

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Williamsburg County

Honorable R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TERRY WILLIAMS,

APPELLANT

APPELLATE CASE NO 2015-001727

RECORD ON APPEAL

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SW - T. GREENE - DIRECT

1 been previously admitted as State's Exhibit Number
2 4. In relationship to this particular exhibit,
3 we're facing the club; is that right?

4 A Yes.

5 Q All right. In relation to that particular
6 exhibit, show us where you noticed the defendant's
7 vehicle the second time?

8 A Right here.

9 Q No, do it on the monitor.

10 A On here.

11 Q On the projector.

12 A (Indicating.)

13 Q It was where the back it was?

14 A It was back there.

15 Q So was his vehicle then facing the front of the
16 night club?

17 A Yes.

18 Q All right. If someone had parked facing the
19 front of the nightclub would they have a better view
20 of what was going on in that awning area there?

21 A Yes, ma'am.

22 Q And if someone had moved the vehicle and they
23 were facing them, facing the front of the club, they
24 would have been facing Terry and Larry's vehicle as
25 well, correct?

SW - T. GREENE - DIRECT

1 A Terry, yes, sir.

2 Q Reva and Larry's -- the vehicle that Reva and
3 Larry rode in, you testified that it was parked in
4 front of the nightclub?

5 A Yes.

6 Q So if Mr. Williams' vehicle were moved from the
7 cut as you describe it, to park directly in front of
8 the club, would an individual in that position have
9 a better view of the area, the covered carport as
10 you call it?

11 A Yes, ma'am.

12 Q Would that person have a better view of Reva and
13 Larry's vehicle?

14 A Yes.

15 Q You said you did not see when the vehicle was
16 moved?

17 A No, but I know Mr. Williams didn't move it 'cause
18 he was standing under the car porch with me.

19 Q All right. When Terry -- I'm sorry, when Larry
20 and Reva went in their vehicle --

21 A Uh-huh.

22 Q --could you tell what, if anything, they were
23 doing inside the vehicle?

24 A They didn't even stay in the vehicle. It just
25 seemed like he just, like, opened the door and

SW - T. GREENE - DIRECT

1 closed it and went back in the club.

2 Q Okay, all right. Did he walk past you?

3 A Yes.

4 Q Okay, all right. When he walked past you did you
5 see any weapons or firearms on Reva?

6 A No.

7 Q Did you see any weapons or firearms on Larry?

8 A No.

9 Q Okay. At any point in that night did you ever
10 see any firearms on Reva or Larry?

11 A No.

12 Q Okay, all right. Now let's go back to State's
13 18, the covered carport area. Tell us what happened
14 next.

15 A Well, we were sitting here. Levonne Croker was
16 standing like right here on the opposite side of the
17 table. Terry was standing over here.

18 Q Okay.

19 A And Terry was sitting there drinking his beer. I
20 think if I'm not mistaken I may have had a beer then
21 too. Larry came out the club. Maybe about three
22 minutes after him and Reva left, went to the truck,
23 went back in the club, it was probably about three
24 minutes when he came back outside and he just stood
25 there.

SW - T. GREENE - DIRECT

1 Q Who just stood there?

2 A Larry. When he came out the club he just stood
3 with his arms like this.

4 Q Where was he at when he came out the club? Use
5 this part for me please.

6 A He was standing right here.

7 Q Okay. And ---

8 A Terry was standing right here.

9 Q Okay. And so the record is clear, you've
10 indicated that Larry who'd be facing the picnic
11 table, he would be to the right of the picnic table;
12 is that correct?

13 A Yes.

14 Q All right. And Mr. Williams would have been to
15 the left of the picnic table; is that right?

16 A Yes.

17 Q Okay. And you said that Larry came out, stood
18 there, and did what now?

19 A He just folded his hands like this; he didn't
20 even say anything.

21 Q All right. I want you to face the jury. Show
22 them how Larry, what he did specifically when he
23 came out and stood there by the picnic table.

24 A When he came out he had a styrofoam cup in his
25 hand. He sat it on the corner of the table where I

SW - T. GREENE - DIRECT

1 was sitting, and he just stood there like this
2 (indicating).

3 Q All right. And when you say like this, you are,
4 so that we're clear, you are holding your hands,
5 have them crossed underneath your stomach?

6 A Yes.

7 Q And then what happened?

8 A And then that's when Mr. Williams asked him, what
9 the fuck are you looking at; and Terry told him,
10 Larry told him, these are my fucking eyes, I can
11 look where I want to look.

12 Q Now when Mr. Williams asked Larry the question,
13 what the F are you looking at, had Larry moved in
14 any way, or was he still standing there?

15 A No, he was still, he was still just standing
16 there.

17 Q Okay, and then when Larry made the response back
18 to Mr. Williams, these are my F'ing eyes, I can look
19 where I want to look, had Larry moved at any point
20 in time?

21 A No.

22 Q When he said that, then what happened?

23 A And then Terry, he said, okay, he dropped his
24 head and he walked off.

25 Q Okay. Describe — turn around and face the jury.

SW - T. GREENE - DIRECT

1 Describe again what Terry did and how he did it and
2 what he said.

3 A Basically he was like, okay, and he walked off.

4 Q Okay. And which direction did he walk?

5 A He walked out of the carport. He came out of the
6 car porch.

7 Q All right. Publish State's 4. All right, using
8 the diagram that's on the projector, show the jury
9 the direction in which Mr. Williams walked. And
10 I'll give you the pointer.

11 A He came out of here and by the time he could get
12 to the dirt I was gone.

13 Q Okay. By the time who can get to the dirt?

14 A By the time Terry got to the dirt I was inside.

15 Q Tell us what was it that made you say, or made
16 you decide to go inside?

17 A Because when Larry came out and after Terry said,
18 okay, and walked off, Larry said go inside Reva. He
19 said go in the club; he was talking to Reva.

20 Q Okay.

21 A And he said, the first time he said go in the
22 club she didn't say anything. He said again, he
23 said, go in the club. Then the third time he said,
24 Reva, go in the club. When he said it the third
25 time, that's when I got up and I left.

SW - T. GREENE - DIRECT

1 Q Why?

2 A 'Cause I — no, I'm not gonna stick around to
3 find out what was going on.

4 Q Okay.

5 A I sure wasn't gonna sit around, huh-uh, huh-uh.

6 Q Okay, all right. So when Larry made the comment
7 to Reva the third time to go into the club where was
8 Larry? Where was he physically the last time you
9 saw him?

10 A He was standing under, he was still standing by
11 the corner of the picnic table 'cause I basically
12 walked around him to go inside.

13 Q Okay. You had to walk around him?

14 A Uh-huh.

15 Q Is that a yes?

16 A Yes.

17 Q And again, for the context, we're back on State's
18 18. When Larry told Reva to go into the club and
19 you decided you were going to go inside the club,
20 where was Larry?

21 A Standing right here.

22 Q Okay, all right. Where was Von?

23 A Right there.

24 Q All right. And went into the club, all right,
25 what happened next?

SW - T. GREENE - DIRECT

1 A When I got into the club it was probably about, I
2 want to say at least not even three minutes 'cause I
3 didn't even make it halfway towards the first pool
4 table in the club, and that's when I heard shots
5 going off.

6 Q Okay. Let me ask you this, when Larry comes out
7 and he's standing there looking at Terry, where is
8 Reva when Larry first comes out?

9 A She was standing right beside him.

10 Q All right. Did they walk out together?

11 A Well, he came out. She was like right behind
12 him. It wasn't like they came out the door actually
13 together, but he came out and then she came out.
14 She was standing right beside him.

15 Q All right, let's go back to State's Exhibit
16 Number 5. Using the monitor, can you see this, the
17 general area of where the defendant's vehicle would
18 have been?

19 A Yes.

20 Q Okay. Point on there using the particular
21 diagram.

22 A Right here.

23 Q Okay. All right, that night were there any cars
24 to the right or to the left of the defendant's
25 vehicle?

SW - T. GREENE - DIRECT

1 A I'm not sure.

2 Q Okay. And for clarity, was the defendant vehicle
3 back into the area or was the front of the vehicle
4 facing that area. And that's a little ditch back
5 there?

6 A Yes, ma'am.

7 Q Was the front of his vehicle facing the ditch?

8 A No.

9 Q So the rear of his vehicle was facing the ditch?

10 A Yes.

11 Q All right, you can have a seat.

12 A (Complies).

13 Q All right. After the shooting happened — well,
14 first of all, you said you started hearing gun
15 shots. Describe the gunshots to the jury.

16 A Well, they were loud. They were consistent, like
17 constantly. It's not like someone was shooting a
18 handgun to where you got a pow and you have another
19 pow. It was like boom, boom, boom, boom, boom,
20 boom, boom, like. I remember seven of them. I
21 remember hearing seven shots.

22 Q Boom, boom, boom, boom, boom, boom?

23 A Yes.

24 Q All right. What was going through your mind at
25 that time?

SW - T. GREENE - DIRECT

1 A At that time I, I mean, word like, you know, you
2 can't believe what you hear on the street but
3 everybody was saying that ---

4 MR. KENT: Objection.

5 BY MS. BARR:

6 Q Hold on. Hold on. Don't tell me what anybody
7 was saying on the street. Were you scared?

8 A Yes.

9 Q You heard gunshots?

10 A Yes.

11 Q What happened next?

12 A Well, after that I was in, basically I was in
13 like the, almost in the bathroom of the club. And I
14 sat there and waited for a while and about a couple,
15 I say maybe two, not even two minutes after the
16 shots we heard a banging on the door.

17 Q Okay.

18 A And I'm not sure if it was Reva or who it was,
19 they just kept saying, help me, help me, so I
20 assumed it is Reva.

21 Q Then what happened?

22 A And I told Ms. Celestine, don't open the door
23 because we didn't know what was going out there.

24 Q Okay.

25 A And then about two, three minutes after that, I

SW - T. GREENE - DIRECT

1 don't even remember who the guy was but he opened
2 the door to see what was going on. He was like, oh,
3 ain't nobody out here so I got in the car and I
4 left.

5 Q Okay, all right. When you first went into the
6 club after Larry told Reva to go into the club, what
7 did you do? Tell me the activities you did between
8 the time you went back in the club and the time you
9 heard gunshots?

10 A Well, when I walked, like I say, when I walked
11 in, as soon as I walked in, when I got like half way
12 of the pool table, the first pool table, that's when
13 I heard the shots. So I went over in the corner
14 'cause she has, like, blocks of wood that she puts
15 in her wood heater and all -- it was probably a good
16 15, maybe 20 people in that corner.

17 Q All right. Let's do this, I want you to time it
18 for me, okay? I'm gonna show you a stop clock. Is
19 that at 0?

20 A Yes.

21 Q I want you to press this stop clock and that will
22 indicate when you got up to go into the club, okay?

23 A Uh-huh.

24 Q And I want you to tell me when to stop it when
25 you heard gunshots, okay?

SW - T. GREENE - DIRECT

1 A Okay. All right.

2 Q Go ahead and press it. And again, this is the
3 time where you said, okay, the third time Larry
4 tells her to go in the club, and then we're gonna
5 stop it when you tell me to stop it. Tell me when
6 you press the start button.

7 A Now.

8 (Pause.)

9 THE WITNESS: About now.

10 BY MS. BARR:

11 Q Okay.

12 A Seventeen seconds.

13 Q And that's — here's what I want to ask you. You
14 said that it was no longer than three minutes. And
15 three minutes sounds like —

16 A A little bit of time.

17 Q A little bit of time, but it's really a long
18 time, I guess, depending on what you're doing.

19 A Yes.

20 Q So in terms of the timing between the two events,
21 when you get up to leave and when you hear the shots
22 it's your testimony here it's about 17 seconds?

23 A Yes.

24 Q In fact, you indicated that as you go into the
25 club you don't even make it where?

SW - T. GREENE - DIRECT

1 A I didn't even make it all the way in the little,
2 thing by the bathroom.

3 Q Okay.

4 A It was, like I said, I was half way to the first
5 pool table 'cause she has two pool tables. One is
6 set a long way like this and then one is set the
7 long way like this.

8 Q Okay.

9 A And I walked past the one that was set up like
10 this.

11 Q Okay.

12 A That's where she -- the DJ was set up on that
13 table.

14 Q All right. Now I forgot to ask you, Ms. Greene,
15 where were you parked? Where was your vehicle
16 parked?

17 A On the opposite side of the outer.

18 Q Can you come down for a minute and show me?

19 A (Complies.)

20 Q I publish State's Exhibit Number 4. Can you see
21 where you were parked on your vehicle on that
22 photograph?

23 A Yes.

24 Q Can you point to it on the projector?

25 A Right here.

SW - T. GREENE - DIRECT

1 Q Okay. After the shooting is over and you got up
2 and you said you left as you described it, which
3 door did you come out of?

4 A I came out of the side door.

5 Q The same door you went in?

6 A Yes, ma'am.

7 Q Okay. When you -- and so, is there a little area
8 here where you can, you would have been able to
9 access your vehicle? Did you have to come all the
10 way out in front of the awning area to go through
11 the vehicle?

12 A Yes.

13 Q You would have had to come all the way at --
14 okay. When you came out this way did you see
15 anything unusual in the roadway?

16 A Yes.

17 Q Okay, tell us about that.

18 A Well, when I came out it was -- I looked to my
19 left. When I came out of here I looked to my left
20 and I seen there was a blue, it was a blue fitted
21 baseball cap that had stars on it, and that was the
22 same hat that Larry had on.

23 Q Okay. Where did you see that at?

24 A It was -- well, this truck wasn't here.

25 Q Let's see if we can get one where -- let me ask

SW - T. GREENE - DIRECT

1 you this, do you see the area where you saw the hat
2 at in this picture?

3 A Yes.

4 Q Let's publish State's Exhibit Number 3. That
5 area also shows the front of the night club; is that
6 correct?

7 A Yes.

8 Q All right. Tell us where you saw that same blue
9 hat that Larry was wearing?

10 A If this is the picture from that night it was
11 right beside that styrofoam cup sitting there 'cause
12 the cup was just sitting there like he sat it on the
13 ground. It just looked like he just put it there,
14 and his hat was laying right beside it.

15 Q And again, I'm sorry, point to that area again
16 here.

17 A Right there.

18 Q Okay, all right. Take a seat again.

19 A (Complies.)

20 Q When you indicated to us that you observed
21 Mr. Williams walking to his vehicle, describe his
22 gate as he went to his vehicle? I mean, was it like
23 I'm walking to you now, was it a run, was it a jog,
24 how would you describe the walk to the vehicle?

25 A I mean, it was just, he just basically like

SW - T. GREENE - DIRECT

1 walked away, just walked. I mean, you know, just,
2 he didn't run, he didn't jog, it was just like a
3 medium pace.

4 Q Okay. When he walked to his vehicle -- well, let
5 me ask you this, after the shootings happened did
6 you see any blood?

7 A Yes.

8 Q Okay. And where was the blood?

9 A In front of Ms. Celestine's right in front of the
10 front door.

11 Q Okay.

12 A (Witness steps down.)

13 Q I'm going to publish what's been previously
14 admitted as State's Exhibit Number 4. Does that
15 represent some of the blood stains that you saw that
16 night?

17 A Yes. Those, that was, it looks like the second
18 set that I see.

19 Q That was the second set? What was the first set?

20 A That was over by the door.

21 Q Okay. Let's publish State's 3. Can you see in
22 that general area what's depicted there?

23 A No, it would be under -- well, if it would be on
24 the right of that cup.

25 Q I'm not gonna ask you to get down again. You can

SW - T. GREENE - DIRECT

1 have a seat.

2 A (Complies.)

3 Q Ma'am, after you came out of the club and after
4 you walked from underneath the carport area you
5 indicated that you observed Larry's hat; is that
6 right?

7 A Yes, ma'am.

8 Q Observed blood on the ground?

9 A Yes.

10 Q All right. Did you ever see a firearm on the
11 ground?

12 A No.

13 Q Let me ask you this, when Larry asked Reva to go
14 into the nightclub, to go back inside, did you ever
15 hear Reva shout Larry's got a gun?

16 A No. Only thing she said when he told her to go,
17 he told her the first time, he said, he just said go
18 in the club.

19 Q Okay.

20 A Then he said it a second time, go in the club,
21 and she told him no.

22 Q She told him no?

23 A Yes.

24 Q You — did you ever hear her say, no, Terry,
25 Larry's got a gun?

1 A No.

2 Q Did you ever hear her say, no, Larry, Terry's got
3 a gun?

4 A No.

5 MS. BARR: Beg the Court's indulgence.

6 THE COURT: Yes, ma'am.

7 BY MS. BARR:

8 Q Ma'am, that's all the questions I have for you
9 right now. Please answer any questions that Mr.
10 Kent or Mr. Schwartz or the Court may have, okay?

11 THE COURT: Thank you. Thank you,
12 Solicitor.

13 Mr. Kent.

14 MR. KENT: Thank you.

15 **CROSS-EXAMINATION**

16 BY MR. KENT:

17 Q We've met several times, and I don't have very
18 many questions today. And you've been in the
19 courtroom for the majority of the trial, correct?

20 A Yes.

21 Q And you were in here yesterday. There was a
22 suggestion that you actually had gotten inside of
23 the vehicle by one of the State's witnesses, that
24 you had gotten inside of the vehicle which Terry
25 Williams was a passenger. Is that true?

SW - T. GREENE - CROSS

1 A No, sir.

2 Q You never got inside of the vehicle?

3 A No, sir.

4 Q And you heard that testimony?

5 A Yes.

6 Q But you never got in the vehicle or anything of
7 that nature?

8 A No, sir.

9 Q All right. You had mentioned something about the
10 hat. Do you know what ended up happening to that
11 hat?

12 A I'm not sure. I know it was left on the ground.
13 When I left it was on the ground. It was just a hat
14 and that cup.

15 Q And but you don't know if someone picked it up,
16 took it, whatever happened to that hat.

17 A I don't know.

18 Q And like I said, and then finally, or not
19 finally, the last question they were asking a big
20 deal about the vehicle that Terry Williams was in
21 moving. I think it's your testimony that Terry
22 Williams clearly wasn't the one that moved the
23 vehicle anywhere?

24 A No, see, he wasn't driving. I mean, when I spoke
25 with him that night he wasn't driving. He was in

1 the passenger seat when I spoke to him that night
2 and he was under the car porch when his truck was
3 moved.

4 Q So there can't be an allegation or a theory or
5 something that Terry moved his vehicle 'cause he was
6 next to you, he couldn't have moved it?

7 A No, he didn't move the vehicle 'cause he was
8 under the car porch with me. Whoever was driving
9 his vehicle moved it.

10 Q And then there was a question about guns.
11 There's no allegation, you didn't see anybody with a
12 gun out there at all?

13 A No.

14 Q Okay. And you weren't looking for anybody with a
15 gun out there. That's nothing you take to process
16 in looking to see if someone has guns on them?

17 A Mind my business.

18 Q Not your business, not looking, not checking
19 anybody, but you didn't see anything in anyone's
20 hand?

21 A No.

22 Q You don't got x-ray vision or anything like that
23 to see where someone could have had one?

24 A No, sir.

25 Q And then finally at some point in time you

SW - T. GREENE - REDIRECT

1 became uncomfortable, became nervous before anything
2 started and you went inside the building?

3 A Yes, sir.

4 Q All right. And then finally, you don't know what
5 happened after that?

6 A No.

7 Q No clue, you weren't outside, that's not your
8 testimony today, you don't know what happened?

9 A No.

10 Q Thank you so much, Tabitha.

11 THE COURT: Redirect, Solicitor?

12 MS. BARR: Just a couple of followup
13 questions.

14 **REDIRECT EXAMINATION**

15 BY MS. BARR:

16 Q Ms. Greene, had you seen the individual who was
17 initially in the driver's seat when you approached,
18 when you first approached Mr. Williams in the cut as
19 we describe it?

20 A Can you repeat that.

21 Q Did you recognize the individual who was in the
22 driver's seat at the time you first approached
23 Mr. Williams when his vehicle was parked in the cut?
24 Did you recognize the person who was in the driver's
25 seat?

SW - T. EPPS - DIRECT

1 A Yeah, we call him Wolfman.

2 Q Wolfman?

3 A Yes.

4 Q Do you know his real name?

5 A No.

6 Q Do you know what his relationship is to the
7 defendant?

8 A I think he's his cousin.

9 Q That's all the questions I have.

10 THE COURT: Recross, Mr. Kent?

11 MR. KENT: Nothing further of this
12 witness, Your Honor.

13 THE COURT: Thank you. Thank you,
14 Ms. Greene. You may step down.

15 All right, Solicitor.

16 MS. BARR: The State calls Tifton Epps.

17 WHEREUPON,

18 **TIFTON EPPS,**

19 having been duly sworn by the Clerk, testified
20 as follows:

21 THE CLERK OF COURT: You may take your
22 seat in the witness box.

23 **DIRECT EXAMINATION**

24 BY MS. BARR:

25 Q Mr. Epps, good morning.

SW - T. EPPS - DIRECT

1 A How are you?

2 Q Doing good, sir. State your full name for us.

3 A My name is Tifton Epps.

4 Q Put your seat closer to the mic so we can all
5 hear you, okay. All right. Sir, you're a resident
6 of, at one point was a resident of Williamsburg
7 County?

8 A Yes.

9 Q All right. Was Greeleyville your home town?

10 A Yes.

11 Q Okay, all right. And sir, do you, did you know
12 Larry Moore, Jr.?

13 A Yes.

14 Q All right. How long did you know Larry?

15 A Since he was born.

16 Q All right. Are you related to him or were the
17 two of you friends or what?

18 A We were friends.

19 Q Okay. Now you were at the club back on the night
20 of November 10, 2013. And for clarity, the club I'm
21 talking about is Celestine's, formerly known as
22 Viola's?

23 A Yes.

24 Q Okay, all right. Did you arrive at the club --
25 what time do you think you got there?

SW - T. EPPS - DIRECT

1 A I'd say it was around like ten.

2 Q Okay. When you arrived there was the defendant
3 there, Mr. Williams?

4 A I don't know. I didn't see him.

5 Q Okay. What about Reva or Larry, were they there?

6 A Yeah, they were there already.

7 Q Okay. When you arrived where were they?

8 A At the pool table shooting pool.

9 Q Okay. And what kind of mood did they appear to
10 be in when you got there?

11 A They seemed to be happy to me.

12 Q Okay, all right. And how long did you stay?

13 A I might have stayed about an hour-and-a-half.

14 Q Okay. And what were you doing while you were
15 there? Shooting pool or having a drink or whatever?

16 A Yeah, I was just out there drinking.

17 Q Okay. Did you see the -- at some point did you
18 ever see the defendant at the club?

19 A No, I didn't.

20 Q All right. You know what time you left?

21 A It was, I think, around like 11:50, 11:55,
22 somewhere around there.

23 Q Was anybody with you?

24 A Yeah, my girlfriend was.

25 Q Your girlfriend was with you. When you left did

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1 your girlfriend leave as well?

2 A Yes.

3 Q All right. At some point in time did you go back
4 to the club?

5 A Yeah, I did.

6 Q Okay, all right. Tell us about what happened
7 when you went back to the club?

8 A When I went back ---

9 Q Why did you go back?

10 A I left my food.

11 Q You ordered some food and then you left, you left
12 and forgot it?

13 A Yes.

14 Q So when you realized that, how far had are you
15 gotten away from the club before you realized that
16 you left your food?

17 A It probably was about around like two, three
18 minutes.

19 Q Okay. So you turned back around to go back?

20 A Yeah.

21 Q Tell us what happened when you went back?

22 A When I got back that's when I seen Reva and
23 Little Larry, she was behind him, and he was on the
24 ground so she was trying to get him to a vehicle.
25 So I pulled back in, that's when she was hollering,

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1 Tifton, help me. So my first words to her when I
2 got out, I was like, who hit him, who knocked him
3 out.

4 Q You thought somebody had just got into a physical
5 fight with him?

6 A Yeah.

7 Q All right. And then what happened?

8 A And then that's when she told me that Terry had
9 shot him up.

10 Q She used the words shot him up?

11 A Yeah.

12 Q Okay. And then what happened?

13 A I picked — I grabbed him on his arms, picked him
14 up and got him in the vehicle. Then after I got him
15 in the vehicle I told her to go, to bring him over
16 to the hospital.

17 Q Okay, you got him in what vehicle?

18 A In the Durango that they were driving.

19 Q All right. Was that the vehicle that Reva was
20 known to drive?

21 A Yeah, that's the car that they just purchased.

22 Q That who just purchased?

23 A Reva and Little Larry.

24 MS. BARR: Judge, I have in my hand
25 State's Exhibits 39 through 53. I understand the

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1 Defendant has no objection. We move to introduce.

2 THE COURT: Correct, Mr. Kent?

3 MR. KENT: That's correct, Your Honor, no
4 objection.

5 THE COURT: State's 39 through 53 is in
6 evidence without objection.

7 (WHEREUPON, State Exhibits No. 39 through
8 53 were admitted into evidence.)

9 BY MS. BARR:

10 Q Mr. Epps, if I can get you to come down off the
11 witness stand please.

12 A (Complies.)

13 Q I'm gonna publish what's been admitted State's
14 Exhibit Number 39. Is that the Dodge Durango that
15 you've known Reva and Larry to drive?

16 A Yes.

17 Q And I'm going to publish State's Exhibit Number
18 4. Can you see from that particular photograph the
19 general area where the Dodge Durango would have been
20 parked when you first came back and saw Little
21 Larry, where would it have been parked? And if you
22 will, point to it on the projector.

23 A It would have parked right in here.

24 Q Okay. And where -- and for the record you were
25 pointing to the front of the club where the metal

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1 bar is, this metal bar? Is that the area you're
2 pointing to?

3 A Well, it wasn't that far off. It was like, it
4 was like right in here.

5 Q Okay, all right. And where was Little Larry's
6 body when you tried to help get him in the car?

7 A Just like right here.

8 Q Okay. All right, how far was Larry's body from
9 the Dodge Durango when he first came back?

10 A It was probably about, I'd say, about no further
11 than like 10-feet.

12 Q Okay. Ten feet from her vehicle?

13 A Yeah, 'cause they were parked like right here.

14 Q Okay.

15 A And see, they were like right in here and the
16 vehicle is like right there.

17 Q Okay. When you told me that you helped to get
18 him into the vehicle, was he talking at all?

19 A No.

20 Q All right. Was he making any purposeful movement
21 on his own?

22 A Huh-uh.

23 Q All right. Now how did you, how did you grab his
24 body physically to help get him in the car?

25 A I grabbed him under his arms.

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1 Q Keep your voice up.

2 A I grabbed him under his arms and lift him up.

3 Q Do you remember what he was wearing that night?

4 A He had on some jeans.

5 Q Okay, all right. Now did you — you had him
6 underneath his arms. Was Reva helping you to carry
7 him as well?

8 A No, I just grabbed him up and she ran on the
9 other side of the truck to, I guess, to help pull
10 him in.

11 Q Okay. And as you're picking him up and grabbing
12 him off of the ground, did you see a firearm in his
13 possession?

14 A No, I didn't.

15 Q Did you feel a firearm in his waistband, in his
16 pockets, anywhere on him?

17 A No, I didn't.

18 Q Was Larry the person that you've known since he
19 was born, was he the kind of person who routinely
20 carry a firearm?

21 A No, I never seen him with one in his possession.

22 Q In your whole life?

23 A Yes?

24 Q You've never seen Little Larry carry a gun?

25 A Never.

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1 Q Okay. Let me ask you this, around the general
2 area where the body, where you found his body and
3 saw the vehicle, did you see any weapons on the
4 ground?

5 A No, I didn't.

6 Q Okay. You can have a seat.

7 A (Complies.)

8 Q I hate to do this to you; I just realized
9 something.

10 A (Steps down.)

11 Q Before I publish them I want to ask you if you
12 recognize what's depicted in State's 45, 44 and 49.
13 Do you recognize what's in those photographs?

14 A Yes.

15 Q All right. Let's first publish State's 44. Tell
16 the jury how it is that you recognize what's
17 depicted in 44.

18 A That's the seat I put behind him.

19 Q Say it again so they can hear you.

20 A That's the back seat that I put his body in to go
21 to the hospital.

22 Q Okay. And as you put his body in the back seat
23 did you see any firearms fall out on to the floor or
24 any firearms in the vehicle?

25 A No, I didn't.

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1 Q I'm gonna publish State's 49. Is that the front
2 seat of that same vehicle?

3 A Yes.

4 Q All right. Do you see any firearms inside the
5 front seat of that vehicle?

6 A No, I didn't.

7 Q All right. What does this appear to look like to
8 you?

9 A It's a cup.

10 Q A cup?

11 A Yes.

12 Q And that would be in part of the vehicle that we
13 will call the center console?

14 A Yes.

15 Q All right. And let me ask you something else,
16 I'm sorry. You may be able to see better on the
17 monitor than here. Does this look like a little
18 jacket, a black jacket?

19 A Yeah, it do.

20 Q Okay. And on that particular night, this is the
21 middle of November?

22 A Yes.

23 Q Do you recall what the temperature was like that
24 night?

25 A It was cold.

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1 Q All right. Go ahead and have a seat.

2 A (Complies.)

3 Q Now as you are leaving the club and you realize
4 you left your food, you turn back, as you are on
5 your way back into the club did you ever see any
6 vehicle speeding away from the club?

7 A No, I didn't.

8 Q What did you do after you helped to load Larry
9 into the car and after you told Reva to take him to
10 the emergency room?

11 A After I left, after she left with him I went over
12 to his parents' house to let them know.

13 Q Okay. And who are Larry's parents?

14 A Jastine and Larry, Sr.

15 Q Okay. Did you ever go out to the hospital?

16 A Yes, I did.

17 Q When were you notified that Larry had passed
18 away?

19 A I was there the whole time.

20 Q Okay. That's all the questions I have. Please
21 answer any questions Defense counsel or the Court
22 may have for you.

23 THE COURT: Thank you, Solicitor.

24 Mr. Kent.

25 **CROSS-EXAMINATION**

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1 BY MR. KENT:

2 Q Tifton, how are you doing?

3 A I'm okay, how are you?

4 Q Good. And I don't have very many questions for
5 you. I know we had met and we talked a little bit
6 in the back, but I don't have very many questions
7 for you. So make sure your keep your voice up just
8 loud enough so everybody can hear everything that
9 you're saying.

10 A I got you.

11 Q First thing first, just to make it very clear,
12 you offer no testimony about anything that actually
13 happened out there. You weren't there for it?

14 A No.

15 Q Don't know what happened?

16 A No.

17 Q And couldn't offer testimony to the jury about
18 what happened that day?

19 A No.

20 Q Okay. You just were getting a pork chop
21 sandwich?

22 A Yeah.

23 Q And everything I've heard, that's a pretty good
24 pork chop sandwich?

25 A It is.

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1 Q And I'm gonna have to try the pork chop sandwich.

2 A All right.

3 Q Do you remember when you were talking to law
4 enforcement when you had — you had given a
5 statement to law enforcement?

6 A Yeah.

7 Q And they were talking to you about a gun, whether
8 or not he had a gun and things of that nature. And
9 you made a comment to law enforcement, something
10 about Larry had changed his life, made a 360 when he
11 got with Reva. What did you mean by that?

12 MS. BARR: Judge, we're gonna — Your
13 Honor, may we approach the Bench.

14 THE COURT: Yes, ma'am.

15 (WHEREUPON, counsel approached the
16 Bench for an off-the-record discussion.)

17 THE COURT: Ladies and gentlemen of the
18 jury, please step out momentarily. Please do not
19 discuss the case.

20 (WHEREUPON, the jury was removed from the
21 courtroom at 10:35 a.m.)

22 THE COURT: All right, Mr. Kent, would you
23 like to proffer the testimony?

24 MR. KENT: Thank you, Your Honor. Your
25 Honor, just in an effort to have a clear record, at

1 the point in which I was cross-examining Mr. Epps I
2 began to get into, I think the Solicitor during her
3 direct and cross-exam, or direct testimony of Mr.
4 Epps was asking about had the victim been known to
5 carry a gun or weapon or anything of that nature and
6 I think he had testified he known him his whole
7 life, he had never carried a weapon, didn't need to
8 carry a weapon, or something of that nature. Your
9 Honor, during the — all I was getting in
10 cross-examination to be very candid I was just gonna
11 ask a very simple question. During the statement
12 that he had given to law enforcement —

13 THE COURT: Let me stop you for just a
14 minute. Are you going to question him?

15 MR. KENT: Yes, sir.

16 THE COURT: Sheriff, would you have him
17 step out into the hall way.

18 And then I'll bring him back in after I
19 hear your argument.

20 MR. KENT: Yes, sir, Judge, thank you. I
21 apologize.

22 THE COURT: No, I just, I would rather him
23 be pristine as far as your testimony and let me hear
24 your argument.

25 MR. KENT: Thank you. And candidly, Your

1 Honor, during the statement that he had given to law
2 enforcement and it seemingly was going right along
3 the questions that Ms. Barr was asking him about,
4 she was asking directly from the statement. It
5 started out, have you ever seen him with a gun — or
6 I'm sorry, it started out, let me ask you that, did
7 you see Larry with a gun. No, he didn't have a gun.
8 As a matter of fact, when I would see him I would
9 ask him is everything good. And he was like, I've
10 never known him to tote a pistol. Have you ever
11 seen him with one? No. Has he ever talked about
12 having one? No, he never has himself a pistol,
13 which is going right along the line of what Ms. Barr
14 was asking. Thereafter, law enforcement, actually
15 Mr. Epps stated to law enforcement truthfully
16 speaking though, after he lied to Reva I know
17 everybody was beating her up saying this was her
18 fault. After he got with her he made a 360 in his
19 life. So the question, of course, Your Honor, what
20 necessarily was going to follow is that this witness
21 was saying he has good character, he doesn't carry a
22 gun, I don't know him to do anything like that is
23 what he put forth to the jury. And then later he
24 had made a statement and I was just going to ask him
25 what did he mean he made a 360 in his life. If he

1 was good person, then at some point he made a 360 in
2 his life. I don't think that's a full -- a 360 in
3 life according to the testimony. I was asking what
4 changed in his life to make him no longer be the
5 person who doesn't carry a gun, who doesn't do these
6 things. And just necessarily fall -- but I'll be
7 candid, I don't know the answer and I think that's
8 where Ms. Barr was trying to protect me from hurting
9 myself I think.

10 THE COURT: Well, you don't mind him
11 asking him that question, Solicitor, do you, outside
12 the presence of jury?

13 MS. BARR: Not at all.

14 THE COURT: Let's bring him in.

15 (Witness is returned to courtroom.)

16 THE COURT: Thank you, Mr. Epps. If you
17 would answer the question of Mr. Kent.

18 BY MR. KENT:

19 Q Mr. Epps, before I had started out I was going
20 through the fact that law enforcement had talked to
21 you previously?

22 A Yeah.

23 Q And the question that where I was interrupted and
24 what we were talking about, I think you were about
25 to give an answer, when you gave law enforcement a

1 statement you specifically stated y'all — you
2 remember you were talking about the gun. You said
3 Larry had not been known to carry a gun —

4 A Yes.

5 Q —and you'd known him his whole life. And then
6 spontaneously you stated, truthfully speaking
7 though, after he lied with Reva I know everybody was
8 beating her up saying this was her fault, after he
9 got with her he made a 360 in her life. And then I
10 was about to ask you what did you mean by that.

11 A He started working two jobs. That's what I
12 meant.

13 Q Okay. And so all you were getting into, you
14 weren't getting into anything bad or damaging that
15 he had done in his life, he was simply getting into
16 the fact that he started working harder?

17 A Yes.

18 Q So my question is, why does that — I guess I
19 don't understand why that would have been a response
20 to a gun question that they were talking directly
21 about a gun and you said truthfully speaking though,
22 he made a 360 in his life after he got with her.
23 And I just want — I don't mean to beat you up. I
24 just want your explanation.

25 A Yeah. They asked me about the gun so I gave him

1 an answer about the gun and then that's when I told
2 him he made a 360 in his life.

3 Q Okay, thank you.

4 THE COURT: So that's a 360?

5 MR. KENT: That's the 360. Actually it's
6 360.

7 THE COURT: Do you have any other
8 questions in that area?

9 MR. KENT: No, sir.

10 THE COURT: Do you have any objection to
11 that question, that response?

12 MR. KENT: I'm sure she does not.

13 THE COURT: It's not relevant.

14 MS. BARR: No, Judge, we withdraw our
15 objection. The concern is that I didn't want what
16 may have been said on the street to come out of the
17 witness' mouth; that would have been improper. That
18 was my concern about Ms. Greene, what she was about
19 to testify to in terms of what the word on the
20 street was. I just want to make sure that ---

21 THE COURT: And that was also Mr. Kent's
22 concern 'cause he stood up, he didn't have to
23 object, because you --

24 MR. KENT: Yeah, and she ---

25 THE COURT: And he cut Ms. Greene off.

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1 MR. KENT: Thank you for protecting me on
2 that part.

3 THE COURT: Are you ready for the jury?

4 MR. KENT: Yes, sir, Your Honor.

5 (WHEREUPON, the jury was returned to the
6 courtroom at approximately 10:41 a.m.,
7 and the following proceedings commenced
8 in open court.)

9 THE COURT: All right, our jury is back in
10 place.

11 Mr. Kent, you may continue.

12 BY MR. KENT:

13 Q Mr. Epps, I apologize for the disrespect. I kept
14 calling you Tifton so I apologize. Mr. Epps, I
15 don't have very many more questions. When you went
16 out there was anyone still out there, or was
17 everybody had gone by that point?

18 A All of the cars was still there, but those were
19 the only two people I seen out.

20 Q Those are the only I two people you had seen out
21 there?

22 A Yes.

23 Q When you had gotten out there earlier — I'm
24 surrounding everything around that pork chop
25 sandwich. So when you had gotten out there earlier

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1 was there a bunch of people outside?

2 A Yeah.

3 Q And when you had come back after remembering your
4 pork chop sandwich everybody had scattered and gone?

5 A Yeah.

6 Q From what you could see? They weren't there, let
7 me put it that way.

8 A Yeah, unless they were out there hiding
9 somewhere.

10 Q Unless they were hiding somewhere out there. You
11 did not see anybody out there at that point?

12 A No.

13 Q And there was a question that you saw guns or
14 anything on the ground. Did you see a hat?

15 A No, I didn't.

16 Q You didn't see a hat. So the hat was gone by the
17 time you had gotten out there?

18 A Yeah.

19 Q Thank you so much, Mr. Epps, that's all I have.

20 THE COURT: Redirect, Solicitor?

21 MS. BARR: Yes, sir.

22 **REDIRECT EXAMINATION**

23 BY MS. BARR:

24 Q Mr. Epps, you were asked on cross-examination
25 about the statement that you gave to the police

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1 after the shooting. Do you remember being asked
2 that question by Mr. Kent about the statement that
3 you gave to the police after the shooting?

4 A Yes, ma'am.

5 Q And you remember being asked the question, did
6 you tell the police that after Larry met Reva he did
7 a complete 360 in his life?

8 A Yes.

9 Q What did you meant by that?

10 A That means just 'cause he used be on the streets
11 so he stopped hanging in the streets and started
12 working.

13 Q How many jobs was he working at the time?

14 A He had two.

15 Q Had two jobs?

16 A Yes.

17 Q Okay. How about his relationship with his
18 children, did that improve after he met Reva?

19 A Well, he was in his kids' life the whole time.

20 Q Okay, in his kids' life the whole time.

21 A Yes.

22 Q Was he helping her with her children?

23 A I think so. I'm not sure about that.

24 Q That's all the questions I have. Thank you.

25 THE COURT: Recross, Mr. Kent?

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1 MR. KENT: No, Your Honor, nothing further
2 of this witness on behalf of Mr. Williams.

3 THE COURT: Thank you, Mr. Epps. You may
4 step down.

5 All right, Solicitor.

6 MS. BARR: We call Lieutenant Debra
7 Collins.

8 WHEREUPON,

9 **DEBRA COLLINS,**
10 having been duly sworn by the Clerk, testified
11 as follows:

12 THE CLERK: You may take your seat on the
13 witness stand.

14 MS. BARR: May it please the Court.

15 THE COURT: Yes, ma'am.

16 **DIRECT EXAMINATION**

17 BY MS. BARR:

18 Q Ma'am, state your full name for us.

19 A Debra McElveen Collins.

20 Q All right. And you are employed with the
21 Williamsburg County Sheriff's Office?

22 A Yes, ma'am.

23 Q And you are a certified police officer; is that
24 correct?

25 A Yes, I graduated in 1979.

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1 Q I hated to ask you how long you've been in law
2 enforcement, I didn't want to suggest your age, but
3 you're a seasoned officer?

4 A Yes, ma'am, I'm in 37 years.

5 Q Okay, all right. You live in Williamsburg
6 County?

7 A Yes, ma'am.

8 Q All right. Now ma'am, did you participate at all
9 in the investigating of a investigation of a
10 shooting at Club Celestine's back on November 10th,
11 of 2013?

12 A Yes, ma'am.

13 Q How did you become aware of it?

14 A Investigator Ballard called me that night around
15 1:15, 1:20 and advised me — it was earlier than
16 that because I got to the hospital about 1:20.
17 Advised me there was a shooting in Greeleyville, and
18 I needed to come out.

19 Q All right. So you were asleep when you got the
20 call?

21 A Yes, ma'am.

22 Q Woke up, got dressed, and then went where?

23 A To the emergency room here in Kingstree.

24 Q Okay. Now when you arrived at the emergency room
25 in Kingstree was Larry Moore, Jr. there?

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1 A Yes, he was.

2 Q All right. Was Reva McFadden there?

3 A Yes.

4 Q Okay, all right. And was Investigator Ballard
5 there as well?

6 A Yes, along with some other officers.

7 Q Now again, for clarity, Investigator Ballard,
8 he's the gentleman seated here at prosecution's
9 table?

10 A Yes, ma'am.

11 Q All right. Now did you have a conversation with
12 him once you arrived at the hospital?

13 A Yes.

14 Q All right. As a result of that conversation who,
15 if anyone, were you looking for?

16 A Terry Williams.

17 Q Okay. As a result of that conversation with
18 Investigator Ballard what did you do next?

19 A We stayed at the hospital probably about ten
20 minutes and after I have got to the hospital we
21 stayed there about ten minutes and I asked everyone
22 to meet me at Cooper Country Store.

23 Q Okay. All right, for what purpose?

24 A So we can get a plan as to splitting up and try
25 to locate Terry Williams.

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1 Q Okay. And — all right. So you meet some other
2 deputies at Cooper's Country Store. Then tell us of
3 the plan that was devised to try to locate
4 Mr. Williams.

5 A While we were waiting for some other officers to
6 come because I contacted Lieutenant Brown who is
7 over patrol to call out some more people to help us;
8 and while we were waiting for them Investigator
9 Ballard received information, he'd already had
10 information, that Damien McClorin was with Terry
11 Williams and he had location of where he lived at
12 so.

13 Q Is Damien McClorin, is that the fellow that
14 everybody keeps referring to as Wolfman?

15 A Yes, ma'am.

16 Q So Investigator Ballard had information about
17 where Wolfman or Damien might have been living?

18 A Yes, ma'am.

19 Q And so as a result he shared that with you and
20 you did what?

21 A At that time we went, all of us, we went to Carry
22 Lanes which is in Lane, South Carolina. After we
23 got on Carry Lane and got to the dead-end we wasn't
24 sure which resident it was. It was three mobile
25 homes in the back. And we split up to the first two

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1 residence in the front. The first house I went to
2 with a few other deputies and a young lady came to
3 the door. And when I asked was Damien living at
4 that residence she pointed to the resident next
5 door.

6 Q Okay.

7 A And I asked her was it all right if we search her
8 house because we needed to make contact with him and
9 Terry Williams. She give us permission to search
10 her house and it was clear nobody was there but her.
11 And the other officer at that time was in the
12 resident next door which didn't have any electricity
13 but they checked that resident and there was nobody
14 there. And after that we went to the resident
15 behind the abandoned house where Damien Farmer
16 lived.

17 Q Okay. The third residence that you checked, what
18 was the result of that search?

19 A After talking with Damien father, he give us
20 permission to search his resident. Damien wasn't
21 there, nor Terry Williams; but Ms. Elizabeth Moyd
22 was which is Terry's sister.

23 Q Do you see Ms. Moyd in the courtroom?

24 A Yes, ma'am.

25 Q All right. Can you identify her for us please?

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1 A She's sitting beside the young lady with the
2 white blouse. She has on the blue sweater.

3 Q She's raised her hand for us?

4 A Uh-huh.

5 Q All right. So Ms. Moyd was at Wolfman's father's
6 house?

7 A Yes, ma'am.

8 Q And approximately what time was this when you
9 went out and spoke with Damien, Wolfman's dad?

10 A It was after 2:00. I don't know the exact time,
11 but I know it was after 2.

12 Q Well, had the sun come up yet?

13 A No, ma'am.

14 Q So it was still very early morning hours.

15 A Right.

16 Q Okay. Did she live out there?

17 A No, she lives in Goose Creek.

18 Q She lives in Goose Creek?

19 A Yes.

20 Q Do you know how it was that she ended up from
21 Goose Creek to the home of Damien McClorin's dad at
22 2:30, 3:00 in the morning on the night of the
23 shooting?

24 A No, ma'am.

25 Q So you spoke with her?

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1 A Yes. After having conversation with her —

2 MR. KENT: Your Honor, I'm gonna object. I
3 have a matter.

4 THE COURT: All right, step up here for
5 me.

6 (WHEREUPON, counsel approached the
7 Bench for an off-the-record discussion.)

8 THE COURT: You may continue, Solicitor.

9 BY MS. BARR:

10 Q Deputy Collins, my apologies, we're talking about
11 the conversation that you had with Elizabeth Moyd
12 who is this sister of the defendant, Terry Williams;
13 is that right?

14 A Yes.

15 Q Okay. And I believe you indicated to me that you
16 have no idea how she ended up from her home in Goose
17 Creek to what you believe to be the residence of
18 Damien McClorin at 2:30 in the morning after the
19 shooting?

20 A That's correct.

21 Q All right. So you have a conversation with her?

22 A Right.

23 Q And the rules of court doesn't permit me to get
24 into the particulars of that conversation; but after
25 you — what did you ask her first of all? Don't

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1 tell me what she said, tell me what you asked her.

2 A I asked her did she know where Terry was.

3 Q And as a result of her response were you able to
4 immediately get your hands on Terry Williams?

5 A Not right then.

6 Q Okay, all right. Within the next hour were you
7 able to get your hands on Terry Williams?

8 A No, ma'am.

9 Q Next two hours?

10 A No.

11 Q Next five hours?

12 A No.

13 Q Okay, all right. What did you do after having
14 the conversation with Elizabeth Moyd?

15 A After my conversation with Elizabeth I followed
16 her to her mother's house off of Felder Road in
17 Lanes to see whether Terry was there.

18 Q Off of Felder Road in Lane?

19 A Yes.

20 Q And so you went to Terry Williams' mother house
21 on Felder Road in Lane?

22 A It's a dirt road off of Felders Road in Lanes.

23 Q Okay. And I think you told me that Wolfman, or
24 Damien McClorin, also lived in Lane?

25 A Yes, supposed to be.

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1 Q Okay. Or that's where you thought he lived?

2 A That's where I thought he lived.

3 Q Okay. When you went to the home of Terry
4 Williams' mother, was he at that residence?

5 A No.

6 Q Okay. All right. Tell me what happened next,
7 what you guys did next.

8 A After Terry wasn't at his mother's house we left
9 and meet up at Moe Easy's Club which is located in
10 Lanes. And at that time Investigator Ballard made
11 contact with central dispatch, and we were able to
12 get an address for Elizabeth in Goose Creek.

13 Q Okay. And Elizabeth again is Terry Williams'
14 sister?

15 A Terry's sister. Contacted Goose Creek police
16 department and had them to send an officer to that
17 resident to find out whether the vehicle or anyone
18 was at the resident. And a little while later they
19 called back saying there was no one there, nor the
20 vehicle.

21 Q Okay, all right. At this point do you have any
22 idea where Terry Williams is?

23 A No, ma'am.

24 Q All right. And so what decision is made at that
25 point?

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1 A At that time I decided we would all go home and
2 come back out about 10:00 that morning.

3 Q Okay, regroup?

4 A Regroup, and see if we can locate him.

5 Q Okay, all right. Tell us about what happened
6 once you all regroup, got back together to try to
7 find Mr. Williams.

8 A Before we regroup I got a call from Elizabeth,
9 Terry's sister, around 8:30 that morning.

10 Q Okay. So 8:30 that morning you received a call
11 from the defendant's sister, and this would have
12 been, I guess, maybe five to six hours after you had
13 initially saw her in at what you thought was Damien
14 McClorin's house?

15 A Yes, ma'am.

16 Q So you get a call from her. So she had your
17 personal cell phone.

18 A She had my cell number; I gave it to her.

19 Q Gave it to her. Why did you give her your
20 personal cell number?

21 A So we could stay in contact and she would call me
22 if she could find out where Terry was.

23 Q So you get a call from her at 8:30 in the
24 morning?

25 A Yes.

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1 Q All right. What do you do as a result of getting
2 that call from her?

3 A After having a conversation with her I got up, I
4 got addressed, and I went to - what's the name of
5 the road. Edwin Road in Lanes to the Bright
6 resident and that's where the vehicle was parked
7 behind the resident.

8 Q That's where what vehicle was parked behind the
9 residence?

10 A Ms. Elizabeth Moyd vehicle that Terry Williams
11 was driving, 2001 Chevy Suburban.

12 Q Okay. All right. So the Chevy Suburban that
13 we've been talking about throughout this trial was
14 registered in the name of Elizabeth Moyd?

15 A Yes.

16 Q I'm gonna publish State's 56 and 57. Lieutenant
17 Collins, can you see those exhibits from where you
18 are?

19 A Yes.

20 Q Is that the vehicle you saw located behind the
21 residence on Bright -- is it Bright Street, Bright
22 Circle?

23 A It was off of Edwin Road. It's on Edwin road but
24 the people that live at the resident name is Bright.

25 Q I got you, I got you. All right, now tell me

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1 as — lay the scene for me — as you are driving
2 your patrol vehicle to that residence was, how would
3 you describe that vehicle? Is that a large vehicle,
4 small vehicle?

5 A A large vehicle.

6 Q As you are driving toward the resident, before
7 you actually approach it can you see it from where
8 it was parked?

9 A No.

10 Q All right. How were you able to see whether or
11 not the vehicle was there? How were you able to
12 determine that?

13 A I'm familiar with the Brights, and where they
14 reside so I pulled up in the yard at the brick house
15 'cause I was thinking that that's where the vehicle
16 was 'cause I know the people that live there.

