VOLUME I OF III

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM HORRY COUNTY
The Honorable Brooks P. Goldsmith, Circuit Court Judge

Appellate Case No: 2018-000116

CHRISTOPHER M. STEPHENS, RESPONDENT,

v.

STATE OF SOUTH CAROLINA, PETITIONER.

APPENDIX

DAVID ALEXANDER
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEYS FOR PETITIONER

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STATE OF SOUTH CAROLINA)	COURT OF GENERAL SESSIONS
COUNTY OF **HORRY**)	**(07-GS-26-2961)(2962)(2963)**
STATE)	**(07-GS-26-2974)(2975)(2976)**
)	**(08-GS-26-2698)**
VERSUS)	TRANSCRIPT OF RECORD
JIMMY LEE SESSIONS)	February 2, 3, 4, 5, 6, 2009
and)	Conway, S. C.
CHRISTOPHER STEPHENS)	

B E F O R E:

HONORABLE STEVEN H. JOHN, Judge; AND A JURY.

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

BRADLY COY RICHARDSON, ESQ.
DONNA ELDER, ESQ.
ASSISTANT SOLICITOR FOR HORRY COUNTY
ATTORNEY FOR STATE

JOHNNY GARDNER, ESQ.
ATTORNEY FOR DEFENDANT, SESSIONS

BOBBY G. FREDERICK, ESQ.
LAURA L. HILLER, ESQ.
ATTORNEYS FOR DEFENDANT, STEPHENS

DIXIE COX EUBANK
CIRCUIT COURT REPORTER
FIFTEENTH JUDICIAL CIRCUIT

VOLUME 1 OF 4

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(NO BATSON MOTION WAS MADE.)

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Date: 2-2-09

County: Harry 3

(07-CS-26-2963)(07-2961)
(07-2962)(08-2698)(07-2975)
Case No: (07-2976)(07-2974) VOIR DIRE

Judge: Steven H. John

~~P~~/State:

State/Pl's. Atty: Donna Elder
Brad Richardson

Defendant: Jimmy Lee Sessions
Christopher Stephens

Defense Atty: John Gardner
Robert Frederick

Court Reporter: Dixie Cox Eubank

Juror No.	Name	Sex	Race	*Court	Strikes Plaintiff	Defense	Accept
366	Penny Stockbine	F	C			X (Ses)	
130	Rebecca K. Gangler	F	C				✓ (1)
405	Jean Wood	F	C			X (Ses)	
7	Tewana Alston	F	M		X (1)		
110	Cherry Edge	F	C				✓ (2)
231	Patricia Marlowe	F	C			X (Ses)	
336	Donna Shealy	F	C			X (Step)	
381	Kascher D. Valencia	F	C			X (Ses)	
337	Melissa Shelley	F	C				✓ (3)
214	Allen Lee	M	C			X (Step)	
115	John L. Ellis	M	C			X (Step)	
267	Linda Nolan	F	C			X (Ses.)	
41	Johnny L. Brock	M	C				✓ (4)
353	Clarissa Solomon	F	M			X (Step)	
382	Suzanne Van Der Meij	F	C			X (Ses)	
46	Richard Brown	M	C		X (2)		
174	Walter Hacks, III	M	C	(Foreperson)			✓ (5)
355	Audrey L. Spain	F	M			X (Step)	✓ (6)

*For the court column, please indicate who made the motion to strike the jurors "for cause" with a "C" for Court, "P" for Plaintiff or "D" for Defense.

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Date: 2-2-09

County: Harry

VOIR DIRE

Case No: _____

Judge: Steven H. John

Pl./State: _____

State/Pl's. Atty: Donna Elder
Brad Richardson

Defendant: Jimmy Lee Sessions
Christopher Stephens

Defense Atty: John Gardner
Robert Fredericks

Court Reporter: Dixie Cox Eubank

Juror No.	Name	Sex	Race	*Court	Strikes Plaintiff / State	Defense	Accept
89	Sandra D. Day	F	C			X (step)	5
379	Jeffrey A. Twigger	M	C		X (3)		
320	Walter T. Robinson	M	C				✓ (7)
84	Kimberly A. Cullen	F	C		X (4)		
261	Dennis D. Neal	M	~~M~~				✓ (8)
151	Jennifer S. Hall	F	C				✓ (9)
140	Angela A. Gore	F	~~M~~			X (ses)	(7)
265	April V. Nieves	F	C			X (step)	(6)
65	Rodney P. Cannon	M	C		X (5)		
35	Joseph C. Boyd	M	C			X (ses)	(8)
307	Duane M. Rampazzo	M	C		X (6)		
25	Jacob M. Ridder	M	C				✓ (10)
257	Jean L. Morse	F	C			X (step)	(7)
412	Jean G. Young	F	C			X (ses)	(9)
101	Jennifer P. Dorman	F	~~M~~			X (ses)	(10)
283	Robert F. Parr	M	C		X (7)		
23	Stuart M. Berkowitz	M	C			X (step)	(8)
134	Joy H. Gold	F	C			X (step)	(9)

*For the court column, please indicate who made the motion to strike the jurors "for cause" with a "C" for Court, "P" for Plaintiff or "D" for Defense.

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Date: 2.2.09

County: Harry 5

VOIR DIRE

Case No: _____ Judge: Steven H. John

~~P~~/State: _____ State/~~P~~l's. Atty: Donna Elder

Brad Richardson

Defendant: Jimmy Lee Sessions

Christopher Stephens

Defense Atty: John Gardner

Robert Fredericks

Court Reporter: Dixie Cox Eubanks

Juror No.	Name	Sex	Race	*Court	Strikes ~~Plaintiff~~ State	Defense	Accept
245	Cynthia C. Ker	W	F				✓ (11)
173	Mitchell J. Huber	W	M				✓ (12)
	(alternates)						
59	Evan W. Cebula	M	C				✓ (1)
342	Margaret Singleton	F	~~M~~			X (Ses)	
150	Franklin E. Hall	M	C				✓ (2)

*For the court column, please indicate who made the motion to strike the jurors "for cause" with a "C" for Court, "P" for Plaintiff or "D" for Defense.

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MR. FREDERICK		328		
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MR. RICHARDSON	364			
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BOBBY JORDAN				
MR. RICHARDSON	440			
MR. GARDNER		446		
MR. FREDERICK		(NONE)		

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WITNESSES	DIRECT	CROSS	RD	RC
VINCENT DORIO				
MR. RICHARDSON	446			
MR. GARDNER		(NONE)		
MR. FREDERICK		(NONE)		
CAROL ANN ALLEN				
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KENNETH W. DAVIS				
MS. ELDER	486			
MR. GARDNER		(NONE)		
MR. FREDERICK		(NONE)		

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THOMAS EDWARD DARNELL				
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MR. GARDNER		505		
MR. FREDERICK		(NONE)		
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MR. FREDERICK		(NONE)		
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MR. FREDERICK		671/684		
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MR. FREDERICK		742		748
MR. RICHARDSON		745		
JOSHUA O'NEAL BEST				
MR. GARDNER	749			
MR. FREDERICK		752		
MR. RICHARDSON		(NONE)		

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MS. ELDER 835

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LAURA HILLER	848			
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MR. FREDERICK		(NONE)		
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NO.	DESCRIPTION	ID.	EV.
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S-108	PHOTO		619
S-109	PHOTO		619
S-110	PHOTO		619
S-111	PHOTO		619
S-112	PHOTO		619
S-113	PHOTO		619
S-114	PHOTO		619
S-115	PHOTO		619
S-116	PHOTO		619
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S-118	PHOTO		619
S-119	PHOTO		619
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E X H I B I T S

NO.	DESCRIPTION	ID.	EV.
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S-122	PHOTO		619
S-123	PHOTO		619
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(THE FOLLOWING TAKES PLACE ON FEBRUARY 2, 2009, AFTER QUALIFICATION OF THE JURY VENIRE, AFTER VOIR DIRE, AFTER SELECTION OF A JURY PANEL FOR THE TRIAL OF THIS CASE, AND OUTSIDE THE PRESENCE OF THE JURY SELECTED FOR THE TRIAL OF THIS CASE.)

(A JURY SELECTION FORM WAS PREPARED AND IS ATTACHED HERETO.)

THE COURT: All right. Are there any objections to the jury as empaneled, from the State?

MR. RICHARDSON: None from the State, Your Honor.

THE COURT: As to the Defendant, Sessions?

MR. GARDNER: None, Your Honor.

THE COURT: From the Defendant, Stephens?

MR. FREDERICK: Nothing, Your Honor.

THE COURT: Very good. I find the jury has been properly empaneled pursuant to **Batson versus Kentucky** and **J.E.B. vs. Alabama.**

(AFTER OPENING REMARKS BY THE COURT THE JURY EMPANELED FOR THE TRIAL OF THIS CASE WAS EXCUSED TO THE JURY ROOM.)

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: For y'alls information, the jury selected juror number one seventy-four, Walter Hucks, III, as the foreperson, juror 174, Walter Hucks, as the foreperson.

All right. Would you tell the bailiff to tell the jury

they are excused; there are matters that we have to attend to, and I want them back in their jury room at 3:45. Back -- have them back in their jury room at 3:45, 3:45, all right.

MS. ELDER: Your Honor, can we have copies of the motions that the defense has presented?

THE COURT: I think he's sorting through that at the present time.

All right. I will see y'all back at 2:15 then.

(THE FOLLOWING TAKES PLACE AFTER THE LUNCH BREAK, AND OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right. I've got here -- and I'll start with the -- found the indictment.

All right. Solicitor, and gentlemen, Mr. Gardner and Mr. Frederick, the Clerk found the original true bill in the burglary first. As you indicated, it was not a consecutive number, and so that's why they didn't have it, and here is your copy that you had of that true bill indictment.

All right. Let's start off with the State's motion. You had State's motion to -- in limine, to exclude testimony.

MS. ELDER: Yes sir, Your Honor. These are the ones that we briefly spoke about in chambers. The first would -- motion for the exclusion of any reference to the prior trial proceeding. If prior testimony needs to be addressed we would ask that be referred to as just prior -- prior sworn statement, Your Honor, versus prior testimony in a trial.

THE COURT: Okay. As I indicated, counsel, what we are going to do, as reference to the previous trial, we are not going to talk about the previous trial. As I indicated to you, if you feel there is a question you need to ask which would, in any way, reference the prior trial, then I want you to tell me that you have a matter of law that you need to take up, and we will take that up outside the presence of a jury.

The -- if we are going to ask questions, I don't have a problem with you saying, you know, under oath, at a different time, did you not say (X), or whatever it is that -- your question, but you can make reference that certain testimony was given under oath at a different time, or you made a statement under oath at a different time, but we are not talking about the trial that ended in a mistrial before. So, is there -- any questions about that, Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: Mr. Frederick?

MR. FREDERICK: We understand the ruling.

THE COURT: All right. Very good.

All right, Solicitor, what else?

MS. ELDER: Your Honor, the second part of that motion would be to exclude any reference to the acquittal of Marshall Stephens.

THE COURT: Do you anticipate in any way that that would come up, Mr. Gardner?

MR. GARDNER: Not for the life of me, Judge.

THE COURT: All right. Mr. Frederick?

MR. FREDERICK: No sir.

THE COURT: All right, sir. Well, I think -- I can't imagine how -- the potential for that to come up, but again, if there is some question that y'all think it's necessary to ask -- and that area would be covered in the beginning -- you just say, Judge, I've got a matter of law I need to take up. We will hear it, we will make a decision, and then we will move along, not saying don't ask the question, but give me a heads up, let me get a chance to get the jury out of the courtroom. We will fully discuss it on the record and then we will go on from there. All right.

Thank you.

MS. ELDER: The third part of our motion, Your Honor, was to prohibit the solicitation of testimony and argument involving third party guilt where it's not properly laid by **State vs. Gregory**, Your Honor.

THE COURT: Do you anticipate, Mr. Gardner, that third party guilt is going to be an issue on behalf of your client?

MR. GARDNER: I believe it's going to come into play, Judge, but I would defer to my co-counsel for argument if necessary.

THE COURT: All right. Mr. Frederick.

MR. FREDERICK: Yes sir, there would be evidence of

third party guilt.

THE COURT: All right. Now, I'm assuming -- I mean, the Supreme Court has had more than one Decision on that, and I'm sure y'all are familiar with that, or the Court of Appeals Decisions, and that y'all would anticipate following those directions as to how that testimony should be presented.

Is there any question about that, Mr. Frederick?

MR. FREDERICK: No, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: All right. Very good.

All right, Solicitor, if there is an issue about a particular question, then obviously I'm going to leave it to you that if you've got -- feel you've got an issue you are going to bring that to the Court's attention at the appropriate time.

MS. ELDER: Thank you, Your Honor, and that would be all as far as the State's motions at this time.

THE COURT: All right. All right, very good.

All right, Mr. Gardner, motions that you have.

MR. GARDNER: If I could have maybe one second, Judge.

THE COURT: Yes sir.

MR. GARDNER: I was going to move about flight evidence, but I don't think we are going to have any of that right now, so I'll wait till it comes up.

THE COURT: All right. Well, if we anticipate -- anyway, I'll just -- we'll just leave it that I expect you to -- if you see the necessity for bringing that to the Court's attention I'll leave it to you to do so, and then we will take the appropriate break and deal with it at that point in time. All right.

MR. GARDNER: That's all I have at this time.

THE COURT: Very good.

How about, Mr. Frederick, your motions that you have, sir.

MR. FREDERICK: Judge, first of all, we would move to suppress all of the witnesses, prosecution and defense.

THE COURT: Regarding that, who is the -- or is there a main investigating officer for the State?

MS. ELDER: Your Honor, that would be Investigator Tony Allen.

THE COURT: All right. And ---

MS. ELDER: And Your Honor, because of the nature of this case the two lead investigators on this case are -- one of them is no longer with Myrtle Beach, and the other has been assigned to other duties. We have two investigators that have taken those places and those positions in assisting. We would ask that both of them be allowed to stay in. One is Investigator Tony Allen, and the other is Investigator Mike Hull.

We -- the State does not foresee offering Investigator Hull as far as case-in-chief, Your Honor.

THE COURT: All right. Does -- just so I understand it, who preceded whom? Who was there first?

MS. ELDER: Would be Investigator Allen, Your Honor.

THE COURT: Okay. And then Investigator Hull came on the job at a later point in time?

MS. ELDER: Well, they both -- they both practically stayed at the same time, Your Honor, however, Investigator Allen was with us at the first trial because Investigator Hull was not available. He had a family circumstance and he couldn't be here.

THE COURT: All right. Well, I'm going to allow Investigator Allen. You say that Investigator Hull -- you do not anticipate calling that witness in your case-in-chief; is that correct?

MS. ELDER: That is correct, Your Honor.

THE COURT: All right. Very good. I'll allow that. The other witnesses then would be sequestered.

MR. FREDERICK: Yes, Your Honor. The only exception we ask for is, we have an expert that will be testifying, and I believe he would be entitled to sit in the court during the testimony of the State's expert, because he will be -- his testimony will reflect the State's expert's testimony.

THE COURT: All right. Any objection to that from the

State?

MS. ELDER: Your Honor, we have provided the report of that expert. I assume that that's expert of the foot impression, shoe impression, latent ---

MR. FREDERICK: Excuse me. Your Honor ---

MS. ELDER: ---And he has not had an opportunity to review the evidence independently, and to review the report of our expert. I don't know why allowing him to stay in here would be necessary.

THE COURT: Is there -- is there some reason that -- why he would have to be in the courtroom? Do you anticipate some change in the testimony in some way or ---

MR. FREDERICK: I don't know, Judge, but I think that to have our expert here and evaluate the State's expert I think would be ---

THE COURT: I'm going to allow it. I'm going to -- who is that?

MR. FREDERICK: Don Girndt, Your Honor.

THE COURT: I'm sorry, the last name.

MR. FREDERICK: It's G.i.r.n.d.t., Girndt.

THE COURT: Okay. I'm going to allow it, Solicitor. Thank you.

MR. FREDERICK: Thank you.

THE COURT: Now, is there -- the victims in this matter apparently are Monica Wall and Jamilla Hightower; is that

correct, Solicitor?

MS. ELDER: Yes sir, Your Honor. I was going to point that out. On our witness list Barbara Hightower is listed as a possible witness.

THE COURT: All right.

MS. ELDER: We would ask that she also be allowed to stay in. I believe she is entitled to be here, Your Honor.

THE COURT: Well I was going to say, is there anyone under the Victim's Rights Act that you would be asking, so that is Barbara Hightower; is that correct?

MS. ELDER: Yes sir, Your Honor, and that's the only one on our list.

THE COURT: Very good. I'm going to allow Ms. Hightower to remain under -- pursuant to the Victim's Rights Act. All right.

All right, Mr. Frederick, further motions?

MR. FREDERICK: And Judge, we have a motion to exclude testimony of the cooperating witness, and request that the Court conduct a reliability hearing. If the Court would hear me out for a moment ---

THE COURT: Go ahead.

MR. FREDERICK: In particular -- there's two witnesses in particular. I don't know who they are going to call, Judge, but James Pearl is a witness who testified at the last trial.

THE COURT: Okay.

MR. FREDERICK: He testified, and he -- when he was speaking to the police he repeatedly told them that he was going to tell them whatever they needed to hear, so long as they helped him on his charges. This came out during the last trial. The jury did hear it.

That same witness, the police tried to corroborate his story, and his story was not corroborated. They gave him a polygraph and he failed it. They then gave him a subsequent polygraph which asked different questions, not relating to the specific questions on the first polygraph, which related to his testimony against these Defendants. On the second polygraph, if I remember correctly, the results were inconclusive, so they tried to rehabilitate that witness with a second polygraph, and still were unable to do that. Judge, despite all that, he was put on the stand to testify in the last trial, and I would just say to the Court that, yes, credibility is for the jury to consider, but at some point, at some point, I think that the Court has to intervene and decide if testimony carries even such an indicia of -- small indicia of reliability that they should be allowed to take the stand and testify to the matters that they are going to testify to.

I would point out that in a couple of States they require reliability hearings before jailhouse informants are allowed to testify because of the inherently unreliable nature

of those informants.

THE COURT: All right, sir.

MR. FREDERICK: And Judge, I mean, based on all that and the extreme nature of this particular witness, I would ask the Court to hold a reliability hearing in this case.

THE COURT: All right.

What's the State's position on that?

MR. RICHARDSON: Your Honor, first of all, the facts put forth are incorrect. Mr. Pearl failed one question on the initial polygraph. He passed the second polygraph. The questions were substantially the same, so he did pass the polygraph, however, I do believe that's irrelevant as polygraphs are inadmissible in a court.

There is no precedent for having, to my knowledge, a reliability hearing. I believe Mr. Frederick cites the Illinois Governor's Commission on Capital Punishment recommending reliability hearings. I would assume they want to do that because both the prior governors have been under indictment. They might be pro-defense. But we don't have a precedent in this State. That's what cross-examination is for. If there are any inconsistencies in the statement Mr. Gardner and Mr. Frederick are very apt attorneys and they can cross-examine the witnesses on that.

Mr. Pearl is not incarcerated at this time. He does have a charge. And to say that all he was worried about was

getting that cocaine charge to go away, that's somewhat speechless because he also says that he was asked about one murder, said I didn't know about it, but I do know about the Hightower murder, and that's what he gave testimony on, so he testified in court previously. That's what all the statements say, Your Honor, so we would oppose the reliability hearing.

THE COURT: All right.

MR. FREDERICK: Judge ---

THE COURT: Yes sir.

MR. FREDERICK: ---In light of some of those statements I would ask the Prosecutor to provide the Court with copies of each of those polygraphs, and to make them an exhibit for purposes of this motion.

THE COURT: Well, I'm going to follow the rulings that the South Carolina Supreme Court and Appellate Courts have made regarding polygraphs, the science behind them is unreliable, the -- if there is a science it is highly, at this time, doubtful as to it's validity and usefulness. I'm not considering them whatsoever, and I'm not going to consider them.

As to the issue of conducting a reliability hearing, I know of no -- first, I know of no South Carolina Decision which would allow, or even suggest that such a procedure is proper, but more importantly, under the facts and circumstances that you have presented to me, I do not see that

any such hearing would be necessary. What you are asking goes to the exact heart of examination, cross-examination, and the jury's job to judge the credibility and the believability of each witness. That is one of the jury's paramount jobs, is to judge whether or not they believe someone when that person is testifying, that person's credibility or believability. It is not the Judge's job to step in the shoes of a jury to see whether or not I believe that particular person or do not believe that particular person. If they have relevant testimony that passes the fairness and prejudice tests, that there is no undue prejudice regarding the rules of evidence, then I'm going to allow the testimony. I will be guided by the South Carolina Rules of Evidence. If you find that there is a violation of the Rules of Evidence, or some issue under the Rules of Evidence that you would like me to consider at the time the testimony is presented I'll be glad to hear it, but at this stage of the proceedings I am not going to grant any type of relief as suggested, such as the reliability, or pretrial reliability hearing.

All right. Further motions?

MR. FREDERICK: Judge, on that issue, or extending that issue, I would just ask that the prosecution admonish -- admonish all their witnesses not to bring up polygraphs. At the last trial we ran into an issue where this same witness was on the stand and he said to the jury, well, I took a

polygraph, and at that point we had to stop. We were prohibited from asking any further questions, and to allow that witness to say, I took a polygraph, without then being able to have the jury hear that he failed that polygraph, I think works, and could work, a pretty big injustice, so I would ask that the Court admonish, or instruct the prosecutor to please be extra careful with their witnesses.

THE COURT: Solicitor, I expect that you would do that anyway, but apparently, since it was an issue in the prior trial, I am sure that you will be more than careful when presenting the witness, and that you will forcefully explain the position of the Court, and the position of all Courts regarding polygraphs test, and that issue will not come up in this trial. All right.

MR. GARDNER: Yes sir, Your Honor.

THE COURT: All right. Very good.

Yes sir, Mr. Frederick.

MR. FREDERICK: Judge, we -- and we will do the same --

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THE COURT: Yes sir.

MR. FREDERICK: ---As far as the polygraph.

Judge, we have a motion to sever, and the basis of our motion to sever is essentially -- and it ties into another motion which I will bring up at the same time, I suppose. We've got the motion to sever and a motion to suppress Jimmy

Lee Sessions' statement, Judge, because the statement of the co-defendant, Jimmy Lee Sessions, is replete with references to Christopher Stephens as "C murder". Those references are highly prejudicial and if that statement was entered into evidence I think that that would be a denial of due process for Christopher. If that statement is not suppressed then I think the trial would need to be severed.

THE COURT: Well, let's deal with the issue first. Does the State anticipate, in it's case-in-chief, that this statement that Mr. Frederick is speaking about, do y'all intend to introduce it into evidence in this case?

MR. RICHARDSON: Your Honor, is he talking about the Defendant, Sessions', statement?

MR. FREDERICK: Yes.

MS. ELDER: Your Honor, he gave a -- the Defendant, Sessions, gave a statement to the Police Department. We don't intend to use that in our case-in-chief, if that's what he's referring to.

Now, some witnesses will testify during our case-in-chief that they had conversations with one or both of the co-defendants. I don't know which statement -- is he talking about those statements, or is he talking about the one that was given to police?

THE COURT: I'm assuming he's -- I'm assuming he's got to be talking about -- Mr. Frederick, you've got to be talking

about statements that were made to law enforcement personnel.

MR. FREDERICK: Yes sir.

THE COURT: All right. And so you do not anticipate having those be part of your case-in-chief?

MS. ELDER: The only -- only reason we have, Your Honor, is if Mr. Sessions chose to take the stand.

THE COURT: Very good.

MR. FREDERICK: Judge, there are several other motions that also may tend to run together. We have a motion to suppress uncharged crimes, and I'm going to go on to the next motion, which is specifically, we would move in limine to suppress any testimony regarding prior bad acts that have not been charged, specifically this business about the Friendly's robbery. Christopher was never arrested. He was never charged with anything relating to that crime. There was nothing but speculation, however, throughout the Detectives' interviews of potential witnesses in the case they kept bringing it up; they kept discussing it.

THE COURT: Let me ask a question. Did it come up in the previous trial before Judge Hyman?

MR. FREDERICK: It did not.

THE COURT: Okay. All right.

Solicitor, do you anticipate that you are going to be trying to make reference to this in your case-in-chief?

MR. RICHARDSON: No sir, Your Honor, not in our case-

in-chief.

THE COURT: And you would -- and I suppose you have communicated with your witnesses about this fact, and that you would be warning them not to go into this, obviously, unless asked in some direct way by the Defense, a direct question in that regard.

MR. RICHARDSON: Yes sir, we have cautioned our witnesses.

THE COURT: All right. Very good.

All right, Mr. Frederick.

MR. FREDERICK: And Judge, this was not handed up to the Court beforehand.

THE COURT: Okay.

MR. FREDERICK: We do not have a written motion, but we did refer to it briefly in chambers, and that's a motion in limine to suppress any statement or testimony by a potential witness named Craig Burris, and specifically, if that witness were called, there is testimony that he states Jimmy Lee Sessions said either one thing or another to him at the Jet Age Nightclub, and Judge, in his original statement he told the police that Jimmy Lee told him about this Friendly's robbery at the Jet Age Nightclub, and then more recently he has told the prosecution that Jimmy Lee told him about this murder at the Jet Age Nightclub on the same evening. If he were to take the stand and testify as to that we would be

forced to cross-examine him as to the issue on the Friendly's robbery, which would force us to choose between either allowing him to testify falsely and not cross-examine him, or opening the door to this Friendly's robbery issue.

THE COURT: All right. How is it that y'all expect to use Mr. Burris as a witness?

MR. RICHARDSON: Your Honor, we make no plans to use any mention of the Jet Age -- I'm sorry -- the Friendly's robbery in our case-in-chief.

THE COURT: Okay. I assume the issue -- let me see if I understand the issue, Mr. Frederick. You are saying that, in some written statement, that Mr. Burris told police previously that, when he had this conversation with the Defendant at the Jet Age they were actually talking about Friendly's robbery. Now his story apparently, from what you are saying to me, is that the conversation he had with the Defendant was about the murders involving these victims here, not about Friendly's, correct?

MR. FREDERICK: That is correct.

THE COURT: And you are indicating to me that you say there is a dilemma that, if you allow him to say that, that I had this conversation with the Defendant about the two women victims in this matter, or what occurred, that you cannot challenge him by saying, didn't you tell police that -- that -- a different story at a different time. Is that the essence

of it?

MR. FREDERICK: Yes sir.

THE COURT: All right.

Solicitor, what do you say about that.

MS. ELDER: Your Honor, my understanding, if we do call Mr. Burris -- we don't know that at this point -- is that -- my understanding of what he would testify to is that he was at Jet Age when he received a call from Jimmy Lee Sessions about going to party with them -- is that right?

MR. RICHARDSON: He's over there. He ran into them.

MS. ELDER: He ran -- I'm sorry. He ran into them at Jet Age, they went to party. The thing about what Mr. Sessions may or may not have told him about these murders, from my understanding of his statement, is that that occurred, not at Jet Age, but at J. Reuben Long, and that's going to be -- that would be his -- my understanding of his statement and his testimony.

THE COURT: Okay. Well, that might be -- if you call him as a witness we might have to take some brief testimony outside the presence of the jury just to clarify exactly what the testimony is going to be, and then we will deal with it at that point in time.

So, if you find that you are going to call Mr. Burris, if you can alert the Court and alert the Defense so that we can maybe plan on having some brief testimony outside the

presence of the jury. Okay. All right, great.

Yes sir, Mr. Frederick.

MR. FREDERICK: Judge, do we have any control over the thermostat in the courtroom?

THE COURT: Sometimes we do and sometimes we don't. The problem is, if they drop it this afternoon probably when we get in here tomorrow morning it will probably be about twenty-nine degrees, so you might have to suffer with it this afternoon. We will see about it tomorrow morning. If it's uncomfortably hot tomorrow morning then we will deal with it.

MR. FREDERICK: Thank you.

Judge, there is an issue of a motion in limine to suppress any questioning by the State of any prior bad acts of Christopher if he takes the stand, and I'm talking about whatever is in his RAP sheet. I think we would need to determine what they can and cannot ---

THE COURT: Well, I mean certainly when we get to the point that the State has rested it's case, and we are going to the defense, obviously I'll have the conversation with both Defendants at that point in time regarding their Constitutional Rights and testifying in this particular case, and as a part of that we will cover what criminal acts that they have either pled guilty to or been convicted of in the past that may or may not be impeachment against them if they decided to testify, but we will certainly cover that when the

State rests it's case and we have gone into the defense. Prior to the Defense resting we will have discussion with each Defendant as to that.

MR. FREDERICK: All right.

THE COURT: All right.

MR. FREDERICK: Judge, we move in limine to suppress any mention of anybody referring to Christopher as "C murder", and Judge, early on in this case Investigator DiLorenzo and Salena Mann conducted most of the interviews early on in the case, and he stated in one of those interviews -- I think it was with Christopher -- he stated in that interview that he was going to make sure that the jury heard that people called him "C murder". His words, I believe, was, that wasn't -- "That probably isn't going to sit right with a bunch of people from Horry County", and we agree with that, Judge. We don't think it would.

THE COURT: All right. Well, hold -- if you can just let me interrupt you for just one second. Did it come up in the previous trial?

MR. FREDERICK: It did not, Judge.

THE COURT: Okay.

MR. FREDERICK: But I think, in fairness, making the motion in limine and ---

THE COURT: I appreciate that. That's -- I just wanted to know if it did -- if it was raised in the previous trial.

Solicitor, what's the State's position regarding references to this nickname?

MR. RICHARDSON: Your Honor, it's not our intention to introduce that nickname in our case-in-chief.

THE COURT: And you have cautioned whatever witnesses you intend to present ---

MR. RICHARDSON: Cautioned our witnesses.

THE COURT: ---About that. Very good.

MR. FREDERICK: And on a related, Judge, which is not in a written motion either, when we impeach the State's witnesses with their prior statements, there is what's called the Rule of Completeness. At the last trial the Prosecutor argued to the Court that the Rule of Completeness means that they can introduce an entire unedited statement any time we introduce a portion of it, and I think it would not hurt to save us time later if we will go on ahead and address that issue, because Judge, the Rule of Completeness, and the cases in South Carolina that interpret it, which are **State versus Cabrerra Pina**, and **State vs. Taylor**, I believe is the other one, it says that the Rule of Completeness allows the other party to enter into evidence any portion of a statement which could show that the other portion was taken out of context. Those cases specifically say that that does not give them the right to put an entire statement into evidence, and it does not give them the right to put any prejudicial information

into evidence. And both of those cases specifically ruled on that issue.

THE COURT: Solicitor, y'all's position about that particular issue.

MR. RICHARDSON: Your Honor, actually -- yes sir. Actually **Cabrerra Pina** states, where the Court had not allowed a defendant to get into a full statement he had given the officer, the Court overruled. The State, at that point, said we reverse the ruling of the Court of Appeals, that the adverse party is not permitted to bring out during cross-examination remaining portions of unrecorded conversation or oral statement made by the adverse party for the purpose of clarifying or explaining the entire conversation.

Your Honor, we -- the Rule states that we can get in the remainder of those writings, and in some instances in the prior trial they were trying to cherry pick one of two words, one or two sentences together, taking them totally out of context. The only way to view those statements is to view the entire -- the entire statement.

THE COURT: Well, I don't know, and I appreciate y'all raising the issue so that I can think about it, Mr. Frederick, but at this point in time I can't give you an answer. I don't know what statements y'all intend, and you decide at that time that those are statements that you need, or portions of it that you need to place in evidence before the jury, or

question a particular witness about, at that point in time then I will view the statement in it's entirety and decide which portions, if any, I find should be allowed in.

I don't read the cases as saying, just because you put in a portion of a statement the entirety of that statement goes in. You have to look at what portion was placed in evidence, what the remaining statement says, see if there is any connection between the two, or if a remaining portion of the statement explains the other part of it or not. I mean, if you have a part of a statement and it's divisible from another part, and they talk about completely different things, and they are not related, and one doesn't add to the other, then I don't think just because you put in one you get in the whole entirety of it, but, on the other hand, if there is some connection, some sinews that tie these matters together than certainly that would argue that other portions of the statement come in. That's just going to be an issue you are going to have to raise at the time, and then we will address it, but there is no automatic rule here, one way or another. We just have to gauge it by what's being asked, and then what's asked to be placed in addition to what has already been asked. All right.

MR. FREDERICK: And if I may, Judge ---

THE COURT: Yes sir.

MR. FREDERICK: ---Specifically the issue is, that does

not allow them to back door references to "C murder" then. If there is a portion of a statement that needs to be considered to -- under the Doctrine of Completeness, then that's fine, but prejudicial references such as "C murder", which are through every one of the State's interviews, and largely by the fault of their lead investigator, can be redacted, and have to be redacted from those statements, Judge.

THE COURT: Well, we'll see. Okay. And once again, it may very well be that what we probably ought to do is insert the name of the Defendant instead of some nickname that the Defendant has, and then the name of the Defendant ought to be placed in there, or it might need to be redacted in it's entirety, or, depending on the question that's asked, and the answer that's given, the nickname might be entirely and completely relevant, though prejudicial. It depends on the question asked.

The State has indicated -- and I'm holding them to that -- that they are not going to put it in their case-in-chief. They have told their witnesses not to put it in the case-in-chief, but that doesn't mean that, if the Defense opens the door in some relevant way that then the State can't walk through that open door, so right now you have what you want, you just have to be careful how you use it. All right.

MR. FREDERICK: Yes sir.

THE COURT: Very good.

MR. FREDERICK: And we have a motion to exclude prejudicial spectator conduct, which we didn't have a huge problem with at the last trial, Judge, but I think it bears bringing out at pretrial as far as giving -- just laying some ground rules.

THE COURT: What happened last time that gave you some concern?

MR. FREDERICK: Well, before the last trial, at every court appearance the victim's families were coming into court wearing t-shirts with fairly large photographs of their children on them, and we feel that that is ---

THE COURT: Did that happen at the last trial?

MR. FREDERICK: It did not, but we brought it up pretrial, same as we are now.

THE COURT: All right. Solicitor ---

MR. RICHARDSON: Your Honor, I have instructed the victim's family and the friends that -- to not wear t-shirts emblazoned with pictures of the murdered girls on there, same thing with buttons. We ---

MR. FREDERICK: I would point out that ---

THE COURT: Just one second. Wait until he's finished.

MR. RICHARDSON: We did have some issues last time with some gang members wearing gang colors in here as well, but ---

THE COURT: Well, you are just going to have to bring that to my attention. If you see that that is an issue you

are going to have to bring it to my attention.

MR. RICHARDSON: Yes sir, Your Honor.

MR. FREDERICK: I would point out, Judge, that we did see those t-shirts at the last trial, but not in the courtroom. They were wearing them downstairs.

I don't think that the Prosecutor was aware of them.

THE COURT: All right. I'm sure that the Solicitor, as he has indicated, has covered that issue with the victims' relatives, that they, I'm sure, are interested in having the matter properly presented to a jury, and having the issues resolved by a jury, and such that we will not have the necessity of having another trial. So I'm sure that y'all will cover that, and do so appropriately. All right.

Thank you very much.

MR. FREDERICK: And Judge, on the same note, apparently this morning we had Ms. Wall in the waiting area complaining about this in front of the jury.

THE COURT: Well, that's not going to happen any more, because when the jury is excused everybody is going to remain in the courtroom, and they are going to be given time to leave the courthouse, and get to their cars, before anybody can leave the courtroom. So, when the jury is excused, if you are in the courtroom you are going to be staying there for a good fifteen minutes, and everybody needs to know that, so you tell your witnesses, you tell your witnesses, you are in the

courtroom when the jury is excused for the evening don't expect to leave this courtroom for a good fifteen minutes. All right.

MR. FREDERICK: Thank you.

THE COURT: All right.

MR. FREDERICK: One -- one other motion in limine to exclude any victim impact statements, and that's just in case, Judge, they were to call any relatives of the victims, or friends of the victims to the stand, we just want to be sure, in a motion in limine, that they are not going to be testifying about how they miss the victims, victim impact testimony during the trial.

THE COURT: Again, I keep asking about the previous trial. Was it an issue in the previous trial?

MR. FREDERICK: It was not.

THE COURT: All right. Very good.

And Solicitor, do you anticipate that coming up in the case-in-chief?

MR. RICHARDSON: No sir. There is no place for it in the case ---

THE COURT: Very good. All right.

MR. FREDERICK: And Judge, our final motion is the suppress a particular hearsay statement that would be testified to by the same jailhouse snitch we were talking about earlier, James Pearl, where he would testify, or at

least said in his statement, that Christopher owed Jamilla Hightower some amount of money, and that is a hearsay statement, and I think the time to address it would be in limine, not after it comes out of the witnesses' mouths.

THE COURT: All right, Solicitor, what's the State's position?

MS. ELDER: Your Honor, this may become an issue. The witness in question would be James Pearl.

THE COURT: Okay.

MS. ELDER: There was some testimony -- he has given -- his prior statements, and I believe in his testimony during the last trial, there was an indication, or his testimony was, paraphrasing it, that they were all together, he, Chris Stephens, Jimmy Lee Sessions, in a vehicle a day prior to the death of Jamilla and Monica, and that the victim, one of the victims approached the car -- he was there for the conversation between Jamilla and Christopher Stephens -- indicating about money he owed her, and I believe the indication was he said, yeah, I'll pay you, I'll pay you. Shortly thereafter, when the victim left, there was some additional discussions about the arm robbery, Your Honor, right after that, so we do foresee that that possibly will come up. We believe the objection would be appropriate at the time of the testimony, and Your Honor, depending on whether or not we lay a proper foundation for that particular testimony.

THE COURT: All right, Mr. Frederick, what I'm going to do is leave it to you to bring up the issue at the appropriate time. Obviously if the witness is testifying that, in his presence he observed the two individuals, he heard the conversation between the two of them, and he was present when it took place, then I'm going to allow him to testify as to what he saw and what he heard at that point in time, most likely, but obviously I will hear from you, any objections that you might have at that point in time.

MR. FREDERICK: And Judge he -- and we are specifically referring to statements that Jamilla Hightower made.

