

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Berkeley County

Honorable Michael G. Nettles, Circuit Court Judge

VOLUME I OF II

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S.C. SUPREME COURT

RON SANTA MCCRAY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-002051

APPENDIX

ROBERT M. DUDEK
Chief Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF BERKELEY	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 11-GS-08-0947
	)	
Ron Santa McCray,	)	
	)	
Defendant.	)	

TRANSCRIPT OF HEARING

The within HEARING was held in above-captioned action on September 18, 2012, before The Honorable R. Markley Dennis, Jr., in Courtroom E of the Berkeley County Court of General Sessions, 300 California Avenue, Moncks Corner, South Carolina; attended by Counsel, as follows:

APPEARANCES:

Brian Alfaro, Assistant Solicitor
 9th CIRCUIT SOLICITOR'S OFFICE
 300 California Avenue
 Moncks Corner, SC 29461
 Appearing for State of South Carolina

Christopher Biering, Esq.
 116 East Railroad Street
 Moncks Corner, SC 29461
 Appearing for Defendant

DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 901
 Johns Island, South Carolina 29457
dGarrison@secourts.org

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1 THE COURT: This is the matter of the
2 State of South Carolina versus Ron Santa McCray.

3 Mr. McCray, good afternoon.

4 Let the record reflect that Mr. McCray
5 is present. This matter comes because of the
6 submission to me of a letter dated -- postmarked
7 September 4th. I now will make that a copy,
8 Court's Exhibit 1 to be retained in the clerk's
9 file.

10 (SO ENTERED AS COURT'S EXHIBIT 1)

11 THE COURT: Mr. McCray is seeking --
12 and I think that we've already been through this
13 one time before, Mr. McCray, -- is that correct?

14 DEFENDANT: Yes, sir.

15 THE COURT: You want to dismiss Mr.
16 Biering as your attorney, again?

17 DEFENDANT: Correction, Your Honor.
18 Mr. Biering tried to relieve himself.

19 THE COURT: I understand. We've been
20 through that and I denied his Motion to be
21 relieved. You are now asking that he be
22 relieved. While technically we don't recognize
23 hybrid representation, I'll deal with your
24 request.

25 DEFENDANT: Thank you, sir.

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1 THE COURT: Why do you to have him
2 removed?

3 DEFENDANT: Your Honor, we have had
4 several meetings. It's already been determined
5 that I cannot represent myself.

6 THE COURT: Nobody's determined that.
7 I don't think that's a good idea.

8 DEFENDANT: Well, I was thinking that
9 you, you know, ---

10 THE COURT: I said that I didn't
11 think that it was a good idea and I declined
12 your Motion. You are at liberty to hire anybody
13 that you want.

14 DEFENDANT: Your Honor, with this, I
15 do have a witness to actually show ---

16 THE COURT: Show what?

17 DEFENDANT: To ---

18 THE COURT: We are not trying the
19 case yet.

20 DEFENDANT: Okay, it's just that
21 Officer ---,

22 THE COURT: Mr. McCray, be careful
23 what you're doing right now because you're
24 disclosing things that typically would be
25 conversations between your lawyer and you,

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1 strategy. The State is present, everything that
2 you say is on the record.

3 DEFENDANT: Yes, sir.

4 THE COURT: So you need to be careful
5 what you're doing by talking about issues that
6 really and truly -- this case hasn't been
7 resolved.

8 DEFENDANT: Yes, sir.

9 THE COURT: A gentleman raised this
10 issue just last week when I trying a case in
11 Greenville and he wanted to do the exact same
12 thing that you're doing. It must be something
13 that is being transmitted along the hot line in
14 some of the detention centers. He wanted to --
15 he said that there was a witness that was
16 critical to his case. He wasn't -- his lawyer
17 wasn't bringing him in. You have to understand
18 something. The lawyer has an obligation, took
19 an oath to now perpetrate a fraud on the court.
20 I can read through the lines sometimes and it
21 was not necessary to do it. My statement to him
22 is the same statement that I am going to make to
23 you. You're putting the cart before the horse.
24 That is something that might be necessary in a
25 subsequent proceeding, called a post-conviction

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1 relief, but -- but for that to be germane, you
2 have to be convicted.

3 I had a gentleman, and I don't remember
4 which person was trying it, it was tried here,
5 that wanted to fire one of the public defenders
6 -- Mr. Shelton -- right at trial. I declined
7 it. Lo and behold, the defendant was acquitted.
8 With not the same intention, I said 'I assume
9 you don't want to fire him now?'

10 So, you know, I -- you really and truly
11 are doing something about witnesses that really
12 and truly doesn't have anything to do with this.
13 You can agree or disagree about strategy.
14 That's fine.

15 But I would remind you and hasten to
16 remind you, Mr. McCray -- I don't recall, and we
17 may have discussed that in our last meeting.
18 But have you ever been to law school, sir?

19 DEFENDANT: No, sir.

20 THE COURT: Have you ever -- how many
21 cases have you tried in your life?

22 DEFENDANT: I've tried none.

23 THE COURT: Have you ever observed a
24 trial?

25 DEFENDANT: No, sir.

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1 THE COURT: Let me share with you --
2 this happened about a month ago. Over my strong
3 objection -- I was administrative judge. There
4 was a gentleman in Charleston who prevailed on
5 me to fire his lawyer and he represented
6 himself.

7 We were -- it was a three-day trial.
8 The first thing that he did was move to
9 consolidate all the actions pending against him,
10 which would not have been admissible and which
11 was not a very smart move on his part. I said
12 that on the record. I am not talking out of
13 school. I said that at the start and I said
14 that at the close of his case.

15 But the one thing that I will never
16 forget, we were sitting there waiting -- they
17 were taking a few minutes to get their thoughts
18 together about making their closing remarks. I
19 looked at him, called him by name, no need to do
20 that now, I said -- his name wasn't Jones, but
21 'Mr. Jones, now you understand why I was trying
22 to discourage you from representing yourself.'
23 He said yeah. I said, 'It moves really fast.'
24 That's why -- you can go to law school but it
25 takes a while to develop the skills of being a

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1 trial lawyer. You know the theory, you know
2 some evidence (sic). The problem is that he
3 could read some things. I think that he sees
4 things, but it wouldn't dawn on him until two or
5 three questions later. You don't have that kind
6 of luxury. It's moving fast. It's called
7 anticipation. That's what lawyer have to do.

8 My law clerk and I were talking about
9 that. One of my fellow judges said -- I was
10 conducting a class for the incoming law clerks.
11 We sent out a request, what would you like for
12 us to try to teach?

13 One of the judges said, 'Please teach
14 -- please help them to understand that there is
15 a need for them to anticipate and to be
16 prepared.' That comes through tremendous
17 training, tremendous study. Then experience.
18 There is no substitute for that.

19 Having said that, I again tell you that
20 I will discourage you greatly from representing
21 yourself. How many attorneys have you had thus
22 far appointed for you?

23 DEFENDANT: Four, Your Honor.

24 THE COURT: There is a common
25 denominator for problems -- let me finish --

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1 but you may not see it yet. It is not the
2 attorneys. You can't get anybody that agrees
3 with you, apparently.

4 DEFENDANT: Your Honor, can I prove
5 what I am saying, please?

6 THE COURT: You can prove what you
7 can, but be careful what you say.

8 DEFENDANT: No problem. Your Honor,
9 I asked Mr. Biering to obtain information for me
10 ---

11 MR. BIERING: Your Honor, ---

12 DEFENDANT: --- and ---

13 MR. BIERING: May I briefly remind
14 him of something?

15 DEFENDANT: He's cutting me off.

16 THE COURT: Mr. McCray, ---

17 DEFENDANT: Yes,

18 THE COURT: Mr. Biering, if your
19 client is about to disclose things that you have
20 as attorney-client privilege, that's fine.

21 MR. BIERING: For the record, Your
22 Honor, I want to note that I've attempted to
23 intervene.

24 THE COURT: I understand.

25 MR. BIERING: Thank you, Your

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1 Honor.

2 THE COURT: Yes, sir.

3 DEFENDANT: Your Honor, I have asked
4 him to obtain something for me and he said that
5 if the opportunity presents itself that someone
6 is going to hand the information to him. I
7 asked him to please go to the court, to the
8 judge to obtain this information for me. He
9 said someone is going to ---

10 THE COURT: What is the information
11 pertinent to you?

12 DEFENDANT: It proves my ---

13 THE COURT: No, sir. No, sir. Mr.
14 McCray, you don't understand the roles, sir.
15 You don't call the shots. You are not the
16 lawyer.

17 DEFENDANT: That sounds like me that
18 if the opportunity does present itself that he
19 is not going to ---

20 THE COURT: Mr. McCray, I don't know
21 what he is going to do. I know that he is a
22 lawyer, a respected lawyer. I respect him and
23 I've practice law in the same community with
24 him. I've judged cases where he has been a
25 lawyer. I am not worried about his competence

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1 as a lawyer.

2 One of things that you don't
3 understand, because you've never practiced law,
4 and it's not your fault, it's just the nature --
5 it's just the nature of what we do. You only
6 see about a tenth of what is necessary to
7 prepare to try a case. First of all, since you
8 aren't a lawyer and you don't have any prior
9 experience as a lawyer, you really don't -- and
10 I am not trying to be smug, but you don't -- as
11 a lawyer (sic), you don't help me at all. There
12 is nothing that you can provide except facts
13 that you are going to testify to, if you are
14 going to testify. That's another big thing, a
15 big problem.

16 Let me just share with you -- you
17 say, 'yeah, I know that's what I am going to
18 do.'
19 Let me give you an example. Just last week --
20 no, two weeks ago, tried a case in Hampton.
21 It happened to be self-defense -- I really
22 don't need to hear anymore, because you really
23 don't need to disclose that at this point.
24 That's a defense that the State has to
25 disprove, that you don't have to prove. The

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1 State has to disprove it.

2 You have no obligation to prove a
3 thing. In fact, in a trial, I will tell the
4 jury, if I am the trial judge, "you don't look
5 to Mr. McCray to prove or disprove anything."
6 He doesn't even have to offer any evidence.
7 The State is the only party that has to prove
8 anything.

9 Now, you may choose you, that's your
10 right -- if necessary. But one of the things
11 that comes out is that you -- you just don't
12 understand. This person turned down a pretty
13 good offer. The offer was to plead to
14 voluntary manslaughter. Big difference in a
15 murder and voluntary manslaughter.
16 Significant difference.

17 But he had two charges: assault and battery
18 with intent to kill, a twenty year sentence,
19 and murder.

20 Self-defense. Self-defense isn't
21 just that I felt threatened, I can shoot. The
22 jury acquitted him on the assault and battery
23 with intent to kill because the guy was
24 aggressive. They found him guilty of murder
25 on the second. You know what? He just didn't

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1 understand the difference.

2 It all happened bam-bam, literally.
3 One was okay, one was not. The jury concluded
4 that.

5 That is the risk. Those are the
6 problems. That is what a lawyer has to
7 assess. That's what a lawyer has to make a
8 determination on. Unfortunately he could have
9 got a sentence somewhere about fifteen to
10 twenty years but he is in jail for forty-one
11 years. Bad call. Wasn't a good decision.

12 I don't know how much he controlled
13 it.

14 But that's why you need to be careful about
15 your dictating what a lawyer does, because you
16 can't make that judgment. You can be
17 involved, and I guarantee you that he is
18 listening to you, but that doesn't mean that
19 he has to agree with you. In fact,
20 I'll be honest with you. There were so many
21 times that my clients didn't agree with me
22 that I can't count them. But I used to tell
23 my clients this, 'You don't want a yes person,
24 you don't need a cheerleader, you need a
25 lawyer.' A lawyer is something that is going

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1 to tell you the truth.

2 Now, that's between the two of you.

3 That doesn't mean anything about how he is
4 going to represent you. That hasn't got a
5 thing to do with it. That's why we are
6 lawyers. We know that. That's what we took
7 an oath to do, to be honest with you, to tell
8 you the truth, and then if you turn it down
9 because you say you want a trial, then to give
10 you the best trial that you can possible have.

11

12 What is going to happen might be up
13 to twelve people but you, sir, -- I go back,
14 having had this conversation, do you want me
15 to relieve Mr. Biering? Are you going to
16 represent yourself? Because that's your
17 options.

18 When does the State plan to try this
19 case?

20 SOLICITOR: It was set as a date
21 certain for October 29th of this year.

22 THE COURT: Okay. You're working
23 towards that date?

24 MR. BIERING: I am working
25 towards that date. I would like to be heard

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1 at the appropriate time.

2 THE COURT: Sure, be happy to.

3 MR. BIERING: May it please the
4 court, Your Honor, I have proposed an Order to
5 relieve me as Mr. McCray's counsel. I consent
6 to his request. I do not join in his
7 allegations that are the basis of his request.
8 Something new has come to my attention, Your
9 Honor, and -- I have had past attorney-client
10 relationships with Thomas H. Boyd, who is one
11 of the investigative officers in this case.
12 I've had a past attorney-client relationship
13 with Lee Holbrook, one of the investigators in
14 this case. I've had past attorney-client
15 relationship with Captain Rick Ollic, who is
16 one of the investigating officers in this
17 case. I've had a past attorney-client
18 relationship with Renee Ramsey, who is an
19 investigating officer in this case. All four
20 of those individuals, from my determination
21 and analyses of this case, will be key
22 witnesses in this case. They are former
23 clients. There is no currently attorney-
24 client relationship with any of these
25 individuals. I do believe that it presents a

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15

1 potential conflict of interest.

2 THE COURT: So what? I mean, the
3 fact that you had relationships, they're not
4 -- they are not in charge of this case, the
5 State is.

6 MR. BIERING: I have asked for a
7 waiver of the potential conflict of interest
8 from Mr. McCray and ---

9 THE COURT: What is the potential
10 conflict of interest? You don't have a
11 pending relationship. That would be true of
12 anybody that you know.

13 MR. BIERING: Your Honor, ---

14 THE COURT: I mean, you -- the
15 bottom line is, that puts you in a better
16 position to be able to assess their testimony
17 and to be able to cross-examine them.

18 Are you telling me that you can't
19 represent him because of that? Be careful
20 what you say there.

21 MR. BIERING: Your Honor, I --
22 this is what I am saying, it has been alleged
23 in two filings by this defendant that I am
24 involved in some sort of conspiracy to ---

25 THE COURT: Mr. Biering, let me

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1 tell you something. You think you are the
2 only person who has ever had that? That's a
3 common thing today.

4 MR. BIERING: Your Honor, ---

5 THE COURT: My response to that is,
6 just as -- not to cut you off, but this is not
7 new to me. It happens in Charleston probably
8 six or seven times a year. If they haven't
9 ruled on it, you have no conflict. You have
10 no problems. If they've ruled on it, then you
11 do. If they have found that you have it, then
12 I would agree with you. Have they made a
13 determination yet?

14 MR. BIERING: I'm sorry, Your
15 Honor?

16 THE COURT: Has there been a
17 determination made on any filings? The
18 complaints?

19 MR. BIERING: No, Your Honor.
20 To my knowledge, I don't think that there has
21 been a complaint that has been filed. I think
22 the only complaint that has been filed is that
23 which is filed with this court, as it relates
24 to letters. There are not any ---

25 THE COURT: So there are no formal

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1 complaints with the Office of Disciplinary
2 Council?

3 MR. BIERING: No, Your Honor.

4 THE COURT: Excuse me. I cut you
5 off. I will be happy to -- please continue.

6 MR. BIERING: Your Honor, and I
7 don't want to -- I just want to protect the
8 record as it relates to this. Okay? I want
9 to ---

10 THE COURT: Protect it in what
11 respect, Mr. Biering? I am not sure that I
12 understand that. What are you protecting?

13 MR. BIERING: (No verbal
14 response).

15 THE COURT: I don't understand
16 what's protected.

17 MR. BIERING: If I could have a
18 moment, Your Honor, to go through a couple of
19 things, I think ---

20 THE COURT: You can have a moment,
21 but I just asked you a question. What are you
22 protecting?

23 MR. BIERING: Maybe that was a
24 poor choice of words, Your Honor.

25 THE COURT: Okay.

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1 MR. BIERING: I think that when
2 we look to the preamble of a lawyer's
3 responsibilities and if you look to item six,
4 (reading): "All lawyers should devote
5 professional time and resources and use civic
6 influence to ensure equal access to our system
7 of justice for those who because of economic
8 or social barriers cannot afford or secure
9 adequate legal counsel."

10 I have not been before this court,
11 Your Honor, I cannot think of a time when I've
12 asked to be relieved on an appointment other
13 than a direct conflict in the case with the
14 past. I take my appointments very seriously,
15 Your Honor. I was just up here last week in
16 General Sessions Court.

17 THE COURT: I understand.

18 MR. BIERING: I tried an entire
19 week of trial. I take them very seriously.
20 As we move on to item nine, (reading): "In the
21 nature of law practice, when conflicting
22 responsibilities are encountered virtually all
23 ethical conflicts arise when lawyer's --
24 (rapid reading) -- "...in the lawyer's own
25 interest of remaining an ethical person while

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1 earning a satisfactory living."

2 Your Honor, I continue to work
3 towards serving my responsibility as it
4 relates to appointments, but as we move on
5 into the analysis of what we have in this
6 situation, we have obviously -- because we
7 have been here twice, we have an attorney
8 client relationship that is -- that has
9 fundamental disagreement, to quote the rules.

10 THE COURT: Mr. Biering, I'm sorry,
11 sir, but you really are talking to me as
12 though I don't know what -- I never had this.
13 I practiced law for twenty-one years. I know
14 what problems exist. But I have dealt with
15 this for eighteen years. Do you think that
16 two times being in court is a lot? Because I
17 will tell you in Charleston that you hear that
18 frequently -- three or four times. I don't
19 understand how that creates a problem. I
20 understand how it is not pleasant, but you're
21 -- you are appointed, sir. So I am not going
22 to relieve you.

23 MR. BIERING: I have no other
24 issue that I'd ask the court to consider.

25 THE COURT: All right.

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1 MR. BIERING: And I ask that the
2 court consider it on an *ex parte* basis.

3 THE COURT: No, sir. No *ex parte*
4 considerations. I don't consider them.
5 Refuse to. Violated everything, in my
6 opinion.

7 MR. BIERING: I have a potential
8 personal conflict of interest in this case.

9 THE COURT: What is the personal
10 conflict?

11 MR. BIERING: (No verbal
12 response).

13 THE COURT: What is the nature of
14 the conflict?

15 MR. BIERING: The nature of the
16 conflict is the relationship, uh, that I have
17 in my role in a nonprofit entity with -- a
18 supervisory role, very close contact with
19 Captain Ollic's wife. She and -- there have
20 been issues raised here, Your Honor, and out
21 of an abundance of caution, I believe that
22 those potential personal conflicts of interest
23 should be considered and I should be relieved
24 in this case.

25 THE COURT: What issue has been

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1 raised that indicates a conflict that --
2 frankly, if you have a conflict in this case,
3 you have a conflict in every case. So I don't
4 understand that. You just tried a criminal
5 case last week. I don't understand how this
6 case is any different if there is some
7 connection with an officer.

8 MR. BIERING: My client believes
9 that there is a connection.

10 THE COURT: Mr. Biering, with all
11 due respect, sir, is there a connection? Is
12 there a conspiracy? That's what he has
13 alleged?

14 MR. BIERING: No, Your Honor,
15 there is no conspiracy.

16 THE COURT: Then I am not the least
17 bit concerned about it. The fact that he has
18 alleged it doesn't make it so. The fact that
19 there may be circumstances, that's just --
20 that is insane. I mean, I don't understand
21 why I am supposed to give credence to that.
22 Unless you tell me that there is some truth to
23 that. If you are telling me that, Mr.
24 Biering, you're right.

25 MR. BIERING: Your Honor, I am

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22

1 not telling you that.

2 THE COURT: I am just asking you
3 because that is the only possible thing that
4 it could support, isn't it?

5 MR. BIERING: (No verbal
6 response).

7 THE COURT: What else is there?
8 What other allegations would be -- that maybe
9 would be an indica of that allegation, support
10 to that allegation? That's the only one that
11 I can think of.

12 MR. BIERING: Your Honor, this
13 is a difficult situation. This case is nine
14 months old to me. I respect the fact that it
15 is not nine months old to the court. I
16 respect the fact that it is very difficult
17 because the matter needs to be moved. I would
18 just ask the court to relieve me from this
19 case. Thank you, Your Honor.

20 THE COURT: Thank you, sir. Your
21 Motion is denied. Now, Mr. McCray, do you
22 want to represent yourself?

23 DEFENDANT: No, Your Honor. No,
24 sir.

25 THE COURT: Okay. Then the Motion

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1 is denied all the way around. Thank you.

2 (HEARING CONCLUDED)

3

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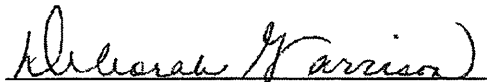
State of South Carolina v. Ron Santa McCray
Case No. 11-GS-08-0947
Hearing of September 18, 2012
before The Honorable R. Markley Dennis, Jr.

24

CERTIFICATE OF REPORTER

I, the undersigned, Deborah Garrison,
official court reporter for the 9th Judicial
Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true,
accurate and complete transcript of the
hearing held before The Honorable R. Markley
Dennis, Jr., on September 18, 2012;

I further certify that I am neither kin
nor counsel to any of the parties and have no
interest in the outcome of this action.



Deborah Garrison
Circuit Court Reporter
9th Judicial Circuit

Charleston, South Carolina

June 4, 2013

1 STATE OF SOUTH CAROLINA
2 COUNTY OF BERKELEY

COURT OF GENERAL SESSIONS
2011-GS-08-0947

3 STATE OF SOUTH CAROLINA)
4 Plaintiff)

5 V.)

TRANSCRIPT OF RECORD

6 RON SANTA MCCRAY,
7 Defendant.)

8 October 29, 2012
9 through
10 November 2, 2012

11 Moncks Corner, South Carolina
12
13

14 B E F O R E:

15 THE HONORABLE KRISTI HARRINGTON, JUDGE
16
17

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

19 Mr. Brian Alfaro, Assistant Solicitor
20 Ms. Ann Williams, Assistant Solicitor
Representing the State

21 Mr. Christopher Biering, Esquire
22 Representing the Defendant
23

24 Anne Bouley Meyer, RPR
25 Circuit Court Reporter

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ALL WITNESSES:

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1 THE COURT: Anything before we bring in Mr.
2 McCray?

3 MR. BIERING: Your Honor, I have got the one
4 motion that I would ask to be heard as soon as
5 potentially possible related to fees. And I do believe
6 that the motion Mr. McCray asked me to file, as related
7 to my position as his counsel, would appropriately be
8 heard before we move forward with jury selection.

9 And we also presented a motion for change of
10 venue, and I think that would also be appropriate.

11 THE COURT: Mr. Alfaro, anything we need to hear
12 before?

13 MR. ALFARO: The only other issue, other than
14 what Mr. Biering has raised, would be the matter of the
15 State's voir dire request. Also there were a couple of
16 items on Mr. Biering's proposed voir dire that the
17 state would have objection to.

18 THE COURT: We will address those in front of
19 Mr. McCray, thank you.

20 THE COURT: Take a few moments. We will bring
21 in Mr. McCray.

22 (Whereupon, a recess was taken.)

23 THE COURT: Mr. Alfaro, do you have any
24 objections to any of the voir dire presented by the
25 defendant?

1 MR. ALFARO: Your Honor, there are two items on
2 the voir dire. The State's objection would be to item
3 number -- the wording on item number 6 regarding any
4 member, you or a member of your immediately family had
5 a gun accident that resulted in serious bodily injury
6 or death. The State has no objection to an inquiry as
7 to whether any of the prospective jurors or their
8 family has suffered any serious bodily injury or death
9 as a result of firearms. The State's objection is to
10 the placement or the use of the word accident in the
11 voir dire as a potential trial issue that may arise.

12 The second issue is a similar one regarding
13 defendant's proposed number 8 regarding the
14 self-defense and their ability to return a verdict. I
15 believe that will be covered by Your Honor's standard
16 voir dire that the Judge is the instructor as to the
17 law and that the jury is to accept that and to rule
18 accordingly.

19 THE COURT: Thank you.

20 Mr. Biering, do you have any objection to the
21 State's proposed voir dire?

22 MR. BIERING: Your Honor, I do not have any
23 objection to the State's requested voir dire. If
24 possible, if I could be heard on the objections as
25 relates to our requested voir dire.

1 THE COURT: No, thank you.

2 MR. BIERING: Thank you, Your Honor.

3 THE COURT: Just for the record outside we did
4 the general jury qualification outside the presence of
5 Mr. McCray, just note that for the record.

6 Anything before we bring back in the jury, Mr.
7 Alfaro?

8 MR. ALFARO: No, Your Honor.

9 THE COURT: Mr. Biering?

10 MR. BIERING: If I could just note for the
11 record that I requested my client be present during
12 that component of the court proceedings. Thank you,
13 Your Honor.

14 THE COURT: Thank you. Anything before we bring
15 in the jury?

16 Mr. Biering, the strikes are 5 and 10; is that
17 correct?

18 MR. ALFARO: Yes, Your Honor.

19 THE COURT: Is that your understanding, 5 and
20 10?

21 MR. BIERING: Yes, Your Honor. Your Honor, my
22 client would like to be heard on the issue as it
23 relates to the motion for me to be relieved at this
24 time.

25 THE COURT: All right. Mr. Biering, are you

1 prepared to go forward at this time?

2 MR. BIERING: Am I prepared to go forward with
3 the defense of the case? Yes, Your Honor.

4 THE COURT: And have you had any difficulty
5 discussing and preparing for this case with the help of
6 Mr. McCray?

7 MR. BIERING: Yes, Your Honor, I have.

8 THE COURT: And what was that? What difficulty
9 have you had?

10 MR. BIERING: Your Honor, I want to make it
11 clear for the record, I'm not asking to be relieved at
12 this point. My client has requested that I file that
13 motion.

14 Your Honor, on numerous occasions there has been
15 a refusal to, on numerous occasions, a refusal to
16 discuss the case with me. There have been a refusal to
17 cooperate in the preparation of the defense, even when
18 times that there was communication.

19 And there was an incident last week in the jail
20 where it was a perceived threat by the defendant
21 against me.

22 THE COURT: And, Mr. Biering, is there anything
23 about that that affects your ability to represent Mr.
24 McCray under your oath as an attorney?

25 MR. BIERING: Absolutely not, Your Honor. I'm

1 prepared to defend this case. And I have worked very
2 diligently to prepare a defense and move forward. And
3 I'm prepared to move forward at this time.

4 THE COURT: All right. Mr. McCray, you wish for
5 your attorney to be relieved; is that correct?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Please stand and let's swear Mr.
8 McCray.

9 THE CLERK: Please raise your right hand. The
10 testimony you give the Court shall be the truth, the
11 whole truth and nothing but the truth so help you.
12 God.

13 THE DEFENDANT: So help me God.

14 THE COURT: Mr. McCray, you wish for Mr. Biering
15 to be relieved; is that correct?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And why is that?

18 THE DEFENDANT: Your Honor, last week my
19 attorney, he told me that he had a conversation with
20 some detectives about an ongoing investigation. And
21 this investigation was about some people that was in a
22 video, a music video.

23 Now the people in this video, Your Honor, are my
24 family. And some of them are potential witnesses in my
25 case. Now I understand this is an ongoing video. I

1 don't know why people make videos that has drugs and
2 guns and stuff like that.

3 But anyway, my attorney had a conversation with
4 these detectives. And they identified my brother in
5 the actual video. Now my attorney, he had -- I saw
6 this video. Now they are my family members. They are,
7 like I said, my brother is in the video.

8 Now then he asked me who were the people in the
9 video. So I did not tell them because I just feel as
10 though that something that just seems strange. But at
11 the same time he asked me if they were gang members.
12 He asked me what area it was being held at.

13 I just feel as though that this ongoing
14 investigation that my attorney is working hard with the
15 police department to try to get the names and the
16 people that's in the video. And that, Your Honor,
17 that's definitely a conflict of interest.

18 Now I have another conflict of interest with my
19 private investigator. My private investigator is the
20 brother of the actual arresting officer. Now I talked
21 to Mr. Scarborough about that. He said he just found
22 out. I don't know. But they had my case now for 11
23 months. But he is saying he found out.

24 So but at the same time, Your Honor, I believe
25 that is a conflict of interest. I have had four

1 attorneys. I only asked for one to be relieved. The
2 rest of the ones, they just, they just wanted to get
3 off the case. Only one I asked to be relieved was
4 Cameron Marshall. And other than that, the other ones
5 just said they found a conflict of interest.

6 And Jerry Deals, as a matter of fact, he said he
7 had a conflict of interest because he had one of the
8 officers working for him. So at the same time, Your
9 Honor, I agreed with Deals, that's a conflict of
10 interest definitely for him to be working with the
11 actual police department just to try to get names of
12 people that's part of my family members and part of
13 that's potential witnesses in my case.

14 Now there are some people in North Charleston
15 actually got arrested for doing stuff like that, just
16 having stuff that was illegal. The feds stepped in,
17 they got arrested. But at the same time, he did have
18 this ongoing investigation.

19 THE COURT: Mr. McCray, the State is calling
20 your case.

21 THE DEFENDANT: Yes.

22 THE COURT: So your options at this point are to
23 go forward with Mr. Biering or to represent yourself or
24 have an attorney come in at this late hour to represent
25 you. What is your choice?

1 THE DEFENDANT: Your Honor, I can't represent
2 myself. I was already in front of Judge Dennis and it
3 has been proven I cannot represent myself, at the same
4 time this is definitely a conflict of interest.

5 THE COURT: All right. Thank you, Mr. McCray,
6 you may have a seat.

7 Mr. Biering, you heard what Mr. McCray has
8 indicated to the Court. Without divulging any trial
9 strategy, or any attorney/client privilege, I need to
10 know, do you feel that there is a conflict of interest
11 on any of the activities that Mr. McCray expressed?

12 MR. BIERING: I do not, Your Honor. I think the
13 issue of, can't remember if the issue with Lt.
14 Scarborough, there have been previous motions to be
15 relieved, Your Honor. And before Judge Dennis it was
16 disclosed at a hearing there that I had prior
17 representation of four of the officers that were
18 involved in the investigation of this case; Rick Ollic,
19 Mr. Deputy Boyd, Lee Holbrook, Renee Ramsey.

20 And certainly my investigator's brother is Lt.
21 Scarborough with the Charleston County Sheriff's
22 Department.

23 THE COURT: Is Charleston County Sheriff's
24 Department involved in this case at all?

25 MR. BIERING: That's the arrest of my client was

1 made by Charleston County Sheriff's Department. I
2 think those issues have been addressed by Judge Dennis.

3 There is no active representation. And I do not
4 believe at this juncture there is a conflict of
5 interest. I have prepared this case to defend this
6 case this week, and I'm prepared to move forward if my
7 client and the Court so desires.

8 THE COURT: And your investigator, just for the
9 record?

10 MR. BIERING: James Scarborough.

11 THE COURT: All right. Mr. Scarborough.

12 MR. SCARBOROUGH: Yes, ma'am.

13 THE COURT: Have you discussed this matter at
14 all with your brother, Lt. Scarborough?

15 MR. SCARBOROUGH: Two days ago I made a phone
16 case, I heard he was under subpoena. We have never
17 discussed the case. And he said at the time he was
18 relieved. And I didn't discuss it any longer.

19 He called me back and said the solicitor would
20 be calling. We never discussed anything about it. We
21 never really talk much. He is very busy.

22 MR. BIERING: Your Honor, my understanding is
23 that he doesn't have a very close relationship with his
24 brother. In fact prior to this past week there had not
25 been a conversation in about eight months.

1 THE COURT: All right, thank you.

2 Based upon what I have heard, the Court does not
3 find that there is a conflict. Mr. Biering has
4 indicated that he is prepared to go forward. As a
5 matter of fact he has provided the Court an ex-parte
6 motion indicating that he has spent substantial time
7 and resources in preparing for this case. Based upon
8 what I have heard, I'm denying your motion, Mr. McCray,
9 to relieve Mr. Biering. Thank you.

10 Anything else before we bring in the jury?

11 MR. BIERING: Your Honor, our other motion was a
12 motion to change venue. If I could be heard briefly on
13 that.

14 THE COURT: You may, thank you.

15 MR. BIERING: Your Honor, two issues simply go
16 to the potential celebrity status really on two prongs.
17 One, the alleged victim in this case, Mr. Reginald
18 Porcher's brother Robert Porcher, was a standout
19 athlete at Wando High School. Went on to play at South
20 Carolina University, and after that played in the NFL
21 for the Detroit Lions.

22 And the other issue is that the alleged victim's
23 father is the past president of International
24 Longshoreman Association. It's our position that those
25 issues are far-reaching within the community, and

1 question the ability of my client to receive a fair
2 trial in Berkeley County.

3 We move for a change of venue out of the 9th
4 Circuit. Thank you.

5 THE COURT: Mr. Alfaro.

6 MR. ALFARO: Your Honor, I believe the two
7 issues raised by Mr. Biering could be very easily and
8 actually more appropriately addressed in voir dire. I
9 saw in his proposed voir dire he had made reference to
10 the Longshoreman's Association.

11 Regarding the issue of the victim's brother, the
12 victim's brother is not anticipated to testify at the
13 trial. Given the fact that he was a football player in
14 Wando, which is in Charleston as opposed to Berkeley,
15 the fact that he played football at SC State and again
16 in the NFL, under that theory that that should be a
17 reason to change venue, it would be impossible to find
18 a venue in this state or in the country where that
19 knowledge wasn't out there to some extent.

20 I believe that the more appropriate avenue to
21 handle those issues is to deal with those on voir dire.
22 And if the jurors can indicate that they are prepared
23 to render a fair and impartial verdict despite
24 knowledge of those two issues, then the State believes
25 that the venue in Berkeley County is appropriate.

1 THE COURT: Do you plan to call the brother?

2 MR. ALFARO: No, Your Honor.

3 THE COURT: Okay. Do you plan to -- is he on
4 the witness list?

5 MR. BIERING: He is not, Your Honor.

6 THE COURT: Mr. Biering.

7 MR. BIERING: The only other issue, I think I
8 misspoke, I think I said he played at Wando. So I
9 believe he graduated from Cane Bay High School, which
10 is in Berkeley County.

11 THE COURT: I will address the issue, and will
12 always indicate does anybody know of anything about
13 this case. I'm going ask if anybody has been involved
14 with the Longshoreman's Union. And if I feel that
15 there are not substantial enough jurors from which to
16 select a fair and impartial panel, I will renew -- I
17 will allow you to argue your motion.

18 MR. ALFARO: Thank you, Your Honor.

19 THE COURT: All right. I'm going to bring in
20 the jury.

21 MR. ALFARO: Nothing from the State, Your Honor.

22 MR. BIERING: Nothing from the defendant, Your
23 Honor.

24 THE COURT: All right. And, counsel, just to
25 make it -- just to have continuity, do not stand for

1 the jury until they have been selected and we have
2 brought them back in. So until the jury has been
3 selected and brought back in, do not stand for the
4 jury. All right, thank you.

5 MR. BIERING: Thank you, Your Honor.

6 THE COURT: All right, let's bring in the jury.
7 Does the defendant waive formal arraignment?

8 MR. BIERING: Yes, Your Honor.

9 (Whereupon, the prospective jurors enter the
10 courtroom.)

11 THE COURT: Ladies and gentlemen, we are now
12 going to begin to select a jury for the State of South
13 Carolina versus Ron Santa McCray.

14 Mr. Biering, stand and introduce yourself and
15 your client and any persons who will be assisting you
16 throughout this trial.

17 MR. BIERING: Good morning. My name is
18 Christopher Biering. I practice law here in Moncks
19 Corner. I am representing Ron Santa McCray. I will be
20 assisted from time to time during the trial by Mr.
21 James Scarborough. He is not an attorney, but he will
22 be assisting me. You may see him coming in and out of
23 the courtroom. Thank you.

24 THE COURT: Is there any member of the jury
25 panel related by blood, marriage, close personal

1 friends, ever have any business, personal or
2 professional dealings with Mr. Ron McCray, if so please
3 stand.

4 Thank you, there are none.

5 Any member of the jury panel related by blood or
6 marriage, close personal friends, ever have any
7 business, personal or professional dealings, or ever
8 been represented by Mr. Biering, if so please stand.

9 Yes, sir, your jury number and name? We'll
10 start with Mr. Sweatman. Mr. Sweatman.

11 A JUROR: 169, close personal friend.

12 THE COURT: Of Mr. Biering?

13 A JUROR: Correct.

14 THE COURT: Is there anything about that
15 relationship that will affect your ability to be fair
16 and impartial in this case?

17 A JUROR: Yes.

18 THE COURT: All right. Mr. Sweatman, I'm going
19 to excuse you from the trial of this case. You need to
20 stay with us, but you don't have to answer anymore
21 questions regarding this matter. Thank you.

22 Yes, ma'am.

23 A JUROR: Juror number 85. I believe Mr.
24 Biering was my attorney at one point a few years ago.

25 THE COURT: Is there anything about that that

1 would affect your ability to be fair and impartial in
2 this case?

3 A JUROR: No.

4 THE COURT: And your jury number and name one
5 more time.

6 A JUROR: 85, Sharon Kinney.

7 THE COURT: Thank you.

8 Is there anyone else? Thank you, there are
9 none.

10 Ladies and gentlemen, Mr. McCray has been
11 charged in an indictment. And an indictment is simply
12 a formal document by which this case comes into court.
13 Mr. McCray has pled not guilty to this indictment.

14 The state alleges that in Berkeley County, on or
15 about September 16th of 2009, with malice aforethought,
16 Ron Santa McCray did unlawfully kill and murder
17 Reginald Porcher by means of a gunshot wound. And that
18 Reginald Porcher did die in Berkeley County as a
19 proximate result thereof on September 16th, 2009.

20 This action is in violation of section 16-310 of
21 the South Carolina code of laws, 1976 as amended.

22 Is there any member of the jury panel that knows
23 anything about this case other than what I have just
24 read to you, if so please stand.

25 Thank you, there are none.

1 Mr. Alfaro, if you would please stand, introduce
2 yourself, any person who will be assisting you
3 throughout this trial, and just a little bit about the
4 solicitor's office.

5 MR. ALFARO: Thank you, Your Honor.

6 Good morning, ladies and gentlemen. My name is
7 Brian Alfaro. I am a deputy solicitor for the Berkeley
8 County solicitor's office. We are part of the 9th
9 Circuit solicitor's office which is the elected
10 official is Solicitor Scarlet Wilson. She is the
11 elected official for both Berkeley and Charleston
12 county. We handle the day-to-day operation here in
13 Berkeley County.

14 Sitting with me during the course of this trial
15 will be senior assistant solicitor Ann Williams. Also
16 Mason West is a new assistant solicitor in our office
17 who will not be questioning anybody, he will be
18 handling some of the technical equipment for us.

19 And also Denise Brown is a paralegal in our
20 office. And one of the investigators in our office is
21 Charles Hart. He is not in the courtroom right now,
22 but he will be in and out during the course of the
23 trial.

24 THE COURT: Is there any member of the jury
25 panel related by blood, marriage, close personal

1 friend, ever have any business, personal or
2 professional dealings with Mr. Alfaro, Ms. Williams,
3 Mr. West or Ms. Brown, if so please stand.

4 Thank you, there are none.

5 Any member of the panel ever had any matters
6 handled by the Ninth Circuit Solicitor's office here in
7 Berkeley County or in Charleston County, if so please
8 stand.

9 Thank you, there are none.

10 Any members of the jury panel ever been employed
11 by, or had a friend or family member employed by the
12 Ninth Circuit Solicitor's Office, if so please stand.

13 thank you, there are none.

14 Ladies and gentlemen, I am now going to call a
15 list of potential witnesses who may be called to
16 testify in this case.

17 Ladies and gentlemen, please remember these are
18 potential witnesses. But if you are related by blood,
19 in marriage, close personal friend, ever have business,
20 personal, or professional dealings with any of these
21 individuals, please stand.

22 Tony Daniels with Charleston Police Department.
23 Melissa Jacumin. Joyce Wright. Akeem Asby. Felicia
24 Coaxum. Tianna Mack. Levon Mack. Lantania Asby.
25 Robert Porcher, Jr. Tricia Merrithew with the Berkeley

1 County EMS. Jennifer Reed, Berkeley County EMS. James
2 Boykin.

3 Deputy Sharon Shuler with the Berkeley County
4 Sheriff's Office. Lt. Dean Kokinda with the Berkeley
5 County Sheriff's Office. Deputy Crystal Spence with
6 the Berkeley County Sheriff's Office. Detective James
7 Riser, Berkeley County Sheriff's office.

8 Detective Kevin Murphy, Berkeley County
9 Sheriff's Office. Lt. Currie, Berkeley County
10 Sheriff's Office. Lt. Brabham, Berkeley County
11 Sheriff's Office. Lt. Jackson, Berkeley County
12 Sheriff's Office.

13 Sgt. Jamie Geiger, Berkeley County Sheriff's
14 Office. Sgt. Geno Alteri, Berkeley County Sheriff's
15 office. Sgt. Bobby Shuler, Berkeley County Sheriff's
16 Office. Deputy Danny Mazzell, Berkeley County
17 Sheriff's Office.

18 Katie Shuler. Detective Kathy Kjellman, with
19 the Charleston County Sheriff's Office. Detective D.H.
20 Owen, Charleston County Sheriff's Office. Keith
21 Harriott, Charleston County Sheriff's Office.

22 Lt. Jack Scarborough, Charleston County
23 Sheriff's Office. Sgt. Al Hallman, North Charleston
24 Police Department. Felicia Simmons.

25 Doris Yarbrough, with State Law Enforcement

1 Division, otherwise known as SLED. Maryann Boehm with
2 SLED. Verona Gibson with SLED. Ila Simmons with SLED.
3 Patricia Crooks with SLED. Nikki Perry. Sheree Brown
4 with SLED. Selena Kinard with SLED. Hue Tang with
5 SLED.

6 Lisa Waananen with SLED. Stephanie Stanley with
7 SLED. James Green with SLED. Christopher Cleggett.
8 Dr. Erin Presnell with the Medical University of South
9 Carolina. Gerald McElvogue. Kylie Kinloch. Edward EJ
10 Bacon. Edward Sleepy Mitchell.

11 Danielle Venning Mack. Abdulla Fishburne.
12 Joseph Ashby. Jarvis Turner. Richard Spears. Gerald
13 Green. Maria Fishburne. Channel Snider. Jerome
14 Kinlaw. Chavis White. Elise Graham with the Medical
15 University of South Carolina. Nadine Pridgen, with the
16 South Carolina Department of Corrections. Janice
17 Kenealy, South Carolina Department of Corrections.

18 Any member of the jury panel know any of those
19 individuals, if so please stand.

20 Start right here, your jury number and name.

21 A JUROR: 111, Rosemarie Mcleod. I know Geno
22 Alteri.

23 THE COURT: All right. And is there anything
24 about you knowing Geno Alteri that would affect your
25 ability to be fair and impartial in this case?

1 A JUROR: No.

2 THE COURT: Jury number and name.

3 A JUROR: 111, Rosemarie Mcleod.

4 THE COURT: Thank you.

5 Yes, ma'am. Your jury number and name.

6 A JUROR: Jury number 55, Catherine Ellis. Was
7 the name that was mentioned, and the name sounds
8 familiar but I don't know whether it's the person that
9 I'm thinking about or not.

10 THE COURT: What name was it?

11 A JUROR: Robert Porcher, Jr.

12 THE COURT: And how do you know Robert Porcher,
13 Jr.

14 A JUROR: He is my neighbor. Well his parents
15 live in my neighborhood.

16 THE COURT: All right. And is there anything
17 about, if it is the same individual, is there anything
18 about your relationship, if that individual testifies,
19 that would affect your ability to be fair and impartial
20 in this case?

21 A JUROR: No.

22 THE COURT: And your jury number and name.

23 A JUROR: Jury number 55, Catherine Ellis.

24 THE COURT: All right. Ms. Ellis, without
25 giving us your specific address, can you tell us the

1 general area of Berkeley County that you live in.

2 A JUROR: West end of Moncks Corner.

3 THE COURT: All right, thank you.

4 Yes, ma'am.

5 A JUROR: Daniela Belser, number 10.

6 Kylie Kinloch is my student.

7 THE COURT: One more time, Kelly?

8 A JUROR: Kinloch, she is a student.

9 THE COURT: Is there anything about that
10 individual being your student that would affect your
11 ability to be fair and impartial in this case?

12 A JUROR: No, Your Honor.

13 THE COURT: All right. Where do you teach?

14 A JUROR: Trident Technical College.

15 THE COURT: All right, thank you. You are juror
16 number 10?

17 A JUROR: Yes, ma'am.

18 THE COURT: Thank you.

19 Is there anyone else?

20 Thank you, there are none.

21 Is there any member of the jury panel that is
22 currently employed, ever been employed by, or has a
23 friend or family member employed with Berkeley County
24 EMS, Berkeley County Sheriff's office, Charleston
25 County Sheriff's Office, North Charleston Police

1 Department, State Law Enforcement Division, Charleston
2 County Airport, Berkeley County Sheriff's, or the South
3 Carolina Department of Corrections, if so please stand.

4 All right, let's start here. Jury number and
5 name.

6 A JUROR: 41, Aimee Scott. My father works for
7 Charleston County Sheriff's Department in the
8 courthouse.

9 THE COURT: All right. Is there anything about
10 that that would affect your ability to be fair and
11 impartial in this case?

12 A JUROR: No.

13 THE COURT: And do you know any of the
14 individuals that I called their name?

15 A JUROR: No, ma'am.

16 THE COURT: Your jury number and name before you
17 sit down.

18 A JUROR: 41, Aimee Scott.

19 THE COURT: Thank you.

20 Yes, sir.

21 A JUROR: Juror 77, Josh Herbert. I'm a very
22 close friend with a corrections officer in the jail.
23 And a close family friends with a sergeant with the
24 Berkeley County Sheriff's Office.

25 THE COURT: You have a friend that's a sergeant

1 for the Berkeley County Sheriff's Office.

2 A JUROR: A family friend

3 THE COURT: What is that sergeant's name.

4 A JUROR: Brian O'Rourke.

5 THE COURT: Is there anything about what you
6 have shared with us that would affect your ability to
7 be fair and impartial in this case.

8 A JUROR: No, ma'am.

9 THE COURT: And your juror number and name.

10 A JUROR: 77, Josh Herbert.

11 THE COURT: And you indicated you had a friend
12 as a corrections officer.

13 A JUROR: In the jail, yes.

14 THE COURT: In Berkeley County or somewhere
15 else?

16 A JUROR: Berkeley County.

17 THE COURT: That individual's name?

18 A JUROR: Tyler McQuinton.

19 THE COURT: Anything about that that would
20 affect your ability to be fair and impartial in this
21 case?

22 A JUROR: No, ma'am.

23 THE COURT: Thank you.

24 Yes.

25 A JUROR: Juror 186, Rayleen Wilson. I work at

1 the Charleston Airport. And my husband works for the
2 South Carolina Department of Corrections.

3 THE COURT: What do you do at the airport?

4 A JUROR: I work for the transportation security
5 administration.

6 THE COURT: Do you know Gerald McElvogue?

7 A JUROR: No, ma'am.

8 THE COURT: Is there anything about your husband
9 working for the Department of Corrections that would
10 affect your ability to be fair and impartial in this
11 case?

12 A JUROR: No, ma'am.

13 THE COURT: Jury number and name.

14 A JUROR: 186, Rayleen Wilson.

15 THE COURT: Thank you, Ms. Wilson.

16 Is there any member of the panel that is an
17 immediate family heir of the estate of Joseph Wigfall,
18 or the estate of Jacob McNeil, please stand.

19 Thank you, there are none.

20 Is there any member of the panel, or anyone in
21 your immediate family, that is a member of the
22 International Longshoreman's Association, if so please
23 stand.

24 Thank you, there are none.

25 Is there any member of the jury panel, or member

1 of your immediate family, that has ever or currently
2 holds a concealed weapons permit, if so please stand.

3 All right. Yes, sir, your jury number and name.

4 A JUROR: 40, Tom Clarkson.

5 THE COURT: And is it your permit or a member of
6 your family?

7 A JUROR: It's mine.

8 THE COURT: And again, before you sit down, your
9 jury number name.

10 A JUROR: 40, Tom Clarkson.

11 THE COURT: Thank you.

12 Yes, ma'am.

13 A JUROR: Rebecca Spencer, jury number 161, my
14 brother holds one.

15 THE COURT: All right. And your jury number and
16 name before you sit down.

17 A JUROR: Rebecca Spencer, 161

18 THE COURT: Thank you.

19 Yes, sir.

20 A JUROR: Jury 15, Kenneth Boggs. I hold a
21 concealed weapons permit.

22 THE COURT: Thank you.

23 A JUROR: Daniela Belser, number 10. My husband
24 holds one.

25 THE COURT: Thank you.

1 Is there anyone else.

2 A JUROR: Juror 186, Rayleen Wilson. My husband
3 works for the Department of Corrections, I'm not sure
4 if he has a permit, but I do know that he does practice
5 it. But I'm not certain.

6 THE COURT: All right, thank you.

7 I keep forgetting I have three juror members
8 over here. So if you stand up and I don't see you out
9 of the corner my eye, please make sure you catch my
10 attention. Thank you.

11 Is there any member of the jury panel that has
12 ever been a witness in either a civil or a criminal
13 case, if so please stand.

14 A JUROR: Could you be more specific.

15 THE COURT: A witness of any kind in a civil or
16 criminal case. We'd rather have too much information.
17 So I didn't see who that was.

18 A JUROR: Juror number 61, Susan Gaddy. I have
19 been a witness in a civil case.

20 THE COURT: Is there anything about that that
21 would affect your ability to be fair and impartial in
22 this case?

23 A JUROR: No.

24 THE COURT: All right. Thank you, Ms. Gaddy.
25 Yes, ma'am.

1 A JUROR: Juror number 33, Casey Carbery. I
2 have been a witness in a civil case.

3 THE COURT: And what was the nature?

4 A JUROR: Probably 8 years ago for a custody
5 battle.

6 THE COURT: All right.

7 Is there anything about your involvement that
8 would affect your ability to be fair and impartial in
9 this case?

10 A JUROR: No, ma'am.

11 THE COURT: And your jury number and name.

12 A JUROR: 33, Casey Carbery.

13 THE COURT: Thank you.

14 Anyone else?

15 Thank you, there are none.

16 Ladies and gentlemen, is there any member of the
17 jury panel that currently, or has ever lived on or near
18 Jack Primis Road in Wando, if so please stand.

