. And, so,
12 you can not begin talking about this case yet.

13 Okay. Thank y'all very much.

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

16 THE COURT: Okay. Thank you, Ms. Hinds.

17 MS. HINDS: We would move at this time for a directed
18 verdict.

19 Basically Mr. Powell is charged with killing another
20 person maliciously. The testimony has been that Mr. Riley
21 basically died from stabbing wounds to his head and chest.

22 There's absolutely no evidence connecting Mr. Powell to
23 this crime. We believe that the, that even holding, putting
24 it in the best light for the State, that they can not, they
25 can put Mr. Powell there earlier at some point in that early

1 morning hours. But they can not place him.

2 There's no eye witness showing that he committed the
3 stabbing. There's nothing DNA wise linking him to the
4 knife.

5 The testimony was that he and Mr. Riley had an argument
6 and there was some fists exchanged, some blows exchanged.
7 But we do not feel as though they've met their burden of
8 proof, and we'd ask for a directed verdict.

9 THE COURT: All right. Thank you, ma'am.
10 Who's responding?

11 SOLICITOR SORENSON: I will.

12 THE COURT: Mr. Sorenson.

13 SOLICITOR SORENSON: Just very briefly, Your Honor.

14 THE COURT: Yes, sir.

15 SOLICITOR SORENSON: Obviously the standard, at this
16 point in time, in just the light most favorable to the State
17 when you're looking at the evidence. Your Honor, we feel
18 that it's clearly enough evidence to, to put this matter
19 before the jury.

20 If you look at the multiple witnesses that testified
21 that put Mr. Powell inside Mr. Riley's home at the time of
22 a, a violent assault occurring. There are -- you know, from
23 the one witness that Mr. Jones actually went back up to the
24 house, several comments that he made to the other witnesses
25 that, that he was either there, you know, beating the hell

1 out of him, trying to kill him, and, and just beating him.

2 Subsequent to that, a knife that the pathologist
3 testified is consistent with what would have caused those
4 injuries with the victim's blood on both the blade and
5 handle of that knife found on the defendant's porch, you
6 know, some probably less than 12 hours later. Probably more
7 like, you know, seven or eight hours later.

8 Additionally, Your Honor, you had the pathologist that
9 testified that, you know, the injuries that -- Mr., Mr.
10 Riley suffered the blunt force trauma and also the, the
11 other sharp force trauma would all have been pretty much
12 contemporaneous with each other, which would also link all
13 that together, and then we also had the inmate that
14 testified this afternoon that the defendant basically
15 admitted to stabbing the victim, and that's what the
16 pathologist testified would of been the cause of death.

17 So, I think, looking at all that, just in the, just
18 that, in the light most favorable to the State, there's
19 clearly enough evidence to submit this matter to the jury.

20 THE COURT: All right. All right. Ms. Hinds, I have
21 reviewed the testimony cause I recall it. To me, the most
22 damaging things is the fact that he's there. He was
23 obviously engaged in a fight. They did find a knife at his
24 home, and it does have the DNA of the victim on it.

25 So, I think, just that alone, along with some other

1 circumstantial evidence, is enough, when viewed in the light
2 most favorable to the state, the evidence, the evidence
3 could lead the jury to convict him of the crime. So, I will
4 deny---

5 MS. HINDS: Yes, sir.

6 THE COURT: ---your motion for a directed verdict.
7 Anything else?

8 MS. HINDS: No, sir.

9 THE COURT: Okay. Do you, do you want me to question
10 the defendant now or do y'all or have y'all told---

11 MS. HINDS: We have spoken and I think this would be
12 appropriate for you to be questioning him now.

13 THE COURT: Okay. All right. Mr. Powell, I'm gonna
14 ask you to stand up if you don't mind please, sir.

15 DEFENDANT: Yes, sir.

16 THE COURT: Okay. And, Mr. Powell, would you raise
17 your right-hand please, sir. I know you've been sworn in
18 one time before, but I'm gonna do it again for the record.
19 Okay.

20 (WHEREUPON, the defendant was placed under oath at this
21 time.)

22 THE COURT: Okay. If you'll put your hands down
23 please, sir.

24 (Defendant complies.)

25 THE COURT: Okay. Mr. Powell, you understand, at this

1 time, I'm going to explain certain of your rights to you. I
2 know your attorneys have gone over it as well. But I'm
3 going to put this on the record.

4 Okay. If you don't understand everything I say, I need
5 for you to let me know. If you want me to explain anything
6 in more detail, I'll be happy to do so.

7 Do you understand that?

8 DEFENDANT: Yes, sir.

9 THE COURT: Is anything that y'all want to say?

10 MS. HINDS: No, sir.

11 THE COURT: Oh, okay. Just wanted to make sure.

12 We've reached the stage in the trial where you may
13 present your defense. You have the right to claim the
14 protections given to you by the Fifth Amendment of the
15 Constitution of the United States, and the Amendment states,
16 in part, that no person shall be compelled, in any criminal
17 case, to be a witness against himself.

18 This means that you can not be required to testify in
19 this case. You have the right to testify on your own
20 behalf. However, no one can make you testify. This is a
21 personal right and no one can waive this right except you.
22 If you decide to testify, you will be subject to the same
23 rules that govern other witnesses and you may be examined
24 and cross-examined on any relevant issue in this case.

25 In addition, if you have any convictions involving

1 dishonesty or false statements or for crimes punishable by
2 imprisonment for more than one year, and this Court
3 determines that the probative value of admitting this
4 evidence outweighs its prejudicial effect to you, the
5 solicitor will be able to introduce your record to attack
6 your credibility.

7 You understand that?

8 DEFENDANT: I understand.

9 THE COURT: Okay. If you decide to testify, this
10 decision on your part must be freely, voluntarily, and
11 intelligently made with knowledge of the protections given
12 to you by the Fifth Amendment and the consequences of your
13 decision to testify. If you decide not to testify, I will
14 instruct the jurors that they can not give the fact that you
15 did not testify any consideration whatsoever, and that
16 there's to be absolutely no prejudice to you because you did
17 not testify.

18 It is entirely left up to you whether or not you
19 testify. You may talk with your attorney, your family, and
20 friends, or anyone else, but the final decision will be left
21 entirely up to you, and you must tell me your decision.

22 Do you understand everything that I have explained to
23 you?

24 DEFENDANT: Yes, sir.

25 THE COURT: Do you have any questions about what I've

1 said?

2 DEFENDANT: No, sir.

3 THE COURT: okay. Have you discussed with your lawyers
4 whether or not you will testify?

5 DEFENDANT: I mean we, we were discussing that.

6 THE COURT: okay. Do you need to talk -- you need any
7 more time to talk with them?

8 DEFENDANT: No, sir.

9 THE COURT: okay. Have you made your decision?

10 DEFENDANT: Yes, sir.

11 THE COURT: what is your decision?

12 DEFENDANT: I'm not gonna testify.

13 THE COURT: You're not gonna testify?

14 DEFENDANT: No, sir.

15 THE COURT: okay. Has anybody forced you to do that?

16 DEFENDANT: No, sir.

17 THE COURT: Has anyone threatened you to get you to do
18 that?

19 DEFENDANT: No, sir.

20 THE COURT: okay. All right. Thank you, sir.

21 MS. HINDS: Thank you, Your Honor.

22 THE COURT: okay. All right. In light of the fact
23 that he's not testifying, y'all have also listed I believe
24 three others.

25 MS. HINDS: we will not be putting up any witnesses.

1 THE COURT: Okay. All right. So, from -- let's just
2 kind of talk if we can. The -- I'll bring the jury back out
3 here and you're gonna rest on the record?

4 MS. HINDS: Yes, sir.

5 THE COURT: And then y'all want to start back at
6 9:30 in the morning?

7 SOLICITOR BELL: That's fine with me.

8 THE COURT: That all right with y'all?

9 MR. MELLARD: Yes, sir, when we rest, I assume though
10 you'll send the jury out, and then we'll just renew our
11 motions.

12 THE COURT: Oh, yeah, yeah. We'll, we'll go back over
13 the motions --

14 MR. MELLARD: Yeah.

15 THE COURT: -- after you rest on the record. If y'all
16 have any specific charges and things like that, we'll talk
17 about that and, and any other thing that we need to just
18 discuss we'll just do that.

19 Okay. All right. Anything from the State?

20 SOLICITOR BELL: No, sir.

21 THE COURT: Okay. All right. If you'll bring the jury
22 back in.

23 (WHEREUPON, the following takes place within the
24 presence of the jury.)

25 THE COURT: This is the first time really it was only a

1 short break, wasn't it?

2 All right. Ladies and gentlemen, we're now getting
3 ready to present, to begin with the defense portion of this
4 case.

5 Ms. Hinds.

6 MS. HINDS: The defense rests.

7 THE COURT: Oh, okay. Thank you, ma'am.

8 All right. Ladies and gentlemen, you have now heard
9 all the testimony you're gonna hear in this case. It is
10 about a quarter till 5:00.

11 Now, we could go on right now, but we're not. Let me
12 just tell you why. We've, we've got some things we got to
13 take care of outside the presence of the jury. And, so,
14 rather than have y'all wait and we go ahead and then do our
15 closing and charge this evening, we're gonna do this
16 tomorrow morning.

17 So, I'm gonna ask y'all to come back tomorrow morning
18 at 9:30. If you'll be in the jury room, then we'll be
19 ready.

20 What's, what's gonna happen tomorrow morning is the --
21 you'll hear the closing arguments of the attorneys, then I
22 will charge you on the law. After that, the case will be
23 given to y'all for the deliberations for y'all to make a
24 decision.

25 Now, let me, let me remind you, even though you've

1 heard all of the testimony in this case, you've not heard
2 the closing arguments of the attorneys. You've not heard
3 the charge on the law by me, and you can not talk about this
4 case with anyone. Not among yourselves, not with your
5 family or anyone.

6 You can -- again, do not read the paper. Do not do any
7 investigation, check on line, ride by the scene, and don't
8 let anybody talk to you about this.

9 Okay. Y'all have been very attentive, and I do
10 appreciate that. I know there's some times in the trials
11 that things drag for a little bit. But y'all have been very
12 attentive. And, so, if y'all will get your, get your rest
13 this evening. Tomorrow morning y'all will be back here at
14 9:30. We'll do the final part of this case and we'll be
15 ready for y'all to make your decision.

16 So, y'all have a wonderful evening. Thank you so much
17 for everything y'all have been doing. See y'all in the
18 morning at 9:30.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 THE COURT: You want to do the, do the repeat?

22 MS. HINDS: Uh-huh. (Affirmative).

23 THE COURT: All right.

24 MR. MELLARD: Your Honor, at this time we renew our
25 motion for directed verdict for the reason there's no

1 evidence that Mr. Powell murdered Arthur Riley. No evidence
2 to support this charge.

3 THE COURT: Okay. And, Mr. Mellard, for the same
4 reason I mentioned earlier, I'm not, I'm not gonna grant
5 your motion.

6 Okay?

7 MR. MELLARD: Yes, sir.

8 THE COURT: Thank you, sir. I appreciate it.
9 Anything else from the defense?

10 MS. HINDS: No, sir.

11 THE COURT: All right. Anything from the State?

12 SOLICITOR BELL: No, sir, other than a---

13 THE COURT: Okay.

14 SOLICITOR BELL: ---talking about the jury charges.

15 THE COURT: Yeah, if y'all, y'all don't mind, I'd like
16 to talk to y'all about the charges. Y'all want to come on
17 back in there or do y'all want---

18 SOLICITOR BELL: That's fine.

19 THE COURT: Okay. Yeah, if y'all will come on back.

20

21 (WHEREUPON, Court was in recess for the evening.)

22

23

24

25

1 Thursday, May 17th, 2012

2

3 THE COURT: State's ready to proceed?

4 SOLICITOR SORENSON: Yes, sir.

5 THE COURT: And State's gonna open and then the
6 defendant's close, right?

7 MR. MELLARD: Yes, sir.

8 THE COURT: Okay. And is the defendant ready to
9 proceed?

10 MS. HINDS: Yes, sir.

11 THE COURT: All right. Bring the jury on in.

12 (WHEREUPON, the following takes place within the
13 presence of the jury.)

14 THE COURT: Hope y'all had a nice rest last night.
15 Okay. I want to make sure nobody read the paper?
16 (Jurors respond negatively.)

17 THE COURT: No one read the paper, did they?
18 (Jurors respond negatively.)

19 THE COURT: Okay. Good.
20 No one's contacted you about this case?

21 (Jurors respond negatively.)

22 THE COURT: Hadn't talked to anybody about the case?
23 (Jurors respond negatively.)

24 THE COURT: Hadn't done any investigation, right?
25 (Jurors respond negatively.)

1 THE COURT: All right. We've now come to the end of
2 the case. The attorneys are gonna make their closing
3 arguments. The solicitor's gonna go first, then the
4 defendant's attorney is gonna go next, then I'm gonna charge
5 you with the law. After I charge you with the law I will
6 allow you to go back into the jury room.

7 Now, you will go back to the jury room for a minute,
8 but you won't begin deliberations at that time because I've
9 got to go over my charge with the law, with the attorneys to
10 make sure that I didn't misspeak or leave something out, or
11 add something that I shouldn't have added to the, to the
12 charges. If everything is okay, and I don't have to come
13 back out and charge you any additional things with the
14 charge, the bailiff will bring all the exhibits and the
15 verdict form back into the jury room. At that time you will
16 begin your deliberations.

17 Okay. But until that time you are not to begin your
18 deliberations on this case, in this case.

19 Okay. Thank y'all very much.

20 All right. Mr. Sorenson.

21 SOLICITOR SORENSON: May it please the Court, Your
22 Honor?

23 THE COURT: Yes, sir.

24 SOLICITOR SORENSON: Ms. Hinds, Mr. Mellard.

25 (Pause.)

1 SOLICITOR SORENSON: Good morning, ladies and
2 gentlemen.

3 In a fit of rage, that's the word that Doctor Ross used
4 yesterday afternoon to describe the death of 69 year old
5 Arthur Riley. In a fit of rage.

6 As bad as that sounds, I think even that's a little bit
7 of an understatement what that man did to Arthur Riley in
8 his home back in the early morning hours of November 3rd of
9 2010 when he took this knife and he stabbed and cut Mr.
10 Riley 42 times, 42 times. Beat him about his head, left him
11 to die on that floor, left him to die in that floor.

12 Ladies and gentlemen, I want to start off by thanking
13 you. I thank you not only for your time, which I'm sure
14 they're a lot of other places that y'all would rather have
15 been this week. But more importantly, to the attention that
16 I've seen and all of us have seen that you've given to this
17 matter over the last couple days. But most importantly, to
18 the attention I know you're gonna give myself and Ms. Hinds
19 this morning, and ultimately the attention you're gonna give
20 to this matter when you get back into that jury room.

21 I want to thank you on behalf of not only the State of
22 South Carolina and the citizens of Orangeburg County. Most
23 importantly, on behalf of the family and friends of Arthur
24 Riley cause I know they're a whole lot of places that you'd
25 rather be here, than here this week, and I'm sure, when you

1 got that jury notice and you showed up Tuesday morning, this
2 wasn't quite what you thought you had in store for your
3 week.

4 I think you've probably seen a side of Orangeburg that
5 a lot of us probably had no idea existed. Had no idea
6 existed. The side of Orangeburg where people, at three
7 o'clock in the morning, are walking around looking for girls
8 and crack houses, looking for where they're gonna get their
9 next bottle of liquor, where they're gonna get their next
10 rock of crack. It's a world that most of us don't realize
11 is right out there. Right around the corner from this
12 courthouse.

13 But sadly, ladies and gentlemen, that's a life-style
14 that Mr. Riley was involved in back in November of 2010,
15 and, sadly, to say this, but it's a life-style that
16 ultimately led to his death, and you heard from some
17 witnesses, and I'm gonna talk about them in a few minutes
18 that, that there's some kind of interesting life-style
19 choices.

20 Keep in mind, ladies and gentlemen, you know I thought
21 about, when I first was kind of thinking about what I was
22 gonna tell you, I kind of felt like maybe I need to
23 apologize for some of those witnesses and some of what you
24 had to hear from this witness stand. It's kind of an
25 initial thought. But the more I started thinking about it,

1 that's not what I'm gonna do.

2 Ladies and gentlemen, I didn't pick those witnesses. I
3 didn't choose those witnesses. He chose them. He chose
4 them back in November of 2010 when he chose to attack Mr.
5 Riley in his home with those witnesses around him, with
6 those witnesses.

7 And what I do at this point in time, ladies and
8 gentlemen, you know, is, is talk to you a little bit about
9 the facts. Talk to you a little bit about the facts of it
10 to convince you to prove, to prove Mr. Powell's guilt
11 beyond, not only a reasonable doubt, but beyond, I submit to
12 you, any doubt.

13 And what I've done here, and hopefully this kind of
14 helps, kind of, kind of keep me on, on course a little bit
15 also, but just so you can kind of, kind of remember it cause
16 I know you start hearing names and may have trouble kind of
17 remembering when I'm referring to a name, who I'm talking
18 about. So, this is just a list in the order of the
19 witnesses that we called, and I went ahead and put the kind
20 of nicknames that they all went by also cause I know that
21 gets kind of, kind of confusing a lot of times when you have
22 people, you know, their real name, and then street names
23 that they're using also.

24 All right. So, that's gonna help kind of keep me, as I
25 said, kind of on course.

1 Let's talk about the morning of November 3rd, 2010.

2 All right. Arthur Riley's house on Jameson Street.

3 What do we know was going on in that house back in
4 November of 2010?

5 We know it's a place where people went to hang out, to
6 drink, a place where people went to hang out to do drugs, a
7 place where people went to hang out and just socialize, the
8 place where people went to possibly look for girls, and we
9 also know, from Todd Wise's testimony, it's a place where
10 people, especially younger, some younger people went and Mr.
11 Riley allowed them to sell drugs out of that house.

12 What did these witnesses tell us?

13 And we'll kind of talk mainly about, you know, two
14 through five and number eight, okay, initially.

15 What do they tell us happened that morning?

16 All right. Somewhere around two o'clock or so that
17 morning, got Todd, Red, Niki hanging out over at Art's
18 house.

19 Okay. Art makes a decision to tell Todd and Red that
20 they got to go cause he was planning on spending some time
21 with Niki, and we know what, what was gonna happen there.

22 All right. So, they leave. In the process of that
23 happening, we had two other individuals that pull up in a
24 white car, Slick, and a guy we think named Ebony.

25 What are they there for?

1 Looking for a girl for Ebony.

2 Slick testified that he went in the house, told that,
3 told Niki they had somebody out here with some money, and
4 she, at that point in time, decides that I guess that's a
5 little better offer at this point in time cause she's gonna,
6 gonna leave Art for the time being and go, go with Ebony.

7 They leave the house a little after two o'clock in the
8 morning.

9 The three of them, as they are now leaving, what do
10 they testify that they saw?

11 Okay. Niki tells us that, as she is leaving the house,
12 she sees the defendant, who she knows and everybody
13 basically knows him by the nickname New York, coming kind of
14 up the, up the walkway along with D-Shop, Darrell Jones.
15 The two of them arriving and that's corroborated by what
16 Mr. Jones tells us that, you know, they had been out
17 drinking at a club, they had gotten dropped off right down
18 the road, you know, basically right at this dirt road of
19 Norman Street here, almost across the street from Art's
20 house, and they were going up there for the same reason that
21 Slick and Ebony were going by there, looking for girls.

22 By that time though, Ebony, I mean Niki is already
23 leaving to go off with Ebony and Slick.

24 So, what do they tell us happened at that point in
25 time?

1 All right. Now, Red is hot and kind of moseying out
2 into the road.

3 Now, keep this in mind, I mean these are people that
4 are not -- I mean they're basically just wondering around at
5 three o'clock in the morning trying to figure out where
6 they're gonna go get their next drink or, or their next,
7 next rock of crack. I mean there's not any purpose to where
8 they're going.

9 So, the two of them are now kind of wondering out in
10 the street also.

11 All right. So, you got -- D-Shop tells us that he goes
12 up to the house, Art's at the door telling him you can go
13 look out and see if anybody's in there. He goes in.
14 Nobody's inside the house.

15 What does he tell us when he comes back out?

16 The defendant, Mr. Powell, is at the doorway arguing,
17 at this point in time, with Arthur cause Arthur's not gonna,
18 Art's not gonna let him in the house.

19 Okay. They're arguing at this point in time. But
20 think back also to what, to what Red and Darrell and, also
21 said his comments were as he was approaching.

22 Do you remember Red said that when she initially kind
23 of saw them walking kind of towards Art's house, when her
24 and Todd had gotten out into the street, that he asked who
25 was at the house, and Red's comment was he just shut down

1 cause he's gonna have some company?

2 His comment was well, he's gonna let me in. He's gonna
3 let me in.

4 Now, what does he tell -- what does D-Shop testify that
5 he heard him say?

6 He said open this bitch up to me. That's his attitude
7 that morning. He was gonna get in that house, and I'm gonna
8 talk a little while about why he wanted in that house.

9 So, we got this argument now at the doorway. D-Shop is
10 still up there. His testimony, I'm gonna talk a little bit
11 more about him in a minute, but initially there's an
12 argument that starts to get physical.

13 Okay. Todd and Red now are kind of wondering out in
14 the road away from Art's house.

15 And what does Red tell us?

16 That that's one time -- for some reason she kind of
17 turns around and D-Shop is coming up, and D-Shop is coming
18 up.

19 Now, let's talk about him for a second. All right.
20 He's real important.

21 All right. Keep in mind that Darrell Jones, he's known
22 the defendant probably longer than any other witness that
23 testified. He's known about him ten years. He's a person
24 who was hanging out with him that night, a person that came
25 to Art's house with him that night. He's the guy that Todd

1 told to go back and get your boy from up in that house.
2 He's his friend.

3 And you saw from this witness stand, when he was up
4 here Tuesday afternoon, he didn't want to be here. It's the
5 last place he wanted to be Tuesday afternoon is in here
6 testifying against his buddy. The last place Darrell Jones
7 wanted to be, and he hemmed and hawed as best as he could
8 about trying to describe what that altercation was like
9 inside that house, what that altercation was.