THE COURT: Well, once again, we have to see whether or not they were made to the Defendant, or with the Defendant's -- in the Defendant's presence, or if they were made directly to the witness, with the Defendant not being there. I don't know what the circumstances are, but if everyone is altogether, and they are having either this general conversation, or a conversation that is taking place in the very presence of the witness, then that might very well be good grounds to allow that into evidence, but again, I will hear any objections that you have at the appropriate time, and be glad to rule on any objections or motions that you have at the time that it's presented.

MR. FREDERICK: And I would ask then that, Judge, when that witness takes the stand, that we ask him that portion of

his testimony outside the presence of the jury since we know it's coming, and then the Court can rule on it without the jury hearing it.

THE COURT: Well, they cannot ask the questions, and I'm sure the State is not going to be asking questions unless they lay a certain framework and groundwork to allow the witness to testify.

Now, when you see that they are laying the certain groundwork or framework for him to testify as to a conversation then I will be glad for you to raise it, but until they start doing that then it can't come in, because obviously the foundation for it hasn't been set forth, so I'm sure the State will set forth whatever foundation they believe they have, and whatever they believe is appropriate, and then you can challenge it, and then we will see where we are. All right.

Thank you.

MR. FREDERICK: That's all the motions that the Defense has, Your Honor, and I believe Mr. Gardner was going to join in those motions.

THE COURT: All right. Well, I was just about to turn to Mr. Gardner and see if he had any additional motions.

MR. GARDNER: Thank you, Your Honor.

Yes sir, the Defendant, Jimmy Lee Sessions joins in all those motions.

I want to, if I can, while we are talking about it, the evidence of flight issue didn't come up last time, to the best of my recollection.

Is that fair, Brad, that we didn't -- I made a motion in limine.

MR. RICHARDSON: There was no -- there was mention of the evidence of flight. It was argued over. It was allowed in.

MR. GARDNER: Okay. Now then I remember it wrong ---

THE COURT: Well, once again, I don't know how that's going to come up. If the issue is raised, if you have an objection I'll be glad to hear from you, and just raise the issue to me and we will -- we will rule on it and we will move -- move at that point in time.

MR. GARDNER: Okay. I guess I'll borrow from Donna's language here, and I would move that it be excluded in the opening, or in the argument of this case, until the testimony develops during this trial and see where it goes from there, because I don't remember ---

THE COURT: Is there any reason that y'all would be talking about it in the opening, counsel, that y'all know about?

MR. RICHARDSON: No sir.

THE COURT: All right. Very good. Let's wait for the -- let's wait for the testimonial stage, and then we will

deal with it at that point in time. All right.

MR. GARDNER: Very good.

THE COURT: All right. As to the Court's decisions for Mr. Frederick's client on Christopher Marie **(sic)** Stephens, those are the same, and that I would rule identical to those regarding your client, Mr. Jimmy Lee Sessions. All right, Mr. Gardner.

MR. GARDNER: Yes sir, Judge.

THE COURT: All right. Very good.

It's not yet time for the jury to come back.

Is there anything else from the State?

MS. ELDER: Your Honor, I guess that's what I wanted to address the Court at this time. The jury, I believe, is suppose to come back at 3:45.

THE COURT: Yes Ma'am.

MS. ELDER: The State is intending to call as what we perceive as our first witness. It's going to be a rather lengthy witness.

THE COURT: Okay. And lengthy being ---

MS. ELDER: Probably -- I would estimate. What was it last time, two hours?

MR. RICHARDSON: About two.

MS. ELDER: About two hours.

THE COURT: Okay.

MS. ELDER: So we were -- we were just trying to --

we've got that witness here. We've got him available, but we wanted to make the Court aware of that.

THE COURT: I'm not telling you how to try your case. Is there -- is there any other witnesses that you would want to put up before that particular witness?

MS. ELDER: Your Honor, I -- if we could we certainly would try to do that, but because of the -- this particular witness's testimony there's really no way to -- it would be so completely out of order.

THE COURT: Well, I don't want to split up -- I don't want to split up direct and cross-examination. How long did the cross-examination of that witness take?

MR. GARDNER: I don't know what witness they are talking about, Judge.

MR. FREDERICK: Are you talking about Iannone?

MS. ELDER: James Pearl.

MR. FREDERICK: Who?

MS. ELDER: James Pearl.

MR. FREDERICK: James Pearl. Lengthy, Judge.

MR. GARDNER: Oh, this will go -- yes sir. That's -- that was their last witness in the first trial. I guess ---

MS. ELDER: Couple of hours.

MR. GARDNER: ---The first witness in this one.

THE COURT: All right. Well, then we are not going to do it this afternoon.

MR. RICHARDSON: It was eighty-nine transcribed pages.

THE COURT: We are not going to do that witness this afternoon.

MR. GARDNER: This is the directed verdict motion witness, Judge, so it will be -- I anticipate the State will use a great deal of time with him. I certainly know Mr. Frederick and I will use a great deal of time with him.

THE COURT: All right. Well, we are not going to -- then I'm going to send the jury to come back tomorrow morning at 9:30 then.

Let me -- I want to find out about a hearing that I was suppose to have at nine o'clock tomorrow morning. We might start at -- we might start earlier. Let me check on that first, but if that's the case we are not going to start that witness this afternoon, because we are not going to have the jury here that way. That would be five forty-five, seven forty-five, eight o'clock at night. I'm not having the jury here at eight o'clock at night on the first day. We might do that -- we might do that on a subsequent day, but on the very first day we are not going to start off that way.

MS. ELDER: And Your Honor, we apologize. We certainly would try to make effort to accommodate that, but because it is our first witness it kind of sets the -- sets the ---

THE COURT: All right. Well, let me see when we can start tomorrow morning. I'll -- let me look at this other

hearing that I have.

Y'all just be at ease. I don't want the Defendants going anywhere yet. Let's -- let's just be at ease for about ten minutes. Let me work on that other hearing and then we will go from there.

MS. ELDER: Your Honor, there is one issue that we may could take care of regarding that witness.

THE COURT: Yes Ma'am.

MS. ELDER: The prior record of that witness, if we want to go ahead and do that at this point in time.

THE COURT: Let's -- we will do that. Let's take a short break for ten minutes. Let me try and work around this other hearing for tomorrow morning, and then we will come back and deal with that particular issue.

MS. ELDER: Yes sir.

THE COURT: All right.

(THE FOLLOWING TAKES PLACE AFTER A BREAK, AND OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right. First, as far as -- we will start tomorrow morning at nine o'clock. I have moved that other hearing that I had, so we will start tomorrow at nine o'clock.

Now, I want y'all to be here by 8:30. I want the Defendants dressed and ready to go by 8:30. If there is any issues, any motions, or anything that y'all need to take up we

will start that tomorrow morning at 8:30, because I want to -- at nine o'clock, when the jury is here, I want to get started on this trial, so that's -- I moved that other matter so -- where we can get started first thing in the morning.

All right, Solicitor, what was the issue about -- and the witness's name again is who now?

MS. ELDER: James Pearl.

THE COURT: James Pearl. All right. What's the issue?

MS. ELDER: Your Honor, we were going to review his N.C.I.C. ---

THE COURT: All right.

MS. ELDER: ---If it was permissible at this time. Would you like a copy of that, Your Honor?

THE COURT: Sure. If you've got one -- an extra copy for me that would be great.

All right. Mr. Gardner, Mr. Frederick, do y'all have a copy of Mr. Pearl's prior criminal record?

MR. GARDNER: Yes sir.

THE COURT: All right. Mr. Frederick.

MR. FREDERICK: Judge, of course we would question him about any pending charges.

THE COURT: Okay. Well, let's deal first with what his actual criminal record is, if any.

Does Mr. Pearl have an actual criminal record?

MS. ELDER: Yes sir, Your Honor.

THE COURT: All right. And what does that consist of?

MS. ELDER: Your Honor, there's a 2004 conviction for unlawful carrying of a weapon. We would indicate that that would be not a permissible, under Rule 609.

THE COURT: All right. What's the Defense's position about the unlawful carrying of a pistol?

MR. FREDERICK: Was this a one-year charge?

MS. ELDER: Uh huh **(indicating positive)**

MR. FREDERICK: I think it would be admissible, Judge.

THE COURT: All right. Let's go ---

MR. FREDERICK: It's four years ago. Judge, it carries more than a year. It's a crime of moral turpitude. It would be admissible.

MS. ELDER: I'm not sure, Your Honor, it carries a year.

THE COURT: Well, it depends which -- which one. All right. Hold on a second. All right. Unlawful carrying of a pistol, 16-23-20, misdemeanor, Class C misdemeanor, not more than one year, and/or, not more than a Thousand Dollars. It's available to be transferred to Magistrate's Court.

Rule 609(A)(1) says, "Evidence the a witness other than the accused has been convicted of crimes shall be admitted subject to Rule 403 if the crime was punishable by death or imprisonment in excess of one year", and 16-23-20 says, not more than one year, so it's not in excess of one year, so it

doesn't fall within that.

Are you saying it falls within some other part of the ---

MR. FREDERICK: It's a -- also it's a crime of moral turpitude, Judge, and we were ---

THE COURT: Okay. The second part of that is, "Evidence that any witness has been convicted of a crime shall be admitted if it involves dishonesty or a false statement, regardless of punishment."

Are you saying that unlawful carrying of a pistol is a crime of dishonesty or false statement?

MR. FREDERICK: No, not dishonesty, Judge, but also -- and we were just looking for some cases we had printed out, and we have misplaced them, that deal with impeachment of witnesses, and the case law that I was reading last night says that, if it is a crime of moral turpitude it is a crime that we can impeach the witness on. For example, possession of drugs, would be a crime of moral turpitude, but would not involve dishonesty, as would the crime of unlawful carrying of a weapon.

THE COURT: Well, I'm going by Rule 609, Impeachment by Evidence of Conviction of a Crime. It says, "(A), The General Rule: For the purpose of attacking the credibility of a witness, Subsection 1, evidence that a witness, other than the accused, has been convicted of a crime, shall be admitted

subject to Rule 403 if the crime was punishable by death or imprisonment in excess of one year, under the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the Court determines that the probative value of admitting this evidence outweighs it's prejudicial effect to the accused", and Subsection 2, "Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of punishment", and then it says, "Conviction includes a conviction resulting from a trial, or any type of plea, including a plea of nolle contendere, or a plea pursuant to 400 U.S. 25, 1970." I'm assuming that is -- all right.

And then the next, Subsection (B), is Time Limit, and then (C) is the Effect of Pardon, Annulment or a Certificate of Rehabilitation. I don't see anything in there, though I mean I've heard many a person say a crime of moral turpitude, I don't see those words anywhere in Rule 609. I mean, are they anywhere in Rule 609? Am I overlooking something?

MR. FREDERICK: Judge, we -- what we can do is, when I review those cases tonight, we may ask you to revisit the issue.

THE COURT: It says the -- now under -- in the Rule that I have it says, "Subsection (A) is identical to the Federal Rule, except for the addition of the last sentence.

The addition was made to make it clear that the term conviction includes a conviction resulting from any type of trial, plea, nolle contendere, including **North Carolina versus Alford**. Subsection (A), it says, "...Does change the law in South Carolina. The prior law was that a witness could be impeached by evidence that a witness had been convicted of a crime of moral turpitude." So, it says -- this Subsection, talking about Rule 609, and it's current amendment, does not use the moral turpitude standard, but instead, allows impeachment with a conviction for any crime which carries a maximum sentence of death or imprisonment for more than one year. "Further, the Rule provides for a different standard for balancing probative value and prejudicial effect for an accused who is a witness."

It goes on to say, "Regarding Subsection (B), the adoption of the time limit...", and then it talks about the effect of a pardon, annulment and certificate, so the -- Rule 609, in it's current form, as indicated by the notes attached to Rule 609 clearly indicate that this is a change in prior South Carolina law, so based upon that, I don't see how unlawful carrying of a pistol fits within Subsection 1 or 2 of Rule 609, therefore I wouldn't allow that.

All right. What other crimes has he been convicted of in any manner, as the Rules indicate.

MS. ELDER: Your Honor, he was convicted in 1992 of a

shoplifting and resisting arrest. We believe that both of these would fall out of the scope of the ten-year period, Your Honor.

THE COURT: All right. Now, the time limit. "Evidence of a conviction under this Rule is not admissible if a period of more than ten years has elapsed since the date of a conviction, or of the release of the witness from confinement imposed for that conviction, whichever is the later date, unless the Court determines, in the interest of justice, that the probative value of a conviction, supported by specific facts and circumstances, substantially outweighs the prejudicial effect; however, evidence of a conviction more than ten years, as calculated herein, is not admissible unless the proponent gives the adverse party sufficient advance written notice of intent to use such evidence, to provide the adverse party with a fair opportunity to contest the use of such evidence."

When was he convicted of shoplifting?

MS. ELDER: Your Honor, he was convicted April 27th, 1992. He received a Two Hundred Dollar fine or a thirty day incarceration sentence.

THE COURT: All right. What's the Defense's position regarding shoplifting and resisting arrest from 1992?

MR. FREDERICK: We don't intend to use any crimes more than ten years old to impeach.

THE COURT: All right. Very good. What other matters, if any, has the Defendant **(sic)** been convicted of, pled guilty to, pled no contest, whatever?

MS. ELDER: Your Honor, he was also convicted in 1994 of burglary third degree. It was June 22nd, 1994. He received a sentence of four years suspended to two years probation.

THE COURT: Okay. Now, was that probation ever revoked?

MS. ELDER: Yes sir, Your Honor, it was. In 1998 he had a revocation on that in which he was convicted.

THE COURT: Okay. So there was a probation revocation of that burglary third matter?

MS. ELDER: Yes sir.

THE COURT: In 1998?

MS. ELDER: Yes sir.

THE COURT: All right. Is that when he got out, or is that when the probation revocation took place?

MS. ELDER: That's when he was convicted on the revocation, Your Honor.

THE COURT: All right. So ---

MS. ELDER: That was his start date.

THE COURT: Conceivably that falls within the ten years,

MS. ELDER: Yes sir.

THE COURT: All right. So then you are in agreement that they would be able to ask him about the burglary third conviction correct?

MS. ELDER: That's correct, Your Honor, the burglary.

THE COURT: All right. Anything else?

MS. ELDER: Your Honor, he had a conviction in 1999 of simple possession of marijuana. That was October 5th, 1999. That carries less than a year, Your Honor. We would argue that would be excluded.

THE COURT: Do you think that falls within the rule 609, Mr. Frederick?

MR. FREDERICK: Not the current one.

THE COURT: All right. Very good. All right. Well, I would agree that it does not fall within Subsection 1 or 2 of that.

All right. Go ahead.

MS. ELDER: Your Honor -- and I apologize -- at the same time he had a -- looks like a Magistrate's level, resisting arrest and public disorderly conduct, both convictions from October 5th, 1999, received a fine and/or a twenty day and thirty day sentence, respectfully.

THE COURT: Again, that doesn't seem to fall within the Rule 609, does it, Mr. Frederick?

MR. FREDERICK: No sir.

THE COURT: All right. Very good.

MS. ELDER: Your Honor, he received a conviction in 2000 for distribution. Looks like -- I'm sorry -- possession with intent to distribute cocaine.

THE COURT: All right. So certainly that would fall within the rules.

MS. ELDER: Yes sir, Your Honor.

MR. GARDNER: When was that one?

THE COURT: 2000, possession with intent to distribute. Is that what you said, Solicitor?

MS. ELDER: Yes sir, Your Honor.

THE COURT: All right.

MS. ELDER: That was February 7th, 2000.

THE COURT: All right. Very good.

MS. ELDER: Your Honor, that's all the convictions he would have.

THE COURT: All right. In addition to that, Mr. Frederick, what issues would you have regarding impeachment?

MR. FREDERICK: All pending charges, Judge, everything he's been charged with since he became an informant in this case.

THE COURT: All right. I'll -- what is that?

MR. FREDERICK: Well, his RAP shows threatening the life of a public official. I believe there's another drug charge that's pending.

MS. ELDER: For the possession of cocaine, Your Honor.

THE COURT: Okay. So he's currently facing charges that have not been disposed of for threatening the life of a public official; is that correct?

MR. FREDERICK: Yes sir.

MS. ELDER: That's correct, Your Honor.

THE COURT: All right. Simple possession of ---

MS. ELDER: Cocaine.

THE COURT: Simple possession of cocaine. All right. And what else? Anything else?

MS. ELDER: Not -- no sir, not with ---

MR. FREDERICK: I'm not aware of anything.

MS. ELDER: Not aware of anything.

THE COURT: All right. And what is it that you would anticipate asking, or how -- how did you approach this at the last trial?

MR. FREDERICK: It's bias impeachment, Judge, and it's his motivation for testifying.

THE COURT: All right. What's the State's position as to those particular matters?

MS. ELDER: Your Honor, we certainly understand that the question would be -- we think would be proper as to asking Mr. Pearl, do you have pending charges, however, we do object to those charges being stated on the record. I believe the Annotations to 609 indicate that, for impeachment purposes, Your Honor, they have to be convictions. We believe that he

could sufficiently cross-examine this witness about bias by asking, aren't you under current charges that the -- putting the charge out there, threatening the life of a public official, would be more prejudicial than probative under that particular circumstance, Your Honor.

MR. FREDERICK: Judge, there is no such limitation on our ability to cross-examine and impeach a witness on his motivation. The jury does need to know exactly what he's charged with, and we have a right, and it would be a Constitutional Right under the confrontation clause, Federal and State, to impeach that witness.

THE COURT: All right. Okay. The -- the threatening the life of a public official, is he charged under the misdemeanor or the felony?

MS. ELDER: It looks like a felony, Your Honor. It's 16-3-1040 ---

THE COURT: (A). He it goes. 10-40(A) is a felony, 10-40(B) is a misdemeanor, so it's (A), correct?

MS. ELDER: That would be correct.

MR. FREDERICK: Judge, (B) is actually assaulting a police officer.

THE COURT: I've got it as threatening the life of a --

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MR. FREDERICK: No, I'm sorry.

THE COURT: ---Life, person, family, public employee.

(D) would be misdemeanor.

MR. FREDERICK: You are right.

THE COURT: (A) is -- (A) is a felony.

I would allow you to impeach him that -- are you not currently charged with a felony which has the potential sentence of up to five years. I'm not going to -- I'm not going to -- we are not going to go into naming it, nor what is -- what is involved in the facts of that particular case. As I understand it those -- and you correct me if I'm wrong -- they don't, in any way, tie into what occurred for which these Defendants are charged. It's something completely and totally unrelated, correct?

MR. FREDERICK: Judge, it doesn't have to tie into what these Defendants did. I mean, if we look at **Davis versus Alaska**, and all the U.S. Supreme Court cases that deal with motivation impeachment, we have the right to impeach the witness on anything.

THE COURT: You are impeaching him, that he is facing a felony for which he has the potential of going to the Department of Corrections for a period of five years.

MR. FREDERICK: Yes sir. And the jury need to know what he's charged with as well.

THE COURT: Well, I don't think the cases say that. If you want to present me with a United States Supreme Court case that says that directly I'll be glad to look at it. What I'm

going to allow you to do, unless you show me otherwise, either by direct case by the South Carolina Supreme Court or our Appellate Court, or U.S. Supreme Court, you are going to be allowed to ask him is he currently facing a felony for which the potential sentence could be up to five years in the Department of Corrections.

MR. FREDERICK: Now is your holding that we can't impeach him about the specific charges of any of his charges?

THE COURT: No. He's been convicted of those other matters. This is the one for which he is pending, he has not been convicted of. He is facing a charge that is a felony, and has the potential of a sentence of up to five years in the Department of Corrections. That's what I'm saying. You are not going to say, are you facing a charge of threatening the life of a public official, nor go into the facts of that particular case.

MR. FREDERICK: Also, there's the other pending charge, which is a drug charge.

THE COURT: Okay. Which is a misdemeanor, correct?

MR. FREDERICK: That charge is a misdemeanor, but it carries more than a year, and when we ---

THE COURT: The simple possession ---

MR. FREDERICK: Of cocaine, of cocaine, Judge, and it's ---

THE COURT: ---Of cocaine. I thought it was marijuana.

I'm sorry. Of cocaine.

MR. FREDERICK: ---And it's more than a first offense, so actually it is a felony.

THE COURT: Certainly. Well, it doesn't necessarily mean that. We will -- hold on a second. Let me -- hold on a second.

MR. FREDERICK: And Judge, it relates to the facts of this case in that he's got an ongoing drug problem, and again, Judge, the nature of that charge is very relevant to this case, and to his motivation to testify.

THE COURT: In what way?

MR. FREDERICK: He's charged with drugs. I mean, apart from my general argument that it doesn't matter what charge it is, I feel it would be relevant, and necessary to allow us to impeach on it. In this particular case he's charged with drug possession. He is a drug addict. He testified at the last trial that he was addicted to drugs, that he got -- Judge, that he got strung out, or he went into withdrawal when he was not able to get drugs, which goes directly to his motivation to give the statements he gave to the police, because as soon as he was arrested and discovered he could not leave the jail he offered information to the police officers, and asked them to please get him out of jail, telling them he would tell them whatever they wanted to hear.

Also, this case is all about drugs. At the last trial

there was testimony that -- I mean, they are saying that these girls were killed in the course of a robbery, and they were being robbed of their drugs, the same type drug that this witness is addicted to. I think it's very relevant.

THE COURT: What's the State's position?

MS. ELDER: Your Honor, again, we would have -- we would ask the Court to limit them to -- as we limit them on the threatening the life of a public official, that there is a pending charge, we would have no problem saying that it's a pending felony charge, as with the other, because it would be a second offense.

Your Honor, we do have an objection. This possession of cocaine has absolutely -- did not arise from this circumstance. The cocaine that -- when he was arrested, was some six months after the murder of Jamilla Hightower, so obviously he did not get the drugs from her. And it is sufficient for the purposes that -- which they seek to use this information, that they inquire as to the fact that he has a pending felony.

Now, Mr. Frederick has just outlined the reason we shouldn't go into it any further, because they certainly have available to them all the questions that he just outlined. Do you have a drug problem? Do you do drugs? What was your motivation in trying to cooperate with the police? All of that, Your Honor, is subject -- he could certainly bring that

out and ask those questions during cross. He does not have to use that this is a pending drug charge. It serves absolutely no purpose other than to try to prejudice the jury.

THE COURT: All right.

MR. FREDERICK: Judge ---

THE COURT: Yes sir.

MR. FREDERICK: ---What she just described was direct-examination, not impeachment. We are not going to ask him, would you please tell the jury, do you have a drug problem; what was your motivation for lying to the police. I think that we have the right to impeach the witness. That's the nature of impeachment, on his motivation, and lying to the police, and in testifying at this trial.

THE COURT: Certainly asking him his physical or his -- you know, mental or psychological status at the time that he was arrested, if he was suffering from withdrawals, or under the influence of anything, or -- certainly those are impeachment issues, and certainly you are going to be allowed to go into those, but he has not been convicted of those two matters. Again, I'm going to allow you to ask him if he's currently facing felony charges, two felony charges, one is up to three years in the Department of Corrections, the other one is up to five years in the Department of Corrections. I'm not going to allow you to state what those charges are, nor go into the facts of those particular cases unless you show me

the facts of those cases tie into these cases as against Mr. Sessions and Mr. Stephens in some way, not just general impeachment. General impeachment and their rights are covered by you asking them, asking the witness about the -- what he is facing, and then going into any of his physical ailments, or problems or issues that he might have at the time that he was arrested, which would give him reason to want to get out of jail immediately, so that he would not suffer those physical pains and ailments from the withdrawal from those drugs, and certainly you can cover all that, but we are not going to talk about the simple possession of cocaine or the threatening the life of a public official. We will couch them in terms of, you are facing felony charges and one of them is up to five years in the Department of Corrections, the other one is up to three years in the Department of Corrections. All right.

Anything else?

MS. ELDER: No, Your Honor, that would be -- that would be his record.

THE COURT: And that -- and those are the only pending charges that he has, are those two charges?

MS. ELDER: Yes sir.

THE COURT: No -- none other?

MS. ELDER: I'm not aware of any other charges.

THE COURT: Are you aware of any others, Mr. Frederick, other than those two?

MR. FREDERICK: None that I'm aware of.

THE COURT: Very good. Well, obviously, if y'all become aware of, or anybody becomes aware of any other pending charges then we will go into that.

MR. GARDNER: I can't tell from looking at this thing -- and maybe I don't know how to read it, but do we know if he's on probation now?

MR. RICHARDSON: He is not on probation ---

MS. ELDER: He is -- Your Honor, our understanding is he's not on probation.

THE COURT: Well, how about y'all check with probation and make sure. Before you call the witness to the stand cover that issue with probation and make sure. All right.

MS. ELDER: Yes sir.

MR. GARDNER: He was on bench warrant during the last trial, so I figured that ---

THE COURT: Well, find out -- whatever his status is right now, let's have that clear, and that's the purpose of being here, for y'all to be here, and everybody to be here tomorrow morning at 8:30. Y'all cover that and we will get that clear tomorrow morning before the jury gets here. All right.

Anything else, Solicitor, that you know of at this point in time?

MS. ELDER: Your Honor, no. I -- are -- you are going

to bring the jury back in, caution them about media coverage --

THE COURT: Yes Ma'am, I am.

MS. ELDER: We would also ask, to make sure to assist us, that -- as you always do, to ask them to wear their badges while they are in the courthouse, so we can -- and the family can identify them as well, not to have any contact.

THE COURT: All right. Before I bring the jury is, is there anything else, Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: Mr. Frederick?

MR. FREDERICK: No sir.

THE COURT: All right. Very good. Ask the jury to come in, please.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right. Ladies and gentlemen of the jury, there are still some matters that the Court has to go over with the parties outside your presence. Further, it appears that the initial witness to be presented in this matter, for the direct-examination and cross-examination, will cover a number of hours. It being four o'clock, I'm not going to have you, on the very first day of trial, be here extremely late. Now, it may, of necessity, cause us to do that during the week, so that this trial would not last any longer than is

necessary, but did not want to do that to you on the first day, so that you would have an opportunity to go home and make whomever aware that, for the remaining part of this week, there may be some evenings that you may be working late at the courthouse, so that proper arrangements can be made. I wasn't going to spring that on you as a surprise. I'm giving you at least a little bit of opportunity to deal with that particular issue.

Now, I'm going to send you home, and I'm going to have you come back tomorrow morning at nine o'clock.

I want to caution you a couple of things before I let you go. I anticipate that during this week this case will have been reported probably in the newspaper, potentially on T.V., on the radio. You may not -- you are prohibited, you cannot listen, look at, read, avail yourself to it in any shape, manner or form, anything about this case other than what you hear in this courtroom. You can't read about it in the newspaper, you can't hear about it on T.V. or see it on T.V., you can't listen to it on the radio. To do that is going to be a violation of your oath, and not in keeping with what you told the Court you would do, that is, be a fair and impartial juror, and you can't do that if you are going to base your decision on anything outside of this courtroom. This case is going to be decided upon what is presented in this courtroom, and from no other source. You can't look up

anything on the internet, you can't ask your friends about it, you can't talk about it with your husband, wife, boyfriend, girlfriend, best friend, whoever. You may not discuss this case with anyone. I'm going to tell you that your opening instructions, you can't talk about it among yourselves, until I give this case to you at the very end for your discussions and your deliberations. So even among yourselves you can't talk about this case until the very end of the case, when you've heard all the evidence, and you know the law that you will apply to the facts as you so find them to be in this case.

I hope I've made it real clear, you decide this case on the evidence in the courtroom, no other source. Don't let yourself be tainted in any way by any discussions or reading, or looking at anything outside of this courtroom.

Also, I want you to make sure -- those little badges, though they may not seem important to you, are very important, because they distinguish you as a juror, and everybody that has any kind of contact with the case, any tangential contact with the case, knows when they see that that you are a juror, and they know not to say anything, but if they don't see that little badge on you they are not going to know you from anybody, you know, anybody down the street, so they are not going to know you are a juror, and they might say something in your presence that they might not normally do. If you've got

that badge then they know not to do that. It also helps the Court that if somebody deliberately says something in your presence, or tries to approach you with that -- obviously there's a warning sticker on there -- that you need to report that to the Court and we will take care of that person, so it goes both ways, so you need to help us with that, so when you are outside, around the courthouse, when you come into the courthouse, leaving to go to your car, you are wearing that badge, so that nobody approaches you, and the people know they are not suppose to speak in your presence, so if you will help us with that, please, and obviously I need for you to make sure you bring it with you when you come back, so that you have that with you, so whatever you do, just kind of hold onto that for us, please. Okay.

With that I'm going to let you go. I want you back in your jury room by nine o'clock tomorrow morning. I'm going to do my utmost that we get started exactly as close to nine o'clock as we can. So I want y'all back in the jury room by nine o'clock in the morning.

With that, I'll let you go. Thank you very much.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: Anything on those instructions from the State?

MS. ELDER: No sir, Your Honor.

THE COURT: From the defense, Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: Mr. Frederick?

MR. FREDERICK: No sir.

THE COURT: All right. Very good.

Spectators that are in the courtroom, y'all are going to have to remain in the courtroom for fifteen minutes from now. That is to give the jury time to get to their cars and to leave, so anyone who is a spectator must stay in this courtroom for the next fifteen minutes.

Anything else from the State at this point in time?

MR. RICHARDSON: Nothing from the State, Your Honor.

MR. GARDNER: No, Your Honor.

MR. FREDERICK: No sir.

THE COURT: Very good. And y'all -- I want to see y'all, as I indicated, tomorrow morning at 8:30, all right.

MR. RICHARDSON: Yes sir.

THE COURT: Thank you very much.

(THE FOLLOWING TAKES PLACE ON THE NEXT DAY, OUTSIDE THE PRESENCE OF THE JURY.)

MR. FREDERICK: Judge, there is a South Carolina case which says that we do have the right to ask a witness, on cross-examination, what charges, specific charges are pending, and the nature of those charges. In that case, in the trial court ---

THE COURT: Well, let me just -- let me understand when you say the nature of the charges.

MR. FREDERICK: Judge, we should be able to say to the witness, you have pending charges, don't you. If the answer is yes, then we should say, you have a pending charge of, in this case, drugs, or in this case, threatening a public official, and **State versus** ---

(COURT REPORTER HAS EQUIPMENT PROBLEMS.)

THE COURT: All right. Going back on the record, Mr. Frederick, as to the witness that has pending charges, what the Court is going to allow you to do is ask the witness the offenses for which he is facing. As I understand it that is possession of cocaine, and threatening the life of a public official, be able to ask him if he's facing those charges, and as well as the potential consequences, the possible sentences, up to three years in the Department of Corrections for the possession of cocaine, up to five years regarding the threatening the life of a public official.

What I would not allow you to do would be to go into the underlying facts of those particular cases. We are not going to try those particular cases, but you will be able to go ahead and ask him about those things, and certainly his physical or mental condition that he was in at the time he was giving the statements to the police, as to anything that he might have been undergoing at that particular time.

All right, sir.

MR. FREDERICK: Yes sir.

THE COURT: All right.

MS. ELDER: Your Honor, can I just -- on -- for the record?

THE COURT: Yes Ma'am.

MS. ELDER: I have reviewed the **Sims** case. We understand the Court's ruling, and not going to belabor that, but just for the record, we would indicate, and try to distinguish that case, because in that particular case it is distinguished from here in that he was facing multiple counts, Your Honor, or things that carried a potential sentence of life, which is dramatically different than the witness that we have before the Court.

THE COURT: Well, it might be dramatically different, but then the Supreme Court says, pretty much in black and white, you can ask what the charges are, though they held it was harmless in that particular case, but I think there ---

MS. ELDER: Yes sir, Your Honor, and I would just ---

THE COURT: And I understand you think it might be distinguishable, but I don't -- I will say, I have a hard time doing that myself, based upon their wording of that particular case.

MS. ELDER: Yes sir. And the only other thing I would ask is, I have talked to my witness this morning and explained

to him yesterday's Court's ruling, so I would like an opportunity, before he comes up, to explain to him that that has been changed, and that he would need to respond appropriately at that time.

THE COURT: All right.

MS. ELDER: Your Honor, are we going to put on record about the other issue we just discussed at ---

THE COURT: Yes.

MS. ELDER: We have -- do have an objection to that.

THE COURT: Very good. All right.

Let me hear from you first, Mr. Frederick.

MR. FREDERICK: Judge, before we do that, I have one more question. Does threatening a public official carry five years or ten?

THE COURT: Five.

MR. FREDERICK: It's five years.

THE COURT: Five.

MR. FREDERICK: Okay. Judge, this morning ---

THE COURT: I'm pretty sure of that. Anyway let's -- it's fine, but I'll -- we will look it up again to make sure.

I think it's like a Class (F) felony but I'll look it up again. Yes, it's a Class (F) felony, and threatening the life of a person or family of a public official, teacher or principal, not more than five years, nor more than Five Thousand Dollars.

MR. FREDERICK: Okay.

THE COURT: All right.

MR. FREDERICK: Judge, if you would indulge me for a moment as a lead-in to the next issue ---

THE COURT: Yes sir.

MR. FREDERICK: ---And a carry-over from the last.

THE COURT: Okay.

MR. FREDERICK: The **Sims** case deals with Rule 608, and Judge, Rule 608 deals with two types of impeachment testimony. I think (A), Subsection (A) and (B) deal with credibility impeachment. Subsection (C) deals with what they call bias impeachment, also known as motivation impeachment, and the Rule, with Subsection (C), is that bias, prejudice, or any motive to misrepresent -- and I would underscore any, any motive to misrepresent, with no limitations on that, although the Court -- there are other limitations under 403, in the Court's discretion -- "Any motive to misrepresent may be shown to impeach the witness, either by examination of the witness or by evidence otherwise adduced, is what the Rule says.

And I would point out, in **State versus Sims**, the Supreme Court addressed the issue, and just for the record, they had the right results in the case, but they got the Rule wrong, Judge, because they are talking about Rule 608(C), but then near the end of the case they rule that it is, without a doubt, admissible as credibility impeachment, which is not

even the Rule they are talking about. They are talking about bias or motivation impeachment, and so, Judge, just for the record, any -- any motive to misrepresent may be shown to impeach the witness, which brings us to our next issue, and that is, we saw James Pearl in the courtroom several times this morning. We have some serious concerns as to his sobriety this morning, Judge, and in prior testimony he has said that he is a cocaine addict, that he must use regularly or he goes into withdrawals. He did not look like he was in good shape this morning, and we would intend to ask him about his state of intoxication when he is on the witness stand, because I think it goes to credibility and it goes to motivation, because that comes back to his fear of jail and prison, where he will not have access to the drugs that he is addicted to.

THE COURT: All right. Solicitor, what is your position?

MS. ELDER: Your Honor, I don't know what qualifies Mr. Frederick to determine if somebody is high or not, but the fact of the matter is that it's absolutely harassment of the State's witnesses, and it's just another thing to put Mr. Pearl off kilter this morning. He is very, very nervous. I have talked to him. His lawyer is present in the courtroom. She has talked to him. We do not see what Mr. Frederick indicates.

Now, of course, if he comes in here and the Court has some concern based on his behavior on the stand, the Court can certainly take care of that, but to have it based purely on what the Defense's observations are -- Your Honor, every statement Mr. Pearl gave he has indicated, repeatedly, that he is absolutely terrified of these two people, and every time he has to get in front of them he is extremely nervous because they know who he is. They know his family. They know everything about them, and he knows what their reputation is. That's all it is.

THE COURT: All right.

MR. FREDERICK: And Judge, we ask the Court to drug test him if nothing else. The information that the Prosecutor just gave to you, which is exaggerated, has nothing to do with his credibility on the stand, and his state or level of intoxication and drug use today.

MS. ELDER: Your Honor, I think that's improper, going into somebody -- requiring him to take a drug test.

THE COURT: It may -- I don't -- the problem I've got is -- and correct me if I'm wrong -- in his prior testimony that he gave at the last trial he indicated that he is an admitted drug user, correct?

MS. ELDER: Yes sir.

THE COURT: That he is in the regular habit of using drugs, correct?

MS. ELDER: He indicated in his testimony that he has been using cocaine for nineteen years in Myrtle Beach, that -- he was referring to his habit back in 2006.

THE COURT: All right.

MS. ELDER: There was no testimony about a current habit, Your Honor.

MR. FREDERICK: He was in jail the last time, Judge.

MS. ELDER: Your Honor, he was in jail on a bench warrant for failing to appear the month -- two months before.

THE COURT: Okay. So he -- all right.

Who represents -- who represents him?

MS. LOWENSTEIN: Your Honor, may it please the Court, Darla Lowenstein, and I was retained by Mr. Pearl to represent him on his pending cases, and as he testifies in this trial.

THE COURT: What I'm operating on is the Court's inherit power to make sure that the matters presented, that there is no impediment to the person being able to properly present themselves and any proper testimony in the trial proceedings.

Now, obviously -- and I'm speaking to you now -- that you may need to talk to your client and say, the Court may have certain concerns as to his current sobriety, and I may have questions of him, and those questions would be under oath, as to his current sobriety. Further, based upon those questions I may order a drug test of him. I think you need to

spend a moment and discuss those matters with him before he comes before this Court.

All right. We will take a short recess.

Thank you, Ma'am.

(THE FOLLOWING TAKES PLACE AFTER A BREAK, AND OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: Thank you all.

Could you find Ms. Lowenstein, please.

BAILIFF: I'm going to get her, Judge.

THE COURT: And where is Mr. Frederick at?

MR. GARDNER: May we approach, Your Honor?

THE COURT: Yes, absolutely.

Ms. Lowenstein, you can come forward too.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: All right. Is the State ready for the jury to come in?

MR. RICHARDSON: We are, Your Honor.

THE COURT: Mr. Gardner?

MR. GARDNER: Yes sir.

THE COURT: Mr. Frederick?

MR. FREDERICK: Yes sir.

THE COURT: Very good. Ask the jury to come in, please.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, ladies and gentlemen, as the old statement goes, the best laid plans of mice and men often go array, and obviously I intended to start at nine o'clock and we didn't for circumstances beyond our control. There were some things we had to deal with and did not get started then, but I appreciate you being on time. I hope you found everything to your satisfaction when you came to the jury room this morning.

The first thing that I want you to do is, you've got your pad and your pen or your pencil, is put your name on the top of that particular pad that's in front of you. So go ahead and write your name on the pad right now, if you would. If you've already done so that's good.