17 Q Yes, ma'am.

18 A But after I got out and went to the door and they
19 were pointing to the house next door which was a
20 mobile home. And I walked behind the mobile home
21 and the vehicle was parked up to the house behind
22 the mobile home.

23 Q It was behind the mobile home up to the house.
24 Now did you know the owner of that mobile home where
25 you saw this vehicle parked?

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1 A No one was there. But their last name is Bright.

2 I don't remember first name.

3 Q Okay. No one was there at the time?

4 A No, ma'am.

5 Q And as a result of seeing that vehicle there what
6 did you do?

7 A I contacted central to send a wrecker out to have
8 it pulled to our training center.

9 Q Did you personally walk around the vehicle?

10 A I didn't mess with it. After I saw the vehicle I
11 just called for a wrecker to tow it for me.

12 Q Okay. Now we've also had into evidence
13 photographs of Reva McFadden's vehicle that night.

14 Was that vehicle also towed? Or do you know —

15 A I don't know 'cause I didn't see her vehicle that
16 night.

17 Q You were just primarily focused on finding the
18 defendant?

19 A Right.

20 Q Okay. And so when you got to the Bright resident
21 on Edwin Road, and that's also in Lane?

22 A Yes.

23 Q Do you know if there's any familial connection
24 between the Brights and the defendant?

25 A No, I don't know.

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1 Q Okay, all right. And was Mr. Williams inside
2 that vehicle?

3 A No.

4 Q Was he inside the resident?

5 A No one was at the resident.

6 Q When you first saw that vehicle parked behind the
7 mobile home did you have any idea at that moment
8 where Terry Williams was?

9 A No.

10 Q Did you hear — did Terry Williams' sister ever
11 call back after you received a phone call from her
12 at 8:30 a.m.?

13 A I called her.

14 Q Okay. Did you tell her you recovered the
15 vehicle?

16 A Yes.

17 Q Did you pose any questions to her about Terry's
18 whereabouts?

19 A I questioned her as to whether she knew where
20 Terry was at that time, and she did not know at the
21 time but she advised me as soon as she find out —

22 MR. KENT: Objection, hearsay.

23 THE COURT: I'll sustain the objection.

24 MS. BARR: All right.

25 BY MS. BARR:

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1 Q At some point you all obviously did get a hold of
2 Mr. Williams?

3 A I received a call from Ms. Elizabeth after 12:00
4 that day.

5 Q Okay. So that would be 12 noon?

6 A Yes.

7 Q So that would be roughly about 12 hours after the
8 shooting?

9 A Somewhere in there, yes.

10 Q So you got, I guess at this point would have been
11 the third call from Ms. Moyd?

12 A We talked more than three times, but that would
13 have been the third time she called me. I called
14 her more than three.

15 Q Why do you keep calling her?

16 A Because I wanted to locate Terry Williams so I
17 can go home.

18 Q Yes, ma'am. All right, so you received a call
19 from Elizabeth Moyd shortly after noon, after 12
20 noon?

21 A Yes.

22 Q And as a result of that call what happened?

23 A She brought Terry Williams up to the Sheriff's
24 Office and I met them out front.

25 Q Okay. And he was placed under arrest and

1 charged with murder and some other crimes?

2 A Yes, ma'am.

3 Q Okay. That's all the questions that I have.

4 Please answer any questions that Defense counsel may
5 have.

6 THE COURT: Thank you, Solicitor.

7 Mr. Kent.

8 MR. KENT: Thank you, Judge.

9 **CROSS-EXAMINATION**

10 BY MR. KENT:

11 Q Hey, how are you?

12 A Fine, Mr. Kent.

13 Q Terry Williams turned himself in?

14 A Yes.

15 Q Less than 24 hours after the shooting?

16 A Yes.

17 Q Less than right around 12 hours after the
18 shooting Terry Williams turned himself in?

19 A Somewhere along in there.

20 Q Thank you so much. That's all the questions I
21 have.

22 THE COURT: Redirect, Solicitor?

23 MS. BARR: No, sir, Your Honor.

24 THE COURT: Thank you. Thank you very
25 much, Lieutenant. You may step down.

1 All right, perhaps now ladies and
2 gentlemen be a good time to take our morning recess.
3 We'll take about 15 minutes. Do not discuss the
4 case during your break. Thank you very much.

5 (WHEREUPON, the jury was removed from the
6 courtroom at 11:05 a.m.)

7 THE COURT: Anything from the Defense, Mr.
8 Kent?

9 MR. KENT: Yes, Your Honor, if I could
10 just put what we had at bar on the record.

11 THE COURT: Certainly, please do.

12 MR. KENT: Thank you, Your Honor. During
13 the testimony of Investigator Collins I had made
14 objection contemporaneous and you gave me the right
15 to protect myself on the record after you mad a
16 ruling at the Bench which I appreciate. The
17 objection I made during Investigator Collins'
18 testimony it was replete with what I believe was
19 hearsay suggestions. Basically what ended up
20 happening was Investigator Collins was asked several
21 times questions such as, as a result of her response
22 what did you do, after my conversation with
23 Elizabeth I did this. And Judge, and I apologize
24 respectfully, I did not remember the case but I —

25 THE COURT: Brewer.

1 MR. KENT: State versus Brewer, thank you,
2 Your Honor. I had mentioned State versus Brewer
3 analysis that I thought on State versus Brewer —
4 and I could be misplaced — Brewer was a case out of
5 Beaufort County. My understanding of that case was
6 a video interrogation case. Members of the Beaufort
7 County Sheriff Department was conducting video
8 interrogations of suspects. When they were
9 conducting them there were things that were said
10 during the video interrogation which the court said
11 would not be allowed to be placed in front of the
12 jury. In that situation the court said basically
13 they were doing, what I felt, was a hearsay analysis
14 basically saying you can't just put things in front
15 of a jury. I brought that up just as a part, just
16 as an analysis that my concern would be the
17 through-your-course-of-the-investigation analysis,
18 the question like through the course of your
19 investigation after speaking to this witness what
20 would do. The problem is when I don't have the
21 right to cross-examine that witness based upon what
22 they would do to allow the State to hide hearsay
23 evidence when you're allowed to basically say, as a
24 result of talking to Ms. Boyd this is what we did,
25 or as a result of this this is what we did. My

1 belief is that would be hearsay evidence, hearsay
2 given within hearsay. And I'm not saying Brewer is
3 directly on point. That was just the case that I
4 remembered quickly that dealt with some type of
5 hearsay analysis and putting things in front of it.
6 Thank you for allowing me just to protect myself on
7 the record, Judge.

8 THE COURT: All right, thank you. Thank
9 you, Mr. Kent.

10 Solicitor.

11 MS. BARR: Your Honor, we would take the
12 position that the statements and testimony of the
13 officer concerning her actions, I was very clear,
14 careful with her not to elicit any statements from
15 any declarants who are not in court. But Judge,
16 even if certain portions would have come out in
17 terms of what a witness might have told her, it
18 would not be offered for the truth of the matter
19 asserted; it would have been offered to explain the
20 reasons why she undertook the action that she took,
21 specifically as it relates to going to what she
22 believed to be the residence of Damien McClorin and
23 not finding him there. Her own testimony that he
24 was not there is not hearsay. Her testimony that
25 she had a conversation with the defendant's sister

1 and she could not immediately find the defendant
2 after that conversation is not hearsay. And so we
3 believe that, Judge, the rules are very clear as to
4 what is defined as hearsay. Hearsay is an out of
5 court statement offered for the truth of the matter
6 asserted. None of — no portion of Investigator
7 Collins' testimony was offered for the truth of the
8 matter asserted. It was simply officered to explain
9 her investigative role that night that was to find
10 the defendant.

11 THE COURT: Thank you. In reading State
12 versus Brewer, attempting to read it, it was a
13 homicide in a shooting at a nightclub in Beaufort, a
14 simplifier nightclub in Beaufort. I thought that
15 was the United States Marines. But be that as it
16 may, when the officers videotaped the confession or
17 the statement of Mr. Brewer it was, they quoted
18 statements from witnesses and that's so different
19 here. I would rely on State versus Greene where
20 officers undertook a drug investigation where
21 residents in a neighborhood had complained about
22 this being a high drug crime area and they were
23 allowed to say why they were in that area, and that
24 was not hearsay. I don't think the officer
25 testified to any hearsay whatsoever. I think it

1 just goes clearly to the qualification and quality
2 of the investigation in attempt to locate the
3 defendant, and clearly was no hearsay came into the
4 record in that regard, and I think Brewer is clearly
5 distinguishable. All right, thank you, thank you
6 very much.

7 Anything, Solicitor, before we take a
8 recess?

9 MS. BARR: No, sir, Your Honor.

10 THE COURT: We'll take about a 15 minute
11 recess. Thank you.

12 (WHEREUPON, a recess was taken from the
13 proceedings and State Exhibits Nos. 84
14 through 86 were marked for identification
15 only.)

16 MR. KENT: Your Honor, if I may, for the
17 record.

18 THE COURT: Yes, sir, certainly.

19 MR. KENT: Your Honor, in chambers we had
20 discussed my understanding that the Solicitor's
21 Office now will be calling certain experts. The
22 easiest way to talk about it is I think one of them
23 is gonna be a serology expert, or they're going to
24 call a serology expert. We have stipulated to
25 serology. Just for the record in case down the

1 road, I have stipulated to it based upon discussions
2 with my client. He understands stipulating, it is
3 my theory. And it's a strategy reason. We have
4 discussed it. I discussed with my client to
5 stipulate rather than have the State of South
6 Carolina bring the serologist expert. And my
7 understanding that they will get serology in through
8 another witness who is not an expert in that field,
9 but we will not object to him testifying about it.

10 THE COURT: Thank you. Thank you very
11 much. Anything further, Mr. Kent?

12 MR. KENT: Nothing further, Your Honor. I
13 just wanted to cover myself for the record and
14 there's not a written stipulation so I think we're
15 just going to just go with it and just not try to
16 confuse the jury with the stipulation if I'm not
17 mistaken, Ms. Barr.

18 MS. BARR: Right.

19 THE COURT: Anything from the State before
20 we bring in the jury?

21 MS. BARR: Judge, we've got -- they're
22 identified but I don't think they're admitted.
23 Judge, State's Exhibit 73 and 74 are photographs of
24 the defendant at the Williamsburg County Sheriff's
25 Office and I believe the defendant stipulates to

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1 their admissibility as well.

2 THE COURT: Is that correct, Mr. Kent?

3 MR. KENT: That's correct, Your Honor

4 (WHEREUPON, State Exhibits Nos. 73 and 74
5 were admitted into evidence.)

6 MR. KENT: We stipulate to them coming in
7 based upon the fact that I think the State will be
8 able to get them in later with the proper chain of
9 evidence, custody witnesses, so there's no point in
10 arguing over them at this point.

11 THE COURT: Thank you. If you will bring
12 us our jury.

13 (WHEREUPON, the jury was returned to the
14 courtroom at approximately
15 11:40 a.m, and the following
16 proceedings commenced in open court.)

17 THE COURT: All right, our jury is back in
18 place. Solicitor, you may call your next witness.

19 MS. BARR: I will call Justin Whack.

20 THE CLERK OF COURT: Step forward, please
21 place your left hand on the Bible, raise your right
22 hand.

23 WHEREUPON,

24 **JUSTIN WHACK,**

25 having been duly sworn by the Clerk, testified
as follows:

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1 THE CLERK OF COURT: Take your seat in the
2 witness box.

3 **DIRECT EXAMINATION**

4 BY MS. BARR:

5 Q Good morning, sir.

6 A Good morning.

7 Q If you would, please state your full name and
8 introduce yourself to the ladies and gentlemen of
9 the jury.

10 A Justin Whack, Williamsburg County Sheriff's
11 Office patrol supervisor.

12 Q All right. And how long have you been employed
13 with the Sheriff's Office?

14 A Almost 15 years.

15 Q All right. And you've been in law enforcement
16 for that entire period of time?

17 A That's correct.

18 Q All right. And sir, just in the interest of time
19 I'll go ahead and kind of get to why you're on the
20 witness stand today, okay. Did you participate in
21 the investigation and/or the collection of evidence
22 or what may be evidence in regard to the shooting of
23 Larry Moore?

24 A I did.

25 Q And tell us about what you did.

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1 A I responded to the crime scene. I photographed
2 it, collected evidence out there as far as shell
3 casings and put them in proper bags, turn them into
4 evidence, and then later on photographed and
5 processed the defendant's vehicle.

6 Q Okay. Now when you processed the defendant's
7 vehicle where was it at that time?

8 A It was at our training facility.

9 Q So it already had been impounded, towed and
10 impounded?

11 A That's correct.

12 Q Okay, all right. As a preliminary matter, when
13 you initially saw the defendant's vehicle, did you
14 see any obvious signs that it had been involved in a
15 shooting?

16 A Not really, no.

17 Q Not by first glance?

18 A No.

19 Q Did you see any bullet holes or bullet fragments
20 or metal fragments, or anything that would indicate
21 that that vehicle was, had been shot upon?

22 A No.

23 Q Okay. Did you see any evidence from initial
24 glance that that vehicle in any form or fashion may
25 have been hit by gun fire?

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1 A Not that vehicle, no.

2 Q Now what about in terms of blood, did you do a
3 closer examination?

4 A I did.

5 Q Okay, tell us about that.

6 A Walked around the vehicle and saw what I thought
7 to be blood on the, I think it was the rear driver's
8 side panel.

9 Q Okay.

10 A Photographed the vehicle and then after
11 photographing it, collected some samples to be sent
12 off to be tested.

13 Q Okay. Sir, I'm gonna hand you what's been marked
14 as, for identification purposes State's Exhibit
15 Number 85, I'll ask you if you recognize this
16 particular exhibit?

17 A I do.

18 Q Okay, tell the jury how you recognize that
19 exhibit?

20 A This is the collection kit that I used that day
21 to collect the blood from the vehicle.

22 Q Okay. All right. And did you take any
23 precautions when you checked that evidence so that
24 it can be sent off to SLED for analysis?

25 A As far as the process?

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1 Q In terms of who is collecting it and making sure
2 that it couldn't be tampered with before it got to
3 SLED.

4 A That's correct.

5 Q What did you do to make sure that that piece of
6 evidence wouldn't be tampered with?

7 A It's sealed with evidence tape.

8 Q And is there anything that is inside that
9 particular exhibit that will let you know that
10 you're the one who actually collected that evidence?

11 A It is. This has a chain of custody on the back
12 of it as well.

13 Q And your name appears on there?

14 A It does.

15 Q Okay.

16 MS. BARR: Judge, we would move State's
17 Exhibit Number 85.

18 MR. KENT: No objection, Your Honor.

19 THE COURT: State's 85 in evidence without
20 objection.

21 (WHEREUPON, State Exhibit No. 85 was
22 admitted into evidence.)

23 BY MS. BARR:

24 Q All right. Deputy Whack, let me get you to get
25 down off the witness stand for me please.

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1 A (Complies.)

2 (Courtroom lights went out.)

3 THE COURT: Ladies and gentlemen, if you
4 will please step out the courtroom.

5 (WHEREUPON, the jury was removed from the
6 courtroom at 11:47 a.m.)

7 (WHEREUPON, a recess was taken from the
8 proceedings.)

9 (WHEREUPON, counsel approached the
10 Bench for an off-the-record discussion.)

11 MS. BARR: State's ready, Your Honor.

12 THE COURT: Mr. Kent.

13 MR. KENT: I'm ready, Judge.

14 (WHEREUPON, the jury was returned to the
15 courtroom at approximately 11:53 a.m.,
16 and the following proceedings commenced
17 in open court.)

18 THE COURT: All right, our jury is back in
19 place. Thank you again, very much for your
20 patience. We'll continue with the trial of the case
21 by the testimony of Sergeant Whack in the State's
22 case in chief.

23 Solicitor, you may continue.

24 MS. BARR: Thank you.

25

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1 BY MS. BARR:

2 Q Sergeant Whack, I'm gonna publish the previous
3 State's Exhibit No. 56. Of course, this is the
4 vehicle in which you would have collected potential
5 DNA evidence from; is that correct?

6 A That's correct.

7 Q That is the vehicle belonging to, on possession
8 of the defendant at some point; is that right?

9 A That's correct.

10 Q All right. And now I'm gonna also publish -- and
11 for the record this would be the passenger side
12 view of the vehicle?

13 A That is correct.

14 Q And I'm gonna publish State's 57. That is the
15 driver's side view of that same vehicle?

16 A That is correct.

17 Q Okay. All right. In addition to photographing
18 the sides of the vehicle you also photographed the
19 rear of the vehicle?

20 A I did.

21 Q Okay. By the way, sir, when you processed this
22 vehicle did you see any AK-47 assault rifle inside
23 the vehicle anywhere?

24 A No, ma'am.

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

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1 State's Exhibit Number 66. Tell the jury what is
2 depicted in this particular photograph.

3 A That is the rear of the driver's side panel of
4 the defendant's vehicle.

5 Q Okay, all right. Now let me just see if I can
6 get this a little bit larger. Tell us why you
7 photographed that particular area and let me let you
8 use the pointer. Point there on the diagram for
9 perspective please.

10 A This area here and the fender wall here is what I
11 believe to have been blood. I believe that this
12 right here and in here, there was spots I believed
13 those to be blood.

14 Q Okay. And for the record when you say in this
15 area and that area, tell us specifically what areas
16 you're referring to.

17 A I'm referring to the rear quarter panel, the
18 vehicle driver's side, and in the fender wall on the
19 rear of the driver's side.

20 Q And as a result did you collect swabs of those
21 brown or red areas on that vehicle?

22 A Can you repeat that?

23 Q As a result of seeing what you thought may have
24 been blood ---

25 A Yes.

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1 Q —did you collect swabs of that at that time?

2 A I did. I did.

3 Q Okay, all right. And that was turned over to
4 SLED eventually?

5 A It was.

6 Q I'm gonna show you what's been admitted as
7 State's 67. Is that a, simply a closer view of that
8 same area that you would have photographed?

9 A It is.

10 Q Okay. Other -- and you've indicated that that is
11 the rear driver's quarter panel?

12 A Correct.

13 Q Did you see any other areas of the vehicle that
14 contained what you believed to be blood?

15 A I didn't.

16 Q Okay. Any blood to the front of the vehicle?

17 A No.

18 Q Any blood to the hood of the vehicle?

19 A No, ma'am.

20 Q Any blood to the front bumper of the vehicle?

21 A No, ma'am.

22 Q Any blood to the driver's side door of the
23 vehicle?

24 A No, ma'am.

25 Q And any blood to any portion of the passenger

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1 side of the vehicle?

2 A No.

3 Q Now you indicated that -- now you may not have
4 indicated -- did you do any further processing of
5 the vehicle other than the collection of what you
6 believed to be blood?

7 A Also, processed the inside of the vehicle for GSR
8 gunshot residue.

9 Q Okay.

10 A Not the entire interior, but the area that driver
11 would have touched.

12 Q All right. So what specific areas were you
13 looking for that a driver might have touched in
14 trying to get or collect GSR -- we call it GSR, but
15 gunshot residue.

16 A Right.

17 Q And kind of tell us what a gun shot residue kit
18 is and how you collect it and why you collect it.

19 A Gunshot residue kit is a kit that we use to
20 collect particles and sent in to be tested to see if
21 a person has fired a firearm.

22 Q Okay. All right. And I'm going to show you
23 what's been previously admitted as State's Exhibit
24 Number 60. That shows the interior of the
25 defendant's vehicle?

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- 1 A That's correct.
- 2 Q All right. And we can see, but for clarity, show
- 3 us where the steering wheel is.
- 4 A It's here.
- 5 Q Did you process the steering wheel for GSR?
- 6 A I did.
- 7 Q Okay, all right. And any other portion of the
- 8 vehicle did you process for GSR?
- 9 A Also processed the gear select shift.
- 10 Q And that would be where in the vehicle? Can you
- 11 see that here?
- 12 A You can't see it on this picture, but it's behind
- 13 the steering wheel.
- 14 Q Okay. Let's try State's Exhibit Number 63. Can
- 15 you see it in that photograph?
- 16 A You can; it's right there.
- 17 Q I'm sorry, point to it again?
- 18 A Right here.
- 19 Q Okay. Any place else?
- 20 A In the interior door handle.
- 21 Q The interior door handle?
- 22 A That's correct, driver door.
- 23 Q Driver door handle, okay. All right. I publish
- 24 State's 59. Can you see the interior driver's door
- 25 handle in that photograph?

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1 A You can't see the handle, but that is the driver
2 door.

3 Q Okay. After you swabbed the gear shift steering
4 wheel, the interior door handle, what did you do
5 with that kit?

6 A That kit was then sealed and prepared and
7 determined for evidence to be sent to SLED for
8 testing.

9 Q Okay. All right, now I'm curious about something
10 that you said earlier. You testified earlier that
11 you didn't see, when I asked you the question did
12 you see any sign that Mr. Williams' vehicle had been
13 fired upon, you said, no, not that vehicle. Or any
14 vehicle had been fired upon you said, not that
15 vehicle, talking about Mr. Williams' vehicle?

16 A Correct.

17 Q Did you see evidence that another vehicle had
18 been fired upon or had been from a bullet related to
19 this incident?

20 A Yes, ma'am.

21 Q Whose vehicle was that?

22 A That would be Ms. McFadden's vehicle.

23 Q Reva McFadden?

24 A That's correct.

25 Q Do you see her in the courtroom?

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1 A Right there.

2 Q Where is she?

3 A Sitting in the back in the black.

4 Q So she's behind Elizabeth Moyd?

5 A That's correct.

6 Q Okay, all right. All right, lets see if -- I'm
7 gonna show you what's been previously been admitted
8 as State's 39. All right, that's the McFadden
9 vehicle that you were talking about?

10 A That is correct.

11 Q Okay. I'm going to show you -- initially look to
12 yourself -- State's 50, 51 and 52 and just to
13 yourself, tell me if you see any indication in that,
14 in those photographs, that there was damage to that
15 particular vehicle?

16 A Yes.

17 Q Okay. We are going to publish State's 50. Tell
18 the jury what's depicted in State's Exhibit Number
19 50.

20 A This is the, this is the passenger side of
21 Ms. McFadden's vehicle. This is the front passenger
22 door and right here is what we believe to be a
23 round, some type of firearm.

24 Q All right. So that round actually penetrated the
25 door?

SW - J. WHACK - DIRECT

1 A That's correct.

2 Q It penetrated the door?

3 A That's correct.

4 Q All right. Let me show you State's 51. Is that
5 a closer up view?

6 A It is.

7 Q Okay. State's 52, is that also a closer up view?

8 A That is correct.

9 Q And I'm going to show you State's Number 49.
10 It's already been admitted. Do you see a
11 correlating damage that would be reflected as what
12 you described as a bullet wound, or bullet damage,
13 on the previous exhibits?

14 A I do.

15 Q You do?

16 A I do.

17 Q Let's publish State's Number 49. Tell us where
18 you see that at, Sergeant Whack.

19 A Right here in the, on the interior of the dash of
20 the vehicle. It goes into the glove box over here.

21 Q Okay. So if we put 50 by 49 we can see the
22 damage here and here?

23 A Yes, ma'am.

24 Q Sir, you can take your seat.

25 A (Complies.)

SW - J. WHACK - DIRECT

1 Q And I'm going to publish State's Exhibits 54 and
2 55 which have been previously admitted. Those are
3 the metal fragments that are taken from the Dodge
4 Durango?

5 MS. BARR: I'm sorry, they're not in?

6 THE COURT REPORTER: Huh-uh.

7 MR. KENT: They're in now.

8 MS. BARR: I hope so.

9 MR. KENT: No objection, Your Honor.

10 MS. BARR: Judge, it's my understanding
11 counsel stipulates to the admissibility of State's
12 Exhibits 54 and 55 so we move to introduce and
13 publish.

14 THE COURT: All right. 54 and 55 are in
15 evidence.

16 (WHEREUPON, State Exhibits Nos. 54 and 55
17 were admitted into evidence.)

18 BY MS. BARR:

19 Q Sir, I'm gonna show you what's been admitted as
20 State's 54. Is that a metal fragment that was taken
21 from the Dodge Durango?

22 A Yes.

23 Q All right. And State's 55 is just another view
24 of that same fragment?

25 A Yes.

SW - J. WHACK - DIRECT

1 Q Okay. Now I'm gonna now publish State's 73, 74.

2 Do you recognize the individual depicted in this

3 photograph? You recognize that individual?

4 A Yes, ma'am.

5 Q Who is that individual?

6 A That's the defendant Terry.

7 Q All right. And where was that photograph taken?

8 A That was taken at the detention center.

9 Q Okay. And State's 54, is that a view of the
10 defendant's lower pant leg and shoes?

11 A Yes, it is.

12 Q Okay. All right. Now Investigator Alex Edwards
13 works with the Williamsburg County Sheriff's Office?

14 A He does.

15 Q All right. And after the defendant's sister
16 brought hi to the Sheriff's Office he was wearing
17 those clothes?

18 A That's correct.

19 Q All right. And Investigator Edwards collected
20 those clothes; is that correct?

21 A He did.

22 Q I'm gonna hand you what's been marked as State's
23 86. Can you tell us whether or not those are the
24 clothes worn by the defendant when he turned himself
25 in?

SW - J. WHACK - DIRECT

1 A Yes, it is.

2 Q All right. And you recognize the handwriting of
3 your co-worker Investigator Edwards?

4 A I do.

5 Q And is his signature and name contained within
6 that exhibit?

7 A It is.

8 Q All right. And from what you can tell in terms
9 of your experience as a law enforcement officer and
10 your experience in how you collect and preserve
11 evidence, does it appear that that, the necessary
12 precautionary measures have been taken as relates to
13 protecting those two items of evidence?

14 A Yes.

15 Q I'm gonna hand you what's been marked for
16 identification purposes State's Exhibit Number 84.
17 Is that the DNA sample or known DNA sample of blood
18 of the victim Larry Moore, Jr.?

19 A Yes.

20 Q It indicates that sample was taken at autopsy?

21 A That's correct.

22 Q Do you recognize the initials of the individual
23 who would have sealed that blood sample?

24 A Yes.

25 Q And what are those initials?

SW - J. WHACK - DIRECT

1 A JLB.

2 Q And who is JLB?

3 A Investigator Ballard.

4 Q Investigator Ballard? All right.

5 MS. BARR: Judge, we would move State's
6 Exhibit Number 84 in at this time.

7 MR. KENT: I have no objection pursuant to
8 the stipulation.

9 THE COURT: State's 84 is in evidence.

10 MS. BARR: And also -- yes, sir, Judge,
11 and also State's 86, which are the clothing.

12 MR. KENT: No objection, Your Honor.

13 THE COURT: State's 86 is in evidence
14 without evidence.

15 (WHEREUPON, State Exhibits Nos. 84 and 86
16 were admitted into evidence.)

17 MS. BARR: Beg the Court's indulgence.

18 BY MS. BARR:

19 Q All right. Sergeant Whack, that's all -- those
20 are all the questions I have at this time. Please
21 answer any questions Mr. Kent may have.

22 THE COURT: Thank you, Solicitor.

23 Mr. Kent.

24 **CROSS-EXAMINATION**

25 BY MR. KENT:

SW - J. WHACK - CROSS

1 Q Investigator, how are you doing, sir?

2 A Good, how are you?

3 Q We've met several times. I don't have very many
4 questions for you. I just want to make sure I
5 understand some of the things that you just
6 testified to, okay. Just briefly, you were
7 testifying about gunshot or GSR, I think, we kept
8 calling it?

9 A Yes, sir.

10 Q That's gunshot residue?

11 A Yes, sir.

12 Q And you're familiar with gunshot residue?

13 A Yes, sir.

14 Q I want to make sure I understand. Gunshot
15 residue is basically we measure basically metal?

16 A That's correct.

17 Q And if I'm not mistaken, it's like three metals:
18 Lead, barium, and antimony, or something fancy like
19 that. There's three metals?

20 A Yeah, I don't know the exact name of them.

21 Q Something fancy. We'll have somebody else who's
22 smarter than both of us who will testify to that
23 part later.

24 A Yes, sir.

25 Q But when you're talking about gunshot residue,

1 gunshot residue is basically the particles when
2 someone fires a weapon, the particles can come back
3 on someone's hands?

4 A That is correct.

5 Q And depending on how a weapon or something is
6 held is how it would come on the hand.

7 A That's correct.

8 Q And so it will come like on the outside of the
9 hand particularly kif someone is holding a weapon
10 like this?

11 MS. BARR: Objection, Judge, that -- those
12 questions fall outside the knowledge and expertise
13 of this particular witness.

14 THE COURT: I'm gonna overrule the
15 objection. I think he can ask him, officer an --
16 he's not testifying as an expert, if he has
17 knowledge of it, yes or no, or I don't know.

18 BY MR. KENT:

19 Q And so the gunshot residue particles will come
20 backwards or forward depending on when and all types
21 of factors we just don't know a lot of times?

22 A That's right.

23 Q And sometimes it'll come on the back of the hands
24 or front of the hands, depending on what happens?

25 A Yeah, I guess so, yeah.

SW - J. WHACK - CROSS

1 Q Okay. And the Solicitor went through great
2 detail to talk to you about places where you swabbed
3 on the vehicle where you think somebody would have
4 handled the vehicle such as —

5 THE COURT: Which vehicle do you refer to?

6 BY MR. KENT:

7 Q Mr. Williams' vehicle is where you went to swab
8 for gunshot residue. She talked about you swabbed
9 underneath where you open the door.

10 A That's correct.

11 Q And usually you open the door with your finger,
12 fist and open the door, correct?

13 A That's correct.

14 Q And I have my palms open. I don't have them like
15 this, right?

16 A Yes.

17 Q I have my palms open.

18 A I wouldn't —

19 Q That's how I open the door. You talked about t
20 he steering wheel?

21 A Yes.

22 Q Usually you grab a steering wheel also with your
23 palms?

24 A Yeah.

25 Q You don't grab it, you don't do it with the

SW - J. WHACK - CROSS

1 outside of your hands? No one drives like that.

2 A I wouldn't think so.

3 Q She talked about the gear shift?

4 A That's correct.

5 Q Which is also done with the palm?

6 A That's correct.

7 Q Okay. And she asked you about looking inside of
8 the vehicle, investigating the vehicle, and you
9 looked all around the vehicle. And if I'm not
10 mistaken, your testimony you found some blood on the
11 bottom driver's side quarter panel at the back; is
12 that correct?

13 A That's correct.

14 Q And that's the only place where you found blood
15 on the vehicle?

16 A Yes, sir.

17 Q Not on the front hood?

18 A No, sir.

19 Q Not spray anywhere, not spray or splatter or
20 swipe, or any of that. They have all types of
21 definitions of blood. You didn't find any blood
22 anywhere else except for the quarter panel?

23 A That's correct.

24 Q Thank you so much. That's all the questions I
25 have.

SW - J. WHACK - REDIRECT

1 THE COURT: Redirect, Solicitor?

2 MS. BARR: Yes, sir.

3 **REDIRECT EXAMINATION**

4 BY MS. BARR:

5 Q Sergeant Whack, you were asked questions about
6 your knowledge about GSR on an individual's hands,
7 palms, back of the hands and that sort of thing.
8 How many homicides or deaths involving shooting or
9 incidents involving shootings have you been been a
10 part of during your career with the Sheriff's
11 Department?

12 A Oh, I don't even know. It's been at least, at
13 least fifty.

14 Q At least fifty?

15 A (No verbal response.)

16 Q Is that a yes?

17 A Yes.

18 Q Okay. And in some instances where a unarmed
19 victim has been shot, have you ever seen GSR on
20 their hands if they're the ones who've been shot?

21 A Yes.

22 Q Okay. Is that unusual to see?

23 A It's not.

24 Q Okay. Can you explain based on your experience
25 how that may have happened?

SW - J. WHACK - RECROSS

1 A How the particle fall, I guess, from they may
2 have been real close to when the gun was fired and
3 particles got on them as well.

4 Q Okay. What about if an individual is holding
5 their hands up?

6 A Yeah.

7 Q And being shot upon?

8 A That's correct.

9 Q You've seen instances where that's happened in
10 your career?

11 A I have.

12 Q Thank you, sir.

13 THE COURT: Recross, Mr. Kent.

14 MR. KENT: Just briefly.

15 **RECROSS-EXAMINATION**

16 BY MR. KENT:

17 Q You're not a fact witness in this case, correct?
18 You have no facts independent that you can offer the
19 jury about anything that happened that night?

20 A No, ma'am -- no, sir.

21 Q I'm a boy. You know nothing that happened out
22 there that day, correct?

23 A No, sir.

24 Q You can't testify to anything that happened that
25 night of the murder?

SW - S. STEWART - DIRECT

1 A I wasn't there to actually eyewitness anything
2 that happened out there.

3 Q So any suggestion otherwise would be patently
4 untrue?

5 A That's correct.

6 Q Thank you so much, I appreciate that.

7 THE COURT: Thank you. Thank you,
8 Sergeant. Thank you for being with us. You may
9 step down.

10 Solicitor, you may call your next witness.

11 MS. BARR: We call Samuel Stewart.

12 THE CLERK OF COURT: Place your left hand
13 on the Bible, raise your right hand.

14 WHEREUPON,

15 **SAMUEL STEWART,**

16 having been duly sworn by the Clerk, testified
17 as follows:

18 THE CLERK OF COURT: You can take your
19 seat in the witness box.

20 BY MS. BARR:

21 Q Sir, good afternoon. If you will, please tell
22 the Court and the ladies and gentlemen of the jury
23 who you are, what you do.

24 A My name is Samuel Stewart, I'm one of the DNA
25 casework, I'm a DNA casework analyst for SLED

SW - S. STEWART - DIRECT

1 commonly known as South Carolina Law Enforcement
2 Division.

3 MS. BARR: Stipulate to qualifications?

4 MR. KENT: Your Honor, I will stipulate to
5 this witness' qualification as an expert in DNA
6 analysis.

7 THE COURT: All right. And again, ladies
8 and gentlemen, you heard the instructions on an
9 expert witness. Samuel Stewart will be qualified
10 and stipulated to as an expert in DNA analysis. He
11 may give opinions in that field and the basis for
12 those opinions.

13 Thank you. Solicitor, you may continue.

14 BY MS. BARR:

15 Q Sir, I'm gonna hand you what's been previously
16 admitted as State's Exhibit Number 86 and ask you if
17 you recognize this particular exhibit.

18 A Yes, I do.

19 Q Okay. And how is it that you recognize it?

20 A Because of the unique SLED ID marker on it. From
21 my chain of custody I can identify it.

22 Q Okay. And what is it?

23 A I believe —

24 Q And I didn't mean to block your view. I
25 shouldn't have — it's ill placed. Let's do this so

SW - S. STEWART - DIRECT

1 that I can see. Let's put it over here. All right.

2 A It is the T-shirt and pair of pants.

3 Q Okay. And that shirt and those pants were
4 submitted by the Williamsburg County Sheriff's
5 Office?

6 A That is correct.

7 Q All right. For analysis by SLED?

8 A That is correct.

9 Q All right. And when we say SLED that's the South
10 Carolina Law Enforcement Division?

11 A That is correct.

12 Q Tell me what a DNA analysis analyst does and what
13 is meant by DNA.

14 A Okay. DNA stands for deoxyribonucleic acid. It
15 is a genetic material that's found in every person
16 and is responsible for certain traits, such as eye,
17 hair, color. DNA contains a condensed package known
18 as chromosomes which are found in every cell in
19 human body excluding red blood cells. We receive
20 half of our chromosomes from our mother and the
21 other half from our father. We target certain
22 locations on those chromosomes known as STRs which
23 stands for short tandem repeat. As a DNA analyst,
24 we compile 16 different STR locations that are found
25 in those various chromosomes to develop what is

SW - S. STEWART - DIRECT

1 known as DNA profile. And we use that DNA profile
2 to identify another individual with another one
3 excluding identical twins.

4 As a DNA analyst at SLED I'm responsible
5 for processing any evidence and known standards
6 which can come from a victim or a subject for DNA.
7 My purpose is to try to determine whether or not
8 that DNA profile from those known standards can be
9 included or excluded as a possible contributor to
10 the DNA profile from the evidence.

11 Q All right. Now when -- and you all, of course,
12 handle requests by law enforcement agencies
13 throughout the state of South Carolina?

14 A That is correct.

15 Q And so when a item or particular item of
16 evidence, for example clothing in this case, when it
17 comes into SLED does it go to your department first
18 or does it go to someone else's department first?

19 A At first it comes through -- when it comes
20 through our door it goes through our evidence
21 control. We handle any and all evidence that comes
22 through the door. Then they separate and put into
23 different areas where different departments come
24 pick it up and do their, perform their analysis

25 Q Okay. So in this case the Williamsburg County

SW - S. STEWART - DIRECT

1 Sheriff's Office submitted that particular exhibit
2 containing a shirt and pair of pants to determine
3 whether or not blood was there and, if so, whose
4 blood it was?

5 A That is correct.

6 Q All right. And so then does it follow that at
7 first it would go to someone's department to
8 determine whether or not blood is there and then if
9 blood could be found, then it comes to you to try to
10 figure out whose blood it is?

11 A That is correct. That is handled in our
12 department.

13 Q Okay. So as it relates to that particular item
14 of evidence, the shirt and the pants, where did it
15 go to determine whether or not blood is there?

16 A It initially went to our evidence processing
17 department.

18 Q Okay. And who is the analyst or agent at SLED
19 who would have been responsible for determining
20 whether or not there was blood on the pants or the
21 shirt?

22 A The individual that performed this was our
23 forensic technician Ms. Betty Butler.

24 Q Betty Butler?

25 A That is correct.

SW - S. STEWART - DIRECT

1 Q And how does one tell whether or not there is
2 blood on somebody's clothing?

3 A We have, we do perform a special test that will
4 give us an indicator whether or not the possible
5 presence of blood is there.

6 Q Okay. And that was done in this case?

7 A That is correct.

8 Q All right. Now if I can, and while we're waiting
9 to open it, I notice you're putting on gloves,
10 plastic gloves?

11 A That's correct.

12 Q Why are you doing that?

13 A I don't want to contaminate the evidence.

14 Q Okay. And that's how you were trained?

15 A Yes, it is.

16 Q Okay. You can open the package.

17 A Okay. These appear to be a pair of pants.

18 Q Take them out for me please.

19 A Okay.

20 Q These are a pair of black pants that were
21 submitted in this case?

22 A I believe so. This is my first time seeing them
23 'cause I did not do the analysis on them.

24 Q Tell me why you didn't do analysis on these
25 pants?

SW - S. STEWART - DIRECT

1 A The pants were brought in to be tested for the
2 possible presence of blood. According to Ms. Betty
3 Butler's testing came back negative so it was not
4 submitted to me for further analysis.

5 Q Okay. So after Ms. Butler tested the pants she
6 didn't find any blood so there was no need to bring
7 it to you?

8 A That is correct.

9 Q All right. And on the inside of the pants here
10 do you see her initials there?

11 A Yes, I do.

12 Q PWB?

13 A That is her initials.

14 Q And there appears to be several little white
15 circle areas on the front and the back of the pants?

16 A Yes. I believe those to be areas where she
17 performed the testing for the possible presence of
18 blood.

19 Q Okay. I'm gonna hand you the second part of this
20 State's Exhibit Number 86.

21 A Okay. I believe this to be the shirt that was
22 submitted to SLED as well.

23 Q Okay. All right. And sir, you also see similar
24 circular markings on the black shirt?

25 A Yes.

SW - S. STEWART - DIRECT

1 Q On the front and back?

2 A Yes, I do.

3 Q All right. And again, was that determined
4 whether or not there's blood present?

5 A Yes, that's the definition on ---

6 Q All right, did you perform an analysis on the
7 shirt?

8 A No, I didn't.

9 Q Why is that?

10 A Because her testing came back negative without
11 possible prejudice of blood.

12 Q With anybody's blood?

13 A Yes, that is correct.

14 Q Now were you given any known DNA samples or known
15 blood samples in this case?

16 A Yes, I was.

17 Q Tell me about them?

18 A I was given a known blood standard from Mr. Larry
19 Moore, Jr.

20 Q All right. And that known blood sample for
21 Mr. Larry Moore, Jr., would have been from autopsy?

22 A I believe so.

23 Q All right. Let me hand you what's been
24 previously admitted as State's 84 and ask you if you
25 recognize that particular exhibit?

SW - S. STEWART - DIRECT

1 A Yes, I do.

2 Q What's that exhibit?

3 A This is the blood standard from Mr. Larry Moore,
4 Jr., that I had performed DNA analysis on.

5 Q Okay, all right. Did you use that known blood
6 sample in any way in your analysis of any items of
7 evidence in the case?

8 A Yes, I did. I used it to compare against some
9 swabs that were submitted as well.

10 Q All right. And the swabs that were submitted to
11 you, where did the Sheriff's Department indicate to
12 you, if so, where those swabs were collected from?

13 A I was not told where the swabs were -- I know
14 they were collected from the suspect's vehicle.

15 Q Suspect's vehicle, okay, all right. And I'm --
16 do you still have the letter opener there with you?

17 A Yes, I do.

18 Q All right. Let me just ask you this, if you are
19 comfortable and able to answer my question without
20 opening it, then I'd rather not open it. If you
21 need to open it to make sure that you've satisfied
22 yourself that you've given me, you've given me
23 correct responses, then you're free to open it.
24 Contained within that exhibit is a known blood
25 sample from Larry Moore, Jr.?

SW - S. STEWART - DIRECT

1 A That is correct.

2 Q And also swabs from the suspect's vehicle?

3 A Not in this packaging.

4 Q Tell me what's in — I guess you need to open it
5 for me then.

6 A I can tell you what's in this one.

7 Q Okay.

8 A The known blood standard is in here. Also,
9 fingernail clippings from Mr. Larry Moore as well as
10 known pulled hairs from Mr. Larry Moore.

11 Q Let me ask you if you recognize what's in 85,
12 State's Exhibit Number 85?

13 A Yes, I do recognize this.

14 Q Tell me about it.

15 A Inside this packaging is where the swabs from the
16 vehicle are contained.

17 Q Okay. And you don't need to open that to know
18 that?

19 A No, I do not.

20 Q All right. So let me not get you to open it,
21 okay. Tell us about your analysis and comparison of
22 the blood sample that was taken from the victim at
23 autopsy and as is relates to the swabs taken of what
24 is described as the suspect's vehicle?

25 A Would you like me to read it from my report?

SW - S. STEWART - DIRECT

1 Q Please, sir, or whatever you're comfortable with.

2 A Okay. The DNA profile developed from items 4.1,
3 4.2, 4.3, and 4.4 which are the swabs from suspect's
4 vehicle, matches the DNA profile of Larry Moore, Jr.
5 The probability of random selecting an unrelated
6 individual having the DNA profile matching these
7 items is approximately one in 1.2 sextillion.

8 Q Sextillion?

9 A That is correct.

10 Q I mean, I can get up to trillions but what comes
11 after — I know we got millions, billions, trillions
12 —

13 A Then it's quadrillion, then it's quintillion and
14 then it's sextillion.

15 Q Oh, so we know that was Larry Moore's blood in
16 the car?

17 A Yeah.

18 MS. BARR: Now beg the Court's indulgence.
19 Mr. Stewart, that's all the questions that I have
20 for you at this time. Please answer any questions
21 Defense counsel or the Court may have for you.

22 THE COURT: Thank you, Ms. Solicitor.

23 Mr. Kent.

24 MR. KENT: Thank you.

25 **CROSS-EXAMINATION**

SW - S. STEWART - CROSS

1 BY MR. KENT:

2 Q Agent, how are you doing, sir?

3 A I'm doing well.

4 Q I just want to cut to the chase very quickly.

5 Putting everything together that you've heard since
6 you've been in the courtroom, and based upon the
7 evidence that you had in front of you, is your
8 testimony that the blood found on the lower quarter
9 panel that they sent you from the Williamsburg
10 County Sheriff's Department is the blood that
11 belonged to Larry Moore?

12 A Within a degree of certain scientific certainty I
13 can say that, yes.

14 Q And that's the only blood you were sent was on
15 the lower left quarter panel from outside the
16 driver's door?

17 A I believe so. I was never told where the blood
18 was collected from the suspect's vehicle. I just
19 know that the description that they gave was from
20 the suspect's vehicle.

21 Q And you were inside and heard the other person
22 testify before you?

23 A I did.

24 Q And you know where he said the blood came from?

25 A Yes, I do.

SW - S. STEWART - CROSS

1 Q And so putting all that together that's what
2 we're saying?

3 A That's what I'm assuming, yes.

4 Q Okay. And you have no independent testimony
5 whatsoever about this case at all? You don't know
6 anything about it other than just doing some tests?

7 A No, I do not.

8 Q Thank you so much. That's all the questions I
9 have.

10 THE COURT: Redirect.

11 MS. BARR: No, sir, Your Honor.

12 THE COURT: Thank you. Thank you very
13 much for being with us today, Agent Stewart.

14 THE WITNESS: Yes, sir.

15 THE COURT: You may step down.

16 Any objection to the officer being
17 excused?

18 MS. BARR: I was going to ask if he could
19 be.

20 MR. KENT: None on behalf of Mr. Williams.

21 THE COURT: You may be excused.

22 THE WITNESS: Thank you, sir.

23 (WHEREUPON, counsel approached the
24 Bench for an off-the-record discussion.)

25 THE COURT: Mr. foreman, ladies and.

1 gentlemen of the jury panel, perhaps now would be a
2 good time to take our lunch and recess. Please
3 remember my instructions. Do not discuss the case
4 with anyone. Do not read or watch the news. Do not
5 do any independent investigation or any
6 investigation on the internet. With that being
7 said, we're gonna take a little bit of an extended
8 lunch and recess until 2:30. Please be back
9 promptly at 2:30. Hope y'all have a pleasant lunch
10 thank you.

11 (WHEREUPON, the jury was removed from the
12 courtroom at 12:40 p.m.)

13 (WHEREUPON, State Exhibits Nos. 87 through
14 118 were marked for identification
15 only.)

16 THE COURT: Anything further, Solicitor?

17 MS. BARR: No, sir.

18 THE COURT: Anything from Defendant, Mr.
19 Kent?

20 MR. KENT: No, Your Honor.

21 THE COURT: All right, thank you. Court
22 will be in recess till 2:30.

23 (Whereupon, a lunch break was taken.)

24 MR. KENT: I just have one small issue,
25 it's not an issue realistically. Your Honor,

1 State's Exhibit Number 87 through 98, the pictures
2 that were utilized during the course of the autopsy,
3 during the break myself and the Solicitor spent
4 painstakingly detail going through all of the
5 autopsy pictures. In an abundance of caution we
6 have — I want to make sure I say this carefully so
7 I'm protecting myself — we have stipulated to the
8 pictures that they will intend on using. One of the
9 rationales for the stipulation, the pictures that
10 they intend on using, the Solicitor has taken great
11 efforts to not include more graphic images that they
12 could potentially introduce. I'm not saying those
13 would be introduced, and I'm not actually
14 saying that — I want to make sure I say this
15 carefully. The pictures I have agreed to, even
16 though I may have an argument with them, based upon
17 way of stipulation and agreement we have agreed that
18 these will be the less is dangerous and grotesque
19 pictures that they could introduce. So for that
20 reason, Your Honor, we have stipulated to allow
21 these pictures to come into evidence.

22 MS. BARR: And Judge, if I may also place
23 on the record, there were a total of 246 autopsy
24 photos taken. A number of them obviously contain
25 images of internal organs. Those were not included

1 even though we take the position that they may be
2 relevant to show injury of trajectory of the
3 bullets. We have purposely excluded those. There
4 is a set of photographs that were taken of the body
5 when it originally arrived at MUSC which were very
6 bloody obviously, and then there were a set of
7 photographs taken after the body was cleaned. And
8 so in an efforts to keep a clean record we have gone
9 through all 246 of those photographs and have just
10 included the ones that have direct correlation to
11 the method and manner of death to evidence injury
12 and they're all photographs showing the victim in
13 cleaned state. And I believe, Your Honor, they are
14 for the record exhibits 87 through 118. And Judge,
15 we're gonna withdraw exhibit 99.

16 THE COURT: So let me make sure I'm
17 tracking, 87 through 98 and then 100 through?

18 MS. BARR: 118.

19 THE COURT: 118?

20 MS. BARR: Yes, sir.

21 (WHEREUPON, State Exhibit Nos. 87 through
22 98 and 100 through 118 were admitted into
23 evidence and No. 99 was withdrawn.)

24 MS. BARR: And Judge, we've also
25 stipulated that the State will withdraw exhibit

1 number 95 which is another view of State's Exhibit
2 Number 94 so we would withdraw that. My apologies
3 to the Court. And judge, with those stipulations I
4 will concur with Defense counsel. And it's my
5 understanding he also has no objections to what had
6 previously been marked, it's not admitted, State's
7 Exhibits 17 and 19 which are photographs of the
8 nightclub.

9 THE COURT: Say that again please.

10 MS. BARR: It's my understanding that
11 Defense counsel has also stipulated to the
12 admissibility of photographs State's Exhibits
13 Numbers 17 and 19 which are photographs of the
14 nightclub. They should have been included in that
15 first set, and I think they got away from me at one
16 point and I did not officially move to have them
17 admitted. I will do so at this time along with the
18 last series of photographs of the autopsy.

19 MR. KENT: That is correct, Your Honor.
20 So I guess realistically, as I mentioned, I made
21 objection at the beginning of trial for autopsy
22 pictures. This will take care of that objection.

23 THE COURT: The stipulation is 17 and 19
24 will be in evidence, nightclub photographs.

25 MS. BARR: Yes, sir.

1 THE COURT: And 87, State's 87 through 94,
2 96, 97, 98 and 100 through 118 are all autopsy
3 photographs. By my count, that is 29 photographs
4 which is about 13 percent of 247 total autopsy
5 photographs.

6 MS. BARR: Yes, sir.

7 THE COURT: And you're stipulating to
8 their admissibility; is that correct, Mr. Kent?

9 MR. KENT: Based upon our agreement, Yes,
10 Your Honor.

11 MS. BARR: Yes, sir.

12 (WHEREUPON, State Exhibits Nos. 17 and 19
13 were admitted into evidence and State
14 Exhibit No. 95 was withdrawn.)

15 THE COURT: All right. Anything further
16 before we bring our jury, Mr. Kent?

17 MR. KENT: Yes, Your Honor. And this
18 won't take long. Realistically we're getting into
19 the portion in which the autopsy of the victim and
20 pictures will be put up. The State of course is
21 going — and I understand the graphic nature and I
22 understand how this could affect the victim and the
23 victim's family. And all I would ask the Court —
24 and the Solicitor's Office went above and beyond the
25 call of duty and had the family go to the back row,

1 I will just ask you just, an admonition to the court
2 on individuals to control their emotions so it
3 doesn't have an effect on swaying the jury.

