

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Post Conviction Relief
Honorable D. Craig Brown, Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2015-002033

Gregory Daniels, 297449,.....Petitioner,

vs.

State of South Carolina,.....Respondent.

APPENDIX
VOLUME I OF III

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STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

COURT OF GENERAL SESSIONS
2009-GS-21-0427

State of South Carolina)

vs.)

TRANSCRIPT OF RECORD

Gregory Deleon Daniels)
DEFENDANT)

April 12-16, 2010
Florence, South Carolina

B E F O R E:

THE HONORABLE THOMAS A. RUSSO, JUDGE; and a jury.

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

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STEVEN DEBERRY, ASSISTANT SOLICITOR /
Attorneys for the State

JACK LAWSON, CHIEF PUBLIC DEFENDER
GRAYSON SMITH, ASSISTANT PUBLIC DEFENDER
Attorneys for the Defendant

KESHIA REED
Official Court Reporter

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1 THE COURT: All right, Mr. Jepertinger.

2 MR. JEPERTINGER: Please the Court, Your Honor,
3 the State would call State against Gregory Deleon Daniels
4 on 09-GS-21-427. He is charge with the crimes of both
5 murder and possession of a weapon during the commission of
6 a violent crime, Your Honor. And if I may approach one
7 second, Your Honor.

8 THE COURT: Yes, sir.

9 (WHEREUPON, a bench conference was held in the
10 presence of the jury panel, but out of the hearing of
11 the jury panel.)

12 THE COURT: All right. Ladies and gentlemen,
13 the State has called for trial the case of indictment
14 2009-GS-21-427 State of South Carolina vs. Gregory Deleon
15 Daniels. Ladies and gentlemen, let me first tell you that
16 to this indictment, Mr. Daniels has pled not guilty and
17 that plea of not guilty places the burden of proof on the
18 State to prove the allegations contained, all of the
19 allegations contained in this indictment and the elements
20 of these allegations which I will, of course, go over with
21 you later.

22 In other words, what I need you to understand is
23 this indictment is simply a piece of paper, the formal
24 document that brings a charge into this court. It is not
25 in any way evidence of the allegations that it contains.

1 These are merely allegations that the State has brought
2 against Mr. Daniels. And his plea of not guilty places
3 the burden of proof on the State to prove these
4 allegations beyond a reasonable doubt. Now, the
5 allegations, the charges as you heard from Mr. Jepertinger
6 and I am going to read to you the charge and ask that you
7 listen carefully because I have questions that I am going
8 to need to ask you.

9 On this indictment, Mr. Daniels is charged with
10 the offense of murder and the allegation is is that
11 Gregory Deleon Daniels did in Florence County on or about
12 September the 5th of 2008, violate sections 16-3-10 and
13 dash 20 and 16-1-60 of South Carolina Code of Laws as
14 amended and that he did feloniously, willfully and with
15 malice aforethought kill one Corry Lee Byrd by means of
16 shooting him and that the said Corey Lee Byrd did die as a
17 proximate result thereof.

18 The second allegation contain in this indictment
19 or the second charge is that Gregory Deleon Daniels did in
20 Florence County on or about September the 5th, 2008,
21 violate section 16-23-490 of the South Carolina Code of
22 Laws 1976 as amended in that he was in possession of and
23 did visibly display a weapon, to wit a handgun during the
24 commission of a violent crime to wit murder. All against
25 the peace and dignity of the State and any contrary

1 statutes and such case made and provided. These are the
2 allegations that the State has brought against
3 Mr. Daniels.

4 Is there any member of the jury panel who knows
5 anything about these allegations or these charges, if so
6 please stand? All right, sir, I'm going to ask if you
7 would to come around and I will speak with you briefly
8 about that. Your name, sir.

9 PROSPECTIVE JUROR: Crews. Leonard Crews.

10 THE COURT: Give me one second, sir, Juror
11 number 26. Mr. Crews, what do you know about that?

12 PROSPECTIVE JUROR: I know both of them
13 personally.

14 THE COURT: The victim as well as Mr. Daniels?

15 PROSPECTIVE JUROR: Yes, sir. I went to school
16 with both of them.

17 THE COURT: Okay. Would that in anyway affect
18 your ability to be fair and impartial if you were selected
19 on the panel?

20 PROSPECTIVE JUROR: I don't want to be involved
21 in it.

22 THE COURT: I'm sorry.

23 PROSPECTIVE JUROR: I just don't want to be
24 involved in it.

25 THE COURT: I understand. Mr. Crews, I'm going

1 to excuse you from participating in this trial. I'm going
2 to get you to stay with us though because we may need you
3 on another case or something. Thank you, sir. Juror
4 number 26 excuse for this trial only.

5 Now, ladies and gentlemen, I am going to
6 identify the attorneys and I am going to have them stand
7 and introduce themselves and ask that you please listen
8 carefully start with Mr. Jepertinger.

9 MR. JEPERTINGER: Good morning, ladies and
10 gentlemen. My name is John Jepertinger, I am a Deputy
11 Solicitor here in the Twelfth Judicial Circuit, that's
12 both Florence and Marion Counties. I'll be prosecuting
13 this case along with Steven Deberry of our office who is a
14 Assistant Solicitor.

15 THE COURT: Thank you, sir.

16 Ladies and gentlemen, is there any member of the
17 jury panel related by blood, connected by marriage or who
18 has any close business or personal relationship or who has
19 been represented by either Mr. Jepertinger or Mr. Deberry,
20 if so please stand? Thank you, there are none.

21 Mr. Lawson, if you would introduce yourself as
22 well as your client, sir.

23 MR. LAWSON: Good morning, ladies and gentlemen.
24 I'm Jack Lawson, I'm the Circuit Public Defender here in
25 Florence and Marion Counties. In my office presently Vick

1 Meetze, in the Florence office, Scott Floyd, Karen
2 Parrott, Michael Bell, Carrington Wingard, and Grayson
3 Smith, and Hank Anderson assist us in Marion County. And
4 then my investigator Ron Smith and Frank White. Gregory
5 Daniels is our client.

6 THE COURT: All right. Thank you, Mr. Lawson.
7 Let me begin with Mr. Lawson and the members of his office
8 that he introduced to you, ladies and gentlemen. Keeping
9 those names in mind, is there any member of the jury panel
10 related by blood, connected by marriage or who has any
11 close, business or personal relationship or who has been
12 represented by either Mr. Lawson, Mr. Floyd, Mrs. Wingard,
13 Ms. Parrott, Mr. Meetze, Mr. Bell, Mr. Smith, any members
14 of the jury panel related by blood, connected by marriage
15 have any relationship with those individuals? All right.
16 Let me -- I'm going to start here. Ma'am, can I get your
17 name, please.

18 PROSPECTIVE JUROR: Judith A. Gootman.

19 THE COURT: All right, give me one second let me
20 find you here.

21 THE CLERK: Fifty-three.

22 THE COURT: All right. Juror number 53. Who on
23 that list do you know or related to?

24 PROSPECTIVE JUROR: Mr. Ronnie Smith is a
25 personal friend of my father, he's a retired police

1 officer from here.

2 THE COURT: All right. Now, the fact that you
3 know Mr. Smith in that capacity would that in anyway
4 affect your ability to be fair and impartial, if you were
5 selected as a member of this panel?

6 PROSPECTIVE JUROR: Yes, sir, it would.

7 THE COURT: All right. I am going to excuse you
8 from the trial of this case, ma'am.

9 MR. LAWSON: What number?

10 THE COURT: Juror number 53. Ma'am, if you
11 could have a seat, you're just excused for this trial. We
12 do need you for something else that doesn't involve Mr.
13 Smith. Thank you very much.

14 Yes, ma'am, your name.

15 THE CLERK: Patricia Kelly.

16 PROSPECTIVE JUROR: Mr. Lawson represented me
17 like in back in 1980 for a car accident and I won.

18 THE COURT: All right, juror number 84. Ms.
19 Kelly, the fact that you had that experience with
20 Mr. Lawson, would that in any way affect your ability to
21 be fair and impartial giving both the State and the
22 defense a fair trial?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: All right, ma'am, thank you. You
25 may have a seat.

1 Yes, sir, your name.

2 PROSPECTIVE JUROR: Brandon McPherson.

3 THE COURT: All right, sir, give me one second.
4 Juror number 103. Mr. McPherson, who on that list you
5 know or related to?

6 PROSPECTIVE JUROR: Mr. Floyd, represent me in
7 the past.

8 THE COURT: All right. The fact that you had
9 that relationship, Mr. Floyd has represented you in the
10 past would that in anyway affect on your ability to be
11 fair and impartial giving both the State and the defense a
12 fair trial?

13 PROSPECTIVE JUROR: No, sir, it would not.

14 THE COURT: Thank you, sir. You may have a
15 seat.

16 Ladies and gentlemen, you been introduced to
17 Mr. Gregory Daniels. Is there any member of the jury
18 panel who's related by blood, connected by marriage or who
19 has any close, business or personal relationship with
20 Mr. Daniels, if so please stand? Thank you there none.

21 Now, that question that I just asked you about
22 Mr. Daniels, that's the same question I am going to ask
23 you with regards to this -- these witnesses that I am
24 going to call out. I am going to call out a list of
25 possible or potential witnesses. These are people that

1 may or may not testify during the course of this trial.
2 That question that I just asked you about Mr.
3 Daniels whether you're related by blood, connected by
4 marriage or have any close business or personal
5 relationship, that's that question I am going to be asking
6 you regarding these individuals. As I go through this
7 list, there several names here. As I go through this
8 list, if that question applies to any individual who's
9 name I call, please go ahead and stand as soon as you hear
10 that name, continue to listen however because it may be
11 that question that applies to more than one individual for
12 you. All right. So keeping that in question in mind,
13 these are possibly or potential witnesses that may testify
14 during the course of this trial: Tim Compton, George
15 Clark. And if any of those witnesses are in court, please
16 stand and face the jury for a moment and then you may be
17 seated. Thomas Myers, Chris Moreau, Officer A. Ussery,
18 Mark Happ, Henry Gaymon, Dr. Cynthia Schandl, Megan
19 Fletcher, Matthew Fitts, Dustin Smith, Doris Yarborough,
20 David Hanks, James Presnell, Andre Bradley, Jasmine
21 Barrett, James Lee Black, Jr., Tiesha Brown, Joseph
22 Washington, Shavonne Gass, Brittany Fludd, Gabriel
23 Peterson, Clifton Ryan Evans, Nyrena Goodman, Arthur
24 White. Any member of the jury panel related by blood or
25 connected by marriage or have any close business or

1 personal relationship with any of these possibly
2 witnesses? Thank you there are none.

3 Ladies and gentlemen, rather than me try to do
4 this, I'm going to get Mr. Jepertinger's help. You met
5 Mr. Jepertinger and you've met Mr. Deberry. And as you
6 may know you're Solicitor is Mr. Ed Clements, who is here
7 in the courtroom who you saw earlier.

8 Mr. Jepertinger, if you could list the other
9 lawyers in your office, sir.

10 Please listen carefully, ladies and gentlemen.

11 MR. JEPERTINGER: We have Miss Catherine
12 Anderson, she's in the courtroom as well. We have Barbara
13 Tolson-Heywood. We have Fitzlee McEachin, David
14 Richardson, Pat Parr, Stephen Hill, Bob Wells, Ryan Waller
15 in Marion.

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

17 Ladies and gentlemen, are any members of the
18 jury panel related by blood, connected by marriage or have
19 any close, business or personal relationship or have been
20 represented by any of those attorneys, if so please stand?
21 All right. And let me go ahead start.

22 Mr. McPherson, is that correct, sir?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: All right. This is juror, I think,
25 104 -- 103. Who on that list, Mr. McPherson, do you know?

1 PROSPECTIVE JUROR: Mr. Fitzlee McEachin close
2 family friend.

3 THE COURT: All right. The fact that you have
4 that relationship where you know Mr. McEachin, would that
5 in any way have any affect over your ability to be fair
6 and impartial, if you were selected in this case?

7 PROSPECTIVE JUROR: No, sir, it would not.

8 THE COURT: Thank you, sir, you may have a seat.
9 And, ma'am, your name, please.

10 PROSPECTIVE JUROR: Pamela Alsberry.

11 THE COURT: All right. Juror number three, Ms.
12 Alsberry. Who on that list did you know, ma'am?

13 PROSPECTIVE JUROR: Solicitor Pat Parr.

14 THE COURT: All right. Ms. Alsberry, the fact
15 -- related or know Pat?

16 PROSPECTIVE JUROR: A friend.

17 THE COURT: All right. The fact that you have
18 that relationship with Ms. Parr would that in any way have
19 any affect over your ability to be fair and impartial if
20 you were selected as a member of this jury?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Thank you very much, ma'am. You may
23 have a seat.

24 Is there any member of the jury panel who based
25 on a religious or philosophical viewpoint or affiliation

1 would be unable to render judgment upon another human
2 being? As a juror, ladies and gentlemen, you're going to
3 be asked to listen as evidence is presented and your duty
4 as a juror is to listen to that evidence. And after
5 hearing all of the evidence, decide what the true facts of
6 the case are and then decide whether an individual is
7 guilty of the charge they're facing or not guilty of the
8 charge they're facing based on the evidence that was
9 presented. Is there any member of jury panel who feels
10 that they would be unable to perform that duty, if so
11 please stand? Thank you, there are none.

12 Is there any member of the jury panel who feels
13 that you or a member of your immediate family have ever
14 been unjustly accused of committing a crime, if so please
15 stand? Thank you, there are none.

16 Is there any member of the jury panel or a
17 member of your immediate family who's ever been prosecuted
18 by the Solicitor's office here or charged with an offense
19 regardless of whether that offense was dismissed or not,
20 if so please stand?

21 All right. Mr. McPherson, how does that
22 question apply to you?

23 PROSPECTIVE JUROR: I had a charge against me
24 that was dismissed last year in 2009.

25 THE COURT: All right. The fact that you've had

1 that experience, sir, would that in any way affect your
2 ability to be fair and impartial giving both the State and
3 the defense a fair trial?

4 PROSPECTIVE JUROR: No, sir, it would not.

5 THE COURT: Thank you, sir. You may have a
6 seat.

7 And, yes, ma'am.

8 PROSPECTIVE JUROR: My cousin ---

9 THE COURT: Can I get your name, please?

10 PROSPECTIVE JUROR: Heather Reynolds.

11 THE COURT: Give me just one second, Ms.
12 Reynolds.

13 THE CLERK: 119.

14 THE COURT: All right. That's juror 119. I
15 don't want any great details just how does that question
16 apply to you, ma'am?

17 PROSPECTIVE JUROR: My cousin was represented by
18 the State.

19 THE COURT: Okay. The fact that you've had that
20 experience would that in any way affect your ability to be
21 fair and impartial, if you were selected on this panel?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: Thank you, Ms. Reynolds. You may
24 have a seat.

25 Yes, ma'am.

1 PROSPECTIVE JUROR: Sheryl Evans.. My son was
2 arrested for D.U.I. first offense, but it was dismissed.

3 THE COURT: Ms. Evans, this juror number 39.
4 The fact that you've had that experience, ma'am, would
5 that in any way affect your ability to be fair and
6 impartial?

7 PROSPECTIVE JUROR: It want affect in this case,
8 no, sir.

9 THE COURT: Thank you very much, Ms. Evans. You
10 may have a seat.

11 Ladies and gentlemen, is there any member of the
12 jury panel who is a contributor to any organization which
13 promotes law enforcement such as the Fraternal Order of
14 Police, The State Troopers Association or any organization
15 that such as M.A.D.D., which is Mothers' Against Drunk
16 Driving, S.A.D.D., C.A.V.E. any of those organizations?
17 If there's any member of the jury panel who is a
18 supporter, a financial supporter or contributor to those
19 organizations, if so please stand? Thank you, there are
20 none.

21 And, ladies and gentlemen, I describe to you
22 briefly just a moment ago -- obviously, the -- our system
23 of justice calls for -- that we are bless to have the
24 privilege of having our differences decided by a jury of
25 our peers. And so if you are selected as a juror, your

1 role as I indicated earlier listen to the evidence, decide
2 what evidence is -- what the evidence shows, apply those
3 facts to the law as I give it to you and to reach a
4 verdict to decide whether someone is guilty or not guilty
5 based on those facts. Is there any member of the jury
6 panel who knows of any reason that you would not be able
7 to give both the State of South Carolina as well the
8 defense a fair and impartial trial, if so please stand?
9 Thank you, there are none.

10 Any further question from the State?

11 MR. JEPERTINGER: No, sir.

12 THE COURT: Any further questions from the
13 defense?

14 MR. LAWSON: Might inquire, Your Honor, whether
15 any member of the panel is related to or close personal
16 friends with anyone in law enforcement?

17 THE COURT: Sure, absolutely.

18 Ladies and gentlemen, is there any of the
19 members of the jury panel or a member of your immediate
20 family either employed as a law enforcement officer or
21 carries a commission as a law enforcement officer or who
22 is a close-personal friend or relative of a law
23 enforcement officer or a member of law enforcement, if so
24 please stand? Juror number 39, that's Ms. Evans.

25 PROSPECTIVE JUROR: Yes. My brother-in-law

1 who's now my ex-brother-in-law is a lieutenant with the
2 Florence Police Department.

3 THE COURT: All right. Ms. Evans, would that in
4 any way have any affect on your ability to be fair and
5 impartial?

6 PROSPECTIVE JUROR: No, it wouldn't.

7 THE COURT: Thank you, very much, ma'am.

8 Sir, can I get your name, please?

9 PROSPECTIVE JUROR: Derrick Waddell 141.

10 THE COURT: All right. Juror number 141. And
11 how does that question relate to you, sir?

12 PROSPECTIVE JUROR: A buddy of mine is a deputy.

13 THE COURT: All right. The fact that you have a
14 friend that is a deputy would that have any affect on your
15 ability to be fair and impartial, if you were selected on
16 this case?

17 PROSPECTIVE JUROR: No, sir.

18 THE COURT: Thank you, sir. You may have a
19 seat.

20 Yes, ma'am, could I get your name, please?

21 PROSPECTIVE JUROR: Jacquelyn Brown.

22 THE COURT: All right, Ms. Brown. This is juror
23 number 12. Yes, sir.

24 PROSPECTIVE JUROR: I have a cousin in law
25 enforcement and a member of my church that's law

1 enforcement.

2 THE COURT: All right. Would that in any way
3 affect your ability to be fair and impartial, Ms. Brown?

4 PROSPECTIVE JUROR: Not at all.

5 THE COURT: Thank you very much, ma'am. You may
6 have a seat.

7 Yes, ma'am, could I get your name, please?

8 PROSPECTIVE JUROR: Juror number 124 Patricia
9 Rowell.

10 THE COURT: All right, Ms. Rowell, and how does
11 that question apply to you, ma'am?

12 PROSPECTIVE JUROR: My brother is a police
13 officer.

14 THE COURT: All right. Ma'am, would that in any
15 way have an affect on your ability to be fair and
16 impartial, ma'am?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Thank you very much. You may have a
19 seat.

20 Yes, sir, on the far end here.

21 PROSPECTIVE JUROR: Richard Owens.

22 THE COURT: All right, Mr. Owens.

23 PROSPECTIVE JUROR: Next door neighbor is a
24 transport police.

25 THE COURT: All right. The fact that your

1 neighbor works for the transport police would that in any
2 way affect your ability to be fair and impartial, sir?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Thank you, Mr. Owens. You may have
5 a seat.

6 Yes, ma'am.

7 PROSPECTIVE JUROR: Melody MacGregor.

8 THE COURT: All right, Ms. MacGregor, that's
9 juror number 90. Yes, ma'am.

10 PROSPECTIVE JUROR: Nephew deputy sheriff.

11 THE COURT: All right. Would that have any
12 affect or would that in any way affect your ability to be
13 fair and impartial if you were selected on this panel?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: Thank you very much, ma'am. You may
16 have a seat.

17 Yes, ma'am.

18 PROSPECTIVE JUROR: Phyllis Joseph number 82.

19 THE COURT: Yes, Ms. Joseph.

20 PROSPECTIVE JUROR: Tim McFadden is my cousin.

21 THE COURT: All right. The fact that you're
22 related to Mr. McFadden or Officer McFadden would that in
23 any way have any affect on your ability to be fair and
24 impartial?

25 PROSPECTIVE JUROR: No, sir.

1 THE COURT: Thank you, Ms. Joseph. You may have
2 a seat.

3 Anyone else?

4 All right. Anything further, Mr. Lawson?

5 MR. LAWSON: No, Your Honor.

6 THE COURT: All right. Ladies and gentlemen, I
7 am going to briefly explain to you how we go about the
8 process of selecting a jury. What we do is the clerk here
9 has a computer that has your names listed in alphabetical
10 order as they appear on the jury list. What the computer
11 does she will hit a button and it will take those names,
12 it will take all of your names and it'll randomly reorder
13 them and just scramble them into a different order, so
14 that when this list come out juror number eight may end up
15 being juror number 37. Juror number 37 may end up being
16 juror number 128. It just randomly throws them in a
17 different order and then she will print that list out.
18 Then what she'll do is she will start at the top of that
19 list on the scrambled list and she will call out the first
20 name. If that happens to be your name, you will gather
21 your belongings and you will come forward. And if you
22 will come through the little swinging door here step to
23 the side of this microphone and just face the back of
24 courtroom.

25 At that time, she will ask -- first, she will

1 ask the State something along these lines what say you for
2 the State. And the State will respond either that they
3 will excuse you. And if they excuse you, you'll go back
4 and have a seat or they will say something along the lines
5 of that present the juror or present Miss so and so or
6 whatever. If they say that, then she will ask of the
7 defense what say you for the defense and again the defense
8 will either excuse you. And if they excuse you, you will
9 go and have a seat or they will seat you. And if they
10 seat you, then you will come around and you will have a
11 seat in the jury box. And we will go through that process
12 until we have selected the jury. Now, if your name is
13 called, please bring with you any items that you brought
14 to court. Because if you are selected on the panel, you
15 are going to have a seat up here and you want be going
16 back to your seat. So anything you may have brought to
17 court, bring it with you when you come up to the front if
18 your name is called, okay.

19 Five and ten on the strikes.

20 MR. JEPERTINGER: That's correct.

21 THE COURT: All right. We ready to go please
22 listen carefully.

23 THE CLERK: Number 10 Martha Bond.

24 What say the State?

25 MR. JEPERTINGER: Please present the juror.

1 THE CLERK: What say the defendant?
2 MR. LAWSON: Please excuse Ms. Bond.
3 THE CLERK: You been excuse from this trial
4 only, ma'am. You may return to your seat.
5 Number 70 Eugene Hyman.
6 What say the State?
7 MR. JEPERTINGER: Please present the juror.
8 THE CLERK: What say the defendant?
9 MR. LAWSON: Please swear Mr. Hyman.
10 THE CLERK: Please have a seat in the jury box,
11 sir.
12 Number three Pamela Alsberry.
13 What say the State?
14 MR. JEPERTINGER: Please present the juror.
15 THE CLERK: What say the defendant?
16 MR. LAWSON: Please excuse Ms. Alsberry from
17 this trial.
18 THE CLERK: You been excuse from this trial
19 only, ma'am. You may return to your seat.
20 Seventy-two Randy James.
21 What say the State?
22 MR. JEPERTINGER: Please present the juror.
23 THE CLERK: What say the defendant?
24 MR. LAWSON: Please swear Mr. James.
25 PROSPECTIVE JUROR: I like to say something

1 first, can I?

2 THE COURT: You can come speak to me. Just a
3 second, sir, let me get everybody up here, okay.

4 PROSPECTIVE JUROR: I'm very close friends of
5 Greg's mother. I ain't want to be on the case.

6 THE COURT: Why didn't you say that when I asked
7 if anybody had any ---

8 PROSPECTIVE JUROR: I thought it was just him by
9 himself.

10 THE COURT: The fact that you have that
11 relationship you think that would affect your ability to
12 be fair and impartial?

13 PROSPECTIVE JUROR: It will.

14 THE COURT: All right. Mr. James, I am going to
15 excuse you from this case. When you go back and have a
16 seat, don't talk about the case to anybody, just have a
17 seat. I'm not going to excuse you for the week, so may be
18 we can use you on another trial. All right, sir.

19 (WHEREUPON, a bench conference was held in the
20 presence of the jury, but out of the hearing of the
21 jury.)

22 THE COURT: All right. Mr. James is excused
23 from the trial of this case only and we'll proceed with
24 the next juror.

25 THE CLERK: 121 Ashley Riffle.

1 What say the State?

2 MR. JEPERTINGER: Please present the juror.

3 THE CLERK: What say the defendant?

4 MR. LAWSON: Please swear Mr. Riffle for this
5 trial.

6 THE CLERK: Please have a seat in the jury box,
7 sir.

8 39 Sheryl Evans.

9 What say the State?

10 MR. JEPERTINGER: Please present the juror.

11 THE CLERK: What say the defendant?

12 MR. LAWSON: Please excuse Ms. Evans from this
13 trial.

14 THE CLERK: You been excuse from this trial
15 only, ma'am. You may return to your seat.

16 Number five Deborah Bailey.

17 What say the State?

18 MR. JEPERTINGER: Please present the juror.

19 THE CLERK: What say the defendant?

20 MR. LAWSON: Please swear Ms. Bailey for
21 purposes of this trial.

22 THE CLERK: Please have a seat in the jury box.

23 50 Carrie Gandy.

24 What say the State?

25 MR. JEPERTINGER: Please present the juror.

1 THE CLERK: What say the defense?

2 MR. LAWSON: Please swear Ms. Gandy for purposes
3 of this trial.

4 THE CLERK: Please have a seat in the jury box,
5 ma'am.

6 Number one Titus Adams.

7 What say the State?

8 MR. JEPERTINGER: We'll excuse this juror for
9 purpose of this trial only.

10 THE CLERK: You been excuse from this trial
11 only, sir. You may return to your seat.

12 Number 128 Nicole Sheeder.

13 What say the State?

14 MR. JEPERTINGER: Please present the juror.

15 THE CLERK: What say the defendant?

16 MR. LAWSON: Please swear Ms. Sheeder for this
17 trial.

18 THE CLERK: Please have a seat in the jury box,
19 ma'am.

20 136 Roscher Stuckey.

21 What say the State?

22 MR. JEPERTINGER: Please present the juror.

23 THE CLERK: What say the defendant?

24 MR. LAWSON: Please swear Mr. Stuckey.

25 THE CLERK: Please have a seat in the jury box,

1 sir.

2 149 Kylie Wilkerson.

3 What say the State?

4 MR. JEPERTINGER: Please present the juror.

5 THE CLERK: What say the defendant?

6 MR. LAWSON: We'll excuse Ms. Wilkerson from
7 this trial.

8 THE CLERK: You been excuse from this trial,
9 ma'am. You may return to your seat.

10 112 Jeanette Perkins.

11 What say the State?

12 MR. JEPERTINGER: Please present the juror.

13 THE CLERK: What say the defendant?

14 MR. LAWSON: Please swear Ms. Perkins for this
15 trial.

16 THE CLERK: Please have a seat in the jury box,
17 ma'am.

18 84 Patricia Kelley.

19 What say the State?

20 MR. JEPERTINGER: Please present the juror.

21 THE CLERK: What say the defendant?

22 MR. LAWSON: Please swear Ms. Kelley for this
23 trial.

24 THE CLERK: Please have a seat in the jury box,
25 ma'am.

1 64 Harvey Holland.

2 What say the State?

3 MR. JEPERTINGER: Beg the Court's indulgence.

4 THE COURT: Yes, sir.

5 MR. JEPERTINGER: We excuse this juror for
6 purposes of this trial only.

7 THE CLERK: You been excuse from this trial
8 only, you may return to your seat.

9 127 Lenore Shannon.

10 What say the State?

11 MR. JEPERTINGER: We'd excuse this juror for
12 purposes of this trial only.

13 THE CLERK: You been excuse from this trial,
14 ma'am. You may return to your seat.

15 56 Norma Hamer.

16 What say the State?

17 MR. JEPERTINGER: Please present the juror.

18 THE CLERK: What say the defendant?

19 MR. LAWSON: Please excuse Ms. Hamer from this
20 trial.

21 THE CLERK: You been excuse from this trial
22 only, ma'am. You may return to your seat.

23 49 Brent Gandy.

24 What say the State?

25 MR. JEPERTINGER: Please present the juror.

1 THE CLERK: What say the defendant?

2 MR. LAWSON: Please swear Mr. Gandy.

3 THE CLERK: Please have a seat in jury box, sir.

4 33 Brete Duffee.

5 What say the State?

6 MR. JEPERTINGER: Please present the juror.

7 THE CLERK: What say the defendant?

8 MR. LAWSON: Your Honor, may we inquire as to
9 Mrs. Duffee's employment. I have it down as
10 self-employed.

11 PROSPECTIVE JUROR: My husband is self-employed.
12 I'm a stay-at-home mother.

13 MR. LAWSON: Okay, thank you. Please swear Mrs.
14 Duffee for purpose of this trial.

15 THE CLERK: Please have a seat in the jury box
16 please, ma'am.

17 119 Heather Reynolds.

18 What say the State?

19 MR. JEPERTINGER: Please present the juror.

20 THE CLERK: What say the defendant?

21 MR. LAWSON: Please swear Ms. Reynolds for
22 purpose of this trial.

23 THE CLERK: Have a seat in the jury box, ma'am.

24 68 Christopher Humphries.

25 What say the State?

1 MR. JEPERTINGER: Please present the juror.

2 THE CLERK: What say the defendant?

3 MR. LAWSON: Please swear Mr. Humphries for this
4 trial.

5 THE CLERK: Please have a seat in the jury box
6 please, sir.

7 THE COURT: Mr. Jepertinger and Mr. Lawson, can
8 I speak to y'all real quick before we go any further.

9 (WHEREUPON, a bench conference was held in the
10 presence of the jury, but out of the hearing of the
11 jury.)

12 THE COURT: Okay.

13 THE CLERK: 122 Phillip Roberts.

14 What say the State?

15 MR. JEPERTINGER: Please present the juror.

16 THE CLERK: What say the defendant?

17 MR. LAWSON: Please swear Mr. Roberts for this
18 trial.

19 THE CLERK: Please have a seat in the jury box.

20 15 William Bullard.

21 What say the State?

22 MR. JEPERTINGER: Please excuse this juror for
23 purpose of this trial only.

24 THE CLERK: You been excuse from this trial
25 only, sir. You may return to your seat.

1 139 Melanie Vanausdoll.

2 Does the State wish to challenge this juror for
3 cause?

4 MR. JEPERTINGER: No.

5 THE CLERK: What say the defendant?

6 MR. LAWSON: Please swear Ms. Vanausdoll.

7 THE CLERK: Please have a seat in the jury box,
8 ma'am?

9 THE COURT: Are there any motions regarding jury
10 selection from the State?

11 MR. JEPERTINGER: No, sir.

12 THE COURT: Any motions regarding jury selection
13 from the defense?

14 MR. LAWSON: No, Your Honor.

15 THE COURT: All right. Ladies and gentlemen,
16 those of you who remain in the jury panel. They got the
17 number right on their information? Ladies and gentlemen,
18 I am going to excuse y'all for the balance of the day.
19 And as you leave, this spry young gentleman right here
20 will meet you at the back door. And if you would -- he
21 will give you a -- he will give you a slip and it's got a
22 phone number on it. If you would please keep that phone
23 number where you can get it, stick it in your pocketbook
24 or your wallet or somewhere make sure you can get your
25 hands on it because I'm going to ask you to call that

1 number this evening after six o'clock. And what will
2 happen, they'll be a message on there and it will let you
3 know when we need you back if we need you. It will either
4 be a message to be back in the morning or there may be a
5 message asking you to call back at a later time or maybe a
6 message that you're excused for the balance of the week.
7 I don't know at this point what that message is going to
8 say. So please call that message -- that number after six
9 o'clock tonight.

10 Now, there are several of you here, so if
11 everybody calls close to six o'clock if you get a busy
12 signal, just hang up and try it again later. If you are
13 like me you get -- you fall to sleep in your easy chair
14 watching television and you wake up at 2:30 in the morning
15 you go, Oh, my God I didn't call the number. Don't worry
16 about it, pick up the phone and call the number, it's a
17 recording, it will be there. Just call that number after
18 six o'clock and it will be instructions and just follow
19 those instructions that you receive when you call that
20 number, okay. So have they got them yet?

21 Now, if everyone else will remain seated in the
22 courtroom, members jury panel, you are excuse for the
23 balance of the day. Please call that number after six.

24 (WHEREUPON, the remaining jury panel was
25 excused.)

1 And while they're filing out, let me go ahead
2 and address my jury here. Ladies and gentlemen, I'm going
3 to excuse y'all for lunch, okay. But I need to send you
4 out with some instructions. As you are aware all you know
5 about this case is what you've heard in this courtroom
6 this morning. What's vitally important is that when you
7 return this afternoon, you don't know any more about the
8 case than you know right now. In other words, what I am
9 going to ask you to do is not talk to anybody about this
10 case, don't allow anyone to talk to you about the case.
11 If someone does attempt to speak with you about the case,
12 you let them know that you're a juror and you're not
13 allowed to talk about it and that should be enough to stop
14 any conversation. But if that individual continues to try
15 to speak with you, you find out who it is and let me know
16 who it is and I will make sure that that doesn't happen.
17 It is very important that you not have any conversation
18 with anybody about this case.

19 Now, when you return from lunch, you will come
20 back up and you will come in this door. There will be a
21 bailiff out here to help you. You will be directed into
22 the court and you will go and have a seat in the jury
23 room. And once everybody is reassembled, we'll begin the
24 trial. Actually, you know what I forgot, forget that
25 coming back this afternoon. I forgot. I got other

1 matters that I have to take up that don't involve this
2 case. And so we're actually going to start this trial in
3 the morning. So what I am going to ask you to do
4 everything I've told you except about coming back is true.
5 Don't talk about the case with anybody. But it's going to
6 be a little bit different because I'm going to excuse you
7 for the balance of the day as well.. The only difference
8 is I'm going to tell you that you do need to be back in
9 the morning because we're going to start this case in the
10 morning.

11 This is what's important though. When you go
12 home, more than likely friends, family, loved ones,
13 someone is going to want to know did you get selected on a
14 jury. It is okay to tell them that you've been selected
15 and that you have to be back tomorrow. The next question
16 they're going to ask is who is it or what type of case is
17 it or whatever. What's important the way you respond is
18 you need to tell them, I'm sorry I can't talk to you at
19 all about the case. All I can tell you is I am on a
20 trial. When the trial is over, I'll tell you everything
21 you want to know, but until that point, you can't tell
22 them anything about the case not even something as simple
23 as well it's a gentleman, he's charged with murder.
24 Something that simple could possibly elicit a response
25 that may adversely affect your ability to be fair and

1 impartial. So you can't even say something as simply as
2 that. The best thing to do is to just tell whoever's
3 asking just please represent the fact that I can't talk
4 about it and I will tell you all you want to know when
5 it's over, okay.

6 Now, also and not that any of you would and not
7 that even if you did, you find anything. What's also very
8 important is that you don't try to do any investigation on
9 your own. This case will be presented to you during the
10 course of this trial. What you just need to do when you
11 come back in the morning is that you don't know any more
12 about this case than you know right now. As a matter of
13 fact, when you leave here, I would encourage you to just
14 forget about this case, enjoy the balance of your day.
15 One thing I would ask you to do and you will see during
16 the course of the trial that I am correct. Jury service
17 is not physically taxing from a muscular standpoint, but
18 it can be physically taxing from a mental standpoint. So
19 if it's at all possible try to get a good night sleep
20 tonight, come back in the morning well rested, so that
21 you'll be alert as you serve on this case, okay.

22 Now, I think what we're going to do for purposes
23 of this trial, we're going to begin tomorrow at nine
24 o'clock. So I'm going to ask you if you would to please
25 be here at nine o'clock in the morning in your jury room.

1 Now, unfortunately, the parking isn't the best around
2 here, you probably have seen. It will be better tomorrow
3 because we want have all of y'all here. But please come
4 -- leave your house early enough to get here, find
5 parking, and get up here and be in the jury room, so that
6 we can start at nine o'clock, okay. So if you would do
7 that, I would appreciate it. Now, having said that,
8 everyone else please remain seated and, ladies and
9 gentlemen, you are excuse for the balance of the day and
10 we will see you back in your jury room here at nine
11 o'clock in the morning, okay. Thank you.

12 (WHEREUPON, the jury was excused for the day.)

13 THE COURT: Are y'all ready to proceed with that
14 Jackson v. Denno matter?

15 MR. JEPERTINGER: State's ready.

16 THE COURT: Defense ready?

17 MR. LAWSON: Yes, Your Honor.

18 THE COURT: Let's go ahead and take care of that
19 issue at this point and then I think I've got a plea or
20 two that I need to take.

21 Go ahead, Mr. Jepertinger.

22 MR. JEPERTINGER: Please the Court, I call
23 Officer Tim Compton to the stand.

24 THE COURT: All right. Officer Compton, if you
25 would please come around and be sworn, sir.

1 THE CLERK: Please place your left hand on the
2 Bible and raise your right hand. Do you swear the
3 testimony you give in this case to be the truth, the whole
4 truth, and nothing but the truth so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Please be seated and then state your
7 full name for the record.

8 THE WITNESS: Timothy Wade Compton.

9 WHEREUPON,

10 Tim Compton,
11 after first having been duly sworn, testified as follows:

12 DIRECT EXAMINATION IN-CAMERA

13 BY MR. JEPERTINGER:

14 Q Where do you work?

15 A I work for the Florence Police Department.

16 Q What is your rank there please?

17 A Lieutenant.

18 Q Were you the chief investigator in this case?

19 A Yes, I was.

20 Q All right. Just in terms of this matter, did you
21 have an opportunity to speak to the defendant in this
22 case?

23 A Yes, sir, I did.

24 Q All right. Now, correct me if I am wrong, but did
25 you take a taped statement from this individual?

1 A Yes, I did.

2 Q Did you speak to him prior to taking that taped
3 statement?

4 A I spoke to him prior, yes, sir.

5 Q And subsequent to that taped statement, did you have
6 further conversation with this individual?

7 A Yes, I did.

8 Q Okay. First of all, I would like to show you -- have
9 this marked for identification for purposes of this
10 hearing.

11 (WHEREUPON, State's Exhibit No. 1 was marked for
12 identification only.)

13 BY MR. JEPERTINGER:

14 Q Show you what's been marked State's Exhibit 1 for
15 purpose of this hearing. Can you tell His Honor what that
16 is please?

17 A Your Honor, this is a waiver of right form that I
18 read to the defendant on September 10th 2008.

19 Q Is that the first time you spoke with him on
20 September 10th 2008?

21 A Yes.

22 Q All right. Did you read him that form before you
23 began speaking with him or...

24 A Actually, the first thing I did was read him from my
25 waiver of rights card that I have in my wallet. Then I

1 went over the waiver of rights form.

2 Q All right. And could you tell the Court for the
3 record what you read him off of the card that you carry
4 with you?

5 A I read what -- it's called suspects rights Miranda
6 Warning and I read this first. And it says you have the
7 right to remain silent. Anything you say can and will be
8 used against you in a court of law. You have the right to
9 talk to a lawyer and have him present with you while you
10 are being questioned. If you cannot afford to hire a
11 lawyer, one will be appointed to represent you before any
12 question if you wish. You can decide any time to exercise
13 these rights and not answer any questions or make any
14 statements. Do you understand each of these rights I have
15 explain to you? His answer was, yes. And after that, I
16 read having these rights in mind, do you wish to talk to
17 us or would you like to answer any questions I may have
18 for you? And he said, yes.

19 Q All right. At this time, when he spoke to you was he
20 under arrest?

21 A He was under arrest for the reckless driving and
22 simple possession of marijuana earlier that day.

23 Q All right. Was he under arrest for these particular
24 charges, the murder and the possession of a weapon during
25 the commission of a violent crime?

1 A I had -- put it this way, I had information enough
2 that I believe could seek a warrant for his arrest for the
3 murder charge. But at the time, I did not have the
4 warrants for his arrest for that murder. I obtain them
5 later on.

6 Q All right. He was a suspect then at that time?

7 A Yes, sir, he was.

8 Q Okay. All right. And after you read what you just
9 read into the record off that card, did you read State's
10 Exhibit 1 to him?

11 A Yes, I did.

12 Q Okay. Did you read that line for line and fill it
13 in?

14 A Yes, sir. Matter of fact what I do ---

15 Q Without marking on that exhibit please. If you could
16 stand up and show the judge what you did?

17 A Your Honor, basically after I read my Miranda Warning
18 card to him, I found -- I also want to do it in written
19 form. And basically, I turn this around to him and I
20 normally try to read it upside down. But I tell him that
21 this is our case number. It's a waiver of rights form,
22 division police. And what I'm doing is I do it with my
23 pen, that's why I pull my pen out, division police,
24 Florence, South Carolina is date 9-10-2008, place is
25 Florence Police Department conference room. I, Gregory

1 Deleon Daniels, voluntary without threats, force, promises
2 of immunity or rewards agreed to be questioned by the
3 Florence Police Department. I fully realize I have the
4 right to remain silent the entire time I'm here.
5 Anything, I may say can be used against me in any court of
6 law, have the right to have an attorney present. And if I
7 cannot afford an attorney and desire to be represented,
8 one will be appointed for me prior to any questioning
9 without cost to me. Even after signing this form, I
10 realize I had the opportunity to exercise these rights and
11 any time I wish to while I'm here. Also realize I had the
12 right first to consult with an attorney or anyone else --
13 anyone else I wish to before signing this form or
14 answering any questions. Nevertheless, I voluntarily
15 request and authorize the Florence, South Carolina, Police
16 Department to proceed with the questioning. In addition,
17 I represent I feel all right both mentally and physically
18 and I know of no mental or physical ailment which might be
19 impaired by any questioning. Important notice, if you do
20 not understand any part of this form, do not sign until
21 you do. He said he understood. I told him I needed him
22 to sign here, which he did sign. And I asked him the date
23 and he did date it. Detective Clark signed it and I also
24 signed it and notarize it.

25 Q Thank you. As a result of him doing that, did you

1 ask him any questions about his involvement in this matter
2 or what you believe to be his involvement in this matter
3 in regards to the murder of Corey Byrd?

4 A Yes, I told him I wanted to talk about this shooting
5 and he stated he did not want to talk about the shooting.
6 But he would talk about the cookout slash party. I said
7 okay -- excuse me. And so he started -- we started
8 talking about the cookout, which is the cookout night
9 before the shooting murder happened. And so he started
10 talking about the cookout. He said he was invited to the
11 cookout. But went there -- and went by there to give Tina
12 kids -- he adopted a ride on the moped. You want me to
13 continue on?

14 Q Let me ask you interject here. None of this was
15 taped at that point; correct?

16 A Correct, it wasn't taped.

17 Q This was a preliminary statement to see what he had
18 to offer?

19 A Yes, sir.

20 Q Okay. Is that your procedure?

21 A Yes, sir, once we go over whatever incident it is and
22 we feel that that is all the information at that time
23 we're able to obtain, I asked the individual would he be
24 willing to put this on tape or sometimes we do written
25 statements. But this time in a murder case, I normally do

1 taped statements. So at that time, I ask him if he be
2 willing to put it on tape. And he said, yes, sir. At
3 that time, I set up to take the digital recorder and taped
4 his statement.

5 Q Okay. But this was after the matter he was telling
6 you about at that point; correct?

7 A Yes.

8 Q All right. And after he spoke to you about where he
9 was at the cookout the night before the murder, did you
10 get any other information that wanted you to get a taped
11 statement?

12 A Yes, like I said, he said he was there to meet Tina
13 and the kids to give them a ride on the moped. He stated
14 a fight broke out with Bryan and stated Corey said, you
15 know me, Greg being the defendant, said I don't know you.
16 Corey Byrd said you know me. Gregg said I don't know you
17 from a can of paint. Corey said you will get to know me
18 and Greg he just walked away at that time. He stated he
19 left before midnight and went around to Vista Street where
20 Tina's residence is and kissed the kids good night. He
21 would not tell me who Tina was or exactly where she lived
22 on Vista Street.

23 Q Vista Street was right behind Liberty Street where
24 ---

25 A Yes, sir.

- 1 Q Okay. Go ahead.
- 2 A He said he went to 607 Fraser Street and he said that
3 was his residence, long enough to turn his lights on and
4 then walk to West Florence to setting up to help his
5 girlfriend. And at that point, I couldn't understand what
6 setting up meant. I asked him several times. Finally, I
7 realize it was -- to me it's a wake from where I was
8 raised, it's considered a wake. I didn't know it was
9 called a setting up. To help his girlfriend and then he
10 left to a room at Country Hearth Inn room 132. He stated
11 they stayed there until check out time. And he named his
12 girlfriend as Nyrena Goodman who lives on Chase Street.
13 And at that point based on the information he gave me
14 where his whereabouts were that night, I thought it was
15 important to get his taped statement because other
16 statements I have got prior to that contradict what the
17 defendant was saying. So I thought it was important to
18 get a taped statement at that time.
- 19 Q And you took a copy of that taped statement; correct?
- 20 A Yes, sir, I did.
- 21 Q You recorded it and you asked them many of the
22 similar questions that you just asked him?
- 23 A Yes, sir.
- 24 Q Correct?
- 25 A Yes, sir.

1 Q Okay. After you took the taped statement, did you
2 send it -- give it to one of your tech people at the
3 police department?

4 A Yes, sir, I give it to a crime scene tech. Then what
5 they do is download it to their computer system and make a
6 CD and then they take the CD and give it to criminal
7 investigations unit to where it's logged into a book. And
8 it's transcribed, you know, whenever they can get to -- of
9 course, they have a lot of taped statements whenever they
10 can get to transcribing it. Then the original
11 transcription is given back to me along with the tape. I
12 take the original transcript and take it to records and
13 put it in with the original case file.

14 Q Do you have the original CD with you?

15 A I have a copy of the CD. The CD's and everything is
16 still in evidence. I have a copy of the exact --
17 everything that they gave me.

18 Q Okay.

19 MR. JEPERTINGER: Your Honor, can we put his
20 copy in and then substitute it with the original?

21 BY MR. JEPERTINGER:

22 Q It's down in evidence where all the evidence is?

23 A Yes, sir.

24 Q Do you have that with you?

25 A Yes, sir, it's in my book. I have to get it out for

1 you. This is also statements of all the other statements
2 I got. They put them all in one. Since, it's a copy, so
3 I can listen to them.

4 Q So they put everybody's statement ---

5 A All the other statements are on there, yes, sir.

6 MR. JEPERTINGER: I would have this marked as...

7 THE COURT: State's Exhibit 2 for
8 identification.

9 MR. JEPERTINGER: And I'm going to have this
10 marked for State's Exhibit 3 please.

11 (WHEREUPON, State's Exhibits Nos. 2 and 3 were
12 marked for identification only.)

13 BY MR. JEPERTINGER:

14 Q Can you identify State's Exhibit 3 please?

15 A This will be a transcript of what the audio statement
16 is?

17 Q All right. And you took that statement and you were
18 in the presence of other officers; correct?

19 A Yes, sir, I was.

20 Q Including Officer Clark?

21 A Yes, sir.

22 Q All right. And the defendant spoke to you at that
23 time?

24 A Yes, sir, he did.

25 Q Did he ever say that he was tired, had a knock on the

1 head, didn't understand what was going on, wanted a lawyer
2 any of that business?

3 A At the end of this tape, I asked matter of fact --
4 Mr. Daniels said I told you everything I know. I said,
5 all right that's it. He said, yes, sir. Said, okay,
6 well, you comfortable with me turning off the tape now
7 cause that's all you got to say right. And he said
8 uh-huh. And he agreed it was, okay, to turn off the tape.
9 I turn the tape off at 1614 hours. Now, I did talk to him
10 after that and based on his statement, I talk him after
11 that because I, you know, I believed he was lying. And I
12 confronted him with some of the information he told to me
13 in person and on tape. And he got upset and said that he
14 wasn't lying. And can mention this about... I asked him
15 I said, well, if everybody's lying, then you wouldn't have
16 a problem taking a polygraph test. He said, I'm taking a
17 test.

18 MR. LAWSON: Objection, Your Honor, irrelevant.

19 THE COURT: Sustain to the question, but...

20 MR. JEPERTINGER: Just given context.

21 THE COURT: I understand.

22 BY MR. JEPERTINGER:

23 Q Then what happened?

24 A He said he had to talk to his mother, I believe his
25 father and to his attorney. And as soon as he mentioned

1 the mother, father and attorney, at that point, I ended
2 the interview because I did not want to go beyond him
3 saying attorney, so I ended the interview at that time.

4 Q All right. And then afterwards, did you have an
5 opportunity to speak with Mr. Daniels again?

6 A Yes, sir.

7 Q Tell the Court how that happened please?

8 A After he was taken to the Florence County Detention
9 Center, I was able to obtain warrants. And on, I believe,
10 Wednesday, September the 11th, 2008, Detective Clark,
11 Detective Clark was assisting me just like Detective
12 Graham was assisting me. I was trying to help them learn
13 as an investigator them being new. And I ask Detective
14 Clark to come down to the Florence County detention center
15 and serve the warrant on Mr. Daniels. At that point in
16 time, we went to the library since that was the only room
17 available and set down and Detective Clark read the
18 warrants that I had signed on Mr. Daniels. And after he
19 had read them and, you know, filled out that he had served
20 them on Mr. Daniels, Mr. Daniels insisted that he wanted
21 to talk to me. At that point, I told him I could not talk
22 to him after conversations went two or three times about I
23 can't talk to you, and Mr. Daniels said, I want to talk to
24 you. And I said you've already ask for an attorney, can't
25 talk to you. He insisted. Finally, I said do you want to

1 talk without your attorney? He said, yes. At that point
2 in time, I didn't have a waiver of rights form at that
3 time because I wasn't going to interview him, had no
4 reason to bring a waiver of rights form. But I always
5 carry my card with me, so I pulled out my card again ---

6 Q That would be your Miranda card?

7 A Yes, sir. And I read the Miranda warnings to him
8 again.

9 Q Just like you did here in court?

10 A Yes, sir. At that point in time, he gave -- he
11 started trying to give me an explanation about the
12 arguments that occurred at the cookout between him and the
13 victim. And trying to explain to me some of the things he
14 said in the statement he was trying to make up more
15 information. To me basically, he lied the first time. He
16 realize that I knew they were lies, so he had to tell me
17 some more information. He knew I had witnesses of the
18 arguments that he had with the victim at the cookout. So
19 he had to explain he did have more argument and he did
20 know the victim. He knew the victim prior to the cookout
21 which the day before he didn't know him from a can of
22 paint. So at that point in time, everything he told me I
23 wrote down and I put it in my report. I wasn't able to
24 get a tape or written statement at that time, so I had to
25 write it down.

1 Q But you didn't go back to have him sign anything that
2 this is what we talked about?

3 A No, sir.

4 Q All right. Anything you can add further about this
5 matter?

6 A I mean just that I read him his rights twice the day
7 of the taped statement and once the second statement that
8 wasn't taped or transcribed.

9 Q Now, that second statement that wasn't taped or
10 transcribed down at the jailhouse library, was it Graham
11 or Clark with you or both?

12 A Clark was with me.

13 Q Okay.

14 A Just Clark.

15 MR. JEPERTINGER: Thank you very much. Please
16 answer any questions Mr. Lawson has in terms of this
17 matter.

18 MR. LAWSON: Just one minute.

19 THE COURT: Yes, sir.

20 (WHEREUPON, a pause in the proceedings.)

21 CROSS-EXAMINATION IN-CAMERA

22 BY MR. LAWSON:

23 Q Okay. Officer Compton, understand this you at the
24 first time that you talk with Mr. Daniels, you did not
25 have a warrant for him?

1 A No, I did not.

2 Q But you felt that you had probable cause?

3 A At the time, yes. I was going to get a warrant for

4 his arrest.

5 Q Did you advise him of that?

6 A Advise him of what?

7 Q Of that fact that you were going to get a warrant?

8 A No, sir.

9 Q Now, the first little bit of interview was not on

10 tape, was it?

11 A You mean the questioning before we got to the point

12 where we taped it?

13 Q Yes, sir.

14 A No, sir, it's not on tape. No, sir.

15 Q And that's where he said he did not want to talk

16 about the shooting; correct?

17 A Correct.

18 Q As the officer in training prepared to get the

19 warrant, what was the warrant, what warrant were you going

20 to get?

21 A I was going to get a warrant for murder.

22 Q For the shooting that he was talking about?

23 A Yes, sir.

24 Q So he ask specifically not to talk about that case?

25 A He specifically asked not to talk about the shooting.

1 I didn't talk about the shooting. I talked about the
2 cookout.

3 Q Then why are we going through -- why do you want to
4 get this into evidence if it has nothing to do with the
5 shooting?

6 MR. JEPERTINGER: Your Honor, I don't think he
7 can argue why prosecutor ---

8 THE COURT: Sustained.

9 BY MR. LAWSON:

10 Q So even though you knew that you were talking about
11 investigative matters that went into and directly related
12 to the shooting?

13 A Yes, sir.

14 Q You didn't consider what he said to be a restriction
15 on what he wanted to talk about?

16 A He knew I was there to talk about the shooting and he
17 said he didn't want to talk about it. And we talked about
18 the cookout. He said he be willing to talk about the
19 cookout. Now, I am only speculating, but he knew the
20 reason why we was there and he didn't ask for an attorney
21 at that time, so at that point in time if he didn't want
22 to talk about it he didn't have to answer any questions.

23 Q Now, you know, in relation to how he responded,
24 there's a matter of some interpretation in that; isn't it
25 since it is not recorded?

1 A The interpretation of what he said before I turn the
2 tape on?

3 Q That's correct.

4 A I don't believe so. And the reason why I say that is
5 we went over what he had talked about before I turn the
6 tape on that's exactly what we went over during the tape,
7 so I -- the same thing he told me off tape as he did on
8 the tape.

9 Q Exactly the same thing?

10 A Well, I mean, he may use one or two words differently
11 and I probably did too, but everything that's on the tape
12 is basically what we went over before we turn the tape on.

13 Q And then the second situation, there's no tape at all
14 of that?

15 A Correct.

16 Q And that is, of course, after the arrest?

17 A Yes, sir.

18 Q And he had requested an attorney?

19 A The day before, yes, sir, he did. He said I have to
20 talk to my mother, my father and an attorney and that's
21 when I ended that interview.

22 Q Now, he didn't talk at all about the shooting?

23 A No, he did not.

24 Q And what you say is that you had other witnesses who
25 contradicted what he said at the party?

1 A Yes, sir.

2 Q Okay. So -- and you decided basically to believe
3 these other people?

4 A Well, based on the statements that the people at the
5 cookout gave me, based on phone calls that when the victim
6 was on the phone with Miss Gass, I took all those into
7 consideration. And I believe I had enough to get an
8 arrest warrant for Mr. Daniels. But at the time, I hadn't
9 went to the judge yet to get their approval for the
10 warrant. But as an investigator, I thought I had enough
11 at that time based on the statements and the phone calls
12 and the lies that Mr. Daniels told, I believe, I had
13 enough at that time.

14 Q So the purpose of your wanting to -- that the purpose
15 of this statement as far as you know is to establish
16 investigative inconsistencies?

17 A Yes, sir, find out, you know, if -- as an
18 investigator of 25 years of being on the force, if a
19 person's not going to confess to a crime, then I like for
20 him to tell me his story, his alibi, so it's either going
21 to check out or it's not going to check out. And at that
22 point in time, he gave me information where his
23 whereabouts were the night before and the morning of and
24 it gave me an opportunity to do further investigation
25 either prove or disprove if Mr. Daniels was my suspect or

1 not.

2 Q When you saw ---

3 THE COURT: I'm sorry, Mr. Lawson, while you
4 were conferring, I thought I'd confer as well.

5 MR. LAWSON: No problem.

6 THE COURT: Go head, sir.

7 BY MR. LAWSON:

8 Q Now, when you first saw Mr. Daniels where was he?

9 A When I first saw him, it was in the conference room
10 on the second floor of this complex.

11 Q Had he been taken to Effingham already?

12 A No, sir. I had learn that he was arrested on
13 unrelated charges. And when I heard that, I ask those
14 officers to bring him to the conference room. I'd like to
15 talk to him, so they brought him to the conference room.

16 Q So you learned of that while he's still in the car
17 being charged with the reckless driving and simple
18 possession?

19 A Yes, sir. Matter of fact, I was in the Solicitor's
20 office when I got a phone call.

21 Q Well, were you presently -- did you have people
22 presently looking for Mr. Daniels?

23 A No, sir.

24 Q Then why did they call you when they found him?

25 A A person called me on the phone and said did you hear

1 Greg got arrested? And I said, no. And I asked him what
2 was he arrested for, they told me. I said call them on
3 the radio and tell them if they could bring him to the
4 office. I didn't know if he already been halfway to
5 Effingham or not. I just told him if you can bring him to
6 the conference room, which they did. Now, people in the
7 office knew I was looking at him and you hear on the radio
8 and they heard his name mention on the radio.

9 Q Then did you take him to Effingham?

10 A No, sir, I did not. I'm not sure what the transport
11 officer did, but a transport officer took him to Effingham
12 after the interview was over.

13 MR. LAWSON: I don't have any other questions at
14 this time.

15 THE COURT: Anything further, Mr. Jепertinger?

16 MR. JEPERTINGER: No, sir.

17 THE COURT: Thank you, Mr. Compton. You may
18 step down, sir.

19 (WHEREUPON, the witness leaves the witness
20 stand.)

21 MR. JEPERTINGER: Just briefly, Your Honor, I
22 call George Clark to the stand. This will be short, Your
23 Honor.

24 THE COURT: Please come around.

25 THE CLERK: Please place your left hand on the

1 Bible and raise your right hand. Do you swear the
2 testimony you give in this case be the truth, the whole
3 truth, and nothing but the truth so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Please be seated and state your full
6 name for the record.

7 THE WITNESS: George Malor Clark, Jr.

8 WHEREUPON,

9 George M. Clark,
10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION IN-CAMERA

12 BY MR. JEPERTINGER:

13 Q Keep your voice up, please.

14 A Okay.

15 Q Okay. Where do you work and what's your rank?

16 A I'm a detective with the Florence City Police
17 Department.

18 Q And how long have you been a detective?

19 A Two years.

20 Q All right. Were you a new detective back on
21 September the 10th 2008?

22 A Yes, just a few months.

23 Q Okay. Were you kind of shadowing Officer Compton?

24 A Yes.

25 Q All right. I'm going to show you what's been marked

1 as State's Exhibit 1 for identification at this point.
2 Were you present when this waiver of rights form was read
3 to Gregory Deleon Daniels?

4 A Yes, I was.

5 Q All right. How can you tell?

6 A That's my signature on the line down there.

7 Q And were you present during that whole statement?

8 A Yes, I was.

9 Q All right. Were you present -- I will show you both
10 State's Exhibit 2 and State's Exhibit 3 for
11 identification, State's Exhibit 3 being the transcript.
12 Were you present when the statement was given that was
13 recorded?

14 A Yes.

15 Q All right. And were you present at the jailhouse, I
16 believe, was it on September the 11th, a Wednesday?

17 A Yes, I was.

18 Q Did you serve the warrants on him or did Officer
19 Graham serve them?

20 A I serve those warrants.

21 Q All right. And when you serve those warrants what
22 was Mr. Timmons excuse me -- Mr. Daniels response to
23 Mr. Compton about wanting to talk to him?

24 A Well, after I read -- as soon as we got in there, he
25 said he wanted to talk. But then -- we said we couldn't

1 really talk to him because he had requested a lawyer, so I
2 read him his warrants and stuff. And then he said he
3 wanted to talk again. He kept reiterating he wanted to
4 talk, so Sergeant Compton read him his Miranda card and
5 still said you wish to talk to us without a lawyer? He
6 said, yes.

7 Q All right. And at that point, he spoke to him;
8 correct?

9 A Yes, mostly Mr. Daniels did most of the speaking.

10 Q All right. And was there anything that I'm not going
11 to talk to you any more or you going to have to talk to us
12 and we want you to talk and all that sort of business.
13 Did you say any of those things to him?

14 A No.

15 Q All right. Likewise, did he ever on any of these
16 times that he gave a statement to you, did he ever say I
17 wanted a lawyer, don't feel well? I been arrested, I took
18 a lick on the head anything to exempt to you that he
19 didn't know what he was doing when he gave these
20 statements?

21 A No, he did not.

22 Q All right.

23 MR. JEPERTINGER: That's all I have, thank you.
24 Please answer any questions that Mr. Lawson may have.

25 THE COURT: Mr. Lawson.

1 MR. LAWSON: May it please the Court.

2 CROSS-EXAMINATION IN-CAMERA

3 BY MR. LAWSON:

4 Q How many other officers were there?

5 A Where is that, sir?

6 Q At the point -- did you say you served the warrants?

7 A Yes, sir.

8 Q How many people were present?

9 A Myself, Sergeant Compton, and Mr. Daniels.

10 Q Okay. What about Mr. Graham?

11 A He was not there.

12 Q What about the day before, were you there the day
13 before?

14 A Up in the conference room, sir?

15 Q Yes.

16 A Yes.

17 Q Was Graham there that day too?

18 A Yes.

19 Q Anybody else there?

20 A I believe several narcotics officers that made the
21 arrest on Mr. Daniels for the unrelated charges were
22 sitting there also.

23 Q So are you talking about maybe five police officers.

24 A Possibly, yes. I can refer back here I believe it's
25 all -- it was myself, Detective Graham, and agents

1 Narcotics Agents Bob Nyda and Bob Drulis.

2 Q And Officer Compton as well?

3 A Yes.

4 Q I was right there was five?

5 A Yes.

6 Q Drulis and Nyda are large, am I correct? They big
7 people?

8 A Big in stature?

9 Q Yeah.

10 A Yes.

11 MR. LAWSON: I don't have any other questions.

12 THE COURT: Anything further, Mr. Jepertinger?

13 MR. JEPERTINGER: Just real quick.

14 REDIRECT EXAMINATION IN-CAMERA

15 BY MR. JEPERTINGER:

16 Q I think Kendrick Spears was there as well?

17 A I was just reading that Kendrick Spears was there
18 also, that was on a different line.

19 Q Okay. I believe you got a phone call during this
20 interview; didn't you?

21 A Yes, I did.

22 Q And you took that call?

23 A Yes, you can hear me in the background on the tape?

24 Q Did you stay in the room while that conversation was
25 going or did you leave the room at all?

1 A I stayed in the room.

2 Q All right. So you were still aware of what was going
3 on in the room; correct?

4 A Yes, sir, I made it short.

5 MR. JEPERTINGER: Thank you very much. Please
6 answer any questions...

7 THE COURT: Anything further, Mr. Lawson?

8 MR. LAWSON: No, Your Honor.

9 THE COURT: Thank you, sir. You may step down.

10 (WHEREUPON, the witness leaves the witness
11 stand.)