19 Is there any member of the jury panel that lives
20 in Wando?

21 Thank you, there are none.

22 Ladies and gentlemen, I now have a series of
23 questions to ask you that I need for you to approach
24 and answer these questions.

25 Is there any member of the jury panel, or member

1 of your immediate family that has ever been the victim
2 of a violent crime.

3 Is there any member of the jury panel, or a
4 member of your immediate family that has ever been
5 involved in an injury resulting in serious bodily
6 injury or death involving a gun.

7 Is there any member of the panel, or a member of
8 your family, that has ever been involved, or has any
9 criminal charges adjudicated or currently pending with
10 the Berkeley County Solicitor's Office or Charleston
11 County Solicitor's office.

12 Ladies and gentlemen, if there is any member of
13 the jury panel that based upon either what I have read
14 to you or the nature of my questions that you feel you
15 would be unable to listen to the facts as presented
16 from the witness stand, apply the law as the court
17 gives it to you, and render a verdict based only on
18 those things free of any personal, moral, religious or
19 political beliefs that you may hold, if you feel that
20 you would be unable to be a fair and impartial juror
21 for whatever reason, you need to answer any previous
22 questions, please move to the center and the bailiff
23 will assist you and I will speak to you in private.

24 Ladies and gentlemen, I'm assuming that no one
25 needs to answer any further questions with me in

1 private since I see no movement.

2 Mr. Alfaro, any additional questions?

3 MR. ALFARO: Yes, Your Honor. Can we approach?

4 THE COURT: You may.

5 (Whereupon, a discussion was held at the bench
6 off the record.)

7 THE COURT: All right, ladies and gentlemen, I
8 missed reading a name on the potential witness list.

9 Is there any member of the jury panel related by
10 blood, marriage, close personal friend, ever had any
11 business, personal, professional dealings with
12 Quanteria (phonetic) Mack, if so please stand.

13 Thank you, there are none.

14 Based upon that, Mr. Alfaro, any additional
15 questions?

16 MR. ALFARO: No, Your Honor.

17 THE COURT: Mr. Biering, any additional
18 questions?

19 MR. BIERING: No, Your Honor.

20 THE COURT: All right. Madam clerk, if you'll
21 please select and do the list. It's 5 and 10 and I
22 will pick two alternates.

23 THE CLERK: Ladies and gentlemen of the jury, as
24 I call your name, please come forward bring your
25 personal belongings with you.

1 If I say seat the juror, have a seat in the jury
2 box. If I say excuse the juror, please return to your
3 original seat.

4 Juror 61, Suzanne Gaddy.

5 (Whereupon, a white female approaches.)

6 THE CLERK: What say you for the State?

7 MR. ALFARO: Please excuse the juror.

8 THE CLERK: Excuse the juror.

9 Juror 149, Alice Salley.

10 (Whereupon, a black female approaches.)

11 THE CLERK: What say you for the State?

12 MR. ALFARO: Please seat this juror.

13 THE CLERK: What say you for the defendant?

14 MR. BIERING: Please seat this juror.

15 THE CLERK: Seat the juror.

16 Juror 111, Rosemarie Mcleod.

17 (Whereupon, a white female approaches.)

18 THE CLERK: What say you for the State?

19 MR. ALFARO: Please seat this juror.

20 THE CLERK: What say you for the defendant?

21 MR. BIERING: Please excuse the juror.

22 THE CLERK: Excuse the juror.

23 Juror 25, Brenda Brown.

24 (Whereupon, a black female approaches.)

25 THE CLERK: What say you for the State.

1 MR. ALFARO: Please excuse the juror.
2 THE CLERK: Excuse the juror.
3 Juror 10, Daniela Belser.
4 (Whereupon, a white female approaches.)
5 THE CLERK: What say you for the State?
6 MR. ALFARO: Please seat this juror.
7 THE CLERK: What say you for the defendant?
8 MR. BIERING: Please excuse the juror.
9 THE CLERK: Excuse the juror.
10 Juror 128, Sonia Palmer.
11 (Whereupon, a black female approaches.)
12 THE CLERK: What say you for the State?
13 MR. ALFARO: Please excuse the juror.
14 THE CLERK: Excuse the juror.
15 Juror 136, Kristol Quigley.
16 (Whereupon, a white female approaches.)
17 THE CLERK: What say you for the State?
18 MR. ALFARO: Please seat this juror.
19 THE CLERK: What say you for the defendant?
20 MR. BIERING: Please seat this juror.
21 THE CLERK: Seat the juror.
22 Jury 123, Miguel Negron.
23 (Whereupon, an Hispanic male approaches.)
24 THE CLERK: What say you for the State?
25 MR. ALFARO: Please seat this juror.

1 THE CLERK: What say you for the defendant?
2 MR. BIERING: Please seat this juror.
3 THE CLERK: Seat the juror.
4 Juror 84, Robert King.
5 (Whereupon, a white male approaches.)
6 THE CLERK: What say you for the State?
7 MR. ALFARO: Please seat this juror.
8 THE CLERK: What say you for the defendant?
9 MR. BIERING: Please excuse the juror.
10 THE CLERK: Excuse the juror.
11 Juror 39, Thomas Clarke.
12 (Whereupon, a white male approaches.)
13 THE CLERK: What say you for the State?
14 MR. ALFARO: Please seat this juror.
15 THE CLERK: What say you for the defendant?
16 MR. BIERING: Please excuse the juror.
17 THE CLERK: Excuse the juror.
18 Juror 70, Tanya Harper.
19 (Whereupon, a black female approaches.)
20 THE CLERK: What say you for the State?
21 MR. ALFARO: Please seat this juror.
22 THE CLERK: What say you for the defendant?
23 MR. BIERING: Please seat this juror.
24 THE CLERK: Seat the juror.
25 Juror 113, Mary Michener.

1 (Whereupon, a white female approaches.)

2 THE CLERK: What say you for the State?

3 MR. ALFARO: Please seat this juror.

4 THE CLERK: What say you for the defendant?

5 MR. BIERING: Please excuse the juror.

6 THE CLERK: Excuse the juror.

7 Juror 77, Joshua Herbert.

8 (Whereupon, a white male approaches.)

9 THE CLERK: What say you for the State?

10 MR. ALFARO: Please seat this juror.

11 THE CLERK: What say you for the defendant?

12 MR. BIERING: Your Honor, can we approach?

13 THE COURT: You may.

14 MR. BIERING: Thank you.

15 (Whereupon, a discussion was held at the bench,
16 off the record.)

17 MR. BIERING: We ask this juror be excused.

18 THE CLERK: Excuse the juror.

19 Juror 41, Aimee Scott.

20 (Whereupon, a white female approaches.)

21 THE CLERK: What say you for the State?

22 MR. ALFARO: Please seat this juror.

23 THE CLERK: What say you for the defendant?

24 MR. BIERING: Please seat this juror.

25 THE CLERK: Seat the juror.

1 Juror 55, Catherine Ellis.
2 (Whereupon, a black female approaches.)
3 THE CLERK: What say you for the State?
4 MR. ALFARO: Please seat this juror.
5 THE CLERK: What say you for the defendant?
6 MR. BIERING: Please seat this juror.
7 THE CLERK: Seat the juror.
8 Jury 107, Justin Mayes.
9 (Whereupon, a black male approaches.)
10 THE CLERK: What say you for the State?
11 MR. ALFARO: Please excuse the juror.
12 THE CLERK: Excuse the juror.
13 Juror 83, Lumishia Ketchens.
14 (Whereupon, a black female approaches.)
15 THE CLERK: What say you for the State?
16 MR. ALFARO: Please seat this juror.
17 THE CLERK: What say you for the defendant?
18 MR. BIERING: Please seat this juror.
19 THE CLERK: Seat the juror.
20 Juror 85, Sharon Kinney.
21 (Whereupon, a white female approaches.)
22 THE CLERK: What say you for the State?
23 MR. ALFARO: Please excuse the juror.
24 THE CLERK: Excuse the juror.
25 Juror 183, Cheryl Williams.

1 (Whereupon, a white female approaches.)
2 THE CLERK: Any cause for challenge from the
3 State?
4 MR. ALFARO: None from the State.
5 THE CLERK: What say you for the defendant?
6 MR. BIERING: Please excuse the juror.
7 THE CLERK: Excuse the juror.
8 Juror 125, Ted Nussbaum.
9 (Whereupon, a white male approaches.)
10 THE CLERK: Any cause for challenge from the
11 State?
12 MR. ALFARO: None from the State.
13 THE CLERK: What say you for the defendant?
14 MR. BIERING: Please seat this juror.
15 THE CLERK: Seat the juror.
16 Juror 186, Rayleen Wilson.
17 (Whereupon, a black female approaches.)
18 THE CLERK: Any cause for challenge from the
19 State?
20 MR. ALFARO: None from the State.
21 THE CLERK: What say you for the defendant?
22 MR. BIERING: Please seat this juror.
23 THE CLERK: Seat the juror.
24 Juror 26, Curtis Brown.
25 (Whereupon, a white male approaches.)

1 THE CLERK: Any cause for challenge from the
2 State.

3 MR. ALFARO: None from the State.

4 THE CLERK: What say you for the defendant?

5 MR. BIERING: Please excuse the juror.

6 THE CLERK: Excuse of juror.

7 Juror 19, Delphia Bostic.

8 (Whereupon, a white female approaches.)

9 THE CLERK: Any cause for challenge from the
10 State?

11 MR. ALFARO: None from the State.

12 THE CLERK: What say you for the defendant?

13 MR. BIERING: Please seat this juror.

14 THE CLERK: Seat the juror.

15 Juror 187, Richard Winns.

16 (Whereupon, a black male approaches.)

17 THE CLERK: Any cause for challenge from the
18 State?

19 MR. ALFARO: None from the State.

20 THE CLERK: What say you for the defendant?

21 MR. BIERING: Please seat this juror.

22 THE CLERK: Seat the juror.

23 Jury 104, Brandon Marshall.

24 (Whereupon, a black male approaches.)

25 THE CLERK: Any cause for challenge from the

1 State?

2 MR. ALFARO: None from the State.

3 THE CLERK: What say you for the defendant?

4 MR. BIERING: Please seat this juror.

5 THE CLERK: Seat the juror.

6 Alternate. Juror 72, Patricia Hawkins.

7 (Whereupon, a white female approaches.)

8 THE CLERK: What say you for the State?

9 MR. BIERING: Please seat this juror.

10 THE CLERK: What say you for the defendant?

11 MR. BIERING: Please excuse the juror.

12 THE CLERK: Excuse the juror.

13 Jury 40, Thomas Clarkson.

14 (Whereupon, a white male approaches.)

15 THE CLERK: What say you for the State?

16 MR. ALFARO: Please seat this juror.

17 THE CLERK: What say you for the defendant?

18 MR. BIERING: Please excuse the juror.

19 THE CLERK: Excuse the juror.

20 Jury 180, Billie White.

21 (Whereupon, a black female approaches.)

22 THE CLERK: What say you for the State?

23 MR. ALFARO: Please seat this juror.

24 THE CLERK: Any cause for challenge from the

25 defense?

1 MR. BIERING: None.

2 THE CLERK: Seat the juror.

3 THE COURT: Ms. White, you are the first
4 alternate.

5 THE CLERK: Second alternate. Juror 120,
6 Stephen Murphy.

7 (Whereupon, a white male approaches.)

8 THE CLERK: What say you for the State?

9 MR. ALFARO: Please seat this juror.

10 THE CLERK: What say you for the defendant?

11 MR. BIERING: Please seat this juror.

12 THE CLERK: Seat the juror.

13 THE COURT: Mr. Murphy, you are the second
14 alternate.

15 Any motions or matters pertaining to the jury
16 selection process from the State?

17 MR. ALFARO: No, Your Honor.

18 THE COURT: From the defendant?

19 MR. BIERING: May I have just a moment, Your
20 Honor?

21 THE COURT: You may.

22 MR. BIERING: Nothing from the defendant.

23 THE COURT: All right.

24 Ladies and gentlemen, you have been selected as
25 the jury to try this case. So you need to just remain

1 there for just a few moments.

2 Ladies and gentlemen, you were not selected as
3 the jury in this case. But as I indicated to you,
4 there is another judge selecting cases. So the
5 remainder of you, with the exception of Juror 100, need
6 to go to the jury panel room.

7 Thank you.

8 (Whereupon, the prospective jurors exit the
9 courtroom.)

10 (Whereupon, a discussion was held at the bench
11 off the record.)

12 THE COURT: Ladies and gentlemen, as I
13 indicated, you have been selected as the jury to try
14 this case. It is an appropriate time and makes the
15 most sense for us to go ahead and break for lunch at
16 this time.

17 Please remember, and these will be my general
18 instructions to you, until you are discharged from this
19 case, you may not perform any investigation, research
20 or experiments of any kind on your own, either
21 individually or as a group, about this case.

22 Do not consult any dictionaries for the meaning
23 of words, or any encyclopedias for general information
24 on the subject of the trial. Do not look up anything
25 on the Internet concerning this case, any of the people

1 involved. That includes the defendant, the witnesses,
2 the lawyers, as well as the Judge.

3 Ladies and gentlemen, you may not go to the
4 scene where any of the events that are the subject of
5 this trial or alleged to have taken place. You may not
6 use Internet maps or Google Earth or any other program
7 or device to search for or view any place discussed
8 during this case.

9 You must not have any discussions regarding this
10 case, or make any entry on My Space, Facebook,
11 LinkedIn, or any other Internet social media sites.
12 That includes any forms of oral, written and electronic
13 communications, including Twitter, e-mail, blogging and
14 texting.

15 Please understand, I am giving you these
16 instructions as part of my responsibility to ensure
17 that fairness is done to all the parties in this case.
18 That fairness would be compromised, and your actions
19 could jeopardize the results of this trial if you
20 violate my instructions.

21 Ladies and gentlemen, the bailiff will escort
22 you, show you where to report. Please report back at
23 1:30 and we will begin the case at this time.

24 Ladies and gentlemen, we will go to
25 approximately 5:30 this afternoon, so if any of you

1 have any child care arrangements, or any other problems
2 with that, please let the bailiff know and we will
3 handle that matter accordingly.

4 Have one wonderful lunch. Please remember all
5 of my admonitions. Thank you, you are excused.

6 (Whereupon, the jurors exit the courtroom.)

7 THE COURT: Thank you, be seated.

8 Mr. Biering, you had a concern about two of the
9 jurors on the panel. One was not even on the list,
10 which was the teacher. The other one was number 77. I
11 will allow to place both of those on the record.

12 MR. BIERING: Your Honor, our issue that was
13 raised as it relates to juror number 10, certainly that
14 was not an issue, I don't believe. But I had heard the
15 word subpoenaed, that she, possibly as the teacher
16 known that a potential witness had been subpoenaed in
17 this case.

18 And I can't state with certainly what was said.
19 There was an issue of broken English there. I had
20 asked the Court make further inquiry as to her
21 communications with that student as it related to the
22 subpoenaed.

23 And the other issue was to juror number 77. We
24 had asked that the Court strike that juror for cause.
25 Juror number 77, he stated on inquiry that he knows

1 personally, has a close personal relationship with a
2 jailor that has had close contact with my client.

3 My client has been incarcerated pending,
4 detained pending this trial for three years. And we
5 did exercise a strike that potentially could have been
6 utilized further in the calling of the jury.

7 And our position was the Court should have
8 exercised a Court strike for that juror. Thank you.

9 THE COURT: Thank you.

10 I understand there is a motion in limine and
11 Jackson V Denno. Are you prepared to go forward on
12 those issues?

13 MR. BIERING: Can we take 2 minutes?

14 THE COURT: You may take a break, I'm going to
15 sit here.

16 Mr. McCray, do you need a comfort break?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: All right. Mr. Biering, with your
19 client having chains, it just is.

20 MR. BIERING: I understand. I will be very
21 brief.

22 THE COURT: Thank you.

23 (Whereupon, a recess was taken.)

24 THE COURT: All right. Whenever you are ready.

25 MS. WILLIAMS: Your Honor, we can handle the

1 motion limine first. This is the State's motion. And
2 I believe that we did file an amended motion just
3 because the indictment number is wrong.

4 But State is asking that the Court limit any
5 convictions or prior bad acts alleged by the defendant,
6 unless it is -- it was -- I'm sorry, the victim, unless
7 it was directed toward the defendant, or somehow
8 connected to the case.

9 We know that Mr. Biering has subpoenaed a lot of
10 police officers that had prior involvement with the
11 victim from years and years ago. We don't know what he
12 is planning to put up. But we would just ask if he
13 does think there is something relevant that he bring it
14 to the attention of the Court and just give us an
15 opportunity to look at that before he just asks
16 questions or mention it in opening because it's just
17 not relevant, and we think it's highly prejudicial.

18 THE COURT: All right.

19 Mr. Biering, do we need to address this issue
20 now, or when it becomes applicable?

21 MR. BIERING: Your Honor, I think that is
22 something that could be addressed at a later point in
23 the trial. I certainly understand and respect the
24 solicitor's position as it would relates to mentioning
25 of information in opening statement, but certainly

1 opening statements are not testimony, and I'm certainly
2 guarded by and well aware of my ability only to address
3 certain things in opening statement that I would not
4 believe would be of some issue.

5 I'm certainly aware of her motion. But I do
6 think it is something that could be addressed by way of
7 testimony by way of proffer later in the trial.

8 THE COURT: Mr. Biering, just to be clear, you
9 understand what the rules of evidence say about what
10 you can and cannot introduce about the victim's
11 character?

12 MR. BIERING: Your Honor, I would be happy to go
13 through this issue at this point. As it would relate
14 to the limitations, I think that case law does provide
15 for there to be some testimony as it would relate to
16 certain instances of the alleged victim's prior acts,
17 his habits, his routine, his propensity to be a
18 potential threat to my client and to others.

19 THE COURT: Let's do it this way, Mr. Biering.
20 What is it you plan to use in your open statement
21 regarding the victim?

22 MR. BIERING: I don't.

23 THE COURT: All right, thank you.

24 MS. WILLIAMS: We just would point the Court to
25 State v Brown. And the only case I know of that

1 distinguishes Brown which says specifically that the
2 only acts that are related to the defendant or the
3 murder, or whatever crime it is.

4 But State v Day, they did allow a prior act that
5 was four months before, but that act was closely
6 related to the events. Again we just ask that the
7 motion be granted, that anything that comes up
8 involving prior convictions of the victim, prior bad
9 acts of the victim that have nothing to do with the
10 defendant, that he jut -- that we argue it before the
11 Court and not in front of the jury.

12 THE COURT: All right, thank you.

13 Now we have Jackson V Denno as far as the
14 statement?

15 MR. ALFARO: Yes, Your Honor.

16 THE COURT: And where is -- it is a written
17 statement?

18 MR. ALFARO: It is a video statement, Your
19 Honor. It's on the DVD.

20 THE COURT: All right. Call your first witness.

21 MR. ALFARO: State calls Geno Alteri.

22 THE COURT: Mr. Biering, are you requesting that
23 the rule of sequestration be imposed?

24 MR. BIERING: Yes, Your Honor.

25 MR. ALFARO: No objection.

1 THE COURT: Thank you.

2 MR. ALFARO: Your Honor, regarding the
3 sequestration, the State would ask for exceptions for
4 Robert Porcher, Jr., in the fact that he is a victim in
5 the case, the father of the victim. As well as Bobby
6 Shuler who would be designated as the case agent.

7 THE COURT: Those two are exceptions. Thank
8 you.

9 THE COURT: Good morning, Sergeant.

10 THE WITNESS: Good morning.

11 MR. ALFARO: Also, Your Honor, on that matter
12 there was a witness on Mr. Biering's witness list,
13 Barry Currie, who is part of court security. We've
14 asked Mr. Biering if he had any objection to Mr. Currie
15 being allowed in and out of the courtroom for security
16 purposes. He did not have an objection.

17 MR. BIERING: That's correct, I do not.

18 THE COURT: All right, thank you.

19 GENO ALTERI,
20 after having first been sworn to tell the truth, the
21 whole truth and nothing but the truth testified on his
22 oath as follows:

23 MR. ALFARO: May it please the Court.

24 THE COURT: Yes, sir.

25 DIRECT EXAMINATION

1 BY MR. ALFARO:

2 Q Could you tell the Court where you currently
3 work?

4 A Berkeley County Sheriff's Office.

5 Q How long have you been with the sheriff's
6 office?

7 A Approximately 16 years.

8 Q Can you tell us what your current rank and duty
9 assignment is?

10 A I'm a sergeant over the criminal investigation
11 division, persons unit.

12 Q And how long have you been in CID?

13 A Approximately 10 years.

14 Q Were you working in that capacity on September
15 16th, 2009?

16 A Yes, sir.

17 Q And did you have the opportunity to assist in a
18 murder investigation involving the defendant and the
19 victim, Reggie Porcher, that occurred on that day?

20 A Yes, sir.

21 Q And did you have the opportunity to respond to
22 the scene of the murder?

23 A No.

24 Q And at some point in your role in the
25 investigation, did you come into contact with the

1 defendant, Ron McCray?

2 A Yes, sir.

3 Q When did that take place?

4 A September 17th, I believe it was.

5 Q And when is that in relation to the murder?

6 A The following day.

7 Q And where did you meet with him?

8 A At the sheriff's office in the interview room.

9 Q And was the defendant in custody at that time?

10 A Yes, sir.

11 Q And was he interviewed regarding the murder that
12 took place on September 16th?

13 A Yes, sir.

14 Q And you testified that you interviewed him in
15 the interview room at the sheriff's office. Is that
16 room equipped with any recording equipment?

17 A Yes, sir, audio and video.

18 Q And to your knowledge was the equipment working
19 that day?

20 A Yes, sir.

21 Q And was the interview recorded on audio and
22 video?

23 A Yes, sir.

24 Q Prior to asking him any question, was he
25 Mirandized?

1 A Yes, sir.

2 Q Do you recall how you went about providing him
3 his Miranda rights?

4 A We have a Miranda form. I believe I had him
5 read it and had him initial it if he understood each
6 one of them.

7 Q Was anyone else in the room with you when you
8 advised him of his Miranda rights?

9 A No, sir.

10 Q Going to show you what has been marked as
11 State's Exhibit 138, will be the first exhibit for
12 purposes of Denno.

13 Do you recognize that?

14 A Yes, sir.

15 Q And how do you recognize that?

16 A It's got my signature and his signature on the
17 Miranda form we filled out for him with his name.

18 Q And are those the rights that you provided to
19 him prior to interviewing him about the case?

20 A Yes.

21 Q And I'm also at this time going to show you what
22 has been marked as State's Exhibit 137.

23 Do you recognize that?

24 A This is the video, CD of the interview.

25 Q And how do you recognize that as the CD of the

1 interview.

2 A I have my initials and my county number on it.

3 Q And have you had an opportunity to review that?

4 A Yes, sir.

5 Q Does it fairly and accurately depict the
6 entirety of the interview you conducted with Ron McCray
7 on September 17, 2009?

8 A Yes, sir.

9 Q In your review of it, were there any deletions
10 or additions to it?

11 A No, sir.

12 Q Did it appear to have been tampered with in any
13 way?

14 A No, sir.

15 Q Now regarding that State's Exhibit 138, the
16 Miranda form, could you describe for the Court how you
17 went about advising him of his rights on that day?

18 A I filled out the form and then had him read each
19 one and then initial it only if he understood it.

20 Q And could you inform the Court as to each of the
21 rights that you explained to him on that day?

22 A Yes. The first one is, that I have the absolute
23 right to remain silent and do not have to answer
24 questions or give a statement, and this cannot be used
25 against me.

1 Normally I'll ask them after they read each one,
2 or if I have to read it to them, if they understand it.
3 And only if they understand to initial it after each
4 one.

5 Number two, that if I do answer questions or
6 give a statement, anything I say can and will be used
7 against me in a court of law.

8 Number three, that I have the right to consult a
9 lawyer of my choice before I answer questions or give a
10 statement, and also have him present while I'm being
11 questioned.

12 Number four, that if I wish to talk to a lawyer
13 or have him present, but are unable to afford or hire
14 one will be appointed to represent me free of charge.

15 But if I decide to answer questions or give a
16 statement without a lawyer present or representing me,
17 I have the absolute right during the interview to stop
18 answering questions and remain silent.

19 I fully understand each of these rights that has
20 been explained to me, and have these in mind I wish to
21 waive these rights and answer questions concerning the
22 charge of murder of which I have been accused of
23 committing.

24 No threats or promises of any kinds have been
25 made to me by anyone to induce me to waive these rights

1 and answer questions.

2 And it has his signature and my signature.

3 Q And did the defendant appear to understand each
4 of those rights that you just read for the Court, and
5 that you read for him that day?

6 A Yes, sir.

7 Q Did he appear to have any difficulty
8 understanding you?

9 A No, sir.

10 Q Did he appear to be under the influence of any
11 drugs or alcohol at the time?

12 A No, sir.

13 Q You indicated that he understood each of those
14 rights. How did he indicate to you that he did in fact
15 understand each of those rights?

16 A He initialed them and signed the form.

17 Q And you testified that he was informed that the
18 questions were regarding a murder charge?

19 A Correct, that's what was on the form.

20 Q He was informed of that before the interview
21 took place?

22 A I believe so.

23 Q And understanding each of those rights, did he
24 agree to waive his right to speak with you that day?

25 A No.

1 Q He didn't agree to speak with you?

2 A Oh, yes, he did agree to speak with me.

3 Q At any time in that did he ask for a lawyer?

4 A No, sir.

5 Q At any point did he ask to stop the questioning?

6 A No, sir.

7 Q At any point was he promised anything, any
8 leniency or anything, in exchange for his cooperation
9 in giving the statement?

10 A No, sir.

11 Q Were any threats or any force used to coerce him
12 into giving the statement?

13 A No, sir.

14 MR. ALFARO: Your Honor, at this time State
15 would ask that Exhibits 137 and 138 be admitted for
16 purposes of the Denno hearing and published for the
17 Court.

18 MR. BIERING: Without objection.

19 THE COURT: All right.

20 (Whereupon, State's Exhibit Nos. 137 and 138 are
21 admitted into evidence for purposes of the Denno
22 hearing.)

23 (Whereupon, the video is played.)

24 Q (By Mr. Alfaro) Sgt. Alteri, that tape that we
25 just played, does that again fairly and accurately

1 depict the entirety of the interview with the
2 defendant, Ron McCray, on that day?

3 A Yes, sir.

4 Q Were there any other conversations outside that
5 camera with him?

6 A No, sir.

7 Q Any time outside that camera before the
8 interview when he ask -- did he ask for an attorney or
9 ask to not talk to you about the case?

10 A No, sir.

11 MR. ALFARO: Please answer any questions Mr.
12 Biering has for you.

13 THE COURT: Mr. Biering.

14 CROSS-EXAMINATION

15 BY MR. BIERING:

16 Q If you could, sir, there is some additional time
17 on the interview loop; is that correct?

18 A I believe so. It's basically I come back in and
19 tell him I forgot his water and take him out.

20 MR. BIERING: Your Honor, I'd ask we be able to
21 listen to the balance of the video at this time.

22 THE COURT: I'm sorry?

23 MR. BIERING: I ask we be able to publish the
24 balance of the video. I believe it's two minutes, Your
25 Honor.

1 THE COURT: All right, let's play it.

2 (Whereupon, the video is played.)

3 MR. BIERING: Thank you, Your Honor.

4 Q (By Mr. Biering) Sgt. Alteri, prior to the
5 video beginning, where were you and Mr. McCray?

6 A I don't know where I was at the time, he was in
7 the room.

8 Q Did you speak with him at all outside of the
9 presence of that interview room that morning?

10 A Not to my knowledge. I was advised that he had
11 been picked up and they wanted me to interview him.

12 Q Do you have any notes from that interview?

13 A No, sir.

14 Q So your testimony is that there was no
15 communication prior to the video beginning with Mr.
16 McCray?

17 A Not to my knowledge.

18 Q After the video ended, were there any additional
19 communications with Mr. McCray by you?

20 A Not that I recall, other than just leading him
21 out and getting him some water, and that's about all I
22 remember.

23 Q Would you agree that you did not read Mr. McCray
24 his rights that day?

25 A Correct. I had him read them.

1 Q Would you agree that he in fact did not read his
2 rights that day?

3 A I'm sorry?

4 Q Would you agree that he didn't in fact read his
5 rights that day?

6 A No, I wouldn't agree.

7 Q You wouldn't agree with that?

8 Isn't it true that what actually happened was
9 you directed his attention to different numbers on the
10 advisement of rights form, and that he mumbled at each
11 line a few words?

12 A Some people read out loud, some people read
13 silently.

14 Q But you would agree he did not read out loud to
15 you his rights?

16 A I would say he read them, but he did not read
17 them out loud totally, no.

18 Q And you don't have the ability to know what goes
19 on inside of someone's mind, correct?

20 A No, that's why I asked them if he understood it
21 and have them sign it.

22 Q But again, you didn't read them verbatim to him,
23 did you?

24 A I didn't read them, I had him read them.

25 Q And he did not read them back to you out loud

1 verbatim?

2 A It's not required as long as he reads them and
3 understands them.

4 Q The question was, he did not read them back to
5 you out loud verbatim, did he?

6 A No.

7 Q Did anyone else read to him verbatim, that you
8 can testify to, his rights prior to taking that
9 statement; yes or no?

10 A No. I wasn't with him so I couldn't -- the only
11 time I saw him was in the interview room.

12 MR. BIERING: No further questions for the
13 witness.

14 REDIRECT EXAMINATION

15 BY MR. ALFARO:

16 Q Sgt. Alteri, did you ask the defendant if he
17 understood each of the rights on that form?

18 A I did.

19 Q Did you ask him if he understood rights -- do
20 you have the form still in front of you, correct?

21 A Yes, sir.

22 Q Did you ask him if he understood line one?

23 A Yes.

24 Q And same for two?

25 A Yes, sir.

1 Q And did he indicate that he understood one and
2 two?

3 A Yes.

4 Q Did you ask him if he understood line 3?

5 A Yes.

6 Q And did he indicate that he understood that?

7 A Yes, sir.

8 Q And same for number 4?

9 A Yes, sir.

10 Q And for right number 5?

11 A Yes, sir.

12 Q In addition to indicating that he understood,
13 are those in fact the defendant's initials next to each
14 of those rights?

15 A Yes.

16 Q And why was it that you asked him to place his
17 initials there?

18 A To show that he did understand what he read.

19 MR. ALFARO: No further questions, Your Honor

20 THE COURT: Mr. Biering.

21 RECROSS-EXAMINATION

22 BY MR. BIERING:

23 Q You would agree the only thing you know that he
24 read was what he audibly said, correct?

25 A Rephrase that.

1 Q would you agree the only thing that you know he
2 read was what he audibly said to you in the interview?

3 A I would have to disagree because he told me that
4 he understood the rights, and that's why he initialed
5 them.

6 Q But again you don't know what he read. You are
7 now testifying about what you believe he understood.

8 A I know that he was advised of his rights as he
9 was to read 1 through 5. He read them. Whether he
10 read them to himself or out loud or just guessed, he
11 initialed stating that he understood them.

12 Q Or he just guessed. Do you think if someone
13 guesses as to what their rights are that they have been
14 adequately advised?

15 A That's just a phrase I used. Either way he
16 advised that he understood them.

17 Q But you didn't read them.

18 MR. BIERING: Thank you.

19 THE COURT: You may step down, thank you.

20 MR. ALFARO: State has no further witnesses.

21 THE COURT: Do you have any witnesses?

22 MR. BIERING: No, Your Honor.

23 THE COURT: All right.

24 state has the burden. I'm be happy to hear from
25 you.

1 MR. ALFARO: Your Honor, the exhibit before you,
2 the Miranda form, and it's also on video, his rights
3 were read to him, or the rights were provided to him.

4 The defendant indicated verbally, as well as
5 initialing on each of the rights on the advisement of
6 rights form that he understood, that he had the right
7 to remain silent, the right to not answer -- that if he
8 answered questions it would be used against him. He
9 had the right to consult with a lawyer before giving a
10 statement, or have one present. If he wanted a lawyer
11 but couldn't afford one, they would appoint one to him.
12 And if he decided to answer questions without a lawyer,
13 he could stop at any time.

14 He initialed beside each of those rights. He
15 also, in addition to each of the initials, signed the
16 waiver of rights which indicates that he fully -- the
17 waiver of rights form says, I fully understand each of
18 these rights which have been explained to me. And
19 having these in mind, I wish to waive these rights and
20 answer questions regarding the charge of murder.

21 THE COURT: Slow down just a little bit.

22 MR. ALFARO: I'm sorry. I'm read verbatim from
23 the form, I apologize.

24 The waiver rights that is included on State's
25 138, it's apparent from the form itself, from Sgt.

1 Alteri's testimony, as well from the video that was
2 published for the Court that he was obviously in
3 custody, and he was interrogated, therefore the Miranda
4 protections apply. And in this case those Miranda
5 protections were complied with.

6 He was provided each of his rights with the
7 written form, asked if he understood each of those
8 rights. Sgt. Alteri testified that he did not appear
9 to be under the influence of any drugs or alcohol.
10 That he -- in his opinion, he actually understood the
11 rights that he had been advised of. And that he freely
12 and voluntarily waived those rights and agreed to give
13 a statement.

14 There is no indication on the video, or from
15 Sgt. Alteri that any force or coercion was used. The
16 defendant is voluntarily giving his confession, his
17 statement to Sgt. Alteri.

18 The State believes we have met our burden of
19 showing that his statement is freely and voluntarily
20 given after a knowing and intelligent waiver of his
21 rights.

22 THE COURT: Mr. Biering.

23 MR. BIERING: May it please the Court, Your
24 Honor.

25 The state having the burden of showing that my

1 client was advised of his rights, it is our position --
2 I will start where I will end -- that they have not met
3 that burden.

4 what happened here was a preprinted form is
5 presented with the direction to initial. And what the
6 state's witness says clearly is that he did not provide
7 a verbal advisement of rights to Mr. McCray.

8 He did not assure, as it relates to the Miranda
9 warning, that a specific advisement of rights was
10 stated by Mr. McCray.

11 Your Honor, I think if he would have had a
12 verbatim reading by Mr. McCray, we would have a
13 different issue. But that's not what we have. We have
14 mumblings, pick up of a word here or there, and then a
15 direction by the Sergeant for Mr. McCray to initial a
16 place on a preprinted form.

17 It's really pretty simple. The advisement of
18 rights needed to be read to my client. Or they needed
19 to be able to show clearly that those rights were
20 presented.

21 Simply the mutterings of a few words and the
22 initialing are not sufficient, we believe, for a proper
23 advisement of rights.

24 we'd ask based on that -- we would ask that the
25 Court find that the State has not met its burden.

1 Thank you.

2 THE COURT: Anything further, Mr. Alfaro?

3 MR. ALFARO: No, Your Honor.

4 THE COURT: The Court does take into account the
5 totality of the circumstances. It is the State's
6 burden of proof by a preponderance of the evidence that
7 the statement was freely, voluntarily, knowingly, and
8 intelligently made.

9 One of the first questions on the video is that
10 Sgt. Alteri asked Mr. McCray if he understood Miranda.
11 Mr. McCray indicated that he did. Mr. McCray was 42
12 years of age at the time. Completed the 12 grade in
13 school.

14 Viewing the video and how Sgt. Alteri advised
15 Mr. McCray of his rights, I do not -- I do find that
16 the statement was freely, voluntarily given; that Mr.
17 McCray understood his rights and initialed and then
18 signed that he fully understood each of the those
19 rights, 1 through 5; and that no threats, force or
20 promise of any kind had been made to him; that he was
21 not induced in any way to waive his rights and answer
22 these questions.

23 And the statement will be provided to the jury.
24 And, of course, it is, as always, I will instruct the
25 jury that even though this Court has found that it was

1 admissible, it is up to them to determine whether or
2 not it was voluntarily made.

3 Note your exception for the record, Mr. Biering.
4 Anything further?

5 MR. ALFARO: No, Your Honor.

6 THE COURT: All right. We will take a lunch
7 break. Thank you.

8 (Whereupon, a recess was taken.)

9 THE COURT: Ms. Bostic has been chosen as the
10 foreperson. Anything before we bring in the jury?

11 MR. ALFARO: Nothing from the State.

12 THE COURT: Anything before we bring in the
13 jury?

14 MR. BIERING: Nothing from the defendant.

15 THE COURT: All right. Mr. Alfaro, Mr. Biering,
16 please approach.

17 (Whereupon, a discussion was held at the bench
18 off the record.)

19 THE COURT: All right, let's bring in the jury.

20 (Whereupon, the jurors enter the courtroom.)

21 THE COURT: Thank you, please be seated.

22 Good afternoon, ladies and gentlemen, I hope you
23 had a wonderful lunch. Just some preliminary matters.
24 You have been given notepads which indicates to the
25 Court you may take notes throughout the progress of

1 this trial. Please remember some of us were much
2 better note-takers in school than others, so those
3 notes are for your own use. And one juror's notes are
4 no more correct or accurate than another juror's notes.

5 We will take and collect those notepads at the
6 end of the day and give them back to you. We will lock
7 them up so no one can look at your notes, then pass
8 them out.

9 Ladies and gentlemen, please remember also,
10 because I know I had a tendency to do it, when I'm
11 taking notes sometimes I'm not watching what is
12 happening on the witness stand. So please remember all
13 of those admonitions.

14 Ms. Bostic, I understand you have been selected
15 as the spokesperson; is that correct.

16 A JUROR: Yes, ma'am.

17 THE COURT: All right. So you are the
18 foreperson which means you are the spokesperson. You
19 are also responsible for writing the verdict in this
20 case. But I will give you further instructions
21 regarding that as we progress through the trial.

22 Ladies and gentlemen, what that means is your
23 foreperson is your spokesperson here in court. So if
24 at any time you need an additional break, or if there
25 is any problems that you are having, if you will let

1 your foreperson know, she will alert the bailiff, and
2 we will handle that matter as soon as possible.

3 As such, Ms. Foreperson, that is your assigned
4 seat. So you always need to have that seat. So,
5 please, when you come in make sure that you leave the
6 foreperson's seat open.

7 And as to my two alternates, the two of you must
8 sit where you are seated. So you can alternate those
9 two seats, but the two of you must be in one of those
10 alternate seats. The rest of you can sit wherever
11 choose, with the exception of those three seats.

12 You may have noticed when you came in this time,
13 the attorneys involved, the parties involved, as well
14 as members of the audience were standing. They will
15 remain standing out of respect for your new positions
16 as judges of the facts until all 14 of you are seated.
17 So please come in, I know it's a little tight getting
18 in, but please come in and be seated quickly because
19 everyone will remain standing until all of you are
20 seated.

21 Ladies and gentlemen, we will now administer the
22 oath for you to try this case.

23 (Whereupon, the jury panel is administered the
24 oath by the Clerk.)

25 THE COURT: Ladies and gentlemen, was there any

1 member of the jury panel that could not take the oath,
2 if so please stand. Thank you, all 14 of you took the
3 oath.

4 Ladies and gentlemen, the case we are about to
5 try is the case of the State of South Carolina versus
6 Ron Santa McCray. Before we begin this trial I want to
7 tell you that this trial probably will be different
8 from what you might expect. Most people don't have the
9 opportunity to come to court, as you are doing now, and
10 most people think from watching television or reading
11 books or watching movies that trials are always full of
12 high drama, intense action and riveting circumstances.

13 While all of these things may be true at times,
14 please remember this trial is not for entertainment.
15 It is a fundamental part of our democracy. It is a
16 search for the truth in an effort to make sure that
17 justice is done between the parties before the Court.
18 Searching for the truth is often slow, deliberate and
19 repetitive, the opposite of what you may have seen on
20 television or in movies or read in books.

21 This courtroom is a place of honor. It is
22 dedicated to the protection and the reservation of
23 citizen's rights through what many have called the
24 greatest justice system ever created.

25 The attorneys appearing before you are advocates

1 for the parties they represent, but first and foremost
2 they are Officers of this Court, and they are sworn to
3 uphold the integrity and the fairness of our judicial
4 system. You should expect them to be professional,
5 competent, and ethical in the representation of their
6 clients.

7 Remember that you have just taken an oath, and
8 you are also expected to be professional, reasonable
9 and ethical. Thank you again for accepting the
10 important responsibility of jury service, and for your
11 contribution today to our justice system.

12 What I now say is intended to serve as an
13 introduction to the trial of this case. These remarks
14 are not a charge on the law. I will instruct you on
15 the law applicable to this case at the end of the trial
16 before you retire to consider your verdict. This is
17 merely an explanation of the procedure that we will
18 follow so that you may better understand what is
19 happening.

20 The defendant is charged by an indictment filed
21 in this Court with the crime of murder, the elements of
22 which will be explained to you later. The indictment
23 is simply the charge by which this case is brought into
24 the court, and it is not in any sense evidence of the
25 allegation it contains.

1 The defendant has pled not guilty to this
2 indictment. The State has the burden of proving each
3 of the elements of the indictment beyond a reasonable
4 doubt. It will be your duty, ladies and gentlemen, to
5 decide whether the State has met that burden.

6 Your purpose as jurors is to find and determine
7 the facts. You are the sole judges of the facts in
8 this case. And if at any time I make any comment
9 regarding the facts, you must disregard that comment.
10 You are to determine the facts from the testimony you
11 hear, and any other evidence that is introduced in
12 court.

13 It is up to you to determine what inferences
14 which you feel may be properly drawn from the evidence.
15 It is important that you perform your duty of
16 determining the facts diligently and conscientiously,
17 because ordinarily there is no way to correct an
18 erroneous determination of the facts by a jury.

19 On the other hand, and with equal emphasis, the
20 same law that makes you the judges of the facts makes
21 me the judge of the law. The law as given by this
22 Court is the only law you may consider. You must
23 accept it and follow it even though you may disagree
24 with it. I cannot tell you what the facts are, and you
25 cannot disagree with me about what the law is or what

1 the law should be.

2 Your job is to take the law as I give it to you,
3 apply the facts as you find them from the testimony of
4 the witnesses, and any other evidence that is
5 introduced. After doing that you will render your
6 verdict, a true and just verdict, under the solemn oath
7 that you just took as jurors.

8 Until I advise you to begin your deliberations,
9 you must not discuss this case with anyone. That
10 includes your fellow jurors, your friends, your family
11 members or anyone else. That includes face-to-face
12 discussions, but it also includes any other form of
13 communication, such as texting, emailing, or anything
14 of that nature.

15 Please do not read, watch, listen to any news
16 reports about this case, should there be any. And do
17 not do any independent investigation. It is important
18 that you keep an open mind, and not decide any issue in
19 this case until all of the evidence has been presented,
20 the parties have made their closing arguments, and I
21 have instructed you on the law applicable to this case.

22 It is your solemn responsibility to determine
23 the guilt or innocence of the defendant, and your
24 verdict must be based solely on the evidence as it is
25 presented to you during this trial, and on the law as I

1 instruct you during and at the close of this trial.

2 In just a moment the solicitor will make an
3 opening statement in which the solicitor will explain
4 to you the issues in this case, or at least what the
5 solicitor believes the issues to be in this case. The
6 attorney for the defendant may also make an opening
7 statement, although he is not required to do so. What
8 the attorneys tell you in their opening statements, as
9 well as in their closing arguments is not evidence in
10 this case, it is only their contention as to what the
11 evidence shows.

12 The evidence in this case will be presented to
13 you by the testimony of sworn witnesses from the
14 witness stand, as well as any exhibits that may be
15 introduced into this case.

16 From time to time you may hear one of the
17 attorneys say, Your Honor, may we approach the bench,
18 or there is a matter of law, or I might find it
19 necessary to excuse you from the courtroom for a short
20 while. Please do not try to read our lips if we are up
21 here at the bench, or try to guess or think that we are
22 hiding something from you.

23 The reason for this is sometimes it's necessary
24 for me to make a comment regarding the facts in order
25 to make a ruling on the law. And again, the law does

1 not allow me to have an opinion about the facts in this
2 case, so I will excuse you while I make my ruling.

3 In determining what the true facts are in this
4 case, you must decide whether or not the testimony of
5 the witnesses is believable. It is my responsibility
6 to rule as a matter of law whether certain testimony is
7 admissible. But once the testimony is admitted,
8 whether or not you believe it is solely for you to
9 determine.

10 In deciding whether to believe witness you have
11 right consider interest of any witnesses the bias of
12 witness prejudice of a witness the opportunity for that
13 witness to have seen the matters and things about which
14 the witness may testify, as well as the way the witness
15 acts on the witness stand.

16 You have a right to consider anything that is in
17 the record that will help you evaluate the testimony of
18 the witnesses. That means it is your duty to pay close
19 attention to the witnesses, to listen to the witnesses,
20 to pay close attention to the attorneys and to the
21 court.

22 Please do not let your thoughts wander, so that
23 you can give strict attention to the testimony. At the
24 end of the testimony, after the arguments of counsel
25 and I have instructed you on the law applicable to this

1 case, you will then be in a position to determine what
2 the true facts are, apply the law to those facts, and
3 render a true and just verdict.

4 Ladies and gentlemen, please give your strict
5 attention.

6 MS. WILLIAMS: Thank you, Your Honor.

7 THE COURT: Ms. Williams.

8 MS. WILLIAMS: May it please the Court.

9 Good afternoon. The case that you are going to
10 hear this week is a tragic case. The facts and the
11 evidence will be unfolded to you through witnesses and
12 other evidence. But in some ways it's a very simple
13 case.

14 What the facts and evidence will show is that
15 this was a cold-blooded murder, executed in broad
16 daylight in front of witnesses, some of them children.
17 On September 16th, 2009, Reginald Porcher, the victim
18 in this case, drove his Toyota Tacoma up a driveway to
19 visit with some friends.

20 Now this area that he went was sort of a local
21 community hangout. There was a tree with some chairs
22 and some picnic tables under it. Surrounding the tree
23 and in the whole area there were trailers and houses.
24 A lot of the people that live back there were related.
25 And it was kind of a custom for people to sit around

1 and visit, gossip, just do what people do in the
2 community.

3 At the time that Reggie, as he was known to his
4 family and friends, arrived that day, children had just
5 gotten off the school bus. Elementary school children,
6 and middle school children. So they were playing
7 around the yard. There was probably anywhere from 15
8 to 30 people out there. Some people in the houses,
9 some people out by the tree.

10 He was there with his friends. At which point
11 the defendant, Ron McCray, drove up. He had been
12 looking for Reggie. Drove up with his cousin. Got out
13 of his cousin's car with a sawed-off shotgun in front
14 of all these people. He said, Reggie, I want to talk
15 to you.

16 Reggie, seeing the shotgun, went right to his
17 truck and tried to leave the scene. At that point Ron
18 McCray took the shotgun, put it up, shot through the
19 back of Reggie Porcher's truck and shot him in the
20 back.

21 But he wasn't finished. Because after Reggie
22 Porcher fell on to the ground out of his truck and was
23 laying there bleeding, the defendant went up to him and
24 told him to die. Just mocked him while he was bleeding
25 to death on the ground.

1 At some point he finally, finally gets back in
2 his car. And as he is leaving, and there is all of
3 these people crying after just witnessing this tragedy,
4 he says, I run this place, I run Jack Primis. Taunts
5 them as he leaves.

6 Now the State has the burden of proof in this
7 case. The facts and evidence speak volumes in this
8 case. If you do not get distracted and you watch the
9 witnesses from the stand, you look at the facts in
10 evidence and see how each of it corroborates each
11 other, you will realize that Ron McCray, in cold blood,
12 murdered Reggie Porcher that day, on September 16th.

13 Now the State has to prove, as I said, murder.
14 And that is our burden. Murder is defined, and the
15 Judge will give you this definition at the conclusion
16 of the trial, murder is defined as an unlawful killing
17 of another, with malice aforethought, either express or
18 implied.

19 Now what does that mean? Malice. Malice is
20 something which springs from a wickedness, from
21 depravity, from a heart devoid of social duty and
22 fatally bent upon mischief. What does that really
23 mean? It's just a wicked heart. It's just evil.
24 It's somebody killing another people with evil in their
25 heart.

1 Now I told you, I told you when I first started
2 my short summary of this case that it was a simple
3 case. It is a simple case in many ways, but that
4 doesn't mean there is not a lot of evidence because
5 there is a lot of evidence.

6 You are going to hear from eyewitnesses to this
7 shooting. You are going to see physical evidence. You
8 are going to see the murder weapon. You are going to
9 hear from forensic scientists from the South Carolina
10 Department of Law Enforcement; from gunshot residue
11 experts, firearm experts. And you are going to hear
12 from people that the defendant himself spoke with about
13 this crime. You are going to hear his attitude about
14 this crime.

15 Now if you listen to all of the facts, watch the
16 evidence and carefully look at what happened, there
17 won't be any doubt in your mind that Ron McCray, in
18 cold blood, murdered Reggie Porcher on that day in
19 September.

20 THE COURT: Mr. Biering.

21 MR. BIERING: Your Honor, members of the
22 solicitor's office.

23 Ladies and gentlemen of the jury, my name is
24 Christopher Biering. I represent Ron McCray. Without
25 any doubt has been charged with what I think most would

1 consider the most serious crime one can be charged
2 with.

3 I want you to walk with me for a second, though.
4 And I want us to think about, as we take a walk, a
5 tree. Or a cluster of trees. I have got a picture in
6 my mind. I think people, as they walk through life,
7 have a picture in their mind of a tree, a gathering
8 place, the center of the community, someplace that's
9 important. Someplace that makes us be able to hear
10 sounds, see pictures, maybe even a smell.

11 The tree I see is a massive live oak tree. And
12 it's littered with boards that have been nailed to it,
13 makeshift tree houses. It's littered, unfortunately,
14 with some straws from Capri Suns, and a couple of
15 matchbox cars.

16 Maybe, hopefully not, but on occasion a Coke can
17 or a candy wrapper. It's the tree that I think about.
18 And the sounds that I hear are the sounds of children
19 playing. The smells that I smell, I smell those Capri
20 suns. Might even smell some stinky little boys that
21 have been playing there under the tree.