4 THE COURT: All right. In my observations
5 throughout the course of the trial of Mr. and
6 Ms. Moore, I have not seen any, clearly have not
7 heard any sounds or any conduct that would create
8 such emotions that it would prejudice the jury
9 against the defendant in this case. Although I have
10 obviously seen a host of tears and such as that
11 which is common heartfelt human emotion, I would
12 note for the record they have moved from the
13 location at the end of the Solicitor's table to the
14 first row behind the bar. And of course, just my
15 observation, I'm sure they understand the serious
16 nature of the jury's responsibility that they will
17 in no way impede the jury in any manner in that
18 regard. I generally tell people that if they do not
19 feel they can control their emotions, perhaps it
20 will be better to leave the courtroom as opposed to
21 staying; but if the future is predictable by my past
22 observation I believe they would be, would have the
23 ability to remain.

24 MR. KENT: And Your Honor, that was not
25 meant with any terms of disrespect whatsoever to the

1 victim; but I understand this is emotional ---

2 THE COURT: I certainly didn't think
3 that ---

4 MR. KENT: And I understand this is
5 emotional to this victim and some subject of
6 emotion, of course will be necessary in a trial of
7 this nature. I just wanted to override the
8 sympathies.

9 THE COURT: I understand. Solicitor?

10 MS. BARR: Your Honor, the only other
11 thing I would add is we've had a scheduling hiccup,
12 if you will. The experts from SLED and trace
13 evidence will not be available to testify until in
14 the morning. We expect that that witness will be
15 maybe 20, 30 minutes; and I don't expect that
16 Mr. Kent's cross-examination of that witness will be
17 very lengthy. And then we would propose to call
18 one, two at the most, after her, very short
19 witnesses and anticipate resting that case. So
20 Judge, in light of that we would ask that following
21 the testimony of Doctor Riemer who is the forensic
22 pathologist, that we be permitted to retire for the
23 day.

24 THE COURT: All right. Perhaps I would,
25 although we wouldn't be at the stage of the State

1 resting, perhaps after the doctor's testimony I
2 could question Mr. Williams about his right to
3 testify or not testify, and he would have more time
4 over the evening hours to discuss that with his
5 attorney.

6 MR. KENT: I have no problem with that,
7 Judge. Thank you so much.

8 THE COURT: Ready for the jury?

9 MS. BARR: State's ready.

10 (WHEREUPON, the jury was returned to the
11 courtroom at approximately 2:45 p.m., and
12 the following proceedings commenced in
13 open court.)

14 THE COURT: Welcome back, ladies and
15 gentlemen of the jury panel. I hope y'all had a
16 pleasant lunch. Be that as it may, we're continuing
17 the trial of the case as you know by the
18 presentation of evidence and testimony by the State
19 in this case its chief. Please continue to give the
20 parties your complete and undivided attention as you
21 have done throughout the trial of this case.

22 Solicitor, you may call your next witness.

23 MS. BARR: Please the Court, Your Honor,
24 we call Doctor Ellen Riemer.

25 THE COURT: Doctor, come around to be

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1 sworn please.

2 WHEREUPON,

3 **ELLEN RIEMER,**

4 having been duly sworn by the Clerk, testified
5 as follows:

6 THE CLERK OF COURT: Take a seat in the
7 witness box.

8 **DIRECT EXAMINATION**

9 BY MS. BARR:

10 Q Good afternoon, Doctor Riemer.

11 A Good afternoon.

12 Q State your full name for me and spell your last
13 name.

14 A Doctor Ellen Riemer, R-I-E-M-E-R.

15 Q And Doctor Riemer, you are a forensic
16 pathologist?

17 A Yes.

18 Q And as such you're a medical doctor?

19 A Yes.

20 Q All right. Tell us by way of background briefly
21 what it is that a forensic pathology does.

22 A A forensic pathologist is a physician who
23 examines a deceased individual to determine the
24 cause and manner of death.

25 Q All right. And have you had previous occasions

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1 to testify in this court and courts over counties
2 throughout the state as an expert in the field of
3 forensic pathology?

4 A Yes.

5 MS. BARR: Judge, I believe that Defense
6 counsel stipulates to Doctor Riemer's qualifications
7 and so we tender her at this time as an expert in
8 the field of forensic pathology.

9 THE COURT: Is that correct, Mr. Kent?

10 MR. KENT: Yes, Your Honor, we stipulate
11 to her expertise.

12 THE COURT: Again, ladies and gentlemen,
13 this witness, Doctor Ellen Riemer, will be qualified
14 as an expert in the field of forensic pathology.
15 She would be authorized to give opinion testimony in
16 that field and give the underlying basis of those
17 opinions. Thank you.

18 Thank you, Solicitor. You may corner.

19 BY MS. BARR:

20 Q Doctor Riemer, tell the jury what an autopsy is.

21 A An autopsy is a specialized type of surgical
22 procedure performed after death in which the
23 pathologist, the forensic pathologist, uses surgical
24 tools to examine the body and uses powers of the
25 vision and experience and evaluating injuries and.

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1 After completing external, internal examination of
2 the body, comes to a conclusion as to the cause and
3 manner of death.

4 Q Okay. And just so that we're clear and the jury
5 will understand, you did not perform the actual
6 autopsy on the body of Larry Moore, Jr., back in
7 November of 13, correct?

8 A That's correct.

9 Q Okay, who did that?

10 A A colleague of mine, Doctor Michael Caplan, who
11 is not at the Medical University of South Carolina
12 anymore; but he moved to become a medical examiner
13 in New York. And as a result of his not being at
14 MUSC I was asked to review this case, the autopsy
15 report, and all the photographs and to familiarize
16 myself with it and to testify in his place.

17 Q All right. Now in terms of when you have a
18 doctor on staff who subsequently leaves prior to the
19 trial of a homicide case as we have here, is it
20 something you or members of your staff at MUSC have
21 done in previous in the past?

22 A Yes, we do this on a regular basis.

23 Q Okay. All right. And so having reviewed the
24 autopsy report of Doctor Caplan and the photographs
25 that were taken, are you comfortable with testifying

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1 as to the cause and manner of death of Larry Moore?

2 A Yes.

3 Q Ma'am, tell us when the body arrived at the

4 Medical University of South Carolina.

5 A Well, the autopsy was performed on November 10th,

6 2013, and most likely arrived that morning.

7 Q Okay. The autopsy report beg- the autopsy of the

8 body began on November 10th, 2013, about what time?

9 A 9:00.

10 Q 9 a.m.?

11 A Yes.

12 Q Okay, all right. What I need you to do please,

13 ma'am, if you don't mind, if you'd get down off the

14 witness stand we will look at some photographs. And

15 what I need you to do 'cause you're kind of

16 soft-spoken, Doctor Riemer, if you don't mind I need

17 you to speak up so that we can make sure that we can

18 hear you. I'm gonna have you stand over the

19 projector. Does Doctor Caplan's report note signs

20 of trama or injury to the body of Mr. Moore?

21 A Yes.

22 Q Okay, all right. And how are the injuries

23 described?

24 A They're described, they are, there are five

25 gunshot wounds to the body.

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1 Q Okay. I'll give you the pointer in case you need
2 it. I'm gonna publish what has been previously been
3 admitted as State's Exhibit Number 87. Is that the
4 body of Mr. Moore?

5 A Yes. This is a photograph of the decedent while
6 he still has a defibrillator pad on his chest.

7 Q And what's a defibrillator pad? And if you can
8 use the pointer, point to that so you can tell the
9 jury what you're talking about.

10 A This is a defibrillator pad, and it's put on a
11 person when they're in the emergency room basically
12 when their life is trying to be saved so.

13 Q All right, let me ask you this. There is a
14 number here and a series of letters and numbers
15 depicted in this particular exhibit, FA13-595. Tell
16 me what that indicates.

17 A Yes. That's -- every autopsy that's performed at
18 the Medical University of South Carolina gets a
19 specific unique number. We don't go by names
20 because there may be more than one individual, you
21 know, more than one individual with a name like Sam
22 Smith. So we give a very unique number and then
23 every photograph that we take at the autopsy has
24 that number in the photograph, and then it's helpful
25 for us to file them so when I a couple of years

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1 later want to view the autopsy photographs from that
2 case I can look them up by number. And so this was
3 the number of the autopsy FA13-595. So it was at
4 13, FA stands for forensic autopsy, 13 is the year
5 2013, and 595 is the 595th case in that calendar
6 year.

7 Q Okay. Now from this particular exhibit can you
8 see based on the visual of that particular exhibit
9 — from that particular exhibit can you see any
10 obvious signs of trauma or injury to Mr. Moore?

11 A Well ---

12 Q Hold on for a minute. First answer that point.

13 A Well, I can see that there's an entrance gunshot
14 wound here. From this, from just this photograph —
15 and I may not, it may be, you can't really tell for
16 sure that that's an entrance gunshot but I know that
17 because I've seen the other pictures but that's one
18 of — and one of the gunshot wounds to the body.

19 Q Okay. And I just want to highlight just that
20 injury so. Would you on the projector point using
21 your pointer where that first sign of injury is.

22 A See that, that's kind of hard to — that is the
23 entrance of the gunshot wound. That's — it's kind
24 of — the entrance gunshot wound is that whole sort
25 of tip of the gunshot wound.

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1 Q All right. And so the record is clear, what body
2 part is that particular wound reflected on?

3 A It's on the left anterior hip region.

4 Q Okay. And you describe that as being an entrance
5 wound?

6 A Yes.

7 Q Okay, all right. Let's publish State's Exhibit
8 Number 88. Is that a closer view of that particular
9 wound?

10 A Yes, that's a closer view of that entrance
11 gunshot wound, and we can see this is the victim's
12 naval, belly button, and this is pubic hair and
13 that's the entrance gunshot wound on the left front
14 of the hip.

15 Q Okay, all right. And were you able to determine
16 if you've classified that injury as an entrance
17 wound, were you able to determine whether or not the
18 bullet wound exited the body?

19 A Yes.

20 Q Okay. Tell us about State's Exhibit Number 89.

21 A Okay. This is a photograph taken at the autopsy
22 with the victim lying on — you are looking at the
23 left side profile view of the body so that is the
24 entrance wound here that we just saw on the front of
25 the hip.

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1 Q I'm sorry, Doctor, and I hate to interrupt you
2 but if you can, point on the projector so that all
3 of the jurors—

4 A I will try to do that.

5 Q —can look at their monitors.

6 A Not a problem. Okay. So this is the entrance
7 wound that we have just seen from the front, on the
8 left front of the hip.

9 Q Yes, ma'am.

10 A And then the bullet, you can see that there's a
11 pole that was placed between where the bullet
12 entered over here and where the bullet exited over
13 here. And in the body the bullet is, the wound path
14 is described as going through the left hip bone as
15 well as soft tissue and musculature.

16 Q Was there any damage between the left hip bone?

17 A Yes, the left hipbone was fractured.

18 Q All right. Now what is the purpose of the rod
19 being placed between the two bullet wounds?

20 A It's just a demonstrative aid for, to help
21 imagine, to help a person who's looking at the
22 photographs realize that there's an actual path, a
23 hole through the body instead of just looking at,
24 you know, one injury and another injury putting the
25 pole through. It's just sort of, it demonstrates

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1 that there's, the entrance wound is connected to the
2 exit wound.

3 Q Okay. And so that we're clear, this photograph
4 wound depict the victim lying face down on the table
5 in which the autopsy was performed?

6 A That's correct.

7 Q So he's on his stomach?

8 A Yes.

9 Q Okay. Tell me about State's Exhibit Number 90
10 please, ma'am. Again, use the projector to
11 demonstrate.

12 A Okay. So this is a photograph of the lower
13 extremities of the deceased individual. And again,
14 we see the number FA13595 to indicate that this is
15 the autopsy of FA13595 and we can see there's
16 another entrance wound, entrance gunshot wound on
17 the left thigh. That's over there. And that's what
18 we can see on this photograph. And we can also see
19 kind of vaguely that there's another gunshot wound
20 over here on the inside of the right lower leg, but
21 that you can only see a little bit vaguely over
22 there.

23 Q Okay. Tell us about State's Exhibit Number 91
24 please, ma'am.

25 A Okay. That's a closer up photograph of the

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1 gunshot entrance wound that's on the left thigh
2 and—

3 Q Hold on, I'm sorry. All right. So that we have
4 perspective and we can appreciate where body parts
5 are, is the — is Mr. Moore's knee visual in that
6 photograph?

7 A We can see this is the right knee —

8 Q Okay.

9 A —of the right leg, and then this is the left
10 thigh looking at it kind of at an angle so we can
11 see the right leg over here with the right knee, and
12 this is the top outside of the left thigh.

13 Q Okay, and that is the injury that was depicted in
14 the previous exhibit?

15 A Yes, when we had a photograph of like the whole
16 legs so it's just a closer up photograph.

17 Q All right. And if you will tell us about State's
18 Exhibit Number 92.

19 A Okay. So now this is a photograph of the left
20 thigh, and we can see the entrance wound that we've
21 already seen in a couple of other photographs
22 entering here. And we have a pole that was put
23 through it for the benefit of the observer, and we
24 can see it's exiting on the upper part of the middle
25 of the left thigh and so it's going through the

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1 thick part of the thigh before exiting the upper
2 part of the inside of the left thigh next to the
3 scrotum.

4 Q Okay. Tell me about State's Exhibit number 93.

5 A Okay. So this is the same gunshot wound from a
6 different vantage point, and we're looking at
7 Mr. Moore from the left side while he's lying sort
8 of the right side of his body is on the metal
9 autopsy table. And this is the entrance wound on
10 the front of the left thigh that we looked at
11 already from a couple of different other
12 photographs, and it went through the rod. We can
13 see it's going through the left thigh. We saw it,
14 coming out we saw it in previous photograph coming
15 out of the inside of the left thigh, and then it
16 proceeded to go through the scrotum and into the
17 right buttock before exiting the lower part of the
18 back on the right buttock.

19 Q Okay. Tell us about, if you will, State's
20 Exhibit Number 94.

21 A Okay. So this is a photograph of the buttocks in
22 the right leg. This is the left leg, the right
23 thigh and the left thigh and this is the left
24 buttock. And that's just some dry blood that's on
25 the left buttock, but this is a big exit gunshot

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1 wound. And we can see over here, we still have the
2 pole in from where the bullet started, entered the
3 body, on the left thigh on the front lateral aspect
4 of the left thigh, went through the left thigh
5 through the scrotum and out the right side of the
6 lower back on the right buttock.

7 Q Now we started our discussion, Doctor Riemer,
8 initially noting that there was an entrance wound to
9 the victim's left hip?

10 A Yes.

11 Q Am I correct? Is that visible in the photograph
12 as well?

13 A Yes.

14 Q Okay.

15 A We can see this is the exit wound from that
16 gunshot wound that we looked at initially that was
17 on the front of the left hip and went, entered the
18 front of the left hip. This is one in the earlier
19 photographs we saw it exiting the left buttock and
20 so that's the exit wound that we can still, we can
21 see in this photograph from a different gunshot
22 wound.

23 Q Okay. Now one of the things that is curious to
24 me — I want to make sure that I am correct. In
25 State's Exhibit Number 91, I'll let you look at it.

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1 Is that the entrance wound that resulted in that
2 exit wound?

3 A Yes.

4 Q Okay. So let me publish this again just for very
5 limited purpose. If we looked back at State's
6 Exhibit Number 90 we see the gunshot wound to the
7 left thigh?

8 A Yes.

9 Q All right. And it seems to me to be smaller than
10 what's depicted in State's Exhibit Number 94. The
11 entrance wound seem to be smaller than the exit
12 wound. Can you explain to us why that appears to be
13 the case?

14 A Because it is, it is small.

15 Q Okay. How is that? Why does that happen?

16 A Well, it's not always the case, but sometimes
17 entrance wounds are smaller than exit wounds because
18 a bullet as it's going through the body or fragment
19 of a bullet are 'cause a lot of gases it's going at
20 a very high velocity and there's some gas build up
21 around the bullet path and so sometimes it's not
22 always the case, but sometimes when a bullet exits
23 it leaves a larger defect but it's, it's really
24 dependent, it's not always the case. Sometimes
25 entrance wounds are small, bigger, and it's varies.

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1 Q Okay, let me ask you this, if the weapon that
2 inflicted those injuries was an AK-47 would you
3 expect to see that kind of exit wound with that
4 size?

5 A Um —

6 Q Is that—

7 A It's very, it would be very typical.

8 Q Very typical, thank you. All right, let's talk
9 about State's Exhibit Number 96. Explain the
10 positioning of the victim's body and then tell us if
11 you see any signs of trauma or injury.

12 A So in this photograph taken at the autopsy
13 Mr. Moore is lying on his back on the autopsy table,
14 and we can see this is his right armpit, the right
15 armpit and the right nipple. And we have two holes
16 here. This is an entrance wound on the front side
17 of the right of the body. This is right arm pit and
18 so this is the right side of the body, and there's a
19 bullet that entered in that location and that's the
20 entrance gunshot wound and exit in the back so the
21 bullet is going on the right side from the front to
22 the back.

23 Q Okay, all right. And did the half of that bullet
24 strike any other part of Mr. Moore's body?

25 A It went through just soft tissue and muscle and

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1 skin.

2 Q All right. Tell me about State's 97.

3 A Okay. So again, this is a photograph taken at
4 the autopsy from a similar vantage point as the
5 previous photograph in which we can see the right
6 nipple over here. And in this photograph
7 Mr. Moore's arm is lifted up away like above his
8 head so we can have a clear view of this wound path,
9 and there's a pole again put through the entire
10 track of the wound for demonstrative purposes only.
11 And you can see that ends -- where the bullet
12 entered here and exited here is connected, and it's
13 connected we have a pole through it. If it wasn't
14 connected, then we'd put a pole through it.

15 Q Okay. All right, and tell me about State's
16 Number 98.

17 A Okay. So this is a photograph of Mr. Moore's
18 right arm. It's still in an up position. Okay,
19 here's the armpit again. We can see his face and
20 his right ear on this part of the photograph. And
21 there's a tear on the inside of the right arm, and
22 the autopsy determined that that was the result of
23 the bullet, remember it went through the right side,
24 entered the right side and exited the back. And
25 then when the bullet was exiting the back on the

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1 right side of the body, it grazed the right arm and
2 that's a result, it's about the same level. So as
3 the bullet was going from the right front to the
4 back and grazed the arm, but it didn't do any injury
5 to vital structures. It's just tearing the skin and
6 fats.

7 Q Okay. If you would tell me about State's Exhibit
8 Number 100.

9 A This is a gunshot wound. We don't have any real,
10 you know, like a nipple, an armpit here to
11 demonstrate, but this is the lower part of
12 Mr. Moore's back so we have the small of the back
13 and some people have that little indentation like
14 above the buttocks so we're looking at the right
15 side of his back. And this is the small of his back
16 and an entrance wound on the right side of the back
17 that's going in an upward direction and exits the
18 upper part of the back closer to the neck.

19 Q Now Doctor Riemer, this is what appears to be a
20 portion of the measuring tape that is placed on the
21 victim's back. Can you tell us, can you indicate to
22 us how, why that exit wound was?

23 A Yes. Well, the width was measured at the autopsy
24 at 1.4 inches I believe and this entire, the width,
25 this is one inch up here so like one-and-a-half of

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1 these is how wide it is from the right to the left.

2 Q And what about how ---

3 A The height of the wound---

4 Q How long?

5 A ---measured between 2 and 3 inches.

6 Q Okay. Can you do me favor? Come here for just a
7 moment please. Can you demonstrate to the jury
8 using my back what portion of Mr. Moore's back would
9 have reflected that entry and exit wound of the
10 gunshot?

11 A Okay, okay. So this is the small of the back
12 where we have a little bit ---

13 Q Okay, hold on, I don't think they can see you.

14 A Maybe I'll stand over here, okay. So this is
15 like the lower, it's the lower part of the back,
16 okay, where we have a little bit of an indentation.
17 An entrance wound is about over there. And then
18 it's going through the skin of the back and the soft
19 tissue underneath the skin and exiting over there so
20 it has a kind of that kind of trajectory. It's
21 going upward and right to left---

22 Q Okay.

23 A ---when something relative to the anatomic
24 position.

25 Q Okay, all right. Would you expect to see that

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1 kind of injury if the shooter was facing the victim?

2 A Well, if the shooter and victims were facing —

3 Q Face to face, would you expect an injury to the
4 victim's back?

5 A No.

6 Q All right, you can go ahead. All right, you
7 mentioned a wound to the leg earlier you really
8 couldn't see any in the third set of photographs
9 that we saw. Tell us about State's Exhibit Number
10 101.

11 A Okay.

12 Q I guess since he's laying down.

13 A Okay. So this is a photograph taken at the
14 autopsy of Mr. Moore's right leg so you can see that
15 this is the inside of his ankle, and the inside of
16 his foot. And this is a graze injury so it didn't
17 actually, it just scooted along the skin and the
18 subcutaneous tissue which is the fat, it didn't go
19 even into the muscle of the leg.

20 Q Okay. And Doctor Riemer, in terms of photographs
21 that we have just seen, they're not very bloody if
22 at all. I think maybe one of two might have
23 contained blood. Is that how the deceased body
24 would have likely entered MUSC before the autopsy
25 was performed?

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1 A No. One of the things we do initially when we
2 start to look at a deceased individual who may have
3 injuries is we wash blood off of the surface of the
4 body so we can examine the injuries when they're
5 cleaned of the blood.

6 Q And that was done in this case?

7 A Yes.

8 Q Were there, in fact, other photographs that you
9 viewed that were more, I guess gruesome is the word
10 I would use.

11 A Well, I don't really use that word.

12 Q I understand.

13 A But I mean, these are injuries that cause
14 bleeding.

15 Q Okay, all right.

16 A There's no question about it. The blood is
17 cleaned up.

18 Q Okay.

19 A Before these photographs don't show all the
20 amount of blood that was on his skin.

21 Q I understand. All right. Now the deceased's
22 clothing, those were photographs separately?

23 A Yes.

24 Q Okay. Going to publish State's Exhibit Number
25 102, and tell us, obviously, those are like black

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1 pants?

2 A Yes.

3 Q And those were the pants Mr. Moore was wearing at
4 the time?

5 A Yes.

6 Q What is significant — I see there are two arrows
7 on those, the pair of pants.

8 A Yes.

9 Q Can you tell us what's significant about the
10 arrows?

11 A Okay. Well, this arrow is highlighted. It's
12 pointing to a hole in the back of the pants that
13 corresponds to the exit wound on the right buttock.

14 Q Okay.

15 A And then this arrow is pointing to a defect in
16 the leg of the right leg of the pants that
17 corresponds to the gunshot wound that was at the
18 lower inside of the right leg.

19 Q Okay. And this is a view of the pants if the
20 pants are face down and you're looking at the rear
21 of the pant?

22 A Yes. We can see that the tag, the back of the —
23 the fly in the front. We don't see the fly from
24 this view. We're looking at the back of the pant,
25 and I just want to make, you know, clothing,

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1 sometimes clothing shifts. And but we can see that
2 there's a defect that's in a location that
3 corresponds to where the exit wound was over here
4 and we can, we have a hole that's roughly caused by
5 this two areas on the right leg.

6 Q Okay. And you talked about the exit wound with
7 regard to, I think it was the right buttock. I'm
8 going to show you State's Exhibit Number 107. Is
9 that defect that you describe, is that the depicted
10 in that particular exhibit?

11 A Yes. That defect with the arrow pointing to that
12 hole, it corresponds to where there was an exit
13 wound on the right thigh.

14 Q Okay. Tell me about State's 106.

15 A Okay. So this is the picture of, the photograph
16 that was taken of the pants from the front. We can
17 see the front of the belt is over here. And we have
18 arrows, these were arrows that were added afterward
19 to highlight or, you know, at the autopsy arrows
20 were added. So if the pants are dark and might be
21 hard, there's a lot of blood soaking on them in the
22 pants, you can tell that. And we have a defect here
23 on the right leg and that corresponds to the injury
24 that we saw on the right leg, the inside of the
25 right leg. And then we also have a defect of the —

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1 it's on the front of the left leg of the pants up
2 sort of toward the top, and that's approximately,
3 reflects the location of the entrance wound on the
4 left thigh.

5 Q Okay. As it relates to the entrance wound to the
6 right lower leg, can you see that, State's Exhibit
7 Number 104?

8 A Yes.

9 Q Okay, all right. Tell us, is that a closer view
10 of the ---

11 A Yes, that's a closer up view of the two holes on
12 the right leg of the pants. It only caused that one
13 graze wound so obviously the pants were not skin
14 tight. It's not like somebody is wearing tights.
15 So it went in one and out the other, and on the way
16 it hit the skin.

17 Q All right. And in State's 106 you talked about
18 the damage to the defect, as you describe, to the
19 left upper portion of the victim's pants. Is that
20 like this in State's Exhibit Number 105?

21 A Yes. So we have basically a tear in the pants.
22 This is the left pocket, and this is in the
23 approximate location where the entrance wound was on
24 the file. Actually, you know, this is, looks like
25 it's kind of higher but that might indicate that his

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1 pants were sort of low, low slunk.

2 Q Okay. Tell me about State's 109.

3 A It's a shirt. Okay, so we have a couple of
4 defects in the right side of the shirt. You'll
5 recall that we had an entrance gunshot wound on the
6 right side over here and an exit gunshot wound on
7 the right side in the back kind of where it went
8 along the right side, and these are in that
9 approximate location so these would correspond to
10 that gunshot wound. And then we have a little hole
11 over here and a little hole over here, and you know,
12 it's possible, I mean, some of these holes are very
13 small and we all know sometime you put something in
14 the dryer and you may get a little hole so it
15 doesn't necessarily mean a bullet went through it.
16 I really can't say much about these.

17 Q And did you all just turn the shirt upside out
18 and photograph it again as it reflects in 108? Does
19 that appear to be 108?

20 A Yeah, this looks like it's -- it looks like it
21 was turned inside out.

22 Q Yes, ma'am.

23 A And that we have holes in the shirt. And again,
24 the shirt, the shirt is not worn like, you know, a
25 body, you know, bodysuit like spandex so, you know,

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1 there's movement and, you know, these could roughly
2 correspond to where there were injuries like this
3 might be the right side injury and this would be the
4 entry that gunshot wound that went along the back
5 that I was demonstrating on the solicitor's body.

6 And then we have, you know, another — we have other
7 defects that could correspond to gunshot wounds.

8 Q All right. Tell us about State's 111.

9 A Okay. So these are shorts.

10 Q Boxer shorts?

11 A Yes.

12 Q Okay.

13 A And ---

14 Q And you can pick it up and look at it. I can put
15 it back down on the projector.

16 A Yeah, it's hard for me to tell whether it's front
17 or back of the shorts. That actually looks like,
18 it's probably the back of the shorts and we have
19 holes. And this would be ---

20 Q Okay, wait a minute.

21 A Okay. So we're looking at the back of the shorts
22 here which is what I believe it is. This is a hole
23 that we saw a hole in the back of the pants so this
24 is at similar location. And then this is a hole
25 that's on the left side of the shorts, and we also

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1 had that gunshot wound on the left part of the hip
2 that exited the left side of the back, lower back,
3 and so that would be in approximate location of that
4 gunshot wound.

5 Q Tell us about number 112.

6 A I mean, these are all, they're defects in the
7 clothing that would correspond, you know, to gunshot
8 wounds so we can see that there's a hole here in the
9 right. It's really hard for me to tell if it's
10 front or the back to tell you the truth.

11 Q Okay, that's fine.

12 A But we can see that there's blood around that
13 hole so it's corresponds to one of the holes that
14 was caused by the bullet.

15 Q Okay, all right. And tell us about State's 113.

16 A This is the tank top that Mr. Moore was wearing,
17 and this looks like it's the back of the tank top
18 and we have some defects. This is on the right side
19 of the tank top, and then we've got a big defect
20 sort of toward the top. And if he was wearing the
21 tank top the way it was designed to be worn, these
22 would correspond to the injuries. We'd have a right
23 side and on the back. And I mean, they're just
24 holes that correspond to the injuries on the body.
25 Sometimes people wear shirts inside out and don't

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1 necessarily and/or they could be shifted so it
2 doesn't tell us exactly where they are in the body;
3 but in those cases they actually correspond to
4 approximately the locations of the gunshot wound on
5 the body.

6 Q Okay. I'm gonna publish State's 114 and 115
7 simultaneously. These are simply photographs of the
8 victim's shoes as they were presented at autopsy?

9 A Yes.

10 Q Okay. And so those were photographs obviously?

11 A After they were removed and you can just have
12 some blood on them.

13 Q Okay. And on 116 there appears to be money
14 there?

15 A Yes, this was removed from the pockets. I don't
16 know which pocket. I have to go back to the autopsy
17 report, but that is bloody bills and a couple of
18 dimes.

19 Q Okay, all right. Let me ask you about this, this
20 appears to be a ten dollar bill? If you ---

21 A Yes. That's a ten dollar bill.

22 Q And two one dollar bills?

23 A Yes.

24 Q These are maybe quarters or dimes? You can't
25 really tell?

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1 A Yeah, I can't -- you're right, maybe they're
2 quarters.

3 Q And then there's a lighter?

4 A Yes.

5 Q Okay, all right. Is it the practice of the
6 Medical University of South Carolina to retain all
7 items and turn over to law enforcement that came in
8 with the victim?

9 A Yes.

10 Q Okay. And that was done in this case?

11 A Yes.

12 Q Okay. All right. And as part of doing the
13 autopsy, Director Caplan would have noted any metal
14 projectiles, any bullets, any fragments, and
15 anything else along those lines, correct?

16 A Yes, and those are recovered and also handed
17 over.

18 Q Let's talk about State's 117?

19 A So the pathologist at the autopsy recovered a
20 projectile fragment. See it's, it's a piece of one.
21 And we know this is from this case because it has a
22 number, FA13595, projectile fragment from left
23 interior thigh. So the bullet went into the left
24 thigh and sometimes bullets fragment along their
25 path. Sometimes they can be fragments even before

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1 entering the body, and in this case there was along
2 the wound track. A piece of metal was left behind,
3 a piece of the bullet.

4 Q Okay.

5 A So it's a projectile fragment that was recovered
6 in the left thigh.

7 Q All right. And tell me about State's 118.

8 A This is a fragment of projectile from the same
9 gunshot wound that was recovered in the right
10 gluteal region which is the area of the right
11 buttock. So along the wound track from where the
12 bullet entered the left thigh and exited the right
13 side of the buttock, a couple of fragments of the
14 projectile remained in the body and were recovered
15 at autopsy.

16 Q And those along with the victim's clothing and
17 any other belongings that were with him were turned
18 over to law enforcement once the autopsy was
19 concluded?

20 A Yes.

21 Q All right. Ma'am, you can have a seat, thank
22 you. Doctor Riemer, based upon Doctor Caplan's
23 report, based upon your own expertise and -- well,
24 let me back up. How many autopsies have you
25 performed in your career?

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1 A I'm not keeping exact track, but approximately
2 3,000.

3 Q Okay. Based upon your review of Doctor Caplan's
4 reports, your personal observations of the
5 photographs in the case, were you -- was Doctor
6 Caplan, first of all, able to determine the cause
7 and manner of death?

8 A Yes.

9 Q Okay. And that cause and manner of death was?

10 A Gunshot wound to left thigh with transection of
11 the left femoral artery, and the manner is homicide.

12 Q All right. Now tell me what you mean about the
13 manner of death.

14 A Well, there's -- by manner of death we don't mean
15 exact cause. We have a few different
16 classifications of manners of death. There's --

17 Q Like -- I'm sorry, go ahead.

18 A As an example, homicide means that somebody died
19 at the hands of another person. Suicide, we mean
20 somebody died at their own hands. Natural, we mean
21 somebody died of natural causes, if somebody had
22 cancer for instance. And so we've got natural,
23 homicide, suicide. And then accident, like if
24 somebody was in a car accident and suffered injuries
25 from an accident; that would be fourth. And then a.

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1 fifth category we have is undetermined, when after a
2 complete autopsy a cause of death cannot be
3 determined.

4 Q Okay. Do you concur with Doctor Caplan's finding
5 that the deceased Larry Moore died as a result of a
6 transection of the femoral artery?

7 A Yes.

8 Q Okay. And essentially what that means is he bled
9 out?

10 A Yes. So in the left thigh there's a major blood
11 vessel that supplies blood to the lower extremity,
12 and the bullet that went into the left thigh went
13 through that major blood vessel and caused abundant
14 bleeding out of that blood vessel.

15 Q Okay, all right. Doctor Riemer, thank you so
16 much. Please answer any questions that Defense
17 counsel or the Court may have for you.

18 THE COURT: Thank you, Solicitor.

19 Mr. Kent.

20 MR. KENT: Thank you.

21 **CROSS-EXAMINATION**

22 BY MR. KENT:

23 Q Doctor Riemer, how are you doing?

24 A Hi.

25 Q We met briefly in the hallway, but again, my name

1 is Shaun Kent and I represent Terry Williams in this
2 case. I don't have very many questions, but I just
3 want to make sure I understand a little bit about
4 what you testified and I just want to clarify some
5 other things that you testified to, okay?

6 A Okay.

7 Q First I've been given a copy of a nine page —
8 and I'm gonna call it a report. Is that easier to
9 call it the nine page autopsy report that was
10 completed by Doctor Caplan?

11 A Yes.

12 Q Okay. And that is basically what you have based
13 your testimony on today, that the report of Doctor
14 Caplan as well as other information that I think
15 that y'all keep in your central computer?

16 A Yes, and all of the photographs that I —

17 Q And all of the —

18 A (Indiscernible.)

19 Q Yes. And you've had opportunity to look at all
20 nine pages of this report, correct?

21 A Yes.

22 Q And on the last question that the solicitor just
23 asked, she asked you about the cause of death. I
24 want to make sure. The cause of death that we're
25 specifically dealing with, and if you could give

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1 that to us one more time.

2 A Gunshot wound to left thigh with transection of
3 the left femoral artery.

4 Q Okay. And that would be inside, included inside
5 of this report that -- and I know they're not in any
6 particular number, but that would be the first wound
7 that we talk about inside of this report, correct?

8 A It's the first wound described, right. They're
9 not in any -- they don't have anything to do
10 necessarily with the order that the gunshot wounds
11 were shot. They're just -- they have to be in order
12 in the autopsy report and that's, was the first,
13 number one.

14 Q I thought that was, I'm sorry, I apologize, I
15 thought that's what I said, the first.

16 A Yes.

17 Q The first thing mentioned in the report. And I
18 just want to go through just some background.
19 Looking in the report the report indicates exactly
20 how tall the victim was. Am I not mistaken? I
21 think it was like 69.5 inches tall or something of
22 that nature?

23 A 69.5 inches.

24 Q And we write -- this might not be a good reason,
25 why do we write these things down in inches instead

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1 of feet or things of that nature, the heights of
2 individuals, is there any specific reason?

3 A No.

4 Q Okay. And when we write down 69.5 inches as
5 we're talking about the first injury, and that's
6 what I refer it to as first injury, you indicate
7 where the entry wound came from and you start at the
8 top of the head at 69.5 -- I'm sorry, not you,
9 Doctor Caplan, I apologize. Doctor Caplan starts at
10 69.5 and he indicates dealing with our first injury
11 where did the entry wound come in. What is the
12 number that he utilizes?

13 A Yes, give me one second.

14 Q Yes, ma'am.

15 A It was measured at 39.5 inches below the top of
16 the head.

17 Q Okay. And so to make sure I'm correct, and
18 please correct me where I'm wrong, Doctor, so we
19 start at 69.5 and then from there we would just
20 measure 39.5 inches from the top of the head to
21 determine where the injury wound came in from?

22 A That's right. It's just a convenience way of
23 localizing it.

24 Q And then we also look at -- so that's where the
25 entry wound came in. And then we also talk about

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1 and I think that's where you and the solicitor were
2 talking about, that it came in and then it entered
3 and reentered the body and there another number.
4 Could you explain that to the jury? I don't want to
5 put words in your mouth. Could you explain using
6 the inches measurements that you were just talking
7 about?

8 A Well, I'm not sure I understand the question.

9 Q We indicated that the first entry wound the fatal
10 shot?

11 A Yes.

12 Q The individual, victim is 69.5 inches tall?

13 A Yes.

14 Q The entry wound started at 39.5 inches.

15 A Yes, okay.

16 Q From the top of the head. It entered into the
17 body.

18 A Right.

19 Q And then it re-entered into the body at —

20 A Yes. Start exiting on the middle part of the
21 left upper thigh and then reentered the scrotum and
22 that's at 35.5 inches below the top of the head so
23 that's north of where it entered.

24 Q North of where it entered. And then there's
25 another measurement that we talked about.

1 A Yes. And then the bullet continued through that
2 right side of the body and exited on the right lower
3 back and exits 4.5 inches below the top of the head
4 so that's even further north than the initial
5 entrance wound and then there is a re-entrance wound
6 on the scrotum so we know it's going in an upward
7 direction.

8 Q In an upward direction. And I just want to talk
9 about that inside dealing with injury one as I've
10 been calling it which is our fatal shot. Doctor
11 Caplan indicates an overall wound path in the
12 standard anatomical position?

13 A Yes.

14 Q Would you agree with me what he indicated in the
15 standard anatomical position the wound path is left
16 to right?

17 A (No verbal response.)

18 Q Is that a yes, ma'am?

19 A Yes.

20 Q I apologize. Left or right going front to back
21 and slightly upward?

22 A Yes.

23 Q Okay. And that's dealing with our fatal shot,
24 correct?

25 A Yes.

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1 Q And that's the only shot we indicate is a fatal
2 shot inside the report that I've just read?

3 A Yes.

4 Q And then finally, Doctor, is it possible -- and
5 if I'm wrong please tell me if I'm wrong -- is it
6 possible that a bullet or something of this nature
7 could have hit another surface before entering into
8 the body in this case?

9 A It's possible.

10 Q Thank you so much. That's all the questions I
11 have for you, Doctor.

12 THE COURT: Redirect, Solicitor?

13 **REDIRECT EXAMINATION**

14 BY MS. BARR:

15 Q Doctor Riemer, just a couple of followup
16 questions. Doctor Caplan noticed in his report that
17 the victim was 69.5 inches long, or tall I guess is
18 how we would describe it?

19 A Yes.

20 Q So that would be how tall?

21 A 5 foot 9-and-a-half.

22 Q Okay. How much did Mr. Moore weigh?

23 A 135-pounds.

24 Q 135 pounds, okay. Is there any way for you as a
25 forensic pathologist to determine the order in

1 which Mr. Moore was shot?

2 A No.

3 Q Okay. Is there any way to determine whether or
4 not he got the wound to the back first or the wound
5 to the femoral artery first?

6 A No.

7 Q Thank you, Doctor Riemer. That's all I have.

8 THE COURT: Recross, Mr. Kent?

9 MR. KENT: No further questions of this
10 witness.

11 THE COURT: Thank you. Thank you very
12 much, Doctor. Thank you for being with us this
13 afternoon. You may step down. May the doctor be
14 excused?

15 MS. BARR: Judge, we ask she be excused.

16 THE COURT: You may be excused.

17 THE WITNESS: Thank you, Your Honor.

18 MS. BARR: Judge, we have another expert
19 witness that the State plans to call in its case in
20 chief. That person won't be available till in the
21 morning and so we kind of request we recess for the
22 day, Your Honor, please.

23 THE COURT: All right. I will grant that
24 request as far as the jury is concerned. I know we
25 have a matter to take up outside the presence of the

1 jury; we'll do that. We will not keep our jury
2 captive. Mr. — ladies and gentlemen of the jury, I
3 am gonna allow you to begin your evening recess at
4 this time. Please remember my instructions. Do not
5 discuss the case with anyone or fellow jurors,
6 family, friends, or anyone else. Do not read,
7 watch, or listen to any news accounts of the case
8 should there be any. Do not do any independent
9 research or any research on the internet. With that
10 being said, I'm gonna release you from your jury
11 service for the remainder of the day and ask you to
12 please report back promptly at 9:30 in the morning.
13 Please report back promptly at 9:30 in the morning
14 and hope you all have a pleasant evening thank you.

15 (WHEREUPON, the jury was removed from the
16 courtroom at 3:41)

17 THE COURT: Let's take ten minutes and
18 then I will review —

19 MR. KENT: Discuss with my client the
20 right to testify or not testify. If you can ask the
21 Solicitor what prior useable record they would use
22 against my client.

23 THE COURT: Well, y'all do that during the
24 recess —

25 MR. KENT: That way we'll be able to

1 properly inform him.

2 THE COURT: Court will be in recess ten
3 minutes.

4 (WHEREUPON, a recess was taken from the
5 proceedings.)

6 THE COURT: If you'd come around please to
7 the rail, Mr. Williams, with your attorneys.

8 Madam Clerk, would you place Mr. Williams
9 under oath please.

10 WHEREUPON,

11 **TERRY WILLIAMS,**

12 having been duly sworn by the Clerk, testified
13 as follows:

14 THE COURT: Tell me your full name please.

15 THE DEFENDANT: Terry Williams.

16 THE COURT: How old are you, Mr. Williams?

17 THE DEFENSE: 32.

18 THE COURT: How much education do you
19 have?

20 THE DEFENDANT: I went as far as ninth
21 grade, sir.

22 THE COURT: I need to go over a few things
23 with you. I do this with everyone who is on trial.
24 I require their responses to be under oath. That's
25 why I had the clerk place you under oath. We have

1 not yet quite reached but we're in probably about
2 three witnesses of reaching the stage of the trial
3 where the State rests. Once the State rests, the
4 Defense, your side, would have the opportunity to
5 present evidence for the jury to consider. You
6 understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: In that regard you may call
9 witnesses to testify on your behalf, and if you
10 choose to testify yourself you may do so. Do you
11 understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: No one can force you to
14 testify. You have the absolute right to remain
15 silent; and if you chose not to testify, I will tell
16 this jury that they cannot hold your silence against
17 you in any way. I will tell them that they're not
18 to even discuss that in the jury room. Do you
19 understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: If your side offers no
22 evidence whatsoever, in other words, if neither you,
23 nor anyone on your behalf testifies or offers any
24 exhibits, then your attorney will get to make the
25 last closing argument to the jury. Otherwise, the

1 prosecutor gets to make the last argument to the
2 jury. Do you understand?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Solicitor, does Mr. Williams
5 have any criminal history that would subject him to
6 impeachment under Rule 609?

7 MS. BARR: He does, Your Honor.

8 THE COURT: All right. And what is that,
9 Solicitor?

10 MS. BARR: He's got a conviction dated
11 July 11th, 2006, for receiving stolen goods at the
12 general sessions level. He was sentenced to one
13 year probation, two years suspended to one year
14 probation. He also has a conviction dated
15 12/11/2006 for PWID marijuana, PWID cocaine base.

16 THE COURT: And tell me the date of the
17 receiving stolen goods again, Solicitor.

18 MS. BARR: The conviction date is July
19 11th of 2006.

20 THE COURT: And the date of the possession
21 with intent to distribute marijuana and possession
22 with intent to distribute, was it cocaine?

23 MS. BARR: Yes, sir. It is December 11th,
24 2006.

25 THE COURT: All right. Do you agree that

1 those are impeachment under 609, Mr. Kent?

2 MR. KENT: Yes, sir, I would agree that
3 2006 will be a receiving stolen goods, would be a
4 crime of dishonesty. And as far as the two drug
5 charges they will be charges that carry more than a
6 year in jail and would be usable under the statute.
7 And my client has indicated to me that his prior
8 record he acknowledges all three of those charges.

9 THE COURT: Well then, your record is now
10 settled so if you were to testify, the law allows
11 the prosecutor to ask you in front of the jury about
12 whether or not you have been convicted of certain
13 offenses. Those offense would be receiving stolen
14 goods, possession with intent to distribute
15 marijuana, and possession with intent to distribute
16 cocaine; but they cannot ask you about the
17 underlying facts, only whether or not you have been
18 convicted of those offenses. If that happens I
19 would tell this jury they can only consider that
20 evidence against you, if they consider it at all,
21 only on the issue of whether or not your testimony
22 is believable and for no other purpose whatsoever.
23 Do you understand?

24 THE DEFENDANT: Yes, sir.

25 MR. KENT: Your Honor, if I may ask and I

1 not to interrupt you, the criminal domestic violence
2 charge, I know the State was able to get into that
3 during their testimony. I'm wondering would they be
4 allowed to get into that if Mr. Williams chose to
5 testify also. I know they did not mention it as
6 part of his usable record, but since they went into
7 it earlier that would be something that I need to
8 discuss with him if that's something he needs to
9 worry about.

10 THE COURT: I don't think they can get
11 into it under Rule 609.

12 MS. BARR: I agree with that, Your Honor.

13 MR. KENT: I just want to make sure so I
14 can inform him.

15 THE COURT: Now otherwise, I can't predict
16 ---

17 MR. KENT: I understand. I just want to
18 make sure I can give him an effective ---

19 THE COURT: And the Solicitor agrees with
20 that?

21 MR. KENT: Yes, sir, Your Honor.

22 THE COURT: Thank you. Thank you,
23 Solicitor. Thank you.

24 Again, Mr. Williams, the decision about
25 whether you testify or not is your decision to make

1 and yours alone. I expect that you may have
2 conferred with your attorney and perhaps with others
3 whose opinions you value on life's very important
4 decisions, the decision about whether or not to
5 testify is your call to make, your decision. Do you
6 understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Has anyone exercised any undue
9 influence over you to get you to chose to testify or
10 not to testify?

11 THE DEFENDANT: No, sir.

12 THE COURT: Today are you under the
13 influence of any medication, drugs, or alcohol or
14 anything that negatively affects your thinking
15 ability?

16 THE DEFENDANT: No, sir.

17 THE COURT: Do you suffer from any
18 physical, mental, or nervous problem that affects
19 your thinking today?

20 THE DEFENDANT: No, sir.

21 THE COURT: Do you have any questions you
22 would like to ask me about your right to testify or
23 not to testify?

24 THE DEFENSE: No, sir.

25 THE COURT: Have you understood my

1 questions?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you understand your right
4 to testify or not to testify?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. I am not gonna ask
7 you either (a) if you made a decision now or not, or
8 (b), what that decision may be. I will give you the
9 opportunity over the evening recess to discuss that
10 further with your attorneys. Thank you. Thank you
11 very much, Mr. Williams.

12 THE DEFENDANT: Thank you, sir.

13 MS. BARR: Judge, may I also ask the Court
14 a question. With regard to the PWID cocaine and
15 PWID marijuana convictions, my understanding is that
16 the Court has to make a determination of whether
17 evidence of those convictions is more prejudicial
18 than probative, it outweighs its prejudicial effect
19 under 609(a)(1) and so I wanted to certainly make
20 sure that that is noted in the record as well.

21 THE COURT: Thank you. Thank you very
22 much, Solicitor.

23 MR. KENT: Your Honor---

24 MS. BARR: My belief is that the receiving
25 stolen goods conviction absolutely comes in if he

1 testifies. The drug convictions may or may not come
2 in depending on what the Court decides is my
3 understanding.

4 You agree with everything I said?

5 MR. KENT: I would agree wholeheartedly,
6 Your Honor; however, as an officer of the Court, in
7 light of the fact this Court has kept out the drug
8 convictions and any drug mentions in this case, just
9 as an officer of the Court in light of the amount of
10 time that the charges carry -- and I have discussed
11 that with Mr. Williams -- he understands if he
12 testifies, more than likely than not the drug
13 convictions will come in, and we would not object to
14 that if they did.

15 THE COURT: Solicitor, explain to me first
16 if this is a 2006 drug conviction you calculated the
17 time but that would go 2016, correct?

18 MS. BARR: 16.

19 THE COURT: Ten years, would have not have
20 to go --

21 MS. BARR: Yes, sir. And Judge, it may
22 even go to 2018 because I think he's been on
23 probation for two years.

24 MR. KENT: That's --

25 THE COURT: Is PWID marijuana and PWID

1 cocaine a felony?

2 MS. BARR: Yes, sir.

3 THE COURT: Mr. Kent and Solicitor, the
4 testimony of both Ms. Greene and Mr. Croker are such
5 where there was — Mr. Croker had a quick
6 conversation with Ms. Greene. As a result of that
7 conversation he went to the Suburban automobile
8 there was in the driver's seat Wolfman and in the
9 front I think Mr. Croker or whatever. In the front
10 passenger seat the defendant Mr. Williams. And he
11 went over there as we know for the purpose of
12 purchasing marijuana. Ms. Greene testified to that
13 in camera fully and completely in our motions
14 Monday.

15 I would not want the jury to make, to
16 connect any dots as far as possession with intent to
17 distribute marijuana and possession with intent to
18 distribute cocaine that they had set up somewhat of
19 a drug lemonade stand right there in the cut and
20 they were going over there just to sell drugs. Now
21 with that being said, I will allow the solicitor if
22 you want this option so to speak, Mr. Kent to say
23 have you been convicted of a felony in 2011 — '06,
24 and two felonies. Now that cuts both ways. They
25 can think the felony would be something much

1 greater. They can think just the word felony in and
2 of itself. I'm gonna allow them 'cause I think
3 they're admissible under the law. I think they do
4 have a probative value only on the issue of
5 credibility or believability and that that probative
6 value outweighs the prejudicial effect to the
7 accused.

8 MR. KENT: Your Honor, respectfully in
9 light of the charge and what we're looking at that,
10 and I probably misspoke earlier, the reason we have
11 no problem if they're gonna come there I'd rather
12 them come in by name just to give the jury the right
13 to speculate on what possibly those felonies could
14 be and my client and I discussed it. He's prepared
15 on how to testify accordingly.

16 THE COURT: All right. Well, I've
17 determined that the probative value of admitting the
18 evidence that outweighs the prejudicial effect to
19 the accused and then possession with intent to
20 distribute marijuana and possession with intent to
21 distribute cocaine would be admissible solely for
22 purposes as to Mr. Williams' credibility.

23 MS. BARR: And Your Honor, in light of
24 that, I would respectfully request that the Court
25 have the defendant acknowledge that to protect the

1 report so that there's not an issue regarding that
2 later on if it, if later on happens. That he
3 acknowledges that before he makes his decision on
4 whether or not to testify.