12 MR. JEPERTINGER: Your Honor, that's the only
13 witnesses I have in terms of this issue, Your Honor.

14 THE COURT: All right.

15 Mr. Lawson, be happy to hear from you.

16 MR. LAWSON: I have no witnesses to introduce,
17 Your Honor.

18 THE COURT: All right. You want to -- wish to
19 make any statement before I rule regarding the
20 voluntariness of the statement?

21 MR. LAWSON: Well, Your Honor, I think that I
22 have additional grounds reason that I would move to
23 suppress this statement other than voluntariness. And I
24 understand from the testimony and basically I've been
25 doing this a long time on what the ruling in relation to

1 the voluntariness would be and but I do have other grounds
2 of objection to introducing this statement.

3 THE COURT: Sure. Did you want to take it up at
4 this time?

5 MR. LAWSON: No, I can take them up later, Your
6 Honor.

7 THE COURT: All right. Well, with regards to at
8 least the purposes of this hearing on whether or not the
9 statement was given voluntarily after having been read his
10 Miranda warnings and advised of his right to counsel, it
11 appears that all was done and done properly and so with
12 regards to that issue, I would not find any issue
13 regarding the admissibility based on that issue. However,
14 we will certainly take up any further issues as they
15 arise.

16 Now, it's almost 1:30 and this is just for
17 everybody's general knowledge. I'm going to recess until
18 three to give court personnel an opportunity to go get
19 lunch and everything and then I'm available this
20 afternoon. I understand Judge Anderson wasn't feeling
21 well this morning and so he's not downstairs. So,
22 Solicitor or Mr. Lawson, if there's anything I can do for
23 y'all this afternoon, we're going to start back at three,
24 so just let me know. Okay.

25

1 (WHEREUPON, the proceedings were concluded for
2 the day to be reconvened on April 13, 2010.)

3 THE COURT: Yes, sir.

4 MR. JEPERTINGER: Your Honor, before we start,
5 the defense and I stipulated to this aerial photograph
6 will be in evidence State's Exhibit 4.

7 THE COURT: All right. So State's 4 is in by
8 agreement.

9 (WHEREUPON, State's Exhibit Number 4 admitted
10 into evidence.)

11 MR. JEPERTINGER: Your Honor, as well, I have
12 the original CD that was in State's Exhibit 2 from
13 evidence and I was wondering if we could just switch them
14 out?

15 THE COURT: Mr. Lawson, when we had that -- of
16 course, at this point, it's still by identification only.
17 But when we had that hearing yesterday regarding the
18 statement, they didn't have the original CD.

19 MR. LAWSON: That's correct.

20 THE COURT: So he is substituting the original
21 for that copy and it is still at this point for
22 identification purposes only?

23 MR. LAWSON: And as I understood it, the copy
24 had a bunch of different stuff on it. This will only have
25 the one thing on it.

1 MR. JEPERTINGER: Well, I was going to bring
2 that up. The original that they had, they had everybody's
3 statement on there. But I had Keith Godbolt from my
4 office just parse Mr. Daniels statement ---

5 THE COURT: Carve that out, so there's not a
6 bunch of statements on there.

7 MR. JEPERTINGER: So if we could put that in
8 maybe as State's Exhibit 5 for identification. Do you
9 have any problem? Cause that's just his statement because
10 ---

11 THE COURT: Let's back up though.

12 MR. LAWSON: Why not just substitute it ---

13 THE COURT: Why not just substitute just the one
14 statement you are talking about?

15 MR. JEPERTINGER: Okay, that will be fine.

16 THE COURT: That will be better so that we don't
17 end up having statements on there that don't belong back
18 there.

19 MR. JEPERTINGER: So that be okay with
20 everybody?

21 THE COURT: Yeah.

22 MR. LAWSON: That's what I thought we were
23 doing.

24 THE COURT: That's just the statement we talked
25 about yesterday; correct?

1 MR. JEPERTINGER: That would be Gregory Daniels
2 statement to the police.

3 MR. LAWSON: It is just for identification at
4 this point.

5 THE COURT: Yeah. Anything else we need to take
6 up before we bring the jury out?

7 MR. LAWSON: I need to -- my client told me
8 something this morning, I need to check something real
9 briefly.

10 THE COURT: All right, that's fine.

11 (WHEREUPON, a pause in the proceedings.)

12 MR. LAWSON: Your Honor, may we approach?

13 THE COURT: Yes.

14 (WHEREUPON, a bench conference was held.)

15 MR. LAWSON: May it please the Court.

16 THE COURT: Yes, sir.

17 MR. LAWSON: Your Honor, what the concern is
18 clearly simply that that this be a fair trial, fair and
19 impartial. And some rumors got back to my client that
20 certain comments were made from the bench. And based on
21 that, and I have address with the Court, we just want
22 that, Your Honor, know that that's what had been told him.
23 He was not present, obviously. He was in the holding cell
24 and was not privy to any of these comments, but it's what
25 all of them came back saying. And whether they were

1 trying to stir up a hornet's nest or whether they were
2 trying to tell the truth is unknown. I have talked with
3 my client and the only thing that he's concern with is
4 that this be a fair trial and I assured him that, Your
5 Honor, holds the same belief.

6 THE COURT: Absolutely. Let me just say for the
7 record, if I am not mistaken please correct me if I am
8 wrong, apparently some of the inmates that were up here
9 yesterday afternoon when we were doing pleas had passed on
10 to your client something along the lines that the Court --
11 and I'm assuming when they say the Court, they meant me,
12 had made some comment to one of the court personnel
13 regarding -- if I understand the communication correctly,
14 it was I didn't understand why Mr. Daniels was going to
15 trial because a jury would find him guilty or something of
16 that nature and ---

17 MR. LAWSON: Yes.

18 THE COURT: And as I told you, Mr. Lawson, when
19 you brought that to my attention, that's a complete lie, a
20 complete fabrication. And in all honesty, I couldn't make
21 a comment like that if I wanted to because I don't know
22 what the facts are of this case. Y'all announce to me
23 yesterday and to the court and to the jury assembly in
24 general that this was a case that involved the victim
25 getting shot, that's the only thing I know about the case.

1 I don't know any of the evidence, I don't know any of the
2 facts concerning this case. No disrespect to Mr. Daniels,
3 but I've never heard of Mr. Daniels until yesterday. I
4 don't know the victim at all. And I have had no
5 conversation with any court personnel about this case at
6 all. So again, and I don't know where that information
7 came from. I know you said it came from one of the
8 inmates, but I can assure you as well as Mr. Daniels that
9 this court has never made a comment about the facts of
10 this case because in all honesty, I don't know the facts
11 of this case. I guess, I'll find out when the jury finds
12 out as the case develops.

13 MR. LAWSON: Your Honor, and that's fine. I
14 mean, I would have been concern also hearing that coming
15 back.

16 THE COURT: I would have felt the same way.

17 MR. LAWSON: Your Honor, I would as a
18 preliminary matter, I would move to sequester the
19 witnesses. This is a fact driven case, a witness driven
20 case. The evidence, physical evidence is lacking if
21 non-exist. The testimonial evidence will be basically the
22 fabric of the case and I would ask that the witnesses be
23 sequestered.

24 THE COURT: All right. Mr. Jepertinger, do you
25 take a contrary position to that for any reason?

1 MR. JEPERTINGER: Yes, sir. I think most of the
2 witnesses will be able to discuss, Your Honor, what
3 happened at a party. There are no witnesses per se that
4 observed the crime, but for one witness that heard a
5 gunshot and saw someone walk off from the scene, Your
6 Honor. Other than that, most of the witnesses will be at
7 a party. We do have Mr. Hanks here, who's a record
8 keeper, Your Honor, for AT&T, Your Honor, that's from
9 North Carolina, Your Honor, that type situation. We do
10 have crime scene techs and an investigative officer and
11 that would be pretty much it, Your Honor.

12 THE COURT: Mr. Lawson, is your motion mainly
13 concern with fact witnesses?

14 MR. LAWSON: Yes, sir, Your Honor, and ---

15 THE COURT: As well as investigators?

16 MR. LAWSON: I don't mind the investigators, I
17 know that the ---

18 THE COURT: But the fact witnesses?

19 MR. LAWSON: Yes.

20 THE COURT: The lay witnesses.

21 MR. LAWSON: Lay witnesses.

22 THE COURT: All right. Mr. Jepertinger, I am
23 going to ask if you would arrange for the lay witnesses to
24 have a place to go and we will sequester the lay
25 witnesses.

1 MR. JEPERTINGER: The record keeper can stay
2 here, Your Honor?

3 THE COURT: Sure, yeah. All right. Is there
4 anything else we need to take up before we bring the jury
5 out in -- open the case with opening statements? Anything
6 from the State?

7 MR. JEPERTINGER: No, sir.

8 THE COURT: Anything from the defense?

9 MR. LAWSON: No, Your Honor.

10 THE COURT: All right. Ms. Joe, if you would
11 ask the jury to join us please.

12 (WHEREUPON, the jury came into open court.)

13 THE COURT: All right. Ladies and gentlemen,
14 good morning. I hope everyone had a good nights rest and
15 ready to go to work today. We are about to begin the
16 trial of this case. I am going to ask you if you would to
17 please give Mrs. Bethea your attention as she places you
18 under oath for your role as jurors in this case.

19 (WHEREUPON, the jury panel is sworn.)

20 THE COURT: Ladies and gentlemen, we are about
21 to try the case of The State vs. Gregory Deleon Daniels.
22 Before we begin this trial, I want to tell you that more
23 than likely this trial is going to be very different from
24 what you may have experienced in the past, most people
25 have not had the opportunity that you're going to have

1 this week to sit in on an actual jury trial. Most
2 people's experience or exposure to jury trials are what
3 they've seen in the movies, read in books or what they've
4 seen on television. And, of course, those trials are full
5 of high drama, intense action, riveting circumstances
6 because those -- that's Hollywood that's not real. This
7 trial, ladies and gentlemen, while any one of or all of
8 those things may not be present, what you need to
9 understand is this trial is not for your entertainment.
10 This trial is a fundamental part of our democracy. It is
11 a search for the truth in an effort to make sure that
12 justice is done between the parties who are before the
13 Court. In searching for the truth, that process often
14 times is slow, deliberate, sometimes repetitive. In other
15 words, very much the opposite of what you see in
16 Hollywood. This courtroom, ladies and gentlemen, is a
17 place of honor that is dedicated to the protection and the
18 preservation of citizens rights through what many have
19 called the greatest justice system ever created.

20 The attorneys who appear before you are
21 advocates for the parties that they represent. But first
22 and foremost, they are officers of the court sworn to
23 uphold the integrity and the fairness of our judicial
24 system. You should expect them to be professional,
25 competent and ethical in the representation of their

1 clients' interest. Remember that you have just taken an
2 oath to try this case and to reach a fair and a just
3 verdict. So you are also expected to be professional,
4 reasonable and ethical in the performance of your duties
5 which I have absolutely no doubt that you will do. And I
6 want to take this opportunity again to thank you for your
7 participation in our system of justice here in Florence
8 County.

9 What I'm going to tell you now, ladies and
10 gentlemen, is intended to serve as an introduction to the
11 trial of this case. These remarks are not a charge on the
12 law. I will in fact charge you on the law at the close of
13 all the evidence before you retire to consider your
14 verdict. These comments that I am going to make to you
15 now are simply an explanation of the procedures that we
16 are going to follow, so that you may better understand
17 what is going on during the course of the trial.

18 Now, the defendant in this case, Mr. Gregory
19 Deleon Daniels, is charged by an indictment that was filed
20 with this court and he is charged with the crime of murder
21 and possession of a weapon during the commission of a
22 violent crime. The elements of those crimes of those
23 charges will be explain to you later when I charge you on
24 the law.

25 The indictment, ladies and gentlemen, as I told

1 you yesterday is simply the charge by which the case is
2 brought into court and it is not in any sense evidence of
3 any of the allegations which it contains. The defendant
4 has pled not guilty to this indictment. And the State
5 therefore has the burden of proving each element of the
6 indictment beyond a reasonable doubt. It will be your
7 duty, ladies and gentlemen, to decide whether or not the
8 State has met that burden.

9 Your purpose as jurors is to find and to
10 determine what the true facts are in this case. You are
11 the sole judges of the facts. If at any time I make any
12 comment regarding the facts, you must disregard those
13 comments. You are to determine the facts from the
14 testimony that you hear and any other evidence that may be
15 introduced during the process of the trial. It is up to
16 you to determine what inferences that you feel may
17 properly be drawn from that evidence. It is especially
18 important that you perform your duty of determining the
19 facts diligently and conscientiously because ordinarily
20 there is no way to correct an erroneous determination of
21 facts by a jury.

22 Now, on the other hand but with equal emphasis,
23 the same law that makes you the judges of the facts makes
24 me the judge of the law. The law is given to you by the
25 Court is the only law that you may follow. You must

1 accept it and follow it even though you may disagree with
2 it. I am not allowed to tell you, ladies and gentlemen,
3 what I think about the facts in this case. And you as
4 well are not allowed to disagree with me about what the
5 law is or what you think the law should be. Your job is
6 to take the law as I give it to you and apply it to the
7 facts as you find the facts to be from the testimony of
8 witnesses and any other exhibits which come into this
9 court. And after doing that, you will render your verdict
10 a true and a just verdict under the solemn oath that
11 you've taken earlier as jurors in this case.

12 Now, until I advise you to begin your
13 deliberations, you are not to have any discussion at all
14 with anybody about this case. As a matter of fact and you
15 may find this a little odd because most people think that
16 juries when they go into the jury room, they're suppose to
17 deliberate and talk about the case. And you are suppose
18 to do that at the end of the trial once you've heard from
19 the attorneys and I've charged you on the law, that's when
20 it's appropriate to deliberate. But as the trial is in
21 its progress as we go through the trial, there may be
22 times that I send you back into the jury room. And during
23 those times, you are not allowed to talk about the case
24 even amongst yourselves. There's to be no discussion
25 about the case until it is proper.

1 admissible at all or not. But once testimony is admitted
2 whether or not you believe it is solely up for you to
3 decide. In deciding whether to believe a witness, you
4 have the right to consider the interest of a witness, the
5 bias of any witness, the opportunity for the witness to
6 have seen the matters, and the things about which that
7 witness testifies, the way a witness acts on the witness
8 stand.

9 Ladies and gentlemen, you have the right to
10 consider anything that is in this record that will help
11 you to evaluate the testimony of witnesses. That means
12 that it is your duty to pay close attention to the
13 witnesses, to observe the witnesses, listen carefully to
14 the witnesses, pay close attention to the attorneys and to
15 the Court. Please do not let your thoughts wonder, but
16 give strict attention to all of the testimony, strict
17 attention to the attorneys as they address you, as well as
18 to the Court when I charge you on the law, so that at the
19 end of this trial when all is said and done, you will then
20 be able to retire to your jury room to deliberate, discuss
21 and reach a verdict in this case. Now, I am going to
22 recognize the attorney for the State, Mr. Jepertinger, in
23 just a moment to address you with his opening remarks.
24 But before I do that, let me ask the State are there any
25 objections or exceptions to the Court's opening remarks?

1 MR. JEPERTINGER: No, sir.

2 THE COURT: Any objections or exceptions from
3 the defense?

4 MR. LAWSON: No, Your Honor.

5 THE COURT: Thank you, sir.

6 All right, ladies and gentlemen, please give the
7 attorneys your undivided attention as they address you
8 with their opening remarks.

9 Mr. Jepertinger.

10 MR. JEPERTINGER: Thank you, Your Honor, please
11 the Court, counsel. Ladies and gentleman of the jury, as
12 I was home last night contemplating what I was going to
13 say to you, I was struggling a bit because what do you say
14 when a young man by the name of Corey Byrd is shot in the
15 head and killed. Then I begin thinking what do you tell a
16 jury when another young man, Gregory Daniels, is
17 responsible for that killing. This all started back on
18 September the 4th 2008. You are going to hear from
19 witnesses in this case that there was a party going on at
20 this house, it is on the corner of Liberty Street and
21 Fraser Street in North Florence. The party started noon
22 time maybe afterwards in the afternoon of September the
23 4th 2008. Several people were there, several people will
24 testify that Gregory Daniels began picking a fight with
25 Corey Byrd. You will also hear that there were other

1 people at that party that also got involved in fights. In
2 fact, two other individuals pulled guns on each other.
3 Later, you will hear in that evening everybody left that
4 area and eventually Corey Byrd, the victim in this case,
5 was at that house early morning hours of September the
6 5th, which is a Friday morning. He was going to catch a
7 ride with a gentleman by the name of Ryan Evans and
8 Gabriel Petterson. He about to get into Evans' Tahoe when
9 he forgot his phone charger and he said I got to go back
10 in the house and the other two left him there. He got his
11 charger, talk to the host of the party, and everyone that
12 was there still. Then he left. And he began walking and
13 at approximately 5:07 while he was on the phone with the
14 host of that party from Liberty Street, their conversation
15 ceased. Corey Byrd was shot dead.

16 His girlfriend, Tiesha, expected him to meet her
17 and walked up to the corner of Dargan and Marlboro Street,
18 that's over here and she was wondering where Corey Byrd
19 was. She was suppose to meet him. She turned around and
20 what she perceived as garbage bags lying there by the side
21 of the road wasn't garbage bags, it was the lifeless body
22 of Corey Byrd who been shot with a .22 in his head. Corey
23 Byrd is the victim. Tiesha will tell you that she heard
24 a gunshot. Tiesha will tell you that she saw someone in
25 dark clothing walk away from that scene down Marlboro

1 Street. She couldn't identify the person. But she could
2 identify the clothing, that was a black male in dark
3 clothing.

4 You will hear her story as she called Corey's
5 cell phone and saw the light flash on the phone under the
6 lifeless body of Corey Byrd. You will hear how Brittany
7 Fludd came and turned the body over and, Oh, Lord, it's
8 their friend, Corey Byrd.

9 Now, in this case, I wish we had this, but the
10 police came in, their crime scene guys, Investigator Myers
11 come in and worked that crime scene, trying to recover and
12 retrieve whatever evidence he could to link someone to the
13 murder of Corey Byrd. They swabbed for DNA. You will
14 hear from the people no DNA match on anything. That's
15 relevant in this case. There wasn't be any DNA link is
16 going to link Gregory Daniels to anything, it is not
17 there. There were no latent fingerprints to be found.
18 The only fingerprints they did find in this case would
19 have been Corey Byrd. You will hear about how they
20 retrieved gunshot residue from the palms of Corey Byrd,
21 but there is no physical evidence linking Gregory Daniels
22 to this crime, no eyewitnesses. So you might be thinking
23 to yourself, why are we here then, Mr. Prosecutor? Why
24 are we here? This case is based on a couple of things.
25 When the investigator began investigating who killed Corey

1 Byrd, someone had to. He went back to that party and
2 began asking who's there, what happened and he got a name.
3 A guy that was trying to fight Corey Byrd that day was
4 Gregory Daniels. You will hear from the investigator how
5 he brought Gregory Daniels in and Gregory Daniels said I
6 didn't know ---

7 MR. LAWSON: Objection, Your Honor, may we
8 approach?

9 THE COURT: All right.

10 (WHEREUPON, a bench conference was held in the
11 presence of the jury, but out of the hearing of the
12 jury.)

13 THE COURT: Sustain the objection.

14 MR. JEPERTINGER: You will hear from the
15 witnesses in terms of what the investigator did. And when
16 you begin looking at every fact dealing with Gregory
17 Daniels, you will see that he tried to cover up something
18 he did not need to cover up. You will hear from Nyrena
19 Goodman in this case, Daniels' girlfriend at the time.
20 How he got her to try to cover up this crime. But the
21 only belief that the State didn't have any witnesses
22 against him and he needed her to cover up in this. You
23 will hear from several witnesses that have no ax to grind
24 with this individual whether they be law enforcement,
25 whether they be phone records. When those records come

1 in, you will begin to ask questions how does this add up
2 with someone that is not guilty. Because let me tell you
3 and the only way I could bring this case to have some
4 semblance of sense is this fact, this case is almost like
5 UV rays. We don't see UV rays. We don't feel UV rays,
6 but you can tell when you been out in the sun as those UV
7 rays burn and tan. They are there, you just need to look
8 for them. In this very sense, Gregory Daniels is
9 responsible, he is responsible for the killing of Corey
10 Byrd.

11 Now, in each every case, the judge will tell you
12 at the end of trial, at the end of trial, he will tell you
13 that State is required to prove guilt beyond a reasonable
14 doubt as to every element of the crime. In this case, the
15 crime is murder, obviously, we know what that is. It's
16 killing of one human being of another human being with
17 malice aforethought. And he will define those terms for
18 you. He is also charge with possession of a weapon during
19 the commission of a violent crime. The judge will tell
20 you that murder is a violent crime in the State of South
21 Carolina. And he had a weapon when he did it. Beyond a
22 reasonable doubt that doubt which causes a reasonable
23 person to hesitate to act. When you hear all the facts
24 and circumstances and I ask you to pay very close and
25 careful attention to all that is said, all that is

1 presented. And in this case, you will come to only one
2 conclusion that that gentleman is responsible for the
3 murder of Corey Byrd. Thank you.

4 THE COURT: Thank you, Mr. Jepertinger.
5 Mr. Lawson.

6 MR. LAWSON: May it please the Court.

7 THE COURT: Yes, sir.

8 MR. LAWSON: Mr. Jepertinger. Ladies and
9 gentlemen of the jury, I want to take this opportunity
10 initially to thank, to thank you for being willing to take
11 your time and share of your time and your energy. I know
12 that there probably a thousand things that you would be
13 doing than serving on jury duty, but I assure you that
14 there is no more important thing that you can do than be
15 here to serve on jury duty. It's because of citizens like
16 you that are willing to give of their time and their
17 experiences and that come in and sit and listen and be the
18 judges of the facts of a case that we have the best
19 criminal justice system in the world.

20 Our forefathers decided a long time ago that in
21 order for a citizen of these United States in this State
22 of South Carolina before a citizen could be found guilty
23 on charges proffered by the government, that a panel of
24 good people from the community would be called together
25 and that that panel of individuals would sit in judgment

1 of the evidence that the government accumulates in any one
2 case against the citizens. And that only when and if that
3 panel of people decide that the government has proven
4 their case beyond a reasonable doubt, then and in that
5 event can citizens be deprived of his Liberty in these
6 United States. It is only when the jury after judging the
7 facts is convinced by the evidence beyond a reasonable
8 doubt that a citizen is guilty of the crime with which he
9 is accused only then can a citizen be found guilty. The
10 government has to bring to you evidence to prove guilt.

11 Now, all the things that the prosecutor went
12 through in his opening is interesting and I want to make
13 sure that you listen very closely to the evidence that
14 will be presented, listen very closely to the testimony
15 that's given because you will be called on to judge not
16 only the evidence, but the credibility of the evidence
17 that's presented. In other words, believability is
18 somebody believable or their story believable, is this
19 consistent with that or inconsistent with this and
20 inconsistent with that. For that, you use your good
21 common sense. Your good common sense. And that's what I ask
22 you to bring and keep with you as you sit in this case is
23 keep your good common sense, that sense of justice and
24 fairness, that you operate with on a daily basis as you
25 judge things in your day-to-day activities. The judge

1 will charge you at the end of the case with the law. It
2 is your duty to then take that law and apply it to the
3 facts that you will hear in this case.

4 Now, what you have is a situation where an
5 individual gets shot. He gets shot shortly after a party.
6 It is assume therefore that the party instigated the
7 shooting. I don't know how that conclusion was reached.
8 Maybe, we will find out as we go through this trial. But
9 I submit that there are a number of days that transpired
10 prior to this get together, the party that could have
11 cause the fatality that occurred on September the 5th in
12 the early morning hours or it may well be that it all
13 relates back to that one single event of the party the
14 night before. So there was apparently another party also
15 on that same day, that Mr. Byrd also went to is
16 information that maybe produced in the case. So there's a
17 lot of things to watch and lot of reasons at the
18 conclusion of this case that you're going to have to doubt
19 and you need only one. You need only one as to any
20 incident or any element that the crime of murder has to be
21 proven by each and every element being proven beyond a
22 reasonable doubt.

23 In other words, the State and the government
24 must bring forth evidence to prove guilt to every single
25 element of the crimes charge in this case murder and

1 possession of a firearm during a crime of violence.

2 Now, both of these cases, the Court will go over
3 with you during your charge the elements of these
4 offenses. And in each and every case, the elements must
5 be proven by the evidence beyond a reasonable doubt. So
6 on any one element of any one crime if there is a
7 reasonable doubt, then the defendant is entitled to a
8 verdict of not guilty. I believe that at the conclusion
9 of this case when you look at the evidence and you weigh
10 it and balance it, that there will be an abundance of
11 doubt. And I believe that it will be your duty as you
12 swore your oath to find Gregory Deleon Daniels not guilty.

13 If on the other hand, you feel that the State
14 has brought forth evidence that convinces you beyond every
15 reasonable doubt and that Gregory is guilty in this case,
16 then it is your duty in that case to find him guilty. I
17 believe, however that as this case progresses that as each
18 and every instance begins to come to light that you will
19 agree with me that there are any number of reasons to
20 doubt as to who did this crime and specifically as it
21 relates to Gregory.

22 So I ask you to please pay close attention,
23 listen to what you hear, look for physical evidence that
24 whatever was produced, how it was produced, things that
25 may have been done or could have been done, look at all

1 these things. And at the conclusion of this case when we
2 get back up, then I will come to you with a closing
3 statement as well as the State and the judge will give you
4 a charge and then it will be your case to decide and judge
5 the evidence as it has been presented to you. I just ask
6 you for a good, fair and reasonable determination, listen
7 closely and pay attention. Thank you.

8 THE COURT: Thank you, Mr. Lawson.

9 MR. JEPERTINGER: Mr. Deberry will call the
10 first witness.

11 THE COURT: All right. Mr. Deberry, you may
12 call your first witness.

13 MR. DEBERRY: Tiesha Brown.

14 MR. JEPERTINGER: They're all in my conference
15 room, Judge.

16 THE COURT: All right.

17 (WHEREUPON, a pause in the proceedings.)

18 THE CLERK: If you will go to the witness stand
19 and place your left hand on the Bible and raise your right
20 hand to be sworn. Do you swear the testimony you give in
21 this case will be the truth, the whole truth, and nothing
22 but the truth so help you God?

23 THE WITNESS: Yes, ma'am.

24 THE CLERK: State your name for the record.

25 THE WITNESS: Tiesha Brown.

1 THE COURT: One moment, Mr. Deberry.

2 (WHEREUPON, a pause in the proceedings.)

3 THE COURT: All right, sir, you may begin.

4 MR. DEBERRY: Thank you.

5 WHEREUPON,

6 Tiesha Brown,

7 after first having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. DEBERRY:

10 Q Okay. Tiesha, thank you for being here today, we
11 really appreciate it. Can you just please start off by
12 telling the jury your relationship with the victim in this
13 case Corey Byrd around the month of September and maybe
14 before then of 2008?

15 A I met Corey Byrd ~~at the beginning~~ of 2008. We
16 started off as friends and then we ~~start talking~~ and then
17 we just decided that we wanted to be friends.

18 Q And so you and Corey Byrd were just friends?

19 A Uh-huh.

20 Q About how often did you -- about when did you meet
21 Corey Byrd?

22 A April -- March, April around about that time.

23 Q Okay. So about how long did you know him before this
24 incident happen where he lost his life?

25 A Four or five months.

1 Q Four or five months. All right. Did y'all -- how
2 often during that period of time would y'all communicate
3 or talk?

4 A We talked a lot. I would come to his family, he'll
5 come to my family. We talked a lot.

6 Q Okay. So y'all saw each other and spoke quite
7 often?

8 A Yeah.

9 Q Did you have a telephone at that time?

10 A Yes, sir.

11 Q And did y'all speak on the telephone very often?

12 A Yes, we did.

13 Q Okay. Can you remember what his telephone number was
14 at that time?

15 A Yes, it was [REDACTED]

16 Q [REDACTED]

17 A Correct.

18 Q All right. Do you recall the incident that took
19 place and what you know about it surrounding the events of
20 September the 4th and the early morning of September the
21 5th?

22 A Want me to tell what happened?

23 Q Yeah, at this time, you can just explain to the jury,
24 you know, what happened.

25 A Okay. Corey Byrd called me around 11:30, 12 o'clock

1 and ask me did I want to come to his cousin's, I guess,
2 cookout. And I said, yeah, but I didn't want to come
3 alone, so I took my friend Brittany with me.

4 Q Okay. Can I just stop you? Can you explain a little
5 bit more about you said 11:30, 12 o'clock, is that ---

6 A At night.

7 Q At night?

8 A Yeah.

9 Q Is it right around midnight of the fourth and the
10 fifth?

11 A Yeah.

12 Q Okay. And that's the first time y'all saw him that
13 day?

14 A Yeah.

15 Q All right. Explain what happened?

16 A He meet us -- I didn't know how to get to the
17 cookout, so when we was on the phone, he gave us
18 directions. And he met us on the corner of Fraser and
19 Roughfolk Street. And then the cookout was the next
20 corner down, then we had walk to the cookout.

21 Q Okay. At that time, where were you living?

22 A On Marlboro Street.

23 Q On Marlboro Street. And who were you living with?

24 A Brittany and her family.

25 MR. DEBERRY: So may I approach, Your Honor?

1 THE COURT: Yes, sir.

2 BY MR. DEBERRY:

3 Q Can you please ---

4 MR. DEBERRY: Your Honor, can we get in front of
5 the jury?

6 THE COURT: Sure, absolutely.

7 Ma'am, I just need to ask you though when you
8 step away from the witness stand, Miss Reed is taking down
9 everything that is being said, so please speak very
10 loudly. And if you would, I'm going to get you to stand
11 on that side of Mr. Deberry so that you're facing
12 Miss Reed, okay.

13 BY MR. DEBERRY:

14 Q All right. Can you -- what street is this?

15 A Marlboro Street.

16 COURT REPORTER: You got to speak up.

17 MR. LAWSON: Your Honor, I'm going to object to
18 him -- if she can identify it, let her identify the
19 picture and the areas on the picture instead of him'
20 pointing them out to her before she even ---

21 THE COURT: All right. Mr. Deberry, let the
22 witness find the areas and, ma'am, you need to speak
23 louder, please.

24 BY MR. DEBERRY:

25 Q Can you tell us where you were living with Brittany

1 Fludd?

2 A Yes, I was staying right here.

3 Q Okay. All right. What street is that?

4 A Marlboro Street.

5 Q Okay. And where was the cookout?

6 A The cookout was right here.

7 Q All right. What's the street corner there?

8 A Fraser and Liberty.

9 Q Okay. Can you point where they can see?

10 A Right here.

11 Q Fraser and Liberty?

12 A Yes.

13 Q And point again to where your house was?

14 A Right here.

15 Q Okay. And that's on ---

16 A Marlboro street.

17 Q Okay. Now, when you traveled from Brittany Fludd's
18 to the cookout, how did y'all get there?

19 A We walk.

20 Q Okay. And approximately, how long of a walk is that?

21 A Fifteen to 20 minutes to get to the cookout.

22 Q Okay. So you can walk across here in 15 to 20
23 minutes?

24 A Yes, sir.

25 Q Okay. Now, explain to the jury -- how long did y'all

1 stay at the cookout?

2 A We stayed from 12 midnight to around four.

3 Q Four in morning?

4 A Four in the morning.

5 Q Okay. And what happened then?

6 A At the cookout?

7 Q I mean, when you left.

8 A We left -- Corey Byrd had left with Shavonne cause

9 they sent somebody to the store for cigarettes. So

10 Brittany had to go to school the next morning and she said

11 she was out too late, so she wanted to go home. So I was

12 calling his phone and he wasn't answering his phone.

13 Q Okay, hold on just a minute. Explain to the jury who

14 Shavonne is?

15 A Shavonne is -- it's her house that the cookout was

16 at.

17 Q All right. Where was the cookout?

18 A Right here.

19 Q On Liberty and ---

20 A Fraser Street.

21 Q Okay. So four o'clock you said y'all left?

22 A Yeah, around 3:30, four o'clock that we started

23 walking back home.

24 Q Okay. And so about what time do you think y'all walk

25 back to Brittany's house?

1 A Yeah, on Marlboro Street, yeah.

2 Q Okay. And about how long do you think that it took
3 you to walk back?

4 A Fifteen, 20 minutes.

5 Q Okay. So when is the next time you talk to Corey
6 Byrd?

7 A After I got home, he call my phone ask why did I
8 leave the cookout and I told him because Brittany had to
9 go to school the next morning. And he ask me did I want
10 to come back and I said, yeah. And then he said he would
11 meet me walking.

12 MR. LAWSON: Your Honor, I am going to object to
13 the hearsay. I mean, she's talking about a conversation
14 on the phone and giving us both sides of it, I don't think
15 that that's appropriate.

16 THE COURT: She talking about the conversation
17 between herself and the victim.

18 MR. LAWSON: Corey Byrd saying what he was
19 telling her.

20 THE COURT: All right. Just -- you can't say
21 what someone else told you, ma'am, you can just testify as
22 about what you have seen and what you know.

23 MR. DEBERRY: Your Honor, I would offer that
24 we're not offering this for the truth of the matter
25 asserted just to support the events that took place that

1 night and offer what the truth of the matter of
2 conversation ---

3 THE COURT: Is the conversation about the
4 directions on how to get there?

5 MR. DEBERRY: Your Honor, just sets up a
6 timeline.

7 THE COURT: All right. I'll allow it, get to
8 the time frame.

9 MR. DEBERRY: Okay. Thank you.

10 BY MR. DEBERRY:

11 Q So you testified he told you that he was going to
12 meet you?

13 A Yeah.

14 Q About what time was that?

15 A Around 4:15 something like that.

16 Q Okay. And did he say how he was going to get there?

17 A He said he was going to walk.

18 MR. LAWSON: Objection again, Your Honor, I mean
19 that's what I'm objecting to.

20 THE COURT: Sustained. It's not relevant.

21 MR. DEBERRY: All right.

22 BY MR. DEBERRY:

23 Q Tell the ladies and gentlemen of the jury, Tiesha,
24 when you were expecting Corey Byrd and what happened?

25 A I was expecting him -- I can't say what he say, but

1 he was suppose to meet me at the corner in like five
2 minutes.

3 Q What corner is that?

4 A Marlboro and Dargan.

5 Q Okay. And do you know if he got delayed you said
6 five minutes?

7 A Yeah, I heard a car in the background, but he
8 didn't -- I wait five minutes on the porch to see if I saw
9 any car because I thought he was in the car and I didn't
10 see a car. And then I waited ten more minutes after that
11 and then I heard a gunshot and then I went in the house.

12 Q All right. Let me ask you just one question real
13 quick, do you know why he was delayed?

14 A He said he forgot his charger. I don't know why.

15 Q All right. And at that time where was he?

16 A On Liberty Street at Shavonne house.

17 Q And so it took him approximately how long before you
18 heard the gunshot?

19 A Like 15, 20 minutes after I hung up the phone with
20 him.

21 Q All right. And where were you when you heard the
22 gunshots?

23 A I was at my house sitting on the porch.

24 Q Okay. At Brittany Fludd and her parent's house?

25 A Sitting on the porch.

1 Q All right. And what did you do when you heard a
2 gunshot?

3 A At first, I walked in the house ask did they hear it
4 and they said, no. So I walked to the edge of the road on
5 Marlboro Street by the mailbox and look down the road.
6 And I seen somebody in all black, dark clothing and I yell
7 why you playing with a gun because it's North Florence
8 people shoot guns all the time. I ask why you playing
9 with a gun and by the time I blink, the person
10 disappeared.

11 Q Okay. Show the jury exactly where you are and where
12 you saw the person in all black?

13 A The house right here.

14 Q That's your house?

15 A Yeah. I walk to the mailbox and I see somebody in
16 dark clothing.

17 Q Where were they?

18 A They was right here.

19 Q All right. What's the street corner?

20 A Dargan and Marlboro.

21 Q Dargan and Marlboro.

22 A And I was right here. And when I came to the fence,
23 I seen somebody in dark clothing as I was walking -- cause
24 we suppose to go to the store too. After we met, we was
25 going to go to the Tiger Mart.

1 Q Okay.

2 A So I started walking towards Dargan Street where I
3 seen the person and...

4 Q All right. And is there any problem or you're able
5 to see from this house ---

6 A If you get in the middle of the road, you can see all
7 the way down. You can see -- if you get in the middle of
8 the road, you can see all the way down to Commander you
9 can see. I can see all the way down here.

10 Q Okay. And where is Commander?

11 A Commander Street right here. If you stand in the
12 middle of the road, you can see all of this.

13 Q Okay. So when you're standing in the middle of the
14 road and you saw a person in dark clothing?

15 A Dark clothing.

16 Q Which way did he walk?

17 A They came off of Dargan and turn right on Marlboro.

18 Q Came off of Dargan and turn right on Marlboro and
19 then what did you see?

20 A They disappeared.

21 Q Just one person?

22 A Yeah.

23 Q All right. And he was walking?

24 A Yeah.

25 Q Okay. Now, tell the jury what you did next?

1 A I started walking down here. I didn't pass -- and
2 when I got to Dargan, I didn't pay attention -- to pay
3 attention. I got to this house right here. When I got to
4 this yard right here, I turn around and look and look like
5 it was some trash. It was kind of dark, it look like
6 trash bag was on the ground.

7 Q And where was that?

8 A Right.

9 Q What street is that?

10 A Dargan.

11 Q Okay. How far from the corner of Dargan and Marlboro
12 was that where you thought you saw the trash bag?

13 A I don't know how far.

14 Q Can you just point in the courtroom how far it would
15 have been?

16 A If I was right here probably to that door, to that
17 door.

18 Q Maybe further, maybe shorter?

19 A Maybe further.

20 Q And that's where -- okay. So you saw that and what
21 did you do?

22 A Something told me to walk towards it cause it didn't
23 look right, so I walk towards it and I seen somebody lying
24 on the ground. And I didn't know it was Corey Byrd right
25 then and there. All I seen was white shoes and dark

1 clothing like blue Jeans and black shirt because...

2 Q All right. Go ahead and sit down. So when you
3 realize it was a body, what did you do?

4 A I didn't know if they were alive or not, so I took my
5 feet and budge their feet and say are you all right, are
6 you all right. And they didn't say anything. So then I
7 started towards, back towards the house because I was
8 scared and then I seen a truck coming up.

9 Q All right. So you went back toward Brittany's house?

10 A Yeah, correct.

11 Q Did you call anybody?

12 A I called -- after I seen the truck and the truck
13 stopped and looked at the body and then kept going, I call
14 Brittany first. I called Brittany and I said Brittany,
15 I'm scared, can you come down here, somebody laying on the
16 ground and the clothes they got on, I think it Corey Byrd.
17 So Brittany ran out the house in a long shirt, nothing but
18 a shirt on. She ran out the house and then we started
19 towards the body together.

20 Q Okay, let me stop you. When you call Brittany and
21 she came, I mean, how long did that take just how long?

22 A Five minutes, she ran, not even five minutes.

23 Q All right. Just a short period of time?

24 A Yeah.

25 Q She came from the house just like you did?

1 A Yeah.

2 Q And where did y'all meet?

3 A We meet right in front of the house. It's a house on

4 Marlboro Street. It's a house on the corner of Dargan.

5 We meet right in the front of that house.

6 Q Okay, just a short distance from the body?

7 A From the body.

8 Q Okay. Now, tell the jury about the truck you saw?

9 What kind of truck was it?

10 A It was an SUV I don't know what type or what model

11 and it was green.

12 Q Okay. And when you first saw the body, you said you

13 saw trash bags. Did you see the truck?

14 A I seen the truck come, it was like driving on the

15 wrong side of the road. After I start to walk away, I

16 seen the truck driving.

17 Q So you had already been to the body, nudge the foot

18 and had you called Brittany yet?

19 A No, I call Brittany after the truck left me.

20 Q Okay. But the truck ---

21 A Pull up.

22 Q Which direction did the truck come from?

23 A This way it was.

24 Q Came down Dargan?

25 A Down Dargan.

1 Q Okay. And to the body?

2 A Yeah, it stopped at the body and just looked and
3 drove away.

4 Q Did they ever get out?

5 A I'm not sure.

6 Q Okay. But you saw the truck come down the road.
7 Now, did you talk with somebody in the truck?

8 A Yeah.

9 Q All right. What did they say?

10 A They didn't see me when they seen the body. After
11 they was getting ready to turn the corner, that when they
12 seen me and they stop and they was like what you doing
13 here, like, Spoke, what you doing here, did you see
14 anything. And I was like no, no. I was scared too, they
15 was like you call the police. I was like, no, I'm about
16 to now.

17 Q And then what happened?

18 A They speed away.

19 Q They drove off.

20 A Yeah.

21 Q Okay.

22 A And then I called Brittany. When I call Brittany, I
23 was scared and she ran down the street and met me. And we
24 walk to the body -- well, we walk to the body together.
25 And I didn't want to think it was him, so I was calling

1 his phone. And the closer we got to the body, I could see
2 a cell phone blinking on the ground.

3 Q So the body was laying on the ground and you were
4 calling Corey Byrd?

5 A Yeah.

6 Q And the phone was laying there beside him ---

7 A Blinking.

8 Q --- started lighting up?

9 A Yeah.

10 Q All right. At that point, what did you think?

11 A I started crying, panicking because we knew it was
12 him at that point. Brittany turn him over.

13 Q Okay. So y'all are standing just over the body at
14 that point?

15 A Yeah, and Brittany turned it over to make sure it was
16 really him.

17 Q Okay. And it was him?

18 A And then I -- his phone was ringing at the same time
19 I was trying to call his sister cause I didn't know what
20 to do. I had call his sister first. And I said, Erica,
21 Corey Byrd dead and she hung up in my face and said no,
22 no. And then she called back, but I couldn't talk to her.
23 Brittany had talk to her because I was crying and I
24 couldn't talk to her. And then Corey Byrd phone rang and
25 Brittany thought it was his mom, but I recognize the voice

1 and it was Shavonne from the party. And I told her to
2 hang it up and put his phone back where it been. I told
3 her to hang it up.

4 Q You told that to who?

5 A Brittany.

6 Q Okay.

7 A And then after -- after Brittany got off the phone
8 with his sister, I call the police and then they came.

9 Q All right. Take the police a long time to get there?

10 A Not really.

11 Q Okay. All right. Had you seen the truck anywhere
12 around the corner of Marlboro and Dargan any time before
13 you heard a gunshot and saw the body?

14 A No, I -- we seen it afterwards.

15 Q Okay.

16 A After I call the police, then after his family got to
17 the crime scene, me and his sister -- his sister ask me to
18 take her where the cookout was at. So I got in her car
19 and we drove back on Liberty Street. The whole time I
20 been at the party from midnight to three, like 3:30 I
21 didn't see the green truck. But the green truck was there
22 once me and his sister pulled up.

23 Q Y'all pulled up ---

24 A We pulled up on Liberty Street where the cookout took
25 place.

1 Q After the ---

2 A After the murder.

3 Q After the murder?

4 A Yeah.

5 Q Okay. But when you heard the gunshot and when you
6 walked up and saw the body during -- that's the first time
7 you saw the green truck?

8 A Yeah.

9 Q Okay. All right. And you saw a person walk away in
10 dark clothing right after the gunshot?

11 A Yes, right after the gunshot, yes.

12 Q Okay. All right.

13 MR. DEBERRY: Excuse me for just a minute.

14 (WHEREUPON, a pause in the proceedings.)

15 MR. DEBERRY: Thank you, Tiesha, please answer
16 any questions Mr. Lawson may have.

17 THE COURT: Mr. Lawson, cross?

18 MR. LAWSON: May we approach the bench one
19 moment.

20 THE COURT: Yes.

21 (WHEREUPON, a bench conference was held in the
22 presence of the jury, but out of the hearing of the
23 jury.)

24 MR. JEPERTINGER: Judge, could we take a five
25 minute break?

1 THE COURT: All right.

2 Ladies and gentlemen, while we check on this
3 matter, let me ask you if you would to step back into your
4 jury room. Please have no conversation about the case.
5 Should have some drinks and snacks back there if you need
6 anything, let me know. Again, I tell you what I'm going
7 to get you to do me a favor while you're back there. I am
8 going to give you a task. While you are back there, of
9 course, you are not to talk about the case, but I am going
10 to ask you to discuss amongst yourselves and to elect a
11 foreperson for the jury. And let me tell you the role of
12 the foreperson, so you'll have some idea on what you're
13 electing here. The foreperson of a jury is simply the
14 contact person between the jury panel and the Court.
15 They're the liaison between the panel and the Court, so
16 that if as a jury panel if you have any questions about
17 anything, then the foreperson would write the question out
18 on a piece of paper, send it out to me and then depending
19 on what the question is, I would either bring the
20 foreperson out and answer that question or I may bring the
21 entire panel out to respond to that question, okay. So
22 that's one role for the foreperson that is to be the
23 person that communicates between the jury panel and the
24 Court.

25 The other function of the foreperson is once you

1 retire to your jury room for your deliberations, obviously
2 there's a whole group of you to deliberate and anytime you
3 have a group of people, you need one person to basically
4 say, okay, let's go ahead and begin our deliberations. I
5 will tell you that everybody must be present during
6 deliberations, so that if any time a person needs to be
7 excused say for the restroom or something, then the
8 foreperson would say, okay, let's stop talking about the
9 case and let's wait until that person comes back. Then
10 when that person comes back, the foreperson would start
11 the deliberations again, okay.

12 Also, the foreperson would have the verdict form
13 and whatever your verdict is, whatever your decision is in
14 this case, the foreperson would then mark the form on the
15 appropriate blank and sign it as the foreperson. So
16 that's kind of the role of the foreperson. I will tell
17 you this now your decision in this case must be unanimous,
18 everyone must agree on the verdict. So because of that,
19 the foreperson's vote carries no more weight than anyone
20 else's.

21 In other words, when you are back there
22 deliberating, you are all equal. No one person's
23 viewpoint or no one person's vote carries any more weight
24 than the other one. You're all equal. So again, the
25 foreperson's role is simply to communicate with the Court.

1 and to start and stop the deliberations when they need to
2 be start and stopped, okay. So while you are back there,
3 decide amongst yourselves who you like to elect as the
4 foreperson of the jury and then whoever that person is if
5 you would just write your name on a piece of paper and
6 pass it out to me so that I'll have that, okay. And then
7 you return, the two alternates both will sit in the seat
8 you are in. The foreperson will occupy this first chair
9 and then the rest of you can sit wherever you have happen
10 to end up. There's no assign seating accept for the two
11 alternates and the foreperson. So having ask you to do
12 that, I'm going to get you to retire to your jury room,
13 elect a foreperson, but have no conversation about the
14 case. Thank you.

15 (WHEREUPON, the jury retire to the jury room.)

16 THE COURT: We will be at ease for a few minutes
17 here.

18 (WHEREUPON, a break was taken.)

19 THE COURT: Just for your information, juror
20 number 128 Nicole Sheeder is forelady of the jury, just
21 got that information.

22 Are we ready to resume, Mr. Lawson?

23 MR. LAWSON: Yes, Your Honor.

24 THE COURT: All right. Ms. Joe, ask the jury to
25 join us please.

1 (WHEREUPON, the jury came into open court.)

2 THE COURT: All right. Ms. Sheeder; is that
3 right?

4 FORELADY: Yes.

5 THE COURT: Thank you very much, ma'am, for
6 serving as the forelady of the jury. You have either my
7 congratulations or condolences however you want to take
8 it. No, I really appreciate your willingness to serve in
9 that capacity.

10 Ladies and gentlemen, if you recall, the State
11 had rested from direct examination.

12 I would recognize Mr. Lawson for the defense.

13 MR. LAWSON: May it please the Court.

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. LAWSON:

17 Q Ms. Brown, I believe you testified that you were
18 living with the Fludd's; is that correct? And how long
19 had you been living with that family?

20 A Like from '06.

21 Q Okay. For a number of years?

22 A Uh-huh.

23 Q And did Brittany Fludd have a brother that you were
24 dating; is that correct?

25 A Correct.

1 Q Okay. And when did Brittany's father find out that
2 you were seeing Mr. Corey Byrd?

3 A I don't really ---

4 MR. DEBERRY: Objection, Your Honor, I think
5 that's irrelevant.

6 MR. LAWSON: Your Honor, it's my understanding
7 that there was a threat to Mr. Corey Byrd from that
8 individual.

9 MR. DEBERRY: Objection, Your Honor, all this is
10 not ---

11 THE COURT: Come here.

12 (WHEREUPON, a bench conference was held in the
13 presence of the jury, but out of the hearing of the
14 jury.)

15 MR. LAWSON:

16 Q Now, as I understand it, you had been there for a
17 number of years?

18 A Correct.

19 Q And then you had testified on direct that you started
20 seeing Mr. Corey Byrd when?

21 A We were friends in April.

22 Q Okay. Did you start dating at some point after that?

23 A We tried, but we just decided to be friends.

24 Q Okay. And would you meet at the house there?

25 A No, not at the house. He was friends with everybody

1 at the house.

2 Q Okay. You would not meet with him there?

3 A Yeah, he would come over there, but he was friends
4 with everybody at the house. He wasn't just at the house
5 to see me. He knew Brittany. He knew Brittany mom,
6 Brittany sister. He knew everybody at the house.

7 Q Okay. Did you -- did he come by that house on this
8 particular day?

9 A No.

10 Q You left that house?

11 A Uh-huh.

12 Q And was that prearrange between the two of you that
13 you would go meet him somewhere?

14 A We had talk the night he died.

15 Q And when did you decide to do that?

16 A I don't understand your question. Can you repeat it?

17 Q You had said you were going to meet at the corner of
18 Marlboro and Dargan?

19 A Yeah.

20 Q How did you decide that?

21 A Over the phone. I was getting to that before you had
22 objected. I was telling the story, but you didn't want to
23 hear it.

24 Q Okay. You had talked over the telephone?

25 A Yeah, that what I was saying earlier, but you

1 objected. You didn't want to hear that part.

2 Q Okay. And then so you went -- what time was that?

3 A That we was on the phone?

4 Q Yeah.

5 A Around 4:15 something like that, I'm not sure around

6 4:15 a.m. I'm not sure. It was around four something

7 4:15, 4:30.

8 Q All right. Had you already left the cookout?

9 A Uh-huh.

10 Q Okay. Earlier, you testified I think you left the

11 cookout at what time?

12 A Around 3:30.

13 Q Around 3:30.

14 A Four o'clock.

15 Q So you were already at home when you received a phone

16 call?

17 A (Nodded head).

18 Q And then you were on the front porch when you got

19 that phone call?

20 A No, I was in the house when he said -- when he ask me

21 was I coming back to the party, I was in the house.

22 Q Okay. And that was what time?

23 A We left the party around 3:30, four o'clock. I say

24 4:15.

25 Q And the question at that point was were you coming

1 back to the party?

2 A Yeah.

3 Q All right. And so how long after that was it before
4 you made arrangements to meet?

5 A I started to meet him at the -- I started to go back
6 to the party. You didn't let me tell this part. But he
7 told me to turn around cause he was going to get a ride
8 and probably five minutes after that, he said he was on
9 his way.

10 Q Okay. So still before five o'clock. And when did
11 you go out on the porch?

12 A Around -- I don't really remember what time, around
13 four, 4:30 something like that. I was waiting on him.

14 Q Well, how long were you on the porch before anything
15 happened?

16 A Probably 15 minutes. I was on the porch for five
17 minutes and then ten minutes went by -- about 15 minutes
18 and then I heard a gunshot.

19 Q Okay. And what you saying is that you think you went
20 out on the porch about 4:30?

21 A Yeah.

22 Q So you were there about ten minutes and you heard a
23 gunshot?

24 A Yeah.

25 Q All right. And so that would have been about 20

1 minutes to five, quarter to five?

2 A No, it would have been -- we left the party around
3 3:30, four o'clock. We talk around 4:15. I went on the
4 porch probably around 4:20, 4:30 something like that.

5 Q All right. And you were on the porch for about ---

6 A For 15 minutes.

7 Q Ten or 15 minutes. And then you heard a gunshot?

8 A Yes.

9 Q And I believe you said on direct that it wasn't
10 unusual to hear gunshots?

11 A It wasn't.

12 Q And how many gunshots did you hear?

13 A Just one.

14 Q Okay. And you didn't call the police at that point
15 about a gunshot?

16 A No, I didn't.

17 Q You ask if anybody else heard a gunshot, nobody else
18 heard it?

19 A No.

20 Q How long did it take to walk from that house which if
21 you could one more time on State's Exhibit Number 4 show
22 me the house where you staying?

23 A Right here.

24 Q Okay. It is right here?

25 A Uh-huh.

1 Q And it's the corner...

2 A It's not the corner of Marlboro, but it's by the
3 corner of Marlboro.

4 Q All right. Is there a house between ---

5 A Yes.

6 Q Actually on the corner?

7 A Uh-huh. And we were the next house.

8 Q Okay. And that's a block and some -- a block and a
9 quarter from the intersection of Dargan and...

10 A Marlboro, yeah.

11 Q Marlboro, is it not?

12 A Yeah.

13 Q You see where is that?

14 A No, our house right here I think.

15 Q Okay.

16 A And Marlboro and Dargan right here.

17 Q Okay. So from here to here?

18 A Is the block.

19 Q And the -- and when you went out and you saw somebody
20 walking, where was that person walking in relation to
21 these two spots?

22 A They was coming off of Dargan Street like and turning
23 on Marlboro. And then I started walking towards the
24 person and I said, why you playing with a gun, why you
25 shooting in the air. I said something and by the time I

1 blink, they disappeared.

2 Q Okay. Did you ever see that individual facing you?

3 A No.

4 Q Okay. And so the first time you saw him was at least
5 a block away?

6 A Yeah.

7 Q And let me ask you, was it daylight or dark?

8 A It was dark.

9 Q It's pretty dark around five o'clock in the morning?

10 A Uh-huh.

11 Q All right. And so that person just disappeared?

12 A Yeah.

13 Q And had on -- did you say what this dark clothes is
14 that I mean like ---

15 A It could have been black. They could have had on all
16 black.

17 Q Could have been blue jeans?

18 A It was dark clothing. I believe, it was black I'm
19 not sure.

20 Q Okay. That's why I said could it have been -- cause
21 you said something about blue jeans in your direct. Could
22 it have been blue jeans?

23 A It probably was black. Well, it could have been
24 blue. It could have. I thought Corey Byrd was a trash
25 bag.

1 Q And you were standing where when you turned the
2 corner you were standing?

3 A I was standing at the right road.

4 Q All right. When did you first see the body laying?

5 A Where was I standing when I first seen the body?

6 Q Yeah.

7 A Right here.

8 Q So you went on up Marlboro Street?

9 A Yeah.

10 Q And you saw it back through here cause the body was
11 over here?

12 A I turn it over here.

13 Q And you thought it was a trash bag?

14 A Yes.

15 Q And so did you walk that way then?

16 A Yeah.

17 Q You came down Dargan Street?

18 A Uh-huh.

19 Q Did you stop right there?

20 A Yeah, I came to the feet, to his feet. I stopped at
21 his feet.

22 Q Okay. And you didn't recognize anything as being
23 particular?

24 A I seen the shoes. At the party, I remember him
25 having on some white shoes. And the color didn't look

1 like him, but I didn't want to touch him, or nothing, so I
2 had call Brittany.

3 Q What about this person that was walking down there,
4 do you remember what color shoes they had?

5 A No, it was dark.

6 Q You just couldn't see?

7 A I could see them.

8 Q Yeah.

9 A But they had on dark clothes, shoes and all. I seen
10 Corey Byrd white shoes. If they had had on white shoes, I
11 would have seen their white shoes too. They had on some
12 dark clothes.

13 Q You think so?

14 A I know I seen they had on dark clothes.

15 Q But I mean as far as the shoes, you don't know
16 whether they possibly could have been blocked from seeing
17 the shoes. You were a block away; correct?

18 A I'd known if -- white will show in the dark. If it's
19 dark, you will see something light. They had on dark
20 clothing.

21 Q Or light; correct? Now, how long were you at the
22 cookout?

23 A From midnight to about 3:30.

24 Q Okay. Do you know what time the cookout started?

25 A No, I don't know.

1 Q Okay. And so you were there for about three hours?
2 A Correct.
3 Q And who did you go to the cookout with?
4 A Brittany and -- who I was there with, Corey. He
5 invited me.
6 Q And who did you go with?
7 A Brittany.
8 Q Okay. The two of y'all went together?
9 A Together.
10 Q And how did y'all get there, you walked there?
11 A Yes, sir.
12 Q And where was -- is that on this map also? The party
13 where the party was?
14 A Yes, it's the party was right here.
15 Q Liberty?
16 A And Fraser..
17 Q And then you live over here?
18 A Uh-huh.
19 Q And y'all walk back; correct?
20 A Uh-huh.
21 Q You said it took about 15 or 20 minutes?
22 A Yes, sir.
23 Q And now how long did you date Brittany's brother?
24 MR. DEBERRY: Objection, Your Honor, that's
25 irrelevant.

1 THE COURT: Overruled. I will allow it.

2 A Three, four years.

3 Q Okay. And were y'all still dating in April of '08?

4 A No.

5 Q When did you quit dating?

6 A I am not sure beginning of '08 -- '07. At end of '07
7 beginning of '08.

8 Q You continued to live there at the house?

9 A Yes, I mean no disrespect, but what does this have to
10 do with it, if you don't mind me asking?

11 THE COURT: Ma'am, you just answer questions,
12 okay.

13 A Yeah, I continued living there.

14 Q And did you at some point receive a threat in
15 relation to that relationship?

16 A No, the threat that I received had nothing to do with
17 Corey Byrd at all.

18 Q Okay.

19 A Mr. Fludd, their father -- it had nothing to do with
20 Corey. We use to get into it all the time. We had
21 disagreements. We use to get into it.

22 Q So there were disagreements with Brittany's father?

23 A Yeah.

24 Q And he live there at the house?

25 A Uh-uh.

1 Q He didn't live there?

2 A Uh-uh.

3 MR. LAWSON: I don't have any further questions.

4 THE COURT: Anything on redirect?

5 REDIRECT EXAMINATION

6 BY MR. DEBERRY:

7 Q Miss Brown, do you call the police every time you
8 hear a gunshot in North Florence?

9 A Not every time, no, sir.

10 Q Okay. Would you think it would be normal events that
11 took place and your time frame of calling the police?

12 A Would it be normal?

13 Q I mean, you went and saw the body. Were you upset?

14 A Yes.

15 Q Okay. And then you called the police?

16 A Yes.

17 Q Okay. Do you ever remember testifying when I was
18 asking you questions earlier about blue jeans?

19 A I say Corey Byrd had on blue jeans.

20 Q But the person you saw walking away from that scene
21 what did you see him wearing?

22 A It was dark clothing, it was dark clothing.

23 Q If you took off from the front steps of the Fludd's
24 house and walk to the corner of Marlboro and Dargan where
25 the body was found and you were just walking in a normal

1 pace, how long will it take you to get there?

2 A A normal pace from the corner to -- four or three
3 minutes, five at the most.

4 Q I mean, it's just one block?

5 A Yeah, not even five minutes if you walking.

6 Q Is it about as long as the hallway?

7 A Yeah.

8 Q When you come out of the elevator?

9 A From the elevator to here?

10 Q Well, it's just one block.

11 A Yeah, it's about that long.

12 Q You can walk across North Florence from the Fludd's
13 house to the party in about 15 minutes.

14 A- Fifteen minutes, yeah.

15 MR. DEBERRY: Thank you very much.

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

18 (WHEREUPON, the witness leaves the witness
19 stand.)

20 MR. DEBERRY: Your Honor, we call Brittany
21 Fludd.

22 THE COURT: All right.

23 MR. JEPERTINGER: Your Honor, you have any
24 problem with Miss Brown staying here?

25 THE COURT: Mr. Lawson, any objection to Miss

1 Brown remaining in the court since she's concluded her
2 testimony?

3 MR. LAWSON: No, Your Honor.

4 THE COURT: All right, that's not a problem.

5 THE CLERK: If you'll stand up for just a second
6 and place your left hand on the Bible and raise your right
7 hand. Do you swear the testimony you give in this case to
8 be the truth, the whole truth, and nothing but the truth
9 so help you God?

10 THE WITNESS: Yes, ma'am.

11 THE CLERK: Please be seated and state your full
12 name for the record.

13 THE WITNESS: Brittany Fludd.

14 WHEREUPON,

15 Brittany Fludd,

16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. DEBERRY:

19 Q Miss Fludd, I appreciate you being here today. Just
20 ask that you speak up so the jury can hear what you have
21 to say. Again, thank you for being here. This case
22 involves the murder of Corey Byrd back on September the
23 5th of 2008. And we need you to explain to the jury, you
24 know, that day the day before what you and Miss Brown may
25 have done together and how these events unfolded and just

1 explain it to them as clearly as you can.

2 MR. LAWSON: Objection, Your Honor, leading,
3 assume there's a question somewhere.

4 THE COURT: Non-leading questions.

5 BY MR. DEBERRY:

6 Q On September 4th, did you go anywhere with
7 Miss Brown?

8 A Yes, sir.

9 Q Okay. And about what time did you go?

10 A I know it was around about 11 going on 12.

11 Q At night?

12 A Yes, sir.

13 Q Okay. Speak up. This is a map of North Florence.
14 Did you -- this is Lucas Street and Marlboro. Could you
15 tell the jury where you were living at that time?