22 I need you to walk with me through this trial as
23 we learn about September of 2009. And what I believe
24 that you are going to find is that the evidence that
25 will be presented from that witness stand, if you

1 listen carefully, will present a very different tree
2 than the tree that I present to you that I see in my
3 mind, smells very different than the smells that I
4 smell when I think about that tree.

5 I think you are going to hear testimony from
6 that witness stand that describes a very different tree
7 in 2009 off of Jack Primis road. You might hear
8 testimony that on occasion children might find
9 themselves in that yard. But what you are going to
10 hear, we believe, is testimony that describes a
11 location that unfortunately, unfortunately is regularly
12 visited by numerous people that are armed.

13 The vision that we think that you are going to
14 hear from testimony from that witness stand is a vision
15 not of the boards littered upon the tree to make
16 makeshift tree houses, but the vision of weapons
17 regularly at the scene.

18 The sounds that we believe that the testimony
19 presented will show, will allow you to hear it, will be
20 the sound of gunfire. The smells that we believe that
21 you will hear about from that witness stand will not be
22 the smells of Capri Suns, they will be the smells of
23 alcohol, the smells of drugs.

24 The tree that we believe is going to be
25 presented from that witness stand is not that peaceful,

1 blissful location where little children are playing.
2 It should be. But we don't believe that's what you are
3 going to hear about.

4 what happened September of 2009. what really
5 happened in September of 2009. There are a couple of
6 things that happened. Reginald Porcher died September
7 16th, 2009. There is no question about that. Ron
8 McCray knew Reginald Porcher prior to the shooting
9 September 16th, of 2009.

10 we believe that the evidence and testimony that
11 you will hear, the things that will be presented to
12 you, that at the end of this trial you will determine
13 that Ron McCray, in fear for his life, he acted in the
14 protection of his life.

15 As you listen to the testimony, and you observe
16 the evidence that is presented to you, I hope that you
17 can see the difference in the tree. And I hope that
18 through this trial you will have a clear picture of
19 sight, of sound, of smell to fully understand and
20 appreciate what transpired on September the 16th, 2009.

21 Thank you.

22 THE COURT: Call your first witness.

23 MR. ALFARO: State calls Tony Daniels.

24 TONY DANIELS,

25 after having first been sworn to tell the truth, the

1 whole truth and nothing but the truth testified on his
2 oath as follows:

3 DIRECT EXAMINATION

4 BY MR. ALFARO:

5 Q Officer Daniels, could you please tell the jury
6 where you work?

7 A I work with the City of Charleston Police
8 Department.

9 Q And how long have you been with the Charleston
10 City Police Department?

11 A 21 years and 5 months.

12 Q And what is your current rank and current duty
13 assignment?

14 A Current rank is senior patrol officer. My
15 assignment is to answer calls that are dispatched out.

16 Q And were you working in that capacity on
17 September 16th, 2009?

18 A Yes, I was.

19 Q And what area were you patrolling?

20 A Daniel Island, which includes I guess back by
21 the tennis center, down Clements Fairy Road, and up
22 through Highway 41.

23 Q And you work for Charleston City. Is that area
24 considered Berkeley County or Charleston County?

25 A It depends. Some of it's in the City of

1 Charleston, some of it is in Berkeley County.

2 Q And did you have the opportunity to respond to a
3 shooting in the area of Underlie Road and Jack Primis
4 Road?

5 A Yes, I did.

6 Q Where is that?

7 A Underlie Lane is pretty much, you got Clements
8 Fairy, you turn on to Jack Primis. And probably three
9 quarters of a mile to a mile down on the right-hand
10 side.

11 Q And is that considered Berkeley County?

12 A Yes, it is.

13 Q And is it normal for Charleston City officers,
14 such as yourself, to respond to calls in that part of
15 Berkeley County?

16 A Yes.

17 Q And what types of calls would you respond to?

18 A Alarms, sometimes domestics. We respond to
19 anything that Berkeley asks us to assist them on.

20 Q And what would be the reason Berkeley would ask
21 for assistance in cases such as that?

22 A Simply because they're not in the immediate
23 area.

24 Q And that area of Berkeley County, you've
25 described Clements Fairy, and I don't know if everybody

1 knows where Clements Fairy is. Can you kind of
2 describe, I guess geographically, what other cities or
3 areas are around that area?

4 A The Huger area is basically where it is. Huger,
5 South Carolina, down in that area. Now-a-day Nucor
6 Steel is down there. BP Oil Station is down there in
7 that area.

8 Q And what type of call were you dispatched to on
9 September 16th, 2009?

10 A We were dispatched to a shooting.

11 Q And were other Charleston City officers
12 dispatched as well?

13 A Correct.

14 Q And do you recall approximately what time you
15 were dispatched or got on scene?

16 A 1650 hours, which is 4:50 p.m.

17 Q And when you arrived, were there any other
18 Charleston City officers at the scene?

19 A Yes, there were.

20 Q And do you recall who they are?

21 A Corporal Diaz, Officer Willie Simmons, Heather
22 Gardner and myself.

23 Q And at that point had anybody from the Berkeley
24 County Sheriff's Office arrived at the scene?

25 A No.

1 Q And when you arrived was anyone from EMS, any
2 ambulances there?

3 A No.

4 Q Can you tell the jury what you saw when you
5 arrived at the scene that day?

6 A When I arrived at the scene I saw a black female
7 on the ground on her knees. She had a male's head
8 cradled up next to her body.

9 Q And you said that she had a male's head cradled
10 up to the body. Did you observe anything regarding the
11 condition of the person that she was holding?

12 A There was blood around the body. He didn't
13 appear to be talking. He didn't appear to be
14 conscious. I couldn't tell whether he was breathing or
15 not.

16 Q And was she doing anything other than holding
17 his head?

18 A She was screaming, shot him, shot him, shot him.

19 Q And other than the female that was holding the
20 victim's head, was there anyone else in the area?

21 A There were several other people also gathered
22 around her, kind of like in a semicircle.

23 Q And once you got to the scene after seeing those
24 things, what did you do next?

25 A I basically cleared the people from around her

1 and the body, had them step back towards the back of
2 the driveway. Then I tried to make sure that the
3 shooter was not on scene because we didn't have a
4 description of the suspect. So I made sure everything
5 was clear and it was safe at that point.

6 Q And once you determined that the area at that
7 point was safe, what did you do next?

8 A Then we called in EMS.

9 Q And is it normal procedure that EMS would wait
10 for you to call it to be safe before they came in?

11 A That is correct.

12 Q And what is the purpose for that?

13 A For officer safety and for EMS safety. It also
14 gives us a chance to calm people down.

15 Q And can you tell the jury what you did to go
16 about securing that scene?

17 A What myself and Officer Diaz did was we took
18 crime scene tape and we roped off a big area and tried
19 to tape in everything that was in that immediate area.

20 Q And did you secure the area where the victim was
21 lying?

22 A That is correct, they were inside the tape.

23 Q Were there any vehicles secured inside the tape?

24 A There seemed to be one vehicle in the back, back
25 part of the driveway.

1 Q And in the area around the victim, did you see
2 if there were any weapons near where the victim was
3 lying?

4 A No, no weapons.

5 Q Did anyone else that you saw at the scene when
6 you arrived and while you were securing it have any
7 weapons?

8 A No.

9 Q And after you called in EMS, did they respond to
10 the scene?

11 A Yes, they did.

12 Q And did you stay at the scene until they
13 arrived?

14 A That is correct.

15 Q Other than what you've testified to as far as
16 securing the scene and calling in EMS, did you have any
17 role in the ongoing investigation?

18 A Nothing other than crowd control.

19 Q Thank you. Please answer any questions Mr.
20 Biering has for you.

21 THE COURT: Mr. Biering.

22 MR. BIERING: May it please the Court.

23 CROSS-EXAMINATION

24 BY MR. BIERING:

25 Q officer Daniels, approximately how long were you

1 at the scene before a member of Berkeley County
2 Sheriff's Department arrived?

3 A Not quite sure.

4 Q Don't know?

5 A Don't know.

6 Q Do you have a list of the people that were at
7 the scene when you arrived, yes or no?

8 A No.

9 Q Do you have any photographs that you took at the
10 scene when you first arrived?

11 A No.

12 Q Do you have a list of people that left the scene
13 prior to your arrival?

14 A No.

15 Q And do you have a list of people that left the
16 scene after your arrival but before Berkeley County
17 Sheriffs arrived?

18 A No.

19 MR. BIERING: Thank you very much.

20 MR. ALFARO: No further questions, Your Honor.

21 THE COURT: You may step down. Thank you.

22 THE WITNESS: Thank you.

23 THE COURT: Call your next witness.

24 MS. WILLIAMS: Can he be excused, Your Honor?

25 THE COURT: Any objection, Mr. Biering.

1 MR. BIERING: None.

2 THE COURT: You are excused. Thank you,
3 officer.

4 MS. WILLIAMS: State calls Joyce Wright.

5 JOYCE WRIGHT,
6 after having first been sworn to tell the truth, the
7 whole truth and nothing but the truth testified on her
8 oath as follows:

9 BY MS. WILLIAMS:

10 Q Ms. Wright, where do you live?

11 A [REDACTED] Underlie Lane, Wando.

12 Q Is that in Wando?

13 A Yes.

14 Q And how long have you lived there?

15 A All my life. Practically all my life.

16 Q Who else lives with you?

17 A My kids, children.

18 Q And can you describe that area where you live?

19 A Nice, quite, family.

20 THE COURT: Ma'am, can you pull that microphone
21 toward you? Thank you.

22 A Quite, family-orientated.

23 Q (By Ms. Williams) And how many houses are
24 around like where your house is?

25 A About four or five.

1 Q Okay. Is there a tree where everybody kind of
2 hangs out there?

3 A Yes.

4 Q And do you know Reggie Porcher?

5 A Yes.

6 Q Did you know Reggie Porcher?

7 A Yes.

8 Q How long did you know him?

9 A Practically all my life.

10 Q Do you know his family?

11 A Very well, yes.

12 Q And how about Ron McCray, seated right over
13 here. Do you know him?

14 A Yes.

15 Q And how long had you known him?

16 A Long, just about all my life. We practically
17 almost grew up together.

18 Q And the day in question that brings us here
19 today, where were you that day that Reggie died?

20 A Sitting on my friend porch.

21 Q And tell me what you remember happening that
22 day?

23 A It was September 16th. It was a nice day, I was
24 just sitting on the porch. And first I was reading. I
25 went in, came back, sit back on the porch, and the kids

1 start coming underneath the tree. You know, my nephew
2 and cousin and friends and stuff, they all start coming
3 under the tree.

4 And then later on, I was just sitting there, and
5 then I saw, okay, I remember Reggie pulled up because
6 some of my nieces -- his nieces live right in the area,
7 they came and talked to him and he hugged one of my
8 little nieces. And then --

9 Q How old is she?

10 A Morgan was around 9, 10 at that time. Yeah.
11 And then when I was in the porch, as they kept coming
12 underneath the tree, after they kept coming underneath
13 the tree, later on I saw somebody tall with a white
14 T-shirt on walking towards the crowd where a lot of
15 kids was at. And he had something long in his hand.

16 And all I heard is the gunshot. And that's when
17 all the kids that was underneath the tree came towards
18 my house. And I said, what happened, what happened.
19 And they say Reggie shot -- I mean Ron shot Reggie.

20 And I told them, I said you all call 911. And I
21 saw him like walking around in a circle, Reggie, like
22 holding his neck. Because I didn't see -- I saw him
23 just -- well I saw him walking in a circle and then I
24 saw him fell. When we got out there he was -- when I
25 got there he was lying on the ground.

1 Q And just to clarify, before you kind of got the
2 names switched up, what did they say?

3 A Ron shot Reggie.

4 MR. BIERING: Objection, hearsay.

5 Q (By Ms. Williams) What was their demeanor like?
6 what were the kids acting like?

7 A They were scared, they were scared. They
8 running toward my house, trying to get in my house.

9 Q Were they crying?

10 A It was yelling and I was scared, upset. I
11 didn't -- and I just told them to call 911.

12 Q And what did they say?

13 MR. BIERING: Objection, hearsay.

14 THE COURT: Overruled.

15 Q (By Ms. Williams) What did the children say?

16 A They said, Ron shot Reggie.

17 Q Okay. And then did you then leave -- how far
18 away would you say your porch was from where Reggie's
19 truck was when you were reading?

20 A About --

21 Q you can do it by distance in the courtroom.

22 A Right here to like the end of the courtroom. A
23 little further.

24 Q Okay. And did you at some point move closer to
25 where Reggie was?

1 A After the fact, when the kids start running
2 toward me, that's when I went out there to see, you
3 know, what was going on. That's when he was lying on
4 the ground.

5 Q Now did you do anything after that?

6 A No, I was just standing there.

7 Q Did you call anyone?

8 A Did I what?

9 Q Did you call anyone?

10 A I did call 911.

11 Q Okay.

12 MS. WILLIAMS: Your Honor, I'm going to show
13 defense counsel what has been previously marked as
14 State's 139. May I approach?

15 THE COURT: You may.

16 Q (By Ms. Williams) Ms. Wright, what is this?

17 A This is the 911 tape that I called. My voice is
18 on there.

19 Q And how do you know that's the tape?

20 A Because I signed it.

21 Q Okay. And is this the whole phone call from
22 beginning to end?

23 A Yes.

24 MS. WILLIAMS: Your Honor, at this time we would
25 offer 139, the 911 tape into evidence.

1 THE COURT: Any objection?

2 MR. BIERING: No, Your Honor.

3 THE COURT: 139 into evidence without objection.

4 (Whereupon, State's Exhibit No. 139 is admitted
5 into evidence.)

6 MS. WILLIAMS: May we publish, Your Honor?

7 THE COURT: You may.

8 (Whereupon, the audiotape is played in open
9 court.)

10 MS. WILLIAMS: Thank you, Ms. Wright. Please
11 answer any questions from the defense.

12 THE COURT: Mr. Biering.

13 CROSS-EXAMINATION

14 BY MR. BIERING:

15 Q Ms. Wright, if we would turn on to Jack Primis
16 Road, and we then take a right onto Underlie, there is
17 a trailer right on your right when you first turn in;
18 is that correct?

19 A Yes.

20 Q And do you know who lives there?

21 A My sister.

22 Q Your sister. And what is her name?

23 A Thelma Coaxum.

24 Q And does anybody else live in that house?

25 A Her son.

1 Q Her son. Do you know what her son's name is?

2 A Eric.

3 Q Eric. And then is there a house over on your
4 left as well?

5 A Yes.

6 Q Who lives in that house?

7 A My nephew.

8 Q What is your nephew's name?

9 A Joseph.

10 Q Joseph?

11 A Asby.

12 Q Joseph Asby. Does Abdullah Fishburne live in
13 either one of those homes?

14 A No.

15 Q Does Abdullah Fishburne regularly visit either
16 one of those homes?

17 A He comes under the tree sometimes to sit with
18 his cousins.

19 Q So your house is back behind both of those
20 houses; is that correct?

21 A Further back, yes.

22 Q Further back?

23 A Not that far.

24 Q I think your testimony was when you were
25 questioned, not the 911 call, but your testimony was

1 that you didn't actually see the shooting; is that
2 correct?

3 A Yes, I did.

4 Q You did see the shooting?

5 A (Affirmative head shake.)

6 Q Did you have any communications, yes or no, with
7 either Ron -- Reginald Porcher or Ron McCray on
8 September 16th, 2009 prior to the shooting?

9 A If I had any kind of communications with them?

10 Q Communications, yes, ma'am.

11 A No.

12 MR. BIERING: Thank you.

13 MS. WILLIAMS: Nothing further, Your Honor. May
14 this witness be excused?

15 THE COURT: Any objection, Mr. Biering?

16 MR. BIERING: None from the defendant.

17 THE COURT: You may step down and you are free
18 to go. Thank you.

19 Next witness.

20 MS. WILLIAMS: State calls Felicia Coaxum.

21 FELICIA DENISE COAXUM,

22 BY MS. WILLIAMS:

23 Q Ms. Coaxum, where do you presently live?

24 A [REDACTED] Goose Creek, South Carolina.

25 Q Back in September of 2009, where were you

1 living?

2 A [REDACTED] Jack Primis Road.

3 Q And is that near Underlie?

4 A Yes, ma'am.

5 Q And who were you living with?

6 A My mother.

7 Q Who is that?

8 A Thelma Coaxum.

9 Q And that area, do you have other family members
10 that live around that area?

11 A Yes. I have aunts, uncles, cousins.

12 Q And is it all the houses, where are they in
13 terms of pretty close?

14 A We are all in a circle.

15 Q Okay. And did you, when this event occurred,
16 the reason that we are here today, what were you doing
17 at first? Where were you?

18 A At first I was in my mother's room laying down
19 watching TV until I doze off to sleep.

20 Q Were you awakened by something?

21 A Yes.

22 Q What was that?

23 A I had waken up hearing a loud sound, like a boom
24 sound.

25 Q What did you do next?

1 A I looked outside and that's when I saw a black
2 truck was rolling back in the driveway going back
3 towards in the woods.

4 Q Did you know whose truck that was at that time?

5 A Yes, ma'am.

6 Q Whose was it?

7 A Reggie.

8 Q When you say Reggie, who are you talking about?

9 A Reggie -- I can't remember his last name.

10 Q Porcher?

11 A Porcher.

12 Q How long had you known Reggie?

13 A I known Reggie about 10, 20 years or so.

14 Q Before that day had you known Ron McCray?

15 A Yes.

16 Q How long had you known Ron McCray?

17 A About the same time or longer.

18 Q If you could pull that microphone just a little
19 bit closer to you.

20 And you saw the truck rolling back. Tell me
21 what else you saw?

22 A I saw Ron McCray and Reggie. Reggie was down on
23 the ground, and I saw Ron McCray was standing over
24 Reggie stomping him and telling him, die mother-fucker,
25 die.

1 Q And what did -- did Mr. McCray have anything in
2 his hands?

3 A It looked like a -- I didn't know exactly what
4 it was. The only thing I saw was a metal, wooden
5 handle. That's the only part I really saw.

6 Q And after that, did you see where Mr. McCray
7 went?

8 A He jumped in the car and he left.

9 Q Did you hear him say anything besides what he
10 said as Mr. Porcher was laying on the ground?

11 A He asked the other people in the area did they
12 have a problem, and that he's God.

13 Q What was his, when he said, do you have a
14 problem, what was his demeanor like? What was he
15 acting like?

16 A Like if anybody else got anything to say.

17 Q And after that, what happened?

18 A Really I just was trying to find out where my
19 kids was because I had a 3-year-old at the time, she
20 was outside playing.

21 Q How would you describe the scene after Mr.
22 McCray left?

23 A Crazy.

24 Q About how many people were out there?

25 A Well we have about 30 little kids in the area,

1 so I probably say about 30 or 40 more kids.

2 Q And there were some adults?

3 A Yes.

4 Q Some grandparents?

5 A Yes.

6 Q Was it -- what were people doing? I mean what
7 were their emotions like, their demeanor?

8 A Everybody was running around in shock, just
9 scattering and trying to get out of the way.

10 MS. WILLIAMS: Your Honor, I'm going to show
11 defense counsel State's 1, 3, 7 and 8. They have been
12 previously marked. May I approach?

13 THE COURT: You may.

14 Q (By Ms. Williams) Ms. Coaxum, I'm going to show
15 you four pictures. If you could just look through the
16 stack and tell me if these pictures accurately portray
17 what they are of.

18 MR. BIERING: Object to the form of the
19 question.

20 Q (By Ms. Williams) Do they accurately depict
21 what's in the picture?

22 A Yes. This is where --

23 MR. BIERING: Judge --

24 THE COURT: One second. Counsel approach.

25 (Whereupon, a discussion was held at the bench

1 off the record.)

2 THE COURT: Overruled. Ms. Williams.

3 MR. BIERING: Thank you, Your Honor.

4 MS. WILLIAMS: Thank you.

5 Your Honor, at this time we would offer 1, 3, 7
6 and 8 into evidence.

7 THE COURT: 1, 3, 7, and 8; is that correct?

8 MS. WILLIAMS: Yes, Your Honor.

9 THE COURT: Any objection to the admission of 1,
10 3, 7 and 8?

11 MR. BIERING: Objection to foundation.

12 THE COURT: State's 1, 3, 7 and 8 into evidence
13 with that objection.

14 (Whereupon, State's Exhibit Nos. 1, 3, 7 and 8
15 are admitted into evidence.)

16 MS. WILLIAMS: May we publish, Your Honor.

17 THE COURT: You may.

18 Q (By Ms. Williams) Now, Ms. Coaxum, the picture
19 is going to appear behind you. And then if you could
20 just explain to the jury what the picture is when it
21 does appear behind you.

22 Could you just describe what that is?

23 A Right back there, that's where my mother used to
24 live at that trailer right there. And that window
25 right there, that's where I was laying at sleeping.

1 His truck was coming back this way, rolling out,
2 going out towards across the road into the woods.

3 Q Okay.

4 A And the car that Mr. McCray was driving was
5 parked like right up in there.

6 Q Okay. This little pointer will help you. You
7 can point, if you push this red thing it will kind of
8 show.

9 Show us just where Reggie's truck was, if you
10 wouldn't mind.

11 A His truck, his truck was rolling back coming out
12 to the road.

13 Q And what was the trailer you were asleep in?

14 A I was right here. That's my mother's room right
15 there.

16 Q And after you came out, where did you see him
17 standing over Reggie Porcher?

18 A Right up in this area right here.

19 Q And show us where Joyce Wright's house is. It's
20 not in the picture, but.

21 A It's back there.

22 Q Okay. Can you show State's 3.

23 Okay. Kind of explain, this is a little bit
24 closer up, if you could just kind of explain where is
25 your trailer in relation to that, and where was

1 Reggie's truck?

2 A Right here. Reggie's truck was rolling, going
3 back out.

4 Q And where -- is the area where he was standing
5 over the victim in this picture?

6 A Like up in this corner, right up in here.

7 Q Okay. And if you could show State's 7.

8 And did you see where the truck wound up?

9 A Yes, back in the woods.

10 Q So from that picture --

11 A It just kept going straight on out into the
12 roadway, and it stopped until it ran into a tree in the
13 back.

14 Q Okay. So at the bottom of this picture, is that
15 the road pretty much?

16 A Yes, ma'am.

17 Q And then State's 1.

18 And this, is that just a better picture of your
19 trailer right there?

20 A Yes, ma'am. My mother's bedroom window is right
21 here.

22 Q Okay, thank you.

23 MS. WILLIAMS: Court's indulgence for just a
24 moment.

25 THE COURT: Yes, ma'am.

1 Q (By Ms. Williams) This area where you lived
2 with your mom at this time where this event took place,
3 is that in Berkeley County?

4 A Yes, ma'am.

5 MS. WILLIAMS: Please answer any questions the
6 defense has.

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Mr. Biering.

9 CROSS-EXAMINATION

10 BY MR. BIERING:

11 Q Ms. Wright.

12 A Coaxum.

13 Q I'm sorry, Ms. Coaxum. What adults were at the
14 scene on September 16th, 2009?

15 A It was myself, my aunt.

16 Q And her name?

17 A Joyce Wright. Tianna.

18 Q Can you give a full name?

19 A Tianna Mack. Akeem Asby. Levon Mack. And
20 that's all I really can remember right now.

21 Q Did you make a list of the adults that were
22 there at the scene that day?

23 A No. I didn't have to make a list because
24 everybody was right there. And mostly everybody was on
25 my aunt's porch, besides me.

1 Q Anybody ask you to make a list?

2 A No.

3 Q Are you related to Abdullah Fishburne?

4 A Yes.

5 Q Do you know, does Abdullah Fishburne regularly
6 find himself at the tree?

7 MS. WILLIAMS: Objection, relevance.

8 THE COURT: What is the relevance.

9 MR. BIERING: I will withdraw the question.

10 THE COURT: All right, thank you.

11 Q (By Mr. Biering) Did you have an opportunity to
12 spend a significant amount of time under the tree
13 yourself?

14 A Do I spend? Sometimes I do. Yes, I do.

15 Q Sometimes you do still?

16 A No because I don't live over there, I live in
17 Goose Creek now.

18 Q Did Reginald Porcher spend time under the tree
19 that you observed?

20 A Everyone whenever he comes in the country, yes,
21 he does.

22 Q How about Sleepy?

23 MS. WILLIAMS: Objection, relevance.

24 MR. BIERING: I will withdraw that one too,
25 Judge.

1 THE COURT: All right, thank you.

2 MR. BIERING: Thank you. I don't have any
3 further question for this witness.

4 THE COURT: Ms. Williams?

5 MS. WILLIAMS: Nothing further, Your Honor.

6 THE COURT: Is this witness excused?

7 Any objection?

8 MR. BIERING: No, Your Honor.

9 THE COURT: You may step down, you are free to
10 leave. Thank you.

11 Call your next witness.

12 MS. WILLIAMS: The State calls Akeem Asby

13 AKEEM ASBY,

14 after having first been sworn to tell the truth, the
15 whole truth and nothing but the truth testified on his
16 oath as follows:

17 DIRECT EXAMINATION

18 BY MS. WILLIAMS:

19 Q Akeem, where do you live?

20 A Jack Primis.

21 Q And do you know, did you know Reggie Porcher?

22 A Yes, ma'am.

23 Q Was he a friend of yours?

24 A Yes, ma'am.

25 Q How long had you known him?

1 A All my life.

2 Q And did you know Ron McCray?

3 A Yes, ma'am.

4 Q How long had you known him?

5 A All my life.

6 Q And do you remember the day that Reggie Porcher
7 was killed?

8 A Yes, ma'am.

9 Q Where were you that day?

10 A Right under the tree, like within the same area.

11 Q When you say the tree, how close is that to your
12 house?

13 A Less than a eighth of a mile. It's right down
14 this road.

15 Q And do you have relatives that live around that
16 area?

17 A Yeah, everybody.

18 Q Okay. Tell me what you remember that day. Were
19 you there when Reggie arrived?

20 A Yes, ma'am.

21 Q And who was around at that period of time?

22 A The whole, like bunch of the family members.
23 There was a group of us were just sitting under the
24 tree listening to music, pretty much it.

25 Q What age groups were all around? Were there

1 children and adults?

2 A At first it was mostly adults. But when all
3 that happened it was kids and adults.

4 Q Where does the school bus let off in the area?

5 A Right at the head of the lot.

6 Q Had the school bus come yet?

7 A Yes.

8 Q When did Reggie get there? Let me rephrase
9 that, withdrawn.

10 Tell me what you remember from when Reggie got
11 there.

12 A I mean like all he did was pull up. He was
13 sitting there chilling. A car pull up. Ron jump out
14 with a gun, he Ron.

15 Q Slow down. So you saw Reggie had pulled up.
16 How long was Reggie there before Ron got there?

17 A Probably about 20, 30 minutes.

18 Q And when Ron pulled up, did you see what kind of
19 car he was in?

20 A I saw -- I couldn't see it, but it was behind
21 like a Volvo behind a bunch of bushes.

22 Q Okay. And what happened after Ron pulled up?
23 What did you see?

24 A Ron jump out with a gun.

25 Q What kind of gun was it?

1 A It looked like a shotgun.

2 Q And then what happened?

3 A I Ron He started yelling, where are you going,
4 Reggie I just Ron.

5 Q And did you hear anything or see anything after
6 that?

7 A I heard a gunshot. And I came back after I
8 heard the gunshot.

9 Q And did you see Ron at that point?

10 A No. The car was pulling off when I got back up
11 there. All I saw was Reggie, Reggie came up to me.

12 Q And what -- did you hear Ron say anything?

13 A Something like, God is a faggot. I assure you
14 all I'm God. Things like that.

15 Q And was he saying that as he walked away or in
16 the car? Do you even remember?

17 A No, he was driving off.

18 Q And describe what you saw when you saw Reggie
19 what was he doing?

20 A When I saw him he Ron to me holding his neck,
21 like, you know, blood coming out of his neck telling me
22 to help him. I tell him, I can't help you, nothing I
23 can do.

24 Then he started running around some more. Then
25 he fell. Then he got back up. They pick him up and

1 put him in the car. Tried to take him to the EMS but
2 he jump out of the car and started running again.

3 Then he trip up and fall and that was it. He
4 never got back up.

5 Q Were other people in the area trying to help him
6 at that point?

7 A Yeah.

8 Q Can you describe that?

9 A My cousin, my aunt and them was like holding his
10 neck, wrapping him up with shirts, stuff like that,
11 whatever they could do waiting for the EMS to come.

12 Q What were the adults doing, the women, what were
13 they saying, doing?

14 A All were crying, things like that.

15 Q How about you all?

16 A Ma'am?

17 Q How about the men, how about you all?

18 A We had a few, but we had some that, you know,
19 some people, everybody could cry. It hurt but,
20 everybody was saying, don't cry. I don't know.

21 Q Was it difficult?

22 A Yeah, it was very difficult.

23 Q How many shots did you hear?

24 A One.

25 MS. WILLIAMS: Court's indulgence for just a

1 moment.

2 THE COURT: Yes, ma'am.

3 MS. WILLIAMS: Thank you, Akeem. Could you
4 please answer any questions from the defense.

5 THE COURT: Mr. Biering.

6 MR. BIERING: Just a moment, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. BIERING:

9 Q Good afternoon, Mr. Asby. Do you have a written
10 list of the people that were at the scene on September
11 16th, 2009?

12 A No.

13 Q I'm sorry?

14 A No, sir.

15 Q Have you ever prepared a written list of the
16 people that were at the scene on September 16th --

17 A No, sir.

18 Q -- 2009. If you could let me finish my
19 question.

20 Has anyone asked you to provide them a written
21 list of the people that were at the scene of September
22 the 16th of 2009?

23 A No, sir.

24 Q That was a no?

25 A No, sir.

1 Q Was Abdullah at the scene --

2 MS. WILLIAMS: Objection, relevance.

3 THE COURT: What is the relevance, Mr. Biering?

4 MR. BIERING: The relevance is that for us to
5 have a full understanding of what transpired at the
6 scene that day, I think it would be important to know
7 who was actually at the scene for purposes of what they
8 saw and what they heard.

9 THE COURT: Counsel approach.

10 (Whereupon, a discussion was held at the bench
11 off the record.)

12 THE COURT: All right, Mr. Biering, it has been
13 a while. Please, you may ask your question again.

14 MR. BIERING: Thank you, Your Honor.

15 Q (By Mr. Biering) Do you know Abdul or Dulla
16 Fishburne?

17 A Yes, sir.

18 Q Isn't it true that Dulla Fishburne was at the
19 scene that day?

20 A Yes, sir.

21 Q I'm sorry?

22 A Yes, sir.

23 Q He was there.

24 THE COURT: Mr. Asby need you to lean forward or
25 get close to that microphone. Thank you.

1 Q (By Mr. Biering) Do you know, I am going to use
2 two names because I think there are two names. Do you
3 know an Edward Sleepy Mitchell?

4 A Yes, sir.

5 MS. WILLIAMS: Objection, relevance.

6 THE COURT: Overruled.

7 MR. BIERING: Thank you, Your Honor.

8 Q (By Mr. Biering) And isn't it true that Sleepy,
9 as most people know him, was at the scene that day as
10 well?

11 A If I'm not mistaken, he probably came up
12 afterwards, after all that happened. But he wasn't
13 standing with us then.

14 MR. BIERING: Thank you.

15 THE COURT: Ms. Williams, redirect?

16 MS. WILLIAMS: No, Your Honor.

17 THE COURT: May this witness step down and be
18 excused?

19 MS. WILLIAMS: Please, Your Honor.

20 THE COURT: Any objection?

21 MR. BIERING: No, Your Honor.

22 THE COURT: Mr. Asby, you may step down. You
23 are excused, but you're free to remain with us.

24 MS. WILLIAMS: Your Honor, at this time we would
25 recall Joyce Wright.

1 THE COURT: Ms. Wright, I remind you you are
2 still under oath. Thank you.

3 Your witness, Ms. Williams.

4 JOYCE WRIGHT,
5 after having previously been sworn to tell the truth,
6 the whole truth and nothing but the truth testified on
7 her oath as follows:

8 DIRECT EXAMINATION

9 BY MS. WILLIAMS:

10 Q Ms. Wright, I'm very sorry, I forgot to ask you
11 a question that the defense is entitled to know. You
12 have one fraudulent check charge, did you not? You
13 have a fraudulent check charge from 2001?

14 A (Affirmative head shake.) Yes.

15 MS. WILLIAMS: Thank you, that's all. Please
16 answer any questions the defense might have.

17 THE COURT: Mr. Biering.

18 CROSS-EXAMINATION

19 BY MR. BIERING:

20 Q Ms. Wright, do you know Abdullah Fishburne?

21 MS. WILLIAMS: Objection.

22 THE COURT: Mr. Biering, it's limited only to
23 the conviction.

24 MR. BIERING: I'll withdraw, Your Honor.

25 THE COURT: All right, thank you.

1 Ms. Wright, you may step down. Thank you.

2 Ms. Williams.

3 MS. WILLIAMS: The State would recall Felicia
4 Coaxum.

5 THE COURT: Ms. Coaxum, I remind you that you
6 are still under oath. Thank you.

7 Ms. Williams.

8 MS. WILLIAMS: Thank you, Your Honor.

9 FELICIA DENISE COAXUM,
10 after having previously been sworn to tell the truth,
11 the whole truth and nothing but the truth testified on
12 her oath as follows:

13 DIRECT EXAMINATION

14 BY MS. WILLIAMS:

15 Q Ms. Coaxum, I apologize. I didn't mean to make
16 this so. You have a breach of trust charge from back
17 in 2004; is that true?

18 A Yes, ma'am.

19 MS. WILLIAMS: Thank you, no further questions.

20 THE COURT: Mr. Biering, any questions?

21 MR. BIERING: Your Honor, may we approach?

22 THE COURT: You may.

23 (Whereupon, a discussion was held at the bench
24 off the record.)

25 THE COURT: Mr. Biering, any questions related

1 only to that issue?

2 MR. BIERING: No, Your Honor.

3 THE COURT: All right. You may step down, Ms.
4 Coaxum, thank you.

5 THE WITNESS: No problem.

6 THE COURT: Call your next witness.

7 MS. WILLIAMS: Thank you, Your Honor.

8 State calls Tianna Mack.

9 THE COURT: Ms. Mack, please come forward and be
10 sworn.

11 TIANNA CHANICE MACK-COLLINS,
12 after having first been sworn to tell the truth, the
13 whole truth and nothing but the truth testified on her
14 oath as follows:

15 DIRECT EXAMINATION

16 BY MS. WILLIAMS:

17 Q Ms. Mack-Collins, where do you work currently?

18 A Be Well Home Services.

19 THE COURT: Ms. Mack-Collins, I'm going to need
20 you to speak clearly into the microphone, and a little
21 more loudly, please. Thank you.

22 Q (By Ms. Williams) And what do you do for them?

23 A Certified nurse assistant.

24 Q How long have you been a certified nurse
25 assistant?

1 A Almost four years.

2 Q And where do you presently live?

3 A [REDACTED] Jack Primis Road.

4 Q And where were you living back in September of
5 2009?

6 A [REDACTED] Hattie Circle.

7 Q Is that close to Jack Primis Road?

8 A It's on Jack Primis Road.

9 Q Okay. And the day that -- do you know Reginald
10 -- did you know Reggie Porcher?

11 A Yes.

12 Q How long had you known Reggie Porcher?

13 A Just all my life.

14 Q Do you know Ron McCray?

15 A Uh-hum.

16 Q And how long had you known Ron?

17 A All my life.

18 Q And the day that Reggie Porcher died, where were
19 you?

20 A Underneath the hairdryer.

21 Q Do you need a minute? Here is some tissue.

22 And whose house were you under the hairdryer at?

23 A My Aunt Joyce.

24 Q Is that Joyce Wright?

25 A Uh-hum.

1 Q Is that yes?

2 A Yes.

3 Q And I know this is difficult for you. What do
4 you remember happening after you were under the
5 hairdryer?

6 A One of my little cousins and my son came and
7 told me that I needed to come outside because a man had
8 shot Reggie.

9 Q And how old was your son?

10 A I think he was about 7 or 8.

11 Q And what did you do?

12 A I kind of didn't believe him at first. And then
13 I jumped up and I asked him what happened, and my
14 cousin said the bad man Ron, bad man Ron shot Reggie.

15 Q The bad man Ron?

16 A Uh-hum.

17 Q Then what did you do after that?

18 A I got up and I ran outside to see what was going
19 on. Then I started asking where was my kids.

20 Q And what was the scene like when you came out?

21 A People running and screaming.

22 Q And did you see Ron McCray at that point?

23 A Yes.

24 Q What was he doing?

25 A Walking back to his car.

1 Q Did you hear him say anything?

2 A No.

3 Q And did you see Reggie at that point?

4 A I did.

5 Q And can you describe what you saw when you saw
6 Reggie?

7 A When I saw him he was -- when I saw him he was
8 getting out of his truck that went inside the ditch.
9 And my brother had came back in a car and was telling
10 him to get inside the car so that he could take him to
11 my mother.

12 But he didn't get inside the car because I
13 called to him.

14 Q So some people were trying to get him in a car?

15 A Yeah.

16 Q What kind of car was that; do you remember?

17 A My mother's Honda.

18 Q What color was it?

19 A Gold.

20 Q And so after that happened, you said you called
21 him?

22 A Yes.

23 Q Did he come towards you?

24 A Yes.

25 Q Tell us what happened next?

1 A when I called him I was telling him to come here
2 so I could have seen what was going on with him. And
3 he just was like staggering toward me holding his neck.
4 Then I asked him what happened. And he was like, help
5 me, Ron just shot me.

6 And he took his hand from his neck and that's
7 when blood started coming out of his neck.

8 Q And what did you do next?

9 A I just told him to come here so that I could see
10 if I could help him.

11 Q Did you try to help him?

12 A Yes.

13 Q What did you do?

14 A I just, when he came to me I held him. And then
15 he kind of fell on top of me.

16 Q Did you stay with him until the police came?

17 A Yeah.

18 MS. WILLIAMS: Court's indulgence just a moment.

19 THE COURT: Yes, ma'am.

20 Q (By Ms. Williams) Twelve years ago did you have
21 a hot check from 2000?

22 A Yes.

23 Q What -- did see anyone call 911?

24 A I think it was Tanya.

25 Q Did you see anywhere else where blood was coming

1 out of Reggie besides his neck?

2 A Yes.

3 Q Where was that?

4 A Out of his eyes and his nose.

5 Q And after he said, help me, Ron shot me, was he
6 able to say anything else?

7 A No.

8 MS. WILLIAMS: Thank you, Ms. Mack. Please
9 answer any questions from the defense.

10 THE COURT: Mr. Biering.

11 CROSS-EXAMINATION

12 BY MR. BIERING:

13 Q Ms. Mack, you were there when the Charleston
14 County Sheriff's Deputy arrived; is that correct?

15 A Yes.

16 THE COURT: Is that yes?

17 A Yes.

18 Q (By Mr. Biering) And were you there also when
19 the Berkeley County Sheriff's Department arrived?

20 A Yes.

21 Q Do you have a written list of the adults that
22 were at the scene that day?

23 A Do I have what?

24 Q A written list of the adults that were at the
25 scene September 16, 2009?

1 A No.

2 Q Were you asked to write a list of the adults
3 that were at the scene that day?

4 A No.

5 Q Have you provided a list?

6 MS. WILLIAMS: Objection, asked and answered.

7 THE COURT: I'm going to allow this one, let him
8 finish his question.

9 Q (By Mr. Biering) Have you provided in any way a
10 list of the adults that were at the scene that day?

11 A I told them the names.

12 Q You told them the names?

13 A (Affirmative head shake.)

14 Q Do you know Abdullah or Dulla Fishburne?

15 A Yes.

16 Q would you agree that Dulla Fishburne was at the
17 scene that day?

18 A No.

19 Q You would not agree with that?

20 A (Negative head shake.)

21 Q Do you know Edward Sleepy Mitchell?

22 A Yes.

23 Q would you agree that Edward Sleepy Mitchell was
24 at the scene that day?

25 A I'm not sure.

1 Q Not sure?

2 A (Negative head shake.)

3 Q You were inside when this incident began; is
4 that correct?

5 A Yes.

6 MR. BIERING: Thank you.

7 MS. WILLIAMS: Nothing further, Your Honor.

8 THE COURT: Is this witness excused?

9 MS. WILLIAMS: Please, Your Honor.

10 THE COURT: Any objection? Mr. Biering, any
11 objection to this witness being excused?

12 MR. BIERING: I'm sorry, if I could have just a
13 moment.

14 No objection.

15 THE COURT: You may be step down. You are
16 excused, but you are also free to remain with us.
17 Thank you.

18 Call your next witness.

19 MS. WILLIAMS: State calls Tanya Asby.

20 LANTANIA RENE ASBY,

21 after having first been sworn to tell the truth, the
22 whole truth and nothing but the truth testified on her
23 oath as follows:

24 THE COURT: Ms. Williams.

25 MS. WILLIAMS: Thank you, Your Honor.

1 DIRECT EXAMINATION

2 BY MS. WILLIAMS:

3 Q Ms. Asby, where do you live?

4 A [REDACTED] Jack Primis Road.

5 Q Where is that in relation to Joyce Wright, and
6 where Felicia Coaxum was living back in September of
7 2009?8 A It's in the front of Joyce Wright. On the side
9 of Felicia Coaxum.

10 Q So all in that same area?

11 A Yes.

12 Q And who do you live with?

13 A My husband and three children.

14 Q And your husband is Joseph?

15 A Yes.

16 Q And how old are your children?

17 A 19, 14 and 9.

18 Q And in September of 2009, let me back up for
19 just a moment. Withdrawn.

20 Do you know or did you know Reggie Porcher?

21 A I did.

22 Q How long had you known Reggie Porcher?

23 A Pretty much all my life.

24 Q And what about Ron McCray, did you know him?

25 A I did. I do.

1 Q How long had you known him?

2 A Well I have been married 16 years, so I would
3 say about 16 years.

4 Q And he is related by marriage to you; is that
5 correct? Or somewhat?

6 A Somewhat, I believe.

7 Q How is that? He is married to a relative of
8 yours?

9 A My cousin, Amy Shawl.

10 Q And at this time in 2009, was he still married
11 to Amy?

12 A Yes.

13 Q And were you home the day that Reggie Porcher
14 died?

15 A I was.

16 Q What do you remember about that day?

17 A Well I was home because I had left school early
18 because I was sick. And I was in the bed laying down.
19 And I heard a loud noise. And when I heard the noise I
20 ran to my backdoor and I didn't see anything.

21 So I went to the front door. And when I opened
22 my front door I saw Mr. McCray in a car like backing up
23 in my yard to pull out. And he made a statement and he
24 said, I run this shit. And I closed the door and went
25 got my cell phone to call my husband because he was

1 working out of town.

2 And I called him and told him that something had
3 happened, but I wasn't sure. And he asked me if I saw
4 anybody, and I told him no. And I went back to the
5 front door. And when I opened my front door at that
6 time I saw Mr. Porcher walking up the driveway and he
7 was stumbling. And I was telling my husband at that
8 time he fell.

9 And when he fell I got my house phone, my
10 cordless phone to call 911. So I was on both my phones
11 at the same, but I was calling 911. And as I was
12 calling 911, I believe Tianna Mack told me to bring a
13 blanket.

14 And I ran to my children's room and got a
15 blanket, and ran outside to her at that time.

16 Q When this all was going on, where were your
17 children? Were any of them around?

18 A No, they weren't home yet I don't believe.

19 Q And when you said you saw Mr. McCray in a car,
20 was he in the driver's side or the passenger side?

21 A The passenger side.

22 Q And when he said, I run -- tell me what he said?

23 A I run this shit.

24 Q How was he saying it, quietly, loudly?

25 A He was yelling it, but at that time I still

1 didn't know what had happened. So that's when I called
2 my husband, but he said it loud.

3 MS. WILLIAMS: I'm going to show counsel what
4 has been previously marked as 139.

5 May I approach?

6 THE COURT: You may.

7 Q (By Ms. Williams) Ms. Asby, do you recognize
8 that?

9 A Yes, I do.

10 Q What is that?

11 A It's the 911 tape.

12 Q And how do you know that this is the one that
13 you are on?

14 A My initials are on it.

15 Q And is it a full tape from the time you called
16 to when it hung up?

17 A Yes.

18 MS. WILLIAMS: Your Honor, at this time we'd
19 like to publish another section of State's 139.

20 THE COURT: Any objection to publishing?

21 MR. BIERING: No, Your Honor.

22 THE COURT: You may publish.

23 (Whereupon, the audiotape is played in open
24 court.)

25 Q (By Ms. Williams) Ms. Asby, you mentioned in

1 that tape about Mr. Porcher's truck. Did you see where
2 the truck wound up?

3 A I did.

4 Q And where was that?

5 A It was directly across from my driveway, like
6 back into the woods.

7 MS. WILLIAMS: I'm going to show defense counsel
8 what has been marked 22 and 24.

9 May I approach?

10 THE COURT: You may.

11 Q (By Ms. Williams) Do these pictures accurately
12 depict what you saw that day with Mr. Porcher's truck?

13 A Yes.

14 MS. WILLIAMS: Your Honor, at this time we would
15 offer State's 22 and 24 into evidence.

16 THE COURT: Any objection?

17 MR. BIERING: Objection to foundation, Your
18 Honor. If I could approach related to that.

19 THE COURT: You may.

20 (Whereupon, a discussion was held at the bench
21 not on the record.)

22 THE COURT: 22 and 24 into evidence. Noting
23 your objection, Mr. Biering.

24 MR. BIERING: Thank you, Your Honor.

25 THE COURT: You may published.

1 MS. WILLIAMS: Thank you.

2 (Whereupon, State's Exhibit No. 22 and 24 are
3 admitted into evidence.)

4 Q (By Ms. Williams) The picture is going to show
5 behind you, Ms. Asby. And there is a pointer just
6 right here.

7 If you could you show us, is that what you saw
8 that day with Reggie's truck?

9 A Yes.

10 Q So show us, like it would be out of the picture,
11 but would you be looking at that -- what direction
12 would you be if you were on your front porch looking at
13 that?

14 A My house was directly facing these woods, my
15 front door is right there in front of it.

16 Q So you are just looking at that head on?

17 A Yes.

18 Q Is that across the street from your house?

19 A It is.

20 Q And do you know how the truck got there?

21 A When it first happened I didn't, no.

22 Q Do you know now?

23 A Yes, I heard that he drove it.

24 Q Did it roll back? Are you aware of whether or
25 not?

1 A I'm not sure.

2 Q And could you put up 22.

3 And show us where the truck was in the previous
4 picture, just so we can get acclimated, and where your
5 house is?

6 A My front door is like here. And this is
7 directly across.

8 Q So where we were looking at it before, where
9 would it be?

10 Q It would have been like here.

11 Q Okay. And in that tape we can kind of hear the
12 sounds of what is going on in the background. What was
13 the scene like when you were trying to call 911 and
14 bringing the blanket out, how would you describe the
15 scene in general out there?

16 A It was a lot of chaos and all that. People
17 upset, screaming and running. Like I said, I was sick
18 so I really wasn't mixing in between, I was right in
19 the front yard.

20 MS. WILLIAMS: Thank you, Ms. Asby. Please
21 answer any questions the defense has.

22 MR. BIERING: If I could have just a moment,
23 Your Honor.

24 THE COURT: Take all the time you need, Mr.
25 Biering.

1 MR. BIERING: Thank you, Your Honor.

2 May I approach the witness, Your Honor?

3 THE COURT: You may.

4 CROSS-EXAMINATION

5 BY MR. BIERING:

6 Q I'm going to show you what has been previously
7 admitted as State's Exhibit 24.

8 A Okay.

9 Q Would it be fair to say that that vehicle is in
10 the woods? At that point it's off the road and in the
11 woods; is that correct?

12 A I would say yes.

13 Q Yes?

14 A Uh-hum.

15 Q And you looked closely at that picture a moment
16 ago when you were being questioned about it; is that
17 correct?

18 A Yes.

19 MR. BIERING: If I can approach again, Your
20 Honor.

21 THE COURT: You may.

22 Q (By Mr. Biering) Would it be fair to say that
23 the vehicle is not in the woods in that picture, but
24 the vehicle is in the roadway?

25 A Yes.

1 Q Do you have a written list of the adults that
2 were at the scene that day?

3 A No.

4 Q Have you been asked to prepare a written list of
5 the adults that were at the scene that day?

6 A No.

7 MR. BIERING: Can I have just one moment, Your
8 Honor.

9 Nothing further of this witness, Your Honor.

10 MS. WILLIAMS: Very briefly.

11 REDIRECT EXAMINATION

12 BY MS. WILLIAMS:

13 Q Ms. Asby, did you see the truck being pulled out
14 of the ditch at that point?

15 MR. BIERING: Objection, leading.

16 Q (By Ms. Williams) Where were you?

17 A I cannot really remember exactly where, there
18 was so much going on.

19 Q But at some point you saw the truck in the
20 ditch?

21 A Yes.

22 Q And at some point it was removed?

23 A Yes.

24 Q And pulled out?

25 A Yes.

1 THE COURT: Mr. Biering.

2 MR. BIERING: Nothing, Your Honor.

3 THE COURT: Ms. Williams, is this witness
4 excused?

5 MS. WILLIAMS: Please, Your Honor.

6 THE COURT: Any objection?

7 MR. BIERING: No, Your Honor.

8 THE COURT: You're free to leave, but you are
9 also welcome to stay with us. Thank you.
10 Call your next witness.

11 MS. WILLIAMS: State would call Robert Porcher,
12 Junior.

13 ROBERT PORCHER, JUNIOR,
14 after having first been sworn to tell the truth, the
15 whole truth and nothing but the truth testified on his
16 oath as follows:

17 DIRECT EXAMINATION

18 BY MS. WILLIAMS:

19 Q Mr. Porcher, who is Reginald Porcher to you?

20 A Reginald was my baby son.

21 Q He was your youngest.

22 A He was the youngest.

23 Q And do you have other children?

24 A I have two other adult kids.

25 Q Who are they?

1 A Robert the III, and Crystal Marie Porcher.

2 Q And where do you all live?

3 A [REDACTED] Pinefield Drive, Wando, South Carolina.

4 Q How long have you all lived there?

5 A We just moved there maybe about six or seven
6 years. We were living on Pinefield Drive at another
7 house, maybe about a mile, half a mile down the road.
8 We were there after we built the new house.