5 THE COURT: All right. Would you please
6 stand for me, Mr. Williams. You may remain there.
7 You may remain there. You're still under oath. And
8 you heard the conversation between the Court, your
9 attorney, and the Solicitor?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And you understand that if you
12 were to take the stand, again, the Solicitor could
13 ask you receiving stolen goods, possession with
14 intent to distribute marijuana, and possession with
15 intent to distribute cocaine. She could ask you
16 those questions, if you've been convicted of those
17 offenses in 2006. Do you understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Further, you understand as you
20 heard me discuss with your attorneys, I would allow
21 you to be questioned about whether or not you had a
22 felony conviction in 2006, two felony convictions in
23 2006, and not the named offenses of possession with
24 intent to distribute marijuana and possession with
25 intent distribute cocaine. Do you understand?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: In either of those events,
3 either of those, I will tell this jury that and I
4 would charge them 'cause I'd tell them they could
5 not use those prior convictions against you in any
6 manner whatsoever; but if they use it, they can only
7 use it on the issue of whether or not they believe
8 you or not, credibility. You understand that,
9 Mr. Williams?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And so you to need to consider
12 that along with all the other considerations in
13 determining whether or not you exercise your right
14 to testify or not to testify. You understand?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And if you chose not to
17 testify I'm gonna tell the jury they can't even
18 discuss that in the jury room, that you choose to
19 exercise your right to remain silent. You
20 understand?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you have any questions
23 about that?

24 THE DEFENSE: No, sir.

25 THE COURT: Have you understood my

1 statements to you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right, thank you. Thank
4 you very much.

5 I find Mr. Williams is a very, appears to
6 be a very intelligent young man, that he understands
7 his right to remain silent, not to remain silent.
8 He understands my questioning. His responses were
9 tracking my questions appropriately, and he
10 understands the issue of impeachment under the rules
11 of 609 and his prior criminal history.

12 Anything further you'd like to ask with
13 regards to your client, Mr. Kent?

14 MR. KENT: No, sir. I think everything
15 has been covered on the record, Your Honor.

16 THE COURT: Solicitor, anything further
17 you would like me to question Mr. Williams about —

18 MS. BARR: No, Your Honor.

19 THE COURT: —as to his right to testify
20 not testify?

21 MS. BARR: No, sir, Your Honor, thank you.

22 THE COURT: Anything further, Solicitor?

23 MS. BARR: No, sir.

24 THE COURT: Mr. Kent?

25 MR. KENT: Nothing further, Your Honor.

1 THE COURT: All right, court will be in
2 recess till 9:30 in the morning.

3 (WHEREUPON, the proceedings were concluded
4 at 4:22 p.m. and resumed on
5 July 30, 2015.)

6 (WHEREUPON, State Exhibits Nos. 119 and
7 120 were marked for identification only.)

8 THE COURT: Anything from the State,
9 Solicitor, before we bring in our jury?

10 MS. BARR: Yes, Your Honor, just one
11 housekeeping matter. We've got marked as State's
12 number 119, the GSR kit from the deceased victim,
13 and State's Exhibit 120 which are the spent shell
14 casings that were recovered. I believe the —

15 THE COURT: 120 is what, Solicitor?

16 MS. BARR: The spent shell casings that
17 were recovered. It's my understanding Defense does
18 not object to the admissibility of those two items.

19 THE COURT: All right. Mr. Kent?

20 MR. KENT: That's correct, Your Honor, no
21 objection on behalf of Mr. Williams.

22 (WHEREUPON, State Exhibits Nos. 119 and
23 120 were admitted into evidence.)

24 THE COURT: Anything further, Solicitor?

25 MS. BARR: No, sir, Your Honor.

1 THE COURT: Mr. Kent?

2 MR. KENT: Yes, Your Honor, just briefly.
3 My understanding is we should be done with the
4 State's case today. My understanding is they'll be
5 putting on three or four witnesses. And I may be
6 incorrect but my understanding is one of the
7 witnesses that the State would intend on calling
8 would be the victim's mother. It has been proposed
9 that the victim's mother would testify that, one,
10 that her son is right-handed which is something that
11 the defendant would stipulate to, that the
12 defendant — I mean, that the victim was
13 right-handed. I would respectfully make a motion
14 that any other testimony that would be attempted to
15 offer by this witness would be basically to inflame
16 compassion of the jury in light of the fact this
17 witness is not a factual witness, has no facts or
18 anything bearing on this case whatsoever. And to
19 allow her to testify in this case on something that
20 is undisputed, that the victim is right-handed, I
21 think will be unduly prejudiced. For that reason we
22 will move to just exclude the testimony of the
23 victim's mother.

24 THE COURT: All right, Solicitor.

25 MS. BARR: Your Honor, I first would

1 respectfully disagree with counsel. We're not
2 required to accept their stipulations. We're
3 entitled to try our case how we see fit. If there's
4 evidence that comes in that defense counsel feels is
5 inappropriate or irrelevant they can make a motion
6 at that time and objection at that time. There are
7 other matters upon which this victim will testify
8 that are pertinent today and, also, particularly as
9 it relates to the testimony of Ms. Reva McFadden.

10 THE COURT: All right. I would agree that
11 the State does not have to accept, nor does the
12 Defense have to accept stipulation by either party.
13 Of course, her testimony would be limited by the
14 rules of evidence that should be relevant, pointed,
15 and it should not offend Rule 403. And of course,
16 victim impact testimony is not, will not be
17 appropriate, Solicitor, be that as it may.

18 MR. KENT: Thank you, Your Honor.

19 THE COURT: All right, thank you.
20 Anything further, Mr. Kent?

21 MR. KENT: Nothing further on behalf of
22 Mr. Williams, Your Honor.

23 (WHEREUPON, the jury was returned to the
24 courtroom at approximately 9:50 a.m., and
25 the following proceedings commenced in

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1 open court.)

2 THE COURT: Good morning. Welcome back,
3 ladies and gentlemen of the jury panel. I hope you
4 had a pleasant evening. We are continuing the trial
5 of the case by the presentation of evidence and
6 testimony by the State in its case in chief. If you
7 would please continue to give the parties your
8 complete and undivided attention as you have done
9 throughout the trial of the case.

10 Solicitor, you may call your next witness.

11 MS. BARR: Thank you, Your Honor. We call
12 Investigator Juan Ballard.

13 WHEREUPON,

14 **JUAN BALLARD,**

15 having been duly sworn by the Clerk, testified
16 as follows:

17 THE CLERK OF COURT: Please take your seat
18 in the witness box.

19 MS. BARR: May it please the Court.

20 THE COURT: Yes, ma'am.

21 **DIRECT EXAMINATION**

22 BY MS. BARR:

23 Q Investigator Ballard, good morning.

24 A Good morning.

25 Q If you would, tell the — first of all, state

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1 your full name for us.

2 A Juan Ballard, Williamsburg County Sheriff's
3 Office.

4 Q And tell us what you do for the Williamsburg
5 County Sheriff's Office.

6 A Well, I investigate criminal matters such as
7 murders, arsons, things of that nature.

8 Q All right. And you are currently assigned to the
9 investigations unit. How long have you worked as an
10 investigator?

11 A Five years.

12 Q And how long have you been in law enforcement?

13 A Going on year number 18.

14 Q Number 18?

15 A Yes, ma'am.

16 Q Now I'm going to take you back to the early
17 morning hours of November 10th, 2013, very early
18 morning hours. I believe that was a Sunday morning,
19 November 10th?

20 A I think it was Saturday night evening, Sunday,
21 yes, ma'am.

22 Q Yes, sir. Of course, you were one of the
23 deputies who responded to the shooting involving the
24 defendant Terry Williams; is that correct?

25 A Yes, ma'am, I was.

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1 Q All right. And sir, you indicated that as part
2 of your duties as an investigator you investigated
3 various crimes that are committed throughout the
4 county?

5 A I do.

6 Q All right. And are you also a firearms
7 instructor?

8 A I am.

9 Q All right. And tell me what you do as a
10 firearm's instructor -- and that's with the
11 Sheriff's Office?

12 A Yes, ma'am, with the Sheriff's Office.

13 Q All right. Kind of give us, tell us kind of what
14 you do as a firearms instructor.

15 A Well, as a firearm instructor I take people who
16 just learn to shoot and instruct them in the proper
17 techniques, i.e., trigger, trigger, full side
18 alignment, and guiding them to the proper way of
19 shooting a firearm, whether it's a handgun, shotgun,
20 like I say, assault rifle but patrol rifle, assault
21 rifle, select fire rifle and all.

22 Q And you had experience in teaching and also using
23 assault rifles as part of your instruction?

24 A Yes.

25 Q Okay. Now when we talk about an assault rifle

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1 what are we talking about? What type of gun have
2 you had experience with in terms of teaching?

3 A Well, the normal platform for law enforcement is
4 some people call AR15 but we use flat form M4 which
5 is basically the same thing. You can get it in
6 single shot, three round versus a fully automatic.

7 Q Okay, all right. And I believe you described the
8 first one as an AR15?

9 A AR15, yes.

10 Q Okay. Is that comparable or similar at all to a
11 AK-47?

12 A They're similarities that shoot, say, large
13 caliber.

14 Q And the caliber of casings that were recovered in
15 this case were what caliber?

16 A 7.62 by 39.

17 Q Okay. Would that be considered a large caliber
18 casing?

19 A Yes, ma'am.

20 Q Okay. And in terms of an assault rifle and M-16
21 and those classifications of a assault rifle,
22 they're called high power for a reason, right?

23 A Yes, ma'am.

24 Q What's that reason?

25 A They're designed for two things, hunting and —

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1 Q Killing people?

2 A ---killing people.

3 Q All right. The type of assault rifles that you
4 are familiar with as part of your teaching and being
5 an instructor, are they capable of traveling great
6 distances?

7 A Yeah.

8 Q Okay. Give us an example. Like, for example,
9 with AR, an AR-15?

10 A The AR-15 uses a 223 round or either a 5 by 5, 6
11 round. They can travel right at accurately a
12 thousand yards.

13 Q Thousand yards?

14 A Yes, ma'am, accurately. If you got the gun set
15 up and, for lack of better term, customize, it can
16 accurately hit you at a thousand yards.

17 Q All right. The -- you mentioned that with the
18 AR-15 you talk about the caliber round is a 5 by
19 5.6?

20 A Yes, ma'am, or 223.

21 Q And in terms of that caliber of round as compared
22 to the caliber round that was seized in this case,
23 which one is larger?

24 A The AK-47 round.

25 Q The round that was seized in this case?

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1 A Yeah, 7.69 — 6.2.

2 Q It's large —

3 A It's larger.

4 Q Larger than the AR-15 round that you're talking
5 about?

6 A Yes, it is.

7 Q Okay. Did you go out to the scene that night?

8 A No, I didn't go out to the scene that night.

9 Q Where did you initially go when you heard about
10 the shooting?

11 A I went straight to the hospital.

12 Q Okay. Did you go out to the scene the next day?

13 A I did.

14 Q All right. Tell us what you did when you went
15 out the next day.

16 A We went outside to see if we, see if Investigator
17 Whack missed anything and do — we were called by
18 Ms. — we were actually advised by Ms. Celestine
19 that she found some additional items. We were going
20 there any way so we went out there and photographed
21 some more rounds, excuse me, shell casings and
22 damage to the building, the actual club.

23 Q Okay, all right. And tell me the general area in
24 which you searched when you went out there after
25 getting the call, not only after getting the call

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1 from Ms. White but after coming out that period to
2 followup on the investigation?

3 A We searched entire area from ---

4 Q Okay. And when you say the entire area tell me
5 what you're talking about?

6 A We searched from all of the ditch line all the
7 way back to the club. We searched from the far end
8 where it's a yellow mobile home all the way back to
9 the other side of the club.

10 Q Okay. I'm gonna publish what's previously been
11 admitted as State's Exhibit Number 17. The area,
12 and for the record we have a frontal view of
13 Celestine's nightclub, the area in which the, which
14 is depicted in that particular exhibit did you
15 certain that entire area?

16 A We searched the entire area and beyond what you
17 could see.

18 Q Okay, all right. You talked about the ditch bank
19 where there's a home behind it. Is that depicted in
20 State's Exhibit Number 23?

21 A Yes, ma'am, it is.

22 Q All right. So it is your testimony that you
23 searched throughout this entire area here?

24 A Yes, ma'am.

25 Q Okay. Now you were looking for shell casings?

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1 A We were looking for anything.

2 Q Shell casings, anything that might be relevant?

3 A Yes, ma'am.

4 Q Okay. Other than shell casings, some other items
5 that might be relevant I believe you all took a
6 cigarette butt off the ground?

7 A Investigator Whack did, yes, ma'am.

8 Q And I believe you all recovered a lighter off the
9 ground?

10 A Yes, ma'am.

11 Q Okay. Now when you went out the next day, it
12 looks like, at least according to those photographs,
13 that it was a sunny day?

14 A Yes, ma'am.

15 Q Okay, all right. Did you notice anything unusual
16 about the ground near where the ditch bank was?

17 A No, ma'am.

18 Q I'm gonna publish State's Exhibit Number 4. Is
19 this a view of the front of the club with your back
20 to the ditch bank?

21 A Yes, ma'am.

22 Q And of course the lines in the, that are depicted
23 in this exhibit, what are those lines?

24 A The vehicle tire tread, vehicle tread.

25 Q All right now, too, again, if you're facing the

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1 club to the left of those tire track marks, you
2 following me?

3 A Yes, ma'am.

4 Q Do you see anything disturbed in the ground in
5 that general area when you went out there?

6 A Nothing other than tire tracks, correct.

7 Q Right, other than tire tracks?

8 A No, ma'am.

9 Q If someone had fired, say in this case an AK-47
10 in the ground.

11 A Uh-huh.

12 Q Your experience as a law enforcement officer,
13 firearms instructor, what would you expect to see in
14 the area where someone had fired a firearm into the
15 ground?

16 A You would see divots sort of like playing golf,
17 you would see a divot.

18 Q Like a dip in the ground?

19 A Like a dip in the ground, yeah.

20 Q Okay. And the kind of round that was expended in
21 this case, obviously you've described it as being
22 high power?

23 A Uh-huh.

24 Q Is that right?

25 A Yes, ma'am.

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1 Q Okay. Now let's talk about State's Exhibit
2 Number 35. You remember that?

3 A Yes, ma'am.

4 Q All right. And that is the metal gate to the
5 front of the club Celestine's?

6 A Yes, ma'am.

7 Q All right. And you personally observed the
8 damage to that particular gate?

9 A Yes, ma'am, I did.

10 Q And do you know what type of material that this
11 part of, the yellow portion of her building is made
12 up?

13 A Cinder block.

14 Q Cinder block?

15 A Yes, ma'am.

16 Q Okay. In this particular exhibit do you notice
17 any damage to the cinder block?

18 A Yes, ma'am, I do.

19 Q Am I pointing to where the damage to the cinder
20 block is?

21 A Yes, ma'am.

22 Q All right. And you also, in this picture do you
23 notice any damage to the metal bar?

24 A Yes, ma'am.

25 Q Okay. Did that damage appear to have been there

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1 for a period of time, or did it appear to be fresh?

2 A That was fresh 'cause it didn't have any rust
3 marks in it.

4 Q In terms of your experience with an AR-15 can a
5 round from an AR-15 cause the kind of damage to that
6 metal?

7 A Yes, ma'am.

8 Q Okay. And did you see any holes of any type
9 resembling anything like the hole that's in that
10 metal bar near the area where the tire tracks are?

11 A Did I see any other ones you're asking?

12 Q Right, exactly?

13 A Other than that one, no, ma'am, that's the only
14 one I saw.

15 Q No holes in the ground?

16 A No, I didn't see holes in the ground, not even
17 tail to tail divots.

18 Q Now that the area where the tire tracks are --
19 I'm gonna publish back up State's 14. Describe that
20 area to me. Is it gravel, is it grass, is it
21 concrete? Describe that area to me.

22 A It's a mixture of grass and may have some sandy
23 portions to it.

24 Q Okay. As it relates to the ground area near the
25 tire tracks and that metal bar that's on the front

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1 door, which surface is harder?

2 A The metal door, the iron gate.

3 Q Okay. And you walked the ground obviously?

4 A Yes, ma'am.

5 Q Let me ask you to followup a little bit now.

6 During your career in law enforcement and as a

7 firearms instructor, have you ever seen an occasion

8 where an individual has either fired a gun

9 accidentally or deliberately into the ground?

10 A Both.

11 Q Both, okay. Any evidence whatsoever at all at

12 the scene that a gun was accidentally or

13 deliberately fired into the ground?

14 A I didn't see any.

15 Q Okay. Now of course, we've heard testimony that

16 an AK-47 was used to shoot Larry Moore. We've heard

17 testimony, you've been in court the entire time,

18 correct?

19 A Yes, ma'am, I was.

20 Q Was an AK-47 rifle ever recovered in connection

21 with this murder?

22 A No, ma'am.

23 Q Okay. Now I believe it was on Tuesday when

24 Ms. McFadden was on the witness stand and she

25 testified about purchasing an AK-47 rifle while she

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1 was living with her husband. Do you remember her
2 testifying to that effect?

3 A Yes, ma'am.

4 Q Okay.

5 MR. KENT: Your Honor, I'm just going to
6 renew my earlier objection. Just as to this
7 testimony, just renewing my objection.

8 THE COURT: All right. Yes, sir, so noted
9 and I would affirm my rulings.

10 Go right ahead, Solicitor.

11 BY MS. BARR:

12 Q Now that AK-47 that she talked about that she
13 bought, that was taken by law enforcement long
14 before this shooting happened, right?

15 A To my understanding, yes, ma'am.

16 Q So there's no question that that — nobody is
17 trying to insinuate that that was the murder weapon?

18 A No, ma'am.

19 Q Okay, I just want to make sure. Tell me what you
20 did while you were at the hospital.

21 A Well, I actually, when I went to the hospital
22 made contact with Sergeant Kennedy who advised me
23 what was the situation, what they had, and advised
24 me that the victim Larry Moore, Jr., was being
25 treated at the hospital and he had a second victim,

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1 Ms. Reva McFadden, who was able to talk at the time
2 and I went and spoke with her.

3 Q Okay. Did you collect any evidence while you
4 were at the hospital?

5 A Yes, ma'am. I collected a piece of shrapnel that
6 was found in her foot.

7 Q Okay. Did you collect anything from the body of
8 Larry Moore?

9 A GSR kit.

10 Q You did a GSR kit off him?

11 A Yes, ma'am.

12 Q On which part of his body?

13 A You do it on the left and right hand.

14 Q Okay, and that's what you did?

15 A Yes, ma'am.

16 Q And that is what has been previously admitted as
17 State's Number 119; is that correct?

18 A Yeah, GSR kit, yes, ma'am.

19 Q Now did you have any reason to believe that Mr.
20 Moore had fired a weapon? I mean, why did you do a
21 GSR kit?

22 A We do that for everybody. Any shooting incidents
23 we have, if we have a suspect we do them. If we
24 have a victim we do them.

25 Q Okay, all right. Fair enough, fair enough, all

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1 right. Now in this case we've heard that
2 Mr. Williams' sister turned him in about 12 hours
3 after the shooting?

4 A Yes, ma'am.

5 Q All right. You said in every shooting case you
6 do a GSR on the victim and you do a GSR on the
7 suspect?

8 A Yes, ma'am.

9 Q Did you do a GSR on the suspect Mr. Williams in
10 this case?

11 A No, ma'am.

12 Q Why not? I thought you just told us you did them
13 on both.

14 A You do, but you only have a six or seven hour
15 window of opportunity to get GSR off a person.

16 Q Okay.

17 A And after that SLED won't even consider it 'cause
18 on a GSR kit you have to put the time of the
19 incident and you have to put the time of collection.
20 If it's past that window of six or seven hours they
21 won't even consider it, won't even touch it.

22 Q All right. So a GSR kit was not collected on the
23 defendant?

24 A No, ma'am.

25 Q Now Lieutenant Debra Collins talked about the

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1 efforts that the Sheriff's Department undertook to
2 try to find Mr. Williams.

3 A Yes, ma'am.

4 Q Do you all have the ability or the technology or
5 do you -- can you access the ability to determine an
6 individual's location based on cell phone usage?

7 A Yes, ma'am, you can.

8 MR. KENT: Your Honor, I'm gonna object at
9 this point in time. I have a matter to bring up.

10 THE COURT: All right. Step out please,
11 ladies and gentlemen. Do not discuss the case
12 during this brief recess.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 10:10 a.m.)

15 THE COURT: Yes, sir.

16 MR. KENT: Thank you, Your Honor, may it
17 please the Court. At this point in time it appears
18 the State is trying to solicit subscriber and
19 telephone information and location information
20 through this witness. Clearly the chain has not
21 been properly established. There are no cell phone
22 records that have been specifically turned over to
23 me. I have cell phone records but not the
24 subscriber information, the log-in information, any
25 information that will be necessary. I mean, there's

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1 a bevy of information that has to be necessary just
2 to get into the location of somebody. You can't
3 just have a witness say, well, he was here based
4 upon the stuff we do. If they were to lay the
5 proper foundation to get all this information in, I
6 still would have an argument; but to try to get it
7 in just through the investigator and say, do you
8 have information to figure out where somebody is,
9 where was he, I don't think it's proper, especially
10 without getting over any of the necessary steps
11 whatsoever. I can go further; but just to say, well
12 where was he, don't you guys have that information,
13 they haven't introduced anybody from ATT, Verizon,
14 or anyone to show the cell phone records belong to
15 someone specifically, any of the information
16 necessary. One thing if Mr. Williams testified but
17 something different they're trying to get into
18 location and information based upon this
19 information.

20 MS. BARR: And I'm not trying to get into
21 location of the defendant from this witness.

22 MR. KENT: Then what was the purpose of
23 the question?

24 MS. BARR: That will become relevant in my
25 next question.

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1 THE COURT: What is your next question so
2 I don't have to send the jury back out, Solicitor,
3 if Mr. Kent is going to object.

4 MR. KENT: Yes, sir. My next question
5 would have been to him when the defendant turned
6 himself in did he have a cell phone with him.

7 THE COURT: And the response would be?
8 No?

9 MS. BARR: Yes.

10 MR. KENT: So what's the purpose of the
11 first question. You can ask the question did he
12 have a cell phone when he turned himself in. What's
13 the relevancy actually of the first part? What's
14 the relevancy of either one of those two questions?

15 MS. BARR: Judge, it's been suggested to
16 this Court and to this jury that the defendant acted
17 in self-defense, and we believe that the fact that
18 the murder weapon has not been recovered, that the
19 cell phone was not recovered, to me is indication of
20 consciousness of guilt because you're deliberately
21 trying to get rid of evidence. Mr. Williams
22 testified, and I understand it was in-camera and
23 outside the prejudice of the jury, but he testified
24 that he deliberately or in a state of panic, got rid
25 of his cell phone. And so we believe the only

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1 reason he would have done that is so the police
2 could not find him. And so, if he should testify we
3 certainly want to cross-examine him in that regard.

4 MR. KENT: And Your Honor if he should
5 testify that would be proper for reply testimony, to
6 re-call this officer to ask him this information.
7 What they're trying to say is, well he testified to
8 something and just in case we want to get in front
9 of the jury. The problem is, and I know I keep
10 saying un-ring the bell, but what if he doesn't
11 testify, then wouldn't we probably shouldn't have
12 asked him. I don't know the purpose of that
13 question because the jury does not know anything
14 that Mr. Williams has said in a pretrial hearing and
15 has not testified, just for the limited purpose of
16 that pretrial hearing. So it'd be my position that
17 question is not relevant at this time.

18 THE COURT: I think it's first cousin to
19 gunshot residue, and the jury is to determine the
20 weight and value. You know, you ask an officer can
21 you track cell phones, the answer to that is yes.
22 Then you can turn around and say — I'm not going
23 there; but I think the question she's asking, did he
24 have a cell phone at the time that he turned himself
25 in, is no. I think it's admissible.

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1 MR. KENT: And they're going to stop
2 there, not — are they gonna be allowed to make the
3 allegation that he destroyed his cell phone or
4 something of that nature in front of the jury? But
5 I'll stop, I'm stop.

6 THE COURT: Now closing arguments are a
7 different brand 'cause they can argue the facts and
8 reasonable inferences to be drawn from the facts so.

9 MR. KENT: I'm fine with that, Your Honor.
10 Thank you so much. Those are the limited two
11 questions, and I would withdraw my objection.

12 THE COURT: Is that —

13 MS. BARR: That would be those, just the
14 questions.

15 THE COURT: That will be what?

16 MS. BARR: Those will be the only two
17 questions I would ask.

18 MR. KENT: I'm sorry, I misspoke, I will
19 not withdraw my objection. I still have my
20 objection as to relevancy, but I understand the
21 Court's ruling.

22 THE COURT: Thank you, Mr. Kent. Thank
23 you, Solicitor.

24 (WHEREUPON, the jury was returned to the
25 courtroom at approximately 10:16 a.m.,

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1 and the following proceedings commenced
2 in open court.)

3 THE COURT: All right, thank you, Mr.

4 Kent. Thank you. You may continue.

5 BY MS. BARR:

6 Q Investigator Ballard, I'm gonna show you an
7 evidence chain of custody form from Williamsburg
8 County Sheriff's Department. And just to followup
9 on my last question, Mr. Williams' sister turned him
10 in on about 12 hours after the shooting; is that
11 correct?

12 A Yes, ma'am.

13 Q Was there a cell phone with him at that time?

14 A No, ma'am.

15 Q All right. When you -- did the Sheriff's Office
16 receive all of the items from Larry Moore following
17 the autopsy of Mr. Moore?

18 A Yes, ma'am.

19 Q And did you all do a similar chain of custody
20 type documentation as relates to items from Mr.
21 Moore?

22 A Yes, ma'am, we do.

23 Q Let me hand you that particular chain of custody
24 form. Are there any weapons whatsoever, pocket
25 knives, kitchen knife, any type of weapon listed on

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1 his belongings?

2 A No, ma'am.

3 Q All right. I'm gonna hand you what's been
4 admitted as State's Exhibit 120. Tell the jury —
5 well, I'll give you the box and then you tell us
6 what's in the box.

7 A Seven envelopes containing one spent round.

8 Q Were some of these shell casings collected during
9 the daytime and some during the nighttime?

10 A Yes, ma'am, it was.

11 Q Now Ms. White testified, I think, during her
12 direct examination that she placed markers by spent
13 rounds. Did you hear her say that?

14 A Yes, ma'am, I did.

15 Q Okay. But she didn't touch anything?

16 A She said she didn't, yes, ma'am.

17 Q And I'm gonna publish State's Exhibit Number 28.
18 Is this one of the spent shell casings that was
19 recovered?

20 A Yes, ma'am.

21 Q And there's the little item there next to it?

22 A Yes, ma'am.

23 Q And I'm not sure what that is.

24 A Me neither.

25 Q Okay. I believe you testified that there were

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1 seven spent casings?

2 A Yes, ma'am.

3 Q All right. One, count them for me. You count
4 them since you're the witness.

5 A 1, 2, 3, 4, 5, 6, 7.

6 Q Okay. And do we know if this is indicative of
7 all of the shots that were fired? Is this all of
8 the casings that were recovered?

9 A That's all that were recovered.

10 Q Okay, all right. Sir, I believe that that's all
11 the questions I have for you at this time. Let me
12 make sure. Please answer any question that Defense
13 counsel may have for you.

14 THE COURT: Thank you. Thank you,
15 Solicitor.

16 Mr. Kent.

17 MR. KENT: Thank you, Your Honor.

18 **CROSS-EXAMINATION**

19 BY MR. KENT:

20 Q Investigator Ballard, how are you doing, sir?

21 A Mr. Kent.

22 Q I've got a series of questions for you and I'm
23 gonna talk to you like I talk to everybody else. If
24 there's — if I don't speak loud enough or clear
25 enough that you can understand or if I start getting

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1 confusing or talk too fast, tell me to slow down and
2 have me repeat my question, okay?

3 A I got you.

4 Q Don't let me put you in any position where it
5 appears as if I'm trying to confuse or confuse you
6 to the jury. Take your time, and I'll give you
7 plenty of time to explain all of your answers.

8 A I got you.

9 Q And of course madam court reporter can't take
10 down anything that were talking over each other at
11 the same time. So I'll give you the courtesy of
12 responding to me and vice versa, okay?

13 A Okay.

14 Q Investigator, I'm gonna start just at the
15 beginning and talk a little bit more about you,
16 okay?

17 A Okay.

18 Q I think Ms. Barr has talked about the fact you've
19 been with Williamsburg County for approximately how
20 long?

21 A Going on year 18.

22 Q Eighteen years?

23 A Yeah.

24 Q And you've just been an investigator five years?

25 A Five years, yes.

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1 Q Just five years. So you've been there for 18
2 years. And law enforcement officer — and we're
3 gonna talk generically — law enforcement officers
4 are trained at the State Law Enforcement Division.
5 Is that ---

6 A At the South Carolina Criminal Justice Academy.

7 Q I always get those confused. And just explain
8 that to the jury; there's a difference. We hear
9 SLED. We hear all these initials. Tell them about
10 training.

11 A When I went it was only eight weeks. Now it's up
12 to 12 years I think.

13 Q Twelve weeks, yes, sir.

14 A So I can't testify to week 9 through 12. I have
15 no idea what they're doing.

16 Q I understand completely.

17 A They just teach you the basics of criminal law,
18 teach you firearm training, driving training,
19 defensive tactics and police science which is --
20 wouldn't say forensics, but it give you too very
21 little forensic type things. And once you complete
22 that, then you go back to advanced training that can
23 last up to a weekend, only a week. Some may last up
24 to two weeks.

25 Q So it's almost like an all-you-can-eat buffet,

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1 you just sample bit and bit so they can just teach
2 you a little bit in the beginning?

3 A When I went, yes.

4 Q And -- when you went. And when we go up to the
5 South Carolina Criminal Justice Academy they teach
6 us things about interviewing witnesses?

7 A They do.

8 Q They teach us about report writing?

9 A They did touch on it. They touched on very
10 little when I went on my interview and more on
11 report writing, but go ahead.

12 Q But they teach you on everything that's necessary
13 to make those good police officers?

14 A Yeah.

15 Q Because it's necessary we do things a consistent
16 way because some days cases end up in trials in
17 front of juries?

18 A Correct.

19 Q So when they teach us about report writing and
20 interviewing witnesses, crime scene and evidence
21 collection, they teach us to be very consistent?

22 A Yes.

23 Q And because if we're not consistent, what is the
24 reason -- why do want to be consistent?

25 A Anything, any reason be consistent?

1 Q Any reason?

2 A Any reason.

3 Q And for example, how many cases have you done in
4 18 years? It's too many to count, isn't it?

5 A Correct.

6 Q And there's no way to memorize but we do on every
7 case?

8 A Correct.

9 Q And so one of the reasons the State Law
10 Enforcement Division does what it does is to make
11 sure you can work a case, put it down and walk away
12 from it and your notes are documented that we have
13 everything in so we don't have to memorize or make
14 stuff up or guess when we're talking to a jury?

15 A Correct.

16 Q And when we talk about, just in general, when we
17 talk about things like writing reports and
18 investigations and testifying, we try to get things
19 as close to the incident as possible, correct?

20 A Correct.

21 Q Why do we try to get things as close to the
22 incident as possible rather than waiting 5, 10, 20
23 years to go and investigate a case?

24 A So it can be readily available.

25 Q And because memories are fallible?

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1 A Yes.

2 Q And you want it as close so you can document it
3 so there's no changes down the road?

4 A Correct.

5 Q Because if there's changes that makes things less
6 credible?

7 A Correct.

8 Q And that's one of the reasons like we talked
9 about the fact that y'all went out there that night,
10 you tried to interview as many people as you could,
11 you try to take as many pictures as you could that
12 night within the 24 hours?

13 A Correct.

14 Q Because if we wait longer than that 24 hours,
15 again, the credibility goes away somewhat?

16 A Correct.

17 Q And we don't want our credibility to go away with
18 the jury when we want them to know that snapshot
19 what happened as close to the incident as humanly
20 possible?

21 A Correct.

22 Q Okay. And the same thing with interviewing
23 witnesses. Witnesses' memories are fallible?

24 A Yes.

25 Q And witnesses can remember something today and

1 they remember something completely different the
2 next day?

3 A That's correct.

4 Q And the day after that?

5 A Correct.

6 Q And three years later?

7 A Correct.

8 Q So we want to talk them as close as possible
9 because, again, credibility to a case?

10 A Correct.

11 Q Again, I'm gonna talk to you about some things --
12 you and I, this isn't the first time we've met each
13 other?

14 A No.

15 Q And this is clearly not the first time we've
16 talked on this case?

17 A No.

18 Q As a matter of fact, the first time we talked on
19 this case was at preliminary hearing.

20 A Yes.

21 Q Explain to the jury what a preliminary hearing
22 is?

23 A Preliminary hearing is a hearing to see if you've
24 got probable cause to go, to have it indicted, which
25 is general session, yes, sir.

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1 Q And what ends up happening, it's me and you
2 sitting in a room and you're testifying to
3 everything you know about an incident?

4 A That's correct.

5 Q And when you testify about everything you know
6 about an incident it's, again, as close to the
7 incident date as possible realistically. It was a
8 couple of years ago?

9 A Yes.

10 Q We testified, we had a court reporter, and we
11 wrote every word we said so we had a documentation
12 of everything you said that day.

13 A That's correct.

14 Q As a matter of fact, I gave you a copy and you've
15 been reading it?

16 A I deny — you gave it to me, but I don't have it
17 now.

18 Q And that's fine, you don't have it now. And one
19 of the things that we talked about during that time
20 importing what we talked about with the South
21 Carolina Criminal Justice Academy and your training
22 and what we did at the preliminary hearing is we
23 talked about what happened that night on November
24 10th, 2013, correct?

25 A Correct.

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1 Q And one of the things that I was very
2 specifically going to ask you was how many witnesses
3 to this event were there? Do you remember that?

4 A Correct.

5 Q I was very specific, very specific.

6 A I'm pretty sure you were, but I can't just say
7 you did.

8 Q And in the preliminary hearing, the transcript
9 that you read that I gave you a copy of it, how many
10 witnesses did you mention were, that y'all had? How
11 many witnesses to this event was there?

12 A How many eyewitnesses?

13 Q How many eyewitnesses? How many witnesses did
14 you testify about during that hearing?

15 A I only testified to only one eyewitness.

16 Q One — I was very specific about witnesses. You
17 said there was one.

18 A One eyewitness.

19 Q And who was the witness that you mentioned?

20 A Reva McFadden.

21 Q And during that hearing it's your job to testify,
22 give all the information so a judge can determine if
23 there's probable cause there?

24 A That's correct.

25 Q Okay. And then we talked about things called

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1 discovery. You're the case agent on this case,
2 correct?

3 A Correct.

4 Q Explain to a jury what a case agent is.

5 A Just the lead investigator, the one who sits
6 here.

7 Q Who sits here?

8 A Yeah.

9 Q And you know everything that's inside of the
10 file. You're charged with knowing the task of the
11 files?

12 A I would like to say I know everything.

13 Q So I can ask you questions about what's of the
14 file because that's your job to know what's inside
15 of the file?

16 A You can ask me what I turned in, what the
17 solicitor's office gathered after I turned it in. I
18 can't — it's nearly not nearly the size of that
19 book here.

20 Q Oh, I know. She makes a bigger book than both of
21 us do. But understanding at the preliminary hearing
22 we mentioned one name and we talked about it over
23 and over and that was the name of Reva McFadden,
24 correct?

25 A Correct.

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1 Q At the preliminary hearing did you ever mention
2 the name Tabitha Greene?

3 A I don't recall.

4 Q That's fine. Do you ever remember mentioning the
5 name Florence White?

6 A Who?

7 Q Florence White?

8 A I don't recall.

9 Q Do you ever remember mentioning the name Tifton
10 Epps?

11 A I don't recall.

12 Q Do you ever remember mentioning the name Levonne
13 Croker?

14 A No.

15 Q Didn't mention that name at all?

16 A No.

17 Q That's a pretty important witness.

18 A Yeah.

19 Q And as we talked about, one of the things we do
20 is try to get the information as close to the
21 incident as humanly possible. And from what
22 Mr. Croker is saying, the first time we every heard
23 anything about him is how long after, about three
24 years?

25 A Yesterday or day before yesterday.

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1 Q And we talked about the fact that witnesses'
2 memories are what? Fallible?

3 A Yeah.

4 Q And they're mistakeable?

5 A Correct.

6 Q And the reason that we want to talk to people as
7 close to an incident as possible is because of what
8 was that word? Credibility?

9 A Yes, ma'am.

10 Q 'Cause if we don't talk to them as close of the
11 incident as possible they lose their what? What was
12 the word?

13 A Credibility.

14 Q Credibility.

15 A Uh-huh.

16 Q And that's one of the things we concern ourselves
17 about if these mysterious witnesses who show up on
18 the last minute to testify.

19 A Correct, and also Mr. Croker also said something
20 about snitches which makes our job very difficult.
21 If you want -- it just ain't about snitches.

22 Q Yes, sir.

23 A And you know, they don't want to be labeled as a
24 snitch. They're not coming to us.

25 Q So you've got to go looking for Mr. Croker the

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1 last three years?

2 A I had no knowledge of Mr. Croker.

3 Q So he just —

4 A At least I didn't.

5 Q So the person who didn't want to be labeled as a
6 snitch just showed up the day before trial to
7 testify. That's fine.

8 A I can't answer that.

9 Q That's fine. The Solicitor was going through
10 your background and expertise, or she's talking
11 about your background as a firearm instructor.

12 A I'm not an expert.

13 Q But she -- exactly. We had an expert testify
14 about firearms instruction and you were in here.
15 You were here with the firearms instructor, the guy
16 from the State Law Enforcement Division?

17 A Yeah, I don't think he was a firearm instructor.
18 He was —

19 Q But he was an expert in firearms?

20 A Expert in firearms, yeah.

21 Q Strange that they asked you all the expert
22 questions. Why don't we ask him that?

23 MS. BARR: And Judge, I would —

24 MR. KENT: That's fine, I'll withdraw.

25 THE COURT: Go ahead, Solicitor.

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1 MS. BARR: My specific objection is that
2 counsel's questioning misstates the facts.
3 Mr. Greene was an expert in the field of firearms
4 identification, not firearms as a general matter.
5 It was only firearm identification on which he's
6 qualified as an expert witness.

7 MR. KENT: Fine, your Honor.

8 THE COURT: Ladies and gentlemen of the
9 jury, you're the fact finders. You determine the
10 facts in the case. It's based on testimony as you
11 recall it to be as far as the expertise of
12 Mr. Greene and/or the expertise of Detective
13 Ballard. Thank you.

14 Thank you, Solicitor.

15 Mr. Kent, you may continue.

16 MR. KENT: Thank you.

17 BY MR. KENT:

18 Q And Detective, you testified that you are not an
19 experts in this case?

20 A Oh, no, by no stretch of imagination.

21 Q So the things you were answering about were not
22 in your expert opinion?

23 A No.

24 Q They're just things that you saw?

25 A Experience, yeah.

1 Q They're just your experience, but not your expert
2 opinion, experience in firearms or anything of that
3 nature?

4 A No.

5 Q Okay. The solicitor was asking you question
6 about the only two purposes of that gun, that
7 specific gun were to hunt and kill people. Could
8 you tell me another purpose of another gun? It's
9 not the purpose of everything ---

10 A Well, ---

11 THE COURT: Y'all can't talk at the same
12 time for my court reporter please. Go ahead,
13 Detective.

14 BY MR. KENT:

15 Q Well, let me say it this way, what are guns
16 designed to do?

17 A Guns are designed for protection, sporting, and
18 that's pretty much the only thing I categorize them.

19 Q So like hunting and killing, all guns?

20 A Hunting and sporting. Sports events such as
21 competition shooting, hunting, and personal defense.

22 Q Officer, were any projectiles or anything
23 recovered out on the scene that night or that --
24 were any projectiles found out there at all?

25 A On the scene?

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1 Q Yes.

2 A No.

3 Q So no projectiles were found out there at all?

4 A Not on the scene.

5 Q Not on the scene. Where were they found?

6 A We found -- I found one projectile on the scene.

7 I apologize, excuse me, we found one projectile in
8 the Dodge Durango.

9 Q So nothing was found out there on the scene so
10 any testimony about projectiles or anything were
11 found out there, that didn't happen, that wasn't
12 found out there?

13 A No, no projectiles.

14 Q Okay. The solicitor went through painstaking
15 detail to go through all the evidence that was found
16 out there. Did y'all find a hat?

17 A A hat was located but I didn't recover it.

18 Q Where is that at?

19 A I'm not sure.

20 Q Okay. That's pretty important though, is it?
21 And you're the case agent?

22 A Yeah.

23 Q You're charged with the task of the file?

24 A Yeah.

25 Q So where is the hat?

1 A It should be still in evidence if — it should be
2 recovered. But I can't answer that. I honestly
3 can't answer that.

4 Q Okay. We've been going through this club. Why
5 are there no pictures of the inside of this club?
6 I've been seeing all these pictures and everybody
7 talks about all this stuff that happened in there
8 —

9 A Inside the club?

10 Q Do we not have a camera?

11 A Of course we have a camera but the incident took
12 place on the outside.

13 Q But there's been a lot of testimony about where
14 everybody was, who saw somebody, so why isn't there
15 pictures of anything inside the club?

16 A I can't — we just didn't see at that point the
17 relevance of taking pictures inside the club.

18 Q In your firearms instruction and dealing with
19 instructions, you know the difference between an
20 entry wound and exit wound, correct?

21 A I can't really testify to that.

22 Q Have you seen entry wounds before?

23 A I've seen what was told me is an entry wound and
24 told me they were exit wounds; but for me to
25 scientifically say that's what it was, I can't tell

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1 you.

2 Q Would you agree with me that entry wound because
3 the bullet is going at high velocity is usually very
4 small and circular, and it goes in very straight
5 because the skin is malleable and comes back
6 together.

7 A I agree with you.

8 Q You will agree with me there?

9 A Yeah.

10 Q And that's one of the things we look for is a
11 small 'cause it's usually a small entry wound?

12 A Normally.

13 Q Normally. And usually if the wound is defected
14 or messed up or something, something happened, an
15 intervening act, like the bullet can tumble or twist
16 when it goes in an entrance 'cause if it doesn't
17 come in small—

18 MS. BARR: We'd object to —

19 BY MR. KENT:

20 Q And if you don't know, you don't know.

21 A I can't testify to that.

22 THE COURT: Please, please, when other
23 parties object don't continue to talk and don't
24 answer.

25 Yes, Solicitor.

1 MS. BARR: Judge, we'd object to the
2 question been outside the expertise and knowledge of
3 the witness as he previously stated.

4 THE COURT: I will sustain the objection.

5 BY MR. KENT:

6 Q As officers what are y'all taught is the average
7 engagement yardage before shooting should take
8 place? Have y'all taught that as an instructor?
9 And what generally is it?

10 A Repeat that question one more time.

11 Q As a police officers aren't we taught that about
12 12-yards when someone is coming at you is about the
13 average engagement for a shooting when somebody is
14 coming at you?

15 THE COURT: 12-yards?

16 MR. KENT: 12 feet, I'm sorry, judge.

17 BY MR. KENT:

18 Q And if you don't know, you don't know.

19 A 12-feet with a firearm?

20 Q Yes, sir.

21 A No.

22 Q What are y'all taught?

23 A I would call the gap, the actuary gap for even
24 for a knife is 30-feet.

25 Q Is 30-feet?

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1 A With a knife.

2 Q With a knife?

3 A Yeah. With a gun there's no reactionary gap;
4 it's force on force.

5 Q No reactionary gap; it's force on force?

6 A With a gun.

7 Q With a gun. And you would at the very minimum
8 agree with me that this entire matter somewhat
9 started over a verbal altercation?

10 A Yeah, I agree with that.

11 Q You agree with me. And whether we disagree on
12 what happened afterwards, we know it started at some
13 point with a verbal altercation?

14 A That's correct.

15 Q And you would also agree with me at the
16 preliminary hearing some three years ago the only
17 specific eyewitness that we talked about was Reva
18 McFadden?

19 A That I testified to, yes, sir.

20 Q That you testified to. You would further agree
21 with me that we have no statement whatsoever inside
22 of the file from Larry Croker?

23 A Levonne Croker?

24 Q Levonne Croker.

25 A No.

SW - J. BALLARD - REDIRECT

1 Q We have no written statement, no oral statement,
2 nothing at all other than what he testified to?

3 A No, sir.

4 Q And we try to take statements from all witnesses;
5 don't we?

6 A We try to.

7 Q Why do we try to take statements from witnesses?

8 A Just as you stated earlier, it's better to take
9 it then and have it on record for trial so be no
10 correc— I mean, no misunderstanding or anything
11 like that.

12 Q And we can corroborate it, check it, verify it,
13 look into it, make sure what it is before we put it
14 in front of the jury?

15 A Correct.

16 Q Thank you so much. That's all the questions I
17 have.

18 THE COURT: Redirect, Solicitor?

19 MS. BARR: Just a couple if I may.

20 **REDIRECT EXAMINATION**

21 BY MS. BARR:

22 Q Investigator Ballard, Mr. Kent has repeatedly
23 said that the shooting happened three years ago.

24 Just so we're clear, it happened when?

25 A Two years ago.

SW - J. BALLARD - REDIRECT

1 Q Well, it hadn't even been two years yet, has it?

2 A Not even quite. It will be two years November
3 10th.

4 Q Of this year?

5 A Of this year, I apologize.

6 Q And he asked you questions about a preliminary
7 hearing; is that right?

8 A Correct.

9 Q And now in a preliminary hearing is like a trial
10 like we've been doing the last couple of days?

11 A I wouldn't say a trial.

12 Q Okay.

13 A We just present evidence —

14 Q Okay.

15 A —for probable cause.

16 Q Is it in front of twelve people —

17 A No.

18 Q —a preliminary hearing? Okay. Does it take
19 place in this courtroom?

20 A No, ma'am.

21 Q And how long does a preliminary hearing usually
22 last?

23 A Depends on what type case you have. It can —
24 I've seen some last an hour, some last five minutes.

25 Q Okay. So, but the more complicated cases at most

1 last about an hour or so?

2 A Yeah, at the least.

3 Q So you don't get into a whole lot of detail in a
4 preliminary hearing, do you, as you would in a
5 trial?

6 A No, no.

7 Q Do you typically call other law enforcement
8 officers at a preliminary hearing as a witness?

9 A No, ma'am.

10 Q Do you typically have eyewitnesses who were at
11 the scene come in and testify at preliminary
12 hearing?

13 A Oh, definitely no.

14 Q Okay, all right. Now Mr. Kent asked you some
15 very important questions about how important it is
16 to document things, particularly witness'
17 statements?

18 A Yes, ma'am.

19 Q Do you remember those series of questions he
20 asked you?

21 A Yes, ma'am.

22 Q And I believe he indicated to you it's important
23 to get statements early while a witness' memory is
24 fresh?

25 A Correct.

SW - J. BALLARD - REDIRECT

1 Q Because oftentimes I believe he indicated trials
2 could take months and years to come to court?

3 A That's correct.

4 Q And so let's talk about the people who were
5 interviewed in connection with this case, okay?

6 A Okay.

7 Q All right. Now the first thing I'm gonna show
8 you, is this a transcript of a recorded statement
9 that was given by Reva McFadden?

10 A It is.

11 Q When was that statement given by Reva McFadden
12 and to whom?

13 A The date was November 10th, 2013. It took place
14 12:16 p.m. Investigator Whack was the investigator
15 and Reva McFadden was the person he was
16 interviewing.

17 Q All right. So this is the same day of the
18 shooting that Ms. McFadden gave her statement?

19 A Correct.

20 Q And if she were, quote/unquote, the only
21 eyewitness, would it have been important to you to
22 make sure to get her statement pretty quickly?

23 A Oh, yes, ma'am.

24 Q And you did it within 12 hours?

25 A Yes, ma'am.

1 Q Only. Tell us about whether or not Mr. Tifton
2 Epps was interviewed and gave a recorded statement?

3 A Yes, ma'am, he was.

4 Q When and what time?

5 A It took place at, on November 12th, 2013, at
6 3:28 p.m. I was the investigator that interviewed
7 him and Tifton Epps was who I interviewed.

8 Q And tell us about Ms. Florence Celestine White.
9 Was she interviewed early on and did she give a
10 recorded statement?

11 A She did.

12 Q Okay.

13 A On November 12th, 2013, at 3:53 p.m.

14 Q Okay. And again, this is within two days of the
15 shooting?

16 A Two days, yes, ma'am.

17 Q Now tell us about Ms. Tabitha Greene. She is the
18 — you remember the young lady who testified
19 previously in the case?

20 A Yes, ma'am.

21 Q All right. And talked about her friend Von, you
22 remember her testimony in court about the friend
23 Von?

24 A Yes, ma'am.

25 Q You got a recorded statement from her?

SW - J. BALLARD - REDIRECT

1 A Investigator Whack did, yes, ma'am.

2 Q Were you part of that interview?

3 A Yes, I was.

4 Q Okay. When did she give that statement?

5 A November 18th at 9:45 a.m.

6 Q Okay. So November 18th will be roughly a week
7 and a day after the shooting?

8 A That's correct.

9 Q All right. And if you will, turn to page 10 of
10 that statement for me. It's where I put the yellow
11 legal piece of paper. Let me know when you're
12 there.

13 A I'm there.

14 Q All right. To yourself, just to yourself, read
15 lines 8 through 15 for me to yourself.

16 A 8 through 15?

17 Q 8 through 15.

18 A (Pause.)

19 Q Yes, 8 through 15.

20 A I read it.

21 Q You've read it?

22 MR. KENT: Your Honor, may we approach.

23 THE COURT: Yes, sir certainly.

24 (WHEREUPON, counsel approached the
25 Bench for an off-the-record discussion.)

1 BY MS. BARR:

2 Q All right. And so that we're clear, when you all
3 take recorded statements from witnesses or
4 prospective witnesses, they're audio recorded.

5 A Audio recorded and placed on CD.

6 Q Okay. And then how do they then become a
7 transcript like what I've just handed you?

8 A We give it to our transcriber Ms. Kelly.

9 Q So someone, a court reporter like this young lady
10 here gets ---

11 A Exactly.

12 Q ---gets the audio tape and starts transcribing
13 what's on the audio tape?

14 A Correct.

15 Q Now I've given you the transcript of the
16 interview from Tabitha Greene that was given
17 November 18, 2013. You had an opportunity to read
18 the relevant portions; haven't you?

19 A Correct.

20 Q All right. Now Mr. Kent asked you at any point
21 in time did Tabitha Greene ever tell you about an
22 individual named Von or Von Croker?

23 A During interview, yes, ma'am.

24 Q When, hold on.

25 A I apologize.

SW - J. BALLARD - REDIRECT

1 Q You got too far ahead of me. Do you remember
2 Mr. Kent's question to you on cross-examination that
3 at any point in time did Tabitha Greene tell you
4 about an individual, an individual named Von Croker,
5 you remember him asking you that question?