All right. I'll talk to you about note taking in just a second. The first thing we are going to need to do now is place you under oath, so if all of you would please stand. Put your note pads down because you are going to need to raise your hand.

Madam Clerk.

(AT THIS TIME THE JURY WAS SWORN.)

THE COURT: All right. Is there any member of the jury panel who did not affirmatively take the oath as given by the Clerk of Court, if so, please stand.

All right. I find the jury has been properly sworn in this particular matter.

Let's start off with the note taking. I'm going to allow you to take notes during the course of this trial. The procedure that you will use is, when you exit the courtroom either for a break, or for lunch, or at anytime, you can take that note pad with you, and you are going to deposit it on top of the desk that the bailiff has in front of the courtroom, because you remember what I told you yesterday, you are not suppose to be talking about this case, so no sense in you having the note pads because you are not going to be talking about this case until the very end. Obviously you will retrieve them when you come in the courtroom and take whatever notes you deem necessary or proper.

An observation I've made about people taking notes -- and I want you to keep this in mind -- is sometimes their attention is diverted in writing down something they deemed important, and certainly that is proper, but you might have the tendency to then miss the next question and the answer that might also be important, so please keep that in mind, that you need not only to write things down that you think are important, your job is to pay attention to the testimony and evidence presented in this courtroom, because collectively you are going to be the judges of the facts of this particular case. I am not going to indicate to you in any fashion what I think the facts of this case are, because that's not my job, and that's not my responsibility. That's going to be your

job, your responsibility. You will be called upon the judge the credibility, that is, the believability of the witnesses that come before you and testify, and I'll talk all about this at the very end, but basically what I'm going to be asking you to do is use your good common sense in looking at the testimony, and finding that testimony and evidence in this case which convinces you of it's truth. The reason for that, and the reason that's important is, in this particular matter the State of South Carolina has charged these two Defendants with various crimes and offenses, and I've told you that each Defendant's case is a separate case. They are not connected. You are going to have to make a separate decision on each crime, for each Defendant, so there will be separate decisions on all of them.

Now, to those crimes and offense for which the State has charged these Defendants they have pled not guilty. That means they are presumed innocent of the crimes for which they have been charged. That plea of not guilty, and that presumption of innocence places the burden of proof in this case, on all of the matters, upon the State of South Carolina. The State of South Carolina has the burden of proof. The State must produce to you evidence which convinces you, beyond a reasonable doubt, of the guilt of the crimes charged, and it's going to be your job to weigh the evidence, find that evidence which convinces you of it's truth, and then taking

that evidence and weighing it against the burden that the State of South Carolina has, that is, to prove the Defendants guilty of the crimes charged beyond a reasonable doubt. The Defendants have nothing to show to you. The Defendants have nothing to prove to you. The Defendants need not testify. There is no burden on the Defendants. Throughout the entirety of the trial the burden rests entirely upon the State of South Carolina.

Now, how we will go through -- I'll just give you a brief outline of the trial. We will have the opening statements of the attorneys. Opening statements aren't evidence, can't be considered by you as evidence. They are important because they introduce each side to you, but they are not evidence. The evidence will come to you from testimony from witnesses that come before you and are placed under oath, or certain documentary, or other kind of physical evidence that the State may have to introduce to you in this particular case. When the evidentiary portion of the trial is concluded we will have the closing arguments of the attorneys. Closing arguments, again, aren't evidence, can't be considered by you as evidence. They are each side's summation of what they believe the evidence has shown to you during the course of the trial, remembering, of course, that collectively you are the judges of the facts and evidence in this particular case.

When we get done with that I will give you the law that you will apply to the facts as you so find them to be in this particular case, and then I will submit the case to you for your deliberations and your unanimous decision in this particular matter.

During the course of the trial the attorneys may raise certain motions or objections. If I rule on those in your presence, and I don't send you back to your jury room so I can discuss it more fully with the attorneys, if I make any rulings in your presence please remember, I'm telling the lawyers how to trial is going to be conducted, so that's just one of my jobs. One of my jobs is obviously to give you the law, the other job is to guide the proceedings, how the trial will be conducted. I'm telling them how the trial will go forward. I'm not making any comments on the facts. I'm not going to make any comments on the facts, because that's your job. You need to pay attention to what is being presented, because you are going to be called upon to recall those facts and evidence, and to make a decision, a unanimous decision, on all the charges that are presented in this courtroom.

I will remind you again that you have to make your decision based upon solely what you hear in the courtroom. You can't rely on anything outside the courtroom. You can't read any newspapers, T.V., radio about this particular case, because that's not evidence. The evidence is going to be here

in the courtroom.

All right. With that I'll turn it over to the attorneys for their opening statements.

Solicitor.

MR. RICHARDSON: Greed, plain, simple, greed. It's an evil. It is always evil. Cold, calculated, methodical, and in this case, murder, greed. That's what brings us here today.

These Defendants, they had a lust for drugs, and lust for money. They didn't care what they had to do, or who they had to kill to get them. They were going to feed their greed. And it is that greed that drove them to carefully plan, scheme, and brutally execute, an arm robbery that turned into a terrible execution of two girls, Jamilla Hightower and Monica Wall. They wanted the drugs. They wanted the money. And today they must be forced to bear the burden, to bear the price of their greed, and that price is a guilty verdict on all charges.

During the course of this trial you are going to become familiar with a world which I dare say at this time you are not familiar. It's a dark and seedy world, one we don't want to talk about in our County. It's the drug world. It's a world of drug dealers, drug users, prostitutes, drug thieves.

Folks, you may not like the people that you hear from on the stand. I imagine you won't like some of the people you

hear from on the stand, but folks, if you are going to convict the devil you have to go to hell to find the witnesses, and so you are going to be presented with those witnesses, those drug users, those drug dealers. During the course of the trial you are going to learn some things. You are going to learn that Jamilla Hightower was a drug dealer, a successful drug dealer. The State is not going to hide that from you, because we can't. We shall not, because that is the reason, the fact that she was a successful drug dealer, a queen pen. That's the reason that these Defendants sought her out. That's the reason these Defendants chose that soft-hearted successful female drug dealer, and that is the reason that they robbed her, and murdered her, and that is the reason that Monica Wall became collateral damage. She had to die too.

You will hear from the witness stand about the plans that these Defendants laid the Wednesday before the murder, how Chris Stephens openly planned, we are going to rob Jamilla Hightower; she's got money; she's got dope; we are going to rob her, but I can't go in. Not to worry though, because Jimmy Lee Sessions, he takes up the gauntlet at that point and says, I'll go in, I'll rob her; I'll kill her if I have to, and that's what happened.

You will hear about the night of the murder, the night of the robbery, how Jimmy Lee Sessions is seen just a short distance away from [redacted] Pridgen Road, the home of Jamilla

Hightower, how he's dressed with a black hoodie on, how he's strapped, he's got a gun, and he's openly discussing pulling a lick, pulling a rip, a drug robbery. A short time later he's seen over on Dunbar Street in Myrtle Beach. He's over there, once again, dressed in black, has black gloves on, dressed to kill, and he's there to pick up Phonetia Hightower, and that's important, folks, because Phonetia Hightower was the first cousin of Jamilla, and you are going to hear testimony that Jamilla wouldn't just let anybody in, she had to know you, so Jimmy Lee Sessions gets his key, Phonetia Hightower.

You are going to hear from the neighbor of Jamilla. She will tell you that around midnight, Thursday, June 8, she awakes to hear what she thinks are fireworks, pop, pop, a little bit strange, but she thinks it's fireworks, and you will hear testimony Jamilla and Monica were executed about midnight, June 8th.

You are going to hear about after the fact, and Jimmy Lee Sessions is bragging about having just pulled a rip, how he's sharing the ill-gotten gains, or the drugs that he stole. You are going to hear from yet another cousin of Jamilla. He's going to tell you how he arrived on Friday evening, June 9th, took his girlfriend, who used to be Jamilla's roommate, to pick up some stuff, and that's where he finds his cousin, finds Monica, murdered, and he calls the police.

And you will hear from those police, and they will take

you through the crime scene. Officer Arroyo of the Myrtle Beach Police Department will tell you when he first entered he was by himself, and how he goes back, back to the back bedroom, over to the right. There he sees Jamilla, Jamilla Hightower, where she had been forced down into the floor, pillow covering her head. Got to have that pillow to suppress that gun sound, bamb, executed, like a dog in the street. He will take you across the hallway into the next bedroom, where smell had -- and he looks down on the ground and there was a trail of fecal matter, excrement. He will tell you how he followed that trial, through the bedroom, on into the bathroom. That trail leads right up to Monica Wall, where she lay in the shower, naked but for the pillow covering her head. Once again, you've got to suppress that gunfire, where she was forced down onto the lip of that shower, bamb, executed. Both executions, one gun, forty caliber. In that trail of excrement you are going to hear testimony about a footprint, a shoe imprint of a Nike shoe that is consistent with a shoe that was taken from Jimmy Lee Sessions.

Folks, that's not all. You are going to hear about that Friday night after Jamilla is found, Monica is found, how Jimmy Lee Sessions invites a witness over to a hotel room to celebrate his best laid plans successful. He got what he wanted, because when this witness goes into the hotel room there is a plate of cocaine Jimmy Lee Sessions just shared.

He's already paid the price for it, at least that's what he thinks. And it's the sharing that cocaine, he's got to get it off his chest so he pulls the witness aside and says, I did it, I carried out my plan, I went in to rob her but I had to kill her, had to kill her, had to kill Jamilla, Monica, she was there, I had to kill her, but I got what I want, I got my drugs, I got my money.

Folks, it's a terrible crime. It was the greed of these Defendants, their lust for drugs, their lust for money that drove them, and today, today they must realize the true cost of their crimes, because Jamilla Hightower and Monica Wall, their lives, in a brutal fashion. Talk to Barbara Hightower, Ms. Betty Wall, their baby girls, and it must cost these Defendants guilty verdicts, guilty for planning the crime, guilty for executing the crime. Today they must pay. They must pay for the greed. They must pay for the arm robbery, and they must pay for the brutal execution of Jamilla Hightower and Monica Wall.

THE COURT: All right, Mr. Gardner.

MR. GARDNER: Thank you, Judge.

Good morning, ladies and gentlemen of the jury. We have heard the Solicitor say greed, just plain greed. I would like to pick up and follow up from there and talk about credibility, believability, and reliability. The Judge told you that you will be judging the testimony, the evidence that

comes from the witness stand, any documents that are introduced from witnesses on the witness stand. Before you judge all of those facts to determine the credibility, the believability, and the reliability of those facts I want to talk to you a little about the law. Most people, when they come in to criminal court their only experience with the Court system is in a civil arena. Most people, unless they've been on jury duty, have no experience with the criminal law. Civil law, car wrecks, breach of contracts, a divorce, things like that. I point that out so I can illustrate the differences between civil law and criminal law. The criminal law, the rules are different, and the burdens of proof are different. In a civil case, by illustration, you may have seen the scales -- we don't have any in here -- but the scales of justice, please have probably seen those, in a civil case I've heard it illustrated by other lawyers to juries, that you put all the evidence of one party on one side of the scale, all the evidence on the other party in the other scale, and whichever one tilted ever so slightly would win the case. I have also heard it expressed by a percentage basis, fifty point one percent of the evidence. That's civil cases, and that's the burden of proof in a civil case. The burden of proof in a criminal case is a much higher standard. That's the burden of proof that's beyond a reasonable doubt. The Judge will get into that more with you at the end of the case, but it's

important to remember that the burden of proof is beyond a reasonable doubt, and that burden of proof is always on the State of South Carolina. The State carries that burden of proof with them throughout the entire trial. They have to prove everything. And it naturally follows that the Defense doesn't have to prove anything in these cases. The reason that is, you can imagine -- and it wouldn't take too much difficulty -- a situation where somebody would be innocent, they've been accused of a crime but, through no fault of their own, they can't prove it, so the United States down not require our citizens to prove innocence. They require the State to do that. What naturally follows from that is, we don't require them to testify, take the stand, and if the defendant doesn't take the stand the Judge will tell you that you can't hold that against him, and I tell you that that should not be part of your deliberations at all, whether or not the State -- or the Defense testifies. So, the Defense doesn't have to put up anything, and the burden of proof is always on them. These are the things I want you to keep in mind, and the Judge will go into them in great detail, but while you are analyzing this testimony you are the sole judges of the credibility, believability, and reliability of the witnesses.

Now the Judge told you earlier, when you start your deliberations you will take this testimony, or this evidence,

be it testimony or exhibits introduced, and you will go back and you will deliberate, and you will decide if this is enough to go up to a level of proving beyond a reasonable doubt. All right. So that's very simply. I'm going to break that down a minute and talk to you about that, but before I do, I'm going to ask you, what is it that we are trying to decide today. Simply put, we are trying to decide two things, juror -- this is a murder case, and in my murders juries decide -- they are called on to decide two things. Usually they are try -- first is whether or not it's a murder, and then the second is as to guilt or innocence, whether or not they are not guilty or guilty. Whether or not it's a murder, in some cases there is an issue if it is, in fact, murder, if it's murder, manslaughter, murder, self-defense, accident, things of that nature. I will go ahead and get it right out of the way for you. That first question is solved. This -- these young ladies were murdered, okay. There is no doubt about it. It's a tragedy. We are sorry for it, but the Defendants, like the Judge said, pled guilty **(sic)**, and right now they are innocent of that charge, okay, so question one has been answered. It is a murder, and we are sorry about that. Question two, as to guilty or innocence, guilty or not guilty, that's the question we have to answer, and before we can answer that question we have to look at the testimony that the State will put up for you to decide if this evidence is credible, believable and

reliable, and if it is, then what question does the evidence address, and does it even answer a question. Question one, we've already answered, murder. Question two, guilty or not guilty. So that's the formula that we look through when we are evaluating this testimony and this evidence.

All right. Now, if this case was to rest right now, and the Judge would tell you right now to go deliberate and come back and bring a verdict there would only be one verdict that you could bring back, and that would be not guilty, because we have -- we don't have any evidence that we could evaluate. So that's the format that we work through.

Let me talk a little bit about the evidence that we can anticipate. We heard the witness list yesterday. We can anticipate that some of those witnesses will be called by the State, because they have the burden of proof on the case, as what they will testify. We heard the names of John Iannone, Carol Allen, Bobby Jordan. It is anticipated that they will testify. These people, the evidence will show, are Myrtle Beach Police Officers that work in the Crime Scene Unit. The evidence will show that they collected samples of evidence from the crime scene, and that -- for future examination. All right. I -- you will hear what they testify, if they are called to testify, but basically, they collected this evidence. The evidence will show that that is probable, credible, believable and reliable, but the evidence will also

show that merely collecting that evidence for future examination has nothing to do with the guilt or innocence of the Defendants. It doesn't -- and the evidence will show that, have no connection whatsoever to Jimmy Lee or Christopher. So that doesn't answer any of our questions over here. Okay. The evidence will show there's a doctor on there. She will testify as to cause of death. Well, that answers question one, but the evidence will show it has no bearing on answering question number two. All right.

We've got crime scene collection. We've got the doctor's testimony. We've -- what other testimony? The analyzation, the testing of the crime scene, D.N.A. evidence. Let's talk about that. There is a S.L.E.D. agent named Ortuno. He is employed by the State of South Carolina. He is on the witness list. It is anticipated that the State will call him as a witness, and the evidence will show that he tested samples taken from the crime scene, analyzed it for D.N.A., and the evidence will show that that D.N.A. excludes Jimmy Lee Sessions, and excludes Christopher Stephens. Of particular note, that D.N.A. evidence will show that it is made up of a mixture, okay, so the evidence will show that it would be S.L.E.D. agent that analyzed the D.N.A.. There's three samples that were taken from one of the victims, Monica Wall. I believe the evidence will show that one of the samples was taken off of a foot, and off of a toe, and the

fingernail clippings, that those samples were mixtures, and what the evidence will show that means is that it was made up of at least one female and one male, but it excludes Jimmy Lee and Christopher, and it excludes the victim herself, Monica Wall. So the evidence will show that that is credible, believable and reliable because it goes over here. I will let y'all decide when you are deliberating what that answer is, but at the end of the case I'll get up here and say that it answers question number two, that the evidence shows not guilty.

Let's talk about a couple of other things that we can anticipate the State putting up. The Solicitor mentioned shoe prints. I anticipate that their S.L.E.D. agent will be called to the stand and his evidence will show that he analyzed two footprints from the crime scene, and it may -- may be consistent with one of the shoes of Jimmy Lee, but it's not a match, it can't be dated, no proof. It's just consistent with a Nike shoe. So that may be credible, believable and reliable, but when we move it over here does it rise -- which question does it answer? Well, if we are looking at question two, guilt or innocence, is this a match? It's not a match. It's simply consistent with any Nike shoe. Does that rise to the level of bur -- the State's burden of proof, beyond a reasonable doubt, and at the end of the case I will say that that is evidence of reasonable doubt.

Those are the type witnesses we anticipate them calling, and so far the evidence would show that we don't have an answer as to question two, the guilt or innocence, not guilty or guilty. I anticipate these other witnesses -- we just heard the Solicitor talk about them -- they will get up and testify so that the State can try to establish their burden of proof. I will start off with -- well, on the witness list there's James Pearl, there is Matthew Campbell, there's Eddie Lee Washington and Craig Burris. Those are four witnesses that may be called, and rather than go through all of the testimony, what the evidence will show for our analyzation that we are talking about, I will do one, for example purposes. James Pearl, on the witness list, is anticipated to testify. The evidence will show that he gave his statement to the police, he gave his statement approximately six months after the murders, he gave a statement right after he had been arrested. He was in custody. He was on his way to the jailhouse. He, himself, has convictions, and the evidence will also show he has been using cocaine for nineteen years. These are things, the Judge will tell you, that you can use in your deliberations in determining whether or not the evidence is credible, believable, and reliable. The Judge will tell you that you are the sole judges of the facts. He is going to conduct the trial. He's going to -- he told you that. He's going to conduct the trial, the lawyers and the Judge. He's

going to present the evidence to you. He's going to tell you the law in the case, but then he turns it over to you, and you are the sole judges, the sole judges of credibility, believability and reliability. So when you get there -- I like what the Judge said -- use your good common sense. I, a defense attorney, will ask you to use your good common sense in this case, use your good common sense when you are evaluating these people.

But he will also tell you some other things that you can use. When you are evaluating the truthfulness of a witness, when you are judging these three things, you can take into consideration prior record. You can take into consideration bias, motive, or interest in a case. This witness, what interest does he have in providing his testimony. You can -- some of the witnesses the evidence will show have a prior inconsistent statement. Those are things that you can use in your deliberations in determining whether or not it's a credible witness, a believable witness and a reliable witness. If it doesn't pass that test it doesn't go over for deliberations on whether or not it answers question one and question two. Those are things you can use. In fact, the Judge will tell you, on any witness, that you can believe everything they said, you can believe parts of what they said, or you can believe none of what they said, and using the Judge's instructions under the law, examples of what you can

use to make your determination, I will stand up here at the end of this case and I will tell you that you have the right, and I would submit to you that you should, reject all of what they said, based on the things you can use in going through step one, two and three, before we go answer our question.

Pay attention to the testimony. At the end I'll get up here and we will say that we don't have any evidence that we can even consider as to whether or not the State has proven beyond a reasonable doubt. If we do have evidence it won't rise to the level of reasonable doubt. The Defendants are presumed innocent right now, and will be presumed innocent throughout the trial. When you get into your jury room for deliberations that presumption goes with them, and will stay with them, until and unless you decide that the State has proven, beyond a reasonable doubt, each and every one of the elements of the crime. Not even going to go over the elements of the crime. The Judge will tell you that at the end of the case. I just submit to you that no matter what the elements are, there's only one verdict you can come back with at the end of the day, and that's not guilty.

Thank you very much.

THE COURT: All right. Mr. Frederick.

MR. FREDERICK: May it please the Court.

THE COURT: Yes sir.

MR. FREDERICK: This murder, it got a lot of publicity

after it happened. There was media coverage. There were candlelight viduals. There was a reward offered for information. The lead investigator in this case, Investigators Eric DiLorenzo, and Investigator Salena Mann, interviewed a lot of people, trying to find out what happened. They followed a lot of leads. They put hundreds of frustrating hours into trying to solve this crime, and they ended up talking to a lot of jailhouse snitches, people who had charges pending who wanted to offer information to them, hopefully to get help on their own charges. There was a crowd of people at the house where they found the bodies when the police got there, and the word traveled fast, and the word on the street quickly spread through the jail. The investigators had to choose between many different theories of how this murder happened, and who was responsible, but they had to charge someone.

We are not going to tell you that we know, beyond a doubt, who committed the crime. I'm not going to point the finger at any one particular person, or group of people, and tell you, without a doubt, that's the person that did it, because the evidence that we have points to a lot of different people, and a lot of different scenarios.

As you hear the facts in this case, and as you hear the many names that are going to come up during this trial, ask yourselves, what would this trial look like if each of those

people were on trial today. Would the evidence against them be any better, or worse than it is against Jimmy Lee and Christopher.

You are going to hear during this trial that two people, Antwann Higgins and Melissa Gomez found the bodies on Friday, June the 9th, 2006. Later it was discovered that they had repeatedly lied to the police about what happened on that Friday. Later it was discovered that there was a third person, named Roy Grant, in the house with them on that Friday.

You have already heard that Jamilla Hightower was a drug dealer. She wasn't a small time drug dealer. She was buying and selling large quantities of marijuana and cocaine. Some of the people that you are going to hear from during this trial were people who bought drugs from Jamilla. Some of the people you are going to hear from were people that were selling drugs for Jamilla. You are going to hear that Antwann Higgins, Melissa Gomez, and Roy Grant didn't just find the bodies that Friday, but they took a briefcase full of drugs out of the house, and the police found out about this about a week after it happened.

The Prosecutor is telling you that greed motivated this crime, greed, and lust for drugs, but you are going to hear that Antwann and Melissa will claim that they found a briefcase full of drugs sitting at Jamilla's head, and they

walked out of that house with the briefcase in their hands.

You are going to hear that Antwann Higgins carried guns, that the police executed a search warrant on Antwann Higgins' apartment after the killings, that they found, in his apartment, two guns, ammunition, shotgun shells, and drugs, but the two guns that they found in his apartment did not match the gun that was used to kill Jamilla and Monica, and so no arrests were made.

No arrests were made in this case for almost a full year after the murders. None of the credible, believable and reliable evidence that they came up with -- and there was a lot of it -- none of it pointed to their suspects, and so they turned to jailhouse snitches. They turned to evidence that was not credible, believable or reliable, because they had to charge someone.

I'm not going to talk right now about all of the jailhouse snitches, because honestly, I don't know which ones they are going to decide to use this week, but I will tell you that, in December of 2006, six months after the murders, a guy named James Pearl was arrested on drug charges. The same date he got to the jail he told the police he had information on this murder. As an officer took him from the jail to be interviewed by Investigator DiLorenzo he repeated said, repeatedly told them, I'm going to tell them anything they need to hear so long as you help me on my drug charges.

Ultimately, when he talked to investigator DiLorenzo, he told them, as jailhouse snitches do, that Jimmy Lee confessed to the crimes. Ultimately he also told them that Christopher -- he overheard Christopher and Jimmy Lee talking about robbing the girls a few days before the murders. This jailhouse snitch, James Pearl, is the only witness that they are going to give you that has anything to do with Christopher's accessory before the fact charges.

They had to charge someone. The evidence this week is going to show that, as time wore on the investigators got more and more aggressive in trying to find someone who would give them a statement that would hold up in court. You are going to hear that they became desperate, that they started to feed information to witnesses, and that they threatened potential witnesses. They used a carrot and a stick approach to finding jailhouse snitches who would come into court and lie to you, because they had to charge someone.

In November of 2006 a guy named Hubert Washington sent a note to Investigator DiLorenzo, and said he wanted to talk to him, and you are going to hear how this works, is when a person is in jail, and they have charges pending, and they find information that will help them, or that they hope will help them in their case, then they send a note or a letter either to the prosecutor or to the investigator, and then the investigator goes and talks to them. Investigator DiLorenzo

went and talked to Hubert Washington, and he will admit to you, he did not believe a word that he said, but he agreed to let Hubert out of jail, and to give him forty-eight hours to go and talk to his son, Edward Lee Washington, "LeeLee" Washington, after which the investigator would go and interview his son. Sure enough, Investigator DiLorenzo and the prosecutor, Mr. Richardson, arranged for a P.R. bond for Hubert to get out of jail on a larger charge that he had. He had a smaller charge that held him there for about a month. He was released in December, and exactly forty-eight hours after he got out of jail investigator DiLorenzo interviewed "LeeLee" Washington. "LeeLee" will tell you that his father told him what to say, that he wanted help on his drug charges, and that he wanted part of the reward money. "LeeLee" has already testify under oath, in prior proceedings in this case, that Investigator DiLorenzo told him what to say, and that he threatened him, he threatened to charge him, and he threatened to charge his wife if he did not tell him what he wanted to hear.

What is credible, believable and reliable evidence? They took D.N.A. samples from the scene of the crime. They didn't test those D.N.A. samples until January of 2008, but when they did they didn't connect either Jimmy Lee or Christopher to the crimes. In December of 2008, two months ago, they came back and they took D.N.A. samples from

Christopher and from Jimmy Lee, and they retested the D.N.A., last month they retested the D.N.A., and this time they found that the D.N.A. that they had excluded, excluded Jimmy Lee and Christopher as being contributors to any of the D.N.A. that was found at the crime scene. What are we doing here?

There's facts in this case that we are not going to dispute. We are not going to dispute that there was a murder. We are not going to dispute that these girls were robbed for their drugs. We will dispute that Christopher had anything to do with this. We will dispute the credibility of their jailhouse snitches, and their one solitary witness that they will give to you regarding Christopher. You are going to see, very soon, probably in a few minutes here, that he is not someone that can be trusted, and that his testimony is not enough to convict Christopher.

You are going to see a lot of evidence from the crime scene, that may take a couple of days to see all the evidence from the crime scene, and not a bit of it connects either of these Defendants to the crime. You are going to see shell casings, pillows with blood on them, footwear impressions, fingerprints, tire tread mark impressions, D.N.A. evidence, and photos from the crime scene, including photos of Antwann Higgins and Melissa Gomez at the crime scene. The Prosecutor is going to show you photographs of Jamilla and Monica's dead, naked bodies, and some of them will be graphic and bloody.

The only value that that has in showing those photographs to you is to shock and horrify you, and make you so angry that you would convict these Defendants, because there's no one else here to punish.

Christopher, as is every other person accused of a crime in our Country, is presumed to be innocent, and what that means is that right now, and throughout this trial, your pen is sitting on the not guilty verdict. Christopher doesn't have to prove anything, like Mr. Gardner said. He doesn't have to prove anything, but we will, but he doesn't have to prove anything, because the burden of proof is on the prosecutor, as they present their case, to remove all reasonable doubts from your mind. And I want you to ask yourselves right now, what kind of evidence do you need to hear in a case like this before all reasonable doubts can be removed from your mind, and hold the Prosecutor to that burden of proof throughout this trial. You will want to hear credible, believable and reliable evidence that would convince you beyond any reasonable doubts, and the Prosecution is not going to give that to you.

Thank you.

THE COURT: All right, Solicitor, your first witness, please Ma'am.

MS. ELDER: Thank you, Your Honor. The State would call James Pearl.

THE COURT: Please come around to be sworn.

JAMES PEARL, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MS. ELDER:

Q. You are James Pearl?

A. Correct.

Q. And where are you currently residing, Mr. Pearl?

A. Charlotte, North Carolina.

Q. And did you know Jamilla Hightower and Monica Wall?

A. Yes.

Q. How did you know them?

A. They were friends and business associates.

Q. Okay. And did you used the live somewhere in the Horry County area?

A. I used to live on Dunbar.

Q. Where is that at?

A. The Booker T. Washington area.

Q. In what city?

A. Myrtle Beach.

Q. How about, do you know Chris Stephens and Jimmy Lee Sessions?

A. Yes.

Q. How did you know them?

A. Associates.

Q. Is that from when you lived here?

A. Yes sir.
Q. Now, do you recall when Jamilla and Monica were murdered?
A. Yes.
Q. And I want to take you back to that time. Do you recall where you were the first time you heard that they had been murdered?
A. I was at Futrell Park in a cookout.
Q. Okay. Do you remember what day that was?
A. A Friday.
Q. Friday. What were you -- what type cookout were y'all having, what for?
A. It was for my cousin, my one year old cousin. We was having a cookout, birthday party.
Q. All right. So you know it was on Friday?
A. Yes Ma'am.
Q. Tell me how you came about the information knowing that they had been killed.
A. I got a phone call from Phonetia Hightower and Mildred Brown, stating that Jamilla Hightower was killed, but that -- I just -- I just got a phone call.
Q. All right. And did you take that for the truth, or ---
A. At first I thought she was lying. I hung up and I called around, and then I found out that she really was killed, so ---

Q. Okay. Now, that was on Friday. I want to take you two days prior to that, on Wednesday. Did you see Jamilla Hightower that day?

A. I seen her earlier that day.

Q. And how did you see her? Where did you see her at?

A. She came through the block on her scooter, on her motor scooter.

Q. Is that how she usually got around?

A. She had a car too, but that day she just came with the scooter.

Q. And did you have any conversation with her?

A. Hi and bye, you know, normal things.

Q. Did you see Chris Stephens or Jimmy Lee Sessions that day, on Wednesday?

A. No. Prior to that, yes.

Q. And where did you see them at?

A. They came to my house.

Q. And where was your house at?

A. [redacted] Street, Myrtle Beach. I lived in an apartment called Shorewoods.

Q. Were they together?

A. Yes Ma'am.

Q. All right. Were they -- was somebody driving?

A. They was in a blue Grand Cherokee.

Q. And who was driving?

A. Jimmy Lee.
Q. And who was with him?
A. Christopher.
Q. Did you talk with them?
A. Yes Ma'am.
Q. Did you get in the car with them?
A. Yes Ma'am.
Q. What did y'all talk about?
A. Robberies.
Q. What kind of robberies?
A. Stick-ups.
Q. And what was the point of that?
A. To get money.
Q. And why did you need money?
A. At the time, we was -- we were broke, you know, so the best way to get money.
Q. Did Jamilla ever come up to that car?
A. Yes Ma'am.
Q. Were you present?
A. Yes Ma'am.

MR. FREDERICK: And Judge, we are going to object to any hearsay, as far as testimony from him about what Jamilla Hightower said.

THE COURT: I'll be glad to hear any objection as to any hearsay. I haven't heard anything yet.

Go ahead.

MS. ELDER: Thank you, Your Honor.

Q. Did she talk to anybody in the vehicle?

MR. FREDERICK: Judge, we object to the hearsay. He question elicits a hearsay response.

THE COURT: No sir, it does not. There is no hearsay at the present time. I'll be glad to hear from you if you wish to make an objection as to hearsay when any comes up.

Q. Did she talk to anybody in the vehicle?

A. Yes Ma'am.

Q. Did anybody in the vehicle talk to her?

A. Yes Ma'am.

Q. Who?

A. She was talking -- it was basically over money. It was -- she was screaming about money, and ---

Q. Before we get to that, who was talking with her?

A. Well, she ---

MR. FREDERICK: Judge, still objecting to the hearsay. Now he is testifying as to hearsay.

THE COURT: No sir.

You may proceed, Solicitor.

MS. ELDER: Thank you, Your Honor.

Q. Who was talking with her?

A. Chris.

Q. Chris Stephens?

A. Yes Ma'am.
Q. And what was Chris Stephens saying to her?
A. Basically she was screaming on Chris about the money that he owed her.
Q. And what was he saying?
A. He was -- he told her at first, I'm going to pay you, and then he laughed it off, you know, and then he was like, I ain't going to pay the -- I ain't going to pay this girl, you know what I mean, so she was mad, and she told him, I want my money or ---

MR. FREDERICK: Judge, I've got no problem with him saying what Christopher said, because those are statements that are admissible outside of the hearsay rule, but I'm asking the Court to not allow the witness to testify as to what other people said, including Jamilla Hightower.

THE COURT: No sir. I'm going to allow it. Thank you.

Q. Continue, Mr. Pearl.
A. It was about -- it was about drug money that was owed, so she was mad, very upset, and after that she left.
Q. And were you still in the car with Chris and Jimmy Lee?
A. Yes Ma'am.
Q. What did y'all talk about right after she left?
A. Robberies.
Q. Okay. And was anything specifically mentioned about Jamilla?

A. Rob her.
Q. All right. Who brought that up?
A. Christopher.
Q. Chris Stephens?
A. Yes Ma'am.
Q. And what did he say when he brought that up?
A. He couldn't rob her because she knew him, but Jimmy Lee was like, I can rob her though, I don't know -- she don't know me, so when they was saying all this I was like, you trying to rob a girl, man, I don't want to be involved in robbing no girl, so I got out of the car and I left. I went back in my cribb, and that was the end of it.
Q. Before you got out of the car, and they were talking about robbing Jamilla, did they go into any detail how it needed to be done, or what had to be done once they were inside?
A. Basically it was, they needed a doorman ---
Q. Okay.
A. ---So they wanted me to be the doorman, but I -- I'm not going to get involved in robbing doorman. They was -- they threw names out, other names, like they wanted to rob old man Blaza from the hill that ride a scooter, but I told them he might have a heart attack if you try to rob him, and then they was talking about robbing Ropper too, but I told them that he might tell something, so -- you know what I mean.

Q. Did they talk anything about Jamilla and her cooperation under those circumstances?
A. Everybody knew she wasn't going to just -- she wasn't just going to lay down and just let you rob her. She ain't going the just roll over, and we knew that it's not going to be a easy lick. That's what we call it, a easy lick, somebody easy going -- easy to rob. It wasn't going to be no -- she wasn't going to have that. It wasn't going to be no easy lick.
Q. So did they talk about anything that would have to be done to her because she wasn't an easy lick?
A. Going to have to lay her down.
Q. What does that mean, lay her down?
A. Take her out, you know, kill her.
Q. And who said that?
A. I mean, it was -- it wasn't specific who said it. It was just -- it was being thrown around in the car, but Jimmy Lee was the one that was saying, I can -- if she don't give it up I'll do it, you know what I mean, so ---
Q. What did I do her mean?
A. I'll kill her.
Q. Was anything said about Monica?
A. No, she didn't -- never said nothing about her.
Q. Did they know Monica was in the house?
A. I don't think so.

Q. Friday, at Futrell Park, after learning about the deaths of Jamilla and Monica, did you talk to Jimmy Lee Sessions?

A. Talked to him that night on across the bridge to his room.

Q. How did that come about?

A. He called me on my phone, and he was like, what are you doing. I'm like, I ain't doing nothing. He was like, well come across the bridge, come chill with me for a little while. So I went across the bridge and he had a little -- a little girl in the room with him. I don't know her real name. Her name -- her street name is "Poo". But when I got to the room she was there, and you know, we had a little fling with the girl, you know, and then we did some drugs, and then he told me that he did her. He told me that he did -- he did Jamilla Hightower, so I left. After he told me that I called my friend and she came across the bridge picked me up, and I went home.

Q. I want to take you to the conversation that you are referring to specifically. Where did that conversation occur with Jimmy Lee Sessions?

A. In the bathroom, in his motel room.

Q. Okay. And how did y'all get to the bathroom? How did that come up?

A. First we was -- we was doing drugs. I ain't going to -

- need to lie. We was doing some drugs, doing some cocaine, and he told me he had to talk to me about something. He took me in the bathroom. He said, I can't talk in front of this girl right here because she talks too much. So we went in the bathroom, and we -- you know what I mean, we talked. He told me that he had shot -- shot Jamilla, and I left. After he told me that I was shocked, and I was like, man, I'm going, I ain't trying to be involved in none of this, you know, I'm leaving right now. I said, I'll call my ride, and she left -- she came and picked me up and I left.

Q. Did he say anything about Monica Wall?

A. No Ma'am.

Q. In particular, in that room ---

A. Yes Ma'am.

Q. ---Tell me about the cocaine. You said you were doing drugs.

A. Yes Ma'am. We had a good bit of cocaine and ---

Q. What does a good bit mean?

A. About a -- if you put it in a -- we had a -- we had a dinner plate full of -- of coke, a dinner plat full up with coke, and ---

Q. In the hotel room on Friday night?

A. Yes Ma'am. Yes Ma'am. He gave me a McDonald's straw. You know how big a McDonald's straw is. He gave me a big McDonald's straw, and when I did the coke it tasted like

cucumbers when I hit it. When I snorted it up my nose it tasted like cucumbers, you know what I mean, so I was like -- I asked him, I was like, where you get the coke from, and he was like, you don't need to know all that, just help me do it, help me get rid of it, and when I did it again I was like, I know where you got this from, because there's only one person on the beach who have cocaine that taste like cucumbers, and that was Jamilla, and then we rolled -- then we smoked a gun of -- we smoked a cigar of marijuana, a purple haze, some of the best weed it is, you know what I mean, and he had a good bit of purple haze too, and I was asking him, where you get all these drugs from, you know what I mean; you didn't have all this like two days ago, and he never told me where he got them from.

Q. Was that before or after he took you into the bathroom and told you?

A. The coke was before -- the cocaine was before, but the weed was after he told me -- he told me he had killed the girls.

Q. Now you just said he killed the girls. Did he tell you ---

A. No, he just told me the girl, but I'm just using plural.

Q. Okay. Now, tell me about the amount of cocaine. Now, is that normal for -- did you party with Jimmy Lee before?

Have y'all done drugs together before?
A. Yes Ma'am.
Q. That amount, is that normally what he carried?
A. No Ma'am.
Q. Did you find that unusual?
A. Yes Ma'am.
Q. And tell me about the McDonald's straw.
A. I mean, everybody know, a McDonald's straw is big. It's like long and wide, and you can get a straw from any other store they are tiny, so when you use a McDonald's straw and you do the cocaine when you snort you get more coke as you snort, you know what I'm saying.
Q. So he was sharing a good bit?
A. Yes Ma'am.
Q. What about guns?
A. He showed me a black semi-automatic. I don't know if it was a nine millimeter or a forty cal. I just -- I just know it was a semi-automatic, black.
Q. And he had it with him that night?
A. Yes Ma'am.
Q. James, do you recall talking to Detective Allen?
A. Yes Ma'am.
Q. And do you recall giving him a statement?
A. Yes Ma'am.
Q. Now, I did ask you before if Jimmy Lee had said

anything about Monica, and you have indicated he had not. Do you recall giving Detective Allen ---

A. About the believability.

Q. ---A statement in reference to what he said about Monica?

A. In the bathroom.

Q. Yes sir.

A. He said when he was in the house ---

THE COURT: Sir, you are going to have to speak up.