10 You know, if you listen to him testify initially up
11 there you would of thought the two of them were in there,
12 you know, either just kind of wrestling around, or the worse
13 case, it was a, you know, a fist fight that that 69 year old
14 160 pound Arthur Riley was somehow getting the best of that
15 man. But we know that's not true because he's photographed
16 the next day, and he's got no injuries, and he hadn't gotten
17 beaten up.

18 But what do we know about what D-Shop has told, not
19 only us eventually here in this courtroom, but also the
20 witnesses about that assault on Arthur Riley?

21 We heard from several different witnesses that he made
22 comments to. When he comes down the street, and Red turns
23 and asked him, you know, what's wrong, what's going on.
24 He's beating him up in there. Todd Wise testified he told
25 him -- he looked up there trying to kill Art. So, he told

1 him you better go get your boy. He's trying to kill him.

2 what did he tell the sheriff's office that next day
3 when they get him in there and get a statement from him?

4 Beating Art to deaf.

5 Now, come -- use your common sense here, ladies and
6 gentlemen. I mean obviously he's not saying he was beating
7 him to death where he couldn't hear. I mean what -- he's
8 beating him to death is what he was telling them.

9 And then ultimately in Court, finally, on Tuesday, what
10 did he finally say?

11 He was beating the hell out of him. Beating the hell
12 out of him.

13 That, ladies and gentlemen, I submit to you is a little
14 more than what they're gonna get up here and try to, try to
15 tell you was happening inside that house. That, ladies and
16 gentlemen, is the beginning of what ultimately culminated in
17 that.

18 Let's look at what his actions are, D-Shop's actions.
19 Okay. Cause this tells you even more so the fact that it
20 was more than just two people up in, arguing inside that
21 house, and this is somebody -- and, you know, this is
22 something that I'm gonna talk about a little more maybe in
23 the end, but that he's kind of counting on. I mean these
24 are witnesses that don't want to get involved, that don't
25 want to get involved. You saw that by the fact that just

1 from, from, you know, Ronnette Stevenson, Todd Wise, and
2 Thurmond's Keitt's testimony.

3 I mean there's an altercation where somebody's
4 describing somebody as killing somebody, beating the hell
5 out of somebody up in a home, an older man that they all
6 know, and none of them go up to, to check on what's going
7 on.

8 All right. That's what he's counting on. Okay. The
9 fact that they are not gonna call the police. I mean their
10 concern, at that point in time, is where they're gonna go
11 get their next bottle of liquor. I mean that's really what
12 ultimately ends up being the concern out of all of them.

13 You know, he sent D-Shop up there a couple of times to
14 try to stop things, but other than that, you know, his
15 concern, at that point in time, isn't calling the police
16 either, and that's kind of what he's counting on.

17 But, but look at what he does do, and this is what that
18 tells you that, that it's more than just two people arguing
19 up in that home. Just the fact that he is going out in the
20 street and telling all these people that something is going
21 on, this is somebody, as I said, these people, I mean their
22 concerns is where they're gonna go get their next drink.
23 There is something serious enough that he is going to try to
24 get other people to try to stop it. Now they obviously
25 decide they don't want to get involved.

1 But what else does he do that's even more significant?

2 This is corroborated by, by Slick, by Thurmond Keitt
3 when he comes walking back up 20 minutes or so after he is
4 left with Niki and Ebony, that he comes walking down the
5 street, he sees, you know, Red and Todd out in the street.
6 It fits in with their testimony.

7 There's something going on up at the house because one
8 of them is telling him to go up there and one of them is
9 telling him not to.

10 But what's, what does she testify that D-Shop's doing?

11 D-Shop is standing out near the road yelling for
12 everybody to run, the cops are coming, the cops are coming.

13 Does that make any sense?

14 What it does is it corroborates what D-Shop testified
15 about, that that was his attempt to try and get that man to
16 stop beating Arthur Riley was that he figured he'd try to
17 yell the cops are coming to see if that got him off of him.
18 Unfortunately it didn't work and, unfortunately, they
19 testified, by that point in time, he's probably pretty close
20 to dead. So, it's not gonna matter anyway.

21 But what else do they tell us?

22 That's what I want to talk a little bit about, about
23 this. I'm sure Ms. Hinds is gonna, gonna bring up some of,
24 some of the inconsistencies in what they tell us.

25 Okay. Keep in mind that you've got, you know, four or

1 five witnesses out there that have been, you know, doing
2 drugs, drinking, hanging out all night. Okay. I think it
3 would be pretty incredible to believe that all four or five
4 of them would come in here and tell y'all exactly
5 word-for-word the same story about what happened that night.
6 That, to you, I submit, ladies and gentlemen, would show
7 they, that they got together and made up a story.

8 Okay. Just think about it. It's kind of just human
9 nature, ladies and gentlemen, when you have a group of
10 people that observed an event that takes place, and asked
11 them a day, two days, a year and a half later to recall that
12 event or series of events, you're never gonna get all the
13 same details. You're never gonna get the same details.

14 And something I was thinking about to kind of
15 illustrate that is let's say you got back in the jury room
16 and someone asked y'all, told y'all that we called 15
17 witnesses. Obviously y'all are all sitting here watching
18 those witnesses to make a list of the order that they
19 testified in. I guarantee the 12 of you would not come up
20 with that same list or that same list.

21 It doesn't mean that you weren't in here. It doesn't
22 mean that you weren't paying attention. People remember
23 things differently, and the main thing to them was the
24 inconsistencies kind of come up is when they kind of walked
25 down this dirt road looking for liquor, and kind of just the

1 sequence of events that surrounded them kind of leaving the
2 house, coming back by the house, where D-Shop came up to
3 them, the things of that nature, the little inconsistencies
4 that I submit to you is just kind of human nature and people
5 remembering things differently.

6 But out of that, what is the one thing that kind of
7 also that kind of jumps out that, that Red remembered?

8 You remember she said that she had walked down that
9 dirt road, weren't able to get any liquor, was on the way
10 back and, and running back into him. He was kind of odd
11 acting. Never seen him act like that before.

12 Okay. So, I submit to you he'd been drinking and I'd
13 submit to you he just, he just lost it and beaten this man
14 to death.

15 What does he tell her?

16 You don't want to go back down that way. You don't
17 want to go back down that way, pointing back to Art's house.

18 I submit to you, at that point in time, by the time
19 that comment is heard by him he's dead. He's dead on that
20 floor, and I'm gonna talk about Doctor Ross a little while
21 later, but you remember her testimony yesterday. I mean it,
22 it could of been a matter of minutes after that assault that
23 he would of been dead.

24 And, at that point in time, ladies and gentlemen, after
25 that, they're all out of there. We're talking maybe three

1 o'clock or so in the morning at this point in time.

2 The next witness that we have that had any contact with
3 that home is Ms. Noel, Niki. When she goes back up a little
4 bit, five o'clock in the morning, goes up, knocks on the
5 door, and it comes open, and that's when she's greeted by a
6 room a mess, Art's bald head on the floor with blood all
7 around him.

8 And we know that she went down, a couple houses down
9 and found somebody getting ready to go to work and had them
10 call the police, and Deputy Williams showed up out there and
11 then they went through the crime scene. I'm just gonna
12 address some of that stuff for a few minutes here.

13 You know, you have a couple boxes, you know, full of
14 swabs and things of that nature that were collected.
15 Lieutenant Carter, when he arrived that day or that morning,
16 I mean the only witness was Ms. Noel, who is not even
17 telling the truth about her name initially that morning, but
18 wasn't provided at least any information that would suggest
19 they had a suspect.

20 So, Lieutenant Carter, when he goes about processing
21 that scene, you know, he's got to make sure -- he only gets
22 one shot of this. You know, that he collects everything
23 basically he can. Anything that looks like it could have
24 any significance whatsoever he ends up collecting.

25 Ladies and gentlemen, I submit to you, you know,

1 99 percent of that is stuff that all, all it proves is that
2 he was killed.

3 Okay. I admit there's nothing that leads that man to
4 that crime scene. You know, there's nothing that links any
5 other person to that crime scene however. But we know he
6 was stabbed 42 times.

7 Okay. That's not the issue.

8 All right. So, let's go over what Lieutenant Carter
9 tells you. Swabs, collected a bunch of blood, finds a
10 couple of spots where, you remember him testifying, there
11 were a couple footprints that had a footwear partial
12 impression that had what appeared to be maybe a drop of
13 blood on top of it where he was hoping maybe that was the
14 suspect who had gotten cut. So, he collected them. But
15 unfortunately, all that stuff came back to being Mr.
16 Riley's. So, it kinds of ended up being irrelevant.

17 You know, he dusts for some fingerprints. Nothing that
18 they were able to match to anybody. But the fact of the
19 matter, there, you know, if we find a fingerprint on the
20 door that matched his, I mean it really doesn't mean
21 anything cause we know that he was in the house. I mean he
22 lived right around the corner from there, the place where
23 everybody hung out.

24 As we know, from fingerprints, from what Ms. Wallace
25 told us, you can't date when a fingerprint was left. So, it

1 would be pretty easy for him to say, you know, I was in
2 there two days earlier, and I must of touched that, that
3 door. So, that's kind of irrelevant also.

4 You know, the footprints. Never found any shoes that
5 we could match to those partial footprints. Also, a whole
6 bunch of different types of partial footprints inside that
7 home. I submit to you we know that, when law enforcement
8 arrived, there was several officers that went in to clear
9 the residence, to check, ultimately to get EMS in there to
10 check on the victim to, to find that he was deceased.

11 I think we also had probably almost a two and a half
12 hour period. Well, I submit to you he was lying dead on
13 that floor, probably had clothes on him when he was lying on
14 that floor.

15 No indication that the assault happened back in the
16 bedroom, but yet we've got a mattress that's flipped over.

17 Think about the quality and the character of the people
18 that hung out at that house. So, it's not beyond the realm
19 of reason that some time during that period of three o'clock
20 to 5:30 in the morning multiple people went through that
21 home looking for drugs, money, or anything else he would of
22 had in there. And we know, from the quality of people that
23 hung out there, we know from the ones that actually
24 witnessed what was going on, none of them called the police.

25 So, we know if somebody else had went through, and they

1 had ransacked that home, taken whatever was in his pockets
2 and pulled, you know, pulled, if he had shorts on, pulled
3 them off and took whatever was in his pockets, they weren't
4 gonna call the police. They weren't gonna call the police.

5 We had also, you know, this gun that was found on
6 there. You know, they took this, you know, hoping maybe
7 they could find maybe this was involved somehow, you know.

8 No fingerprints on it unfortunately. Do find some of
9 the victim's blood on it. I don't know if that's Art's gun
10 where he may got, you know, attempted, at some point in
11 time, to defend himself and pulled that out, and ended up,
12 you know, getting struck with it since it had blood inside
13 the barrel. But they collected that, you know, initially.
14 Yet, again, it's sitting there at the crime scene trying to
15 make sure that, you know, they collected everything they
16 could that, that day.

17 You know, it's a light switch where it had a swatch of
18 blood on it. Then, again, I mean nothing to say somebody
19 didn't go through that house after the assault and it could
20 of been him. It could of been anybody else also out there.
21 But, yet, again we know that light switch, the victim's
22 blood on it. Not, not somebody else's blood that was
23 bleeding.

24 So, ultimately, you know, all this stuff that was
25 collected, you know, a lot of it had to put it in cause

1 otherwise they're gonna ask where it is. But we know it
2 just shows how, you know, bloody this crime scene was, which
3 I submit to you, if you have somebody that was cut and
4 stabbed and basically left to bleed to death on their floor,
5 that's what you're gonna have.

6 The next thing I want to talk about is the knife. This
7 item right here.

8 So, what do we know about that knife?

9 We know ultimately it was sent out to the State Law
10 Enforcement Division. They tried to get fingerprints off of
11 it. Couldn't. Had blood all over it, which I submit to you
12 would of made getting the fingerprints pretty hard off of
13 this knife. We know that there was blood on the blade that
14 came back matching Mr. Riley's. We know there was blood on
15 the handle that came back matching Mr. Riley's. We can see
16 that in the picture with the blood actually on the knife
17 there sitting on Mr. Powell's porch.

18 Yet, again, where is that knife found?

19 It's literally right on Deshawn Powell's front porch,
20 and I want to talk to you about that. All right. That's
21 pretty damaging. That's pretty damaging. And I imagine
22 that Ms. Hinds is gonna have to get up here and argue to
23 you -- I can only think of one or two things. Either
24 somebody from the Orangeburg County Sheriff's Office put
25 that knife on the porch, either somebody from the Orangeburg

1 County Sheriff's Office, Lieutenant Shumpert, Sergeant
2 Furtick, or Deputy Harter, put that knife on the porch or
3 one of these witnesses did. Nothing else could possibly
4 make sense.

5 All right. Obviously the Sheriff's Office is over
6 there. So, they were there and, you know, could of. I'm
7 gonna talk about why it doesn't make any sense in a second.

8 But the only other -- if you, if you eliminate them,
9 the only other person that could have done it would have to
10 have been one of the witnesses cause who else would know,
11 who else would know that he was in an argument, an argument
12 of some sort with Mr. Riley that morning to know to go frame
13 him in. There's nobody else out there but Mr. Jones, Ms.
14 Stevenson, Mr. Wise, and Mr. Keitt.

15 So, you'd have to assume that one of them then, or more
16 importantly, that collectively all of them killed Mr. Riley,
17 killed Mr. Riley, and then decided to go plant this knife on
18 Mr. Powell's porch cause otherwise -- I mean how did
19 somebody know to go put it, I mean seven hours later, on his
20 porch?

21 All right. So that's then.

22 Well, let's talk about law enforcement.

23 All right. All right. You got to remember we're
24 talking a little after twelve o'clock in the afternoon.
25 Seven hours, six and a half hours after law enforcement

1 shows up at the crime scene.

2 Now, Lieutenant Shumpert has talked to a couple
3 witnesses by that point in time. Okay. They've talked to
4 Wendy Noel out at the scene.

5 okay. She's not even telling them her correct name at
6 that point in time. But she, at no point in time that
7 morning, mentions his name. They get the name of somebody
8 with a nickname Monkey Doo that he touches base with who
9 provides information that Todd, a Red, and Niki were at the
10 house when he had left earlier in the night.

11 Okay. So, that's the morning of November 3rd they
12 had those three names now, Niki, Todd, and Red. Okay. Yet
13 again, no New York. No Deshawn Powell.

14 Lieutenant Shumpert tracked down, tracked down Red at
15 her trailer right up here and goes and gets her and takes
16 her down to the Sheriff's Office that morning, late morning
17 approaching twelve o'clock now. And that's the first time
18 that his name comes up, his name comes up. And she tells
19 them that he only lives right -- I mean shoot, right behind
20 my, right behind my trailer.

21 Okay. Before then, Lieutenant Shumpert had no idea, no
22 idea who he was, his name hadn't come up or anything.

23 Okay. So, to say that they planted this knife there,
24 you have to assume now that he has gone by the scene and,
25 and removed this knife, first of all, from the crime scene.

1 okay. Has gone in there and taken the knife and kept it in
2 some condition where it's still got blood on it and honestly
3 doesn't have any of his fingerprints or any of other law
4 enforcement fingerprints on it.

5 okay. So, you have to believe, you know, that the
6 responding officers, that Deputy Williams that testified,
7 that he secured the scene, and then Gerald Carter that got
8 there and processed the scene, that they allowed somebody to
9 come in and remove evidence from that scene, the knife.
10 They don't take the gun or anything else, and they decide to
11 go plant it on Deshawn Powell's porch.

12 I ask you does that make any sense?

13 okay. So, at this point in time, his name is only come
14 up as somebody that, that Red -- you remember her testimony?

15 She never sees the knife. Never sees him do anything.
16 She knows he's up at the house and knows that D-Shop has
17 told her that he's up there, up there beating him, and
18 there's nothing out of her that says that, that he was
19 stabbing him.

20 okay. And this is also a witness that, that he
21 doesn't -- they don't even -- they don't -- I mean it's not
22 they're buddies, okay, and that he's dealing with at this
23 point in time. okay.

24 But what does Lieutenant Shumpert and Sergeant Furtick
25 tell us happened when they walked up to that house that

1 morning?

2 Three officers. They come into the yard. There's a
3 car out in the yard. The car out in the yard with two
4 people in it.

5 Okay. Make sense that a couple officers, two of the
6 officers are gonna go over to that car to make sure -- you
7 know, they're investigating a homicide at that point in
8 time, a murder. Okay. So, obviously you want to kind of
9 know who you're talking to. Also just to make sure D-Shop,
10 if he's sitting in the car, there's no need to go knocking
11 on the door.

12 Okay. But they're, they're not. All right. But this
13 picture is taken and one of those people that are still
14 hanging out in there when the picture is taken later that
15 morning.

16 Okay. Lieutenant Shumpert's testimony, he goes up to
17 that door, knocks on the door, and immediately hears a
18 female, who ends up being the defendant's mothers, telling
19 him to come in.

20 Okay. And is it reasonable that his attention, when he
21 was initially kind of walking up to that door, between,
22 between the people outside and then knocking on the door or,
23 you know, windows he's walking by, kind of make sure he
24 knows something?

25 I mean where do you think his attention is at that

1 point in time is gonna be?

2 It's not gonna be with what's on, on the porch.

3 Okay. What does he tell us?

4 That he goes in at that point in time. They look
5 around, ask for, if Deshawn is there, Mr. Powell's there.

6 What does he say, you know, brother and mom do inside
7 the house?

8 You know, the impression he gets is that, you know,
9 they're looking for him inside the house like they think
10 he's there. But he's not. Mama says I'll call him on his
11 cell phone.

12 So, what's the reasonable thing to do at that point in
13 time?

14 To go outside and wait for him. Obviously if he's
15 gonna get a call on his cell phone he's gonna come up at
16 that point in time, and it's at that point in time when
17 Lieutenant Shumpert stepped outside and Sergeant Furtick now
18 is coming up towards the porch that the two of them see that
19 knife sitting right there.

20 I submit to you, ladies and gentlemen, that they are
21 looking to somehow, you know, plant evidence for some reason
22 on Deshawn Powell. First of all, at that point in time, I
23 mean we aren't even at a point where they knew he was their
24 person they were definitely looking for. So, that makes no
25 sense that they're gonna do that at that point in time. I

1 mean, based on just interviewing one witness and then.
2 brought him up and basically being there.

3 But, you know, they end up detaining him that morning.
4 You know, they questioned him.

5 What did he say that morning?

6 You know, his statement at that point in time was I
7 don't know what you're talking about. I was never at Art's
8 house.

9 That job -- is that what a person who had just been in
10 an argument the night before would say?

11 I submit to you he said I was just in an argument, I
12 was there, I was hanging out, I don't know what happened to
13 him. But no, he says I wasn't even there. You know, they
14 detain him. They take him down to the Sheriff's Office.
15 They take some photographs of him.

16 You know, if they're out to get Mr. Powell, and they
17 planted evidence on him, they're gonna let him go at that
18 point in time?

19 But they do.

20 The reason they do is cause they're still, they still
21 got investigation to do. They're still witnesses that they
22 need to find and witnesses they need to talk to, and that's
23 what they then do over the next two days.

24 They track down and talk to Slick. They track down and
25 talk to Todd Wise that afternoon. They ultimately find the

1 main witness, Darrell Jones, D-Shop, the following morning
2 and get a statement from him.

3 They ID him in a lineup. They pick him out of these
4 lineups. It's only then that they get the warrant for him,
5 that they go get the warrant cause now you have a witness
6 that saw him in there beating him to death, and you got a
7 knife that's got what appears to be blood on it on his
8 porch.

9 I submit to you what makes sense, ladies and gentlemen,
10 is he got home that morning. I'm gonna talk about Marlos
11 Stevenson in a few minutes. But he got home like he told,
12 told Marlos down at the jail, that he got home that morning,
13 he got cleaned up, and he went out, and he was going to get
14 rid of stuff. You don't stab a man 42 times, cut a man 42
15 times, beat a man about the head and cause this amount of
16 damage without getting blood on you.

17 We know that because there's blood dripping, I submit,
18 off that knife and off of his hand while he's leaving that
19 residence, but he went to go get rid of that stuff that
20 morning. That's why his mama and brother thought he was
21 still in the house and went looking for him back in the
22 bedroom cause that's when -- I submit to you that's where he
23 was.

24 But, you know, the police had just been next door and
25 picked up Red, you know, an hour or so later. So, it makes

1 sense they're gonna go to the next place that they're coming
2 and come see me. So, he ends up leaving after he gets that
3 phone call from his mom to come on back. You know, he comes
4 walking back up and obviously he's got no, no -- nothing
5 with blood on it. I submit to you he's gotten rid of that
6 stuff at this point in time. He was taking that knife to
7 get rid of it too.

8 I submit to you that what makes sense is that, you
9 know, that fell out of the stuff that he was carrying when
10 he was walking and didn't realize it. Uh-oh. Uh-oh.

11 When he comes back up, you know somethings else is
12 telling him, when he shows back up, doesn't have a jacket on
13 anymore either. Doesn't have that coat on anymore that
14 those witnesses testified he was wearing earlier in the
15 night. I submit to you that's where the blood is gonna end
16 and that's where he was getting rid of it.

17 Something I was talking about -- something I forgot
18 about talking about D-Shop, and let's just go back to just
19 real briefly, that he had made the comment on the, on the
20 stand that they had been in a club. They had been in a
21 club. Oh, he couldn't of had a knife on him, couldn't of
22 had a knife on him. We were at a club.

23 I mean, ladies and gentlemen, y'all, y'all pay
24 attention to the news here in Orangeburg County.

25 I mean, over the last several years, I mean how many

1 incidents of violence have occurred at clubs here in
2 Orangeburg County that involved firearms and weapons?

3 Ladies and gentlemen, they may try to keep the weapons
4 out of them, but I submit to you a knife that size in
5 somebody's big pocket, hu huh. (Negative). That's just
6 common sense there.