9 Q Have you always lived in the Wando area?

10 A Yes.

11 Q And what do you do for a living?

12 A I'm retired right now.

13 Q What did you do for a living?

14 A I worked as an international longshoreman. And
15 I had started from the dock and worked up to the
16 office. And I was, at one time the vice president of
17 the union. And when I retired, I was a container
18 inspector.

19 Q And do you do anything now in your retirement?

20 A My wife keeps me busy around the house.

21 Q Okay. And your older son played professional
22 football; is that correct.

23 MR. BIERING: Objection, relevance.

24 Q (By Ms. Williams) What did your older son do?

25 A My son --

1 THE COURT: Hold on one second, there is an
2 objection.

3 MS. WILLIAMS: Your Honor, I will tie it in, if
4 you will -- we can approach.

5 (Whereupon, a discussion was held at the bench
6 off the record.)

7 THE COURT: Overruled. You may continue, but
8 give you just a little bit of leeway. Thank you.

9 Q (By Ms. Williams) What did your other two
10 children do?

11 A Crystal is a social worker, has a master's
12 degree in social work. And Robert is a -- was a
13 professional football player, but he is retired now.

14 Q Was there something that happened to Reggie that
15 prevented him from playing football at some point?

16 A Yeah. Reginald was in an auto wreck, another
17 car hit him head-on, and the other driver was at fault.
18 And Reginald had both his legs broken, his ankles. And
19 so he was no longer able to participate in sports
20 anymore.

21 Q And did that affect his walking?

22 A Yeah. Yeah. It affected him because one of his
23 ankles had to be fused and it wasn't, with fusing,
24 couldn't buckle and bend it like a normal person
25 anymore.

1 Q And in September of 2009, the day that your son
2 died, did you see him that day?

3 A Yeah. That particular morning Reggie and myself
4 were at the house, because my wife had went to visit
5 the grandchildren in Michigan, Northville, Michigan.

6 and I was on my way to work. I don't know, it
7 had to have been around 8:30, 9 o'clock. And Reginald
8 was already downstairs in the kitchen.

9 And when I came down, came in and he said.

10 MR. BIERING: Objection, hearsay.

11 Q (By Ms. Williams) Without telling us what he
12 said --

13 THE COURT: Sustained, thank you.

14 MS. WILLIAMS: I'm sorry, Your Honor.

15 Q (By Ms. Williams) Without just saying what he
16 said, what was he doing in the kitchen?

17 A Yes, I did see him that morning. He was on the
18 phone trying to get a job.

19 Q And was there plan for him that day? Did you
20 know what his plan was for that day?

21 A Well a part of it was that his mother had gave
22 him an assignment before she left to put some bricks
23 around the palm trees that we had just recently planted
24 in the yard.

25 Q And when did you speak with him next, if you

1 did?

2 A Around 11 o'clock I think that day, that
3 morning. He called and said, pops.

4 MR. BIERING: Objection, hearsay.

5 Q (By Ms. Williams) Without telling us the words
6 he used, did you find out something from him?

7 A Did I speak to him. Yes, I spoke to him around
8 11 o'clock. He called me and said he had a job.

9 MR. BIERING: Objection, hearsay, Your Honor.

10 THE COURT: Mr. Porcher, you cannot testify as
11 to what somebody told you.

12 THE WITNESS: All right. Don't say what Reggie
13 said, okay.

14 THE COURT: Thank you. Ms. Williams.

15 Q (By Ms. Williams) So he had been looking for a
16 job and found a job?

17 A Yes.

18 Q And was that the last time you ever spoke with
19 your son?

20 A Yes.

21 Q When was the next thing that you heard about
22 your son?

23 A I went to visit my mother-in-law who was ill.
24 My brother-in-law was keeping him. And I was at the
25 house because there was nobody at my house, so I

1 stopped by to visit before going home.

2 And while there my brother-in-law phone rang and
3 one of his cousins called and said --

4 Q (By Ms. Williams) Without saying what he said.

5 A Okay. One of his cousins called him. And I
6 could hear her on the phone crying. And she did say --
7 she was crying on the phone.

8 Q What was her demeanor like?

9 MR. BIERING: Objection.

10 A She was crying. I could hear her crying.

11 MS. WILLIAMS: Your Honor, we would ask that he
12 be able to say what she said under the excited
13 utterance exception.

14 THE COURT: Yes.

15 Q (By Ms. Williams) What was she saying?

16 A She cried and said, Leroy, Reggie got shot.
17 Reggie got shot. And he's on the phone looking in my
18 eyes because I'm from here to that table from him. And
19 he didn't say anything because he was shocked.

20 And before he could say anything, and before I
21 could ask him what she said, my phone rang. I got a
22 call from one of my church members.

23 Can I say what she said?

24 Q What was her demeanor?

25 A She was in some hysterical state. And she said,

1 Pastor, Reggie got shot in Jack Primis.

2 Q So what did you do next?

3 A Immediately I hung my phone up and told Leroy,
4 Reggie got shot. I got in my car and head to Jack
5 Primis.

6 Q And when you got there, what did you see?

7 A When I got to Jack Primis another one of my
8 niece met me as I was getting out of the car. And she
9 was crying and she said, Ron shot Reggie.

10 And I walked on up to the area where he was. He
11 was laying face-down on the ground. When I got there I
12 could see some bullet holes in his shoulder, and one in
13 his neck. And the other young lady was sitting there
14 by him. And she was crying.

15 And the police had just came up also when I got
16 there. They were pulling some tapes around the area,
17 said they didn't want to contaminate the crime scene.
18 So they asked her to move before I got there and she
19 didn't. So then I'm not sure who the police was but he
20 asked me to ask her to leave so they could cover the
21 scene up and not contaminate any of the evidence.

22 So I went and asked the young lady, and I helped
23 her up, and I waited until EMS came.

24 Q And when was the next time that you saw your
25 son?

1 A When I saw him again was when the funeral
2 director had his body. They had already given an
3 autopsy and my son and myself, and I think my nephew,
4 one of my nephews, we went to view the body and
5 identify it.

6 MS. WILLIAMS: Court's indulgence for just a
7 moment.

8 Q (By Ms. Williams) Mr. Porcher, going back to
9 when you saw your son laying on the ground, was he
10 moving?

11 A No. When I got there Reginald was not moving.
12 And I realized that he was dead because there was no
13 movement at all. And so, no, he wasn't moving.

14 MS. WILLIAMS: Thank you. Please answer any
15 questions the defense might have.

16 THE COURT: Mr. Biering.

17 MR. BIERING: Your Honor, can we approach?

18 THE COURT: Yes.

19 (Whereupon, a discussion was held at the bench
20 off the record.)

21 THE COURT: Mr. Biering your witness.

22 CROSS-EXAMINATION

23 BY MR. BIERING:

24 Q Good afternoon, Mr. Porcher. Mr. Porcher, you
25 know Ron McCray; is that correct?

1 A I know him now.

2 Q You know him now?

3 A Yeah.

4 Q Have you ever on occasion seen him with your son
5 Robert?

6 A No.

7 Q Did you know Ron McCray's wife?

8 A What's her name?

9 Q Did you know -- you don't know Ron McCray's
10 wife?

11 A I don't know what her name is. If you tell me
12 her name, maybe I do.

13 Q When did you first come to know Ron McCray?

14 A After he was involved in my son's death. Now I
15 have heard about him because his mother and I went to
16 school together. But I didn't really know him.

17 MR. ALFARO: Thank you, Mr. Porcher.

18 MS. WILLIAMS: Noting further, Your Honor.

19 THE COURT: Is this witness excused?

20 MS. WILLIAMS: Please.

21 MR. BIERING: I would ask to be able to put the
22 matter on the record we discussed, Your Honor, and the
23 witness not be excused.

24 THE COURT: All right, thank you. Mr. Porcher,
25 you may step down but please stay with us.

1 THE WITNESS: Thank you.

2 THE COURT: Just the scheduling, that's your
3 last witness for the day; is that correct?

4 MS. WILLIAMS: Yes, Your Honor.

5 THE COURT: Ladies and gentlemen, there are some
6 matters unrelated to this case that must be handled.
7 And so just for scheduling this was the last witness.
8 And so we are going to break for the day.

9 Please remember all of my admonitions. Please
10 do not read, watch, listen to any news accounts
11 regarding this case, should there be any. Do not do
12 any independent investigation.

13 It's going to be a little more difficult now
14 because you are going to go home and your significant
15 other, or family or friend is going to ask you what you
16 did today. You may not discuss this case with anyone,
17 and that includes your family members.

18 So I will let you know when you may discuss this
19 case. But until I give you permission to discuss this
20 case, you may not.

21 Ladies and gentlemen, please be back in your
22 jury room at 9:15, and we will begin promptly once all
23 14 of you are here. Thank you.

24 (Whereupon, the jurors exit the courtroom.)

25 THE COURT: Thank you, be seated. There are

1 matters that need to be placed on the record.

2 Mr. Biering, specifically regarding the
3 convictions of Ms. Wright and Ms. Coaxum.

4 MR. BIERING: May it please the Court, Your
5 Honor. Specifically as it relates to those
6 convictions, as late as Friday I made a call to the
7 solicitor's office and inquired, and the solicitor's
8 office is very detailed in their record management from
9 the standpoint of having Bates stamped their discovery,
10 which makes it so much easier. So many times it's just
11 volumes of paper.

12 Had an opportunity to speak with Ms. Williams
13 about discovery. We looked at the Bates stamp numbers
14 confirming what information had been provided by
15 discovery.

16 And I was told at that point that there was some
17 supplemental discovery. And immediately, I didn't
18 immediately, within a short period of time I was over
19 at the solicitor's office, after having gone over to
20 the detention center and met with my client, retrieved
21 that discovery.

22 There were email exchanges through the balance
23 of the afternoon with counsel and with the Court. And
24 I simply wasn't provided that information.

25 The bottom of these records, there is a date

1 December 26, 2012. I was not provided this information
2 prior to my cross-examination of these witnesses that
3 were presented. Had I had this information prior to --
4 had I had it within the realm of I think what discovery
5 should be considered to be provide for within a case of
6 this nature, at least on Friday, I would have been able
7 to tailor my cross-examination in a different way.

8 I was provided that information after the
9 witnesses had been excused. And then when the
10 witnesses were brought back on the stand -- so my first
11 objection is to the issue of potential discovery abuse.

12 My second issue goes to the issue of the
13 limitation of my ability to cross-examine witnesses, a
14 very important component of our system, and I was
15 limited after receiving that information to re-tailor
16 my cross-examination of the witnesses, and I have an
17 objection as it relates to that.

18 The other issue that I have --

19 THE COURT: Let's stay on one issue at a time,
20 Mr. Biering.

21 MR. BIERING: I'm sorry, Your Honor.

22 THE COURT: So what is your proposed remedy?

23 MR. BIERING: I would like to have the
24 opportunity to question these witnesses without any
25 limitations, based on limitation on the issue of just

1 that one small window just for the record. I would
2 like to have a second shot at cross-examination of
3 these witnesses.

4 THE COURT: Mr. Biering, tell the Court what the
5 parameter would be then, what difference it makes as to
6 the conviction as to what you would ask them.

7 MR. BIERING: Quite candidly, Your Honor, I'm
8 not in a position to do that. I think it's something
9 just as I have gone through and calculated what
10 information I would attempt to elicit through
11 cross-examination in my preparation for this trial,
12 it's the type of thing that I will go back to the
13 drawing board and reevaluate how I would cross-examine
14 these witnesses.

15 I'm not in a position at this point to --

16 THE COURT: All right. Mr. Biering, we have
17 broken earlier than I anticipated so you can let me
18 know in the morning if there is any remedy that you
19 wish.

20 Ms. Williams and Mr. Alfaro, are all of the
21 witnesses that you will be calling from this point on,
22 have you provided criminal histories to Mr. Biering?

23 MR. ALFARO: That concludes the lay witnesses
24 that we anticipate. The only other lay witnesses that
25 may testify, or are on the witness list, will be

1 Christopher Cleggett. I believe he has been provided
2 that defendant's rap sheet because he is a codefendant.
3 Felicia Simmons, we will provide him with that. And I
4 believe that's the only lay witnesses -- oh, James
5 Boykin, we will provide him with that as well.

6 Your Honor, just for clarification of the
7 record, in regard to the dates these rap sheets were
8 provided, specifically for Ms. Wright and Ms. Coaxum,
9 those were not produced in December. The date on the
10 bottom of those rap sheets is October 26, 2012.

11 THE COURT: Which was Friday.

12 MR. ALFARO: Which was Friday. So it's not an
13 issue of us running the rap sheets in December and then
14 not turning them over until today. Quite honestly it's
15 a mistake that we would have turned them over prior to
16 their testimony, we forget to do that. I realized it
17 while they were on the stand. They were provided to
18 him.

19 As far as the ability, whether it's some sort of
20 discovery or Brady violation materiality, they were
21 provided to him. He had the opportunity to
22 cross-examine them.

23 If they would have been provided before, the
24 question from the State would have been the same as
25 when they were recalled. Do you have a prior

1 conviction? Yes. Under the rules of evidence, once
2 they acknowledge those convictions, that's all he gets
3 to ask anyway. He doesn't get to ask further details
4 of it.

5 And if they would have denied having those
6 convictions when they were recalled, he would have had
7 the opportunity to cross-examine because that was the
8 reason why they were called back to testify.

9 So we don't believe there is any prejudice or
10 due process violation regarding giving him rap sheets
11 that were run on Friday to him today.

12 THE COURT: All right. Mr. Biering, just let me
13 know if there is any further relief that you are
14 seeking.

15 Any additional matters?

16 MR. BIERING: Just on that one, I must have
17 misspoken. Because I think that they were dated
18 October 26, 2012. There were dated on Friday. That
19 was my understanding as well.

20 THE COURT: You said December.

21 MR. BIERING: I apologize, October 26, 2012.

22 MS. WILLIAMS: Just to clarify the record, Your
23 Honor, since he has brought up that we had a
24 conversation, we had emails about discovery. I'm just
25 saying on the record that I didn't purposely hide these

1 rap sheets. They were pulled by our investigator. It
2 was an oversight.

3 Ordinarily we would have walked into court, we
4 would have given him the rap sheets as soon as we had
5 them. It wasn't something that was purposeful trying
6 not to give Mr. Biering the rap sheets.

7 THE COURT: Please make sure that Mr. Biering
8 has all the rap sheets from this point on for all the
9 witnesses that you anticipate calling.

10 All right, next issue?

11 MR. BIERING: Can I have one other comment on
12 that issue, Your Honor? The state --

13 THE COURT: You can make a comment now or you
14 can make a comment tomorrow. What is your choice, Mr.
15 Biering?

16 MR. BIERING: Thank you, Your Honor.

17 THE COURT: Thank you.

18 MR. BIERING: The second issue is the issue of
19 what we believe to be State opening the door in their
20 questioning of Mr. Porcher.

21 THE COURT: Mr. Biering, do you wish to proffer,
22 do you wish to inquire of Mr. Porcher?

23 MR. BIERING: Yes, Your Honor, I do.

24 THE COURT: Ms. Williams, that was your
25 witnesses. Mr. Biering has indicated that he believes

1 that your statement as to the injuries to Mr. Porcher
2 opened the door to some previous criminal violations.

3 The State's position as to allowing him to place
4 the proffer on the record?

5 MS. WILLIAMS: We have no objection to him
6 placing a proffer on the record. We would just say
7 that our position is that the question was about the
8 physical injuries sustained by Reginald Porcher during
9 a car accident, and how they affect his physical
10 limitations. That's relevant to what the defendant
11 says happened at the murder scene.

12 And we did ask the question if his physical
13 limitations after the accident also prevented him from
14 doing other physical things.

15 THE COURT: Okay.

16 Mr. Porcher, I need you to come forward, please.

17 Mr. Biering, you are limited to the questions
18 with respect to that. I'm not allowing you to
19 cross-examine on any other issues.

20 Mr. Porcher, please come forward. I remind you
21 that you are still under oath. And we are outside the
22 presence of the jury. I need you to speak very loudly
23 into the microphone.

24 THE WITNESS: Yes, Your Honor.

25 THE COURT: Thank you.

1 All right, Mr. Biering.

2 MR. BIERING: May it please the Court.

3 THE COURT: Yes, sir.

4 ROBERT PORCHER, JUNIOR,
5 after having previously been sworn to tell the truth,
6 the whole truth and nothing but the truth testified on
7 her oath as follows:

8 IN-CAMERA EXAMINATION

9 BY MR. BIERING:

10 Q Mr. Porcher, do you recall what year your son
11 graduated from high school? Your son Reginald Porcher
12 graduated from high school?

13 A I'm not sure what year it was because Reginald
14 had graduated from the adult school class at Wando High
15 School.

16 Q You had testified that previously that the car
17 wreck prevented him from being able to continue on and
18 play football; is that correct?

19 A Yes, that's what I said.

20 Q Were there other issues in your son Reginald's
21 life that prevented him from being able to play college
22 football?

23 A I don't know whether he would have played
24 college football or not. I know he wouldn't have been
25 able to play because of the injury.

1 Q Did he have any, prior to his graduation from
2 the adult program at Wando, did he have any arrests?

3 A I'm not sure.

4 Q You are not sure?

5 A No. Because when he went to Wando it was
6 because he had the injury to his leg and he wasn't
7 going to the public school so he went to the adult
8 school where he graduated.

9 Q Do you know how old he was when he was injured?

10 A He was 18 or 19, I'm not sure.

11 Q Do you recall Reginald being arrested for
12 disturbing schools?

13 A Disturbing schools?

14 Q Yes.

15 A What do you mean schools? That's more than one.

16 Q Do you recall Reginald being arrested for
17 burglary?

18 A At the school?

19 Q No, sir. Just do you recall him being arrested
20 for burglary?

21 A Yes.

22 Q And was that in the same proximity of time as
23 his injury?

24 A He has had several injuries, more than one. Are
25 you referring to the first one or the second one?

1 Q You have to tell me, I don't know.

2 A Well I'm not sure what you want. If I speak up
3 then you tell me.

4 Q Let's go with the first injury. Is that in the
5 same proximity of his first injury?

6 A No.

7 Q Was it in the same proximity of the second
8 injury?

9 A Yes.

10 Q Do you recall Reginald being arrested for
11 possession of a firearm?

12 A No.

13 Q Do you have any specific recollection of any of
14 the convictions that Reginald had?

15 A Yes.

16 Q Can you tell us what those recollections are?

17 A Well as I told you he was arrested because he
18 tried to burglarize a service station.

19 Q Other than that, do you have any specific
20 recollections?

21 A Other than that, no. He was, I think he got
22 locked up once because he was in a fight with some kids
23 at a burger shop, Burger King shop or someplace.

24 Q Would you agree that those arrests would also
25 preclude him from being able to play -- move on and

1 play college football?

2 A Would those arrests do what?

3 Q Do you think him being arrested for those types
4 of crimes, do you think those would preclude him or
5 shop him from being able to play college football?

6 A I answered that earlier. I told you he had an
7 injury, so the injury would not have allowed him to
8 play. And I don't know if he would have been able to
9 play college football or not, that would be up to the
10 coach or whoever gave those scholarships.

11 MR. BIERING: I don't have anything else.

12 THE COURT: You may step down, thank you.

13 THE WITNESS: Thank you.

14 THE COURT: Anything further regarding that
15 matter, Mr. Biering?

16 MR. BIERING: No, Your Honor.

17 THE COURT: Thank you.

18 Anything before we break for the afternoon, Mr.
19 Alfaro?

20 MR. ALFARO: No, Your Honor.

21 THE COURT: Mr. Biering?

22 MR. BIERING: No, Your Honor.

23 THE COURT: We need to mark some exhibits; is
24 that correct?

25 MR. BIERING: Yes, Your Honor.

1 THE COURT: Thank you. We're at ease until
2 9:15.

3 MR. BIERING: Thank you, Your Honor.

4 THE COURT: Thank you.

5 (Whereupon, the proceedings in this matter
6 before the Court were adjourned for the evening.)

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1 THE COURT: Let's bring in the jury.

2 MR. ALFARO: Your Honor, there is one issue we
3 need to take up before the jury.

4 (Whereupon, a discussion was held in chambers,
5 not on the record.)

6 THE COURT: For the record I had an in-chambers
7 conference with Juror 104. The State brought to the
8 Court's attention that Juror 104 had not complied with
9 the instructions of coming into the back of the
10 courthouse and was waiting out front.

11 I inquired of him if he overheard any of the
12 discussions with the State and their witnesses, and
13 with Mr. Biering and his witnesses, and he indicated
14 that he did not hear any conversations. And I also
15 inquired whether or not my inquiry would affect his
16 ability to be fair and impartial, and he indicated that
17 he was not.

18 Anything further required of the State?

19 MR. ALFARO: No, Your Honor.

20 MR. BIERING: Nothing from the defendant, Your
21 Honor.

22 THE COURT: Thank you. Let's bring in the jury.

23 (Whereupon, the jurors enter the courtroom.)

24 THE COURT: Thank you, please be seated. Good
25 morning, Madam Foreperson, members of the jury. Please

1 give us your attention.

2 Call your next witness.

3 MR. ALFARO: Thank you, Your Honor. The State
4 calls Jennifer Reed.

5 JENNIFER REED,

6 after having first been sworn to tell the truth, the
7 whole truth and nothing but the truth testified on her
8 oath as follows:

9 DIRECT EXAMINATION

10 BY MR. ALFARO:

11 Q Good morning, Ms. Reed.

12 A Good morning.

13 Q Could you please tell the jury where you
14 currently work?

15 A I work for Berkeley County Emergency Medical
16 Services.

17 Q How long have you worked for them?

18 A It will be 9 years in December.

19 Q And what is your current job title, as well as
20 your current job responsibility?

21 A I'm a paramedic crew chief. I'm also a field
22 training officer. My responsibilities are to take
23 control of my medical unit and my crew members, and
24 treat the critically ill and injured.

25 Q And can you describe for us what kind of

1 educational background and specialized training you've
2 received to become a paramedic crew chief.

3 A I started off as a basic EMT, I got that
4 certification at Trident Technical College. I went on
5 to get my intermediate level EMT at Low Country
6 Regional EMS Council. And then I went on to get my
7 paramedic there as well.

8 I've received specialized training in CPR,
9 advanced cardiac life support, pediatric advanced life
10 support. I'm also a HAZMAT technician. And on
11 occasion I work with the TIMS team.

12 Q And were you working for Berkeley County EMS on
13 September 16th, 2009 at approximately 4:50 p.m.?

14 A Yes.

15 Q And did you have the opportunity or the occasion
16 to respond to an incident at Underlie Road and Jack
17 Primis Road?

18 A Yes.

19 Q What type of incident were you sent to?

20 A We were dispatched to a gunshot wound.

21 Q Can you tell us what area of Berkeley County
22 that's in?

23 A It was off Jack Primis Road, what is off of
24 Clements Fairy Road near Daniel Island.

25 Q And when you got to the scene, what did you

1 observe?

2 A When we got to the scene we saw a large crowd of
3 people, police officers on scene. It was a little
4 chaotic. Part of the scene was already taped off.

5 Q And when you respond to a shooting incident, do
6 you go immediately to the scene or is there something
7 you wait for or some notice you wait for from law
8 enforcement before you enter?

9 A We don't respond immediately to the scene, we
10 wait for law enforcement to make it safe for our
11 arrival.

12 Q And you indicated that part of the area was
13 already taped off. Were you able to locate the victim?

14 A Yes.

15 Q And do you recall what that victim's names was?

16 A Reginald Porcher.

17 Q And when you got there, was anybody immediately
18 around the body?

19 A Yes, sir. There was one African-American female
20 cradling him on the ground.

21 Q And can you describe for the jury what the
22 victim's condition, as well as what his body position
23 was when you first saw him?

24 A Yes, sir. He was laying prone on the ground,
25 which means he was laying face-down. The young lady

1 was cradling him in her lap. We had to escort her off
2 the patient so that we could care for him.

3 He was unconscious; unresponsive; apneic, which
4 means he was not breathing; and he was lacking a pulse.

5 Q And were you able to observe any visible
6 injuries to the victim?

7 A He had several gunshot or buckshot wounds, what
8 they appeared to be is buckshot wounds. He had one in
9 his neck around this area, (witness indicating), in the
10 clavicle. Three in his shoulder. And he had what
11 looked like a grazing wound on his left ring finger.

12 Q And you said he was pulse, didn't have a pulse?

13 A No, sir.

14 Q Can you tell us briefly how you go about
15 checking that at the scene.

16 A We checked by carotid artery. We also checked
17 by femoral artery. And we also placed him on a cardiac
18 monitor which showed an asystolic rhythm.

19 Q And for those of us that don't know what that
20 mean, what is an asystolic rhythm?

21 A Basically it's a flat line.

22 Q And can you describe for us what type of steps
23 you took as far trying to provide some sort of
24 treatment?

25 A In that case we always use spinal precautions in

1 victims of trauma, which means we put a cervical collar
2 on them and we provide spine stabilization by loading
3 them onto a long spine board.

4 we also put him on the cardiac monitor.
5 Initiated CPR. We put in an OPA, which is an oral
6 pharyngeal airway, basically it looks like a little
7 hook. We stick it in their mouth and it brings the
8 tongue back up off of the airway so that when we
9 ventilate, the tongue is not in the way.

10 Q And was any type of CPR administered there?

11 A Yes, we also initiated CPR.

12 Q Were you able to, you said when you first came
13 into contact with him he wasn't conscious, he wasn't
14 breathing,

15 A No.

16 Q Were you able to change that despite your
17 efforts?

18 A No, we were not able to change that.

19 Q What was done then?

20 A We, when we rolled him on to the long spine
21 board we cut his clothing off first, loaded him on to
22 the spine board, put him on to the stretcher, secured
23 him, and we wheeled him to the ambulance to leave the
24 scene.

25 Q And how long would you estimate that you tried

1 to treat him at the scene?

2 A We were there about 15 minutes.

3 Q And at any point during that 15 minutes did he
4 regain consciousness?

5 A No, he did not.

6 Q At any point in that 15 minutes did he resume
7 breathing?

8 A No, he did not.

9 Q Where did you transport him to?

10 A We transported him to the closest facility which
11 is our protocol. In an arrest situation, we
12 transported him to East Cooper Medical Center.

13 Q And is that arrest situation, is that how you
14 would classify his condition at the scene?

15 A We would classify it as a traumatic arrest.

16 Q What does that mean?

17 A It means he was the victim of a trauma, and he
18 went into cardiac arrest as a result.

19 Q And you went directly to East Cooper Hospital?

20 A We did. Let me correct myself. We stopped
21 along the way to pick up two first responders from the
22 City of Charleston Fire Department. We only had one
23 first responder on the scene, and in an arrest
24 situation like that we need as many hands as we can get
25 in the back of the truck so that we can effectively do

1 CPR and ventilate the patient and administer drugs,
2 which we did not have on scene.

3 We only had one that could drive us. So we
4 contacted the City of Charleston Fire Department and
5 met them on Clements Fairy Road so that they could give
6 us two of their personnel to help us in the back of the
7 truck.

8 Q And after picking up those two extra volunteer
9 firemen, did you continue to provide treatment in the
10 ambulance?

11 A Yes, we did.

12 Q And at any point was he brought out of the
13 traumatic arrest consistent?

14 A No, he was not.

15 Q So at any point while on the scene or during the
16 ambulance ride, did he ever display any signs of life?

17 A He did not.

18 Q And can you describe for us what type of
19 treatment you administered in the back of the ambulance
20 on the ride to the hospital?

21 A We continued doing CPR and attempting to
22 ventilate the patient. The neck wound that he had was
23 leaking air. Whenever we would try to ventilate, it
24 has some subcutaneous emphysema, basically air trapping
25 in the muscle tissue. So we occluded that off with an

1 inclusive dressing.

2 I gave him some cardiac drugs, epinephrine and
3 atropine, through an IV that we had started. And
4 continued CPR.

5 Q And those atropine and epinephrine, what's the
6 purpose of those?

7 A Basically the epinephrine is trying to
8 kick-start the heart. And the atropine helps to speed
9 it up if it does jump into motion.

10 Q And did it jump into motion?

11 A It did not. He did have a rhythm change on the
12 monitor into a pulse-less electric activity. Basically
13 what that is is it looks like a heartbeat on the
14 cardiac monitor, but there is no pumping of the actual
15 vessel.

16 Q And so was there -- and despite those efforts
17 was there any change in his condition from the time you
18 first saw him to the time you got him to the hospital?

19 A No, sir.

20 Q And did he receive treatment, additional
21 treatment or attempts to treat at East Cooper?

22 A He did.

23 Q And did you witness any of those?

24 A I witnessed a small amount of it. They tried to
25 put chest tubes in him. I'm not sure if it was to

1 drain off oxygen or air or blood, I didn't see that
2 part. And I believe they also cracked his chest and
3 tried to stimulate his heart manually.

4 Q So from the treatment at the scene, the
5 treatment in the ambulance, and the treatment at the
6 hospital he was dead the entire time?

7 A Yes, sir.

8 MR. ALFARO: Thank you. Please answer any
9 questions the defense has for you.

10 THE COURT: Mr. Biering.

11 CROSS-EXAMINATION

12 BY MR. BIERING:

13 Q Good morning, Ms. Reed.

14 A Good morning.

15 Q Ms. Reed, could you describe again the drugs
16 that you administered to Mr. Reginald Porcher?

17 A Yes, sir. I gave him epinephrine and atropine.

18 Q Were you aware of any counter-indications of the
19 use of those drugs?

20 A Not in that situation, no.

21 Q Are you aware of any issues that other drugs in
22 the system would have if those drugs are administered?

23 A No.

24 Q Did you attempt to determine whether or not
25 there were any other drugs likely in the system prior

1 to administration of the drugs?

2 A There was really nobody to ask.

3 MR. BIERING: Thank you.

4 MR. ALFARO: No further questions, Your Honor.

5 THE COURT: Is this witness excused?

6 MR. ALFARO: State would request that.

7 THE COURT: Any objection?

8 MR. BIERING: No, Your Honor.

9 THE COURT: Ms. Reed, you may step down. Thank
10 you.

11 MR. ALFARO: State calls Crystal Spence.

12 CRYSTAL SPENCE,

13 after having first been sworn to tell the truth, the
14 whole truth and nothing but the truth testified on her
15 oath as follows:

16 DIRECT EXAMINATION

17 BY MR. ALFARO:

18 Q Good morning.

19 A Good morning.

20 Q Can you tell the jury where you work?

21 A Berkeley County Sheriff's Office.

22 Q How long have been with the Sheriff's Office?

23 A September of 2000.

24 Q What is your current, what are your current job
25 duties?

1 A Crime scene tech.

2 Q What does that involve?

3 A Processing crime scenes, logging in evidence
4 turned in by the deputies and detectives, transporting
5 the evidence to other facilities for processing.

6 Q And were you working in that capacity on
7 September 16th, 2009?

8 A Yes, I was.

9 Q Did you have the opportunity to assist in a
10 murder investigation involving the defendant, Ron
11 McCray, and the victim, Reginald Porcher?

12 A Yes, I did.

13 Q And did you respond to that crime scene?

14 A Yes, I did.

15 Q Do you recall where that crime scene was?

16 A Jack Primis and Underlie Lane.

17 Q And when you arrived at the scene, was the
18 victim still there?

19 A No, he was not.

20 Q Was the defendant still there?

21 A No, he was not.

22 Q And what did you do when you got to the crime
23 scene?

24 A Started processing the crime scene by taking
25 photographs of where everything was at when we arrived.

1 Then me, Lt. Kokinda and Sharon Shuler started
2 processing the vehicle and photographing it and
3 collecting any evidence from it.

4 Then we went to Underlie to a Nissan and started
5 processing that.

6 Q Now you said -- did you take the picture at the
7 crime scene?

8 A Yes, I did.

9 Q I am going to show you some pictures that have
10 already been entered into evidence. State's Exhibits
11 1, 3, 7, 8, 22, and 24. If you could take look at
12 those pictures and I will ask you some questions about
13 them.

14 Do you recognize what is depicted in those
15 pictures?

16 A Yes, I do.

17 Q Do they fairly and accurately describe the scene
18 as you saw it that day?

19 A Yes, they do.

20 Q I'm going to show you what has been marked for
21 identification as State's Exhibit 2; State's 4, 5 and
22 6; State's 9 through 23; and State's 25 through 45.

23 If you can look through those pictures and I'll
24 ask you a couple of questions about those.

25 Have you had a chance to review all those

1 pictures?

2 A Yes.

3 Q And do those pictures, each of those pictures
4 fairly and accurately depict the crime scene as you saw
5 it that day on September 16th, 2009?

6 A Yes, they do.

7 MR. ALFARO: Your Honor, at this time the State
8 would ask State's Exhibits, essentially 1 through 45,
9 be admitted into evidence.

10 THE COURT: Any objection?

11 MR. BIERING: No, Your Honor.

12 THE COURT: State's 1 through 45 admitted
13 without objection. You may publish as you see fit.

14 MR. ALFARO: Thank you, Your Honor.

15 (Whereupon, State's Exhibit Nos. 1 through 45
16 are admitted into evidence.)

17 Q (By Mr. Alfaro) Can you describe for us what
18 you processed first when you got to the crime scene?

19 A The victim's vehicle, the truck.

20 Q And do you recall where that truck was located?

21 A Across from Underlie into the woods off of Jack
22 Primis.

23 Q They're going to put the pictures up behind you
24 as we kind of go through this. On the screen is
25 State's Exhibit 8. Do you recognize that area?

1 A Yes, I do.

2 Q And what is depicted in that photograph?

3 A That's the front of the vehicle shooting down
4 towards Underlie where the Nissan Maxima was.

5 Q So that's a perspective from the vehicle up the
6 road?

7 A Correct.

8 Q And I'm going to give you this laser pointer,
9 it's the red bottom.

10 Now State's Exhibit 24. Is that the victim's
11 vehicle?

12 A Correct.

13 Q And you described in State's 8 that was pictures
14 from the front of the truck up Underlie?

15 A Correct.

16 Q Is that a view from Underlie looking down?

17 A Correct.

18 Q And that truck, it appears that it's in a
19 woodline there?

20 A Correct, it was backed in.

21 Q And did you process that vehicle?

22 A I did.

23 Q And can you tell the jury a little bit about how
24 you went about processing that?

25 A First we photographed everything the way it was.

1 And then the vehicle was moved out of the woodline so
2 that we could access easier. Then we started looking
3 for any fingerprints, DNA, and any gun evidence.

4 Q Okay. And on State's Exhibit 22, now you
5 indicated, you just testified that the truck was pulled
6 out of the woods so that you could process it easier?

7 A Correct.

8 Q Does that picture depict that?

9 A Yes, it does.

10 Q So that was done while you were at the scene?

11 A Yes, it was.

12 Q And in processing that vehicle, what steps do
13 you take?

14 A First, like I said, we do overall pictures of
15 everything the way we see it. Then we do fingerprints.
16 We dusted each side of the vehicle, inside and out.

17 Then we took DNA swabs of anything that we
18 suspected could possibly be blood. Then we processed
19 the inside for any shotgun shells, pellets, anything
20 that we see that we felt was pertaining to the
21 incident.

22 Q And you mentioned some swabs. Was there any
23 blood located on the victim's vehicle?

24 A Yes, there was.

25 Q And did you take any swabs of the victim's blood

1 at that time?

2 A Yes, we did.

3 Q And in addition to taking the swabs, the
4 victim's blood swab that you just testified to, was any
5 other evidence located -- let me ask you this, I'm
6 sorry.

7 were you provided any information regarding
8 what had taken place that day?

9 A The information I was given by Lt. Kokinda that
10 the victim was shot in the neck. And that he had been
11 in that vehicle. And that he backed it into the woods.
12 And other than that, I don't have any other
13 information.

14 Q And that information, is that information useful
15 or necessary for you to determine what areas of the
16 crime scene to process?

17 A Yes, it is.

18 Q And were there any indications that you saw that
19 the shooting actually did take place with the victim
20 inside or near the truck?

21 A Yes.

22 MR. BIERING: Objection, leading.

23 THE COURT: Overruled, you may answer.

24 A Yes, I did. The back passenger window was
25 shattered. There was pellets in the front dash, the

1 front floorboard, and the front window had been
2 cracked.

3 Q (By Mr. Alfaro) And I am going to show you
4 State's Exhibit 38. And can you tell the jury what is
5 depicted in that picture?

6 A The back passenger window had been shot. And
7 you can tell from the way the metal has been bent that
8 it was a shot from the outside in.

9 Q And on State's Exhibit 45, is that -- what is in
10 that picture?

11 A The same back window, just a different angle.

12 Q And was that photograph taken when it was in the
13 woodline, or after it was moved?

14 A In the woodline.

15 Q Now you indicated or testified that the bend in
16 the metal on the outside indicated to you that the shot
17 came from outside the vehicle.

18 Was there any -- the broken glass from the back
19 windshield, where was that located?

20 A It was all in the backseat.

21 Q Inside the car?

22 A Yes.

23 Q And State's Exhibit 43. And can you tell the
24 jury what is depicted in that picture?

25 A That is the back bench seat of the vehicle,

1 victim's vehicle.

2 Q And can you tell the jury what the dark things
3 are on the white thing?

4 A On the white material, that was all glass.

5 Q And back to the blood swabs that you testified
6 to. Do you recall where those were taken from?

7 A The driver's side door, kind of towards the
8 front fender.

9 Q And on State's Exhibit 25. Can you show the
10 jury what area of the vehicle the blood swabs were
11 taken from?

12 A Right here. (Whereupon, the witness indicates.)

13 Q And I believe you said earlier that in addition
14 to the broken glass in the back windshield and the bent
15 metal on the back of the truck, there was also some
16 damage to the front windshield; is that correct?

17 A Front driver's side, correct.

18 Q Is that depict in the picture? State's 25?

19 A Right here you can see the front window was
20 cracked.

21 Q And State's 26 may be a better picture. Can you
22 show us in that picture where the damage to the
23 windshield was?

24 A (Whereupon, the witness indicates.)

25 Q Now was there any other damage to the inside of

1 the vehicle?

2 A The front dash had pellet holes. And the side
3 where the driver's window frame is, on the side of that
4 in the plastic.

5 Q And on State's Exhibit 41?

6 A This is where the driver's window, the plastic
7 frame right here.

8 Q And is that, on the bottom right of that
9 picture, is that -- what area of the vehicle is that?

10 A Front driver's window where the crack is.

11 Q So what would you estimate or say the distance
12 between the hole in the frame, pellet hole in the frame
13 and the crack in the windshield, what is the distance
14 between those two?

15 A Approximately 6 inches.

16 Q And on State's Exhibit 33. What area of the
17 vehicle was that?

18 A This right here is right above the speedometer
19 of the victim's vehicle.

20 Q And did the hole depicted in that picture,
21 State's 33, did it appear to be consistent with the
22 hole that we just showed in the frame of the vehicle?

23 A Correct.

24 Q And the hole in the frame of the vehicle was
25 State's Exhibit 41 for the record.

1 In addition to the damage to the dash and
2 doorframe, were you able to locate any other evidence
3 related to the shooting inside the vehicle?

4 A There was some pellets on the floorboard. And
5 when the sun visor was moved, a pellet fell out of the
6 sun visor.

7 Q And State's Exhibit 31. And are those the
8 visors you were just speaking of?

9 A Correct. That's above the driver's seat.

10 Q And which of the two visors in the picture, the
11 driver's side or the passenger side, which side was the
12 pellet?

13 A Driver's side.

14 Q And that pellet, was the pellet in the material?
15 Or when you say it was in the visor, was it in the
16 material of the visor or was it above the visor?

17 A It was just lodged in -- it was not in any of
18 the material, it was just like sitting there.

19 Q Did you have to do anything to get the pellet
20 out, or you just have to pull the visor?

21 A I just pulled the visor down and it fell out.

22 Q And was that pellet recovered?

23 A Yes, it was.

24 Q And were any other pellets located inside the
25 vehicle?

1 A On the floorboard next to the brake pedal.

2 Q And how many pellets were recovered from the
3 floorboard of the car?

4 A I believe two.

5 Q And State's Exhibit 29. What is depicted in
6 that picture?

7 A That is a pellet, lead pellet.

8 Q Is that the one from the visor, or one of the
9 ones from the floorboard?

10 A That's from the floorboard.

11 Q And State's 34. And where is that pellet
12 located?

13 A That's on the floorboard.

14 Q And State's 35. And where was that?

15 A That was on the floorboard next to the doorframe
16 on the bottom.

17 Q I'm going to show you State's Exhibit 29, the
18 hard copy of it. It's a little brighter than the one
19 on the screen.

20 I believe you just testified that 29 was from
21 the floorboard. Based off looking at that picture, is
22 that still your testimony?

23 A No, sir.

24 Q Based off looking at the actual printout of that
25 picture, where is that pellet located?

1 A That one is the one from the visor that fell on
2 the seat, the driver's seat.

3 Q So a total of three pellets were found?

4 A Correct.

5 Q And in addition to the pellets being found where
6 you just described, was any other evidence located? I
7 believe you referenced some wadding?

8 A There was a shot wadding on the dashboard.

9 Q And what is shot wadding?

10 A It's inside the shotgun shell.

11 Q And where was that located inside the vehicle?

12 A On the dashboard.

13 Q And State's Exhibit 27. And with the pointer
14 can you show the jury where the wadding, if the wadding
15 that you are referencing is in the picture?

16 A It's up by the vent.

17 Q And State's 28. And can you tell the jury what
18 is depicted from that photograph?

19 A That's the shot wadding also.

20 Q And on State's Exhibit 38. Can you tell the
21 jury what that yellow thing is across the photograph?

22 A That's called a trajectory rod. We just use
23 those to get a proximate angle of the trajectories that
24 come out of the shotgun shell.

25 Q And State's Exhibit 40? What is depicted from

1 that photograph?

2 A That's shot from the back of the truck into the
3 vehicle. And this is showing the trajectory of one of
4 the projectiles.

5 Q And does that show the bend that you referenced
6 earlier in the metal?

7 A Yes, it does.

8 Q And State's Exhibit 37. Is that the same
9 trajectory rod that you were just testifying about?

10 A Yes, it is.

11 Q And based off of what you observed inside the
12 vehicle, which direction did the shot come from?

13 A From the back of the truck into the vehicle.

14 Q In processing the vehicle, did you find any
15 indications inside the vehicle to show you that a shot
16 was fired from outside -- or inside to out?

17 A No, I did not.

18 Q Were any firearms found inside the victim's
19 vehicle?

20 A No, there was not.

21 Q And were any spent shell casings or other
22 projectiles found inside?

23 A No.

24 Q I'm going to show State's Exhibits 151, 152, 153
25 and 154. If you can take a look at the exhibit State's

1 151. Do you recognize that?

2 A Yes, I do.

3 Q And could you tell us what that is?

4 A It's the packing, evidence packing that we use
5 for when we collect stuff at crime scenes. And it's
6 the wadding from the dashboard.

7 Q And is that the wadding that you saw inside the
8 vehicle on September 16th, 2009?

9 A Yes, it is.

10 Q And was it collected from inside the vehicle
11 that day?

12 A Yes, it was.

13 Q What did you do after you collected it?

14 A Logged it into our evidence room.

15 MR. ALFARO: Your Honor, at this time the State
16 would ask that State's Exhibit 151 be admitted into
17 evidence.

18 THE COURT: Any objection?

19 MR. BIERING: No objection.

20 THE COURT: State's 151 into evidence without
21 objection.

22 (Whereupon, State's Exhibit No. 151 is admitted
23 into evidence.)

24 Q (By Mr. Alfaro) And I am going to show you
25 State's Exhibits 152, 153, and 154. Do you recognize

1 those items?

2 A Yes, I do.

3 Q And what do you recognize those as?

4 A One being the lead pellet from the sun visor, a
5 lead pellet from the floor by the doorframe, and the
6 lead pellet from the floor near the brake pedal.

7 Q And are those the pellets that you testified to
8 earlier as located inside the vehicle?

9 A Yes, they are.

10 Q And did you secure those that day?

11 A Yes, I did.

12 Q And what was done with those items after that?

13 A They were logged into our evidence room.

14 MR. ALFARO: Your Honor, at this time the State
15 would ask that Exhibits 152, 153, and 154 be admitted
16 into evidence.

17 THE COURT: Any objection?

18 MR. BIERING: No objection, Your Honor.

19 THE COURT: 152, 153, and 154 into evidence
20 without objection.

21 (Whereupon, State's Exhibit Nos. 152, 153, 154
22 are admitted into evidence.)

23 Q (By Mr. Alfaro) I am going to show you what has
24 been marked for identification as State's Exhibits 158,
25 159 and 160. Do you recognize the packaging?

1 A Yes, I do.

2 Q Can you describe for us how that's packaged and
3 what that is?

4 A It's sealed in an envelope, and it's marked with
5 three swabs.

6 Q And where were those swabs taken from?

7 A Without opening it --

8 Q Do you have scissors. If I can get you to open
9 it along the bottom, without cutting over any initials
10 or dates or anything.

11 Do you recognize those items?

12 A Yes, I do.

13 Q What are they?

14 A One swab from the truck's left door. One swab
15 is from item Number 3 in our photographs off of Jack
16 Primis Road. And one swab from the car door.

17 Q And are those the swabs that you testified to?

18 A Yes, they are.

19 Q And when you say swabs, are those -- what types
20 of swabs are they?

21 A Those were all blood swabs.

22 Q Now did you take any other swabs from the scene
23 that day?

24 A Yes, I did.

25 Q And do you recall where those swabs were taken

1 from?

2 A One was taken from item Number 2 in our photos,
3 and that would be that one. And a swab where we were
4 told the body was laying prior to transport.

5 Q Did you collect those swabs yourself?

6 A Yes, I did.

7 Q I'm going to show you what has been marked for
8 identification as State's Exhibit 162 and 163..

9 Can you tell the jury related to State's Exhibit
10 162 where that was collected from?

11 A That was collected in the photos marked as item
12 Number 2, swab from the ground near the car.

13 Q And regarding State's Exhibit for identification
14 163?

15 A That was where the body was lying before
16 transport.

17 Q Now regarding the swabs that you just testified
18 to, did you have the opportunity -- did you have the
19 opportunity to take those swabs to SLED at some point?

20 A Yes, I did.

21 Q Do you recall when that took place?

22 A February 7th, 2012.

23 Q And we opened some packages in the course of
24 looking at that. Can you describe how those items were
25 packaged when you took custody of them on February 7th,

1 2012?

2 A They were packaged in the yellow envelopes with
3 the blue seal on the outside of it with our initial and
4 date. And then when we take it to SLED, they heat-seal
5 it into the plastic bag.

6 Q And while those items were in your custody, did
7 you tamper with the packaging or the seals at any time?

8 A No, I did not.

9 Q Now in addition to the processing we have talked
10 about from inside the vehicle, did you recover any
11 evidence related to the shooting outside of or separate
12 from the victim's vehicle?

13 A Yes, we did.

14 MR. BIERING: Objection to the form of the
15 question.

16 THE COURT: Overruled.

17 A Yes, we did.

18 Q (By Mr. Alfaro) And do you recall what type of
19 evidence you found outside of the victim's vehicle?

20 A Marked as item Number 1 in our photos was a
21 shotgun shell. And then we also collected DNA off of
22 that Nissan that was on Underlie.

23 Q I am going to show you what has been marked
24 State's Exhibit 149. Do you recognize that item?

25 A Yes, I do.

1 Q And where was that item located?

2 A On Underlie behind in the Maxima on the ground.

3 Q I am going to show you State's Exhibit 21. Can
4 you tell the jury what is depicted in that photograph?

5 A That's the Maxima on Underlie, and the shotgun
6 shell right here.

7 Q And that is State's 149, shotgun shell?

8 A Correct.

9 Q And when you were testifying you referenced it
10 as 1 in the photographs. What does that mean?

11 A Item Number 1, we just mark that as our first
12 piece of evidence.

13 Q And State's Exhibit 4. Is that the marking you
14 were referencing?

15 A Yes.

16 Q Was that item moved at any point before it was
17 marked?

18 A No, it was not.

19 Q Now State's Exhibit 10. Can you tell the jury
20 what is depicted in State's Exhibit 10?

21 A It's showing our markers Item Number 1, and Item
22 Number 2. Item Number 1 was the shotgun shell, and
23 Item Number 2 was a blood droplet.

24 Q Okay.

25 MR. ALFARO: At this time State would ask

1 State's Exhibit 149 be admitted into evidence.

2 THE COURT: Any objection?

3 MR. BIERING: No objection.

4 THE COURT: State's 149 into evidence without
5 objection.

6 (Whereupon, State's Exhibit No. 149 is admitted
7 into evidence.)

8 Q (By Mr. Alfaro) Was the Maxima that was in the
9 picture earlier by the shotgun shell, was that vehicle
10 processed during the course of your investigation?

11 A Yes, it was.

12 Q And can you describe for the jury the condition
13 of that vehicle?

14 A Can you repeat, please.

15 Q Can you describe for the jury what the condition
16 of that vehicle was when you were processing it?

17 A There was blood on the back passenger seat, on
18 the inside, and on the outside of the door.

19 Q I am going to show you State's Exhibit 14. Now
20 can you tell the jury where the blood was located that
21 you just referenced?

22 A (Whereupon, the witness indicates.)

23 All on the outside of the door handle, by the
24 window, and on the back fender.

25 Q And State's Exhibit 15.

1 A Same areas, just a closer view.

2 Q And was there any blood located anywhere else on
3 or in the vehicle?

4 A Just on the inside of the backseat.

5 Q And State's Exhibit 17.

6 A It was on the doorframe and on the seat area.

7 Q And State's Exhibit 16?

8 A That was the back passenger door on the inside
9 of the door.

10 Q And did you take swabs of any of the blood that
11 you just testified observing?

12 A Yes, we did.

13 Q And one of the other swabs that you testified
14 to, I believe you said the victim's blood was located
15 in the roadway; is that correct?

16 A That's correct. It should be item, in our
17 pictures, Number 3.

18 Q Show you State's Exhibit 22. I am going to show
19 you the actual hard copy of State's 22.

20 Can you tell us what is in that picture?

21 A It's a picture going down Jack Primis, shooting
22 back towards the victim's vehicle with blood droplets
23 on the yellow lines.