A. Sorry.

THE COURT: Can't hear you.

A. In the house. He said when he was in the house, and he was leaving out, he heard the shower go off, and he opened the bathroom door -- and the bathroom door opened up and she was standing there looking him in his face, so he said he rushed in the bathroom, put it -- and shot her, and left her in the tub.

Q. All right. So that would have been Monica?

A. Yes Ma'am.

Q. And he told you -- he said, bathroom?

A. Yes Ma'am.

Q. Now, on Friday night, after -- after y'all were partying here, and you saw the gun, where did you go after you left the hotel?

A. I went home, to my house, [redacted] [redacted] Street.

Q. Did you talk to Jimmy Lee Sessions after that?
A. He called my phone Saturday, and asked me to send him a Hundred Dollars moneygram, a moneygram of a Hundred Dollars, and I told him I -- I used to work at the Nascar Speed Park. I got paid that Friday. I told him, I'll send it to you that Friday, but I never sent him the money.
Q. Did he call you again?
A. Yes Ma'am. He called me, but I never answered the phone.
Q. Did he tell you why he wanted you to give him money?
A. Because he was leaving -- he was leaving the State, he needed to leave State.
Q. And this was Saturday?
A. Yes Ma'am.
Q. Sometime after that, did you talk to, or did you ever talk to Chris Stephens?
A. No Ma'am. I talked to him on a -- he had -- him and my sister was talking on the phone one time, and he ---
Q. Did he talk to you?
A. Yes, I took -- she gave -- he was like -- she was like, Chris wants to talk to you, so I got the phone from him -- from my sister, and he was like, how you send the police to Connecticut on "Snag", told the police on "Snag", he in Connecticut and you set the police on the man and all kind of stuff, and I was like, no, I ain't never sent the police, I

never knew he was in Connecticut, you know what I mean.
Q. Now, tell me a little bit about the specifics of what Jamilla's business was.
A. She used to sell drugs.
Q. Okay. What kind of drugs did she sell?
A. Cocaine and marijuana.
Q. And did you purchase cocaine or marijuana from her?
A. Yes Ma'am.
Q. Did you have a drug habit?
A. Yes Ma'am.
Q. Was it a regular habit?
A. Regular habit.
Q. Tell me how you would go about buying drugs from Jamilla.
A. First you would call her. You couldn't just go to her house and show up without calling.
Q. Why not?
A. Because that was just the rule, you don't come without being -- you don't come unless you call, so I call, you called, tell them you want to spend Fifty Dollars. You call, I want to spend Fifty Dollars. We don't say Fifty Dollars. I want to buy a gram, buy a gram, then she will tell you, okay, come to the house and get it. And the whole transaction, no more than thirty seconds in and out, no more than thirty seconds.

Q. And you called. You -- would you go to her house at that point?
A. Yes Ma'am.
Q. And where would you go inside her house?
A. No further than the front -- the front room, no further than the front room.
Q. And tell me -- describe to me about the front room. What could you see from the front room?
A. The front room had two -- two couches, one big loveseat, a little couch. She had her T.V. and her Play Station and a couple of movies under the T.V., but that's about it, and then in the kitchen ---
Q. Could you see into the kitchen?
A. Yes Ma'am.
Q. And where would she pick up the drugs when you walked in?
A. From the kitchen. Most time it was from the kitchen. For little supplies, anything under -- anything under a quarter in the kitchen, anything over seven grams, in the back bedroom.
Q. And could you go back to that bedroom?
A. No Ma'am.
Q. And do you know why that is?
A. Because she just -- no one could go back there, no one, except for her girlfriend, Monica. She was the only one that

was allowed back there.
Q. And do you know where in the kitchen she stored, or placed her drugs?
A. She had two grandma cookie jars, like the big cookie jars. She had two big grandma cookie jars. One of the cookie jars she had -- it was -- the coke was already in plastic and bagged up, and then the other cookie jar she just had straight coke in it, so she could just reach in the bag -- reach in the cookie jar and just put it in your bag, tie it up and give it to you and you go.
Q. James, I want you to take a look at what's been marked as State's Exhibit Number 3, or State's identification number 3. Do you recognize that?
A. Yes Ma'am.
Q. And what is that?
A. It's a picture of Jamilla's kitchen.
Q. Okay.
MS. ELDER: Your Honor, at this time we would like to move that into evidence.
THE COURT: Any objection?
MR. FREDERICK: No objection, Judge.
MR. GARDNER: No, Judge.
THE COURT: That's three?
MS. ELDER: Yes sir, Your Honor.
THE COURT: State's 3 is in evidence without objection.

(LARGE PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 3.)

Q. James, could you look at that picture and show me where those cookie jars would normally be?

A. Right here. No.

THE COURT: You need to speak up, sir.

A. They would be -- I need a better picture, like a wider picture of the kitchen, but they would be right here, around the side of this right here. They would be on the side ---

Q. Okay. You are indicating on the right side of that picture ---

A. Yes Ma'am.

Q. Is that correct?

A. Yes Ma'am.

Q. All right. Across from -- is that the microwave right there?

A. Yes Ma'am.

Q. It would be across -- on that counter across from there?

A. Yes Ma'am.

Q. And what about marijuana? Where did she keep that?

A. She had two drawers, probably like -- this is a cabinet, so it would have drawers. She would pull the drawers out and she would have weed. She would have regular weed at the top, and the purple haze at the bottom.

Q. Okay. And how often did you go over there to buy drugs from her?
A. Every two days.
Q. Okay. So that was pretty consistent as to how and where she got her drugs when you were over there?
A. Yes Ma'am.
Q. And did you follow that procedure by calling ahead and ordering every time?
A. Yes Ma'am.
Q. I'm going to show you what's been marked State's Exhibit 6. Do you recognize that?
A. This is -- this is the, like the hallway to the room, and this is like the front, like the living room, right here, the living room.
Q. Is that's Jamilla's house?
A. Yes Ma'am.

MS. ELDER: Your Honor, at this time we would like to introduce the exhibit that ---

MR. GARDNER: No objection, Judge.

MR. FREDERICK: No objection.

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

(PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 6.)

Q. Now, if you look at State's Exhibit 6, that hallway, do you know what was back -- that hall -- down that hallway?
A. No Ma'am. I have never been in this room right here.
Q. Okay. Were you allowed to go down that hallway?
A. You wasn't allowed to go past the top of the couch right here, where the living room came in. You wasn't allowed to come past the living room.
Q. Okay. And what was -- do you know what was down that hallway?
A. Heavy drugs. She kept a lot of the heavy weight, like ounces and ---
Q. Heavy weight?
A. Yes Ma'am.
Q. I'm going to show you what's been marked State's Exhibit 1 for identification.
A. Uh huh **(indicating positive)**
Q. It's a drawing. Do you recognize the layout of that house?
A. Yes Ma'am.
Q. Does that appear to be the accurate lay-out of Jamilla's house?
A. I just know the living room and kitchen.
Q. Okay.
A. I don't know anything about ---
Q. Back behind there?

A. Yes Ma'am.
Q. Okay. Did you see other people over there when you were over there buying drugs?
A. Once in a while it would be like passing, two ships passing, I'm leaving, somebody coming, or I'm coming and somebody leaving, something like that.
Q. Do you know if Christopher Stephens or Jimmy Lee Sessions ever did business with Jamilla?
A. I know Jimmy Lee, he done business with her before. I'm passed him coming from Jamilla's house. He was going there one time and we passed each other.
Q. But he had ordered from her before?
A. Yes Ma'am.
Q. Now, I want to make sure the jury knows everything, and we want to be honest with them. Do you have -- have a drug habit?
A. Yes Ma'am.
Q. And is it a regular habit?
A. It was a regular habit, but I -- I haven't used -- I haven't used drugs -- I haven't used cocaine in about two months, since I got out of J. Reuben Long.
Q. Okay. What about any other drugs?
A. Marijuana. Yes, I smoke marijuana. I ain't going to lie to you; I smoke that. Everybo -- I think everybody in the world smoke that if -- you know.

Q. And are you under the influence today?
A. No Ma'am.
Q. When is the last time ---
A. Last night, eight o'clock.
Q. And what did you do last night at eight o'clock?
A. Smoked a joint of marijuana. I ain't going to lie.
Q. That's not affecting you today?
A. No.
Q. James, I want to also -- you've been in trouble before, haven't you?
A. Yes Ma'am.
Q. Okay.
A. Been convicted twice.
Q. All right. Let's go over -- make sure ---
A. '95 I got a convic -- oh.
Q. All right. Hold on just a minute please. Let me ask you a question, all right.
A. All right. I'll help you. Uh huh **(indicating positive)**
Q. Back in 1994 were you convicted of burglary?
A. A burglary third.
Q. And back in 2000, you were convicted of a distribution charge; is that correct, drugs?
A. Yes Ma'am.
Q. And you have two pending charges right now; is that

correct?
A. Yes Ma'am.
Q. And one is threatening the life of a public official?
A. Yes Ma'am.
Q. And the other is a possession of cocaine?
A. Yes Ma'am.
Q. You said -- or do you recall, back in December of '06, when you talked to police about this case?
A. Yes Ma'am.
Q. How did you come to talk with police about this case?
A. I got arrested, and I was in the Myrtle Beach Police Department. Detective Allen, he came to me and asked me did I know anything about the K & W shooting that happened at the -- on the south end, the K & W on the south end of Myrtle Beach and I told him no, but then I told him, I said, I might know who killed Jamilla Hightower and her girlfriend.
Q. Okay. So that unrelated case they asked you about, did you know anything about that?
A. No Ma'am.
Q. Did you give them any information about that?
A. No Ma'am.
Q. And you talked to them about this incident?
A. Yes Ma'am.
Q. Did you know information about that, about Jamilla and Monica's deaths?

A. Yes Ma'am. Yes Ma'am.
Q. Did you then go talk to detectives about what to do about this particular murder?
A. Yes Ma'am.
Q. And James, you have been in the system, you know how the system works.
A. Yes Ma'am.
Q. Do you know what happens when you try to help yourself, and you give information and it's wrong?
A. Yes, you go to prison.
Q. Do you recall riding from the Myrtle Beach Police Department to the annex, you were with Detective Allen in his car.
A. Yes Ma'am.
Q. Did you mention help with your bond on your current charges?
A. Yes. Yes Ma'am, I did.
Q. Did you eventually get bond on your current charges?
A. Yes. I got bond, but there was no help involved from the Police Department or anybody else. My wife bonded me out of jail.
Q. All right. So when you went to the Magistrate and had a bond set, was anybody there from the Solicitor's office?
A. No Ma'am.
Q. Was anybody there to speak on your behalf from the

Police Department?

A. No.

Q. And did you, in fact, have to post money to get out of jail?

A. Twenty-Five Hundred.

Q. This was after you talked with police, right?

A. Yes Ma'am.

Q. Your charges are still pending?

A. Still pending.

Q. And have you received any kind of promise from my office in regards to the disposition or the outcome of those charges?

A. No Ma'am.

Q. Do you hope your testimony is favorable to your pending charges?

A. Favorable. Who wouldn't?

Q. James, why didn't you come forward prior to December?

A. Guilt and fear. I mean, I feel as if I wouldn't have told her to start selling cocaine that she might still be alive, cause I feel as if -- I asked her, I was like, you ain't never thought about selling coke; there's a lot of undercover coke heads on the beach, no; you can make a lot of money, and I feel as if I wouldn't have told her that she would still be alive right now, so ---

Q. And you said fear. What are you fearful of?

A. Getting killed. Who ain't fear -- who ain't scared of getting -- feared of getting killed.

Q. Who would you be afraid of?

A. The defen -- the ones you are trying to prosecute.

Q. Jimmy Lee Sessions and Chris Stephens?

A. Yes Ma'am.

MS. ELDER: One moment, Your Honor.

Q. Let me go -- let me just make sure we've got -- we understand what you are testifying to.

A. Uh huh **(indicating positive)**

Q. Wednesday night you indicated that you were in the car with Jimmy Lee and Chris Stephens and they asked you to be the doorman.

A. Uh huh **(indicating positive)**

Q. Explain to me what doorman means.

A. Doorman is the person like -- all right, the doorman would be the person who goes to the residence, and I would be the one that knock on the door, and when the person come to the door I will hold them there, and then my people is going to rush them. They would rush them to the -- the people with the guns would rush into the cribb, and right then the robbery will start, understand what I'm saying. From the time I knock on the door, that's the set-up.

Q. And why would they ask you to be the doorman?

A. Because I'm a favorable customer. She wouldn't never

expect me to do nothing like that.

Q. I see. Do you know Phonetia Hightower?

A. Yes, I know her.

Q. And is she related in some way to anybody?

A. She was related to -- she is related to Jamilla.

Q. In what manner?

A. They are cousins.

Q. So Jamilla would have known her?

A. Yes Ma'am.

Q. That's all the questions we have right now, Your Honor.

THE COURT: All right. Mr. Gardner.]

MR. GARDNER: Thank you, Judge.

CROSS-EXAMINATION BY MR. GARDNER:

Q. Good morning, Mr. Pearl.

A. Uh huh **(indicating positive)**

Q. You have given your statement to the police several times about this case; is that right?

A. Correct.

Q. Okay. I want to clear up a couple of things that the Solicitor talked about first. Let's go ahead and talk about the bond issue. All right.

A. Uh huh **(indicating positive)**

Q. December of '06, that was when you gave the first statement to the police, right?

A. Yes.

Q. All right. And that was about six months after the murders?
A. Uh huh **(indicating positive)**
Q. All right. So if your statement is true, you had this information for six months before you told it, right?
A. Uh huh **(indicating positive)**
Q. Sir, you have to answer ---
THE COURT: Now, if you have a problem with how the witness is responding you ask the Court to address it, Mr. Gardner. You know that.
Sir, you do need to speak up.
Thank you very much. Proceed on.
MR. GARDNER: Thank you. I appreciate that.
Q. All right. Did you remember my question?
A. Yes.
Q. And the answer is?
A. Yes.
Q. Yes. All right. Thank you. All right. So you would have kept that information with you for six months, and you used it when you needed it the most, right?
A. No. I didn't use it when I needed it the most.
Q. When did you need it the most?
A. I didn't need it the most. I didn't use it as a leverage or anything like that. No, I didn't do that.
Q. All right. Your testimony is, you didn't use this to

help you at all?
A. It's not -- I ain't received no help from testifying.
Q. Okay. What prompted you to give the statement to the police?
A. He asked me, so I told him.
Q. All right. In the car, right? Let me break it down for everybody. All right. You get arrested in December, right?
A. Uh huh **(indicating positive)** Correct.
THE COURT: All right. You need to answer out loud.
A. Correct.
Q. All right. And you are in a car, a police car, and you make the statement, and -- do you remember that?
A. Yes. Yes sir.
Q. And that statement was recorded.
A. I know.
Q. But at the time you were giving it you didn't know it was recorded; do you remember that?
A. No. No, I didn't know that. I didn't while -- I didn't know at the time it was being recorded.
Q. Right. You found out later?
A. Yes. But at the time you gave that statement you didn't know it was recorded. Okay. And then they took you to the Air force Base, Myrtle Beach Police Department annex, right?

A. Yes sir.
Q. And they took you into a room ---
A. Yes sir.
Q. ---And you gave another statement.
A. Yes sir.
Q. And you knew that one was being recorded?
A. Yes sir.
Q. All right. So, the Solicitor has talked to you about being in the system before.
A. Yes.
Q. So tell the jury how that works. The first thing when you get arrested you are looking for is bond hearing, right?
A. Yes.
Q. You can't get out of jail till you have bond hearing and posted it.
A. Yes.
Q. All right. So, in the car you initiated a statement with the police about this case, right?
A. Yes.
Q. Please answer yes or no.
A. Yes. Yes.
Q. All right. So you are the one that came up with it, and you knew that you needed to get some -- get a bond hearing, first of all, right?
A. Yes. I knew he was going to get -- regardless, you are

going to get a bond, they are going to set you a bond.
Q. Yes, but you wanted your bond hearing to be done as soon as possible, right?
A. Not as soon as possible, as soon as I could see the judge.
Q. Not as soon as possible?
A. No.
Q. Would you have minded waiting three days?
A. If that's what it took to see the judge, yes. I just sat in Myrtle Beach Police Department longer than three days.
Q. For a bond?
A. For a bond.
Q. All right. So given preference you -- you don't have a preference, if you could get one that day or wait more than three days?
A. It's up to the judge.
Q. No sir. Do you have a preference?
A. It's up to the judge. That's my preference. It's up to the judge.
Q. You prefer to let the judge handle that?
A. Yes. Yes. Sure do.
Q. Okay. All right. But no doubt that you made that comment, to help me with my bond?
A. Yes. I said, if you can help me with the bond. I didn't say help me. I said, if you can help me with the bond.

Q. Okay. All right. You said whatever it was you said.
A. Yes. Don't try to change my words out, dude.
Q. No sir. I'm not trying to change your words. I'm just asking you a question.
THE COURT: Gentlemen. Just ask a question, Mr. Gardner, and sir, you respond to the question. We are not having a discussion here.
Q. You mentioned bond with the police officer, correct?
A. Yes.
Q. All right. And isn't it fair to say that bond was the most important thing on your mind at that time?
A. Getting out was the most important thing on my mind at the time, not bond, because I already had bond money. I wasn't worrying about a bond. I've got bond money. I had made bond. Ain't nobody helped me make bond. My wife gave me Twenty-Five Hundred Dollars to make bond. The police didn't come and give me a P.R. bond. My wife bonded me out of jail.
Q. All this is in the car, sir?
A. I'm just telling you.
Q. Okay. But we are talking about -- make sure you know what I'm talking about. We are talking about in the car ride, you are in the car riding over to ---
A. And I told him I -- can you help me with the bond. I remember that.
Q. And that was my question, and the answer is, yes?

A. Yes.
Q. Can you help me with my bond?
A. Yes.
Q. All right. Okay. So that was a statement you made, and then you made the other statement in the actual Police Department when you got there. That was the second statement you made; is that right?
A. Yes, that's right.
Q. Okay. All right. And you also made a statement while you were talking with the police that, if they could help you with your charge, right?
A. Yes.
Q. Okay. All right. And you told them this -- your statement about what your knowledge of the case; is that right?
A. Correct.
Q. All right. And you know how this works, that you want to give the police a statement that's believable, because you want to get help with them, right? Right?
A. Correct.
Q. All right. And you were the one that's been to the victim's house, that's right?
A. I ain't the only person that's been to the victim's house.
Q. Yes sir. Have you been to the victim's house?

A. Yes.
Q. You have been there many times?
A. I ain't the only person though.
Q. Yes sir, but we are talking about you today.
A. Yes. But I'm just telling you, I ain't the only person that's been there.
Q. All right. You've been there many times, correct?
A. Correct.
Q. All right. And you know how the layout goes, correct?
A. Just pa -- not past the -- just not past the front room. I don't know what's in the back bedroom. You asked me the layout.
Q. When I say layout we are talking about -- I'll make it specific, okay.
A. Yes, make it specific.
Q. All right. I'll be -- these -- that's a way out, all right.
A. Okay.
Q. You -- we agreed to have these come in through evidence. These are in evidence. You have testified that you know about this.
A. I know about that.
Q. You have testified that you know this -- layout of this house, right?
A. Not past the bedroom. I told her that. I don't know

past the front room.
Q. All right. You know this, right?
A. Yes.
Q. Okay. And you testified about cookie jars?
A. Yes.
Q. And you testified about dope in them, and you testified about dope in the back, correct?
A. Yes.
Q. All right. I'm going to ask you again, you know about the layout; is the correct?
A. Yes. Correct.
Q. All right. That's correct. Okay. So, when you gave the story to the police, and you made your statement to the police ---
A. Uh huh **(indicating positive)**
Q. ---You had this information with you, correct?
A. Correct.
Q. All right. And you wanted the police to believe it; is that right?
A. Yes.
Q. Okay. All right. Your story that you gave them inside the Police Department had great detail about it; would that be fair to say?
A. Fair to say. I guess so.
Q. All right. You talked about that you had had a

conversation with Jimmy Lee Sessions ---

A. Uh huh **(indicating positive)**

Q. ---And you went into much more detail than you did today, right?

A. Uh huh **(indicating positive)**

Q. Is that -- would you please say yes or no?

A. Yes.

Q. All right. You went into a great more detail about the conversation that you said you had with Jimmy Lee Sessions?

A. Correct.

Q. All right. What was the name of the hotel that y'all were in?

A. Days Inn.

Q. Days Inn.

A. Uh huh **(indicating positive)**

Q. All right. And tell me where that was.

A. Across the [redacted], Pottery bridge.

Q. All right. And you went there?

A. Uh huh **(indicating positive)**

Q. And you went into the hotel room?

A. Uh huh **(indicating positive)**

Q. Okay. All right. And ---

THE COURT: All right. Just a second, Mr. Gardner. Sir, you don't mind, you need to answer yes or no, because the Court Reporter can't ---

A. Oh, yes.

THE COURT: ---Decipher what uh huh means, so you have to say yes or no, please.

A. I'm sorry.

THE COURT: Thank you.

MR. GARDNER: Thank you, Judge.

Q. All right. If I understood your statement today -- go back to my notes and look at it -- you saw -- when she -- the Solicitor was talking to you about Wednesday before the murders ---

A. Uh huh **(indicating positive)**

Q. ---She said that you saw Jamilla driving on her skooter; is that right?

A. Yes. Yes sir.

Q. Okay. And that you had seen Jimmy Lee Sessions and Christopher Stephens prior to that, prior to seeing Jamilla on her skooter; you had seen them at your house?

A. Uh huh **(indicating positive)**

Q. Is that right?

A. Yes.

Q. Okay. But you didn't tell Jamilla that you had talked to Jimmy Lee and Christopher that day, did you?

A. No.

Q. Did you ever talk to Jamilla and tell her that you had been talking with Jimmy Lee and Christopher, and y'all -- the

three of y'all had talked about robbing her?
A. I'll tell her that for what? No, I didn't tell her that.
Q. Okay. So you didn't tell her that these -- three of y'all were talking about robbing her?
A. It wasn't the three of us talking about robbing her.
Q. All right. Who were all there in the car ---
A. Okay. The three of us. All right, the three of us, since you want to do it like that, all right, the three of us. We was all in the car together, so I guess you could say the three of us.
Q. All right. So go back to my question. When you saw Jamilla did you tell her that the three of y'all had been talking about robbing ---
A. No.
Q. Do you think that was information that she would want to know about?
A. At the time it was in -- I wasn't thinking about telling her. That wasn't on my mind. I wasn't -- she -- no, I wasn't thinking about that.
Q. All right. Did you go to Jamilla's house on Friday?
A. Friday afternoon.
Q. Friday afternoon?
A. Uh huh **(indicating positive)**
Q. And you knocked on the door?

A. I knocked on the door and I called.
Q. And nobody came?
A. (NODS HEAD NEGATIVE)
Q. All right.
COURT REPORTER: Was that yes or no?
A. No. No one came to the door, or no one answered the phone either.
Q. All right. You heard about Jamilla's death at what time?
A. It was getting -- it was about dusk dark. I can't give you an exact time.
Q. All right. Dusk dark, and that was around the summer time, so approximately eight o'clock, seven o'clock?
A. Seven-thirty, eight o'clock, something like ---
Q. In the evening?
A. Something like that.
Q. Do you remember giving a statement that you got the call around one o'clock in the afternoon?
A. If that's what I told them then ---
Q. Sir?
A. Maybe. I don't remember exactly. Like I told you, I don't remember the exact -- exact time. I just know what day it was.
Q. Do you remember giving the statement to the police that you got the call about one o'clock in the afternoon?

A. If that's what the statement say, then that's what I said then. Yes.
Q. You do remember?
A. Yes.
Q. All right. So, you got the call -- or you told the police that you got the call about one o'clock in the afternoon?
A. Yes.
Q. All right. And later you gave another statement that it would have been about ---
A. Dusk dark.
Q. ---Dusk dark, and you are telling me today that dusk dark is probably ---
A. Dusk dark.
Q. If I was going to look at it on a clock it would be around seven-thirty or eight o'clock at night?
A. Dusk dark, when it starts getting dark.
Q. Sir?
A. It's when it starts getting dark, dusk dark.
Q. Okay. And we -- but we just talked about that. I just want to make sure it's clear, and we don't have questions about it, okay. This was back in June, summertime.
A. Yes.
Q. When you say dusk dark I don't know what you mean. I'm trying to put it into a clock.

A. It's -- I mean ---
Q. Approximate it.
A. It must be the -- dusk dark. Dusk dark. Seven-thirty. I ain't going to give you a specific time because I don't know when the sun go down. Dusk dark. That's the only thing I can tell you.
Q. All right, sir, around 7:30, all right.
A. Whatever, man.
Q. Okay. You remember step one, the day you got arrested? We talked about this. When you got arrested step one was bond, right?
A. Yes.
Q. What's stop two?
A. I don't know. Step two going home, that mean ---
Q. Well that's -- when you make your bond you get to go home, right?
A. Yes.
Q. All right. Step one. Step two, you talk to the cops about helping you with that charge.
A. They don't help me with the charge. They ain't helped me do nothing.
Q. Sir, I'm asking you if you you've talked with them about ---
A. Yes. Yes, man.
Q. So that's step two.

A. Yes.
Q. All right. Now step three is to get the Solicitor to help you with the charge, correct?
A. Solicitor ain't -- Solicitor ain't helped me with no charge.
Q. Sir?
A. The Solicitor ain't helped me with no charge.
Q. She hasn't helped you?
A. No.
Q. Okay.
A. Nobody promised me nothing.
Q. But that's what you would like for your step three, correct?
A. No. I want a favor with them -- I just want -- I don't want to go to prison, I mean, that's what it is. I don't care about favoritism, help, none of that other stuff, and I done did a ride. That ain't going to be it. If I go to prison I go to prison. It isn't -- I don't expect no help. Ain't nobody helped me with my bond.
Q. Okay. I didn't understand that, so I'm going to try to ask you a question again, okay. You want help with this charge, isn't that right?
A. I ain't going to say I don't, so I want them to look favor to -- I want them to look favorable to my charge. How about that? I don't say help.

Q. All right. So, the recap question, step three would be to get help with this charge, right?
A. As little as -- yes, yes, I guess so.
Q. Why not?
A. Yes, I guess so.
Q. Okay. All right. And you have a -- your lawyer is in the courtroom with you today too, for step three; is that right?
A. She right there.
MR. GARDNER: Thank you.
No further questions, Your Honor.
THE COURT: All right. Mr. Frederick.
MR. FREDERICK: Yes sir. Beg the Court's indulgence.
CROSS-EXAMINATION BY MR. FREDERICK:
Q. James, you've testified before in prior proceedings in this case, haven't you?
A. Yes.
Q. Okay. So you've had some practice, haven't you?
A. Practice? I had practice. Yes, you can say that.
Q. All right. And you were interviewed the first time by the police in December of 2006?
A. Yes sir.
MR. FREDERICK: I can't hear you.
THE COURT: You need to answer out loud, sir.
A. Yes sir.

Q. Okay. Who was present at that ---
A. Detective Allen and Detective DiLorenzo.
Q. Dilorenzo?
A. Yes. Him.
Q. Okay. How long did that interview take? How long were you sitting in the interview room?
A. I don't know. I don't know exactly, no.
Q. No idea? More than an hour?
A. I would say about a hour, maybe a little over a hour.
Q. Just a little bit more than an hour?
A. Maybe.
Q. Okay. Now, and you are aware that we have recordings of the interviews, right?
A. Yes.
Q. And that came up the last time that you testified in this case, correct?
A. Correct.
Q. Okay. Now, since then, think back. Tell me the next time that you talked with police or prosecutors, or anybody like that.
A. What was the question again?
Q. Think back, and the next time after that first interview ---
A. Uh huh **(indicating positive)**
Q. ---Tell me when was the next time you spoke with

investigators.
A. I don't know. I can't -- I can't be precise. I don't -- I talked to them several times. I don't know the exact -- the next time, I don't know that.
Q. You are not sure of the date, but you've talked to them several times?
A. Yes.
Q. Okay. And did you talk to anybody this morning?
A. Yes. I talked to my lawyer this morning.
Q. You talked to your lawyer. Did you talk to the prosecutor also?
A. She asked me a few questions.
Q. I can't hear you.
A. He asked me a few questions.
Q. Okay. When is the last time you got high?
A. Describe high.
Q. When is the last time that you used a drug ---
A. Marijuana.
Q. ---To get high?
A. Marijuana.
Q. When was that?
A. Last night, eight o'clock.
Q. Okay.
A. You was the one that was worried about me being high, right?

Q. That's right. We don't want you to come in here ---

THE COURT: All right, gentlemen, let's go over the ground rules, apparently. The attorney asks the questions, the witness answers them. Move along.

MR. FREDERICK: Thank you, Judge.

Q. Today -- let me ask you this. You were charged with burglary. You got a conviction for burglary?

A. Yes.

Q. All right. That's breaking into a house, correct?

A. No. Beachwear store.

Q. Okay. You were convicted of distribution of cocaine?

A. Yes.

Q. Right now you are charged with possession of cocaine. That would be a second offense, wouldn't it?

A. Yes.

Q. Okay. And so you are looking at some pretty serious prison time over that?

A. No, because my possession of cocaine isn't -- I'm being charged with possession of cocaine first offense, not second offense.

Q. But they are only charging you with first offense?

A. Yes.

Q. I see. And you are charged with threatening a public official; is that right?

A. Yes.

Q. And that carries up to five years in prison. I'm sure you are aware of that.
A. Yes.
Q. Okay. And you haven't been to court on either of those charges yet, have you?
A. No.
Q. The day that you came forward with information in this case ---
A. Uh huh **(indicating positive)**
Q. ---You were arrested on that same day, weren't you?
A. Yes.
Q. You were arrested for the cocaine charge that's still pending?
A. Correct.
Q. That was a yes?
A. Correct.
Q. Okay. When you were arrested you told them you had information on a murder case; you wanted to talk with someone?
A. Yes.
Q. And you wanted them to help you on your drug charge in exchange for giving them information, didn't you?
A. Not exactly help me on my drug charge.
Q. And you do remember the last time you testified, and you know that we have the tapes of the ---
A. Yes. Yes.

Q. ---Recording?
A. Yes.
Q. You know that we have the recording from when you were in the patrol car?
A. Yes.
Q. Do you remember that?
A. Yes.
Q. Okay. On the way to that interview -- that was December 13th, 2006, in the back of the patrol car, did you tell the officer that you were going to give them information if they made your drug charge disappear?
A. Yes. I probably said that.
Q. Did you say, if things work out for me I'll give you information?
A. Yes. I said that.
Q. Did you say, if y'all boys help me make this little charge I got right here disappear I'll give him up?
A. Yes, sure did.
Q. Did you say, you help me get rid of this coke charge, I'll tell you anything you want to know, I'll do anything you want me to do?
A. Don't you already got it written -- oh, I can't ask you a question. Yes, that's what I said. Don't worry about it.
Q. Did you say that you wanted to work it out so you could go to drug rehab, so this stuff wouldn't be on your record?

A. Yes. Sure did.
Q. You had a baby?
A. Yes, got a daughter.
Q. You wanted to be home by Christmas?
A. Yes. I was home by Christmas, but nobody is helping. My wife is ---
Q. Did you say, I'm going to tell them everything they want to know, I want to see my baby; want to see my girl?
A. Yes.
Q. And you didn't realize that you were being recorded when you were in a patrol car?
A. No.
Q. Your attorney in the courtroom today ---
A. Yes sir.
Q. You have a cocaine habit?
A. Yes.
Q. On the day that you were arrested ---
A. Uh huh **(indicating positive)**
Q. ---You were strung out?
A. No.
Q. On the day that you were arrested -- let me ask you this, have you testified, under oath, in prior proceedings in this case, that you would go into withdrawals if you didn't use cocaine?
A. Yes. I told them that.

Q. You were addicted to cocaine?
A. Yes. Told them that too.
Q. In the prior proceedings -- at first you said that you had been using for fifteen years; do you remember that?
A. I was fifteen.
Q. Then you said it was since you were fifteen; is that right?
A. Correct.
Q. Okay. And that came to nineteen years you've been using cocaine?
A. Yes.
Q. All right. Now, you said earlier, on your direct-examination, you said that the marijuana that came from Jamilla's house, it was purple haze?
A. Correct.
Q. All right. Purple haze, that's pretty good stuff, right?
A. Top of the line.
Q. Top of the line?
A. Correct.
Q. You told the investigators it was good stuff, and that was what y'all were smoking at the hotel?
A. Correct.
Q. Did you tell the investigators that a guy named "Showcase" was with Jimmy Lee when he supposedly killed the

girls?
A. Correct.
Q. I didn't hear you.
A. Yes.
Q. You told the investigators, and you said today, that you knew it was Jamilla's coke because it tasted like cucumbers, right?
A. Correct.
Q. And Jamilla's coke tasted like cucumbers?
A. Correct.
Q. I believe it was when Mr. Gardner was questioning you, and you told the investigators before, that this happened at room [redacted] at the Days Inn?
A. Correct.
Q. Okay. And now, do you recall investigators addressing to you, maybe it was the Knight's Inn?
A. Yes, I remember that.
Q. All right. But it wasn't the Knight's Inn?
A. No.
Q. It was the Days Inn?
A. Yes.
Q. You are positive?
A. Positive.
Q. Okay. On Thursday night, the night that Jamilla was killed, the best we know ---

A. Uh huh **(indicating positive)**

Q. ---You saw her riding her moped?

A. Wednesday. I seen her riding a moped through the block on Wednesday.

Q. It was on Wednesday?

A. Wednesday.

Q. Okay. Now, do you recall speaking with Officer Joe Necessary?

A. Yes. Yes sir.

Q. Do you recall telling Officer Joe Necessary that you saw Jamilla on Thursday night?

A. Wednesday, Thursday, one of them, either Wednesday day or Thursday. I don't -- like I said, I can't recall the exact day.

Q. Okay. Who did Jamilla get her cocaine from?

A. The only person I know she was getting it from was a Mexican, and his name was "Poppy", and he drove a green Navigator on 24es, or 26es, one or the other.

Q. "Poppy". He drove a green Navigator? You said "Poppy"?

A. "Poppy".

Q. Okay. And did you ever see her get cocaine from "Poppy"?

A. Yes.

Q. Tell the jury about it.

A. I was in the house when he delivered two kilos of cocaine to her.
Q. Two kilos?
A. Two kilos. About the size of that Bible right there, two of them about the size of that Bible right there.
Q. So two kilos would be about twice the size of the Bible there?
A. About the size of it, not twice, about the same size.
Q. Okay. Did you get along okay with Jamilla?
A. She was a close friend.
Q. She was a close friend?
A. Yes.
Q. Okay. Did she have a camera on her door?
A. That's what she told me. I -- the police told me they never found the camera, but she told me she had a camera for security.
Q. Okay. So if she didn't know you she wouldn't let you into her house?
A. Correct.
Q. That's right?
A. Yes.
Q. Okay. And if she had the camera that would have been the purpose of it?
A. Yes.
Q. Okay. You said you went by Jamilla's house on Friday?

A. Yes.
Q. And that was about one o'clock?
A. About -- a little after lunch, because I was taking money to pay her.
Q. So noon, one o'clock in the afternoon?
A. Yes. I was taking -- I was taking my -- I was -- see, I owed her Fifty Dollars. I was taking her money to her house to pay her.
Q. You owed her money from when you saw her on the moped, right?
A. Uh huh **(indicating positive)**
THE COURT: You need to say yes or no.
A. Yes sir. Yes.
Q. Didn't say anything to the investigators about your cousin, Christy Pearl, being with you, did you?
A. No.
Q. And at that time, noon, one o'clock that day, when you went by Jamilla's house, you had no idea she was dead?
A. No.
Q. And you said you found out that she was -- had been killed when you were at a cookout at Futrell Park?
A. Yes.
Q. What day was that?
A. On a Friday.
Q. Okay. The last time you testified you said maybe it

was Thursday ---
A. It was Friday.
Q. ---But it was definitely Friday?
A. Because we was having the cookout for my little cousin.
Q. Okay. And, as Mr. Gardner asked you, and if you recall, it was in your recording, your recorded statement, you told the investigators that you received a phone call at one o'clock P.M. on Friday. Do you remember that?
A. Okay.
Q. Yes or no?
A. No. I don't remember the one o'clock, but if that's what I said, then maybe that's what I said. At the time I don't know. I just know I got a phone call and they told me that she was dead.
Q. Okay. Wasn't at the same time you were going by Jamilla's house though?
A. No.
Q. Okay. Now, sometime after the murders you said, in prior proceedings, that some of Jamilla's people got mad at you because they said you were selling her weed on the corner?
A. Yes. They said I had stole -- they said I had killed her and took her -- her weed, but the weed I was selling was something completely different from what she had. She had purple haze, and I had something -- I had something completely different.

Q. Now, do you recall -- you do recall when you testified in this case before, don't you?
A. Uh huh **(indicating positive)** Yes.
Q. All right. You recall that you told us at that last proceeding, and you told Investigator DiLorenzo, that that wasn't Jamilla's ---
A. It wasn't her weed.
Q. ---It wasn't Jamilla's weed that you were selling ---
A. Not at ---
Q. ---And you told that that was not Jamilla's weed because you had gotten good stuff.
A. Yes.
Q. You had gotten good stuff from somebody in Greenville or Spartanburg?
A. Greenville.
Q. Do you remember saying that Jamilla's weed was swag?
A. Swag. At the time she was selling swag. At the time she had some brown, and it was -- it was dry. It was swag.
Q. All right. And swag is what?
A. Bottom of the shelf.
Q. Not top of the line?
A. Yes.
Q. Bad weed?
A. Well, yes.
Q. I mean, it's not so good.