6 A I do.

7 Q Okay. And I believe in response you said that,
8 no, you didn't remember that coming up. I believe
9 those words was your response?

10 A Yes, ma'am, it was.

11 Q Now when I gave you her transcript did it refresh
12 your memory at all?

13 A It definitely did.

14 Q Okay. And did she, in fact, tell you on
15 November 18th, 2013, about an individual named Von
16 Croker?

17 A She did.

18 Q Okay. Now one last point, you told us that you
19 only recovered one projectile from the scene I think
20 is what you told?

21 A No.

22 Q I'm sorry.

23 A We recovered one projectile not from the scene,
24 but from a, I think it was a 2001 Durango that was
25 taken to our training facility.

SW - J. BALLARD - RECROSS

1 Q Tell the jury what is the difference between a
2 projectile and a spent casing. What's the
3 difference?

4 A A projectile is what we commonly call a bullet.
5 It's sent out from the gun and the shell is ejected
6 from the gun. It can be between here and that
7 bench. Some I've seen shoot from here to the wall.
8 But a projectile is the actual bullet itself that
9 leaves the barrel of the gun.

10 Q The casing covers the projectile?

11 A The casing —

12 Q Covers the bullet?

13 A The bullet sends it to the casing.

14 Q Yes, sir.

15 A Yeah.

16 Q All right. So that's all the questions I have.
17 Thank you.

18 THE COURT: Recross, Mr. Kent?

19 MR. KENT: Thank you, Your Honor.

20 **RECROSS-EXAMINATION**

21 BY MR. KENT:

22 Q Almost done.

23 A Got you.

24 Q The Solicitor gave you a whole bunch of
25 statements or packets that were transcribed.

1 A She did.

2 Q Do you know what discovery is?

3 A I do.

4 Q What's discovery? Explain that to the jury.

5 A Discovery is also known as Rule 5 when we have to
6 submit everything the State has to the Defense to
7 prepare for trial.

8 Q And when should we give it to the Defense?

9 MS. BARR: Objection, Your Honor,
10 relevance.

11 THE COURT: Those are just court rules.
12 Those aren't, those aren't issues for a jury's
13 determination.

14 MR. KENT: Your Honor, there is an issue
15 in this case that will be important. I can take
16 that up.

17 THE COURT: Step out please, ladies and
18 gentlemen. Do not discuss the case.

19 (WHEREUPON, the jury was removed from the
20 courtroom at 10:47 a.m.)

21 THE COURT: Yes, sir, Mr. Kent.

22 MR. KENT: Your Honor, during the redirect
23 of this witness the solicitor gave him statements as
24 if to say these are all the statements we've had,
25 other than she was very meticulous in saying those

1 statements had been taken since the date of the
2 shooting, roughly around the shooting, to show that
3 these statements had been done in a reasonable time
4 period. The problem is, on one of the statements
5 was given to me at that time, one was -- the other
6 two statements were given to me literally a month
7 ago and so I'm trying to rebut the presumption that
8 just because you have them, you don't give them to
9 me, what's the good of it. For her to say these
10 statements have existed and exist for quite some
11 time, hand them to this witness and say we've had
12 them for a while, and I had a specific conversation
13 with Ms. Barr about the statement and she couldn't
14 understand why they weren't turned over sooner. I
15 don't see the harm in getting this -- this is
16 cross-examination so to make the allegation that the
17 statements have existed and have existed forever,
18 well, they do no good if they're not given to the
19 defendants. I'm not making a discovery violation,
20 but it is subject to cross-examination that if the
21 statement exists, why wouldn't the Sheriff's Office
22 have given these quote/unquote important statements
23 to the Solicitor's Office and then give them to me a
24 month, not sooner than a month before trial. So
25 it's a question to impeach the investigation, why

1 weren't they given it sooner?

2 THE COURT: Well, that's not an issue for
3 the jury. That's an —

4 MR. KENT: But it goes to — I'm sorry.

5 THE COURT: It's an issue, I'm just saying
6 it's an issue for the court just like the
7 determination of whether or not a search warrant is
8 valid. It's not an issue for the jury, but it's an
9 issue, it's a matter of law for the Court. You
10 know, I just don't see whether you got — I'm not
11 saying you should not have gotten them earlier.

12 MR. KENT: I should have gotten them.

13 THE COURT: I don't mean it in that regard
14 whatsoever; but still, it's not, it's not relevant.
15 It doesn't make a fact at issue more or less
16 credible based on when discovery was turned over by
17 State to the Defense. It's still within the rules.
18 And technically, I don't think you have to give the
19 statements over until after the witness has
20 testified. Now the rules have been expanded by
21 custom and habit in the practice obviously by the
22 parties themselves. There's no hard and fast rules
23 as far as customs and habits are concerned. You
24 know, in that regard, you know, perhaps we should go
25 back to strictly enforcing that rule, but nobody

1 wants to do that because then the Defense is kind of
2 hamstrung because they don't get the benefit of the
3 written statements or recorded statements until
4 after a witness has testified. They do necessarily
5 provide by the rule.

6 MR. KENT: If I may, Your Honor,
7 respectfully I would disagree. One, it would go to
8 our defense to impeach the investigation, which
9 would be subject proper to cross-examination that
10 this information is not turned over in a reasonable
11 time period of a defendant try to defend one case
12 and then they give us additional information later.
13 Number two, I would disagree this information does
14 not have to be turned over. It could turn out to be
15 potentially exculpatory information. Testimony of
16 Tabitha Greene definitely turned out to be
17 exculpatory information that we wanted to utilize t
18 hat Larry Moore said some things to Terry Williams
19 or said some things to Reva that made her so
20 uncomfortable that she went inside of the bar. That
21 goes to our reasonable person had a hear that
22 something was gong on inside. So I'm not getting --
23 and I'm not making a discovery violation; I'm not.
24 So I don't want to get into too much of an argument
25 with that. I was just responding to the Court

1 saying I wouldn't be entitled to it. The point is
2 if I'm entitled to it, I'm entitled to it all at one
3 point in time. And for the State to be allowed to
4 make an allegation to the jury, hey, here's all the
5 statements, we've had them since November 1st,
6 2013, what's the problem. And that's what they
7 basically said, you've had all these statements
8 since the night this happened. Well, I haven't had
9 all these statements since the night it happened,
10 and I think I should be allowed to cross-examine and
11 say, why haven't I had them, which is great you had
12 them and you're allowed to investigate your case.
13 But the point is Mr. Williams is the man whose on
14 trial for his life, and he has a right to also
15 properly investigate this case. They've had two
16 years — and now you've had two years with this
17 man's name, you haven't done anything with it, and
18 you didn't want to give it to us and give us two
19 years to investigate this thing. I think that goes
20 all to the course of the investigation that
21 Mr. Williams has a right to go through a colorful
22 defense and it goes right towards my theory in
23 opening statement that they made a lot of
24 assumptions and based upon those assumptions they
25 assumed that we weren't allowed to put on a defense.

1 And that's where I would go with that, Your Honor,
2 and thank you for giving me a chance to put that on
3 the record.

4 THE COURT: Oh, certainly.

5 Yes, ma'am, Solicitor.

6 MS. BARR: Judge, the only thing I would
7 argue is that presupposes that the witness
8 particularly held back the statements from the
9 Solicitor's Office. It's the Solicitor's Office who
10 responds to discovery requests of the Defense, not
11 the officer. And Judge, I agree with the Court. My
12 argument to the Court was we're not required under
13 the rules to turn over any statements unless they're
14 exculpatory or unless they're defendant's own
15 statements or they're the statements of someone
16 planted by the police to interview the defendant.
17 We're not required to turn anything else over. And
18 so, Judge, the fact that those particular statements
19 were given to counsel a month in advance gave him
20 plenty of opportunities to investigate and prepare
21 for this case. As a matter of fact, every single
22 individual who has given a recorded statement
23 counsel interviewed. Tabitha Greene, he interviewed
24 her a month ago. So to make the argument or try to
25 insinuate to this jury that this officer

1 deliberately held that statement and to try to also
2 insinuate that as a result of this supposed
3 deliberate holding back to the jury that he is, his
4 investigation is somehow incomplete, is a
5 misrepresentation of the facts of this case and it's
6 irrelevant for their consideration because he's not
7 the one that had the obligation to turn over the
8 matters to defense counsel; it was I.

9 THE COURT: Mr. Kent.

10 MR. KENT: I would just disagree. Just
11 like I said, I'm not making a discovery violation,
12 I'm not, and I don't want to get into a fight over
13 whether they should or should not have turned it
14 over. You know, my position is as far as being, you
15 know, exculpatory. I have an excellent relationship
16 with the Third Circuit turning over discovery and
17 I'm sure they turned it over once they received it.
18 That being said, I still have a right to put on a
19 defense and the defense that I see fit, not that the
20 State wants me to put on, not that I think it will
21 help their case; but that's part of my defense to
22 say that the investigation is impeached. That's the
23 defense that I would like to explore for my mind;
24 and if the Court sees it differently, I understand.

25 THE COURT: Tell me what you want to ask

1 Investigator Ballard on recross as to discovery.

2 Tell me what you want to ask him.

3 MR. KENT: I, you want me to go back to
4 the question again because I was almost done with
5 the questions, Your Honor. He had just explained
6 when I asked the last question when was discovery
7 with Rule 5, that information that we are supposedly
8 to give to both parties. Then the next question was
9 gonna be one of two ways. I never know what I'm
10 gonna say but it was either gonna be, are you aware
11 that I only received these three statements that the
12 Solicitor's Office just talked to you about less
13 than a month ago and received Reva McFadden's
14 statement on November 11th, 2013. He probably would
15 have said, I was unaware of that, and I would have
16 had to sit down. Realistically, if he would have
17 said yes, I was aware of that, then I would have
18 said why wasn't that turned over at the same time as
19 the other statements.

20 THE COURT: Well, how would he even know
21 that? How would he know ---

22 MR. KENT: Judge, the conversation I had
23 with the Solicitor's Office, I specifically asked
24 and I was told that they just got it from law
25 enforcement so I would think that's ---

1 THE COURT: Then that's hearsay. How
2 would he know, how would he know when they turned it
3 over to you. That's — I'm not tracking that right
4 now, Mr. Kent.

5 MR. KENT: The question is, it's not when
6 they turned it over to me; it's when law enforcement
7 turned it over. And if he is the case agent he would
8 know why statements were not turned over in a
9 proper cause. Why was one turned over and then
10 three others turned over two year, and one year,
11 one-and-a-half years after the shooting. He's the
12 case agent and he would know. That's why I asked
13 the question about as the case agent you know
14 everything that's charged and asked with the file,
15 why wasn't this given to me sooner to allow me to
16 investigate on behalf of Mr. Williams.

17 MS. BARR: And Judge, I think I can
18 straighten up a lot of this. Mr. Kent has a copy of
19 all of the statements. They are stamped with the
20 receipt stamp from the Solicitor's Office, of the
21 dates the Solicitor's Office got them, and so I
22 believe that all of them have the date of around, in
23 November, December of 2013. And so, Judge, this
24 witness would not know when the Solicitor's Office
25 turned over a statement to the Defense. He would

1 have no idea of when that was done, and Mr. Kent
2 knows that because he's got the stamp on the
3 statements.

4 THE COURT: Well, that's what I'm trying
5 to track. Y'all had the statements since December
6 of —

7 MS. BARR: 2013.

8 THE COURT: —2013.

9 MS. BARR: Yes, sir.

10 MR. KENT: May I approach, Your Honor.

11 THE COURT: Sure.

12 MR. KENT: Respectfully, and I'll show you
13 what I've gotten from the Solicitor's Office and if
14 you can make out the dates stamp on the front like
15 they indicate, then I will apologize and sit down.

16 THE COURT: I don't have my magnifying
17 glass. For some reason my soon-to-be ex-law clerk
18 hid them from me somewhere. Can you read that?

19 (Law clerk reads material to the Court.)

20 THE COURT: See, he can't read it either.

21 MR. KENT: I'm supposed to be —
22 December 15th.

23 THE COURT: December 15 of some year?

24 MR. KENT: December 15th, that's in the
25 future?

1 THE COURT: Do you have those?

2 MS. BARR: I have the original, Judge.

3 I'll be happy to —

4 THE COURT: This appears to be Tabitha
5 Greene.

6 (Document tendered to the Court.)

7 THE COURT: Looking at the one you handed
8 me up on what appears to be the original stamp is
9 color green as opposed to just the black and white,
10 both Tabitha Greene — and I can read this — and
11 it's got received by, it's got some initials,
12 December 2nd, 2013, Office of the Solicitor, Third
13 Judicial Circuit Williamsburg. So Tabitha Green's
14 statement according to this date stamp was turned
15 over to the Williamsburg Solicitor's Office
16 December 2nd, 2013. And then how would Investigator
17 Ballard know when it went out?

18 MR. KENT: Judge, I think you have to go
19 backward a little bit. In the process of asking my
20 question I wouldn't have known any of those answers
21 that the Court just came up with. As you can see
22 from the piece of paper I have, you can't tell when
23 it's gotten.

24 THE COURT: Well, I'm not complain— I
25 understand that, and I'm not —

1 MR. KENT: And I understand the Court now
2 but now it's like, okay, we've looked into it and
3 now you can't ask the question.

4 THE COURT: Well, it's misleading to the
5 jury. It would be misleading to the jury if the
6 Solicitor's Office has withheld it and law
7 enforcement -- and I'm not saying the Solicitor's
8 Office withheld it; I don't mean to imply that. But
9 if the officer has turned over the document
10 December 2nd, 2013, and then it said, well, you're
11 aware I didn't receive it until a month ago, he
12 doesn't know. Once it's out of his control he has
13 no responsibility for discovery beyond turning the
14 information over to the Solicitor. In fact, I don't
15 know that they have any responsibility for discovery
16 under that Quattlebaum case and/or those other line
17 of cases in the ethical opinions about that. The
18 Solicitor has the responsibility to ferret out that
19 information from law enforcement if there's anymore
20 there.

21 MR. KENT: Your Honor, I agree with you
22 now but my position was, and as I told you said what
23 question would I have asked the witness and I think
24 I was pretty clear I was asking the question and I'm
25 pretty sure he would have said, at that point I'm

1 unaware and I would have stopped. Now of course, I
2 see the Court's position is it just put me in a --
3 I'm not gonna withdraw my objection, but I
4 understand the Court's ruling.

5 THE COURT: Well, if the question is, do
6 you know when I received the information; and his
7 response is, no --

8 MR. KENT: I don't think that's what I --
9 I understand the Court's position now.

10 THE COURT: Or are you aware when I
11 received the information, but he doesn't have any
12 personal knowledge.

13 MR. KENT: I think the question was
14 something to the effect of when was the information
15 turned over, do you know if it wasn't turned over,
16 and he would have responded accordingly, we turned
17 the information over on blank blank date, and I
18 would have been stuck with that answer, Your Honor.
19 I understand the Court's position. Please
20 understand my frustration I have. I can only go by
21 what I've got to be perfectly candid.

22 THE COURT: No, I don't -- I've been out
23 there frustrated, Mr. Kent, you know that.

24 MR. KENT: I very much am right now, but I
25 understand the Court's ruling.

1 THE COURT: I just don't, I think it's,
2 and I don't think it's intentional. I don't mean it
3 in any way, shape, or form, but I think that's
4 misleading to the jury to if he's trying to go back
5 to the -- and I wrote it down to impeach the
6 investigation when he has a field, as far as I, part
7 of it is concerned his responsibilities.

8 MR. KENT: I guess what I'm saying I
9 understand that now.

10 THE COURT: Okay.

11 MR. KENT: Based upon basically the
12 investigation we did before I could ask my next
13 question. I understand it now. Before we went out,
14 all I had was a blank document which wasn't turned
15 over to me; and so at that point, of course, it
16 would have been proper for cross-examination; at
17 this point it's not. That's where my frustration
18 is. I completely understand now it's not proper for
19 cross-examination, but it would have been had we not
20 done the investigation when told something that I
21 could have been told a month ago. But I understand
22 the Court's position. I'm not going to withdraw my
23 objection, but I understand the Court's ruling.

24 THE COURT: All right, thank you.
25 Anything further, Solicitor?

1 MS. BARR: No, sir, Your Honor.

2 THE COURT: Anything further before we
3 bring our jury back in, Mr. Kent?

4 MR. KENT: May I have 30 seconds to get my
5 blood pressure down a little bit.

6 THE COURT: All right, certainly.

7 (Pause.)

8 THE COURT: Anything before we bring in
9 our jury, Mr. Kent?

10 MR. KENT: Nothing on behalf of
11 Mr. Williams.

12 THE COURT: Solicitor.

13 MS. BARR: No, sir.

14 (WHEREUPON, the jury was returned to the
15 courtroom at approximately 11:05 a.m.,
16 and the following proceedings commenced
17 in open court.)

18 THE COURT: Thank you, Mr. Kent, .
19 Solicitor.

20 Mr. Kent, you may continue.

21 MR. KENT: Thank you so much Your Honor.

22 BY MR. KENT:

23 Q Almost done, I promise. We were just going
24 through when we left we were talking about different
25 statements, and I want to go specifically about

1 Tabitha's statement.

2 A Yes, sir.

3 Q The Solicitor asked you that there was one line
4 in the statement something where to refresh your
5 memory she brought up the name Von Croker?

6 A Yes, sir.

7 Q And so that is a name 'cause I asked you about
8 it, but that is a name that you guys knew about in
9 2013?

10 A It was.

11 Q Okay. And then if I'm not mistaken, during our
12 questioning what you said was, we basically didn't
13 look for him?

14 A We couldn't locate him. I recall now we couldn't
15 locate him.

16 Q But never talked to him?

17 A No, I never talked to him. Never interviewed
18 him.

19 Q Never interviewed him?

20 A No, sir.

21 Q No statements from him?

22 A No, sir.

23 Q And were just happened to be able to locate him
24 the day before trial?

25 A I didn't locate him.

1 Q Thank you so much. That's all the questions I
2 have.

3 A Yes, sir.

4 THE COURT: Thank you. Thank you very
5 much, Investigator Ballard. You may step down.

6 Mr. Foreman, ladies and gentlemen of the
7 jury, I apologize for marching you in and out so
8 much throughout the course of this trial this week.
9 The attorneys and I have not yet had our morning
10 recess. I know you've been in the room for a few
11 minutes, but this is generally the time I would give
12 you y'all morning recess and your attorneys and I'm
13 going to do that. We'll take about a 15 minute
14 recess. Please do not discuss the case during this
15 brief recess. Thank you. Thank you very much.
16 Thank you for your patience.

17 (WHEREUPON, the jury was removed from the
18 courtroom at 11:08 a.m.)

19 THE COURT: Court will be in recess 15
20 minutes.

21 (WHEREUPON, a recess was taken from the
22 proceedings.)

23 THE COURT: Mr. Kent, anything before we
24 bring in our jury?

25 MR. KENT: Just very briefly. At one

1 point I had come up to the Bench and I had made an
2 objection to hearsay. You made a ruling which I
3 understand. I objected to hearsay during
4 Investigator Ballard's testimony when he was going
5 to reference the testimony in Tabitha Green's
6 statement. He was gonna reference testimony in
7 Tabitha Green's statement that she told him about
8 bond paperwork. That was the first time I heard it.

9 I just made an objection at the bar saying that
10 Tabitha Greene didn't testify to that so it would
11 have been hearsay. Thank you, Your Honor, I just
12 wanted to place that on the record.

13 THE COURT: Solicitor, anything you'd like
14 to add?

15 MS. BARR: Just, Judge, we would just
16 simply add that the context of the statement that
17 Ms. Greene made was not disclosed to the jury;
18 therefore, it is not hearsay.

19 THE COURT: And Mr. — thank you,
20 Solicitor. And I would renew my ruling from the
21 Bench.

22 MR. KENT: Yes, sir.

23 THE COURT: I overruled your objection and
24 —

25 MS. BARR: Yes, sir.

1 THE COURT: I did not think it was
2 hearsay. It was, in that regard based on the
3 context of the cross-examination and in the redirect
4 examination —

5 MR. KENT: Yes, sir.

6 THE COURT: —of Detective Ballard.
7 During the testimony, the direct testimony of
8 Investigator Ballard, you made an objection. You
9 renewed your objection and it was right at the point
10 where there was some testimony about Reva's AK-47
11 already in possession of law enforcement. And I
12 wasn't sure what objection you were renewing.

13 MR. KENT: Thank you, Judge.

14 THE COURT: I think I renewed my ruling,
15 but I'm not sure what ruling I was renewing.

16 MR. KENT: Your Honor, and I could have
17 been mistaken, but what I was renewing at that point
18 in time was any testimony about the criminal
19 domestic violence, the AK-47 or any of that
20 mentioning. I just was trying to do it briefly so I
21 didn't interrupt Ms. Barr's cross-examination.

22 THE COURT: All right. And as to that,
23 that did not come up during that testimony, during
24 the testimony of the investigator.

25 MR. KENT: The criminal domestic violence

1 did not come up. The AK-47 came up, and I just
2 thought since they were tangentially related I
3 needed to renew my objection.

4 THE COURT: All right, thank you. Thank
5 you very much.

6 Anything from the State before we bring in
7 our jury, Solicitor?

8 MS. BARR: No, sir, Your Honor.

9 (WHEREUPON, the jury was returned to the
10 courtroom at approximately 11:25 a.m.,
11 and the following proceedings commenced
12 in open court.)

13 THE COURT: All right, our jury is back in
14 place. Solicitor, you may call your next witness.

15 MS. BARR: Your Honor, at this time we
16 will call Whitney K. Berry.

17 THE COURT: Ms. Berry, if you'd come
18 around please and be sworn.

19 WHEREUPON,

20 **WHITNEY K. BERRY,**
21 having been duly sworn by the Clerk of Court,
22 testified as follows:

23 THE CLERK OF COURT: You may take your
24 seat.

25 **DIRECT EXAMINATION**

SW - W. BERRY - DIRECT

1 BY MS. SWILLEY:

2 Q Good morning, Ms. Berry.

3 A Good morning.

4 Q Would you please state your full name for the
5 record and spell your last name.

6 A It's Whitney K. Berry, B-E-R-R-Y.

7 Q Agent Berry, where are you employed?

8 A I'm employed with the South Carolina law
9 Enforcement Division, also known as SLED.

10 Q And how long have you been employed there?

11 A I've been there for about two-and-a-half years.

12 Q What's your position at SLED?

13 A I am an analyst in the trace evidence department.
14 I specialize in gunshot residue analysis.

15 MS. SWILLEY: And Your Honor, I believe
16 that the Defense is going to stipulate to the
17 expertise of this witness.

18 MR. KENT: So stipulated, Your Honor.

19 THE COURT: All right. And again, ladies
20 and gentlemen, you heard my explanation concerning
21 the expert witnesses. This witness, Agent Berry,
22 will be qualified as a witness. In what field,
23 trace evidence?

24 MS. SWILLEY: Trace evidence, Your Honor.

25 THE COURT: Trace evidence analysis.

SW - W. BERRY - DIRECT

1 Agent Berry may give her opinions in that area and
2 also the basis of those opinions.

3 Thank you, Solicitor, you may continue.

4 BY MS. SWILLEY:

5 Q Ms. Berry, did you happen to — may I approach,
6 Your Honor?

7 THE COURT: Yes, ma'am, certainly.

8 BY MS. SWILLEY:

9 Q Let me hand this up to you. Did you happen to
10 receive some evidence for analysis at SLED?

11 A Yes, ma'am, I did.

12 Q And is it contained in that package you hold in
13 your hand?

14 A Yes, ma'am.

15 Q And this has been marked State's Exhibit 119.
16 Can you tell the jury if that package appears to
17 have been tampered with in any manner?

18 A No, ma'am.

19 Q And in fact, doesn't it have your initials on the
20 tape around the package?

21 A Yes, it does have my initials and the date I
22 sealed it with the SLED's tamper evidence evidence
23 tape.

24 Q Can you tell us what exactly is inside that
25 package?

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1 A Inside this package is, are two GSR kits.

2 Q And what's a GSR kit?

3 A It's a gunshot residue collection kit.

4 Q And when you say a gunshot residue collection,
5 exactly what are you looking for?

6 A Gunshot residue broadly is everything that comes
7 out of the end of a gun when it's fired. What we're
8 looking for specifically is gun primer residue. The
9 primer is somewhat unique to a cartridge or a
10 bullet. It's composed of three elements. They are
11 lead, barium, antimony. These are metals. And when
12 the gun is fired these metals get superheated. They
13 heat very quickly and the explosion sends the bullet
14 down the barrel. These particles of lead, barium,
15 and antimony then can fuse together in a molten
16 state and both fly out in the air. If you think
17 about an old western movie where you see someone
18 pull the trigger on a revolver, you see a little
19 plume of smoke on their hands, that's typically how
20 gunshot residue can get deposited on the hands from
21 that little plume. You can also see typically a
22 cloud of smoke coming out the end of the gun, and
23 normally it's in somewhat of a cone sort of pattern
24 and that's the gunshot residue that would come out
25 the front of the gun.

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1 Q And I want to ask you about the collection
2 methods for the gunshot residue kit. In what form
3 do they come to your department?

4 A Well, the gunshot residue kits that SLED issues
5 free of charge to any agency in the State of South
6 Carolina are made by a company who sends us their
7 samples, and we quality control them before they're
8 made and issued out to different agencies. We do
9 this to make sure that there's nothing that can
10 possibly be contaminant the surface of the
11 collection device.

12 Q And do you have an example of that device here

13 A Yes, ma'am. Each kit contains four of these
14 little containers. Inside each container is what
15 looks like a big black spot, and that black spot is
16 double tape and it's sticky. So to collect, an
17 officer would dot the areas of the hands until
18 there's no more stickiness or tack left on the tape,
19 and then they would seal it back up. It's then
20 placed in the envelope it came out of which contains
21 a pair of disposable gloves, directions on how to
22 collect, as well as tamper evidence tape to seal it
23 with, and a gunshot residue information sheet which
24 they would fill out at the time of the collection.

25 Q Thank you.

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1 MS. SWILLEY: Your Honor, may I approach.

2 THE COURT: Yes, ma'am.

3 BY MS. SWILLEY:

4 Q So this is what you were showing the jury
5 earlier?

6 A Yes, ma'am.

7 Q And you have a monitor there to your left. What
8 is that right there that we're looking at?

9 A That is what we call a particle lift. So it's
10 exactly how it sounds. It's designed just to be
11 sticky and lift particles of dirt or debris or
12 anything right off your hand, or any other surface
13 for that matter.

14 Q And the purpose of this plastic cap would be
15 what?

16 A That is to keep the particle lift contained so
17 that it doesn't brush against anything else so that
18 it stays in a somewhat un-tampered condition. So
19 after it's collected you put the lid back on, and
20 then we can say that what is on it is most likely
21 only what was on that individual's hands.

22 Q And this one has a label on it which reads?

23 A That's the right back. Each kit contains four
24 lifts and are labeled for the right palm which would
25 be sampling the palm area of the hand and fingers,

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1 the right back which would be sampling the back
2 area. And then we also have a left palm and a left
3 back.

4 Q So each one of these collection kits would have a
5 different label?

6 A Yes, there would be four of those in the
7 envelope.

8 Q And you had an opportunity to examine some,
9 collected gunshot residue in this case, correct?

10 A Yes, ma'am.

11 Q I'm going to refer to your report and go over
12 each item with you. As to item 3 can you explain
13 what item 3 is?

14 A Item 3 is a GSR kit from Terry Williams' vehicle.
15 Everything submitted to SLED is submitted on such a
16 contained basis. That means when it's brought in to
17 our log-in technician, whatever the evidence
18 custodian who is bringing in or officer who's
19 bringing in says what's in that envelope is what
20 gets puts in the system as being in that envelope.
21 We don't, the evidence technicians don't go through
22 and check or inventory anything. So I was given one
23 gunshot residue from Terry Williams' vehicle. And
24 this side they had taken, I believe it was a pen and
25 they had crossed out right palm right back of all

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1 these, and they had written on the collection of
2 where they actually sampled the vehicle.

3 Q And as to item 3.1 could you tell the jury where
4 the collection was taken.

5 A Item 3.1 was from the outside driver door handle.

6 Q Of Terry Williams' vehicle?

7 A Yes, ma'am.

8 Q And what were the results?

9 A No gunshot residue was found.

10 Q Okay. Item 3.23, what is that?

11 A That was a particle lift collected from the gear
12 selector of Terry Williams' vehicle.

13 Q And what were the results for that?

14 A No gunshot residue was found.

15 Q Item 3.3?

16 A Item 3.3 was the inside driver door handle from
17 Terry Williams' vehicle, and no gunshot residue was
18 found.

19 Q Item 3.4?

20 A That was from the steering wheel of Terry
21 Williams' vehicle and no gunshot residue was found.

22 Q So that was the gunshot residue kit taken from
23 the suspect's vehicle Mr. Terry Williams?

24 A Yes, ma'am.

25 Q A none of the four samples had any gunshot

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1 residue whatsoever?

2 A No, ma'am, they did not.

3 Q Or any particles associated with gunshot residue,
4 correct?

5 A No, they did not.

6 Q Thank you. Moving on to your next item, item
7 number 5, can you identify what that is?

8 A Item number 5 was one GSR kit from Larry Wendell
9 Moore.

10 Q And is it common practice in your experience to
11 have the hands of a victim of a gunshot wound
12 tested?

13 A Yes, ma'am. Typically the hands of a gunshot
14 victim are collected. SLED is trying to move away
15 from testing victim kits just because it's very
16 limited in what we can say about them because we're
17 just testing for the presence of gunshot residue.
18 We can't attest to exactly how it could have gotten
19 there. You would expect that the victim of a
20 gunshot wound would probably have gunshot residue on
21 their hands.

22 Q And that's due to being fired upon?

23 A Yes, ma'am. The majority of the gunshot residue
24 is going to fall in the path of the bullet or
25 projectile towards its intended target up to a

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1 certain distance depending on the caliber of the
2 gun. So we expect in the majority of cases that
3 there's gonna be gunshot residue on the hands of the
4 victim.

5 Q Let's talk specifically about items 5.1 and 5.1
6 in turn. So item 5.1 is what?

7 A Item 5. 1 is for reporting purposes the right
8 hand. That would include the particle lift from the
9 right palm and the right back of the hand. The
10 right hand, one particle consistent with gunshot
11 residue and one part associated with gunshot residue
12 were found. A consistent particle is a two
13 component particle so it's round and it's got some
14 combination of either lead or barium or barium or
15 antimony or lead or antimony in it. It's just two
16 components of gunshot residue that are round and
17 could be consistent with gun fire. An associated
18 particle would be a round single component particle
19 so it would just be your round lead or round barium
20 or round antimony particle. So by itself it doesn't
21 necessarily mean too terribly much if you just find
22 one round lead particle on somebody because round
23 lead is very -- it's all over the environment. If
24 you go to a hardware store and you pick certain
25 things up, chances are you'll probably get some

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1 round lead particles on your hand. So that by
2 itself isn't something we would necessarily say is
3 indicative of a shooting. But when it's combined
4 with a consistent particle or a gunshot residue
5 particle, then it has a little bit more supporting
6 power.

7 Q And speaking of particles, how large are each of
8 these particles that you're describing?

9 A Well, the trace department looks for things that
10 are microscopic in size so things that you can't see
11 with the naked eye. Gunshot residue is one of the
12 smaller things we look for. If you were to pluck a
13 hair off the top of your head, about one hundred
14 particles of GSR would fit across the diameter of
15 your hair.

16 Q So the diameter, you're saying a picked up
17 particle lift is not the longness, it's the width?

18 A Yeah, the width, right across the width.

19 Q A hundred particles?

20 A Roughly a hundred particles.

21 Q Sorry, continue.

22 A Also the equivalent if we're looking for one
23 particle GSR on this particle lift, it's about like
24 looking for a pea in the middle of two football
25 fields; it's that small.

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1 Q Speaking as to item 5.2 can you describe what
2 that is.

3 A 5.2 is the GSR from the left hand so that would
4 include the left palm and the left back. The left
5 hand result is particles of gunshot residue were
6 found. And in this specific case it was two
7 particles of gunshot residue found on the palm of
8 the left hand.

9 Q Two particles?

10 A Two.

11 Q Okay. I want to next direct your attention to
12 item number 15. Could you describe what that is?

13 A Item number 15 was a long black -- I'm sorry, one
14 black long sleeve button down shirt from Terry
15 Williams.

16 Q And then item 15.1, what was that?

17 A Item 15.1 were the particle lifts that I used and
18 collected off of the T-shirt, or off of the long T-
19 shirt. Whenever we have clothing or other inanimate
20 objects that are submitted, we have particle lifts
21 just like in the sample, of different areas of the
22 clothing based on what kind of clothing it is. And
23 in this specific case, for a long sleeved item we
24 would do the cuff area, by the cuff area of each
25 hand, the front cuff area of each hand, and the

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1 forearm area of each arm. This is all reported out
2 as one result because gunshot residue can transfer a
3 little bit from items; and normally when clothing is
4 submitted to SLED for GSR analysis, it's kind of
5 crumbled up and tossed in a paper bag so we can't
6 for sure say that it came from a certain area, but
7 we can say that it was present on the shirt.

8 Q What results did you find?

9 A I got one particle of gunshot residue on the
10 shirt. With an inanimate object such as clothing we
11 can't necessarily put a time frame on when that was
12 deposited, but GSR won't stay on clothing or other
13 inanimate object until they're removed.

14 Q For item 16 what -- could you describe what that
15 is?

16 A. Item 16 was one pair of black pants from Terry
17 Williams.

18 Q And item 16.1?

19 A Item 16.1 was the particle lift I collected off
20 the pants. For the pants we collect we refer to as
21 the right front or, and left front. That would be
22 from the waistband on the right side till about the
23 mid thigh area, and the same on the left side. From
24 the waistband to about the mid thigh area on the
25 front of the pants.

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1 Q So that would be roughly from the waistband to
2 the mid thigh? You take samples from the entire —

3 A Yes, ma'am.

4 Q —front of the pants? Okay. Now given the
5 results of your analysis I'm gonna ask you a few
6 questions because upon the evidence that we've heard
7 so far.

8 A Okay.

9 Q In your experience in trace evidence is it common
10 to find the victim of a gunshot — well, let me put
11 specific facts. If you have a shooter standing
12 10-feet with an AK-47 from a victim and the victim
13 is fired upon multiple times, would you expect to
14 see gunshot residue on the victim?

15 A Yes, ma'am.

16 Q Would that from be common?

17 A That would be expected. That would be very
18 common.

19 Q Talk to me a little bit about transfer of gunshot
20 residue from your hands to other objects.

21 A With gunshot residue, you think about having your
22 hands covered in flour from your kitchen. Every
23 time you clap your hands, you touch something on the
24 counter, you wipe your hands, a little bit more
25 flour comes off. That's the same with gunshot

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1 residue. It's very delicate like that, and it's
2 very easily removed like that. You don't
3 necessarily even have to wash your hands to remove
4 it. You can just wipe them. You can sweat; that
5 can remove it. It can be absorbed through the skin.
6 The blood has the potential to remove it from the
7 hand as does wind, rain, etc. Even putting your
8 hands in your pockets can remove a little bit. That
9 doesn't mean something is always removed or
10 something is always transferred, but it always has
11 potential.

12 Q So let me ask you this with these facts, let's
13 say you have a shooter who's firing an AK-47
14 multiple times and he immediately gets into his
15 vehicle and leaves, would it be possible to transfer
16 some of that gunshot residue off your hands on to
17 the steering wheel, gear selector and inside door
18 handle?

19 A It would be possible; but again, there haven't
20 really been studies as far as how much gunshot
21 residue is for certain going to be deposited because
22 different factors can sometimes change that. For
23 example, if you have lotion on your hands and you go
24 to a firing range and you fire, then all of your GSR
25 is probably going to get stuck in that lotion. So

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1 if you go wipe your hand and then someone were to
2 sample you for GSR, you may come up negative even
3 though you were just shooting and everybody knows
4 you were just shooting because it got stuck in that
5 lotion. The same can be said if someone had really
6 dry, cracked hands. The GSR could have a potential
7 to go down in those cracks in the hands and maybe
8 they wouldn't transfer when someone touched them.

9 Q So no one can say it's expected, but it's
10 possible to transfer gunshot residue to this
11 table ---

12 A It's possible.

13 Q ---to a gear shift? Okay, thank you. My next
14 question is about the clothing that you examined of
15 Terry Williams. In your experience in trace
16 evidence, if you have a person -- you testified
17 earlier that gunshot residue remains on clothing
18 until removed.

19 A Yes, ma'am.

20 Q Knowing that, would you expect if a person were
21 to be wearing the same clothing he was wearing when
22 he shot someone with a AK-47, would you expect to
23 see more gunshot residue or any gunshot residue on
24 that person?

25 A I would expect to see a significant amount of

SW - W. BERRY - DIRECT

1 gunshot residue on that person.

2 Q Specifically I'm gonna ask you about the pants
3 'cause you testified that you test it from the waist
4 to about mid thigh?

5 A Yes, ma'am.

6 Q And would you expect to see gunshot residue on
7 those pants?

8 A It would depend on how the person was holding the
9 gun. Obviously if they were holding it up higher, I
10 wouldn't expect as much on the hands; I would expect
11 it on the shirt. But if they were holding it lower
12 at their side, then I would expect to find more GSR
13 on the pants than necessarily on the shirt.

14 Q But in any event, you would expect a significant
15 portion on either the shirt or the pants?

16 A Yes, ma'am.

17 Q Thank you. Now as far as gunshot residue kits
18 go, Investigator Ballard testified about time frame.
19 You're the expert so I want to ask you, what's the
20 effective time to take off gunshot residue from
21 hands from a suspect?

22 A In the scientific community and the scientific
23 working group for gunshot residue, it's generally a
24 accepted that after four to six hours after an
25 incident you're mostly like not going to find any

SW - W. BERRY - CROSS

1 GSR on someone's hands just from normal daily
2 routine activities. So you have that four to six
3 hour window. SLED has documented a higher end of
4 six hours. So if a GSR kit is collected off of a
5 living person, after six hours SLED will not analyze
6 it because we can no longer tie it to an incident.
7 If it's collected six hours and one minute, it's
8 still no unfortunately. So we just don't expect to
9 find anything.

10 Q So in fact scenario, if you have a defendant, a
11 suspect, that turns himself in 12 hours after a
12 shooting, would you expect to find any effective
13 gunshot residue?

14 A No, most likely not associated with this incident
15 or with the incident.

16 MS. SWILLEY: Beg the Court's indulgence,
17 Your Honor. I have no further question. Please
18 answer any questions Defense might have.

19 THE COURT: Thank you, Solicitor.
20 Mr. Kent.

21 MR. KENT: Thank you, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. KENT:

24 Q Agent Berry, how are you?

25 A Good, how are you?

1 Q Good. We met briefly. I don't have a lot of
2 questions, but I want to make sure I understand
3 everything fairly complete. Gunshot residue — and
4 I'm not trying to be belittling — is not an exact
5 science. Would you agree with me there?

6 A Um—

7 Q And maybe if I can qualify my question it might
8 make more sense.

9 A Yes.

10 Q Because as we are aware, just because gunshot
11 residue is somewhere or is not somewhere, we can't
12 specifically say what it's caused by.

13 A Gunshot residue is good for corroborating an
14 instance or to support what may or may not have
15 happened. For example, completely unrelated to this
16 case, if someone says I didn't shoot anybody and
17 they submit two gunshot residue tests and their
18 hands are completely covered with gunshot residue,
19 then it would say that they're most likely not
20 telling the truth in that instance.

21 Q Correct. Now talk to us about the opposite end
22 of the spectrum.

23 A The opposite end of the spectrum, if someone
24 says, yeah, I shot him, and you test his hands and
25 they're negative, that doesn't necessarily mean that

SW - W. BERRY - CROSS

1 they didn't shoot. Again, there are multiple
2 factors such as caliber of gun, how long after the
3 incident the hands were tested, what happened
4 between them, did they wash their hands, did they go
5 to the bathroom, anything like that. Different
6 things like that possibly remove it. But then
7 there's also always the option that the person
8 didn't shoot.

9 Q And factors such as wind, you mentioned wind and
10 weather conditions, all those things can affect
11 gunshot residue?

12 A They all have a potential to remove it, yes.

13 Q To remove gunshot residue. And that's what I
14 meant; I wasn't trying to be belittling. But it is
15 kind of an exact science because there's — all you
16 can test for is if it's there, if it's not there you
17 can't testify what caused it or didn't cause it to
18 be there or not be there?

19 A What we can say, what we typically testify to is
20 that the presence of gunshot residue on the hands
21 indicates that that person was in the vicinity to
22 the discharge of a firearm or they came in contact
23 with something that was in the vicinity to the
24 discharge of firearm. So that can mean they shot,
25 that could mean they were standing next to the

1 person who was shooting, they could be standing next
2 to the victim. That could mean they picked up the
3 gun. It has all these different possibilities.

4 Q Or they could have handled a gun that was
5 recently fired. All these things have factors that
6 can deal with it, correct?

7 A Yes.

8 Q That's what I'm saying, there's a bunch of
9 different factors that can explain the presence or
10 nonpresence of gunshot residue?

11 A Yes.

12 Q I'm confused on one thing. And I've seen a lot
13 of these cases, not as many as you have before. And
14 usually when I see these gunshot residue tests, I
15 think we're on the same page, usually you get one
16 stamp for the back of the hand, close it, one stamp
17 for the front of the hand, close it — I mean, for
18 the palm?

19 A Yes.

20 Q One stamp for the — that's my right hand. This
21 is my left hand. One stamp for the palm of the
22 hand, one stamp for the back of the hand so usually
23 we have four stamps?

24 A There are four in every GSR kits. This is just a
25 demo I bring with me.

SW - W. BERRY - CROSS

1 Q And I'm not talking about that one specifically.
2 But usually there are four stamps in each GSR kit so
3 we can identify where the gunshot residue came from.

4 A Yes, sir.

5 Q 'Cause that's important sometimes?

6 A The reason we — you can correct me if I'm wrong,
7 here —

8 Q Yes, ma'am.

9 A —but I believe that what you're getting at is
10 why do we report right hand versus left hand instead
11 of different areas?

12 Q Yes, ma'am.

13 A The reason that we moved away from that is
14 because a lot of people want to say, and not
15 necessarily defense attorneys, just in general from
16 the magic of TV, they want to say that someone's
17 hands are like this and they have gunshot residue on
18 their palms, that means they were in a defensive
19 posture but that's not —

20 Q That's not true.

21 A —the case.

22 Q That's not true. that's not the case.

23 A That's not the case. They can still — if they
24 have gunshot residue on the back of their hand that
25 means they must be the shooter; but that's again, —

SW - W. BERRY - CROSS

1 Q Not the case.

2 A ---not necessarily true.

3 Q And that's what I was getting at. So we tried
4 and moved away from that so we can't argue, oh, a
5 defensive posture, that's where the gunshot residue,
6 we just testified there's gunshot residue present.

7 A No. For the report, for the report we just say
8 right hand or left hand. Now, and notes, our bench
9 notes and different things like that, it's
10 definitely indicated exactly where we found it; and
11 that's available to the solicitor should they ask
12 for it.

13 Q Yes, ma'am.

14 A Or whoever.

15 Q Had they asked for it, should they ask for it
16 it's available at that point in time?

17 A Yes.

18 Q And from the report that we have from you and I
19 make sure I just go through my report very simply,
20 you have it in front of you, correct?

21 A Yes, sir.

22 Q Item 3, one gunshot residue test you performed on
23 Terry Williams's vehicle on the outside of the door,
24 no gunshot residue was found?

25 A Correct.

SW - W. BERRY - CROSS

1 Q There's no explanation, you just test and say,
2 this is my response, no gunshot residue was found.
3 That doesn't mean anything, doesn't mean anything at
4 all, just means I tested what y'all gave me and no
5 gunshot residue was found?

6 A Correct.

7 Q Correct. And no explanation or trying to
8 explain, that's just what that means?

9 A That's just what it means.

10 Q Correct. Item 3.2, gear selector, no gunshot
11 residue was found. Again, that doesn't mean
12 anything, I'm not offering an explanation, all I'm
13 saying is no gunshot residue was found?

14 A Right.

15 Q That was my test?

16 A Correct.

17 Q Item 3.3, inside of door handle. No gunshot
18 residue test, not an explanation, that's just my
19 test, that's what I performed, correct?

20 A Correct.

21 Q Item 3.4, the steering wheel. No gunshot residue
22 test, bam, again, not an explanation, that's my
23 test, y'all sent it to me, I tested it, no gunshot
24 residue was found?

25 A Correct.

SW - W. BERRY - CROSS

1 Q Correct. The right hand of Larry Moore, gunshot
2 residue was found, no explanation, that's my test,
3 that's what I'm giving you. You sent me something,
4 I tested it and gunshot residue was found, correct?

5 A Correct.

6 Q Left hand of Larry Moore, gunshot residue was
7 found, no explanation, I'm just telling you gunshot
8 residue was found on the item that y'all sent to me,
9 correct?

10 A Correct.

11 Q Item 5, one long sleeve button down T-shirt from
12 Terry Williams, gunshot residue found?

13 A Yes, sir.

14 Q No explanation, tested it, gunshot residue was
15 found, that's the extent of my testimony, correct?

16 A Correct.

17 Q Item 16, one pair or black pants from Terry
18 Williams, no gunshot residue was found, correct?

19 A Correct.

20 Q No explanation, just tested what y'all sent me,
21 no gunshot residue was found?

22 A Correct.

23 Q And that's what you're testifying to, this
24 report?

25 A Yes, sir.

SW - W. BERRY - REDIRECT

1 Q Anything outside of this report isn't what SLED
2 had done, you just did this report, correct?

3 A Yes, sir.

4 Q That'd be all the questions I have. Thank you so
5 much.

6 THE COURT: Redirect, Solicitor.

7 MS. SWILLEY: Just a few, Your Honor.

8 **REDIRECT EXAMINATION**

9 BY MS. SWILLEY:

10 Q Agent Berry, you testified that you tested Terry
11 Williams' pants and shirt, correct?

12 A Yes, ma'am.

13 Q These have previously been admitted.

14 MS. SWILLEY: May I approach, Your Honor?

15 THE COURT: Yes, ma'am, sure.

16 BY MS. SWILLEY:

17 Q This has been previously marked as State's 86, if
18 you don't mind taking that out. Just so we're
19 clear, that is the item Terry Williams' long black
20 sleeved button down shirt that you tested for
21 gunshot residue?

22 A Yes, it is. I can confirm that because I wrote
23 the lab number, item number, my initials, and date I
24 sampled it right there on the collar.

25 Q Thank you. And just one particle of gunshot

1 residue was found?

2 A Yes, ma'am.

3 Q Okay. Let me hand you the other part. And those
4 are the pants that you tested for gunshot residue
5 for Mr. Terry Williams?

6 A Yes, ma'am, they're. Again, they have our lab
7 number, item number, my initials, and the date I
8 sampled of the evidence on the waistband.

9 Q And you testified earlier, had those been the
10 pants that he was wearing at the time of this
11 shooting you would expect to have some gunshot
12 residue?

13 A Yes, ma'am.

14 Q Thank you. I have one last question after you
15 put that up. As an expert in trace evidence, based
16 upon the facts I've given you, 10-feet apart from an
17 AK-47 being fired upon, if the victim had been
18 closer or in close contact with the defendant, might
19 you expect more gunshot residue?

20 A I would. I would expect more gunshot residue.

21 Q Thank you very much.

22 THE COURT: Recross?

23 **RECROSS-EXAMINATION**

24 BY MR. KENT:

25 Q You're not here to serve as a witness for anyone;

SW - W. BERRY - RECROSS

1 that's correct? You're not anybody's witness,
2 you're here as an expert in gunshot residue and
3 gunshot residue alone?

4 A Yes, sir.

5 Q You were not out there that night?

6 A No, sir.

7 Q You do not know what happened?

8 A No, sir.

9 Q You don't know the wind factors or conditions or
10 what anybody did that night?

11 A No, sir.

12 Q All you know is what was sent to you?

13 A Yes, sir.

14 Q Is that a yes?

15 A Yes, sir.

16 Q And all you know is what was sent to you and what
17 is inside the report that you gave over to the
18 solicitor's office?

19 A Yes, sir.

20 Q And any other suggestion otherwise would be
21 patently false, you just tested the information that
22 you were given?

23 A Um—

24 Q You tested the information you were given?

25 A Yes, but my, I —

SW - W. BERRY - RECROSS

1 Q Thank you. That's all the questions I have.

2 THE COURT: You may answer your question.

3 THE WITNESS: Yes, sir. I spoke earlier
4 about the window of GSR and how a different caliber
5 weapon could affect the distance of how far it could
6 go. And this is not just my opinion as someone. We
7 actually have somewhat of a heart that we go by.
8 It's not -- it's got a range on it for about how far
9 you would expect GSR to travel depending on the
10 different calibers of gun. Ours does not go up to
11 assault rifle level. But for a large caliber gun,
12 the typically the largest we see, it goes, we expect
13 to find GSR about 8 to 10 feet so that would be
14 about the maximum distance we would expect to see.
15 So while I wasn't there and I don't know what may
16 have happened that night, I can say that the victim
17 was most likely -- I mean, we're gonna have to think
18 about the larger caliber, but most likely say within
19 a good or within maybe 10-feet or so of being shot
20 to have gunshot residue on their hands. Again, I
21 don't know the wind factors, but I do know that
22 gunshot residue is going to travel and it's going to
23 land on your victim and with a high caliber handgun
24 we expect it to be about 10-feet so I would imagine
25 that for an assault rifle we would expect it to be

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1 at least 10-feet.

2 BY MR. KENT:

3 Q Agent, and that is based upon a hypothetical you
4 were given. It's also possible gunshot residue can
5 get on somebody from handling a weapon that was
6 formerly fired also?

7 A That is true.

8 Q That's also a possibility?

9 A That is also possible.

10 Q So if I gave you a hypothetical like the
11 solicitor's office did that, included in your
12 hypothetical would you also expect to find gunshot
13 residue on a victim who also had handled a firearm
14 earlier that day within an hour or so?

15 A It could potentially be there. That would be a
16 transfer question and transfer doesn't always occur.

17 Q So that would just -- we can basically add any
18 type of hypothetical?

19 A Yes.

20 Q Thank you so much. That's all I have.

21 THE COURT: Thank you, Agent Berry. You
22 may step down. You may be excused. Thank you for
23 being with us today.

24 Solicitor, you may call your next witness.

25 MS. BARR: The State calls Jastine Moore.

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1 THE COURT: Ms. Moore, if you would come
2 around please to be sworn.