24 Q Is that the marker you were testifying to?

25 A Correct.

1 Q Now I already asked you about the victim's blood
2 swabs from the victim's truck. Did you also have the
3 opportunity to transport the victim's blood swab from
4 the Nissan and from the roadway to SLED as well?

5 A Yes, I did.

6 Q And did you take them on the same day that you
7 took the other blood swab from the victim's truck?

8 A Yes, I did.

9 Q And what date was that again?

10 A February 7, 2012.

11 Q And were those -- how were those items packaged
12 when you took custody of them on that day?

13 A Same way, in our yellow envelopes. We seal them
14 with the blue tape with our initials and date. And
15 then we log them into SLED. They heat-seal them into
16 their plastic bag.

17 Q Did you tamper with the packaging, or the blood
18 swabs inside in any way when it was in your custody?

19 A No, I did not.

20 MR. ALFARO: Can we approach, Your Honor?

21 THE COURT: You may.

22 (Whereupon, a discussion was held at the bench
23 off the record.)

24 Q (By Mr. Alfaro) I am going to show you what has
25 been marked for identification as Exhibit 150.

1 Do you recognize that exhibit?

2 A Yes, I do.

3 Q And did you at some point have the opportunity
4 to take custody of those items, or that item?

5 A Yes, I did.

6 Q What is contained in that item?

7 A These are the pellets removed from the victim at
8 autopsy, and a tube of his blood.

9 Q Did you attend the autopsy personally?

10 A No, I did not.

11 Q How did you come to take custody of the pellets
12 from the victim specifically?

13 A The detective that attended the autopsy,
14 Detective Renee Ramsey, brought everything back from
15 autopsy and turned it into evidence.

16 Q And were they packaged when she brought them
17 back to you?

18 A They were packaged in the autopsy packaging.
19 And then we package them in our envelopes.

20 Q So it's fair to say they were brought to you in
21 some sort of package. She didn't just hand you a
22 handful of pellets?

23 A No.

24 Q And after Detective Ramsey gave those items to
25 you, what was done with those items?

1 A They were logged into our evidence room.

2 Q I am going to show you what has been marked for
3 identification as State's Exhibit 155.

4 MR. BIERING: Your Honor, can we approach?

5 THE COURT: You may.

6 (Whereupon, a discussion was held at the bench
7 off the record.)

8 THE COURT: Ladies and gentlemen, this is very
9 technical testimony sometimes, so you might want to
10 stand up, stretch, feel the need to get the blood
11 moving, ladies and gentlemen of the jury.

12 Q (By Mr. Alfaro) Do you recognize State's
13 Exhibit 155.

14 MR. BIERING: Your Honor.

15 THE COURT: Hold on one second.

16 MR. BIERING: Can we approach again?

17 THE COURT: You may.

18 (Whereupon, a discussion was held at the bench
19 off the record.)

20 Q (By Mr. Alfaro) All right. Do you recognize
21 State's Exhibit 155?

22 A Yes, I do.

23 Q What do you recognize that as?

24 A It's the blood spot card.

25 Q I'm sorry?

1 A Blood spot card. Instead of tube blood they put
2 blood on a card.

3 Q And where was that retrieved from?

4 A Autopsy.

5 Q And again, you didn't attend the autopsy; is
6 that correct?

7 A No, I did not.

8 Q And where did you -- how did you come into
9 possession of that State's Exhibit 155?

10 A It was turned in by Detective Ramsey.

11 Q Was it's turned in at the same time as the
12 pellets from autopsy?

13 A Yes.

14 MR. ALFARO: Your Honor, at this time State
15 would ask that State's Exhibit 152, the pellets, be
16 admitted into evidence.

17 THE COURT: Any objection?

18 MR. BIERING: Objection, foundation.

19 THE COURT: Take that up outside the presence of
20 the jury at a later time. Thank you.

21 Q (By Mr. Alfaro) Now in addition to the evidence
22 that we have already --

23 THE COURT: Hold on one second. Ladies and
24 gentlemen, this is an appropriate time for us to take a
25 mid-morning break. Please remember all of my

1 admonitions. Thank you.

2 (Whereupon, the jurors exit the courtroom.)

3 (Whereupon, a recess was taken.)

4 THE COURT: Ms. Spence, I remind you that you
5 are still under oath.

6 Did you discuss your testimony with anyone
7 during our break?

8 THE WITNESS: No, ma'am.

9 THE COURT: All right. Let's bring in the jury.

10 MR. ALFARO: Your Honor, may we approach?

11 THE COURT: You may.

12 (Whereupon, a discussion was held at the bench
13 off the record.)

14 (Whereupon, the jurors enter the courtroom.)

15 THE COURT: Thank you, be seated. Mr. Alfaro.

16 MR. ALFARO: Thank you, Your Honor.

17 Q (By Mr. Alfaro) Ms. Spence, we are almost
18 finished. As part of your duties, did you have the
19 opportunity to come into contact with some evidence
20 that had been collected by the Charleston County
21 Sheriff's Department in this case?

22 A Yes, I did.

23 Q Do you recall what items you came into contact
24 with?

25 A The shotgun, there was two differ guns, ammo, a

1 bag of gloves. I'm not really sure of all the items.

2 Q Are you aware where those items were secured
3 from? Were you aware where those items were secured?

4 A What location?

5 Q Where Charleston County got them, yes.

6 A No, sir.

7 Q And I am going to show you State's Exhibit 140,
8 141, 142, 143. Do you recognize those items?

9 A Yes, I do.

10 Q And did you have the opportunity to come into
11 contact with those items?

12 A I logged them in when they were turned in by
13 Deputy Sharon Shuler.

14 Q Do you recall when that was?

15 A 17th of September, 2009.

16 Q And State's Exhibits 146 and 147. Do you
17 recognize those items?

18 A Yes, I do.

19 Q And did you have the opportunity to take custody
20 of those on the same date, September 17th?

21 A Yes, I did.

22 MR. BIERING: Your Honor, can we approach?

23 THE COURT: You may.

24 (Whereupon, a discussion was held at the bench
25 off the record.)

1 Q (By Mr. Alfaro) Showing you what has been
2 marked for identification as State's Exhibit 144.

3 MR. ALFARO: There is a lock on the trigger
4 guard for the Court's knowledge.

5 THE COURT: Thank you.

6 Q (By Mr. Alfaro) Do you recognize that item?

7 A Yes, I do.

8 Q And did you have the opportunity to come into
9 contact with this item?

10 A Yes, I did.

11 Q What did you do with this item?

12 A Logged into it our evidence room.

13 Q The same date that you testified the other items
14 just now?

15 A Yes, I did.

16 Q And State's Exhibit 145, there is also a trigger
17 guard lock on this as well. Do you recognize this
18 item?

19 A Yes, I do.

20 Q Did you have the opportunity to come into
21 contact with this item?

22 A Yes, I did.

23 Q And did you secure it into evidence along with
24 the other items that were testified about?

25 A Yes, sir.

1 MR. ALFARO: Thank you. Please answer any
2 questions Mr. Biering has for you.

3 CROSS-EXAMINATION

4 BY MR. BIERING:

5 Q Checking to make sure it was still morning.

6 Good morning, Ms. Spence, Detective Spence.

7 A Good morning.

8 Q How long did you say you have been with Berkeley
9 County?

10 A I started in the forensic unit September of
11 2000.

12 Q And have you been with Berkeley County Sheriff's
13 Department consistently since that time?

14 A Correct.

15 Q And you have not had any interruptions in your
16 service with them, you've worked consistently through
17 that time; is that correct?

18 A Correct.

19 Q And if you could again, let's go through in
20 detail your educational background.

21 A Starting with high school graduation?

22 Q No, let's just start with any college and other
23 professional training?

24 A I have got some college towards an associate's
25 degree in criminal justice. I have crime scene

1 processing through the South Carolina Criminal Justice
2 Academy. Latent lifts, processing at the South
3 Carolina Criminal Justice Academy. Two week photograph
4 class at the South Carolina Criminal Justice Academy.
5 And currently doing online classes with West Virginia
6 University.

7 Q West Virginia University, is that like UVA?
8 Like the Mountaineers?

9 A It's online classes for crime scene.

10 Q Now you said in your direct testimony that when
11 you got to the scene that day that you received
12 information from a detective, is that right, and which
13 detective was that?

14 A Lt. Kokinda.

15 Q And what you testified to was that you received
16 that information from Kokinda and that was all the
17 information that you were provided about the scene that
18 day; is that correct?

19 A Correct.

20 Q And specifically what did Kokinda tell you?

21 A That the victim was shot in the neck area and
22 was transported to East Cooper Hospital. And the
23 vehicle that was in the woodline, and the vehicle on
24 underlie, the Nissan Maxima, was our crime scene.

25 Q So Kokinda defined the crime scene for you,

1 correct?

2 A No, sir. He told us what he was told. The
3 taped off area were defined before we got there.

4 Q Okay. And who taped off the area?

5 A I do not have that information.

6 Q So would you agree that the taped-off area was
7 what you believed to be crime scene?

8 A Correct.

9 Q You don't know who defined the crime scene,
10 correct?

11 A I do not.

12 Q Your crime scene processing class that you were
13 at, you said that was two weeks, right?

14 A That was one week.

15 Q One week. Do you know, by way of list, who the
16 individuals were that were at or within what you
17 believe to be the defined crime scene; yes or no?

18 A No.

19 Q Do you know the names of any individuals that
20 left the crime scene before Charleston County -- I'm
21 sorry, Charleston City arrived?

22 MR. ALFARO: Objection.

23 THE COURT: Basis?

24 MR. ALFARO: Calls for speculation.

25 THE COURT: If she knows she may answer.

1 A I do not have any clue.

2 Q (BY Mr. Biering) No clue?

3 A (Negative head shake.)

4 Q Do you know the names of any individuals that
5 left the crime scene before Berkeley County Sheriff's
6 Department got there?

7 A No, sir.

8 Q Do you know, by way of a list, the names of the
9 individuals that had been in the black Tacoma within
10 the last 24 hours prior to you processing this crime
11 scene?

12 MR. ALFARO: Objection.

13 THE COURT: Basis?

14 MR. ALFARO: Relevancy, and also requires fact
15 that aren't in evidence. There has been no indication
16 that there was anybody inside the vehicle.

17 THE COURT: Sustained.

18 Q (BY Mr. Biering) In your processing of a crime
19 scene, is it important to know who has been within the
20 crime scene in a short period of time before an alleged
21 crime occurs?

22 A Not really.

23 Q Doesn't matter who was there?

24 A You can eliminate anybody that was there if you
25 need to.

1 Q Have you been back to the crime scene since
2 September 16th, 2009?

3 A No, sir.

4 Q What is the sum total of time that you spent at
5 the crime scene on September 16th, 2009?

6 A Approximately two hours.

7 Q Are there any witnesses that you believe,
8 witnesses to the events of that day that you spoke to
9 in conjunction with your attempt to process this crime
10 scene?

11 A Did not speak to anybody on scene.

12 Q Did you view any documents prior to your
13 preparation for your testimony today?

14 A I'm sorry, can you repeat that?

15 Q Did you review any documents in preparation for
16 your testimony today?

17 A Yes, I did.

18 Q What did you review?

19 A My supplemental, a chain of custody.

20 Q And when we talk about your supplemental, do you
21 know what date that you created that report?

22 A No, I do not.

23 Q Do you know how many pages that report is?

24 A Two.

25 Q Are you very familiar with the items that are

1 contained in that report?

2 A Yes, I am.

3 Q Who moved the vehicle out of the woods?

4 A Lt. Kokinda.

5 Q How did he move it out of the woods?

6 A Drove it out.

7 Q I'm sorry?

8 A Drove it out.

9 Q And that was before you processed the vehicle;
10 is that correct?

11 A That's correct.

12 Q Do you know who the first law enforcement
13 officer was that arrived at the scene that day?

14 A No, I do not.

15 Q Do you know if anyone else got into the Tacoma
16 after the events that occurred that day but before law
17 enforcement arrived?

18 A No, I do not.

19 MR. BIERING: If I can approach the witness,
20 Your Honor?

21 THE COURT: You may.

22 Q (By Mr. Biering) It has been pre-admitted
23 State's 45. Can you describe to us what you see in
24 that picture?

25 A That's a photograph from the driver's side open

1 door, shooting back towards the back seat and the back
2 window.

3 Q And what do you see as you look at the picture
4 of the rear of the vehicle? what do you see inside the
5 vehicle?

6 A I see the seatbelt, broken window.

7 Q Let's look at the screen. what else do you see
8 inside the vehicle?

9 A In the front seat I see a tree branch.

10 Q Tree branch?

11 A Uh-hum.

12 Q were there any trees growing inside the vehicle?

13 A No, sir.

14 Q So that was from the outside?

15 A Assuming so, yes.

16 Q Can you tell whether the door is open or shut?

17 A It was shut.

18 Q So the door was shut, and inside the vehicle was
19 a tree branch?

20 A Uh-hum.

21 Q where you believed the vehicle -- well let me
22 ask you a question. Do you believe the vehicle to have
23 been someplace else earlier in the events of that
24 afternoon?

25 A I have no clue.

1 Q You have no clue?

2 A Uh-uh.

3 MR. BIERING: Nothing else, judge.

4 MR. ALFARO: No further questions, Your Honor.

5 THE COURT: Is this witness released?

6 MR. ALFARO: We would ask that, Your Honor.

7 THE COURT: Any objection Mr. Biering?

8 MR. BIERING: No, Your Honor.

9 THE COURT: You may step down. You are free to
10 remain with us. Thank you.

11 Call your next witness.

12 MR. ALFARO: Felicia Simmons.

13 THE COURT: Please come forward and be sworn.

14 FELICIA SIMMONS,

15 after having first been sworn to tell the truth, the
16 whole truth and nothing but the truth testified on her
17 oath as follows:

18 DIRECT EXAMINATION

19 BY MR. ALFARO:

20 Q Good morning, Ms. Simmons.

21 Can you tell the jury what type of work you do?

22 A Right now I'm assistant manager at Lane Bryant.

23 Q Do you have any children?

24 A One.

25 Q How old is your child?

- 1 A Seven months.
- 2 Q What area do you live in now?
- 3 A I live in North Charleston.
- 4 Q How long have you lived there?
- 5 A Month and a half.
- 6 Q And where were you living in September of 2009?
- 7 A West Ashley.
- 8 Q And do you remember the address in West Ashley?
- 9 A No, I don't remember the address.
- 10 Q Was anyone living with you at the time?
- 11 A No.
- 12 Q And when did you move into that place in West
13 Ashley?
- 14 A I had been there a few months, maybe four or
15 five months.
- 16 Q And was that a house, an apartment, what kind of
17 place was that?
- 18 A Apartment.
- 19 Q And do you know the defendant, Ron McCray?
- 20 A Yes.
- 21 Q And how long have you known him?
- 22 A Over 20 years now.
- 23 Q What is the nature of, or what was the nature of
24 your relationship in September of 2009?
- 25 A I was dating him.

1 Q And did he, was he living with you at that time?

2 A He was back and forth. He would spend the night
3 a couple of days here and there.

4 Q And do you recall seeing, whether you saw Mr.
5 McCray on September 16th, 2009?

6 A It was a Wednesday?

7 Q I believe so, yes, ma'am.

8 A Yes. I saw him when I got off of work.

9 Q And was anyone with him?

10 A Chris was with him.

11 Q Do you know Chris's last name?

12 A No.

13 Q And how long were the defendant and Chris at
14 your house?

15 A Just a little while. When I got there, I had
16 just gotten off from work.

17 Q And where were you working at the time?

18 A Kangaroo on Coleman.

19 Q And what city is that in?

20 A It's in Mount Pleasant.

21 Q Okay. And when is the is the next time you saw
22 the defendant after that?

23 A The next morning when he came to my job.

24 Q And was anybody with him when he came to your
25 job?

1 A A guy was with him.

2 Q Do you know how he got to?

3 A He was on his motorcycle.

4 Q And what did he come to your job for?

5 A My car.

6 Q You said that he came to the scene or to your
7 job for your car, was he borrowing it, returning it,
8 what was he doing?

9 A He is borrowing it to go to work.

10 Q What kind of car did you have back then?

11 A Chrysler 300.

12 Q I'm going to show you what has been marked for
13 identification as State's Exhibit 96.

14 Do you recognize that car?

15 A Yes.

16 Q And how do you recognize it?

17 A Because it's mine. I was driving it for two
18 years at that time.

19 Q And does that picture fairly and accurately
20 depict the condition of your car when you had it in
21 September of 2009?

22 A Uh-hum.

23 THE COURT: Is that yes?

24 THE WITNESS: Yes.

25 MR. ALFARO: Your Honor, at this time the State

1 would ask State's Exhibit 96 be admitted.

2 THE COURT: Any objection?

3 MR. BIERING: None, Your Honor.

4 THE COURT: State's 96 into evidence without
5 objection.

6 (Whereupon, State's Exhibit No. 96 is admitted
7 into evidence.)

8 Q (By Mr. Alfaro) And so the jury can see it, is
9 that the picture you just identified, the vehicle you
10 just identified?

11 A Yes.

12 Q And did you let him use your car?

13 A Yes.

14 Q And how long did he, how long were you without
15 your car?

16 A He got it about 5:30, quarter to 6:00. And I
17 didn't get it back until two or three days after.

18 Q Where did you get it back from?

19 A The police station in North Charleston.

20 Q Did you find out why the police had your car?

21 A Yes.

22 MR. BIERING: Objection, calls for speculation.

23 THE COURT: Overruled.

24 Q (By Mr. Alfaro) why did the police, you said
25 you found out the police had your car?

1 A I didn't hear you.

2 Q (By Mr. Alfaro) You said you found out why the
3 police had your car?

4 A Yes.

5 Q Showing you what has been marked for
6 identification as State's Exhibit 109 and 110.

7 Can you tell the jury what is in -- shown in
8 those pictures?

9 A Those were his work supplies.

10 Q What type of supplies, when you say work
11 supplies, what's in them?

12 A He did drywall. That's a vacuum and something
13 else, I think stilts or something else was in the car
14 too.

15 Q And those belong -- do those belong to you or to
16 the defendant?

17 A It belongs to him.

18 Q Were those in the car when you gave the car to
19 him?

20 A No.

21 Q And while he had your car, did you receive
22 information that the police were looking for you and
23 your car?

24 A Yes.

25 Q And what did you do when you found out that?

1 A Well actually I called them because my mom was
2 the one who called me and notified me of what was going
3 on, and I called them.

4 Q And do you remember which agency you called?
5 which police agency you called?

6 A No.

7 Q And at some point after calling the police, did
8 you meet with them at your apartment?

9 A Yes.

10 Q And what happened when they -- did they come to
11 your apartment?

12 A Yes.

13 Q And what happened when they came there?

14 A They put me in the car and was telling me what
15 all had happened and asked me to write a statement.

16 And then they told me that they needed to search
17 my apartment.

18 Q And did you ask them what they were looking for?

19 A I had already told them when I called them on
20 the phone.

21 Q You told them what? You said you told them?

22 A Yeah, I told them that I was home and that they
23 could come to my apartment to meet me at my apartment.

24 Q Did they tell you that they were looking for
25 something in particular?

1 A They said they was looking for the weapon.

2 Q And had you located that weapon before talking
3 to them?

4 A I'm not sure if I did or my dad did at the time
5 because there was so much going on. But we did locate
6 it, yes.

7 Q And did you give them permission to come into
8 your apartment to look for that?

9 A Yeah. Yes.

10 Q I am going to show you what has been marked for
11 identification as State's Exhibits 48 through 55, 48
12 through 57.

13 If you can take a look at those pictures and
14 then I will ask you a couple of questions about them.

15 Having had an opportunity to look at those
16 pictures, do those pictures fairly and accurately
17 depict your apartment on September 17th, 2009?

18 A Yes.

19 MR. ALFARO: Your Honor, at this time the State
20 would ask that State's Exhibit 48 through 57 be
21 admitted into evidence.

22 THE COURT: Mr. Biering?

23 MR. BIERING: If I could have just a moment,
24 Your Honor.

25 THE COURT: Take your time.

1 MR. BIERING: No objection.

2 THE COURT: State's 48 through 57 admitted into
3 evidence without objection. You may publish.

4 MR. ALFARO: Thank you, Your Honor.

5 (Whereupon, State's Exhibit Nos. 48 through 57
6 are admitted into evidence.)

7 Q (By Mr. Alfaro) I'm going to show you on the
8 screen behind you State's Exhibit 49.

9 Can you tell the jury what part of your
10 apartment that picture shows?

11 A That's my bedroom.

12 Q And State's Exhibit 50. And is that the same
13 part of your house, the bedroom?

14 A Yes.

15 Q Can you see what's at the -- that colorful thing
16 down at the bottom in that bag, are those items yours?

17 A No.

18 Q Do you know whose they were?

19 A Ron's.

20 Q And State's 52. The same thing we were just
21 looking at?

22 A Yes.

23 Q And State's Exhibit 53. Is that your shotgun?

24 A No.

25 Q Do you know whose shotgun that is?

1 A Ron's.

2 Q And State's Exhibit 54. Are the -- we can show
3 State's Exhibit 55, that's a little better picture.

4 I'm going to show you a hard copy of State's
5 Exhibit 55. Do you know what is in those pictures?

6 A No, I didn't know. Gloves and bullets.

7 Q Are those yours?

8 A No.

9 Q State's 57. Is that your shotgun?

10 A No.

11 Q And did the police take those items from your
12 apartment on that day?

13 A Yes.

14 Q And did you eventually -- you said you
15 eventually got your car back?

16 A Yeah, I think I got it like maybe two or three
17 days later.

18 MR. ALFARO: Thank you. Please answer any
19 questions Mr. Biering has for you.

20 THE COURT: Mr. Biering.

21 MR. BIERING: If I could have just a moment,
22 Your Honor.

23 THE COURT: Take your time.

24 CROSS-EXAMINATION

25 BY MR. BIERING:

1 Q Good morning, Ms. Simmons.

2 A Good morning.

3 Q Ms. Simmons, do you know James Boykin?

4 A No.

5 Q You do not know James Boykin?

6 A Uh-uh.

7 Q Around this same time were you requested by Mr.
8 McCray to retrieve any items that belonged to him from
9 any other individuals?

10 A The only thing was his motorcycle at the time.

11 Q And where was that at?

12 A It was someplace in Mount Pleasant. I'm not
13 exactly sure.

14 Q And did you attempt to retrieve that motorcycle
15 for him?

16 A No.

17 MR. BIERING: Thank you.

18 THE COURT: Mr. Alfaro?

19 MR. ALFARO: No further questions.

20 THE COURT: Is this witness excused.

21 MS. WILLIAMS: Yes, Your Honor.

22 THE COURT: Any objection?

23 MR. BIERING: No, Your Honor.

24 THE COURT: You are excused. You may step down.
25 Feel free to remain with us.

1 Call your next witness.

2 MR. ALFARO: State calls James Riser.

3 JAMES RISER,

4 after having first been sworn to tell the truth, the
5 whole truth and nothing but the truth testified on his
6 oath as follows:

7 MR. BIERING: Your Honor, we have a potential
8 issue related to this matter I'd like to take up before
9 this witness.

10 THE COURT: You may approach.

11 (Whereupon, a discussion was held at the bench
12 off the record.)

13 THE COURT: Mr. Alfaro, your witness.

14 MR. ALFARO: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MR. ALFARO:

17 Q Deputy Riser, could you tell the jury where you
18 work?

19 A Berkeley County Sheriff's office.

20 Q How long have you been with the Sheriff's
21 office?

22 A Approximately seven years now.

23 Q Were you working on September 16th, 2009?

24 A Yes, I was.

25 Q And did you have the opportunity to assist in a

1 murder investigation involving the defendant, and the
2 victim Reggie Porcher?

3 A Yes, I did.

4 Q Did you respond to the scene of the murder?

5 A Yes, I did, briefly.

6 Q And when you got to the scene, was the victim
7 still there?

8 A No, he wasn't.

9 Q Did you learn where he had been taken?

10 A Yes, I did.

11 Q And where had he been taken?

12 A East Cooper Hospital.

13 Q Did you have the opportunity to go to East
14 Cooper Hospital?

15 A Yes, I did.

16 Q And when you got to East Cooper, was the victim
17 still alive?

18 A No, he wasn't.

19 Q Did you come into the contact with the victim at
20 the hospital?

21 A Yes, I did.

22 Q And what did you do after you got to the
23 hospital?

24 A I completed a gunshot residue kit on the victim.
25 And also collected his belongings.

1 Q Showing you what has been marked for
2 identification as State's Exhibit 148.

3 Do you recognize that item?

4 A Yes.

5 Q What do you recognize it as?

6 A This is the gunshot residue kit.

7 Q Is that the kit that was performed on the victim
8 that day?

9 A Yes.

10 Q And who performed that test?

11 A I did.

12 Q Can you describe for the jury how you go about
13 doing a gunshot residue test?

14 A Yes. I open up the package it's sealed, I
15 opened it up. Separate the vials right hand, left
16 hand, and then follow the directions.

17 Q And what is the actual steps you go in
18 performing the test after you separate the swabs?

19 A I'd have to look at directions to follow it. I
20 don't know it by memory.

21 Q And did you perform the kit on the victim that
22 day?

23 A Yes, I did.

24 Q And after performing the swabs, you said right
25 and left, what area of the body do you perform the GSR

1 test on?

2 A On the hands.

3 Q And specifically what part of the hands?

4 A It would be the palm of the hand and the back of
5 the hand and the fingers.

6 Q Is that for both hands?

7 A For both hands, yes, sir.

8 Q And you did that in this case?

9 A Yes, I did.

10 Q And after you performed the test, what do you do
11 with the swabs?

12 A Seal it up. And then I turned it over to Sharon
13 Shuler with the Berkeley County Forensics Department to
14 keep for evidence, secure it in evidence.

15 Q And was it turned over to her that same day?

16 A Yes, it was.

17 Q And you testified that you took possession of
18 the victim's clothes as well; is that correct?

19 A Yes.

20 Q Do you recall what those were?

21 A I would have to look at the chain of evidence.
22 But it was clothing, some currency, and I think a cell
23 phone.

24 Q Let me show you what has been marked for
25 identification as State's Exhibit 157.

1 If you could put those gloves on and look at the
2 items contained in there.

3 A Give me just one second, they are sticking.

4 MR. BIERING: There is no powder on them.

5 THE WITNESS: Sorry, I apologize to the Court.

6 Q (By Mr. Alfaro) Do you recognize those items as
7 property you took from the hospital that night?

8 A Yes.

9 MR. ALFARO: Your Honor, at this time the State
10 would ask that State's Exhibit 157 be admitted into
11 evidence.

12 THE COURT: Any objection?

13 MR. BIERING: No objection, Your Honor.

14 THE COURT: State's 157 into evidence without
15 objection.

16 (Whereupon, State's Exhibit No. 157 is admitted
17 into evidence.)

18 MR. ALFARO: Thank you, Your Honor.

19 State has no further questions.

20 THE COURT: Mr. Biering.

21 CROSS-EXAMINATION

22 BY MR. BIERING:

23 Q Detective Riser, did you review any documents
24 prior to testifying today?

25 A A supplement.

1 Q Do you know what date your supplement had on it?

2 A I can't remember.

3 Q You can't remember?

4 A No, it has been.

5 Q Do you know what time you collected the, or
6 followed the instruction on the GSR test kit?

7 A I would have to look at.

8 Q You don't know?

9 A No, sir, I don't remember. I'd have to look at
10 the time. When I arrived at East Cooper is when I did
11 it.

12 Q Do you have a copy of your supplemental with
13 you?

14 A Yes, sir.

15 Q You do? Okay. If I could, if I could approach,
16 I want make sure we are reading off the same sheet of
17 music here.

18 MR. BIERING: If I could have a moment, Your
19 Honor. I do believe it's the same document, it's just
20 in a different format.

21 THE COURT: Take your time.

22 MR. BIERING: Thank you.

23 Q (By Mr. Biering) Isn't it true that in your
24 report you have no reference to the time that you
25 followed the instructions on the GSR kit?

1 A No, there is no time. Just the date.

2 Q Just the date?

3 A Yes.

4 Q And is that the sum total of your report? Do
5 you have anything else?

6 A Like what?

7 Q Notes, another report?

8 A No.

9 Q And have you received training as it relates to
10 following the instructions on a GSR kit?

11 A Have I received training?

12 Q Yes, sir.

13 A No. It's black and white. You just read the
14 directions, it tells you exactly what to do.

15 Q Can you tell us exactly what you did when you
16 arrived at the hospital and with very particular
17 detail?

18 A Like what? Can you be more specific what you
19 are asking, please?

20 A I want to know exactly what you did, moment by
21 moment, when you arrived at East Cooper Hospital from
22 the time you arrived until the time that you completed
23 the instructions on the GSR kit.

24 A I can't remember exactly moment to moment. But
25 I got there. They told me that he had deceased. I

1 completed a GSR kit on him. And then I stood by with
2 the body until the coroner took over the body.

3 Q Can you testify as to the names of each of the
4 individuals and the manner in which each individual's
5 name that you are aware of had contact with Reginald
6 Porcher from the time the incident occurred until
7 whatever time it is that you conducted or followed the
8 instructions on the GSR kit?

9 A Like who are you talking about?

10 Q Detective, you are the detective. I'm asking
11 you, do you have the names of the people who touched
12 Mr. Reginald Porcher?

13 A No, sir.

14 Q Did you have a list of the manner in which
15 Reginald Porcher was touched from the time of the
16 incident to the time, whatever that time is that you
17 followed the instructions on the GSR kit?

18 A No, sir.

19 Q I just want to be clear. No training on doing
20 GSR kits, correct?

21 A No, sir. It just a simple direction.

22 MR. BIERING: Thank you.

23 REDIRECT EXAMINATION

24 BY MR. ALFARO:

25 Q Detective Riser.

1 A Yes.

2 Q Were you dispatched to East Cooper Hospital?

3 Told to go there?

4 A I was instructed to go there.

5 Q Who instructed you to go there?

6 A My sergeant, Sgt. Shuler.

7 Q And are you familiar with what a CAD report is?

8 A Yes.

9 Q What is a CAD report?

10 A That is a dispatch of all the units that go to

11 the scene, and times when they arrive and when they

12 leave, and what location they are at.

13 Q Would it refresh your recollection to refer to
14 the CAD report to remind yourself what time you went to
15 the hospital?

16 A Yes.

17 Q I'm going to show you what has been marked as
18 State's Exhibit 164 for identification only. Take a
19 moment to review the CAD report and I will ask you some
20 follow-up questions.

21 A Okay.

22 Q Have you had a chance to review that document?

23 A Yes, I have.

24 Q Having reviewed that document, does it refresh
25 your recollection as to what time you were sent to or

1 went to the hospital?

2 A Yes.

3 Q What time was that?

4 A I was en route to East Cooper at 1756 and 31
5 seconds. I arrived at East Cooper at 1806 and 28
6 seconds.

7 Q And for people on the jury that may not
8 understand military time, what do those times translate
9 to?

10 A That would be 1756 would be 5:56:31. And
11 1806.28 would be 6:06:28.

12 Q Both of those a.m. or p.m.?

13 A P.M.

14 MR. ALFARO: Please answer any questions Mr.
15 Biering has.

16 THE COURT: Mr. Biering.

17 RE CROSS-EXAMINATION

18 BY MR. BIERING:

19 Q What time did you depart?

20 A May I see the CAD and I can tell you.

21 Thank you, sir. 2105 and 55 seconds, which
22 would be 9:05 p.m. and 55 seconds.

23 Q 9:05?

24 A Yes, sir, and 55 seconds.

25 Q You got there again at what time?

1 A I was en route at 1756 and 31 seconds, which
2 would be 5:56:31, and I arrived at 2806 and 28 seconds,
3 which would be 6:06:28 p.m.

4 Q And you left again at what time again? 9
5 o'clock?

6 A I went 10-8 at 2105 which would be 9:05.

7 Q And if I could get you to look back to your only
8 notes and your only record that you maintained as it
9 relates to this, what time did you do the GSR?

10 A While I was East Cooper. There is no time in my
11 record.

12 Q So sometime in between there?

13 A Yes, sir.

14 MR. BIERING: Thank you.

15 MR. ALFARO: No further questions, Your Honor.

16 THE COURT: Is this witness excused?

17 MR. ALFARO: Yes, Your Honor.

18 THE COURT: Any objection?

19 MR. BIERING: No, Your Honor.

20 THE COURT: You may step down. Feel free to
21 remain with us.

22 Call your next witness.

23 MR. ALFARO: State calls Sharon Shuler.

24 SHARON LYNETTE SHULER,

25 after having first been sworn to tell the truth, the

1 whole truth and nothing but the truth testified on her
2 oath as follows:

3 THE COURT: Mr. Alfaro.

4 DIRECT EXAMINATION

5 BY MR. ALFARO:

6 Q Can you tell jury where you work?

7 A Berkeley County Sheriff's Office.

8 Q How long have you been with the Sheriff's
9 office?

10 A Five years.

11 Q And were you working in September of 2009 for
12 the Sheriff's Office?

13 A Yes, sir.

14 Q What was your assignment at that time?

15 A I was assigned to forensic services division.

16 Q And in that capacity did you have the
17 opportunity to respond to assist in a murder
18 investigation involving the defendant Ron McCray and
19 the victim Reginald Porcher?

20 A Yes, sir.

21 Q And did you have opportunity to respond to the
22 murder scene?

23 A Yes, sir.

24 Q And do you recall where that was?

25 A It was Underlie Court and Jack Primis Road.

1 Q And did any other forensic technicians respond
2 with you at that time?

3 A Yes, sir, Deputy Spence and Lt. Kokinda.

4 Q When you got there, was the victim still there?

5 A No, sir.

6 Q And when you got to the scene, what was your
7 role in the investigation?

8 A I assisted Deputy Spence and Lt. Kokinda.

9 Q And do you recall what items or what areas of
10 the scene you helped them process?

11 A Mine was mostly contained to the truck area.

12 Q And in addition to assisting Deputy Spence, did
13 you also have the opportunity to come into contact with
14 any items of evidence that were secured by Charleston
15 County Sheriff's Office?

16 A Yes, sir.

17 Q Do you recall what those items were?

18 A From the Sheriff's Office of Charleston County I
19 received one Revelation sawed-off 12 gauge shotgun.
20 One JC Higgins sawed-off 12 gauge shotgun. Thirteen
21 12 gauge buckshot shells. Four 16 gauge shotgun
22 shells. Seven latex gloves. One black jacket. One
23 multi-color pillow case. And one black bag that
24 contained the ammo and gloves.

25 Q And when did you get possession of those items?

1 A On September 17th of '09.

2 Q And what did you do with those items after you
3 took possession of them?

4 A I brought them back to our forensic services
5 division where they were locked.

6 Q And where did you get possession of these from?

7 A From Charleston County Sheriff's Office.

8 Q At the actual Sheriff's office?

9 A Yes, sir.

10 Q Do you recall who gave you those items?

11 A Deputy Kathy Kjellman.

12 Q And were you made aware of where those items had
13 come from?

14 A Yes, sir.

15 Q Where did those items actually come from?

16 A They came from the [REDACTED] North Woodmere Drive,
17 Apartment [REDACTED] in Charleston.

18 Q Did you tamper with those items in any way while
19 they were in your custody before taking them back to
20 the Berkeley County Sheriff's Office?

21 A No, sir.

22 Q And did you prepare a report detailing your
23 involvement in this investigation?

24 A Yes, sir.

25 Q And did you have an opportunity to review that

1 report prior to testifying?

2 A Yes, sir.

3 Q And are you aware of any mistakes or errors that
4 are contained in your supplement?

5 A Yes, sir.

6 Q Can you tell jury what the error is?

7 A Whenever I did my supplement, unfortunately
8 there was a clerical error. Those items that I just
9 named off to you, they were actually, as I said, they
10 came from [REDACTED] North Woodmere Drive, Apartment [REDACTED] in
11 Charleston. But I also have some other items as well
12 that those came from the Chrysler 300.

13 Q Okay. So the items you just testified to, the
14 shotguns and the ammo and all that came from the --
15 actually came from the apartment?

16 A Yes, sir.

17 Q And in your report you said that items were
18 collected from the white Chrysler 300?

19 A Yes, sir, that was incorrect. There were other
20 items that I picked up that came from the Chrysler 300.
21 That was a mistake on my part.

22 Q And what items did you pick up from Charleston
23 County that had come from the Chrysler?

24 A From the Chrysler there was three blood swabs,
25 one back Goose Motorola cell phone, miscellaneous

1 paperwork, blue/gray 16-gallon shopvac, hoses for the
2 shopvac, miscellaneous painting supplies, one black
3 plastic bucket, two painting stilts, and one drywall
4 sander.

5 Q And those items that you testified came from the
6 Chrysler, who gave you those items to take back to
7 Berkeley County?

8 A Deputy Kathy Kjellman.

9 Q And did you tamper with any of the packaging
10 with those items when you transported them from
11 Charleston County to Berkeley County?

12 A No, sir.

13 Q And did you take possession of the items from
14 the Chrysler on the same day as the items from the
15 apartment?

16 A No, sir, they were two separate dates.

17 Q What was the date that you took the property
18 that came from the apartment?

19 A September 17th of '09.

20 Q And what was the date that you took the property
21 that came from the Chrysler?

22 A October 2nd, '09.

23 Q And in addition to securing those items, did you
24 also have the opportunity to transport evidence to SLED
25 in Columbia?

1 A Yes, sir.

2 Q When did you do that?

3 A They were submitted February 24, 2010.

4 Q And do you recall what items you transported to
5 SLED on that date?

6 A Yes, sir. Read everything from this?

7 Q Yes, please.

8 A There were shotgun shells from a Remington 12
9 gauge shotgun, well actually it was unfired. And then
10 there was one Remington 12 gauge shotgun unfired. To
11 make it a little bit easier, I might just -- I think
12 there were 13 altogether that was unfired 12 gauge
13 Remington shotgun shells. They were double ought
14 buckshot.

15 Q And the items that you -- were there any other
16 items that you transported that day?

17 A Yes, sir. There was four unfired Remington 16
18 gauge shotgun shells.

19 And there was one lead pellet from the sun visor
20 of the victim's car on the driver's side. One lead
21 pellet from the floor by the doorframe of the victim's
22 vehicle on the driver's side.

23 One lead pellet from the floor near the brake
24 pedal of the victim's car on the driver's side. There
25 was wadding from the shotgun shell from the dashboard

1 of the victim's vehicle. And one plastic container
2 with five lead pellets removed from Reginald Porcher.

3 Q And those items that you took to SLED on
4 February 24, 2010, were those items securely packaged
5 when they were in your custody?

6 A Yes, sir.

7 Q During the time that they were in your custody,
8 did you tamper with the packaging in any way?

9 A No, sir.

10 Q Did you tamper with the items contained inside
11 the packaging?

12 A No, sir.

13 MR. ALFARO: Thank you. Please answer any
14 questions Mr. Biering has for you.

15 THE COURT: Mr. Biering.

16 CROSS-EXAMINATION

17 BY MR. BIERING:

18 Q Good afternoon, Detective Shuler. You were out
19 at the scene of whatever occurred on September 16th,
20 2009; is that correct?

21 A Yes, sir.

22 Q And you've got a lot of paper there in front of
23 you?

24 A Yes, sir.

25 Q Do you mind if I take a peek at what you

1 utilized to refresh your recollection?

2 And is this the sum total information you've
3 utilized in preparation for your testimony today?

4 A Yes, sir.

5 Q I noticed there are a few items in here that
6 don't bear your name on them. So they were incident
7 reports or reports from other officers; is that
8 correct?

9 A Yes, sir. I think a copy of Deputy Spence's
10 report is in there. And I believe it's a copy of all
11 the evidence sheets. Some that I wasn't responsible
12 for, but I did that in order to refresh my memory.

13 Q Do you have any other reports, supplemental
14 reports that you've done in relation to this case?

15 A No, sir. That's everything right there.

16 Q Do you have any personal notes that you've
17 maintained as it relates to your investigation of this
18 case?

19 A No, sir. It's all in the file.

20 Q You agree you were out there on September 16th,
21 2009?

22 A Yes, sir.

23 Q Do you know what time you arrived?

24 A Not right off, no, sir, I don't recall.

25 Q Would it be within any of your notes that you

1 could have --

2 A I know Deputy Spence and I arrived at the same
3 time.

4 okay, in her report it says we arrived at 1750.

5 Q okay. But you don't have a report that says
6 that. You're basically going off what somebody else
7 may have said, but you don't have any notes or any
8 supplemental report defining when you arrived on the
9 scene; is that right?

10 A I didn't put the time of my arrival because she
11 and I arrived together.

12 Q Do you have a list of the adults that were at
13 the scene on September 16th, 2009 that you believe to
14 have been at the scene at the time of the events that
15 bring us here?

16 A I don't have a listing because I was there to
17 assist.

18 Q Yes or no, do you have a list?

19 A No, sir, I don't.

20 Q Thank you.

21 All of the stuff that you said was in the
22 Chrysler 300, where is that at?

23 A I'm assuming it's in this courtroom.

24 Q You don't know where it's at?

25 A Sir, I don't work in forensics anymore. I'm

1 assuming it's here.

2 Q So it should be in the custody of?

3 A The sheriff's office.

4 Q Sheriff's office?

5 A Yes, sir, it is.

6 Q And where would it physically be located at?

7 A It would go locked in our evidence facility.

8 Q Okay. And you said there was a shopvac, some
9 painting supplies and a drywall sander; is that
10 correct?

11 A Yes, sir.

12 Q So that should all be just right over there?

13 A Yes, sir.

14 MR. BIERING: Okay, thank you.

15 THE COURT: Mr. Alfaro.

16 MR. ALFARO: No further questions, Your Honor.

17 THE COURT: Is this witness excused?

18 MR. ALFARO: Please, Your Honor.

19 THE COURT: Any objection?

20 MR. BIERING: No, Your Honor.

21 THE COURT: You may step down. You are free to
22 remain with us.

23 Call your next witness.

24 MR. ALFARO: State calls Dean Kokinda.

25 DEAN ROBERT KOKINDA,

1 after having first been sworn to tell the truth, the
2 whole truth and nothing but the truth testified on his
3 oath as follows:

4 DIRECT EXAMINATION

5 BY MR. ALFARO:

6 Q Can you tell the jury where you work?

7 A I'm with the Berkeley County Sheriff's Office.

8 Q And how long have you been with the sheriff's
9 office?

10 A Since 1989.

11 Q And what is your current job assignment and
12 rank?

13 A I'm a lieutenant in the forensic services
14 division.

15 Q And as part of that responsibility, do you
16 actively assist in crime scene processing?

17 A Yes, I do.

18 Q And were you working in that capacity on
19 September 16th, 2009?

20 A Yes, I was.

21 Q And did you have the opportunity to respond to
22 or assist in a murder investigation involving the
23 defendant Ron McCray, and the victim Reginald Porcher?

24 A Yes, I did.

25 Q Do you recall where that area was?

1 A On Underlie Lane in the Cane Hill area.

2 Q And when you got to the scene, what did -- what
3 role, if any, did you have in the processing of that
4 scene?

5 A I assisted Crystal Spence with the processing of
6 whatever she needed to have done. That particular case
7 I processed a truck that belonged to the victim for
8 latent fingerprints.

9 Q And would it be fair to say that despite you
10 having higher rank than her, that she was the main
11 forensics technician on that scene?

12 A She was the primary forensic person on that
13 scene, yes.

14 Q And in addition to assisting her at the crime
15 scene that day, did you have an opportunity to process
16 any other vehicles that were related to this case?

17 A Yes. Two days later, on September 18th, I
18 processed a Volvo 240, that belonged to a codefendant,
19 for evidence.

20 Q And prior to processing that vehicle, were you
21 able to ascertain any information that helps you more
22 effectively process the vehicle as to the involvement
23 of the vehicle?

24 A I believe I was told that the vehicle was used
25 to transport the defendants.

1 Q Transport them from where?

2 A To and from the scene.

3 Q I am going to show you what has been marked for
4 identification as State's Exhibit 46 and 47.

5 A These are photographs of the volvo that I
6 processed on September 18th.

7 Q And do those pictures fairly and accurately
8 depict the condition of that vehicle at the time that
9 you processed it?

10 A Yes, they do.

11 Q Can you tell the jury what type of vehicle that
12 is?

13 A It's a Volvo 240-DL.

14 MR. ALFARO: And at this time, Your Honor, State
15 would ask that State's Exhibits 46 and 47 be admitted
16 into evidence.

17 THE COURT: Any objection?

18 MR. BIERING: No, Your Honor.

19 THE COURT: State's Exhibits 46 and 47 into
20 evidence without objection.

21 (Whereupon, State's Exhibit Nos. 46 and 47 are
22 admitted into evidence.)

23 Q (By Mr. Alfaro) In addition to your role in
24 processing that volvo, did you also have the
25 opportunity to come into the contact with the defendant

1 during the course of your investigation?

2 A Yes, I did.

3 Q When did that take place?

4 A October 1st, 2009.

5 Q And what was the purpose, without saying where
6 you did this, what was the purpose of meeting with the
7 defendant that day?

8 A To collect known DNA standards.

9 Q How do you go about doing that?

10 A Now we take what is called buccal swab. What
11 that is is a sterile cotton swab. And we will swab the
12 inside of the cheek to get skin cells. We will seal it
13 in an envelope in front of whoever we are collecting it
14 from.

15 Q I'm going to show you what has been marked for
16 identification as State's Exhibit 156.

17 If you can take look at that, then I will ask
18 you some questions about it.

19 A Okay.

20 Q Do you recognize that?

21 A Yes, I do. That's the buccal swab collection
22 kit that I collected from Ron Santa McCray.

23 Q Okay. What date and time was that buccal swab
24 collected?

25 A It was on October 1st, 2009 at 4:45 p.m.

1 Q And describe a little bit about using a sterile
2 swab. After you swab, what part of the body do you
3 swab again?

4 A The inside of the cheeks.

5 Q And after you do that, what do you do with the
6 swab?

7 A It's put inside a cardboard container. Then
8 sealed up within this envelope.

9 Q And the date and time on the front, is that the
10 time that you take the sample or the time that you put
11 it into evidence?

12 A That's the time that I took the sample.

13 Q Okay. And are there any -- is your name or any
14 other information about you contained on that envelope?

15 A On the back sealing flap I have got the date and
16 my initials.

17 Q That's written over the seal you said?

18 A Yes.

19 MR. ALFARO: Your Honor, at this time the State
20 would ask that State's Exhibit 156 be admitted into
21 evidence.

22 THE COURT: Any objection?

23 MR. BIERING: No, Your Honor.

24 THE COURT: State's 156 into evidence without
25 objection.

1 (Whereupon, 'State's Exhibit No. 156 is admitted
2 into evidence.)

3 Q (By Mr. Alfaro) And, Lt. Kokinda, did you have
4 any other role in this investigation?

5 A Other than to analyze latent fingerprints.

6 Q Was there any identifiable information
7 determined from that analysis?

8 A No, there was no identification made with the
9 defendant in this case.

10 Q Was it identified with anyone else?

11 A No.

12 MR. ALFARO: Thank you. Please answer any
13 questions Mr. Biering has for you.

14 THE COURT: Mr. Biering.

15 CROSS-EXAMINATION

16 BY MR. BIERING:

17 Q Good afternoon, Detective Kokinda. Lt. Kokinda,
18 I'm sorry.

19 Is there an actual supplemental report that
20 you've created with your name on it in this case that
21 would relate to September the 16th of 2009?

22 A No, there is not.

23 Q And you've testified that you were on the scene
24 out off of Jack Primis on September 16th of 2009; is
25 that correct?

1 A Yes.

2 Q Do you have any other notes about September
3 16th, anything?

4 A No, I don't.

5 Q So you don't have a list of the adults that were
6 at the scene?

7 A No, sir.

8 Q Did you question any witnesses at the scene?

9 A No, sir.

10 Q And you agree that Crystal Spence, she was in
11 charge out there, correct?

12 A She was the primary crime scene technician, yes.

13 Q Did you have a chance to, I see that you are the
14 approving officer for her report; is that correct?

15 A Yes, sir, it should be.

16 Q And as a result of her investigation and your
17 review, did you find any deficiencies in her
18 investigation or processing of the crime scene that
19 day?

20 A No, sir.

21 MR. BIERING: Thank you.

22 MR. ALFARO: No further questions, Your Honor.

23 THE COURT: Is this witness excused?

24 MR. ALFARO: Yes, Your Honor.

25 THE COURT: Any objection?

1 MR. BIERING: No, Your Honor.

2 THE COURT: Lieutenant, you are free to go or
3 free to stay with us. Thank you.

4 MR. ALFARO: Can we approach, Your Honor?

5 THE COURT: You may.

6 (Whereupon, a discussion was held at the bench
7 off the record.)

8 THE COURT: Ladies and gentlemen, we are going
9 to go ahead and take our lunch break. Please remember
10 all of my admonitions. Also please make sure you
11 follow the instructions from the bailiff on how to get
12 in and out of the courtroom. It is essential that you
13 follow those proper procedures.

14 Ladies and gentlemen, please remember all my
15 admonitions. Please report back to the door. And the
16 bailiffs will tell you again how to get in and out at
17 1:30, and then we will bring you in promptly once all
18 14 of you are back.

19 Please rise for the jury.

20 (Whereupon, the jurors exit the courtroom.)

21 THE COURT: Thank you, be seated. Anything
22 before we break for lunch, Mr. Alfaro?

23 MR. ALFARO: Nothing from the State.

24 THE COURT: Mr. Biering?

25 MR. BIERING: Your Honor, I do. I have got --

1 yesterday when we, before we broke Your Honor said that
2 I could be heard again on the issue of Felicia Coaxum
3 and Joyce Wright.

4 THE COURT: Yes.

5 MR. BIERING: Your Honor, I would respectfully
6 request that I be able to recross both of those
7 witnesses without limitation as I was limited after the
8 information was provided to me.

9 A review of the approach that I took towards
10 cross is -- now, based on that new information, I
11 believe that my cross should be handled in a different
12 way. And I believe that I was denied the effective
13 ability to cross-examine the witnesses in this case by
14 the failure of the prosecution to provide the
15 information to me prior to my cross-examination.

16 And the remedy, I believe, is open cross of both
17 of those witnesses. I respectfully request --

18 THE COURT: Mr. Biering, give me an example of a
19 question that you would have asked that you -- now,
20 that you didn't have the opportunity to ask without
21 that information?