Q. Not so good?
A. Not so good.
Q. All right. And so you weren't selling the swag, you were selling the good weed.
A. Yes sir.
Q. And Jamilla had ---
A. At the time she had some swag.
Q. At the time?
A. Yes.
Q. Okay.

MR. FREDERICK: I have no more questions.

A. Thank you.

THE COURT: All right. Redirect.

MS. ELDER: Thank you, Your Honor.

REDIRECT-EXAMINATION BY MS. ELDER:

Q. Mr. Pearl, there were some questions asked to you and some -- I believe Mr. Frederick read to you some portions from the conversation you had with Detective Allen in the car.
A. Uh huh **(indicating positive)**
Q. You indicated that you did not know that it was recorded; is that correct?
A. Correct.
Q. And I want to clarify some of the things that you said. I want you to -- I'm going to show you this

MS. ELDER: Let me mark this.

(STATEMENT OF JAMES PEARL MARKED STATE'S EXHIBIT NUMBER 7, FOR IDENTIFICATION ONLY.)

Q. Just what has been marked for State's Exhibit 7 -- it's identification -- if you could read that, starting on page -- read that to yourself first -- starting on page ---

THE COURT: Solicitor, number one, what is -- before you start doing that, what is the purpose? Do you intend to introduce it into evidence?

MS. ELDER: Your Honor, I intend to have Mr. Pearl either read it, or I'll read it myself, to the jury, to further explain the excerpt that Mr. Frederick asked him about.

THE COURT: Show it to the Defense counsel, please.

All right, Mr. Frederick, Mr. Gardner, any objections?

MR. FREDERICK: Just a moment, Judge.

MR. GARDNER: I don't see how that's proper re---

THE COURT: Do you have an objection?

MR. GARDNER: I don't see -- my objection, Your Honor, would be ---

THE COURT: No. No sir. Do you have an objection?

MR. GARDNER: Yes sir.

THE COURT: Mr. Frederick, do you have an objection?

A. I don't.

THE COURT: All right. Very good. Ladies and gentlemen of the jury, go to your jury room. Thank you.

MR. GARDNER: But, Judge, if I may finish my -- what I was going to say -- my objection -- I don't see the necessity of going forward with the objection, and we can just move forward.

THE COURT: So you do not have an objection?

Still go to your jury room.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right. Let's clear this up real quick first, and I'm sorry I didn't cover this with you. If you have an objection -- I don't want speaking objections, gentlemen, okay, and if I ask you if you have an objection, then I expect a direct yes or no, not an explanation.

MR. GARDNER: Yes sir.

THE COURT: You either have an objection or you do not have an objection. Are we clear about that, Mr. Gardner?

MR. GARDNER: Yes sir. I apologize.

THE COURT: Mr. Frederick, are you clear about that?

MR. FREDERICK: Yes sir.

THE COURT: Very good. We'll take a short break, give minutes. Thank you very much.

(THE FOLLOWING TAKES PLACE AFTER A BREAK, AND OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: Are the State ready for the jury?

MS. ELDER: Yes sir. May we approach for a second?

THE COURT: Yes.

MR. GARDNER: The jury is not in here.

THE COURT: I asked if the State was ready for the jury, then I was going to ask, but then she said ---

MS. ELDER: Can we approach.

THE COURT: ---She wanted to approach.

MR. GARDNER: Sure.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: All right. Ask the jury to come back in, please sir.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right. Ladies and gentlemen of the jury, I meant to cover one thing with you. If at any point in time you are in the courtroom and y'all need to take a break, if the foreman can raise his hand -- I will tell you what I would like to do and what, if at all possible is, I do not want to break up the direct and the cross-examination of a witness. I want that to be done in it's entirety before we take a break. I understand some witnesses may be longer and we may not be able to do that. If at all possible I want to have the complete testimony done before we would take a break.

All right, Solicitor, continue on.

MS. ELDER: Thank you, Your Honor.

BY MS. ELDER CONTINUED:

Q. Mr. Pearl, we were talking about the information you were giving Detective Allen during your transport to the annex on December 16th, 2006. You remember that?
A. Yes Ma'am.
Q. And you don't recall it being recorded then, but you know it's recorded now?
A. Yes Ma'am.
THE COURT: Can you scoot just a little closer to the microphone.
Thank you.
Q. And I'm going to read you something, and I want you to verify the fact that you recall saying this. Okay.
A. Yes.
Q. "I ain't trying to -- you know what I mean -- I don't want to get nobody in no trouble. What you do is what you do. Now when the police catch up with you that's on you. Don't bald me, but since you know what I mean, if y'all boys can help me make the full charge right here disappear, shit, then I'll give them up. I ain't got nothing to do with it, cause I fucked that -- cause I didn't do it, so leave me in charged -- in jail, to try to protect somebody who wasn't trying to protect me, cause I know he would give me up, so if y'all gonna help me out, man, I -- I ain't saying you are gonna get me out of jail tonight, know what I mean, because they probably -- I know I'm not going home tonight, or nothing like

that. I'm just saying, if y'all can help me get a low bond, something I can make and go home, shit, I'm not -- I'm gon -- shit, I'm gonna be straight with that, you know what I mean. You can damn get rid of this coke charge or something, or not get rid of it, but you know what I mean, talk to the Judge so the shit could be low or something, man, I mean, I'll work with you."

A. Uh huh **(indicating positive)**

MS. ELDER: "I'll tell you every damn thing you want to know, and you know what I mean. Why not? It makes no difference, as long as I don't get killed, man. Word up, because I've got kids, man. I'll do whatever y'all fellows want me to do, as long as y'all don't let my name get in the streets, man, you know what I mean, cause I don't want no one knowing on the streets, man. They will kill me out there, man, for real. Man, they'll kill me. That's some real shit, man. They will kill me dead. If they even knew I was in the car talking to you about this right now they'll kill me dead, and that's the word. They'll kill me dead. I was -- you know what I mean. I wasn't there first, and y'all came to me and was like, the K & W shooting, I mean, I heard of the K & W shooting, but I don't know who did that K & W shooting, so there ain't no need for me to try to put somebody in the first, you know what I mean, and y'all go and lock them up and -- and then it don't stand, and then y'all look stupid, and

then y'all be mad at me, so I ain't gonna do that. I'm gonna give you something that -- you know what I mean -- I give you the real information."

Do you recall saying that?

A. Yes Ma'am.

Q. I believe Mr. Frederick also asked you about talking with Officer Necessary. You remember being in the car with him?

A. Yes Ma'am.

Q. And you told him -- did you tell him that you and Jimmy Lee and Christopher were in a car talking about a robbery?

A. Yes Ma'am.

Q. Did you say that you heard Chris and Jamilla getting in a fight over money he owed her?

A. Verbal altercation.

Q. That's right.

A. Yes.

Q. Did you tell Necessary that?

A. Yes Ma'am.

Q. Did you tell him ---

MR. FREDERICK: Judge, I don't think the entire text of his statement to Necessary comes under the Doctrine of Completeness. The only thing that we ask ---

THE COURT: All right. All right. Just a second. Y'all come and talk to me over here, please. Thank you.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: You may proceed, Ma'am.

MS. ELDER: Thank you, Your Honor.

Q. Mr. Pearl, did you, in December of '06, did you tell the police what you knew about this murder?

A. Yes Ma'am.

Q. Did you make any of it up?

A. No Ma'am.

Q. Do you see any benefit to you for making anything up?

A. No Ma'am.

Q. And your statements since that time, have you been truthful?

A. Yes Ma'am.

Q. Got a little mixed up on the time?

A. On the time.

Q. But the underlying facts, are you clear?

A. Yes Ma'am.

Q. And you are still clear on that today?

A. Yes Ma'am.

MS. ELDER: No further questions, Your Honor.

THE COURT: Anything on those particular questions, Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: Mr. Frederick?

MR. FREDERICK: No sir, Judge.

THE COURT: All right.

You may step down, sir.

All right, Solicitor, your next witness, please Ma'am.

MS. ELDER: Your Honor, we would ask Mr. Pearl be excused.

THE COURT: Any objection to that, Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: Mr. Frederick?

MR. FREDERICK: No objection.

THE COURT: All right, sir, you are excused.

Your next witness.

MS. ELDER: Thank you, Your Honor. The State would call Rodney Turner.

THE COURT: Please come around to be sworn, sir.

RODNEY TURNER, JR., being first duly sworn, testifies as follows:

THE COURT: All right, Solicitor, you may proceed, Ma'am.

MS. ELDER: Thank you, Your Honor.

DIRECT-EXAMINATION BY MS. ELDER:

Q. You are Rodney Turner?

A. Yes Ma'am.

Q. Where do you currently live?

A. Columbia, South Carolina.

Q. Do you know Jamilla Hightower, or did you know Jamilla

Hightower and Monica Wall?

A. Yes Ma'am.

Q. How did you know them?

A. Jamilla was my first cousin, and Monica was a friend of the family.

Q. And did you live here in Horry County?

A. Yes Ma'am.

Q. When was that?

A. 2006 of last -- well, two years ago.

Q. What kind of business was Jamilla in?

A. Well, she was in the drug business. She did some things that ---

Q. Tell me about her business. Tell me about her business practice.

A. Mainly selling narcotics, weed, coke, off and on basis.

Q. Did she sell it out of her house?

A. She selled it out her house, and as well as meeting people on the side, so ---

Q. Have you been in her house before?

A. Yes Ma'am.

Q. Tell me where she kept her stuff at.

A. She kept mostly of her weed, marijuana, in the kitchen, kitchen cabinet, front of the refrigerator. I know she kept her coke in the -- in the cabinet, I mean, in the drawer in her bedroom.

Q. Have you ever been back to the bedroom?
A. No Ma'am.
Q. If you will look at State's Exhibit 3.
A. She kept her weed right here.
Q. And you are pointing to the right side of the picture?
A. Yes Ma'am. That's the cabinets, and then ---
Q. Go ahead. I'm sorry.
A. Yes. And I know she had a cookie jar sitting right here, and she had like a little bit of weed in there as well.
Q. Okay. State's Exhibit 6. What's down that hallway?
A. Two room -- the room on the right and the room on the left, and that right there is a closet door.
Q. And do you know if she kept any stuff in the back?
A. The only thing I know she kept in the back was just her coke, and probably money.
Q. Do you know where she kept it at?
A. In her top drawer, across the -- beside the closet.
Q. Let me show you what's been marked as State's Exhibit Number 2 for identification.
A. That drawer right there.
Q. Is that -- do you recognize that room?
A. It's never like that.
Q. Right. But do you recognize ---
A. Yes Ma'am.
Q. ---As that being Jamilla's room?

A. Yes Ma'am.

MS. ELDER: Your Honor, we would like to introduce State's Exhibit 2.

THE COURT: Any objection, Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: Mr. Frederick.

MR. FREDERICK: No objection.

THE COURT: All right. State's 2 is in evidence without objection.

(PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 2.)

Q. Now point, on State's Exhibit 2 -- when you are referring to the top drawer, what are you referring to?

A. The top drawer, right here, is where she pretty much kept her coke and stuff in, right there in that area.

Q. Okay. Now, you said -- you looked at this room. Is it normally like that?

A. No Ma'am.

Q. How is it normally?

A. It's clean, real clean.

Q. How is the rest of the house?

A. Clean. She's -- she's -- she was taught better than that, so ---

Q. All right. And you've been in there frequently?

A. Yes Ma'am.

MS. ELDER: Your Honor, I would like to publish Exhibit 2 to the jury.

THE COURT: Any objection, Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: Mr. Frederick?

MR. FREDERICK: No objection.

THE COURT: You may do so, Ma'am.

Q. Prior to her death, Jamilla's death, and Monica's, were you in house just prior to their murders?

A. Yes Ma'am. Wednesday, like Wednesday day and Wednesday night.

Q. And tell me what the condition of the house was at that time.

A. It was clean, kept up. Wasn't no trash, wasn't no clothes, no nothing anywhere. Everything was folded up and hung up real neat, so it wasn't as messy and junky like how the picture was.

Q. And why were you were at the house on Wednesday?

A. Well, I normally go there just to speak to her, see her, check on her, see how she is. She's my cousin, so I'm going to hang with my cousin because that's family. Just -- normally just -- during my everyday routine, like I always do when I get off from work, just go see my cousin.

Q. And who else was there when you were there?

A. During that time it was my son -- I had my son that

night -- I kept my son during the weekdays -- Monica, one of her good friends was Darius, my cousin, Devin, and another gentleman by the name of J.B..

Q. And were you there in the evening as well?

A. Yes Ma'am.

Q. Do you know who Chris Stephens is?

A. Yes Ma'am.

Q. Did you see him that evening?

A. Yes Ma'am.

Q. Where did you see him at?

A. He came to the house, say about 9:30, 10 o'clock. That's the first time that I've seen him there. He had on all black when he came to the house. He was in the living room area part. That's when I was already there, so ---

Q. What did he do when he was there?

A. He actually -- when he came into the house he looked so fidgety. He was just steady, like nervous, looking around. When I told my cousin -- I answered the door. When I told my cousin that it was a gentleman at the door -- he asked her to go outside, so he stepped outside with her. That day he had on all black, so when he took her outside, and that was it. They closed the door and they talked among themselves.

Q. Did you notice the car outside?

A. Yes Ma'am.

Q. Do you happen to have any idea what kind of car,

anything like that?
A. No Ma'am. I didn't know what type of car it was, but it was high beam lights on, but I know it sits high, so it had to have been some type of truck or SUV.
Q. And that was Wednesday night?
A. Wednesday night.
Q. And did you see any -- did you see the interaction between Chris Stephens and Jamilla?
A. No Ma'am. But I know when she came into the house she was pissed off. She was mad.
Q. Did y'all do anything right after that?
A. I took her -- right after that I took her to a friend's house that night, like around eleven o'clock, and she ---
Q. Whose house did you take her to?
A. John Galloway's, in Longs, Poplar.
Q. Why did you take her there?
A. I know she went there to go pick up. Normally that's where she pretty much re-up at, and after that right there she got in the car. I didn't see what she had, but I knew what she had.
Q. What did you know she had?
A. Coke.
Q. Was there where she got her coke from, Mr. Galloway?
A. Yes Ma'am. Yes Ma'am.
Q. So she had just -- you said re-up; is that what you

said?
A. Yes Ma'am.
Q. What does that mean?
A. Prepping up for the next -- for the next acquisition, as you want to call it, so ---
Q. She was storing up?
A. Storing up. In other terms, inventory.
Q. I got you. So Wednesday night, prior to her death, she re-uped?
A. Yes Ma'am.
Q. And what did you do when you left Galloway's house?
A. Right after we left Galloway's house which -- which is a long drive, you know, she just looked so, like I said, mad. She was real upset.

As soon as we got back to the house I dropped her off. Monica was watching my son for me. And after like that I just -- you know, after that we kind of cracked a few jokes or what-not, so -- and that was the last time. That was it.
Q. Last time you saw her alive?
A. Yes Ma'am.
Q. Have you seen Jimmy Lee Sessions there before?
A. No Ma'am.
Q. All right.
A. But I know she spoke -- she spoke of him.
Q. Do you know what the relationship was between Jamilla,

Chris, and Jimmy Lee?
A. Well, they was friends. Everything was cool at first, you know, everything was all on the kosher side, and all of a sudden it just started going down. Once money started being involved, and things started -- you know, wasn't coming into play like it's suppose to with them guys.
Q. So their relationship had deteriorated?
A. It just messed all up.
Q. Based on business?
A. Business.
Q. What business was that?
A. Drugs.
MS. ELDER: One moment, Your Honor.
Q. Do you know Antwann Higgins?
A. Yes Ma'am.
Q. Have you ever seen him over at Jamilla's house?
A. Yes Ma'am.
Q. Do you know what kind of relationship they had?
A. Cousins. We are all cousins, family.
Q. Did they get along?
A. Yes.
Q. What kind of guy is Antwann?
A. A laid back dude, real laid back, cool guy, speaks his mind, you know, loves his music, you know, so that's one cool cat that I can say, you know.

MS. ELDER: No other questions, Your Honor.

THE COURT: All right. Mr. Frederick.

MR. GARDNER: Yes sir. Court's indulgence, please.

THE COURT: All right, Mr. Gardner, any questions?

MR. GARDNER: We have no questions, Judge.

THE COURT: All right. Mr. Frederick, do you have any questions?

MR. FREDERICK: Yes sir.

THE COURT: Very good.

CROSS-EXAMINATION BY MR. FREDERICK:

Q. Rodney ---

A. Yes.

Q. ---Yesterday in the hallway outside, do you remember seeing me?

A. No.

Q. It was about four o'clock, and you were talking to two girls.

A. My cousins, Teresa and Tasha Blain, yes.

Q. Okay. I don't know who they were.

A. Okay.

Q. You told them you had got a room. You said you were going to be smoking ---

MS. ELDER: Objection, Your Honor.

A. Smoking what?

THE COURT: All right. Just a second.

A. Smoking what?

THE COURT: Just a second, sir. Thank you.

Ladies and gentlemen of the jury, go to your jury room, please.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

A. Can you brief that?

THE COURT: Just be quiet for a minute.

All right, Mr. Frederick, why don't you ask your questions. Let's see what the questions and the answers are.

MR. FREDERICK: That was the end of it, actually.

THE COURT: Well, let me ---

A. Well, can you -- can you ---

THE COURT: Let me hear the question again.

A. Okay.

Q. Yesterday in the hallway outside ---

A. Uh huh **(indicating positive)**

Q. ---You didn't see me.

A. Okay.

Q. You were talking to two girls.

A. Uh huh **(indicating positive)**

Q. Those were your cousins?

A. Yes.

Q. Okay. You said you had a room, and you were going to be smoking.

A. Smoking. Did you hear me say smoking what? Brief that.

Q. That's all you said.

A. Smoking what?

THE COURT: All right.

A. I mean I -- I ---

THE COURT: Sir, I appreciate that.

A. Yes.

THE COURT: You need to answer the question. He asked you if you said something, and the proper way to answer is ---

A. Yes. I -- if I did I said it, but that don't mean I'm going to actually do something that I'm going to say, so ---

THE COURT: All right. Now. Thank you.

All right. Now, did you have any follow-up questions that you wanted to ask about that, Mr. Frederick?

MR. FREDERICK: No sir.

THE COURT: All right, Solicitor, your objection, please Ma'am.

MS. ELDER: Your Honor, I don't understand the relevancy to that question.

THE COURT: I agree. Sustained. You will not ask that question.

All right. Ask the jury to come back in.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right. The jury will disregard the last question asked, and Mr. Frederick, you may continue, sir. Thank you.

MR. FREDERICK: Thank you, sir.

BY MR. FREDERICK CONTINUED:

Q. You knew Jamilla Hightower, right?

A. Yes sir.

Q. You were pretty close with her?

A. Yes sir.

Q. Okay. And you said you never saw Jimmy Lee at her house?

A. No, I never seen Jimmy Lee.

Q. Okay. Before they were killed, isn't it true you would go to the house every day, or at least call them on the phone?

A. Not every day. Every other day, yes sir. So, yes, I call her mostly on the phone and talk to her if I don't go over there.

Q. You either went there every day or called them on the phone?

A. Yes.

Q. Okay. Do you recall speaking to Investigator Crosby about this case soon after the murders ---

A. Uh huh **(indicating positive)**

Q. ---The 13th?

A. Crosby, and also Detective Lorenzo.

Q. DiLorenzo?
A. Uh huh **(indicating positive)**
Q. Okay. Investigator DiLorenzo was there also?
A. No. No, just Detective Crosby, if I didn't get in contact with Detective Lorenzo, so yes.
Q. It was just Investigator Crosby?
A. Uh huh **(indicating positive)**
Q. All right.
THE COURT: Please. The Court Reporter can't distinguish what uh huh means, so you need to say yes or no. Okay.
A. Yes.
THE COURT: Thank you very much.
Q. Okay. Now, when you talked to investigator Crosby ---
A. Uh huh **(indicating positive)**
Q. ---And that was recorded, wasn't it?
A. Uh huh **(indicating positive)**
Q. Okay.
THE COURT: Yes or no, sir.
A. No sir.
Q. You did not tell him anything about Christopher, did you?
A. Yes, I did.
Q. You did?
A. Yes sir.

Q. Do not read from this, Rodney, but take a minute and read it.

THE COURT: He means, do not read it out loud. He wants you to look through it.

A. Okay.

Q. Are you done?

A. Uh huh **(indicating positive)**

Q. Okay. Anything in there about Christopher?

A. Nothing in there about him, but it must have been -- no. No, nothing.

Q. There is nothing in there about Christopher?

A. No.

Q. Okay. Now, at that time, when you talked to investigator Crosby, you told him -- let's go over some of the things you told him. Who is Pete?

A. Pete was one of Jamilla's friends. They call him "Paris".

Q. "Paris"?

A. Uh huh **(indicating positive)**

Q. Okay. Who is John John?

A. John John. He passed a long time ago. That's "Boss".

Q. That was "Boss"?

A. "Boss".

Q. Okay. But he was not deceased at that time?

A. No, he wasn't deceased at that time.

Q. Who was he? I mean, I -- who was he in relation to Jamilla?
A. He was friend of the family.
Q. What did you tell Investigator Crosby about John John?
A. That he stayed at the house with her, you know, before. That's what my cousin briefed me on, that he stayed, you know, two or three weeks or a month ago, before.
Q. Okay. And you told him -- you told Investigator Crosby that John John was a guy that lived in New York?
A. No.
Q. You didn't say that?
A. No.
Q. All right. You just read what I gave you, right?
A. Yes.
Q. Okay. Did you tell him that he came to the house to pick up some drugs?
A. No.
Q. You are talking about "Boss", right?
A. No, I never seen "Boss" at the house come get no drugs. I just know my -- I just know he stayed there.
Q. I'm asking you about John John ---
A. Okay.
Q. ---And what you told Investigator Crosby about a guy named John John.
A. I never said anything about a John John being in New

York and coming and picking up drugs. I know John John, which is "Boss", stayed at the house with Jamilla, my cousin, but other than that, no, never said anything like that.

Q. Okay.

A. Uh uh **(NODS NEGATIVE)**

Q. So your response is, you never said that to Investigator Crosby?

A. No.

Q. Okay.

A. I don't know nobody from New York named John John.

Q. Okay. That's okay, Rodney.

A. Yes, I know.

Q. Who is the "Six Shot Crew"?

A. I know they are a rap group.

Q. They are a rap group?

A. Yes, real cools of the family, real laid back guys, yes.

Q. Real laid back guys?

A. Yes.

Q. What did you tell Investigator Crosby about the "Six Shot Crew"?

A. Nothing about "Six Shots".

Q. You didn't?

A. No, I never said anything like that. Where is this coming from? I never said anything about "Six Shot ---

Q. You know that that interview was recorded. You answered that already, right?
A. But I never said anything about "Six Shots".
Q. Okay. Any of them in the audience out there?
A. No.
Q. Okay. Now, so you are saying you didn't say anything about "Six Shot Crew"?
A. If I said anything it's from what people saying, but not them to be involved with my cousin's murder.
Q. Okay. I didn't say that.
A. I know.
Q. I just asked you what you told him. You said you didn't say anything to him, correct ---
A. No.
Q. ---About the "Six Shot Crew"?
A. No.
Q. That's a no, you did not ---
A. No, I did not ---
Q. ---Mention to him about ---
A. ---Mention anything ---
Q. ---Such group?
A. ---About "Six Shots Crew".
Q. Okay. Now, you said, just a little while ago, Antwann Higgins was a real laid-back guy, a cool cat, he liked to chill and listen to his music, right?

A. Yes sir.
Q. All right. Did you not tell Investigator Crosby ---
MR. RICHARDSON: Your Honor, I would object. I believe I know where he's going here. If we can approach the bench briefly.
THE COURT: All right. Y'all come on over to the side, please.
(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)
THE COURT: Continue on with the cross-examination. We will do that when we are done.
MR. FREDERICK: Okay.
A. Yes. I did, but at that time right there, when him and Jamilla got into it, when Antwann came up short, she did say he did say that, but that don't mean he's going to actually do it. I mean, that's just -- that's just out of anger, but that don't mean that he's going to actually do anything like that, especially to his cousin. Naw. That would be looking totally different up on him, so I wouldn't -- I wouldn't -- I wouldn't think that he would do anything like that.
Q. You said he had come up short. Antwann was selling drugs for Jamilla?
A. Yes. During that time he wasn't working, so yes.
Q. And he came up short ---
A. Uh huh **(indicating positive)**
Q. ---Couple of times, didn't he?

A. I don't know about a couple of times, but I know about that one time.
Q. What else did you tell Investigator Crosby about what you knew as far as Antwann Higgins at that time?
A. Before? Well, I just told him exactly what I know from the time of me being at the house, who I seen at the house, who was all at the house, and that was it, and this right here, when he asked me about Antwann, you know, how they got into it. He brought that up to my attention, you know, but yes, my cousin Jamilla brought it up to me about what he said, and during that time right there I was there, but it was just out of emotions, out of frustrations, out of arguments, but on top of that it wasn't nothing that was going to accumulate to that matter of him killing her. So all that right there was just all squash, and left alone, but then again, everybody was talking, so like I said, that's too deep right there for that. No, I wouldn't never see anything, especially family, no, because if anything I'll be pretty much in the middle of it.
Q. You were close to Jamilla?
A. I'm close to all my family, but yes, me and Jamilla grew up together, so yes.
Q. So in June of 2006 you wanted to help them figure out who killed her, right?
A. Yes, with the -- with this case.
Q. All right. And today you want to help them find out

who killed her, or convict the people who are responsible?
A. No. No. No. No. No. I'll let y'all do that. Me, I'll go by what my cousin say, my cousin tells me. I don't go off the streets. You know, if my cousin got a problem, I'm going to ask that question. You all right, cous, and she would tell me. I know on some occasions where she would say something about them two, Mr. Jimmy Lee and also Mr. Chris, so I asked my cousin, and if she tells me she tells me, she don't, but some days she would talk to me, and it was just that bond.
Q. Just to recap, tell me who -- they are actually new questions. Tell me who Melissa Gomez is.
A. That's Antwann Higg ---
Q. Tell the jury.
A. Melissa is Antwann's girlfriend. They've been going together for a while, so that's who she is to Antwann, his girlfriend.
Q. Did Melissa ever live in Jamilla's house?
A. Well, it was Melissa's house first. It was her mother's. Her mother moved out, Jamilla moved in to help out with the rent, so yes.
Q. Did Antwann stay there with her too?
A. Yes.
Q. Then Jamilla moved in ---
A. Uh huh **(indicating positive)**

Q. ---And Monica?
A. Yes.
MR. FREDERICK: Judge, that's all the questions I have. There was a matter that we were going to reserve.
THE COURT: All right. Is there any further questions. re-direct questions?
MS. ELDER: Just quickly, Your Honor.
THE COURT: All right. Very good.
REDIRECT-EXAMINATION BY MS. ELDER:
Q. Mr. Turner, the document that Mr. Frederick was questioning you off of, that's not your handwritten statement, is it?
A. No Ma'am.
Q. And that's not a copy of what you actually said, is it?
A. No Ma'am.
Q. Is that a summary, I believe. Actually, at the top it says Summary of the police officer's interview.
A. Incident below is a summary of information obtained in interview, yes.
Q. Does it contact everything you told him?
A. No.
Q. And there are some discrepancies; is that correct?
A. Yes. It looks like it's some discrepancies, because half of this stuff I haven't even said. I'm sorry. But just being real, I had never -- John John Hunt, no. No.

Q. Now -- and just briefly about Antwann Higgins and his -- I don't want to get into the conflict, if any they had, but any conflict he had Jamilla -- with Jamilla, was that prior to her death?

A. Yes.

Q. Was that a good while prior to her death?

A. Yes. That was like down the road two -- five hundred meters down the road, I mean, from here to Alaska, so that's nothing to even stress in the back of your mind.

MS. ELDER: No further questions, Your Honor.

THE COURT: Any follow-up questions, Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: Mr. Frederick, do you have some follow-up questions to the questions just asked by the Solicitor?

MR. FREDERICK: Beg the Court's indulgence.

THE COURT: Yes sir.

MR. FREDERICK: Thank you.

RECROSS-EXAMINATION BY MR. FREDERICK:

Q. Rodney ---

A. Yes sir.

Q. ---Was Investigator Crosby making stuff up?

A. Well, I know he didn't ever ask me anything about John John and New York, and all that other stuff. I briefly, you know, gave him everything that I know from the time that I talked to Officer DiLorenzo and another -- and the other lady

detective, but other than that, everything that I said I said, but John John, like I said, is "Boss" who passed -- rest in peace -- he stayed at the house, but as far as this information with New York, no. No. Never said it.

Q. Just now the Prosecutor said, everything you said was not in that summary; is that right?

A. Yes. Everything is not in that summary.

Q. But everything is in your recorded interview; is that accurate?

A. I played Myrtle Beach High School, J.B. did attend at Kingstree, yes, he was at Jamilla's house, he lived across at West Wind.

Q. J.B. is Josh Best?

A. Yes. Never said anything about John John is a black male that resides in New York, travels often. I don't even, you know, know a dude named John John from New York, but I know John John that's "Boss". That's when he said John John. A champagne color -- no, like I say, half of this stuff here I never said. He had narcotics. I did leave my son with Monica while I took Jamilla to -- yes, John John -- but half of this stuff here I never said.

MR. FREDERICK: Thank you.

I have no further questions.

THE COURT: All right, sir.

Do you wish the witness to be excused?

MS. ELDER: Yes sir, Your Honor.

THE COURT: Any objection?

MR. FREDERICK: Yes sir.

THE COURT: All right.

MR. FREDERICK: We have a Subpoena for him, and we were not able to find him and serve it on him, and we would ask the Court to ask him to remain here through the remainder of the trial.

THE COURT: All right. I'm going to allow you -- you have a subpoena in your -- now?

MR. FREDERICK: Your Honor, our investigator has it because he was trying to serve it on him.

THE COURT: All right, sir. You are not released from the State's Subpoena at this point in time. You are going to remain at the call of the Court. Please give any information that you need to, as far as your telephone numbers and your addresses, so that you can be on immediate call from the Court. Give that to the Solicitor. Thank you very much.

MS. ELDER: Your Honor, could we approach on an issue, briefly?

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: All right. So we are clear about that, you can leave, but if you are called to come back by the Court you must come back. You are still under subpoena. Do you understand that?

A. Yes sir.

THE COURT: Very good. Thank you very much. You are released.

All right. Y'all come here and talk to me about the next witness. Sorry.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: All right, ladies and gentlemen, there are some matters that I have to take up outside your presence, and hope we can work a little bit longer, because I'm going to have to ask you to come back at 2:15. It was not my intention. We were going to go through some more before I excused you for lunch, but there are some other matters. I'm going to have to have you back in your jury room at 2:15, so -- now, please remember -- and I'll -- you'll probably get sick of me saying about this. Don't talk about this case. Don't allow anybody to talk to you about it. Please wear your juror buttons when you are about and going to lunch, and on about your activities between now and 2:15. Whatever inconvenience that is to you, I'm sorry, but I want to make sure that nobody says something in your presence that they shouldn't, so I'll see you back in your jury rooms at 2:15.

You take your notebooks and just leave them on the table in the front of the jury room, please.

All right. Thank you very much.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE

JURY.)

THE COURT: All right. Before we get away from it, Mr. Frederick, is there anything on the last witness that you wanted to put on the record?

MR. FREDERICK: Judge, we intended to elicit from that witness -- and we asked a question, or were about to ask a question, that he was told by Jamilla that Antwann Higgins threatened to kill her.

THE COURT: And ---

MR. FREDERICK: And on the ---

THE COURT: Thereafter -- and I appreciate that -- but thereafter, that's what he said.

MR. FREDERICK: He didn't come out and say that, Judge.

THE COURT: Well, I respectfully disagree, but I'll hear you. You can make your motion, but I respectfully disagree. There's no -- it was clear. It was clear that's what he said. Go ahead.

MR. FREDERICK: I just -- what I remember was just that that was not hearsay. It was not offered for the truth of the matter asserted. It was offered to show the state of mind of the person speaking, and that was all.

THE COURT: All right, sir.

MR. FREDERICK: He did come very close to saying it.

THE COURT: I -- I would just say that the testimony that he gave thereafter to you, and in response to the

question asked by the Solicitor, I think, is clearly indicated, the issues that you wanted to have brought before the jury in this particular case, so I respectfully decline to allow you to explore it any further.

All right. Now, the witnesses, Solicitor, that you are going to call.

MR. RICHARDSON: Your Honor, I'll go ahead -- we can remedy three witnesses at one time.

THE COURT: Very good.

MR. RICHARDSON: And the witnesses are Antwann Higgins, Matthew Campbell and Christy Pearl.

THE COURT: Okay.

MR. RICHARDSON: I believe Mr. Pear is on the top ---

THE COURT: All right.

MR. RICHARDSON: ---Followed by Mr. Higgins, and then Matthew Campbell.

THE COURT: All right. All right. Starting then with Christy Regina Pearl.

MR. RICHARDSON: Your Honor, she's got a conviction for forgery, and the State believes that that should come in.

THE COURT: All right, sir, and when was that?

MR. RICHARDSON: She was convicted -- placed on probation in 2006.

THE COURT: All right.

MR. RICHARDSON: She got two years probation. She is

off probation now.

THE COURT: All right. That was forgery ---

MR. RICHARDSON: One to Five Thousand is how they have it listed.

THE COURT: All right.

MR. RICHARDSON: That, of course, would be less than Five Thousand.

THE COURT: All right. Very good.

All right. Anything else that you are aware of, Mr. Gardner, regarding Ms. Pearl?

MR. GARDNER: Not that I'm aware of, Your Honor.

THE COURT: Anything that you are aware of, Mr. Frederick, that you would want to ask her about as far as convictions?

MR. FREDERICK: That's the only thing.

THE COURT: All right, sir. Very good. All right. The next one then is -- this one is Antwann Higgins. What does his record reflect?

MR. RICHARDSON: Your Honor, it looks like he's got a 2004 conviction for possession of other controlled substance. He got sentenced to twenty-three days. That's less than a year.

THE COURT: All right. Possession other than a controlled substance, Schedule One to Five.

MR. RICHARDSON: Other controlled substance, possession

one to five, that would carry six months maximum.

THE COURT: All right.

MR. RICHARDSON: He also has an unlawful carrying of a weapon contemporaneously with that, from October of '04. Of course that carries one year only, not in excess of one year.

THE COURT: All right. Hold on a second.

What about the -- okay, they haven't gotten to that. I'm sorry. Unlawful carrying of a weapon.

MR. RICHARDSON: Yes sir.

THE COURT: So those two matters in 2004, do you agree or disagree that those would not be matters that you could ask about, Mr. Gardner?

MR. GARDNER: I don't believe I'm going to go -- I don't think I can ask about it, Judge.

THE COURT: All right. Mr. Frederick.

MR. FREDERICK: No sir. Based on your prior ruling in the other witness.

THE COURT: As far as the one year.

MR. FREDERICK: Other witness. We are not going to ask about that.

THE COURT: So the next one then he's got charged -- and this one is in 2007. That's possession of less than one gram of ice, crack, or crack cocaine. That one obviously would be -- what's the potential there? It's ---

MR. RICHARDSON: Your Honor, the court charge that he

got on that was just the possession of marijuana, simple possession.

THE COURT: It was -- well, is that ---

MR. FREDERICK: There is no disposition on crack.

THE COURT: Is that -- is that clear? I -- all right. Well, it says convicted. I mean, under both of them -- I understand there's both of them -- is arrested.

MR. RICHARDSON: Okay, Your Honor. I see what you're talking about. You are talking about further down the page.

THE COURT: Yes.

MR. RICHARDSON: Down at the bottom of the page. Yes sir. That, of course, they would be able to ask about that. That carries, of course, five years. He got five years suspended to six months and three years probation.

THE COURT: That was distribution of cocaine base first, correct? Is that the charge?

MR. RICHARDSON: It's distribution ---

THE COURT: Manufacturing.

MR. RICHARDSON: ---Or PWID, yes sir.

THE COURT: All right. And -- all right, so that would be in 2007. Certainly be able to ask about that.

MR. RICHARDSON: Yes sir.

THE COURT: All right. Let's see, going on -- then ---

MR. RICHARDSON: He just got convicted this past March on trafficking.

THE COURT: On trafficking charge, trafficking -- trafficking first. Is that ten grams, but less than twenty-eight grams, correct?

MR. RICHARDSON: Yes sir.

THE COURT: All right. So that would be one that can be asked about.

The other matters were nolle prossed.

MR. RICHARDSON: Yes sir.

THE COURT: All right. Then again in 2008. The previous one was -- the trafficking was 2000 -- March of 2008.

MR. RICHARDSON: Yes sir, Your Honor.

THE COURT: And then, let's see -- in March 19th of 2008, and there is the distribution of cocaine first convicted ---

MR. RICHARDSON: I can only assume that it's the revocation of the probation, Your Honor.

THE COURT: All right. Let's see what that says.

What's your understanding of that, Mr. Frederick or Mr. Gardner?

MR. FREDERICK: The dates don't make sense. I mean, it reads two trafficking and two PWID or distribution, but the dates don't really make sense because the first trafficking says March 13th, the second one says March 19th. That would sound like it should be a probation violation.

THE COURT: Probation revocation, because it looks like

it happened the day after he was convicted, or a couple of days after he was convicted of the trafficking charge, then it shows that -- and the sentences are the same.

MR. FREDERICK: When -- depending on when ---

THE COURT: So that appears to be a probation revocation that he received, as best I can tell -- the best I can interpret this is, on March 19th -- that was the probation revocation of the distribution charge that he got in 2007.

MR. FREDERICK: It looks like it.

THE COURT: So what I would have you then is -- you can ask him about the -- or that he has been convicted of the distribution of cocaine base, first offense, and the trafficking of crack cocaine, weight ten to twenty-eight grams, first. Those were the two matters that he could be cross-examined about then. All right. So he's got convictions for both of those.

MR. RICHARDSON: Yes sir.

THE COURT: All right. And then the last one we have here is Matthew Campbell; is that correct?

MR. RICHARDSON: That is correct, Your Honor.

THE COURT: All right. And what -- what issues do we have with Mr. Campbell?