16 A Right here.

17 Q Okay. And what street is that?

18 A Marlboro.

19 Q Okay. And what's the next intersection up? What
20 street is that?

21 A This Stackley Street.

22 Q Okay. And where did you and Miss Brown go together
23 that night around midnight?

24 A To a party on Liberty Street.

25 Q Could you show the jury where that would be?

- 1 A Right here.
- 2 Q Okay. What street corner is that?
- 3 A Liberty and Fraser.
- 4 Q Okay. Why did y'all go to that party that night?
- 5 A Corey Byrd ask us to go with him.
- 6 Q Corey Byrd?
- 7 A Yes, sir.
- 8 Q Okay. And so how did y'all get there?
- 9 A We walked.
- 10 Q Okay. And to walk from your house over to Liberty to
- 11 where the party was, about how long if you just walking
- 12 normally trying to walk somewhere about how long would
- 13 that take?
- 14 A Five or ten minutes.
- 15 Q About ten minutes?
- 16 A Yes, sir.
- 17 Q Okay, to walk across from the neighborhood?
- 18 A Yes, sir.
- 19 Q Okay. And how long did y'all stay at the party when
- 20 y'all arrived first or when y'all got there?
- 21 A About four hours.
- 22 Q Okay. So it was around three or four o'clock in the
- 23 morning y'all decided to leave?
- 24 A Yes, sir.
- 25 Q Where did y'all go?

- 1 A Back to my house.
- 2 Q Okay. And how did you get back to your house?
- 3 A We walk.
- 4 Q Okay. So y'all walked home?
- 5 A Yes, sir.
- 6 Q All right. Why did y'all leave?
- 7 A Because Ms. Gass and her friends were throwing knives
- 8 and I had to go to school that day.
- 9 Q Okay. So that was a Thursday night coming on a
- 10 Friday morning?
- 11 A Yes, sir.
- 12 Q All right. And when you got back home, what did you
- 13 do?
- 14 A Nothing but lay down on the chair.
- 15 Q Okay. And so who walk with y'all from the cookout
- 16 back to your house?
- 17 A Corey he didn't walk us all the way, he walk us half
- 18 way.
- 19 Q So who was it?
- 20 A Mr. Corey Byrd.
- 21 Q Who walk with you from the cookout back to your
- 22 house?
- 23 A Oh, Tiesha.
- 24 Q Just the two of you?
- 25 A He walked us half way.

1 Q Corey Byrd walked you half way?

2 A Yes, sir.

3 Q And do you know what he did when he left y'all?

4 A No, sir.

5 Q Okay. And y'all -- what did y'all do?

6 A Went home and I change into my night clothes.

7 Q And you testified you went to sleep?

8 A No, I ain't went to sleep.

9 Q Okay. What did you do when you got home?

10 A Lay down on the chair with my friend.

11 Q All right. And tell -- just tell us what you know

12 about what happened next?

13 A Talking about the party?

14 Q No, I'm talking about after the party when y'all got

15 home, did you get a phone call from Miss Brown?

16 A Yes, sir.

17 Q Okay. And what she tell you?

18 A That she seen a body laying on the ground.

19 Q Okay. What was her state of mind? I mean, was she

20 upset?

21 A Yeah, she was shaky and she was scared.

22 Q Did she ask you to do anything?

23 A No.

24 Q Well, did you do anything?

25 A Yes.

- 1 Q All right. Well, tell the jury what you did?
- 2 A I went up to the body and turn it over and it was
- 3 Corey Byrd.
- 4 Q So where were you when you got the phone call?
- 5 A I was at home.
- 6 Q You were at home?
- 7 A Yes, sir.
- 8 Q And what did you do?
- 9 A When I got the phone call?
- 10 Q Yeah.
- 11 A I ran down the street where she was at.
- 12 Q How long do you think it took you to get down there
- 13 to where Tiesha was?
- 14 A About three to four minutes.
- 15 Q Okay. And that was coming out of the house and
- 16 running down there?
- 17 A Yes, sir.
- 18 Q And where was she when you first met her after she
- 19 called you and told you?
- 20 A She was right here.
- 21 Q Okay. And what's this street corner?
- 22 A That's Dargan and Marlboro.
- 23 Q Okay. She was at Dargan and Marlboro?
- 24 A Yes, sir.
- 25 Q When you got there, could you see the body?

1 A Yes, sir, I look straight at it.

2 Q When y'all were standing on that corner about how far
3 would the body be? I mean, in this courtroom, if you
4 could just say about from here to where?

5 A If I'm right here, it should be to that desk right
6 there.

7 Q Okay. So what did you do -- and tell -- show the
8 jury just where the body of Mr. Byrd was?

9 A Okay, that's the white house right there. It was in
10 between right there in the middle of the house.

11 Q Okay. And was he in the yard or was he in the road?

12 A No, his -- like half his body was laying on the grass
13 and his bottom area was in the road.

14 Q Okay. And when y'all -- and what happened when you
15 met Tiesha at the corner, what did y'all do?

16 A Nothing, I turn the body over and told her it was him
17 and that's when she start calling his sister.

18 Q All right. You turn the body over?

19 A Yes, sir.

20 Q Did you realize who it was?

21 A Yes, sir.

22 Q Okay. Did Tiesha -- do you know if she called his
23 phone number at that time?

24 A She was calling it, it was lighting up when I turn
25 his body over.

1 Q His phone that was laying beside him?

2 A Yes.

3 Q And that's when y'all realized who it was?

4 A Yes, sir.

5 Q Okay. And what did y'all do at that point?

6 A Called his sister and then she called 9-1-1.

7 Q Okay. Is that all you saw that night?

8 A Yes, sir.

9 Q Okay. Miss Fludd, you got a charge or conviction for

10 a simple assault and battery?

11 A Uh-huh, yes, sir.

12 Q Okay. When was that?

13 A I want to say around 2007, I think.

14 Q Did it have anything to do with this incident at all?

15 A No, sir.

16 Q It was just a fight.

17 A Yes, sir.

18 Q Okay. You have any reason not to tell the truth here

19 today? You telling the truth here today?

20 A Yes, sir.

21 Q Okay.

22 MR. DEBERRY: Thank you very much and just

23 answer any questions Mr. Lawson has.

24 MR. LAWSON: Bear with me one moment.

25 (WHEREUPON, a pause in the proceedings.)

1 MR. LAWSON: May it please the Court.

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. LAWSON:

5 Q Okay. Miss Fludd, are you, okay? Not something I
6 said I hope.

7 (WHEREUPON, the witness is crying.)

8 THE COURT: You haven't said anything.

9 MR. LAWSON: I know.

10 BY MR. LAWSON:

11 Q You ready?

12 A Yes, sir.

13 Q Now, this a long time ago we talking about September
14 of 2008; correct?

15 A Yes, sir.

16 Q Almost two years ago?

17 A Yes, sir.

18 Q Did -- as things were happening that day especially
19 the day before on say September the 4th, you didn't know
20 anything was going to happen, did you?

21 A No, sir.

22 Q So you weren't taking notes or keeping any particular
23 track of anything, were you?

24 A No, sir.

25 Q Okay. And then after things -- how did you find out

1 that there was a party on September the 4th?

2 A Corey Byrd call Tiesha phone and told -- ask us did
3 we want to go.

4 Q Well, did he call you?

5 A No.

6 Q Okay. He called somebody else?

7 A Yes, sir.

8 Q And then she told you that?

9 A Yes, sir.

10 Q So you don't know that he called? You're just
11 assuming that based on somebody telling you that?

12 A Yes, sir.

13 Q You didn't receive a phone call?

14 A No, sir.

15 Q All right. And so you spent some three hours at the
16 party?

17 A Yes, sir.

18 Q Correct?

19 A Yes, sir.

20 Q You were there from -- around 12 o'clock until
21 approximately three o'clock in the morning; is that
22 correct?

23 A Yes, sir.

24 Q Okay. And do you know exactly what time it was that
25 you got there?

- 1 A No, sir.
- 2 Q Do you know exactly time you left?
- 3 A By me looking on the computer, I was almost home
4 about three.
- 5 Q You were home by three?
- 6 A Yes.
- 7 Q And so -- and I think you said it took probably ten
8 minutes to walk it, five or ten minutes?
- 9 A Yes, sir.
- 10 Q So that would mean you check your computer when you
11 got home?
- 12 A No, I was on the computer when I was at the party.
- 13 Q When you were at the party?
- 14 A Yes, sir.
- 15 Q Well, did you take a laptop with you or was there
16 just one there?
- 17 A One was there.
- 18 Q And when was the last time you checked what time was
19 it?
- 20 A Three.
- 21 Q And how long did you stay after that?
- 22 A No, I just left because I had school.
- 23 Q That's when you left?
- 24 A Yes.
- 25 Q So within a couple of minutes after three you had

1 left?

2 A Yes, sir.

3 Q All right. Now, show the jury one more time where
4 that party was?

5 A Here.

6 Q Okay. And how did you get back home from there? How
7 did y'all walk? What way did you walk?

8 A Way up here and the pub somewhere up in here. We
9 went through -- I think that's the church and we came up
10 by the church on Commander and we come up on my house
11 right here.

12 Q All right. And which street is this?

13 A This Fraser Street.

14 Q Okay. So you walked all the way down Fraser, you
15 didn't turn off one way or the other?

16 A No.

17 Q How far did Mr. Corey Byrd go down with you? You
18 said he walked you back.

19 A I can't remember, I know it was half way.

20 Q So can you show the jury about where it was that he
21 left you off?

22 A I don't remember, he walk us to.

23 Q Okay. And then you got home and laid down; is that
24 correct?

25 A Yes, sir.

- 1 Q And do you know how long you stayed laying down?
- 2 A No, sir.
- 3 Q What was the next thing you remember?
- 4 A When I was laying down?
- 5 Q Yeah.
- 6 A Tiesha had came and ask me and my friend what we
7 wanted from the store and that she was meeting Corey Byrd.
- 8 Q Okay. And how long -- do you know how long that was
9 after you got home?
- 10 A I want to say about five minutes later.
- 11 Q Okay. So this is about 3:30 or so in the morning?
- 12 A No, he call her around about four going on five.
- 13 Q So it's about four?
- 14 A Yes.
- 15 Q Somewhere in between four, 4:30. It is in that
16 neighborhood?
- 17 A Talking about which part?
- 18 Q About what time I'm just trying to figure out what
19 time things were happening?
- 20 A Talking about when he call her?
- 21 Q Well, when -- the first thing that happened after you
22 got home, I assume you said you laid down?
- 23 A Yes.
- 24 Q And then what was the first thing after that that you
25 remember?

- 1 A She ask me and my friend what we wanted from the
2 store.
- 3 Q She ask you what you wanted from the store?
- 4 A Yes, sir.
- 5 Q And how long was that after you got home?
- 6 A About five minute.
- 7 Q About five minutes?
- 8 A Yes, sir.
- 9 Q And did she go to the store?
- 10 A No, she was waiting on Corey Byrd to call her.
- 11 Q Okay. And did he call?
- 12 A Yes, sir, around about four.
- 13 Q All right, as far as you know. You didn't talk to
14 him; is that correct?
- 15 A No.
- 16 Q And the same way as before she would say that she had
17 talk to him, but you never did?
- 18 A Yes, sir.
- 19 Q Okay. And have you seen this picture before today?
- 20 A I seen it once.
- 21 Q Did you go over it with somebody?
- 22 A Yes, sir.
- 23 Q With who was that?
- 24 A The gentleman right there.
- 25 Q Okay. With the prosecutor in the case?

- 1 A Yes, sir.
- 2 Q Had went over this picture with you?
- 3 A Yes, sir.
- 4 Q Okay. And now what was the next thing you remember
- 5 happening after you were asked if you wanted anything from
- 6 the store?
- 7 A That when she walked out the door.
- 8 Q All right. She walked out the door?
- 9 A Yes, sir.
- 10 Q What was the next thing you remember?
- 11 A We was laying down and then she came back in the
- 12 house asking us did we hear any gunshots.
- 13 Q Okay. Ask you if you heard any gunshots. Then
- 14 what's the next thing you remember?
- 15 A That when she stayed in the house for a minute, walk
- 16 back out there and she walk to the corner of Marlboro and
- 17 Dargan.
- 18 Q And what was the next thing you remember? I mean,
- 19 you know where she actually walk to. You didn't go with
- 20 her, did you?
- 21 A No, sir.
- 22 Q You were in the house; correct?
- 23 A Yes, sir.
- 24 Q You didn't watch where she went?
- 25 A No, sir.

- 1 Q So how do you know where she went?
- 2 A She called and told me where she was at.
- 3 Q She told you where she went?
- 4 A Yes.
- 5 Q Okay. So now -- and then what did -- what was the
- 6 next thing you remember after you got the phone call?
- 7 A I told her I'll be right there. After I hung up the
- 8 phone with her, that's when I ran down there.
- 9 Q Okay. You ran down there and where did you go to?
- 10 A I stop where she was at. And then I look where she
- 11 said she seen the body, that when I went up to the body
- 12 and turned it over.
- 13 Q You turned it over?
- 14 A Yes.
- 15 Q Okay. And why did you do that?
- 16 A To make sure to see was it Corey cause I didn't
- 17 believe her when she said it was him.
- 18 Q Okay. So you actually turned it over?
- 19 A Yes, sir.
- 20 Q And then did you do anything else after that?
- 21 A No, sir.
- 22 Q Okay. At what point were the police called?
- 23 A After we call his sister.
- 24 Q What's that?
- 25 A After we call his sister.

1 Q I still didn't hear you.
2 A After we call his sister.
3 Q Okay. You call somebody else?
4 A Yes, sir.
5 Q And who was that?
6 A His sister.
7 Q His sister?
8 A Yes.
9 Q Call her and then after that called the police?
10 A Yes, sir.
11 Q So let me try and get this straight. You had already
12 been called?
13 A Yes, sir.
14 Q And then you got there and then the sister was called
15 and then the police were called; correct?
16 A Yes, sir.
17 Q All right. And you spent about three hours at the
18 party; is that correct?
19 A Yes, sir.
20 Q While you were there, did you see anybody get in any
21 fights?
22 A No, sir.
23 Q All right. Did you see anybody threaten Corey Byrd
24 in any way?
25 A No, sir.

- 1 Q Okay. Did you spend your time at the party in the
2 company of Mr. Corey Byrd and or with who?
- 3 A I was with Tiesha.
- 4 Q And who was she with?
- 5 A Me.
- 6 Q And who else?
- 7 A We came there with Corey, but he left us at the
8 party.
- 9 Q Okay. And was this party basically at one house?
- 10 A Yes, sir.
- 11 Q Okay. So could you see people that were there at the
12 party?
- 13 A Certain people.
- 14 Q Well, I mean, it wasn't like -- do you think there
15 were people there that you never saw?
- 16 A It's people there that I never did see.
- 17 Q That you didn't know?
- 18 A Yeah, I didn't know them.
- 19 Q Okay. But you do think there was anybody there that
20 you didn't see? I mean, could they hide? Surely, they
21 could, but nobody was trying to hide were they?
- 22 A No.
- 23 Q Okay. And for three hours you were there?
- 24 A Yes, sir.
- 25 Q And you didn't see any fights or anything like that?

1 A No, sir.

2 MR. LAWSON: I don't have any other questions
3 for this witness.

4 THE COURT: Anything further?

5 REDIRECT EXAMINATION

6 BY MR. DEBERRY:

7 Q Miss Fludd, you said you were on the computer at the
8 house at the party?

9 A Yes.

10 Q All right. And the computer was inside?

11 A Yes, sir.

12 Q And was it in a room inside? Was it in a room?

13 A It's in the front room.

14 Q So it was in a front room?

15 A Yes, sir.

16 Q While you're in the computer room, could you see
17 everybody else that was in the house?

18 A Only person I seen was the Gass girl, her friend and
19 her son.

20 Q Okay. And were they cooking out there?

21 A Yes.

22 Q Where were they cooking?

23 A On the side of the house.

24 Q Outside?

25 A Yes.

1 Q Okay. Were you on the computer most of the time you
2 were there or were you inside and outside?

3 A Mostly on the computer.

4 Q So you're mostly on the computer?

5 A Yes.

6 Q So you wouldn't know if somebody came or went outside
7 or what was going on outside?

8 A No, sir.

9 MR. DEBERRY: All right.. I appreciate you very
10 much for coming. Thank you very much. You can have a
11 seat out here or leave, I guess, if you want to.

12 THE COURT: You may step down, ma'am.

13 (WHEREUPON, the witness leaves the witness
14 stand.)

15 THE COURT: You may call your next witness.

16 MR. JEPERTINGER: We're going to call Mr. David
17 Hanks. And this witness is out of order, Your Honor,
18 chronologically.

19 THE COURT: All right, sir.

20 MR. LAWSON: Could we approach?

21 THE COURT: Yes, sir.

22 (WHEREUPON, a bench conference was held in the
23 presence of the jury, but out of the hearing of the
24 jury.)

25 THE COURT: All right.

1 THE CLERK: Place your left hand on the Bible
2 and raise your right hand. Do you swear the testimony
3 you give in this case to be the truth, the whole truth,
4 and nothing but the truth so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Please be seated and state your full
7 name for the record.

8 THE WITNESS: My name is David Hanks.

9 WHEREUPON,

10 David Hanks,
11 after first having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. JEPERTINGER:

14 Q Okay. Mr. Hanks, for whom are you employed?

15 A AT&T.

16 Q Okay. Are you a custodian of records of your
17 company?

18 A Yes, sir, I am.

19 Q Did you receive a subpoena to appear in court with
20 documents today?

21 A Yes, I did.

22 Q Did you bring those records with you?

23 A Yes, sir.

24 Q Okay. Are the records that you brought here either
25 the originals or true and accurate copies of the

1 originals?

2 A They are accurate copies.

3 MR. JEPERTINGER: Your Honor, we have -- we can
4 do it as one unit, Your Honor, or separately. I suggest
5 we do it as one unit.

6 THE COURT: All right, that's fine.

7 (WHEREUPON, State's Exhibit No. 5 was marked for
8 identification only.)

9 BY MR. JEPERTINGER:

10 Q I'm going to show you what's been marked as State's
11 Exhibit 5. Were these records prepared and maintained in
12 the regular course of AT&T's business?

13 A Yes, sir.

14 Q Is it a regular practice of AT&T to have their
15 records prepared and reduced to writing?

16 A It is.

17 Q Were these records either prepared by an employee or
18 a representative of the company who has personal knowledge
19 of the information contained therein or at least prepared
20 for information transmitted to that employee?

21 A Yes, sir.

22 Q Were the entries contained in these records, these
23 phone records prepared at or near the time of the events
24 or conditions described in the records or reasonably
25 thereafter?

1 A Yes, sir.

2 MR. JEPERTINGER: Your Honor, at this time, I
3 would move to have these phone records which have been
4 provided the defense attorney moved into evidence.

5 THE COURT: Any objection to the phone records
6 that you reviewed?

7 MR. LAWSON: No objection.

8 THE COURT: Without objection.

9 (WHEREUPON, State's Exhibit No. 5 was admitted
10 into evidence.)

11 MR. JEPERTINGER:

12 Q Just very quickly, Mr. Hanks. And if I could ask the
13 witness to step down one second, Your Honor. Show you in
14 front of the jury please. If you could come around, just
15 explain if you understand this. When we look at some of
16 these records, I just pull these out of form. Could you
17 tell the jury what each of these columns mean?

18 A Sure, so the first column has the item number. We
19 list each column numerically, the date the call occurred,
20 the time the call occurred and then the number area
21 called, the city that it was called to, minutes used
22 during that conversation. There's a column for future
23 usage type indicate it's a peak call as oppose to a
24 non-peak time. And then whether there's a charge and then
25 a roaming call. The call was made on a roaming network.

1 Q All right. And I'm going to show examples of this
2 type of...

3 A This is another form of the record. Again, it has
4 the call date and time. This would actually give us the
5 cell site that the call originated from, the city called,
6 the state, the number that originated the call, the number
7 that was called and then the duration in seconds.

8 Q And finally, the last objects with the information?

9 A This is the information for the account that it is
10 set up under, who the billing party is, and then the
11 actual user being assign to that mobile number.

12 MR. JEPERTINGER: All right, thank you. Please
13 answer any questions that the defense attorney may have
14 for you.

15 CROSS-EXAMINATION

16 BY MR. LAWSON:

17 Q What numbers were you requested to provide numbers
18 for?

19 A I don't recall the exact numbers, sir. They're on
20 the subpoena.

21 Q Is it on your records?

22 A Yes, sir. There's an [REDACTED]-5339. There's
23 [REDACTED]-6919.

24 Q Who's the subscriber on those?

25 A The first one the number ending in 5339 Nyrena

1 Goodman. The second number ending in 6919 is a Leon
2 Bostic.

3 Q Just those records are those the only ones that you
4 were requested?

5 A I believe so, sir.

6 MR. LAWSON: I don't have any other questions.

7 MR. JEPERTINGER: Just one thing very briefly.

8 REDIRECT EXAMINATION

9 BY MR. JEPERTINGER:

10 Q And there's also another number; is that correct?

11 A I'm sorry I miss that one. Yes, that's [REDACTED]-1270 area
12 code 843.

13 THE COURT: Anything further, Mr. Jepertinger?

14 MR. JEPERTINGER: No, sir.

15 THE COURT: Anything further, Mr. Lawson?

16 MR. LAWSON: No, Your Honor.

17 THE COURT: Thank you very much, sir. You may
18 step down. Any objection to this gentleman being excused,
19 Mr. Lawson?

20 MR. LAWSON: No, Your Honor.

21 THE COURT: Thank you very much, sir. You're
22 free to go. [REDACTED]

23 (WHEREUPON, the witness leaves the witness
24 stand.)

25 THE COURT: We're going to take just 15 minutes,

1 ladies and gentlemen. When I sent you out to do your
2 foreperson, I didn't excuse everyone else here, court
3 personnel, so I need to give them a break real quick. So
4 let's just take 15 minutes. Please have no conversation
5 about this case and we'll bring you back out shortly.

6 (WHEREUPON, the jury retire to the jury room.)

7 THE COURT: We'll be in recess for about 15
8 minutes.

9 (WHEREUPON, a break was taken.)

10 THE COURT: Okay.

11 MR. JEPERTINGER: Your Honor, while we're
12 waiting the next two witnesses that are going to be called
13 to testify by the State are Clifton Ryan Evans and Gabriel
14 Peterson. Evans in terms of NCIC for any impeachable
15 stuff, I don't see anything on Evans that can be used. He
16 has a criminal domestic violence conviction in 2003 and a
17 public disorderly conduct conviction in 2009. I don't
18 think those are impeachable under 609.

19 THE COURT: What about the other witness?

20 MR. JEPERTINGER: The other gentleman I see a
21 possession of I think crack, Your Honor, in 2001. I think
22 they can use that, Your Honor. He did have an ABHAN, but
23 that was back in 1997. And he received a YOA not to
24 exceed six years suspended to one year probation. But
25 based on the age of that conviction, I would suggest to

1 the Court that he may not be able to go into that, Your
2 Honor. He had an arrest in Georgia for -- also cocaine,
3 Your Honor, but there's no disposition on that charge. So
4 I would say he's limited to crack, Your Honor, as I see
5 it.

6 THE COURT: Mr. Lawson, would you concur -- let
7 me ask about the first witness. Mr. Jepertinger's review
8 of that NCIC record would indicate to him that there's not
9 any impeachable offenses that appear on that record would
10 you concur with that?

11 MR. LAWSON: I agree that the only conviction is
12 the CDV first offense. I disagree that the CDV is not an
13 impeachable offense. I think based on the severity of
14 which we now look at CDV, it should always be considered a
15 crime of moral turpitude especially in today's society.

16 THE COURT: All right. How about the second
17 witness?

18 MR. LAWSON: I have not seen that one.

19 THE COURT: The State's position is that there
20 is a possession of crack cocaine charge that would be open
21 to cross but that would be it.

22 MR. JEPERTINGER: Yes. I think there's an
23 ABHAN, but I think it's outside the ten-year range.

24 THE COURT: Right.

25 MR. LAWSON: Your Honor, I agree that the crack

1 is something that I can ask about.

2 THE COURT: Sure absolutely.

3 MR. JEPERTINGER: The ABHAN I would say, Your
4 Honor, that the ten years as I understand it is a ten-year
5 window whenever a defendant testifies that as to general
6 witnesses that's not the rule in relation to witnesses,
7 fact witnesses. And the -- a fact witness can be
8 impeached right on back in relation to prior records.

9 MR. LAWSON: I would argue, Your Honor, that
10 under 609(b) when they talk about time limit. The
11 evidence of a conviction under this rule is not admissible
12 of a period more than ten years has lapse since the date
13 of the conviction or of the relief of the witness or of
14 the relief of the witness. It doesn't say defendant, say
15 witness.

16 THE COURT: I certainly understand where you're
17 coming from regarding the CDV conviction, Mr. Lawson, but
18 I don't think it fits.

19 And so -- the first witness you mention his name
20 is?

21 MR. JEPERTINGER: Clifton Evans.

22 THE COURT: With regards to Mr. Evans, it
23 doesn't appear that there's any impeachable prior record
24 you can go into with regards to the second witness which
25 would be Mr. Peterson. You would be allowed to ask him

1 about his conviction on the crack cocaine charge, but I
2 think the ABHAN charge is outside the timeframe and would
3 not allow that.

4 MR. JEPERTINGER: Thank you, Your Honor. I also
5 add that Peterson also had an ill-treatment of animals in
6 general, but that was handled look like in city court;
7 Your Honor, or sheriff's department cause it was \$128 or
8 30 days. And he also had like open containers and
9 reckless driving type convictions.

10 THE COURT: The crack charge appears to be the
11 only charge that you be able to question him on regarding
12 that.

13 MR. JEPERTINGER: Thank you, Your Honor.

14 THE COURT: Anything further from the State?

15 MR. JEPERTINGER: No, sir.

16 THE COURT: Anything further from the defense
17 before we bring the jury out?

18 MR. LAWSON: No, Your Honor.

19 THE COURT: All right. Ms. Joe, if you would
20 please ask the members of the jury to join us.

21 (WHEREUPON, the jury came into open court.)

22 THE COURT: All right, ladies and gentlemen, as
23 you recall, the State is still on their case and would
24 recognize Mr. Jepertinger for your next witness.

25 MR. JEPERTINGER: The State would call Clifton

1 Ryan Evans to the stand.

2 THE COURT: All right, please ask Mr. Evans to
3 come around.

4 (WHEREUPON, a pause in the proceedings.)

5 THE CLERK: If you would please go around and
6 place your left hand on the Bible and raise your right
7 hand. Do you swear the testimony you give in this case to
8 be the truth, the whole truth, and nothing but the truth
9 so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Please go around and have a seat and
12 state your full name for the record.

13 THE WITNESS: My name is Clifton Ryan Evans.

14 DIRECT EXAMINATION

15 BY MR. JEPERTINGER:

16 Q Mr. Evans, where do you live?

17 A I live on [REDACTED]

18 Q Okay. How long have you lived there?

19 A About 22, 23, 24 years.

20 Q Okay. Are you employed anywhere?

21 A Not at the moment, but I was employed.

22 Q Where were you employed?

23 A Fraser Industrial.

24 Q Okay. How long had you worked for Fraser Industrial?

25 A About three years.

1 Q Okay. What were your responsibilities at Fraser
2 Industrial?

3 A I was a welder.

4 Q And were you so employed at Fraser Industrial as a
5 welder back in September of 2008?

6 A Yes.

7 Q Okay. Do you recall -- and before I ask you this, do
8 you know Shavonne Gass?

9 A Yes.

10 Q Did you know where Shavonne Gass lived back in
11 September of 2008?

12 A Yes.

13 Q Okay. Basically, can you tell the jury where she
14 lived?

15 A She stay on -- I don't know the numbers, but it was
16 Liberty Street.

17 Q Okay. Was it on the corner of Liberty and Fraser
18 Street?

19 A Yes.

20 Q All right. Did you have an occasion to go to
21 Shavonne Gass' on September the 4th 2008?

22 A What you mean I don't understand?

23 Q Did you go to Shavonne Gass' house on September the
24 4th of 2008 to a cookout?

25 A No, I didn't go to the cookout.

1 Q Okay. Did you go there after the cookout?

2 A Yeah, later on when I got off work.

3 Q Okay. What time did you get off work if you recall?

4 A Two o'clock in the morning.

5 Q All right. So this would have been September the 5th
6 the next day?

7 A Yeah.

8 Q All right. You got off work at two o'clock and did
9 you head straight over to Shavonne Gass' place?

10 A No.

11 Q Okay. Where did you go?

12 A I was -- me and one of my homeboys we carpool when we
13 work together, so I was at his house and stayed over there
14 for about maybe an hour or two. I ain't came over to the
15 house like it was about four o'clock in the morning.

16 Q All right. What were you driving at the time?

17 A 2003 Tahoe.

18 Q Green in color?

19 A It's not green, it's gray.

20 Q Gray. Okay, very good. And do you still own that
21 vehicle?

22 A Yes.

23 Q Okay. And at that point when you got to Shavonne's
24 house, did you drive there alone?

25 A Yeah, I came alone.

1 Q Okay. And who was there when you got to Shavonne
2 Gass' house?

3 A Shavonne, Corey Byrd and Gabby.

4 Q Was that also known as Gabriel Peterson?

5 A Yes, I guess.

6 Q Did you see an individual there by the name of Arthur
7 White?

8 A Yes, he was in the house.

9 Q Did he have a female with him?

10 A Yes, his girlfriend was in there with him.

11 Q Okay. So there were various people there?

12 A Uh-huh.

13 Q And when you got there, did you just want to say
14 hello or -- I mean, it's kind of early in the morning to
15 get to someone's house. Did you just want to say hello
16 or?

17 A No, I went there cause me and him we drink alcohol.
18 We was going to get a little bottle of liquor or
19 something.

20 Q Okay. And who's this that you're going to get a
21 little bottle of liquor from?

22 A Arthur White.

23 Q Okay. And did you go get a little bottle of liquor?

24 A No, he didn't go. I went and got it, but he didn't
25 go he stayed.

1 Q All right. Now, when -- but that was your purpose in
2 going over there; correct?

3 A Yeah.

4 Q Okay. When you got there, were you going to give
5 anyone a ride to any place?

6 A No, but I was asked to give a ride to drop people
7 off.

8 Q Okay. And who was that doing the asking?

9 A Corey Byrd and Gabriel Peterson.

10 Q Okay. So did you say okay to that?

11 A No, I didn't say okay.

12 Q Okay. But did you give somebody a ride?

13 A Yeah, I gave Gabriel Peterson a ride.

14 Q Okay. How about Corey Byrd what was the deal there?

15 A He went back in the house to get his phone charger or
16 whatnot and I left after that.

17 Q Okay. What was your reason for leaving after that?

18 A What you mean what was the reason for leaving after
19 that? I never came there to pick nobody up.

20 Q Okay. So that's my question, you didn't want to wait
21 around?

22 A No.

23 Q So did -- Byrd never made it into your vehicle?

24 A Uh-uh.

25 Q Did he tell you he left something at Shavonne's

1 house?

2 A He said he was going in the house to get his phone
3 charger. They went in the house, they was in there for a
4 little while, I left.

5 Q With Peterson?

6 A Yeah.

7 Q Okay. Where did you go with Peterson after you left
8 Shavonne's house?

9 A I went off Sopkin Avenue and then I went and drop
10 Peterson off in Woodmont. And we stay over there for like
11 20 or 30 minutes sitting in the truck talking.

12 Q Okay. Woodmont's a little northeast of Fraser Street
13 -- I mean off Liberty Street?

14 A I'm not sure, but Woodmont is like on the other end
15 going towards Wilson High School or something like that.

16 Q Okay. Does Gabriel Peterson live over there?

17 A I guess his grandma stay over in Woodmont.

18 Q Is that where you dropped him off?

19 A Uh-huh.

20 Q Okay. So you stopped over at Sopkin Avenue and truth
21 did you go see the bootlegger over at Sopkin Avenue?

22 A Yes.

23 Q And then you drop Peterson off in the Woodmont area;
24 correct?

25 A Yes.

1 Q All right. Then after you dropped him off, did you
2 stay a while at Gabriel Peterson's place or did you just
3 go back?

4 A No, I stayed a while. We sat in the truck and talked
5 for like 10, 15, 20, 30 minutes.

6 Q And then what happened?

7 A Then I left and I was coming home.

8 Q All right?

9 A And I was coming down Dargan Street.

10 Q All right. Where did you live at that time?

11 A 604 Commander Street the same spot.

12 Q Okay. All right. Commander Street if I show you
13 what's been marked as State's Exhibit 4, do you recognize
14 some of these streets? There's Commander, Fraser?

15 A I recognize the whole neighborhood.

16 Q Okay. Can you tell the -- and I'm going to have you
17 stand up if the Court doesn't mind have him come off the
18 witness stand.

19 THE COURT: I don't mind, but I'm just curious
20 if the whole jury can see better from this angle and then
21 if you put a witness in front of the stand and then the
22 jurors on the far end can't see. So just however you want
23 to do it, but all the jury needs to see.

24 And, sir, if you do step down, you would please
25 speak aloud enough so that Miss Reed can hear everything

1 you're saying.

2 BY MR. JEPERTINGER:

3 Q If you come down one second, please. I'm going to
4 have you stand on this side, so the court reporter can
5 hear your voice if you stand over there, please. Tell the
6 jury how you were going back to your house on Commander
7 Street? This is Dargan Street; correct?

8 A See y'all got it turned around a different way. I
9 came along this way right here.

10 Q All right. You were going down Dargan Street?

11 A Uh-huh.

12 Q Did you see anything unusual when you got near the
13 intersection of Marlboro and Dargan Street?

14 A Yes.

15 Q Okay. That's all I wanted you to do. You can get
16 back on the stand. All right. Tell the jury what unusual
17 thing you saw at the intersection of Dargan and Marlboro
18 Street?

19 A Well, as I was coming down Dargan getting to the
20 intersection of Dargan and Marlboro Street, I see somebody
21 laying on the side of the road.

22 Q All right. And what did you do as a result of seeing
23 someone lying on the side of the road?

24 A I pull up and I ain't had never ever got out of my
25 truck. I roll down the window and I was looking and I

1 seen the girl running and I ask her what had happen and
2 what was going on. And something about she heard gunshots
3 and what should she do and all that, so I told her you
4 need to call the police or something, you know what I'm
5 saying.

6 Q Right. Did you recognize the clothing that the
7 individual had on that evening? And who did you see maybe
8 earlier that had that clothing that that individual had on
9 that was lying by the side of the road?

10 A Byrd.

11 Q Okay. And at that point, what did you do after you
12 spoke to the woman?

13 A After I spoke to her, I told her to call the police.
14 She went running home. And then I had went back to
15 Shavonne house and told them what I had just seen.

16 Q Okay. Did you tell Shavonne that you saw Corey lying
17 on the side of the road?

18 A Yeah.

19 Q When you saw him, was the body moving at all?

20 A No.

21 Q All right. And approximately what time would you say
22 this, Mr. Evans?

23 A This would have been about four or five o'clock in
24 the morning. I can't be actual with the time because I
25 really wasn't looking at the time.

1 Q All right. Fair enough. Thank you. And after you
2 told Shavonne, what did you do?

3 A She had rode back over there and then by the time we
4 got back over there, I guess the crime victim unit y'all
5 had had the lights and everything over there.

6 Q Over at the intersection of Dargan and Marlboro
7 Street?

8 A Yes.

9 Q Did you wait to talk to the police over at Shavonne
10 Gass' house?

11 A Uh-uh.

12 Q All right. Did anybody come over to Shavonne's
13 house? Any kin to Corey or anything like that?

14 A Yeah, a matter of fact, we went back to Shavonne
15 house. Corey Byrd sister and Tiesha came back over there.

16 Q Eventually, did you speak to the police about this?

17 A No, I ain't talk to the police.

18 Q Okay.

19 A Not that day.

20 Q Right. You spoke to them later?

21 A Yeah.

22 Q Okay. After the sister of Corey and Tiesha came over
23 to Shavonne's, what did you do? Did you finally get home
24 or did you stick around?

25 A I went home after that.

1 Q You went home?

2 A Yeah.

3 Q And is that the only thing that happened that you're
4 involved with in this case?

5 A That's it.

6 Q Okay. Did you see anybody with dark clothing running
7 down Marlboro Street?

8 A I didn't see nobody.

9 Q You did not attend the cookout?

10 A No.

11 MR. JEPERTINGER: Thank you very much, I
12 appreciate it.

13 THE COURT: Mr. Lawson.

14 MR. LAWSON: Bear with me one moment.

15 (WHEREUPON, a pause in the proceedings.)

16 MR. LAWSON: May it please the Court.

17 CROSS-EXAMINATION

18 BY MR. LAWSON:

19 Q Mr. Evans, what model Tahoe did you have?

20 A A 2003.

21 Q A 2003. Anything particular about that car? Did you
22 have any customization? Did you customize it at all?

23 A No.

24 Q Now, is it my understanding from your testimony that
25 you did go over to the cookout?

1 A The cookout was over when I got off work.

2 Q Okay. But the remnants of what had been a cookout
3 you went over there by the house where the cookout was?

4 A Yes.

5 Q And there was still some people around; correct?

6 A Correct.

7 Q And that was -- where was that house?

8 A Right there.

9 Q And that's Liberty Street and Fraser?

10 A Uh-huh.

11 Q And when you left there, where did you go when you
12 left that location?

13 A Went down Vista Street, Sopkin Avenue, and then
14 Oakland Avenue. What the name of that street going to
15 Woodmont... Royal Street and on to Woodmont.

16 Q Okay. And where were you going when you left there?

17 A I went to get the bottle of liquor from the
18 bootlegger and I was going to drop Gabby off at his
19 grandma house in Woodmont.

20 Q Okay. Let me understand something, I think that I
21 understand it. When you talk about bootlegger, you not
22 talking about somebody that make their own liquor?

23 A Uh-uh.

24 Q No, you talking about bottled taxed liquor, but it's
25 just sold after hours?

1 A Yeah.

2 Q And that's what you talking about when you talk about
3 a bootlegger?

4 A Yeah.

5 Q And you didn't go to a liquor still and get yourself
6 a jug, a mason jar of white liquor. Though I understand,
7 you did get gin which is white liquor anyway, right?

8 A Uh-huh.

9 Q So -- and when -- had you had anything to drink
10 earlier that evening?

11 A Uh-uh.

12 Q Okay. Were you working out of town at the time?

13 A I was working in Lamar, Lamar Highway.

14 Q On Lamar Highway.

15 A Yeah. Fraser Industrial is located in Lamar.

16 Q Okay. And you were worked in the facility?

17 A Yes.

18 Q You were an in-house welder?

19 A Yes.

20 Q And did y'all work shifts, you worked shift work?

21 A Yeah.

22 Q Now, were you off for the week when you got off on
23 Thursday night or did you have to go in on Friday night?

24 A I'm not real sure. At first, we was working like
25 four tens. And then we had move -- yes, I think I was off

1 after that Thursday night because we was working like four
2 tens 40 hours a week. Yes, I was off.

3 Q Okay. So you would start on -- you would go in on
4 Sunday night?

5 A No, I go in on Monday.

6 Q Monday night, work Monday, Tuesday, Wednesday and
7 Thursday?

8 A Yeah.

9 Q Okay. And then when -- did you go by the bootlegger
10 before or after you left Peterson home?

11 A I went before.

12 Q Before?

13 A Yeah.

14 Q So you stopped by there, got what you needed and then
15 took Peterson home?

16 A Uh-huh.

17 Q And then I understand you said y'all stopped at
18 Peterson's house for a little while?

19 A Uh-huh.

20 Q How long did you spend there?

21 A I said already 20 to 30 minutes.

22 Q Okay. And from there where did you go?

23 A That's when I came home and I came down Dargan
24 Street.

25 Q Okay. Do you know what time that was?

1 A No, I'm not actually sure what time it was, but I
2 knew it was around between three and five o'clock in the
3 morning, anywhere between that time?

4 Q All right. And now, as you were driving down Dargan
5 Street, you said you saw somebody laying in the roadway.

6 A Uh-huh.

7 Q At the time that you first saw that, you didn't know
8 whether it was a drunk passed out or some other situation,
9 did you?

10 A Yeah, I didn't know.

11 Q All right. When did you first notice something in
12 the roadway, how far off were you?

13 A Probably at the corner of Palm's.

14 Q Okay. Can you show the jury on State's Exhibit 4
15 where we talking about?

16 A Yeah, flip it over.

17 Q Sorry about that.

18 A Palm Street is right here.

19 Q Huh?

20 A Palm Street is right here.

21 Q And where was the body laying?

22 A Up in here somewhere, little bit -- when you get to
23 the church, a little bit before you get to that church
24 right across the street?

25 Q Okay. And so you were coming down Dargan Street in

1 this direction and you saw something laying in the roadway
2 partially -- partially in the road and partially on the
3 side of the road. And from that distance, you knew that
4 it was a person laying there?

5 A Yeah, I knew it was a person, I just didn't know what
6 was going on.

7 Q And did you see anybody else at the time that you
8 notice that?

9 A Tiesha.

10 Q And did you know who that was?

11 A It was his girlfriend.

12 Q But did you know that at the time that you saw
13 someone or did you just see a person?

14 A You got to rephrase that better. What you mean did I
15 know at the time?

16 Q All right. When you were coming up and you first saw
17 something laying in the roadway?

18 A So I didn't know exactly who that was at the time, no
19 I didn't.

20 Q At the time that you saw the person in the roadway,
21 you saw another individual?

22 A Yes.

23 Q And where was that individual when you first saw him?

24 A She was running toward Marlboro Street, I guess,
25 going back home where she came from.

1 Q Okay. So you were -- you saw her from behind then?

2 A Yeah.

3 Q Okay. What happened when you got to the scene?

4 A I ask her what happened.

5 Q All right. Did you go up to her or did you stop at
6 where the person was in the street?

7 A I just roll up, I was in my truck. I roll the window
8 down and I ain't never got out. And I seen her running
9 and I stop her and asked her what was going on, she was
10 like something happen with some gunshots or something and
11 what should I do. I told her to call the police same
12 thing I just told you.

13 Q Okay. So when you stopped, had she stopped running
14 and turned around?

15 A Uh-huh.

16 Q Okay. And did she come back to where you were?

17 A I say not all the way back.

18 Q Not all the way back?

19 A She was far enough away where I can hear her and she
20 knew who I was.

21 Q Okay. Did you get out of your vehicle?

22 A No, I did not.

23 Q Did you ever get out of your vehicle?

24 A No, I did not.

25 Q All right. And when you were approaching the -- did

1 you see anybody else?

2 A I didn't see nobody.

3 Q All right. Then get it straight, you saw the one
4 somebody laying there in what appeared to be on the edge
5 of the roadway and you saw the girl that was running away
6 from him, that's all you saw?

7 A Uh-huh.

8 Q Did you hear any gunshots as you were coming down the
9 road? Did you have your radio on?

10 A Uh-huh.

11 Q You remember if you had your window up or down as you
12 were coming down Dargan Street?

13 A I can't remember whether I had the window up or not.

14 Q Okay. You remember if it was warm, cold, in between?
15 You remember what the weather was?

16 A I can't even remember what the weather was.

17 Q Well, I'm just asking. It's been a long time?

18 A Uh-huh.

19 Q Correct, it's been awhile. Now, when you let -- when
20 you left, when you left there on -- after you told her to
21 call the police, you didn't stick around and wait around
22 to see what was going on; is that correct?

23 A Uh-huh.

24 Q When you left there, where did you go?

25 A I already told you I went back to Shavonne house.

1 Q Okay. Well, I'm dumb. I have to ask, I forget these
2 things. And if I'm not standing there looking at what I
3 wrote down, I have to ask again. When you got there, did
4 she say anything to you about something had happen?

5 A No, I acknowledge them that something had happen.

6 Q You told her something that happened?

7 A Yeah.

8 Q Did she act like she knew something had happen?

9 A No.

10 MR. LAWSON: I don't have any other questions,
11 Your Honor.

12 THE COURT: Anything on redirect?

13 MR. JEPERTINGER: Nothing further, Your Honor, I
14 ask if he could be excused?

15 MR. LAWSON: No objection.

16 THE COURT: Thank you, sir. You free to go.

17 (WHEREUPON, the witness leaves the witness
18 stand.)

19 THE COURT: You may call your next witness.

20 MR. DEBERRY: The State would call Gabriel
21 Peterson.

22 THE CLERK: If you will please go over to the
23 stand and place your left hand on the Bible and raise your
24 right hand. Do you swear the testimony you give in this
25 case to be the truth, the whole truth, and nothing but the

1 truth so help you God?

2 THE WITNESS: Yes.

3 THE CLERK: Please be seated and state your full
4 name for the record.

5 THE WITNESS: Gabriel Peterson.

6 WHEREUPON,

7 Gabriel Peterson,

8 after first having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. DEBERRY:

11 Q Okay. Thank you for being here today, Mr. Peterson.
12 I appreciate your time. Could you tell us the events as
13 they -- were you present at a cookout on September the 4th
14 and that bled over into September the 5th of 2008?

15 A Yes.

16 Q Okay. And what was your job at the cookout?

17 A I was cooking.

18 Q So you were doing the cooking?

19 A Yes.

20 Q About what time that day on September the 4th did
21 y'all get it started?

22 A It was early in the morning, early in the morning
23 probably -- well, I was getting stuff together, probably
24 afternoon time we got started really.

25 Q You start sometime in the afternoon, early afternoon?

1 A Yes.

2 Q Okay. And about how many people were there when the
3 cookout started?

4 A Actually, I can't remember.

5 Q You can't remember?

6 A Uh-uh.

7 Q Okay. Were people coming and going all day?

8 A Yes.

9 Q All right. And did you tell the jury -- did you
10 observe any arguments throughout that day?

11 A Yes, quite a few arguments.

12 Q There was a few arguments?

13 A Yes.

14 Q All right. Can you tell the jury what you observed
15 in connection with those arguments and who they were
16 between and how they went down?

17 A Corey and Gregg had an argument.

18 Q Okay. You say Gregg, you see him in the courtroom
19 today?

20 A Yes, right there.

21 Q Gregory Daniels sitting right here?

22 A Yes.

23 Q Okay. And you said Corey is that Corey Byrd?

24 A Yes.

25 Q How long had you known Corey Byrd?

- 1 A Probably about first, second grade.
- 2 Q Y'all grew up together?
- 3 A Yes.
- 4 Q Okay. Was Corey at the cookout from the beginning?
- 5 A Not at the beginning.
- 6 Q Okay. Do you remember about what time he might have
- 7 showed up?
- 8 A Afternoon.
- 9 Q Okay. And you said that they got in an argument. Do
- 10 you remember -- I mean, what time was that?
- 11 A I don't remember, it was afternoon.
- 12 Q Before dark?
- 13 A Yes, it was before dark.
- 14 Q Okay. And how do you know Greg Daniels?
- 15 A I seen him around before.
- 16 Q Okay. So you knew who he was?
- 17 A Yes.
- 18 Q What time did he show up at the cookout?
- 19 A Afternoon probably two, afternoon.
- 20 Q Before dark?
- 21 A Yeah, before dark.
- 22 Q Okay. And did they get in several arguments or kind
- 23 of?
- 24 A Yeah, they was arguing at the time.
- 25 Q More than once?

- 1 A The argument last a minute so...
- 2 Q Were they trying to fight or could you tell who the
3 aggressor was or who was starting it?
- 4 A Pretty much they just argue and then Greg off him
5 down the street.
- 6 Q What do you mean by that?
- 7 A He just told him to come down the street and I'll
8 show you.
- 9 Q So Greg Daniels told Corey Byrd to come down the
10 street and he had something?
- 11 A Yes.
- 12 Q Do you know what he meant?
- 13 A No.
- 14 Q Do you know if Corey Byrd knew what he meant?
- 15 A I guess fight or do whatever.
- 16 Q Did -- did they go down the street?
- 17 A No.
- 18 Q All right. Was that the first time they got in an
19 argument that he told him that?
- 20 A To my knowledge, yes.
- 21 Q Okay. And so is it your testimony that Gregory
22 Daniels started the argument?
- 23 A I can't say who started the argument, but I know they
24 was arguing.
- 25 Q Right. And what was Gregory Daniels wearing that

1 day?

2 A He had on all back.

3 Q He had on all black?

4 A Yes.

5 Q Did he hang out with the crowd or was he across the

6 road? I mean, how did he mingle with the people at the

7 cookout?

8 A I can't really say how he was mingling with the crowd

9 because I was cooking, but he was there.

10 Q He was there?

11 A Yes.

12 Q Okay. What time did you leave the cookout?

13 A Probably about -- it was in the morning time late

14 late in the morning -- early in the morning.

15 Q So the next day?

16 A Yes.

17 Q You started off about noontime on the forth. It got

18 dark, came midnight and came the fifth and you left the

19 next morning?

20 A Yes.

21 Q I mean that morning of the fifth?

22 A Yes.

23 Q How did you leave?

24 A With Ryan.

25 Q With Ryan?

1 A Yeah.

2 Q Ryan Evans?

3 A Yes.

4 Q Okay. And what kind of car was he driving?

5 A A truck. I think it's dark, black Tahoe.

6 Q Okay. And was there anybody else that was suppose to

7 ride with y'all when y'all left?

8 A Yeah, Corey suppose to jump in the truck with us.

9 Q Okay. And what happened?

10 A He said hold up for a minute let me go get my charger

11 and then ---

12 Q Phone charger?

13 A His phone charger, cell phone charger. He was like,

14 okay, well, he going right up the street, so we just left.

15 Me and Ryan left.

16 Q All right. And Ryan -- and so y'all were all in the

17 car and then Corey said I got to run inside ---

18 A We was getting in the car and he turn around and went

19 and got his phone charger.

20 Q Okay. And Ryan left?

21 A No, he was like, well, he going right up the street

22 say he want to get dropped off on Marlboro Street, I

23 think, that's what it is. So he saying, he going right up

24 the street, so we just left.

25 Q Okay. You talking about Corey said that's where he

1 was going?

2 A Yeah, going to get dropped off there?

3 Q Are you familiar with the neighborhood?

4 A Yeah.

5 Q Like the distance between Marlboro and where the
6 cookout was?

7 A Yes.

8 Q So how long you think it would take to walk that far?

9 A Probably about five, ten minutes.

10 Q Not too far?

11 A Not too far.

12 Q All right. So when you left the cookout, where did
13 y'all go?

14 A Went to the bootlegger house.

15 Q Okay. And when you left there where do you...

16 A Went in my grandma yard sit and I finish the bottle
17 and then I went home.

18 Q Okay. So y'all sat in your grandmama's yard for a
19 period of time?

20 A Probably about 20 minutes, 15 minutes drinking.

21 Q All right. And then you just went inside and went to
22 sleep?

23 A Yeah.

24 Q Okay. Going back to the cookout, you said that
25 Gregory Daniels and Corey Byrd got into an argument and

1 Gregory Daniels asked him to come down the road?

2 A Yes.

3 Q Was Corey -- Corey said he didn't want to do that?

4 A Yeah, he actually wanted to go, but, you know, people
5 like it ain't worth it. Y'all just chill out, have fun at
6 the cookout.

7 Q Okay. And that was before dark or after?

8 A Before dark.

9 Q Okay. And when it came dark, did they get in an
10 argument -- any more arguments?

11 A No, not that I recall.

12 Q That's all you observe?

13 A Yes.

14 Q Okay. You remember the last time you saw Gregory
15 Daniels at the cookout?

16 A It was late at night, he was on a moped.

17 Q He was on a moped?

18 A Yes.

19 Q Pretty close to the time you left or earlier than
20 that or about what time was the last time you think you
21 saw him?

22 A It could have been because it was late.

23 Q It was late?

24 A Yes.

25 Q So it could have been close to the time you left?

1 A Yes.

2 Q You remember what time it was when y'all left?

3 A No, not really. It was late like 4:35 in the
4 morning.

5 Q About 4:35 in the morning?

6 A Yeah.

7 Q Okay. Hang on just a second.

8 MR. DEBERRY: All right. Please answer any
9 questions Mr. Lawson may have. Thank you for your time.

10 MR. LAWSON: Bear with me one moment, Your
11 Honor.

12 THE COURT: Yes, sir.

13 (WHEREUPON, a pause in the proceedings.)

14 MR. LAWSON: May it please the Court.

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. LAWSON:

18 Q Okay. Mr. Peterson, you live over in the area pretty
19 much in the same vicinity where this was, where the
20 cookout was?

21 A No, I live in Woodmont.

22 Q Woodmont?

23 A Yes, sir.

24 Q And but -- is that where they took you that night
25 when you got your ride home?

1 A Yes, sir.

2 Q All right. Now, when you were testifying on direct,
3 I just want to get this straight you had said you got
4 there in the morning, was it in the morning or in the
5 afternoon when you got to the cookout?

6 A To the cookout, oh, I was there early in the morning
7 prepping food and stuff getting it done.

8 Q Okay. About what time?

9 A It had to been before 12, but the cookout start in
10 the afternoon afterwards.

11 Q Okay. What time -- you were cooking?

12 A Yes.

13 Q What time were you suppose to start having food ready
14 to eat?

15 A It wasn't no specific time.

16 Q But you were aiming toward sometime in the afternoon?

17 A Yes.

18 Q Early in the afternoon or later in the afternoon,
19 what were you heading for, do you remember?

20 A No, I was just cooking.

21 Q Okay. That was a long time ago?

22 A Yeah.

23 Q Okay. And it's hard to remember some things I would
24 assume. I mean, you didn't take notes and keep track of
25 what you were doing that day, did you?

1 A No.

2 Q Nor did you keep notes of what was going on?

3 A No.

4 Q All right. Now, so when you first got there, you

5 first started just prepping food, getting the area ready.

6 What kind -- did you use grills?

7 A Yeah, two grills.

8 Q Charcoal grills or gas?

9 A Charcoal.

10 Q So you had to fire up the charcoal?

11 A Yeah.

12 Q When did you do that? Do you remember when you lit

13 the charcoal?

14 A No, sir.

15 Q Did you cook on and on into the night or did you quit

16 at some time in the afternoon?

17 A Yes, I kept cooking because she kept going to get

18 more stuff because more people came.

19 Q Okay. How many people would you say came to this

20 cookout?

21 A It was a lot.

22 Q I mean more than ten?

23 A Yes, more than ten.

24 Q More than 50?

25 A Somewhere up in there.

1 Q Somewhere between 50 and 100 people?

2 A Yes.

3 Q And they were not -- was that not all there at one
4 time, that would be some came, some left, some came, some
5 left. People left and came back; is that true too?

6 A Yes.

7 Q People would be there for a little while and then
8 they leave and then they come back?

9 A Yeah.

10 Q Now, you say there was an argument between Corey Byrd
11 and Greg Daniels, right?

12 A Yes.

13 Q It wasn't a fistfight?

14 A No.

15 Q And didn't you -- nobody pulled a gun on each other,
16 did they?

17 A No.

18 Q Okay. And did you see guns at the cookout?

19 A Yes.

20 Q And people did pull guns on each other during the
21 afternoon?

22 A Yes.

23 Q And did you see a guy riding in a car with a gun
24 hanging out the window?

25 A No.

1 Q You didn't see that? Did you hear about that?

2 A No.

3 Q Now, when -- was there a group there known as

4 Woodmont boys?

5 A Yes.

6 Q Well, what is that when you smile is that...

7 A Cause the way you say Woodmont boys.

8 Q Is that a group of guys?

9 A Yeah, that's the neighborhood we from.

10 Q And are you one of the Woodmont boys?

11 A Yeah, you can say that.

12 Q And was there a little disturbance between the

13 Woodmont boys during that afternoon?

14 A Yes, we actually was fighting each other?

15 Q They were fighting each other?

16 A Yes.

17 Q Were you involved in that?

18 A Uh-uh.

19 Q Was Corey Byrd involved in that?

20 A No.

21 Q Did he get involve in that?

22 A No, I don't think so.

23 Q Did he get -- did he break it up?

24 A Yeah, he was like the peacemaker. He wasn't involved

25 like fighting nobody or nothing.

1 Q Okay. And that's when guns were pulled between those
2 two groups?

3 A Yes.

4 Q Okay. Now, do you know if there was another party
5 going or another cookout going on at the same time that
6 this was going on?

7 A No.

8 Q And did you know anything about a fish fry somewhere
9 else?

10 A No.

11 Q So you stayed there at this location from the time
12 you got there that morning until you left the next
13 morning?

14 A Yes.

15 Q And you don't know exactly what time it was you left,
16 but it was up around four or five o'clock in the morning?

17 A Uh-huh. Maybe before the morning.

18 Q Huh?

19 A It was right before the morning like daybreak.

20 Q And do you remember what time Corey Byrd got there to
21 the party, to the cookout?

22 A No.

23 Q Did you see him from time to time throughout the day?

24 A Yes.

25 Q Was he there pretty much the whole day?

- 1 A Yeah, he was there.
- 2 Q Pretty much from the first time you saw him which
3 would have been about what time?
- 4 A I can't remember the time.
- 5 Q Can't remember. Okay. And when was the last time
6 that you saw him?
- 7 A Right before he was about to get in the truck and go
8 get his phone charger.
- 9 Q And did you know where he was going at that time?
- 10 A Yes, he say he was going down to his girlfriend house
11 on Marlboro Street.
- 12 Q All right. And did you tell anybody else that?
- 13 A No, I told Ryan that. I say he going right up the
14 street.
- 15 Q So you told Ryan where he was going?
- 16 A Yes.
- 17 Q So between you and Ryan who else knew where Corey
18 was going?
- 19 A I don't know.
- 20 Q How many people were in the car with y'all?
- 21 A Us two.
- 22 Q Just the two of you?
- 23 A Uh-huh. He was about to get in, but he never got in.
24 He went back to get his charger.
- 25 Q Okay. So it's just the two of you. Do you know

1 whether or not anybody -- well, who else was in the house?

2 A I think it was Shavonne and Shavonne and two other
3 people, I can't remember who it was, but I know Shavonne
4 was one of them.

5 Q Best of your recollection, there were three people
6 left in the house basically when y'all left?

7 A Could be.

8 Q Could there have been more?

9 A I don't think so.

10 Q Could it have been less?

11 A No. I just don't remember that part.

12 Q All right. That's fair enough, but there was at
13 least some people left in the house?

14 A Yes.

15 Q Do you know whether or not they knew where Corey Byrd
16 was going?

17 A I don't know.

18 Q You don't know if they knew?

19 A Uh-uh.

20 Q But for sure you and Ryan knew where he was going?

21 A Yes.

22 Q Did you tell anybody else where he was going?

23 A No.

24 Q Did Ryan tell anybody else where he was going?

25 A I don't think so.

1 Q Okay. Did either one of y'all make any cell phone
2 calls while you were riding in the car?

3 A No.

4 Q Mr. Peterson, one thing you do have a conviction for
5 possession of crack cocaine, do you not?

6 A Yes.

7 Q That was in 2001?

8 A Yes.

9 Q Now, when you were leaving, did you see Gregory
10 Daniels anywhere around at the time that you were leaving
11 the cookout?

12 A No.

13 Q Had you seen him for some period of time before you
14 left?

15 A I seen him like -- it's hard to say like I seen him
16 before I left, but not right actually when I left.

17 Q Okay. So it was sometime before he left?

18 A Yes.

19 Q Okay. Had -- during the cookout most of the day, had
20 people been staying outside and just going in and out
21 basically on and off?

22 A Yes.

23 Q And was there anybody left on the outside when you
24 left?

25 A No.

1 Q Okay. So you were basically the last ones to leave
2 from the outside?

3 A Yes.

4 Q Okay.

5 MR. LAWSON: Thank you.

6 THE COURT: Anything on redirect?

7 MR. DEBERRY: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. DEBERRY:

10 Q Okay. Mr. Peterson, it was dark when you left about
11 you say 4:30, five o'clock in the morning?

12 A Yes.

13 Q Could there have been people that you didn't see
14 around in the darkness and shadows or anywhere?

15 A It could have been.

16 MR. DEBERRY: Okay. Thank you. I have nothing
17 further.

18 THE COURT: Thank you very much, sir. You may
19 step down.

20 MR. DEBERRY: Your Honor, may Mr. Peterson be
21 excused?

22 THE COURT: Any objection to Mr. Peterson being
23 excused?

24 MR. LAWSON: No, Your Honor.

25 THE COURT: You free to go, sir, thank you.

1 (WHEREUPON, the witness leaves the witness
2 stand.)

3 THE COURT: All right. Ladies and gentlemen,
4 we're bumping up here on lunch break, so we're going to go
5 ahead and adjourn for lunch at this time. It's about
6 eight minutes to one. I am going to ask you if you would
7 to be back in your jury room at 2:30, gives you a little
8 over an hour and a half for lunch. Please remember, you
9 are not to have any conversation with anybody about the
10 case. Do not allow anyone to talk with you about the
11 case, just enjoy your lunch and just kind of put this out
12 of your mind and we'll see you back here at 2:30, okay.
13 If everyone else will remain in the courtroom, ladies and
14 gentlemen, you're excused.

15 (WHEREUPON, the jury retire for a lunch break.)

16 THE COURT: All right. Anything else we need to
17 take up before we adjourn for lunch? From the State?

18 MR. JEPERTINGER: No, sir, I will point out some
19 of these other individuals I recall have records, Your
20 Honor. I didn't know if you wanted to take that up now.

21 THE COURT: No, y'all can discuss that over
22 lunch and see if you reach an agreement on that. But we
23 will take it up before we get started back after a lunch
24 break.

25 MR. JEPERTINGER: Thank you, Judge.

1 THE COURT: Anything from the defense?

2 MR. LAWSON: No, Your Honor.

3 THE COURT: All right. Court will be in recess
4 until 2:30.

5 (WHEREUPON, a lunch break was taken.)

6 THE COURT: Okay. I believe we got everybody.
7 The State ready to proceed?

8 MR. JEPERTINGER: Yes, sir.

9 THE COURT: Is the defense ready to proceed?

10 MR. LAWSON: Yes, Your Honor.

11 THE COURT: Ms. Joe, have the jury join us
12 please.

13 (WHEREUPON, the jury came into open court.)

14 THE COURT: All right. Ladies and gentlemen, I
15 hope everyone had a good break during the lunch break are
16 ready to get back to work. If you recall, the State is
17 still presenting their case and so I would recognize
18 Mr. Jepertinger for your next witness.

19 MR. JEPERTINGER: May it please the Court, Your
20 Honor, we're going to take a series of witnesses out of
21 order since they from Columbia, Your Honor.