22 MR. BIERING: Specifically, Your Honor, I would
23 approached both of these witnesses with very detailed
24 review of their prior statements.

25 THE COURT: And how does the fact that they had

1 a prior conviction, and the State used it to impeach
2 them in theory, how would that impact your decision to
3 go over or not go over the statement?

4 MR. BIERING: It's always difficult to question
5 a person's credibility, Your Honor, when you are not
6 the person that's in a position to actually have time
7 with that witness beforehand, discuss matters with that
8 witness.

9 And knowing their convictions that I think
10 questions their level of truthfulness, I would approach
11 cross-examination very differently. I would ask to
12 reopen --

13 THE COURT: Credibility is always a question and
14 always an issue with any witness whether or not they
15 have a criminal conviction or not.

16 Is that the only relief that you are seeking?

17 MR. BIERING: Only relief that I am seeking is
18 to be able to recross. It's a murder case. I think
19 it's a substantial issue as it relates to my client's
20 ability to have effective cross-examination of
21 witnesses.

22 We were denied information. And I think that
23 the remedy that I am seeking is a very simple, and very
24 mild remedy. And I respectfully request to have
25 recross on both witnesses.

1 THE COURT: I'll take the matter under
2 advisement. I think it would actually confuse the
3 issue for us to recall, even if I grant your request,
4 to recall them today. But I will take this matter
5 under advisement. We will address it at a later time.

6 Thank you, Mr. Biering. Anything further?

7 MR. BIERING: No, Your Honor.

8 THE COURT: All right. We are at ease until
9 1:30. Thank you.

10 (Whereupon, a recess was taken.)

11 (Whereupon, the jurors enter the courtroom.)

12 THE COURT: Thank you, be seated.

13 Call your next witness.

14 MR. ALFARO: State calls Jack Scarborough.

15 JOHN LAUREN SCARBOROUGH,
16 after having first been sworn to tell the truth, the
17 whole truth and nothing but the truth testified on his
18 oath as follows:

19 DIRECT EXAMINATION

20 BY MR. ALFARO:

21 Q Good afternoon. I can see you work for the
22 Charleston County Sheriff's Office.

23 How long have you been with them?

24 A I have been with the Charleston County for 14
25 years.

1 Q And did you have any law enforcement experience
2 before going to the Charleston County Sheriff's Office?

3 A I did 13 years with the City of Charleston
4 Police Department.

5 Q What is your current rank as well as your
6 responsibilities with the Charleston County Sheriff's
7 Office?

8 A I'm a lieutenant, I'm over the traffic division.
9 I'm also the lieutenant that's over the underwater
10 recovery team.

11 Q And were you working on the morning of September
12 17th, 2009 at approximately 9:00 a.m.?

13 A Yes, sir.

14 Q And did you have the opportunity to assist
15 Berkeley County Sheriff's Office with a murder
16 investigation?

17 A Yes, sir.

18 Q And on that date and time did you have the
19 opportunity to come into contact with the defendant,
20 Ron McCray?

21 A Yes, sir.

22 Q And can you tell the jury how you came to come
23 into contact with him?

24 A On the date and time in question, I was in the
25 area of James Island on Folly Road. We received

1 information that a possible warrant subject was in a
2 vehicle.

3 They were getting good information, real-time
4 information that the subject was on Folly Road, was in
5 a vehicle being driven by another black male, and they
6 were en route to the Money Man Pawn Shop which is on
7 Folly Road right before Camp.

8 I drive an unmarked vehicle. I drive a suburban
9 because of my tasks with the dive team, it's unmarked.
10 So I took the lead so that if they were to see anybody
11 there, they wouldn't see a marked unit.

12 I had units on the perimeter due to the fact
13 that they were identified as a possible homicide
14 subject. And we didn't know if he was armed or what
15 the status was. I located the vehicle on Folly Road
16 traveling towards Folly Beach.

17 Q Do you remember what type of vehicle it was?

18 A I don't recall. I can refer back to the report,
19 but I don't recall.

20 Q What other officers are with you at the scene?

21 A There were several. There was a sergeant there,
22 Sgt. Doolen, who has since retired. And there was
23 several City of Charleston police officers and several
24 other deputies that were also on the perimeter.

25 Q And did you personally prepare a report in this

1 case?

2 A I did not.

3 Q Did one of the officers who was with you at the
4 scene prepare a report?

5 A Yes, sir. I'm in possession of that, a copy of
6 it.

7 Q Have you had an opportunity to review that
8 report prior to testifying?

9 A Yes, sir.

10 Q Would it refresh your recollection to refer to
11 that report to get the information about the vehicle?

12 A Yes, sir.

13 Q If you could take a moment to -- if I could see
14 that real quick so I can show the defense attorney what
15 you are refreshing with?

16 A Sure.

17 Q If you could take a moment to review the
18 document and refresh your recollection as to what type
19 of vehicle it was.

20 A It was a Chrysler 300 C, four door, white in
21 color.

22 Q Let me show you what is entered into evidence as
23 State's Exhibit 96. Do you recognize that?

24 A Yes, sir.

25 Q And does that fairly and accurately depict the

1 Chrysler that you pulled over that day?

2 A Yes, sir.

3 Q You said this was in the area of the Money Man
4 Pawn Shop you said?

5 A Yes, sir.

6 Q And was the defendant inside the vehicle?

7 A Yes, sir.

8 Q Do you recall if he was the driver or if he was
9 the passenger?

10 A Passenger.

11 Q And who was the driver?

12 A I'd have to refer back to the report. But I
13 believe it was a James Boykin.

14 Q And you testified that you all were receiving
15 real-time information as to location and direction of
16 travel and all that?

17 A Yes, sir.

18 Q Are you aware of who the source of that
19 information was?

20 A I believe it was James Boykin.

21 Q Now were both of those subjects taken into or
22 detained at the time of the traffic stop?

23 A Yes, sir. We did what we call a felony car
24 stop. Anytime there is a known felon or suspected
25 violent subject inside of a vehicle, we do what we call

1 a felony car stop.

2 which is when we don't do a normal approach to a
3 vehicle like we normally would on a traffic stop.
4 weapons are drawn, at the ready, and we are ready for
5 anything as far as anything like that is concerned.

6 we don't approach the vehicle. we actually have
7 the subjects in the vehicle come to us. And that's the
8 way we usually take some time.

9 Q And after Mr. Boykin and Mr. McCray were
10 detained that day, taken into custody, did you
11 participate in the search of the Chrysler?

12 A No, sir.

13 Q Did you have any other role in the investigation
14 other than performing the traffic stop?

15 A No, sir.

16 MR. ALFARO: Thank you. Please answer any
17 questions Mr. Biering has for you.

18 THE WITNESS: Yes, sir.

19 THE COURT: Mr. Biering.

20 MR. BIERING: If I could approach the witness,
21 Your Honor.

22 THE COURT: You may.

23 CROSS-EXAMINATION

24 BY MR. BIERING:

25 Q Can I again review what you are using to refresh

1 your recollection?

2 A Yes, sir.

3 Q You detained the two parties without incident;
4 is that fair to say?

5 A Yes, sir.

6 MR. BIERING: Thank you.

7 MR. ALFARO: No further questions.

8 THE COURT: Is this witness excused?

9 MR. ALFARO: We would ask that, Your Honor.

10 THE COURT: Any objection, Mr. Biering.

11 MR. BIERING: No, Your Honor.

12 THE COURT: Lieutenant, you are excused, but
13 feel free to remain with us. Thank you.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: Next witness.

16 MR. BIERING: Your Honor, I do have one matter
17 I'd like to place on the record. If I could be able to
18 do that at our next break, I would appreciate it.

19 THE COURT: All right. Contemporaneous to this
20 witness, Mr. Biering?

21 MR. BIERING: Yes.

22 THE COURT: Just so any objection is preserved
23 for the record.

24 MR. BIERING: Yes, thank you.

25 THE COURT: Thank you.

1 MS. WILLIAMS: State calls James Boykin.

2 JAMES JOE BOYKIN,

3 after having first been sworn to tell the truth, the
4 whole truth and nothing but the truth testified on his
5 oath as follows:

6 THE COURT: Ms. Williams.

7 MS. WILLIAMS: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MS. WILLIAMS:

10 Q Mr. Boykin, are you working right now?

11 A Yes, ma'am.

12 Q And who do you work for?

13 A ILA, the Union Longshoreman's Association.

14 Q And do you know Ron McCray?

15 A Yes, ma'am.

16 Q How long have you known Mr. McCray?

17 A About 20 years, 20, 23, 25 years.

18 Q And during the period of time back in 2009, did
19 you see Mr. McCray frequently?

20 A Yeah, we were working together.

21 Q And did you travel with him out of state?

22 A Yes.

23 Q Where did you go?

24 A To California.

25 Q Do you remember about when that was?

1 A Between May and June.

2 Q Okay. And you have some criminal history; is
3 that correct?

4 A Yes, ma'am.

5 Q You have a fraudulent check from 2011, a drug
6 possession from 2011, and a drug possession from 2001.
7 Is that correct?

8 A Yes, ma'am.

9 Q And at the time in 2001, I'm sorry, in 2009 when
10 you knew Mr. McCray, you said you worked with him.
11 What kind of work would you all do together?

12 A Drywall work.

13 Q And did you know the victim in this case,
14 Reginald Porcher?

15 A Yes, ma'am.

16 Q Before he was murdered, do you remember the last
17 time you had seen him?

18 A It has been a while.

19 Q I'm sorry?

20 A It's been a while.

21 Q So is it fair to say you didn't see Mr. Porcher
22 very often at the time he was murdered?

23 A No, I didn't.

24 MR. BIERING: Objection, Your Honor, may we
25 approach?

1 THE COURT: You may.

2 (Whereupon, a discussion was held at the bench
3 off the record.)

4 THE COURT: Ms. Williams, you may continue.

5 MS. WILLIAMS: Thank you, Your Honor.

6 THE COURT: You may need to rephrase the
7 question.

8 And, Mr. Boykin, I'm going to ask you to speak
9 very loudly. If you need to pull that microphone
10 closer, feel free to. Thank you

11 Q (By Ms. Williams) The last question I asked you
12 you had answered that you hadn't seen Mr. Porcher in a
13 while?

14 A Right.

15 Q Is it fair to say you hadn't -- I can't even
16 remember what the question was -- you were better
17 friends with Mr. McCray?

18 A Yes.

19 Q And when you were working with Mr. McCray, did
20 he ever mention Reggie Porcher to you?

21 A From time to time.

22 Q And what kinds of things would he say?

23 A About how he violated him and he came in his
24 house. I guess tried to rape his girl.

25 Q Did he say anything else about what he did that

1 he was angry about?

2 A It was so long ago I vaguely remember. But I
3 know it was something about he doing something that he
4 shouldn't have done in that aspect.

5 Q So what was his attitude toward Mr. Porcher?

6 A From him trying to rape his girl, whatever, he
7 was angry.

8 Q And did he say what he wanted to do to Mr.
9 Porcher?

10 A Yeah, anyone would probably want to kill him.

11 Q Did he say he wanted to kill him?

12 A At a point in time, yes.

13 Q I'm sorry, can you just --

14 A Yes, he did say he -- yes.

15 Q And he said -- did he -- where were you all when
16 he said.

17 A Which time?

18 Q Like you said you had worked with him, you had
19 also traveled out of town? How many times --

20 A On different occasions. Probably six, seven
21 times, frequent times when we would go back talking
22 about different stuff. And it would all come together
23 and lead to that probably.

24 Q And when you went out of town, what was the
25 purpose of that trip?

1 A He was going to get married.

2 Q Who was he going to get married to?

3 A A young lady Tiffany. I don't really know
4 Tiffany.

5 Q Wasn't he already married?

6 A Some ways I guess here. But we were going to
7 California so I was just driving, that's all my job was
8 to take him there and back.

9 Q Did he get any communications from anyone else
10 during that trip that you were aware of?

11 A Yeah. We sent a young lady some money for the
12 rental car and stuff.

13 Q Who was that?

14 A Her name is Amy. I don't know her last name.

15 Q And who is Amy?

16 A As I found out, his wife here. A wife here I
17 guess.

18 Q And were you in a rental car?

19 A Yes, ma'am.

20 Q So you were sending money for the rental car?

21 A Yes, ma'am.

22 Q And who was on the trip with you?

23 A Me, Ron, and Tiffany and their little baby.

24 Q Whose baby was it?

25 A Mr. McCray and Tiffany's.

1 Q Okay. And what was your relationship with
2 Tiffany?

3 A I didn't have any relationship with Tiffany.

4 Q Had you ever had any relationship with Tiffany?

5 A No.

6 Q And do you remember the date, or do you remember
7 talking with Mr. McCray around the time of when Mr.
8 Porcher was killed?

9 A Yes.

10 Q And tell us about that.

11 A He asked -- first I got a call from my cousin of
12 mine, Chanie (phonetic), and he asked me had I seen Ron
13 and I told him no. He said, well try to get in touch
14 with him. I said, what's going on? He said Ron had
15 shot --

16 MR. BIERING: Objection, hearsay.

17 THE COURT: Is there an exception?

18 MS. WILLIAMS: It's not being offered for the
19 truth of the matter asserted. It's being offered to
20 show --

21 THE COURT: Rephrase your question.

22 Q (By Ms. Williams) Was there something that
23 happened? Were there some people that called you that
24 caused you --

25 A I couldn't --

1 Q -- to get in touch with Ron?

2 THE COURT: Hold on one second. This is my
3 court reporter. She has got the write down everything
4 that you say and Ms. Williams says.

5 And it's very difficult for her to write when
6 you are speaking over each other. So I need you to
7 wait until Ms. Williams finishes her question. And she
8 is going to wait until you finish your response.

9 All right? Thank you.

10 Q (By Ms. Williams) And I will try not to talk
11 over you. I apologize, Mr. Boykin.

12 You didn't really want to be here today, did
13 you, Mr. Boykin?

14 A No, not really.

15 Q You were subpoenaed?

16 A Yes, ma'am.

17 Q So you are here because you were subpoenaed?

18 A Yes, ma'am.

19 Q What precipitated? What happened that made you
20 get in touch with Mr. McCray?

21 A Like I said, Chanie called me, asked me had I
22 seen Ron because he knows --

23 MR. BIERING: Objection, hearsay.

24 THE COURT: Is there an exception?

25 MS. WILLIAMS: I'm just trying to show that he

1 got a call from Mr. Chanie and told him --

2 THE COURT: I am going to sustain it. Thank
3 you.

4 Please don't testify as to what you were told.

5 All right, Ms. Williams.

6 BY MS. WILLIAMS:

7 Q Did you talk to Mr. McCray on the phone?

8 A Yes.

9 Q What did he say to you?

10 A He said, had I heard what happened. I said,
11 about what? And he said that he had shot --

12 MR. BIERING: Objection, hearsay.

13 THE COURT: Sustained as to hearsay.

14 MS. WILLIAMS: He is you talking about Mr.
15 McCray --

16 THE COURT: Ms. Williams, thank you.

17 MS. WILLIAMS: Your Honor --

18 THE COURT: Rephrase your question.

19 Q (By Mr. Williams) What did the defendant say to
20 you on the phone?

21 A Had I seen what happened, and that he had shot
22 Reggie.

23 Q Mr. McCray was saying that?

24 A Yes.

25 Q Tell us the words he used?

1 A I shot that --

2 THE COURT: You may use whatever words that you
3 were told, sir. Do not worry about the decorum in the
4 courtroom. Thank you.

5 A Okay. He said, I shot that mother-fucker.

6 Q (By Ms. Williams) And what else did he say
7 about the fact that he shot him?

8 A I hope he died. He said he spat in his face,
9 kicked him, told him, don't fear God, fear me.

10 Q And did he saying anything about what he was
11 saying when he spit in his face and was standing over
12 him?

13 A He said, die mother-fucker, die.

14 Q After that phone call, did you, during that
15 period of time, anytime in those days, did you see Mr.
16 McCray?

17 A The next morning.

18 Q Tell us about that.

19 A Like I said, we were together for a long time so
20 he came to my house. He said that he needed to go get
21 his check and stuff because he had to handle some
22 business because he knows he was in trouble I guess.

23 Q Let me ask you a question. At that point were
24 you aware of any coverage or any news about the event?

25 A No, no, ma'am. Because I was, like I said, I

1 work at ILA. I ended up going to work.

2 When I got back that next morning I was just
3 getting in. So I hadn't really -- you can't have
4 phones at work because they send you home. So I didn't
5 know, wasn't aware of this.

6 Q And had you received -- without telling us what
7 the communication was -- had you received any word from
8 other people that they were looking --

9 A No. Like I said, I had went to work.

10 Q And was it light or dark when he came to your
11 house?

12 A It was still dark.

13 Q And what was his demeanor like? How was he
14 acting when he came to your house that morning?

15 A Normal Ron.

16 Q Normal Ron?

17 Was he upset?

18 A I don't know.

19 MR. BIERING: Objection, asked and answered.

20 THE COURT: Overruled.

21 A Say again?

22 Q (By Ms. Williams) Was he upset or was he just
23 acting like normal?

24 A I mean just, you know, Ron is kind of
25 unpredictable, he was like mystical.

1 Q And so when he came to your house, what did you
2 all do next?

3 A He asked me to drive him somewhere, so we went
4 to a friend of his to pick up a car from a job.

5 Q Who was the friend?

6 A I don't know the young lady.

7 Q Was it a --

8 A I waited on the outside.

9 Q -- a male or female?

10 A Female.

11 Q Where was it?

12 A In Mount Pleasant by Hickory Shadow at that gas
13 station across from the SC&G place.

14 Q And tell us again what was the purpose of going
15 there?

16 A To retrieve her car.

17 Q What kind of car was that, if you remember?

18 A It was a creamish 300, Chrysler 300.

19 Q And where did you all go next?

20 A Proceeded to go to James Island to a job where
21 he was working. He called his supervisor, whatever.
22 Told him that he needed him to put the check in my name
23 and to let me retrieve his tools so he could take it to
24 Money Man to get some cash off of it so that he could
25 handle his business.

1 Q And why did he want you to go do that? Why
2 couldn't he do that?

3 A Apparently because of what he had done the night
4 before.

5 MR. BIERING: Objection, calls for speculation.

6 THE COURT: Overruled.

7 Q (By Ms. Williams) You can answer.

8 A Apparently from what he had done the night
9 before, the day before.

10 Q So, just backing up. How did he get to your
11 house, if you all had --

12 A He rode his motorcycle.

13 Q So where did you drive to specifically in order
14 to get the check?

15 A He called on the way going to James Island. At
16 that time the owner told him, it was like 7 o'clock or
17 something, he said to wait until about 8:30, 8:00, 8:30
18 or something. So we went to McDonald's on Folly Road.
19 Sat there, had some breakfast.

20 And he went in and used the bathroom. I was in
21 the car. Sat there waited, waited. He came out. He
22 was like, come on let's go.

23 Dropped him off. Went to the house to retrieve
24 the check and the work tools.

25 Q Okay. And what types of items were there? Like

1 what kinds of tools and things?

2 A Stilts. A bazooka. Not the weapon bazooka, but
3 a bazooka you use to drywall with. Stuff to do drywall
4 with.

5 Q Okay. Was there a vacuum there? Do you
6 remember?

7 A I think there was blue vacuum. I don't remember
8 exactly, it was like three or four years ago.

9 Q Do you remember all what kind of tools there
10 were?

11 A I just explained to you just now.

12 Q I'm sorry, could you do that again?

13 A Stilts, a bazooka. I think it was vacuum. I
14 know it was something else to lay mud on the wall.

15 Q Okay. And when you got to -- after McDonald's,
16 did you go directly to the house to get the check?

17 A No, I dropped him off, then I proceeded to go to
18 the house.

19 Q Why did you drop him off?

20 A Because he asked me to.

21 Q Where did you drop him off?

22 A Gas Station, or Piggly Wiggly or something. But
23 it's right by each other. The gas station is right by
24 the Piggly Wiggly.

25 Q And did you know the people he was getting the

1 check from?

2 A I knew the plumber, I used to work for him as a
3 kid at a restaurant. He owned a restaurant, Chip
4 cuffin (phonetic).

5 And the guy that owned the night club, I met him
6 vaguely.

7 When I got there, they started explaining to me
8 about what they saw on the news. Told me I'm going to
9 go to jail.

10 MR. BIERING: Objection, hearsay.

11 THE COURT: Is there an exception?

12 MS. WILLIAMS: No, Your Honor.

13 THE COURT: All right, thank you. Sustained.

14 Q (By Ms. Williams) Did you know what they were
15 give him a check for?

16 A For work he had done.

17 MR. BIERING: Objection, calls for speculation.

18 THE COURT: If he knows he may answer, then he
19 knows.

20 Q (By Ms. Williams) If you know.

21 A Yes. For work he had done at the house.

22 Q And so when you went in the house without Mr.
23 McCray, did you make a decision to sort of change
24 course, to do something different than what Mr. McCray
25 told you to do?

1 A Yeah. Before I got in the house, Chip Cuffin,
2 who I used to work for, he started talking to me and
3 telling me --

4 Q Don't tell us what he said. But just what was
5 he talking to you about?

6 A For me to call the cops.

7 MR. BIERING: Objection, hearsay.

8 Q (By Ms. Williams) And without saying what he
9 said --

10 THE COURT: Sustained, hearsay.

11 Thank you for rephrasing, Ms. Williams.

12 MS. WILLIAMS: I'm sorry, Your Honor.

13 Q (By Ms. Williams) Did you get some advice from
14 Chip Cuffin?

15 A Yes, ma'am.

16 Q What did you do as a result of that advice?

17 A I asked him for the phone. Then I said -- he
18 said, no, go in the house and talk to the owner and get
19 his advice too.

20 So I went in the house and they said basically
21 the same thing.

22 Q Don't say what they said.

23 A True. So 911, because accessory carries just as
24 much time for murder. Knowing, which I hadn't really
25 known that the guy was dead or nothing.

1 So I dialed 911 like was instructed because I
2 don't need -- I got my own situation going on at home.
3 I don't want to go to prison for somebody else, what
4 they got going on.

5 Q So you call 911?

6 A Yes, ma'am.

7 Q And did they give you instructions on what to
8 do?

9 A Yes, ma'am.

10 Q And what did you do next? Did you get the
11 check?

12 A Yes, ma'am.

13 Q And where did you go?

14 A I went to the bank up on Maybank Highway. And I
15 had to go inside because I had to the thumbprint. And
16 cashed it, came back out, and gave Ron his money.

17 Q And who was the check made out to?

18 A James Boykin, which is who I am.

19 Q And is that how Ron wanted you to do it?

20 A That's what he asked his boss to do, and that's
21 what he did.

22 MS. WILLIAMS: Your Honor, I'm showing defense
23 counsel what's been previously marked as State's 161.

24 May I approach?

25 THE COURT: You may.

1 Q (By Ms. Williams) What is that?

2 A It's a copy of the check, and my thumbprint.

3 Q How much is the check for?

4 A 168.75.

5 Q Okay. And what is the date it's written out on?

6 A 9/17/09.

7 Q And is this the check that you got and gave Mr.
8 McCray the cash for that day?

9 A It's a copy of it, yes, ma'am.

10 MS. WILLIAMS: Your Honor, at this time we would
11 offer State's 161 into evidence.

12 THE COURT: Any objection?

13 MR. BIERING: No objection.

14 THE COURT: State's 161 into evidence without
15 objection.

16 (Whereupon, State's Exhibit No. 161 is admitted
17 into evidence.)

18 Q (By Ms. Williams) After that, did Mr. McCray
19 want you to go somewhere else?

20 A Yes, ma'am.

21 Q Where was that?

22 A To Money Man Pawn Shop.

23 Q And what was he going to do there?

24 A Me to pawn the tools so he could make some more
25 cash.

1 Q what did he need all this cash for?

2 MR. BIERING: Objection, speculation.

3 MS. WILLIAMS: If you know.

4 THE COURT: Sustained as to -- if he knows he
5 may answer if he knows.

6 A Apparently to leave.

7 Q (By Ms. Williams) And if you know, did the
8 police know where you were going next?

9 A Yes, ma'am.

10 Q How did they know that?

11 A Because they told me that, when you cash the
12 check -- because supervisor had already told him I
13 wanted the tools because Ron told them he needed the
14 tools to get some money.

15 So they know we were going to some pawn shop or
16 something. So when they talked to the detective, or
17 whoever was on the phone, asked me --

18 MR. BIERING: Objection, hearsay.

19 Q (By Ms. Williams) So they got that information
20 from --

21 THE COURT: Overruled, continue.

22 A They asked me where were we heading, and what
23 kind of car we were driving. If I'm driving or is he
24 driving.

25 So I explained to them. And when we got there,

1 before I could really pull in, they were rolling up on
2 us, guns drawn and.

3 Q Took you both in?

4 A Yes, ma'am.

5 Q So before you got to Money Man, they knew --

6 A As soon as I pulled in the parking lot of Money
7 Man on Folly Road.

8 Q The police knew what car you would be driving?

9 A Yes, ma'am.

10 Q Knew you'd be there and knew he'd be there?

11 A Yes, ma'am.

12 MS. WILLIAMS: Court's indulgence for just a
13 moment.

14 THE COURT: Take your time.

15 Q (By Ms. Williams) Tell me again when you said
16 you went to California, if you remember?

17 A What about it?

18 Q When was it?

19 A End of May. If I had the contract, the work
20 contract, I could more or less be more pinpoint.

21 I mean it has been so long, and I've had a lot
22 of stuff going on in my own, so it's hard to pinpoint
23 the exact date.

24 I can tell you it's between May, at the end of
25 May and end of June.

1 Q Okay. Was there any event in your family that
2 helped you remember that, a death or a birth?

3 A My nephew had just gotten killed, and it was his
4 birthday coming up on June 30th.

5 Q So you think it was around then?

6 A Yes, on the way coming back. But we left
7 before.

8 MS. WILLIAMS: Please answer any questions the
9 defense might have for you.

10 THE COURT: Mr. Biering.

11 CROSS-EXAMINATION

12 BY MR. BIERING:

13 Q Mr. Boykin, you were asked about your criminal
14 history initially whenever you were being questioned by
15 Ms. Williams.

16 Do you remember that just a moment ago?

17 A Yes, sir.

18 Q You do remember that?

19 A Uh-hum.

20 Q And you have another criminal conviction from
21 2001?

22 A She just said that.

23 Q I'm sorry?

24 A She just said that.

25 Q What was the criminal conviction in 2001?

1 A I don't know, you got the paper.

2 Q Isn't it true you were convicted of sex offender
3 registry violation on March 9, 2001?

4 A Yes, sir because the young lady lied about her
5 age. If you got that, if you know that, I'm sure you
6 got the report with all of that in it.

7 Q How long have you worked for the International
8 Longshoreman's Association?

9 A Since 2003.

10 Q Since 2003?

11 A Yes, sir.

12 Q Do you know Mr. Robert Porcher, Junior?

13 A Yes, sir.

14 Q You do?

15 A Yes, sir.

16 Q Was he officer at ILA whenever you first became
17 employed there?

18 A No, sir.

19 Q Has he been an officer at any time during your
20 employment there?

21 A No, sir.

22 Q Your first communication with -- well first, did
23 you have some communication with -- I think you
24 testified to having communication with Ron on September
25 16th, 2009, correct?

1 A What date was that?

2 Q You don't know?

3 A No, I don't.

4 Q The day that Mr. Porcher was shot. Did you have
5 communication with Ron McCray?

6 A Yes, I did.

7 Q Did you have that by telephone?

8 A Yes, I did.

9 Q And did you initiate that communication with
10 Ron?

11 A I don't remember if he called me, I called. I
12 think I called him after Chanie called me.

13 Q So after Chanie called, did Chanie instruct you,
14 or did you receive instructions to call Ron from
15 Chanie?

16 A He said if I hear from him, call the cops.

17 Q I'm not asking you what he said.

18 A I just told you. I didn't say he did, so.

19 MR. BIERING: No further questions of this
20 witness at this time.

21 THE COURT: Ms. Williams?

22 MS. WILLIAMS: Nothing further, Your Honor.

23 THE COURT: Is this witness excused?

24 MS. WILLIAMS: Please.

25 THE COURT: Any objection?

1 Mr. Biering, any objection to him being excused?

2 MR. BIERING: No, Your Honor.

3 THE COURT: All right.

4 Sir, you are free to go, but you are welcome to
5 remain with us. Thank you, you may step down.

6 MR. ALFARO: State calls David Owen.

7 DAVID OWEN,

8 after having first been sworn to tell the truth, the
9 whole truth and nothing but the truth testified on his
10 oath as follows:

11 DIRECT EXAMINATION

12 BY MR. ALFARO:

13 Q Good afternoon. Can you tell the jury where you
14 work?

15 A Charleston County Sheriff's Office.

16 Q And how long have you been with the Charleston
17 County Sheriff's Office?

18 A 10 years.

19 Q What is your current position with the sheriff's
20 office?

21 A Currently I'm the supervising sergeant in the
22 criminal investigations division.

23 Q And were you working in that same capacity on
24 September 17, 2009?

25 A No, sir, I was not. I was a detective in the

1 unit at that time.

2 Q So you were still in the unit, you just weren't
3 the supervisor?

4 A Correct.

5 Q And did you have the opportunity to assist
6 Berkeley County in an investigation?

7 A Yes, I did.

8 Q And as part of that investigation, did you
9 participate in a search at [REDACTED] North Woodmere,
10 Apartment [REDACTED]?

11 A Yes, sir, I did.

12 Q And where is that located?

13 A It's in the West Ashley section of Charleston
14 County.

15 Q And what was the purpose of going to that
16 location?

17 A Berkeley County detectives, Berkeley County
18 Sheriff's detectives notified us that there was
19 potentially some evidence pertaining to a homicide in
20 the apartment.

21 Q And did anyone from the sheriff's office go with
22 you?

23 A Yes, they did. It was Cpt. Ollic and Sgt.
24 Alteri. I'm not sure how to pronounce his last name.

25 Q And when you got to the apartment, was the

1 owner, the homeowner there?

2 A I believe her name was Felicia Simmons. Yes,
3 she was there.

4 Q And did you speak with her before conducting the
5 search?

6 A Yes.

7 Q And did she give you -- did you search the house
8 with her permission?

9 A Yes, I did. I got her consent to search. Her
10 -- the apartment, [REDACTED], by signing off on the form.

11 Q All right. And when you say [REDACTED], what does
12 that mean?

13 A Apartment [REDACTED]. [REDACTED].

14 Q And after you obtaining her consent, did you
15 perform a search of her apartment?

16 A Yes, I did. Also had our crime scene,
17 Charleston County's crime scene with us, who went in
18 and photographed the apartment overall initial before
19 the search.

20 Q And as part of that consent, do you also prepare
21 a return that is a list of the evidence that is taken?

22 A Correct.

23 Q And did you do that in this case?

24 A Yes, sir, I did.

25 Q And do you recall what evidence was located at

1 that apartment on Woodmere, Felicia Simmons' apartment?

2 A Yes, sir. Read the list?

3 Q Yes. If you could tell the jury what evidence
4 you located.

5 A The evidence located in seized was one
6 Revelation 12-gauge pump shotgun, serial number G, as
7 in golf, 272612 with six shells.

8 One single-shot JC Higgins model 10, unknown
9 serial number, shotgun with one shell. A box of -- a
10 plastic bag containing seven latex glove. One box of
11 shotgun shells, Remington shotgun shells with five
12 shells.

13 And in the plastic bag was also four single
14 shells. One empty box of Remington shotgun shells.
15 One black jacket. And a multi-colored pillowcase.

16 Q Do you recall where those items you just listed
17 were located?

18 A They were found underneath the bed in the front
19 right bedroom.

20 Q I'm going to show you State's Exhibits 48
21 through 57 that are already in evidence.

22 A Yes.

23 Q And after reviewing those exhibits, do those
24 fairly and each accurately depict the apartment at
25 Woodmere when you conducted the search?

1 A Yes, it does.

2 Q I will show you State's Exhibit 49. Can you
3 tell the jury in that photograph where the items that
4 you just listed were recovered?

5 A They were found on the opposite side of the bed
6 against the wall on the floor.

7 Q And State's Exhibit 50.

8 A And these are the items; the black jacket, the
9 shotgun, the multi-color pillowcase with the shotgun
10 wrapped in it. And then the plastic bag with the
11 shotgun shells and the latex gloves.

12 Q And when those items were recovered, were both
13 that multi-colored pillowcase and the black jacket you
14 testified to, were both of those over, or wrapped
15 around the gun?

16 A Yes, they were.

17 Q And the bag that's next to the towel, do you
18 recall what was contained in that?

19 A That was the box of Remington shotgun shells, the
20 loose shotgun shells, and the latex gloves.

21 Q And State's Exhibit 56. Are those the weapons
22 that you just referenced?

23 A Yes, this is the pump shotgun. This is the
24 single-shot shotgun, the multi-colored pillowcase, and
25 the black jacket, and the plastic bag with the shotgun

1 shells and latex gloves.

2 Q Actually, you may want to keep standing. I want
3 to show you one other exhibit. It may be easier to
4 look at while you are standing up.

5 Show you what has been marked as State's Exhibit
6 144. And do you recognize that exhibit?

7 A Yes, I do.

8 Q Other than the gunlock that has been placed on
9 for the Court's safety, is it in the same condition
10 substantially as the time when you took custody of it?

11 A Yes.

12 Q And you are able to tell that that is in fact
13 the same shotgun that you secured during that search?

14 A Yes, it is, by verifying the serial number on
15 the weapon as what I have on my return.

16 MR. ALFARO: Your Honor, at this time the State
17 would ask that Exhibit 144 be admitted into evidence.

18 THE COURT: Any objection?

19 MR. BIERING: No objection, Your Honor.

20 THE COURT: State's 144 into evidence without
21 objection.

22 (Whereupon, State's Exhibit No. 144 is admitted
23 into evidence.)

24 Q (By Mr. Alfaro) State's Exhibit 145.

25 Do you recognize State's Exhibit 145?

1 A Yes, I do.

2 Q And other than the gunlock, is that the weapon
3 that was secured at the same time at the search at
4 Woodmere?

5 A Yes, it is.

6 Q Was the stock in that condition when it was
7 taken into custody?

8 A I remember it being attached to the gun. But I
9 mean the crack appears to be kind of old, but I'm no
10 expert on that one.

11 MR. ALFARO: Your Honor, at this time State
12 would ask that State's Exhibit 145 be admitted into
13 evidence.

14 MR. BIERING: No objection.

15 THE COURT: State's 145 into evidence without
16 objection.

17 (Whereupon, State's Exhibit No. 145 is admitted
18 into evidence.)

19 Q (By Mr. Alfaro) I'm going to show you State's
20 Exhibit 141.

21 Do you recognize those items?

22 A Yes. There are the two boxes there were found
23 in the plastic bag, and three shells. And actually the
24 12-gauge shotgun, at the time it was located in the
25 apartment, was found loaded. And I believe the rounds

1 from that shotgun were put into one of these boxes
2 because one box was empty at the time.

3 Q And let me show you, behind you, State's 55.
4 I'm going to show you State's Exhibit 147 first.
5 And do you recognize that exhibit?

6 A Yes, I do. It's also shotgun shells that were
7 found in the plastic bag.

8 Q And those were found at the same time as the
9 12-gauge shotgun shells you just testified about?

10 A Yes, sir.

11 Q And State's Exhibit 140.

12 A Multi-colored pillowcase. It was found in the
13 apartment wrapped around one of the weapons.

14 Q Same pillowcase in the pictures we went through
15 a while ago?

16 A Yes, it is.

17 Q State's Exhibit 142.

18 A It's the white plastic bag that the gloves and
19 shotgun shells were found in.

20 Q State's Exhibit 143.

21 A These are the latex gloves that were found in
22 the white plastic bag.

23 Q And finally State's Exhibit 146.

24 A Black jacket that was found along with the other
25 items that were in the apartment.

1 Q And was that the item that was around the gun in
2 the pictures?

3 A Yes.

4 MR. ALFARO: Your Honor, at this time the State
5 would ask that State's Exhibits 140, 141, 142, 143,
6 146, and 147 be admitted into evidence.

7 THE COURT: Any objections?

8 MR. BIERING: No, Your Honor.

9 THE COURT: 141, 142, 143, 146 and 147 admitted
10 into evidence without objection.

11 (Whereupon, State's Exhibit Nos. 141, 142, 143,
12 146 and 147 are admitted into evidence.)

13 Q (By Mr. Alfaro) Did you have any other role in
14 this investigation? Or in the Berkeley County
15 investigation?

16 A With the information that was provided to me, I
17 obtained a search warrant for a vehicle that the
18 defendant was allegedly found in while in Charleston
19 County.

20 Q Did you participate in the search of that
21 vehicle?

22 A No, I did not.

23 MR. ALFARO: Thank you. Please answer any
24 questions Mr. Biering has for you.

25 THE COURT: Mr. Biering.

1 CROSS-EXAMINATION

2 BY MR. BIERING:

3 Q I noticed you didn't have any trouble putting
4 those gloves on a second ago.

5 A One did rip.

6 Q I'm sorry?

7 A One of them did rip.

8 Q One of them did rip? You've worked in forensics
9 for some time in the past; is that correct?

10 A Yes, sir.

11 Q And you regularly wear gloves when you are
12 handling evidence?

13 A Yes, sir.

14 Q Is that part of your routine?

15 A Yes, sir.

16 Q And you just stated you didn't take any part in
17 any of the investigation of the active crime screen; is
18 that correct?

19 A No, sir, I did not.

20 MR. BIERING: Thank you.

21 MR. ALFARO: No further questions, Your Honor.

22 THE COURT: Is this witness excused?

23 MR. ALFARO: Please, Your Honor.

24 THE COURT: Any objection?

25 MR. BIERING: No, Your Honor.

1 THE COURT: You are excused. You are free to
2 remain with us, you are also free to go. Thank you.

3 THE WITNESS: Thank you, ma'am.

4 MR. ALFARO: State calls Kathy Kjellman.

5 KATHY KJELLMAN,
6 after having first been sworn to tell the truth, the
7 whole truth and nothing but the truth testified on her
8 oath as follows:

9 DIRECT EXAMINATION

10 BY MR. ALFARO:

11 Q Could you tell the jury where you currently
12 work?

13 A I work for Charleston County Sheriff's Office.

14 Q And how long have you been with the sheriff's
15 office?

16 A For a total of about 13 years.

17 Q And what is your current duty assignment now?

18 A I'm an investigator, crime scene investigator.

19 Q And how long have you been serving in that
20 capacity?

21 A Eight years.

22 Q Were you working in that same capacity on
23 September 17th, 2009?

24 A Yes, sir.

25 Q And on that date did you have the opportunity to

1 assist Berkeley County in a shooting investigation?

2 A Yes.

3 Q And what was your involvement in that?

4 A I assisted Berkeley County Sheriff's office
5 crime scene investigator with search warrant on a
6 vehicle, a Chrysler 300.

7 Q And do you recall any details about that car as
8 far as color or anything like that?

9 A It was a white Chrysler 300.

10 Q And where was that vehicle processed?

11 A It was processed at my office.

12 Q And are you aware where that car was brought
13 from to get to the sheriff's office?

14 A My understanding it was brought from Money Man
15 Pawn on Folly Road.

16 Q And do you recall when that vehicle was
17 processed?

18 A I began to execute the search warrant at 4:00 on
19 September 17th.

20 Q And can you explain for the jury what process,
21 or what steps you took in processing that vehicle on
22 that day?

23 A To begin executing the search warrant I started
24 taking pictures of the inside and the outside of the
25 vehicle. I did latent print collection on the vehicle.

1 And also took some blood swabs from inside the vehicle.

2 Q And was any physical evidence located, or any
3 items located inside the vehicle?

4 A Yes.

5 Q And do you recall what those were?

6 A From inside the vehicle I collected some
7 paperwork; a Motorola Boost cellphone; a 16-gallon
8 shopvac with hose; painting supplies; painting stilts;
9 and a black, plastic bucket.

10 Q And were those items secured into evidence?

11 A Yes, they were.

12 Q And where were they secured, in Berkeley or
13 Charleston County?

14 A Initially at Charleston County.

15 Q At some point in time were those items turned
16 over to the custody of Berkeley County?

17 A Yes, they were.

18 Q Showing you what has been marked for
19 identification as State's Exhibits 89 through 93, as
20 well as State's Exhibit 109. State's 96.

21 Do each of those photographs fairly and
22 accurately depict the vehicle that you processed on
23 that day?

24 A Yes, they do.

25 MR. ALFARO: Your Honor, at this time State

1 would ask that State's Exhibits 89 through 93, as well
2 as State's 109 be admitted into evidence.

3 THE COURT: Any objection?

4 MR. BIERING: No objection.

5 THE COURT: State's 89 through 93 and 109 are
6 admitted into evidence without objection.

7 (Whereupon, State's Exhibit Nos. 89, 90, 91, 92,
8 93 and 109 are admitted into evidence.)

9 MR. ALFARO: State's 96 on the screen, please.

10 Q (By Mr. Alfaro) On the screen behind you is
11 state's 96. Is that the vehicle that you processed on
12 that day?

13 A Yes, it is.

14 Q And State's 109, was that item, that shopvac,
15 located during the course of the search?

16 A Yes, it was.

17 Q You testified that you eventually turned the
18 items from the search of the Chrysler over to Berkeley
19 County; is that correct?

20 A Yes, sir.

21 Q Do you recall who you turned those items over
22 to?

23 A It was a Sharon Shuler.

24 Q Do you recall when you did that?

25 A October 2nd.

1 Q which year?

2 A 2009.

3 Q Okay. And so on that day is when you turned
4 over the shopvac and the other painting supplies from
5 the Chrysler; is that correct?

6 A Yes.

7 Q And did you also have the opportunity to turn
8 over any other evidence that Charleston County had
9 seized in their assisting of Berkeley County?

10 A Not on that day I did not.

11 Q On any other day?

12 A Yes.

13 Q And do you recall what items those were?

14 A It was items that were recovered from the search
15 warrant at an apartment.

16 Q Are you aware of the address of that apartment?

17 A It was [REDACTED] North Windemere (phonetic),
18 Apartment [REDACTED].

19 Q And if you know, could you tell the jury what
20 items were transferred from you to Berkeley County on
21 that day?

22 A On that day I transferred a Revelation sawed-off
23 12-gauge shotgun; a JC Higgins sawed-off 16-gauge
24 shotgun; thirteen 12-gauge buckshot shells; four
25 16-gauge shotgun shells; seven latex gloves; a black

1 jacket; one multi-color pillowcase; a plastic bag that
2 contained ammunition and gloves.

3 Q And while those items were in your custody, did
4 you tamper with them in any way?

5 A No.

6 Q Were those item also turned over to Deputy
7 Sharon Shuler?

8 A Yes, they were.

9 MR. ALFARO: Thank you. Please answer any
10 questions the defendant has for you.

11 THE COURT: Mr. Biering.

12 CROSS-EXAMINATION

13 BY MR. BIERING:

14 Q Detective, I noticed you've got a few documents
15 there that you are using to refresh your recollection.
16 Do you mind if I look at those?

17 A No, not at all.

18 MR. BIERING: Your Honor, permission to stand by
19 the witness?

20 THE COURT: You may.

21 MR. BIERING: Thank you.

22 Q (By Mr. Biering) I noticed that you were asked
23 about what time you processed the vehicle. And I think
24 I noticed that you may have looked to your records?

25 A Yes.

1 Q Did you do that?

2 A Yes.

3 Q Can you show me where you looked?

4 where do you find the time there?

5 A Right there.

6 Q That's something you would normally put in a
7 report is the time that you conducted certain
8 activities?

9 A Yes.

10 Q Is that important in the investigative process
11 to know what time when certain things happened?

12 A Yes.

13 MR. BIERING: Thank you.

14 MR. ALFARO: No further questions, Your Honor.

15 THE COURT: Is this witness excused?

16 MR. ALFARO: Yes, please.

17 THE COURT: Any objection?

18 MR. BIERING: No, Your Honor.

19 THE COURT: You are excused, but feel free to
20 remain with us.

21 Thank you, you may step down.

22 THE WITNESS: Thank you.

23 THE COURT: Are you ready for a break?

24 All right. Please remember all of my
25 admonitions, please rise for the jury.

1 (Whereupon, the jurors exit the courtroom.)

2 THE COURT: Thank you, be seated.

3 Anything before we take a break?

4 MR. ALFARO: No, Your Honor.

5 MS. WILLIAMS: Yes, Your Honor, I have one
6 thing.

7 Just for the next few witnesses, our chain
8 witnesses, and I would just ask permission, ordinarily
9 we show each exhibit to defense and then ask permission
10 each time. It's all evidence that has been seen.

11 What I'd like to do, if it's okay with the
12 court, is to read off a list of evidence, and then ask
13 for permission once, and then just show each SLED chain
14 person a series of things. I think it will go much
15 faster. And I will show him over the break what items.

16 THE COURT: All right.

17 And you need to place something on the record?

18 MR. BIERING: I do.

19 Your Honor, just a continuing objection, and my
20 client made a motion that I be relieved. The previous
21 witness, Detective or Lieutenant Scarborough was one of
22 the witnesses upon which was the basis for my client
23 seeking me to be relieved, asserting some type of
24 conflict. And he wanted me to put that on the record
25 contemporaneous with that witness's testimony.

1 Thank you.

2 THE COURT: That was it?

3 MR. BIERING: That's it.

4 THE COURT: All right. My notes said it was in
5 reference to Mr. Boykin. No, I made that noted
6 reference to the witness that had just testified.

7 THE COURT: All right, thank you.

8 MR. BIERING: Thank you.

9 THE COURT: All right. There was some -- this
10 morning there was some discussion about SLED witnesses,
11 that there may be an objection.

12 MS. WILLIAMS: My understanding was that Mr.
13 Biering has an objection because one of the chain
14 witnesses is. But I don't know, he never said anything
15 so.

16 MR. BIERING: Your Honor, I think they're going
17 try to admit some things and I think they are missing a
18 witness who actually conducted certain tests.

19 And as we get to that point, I can raise
20 objections.

21 THE COURT: All right. Let's take 10 minutes.
22 (Whereupon, a recess was taken.)

23 THE COURT: Anything before we bring in the
24 jury?

25 MR. ALFARO: Nothing from the state.

1 MR. BIERING: Nothing from the defense.

2 THE COURT: Bring in the jury.

3 where is your next witness? Have them come on
4 in.

5 MS. WILLIAMS: Doris Yarbrough.

6 (Whereupon, the jurors enter the courtroom.)

7 THE COURT: Thank you, be seated.

8 Call your next witness.

9 MS. WILLIAMS: Doris Yarbrough.

10 DORIS YARBROUGH,
11 after having first been sworn to tell the truth, the
12 whole truth and nothing but the truth testified on her
13 oath as follows:

14 DIRECT EXAMINATION

15 BY MS. WILLIAMS:

16 Q Where do you work, Ms. Yarbrough?

17 A I work for the South Carolina Law Enforcement
18 Division, also known as SLED.

19 Q And how long have you worked there?

20 A Four-and-a-half years.

21 Q And what do you do there?

22 A I'm a forensic technician in the evidence
23 control department, also known as login.

24 Q And what is a chain of evidence?

25 A A chain of evidence, when we accept the evidence

1 from the agency throughout South Carolina, once it is
2 submitted into our system, the chain is an electronic
3 chain that monitors the items that are submit as they
4 go throughout the lab for analysis, and then returned.

5 Q And what does each person do with the item, and
6 how is that recorded?

7 A Well I log it in. I take it from the officer
8 submitting it, log it in. Depending on what it is, I
9 then scan it to a bar coded area. We have a secure
10 evidence room that houses all of the evidence. And it
11 goes into that evidence room.

12 And then once it is requested by the analyst,
13 then the person that retrieves it -- could be myself,
14 we have two other people, and we have a part-time
15 evidence room person -- that can go to that evidence
16 room.

17 we will scan it again to ourselves. We all have
18 a bar code, just like this one here. And then we will
19 take it back in our custody from the self that it was
20 on, and then we transfer it to the person who has come
21 to claim it.

22 Q If an evidence item has been tampered with, or
23 the packaging looks different, or anything has been
24 compromised about that piece of evidence, what would
25 the protocol be?

1 A For it not to be -- to be returned to the
2 agency.

3 Q So you would not test it?

4 A No.

5 Q You would not put it to the next person?

6 A Right.

7 MS. WILLIAMS: Your Honor I have previously
8 showed defense counsel items 149 through 156.

9 May I approach?

10 THE COURT: You may.

11 Q (By Ms. Williams) Ms. Yarbrough, I'm going to
12 show you these items in order.

13 And if you could just tell me if you recognize
14 them, who you got them from, and how they're listed in
15 your report, and then who you gave them to next.

16 A I would recognize this container by the bar code
17 that's -- it has a bar code with the lab number, which
18 is the number that is assigned when it's admitted.

19 This has an item number, or either a container
20 number. And this is how I would recognize this.

21 I would be the one, this is my handwriting, I
22 would have been the one who put this -- we always --
23 they come to us and we put the seal tapes, it has seal
24 tape on it. The submitting officer will initial and
25 date it at the time of submission.

1 And then once it's entered, I would put this
2 yellow bar coded label on there. And that says
3 firearm, so this one went to the firearms evidence
4 intake until it was requested from the analyst.

5 Q Okay. And what item is this? Can you tell, did
6 you see this actual package or just the outside?

7 A I would just -- I don't know if it came to me in
8 that envelope, or if I put it in that envelope. But
9 according to the yellow bar coded label it's item
10 number 11.

11 And have to look at my notes. It says it's a
12 sealed envelope containing shot shells described as one
13 Remington 12-gauge double-ought buckshot shell from the
14 scene.

15 Q Okay. And who did you get it from?

16 A All this was submitted to me from Deputy Sharon
17 Shuler from the Berkeley County Sheriff's Office.

18 Q And who did you give it to next?

19 A It went into evidence, firearms evidence intake,
20 and it was transferred by our part-time person to --

21 Q I'm sorry. Transferred to?

22 A I'm sorry. I would have put it into evidence,
23 firearms evidence intake storage. And then our
24 part-time person, Patricia Crooks, is the one who would
25 have transferred it to the firearms analyst on that

1 day.

2 Q Okay. If you could look in here, this is item
3 150, just look in here and see if any of those items
4 were things that you handled?