MR. RICHARDSON: Your Honor, the first page on that NCIC deals with pending charges he has in Federal Court. Of course I have no control over what they do in Federal Court.

THE COURT: All right, sir. And what else is there?

MR. RICHARDSON: Your Honor, he does have -- he has a '96 conviction for pointing and presenting firearms at a person. He was sentenced to two years probation December 2nd, 1996. Of course that two years would have -- he would have completed probation. December of 2008, it being January, 2009, it would be beyond the ten year period.

THE COURT: Do you agree or disagree with that, Mr. Gardner?

MR. GARDNER: It looks like the math is right if he got off -- if he did, in fact, get off of probation in December.

THE COURT: To -- whether he went to jail or probation, two years is December of '96, and two years is December of '98. If he served, I mean, the maximum sentence ---

MR. FREDERICK: Right. He is -- he is ---

THE COURT: ---So whether it was probation or an active sentence, you know, so it was two years, so the two years -- and so then that ten years then would have expired. Do you disagree with that, Mr. Frederick, or Mr. Gardner? Do y'all disagree with that?

MR. GARDNER: I don't disagree that the time has expired. We -- I can't recall if we brought that up at the first trial or not, but ironically, if it hadn't been postponed from last time it would have been within the two year window.

MR. RICHARDSON: Your Honor, actually it was December 2nd, was when it entered, so if we would have gone ---

THE COURT: So he would have been able -- at the last hearing he would have been able to be asked about it then.

MR. RICHARDSON: Not necessarily, Your Honor. It was scheduled for December 5th.

THE COURT: When was the original trial?

MR. RICHARDSON: The first trial ---

THE COURT: The first trial was in November.

MR. RICHARDSON: But I'm talking about at the second trial. It would have been -- I think Mr. Gardner is saying --

THE COURT: Well, did -- Mr. Campbell didn't testify in the first trial?

MR. GARDNER: He testified, yes sir.

MR. RICHARDSON: He did testify in the first trial.

THE COURT: All right.

MR. GARDNER: I would ask the Court to allow us to do it. There has been no ---

THE COURT: I think, in the essence of fairness, just that it is something that -- that -- I'll -- I'm going to allow them to do so, just because of the delay in the trial, because of the mistrial in the first one, I'm going to allow them to ask about that, and that's the -- that's pointing and presenting.

MR. RICHARDSON: Your Honor, may we reserve that to find out if he did get off probation prior to December of '98?

THE COURT: Well, it doesn't matter, I mean, whether he got off probation or not. I understand, two years, whether it's probation or service, expired December of '96, to -- and he was given two years, that's '98. Ten years from that is 2008. I understand that. What I'm saying is, as a matter of fairness, there was -- the original trial was in November ---

MR. RICHARDSON: Yes sir.

THE COURT: ---Okay, so ---

MR. RICHARDSON: Your Honor, I'm saying if -- if we do determine that he was terminated prior to November 3rd, which is when we held the original trial.

THE COURT: All right. What's -- let's leave it at this. If he was asked about it at the original trial in November he can be asked about it in this trial.

MR. GARDNER: Yes sir. Thank you.

THE COURT: All right. Y'all go to the transcript. If he was asked about it in November he is asked about it now.

MR. GARDNER: Does the State have a copy of that transcript?

MR. RICHARDSON: I do not have a copy of Matthew Campbell's transcript.

THE COURT: Y'all didn't get a copy of the entirety of the trial?

MS. ELDER: No sir.

MR. RICHARDSON: No sir.

THE COURT: And y'all can't recall, as you are sitting here, y'all can't -- nobody can recall, one way or another?

MR. RICHARDSON: Your Honor, I can look at my notes, but I'll be fine with your ruling. What I was saying that -- was that, if he was terminated from probation prior to November of 2008, then it would not have been allowed to be brought up at trial anyway.

THE COURT: Well, that's not an absolute rule. I mean, the ten -- ten years is not an absolute rule. The Court can allow it. I'm just going to -- let's just leave it at ---

MR. RICHARDSON: The State will withdraw.

THE COURT: ---As the -- in essence of fairness, I'm going to allow it. We'll just leave it at that.

All right. Okay. After that you've got what?

MR. RICHARDSON: He's got a simple assault and battery from 2003, is his court date. That carries less than a year.

THE COURT: Well, that would have been a thirty day sentence then.

MR. RICHARDSON: Yes sir.

THE COURT: All right. What else does he have?

MR. RICHARDSON: On to the next page, also in 2003 he's got some drug charges, Your Honor. He got five years suspended on a hundred days and three years probation.

THE COURT: And that was in 2003?

MR. RICHARDSON: Yes sir, Your Honor.

THE COURT: All right. And it was ---

MR. RICHARDSON: Distribution. They will question ---

THE COURT: ---A distribution charge. All right. So that would be allowed. The --

MR. RICHARDSON: Your Honor, they did make some hay of prior charges that he had the last time. He had pre-existing charges that were disposed of. Looks like they were charged in 2005. They were disposed of in July of 2006. They went over that again and again on bias, and the State would move, there has been no underlying proof of bias on that. Other defendants that were charged at the same time were tried and convicted, so I would just move those won't be ---

THE COURT: Which charge are we talking about?

MR. RICHARDSON: I'm sorry, Your Honor. As we go on into the assault and battery with intent to kill.

THE COURT: All right. So he was charged with assault and battery with intent to kill in July of 2005.

MR. RICHARDSON: Yes sir.

THE COURT: Okay. And what happened with that particular charge?

MR. RICHARDSON: That was -- that was dismissed -- if I recall that correctly, that was dismissed sometime in 2005, or early 2006, due to failure of the victim to appear for

pretrial conferences.

THE COURT: All right.

MR. RICHARDSON: Then looks like we go into ---

THE COURT: All right. Before we get beyond that, y'all aren't intending to ask him about that, are you?

MR. FREDERICK: Judge, my question is, when was it dismissed. If it was dismissed before the start of this case I have no intention to ask about it. If it was dismissed after this case was commenced, then it does go to his motivation to testify.

THE COURT: Do your records reflect when Mr. Campbell's assault and battery with intent to kill charges were dismissed?

MR. RICHARDSON: Your Honor, I can look that up in our computer.

THE COURT: All right. Y'all look it up and let me know.

All right. Let's go on then.

MR. RICHARDSON: Your Honor, the next set of offenses is dated November of '05. The State would just say all of them carry less than a year.

THE COURT: All right. So that was reckless -- you're talking about the reckless driving, or the next ones?

MR. FREDERICK: The court date was in November of '05. I have no intention of asking about that.

THE COURT: All right, sir. All right. The next one then, you've got -- what happened with the next set of charges?

MR. RICHARDSON: Your Honor, that was ---

THE COURT: I've got here disposition, non-conviction, nolle pros.

MR. RICHARDSON: Yes sir.

THE COURT: When did that occur?

MR. FREDERICK: July, 2006, Judge.

MR. RICHARDSON: The dismiss or nolle pros occurred July 21st, 2006.

THE COURT: All right.

MR. FREDERICK: Judge, our argument -- this goes back to the -- what he said at the beginning about the Federal charges also. With motivation impeachment it doesn't go to the prosecutor's state of mind, it doesn't go to any specific deal that the prosecutor offered to them, it goes to the witness's motivation to testify, and anything that could motivate him, or color his motivation to testify that could bias him in his testimony, is admissible, and we go to, you know, **Davis versus Alaska**.

THE COURT: Okay. These charges -- and they are for armed robbery, lynching, pointing and presenting a firearm, apparently another charge, lynching second degree, those were all dismissed. He was charged that December, 2005, and they

were dismissed July 21st, 2006, okay, obviously well before the matters ever came -- came to court. I don't understand the connection here.

MR. FREDERICK: My question is, did it get dismissed before or after he spoke to the investigators.

THE COURT: Okay. You would have the records. I mean, you've got their file. You don't know that?

MR. FREDERICK: I can look it up.

THE COURT: Do y'all know that?

MR. FREDERICK: Do you know off the top of your head?

MR. RICHARDSON: Mr. Campbell's original statement to police officers were that -- and this was in the prior trial. He stated that -- he originally gave a statement to police officers that he had not seen Jimmy Lee Sessions or Christopher Stephens up to, I believe it was two weeks prior to this murder. Subsequently, long -- I think it was this past Summer, he contacted through intermediated police department, after his other charges had been dismissed, and said, well, actually I did see Jimmy Lee Sessions the night of the murder, so that his original statement ---

THE COURT: All right. I -- I think that's -- if that is the case, that I'm not going to allow y'all to ask him about those pending charges that were -- the offense date is 12/02/05, and dismissed on July 21, 2006. I'm not going to ask that.

Now, he has current charges now; is that correct?

MR. RICHARDSON: Your Honor, he's got Federal cocaine charges and possession of a weapon charge ---

THE COURT: All right.

MR. RICHARDSON: ---Pending.

THE COURT: Pending.

MR. FREDERICK: Judge, just to make the record ---

THE COURT: Yes sir.

MR. FREDERICK: ---I would ask again, do you know what the date was of that initial interview.

MR. RICHARDSON: Let me -- the initial interview ---

THE COURT: Do you have any records, Mr. Frederick, that you could search through, to maybe find that date also, while they are looking?

MS. ELDER: June 19th, 2006, Your Honor. It's on page ---

THE COURT: June 19, 2006. All right.

MS. ELDER: Yes sir. It looks like in Detective DiLorenzo's statement.

THE COURT: All right. And the point is, Mr. Frederick, what?

MR. FREDERICK: Just, Judge, it doesn't matter -- it does not matter if they were dismissed before we get to trial. What matters is, that witness's motivation.

THE COURT: Okay. But his statement in June 19, 2006,

is that he hadn't seen either of the Defendants for at least two weeks prior to the trial, I mean, prior to the murders, correct? That's his statement.

MR. FREDERICK: That's not my recollection of it, but I could be wrong.

THE COURT: All right. Hold on a second. Let's -- let's look and exactly see what his statement says. All right. This is his statement ---

MR. FREDERICK: Top of the page, Your Honor.

THE COURT: ---At that point in time.

All right. Apparently the entirety of the statement is, This afternoon I met with Matthew Campbell and his attorney. Matthew had turned himself in in the afternoon on a pending drug warrant. Prior to today I was told, etcetera, that Matthew may have some information regarding the investigation. In speaking with him he was -- told me -- he told me that Jimmy Lee Sessions and "Murder" were hanging with a guy from New York. He said that the word on the street was that those guys did the shooting. He said that no one has seen them in the area since the incident, and that he hasn't seen them, any of them, since two days prior to the incident. He also said that Jimmy Lee and "Murder" did know Jamilla. He also said that his girlfriend's name is Michelle Natalie Grant, and that she too was a friend with Jamilla.

That's his statement.

MR. FREDERICK: The purpose of that statement to DiLorenzo is to point the finger at these two Defendants, Judge.

THE COURT: Well, I don't know there's anything in the statement that he could testify to, unless he says he saw something. I mean ---

MR. FREDERICK: It doesn't -- Judge, it doesn't matter what he could testify to at the trial. What matters is his motivation.

THE COURT: And his motivation would be -- I'm having a hard time understanding your argument here, okay. I'm sorry for that, but, he's arrested for these charges in December of 2005, okay, they are dismissed in July of 2006. In June of 2000 -- I'm sorry, in July of ---

MR. FREDERICK: That's correct.

THE COURT: ---July of 2006. In June of 2006 he meets with the investigator and gives that statement that I just read, okay.

MR. FREDERICK: Before the charges were dismissed.

THE COURT: Okay. And then later on he changes his statement, apparently, correct? He gives another statement to police that's different from that statement.

MR. FREDERICK: Later on, in preparation for the trial, he gave a more detailed statement.

THE COURT: Okay.

MR. FREDERICK: The argument, Judge, is that motivation impeachment goes to the witness's motivation. Anything that was pending at the time that he gave that statement during this case, anything that he ---

THE COURT: All right. So if I allow that, then I'm going to have to allow the State to say the charges were dismissed for whatever reason; ---

MR. FREDERICK: I agree.

THE COURT: ---It had nothing to do with that.

MR. FREDERICK: I agree.

MR. RICHARDSON: Your Honor, do I get to get into the hearsay about the word on the street, too, because that's the only thing helpful he gave us back in June of 2006?

THE COURT: Why are you calling him as a witness? What's he going to say when you call -- get him on the witness stand?

MR. RICHARDSON: Your Honor, what he testified to last time, and what he testified to this time, is that on the night of the shooting -- he found out about the shooting when he was at the Myrtle Beach graduation ---

THE COURT: Okay.

MR. RICHARDSON: ---Which was the night the girls were found. The night before that he says he looks on his video camera at his home at Carolina Cove, he notices who he knows to be Jimmy Lee Sessions. He walks out, sees what's up with

Jimmy Lee Sessions. At that point they talk a bit, Jimmy Lee Sessions indicates that he's about to go pull a rip, he's got on a black hoodie sweatshirt, he's carrying a pistol, and he's going to pull a rip. Now, he continues to talk with him. They finish their conversation. Matthew goes inside. When he was asked, Matthew, you didn't tell this story -- before you told a different story back in June of 2006, what happened. He said, it didn't help me back then; I know how the system works; I wasn't getting in the middle of it.

THE COURT: Okay.

MR. RICHARDSON: And he came out with that in -- early in 2008. I believe he was spoken to sometime in the Summer of 2008 by the Police Department. I was present whenever that occurred.

THE COURT: All right.

MR. FREDERICK: Judge, if it was dismissed in June of 2006, or April, May of 2006, I wouldn't be making the argument.

THE COURT: I guess my problem -- obviously I'm struggling with this. He gives a statement. The only thing that he can testify to is that he hadn't seen -- you can't get into the hearsay in that statement, that the word on the street is these guys committed murder. Obviously that's not coming in, unless you open the door, so what he -- all he can testify to in the whole of that statement is, I told police,

in June of 2006, that I hadn't seen them for two days before the murder. That's all. Okay. That's all he can say.

Now, he will go on and testify about what -- now he's changing his story, and now it's different. Okay. So you want to get in that he was charged with some offense in 2005, he gave statement that's favorable to your clients, for whatever reason charges were dismissed approximately a month later, then when he's not facing those charges any more, in 2008 he gives a statement that's damning to your clients. I don't understand the logic in that.

MR. FREDERICK: Judge, I think when you say a statement favorable to our clients ---

THE COURT: He hadn't seen them for two days before the murder. That's all he can say about that.

MR. FREDERICK: He went forward to the police, as he was turning himself in on a drug warrant, to point the finger at our clients, because ---

THE COURT: He can't say that. He can't ---

MR. FREDERICK: ---With his attorney.

THE COURT: ---Say that.

MR. FREDERICK: Judge, it doesn't matter what he can testify to at trial, what we are talking about is his motivation to point the finger at our clients.

THE COURT: So his motivation is to say, I haven't seen them for two days before the murder. That's his motivation.

MR. FREDERICK: Judge, he went forward to point the finger at our clients and say they were responsible for the killings. His subjective intent is the basis of motivation impeachment.

THE COURT: Well then, if you are going to get into his subjective intent then you are going to have to get into the entirety of what he told the police at that point in time, that the word on the street is that those guys committed the murder.

MR. FREDERICK: No sir, because we are talking about the charges that he had pending that motivated him to go to the police.

THE COURT: He didn't come to the police, they came to him.

MR. FREDERICK: He turned himself in with his attorney, Billy Monckton, on a pending drug charge.

THE COURT: They interviewed him. I cannot see the logic in this. I'm sorry. I just don't see any logic in it at all. I'm not going to allow it.

MR. FREDERICK: Judge, I believe Mr. Gardner was going to join in that motion.

MR. GARDNER: Oh, I'm sorry. For the record, Your Honor -- I know you've ruled ---

THE COURT: Very good. Thank you.

MR. GARDNER: ---For the record.

THE COURT: Good.

MR. RICHARDSON: Your Honor, with his pending Federal charges, of course, in consideration of your prior ruling.

THE COURT: They are going to be able to ask him about that.

MR. RICHARDSON: Yes sir.

THE COURT: They are going to be able to ask him about his pending Federal charges.

MR. RICHARDSON: Yes sir, Your Honor.

MS. ELDER: I would assume under the same parameters we've laid out this morning, the offense ---

THE COURT: The offense and the potential sentence.

MS. ELDER: And that's it?

THE COURT: Unless he denies it.

MS. ELDER: Yes sir.

THE COURT: All right. I'll think about it, Mr. Frederick, but I'm -- I'm sorry, I'm just -- I'm having a -- struggling to find any logic in your argument, but I'll think about it this morning.

Thank you very much.

We'll come back at 2:15.

MS. ELDER: Thank you, Your Honor.

MR. RICHARDSON: Thank you, Your Honor.

MR. FREDERICK: Thank you.

(THE FOLLOWING TAKES PLACE AFTER THE LUNCH BREAK, AND

OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right. Before we get started again I wanted to go over that Matthew Campbell matter one more time, so that I am clear -- and I've tried to think about what you have presented, Mr. Frederick. Let me see if I understand correctly the scenario here, and y'all correct me from any side if I have a misunderstanding. On -- sometime on or around, or shortly thereafter, of 12/02/2005 Mr. Campbell was arrested for various charges, armed robbery, lynching, pointing and presenting a firearm, the matter at hand, and the charges that both these Defendants are facing, the incident date of June 8th, of 2006, and did I understand correctly that Mr. Campbell, because he was facing other charges, came and turned himself in with his attorney, Mr. Monckton; is that correct ---

MR. RICHARDSON: That's correct, Your Honor.

THE COURT: ---Because he's facing some other charges. What were those charges?

MR. FREDERICK: It was a warrant for a drug charge.

THE COURT: Okay. So it's some drug offense, he's facing a -- some type of drug offense, and because of that he comes with his attorney and turns himself in to the police, correct?

MR. FREDERICK: Yes sir.

THE COURT: And that happens in -- is that in June of

2006 or July of 2006? When does that happen?

MR. RICHARDSON: When he got arrested on the drug charges, Your Honor?

THE COURT: When he came in -- right, when he came in with Mr. Monckton.

MR. RICHARDSON: That's June 19th. It actually appears -- it appears on his NCIC, Your Honor.

THE COURT: So he came in on June 19th, 2006.

MR. RICHARDSON: That's correct, Your Honor.

THE COURT: All right. And is that the point in time that he gave his statement, what statement he gave at that point in time, about his case, or was that in July?

MR. FREDERICK: July was when ---

MR. RICHARDSON: He gave the statement June 19th, Your Honor.

MR. FREDERICK: ---The charges were dismissed.

THE COURT: Okay. July. Okay, so on June 19th he gives a statement.

MR. RICHARDSON: Yes sir.

THE COURT: Then in July of 2006 the matters from 2005 were dismissed; it wasn't the matters that he turned himself in on in June of 2006. On June 19, 2006, he didn't turn himself in on those charges, it was something completely different, correct?

MR. RICHARDSON: That is correct.

THE COURT: All right.

And I'm trying to get the connection here. I can see that, if he comes in on June 19, 2006, with Mr. Monckton on these drug charges, and he gives a statement to the police, and later on those drug charges are dismissed, for whatever reason, whatever reason the State gives, it doesn't matter what it -- whatever it is, I can understand the connection there. I'm just having a hard time understanding that -- anyway, let me hear from you again.

MR. FREDERICK: Judge, it's not the Prosecutor's intent, it's not even -- for example, this is why the Federal charges matter, it doesn't matter if the Prosecutor intends to dismiss the case or not, it matters what is in Mr. Campbell's head when he comes forward, because it is motivation, his motivation for coming forward that we are impeaching. This is motivation impeachment. If he has a charge pending when he comes forward, if in his mind he thinks, I need to help myself, boy, I'm in trouble now, I even have a new charge on top of these old ones, that is motivation impeachment that we are entitled to ask him about.

THE COURT: All right. Let me hear from the State.

MR. RICHARDSON: Your Honor, as stated, the -- we've gone over the statement he gave June 19th, 2006. That is not the testimony that he's given prior in trial. He stated that he wasn't truthful at that point at trial, in that statement

of June 19th, 2006, and was just mutually exclusive. The dismissal occurred July. He gave a statement where he indicated that he saw Jimmy Lee Sessions the night of the murders. He gave that in Summer of 2008, some two years later. I just don't see the connection there.

THE COURT: All right. Just for my information, what happened to the drug charges that he was facing when he came in with Mr. Monckton?

MR. RICHARDSON: They've been adopted by the Federal Courts, Your Honor.

THE COURT: So those are matters that he's now being charged with in Federal Court?

MR. RICHARDSON: I believe so, yes sir, Your Honor.

THE COURT: All right. Okay. Now, as I continue to do -- and I'm still having a hard time gathering the connection here, but in an abundance of caution, I'm going to allow the defense to ask Mr. Campbell, at the time he made the statement on June 19th of 2006, at the time he came and made the statement to the police on June 19, 2006, was he facing other charges, and then obviously, Solicitor, you will be able to go into what happened to those charges, and what reason, if any, they were dismissed.

All right. Who is going to be your next witness, Ma'am, or Mr. Richardson?

MR. RICHARDSON: Your Honor, it will be Matthew

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Campbell.

THE COURT: All right. Very good.

All right. Ask the jury to come in, please.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, you next witness, please.

MR. RICHARDSON: Thank you, Your Honor. May it please the Court. The State would call Matthew Junior Campbell.

THE COURT: All right, sir. Please come around, Mr. Campbell.

MATTHEW JUNIOR CAMPBELL, being first duly sworn, testifies as follows:

MR. RICHARDSON: Approach briefly.

THE COURT: All right, Mr. Gardner, Mr. Frederick.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

Q. Matthew, could you tell us a little bit about yourself, how old are you, where are you from, that kind of stuff.

A. Thirty, from Myrtle Beach, lived there all my life, four kids.

Q. Four kids, and where are you -- you are currently living in Myrtle Beach?

A. Yes sir.

Q. Where did you go to school?

A. Myrtle Beach.

Q. Myrtle Beach High School?
A. Yes sir.
Q. And you said you've been there your whole life?
A. Yes sir.
Q. Do you know anybody sitting over at the defense table?
A. Yes sir.
Q. Who do you know over there?
A. Jimmy and Chris.
Q. And that's Jimmy Lee Sessions and Christopher Stephens?
A. Yes sir.
Q. How do you know them?
A. I've known them all my life, for years.
Q. You've known them for a while. Is there any chance in the world that you could get Defendant, Jimmy Lee Sessions, confused with anybody else?
A. No sir.
Q. You knew them both back in June of '06?
A. Yes sir.
Q. And let's go ahead and get a couple of housekeeping matters out of the way. Matthew, you've got a little bit of a criminal record, correct?
A. Yes sir.
Q. You had a charge for pointing and presenting, correct?
A. Yes sir.
Q. And you had a drug charge, correct?

A. Yes sir.
Q. And currently, currently, you are under a Federal indictment, correct?
A. Yes sir.
Q. Are you expecting any prison time?
A. I mean, I'm not sure, but I don't know.
Q. Are you hoping to help yourself out on those charges?
A. I mean, I hope it does, but ain't anybody promised me nothing.
Q. Okay. So nobody has made you any promises with regard to those charges?
A. No sir.
Q. Any kind of deals been struck?
A. No sir.
Q. Do you know when you were Federally indicted?
A. No sir.
Q. Let's get back to this case. Did you have the opportunity to speak with Myrtle Beach Police back in June of 2006?
A. Yes sir.
Q. And you gave a statement at that point?
A. Yes sir.
Q. And that statement you gave back in June of 2006, was that the whole truth?
A. No sir.

Q. What happened at that statement? Why didn't you give the whole truth?
A. I didn't want to get involved.
Q. You didn't want to get involved with this murder investigation?
A. Yes sir.
Q. What's changed?
A. He's generally telling people, and detectives, that he was with me at the time that it took place, the night and all, and I was -- that's how I got involved. That's what changed.
Q. And this past summer, Summer of 2008, did you have opportunity to speak to anybody about these charges, about this case?
A. Yes sir.
Q. Anybody related to Jamilla?
A. Ms. Barbara.
Q. Okay. And what did you tell Ms. Hightower?
A. The night me and somebody talked, the night of the murder.
Q. And subsequently, after you spoke with Ms. Hightower, did you have the opportunity to speak with Myrtle Beach Police Detectives?
A. Yes sir.
Q. Who all was present? Do you remember?
A. My lawyer, and the Detective. I think you was there.

Q. All right. The Detectives from Myrtle Beach ---
A. Yes sir.
Q. ---Myself, and your attorney, and that was this past Summer?
A. Yes sir.
Q. Do you remember where you were -- I'm sorry, Matthew, do you remember what you were doing when you heard about Jamilla and Monica being killed?
A. Yes sir.
Q. Where were you?
A. At Myrtle Beach High School, at graduation.
Q. Graduation. That was Friday night?
A. Yes sir.
Q. And how did you hear about it?
A. Cell phone.
Q. You got a phone call, cell phone?
A. Yes.
Q. Okay. And you remember that distinctly?
A. Yes sir.
Q. And so that was Friday night. So let's go back the night before you heard about Jamilla and Monica getting killed. That would be a Thursday, correct?
A. Yes sir.
Q. The day before that, that Thursday, did you have the opportunity to have any kind of interaction with Jimmy Lee

Sessions?

A. Thursday?

Q. That Thursday night?

A. Yes. Yes sir.

Q. And about what time was that?

A. Around about ten, nine or ten, ten-thirty, something like that.

Q. Some time in the evening. It was dark outside?

A. Yes sir.

Q. Tell us about that. Tell us about that interaction, how it occurred, what happened leading up to it, so on and so forth.

A. I have cameras around my apartment complex, and the street light was on, and -- but a picnic table, we couldn't see who was sitting out there, and my girlfriend told me that somebody was sitting on the picnic table, so I looked on the camera and I couldn't identify who it was, so when I walked outside I identified Jimmy Lee, and I went out there and talked to him briefly about what was going on, why he was out there, and he was dressed in black, and saying he's got to get him a lick, a robbery, such as we know, said he's got to get him a robbery because he's got to get out of town because he's hot.

Q. Did you notice any weapons on him or anything?

A. Yes.

Q. And what was it?
A. A gun.
Q. Where was that?
A. On his side.
Q. Up around his hip?
THE COURT: You have to answer out loud, sir, yes or no.
A. Yes sir.
Q. Thank you. And he indicated he was about to get a lick?
A. Yes sir.
Q. And what is a lick?
A. A robbery.
Q. Is there a particular type of robbery?
A. A drug robbery.
Q. And you said he was -- he was dressed how?
A. In dark clothes.
Q. Dark clothes. What kind of top did he have on?
A. A hoodie like -- I think it was a hoodie.
Q. Okay. It was a dark hoodie?
A. Yes sir.
Q. Now I don't know if everybody knows. What's a hoodie?
A. Something that goes over your head, like a sweater ---
Q. It's like a sweatshirt with a hood?
A. ---Sweatshirt. Well ---

Q. How did they appear to you? You said Jimmy Lee Sessions, you recognized him.
A. Yes sir.
Q. How did he appear to you?
A. How did he appear to me? Under the influence of something.
Q. And he was talking about pulling a lick. How did this conversation end?
A. How did it end?
Q. Uh huh **(indicating positive)**
A. I'll holler at you; y'all be careful.
Q. And what did you do after the conversation ended?
A. Went back in the house and looked on the camera.
Q. Did you see where Jimmy Lee went?
A. They just went walking somewhere.
Q. You said they, so he had somebody else with him?
A. Yes sir.
Q. Now, you were living at Carolina Cove Apartments at that time, correct?
A. Yes sir.
Q. How far away is that from Pridgen Road?
A. Pridgen Road. Walking distance.
Q. Walk just around the block?
A. Right around the corner.
COURT REPORTER: Your answer was?

THE COURT: What was your answer to the last question, sir?

A. How far is it from Carolina Cove. Walking distance.

MR. RICHARDSON: And I said, just around the block.

A. Yes sir.

Q. In what direction did Jimmy Lee take off to?

A. If you just -- I mean, I don't know what direction, how it's set up. He could have went next the highway part. He could have went next to the ocean way.

Q. And if you would, just point out the person you saw in front of your house June 8th, 2006.

A. Jimmy Lee Sessions.

Q. Jimmy Lee Sessions, dressed in a hoodie ---

A. Yes sir.

Q. ---Discussing pulling a rip?

A. Yes sir.

Q. And this was sometime later, around ten o'clock or so?

A. Yes sir.

MR. RICHARDSON: Matthew, thank you. I believe Mr. Gardner or Mr. Frederick might have a couple of questions for you, if you will answer them.

THE COURT: All right, Mr. Gardner.

MR. GARDNER: Thank you, Your Honor.

CROSS-EXAMINATION BY MR. GARDNER:

Q. Mr. Campbell, would it surprise you to know that

earlier you were referred to as a snitch?
A. No sir.
MR. RICHARDSON: Your Honor, pitting -- witness pitting at that point.
THE COURT: I'll allow that particular question.
Move along.
Q. Would that surprise you?
A. No sir.
Q. Okay. All right. And you have pending criminal charges that you've already talked about, correct?
A. Yes sir.
Q. All right. You gave your initial statement about this case to the police in June of '06?
A. Yes sir.
Q. Okay. And you turned yourself in to the police with your lawyer ---
A. Yes sir.
Q. ---And told them you could give them some information?
A. No sir.
Q. Told them you couldn't give them information?
A. They asked me. And then when I turned myself in for that -- that was on a drug charge.
Q. Yes sir. But you gave them information about this case that day, right?
A. Yes sir.

Q. That was my question. And that was in June of '06?
A. I guess. You've got the date in it.
Q. That was in June of '06, correct, sir?
A. I guess so.
Q. All right. And you had a pending charge at that time. You turned yourself in to receive an additional charge, correct?
A. Yes sir.
Q. All right. And you received that additional charge, and then you made another statement to the police in the Summer of '08; is that right?
A. Yes sir.
Q. And that -- you had your lawyer then with you too, correct?
A. Yes sir.
Q. All right. And at some point in time you got the Federal charges.
A. Yes sir.
Q. And those are still pending against you?
A. Yes sir.
Q. All right. And you gave your statement to the police about this case, hoping that those other state charges would go away, correct?
A. No sir.
Q. Well, they went away after you gave the statement,

didn't they?
A. No sir. They went away because it wasn't me on the video.
Q. Okay. All right. You were -- the charge against you is gone?
A. Yes. It wasn't me on the video.
Q. Okay.
A. A distribution. They looked at the video and they seen it wasn't me; it was another person.
Q. All right. I don't know anything about the facts of it.
A. I'm letting you know.
Q. Okay. And -- I didn't get anything from the Solicitor. You had a charge against you, you met with the Solicitor, the charge -- and talked about this case, correct?
A. Yes sir.
Q. That charge has been dismissed, correct?
A. Yes sir.
Q. You just have a pending charge still in the State court?
A. No sir.
Q. That one is gone too?
A. Yes sir.
Q. Okay. So the only thing you have pending now is the drug charge, or that Federal Court charge, right?

A. Yes sir.
Q. Serious charge, correct?
A. Yes sir.
Q. And you want similar type help in that case, wouldn't you?
A. I mean, who wouldn't? Ain't nobody promised me nothing. Like I told Brad Richardson, nobody promised me nothing, but who wouldn't want help.
Q. I understand that. I understand that. But you want help from them in this serious charge, correct?
A. Yes sir.
Q. And by giving this testimony, you anticipate getting that help, fair enough?
A. I don't know about that, sir.
Q. All right. Well the track record -- it's helped you in the past to give testimony about other people, correct?
A. Excuse me.
Q. You have a track record of making statements to police officers, correct ---
A. Yes sir.
Q. ---About other cases, not about your case, correct?
A. About what cases?
Q. Well, let's talk about this case. You've given statements about this case to the police ---
A. Yes sir.

Q. ---In exchange, or hoping to get an exchange, favorable treatment for your case, right?
A. No sir. I don't get what you're saying. You are saying ---
Q. I may be saying it wrong.
A. ---You are not saying other cases, you are saying other cases and now you are saying this case here.
Q. All right. You went to turn your -- you had a pending charge against you. That would be your case, correct?
A. Yes sir.
Q. All right. And then you had an outstanding warrant against you for another charge. That would be your case, correct?
A. Yes sir.
Q. All right. And you met with the cops to turn yourself in on your case, right?
A. Yes sir.
Q. And whatever the earlier -- tell me, when you turn yourself in the first step is what, have a bond set?
A. Yes sir.
Q. They serve a warrant on you?
A. Yes sir.
Q. They take you in front of a judge, the judge sets a bond.
A. Yes sir.

Q. It can be a low bond or a high bond, right?
A. Yes sir.
Q. And if you can afford to post it you can get out, right?
A. **(NODS HEAD AFFIRMATIVE)**
Q. Okay. And if you meet with the cops prior to having your bond hearing, your bond hearing usually will be low, correct?
A. They served my warrants -- when they served my warrants they asked me about the case, about this murder thing here. That's when this came upon.
Q. Okay. But back to what we were talking about. That's about your case, your warrant against you, that's your case, correct?
A. Yes sir.
Q. When you were turning yourself in you started talking about another case, this case that we are here about today?
A. No sir.
Q. Y'all didn't talk about it?
A. Like I said, when they were serving me my warrants they asked me about this case.
Q. Yes sir. Did y'all talk about it?
A. Yes, we talked about it, but I didn't just voluntarily -- they started asking me about do I know any information about the involvement -- the murder.

Q. Right, but you talked about it is my question. It's real simple. You talked about the case?
A. Yes sir.
Q. All right. And it doesn't who -- matter who asked about it, the answer is still the same, you talked about it, right?
A. Yes sir.
Q. And you talked about it -- you talked about it in hopes of getting help on your cases, correct?
A. No sir.
Q. You are telling the jury that when you were telling them, the cops, I know some information about these guys, whatever it was ---
A. Back in '06?
Q. I'll ask the question, and when I finish ---
THE COURT: All right.
Q. Then -- let me finish, okay.
THE COURT: Please -- all right, let's -- let me just explain, all right. The attorney asks the question, and then you will get full opportunity to answer it as completely as you deem necessary, all right.
A. Yes sir.
THE COURT: Let's continue on.
MR. GARDNER: Thank you.
Q. When you were talking with the cops, is it your

testimony to this jury that you were not looking for any favorable treatment at all from the police?

A. Well, are you talking about '06, '08, which year?

Q. Any of them.

A. In '06, no. They asked me, because I didn't give them -- I didn't cooperate with them in '06 when they asked me, when I was turning myself in on the distribution charges.

Q. All right. You were turning yourself in on the distribution charges.

A. Yes sir.

Q. But y'all talked about the case?

A. Yes, we talked about it. That's why when he asked me -- Brad Richardson asked me did I tell the truth, the whole truth. I said no.

Q. Because you didn't want to get involved.

A. I didn't want to get involved.

Q. But at some point in time you did get involved?

A. Yes sir.

Q. And are you telling the jury that when you got involved you were not looking for any favorable treatment from the police?

A. When I got involved was when I heard my name, when he was saying he was with me, and this and that, and I seen Ms. Hightower at Super Wal-Mart, where she work at, and we started talking about it.

Q. Yes sir. But my question is, are you looking -- were you looking, back then, for favorable treatment?
A. No sir.
Q. Not at all?
A. No sir.
Q. Just a good citizen. Nobody promised me nothing, paid me nothing.
Q. What about the timing? No doubt about it you waited how long, two years?
A. Yes sir.

MR. GARDNER: Okay. Thank you.

THE COURT: All right, Mr. Frederick.

CROSS-EXAMINATION BY MR. FREDERICK:

Q. Matthew, do some people call you "Roper"?
A. Yes sir.
Q. You have a conviction on your record for pointing and presenting a firearm?
A. Yes sir.
Q. You have a conviction on your record for distribution of drugs?
A. Marijuana, yes sir.
Q. It was distribution?
A. Yes sir.
Q. Okay. Now, when you first spoke to the detectives -- I think y'all were talking about this -- it was June 19th, in

June, 2006, shortly after the murders?
A. Yes sir.
Q. Okay. At that time you were turning yourself in on a drug charge?
A. Yes sir.
Q. Okay. And your attorney went with you?
A. Yes sir.
Q. That was Billy Monckton?
A. Yes sir.
Q. Okay. At that time you had pending an armed robbery with a deadly weapon ---
A. Yes sir.
Q. ---A lynching charge ---
A. Yes sir.
Q. ---Another pointing and presenting a firearm charge ---
A. Yes sir.
Q. ---And the very next month, after you talked to the Detectives, those charges were dismissed, correct?
A. Yes sir.
Q. Okay. That drug charge that you turned yourself in on, did that turn into the Federal case you have now?
A. No sir.
Q. It's a separate ---
A. Yes sir.
Q. ---A new one.

A. Yes sir.
Q. So was that drug charge dismissed by this Prosecutor's office?
A. Yes sir.
Q. Okay. And now you have a drug charge pending in Federal Court?
A. Yes sir.
Q. Okay. Just making sure we are clear. When you met with the Detectives, was that Detective DiLorenzo?
A. I don't know their names exactly. I don't even know your name.
Q. Okay. Fair enough. You don't remember their names?
A. No sir.
Q. All right. When you testified in prior proceedings in this case, before, did you recall his name at that time?
A. Probably did, but I don't remember his name.
Q. Okay. When you turned yourself in on that drug charge, and you had all those other charges pending, you were also on probation, weren't you?
A. Back when?
Q. In 2006, June.
A. Yes sir.
Q. Okay. Were you scared?
A. No sir. I was about to get off probation.
Q. You weren't worried at all that you were on probation

STATE OF SOUTH CAROLINA)	COURT OF GENERAL SESSIONS
COUNTY OF **HORRY**)	**(07-GS-26-2961) (2962) (2963)**
STATE)	**(07-GS-26-2974) (2975) (2976)**
)	**(08-GS-26-2698)**
VERSUS)	TRANSCRIPT OF RECORD
)	
JIMMY LEE SESSIONS)	February 2, 3, 4, 5, 6, 2009
and)	Conway, S. C.
CHRISTOPHER STEPHENS)	

B E F O R E:

HONORABLE STEVEN H. JOHN, Judge; AND A JURY.