3 THE CLERK OF COURT: Place your left hand
4 on the Bible, raise your right hand.

5 WHEREUPON,

6 **JASTINE MOORE,**
7 having been duly sworn by the Clerk, testified
8 as follows:

9 **DIRECT EXAMINATION**

10 BY MS. MOORE:

11 Q Good afternoon, Ms. Moore.

12 A Good afternoon.

13 Q For the record please state your full and last,
14 first and last name for me and spell your last name
15 for me?

16 A My name is Jastine Moore. It's J-A-S-T-I-N-E.
17 You want middle name also?

18 Q That's fine just as you are now. You are married
19 to Larry Moore who is seated here?

20 A Yes.

21 Q All right. And how many children do the two of
22 you have?

23 A We have two.

24 Q Okay. Tell me their names.

25 A Little Larry, well, Larry Moore, Jr. We call him

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1 Little Larry.

2 Q Okay. And you have a daughter?

3 A I have a daughter, Patrice M. .

4 Q Patrice is seated in the courtroom?

5 A She's right there.

6 Q Okay. Now you are a life long resident of
7 Williamsburg County?

8 A Yes.

9 Q And when was Little Larry born?

10 A He was born [REDACTED] in 1986.

11 Q All right. Does he have any children of his own?

12 A Yes, he had three little boys.

13 Q Okay, all right. And what are their ages?

14 A Malaki is 7, Dorian is 6, Little, well, Larry,
15 III, he's 3.

16 Q Okay, all right. Now prior to the passing of
17 your son, you were aware that he was in a
18 relationship with Reva McFadden?

19 A Yes.

20 Q Okay. Did they consider it to be a serious
21 relationship?

22 A Yes. They did tattoos. Reva has -- I don't call
23 him groucho. My husband calls Little Larry groucho
24 so Reva had a groucho tattoo on her arm so they were
25 very serious.

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1 Q Reva has what now?

2 A Groucho.

3 Q Groucho?

4 A Uh-huh.

5 Q Okay, that's another name for Little Larry?

6 A That's another name, yes.

7 Q Why does you husband call him groucho?

8 A We were dating. I got pregnant before we got
9 married. And Little Larry wouldn't let his dad hold
10 him so he started calling him groucho.

11 Q He would fuss with his daddy, okay, I got it.

12 And Reva has the word groucho tattooed on her.

13 A Yes.

14 Q So were they living together?

15 A Yes, ma'am, they were.

16 Q Okay, and where were they living together?

17 A I think it's Guess Road. It's not too far from
18 where we live. It's all in Greeleyville.

19 Q Okay. And in terms of where they were living
20 together how far is it from Club Celestines?

21 A Maybe about three minutes.

22 Q Okay, all right. Now during the last year of
23 your son's life how often would you see him?

24 A We would maybe see him maybe — well, him and
25 Reva may be about once or twice a week or every

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1 weekend.

2 Q Okay. Now were you, did you have a close
3 relationship with your son?

4 A Yes.

5 Q Okay. Did your husband have a close relationship
6 with your son?

7 A Yes.

8 Q Okay, all right. How often would your husband
9 see Little Larry in the year prior to his passing?

10 A The same amount of time. He would come over a
11 lot of time and helped mow the yard for his dad.
12 When he came to visit 'cause we lived together so we
13 saw him the same amount of time.

14 Q All right. Ms. Moore, have you ever known Little
15 Larry to carry a gun?

16 A No, I haven't.

17 Q Okay. Now you talked about the time when he and
18 Reva would come over and visit.

19 A Yes.

20 Q Okay. Have you ever seen the gun in their
21 vehicle, on his person, or did he ever talk about
22 having a gun?

23 A No.

24 Q Okay. There was testimony that Larry and Reva
25 came by you and your husband's home?

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1 A Yes.

2 Q I guess it's officially the day before, but I
3 guess it would be that Saturday —

4 A Yes.

5 Q —afternoon prior to his passing?

6 A Saturday afternoon.

7 Q You remember that?

8 A Yes.

9 Q Why were Reva and Larry at your home?

10 A Like I said, they'd come and visit just about
11 every weekend and during that time Dorian — that's
12 his middle boy — and the baby boy was over there so
13 he knew they were over there, Reva also. They came
14 and they were playing with the kids and visit with
15 us.

16 Q Okay. How long did they stay?

17 A It was, it was daylight so during that time Uncle
18 Berdine, he was over to the house also. He normally
19 come over on Saturday. And so they stayed, like, my
20 daughter was at work and she probably doesn't get
21 home till probably — she gets off at 8:30. So it
22 probably took her about till 9:00 although after 9
23 to get home, and she saw him so it was a good day.

24 Q All right. So they would have left about 9:00
25 p.m.?

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1 A 9 or a little after. You know, it varied, just
2 in between that time.

3 Q All right. Now do you remember what items of
4 clothing Larry was wearing that day?

5 A He, I'm thinking seeing him later on the floor he
6 had on his white T-shirt, and he had these pair of
7 light jeans that I didn't like that had a little rip
8 in them, yes.

9 Q You didn't like the little rip in the jeans? And
10 that's the colloquial that young kids where?

11 A Yeah.

12 Q Okay, all right. Did Larry own a black leather
13 jacket?

14 A Yes, I bought him, I bought him a leather jacket,
15 a black letter jacket, yes.

16 Q And Ma'am, I'm gonna publish what's previously
17 been admitted as State's Exhibit Number 49. From
18 where you are can you tell in the item that's in the
19 front passenger seat of the Dodge Durango, is that
20 similar? Does that look like the black leather
21 jacket that you would have purchased for your son?

22 A It looks like the leather jacket. I can't be
23 sure, but it looks like the leather jacket.

24 Q Okay, all right. Larry was at your house for
25 several hours, Larry and Reva?

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1 A Yes.

2 Q All right. And you testified that you saw him,
3 he was on the floor playing with one of the boys.
4 Did you ever see him with a gun at any point in
5 time?

6 A No.

7 Q What about when he left, did you ever see him
8 with a gun?

9 A No.

10 Q Now you were in here yesterday obviously when the
11 forensic pathologist testified about the clothing
12 that he was wearing after he was released from, the
13 body was released from the hospital, were those the
14 same clothing that he was wearing the last time you
15 saw him?

16 A No.

17 Q Is that a no?

18 A No, it wasn't.

19 Q Okay. How did you learn about what had happened
20 with your son, who told you?

21 MR. KENT: Your Honor, may we approach.

22 THE COURT: Yes, sir certainly.

23 (WHEREUPON, counsel approached the
24 Bench for an off-the-record discussion.)

25 BY MS. BARR:

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1 Q Ms. Moore, so that I don't have you up here so
2 long, did Mr. Epps come to your house that night to
3 tell you about your son?

4 A Yes, he did.

5 Q Okay. Now was Little Larry a violent person?

6 A No, no, he wasn't.

7 Q Was he the type of person to start problems and
8 start confrontations with folks?

9 A No, never, more protector.

10 Q Now you and your husband, you all went to the
11 hospital after Tifton Epps came to your home?

12 A Yes, ma'am.

13 Q Did you see Reva at the hospitals that night, or
14 that early morning I guess?

15 A Only, only after, only after I saw my son.

16 Q All right. After you left the hospital you and
17 your husband went back home?

18 A Yes.

19 Q Did you ever get any of Little Larry's belongings
20 from any place, the hospital, MUSC, or Reva? Did
21 you ever get any of his belongings?

22 A We didn't get anything from the hospital, you
23 know, no hospital, but he has a Bible 'cause the
24 church gave a Bible. We got that from Reva.

25 Q Reva gave you that?

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1 A Reva.

2 Q Did she ever give you a firearm and said, this is
3 his gun?

4 A No.

5 Q The only thing you got from Reva that belonged to
6 your son is a Bible?

7 A Yes.

8 Q Was there anything inside of it?

9 A His I.D. from work and his social security
10 number.

11 Q All right. Thank you, ma'am. That's all the
12 questions I have. I'm sorry, one more. How old was
13 Mr., was your son when he passed away?

14 A 27.

15 Q 27 years old?

16 A Yes.

17 Q That's all the questions I have. Thank you,
18 ma'am.

19 THE COURT: Thank you, Solicitor.

20 Mr. —

21 MR. KENT: No questions of this witness,
22 Your Honor.

23 MS. BARR: Judge, I'm sorry, one quick
24 question, Judge, if I may.

25 THE COURT: Yes, you may.

1 BY MS. BARR:

2 Q Ma'am, is Larry right handed or left handed?

3 A He's right handed.

4 Q Right handed?

5 A Yes, ma'am.

6 Q Thank you. That's all I have.

7 THE COURT: Questions, Mr. Kent?

8 MR. KENT: No questions of this witness,
9 Your Honor.

10 THE COURT: Thank you. Thank you very
11 much, Ms. Moore. You may step down.

12 All right, Solicitor, you may call your
13 next witness.

14 MS. BARR: Your Honor, at this time the
15 State would rest.

16 THE COURT: All right. Mr. Foreman,
17 ladies and gentlemen, if you'd step momentarily to
18 your jury room. I have certain matter I must take
19 up outside of your presence at this time. Do not
20 discuss the case during this brief recess.

21 (WHEREUPON, the jury was removed from the
22 courtroom at 12:16 p.m.)

23 THE COURT: All right, any motions, Mr.
24 Kent?

25 MR. KENT: Your Honor, before I make any

1 motions if I could just -- we made an objection at
2 the bar, if I may place that on the record. Your
3 Honor, before this witness testified, respectfully I
4 had made a motion to exclude her testimony. I felt
5 it would be impugning on the basically victim
6 advocacy, getting into victim witness type
7 testimony. I also objected because of the relevancy
8 of the testimony and you allowed me respectfully,
9 thank you for allowing me to make my contemporaneous
10 motion and make it later. Your Honor, my objection,
11 again, would go to the fact that a lot of the
12 testimony was just gauged to get emotion and
13 sentiment, things such as how many children do you
14 have, do you have a good relationship with your son,
15 did father have a good relationship with his son,
16 tell me about the kids, when he would come over.
17 The information about the fact that he carried a
18 Bible when he came over to the residence, that he
19 would come over every Saturday. I felt that all
20 that information basically just impinge on victim
21 witness type testimony. For that reason I make my
22 objection. Thank you for allowing me to put this on
23 the record.

24 THE COURT: All right, Solicitor.

25 MS. BARR: Your Honor, we would certainly

1 respectfully disagree. We think that the evidence
2 is admissible under 404, specifically as it relates
3 to the victim's representation and character for
4 peacefulness. I think there was testimony by his
5 mother he was not known to start trouble. There's
6 an implication by the defense in this case if not
7 out by accusation that the victim was the one who
8 started the altercation that resulted in his death,
9 the fact that they had as much contact with him as
10 they did is certainly relevant on their knowledge of
11 his lack of a propensity for violence and his
12 propensity for peacefulness. Also, the amount of
13 contact they would have had with their son during
14 the year prior to his death goes to whether or not
15 they'd ever seen him with a firearm; and certainly,
16 if he chose to carry one he would have been legally
17 entitled to do so as he's not a convicted felon.
18 And so the folks who know him well, it would
19 corroborate and corroborate the State's position
20 that the victim was unarmed at the time. She in
21 contradict perhaps the evidence by Ms. McFadden that
22 he was known to have a gun, or he had a gun earlier
23 while at the home of his parents.

24 Judge, also the mother's testimony
25 regarding whether her son was right handed or left

1 handed was specifically elicited with regard to
2 following up on the trace evidence expert, and so we
3 believe that given the totality of all of her
4 testimony, that is relevant in all of the issues in
5 this case.

6 THE COURT: All right. Additionally, I
7 would agree, Solicitor, I do not think it was -- I
8 think the objection would be basically 403 and more
9 prejudicial than probative as far as any defense is
10 concerned; but I think much of it was corroboration
11 also. As far as his age, his relationship with
12 Ms. McFadden, the fact they were living together,
13 much of it was also have to do with timeline of the
14 event of the evening of the 9th, what time they
15 would have left, the fact his clothing was changed
16 and that would be corroborating to other testimony.
17 Obviously the fact as to never known him carry a
18 gun, didn't see him with a gun that day. And I
19 would further note Ms. Moore had no outbursts.
20 There was some but very limited, perhaps twice the
21 flapping of the eyes and such. She was at all times
22 composed it would be my observation. And I note the
23 jury appeared to be, their demeanor appeared during
24 Ms. Moore's testimony consistent with their demeanor
25 has been throughout the trial of the case so I do

1 not think it is — I will deny the motion. I don't
2 think it was victim impact testimony.

3 MR. KENT: Thank you, Your Honor.

4 THE COURT: Thank you. Any motions,
5 Mr. Kent?

6 MR. KENT: Your Honor, I think at this
7 time it's proper to make our directed verdict motion
8 taking the evidence in a light most favorable to the
9 nonmoving party, who of course, then the State with
10 respect in this case, would be the State of South
11 Carolina to make our directed verdict motion
12 specifically as to all three charges. First, would
13 be the charge of assault and battery of a high and
14 aggravated nature as Reva McFadden, the only witness
15 who is an eyewitness to the entire event
16 specifically testified that there would be no
17 intent. Additionally, the doctor in the situation
18 testified that this would not be the type of injury
19 that would cause death or great bodily injury this
20 specific type of injury. For that reason, Your
21 Honor, we move for a directed verdict or acquittal
22 as to this charge. As to the charge, specifically,
23 of murder as well as possession of a weapon during a
24 violent crime, by way of argument on behalf of
25 Mr. Williams' we would argue that the State has not

1 met their burden. They have proven at best a
2 limited circumstantial evidence case. Even though
3 they have strategically very cleverly mentioned the
4 AK-47 many times, that has not been proven at all to
5 be the weapon utilized in this case. They have not
6 actually proved the shooting in this case. And so
7 for those reasons, Your Honor, the others that were
8 made during the course of trial we would make that
9 as simply our directed verdict motion as to those
10 two charges.

11 Your Honor, at this point in time we will
12 renew all motions made during the course of trial,
13 our motions in limine, as well as all objections
14 made during the course of trial. I think that there
15 were motions made at the beginning of the trial.
16 Your Honor protected me very well and allowed me to
17 if there are any motions that I did not make
18 contemporaneous during witnesses testifying, I think
19 that you protected me as to those. I just renew all
20 motions, all motions made during the course of trial
21 and for the limited purpose that I forgot to make a
22 contemporaneous motion made during the course of
23 trial or at the Bench I would make them now. Thank
24 you, sir.

25 MS. BARR: Your Honor, as to the indicted

1 offense of assault and battery of a high and
2 aggravated nature, Section 16-3-600(b) (1) of the
3 South Carolina Code of Laws states a person commits
4 the offense of assault and battery of a high and
5 aggravated nature if a person unlawfully injures
6 another. And the subsection then goes on to say the
7 act is accomplished by means likely to produce death
8 or great bodily injury. Obviously as relates to
9 just that particular count of indictment, that goes
10 to the injury that was sustained by Reva McFadden.
11 There was a clear injury that was documented by
12 photographs and testified to by ER nurse and the
13 treating ER physician that she sustained an injury
14 to her foot as a result of cross fire of an AK-47.
15 Judge, an AK-47 as the Court knows is a very deadly
16 weapon, and the statute specifically says that a
17 person guilty of assault and battery of a high and
18 aggravated nature if great bodily injury results or
19 the act is accomplished by means likely to produce
20 great bodily injury or death. We know that an AK-47
21 is likely to produce great bodily injury or death
22 because in this case it did.

23 As with the specific in terms of whether
24 or not there was any criminal intent, we would just
25 assert that obviously intent follows the bullet. We

1 believe the defendant intended to harm the victim
2 Larry Moore, but there are the notion of transferred
3 intent. We still submit that assault and battery of
4 a high and aggravated nature is an appropriate
5 charge. Judge, during the course of assault and
6 battery of a high and aggravated nature is a violent
7 crime that's defined by 16-12-60 and so that goes to
8 the element of possession of a firearm during the
9 commission of a violent crime. Lastly, as it
10 relates to the indicted offense of murder we believe
11 that there's clear direct evidence in the record.
12 From the statement of Mr. Levonne Croker the
13 defendant announced to him what his intent was.
14 There's been no evidence so far at this point that
15 the victim was armed at the time that he was killed.
16 In fact, the evidence is that no one saw him with a
17 weapon. He was at least 10-feet away but in arms
18 way. There's history here. You can look at the
19 fact that the victim was in a serious relationship
20 with the defendant's wife, that the defendant's
21 wife, Ms. Reva McFadden, testified that a week prior
22 he threatened to kill himself because he was just
23 coming to realization that the relationship was
24 over. So we believe that the, there is evidence of
25 motive obviously. Although that is not an element

1 of the murder there's evidence of motive in this
2 case, and there's also the evidence of premeditation
3 from the statement of Ms. Greene where she testified
4 that the defendant, after the victim told him, I can
5 look anywhere I want, then he says okay, and
6 proceeds to his vehicle at which time he withdrew an
7 AK-47 and fired upon the victim multiple times.

8 Obviously malice is required as an element of
9 murder. Malice can be inferred by the use of a
10 deadly weapon or the intent to inflict great bodily
11 injury or serious harm. Obviously if you're firing
12 an AK-47 at someone, that is in and of itself, that
13 is an intent to create serious bodily injury or
14 death, and that was the result here. So we believe
15 that by virtue of direct and circumstantial evidence
16 there's sufficient evidence in the record to submit
17 all three counts of the indictment to the jury. We
18 respectfully request that the Court deny the motion.

19 THE COURT: All right, thank you. Thank
20 you very much. In taking into account the testimony
21 of various witnesses that have appeared during the
22 course of the trial, I would add the Solicitor
23 referred to the testimony of Mr. Croker and
24 specifically as to Mr. Kent's argument concerning
25 whether or not the State has proven it was an AK-47,

1 I refer back to Mr. Croker who being a four year
2 veteran of the American navy, testified when he got
3 into the Suburban vehicle his feet was resting on an
4 assault rifle that was in the floor area behind the
5 driver's seat. It had a banana clip, that he was
6 familiar with assault rifles, and banana clips from
7 his military training and there was a banana clip
8 that he thought would hold 30 to 50 rounds.
9 Further, he had a conversation with the defendant
10 about Mr. Moore, whereby, the defendant brought up
11 that your boys are inside, he said who, he said your
12 boy Larry. He said, I don't mess with him no more
13 because of what happened between me and him. And
14 the conversation goes on, he said, well, if he keeps
15 messing with me, he messes with me or keeps messing
16 with he I'm going to kill him. Further, as far as
17 the circumstantial evidence, and I'm not to the
18 credibility of the witnesses or testimony at this
19 point; but just looking at certain dots that could
20 be connected circumstantially, there's a movement of
21 a vehicle from a remote view point, more direct view
22 point to the shed area I would call it. I think
23 Ms. Greene referred to it like that of Celestine's
24 Club.

25 I realize the testimony is clear that

1 Mr. Williams was not the driver of the vehicle at
2 that point; however, it did come to a better vantage
3 point and that would have been after the
4 conversation that Mr. Croker testified occurred
5 between he and Mr. Williams about Larry. And I
6 refer to him as Larry just by way of the
7 conversation, not for any additional personal
8 reason. I would further note the number of the
9 number of rounds that were inflicted on the body of
10 Mr. Moore. The fact that it was an assault weapon,
11 AK-47, is not, of no moment for the Court at this
12 time.

13 Further, there's evidence of flight.
14 Mr. Williams was not present when the ambulance and
15 law enforcement arrived he had fled the scene. He
16 had hidden and/or disposed of evidence. Both
17 Lieutenant Collins' testimony and various deputies
18 of law enforcement took to locate and take
19 Mr. Williams into custody, and the manner and the
20 method in which the vehicle was found, the bloody
21 vehicle at that point, the blood of the victim.
22 Again, as to the 16-3-600(b)(1) I think there was
23 sufficient direct and substantial circumstantial
24 evidence as to the assault and battery with intent
25 to kill and as to the murder and as to possession of

1 a weapon during the commission of a violent crime.
2 The motion directed verdict is therefore denied.
3 Further, I would renew all my previously pretrial
4 rulings and evidentiary rulings during the course of
5 the trial.

6 Any other motions, Mr. Kent?

7 MR. KENT: Nothing else, Your Honor.

8 Thank you so much.

9 THE COURT: All right. Mr. Williams,
10 would you come around for me please. Would.

11 Madam Clerk, would you place Mr. Williams
12 under oath for me.

13 THE CLERK OF COURT: Place your left hand
14 on the Bible, raise your right hand.

15 WHEREUPON,

16 **TERRY WILLIAMS,**
17 having been duly sworn by the Clerk, testified
18 as follows:

19 THE COURT: Mr. Williams, of course we had
20 a discussion yesterday concerning your right to
21 testify or not to testify; do you recall?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And I gave you the evening and
24 the overnight hours and a few extra moments this
25 morning, or minutes this morning before we started,

1 for you to discuss that matter, a very important
2 matter with your attorney or attorneys. As to your
3 right to testify or not testify, do you have any
4 questions you would like to ask me about that?

5 THE DEFENDANT: No, sir.

6 THE COURT: Have you had adequate tie to
7 discuss that matter with your attorneys?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you made your decision?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And what is your decision,
12 Mr. Williams?

13 THE DEFENDANT: I choose not to testify.

14 THE COURT: And that is your decision?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Made of your own free will and
17 accord?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Thank you. Thank you very
20 much, Mr. Williams you. May return to your seat.

21 Mr. Kent, does the Defense intend to
22 present any evidence or any testimony?

23 MR. KENT: Based upon what Mr. Williams
24 has just stated, at this point we're not going to
25 put on any additional evidence.

1 THE COURT: All right. So I take it then
2 we're at the point of closing and charging; is that
3 correct?

4 MS. BARR: That's correct, Your Honor.

5 THE COURT: Any specific requests to
6 charge from the State?

7 MS. BARR: Judge, obviously the standard
8 charges as it relates to the crimes, malice,
9 credibility of witnesses.

10 THE COURT: I —

11 MS. BARR: You always do those.

12 THE COURT: I usually do my standard
13 charges of course, Solicitor.

14 MS. BARR: I can't think of any special
15 ones, Judge. Transferred intent obviously.

16 THE COURT: Transferred intent?

17 MS. BARR: Yes, sir. Evidence of flight.

18 THE COURT: And I don't charge evidence of
19 flight. I think the case law is clear you don't
20 charge that, but you can argue it.

21 MS. BARR: But we can argue it, yes, Your
22 Honor.

23 THE COURT: Yes, ma'am.

24 MS. BARR: Yes, sir.

25 THE COURT: Now that's my recollection of

1 the most recent flight cases, and I think that's
2 been pretty standard.

3 MS. BARR: I would agree with you on that,
4 Judge.

5 THE COURT: But you — that's one of those
6 that you can argue but you, during charge. You can
7 argue but the judge doesn't. Thank you.

8 Mr. Kent.

9 MR. KENT: Thank you, Your Honor. We
10 would request and pursuant to consideration that we
11 had formerly I would request self-defense based
12 specifically on the testimony of Reva McFadden and
13 the questions that I asked her. I think there is
14 something in the record that would support
15 self-defense. I would ask for accident based upon
16 the testimony of not only Reva McFadden, the
17 questions of the solicitor Reva McFadden, the
18 doctors specifically stated during their testimony
19 that she was struck by straight fire which was an
20 accident, she was not the intended party. And I
21 would ask for voluntary manslaughter based upon the
22 questioning towards Reva McFadden by the Solicitor's
23 Office, the argument that they made, of course,
24 during the directed verdict portion, the statement
25 that they put into the record about Terry was

1 distraught, this is why this occurred, he was upset
2 that he wasn't gonna get his wife back, he was
3 distraught about what had happened. And the
4 suggestion by the Solicitor's Office this happened
5 because he had basically lost his wife to another
6 man who was there at the club. Those are the three
7 specific requests I would make. Thank you, Your
8 Honor.

9 THE COURT: Thank you. I do intend to —
10 well, let me hear from you first, Solicitor.

11 MS. BARR: Judge, of course, we don't have
12 any objection to the charge of self-defense. We
13 believe there's insufficient evidence in the record
14 to warrant a charge of voluntary manslaughter
15 because there's insufficient evidence of legal
16 provocation. If he was distraught a week earlier,
17 then he had time to cool off. There was no — his
18 passions had an opportunity to cool off certainly
19 within a week, and so we don't believe that at this
20 juncture there's been any evidence that the victim
21 was armed and so there's no evidence the victim was
22 armed, that the defendant was in the heat of
23 passion. To the contrary, the evidence appeared to
24 be he seemed very calm and walked off so we don't
25 believe that there's enough evidence to warrant a

1 charge of voluntary manslaughter.

2 And Judge, candidly I, as it relates to
3 Mr. McFadden and accident, I have to actually look
4 over that particular instruction and try —

5 THE COURT: Accident?

6 MS. BARR: Yes, sir.

7 THE COURT: Accident, I printed out the
8 charge, states that the defendant has raised the
9 defense of accident, an act may be excused on the
10 ground of accident if it is shown that the act was
11 unintentional, that the defendant was acting
12 lawfully and that reasonable care was used by the
13 defendant in handling of a weapon.

14 MS. BARR: And Judge, then we would object
15 to an instruction of accident because it requires
16 that the defendant was acting lawfully, that, that
17 the act was unintentional. It was an intentional
18 shooting by all accounts. And so, the first
19 element, I think, of an accident charge has not been
20 met by any standard thus far to warrant an
21 instruction on accident.

22 THE COURT: The accident charge goes on to
23 give an example: If a person is lawfully armed in
24 self-defense and the gun accidentally discharges,
25 the defense of accident would apply.

1 MS. BARR: And Judge, there is evidence
2 from Mr. McFadden, I think there was actually came
3 in from Tifton Epps by way of what Ms. McFadden told
4 him that my husband shot up Larry, and so that
5 certainly is not indicative of an accidental
6 shooting. There's also medical records that were
7 admitted into evidence where Ms. McFadden says, my
8 husband shot Larry with an AK-47; and again, that's
9 indicative of an intentional shooting versus — I
10 don't think there's anything in the record to show
11 that he didn't intend to shoot. And I think if I'm
12 understanding the instruction correctly, you have to
13 be able to have some evidence in the record that he
14 didn't intend to shoot, not necessarily he didn't
15 intend to shoot a particular person. And I could be
16 wrong on about that, but that would be the State's
17 position.

18 THE COURT: Thank you, Solicitor.

19 Mr. Kent.

20 MR. KENT: And Your Honor, I'm not gonna
21 belabor the point, would request accident charge. I
22 think Reva McFadden's testimony as you are aware
23 cuts both ways. I think in some testimony she gave
24 helps the defense and in some testimony it helps the
25 State. My position is very clearly she herself

1 called it an unemotional shooting. The doctor
2 himself said this was an incident in and of itself.
3 She was not in -- if you want to use the State claim
4 where he was not an intended target, the argument is
5 going to be self-defense. I'm not saying that the
6 State is not going to be able to argue it's not
7 accident because we haven't met the elements, but
8 the key to that has been raised. And since it has
9 been raise and there is something in the record that
10 would support it, I'm not saying necessarily that
11 the State is not going to be able that we have not
12 met the accident threshold, they it has been raised,
13 there is evidence of it and you're gonna charge and
14 the State wants to argue that we have not met it an
15 we have not met it. That would be my position.

16 THE COURT: All right. And I would
17 decline to charge accident. I do not think the,
18 there's been showing that the act was unintentional
19 by the testimony taking into account the totality of
20 the testimony that was given, and there's no
21 evidence that reasonable care was used by the
22 defendant in the handling of a weapon. Although
23 he -- with self-defense he may have been lawfully
24 armed in self-defense, I do not think that the
25 defense of accident would apply.

1 As to the lesser included offense of
2 voluntary manslaughter, the State must prove beyond
3 a reasonable doubt that the defendant took the life
4 of another in a sudden heat of passion based on t he
5 sufficient legal provocation. I do not think there
6 is sufficient legal provocation. I do not think
7 that mean mugging which actually the testimony
8 somehow goes that Mr. Williams may have been mean
9 mugging Mr. Moore. But however, when Mr. Moore went
10 outside words alone, however vulgar and insulting
11 are not enough to be sufficient legal provocation.
12 I just think there is insufficient legal
13 provocation. There's no testimony whatsoever of
14 that.

15 Further, given the previous conversation
16 of threat to Mr. Moore's life by Mr. Williams that
17 Mr. Croker testified to, he had already been action
18 in preparation in this so I would decline to charge
19 it.

20 MR. KENT: If I may, Your Honor.

21 THE COURT: I decline to charge voluntary
22 manslaughter.

23 Yes, sir.

24 MR. KENT: If I may, respectfully Your
25 Honor, dealing with voluntary manslaughter, one,

1 we're not concerned, of course, with believability
2 of Mr. Croker's testimony or not. We have a right
3 to say that we disagree with his testimony so just
4 'cause he stated it, it doesn't mean it is actually
5 true. Number two, Your Honor, as far as the
6 sufficient legal provocation, the fear is, of
7 course, that there is that he thought this person
8 was armed with a weapon, and there is testimony into
9 the record.

10 THE COURT: That's self defense.

11 MR. KENT: I'm — and couple that with the
12 fact that the State of South Carolina, of course,
13 has already said to Reva McFadden the reason that
14 you got involved in this is because he was emotional
15 so they put it out into Reva McFadden, the reason
16 this all happened because your husband was
17 emotional. I know they're saying the week before,
18 but they've made the suggestion to put in the
19 record, that this is what that happened that night.
20 And they put in her own statement that she told law
21 enforcement this happened that night because my
22 husband was emotional, emotional about what
23 happened, coupled with Larry -- and I know words in
24 and of themselves aren't legal provocation; but to
25 take the words, the weapon, the approaching, the

1 wife, there's something in the record that would
2 support at least a theory of voluntary manslaughter,
3 that he was under the provocation. And under the
4 theory of, Your Honor, and there had been legal
5 provocation cases in which a man walks into his
6 house and sees his woman with another person. I'm
7 not saying this is justifiable, but that is at least
8 something in the record that would support legal
9 provocation at the point in time. It would be our
10 theory that -- it's not our theory; I'm just
11 requesting the charge. It's not our theory, but it
12 is legal provocation that has been recognized by the
13 supreme court. Tenuous at best it may be; but in
14 light of the fact that the Solicitor made this
15 argument with their own witness to try to say he was
16 emotional and then to say, you can't have voluntary
17 manslaughter as the State was arguing in itself,
18 kind of impatiently unfair. Thank you, Judge.

19 THE COURT: Even if he was emotional the
20 week before the adequate cooling time, there's no
21 testimony whatsoever he was emotional that night.

22 MR. KENT: And I'm just saying, I'm not
23 saying the week before he was emotional; but if you
24 take the evidence, look at our evidence in different
25 ways, if we take the evidence with the fact that

1 Reva McFadden was specifically asked, why did this
2 happen that night, was he was still emotional. You
3 take to the fact that Larry Moore followed him out.
4 You take to the fact that we don't know what
5 happened, and Larry — and Reva herself started
6 saying that, we got to take Reva's testimony both
7 ways. Reva herself said Larry was consistently in
8 his face, consistently coming up to him. I think
9 there is a theory at that point in time that you can
10 make an argument about legal provocation. And
11 that's all we need to make is an argument, Your
12 Honor; it doesn't have to be a great one. And I'm
13 not saying it is.

14 THE COURT: I'm not saying it wouldn't be
15 a great argument, Mr. Kent, you made it.

16 Solicitor, anything additional?

17 MS. BARR: Your Honor, what I'm trying to
18 do is separate out what Reva said on Monday versus
19 what Reva said on Tuesday because obviously what is
20 important now is what she said on Tuesday for the
21 trial of the case, and I do not recollect at any
22 point in time her describing the defendant as being
23 emotional that night. The cases that deals with
24 legal provocation, the man comes into the house and
25 finds his wife in bed with another man is obviously,

1 Judge, those cases are factually distinguishable.
2 The individuals involved in this particular case
3 were dating for nine months and they were living
4 together. There's been testimony in the record that
5 the defendant had seen them out in other places
6 before and there had not been a problem. Judge,
7 I'm, you know, obviously I want to, as Mr. Kent
8 does, to protect the record but I do not see any
9 form of legal provocation at all. We all know that
10 words standing alone are never tantamount to
11 sufficient legal provocation. There's been no
12 testimony that the defendant thought the victim had
13 a gun; and so given that, given that there's no
14 testimony about his emotional state that night,
15 there's been no testimony that the defendant thought
16 the victim had a gun, we just simply disagree with
17 counsel that there is evidence in the record to
18 support a voluntary manslaughter charge.

19 THE COURT: And the testimony is he went
20 in the club twice.

21 MS. BARR: Yes, sir.

22 THE COURT: The first time he got two
23 beers and went out. The second time he got one
24 beer. I believe that comes from Ms. —

25 MS. BARR: Ms. White.

1 THE COURT: Ms. White. And her testimony
2 and even Ms. Green's testimony is, you know, they
3 had a conversation, pleasant conversation between
4 Ms. Greene, and Ms. Greene and Mr. Williams had a
5 pleasant conversation and there's testimony in the
6 record that one point there's testimony in the
7 record that he had seen them on numerous occasions
8 of them being with Ms. McFadden and Mr. Moore out
9 together, that it had been a nine month period of
10 time which was, had began post separation by the
11 timeline that had been, had been testified to. And
12 the words that we know of being exchanged, the
13 testimony is that, is that conversation — I'm gonna
14 call it again under the shed — with what you're
15 looking at, my eyes, I can look where I want and
16 such like that, and that's when Ms. Greene goes
17 inside. And of course there's no testimony that Mr.
18 Moore had a weapon outside. There is testimony that
19 Mr. Moore went out twice. One time he went out to
20 his truck, him and Reva, and went right back in; but
21 it would be speculation as to why he did that and
22 come back out.

23 I just don't see there's sufficient legal
24 provocation, Mr. Kent; therefore, I would decline to
25 charge the lesser included offense of voluntary

1 manslaughter. All right, what I intend to do then
2 — any other motions, Mr. Kent?

3 MR. KENT: Nothing, Your Honor.

4 THE COURT: What I intend to do is bring
5 the jury out. I will tell them where we're at in
6 the stage of the case, that the State has rested.
7 The Defense now has the opportunity to present
8 evidence and testimony if the Defense chooses to do
9 so. And at that point I generally tell them a
10 criminal defendant never has to prove himself
11 innocent; the burden is always on the State. A
12 criminal defendant is always presumed to be
13 innocent. I'll then say, we will turn our attention
14 now to Mr. Kent, and ask if you have any, if you
15 intend to present any evidence or testimony. And
16 you would formerly rest in front of the jury.
17 Thereafter, I tell them we're at the stage of
18 closing arguments by the attorneys and we will begin
19 that prior after lunch recess. All right?

20 MS. BARR: Yes, sir, Your Honor.

21 (WHEREUPON, the jury was returned to the
22 courtroom at approximately 12:51 p.m.,
23 and the following proceedings commenced
24 in open court.)

25 THE COURT: Mr. Foreman, ladies and

1 gentlemen of the jury panel, we've now reached at
2 the stage of the trial where the State has rested.
3 You've heard all the evidence, all the testimony
4 you're going to hear in the trial of this case from
5 the State in its case in chief. The Defense now may
6 present evidence and testimony if the Defense
7 chooses to do so.

8 A criminal defendant in South Carolina is
9 never required to prove himself innocent. The
10 burden of proof is always upon the State of South
11 Carolina to prove a defendant guilty beyond all
12 reasonable doubt, and a criminal defendant bears no
13 burden of proof. A criminal defendant in South
14 Carolina, regardless of the serious nature of the
15 offenses charged, is always, always presumed to be
16 innocent. However, a defendant may present evidence
17 and testimony if the defendant chooses to do so.

18 So we will now turn our attention to Mr.
19 Kent and ask, does the, does Mr. Williams or the
20 Defense intend to present any evidence or testimony,
21 Mr. Kent?

22 MR. KENT: At this time Mr. Williams
23 exercises his right not to put on a legal defense,
24 Your Honor.

25 THE COURT: All right, the Defense rests?

1 MR. KENT: The Defense would rest at this
2 point in time.

3 THE COURT: Thank you, Mr. Kent.

4 You have now heard all the evidence, all
5 the testimony you're going to hear in the trial of
6 this case. We're at the point of the closing
7 arguments by the attorneys. What I'm going to do is
8 we're going to take our lunch and recess. That
9 process can take — it's hard to predict time in a
10 courtroom, ladies and gentlemen, so rather than tell
11 you exactly how long it can take, it can be extended
12 so we're gonna take our lunch and recess. Please
13 remember during this recess you're not to discuss
14 the case with others, your fellow jurors, lunch
15 mates, anyone else. Do not read, watch, or listen
16 to any news accounts. Do not do any research
17 independent apart. I would ask you if you'd please
18 be back promptly at 2:30, and we will begin promptly
19 at 2:30 with closing arguments by the attorneys.
20 Thank you very much. I will release you for lunch
21 and recess. Hope y'all have a pleasant lunch.

22 (WHEREUPON, the jury was removed from the
23 courtroom at 12:55 p.m.)

24 THE COURT: Anything further, Solicitor?

25 MS. BARR: No, Your Honor, thank you.

1 MR. KENT: Your Honor, can I put one more
2 thing on the record regarding voluntary manslaughter
3 respectfully?

4 THE COURT: Sure.

5 MR. KENT: And correct me if I'm wrong,
6 but voluntary manslaughter would basically be murder
7 without the malice element. And under that theory I
8 do now think that it potentially is an argument in
9 the record that would justify a manslaughter charge.
10 If we were to follow analysis with all three
11 witnesses that Reva McFadden testified that he was
12 firing direct into the ground, that he was saying
13 back up, back up, and it was an unintentional
14 shooting, and our theory of the ricochet that the
15 bullet had struck the ground first and then went up,
16 and then if you couple that with the medical
17 examiner's testimony that this is an upward angle
18 going left to right front to back which could and
19 the last question could it possibly have hit the
20 ground first and that is our fatal shot, that would
21 justify that a fire into the ground and was not
22 intending to kill that shot may justify a
23 manslaughter charge 'cause they cannot prove the
24 intent of the malice element.

25 THE COURT: All right. Solicitor?

1 MS. BARR: Judge, my recollection of
2 Ms. McFadden's testimony is that the defendant told
3 the victim to back up before the defendant got to
4 his vehicle and armed him with a weapon. And Judge,
5 again, it's kind of difficult because I'm trying to
6 decipher between her testimony on Monday and her
7 testimony on Tuesday. It may be helpful for you if
8 we can get Madam Court Reporter to play back the
9 relevant portion of Ms. McFadden's testimony on
10 Tuesday before the jury. I just don't recollect her
11 testimony being that particular way.

12 MR. KENT: I trust the judge's notes.
13 They're the best notes I've ever seen. Judge,
14 respectfully, I trust your notes. They've proved me
15 to be inaccurate seven times so far so whatever is
16 in your notes I trust whatever you write down. I
17 don't know how you do it, but it's accurate. You
18 have anything problem with that, or do you want to
19 read it back?

20 MS. BARR: Whatever you want.

21 MR. KENT: I trust his notes.

22 THE COURT: Let me think fully over the
23 break.

24 MR. KENT: Yes, sir.

25 THE COURT: All right, court will be in

1 recess till 2:15. I'll be back a little before
2 that.

3 (Whereupon, a lunch break was taken.)

4 THE COURT: Okay. To confirm my
5 understanding, the State has withdrawn the objection
6 to charging the lesser included offense of voluntary
7 manslaughter.

8 MS. BARR: That is correct, Your Honor.

9 THE COURT: All right. And therefore, I
10 will charge it under those circumstances. And just
11 to put on the record, my understanding the order of
12 the arguments are the State would go first, correct?

13 MS. BARR: Unfortunately, yes, sir.

14 THE COURT: Followed by Mr. Kent.

15 MR. KENT: I'll be closing in full, yes,
16 Your Honor.

17 THE COURT: All right. Anything further
18 before we bring in our jury, Solicitor?

19 MS. BARR: Not on behalf of the State,
20 Your Honor.

21 THE COURT: Mr. Kent?

22 MR. KENT: Nothing on behalf of
23 Mr. Williams, Your Honor.

24 THE COURT: All right.

25 (WHEREUPON, the jury was returned to the

1 courtroom at approximately 2:35 p.m., and
2 the following proceedings commenced in
3 open court.)

4 THE COURT: Mr. Foreman, ladies and
5 gentlemen of the jury panel, welcome back. Hope
6 y'all had a pleasant lunch. As I told you before
7 lunch we're now at the stage of the proceeding with
8 closing arguments by the attorneys. The procedure
9 we follow in a case like this, the Solicitor will
10 close first on behalf of the State of South Carolina
11 being the party bearing the burden of proving this
12 case beyond a reasonable doubt. Thereafter followed
13 by Mr. Kent on behalf of his client Mr. Williams.

14 They — closing arguments are different
15 from opening statements. They are true arguments.
16 They can comment on the law and they can comment on
17 the facts and the reasonable inferences to be drawn
18 from the facts and how those facts apply to the law
19 that I will tell you at the conclusion of the
20 closing arguments. I do not allow movement in and
21 out of the courtroom during the closing arguments
22 while an attorney is addressing the jury. You may
23 certainly leave between the closing arguments. You,
24 of course, may leave at the end of both closing
25 arguments prior to my instructions to the jury

1 panel. I would ask you, ladies and gentlemen, to
2 please give the attorneys your complete and
3 undivided attention as you have done throughout the
4 trial of this case.

5 With that being said, Solicitor.

6 MS. BARR: May it please the Court.

7 THE COURT: Yes, ma'am.

8 MS. BARR: Mr. Kent, Mr. Schwartz, Mr.
9 Foreman, ladies and gentlemen of the jury, good
10 afternoon. Thank you so much folks for taking this
11 journey with us. When I say this journey I mean
12 this trial. There were portions of the trial that
13 is in every case tough sometimes to listen to and to
14 watch, but it's a part of our process. I am —
15 periodically I have a habit during the course of
16 trial looking over at the jurors sometimes, and I
17 want to see whether or not the jurors are paying
18 attention. And in this case, every time I looked
19 over you all were looking at witnesses. You were
20 looking at exhibits as they are published on the
21 monitors and so that, what that tells me is you all
22 take your job very, very seriously here today, and I
23 truly appreciate that. I'm sure Mr. Kent,
24 Mr. Schwartz shares my regard, the family of Larry
25 Moore thank you also for your attention.

1 Now when I told you about this journey the
2 journey that I'm referring to is the trial, okay.
3 And in every trial there is what we call a search
4 for the truth. When I get through saying everything
5 that I want to say about this case, Mr. Kent gets
6 through saying everything that he wants to say about
7 this case. When the judge gives you the law in the
8 case, you all will go back in that room that you've
9 been hanging out in for the last couple of days and
10 you'll begin your deliberations. And in addition to
11 the exhibits that you'll receive, one thing you'll
12 receive is a piece of paper from the judge. And the
13 piece of paper you're gonna receive from the judge
14 is called a verdict form. And so when I talk about
15 the journey that you take and I talk about a trial
16 being a search for the truth, you should know that
17 the word verdict, it derives from a Latin phrase
18 that literally means to speak the truth. So Mr.
19 Foreman, once you and your fellow jurors have
20 deliberated in this case you all will be called upon
21 by your collective verdict to speak the truth. And
22 so for this case your verdict should reflect what
23 the truth is of this case.

24 Now we're taking you on this journey so
25 that you can reach a designation, and that

1 destination should be the truth; but we've armed you
2 with a couple of things to help you on this journey.
3 We've armed you with witness testimony. We've armed
4 you with exhibits during the course of the trial;
5 and very shortly, we're gonna arm you with what the
6 law is in the case. Let me start off a little bit
7 with the law.

8 I told you earlier this is a three count
9 indictment for murder, assault and battery of a high
10 and aggravated nature, and possession of a weapon
11 during the commission of a violent crime. Let's
12 talk about the murder charge first, okay, that's the
13 most serious. Murder is defined as the unlawful
14 killing of another with malice aforethought. And
15 typically when we see the words malice aforethought
16 what we're talking about is premeditated murder,
17 generally speaking. A lot of people when they hear
18 the term premeditated — and the judge is going to
19 define for you what those terms mean — they think
20 that there has to be a certain amount of time that
21 goes by before a defendant can be done to be, had
22 premeditation in his mind. The judge is not gonna
23 tell you that. The intent to kill or inflict
24 serious bodily injury can perform in an instant.
25 We're gonna submit to you that the defendant had 17

1 seconds at least to premeditate this crime, at least
2 17 seconds.

3 Now the judge is gonna tell you about
4 malice. Remember I told you murder is the unlawful
5 killing of another with malice aforethought. Malice
6 is ill will, bad feelings, evidence of a depraved
7 heart. Malice made be inferred by all of the
8 circumstances surrounding the crime including the
9 intentional infliction of serious bodily injury.

10 Now we've got count two of the indictment.
11 Count two of the indictment is assault and battery
12 of a high and aggravated nature. That particular
13 count of the indictment relates to Reva McFadden who
14 had a injury to her foot as a result of this cross
15 fire shooting. Now the law defines assault and
16 battery of a high and aggravated nature as the
17 unlawful injury to another person and the act that
18 causes the injury, the act in this case being the
19 shooting, could result from great bodily injury or
20 death, okay. So you have to ask yourselves the
21 question as to count two of the indictment, the act
22 of the defendant in shooting his AK-47 assault
23 rifle, could that have resulted in great bodily
24 injury or death. And you obviously know that it
25 could because Larry Moore succumbed to the injuries

1 inflicted by this defendant.

2 The last count of the indictment,
3 possession of a weapon during the commission of a
4 violent crime. Murder in South Carolina is defined
5 as a violent crime. Assault battery of a high and
6 aggravated nature in South Carolina is defined as a
7 violent crime. So if you find the defendant is
8 guilty of murder, if you find that the defendant is
9 guilty of assault and battery of a high and
10 aggravated nature and that a firearm was used during
11 the commission of either one of those two crimes,
12 then you should also find him guilty of count three
13 of the indictment.

14 I can tell you that it's never easy
15 prosecuting a murder case. It's just very, very,
16 all of them are tragic, every last one of them, no
17 matter the circumstances; it's hard to do. Go
18 through a process with the family whose lost a loved
19 one, and it's more tragic, I think, oftentimes when
20 it's a child, someone's child who dies because the
21 death of a child falls outside the natural order of
22 life. A mother is not supposed to outlive her
23 child. When I think about the death of a child, you
24 know, this, I guess we could accept it better if a
25 child died because of an illness. You have time to

1 process it, to understand it, to grieve. But when a
2 child dies as senselessly as Larry Moore did back on
3 November 10th of 2013, it is heartbreaking, it is
4 absolutely heartbreaking. And he died, he died
5 because this defendant could not accept the simple
6 fact that his wife did not want to be with him
7 anymore.

8 This wasn't an accidental shooting. It
9 wasn't mistake. I'm gonna call a spade a spade.
10 Terry Williams executed Larry Moore because if Terry
11 could not have Reva, he was gonna make dadgum sure
12 that Larry couldn't have her. And you know, the
13 twisted, disturbing, ironic thing about all this, in
14 a way he sort of got Reva back after he killed
15 Larry; didn't he? Yeah. Reva has now mentioned her
16 allegiance to Terry Williams. You see, Reva doesn't
17 have Little Larry anymore. Little Larry is six feet
18 under, can't help her pay her bills, can't help her,
19 take care of her five kids, can't buy her a car. He
20 can't do anything for her right now anymore, ever.
21 That option, Terry Williams competition gone. But
22 there is one person who's left. Ms. Reva has made
23 the deliberate, reasoned calculated decision that
24 now since Little Larry can't do anything for me I'm
25 gonna hitch my wheels on to this wagon, I'm gonna

1 ride or die with this one, because that's all I have
2 left. But you know, it's so funny when I listen to
3 her. You know, if this case were not so serious, if
4 we were not talking about somebody who lost his
5 life, it would be laughable at some points during
6 her testimony. You know, she under
7 cross-examination when Mr. Kent is asking her
8 questions like, well, you know, when Terry walked to
9 his vehicle that night did you see his face, didn't
10 he look scared? She said, well, you know, I
11 couldn't really tell because it was dark, you know,
12 I don't know. And again, if it wasn't so serious it
13 would be laughable. Mr. Kent stands here, he says,
14 didn't you just testify yesterday in this very same
15 courtroom that when you saw your husband's face he
16 looked scared? And she said, oh, oh, yes, yes,
17 yeah, well yeah, yeah. Let me tell you what has
18 happened here. If y'all hadn't figured it out
19 already, let me tell y'all what's happened.

20 Reva McFadden and Terry Williams have got
21 together and they have created this script for you.
22 See, we -- for them this is like a play, you know,
23 they created a script, they rehearsed it, they went
24 over their lines. And what was important for Reva
25 to do, her part in this whole thing, our little

1 leading lady Reva McFadden, her part was to create a
2 self-defense argument for the defense to make. That
3 was her whole important point in all of this.

4 She's gone and visited with him at the
5 jail. They're down at the beach probably sipping
6 Margaritas. She's at his lawyer's office the day
7 before trial starts working on a script. They're
8 working on it, they're working on it, she's getting
9 ready, she's getting ready. And on opening night
10 with an entire courtroom of a captive audience
11 watching, opening night, our little lead lady
12 forgets her lines. And you know that happens folks.
13 It happens when you're telling lies, particularly
14 when you are telling very bad lies. And Reva told
15 some pretty whoppers up in here. But I will say, I
16 will say, Reva was right about two things. She was
17 right about two things. One was Larry was innocent.
18 He was innocent. It should not have happened to
19 him. She was absolutely one hundred percent right
20 about that. She was also right that her husband is
21 weak. She described him to the police 12 hours
22 after the murder as being a weak man. And it takes
23 a weak man; doesn't it? Doesn't it take a weak man
24 to use one of these on an unarmed man? An AK-47
25 assault rifle on an unarmed man.