5 A I can't -- I don't recognize that envelope
6 because it doesn't have a yellow bar code on it.

7 Q Okay. Let's move on to -- so these items would
8 have been tested, but they wouldn't have come through
9 you?

10 A Everything comes in through the login
11 department. And it's containerized.

12 Are there items numbers on those items?

13 MR. BIERING: Objection.

14 MS. WILLIAMS: Yes. I'm just going to let you
15 examine --

16 THE COURT: Hold one on second.

17 What is the objection?

18 MR. BIERING: The objection is the witness is
19 asking counsel questions. Counsel needs to ask
20 questions.

21

22 MS. WILLIAMS: I'm just going to let her examine
23 this.

24 THE COURT: Overruled.

25 All right. Continue, Ms. Williams.

1 Q (By Ms. Williams) If you could just examine
2 those items and see if you recognize them by item
3 numbers.

4 A They would have been in a container. And like I
5 said, I would have put a sticker on the container as to
6 the container numbers, and then I would know what items
7 were in that container.

8 Q Okay. And the L-102124, does that tell you
9 anything?

10 A No.

11 Q Okay. That was item 151.

12 MR. BIERING: Sorry, counsel, 151.

13 MS. WILLIAMS: Yes, the last one I showed her
14 was 151.

15 Q (By Ms. Williams) I'm going to show you now
16 155, which these items were already tested so that
17 there is not anything in it anymore.

18 But just tell me if you handled that SLED
19 packaging.

20 MR. BIERING: Object to the form of the
21 question. Counsel is testifying.

22 THE COURT: Overruled.

23 A This is item number 1, according to this yellow
24 bar coded label for this SLED number. And item number
25 1 would have been a heat-sealed pouch, which is this,

1 which would have contained a blood standard described
2 as one tube of blood from Reginald Porcher.

3 Q okay. who did you get that from and who did you
4 give it to?

5 A That item came also from Sharon Shuler of the
6 Berkeley County Sheriff's Office. And that went into
7 our DNA evidence intake storage.

8 Q who picked it up after you?

9 A Patricia Crooks took custody of it, then
10 transferred it to the forensic technician from the DNA
11 Department.

12 Q who is that? Oh, Patricia Crooks, okay.

13 A Uh-hum.

14 Q How about this item? For the record this is
15 156. And this SLED container was inside 156.

16 Can you just tell us what that is, and who you
17 got it from and who you gave it to?

18 A Again the bar coded label is what I would have
19 put on this heat-sealed pouch, it's what we call a
20 heat-sealed pouch.

21 I take the evidence they present to me, put it
22 in this pouch and then I heat-seal it. Then the
23 submitting officer will initial and date. And then
24 they sign and date this package.

25 I put the yellow bar code label on it. It's

1 item number 2, which says it is a heat-sealed pouch
2 containing a buccal swab, described as a buccal swab
3 from Ron Santa McCray.

4 Q Okay, thank you. If you could just put that
5 right back in this for me. This is painstaking.

6 And lastly this is a bag containing 158, 159 and
7 160. And if you could just see if you recognize that
8 packaging.

9 A And again this is a container, because it has a
10 letter for it, it's container D. And I did not log in
11 this evidence.

12 Q Okay. Who did?

13 A I don't have it, but I am going to assume that
14 it was Nicole Perry.

15 Q All right.

16 MS. WILLIAMS: Thank you. Please answer any
17 questions the defense might have.

18 THE COURT: Mr. Biering.

19 MR. BIERING: I don't have any questions for
20 this witness, Your Honor.

21 THE COURT: You may step down. Thank you.

22 Call your next witness.

23 MS. WILLIAMS: State call Patricia Crooks.

24 PATRICIA CROOKS,

25 after having first been sworn to tell the truth, the

1 whole truth and nothing but the truth testified on her
2 oath as follows:

3 DIRECT EXAMINATION

4 BY MS. WILLIAMS:

5 Q Ms. Crooks, who do you work for?

6 A I work for the South Carolina Law Enforcement
7 Division, also known as SLED.

8 Q What do you do for them?

9 A I'm in the forensic lab in evidence control.
10 And I work strictly in the evidence room.

11 Q And did you handle items of evidence in this
12 case?

13 A Yes, I did.

14 Q And do you have a list of the items of evidence
15 that you handled?

16 A I do.

17 Q Can you just tell us what they are?

18 A Okay. I handled item 1, it's a heat-sealed
19 pouch containing a blood standard described as one tube
20 of blood from Reginald Porcher. Is that Porcher?

21 Q Porcher.

22 A Item 2, one heat-sealed pouch containing buccal
23 swab described as one buccal swab from Ron Santa
24 McCray.

25 Q And who did you get each of those items from, if

1 you don't mind answering.

2 A Item 1, I took custody of that item on February
3 the 25th of 2010 at 9:25 in the morning. And I
4 transferred custody of that item to forensic technician
5 Sheree Brown one minute after I took custody of it.

6 Q Okay.

7 A Item 2. I also took custody of that item and
8 transferred it to Sheree Brown. Item 3 is one
9 heat-sealed pouch containing swabs described as swabs
10 from drive's floorboard from Chrysler 300. I
11 transferred that evidence to Sheree Brown.

12 Item 4 is one heat-sealed pouch containing swabs
13 described as one swab from steering wheel from Chrysler
14 300. And I transferred that item to Sheree Brown.

15 Q If you could skip the Chrysler. Can you just go
16 to the next few items?

17 A Next item I have is item 6, one heat-sealed
18 pouch containing swabs from one swab from JC Higgins
19 16-gauge sawed off shotgun stock. I transferred that
20 to Sheree Brown.

21 Item 7 is another swab from the sawed-off
22 shotgun. I transferred that to Sheree Brown. Item 9
23 is one sealed gun box containing shotgun described as
24 Revelation sawed-off 12-gauge shotgun. Serial number
25 G-272612. That's from the Chrysler 300. I transferred

1 that evidence to Sheree Brown.

2 Q And at some point -- go ahead.

3 A Item 10, I believe that's the one I just read.
4 Item 11, one sealed envelope containing shot shells
5 described as one Remington 12-gauge ought ought buck
6 shotgun shell from scene that was fired. And I
7 transferred that evidence to forensic scientist James
8 W. Green.

9 The next item is item 12, one sealed envelope
10 containing shot shells described as one Remington
11 12-gauge shotgun shell ought ought buck for Chrysler
12 300 unfired. I transferred that to James Green.

13 Item 13, one sealed envelope containing shot
14 shells described as one Remington 12-gauge shotgun
15 shell ought ought buck from Chrysler 300 unfired. I
16 transferred that to James Green.

17 Item 14 -- item 14, one sealed envelope
18 containing shot shells described as one Remington
19 12-gauge shotgun shell, ought ought buck, from Chrysler
20 300 unfired. Transferred that to James Green.

21 Item 15 is one sealed envelope containing shot
22 shells described as one Remington 12-gauge shotgun
23 shell, ought ought buck, from Chrysler 300 unfired. I
24 transferred that to James Green.

25 Item 16, a sealed envelope containing shot

1 shells described as one Remington 12-gauge shotgun
2 shell, ought ought buck, from Chrysler 300 unfired.
3 That as well went to James Green.

4 Item 17, one sealed envelope containing shot
5 shells described as one Remington shotgun shell, ought
6 ought buck, from Chrysler 300 unfired.

7 Item 18, one sealed envelope containing shot
8 shells described as one Remington 12-gauge shot shell,
9 ought ought buck, from Chrysler 300 unfired.

10 Q Is there just like 12 unfired shotgun -- you can
11 just maybe summarize and say like the next four are.

12 A Okay. Item 19, item 20, item 21, item 22, item
13 23, item 24, item 25, item 26, 27, 28, all of these are
14 the shot shells from the Chrysler 300.

15 Q And when you say they're from the Chrysler 300,
16 that's because that's what it said on the report,
17 right?

18 A Yes. That's the way it was described when it
19 was brought in.

20 Q So you don't really know where it came from?

21 A I have no idea.

22 Q If the officer had made a mistake and put the
23 Chrysler 300, that's just how it would come in?

24 MR. BIERING: Objection, calls for speculation.

25 THE COURT: Overruled.

1 A It's entered as it's submitted. So if you put
2 Chrysler 300, or a Ford or something. It's whatever
3 description that item was given at the time it was
4 submitted by the officer.

5 Q (By Ms. Williams) Okay.

6 A Okay. Item 29, one sealed envelope containing
7 pellets described as one lead pellet from sun-visor of
8 victim's car on the driver's side. That also went to
9 James Green.

10 There is item 31 is another envelope with lead
11 pellet from the floor near brake pedal of the victim's
12 car on the driver's side. That went to James Green.

13 Item 32 is one sealed envelope containing wads
14 described as wadding from shotgun shell from dashboard
15 of victim's vehicle. That went to James Green.

16 Item 33, one sealed envelope containing pellets
17 described as one plastic container with 5 lead pellets
18 removed from Reginald Porcher.

19 Item 34, one sealed box containing shoes
20 described as pair of brown Timberline boots, 11M,
21 belonging to victim, Reginald Porcher. The boots,
22 after I took custody of the boots, I transferred those
23 boots to forensic technician Verona Gibson.

24 Item 35, one heat-sealed pouch containing swabs
25 described as one swab from victim Toyota Tacoma truck,

1 left door, outside. That evidence was transferred to
2 forensic scientist Katie Urka.

3 Item 36, one heat-sealed pouch containing swabs
4 described as one swab from ground on Jack Primis Road
5 at scene. That also was transferred to forensic
6 scientist Katie Urka.

7 Item 37, one heat-sealed pouch containing swabs
8 described as one swab from gold Nissan Maxima, back
9 passenger car door. That went to Katie Urka as well.

10 And that's it.

11 Q Is that it?

12 A That's it.

13 Q Thank you very much.

14 MS. WILLIAMS: I have no further questions.
15 Just answer any questions the defense might have.

16 THE COURT: Mr. Biering.

17 MR. BIERING: Your Honor, it's very technical
18 testimony. If we could possibly take about a
19 two-minute recess.

20 THE COURT: We can just sit here for two
21 minutes.

22 MR. BIERING: Thank you, Your Honor.

23 THE COURT: Take your time.

24 Feel free, ladies and gentlemen of the jury, to
25 use this opportunity to stretch if you need to. Thank

1 you.

2 whenever you are ready.

3 MR. BIERING: Thank you, Your Honor.

4 THE COURT: If you need anymore time, just let
5 me know. It's just so difficult to get 14 in and out.
6 Thank you.

7 MR. BIERING: I understand. Thank you, Your
8 Honor.

9 CROSS-EXAMINATION

10 BY MR. BIERING:

11 Q Good afternoon, Ms. Crooks.

12 A Good afternoon.

13 Q I want to make sure that I understand your role
14 at SLED.

15 You said you worked in the lab; is that correct?

16 A I work in the evidence room.

17 Q You work in the evidence room?

18 A Uh-hum.

19 Q And are you the first person to receive
20 evidence? Or do you -- are you a link in between the
21 evidence room and the analysts?

22 A I'm the link between the evidence room and the
23 analysts.

24 Q So it would be your testimony that you did not
25 directly receive any evidence from law enforcement,

1 from the Berkeley County or Charleston County law
2 enforcement of this case; is that correct?

3 A That's correct. That would have been submitted
4 to the login technicians.

5 Q And would that be, I think just a moment ago we
6 heard some testimony from Doris Yarbrough. Doris
7 Yarbrough would be one of those login technicians?

8 A Correct.

9 Q And you've had a chance to review your records
10 in preparation for your testimony today; is that
11 correct?

12 A Correct.

13 Q And I even noticed that you noted in the
14 transfer of evidence, you said something was given to
15 another person at 9:25 a.m.?

16 A Uh-hum.

17 Q Is that correct?

18 A That would have been item 1, which is the tube
19 of blood from Reginald Porcher. I took custody of it
20 as 9:25, and transferred it to Sheree Brown at 9:26.

21 The way that I do that is there is a bar code on
22 the evidence that looks a little bit like this bar
23 code. But this is my personal bar code.

24 So when I remove evidence from the storage bin
25 or shelf or whatever in the evidence room, I scan this

1 bar code indicating I am removing that evidence, and
2 then I scan the bar code that is on the actual
3 evidence, and both of those go in the computer. And
4 that, in turn, shows our electronic chain of custody.

5 So each time evidence is transferred from -- you
6 can't transfer evidence from a location to a location,
7 it has to be from a person -- if it needed to be move
8 within the evidence room for some reason, I would
9 transfer it to myself, to show that I had handled that
10 evidence, and then I would transfer it to a different
11 shelf.

12 Q Ms. Crooks, each time that happens, as you
13 referenced, there would be a time-stamp on that
14 transaction; is that correct?

15 A That is correct.

16 Q You all are a very detailed-oriented lab,
17 correct?

18 A We are.

19 MR. BIERING: Thank you.

20 THE COURT: Ms. Williams.

21 REDIRECT EXAMINATION

22 BY MS. WILLIAMS:

23 Q If anything has been compromised or damaged or
24 if the package has been disrupted, would you transfer
25 it along?

1 A No, I would not.

2 MS. WILLIAMS: Thank you. Nothing further.

3 THE COURT: Mr. Biering, recross?

4 MR. BIERING: No, Your Honor.

5 THE COURT: All right.

6 Is this witness excused?

7 MS. WILLIAMS: Please, Your Honor.

8 THE COURT: Any objection?

9 MR. BIERING: No, Your Honor.

10 THE COURT: Ms. Crooks, you are free to remain
11 with us, but you probably want to head back to
12 Columbia. You are free to leave the courthouse. Thank
13 you.

14 Call your next witness.

15 MS. WILLIAMS: Nikki Perry.

16 NIKKI PERRY HUGHES,
17 after having first been sworn to tell the truth, the
18 whole truth and nothing but the truth testified on her
19 oath as follows:

20 DIRECT EXAMINATION

21 BY MS. WILLIAMS:

22 Q Ms. Perry, who do you work for?

23 A I'm employed with the South Carolina Law
24 Enforcement Division, commonly known as SLED.

25 Q And what do you do for them?

1 A I'm a forensic technician in the evidence
2 control department. We login, package and transfer
3 evidence that is submitted to the lab for forensic
4 analysis.

5 Q And in this case did you handled some items of
6 evidence?

7 A I did.

8 MS. WILLIAMS: I'm going to approach the witness
9 with what has been previously marked as 158, 159 and
10 160.

11 Q (By Ms. Williams) Do you recognize that item?

12 A I do.

13 Q What is that?

14 A According to my chain of custody, this is
15 container D for L10-02124.

16 Q Who did you receive that from, and what was it
17 labeled as?

18 A I received it from Crystal Spence of the
19 Berkeley County Sheriff's Office on February 7th, 2012.
20 According to my chain, it has several items.

21 Item 35, which is described as one swab from
22 victim Toyota Tacoma truck, left door, outside. Item
23 36, described as one swab from ground on Jack Primis
24 Road at scene. Item number 37, which is described as
25 one swab from gold Nissan Maxima, back passenger car

1 door outside.

2 Q Is that it?

3 A That's it.

4 Q And who did you give it to? Or what did you do
5 with it after that?

6 A I would have logged in the evidence. I would
7 have placed the envelope inside of the heat-sealed
8 pouch. I then sealed the heat-sealed pouch in the
9 presence of the submitting officer, Crystal Spence.

10 And I would have her initial and date the seal,
11 and sign and date the front of the bag. I would log in
12 the items in the computer. Place the label on the
13 outside of the packaging. And then I placed it on the
14 DNA intake shelf 65.

15 Q And for those items, do you see that Patricia
16 Crooks got them next?

17 A Yes, ma'am.

18 Q Okay.

19 MS. WILLIAMS: Thank you, nothing further.
20 Please answer any questions the defense has for you.

21 THE COURT: Mr. Biering.

22 MR. BIERING: Nothing.

23 THE COURT: You may step down, you are free to
24 leave the courthouse. But you are welcome to remain
25 with us. Thank you.

1 THE WITNESS: Thank you.

2 THE COURT: Ms. Williams.

3 MS. WILLIAMS: Sheree Brown.

4 SHEREE BROWN,

5 after having first been sworn to tell the truth, the
6 whole truth and nothing but the truth testified on her
7 oath as follows:

8 DIRECT EXAMINATION

9 BY MS. WILLIAMS:

10 Q Ms. Brown, who do you work for?

11 A State of South Carolina Law Enforcement
12 Division, also known as SLED.

13 Q And what do you do for them?

14 A I'm a forensic technician within the DNA
15 Department.

16 Q And did you handle items 1 and 2 in the case
17 that we are here for today?

18 A Yes, I did.

19 Q And what is item 1?

20 A Item 1 is, according to our log, is a blood
21 standard, one tube of blood from Reginald Porcher.

22 Q And did you get that from Patricia Crooks?

23 A Yes.

24 Q And did you give it to Katie Urka?

25 A Eventually it got to her.

1 Q You put it in storage first?

2 A Yes.

3 Q And had it been tampered with, would you have
4 passed it on to storage?

5 A Yes. Well I did open this because I stabilize
6 the blood standards for the DNA department.

7 Q Explain to us how you do that.

8 A When a liquid blood stain would come in,
9 according to DNA policy, we have to make it a dry
10 standard.

11 So I open up the heat-sealed pouch and went
12 through our protocol. Took out the tube. Made a clean
13 envelope with the case number and lab number on it.
14 And took a piece of filter paper and put a small sample
15 of the blood on that filter paper, let it air, and when
16 it was dried repackaged it up and put it in the
17 heat-sealed pouch.

18 Q Then you would put that pouch into a storage
19 drawer?

20 A Correct.

21 Q And if the package had come to you tampered with
22 or compromised in any way from law enforcement, would
23 you have done anything with it?

24 A Yes, I would have brought it to my supervisor's
25 attention and it would be noted somewhere within the

1 chain of custody, or noted somewhere so it would be
2 always with that particular case.

3 Q Is there any indication in this case that this
4 blood sample was compromised in any way, that the
5 package was tampered with, or anything like that?

6 A No.

7 Q And item 2, what is that?

8 A A heat-sealed pouch containing swabs -- excuse
9 me, that's number 3.

10 Q Number 2?

11 A Heat-seal pouch containing buccal swab described
12 as one buccal swab from Ron Santa McCray.

13 Q Okay. And what if anything did you do with that
14 next? And then who got it after you?

15 A I, from when it came into my custody, I put it
16 in a secure location within the DNA department and that
17 had a location number as DNA storage door 7A.

18 Q And who got it after you?

19 A Katie Urka.

20 MS. WILLIAMS: Thank you, nothing further.

21 please answer any questions from the defense.

22 THE COURT: Mr. Biering.

23 MR. BIERING: Nothing from the defense of this
24 witness.

25 THE COURT: Okay. You are excused, you may step

1 down. You are free to go. Thank you.

2 THE WITNESS: Thank you.

3 THE COURT: Call your next witness.

4 MS. WILLIAMS: State would call Hue Tang.

5 HUE TANG,

6 after having first been sworn to tell the truth, the
7 whole truth and nothing but the truth testified on his
8 oath as follows:

9 DIRECT EXAMINATION

10 BY MS. WILLIAMS:

11 Q Mr. Tang, who do you work for?

12 A I'm employed by South Carolina Law Enforcement
13 Division.

14 Q And what do you do for them?

15 A I'm employed as a forensic scientist.

16 Q And did you handle a GSR kit in this case, lab
17 number L10-02124?

18 A Yes, ma'am. I pick up --

19 MR. BIERING: Objection, Your Honor.

20 THE COURT: Basis?

21 MR. BIERING: Your Honor, I have a matter I
22 believe would be best to take up.

23 THE COURT: You may approach.

24 (Whereupon, a discussion was held at the bench
25 off the record.)

1 THE COURT: You may continue.

2 MS. WILLIAMS: Thank you.

3 Q (By Ms. Williams) Who did you get the GSR kit
4 from?

5 A I received the GSR kit from forensic technician
6 Selena Kinard.

7 Q What did you do with it after that?

8 A I transferred this GSR kit to our trace evidence
9 forensic technician Lisa Waananen the next day.

10 MS. WILLIAMS: Thank you, nothing further.
11 Please answer any questions the defense has.

12 THE COURT: Mr. Biering.

13 MR. BIERING: Nothing.

14 THE COURT: You may step down. You are free to
15 go, thank you.

16 Call your next witness.

17 MS. WILLIAMS: Lisa Waananen.

18 LISA WAANANEN,
19 after having first been sworn to tell the truth, the
20 whole truth and nothing but the truth testified on her
21 oath as follows:

22 DIRECT EXAMINATION

23 BY MS. WILLIAMS:

24 Q And you were working for SLED back in 2009?

25 A Yes, ma'am.

1 Q And you handled pieces of evidence for
2 L10-02124; is that correct?

3 A Yes, ma'am.

4 Q And did you handle item 8, which was a GSR kit?

5 A I did.

6 Q And what did you do with item 8?

7 A I picked it from login and I processed it and
8 then I turned it over -- I'm sorry, I didn't pick this
9 up from login, I got it from Hue Tang.

10 I normally pick it up from login, and I turned
11 it over to Ila when I was finished with it.

12 Q And when you get it, it's item 8, what kinds of
13 things are in it, and did you break it down into
14 different items for it to be tested?

15 A Yes, I did.

16 Q Just explain it very briefly, if you don't mind.

17 A A normal kit has usually lifts and swabs. And I
18 put on my note-sheet if anything is missing.

19 And this one I have no notes of lifts so I'm
20 thinking there was no lifts, or no noted lifts. And
21 the swabs were bloody.

22 Q Okay. And the swabs were bloody?

23 A Yes, ma'am.

24 Q And when you break it down, what do you do with
25 it exactly?

1 A I give it appointed numbers on a sheet, then
2 it's just the lab number, it doesn't have anybody's
3 name. And each sample has a number of its own.

4 Q Okay.

5 MS. WILLIAMS: Thank you. Please answer any
6 questions from the defense.

7 THE COURT: Mr. Biering.

8 MR. BIERING: Nothing, Your Honor.

9 THE COURT: Thank you, you may step down. You
10 are free to go. Thank you.

11 THE WITNESS: Thank you.

12 THE COURT: Call your next witness.

13 MS. WILLIAMS: Next witness, Your Honor, is the
14 scientist Ila Simmons.

15 THE COURT: Counsel approach.

16 (Whereupon, a discussion was held at the bench
17 off the record.)

18 THE COURT: Ladies and gentlemen, we are going
19 to go ahead and take a 10-minute break. Do not begin
20 your deliberations. Do not discuss this case amongst
21 yourselves. Please rise for the jury.

22 (Whereupon, the jurors exit the courtroom.)

23 THE COURT: Thank you, be seated.

24 We will take 10 minutes. Mr. Biering, there is
25 nothing you need to place on the record; is that

1 correct?

2 MR. BIERING: No, ma'am, thank you.

3 THE COURT: Let's go ahead, Mr. McCray, we are
4 going to go head and take a comfort break as well.
5 Thank you.

6 (Whereupon, a recess was taken.)

7 THE COURT: Anything before we bring in the
8 jury?

9 MS. WILLIAMS: Not from the State, Your Honor.

10 THE COURT: Let's bring in the jury.

11 (Whereupon, the jurors enter the courtroom.)

12 THE COURT: Thank you, be seated.

13 We need to swear the witness. You may remain
14 seated.

15 ILA SIMMONS,

16 after having first been sworn to tell the truth, the
17 whole truth and nothing but the truth testified on her
18 oath as follows:

19 THE COURT: Ms. Williams.

20 MS. WILLIAMS: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MS. WILLIAMS:

23 Q Ms. Simmons, who do you work for?

24 A I work at the South Carolina Law Enforcement
25 Division, also known as SLED, in the forensics

1 laboratory's trace evidence department.

2 Q And what do you do exactly?

3 A We analyze gunshot residue, gunpowder residue.
4 We perform glass, fiber and paint comparisons, as well
5 as analyzing firearms.

6 Q And how long have you been employed at SLED?

7 A Almost 13 years.

8 Q And how long have you been analyzing gunshot
9 residue and trace evidence?

10 A Trace evidence for the full 13 years, and
11 gunshot residue for 11 because that's the first
12 discipline I trained in.

13 Q Just briefly, what is your training and
14 experience in this field?

15 A I received a bachelors' degree in chemistry.
16 After completing that, I came to work at SLED, it was
17 my first place of employment.

18 My first three years there I worked with a
19 court-qualified, SLED-certified trace evidence
20 examiner.

21 During that time I took written and practical
22 examinations in all the areas of trace evidence, all
23 disciplines, and had to pass them with 100 percent
24 efficiency. Each year I have to take a proficiency
25 test in every discipline that is submitted to SLED from

1 an external testing agency, and I have to pass that 100
2 percent efficiency to continue analyzing trace
3 evidence.

4 I'm also a member of the Southern Association of
5 Forensic Science, the American Academy of Forensic
6 Science, and the American Academy of Trace Evidence
7 Examiners.

8 Q And have you been qualified as an expert -- have
9 you testified as an expert before in court for gunshot
10 residue testing?

11 A Yes, ma'am, 250 times in state, federal and
12 civil courts in South Carolina.

13 Q And each time have you been qualified as an
14 expert?

15 A Yes.

16 MS. WILLIAMS: Your Honor, at this time the
17 State would move Ms. Simmons be qualified as an expert
18 in the field of trace evidence, specifically gunshot
19 residue testing.

20 THE COURT: Trace evidence and gunshot residue
21 testing.

22 MR. BIERING: Your Honor, I would ask to be able
23 to have a brief inquiry of the witness as it relates to
24 her qualifications as an expert.

25 THE COURT: You may.

1 MR. BIERING: Thank you, Your Honor.

2 VOIR DIRE EXAMINATION

3 BY MR. BIERING:

4 Q Ms. Simmons, you said you have been analyzing
5 gunshot residue for 11 years; is that correct?

6 A Yes, sir.

7 Q And in your training to analyze gunshot residue,
8 do you also have training as it would relate to the
9 collecting of gunshot residue?

10 A Yes, sir, I do.

11 Q And has your training, as it would relate to the
12 collection of gunshot residue, is that a part of how
13 you would be able to analyze the actual test kits that
14 you would get from another party?

15 A Generally collecting would be something I would
16 just learn to have done as part of my training because
17 I usually just do the analysis once it has been
18 collected in the field and sent into the laboratory.

19 So I don't very often go out into the field and
20 collect gunshot residue kits.

21 Q would you consider yourself to be an expert in
22 the field of collection of gunshot residue as well?

23 A Yes, sir.

24 Q And was -- so a component of your training and
25 education is in the collection of gunshot residue?

1 A Yes, sir, it is.

2 Q And is that a detailed process?

3 A Yes, sir.

4 MR. BIERING: I have got no further questions of
5 the witness.

6 THE COURT: Any objection to her being qualified
7 as an expert?

8 MR. BIERING: None.

9 THE COURT: Ladies and gentlemen of the jury,
10 normally a person cannot give opinion testimony.
11 Typically when a person testifies, they must testify as
12 to either what they saw or heard by or sensed by smell
13 or something of that nature.

14 There is an exception when someone is qualified
15 because of their education and experience, they will be
16 permitted to give their opinion in certain areas if the
17 court qualifies them this way.

18 This witness will be qualified as an expert in
19 the area of trace evidence and gunshot residue testing
20 to give opinion testimony in those areas. That does
21 not mean that you must accept the opinion. It is
22 evidence for you to use in any way that you see fit.

23 Ms. Williams.

24 MS. WILLIAMS: Thank you, Your Honor.

25 Q (By Ms. Williams) Now Mr. Biering just asked

1 you questions about collecting gunshot residue. Out in
2 the field, gunshot residue is collected from people
3 with what?

4 A With a standardized testing kit.

5 Q And do you have to be an expert to utilize the
6 standardized testing kit?

7 A No, ma'am. Because in every kit is a list of
8 instruction. It's one-by-one, step-by-step
9 instructions.

10 And in fact, my previous supervisor was the
11 person who wrote the instructions for the company that
12 the kit was collected.

13 Q So an ordinary police officer can open the kit
14 and follow the instructions and collect gunshot residue
15 from a person?

16 A Yes. In fact, we have had college students come
17 in when we were doing testing in the laboratory where I
18 would shoot a gun, and a college intern would come in,
19 read the instructions and collect the kit and collect
20 it correctly.

21 Q And generally, what is done? What is the
22 mystery behind this kit? What's in it? How do they do
23 it?

24 A It's a very simple kit. It's a two-part kit.
25 It has double-sided sticky tape with a handle, it's in

1 a vial.

2 The person collecting the kit would pull the lid
3 out of the vial and it would have double-sided sticky
4 tape on it. The hand of the person collecting the kit
5 would never touch the sticky tape. That's the part
6 that we analyze.

7 Take would take the particle lift and dab it
8 over the hands of the person for whom the kit is being
9 collected, they seal it back up in the vial. It would
10 be labeled.

11 There is a sample collected from the palm of
12 the right hand, a sample from the back of the right
13 hand, a sample from the palm of the left hand, and the
14 back of the left hand.

15 Each one is labeled as it comes out of the kit,
16 so there is no way to mix them up. One sample will be
17 collected, sealed, put back in the envelope.

18 The second part of the test would be Q-tips with
19 a couple drops of nitric acid on it. And it would be
20 rubbed over the same areas of the hand. There are test
21 tubes in the kit already labeled, they would put the
22 test tubes in. Put the swabs in the test tube and seal
23 it up.

24 Q And how is gunshot residue transferred to a
25 person's hands?

1 A You can get gunshot residue on your hands from
2 shooting a gun, from being in close proximity to a gun
3 when it's discharged, or by touching something that may
4 have been contaminated with gunshot residue.

5 Q And so, just the short version for those of us
6 who aren't scientists, what happens with the gun, and
7 then what is actually transferred on to the hands?

8 A Okay. When someone pulls the trigger of a gun,
9 the firing pin falls. There is a cartridge that has
10 been placed into the gun. It has a primer on one end
11 which contains shock-sensitive chemicals.

12 When the firing pin hits that primer, creates a
13 small explosion. There is gunpowder also in the
14 cartridge, it starts to burn, builds up pressure in the
15 gun. And the bullet, which is on the other end, or the
16 projectile, is crimped into the cartridge case.

17 The pressure that builds up in the gun pushes
18 the bullet out of the barrel and strikes a target.

19 Q And in a living person, are there ways for the
20 gunshot residue to be removed from the hands, or to
21 come off the hands before someone has an opportunity to
22 collect it?

23 A Yes, ma'am. Gunshot residue has the
24 consistency of salt. So if you have ever gotten salt
25 on your hands, wiped your hands on your pants, it can

1 come off.

2 If you were to wash your hands, shower, use hand
3 sanitizer, this will remove the gunshot residue from
4 your hands.

5 Q And if those things don't happen, is there a
6 recommended window of time that you all have that you
7 recommend police to collect, or try to collect gunshot
8 residue from someone who may have handled a gun, or
9 handled the gun or had gunshot residue on them?

10 A Yes, ma'am. Within six hours of a shooting
11 incident a gunshot residue needs to be collected. In
12 fact, it's best to take it right away because since
13 it's so fragile, it starts falling off the hands
14 immediately.

15 But if I were to shoot a gun at noon, there
16 would be no gunshot residue left on my hands by 6
17 o'clock that afternoon. Even if I just sat as still as
18 I could, didn't wash my hands, didn't do anything,
19 didn't touch anything with condensation on it, it would
20 be completely gone.

21 Q So within six hours?

22 A Yes, ma'am.

23 Q Now does that analysis change when a person
24 dies?

25 A Yes, ma'am, it does.

1 Q Can you explain how and why?

2 A Well when the heart stops beating, the body
3 stops absorbing things through the skin. Of course the
4 body then becomes like an inanimate object; it's not
5 touching things, it's not making contact with things.

6 So it basically would be like a board or
7 something that had gunshot residue on it. And the only
8 way to remove it off of someone who is deceased from an
9 outside source. Someone would have to wash their
10 hands, or clean them in some way.

11 Q And did you analyze items of evidence in this
12 case?

13 A Yes, ma'am, I did.

14 Q And what did you analyze in this case?

15 A I received a gunshot residue collection kit for
16 analysis.

17 Q Do you know who you received it from in the
18 chain?

19 A Yes, ma'am, I received it from Lisa Waananen.

20 Q Okay. And when it comes into Ms. Waananen, what
21 form is it in?

22 A It would have been probably in a manila
23 envelope. And then the kit itself would have also been
24 sealed in a white envelope.

25 Q Okay. And what does she do with it?

1 A She would have checked to make sure that it was
2 sealed. And then she would have opened it and prepared
3 it for analysis. And then transferred it to me.

4 Q And then after that, tell us what scientific
5 analysis you actually do on it to determine if GSR,
6 gunshot residue, is in the kit?

7 A Gunshot residue is a mixture of the microscopic
8 chemicals that are coming out of the gun, from the
9 primer and from the gunpowder. And also from
10 particulate material that is coming off the projectile.

11 So it can get on anyone's hands, including the
12 person shooting the gun, that's in close vicinity to
13 the gun when it's discharged.

14 In this case, I was looking for lead, barium and
15 antimony, which are the three primary components that
16 make up gunshot residue.

17 We have an instrument that is basically a big
18 bean counter. It counts how many particles of lead are
19 found in a solution, and how many particles of barium
20 and how many particles of antimony.

21 After doing that I would get a number. We have
22 test-fired thousands of types of guns, thousands of
23 types of ammunition, and determined a threshold level
24 for each type of gun and each type of ammunition. If
25 those levels are met, then we take it on to a second

1 portion of the test and that is a huge scanning
2 electron microscope which can see down 100,000 times
3 greater than what the human eye can see.

4 And what it allows us to do is look at the
5 gunshot residue particles, which you can fit about 100
6 of them on the head of a pin, they are very small.

7 So it will look at the gunshot residue
8 particles. If they are round and they contain the
9 lead, barium and antimony, this is unique to the
10 discharge of a primer, and only the discharge of a
11 primer. A round particle with lead, barium and
12 antimony is not found anywhere else.

13 Q And what kinds of results can you get? Can you
14 get varied results, like some particles, all particles?
15 Tell us a little bit about that.

16 A Yes, ma'am, you can. You can find some
17 particles that contain just lead and just antimony. Or
18 you can find some with just lead and just barium.

19 And that's because the mixture that's placed in
20 the primer is not completely mixed up. It's like, it's
21 like the old-time milk where you would have the cream
22 on top and then the milk in the bottom, and then maybe
23 water even further down.

24 It's like that, so that you can get particles of
25 different types.

1 Q And just based on your expert opinion, if
2 someone had handled the gun, and the residue wasn't
3 wiped off and they had died shortly after, would you
4 expect to find gunshot residue on their hands if they
5 had fired a gun?

6 A Yes, ma'am.

7 Q And what are the other ways you can get gunshot
8 residue on either your clothing or on a different part
9 of your hand if you don't fire a gun?

10 A If you're in very close proximity to the gun
11 when it's discharged, if someone were to stand here
12 beside me within like four feet and fire a gun, I could
13 get gunshot residue on me.

14 Or if someone were to lay something down that
15 had gunshot residue on it, I was to pick it up and
16 handle it behind them, it could be transferred on to my
17 hands.

18 Q And conversely, in your expert opinion, if
19 someone is stand 10 or 20 feet away from the person
20 that's shot, and shoots through a glass window from
21 that distance from behind, would you expect to find any
22 gunshot residue on their hands?

23 A Generally no, because the distance is so great.
24 With a handgun, gunshot residue doesn't usually travel
25 more than about 4 or 5 feet, and the gunshot residue is

1 very light.

2 So once is struck the glass, it would be caught
3 on glass and it wouldn't penetrate through the glass
4 like the bullet would.

5 MS. WILLIAMS: Your Honor, I'm going to show
6 defense counsel what has been marked as State's Exhibit
7 148.

8 May I approach?

9 THE COURT: You may.

10 Q (By Ms. Williams) Ms. Simmons, if you could
11 please tell us what this is?

12 A This is the gunshot residue kit that I analyzed
13 in this case.

14 would you like me to open it as well?

15 Q Yes, please.

16 A And the way that I know it was the kit that I
17 analyzed, it is marked with a unique identification
18 number.

19 Every case that comes into the laboratory is
20 given a unique identification number. It has the year
21 that the case was submitted to the laboratory, then a
22 chronological number as to what number case it came in.

23 Also a unique item number for each piece of
24 evidence. It's also marked with my initials, and the
25 date that the kit was opened for analysis.

1 Q And when you received it, had it been tampered
2 with in any way?

3 A Ms. Waananen had opened it prior to me analyzing
4 it.

5 Q So inside the kit you have -- or let me just
6 rephrase that, withdrawn.

7 You did a report on this; is that correct?

8 A Yes.

9 Q And how did you label the kit and the items in
10 it in your report?

11 A I would have labeled them as the first item,
12 item 8, would have been GSR kit, just the general kit.
13 Then I would have sub-itemed it into the different
14 areas from which the samples were collected.

15 MS. WILLIAMS: Your Honor, at this point we
16 would offer State's 148 into evidence.

17 THE COURT: Any objection?

18 MR. BIERING: Just the kit, right?

19 MS. WILLIAMS: Correct.

20 MR. BIERING: Yes, no objection.

21 THE COURT: State's 148 into evidence without
22 objection.

23 (Whereupon, State's Exhibit No. 148 is admitted
24 into evidence.)

25 Q (By Ms. Williams) And let's look at your

1 report. You broke it down to 8.1. What is 8.1?

2 A It's the sample collected from the right palm.

3 Q And who is it collected from?

4 A It was labeled as being collected from Reginald
5 Porcher.

6 Q And was any gunshot residue found on 8.1?

7 A No, ma'am. Not on the right palm.

8 Q And that's the right palm?

9 A Correct.

10 Q And what is 8.2?

11 A That would have been the sample from the back of
12 the right hand.

13 Q Any gunshot residue found there?

14 A No, ma'am.

15 Q What is 8.3?

16 A A sample collected from the left palm.

17 Q Any gunshot residue found there?

18 A No, ma'am.

19 Q What is 8.4?

20 A It would have been the sample collected from the
21 back of the left hand.

22 Q Any gunshot residue found there?

23 A No, ma'am.

24 Q So there was no gunshot residue anywhere on
25 Reginald Porcher's hands?

1 A No, not on the samples collected.

2 MR. BIERING: Objection, calls for speculation.

3 THE COURT: Rephrase your question.

4 Q (By Ms. Williams) Any gunshot residue found on
5 the swabs taken from Mr. Porcher's hand?

6 A No, ma'am.

7 Q And you don't know if somebody could have wiped
8 his hands off at the scene or anywhere, do you?

9 A No, ma'am, I wouldn't have known that.

10 Q But based on the fact that -- well let me ask it
11 this way. Would you have tested this item had it not
12 been collected within the prescribed 6 hours?

13 A Since --

14 MR. BIERING: Objection, foundation.

15 THE COURT: Overruled.

16 A Since this person was diseased, I would have
17 collected it beyond 6 hours.

18 Q So short of somebody wiping the residue off his
19 hands, that, you feel comfortable with the analysis
20 that was done?

21 A The analysis was done correctly, yes, ma'am.

22 MS. WILLIAMS: Court's indulgence.

23 THE COURT: Yes, ma'am.

24 MS. WILLIAMS: Please answer any questions from
25 the defense counsel.

1 THE COURT: Mr. Biering.

2 CROSS-EXAMINATION

3 BY MR. BIERING:

4 Q Ms. Simmons, who did you say you received this
5 item from?

6 A I received the GSR kit from Lisa Waananen.

7 Q And initially when you were testifying you were
8 describing the different items that are in a kit; is
9 the correct?

10 A Yes, sir.

11 Q Can we open up that kit?

12 A Yes, sir.

13 Q Can you take out the items that are in the kit?

14 A Yes, sir, I can.

15 AS I was describing earlier, this would be the
16 double-sided sticky tape with the vial. The cap would
17 come off and the double-sided sticky tape would be
18 inside the cap.

19 And the swabs, when we analyze them, we treat
20 them with a very strong nitric acid solution so that
21 they are consumed at analysis. They basically dissolve
22 in the solution. So we have no swabs to return, but we
23 return the particle lifts.

24 Q Ms. Simmons, do you have any notes beyond your
25 report for your analysis in this case?

1 A Yes, sir, I do.

2 Q You do?

3 A Yes, sir.

4 Q And do you have those with you?

5 A I do.

6 Q Could I see those?

7 A Uh-hum. Sure.

8 Q So in a standard test, how many items are you
9 analyzing?

10 A In a standard test kit?

11 Q Yes.

12 A We would be analyzing, from the swabs we would
13 have samples from the palm of the right hand, the back
14 of the right hand, from the palm of the left hand, the
15 back of the left hand, and a control sample.

16 The particle lifts would have a sample from the
17 palm of the right hand, back of the right hand, palm of
18 the left hand, back of the left hand.

19 MR. BIERING: If I could approach the witness,
20 Your Honor.

21 THE COURT: You may.

22 Q (By Mr. Biering) I'm notorious for shuffling
23 papers up.

24 If you could, if you could go to your detailed
25 notes.

1 A Uh-hum. For which part?

2 Q For the analysis of the multiple items that you
3 say would be in each test.

4 A Okay, there you go. That would be the
5 note-sheet with what I have written down, of what I
6 found on examination.

7 Q And what you described, as I understood, there
8 would be four swabs and four lifts; is that correct?

9 A Yes, sir. And these are the results of
10 everything.

11 Q Okay. And where do you show the four swabs?

12 A This would be what was --

13 Q I got a question. Did you provide this to the
14 prosecutor?

15 A No, sir. The report is what we provided to the
16 prosecution, unless asked.

17 Q Okay. Specifically you said there were four
18 items within the swabs. Can you show me where each of
19 those individual four items were represented within the
20 swab.

21 A This would be right palm, right back, left palm,
22 left back.

23 Q Okay. Then there are four other items. So
24 where are those items listed?

25 A This would be for all four. That would also be

1 the right palm, the right back, left palm and left
2 back.

3 And if you see here, this is where the swabs are
4 labeled, swab results are listed. And this is where
5 the sticky tabs are listed. And then together they
6 come up with no gunshot residue.

7 Q Okay.

8 Now a moment ago when Ms. Waananen testified, do
9 you have a copy of her chain of evidence, or any
10 information about her testimony, or about what she saw
11 in the kit?

12 A I have the notes that she took when she was
13 preparing the kit for analysis.

14 Q Could I see those notes?

15 A Absolutely. Right here.

16 Q Okay. And is this her description of what she
17 found in the kit that she transferred on over to you?

18 A What is our protocol is that she would make
19 notes of each thing she found in the kit. The type of
20 kit, which is the brand. The person for whom the kit
21 was collected, that would be the name.

22 The lot number, each GSR kit has a lot number on
23 the back of it, she would have written that down. Then
24 she would made comments to anything she may have found
25 that seemed of interest to her. And then if any phone

1 called needed to be made pertaining to the kit, she
2 would have noted those.

3 Q And on the comment section, can you read what it
4 says there?

5 A Yes. An unused CC tube -- and CC is in our
6 abbreviate notebook, so it stands for a cartridge case
7 tube -- in the GSR kit. If a cartridge case is found,
8 they can swab the cartridge case and send the swabbings
9 of the cartridge case.

10 However, in this particular case there was no
11 swab in the cartridge case tube, so it's disposed of.
12 And she also said that the swabs were bloody.

13 Q Swabs were bloody?

14 A Yes, sir.

15 Q Did she make any note there about the lifts?

16 A No, sir.

17 Q So if she testified that there were no lifts in
18 that kit --

19 A Actually where it says here it says type of kit,
20 and it says Trittech, that would be the name of the kit.
21 And then she also made a note that said combo. which
22 means when we say combo, we understand that to mean
23 that it has swabs as well as particle lifts or sticky
24 tabs.

25 Q well that's the type of kit, correct?

1 A That is the nomenclature that we use in the
2 laboratory to say that the lifts and the swabs were
3 present, yes, sir.

4 Q So your position would be that she would believe
5 that there were --

6 MS. WILLIAMS: Objection, calls for speculation.

7 THE COURT: Let him finish his question.

8 MR. BIERING: Thank you, Your Honor.

9 Q (By Mr. Biering) Your position would be, based
10 on your review -- because certainly before you analyze
11 something, you are going to review how the materials
12 got to you, correct?

13 A Yes, sir. I would review all the paperwork.

14 Q So your testimony would be that her
15 documentation would show that the lifts were in the
16 kit; is that correct?

17 A Yes, sir. And when I received the kit they were
18 also in the kit.

19 Q Now you say that you can wash away gunshot
20 residue; is that correct?

21 A Yes, sir.

22 Q Could you have gunshot residue wiped away with
23 blood?

24 A Yes, that is a possibility.

25 Q If the person who collected -- well, no, let me

1 back up.

2 If you were going to collect gunshot residue, or
3 do a gunshot residue test, would you want to know the
4 history of the hand that was being tested?

5 A What I would have to have was I would have to
6 know when the shooting incident occurred, and when the
7 kit was collected to be sure it was within 6 hours if
8 someone was living.

9 And we would even analyze the kit even if
10 someone said that they had washed their hands.

11 Q Would you want to know that?

12 A It's also mentioned on our sheet, yes, sir. It
13 is one of the -- there is another sheet included in
14 every GSR kit that has where the collecting agency
15 would put the name from whom it's collected. And it
16 also says, write a brief description of any activity
17 that may have occurred since the shooting. And they
18 can note that there if they needed to.

19 Q Would you agree that this is a correct
20 statement. A neg -- if we are making a statement about
21 a gunshot residue test.

22 A negative finding does not imply that the
23 subject was not in the vicinity of a recently
24 discharged firearm. It only indicates that no evidence
25 of primer residue was found on the items tested?

1 A That's correct.

2 Q If I were to have gunshot residue in the palm of
3 my hand, and I were to rub my hand across someone's
4 shoulder, and then I were to go and grab the hand of
5 someone else, and then someone else were to grab my
6 hand to pull at my hands, could there be a removal of
7 gunshot residue with those touchings and rubbings of
8 clothing?

9 A Yes, sir.

10 Q would you agree that the greater number of
11 contacts with a hand that potentially has gunshot
12 residue on it, the greater likelihood that there would
13 be gunshot residue removed?

14 A Yes, sir. The more things that you touch, if
15 you had gunshot residue on your hand, the better chance
16 that you are removing it.

17 MR. BIERING: Thank you.

18 THE COURT: Ms. Williams.

19 MS. WILLIAMS: Briefly.

20 REDIRECT EXAMINATION

21 BY MS. WILLIAMS:

22 Q If there is blood on your hands, can you still
23 detect gunshot residue?

24 A Yes.

25 Q When someone fires a weapon, where on the hand

1 are you most likely to find the gunshot residue?

2 A If someone is holding the gun with both hands,
3 you usually find the largest amount on the backs of the
4 hands and less on the palms, simply because the palms
5 are concealed up against the gun. They don't get as
6 much gunshot residue on them from the cloud of gunshot
7 residue that comes out.

8 Q And why do you extend the window of time for
9 someone that has expired?

10 A Because they are no longer moving around, they
11 are not longer making contact with things. And we have
12 had cases where someone has committed suicide, and
13 their hands were not touched, and they weren't found
14 for two or three weeks and gunshot residue was still
15 found on the hands.

16 MS. WILLIAMS: Thank you.

17 THE COURT: Mr. Biering.

18 RECROSS-EXAMINATION

19 BY MR. BIERING:

20 Q And you continue to agree, though, that a
21 negative finding does not imply that the subject was
22 not in vicinity of a recently discharged firearm, it
23 only indicates that no evidence of primer residue was
24 found on the items tested. Do you agree with that?

25 A Yes, sir.

1 MR. BIERING: Thank you.

2 THE COURT: Is this witness excused.

3 MS. WILLIAMS: Please, Your Honor.

4 THE COURT: Any objection?

5 MR. BIERING: None, Your Honor.

6 THE COURT: You are excused. You are free to
7 leave the courthouse, but you are also free to remain
8 with us. Thank you.

9 Call you next witness.

10 MS. WILLIAMS: State calls James Green.

11 JAMES WILLIAM GREEN,
12 after having first been sworn to tell the truth, the
13 whole truth and nothing but the truth testified on his
14 oath as follows:

15 DIRECT EXAMINATION

16 BY MS. WILLIAMS:

17 Q And who do you work for, Mr. Green?

18 A I work for the South Carolina Law Enforcement
19 Division, commonly referred to as SLED.

20 Q And what do you do for them?

21 A I'm a forensic scientist, or firearms examiner.

22 Q And what is your educational background?

23 A I have a bachelor of arts degree from Charleston
24 Southern University. And I also have a masters of
25 science in criminal justice from Charleston Southern.

1 Q And how long have you been employed at SLED?

2 A For approximately 7-and-a-half years, since June
3 of 2005.

4 Q And what are your day-to-day duties?

5 A I work in the firearms department. And lot of
6 people miscall it ballistics, like what you see on CSI.
7 But really we look at fired bullets or fired cartridge
8 cases, tools and tool-marks to try to see if they came
9 out of a particular firearm or not.

10 Q What type of training do you have in the field
11 of firearms identification?

12 A I have successfully completed the SLED firearms
13 and tool-mark course of instruction. It's an
14 apprentice-type programs lasting roughly
15 three-and-a-half years studying under the SLED
16 court-qualified examiners, watching them do their work,
17 thousands of microscopic examinations.

18 I cannot tell how much information I have read.
19 Doing microscopic examination along with them, and then
20 on my own. And they kind of grade me on what I did.
21 Oral and practical problems. And at the end I was
22 given a comprehensive exam.

23 Q Have you testified before as an expert in the
24 field of firearms identification?

25 A Yes, ma'am.

1 Q About how many times?

2 A 17.

3 MS. WILLIAMS: Your Honor, at the time we would
4 move to qualify Mr. Green as an expert in the field of
5 firearms identification.

6 THE COURT: Any objection?

7 MR. BIERING: None.

8 THE COURT: He will be so qualified.

9 Q (By Ms. Williams) Did you examine pieces of
10 evidence in this case?

11 A Yes, ma'am.

12 Q And what items of evidence did you examine?

13 A Let me grab my notes, please.

14 I will refer to SLED item numbers. I received
15 item 9 and 10, both of which were shotguns.

16 Q Can you tell us what kind of shotgun item 9 was?

17 A Okay. It was a Revelation model R310AB, or
18 R310AB. It's a 12-gauge pump-action shotgun with a
19 serial number of G272612.