7 So, I submit to you, ladies and gentlemen, what I was
8 getting back to with this knife. They even asked you, I
9 assume, cause, you know, this is the story that he started
10 hatching a year ago in the Orangeburg Jail when he was
11 talking to Mr. Stevenson, that they're gonna blame one of
12 these officers, and I assume it's got to be the officer that
13 found it, Lieutenant Shumpert, back there.

14 All right. He's gonna jeopardize his 17 years in law
15 enforcement to drop this on his porch, to steal it from a
16 crime scene and drop this on his porch?

17 Does that really make any sense?

18 All right. Let me go back to the other witnesses now.
19 That's the other person you got to blame. If it's not law
20 enforcement, as I told you, you know, a little while ago, it
21 had to be the witnesses. It has to be one of them.

22 What doesn't make any sense about that?

23 You know, they're looking to try to -- you know, if
24 they're gonna blame, you know, they're gonna blame New York.
25 All right. They're gonna blame him, plant this on him.

1 All right. You know, no one ever said they saw him
2 with a knife. I mean don't you think if it, if it was them,
3 if it was Red, who lived next door, went and put it on the
4 porch, you know that they're gonna say that yeah, we saw him
5 with that knife, we saw him commit the assault, or
6 something, more than what they said. But they don't
7 because, you know, they didn't see it.

8 You know D-Shop's the only one who ever said he saw the
9 assault even. You got all these witnesses, you got two of
10 them that really don't even know each other very well,
11 D-Shop and Todd. They didn't even know each other's names
12 back then, even their nicknames.

13 All right. I submit to you it doesn't make sense. It
14 doesn't make any sense. What makes sense is that man
15 dropped this on his porch either coming or going that
16 morning into his house. Not that somebody planted that in
17 broad daylight with people sitting in the car right outside
18 the house.

19 All right. Let me talk now about Marlos Stevenson.
20 All right. Mr. Stevenson, that testified, that was brought
21 down from, from Virginia and testified to yesterday.

22 All right. Ms. Hinds asked him, you know, I, I think
23 one of the last questions she asked him is you're a
24 professional snitch, right?

25 If you remember, he kind of -- Marlos had issues

1 sometimes with stuttering a little bit. I don't know if you
2 noticed that. But he -- I think this time he generally kind
3 of sat there and kind of, kind of debated going through his
4 mind as to what, what, what the right answer to that
5 question is, and I think he came to the realization,
6 probably sitting up on that, that witness stand that that's
7 essentially what, what his life is come to at this point in
8 time. You know, he is what he is.

9 No doubt he's a convicted drug dealer. No doubt about
10 that. There's no doubt about it that he's a snitch. No
11 doubt about it. I brought it out of him from the get go
12 that he was up front when he first contacted our office,
13 that he is trying to get his sentence reduced. He's locked
14 up in a federal prison for drugs, and he is trying to get
15 his sentence reduced. Didn't hide that from y'all. I mean
16 that's what he is.

17 But I submit to you that doesn't mean that he's not
18 telling the truth. That doesn't mean he's not telling the
19 truth. I submit to you all that background stuff, the fact
20 that he is a drug dealer, the fact that he's locked up and
21 in prison, part of the reason why someone like him would
22 talk to him, would talk to him.

23 Let's look at some things that I submit to you prove
24 that he's telling the truth. All right. Let's look at
25 initially about, as you heard, you know, he signed the plea

1 agreement with the federal government months before he was
2 ever in Orangeburg County.

3 All right. He was looking at a lot of time in prison.
4 Okay. Part of that plea agreement is he had to agree to
5 cooperate with the government, if need be, to testify if
6 need be. But, most importantly, to testify truthfully, to
7 testify truthfully.

8 That's another way he can get help. He gets caught
9 lying up on that witness stand, I mean it's gonna be bad for
10 him. I mean all the good he's done is gone. You heard he
11 was originally looking at up to 20 years to life in prison.
12 He's gonna find himself back at square one if he is caught
13 lying.

14 I submit to you that, ladies and gentlemen, why, you
15 know, he's been in several prisons all over the place. You
16 see, he's bounced around. He's in Lexington County here.
17 He's been up in Virginia. He was in Orangeburg County for
18 three months.

19 Now, this is the only person that he's contacted us
20 about having information on. It's not like he's over there,
21 there, you know, just spitting out, you know, I talked to
22 this person, this person, this person cause he knows that
23 the only, that the only time he can get up on this witness
24 stand is when he has truthful information.

25 All right. Well, let's look at what proves that he's

1 telling the truth. Okay. Look at what he told us.

2 Okay. You know initially he said -- I do believe he
3 said he had probably four or so conversations with
4 Mr. Powell. Okay. Knew him by the nickname New York. I
5 mean that's not uncommon, and that's how all these people
6 know each other is by their nicknames.

7 And after the first several they were just kind of
8 chit-chatting, and also, when he kind of asked him, you
9 know, what you're in here for. In here for murder. Oh,
10 yeah, well, you know, he told him about some of his life
11 stories. You know, the fact that his mother had been
12 charged with murder when he was younger, and had actually
13 gone through a trial. You know, that peaked his interest.
14 You know, they kind of got talking a little more about it,
15 and he told him yeah, I might be able to get my mother to
16 help you, you know, a little bit, do some research for you
17 on how to beat murder charges, and things of that nature
18 that you're looking at, you know.

19 And he told you how, you know, a lot of times in prison
20 there's people -- I mean they're not lawyers, but they
21 pretend to be jailhouse lawyers. That's not uncommon,
22 uncommon. I submit to you he, he thought he saw somebody
23 that could help him, and he shared some details of his case
24 with him.

25 He told you the only thing he actually saw of his

1 paperwork is he showed him, you know, a black and white
2 photo of a, of a Lincoln car in a yard and a knife on a
3 porch, and we know those exist.

4 He told them, when he asked him what had happened, he
5 said we'd been fighting. I ended up stabbing him, an older
6 guy, and I ended up stabbing him. And he asked him why and
7 he told him why.

8 Remember what he said?

9 Cause he wouldn't let me sell drugs out of his house.
10 He wouldn't let me sell drugs out of his house.

11 How does he know that?

12 I mean that's just not -- I mean I've been doing this
13 for 17 years, and I have to say I'm sure I've ever come
14 across that as being a motive for why somebody would kill or
15 even assaulted before. That somebody wouldn't let them sell
16 drugs out of their house.

17 How does he know to come up with that unless he told
18 him that and how did he know that's true?

19 Think back to Todd Wise's testimony. That's what all
20 the young guys use to do out at Art's house.

21 I submit to you, when he showed up that morning, and he
22 asked Red who was up in that house and found out that there
23 was basically nobody up in there, that territory was, was
24 ripe to be claimed. That's why he told her that he was
25 gonna let me in, gonna let me in this bitch. That he was

1 intending on going in there and staking his territory inside
2 Art's house that morning, and he got upset when Art wouldn't
3 let him in especially after he had let D-Shop walk right in
4 right before him.

5 Okay. But how does Marlos know to say that?

6 I mean that's nothing that's in anybody's statement
7 unless he told him that, unless he told him that.

8 Now, what else does he tell him?

9 That, you know, he went home, cleaned up, and then he
10 went back out, went back out, and came home with his mom,
11 and called him cause the cops were there.

12 And, yet, again, I mean how does -- I mean little
13 details like that. I mean pay attention to those details,
14 you know. Nothing can get those details from looking at two
15 pictures. You get those details from having a conversation
16 with that man about his case cause he thought, he made the
17 mistake. He screwed up last year. He trusted the wrong
18 person. He trusted the wrong person. Trusted a person that
19 was looking for an opportunity, I submit to you, to, to
20 provide truthful information to try to get his sentence
21 reduced.

22 And the last thing with him, you know, if he's looking
23 just to make something up. As I said, I mean Mr. Powell's
24 the only person he's contacted us about, and, you know, if
25 you're gonna make something up about somebody, at least pick

1 an inmate that, you know, if you remember how he described
2 how they had to communicate cause they were actually on
3 separate tiers, and they weren't allowed out at the same
4 time. So, he had to communicate to him through a flap in
5 the door basically. You know, pick somebody on your same
6 tier that you can actually say, you know, we sat down and we
7 talked about it every day during rec at the table or
8 something.

9 You know, but he doesn't do that because that's not
10 what happened. I submit to you that adds credibility to
11 Mr. Stevenson.

12 All right. The last witness I want to talk to you
13 about -- well, let me go back a little bit as far as some of
14 these SLED people. I mean most of them are just kind of,
15 kind of minor like, you know, collected items and stuff of
16 that nature. But, you know, we know, and I think I
17 mentioned, I mean no doubt about it, you know, the victim's
18 blood on both the blade and the handle of this knife from
19 Ms. Webb, from Ms. Webb.

20 Now, what did Doctor Ross tell us yesterday afternoon?

21 You know, she conducted the autopsy on Mr., on Mr.
22 Riley the following day, November 4th, that morning. This
23 is the day after, you know, a day after they found the knife
24 on this porch. So, they don't even know what's the cause of
25 death at that point in time until they hear from, from

1 Doctor Ross.

2 But, you know, 69 year old man, 6'1", 165 pounds. All
3 right. He's not in good health. Remember her saying that.

4 And what does she find?

5 You know, she finds -- she describes blunt force
6 trauma, multiple instances of blunt force trauma to his head
7 causing subdural hemorrhaging that ultimately would of
8 rendered him unconscious and ultimately could of killed him
9 by itself. That's consistent with he was beaten with some
10 sort of blunt object that she had described as could be a
11 fist or a bat or something like that. Some sort of blunt
12 object.

13 Then she described 42 instances of sharp -- I believe
14 she described it as sharp force injury, and that is either a
15 stab or a cutting either by a knife or a piece of glass or
16 something like that. Forty-two.

17 So, when you look at those 42, I mean they were in the
18 front of his head. They were in his neck. They were in his
19 chest. They were in the back of his neck. I believe she
20 testified there was one on his hand. Forty-two wounds, stab
21 and cut wounds to that man. Multiple other injuries of
22 blunt force trauma.

23 He's got one defensive wound on his hand. One
24 defensive wound on his hand. That shows how much that man
25 got on top of him and beat that man down and beat him to

1 death. The fact that he was able to only get his hand up
2 and to defend himself to get one little cut on his right
3 pinkey.

4 The stab wounds end up penetrating his lungs, ended up
5 penetrating his heart. She testified that he basically
6 would of bled out on that floor within a matter of minutes,
7 within a matter of minutes after his heart and his lungs
8 were penetrated with those stab wounds.

9 I submit to you all of that, consistent with D-Shop's
10 description that he's given back that morning, the following
11 day, and the other day here that he beat the hell out of
12 him. No doubt about that. He beat the life out of him too.

13 But what's probably the most important, you know, is
14 they're gonna get up here and try to say hey, you know,
15 there was some kind of assault that took place, but that was
16 it. You know, somebody else must of come along, come along
17 later and, and actually did the stabbing or something cause,
18 you know, none of the witnesses say they saw the knife in
19 his hand.

20 But what's the most important thing that Doctor Ross,
21 in that regard, said?

22 All of those injuries, the blunt force trauma, the stab
23 wounds, the cutting wounds, all happened contemporaneous
24 with each other. Okay. This isn't two separate incidents
25 that happened. This all happened at once.

1 Who's the only person that there's any evidence, only
2 evidence that was assaulting Mr. Riley, beating him in
3 there, trying to kill him, beating him to death, beating the
4 hell out of him was that man, Deshawn Powell.

5 Ladies and gentlemen, I'm just about done. There's a
6 couple, couple more, a few things I want to talk to you
7 about.

8 First Ms. Hinds has an opportunity to get up here and
9 talk to you, and when we're done, His Honor is gonna, gonna
10 have an opportunity, at that point in time, to charge you on
11 the law in the case. The part of that, what he's gonna
12 charge you on is gonna deal with the charges, the charges
13 against Mr. Powell. And as you heard from the get go, he's
14 been charged with one count of murder.

15 Okay. Murder is very simply the unlawful killing of
16 another person with malice aforethought.

17 All right. I submit to you I can't think of anything
18 much more malicious than, than beating and stabbing to death
19 this 69 year old man in his own home. But you're gonna
20 have, when you get back into your jury room, you're gonna
21 have a verdict form you're gonna be given, and you're
22 basically gonna have three possible verdicts that you can
23 find in this case.

24 All right. You can find that we've proven to you, that
25 we've convinced you of Mr. Powell's guilt on this to the

1 charge of murder in which case, under your oath, you'd be
2 obligated to find him guilty of murder. You're also gonna
3 be charged on a lesser offense called voluntary
4 manslaughter.

5 Okay. And what voluntary manslaughter is, is also an
6 intentional, an unintentional killing of another person, but
7 basically in the heat of passion.

8 All right. So, if you find that this kind of started
9 out as kind of a mutual fight between the two of them, that
10 then ultimately escalated to this, and that he was kind of
11 so overcome in the heat of the moment that he couldn't stop
12 himself, then you could find him guilty, guilty of voluntary
13 manslaughter as opposed to murder.

14 Okay. Now, obviously, if you find that we haven't
15 proven to you, beyond a reasonable doubt, his guilt, that
16 he's not the one that did it, then you find him not guilty.
17 Those are the three, the three choices you have.

18 You have guilty of murder, guilty of voluntary
19 manslaughter, and not guilty.

20 As I said, Judge Dickson's gonna explain that in a
21 little more detail than I just did. But I wanted to give
22 you a little, a little bit of an idea of kind of what you're
23 gonna have when you get back there in the jury room.

24 All right. Ladies and gentlemen, this is gonna be my
25 last opportunity to talk to you. Ms. Hinds is gonna have an

1 opportunity to come before you, and I'm not gonna have an
2 opportunity to come back up and rebut anything she says.
3 But hopefully I haven't missed anything.

4 Okay. I just wanted you to keep an open mind. Keep an
5 open mind about what you hear.

6 Ladies and gentlemen, back on November 3rd of 2010,
7 you know, when he went in that home, as I told you from the
8 beginning, he didn't care who was out there. He didn't care
9 who those witnesses were. It didn't matter. He knew they
10 weren't gonna call the police. He probably assumed they
11 weren't gonna show up in Court this week to testify. He
12 didn't care, ladies and gentlemen.

13 What I'm asking you, ladies and gentlemen, when you get
14 back into that jury room in a few minutes, after these
15 closing arguments and the charge on the law, is prove him
16 wrong. Okay. Prove him wrong.

17 Sixty-nine year old Arthur Riley, while he may of made
18 some choices in his life that his family and friends are not
19 proud of, haven't enjoyed sitting here and hearing about
20 over the last several days, needless to say he didn't
21 deserve, he didn't deserve what that man did to him a year
22 and a half ago. He didn't deserve to bleed to death on his
23 living room floor.

24 I'm asking you, ladies and gentlemen, on behalf of the
25 State of South Carolina, on behalf of the citizens of

1 Orangeburg County, tell Deshawn Powell that you're not gonna
2 get away from it, from, away with it, and we care cause
3 witnesses out there that night may not have given enough to
4 go in and stop him or call the police that night or to do
5 something about it, but that doesn't matter. The citizens
6 here in Orangeburg County do care.

7 Hold him responsible. Hold him accountable, and the
8 way you do that, ladies and gentlemen, is to find him
9 guilty, find him guilty of the murder of Arthur Riley.

10 Thank you.

11 THE COURT: Thank you, Mr. Sorenson.

12 Ms. Hinds.

13 MS. HINDS: Good morning.

14 Now, I was sitting here listening to the, to the
15 solicitor's version of things, and the first thing that I
16 will remind you of is that anything that I say and anything
17 that the solicitor says during our closing arguments is not
18 evidence. We are basically giving you what we believe to be
19 the truth. But you remember and you, and you've heard the
20 testimony, and it's up to you to put the, to find the truth
21 in this case.

22 Listening to Mr. Sorenson, it almost sounded like he
23 was there except that he wasn't connecting dots or making
24 leaps of faith or saying things that actually weren't in the
25 testimony. So, please listen or go back to your

1 recollection of what the witnesses actually said, and I'll
2 go back through the witnesses also.

3 Basically, I do agree with Mr. Sorenson, this house was
4 basically a place where drinking, drugging, and tricking,
5 and everybody agreed that that's what happened at this house
6 all times of day or night. Everybody coming and going out.
7 All manner of people.

8 We'll start with where this all started with, with the
9 witness, Wendy Noel, also known as Niki Bryant.

10 What did she contribute to this scenario?

11 Basically, she said she -- as she is leaving, she sees
12 D-Shop and Mr. Powell approaching the house. At that point,
13 doesn't think anything of it, passed some words. She goes
14 on about her business. At that point, he's still outside
15 when she left. There's no problems. She doesn't know
16 anything else until she comes back at five o'clock and finds
17 the body.

18 Okay. Next I'm gonna talk about Darrell Jones. His
19 testimony told you that he and Mr. Powell were together
20 earlier that evening. They went to Shorty's Club. When
21 they were done, when the bar was closing, they got dropped
22 off by somebody in close position to Art's house and
23 Mr. Jones or D-Shop was very honest with y'all. He said
24 they both had been drinking, that Mr. Powell had been
25 drinking a little bit, but that Mr. Jones had been drinking

1 a whole lot more.

2 He tells you that they both approached the house, but
3 Art did let him in, and did not let Mr. Powell in. We're in
4 agreement on those facts. That's not a problem.

5 But at that time Mr. Jones does tell you that, at
6 first, it started as a verbal, verbal argument. Mr. Powell
7 obviously didn't like being turned away. They had words.
8 Those words escalated.

9 Okay. At some point those verbal words escalated into
10 a physical argument that, according to D-Shop, he tried to
11 break up.

12 At that point in time, from D-Shop's testimony, he
13 tells you that, as he's trying to break up this fight, both
14 Mr. Riley and Mr., and Mr. Fowler basically telling, telling
15 him mind your own business, get out, we're handling it.

16 So, he walks off. He walks off, as the solicitor said,
17 he went on down the road.

18 At that point, Mr. Powell and Mr. Riley are still
19 arguing. He mentions to, to Todd, who he sees on the road,
20 yeah, that commotion, they're arguing down in front of the
21 house or right at the house.

22 Todd says well, why don't you go get him and, again,
23 D-Shop decides well, I'll go back again. He goes back a
24 second time and tries to break up the fight. Again, this
25 time he gets cussed and Mr. Riley tells him he could handle

1 it, cussed him out, and told him to go away.

2 At that point, D-Shop was honest with everyone. He
3 says he's seeing punches flying with both people are
4 swinging. At that point, at one point in time that Mr.
5 Riley was giving as good as he was getting I believe is how
6 he put it.

7 Mr. Jones told you that he never saw a knife. He never
8 saw any kind of weapon. Matter of fact, he told you-all
9 that they had been at Shorty's club, that Shorty's is a club
10 that checks for weapons when you go in there, and that
11 Mr. Powell could not have gotten in had he had a weapon on
12 his person, and his testimony was they came straight from
13 the club to Art's house.

14 Now, again, Mr. Jones testimony throughout was I never
15 saw anything but fighting. I never saw a knife. I never
16 saw a weapon.

17 Now, that's -- when he does, later on, talk to the
18 police, he does say to them, when they asked him about what
19 was going on, he asked to describe the fight, he did say
20 that Mr. Powell was "beating him to death." But yet, when I
21 asked him about that, he said that's not really what I
22 meant. It was -- it's a term. It's not like I really
23 thought he was gonna I -- it -- he was going to kill him.
24 It was not to be taken literally.

25 And when D-Shop leaves, Art is very much alive. He, he

1 didn't go check on Art basically because he didn't think
2 that there was that much damage. In Mr. Jones' estimation,
3 this was a fist fight. It did get a little bit violent.
4 But it was a fist fight and no more. He was -- there was no
5 reason, he said, for him to believe that Mr. Powell had
6 stabbed Mr. Riley.

7 Let's talk a little bit about Red. Again, common
8 theme. It's a place where we drink, drug, and trick, and
9 blank -- she also added play cards and talk nasty. She
10 confirms that D-shop did indeed try to stop the fight
11 between them, but, but they kicked him out.

12 Now, she did say that there was something bothering
13 him. But to say that there was something bothering him and
14 he was acting a little bit different that night, it takes a
15 giant leap to take that to rage, ladies and gentlemen. She
16 didn't say anything about he was in a rage, and her, her
17 ability to be a witness in this case. If you remember, she
18 plainly said I only heard the argument, I didn't see the
19 fight.

20 She never saw a weapon. She did testify that a guy by
21 the name of Greek had been with the victim the day before
22 and they had had an argument.

23 How many other people coming and going to that house
24 might Mr. Riley have had, had arguments with?

25 She was not concerned enough to call 9-1-1. The

1 solicitor would have you believe she was just that callous.
2 I, I submit to you it could have been that she didn't think
3 it was that serious either.

4 why call the cops when two guys are fist fighting?

5 And the solicitor is correct. She does live within a
6 very close proximity to Mr. Powell. She was the next one
7 spoken to, and she's questioned first, and, and then we go
8 on to the rest of the witnesses.

9 Let's talk a little bit about Todd. Todd said that he
10 heard that, Mr. Riley arguing with Mr. Powell and with
11 D-Shop both. He said that me and Red had been smoking and
12 drinking. He said that he did not see Mr. Powell hitting
13 Mr. Riley. He never saw any of that.

14 Again, we had a -- we had testimony later from Slick
15 who said that he encountered him somewhere down the road,
16 and that Todd had said something to him. Yet, in Todd's
17 testimony, he said there was no conversation that I recall.
18 He did say that what he -- his knowledge of this incident,
19 he only knew basically what D-Shop had said. He didn't see
20 anyone with a weapon. All he did, he heard an argument, Art
21 was still alive, he saw no weapon, and, again, not serious
22 enough to call the cops.

23 He denies that conversation with Slick. He said
24 there's no -- that was -- there was no conversation that I
25 recall.

1 Ladies and gentlemen, those are the people that were
2 there. Those are the people who are telling you yes, there
3 was an argument. We heard the -- we heard them arguing.
4 D-Shop says blows were struck. Nothing at that point to
5 indicate any kind of stabbing or anything further.