1 Let me tell you what happened that night
2 at that club. Let me tell you what happened. Terry
3 wanted Reva back; Reva didn't want him back. She
4 was with Larry; they were living together. They
5 were planning a future together. She's got his
6 tattoo on her arm. So apparently Terry is following
7 them everywhere they go. You know, he drives out to
8 the club, or his cousin drives him out to the club
9 at their known hangout. That was — Club Celestines
10 was Reva and Larry's known hangout. He goes there
11 with an AK-47 in his car. He has to have seen their
12 car parked right in front of the club, walks in the
13 club, He's mean mugging Larry, walks back. Out and
14 y'all, don't forget the testimony of where he's
15 parked; that's important. You all remember that
16 testimony about the, initially about where Terry's
17 vehicle was first parked? He goes back. He has a
18 conversation with Von Croker. Von, who at this
19 point who is no fan of Larry, had a falling out. He
20 didn't really care for him. So Von is in the car
21 with Terry, and Von says, you know, I'm getting in
22 the back seat and he turns the light on and I'm
23 realizing I'm stepping over something. And I look
24 down and it's an assault rifle with a banana clip.
25 I'm like, well, how do you know it's an assault

1 rifle. He said, I'm from the military, I know what
2 an assault rifle looks like and it had a banana
3 clip. I'm looking like, what is this? And Terry
4 says, yeah, I see your boy up in the club. So Von
5 says, huh-uh, ain't no boy of mine, I mean, I don't
6 hang with Larry like that since he did what he did
7 to me. Then Terry says, tell you what, he keep
8 messing with me I'm gonna kill him. So Von gets out
9 of the car, walks into the club or little carport
10 area where at some point he goes into the club and
11 sees Larry. Larry walks over to him. He shakes his
12 hands, he hugs him, and he says, man, I'm sorry, I'm
13 sorry. And I'm — I can tell you at the risk of
14 telling my age, 16 years of prosecuting cases, I've
15 never seen a grown man break down on the stand like
16 that ever. And with Levonne Croker, that was either
17 one of two things or maybe a combination of both.
18 One thing was, I think, it hit him in that moment,
19 you know, this is a friend of mine, I've known him
20 all my life, we had this falling out, but we made
21 peace, and within minutes of us making peace he's
22 dead. But I think the biggest thing, I think what
23 really caused him to really just lose it, I think
24 was guilt because I think in hindsight it had to
25 have gone through his mind, you know, maybe if I had

1 told him, man, Terry is outside, he's got an AK-47
2 in his car, he's threatened to kill you, you may
3 want to call the police, you may want to get on out
4 of here. And you always have that sense of
5 hindsight being 20/20, what if, what if, what if;
6 and I think that's what caused him to lose it. But
7 what was interesting about him as you compare his
8 reaction to what Reva did, Reva was the one who was
9 in love with Larry at the time, right? She was the
10 run who was living with Larry at the time, right?
11 She was the one who had Larry's nickname tattooed d
12 on her arm, right? Reva did not share one single
13 tear for Larry Moore in this courtroom. Not one.
14 There wasn't not one single tear. And if you need
15 any other proof about where her allegiance lies and
16 why, all you have to do is look at where she's been
17 hanging out the last couple of weeks since this guy
18 got out of jail.

19 Now I'm going to leave you alone 'cause
20 ultimately this case isn't about Reva. When it
21 comes down to it, it really is not. I believe that
22 God gives man free choice and free will. This case
23 is about Terry Williams. This case is about the
24 conscious decision that Terry Williams made that
25 night. Now I told you earlier that we're gonna call

1 a spade a spade, that this was an execution; this
2 was a murder. The defense doesn't, they won't see
3 it that way of course. They're gonna make you think
4 or suggest to you it was something less than a
5 murder. It wasn't really a murder, it was more like
6 a manslaughter. They're gonna ask you to consider a
7 lesser charge than manslaughter. And then they're
8 gonna tell you, I suspect, that, well, it really
9 wasn't murder, it really wasn't manslaughter, he
10 really did nothing wrong, it's self-defense. I
11 suspect that the defendant's lawyer will argue that
12 to you. Let's talk about self-defense.

13 In order for — let me do this so that —
14 in order for you to buy this whole notion about
15 self-defense you got to believe four things
16 essentially. One, you have to believe and you have
17 to buy this theory that the defendant didn't do
18 anything to bring on the difficulty, he is without
19 fault. Okay? So you got to believe that he did
20 nothing wrong, that he's without fault in bringing
21 on whatever actions. Now, as it relates to that
22 first element, one of the things that the judge will
23 tell you about is credibility of witnesses. The
24 judge will tell you you can believe any of what, all
25 of what a witness has to say, none of what a witness

1 has to say, or part of what a witness has to say.
2 And in trying to figure out who do you believe and
3 how much do you believe, what parts that you should
4 believe, what parts you should disbelieve, you are
5 allowed to consider whether or not a witness has any
6 type of bias in the case, any type of prejudice in
7 favor of somebody, a bias against somebody. And on
8 that particular issue as to whether or not the
9 defendant was without fault in bringing on the
10 difficulty, I would ask you to consider the
11 testimony of Tabitha Greene. Tabitha just calls it
12 like it is, I mean, she's a straight up kind of
13 girl. And she said that when Larry walked out of
14 the club Larry stood there and he looked at Terry.
15 And Terry is the one that made the comment, why are
16 you looking at me. So Larry, still standing there
17 with his hands crossed, says these are my eyes, I
18 can look at what I want to look at. Then Larry says
19 Terry says, okay. And Tabitha describes his okay
20 with a head nod, yeah, I know what that means.
21 Y'all know exactly what that means. When somebody
22 says what are you looking at, and the person says
23 these are my eyes, I can look what I want and the
24 individual says, okay, and walks off, we know what
25 that means. I'm gonna give you something to look

1 at; that's exactly what that means.

2 The second thing you got to buy, let him
3 walk, is that you got to believe that the defendant
4 was in imminent danger of death or serious bodily
5 injury. So if you bought, if you buy the first
6 notion that Larry brought on the difficulty and not
7 Terry, you got to also say, okay, well, Terry
8 Williams was i n imminent danger of serious bodily
9 injury or harm, or he believed he was.

10 All right now, let's talk about some
11 evidence in this case as to whether or not Terry
12 Williams was in reasonable imminent danger of
13 serious bodily harm. Now Terry knows something that
14 Larry doesn't, and that is, that Terry Williams has
15 an AK-47 in his vehicle. Larry doesn't know that,
16 okay. So when you're in Mr. Williams' shoes, and
17 you know you got a AK-47 and the man whose standing
18 at you staring at you with his hands crossed and
19 don't know that, is Mr. Williams really in imminent
20 danger of serious bodily injury or harm or death
21 when Larry is unarmed? All right.

22 Now part of the script that Reva and Mr.
23 Williams has created, part of her job was to throw
24 out the notion that, hum, Larry was known to carry a
25 gun. See, that helps with that whole, the third

1 part of that which is reasonable belief, okay. That
2 helps with that. The law says if the defendant
3 believed he was in imminent danger of death or
4 serious bodily injury it must be shown that a
5 reasonably prudent person of ordinary firmness and
6 courage would have had the same belief. In deciding
7 whether the defendant actually was or believed he
8 was in imminent danger of death or serious bodily
9 injury, you should consider all the facts and
10 circumstances surrounding the crime including the
11 physical condition and characteristics of the
12 defendant and the victim. Now our victim is 5'9",
13 135 pounds unarmed. Our defendant, larger than the
14 victim, and well armed. So this whole notion about
15 whether or not he reasonably believed himself to be
16 in imminent danger, then the last thing, the last
17 thing, just one of the key parts; and folks you got
18 to believe all this stuff now. You don't, you can't
19 say, okay, well, I find one and then he gets
20 self-defense and he's free. The judge is gonna tell
21 you, self-defense, that's a complete defense.
22 That's a complete defense. That means that this was
23 a justified killing.

24 The fourth element is that the defendant,
25 in order to avail himself to self-defense has to

1 have no other probable means of avoiding the danger
2 of death or serious bodily injury than to act as he
3 did at the time of the crime. So again, you got to
4 believe that this guy with the big gun was gonna
5 fight. You know, I, when I was thinking about
6 Mr. Kent asking Ms. McFadden about the look on
7 Terry's face and she forgetting her lines and
8 forgetting to say first that he's scared, a man with
9 a AK-47, folks, he's a lot of things. He's a lot of
10 things, but scared ain't one of them. But you've
11 got to believe that this defendant on that night had
12 no other alternative and no other means to avoid
13 taking the life of Larry Moore, that he couldn't
14 have got into his own vehicle and drove off, that
15 all this space and area along that ditch bank or
16 that no other tire marks but his, which suggest to
17 me his is the only vehicle there, that he couldn't
18 have simply got in his vehicle and left.

19 But now, the thing about that last exhibit
20 is that they want you to believe that Larry was a
21 lot closer than that because, see, the father Larry
22 is away, Mr. Williams, the less likely it is that
23 this is self-defense. The closer Larry is to Mr.
24 Williams, then the more likely it is that we can
25 convince, the defense can convince the audience that

1 Mr. Williams was justified in killing him. So
2 Ms. McFadden has to get Larry really, really close.
3 Now when I published this exhibit during her
4 testimony — and I'm gonna publish State's 5 — I
5 had her to come up on the screen and put a little
6 piece of tape as to where she said Larry was when he
7 was shot. And my good friend Shaun Kent is gonna go
8 and move the tape. But you remember, she puts him
9 somewhere up in here 'cause she talks about the
10 defendant's vehicle being behind this white piece of
11 paper. And what we know, folks, is that white piece
12 of paper as reflected on State's Number 4, and
13 that's just opposite view, that's a potato chip bag;
14 that's all that is. But Ms. McFadden puts the
15 victim here and she puts the defendant's vehicle
16 here. Well, the problem is, you know folks,
17 Mr. Kent was right, it's important to get witness
18 statements early on because witnesses' memory fade
19 and people change their story, that's clear, that's
20 clear in this case. But see, what Reva did not
21 realize is that, hum, the State was going to call
22 the ER nurse and the State was gonna call the ER
23 doctor to talk about how the shot, his gunshot wound
24 to the victim's femoral artery caused him to be out
25 'cause that's what killed him. There was blood

1 everywhere. Now Reva says when Terry shot Larry he
2 fell where he was shot. And folks, you've seen
3 pictures of the scene. You've seen pictures of
4 Ms. McFadden's vehicle. You've heard evidence from
5 the doctor and the nurse about all the blood. I
6 mean, that ER nurse is talking about there was so
7 much blood it went as deep as a hand. So if Terry
8 shot Larry here, how come we don't see a drop of
9 blood there and his femoral artery is hit. Why is
10 that? Because it's not the truth, it's not where
11 that victim was. That victim was right here where
12 all the blood is 'cause, see, people can lie.
13 People can change their stories, but science doesn't
14 lie. Photographs don't lie. And see, when creating
15 that story, when she's trying to get him further
16 closer and closer and closer to Mr. Williams'
17 vehicle, she didn't think, well, the State would
18 probably might call in that trace evidence lady, the
19 GSR person to talk about if they were closer that
20 you would expect more gunshot residue on the
21 victim's hands. She wasn't thinking about that.

22 My boss Mr. Sabb told me one time, you know
23 what, if you want to tell whether or not a person is
24 telling the truth, you press them for details.
25 Because the devil is in the details. Because a

1 person will have a while, I mean, this has been over
2 18 months, almost two years this incident happened,
3 and that's a long time to tell a story. But see,
4 the average person, when you're telling a lie you
5 can't think of an answer that's a consistent answer
6 to every followup question that come after that. So
7 don't, you know, there are some good liars but she's
8 obviously not one of them. But Mr. Sabb always told
9 me, press them for details. And so she cannot
10 provide any details about how it is that all of that
11 blood is there, and the defendant's car is
12 completely on the opposite side 'cause that doesn't
13 help any. That's the problem. That doesn't help.

14 Now when you are being asked to consider
15 self-defense, folks, above and beyond all the law
16 that the judge gives you, above and beyond all the
17 pictures that you all have seen, above and beyond
18 all the witnesses who have testified, y'all have
19 your good old fashioned common sense, okay. Good
20 old fashioned common sense, and you can take that
21 back with you in the jury room. You really have to
22 just ask yourself, if this is a self-defense case.
23 If it really is a self-defense case, because I agree
24 a hundred percent a man has a woman, anybody, has
25 the right to defend themselves when their life is in

1 danger, absolutely. But if you want to know what's
2 in a man's heart and you want to know what's in a
3 man's head, what do you do? You look at what he
4 does. You know, a man doesn't tell a woman that he
5 loves her and then goes out and cheats on her or
6 beats on her or do whatever and does inconsistent
7 with what he says. A man will do what's in a man's
8 heart. So this man, after he kills Larry, boom,
9 boom, boom, boom, boom, boom, boom, there is no
10 panic, there is no, oh, my God, what did I just do,
11 oh, God, God, none of that. There is no running out
12 there, oh God, I'm sorry, I'm sorry, I didn't, the
13 gun went off, there's no nothing. There is no, let
14 me call 9-1-1. There is no, let me run to the
15 Sheriff's Office, I know this looks bad but I had to
16 do it. There's no going to the hospital. His
17 actions after the shooting belies his intent, okay.
18 An innocent person does not jet away from the crime
19 scene and go missing for 12 hours, okay. An
20 innocent person doesn't take the murder weapon and
21 hide it and gets rids of it, okay. And innocent
22 person doesn't take his vehicle and hide it behind
23 somebody's residence, okay. An innocent person
24 doesn't wipe all the GSR off the door and off the
25 steering wheel of his car 'cause he's the one who

1 drove, okay. Innocent person doesn't get rid of the
2 clothes. Not if you're truly innocent and you're
3 acting in self-defense, why would you do that? And
4 all this foolishness about who Larry was known to
5 carry a gun? Guess what, folks. Guess what, South
6 Carolina follows the second amendment like everybody
7 else in the country. You got a right to tote a gun
8 if you want to. There is nothing that would have
9 prohibited Larry from toting a gun if he wanted to
10 tote a gun. You got a right to do that. Mighty
11 funny all of these people who known him all their
12 lives, his mom, his friends, all these people got up
13 in here, nobody has ever seen him tote a gun
14 supposedly but Reva. Now come on now, his parents
15 are seeing him two or three times a week and never
16 see a gun? But the girl who buys an AK-47 while
17 living with her husband, now all of a sudden she
18 creates this story that she never told the police by
19 the way, that Larry always had a gun. She did that
20 so that she could help him. That's the only reason
21 that ever came up, only reason.

22 Now let me say a couple more things and
23 I'll sit down. You know, folks can say what they
24 want to say about Mr. Croker and how come it was
25 convenient that I found him and law enforcement

1 didn't talk to him. They can say all they want to
2 say about that. I'm gonna tell you what, what
3 Mr. Croker said was reasonable. This thing about
4 snitching, that's real, folks. There's this little
5 saying in the street, snitches get stitches. He had
6 absolutely -- listen, this guy puts the murder
7 weapon in this guy's hand. He heard the defendant
8 threaten to kill the victim moments before he dies.
9 He's from the community and he's just run and tell
10 law enforcement? And if you think that people
11 aren't generally afraid for their safety, you're
12 wrong. He had a legitimate concern. That's real
13 life. That's just, that's real life. Now one thing
14 that troubles me and I think it's just further
15 evidence of premeditation is, y'all remember the
16 first part and I talked about it earlier and got
17 away from it didn't get back to it. When Mr.
18 Williams first gets to the nightclub, Damien, his
19 cousin, is driving and they're in the little cut;
20 but in that cut area where they're parked at you
21 can't really see very well what's going on
22 underneath the awning. So Damien then moves the
23 vehicle from the little cut that's on the side of
24 the club to an area that's directly in front of the
25 club. Now they all say well, you that doesn't mean

1 anything because Terry wasn't in the car, he didn't
2 have anything to do with Damien moving the car. But
3 what's interesting about that is, if Terry didn't
4 have anything to do with the car being moved, then
5 why was it that he was in the passenger seat? Why
6 did Damien after having driven there after having
7 been seated in the driver's seat while he was
8 talking to Tabitha, after being seated in the
9 driver's seat after Von gets there, after being the
10 one who moves the car directly inside sight of Reva
11 and Larry, why then does he move out of the driver's
12 seat and then get into the passenger seat? I submit
13 to you that premeditation was formed at that point
14 because it had, he had to make it easy for the
15 defendant to get the weapon, do the shooting, get
16 back in the car and get the heck out of there.
17 That's the only reason that that car was moved to
18 the location it was moved, served no other purpose
19 to move the vehicle other than to do that.

20 Now one thing that I always worry about in
21 cases, one of the most nerve wracking parts of a
22 trial is the moments between when you all leave to
23 go back in that jury room and the time when we get
24 the knock that the jury has reached a verdict. I
25 don't know about Mr. Kent, but my stomach is in

1 knots during that whole period of time. And so what
2 I do is, on every case, I don't care how minor it is
3 or how serious it is, I say a prayer to myself; and
4 as the jurors walk into the courtroom I bow my head
5 and say, God, let your will be done, let no innocent
6 man be convicted and let no guilty man go free.
7 Lord, let justice be served. This guilty man got
8 away from the scene. This guilty man got rid of the
9 murder weapon. This guilty man got rid of his
10 clothes. Folks, based on the evidence that you
11 heard, based on the law that you're about to hear, I
12 ask you, I implore you, not, not to let this guilty
13 man get away with murder. I ask that you return a
14 guilty verdict on each and every count of the
15 indictment. Thank you all again for your time.
16 Thank you for your attention.

17 THE COURT: Thank you, Solicitor.

18 All right, Mr. Kent.

19 MR. KENT: Thank you, Your Honor, may it
20 please the Court.

21 THE COURT: Yes, sir.

22 MR. KENT: Ms. Barr, Ms. Swilley,
23 Mr. Schwartz. About, I guess it was about three
24 months ago now, I went to Las Vegas. I'm sure
25 that's not the first thing you expected me to say.

1 I went to Los Vegas about three months ago. And
2 when I was going to Las Vegas — I don't know if any
3 of you have ever been — you walked down the strips,
4 they're a bunch of crazy people doing a bunch of
5 crazy things as you're walking down Vegas strip.
6 And I'll never forget I saw one of those people who
7 paint themselves in color. This guy was painted all
8 silver just completely from top to bottom, face,
9 hat, everything. He was trying to pretend he was a
10 robot. And so he had himself — and I can't even do
11 it 'cause my knees hurt too bad — but he had
12 himself basically bent and he's sitting there the
13 entire time like one leg sitting like that, and I
14 was absolutely fascinated. And so I'm staring and
15 I'm looking around and I'm fascinated. I'm
16 absolutely fascinated of what I saw. I couldn't
17 figure it out, couldn't understand it, couldn't
18 understand anything that was going on with it.
19 Staring, staring, staring. Then finally this little
20 fellow comes right behind me, just right behind me,
21 and I'm just sitting down there, have you ever seen
22 anything like that, that's just magical. And he
23 looks at me and I'll never forget in his little
24 creepy little voice, he's just like from Jersey or
25 something. He just looks at me with his deep Jersey

1 accent and he says to me, well, it's not so fancy
2 when you know the science. And I looked right at
3 him and said, what are you talking about? He's got
4 nothing but a medal rod right up there going right
5 to his butt, and I looked, you could just see it.

6 Ladies and gentlemen of the jury, this
7 case is not so fancy once we go through the science,
8 and that's what we're gonna do here. It's not
9 complicated, it's not confusing. This case is about
10 science and science alone. I told you in our
11 opening statements what the Solicitor's Office would
12 do, and they have. And some of you are scared.
13 Some of you are petrified. Some of you have just
14 put your head down and said, oh, my God, I've never
15 seen anything quite like this, I am disturbed by
16 what I've seen. But it's not going to be so fancy
17 once we go through the science.

18 I'm gonna start right at the beginning and
19 get right through this. I have sat here for the
20 entire week during the trial. I have nothing but
21 admiration for the Solicitor's Office and everybody
22 who I have met in this case. Two people
23 particularly who I have met and have nothing but
24 admiration to, are right there. They're by far two
25 of the sweetest people I have ever met. Larry,

1 Moore's family. They probably didn't expect me to
2 say that. His mother is one of the sweetest people.
3 She's been charming. She's been endearing. She's
4 been nothing but nice to me this entire trial. And
5 I don't want us to miss that point or belabor the
6 point that someone's child had died and so you will
7 not anything disrespectful from me or anything of
8 that nature to do anything to negatively effect his
9 mother and father 'cause they are that sweet a
10 people.

11 But that being said, we're gonna go
12 through the science. We're gonna understand
13 completely what happened that day. The Solicitor's
14 Office, in their zeal and their quest and their
15 desire to try to prove their case, have forgotten
16 something very simple about what's happened. They
17 have sat here — and it's almost like dealing with a
18 schizophrenic cousin. I have watched Ms. Barr in
19 her opening, in her closing argument, basically
20 argue with herself about her case 'cause if you
21 remember, I haven't put a witness on. I have
22 actually heard the State of South Carolina says you
23 can't believe this person but you must believe this
24 person. Those are their witnesses. And now they're
25 telling you, don't believe them. Those are not my

1 witnesses. Do not fool yourselves. It's how dare
2 Mr. Kent, this is what he's gonna do, this is what
3 he's gonna prove, this is what he's gonna try to
4 show you through their witnesses. I have sat here
5 patiently and I've listened to everybody testify,
6 and all I've tried to do is figure out the science
7 'cause I don't want to be baffled by magic. They
8 have — and we're gonna go through the witnesses who
9 have testified. One of the first things that we
10 must prove and we must talk about is the intent
11 inside of Terry Williams' head. We must talk about
12 it. We must figure out what was going on in his mind
13 that day. But apparently not only am I a lawyer,
14 not only do I like to dress sharp; but apparently, I
15 have the power to influence individuals and make
16 them say what I want to say. I have the power to
17 look at Reva — get rid of my law license
18 basically — and say, we're going to manipulate your
19 testimony so we can tell the jurors something
20 different. Even though this woman came in, she put
21 her hand on the Bible, and said, what did Shaun Kent
22 tell you to say the entire time, tell the truth.
23 But I guess that's a lie because it doesn't go with
24 what the State wants it to be. Because what did
25 Reva tell you? I know my husband; I know he was

1 scared. But let's go more importantly to what Reva
2 said to you. I know for a fact my husband kept
3 saying back away, back away, back away. I saw the
4 butt of the weapon facing down and I saw him shoot,
5 not gonna hide from that. Once you know the science
6 it's not that scary. The State of South Carolina
7 wants to ignore that fact. We went through some
8 pictures, and I don't know how this fancy stuff
9 works, I'm just gonna put it up there. One of the
10 pictures we talked about was that bar. The one --
11 the shots are low. Back away, back away, back away.
12 Once you know the science it's not that scary.

13 So let's put everything together. Back
14 away, back away, back away, shoot down, talk to one
15 witness. When a bullet enters does it make a clean
16 entry? Yep, the ones I've seen. If it's jagged and
17 all mangled, could it be spinning and popping as it
18 goes through. Talk to the gun expert, talk about
19 ricochets. All the bullets you have, everything you
20 gotten in this case, what do they look like? We
21 don't have a single clear bullet. So what do they
22 try to do? They scare. They put one there there's
23 sharp. They put one there that's sharp because we
24 don't actually have one because all of them are
25 mangled because they did what? They hit something

1 first. Once you know the science it's not that
2 scary.

3 We talked to the medical examiner. That's
4 just some very simple questions, very simple. How
5 tall was Larry. 69.5 inches. We'll just go 69.5
6 inches as they told you is right about there, right
7 about 5'8", so a little bit taller than me, a little
8 bit shorter than me, right about there, 'cause they
9 said they measured from the top of the head,
10 remember. Said from the top of the head is where we
11 measured, 69.5. And I said, well, where did the
12 bullet enter at? What did they say? Well, you go
13 from there it's 39.5 is where the bullet entered
14 from the top of the head. Once you know the science
15 it's not that confusing. So where did it come in
16 at? Did the bullet, the fatal shot mind you --
17 remember I can't saying there's only one shot we
18 care about in this case, the fatal shot. Where did
19 it enter? Right here in the chest? No, because if
20 it was right there on the chest it'd be about four
21 or five inches. When we go down to 39.5 as we
22 showed, where does it end up coming in at? Mid
23 thigh, just like the picture. Not a clean entry
24 wound. How does the shot coming in? Left to right.
25 It was going up the entire time, not a clean entry

1 wound. Coming up left to right, back to front,
2 exiting out. Not a clean entry wound. Back up,
3 back up, gun fires, hits the ground, slightly up,
4 entered without a clean entry wound. Goes in,
5 slightly up left to right, back to front. That's
6 science. That's not me making that up. That's the
7 shot we care about. That's the fatal shot. But I
8 guess Reva must be lying about that. Oh, wait, you
9 can't lie about science. Isn't that what the State
10 of South Carolina told you? The one thing we can't
11 lie about is science. Crap, I guess Reva was
12 telling the truth because it fits exactly what she
13 testified. I can't make up science. I can't create
14 science. I can't create a magical bullet that can
15 spin around the room. Look at the evidence. This
16 isn't something that we've made up. But what the
17 State is relying on is you being scared 'cause let's
18 flat out face it, there was a lot of shots out
19 there, let's flat out face it. But we concern
20 ourselves with one shot, the fatal shot, the shot
21 that killed, and that's what we're talking about.
22 And how was that shot fired? It was fired in the
23 gun, it ricocheted up. After it ricocheted it went
24 in and back and through slightly up. Can't make it
25 up. So now does that give a little bit more

1 credence to what Reva was testifying to since the
2 science one hundred percent supports it? And if you
3 don't believe the science supports it, look at the
4 low angle as it's hitting the building; and if that
5 doesn't support it, look at the shot toward Reva's
6 foot. Everything supports low shots. Back up, stay
7 away, back up. The State doesn't want us to argue
8 that so they looked at us carefully about
9 self-defense. That can't make any sense. No one
10 says Larry had a gun because you can't believe Reva.
11 Let me make this clear to you. The theory on having
12 a gun in self-defense, the theory is not whether or
13 not he actually had a gun. The question is what
14 Terry believed at the time. What did he believe was
15 happening at the time? Did Terry walk into that bar
16 trying to start a fight? Did Terry walk in the bar
17 and say, you want a piece of me, let's go outside.
18 Did Terry walk in and say I'm gonna kill you, come
19 on outside. Did Terry have a gun hanging and
20 everybody's waiting for him to walk outside? Or is
21 Terry having a drink minding his business and Larry
22 walked outside? Larry himself walked outside not
23 once, but twice, and one time he walked towards his
24 truck. Do I know what he got out of that truck?
25 No, I don't. It's not my job to know that. The

1 burden of proof is not on me on this case. The
2 burden is on the State of South Carolina to prove.
3 Well, he couldn't have had a gun, it's not possible.
4 I didn't go to that truck. Why did he go? I really
5 don't know. That'd be the question I'd be pretty
6 concerned about. Slightly up, left to right, back
7 to front, not a clean entry. Back up, back up.
8 Reva, another witness testified, Reva was in tears,
9 don't go outside, there's no reason to go outside.
10 Tears. Angry. Tabitha Greene, what did she
11 testify? I didn't create this but I guess maybe I
12 did because that's apparently what defense attorneys
13 do, we create stuff. We put Tabitha on the stand
14 and said Tabitha, I need you to testify for me, for
15 Terry, that you were uncomfortable to the point that
16 you went outside, you knew something was gonna go.
17 Who was saying something when you knew something was
18 going on? Larry was telling Reva, go inside, go
19 inside, go inside. And on the third time her mother
20 didn't raise what? No fool. She knew something was
21 gonna happen. And she did what? She walked inside.
22 Not from anything that Terry did. Back up, back up,
23 not a clean entry, left to right, slightly up, back
24 to front. That's the only injury we care about
25 'cause that's the fatal shot. What was in Terry's

1 mind at this point in time, this person so enraged,
2 won't listen to his friends, going outside angry at
3 this person. Angry. I'm tired of him. Walks
4 outside. Tabitha knows something is up. He's angry
5 to the point that he got his woman, who they do get
6 along well, the woman that he loves, the woman he
7 takes care of; he's so upset, he's got her crying.
8 No matter what they try to say, no matter what they
9 try to put forth, no matter what they try to do, and
10 they have; and I got to give them credit, they've
11 done a job of it. They have put forth what? A
12 bunch of witnesses to the shooting, but guess what?
13 There isn't it. And that's what they have fooled
14 you with. And I've got to give them credit because
15 that's what they've done. And if there's something
16 that they don't disagree with what do they do? They
17 put somebody different on the stand to say something
18 different. They had a gun expert on the stand who
19 specifically said what? Yes, that is possible, hit
20 another surface just like the ones out there and it
21 could have created a reason that we have these
22 mangled bullets. And what do they do? God, that's
23 bad. What can we do, what can we do, let's put
24 somebody who's not a gunshot expert and ask him the
25 questions we should have asked our expert.

1 Gunshot residue, there's an expert, a
2 neutral and detached expert who flat out told you
3 what? Who had gunshot residue on their hands. Ooh,
4 we got to explain that. Oh, my god, how can we
5 explain this, how can we explain this. I don't have
6 to explain it. The burden of proof is not on us.
7 But what makes sense? Reva, he had fired a weapon
8 earlier that day. He just happened to have gunshot
9 residue on his hands. We got to explain it. Why
10 didn't the State take gunshot residue from his front
11 to back? Why didn't they request all of these
12 reports that they said they took? God, we request
13 those, they could hurt our case. But they don't
14 want you to think about what? The science. You
15 can't hide it. You can't hide from it. You can't
16 dodge from it. And that's what you're here to
17 figure out. What? Wasn't it Terry's friend? What
18 was he thinking that day?

19 The State of South Carolina has also
20 offered through Reva and they said that I'm going to
21 try to make this argument and I find very hilarious
22 is, where did all the stuff about the passion and
23 why he was so upset and all the emotions come from?
24 Did that come from me? At any point did you hear me
25 say anything about lovers scorn and upset and

1 emotional. No, that comes from the State of South
2 Carolina. Remember, the schizophrenic State of
3 South Carolina who has created their own argument
4 within each other and said, this is what he's gonna
5 argue; I didn't bring that up. They said he's going
6 argue for something lesser like voluntary
7 manslaughter. Ha, ha, I've been sitting over there
8 at my table with my law partner and friend Ryan
9 Schwartz, and we've written notes back and forth to
10 each other and I keep responding, what did I just
11 say? And there is a theory in the law called
12 voluntary manslaughter. If you find, if you say as
13 a jury, the killing happened but he didn't have
14 intent to murder anyone, and maybe you say it is
15 heat of passion, he was under stress, he was
16 provoked, something of that nature, then you can
17 find voluntary manslaughter. That's up to you.
18 That's a charge you can have, but that evidence came
19 out there through the State of South Carolina.

20 What is my belief on this case? I one
21 hundred percent belief that it is a self-defense
22 case. I do, and I'm not wavering from that. I
23 believe at best what ended up happening was, as I
24 told you, Terry Williams got to the bar, Terry
25 Williams sat outside. While sitting outside he went

1 inside to grab one drink, grab another. You heard
2 the bartender, he didn't look at anybody. I guess I
3 made that up too. He didn't look at anybody. He
4 grabbed another beer and left as he always did.
5 They're trying to skate over that little fact. He
6 always went out and did that. That's what he did.
7 Grabbed a beer, left, grabbed a beer, left. Goes
8 outside, he's talking, minding his own business. He
9 wants to gloss over that. He moved the truck.
10 Their own witness said, no, he didn't, he was just
11 sitting there talking to me very calm. Larry came
12 outside, started the problems. And Terry walked
13 away. Oh, God, that sounds too good. Let's say
14 Terry walked away and said, yeah, you know, I got
15 something for you. But that wasn't the testimony so
16 we have to manipulate it because we can fool you
17 juries because we rely on you to — what did I say
18 at the beginning — assume. And that's what they're
19 hoping you do. They're playing on your prejudices,
20 playing on your insecurities, and they're trying to
21 scare the hell out of you. And those injuries are
22 awful, they look terrible, but there's one that
23 matters as I told you very clearly, the fatal shot.

24 The Solicitor has gone to painstaking
25 effort to talk to you about the fact that no gun was

1 found out there. Ah, ha. I asked him something as
2 simple as where's that hat. We got it, okay. Why
3 didn't they give it to us if they had it? There is
4 no hat anymore because someone took it. If someone
5 is going to take at that hat, a 20-dollar hat from a
6 crime scene, what's to say they're not gonna pick up
7 a gun. Individuals aren't waiting there for law
8 enforcement to come. This is his friend and family.
9 This is his friend. Their buddy is dead out there,
10 there's a gun, let's get rid of this, let's move it,
11 let's pick it up, let's keep it. All types of
12 things can possibly happen. That's not our burden,
13 that's the State's, because we don't know what
14 happened. And that's what's scary about this case.

15 They've also charged, under Reva McFadden,
16 they've charged very clearly with assault and
17 battery of a high and aggravated nature. And I'm
18 not even going to get into that much because you
19 heard what Reva told us, testified. He did not
20 intend to shoot her. No intent right there; she
21 says there's no intent. You heard from the folks in
22 the hospital, what did they say? This was an
23 accident, stray fire, didn't even look like intended
24 target, there's no charge there. And we're not
25 gonna even dignify that. That charge should be

1 found not guilty. As a matter of law you should be
2 done with that. The question that you have to get
3 to your mind is what, ladies and gentlemen? Was was
4 in this guy's mind? What was going on in Terry
5 Williams' head when all this happened? Because
6 ladies and gentlemen, what they want you to believe
7 very simply, very calculated, is Terry Williams,
8 ladies and gentlemen, is the great and powerful Oz,
9 that he's sitting there controlling the world, that
10 he can manipulate everything as carefully as
11 possible, that Terry Williams, what did he come up
12 with? Oh, he was clever, he said, you know what,
13 I'm gonna go to a bar, I'm gonna subconsciously,
14 very subconsciously make Larry mad at me, that's
15 what I'm gonna do. And then, hum, I'm gonna get a
16 bartender to see me come in and not do anything.
17 I'm gonna make sure that Larry gets so mad that he
18 gets mad at his girlfriend. I'm gonna do all of
19 these things. And then I'm gonna walk away and I'm
20 gonna make sure what Larry does what? What's the
21 answer? I'm gonna make sure Larry follows me. The
22 great and powerful Terry Williams. But when I
23 dropped the jacket what do you see? Just a little
24 fella behind a cape just like Oz who went out there
25 to have a drink who got trapped.

1 Yes, when you hear all the facts presented
2 by the State of South Carolina it sounds awful. But
3 when you look at the science, left to right, back to
4 front, going up, back away, back away, don't shoot,
5 we know what his intent was. His intent was to
6 defend himself. He didn't start it. The evidence
7 was very clear; he didn't start this. He reasonably
8 feared he was in danger. The State has gonna out of
9 their way to talk about the size and how small
10 Little Larry was. I have, unfortunately, been in my
11 share of fights in my day. And there's one thing
12 that's very clear, a fellow who knows he's small and
13 knows he's tiny, that's coming at you over and over
14 again, I wonder where he got all that confidence
15 from. Possibly he did have that gun as he's coming
16 at him.

17 You heard from Investigator Ballard,
18 30-feet, knife. A gun, doesn't matter how far away
19 it is. About — and I'm sort of like Ms. Barr, I
20 don't like to date myself either, but I will just
21 say for the record I am younger than her, whether
22 she agrees or not. But when I got out of law school
23 for the longest I did not understand the term
24 reasonable doubt, I didn't. I really didn't
25 understand it because you're gonna hear the judge

1 state reasonable doubt several times. And so I came
2 home from law school not understanding reasonable
3 doubt, getting ready to take my job in Aiken, South
4 Carolina where I started to practice originally.
5 And I remember just not understanding reasonable
6 doubt, not understanding reasonable doubt. And so
7 we're sitting inside of my house, and it's one of
8 those beautiful spring days. It's April in
9 Summerville, South Carolina. All the windows were
10 open. And you know, in April in South Carolina you
11 get the pollen everywhere. Everything is covered in
12 yellow, nobody can breathe, you can hear everybody
13 sniffing, sniffing, sniffing. Car is covered in
14 yellow. Mom was cooking. I love the way my mom
15 cooks. Not as good as the pork chop sandwiches that
16 I've heard about, but my mom cooks very well. And
17 you can just smell collard greens, the way that
18 collar greens smell and you can smell fried chicken
19 cooking in the kitchen. My little brother who had
20 an absolutely awful habit, just absolute awful
21 habit, of mouthing off back to my mom, no matter
22 what, that was just his move. My mom said
23 something, he snapped back. My mom said something,
24 he snapped back. And so we're all sitting there in
25 the living room just hanging out, I'm working on my

1 case, my dad is playing the piano. And he's playing
2 Percy Sledge, When a Man loves a Woman. Dad's a
3 great piano player. So he's just playing it and I'm
4 listening to it, great time, Summerville, South
5 Carolina, April, pollen in the air, wind blowing,
6 it's a beautiful day. Well, all of a sudden, I
7 don't remember exactly what it was, but my mom just
8 asked Terry to do something. That's my little
9 brother's name actually, Terry Kent. She asked him
10 to do something. And the only way my little brother
11 could say, mumbling out under his breath but loud
12 enough for the world to see, do it yourself. And I
13 heard it. And the look on my dad's face, the rage.
14 He looks right at him. He goes, go upstairs; and
15 whatever you do, don't you slam that door behind
16 you, 'cause that's what my brother did; he had an
17 attitude. He'd go up, slam the door behind him just
18 to show the world he was defiant. Percy Sledge
19 playing in the background. Collard greens
20 everywhere, smell of fried chicken, pollen all over.
21 So all of a sudden my little brother, tears rolling
22 down his eyes, goes upstairs marching up the stairs,
23 and all of a sudden like clockwork, you can imagine,
24 you can hear it, boom, door slams right behind him.
25 And dad with his rage, he gets angry, he takes off

1 his belt and he starts storming up the stairs, Percy
2 Sledge playing, collar greens smelling everywhere,
3 fried chicken in the air and he's storming up the
4 stairs. And my mom is storming up right behind him.
5 And all of a sudden my mom is right behind yelling,
6 Herman, don't kill him, don't kill him. And I'm
7 yelling back, Herman, kill him, kill him, kill him.
8 And so we 're all walking up the stairs together
9 because I want to see it happen, I do. And so we're
10 walking up the stairs, Percy Sledge playing, collard
11 greens in the air, fried chicken everywhere. And he
12 walks up to our family room over the garage we had.
13 April, Summerville, South Carolina, windows open.
14 My dad walks into the room just angry as all can be,
15 throws the door open, and there's my brother in the
16 middle of the floor just sitting there looking at my
17 dad. Percy Sledge playing, collard greens, you can
18 smell them, fried chicken everywhere. And my dad is
19 just furious 'cause he told my brother not to do
20 something. So he raises his hand and I know he's
21 about to smack the hell out of him; I know it's
22 coming. So my dad gets ready to go and hit him,
23 Percy Sledge playing, collar greens everywhere, you
24 can smell it going, you can get the pollen in the
25 air. And as he gets ready to go, you can feel some

1 wind coming and hit his hand. My brother was
2 saying, dad, I didn't do it, the door slammed by the
3 wind. And when he get ready to hit him and that
4 wind hit his hand, that hesitation, that hesitation
5 to act, that not being firmly convinced is when I
6 understood what reasonable doubt was. At that point
7 in time I understood that my dad had a belief, he
8 had a theory, he had a thought, and he wasn't going
9 to assume.

10 In about 15, 20 minutes after the judge
11 number gives you his charge, he's gonna send you to
12 the back and he's gonna tell you to decide this
13 case. One of the things he told you every time you
14 have left the courtroom is do not discuss the case
15 with anybody, your family, your friends; but you're
16 finally gonna have the right to discuss the case
17 with each other. And then you're gonna make a
18 decision, whatever it may be. You're gonna go home
19 and you're finally gonna gonna be able to discuss
20 the case with your family and friends. They're
21 gonna say, tell me about the case. You're gonna
22 say, well, you're not gonna believe that some crazy
23 idiot who looks like Dwayne Wayne from an '80s
24 television show had his hands in the air like crazy.
25 And they're gonna talk to you about the case and

1 they're gonna ask you, did you make the right
2 decision. And if you have doubts right then, it's
3 too late. If you have doubts in two weeks, if you
4 have doubts in ten years, if you have doubts in 30
5 years, it's too late for Terry Williams. If you
6 have doubts have them now.

7 Left or right, moving upward, back to
8 front, mangled bullet, not a clear entry wound,
9 back up, back up, stay away. Thank you so much.

10 THE COURT: Thank you. Thank you very
11 much, Mr. Kent.

12 Madam Forelady, ladies and gentlemen of
13 the jury, my instructions for the jury is about 30
14 minutes. If anyone needs a break now, raise your
15 hand; if not, I'm going to press on. All right, if
16 you would please give me your complete and undivided
17 attention. The way I charge the jury in a case such
18 as this is I charge the general criminal law that
19 applies to all criminal cases in South Carolina.
20 After I charge the general criminal law I will then
21 charge the offenses in the indictment in this order:
22 murder, assault and battery of a high and aggravated
23 nature, possession of a firearm during the
24 commission of a violent crime. I will also charge
25 the defense of self-defense. Finally, I will charge

1 the form of the verdict. Typically when I move from
2 one subject matter to the next I will give you the
3 caption of the area I'm fixing to, subject matter
4 I'm fixing to come to at that time.

5 The charge addressed in the indictment is
6 not evidence. The indictment charges the defendant
7 with murder, assault and battery of a high and
8 aggravated nature, and possession of a firearm
9 during the commission of a violent crime. I remind
10 you that the fact that the defendant was arrested
11 and charged and indicted in this case is not
12 evidence and cannot be considered by you as evidence
13 of guilt in this case, nor does it create any
14 opinions or inference of guilt. This document, this
15 indictment, is simply the formal written instrument
16 which contains the charges which have been brought
17 against the defendant. It is the formal document
18 which brings the case before the Court.

19 There are multiple offenses charged in
20 this indictment in this case, again, murder, assault
21 and battery of a high and aggravated nature, and
22 possession of a firearm during the commission of a
23 violent crime. Each indictment charges a separate
24 and distinct offense. You must decide each
25 indictment separately on the evidence and the law

1 applicable to it as to the murder and the assault
2 and battery of a high and aggravated nature
3 uninfluenced by your decision as to the other
4 indictment. In other words, you can find the
5 defendant guilty or not guilty of murder, guilty or
6 not guilty of assault and battery of a high and
7 aggravated nature. Those are separate and distinct.
8 You may find guilt on both, not guilt on both, or
9 guilty on one and not guilty on the other. I will
10 cover possession with intent to -- excuse me,
11 possession of a firearm during the commission of a
12 violent crime fully and completely later, but you
13 must first find the defendant guilty of a violent
14 crime. You will be asked to write a separate
15 verdict of guilty or not guilty as to each
16 indictment.

17 Duties of jury and the trial judge. I
18 remind you that during this trial you and I have
19 certain separate and distinct duties to perform. As
20 trial judge it's my responsibility to preside over
21 the trial of this case, and I also have the duty to
22 rule on the admissibility of evidence offered during
23 the trial. You are to consider only the competent
24 evidence before you. If there's any testimony
25 ordered stricken from the record, you must disregard

1 that testimony. You are to consider only the
2 testimony which has been presented from the witness
3 stand and the law, any exhibits, and the law as I
4 tell you in this case and any stipulations of the
5 parties.

6 I have the additional duty to instruct the
7 law applicable to this case. As the presiding judge
8 I am the sole judge of the law of this case, and it
9 is your duty as jurors to accept and apply the law
10 as I now state it to you. If you already have any
11 idea as to what the law is or what the law should
12 be, and it does not agree with what I now tell you
13 the law is, you must abandon, you must disregard
14 your idea because you are sworn to accept the law
15 and apply the law exactly as I state it to you.

16 In every case tried in this court before a
17 jury the jury becomes the sole and exclusive judge
18 of the facts in a case. A trial judge cannot
19 intimate, state, comment on, make any statement to a
20 trial jury about the facts in a case. Since you,
21 the jury, are the sole judge of the facts in this
22 case you are not to infer from what I have said
23 during the progress of the trial in ruling upon the
24 admissibility of evidence or otherwise, or anything
25 that I say now during the course of this instruction

1 to you, that I have any opinion about the facts in
2 this case. The law does not allow me to have an
3 opinion about the facts in this case. That is a
4 matter solely for you, the jury, to determine as
5 jurors. It is your duty to determine the effect,
6 the value, the weight, and the truth of the evidence
7 presented during the trial.

8 Presumption of innocence. The defendant
9 has pled not guilty to these indictments, and that
10 plea puts the burden on the State to prove the
11 defendant guilty. A person charged with committing
12 a criminal offense in South Carolina is never
13 required to prove himself innocent. I charge you it
14 is an important rule of the law that a defendant in
15 a criminal trial, no matter what the seriousness of
16 the charges may be, will always be presumed to be
17 innocent of the crime for which the indictment was
18 issued unless guilt has been proven by evidence
19 satisfying you, the jury, of that guilt beyond a
20 reasonable doubt. This presumption of innocence
21 does not end when you begin your deliberations, but
22 it accompanies the defendant throughout the trial
23 until you reach a verdict of guilt based on the
24 evidence satisfying you of that guilt beyond all
25 reasonable doubt. The presumption of innocence is

1 said to be like a robe of righteousness placed about
2 the shoulders of the defendant, which remains with
3 the defendant until it has been stripped from the
4 defendant satisfying you of the defendant's guilt
5 beyond a reasonable doubt.

6 The presumption of innocence is not a mere
7 legal theory. It is not just a legal phrase. It is
8 a substantial right in which every defendant is
9 entitled unless you, the jury, are satisfied from
10 the evidence of the defendant's guilt beyond a
11 reasonable doubt.

12 What is a reasonable doubt in the law? A
13 reasonable doubt is the kind of doubt that would
14 cause a reasonable person to hesitate to act. The
15 State has the burden of proving the defendant guilty
16 beyond a reasonable doubt. Some of you may have
17 served as jurors in civil cases in the past where
18 you were told that it's only necessary to prove a
19 fact is more likely true than not true, such as by
20 the greater weight or the preponderance of the
21 evidence. In criminal cases the State's proof must
22 be more powerful than that; it must be beyond all
23 reasonable doubt. Proof beyond a reasonable doubt
24 is proof that leaves you firmly convinced of the
25 defendant's guilt. There are very few things in

1 this world that we know with absolute certainty, and
2 in criminal cases the law does not require proof
3 that overcomes every possible doubt. If based on
4 your consideration of the evidence you are firmly
5 convinced that the defendant is guilty of the crimes
6 charged, you must find the defendant guilty. If on
7 the other hand you think there's a real possibility
8 that the defendant is not guilty, you must give the
9 defendant the benefit of that doubt and find him not
10 guilty.

11 Direct circumstantial evidence. There are
12 two types of evidence which are generally presented
13 during a trial: Direct evidence, circumstantial
14 evidence. Direct evidence is the testimony of a
15 person who claims to have actual knowledge of a fact
16 such as an eyewitness or an ear witness. It is
17 evidence which immediately establishes the main
18 facts to be proved. Circumstantial evidence is
19 proof of a chain of facts and circumstances
20 indicating the existence of a fact. It is evidence
21 which immediately establishes collateral facts from
22 which the main fact may be inferred. Circumstantial
23 evidence is based on inference and not on personal
24 knowledge or observation. The law, our law makes
25 absolutely no distinction between the weight or the

1 value to be given to either direct or circumstantial
2 evidence, nor is there a greater degree of certainty
3 required of circumstantial evidence than of direct
4 evidence.

5 You should weigh all of the evidence in
6 the case. After weighing all of the evidence if you
7 are not convinced of guilt of the defendant beyond a
8 reasonable doubt, you must find the defendant not
9 guilty. If after weighing all of the evidence you
10 are convinced of the guilt of the defendant beyond a
11 reasonable doubt, you must find the defendant
12 guilty.

13 Credibility of witnesses. Necessarily,
14 ladies and gentlemen, you must determine the
15 credibility of witnesses who have testified in this
16 case. Credibility, as you all know, simply means
17 believability. In using your good judgment and your
18 good common sense it becomes your duty as jurors to
19 analyze and to evaluate of the evidence and
20 determine evidence convinces you of its truth. In
21 determining the believability of the witnesses who
22 have testified in this case you may believe one over
23 several, you may believe several over one. You may
24 believe a part of the testimony of a witness and
25 reject the remaining part of the testimony of that

1 same witness. You may believe the testimony of a
2 witness in its entirety or reject the testimony of a
3 witness in its entirety. You may consider whether
4 any witness has exhibited to you any interest, bias,
5 prejudice, or other motive in this case. You may
6 also consider the appearance, the manner, the
7 demeanor of the witness on the witness stand. You
8 may consider the witness' testimony if it is
9 consistent within the testimony itself. You may
10 consider if the witness' testimony is corroborated
11 by other witness' testimony, made stronger, or if it
12 is not corroborated or if it is made weaker by the
13 testimony of another witness. You may consider
14 anything in this record that would help you assess
15 the credibility and believability of the witnesses
16 who have testified in this case, anything you may
17 consider which has a legitimate tendency to throw
18 light on the accuracy, truthfulness, and sincerity
19 of the witnesses' testimony.

20 Again, ladies and gentlemen, I have to
21 charge you on expert witnesses. As you know, the
22 rules of evidence ordinarily do not permit a witness
23 to testify as to opinions and conclusions. An
24 exception of that rule is witnesses that we call
25 expert witnesses. An witness who by education and

1 experience has become expert in some art, science,
2 profession or calling, may also state an opinion as
3 to relevant and material matter in which the witness
4 claims to be an expert and may also state the
5 reasons for the opinions. You should consider any
6 expert opinion received in evidence, and like any
7 other evidence, give it the weight that you think it
8 deserves. If you decide the opinion of an expert is
9 not based on sufficient education or experience and
10 you conclude that the reason given in support of the
11 opinion are not sound or that the opinion is
12 outweighed by other evidence, you may disregard the
13 opinion in its entirety. An expert witness'
14 testimony is to be given no greater weight than that
15 of other witnesses simply because the witness has
16 been labeled an expert witness. Further, you are
17 not required to accept an expert's opinion even
18 though it may be uncontradicted.

19 I instruct you and emphasize that the fact
20 that the defendant did not testify is not a factor
21 to be considered by you in any way in your
22 deliberation and in your consideration on the
23 question of the guilt or the innocence of the
24 defendant. It must not be considered by you in any
25 manner whatsoever. A defendant has the

1 constitutional right to remain silent. The
2 assertion of this right must not be considered by
3 you in your deliberation. I repeat, under your oath
4 you are to draw no conclusions whatsoever from the
5 fact that the defendant in this case did not
6 testify. The fact that the defendant did not
7 testify should not even be discussed in the jury
8 room. The burden of proof as I have stated to you
9 is on the State. The defendant is not required to
10 prove his innocence. The burden of proof remains on
11 the State to prove guilt beyond a reasonable doubt.

12 Intent. In order to establish criminal
13 liability criminal intent is required. For example,
14 the mental state required to be proven by the State
15 for a particular crime might be purpose, might be
16 intent, knowledge, recklessness or criminal
17 negligence. Criminal intent must be proven by the
18 State beyond a reasonable doubt. Criminal intent is
19 always a matter that must be determined by the jury,
20 by the jury from the circumstances surrounding the
21 situation.