20 Q Okay, go head.

21 A Item 10 was a JC Higgins model 101.1 shotgun,
22 16-gauge without a serial number. Item 11 was on fired
23 12-gauge shot shell. Items 20, excuse me, 12 through
24 24 were thirteen unfired 12-gauge shot shells. Items 25
25 through 28 were four unfired 16-gauge shot shells.

1 Item 29 was one piece of lead.

2 MR. BIERING: Objection, Your Honor.

3 THE COURT: What is the basis?

4 MR. BIERING: Foundation.

5 THE COURT: All right, counsel, approach.

6 (Whereupon, a discussion was held at the bench
7 off the record.)

8 Q (By Ms. Williams) I'm sorry, Mr. Green. Could
9 you continue?

10 A I left off at item 30, correct?

11 Q I think I had item 29, which was one piece of
12 lead.

13 A Okay. Item 30 was also one piece of lead, as
14 was item 31. Item 32 was 6 cardboard fragments,
15 cardboard wad fragments. Then item 33 was four lead
16 buckshot pellets and one piece of lead.

17 Q Okay.

18 MS. WILLIAMS: Court's indulgence for just a
19 second.

20 THE COURT: Yes, ma'am.

21 MS. WILLIAMS: Your Honor, I'm going to show
22 this witness what has previously been marked and
23 entered as item 144.

24 May I approach?

25 THE COURT: You may.

1 You have continuing permission to approach this
2 witness.

3 MS. WILLIAMS: Thank you, Your Honor.

4 Q (By Ms. Williams) Can you tell me if this is
5 one of the guns that you examined?

6 A Ladies and gentlemen of the jury, I just
7 physically and visually checked the firearm. It's
8 unloaded and safe to handle. I'll try not to point it
9 at anybody.

10 When we get items of evidence at SLED, if
11 they're large enough, what we will do is we will mark
12 the lab number, the case number, the item number and
13 our initials on each item of evidence if it's big
14 enough. Sometime they're too small and microscopic to.

15 But that's what I'm doing right now is you'll
16 see me looking to make sure this has my numbers on it.

17 Yes, ma'am. This is item 9, the shotgun.

18 Q What testing did you conduct on that item?

19 A When we get evidence in, what I will do is I
20 will take photographic documentation as it is, how it
21 was received, noting any abnormalities, defects, broken
22 pieces to safeguard the laboratory and the submitting
23 agency if there is an issue or some kind of defect with
24 the firearm that we know about beforehand if there is
25 an accident.

1 After we do that, we will make sure they're
2 safe, in safe working order, not going to hurt someone
3 or myself when we fire it. Then we will test-fire the
4 gun to retrieve fired components, like in this case
5 fired shot shells from it. That way we will know they
6 came from this gun because we shot them ourselves.

7 When firearms are made, a firearm is nothing
8 more than a tool that marks a softer surface. So when
9 this shotgun fired my test-fired shot shells, the
10 markings on the breach face, which is right here on the
11 bolt, as the projectile goes down the barrel, physics,
12 equal and opposite reactions, slams the shot shell back
13 against the breach face of the bullet.

14 That leaves marks on those shot shells. So I
15 looked at them, and identified them back to each gun.

16 There has been studies, many of which I have
17 participated in, that all 15 of us, myself and 14, we
18 were all given rakes, basically. We'd go to the beach,
19 we'd rake the sand. Even though we had the same rake,
20 each rake is going to be slightly different with grain
21 or sand moving in different directions.

22 That's like with consecutively made firearms.
23 Even though they're all made with the same tool, each
24 one is going to be different. So this shotgun will
25 mark differently than the one made immediately before

1 it, and the one made immediately after it.

2 So what I did with this gun is I took it, I shot
3 it, I compared the tests against each other to make
4 sure they were marking consistently. And then I
5 compared that against the fired ammunition components
6 in this case.

7 Q Okay. And in your report that is listed as item
8 9?

9 A Yes, ma'am.

10 Q And I am going to show you what has been
11 previously marked as State's 149.

12 If you could just take a look at this item and
13 tell me if you recognize it and what it is?

14 A Yes, ma'am. This is the -- State's Exhibit Item
15 149 is the item 11 shot shell I received and examined
16 in this case.

17 Q And how is that described in your report?

18 A Described as one fired 12-gauge shot shell, in
19 quotes, from scene.

20 Q Okay. And who did you receive that item from?

21 A It was received from Patricia Crooks, in the
22 evidence control department on March 9th, 2010.

23 MS. WILLIAMS: Your Honor, at this time we would
24 offer State's 149 into evidence.

25 THE COURT: That has previously been entered.

1 MS. WILLIAMS: Oh, my bad.

2 Q (By Ms. Williams) So did you come to a
3 conclusion about the fired shotgun shell from the scene
4 and that weapon?

5 A Yes, ma'am.

6 Q What is that conclusion?

7 A This shot shell was fired by this shotgun.

8 Q And you were just talking about how you
9 test-fired different shotgun shells from that weapon.

10 A Yes, ma'am.

11 Q And it made unique markings?

12 A Yes, ma'am.

13 Q What do you then do with those in order to
14 determine if that shotgun shell came from that gun?

15 A After I look at the test to make sure they're
16 marking consistently, I will take one of the tests and
17 microscopically compare it with this shot shell.

18 The tool we use is called a comparison
19 microscope. And it's basically just two microscopes
20 connected by an optical bridge. And what that does is
21 it lets us look at both objects simultaneously under
22 different degrees and angles of light.

23 Q All right. And a shotgun shell, for those of us
24 who aren't hunters, is filled with what?

25 A I'd say a vast majority of them are filled with

1 different size pellet, they're called shot. Some are
2 filled with slugs.

3 The item 11 shot shell indicated on the
4 packaging, on the -- when shot shells are made, they're
5 marked by the manufacturer in ink on the outside of the
6 body. This one is actually marked as being 15 pellet
7 double-ought buckshot.

8 Q So there would be 15 little balls in that shell?

9 A Yes, ma'am.

10 Q Is that pretty big, double-ought? How big would
11 that be?

12 A They are about .33 inches in diameter, circular
13 balls. So they're roughly a third of an inch.

14 Q How many did you say were in there?

15 A According to the shot shell, there were 15
16 originally loaded into the shot shell.

17 Q And I am going to show you what has been
18 previously marked as State's 141.

19 MS. WILLIAMS: Court's indulgence just a moment.

20 I'm going to show defense counsel what was
21 previously entered as 141.

22 Q (By Ms. Williams) If you could look at these
23 items and tell me if you recognize them?

24 A Yes, ma'am. They're the item 12 through 24 of
25 shot shells.

1 Q And those are in -- and how do you recognize
2 them? Is there some kind of distinguishing mark on
3 them?

4 A Well they're all still sealed in the heat-sealed
5 bag that has my initials up top, the date, the item
6 numbers on the outside of the bag.

7 And then the ones that are opened, I can see my
8 markings on them.

9 Q Okay. And in one of those shells, can you just
10 hold them up and show us how big they are?

11 A (Witness complies.)

12 Q So there is 15 that fill up that?

13 A The 15 would fill up approximately about right
14 there. There are other filler wads, that kind of
15 thing, to take up space to separate the shot charge or
16 the pellets from the powder.

17 Q Okay. And did you compare those items, the
18 unfired shells that were found with the gun, to the
19 fired shell that was found at the scene?

20 A I did not microscopically compare them. Just a
21 visual match. They say the same thing on the outside.

22 Q So is it likely they came from the same box?

23 A I have no way of knowing because they make so
24 many that are marked the same way.

25 Q But they're made by the same manufacturer?

1 A Yes, ma'am.

2 Q And they have the same stamp on the end?

3 A Yes, ma'am.

4 Q And did you also -- item 33 in your report is
5 what?

6 A Item 33 was four lead buckshot pellets and one
7 piece of lead.

8 Q And how does your report describe that item?

9 A Removed from Reginald Porcher.

10 Q I am going to show you what has been marked as
11 State's 150.

12 And if you can look in here and see if you
13 recognize any of the items in that bag?

14 A Yes, ma'am. These are the item 33, pellets that
15 were submitted in this case.

16 Q Okay. And those were the ones removed from
17 Reginald Porcher?

18 A Yes, ma'am.

19 Q And what were you able to determine about those
20 buckshot pellets?

21 A Well four of them I was able to determine they
22 were most consistent with being double-ought buckshot.

23 Q Is double-ought buckshot the same buckshot that
24 is in the shells that were found with the gun, the
25 unfired shells?

1 A Yes, ma'am. That's what it said to be loaded
2 in. Then there was one piece of lead that was too
3 damaged for me to say what it was.

4 Q And in your report you say, they were determined
5 to be most consistent with double-ought buckshot
6 pellets.

7 Is there a reason why you can't conclusively say
8 that is double-ought?

9 A The damage sustained to them. They're flattened
10 and not cylindrical, circular like they were when
11 they're unfired.

12 When you fire shot shells, even if they don't
13 hit anything, when they're going down the barrel they
14 are slamming into each other. And lead is so soft and
15 ductile that it can actually deform in flight, or when
16 they're hitting against each other.

17 Q Okay. And items 29, 30 and 31 in your report,
18 what are those?

19 A 29 is one piece of lead. 30 is one piece of
20 lead. And 31 is one piece of lead. All three of those
21 were so damaged they were unsuitable for identification
22 and I couldn't even say what they were.

23 They could have been a piece of a buckshot
24 pellet. They could have been a piece of a terminal
25 from a car battery. I just couldn't tell.

1 MS. WILLIAMS: Your Honor, at this time we would
2 offer State's 150 into evidence.

3 THE COURT: Any objection?

4 MR. BIERING: No, Your Honor.

5 THE COURT: State 150 into evidence without
6 objection.

7 (Whereupon, State's Exhibit No. 150 is admitted
8 into evidence.)

9 Q (By Ms. Williams) If you could look inside this
10 bag. I am showing you what has been marked
11 respectively as State's 151, 152, 153 and 154.

12 Just tell me if you recognize those and what
13 they are.

14 A Yes, ma'am, I do recognize them.

15 State's Exhibit 151 is SLED item number 32,
16 which was the cardboard wad fragments.

17 State's Exhibit 152 is SLED item number 29,
18 which was one of the pieces of lead.

19 State's Exhibit 153 is item -- SLED item 31,
20 which was another piece of lead.

21 154, State's Exhibit, was SLED item 30, which
22 was the other piece of lead.

23 Q And are those the items that you received into
24 evidence?

25 A Yes, ma'am.

1 Q And who did you receive those from?

2 A From Patricia Crooks in evidence control.

3 Q And as far as 151, is that consistent with the
4 kind of wadding -- what would that be consistent with?

5 A As I was speaking about a few moments ago when I
6 was holding up the gun-fired shot shells and showing
7 where the shot charge would be, and there is a void
8 between the powder and the shot charge.

9 Different manufacturers use different type of
10 wadding. Now the manufacturers are use predominantly
11 plastic. But some are still using cardboard filler
12 wads and literally they just fill up space.

13 Most of these are too damaged to do anything
14 with. None of them were suitable for identification.
15 But the largest fragment was most consistent with being
16 a filler wad loaded into a 12-gauge shot shell.

17 Q And in your report, that's item 32?

18 A Yes, ma'am.

19 Q And how is that described in your report?

20 A Six cardboard wad fragments from dashboard of
21 victim's vehicle.

22 MS. WILLIAMS: Your Honor, at this time we would
23 offer State's 151 into evidence.

24 THE COURT: 151, 152, 153 and 154 have
25 previously been admitted.

1 Is that correct, Madam Court Reporter?

2 THE COURT REPORTER: Yes, ma'am.

3 MR. BIERING: That is my understanding as well,
4 Your Honor.

5 MS. WILLIAMS: Great. Thank you, Your Honor.

6 Q (By Ms. Williams) And with respect to those
7 other items, the lead from the visor, the brake pedal
8 and from the floor by the door, what were you able to
9 determine about those items?

10 A That they bore no marks of value, they were
11 unsuitable for identification. Which means there is
12 nothing on them that I could say, these were fired by
13 that gun. Or these were fired by this gun.

14 They were so damaged I could not determine if
15 each of them were a buckshot pellet, or some other type
16 of lead object.

17 Q They could have been buckshot?

18 A Could have been, yes, ma'am.

19 MS. WILLIAMS: Court's indulgence for just a
20 moment.

21 THE COURT: Yes, ma'am.

22 MS. WILLIAMS: Thank you so much, Mr. Green.
23 Please answer any questions from the defense.

24 THE COURT: Mr. Biering.

25 CROSS-EXAMINATION

1 BY MR. BIERING:

2 Q Mr. Green, do you still have your report there
3 in front of you?

4 A Yes, sir.

5 Q If I could direct your attention to item 33?

6 A Okay.

7 Q Do you know, or were you provided any specific
8 information about the location where each of those
9 items of lead was removed from Reginald Porcher, yes or
10 no?

11 A No, sir.

12 Q Were those items individually marked? Or were
13 they provided in just a grouping?

14 A They were in -- if I remember correctly, they
15 were just in a grouping inside another package. But
16 there is nothing that like we normally see that says
17 from hip, from head, from arm, whatever. They all just
18 came in together.

19 Q So you normally -- you do this for a living,
20 this is what you do every day, right?

21 A Yes, sir.

22 Q So you would regularly see a packet of four or
23 five items of lead, and you would have a descript area
24 of where they came from?

25 A Each coroner or medical examiner does it

1 different. It's kind of whoever submits it.

2 Q But that's something you regularly see?

3 A Yes, sir.

4 Q And you did not see it in this case?

5 A No, sir.

6 Q And you'd agree that item 29, you can't
7 determine what the source of that item of lead is,
8 correct?

9 A Correct.

10 Q You would agree that item 30, you could not
11 determine what the source of that lead is?

12 A Yes, sir.

13 Q Correct?

14 A Correct.

15 Q You could not determine?

16 A No, sir, I could not.

17 Q You would agree that item 31, you could not
18 determine the source of that lead; is that correct?

19 A Correct.

20 Q Now item 33, you said there were -- you've got
21 five items?

22 A Yes, sir.

23 Q And one of them is different than the others,
24 right?

25 A Yes, sir. One of them sustained more damage

1 than the other four.

2 Q And so one of the five, you can't tell what it
3 is. It's a piece of lead, but you can't really tell
4 what it is, correct?

5 A Correct.

6 Q And then the other four, read exactly what your
7 report says. That first sentence, results of item 33.

8 A The four lead buckshot pellets were examined and
9 determined to be most consistent with double-ought
10 buckshot pellets.

11 Q Most consistent with double-ought buckshot
12 pellets.

13 Can you testify to a degree of scientific
14 certainty that they are double-ought buckshot pellets;
15 yes or no?

16 A No.

17 MR. BIERING: Thank you.

18 THE COURT: Ms. Williams.

19 MS. WILLIAMS: Just one.

20 REDIRECT EXAMINATION

21 BY MS. WILLIAMS:

22 Q So if someone gets shot with that 12-gauge
23 shotgun, and double-ought buckshot pellets are shot at
24 them, and then pellets are removed from that victim,
25 you are saying that's consistent with double-ought

1 buckshot pellets in item 33?

2 A Yes, ma'am.

3 THE COURT: Mr. Biering?

4 RECROSS-EXAMINATION

5 BY MR. BIERING:

6 Q So the reason you make that inference in your
7 report is just because you know you had a 12-gauge
8 shotgun?

9 A No, sir. They're most consistent with. That
10 means they're most consistent, in my experience and the
11 experience of our department, to be double-ought
12 buckshot. It does not mean --

13 Q Again, you can't testify to a degree of
14 certainty that they are, correct?

15 A Correct. It does not mean they are, it just
16 means they're most consistent with it.

17 THE COURT: May this witness be excused?

18 MS. WILLIAMS: Please, Your Honor.

19 THE COURT: Any objection, Mr. Biering?

20 MR. BIERING: No, Your Honor.

21 THE COURT: You may step down, you are excused.
22 But please feel free to remain with us. Thank you.

23 I understand you have one more witness from
24 SLED?

25 MS. WILLIAMS: We do, Your Honor.

1 THE COURT: Okay. Approach.

2 (Whereupon, a discussion was held at the bench
3 off the record.)

4 THE COURT: Call your next witness.

5 MS. WILLIAMS: The State calls Stephanie
6 Stanley.

7 STEPHANIE STANLEY,
8 after having first been sworn to tell the truth, the
9 whole truth and nothing but the truth testified on her
10 oath as follows:

11 DIRECT EXAMINATION

12 BY MS. WILLIAMS:

13 Q Ms. Stanley, who do you work for?

14 A I'm employed by the South Carolina Law
15 Enforcement Division which is commonly referred to as
16 SLED.

17 Q And what do you do there?

18 A I'm a forensic scientist assigned to the DNA
19 casework department.

20 Q And how long have you been employed at SLED?

21 A Since February of 2005.

22 Q And how long have you worked in the field of
23 forensic science, and specifically DNA?

24 A Since February of 2005.

25 Q And what are your duties there?

1 A I am responsible for analyzing evidence that is
2 submitted to SLED for the purpose of identifying
3 biological stains which are usually bloody, semen and
4 saliva; attempting to develop a DNA profile from those
5 items; and developing a DNA profile of a known
6 standard; and doing a comparison to see if they match;
7 generating a report; and testifying on my findings.

8 Q And what is your training and experience in the
9 field and educational background?

10 A I have a bachelor of science degree from Clemson
11 University in biological sciences. I have completed
12 SLED's in-house training program under the supervision
13 of court-qualified analysts, where I learned evidence
14 handling, serology, DNA analysis, DNA interpretation
15 and statistics as it relates to DNA analysis.

16 I was trained in courtroom testimony. I have
17 attended training at Marshall University in the
18 National Forensic Science Technology Center, as well as
19 Applied Biosystems.

20 Q And have you testify in court before as an
21 expert?

22 A I have.

23 Q How many times would you say?

24 A Approximately 17.

25 Q And when you testified as an expert, was it in

1 general sessions court?

2 A Yes.

3 MS. WILLIAMS: Your Honor, at this time we would
4 ask that Ms. Stanley be qualified as an expert in the
5 field of forensic science, DNA analysis.

6 MR. BIERING: I would object on the basis of the
7 relevance of this witness's testimony.

8 THE COURT: Overruled. She will be qualified as
9 an expert. Note your exception.

10 MR. BIERING: Thank you, Your Honor.

11 THE COURT: Let me ask you this, Mr. Biering.
12 Do you wish to voir dire her on any of her
13 qualifications?

14 MR. BIERING: Not on the issue of
15 qualifications, but the issue of relevance.

16 But, no, Your Honor.

17 THE COURT: All right, thank you.

18 You may continue.

19 MS. WILLIAMS: Thank you.

20 Q (By Ms. Williams) And do you know who Katie
21 Urka is?

22 A I do.

23 Q And what was her position at SLED?

24 A Katie Urka was a fellow forensic scientist
25 assigned to the DNA casework department.

1 Q And does she still work for SLED?

2 A No, she doesn't.

3 MR. BIERING: Objection, relevance.

4 THE COURT: Overruled.

5 Q (By Ms. Williams) Was Katie Urka the analyst in
6 this case?

7 A Yes. She would have performed the analysis on
8 evidence items.

9 Q And did you review all of the reports by Ms.
10 Urka in this case?

11 A I did.

12 MR. BIERING: Objection, relevance.

13 THE COURT: Overruled.

14 Q (By Ms. Williams) And in SLED, what is a peer
15 review?

16 A A part of the DNA casework department, we
17 analyze evidence and standards that are submitted. We
18 then give our work to another peer. One of my
19 co-workers would review everything that I have done on
20 a case.

21 MR. BIERING: Objection, relevance.

22 THE COURT: Overruled.

23 MR. BIERING: Your Honor, could I approach?

24 THE COURT: You may.

25 (Whereupon, a discussion was held at the bench

1 off the record.)

2 THE COURT: Note your continuing objection to
3 this line of questioning.

4 You may continue.

5 MR. BIERING: On the grounds of relevance, Your
6 Honor?

7 THE COURT: On the grounds of relevance, yes.

8 MR. BIERING: Thank you, Your Honor.

9 Q (By Ms. Williams) And you, yourself, have done
10 reports for DNA analysis; is that correct?

11 A Yes, I have.

12 Q And is peer review a requisite before you can
13 even put a report together?

14 A Before a DNA report is issued, it is reviewed,
15 twice. There is a technical review, or a peer review.
16 And then a supervisor also does a review, an
17 administrative review on that report.

18 Q And is that done in all of the analysis?

19 A Every DNA case.

20 Q And is that, if you know, is that part of the
21 requirements for SLED to be certified?

22 A That's a part of SLED's requirements to be
23 accredited, as well as the DNA department has separate
24 requirements.

25 Q And there something called a team leader?

1 A There is.

2 Q And are you a team leader?

3 A I'm the acting team leader over the evidence
4 processing and serology units.

5 Q Have you done peer review on Katie Urka's work
6 before?

7 A Yes, I have.

8 Q And did you do any peer review in this case?

9 A I did.

10 Q And after reviewing all of the reports that Ms.
11 Urka did on blood evidence found in the case, is there
12 anything she did that you haven't done before?

13 A No. I have performed the exact same tests as
14 Katie.

15 Q Now what is a chain of evidence?

16 A A chain of evidence, or a chain of custody would
17 log where an evidence item travels.

18 Specifically when it come to SLED, it's logged
19 into a computer system and given a lab number. It
20 usually begins with an L and it's followed by several
21 digits.

22 All evidence for that case is given an evidence
23 item number. And it's logged into the computer system
24 so we can track exactly where that evidence is in the
25 laboratory.

1 Q And if an analyst, such as yourself or Katie
2 Urka, gets a piece of evidence that has been tampered
3 with or opened, or the integrity has been compromised,
4 would you go ahead and test it?

5 A I would not test that piece of evidence. We
6 would attempt to get another standard or call the
7 agency. But that item would not be tested.

8 Q And if Katie Urka had gotten a piece of evidence
9 in this case, if she was following protocol, what would
10 she have done had it been compromised, tampered with in
11 any way?

12 MR. BIERING: Objection, compound question.

13 THE COURT: Overruled as to compound question.
14 You may answer.

15 A She would not have begun analysis.

16 Q (By Mr. Williams) And did you review a report
17 done by Katie Urka dated March 27, 2012?

18 A Yes, I did.

19 Q Do you have a report with you?

20 A I do.

21 Q And is there any indication in that report that
22 any of the evidence she received was tampered with in
23 any way?

24 A No, there were no notes to such in her case file
25 either.

1 Q And what items of evidence did she test,
2 according to the report?

3 A Can I refer to the report?

4 Q Yes.

5 A On the March 27th report it would have been SLED
6 items 35, swabs from a Toyota Tacoma truck; 36, swabs
7 from ground on Jack Primis Road; and 37, swabs from
8 gold Nissan Maxima.

9 Q Does she come to a conclusion as to who that
10 blood belongs to?

11 MR. BIERING: Objection.

12 THE COURT: What is the basis?

13 MR. BIERING: This witness is testifying about
14 something that's not her report.

15 THE COURT: All right. Counsel, approach.

16 (Whereupon, a discussion was held at the bench
17 off the record.)

18 THE COURT: Thank you.

19 Q (By Ms. Williams) You reviewed all of the work
20 that Katie Urka did in this case; is that correct?

21 A Yes, before testifying.

22 Q And without saying what her conclusions were for
23 the March 27th report, what did you specifically review
24 in order to prepare to give an opinion about the work
25 done in that report?

1 A I would have reviewed her report, all submission
2 forms submitted to SLED, her evidence worksheet, all of
3 her supporting documentation for her DNA analysis.

4 I would have reviewed her profiles that were
5 developed, the data that was developed from those
6 profiles, and her statistical analysis.

7 And then in regards to her report, made a review
8 of that as well.

9 Q And did she follow every step according to
10 protocol in the submission sheets, the notes, all of
11 the items that you just described?

12 A I did not see any indication that she would not
13 have upon my review.

14 Q Can you just go step-by-step as to, based on the
15 documentation that you saw, what she did with each
16 piece of evidence, without giving us the conclusion,
17 based on all of the reports that you reviewed.

18 Like, when get a submission sheet, why is that
19 generated? Things like that.

20 A The submission sheet --

21 MR. BIERING: Your Honor, I would object to this
22 line of questioning.

23 I understand the general question, but as it
24 relates to specific questions, it's hearsay.

25 THE COURT: well she is qualified as an expert

1 so she can testify as to what she is relying on to come
2 up with that opinion.

3 Ms. Williams, continue.

4 Note your objection, Mr. Biering.

5 MR. BIERING: Thank you, Your Honor.

6 Q (By Ms. Williams) Just based on what items you
7 reviewed, what steps did Ms. Urka take in order to
8 analyze this evidence? And what tests did she run on
9 it?

10 A She would have made a small cutting from the
11 items and tested those presumptively for blood. If
12 blood was indicated, she would have continued with DNA
13 analysis and attempts to develop a DNA profile.

14 Q And what items, without giving us the result,
15 were compared to the items that you just described; the
16 swabs from the truck, from Jack Primis Road and the
17 Nissan Maxima?

18 A She compared those items to known standards. A
19 blood standard from Reginald Porcher, and buccal swabs
20 from Ron Santa McCray.

21 Q How do you do that?

22 A We attempt to develop DNA profiles from evidence
23 items. We do the same with standards. And then we
24 would make a comparison just to see if the DNA profiles
25 that we are getting are matching.

1 Q Based on your experience and your expert opinion
2 and reviewing all of the work that Ms. Urka did, did
3 she do that properly and did she follow each and every
4 step?

5 A In my opinion, she did.

6 Q And do you agree with the result that she came
7 up with?

8 A Yes, I do.

9 Q And what is that result?

10 MR. BIERING: Objection, foundation, relevance,
11 hearsay.

12 THE COURT: All right. Ms. Williams, please --

13 MR. BIERING: Confrontation clause.

14 THE COURT: First of all, Ms. Williams, if you
15 would indicate, lay the foundation as to what her
16 involvement was as the team leader in this matter.

17 Q (By Ms. Williams) What was your involvement as
18 a team leader in this matter?

19 A As a team leader, nothing, I'm in charge of a
20 different section in the casework department. As a
21 fellow analyst, we are in charge of reviewing each
22 other's work, performing technical reviews, and
23 administrative reviews prior to issuing reports.

24 Q And as someone that does a peer review, as part
25 of a peer review, do you review all of the work that a

1 person does, like you did with Ms. Urka in this case,
2 and come to an opinion as to whether you agree with her
3 finding or not?

4 A Yes. I have to review everything that another
5 analyst does in a case, from the very beginning to the
6 very end. And, excuse me, issuing the report.

7 If I don't agree --

8 MR. BIERING: Your Honor.

9 THE COURT: Hold up.

10 MR. BIERING: My objection is that the witness
11 is being non-responsive to the question.

12 THE COURT: I disagree.

13 You may continue, thank you.

14 A I have to make sure that I agree before I put my
15 signature on this as a technical reviewer.

16 Q And when you do that, is there anything that you
17 would have access to, if you were doing a peer review
18 on this case, this report, is there anything you would
19 have access to that you didn't have access to in
20 preparation for your testimony in this case?

21 A No, there would not have been.

22 Q So you reviewed every single piece of evidence
23 and every report and everything that was done exactly
24 the way peer review was done?

25 A Yes. I would have reviewed all of her

1 supporting documentation for her analysis, any of her
2 conclusions, her data, everything prior to signing the
3 technical review.

4 Q Did you even review more things in preparation
5 for testimony for this case than you would do in a peer
6 review?

7 A Yes, I did.

8 THE COURT: All right, counsel, approach.

9 (Whereupon, a discussion was held at the bench
10 off the record.)

11 THE COURT: Ladies and gentlemen, there is a
12 matter of law that I must take up outside of your
13 presence. Do not begin your deliberations. Do not
14 discuss this case among yourselves.

15 It's an appropriate time for us to break for the
16 evening. I understand we are going to be doing a fire
17 drill in a few minute anyway, so it's appropriate for
18 us to go ahead and break.

19 Please be back in your jury room at 9:15. Ms.
20 Evelyn will give you the reporting instruction as to
21 where you are to report. Please remember all of my
22 admonitions. Please take your notepads with you.
23 Thank you.

24 (Whereupon, the jurors exit the courtroom.)

25 THE COURT: Thank you, be seated.

1 All right, do we need to inquire of this witness
2 before we let her go for the evening, Mr. Biering?

3 MR. BIERING: You mean do I need to?

4 THE COURT: Is there any outside the presence of
5 the jury? Anything that you wish to inquire?

6 You have been objecting to her qualifications
7 and the report. I am just giving you an opportunity to
8 inquire.

9 MR. BIERING: Your Honor, I don't see why I need
10 to do that outside of the presence of the jury. That
11 simply gives her the ability to understand what my
12 questions are going to be.

13 THE COURT: All right. I will need you back
14 here at 9:10, thank you. Please do not discuss your
15 testimony with anyone. Thank you.

16 I apologize for making you make the trip back
17 and forth. Thank you, you may step down.

18 All right. Anything before we break for the
19 evening?

20 MR. ALFARO: Nothing from the State, Your Honor.

21 THE COURT: Mr. Biering?

22 MR. BIERING: Nothing from the defendant at this
23 time, Your Honor.

24 THE COURT: All right. We are at ease. Thank
25 you.

1 (whereupon, the proceedings in this matter
2 before the Court were adjourned for the evening.)

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1 (Whereupon, a discussion was held at the bench
2 off the record.)

3 (Whereupon, the jurors enter the courtroom.)

4 THE COURT: Thank you, be seated.

5 Ms. Williams.

6 MS. WILLIAMS: Thank you, Your Honor.

7 STEPHANIE STANLEY,
8 after having previously been sworn to tell the truth,
9 the whole truth and nothing but the truth testified on
10 her oath as follows:

11 BY MS. WILLIAMS:

12 Q Good morning.

13 A Good morning.

14 Q So, where we left off yesterday. You did the
15 peer review for Katie Urka's March 27th report; is that
16 correct?

17 A Yes, I did.

18 Q And did you review her report?

19 A Yes, I did.

20 Q And what items of evidence, very briefly, did
21 she analyze?

22 A SLED item 35, swabs from Toyota Tacoma truck.

23 SLED item 36, swabs from ground on Jack Primis Road.

24 SLED item 37, swabs from the gold Nissan Maxima.

25 Q And what did she compare them to?

1 A She compared those items to a blood standard
2 from Reginald Porcher, and buccal swabs from Ron Santa
3 McCray.

4 Q So basically she's comparing them to the DNA of
5 those two individuals; is that fair to say?

6 MR. BIERING: Your Honor, I want to note for the
7 record my continuing objection as it relates to this
8 witness's testimony.

9 And specifically at this point an objection on
10 the grounds of hearsay. I'd be happy to be heard
11 further on that argument as we relate to it.

12 THE COURT: Overruled. She is testifying as an
13 expert.

14 You may continue.

15 MR. BIERING: Thank you, Your Honor.

16 Q (By Ms. Williams) What is she trying to figure
17 out?

18 When she is comparing these items to the buccal
19 swabs from Ron McCray and the blood from Mr. Porcher,
20 what is she trying to figure out?

21 MR. BIERING: Objection, calls for speculation.

22 THE COURT: Rephrase your question.

23 Q (By Ms. Williams) What is the purpose of
24 comparing?

25 You've done these reports before. What is the

1 purpose of comparing the swabs to the blood standards
2 and the buccal swab?

3 A We compare evidence profiles that we develop to
4 the DNA profiles of known standards. The purpose is to
5 see if they match. Could they have originated from the
6 same individual.

7 Q And was there a presumptive test for blood from
8 all of the swabs you just described?

9 A Yes, there was.

10 Q And was blood indicated?

11 A Blood was indicated on SLED items 35, 36 and 37.

12 Q Those are basically the swabs from the truck,
13 swabs from the car, and the swabs from the road?

14 A Yes, they were.

15 Q And whose DNA was in that blood?

16 A DNA analysis was performed on those items. The
17 DNA profile developed from items 35, 36, and 37 matches
18 the DNA profile of Reginald Porcher.

19 Q And no blood, no DNA from Ron McCray?

20 A These items matched Reginald Porcher.

21 Q Not Ron McCray?

22 A No.

23 MS. WILLIAMS: Thank you. Please answer any
24 questions from the defense.

25 THE COURT: Mr. Biering.

1 MR. BIERING: May it please the Court.

2 THE COURT: Yes.

3 CROSS-EXAMINATION

4 BY MR. BIERING:

5 Q Ms. Stanley, you have been asked a lot of
6 questions about the March 27th report; is that correct?

7 A Yes, I have answered a few.

8 Q Would you agree that's generally been the focus
9 of all of the questions that have been asked of you,
10 specifically as it relates to evidence in this case?

11 A I believe they have all been about March 27th
12 and peer review.

13 Q Isn't it true that you did not perform -- you
14 did not perform any of the DNA analysis for the March
15 27th, 2012 report; isn't that true?

16 A I did not perform DNA analysis in this case.

17 Q You did not perform DNA analysis in this case,
18 that's what you just said?

19 A No. My job was as a peer reviewer.

20 Q Were you present, physically in the lab, with
21 anyone who performed DNA analysis in this case; yes or
22 no?

23 A Was I observing this case?

24 Q No. Were you present and observing the analysis
25 of DNA evidence in this case; yes or no?

1 A No. That's not something that we would do.

2 Q To your knowledge, who was performing DNA
3 analysis in this case?

4 A Katie Urka.

5 Q Where is Katie Urka?

6 A Katie Urka no longer works for SLED.

7 MR. BIERING: Your Honor, I ask the witness be
8 responsive to my questions.

9 THE COURT: Rephrase your question.

10 Q (By Mr. Biering) Where is Katie Urka?

11 A I haven't talked to Katie since she left SLED.
12 Today, I don't know where she is at.

13 Q At the time that she left SLED, do you know
14 where she was transferring to?

15 A I believe she was taking a position in Michigan,
16 but I'm not sure what position.

17 Q Where are you from, Ms. Stanley?

18 A South Carolina.

19 Q Ever travel on an airplane?

20 A Yes.

21 MS. WILLIAMS: Objection, relevance.

22 MR. BIERING: I will withdraw.

23 THE COURT: Thank you.

24 Q (By Mr. Biering) A moment ago you testified, I
25 did not perform DNA analysis in this case.

1 A No, I did not perform DNA analysis.

2 Q And your name again for the record is?

3 A Stephanie Stanley.

4 Q I would ask that you attempt to go back in time
5 -- let's see what the date is, July 2nd, 2012.

6 Were you employed with the South Carolina Law
7 Enforcement Division or the State Law Enforcement
8 Division at that time?

9 A Yes, I was.

10 Q And do you know what you did on July 2nd, 2012
11 in commission of your activities or employment with the
12 State Law Enforcement Division?

13 A Not in particular. If there are some things
14 that I signed off on this report, I'd have to refresh
15 my memory.

16 Q Do you --

17 MR. BIERING: Can I approach the witness, Your
18 Honor?

19 THE COURT: You may. You have continuing
20 permission.

21 Q (By Mr. Biering) Take a moment and review that
22 item.

23 Is that you?

24 A Yes. That appears to be a copy of a report that
25 was generated for the evidence processing section.

1 Q And is your name on it?

2 A Yes.

3 Q And is your name on it as the forensic
4 scientist?

5 A Yes.

6 Q And you have been qualified as an expert in this
7 case, correct?

8 A Yes.

9 Q And you testified a moment ago, I did not
10 perform DNA analysis in this case.

11 A Correct.

12 Q And that report, would you agree, is a report of
13 DNA analysis in this case?

14 A No, I disagree. This is a report for the
15 evidence processing section which is a portion of the
16 DNA casework department.

17 There is a statement above my signature that
18 these examinations were conducted by DNA processing
19 technician Verona Gibson, and were reviewed by forensic
20 scientist Stephanie M. Stanley of the DNA casework
21 department.

22 Q Who signed the report?

23 A I did.

24 Q Were you in charge of that?

25 A In charge of?

1 Q It's your report, correct?

2 A Yes, it is my report.

3 Q And a processing technician, Verona Gibson, she
4 is not a forensic scientist, is she?

5 A Verona Gibson is a forensic technician assigned
6 to the evidence processing section of the DNA casework
7 department.

8 Q Did you sign off on the report?

9 A Yes, I did.

10 Q And does it involve evidence in this case?

11 A Yes, it does.

12 Q And you were not present, again, just to make
13 sure I understand, you weren't present during any of
14 Ms. Urka's analysis, correct?

15 A No, I was not.

16 Q And prior to today, there have been no documents
17 presented that would support any peer review of the
18 March 27th report; is that correct?

19 A Our case review sheet would show that I reviewed
20 her documentation.

21 Q And your testimony under oath today is that that
22 was provided previous to today?

23 A It was not asked for.

24 Q I asked if you provided anything before today
25 regarding peer review, and your answer is no; is that

1 correct?

2 A No, I did not provide that.

3 MR. BIERING: Thank you.

4 MS. WILLIAMS: Nothing further, Your Honor.

5 THE COURT: Is this witness excused?

6 MS. WILLIAMS: Please.

7 THE COURT: Any objection, Mr. Biering?

8 MR. BIERING: No, Your Honor.

9 THE COURT: Ms. Stanley, you are excused. You
10 are free to remain with us. Thank you for traveling
11 back down.

12 Call your next witness.

13 MR. ALFARO: Thank you, Your Honor. State calls
14 Bobby Shuler.

15 BOBBY SHULER,
16 after having first been sworn to tell the truth, the
17 whole truth and nothing but the truth testified on her
18 oath as follows:

19 DIRECT EXAMINATION

20 BY MR. ALFARO:

21 Q Good morning.

22 A Good morning, sir.

23 Q Could you tell us where you work?

24 A Berkeley County Sheriff's Office.

25 Q How long have you been with the sheriff's

1 office?

2 A Approximately almost 14 years.

3 Q What is your current rank, as well as your
4 current job responsibilities?

5 A My current rank is sergeant. And I'm a sergeant
6 in the criminal investigation division of the sheriff's
7 office.

8 Q And how long have you been in investigations?

9 A Been in investigations since 2004.

10 Q And were you working on September 16th, 2009?

11 A I was.

12 Q Did you have an opportunity to assist or
13 participate in the investigation into the shooting of
14 Reginald Porcher?

15 A I did.

16 Q And who was designated as the -- strike that.
17 Did you actually respond to the crime scene?

18 A Yes, I did.

19 Q And what did you do when you got to the scene?

20 A Upon arrival at the scene, I met with the
21 initial responding officers, got briefed of the
22 situation. At that point my job as the on-call
23 detective supervisor is to -- at that point I evaluated
24 the scene, took control of the scene, and I started
25 issuing out tasks to not only the deputies, some of the

1 deputies on scene, but also to the detectives that were
2 on scene.

3 Q So would it be fair to say you were in charge of
4 that scene?

5 A As the lead detective and the supervisor, yes,
6 sir.

7 Q And as part of that role as the lead on the
8 scene, you said you issued tasks to some of the
9 detectives and the officers that were at the scene.

10 what were some of those tasks that were issued?

11 A Some of the detectives, I started having them go
12 around talking, and trying to interview any possible
13 witnesses to the situation that happened out there. I
14 also was overseeing the processing of the actual truck,
15 which was the Tacoma truck that came back registered to
16 the victim, Reggie Porcher.

17 Later into the time out there I sent Detective
18 Riser to East Cooper Hospital to where the victim was
19 to see if he could speak to the victim. And also
20 tasked forensic tech at the time, which was Sharon
21 Shuler, sent her to the hospital to meet Detective
22 Riser to pick up the belongings of Mr. Porcher.

23 Q And did you instruct Detective Riser to complete
24 a GSR kit at the hospital?

25 A Yes, I did.

1 Q And did you remain at the scene while the crime
2 scene technicians were processing the truck that you
3 mentioned and the rest of the scene?

4 A Yes, sir. We were there until about -- I think
5 I departed the scene about 9:30 p.m. on the night of
6 September 16th.

7 Q And did you speak with any witnesses? Did you
8 personally speak with any witnesses at the scene?

9 A Yeah. Detective or Deputy Ashe came to me and
10 told me he had a witness to the incident.

11 At which time I took Ms. Felicia Coaxum and
12 placed her in the front seat of my vehicle, and I
13 interviewed her in the front seat of my vehicle, and
14 obtained a written statement from her.

15 Q So that was done at the scene?

16 A That was done at the scene.

17 Q Approximately how long after the shooting was
18 that statement?

19 A It wasn't that long. Because as soon as we got
20 there people were started to tell us who the witnesses
21 were, people that wanted to come forward and talk. So
22 we were talking to everybody we could at the time.

23 Q And are you aware if any other witnesses to the
24 shooting were interviewed at the scene?

25 A Oh, absolutely. At the time Detective

1 McElvogue was interviewing folks. And between me and
2 him we were interviewing different people.

3 Q Are you aware of any of the name of those people
4 or how many were interviewed?

5 A I interviewed Felicia Coaxum. As the detective
6 supervisor I was busy with some other tasks.

7 Detective McElvogue at the time interviewed
8 several others. I don't know the exact numbers, I'd
9 have to go back and look.

10 Q And based off the investigation conducted at the
11 scene, and the statements that you took, and the
12 statements taken by other deputies, were you able to
13 identify a suspect in the case?

14 A Yes. Based on the primary facts and findings in
15 the investigation, it was determined that the
16 defendant, Ron McCray, was the one responsible for
17 shooting the victim, Reggie Porcher.

18 Q And at some point in your investigation, were
19 you involved in the locating of the defendant?

20 A Yes. The defendant -- I received a phone call
21 from our dispatch saying that there was a subject on
22 the phone. And he had contacted the police in
23 reference to knowing the whereabouts of the defendant.

24 Q And to your knowledge, was the defendant located
25 subsequent, after those phone calls?

1 A He was.

2 Q And do you know who it was that made those phone
3 calls?

4 A Yes. It turns out it was a Mr. James Boykin was
5 the one who was making the phone calls and actually
6 helped us take the defendant into custody.

7 Q Was he providing that information real-time, as
8 it was happening?

9 A Yes, sir.

10 Q And did you speak with either Mr. Boykin or the
11 defendant, interview them personally after this case?

12 A I did not interview the defendant, but I
13 actually did interview Mr. Boykin.

14 Q And at the time you interviewed him, was that
15 the same day he and the defendant were located?

16 A Yes, it was. That was on the morning of
17 September 17, 2009. And I interviewed Mr. Boykin at the
18 Charleston County Sheriff's Office.

19 Q And did he provide you with information
20 regarding what happened?

21 A He did.

22 MR. ALFARO: Thank you. Please answer any
23 questions Mr. Biering has for you.

24 THE WITNESS: Thank you, sir.

25 THE COURT: Mr. Biering.

1 CROSS-EXAMINATION

2 BY MR. BIERING:

3 Q Your rank again, sir?

4 A I'm a sergeant.

5 Q Sgt. Shuler, you said that you were out at the
6 scene September 16th, 2009; is that correct?

7 A That is correct, sir.

8 Q And you said that you and a number of other
9 officers were interviewing witnesses; is that correct?10 A Myself and Detective McElvogue and Deputy Ashe.
11 I believe he was the one that brought one of the
12 witnesses to my.13 Q There are actually two Deputy Ashes, is that
14 correct? When you say Ashe, you mean A-S-H-E that
15 works with the Berkeley County Sheriff's Department; is
16 that correct?

17 A Yes. He is now a lieutenant.

18 Q He is now a lieutenant?

19 A Yes.

20 Q What is his current status with the Berkeley
21 county Sheriff's Department.

22 MR. ALFARO: Objection.

23 THE COURT: Basis.

24 MR. ALFARO: Relevance.

25 THE COURT: What is the relevance?

1 MR. BIERING: Relevance, Your Honor, is that I'm
2 trying to determine --

3 THE COURT: Counsel, approach.

4 (Whereupon, a discussion was held at the bench
5 off the record.)

6 THE COURT: You may ask that question.

7 MR. BIERING: Thank you, Your Honor.

8 Q (By Mr. Biering) Sgt. Shuler, what is Lt.
9 Ashe's current status with the Berkeley County
10 Sheriff's Department?

11 A He is employed and he works for the drug
12 enforcement unit.

13 Q Thank you. You stated that you interviewed some
14 witnesses at the scene; is that correct?

15 A I interviewed one witness, which was a Felicia
16 Coaxum.

17 Q And did you bring any documents with you today?

18 A No, sir.

19 Q Did review any documents to refresh your
20 recollection of your investigation in this case prior
21 to your testimony today?

22 A As the lead detective in this case I reviewed
23 the entire case file. But I also reviewed by
24 supplements, yes, sir.

25 Q So based on your conversation with Ms. Felicia

1 Coaxum, isn't it true that you were made aware of other
2 potential witnesses in this case?

3 A By? I don't understand the question.

4 Q Isn't it true Ms. Felicia Coaxum gave you the
5 names of some other people that were at the scene of
6 the events of September 16th, 2009?

7 A Yes. I mean I'd have to look back at the
8 statement to refresh my memory completely of the
9 statement. But there were other witnesses interviewed
10 at the scene.

11 Q Isn't it true to understand fully what happens
12 at a scene, that you would want to speak to all of the
13 witnesses?

14 A We did speak to all of the witnesses that were
15 willing to come forward, myself and Detective
16 McElvogue.

17 Q How old is this case?

18 A 2009, three years old.

19 Q Thank you. Isn't it true that you were given
20 the name of Jarvis Mack as a potential witnesses in
21 this case; yes or no?

22 A I'd have to go back and look at my -- the actual
23 statement, where that was said or who said it.

24 It's a big case file.

25 Q Isn't it true that Ms. Coaxum gave you the name

1 of Ruben Coaxum as a potential witness in this case?

2 A Once again I'd have to look at her statement and
3 see if she put that in her statement.

4 Q Isn't it true that Ms. Felicia Coaxum gave you
5 the name of Akeem Asby as a potential witness in this
6 case?

7 A Once again, Mr. Biering, I'd have to look at her
8 statement to see if she listed that name in her
9 statement.

10 Q Sgt. Shuler, were you subpoenaed to be here
11 today?

12 A I was.

13 Q So you said you reviewed your case file,
14 correct?

15 A Yes, sir.

16 Q All right. So isn't it true that Felicia Coaxum
17 gave you the name of Dulla Fishburne as a potential
18 witness in this case?

19 A Once again, Mr. Biering, I have to answer the
20 same way. Without having the statement in front of me,
21 I cannot answer that question.

22 Q Isn't it true that she gave you the name of
23 Sheldon Willis as a potential witness in this case?

24 A My answer will still be the same, Mr. Biering.
25 It's a large case file. Without having that statement

1 in front of me, I cannot answer that question for you.

2 MR. BIERING: If I could approach the witness,
3 Your Honor.

4 THE COURT: You may.

5 Q (By Mr. Biering) Is this a standard statement
6 form that the sheriff department would use?

7 A Yes, sir.

8 Q Does this statement form appear to be a
9 statement form that was provided to you?

10 A Yes.

11 Q And I'm not picking on your handwriting, I've
12 got horrible handwriting.

13 Q That's not my handwriting?

14 A Oh, at the bottom? That's my signature.

15 Q That is your signature?

16 A That is my signature. I do have horrible
17 handwriting.

18 Q I have got horrible handwriting too, sir.

19 would you agree that this is a statement signed
20 by Felicia Coaxum?

21 A Yes, I would.

22 Q would you agree that Jarvis Mack's name is on
23 this?

24 A Is it.

25 Q would you agree Ruben Coaxum's name is here?

1 A It is.

2 Q would you agree that Akeem Asby's name is here?

3 A It is.

4 Q would you agree the Dulla Fishburne's name is
5 here?

6 A It is.

7 Q Sheldon Willis?

8 A Yes.

9 Q And is it your testimony here today that you've
10 interviewed all of those potential witnesses?

11 A I can't tell you if I have interviewed. The
12 person I interviewed was Felicia Coaxum.

13 The names that you just named, those people, if
14 they were out there, they were asked if they would be
15 willing to give a statement. Some did, some didn't.

16 Q Okay. So you'd only take statements from the
17 people who are willing to talk to you?

18 A Well, I mean, I can't force anybody to tell me
19 anything.

20 Q If the sheriff's department had one of these
21 people in custody, would you ask them questions about
22 this case?

23 A Sure, I mean, if we had one of them in custody.
24 But once again, Mr. Biering, I can't force anyone to
25 tell me anything more than I can make you tell me

1 anything.

2 Q Is it your testimony that the sheriff's
3 department has not had any of these people in custody?

4 A I couldn't tell you if we had any of those
5 people in custody. I don't have no knowledge of that.

6 Q Would you agree that they, based on what
7 information you have been provided, they were witnesses
8 in a potential murder case?

9 A By the names that Ms. Felicia Coaxum provided to
10 me, yes.

11 Q When you got to the scene that day, was there
12 tape already?

13 A There was some tape already placed around the
14 crime scene, or the potential crime scene.

15 Q Did you take all that tape down?

16 A Did I take it down?

17 Q Yes. Did you?

18 A I did not take it down.

19 Q How about Edward Sleepy Mitchell?

20 A I have never even heard of that name.

21 MR. BIERING: Court's indulgence.

22 THE COURT: Take your time.

23 Q (By Mr. Biering) Do you know the dates that you
24 conducted matters related to this investigation?

25 Yes or no?

1 A Well I can't tell you if I remember all the
2 dates, but yes, sir, I remember some of them.

3 Q Did you bring your case file with you today?

4 A No, sir.

5 Q Did you come here pursuant to the subpoena?

6 A Did I come here pursuant to the subpoena?

7 Q To a subpoena?

8 A I don't understand the question. Yes. Yes.

9 Q You did?

10 A Did I get subpoenaed here? Is that what you are
11 asking?

12 Q Right.

13 A Yes.

14 Q And do you have that subpoena with you?

15 A I do not.

16 Q Did that subpoena require you to bring records
17 as well?

18 A I don't normally bring my case file up on the
19 stand.

20 Q That's not the question I asked.

21 A Okay. No, it did not.

22 Q That's still not the question I asked.

23 Did the subpoena require you to bring your
24 records?

25 A I don't recall if the subpoena said to bring my