22 THE COURT: All right, sir.

23 MR. JEPERTINGER: Beg the Court's discretion in
24 doing that. We call Doris Yarborough to the stand.

25 THE COURT: Ms. Yarborough, if you please come

1 around.

2 THE CLERK: If you will place your left hand on
3 the Bible and raise your right hand. Do you swear the
4 testimony you give in this case to be the truth, the whole
5 truth and nothing but the truth so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Please be seated and state your full
8 name for the record.

9 THE WITNESS: My name is Doris Yarborough
10 Y-A-R-B-O-R-O-U-G-H.

11 WHEREUPON,

12 Doris Yarborough,
13 after first having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. JEPERTINGER:

16 Q All right. Ms. Yarborough, for whom are you
17 employed?

18 A I'm employed by the South Carolina Law Enforcement
19 Division also known as SLED.

20 Q Okay. And your responsibilities there, ma'am?

21 A And I work in evidence control, the log-in division.

22 Q All right. And can you tell the ladies and gentlemen
23 of the jury what someone in the log-in department at SLED
24 does?

25 A We take in the evidence that the officers throughout

1 the state bring to us for forensic analysis.

2 Q Okay. And you're located in Columbia I take it?

3 A That's true.

4 Q All right. And when you do that, can you tell the
5 ladies and gentlemen of the jury your process of checking
6 it in?

7 A The officers bring their evidence along with their
8 paperwork. We verify as well as we can the paperwork, the
9 names on it, and what they're submitting as well as the
10 analysis request they have for their evidence.

11 Q All right. And at -- when you do that after you
12 check it in, are the items submitted to you parceled out
13 to perhaps various departments in SLED?

14 A They are, they are.

15 Q And among those might be DNA, trace, gunshot residue,
16 fingerprints, ballistics or firearms; is that correct?

17 A Correct.

18 Q And you don't know basically -- well, excuse me you
19 do know. You do know what the officer is requesting when
20 he comes in and checks in where the item should go?

21 A They have their request on the items they're bringing
22 in.

23 Q All right. Now, depending on the item itself
24 submitted if it's blood, it may be refrigerated?

25 A Correct.

1 Q If it's some physical item is there a secure locker
2 area ---

3 A We have a secure evidence room that everything that
4 we take in goes into until it is request for analysis.

5 Q All right. Did you receive any items in regards to
6 the case we're dealing with today State vs. Gregory
7 Daniels involving Corey Lee Byrd?

8 A Yes, sir.

9 Q Okay. And do you have what is commonly referred to
10 as a chain of custody?

11 A I do.

12 Q Could you tell us what you did, what items came in to
13 you?

14 A May I refer to my notes?

15 Q Sure.

16 A Do you need to know everything that came?

17 Q Well, if you could, if you could tell us generally
18 what those things are that would help.

19 A Okay. The first two items were received by mail from
20 the coroner's office.

21 Q And they would be -- what, they be, ma'am?

22 A Blood for toxicology and also urine.

23 Q Okay. And let me ask you on those things like blood
24 for toxicology and urine, are those items normally
25 disposed of in a biohazard trash after they tested?

1 A I'm not perfectly sure on that.

2 Q Okay. Let me show you this to refresh your
3 recollection?

4 A Okay, that's what the chain of custody says. Once it
5 leaves our office, you know, different things are handled
6 differently.

7 Q Okay. So we would not have those items if they were
8 disposed of?

9 A No, sir.

10 Q The next items that you would receive, ma'am, would
11 have been?

12 A Let me go back to a copy of my log in sheet. And
13 that would be on 9-30 of 2008. I received some prints to
14 go to latent prints the G.S.R. kit from the victim, some
15 swabs for DNA analysis, some more blood from the victim,
16 and some clippings and the clippers used to collect those
17 clippings from the victim and some pulled scalp hair.

18 Q Anything else, ma'am?

19 A No, sir.

20 Q And how did you designate all those items? What was
21 it in a container B, I think, ma'am?

22 A They were placed in container B.

23 MR. JEPERTINGER: I'm going to have this marked
24 for identification at this stage.

25

1 (WHEREUPON, State's Exhibit No. 6 was marked for
2 identification only.)

3 BY MR. JEPERTINGER:

4 Q Ma'am, I'm going to show you what is marked as
5 State's Exhibit 6 for identification only. Is this what
6 you would receive that was notated as container B?

7 A That is container B according to my papers.

8 Q All right.

9 MR. JEPERTINGER: And then I like to have this
10 marked as well please.

11 (WHEREUPON, State's Exhibit No. 7 was marked for
12 identification only.)

13 BY MR. JEPERTINGER:

14 Q Let me show what's been marked as State's Exhibit 7.
15 I believe this is the G.S.R kit?

16 A Item number four should be prints, item number five
17 should be a G.S.R. kit.

18 Q I show you right here.

19 A Okay.

20 Q All right. Would that be the G.S.R. kit?

21 A Correct.

22 Q And are you the one that checked in -- you were the
23 forensic technician for all this that was being checked
24 in, ma'am?

25 A Those particular items, yes, sir.

1 Q Okay. Were there other items that you checked in
2 that you can identify the tech that check the items in
3 please?

4 A There appears to be two other items I think by the
5 SLED agent that investigated.

6 Q That would be the fingerprint analysis person?

7 A It appears to be, yes, sir.

8 Q And I am going to show you --

9 MR. JEPERTINGER: This mark for identification
10 as well.

11 (WHEREUPON, State's Exhibit No. 8 was marked for
12 identification only.)

13 BY MR. JEPERTINGER:

14 Q I'm going to show you what's been marked as State's
15 Exhibit 8 for identification. This is your item 15?

16 A That is item 15 and it was received by Nikki Perry
17 who is also a forensic technician in our department.

18 Q And she would do absolutely the same thing you would
19 do?

20 A Correct.

21 Q All right. And that be check in evidence and put it
22 in the box?

23 A The secured storage, yes, sir.

24 Q And that policy's the same whether it's you Nikki or
25 anyone else; is that correct?

1 A Anyone in our department, yes, sir.

2 Q Okay.

3 MR. JEPERTINGER: Thank you so much. Please
4 answer any questions that Mr. Lawson may have.

5 MR. LAWSON: May it please the Court.

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. LAWSON:

9 Q Okay. State's Exhibits 6, 7, 8 for identification
10 purposes those which you just testified to, you had
11 nothing to do with testing on any of these items?

12 A No, sir, I did not.

13 Q All you did were involved in receipt and distribution
14 of it?

15 A Correct, yes, sir.

16 Q Did you do any work on any of these items?

17 A No, sir.

18 Q I mean, sometimes when something comes in it's
19 checked initially. Did you do any initial checking on any
20 of this evidence?

21 A No, sir, we take it on as I said to contain policy.

22 MR. LAWSON: All right. Thank you, ma'am. I
23 don't have any further questions.

24 MR. JEPERTINGER: I have no further questions
25 and I ask if Ms. Yarborough can be released, so she can

1 go back to our capital.

2 MR. LAWSON: No objection.

3 THE COURT: Thank you very much, ma'am. You
4 free to go.

5 (WHEREUPON, the witness leaves the witness
6 stand.)

7 MR. JEPERTINGER: At this time, Your Honor, the
8 State would call Megan Fletcher to the stand.

9 THE CLERK: Please place your left hand on the
10 Bible and raise your right hand. Do you swear the
11 testimony you give in this case to the truth, the whole
12 truth, and nothing but the truth so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Please be seated and state your full
15 name for the record.

16 THE WITNESS: Megan Fletcher F-L-E-T-C-H-E-R.
17 WHEREUPON,

18 Megan Fletcher,
19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. JEPERTINGER:

22 Q Ms. Fletcher, for whom are you employed?

23 A I'm employed by the South Carolina Law Enforcement
24 Division also known as SLED?

25 Q And how long you work for SLED?

1 A Two and a half years.

2 Q And what are your responsibilities at SLED?

3 A I'm a trace evidence analysis in forensics.

4 Q Okay. Can you tell everybody -- well, we all know
5 what tracing is, but can you tell us what trace evidence
6 is please?

7 A Trace evidence includes multiple different
8 disciplines. We do fire degree analysis for the presence
9 of accelerants, fibers, paints, duck tape, glass, bullet
10 hole distance determination as well as gunshot residue
11 analysis.

12 Q All right. And have you had any specialized training
13 in the area of trace analysis?

14 A Well, I been at SLED I've undergone multiple
15 trainings in paint, fire debris analysis, bullet hole
16 distance determination and gunshot residue. For gunshot
17 residue analysis, I underwent approximately ten months of
18 training under a court qualified analyst where I helped
19 and assisted in analyzing around 300 cases for that
20 analyst. I was also required to take and pass oral and
21 practical and written examinations regarding gunshot
22 residue and our instrumentation.

23 Q All right. And I think you told me you never
24 testified in court, this is your first time; is that
25 correct?

1 A That's correct, sir.

2 Q How many cases though at SLED have you analyzed in
3 terms of trace evidence?

4 A For gunshot residue analysis, it's been about 150
5 cases of my own, sir.

6 Q Thank you.

7 MR. JEPERTINGER: At this time, I like to have
8 Ms. Fletcher qualified as an expert in trace analysis
9 specifically dealing with gunshot residue in this case,
10 Your Honor?

11 THE COURT: Mr. Lawson.

12 MR. LAWSON: No objection.

13 THE COURT: All right. Without objection, she
14 is so qualified.

15 BY MR. JEPERTINGER:

16 Q If I might, I think you just heard Ms. Yarborough
17 testify to her checking in State's Exhibit 7. Are you
18 familiar with State's Exhibit 7 for identification?

19 A What I am doing is I am looking for my initials and
20 the date on which I seal this evidence and I see my
21 initials on both. This is gunshot residue taken from a
22 Corey Lee Byrd.

23 Q All right. Now, tell us a little bit about gunshot
24 residue is it made up of three specific metals?

25 A Among other things, the three specific metals that we

1 look for are lead barium and antimonium. Those metals
2 come out in microscopic -- they're microscopic so you
3 can't see them with the naked eye, but they come out of a
4 gun when it's been fired.

5 Q All right. Now, you're saying when you analyzed
6 apparently this gunshot residue kit and let's stop there.
7 What normally comes to you on a gunshot residue kit from
8 Corey Byrd?

9 A A typical gunshot residue is compressed of two
10 different sets of collection media. The first are
11 particle lifts and those are basically stamps with a
12 sticky surface on them. One particle lift is taken from
13 the right palm of the hand. Another is from the right
14 back of the hand. A third is from the left palm of the
15 hand. And a fourth from the left back of the hand. And
16 those will collect any gunshot residue particles until the
17 sticky -- when the particle lift is removed. The second
18 part is a set of swabs, two swabs are collected from the
19 palm of hand, right back of hand, left palm of hand and
20 left back of hand. And those swabs are used to determine
21 the amount of metals that were present on that -- the
22 person's hands at the time of the collection?

23 Q All right. Now, is there any distinction in terms of
24 time limitation for a deceased person when you can do a
25 G.S.R. kit on that individual that's deceased?

1 A On a deceased person, gunshot residue will remain
2 indefinitely until it's removed from a outside medium,
3 rain or washing of the hands by other person.

4 Q Okay. How about for a living person what -- is
5 there any time limitation on doing a G.S.R. kit for
6 someone that is still alive?

7 A The maximum time that it will remain on a living
8 person is really around six hours. This is because a
9 person will be sweating, taking their hands in and out of
10 their pockets, and after six hours, your body starts to
11 absorb those metals back into itself as well. So on a
12 living person, it will really only remain for six hours.

13 Q So if I were to give you this information that the
14 decedent died shortly after 5:00 a.m. on September 5th
15 2008, the limitation would be until about 11:00 a.m. or
16 shortly thereafter for a living person?

17 A That's correct, sir.

18 Q All right. Anything that you would receive after
19 11:00 a.m. on someone that's living you would not test; is
20 that correct?

21 A That's correct, it would not be analyzed.

22 Q All right. You did not receive a G.S.R. kit for
23 Gregory Daniels in this case, did you?

24 A No, the only evidence I received was from Corey Lee
25 Byrd.

1 Q Okay. Now, in terms of Corey Lee Byrd, what did you
2 find within reasonable degree of trace analyst certainty?

3 A May I refer to my report?

4 Q Absolutely.

5 A From the right palm of Corey Lee Byrd's hand, the
6 quantities of metals maybe associated with gunshot
7 residue. From the right back of the hand, the quantities
8 of metals did not indicate gunshot residue. From the left
9 palm of hand, the quantities of metals found did not
10 indicate the presence of gunshot residue. And from the
11 left back of hand, the quantities of metals found did not
12 indicate the presence of residue.

13 Q So you found -- when you talk about quantities, is
14 there a threshold level of metal that you have to find in
15 order to say it fits into your category of gunshot
16 residue?

17 A Correct. There's certain amount of metals have a
18 high correlation with finding gunshot residue on a
19 person's hand.

20 Q All right. And the significance of finding gunshot
21 on the right palm of the victim in this case, the
22 decedent, can you draw any conclusions from that?

23 A It would be my opinion that he was in the vicinity of
24 a gun when it was fired.

25 Q All right. And obviously, you could get gunshot

1 residue firing a gun; correct?

2 A Correct. You can get gunshot residue by firing a
3 weapon, handling a gun or being in close proximity to a
4 gun when it has been fired.

5 Q All right. But there is no way just by looking at
6 the results of a gunshot residue test to say which
7 happened in this case?

8 A No, sir, there is not.

9 Q All right.

10 MR. JEPERTINGER: Thank you so much please
11 answer any questions that the defense attorney may have
12 for you.

13 THE COURT: Mr. Lawson.

14 MR. LAWSON: May it please the Court.

15 CROSS-EXAMINATION

16 BY MR. LAWSON:

17 Q Okay. Ms. Fletcher, you said you been with SLED how
18 long?

19 A About two and a half years.

20 Q That whole time has been involved with G.S.R.?

21 A My first year was dedicated to gunshot residue. I
22 have since trained in fire debris analysis and paint
23 analysis and I take cases in both of those.

24 Q And the first year was what?

25 A Gunshot residue analysis.

1 Q Okay. And in this particular case is that the only
2 test that you did were gunshot residue, gun powder test?

3 A Yes, sir, that was the only item.

4 Q All right. Did you do any other testing of any other
5 evidence?

6 A No, sir, I did not.

7 Q And you -- it was your opinion based on your findings
8 that a gun was fired in the proximity of this individual?

9 A Yes, sir, I did.

10 Q Or could you say one way or the other whether he was
11 holding a gun when it was fired?

12 A In this case, I cannot, sir?

13 Q Okay. You can't say he did or he didn't or either
14 one?

15 A All I can say is that he was in the vicinity of a gun
16 when it was fired.

17 Q Okay.

18 MR. LAWSON: I don't have any other questions.

19 MR. JEPERTINGER: Just one brief thing that I
20 forgot to do. At this time, Your Honor, I would put item
21 seven into evidence, Your Honor.

22 THE COURT: Any objection, Mr. Lawson, to
23 State's Exhibit 7, which I'm assuming is the gunshot
24 residue kit.

25 MR. JEPERTINGER: Gunshot residue kit.

1 MR. LAWSON: I don't think the chain has been --
2 she didn't collect it.

3 MR. JEPERTINGER: That's true. We'll put it in
4 later. Thank you, ma'am. I appreciate it.

5 THE COURT: Any objection to this witness being
6 excused, Mr. Lawson?

7 MR. LAWSON: No, Your Honor.

8 THE COURT: Thank you very much, ma'am. You may
9 step down.

10 (WHEREUPON, the witness leaves the witness
11 stand.)

12 THE CLERK: Please place your left hand on the
13 Bible and raise your right hand. Do you swear the
14 testimony you give in this case to be the truth, the whole
15 truth, and nothing but the truth so help you God?

16 THE DEFENDANT: I do.

17 THE CLERK: Please be seated and state your full
18 name for the record.

19 THE WITNESS: Matthew Graham Fitts. F-I-T-T-S.
20 WHEREUPON,

21 Matthew Fitts,
22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. JEPERTINGER:

25 Q Okay. Mr. Fitts, for whom do you work?

1 A I work for South Carolina Law Enforcement Division's
2 forensic DNA serology laboratory.

3 Q And what are your responsibilities there?

4 A Predominantly, our responsibilities are to receive
5 evidence that has been collected at crime scenes from
6 around the state. In our laboratory, we look for
7 biological evidence predominantly blood, semen or saliva.
8 And we attempt to develop DNA profiles from that. And
9 then we get standards from individuals and we develop DNA
10 profiles from them. And we compared these DNA profiles to
11 either include or exclude someone as a potential
12 contributor to that evidence.

13 Q Okay. And how long have you been doing that type of
14 work?

15 A I been doing this off and on for SLED for about 13
16 years.

17 Q Okay. And have you had any specialize training to do
18 what you do?

19 A Yes, both in-house training at SLED through qualified
20 analyst as well as external training, workshops and
21 meetings and conferences.

22 Q Okay. Have you ever been qualified as an expert
23 before?

24 A Yes, I have.

25 Q In the area of?

1 A Forensic DNA and serology.

2 Q Have you been qualified as an expert every time?

3 A Yes, I have.

4 Q Okay.

5 MR. JEPERTINGER: And at this time, Your Honor,
6 I would move to have Mr. Fitts qualified as an expert in
7 forensic DNA analysis and serology.

8 THE COURT: Mr. Lawson?

9 MR. LAWSON: No objection.

10 THE COURT: Without objection, he is so
11 qualified.

12 BY MR. JEPERTINGER:

13 Q Sir, can you tell -- we hear this all the time, but
14 can you tell us what DNA is, we hear about it on
15 television?

16 A DNA is a compound that's found in almost all of your
17 cells. All of your nucleated cells half of which you
18 inherited from your father, the other half from your
19 mother. And it's a very large molecule that you actually
20 -- your cells read and it dictates your development into a
21 human being.

22 Q It makes you you and me me?

23 A Correct. And 99.9 percent of it is identical between
24 individuals because we're all humans, but there's small
25 percentage of it that varies and that's the percentage

1 that we test to develop a human profile?

2 Q Okay. In this particular case, I am going to show
3 you what's been marked as State's Exhibit 6 for
4 identification came from our control B. And I'm also
5 going to show you State's Exhibit 8 for identification,
6 which is listed as item number 15 a buckle swab. Are you
7 familiar with both items, sir?

8 A Yes, I am. This container B contain a series of
9 envelopes with swabs that I received and analyzed. And
10 these small tubes in the bottom are the actual remaining
11 DNA extracts from those items of evidence. And this item
12 15 is a buckle swab.

13 Q Can you tell us what a buckle swab is?

14 A It's just a swabbing of your inside of your cheek.
15 It's a lot less invasive then trying to get a blood sample
16 from somebody and it give us enough epithelial cells from
17 the mouth that we can get purified DNA and develop a DNA
18 profile. And we use that as a standard a lot of times as
19 well as a blood sample?

20 Q All right. And that buckle swab came from the
21 defendant in this case; is that correct?

22 A That's correct.

23 Q All right. Can you tell the jury what you analyze,
24 the items you analyze in this case please?

25 A I analyzed a swab from the stain on the grass near

1 marker number two. A swab from the stain in the roadway
2 near marker number three. There were swabs from the rim
3 of a Bud Light beer can near marker number five. There
4 were swabs from a stain on the pants belonging to Kevin
5 Hennix, I believe. There were fingernail scrapings from
6 Corey Byrd. There was a blood standard from Corey Byrd
7 and a buckle swab from Gregory Daniels.

8 Q All right. In terms of -- now, when you say markers,
9 I believe those will be markers that the police officers
10 put down?

11 A Yes. I don't have any reference as to where that is.

12 Q Okay. Very good. Can you tell the jury within a
13 reasonable degree DNA analysis serological certainty what
14 your findings were in terms of the items submitted to you?

15 A On items five and six, these were swabs from the
16 grass and swabs from the roadway blood was indicated and
17 the DNA profile developed from those items matched the DNA
18 profile of Corey Byrd.

19 Q That would be the decedent in this case?

20 A That's correct.

21 Q All right.

22 A The swab from the Bud Light beer can items seven a
23 DNA profile was develop that from that and it was from an
24 unidentified male individual, which means it did not match
25 that of Corey Byrd or Gregory Daniels.

1 Q All right.

2 A The swab from a stain on a pair of pants. A DNA
3 profile was developed from that and it was item eight.
4 And it was a mixture of two individuals and the major
5 contributor to that mixture was from an unidentified male
6 individual. Corey Byrd and Gregory Daniels were excluded
7 as possible contributors to that mixture.

8 Q So the blood on Kevin Hennix pants was not Corey
9 Byrd's nor Gregory Daniels?

10 A No, it was not.

11 Q All right.

12 A The DNA profiles developed from the fingernail
13 scrapings from Corey Byrd. One set was item ten and 11.
14 One set was a mixture, but the major profile match that of
15 a DNA profile of Corey Byrd. The other profile was
16 insufficient for comparison purposes. And then the DNA
17 profile from item 11 of the right hand fingernail
18 scrapings also match that of Corey Byrd.

19 Q And, of course, those items came from Corey Byrd?

20 A That's correct.

21 Q All right.

22 MR. JEPERTINGER: Thank you. Please answer any
23 questions that Mr. Lawson may have for you.

24 MR. LAWSON: May it please the Court.

25 THE COURT: Yes, sir.

CROSS-EXAMINATION

1

2 BY MR. LAWSON:

3 Q Okay. Did I understand you to say that over
4 99 percent of the DNA molecules were the same for
5 everybody 99.9 percent?

6 A Yes.

7 Q So less than .1 percent is basically how we do
8 identification using the DNA molecule?

9 A Yes.

10 Q Isn't -- I have heard that we really don't understand
11 a whole lot about the DNA molecule pass that one or
12 two percent that we use?

13 A Well, I -- there's many many years of significant
14 amount of study on the DNA molecule. There's a huge body
15 of scientific knowledge on the DNA molecule itself. For
16 forensic purposes, we're only looking at places that we
17 know vary from person to person. And if you want to
18 visualize it, it's like your DNA would be a book that has
19 a million pages and the majority of that we are the same.
20 What we do is we go to specific pages in that book where
21 we know people differ and those are the pages that we
22 compare. We don't bother to try and look at the entire
23 book because that would just technically, that would be
24 not practical.

25 Q So what you do is you then develop a profile using

1 those segments that you expect to be different and
2 individual?

3 A That's correct.

4 Q And then with that profile, you also develop on the
5 unknown samples a profile and then attempt to match the
6 known with the unknown?

7 A Just look at the profiles and see if they do or do
8 not match.

9 Q Okay. And that profile is a series of numbers that
10 you get and as you run your test; is that correct?

11 A Well, we assign it a series of numbers these are what
12 are referred to as allele and it's -- you get one allele
13 as I said earlier. One allele from your mother you
14 inherit and another allele one from your father you
15 inherit. And then we assign these allele a number.

16 Q All right. It actually comes back in a graph form?

17 A Yes, it does.

18 Q Now, you test only those items that are submitted to
19 you obviously; is that correct?

20 A That's correct.

21 Q You don't go out in the field and gather the
22 information yourself?

23 A I have done that, but I didn't do any of that for
24 this case.

25 Q Okay. In this case, you took what was provided to

1 you and did testing on that?

2 A That's correct.

3 Q All right. You were provided two known samples; is
4 that correct?

5 A That's correct.

6 Q And that was a Mr. Byrd and a Mr. Daniels?

7 A That's correct.

8 Q You compared these profiles that you developed on the
9 items of evidence to those two individuals; is that
10 correct?

11 A That's correct.

12 Q Did you compare it through the use of any computer
13 documents or any computer fields to any other individuals?

14 A No, I did not.

15 Q All right. Isn't there a situation C.O.D.I.S. is the
16 name of a ---

17 A The data base which a lot of profiles are submitted
18 that qualify. There is strict guidelines as to what
19 profile may be entered into the DNA data base. And in
20 this particular case, there were no items of evidence that
21 would qualify to be entered into that data base?

22 Q Is that because you had known samples of a suspect to
23 compare to?

24 A Well, the item of evidence is what gets entered into
25 the data base. And if a item of evidence, obviously,

1 matches the victim, the victim does not qualify to go into
2 the data base. If the item of evidence matches the
3 subject that could qualify to go in the data base or an
4 unknown profile that is believed to be -- if an item was
5 handled by a perpetrator that they think is a perpetrator
6 of a crime, then that could qualify for going into the
7 data base, but in this particular case, there were no
8 profiles developed that qualified for entering in the data
9 base.

10 Q You didn't have any information that would allow you
11 to go to the data base and for submission purposes?

12 A That's correct.

13 Q All right. And in the testing that you did on the
14 items submitted, there were positive identifications to
15 Mr. Byrd?

16 A Yes, there were.

17 Q But there was nothing positive on any of the evidence
18 to Mr. Daniels?

19 A No, there was not.

20 MR. LAWSON: Thank you.

21 MR. JEPERTINGER: Nothing further, Your Honor.
22 Thank you.

23 THE COURT: Thank you very much, sir. You may
24 step down.

25 Mr. Lawson, any objection?

1 MR. LAWSON: No objection.

2 (WHEREUPON, the witness leaves the witness
3 stand.)

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

5 MR. JEPERTINGER: Your Honor, we call Dr.
6 Cynthia Schandl.

7 THE COURT: Please come around please, ma'am.

8 THE CLERK: Please place your left hand on the
9 Bible and raise your right hand. Do you swear the
10 testimony you give in this case to be the truth, the whole
11 truth, and nothing but the truth so help you God?

12 THE WITNESS: Yes, I do.

13 THE CLERK: Please be seated and state your full
14 name for the record.

15 THE WITNESS: Cynthia Aana Schandl.

16 S-C-H-A-N-D-L.

17 WHEREUPON,

18 Dr. Cynthia Schandl,

19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. JEPERTINGER:

22 Q Okay. With whom are you employed, Dr. Schandl?

23 A The Medical University of South Carolina in
24 Charleston, South Carolina within the department of
25 pathology and laboratory medicine.

1 Q Okay. And what are your primary responsibilities for
2 MUSC?

3 A My primary responsibilities is as a forensic
4 pathologist. I also do other things. So as a forensic
5 pathologist, basically that's the study of disease as it
6 relates to death. So forensic pathology specifically
7 looks at the cause of death.

8 Q Okay. And you perform autopsies; correct?

9 A Yes, to those things one of the tools is to perform
10 autopsies.

11 Q Let me ask you, what specialized training have you
12 had in the area of forensic pathology?

13 A Well, in order to become a forensic pathologist, one
14 must first go through medical school to become a medical
15 doctor. I did my medical degree at the Medical University
16 of South Carolina. And then there is further training
17 following that before I became specialize in forensic
18 pathology, one must learn the field of pathology or
19 general pathology. So there's what they call a residency
20 training program, which is four years for that. So that's
21 in order to learn anatomic pathology or clinical
22 pathology. And then there are board exams associated --
23 national board exams associated with both anatomic
24 pathology and clinical pathology. And then following that
25 training in those board examinations, there is another

1 year of forensic pathology fellowship training specific to
2 the field of forensic pathology, so I do that fellowship.
3 And then there is another board examination in the field
4 specifically of forensic pathology. Also, a national
5 board examination by the American Board of Pathology,
6 which I have taken and passed as well.

7 Q Okay. And is it true that you have both a medical
8 degree and a PH.D, ma'am?

9 A Yes, sir.

10 Q And a PH.D is in what?

11 A The PH.D is also in the field of pathology and
12 laboratory medicine.

13 Q So you're a doctor Dr. Schandl?

14 A Not to be redundant.

15 Q Thank you. And you how many autopsies have you
16 conducted?

17 A Over a thousand.

18 Q All right. And you've testified in court before?

19 A Yes, sir.

20 Q And you been qualified as an expert in the field of
21 forensic pathology?

22 A Yes, sir.

23 MR. JEPERTINGER: At this time, Your Honor, I
24 move to have Dr. Schandl qualified as an expert in the
25 field of forensic pathology?

1 MR. LAWSON: Without objection.

2 THE COURT: All right, without objection.

3 BY MR. JEPERTINGER:

4 Q Ma'am, you receive the body of a decedent in this
5 case Corey Lee Byrd; is that correct?

6 A Yes, sir, that is correct.

7 Q Okay. Can you tell the ladies and gentlemen of the
8 jury the nature of your examination of the remains of
9 Mr. Corey Byrd?

10 A Yes, sir, we perform an autopsy on September 6th of
11 2008. And so an autopsy examination begins with examining
12 the body as it presents to you, including looking at the
13 clothing if the person is wearing clothing, looking at
14 this -- you're looking at identifying features, scars,
15 tattoos and those sorts of things look at all of that. We
16 then remove the clothing and examine that separately and
17 then examine the surface of the body again for any scars,
18 tattoos or injuries. And the case of Mr. Byrd, there was
19 an entrance gunshot wound to the head, to the right side
20 of the head, to the right side of the head behind and
21 above the right ear, that we saw upon external
22 examinations that we're still looking at the body from the
23 outside. And the second part of the autopsy examination
24 is what we call the internal examination that is commonly
25 thought of as the autopsy where we look -- we open the

1 body look at the internal organs both for natural disease
2 processes as well as injuries. And Mr. Byrd did have
3 injury to his brain from that gunshot wound. The bullet
4 traveled through his skull, into his brain, through the
5 midline of his brain to the left side of his brain and a
6 bullet was recovered from the left side of Mr. Byrd's
7 brain at the autopsy, which we recovered and did give as
8 evidence to an official from law enforcement.

9 Q Ma'am, let me just stop you there. The object
10 recovered based on your experience was it a small caliber
11 bullet?

12 A Well, what we do to look at bullets we don't look at
13 caliber per se, but caliber is basically just a
14 measurement of the base -- the size of the base of a
15 bullet. So we do measure the base of the bullet and
16 length of the bullet. I'm referring to the report that I
17 generated in this case. And the base of the bullet is
18 0.22 or 0.20 inch. And you might compare that to a .22
19 caliber, which is 0.22 inch, so it is about that caliber.
20 Again, I don't talk in caliber, I talk in size of the base
21 of the bullet, but that's generally thought of as a small
22 caliber.

23 Q Yes, ma'am. Now, did you take any x-rays of the
24 corpse?

25 A Yes, when we're looking at particularly gunshot

1 wounds and we need to be recovering that evidence, the
2 bullet, we will do x-rays both from the front and from the
3 side of the area that has been shot and localize that
4 bullet, so that it will make it easier for us to find it
5 upon our examination. And so we do routinely do x-rays in
6 this sort of cases that we did do in this case.

7 MR. JEPERTINGER: I'm going to have this
8 photograph marked please on the back.

9 (WHEREUPON, State's Exhibit No. 9 was marked for
10 identification only.)

11 BY MR. JEPERTINGER:

12 Q I am going to show you State's Exhibit 9 for
13 identification at this point. Can you recognize that?

14 A Yes, this is a photograph of the digital x-ray
15 picture that was generated during this autopsy examination
16 of Mr. Byrd.

17 Q Okay. Does that photograph or two photographs on
18 State's Exhibit 9 fairly and accurately portray what the
19 x-ray showed?

20 A Yes, it does.

21 MR. JEPERTINGER: At this time, I would move
22 State's Exhibit 9 into evidence please.

23 THE COURT: Any objection, Mr. Lawson, to
24 State's Exhibit 9?

25 MR. JEPERTINGER: Into evidence?

1 MR. LAWSON: No objection.

2 THE COURT: Without objection State's Exhibit 9.

3 (WHEREUPON, State's Exhibit No. 9 was admitted
4 into evidence.)

5 BY MR. JEPERTINGER:

6 Q Now, can you tell us what we're looking at? And if
7 you could stand up, the photo is a little small, if you
8 can stand up and get off the stand please. And tell the
9 jury what we are looking at on this photograph?

10 A Basically, this is the same picture. This is the
11 picture including on the screen and then this is a little
12 bit closer up. And they're both an x-ray again from the
13 side and so this is Mr. Byrd's skull from the side. This
14 is the same thing which is concentrate on the blown up
15 version here. And then so you can see that bone is quite
16 dense and it has this white appearance. But metal is even
17 denser than bones, so it's even more white or radio opaque
18 as they say. So this is little white circle here is a
19 representation, radiographically or by x-ray of the bullet
20 and where it is in Mr. Byrd's head before we removed it on
21 autopsy examination. This rather bright white round
22 object is actually the bullet as it came to us in
23 Mr. Byrd.

24 Q All right. Thank you. What else did you do, ma'am,
25 in terms of this autopsy?

1 A Well, routinely we will take blood samples and
2 fingernail clippings and pulled head hair that will go to
3 South Carolina Law Enforcement Division or other law
4 enforcement agencies for testing. We also will package
5 the clothing for further testing should that be required,
6 so all that is released as evidence to a law enforcement
7 official.

8 Q Did you do that in this case, ma'am?

9 A Yes, sir.

10 Q All right.

11 A Also during the examination, we at least at our
12 facility we take representative section of each of the
13 major organs and look at those under the microscope, again
14 to document any natural disease processes or injuries that
15 may be present. And we did do that in this case as well.

16 Q Okay. In terms of any toxicological report that
17 would have a blood standard would have been drawn from the
18 decedent; is that correct?

19 A Yes, again, if blood is present, we will draw blood
20 for toxicological analysis specifically certain counties
21 use South Carolina Law Enforcement Division in which case
22 those samples will go to SLED, other counties will use
23 another testing agency, so they will send them to a
24 different agency. We don't do that toxicologic testing
25 ourselves. We take the sample and send it to the testing

1 agency.

2 Q And normally, those items are mailed to the tox
3 person; is that correct?

4 A Yes, it will either be mailed or couriered depending
5 upon where they are going.

6 Q Okay. In this case, do you have -- do you know which
7 way the blood standards were sent?

8 A I don't know, but I can look. These would have been
9 couriered.

10 Q All right.

11 A I believe so.

12 Q Okay. Are you sure about that, ma'am?

13 A What I have is I have our, our services request and I
14 have the receipt by one of our personnel that delivered
15 them to the postal service, I apologize. No, it says
16 courier services. It says delivered to postal center in
17 Harborview Towers for overnight state courier service and
18 that includes the toxicology in this case.

19 Q Okay. All right. Now, in these cases, you were
20 often asked to determine cause of death and manner of
21 death within a reasonable degree of pathological
22 certainty?

23 A Yes, that's correct.

24 Q Okay. Can you determine the probable cause of death
25 within a reasonable degree of forensic pathological

1 certainty?

2 A Yes, sir.

3 Q And what is that probable cause of death, ma'am?

4 A Cerebral disruption ---

5 Q Excuse me what does that mean for the jury?

6 A May I complete the cause of death and then I'll be
7 happy to explain.

8 Q Yes, I'm sorry.

9 A Cerebral disruption due to a penetrating gunshot
10 wound to the head, so basically what we're talking about
11 cerebral disruption is -- cerebrum is the brain, so
12 disruption of the brain due to penetrating. Now, there's
13 two words that we use when we're talking about the path of
14 a projectile penetrating and perforating. In this case,
15 it's penetrating because it went in, but it didn't go out.
16 Perforating would be that there was no bullet in the head
17 and would have gone all the way through, okay. So it's a
18 penetrating gunshot wound to the head.

19 Q Okay. And the manner of death in this case?

20 A The manner of death is homicide, which simply means
21 that one individual died at the hands of another.

22 Q All right. Now, were there any other fractures to
23 the skull that you noticed in your autopsy?

24 A There were fractures that radiated from the entrance
25 wound, so you have this little circular entrance wound

1 that was in the area where the bullet actually entered.
2 And then there several other fractures to the base of the
3 skull. And then there's a hairline fracture that came out
4 to the frontal skull on the right-hand side, so there were
5 several fractures?

6 Q And that's consistent with that penetrating gunshot
7 wound to the back of the head being the cause of those
8 fractures?

9 A It is certainly possible that they are all from that
10 event.

11 MR. JEPERTINGER: All right. Okay. Thank you
12 very much. Please answer any questions that Mr. Lawson
13 may have for you.

14 THE COURT: Mr. Lawson.

15 MR. LAWSON: May it please the Court.

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. LAWSON:

19 Q Okay. Doctor, the -- in relation to this case, you
20 did not come to Florence to perform this autopsy, did you?

21 A No, sir, the coroner had the body transported to the
22 facility in Charleston.

23 Q And that's normally the way you do things?

24 A Yes, sir.

25 Q So you didn't have anything to do with the collection

1 of the body or any other evidence that may have been
2 submitted to you?

3 A Nothing as it came to me or only that that I took
4 from the body after it came to me.

5 Q And what you do is you then take it and transfer it
6 to someone that's coming back to Florence at the
7 completion of your autopsy?

8 A Yes, most of the evidence was transferred to someone
9 who is coming back at that same date.

10 Q And do you get the reports of the toxicology that it
11 come back to you?

12 A Generally speaking, yes.

13 Q And did it in this case?

14 A It did in this case.

15 Q What were the results?

16 A The results of the toxicology analysis on Mr. Byrd
17 was ethanol, which is alcohol at a level of 0.126 percent.
18 And he was positive for tetrahydrocannabinol, that's THC
19 which is active substance in marijuana at a level of 2.2
20 micrograms per liter. And he was also positive for
21 metabolite of THC, which is called leather caboxy
22 tetrahydrocannabinol or THC. A level of 9.2 micrograms
23 per liter that was all in his blood.

24 Q And when you speak of a metabolite is that what you
25 said?

1 A Yes, sir.

2 Q Is that just the process of breaking down the drug or
3 whatever or alcohol whatever it may be?

4 A That's correct. So when you metabolite something,
5 you take it from whatever form you take it into the body
6 and you break it down into other things all these enzymes
7 that break things apart, so that is exactly right. The
8 metabolite of THC in this case is actually not an active
9 metabolite. So the active drug the THC is the active form
10 of the drug.

11 Q Now, in this case, there was one entry wound?

12 A Yes, sir.

13 Q There were no exit wounds?

14 A That is correct?

15 Q And you said that would be called perforating wound
16 if there were an exit wound?

17 A Yes, sir.

18 Q So all we have is one penetrating gunshot wound in
19 this case?

20 A Yes, sir.

21 Q Were there any signs of additional injuries that may
22 have occurred at or about the time of the shooting?

23 A Let me double check, I don't believe so. It is
24 possible that the frontal fracture of the skull may have
25 been due to a secondary blunt trauma, but I have no way of

1 knowing that. It could also have been related to the
2 gunshot wound itself, so I have no conclusive evidence of
3 other injuries.

4 Q Okay. What would be a secondary -- you said a
5 secondary cause?

6 A Yes, another blunt trauma that would have cause
7 fracture to the skull. I don't know if that's related to
8 the gunshot wound or to another event.

9 Q Okay. Blunt trauma is just a blow to the head with
10 some object. It could even be the ground, could it not?

11 A Or the ground, yes, sir.

12 Q Especially a pavement?

13 A It could be.

14 MR. LAWSON: I don't have any other questions,
15 Doctor. Thank you.

16 MR. JEPERTINGER: Beg the Court's indulgence one
17 second.

18 THE COURT: Yes, sir.

19 (WHEREUPON, a pause in the proceedings.)

20 REDIRECT EXAMINATION

21 BY MR. JEPERTINGER:

22 Q Once again, I think in terms of something Mr. Lawson
23 alluded to that blunt trauma if it were a secondary thing
24 other than coming from the entrance wound, would that be
25 consistent with someone falling on their head?

1 A It could well be.

2 MR. JEPERTINGER: Thank you very much. I
3 appreciate it. That's all the questions I have, Your
4 Honor, and ask if Dr. Schandl can be released from her
5 subpoena?

6 THE COURT: Any objection?

7 MR. LAWSON: Only if she going to charge the
8 State by the hour, I would object to that point.

9 THE COURT: Thank you very much, Doctor, you're
10 free to go, ma'am.

11 (WHEREUPON, the witness leaves the witness
12 stand.)

13 (WHEREUPON, a bench conference was held in the
14 presence of the jury, but out of the hearing of the
15 jury.)

16 THE COURT: Ladies and gentlemen, I need to take
17 up a couple matters with the attorneys really in an effort
18 to make things flow smoother and quicker with these next
19 several witnesses. I'm going to ask if you would to step
20 back into your jury room, have no discussion about the
21 case. If you need anything let us know, okay.

22 (WHEREUPON, the jury retire to the jury room.)

23 THE COURT: All right. We'll remain at ease
24 here for the next ten minutes or so if anybody need to use
25 the restroom.

1 (WHEREUPON, a break was taken.)

2 THE COURT: The State ready to proceed?

3 MR. JEPERTINGER: Yes, sir. I would ask, Your
4 Honor ---

5 THE COURT: We need to go over ---

6 MR. JEPERTINGER: Yes, sir, series of witnesses,
7 Your Honor, that we intend to call, Your Honor. We got a
8 Shavonne Gass that is going to testify, Your Honor. I see
9 a criminal domestic violence first of offense and a breach
10 of peace, Your Honor, on her record. And I think that's
11 all she has on it, Your Honor. I don't think any of that
12 is impeachable.

13 THE COURT: All right, Mr. Lawson.

14 MR. LAWSON: Your Honor, I take the same
15 position on criminal domestic violence.

16 THE COURT: Yes, sir. All right. Anything
17 other than that, Mr. Lawson, though on that witness'
18 record?

19 MR. LAWSON: No, Your Honor.

20 THE COURT: All right. I am going to
21 respectfully deny that regarding the CDV, so that witness
22 would have no impeachable prior record. Who you have
23 next?

24 MR. JEPERTINGER: I'll just give you the ones I
25 have, Your Honor.

1 THE COURT: All right.

2 MR. JEPERTINGER: Joseph Tracy Washington I
3 don't see any conviction on his record.

4 THE COURT: Would you agree with that,
5 Mr. Lawson, on Mr. Washington?

6 MR. LAWSON: That's correct.

7 THE COURT: Who else you got, Mr. Jepertinger?

8 MR. JEPERTINGER: The next one is James Lee
9 Black, Your Honor. Mr. Black had an ABHAN back on
10 March 18th 1998, Your Honor. He got ten years suspended
11 to three years probation. His court date was March 18th
12 1998, which was some six months -- well, more than six
13 months, Your Honor, ten years, ten and a half years before
14 this conviction, Your Honor. I say that is too stale. I
15 also see looks he bonded forfeited on 2001 for public
16 drunk. I don't think that applies nor is open container,
17 Your Honor. He also had public disorderly conduct in
18 2003. Those are the only convictions I see.

19 THE COURT: And his name is what now?

20 MR. JEPERTINGER: James Lee black.

21 THE COURT: Mr. Black. Mr. Lawson, would you
22 agree that Mr. Black has nothing within the ten year time
23 frame?

24 MR. LAWSON: Well, again, Your Honor, I think
25 the assault and battery should be subject to

1 cross-examination and it is obviously was serving the
2 probationary period within the ten years.

3 THE COURT: You know, I was thinking about that
4 too, but it is my understanding that if he successfully
5 completed that and never went back in, that would not
6 apply. That applies as long as he's expose to that time.
7 And if he ever goes back in, then it extends that time.
8 So with regards to Mr. Black, it appears there would be no
9 impeachable record.

10 MR. JEPERTINGER: All right. And then we have a
11 Nyrena Goodman who does not have a record that I see.

12 THE COURT: Would you concur with that?

13 MR. LAWSON: Correct, Your Honor.

14 THE COURT: All right. Is that all,
15 Mr. Jepertinger?

16 MR. JEPERTINGER: For this afternoon, Your
17 Honor, in terms of that.

18 THE COURT: Mr. Lawson, anything from the
19 defense we need to cover before we bring the jury back
20 out?

21 MR. LAWSON: No, Your Honor.

22 THE COURT: All right. Ms. Joe, if you would
23 ask the jury to join us.

24 (WHEREUPON, the jury came into open court.)

25 THE COURT: Mr. Jepertinger, you ready to

1 proceed?

2 MR. JEPERTINGER: Yes, sir.

3 THE COURT: All right, sir.

4 MR. JEPERTINGER: The State would call James Lee
5 Black, Jr.

6 THE COURT: Mr. Black, come around please.

7 THE CLERK: Place your left hand on the Bible
8 and raise your right hand. Do you swear the testimony you
9 give in this case to be the truth, the whole truth, and
10 nothing but the truth so help you God?

11 THE WITNESS: Yes, I do.

12 THE CLERK: Please come around and have a seat
13 and state your full name for the record.

14 THE WITNESS: My name is James Lee Junior Black.
15 WHEREUPON,

16 James Lee Black,
17 after first having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. JEPERTINGER:

20 Q Okay. Mr. Black, where do you live?

21 A [REDACTED]

22 Q All right. And are you currently employed?

23 A Yes, sir.

24 Q Where do you work?

25 A No, I don't work.

1 Q Oh, you don't work. You're unemployed?

2 A Yes, sir.

3 Q Okay. All right. Do you know Shavonne Gass?

4 A Yes, I do.

5 Q How long have you known Shavonne?

6 A All us stay in the same neighborhood North Florence

7 and went to school together.

8 Q Okay. Did you know Corey Byrd?

9 A Yes, sir.

10 Q Do you know Gregory Daniels?

11 A I seen him, but I don't know him like, you know, I

12 don't know him like that. We never talk or nothing.

13 Q Okay, we both a little -- not that loud spoken, so I

14 want you to talk right into that microphone like you

15 Johnny Cash or somebody, okay. Keep your voice up is what

16 I'm trying to tell you. Did you have the opportunity to

17 be at a party, cookout back on September 4th of 2008, over

18 at Shavonne's house?

19 A Yes, I was there.

20 Q Okay. It is my understanding she lives on the corner

21 of Fraser and Liberty Street.

22 A Yes.

23 Q All right. About what time did you get there, do you

24 recall?

25 A I got there a little after four cause I got off work

1 at 3:30, got in a little after four o'clock.

2 Q Where were you working at the time?

3 A Wellman in Darlington.

4 Q Did y'all get laid off during that time?

5 A Well, a little after that went bankrupt.

6 Q When you got there after four, who did you see and
7 what did he do?

8 A When I got there, they was already cooking on the
9 grill, so I start talking to everybody that was there at
10 the time and more people start showing up cause it's a
11 cookout and we start talking, went and got some drinks
12 from the store, came back, start cooking on the grill, got
13 a little late, got dark. Then after that me and Little B
14 ---

15 Q Okay, let's stop right there Little B is a guy name
16 Bryan Timmons; isn't that correct?

17 A Yes, sir.

18 Q He lives over in the Woodmont area; isn't that
19 correct?

20 A Yes.

21 Q And just briefly, can you tell the jury what -- did
22 you get into a fight with Little B?

23 A Yes, it was -- everybody make mistakes. I don't know
24 why he threw the chicken board at me, but he did that and
25 push me a couple of times and I had to defend myself. We

1 got in a little squabble.

2 Q All right. And did you happen to see Corey there?

3 A Yes, Corey he was there.

4 Q Did he have any difficulties with anybody that
5 evening?

6 A No, he ain't had no problems with nobody really cause
7 everybody was having a good time.

8 Q All right. Did you see him -- anything happen
9 between Corey and Greg?

10 A I just know some reason Greg had want to fight Corey.

11 Q That's what I'm asking you about. Tell the jury
12 exactly how that transpired? What went down?

13 A Only thing I know he kept telling Corey to come down
14 the street. You know, he want to fight him, but we kept
15 stopping Corey from going down the street to fight him.

16 Q All right. And how many times did he ask him to come
17 down the street to fight him?

18 A It was over four or five times cause we have to keep
19 making sure they want fight, you know, cause everybody was
20 drinking, you know what I mean.

21 Q At -- was that before your fight with Little B?

22 A That was actually, yeah, before that and after me and
23 Little B got into our little incident and after that too.

24 Q So are you saying that Greg kept trying to get Corey
25 to fight before and after your incident ---

1 A True, that's what I'm saying, yes.

2 Q Okay. And how was Gregory dressed that evening if
3 you recall? What type clothes did he have on?

4 A Well, I know he been there earlier and then chill for
5 a minute and he left and came back.

6 Q How was he dressed? What type clothes ---

7 A I ain't know what he had on the first time when he
8 left. I know he left and came back. When he came back,
9 he did have black on.

10 Q All right. Okay. Do you know how he left? Did he
11 leave walking or did you see him on any moped or bicycle
12 or anything?

13 A I know he had a scooter earlier, but I don't know if
14 he rode the scooter or walk home cause like I said there
15 was a lot people at the party and everybody was talking
16 and drinking.

17 Q Okay. All right. How long did you stay at that
18 party?

19 A I say until like 12, 12:30 cause everybody left and
20 went home, went their separate ways.

21 Q Okay. Did you pay attention to where Corey went?

22 A No, sir.

23 Q Did you pay attention to where Gregory went?

24 A No, sir.

25 Q Did you pay attention to where anybody went except

1 yourself?

2 A There you go. I went about my business.

3 Q All right.

4 MR. JEPERTINGER: That's all I have. Please
5 answer any questions that Mr. Lawson may have for you.

6 THE COURT: Mr. Lawson.

7 MR. LAWSON: May it please the Court, bear with
8 me one moment.

9 (WHEREUPON, a pause in the proceedings.)

10 CROSS-EXAMINATION

11 BY MR. LAWSON:

12 Q Okay. Mr. Black, I understand that you said at this
13 time this was back in 2008; correct?

14 A Yes, sir.

15 Q You remember what month it was?

16 A I don't exactly know what month it was, but I know I
17 was at the cookout.

18 Q You was at a cookout?

19 A Yes, sir.

20 Q Have you been to any cookouts since then?

21 A Yes, sir, plenty of them.

22 Q Huh?

23 A Yes, sir, plenty of them.

24 Q Plenty of them. What separates this cookout from any
25 of the other ones you been to?

1 A A friend of mine he got killed at the last party we
2 talking about now.

3 Q At the party?

4 A At the party or wherever, but I know when we left and
5 everybody went their separate ways everybody just was
6 gone.

7 Q All right. Did -- how many people were there when
8 you got there?

9 A It was I say probably about maybe six, ten people
10 when I got there.

11 Q How many?

12 A Maybe six or eight when I got there.

13 Q All right. How many were there when you left?

14 A It was still a good bit.

15 Q More than six or eight or less than?

16 A Yes, sir.

17 Q All right. How many was the most that were there any
18 one time that you can recall?

19 A I say between six and maybe 11:30.

20 Q Between what?

21 A Six and 11:30?

22 Q From six in the afternoon until 11:30 at night?

23 A Yeah, cause it's North Florence, it's a cookout
24 people come, go.

25 Q Would then what you're telling me is people would

1 come in stay for a little while and then leave?

2 A Yes, sir.

3 Q People -- did I understand you to say people were
4 drinking?

5 A Yes, sir.

6 Q You were drinking?

7 A Yes, sir.

8 Q And what were you drinking, do you recall?

9 A I drink beer Bud Light, I was drinking gin.

10 Q Gin and Bud Light.

11 A Yes, sir.

12 Q And you were there about six or seven hours something
13 like that?

14 A There a couple hours, yeah, before everybody left.

15 Q Okay. Did you eat?

16 A Yes, sir, it's a cookout.

17 Q It was a cookout?

18 A Yes, sir.

19 Q Now, how did you get there?

20 A Well, I was there at work and the lady I ride with
21 pass by on Liberty Street where the cookout was there on
22 the corner. And I saw everybody cooking out and I got
23 dropped off right there and I went over to the cookout.

24 Q Okay. And how -- when you left, did you leave
25 walking?

- 1 A No, sir, I got drop off.
- 2 Q Okay, you got a ride?
- 3 A Yes, sir.
- 4 Q Who did you get a ride with?
- 5 A I got a ride with one of my homeboys and I got
- 6 dropped off at the club.
- 7 Q Okay. So you went from the cookout to a club?
- 8 A Yes, sir.
- 9 Q Which club did you go to?
- 10 A The Pub.
- 11 Q The what?
- 12 A Pub.
- 13 Q And where is that?
- 14 A It's in north Florence direction in front of Tiger
- 15 Mart.
- 16 Q In front of Tiger Mart?
- 17 A Uh-huh.
- 18 Q And how long did you stay there?
- 19 A Stay probably about an hour or two and I left there
- 20 and went to another club that's downtown on Dargan.
- 21 Q Did you have any problems with Mr. Byrd?
- 22 A No, sir.
- 23 Q Did you have any in the past?
- 24 A No, sir.
- 25 Q Now, when you say there was a disagreement between

1 Corey Byrd and Greg Daniels; is that correct?

2 A Yes, sir.

3 Q And Greg was trying to get Corey to come down the
4 street?

5 A Yes, sir.

6 Q But that never happened, did it?

7 A No, cause we ain't let Corey go down there.

8 Q All right. Was there ever any fight between the two
9 of them?

10 A No.

11 Q All right. When you left, did you see Gregory
12 Daniels at that time?

13 A No, sir.

14 Q Do you think he had already left?

15 A He probably did, probably did, I ain't paid
16 attention. I know I left.

17 Q Was Corey Byrd still there when you left?

18 A I don't know cause people was like -- like I say
19 people was going back and forth to the store.

20 Q Okay. So you don't remember if he was there or not
21 when you left?

22 A No, sir.

23 Q And do you remember anybody that was there when you
24 left?

25 A No, sir, I ain't paid attention. I just went about

1 my business.

2 Q There were -- were there any threats between Corey
3 and Gregory Daniels?

4 A Like I side earlier, I just know he was trying to
5 fight Corey the whole time, but we ain't let that happen,
6 so words -- they probably pass words to each other.

7 Q But there was never any physical confrontation
8 between the two?

9 A No, sir.

10 Q What was the closest they got to each other?

11 A Not too close cause every time they was trying to get
12 close, you know, fight him or whatever, we grab Corey and
13 pull away and break it up.

14 Q Okay. And where -- do you live the same place now
15 that you live then?

16 A Yes, sir.

17 Q And where was that?

18 A North Florence.

19 Q In north Florence?

20 A Yes, sir, I'm still there.

21 Q Were you there when there was a disturbance -- were
22 you or do you know about a group called the Woodmont boys?

23 A Woodmont boys?

24 Q Yeah.

25 A No, sir, we live in Woodmont.

1 Q You live in Woodmont?

2 A That's a neighborhood, that's a part of North
3 Florence.

4 Q Is there -- was there some dispute between some guys
5 from the Woodmont area that evening?

6 A Like I say me and my friend B.B. got into an argument
7 and we fought, but it wasn't nothing bad like that.

8 Q All right. Did you have a gun?

9 A No, sir, I ain't had no weapons on me.

10 Q Did any of the other people have a gun?

11 A Well, they pull out guns on each other, but they
12 didn't use them.

13 Q Did you ever see Corey Byrd with a gun?

14 A No, sir.

15 Q What about Gregory Daniels?

16 A No, sir.

17 Q Okay. You said you got in a fight?

18 A Yeah.

19 Q You actually got in a physical fight?

20 A Yes, sir.

21 Q Did somebody pull gun on you?

22 A No, sir.

23 Q They didn't. But there were other guns pulled and
24 showed in the process of the evening?

25 A Yes, sir.

1 MR. LAWSON: I don't have any other questions.

2 THE COURT: Anything on redirect?

3 MR. JEPERTINGER: No, sir.

4 THE COURT: Thank you, sir. You may step down.

5 (WHEREUPON, the witness leaves the witness
6 stand.)

7 MR. JEPERTINGER: Your Honor, we call Shavonne
8 Gass.

9 THE CLERK: Place your left hand on the Bible
10 and raise your right hand. Do you swear the testimony you
11 give in this case to be the truth, the whole truth, and
12 nothing but the truth so help you God?

13 THE WITNESS: Yeah.

14 THE CLERK: Please go around and have a seat and
15 state your full name for the record.

16 THE WITNESS: Shavonne Gass.

17 WHEREUPON,

18 Shavonne Gass,
19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. DEBERRY:

22 Q Okay. Thank you for being here today, Shavonne. If
23 you could tell the jury how you knew Corey Byrd?

24 A I knew Corey from childhood. His family, my family
25 they close.

1 Q Okay. So it's safe to say y'all grew up together?

2 A Yeah.

3 Q All right. And on or about the time around September
4 the 4th or September the 5th of 2008, where were you
5 living?

6 A On Liberty Street.

7 Q On Liberty Street. And did you have a cookout that
8 weekend or that day?

9 A Yeah.

10 Q That started when September the 4th?

11 A Yeah.

12 Q Okay. And about what time in the day did y'all get
13 started?

14 A It was early in the day probably a little after 12.

15 Q Right around midday?

16 A Uh-huh.

17 Q Okay. Can you just explain what the plans were for
18 the cookout. I mean, y'all were going to cook just for
19 lunch or was it going to be an all day thing?

20 A We was just having a cookout and it grew.

21 Q And it grew?

22 A Yeah, people kept coming.

23 Q People kept coming. How big was your crowd at any
24 given time? Were people coming and going?

25 A It was a large crowd.

- 1 Q Okay. And was Corey Byrd there?
- 2 A Yeah.
- 3 Q Okay. And at the time were you and Corey close
- 4 friends?
- 5 A What you mean close?
- 6 Q Well, I mean, did y'all talk ---
- 7 A On a regular basis?
- 8 Q On a regular basis?
- 9 A No.
- 10 Q Okay. Did y'all have each others telephone numbers?
- 11 A No, not until later on that night.
- 12 Q Later that night. Okay. Did you observe -- do you
- 13 know Gregory Daniels?
- 14 A Yep.
- 15 Q Is he in the courtroom here?
- 16 A Uh-huh.
- 17 Q Okay. And how long have you known Gregory Daniels?
- 18 A The same way.
- 19 Q You grew up with Gregory?
- 20 A His mom stayed behind my daddy. We all -- his family
- 21 close with my daddy family.
- 22 Q All right. Did you happen to observe Corey and
- 23 Gregory Daniels that day getting into an argument?
- 24 A No.
- 25 Q You didn't see them ---

1 A I didn't see them argue.

2 Q Do you know that they got in an argument?

3 A I heard that they got into an argue, but I didn't see
4 them arguing.

5 Q Okay. Did you address Gregory Daniels about arguing
6 at your cookout?

7 A He wasn't arguing. He was talking to someone else
8 about Corey.

9 Q Okay. Who was he talking to?

10 A Bernard Cooper.

11 Q Bernard Cooper. Do you know what he was saying about
12 Corey?

13 MR. LAWSON: Objection, Your Honor, it's
14 hearsay.

15 MR. DEBERRY: Your Honor, it's a statement of
16 the defendant.

17 THE COURT: What was the question again?

18 MR. DEBERRY: What he was saying about the
19 victim? What the defendant was saying about the victim?

20 THE COURT: All right. What the defendant was
21 saying?

22 MR. DEBERRY: Yes, sir.

23 THE COURT: Overrule.

24 BY MR. DEBERRY:

25 Q Can you tell jury what you heard Gregory Daniels

1 telling about ---

2 A Bernard Cooper had just got finish fighting Bryan
3 Timmons about a car. Corey was saying don't worry about
4 the car that kind of stuff happen in the hood or whatever,
5 blah blah. So I was like don't boost it up, don't boost
6 up the situation just leave it alone. When I said that,
7 Gregory backed up.

8 Q So Gregory was being the aggressor in the situation?

9 A It really wasn't -- it was just, You heard what he
10 say about your car. It was that. And before it got any
11 further, I stepped in between them and told them don't do
12 it cause I had kids in the house.

13 Q You stepped between who now?

14 A Corey was facing Bernard. Gregory was behind Corey
15 and I stepped in front of Gregory and told him just leave
16 it alone.

17 Q Okay. What was Gregory Daniels wearing that day?

18 A He was wearing dark-colored clothes.

19 Q Dark clothes. How was he acting that day when you
20 observed him?

21 A He was just quiet. He wasn't talking to nobody
22 really. He was just...

23 Q Did you observe any -- was he in your yard the whole
24 time or was he kind of hanging around nearby or where was
25 he -- I mean, where he hang out most of the time?

- 1 A He was in the yard.
- 2 Q In your yard?
- 3 A And he left and came back, everybody was just in and
4 out.
- 5 Q But you saying that he just wasn't really talking to
6 many people?
- 7 A Uh-huh.
- 8 Q But he wasn't confronting Corey Byrd?
- 9 A What you mean by confronting?
- 10 Q You said you step between them?
- 11 A Yeah, I step between him, but he was talking to
12 Bernard. He wasn't talking to Corey.
- 13 Q Okay. Did Gregory Daniels ever tell you that Corey
14 robbed him?
- 15 A Yeah.
- 16 Q And can explain to the jury how that conversation
17 went between you and the defendant?
- 18 A It was me and Gabby and we was standing up and Greg
19 was on his moped. And we was talking and he said
20 something like he -- Corey robbed him and then he sat back
21 and said he was just joking.
- 22 Q Okay. What time was that?
- 23 A I'm not sure.
- 24 Q Was it daytime or nighttime?
- 25 A It was night.

1 Q It was nighttime?

2 A Uh-huh.

3 Q And that's when he had on his dark clothes?

4 A Yeah.

5 Q What was your telephone number at that time?

6 A [REDACTED]-4769.

7 Q Okay. [REDACTED]-4769?

8 A Uh-huh.

9 Q Okay. And that was at your house?

10 A Yeah.

11 Q That wasn't a cell phone?

12 A No, I didn't have a cell phone.

13 Q Okay. When is the last time that evening that you

14 saw Gregory Daniels?

15 A He was walking down the street and asking for a

16 cigarette.

17 Q Was that late?

18 A I'm not sure what time it was, but it was late.

19 Q It was after midnight?

20 A Yeah, cause almost everybody had left.

21 Q Everybody almost had left?

22 A Yeah.

23 Q Do you remember who you were sitting with or who was

24 around you at that time?

25 A If I'm not mistaken, it was Corey and his girlfriend.

1 Q Okay. And you testified that Gregory Daniels walk by
2 and gave you a cigarette?

3 A Uh-huh.

4 Q So he wasn't at the party, he was just walking down
5 the street?

6 A Yeah.

7 Q Do you know where he lived at ~~that~~ time?

8 A Down the street by the Pub.

9 Q By the where?

10 A The Pub.

11 Q By the Pub?

12 A Uh-huh.

13 Q Is that -- you know what street that would be on?

14 A I think it's Fraser.

15 Q Fraser Street. And did you see him around a
16 neighborhood during the time you lived around there? I
17 mean, just on occasion?