22 There is no way to prove intent to a
23 mathematical certainty. There is no way medical
24 science can dissect a person's brain and determine
25 what the person has in mind so our law says that

1 criminal intent may be inferred from the
2 circumstances shown to have existed. This is how
3 you make a determination of whether or not the
4 element requiring intent was present. It is not
5 necessary to establish intent by direct and positive
6 evidence, but intent may be established by inference
7 in the same way as any other fact by taking into
8 consideration acts of the parties and all the
9 surrounding facts and circumstances of the case.
10 Criminal intent is a mental state, a conscious
11 wrongdoing. It is up to you to determine what the
12 defendant intended to do based on the circumstances
13 shown to have existed. That is the general criminal
14 law in South Carolina.

15 I will now cover the three charges in the
16 indictment in this order: Murder, assault and
17 battery of a high and aggravated nature, and
18 possession of a firearm during the commission of a
19 violent crime. If you will please continue to give
20 me your complete and undivided attention.

21 The defendant is charged with murder. The
22 State must prove beyond a reasonable doubt that the
23 defendant killed another person with malice
24 aforethought. Malice is hatred, ill will, or
25 hostility towards another person. It is the

1 intentional doing of a wrongful act without just
2 cause or excuse and with an intent to inflict an
3 injury or under circumstances that the law will
4 infer an evil intent. Malice aforethought does not
5 require that malice exists for any particular time
6 before the act is committed, but malice must exist
7 in the mind of the defendant just before and at the
8 time of the -- at the time the act is committed.
9 Therefore, there must be a combination of the
10 previous evil intent and the act. Malice
11 aforethought may be expressed or inferred. These
12 terms, expressed or inferred, do not mean different
13 kinds of malice, but merely the malices, the manner
14 which malice may be shown to exist. That is either
15 by direct evidence or by inference from the facts
16 and circumstances which are proven. Expressed
17 malice is shown when a person speaks words which
18 express hatred or ill will for another or when a
19 person prepared beforehand to do the act which was
20 later accomplished. For example, lying in wait for
21 a person or any other act or preparation going to
22 show that the deed was within the defendant's mind
23 would be expressed malice. Malice may be inferred
24 from conduct showing a total disregard of human
25 life. That is the charge of, as to the -- that is

1 the instruction as to the charge of murder.

2 Included within the offense of murder
3 under the theory of a lesser included offense there
4 is the charge of voluntary manslaughter. So murder,
5 voluntary manslaughter. To prove voluntary
6 manslaughter the State must prove beyond a
7 reasonable doubt that the defendant took the life of
8 another in the sudden heat of passion based on
9 sufficient legal provocation. Both heat of passion
10 and sufficient legal provocation must be present at
11 the time of the killing to constitute voluntary
12 manslaughter. Sudden heat of passion may for a time
13 affect a person's self control and temporarily
14 disturb a person's reason. The sudden heat of
15 passion must be the type that would make an ordinary
16 person unable to coolly reflect on his or her actions
17 and would produce an uncontrollable impulse to do
18 violence.

19 Sufficient legal provocation must be the
20 type that would make a person with ordinary reason
21 and caution to become enraged and to lose control
22 temporarily. Provocation needed for voluntary
23 manslaughter must come from some act of, or be
24 related to the victim. Words alone, however vulgar
25 or insulting, are not enough to be sufficient legal

1 provocation. The exercise of a legal right, no
2 matter how offensive it is to another, is never
3 sufficient legal provocation for voluntary
4 manslaughter. If the heat of passion had cooled or
5 if there was enough time between the provocation, if
6 any, and the killing for the passion of a reasonable
7 person to have cooled, the killing would not be
8 voluntary manslaughter. In deciding whether a
9 reasonable person would have had enough time to cool
10 off, you should consider all the circumstances
11 surrounding the killing. You may consider the
12 nature of the provocation, if any, the defendant's
13 mental and physical state, and the circumstances and
14 relationships between the parties.

15 As to assault and battery of a high and
16 aggravated nature there is a statute in South
17 Carolina now, 16-3-600(b) (1) (a). A person commits
18 the offense of assault and battery of a high and
19 aggravated nature if the person unlawfully injures
20 another person and great bodily injury to another
21 person results, or the act is accomplished by means
22 likely to produce death or great bodily injury. The
23 term great bodily injury is also defined in our
24 statute to mean bodily injury which causes a
25 substantial risk of death or which causes serious

1 permanent disfigurement or protracted loss or
2 impairment of the function of a bodily member or
3 organ.

4 So the State must prove that a person
5 unlawfully injured another person and either great
6 bodily injury to another resulted or the act was
7 accomplished by means of likely to produce death or
8 great bodily injury. That proof must be beyond a
9 reasonable doubt.

10 And finally, as to possession of a weapon
11 during the commission of a violent crime also in
12 16-23-- statute under 16-23-490, the State must
13 prove beyond a reasonable doubt that the defendant
14 was in possession of a firearm or visibly displayed
15 what appeared to be a firearm during the commission
16 of a violent crime. A firearm means any machine
17 gun, automatic rifle, revolver, pistol, or any other
18 weapon which will, or is designed to, or maybe
19 readily converted to expel a projectile.

20 In order to find the defendant guilty of
21 possession of a weapon during the commission of a
22 violent crime, you must find the defendant guilty of
23 either committing a violent crime or attempting to
24 commit a violent crime. I instruct you that murder
25 is a violent crime. I instruct you that assault and

1 battery of a high and aggravated nature is a violent
2 crime. The State must prove beyond a reasonable
3 doubt that the weapon further advanced or held in
4 the commission of violent crime.

5 Self-defense. The defendant has raised a
6 defense of self-defense. Self-defense is a complete
7 defense and if it is established you must find the
8 defendant not guilty. The State has the burden of
9 disproving self-defense by proof beyond a reasonable
10 doubt. If you have a reasonable doubt of the
11 defendant's guilt after considering all the
12 evidence, including the evidence of self-defense,
13 then you must find the defendant not guilty. On the
14 other hand, if you have no reasonable doubt of the
15 defendant's guilt after considering all the
16 evidence, including any evidence of self-defense,
17 then you must find the defendant guilty.

18 The following are the elements of
19 self-defense. First, without fault. The defendant
20 must be without fault in bringing on the difficulty.
21 If the defendant's conduct was the type which would
22 reasonably calculate to and did provoke a deadly
23 assault, the defendant would not — would be at
24 fault in bringing on the defendant — let me read
25 that again, ladies and gentlemen. If the

1 defendant's conduct was the type which was
2 reasonably calculated to and did provoke a deadly
3 assault, the defendant would be at fault in bringing
4 on the difficulty and would not be entitled to an
5 acquittal based on self-defense.

6 The second element of self-defense is that
7 the defendant was actually in imminent danger of
8 death or serious bodily injury or that the defendant
9 actually believed he was in imminent danger of death
10 or serious bodily injury. If the defendant was
11 actually in imminent danger it must be shown that
12 the circumstances would have warranted a person of
13 ordinary firmness and courage to strike the fatal
14 blow to prevent death or serious bodily injury. If
15 the defendant believes he was in imminent danger of
16 death or serious bodily injury, it must be shown
17 that a reasonably prudent person of ordinary
18 firmness and courage would have had the same belief.

19 In deciding whether the defendant actually
20 was or believed he was in imminent danger of death
21 or serious bodily injury, you consider — you should
22 consider all the facts and circumstances surrounding
23 the crime including the physical condition and
24 characteristics of the defendant and the victim.
25 The final element of self-defense is that the

1 defendant had no other probable way to avoid the
2 danger of death or serious bodily injury than to act
3 as the defendant did in those particular
4 circumstances.

5 Ladies and gentlemen, if y'all will please
6 continue to give me your complete and undivided
7 attention. I assure you the end of my instruction
8 is in sight. I will go back and charge you one
9 final thing as to the cause of, as to assault and
10 battery of a high and aggravated nature. There's a
11 theory under the law of transferred intent. If a
12 defendant with malice aforethought attempts to kill
13 another person but by mistake injures or kills a
14 different person, the defendant still has the intent
15 to kill or assault that other person. The intent to
16 kill or assault is merely transferred from the
17 original person to defendant attempting to kill or
18 assault the actual person killed or assaulted. The
19 defendant would be guilty of assault and battery of
20 a high and aggravated nature just as if the attempt
21 has occurred as a result of the death or injury of
22 the person who the defendant intended to kill.

23 Finally, ladies and gentlemen, on the form
24 of the verdict. As to the charge of murder, you'll
25 have this document in the jury room with you, Mr.

1 Foreman, ladies and gentlemen, along with all of the
2 exhibits that have been introduced into evidence.
3 This verdict form, the way I have it listed is of no
4 significance whatsoever; one must be listed first,
5 one second, one third, so there's no significance
6 whatsoever. As — it's very self-explanatory. I
7 have as to the charge of murder as to Larry Moore,
8 Jr., we, the jury, unanimously find the defendant —
9 you determine what the facts are, the inferences to
10 be drawn as to the charge of murder. If after —
11 and apply those to the law as I have told you. If
12 the jury determines unanimously that the State has
13 met its burden of proof as to the charge of murder,
14 I would ask you to check to the left of the three
15 words guilty of murder. To circle your check mark,
16 Mr. Foreman, and the three words guilty of murder.

17 If you find that the State has not met its
18 burden of proof beyond a reasonable doubt as to
19 murder, you will then consider guilty of voluntary
20 manslaughter, the lesser included offense. If you
21 find the State has not meet its burden as to murder
22 but you find the State did meet its burden of proof
23 beyond a reasonable doubt as to voluntary
24 manslaughter, you would check to the left and guilty
25 of voluntary manslaughter, circle your check mark

1 and the four words guilty of voluntary manslaughter.

2 If you find the State has failed to meet
3 its burden of proof as to murder or voluntary
4 manslaughter, if you have a reasonable doubt, you
5 would find — unanimously you would find the
6 defendant not guilty, check to the left of the two
7 words not guilty, circle your check mark and two
8 words not guilty.

9 The next, assault and battery of a high
10 and aggravated nature as to Reva McFadden. There's
11 only two choices: Guilty of assault and battery of
12 a high and aggravated nature, or not guilty. Again,
13 depending on your determination of the facts,
14 applying the facts, with the charge of assault and
15 battery of a high and aggravated nature, if the
16 State has met its burden of proof beyond a
17 reasonable doubt, if that's what you find, the
18 verdict would be guilty of assault and battery of a
19 high and aggravated nature. If you find the State
20 has failed to meet its burden, your verdict would be
21 not guilty, check that, and circle.

22 The third charge as to the charge of
23 possession of a firearm during the commission of a
24 violent crime, we, the jury, unanimously find the
25 defendant. Of course, first, you would have had to

1 find the defendant guilty of a violent crime, either
2 murder -- voluntary manslaughter is also a violent
3 crime; I did not inform you of that earlier -- or
4 assault and battery of a high and aggravated nature.
5 Then, and only then, would you consider whether or
6 not the defendant was guilty of possession of a
7 firearm during the commission of a violent crime or
8 not guilty.

9 Ladies and gentlemen of the jury, your
10 verdict must be unanimous. All twelve of you must
11 agree. Your verdict cannot be based on passion,
12 prejudice, emotion, bias, or any other consider--
13 any other improper motive not in evidence in this
14 case. Mr. Foreman, ladies and gentlemen of the
15 jury, once you have reached those unanimous verdicts
16 if you would please knock on the jury room door,
17 advise the bailiff, we will receive you back into
18 the courtroom for the taking of the verdict. I'm
19 going to ask you momentarily is you'd step to the
20 jury room. Do not begin your deliberations until
21 you're instructed to do so. If I have forgotten
22 something or -- I have to meet with the attorneys
23 outside your presence -- I will bring you back in
24 the courtroom and instruct you first. If I do not
25 have to bring you back in the courtroom, what

1 happens, everybody looks great, so what will happen
2 is our alternate will come out, the items of
3 evidence will be delivered to you along with the
4 verdict form. You will then be instructed by the
5 clerk to begin your deliberations. If you have any
6 questions during the course of your deliberations
7 please write me out a note, knock on the jury room
8 door, the bailiff will bring it to my attention.
9 With that being said, you may now go to your jury
10 room.

11 (WHEREUPON, the jury was removed from the
12 courtroom at 4:19 p.m.)

13 THE COURT: All right. Solicitor.

14 MS. BARR: Judge, we don't have any
15 exceptions to the jury's instructions.

16 THE COURT: Thank you, Solicitor.

17 Mr. Kent?

18 MR. KENT: Nothing on behalf of
19 Mr. Williams.

20 THE COURT: Thank you. Thank you,
21 Mr. Kent. If y'all would check your exhibits, check
22 the exhibits please.

23 (Attorneys review exhibits.)

24 THE COURT: Yes, sir.

25 MR. KENT: Your Honor, just for the record

1 on behalf of Mr. Williams, I reviewed all the
2 evidence. It is proper to be sent back to the jury
3 with the Solicitor's.

4 THE COURT: Thank you.
5 Solicitor?

6 MS. BARR: The State concurs, Your Honor.

7 THE COURT: And here's the verdict form.
8 Madam Clerk, I don't know who takes all this in, but
9 will you please bring the alternate out.

10 (Jury began deliberations at 4:24 p.m.)

11 (Alternate was returned to the courtroom and excused
12 from further service in the trial.)

13 (WHEREUPON, court was in recess during
14 deliberations.)

15 THE COURT: The note I received from the
16 jury was, may you clarify count number two. Count
17 number two was assault and battery of a high and
18 aggravated nature. I was intending to just bring
19 the jury out and ask them if they just want me to
20 re-charge on that count, unless y'all have any other
21 suggestions. Solicitor?

22 MS. BARR: No, sir, Your Honor.

23 THE COURT: Mr. Kent?

24 MR. KENT: I have no objection. You don't
25 send the charge to the jury, correct? You don't

1 send the charge back? I've seen some judges that
2 sometimes send the charge back, but I have no
3 problem with whatever the Court sees fit, other
4 option.

5 THE COURT: I typically don't.

6 MR. KENT: Yes, sir.

7 THE COURT: I have in the past, but
8 typically don't.

9 MS. BARR: Judge, you would just simply
10 read the ABHAN statute to them again? Would the
11 Court also consider reading transferred intent
12 again?

13 THE COURT: Yes.

14 MS. BARR: Thank you.

15 THE COURT: Yes, 'cause that's the
16 transferred intent. The assault and battery of a
17 high and aggravated nature is the only cause of
18 action that transferred intent would be —

19 MS. BARR: Would be applicable, yes.

20 MR. KENT: I would, of course, object to
21 transferred intent because the jury didn't ask that
22 question. They asked would you clarify the second
23 count of the indictment so it's giving them more
24 information than they requested. That's just my
25 position for the record.

1 THE COURT: Okay, all right. Bring us the
2 jury.

3 (WHEREUPON, the jury was returned to the
4 courtroom at approximately 6:02 p.m., and
5 the following proceedings commenced in
6 open court.)

7 THE COURT: All right, our jury is back
8 and present in the courtroom. Mr. Foreman, ladies
9 and gentlemen of the jury, I received your note, may
10 you clarify count number two. If my memory serves
11 me correct, count number two is assault and battery
12 of a high and aggravated nature. Is that correct?

13 THE FOREMAN: Yes, sir.

14 THE COURT: All right. As I stated
15 before, assault and battery of a high and aggravated
16 nature is a statute in South Carolina
17 16-3-600(b)(1)(a). The State must prove beyond a
18 reasonable doubt that the defendant unlawfully
19 injured another person and great bodily injury to
20 another person results or the act is accomplished by
21 means likely to produce death or great bodily
22 injury. The State must prove these elements beyond
23 a reasonable doubt.

24 The statute also defines great bodily
25 injury. Great bodily injury means bodily injury

1 which causes a substantial risk of death or which
2 causes serious permanent disfigurement or protracted
3 loss or impairment of the function of a body member
4 or organ. Again, a person unlawfully injures
5 another and great bodily injury to another person
6 results or the act is accomplished by means likely
7 to produce death or great bodily injury.

8 Additionally, as you recall as to that particular
9 cause of action, I instructed you on transferred
10 intent. Transferred intent is used when a defendant
11 intends to harm one victim, but then unintentionally
12 harms a second victim instead. In this case the
13 defendant's intent transfer from the intendant
14 victim to the actual victim. As you recall -- and
15 when I -- I try to answer your specific question but
16 take the responses but still encapsulate the entire
17 charge, the entire general charge, and the charge on
18 the intent which I also charge you of.

19 I hope that is responsive to your
20 question, Mr. Foreman, ladies and gentlemen of the
21 jury. If not, please write me another note. I know
22 you know how to write the note, and I will certainly
23 respond in a timely fashion. Thank you. Thank you
24 very much. You may return to your jury room to
25 continue your deliberations.

1 (WHEREUPON, the jury was removed from the
2 courtroom at 6:06 p.m.)

3 THE COURT: All right, any exceptions,
4 Solicitor?

5 MS. BARR: No, sir, Your Honor.

6 THE COURT: Mr. Kent?

7 MR. KENT: Other than ones already
8 notified on behalf of Mr. Williams, thank you.

9 THE COURT: Thank you. We'll be awaiting
10 our jury verdict or verdicts.

11 (WHEREUPON, a recess was taken from the
12 proceedings.)

13 (Court's Exhibit Number 6 was marked
14 and made a part of the record.)

15 THE COURT: All right, I understand we
16 have a verdict. I have found that the receiving and
17 publishing of a verdict can be a very emotional time
18 for one side or the other or both. I do not
19 tolerate any show of emotion at the taking of a
20 verdict. I advise those that are in the gallery, if
21 you do not think you can control your emotions I
22 would ask you to leave now. Any display that I
23 believe is inappropriate and does not flow with the
24 manner in which I think court should be conducted, I
25 consider contempt and I will have the sheriff tack

1 you into custody for purposes of holding a contempt
2 hearing. So please, please keep that in mind. If
3 you want to leave now you're certainly welcome to do
4 so. If you remain, I assume you will control your
5 emotions. Thank you. Thank you very much.

6 (WHEREUPON, the jury was returned to the
7 courtroom at approximately 6:35 p.m., and
8 the following proceedings commenced in
9 open court.)

10 THE COURT: Madam Clerk.

11 THE CLERK OF COURT: Ladies and gentlemen
12 of the jury, have you reached a verdict?

13 THE FOREMAN: Yes.

14 THE CLERK OF COURT: Is your verdict
15 unanimous?

16 THE FOREMAN: Yes, ma'am.

17 (Verdict form tendered to the Court.)

18 THE COURT: All right, the verdict appears
19 to be in the proper form. It is signed by our
20 presiding juror, dated today's date.

21 Madam Clerk, please publish the verdict.

22 THE CLERK OF COURT: In the State of South
23 Carolina versus Terry Williams, indictment
24 2014-GS-45-0001, as to the charge of murder as to
25 Larry Moore, Jr., we, the jury, unanimously find the

1 defendant guilty of voluntary manslaughter. As to
2 the charge of assault and battery of a high and
3 aggravated nature as to Reva McFadden, we, the jury
4 unanimously find the defendant guilty of assault and
5 battery of a high and aggravated nature. As to the
6 charge of possession of a firearm during the
7 commission of a violent crime, we, the jury,
8 unanimously find the defendant guilty of possession
9 of a firearm during the commission of a violent
10 crime. Dated July 30th, 2015, by foreperson Jason
11 Meyers. That is the verdict of the jurors.

12 THE COURT: Thank you. Thank you very
13 much, Madam Clerk.

14 You may be seated, Mr. Williams.

15 Mr. Foreman, ladies and gentlemen of the
16 jury, if this be your verdict and is still your
17 verdict please so indicate by raising your right
18 hand.

19 (All jurors complied by raising their hand.)

20 THE COURT: All right, all hands are
21 raised. Thank you. Thank you very much.

22 Anything further from the jury from the
23 State?

24 MS. BARR: No, sir.

25 THE COURT: From the Defense?

1 MR. KENT: May we approach, Your Honor.

2 (WHEREUPON, counsel approached the
3 Bench for an off-the-record discussion.)

4 MR. KENT: Your Honor, on behalf of
5 Mr. Williams request to poll the jury.

6 THE COURT: All right. Madam Clerk will
7 conduct the polling procedure. She will ask you and
8 identify you by number and name. If you will just
9 please raise your right hand so I can also identify
10 you. She will ask two questions: Are these your
11 verdict and still your verdict. Your answer of
12 course would be yes or no, yes or no. All right?
13 Thank you. Thank you very much.

14 Madam Clerk, would you please conduct the
15 polling.

16 THE CLERK OF COURT: Yes, sir.

17 Juror number 129, Jeanette Myers, would
18 you please stand and raise your right hand. Is this
19 your verdict, is it still your verdict?

20 JUROR MYERS: Yes.

21 THE CLERK OF COURT: Okay, you may be
22 seated.

23 THE COURT: Allow them to answer two
24 separate questions: Was this your verdict, yes or
25 no.

1 THE CLERK OF COURT: Okay.

2 THE COURT: Is it still your verdict.

3 THE CLERK OF COURT: Juror number 55,
4 Emerson Dorsey, please raise your right hand. Was
5 this your verdict?

6 JUROR DORSEY: Yes.

7 THE CLERK OF COURT: Is it still your
8 verdict?

9 JUROR DORSEY: Yes.

10 THE CLERK OF COURT: Okay, you may be
11 seated.

12 Juror number 173, Emma Tanner, raise your
13 right hand. Is this your verdict?

14 JUROR TANNER: Yes.

15 THE CLERK OF COURT: Is it still your
16 verdict?

17 JUROR TANNER: Yes.

18 THE CLERK OF COURT: Okay.

19 Juror number 199, Pernelle Woodberry. Is
20 this your verdict?

21 JUROR WOODBERRY: Yes.

22 THE CLERK OF COURT: Is this still your
23 verdict?

24 JUROR WOODBERRY: Yes.

25 THE CLERK OF COURT: Okay, you may be

1 seated.

2 Juror number 28, Devonte Burgess, is this
3 your verdict?

4 JUROR BURGESS: Yes.

5 THE CLERK OF COURT: Is this still your
6 verdict?

7 JUROR BURGESS: Yes.

8 THE CLERK OF COURT: Okay.

9 Juror number 130, Jason Myers, is this
10 your verdict?

11 JUROR MYERS: Yes.

12 THE CLERK OF COURT: Is this still your
13 verdict?

14 JUROR MYERS: Yes.

15 THE CLERK OF COURT: Okay.

16 Juror number 16, Faye Brockington, is this
17 your verdict?

18 JUROR BROCKINGTON: Yes.

19 THE CLERK OF COURT: Is this still your
20 verdict?

21 JUROR BROCKINGTON: Yes.

22 THE COURT: Okay.

23 Juror number 39, Rosalyn Cooper, is this
24 your verdict?

25 JUROR COOPER: Yes.

1 THE CLERK OF COURT: Is this still your
2 verdict?

3 JUROR BROCKINGTON: Yes.

4 THE CLERK OF COURT: Okay.

5 Juror number 105, Walter McClam, is this
6 your verdict?

7 JUROR MCCLAM: Yes.

8 THE CLERK OF COURT: Is this still your
9 verdict?

10 JUROR MCCLAM: Yes.

11 THE CLERK OF COURT: Juror number 185,
12 Tonya Walters, is this your verdict?

13 JUROR WALTERS: Yes.

14 THE CLERK OF COURT: Is this still your
15 verdict?

16 JUROR WALTERS: Yes.

17 THE CLERK OF COURT: Okay.

18 Juror number 25, Vermel Brown, is this
19 your verdict?

20 JUROR BROWN: Yes.

21 THE CLERK OF COURT: Is this still your
22 verdict?

23 JUROR BROWN: Yes.

24 THE CLERK OF COURT: Okay.

25 And juror number 72, Melissa Gaskins, is

1 this your verdict?

2 JUROR BROWN: Yes.

3 THE CLERK OF COURT: Is this still your
4 verdict?

5 JUROR GASKINS: Yes.

6 THE CLERK OF COURT: Okay.

7 The jury has been polled.

8 THE COURT: All jurors polled, Madam
9 Clerk?

10 THE CLERK OF COURT: Yes, sir.

11 THE COURT: Anything further for the jury
12 from the Defense, Mr. Kent?

13 MR. KENT: Nothing additional on behalf of
14 Mr. Williams for the jury, Your Honor.

15 THE COURT: Thank you. Thank you very
16 much. Ladies and gentlemen, momentarily I'm gonna
17 release you from your jury service obviously for the
18 remainder of the day and the remainder of the week.
19 I won't take up much of your time. I will say I
20 never criticize or commend a jury for their verdict
21 or verdicts. I will say this and both the Solicitor
22 and Mr. Kent said, when I looked over there and
23 throughout the course of the trial of the case you
24 were attentive to all of the parties and focused.
25 You were clearly looking at the monitors when items,

1 photographs, and diagrams and the like were
2 presented to you. And you were patient with the
3 Court and the parties. We could not have asked, the
4 parties could not have asked for a hard working,
5 fair and unbiased jury than the twelve of you.
6 There's been no twelve people on this panel better
7 to decide this case than you twelve. Without folks
8 like you each and every week, not only Williamsburg
9 County but each and every county throughout the
10 state and each and every county throughout this
11 country, these folks would not be about the very
12 important duties of administering our criminal
13 system. You are the judges of the facts. You're
14 the most important people to come in court.
15 Thank you, and thank you very much.

16 Any motions, Mr. Kent?

17 MR. KENT: Your Honor, I think at this
18 time it is proper to renew all motions made during
19 the course of trial. I think statutorily at this
20 point in time I would also make a motion for a new
21 trial, judgment notwithstanding the verdict. I
22 think it's proper. Specifically based on the
23 verdict dealing with the assault and battery of a
24 high and aggravated nature will be the position of
25 the defense as made during our directed verdict

1 motion there's simply no evidence in the record that
2 would sustain the verdict. The State has not put on
3 any evidence as to great bodily injury or anything
4 of that nature. As I mentioned to you, the doctor
5 during her testimony testified this is not the type
6 of injury that she would qualify as great bodily
7 injury simply because it would not create great
8 bodily injury what she testified. For that reason,
9 Your Honor, I would specifically move as to that
10 charge for a judgment notwithstanding the verdict
11 and for a new trial and renew all motions made
12 during the course of trial. Thank you, sir.

13 THE COURT: Thank you.

14 Solicitor.

15 MS. BARR: Your Honor, of course I would
16 likewise reiterate my previous arguments,
17 specifically as relates to count two of the
18 indictment the statute, while it says causes great
19 bodily injury and harm, it also, subsection B also
20 says the act could produce great bodily injury or
21 harm. And it is clear not just from a common sense
22 standpoint but also from the testimony of the ER
23 doctor that firing AK-47 in the general direction
24 that result of that shooting caused an injury to
25 Reva McFadden's foot, that the act, the shooting

1 itself, particularly when you're looking at a high
2 powered assault rifle, could result in serious
3 bodily injury or great bodily injury I should say,
4 or death. We know that it could result in death; in
5 this case it did. So we submit to the Court that
6 there was substantial evidence in the record to
7 support the jury's finding of guilt on count two.

8 THE COURT: I would respectfully deny the
9 motion for new trial as to all three counts, murder
10 assault and battery of high and aggravated nature,
11 and possession of a firearm during the commission of
12 a violent crime; and specifically, again, referring
13 to 16-3-600, whether or not it is under (a) great
14 bodily injury to another person, but are the act is
15 accomplish by means likely to produce death or great
16 bodily injury. And I will agree both the testimony
17 of Mr. McFadden and the testimony of Doctor Hughes
18 from the Williamsburg County emergency room would be
19 sufficient testimony in that regard as far as the
20 elements of that offense considered. I would
21 further renew all my previous trial and evidentiary
22 and directed verdict motions that I have made
23 throughout the course of the trial. Any other
24 motions, Mr. Kent?

25 MR. KENT: No, Your Honor, that will be

1 the extent of our motion.

2 THE COURT: Any reason sentence cannot be
3 imposed at this time?

4 MR. KENT: No, Your Honor. Normally I
5 would ask for ten days or something to make any
6 post-trial motions; but after speaking with my
7 client and talking to him, I think we can just go
8 directly into sentencing unless the Court wants to
9 do it tomorrow morning given the lateness of the
10 hour. I will do whatever the Court sees fit.

11 THE COURT: If you want till tomorrow
12 morning, I understand you have other work, have
13 other business for the Court tomorrow, Solicitor,
14 I'll be delighted to be here.

15 MS. BARR: Judge, we've got, we had some
16 probationary matters, some minor matters, but it's
17 my understanding in speaking with the head of the
18 probation department that it's not something that
19 can't wait until the next term and so if the Court
20 and defense counsel are inclined to end court today,
21 then we just assume end court today.

22 THE COURT: All right.

23 MS. BARR: We've got matters that they're
24 not pressing for tomorrow. They can wait to the
25 subsequent term.

1 THE COURT: All right.

2 MR. KENT: May I confer with my client
3 just briefly.

4 THE COURT: Certainly.

5 (WHEREUPON, counsel approached the
6 Bench for an off-the-record discussion.)

7 THE COURT: All right, Mr. Kent,
8 Mr. Williams, Mr. Schwartz, if you'd come around
9 please.

10 All right, Solicitor, anything further
11 from the State?

12 MS. BARR: Beg the Court's indulgence,
13 Your Honor.

14 (Pause.)

15 MR. KENT: Your Honor, respectfully, I
16 generally note, my client has not signed the
17 sentencing sheet on the conviction. I just never
18 have them sign the sentencing sheet. That's just a
19 rule of thumb that I have, Your Honor.

20 THE COURT: I agree.

21 MR. KENT: Thank you, sir.

22 MS. BARR: Your Honor, standing to my left
23 is the family of Larry Moore. It's his mother, his
24 father, and his sister, and I've indicated to them
25 that if they wish to address the Court regarding any

1 victim impact statements that now is the time to do
2 it if Your Honor will hear from them.

3 THE COURT: All right, I'll hear from
4 anyone you would like me to hear from, Solicitor.

5 MS. BARR: Yes, sir.

6 THE COURT: State your full name for the
7 record again please, Ms. Moore.

8 MRS. MOORE: My name is Jastine Moore.

9 THE COURT: Yes, ma'am, I'll be glad to
10 hear from you.

11 MRS. MOORE: Larry, Little Larry is my
12 son. This has been the hardest thing in my life
13 that I ever had to deal with. This is something I
14 would not even wish on him, his family, to lose a
15 child. This follows me every day. I walk outside,
16 up and down my lane, I'm looking for him to come
17 down the lane just to hear him say, momma, what are
18 you doing outside. This is every day. There's not
19 a day that go by that there's not something that
20 reminds me of him. He has three little boys, Little
21 won't even know his father. Little was two. He
22 won't even remember him. Dorey and Maliki will, but
23 Little one -- it just, Dorey still wants me to take
24 him by where his dad used to live 'cause he think
25 he's gonna come out of that house. And I have to

1 tell him every day, all the time that your daddy is
2 not there, your daddy is not down there, but if you
3 go down that road Danny, he lives down there. It's
4 been a hard, hard journey, and it still is. Nobody
5 has the right to do what was done to my son, nobody.

6 SISTER OF THE VICTIM: My name is
7 Patrishia Moore. Larry is my brother. And the only
8 thing that I would like to say is, other than my mom
9 and my dad and my grandparents, I don't have nobody
10 else. I don't have no one to talk to. And after my
11 mom and dad gone, it just me and my nephews and my
12 baby. My baby will never know her uncle, never, and
13 it's not right.

14 MS. BARR: Judge, I believe that's all of
15 the statements that will be offered from the family.
16 The only thing, Judge, we would just make a part of
17 the record is the defendant's criminal history. He
18 was convicted in 2000 for the purchase or possession
19 of beer or wine by a minor. He was convicted in
20 July of 2006 for receiving stolen goods, value in
21 excess of one thousand but less than five thousand.
22 He was given a two year sentence suspended to one
23 year probation and 80 hours of public service
24 employment. He was convicted later that same year
25 in December of 2006 for possession with intent to

1 distribute marijuana and possession with intent to
2 distribute cocaine base. He received a probationary
3 sentence. He was also convicted in 2013 for
4 criminal domestic violence first offense.

5 THE COURT: Who was the victim of that,
6 Solicitor?

7 MS. BARR: Reva McFadden.

8 THE COURT: Anything further, Solicitor?

9 MS. BARR: No, Your Honor, thank you.

10 THE COURT: Mr. Kent.

11 MR. KENT: Thank you, Your Honor, may it
12 please the Court. You have heard the majority of
13 the trial. You've heard the testimony. You've
14 heard all of the evidence that was presented. I am
15 not one who will sit here and say that I do not
16 agree or disagree with the jury verdict. I very
17 much agree with the jury system and I appreciate
18 what the jury had to do and what they found. I've
19 known you for quite some time, and I find you very
20 capable and intelligent jurist. And understanding
21 how difficult this situation is, I just want to be
22 candid with the Court for some certain things before
23 we get into sentencing.

24 One, Your Honor, and I can tell you
25 wholeheartedly I've had three separate bond hearings

1 on behalf of my client. Every one of them, very
2 candidly, he was emotional. He was almost
3 uncontrollably sobbing during the last one. He's
4 always been emotional about this case. At no point
5 in time did he ever specifically say, I don't want
6 to, or I want to go to trial. He's always been
7 candid to me he wanted me to explore the best plea
8 offer humanly possible for him, which I tried to do
9 candidly and we never could come to a resolution. I
10 don't want this Court to say just because he has
11 exercised his constitutional right to a jury trial
12 that did not beguile the fact that he is apologetic
13 for everything that has happened in this case.

14 As recently as last night we were trying
15 to approach and work some type of plea deal on his,
16 for him. The first time that I ever sat down and
17 talked to Terry, we sat down, we talked together.
18 We were in his cell. As the tears were rolling down
19 his face he literally said, I know what I did, I
20 know what I did was wrong, just try to just do the
21 best you can for me. And that's interesting to say,
22 Your Honor, because sometimes when people see us at
23 trial they always assume that the first words out of
24 our mouths or the first things that we deal as a
25 client who has denied and said that he has done

1 nothing wrong in this situation. That has never
2 been Terry. He's always been apologetic to the
3 family. He has always been saddened about what has
4 happened.

5 And Judge, to be perfectly candid he has
6 been without a doubt one of the easiest and nicest
7 clients I've ever dealt with, and I know when you
8 hear the facts of the case you say, Shaun, I just
9 don't see how that's possible. But he's always been
10 one of the easiest and nicest clients to deal with.
11 It's troubling. It completely is, Your Honor,
12 because no matter what the jury has found, and of
13 course, and I would ask you look at the fact the
14 jury did not find this as a murder; they found this
15 as a voluntary manslaughter. But whatever happened,
16 as I told the jury in my closing argument, and I
17 made it clear to Terry that I told him that I was
18 going to say nothing but nice things about his
19 mother and his father because they have been nothing
20 but nice and nothing but genuine and he had no
21 problem with that; he understood completely.
22 Because they have been nothing but kind and gentle
23 people, and it's saddened at what happened that day.

24 Usually when I get to this point where
25 we're doing sentencing, as I told you on the

1 sentencing sheet I never have my client sign and
2 additionally, I never have my client address the
3 Court, not out of disrespect to the Court
4 whatsoever, but because of the fact that he is
5 looking at a potential appeal and I will tell them
6 not to address the Court. Immediately once the
7 verdict came back from the jury I leaned over to Mr.
8 Williams and I told him the exact thing that I told
9 you, that I don't have clients sign and I don't have
10 them address the Court or address the family. With
11 tears rolling down his face as he sat down
12 understanding what his future was going to be for a
13 very long time, he looked at me and said I want to
14 address the Court and I want to address the family.
15 I counseled him and encouraged him not to do it, and
16 he told me yet again he wanted to. Judge, I'm not
17 the type to tell clients completely what to do and
18 what not to do, but in light of the fact that my
19 client is very clear and Terry is very clear, I
20 think this becomes cathartic that he has some things
21 that he would like to address the Court with and
22 then as well address the family. After both of the
23 those happen I'd like his sister who is standing
24 right next to him to address the Court and then I
25 would like to reference the Court one more time and

1 then I'll be done.

2 THE COURT: All right. Mr. Williams,
3 anything you'd like to say?

4 THE DEFENDANT: Yes, sir. Well, I'll
5 start by saying to the family that I'm very sorry
6 for what happened that night, but I did never, I
7 don't want anyone to think that I did something out
8 of intentionally or anything like that. I'm sorry
9 for what happened, but I — everything all honesty I
10 didn't, I hadn't, I was trapped that night and I did
11 nothing in my power to this, I did nothing
12 intentionally. I'm so sorry for any — the whole
13 time since 2013 I dealt with this matter and every
14 day of my life I'm gonna always have to deal with
15 this matter. I've never been in a situation like
16 this in my life. But the only thing I can say is
17 I'm very, very sorry. I'm very, very sorry for what
18 happened. You know, I knew, I known Larry all my
19 life also. You know, I just, that night was the
20 worse night of my life and I wish I could take it
21 back but I can't. I can't take it back. I'm very
22 sorry, I'm very sorry for what happened. I just
23 want them to know that. I'm very sorry. I never
24 meant for it to happen. If I could take it back, if
25 I could put myself in Larry position right now I

1 would do it, you know, but I can't. But I'm just, I
2 just want them to know I'm sorry, and I never meant
3 to harm them or hurt them in any type of way and I
4 have to live with this the rest of my life and I was
5 living with it up to know, and I know I have to live
6 with this for the rest of my life. I'm very, very
7 sorry, very sorry for what happened, but it's not
8 intentional.

9 MR. KENT: Anything you want to say to the
10 Court?

11 THE DEFENDANT: Only thing I say to the
12 Court today is one of the worst days of my life. I
13 have five kids. I got a daughter that's going to
14 school in July— August, this month right here
15 coming up for the first time. She's going to
16 Headstart, First Start school, four years old. I
17 have a eight year old. I have a ten year old. I
18 have a 12 year old and 14 year old, you know. And I
19 left them, you know, when this happened for a long
20 time and I just thank God that he left me got out on
21 bond and I was with them for three months, you know.
22 And I just, I thank God for letting me be back with
23 my family, you know, for three, for being out on
24 bond and stuff but. It just a mess, Your Honor, and
25 I got five kids that I know I have to, you know,

1 talk to from being incarcerated inside the
2 penitentiary whatever but. I'm not a bad person,
3 Your Honor. That's one thing I can say on the
4 record for the record. I'm not a bad person.
5 Anyone who knows me in this courthouse or anywhere
6 can say that I'm not a bad person. It's just I got
7 caught up in something that night that I shouldn't
8 have been got caught up, but I'm very sorry to
9 everyone involved.

10 MR. KENT: Judge, his sister can address
11 the Court.

12 THE COURT: Glad to hear from you.

13 MR. KENT: State your name for the record.

14 MS. BREWSTER: Elizabeth Brewster.

15 THE COURT: Glad to hear from you, Ms.
16 Brewster.

17 MS. BREWSTER: Yes, sir. First of all to
18 Mr. Moore, Ms. Mother, and Larry's sister, as I
19 stated before when we first started this journey
20 together, back in -- the first preliminary hearing I
21 think it was November or December, I am genuinely
22 sorry for what my brother has done and I told you
23 all that from day one because I actually had a
24 chance to meet Larry as well. And I, or we as a
25 family, we already had came to an agreement or

1 understanding of the relationship between my sister,
2 my former — well, my sister-in-law and Larry and I
3 respected that. So I am so sorry, and when I say
4 that I truly believe in my heart that Terry and
5 Larry were at some point when they were in agreeance
6 [sic] what they had going on. I truly believe that
7 because I personally the two of them in numerous
8 situations together swapping the kids off between
9 each other. So I really believe that that night
10 just was a bad night, and I want to apologize on
11 behalf of my brother for everything and just please
12 find it in your heart to believe him to a degree
13 where we're not a life-for-a-life. I would just ask
14 that. Just don't, just give him some type of mercy.

15 MR. KENT: And Your Honor, and I'll end,
16 and I appreciate you giving us ample time to talk to
17 the Court. This is always the hardest part of
18 anything that we do is when we get to sentencing. I
19 know it's the hardest thing that the Court can do.
20 And it's hard to express to the Court in enough
21 detail and enough vitriol what happened when and
22 every time that I've met with Terry about this case.
23 And the person you see crying in front of you,
24 Judge, I can assure has always been the person that
25 I've met. And I know as the court worried about

1 retribution, rehabilitation, and can this individual
2 be fixed and say I candidly believe he can; and not
3 because of the reason that you always hear from
4 everybody say to the Court but the reasons that I
5 believe, can believe, is the person that I have met
6 has always had nothing but remorse for everything
7 that has happened with this situation.

8 When I began to get ready for a trial,
9 Judge, I think everybody in this courtroom can tell
10 you that I overprepare. I spend time with the
11 community, meeting individuals, talking to
12 individuals, and trying to find out about both
13 individuals who are involved. Ms. Barr and I have
14 had a candid conversation this is one of those
15 situations that we just cannot figure out what
16 happened. And contrary to anything about the
17 criminal domestic violence between himself and
18 Ms. McFadden and I've heard about that and I've
19 talked to the community, but everyone in the
20 community has had nothing but positive things to say
21 about Larry and everybody had positive things to say
22 about Terry. And when you say it's senseless, most
23 people describe it as senseless 'cause folks do not
24 understand because they had been in areas together
25 at the same time. They'd been around each other at

1 the same time, and nothing like this had ever
2 happened. In my heart of hearts as a defense lawyer
3 for going on 15 plus years and then knowing Terry
4 the way that I do and the fact that I can talk when
5 individuals are telling me candidly what's happened,
6 I believe his story on what he felt that night. I
7 believe he felt scared. I believe he felt he was in
8 danger. And that is a story he has never hit on one
9 point that he had talked to me. And I say that,
10 Judge, because it's not as if he came to me the
11 first time we met, we sat down, and he said Larry
12 had a gun, let's go to trial on self-defense. What
13 he has said to me is very simply, yes, he had a
14 weapon, yes, I thought I saw one, this is what I
15 felt, I want to work out this case 'cause I killed
16 somebody. And candidly that's what I told the court
17 when we had the last bond hearing.

18 Understanding what he's looking at on all
19 charges, 2 to 30 years on voluntary manslaughter, 0
20 to 20 years on the assault and battery high and
21 aggravated nature, 0 to 5 on the gun charge, I
22 understand sentencing is completely within your
23 discretion. And I understand punishment is
24 completely necessary; he understands that also. All
25 I would ask in your deference and wisdom, we

1 sentence him accordingly as the jury has found that
2 this is not a murder. The jury found it without
3 malice and without intent, and intent is what the
4 jury basically has found with the voluntary
5 manslaughter. And I'd ask that you would sentence
6 accordingly based upon the fact that our jury
7 decided that there was not a malicious intent upon
8 this killing; that, in fact, it was a manslaughter
9 and not a murder.

10 I appreciate everything that has happened
11 in the courtroom, the court staff, the Solicitor's
12 Office, as well as the security has been nothing
13 become kind to myself as well as my client. And
14 Judge, I just thank you for your time and thank you
15 for your wisdom, and I thank the jury for their
16 service and I appreciate everything they have done.
17 That will be the extent of our colloquy. Thank you
18 so much, Your Honor.

19 THE COURT: Thank you, Mr. Kent.

20 MR. KENT: And Your Honor, apologetically,
21 he spent eighteen months incarcerated before he was
22 released. I'm just letting the Court know.

23 THE COURT: All right. Taking into
24 account the totality of all the facts and
25 circumstances and the jury's verdict, I have the

1 highest regard for Mr. Kent. He knows that; the
2 Solicitor knows that. I have the highest regard for
3 the Solicitor. They're both very competent, very
4 competent, very professional. They serve their
5 clients not well, but great. I respect, I respect
6 his opinions and his evaluation of Mr. Williams.
7 But his persona to Mr. Kent, the person that he was
8 to Mr. Kent was not the person that he was at
9 Celestine's that night. He was armed and his
10 vehicle was armed with an assault weapon. There's
11 no good reason for that to be the case, none. He
12 says it was the worst night of his life. Well, it
13 the last night of Larry's life. As I understand it,
14 hearing him and Mr. Kent and the Solicitor, some of
15 the testimony at first I thought it would have been
16 the first night he had ever seen his wife with her
17 boyfriend which was evidently common knowledge that
18 they were boyfriend and girlfriend and that he'd
19 been separated longer. Mr. Williams and
20 Ms. McFadden, they separated before Mr. Moore and
21 Mr. McFadden became boyfriend and girlfriend.

22 As the Solicitor said and we see day in
23 and day out, unfortunately every homicide is a
24 tragedy, no question about that. A mother has lost
25 her son, a father's lost his son, a sister's lost a

1 brother, children lost their father. And you know,
2 as they said, we judge a man by his actions, not by
3 his words. People can say, oh, I do this and I do
4 that, I do this; they're judging by actions.

5 It's clear that initially Larry and Reva,
6 Larry specifically, was not looking for trouble.
7 Everybody says he was in there shooting pool, and it
8 was common knowledge that they would be there. But
9 he found him. And I just, I can't get over seven
10 rounds, seven rounds. If that tells me anything.
11 If you sit there and listen to the testimony of
12 Mr. Croker where he says that Mr. Williams says he
13 mess with me I'm gonna kill him. And you let that
14 sink in, he could have left then. I think your
15 tears are crocodile tears. I think a crocodile
16 cries to get his prey. You say you're sorry for
17 something you didn't do intentionally, accident,
18 what have you. I don't know if it has to do with
19 disrespect, if it has to do with testosterone,
20 estrogen, or what have you, but your actions dictate
21 to me the sentence that the Court must impose.

22 2014-GS-45-0001, voluntary manslaughter,
23 2014-GS-45-000 count two, assault and battery of a
24 high and aggravated nature, and 2014-GS-45-001 count
25 three, possession of a firearm during commission of

1 a violent crime. As to voluntary manslaughter the
2 defendant is committed to the State Department of
3 Corrections for a determinate term of 30 years. As
4 to assault and battery of a high and aggravated
5 nature, the defendant is committed to State
6 Department of Corrections for a term of 20 years.
7 And as to possession of a firearm during the
8 commission of a violent crime the defendant is
9 committed to the State Department of Corrections for
10 a determinate term of five years. Those are
11 concurrent. He is given credit for all time served.
12 Good luck to you, Mr. Williams.

13 Mr. and Ms. Moore, I'm sorry for your loss
14 and your daughter's loss. Thank you. Thank you
15 very much.

16
17 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *
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STATE OF SOUTH CAROLINA

COUNTY OF Williamsburg
STATE VS.

Terry Williams

AKA:

Race: 2 Sex: M Age: 31DOB: 1982 SS#: [REDACTED]Address: Guess RoadCity, State, Zip: Greeleyville, SC 29056DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Voluntary Manslaughterin violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0217☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Kimberly V. Barr 8443
Barr, Kimberly V SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

PTUP

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2145Sentence Date: 30 July 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

906
COUNTY OF Williamsburg
STATE VS.
Terry Williams

INDICTMENT/CASE#: 2014-GS-45-0001A/W#: 2013A4510100915Date of Offense: 11/10/2013S.C. Code § : 16-03-0029CDR Code #: 3410

AKA:

Race: 2 Sex: M Age: 31DOB: 1982 SS#: Address: Guess RoadCity, State, Zip: Greeleyville, SC 29056DL#: SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Assault and Battery of a High and Aggravatedin violation of § 16-3-60(D) of the S.C. Code of Laws, bearing CDR Code # 3411
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY:

Kimberly V. Barr 8443

Barr, Kimberly V.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther:
☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.
Clerk of Court/ Deputy Clerk: Sharon K. StagersCourt Reporter: Travis D. Davis

SCCA/217 (03/2011)

Presiding Judge: Patricia M. MohrJudge Code: 2145Sentence Date: 30 July 15

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 907

COUNTY OF Williamsburg

STATE VS.

Terry Williams

AKA:

Race: 2 Sex: M Age: 31

DOB: 1982 SS#:

Address: Guess Road

City, State, Zip: Greeleyville, SC 29056

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: POSSESSION OF FIREARM DURING COMMISSION OF VIOLENT CRIMEin violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Kimberly V. Barr 8443

Barr, Kimberly V

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

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3% to County (if paid in installments)		\$
TOTAL		\$

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☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: Sentence Date:

908

WITNESSES

Inv. Juan Ballard
Williamsburg County Sheriff's Office

DOCKET NO. 2014-GS-45-0001

The State of South Carolina

County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

JANUARY TERM 2014

THE STATE

vs.

TERRY WILLIAMS

ARREST WARRANT NUMBER

2013A4510100916 2013A4510100914
2013A4510100915

Indictment for

MURDER, ASSAULT AND BATTERY OF A
HIGH AND AGGRAVATED NATURE, AND
POSSESSION OF A FIREARM DURING THE
COMMISSION OF A VIOLENT CRIME

ACTION OF GRAND JURY

Date: 1/16/14

Whalley Powers
Foreperson of Grand Jury
Date: 1/16/14

VERDICT Guilty of AB HAN
Guilty of Voluntary Manslaughter
Guilty of possession of a firearm

[Signature]
Foreperson of Petit Jury
Date: 7-30-15

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR
During the commission of a violent crime

2014-15 11:21

STATE OF SOUTH CAROLINA)
)
 COUNTY OF WILLIAMSBURG)

**INDICTMENT FOR
 MURDER, ASSAULT AND BATTERY OF A
 HIGH AND AGGRAVATED NATURE, AND
 POSSESSION OF A FIREARM DURING THE
 COMMISSION OF A VIOLENT CRIME**

At a Court of General Sessions convened on January 16, 2014, the Grand Jurors of Williamsburg County did present upon their oath:

COUNT ONE – MURDER

That the defendant, Terry Williams, did in Williamsburg County, South Carolina on or about November 10, 2013 willfully, feloniously, and intentionally kill the victim, Larry Wendell Moore, Jr., with malice aforethought, by means of shooting the victim multiple times, and the victim did die as a proximate result thereof, in violation of §16-3-10, South Carolina Code of Laws, 1976, as amended.

COUNT TWO – ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE

That the defendant, Terry Williams, did in Williamsburg County, South Carolina on or about November 10, 2013 unlawfully injury the victim, Reva Samantha McFadden, and the act was accomplished by means likely to produce death or great bodily injury, in violation of §16-3-600(B)(1), South Carolina Code of Laws, 1976, as amended.

COUNT THREE - POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME

That the defendant, Terry Williams, did in Williamsburg County, South Carolina on or about November 10, 2013 possess a firearm, or visibly display what appeared to be a firearm, during the commission or attempted commission of a violent crime, in violation of §16-23-490, South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

Ernest A. Finney III

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 19th day of May, 2017.