6 Now we'll talk about Carter. He was with forensic
7 services 19 years. You saw and will have an opportunity to
8 look at his drawings. You heard the meticulous way that he
9 went to the scene and he cat, cataloged everything. You
10 heard his testimony was I photograph it, then I document it,
11 then I, then I make sketches.

12 He's trying to get everything exactly right, and I do
13 agree with the solicitor. You're gonna have a lot of things
14 here that aren't going to be able to shed a whole lot of
15 light on this case. But that's because he was -- as the
16 solicitor said, he's trying to get everything he can to try
17 and help in the investigation of this case.

18 His testimony was that, when he got there, there was a
19 good bit of blood, and you'll be able to see that in the
20 pictures. It was a lot of blood, ladies and gentlemen, both
21 inside and outside.

22 There was volume blood. There was splatter blood.
23 There was droplets. There was footwear impressions. There
24 were blood droplets on the footwear impressions. I mean
25 there was, there was just a lot of blood.

1 We don't deny that, and he told you though that he was
2 looking for things that stand out, for DNA left behind by
3 the person who had done it.

4 He testified to you that the footwear that had been
5 recovered, there was no evidence connected to the scene. As
6 a matter of fact, he said it was so dissimilar that they
7 didn't even bother to send it for testing. Had there been
8 blood on it, I'm sure it would of been sent. There was no
9 indication of that either.

10 Remember, at that point in time, the testimony was that
11 they went ahead, out of an abundance of caution, and
12 actually got a search warrant to go inside the house. I
13 think it's interesting, at that point in time -- remember
14 this is after five o'clock in the morning. But this is
15 suppose to be a drug house and yet there's no drugs found.

16 Also, they do find Mr. Riley unclothed. He has no
17 pants on, according to all the testimony. That suggests to
18 me that the fight between Mr. Powell and Mr. Riley ended
19 with the fist fight. They went their separate ways.
20 Perhaps Mr. Riley went to bed, perhaps he laid down, and at
21 some somebody, at some point somebody else could have come
22 in.

23 why else would he not have any pants on?

24 It doesn't make any sense.

25 Now, the solicitor is stated maybe somebody came in and

1 robbed him of his pants. I, I don't know. He doesn't know
2 either. But we do know that he was fully clothed the last
3 time Red or Todd or D-Shop saw him and the last time that
4 Mr. Powell was with him.

5 Again, Carter said that he took anything at all that
6 looked interesting. He was very thorough and you would
7 expect that from somebody with his training and background
8 and 19 years experience. He also said that, with a scene of
9 this nature, that you would expect the perpetrator to have
10 left some kind of DNA behind. Something that would of
11 linked them in this very violent scene. But yet they didn't
12 find anything.

13 For instance, Carter testified that it was not uncommon
14 for an attacker to injure himself in that much of a, a
15 bladder, a battle or just in the process of doing it. It
16 very easily would have been, if this person was in that
17 rage, easy to nick themselves or cut themselves, whatever.
18 But they didn't find anything of that nature. They found
19 nothing, absolutely no evidence of anything linking
20 Mr. Powell to that crime scene.

21 They looked at volume blood. They look at splatter.
22 They looked at the droplets. It was clearly a very very
23 bloody crime scene, and yet there's nothing, not a shred of
24 evidence connecting Mr. Powell to it.

25 The expert said that or Carter said that there were

1 drops on the exterior of the front door which suggested to
2 him that the door may of been opened. Again, some --
3 anybody, somebody, anybody could of gone in and done this
4 after Mr. Powell had left.

5 The -- they got -- in order to do these comparisons
6 they had to get what they call a standard from Mr. Powell,
7 which they did, and that's what they needed to try to match
8 him to anything at that scene. There were 50 items or about
9 50 items in all collected. They found absolutely nothing.

10 Next we're gonna talk about Shumpert. Very long career
11 with Orangeburg County Sheriff's Office. I believe he said
12 13 to 14 years, and before that he was in law enforcement
13 with DJJ.

14 Again, as the solicitor stated initially, he talked to
15 Niki. Niki doesn't really shed much light in terms of
16 giving him potential leads except as to her being first on
17 the scene and finding the body. But eventually she does
18 lead him to Monkey Doo, and as the solicitor stated, that
19 starts a progression of people that they're able to talk to.

20 So, at that point, at some point, in talking to those
21 witnesses, Mr. Powell's name comes up. Shumpert decides to
22 go and talk with him as any investigator would. He goes to
23 Mr. Powell's front door as you heard. He knocks on the
24 door, mama answers, comes in, he goes inside. He says he's
25 investigating a homicide.

1 Well, ladies and gentlemen, at that point he knows what
2 he's looking for. He knows that he's investigating not just
3 any homicide, but one that involves stabbing.

4 Okay. So, his testimony is that he walks into the
5 house. He talks to the mom. She gets him on the phone,
6 tells him to come. So, he turns around, goes back out, and
7 it's at that point that he sees the knife on the floor, on
8 the porch, and you'll see it in the pictures that you'll
9 have back there.

10 Ladies and gentlemen, nobody's here suggesting that
11 Shumpert planted the knife. However, I would submit to you
12 that saying that his focal point would of been directly on
13 the front door as opposed to the general scene seems a
14 little disingenuous to me. He's got -- there's three
15 officers there. Two of them are trying to check out the
16 people in the car. He's going to the front door. He's a
17 trained observer.

18 Wouldn't you think he would see the knife?

19 But yet he says he did not see it coming in. He didn't
20 see it till he came out.

21 My suggestion is only what else, during the course of
22 this investigation, did he not see or did he not realize if
23 he could overlook that knife initially?

24 They will show you photographs of or they had
25 photographs of Mr. Powell that they took after they brought

1 him in for questioning.

2 And do you see any blood on his clothing?

3 No, absolutely not.

4 He spent -- it's speculation that he went and changed
5 into different clothes or got rid of the clothes he had on.
6 I would ask you to consider the evidence carefully.

7 They collected his shoes and they turned out not to
8 have any evidentiary value. They do not put him at this
9 crime scene. They do not link him to the murder of Mr.
10 Riley.

11 Now, Shumpert wants to tell you that or the solicitor
12 wants to tell you that oh, Deshawn implicated himself and
13 made a statement against himself when Shumpert came and
14 asked him, started asking him questions about what had
15 happened.

16 Now, I believe the testimony was that Shumpert said he
17 was investigating a murder on Jameson, and, and Mr. Powell's
18 answer was, told him that he had not been at Art's house and
19 no idea what he was talking about.

20 I submit to you that the question, question was a
21 little bit broader. It wasn't just about investigating a
22 murder on Jameson. It was a stabbing on Jameson, and
23 Mr. Powell answered to what he did because he knew he didn't
24 know anything about any stabbing.

25 The next witness we'll talk about very briefly is

1 Thurmond Keitt or Slick. He really doesn't have a whole lot
2 to add other than he can put the various people up at, in
3 that vicinity that night. He basically says, you know, he
4 comes with, with Ebony. Ebony and Niki decide to have an
5 arrangement. He, he leaves with them and later on he sees
6 Todd and Red in the vicinity.

7 Now, again, for what it's worth, Slick says that he had
8 not a conversation, but there were words exchanged and Todd
9 says I don't recall even speaking to Slick. But my point is
10 Mr. Keitt doesn't know anything about the fight but what's
11 been told to him. He never saw the fight. He didn't even
12 hear a fight, and he knows nothing about a stabbing.

13 The next person would be Melissa Wallace. That would
14 be the person who did the fingerprint analysis. Again, very
15 briefly, there were no prints on the gun. There were no
16 prints on the knife. There were no prints on the light
17 switch. There were no prints at all. Nothing relating to
18 Mr. Powell.

19 Now we get to Doctor Ross. Doctor Ross is the
20 pathologist, the doctor, who actually conducted the autopsy.
21 She started off by saying or not started off, but during her
22 testimony she had said something to the effect of that this
23 culminated from a fit of rage.

24 Again, I don't know that that's a medical
25 pronouncement. She can obviously testify as to the wounds

1 and severity of the wounds and that kind of thing. But she
2 didn't know who did this. She wasn't there. She didn't
3 know if it was somebody in a rage.

4 But she did testify that there was blunt force trauma
5 around the head. There was a laceration to the upper lip.
6 There was bruising about the cheek and eye and there was
7 some abrasions. Then she went on to say that there was 14
8 sharp forced trauma, stab wounds to the right head. It was
9 ten more in the neck, another seven I believe in the back of
10 the neck. If I'm getting this wrong, you remember your
11 testimony. But they're obviously numerous, numerous stab
12 wounds.

13 But she did testify that, although there was
14 significant blunt force trauma, that was not fatal. That
15 was not the cause of death. Conclusion to a medical
16 certainty, certainty was that the cause of death was
17 exsanguination, which is basically a fancy word for bleeding
18 out, and -- due to the stab wounds to the neck and chest.

19 She was -- she told you that she can't tell you exactly
20 what the time of death was. She doesn't know. She can't
21 tell you when exactly this happened. She can't tell you if
22 it was three o'clock. She can't tell you if it was minutes
23 before five o'clock. But we've got that space in there
24 where we don't know.

25 She also did very specifically say, although there was

1 blunt force trauma, that he didn't die from lacerations. He
2 didn't die from contusions and he didn't die from scrapes.
3 That was not the cause of death, ladies and gentlemen.

4 Next witness was Marlos Stevenson, and, of course, that
5 was the self-proclaimed professional snitch. A man who is
6 been convicted in the past of giving false information to
7 law enforcement.

8 How fitting?

9 Again, the testimony was that he was in prison on drug
10 charges, on fairly substantial drug charges. The federal
11 penalties are more severe than the state. Matter of fact,
12 he was even on either federal probation or federal parole
13 when he reoffended to get the time that he was doing now.

14 Now, his testimony or the solicitor seems to think that
15 because he signed a plea agreement saying that he's gonna
16 cooperate and be truthful that he couldn't lie.

17 Really?

18 He couldn't lie?

19 Do you really think that the man who was looking at 20
20 to life who knows that, by being able to snitch on somebody
21 else, he can get his time reduced, he doesn't have a reason
22 to lie?

23 Do you really think he's that afraid that somebody's
24 gonna be able to figure out that he's lying?

25 I, I don't think so, ladies and gentlemen.

1 He's more interested, you heard him on the stand, to
2 get that reduction and reduction, and that's all he's
3 looking for. He wants out and he's gonna do it -- he's
4 gonna say or do anything he can in order to get that
5 downward departure so he has to do less time in prison. I
6 submit to you that's not a credible witness.

7 His testimony was that he was in the Orangeburg Jail
8 from February 28th till June 2nd, about three months.
9 But he also told you that they didn't talk right away. And
10 if you believe them, they didn't talk for about two to three
11 weeks. He also said, at the end of it, they weren't talking
12 for the last couple weeks. So, we're not even talking a
13 period of 90 days. We're talking days. We're talking way
14 less than that.

15 Remember that the way the jail is set up there's very
16 limited access. As he told you, there's rules and they get
17 broken. But that doesn't mean that they're all sitting
18 around in a room and they can just communicate anytime they
19 want. There has to be times when they can bend the rules
20 and get away with it and that is not all the time.

21 He testified to you that he didn't know Deshawn before
22 his coming to Orangeburg. He testified to you on that stand
23 to tell you that he didn't know him long enough to even know
24 his real name. When he wrote the solicitor about
25 Mr. Powell, he couldn't even get the name right, and he told

1 you that they chatted about his mom's murder charge.

2 The testimony from Mr. Stevenson was that he was shown
3 a couple of pictures, and that, specifically, that he told
4 me he was fighting an older guy who wouldn't let me sell
5 drugs at his house and that was his testimony.

6 Okay. Okay. If that was the reason for the argument,
7 the house had already been cleared out.

8 who was Mr. Powell suppose to be selling to?

9 It wasn't anybody in there but Art. Told me that --
10 excuse me. Mr. Stevenson's testimony was that he told me he
11 ran home and cleaned himself up and then went to a club.

12 Do we have any corroboration of that?

13 No.

14 We know he was at a club before this incident happened,
15 but we don't know that he went to a club after.

16 where, where is that coming from?

17 The -- again, the search -- they did a search warrant
18 at Mr. Powell's house. They looked, they did not find any
19 evidence of bloody clothes, bloody shoes, bloody anything.
20 The one pair of shoes they took turned out not to be
21 evidence.

22 Basically, if you look at what Mr. Stevenson had told
23 you, it is so generic, it is so lacking in any kind of
24 specific information he could of almost been talking about
25 anybody.

1 Excuse me for just a second.

2 (Pause.)

3 MS. HINDS: He admitted to you to being a professional
4 snitch. You can't believe him. He wrote several letters to
5 the solicitor pushing and pushing for that deal. He's
6 already gotten several downward departures, but he's looking
7 for more.

8 He had every incentive, after entering into that plea
9 agreement in January of 2011, to look for somebody to try to
10 say he knew more than what he knew about, to find someone to
11 make up a confession about, and supply that to law
12 enforcement because that would reduce his sentence again.

13 He was -- came to Orangeburg and he was here looking
14 for an opportunity, ladies and gentlemen. But he didn't get
15 the details right. Don't believe him. His sentence went
16 from 20 to life to 108 months, and then 108 months to 82
17 months. Now he's hoping for less than that. In his words,
18 as little as possible.

19 Mr., Mr. Stevenson has no credibility, ladies and
20 gentlemen. He didn't add anything to the evidence in this
21 case, but basically him just making up stuff, very generic
22 stuff, that has not been corroborated by the evidence.

23 Next we will talk about the DNA. You heard that she
24 had extensive training and education and uses meticulous
25 procedures in times of how she handles the things that she

1 has to test and have submitted to her. Regardless of
2 disinfectant, keeping everything very separate, the only DNA
3 that was found was consistent with Mr. Riley. It was no
4 DNA. None whatsoever consistent with Mr. Powell. No DNA
5 that places him at the scene. However, there was some
6 unidentified DNA.

7 who else was there?

8 who, who was there that we don't know about that they
9 didn't have a standard for?

10 But they found nothing linking Mr. Powell, not at the
11 scene, or not any of, in any of these items that they
12 tested.

13 I submit to you that the last witnesses can put Art
14 alive somewhere between 3:00 and 3:30. He was clothed at
15 that point in time. Everybody said he had clothes on.
16 That's the last that anybody saw. You know, when the body
17 was found, he's gotten no pants on. You have -- the
18 testimony is that he had no pants.

19 Is it reasonable to think that the fight had ended,
20 Mr. Powell had left, he went to bed because Niki had left
21 him, and somebody else came into that house that night?

22 Certainly not unreasonable.

23 The discovery from, suggests or the testimony suggests,
24 with the upending of the furniture, the mattress askew, the
25 plants on the floor, there very well could of been a

1 robbery, somebody ransacking the house, and taking advantage
2 of Mr. Riley as he lay in his bed, and maybe came up to
3 confront him.

4 The presence -- they did test for semen, and there
5 was -- they did come back with Mr. Riley's semen. We don't
6 know if a prostitute came back or some girl came back. We
7 don't know -- the point is we don't know who came back to
8 that house. We don't know that he died at three o'clock or
9 3:30 because Doctor Ross could not tell you the exact point
10 of death. So, it could of been anybody in that house at
11 that point in time.

12 The solicitor will say that there's inconsistencies and
13 there will be inconsistencies, and to a certain point, point
14 I agree with him. But on the other hand, it is their burden
15 to prove to you, beyond a reasonable doubt, the allegations
16 that are made against Mr. Powell. Remember that there were
17 no eye witnesses to this crime. There was no bloody
18 clothing. There was no bloody shoes. Absolutely no DNA, no
19 fingerprints, and no evidence that the defendant had a knife
20 during the fight. In fact, evidence to the contrary.

21 Again, you must be convinced -- in order to convict
22 Mr. Powell, you must be convinced beyond a reasonable doubt.
23 The solicitor will tell you it's not any doubt or every
24 doubt and I agree with him. But when you look at the
25 evidence, and as you deliberate, I submit to you that this

1 investigation did not go far enough. It got to a certain
2 point, and then, because there were certain things there,
3 they ended up. This is not where it should of ended.

4 If you have any doubt, if, if it's bothers you that
5 there's DNA, if it bothers you that nobody saw him with a
6 knife, if it bothers you that there, that you have to make a
7 giant leap to put Mr. Powell as the killer, then I submit to
8 you that you have to resolve those doubts in Mr. Powell's
9 favor.

10 It's a tragedy that Mr. Riley lost his life. Nobody,
11 nobody wishes that on him. But it will be another tragedy
12 if an innocent man goes to prison for something that he
13 didn't do.

14 After reviewing all the evidence, I am convinced that
15 you will see there is reasonable doubt and return a not
16 guilty verdict.

17 THE COURT: All right. Thank you, Ms. Hinds.

18 Ladies and gentlemen of the jury, y'all have been
19 sitting patiently this morning for a little over an hour and
20 a half listening to the closing arguments. My charge on the
21 law will take a few minutes. It won't take an hour and a
22 half. But since this is about time for our midmorning
23 break, I'm gonna allow y'all to take a midmorning break.

24 Go to, to, to the jury room for about ten minutes, and
25 then come back. Remember you have not -- you can not begin

1 deliberating in this matter at all. This is just a break to
2 freshen you up before I do my closing.

3 Thank you.

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

5 THE COURT: State ready to proceed?

6 SOLICITOR BELL: Yes, sir.

7 THE COURT: Defendant ready to proceed?

8 MS. HINDS: Yes, sir.

9 THE COURT: Okay. If you'd bring the jury on out
10 please, ma'am.

11 (WHEREUPON, the following takes place within the
12 presence of the jury.)

13 THE COURT: Madam Forelady, and ladies and gentlemen of
14 the jury, y'all have now heard all of the evidence in this
15 case. You've also heard the closing arguments of counsel.
16 It is now my duty to explain to you the law which, which
17 applies to this case.

18 The indictment charges the defendant, Deshawn Powell,
19 with murder. The fact that the defendant was arrested,
20 charged, and indicted in this case is not evidence and can
21 not be considered by you as evidence of guilt in this case
22 nor does it create any presumption or inference of guilt.
23 The indictment is simply the formal written instrument which
24 contains the charge made against the defendant. It is a
25 formal document by which this case is brought into court.

1 The defendant has pled not guilty to this indictment
2 and that puts the burden on the State to prove the defendant
3 guilt, guilty beyond a reasonable doubt.

4 A person charged with committing a criminal offense in
5 South Carolina is never required to prove themselves
6 innocent. I charge you that it is an important rule of law
7 that the defendant, in a criminal trial, no matter how
8 serious the charge may be, is always presumed to be innocent
9 of the crime for which the indictment was issued unless
10 guilt is proven by evidence satisfying you, the jury, of
11 that guilt beyond a reasonable doubt.

12 The presumption of innocence does not end when you
13 begin your deliberations. The presumption of innocence
14 accompanies the defendant throughout the trial until and
15 unless you reach a verdict of guilt based on evidence
16 satisfying you of that guilt beyond a reasonable doubt.

17 The presumption of innocence is like a robe of
18 righteousness placed about the shoulders of the defendant
19 which remains with the defendant until it is been stripped
20 from him by evidence satisfying you of the defendant's guilt
21 beyond a reasonable doubt. The presumption of innocence is
22 not mere legal theory. It is not just a legal phrase. It
23 is a real and substantial right to which every defendant is
24 entitled unless you, the jury, are satisfied, from the
25 evidence, of the defendant's guilt beyond a reasonable

1 doubt.

2 What is reasonable doubt in the law?

3 A reasonable doubt is the kind of doubt that would
4 cause a reasonable person to hesitate to act. The State has
5 the burden of proving the defendant guilty beyond a
6 reasonable doubt.

7 Some of you may have served as jurors in civil cases
8 where you were told that it is only necessary to prove that
9 a fact is more likely true than not true such as by a
10 greater weight or preponderance of the evidence. In
11 criminal cases, the State's proof must be more powerful than
12 that. It must be beyond a reasonable doubt.

13 Proof beyond a reasonable doubt is proof that leaves
14 you firmly convinced of the defendant's guilt. There are
15 very few things in this world that we know with absolute
16 certainty, and, in criminal cases, the law does not require
17 proof that overcomes every possible doubt.

18 If, based on your consideration of the evidence, you
19 are firmly convinced that the defendant is guilty of the
20 crime charged, you must find the defendant guilty. On the
21 other hand, if you think there is a real possibility that
22 the defendant is not guilty, you must give the defendant the
23 benefit of the doubt and find him not guilty.

24 During this trial, you and I have certain duties to
25 perform. As the trial judge, it is my responsibility to

1 preside over the trial, to rule on the admissibility of
2 evidence offered during the trial.

3 You are to consider only the evidence before you. You
4 are to consider only the testimony which is been presented
5 from this witness stand and any exhibits which have been
6 made part of the record in this case.

7 In every case the jury is the sole and exclusive judge
8 of the facts. A trial judge can not comment on or make any
9 statement about the facts in a case. Since you're the sole
10 judges of the facts, do not think, by anything I have said
11 during this trial, that I have a, that I have an opinion
12 about the facts in this case. The law does not allow me to
13 have an opinion and I do not have one.

14 They're two types of evidence generally presented
15 during a trial. Direct evidence and circumstantial
16 evidence.

17 Direct evidence is the testimony of a person who claims
18 to have actual knowledge of a fact such as an eye witness.
19 It is evidence which immediately establishes the main fact
20 to be proved.

21 Circumstantial evidence is proof of a chain of facts
22 and circumstances indicating the existence of a fact. It is
23 evidence which immediately establishes collateral facts from
24 which the main fact may be inferred. Circumstantial
25 evidence is based on inference and not on personal knowledge

1 or observation.

2 To determine the facts in this case you will have to
3 evaluate the credibility. That means the believability of
4 each of the witnesses. Some of the things you may consider
5 as you decide whether or not to believe a witness, a
6 witness' testimony about a particular matter include what
7 was the manner and appearance of the witness who testified.
8 Was he or she straightforward or hesitant in answering. Was
9 the testimony of a witness consistent or inconsistent. How
10 did the witness come to know the facts that he or she
11 testified to. Was -- what was his ability to know these
12 facts. Is there some reason a witness would want to give
13 testimony which would help or hurt one side or the other.