18 A Yeah, if I was going to the Pub or sitting on the
19 porch on something.

20 Q He be around Fraser Street?

21 A Uh-huh.

22 Q Okay. Your Honor, may I approach. I am going to
23 show you a map. Can you point to the jury where your
24 house was? Where the cookout was?

25 A My house was on the corner of Liberty, it looks like

1 it may have been right there.

2 Q Okay. On this corner right here?

3 A Uh-huh.

4 Q All right. What street is that the corner of Liberty
5 and what street?

6 A Fraser.

7 Q The corner of Liberty and Fraser. Okay. So Gregory
8 Daniels was in the neighborhood?

9 A He stayed there.

10 Q Okay. What time was Mr. Bryan Evans and Gabby did
11 they leave together?

12 A It was after three in the morning.

13 Q It was after three in the morning that they left?

14 A Uh-huh.

15 Q Did Corey go with them?

16 A Corey was on his way to go with them, but he came
17 back because he left his charger.

18 Q Okay. And when he came back, did they go ahead and
19 leave without him?

20 A Yeah, they left him.

21 Q Okay. And you testified that's after three in the
22 morning?

23 A It was three.

24 Q And what did Corey Byrd do?

25 A He left.

1 Q He left on foot?

2 A Yeah.

3 Q And did y'all have a telephone conversation after he
4 left?

5 A Yeah, he call me when he was walking down the street.

6 Q And did he tell you where he was?

7 MR. LAWSON: Objection, Your Honor, hearsay.

8 THE COURT: Sustained.

9 BY MR. DEBERRY:

10 Q Shavonne, can you tell the jury the last thing that
11 Corey Byrd told you before the last word you ever heard
12 from Corey Byrd?

13 MR. LAWSON: Objection, Your Honor, it's hearsay
14 and it's inadmissible and hearsay is prejudicial.

15 MR. DEBERRY: Your Honor, we believe it's a
16 present sense impression. It's an exception to the
17 hearsay rule and we believe it's admissible.

18 THE COURT: Sustain the objection.

19 MR. DEBERRY: Beg the Court's indulgence.

20 (WHEREUPON, a pause in the proceedings.)

21 MR. JEPERTINGER: May we take it up outside the
22 presence of the jury, Your Honor.

23 THE COURT: All right. Ladies and gentlemen,
24 let me get you to step back into your jury room while I
25 take up this matter of law. Please have no conversation

1 about this case.

2 (WHEREUPON, the jury retire to the jury room.)

3 THE COURT: All right, Mr. Deberry.

4 MR. DEBERRY: Your Honor, is it possible if we
5 can proffer the statement in -- outside the presence of
6 the jury for you to make a ruling.

7 THE COURT: All right. I'll allow that.

8 MR. DEBERRY: Okay, thank you.

9 BY MR. DEBERRY:

10 Q Shavonne, can you tell the judge and just who's here
11 in the courtroom the last words that Corey Byrd told you
12 that night?

13 A The last thing Corey Byrd told me was that nigga I
14 was arguing at the cookout with behind me.

15 Q All right. What happened?

16 THE COURT: I'm sorry I didn't hear that. Could
17 you repeat that, ma'am, I'm sorry.

18 THE WITNESS: The guy he was arguing with at the
19 cookout was behind him.

20 THE COURT: That's what he said to you?

21 THE WITNESS: Uh-huh.

22 THE COURT: That's what he said to you?

23 THE WITNESS: Uh-huh.

24 THE COURT: All right.

25

1 BY MR. DEBERRY:

2 Q What time was that?

3 A I'm not sure it had to be between -- cause Ryan had
4 already left. It had to be between 4:30 and five maybe.

5 Q Around five o'clock?

6 A Uh-huh.

7 Q Can I approach the witness to refresh your
8 recollection. Can you read that highlighted line?

9 A It says ---

10 Q Does it say what time that phone call ended?

11 A It says 4:53 to 5:14.

12 Q Does the highlighted part say 5:14 or 5:07?

13 A The highlighted part says 5:07.

14 Q Is that between your phone number and Corey Byrd's
15 phone?

16 A And Corey's phone, yeah.

17 Q All right. Did Corey Byrd tell you anything else in
18 those last few minutes about whether or not you wanted to
19 talk to the fellow that was behind him?

20 A Like what? He said, The nigga I was arguing with at
21 the cookout behind me, you want to talk to him.

22 Q And what did you say?

23 A I said, no, but the phone had already went dead.

24 Q The phone was dead, okay.

25 MR. DEBERRY: Your Honor, Rule 803(1) presence

1 sense impression is a statement describing or explaining
2 an event or condition made while the declarant was
3 perceiving the event or condition or immediately
4 thereafter. Your Honor, we believe that this is the exact
5 time he got killed. He observe something at that time.
6 And it is critical to the case and we believe that present
7 sense impression and it should be allowed.

8 THE COURT: Let me see that.

9 Mr. Lawson, I'll be happy to hear from you on
10 that.

11 MR. LAWSON: Your Honor, I mean, it obviously
12 obviates any opportunity that the defense would have
13 cross-examined in the normal sense circumstance if the
14 statement is made out of court. And quite frankly,
15 there's no way they can, this is not being offered for the
16 truth of the matter contained therein, that's what exactly
17 they're trying to offer this for. And it is pure hearsay.

18 MR. DEBERRY: Your Honor, we don't contest the
19 fact that the statement is purely hearsay, but it's an
20 exception to the hearsay rule, it's a present sense
21 impression.

22 THE COURT: And I apologize and my hearings
23 maybe not good, I'm still not understanding the -- I just
24 don't think I've heard the statement. We're outside the
25 jury presence, somebody tell me what the statement is.

1 A The nigga I was arguing with at the cookout is behind
2 me, do you want to talk to him.

3 THE COURT: Now, how does that describe or
4 explain an event? What event is that describing?

5 MR. DEBERRY: It's a present sense impression.
6 It's a condition.

7 THE COURT: A present sense -- describing or
8 explaining an event or condition made while the declarant
9 was perceiving the event or condition or immediately
10 thereafter.

11 MR. DEBERRY: Yes, sir, he was perceiving the
12 condition and speaking his mind. I mean, it's a reliable
13 statement because he's saying exactly what he's
14 perceiving. It's a present sense impression.

15 THE COURT: But if I'm understanding the
16 testimony cause you asked her twice and she stated that it
17 wasn't Corey Byrd he was arguing with, it was the other
18 guy.

19 MR. LAWSON: That's exactly what she said.

20 THE COURT: That's exactly her testimony.

21 MR. DEBERRY: Your Honor, there's more --
22 there's evidence in the record that Corey Byrd and Gregory
23 Daniels were arguing at the cookout.

24 THE COURT: This is the witness you're asking.

25 THE WITNESS: I didn't physically see them

1 arguing. Greg was talking to Bernard Cooper.

2 THE COURT: That's what she said in her
3 testimony. You asked her twice.

4 THE WITNESS: He was talking to Bernard Cooper,
5 but he was talking about Corey.

6 BY MR. DEBERRY:

7 Q Do you have knowledge that Gregory Daniels and Corey
8 Byrd were arguing at the cookout?

9 A I never saw them arguing, but I heard that they was
10 arguing.

11 Q You have knowledge that they were arguing?

12 A I can't say I heard, but I didn't see them physically
13 cause I wasn't there. I was in and out more people kept
14 coming. I kept going back and forth, but I didn't
15 physically see them. I heard that they was arguing.

16 Q Miss Gass, can you explain when you use the term
17 boost them up, what were you referring to?

18 A Greg trying to make Corey and Coop argue. I didn't
19 want Corey and Coop to argue, so I was like don't boost up
20 the situation just let it go and that's when Greg fell
21 back.

22 MR. DEBERRY: Your Honor, may I beg the Court's
23 indulgence for just a moment.

24 THE COURT: Yes.

25 (WHEREUPON, a pause in the proceedings.)

1 THE COURT: Stephen, can I look at your rule
2 book again real quick?

3 MR. DEBERRY: Yes, sir.

4 THE COURT: Thank you, sir.

5 MR. DEBERRY: Your Honor, I also have Judge
6 Anderson's book on the subject if you like to look at it.

7 THE COURT: If you would give me one moment. I
8 left my book in the office, let me grab my book.

9 (WHEREUPON, a pause in the proceedings.)

10 MR. DEBERRY: Your Honor.

11 THE COURT: Yes, sir.

12 MR. DEBERRY: Your Honor, may I ask a few more
13 questions of Miss Gass?

14 THE COURT: You don't need to for purpose -- I
15 mean, we're outside the juries presence. For purpose of
16 my ruling, that's not necessary.

17 MR. DEBERRY: Your Honor, I think what I have
18 might clear up the situation some.

19 THE COURT: I'm pretty clear in my mind at this
20 point.

21 Mr. Lawson, looking at 803 in defining present
22 sense impression which is a statement which is not
23 excluded by the hearsay rule, the statement describing or
24 explain an event or a condition made while the declarant
25 was perceiving the event or the condition or immediately

1 thereafter. His comment that phone conversation was the
2 guy standing behind me who was arguing with me at the -- I
3 don't know the exact words. The guy standing behind me
4 who was arguing with me at the party or at the cookout or
5 whatever, seems that it would in fact fall under that
6 present sense impression describing the situation he was
7 in at that moment. I don't know how it is relevant to her
8 testimony based on the testimony, but that doesn't make it
9 inadmissible.

10 MR. LAWSON: Well, yes, it does. Your Honor, it
11 is pure hearsay. It is trying to be slipped in under an
12 exception to hearsay. In every situation when, Your
13 Honor, tries to determine admissibility of evidence, the
14 last and final test is always a Rule 403 test on
15 prejudicial effect and probative value. The probative
16 value of this statement is suspect at best. The
17 prejudicial effect it could be phenomenal. There's -- as
18 she said in her own testimony, it was no arguing between
19 this -- that she knows of between this man and that
20 individual but...

21 THE COURT: Which plays right into your hands.
22 So why they want it in, I don't know, but that doesn't
23 make it inadmissible.

24 MR. LAWSON: Because there's other people that
25 have testified that my client did have words with that

1 individual and they not gone take her testimony and
2 separate it out. You can't expect -- the jury is not
3 going to go back there and take into consideration all the
4 testimony that was given. And now, we're talking about
5 taking a videotape basically of the incident that the
6 videotape's missing, but we're going to talk about what
7 was on it any way. And they are attempting to get a
8 statement from the victim allegedly identifying someone, a
9 perpetrator who is apparently a black individual that was
10 at the party earlier and he had words with. And we know
11 at least two times, we know that from testimony that my
12 client had a discussion with him whether it was -- the
13 State is just insisting ---

14 THE COURT: Well, according to her testimony, so
15 did others.

16 MR. LAWSON: Exactly, so did others.. That's why
17 I'm saying what they're looking for out of this and what
18 they're trying to get out of this is not justified, it's
19 not even fair, not remotely fair.

20 THE COURT: Mr. Deberry.

21 MR. DEBERRY: Your Honor, I think your ruling is
22 correct. I think, it's purely a hearsay statement, but
23 there's no question, it's a present sense impression which
24 is an exception under our rules. I think I can perhaps
25 lay a better foundation if I can refresh Miss Gass' memory

1 with her statement she gave law enforcement shortly after
2 what happened.

3 THE COURT: Well, let her read her statement.

4 MR. DEBERRY: All right.

5 BY MR. DEBERRY:

6 Q Miss Gass, this is a copy of your statement that you
7 gave to the Florence Police Department on September the
8 9th, okay. A Detective Graham was interviewing you. And
9 on page four, he says, okay, now talking about the fellow
10 he argued with after he said that, you told me earlier
11 that you assumed he was talking about Greg. Now, tell me
12 describe your thoughts of why you -- why you're assuming
13 it's Greg and not Coop. And could you read your response
14 right here just read that paragraph?

15 A I assumed it was Greg because that's the only
16 argument that I saw that I stepped in the middle of and
17 told Greg not to follow it up. I told him to get out of
18 Corey's face not to follow it up. That's the only thing I
19 know he could have been talking about. I never saw Coop
20 and Corey get into anything. Coop told me that he was
21 arguing with Corey, but I never saw it.

22 Q So after reading that, do you think you might have
23 stepped in between Greg and Corey?

24 A No. Greg was talking to Coop. Gregory was standing
25 behind Corey. Greg was talking about Corey to Coop. I

1 stepped in and I told Greg don't boost it up, leave it
2 alone. My kids are in the house. That's what I told him.
3 I never saw him physically arguing with Corey. What I saw
4 me and Corey had just got back from the store. When we
5 got back from the store, Bernard Cooper and Little B had
6 just got finish fighting or arguing whatever about Coop's
7 car. When that was happening, Corey said something like
8 that kind of thing happen in the hood or something like
9 that. And Greg was like you going to let him talk about
10 your car like that. And that's when he was standing
11 behind Corey. I stepped in facing Greg and I told Greg
12 don't boost it up, leave it alone, let him go. And Greg
13 jump back like that.

14 Q But you told the officers that you stepped in the
15 middle of them?

16 A I was in the middle because ---

17 THE COURT: She explained her answer, Mr.
18 Deberry. She's not going to say what you want her to say.

19 A I was in the middle because Greg ---

20 THE COURT: That's fine. I think it is an
21 exception to the hearsay rule. Why you want to go down
22 that road is your call. I'll allow it. And note the
23 defenses exception to that ruling. I think it is a
24 presence sense impression based on the statement that I've
25 heard and will allow it.

1 MR. DEBERRY: Thank you, Your Honor.

2 MR. LAWSON: Your Honor, I had raised it under
3 403 as well as probative value and prejudicial effect.

4 THE COURT: Yes, sir, and I'm certainly -- I
5 don't think it rises to the level of being inadmissible
6 under 403. Yes, it is prejudicial, but as I've heard you
7 say on several occasions when use to be a prosecutor and
8 I've said it myself as well everything -- most everything
9 that State presents is prejudicial to the defense, as it
10 rise to the level where its probative value is outweighed
11 by its prejudicial effect, I don't believe it is. And I'm
12 going to allow the statement in but note your exception to
13 that ruling. All right.

14 Bring the jury back in, Ms. Joe.

15 (WHEREUPON, the jury came into open court.)

16 MR. DEBERRY: May it please the Court.

17 THE COURT: All right, sir.

18 DIRECT EXAMINATION CONTINUED

19 BY MR. DEBERRY:

20 Q Okay. All right. Miss Gass, I think where we left
21 off was between the telephone conversation between you and
22 Corey Byrd. Please tell the jury the last thing that
23 Corey Byrd told you before --

24 MR. LAWSON: Your Honor, I renew the objection.

25 THE COURT: All right, noted overruled.

1 BY MR. DEBERRY:

2 Q Please tell the jury the last thing Corey Byrd told
3 you before the phone call ended?

4 A That nigga I was arguing with at the cookout is
5 behind me, do you want to talk to him.

6 Q You say the fellow that was at the cookout behind you
7 -- arguing with at the cookout was behind -- could you say
8 it one more time slowly?

9 A The nigga I was arguing with at the cookout is behind
10 me, do you want to talk to him.

11 Q What happened at that point?

12 A The phone went dead.

13 Q Okay. And do you know what time that was or close to
14 what time that was?

15 A A little after five.

16 Q Okay. After the phone went dead, you try to call him
17 back?

18 A A little while later, yeah.

19 Q Did anybody answer?

20 A His girlfriend.

21 Q Okay. And did anybody come back to your house after
22 that?

23 A Ryan Evans.

24 Q And did they tell you anything?

25 A He told me that he saw Corey on the side of the road

1 and he think he dead.

2 Q All right. About how long was that after you talk
3 with Corey?

4 A Maybe about 15 minutes.

5 Q All right.

6 MR. DEBERRY: Thank you very much.

7 THE COURT: Mr. Lawson.

8 MR. LAWSON: May it please the Court.

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. LAWSON:

12 Q Miss Gass, it's my understanding that this cookout
13 was at your house; is that correct?

14 A Yes.

15 Q How long did you live there?

16 A It was about five or six months something like that.

17 Q Do you still live there now?

18 A No.

19 Q When did you leave or move from there?

20 A It was like two or three weeks later.

21 Q Were you basically there the whole time during the
22 party then?

23 A No.

24 Q What did you do?

25 A I was back and forth to the grocery store and to the

- 1 liquor store.
- 2 Q Okay. So you -- any time y'all needed supplies you
- 3 would go and pick them up?
- 4 A I had to go get them.
- 5 Q Okay. How often did you leave in the course of the
- 6 cookout?
- 7 A Maybe like five or six times.
- 8 Q Okay. And what would be the average length of time
- 9 that you would stay gone?
- 10 A Twenty or 30 minutes.
- 11 Q What would be the longest period of time you stayed
- 12 gone?
- 13 A Forty-five minutes to an hour.
- 14 Q Okay. Did you go to the same store each time?
- 15 A No.
- 16 Q Which liquor store did you go to?
- 17 A The one on Oakland Avenue.
- 18 Q And I assume -- would you -- did you buy liquor and
- 19 beer there or just liquor?
- 20 A Half gallon of gin.
- 21 Q Just gin?
- 22 A Mostly..
- 23 Q And what time -- was there a specific time for
- 24 starting and stopping in relation to this cookout?
- 25 A No.

- 1 Q What time did people first start arriving there?
- 2 A A little after 12.
- 3 Q Okay. What about -- did you have people lined up to
- 4 help you with the cookout, like people to do cooking and
- 5 things?
- 6 A People was already there before we even decided to
- 7 have a cookout so, yeah.
- 8 Q Okay. This was not a planned event ahead of time?
- 9 A Uh-uh.
- 10 Q So that morning, you just got up decided to have a
- 11 cookout that day?
- 12 A That day when I was in the bed sleep and Bryan
- 13 Timmons got me up say let's have a cookout.
- 14 Q So that's when everything just started rolling when
- 15 you got up that morning?
- 16 A Yep.
- 17 Q Okay. And that's how people just started word of
- 18 mouth just started spreading around the neighborhood?
- 19 A Yep.
- 20 Q Okay. Wasn't official invitation send out?
- 21 A No.
- 22 Q It was a neighborhood cookout basically?
- 23 A It was just a cookout and people started showing up.
- 24 Q And I guess more people showed up and more people ---
- 25 A The more I had to leave and go out and buy extra

1 stuff.

2 Q And more people showed up, the more people you had to
3 feed more ---

4 A The more people that was drinking.

5 Q I guess by about midnight people -- some people were
6 getting pretty high? I would assume.

7 A We started drinking early like probably after 12, so
8 they should have been drunk before midnight.

9 Q Should have been drunk long before midnight. And
10 then when did you finally -- when would you finally
11 consider that cookout to have been over?

12 A About a little before Ryan came to the house, so it
13 had to be like three in the morning, a little after three.

14 Q You say after Ryan came?

15 A Uh-huh. People started leaving a little while before
16 Ryan got there, so it had to be a little after three.

17 Q I have heard numbers anywhere from six to 50. What
18 -- how many people you think were there during the course
19 of the day?

20 A Between 50 to 80.

21 Q Okay. And I would not think that -- would six to
22 eight would be a very accurate number for the people that
23 were there normally at one time or would that be a low
24 figure?

25 A Low.

1 Q Okay.

2 MR. LAWSON: Bear with me one moment, Your
3 Honor.

4 THE COURT: Yes, sir.

5 (WHEREUPON, a pause in the proceedings.)

6 BY MR. LAWSON:

7 Q Did you observe anybody riding in a green SUV riding
8 back and forth around the house, your house?

9 A No.

10 Q All right. Did you see anybody riding out of the car
11 with a gun in their hand?

12 A Riding out of the car with a gun in their hand?

13 Q Riding -- hanging out the car, out the window of the
14 car?

15 A No.

16 Q Did you hear of something that may have happened in
17 relation to Corey being threatened in that respect with
18 somebody riding by in a car?

19 A No.

20 Q Did you see Gregory drinking?

21 A No.

22 Q And I assume you observed -- are you talking with him
23 a couple of times?

24 A Uh-huh.

25 Q When -- what time did Corey leave?

- 1 A When Ryan pulled up. It had to be between 3:30 and
2 four?
- 3 Q Okay. And did you know where he was going?
- 4 A He was going to meet his girlfriend, he was suppose
5 to be going to the store to get some cigarettes.
- 6 Q Okay. Do you know what store he was going to?
- 7 A Tiger Mart.
- 8 Q Did he tell you that?
- 9 A Yeah, because earlier during the cookout me and Corey
10 had given someone else some money to go get some
11 cigarettes and they never showed up.
- 12 Q All right. And did you tell anybody where he was
13 going?
- 14 A No.
- 15 Q All right. As far as you know then, you didn't --
16 how many people were staying in your house that evening?
- 17 A How many people spent the night there?
- 18 Q Yeah.
- 19 A It was just me, Arthur, my kids and Arthur's
20 girlfriend, Sade.
- 21 Q All right. So that's three adults?
- 22 A Uh-huh.
- 23 Q And that would have been the only people that were
24 there at the time when Corey left?
- 25 A Yes.

- 1 Q Okay. And cause he left about the same time that
2 Ryan had left?
- 3 A Ryan had left, but he left like maybe two or three
4 minutes after they left.
- 5 Q Okay.
- 6 A He was going to ride with Ryan, but he left his phone
7 charger in the house. He came back in the house to get
8 his charger, but they left him.
- 9 Q They left while he was in the house?
- 10 A In the house getting his charger.
- 11 Q And then -- so when he left, you were the only one
12 left in the house that knew where he was going?
- 13 A Yes.
- 14 Q And you didn't tell anybody?
- 15 A No.
- 16 Q Okay. Did you -- if I remember right on direct, you
17 said that you got a cigarette from Gregory?
- 18 A Uh-huh.
- 19 Q At the time that you got a cigarette from Gregory,
20 was Corey there with you?
- 21 A Yes.
- 22 Q Did they have any words between the two of them?
- 23 A No.
- 24 Q They say anything to each other at all?
- 25 A (No response).

1 MR. LAWSON: Okay. I don't have any other
2 questions, Judge.

3 THE COURT: Anything on redirect?

4 MR. DEBERRY: I have no further questions.
5 Thank you, Miss Gass.

6 We ask that she be excused, Your Honor.

7 THE COURT: Any objection, Mr. Lawson?

8 MR. LAWSON: No, Your Honor.

9 THE COURT: Thank you, ma'am, you're free to go.
10 (WHEREUPON, the witness leaves the witness
11 stand.)

12 THE COURT: All right. Y'all want to step up
13 here real quick get a feel for what's going on here.

14 (WHEREUPON, a bench conference was held in the
15 presence of the jury, but out of the hearing of the
16 jury.)

17 THE COURT: All right. Ladies and gentlemen,
18 it's a couple minutes to five. So I was just trying to
19 get a feel from the attorneys about witnesses and our
20 schedule. So we're going to go ahead and adjourn for the
21 afternoon. The same instructions I gave you yesterday,
22 let your friends, loved ones, and family members know that
23 you're still involved in this trial, so you still are not
24 allowed to talk about it and ask them to respect that and
25 have no conversation with anybody. And let me just

1 explain to you, the purpose of this and the reason it is
2 so important that you abide by this instruction is because
3 and I tell people sometimes, you know, if you put yourself
4 or loved one in the place of the defendant, any person
5 who's before the Court has the right to have the jury
6 consider the case based on the evidence that is presented
7 in the courtroom. And it is extremely improper to
8 consider anything outside this court when deciding this
9 case. And so that's the reason for the admonition that
10 you not discuss this case with anybody because your
11 decision has to be based solely on the evidence that is
12 presented during the course of this trial in this
13 courtroom. So please if you would adhere to that, ask
14 yours friends, family and loved ones to respect that.
15 Again, you can let them know when it's over, you will tell
16 them everything but not until that point, okay. So ask if
17 you would please be back in your jury room at nine o'clock
18 in the morning. We'll get started as soon as everyone
19 assembled. If everyone else will remain in the courtroom,
20 ladies and gentlemen, you are excuse until nine o'clock
21 tomorrow morning. We will see you back then.

22 (WHEREUPON, the jury was excused for the day.)

23 MR. LAWSON: Your Honor, may I approach?

24 THE COURT: Yes, sir.

25

1 (WHEREUPON, a bench conference was held in the
2 presence of the jury, but out of the hearing of the
3 jury.)

4 THE COURT: We will be in recess then until nine
5 o'clock tomorrow morning.

6 (WHEREUPON, the proceedings were concluded for
7 the day to be reconvened on April 14, 2010.)

8 THE COURT: Is there anything we need to take up
9 before we get started, bring the jury out?

10 MR. JEPERTINGER: Okay. If we can mark these,
11 it will be by stipulation of parties. These are a diagram
12 that Corporal Moreau drew, it's not to scale, of course.
13 There are four photographs on two sheets of paper and
14 they'll be coming in by agreement. They're not overly
15 gruesome for the record.

16 THE COURT: Okay.

17 MR. JEPERTINGER: We do have gruesome photos,
18 but I'm keeping them out.

19 MR. LAWSON: There aren't any badly gruesome
20 ones in this case.

21 MR. JEPERTINGER: Your Honor, for the record,
22 Your Honor, State's Exhibit 10, which are photos of the
23 decedent. State's Exhibit 11 which is the photos of the
24 area where the body was recovered and State's Exhibit 12 a
25 not to scale sketch of the area prepared by Officer

1 Moreau. Are all in evidence by stipulation of the
2 parties?

3 THE COURT: Is that correct, Mr. Lawson?

4 MR. LAWSON: That's correct.

5 THE COURT: All right. Those all those three
6 items then are in evidence by stipulation or agreement.

7 (WHEREUPON, State's Exhibits Nos. 10-12 were
8 admitted into evidence.)

9 THE COURT: All right. Anything else we need to
10 take up before we bring the jury out?

11 MR. JEPERTINGER: There is a lay witness that
12 is -- should testify. His name is James Presnell, he
13 worked at the Country Hearth and he has no record per
14 NCIC.

15 THE COURT: All right. You been able to review
16 that?

17 MR. LAWSON: Yes, Your Honor.

18 THE COURT: All right, sir.

19 MR. JEPERTINGER: Other than that, Judge, I
20 think we are ready to go.

21 THE COURT: Anything from the defense before we
22 get started?

23 MR. LAWSON: No, Your Honor.

24 THE COURT: Ms. Joe, if you would ask the jury
25 to join us please.

1 (WHEREUPON, the jury came into open court.)

2 THE COURT: Good morning, ladies and gentlemen.
3 I hope everyone had a good evening and is ready to go this
4 morning. If you recall from yesterday when we adjourned
5 for the afternoon, the State is still presenting their
6 case. So I would recognize Mr. Jupertinger at this time
7 for his next witness.

8 MR. JEPERTINGER: Please the Court, Your Honor,
9 we call Corporal Chris Moreau of the Florence Police
10 Department.

11 THE COURT: All right, sir, if you please come
12 around.

13 THE CLERK: Please place your left hand on the
14 Bible and raise your right hand. Do you swear the
15 testimony you give in this case to be the truth, the whole
16 truth, and nothing but the truth so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Please be seated and please state
19 your full name for the record.

20 THE WITNESS: Christopher Michael Moreau.

21 WHEREUPON,

22 Chris Moreau,
23 after first having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25

1 BY MR. JEPERTINGER:

2 Q Officer Moreau, what position do you hold at the city
3 police?

4 A I'm a corporal in the crime scene unit.

5 Q Okay. And your responsibilities with the crime scene
6 unit include what?

7 A Primarily responding to and collecting evidence from
8 any and all crime scenes that we may be needed on,
9 transportation of evidence to and from the complex,
10 processing that evidence as well taking it to and from the
11 SLED lab in Columbia.

12 Q All right. I guess in other places they would call
13 that CSI; correct?

14 A Yes, sir.

15 Q All right. Okay.

16 A Without the budget they have on TV.

17 Q Very good. How long have you been doing that sort of
18 job?

19 A I been with crime scene since July of 2005.

20 Q All right. So you were doing it back in September of
21 2008?

22 A Yes, sir.

23 Q Okay. Were you called out to the Marlboro Street,
24 Dargan Street area?

25 A Yes, sir, it was at 5:30 in the morning. Corporal

1 Myers, who is also with crime scene, notified me of a
2 homicide that we had.

3 Q Okay. Were you the primary person at -- crime scene
4 tech at that scene?

5 A No, sir, Corporal Myers was primary on that scene.

6 Q Now, just very very carefully the Marlboro Street,
7 Dargan Street area that you were called out to and I show
8 you this on State's Exhibit 4 and I'm going to ask you a
9 very difficult question. What county is that in?

10 A It is in the County of Florence, also in the city
11 limits of Florence.

12 Q Okay, thank you so much. When you got out there,
13 what's the first thing that you did?

14 A Initially as soon as I arrived on scene, I met with
15 Corporal Myers and several other officers to basically get
16 a run down on what was going on.

17 Q Right. I'm going to show you what's in evidence as
18 State's Exhibit 11 and State's Exhibit 10. Can you tell
19 the jury what these photographs depict?

20 A These first two pictures here are pictures of the
21 victim as he was when we arrived on scene. These
22 photographs were taken by Corporal Myers, but I was
23 present when he took them.

24 Q Okay. Those flags around there those markers are
25 those that ---

1 THE COURT: Hold on for a second.

2 MR. LAWSON: Refer to exhibit number.

3 MR. JEPERTINGER: I thought I did. State's
4 Exhibit 10.

5 THE COURT: State's 10. All right, go ahead,
6 sir.

7 BY MR. JEPERTINGER:

8 Q And those markers or flags, did you put those down
9 there or Corporal Myers?

10 A Those were put down by Corporal Myers. Those are
11 just evidence marking flags, any items of interest that we
12 mark in this case. I believe one was a cell phone.
13 Marker number four is on a cell phone. Number one was, I
14 believe, used to identify just the body itself. Two and
15 three, I believe, were what we believe to be blood on the
16 ground.

17 Q All right. And State's Exhibit 11?

18 A State's Exhibit 11 is just pictures from further away
19 from the general scene, picture on the bottom is pretty
20 much standing on the side of Marlboro Street and looking
21 north on Dargan. What you see there is the body covered
22 with a sheet, which I believe was place there by EMS prior
23 to us arriving. Second picture is at the same
24 intersection backed out showing the crime scene tape that
25 officers had put up to cord off the area.

1 Q All right. And I'm going to show you State's Exhibit
2 12. This not to scale sketch who did that?

3 A I did this.

4 Q Okay. And the reason for doing that?

5 A Any major scene we'll sketch out roughly on graph
6 paper. It's not anything to scale, but we try to sketch
7 everything in the area just to give a perspective. This
8 is the intersection of Marlboro and Dargan looking north
9 on Dargan Street showing where the different items of
10 evidence flags that we put down item one being the body.
11 Then we also show where various telephone poles, different
12 things in the area. And we get rough measurements of the
13 scene triangulating every measurement from three different
14 angles, that way if we needed to we could somewhat
15 recreate the scene in the future.

16 Q Okay. Now, obviously, there were photographs taken
17 because we have some here; correct?

18 A Yes, sir.

19 Q You took photographs?

20 A I did. I took 35 millimeter photographs to
21 compliment the digital.

22 Q Right. And Corporal Myers took photographs?

23 A Yes, sir.

24 Q Now, in terms of trying to find tangible evidence,
25 what did you guys do out there?

1 A Like I said, once we note the obvious, we perform a
2 search of the entire area trying to find anything and
3 everything else that may be related such as shell casings
4 which we did not find.

5 Q Okay. You found blood drippings; is that correct?

6 A Yes, sir.

7 Q Okay. And what did you or Corporal Myers do with the
8 blood drippings?

9 A It would have been tested first by Corporal Myers
10 with a phenolphthalein presumptive blood test kit. You
11 will see it on TV with the CSI. It's a little swab that
12 turns pink. It's actually a lot more -- there's three
13 steps instead of one like they do on TV. We do that on
14 anything that we presume to be blood and that test just
15 confirms that it's blood. It doesn't tell us human or
16 animal, it just says it's blood. After it's confirmed to
17 be blood -- in this case, Corporal Myers took swabs pretty
18 much collected the blood from each area.

19 Q All right. And at that point, when he swabbed areas
20 -- would you swab surrounding things. I think someone
21 mentioned a beer can that was tested up at SLED. Did you
22 swab that beer can as well?

23 A I did not, but Corporal Myers did.

24 Q Corporal Myers. And you were present when he did
25 that?

1 A Yes, sir.

2 Q Okay. In terms of trying to find any sort of latent
3 fingerprints, did you try to find any fingerprints or
4 anything of that nature?

5 A I'm not sure, but I know Corporal Myers would have on
6 anything that could have been printed. I believe such as
7 the cell phone or the can. I know swabs would have been
8 taken first and foremost, DNA has to be done before any
9 type of powder is used.

10 Q All right. The only fingerprints that you know of in
11 being involved in this case were the fingerprints of the
12 deceased; isn't that correct?

13 A Yes, sir.

14 Q All right. But it would have been your protocol to
15 look for anything and everything you could?

16 A Yes, sir.

17 Q Okay. Now, after the scene was done and apparently
18 you did this sketch afterward; correct?

19 A Yes, sir, that's one of the last things that was
20 completed was the sketch.

21 Q All right. What happened with all the swabs that
22 were taken by law enforcement at the scene? What happened
23 to them did you get them?

24 A Ultimately, I did get them I believe it was the 29th
25 of September. The 30th of September I took them to SLED.

1 Q Okay. And where -- from the scene where would they
2 have gone?

3 A They were secured in envelopes by Corporal Myers,
4 each set of swabs would have been put in a separate
5 envelope where he would have transported them to the
6 complex where they would be packaged and logged into our
7 evidence room.

8 Q All right. And were you given a set of swabs from
9 blue jeans excuse me -- did you take a set of swabs from a
10 pair of blue jeans worn by a person name Kevin Hinnix?

11 A I did. I believe it was 5:30 on the afternoon of the
12 fifth when one of our investigators brought them down for
13 me to swab his pants.

14 Q Okay. And you took that swab; correct?

15 A Yes, sir.

16 Q And you placed it in the series of things to go to
17 SLED; correct?

18 A Yes, sir, package the same type envelope the other
19 ones would have been package but kept separate.

20 Q All right. And you took that to SLED and who did you
21 give all that stuff to that you took?

22 A I believe, it was Ms. Yarborough, the forensic
23 technician that testified yesterday.

24 Q All right. And I'm going to show you container B.
25 Can you recognize that and that would be on State's

1 Exhibit 6?

2 A Yes, sir, Exhibit Number 6 is a bag that was signed
3 by me dated by me on the bag. This is what happens when
4 you get to SLED. They put items into a bag, seal the bag.
5 We date and initial that bag. My initials and date are on
6 the top as well as my signature.

7 MR. JEPERTINGER: All right. At this time, I
8 would move six into evidence, Your Honor.

9 THE COURT: Any objection State's Exhibit 6?

10 MR. LAWSON: State's Exhibit 6, no, Your Honor.

11 THE COURT: All right, without objection.

12 (WHEREUPON, State's Exhibit No. 6 was admitted
13 into evidence.)

14 BY MR. JEPERTINGER:

15 Q In terms of gunshot residue test, was that done on
16 the decedent, the dead person in this case?

17 A Yes, sir, it was.

18 Q Can you tell a little bit how you try to preserve
19 the -- any gunshot residue I think use paper bags; is that
20 correct?

21 A Yes, sir.

22 Q Tell the jury a little bit about that?

23 A Generally with a homicide victim, we want to protect
24 the hands as much as possible because we don't know what
25 type of evidence may be under the fingernails. Did they

1 try to fight off an attacker, grab ahold of somebody. We
2 don't know. So what we'll do at a scene or as soon as
3 possible is we'll put paper bags over the entire hand and
4 wrist area, tape the bag and seal it around the cuff if
5 they're wearing a shirt or on their forearm if they're
6 not. That way the paper bag it won't allow anything in or
7 out and it will preserve whatever is on the hands.

8 General practice is at an autopsy is once the pathologist
9 gets done with all of their examinations of the hands,
10 collecting whatever clippings they may or anything from
11 under the fingernails. And they tell us that they are
12 finish. At that point, we'll take a G.S.R. kit from the
13 hands.

14 Q And in this case, Corporal Myers went to the autopsy;
15 is that correct?

16 A Yes, sir.

17 Q Okay. All right. Other than being there and doing
18 the sketch and taking some photographs, was that your
19 primary involvement with this case other than carrying
20 State's Exhibit 6 to Columbia?

21 A Yes, sir.

22 Q Did you take the gunshot residue kit to Columbia or
23 was that Corporal Myers?

24 A I believe I took it, let me just check the evidence
25 form here. I did take the G.S.R. kit to SLED on the same

1 date as the other items.

2 Q Okay. So Corporal Myers would have given you that
3 kit; correct?

4 A Yes, sir.

5 Q Okay.

6 MR. JEPERTINGER: Thank you so much. Please
7 answer any questions that Mr. Lawson may have for you.

8 THE COURT: Mr. Lawson.

9 MR. LAWSON: Bear with me one moment.

10 THE COURT: Yes, sir.

11 (WHEREUPON, a pause in the proceedings.)

12 CROSS-EXAMINATION

13 BY MR. LAWSON:

14 Q Okay. Officer -- is it Officer Moreau?

15 A That's fine.

16 Q Sergeant, Lieutenant, General?

17 A Officer or Corporal whichever you prefer.

18 Q We'll go with Corporal how about that. You been with
19 the crime scene unit since 2005.

20 A July of 2005 is when I was promoted to investigations
21 and went to crime scene. There was a six-month period in
22 2007 where I went back to the street as patrol supervisor.

23 Q And then that was in '07?

24 A '07 -- from September of '07 and March of '08.

25 Q And you been back with crime scene ever since?

1 A Yes, sir.

2 Q Now, on a general night on this particular night or
3 morning of, I think, it was September the 5th was it not?

4 A Yes, sir.

5 Q Of 2008. Were you on-call on that particular day?

6 A On that particular day, I was what we call second
7 out, second call. We'll have a primary call every night
8 and our crime scene sergeant is generally second call, but
9 that particular week he was out of town for training the
10 entire week, so I was on second call.

11 Q Okay. So the primary call for that week was Myers?

12 A Yes, sir.

13 Q Deputy Myers or Officer Myers. And then why would
14 you be called out in a particular case?

15 A It is our protocol and anything as major as a
16 homicide that we try to have at least two crime scene
17 technicians on the scene.

18 Q Okay. The photographs that were taken is it my
19 understanding you took digital photographs and 35
20 millimeter photographs?

21 A Corporal Myers took the digital photographs?

22 Q Right.

23 A And I took a few photographs backup with a 35
24 millimeter, which is a practice we don't do any more.

25 Q You don't do that at all any more?

1 A No, sir, we don't.

2 Q When did you quit using a 35 millimeter?

3 A I want to say probably been a year now, I am not sure
4 the exact date.

5 Q And why did you use a 35 millimeter?

6 A It is a practice that the department had been doing
7 for years since digital first came out. I was advised it
8 was as a back up to the digital because at the time when
9 they started doing that, if the digital photographs had
10 not been completely recognized in all courts, so we were
11 using it as a back up.

12 Q And the initial digital photographs weren't as good
13 as 35 millimeter photographs originally?

14 A Originally when digital first came around, they were
15 nowhere near the quality.

16 Q And so you just used a 35 millimeter for quality but
17 as digital developed, then you've back off of 35
18 millimeter for cost if for no more other reason?

19 A Cost had a lot to do with it, yes, sir.

20 Q Cause with 35 millimeter, you have to develop the
21 film and all that; correct?

22 A Yes, sir. And, you know, unlike digital you can't
23 see the picture when you take it.

24 Q All right. Now, on State's Exhibit 10, 11 and -- we
25 know 12 you actually draw that?

1 A Yes, sir.

2 Q Do you know are these photographs that you took or
3 did Myers take those photographs?

4 A These would have been taken by Corporal Myers.

5 Q And that's on State's Exhibit 10 and 11 both
6 exhibits?

7 A Yes, sir, ten and 11.

8 Q And do you know about what time these photographs
9 would have been taken?

10 A I was called at 5:30. I would say probably around
11 six o'clock in the morning.

12 Q Okay. So based on the photographs, it appears that
13 it's right at dawn when you were starting to take the
14 pictures?

15 A These pictures here were taken before these as you
16 can see it's getting lighter and lighter.

17 Q Okay. And that's not by camera artificial light,
18 that's actually the sunlight that lightens these pictures
19 up?

20 A Yes, sir.

21 Q So when you first arrived on the scene was it still
22 dark?

23 A It was just starting to break dawn.

24 Q Okay. About this point?

25 A Yes, sir.

1 Q Okay. How long were you there before you started
2 taking photographs?

3 A Corporal Myers started taking his photographs shortly
4 after I got there.

5 Q All right. Now, on State's Exhibit 11 right here in
6 the top corner, that's the road sign is it not?

7 A Yes, sir.

8 Q And that's at the corner of Marlboro and Dargan
9 Street?

10 A Yes, sir.

11 Q So -- and is this picture taken from the same corner
12 of both photographs taken from the same corner?

13 A Yes, sir. This one would have been slightly further
14 forward towards the body than this one?

15 Q Okay. And this is not even a quarter of a block
16 away; is it not?

17 A No, sir, this the front of the same yard.

18 Q So that -- where that sheet is where the body is less
19 is in the same yard basically that the picture that you're
20 standing in or Myers was standing in when he took the
21 photographs?

22 A Yes, sir.

23 Q Was this the position that the body was in when y'all
24 arrived there on State's Exhibit 10?

25 A Yes, sir, that is the position that the body was in

1 when we first removed the sheet after I arrived.

2 Q Okay. Did -- well, did you move the body in removing
3 the sheet or did you try not to?

4 A We try to get pictures first of everything as is when
5 we arrive before we do any kind of moving.

6 Q Okay.

7 A Of course, in this case, we would have to eventually
8 move the body for evidence searching?

9 Q Okay. I see this yellow -- what is -- that's crime
10 scene tape?

11 A Yes, sir.

12 Q That's what that's called. Was there crime scene
13 tape at the other end of this crime scene?

14 A I'm not sure. I don't recall every where the crime
15 scene tape was. I know they had officers blocking the
16 road pretty far down at the other end. You can make out a
17 patrol vehicle with this picture, that's parked across the
18 road.

19 Q Okay. And would that have been about a block away or
20 less than a block?

21 A Probably less, but I'm not sure.

22 Q Okay. And that's a police vehicle?

23 A Yes, sir.

24 Q And the purpose of crime tape is just to keep people
25 out or in one way or the other?

1 A Yes, sir.

2 Q So the car would be operating as the crime scene tape
3 on this end; is that correct basically?

4 A If there was another tape, generally we will do both
5 when it involves the roadway. We will have tape up and we
6 will have vehicles and officers stationed.

7 Q Okay. And would there have been tape -- now, this
8 would have been across Dargan Street I assume?

9 A Yes, sir.

10 Q And was there tape also on Marlboro Street?

11 A I believe there was, but what I seen in the picture,
12 I couldn't tell you exactly where it was.

13 Q Now, what area did you walk at the crime scene when
14 you inspected the crime -- is it my understanding from
15 your testimony on direct that you inspected the crime
16 scene looking for possible evidence after you took the
17 photographs or at some point during the investigation?

18 A Yes, sir, we would have started centralized and
19 worked our way out.

20 Q Okay. And how far did you go and what were the
21 boundaries on that crime scene as you will?

22 A I don't recall the exact boundaries of how far we
23 went, but we would have went to probably past where this
24 vehicle was and definitely ultimately pass where any tape
25 was just making sure that it wasn't anything that we

1 messed. You know, starting to centralize and expounding
2 outward.

3 Q Okay. What about in the other direction? I guess,
4 that would be Dargan Street; is that correct?

5 A Yes, sir.

6 Q That we're talking about with the police vehicle down
7 here?

8 A Yes, sir.

9 Q And that would be north and south; correct?

10 A Yes, sir, we would have checked several yards in both
11 directions on Marlboro Street as well.

12 Q So that's east and west?

13 A Yes, sir.

14 Q Did you go past this house on the corner of Marlboro
15 Street? Did you go this way?

16 A Yes, sir. We would have gone -- we would have walked
17 between me and Corporal Myers and several other officers
18 and investigators. We would have walked past this vehicle
19 down here on either side checking the yards as well as the
20 roadway.

21 Q Okay. And what about going on Marlboro Street? This
22 house is on the corner of Marlboro and Dargan. I think,
23 the address of this house is the 100 block, it's 100 I
24 think it's on the corner actually of Marlboro Street. Did
25 you check the other side of this house?

1 A We would have checked the entire yard around that
2 house, yes, sir.

3 Q Okay. What about the other side of the road on the
4 other side of Dargan? And where in relation to either of
5 these photographs was the beer can found?

6 A It would have been ---

7 Q Maybe, the diagram would help.

8 A I believe right -- I believe that's it, you can see
9 in the picture right there very small, but between the
10 telephone pole and the orange traffic cone.

11 Q Okay. And as I understand your direct, you checked
12 looking for shell casings or any other evidence of gunshot
13 having been fired?

14 A Pretty much anything that would show us where
15 somebody had been in the area.

16 Q And did you find anything other than -- let's see for
17 physical evidence you had a cell phone that was recovered,
18 a beer can, some blood droppings and basically from the
19 scene was that it?

20 A I believe that was all that was recovered from the
21 scene, yes, sir.

22 Q Obviously, there was a body recovered also. In this
23 photograph on State's Exhibit 10, is that the sheet that's
24 being held up right there or is that a different sheet?

25 A I'm not sure which sheet it was. I generally carry a

1 sheet in my truck for purposes if a crowd is gathering to
2 hold it up because we don't allow the onlookers, we don't
3 need them looking at a body.

4 Q Was that taking place at that time, do you know?

5 A I believe there was quite a few people had gathered
6 by that point.

7 Q And this would be later up in the morning cause the
8 sun is out in this photograph?

9 A Yes, sir.

10 Q So that probably was not the sheet that he was
11 covered in?

12 A I can't say for sure if it was or it wasn't. When I
13 arrived on scene, there was a sheet covering the body. I
14 was advised it was put there by EMS?

15 Q When EMS does that, do you take that sheet as part of
16 the crime scene evidence? Do you take and retrieve that
17 sheet?

18 A It depends on the circumstances. I have in the past.

19 Q Did you on this occasion?

20 A I did not on the occasion. I don't know if Corporal
21 Myers did or not.

22 Q Now, once you left the scene that morning other than
23 preparing the diagram which is State's Exhibit 12, I
24 assume you did this later?

25 A That was done on the scene before we left?

- 1 Q That was done on the scene?
- 2 A Yes, sir.
- 3 Q Okay, good. Then once you left what additional
- 4 investigative things did you do in relation to this case?
- 5 A There was like I said a gentleman brought to me when
- 6 I was requested to swab his pants for what was identified
- 7 to be blood on his pants, which was later sent to SLED. I
- 8 did that as well as take several pictures of his pants and
- 9 him. And there was later a cell phone that was brought to
- 10 me I took two pictures of. I believe a moped. I believe
- 11 that's all I did on this case.
- 12 Q All right. Now, did you -- how did this stuff get
- 13 back to Florence? Did you pick it up and bring it back?
- 14 A I know some of it was brought back by SLED agents
- 15 yesterday, other items looks like they were brought back
- 16 by Corporal Myers.
- 17 Q Okay. But you didn't -- so basically you took things
- 18 to SLED, but you never -- you didn't pick anything up?
- 19 A I doesn't look like I brought anything back in this
- 20 case, no, sir.
- 21 Q Okay. Now, with those pants that you took, did you
- 22 do a preliminary test on those pants to determine whether
- 23 or not it was a blood stain?
- 24 A Yes, sir, I did.
- 25 Q And it was positive for blood?

1 A Yes, sir.

2 Q Did you ask the individual to give you a DNA swab,
3 mucal swab?

4 A I did and he refused.

5 Q He refused?

6 A Yes, sir.

7 Q Now, did you accompany or go to the autopsy?

8 A No, sir.

9 Q Is it normal for somebody from crime scene to go to
10 the autopsy?

11 A Yes, sir, Corporal Myers attended this autopsy.

12 Q So if you had been first on call, you probably would
13 have gone to the autopsy in this case?

14 A More than likely, yes, sir.

15 Q So it's whoever is the primary on the case usually is
16 the one that goes to the autopsy unless for some reason
17 they have something else going on?

18 A Barring other circumstances, yes, sir.

19 Q Okay. Did you in fact -- is it my understanding from
20 your direct that you put bags on the hands of Mr. Byrd at
21 the scene?

22 A That would have been done -- let me refer to my
23 report here. Yeah, that was prior to EMS taking the body
24 from the scene, we put bags on his hands.

25 Q And that was at the scene there at Dargan and

1 Marlboro Street?

2 A More than likely as he was being loaded on the
3 stretcher where we could get access to him.

4 Q And that's to protect any evidence that may be on
5 those hands?

6 A Yes, sir.

7 Q And then the bag is removed did I understand by the
8 pathologist at the autopsy or by whoever accompanies the
9 body at the autopsy?

10 A More than likely by the pathologist or one of their
11 assistants.

12 Q Then it is turned over to whoever is there to observe
13 the autopsy; is that correct?

14 A Yes, sir, generally we will observe and photograph
15 certain aspects of the autopsy along with the pathologist
16 taking their photographs.

17 Q And that goes with any other evidence that the
18 pathologist finds at the autopsy would also be given to
19 the individual to bring back to Florence; is that correct?

20 A Yes, sir, there's a few things that they send to SLED
21 themselves blood for toxicology, I believe, but generally
22 all other evidence is sent back with the officer.

23 Q Okay. And that's how like if there's bullets
24 retrieved or things like that, that's how those get back
25 is by the officer bringing them back from the autopsy?

1 A Yes, sir.

2 Q Now, did you request of SLED that they perform any
3 test in this case?

4 A The requested paperwork was completed by Corporal
5 Myers.

6 Q Okay. So you didn't make any request for scientific
7 forensic testing at SLED in this case?

8 A No, sir.

9 MR. LAWSON: I don't have any other questions.

10 THE COURT: Anything on redirect?

11 MR. JEPERTINGER: No, sir.

12 THE COURT: Thank you very much, sir. You may
13 step down.

14 (WHEREUPON, the witness leaves the witness
15 stand.)

16 MR. JEPERTINGER: I ask that Corporal Moreau
17 may be excused.

18 MR. LAWSON: Without objection.

19 THE COURT: You're free to go, sir.

20 You may call your next witness.

21 MR. JEPERTINGER: Call Corporal Thomas Myers.

22 THE COURT: Corporal Myers.

23 THE CLERK: If you may place your left hand on
24 the Bible and raise your right hand. Do you swear the
25 testimony you give in this case be the truth, the whole

1 truth, and nothing but the truth so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Be seated and state your name for
4 the record.

5 THE WITNESS: Thomas Myers.

6 WHEREUPON,

7 Thomas Myers,

8 after first having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. JEPERTINGER:

11 Q Okay. Officer Myers, where do you work?

12 A Assign as corporal in the crime scene unit of the
13 Florence Police Department.

14 Q And how long have you been with the crime scene unit?

15 A Since November of 2006.

16 Q All right. And your responsibilities are similar to
17 Officer Moreau?

18 A The same, yes, sir.

19 Q Were you the primary responder in terms of crime
20 scene out to the incident that occurred on September 5th
21 2008 Marlboro and Dargan Street?

22 A Yes, the night before I would have been what we call
23 the on-call duty technician, which follows through the
24 next morning into our next business day. So anything that
25 would come out that we needed to respond to during that

1 time I was primary on that.

2 Q What time did you get a call to go out there?

3 A I believe it was -- let me refer to my notes
4 approximately 5:21 on the morning of the 5th.

5 Q All right. And when you got out to the scene, what
6 did you observe?

7 A The scene had already been taped off with the
8 barricade tape, the yellow crime scene tape. I was
9 advised that the patrol officers had done that prior to
10 our arrival, which helps us because we can concentrate on
11 the actual scene once we arrive. I was briefed by the
12 patrol supervisor and a couple officers as to their
13 findings which we typically do as our standard is to get
14 briefed, so we know what we are looking for, what we think
15 is important in the case, what the officers that responded
16 to -- they're first on scene, so we kind of get a sight
17 and sound idea of what they believe and just use that to
18 access the remainder of the scene investigations.

19 Q Okay. After you did that, what was your next step?

20 A At some point during that time, I contacted Corporal
21 Moreau as a second call out as he explained earlier is our
22 procedure. I began searching the immediate scene for any
23 obvious signs of evidence that may have been in the area.
24 My next step would have been to begin photography of the
25 area, just taken into different angles how we photograph a

1 scene is by different angles starting with wide and then
2 approaching the pertinent items. We will do that --
3 certainly with the good feature of digital photography as
4 we're basically unlimited in a number of photos that we
5 could take. So we will take several different angles over
6 a large period of time.

7 Q All right. I am going to show you State's Exhibit 10
8 and 11. These photos represent, I guess, the scene as you
9 perceived it and began marking things down flags?

10 A Initially, the photographs that I would take before
11 would not include the markers. We take photographs as we
12 find anything there and then after the initial round of
13 photographs are done, we'll go back and we'll actually
14 place the numbered evidence markers and then photograph
15 again based on their relation to each other.

16 Q So there hundreds of photographs; correct that you
17 would have taken ---

18 A Typically.

19 Q --- in this case? After you took the photographs of
20 the area, what was your next step?

21 A During photography as well, the inspection of the
22 scene is on-going. As I am being briefed by the officers,
23 I am looking around at any items that kind of stand out to
24 me. There's also during photography I would do the same.
25 It's fairly ongoing after photography and the markers were

1 place down that at some point prior to -- I recall
2 Corporal Matthews arriving at the scene. And generally at
3 his request, we don't disturb the body until he's made his
4 inspection of the body. I recall he requested me to
5 search for identification of the victim and I recall
6 finding an ID card in a pocket, a pants pocket.

7 Q It was the decedent in this case Corey Lee Byrd?

8 A Yes, sir.

9 Q Okay. And then after you did that, what did you do
10 next?

11 A About the time that EMS would arrive to retrieve the
12 decedent's body, we photographed. We removed the sheet
13 which was placed earlier by first responding EMS and
14 photographed the body as it lay there. And on further
15 inspection at the photography of the body, at that point I
16 would have bagged the hands as was testified to earlier
17 just to preserve any trace evidence that was on the hands
18 to prevent anything from additionally being placed on the
19 hands during transport.

20 Q All right. And what else did you do then?

21 A We would have assisted EMS with removing the body
22 from the scene. We would remain there, take additional
23 photographs with the numbered markers still in place,
24 collected the items that were identified by the numbered
25 markers.

1 Q Okay. Now, those items identified by the number
2 markers, can you tell the jury principally what you found
3 which would be outlined on State's Exhibit 10?

4 A Yes, the numbers that I used in this case, the marker
5 number one identified the body of Corey Lee Byrd. Number
6 two identified some blood droppings or some red droppings
7 that we presume to be blood as well as number three. Now,
8 number three the similar droppings were in the roadway.
9 Marker number four was a cell phone that was nearby the
10 body. Now, I recall as I arrived on the scene that cell
11 phone was preserved by one of our patrol officers with a
12 large traffic cone just so it wouldn't be kicked out of
13 the way or become misplaced. I should have that in some
14 photographs and would remove that. Again, during
15 photography in between different photography settings, we
16 would continually search the scene which is where -- it's
17 not on this photo, but the -- I located a beer can which
18 is identified as marker number five that was south of the
19 body in the same right of way off the road.

20 Q I will show you State's Exhibit 12 Moreau sketch
21 where he has marker five excuse me. Would that be
22 consistent with what you just testified to?

23 A It was about half way between what we perceive to be
24 the lying placement of the body and the next corner.

25 Q And based on your investigation, could you tell how

1 long that beer can had been there?

2 A I recall as I was walking with the patrol officers
3 that were briefing me after my arrival at the scene that I
4 did smell a strong beer odor in the air. Based solely on
5 that, I would say that that can had not been there that
6 long. And as, of course, the time that we were there that
7 odor had dissipated.

8 Q All right. And after that, what did you do? After
9 you took the swabs and so forth?

10 A The swabs were collected from the stains. I tested
11 those with the phenolphthalein presumptive test to
12 determine whether it is blood or another unknown stain.
13 Upon that, I collected those swabs to be sent later to
14 SLED for analysis. The -- I recall searching the area for
15 any additional evidence that we may have tracked over or
16 missed or just hadn't come in contact with yet.

17 Q Let me ask you this, in your search for all this
18 evidence that you may have been looking for, did you find
19 any latent prints, fingerprints on anything?

20 A No, nothing had any fingerprints that were developed.

21 Q The only fingerprints you took were of what?

22 A I collected what we call major case prints from Corey
23 Lee Byrd's hands the following day at the autopsy at MUSC,
24 that's again standard procedure that we do in order to --
25 a lot of times we're able to identify a body as early as

1 we did with Mr. Byrd. But we take major case prints as we
2 can submit those to be analyzed as well. A lot of times
3 whether it be for identification of the body or if we
4 gather latent fingerprint evidence in the case, the print,
5 the major case prints from the deceased body can be ruled
6 out as for instance that an item belong to that person or
7 his prints were on it, but that was not the case in this
8 case, but again standard procedure is what we following.

9 Q Okay. Now, you searched the area for whatever
10 physical evidence you could to help this jury reach a
11 decision; correct?

12 A Yes.

13 Q After you did that, were you present when Moreau did
14 a sketch or did you leave thereafter or...

15 A I believe I assisted him with measurements. We again
16 part of the reason in having a second technician come out
17 and assist it is not another set of eyes, it's another set
18 of hands. So we follow through we leave at the same time
19 and we will generally help each other do a sketch, take
20 measurements and that would have been the case here as
21 well.

22 Q Okay. Now, after you did all of that at the scene,
23 what did you do then?

24 A From the scene, I would have returned to this
25 building in the basement, which is where our lab is,

1 analyze the evidence that I had collected from the scene.
2 We attempted to do the autopsy the same day, that's all in
3 scheduling with the coroner's office. There was as I
4 recall a hurricane was threatening Charleston, so we
5 pushed it back a day which allowed me to go that Saturday
6 as it would be to the autopsy. So there's some
7 preparation that we do to turn over evidence to the
8 pathologist in the case. And I would have used that time
9 to prepare that information and collect any evidence that
10 we remove from the scene to analyze it to the best of my
11 abilities at -- in our lab prior to it being sent to SLED?

12 Q And did you do that in this case?

13 A Yes, sir.

14 Q Can you tell us specifically what you did?

15 A Specifically, I took the beer can that was collected.
16 We use a -- it's a cyanoacrylate which is basically super
17 glue. We heat super glue up and it adheres to --
18 hopefully adheres to any ridge detail that a fingerprint
19 may leave. We do that on a number of items, cans included
20 which was done on this, but no fingerprints were developed
21 on the can. Also, I recall doing latent print processing
22 on the cell phone, which I was advised at the scene had
23 belong to the victim. And it was also handle by one of
24 the complainants at the scene, but I recall doing latent
25 processing on the cell phone.

1 Q When you say complainants, could it either be Tiesha
2 Brown or Brittany Fludd?

3 A Yes, one of the first on the scene, that was again
4 why we get briefed by the officers is collect as much
5 information. And I try to meet with more than one officer
6 if at all possible just because a situation that's as
7 hectic as this there could be more citizens that make
8 contact with more than one officer. And just as before I
9 get started at the scene, I take in account all
10 information that's been shared with them. My further
11 processing in the lab would have just consisted of proper
12 packaging of the swabs that were collected in order to be
13 sent to SLED.

14 Q All right. And at that point after you did all that
15 stuff, you turned it into the evidence locker or gave it
16 to Moreau directly?

17 A We turn it into our evidence custodian. It is secure
18 in our evidence room in the basement of this building.
19 And then when the next SLED trip is scheduled, we use a
20 rotating schedule. It is not necessary I wouldn't take my
21 own evidence necessarily, but it may turn out to be that
22 way. Every two weeks, we take evidence to SLED. And
23 based on our duty rotation, court time, training, we have
24 a schedule for who takes those trips. And Corporal Moreau
25 was on schedule for this trip. He would have sign out the

1 evidence from our evidence custodian and delivered it to
2 SLED.

3 Q Okay. Now, the next day you did go to the autopsy;
4 is that correct?

5 A Yes, that's correct.

6 Q All right. And at the autopsy, what physical things
7 did you do to the decedent's hands because I think you
8 said major case prints were taken; correct?

9 A Yes, that's correct.

10 Q And what did Dr. Schandl give you if you recall?

11 A Once the pathologist Dr. Schandl, who testified
12 yesterday, once they are finished with their outside
13 inspection of the body, they -- she would have collected
14 the fingernail clippings. And during the course of that
15 time, once their kind of in between their stages of the
16 autopsy, we'll go in and we'll collect gunshot residue
17 from the hands. If it's an apparent gunshot crime, we
18 will do that or if there's any indication that a gun was
19 in the area, that's again standard procedure. Also,
20 collected major case prints from the hands of Mr. Corey
21 Byrd.

22 Q Okay. In terms of the fingernail scrapings and the
23 gunshot residue, major case prints did you collect all
24 that?

25 A Yes.

1 Q Now, in terms of the gunshot residue, I am going to
2 show you State's Exhibit 7, that's been identified as
3 gunshot residue kit is that the one that you took at the
4 autopsy?

5 A Yes, it is. I've indicated with a seal with my
6 initials the information on the front based on the subject
7 that it was collected from. And then as well as my
8 information being the collecting officer. I would have
9 sealed this envelope and it would have gone to SLED in
10 this manner. This envelope -- this was placed in here at
11 SLED and sealed in by our delivering officer who in this
12 case was Corporal Moreau, which is taped off at SLED
13 again, so there's a couple of integrity seals involved,
14 but that is this evidence.

15 MR. JEPERTINGER: Your Honor, at this time, I
16 would move State's 7 into evidence.

17 THE COURT: Any objection regarding State's
18 Exhibit Number 7.

19 MR. LAWSON: No, Your Honor.

20 THE COURT: Without objection, it is in
21 evidence.

22 (WHEREUPON, State's Exhibit No. 7 was admitted
23 into evidence.)

24 BY MR. JEPERTINGER:

25 Q Now, when Dr. Schandl conducted the autopsy, did she

1 recover a bullet?