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

BRADLY COY RICHARDSON, ESQ.
DONNA ELDER, ESQ.
ASSISTANT SOLICITOR FOR HORRY COUNTY
ATTORNEY FOR STATE

JOHNNY GARDNER, ESQ.
ATTORNEY FOR DEFENDANT, SESSIONS

BOBBY G. FREDERICK, ESQ.
LAURA L. HILLER, ESQ.
ATTORNEYS FOR DEFENDANT, STEPHENS

DIXIE COX EUBANK
CIRCUIT COURT REPORTER
FIFTEENTH JUDICIAL CIRCUIT

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and you had all these charges pending?
A. No sir.
Q. Didn't you ask Investigator DiLorenzo to call your probation officer and tell them that you had cooperated with them?
A. No sir.
MR. FREDERICK: Thank you.
(AT THIS TIME MR. FREDERICK PLAYED A PORTION OF A PREVIOUSLY RECORDED STATEMENT GIVEN BY THE WITNESS.)
MR. RICHARDSON: Your Honor ---
THE COURT: Sustained.
MR. FREDERICK: It's in a loop, Judge.
Q. Is that your voice?
A. It didn't sound like me.
Q. Oh, it don't sound like you. All right. That's not your voice?
A. It didn't sound like me.
Q. Is it your voice?
A. Say what?
Q. Is that your voice?
A. It don't sound like me.
Q. Okay. When you talked to the Detectives, that interview was recorded, wasn't it?
A. I talked -- was it recorded?
Q. Yes.

A. No sir.
Q. It wasn't recorded?
A. I ain't seen no recorder.
Q. Okay.
A. Unless they've got a hidden recorder.
Q. "Roper", you are a drug dealer, aren't you?
A. No sir.
Q. Okay. But you had a camera in your apartment?
A. Yes sir.
Q. You had a camera in your apartment so you would see who came up outside?
A. Yes sir.
Q. You've been robbed before, haven't you ---
A. Yes sir.
Q. ---By a guy named "Reemy"?
A. Yes sir.
Q. What did he rob you for?
A. My necklace, and a couple hundred dollars.
Q. Didn't take any drugs?
A. No sir.
Q. And you never told anybody that you were robbed for your drugs?
A. Because there ain't no drugs never been taken from me, sir.
Q. Okay. That first time you met with the investigators,

turning yourself in on your drug charge, how long did you meet with them?

A. Excuse me.

Q. How long did you meet with them?

A. With who, the Detectives?

Q. Uh huh **(indicating positive)**

A. Well, ten, fifteen minutes.

Q. Ten, fifteen minutes. Who was present during that interview? You don't remember at all?

A. The first one? The first interview?

Q. Yes.

A. My lawyer, Detective, and Mr. Richardson.

Q. Mr. Richardson was there?

A. Mr. Richardson was there.

Q. Okay. Have you met with any of them since then?

A. Yes sir.

Q. When is -- think back. When is the next time that you met with investigators in preparation for this trial.

A. I don't know the exact date, sir.

Q. What year was it?

A. I don't know. 2008.

Q. Was it this year?

A. 2008.

Q. Last year?

A. 2009.

Q. Was it this month?
A. Yes sir.
Q. It was this month?
A. Yes sir.
Q. The very next time that you met with them?
A. It was Thursday, I think.
Q. You met with the investigators last year at some point, didn't you?
A. Yes sir.
Q. Okay. How many people were present at that interview?
A. My lawyer and the Detective.
Q. Your lawyer and the Detective?
A. Yes sir.
Q. How long did that interview last?
A. Not long.
Q. How long is not long?
A. Five, ten minutes.
Q. They only talked to you for five or ten minutes?
A. Yes sir.
Q. Okay.
A. I mean, I didn't have no time watch timing it, exact time of what it was. I mean, it wasn't the long. It wasn't thirty, forty minutes.
Q. It was five or ten minutes. Okay. Fair enough. Where did you meet with them?

A. At my lawyer's office.
Q. At your lawyer's office. When is the next time that you met with them after then?
A. At the station.
Q. And when was that?
A. I don't know the exact time. I don't know the time, the date ---
Q. Was it last year?
A. Excuse me.
Q. Was it last year?
A. No sir.
Q. Was it this year?
A. Yes sir.
Q. Was it this month?
A. No sir.
Q. Was it last month?
A. No sir.
Q. We ran out of months. There's only a month and a couple of days ---
A. It was -- the last time I met with them was Thursday.
Q. Okay. Thursday.
A. I met with them three times, and the time -- the last time we met with them we was talking about going over this right here, what we're talking about now.
Q. So just last week?

A. Yes.
Q. Okay. That's what I was asking. Where did you meet with them?
A. At the annex.
Q. At the annex. Who was present?
A. Brad Richardson, and the Detective, and that lady right there. I don't know her name.
Q. Okay. Donna Elder. Same Detective you had met with before, different Detective?
A. It was a different Detective. The first time it was Detectives that -- I don't recall their names. I don't know their names.
Q. Okay. How long did that meeting last, last week?
A. Five minutes.
Q. Five minutes?
A. Not long.
Q. So each time that you met with them you met with them for about five minutes?
A. Yes, because we don't have much to talk about ---
Q. Okay.
A. ---Just the night that -- what I seen that night, that's what we talked about. It wasn't going to take hours to talk about that.
Q. Five minutes. Fair enough. I'll take your answer. All right. Did you talk to anybody about the case today?

A. No sir.
Q. All right.
MR. FREDERICK: Your Honor, that's all the questions I have. Thank you.
THE COURT: All right. Very good. Redirect.
REDIRECT-EXAMINATION BY MR. RICHARDSON:
Q. Matthew, I don't know if it was intentional, but I think they got you a little confused. You met with the -- they went over it again and again -- June 19th, 2006 you met with some detectives from Myrtle Beach.
MR. FREDERICK: Your Honor, I object to the characterization of intentionally confusing the witness. I was very fair with him.
MR. RICHARDSON: I said I don't know if it was intentional.
THE COURT: All right, gentlemen, let's just move along. Let's stick to the case at hand. All right.
MR. RICHARDSON: Thank you.
Q. That was June 19th, correct ---
A. Yes sir.
Q. ---2006. Didn't last long?
A. No sir.
Q. And at that point you gave a statement that didn't implicate any of these guys, right?
A. Yes sir.

Q. Then in July of 2006, some charges were dismissed?
A. Yes sir.
Q. You don't know why?
A. Why they was dismissed? Because it wasn't me.
Q. Okay. And then two years later, Summer of 2008, you talked with Ms. Hightower, correct?
A. Yes sir.
Q. And then talked to the police?
A. Yes sir.
Q. And I was present at that point?
A. Yes sir.
Q. Then we met again last week, correct?
A. Yes sir.
Q. It didn't last long?
A. No sir. Let me ask you, you answer it, did it last long?

MR. RICHARDSON: I can't testify.

Q. Matthew, they asked you about, you've cooperated with the police before.
A. Yes sir, about this right here.
Q. And so you are familiar with how it goes, correct?
A. Yes sir.
Q. What happens if you lie to the police?
A. Excuse me.
Q. What happens if you lie to the police?

A. I guess, false information, I guess.
Q. But if you have a choice between lying to the police and telling the truth, what do you want to do?
A. Tell them the truth.
MR. RICHARDSON: Matthew, thank you.
THE COURT: Anything on those questions?
MR. GARDNER: Yes sir.
RECROSS-EXAMINATION BY MR. GARDNER:
Q. Did you get charged with false information ---
A. No sir.
Q. ---Based on your interview in '06?
A. No sir.
Q. You lied to the police in '06.
A. I didn't want to be involved. I didn't lie. I just didn't want to get involved.
Q. You gave them a false statement, didn't you, sir?
A. No sir. I just didn't tell them the whole truth.
Q. Does the truth change from year to year?
A. No. The truth was that he asked me -- excuse me.
Q. Go ahead.
A. He asked me do I think these guys was involved with it. That's what they -- what the Detectives asked me, and my -- the question was, I don't know; if they are capable of doing this and doing that. Yes, they are capable of doing it, but I don't know if they did it, and I left it like that.

Q. Yes sir. And the truth is the truth, correct?
A. Yes sir.
Q. And you still don't know if they did it. The truth is the truth.
A. Yes sir.

MR. GARDNER: Nothing further, Your Honor.

THE COURT: Mr. Frederick.

MR. FREDERICK: No questions, Judge.

THE COURT: You may step down, sir.

MR. RICHARDSON: Your Honor, the State would ask that this witness be excused.

THE COURT: Any objection, Mr. Gardner?

MR. GARDNER: No sir.

MR. FREDERICK: No objection.

THE COURT: All right. You are excused, sir.

All right. Your next witness, please.

MR. RICHARDSON: Christy Pearl.

THE COURT: Please come around to be sworn, Ma'am.

CHRISTY REGINA PEARL, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. RICHARDSON:

Q. Good afternoon, Christy.
A. Hello.
Q. Tell us a little bit about yourself. Where are you from?

A. Myrtle Beach, South Carolina.
Q. Where do you live now?
A. In Montecello.
Q. And that's over in Myrtle Beach?
A. Yes sir.
Q. Do you work anywhere right now?
A. No sir.
Q. How about back in June of 2006, where were you living?
A. On Dunbar Street.
Q. On Dunbar Street, and what city is that?
A. Myrtle Beach.
Q. That's here in Horry County?
A. Yes sir.
Q. Who all was living at the house at that point?
A. Me and Mildred Brown, my sister-in-law.
Q. And Mildred Brown is your sister-in-law?
A. Yes sir.
Q. Were you working anywhere at that time?a
A. No sir.
Q. And Christy, you have a prior conviction in General Sessions Court, correct?
A. Yes sir.
Q. And that's on forgery, correct?
A. Yes sir.
Q. And right now are you out on bond or probation or

anything?
A. No sir.
Q. Got any kind of pending charges?
A. No sir.
Q. Back in June, 2006, please tell us how, if at all, you knew Jamilla Hightower and Monica Wall?
A. I had went to school with Jamilla Hightower, and I knew Monica through Jamilla.
Q. And what -- what school did y'all go to?
A. Myrtle Beach High School.
Q. Do you recall hearing about these girls getting murdered?
A. Yes sir.
Q. Christy, it's been a while, almost three years. Let's go back with it. Do you recall telling the police when you heard about these girls being killed?
A. Did I -- excuse me. What's that?
Q. Do you recall telling the police what day you heard about these girls being killed?
A. I think so. I'm not sure.
Q. Okay. Do you remember talking to the police about what you did on Thursday, June 8, 2006?
A. Yes sir.
Q. And first -- that's a particular day of the week.
A. Yes.

Q. Why does the Thursday stick out in your mind?
A. Because that's when my mama was working. She used to get paid on Thursdays.
Q. Used to get paid on Thursday. She would cut you off a little bit of change?
A. Yes sir.
Q. And everybody knows what day that is?
A. Yes.
Q. So let's go back. Do you recall telling the police it was Thursday, June 8, 2006?
A. Yes sir.
Q. Let's go back to what you did that Thursday, June 8, 2006. Let's just start in the afternoon. Where were you that afternoon?
A. On Dunbar Street, at the house.
Q. At the house. And who all was at the house?
A. Me, Phonetia, and my cousin James, and Mildred.
Q. When you are saying Phonetia, is that Phonetia?
A. Yes, Phonetia.
Q. With a "P"?
A. "P".
Q. And so it was you, Mildred, Phonetia, and your cousin, James?
A. Yes sir.
Q. What is your cousin, James?

A. Bert. What's his last name?
A. Pearl.
Q. James Pearl. And what were y'all guys doing?
A. We was partying and playing cards.
Q. Partying and playing -- tell us what partying is.
A. Smoking and drinking.
Q. Would that just take place in the afternoon, or did it go on into the evening?
A. All day.
Q. Were y'all watching the clock that night?
A. No sir.
Q. Keeping up with time in any way?
A. No sir.
Q. Did you even wear a watch?
A. No sir.
Q. So you would just have to guess at any kind of times?
A. Yes sir.
Q. Do you know what the days are? Do you know what the days are, Monday, Tuesday, Wednesday?
A. Uh huh **(indicating positive)**
Q. So you, James, Mildred, Phonetia, all over at the house playing cards?
A. Yes sir.
Q. You said you were smoking?
A. Yes sir.

Q. Smoking what?
A. Marijuana.
Q. And anybody drinking?
A. Yes.
Q. And you were playing cards, right?
A. Yes sir.
Q. What card game were you playing?
A. Spades.
Q. Who was winning?
A. Me and Mildred.
Q. Why was that?
A. Because we was cheating.
Q. Okay. You said y'all were smoking, some of y'all was drinking. How much did you smoke?
A. I had smoked a blunt.
Q. One blunt?
A. One blunt, yes sir.
Q. Educate us a little bit. What's a blunt?
A. It's a cigar.
Q. Cigar with what in it?
A. With tobacco in it, but we take the tobacco out and put the marijuana in it.
Q. Okay. And you had one blunt?
A. Yes sir.
Q. All night long?

A. Yes sir.
Q. You -- did you smoke all that blunt yourself or ---
A. No. All of us.
Q. Okay. So you shared?
A. Yes sir.
Q. And you said somebody -- a few people were drinking. Who was drinking?
A. My cousins, James, and Mildred.
Q. And what was your condition after smoking this one blunt?
A. I was okay.
Q. You were okay. How about everybody else?
A. No. They was -- they was feeling good.
Q. They were feeling good. So there was some drinking and some marijuana use. You hadn't drank anything?
A. No. I don't drink.
Q. Any other drugs?
A. Yes. Cocaine.
Q. Who was doing that?
A. My cousin and Phonetia, and Mildred.
Q. So those three were snorting some cocaine?
A. Uh huh **(indicating positive)**
Q. And they were in worse condition than you?
A. Yes sir.
Q. Now, can you tell us about any contact you had with

Jamilla Hightower that night?
A. Well, I had went to her house to take her across -- take her to Socastee to the Super 8.
Q. Let's go back. What prompted you going over to Jamilla's house?
A. She had called.
Q. She called you?
A. She had called Mildred's phone.
Q. She called Mildred, and you spoke to her?
A. Yes sir.
Q. And what did Jamilla tell you she wanted?
A. She wanted to know could I take her to Super 8 in Socastee.
Q. Okay. And was she just asking you to do a favor for her, or did she offer you anything?
A. She told me she would pay me.
Q. And did you do that?
A. Yes sir.
Q. Okay. And how did you do that?
A. With a car -- with my friend's car.
Q. And who is that friend?
A. "Black".
Q. And that's all he goes by, "Black"?
A. Yes. I don't know his real name.
Q. Was "Black" at the house on Dunbar that night?

A. No sir.
Q. But he let you borrow the car?
A. Yes sir.
Q. And you get in the car to go pick up Jamilla, correct?
A. Yes sir.
Q. Is it light or dark outside?
A. Dark.
Q. But you don't know the exact time?
A. No sir.
Q. Who all gets in the car with you?
A. Me, Mildred and Phonetia.
Q. Okay, you, Mildred and Phonetia, get in this car, and y'all go from Dunbar Street to Jamilla's house?
A. Yes sir.
Q. Where was that house located?
A. On Pridgen Road.
Q. Pridgen Road. About how far is that?
A. Probably about like five or ten minutes, if that.
Q. Five or ten minutes, if that. When you get to Jamilla's house what happened?
A. We bumped the horn and she came out.
Q. You bumped the horn and she came on out?
A. Uh huh **(indicating positive)**
Q. And where did Jamilla sit?
A. In the back.

Q. She sat in the back?
A. Yes sir.
Q. And then what did you do after Jamilla got in?
A. We -- well, we went to the Super 8.
Q. Did Jamilla tell you why she was going to Super 8?
A. No.
Q. She just needed a ride?
A. Yes.
Q. And did you go straight to the Super 8?
A. Yes sir.
Q. Any stops?
A. No sir.
Q. You get to the Super 8 motel. It's in Socastee.
A. Uh huh **(indicating positive)**
Q. All right. When you get there do you park, circle, or what?
A. No. I pulled in the parking lot.
Q. Pulled in the parking lot. What happens when you get into the parking lot?
A. She got out and went in.
Q. And by she you mean?
A. Jamilla.
Q. Jamilla got out of the car and she went in. Did y'all take off at that point?
A. No sir.

Q. What did you do?
A. Wait on her.
Q. Waited on her. How long did you wait?
A. Not long.
Q. Okay. And tell us what happens after -- you said you waited on her. Tell us what happens.
A. When she came out we left and I took her back home.
Q. Okay. So she came back and I assume got in the car?
A. Uh huh **(indicating positive)**
Q. And you said you took her back home. That's back to Pridgen?
A. Pridgen Road.
Q. And did you make any stops between Super 8 and back to Pridgen?
A. No sir.
Q. When you get back to Pridgen, still are all the same people in the car?
A. Yes sir.
Q. What do you do when you get back to Pridgen?
A. She got out, but she had knocked on the door, because she had left her keys. That's when Monica had came to the door and opened it, and she had went in and got the money and came back out and gave it to me.
Q. Now how much money was that again?
A. Forty Dollars.

Q. Forty Dollars. Now, you drop her off, she pays you Forty Dollars. What do you do after that?
A. We leave from -- we left Pridgen Road to go back to Dunbar.
Q. What did you do with the Forty Dollars?
A. We put ten in the tank. We bought gas, got gas, got cigarettes, and bought food.
Q. Okay. Did you make any stops from Pridgen Road back to Dunbar?
A. At the store.
Q. At the store. And that's to get cigarettes and ---
A. And gas.
Q. ---And gas. You get back to Dunbar -- what do you do when you get back to Dunbar?
A. We start playing cards again.
Q. Start partying again?
A. Yes sir.
Q. Did you smoke any more?
A. No.
Q. How about everybody else?
A. Yes.
Q. Did they do anything else?
A. No. They was just smoking then.
Q. They were just smoking then?
A. Yes sir.

Q. Still messed up though?
A. Yes sir.
Q. Christy, I'm going to ask you if you would come down here for me, please.
Now Christy, let's say this is Dunbar Street right here, okay. Where is the front door of the house?
A. Like if this was the -- right here.
THE COURT: You are going to have to speak up, Ma'am. You either have to be right next to the microphone ---
A. Right here.
Q. The front door is right here.
A. Right there.
Q. Okay. Where were you -- you guys?
A. Sitting at the table. When we open the door the table is here. The door opens and the table sits right here behind it.
Q. All right. The table sits right here behind the door?
A. Yes sir.
Q. Round table, square table?
A. Round table.
Q. How many seats are at the table?
A. Four.
Q. Here is the front door, here's the table. Where are you sitting?
A. In the corner, to the wall, with my back to the wall.

Q. So you can see the door?
A. **(NODS HEAD AFFIRMATIVE)**
MR. RICHARDSON: Go ahead and have a seat back.
Q. So Christy as you are sitting at the table, y'all are playing cards now?
A. Yes sir.
Q. What are y'all playing now?
A. Rummey five thousand.
Q. Rummey five thousand. I don't know that one, but --- y'all are playing cards and you have your back to the wall, and you can see the front door?
A. Yes sir.
Q. Now, did there ever come a time when Phonetia Hightower left the house?
A. Yes sir.
Q. What prompted that?
A. Jimmy, "Snack", had came.
Q. And who is "Snack"?
A. Jimmy Lee.
Q. Jimmy Lee Sessions?
A. Yes sir.
Q. You said he came. What -- tell us about that. Go into it in full.
A. He came, and he knocked on the door. He spoke to everybody, and he was like, Phonetia, come here, and she left.

Q. Okay. So he knocked on the front door. Did he come in the house?
A. He had stepped in.
Q. Could you see him?
A. Yes sir.
Q. And did you get a good look at him?
A. Yes sir.
Q. How was he dressed?
A. In black.
Q. Have anything on his hands?
A. Gloves.
Q. He had gloves on his hands?
A. Yes sir.
Q. And you said he was in black. What kind of top did he have on?
A. A hoodie.
Q. Black hoodie?
A. Yes sir.
Q. Anybody say anything to him?
A. No sir.
Q. Did you say anything to Phonetia as she was leaving?
A. I don't recall. I know I had said something. It was something funny, because everybody had laughed.
Q. Was that typically for Jimmy to show up and Phonetia just to leave with him?

A. No.
Q. And so Phonetia leaves with Jimmy Lee Sessions?
A. Yes sir.
Q. Do you know if Phonetia is related to Jamilla?
A. Yes sir.
Q. What kind of relation?
A. Cousins.
Q. Cousins. Okay. Did you stay at the house all night long?
A. For, yes, a little while, but then I left.
Q. And when you left Phonetia has already left, correct?
A. Yes sir.
Q. And so after Phonetia leaves it's just you and Mildred and James?
A. Yes sir.
Q. Anybody else come over to the house before you leave?
A. No sir.
Q. What prompted you into leaving?
A. My mama kept calling the phone.
Q. Your mama called your phone.
Q. And whenever you left did you go to your mama's house?
A. I didn't go straight there.
Q. Where did you go?
A. I went to the room.
Q. What kind of room?

A. The hotel room.
Q. And with whom did you go there?
A. With "Black".
Q. With "Black"?
A. My friend.
Q. Did you go meet him there?
A. Yes sir.
Q. How long did you stay at the motel room?
A. A couple of hours.
Q. Couple of hours. And why did you end up leaving the motel?
A. Because I had to take my mama to the bus stop.
Q. Had to take her to the bus stop. And do you know what time you had to have her at the bus stop?
A. Before 8:05.
Q. Before 8:05. And you've already -- you already said you didn't really keep up with time. How do you know it was 8:05?
A. Because I used to work with her, and we used to ride the bus together.
Q. So you know what time the bus left?
A. Yes sir.
Q. And you took your mama to the bus stop?
A. Yes sir.
Q. Where is that bus stop located?

A. At Broadway at the Beach.
Q. Broadway at the Beach. And you had to take her to the bus. Why did she need to get on the bus?
A. Go to work.
Q. Go to work. Now, after you take your mama to the bus stop what happens?
A. I rode down Dunbar.
Q. You rode down Dunbar?
A. Yes sir.
Q. And why?
A. Just being nosey.
Q. And that's sometime after eight o'clock?
A. Yes sir.
Q. But not much later?
A. No sir.
Q. After you get onto Dunbar do you run into anybody?
A. I seen Mildred and Phonetia.
Q. Okay. When you see Mildred and Phonetia what happened?
A. I had stopped, and I had talked to them for a minute, but Mildred had left and I was still talking to Phonetia.
Q. And did Phonetia tell you anything?
A. Yes sir.
Q. What did she tell you?
A. She had told me that Jamilla and them was dead, but I didn't pay it no mind, because I was still sleep and stuff, so

I just blew it off.

Q. You didn't take Jamilla -- I mean, Phonetia seriously?

A. No sir.

Q. Why?

A. Because I don't -- nobody don't take her serious, because she lies a lot, so ---

Q. So Phonetia lies a lot?

A. Yes sir.

Q. You weren't taking her seriously were you ---

A. No sir.

Q. ---Even though she told you her cousin had been killed?

A. Yes sir.

Q. Where did you go after that?

A. I went to my mama's house on White Street.

Q. You went to Joe White Avenue?

A. Yes sir.

Q. You go back there, and I think -- recap a little bit. You said you had been up all night long?

A. Yes sir.

Q. Went to a motel?

A. Yes sir.

Q. Took your mama to the bus stop?

A. Yes sir.

Q. How were you feeling at this point?

A. Feeling tired.

Q. Feel tired. So when you get to your mom's house what do you do?
A. I laid on the chair.
Q. You lay on the chair. And after getting to your mom's house, later that day, did you have any kind of interaction with your cousin, James Pearl?
A. Yes sir.
Q. Tell us about that.
A. I had went to pick him up, because he owed Jamilla some money, and I was going to take him over there to pay her.
Q. And about what time was that, do you know?
A. It was about one, probably.
Q. And you are saying probably?
A. Yes.
Q. Still not keeping up with time?
A. No sir.
Q. Breakfast time, lunch time?
A. It was like lunch time.
Q. Lunch time?
A. Uh huh **(indicating positive)**
Q. And you took James -- that's your cousin, James ---
A. Yes sir.
Q. ---Took him over to Jamilla's?
A. Yes sir.
Q. And you get over to Jamilla's house -- that's at

Pridgen Road?
A. Yes sir.
Q. Okay. What happened when y'all get over there?
A. Ain't no answer.
Q. No answer?
A. No sir.
Q. Was that at the door?
A. The door and the phone.
Q. So y'all tried to call and knock?
A. Yes sir.
Q. No answer?
A. No sir.
Q. An what did you do after that?
A. We left.
Q. You left. And where did you take James?
A. I think he had went back to my mama's house with me.
Q. All right. And what did you do when you were at your mama's house?
A. Nothing.
Q. Still tired?
A. Yes.

MR. RICHARDSON: Court's indulgence.

Christy, thank you.

If you would just answer any questions Mr. Gardner and Mr. Frederick might have. All right.

THE COURT: All right, Mr. Gardner.

MR. GARDNER: Thank you, Judge.

CROSS-EXAMINATION BY MR. GARDNER:

Q. I just have a few, Ms. Pearl. James is your cousin?

A. Yes sir.

Q. Okay. And he's in here. He -- you get along with him a lot, right?

A. Yes sir.

Q. You don't want anything bad to happen to him, do you?

A. No sir.

Q. All right. Phonetia told you that these ladies were dead, or ---

A. Yes sir.

Q. ---That Jamilla was dead?

A. She said Jamilla, them.

Q. She said Jamilla, them?

A. Yes sir.

Q. Meaning both of them?

A. Yes sir.

Q. You took it to mean that both were dead, not just that Jamilla was dead?

A. Yes sir.

Q. Okay. And that was before y'all went to Jamilla's house?

A. Yes sir.

Q. All right. Do you know what time it was, for sure, that you went to Jamilla's house?
A. We had went around lunch, about twelve or one o'clock.
Q. Okay. All right. Probably -- all right, about twelve or one o'clock?
A. Yes sir.
Q. Okay. And that was how many hours after you had heard that Jamilla was dead?
A. Probably about three, I guess, three, four.
Q. And when you got to the house did y'all knock on the door?
A. Yes, my cousin did.
Q. Ring the doorbell?
A. My cousin did.
Q. Okay. Look in the windows?
A. No sir.
Q. Call on the phone?
A. We called her cell phone, yes.
Q. All right. Anybody answer her phone?
A. No sir.
Q. Anybody look out the window?
A. No sir.
Q. Anybody answer the door?
A. No sir.
Q. All right. So did you call the police then?

A. No sir.
Q. Did you call any kin folk?
A. No sir.
Q. All right. Where did you go after that? That was about one o'clock.
A. We went to my mother's house.
Q. And did you hang out there for the rest of the day, or ---
A. Yes sir.
Q. I imagine you were tired.
A. I was.
Q. You had been up all night?
A. Yes sir.
Q. All right. And you are sure about these days?
A. Yes sir.
Q. Okay. Do you remember giving a statement prior to this -- prior to today, correct?
A. Yes sir.
Q. Would it be fair to say that the days might not have been that clear?
A. No. I remember the days, because Thursday my mama got paid.
Q. Okay.
A. And we went to Jamilla's house Friday.
Q. Okay. So you feel pretty positive about that right

now?
A. I remember that because my mama got paid and she had -- she gave me money that day.
Q. When you were going down Dunbar were you looking for anything in particular that ---
A. No, just riding through.
Q. Just happened upon Jamilla **(sic)**?
A. Just riding through.
Q. You had just -- I mean it was just luck that you would bump into her?
A. Who, Phonetia?
Q. Yes. I'm sorry.
A. Yes.
Q. I misspoke. I apologize. Yes, Phonetia.
A. Yes.
Q. That was just luck?
A. Yes, it was.
Q. Does that kind of luck happen a lot or ---
A. Well, when you ride down Dunbar you'll be surprised who you see.
Q. All right. And it doesn't take that long to get back to -- from Dunbar to where you were headed, right?
A. No sir.
Q. Okay. All right. Any doubt in your mind what that trip to that hotel was about?

A. No sir.
Q. All right. And any doubt in your mind what the payment was about that you and your cousin went to on Friday ---
A. No. No sir, I don't know.
Q. ---To Jamilla's house. Okay. All right. And do you remember earlier saying that -- not today, another time, when we talked about the timing, what time it was, was it one o'clock, and things like that. Is the clothing that you said -- you talked about Jimmy Lee wearing, that was normal?
A. It could be.
Q. You said earlier that that was normal.
A. Yes sir.
Q. In other words, nothing out of the ordina -- nothing out of the ordinary.
A. Just the gloves.
Q. Okay. Nothing out of the ord -- anything -- nothing out of the ordinary?
A. No, just the gloves on his hands.
Q. Okay. And you remember that why?
A. Because I was sitting like right where I can see him --
-
Q. Yes.
A. ---And his hands wasn't in his pockets or nothing, so they was like out.
Q. Okay. You remember that fact?

A. I seen him dressed.
Q. Yes.
A. Yes sir.
Q. I'm just trying to figure out what -- how -- what inertia of reliability we have about that. Can you help me out with that?
A. I ---
Q. Anything?
A. No sir.
Q. Just -- we just told the jury that?
A. I seen him dressed when he walked in. As soon as he walked in I'm looking right there, so whoever walk in I get a good close look at, because I'm sitting facing the doorway.
Q. Okay. All right.

MR. GARDNER: I don't have anything further, Your Honor.

THE COURT: All right, Mr. Frederick.

CROSS-EXAMINATION BY MR. FREDERICK:

Q. Hey, Christy.
A. Hello.
Q. We are almost done. Now, you are James Pearl's cousin ---
A. Yes.
Q. ---And you would do anything you could to help him, right?

A. If I could, yes.
Q. Okay. And James Pearl is still sitting out here in the courtroom, isn't he?
A. Yes.
Q. Okay. So you and Mildred and Phonetia went to Jamilla's house on that Thursday night?
A. Yes sir.
Q. Okay. And what time was that?
A. I'm not sure. It was dark.
Q. It was dark. Do you recall, in a prior proceeding, or interview, actually, that it was around ten o'clock?
A. I don't recall that.
Q. It was before twelve o'clock?
A. Yes sir.
Q. Okay. Y'all took Jamilla to the Super 8 Motel?
A. Yes sir.
Q. Okay. Then y'all took her back to her house?
A. Yes sir.
Q. And you dropped her off?
A. Yes sir.
Q. Was anybody else there?
A. Just Monica.
Q. Just her and Monica?
A. Yes sir.
Q. Okay. That was the day before you found out that

Jamilla had been killed?

A. Yes sir.

Q. The night before?

A. Yes sir.

Q. It was you, Mildred and Phonetia, right?

A. Yes sir.

Q. Okay. The next day you went to Jamilla's house with your cousin, James?

A. Yes sir.

Q. You are not sure exactly what time that was, but noon, one o'clockish?

A. Yes sir.

Q. Okay. And that was because he owed money to Jamilla?

A. Yes sir.

Q. Okay. And early that morning you ran into Phonetia and Mildred; is that right?

A. Yes sir.

Q. Okay. You dropped your mom off at the bus stop?

A. Yes sir.

Q. That was about eight o'clock?

A. Yes sir.

Q. And then you drove down Dunbar ---

A. Yes sir.

Q. ---From Broadway at the Beach ---

A. Yes sir.

Q. ---And ran into Mildred and Phonetia?
A. Yes sir.
Q. What particular location was that; do you remember?
A. When I went on Dunbar.
Q. Just it was on Dunbar?
A. Yes sir.
Q. Okay. And that morning you found out that Jamilla had been killed?
A. Yes sir.
Q. Okay. And now we need to clarify a few things because you talked to the investigators back in last August; is that right?
A. I didn't talk to them, but I was there in the room, and I had -- because Mildred was giving Phonetia an alibi, and I had told her that Phonetia was not there, Phonetia had left.
Q. I'm talking about last August, when you talked to Investigator Hull.
A. To ---
Q. Just this past year.
A. ---All them. Okay.
Q. Do you know what I'm talking about?
A. Yes sir, I know what you are talking about now.
Q. Okay. You do remember talking to them?
A. Yes sir.
Q. Okay. And then on another day you had given sworn

testimony in a prior proceeding in this case; do you recall that?
A. Yes sir.
Q. Okay. And I hate to say it this way, but you've had some practice by this point, haven't you?
A. Had some practice?
Q. Well, last time we were talking like this you had more difficulty, didn't you?
A. No sir.
Q. Okay. Do you recall when you were talking to Investigator Hull, and you told him that you met Phonetia and Mildred, you learned that Jamilla had been killed, and he said so -- so what, did you -- and then you went by at one o'clock with James Pearl to her house, and you told him that you just forgot that she had been killed?
A. I was -- I said, when they went ahead found out I was still sleep and tired, so I had blew it off.
Q. Do you recall telling them that you forgot?
A. No.
Q. Okay. In August of last year you were interviewed by the police. Let me back up for a minute. Today, in your direct-examination, I think I remember you in response to the prosecutor's questions, saying that you weren't keeping track of time that Thursday night at Mildred's house.
A. Correct.

Q. You weren't watching a clock?
A. No sir.
Q. Okay. And let me ask you this too. Since the last time that you testified in a prior proceeding in this case you met with the Prosecutor, discussed this case?
A. Yes sir.
Q. Okay. It was this Prosecutor?
A. Yes sir.
Q. Okay. And you have talked with James Pearl today?
A. Not about the case, but I talked to him today.
Q. Okay. And you've been hanging out with him for the last few days, haven't you?
A. No sir.
Q. Okay. That Thursday night you weren't keeping up with the time, you weren't watching the clock?
A. No sir.
Q. Okay. Do you recall the investigator, in August, asking you about that very thing?
A. About what, sir?
Q. About whether you were keeping up with the time that Thursday night.
A. They had asked me and I told them no, I wasn't.
Q. You told them that you weren't keeping up with the time? If you would take a look at this, where it's got your name, right there. Could you please read that for me?

MS. ELDER: Your Honor, can he identify what she's reading from?

MR. FREDERICK: I apologize.

I'm reading from the interview with Michael Hull and ---

THE COURT: All right. What you can do, Mr. Frederick, is you can have her read it, and then you can ask her some questions about it.

MR. FREDERICK: Yes sir.

A. Cause it was really late when I ---

THE COURT: Ma'am, you can read it to yourself ---

A. Oh, okay.

THE COURT: ---Then you can give it to Mr. Frederick, and then he can ask you some questions about it. You may not read directly from the document.

A. Okay.

MR. FREDERICK: Okay.

Q. Christy, did you tell Investigator Michael Hull that you looked at your cell phone and it was like 4:30 in the morning?

A. I think that's when my mother had called, yes.

Q. Okay. And that that was after Phonetia had left?

A. Yes sir.

MR. FREDERICK: Okay. Christy, I don't have any more questions for you. Thank you.

A. You are welcome.

THE COURT: All right. Redirect, Solicitor?

MR. RICHARDSON: No sir, Your Honor. I would just ask that Ms. Pearl be excused.

THE COURT: Is there any objection to that, Mr. Gardner?

MR. GARDNER: No, Judge.

THE COURT: Mr. Frederick.

MR. FREDERICK: No objection.

THE COURT: All right. You may step down. You are excused, Ma'am.

All right. Next witness, please sir.

MR. RICHARDSON: Teresa Greene.

THE COURT: Please come around to be sworn, Ma'am.

TERESA GREENE, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. RICHARDSON:

Q. Good afternoon, Ms. Greene.

A. Hi.

Q. Would you tell us a little bit about yourself, where you live?

A. I live at [redacted]. I have lived there for almost ten years.

Q. So you've been there for about ten years.

A. Uh huh **(indicating positive)**

Q. Did you have lived at [redacted] Pridgen back in June of

2006?

A. Yes sir.

Q. Okay. And where is that in relation to [redacted] Pridgen Road?

A. It's nextdoor.

Q. Right nextdoor?

A. Yes sir.

Q. And that's in Myrtle Beach?

A. Yes.

Q. And back there in June, 2006, do you recall who lived beside you back in June of 2006?

A. Yes. Two girls, Jamilla Hightower.

Q. And you had met them before?

A. No. I had never met them.

Q. Do you recall a murder investigation that took place on your street back in June of 2006?

A. Yes sir.

Q. And do you recall it being in regard to Jamilla Hightower and Monica Wall?

A. Yes sir.

Q. Do you recall that date at all?

A. No. I know it was Sun Fun Week. I know it was in June.

Q. Now during the course of that investigation did you have an opportunity to speak with Myrtle Beach Police

Detectives?
A. Yes.
Q. And that was with regard to this investigation, correct?
A. Yes.
Q. And would you us when and where you spoke to the police?
A. Down at the Police Department, down on the old Air Force Base.
Q. And could you relate to this Court what you told the police back in June of 2006?
A. Yes. It was on a Thursday evening. I had been out to dinner, and I came home and got ready for bed, and it was about -- I was reading and I turned off my light about 11:45, and I was just laying there trying to go to sleep and I heard some sounds like pop, and I thought it was fireworks, and then I thought to myself, this is not the right night for fireworks, because I can always hear the fireworks, or see the fireworks if I'm outside from my house from the Second Avenue Pier on Wednesday night, and I can oftentimes hear the fireworks from Broadway at the Beach on Tuesday nights.
Q. Do you know what time those fireworks took place?
A. It was about twelve o'clock.
Q. Okay, but when the fireworks normally go off.
A. Oh, the fireworks are always at ten o'clock on Tuesday

night and Wednesday night.
Q. So you thought it was a little odd?
A. Yes sir.
Q. And that's -- this was around midnight?
A. Yes sir.
Q. Thursday?
A. Yes sir.
Q. The Thursday before the girls were found?
A. Yes sir.
Q. And can you describe for us what this pop sounded like?
A. Well, I was just -- like I said, I was just laying in the bed, and it's really quiet, and I just heard something that I thought was fireworks that just like, you know, maybe three times, I heard something like pop, pop, pop, you know, and I just thought, you know, to myself, I can hear the fireworks, and then I thought, well, this is not the right night for fireworks, and you know, after that I didn't think anymore about it because it is Sun Fun Week, and I had been to graduation at Socastee High School, you know, and there's just a lot of fireworks in Myrtle Beach, so it's not uncommon to hear fireworks any time of the week, especially during Sun Fun.
Q. Ms. Greene, thank you, Ma'am. If you would just answer any questions the Defense may have.
A. Yes sir.