14 In other words, was the witness biased or prejudiced,
15 and was the witness, was the testimony of a witness
16 strengthened or weakened by other testimony or evidence.
17 Remember, throughout this process, you have but one
18 objective, to seek the truth regardless of its source.

19 The rules of evidence ordinarily do not permit
20 witnesses to testify to opinions or conclusions. An
21 exception to this rule exist for witnesses we call expert
22 witnesses. A witness, who by education and experience, has
23 become expert in some art, science, or profession may give
24 an opinion as to the subject the witness claims to be an
25 expert in, and they also may give the reasons for that

1 opinion.

2 You should consider an expert opinion like any other
3 evidence and give it the weight you think it deserves. If
4 you decide that an expert witness' opinion is not based on
5 sufficient education or experience, or experience, or if you
6 decide that the reasons given in support of the opinions are
7 not sound or that the opinion is outweighed by other
8 evidence, you may disregard the opinion entirely. An
9 expert witness' testimony is to be given no greater weight
10 than that of other witnesses simply because the witness is
11 an expert.

12 You do not have to accept an expert's opinion even
13 though it is uncontradicted. I instruct you and emphasize
14 to you that the fact that the defendant did not testify is
15 not a factor to be considered by you in anyway in your
16 deliberations and in your consideration on the question of
17 the guilt or the innocence of the defendant. It must not be
18 considered by you in any manner whatsoever.

19 A defendant has the constitutional right to remain
20 silent, and the assertion of this right must not be
21 considered by you in your deliberations. I repeat, under
22 your oath, you are to draw no conclusion whatsoever from the
23 fact that the defendant in this case did not testify. The
24 fact that this defendant did not testify should not even be
25 discussed in the jury room.

1 The burden of proof, as I have stated to you, is on the
2 state. The defendant is not required to prove his
3 innocence. The burden of proof remains on the State to
4 prove guilt beyond a reasonable doubt.

5 In order to establish criminal liability, criminal
6 intent is required. For example, the mental state required
7 to be proven by the State for a particular crime might be
8 purpose, intent, knowledge, recklessness, or criminal
9 negligence. Criminal intent must be proven by the State
10 beyond a reasonable doubt. Criminal intent is always a
11 matter that must be determined by the jury from the
12 circumstances surrounding the situation.

13 There's no way to prove intent to a mathematical
14 certainty. There's no way medical science can dissect a
15 person's brain and determine what the person had in mind.
16 So, the law says that criminal intent may be inferred from
17 the circumstances shown to have existed.

18 To make a determination of whether or not the element
19 requiring intent was present, it is not necessary to
20 establish intent by direct and positive evidence. Intent
21 may be established by inference in the same way as any other
22 fact by taking into consideration the acts of the parties
23 and all the facts and circumstances of the case.

24 Criminal intent is a mental state, a conscious
25 wrongdoing. It is up to you to determine what the defendant

1 intended to do based on the circumstances shown to have
2 existed. Criminal intent can arise from action or from a
3 failure to act. It may arise from negligence, recklessness,
4 or an indifference to duty or to consequences that is
5 considered by the law to be the equivalent of criminal
6 intent.

7 The defendant is charged with murder. The State must
8 prove, beyond a reasonable doubt, that the defendant killed
9 another person with malice aforethought. Malice is hatred,
10 ill will, or, excuse me, or hostility toward another person.
11 It is the intentional doing of a wrongful act without just
12 cause or excuse and with an intent to inflict an injury or
13 under circumstances that the law will infer evil intent.

14 Malice aforethought does not require that malice exist
15 for any particular time before the act is committed. But
16 malice must exist in the mind of the defendant just before
17 and at the time the act is committed. Therefore, there must
18 be a combination of the previous evil intent and the act.

19 Malice aforethought may be express or inferred. These
20 terms express and inferred do not mean different kinds of
21 malice, but merely the manner in which malice may be shown
22 to exist. That is either by direct evidence or by inference
23 from the facts and circumstances which are proven.

24 Express malice is shown when a person speaks words
25 which express hatred or ill will for another or when the

1 person prepared beforehand to do the act which was later
2 accomplished. For example, lying in wait for a person or
3 any other acts of preparation going to show that the deed
4 was within the defendant's mind would be expressed malice.

5 Malice may be inferred from conduct showing a total
6 disregard for human life. Inferred malice may also arise
7 when the deed is done with a deadly weapon. A deadly weapon
8 is any article, instrument, or substance which is likely to
9 cause death or great bodily harm. Whether an instrument has
10 been used as a deadly weapon depends on the facts and
11 circumstances of each case.

12 The following are examples of instruments which may be
13 deadly weapons: A pistol, a shotgun, a rifle, a dirk, a
14 dagger, a knife, a slingshot, metal knuckles, a razor,
15 gasoline, a fire bomb, or Molotov cocktail, and lighter
16 fluid. A gun may be a deadly weapon even if it is not
17 operating.

18 If you find that the State has failed to prove, beyond
19 a reasonable doubt, that the defendant committed murder, you
20 may consider whether the defendant, whether the State has
21 proved, beyond a reasonable doubt, that the defendant
22 committed involuntary manslaughter, excuse me, whether the
23 defendant committed voluntary manslaughter. Included within
24 the offense of murder is the lesser offense of voluntary
25 manslaughter.

1 To prove voluntary manslaughter, the State must prove,
2 beyond a reasonable doubt, that the defendant took the life
3 of another person in the sudden heat of passion upon
4 sufficient legal provocation. Both heat of passion and
5 sufficient legal provocation must be present at the time of
6 the killing to constitute voluntary manslaughter. Sudden
7 heat of passion may, for a time, effect a person's
8 self-control and temporarily disturb a, disturb a person's
9 reason. The sudden heat of passion must be the type that
10 would make an ordinary person unable to coolly reflect on
11 his actions and would produce an uncontrollable impulse to
12 do violence.

13 Sufficient legal provocation must be the type that
14 would make a person of ordinary reason and caution become
15 enraged and lose control temporarily. The provocation
16 needed for voluntary manslaughter must come from some act of
17 or related to the victim. Words alone, however vulgar or
18 insulting, are not enough to be legal provocation. Where a
19 death is caused by the use of a deadly weapon, the words
20 must be accompanied by some overt threatening act which
21 could have produced the heat of passion.

22 The exercise of a legal right, no matter how offensive
23 it is to another, is never sufficient legal provocation for
24 voluntary manslaughter. If the heat of passion had cooled
25 or if there was enough time between the provocation, if any,

1 and the killing for the passion of a reasonable person to
2 cool, the killing would not be voluntary manslaughter.

3 In deciding whether a reasonable person would of had
4 enough time to cool off, you should consider all the
5 circumstances surrounding the killing. You may consider the
6 nature of the provocation, if any, the defendant's mental
7 and physical state, and the circumstances and relationships
8 between the parties.

9 I charge you that voluntary intoxication is never an
10 excuse or a defense to a crime. A person who voluntarily
11 renders himself intoxicated is no less responsible for his
12 acts while in such condition. If a person voluntarily
13 drinks intoxicating liquors, and becomes intoxicated, and
14 if, while in that condition, commits an act which would be a
15 crime if it had been committed by a sober person, the fact
16 of drunkenness would not relieve the intoxicated person from
17 responsibility.

18 I have declared the law to you through these
19 instructions to help guide you to a just and lawful verdict.
20 Whether some of these instructions will apply will depend
21 upon what you find to be the facts. The fact that I have
22 instructed you on various subjects in this case must not be
23 taken as indicating an opinion of this Court as to what you
24 should find to be the facts or to which party is entitled to
25 your verdict. Your verdict must represent the considered

1 judgment of each juror.

2 In order to return a verdict it is necessary that each
3 one of you agree. Your verdict must be unanimous. All 12
4 of you must agree on this verdict. Your verdict can not be
5 based on sympathy, passion, prejudice, emotion, or any other
6 consideration not in evidence in this case.

7 Remember, at all times you are not partisans favoring
8 one party over the, over another. You are the judges of the
9 facts, and your sole interest is to seek the truth from the
10 evidence that you have heard in this case.

11 Now, I'll go over the verdict form with you. It gives
12 me a chance to stretch my legs and come down here.

13 Madam Forelady, I will go over it with you.

14 Okay. You got to remember that, when you're in the
15 jury room, it is your responsibility to preside over the
16 discussions in that room. Everybody needs to partake in
17 that. But after everybody, after y'all have reached a
18 decision, you are charged with filling out the verdict form.
19 I'm gonna go over it with you. I'm gonna let you see it.

20 okay. This is the case. This is the indictment
21 number. That's the defendant's name. This is the verdict
22 form.

23 It says please circle the appropriate, appropriate
24 verdict below and follow the accompanying, and follow the
25 accompanying instructions carefully.

1 The first question is we, the jury, unanimously find
2 the defendant, as to the charge of murder, either guilty or
3 not guilty. That's your decision. If you answered guilty
4 to question one, stop and sign the verdict form. If you
5 answer not guilty, continue to question two.

6 Question two. We, the jury, unanimously find the
7 defendant, as to the charge of voluntary manslaughter,
8 guilty or not guilty. Then you will sign your name there
9 and you will date it.

10 Now, I've not given you this yet cause you're not going
11 to begin your deliberations.

12 Okay. Now, as I told you earlier this morning, I'm
13 gonna let you go back into the jury room. I'm gonna go over
14 my charge with the lawyers. If I have misspoken or if I've
15 left something out or I need to correct or emphasize
16 something else, I'll bring you back out here and I will go
17 over, go over that additional charge or corrections. If
18 not, the bailiff will come back in there. They will bring
19 all the evidence, all the exhibits into the room with you,
20 and the verdict form, and you can begin your deliberations.

21 Now, I know, if I don't see you again, I know that, if
22 you, if the bailiff comes back in there with the exhibits
23 and you begin your deliberations, I know you've already
24 ordered lunch. Okay. So, when lunch comes, you are to stop
25 your deliberations at that time. Let everybody finish

1 eating lunch. Then you can resume your deliberations after
2 everybody's completed eating lunch.

3 okay. Right now I just need you to go back into the
4 jury room for a minute to find out whether I need to do
5 anything else with the charge.

6 okay. Thank you.

7 And remember, you can't begin talking about the case.

8 FORELADY: Yes, Your Honor.

9 THE COURT: okay. Thank you.

10 (WHEREUPON, the following takes place outside the
11 presence of the jury.)

12 THE COURT: Anything from the defense?

13 MS. HINDS: No, sir.

14 THE COURT: okay. If y'all wouldn't mind coming up
15 here and making sure we got all the exhibits, and the
16 verdict form. We'll go ahead and send it back and let them
17 begin their deliberations.

18 SOLICITOR BELL: Judge, do we need to put anything on
19 the record about you charging the lesser of voluntary since
20 we had some discussion back in chambers?

21 THE COURT: Yeah, we -- yeah, let's go ahead and do
22 that now.

23 okay. Yeah, just for the record, we had some
24 discussions back in chambers about whether or not to charge
25 voluntary manslaughter. Since the parties were involved in

1 a fight, I think that was pretty clear from all the
2 testimony, it was requested, I guess I can say it was
3 requested I charge voluntary manslaughter, and, and, without
4 objection from the defense, I went ahead and charged it.

5 It is in line with the case of State Versus Davis
6 holding that a voluntary manslaughter charge is proper where
7 a witness testified that the defendant and victim had been
8 fighting. Okay.

9 MS. HINDS: Yes, sir.

10 THE COURT: Okay. Anything else?

11 MR. MELLARD: I don't think so.

12 THE COURT: All right. If y'all make sure we get the
13 exhibits together?

14 SOLICITOR BELL: We did.

15 MS. HINDS: We already did.

16 THE COURT: Oh, y'all ready?

17 MS. HINDS: Yes, sir.

18 (Pause.)

19 THE COURT: If you'll bring them on back out.

20 (WHEREUPON, the audiotape was turned off and the next
21 discussion on the audiotape was the dismissal of the
22 alternate jurors.)

23 THE COURT: All right. We will be in recess until we
24 hear something. You look like you were getting ready to
25 tell me something.

1 MR. MELLARD: Oh, no, sir.

2 THE COURT: Okay. We will be in recess until we hear
3 something.

4 okay. Thank y'all.

5 (Whereupon, the jury began deliberations at 11:55 and
6 returned with a question at 12:23.)

7 THE COURT: All right. Is defense ready for me to
8 bring the jury back out?

9 MS. HINDS: Yes, sir.

10 THE COURT: Okay. You can bring the jury back out.

11 (WHEREUPON, the following takes place within the
12 presence of the jury.)

13 THE COURT: Considering you're in charge of the jury,
14 I'm gonna address my questions to you, and I can make sure
15 that I understand these notes. The first question I got
16 back have comments Doctor Ross' testimony.

17 FORELADY: Right.

18 THE COURT: Did you -- did y'all want to listen to all
19 of Doctor Ross' testimony?

20 FORELADY: They were -- we're in disagreement as to
21 what she said about the way the victim's body was hit and
22 stabbed.

23 THE COURT: Yes, ma'am.

24 FORELADY: She said it was done continuously.

25 THE COURT: Well, now, you can stop there. But --

1 okay.

2 FORELADY: We needed -- I thought it was still in --
3 well, we wanted to hear or read---

4 THE COURT: Well, okay. Let me, let me just tell you
5 one of the things. We -- there's no written transcript.

6 FORELADY: Okay.

7 THE COURT: So, if y'all need to hear the testimony of
8 Doctor Ross, we've got to find it on the tape and mark it on
9 the tape, and then either play it for you in the jury room
10 or in here. So, I'm just, just -- I'm just telling you that
11 about that right now.

12 So, the next, the next question I had said Ronnette
13 Stevenson, Red.

14 Was that another person there was an issue about what
15 she said?

16 FORELADY: What she said, yeah.

17 THE COURT: Okay. And then---

18 FORELADY: And I---

19 THE COURT: And I don't mean to cut you off.

20 FORELADY: That's okay, Your Honor.

21 THE COURT: Okay. And then underneath that there is a
22 line that says testimony and then appears to be a colon. It
23 says testimony, transcript of the witnesses, and that was --
24 is that for all the witnesses?

25 FORELADY: Yes, yes.

1 THE COURT: okay. Now, let me, let me, let me talk to
2 y'all for a second.

3 okay. The trial's lasted two days. okay. Everything
4 is on tape.

5 okay. So, we can play back all of that testimony for
6 y'all if that's what y'all want. It will take us today and
7 tomorrow to do that. what -- when y'all are having issues
8 about what you remember, what you don't remember, that's the
9 reason they're 12 of you so y'all can all sit down, discuss
10 it, and like that. I'm not trying to discourage y'all from
11 listening to the tapes and like that. But the reason you
12 have 12 people doing this is so that y'all, from your
13 collective memory, remember what the testimony was, what,
14 what is important to you, what did y'all think about the
15 testimony.

16 Almost all psychological testing that I have seen in
17 life now says that group decisions are the best decisions.
18 That's the reason -- I know where they started the jury
19 process, back in the 1200's, they didn't have any way of
20 thinking about that. But that's been proven now.

21 Now, there will be some disagreements among y'all about
22 what they said or what you thought was important or things
23 like that, and we can replay, replay the testimony. But I'm
24 not gonna listen to that discussion out here because y'all's
25 deliberations among yourselves are private. But I wanted

1 y'all to understand what the process is.

2 If you want to hear the testimony of a witness, we will
3 have to play that testimony completely back unless there's
4 some specific area that y'all agree that y'all want to hear.
5 Okay. But it takes us a while to find it on the tape, we've
6 got to score it, and then come back and play it for you.

7 Now that y'all understand the, kind of the limits of
8 the system, and understand where we are, I'm gonna let y'all
9 go back into the jury room and discuss whether or not y'all
10 actually need us to play some testimony or y'all just need
11 to discuss this matter. That's up to you. I'll do
12 whatever. It is your decision. Y'all have got to make the
13 determination of the facts. Nobody else can do that. So, I
14 want y'all to decide.

15 Okay. Okay. Y'all can go back now. Remember lunch is
16 here. I don't know whether it's here.

17 BAILIFF: Yes, sir, we're gonna bring it up right now.

18 THE COURT: Okay. Lunch is gonna be here. So, y'all
19 can not discuss this case while you're, while you're eating
20 lunch.

21 (WHEREUPON, the following takes place outside the
22 presence of the jury.)

23 THE COURT: All right. Mr. Sorenson, Ms. Hinds, I --
24 thank you, ma'am.

25 If y'all have any objection to what I told them, y'all

1 need to tell me now so I can bring them back out here and
2 correct it.

3 MS. HINDS: well, I think probably it's something
4 that's gonna depend on what they come back with.

5 THE COURT: Right.

6 MS. HINDS: My biggest thing is if, for instance, they
7 want to listen to Mrs. Stevenson's testimony again --

8 THE COURT: Uh-huh. (Affirmative).

9 MS. HINDS: -- I think they need to hear direct and
10 cross. Not---

11 THE COURT: Oh, yeah. Oh, no, no. I mean I'm in
12 agreement. I agree.

13 MS. HINDS: Not just a part of it.

14 THE COURT: Unless -- that's, that's the problem with
15 replaying the testimony too or redoing the whole thing. My
16 take on this is they're having a disagreement as to what
17 somebody said, and that's part of the whole jury process is
18 they -- different people are gonna remember different
19 things. But I don't know. That's why I want them to
20 discuss that.

21 But does anybody have any objection to what I said so
22 far?

23 MS. HINDS: No, sir.

24 THE COURT: Okay.

25 SOLICITOR SORENSON: Not to what you said so far.

1 THE COURT: Okay. But no telling what I'm gonna do
2 later on.

3 SOLICITOR SORENSON: Well, just -- I mean I'll just
4 wait and see.

5 THE COURT: Yeah.

6 SOLICITOR SORENSON: It just depends kind of what they
7 ask for.

8 THE COURT: Right.

9 SOLICITOR SORENSON: But I understand, if they come out
10 and say we just want to hear, you know, the first two
11 minutes of so and so's testimony, I mean I think that's all
12 we're suppose to play for them. I mean we're not suppose to
13 play the whole thing.

14 THE COURT: Well, it's gonna kind of depend. I've
15 got -- I'm gonna have to look over my, my notes. If they,
16 if they said something at the very first in direct, then
17 certainly they got to hear what, what they were
18 cross-examined by about it. I mean I think that's only
19 fair.

20 SOLICITOR SORENSON: I think it's all -- really I think
21 it's gonna depend on what they come out and say.

22 THE COURT: Yeah, I mean I think, I think they were in
23 there too quickly---

24 SOLICITOR SORENSON: Right.

25 THE COURT: ---to start discussing the facts in this

1 case. So, anyway.

2 All right. Mrs. Harry Dot, this is Court's No. 1, and
3 this is Court's No. 2. If you'll mark them, and we'll see
4 what happens. We're now in recess again.

5 (WHEREUPON, the two notes were marked as Court's
6 Exhibit Nos. 1 and 2 for identification purposes only at
7 this time.)

8 (WHEREUPON, the jury began deliberations again at
9 this.)

10 (WHEREUPON, at this time the audiotape was switched
11 over and began with the following statements by the Court.)

12 THE COURT: Ladies and gentlemen, I appreciate your
13 last note. That wasn't a question. But let me, let me kind
14 of explain something to y'all.

15 You finished hearing everything in this case about five
16 minutes till noon. We've eaten lunch. This is the third
17 day of a trial. Y'all -- if -- there's a quote from a
18 captain that said we've not yet begun to fight, you know.
19 You have not yet begun to deliberate.

20 Okay. The decision, we've got to get a unanimous
21 decision, and we will be here for a while while y'all decide
22 what, what your verdict is going to be. Y'all just need to
23 be aware of that.

24 Okay. The reason I brought you out here is to let you
25 know that, just because of, of where the situation is right

1 now, does not mean that's gonna be the final we're stopping
2 here. Y'all have come back earlier and indicated to me that
3 you, that you might want to hear some testimony. If you
4 decide you need to hear that testimony, we'll be glad to, to
5 play it.

6 Okay. But I'm gonna send you back into the jury room
7 so that y'all can continue your deliberations.

8 Okay. Thank y'all very much.

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

11 THE COURT: Mrs. Harry Dot, Court's 3.

12 (WHEREUPON, the note from the jury was marked as
13 Court's Exhibit No. 3 for identifications purposes only at
14 this time.)

15 THE COURT: All right. We're in recess.

16 (WHEREUPON, the jury began deliberations again and
17 returned with a question at 3:45.)

18 THE COURT: The jury sent out a question regarding
19 Doctor Ross' testimony. The question concerning the blunt
20 force trauma and the stabbing time frame.

21 Mrs. Harry Dot has been kind enough to go ahead and
22 mark where Doctor Ross' testimony is. Since, since a lot of
23 the testimony went on with the blunt force trauma and the
24 stabbing, I think we're just gonna play the entire testimony
25 unless -- if y'all have -- if either one of y'all have any

1 objection to that I need to know that now.

2 SOLICITOR SORENSON: The problem is -- I don't think
3 it's -- I don't think she was super long.

4 THE COURT: Okay.

5 SOLICITOR SORENSON: But we're talking 20 minutes or
6 so, thirty minutes.

7 MS. HINDS: We have no objection.

8 THE COURT: Okay. Then we'll bring the, we'll bring
9 the jury back out here, and I'll -- and I understand that we
10 can play it loud enough for them to hear it.

11 COURT REPORTER: Yes, sir.

12 THE COURT: Okay. All right. Bring the jury on back
13 out and you got that marked.

14 (WHEREUPON, the following takes place within the
15 presence of the jury.)

16 THE COURT: Everyone who is not -- everybody else
17 should leave the courtroom. Everyone.

18 (Pause.)

19 THE COURT: All right. Ladies and gentlemen -- can you
20 hear me, Mrs. Harry Dot?

21 COURT REPORTER: Yes, sir.

22 THE COURT: Ladies and gentlemen, I got the last
23 question concerning the testimony that Doctor Ross had about
24 the blunt force trauma, the cutting, and the time frame.