2 A Yes.

3 Q Okay. Projectile?

4 A Projectile, a fired projectile.

5 Q Did she give it to you?

6 A Yes.

7 Q What did you do with that projectile?

8 A That projectile was then -- it was determine at the
9 autopsy that it was a .22 caliber based on measurements.
10 At that time, I collected it along with Mr. Byrd's
11 clothing and some personal effects that were in his
12 pockets, which we don't disturb until after the autopsy
13 for the pathologist to review all that. All that was
14 collected by me and returned to our agency and secured and
15 later logged into evidence.

16 Q Okay. Now, question that I have, did you send that
17 projectile off to SLED for analysis?

18 A No, sir. A lot of our cases we will forward fired
19 projectiles to SLED for analysis. SLED actually has their
20 own protocol for calibers that measure as .22 calibers.
21 They do not test them. The testing that they will do on a
22 .22 it's in SLED terms it is considered full firearm
23 examination which is ---

24 Q What does that mean?

25 A To compare a bullet to a gun to see if that gun fired

1 that bullet. In this case, we were never -- we never
2 received a gun in question that related to the case, so
3 the bullet that we had did not qualify for a full firearm
4 examination.

5 Q Had you obtained a gun you would have sent that
6 bullet off for that full firearm?

7 A Absolutely.

8 Q You never ---

9 A That wasn't the case in this. We run into that. We
10 -- sometimes we don't get guns with bullets.

11 Q All right. After that, Officer Myers, what did you
12 do?

13 A Between -- I created some photo lineups at the
14 request of Lieutenant Compton.

15 Q Who's the chief investigator in this case?

16 A That's correct. A lot of what we do is after the
17 fact support of the chief investigator in a case as they
18 have a request for audio files to be transferred. We
19 transfer those to a secured disk, so they can be
20 transcribed and then placed into evidence as well as
21 anything else that may recover or collect during the
22 process of their investigation. They will turn it over to
23 us. We are typically the primary link in the chain of
24 evidence for our department especially having worked the
25 initial scene. The further evidence we go through us to

1 be logged in generally if there's -- especially if there's
2 further forensic analysis to be done that we can do at our
3 level.

4 Q All right. Now, I am going to show you State's
5 Exhibit 8 for identification. Do you recognize that
6 object, sir?

7 A Yes, this is a package that I had sealed. It
8 contains a buckle swab from Gregory Daniels, which I
9 collected February 23rd of this year I received a court
10 order to collect a saliva sample from Mr. Daniels. On the
11 24th of February this year, I met with Mr. Daniels and
12 collected that and that's what we call a buckle swab.
13 It's a cotton tip swab that we rub on the inside of the
14 cheek and that provides a noninvasive DNA collection.
15 What we then called a known standard because we are aware
16 of the location that it came from.

17 Q And did you carry that buckle swab to Columbia?

18 A I did. I delivered it to -- I delivered that to
19 SLED.

20 Q And I believe Nicky Perry checked it in and this was
21 what Dr. Fitts -- Mr. Fitts checked or Agent Fitts?

22 A That's correct.

23 MR. JEPERTINGER: All right. At this time, I
24 would move State's 8 into evidence, Your Honor.

25 MR. LAWSON: Without objection?

1 THE COURT: Without objection State's 8.
2 (WHEREUPON, State's Exhibit No. 8 was admitted
3 into evidence.)
4 BY MR. JEPERTINGER:
5 Q Now, you say that at the scene there was a cell
6 phone?
7 A Yes, at the scene that's correct.
8 Q All right. And I'm going to get this marked for
9 identification. Let me show you State's Exhibit 13.
10 There are two items in State's Exhibit 13. Can you tell
11 us what these items are please?
12 A Yes. This is the cell phone that I collected from
13 the scene. I believe it was marker number four, marker
14 number four at the scene. The second item in the bag is
15 just my at scene collection bag which we keep up with the
16 evidence goes into a bag and then I would seal it in an
17 envelope to be secured in evidence.
18 Q And the number four marker?
19 A References marker number four.
20 Q That was on the sketch?
21 A That's correct.
22 Q Let me ask you have you been able to recharge that
23 phone?
24 A Yes.
25 Q All right. And have you been able to observe what is

1 on that phone?

2 A Yes.

3 Q Okay. When was the last phone calls made on that
4 phone?

5 A According to the internal call log in the phone, the
6 last outgoing call was made at 4:55 a.m. on September
7 the 5th of 2008.

8 Q So what number do you know?

9 A [REDACTED]-4769.

10 Q Okay. And what was the duration of that phone call?

11 A Fourteen minutes and 13 seconds.

12 Q All right. So at 4:55 -- let me get this straight
13 4:55 the phone call lasted?

14 A Fourteen minutes and 13 seconds?

15 Q So what would that be 5:09 more less when the phone
16 call ended?

17 A Approximately.

18 Q Okay. And then what was the last call on that phone?

19 A The next number in line was an incoming call from the
20 same phone number that was made at 5:15. I believe, it's
21 duration was 16 or 18 seconds.

22 Q And your investigation that number of the -- what did
23 you say?

24 A [REDACTED]-4769.

25 Q Was that Shavonne Gass' home number?

1 A As I understand it, yes.

2 Q All right.

3 MR. JEPERTINGER: At this time, I would move
4 State's Exhibit 13 into evidence, Your Honor.

5 THE COURT: Any objection?

6 MR. LAWSON: No objection.

7 THE COURT: Without objection State's Exhibit
8 13.

9 (WHEREUPON, State's Exhibit 13 was admitted into
10 evidence.)

11 MR. JEPERTINGER: Beg the Court's indulgence.

12 (WHEREUPON, a pause in the proceedings.)

13 BY MR. JEPERTINGER:

14 Q Did you get a number on State's Exhibit 13, did you
15 get that owners number on that phone?

16 A I don't have it noted.

17 Q Is this thing charged?

18 A Yes.

19 Q Could you look?

20 A Sure. Bear with me, I'm not familiar with the
21 settings on the phone. That feature appears to be blocked
22 where I'm familiar with it in other phones it's not
23 showing up.

24 Q That will be fine. All right. Now, subsequent to
25 this you are still continuing investigating this matter;

1 correct?

2 A That's correct.

3 Q All right. Did you have an opportunity to receive
4 another cell phone from Lieutenant Compton?

5 A I did.

6 Q Okay. And I -- let me show you what's been marked as
7 State's Exhibit 14. Do you recognize the object in
8 State's Exhibit 14?

9 A It is a Samsung flip phone. As I recall, I receive
10 this directly from then Sergeant Thompson on
11 September 15th 2008.

12 Q And who did that phone belong to?

13 A I was advised this belong to Gregory Daniels.

14 Q All right. Have you charged that as well?

15 A Yes, this has been charged.

16 Q Okay. Did you take photographs of that?

17 A I did. On April 9th of this year, I received a
18 search warrant to actually photograph the contact list
19 incoming, outgoing calls massaging any communication back
20 and forth that was stored on the phone. And on that same
21 day, I served the warrant then photographed it.

22 Q I am going to have these marked.

23 MR. JEPERTINGER: I move State's Exhibit 14 into
24 evidence.

25 THE COURT: Any objection to State's 14 which is

1 the other cell phone?

2 MR. LAWSON: No objection.

3 THE COURT: Without objection.

4 (WHEREUPON, State's Exhibit 14 was admitted into
5 evidence.)

6 BY MR. JEPERTINGER:

7 Q I want to show you what's been marked for State's
8 Exhibit 15, 16, and 17 for identification. Can you
9 identify those?

10 A These are photographs that I took of -- screens shot
11 of the cell phone where the search warrant was served on
12 it?

13 Q Do they fairly and accurately portray what was on
14 State's Exhibit 14?

15 A Yes.

16 Q All right. Now, obviously those are just three
17 photographs of many; is that correct?

18 A Yes, there was several photographs taken.

19 Q Now, the number for State's Exhibit 14 was what
20 number?

21 A 843-617 ---

22 MR. LAWSON: Objection, Your Honor, I didn't --
23 if he's publishing these prior to introducing them, I have
24 an objection ---

25 MR. JEPERTINGER: I move them into evidence,

1 Your Honor.

2 THE COURT: All right. You now moving those
3 into evidence?

4 MR. JEPERTINGER: Yes, sir.

5 MR. LAWSON: Then I have an objection that I
6 think should be taken up outside the presence of the jury.

7 THE COURT: All right. Ladies and gentlemen,
8 get you to step back into your jury room. Please have no
9 conversation about the case while I take up this matter of
10 law.

11 (WHEREUPON, the jury retire to the jury room.)

12 THE COURT: All right. These are State what?

13 MR. JEPERTINGER: State's 16, 17, and 18 excuse
14 me -- 15, 16, 17.

15 THE COURT: Fifteen, 16 and 17 and, Mr. Lawson,
16 you have an objection to those exhibits; is that correct,
17 sir?

18 MR. LAWSON: That's correct.

19 THE COURT: All right, sir, be happy to hear
20 from you.

21 MR. LAWSON: Your Honor, these are photographs
22 of screens from a cell phone that was taken from my
23 client. These screens if introduced, I'm assuming that
24 they're introducing them for some -- quite frankly, I
25 don't know exactly what the purpose, but what they are

1 going to do is they're going to shift the burden in
2 relation to my client because it will be essential if
3 these cell phone records come in to answer them with
4 some -- there's no way that this officer can testify as to
5 what the sender of that cell phone message intended. And
6 the simply putting in a message on a cell phone in and of
7 itself is nothing of an incriminating nature. They are
8 also, I believe, trying to bolster future witness
9 testimony by showing simply that there's a phone number in
10 the cell phone to someone who may at some point testify in
11 this case as a federal informant. And in order to
12 contradict any of that, it would require the defense not
13 only to put up a defense, but for the defendant himself to
14 testify. It's totally where -- it's just impossible for
15 the defense to go forward with that posture being sent at
16 this point.

17 MR. JEPERTINGER: Your Honor, they're merely
18 representations of what's already in evidence as State's
19 Exhibit 14 off the contact list?

20 THE COURT: Have you viewed -- have you looked
21 at these closely. I'm not -- cause these aren't messages.
22 I don't know.

23 MR. LAWSON: Well, I'm trying to figure out
24 exactly what they are.

25 THE COURT: Well, and I don't know, I'm going to

1 get you to look at them because ---

2 MR. JEPERTINGER: He's seen them.

3 THE COURT: Oh, you seen them, okay. I guess
4 I'm not understanding your objection of how that shifts
5 the burden.

6 MR. LAWSON: Because I tell you one thing, I
7 know one of the reason for it. There's a cell phone
8 number that they're going to try and say is to an
9 informant that's going to testify in this case. And
10 they're going to say that that establishes that for
11 someway that my client had contact with him and it
12 verifies what he's going to testify to and that may or may
13 not be so, but in order to answer that, there's only one
14 way to answer it and that's for us to testify.

15 MR. JEPERTINGER: I have no control over his
16 client in whether his client testifies or not, that's his
17 option, Judge, but this is all evidence coming in, Judge.

18 THE COURT: I'm not understanding how it compels
19 -- how it shifts the burden. I realize it puts -- it's
20 another piece of evidence that the State is attempting to
21 put there, but why does ---

22 MR. LAWSON: The whole process, Your Honor, from
23 this point on what we're going to see. They have my
24 client's girlfriend of many years subpoenaed with letters
25 that he wrote to her. Through those letters, they are

1 going to try to establish that he was trying to fabricate
2 a -- some defense in the case. They are going to take his
3 statement which he thought nothing of after about the case
4 which he talked about the night before, they're going to
5 try to attack that and attack it in such a way to make it
6 look like he is lying to create a false alibi. All of
7 which the whole rest of this case is gone focus on what my
8 client did in relation to trying to defend himself in
9 relation to this case, that's where they're going with
10 this case. That's how they're going to try and prove
11 guilt, not by any evidence direct evidence that they have,
12 but through circumstantial evidence that is absolutely
13 coming from the defense in the case and that may have very
14 simple explanation, but which will require the defense to
15 answer each and every one is gone be the same way.

16 THE COURT: Well ---

17 MR. LAWSON: Judge, you can't -- I mean, it
18 can't be fair to sit and take a defendant's statement tell
19 him it's not about the case.

20 THE COURT: We're not talking about a statement
21 right now.

22 MR. LAWSON: Okay.

23 THE COURT: We're talking about State's Exhibits
24 14, 15, and 17.

25 MR. JEPERTINGER: Fifteen, 16 and 17.

1 THE COURT: I'm sorry 15, 16 and 17.

2 MR. LAWSON: Well, it's going to be the same
3 exact same situation is what they're trying to do here.
4 They'll try to do then and they'll try to do again. I
5 don't think it's right, it just doesn't pass the smell
6 test I'm sorry. I realize may be I know a lot more about
7 the case than but ---

8 THE COURT: You know a lot more about the case
9 than I do, I don't know anything except what I've heard
10 here. And I don't know -- again, not knowing anything
11 about the case, I don't know what they're trying to do or
12 what you're trying to do. I just that -- these exhibits,
13 these three exhibits have been moved into evidence. They
14 been testified to. They're off of State's Exhibit 14
15 which is in evidence. And I'm -- they are not messages or
16 anything they're numbers. I'm going to overrule the
17 objection and allow them. I don't see where they're not
18 admissible or that there's any procedural rule that would
19 keep them out at this point.

20 MR. LAWSON: Can we take a brief recess at this
21 point since the jury is out?

22 THE COURT: You're exactly right, it's a good
23 opportunity cause ~~they~~ they're out, so why don't we take about
24 ten minutes. Court will be in recess for about ten
25 minutes.

1 Yes, sir, you can take a break, but you can't
2 talk to anyone about your testimony or anything like that.

3 (WHEREUPON, a break was taken.)

4 THE COURT: Anything from the State before we
5 proceed?

6 MR. JEPERTINGER: No, sir.

7 MR. LAWSON: Your Honor, additional -- one of
8 these is a photograph of a file that's in the phone. It's
9 the name of a photograph that's in the phone and the name
10 of an audio file that's in music that plays when the phone
11 rings. The person that the number is listed it's just
12 like a call directory is what it is, but it's two -- the
13 -- as I understand it, a witness in this case or possible
14 witness and it will require if that witness testifies, the
15 only way that I know is for the defense to reply as to
16 what this is in effect.

17 THE COURT: You can cross-examine -- if the
18 State puts a witness up, you can cross-examine that
19 witness. I'll certainly note that for the record that
20 that is part of the objection from the defense. And am I
21 correct, Mr. Lawson, that's that first one that -- what
22 number is that?

23 MR. JEPERTINGER: [REDACTED]-2274.

24 THE COURT: The exhibit number?

25 MR. JEPERTINGER: State's Exhibit 15.

1 MR. LAWSON: Your Honor, that might -- I mean
2 where this becomes critical is in an allegation and if
3 this comes out in the future that my client got paid for
4 doing this bastardly deed and it says get paid ---

5 THE COURT: You're asking me to make rulings on
6 something that what if this comes out. It may be -- I
7 can't predict the future, I don't know what they are going
8 to do.

9 MR. LAWSON: I go based on what I been provided
10 in discovery and I think that I'm allowed to rely on that.
11 And then have a picture file, nothing more than a picture
12 file noted as that the probative value of that is
13 extremely outweighed by the prejudicial effect.

14 THE COURT: It may be that -- and I don't know
15 cause I'm at a disadvantage cause I don't know anything
16 that maybe at some point if they put a witness on the
17 stand and try to go down that road, it may be at that
18 point appropriate to exclude certain testimony. I don't
19 know, but at this stage what they presented, it just does
20 not appear to be inadmissible evidence, that phone and all
21 of that data right there is in evidence without objection
22 that phone is in.

23 MR. LAWSON: I did -- I did not object to the
24 cell phone itself. I do object to the contents of the
25 cell phone. Maybe, I should have made that clear was an

1 error on my part.

2 THE COURT: I mean, but, you know, cause you're
3 making the objection now. You're certainly -- I think
4 you've covered it. I just don't see that it's
5 inadmissible and I am going to allow it.

6 MR. JEPERTINGER: Thank you, Your Honor, we are
7 ready.

8 (WHEREUPON, State's Exhibit Nos. 15, 16 and 17
9 were admitted into evidence.)

10 (WHEREUPON, the jury came into open court.)

11 THE COURT: Ladies and gentlemen, I just want to
12 explain to you, it didn't take me that long to hear that
13 matter of law. While you were out, we thought it would be
14 a good opportunity, so we don't have to send you back out
15 to allow the court staff and personnel to take a break
16 while y'all were out. So we did take up that matter of
17 law and then we went ahead and took a short break so that
18 people could get up and stretch their legs or whatever.
19 If you recall, we took up that matter of law allowing
20 those exhibits into evidence.

21 And, Mr. Jepertinger, you can continue with your
22 examination.

23 DIRECT EXAMINATION CONTINUED

24 BY MR. JEPERTINGER:

25 Q Now, I'm going to ask you once again on State's

1 Exhibit 14, which is a Samsung Singular phone that came
2 from whom?

3 A I receive that from Lieutenant Compton.

4 Q Who got it from?

5 A I was advised from Gregory Daniels.

6 Q Okay. Now, on State's Exhibit 15, 16 and 17, can you
7 tell the jury what is on those? First over all, State's
8 Exhibit 15, which is in evidence. Can you tell us what
9 that says?

10 A This is a screen shot of a -- part of the contact
11 list to a contact that had been stored in the phone?

12 Q And it says -- what does it say specifically?

13 A It appears the name that was assign to the contact is
14 called Luck L-U-C-K Luck. The cell phone number attach to
15 that is [REDACTED]-2274.

16 Q Okay. And on State's Exhibit 16?

17 A This is a screen shot from the calls received list in
18 the phone. This shows that a call was received dated
19 September 9th of 2008 I'm sorry -- of September 9th 2008
20 at 8:51 p.m. It appears that the number is [REDACTED]-6919.
21 And the contact appears to be G.A. as the contact name
22 that was stored in it.

23 Q Okay. All right. And State's Exhibit 17?

24 ~~Answer~~ This is a screen shot of the number of the cell phone
25 in question. The number of the phone is [REDACTED]-0731.

1 Q All right. And that was the cell number for this
2 Samsung Singular that Compton got from Daniels, the
3 defendant, in this case?

4 A That is correct.

5 Q All right. Now, I'm going to try to roll the stone
6 up the hill one more time.

7 A All right.

8 Q Have you figured out how to get the phone number on
9 this thing?

10 A Yes, sir.

11 Q All right. This is State's Exhibit 13 this is an --
12 looks like a LG Alltel?

13 A Right.

14 Q Once again where did you get the LG Alltel from?

15 A That was collected from the scene near the head of
16 Mr. Byrd.

17 Q Okay. So this phone was by the body of the decedent,
18 Corey Byrd, at Dargan and Marlboro Street collected on
19 September 5th 2008?

20 ~~That's~~ That's correct.

21 Q Is that correct?

22 A That's correct.

23 Q Okay.

24 A The number of this phone shows to be ~~7083~~-7083.

25 Q ~~Thank~~ Thank you. And I know I'm being repetitive, but I

1 just want to make sure because the last calls at what time
2 were they that you had on the Alltel phone, the one found
3 at the scene?

4 A The last call outgoing was on that date September 5th
5 at 4:55 a.m.

6 Q Hold on 4:55 a.m. and what was the duration of that?

7 A Fourteen minutes, 13 seconds.

8 Q Fourteen minutes ---

9 A Second 13 seconds.

10 Q --- thirteen seconds in duration? And then you said
11 there was an incoming call?

12 A That was followed by an incoming call.

13 Q On the same date?

14 A Yes, sir, 5:15 a.m. That was short in duration 16 or
15 18 seconds.

16 Q All right. Other than doing those things that we've
17 asked in terms of the phones is there anything else that
18 you might have done in this case, sir?

19 A A side from standard photographic lineups, audio file
20 transfers.

21 Q Paperwork?

22 A Paperwork and basically that's it.

23 MR. JEPERTINGER: Beg the Court's indulgence one
24 second.

25 (WHEREUPON, a break was taken.)

1 MR. JEPERTINGER: Please answer any questions
2 that Mr. Lawson may have for you.

3 MR. LAWSON: May it please the Court.

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. LAWSON:

7 Q Officer Moreau, Corporal?

8 A Corporal.

9 Q Now, you were primary on-call on September the 5th of
10 2008; is that correct?

11 A That's correct.

12 Q Would that have been September the 4th -- how did
13 your call periods work?

14 A My schedule -- my on-call schedule would have started
15 at 3:00 p.m. on the 4th. And I would actually spend time
16 in the office from three to 11. At 11:00 p.m., I go on
17 on-call status where I leave the office and wait to be
18 called out. And that actually follows on to the next
19 morning that would be 8:30 when we arrive back at the
20 office I remain on an on-call status.

21 Q So basically, you at the office until 11:00 p.m.
22 Then are home or wherever until 8:30 and you get called
23 and you go from wherever you are at the time you get the
24 call?

25 A That's correct, yes, sir.

1 Q On this particular evening, do you remember where you
2 were at the time you got the call, where you in the office
3 or where were you?

4 A I was at home.

5 Q You were at home. All right. And did you respond
6 straight to the scene or did you come by the complex?

7 A No, I went straight to the scene.

8 Q All right. And when you got there, what condition
9 did you find the crime scene in?

10 A I would consider it a secure scene. In that, our
11 officers on patrol had secure the area with tape good bit
12 around the scene, as well as the patrol cars several
13 patrol cars were parked in the area blocking off the
14 roadways. They had it maintained.

15 Q Do you remember what the boundaries of the crime
16 scene were or had been established by the officers on the
17 scene?

18 A I -- the only one I can recall directly is the south
19 which would be -- right at the intersection of Marlboro
20 and Dargan, south of the body, that the direction I came
21 in at and where I entered at.

22 Q Okay. That's where in the photograph from State's
23 Exhibit 11, that's that crime scene tape is at the
24 southern boarder of the crime scene; is that correct?

25 A Yes, that is correct.

1 Q Okay. And do you remember if there was crime scene
2 tape marking the northern boundary of the crime scene?

3 A I don't -- I know there was a patrol car placed in
4 the roadway. I do not recall about the tape.

5 Q Okay. And that's the patrol car ---

6 A That would be it in the distance.

7 Q And as I understand it, you actually took these
8 photographs in 11 and 10?

9 A Yes, sir.

10 Q When you got there what was the condition of visual
11 light? Was the sun up or was it still dark?

12 A It was coming up. I guess you would call it dusk.

13 Q Would that have been some of the first photographs
14 taken ---

15 A Yes.

16 Q --- when you arrive there?

17 A Those should have been very early on.

18 Q So that gives us a pretty good idea of what the
19 condition were at the time you arrived would be pretty
20 consistent with this photograph?

21 A Yes, sir.

22 Q And that's just breaking daylight?

23 A Right.

24 Q And then by the time you got to these, you can see as
25 Officer Moreau ---

1 A The sign was well up by that point.

2 Q Okay. So that would have been later on in the
3 investigation?

4 A That's correct.

5 Q So as I understand it then, you basically taken
6 photographs on and off as you go through the scene?

7 A Yes, sir.

8 Q And you don't just take the camera start shooting as
9 soon as you get there shoot straight through, then go and
10 search and do things like that?

11 A No, sir, no.

12 Q So it's an on and off situation with the camera?

13 A That's right.

14 Q And, I mean, it makes more sense to do it that way
15 doesn't it because you don't know what you gone find until
16 you go look for it?

17 A That's right. I don't -- none of us do. The first
18 thing we do is get briefed on what had been believe to
19 have happened and that way we know to pick a starting
20 point and not to just roll out and start taking pictures.

21 Q And, I mean just -- and not to beat a dead horse, but
22 would that briefing have taken place before you took any
23 pictures?

24 A Yes.

25 Q Okay. So that briefing would last normally about how

1 long?

2 A There's no set amount of time I say this one was
3 probably 10 to 15 minutes before I was comfortable enough
4 to begin photos. As something may have appeared out of
5 place to me, then I would assess it then and either get
6 further briefed or clarification on something.

7 Q Okay. And how long were you on the scene before
8 Corporal Moreau arrived?

9 A I believe I contacted him in route while I was in
10 route. I may have made it to the scene 15 to 20 minutes
11 prior to him.

12 Q Okay. So y'all basically were there together the
13 whole time?

14 A Yes, sir.

15 Q And now when you went through the numbers there, do
16 you put those numbers out?

17 A Yes, sir.

18 Q Okay. And then you did that in your initial
19 inspection or search?

20 A No, I'll take photographs of everything first as is,
21 that way in looking back I can know what was at the scene.
22 I can be reminded of what was at the scene. Now, after my
23 initial photographs is when I would place the markers
24 down.

25 Q All right. Then you go back and take photographs

1 with the markers?

2 A That's correct.

3 Q And so in State's Exhibit 10 that would have been
4 after you had taken initial round of photographs without
5 markers and then you had gone out marked it and then
6 took -- started taking other -- a second set of photos?

7 A That's right.

8 Q And that would explain how we are on up in the day as
9 well?

10 A That's correct.

11 Q It's not something that happens right like that?

12 A We want rush a scene like that.

13 Q Now, who determines what test, scientific forensic
14 test will be requested from SLED?

15 A Generally, between the technician and the lead
16 investigator will decide what evidence has been collected.
17 Also after the autopsy, the additional evidence from the
18 autopsy will be determined and that takes place in a
19 conversation between the technician that attends the
20 autopsy and the pathologist.

21 Q And technician being you ---

22 A That's correct.

23 Q --- in this case? And Corporal Moreau will also be a
24 technician?

25 A That's correct.

1 Q The crime scene individual or representative is the
2 technician that we are talking about?

3 A That's right.

4 Q And now, who is in charge of the crime scene when you
5 arrive there the crime scene technician or the
6 investigating officer?

7 A When I arrive at the scene, I like to take control of
8 the scene in matters of evidence, which at that point the
9 entire scene and surrounding areas to me are evidence.
10 Now, as far as interviewing any witnesses by standards, we
11 do not typically do that. That is up to the investigator
12 and anyone assisting them.

13 Q Okay. That's what I was going to ask you. Normally, in
14 your normal investigation, your duties relate to the
15 accumulation of evidence in what -- and photographs as
16 oppose to finding witnesses and interviewing witnesses and
17 chasing down leads and that sort of thing, that's not
18 part of your general duty?

19 A Typically, it's not. We are a support -- our unit is
20 a support to the investigations division in the event and
21 generally on a scene that is our primary. After the fact,
22 we assist in several ways of -- with the investigator, but
23 at the scene our primary task is evidence related.

24 Q And as you said not that you want to do that or can't do
25 that, is just that your typical roles in the investigation

1 is to your primary role and function there is no
2 accumulate evidence and protect it?

3 A Exactly.

4 Q And now when -- I understand you do preliminary test
5 for fingerprints, do you not, Corporal?

6 A It's not necessary a preliminary. We can actually
7 collect latent prints if they been developed.

8 Q Okay. I mean, the reason I ask that is in relation
9 to DNA, you don't run any profiles at all in relation to
10 DNA?

11 A Exactly. That's a collection and we turn that over
12 to the lab. And this may have been your question as to
13 the latent fingerprints, we will analyze them to collect
14 them, but we don't run any systems on that. We also send
15 those to SLED for analysis had there been any in the case.

16 Q But typically like with the beer can in this case,
17 you would preliminary -- do steps to determine whether or
18 not you could find any -- what look to be fingerprint?

19 A A visual observation, yes, sir..

20 Q For a ridge detail, that's what you're looking for.
21 And if you find ridge detail, you then send that to SLED
22 for evaluation?

23 A We would apply in this case, we -- cyanoacrylate
24 which is a chemical term for super glue and what that does
25 is enhance any prints that are present. And then there's

1 a powder in the process that we put on the item and then
2 lifting tape. If we were to find a print lifting tape and
3 then send the tape itself on a backed card not the item,
4 we would just send the lift.

5 Q All right. So the beer can would not go to SLED,
6 anything that you found anything containing ridge detail.
7 You remember if there was ridge detail observed on the
8 can?

9 A No, sir. What I recall of the can, there was several
10 smudges overlaying prints but nothing with any detail at
11 all. And then the other evidence collected from the can
12 were swabs from the rim area, which were done prior to the
13 latent examination.

14 Q That was possibly DNA?

15 A That's right.

16 Q So you did nothing with those swabs other than
17 package them and send them to SLED?

18 A Correct. We're not -- we pass that on to the lab for
19 the scientific evaluation on that.

20 Q All right. And did you request DNA analysis in this
21 particular case?

22 A In our procedure, when we submit items to the State
23 lab at SLED, that is our request. Had we not sent
24 anything, that would not -- that would not imply a
25 request. As we submit evidence to SLED depending on the

1 evidence, we make a request on what we're looking for.
2 Basically, if latent prints were to go to SLED, we're
3 looking for identification. If we have a known standard
4 set of prints via the major case prints, then we're
5 looking for -- we are not just looking for identification,
6 we're looking for comparison. Same thing with DNA, if we
7 -- when we send swabs to the lab, they're not just looking
8 for DNA. If we got a known standard that we had
9 collected, they're looking for comparison or what's called
10 ownership. From the rim of the can by sending it, the rim
11 swabs from the can, my intention on sending that to SLED
12 was for saliva for again a donor who might have taken a
13 drink from that can.

14 Q And at -- do you recall requesting -- making specific
15 request for DNA?

16 A For the items sent that constitutes our request for
17 processing.

18 Q Okay. So it's -- when you send items in SLED knows
19 what their suppose to do is that what you're saying?

20 A That's our understanding.

21 Q All right. Do you ever make a request for specific
22 DNA testing?

23 A Not sure if I understand your question.

24 Q When you send an item up, do you request SLED please
25 run DNA on this or please run serology?

1 A That's part of our submission when we submit the item
2 to them that dictates our request for analysis.

3 Q All right. As I understand it, you did the
4 accumulation of the gunshot residue test; is that correct?

5 A Correct.

6 Q And did you collect this evidence or did the
7 pathologist do that and give it to you?

8 A The gunshot residue?

9 Q Yes.

10 A The gunshot residue was collected by myself.

11 Q And at what point did you collect that?

12 A Generally, it normally just happens in between the
13 doctor's schedule with the body. Some doctors are
14 different they -- during -- once their observation is
15 done, they'll allow us to step in and do that. And it's
16 basically kind of a case by case basis, but it's before
17 ---

18 Q The point I was making is it was not done here prior
19 to going to the medical university?

20 A No, it was done ---

21 Q At Charleston?

22 A Right.

23 Q During -- at some point during the autopsy?

24 A At some point during the autopsy.

25 Q Okay. And at that point that evidence was given to

1 you and ultimately was taken to SLED?

2 A From the autopsy?

3 Q Yes.

4 A When I leave the university, I sign over any evidence
5 that is recovered, as well as anything that was obviously
6 sent with the body, that would be clothing all that was
7 returned and transported back by me.

8 Q All right. Now, there was a bullet that was obtained
9 at the autopsy?

10 A Yes, sir.

11 Q Now, that bullet was that taken to SLED?

12 A No, sir.

13 Q It was not. And let me ask, are you familiar with
14 what testing they can do at SLED in relation to gunshot or
15 bullet?

16 A Not as familiar as someone who would actually do the
17 testing.

18 Q All right. Do they have a data base of guns where
19 they can use their tool mark and match possible gun to an
20 unknown gun?

21 A They do, that's called I.B.I.S., which is their
22 integrated ballistics identification system.

23 Q And they have C.O.D.I.S., which is for ---

24 A DNA. And then A.F.I.S. which is for ---

25 Q Fingerprints. And these are all data bases where you

1 can put if you obtain a fingerprint for example, you can
2 put that fingerprint and ask it -- if you don't know whose
3 fingerprint it is, if there's somebody in that data base
4 that has that fingerprint, it would come back to that
5 individual?

6 A Based on the quality of the prints submitted, yes,
7 sir.

8 Q Same with DNA?

9 A That's right.

10 Q It would come back if it was run through the
11 C.O.D.I.S. system depending again on the quality of the
12 DNA?

13 A And the standards being in the system, yes, sir.

14 Q Are you familiar with a term in DNA called degraded
15 DNA?

16 A Vaguely familiar.

17 Q Just mean it's old and not very good for testing?

18 A As I understand it, yes, sir.

19 Q And that I guess time, weather other conditions can
20 affect that in relation to DNA?

21 A That's right.

22 Q Do you know if anything in this case if it was
23 submitted to any of those -- if any evidence was submitted
24 to any data bases?

25 A I don't know specifically when we submit the evidence

1 to SLED, that's generally as I understand it their
2 protocol if something comes back unknown, that it goes
3 automatically into one of the data bases depending on what
4 the evidence is.

5 Q Okay. Now, State's Exhibit 15 is a copy that was
6 taken from the cell phone that you received from who?

7 A This was the cell phone originally received from
8 Lieutenant Compton. I was advised that that came from
9 Gregory Daniels.

10 Q Okay. And ---

11 A And since been in our evidence room.

12 Q That photograph is a photograph of what?

13 A This is a screen capture of a name and a contact
14 list.

15 Q Okay. So in cell phones, there's a contact list as
16 basically like your phone directory?

17 A Right, address book, phone directory.

18 Q And so what this is is somebody that was in this cell
19 phone as a person that you put their name and phone number
20 or whatever in your phone?

21 A That's correct.

22 Q And any cell phone that has a contact list would have
23 this capability?

24 A Yes, sir, ones I've seen are similar to that.

25 Q And this second line was actually a fourth line down

1 is it says get paid JPG, what is that indicating?

2 A The .jpg indicates to me that's an image which would
3 be of a Jpeg quality. It is common ending for
4 photographs. Now, the icon before that, I am not familiar
5 with that each cell phone carrier may use different icons
6 to, you know, for instance beside the number the icon is a
7 phone and that would say to me that that was the phone
8 number. Now, having suffix of .jpg would tell me that
9 that's a picture which is stored in the phone, which may
10 be attached to the contact?

11 Q Well, is this the phone that that contact is in?

12 A Yes.

13 Q And can you find that picture?

14 A That's the picture with the file name.

15 Q And what date, can you see the date that that
16 photograph was taken?

17 A Let me see if it gives that option. The time on
18 there is just the phone stop. In the properties, the
19 photo named get paid .jpg is dated October 2nd of 2006 at
20 10:50 p.m. It is a .jpg format.

21 Q That means that picture comes up when that number
22 comes up; is that correct?

23 A Typically, in a contact list, that's the case.

24 Q And the picture appears to be a young man.

25 A Let me pull it back up. It's just some cash laid out

1 on a table or on something.

2 Q Okay. And this next listing, do you know -- does
3 that indicate music?

4 A I would presume that. The icon is a bell, which I
5 would say is a ring tone. On this screen shot, it doesn't
6 completely give the end of it as far as what type of file
7 it is, but it says you don't see me F.T.S.L. dot dot dot,
8 so the file name continues, but that appears that it would
9 be possibly a ring tone audio.

10 MR. LAWSON: Thank you. I don't have any other
11 questions.

12 THE COURT: Anything further redirect?

13 MR. JEPERTINGER: Just one second.

14 (WHEREUPON, a pause in the proceedings.)

15 MR. JEPERTINGER: I do not thank you so much.

16 THE COURT: Thank you very much, you may step
17 down.

18 MR. JEPERTINGER: May he be excused, Your Honor?

19 THE COURT: Any objection to the officer being
20 excused?

21 MR. LAWSON: No, sir.

22 THE COURT: Thank you, sir. You are free to go.

23 (WHEREUPON, the witness leaves the witness
24 stand.)

25 MR. DEBERRY: Your Honor, the State would call

1 Jamie Presnell.

2 THE COURT: Mr. Presnell, come to the stand
3 please.

4 THE CLERK: If you would approach the witness
5 stand, place your left hand on the Bible and raise your
6 right hand. Do you swear the testimony you give in this
7 case will be the truth, the whole truth, and nothing but
8 the truth so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Please be seated and state your name
11 for the record.

12 THE WITNESS: My name is James Presnell.

13 WHEREUPON,

14 James Presnell,
15 after first having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. DEBERRY:

18 Q Okay. Thank you, Mr. Presnell, for being here today.
19 Are you currently employed?

20 A No, sir.

21 Q Okay. Were you employed the month of September 2008?

22 A Yes, sir.

23 Q And where were you working at that time?

24 A Country Hearth Inn.

25 Q And what is Country Hearth Inn, what type of business

1 is it?

2 A It's a motel.

3 Q Okay. And where is it located?

4 A On South Irby Street.

5 Q On South Irby Street. Where about -- I mean is there
6 landmark near there that you could tell the jury just
7 where it is?

8 A There's an AutoZone across the street.

9 Q Okay. Is that near Big Lots?

10 A Yes, sir.

11 Q Okay. Is it on the same side of the road as Big
12 Lots?

13 A It's on the same side of the road.

14 Q Okay. That's in Florence?

15 A Yes, sir.

16 Q What was your position at that time?

17 A I was the night-shift auditor.

18 Q Night-shift auditor. And what were some of your job
19 duties at that -- as the night-shift auditor?

20 A I did all the audit paperwork and I checked in
21 anybody who came in during that shift.

22 Q Okay. So somebody -- and what were your hours, your
23 working hours?

24 A Eleven to seven.

25 Q At night?

1 A Yes, sir.

2 Q And do you recall if you were working on September
3 the 4th, September 5th that night shift?

4 A Yes, sir.

5 Q 2008?

6 A I can't remember, it's so long ago, but I was there.

7 MR. DEBERRY: May I approach, Your Honor?

8 THE COURT: Yes, sir.

9 BY MR. DEBERRY:

10 Q I'm going to hand you some paperwork from the Country
11 Hearth Inn and Suites and see if can you identify. Tell
12 the jury what that is?

13 A This is a receipt from check in.

14 Q All right. What time -- so were you working -- and
15 what's the date on that receipt?

16 A The date on it is 9-5-2008.

17 Q And that -- and were you the clerk that ---

18 A I was.

19 Q --- checked them in?

20 A My initials are on it.

21 Q And so that would have been during the -- and does it
22 have a time or what time somebody checked in?

23 A It says 0534. It was 5:34 in the morning.

24 Q 0534 a.m. Okay. And so basically that paperwork
25 says that you were working and that somebody that you

1 checked in an individual or individuals at 5:34 in the
2 morning ---
3 A Yes, sir.
4 Q --- on September 5th 2008. All right. And does it
5 provide any information about who was in the room was or
6 did they check in and get a room.
7 A Yes, sir, it was two adults, the name, address
8 driver's license number.
9 Q Okay. What's the name?
10 A Nyrena Goodman.
11 Q And that's who the name room was checked in by?
12 A Yes, sir.
13 Q Okay. And that was at 5:34 in the morning?
14 A Yes, sir.
15 Q Now, do you recall who or how many people you saw or?
16 A I don't correctly remember, but I do remember only
17 seeing the woman.
18 Q You just saw a lady?
19 A Yes.
20 Q And can I see that? There's a stamp on there that
21 says September 6th 2008. Can you explain to the jury what
22 that would signify?
23 A Yes, sir, whenever they checked out -- people have
24 checked out and they no longer at the motel, the next day
25 we stamp it off and to file it with the cash checkouts.

1 Q So that wouldn't -- does it say when they checked
2 out?

3 A No, sir, it doesn't.

4 Q Okay. But does that mean they checked out on
5 September the 6th that stamp at the bottom?

6 A That just means that they -- they weren't there on
7 September the 6?

8 Q Okay. So you're just saying that as a part of record
9 keeping sometime after they leave is it usually the next
10 day when it get stamped?

11 A Usually, if they only stay one night.

12 Q All right. Okay. So that doesn't have anything to
13 do with what time they checked out?

14 A No, sir.

15 Q Okay. All right. And was this report generated at
16 the time of the check in by yourself?

17 A Yes, sir.

18 Q Okay. And that's accurate to time of check in and
19 what you did and in procedure with Country Hearth Inn and
20 Suites as far as they way y'all check people in?

21 A Yes, sir.

22 MR. DEBERRY: Your Honor, at this time, I like
23 to introduce -- well, I like to mark it as a State's
24 Exhibit and have it introduced as evidence.

25 THE COURT: Show that to Mr. Lawson.

1 MR. LAWSON: No objection.

2 THE COURT: Without objection State's Exhibit
3 18.

4 (WHEREUPON, State's Exhibit No. 18 was admitted
5 into evidence.)

6 BY MR. DEBERRY:

7 Q Mr. Presnell, just one more time, what was the name
8 of the person who checked in at 5:34 in the morning?

9 A Nyrena Goodman.

10 MR. DEBERRY: All right. Thank you very much.
11 I don't have anything further.

12 THE COURT: Sir, Mr. Lawson may have some
13 questions for you.

14 CROSS-EXAMINATION

15 BY MR. LAWSON:

16 Q Mr. Presnell, do you still work at that location?

17 A No, sir.

18 Q When did you leave?

19 A I left Country Hearth I want to say October '09.

20 Q '09, last year?

21 A Yes, sir.

22 Q Last year. And did you work there up until that
23 time?

24 A Yes, sir.

25 Q There anything unusual about this particular day as

1 oppose to any other day that you were working there?

2 A Nothing sticks out.

3 Q Huh.

4 A Nothing that I remember.

5 Q Okay. Do you have any independent recollection of
6 that day or early morning hours of that day?

7 A No, sir.

8 Q Do you remember anything?

9 A It was a long time ago.

10 Q I know it was a long time ago. Do you remember --
11 did you give a statement to the police? Did they
12 interview you?

13 A All I said was I was working and I checked somebody
14 in, that's...

15 Q You remember saying that -- something about a van, a
16 minivan seeing one outside?

17 A No, sir.

18 Q You remember saying that you saw a man in that van?

19 A No, sir.

20 Q Okay. Hold on one second.

21 (WHEREUPON, a pause in the proceedings.)

22 BY MR. LAWSON:

23 Q Can't seem to put my hands on your statement. You
24 did talk with police though; is that correct?

25 A Sometime afterward I remember talking to police.

1 Q And you told them as best you could what you recall?

2 A Yes, sir.

3 Q And it was a whole lot closer to the event at that
4 time than it is now, would you agree?

5 A Yes, sir.

6 Q Let me ask you this, you talk with the police;
7 correct?

8 A Yes, sir.

9 Q And they asked you about this particular morning; is
10 that correct?

11 A I believe so.

12 Q And it's been sometime -- it was sometime after that
13 that you talk with them?

14 A Yes, sir.

15 Q Okay. And do you recall anything that y'all talked
16 about?

17 A I remember the name of the officer I spoke to.

18 Q Other than that, do you remember anything about your
19 conversation with the officer?

20 A I remember I told him what I told you that I check
21 somebody in. I really didn't know what they wanted me to
22 say other than that.

23 Q Okay. And -- well, do you recall there any of the
24 circumstances now as you think back?

25 A As I think back, what I remember happening is I

1 checked somebody in. I don't know anything beyond that.

2 Q And do you actually remember that?

3 A Do I remember that?

4 Q Yes.

5 A I checked a bunch of people in, I work at a motel.

6 Q Specifically, do you remember this particular person
7 being checked in?

8 A No, sir.

9 Q So could have been any -- a hundred different people
10 ---

11 A Yes, sir.

12 Q --- that you checked in from September the 5th of
13 2008 until October of 2009 when you left working there?

14 A Yes, sir.

15 Q By the way, did you go to work with another hotel
16 group?

17 A After I left Country Hearth?

18 Q Yeah.

19 A I did.

20 Q And so you continued to check people in?

21 A Yes, sir.

22 Q So you been checking people in right on up to
23 yesterday, I guess?

24 A Until Saturday.

25 Q Until Saturday, you been off for a few days.

1 MR. LAWSON: I don't have any other questions.

2 REDIRECT EXAMINATION

3 BY MR. DEBERRY:

4 Q Mr. Presnell, you say you remember who the police
5 officer you talk to?

6 A Yes, sir.

7 Q What is his name?

8 A Lieutenant Compton.

9 Q Okay. And do you remember -- you testified earlier,
10 but do you remember that you told him that you saw a
11 woman?

12 A Yes, sir.

13 Q And does the hotel receipt where you checked in
14 Nyrena Goodman at 5:34 in the morning, does that indicate
15 what room she might have been checked into?

16 A Room 132.

17 Q All right.

18 MR. DEBERRY: Thank you very much for being
19 here, I don't have anything further.

20 THE COURT: Thank you, sir, you may step down.

21 (WHEREUPON, the witness leaves the witness
22 stand.)

23 MR. DEBERRY: May he be excused, Your Honor?

24 THE COURT: Mr. Lawson, any objection to him
25 being excused?

1 MR. LAWSON: I mean, I may want to ask him
2 another question or two, Judge, do I not have that right?

3 THE COURT: You do as long as you let the Court
4 know.

5 MR. LAWSON: I am sorry, Your Honor, I was
6 listening to somebody.

7 THE COURT: Mr. Presnell, if you would just
8 have a seat for a moment.

9 MR. LAWSON: I do have one or two questions.

10 THE COURT: All right.

11 MR. LAWSON: I'm sorry, but I'm still trying to
12 figure out what happened to a statement I had.

13 THE COURT: Ok, no problem.

14 RECROSS-EXAMINATION

15 BY MR. LAWSON:

16 Q Let me ask you, on the time that we're talking about
17 on this information is that -- what time does that
18 reflect? Is that the time that when you first get there
19 or is that the time that you actually finish checking in?

20 A The time when you finish checking in.

21 Q Okay. So all the paperwork has to be done in
22 advance?

23 A This is the paperwork, this is all they fill out here
24 and then I ring it up in the register.

25 Q Okay. But that's done in advance before the time is

1 printed on there?

2 A Yes, sir.

3 Q Okay.

4 MR. LAWSON: Thank you, that's all I have.

5 THE COURT: All right.

6 MR. DEBERRY: Your Honor, may I ask one more
7 brief question?

8 THE COURT: We bounce this back and forth like a
9 ping-pong ball. You're excused, sir.

10 Any objection to this witness being excused,
11 Mr. Lawson?

12 MR. LAWSON: No, Your Honor.

13 THE COURT: All right. You free to go, sir.
14 Thank you.

15 (WHEREUPON, the witness leaves the witness
16 stand.)

17 THE COURT: Call your next witness.

18 MR. JEPERTINGER: Nyrena Goodman.

19 THE COURT: Ask Miss Goodman to come on in.

20 THE CLERK: If you would go to the witness stand
21 and place your left hand on the Bible and raise your right
22 hand to be sworn. Do you swear the testimony you give in
23 this case to be the truth, the whole truth, and nothing
24 but the truth so help you God?

25 THE WITNESS: Yes, ma'am.

1 THE CLERK: Please be seated and state your name
2 for the record.

3 THE WITNESS: Nyrena Goodman.

4 MR. LAWSON: Your Honor, may we approach the
5 bench?

6 THE COURT: Yes, sir.

7 (WHEREUPON, a bench conference was held in the
8 presence of the jury, but out of the hearing of the
9 jury.)

10 THE COURT: All right. Ladies and gentlemen,
11 I'm going to get you to step back to your jury room while
12 I take up a matter of law with the attorneys, please have
13 no conversation about the case.

14 (WHEREUPON, the jury retire to the jury room.)

15 THE COURT: All right, Mr. Lawson.

16 MR. LAWSON: Your Honor, may it please the
17 Court.

18 THE COURT: Yes, sir.

19 MR. LAWSON: My understanding that the State
20 will introduce through this witness certain letters that
21 were written from my client to this individual and the
22 defense would object to the introduction of those letters.
23 Your Honor, the -- there is personal content in these
24 letters that has absolutely no relevancy to this case and
25 could be prejudicial simply in the fact that some people

1 may not like what he is saying in the letters, personal
2 matters things concerning sex between two consenting
3 adults. Those things have absolutely nothing to do with
4 the case and could be totally prejudicial just for no
5 other reason than what they say.

6 THE COURT: Mr. Jepertinger.

7 MR. JEPERTINGER: If I can respond?

8 THE COURT: Yeah.

9 MR. JEPERTINGER: Your Honor, the defendant
10 wrote to Nyrena -- it's a bunch of them to Nyrena from --
11 I'm just trying to get these in order, Judge.

12 THE COURT: You intend to introduce all of
13 those?

14 MR. JEPERTINGER: Well, Judge, let me tell you
15 my theory on this, okay. First of all, I think under 901
16 she's familiar with his handwriting so and so forth. She
17 had a long-term relationship with him. I agreed with
18 Mr. Lawson to a certain extent. There is things of a
19 personal nature talking about sex so on and so forth.
20 However, there are also portions of the letters that talk
21 about our stories aren't straight. You need to cover up,
22 you need to say this to the police so our stories get
23 straight. Those things are very detrimental.

24 THE COURT: Why can't these letters be redacted
25 so that all this peripheral garbage doesn't come in?

1 MR. JEPERTINGER: Judge, part of this is the
2 State's theory is that this man has never -- has
3 maintained his innocence in a private conversation with
4 this defendant he never said I'm innocent of these
5 charges. He made one brief reference that I think he use
6 the word frame one time. But however, if we know that
7 there had been 40 letters and I only introduced portions
8 of seven or eight letters where he's trying to cover up
9 things. Mr. Lawson will say, well, he wrote you 40
10 letters, didn't he. And probably in those other 33 on
11 what he could argue to the jury in those other 33 he said,
12 my God, I'm innocent.

13 THE COURT: So ask him that. At any point, did
14 he ever -- I mean, that's easily -- I mean, that is so
15 easy, Mr. Jepertinger.

16 MR. JEPERTINGER: I understand.

17 THE COURT: Did he ever profess his innocence to
18 you in any of these letter ever? Let her answer the
19 question, I don't know what the answer will be.

20 MR. JEPERTINGER: Well, part of it too is these
21 ---

22 THE COURT: I'm not going to allow 40 letters to
23 come in with a lot of peripheral, obscene crap that has
24 nothing to do with this trial. I'm not going to let that
25 happen.

1 MR. JEPERTINGER: I understand that. The
2 problem I have, Judge -- and it was my fault or the
3 State's fault let's put it this way, that in order to
4 redact this, Your Honor, we would need an afternoon. If
5 you're talking about me just crossing things out ---

6 THE COURT: You got it this afternoon.

7 MR. JEPERTINGER: Very good.

8 THE COURT: Here's the thing and again, I'm just
9 trying to get the objection and the objection is the
10 letters contain things well beyond this case that would be
11 obviously bias and prejudicial to the defendant that have
12 absolutely nothing to do -- may lead into his character or
13 whatever which is inappropriate; is that correct?

14 MR. LAWSON: That's part -- that's one thing
15 that I object to.

16 THE COURT: Well, let's have it all because I
17 need to decide. What about relevant --

18 MR. LAWSON: I don't think there's anything
19 relevant.

20 THE COURT: I'm sure.

21 MR. LAWSON: Your Honor, the problem is this is
22 beauty is in the eye of the beholder. State reads
23 something and looks at it as a cover up. Defense looks at
24 something and looks at it as a possible defense. If the
25 defense is trying to assert a defense simply by -- there's

1 never any -- I challenge the State to find one threat in
2 any letter.

3 THE COURT: All right. Here's what we are going
4 to have to do before I can make any kind of appropriate
5 ruling, the State is going to have to go through those
6 letters. And I'm assuming the way to do it is to photo
7 copy them and then scratch out, redact out all of the
8 stuff that doesn't apply. And then you can present to the
9 Court and present to Mr. Lawson those portions that you
10 feel are admissible and applicable to this case. Then you
11 can make a more well formed objection to specifically what
12 they're trying to introduce and I can make a ruling. But
13 to -- I think we're a little premature at this stage.
14 There's 40 -- there's a ton of letters here and I'm
15 confident most of it is not coming in, but I don't know
16 what's relevant or what they think is relevant and what
17 they don't believe is relevant. And, of course, your
18 position is none of it is relevant.

19 MR. LAWSON: Your Honor, I mean, my client been
20 in jail for almost two years. I mean, and they been
21 dating for a number of years prior -- since 2002. So I
22 mean writing letters to this lady is not anything to be
23 criticize.

24 THE COURT: But I'm not going to tell the State
25 how to use their afternoon. All of us know that we are

1 going to adjourn this case this afternoon while I take up
2 civil matters that have nothing to do with this case
3 through this witness today. He can introduce the letters.
4 He may not introduce them into evidence, but he can have
5 her identify them.

6 MR. JEPERTINGER: That would be my purpose
7 today.

8 THE COURT: Without going into them, without
9 them being published, without going into their content,
10 and then we're going to adjourn this afternoon. And what
11 he chooses to do with his afternoon -- I mean -- in other
12 words, it's not like I'm adjourning the trial to give the
13 State an opportunity to do this because they been laxed
14 for two years. We all know this afternoon has been
15 blocked off for that civil matter from the getgo. So
16 however, they want to use their afternoon is up to them.
17 But I think it is premature to try to make any ruling and
18 have not tried yet to actually introduce them into
19 evidence, but I do appreciate and I agree with you, Mr.
20 Lawson, that we should have stopped at this point to
21 address this issue because we didn't want to get down that
22 road with this witness but...

23 MR. LAWSON: Then is it my understanding then
24 we're not going into content at all today?

25 THE COURT: Correct. That is correct because

1 they are not in evidence at this point.

2 MR. JEPERTINGER: Can we get this all taken care
3 of at one time, it's 12:08.

4 THE COURT: I don't understand.

5 MR. JEPERTINGER: I mean --

6 THE COURT: You mean stop now?

7 MR. JEPERTINGER: If that will be, okay.

8 THE COURT: Here's the thing and you all know
9 this cause you done this forever. Mr. Deberry has done it
10 for a while. Lawyers don't work until five o'clock and go
11 home. If y'all got to stay up all night fooling with it,
12 that's up to you all. I don't know. We're going to make
13 the maximum use of our time while we got it because it's a
14 scheduling issue on my part that I have these civil guys
15 coming in this afternoon. I wish I could have done it
16 differently, but I can't. So I think ---

17 MR. JEPERTINGER: Would you allow me to do this,
18 can I call another witness?

19 THE COURT: You can call any witness you want.

20 MR. JEPERTINGER: Thank you. And Miss Goodman

21 ---

22 THE COURT: I'm not going to tell you what order
23 to call your witnesses. All right. Then let me go ahead
24 and get Miss Goodman to step down.

25 MR. JEPERTINGER: I'm sorry, Judge.

1 THE COURT: That's okay. I'll explain to the
2 jury that we had a matter of law and that the State is
3 calling a different witness. Now, Mr. Jepertinger, keep
4 in mind, we got about 50 or so minutes, so I don't know
5 who you're going to call next, but...

6 MR. JEPERTINGER: I understand, Judge, but this
7 is one of the few that I have left that are -- we can
8 possibly fit in 50 minutes.

9 THE COURT: Well, I am just saying keeping the
10 time frame in mind -- I know you're not restricted to
11 that, but you certainly don't want to call somebody who
12 you know going to take an hour and a half.

13 MR. JEPERTINGER: Judge, I'm want take an hour
14 and a half with the individual. I don't know what
15 Mr. Lawson will do cross-examination. I'm not trying to
16 be disrespectful.

17 THE COURT: You know, I'm not either, but I'm
18 telling you right now, I'm stopping this trial so that
19 these people can get lunch before we start that two
20 o'clock hearing. So if I have to stop it in the middle of
21 a witness, we will stop it in the middle of a witness.

22 MR. JEPERTINGER: Yes, sir.

23 THE COURT: All right. Bring the jury in
24 please. Hold on.

25

1 MR. LAWSON: What witness are -- is being
2 called?

3 MR. JEPERTINGER: Andre Bradley.

4 MR. LAWSON: Bradley?

5 MR. JEPERTINGER: Yes.

6 MR. LAWSON: Your Honor, I understand this guy
7 is an informant. I do not have a copy of his plea
8 agreement with the government as I understand it. He may
9 be entitled to a Rule 35 based on his testimony, but I
10 haven't been provided.

11 MR. JEPERTINGER: The State doesn't have a Rule
12 35(b) with this individual. I don't know if the federal
13 government has, different ---

14 THE COURT: You made no deals with this
15 individual?

16 MR. JEPERTINGER: There are no pending charges
17 against this individual in state court. We don't have any
18 charges against him. It's a federal matter.

19 THE COURT: You're not aware of any federal
20 issues?

21 MR. JEPERTINGER: I know he's facing time in the
22 federal court. I don't have it. I'm telling you I gave
23 you everything I got.

24 MR. LAWSON: Well, I object to this man's
25 testimony. I can't believe that he's got federal charges

1 pending and that there is not a plea agreement that -- and
2 that his federal lawyer whoever that may be has made
3 arrangements that he's going to get some kind of credit.

4 THE COURT: Well, wouldn't they clearly had have
5 to make those arrangements through the State?

6 MR. JEPERTINGER: You would think.

7 THE COURT: And so you're accusing
8 Mr. Jepertinger of lying to you?

9 MR. LAWSON: No.

10 THE COURT: Well, what are you doing then?

11 MR. LAWSON: Not Mr. Jepertinger, but there's
12 been other people that's handle this case.

13 THE COURT: Mr. Jepertinger, as an officer of
14 the Court, do you know of any ---

15 MR. JEPERTINGER: I haven't seen a plea
16 agreement between Bradley and his federal attorney.

17 THE COURT: How about the prior attorney that
18 had this case before you?

19 MR. JEPERTINGER: I've looked in the file, it is
20 not in there. I can't even tell you who his federal
21 attorney is, Judge.

22 THE COURT: Is Mrs. Parr here?

23 MR. JEPERTINGER: Judge ---

24 THE COURT: You been busy I know that. While I
25 got the jury out, somebody see if Mrs. Parr is in her

1 office -- talk to Mrs. Parr. I am assuming she's the
2 other lawyer that handle the case.

3 MR. LAWSON: Correct.

4 (WHEREUPON, a pause in the proceedings.)

5 MR. JEPERTINGER: Mrs. Parr says she received
6 nothing from the federal entities.

7 THE COURT: And no conversation with them
8 regarding this gentleman testifying in this case?

9 MRS. PARR: No.

10 THE COURT: How about law enforcement?
11 Gentlemen, I'm not gone tolerate hiding anything, step up
12 to the plate. Has there been any conversation with the
13 federal authorities for this guy's cooperation in this
14 case?

15 TIM COMPTON: Your Honor, I talk to -- Mr. Jay
16 Ervin is his attorney. I talk to him and I have talk to
17 Wendy in the federal court. And she's -- they all agreed
18 that he could testify. What I was trying to do and ---

19 THE COURT: And is he getting some type of
20 leniency from the federal court for cooperating with your
21 investigations?

22 TIM COMPTON: I been told it's a possibly he
23 could. They haven't gave me any paperwork or have done
24 anything. I haven't even met him in person.

25 THE COURT: This witness is not going to testify

1 until this issue gets resolved cause they are entitled to
2 that. So have you got another witness?

3 MR. JEPERTINGER: Not for today, Your Honor.

4 THE COURT: And tell me why the young lady that
5 was just in here, tell me why you cannot have her on the
6 stand right now?

7 MR. JEPERTINGER: Well, Your Honor, I wanted to
8 get -- instead of parsing the whole thing out, we could do
9 that and put her up except for the letters and then bring
10 her back tomorrow, Your Honor.

11 THE COURT: I'll tell you what. We are going to
12 adjourn for the afternoon. We're going to adjourn for the
13 afternoon and we'll start back at nine o'clock in the
14 morning. Let me bring the jury out and explain to them
15 about us adjourning and let me handle them.

16 MR. JEPERTINGER: Thank you, Your Honor.

17 THE COURT: If you'll ask the jury to join us
18 please. Let me explain now, I'm telling you and it comes
19 from the years that I worked in both the public defender's
20 office and in the Solicitor's office. And I'm telling you
21 now, Mr. Compton, all law enforcement, you had better
22 disclose everything you know cause I'm not messing around.
23 I'm not playing anything hiding under the table springing
24 something on anybody. In this courtroom, while I'm on
25 this bench, every defendant that comes in this court is

1 going to get a fair and impartial hearing. And we're not
2 going to play games with informants who have cut deals,
3 but we're not going to tell the defense that they got a
4 deal, that ain't happening.

5 Now, I don't know if I'm going to let this guy
6 testify at all depending on what we find out. But I'm
7 telling you you better tell the State everything you know.
8 You better disclose everything you know. I don't need to
9 hear it right now. I'm just telling you it better be
10 done.

11 TIM COMPTON: I haven't lied or done anything.

12 THE COURT: I haven't said you lied, but I am
13 going to say you withheld the fact that this guy's got a
14 deal cut in federal court and you knew it.

15 TIM COMPTON: I didn't know what the law was in
16 the court. I didn't know about that. I didn't know what
17 to do in this courtroom, Your Honor.

18 THE COURT: Well, you know that this gentleman,
19 John Jepertinger, is your prosecutor and he needs to be
20 given full disclosure when he's going to use a witness on
21 the witness stand.

22 MR. JEPERTINGER: Judge, we'll provide whatever
23 or call the federal entities here and provide it to the
24 defense.

25 THE COURT: I know you will, I know you will.

1 My problem is you weren't given that information and you
2 should have been.

3 MR. JEPERTINGER: We will get it done. Thank
4 you so much.

5 THE COURT: If they are ready, we are ready.

6 (WHEREUPON, the jury came into open court.)

7 THE COURT: Okay. Ladies and gentlemen, taken
8 up these matters and looking at our time and everything
9 and this is something that I'm going to share with you
10 that you weren't aware of, has nothing to do with this
11 case, but it affects this case.

12 I have been assigned a complex civil litigation
13 that we're going to start trial in Monday in Columbia
14 that's going to take two weeks to try. Coming into this
15 term of court, I was not aware what cases the State was
16 gone call, which is typical. I usually find out once we
17 arrive. I had previously before this term of court
18 scheduled pretrial matters on that complex civil
19 litigation this afternoon, so I knew on Monday morning
20 that we were not going to be holding general sessions
21 court or criminal court this afternoon in my court because
22 I was going to be handling that civil matter. So I was
23 going to go about one o'clock and then break and give you
24 the afternoon off and we were going to start back in the
25 morning.