25 Okay. What we're going to do, since her testimony

1 about that was interspersed in both direct examination and
2 cross-examination, we're gonna play all of her testimony.

3 Okay. And I want to make sure you can hear it when we
4 play it.

5 Now, the reason I have cleared the courtroom in this
6 situation is because, you know, this is, this is your jury
7 deliberation room. But what I want to caution you about is
8 right now the attorneys and other Court staff are still
9 here. So, y'all can not have the interaction in here that
10 y'all would of had when y'all -- you can't say see this is
11 what I was talking about or anything like that. Y'all are
12 just going to have to pay attention and listen to the
13 testimony without, you know, nudging anybody or looking or
14 saying that's what I been saying all along.

15 Do y'all understand that?

16 FORELADY: Yes, sir.

17 THE COURT: Okay. Now, when I start playing this, if
18 you can not hear it, I need for you to, you know, raise your
19 hand or something like that so I can make sure that we have
20 gotten -- that, that it's being played loudly enough for you
21 to hear it.

22 Mrs. Harry Dot has marked the tape so that it will
23 be -- it should begin I think right where she was sworn in,
24 is that correct?

25 COURT REPORTER: Yes, sir.

1 THE COURT: Okay. So, if y'all would just -- I
2 appreciate y'all continuing the deliberations and asking
3 about this.

4 So, Mrs. Harry Dot, you ready?

5 COURT REPORTER: You ready?

6 THE COURT: Yes, ma'am.

7 COURT REPORTER: Yes, sir.

8 THE COURT: I think they're tired of listening to me.

9 COURT REPORTER: And if, for some reason, you can't
10 hear, you can all come and stand around me, and then if you
11 can't I can turn that amplifier around. But I don't want to
12 turn that around unless it's necessary.

13 THE COURT: Well, we'll let them move all up here if
14 it's necessary.

15 COURT REPORTER: Okay. Okay.

16 (WHEREUPON, the testimony of Doctor Ross was played for
17 the jury at this time.)

18 THE COURT: Okay. Thank you, ma'am.

19 All right. Ladies and gentlemen, y'all have heard the
20 testimony of Doctor Ross again. If you go back into the
21 jury room and continue your deliberations I'd appreciate it.

22 Thank you.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: All right. Anything from the State?

1 SOLICITOR BELL: No, sir.

2 THE COURT: Anything from the defendant?

3 MS. HINDS: No, sir.

4 THE COURT: Okay.

5 (WHEREUPON, the jury began deliberations again and
6 returned with a verdict at 4:23.)

7 THE COURT: I'm told by the bailiff that the jury has
8 reached a verdict. I do not know what the verdict is. I
9 want to make sure that everybody understands that, when I
10 announce the verdict, that there's to be no comments, no
11 talking, no yelling, no crying, nothing.

12 So, if anybody does not believe they can maintain their
13 composure in this courtroom when I announce the verdict, I'm
14 gonna give you an opportunity to leave now because if you do
15 lose your composure, you will be facing dealing with me for
16 disrupting Court.

17 So, if anybody thinks they can't compose themselves,
18 they need to leave now.

19 All right. Everybody can't compose themselves.

20 All right. If you would get the jury out please,
21 ma'am?

22 (WHEREUPON, the following takes place within the
23 presence of the jury.)

24 THE COURT: Is that verdict unanimous?

25 FORELADY: Yes, sir, it is.

1 THE COURT: All right. Would you mind giving the
2 verdict form to the bailiff.

3 (Forelady complies.)

4 THE COURT: Thank you. Appreciate it.

5 All right. You can, you can sit down. I'm sorry.
6 Thank you, ma'am.

7 All right. In the case of the State of South Carolina
8 versus Deshawn Powell, Indictment Number 2011-GS-3815, we,
9 the jury, unanimously find the defendant, as to the charge
10 of murder, not guilty.

11 Question Number Two, we, the jury, unanimously find
12 the, find the defendant, as to the charge of voluntary
13 manslaughter, guilty. Signed by the forelady and dated
14 today.

15 All right. Anything from the State?

16 SOLICITOR BELL: No, sir.

17 THE COURT: Anything from the defense?

18 MS. HINDS: If you would just poll the jury, sir.

19 THE COURT: Okay. Ladies and gentlemen of the jury,
20 the, the defense has asked that I poll the jury. You can
21 remain in your seats.

22 What I'm going to ask each one of you individually is
23 if this is your verdict, and is it still your verdict. So,
24 I will go through and call out the names. As I go through,
25 you can -- if you would stand and respond please.

1 (WHEREUPON, the jury was polled at this time and all
2 jurors answered that this was and is still their verdict.)

3 THE COURT: Anything else from the defense?

4 MS. HINDS: Nothing further.

5 THE COURT: All right.

6 (WHEREUPON, the jury was dismissed at this time.)

7 THE COURT: All right. We ready to proceed with
8 sentencing or do we need a moment or what?

9 SOLICITOR BELL: Could we have just a moment, Your
10 Honor, to get the sentencing sheet printed out?

11 THE COURT: Okay. If y'all would do that.

12 SOLICITOR BELL: I want to talk to the family and find
13 out---

14 THE COURT: Okay.

15 MR. MELLARD: Your Honor, we do have a couple of
16 motions we'd like to make.

17 THE COURT: Okay.

18 MR. MELLARD: Whenever the Court is ready.

19 THE COURT: Well, let me sit down and then I'll be
20 ready.

21 okay.

22 MR. MELLARD: Your Honor, at this time we'd like to
23 renew all motions that the jury needs to be made including
24 our motion, our motions for directed verdict.

25 THE COURT: Okay.

1 MR. MELLARD: And we would also, Your Honor, move for a
2 new trial. It's our position there is no evidence to
3 support the conviction for voluntary manslaughter.

4 THE COURT: All right. All right. As regard to your
5 motion for a directed verdict, I will continue with denying
6 that as I, as I had done earlier when we did that.

7 In regard to your motion for a new trial, we heard the
8 evidence in this case, what it concerns, and I believe I
9 mentioned that, and we felt that, at least I felt that, it
10 was proper. Under the facts, factual situation in this case
11 it was proper. Where there was clear testimony that they
12 had been fighting that it was proper to charge voluntary
13 manslaughter. There was certainly testimony to the, to,
14 which could lead a reasonable person to believe that the
15 defendant was guilty of voluntary manslaughter.

16 So, I am going to deny your request for a new trial.
17 But I'll note your objection to both of my rulings so it can
18 be preserved on the record---

19 MR. MELLARD: Yes, sir.

20 THE COURT: ---which is the next thing you were gonna
21 do I presume.

22 MR. MELLARD: Yes, sir.

23 THE COURT: Anything else?

24 MS. HINDS: Nothing further.

25 THE COURT: Okay. All right. I'm gonna give the State

1 a second to get the sentencing sheet and y'all can get
2 organized about how y'all want to do that.

3 SOLICITOR SORENSON: Okay. We have that. If I could
4 have a moment to talk to the family members.

5 THE COURT: Y'all go ahead and do that.

6 SOLICITOR SORENSON: Thank you.

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

8 THE COURT: Defense ready to proceed?

9 MS. HINDS: We are, Your Honor.

10 THE COURT: Okay.

11 SOLICITOR SORENSON: May it please the Court, Your
12 Honor?

13 THE COURT: Yes, sir.

14 SOLICITOR SORENSON: I guess, just briefly, from my
15 standpoint, obviously Your Honor has had an opportunity to
16 hear the facts, and a couple, a couple of things I would
17 like to, to kind of put on the record, and then there's the
18 four family members of Mr. Riley that have moved over here
19 to the jury box that would like to address the Court---

20 THE COURT: Okay.

21 SOLICITOR SORENSON: ---then at the appropriate time.

22 THE COURT: I'll be glad to hear from them.

23 SOLICITOR SORENSON: All right. Just briefly though,
24 as to Mr. Riley's prior record, Your Honor, he is originally
25 I guess from the State of New York. He does have a little

1 bit of a record from up in New York.

2 It looks like -- their rap sheet is a little harder to
3 read than ours, but it appears that he has a use of vehicle
4 without owner's consent, and a criminal possession of stolen
5 property third value, which is greater than \$3,000. That's
6 from 2003. Looks like he received a five year probationary
7 sentence on those charges.

8 He also had multiple kind of, I think, a criminal
9 possession of a controlled substance fifth and intent to
10 sell. That was also from 2003.

11 It's hard to tell if these are duplicate charges cause
12 it references the same charge several times. But disorderly
13 conduct it looked like in 2007.

14 Intent to obtain transportation without paying, 2008,
15 and then it looks like a criminal possession of marijuana it
16 says -- it's hard to say. I don't know if there's a
17 disposition on that. It just says completed and I don't
18 quite know what that means in reading their, their rap
19 sheets. That would be up in New York, Your Honor.

20 THE COURT: Yes, sir.

21 SOLICITOR SORENSON: His, his history with law
22 enforcement here in South Carolina began in 2005.

23 As far as convictions, Your Honor, he has a disorderly
24 conduct conviction from 2008, some traffic offenses from
25 2010, and in line we would realize that this wouldn't be

1 something that would typically be used for, for sentencing
2 purposes, as Your Honor is aware, at the time of this
3 incident he was actually out on bond for another murder
4 charge, which his arrest date on that was back in 2005.

5 So that was -- he had been out on bond for a few years
6 on that charge due to some witness issues that had come up
7 and the State being unavailable to find them, and obviously
8 that, that, that charge was still pending at this point in
9 time, and we will make a decision in the fairly near future
10 what to, if we're going to serve him with life without
11 parole notice to go forward on that charge or what we're
12 gonna do with that matter.

13 THE COURT: Okay. All right. Thank you, sir.

14 SOLICITOR SORENSON: And, so, if we could hear from the
15 family members. I have a couple.

16 THE COURT: Yeah, I'd like to hear from them now if
17 that's all right.

18 SOLICITOR SORENSON: Yes, sir.

19 THE COURT: Who wants to go?

20 SOLICITOR SORENSON: Whoever wants to go first and
21 y'all just come around here.

22 THE COURT: Y'all can sit down. I'm sorry.

23 SOLICITOR SORENSON: Come around here and I need for
24 you to state your name for Mrs. Walker.

25 THE COURT: Yes, ma'am, your name?

1 MRS. RILEY: My name is Lada Riley. I'm the spouse of
2 the victim, Arthur Riley.

3 First of all, I just want to take this time to thank
4 everyone involved in this case for their hard work and
5 diligence in seeking out the justice. We appreciate that
6 very much.

7 Second of all, I wanted to say that even though we were
8 separated for a number of years, he was still the father of
9 my children. You know, we've been married for many years.
10 we separated for quite a few years. But I feel like this,
11 that as long as he was alive, it was hope that he might
12 would change his life around. But when somebody takes that
13 life, then there's no more hope.

14 So, to the young man, if I can address him, I hope that
15 this will be a change in your life, you know, because
16 something good can still come out of it if it will turn one
17 person life around that was involved and was going down the
18 wrong road and making wrong decisions. And it's not too
19 late. As long as we are breathing and alive, it's always
20 hope. We can always change from a bad decision and move
21 forward and make a right decision and move on forward with
22 our lives.

23 I want to thank each and every one of you.

24 THE COURT: Okay. Thank you.

25 MRS. RILEY: Thank you.

1 THE COURT: Thank you, Mrs. Riley.

2 Yes, sir, your name please, sir?

3 MR. RILEY: My name is Author Travis Riley.

4 THE COURT: Okay.

5 MR. RILEY: And I'm -- the deceased is my, my father.

6 THE COURT: Okay. And you---

7 MR. RILEY: I'm the oldest son.

8 THE COURT: You're the oldest. All right.

9 MR. RILEY: As my mother said, I'd like to thank the
10 prosecutors and the deputies for their hard work and
11 diligence.

12 I feel like, you know, things said about my father, and
13 they were mostly true. But when he passed away, I
14 remember -- I won't forget, I won't forget the good things
15 he taught me. He taught me how to be a man. He taught me
16 how to take care of family because he did take care of us.
17 He taught -- he, he raised us. He worked hard every day and
18 raised us.

19 I miss my father. Even when -- it was like, like my
20 mother said, it was always hope.

21 THE COURT: Uh-huh. (Affirmative).

22 MR. RILEY: I miss him, you know.

23 To the defendant, my father would of taught me to
24 forgive you. I'm not there yet. I'm not no where near
25 there. I hope I can one day. But as of right now, no.

1 cause I felt my father was ambushed. He was attacked.
2 seventy year old man attacked.

3 I wish I was there, honestly speaking, you know. That
4 night when he was killed, I could not go to sleep that whole
5 night. I didn't know what was going on with me that night.
6 I could not sleep.

7 After I found what happened, I think my father was
8 calling out to me and thinking about me, something, before
9 he died. I still have problems sleeping to this day.

10 My father's spirit is gonna always live. My father's
11 helped everybody he could. Always help people, always
12 helped people if he could. He would help you. Even in his
13 latter years, while he was living, he would help people if
14 he could.

15 You don't know my father from one in the civil rights
16 era for us to have rights as black men, and for you to come
17 take his life for somebody -- your predecessor that help you
18 get freedom. You just threw that away, you know.

19 Like my mother said, hopefully you can change, you
20 know. I -- hopefully I can forgive you one day. I'll pray
21 for you. But, you know, right now it's hard. I miss my
22 father and everything else.

23 Thank you.

24 Thank you, Your Honor.

25 THE COURT: Thank you, Mr. Riley.

1 Who's next?

2 Your name please, sir?

3 MR. LAMAR RILEY: My name is Lamar Riley and I'm Arthur
4 Riley's son.

5 THE COURT: Now, where are you?

6 Which, which one?

7 MR. LAMAR RILEY: I'm the middle son.

8 THE COURT: Middle son?

9 MR. LAMAR RILEY: Yes, sir.

10 THE COURT: Yes, sir.

11 MR. LAMAR RILEY: Second, second son.

12 THE COURT: Okay.

13 MR. LAMAR RILEY: Well, first of all, I want to say
14 thank you to all the hard work everyone did for the case. I
15 really truly appreciate the due diligence and attention to
16 detail. I thank you very much for that.

17 Hopefully we can continue -- we can, my family and I,
18 we can move forward from this tragic event.

19 I, I want to say to the defendant, as my older brother
20 said, I wish I was there. I wish I was there. And I'm a
21 law officer, and I shouldn't say that. But I wish I was
22 there.

23 I mean you're 25. He's 69. You already know you gonna
24 win. But it shouldn't even get to that.

25 I want to say my father taught me a lot. I learned a

1 lot, good and bad, from him. I learned what to do and what
2 not to do.

3 I love him a lot. I'm gonna miss him. I still miss
4 him. I still talk about him to this day and we all do. His
5 spirit will, will live with us.

6 I, I hope you can change. I hope that because we all
7 have decisions that we can make, and you didn't make the
8 right decision. He hasn't made right decisions in his life
9 as, as all of us haven't. You know, but the thing about it
10 is don't let your decision negatively effect your outcome
11 and your future, and the decision you made on that day,
12 2010, has done that.

13 I thank you-all.

14 THE COURT: Thank you, Mr. Riley.

15 Yes, sir, your name please, sir?

16 MR. SAUL RILEY: Saul Riley. I'm the youngest,
17 youngest son.

18 Me and my brother, Dwayne, came down here two weeks,
19 maybe three weeks before I was to be married. We visited my
20 father on Jameson. We went to the Brown Derby, had lunch
21 with my father. Had good conversation with him. He was
22 scheduled to come to my wedding, a few weeks later, before
23 his life was taken away.

24 I can't get that back. Understand that. My father
25 never saw any of his sons get married. He was gonna see me

1 get married, and walk down the aisle, and he took that away
2 from me. I can't get it back.

3 His grandson, who's out in the lobby right now, he's
4 five years old, he's scheduled to graduate pre-K in two
5 weeks. Art's not gonna be able to make that either. You
6 took that away.

7 I'm going through a lot of emotions. Some angry, some
8 confused. But I was raised by parents who taught us to
9 think before we act. Sometimes that's easier said than
10 done. But you try your best.

11 I have a wonderful family, and I love all of them to
12 death, and they know I would do anything for them at
13 anytime. It's sad because, you know, I look back, when I
14 was younger, I had a bad temper. Very bad temper. And if I
15 didn't correct it, I could be just like you right now. I
16 acknowledge the fact that I did have a bad temper when I was
17 young, and I had to do something about it to change it or I
18 wouldn't never be a productive citizen and I would probably
19 end up in jail or dead.

20 It didn't happen overnight. My two oldest brothers,
21 they kept they foot in my butt. Everybody don't have that
22 luxury. My sister, she stayed on me. My mother stayed on
23 me, and when my father was around he checked me. My big
24 sister, my oldest cousins, my aunts and uncles, they stayed
25 on us. That's how we were brought up.

1 You may not have that luxury. I'm fortunate. I did.
2 And I have a beautiful wife, a beautiful family, and a son.
3 That's not to say that things can't change for you. I hope
4 the Lord has mercy on your soul.

5 Again, I'd like to thank all the hard work by the
6 prosecution, and the Court's time for treating this trial
7 and treating my father with respect and taking the time out,
8 and like my brother said, paying attention to detail.
9 That's not something that everybody gets. Some people go on
10 trial and, you know, they slandered. I think everything was
11 done tastefully, and I appreciate everybody that was
12 involved in the trial.

13 Thank you, Your Honor, too.

14 THE COURT: You welcome, sir.

15 MR. SAUL RILEY: I think you did very well. Thank you
16 so much.

17 THE COURT: Thank you, sir.

18 Anything else from the State?

19 SOLICITOR SORENSON: Your Honor, obviously there's been
20 three rows worth of family members and friends of Mr. Riley.
21 I think they saw him kind of -- they kind of picture that
22 kind of family then back in November of 2010 is probably not
23 very indicative of the man he was sixty-nine years prior to
24 that.

25 THE COURT: Right.

1 SOLICITOR SORENSON: I think you can tell that just by
2 looking at his sons.

3 THE COURT: Right.

4 SOLICITOR SORENSON: But, Your Honor, we just ask, you
5 know, to -- I ask you for a sentence in this case, I mean I
6 think it's one he deserves, a very significant sentence.
7 While obviously we don't quarrel with the jury's verdict, I
8 think it was an appropriate verdict, and he still stabbed
9 this man 42 times, beat him about his head, and in his own
10 home. I think that does warrant a very substantial
11 sentence, Your Honor.

12 Thank you.

13 THE COURT: Thank you, Mr. Sorenson.

14 All right. Ms. Hinds or Mr. Mellard.

15 MS. HINDS: Your Honor, may I approach?

16 THE COURT: Yes.

17 (WHEREUPON, a bench conference was held at this time.)

18 THE COURT: Five minute break before the defense
19 present their talk about the sentence. So, if y'all need to
20 stand up, walk around, go to the rest room, or something
21 like that, if y'all be back in here at about five till,
22 we'll continue with the sentencing.

23 SOLICITOR SORENSON: Thank you.

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

25 THE COURT: Ms. Hinds, you ready?

1 MS. HINDS: Yes, sir.

2 THE COURT: Okay. Ms. Hinds.

3 MS. HINDS: Your Honor, Deshawn Powell is 26 years old.
4 He's single. Never been married. He does have a daughter.
5 He graduated here locally from O.W. although he did live for
6 a time, in his younger days, in New York. He has family up
7 here and in New York.

8 His last job, he worked at AYP. I believe, I believe
9 that he was laid off from that job. As you know, AYP is a
10 seasonal type of business with frequent hire and lay-offs.

11 Your Honor, Mr. Powell would like me to say that his
12 heart felt condolences do go out to the family. Obviously
13 Art was not a stranger to him also. He would like to, he
14 would like the family to know that he is praying for them.

15 Your Honor, I would take exception to the solicitor
16 bringing up the pending charge. That is not a conviction.

17 THE COURT: I understand.

18 MS. HINDS: He has not had his day in Court.

19 THE COURT: Right. And it's, and it's an old case
20 anyway, and they hadn't done anything with it.

21 MS. HINDS: Exactly.

22 THE COURT: Exactly.

23 MS. HINDS: So, we would ask you not to take that into
24 consideration.

25 THE COURT: All right.

1 MS. HINDS: We would just ask the Court for mercy, and
2 I believe that's all that we would have.

3 THE COURT: All right.

4 All right. Mr. Powell?

5 DEFENDANT: Yes, sir.

6 THE COURT: Sentence is -- the jury has heard all the
7 evidence in this case, and they have deliberated
8 thoughtfully over this and found you guilty of voluntary
9 manslaughter.

10 Sentence of this Court is you are committed to the
11 State Department of Corrections for a period of 30 years.
12 I'll give you credit for the time you have served.

13 Good luck to you.

14 MR. MELLARD: Thank you, sir.

15 THE COURT: Thank you.

16 SOLICITOR SORENSON: Thank you, Your Honor.

17 (WHEREUPON, the note from the jury was marked as
18 Court's Exhibit No. 4 for identification purposes only at
19 this time.)

20

21

22

23 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

24

25

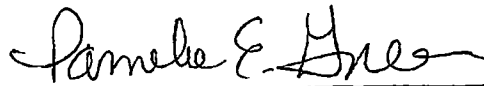
C E R T I F I C A T E

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I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Orangeburg County, South Carolina, on the 15th, 16th and 17th day of May, 2012, as reported by Harry Dot Walker And transcribed by myself to the best of my ability.

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

May 1st, 2013



PAMELA E. GREEN, Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

County of OrangeburgDeshawn Lee Powell

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2015 CP38-01057

FILED FOR CLERK
AUG 21 11
CLERK OF COURT
ORANGEBURG, SC

APPLICATION FOR

POST-CONVICTION RELIEF

Jm

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lieber Correctional Institute
P.O. Box #205, Ridgerville S.C. 29472
2. Name and location of Court which imposed sentence Orangeburg County
General Sessions
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2011-GS-38-0015
(b)

ATTORNEY GENERAL'S OFFICE

RECEIVED 9.3.2015

ADMINISTRATIVE INSTRUCTIONS

FILE OPEN END

HAVE COPIES MADE

ROUTE TO

ORDER TRANSCRIPT

PEN RECORDS CLERK RECORDS

OTHER:

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) May 15, 2012, 30 years
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appeal Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. July 29, 2015
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished Opinion No: 2015-UP-379
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) See Attachment #1
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Attachment #1
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. (Peggy Hinds) : 190 Gibson Street Room #110
 (Douglas Mellard) : P.O. Box 1112
 Orangeburg, SC 29116-1112
 ii. (Katherine H. Hudgins) : SCCID
 Division of Appellate Defense
 P.O. Box 11589
 Columbia, SC 29211-589

(b) the proceedings at which each such attorney represented you:

i. Trials
 ii. Direct Appeal
 iii.

19. State clearly the relief you seek in filing this application:

Reverse Conviction, Vacate Sentence, Remand
or Acquittal

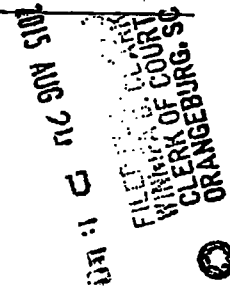
20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of _____)

VERIFICATION



I, Deshawn Powell, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Deshawn Powell

SWORN to and subscribed before me this 19th
day of August, 2015.

Ludrean Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

1. Deshaun Powell hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or security thereof.

Deshaun Powell
Applicant

SWORN or affirmed to and subscribed before me this
19th day of August, 2015.

Ludrian Bryant
Notary Public

My Commission Expires: May 26, 2020

10. (a) Applicant was denied the right to effective assistance of counsel - guaranteed by the Sixth - Fourteenth Amendments to the United States Constitution and by Article I, §§ 3 and 14 of the South Carolina Constitution - during the guilt-or-innocence phase of his jury trial.

FILED
CLERK OF COURT
ORANGEBURG, SC

11. (a) Supporting facts: Trial Counsels performance during the guilt-or-innocence phase was both unreasonable and prejudicial. See Strickland v. Washington, 466 U.S. 668 (1984). Counsels acts or omissions included, but are not limited to, the following:

① Counsel failed to properly cross-examine States witnesses.

② Counsel failed to adequately investigate the facts and circumstances surround the death of the victim. Counsels failure to conduct such an investigation deprived the jury of critical information relevant to an accurate assessment of applicants guilt or innocence.

①

③ Counsel failed to investigate and develop defense where the weapon found was even remotely connected to the applicant.

10.(b) Applicant was denied the right to effective assistance of counsel - guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and by Article I, §§ 3 and 14 of the South Carolina Constitution - during the sentencing phase of his jury trial.

11.(b) Supporting facts: Trial counsel's performance during the sentencing phase was both unreasonable and prejudicial. See *Strickland v. Washington*, 466 U.S. 668 (1984). Counsel's acts or omissions included, but not limited to the following:

① Counsel failed to investigate, develop, and present all available, relevant, and admissible mitigating evidence. As a result of counsel's failure to uncover and present this evidence, applicant's sentence is unreliable.

②

② Counsel failed to object on all possible grounds to inflammatory and irrelevant evidence presented by the prosecution.

As a result of counsels failure to make appropriate objections, applicants sentence is unreliable.

10.(c) Applicant was denied effective appellate counsel - guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and by Article I, §§ 3 and 14 of the South Carolina Constitution - during the appellate stage of his trial.

11.(c) Supporting facts: Appellate Counsel's performance during Applicants direct appeal was unreasonable. See *Strickland v. Washington*, 466 U.S. 668 (1984). Counsels acts or omissions included, but not limited to, the following:

① Counsel failed to obtain a complete transcript to review, therefore Applicants direct appeal is unreliable

Applicant respectfully requests this court to grant leave to amend P.C.R. application according to additional information which is revealed through discovery.

I Deshawn Lee Powell state pursuant to 28 U.S.C § 1746 under penalty of perjury that the foregoing is true and correct.

x Deshawn Powell
DATE: 8-19-15



ALAN WILSON
ATTORNEY GENERAL

December 10, 2015

The Honorable Winnifa Brown-Clark
Clerk of Court, Orangeburg County
Post Office Box 9000
Orangeburg, South Carolina 29115

Re: Deshawn L. Powell, #350880 v. State of South Carolina
2015-CP-38-1052

Dear Ms. Brown-Clark:

Enclosed please find the original **Return** of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,

J. Clayton Mitchell
Assistant Attorney General

JCM/jcb
Enclosure

cc: Jonathan D. Waller, Esquire

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Deshawn L. Powell, #350880,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

2015-CP-38-1052

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed on August 24, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Orangeburg County. Applicant was indicted at the February 2011 term of the Court of General Sessions for Orangeburg County for murder (2011-GS-38-0015). Applicant was represented by Perry Hinds, Esq. and Douglas Mellard, Esq. On May 15, 2012, Applicant proceeded to trial before the Honorable Edgar W. Dickson. The jury found Applicant guilty of the lesser included offense of voluntary manslaughter. Judge Dickson sentenced Applicant to thirty (30) years' imprisonment.

Applicant filed a timely notice of appeal. Kathrine H. Hudgins, Esquire, of the Office of Appellate Defense, perfected the appeal with the filing of an Anders¹ brief. Applicant also filed a *pro se* brief. The South Carolina Court of Appeals dismissed Applicant's appeal after review on July 01, 2015. State v. Powell, Op. No. 2015-UP-379 (S.C. Ct. App. filed July 01, 2015). Remittitur was issued to the lower court on August 18, 2015.

¹ Anders v. California, 386 U.S. 738 (1967).

Attached herewith and incorporated herein by reference are the records of the Orangeburg County Clerk of Court regarding the subject conviction(s), the transcript from Applicant's trial, and Applicant's records for the Department of Corrections and Applicant's appellate records. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

In his Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. Counsel failed to properly cross examine witnesses
 - b. Counsel failed to investigate circumstances surrounding death of victim
 - c. Counsel failed to develop a defense regarding weapon
 - d. Counsel failed to investigate or develop all mitigating evidence
 - e. Counsel failed to object to irrelevant evidence
2. Ineffective Assistance of Appellate Counsel
 - a. Appellate counsel failed to obtain a complete transcript to review

III.

Respondent submits Applicant's allegation of ineffective assistance of trial counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of trial counsel as a ground for relief, the applicant must prove trial counsel's "conduct so undermined the proper functioning of the adversarial process that the trial

cannot be relied upon as having produced a just result.” Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes trial counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial counsel’s performance was deficient. Id. Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Respondent further submits Applicant’s allegation of ineffective appellate counsel is without merit. A defendant is constitutionally entitled to effective assistance of appellate

counsel. Evitts v. Lucey, 469 U.S. 387, 396 (1985). "However, appellate counsel is not required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990) (citing Jones v. Barnes, 463 U.S. 745 (1983)). Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones, 463 U.S. at 753. Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226, 1235 (4th Cir. 1985).

The applicant must show that appellate counsel's performance was deficient and that he was prejudiced by the deficiency. Thrift, 302 S.C. at 537, 397 S.E.2d at 526; Strickland, 466 U.S. at 687. When a claim of ineffective assistance of counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of appellate counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of trial and appellate counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis

that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code § 17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VII.

Each and every allegation contained within the application not either expressly admitted, qualified or explained is hereby denied.

[SIGNATURE BLOCK ON NEXT PAGE]

VIII.

WHEREFORE, having made its Return, Respondent requests that a hearing be held on the claims of ineffective assistance of trial and appellate counsel.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

Dec. 10, 2015

STATE OF SOUTH CAROLINA
COUNT OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

DESHAWN L. POWELL, 3350880

2015-CP-38-1052

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

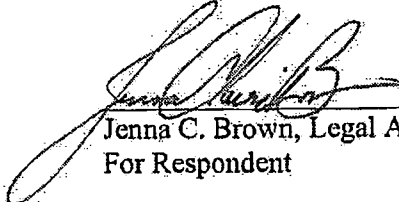
STATE OF SOUTH CAROLINA,

Respondent.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jonathan D. Waller, Esquire
Giese Law Firm
1315 Blanding Street
Columbia, SC 29201

DATED this 10th of December, 2015.


Jenna C. Brown, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF ORANGEBURG) COURT OF COMMON PLEAS
 3) No. 2015 CP 38 1052

4 DESHAWN LEE POWELL)

5 Applicant)

6 versus)

TRANSCRIPT OF RECORD

7)
 8 STATE OF SOUTH CAROLINA)

9

St. George, South Carolina

10

October 27, 2016

11

12 B E F O R E :

13 HONORABLE DIANE S. GOODSTEIN, Judge Presiding
 14

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

16 For the Applicant:

J. WALLER, Esq.

17 For the State:

R. NEELY, Esq.
 Assistant Attorney
 General

18

19 Reporter Present:

H. LANDRY

20

21

22

HARRIET P. BENNETT
 Reporter, S.C. Court Administration
 46 Regency Oaks Drive
 Summerville, S. C. 29485

23

24

25

I N D E X

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3

APPLICANT POWELL

4

By Mr. Waller

5-28

5

By Mr. Neely

19

6

MAURICE TUCKER..

7

By Mr. Waller

35-51

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By Mr. Neely

44-54

9

Court's Questions

p. 49

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EXHIBITS

1		
2		Admitted
3	APP 1	Photographs 31
4	APP 2	SLED Letter 52
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1 (The within matter came before the Court for hearing on
2 October 27, 2016)

3 THE COURT: What do we have next?

4 MR. NEELY: Deshawn Powell.

5 THE COURT: Mr. Powell, good morning.

6 APPLICANT: Good morning, maam.

7 THE COURT: You're Mr. Powell?

8 APPLICANT: Yes, maam.

9 THE COURT: All right, Mr. Neely.

10 MR. NEELY: Thank you, Your Honor.

11 This is the case of Deshawn Powell versus the State of
12 South Carolina, Case Number 2015-CP-38-1052.

13 He currently resides at the South Carolina Department of
14 Corrections pursuant to the Order of commitment from the Court
15 of General Sessions of Orangeburg County.

16 He was indicted in February of 2011 in the Court of Gen-
17 eral Sessions by the Orangeburg County Grand Jury returns.

18 He was represented by Mary Hinds and Douglas Mellard. He
19 received a trial before the Honorable Judge Dickson and was
20 found guilty of the lesser included offense of voluntary man-
21 slaughter and was sentenced to thirty years in prison.

22 THE COURT: All right. Are there any matters from either
23 side?

24 MR. NEELY: None from the State, Your Honor. I just want
25 to enter on the record that he did file a Notice of Appeal and

1 an Anders Brief was filed.

2 THE COURT: Thank you. And no Remittitur was returned?

3 MR. NEELY: That's correct.

4 THE COURT: Very well, any other matters?

5 MR. WALLER: None, Your Honor.

6 THE COURT: Are you ready?

7 MR. WALLER: Yes, maam.

8 THE COURT: Call your first witness.

9 MR. NEELY: Your Honor, I would call Deshawn Lee Powell.

10 THE COURT: Come around, Mr. Powell. Take your time.

11 DESHAWN LEE POWELL, being duly
12 sworn, testified as follows:

13 THE COURT: All right, Mr. Powell, there's water there
14 right behind you. Sometimes your voice might get dry and you
15 might need a cup of water.

16 I'm going to ask you to state your name.

17 APPLICANT: Shawn Powell.

18 THE COURT: What I'm going to do -- you've got a micro-
19 phone right there.

20 All right, your witness.

21 DIRECT EXAMINATION

22 BY MR. WALLER:

23 MR. WALLER: Thank you, Your Honor

24 Q. How are you, Mr. Powell, today?

25 A. Very well.

APPLICANT ON DIRECT

1 Q. Okay, Mr. Powell. If I can I'll take you back. You were
2 originally charged with two crimes, is that correct?

3 A. Yes, sir.

4 Q. And you were originally charged with . .

5 A. I was charged with murder and possessing a weapon during
6 a violent crime.

7 Q. Okay, and who was your attorney?

8 A. Mary Hinds.

9 Q. Okay. How did she come to be your attorney?

10 A. I was appointed to her.

11 Q. Okay. About how long after you were arrested did you
12 first meet with her?

13 A. I think it was that day.

14 Q. What did you all talk about from your memory of that
15 first meeting?

16 A. I don't remember right now, probably what happened.

17 Q. Okay, did you discuss the two charges and the penalties
18 of those charges?

19 A. I believe it was about the charge -- what the charge was.

20 Q. Okay. Did you understand how long the charges carried?

21 A. I don't know.

22 Q. Okay. Did you all ever have a conversation about that?

23 A. What?

24 Q. About what the two charges carried?

25 A. I recall we did when my trial was about to start, and my

APPLICANT ON DIRECT

1 attorney told me thirty years. Something like that.

2 Q. Okay.

3 A. That's when I realize what it was.

4 Q. Okay, and the weapons charge was not pending until the
5 trial, is that right?

6 A. That's right. To my knowledge it was dismissed.

7 Q. Was it dismissed about a year or a little over a year be-
8 fore . . .

9 A. Yes.

10 Q. . . the trial?

11 A. Yes.

12 Q. Is that right?

13 A. Yes, sir.

14 Q. Okay. Do you recall why -- what is your understanding of
15 why it was dismissed?

16 A. The prosecution dismissed it.

17 Q. Okay, and that was back in 2011 when it got dismissed?

18 A. Yes, sir.

19 Q. Okay. Your trial was in 2012?

20 A. Yes.

21 Q. Okay. So back up a little bit more. How -- you just
22 talked about your first meeting with Ms. Hinds. Were you
23 all able to meet later on after that as your trial approached?

24 A. Yeah, a few times.

25 Q. How many times do you think you met with her?

APPLICANT ON DIRECT

1 A. I didn't keep track of it really, but about four or five
2 times all together, I think, over eighteen months.

3 Q. Okay, and were you able to make bond or were you locked
4 up the whole time?

5 A. No, sir. I was not able to raise bond.

6 Q. Okay, but you were in the County Detention Center the
7 entire time?

8 A. Yes.

9 Q. Okay. Until you went to trial?

10 A. Yes, sir.

11 Q. You are originally from New York, is that right?

12 A. Yes, sir.

13 Q. Okay. When you and Ms. Hinds met, what did you all talk
14 about?

15 A. She would ask me where I was at and what happened, and
16 she would ask me questions and I would answer her questions.

17 Q. Do you have family here as well as in New York?

18 A. Yes.

19 Q. Okay.

20 A. Ms. Hinds said she would investigate it more and talk to
21 these people and see what they say.

22 Q. Okay. Did you all discuss the evidence that the State
23 had provided to Ms. Hinds or to you concerning your case?

24 A. I can't exactly say. It's hard to remember too much of
25 it or the things you're asking me right now.

APPLICANT ON DIRECT

1 Q. Well, let me get into some specifics here in just a min-
2 ute. Did -- do you know if Ms. Hinds ever employed an inves-
3 tigator for your case?

4 A. Yes, she had someone on the case.

5 Q. Did you ever meet with them?

6 A. Yes, sir.

7 Q. Okay. Did you provide any information that would help
8 her to develop a defense in your case?

9 A. Yeah, I told her witnesses and stuff that could testify
10 for me.

11 THE COURT: Raise up your voice, okay?

12 WITNESS: Yes, maam.

13 A. I told her the witnesses for me that would help by tes-
14 tifying for me.

15 Q. Okay.

16 A. Numerous people.

17 Q. Okay. Did you talk with her about specific evidence the
18 State would present against you?

19 A. . .

20 Q. Did you discuss the DNA evidence the State had?

21 A. Well, the DNA evidence that they had -- they came to me
22 and asked me for DNA -- that I be tested for some DNA -- and
23 she had want to build a defense around how could my DNA be on
24 the body. She didn't come to me and ask me if it was okay but
25 they ask for it for the trial.

APPLICANT ON DIRECT

1 Q. So you gave a DNA sample so they could compare evidence
2 obtained at the scene?

3 A. . .

4 Q. So they could compare the DNA results?

5 A. Right.

6 Q. Okay, and it is your understanding there was no DNA match-
7 ing you to anything obtained at the scene?

8 A. No, none whatsoever.

9 Q. When you all talked about that, were there any other peo-
10 ple that did match?

11 A. Well, from what I know and what she showed me there was
12 none from me identified.

13 Q. So the match wasn't you?

14 A. It was not mine.

15 Q. Okay. Let's talk about the night that the incident hap-
16 pened. Did you all discuss that night?

17 A. Well, I was telling her like if the incident is being
18 dismissed they should have me out the door, and she's telling
19 me no, no. It's not dismissed on this count.

20 Q. Let me slow you down just a little bit. It was your un-
21 derstanding that once the weapons charge was being dismissed
22 that the State wasn't going to use that? Was that your under-
23 standing?

24 A. That's what I was told at this time.

25 Q. Okay. Let me slow you down just a little bit.

APPLICANT ON DIRECT

1 Was it your understanding that once the weapons charge
2 was being dismissed that the State wasn't going to use the
3 knife? Was that your understanding?

4 A. That was my understanding. I think that was what I was
5 told all along.

6 Q. Let's go back to when the knife was first located. Well,
7 what was your understanding of where the knife was found by
8 law enforcement?

9 A. I was told by law enforcement that this weapon was found
10 on the front door step after they coming out my house. They
11 was right in my house for hours after they came for hours and
12 in the yard, sift through the yard, look in the car and did
13 all these things, and then they found it as they was coming
14 out the door.

15 They say it was right there between the doorway and
16 where the door was at.

17 Q. And after they had already walked past it when they went
18 in your house?

19 A. Yeah.

20 Q. Okay, describe for me if you can what the porch or the
21 doorstep looked like?

22 A. Well, just like this one right here, and the walk way
23 right here to go in, and that's the front door. So they walk
24 this way right here in the front door to the house.

25 Q. Was it a big front porch?

APPLICANT ON DIRECT

1 A. Yes. About like this right here.

2 Q. Okay. Was there a lot of things on the porch or was it . .

3 A. There was nothing there.

4 Q. Okay. Did you -- when law enforcement came to your home
5 you weren't there. Is that right?

6 A. No, sir.

7 Q. Okay. Did you give Ms. Hinds any witnesses or information
8 regarding how that weapon was found to help her prepare your
9 defense?

10 A. Well, I wasn't at the house at the time, you know. My
11 mom had called and said to come. So I came there and found
12 out everything, and my brother and my friend from New York he
13 called at the house and in the surrounding area and that is
14 when I found out from people that knew something, you know, of
15 how it went down.

16 I was out all night that night and they call me to come,
17 and I see people in the yard. So I knew there was something,
18 you know, but that's all I know about that.

19 Q. Okay, so your mother was in the house?

20 A. Yes, sir.

21 Q. Your brother was in the house?

22 A. Yes.

23 Q. And there were some other individuals at the house?

24 A. Right.

25 Q. Did you give Ms. Hinds any of their names or information

APPLICANT ON DIRECT

1 for her to contact these people?

2 A. Yeah, I give her names.

3 Q. And do you know to your knowledge if she contacted them?

4 A. Well, she told me -- I mean, I was in County and I could
5 not see what was out there, but she was saying she was trying
6 to find people to see if they could be a good witness for us.

7 Q. Okay. Do you recall -- what was your understanding of
8 what she said?

9 A. My understanding was she came to me and told me that one
10 of the witnesses told her that he knows the person who had
11 know the person who did it. This is what she told me from my
12 notes, that she spoke to this person.

13 Q. Okay.

14 A. She never mentioned again what he said to her at trial.
15 But she had told me things he had told her I have in my notes
16 that she told me, but she never corrected that.

17 Q. Okay, so it's your understanding she had information from
18 Gil Jones, a man who testified. Is that right?

19 A. Yes, sir.

20 Q. She had information that wasn't consistent with what he
21 testified to. Right?

22 A. Right.

23 Q. Do you remember her asking him questions about that?

24 A. No, she didn't.

25 Q. Did she subpoena any witnesses that you are aware of?

APPLICANT ON DIRECT

- 1 A. Yeah, she subpoena . .
- 2 Q. If you are not aware that's fine.
- 3 A. She subpoena some people
- 4 Q. Was your brother one of those?
- 5 A. Yes, sir.
- 6 Q. Okay.
- 7 A. My mom also but she was in New York.
- 8 Q. Okay. After you were arrested you were taken to the Sher-
- 9 iff's Department, is that right?
- 10 A. Yes, sir.
- 11 Q. Okay. You were put in an interrogation room?
- 12 A. Yeah.
- 13 Q. Okay, were -- you gave a brief statement to law enforce-
- 14 ment that got written down when you gave an oral statement.
- 15 Do you recall that?
- 16 A. Yes, sir.
- 17 Q. Was that statement recorded either by audio or camera or
- 18 anything like that?
- 19 A. Nobody had a camera in the room. I wanted a camera to
- 20 back me up or something that I can see after that.
- 21 Q. Were you ever given even a copy of any of your statement
- 22 or anything like that?
- 23 A. No.
- 24 Q. Okay. Did you ever see a video?
- 25 A. No. In my discovery they had pictures of me standing up

APPLICANT ON DIRECT

1 in that room and them going through my clothes, asking what is
2 this, what is that in my clothes, and I see pictures that was
3 taken of me.

4 They was taking things from my britches and stuff.

5 Q. Okay. Mr. Powell, I want to ask you, when the jury was
6 deliberating they had several questions throughout their de-
7 liberations that they asked of the Judge.

8 The first question was they wanted to rehear some testi-
9 mony, and we obviously have a transcript. What was the -- the
10 Judge tells them they can hear everything if they want to but
11 it would take one or two days or more.

12 What was your impression of the Judge's -- how do you
13 read that? How was it done?

14 A. Well, I didn't hear that. When he said that I was down
15 the hall right here. So when I came to the table and he said
16 it was going to take two more days they seem like they ready
17 to go home, and he said that lunch is out there so have it and
18 if you still think you want something write it down and send
19 it to me.

20 So he gave them a breakdown on how long it would take to
21 find it and then he asked what testimony do you want to hear
22 and they were to write down . . .