1 But in discussing with the attorneys, it appears
2 that the next witness would more than likely take us past
3 that time frame. And, of course, we're going to start
4 these civil hearings at two o'clock. And I got to give
5 court personnel time to get lunch and get back so we can
6 start that matter at two o'clock, so we're going to break
7 a little early. I'm going to go ahead and excuse you.
8 I'm not excusing you for lunch, I'm going to excuse you
9 for the balance of the day, so you get half a day off with
10 pay. But I'm going to ask you to be back in your jury
11 room tomorrow morning at nine o'clock and we'll resume at
12 that point with the trial of this case. And I apologize I
13 just had no other time to take up those civil matters then
14 this afternoon.

15 So please enjoy your afternoon, enjoy your
16 evening, have no conversation, do not allow people to talk
17 with you about this case. You've seen as we gone through
18 this week that there's a lot of information. And your
19 verdict has to be based solely on the information that is
20 derived here in this courtroom. Please do not let anyone
21 have conversation with you, please let the Court know if
22 anyone tries to contact you or talk to you about the case.
23 So having said that, I need everyone else to remain in the
24 courtroom, ladies and gentlemen, if you'll be back here
25 tomorrow morning at nine o'clock in your jury room.

1 (WHEREUPON, the jury was excuse for the day.)

2 THE COURT: All right. Okay. We will resume at
3 nine o'clock in the morning. Now, I am going to be here
4 this afternoon if y'all need me for anything. But if
5 history is any indication, these guys in this civil matter
6 are going to burn up my entire afternoon. But if you need
7 something, let Jeanette know. And if I can break away,
8 I'll do that and help you with anything I can help with.

9 MR. JEPERTINGER: Thank you, Your Honor.

10 THE COURT: We will be in recess.

11 (WHEREUPON, the proceedings were concluded for
12 the day to be reconvened on April 15, 2010.)

13 MR. JEPERTINGER: Judge.

14 THE COURT: Yes, sir.

15 MR. JEPERTINGER: Before we start testimony, two
16 individuals have criminal records and instead of sending
17 the jury out ---

18 THE COURT: All right.

19 MR. JEPERTINGER: The first individual is a guy
20 name Andre Bradley, Your Honor. I think I told you by the
21 way that Nyrena Goodman doesn't have a record.

22 THE COURT: Right, we discuss that yesterday.

23 MR. JEPERTINGER: But Andre Bradley, Your Honor,
24 1997, he was convicted of loafing and loitering. I don't
25 think that's applicable. He also had a trespassing in

1 '97. I don't think that's applicable. He had a P.W.I.D.
2 crack cocaine. And it looks like a P.W.I.D. cocaine, Your
3 Honor, in 1999, Your Honor. He also had a trespass after
4 notice in '99. And those are the '99 convictions, Your
5 Honor. And get a ruling on those, Your Honor. Of course,
6 it's -- we're beyond the ten-year time limit. However, it
7 looks like he has received into the department of
8 corrections. So technically, I think he been received
9 probably within the ten years and I think they can use
10 that against him.

11 THE COURT: I think that is appropriate. With
12 regards -- and that is mister who you said?

13 MR. JEPERTINGER: That's Mr. Bradley. I would
14 say -- it's the latest N.C.I.C. read listed it as
15 distribution et cetra crack cocaine or P.W.I.D., Your
16 Honor. I believe, it's a P.W.I.D., Your Honor.

17 THE COURT: Okay.

18 MR. JEPERTINGER: And that was for both crack
19 and cocaine in '99.

20 THE COURT: All right. Mr. Lawson, with regards
21 to Mr. Bradley other than the P.W.I.D. crack and P.W.I.D.
22 cocaine charges, which I think you be allowed to ask him
23 about. Is there anything else on his record?

24 MR. JEPERTINGER: There's a blue light, I see
25 that. He got three months for that, I think he can use

1 that too, Your Honor. For whatever it's worth, Your
2 Honor, there was a simple possession of marijuana in 2001.

3 THE COURT: That wouldn't be.

4 MR. JEPERTINGER: Looks like he has a lot of
5 D.U.S.'s and car charges. I don't think he can use those.
6 There was -- and it's hard reading here. It says
7 probation custody start date possession of cocaine third
8 offense ten years suspended to four days and that was in
9 2007. He obviously can use that.

10 THE COURT: All right. Would you agree with
11 those assessments, Mr. Lawson?

12 MR. LAWSON: This N.C.I.C. is a bit confusing.
13 I see -- looks like 2002 manufacturing possession, but I
14 don't see...

15 MR. JEPERTINGER: That will be nol-prossed,
16 Jack.

17 MR. LAWSON: Your Honor, as to Mr. Bradley, I
18 think, he has also had a pending federal case which I
19 believe I can cross examine him about in relation to his
20 cooperation as it relates to this case.

21 MR. JEPERTINGER: Your Honor, I think he can.

22 THE COURT: Yeah. So that would be on
23 Mr. Bradley? What other witness do you got?

24 MR. JEPERTINGER: There is a Miss Jasmine
25 Barrett and she has a shoplifting back in 2002, which I

1 think they can use. There's something in magistrate court
2 says miscellaneous criminal offenses, so I don't have no
3 idea what this is, Judge.

4 THE COURT: That wouldn't be.

5 MR. JEPERTINGER: I think that shoplifting would
6 be it.

7 THE COURT: Okay. All right. With that
8 witness, it appears that there is a shoplifting that
9 applies. With that other witness, Jack, Mr. Jepertinger
10 seems to indicate that she has a prior shoplifting which
11 would be appropriate but that's the extent of her record,
12 that would be subject to cross, would you agree with that?

13 MR. LAWSON: Which witness?

14 MR. JEPERTINGER: Miss Barrett.

15 MR. LAWSON: I don't remember seeing...

16 THE COURT: Jasmine Barrett.

17 MR. LAWSON: Your Honor, it appears as though I
18 ask she has a shoplifting in 2002. It also looks like a
19 shoplifting in 2007.

20 MR. JEPERTINGER: What the conviction is it says
21 court charge miscellaneous criminal offenses. I know she
22 was arrested for it but just says miscellaneous criminal
23 offenses, that's kind of vague, Your Honor.

24 THE COURT: I don't know what the miscellaneous
25 criminal offenses will be, so without, you know, more

1 clarification I don't know what that charge is.

2 MR. LAWSON: I can't run N.C.I.C., Your Honor.

3 THE COURT: They did run it and that's what it
4 comes up as. You can check with the magistrate's office
5 to see what the exact charge was.

6 MR. LAWSON: The arrest charge is shoplifting.

7 MR. JEPERTINGER: Well, she wasn't ---

8 MR. LAWSON: And hindering an officer.

9 MR. JEPERTINGER: I can't tell you what it is at
10 this point. I'll ask her.

11 THE COURT: Just ask her.

12 MR. JEPERTINGER: I'll ask her for whatever it's
13 worth, Your Honor.

14 THE COURT: You can ask her right now if you
15 want to clear it up.

16 (WHEREUPON, a pause in the proceedings.)

17 MR. JEPERTINGER: Mr. Deberry spoke to the
18 witness and she says she pled to something which clarifies
19 that. She thinks it may be shoplifting, but I don't think
20 she was that sure; is that correct?

21 MR. DEBERRY: That's my understanding. I think
22 we will concede it may have been shoplifting.

23 MR. JEPERTINGER: It could have been shoplifting
24 for whatever it is worth, Your Honor.

25 THE COURT: How do you not know what you've pled

1 guilty to. Do you plead guilty to a lot of stuff and you
2 get confused or something. I mean, that's like somebody
3 who tells me, you know what, I don't remember if I ever
4 went to jail or not. I mean, all right. Mr. Lawson, I'll
5 allow you to ask or, Mr. Jepertinger, you can do it.

6 MR. JEPERTINGER: We're going to burn it first.

7 THE COURT: Anything else regarding those
8 witnesses?

9 MR. JEPERTINGER: I think that's it in terms of
10 lay witnesses, Your Honor.

11 THE COURT: All right. Let me -- let's go ahead
12 and address, yesterday the State had called a witness with
13 the intent of bringing in some letters. And again, this
14 ruling is obviously going to be based on the witness
15 identifying those letters and being able to establish the
16 proper foundation. But assuming that that will occur, the
17 defense has objected to those letters coming in.

18 My issue was that letters had not been redacted
19 to eliminate any improper or non-relevant information in
20 the letters, that since has been done. We've reviewed
21 those in chambers. The defense has maintained their
22 objection to those letters coming in at all or any portion
23 of them coming in, but having reviewed the letters in
24 their redacted form, again assuming that the proper
25 foundation is laid. If that is in fact done, I have

1 decided that those are in fact admissible and will allow
2 them into evidence once the proper foundation has been
3 laid. But I want to note for the record that the
4 defense's objection is to the letters in their entirety;
5 is that correct, Mr. Lawson?

6 MR. LAWSON: That's correct, Your Honor.

7 THE COURT: The defense objects to them coming
8 in at all?

9 MR. LAWSON: Yes, sir.

10 THE COURT: Okay.

11 MR. LAWSON: Your Honor, I would point out there
12 was one letter that the State had redacted that we didn't
13 have a copy of and so it was not included in the package
14 that we gave to, Your Honor. We have now been provided
15 with a copy of that letter and it's -- we made no changes
16 to that letter under the terms that we had talked about.

17 THE COURT: All right, sir.

18 MR. LAWSON: I think the State -- we didn't
19 realize when we handed you the package that that letter
20 was missing until we got back down in the office, but you,
21 I guess, may need a copy of that additional letter. We
22 have it.

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

24 MR. LAWSON: I just wanted to make sure, Your
25 Honor, that the State didn't think that there was a letter

1 in there that wasn't in there give them an opportunity to
2 get their package.

3 THE COURT: Well, anything else -- anything
4 further before we proceed?

5 MR. JEPERTINGER: No, sir, we are ready to go.

6 THE COURT: Anything from the defense? Anything
7 further before we bring the jury in?

8 MR. LAWSON: No, Your Honor.

9 THE COURT: Ms. Joe, ask the members of the jury
10 to join us please.

11 (WHEREUPON, the jury came into open court.)

12 THE COURT: All right. Ladies and gentlemen,
13 welcome back to the courthouse and we are going to proceed
14 now. I had to take up some other matters before we got
15 started, so I apologize for the delay in getting started,
16 but we're now ready to proceed. And, Mr. Jepertinger, we
17 would recognize you for your first witness.

18 MR. JEPERTINGER: Call Nyrena Goodman to the
19 stand.

20 THE CLERK: Please place your left hand on the
21 Bible and raise your right hand. Do you swear the
22 testimony you give in this case to be the truth, the whole
23 truth, and nothing but the truth so help you God?

24 THE WITNESS: Yes, ma'am.

25 THE CLERK: Please be seated and state your name

1 for the record.

2 THE WITNESS: Nyrena Goodman.

3 WHEREUPON,

4 Nyrena Goodman,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. JEPERTINGER:

8 Q Okay. Nyrena, how old are you?

9 A Twenty-two.

10 Q Where do you live?

11 A [REDACTED]

12 Q How long have you lived at that address?

13 A Going on about five years.

14 Q Five years?

15 A Yes.

16 Q All right. Do you know the defendant in this case
17 Gregory Daniels?

18 A Yes, sir.

19 Q How do you know Gregory Daniels?

20 A He was my boyfriend.

21 Q He was your boyfriend?

22 A Yes, sir.

23 Q How long was he your boyfriend?

24 A About five years.

25 Q You no longer in that relationship with him?

- 1 A No, sir.
- 2 Q All right. Safe to say he was your boyfriend back in
3 September of 2008?
- 4 A Yes, sir.
- 5 Q Okay. Do you remember the week of September the 4th
6 and 5th, 2008?
- 7 A Yes, sir.
- 8 Q Did you have a relative pass away during that week?
- 9 A Yes, sir, my aunt.
- 10 Q Your aunt?
- 11 A Uh-huh. ~~XXXXXXXXXX~~
- 12 Q When did your aunt pass away?
- 13 A The first on that Monday.
- 14 Q All right. And was she buried either Tuesday or
15 Wednesday of that week?
- 16 A No, that Saturday on the 6th.
- 17 Q Okay. So it would have been Saturday the 6th she was
18 buried?
- 19 A Yes, sir.
- 20 Q Okay. Now, specifically, on the Thursday evening
21 September the 4th, did you see Gregory Daniels?
- 22 A I seen him that night.
- 23 Q And what time did you see him that night?
- 24 A About 7:30, eight o'clock.
- 25 Q Okay. When is the next time you saw Gregory Daniels?

1 A At 5:30 that Friday morning.

2 Q Okay. Where -- how did you see Gregory Daniels?

3 A He came and picked me up.

4 Q Was he with anyone?

5 A Yes, sir.

6 Q And who was he with?

7 A Gary.

8 Q Did you know Gary's name at the time?

9 A No, sir.

10 Q All right. Who provided the name of Gary to you?

11 A Gregory Daniels.

12 Q And he picked you up and what type of vehicle did

13 they pick you up in?

14 A A van.

15 Q All right. And from there and he picked you up at

16 Chase Street?

17 A Yes, sir.

18 Q Where did you go from Chase Street?

19 A To the motel.

20 Q Was that the Country Hearth Inn and Suites?

21 A Yes, sir.

22 Q All right. I am going to show you what's been marked

23 as State's Exhibit 18. Do you recognize that print in

24 there?

25 A Yes, sir.

1 Q Who is that?
2 A My name.
3 Q Okay. And was that when you checked into the Country
4 Hearth Inn and Suites?
5 A Yes, sir.
6 Q Did Gregory or Gary go with you into the Country
7 Hearth Inn and Suites?
8 A Gregory did.
9 Q Did he go with you when you checked in or did you
10 check in alone?
11 A Checked in alone.
12 Q How long did the check-in process take minute or two?
13 A Yeah.
14 Q All right. Gregory went into the motel room with
15 you?
16 A Yes, sir.
17 Q Okay. How long did Gregory stay in the motel room
18 with you that morning of September the 5th?
19 A When I got there, I went to sleep.
20 Q All right.
21 A His phone was ringing and he answered. And he was
22 asking -- somebody was asking him where was he. He said
23 he was in the country with his girlfriend. So he called
24 somebody to come pick him up. And he then left about --
25 he was gone for about two hours. He text me to say he was

1 on his way up there.

2 Q I didn't understand a word you said. He texted you
3 and what?

4 A He said he was on his way up there.

5 Q He was on his way up there to the Country Inn motel?

6 A Yes, sir.

7 Q And did you respond back or what did you do? Did you
8 say that's okay?

9 A Yeah, I said okay. I text back and said okay.

10 Q At that point -- at that point, what were you just
11 still in bed?

12 A Yes, sir.

13 Q About what time of morning was that?

14 A I can't remember the time, sir.

15 Q All right. Okay. Who came next to the motel room?

16 A Who came next?

17 Q Yeah. You're in the room alone at that time;
18 correct?

19 A His uncle came.

20 Q Did Gregory come with him?

21 A No, sir.

22 Q Okay. What was his uncle's name?

23 A I don't know his uncle name.

24 Q Did he introduce himself as Gregory's uncle?

25 A Yeah, but I don't remember his name.

- 1 Q Okay, that's fine. At that point, did y'all just sit
2 and talk while...
- 3 A No, I fell asleep.
- 4 Q Okay.
- 5 A Fell back to sleep.
- 6 Q Okay. When you woke up, who was there in the room?
- 7 A His uncle was still there. And I text him ask him
8 where he was and he said he was on the way.
- 9 Q You text Gregory?
- 10 A Yes, sir.
- 11 Q And then did he get back?
- 12 A Not right then.
- 13 Q Okay. You had to wait a little longer?
- 14 A Uh-huh.
- 15 Q About how long?
- 16 A Say about 30 minutes later. I know, he was gone for
17 a hot minute, a long time.
- 18 Q All right. And then what happened?
- 19 A Then he came up. He got a rental car.
- 20 Q Okay, wait a minute. He came up. Do you know how he
21 came up?
- 22 A I don't know how he came up.
- 23 Q He came up to the room?
- 24 A Yes, sir.
- 25 Q And he went with his uncle somewhere?

1 A And got a rental car.

2 Q When he came back with a rental car, what type of
3 rental car was it?

4 A A Taurus.

5 Q All right. And when he got that Taurus, did the
6 uncle come with him back to the motel?

7 A Yes, sir.

8 Q Okay. What did you do then?

9 A Got in the Taurus and I left.

10 Q Okay. And this would have been Friday; correct?

11 A Yes, sir.

12 Q Okay. And then after you got dressed and left, where
13 did you go?

14 A I went home. He dropped me off at home.

15 Q Okay. Back on [REDACTED]

16 A Yes, sir.

17 Q Okay. Do you know where he and his uncle went
18 afterward?

19 A No, sir.

20 Q All right. Now, what was your cell phone number, do
21 you recall?

22 A [REDACTED] was [REDACTED]-9271.

23 Q Okay. Now, was this a prepaid phone?

24 A Yes, sir.

25 Q Okay. And did these prepaid phone cards have what

- 1 are card sim cards in them?
- 2 A Yes, sir.
- 3 Q All right. Now, are you familiar with the number
- 4 [REDACTED]-5339?
- 5 A Yes, sir.
- 6 Q And that phone was listed to your name; isn't that
- 7 correct?
- 8 A Yes, sir.
- 9 Q Did you use [REDACTED]-5339?
- 10 A Did I use it?
- 11 Q Yes.
- 12 A Yes.
- 13 Q Who else used [REDACTED]-5339?
- 14 A Gregory Daniels.
- 15 Q Was that on the phone that he carried?
- 16 A Yes, sir.
- 17 Q And on September 5th 2008, did he begin using a
- 18 another sim card phone number?
- 19 A Yes, sir. When he dropped me off, he told me he was
- 20 going to change his number. I ask him why, he told me --
- 21 he ain't gave me no answer.
- 22 Q Okay. Did he ever call you back from [REDACTED] 0731?
- 23 A Yes, sir, he called me and told me it was his new
- 24 number.
- 25 Q All right. So he changed from 5339 to that new

1 number on September the 5th 2008?

2 A Yes, sir.

3 Q In your five years of dating Gregory Daniels, had you
4 ever seen his handwriting before?

5 A Yes, sir.

6 Q Are you familiar with his handwriting?

7 A Yes, sir.

8 MR. JEPERTINGER: Your Honor, I would like to
9 have these letters marked for identification?

10 THE COURT: Okay.

11 MR. LAWSON: Your Honor, the defense objects to
12 the introduction of the letters as per our previous
13 objection.

14 THE COURT: Certainly note your objection, it's
15 overruled.

16 (WHEREUPON, State's Exhibit No. 19 was marked
17 for identification only.)

18 BY MR. JEPERTINGER:

19 Q I am going to show you what's been marked as State's
20 Exhibit 19. If you would look at these series of papers,
21 can you tell me if that is Gregory's handwriting?

22 A Yes, sir.

23 Q And what is indicated by State's Exhibit 19? Are
24 these letters or what are they?

25 A Letters.

1 Q They are letters written from whom to whom?

2 A He was writing letters to me.

3 Q Okay. And this is his writing; correct?

4 A Yes, sir.

5 MR. JEPERTINGER: At this time, I would move
6 State's Exhibit 19 into evidence, Your Honor.

7 THE COURT: Defense's objection is noted.

8 MR. LAWSON: Yes, Your Honor.

9 MR. JEPERTINGER: Court's ruling?

10 THE COURT: They are in evidence.

11 (WHEREUPON, State's Exhibit 19 was admitted into
12 evidence.)

13 MR. JEPERTINGER: At this point, please answer
14 any questions Mr. Lawson may have for you.

15 MR. LAWSON: Bear with me one moment, Your
16 Honor.

17 THE COURT: Yes, sir.

18 (WHEREUPON, a pause in the proceedings.)

19 MR. LAWSON: May it please the Court.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. LAWSON:

23 Q Okay. Ms. Goodman, is it my understanding that you
24 had known Gregory for five years, was that in 2008?

25 A Sir?

1 Q When did you first meet Gregory Daniels?

2 A Well, I been met him, but we was together for five
3 years?

4 Q You were together for five years?

5 A Yes, sir.

6 Q Are you still together?

7 A No, sir. [REDACTED]

8 Q When did -- you separate, break up?

9 A Yes, sir.

10 Q When was that?

11 A It was last year 2009.

12 Q 2009?

13 A Yes, sir.

14 Q And the letters that you talked about that you
15 identified, that's State's Exhibit 19?

16 A Yes, sir.

17 Q These letters were written to you?

18 A Yes, sir.

19 Q And did -- and there were other -- there were a lot
20 of letters written to you from Mr. Daniels, were they not?

21 A Yes, sir.

22 Q And now when -- let me understand something now on
23 September the 4th of 2008, you saw Gregory that day?

24 A September the 4th.

25 Q On September the 4th ---

- 1 A That Thursday?
- 2 Q That was a Thursday.
- 3 A Yes, sir, that night.
- 4 Q Okay. Did you see him at all during the daytime?
- 5 A No, sir.
- 6 Q Okay. Did -- where were you living at the time?
- 7 A [REDACTED].
- 8 Q North?
- 9 A Chase Street.
- 10 Q Case Street?
- 11 A Yes, sir.
- 12 Q And where is that in relation to North Dargan Street
- 13 or Dargan and Fraser Street?
- 14 A You go off Chase Street and go -- turn on Lucas
- 15 Street and go to North Florence.
- 16 Q How far was your house from Gregory's house at the
- 17 time?
- 18 A It ain't that far.
- 19 Q Say what, ma'am?
- 20 A It's not that far.
- 21 Q It's not that far. Was it blocks, miles, half a mile
- 22 about how far do you know?
- 23 A I don't know, sir, it wasn't that far though.
- 24 Q Walking distance?
- 25 A Yes, sir.

- 1 Q About how long would it take you to walk?
- 2 A About five minutes.
- 3 Q Okay. I assume you walk that distance on occasion?
- 4 A Yes, sir.
- 5 Q And he walked it as well?
- 6 A Yes, sir.
- 7 Q Now, you said that that you saw him on the 4th at
8 about seven o'clock in the evening; is that correct?
- 9 A Yes, sir.
- 10 Q And for how long did you see him?
- 11 A He drop some soda's off at my sister house because my
12 aunt funeral -- my aunt had died that Monday. He had drop
13 some soda's off that Thursday.
- 14 Q For?
- 15 A For setting up.
- 16 Q For setting up?
- 17 A Yes, sir.
- 18 Q Was it suppose to be that night or the next day?
- 19 A That night.
- 20 Q That night. So that's on September the 4th?
- 21 A Yes, sir.
- 22 Q And a setting up is that kind of a wake?
- 23 A Yes, sir.
- 24 Q And that's when people come by and visit the family
25 of the deceased. And this was your aunt that had pass?

- 1 A Yes, sir.
- 2 Q And what time did the setting up start?
- 3 A Start about five o'clock.
- 4 Q Okay. And did you go to that?
- 5 A Yes, sir.
- 6 Q What time did you go?
- 7 A I got up early that day say around about two.
- 8 Q You went about two?
- 9 A Yeah.
- 10 Q So you went as a family member, you went before it
- 11 actually started for everybody else?
- 12 A Yes.
- 13 Q You went as a family?
- 14 A Yes, sir.
- 15 Q And then for how long did you see Gregory at seven?
- 16 A I told him to drop some soda off, he like stay about
- 17 five minutes.
- 18 Q So basically just drop some drinks off and said I see
- 19 you later and left?
- 20 A Yes, sir.
- 21 Q All right. And then when was the next time that you
- 22 saw him?
- 23 A 5:30 that Friday morning.
- 24 Q 5:30 the next morning?
- 25 A Yes, sir.

1 Q Okay. And who was with him whenever you saw him the
2 next time?

3 A It was Gary.

4 Q Did you know Gary?

5 A No, sir.

6 Q Had you seen Gary before?

7 A No, sir.

8 Q Did he ever know Gregory to be with this individual?

9 A Sir?

10 Q Did you know Gregory to be with this individual Gary?

11 A You ask did I know him -- did Gregory know him?

12 Q Right.

13 A I guess, they know each other, they was together.

14 Q Okay, had they been together before?

15 A No, sir.

16 Q Then you had never seen Gregory with that individual
17 before?

18 A That was my first time seeing him.

19 Q Now, you were going to the Comfort Inn; correct?

20 A Yes, sir.

21 Q And you went in and checked in; is that right?

22 A Yes, sir.

23 Q And you filled out the paperwork or whatever the
24 little sheet that says your name and that sort of thing.
25 This sheet did you file that out?

1 A Yes, sir.

2 Q Now, did you personally write that or did you tell

3 the clerk and they wrote it?

4 A I wrote.

5 Q You wrote it out?

6 A Yes, sir.

7 Q And how long would you say that you were in the motel

8 area there checking in?

9 A It was for a couple of minutes and we went straight

10 to the room.

11 Q All right. When you first went in, was the clerk

12 there at the counter when you first went in?

13 A Yes, sir.

14 Q And was -- did the clerk do anything else ---

15 A No, sir.

16 Q --- before checking you in?

17 A No, sir.

18 Q So he just checked you in and ---

19 A Gave me the key and went on in the room.

20 Q And when you checked in, when you went in the room,

21 where was Gregory?

22 A He was outside in the van.

23 Q He was outside?

24 A In the van.

25 Q Okay. Now, you say when you got to the room, you

1 laid down; correct?

2 A Yes, sir.

3 Q You were sleepy?

4 A Yes, sir.

5 Q Laid down to rest and that you shortly thereafter

6 went the sleep. At the time that you went to sleep, where

7 was Gregory?

8 A He was up.

9 Q He was up?

10 A Yes, sir.

11 Q But he was in the room?

12 A Uh-huh.

13 Q Okay. And what was he doing?

14 A He was on the phone.

15 Q Okay. Do you know who he was talking to?

16 A No, sir.

17 Q Did you then go to sleep?

18 A Well, when I got there, I went to sleep.

19 Q Okay. And what time was it when you woke up?

20 A I can't remember the time, sir.

21 Q Okay. Can you remember whether it was like five

22 minutes later or closer to an hour later or two hours

23 later that you woke up?

24 A Probably close to two hours.

25 Q Close to an hour later. And you woke up and there --

1 is it my understanding from your testimony there was
2 nobody there at that point?

3 A When I woke up?

4 Q Right.

5 A What you say, sir?

6 Q Well, what do you recall when you woke up?

7 A When I woke up -- yeah, he was still there. He got a
8 phone call. He call somebody and told them to come pick
9 him up.

10 Q Okay. So when you woke up Gregory was there?

11 A Yes, sir.

12 Q And then you stayed awake for a little while I assume
13 or ---

14 A Yes, sir.

15 Q --- or was the phone ringing what woke you up?

16 A The phone was ringing and he answered. And he was
17 saying -- the person ask him where he was, he was like he
18 was in the country with his girlfriend. Then he call
19 somebody to come pick him up.

20 Q Then he called somebody?

21 A Come pick him up.

22 Q You know who he called?

23 A No, sir.

24 Q You know who he was talking -- who had called him?

25 A No, sir.

1 Q Is this the first time that y'all had ever been to
2 that motel?

3 A No, sir.

4 Q Y'all go there pretty regular or on a regular basis?

5 A Yes, sir.

6 Q Okay. When you would go there, would Gregory go for
7 breakfast usually in the morning?

8 A Yes, sir.

9 Q So this was not an unusual occurrence for the two of
10 y'all to go to the Comfort Inn?

11 A No, sir.

12 Q I guess, it was a chance for the two of y'all to get
13 alone basically; is that correct?

14 A No, sir, I guess, he had me as an alibi to come get
15 me.

16 Q Well, you had been there before?

17 A Yes, sir, I been there before.

18 Q Okay. Had there been any reason for -- had he ever
19 ask you to be an alibi before?

20 A No, sir.

21 Q Okay. Now, have the police talk to you in relation
22 to this thing?

23 A Yes, sir.

24 Q They've interviewed you?

25 A Yes, sir.

1 Q Okay. Were you told that you could be arrested in
2 this case?

3 A Yes, sir.

4 Q And so you been -- did you take it as a threat?

5 A No, sir.

6 Q Did it scare you?

7 A Yes, sir.

8 Q Okay. So when Gregory left there, you don't -- I
9 think you said on direct that he left and you didn't see
10 how he left whether he was walking ---

11 A No, sir, I didn't see how he left.

12 Q You just knew he left. You didn't know whether he
13 was walking or riding? You don't know who he was with?

14 A No, sir.

15 Q You don't know whether he even left, he could have
16 been staying around the motel as far as that goes?

17 A All I know he left out the room. He say he call
18 somebody to come pick him up.

19 Q You didn't go outside to look for him ---

20 A No, sir.

21 Q -- none of that watch him or anything like that?

22 A No, sir.

23 Q Okay. Now, did I understand that you then went back
24 to sleep?

25 A Sir?

1 Q Did you then go back to sleep?

2 A Yeah, I went back to sleep. He text me say his uncle
3 was on his way up there. So I open the door for his uncle
4 and I fell back sleep. He was gone for a long time, I say
5 for about two hours.

6 Q Okay. And do you know what time it was when he got
7 back?

8 A I think it was around about 11:30 something like
9 that. I real don't remember the time, sir.

10 Q Now, this would have been Friday morning; is that
11 correct?

12 A Yes, sir.

13 Q Would have been the five and it would have been in
14 morning time?

15 A Yes, sir.

16 Q You said around 11 o'clock -- before noon, before
17 lunchtime?

18 A Yes, sir.

19 Q And the first thing you recall is when you woke up
20 was that Gregory's uncle came there to the room?

21 A Yes, sir.

22 Q And then you went back to sleep after you talk with
23 him for a few minutes?

24 A Yes, sir.

25 Q I assume y'all talk just chitchat a little bit. And

1 then you said, well, I'm tired I'm going to go back to
2 sleep something to that effect?

3 A Yes, sir.

4 Q And you laid back down?

5 A Yes, sir.

6 Q Is that pretty much the way it happened?

7 A Yes, sir.

8 Q And then you laid down and went back -- actually went
9 to sleep?

10 A Yes, sir.

11 Q And do you know how long you slept for?

12 A About two and a half hours.

13 Q About what?

14 A About an hour.

15 Q About an hour?

16 A Yes, sir.

17 Q Again about the same time the first time but pretty
18 close. You didn't -- wasn't like you're watching and
19 checking time or anything like that?

20 A No, sir.

21 Q And you didn't check any time and Gregory didn't ask
22 you to check any time say look what time it is or anything
23 like that?

24 A No, sir.

25 Q Now, what -- did something wake you up the second

1 time or did you just wake up, do you recall?

2 A I just woke up.

3 Q Just woke up?

4 A Yes, sir.

5 Q Nothing -- phone didn't ring or something go off,
6 alarm clock or Gregory uncle's didn't say wake up, didn't
7 wake you up?

8 A No, sir.

9 Q As far as you know, did he stay there while you were
10 sleep?

11 A Yeah, he stay there, yes, sir.

12 Q He was there, but he was there when you woke up?

13 A Yes, sir.

14 Q And then did Gregory then come back?

15 A He didn't come back right then. I had text him ask
16 him where he was. He said he was on his way back to the
17 room, so he came about 30 minutes later. And his uncle
18 left and got a rental car.

19 Q Okay.

20 A Then they came back and got me.

21 Q All right. So you woke up, you then sent a text
22 message and ask him where he was and he said he was on his
23 way back?

24 A Yes, sir.

25 Q He got back and that's when he and his uncle left to

1 get a rental car?

2 A Yes, sir.

3 Q Okay. And then the two of them came back to pick you

4 up?

5 A Yes, sir.

6 Q And y'all left?

7 A Yes, sir.

8 Q Did you check out?

9 A No, we didn't check out.

10 Q Okay. Were you intending on checking -- did you ---

11 A We just left -- got dressed and we just left.

12 Q Did you intend on coming back as far as you knew with

13 that -- you just intended on staying one night?

14 A I guess, I thought we was going to stay another

15 night, but it didn't happen like that.

16 Q Okay. Where did you stay the next night?

17 A The next night?

18 Q Yeah, that be Friday night, that Friday where did

19 y'all stay?

20 A We went back to the room. We went to Econolodge.

21 Q So you went to a different motel?

22 A Yes, sir.

23 Q But you were still staying in a motel on Friday

24 night?

25 A Yes, sir.

- 1 Q And did you check in at this Econolodge?
- 2 A Yes, sir.
- 3 Q Now, did I understand you to testify earlier that the
- 4 funeral was on that Friday?
- 5 A No, on that Saturday.
- 6 Q On Saturday?
- 7 A Yes, sir.
- 8 Q And on Saturday, did you go to the funeral?
- 9 A Yes, sir.
- 10 Q Did Gregory go with you?
- 11 A Yes, sir.
- 12 Q How did y'all go to the funeral?
- 13 A In a rental car. We got in a rental car.
- 14 Q Anybody go with you?
- 15 A Me and my cousin Trese and Gregory.
- 16 Q Now, were you having any problems at home at this
- 17 particular time?
- 18 A No, sir.
- 19 Q Wasn't any problems going on between you and any of
- 20 your relatives or anything like that?
- 21 A No, sir.
- 22 Q Was there a problem with Gregory's house?
- 23 MR. JEPERTINGER: Your Honor, I object to that
- 24 question. I don't see the relevancy. If she knows, she
- 25 knows. I don't know Gregory's house, I don't know if he's

1 having a plumbing problem or somebody's living with or
2 what the deal is there.

3 THE COURT: Well, I mean, I don't know she can
4 answer the question was it a problem with...

5 BY MR. LAWSON:

6 Q Do you know if there was a problem at Gregory's house
7 that necessitated him staying away from the house?

8 A No, sir.

9 Q You don't recall that?

10 A No, sir.

11 Q Now, Miss Goodman, when you talk about the time like
12 the seven o'clock and that evening on September the 4th,
13 do you absolutely know these times to be accurate?

14 A No, sir, I really -- it was around that time but
15 about seven, 7:30.

16 Q But you weren't checking the clock?

17 A No, sir.

18 Q And so you -- and you're not trying to mislead
19 anybody by any of the times that you give?

20 A No, sir. I really don't -- actually, I really don't
21 know the length of times that it was.

22 Q And, of course, you have done that in relation to
23 times and places as best as you can recall?

24 A Sir?

25 Q You done that as best you could recall?

1 A Yes, sir.

2 Q And so the thing just like you got a lot letters from
3 Gregory, didn't you? And y'all spent a good bit of time
4 together before this ever occurred?

5 A Sir?

6 Q Before any of this happened, y'all spent time
7 together?

8 A Yes, sir.

9 Q Y'all had known each other for a long time?

10 A Yes, sir.

11 Q And had in fact gone to hotels on previous occasions
12 this was not something totally new or unusual for the two
13 of you?

14 A No, sir.

15 MR. LAWSON: I don't have any further questions,
16 Judge.

17 THE COURT: Redirect.

18 REDIRECT EXAMINATION

19 BY MR. JEPERTINGER:

20 Q Was it unusual for you to go to a motel at 5:30 in
21 the morning?

22 A Never went that time in the morning.

23 Q You were sleep at home when he came by?

24 A Yes, sir.

25 Q At your house on Chase Street?

- 1 A Yes, sir.
- 2 Q How did you know he was coming by?
- 3 A He called me and told me to get up and he was going
4 to come get me.
- 5 Q Okay. Now, you said he used the phone several times
6 while you were in the motel room?
- 7 A Sir?
- 8 Q Did he use his phone while you were there?
- 9 A Yes, sir.
- 10 Q Okay. Did he ever call your number while you were in
11 the motel together?
- 12 A No, sir.
- 13 Q While you were asleep?
- 14 A No, sir.
- 15 Q There's no communication talking on phones while
16 you're in the same motel room?
- 17 A No, sir.
- 18 Q Okay. And did you ever hear Gregory talk to some
19 unknown person on the phone about the dude from the
20 cookout? Did he ever mention anything about dude from the
21 cookout?
- 22 A Yes, sir.
- 23 Q That's while you two were in the motel together?
- 24 A Sir?
- 25 Q Was that while you two were in the motel together

1 that he had that conversation with that individual?

2 A Yeah, in the motel, yeah.

3 Q Did he ever mention about a dude at the cookout
4 previous -- did he ever talk to you on the cell phone on
5 the night of September the 4th?

6 A Talk to me about it?

7 Q Did he ever talk to you about -- call you
8 September 4th 2008 while he was at a cookout?

9 A Yes, sir.

10 Q Okay. Did he say anything about a dude there?

11 A He said -- he call me and say he was at a cookout and
12 he said he was at a cookout down the street from the
13 house. And he said a dude was there that rob him a while
14 back that what he said.

15 Q Did he name any name?

16 A He didn't say no name or nothing.

17 Q Okay. When he got to your house and with Gary in the
18 van to take you to the motel and he came back the next
19 morning, was he wearing the same clothes that he had on
20 when he picked you up?

21 A When he came back the next morning?

22 Q Yeah.

23 A Yes, sir.

24 Q Okay. And what type clothes was he wearing?

25 A A black shirt, blue jeans and some black and gold

1 Jordan's.

2 Q Now, in terms of talking to the police and them
3 telling you that you could be arrested, you were not
4 arrested in fact?

5 A No, sir.

6 Q Okay. In fact, all these letters on State's Exhibit
7 19 you provided them to the police; correct?

8 A Yes, sir.

9 Q They didn't ask about these letters; correct?

10 A No, sir.

11 Q You gave them to -- you called Lieutenant Compton to
12 give it to him?

13 A Yes, sir.

14 MR. JEPERTINGER: Beg the Court's indulgence one
15 second.

16 (WHEREUPON, a pause in the proceedings.)

17 BY MR. JEPERTINGER:

18 Q When Gary and Gregory pulled up in the van, did they
19 come into the house or they beep the horn or were they
20 there any length of time or you just come out of the
21 house?

22 A I just came out the house.

23 Q And they just called you?

24 A Yeah, Gregory called me and told me to get up he was
25 on his way to get me.

1 Q As soon as they pulled up, you got out?

2 A Yes, sir.

3 Q Okay.

4 MR. JEPERTINGER: Thank you very much, please
5 answer if he has any recross.

6 THE COURT: Any additional questions?

7 MR. LAWSON: May it please the Court.

8 THE COURT: Yes, sir.

9 REXCROSS-EXAMINATION

10 BY MR. LAWSON:

11 Q Ms. Goodman, it is my understanding that you had been
12 to motels and you been there at one, two, three o'clock in
13 the morning on previous occasions?

14 A Sir?

15 Q When you went to motels on previous occasions, you
16 had gone late at night or early in the morning had you
17 not?

18 A We just go like early, early in the morning. We
19 never went that late.

20 Q But you had gone at one and two o'clock in the
21 morning?

22 A No, sir.

23 Q You had gone at 12 at night at midnight?

24 A Not that I recall.

25 Q Okay. Is it possible that you had?

1 A I don't know for sure, sir.

2 Q Now, the clothes that you just testified about you
3 said it was a black shirt, blue jean pants?

4 A Yes, sir.

5 Q And gold shoes.

6 A Gold and black Jordan's.

7 Q And was the gold, what did it look like? Was it a
8 bright gold or dull gold what?

9 A I can't remember, sir.

10 Q Recognizable though you could see it was gold?

11 A Yes, sir.

12 Q Is that the same thing he had on at seven o'clock
13 when you saw him that evening -- earlier that day?

14 A No, sir.

15 Q You saw him earlier in the day at around seven
16 o'clock in the afternoon?

17 A Yeah.

18 Q What did he have on then?

19 A I can't remember what he had on.

20 Q Do you think it could have been the same thing?

21 A No, sir. I don't think it was the same thing he had
22 on.

23 Q But you don't know?

24 A No, sir.

25 Q Now, if -- you sure it was blue jeans?

1 A Yes, sir.

2 Q Okay.

3 MR. LAWSON: I don't have any other questions.

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

6 (WHEREUPON, the witness leaves the witness
7 stand.)

8 MR. JEPERTINGER: Can we take a break until we
9 get the next witness in here, Your Honor?

10 THE COURT: Let me ask you, ladies and
11 gentlemen, if you would retire to your jury room. We'll
12 take a short break, let everybody stretch use the rest
13 room. Please have no conversation about the case. If you
14 need anything, let us know.

15 (WHEREUPON, the jury retire to the jury room.)

16 THE COURT: We'll be at ease for a few minutes.

17 (WHEREUPON, a break was taken.)

18 THE COURT: State ready to proceed?

19 MR. JEPERTINGER: State's ready and Mr. Deberry
20 will be doing the direct examination.

21 THE COURT: Defense ready to proceed?

22 MR. LAWSON: Defense is ready.

23 THE COURT: All right. Ms. Joe, if you would
24 ask the jury to join us please.

25 BAILIFF: One moment, Judge.

1 THE COURT: All right.

2 (WHEREUPON, a pause in the proceedings.)

3 (WHEREUPON, the jury came into open court.)

4 THE COURT: All right. Mr. Deberry, you may
5 call your next witness, sir.

6 MR. DEBERRY: Your Honor, we call Andre Bradley.

7 THE COURT: Mr. Bradley, sir, if you please come
8 around to the witness stand.

9 THE CLERK: If you will please place your left
10 hand on the Bible and raise your right hand. Do you swear
11 the testimony you give in this case to be the truth, the
12 whole truth, and nothing but the truth so help you God?

13 THE WITNESS: Yes.

14 THE CLERK: Please be seated and state your name
15 for the record.

16 THE WITNESS: Andre Bradley.

17 WHEREUPON,

18 Andre Bradley,

19 after first having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. DEBERRY:

22 Q Okay. Good morning, Mr. Bradley.

23 A Good morning.

24 Q How you doing today?

25 A All right.

1 Q Can you tell the jury why you are dress the way you
2 are today? Do you have any pending charges at this time?

3 A Yes.

4 Q Okay. Are they with the state court or are they
5 federal charges?

6 A Federal charges.

7 Q Federal charges, okay. Do you have a state court
8 record or have you been convicted in state court for some
9 different crimes?

10 A You mean before?

11 Q Before.

12 A Yeah.

13 Q Okay. In 1998, were you convicted of possession with
14 intent to distribute crack cocaine?

15 A Yes, sir.

16 Q Okay.. Were you also convicted in that year of
17 possession with intent to distribute powder cocaine?

18 A Yes, sir.

19 Q All right. Were you convicted in that year of
20 failure to stop for a blue light?

21 A Yes, sir.

22 Q In 2007, were you again convicted of possession of
23 cocaine?

24 A Yes, sir.

25 Q All right. With regards to your federal charges that

1 are pending now, can you tell the jury what those charges
2 are?

3 A Trafficking cocaine and crack.

4 Q Okay. And what brings -- do you have information
5 regarding the murder of Corey Byrd?

6 A Yes.

7 Q And has the federal government given you any kind of
8 deal to testify here in state court today?

9 A No, sir.

10 Q Have you sign what's called a proffer agreement with
11 the federal agreement?

12 A Yes, sir.

13 Q And can -- is it your understanding that the proffer
14 agreement is not a cooperation agreement or a plea deal or
15 anything of that sort?

16 A Yes, sir, it suppose to be a cooperation agreement.

17 Q Okay. What's your hopes for testifying here today?
18 Are you trying to help yourself at all?

19 A No, sir -- yeah, to get myself out.

20 Q Get you -- have you been told that by testifying here
21 today that you are absolutely going to get a break in
22 federal court?

23 A No, sir.

24 Q Have you been told the opposite of that that you may
25 or may not?

1 A No, sir.

2 Q Okay. So you are just -- is it correct that you are
3 just testifying here today in hopes that the federal
4 government will look down on that as a good thing in your
5 favor?

6 A Yes, sir.

7 Q So it is clear you don't have any deal with the
8 federal government to testify here today?

9 A No, sir.

10 Q As I stated earlier, ~~your name is~~ Andre Bradley,
11 right?

12 A Yes, sir.

13 Q What were you known as or did you have a nickname
14 when you weren't in prison?

15 A Lucky.

16 Q Luck or Lucky?

17 A Yeah.

18 Q Okay. And you -- did you know Corey Byrd?

19 A Yes, sir.

20 Q All right. How long had you known Corey?

21 A Since, we was little.

22 Q Did you know Mr. Gregory Daniels?

23 A Yes, sir.

24 Q You see him in here in court today?

25 A Yes, sir.

1 Q Is this him here?

2 A Yes, sir.

3 Q All right. Did you know about a cookout that went on
4 on September the 4th?

5 A No, sir, I didn't know about it.

6 Q Where did you live around the month of September of
7 2008?

8 A Gilbert Drive.

9 Q Gilbert Drive?

10 A Yeah, [REDACTED]

11 Q Okay. That's in Florence?

12 A Yes, sir.

13 Q Okay. And you knew Corey Byrd and you knew Gregory
14 Daniels at that time and had known them; is that what you
15 are testifying to?

16 A Yes, sir.

17 Q Okay. You know Corey Byrd was killed on September
18 the 5th 2008?

19 A Yes, sir.

20 Q Okay. Do you have any information that Mr. Daniels
21 told you that relates to that murder prior to it
22 happening?

23 A Yes, sir.

24 Q Okay. Explain to the jury what Gregory Daniels told
25 you leading up to that murder?

1 A He just had call me told me he had did it or
2 whatever.

3 Q I'm talking about before the murder.

4 A That he was about to do a murder, told me he had to
5 do a job for somebody.

6 Q All right. He told you he had to do a job for
7 somebody. Who was he talking about?

8 A Gary Bostic.

9 Q He was going to do a job for Gary Bostic. And what
10 kind of job did you understand that to be?

11 A Kill Corey Byrd.

12 Q All right. How did that come about? Explain to the
13 jury how you knew that he was going to do a job which
14 included the murder of Corey Byrd for Gary Bostic?

15 A Because it was something Corey Byrd did, I think, it
16 was a drug deal went bad or something with him and Gary
17 Bostic or whatever. And he tried to get at Corey Byrd,
18 but I think he shot him two times, but he ain't never
19 killed him or nothing.

20 Q Who tried to get at Corey Byrd?

21 A Gary Bostic.

22 Q And when you say get at him -- try to get at him,
23 what do you mean?

24 A He tried to hit him up, he tried to shot him. I
25 guess he try to kill him.

- 1 Q All right. And you testified that you believe it's
2 over a drug deal that went bad?
- 3 A Yes, sir.
- 4 Q Do you know was it money, drugs or...
- 5 A Money, some money came up. There was some money that
6 was used to buy some drugs, but the drugs was fake.
- 7 Q So who got ripped off in the deal?
- 8 A Gary Bostic.
- 9 Q Okay. You know about how much money it was over?
- 10 A I think it was \$3,500.
- 11 Q Okay. Gregory Daniels ever tell you how much Gary
12 Bostic was going to pay him to kill him?
- 13 A Yeah.
- 14 Q What was the deal?
- 15 A Thousand dollars.
- 16 Q Was it up front, after the murder, how was it?
- 17 A Five up front and five after.
- 18 Q 500 for killing a man?
- 19 A (Nodded head in the affirmative).
- 20 Q How far before -- what kind of time frame was it that
21 you learned this information before Corey Byrd wound up
22 dead on Dargan Street?
- 23 A Probably about a month before that time.
- 24 Q So this was in the works for quite a while?
- 25 A Yeah.

1 Q Did you believe that Gregory Daniels was going to do
2 it?

3 A No.

4 Q How many times did he say -- come to you and talk
5 about it?

6 A A couple times, maybe four or five.

7 Q Four or five times he came and told you he was going
8 to do the job?

9 A Uh-huh.

10 Q All right. How often did you and Gregory Daniels see
11 each other? Were y'all close friends did y'all hang out?

12 A Yeah, yeah, real close every day almost.

13 Q You saw him every day?

14 A Almost every day.

15 Q Did you believe -- and you testified you didn't think
16 he was going to do it?

17 A No, sir.

18 Q What do you think led him actually to commit the
19 crime?

20 A I don't know probably to prove a point due to the
21 fact probably got the \$500 first and...

22 Q Did he tell you he might have been out of money or
23 did he tell you any reason he had to go do it?

24 A Just out of the love of who Gary Bostic was and I
25 think it was like really like he done got paid half the

1 money up front and, you know, I guess due to the fact he
2 spent it, he had to make it right.

3 Q So you believe he got paid the money up front and
4 that there was a time period between that payment and the
5 murder?

6 A Yeah.

7 Q And you're testifying that you believe he spent that
8 money, that he was out of money?

9 A Yeah.

10 Q And so how was he going to get the next \$500 payment?

11 A Finish doing the job.

12 Q Finish doing the job. What was your phone number at
13 that time?

14 A [REDACTED]-7724.

15 Q Say that again?

16 A I think, it was [REDACTED]-2274.

17 Q [REDACTED]-2274. All right. And they called you Luck?

18 A Yeah, Luck.

19 Q Okay. Now, everything we talked about so far has
20 been leading up to when Corey Byrd was killed?

21 A Uh-huh.

22 Q That was September the 5th, it was a Friday?

23 A Uh-huh.

24 Q Tell the jury what happened next as far as between
25 you and Gregory Daniels?

1 A Well, he call me kind of early that morning probably
2 about 5:30. It was early that morning about 5:30, five
3 o'clock something like that. And he ask me what I was
4 doing. I told him I was at home. And he been like I just
5 call to let you know I did it. I'm like you did what? He
6 was like you already know what I'm talking about, just
7 watch the news. I'll talk to you tomorrow, I'll call you
8 tomorrow from my new number or whatever.

9 Q Now, at that time, what day do you think tomorrow
10 would have been? I mean, was it -- was it still dark when
11 he called you the first time?

12 A I can't tell cause like in my room I have black bags
13 on the windows, so it always kind of dark in my room. I
14 can't tell cause I don't want to look outside.

15 Q You ---

16 A It was morning time. I know it was morning time.

17 Q Early morning?

18 A Yeah, like early morning.

19 Q So he told you he did it. He said you know what he
20 been talking about?

21 A Yeah.

22 Q You ask him what he did?

23 A No not on the phone cause I already know.

24 Q All right. When is the next time you talk or saw
25 Gregory Daniels?

- 1 A Think probably the same day it had been that same day
2 during the time like the news come on.
- 3 Q All right. What time is that you talking about noon
4 time news, 12 o'clock middle of the afternoon? You
5 talking about the six o'clock news?
- 6 A I thought it was 12, I but can't really say I know.
- 7 Q All right. Did he call you, what happened?
- 8 A He call me first and told me he was on his way to my
9 house.
- 10 Q Okay. And what did you say?
- 11 A I said all right, I'm at home.
- 12 Q How long after he called you did he show up?
- 13 A About five minutes because he must have been coming
14 up the street when he call me.
- 15 Q So it was as soon as he called you he pulled up?
- 16 A Uh-huh.
- 17 Q All right. That was at your house on Gilbert Street?
- 18 A Yes, sir.
- 19 Q And did he come in the house?
- 20 A Yes, sir.
- 21 Q How was he acting?
- 22 A Regular.
- 23 Q Who was at the house when he came there?
- 24 A Me and my girlfriend.
- 25 Q Who is your girlfriend?

- 1 A Jasmine Barrett.
- 2 Q Jasmine Barrett. Was it her house?
- 3 A No, it was me and her house together.
- 4 Q So y'all were living there together?
- 5 A Yes, sir.
- 6 Q When he came in, what did he want to do?
- 7 A Play dominos. We was going to play dominos.
- 8 Q Play domino. Did he say anything more about the
- 9 news?
- 10 A Yeah, during that time after we play a couple hands,
- 11 then I yell turn the TV on or whatever turn it to the
- 12 movies.
- 13 Q Did y'all do that?
- 14 A Yeah.
- 15 Q Did the news come right on?
- 16 A Yeah, it came on a couple minutes after, but it came
- 17 on.
- 18 Q Was there information on the news that night about
- 19 the murder?
- 20 A Yes, sir. A man been killed on the corner of Dargan
- 21 and Marlboro gunshot wound to the head.
- 22 Q And the killer was sitting in your house?
- 23 A Yes, sir.
- 24 Q Did what he do when the news came on?
- 25 A Nothing.

1 Q Was it his idea to turn the TV on and catch the news?
2 A Yes, sir.
3 Q Did he tell you at that time he had killed him?
4 A Yes, sir, he said I told you, like that.
5 Q Where was Jasmine Barrett?
6 A She was on the couch in the living room.
7 Q How far away is that from the TV?
8 A About three feet from the TV.
9 Q So she was watching the news too?
10 A Yes, sir.
11 Q How far were you and -- were you and Gregory Daniels
12 were y'all still playing dominos?
13 A Yeah, we were sitting across from each other in the
14 kitchen.
15 Q Is that -- can you see the TV from the kitchen?
16 A Yeah, you can see the TV from there.
17 Q About how far away were y'all from the TV?
18 A About ten or 11 feet from the TV.
19 Q Maybe as close from me to you?
20 A Uh-huh.
21 Q And if you were the TV and I was where y'all were
22 sitting playing dominos, where would Miss Barrett have
23 been?
24 A She been on the chair probably about eight feet from
25 us.

1 Q Like somewhere ---
2 A Catercorner like she was like ---
3 Q She was closer to the TV?
4 A Yeah, she was closer to me too.
5 Q When he said I told you I did it, you think she heard
6 it?
7 A I don't know, but I know she got up and had walk in
8 the middle -- she walk in the hallway until where he
9 couldn't see her and she call me like come here, but only
10 I could see her from the hallway where I was sitting to.
11 So when I went down the hallway, she was like get that boy
12 out my house. I didn't want to come back and tell him
13 like that due to the fact that me and him was cool, you
14 know. So instead, I just act like I had wanted to get
15 some weed or something. I came back and was like you
16 don't know anybody got no weed or whatever. I gave him
17 \$20 get me something to smoke, just go get it. And when
18 you get it, just call my phone and I will meet you
19 somewhere else or whatever.
20 Q All right. So shortly after that -- after
21 Miss Barrett seem like she knew something was up, you got
22 him out of the house?
23 A Yeah.
24 Q Did you talk to him after that?
25 A I think a couple days later, but I can't remember

1 what we talk about though.

2 Q And he confess to you again that he did the job?

3 A Yes, sir, like he was going to get away with it, feel

4 like he was going to get away with it. They ain't had no

5 suspects or nothing, but they did. They just ain't

6 broadcast it cause they felt like if he knew he would have

7 ran or something.

8 Q Do you know Gary Bostic?

9 A Yes, sir.

10 Q Is he a drug dealer?

11 A Yes, sir.

12 Q You believe Gregory Daniels?

13 A Sir?

14 Q Do you believe what he told you is true?

15 A Yes, sir, I believe it.

16 Q You know what Gregory Daniels was driving when he

17 came up to your house that day and want to watch the news

18 with you?

19 A Taurus.

20 Q It was a Taurus?

21 A A Taurus.

22 Q Dark in color, light in color, you don't remember?

23 A I can't remember the color. I thought it was like

24 some kind of purplish blue or something. I can't remember

25 the color, I just know it was a Taurus.

1 Q Is that what he usually drives?

2 A No, he usually rode a scooter.

3 Q Okay. When did you first come forward with your
4 information?

5 A When after I sign my proffer to the government and
6 they was like if they was to come to me with anything, if
7 I lie about it, they could take my proffer back. And when
8 they came to me, that's when I went forward with the
9 information.

10 Q All right. Is it -- I mean, in the lifestyle that
11 you live, is it a cool thing to do to tell other people's
12 business?

13 A No.

14 Q It is a dangerous thing to do?

15 A Yeah, dangerous, very dangerous.

16 Q All right.

17 MR. DEBERRY: Thank you very much, just answer
18 any questions the defense lawyer has.

19 THE COURT: Mr. Lawson.

20 MR. LAWSON: May it please the Court.

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. LAWSON:

24 Q Okay. Mr. Bradley, let me get this straight, now in
25 1999 you pled guilty to possession with intent to

1 distribute crack cocaine and powder cocaine?

2 A Yes, sir.

3 Q In state court?

4 A Uh-huh.

5 Q That same year you also pled to failure to stop for a
6 blue light?

7 A Yes, sir.

8 Q Also in state court?

9 A Yes, sir.

10 Q And then in 2007, you pled to possession of cocaine
11 also in state court?

12 A Yes, sir.

13 Q And now in 2010, you have drug charges pending in
14 federal court?

15 A Yes, sir.

16 Q With two prior drug offenses?

17 A Yes, sir.

18 Q Have feds advised you as to what the nature of your
19 charge in federal court will be?

20 A Yes, sir.

21 Q Approximately, how much you are looking at?

22 A No, sir, not yet.

23 Q Have they said anything to you about what -- have
24 your lawyer advised you of what you may be looking at in
25 relation to these charges?

1 A I got a guideline 20 to life, but they can't tell me
2 what I'm looking at cause I got to wait until my P.S.I.
3 come back.

4 Q You say the guidelines are up to life?

5 A Yeah, 20 to life.

6 Q Twenty to life?

7 A Uh-huh.

8 Q So that indicates to you that you possibly looking at
9 life in prison?

10 A Not really.

11 Q Not really, possibly?

12 A Yeah, possibly.

13 Q Okay. Now, you didn't talk to law enforcement at all
14 until after you signed your proffer agreement with the
15 government; correct?

16 A Yes, sir.

17 Q And that proffer agreement was signed on January the
18 20th of 2010; is that correct?

19 A Yes, sir.

20 Q That was this year?

21 A Yes, sir.

22 Q So you didn't tell anybody anything in 2008?

23 A No, sir.

24 Q In the whole calender year of 2009, you didn't say
25 anything to anybody?

- 1 A No, sir.
- 2 Q And in the first month of 2010, you decided after
3 being charged in federal court that you would talk about
4 this particular incident; is that correct?
- 5 A Yes, sir.
- 6 Q Now, you knew Gregory Daniels from the neighborhood;
7 is that correct?
- 8 A Yes, sir.
- 9 Q Y'all had done things together in the past?
- 10 A Uh-huh.
- 11 Q And played dominos. He come to your house, you gone
12 to his?
- 13 A Uh-huh.
- 14 Q All right. And then all of sudden he confesses to
15 you in the year of 2008, that he's getting ready to do a
16 job; correct?
- 17 A Yes, sir.
- 18 Q When about was that that he talk to you about that?
- 19 A About a month before the murder.
- 20 Q Okay. Did you write anything down?
- 21 A Uh-uh.
- 22 Q You just remember that?
- 23 A Sort of, not really fully.
- 24 Q Not really?
- 25 A Not fully.

1 Q Not fully. So you say he was gone get \$500 in
2 advance and \$500 upon completion. When did you find that
3 out?

4 A During the time before the murder, a little bit of
5 time before the murder, I guess, about a month. Like I
6 say about a month before..

7 Q About a month before. And do you have any reason to
8 know why he would share this with you?

9 A Cause we was cool like that. He probably felt like
10 he could tell me anything, you know. And I wouldn't tell
11 it because that's how we was.

12 Q He was sadly mistaken, wasn't he?

13 A Yes, sir.

14 Q Because when it comes to saving your hide, you'll
15 tell anybody want you?

16 A No, sir.

17 Q No. Okay. Then did y'all see each other on a daily
18 basis?

19 A Yes, sir.

20 Q You saw each other every day?

21 A Yes, sir.

22 Q Did you talk about this every day?

23 A No, sir.

24 Q You talk about it every other day?

25 A Uh-huh.

1 Q About every other day you talked about this?

2 A Yes, sir.

3 Q So did you at some point get to thinking that it just

4 wasn't gone happen?

5 A Yes, sir.

6 Q It was just make believe?

7 A I thought that the whole while like he ain't gone do

8 it.

9 Q He ain't gone do nothing?

10 A Yeah, I thought he wasn't gone do that because it

11 ain't never been nothing he did since I know him.

12 Q When did he get the first \$500?

13 A I don't know.

14 Q You didn't see any money, any extra money around?

15 A No.

16 Q But you assume he got the \$500?

17 A Yeah.

18 Q You don't know that you assume that?

19 A Uh-huh.

20 Q And you were at times seeing him every other day?

21 A Uh-huh.

22 Q Now, how was the last 500 paid?

23 A I don't know.

24 Q Well, did the person write a check, pay cash? Do you

25 know?

1 A I don't know.

2 Q You don't know. Did you see any extra money running
3 around after the event took place?

4 A Uh-uh.

5 Q No, no extra money. Did you tell anybody about these
6 conversations before executing this agreement with the
7 feds?

8 A Yes, sir.

9 Q Who did you tell?

10 A My girlfriend.

11 Q Your girlfriend. Okay. And anybody else?

12 A No, sir.

13 Q Anybody in law enforcement?

14 A No, sir.

15 Q Did the feds indicate anything about charging you as
16 an additional charge with anything involving this case
17 that Gregory's being prosecuted for?

18 A Yeah, if I would have lied about it.

19 Q Yeah, they said they was going to prosecute you as
20 well for accessory after the fact?

21 A If I got caught lying about it, they would take my
22 proffer agreement back.

23 Q They take your proffer agreement back and they would
24 charge you with conspiracy, did they talk about that?

25 MR. DEBERRY: Objection, Your Honor, I think

1 that's not proper.

2 THE COURT: Come on up, sir.

3 (WHEREUPON, a bench conference was held in the
4 presence of the jury, but out of the hearing of the
5 jury.)

6 THE COURT: Sustained.

7 MR. LAWSON: Okay. Well, Your Honor, he ---

8 (WHEREUPON, a bench conference was held in the
9 presence of the jury, but out of the hearing of the
10 jury.)

11 BY MR. LAWSON:

12 Q Let me understand now, your proffer agreement which
13 is an agreement that you gave with the government to
14 cooperate with them and give them information would be
15 withdrawn. And at the point that they withdrew it, I
16 assume you had been interviewed by them?

17 A Uh-huh.

18 Q You had made certain assertions as to your criminal
19 activity?

20 A Yeah, and if I was to lie about anything that came
21 forth with me, it look like I am lying to them, so I
22 wasn't really cooperating and it could have been taken
23 back.

24 Q And they could charge you with everything?

25 A Yeah, everything.

1 Q Okay. Have you discussed this matter with any other
2 inmates in the jail?

3 A No not fully.

4 Q Not fully. Have you talked about it to people at the
5 jail?

6 A I said something about it like I was going to court
7 -- I had to go to trial for it.

8 Q Did you tell them you been charged with it or that
9 you were going as a witness? What did you tell them?

10 A I was going to testify.

11 Q You were going to testify. Now, I believe in direct
12 testimony you said that you were watching the news. What
13 day was that that you were watching the news?