23 Q. Let me back up just a little bit. Okay? I know I'm jump-
24 ing around and I apologize.

25 Did they make you a plea offer?

APPLICANT ON DIRECT

1 A. Yes, sir.

2 Q. And you obviously rejected that offer and went on to a
3 trial?

4 A. Right.

5 Q. And at one point -- at some point you make a decision to
6 go to trial?

7 A. Right.

8 Q. Okay, and when that decision was made what did you and
9 Ms. Hinds talk about as far as preparing to get ready for the
10 trial?

11 A. What did we talk about?

12 Q. Yes, sir. What preparation did you all take for the
13 trial?

14 A. Basically her main focus was on getting the DNA test and
15 what was found on the clothes; that they found some DNA on the
16 guy and said they wanted to get some DNA on some witnesses to
17 compare.

18 That there were some witnesses to get DNA from and that
19 was her focus then.

20 Q. When was the first time -- when did Doug Mellard get
21 involved in your case?

22 A. Doug Mellard -- he's the other lawyer?

23 Q. Yes, sir.

24 A. He's the one that came with her and was sitting beside
25 of her.

APPLICANT ON DIRECT

1 Q. Okay. Was he -- he wasn't paid to take part in your repre-
2 sentation, was he?

3 A. No, sir, he wasn't. He came with her to the trial. I saw
4 him when Ms. Hinds came and questioned me about the case.

5 Q. Okay. He was just helping her with the trial?

6 A. Yes.

7 Q. Is there any other information that you gave her as far
8 as her investigation and what she was doing for you that we
9 haven't talked about?

10 A. Say again?

11 Q. Was there any other information that you would have given
12 her early on so she could conduct her investigation to defend
13 you that we haven't talked about so far?

14 A. I don't know how to answer that question right now.

15 Q. We talked about some witnesses that you provided her,
16 some information regarding law enforcement finding a knife.

17 A. Right.

18 Q. You talked about DNA evidence.

19 A. Right.

20 Q. Was there any other evidence that you all talked about
21 or any other information that you gave her?

22 A. . .

23 Q. Regarding your defense?

24 A. I know at trial a woman gave or was making false testi-
25 mony.

APPLICANT ON DIRECT

1 Q. Let's back up a little bit. I hate to cut you off but
2 before trial -- when you all were getting ready for trial,
3 when you all were meeting just like you all met four or five
4 times, in those four or five meetings did you give her any in-
5 formation, any more information, about things she needed to
6 know to help defend you?

7 A. Would you repeat the question?

8 Q. What did you all talk about in those other
9 meetings?

10 A. . .

11 Q. You testified that the first one was talking about your
12 preliminary hearing. There are three or four additional ones.
13 What did you all discuss?

14 A. I really can't remember all of that, but I didn't too
15 much see her while she was waiting on our papers, waiting on
16 evidence, and I go for a bond hearing, and it seem like, you
17 know, I was just in the County waiting.

18 Q. Mr. Powell, I've asked you all the questions that I have
19 for you. Is there anything that you can think of that I've
20 left out or forgotten about Ms. Hinds' representation of you?

21 A. You're asking me if there is anything else?

22 Q. Yes, sir.

23 A. Not that I can recall. I would like to say this though.
24 I would not want to disrespect her or anybody, but I do believe
25 lieve she overlooked one thing that could have got me out

APPLICANT ON DIRECT

1 of there. You know, I feel like she overlooked this and that
2 was a mistake that she shouldn't have overlooked, you know.

3 Q. You're talking about the knife?

4 A. That would have showed my innocence. My brother would
5 testify, you know, but she pushed him away. You know, that's
6 not right.

7 Q. Please answer any questions Mr. Neely has.

8 A. All right.

9 THE COURT: Cross Examination, Mr. Neely.

10 Thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MR. NEELY:

13 Q. Now, Mr. Powell, I want to go over some statements you've
14 started with with Mr. Waller.

15 You told Mr. Waller that Douglas Mellard is the second
16 attorney that came during the trial?

17 A. Yes.

18 Q. That sat with Ms. Hinds?

19 A. Yeah.

20 Q. You're not saying you think he did anything wrong, are
21 you?

22 A. . .

23 Q. Are you alleging he made any mistakes?

24 A. Well, I can tell you this. When the police officer tes-
25 tified he did not -- he did not question him properly about

APPLICANT ON DIRECT

1 that weapon and the finding of that. I can tell you that he
2 didn't.

3 Q. Okay, so you think he failed to properly question him
4 about the weapon?

5 A. Yes.

6 Q. Speaking of the weapon, what was your defense attorney's
7 -- what was Ms. Hinds' or their strategy on explaining the
8 weapon to the jury?

9 A. I don't know what their strategy was. I have no idea.

10 Q. Okay. Do you remember during the closing arguments when
11 they argued that law enforcement planted the weapon there?

12 A. If I look at the transcript do I see that? It was like
13 they were giving a little scenario of what the people may --
14 what my lawyer was saying about them trying to set me up, and
15 we know the outcome.

16 Q. That was the Solicitor doing that?

17 A. Yeah, the County Solicitor.

18 Q. Now, do you remember they had a jailhouse snitch for lack
19 of a better term that testified at trial against you?

20 A. Yeah, I remember a guy that they had who said some things
21 against me.

22 Q. Was his name Marlow Stevenson?

23 A. Yes. I know him.

24 Q. And he testified that you told him you were going to try
25 to get them to argue the evidence of that knife was planted?

APPLICANT ON CROSS

1 A. . .

2 Q. Do you remember that?

3 A. I don't remember at the time but I remember something
4 about them lying about charges or something like that.

5 Q. And you were in jail at the time he gave his testimony.
6 Right?

7 A. He was going to federal prison or something like that.

8 Q. Right.

9 A. I remember seeing him.

10 Q. But your attorney argued on that and they did impeach
11 him, didn't they?

12 A. Not that I know of, no. They didn't show he was lying
13 or anything, and I asked for that. I wanted a copy of his
14 statement.

15 MR. NEELY: Beg the Court's indulgence, Your Honor.

16 THE COURT: All right.

17 (Brief pause)

18 BY MR. NEELY:

19 Q. On page 287 of the trial transcript, line six, and this
20 is Ms. Hinds cross examining Marlow Stevenson, it says if I'm
21 wrong you correct me but you have a sentence for conspiracy to
22 possess with intent to distribute fifty or more grams of crack
23 cocaine, correct.

24 And Marlow Stevenson answered yes, maam.

25 A good deal of drugs, yes? The answer again, yes, maam.

APPLICANT ON CROSS

1 So she did cross examine him on his federal record, did-
2 n't she?

3 A. Well, he wasn't lying about he had a drug charge.

4 Q. She was asking if he had a drug charge?

5 A. Yes. I was talking about his lying, not about him hav-
6 ing a drug charge.

7 Q. So that's -- do you understand what impeach means? A
8 legal term?

9 A. Explain it to me.

10 Q. I can ask questions but I can't explain things to you.
11 Your problem with her cross examination was that she didn't
12 call him a liar?

13 A. . . .

14 Q. Is that correct?

15 A. My problem was that she didn't impeach him, show he was
16 lying about me, yes. I don't have a problem with what you
17 read.

18 Q. So you don't have a problem with her cross examination of
19 Marlow Stevenson?

20 A. Not a problem with that but I have a problem in that
21 right now I never told him that.

22 Q. Okay, so you don't think she made a mistake there?

23 A. I'm pretty sure my lawyer made honest mistakes.

24 Q. Okay. When you told Mr. Waller that you discussed wit-
25 nesses' alibi defenses with your attorney, who were they, the

APPLICANT ON CROSS

1 alibi witnesses?

2 A. My brother.

3 Q. What would your brother have said?

4 A. What he would have said? I mean, I can't answer what
5 someone would . .

6 THE COURT: Can't what?

7 WITNESS: I can't answer what someone would have said or
8 might have said, you know.

9 BY MR. NEELY:

10 Q. What's your alibi that you were going to present?

11 A. My alibi. I were at the club.

12 Q. Your brother would have testified to that; would say
13 you were at the club?

14 A. Daryl Jones would testify I was at the club.

15 Q. Daryl Jones in the transcript?

16 A. He would testify I was at the club.

17 Q. I'm trying to figure out why you think your lawyer was
18 ineffective.

19 A. Well, she should have presented evidence that would show
20 my alibi through witnesses. She could have presented a wit-
21 ness that knows something about what happened when the offi-
22 cers come knocking on my front door because the Solicitor was
23 saying this was going to be an easy case.

24 You know, if I have a witness here to tell them I was not
25 there all of it would be changed, and she could have done more

APPLICANT ON CROSS

1 investigation and also found about DNA matches of people at
2 the crime scene.

3 She didn't do no investigation. She didn't do question-
4 ing of people, asking for statements and all of these things.
5 The investigation wasn't done properly.

6 Q. So what evidence do you think she could have presented
7 other than your brother's testimony?

8 A. My brother's testimony.

9 Q. That's your main problem with what she did?

10 A. That's the main problem right there along with other
11 things.

12 Q. Did you all talk about why she wasn't going to present
13 your brother as a witness?

14 A. That just came out of nowhere. You know what I'm saying.
15 I was in Court at the same time.

16 Q. So going back, did you all discuss why you didn't testify
17 in your trial?

18 A. Why I didn't testify?

19 Q. Yeah.

20 A. I had a right to remain silent.

21 Q. Oh, certainly.

22 A. That's what we had discussed.

23 Q. So you told her you didn't want to testify?

24 A. She'd known I didn't. She didn't want my testimony.

25 Q. Okay, so in your discussions about that she knew you were

APPLICANT ON CROSS

1 not going to testify?

2 A. Yes, she knew that.

3 Q. Okay, and you have a criminal history, is that correct?

4 A. Yes.

5 Q. Out of New York and South Carolina?

6 A. Yes.

7 Q. Does your brother have a criminal history?

8 A. I know what he has done personally, you know.

9 Q. You just don't know?

10 A. I mean, I know he driving without a license but anything
11 else I don't know too much.

12 Q. And just to clarify about the Indictment for your charge
13 of possession of a weapon during a violent crime, you believed
14 that they couldn't use the weapon in your murder trial be-
15 cause they dismissed that charge?

16 A. I mean, that's what they did. The charge of possession
17 of a weapon during a violent crime and the thing with that
18 knife -- this charge of the weapon was dismissed.

19 Q. That was your understanding that they . .

20 A. I was told that by my lawyer. She said that Indictment
21 is no more, and she tell me it was dismissed.

22 Q. So you are saying that your attorney said that wasn't
23 going to come in the murder trial?

24 A. Right. She said it wasn't; that it was dismissed.

25 Q. And you said they had an investigator and you spoke to

APPLICANT ON CROSS

1 that investigator?

2 A. Yes.

3 Q. Is that correct?

4 A. Yes.

5 Q. What did you all speak about?

6 A. He ask me questions and I give him what he asked for. He
7 asked me the witnesses and the club where I was at that night
8 of my alibi.

9 Q. Did you give him names of people that were in the club?

10 A. I didn't know everybody that was at the club.

11 Q. So you did or you did not?

12 A. Yeah, I told him the ones I know were at the club.

13 Q. And do you know if he did go out and try to find those
14 people?

15 A. He said he did.

16 Q. He told you he went looking for them?

17 A. He said he did.

18 Q. Okay, and you said during the beginning of your testimony
19 to Mr. Waller that you spoke to Ms. Hinds about whether you
20 had any knowledge of what had happened, and what did you tell
21 her in response?

22 A. I didn't know what happened and she did not ask me my
23 knowledge of what happened. She know my answer and she just
24 -- she know I wasn't there and I spoke to her four or five
25 times and told her about witnesses she need to talk to. That

APPLICANT ON CROSS

1 was it.

2 Q. And so you maintained your innocence to Ms. Hinds through-
3 out that entire year of her visitation?

4 A. I maintained my innocence.

5 Q. You said you were innocent to her?

6 A. Yes, sir.

7 Q. That's all the questions I have.

8 THE COURT: All right. Any Redirect?

9 MR. WALLER: Just briefly, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. WALLER:

12 Q. Mr. Powell, when you were talking about an alibi were
13 you talking about the club you went to?

14 A. Right.

15 Q. You were with people, at least one person who testified
16 at trial, the entire time, is that right, or most of the time?

17 A. Right.

18 Q. Okay, and you talked about you gave her witnesses, and
19 you said you were not at home.

20 A. Yes.

21 Q. The witnesses that were at your home that night that the
22 knife was found?

23 A. Yeah.

24 Q. So those witnesses were about the knife?

25 A. Yeah.

APPLICANT ON REDIRECT

1 Q. On cross examination you said that you -- that the issue
2 with the cross examination of Mr. Mellard of law enforcement
3 was regarding how they found that knife?

4 A. Right.

5 Q. Okay, and I want to -- I guess I just want to go back to
6 it and again talk a little bit more about the porch and see if
7 we can kind of break down this cross examination.

8 MR. WALLER: Your Honor, may I approach just a little
9 bit?

10 THE COURT: You may.

11 BY MR. WALLER:

12 Q. You said -- I believe you testified this was about the
13 size, that strip. Okay, where was the doorway?

14 A. I will try to show you this . .

15 Q. Let's do it this way, if we can. If this is the porch
16 right here, where is the door?

17 A. . .

18 Q. Where is the front door?

19 A. Okay, over here -- this is a little small right here but
20 this is . .

21 THE COURT: What we can do is have the ability for him
22 to demonstrate on the screen if that would be helpful. Like
23 at the screen. Would that be helpful to actually draw the
24 door?

25 A. I have these . .

APPLICANT ON REDIRECT

1 THE COURT: I know that. Here's what I need you to do.
2 Listen to your lawyer because I think he wants you to work
3 with him.

4 WITNESS: Okay.

5 BY MR. WALLER:

6 Q. Mr. Powell, do you recall whether this picture was admit-
7 ted in evidence during your trial?

8 A. Yes, sir.

9 THE COURT: You can step up and ask and you can draw on
10 the sceen. Are you okay?

11 MR. WALLER: I think we're okay, Your Honor.

12 THE COURT: Good.

13 Q. Mr. Powell, I'm going to show you what's going to be
14 marked for identification purposes as Applicant's Exhibit 1,
15 and it's two sided. Let me ask if you recognize that picture?

16 A. Yes, sir.

17 Q. Okay. How do you recognize that picture? What is it?

18 A. It's my mom's house and this is my brother's car. Two
19 cars.

20 Q. Okay. Was that picture presented at your trial?

21 A. Yeah.

22 Q. And these pictures were taken by law enforcement?

23 A. Yes..

24 Q. Okay, is that an accurate depiction of the front porch
25 as it looked that day or the last time you saw it?

APPLICANT ON REDIRECT

1 A. Yes.

2 Q. Okay. You say that was admitted at trial?

3 A. Yeah.

4 MR. WALLER: Your Honor, I would move to admit Appli-
5 cant's Number 1. It was -- it is my understanding it was ad-
6 mitted at trial so it is a part of the record.

7 THE COURT: Okay. Any objection?

8 MR. NEELY: I would object, Your Honor. I haven't seen
9 the picture before. There is no exhibit sticker on that evi-
10 dence. I have no way to vindicate it or believe that it was
11 used at trial or is in the record.

12 THE COURT: Have you seen the exhibits from the trial?

13 MR. NEELY: I have not, Your Honor.

14 THE COURT: I understand, and, Mr. Waller, have you had
15 an opportunity to see the exhibits from the trial?

16 MR. WALLER: Your Honor, I have not . . .

17 THE COURT: Guess what? This is a Dorchester County case
18 and we can get them but this is Orangeburg.

19 (Brief pause)

20 THE COURT: Well, the purpose is that you can show me
21 what he is trying to tell me. Is that correct?

22 MR. WALLER: That's correct, Your Honor.

23 THE COURT: I'm going to admit it for that purpose. In
24 the event this is not in the record -- have you seen it this
25 morning?

APPLICANT ON REDIRECT

1 MR. NEELY: He showed it to me, Your Honor.

2 THE COURT: Got you. I'm going to allow it for the demon-
3 strative purposes so I'll know where the porch is.

4 MR. WALLER: Thank you, Your Honor.

5 THE COURT: Absolutely.

6 (Photograph admitted as Applicant's Exhibit 1 over objec-
7 tion)

8 BY MR. WALLER:

9 Q. The picture is on two sides.

10 A. . .

11 THE COURT: Taken in the investigation?

12 MR. WALLER: Yes, Your Honor, taken by law enforcement.

13 I think most of the pictures are of the porch. There's two
14 cars or a car.

15 THE COURT: Okay.

16 Q. And, Mr. Powell, where -- what is your understanding of
17 where that knife was found in relation to the front door?

18 A. It would be on the porch under the door.

19 Q. Okay, and is that the small dark object that can be seen
20 in that picture?

21 A. Yes, sir.

22 Q. Okay, and was your -- what is your contention about how
23 somebody could walk up to the door and not see it?

24 A. That's impossible. It's impossible not to see that.

25 Q. Okay, and so in response to Mr. Neely's question on cross

APPLICANT ON REDIRECT

1 examination that is what you think Mr. Mellard did not ask on
2 cross examination?

3 A. Right.

4 Q. Okay. No further questions.

5 THE COURT: Mr. Neely.

6 MR. NEELY: Nothing further from the State, Your Honor.

7 THE COURT: All right. You can go back down to your
8 table by Mr. Waller.

9 (Witness excused from stand)

10 THE COURT: All right, call your next witness.

11 MR. WALLER: Thank you, Your Honor. We'd call Maurice
12 Tucker.

13 THE COURT: All right.

14 MAURICE TUCKER, being duly sworn,

15 testified as follows:

16 CLERK: State your full name for the record.

17 WITNESS: Maurice Tucker

18 THE COURT: Good morning, Mr. Tucker.

19 WITNESS: Good morning, Your Honor.

20 THE COURT: If you would get sort of situated and if you
21 would get closer to the microphone. Your voice keeps dropping
22 so we need you to speak up. If you need water just let us
23 know.

24 WITNESS: Thank you.

25 THE COURT: State your name again for the record.

M. TUCKER ON DIRECT

1 WITNESS: Maurice Tucker.

2 THE COURT: I can hear you just fine. Thank you so much.

3 Your witness.

4 DIRECT EXAMINATION

5 BY MR. WALLER:

6 MR. WALLER: Thank you, Your Honor. May it please the
7 Court.

8 Q. Mr. Tucker, how are you?

9 A. I'm good.

10 Q. Mr. Tucker, you are here by subpoena, is that right?

11 A. Yes, sir.

12 Q. Mr. Tucker, you were at the home when law enforcement
13 came there looking for your brother, is that correct?

14 A. Yes, sir.

15 Q. And do you live there or where do you live?

16 A. I stay on (inaudible) Road with my wife.

17 Q. Okay, but you happened to be there that morning when . .

18 A. I came up there.

19 Q. Did you speak with his lawyers about being there that
20 morning?

21 A. . .

22 Q. Did anybody contact you?

23 A. Yes.

24 Q. What did you all talk about?

25 A. She was asking me did I see the knife there. I

M. TUCKER ON DIRECT

1 told her I didn't.

2 Q. Okay, and had you been through that door . .

3 A. I was the first one through there.

4 Q. Okay, so you walked through that door?

5 A. Straight through there.

6 Q. And you didn't notice that?

7 A. I didn't see it.

8 Q. And is that what you told Ms. Hinds?

9 A. Yes, I did.

10 Q. Were you subpoenaed to testify?

11 A. Yes, I was. I think I was but she said that they no

12 longer needed me.

13 Q. Okay, and that is your understanding of what you were
14 going to testify about, that you had walked through that door
15 and not seen the knife?

16 A. That's what I thought, yes.

17 Q. No further questions. Thank you.

18 THE COURT: Cross examination.

19 MR. NEELY: Just briefly.

20 CROSS EXAMINATION

21 BY MR. NEELY:

22 Q. Did she tell you why she didn't call you as a witness?

23 A. No.

24 Q. She didn't give you any reason?

25 A. No.

M. TUCKER ON DIRECT

1 Q. Mr. Tucker, do you have a criminal history?

2 A. A failure to stop for a blue light and that's it right now.

3 Q. That's all the record you have? Do you have pending charges?

4 A. That's all I have, a failure to stop.

5 Q. Do you have any pending charges right now?

6 A. No.

7 Q. Okay, and just for clarification, you and Mr. Powell, you
8 have different last names and different fathers?

9 A. Yes.

10 Q. Same mother?

11 A. Same mother.

12 Q. That's all the questions I have.

13 THE COURT: Any Redirect?

14 MR. WALLER: Nothing further. May Mr. Tucker be excused?

15 THE COURT: I was going to tell him that he is welcome to
16 participate as this is a public Courtroom. So you are welcome
17 to stay but you are also welcome to be released from your sub-
18 poena. Thank you for being here.

19 (Witness excused from stand)

20 THE COURT: All right, call your next witness.

21 MR. WALLER: We'd call Ms. Hinds.

22 THE COURT: All right, Ms. Hinds.

23 MARGARET HINDS, being duly sworn,
24 testified as follows:

25 CLERK: State your full name for the record.

M. HINDS ON DIRECT

1 WITNESS: Margaret Elizabeth Hinds.

2 THE COURT: All right, your witness.

3 MR. WALLER: Thank you, Your Honor. May it please the
4 Court.

5 DIRECT EXAMINATION

6 BY MR. WALLER:

7 Q. Good morning, Ms. Hinds. How are you today?

8 A. I'm good, thank you.

9 Q. Ms. Hinds, how did you come to represent Mr. Powell?

10 A. I was Court-appointed to Mr. Powell by the Clerk of
11 Court.

12 Q. When was that?

13 A. November 17th of 2010.

14 Q. Okay, and do you have any notes as far as when you first
15 went to see him?

16 A. I do, on December the second of 2010.

17 Q. Okay. Do you recall what you all talked about in that
18 first meeting?

19 A. The first meeting we talked about -- we went over what he
20 was charged with, the exposure or potential penalty, the ele-
21 ments, that sort of thing. At that point I did not have any
22 discovery so I asked him about what happened.

23 Q. Okay, and after you got the discovery -- was that then
24 shortly afterward?

25 A. I got discovery January 6th -- no, December 6th.