14 A I can't remember what day that was.

15 Q Well, was it September -- you had said something
16 about September the 5th?

17 A No, I don't know. I can't remember what day I was
18 watching the news.

19 Q Was it before the murder took place or after?

20 A Had to be after the murder?

21 Q Had to be after. How far after a day, two days,
22 three days?

23 A I don't want to say cause I can't recall, you know.
24 I don't want to really say a day cause I ain't for sure.

25 Q Well, do you know how many days it was afterward?

1 A It couldn't have been many days after. If it wasn't
2 the next day, it had to be the day after that.

3 Q The day after that what?

4 A The day after the murder.

5 Q So it would have been on Saturday?

6 A It was the day he called me and he came to my house
7 to play dominos, it was that day.

8 Q And what time did he call you?

9 A I can't remember. I know it was during the time the
10 news came on. It was the 11 o'clock news or the seven
11 o'clock news.

12 Q Eleven o'clock at night news or in the daytime news?

13 A Daytime.

14 Q Now, you say that you got a call early in the morning
15 one morning?

16 A Uh-huh.

17 Q What day was that, do you remember when that was?

18 A That was after the murder.

19 Q And when -- what time was that?

20 A Had to be about five something in the morning.

21 Q About five in the morning?

22 A Yeah.

23 Q You really don't have any idea? You know if he was
24 calling you from his cell phone?

25 A Yes, sir.

1 Q He was?

2 A He call me from his cell phone.

3 MR. LAWSON: I don't have any other questions.

4 THE COURT: Anything further?

5 MR. DEBERRY: Beg the Court's indulgence for
6 just a second.

7 THE COURT: Yes, sir..

8 (WHEREUPON, a pause in the proceedings.)

9 REDIRECT EXAMINATION

10 BY MR. DEBERRY:

11 Q Mr. Bradley, when Mr. Lawson was talking to you about
12 if you weren't truthful here today, they might tear up the
13 proffer agreement, you might get charge with everything.
14 Is he talking about the charge in connection with this
15 murder or charge in connection with some federal drug
16 charges?

17 A No, like lying about the situation. I don't know
18 what they mean about that.

19 Q Okay. It's nothing to do with the murder. It's what
20 you're dealing with in federal?

21 A Yeah.

22 Q Okay. And you explained earlier that the proffer
23 agreement is not a cooperation agreement, it's not a plea
24 deal, it's nothing but...

25 A It's so it want add more pressure to me, whatever

1 pressure going against me, it will take that away.

2 Q All right. Do you know if Gregory Daniels change his
3 phone number the day of the murder?

4 A Yeah, he change his number because he call me from
5 another number.

6 Q When he called you in the morning -- are you
7 testifying that when he called you in the early morning
8 said he just did it. And when he called you later in the
9 day and said that, hey, I'm about to come to your house?

10 A It was a different number.

11 Q Those are two different numbers?

12 A Yeah.

13 Q By chance, you remember them?

14 A I know one was 61 something 53 number and other one
15 was a 617 number. I can't 617 07.

16 Q The first one was like a 53 something and the second
17 one had an 07 in it?

18 A Yeah, I can't remember it by heart.

19 Q All right. And you said -- you testified earlier
20 that y'all were close friends?

21 A Yes, sir.

22 Q I mean, y'all saw each other on a daily basis for
23 most the part?

24 A Uh-huh.

25 Q All right.

1 MR. DEBERRY: I thank you for being here, I
2 appreciate it.

3 THE COURT: Anything further?

4 MR. LAWSON: May it please the Court just a
5 couple questions.

6 RECROSS-EXAMINATION

7 BY MR. LAWSON:

8 Q Okay. Mr. Bradley, you do expect to get help for the
9 testimony you given today, do you not?

10 A No, sir.

11 Q You don't expect to get anything as a reward for what
12 you're doing here?

13 A I hope I do, but I don't expect nothing.

14 Q You hope you do ~~██~~

15 A Yeah, I hope I do.

16 MR. LAWSON: Thank you.

17 THE COURT: Thank you very much, sir. You may
18 step down.

19 (WHEREUPON, the witness leaves the witness
20 stand.)

21 MR. DEBERRY: Your Honor, the State calls
22 Jasmine Barrett.

23 THE CLERK: Place your left hand on the Bible
24 and raise your right hand. Do you swear the testimony you
25 give in this case to be the truth, the whole truth, and

1 nothing but the truth so help you God?

2 THE WITNESS: Yes.

3 THE CLERK: Please be seated and state your name
4 for the record.

5 THE WITNESS: Jasmine Barrett.

6 WHEREUPON,

7 Jasmine Barrett,

8 after first having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. DEBERRY:

11 Q How you doing, Ms. Barrett? Thank you for being here
12 today. Could you tell the jury where you were living the
13 month of September 2008?

14 A [REDACTED]

15 Q On Gilbert drive, that's in Florence?

16 A Uh-huh.

17 Q And who was living with you at that time?

18 A My children and my boyfriend.

19 Q Who is your boyfriend?

20 A Andre Bradley.

21 Q All right. How long have you and Bradley been living
22 there together?

23 A At the September time a year and a half.

24 Q Okay. How many children do you have?

25 A Three.

1 Q Okay. And you still live there?

2 A Yes.

3 Q Still at the same place?

4 A Uh-huh.

5 Q And did you know Corey Byrd?

6 A No.

7 Q You didn't know him?

8 A No.

9 Q You know he got murdered on September the 5th, 2008?

10 A Yes.

11 Q All right. Did you know if Andre Bradley knew Corey
12 Byrd?

13 A He said he did.

14 Q Okay.

15 MR. LAWSON: Objection, Your Honor, that's
16 hearsay.

17 THE COURT: Sustain.

18 BY MR. DEBERRY:

19 Q And do you know Gregory Daniels?

20 A Yes.

21 Q Is he sitting here in the courtroom today?

22 A Yes.

23 Q All right. And how did you know Gregory Daniels?

24 A We share a relative.

25 Q What's that?

- 1 A We share relatives.
- 2 Q You share a relative, okay. And so it's safe to say
3 you known him all your life maybe?
- 4 A Uh-huh.
- 5 Q And how close was he and Andre Bradley around the
6 time of September 2008?
- 7 A They was pretty close.
- 8 Q They talk on a regular basis that you know of?
- 9 A Uh-huh.
- 10 Q Did Gregory Daniels come to your house on a regular
11 basis?
- 12 A Yes.
- 13 Q So it was common to see him around and for him and
14 Andre to do things together?
- 15 A Uh-huh.
- 16 Q Okay. And did you ever hear a conversation between
17 Gregory Daniels and Andre Bradley before you learned that
18 Corey Byrd was murdered? They might have been talking
19 about anything having to do with Corey Byrd?
- 20 A You said before ---
- 21 Q Before.
- 22 A --- he was murder?
- 23 Q Uh-huh.
- 24 A No.
- 25 Q All right. And do you remember the -- do you

1 remember watching the news and learning of the murder on
2 September the 5th?

3 A I didn't actually sit down and see it. I was like
4 seeing parts of it.

5 Q Okay. And when that news broadcast was on, it was in
6 your house?

7 A Uh-huh.

8 Q And who was privy to the television -- I mean, who
9 could have been watching it?

10 A Who was there watching it?

11 Q Yeah.

12 A It was Gregory and Andre Bradley.

13 Q And you were in the vicinity?

14 A Uh-huh.

15 Q All right. And when the news of the murder came on
16 television, did you hear Gregory Daniels say anything?

17 A At the time, like I say I was in and out, but I think
18 it was probably after the news went off I heard him say he
19 did it.

20 Q What did you understand that to mean?

21 A At the time, I didn't know what it was, but
22 afterward, I found out what it was.

23 Q And what was it?

24 A Stating that he murder Corey Byrd.

25 Q Okay. Did you ask Andre Bradley to see if he could

1 get Gregory Daniels to leave your house after the news?

2 A Uh-huh.

3 Q And why did you do that?

4 A Because I was afraid and I didn't want anything to do
5 with it.

6 Q Okay. You just wanted it to be out of your house?

7 A Uh-huh.

8 Q And the days and time following that specific event
9 where the news came on and you put two and two together
10 and Andre ask Gregory to leave, did you witness any more
11 statements from Gregory, did he come back over -- did you
12 hear him say he did it again?

13 A No.

14 Q All right. But it was your understanding that he
15 said that?

16 A Uh-huh.

17 Q That meant that he kill Corey Byrd.

18 A Uh-huh.

19 Q All right.

20 MR. DEBERRY: Hold on just a second.

21 (WHEREUPON, a pause in the proceedings.)

22 BY MR. DEBERRY:

23 Q When you found out what you believe that you found
24 out, why didn't you come forward with that information?

25 A I'm not sure. I guess, I felt like it wasn't my

1 place.

2 Q Could it be dangerous to come up ---

3 MR. LAWSON: Objection, Your Honor, leading.

4 THE COURT: Sustained.

5 BY MR. DEBERRY:

6 Q Is there any other reasons why you might not want to
7 bring that information forward?

8 A Like I say just afraid.

9 Q Afraid?

10 A Uh-huh.

11 Q Okay.

12 MR. DEBERRY: Thank you very much. Please
13 answer any questions Mr. Lawson may have.

14 THE COURT: Mr. Lawson.

15 MR. LAWSON: Yes, your Honor, bear with me one
16 moment.

17 THE COURT: Yes, sir.

18 (WHEREUPON, a pause in the proceedings.)

19 MR. LAWSON: May it please the Court.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. LAWSON:

23 Q Okay. Miss Barrett, as understand it, you know
24 Mr. Andre Bradley?

25 A Uh-huh.

- 1 Q Is that a yes?
- 2 A Yes, sir.
- 3 Q Okay. And how long have you known him?
- 4 A All my life.
- 5 Q When did -- I assume at this point you date each
- 6 other?
- 7 A Yes, sir.
- 8 Q And how long have you had a relationship with Mr.
- 9 Bradley?
- 10 A Going on six years.
- 11 Q Six years now from today?
- 12 A Going on six years. Like five over five years.
- 13 Q Started about 2005?
- 14 A 2004.
- 15 Q 2004?
- 16 A Uh-huh.
- 17 Q And you were living where in September of 2008?
- 18 A [REDACTED]
- 19 Q And you still live there now?
- 20 A Yes, sir.
- 21 Q And where is that located?
- 22 A Off National Cemetery Road in Florence.
- 23 Q Okay. Would that be North, South, East, West
- 24 Florence what?
- 25 A It's East Florence.

1 Q And how long have you been there?

2 A I move there in 2007.

3 Q 2007. And at the time that you move there,
4 Mr. Bradley moved in with you?

5 A Uh-huh.

6 Q Did you live with Mr. Bradley in your prior residence
7 before you move to that location?

8 A Well, it was my apartment where I was living before,
9 but he use to come there.

10 Q Okay. So y'all were dating before you moved to your
11 present location?

12 A Yes, sir.

13 Q Okay. And then you have talked to the police I
14 assume about your testimony here today; is that correct?

15 A What you mean by that?

16 Q Have you talk to the police? Have they interviewed
17 you about today?

18 A Yes.

19 Q Okay. And did -- when was that interview, when did
20 you first get interviewed by the police?

21 A Sometime in March, I believe.

22 Q Of what year?

23 A This year 2010.

24 Q This year?

25 A Uh-huh.

- 1 Q March of 2010?
- 2 A Uh-huh.
- 3 Q But yet what you're testifying to today is something
4 that you said you figured out in September of 2008;
5 correct?
- 6 A Yes, sir.
- 7 Q And let me understand this now, did Gregory Daniels
8 know you lived at that house?
- 9 A On Gilbert Drive?
- 10 Q On Gilbert Drive?
- 11 A Yes, sir.
- 12 Q He knew you live there?
- 13 A Yes, sir.
- 14 Q And, of course, he knew Mr. Bradley live there as
15 well?
- 16 A Yes, sir.
- 17 Q He had come there before?
- 18 A Yes, sir.
- 19 Q And on some day, you remember whether it was a
20 Saturday or Sunday or a Monday, Tuesday and Wednesday what
21 day of the week it may have been when you saw him at your
22 house in relation to the testimony on direct?
- 23 A No, sir.
- 24 Q You don't remember what day of the week it was?
- 25 A No, sir.

1 Q You remember what month it was?

2 A I am sure it was September.

3 Q Do you know that?

4 A No.

5 Q Okay. Do you -- you don't know what day of the week.

6 Do you know what date of the month it was?

7 A No, sir.

8 Q And what were -- do you remember what station you

9 were watching?

10 A No. Like I said, I wasn't watching TV.

11 Q Okay. Was it midday, was it evening or was it

12 nighttime?

13 A I can't recall.

14 Q You can't remember.

15 A Uh-uh.

16 Q You don't know if it was around lunchtime, it was

17 around suppertime or if it was around bedtime? You don't

18 remember that?

19 A No.

20 Q All right. And you don't remember what station it

21 was on?

22 MR. DEBERRY: Your Honor, this is asked and

23 answered. She doesn't remember.

24 THE COURT: Sustain. I'm going to let you ask

25 her, but if she says she doesn't remember, you don't have

1 to keep asking it over and over. She either remember or
2 she doesn't.

3 MR. LAWSON: I ask that question one time. I
4 apologize for asking it again. I will withdraw it.

5 BY MR. LAWSON:

6 Q Okay. Now, we -- so we get to this point and you
7 figured out that something was on TV; is that correct or
8 you heard the story which was it?

9 A Like I say, Andre and Gregory was watching the news
10 and I was in and out during the time.

11 Q Okay. And you heard something?

12 A Uh-huh.

13 Q And what was it you heard?

14 A That he say he did it not knowing what it was.

15 Q Okay. How did you figure out what it was?

16 A Andre told me.

17 Q Andre told you?

18 A Uh-huh.

19 MR. LAWSON: That's all the questions I have.

20 THE COURT: Anything further? Anything on
21 redirect?

22 MR. DEBERRY: Nothing, Your Honor. Can Miss
23 Barrett be excused?

24 THE COURT: Mr. Lawson, any objection?

25 MR. LAWSON: No objection. Thank you very much,

1 ma'am, you free to go.

2 (WHEREUPON, the witness leaves the witness
3 stand.)

4 MR. JEPERTINGER: The State would call
5 Investigator Tim Compton to the stand.

6 MR. LAWSON: May we approach?

7 THE COURT: Yeah.

8 (WHEREUPON, a bench conference was held in the
9 presence of the jury, but out of the hearing of the
10 jury.)

11 THE COURT: Ladies and gentlemen, in discussing
12 with the attorneys, this next witness may be a little
13 lengthy, so we're going to take just a short break, give
14 you an opportunity -- with that information in mind,
15 giving you an opportunity if you need to use the restroom
16 or get something to drink or eat a snack or something. I
17 don't mean you need to eat a snack because we're going to
18 go into the evening, but this witness will more than
19 likely take us to the lunch break, so we're going to go
20 ahead and take a short recess right now. So if you would
21 please retire to your jury room, have no conversation
22 about the case.

23 (WHEREUPON, the jury retire to the jury room.)

24 THE COURT: All right, in recess for a little
25 bit.

1 (WHEREUPON, a break was taken.)

2 THE COURT: Ask the jury to join us, Ms. Joe.

3 (WHEREUPON, the jury came into open court.)

4 THE COURT: Well, do you sufficiently feel like
5 a yo yo yet coming in and out. Ladies and gentlemen, the
6 attorneys from both the State and the defense really do
7 care about your comfort and about your time and so we're
8 trying to be as efficient as we can. We discussed this
9 situation and so we kind of come to the conclusion that
10 our time will probably be better spent breaking for lunch
11 at this time rather than try to get some of this testimony
12 in and then brake in the middle of it and get the rest of
13 it in this afternoon.

14 Most of y'all probably feel heck, Judge, it is
15 12 o'clock, it is lunchtime. In the court system here, we
16 tend to take lunch here at one o'clock. I don't know why
17 that happens that way. I guess it's because we don't
18 usually start court until after nine, but for whatever
19 reason, this is the time that we think it's going to be
20 better served for y'all purposes and the court's purposes
21 to go ahead and break for lunch now. And then we'll start
22 with this witness after the lunch break. It is about nine
23 minutes to 12, so I'm going to ask you please if you would
24 to be back in your jury room at 1:30 and we will pick up
25 at that time. Please as always have no conversation with

1 anybody about this case. Do not allow people to talk with
2 you, just go enjoy your lunch, get away from the
3 courthouse. And we will see you back here at 1:30. So
4 everyone else please remain seated. Ladies and gentlemen,
5 you are free to go, we'll see you back here at 1:30.

6 (WHEREUPON, the jury was excuse for lunch.)

7 THE COURT: All right. We will just start back
8 at 1:30 then.

9 MR. LAWSON: Your Honor, may I ask if my client,
10 his mother is here. Is there anyway they can make
11 arrangements to let him speak with his mother for sometime
12 over the lunch break?

13 THE COURT: I don't have a problem with that if
14 they got a way they can do that and maintain their
15 security.

16 MR. LAWSON: Thank you, Your Honor.

17 (WHEREUPON, a lunch break was taken.)

18 THE COURT: Is the State ready to proceed?

19 MR. JEPERTINGER: Yes, sir.

20 THE COURT: Is the defense ready to proceed?

21 MR. LAWSON: Yes, sir, Your Honor.

22 THE COURT: Ask the jury to join us.

23 (WHEREUPON, the jury came into open court.)

24 THE COURT: Mr. Jepertinger, is the State ready
25 to proceed?

1 MR. JEPERTINGER: State's ready, Your Honor.

2 THE COURT: Mr. Lawson, is that defense ready to
3 proceed, sir.

4 MR. LAWSON: Yes, Your Honor.

5 THE COURT: Ms. Joe, ask the ladies and
6 gentlemen to join us.

7 (WHEREUPON, the jury came into open court.)

8 THE COURT: All right. Ladies and gentlemen, we
9 are going to -- getting ready to resume the trial here at
10 this point. And we recognize Mr. Jepertinger for his next
11 witness.

12 MR. JEPERTINGER: Thank you, Judge. The State
13 would call Lieutenant Tim Compton to the stand.

14 THE COURT: All right, Tim, if you come around
15 to be sworn, sir.

16 THE CLERK: Place your left hand on the Bible
17 and raise your right hand. Do you swear the testimony you
18 give in this case to be the truth, the whole truth, and
19 nothing but the truth so help you God?

20 THE WITNESS: I do.

21 THE CLERK: Please be seated and state your full
22 name for the record.

23 THE WITNESS: Timothy Wade Compton.

24 WHEREUPON,

25 Timothy Compton,

1 after first having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. JEPERTINGER:

4 Q Okay. Lieutenant Compton, can you tell the ladies
5 and gentlemen of the jury what you do for a living?

6 A I'm a lieutenant with the Florence Police Department.

7 Q Okay. Are you currently in investigations?

8 A No, I'm not.

9 Q What are you doing now?

10 A I'm in the accreditation office at this time?

11 Q All right. Back in September 5th of 2008, you were
12 sergeant; is that correct?

13 A Yes, I was.

14 Q So you got a promotion since then?

15 A Yes, sir.

16 Q And when you were sergeant back in September of 2008,
17 what were your responsibilities with the city police?

18 A I was the sergeant supervisor over financial crimes
19 detective, it was myself and two other detectives in the
20 financial crime unit.

21 Q Okay. Were you on-call investigator during early
22 morning hours of September 5th of 2008?

23 A Yes, sir, I was.

24 Q Okay. Did you have an opportunity to respond out to
25 a shooting call on the corner of Marlboro Street and

1 Dargan Street?

2 A Yes, sir. I was at home that morning and I was on
3 call until 8:30 that morning. And I received a phone call
4 from our headquarters that there was a shooting and they
5 needed me to respond that morning, which I did.

6 Q Okay. Now, if you could somewhat chronologically
7 walk the ladies and gentlemen of the jury through what you
8 did when you responded to that scene please?

9 A When I arrived on scene, I met with, I believe, it
10 was Corporal Worthington, Officer Ussery, who is the
11 patrol officer and patrol supervisor at the time. Before
12 I entered the crime scene, just like the crime scene,
13 Officer Bo Myers who testified yesterday, you want to
14 gather what information you can before you even go into
15 the crime scene. You want to try to learn as much as
16 possible what they already know, so, you know, when you go
17 in, you know a little bit of information what to look for.
18 So at that time, I interviewed the officers and found what
19 was going on. The victim's mother was at the crime scene.
20 At that time, I felt I needed to talk to her first and
21 explain to her what was going on and that we do everything
22 we could to help her. And at that point in time, we went
23 into the crime scene and I met with the officers in there.
24 And I went around look at the crime scene with the crime
25 scene tech Bo Myers.

1 Q Okay. After you looked around the crime scene, what
2 was your next step in investigating this case?

3 A Based on the information gathered from the officers,
4 I needed to talk to Tiesha Brown who was the person who
5 heard the gunshot, who saw someone walk away and also
6 Brittany Fludd who testified. I needed to talk to them,
7 interview them find out if they could get some more
8 information or if I could get more information from them.
9 And, you know, develop, I guess, a direction of
10 investigation at that time. After talking to them, I
11 wanted to get statements from them, but I told them, you
12 know, to please wait. I was still at the crime scene
13 trying to find out what all was going on. They informed
14 me they had went back to Shavonne Gass' house at 307
15 Liberty Street and that they took the victim's brother
16 excuse me -- the victim's sister to Liberty Street and
17 confronted Miss Gass and Ryan Evans to try to find out
18 what happened, if they knew anything. So at that time, I
19 realized that I needed to speak to Miss Gass and I needed
20 to speak with Mr. Evans and see if they had any
21 information.

22 Q Okay. And is that when you primarily found out about
23 this cookout the night before?

24 A Yes, I found out that there -- also I received a call
25 getting back to the office. Received a call that the

1 information I receive there was a fight at the cookout.
2 There also was arguments at the cookout and trying to find
3 out who was fighting, who was arguing, and trying to get
4 all the names of who was there and start trying to
5 interview them?

6 Q Okay. And then what did you do in response to that
7 information that you obtained in terms of people being
8 there so on and so forth?

9 A I talk to a lot of people. Many people I could find
10 out who was at that party slash cookout and find out what
11 information they knew. And there was an argument and a
12 fight between a James Black and a Little B. They call him
13 Little B, but he's Bryan Timmons. And the victim had
14 broke them up and tried to -- basically, what I was told
15 he was trying to make peace at the cookout. And then
16 learn that the defendant, Gregory Daniels, he was at the
17 cookout. He -- Shavonne Gass words he was trying to boost
18 it up, which basically she explain to me boost it up means
19 trying to antagonize the situation even further and trying
20 to get the victim into a fight. And people there was
21 trying to get Corey, the victim, not to fight. And Corey,
22 the victim, and Gregory had an argument and they started
23 having multiple arguments according to the people at the
24 cookout.

25 Q So based on that information, did that help you draw

1 a conclusion or were you still investigating before you
2 drew any conclusions?

3 A I was still investigating, but based on the
4 information I received from the people at the cookout, it
5 did bring my attention to Mr. Daniels. And I interviewed
6 Miss Gass. She basically said that, you know, what I just
7 told you that Gregory was there, Corey was there. She
8 mention that other people were there. They was all
9 corroborating each others stories basically may have been
10 a little variance here and there, but it all boil down to
11 that Gregory was trying to get Corey into a fight and
12 argument and making him threats. Shavonne Gass told me
13 that the reason she ---

14 MR. LAWSON: Objection, Your Honor. She's
15 testified. Her testimony should stand on its own without
16 interpretation from the stand.

17 BY MR. JEPERTINGER:

18 Q Well, without trying to go into repeating all the
19 stuff -- that would be hearsay, Judge, to a certain
20 extent. If you could say based on after you spoke with
21 her, what did you do that's a better way of doing it?

22 THE COURT: Sustained.

23 A Based on information I received, I learn that a
24 robbery had taken or may have taken place with the
25 complaint excuse me -- the defendant, Mr. Daniels, and

1 Corey Byrd. At that time, it got me more interested in
2 Mr. Daniels that, you know, that I need to look for
3 further at Mr. Daniels. I looked at other people also
4 based on information.

5 Q Now, but based on that fact, in fact did you or
6 Detective Clark deal with a Kevin Hinnix?

7 A Yes, we did.

8 Q And he was supposedly at that party as well?

9 A He was at the party, yes, sir.

10 Q Okay. And did -- I guess in your presence did
11 Detective Clark find what he perceived to be a blood spot
12 on his pants?

13 A Yes, sir. Interviewing Mr. Hinnix, Detective Clark
14 noticed a stain on his pants. At that time, it, you know,
15 we -- was it blood, what was it.

16 Q Did you ask Officer Moreau to swab that just to
17 verify what that was?

18 A Yes, sir, we did. And he swabbed it and it did come
19 up being blood. It was sent to SLED for analysis. The
20 SLED report came back that it was blood, but it did not
21 come back to the victim, did not come back to Mr. Daniels.
22 They don't know who it came back to, but it was blood, but
23 it didn't come back have to do anything with this murder.

24 Q But at that point, you were still investigating you
25 and, I believe, Detective Clark as well; correct?

1 A Yes, sir, we checked out several people, you know, to
2 exclude them if they had anything to do with it or not.

3 Q Okay. Now, what did you do -- and I'm sorry to have
4 interrupted you, but what did you do then after you spoke
5 with Miss Gass and you were beginning to find out what
6 happened at that party? Did Miss Gass tell you about the
7 phone conversation she had with Corey Byrd just before ---

8 A Yes, sir. Miss Gass received a phone call -- to go
9 back, the victim, Corey Byrd, was at Miss Gass' house
10 early that morning. He was there through the whole
11 cookout back and forth to the store, but he left that
12 morning told Miss Gass that he was leaving. She knew he
13 was going to meet Tiesha Brown. He called her shortly
14 after he left her house on the way to walk to meet Tiesha
15 Brown and called her with his cell phone to her home phone
16 and she said they talk approximately 15 minutes she told
17 me ten to 15 minutes. And then she told us that the last
18 conversation she had with the victim was that the person
19 that was arguing with him at the cookout was following
20 right behind him, do you want to talk to him. She said,
21 Hell no. She said the phone cut off at that time. I
22 subpoenaed phone records and looked and it showed that
23 what she said was true, it was a phone call.

24 Q And let me ask you, did you also and I am showing you
25 State's Exhibit 13, which is the Alltel cell phone. This

1 was the phone found under the body of Corey Byrd; correct?

2 A It was found right next to him.

3 Q Next to him. Okay. You had a chance to look at the
4 outgoing phone calls and incoming phone calls on this;
5 correct?

6 A Yes, sir, I did.

7 Q All right. And is that true that the outgoing phone
8 call was September the 5th at 4:55 a.m. and lasted 14
9 minutes and 13 seconds in duration?

10 A Yes, sir.

11 Q And the incoming call was again from, I guess,
12 Shavonne Gass' phone at 5:15 and only lasted 16 and 18
13 seconds in duration?

14 A Yes, sir, I believe it was 18 seconds.

15 Q All right. Now, when you had that information what
16 did you do then?

17 A Basically, at that point, you know, seeing the phone,
18 the victim's phone and plus subpoenaing the phone records,
19 I corroborated Miss Gass was saying in reference to the
20 phone call. So basically, I pinpointed the time of death
21 would be 5:07 a.m.

22 Q It would be 5:09, I looked. That be 5:09?

23 A Yes, sir.

24 Q Okay. Go ahead.

25 A At that time, I mean, I was still investigating and

1 looking at other possibly leads, but also trying to find
2 out more about Mr. Daniels and if anybody else knew
3 anything. And based on my investigation, I received phone
4 calls -- matter of fact, it was a crime stopper tip that
5 came in.

6 Q Okay. Don't tell us what the person told you, but
7 based -- you had a crime stoppers' tip; correct?

8 A Yes, sir.

9 Q Okay. After you had that crime stoppers' tip, did
10 you still have a person of interest maybe involved in this
11 crime?

12 A Yes, sir, it was still pinpointed or pointed at
13 Mr. Daniels.

14 Q Okay. So at this stage, what do you do then?

15 A Let me refer to my report cause there's a lot of
16 things I did do. I interviewed after talking to Miss Gass
17 I did interview Mr. Evans. And Mr. Evans he had gotten
18 off work around three o'clock that morning. Of course, he
19 testified that he went to ---

20 Q Just like he testified ---

21 A Yes, sir. So at that point in time cause there was
22 some question to Mr. Evans had something to do with it and
23 based on everybody that gave me information gave me
24 statements Mr. Evans was not there at the time of the
25 murder, so I ruled him out as a suspect. So I did look at

1 Mr. Evans, you know, at one time and ruled him out based
2 on the time frame of everything.

3 Q Let me ask you, it was also your understanding when
4 you spoke to Tiesha Brown that when the vehicle that Evans
5 was in that the body was already sprawled out on ground?

6 A Yes, sir.

7 Q Okay. All right. Go on, what did you do then?

8 A I interviewed Mr. Gabriel Petterson. Of course, he
9 gave me a statement and what he testified he was a cook at
10 the cookout and that he did see an argument between
11 Mr. Daniels and the victim and basically what Shavonne had
12 told him. And just everything I been learning through my
13 investigation up to this point is corroborating each
14 person's story. And it is still -- it's still looking
15 that Mr. Daniels was my main suspect at that time.

16 Q Okay. So with that information, what did you do?

17 A Well, I continued to interview people from the
18 cookout. I mean, I -- several people that already come up
19 here and testified, but I still interviewed them, check
20 out their stories and everybody still saying that it was
21 the arguments. It was several arguments between
22 Mr. Daniels and the victim.

23 Q Okay.

24 A And Wednesday September the 10th, I interviewed some
25 more people and -- excuse me for just a second.

1 Q Take your time.

2 A On that same day basically, I learned that
3 Mr. Daniels was arrested.

4 MR. LAWSON: Objection, Your Honor.

5 THE COURT: Sustained.

6 BY MR. JEPERTINGER:

7 Q Did you have an opportunity to speak with Mr.
8 Daniels on September 10th?

9 A Yes, sir, I did.

10 Q All right. And where did you have an opportunity to
11 speak with him?

12 A We spoke with him in the conference room, the police
13 department's conference room on the second floor in the
14 second floor City County Complex here.

15 Q All right. Now, at this point, you've already talk
16 to several several people; correct?

17 A Yes, sir.

18 Q And you've gotten information that you perceived that
19 Gregory Daniels was a prime suspect in this case; correct?

20 A Yes, sir.

21 Q Is that fair?

22 A That's fair, yes, sir.

23 Q Now, prior to speaking to him, did you advise him of
24 his Miranda warnings?

25 A Yes, sir. I advised him actually twice. Once

1 through the card I carry.

2 Q If you show us the card you carry and the tell the
3 ladies and gentlemen of the jury what you said to Gregory
4 Daniels?

5 A I told Mr. Daniels that I wanted to talk to him about
6 the shooting that occurred September the 5th that year.
7 And actually, he told me he did not want to talk about the
8 shooting.

9 MR. LAWSON: Objection, Your Honor. And we need
10 to take something up outside the presence of the jury.

11 THE COURT: Ladies and gentlemen, please step
12 into your jury room. Please have no conversation about
13 the case. I will get you out here as soon as I can handle
14 this matter.

15 (WHEREUPON, the jury retire to the jury room.)

16 THE COURT: All right, Mr. Lawson, be happy to
17 hear from you, sir.

18 MR. LAWSON: May it please the Court, as I
19 understand it, he was getting ready to testify that my
20 client asserted his right against self-incrimination. I
21 don't think that's appropriate to comment on that fact.
22 Also, we might as well take it up now. I noted, Your
23 Honor, has ruled as to Jackson vs. Denno standards on
24 voluntariness, but the statement that my client gave the
25 State -- the defense objects to the introduction of that

1 statement on additional grounds and those grounds have
2 been stated along along throughout the trial, but it is a
3 statement involving activities that took place at or after
4 but prior to and after the incident and it relates to the
5 defendant stating his position as to what he was doing and
6 where he was during that time. The State as I understand
7 it will go through and attempt at this point to introduce
8 his statement and then proceed to attack his statement in
9 effect using him as a witness against himself in an effort
10 to do nothing more than to pit his statement against the
11 other witnesses in the case. And I feel that that is
12 totally inappropriate in this case.

13 MR. JEPERTINGER: Your Honor, I think it is
14 perfectly acceptable, Your Honor, this is voluntariness of
15 a statement, Your Honor. He has given any statement that
16 contradicts the statement he gave police came from his
17 hand. Obviously, in the letters, Your Honor, where he
18 ask -- once we get into the letters where he's asked the
19 witness, Miss Nyrena Goodman, to basically change her
20 story to fit his.

21 Your Honor, I think those weren't police induced
22 statements, those were given -- sent by mail to Nyrena
23 Goodman sent by him, Your Honor, nothing was induced. He
24 has the police officer, Your Honor. I think we're fully
25 entitled. He was not limited to say whatever he wanted to

1 say, Your Honor. It was a voluntary statement that he
2 gave, Your Honor, and now he's given a statement to a
3 private witness to completely contradicts that.

4 THE COURT: All right. Again, assuming the
5 proper foundation is laid, I am going to overrule that
6 objection. I'm going to allow the statement in assuming
7 that the proper foundation is laid to get that in.
8 Anything further?

9 MR. LAWSON: Bear with me one moment.

10 THE COURT: Yes, sir.

11 (WHEREUPON, a pause in the proceedings.)

12 MR. LAWSON: Your Honor, I do feel that there is
13 an issue involving the State putting in evidence and then
14 using other witnesses and basically pitting their
15 witnesses against the statement that they choose to put
16 in. I find that highly inappropriate, couldn't do it --
17 you can't call him to testify and do that. I don't think
18 they should be able to do it through a statement. But
19 they are in effect going to pit witnesses in this portion
20 of the trial.

21 MR. JEPERTINGER: Your Honor, I don't think we
22 are pitting witnesses. Everything ---

23 THE COURT: They are inconsistent statements.

24 MR. JEPERTINGER: They are inconsistent
25 statements from a defendant.

1 THE COURT: Depending on how you look at it.
2 There's -- whatever's going to be in this statement,
3 which, of course, I haven't heard it, but whatever is
4 going to be in this statement versus what is made in these
5 statements. I am not understanding this pitting of
6 witnesses.

7 MR. LAWSON: I'm not talking about the letters.
8 I assume that's what you're referring to.

9 THE COURT: Well, I thought that's what you were
10 ---

11 MR. LAWSON: I am talking about the other
12 witnesses in this case. Your Honor, they put in his
13 statement alleging that he says this, this and this and it
14 is not true based on what the other witnesses have said.
15 It's absolute.

16 MR. JEPERTINGER: That happens in every case.

17 THE COURT: That's a trial.

18 MR. JEPERTINGER: That's a trial.

19 MR. LAWSON: Not on the same side, yes, that
20 happens when I put a witness up, but it doesn't happen on
21 one side of the case.

22 THE COURT: All right. I've ruled, I'm going to
23 allow it in assuming you lay the foundation.

24 MR. JEPERTINGER: Thank you, Your Honor.

25 THE COURT: We are going to be at ease for a

1 moment.

2 (WHEREUPON, a break was taken.)

3 THE COURT: All right, Ms. Joe.

4 (WHEREUPON, the jury came into open court.)

5 THE COURT: Mr. Jepertinger, you may continue.

6 BY MR. JEPERTINGER:

7 Q Lieutenant Compton, you were about to tell the jury
8 what you read off the little card you have. Would you
9 please do that?

10 A Yes, sir. I told Mr. Daniels I had to read him his
11 rights or Miranda warnings. And I have a card here that I
12 always read from. And it says you have the right to
13 remain silent, anything you say can and will be used
14 against you in a court of law. You have the right to talk
15 to a lawyer and have him present with you while you are
16 being questioned. If you cannot afford to hire a lawyer,
17 one would be appointed to represent you before any
18 questioning if you wish. You can decide any time to
19 exercise these rights and not answer any questions or make
20 any statements. Do you understand these rights I have
21 explain to you? Having these rights in mind do you wish
22 to talk to us now or answer any questions I may have for
23 you?

24 Q And what was his response to you?

25 A He said he would talk to me.

1 Q Okay. Now, obviously when you read that to him, you
2 were not alone in the room with him?

3 A Correct.

4 Q Okay, there were other officers?

5 A Yes, sir.

6 Q All right. Now, I'm going to show you what State's
7 Exhibit 1 for identification. If you can identify this
8 form?

9 A This is a waiver of rights form from our Florence
10 Police Department?

11 Q All right. And basically, what does a waiver of
12 rights form show or say?

13 A Basically, it says what I just read to you and
14 Miranda warnings that's in more detail and in written
15 form. And the person that we're reading it to also can
16 read it if they want. Then we ask them to sign it and
17 date it once they understand it.

18 Q All right. And who's signature is on the bottom?

19 A Mr. Daniels, Detective Clark and myself signature.

20 MR. JEPERTINGER: At this time, I would move
21 State's Exhibit 1 into evidence, Your Honor.

22 MR. LAWSON: Objection as previously noted.

23 THE COURT: All right, overrule, I'll allow it
24 in.

25

1 (WHEREUPON, State's Exhibit No. 1 was admitted
2 into evidence.)

3 BY MR. JEPERTINGER:

4 Q At that point, did you take a statement from
5 Mr. Daniels?

6 A We talked about the cookout and he gave me a taped
7 statement of the information he gave me, yes, sir.

8 Q Okay. I'm going to show you State's Exhibit 2 for
9 identification and State's Exhibit 3 for identification.
10 Can you identify both State's Exhibit 2 and State's
11 Exhibit 3?

12 A State's Exhibit 2 is a CD of Mr. Daniels taped
13 statement. And basically, what we do with that once it's
14 on a tape crime scene downloads it to a CD. Basically, it
15 is transcribed in written form and Exhibit No. 3 is
16 basically what was said on his statement on a tape is
17 actually transcribed in writing, so we make a copy and
18 give it to whoever you need to.

19 MR. JEPERTINGER: Your Honor, at this time, I
20 would move State's Exhibit 2 and State's Exhibit 3 into
21 evidence.

22 MR. LAWSON: Previous objection.

23 THE COURT: And that certainly is noted.

24 (WHEREUPON, State's Exhibits Nos. 2 and 3 was
25 admitted into evidence.)

1 MR. JEPERTINGER: Your Honor, at this time, may
2 I publish State's Exhibit 2 by way of the speaker system
3 we have set up here.

4 THE COURT: All right, sir. Ladies and
5 gentlemen, as this disk is played, if you have any
6 difficulty hearing or whatever please let us know, okay.
7 We will try our best to get it to where everybody can hear
8 it well.

9 (WHEREUPON, a CD of the Defendant's statement
10 was played for the jury.)

11 BY MR. JEPERTINGER:

12 Q Lieutenant Compton, in that statement, it seems like
13 Detective Clark is getting some phone calls while you were
14 taking that statement?

15 A Yes, sir.

16 Q So that's what the ~~testimony was~~

17 A That was the phone calls he -- he received a phone
18 call, I believe, from the investigations unit had some
19 question about another case.

20 Q All right. At this point, what did you do after you
21 took that statement from Mr. Daniels?

22 A Basically, the interview ended and I left the room
23 and we had his property. And next things I wanted to do
24 is talk to Miss Goodman to verify what Mr. Daniels had
25 just told me. And at that point in time, I ended up

1 talking to Miss Goodman on the phone. I asked her where
2 she was at, she told me Chase Street. I asked if I could
3 talk to her. And she wanted to know what it was about,
4 told her it's about an investigation I'm doing could I
5 come and pick her up and bring her back to the office, she
6 said yes. At that time, picked her up, brought her back
7 to the office and interviewed her.

8 Q All right. When you interviewed her, did anything
9 peek your interest about Mr. Daniels and after your
10 interview with her?

11 A Yes, sir. Miss Goodman did not verify his statement
12 he had give to us. In his statement, he said he left
13 around, I believe, his statement if I'm not mistaken said
14 10:30, went and kissed his God daughter's Tina's house,
15 left there and went and turned on or off the lights at his
16 house at [REDACTED]. Then I walk to Carver Circle
17 and then from there they went to Country Hearth Inn. He
18 never did say how they got to Country Hearth Inn but said
19 they went there.

20 Q Did you get a method of how they got to the Inn
21 eventually?

22 A Yes, sir, Miss Goodman stated that she was home in
23 bed sleep, which she already has testified to. Got a
24 phone call from Mr. Daniels get up, get ready, we are
25 going to the motel. She did that. Two minute later,

1 Mr. Daniels shows up in a green minivan with -- she said a
2 black male, a younger black male driver. She said she
3 didn't know who he was, never seen him before, drove to
4 the motel there on Irby Street. And she used her money
5 and checked in under her name at the Country Hearth Inn.
6 At that point, Narcotics Officer Bob Drulis had already
7 had went to ---

8 Q Okay. Let's stick to the facts in this case, okay.

9 A The fact of the matter is she said she got the phone
10 call and went to the motel. Found out that they didn't
11 check in until 5:34 that morning, the murder occurred at
12 5:07 according to Miss Gass statement and ---

13 Q About when you check phone actually you found out
14 5:09 apparently?

15 A So again, based on what he told me that they was at
16 the motel that night. According to Miss Goodman, they
17 weren't at the motel. So at that point still convinced
18 that Mr. Daniels is lying to me and trying to use
19 Miss Goodman as an alibi to try to get us to believe his
20 story and she didn't corroborate his story.

21 Q So what did you do as a result of that?

22 A At that point, I knew I had enough of what we call
23 probable cause or PC and the next morning basically went
24 to the judge in city court. I was able to obtain two
25 warrants for the arrest of Mr. Daniels for murder and

1 possession of a weapon during the commission of a violent
2 crime.

3 Q Okay. And did y'all arrest him?

4 A Since, I sign the warrants Detective Clark and I went
5 to Florence County detention center and Detective Clark
6 and I took him into -- it's the library in the detention
7 center and Detective Clark read the warrants to
8 Mr. Daniels at that time.

9 Q All right. Now, at that point when Detective Clark
10 served him with the warrants for both murder and
11 possession of a weapon during the commission of a violent
12 crime, did Mr. Daniels want to speak with you?

13 A Yes, sir, he did.

14 Q Okay. Now, let me ask you this, when he wanted to
15 speak with you, your purpose serving the warrants was to
16 serve the warrants; correct?

17 A Correct.

18 Q Okay. That's all you were going to do at that point;
19 correct?

20 A Correct.

21 Q Did you have a waiver of rights form like you see on
22 State's Exhibit 1 with you?

23 A No, we didn't. We wasn't going to interview him and
24 we didn't carry one with us.

25 Q Okay. Tell the ladies and gentlemen of the jury what

1 happened?

2 A Basically, after the warrants was read to him,
3 Mr. Daniels insisted on talking to both me and Detective
4 Clark several times. I told him I could not talk to him
5 because he had already, you know, ask for an attorney.

6 MR. LAWSON: Objection, Your Honor, that's an
7 inappropriate comment.

8 MR. JEPERTINGER: I don't think so, Judge. I
9 think it's part of admission at this point. Your Honor,
10 in this sense, it's giving him context to what he did,
11 what he was going to do.

12 THE COURT: Overrule, I'll allow it.

13 BY MR. JEPERTINGER:

14 Q So what happened then?

15 A After several times of him insisting on talking us, I
16 finally asked him do you want to talk with an attorney.
17 He said yes. At that point in time, I told him I had to
18 read his Miranda warnings to him again.

19 Q So did you wipe out the card you pulled out a few
20 minutes ago?

21 A Yes, sir, I did.

22 Q Okay. And without re-reading the whole card, did you
23 re-read the whole card to him?

24 A Yes, sir, I did.

25 Q And at that point, what did he say to you?

1 A He made several verbal statements if I can refer back
2 to my report.

3 Q Go ahead.

4 A Mr. Daniels stated that the first time he --
5 basically, when he said he wanted to talk, I asked him,
6 you know, you said you didn't know Mr. Daniels. And he
7 said, you know, the first statement he gave which was on
8 tape he said he didn't know him from a can of paint. He
9 met him that night at the cookout and they had a little
10 argument. So this time I asked him when the first time
11 you heard of Corey and he said -- in his words, he said it
12 was a group of guys was pulling a train on a girl in
13 Oakland Heights apartments and Corey stole \$700.
14 Detective Clark asked him how did him and Nyrena Goodman
15 get to the Country Hearth Inn. He stated his uncle drove
16 a rental car and took them to the Old Park Inn, which
17 Country Hearth Inn and Suites is the Old Park Inn. He
18 stated that his first name. Of course, we asked what was
19 the name of his uncle, he said first name Andrew, but he
20 could not remember his last name. Mr. Daniels admitted he
21 was arguing with Corey several times during the cookout
22 and not once like he admitted on the taped statement the
23 day before. He admitted he was standing in the street at
24 Shavonne's and Corey told him he had been shot twice. And
25 he said he was shot in the head before.

1 Q He stated he was shot in the head before, who said
2 that statement?

3 A Mr. Daniels said that back to Corey. And he did show
4 me a scar at the right top side of his head where he had
5 been hit. His explanation the little scar at the top of
6 his head he shown, it was with a stump when he was a
7 little boy when he raised his head over the doghouse and
8 they were throwing the stump over the doghouse. So that
9 explanation of the, you know, why he said that or I'm
10 sorry -- I asked him if he had any wounds on him. How do
11 I explain it? He said, you know, person ---

12 Q You can't say what someone said just go on. All
13 right. Anyway, did you say he went over to the cookout
14 approximately 2130 hours to you?

15 A He stated he left the cookout approximately 2130
16 hours to go to Tina's house on Vista Street. And then he
17 went back to Shavonne's to get her a short slash
18 cigarette. Then left and went to [REDACTED] which
19 is his residence he told us at that time. Then walked to
20 Carver Street -- Carver Circle excuse me and stated there
21 they ---

22 Q They stayed there?

23 A Went to Carver Circle and stayed there and they were
24 the last ones to leave the setting up. When I asked him
25 how did they get to the motel, he now says a taxi drove

1 them to the Old Park Inn from Carver Circle. Now, this is
2 the third way he's gotten to the Park Inn or Country
3 Hearth Inn.

4 Q What did Detective Clark ask him at that point? He
5 asked him what taxi?

6 A He asked him, you know, what taxi and he stated the
7 dark green minivan, which is State Taxi. He stated Nyrena
8 Goodman checked in and he walked in with her. He stated
9 they went to the room and went to bed and he never left
10 the room until his uncle picked him up in a rental from
11 Budget Rental on South Irby Street and West Palmetto
12 Street. Detective Clark asked about the taxi cab driver
13 and Mr. Daniels stated the driver was an older black male.
14 I asked the -- Mr. Daniels several times if he would ---

15 Q That's pretty much ---

16 A Basically, that's what he told us in that interview.

17 Q Now, after that interview had -- obviously, you
18 retrieved his personal property including what I show you
19 on State's Exhibit 14 his Samsung; is that correct?

20 A Yes, sir.

21 Q All right. And at that point, did you talk to other
22 witnesses in this case?

23 A I did talk to Mr. Presnell.

24 Q The gentleman that testified the motel clerk?

25 A Yes, sir.

1 Q Who else?

2 A I went to the State Taxi and myself, Detective Clark
3 went to State Taxi and we checked the logbook for that
4 particular -- those two-day frame September 4th and 5th.
5 And there was no record of a State Taxi picking anyone up
6 from 516 Chase Street or Carver Circle, interviewed taxi a
7 taxi cab driver who drives a dark green minivan. He did
8 he didn't pick ---

9 MR. LAWSON: Objection, Your Honor, it is
10 hearsay.

11 THE COURT: Sustain.

12 BY MR. JEPERTINGER:

13 Q Based on that fact, were you satisfied that ---

14 A I was satisfied that Mr. Daniels had lied to me about
15 the State Taxi, there was no State Taxi.

16 Q All right. Now, after this, what do you do?

17 A I did go to Budget Rental Car and I did learn that an
18 Andrew Williams did rent a 2003 green Taurus at 11:30 on
19 September the 5th.

20 Q All right. So -- and then what did you do after
21 that?

22 A I received a ---

23 Q And let me ask you, the first name of that individual
24 that rented that car?

25 A Is Andrew?

1 Q And the name that he gave you of his uncle?

2 A His Uncle Andrew, but he couldn't remember his last
3 name.

4 Q All right. And then what happened?

5 A I received a phone call from Miss Brown and she
6 wanted to give me some information. And the information
7 that I learn that Mr. Daniels was paid to kill ---

8 Q Excuse me.

9 A Mr. Daniels was paid \$500 to kill Mr. Byrd and was
10 suppose to get another \$500 after the murder.

11 Q All right. Now, after all this came in, did you just
12 keep on working this case?

13 A Yes, sir. I called Miss Goodman back and asked her
14 if Mr. Daniels had changed his cell phone number. And she
15 stated, yes, he had changed his cell phone and she said
16 she couldn't tell me when he changed the cell phone
17 number, but she gave me the old phone number as
18 [REDACTED]-5339.

19 Q Okay. And when you got this information about the
20 cell phones, did you start asking that phone records be
21 subpoenaed in this case?

22 A Yes, sir, I did.

23 Q All right. Now, I am going to show you State's
24 Exhibit 5 for identification which are several phone
25 records from AT&T that Mr. Hanks, the records keeper,

1 testified to. And you saw a subscriber individual for
2 [REDACTED]-5339; is that correct?

3 A Yes, sir. [REDACTED]

4 Q And that was?

5 A Nyrena Goodman.

6 Q And the active date for [REDACTED] 5339 -- when was this
7 phone active for or sim card in this phone active for?

8 A November 13th 2007 through 9-5-2008.

9 Q And 9-5-2008 is the date that Corey By [REDACTED]
10 murdered?

11 A Yes, sir, it was.

12 Q And so that was the active period for that phone?

13 A Correct.

14 Q All right. Now, did you have a chance to examine the
15 phone records in this case?

16 A Yes, sir, I did.

17 Q All right. Did you ask for any information on any
18 other subscriber numbers?

19 A I asked for information for the new number which is
20 the one I was familiar with at that time. The one that
21 Mr. Daniels was using, you know, that morning I believe
22 it's [REDACTED]-0731.

23 Q I will show you State's Exhibit 17, which is a photo
24 that came off of State's Exhibit 14, which is the Samsung;
25 is that correct?

- 1 A Yes, sir.
- 2 Q And the number again for the jury on that phone?
- 3 A Is [REDACTED]-0731.
- 4 Q All right. So that's the phone we are talking about;
- 5 correct?
- 6 A Correct. [REDACTED]
- 7 Q All right. Did you find anything of any interest
- 8 while we're dealing with this phone number of
- 9 [REDACTED]-0731?
- 10 A Yes, sir. Basically that number -- that's the new
- 11 number that was given to Nyrena. It was assign to Nyrena,
- 12 but that was Miss Goodman on September the 5th. And
- 13 there's phone records on there.
- 14 Q Well, I have the service date on that is August 23rd
- 15 2006; correct?
- 16 A Correct.
- 17 Q All right. So that's when, I guess, the service date
- 18 started on that number?
- 19 A Yes, sir.
- 20 Q Okay. But that was just another sim card she had?
- 21 A Yes, sir.
- 22 Q Okay. But that was the phone number ~~that~~ the
- 23 defendant had in this case?
- 24 A Yes, sir.
- 25 Q Okay. Now, I'm going to ask you to kind of jump

1 ahead if you could, keep your finger at where you're at in
2 your report. Did you request the phone number for a
3 [REDACTED]-6919?

4 A Yes, I did. And that came back to Leon Bostic.

5 Q Okay. And the address for that?

6 A [REDACTED], Florence, South Carolina.

7 Q Okay. Do you know Leon Bostic by another name as
8 well?

9 A Leon is actually his middle name, but his full name
10 is Gary Leon Bostic.

11 Q All right. And was there any significance when you
12 compared -- and I use word the significance. Were there
13 any phone calls made after the murder of Corey Lee Byrd
14 from [REDACTED]-0731 the phone that Gregory Daniels had to Gary
15 Leon Bostic at [REDACTED]-6919?

16 A Yes, sir, there was.

17 Q How many phone calls incoming and outgoing were there
18 between the two numbers September the 5th, 2008, and
19 September the 9th, 2008?

20 A I believe, I counted 41 phone calls.

21 Q All right. And, of course, that number was also
22 listed on his -- I show you State's Exhibit 16?

23 A Yes, sir, in my investigation, I've learned that Gary
24 Leon Bostic also goes by the, I guess, a/k/a G.A. and it's
25 [REDACTED]-6919 on that picture.

1 Q Right. Now, did you also learn about -- and I show
2 you State's Exhibit 15 someone by the name of Luck late in
3 your investigation in terms of phone records?

4 A Yes, sir. Much later, I learned that Luck is Andre
5 Bradley and his number is [REDACTED] 2274.

6 Q All right. And in terms of these phone records from
7 [REDACTED]-031 I see an outgoing call from [REDACTED] 0731 at 5:59 p.m.
8 on September 5th 2008 to which number?

9 A To [REDACTED]-2274.

10 Q And that would be?

11 A That would be Andre Bradley number?

12 Q The day of the killing at about 6:00 p.m. that
13 evening?

14 A Yes, sir.

15 Q Just as a matter of public awareness or just
16 something we know, what time does the evening news come on
17 here in the Florence area?

18 A Six.

19 Q All right. Now, I am also going to show you State's
20 Exhibit 5 this -- looks like an Excel Spread sheet?

21 A Yes, sir.

22 Q Okay. There several numbers listed there, but you do
23 see any phone calls between [REDACTED]-5339 and Nyrena Goodman's
24 number of [REDACTED]-1270? Don't mark on it with your pen?

25 A [REDACTED]-5339.

1 Q Uh-huh.

2 A Yes, sir.

3 Q Let me ask you this, at -- and I believe this is a
4 time column right next to it. Were there phone calls
5 between those two numbers at 4:32 and 4:28 and 3:04 in the
6 morning?

7 A Yes, sir, there are calls at that time.

8 Q Apparently, there was one at 5:21?

9 A Yes, sir.

10 Q To -- from 5339 to 1270; is that correct?

11 A That's correct.

12 Q All right. And based on what Mr. Daniels had told
13 you at 5:21, they should have been in the motel room
14 together?

15 A According to what he is saying, they should have been
16 in the room in the bed together.

17 Q Okay. All right. Now, if we can go back where you
18 had your finger, what did you do then?

19 A To go back to Nyrena Goodman, after I asked her about
20 the old number, new number and everything, I did ask her
21 again to make sure I understood her the first time and ask
22 her about the minivan driver. Again, she told me it was a
23 younger black male, unknown black male. And she confirmed
24 everything she said the first time to me and I did get the
25 phone records. Mr. Corey Byrd's calls show that Shavonne

1 Gass according -- got phone calls 053 hours and basically
2 14 minutes and around 14 seconds. I got 5:07 ended. The
3 call records confirm what Shavonne Gass had told us in our
4 investigation appears the victim was shot and killed at
5 that time. Also received phone records from AT&T Nyrena
6 Goodman cell phone records, which Mr. Daniels is on her
7 plan. Mr. Daniels had changed -- which we had already
8 talked about had changed his phone number that same day.
9 Of course, we just went over the phone record at 5:21 that
10 she called between her and Mr. Daniels. And basically, at
11 the timeline I'm looking at from the time I believe the
12 murder occurred to the time they checked into the Country
13 Hearth Inn, it's approximately 27 minutes.

14 Q That is if you believe -- could be anywhere from 25
15 to 27; correct?

16 A Correct.

17 Q All right. Because on the phone, it says apparently
18 4:55 and apparently according to some record you have it
19 says 4:43?

20 A Yes, sir.

21 Q So we're talking 25 to 27 minutes?

22 A Correct.

23 Q Let me ask you this, I asked you to do this; correct?

24 A Yes, you did.

25 Q In terms of timing the thing?

1 A Yes, sir, you did.

2 Q In terms of distance and travel?

3 A Yes, sir.

4 Q If you could come off the stand one second and I am
5 going to show you State's Exhibit 4. I'm going to have
6 you stand over there and please keep your voice up as loud
7 as you can, so the court reporter can hear you. All
8 right. Now, I think the question I had is well can
9 somebody travel that far and that distance. Can you tell
10 the ladies and gentlemen of the jury the experiment I
11 asked you to carry out in terms of going to the scene the
12 corner of Marlboro and Dargan Street. I believe that's
13 right here. And tell the ladies and gentlemen of the jury
14 what you did? You have distances with you and the times
15 and so forth?

16 A Basically, Mr. Jepertinger asked me to see if it was
17 possible for that timeframe from the time that we believe
18 the murder occurred to the time Miss Nyrena Goodman
19 checked into the motel. So at that point in time, I did
20 three trips. And all of them was during the daytime which
21 is more traffic out on the street at that time, but I
22 actually parked my car over here and I believe this is a
23 church right here.

24 MR. LAWSON: Your Honor, I'm going to object,
25 there's already too many variables involved to determine

1 whether or not if he's gone try to attribute it to my
2 client. There's no evidence that there was a car involved
3 anywhere at such point other than on Chase Street.

4 MR. JEPERTINGER: Well, you got to get from some
5 place to Chase Street, Your Honor, and we'd say he got
6 from the murder scene in a vehicle in a short time.

7 THE COURT: I'm going to allow you to testify
8 as to what you did. Whether or not it's attributable at
9 all to this case is...

10 BY MR. JEPERTINGER:

11 Q Well, if you could tell us what you did then please?

12 A Basically, I parked the next street over and I stood
13 where the victim had been laying. I started walking. I
14 walked around the corner and to where the church is where
15 my car was parked. I walked at a leisure pace, got in the
16 car and I drove the most direct route to Miss Goodman's
17 home, which basically is come down the street to Lucas
18 here and make a right on to Lucas, go all the way down to
19 Chase Street where it intersects with Lucas, make a left
20 onto Chase. And if you going on Chase Street,
21 Miss Goodman's house will be on your left. I parked in
22 front of their house. I sat there for five minutes, which
23 I believe is longer than it did occur. I sat there for
24 five minutes. And it's 1.2 miles from where I parked the
25 car to her address. At that point, I left and drove

1 straight down to Chase Street, made a left on to
2 Darlington Street, all the way down to Irby Street, made a
3 right on to Irby, went all the way down to South Irby to
4 the Country Hearth Inn and Suites. And it took me 16
5 minutes to get there during the daylight traffic hours and
6 it ended up being 3.3 miles.

7 Q In total?

8 A In total, yes, sir.

9 Q All right. You continue to investigate this case
10 correct even after all that information about the phone
11 records and the statements and stuff like, you kept
12 working this case; isn't that correct?

13 MR. LAWSON: I'm going to object to the form of
14 the question that all that information, all that
15 information, I think, is an improper comment.

16 THE COURT: Sustained.

17 MR. JEPERTINGER: Yes, sir.

18 BY MR. JEPERTINGER:

19 Q What did you do?

20 A I continued with the investigation. I basically had
21 to write my report, but I did follow-up on some more
22 information to see, but I didn't find out any more
23 information at that particular time, you know, in the
24 investigation, so I did my report waited for SLED and
25 stuff to be done. Later, I received information that

1 Andre Bradley wanted to talk. And at that time, we
2 interviewed him and got a statement from him.

3 Q But that was this year; correct?

4 A Yes, sir.

5 Q All right. But prior to that, did you have a
6 conversation with Nyrena Goodman about anything?

7 A Yes, basically reinterviewed Miss Goodman again this
8 year and she said -- she brought this up to me. I didn't
9 ask her. She said I found out who that person was that
10 pick me up that morning on Chase Street. And I said what
11 are you talking about? The morning that Gary came in the
12 dark green minivan with an unknown black male. And I
13 said, well, who is that? And she said it's Gary. I said,
14 Gary who? She said I don't know his last name. I said,
15 well, Gregory had wrote her a letter and telling her this
16 in the letter. And I asked her do you have this letter?
17 She said, yes. I said, can I have the letter? She said,
18 yeah, you can have all of them. I said, what you do mean
19 all of them? She said I got a bunch of letters that he's
20 written me. And I said, can I look at them? She said you
21 can have them. So at that point in time, I picked -- went
22 to her house and she gave me the letters.

23 Q Okay. Now, I am going to show you what has been
24 marked as State's Exhibit 19, okay.

25 A Yes, sir.

1 Q Now, look at this and do these letters differ in
2 anyway from when you first received them?

3 A Yes, sir. They been redacted.

4 Q And is that to court order that some of the material
5 contained in some of these letters has been edited out?

6 A Yes, sir, they have.

7 Q All right. Now, for you -- did you read all the
8 letters that she gave you?

9 A Yes, sir, I did.

10 Q Do you find things of interest in these particular
11 case that you thought would be damning, I guess, to Mr.
12 Daniels?

13 A Absolutely, yes, sir.

14 Q Okay. I am going to show you if you have -- I am
15 going to show you one that's dated 10-2-08, starting with
16 the word the?

17 A The blank I told them what happened at the cookout
18 and after the argument, I walked to Tonya's house and we
19 went to the room in a cab, never gave them a time or
20 nothing.

21 Q That was significant to you?

22 A Yes, sir, cause again he said, you know, he went in
23 the taxi cab. And I verified that it was not true and
24 he's telling her to tell me that.

25 MR. LAWSON: Your Honor, I don't think it's

1 appropriate to have running commentary on the letter
2 unless he has some individual knowledge from either Mr.
3 Daniels or Miss Goodman as to what the intention is.

4 THE COURT: All right. You can testify as to
5 the contents leave it at that.

6 BY MR. JEPERTINGER:

7 Q I am going to show you looks like 10 October 2008,
8 here. I will show you this -- if you could read that to
9 the jury please?

10 A Our stories are not the same. I told them we left
11 off Carver Circle in a green van excuse me -- green van
12 cab with an old driver. We were on the computer, but I
13 will tell them I was still there playing dominos. You
14 went home to get clothes and I came and got you from there
15 no times though, make sure dude know this story, State
16 Taxi. I already wrote Shanay -- I may be pronouncing it
17 wrong. I will write you again over the weekend. I pray
18 every day morning and noon and night. I miss. Do you --
19 do that go back to school get GED, so we can try living
20 together again. But we already know what you got to do.
21 Come see me homey.

22 Q Okay. I am going to show you looks like 10-15-08.
23 If you can start there with some things I guess?

24 A Some things that I need to say to you. I can't write
25 down or say on the phone, you feel me. Someone told me