MR. GARDNER: No questions.

THE COURT: Yes sir. Okay, Mr. Frederick.

MR. FREDERICK: No questions, Your Honor.

THE COURT: All right. You may step down, Ma'am. Thank you very much.

Do you want this witness to be excused?

MR. RICHARDSON: Yes sir.

MR. GARDNER: No objection, Judge.

MR. FREDERICK: No objection.

THE COURT: You are excused then. Thank you very much.

All right, ladies and gentlemen, we are going to take a short break for about ten minutes. Go to your jury room and we will be back in about ten minutes. Thank you.

Everyone else remain seated till the jury retires.

(THE FOLLOWING TAKES PLACE AFTER A LUNCH BREAK AND OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, next witness, please.

MR. RICHARDSON: Thank you, Your Honor.

The State would call Antwann Higgins.

THE COURT: All right, sir. Mr. Higgins, if you would come around over here, please sir.

ANTWANN HIGGINS, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. RICHARDSON:

MR. RICHARDSON: Antwann, how are you doing today?

A. I'm all right.
Q. Would you tell the Court a little bit about yourself. Where are you from?
A. Marianna, Arkansas.
Q. Marianna, Arkansas?
A. Uh huh **(indicating positive)**
Q. That's where you were born?
A. Yes sir.
Q. Was there a time when you lived here in Horry County?
A. Yes sir.
Q. Back in 2006 where were you living?
A. I was in [redacted] Pridgen Road.
Q. That's back in the early part of June of 2006?
A. Early part, yes sir.
Q. And Antwann, you need to talk up a little bit into the microphone.
A. All right.
Q. And can you tell us about how you are related, if at all, to Jamilla Hightower?
A. Jamilla is my cousin.
Q. First cousin?
A. Yes sir.
Q. That's on your mom's side, right?
A. On my daddy's side.
Q. On her daddy's side. Okay. But Jamilla is your first

cousin. How did you two get along?
A. Off and on.
Q. Off and on?
A. Yes sir.
Q. Could you tell the jury where you are currently living?
A. Where I'm currently living, now?
Q. Yes. Are you incarcerated now?
A. Yes sir.
Q. Where? What facility?
A. What facility. S.C.D.C. you are talking about.
Q. Okay. So you are incarcerated at South Carolina Department of Corrections?
A. Yes sir.
Q. And what are you in prison for?
A. Trafficking.
Q. Trafficking?
A. Crack.
Q. Trafficking in crack cocaine?
A. Yes sir.
Q. And when were you convicted of that?
A. In '08.
Q. March of 2008?
A. Yes sir.
Q. And prior to that, did you have another drug charge?
A. Before that?

Q. Uh huh **(indicating positive)**
A. Yes sir.
Q. And that was back in '07?
A. Yes sir.
Q. And that was a conviction too, correct?
A. Yes sir.
Q. And what kind of sentence are you serving right now?
A. Four years.
Q. Four years. And are you here today to testify -- you are here today to testify. Have there been any kind of deals, any kind of promises of leniency that have been granted to you for your testimony?
A. No sir.
Q. Now, when you leave here, leave Horry County, where are you going?
A. Back to S.C.D.C..
Q. So you are going right back to prison?
A. Yes sir.
Q. Back to Jamilla and Monica, you said you and Jamilla were cousins, y'all were off and on?
A. Yes sir.
Q. Was there ever a time when you all lived together?
A. Yes sir.
Q. When was that?
A. That was back in 2004 and 2006.

Q. Okay. In 2006 when y'all lived together, where did you two live together?
A. [redacted] Pridgen.
Q. [redacted] Pridgen Road?
A. Yes sir.
Q. And who moved in that house first?
A. Me and Melissa.
Q. And Melissa was who?
A. My girlfriend.
Q. And what's her last name?
A. Gomez.
Q. Okay. Melissa Gomez and you lived in her house -- lived in [redacted] Pridgen Road first.
A. Yes sir.
Q. And if I understand you, Jamilla moved in.
A. Yes sir.
Q. And about how long did y'all live together at Pridgen Road?
A. Me and Jamilla?
Q. Yes, you and Jamilla?
A. I stayed there a month.
Q. About a month?
A. Yes sir.
Q. And how about back in June of 2006, were you still living at Pridgen Road?

A. No sir.
Q. Where did you move to?
A. Moved to -- over to Willow Run.
Q. Willow run. Were you living there by yourself?
A. No sir.
Q. Who all was living at Willow Run?
A. Me, Teal and Devon.
Q. Devon who?
A. Harris.
Q. And Devon Harris. Could you tell us about any kind of relationship he had with Jamilla?
A. Cousins.
Q. So he is Jamilla's cousin as well?
A. Yes sir.
Q. And what about Melissa, where was she living at that time?
A. She was still staying right there, but she was over there with me the majority of the time.
Q. I'm sorry, what?
A. She was with me the majority of the time.
Q. She was with you from time to time?
A. The majority of the time.
Q. Majority of the time. Did she still have her stuff over at Pridgen Road?
A. Yes sir.

Q. What prompted you to moving out of [redacted] Pridgen Road?
A. Huh?
Q. Why did you move out of [redacted] Pridgen Road?
A. Because me and her got into it.
Q. Because of you and who?
A. Me and Jamilla got into it.
Q. You and Jamilla had gotten into it.
A. Yes sir.
Q. When was that?
A. Probably in May sometime.
Q. At least a month before she got murdered?
A. Uh huh **(indicating positive)**
Q. And by getting into it, describe what that means for it.
A. When I raised my hand at Melissa.
Q. You raised your hand at Melissa?
A. Yes sir.
Q. Not at Jamilla?
A. Uh uh **(NODS NEGATIVE)**
Q. And was there a physical altercation between you and Jamilla?
A. No.
Q. Just some words?
A. Just words.
Q. And that's when you moved out?

A. Yes sir.
Q. Didn't want to repeat it?
A. No sir.
Q. And you said in June of 2006 Melissa was staying with you the majority of the time.
A. Yes sir.
Q. Do you know how Jamilla took to that?
A. She ain't -- she ain't mind.
Q. Back in June, '06, you were staying in Willow Run Apartments with Melissa, and Devon, and I think you said Teal?
A. Yes sir.
Q. And how far away is Willow Run Apartments from Pridgen Road?
A. That's all the way on 21st North.
Q. Willow Run is on 21st North?
A. Yes, close that way, Oceola Road.
Q. Antwann, tell us how you found out about the murders of Jamilla and Monica.
A. How I found out, it was like, on a Friday I went over there, after about -- after six o'clock. Melissa went in. She ran back out and told me to come in, I need to come look at something. I went in, went back to the back room, I seen her face down with a pillow over her head, and went to the other room and seen Monica with a pillow over her head.
Q. Okay. And we are going to come back to that in a

minute because it's important, but let's go back a little bit before that. You said this was on a Friday.

A. Yes sir.

Q. Prior to you finding Jamilla and Monica, when was the last time you had seen Jamilla alive?

A. On that Wednesday.

Q. So two days before that?

A. Yes sir.

Q. And where did you see Jamilla?

A. When I dropped her off from the mall.

Q. You dropped her off from the mall. Were there any arguments between you two at that point?

A. No sir.

Q. How were y'all getting along right then?

A. We was all right.

Q. You gave her a ride?

A. Yes sir.

Q. Let's go forward to that Thursday night, the day after Wednesday. Do you recall what you all did that Thursday night before y'all found Jamilla and Monica?

A. I went to bed around that time, about ten o'clock, went to bed early.

Q. And why did you go to bed?

A. Just tired.

Q. Were you working anywhere at the time?

A. Yes sir.
Q. Where was that?
A. Bojangles.
Q. So you go to bed about ten o'clock. Did you sleep all night long?
A. Yes sir.
Q. Do you know about what time you woke up the next morning, that Friday morning?
A. No sir.
Q. Let's start off on that Friday morning. Did you wake up that morning?
A. Yes sir.
Q. Take us through the day. What happens once you wake up?
A. I'd say about twelve, about twelve, after twelve o'clock, because Melissa couldn't go and get her check before twelve, so I went over to Jill's house to ask her could we use her vehicle.
Q. And who is Jill now?
A. The lady that stay across in Willow Run.
Q. And why did you go across to Jill's?
A. To use her vehicle to go and get Melissa's check cashed.
Q. Okay. So you went to get Jill's vehicle to take Melissa. Where did you have to take Melissa?

A. North Myrtle Beach, Crescent Shores.
Q. And that was for what purpose?
A. Where she work at.
Q. You said to get her check?
A. Uh huh **(indicating positive)**
THE COURT: You need to answer yes or no, please sir.
A. All right.
Q. That was to get her check?
A. Yes sir.
Q. Thank you. And after you all go to pick up Melissa's check in North Myrtle Beach what do y'all do after that?
A. Came back. We stopped at Dodge's Chicken.
Q. Stopped where?
A. Dodge's Chicken ---
Q. Okay.
A. ---In North Myrtle. Cashed her check right there. Came back to the Beach. "PoFo" talking about he wanted to go to cash his check before six o'clock. We carried him down to -- I forgot that bank name on 21st.
Q. And who is "PoFo" again?
A. Dev.
Q. Devon Harris, Jamilla's cousin?
A. Uh huh **(indicating positive)** Yes sir.
Q. So you carried him to cash his check?
A. Yes sir.

Q. And after he cashes his check you said that had to be before six o'clock?
A. Uh huh **(indicating positive)** Yes sir.
Q. Who all was in the car at this point?
A. It was me, Melissa and "PoFo".
Q. And what do you do with "PoFo"?
A. After we carried him to the bank to cash his check we dropped him back off, back off at the house.
Q. And you drop him back off, and then what do you and Melissa do?
A. We did -- we went over there at the Broadway Place, put down on an apartment.
Q. Put down what on an apartment?
A. Put down for -- like first month's rent, and deposit.
Q. You were trying to get a new apartment?
A. Yes sir.
Q. Why were you trying to get a new apartment?
A. Just I was trying to get a new apartment, have me stay -- so I could stay.
Q. And you go make your deposit at Broadway. What do you do after that?
A. After we left there we went to Pridgen Road.
Q. Any particular address at Pridgen Road?
A. [redacted].
Q. [redacted]. Why were y'all heading over there?

A. Melissa wanted to get a couple of things.
Q. She wanted to get what?
A. A couple of clothes to stay the night.
Q. Some of her clothes ---
A. Uh huh **(indicating positive)**
Q. ---So she could stay the night where?
A. At Willow Run.
Q. Where you were living?a
A. Yes sir.
Q. So you arrive at Pridgen Road, [redacted] Pridgen Road. And what happens when you get there? What do you see?
A. What I seen ---
Q. What do you do, first thing you do when you get to Pridgen Road?
A. When I get to Pridgen Road I drove down -- drove to the house, [redacted] Pridgen.
Q. Where do you park?
A. In a park -- in the driveway.
Q. Parked right in the driveway?
A. Yes sir.
Q. What kind of car were you driving?
A. A white Thunderbird.
Q. White Thunderbird. You get there, you park in the driveway, what happens next? What do you do; what does Melissa do?

A. I sits in the car and wait on her while she's going in the house to try to get some of her stuff. When she came back out -- she ran back out, told me I needed to come in to see -- see ---

Q. Did she say anything more than that?

A. Uh uh **(NODS NEGATIVE)** She told me I need to come in the house.

Q. And what did you do?

A. So I cut the car off, went in the house to see what was going on.

Q. When you got into the house, what did you see?

A. I went -- in the front it was great. When I to the back, went in the bedrooms, I seen pillow over Jamilla's head, and I went to the other room, where we used to sleep at, seen the pillow over Monica's head in the bathroom.

Q. Antwann, I'm going to show you what's been previously marked as State's Exhibit 1. Do you recognize this diagram? It might be easier ---

A. Yes.

Q. And how do you recognize this?

A. Because that's the shape of the [redacted] Pridgen Road House.

Q. Does this fairly and accurately depict [redacted] Pridgen Road?

THE COURT: Sir, you need to speak up because nobody

can hear you.

Q. Does it act -- does it look like Jamilla's house?

A. Yes sir.

MR. RICHARDSON: Judge, I hate to crowd ---

THE COURT: It's all right, sir.

Q. Antwann, I just want permission ---

THE COURT: Yes sir, go ahead.

MR. RICHARDSON: The State would move to put State's Exhibit 1 into evidence.

MR. GARDNER: I have no objection, Your Honor.

MR. FREDERICK: No objection.

THE COURT: All right. State's 1 is in evidence without objection.

(LARGE DIAGRAM ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 1.)

MR. RICHARDSON: We move to publish, Your Honor.

THE COURT: Any objection to publication?

MR. GARDNER: No, Your Honor.

MR. FREDERICK: No objection.

THE COURT: You may do so.

Q. Antwann, where is the door you entered at?

A. Right through the living room.

Q. Right here?

A. Yes sir.

Q. Okay. And you come in this door, correct?

A. Yes sir.
Q. Where do you go?
A. I go through the living room to the hallway.
Q. Where is the hallway? Is this it?
A. Yes sir.
Q. And you said everything out here looked straight?
A. Uh huh **(indicating positive)**
Q. So you come up in the hallway, and once you get in the hallway, what do you do?
A. I go past the bathroom, back to the bedroom to the right.
Q. To your right as you are facing the back?
A. Uh huh **(indicating positive)**
Q. So you are talking about bedroom room or two?
A. One.
Q. So you go in this bedroom, and it's to your right as you walk in?
A. Uh huh **(indicating positive)**
THE COURT: You need to answer yes or no, sir. Uh huh -- the problem is, the Court Reporter doesn't know what that means, so if you can say yes or no, please. All right.
A. All right.
THE COURT: Thank you.
Q. But bedroom one is the one you go into?
A. Yes sir.

Q. Yes. And what do you see when you go in bedroom one?
A. I see a pillow on Jamilla's head.
Q. A pillow. And after you see the pillow over Jamilla's head where do you go?
A. I go to the other room, bedroom ---
Q. Bedroom ---
A. ---Two, look in the bathroom, see the pillow over Monica's head.
Q. She's in the bathroom, where in the bathroom?
A. In the shower.
Q. She's got a pillow over her head?
A. Yes sir.
Q. And this bedroom, I think you stated that you and Melissa used to stay in there.
A. Yes sir.
Q. Once you find the girls, Jamilla and Monica, in the bedroom and in the bathroom, what do you do?
A. I come back out.
Q. Coming back ---
A. Outside.
Q. You go back outside?
A. Yes sir.
Q. You walk back outside. What are you experiencing at that point? What are you feeling?
A. Just -- man, man, I couldn't believe it.

Q. Were you in shock?
A. Yes.
Q. When you get back outside did you encounter anybody outside?
A. Encounter?
Q. Do you run into anybody outside?
A. Oh yes. I ran into Roy.
Q. Roy who?
A. Grant.
Q. And does Roy have any nicknames or anything?
A. "Toe".
Q. So you run into Roy Grant, a/k/a/ "Toe". Roy is just there in the yard? How do you run into him?
A. He pulled up, asked me is Jamilla home.
Q. He asked if Jamilla was home?
A. Yes sir.
Q. Did he indicate why he was there?
A. He was trying to buy some weed.
Q. He was going to buy some marijuana from Jamilla. And what, if anything, do you tell Roy at this point?
A. I told him somebody shot my cousin.
Q. And after you tell Roy that someone shot Jamilla, what happened?
A. He thought I was playing.
Q. I'm sorry. He thought you were playing?

A. Yes. So we went back in the house. I showed him what happened.

Q. Where does Roy go?

A. He come back in -- we went back in the house. We went back to the bedroom, bedroom one, show him what -- showed him Jamilla, then turned around and went to bedroom two and showed him Monica.

MR. RICHARDSON: Court's indulgence.

Q. So Roy goes in the house with you. Who else was in the house at that point?

A. It was just me, Roy and Melissa.

Q. Does Roy stay there?

A. Huh?

Q. Does he stay in the house long?

A. No.

Q. Where does he go?

A. After -- after he came and seen that, came back out -- we came back out, I went over to the nextdoor neighbors' house, asked them did they hear anything, they told me no, so the first thing I did, ran to my Aunt Lucy's house.

Q. Your Aunt Lucy. Whose aunt is that as well?

A. Me and Jamilla's aunt.

Q. Did Roy stay until the police arrived?

A. No sir.

Q. Well, let me show you some pictures real quick.

MR. RICHARDSON: Court's indulgence while I have these marked.

THE COURT: Yes sir.

Q. Antwann, I'm going to show you a few pictures real quick, previously marked for identification as State's 17, 13, 12, 11, 9, and 10, and I'm just going to ask you if you would take a look at them and see if you recognize these pictures.

A. Yes sir. Yes sir. Yes sir. Yes sir. Yes sir.

Q. And you recognize these pictures because it's what you saw?

A. Yes sir.

Q. Do they fairly and accurately depict what you saw the night of June 9th, 2006?

A. Yes sir.

MR. RICHARDSON: Your Honor, at this time the State would move State's 14, 13, 12, 11, 9 and 10 into evidence.

THE COURT: Any objection?

MR. GARDNER: No sir, Your Honor.

THE COURT: Any objection?

MR. FREDERICK: No sir.

THE COURT: All right, sir. So State's 9 through 14 are in evidence without objection.

(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 9 THROUGH 14.)

MR. RICHARDSON: The State would also seek to publish

at this time, Your Honor.

THE COURT: Any objection to publication?

MR. GARDNER: No sir.

MR. FREDERICK: No objection.

THE COURT: You may do so.

Q. Antwann, could you tell us what's in State's Exhibit Number 14, what it depicts?

A. What it depicts?

Q. What's shown here? What is this?

A. Oh, the car I was driving.

Q. That's the white Thunderbird?

A. Yes sir.

Q. What's this right here?

A. The house that I was at.

Q. Which house?

A. [redacted]Pridgen ---

Q. [redacted] Pridgen Road. How about right here, State's Number 13? What's this right here?

A. The side of the house, the front door.

Q. That's the door you went in?

A. Yes sir.

Q. State's Number 12, what's this here?

A. The hallway.

Q. Where does this hallway lead to?

A. To the bedrooms, to the back at the bedrooms.

Q. And we'll call this the right ---
A. The right, yes.
Q. Whose bedroom is that?
A. Jamilla's.
Q. How about over here on the left?
A. It was Melissa's.
Q. Melissa's?
A. Yes sir.
Q. Your girlfriend?
A. Yes sir.
Q. Do you recognize that purse?
A. Not really.
Q. Okay. State's Number 11, do you recognize that?
A. Yes sir.
Q. What does that depict?
A. That's the bedroom Melissa was in.
THE COURT: What, sir? I couldn't hear you, sir.
A. That's the bedroom Melissa was in.
Q. That's the bedroom Melissa was in?
A. Uh huh **(indicating positive)** Yes sir.
Q. Now -- and I apologize, Antwann -- State's Number 9, could you tell us what's depicted here?
A. That's the bedroom Jamilla was in.
Q. And who is this right here?
A. Jamilla.

Q. So this is the bedroom where you found Jamilla?
A. Yes sir.
Q. That's the condition she was in?
A. Yes sir.
Q. And State's Number 10.
A. That's the shower Monica was in.
Q. That's how you found Monica?
A. Yes sir.
MR. RICHARDSON: Your Honor, I'm going to publish these to the jury.
THE COURT: All right, sir.
Q. Now Antwann, when you initially spoke to the police -- did you speak to the police?
A. Yes sir.
Q. And where was the first place you spoke to the police?
A. It was in a car.
Q. At the scene?
A. At the scene, yes sir.
Q. Did you initially tell them about Roy?
A. No sir.
Q. But no doubt about it, you spoke to him that night?
A. Yes sir.
Q. Voluntarily?
A. Yes sir.
Q. You said you went inside the house, then you saw

Jamilla and you saw Monica in the bathroom. Did you ever step foot in that bathroom?

A. No sir.

Q. Saw it from the doorway?

A. Yes sir.

MR. RICHARDSON: Court's indulgence.

Q. Antwann, did you and Melissa ever take anything out of the house?

A. Melissa did.

Q. Do you know what Melissa took out of the house?

A. Briefcase.

Q. It was a briefcase?

A. Yes sir.

Q. Do you know where she found that briefcase?

A. In the room where Jamilla was.

Q. Do you know if anything was in that briefcase?

A. No sir.

Q. When Melissa got that -- do you know why Melissa got that briefcase?

A. Yes. She wanted to give it back to my aunt.

Q. She wanted to give it to your aunt. And what was done with that briefcase?

A. What was done with it? I have ---

Q. Where did Melissa put the briefcase?

A. Oh, in the trunk of the car.

Q. Which car?
A. The Thunderbird I was driving.
Q. That was Jill Holland's Thunderbird?
A. Uh huh **(indicating positive)** Yes sir.
THE COURT: Was that a yes -- okay.
A. Yes sir.
THE COURT: All right, sir.
Q. Did you initially tell police about the briefcase?
A. No sir.
Q. Did you ever take that briefcase back out of the car?
A. No sir.
Q. To your knowledge, did Melissa ever take that briefcase back out of the car?
A. No sir.
Q. Do you know who did eventually take that briefcase out of the car?
A. Probably Jill, when she got her car back.
Q. And you didn't tell police about that initially?
A. After ---
Q. About the briefcase?
A. No sir.
Q. But you agreed to speak with the police?
A. Yes sir.
Q. How many times did you speak to the police; do you know?

A. About -- I would say about three times.
Q. About three times. Voluntarily every time?
A. Yes sir.
Q. Did the police ask you to take any tests that night, at Pridgen Road?
A. Oh, yes sir.
Q. What kind of tests?
A. For gunpowder.
Q. So, did they test you for gunpowder?
A. Yes sir.
Q. Did they have to force you to do that?
A. No sir.
Q. You volunteered to do that?
A. Yes sir.
Q. Do you know if they found any gunshot residue on you?
A. Not that I know of.
Q. Did the police take a picture of any of your clothes that night?
A. I believe they did.
Q. Let me show you what's been previously marked as State's 15 and 16. Take a look at these and see if you can identify them.
A. Yes sir.
Q. Can you identify that?
A. Yes sir.

Q. Now, and how can you identify State's 15?
A. The shoes I was wearing.
Q. Shoes you were wearing the night you found Jamilla ---
A. Yes sir.
Q. ---And Monica. How about 16?
A. The shoes Melissa was wearing.
Q. That was the same night?
A. Same night.
Q. And you allowed the police to take ---

MR. RICHARDSON: At this time the State would move 15 and 16 into evidence.

THE COURT: Any objection, Mr. Gardner?

MR. GARDNER: No sir, no objection.

THE COURT: Mr. Frederick.

MR. FREDERICK: No objection.

THE COURT: All right, sir. 15 and 16 are in evidence without objection.

MR. RICHARDSON: Seek to publish them.

THE COURT: Any objection to publication?

MR. GARDNER: No sir. No objection.

MR. FREDERICK: No objection.

THE COURT: You may do so.

(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 15 AND 16.)

(AT THIS TIME STATE'S EXHIBIT NUMBER 15 AND 16 WERE

PUBLISHED TO THE JURY.)

Q. Did the police have to prod you to take a picture of those shoes?

A. No sir.

Q. Antwann, you said you spoke with the police about three times, right?

A. Yes sir.

Q. Do you recall when the police executed a search warrant at your apartment at Willow Run?

A. What you saying?

Q. Do you recall the police searching your apartment at Willow Run?

A. Yes sir.

Q. Was that before or after Jamilla got found murdered?

A. After.

Q. Long time or short?

A. Short.

Q. And do you know if the police found any kind of weapons there?

A. Yes sir.

Q. What kind?

A. They found a .32, and a .25.

Q. So they found a couple -- .32 what? .32 long pants or ---

A. A .32 handgun.

Q. .32 handgun. Small pistol?
A. Yes sir.
Q. Same thing with the .25?
A. Yes sir.
Q. To your knowledge, did they find any .40 caliber weapons there?
A. No sir.
Q. And why did you have those pistols?
A. Keep myself protected.
Q. To protect yourself?
A. Yes sir.
Q. Did you ever attack anybody?
A. No sir.
Q. Do you recall if they took any of your clothes whenever they executed that search warrant?
A. I believe they did.
Q. Let me show you what's been previously -- or will be marked -- what's been previously marked as State's Exhibit 17. See if you recognize that.
A. Yes sir.
Q. And what do you recognize these to be?
A. The shoes I had.
Q. These are your shoes.
MR. RICHARDSON: Your Honor, at this time the State would move State's Number 17 into evidence.

THE COURT: Any objection?

MR. GARDNER: No sir.

MR. FREDERICK: No objection.

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

(TWO TENNIS STYLE SHOES ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 17.)

Q. Do these look a little different from the last time you saw them? Sir? Yes or no?

A. No sir.

Q. Did they have all this writing on there the last time you saw them?

A. No sir.

Q. So some things have changed?

A. Yes sir.

Q. Antwann, what size shoe do you wear?

A. Twelve.

Q. A twelve. And after the police executed this Search Warrant on your apartment, did you speak with them? Did you talk to the police?

A. Yes sir.

Q. On your own?

A. Yes sir.

Q. And Antwann, were you ever charged in any way with this murder ---

A. No sir.
Q. ---Anything in connection with this murder?
MR. RICHARDSON: Thank you, Your Honor.
THE COURT: All right, Mr. Gardner, cross-examination.
MR. GARDNER: Yes sir. Thank you, Your Honor.
CROSS-EXAMINATION BY MR. GARDNER:
Q. Now that Friday that you went over there, you and Melissa, to [redacted] Pridgen Road, you got there about six you say?
A. After six.
Q. That was your testimony. Do you have anything that you went by to nail that time down?
A. What's there.
Q. What made you think it was six o'clock?
A. It was after six because "PoFo" had to be at the bank before six o'clock, Devon Harris.
Q. All right. So it was six o'clock or after six?
A. After six.
Q. What time?
A. I can't estimate the time.
Q. Shortly after six.
Q. Well, you went to the bank before six ---
A. Yes sir.
Q. ---And then you went straight there, right?
A. No sir.

Q. Where did you go?
A. I went to Broadway Place.
Q. Okay. Maybe I misunderstood the testimony earlier and I prob -- and I could have. I apologize. What time did you tell Mr. Richardson you got over on Pridgen Road?
A. It was after six o'clock.
Q. That's it, just after six?
A. Yes sir.
Q. All right.

MR. GARDNER: That's all the questions I have.

THE COURT: All right, Mr. Frederick.

MR. FREDERICK: Yes sir.

Beg the Court's indulgence just a moment.

THE COURT: Yes sir.

COURT REPORTER: Defendant, Stephens, Exhibits 1 through 15, for I.D.

(PHOTOS MARKED DEFENDANT, STEPHENS, EXHIBITS 1 THROUGH 15 FOR IDENTIFICATION ONLY.)

THE COURT: All right, sir.

CROSS-EXAMINATION BY MR. FREDERICK:

Q. Antwann, I'm going to just go ahead and hand these to you, same as the Prosecutor did, ask you if you recognize these photos. Some are going to be the ones that you saw a few minutes ago.

Yes?

A. Yes sir.
Q. And do each of those fairly and accurately depict things as it was on the day the picture was taken? Is that a fair and accurate depiction of those things?
A. Yes sir.
Q. Okay. I'm going to ask you some questions and I'm going to come back to these, okay.
A. Yes sir.
Q. Let me ask you this. Antwann, my name is Bobby Frederick. I represent Christopher Stephens. Who subpoenaed you to come here today, me or the Prosecutor?
A. Who subpoenaed me?
Q. Uh huh **(indicating positive)**
A. The Prosecutor told me they needed me here.
THE COURT: You need to speak up, sir. Nobody can hear you.
A. Somebody summoned me here. They said they summoned me to come to court, court appearance.
Q. They didn't tell you who?
A. No.
Q. Okay. Did the Prosecutor go back there and talk to you before you testified?
A. Just now?
Q. Or today, any time?
A. Yes sir.

Q. When was that, today?
A. Last week, last Tuesday, Wednesday.
Q. Last week?
A. Yes sir.
Q. Okay. Start with these. Can you tell the jury what these are?
A. That's the tape area.
Q. And this was the night that y'all found the bodies at the house?
A. Yes sir.
Q. Okay. And is this a fair and accurate description of the outside of the house that night?
A. Outside of it. That's on the -- at the road.
Q. Well, at the road, yes.
A. Yes sir.
Q. In front of the house?
A. Yes sir.
Q. Okay. Outside of the yellow tape. This is the yellow tape that the police put around to block off the area?
A. Yes sir.
Q. All right. And this is another angle of the same photograph, the street outside the house?
A. Yes sir.
Q. Okay. This is Defendant's 10 and 11. We would move to enter those into evidence.

THE COURT: Is there any objection from the State as to 1 through 15? Have you looked through them?

MR. RICHARDSON: No objection, Your Honor.

THE COURT: All right. So is there any objections, Mr. Gardner?

MR. GARDNER: No sir, Judge.

THE COURT: All right. Defendant's 1 through 15 are in evidence ---

MR. FREDERICK: Thank you, sir.

THE COURT: ---Without objection.

(DEFENDANT, STEPHENS, 1 THROUGH 15 ADMITTED INTO EVIDENCE.)

MR. FREDERICK: And we would move to publish these to the jury.

THE COURT: Any objection to publication?

MR. RICHARDSON: No, Your Honor.

MR. GARDNER: No, Your Honor.

THE COURT: You may do so.

Q. What time did you get up that Friday morning?

A. I don't have the slightest idea.

Q. Okay. On June 14th, do you remember telling the investigators that you got up early that Friday morning?

A. Not that I know of.

Q. Okay.

THE COURT: What was the answer, sir?

A. Not that I know of.
Q. It's yes or no.
A. No.
Q. Okay.
(AT THIS TIME MR. FREDERICK PLAYED A PORTION OF A TAPE RECORDED STATEMENT OF THE WITNESS, ANTWANN HIGGINS.)
Q. Antwann, that's kind of hard to hear, but could you hear that? Was that you?
A. (NODS HEAD NEGATIVE)
Q. That's not a good recording. I couldn't even hear it. Okay. Good enough.
You are familiar with the investigators in this case?
A. Investigators.
Q. The investigators. The people that you talked to early on in the case.
A. Lorenzo and McMann?
Q. That's Investigator DiLorenzo?
A. DiLorenzo.
Q. ---And Investigator Salena Mann?
A. Yes sir.
Q. Okay. How do you know them?
A. How do I know who?
Q. Investigator DiLorenzo.
A. They came and talked to me.
Q. Did you know Investigator DiLorenzo before you talked

to them regarding this investigation?
A. They deal with me one time before.
Q. And what was that about?
A. About what happened on Dunbar one day.
Q. Was it -- you were a victim in a case? It was a shooting?
A. Yes sir.
Q. Okay. And you didn't do anything wrong, right. I'm just saying you were a victim in a case ---
A. Yes sir.
Q. ---And they helped you, right?
A. Yes sir.
Q. Okay. And that was Investigator DiLorenzo?
A. Yes sir.
Q. Okay. How about your girlfriend, Melissa Gomez, had she had prior contact with them also?
A. At the time this happened?
Q. Before this happened.
A. Before. No sir.
Q. Did they help her as a victim in a case also, or a family member?
A. Not that I'm aware of, not that I'm aware of.
Q. On that Friday you were driving a Ford, white Ford Thunderbird, right?
A. Yes sir.

Q. And that came from Jill Holland, right?
A. Yes sir.
Q. And you said that you did recognize these. Is this the same white Ford Thunderbird?
A. Yes sir.
Q. This is different shot, same car?
A. Yes sir.
Q. Can you read the license tag for the jury, for the record?
A. Oh. [redacted].
Q. Okay.

MR. FREDERICK: I'd like to publish these.

THE COURT: Any objection to publication?

MR. RICHARDSON: Without objection, Your Honor.

MR. GARDNER: No objection, Your Honor.

THE COURT: You may do so.

MR. FREDERICK: For the record, that was 1, 2 and 3.

Q. And that car came from Jill Holland, right? You borrowed it from her?
A. Yes sir.
Q. Okay. Early in the case, when you first talked to the police, did you lie to the police?
A. I just didn't mention Roy's name.
Q. Okay. When you first met with Investigator DiLorenzo on Friday, on June the 9th, did you tell them that you went

into the house?
A. Huh?
Q. Did you tell them whether you went into the house or not?
A. Yes.
Q. You did?
A. Yes sir.
Q. Okay. You told them that you went into the house one time, right ---
A. Huh?
Q. ---When you found the bodies. The same as you testified here today, you told them you went into the house one time, right, found the bodies? Melissa found the bodies, came out ---
A. Yes.
Q. That's right?
A. Yes sir.
Q. And then you went in and you saw the bodies ---
A. Yes sir.
Q. ---You came back out?
A. Yes sir.
Q. That's also what you told Investigator DiLorenzo, correct?
A. Yes sir.
Q. Okay. You told him you didn't touch anything?

A. Yes sir.
Q. Okay. Was that a lie?
A. No sir.
Q. Okay. When DiLorenzo was questioning you at the scene, did he ask if there was anything they would find in the car?
A. At the scene. No sir.
MS. ELDER: Your Honor ---
THE COURT: Yes Ma'am.
MS. ELDER: ---May we approach for a moment?
THE COURT: Certainly.
(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)
THE COURT: You may proceed, sir.
Q. The question that was asked was, on the scene, when DiLorenzo was questioning you in the car, which was recorded, did he ask you if there was anything that they would find in your car?
A. Did they ask me that on the scene?
Q. Did he ask you that, yes.
A. He ain't asked me that on the scene.
Q. Okay. I'm about to play for you the clip of him asking you that on the scene, provided I can find it on here.
(MR. FREDERICK PLAYED A PORTION OF A RECORDED STATEMENT MADE BY ANTWANN HIGGINS.)
Q. Okay. It was a long time ago. Do you remember that?
A. I remember what you are talking about, what I said

right there.
Q. Okay. You said, no, I'll be picking up a lot of trash out of there, I think.
A. Yes.
Q. Okay. Did you tell the police that Roy Grant was there at the house?
A. Not the first time, but the second time I did.
Q. You didn't tell him the first time?
A. No sir.
Q. All right. You actually didn't tell them the second time either; you told them the third time, didn't you?
A. Well, I told them the second time, when they asked me about it.
Q. Okay. But when you first spoke with them you didn't tell them that? You didn't tell them he was inside the house either?
A. No sir.
Q. The second time that you spoke with them was at the station on the old Air Force Base. That second time you didn't tell them that either, did you?
A. The second time. They asked me about that.
Q. But you didn't tell them Roy Grant was there?
A. Not the second time. When they brought it up I told them the whole thing.
Q. Which was the third time they interviewed you?

A. No, second time.
Q. Okay. What did you tell them -- when they did ask you about Roy Grant, whether it's the second time or the third time, all right, you told them that Melissa and Roy went into the house and looked for Jamilla's stash?
A. They knew what it was.
Q. But that is what you told them?
A. Uh huh **(indicating positive)**
Q. Okay.
THE COURT: Was that a yes sir?
A. Yes sir.
THE COURT: All right.
Q. Okay. You told them that you stood in the hallway while Melissa and Roy were looking for the stash?
A. No. They went -- we went to the kitchen right there where they said the stash was at.
Q. Okay. And you told them that they -- and not you, but they, went back into the house to make sure that they had everything?
A. Huh?
THE COURT: Was that a yes or a no, sir?
A. I ain't understand what he's talking about.
THE COURT: Well, if you don't understand the question you need to tell the attorney that you don't understand the question so he can repeat it, all right?

A. Yes sir.

THE COURT: Go ahead, Mr. Frederick.

Q. Did you say to the police, during that last interview, or whenever y'all talked about it, that Melissa and Roy went back into the house to make sure that they had everything?

A. Had everything, meaning what?

Q. It was in the context of talking about the stash.

A. When they got everything. Yes, they left a number of bags.

Q. Okay. Well, when they first asked you about Roy Grant, in that same interview, when they first asked the question you told them you had no idea what Roy did; is that true?

A. No idea.

Q. That interview lasted a while, didn't it?

A. That what?

Q. Interview.

A. Yes. It lasts -- what you mean I ain't had no idea?

Q. At first, during the interview, you told the police you did not know what Roy Grant did.

A. About he not being there -- about he being there or something?

Q. And what he did while he was there?

A. Me and him went -- me and him and Melissa went back in, seen the bodies. They went to the -- see was the stash still there. They came back out.

Q. Okay. You went to your aunt's house across the street?
A. Yes sir.
Q. Afterwards?
A. Yes sir.
Q. Did you, or Melissa, or Roy, take anything out of Jamilla's house?
A. Melissa did.
Q. She took a briefcase out of the house?
A. Yes sir.
Q. And you did tell Investigator DiLorenzo, during that last interview, that you saw a briefcase come out of the house, right?
A. Yes sir.
Q. Did somebody put the briefcase in the car?
A. Yes sir.
Q. Is that the briefcase?
A. Yes sir.
Q. That's a better one?
A. Yes sir.
Q. Yes?
A. Yes sir.
MR. FREDERICK: Speak up for the Court Reporter.
A. Yes sir.
Q. And this is the briefcase? It's kind of like a safe --
-

A. Yes.
Q. ---Instead of like a briefcase.
A. Yes sir.
MR. FREDERICK: Your Honor, I would like to publish these to the jury.
THE COURT: Is there any objection?
MR. RICHARDSON: None. None, Your Honor.
MR. GARDNER: No, Your Honor.
THE COURT: And can you identify which ones those are, please sir?
MR. FREDERICK: This is 12, 13, 14 and 15, Defendant's.
THE COURT: All right, sir.
Q. Antwann, what was in the briefcase?
A. I do not know.
Q. Did you tell the investigator that you found the briefcase sitting in front of Jamilla?
A. Yes sir. It was in the front of her.
Q. Okay. You were never charged with anything in this case?
A. No sir.
Q. But the police did search your apartment?
A. Yes sir.
Q. And in your apartment they found the two guns ---
A. Yes sir.
Q. ---And to the best of your knowledge, those guns don't

match anything from the crime scene, right? They weren't used to kill Jamilla and Monica?
A. No sir.
Q. Okay. They found ammunition in the apartment? Stuff they took out of your apartment with the Search Warrant?
A. Yes, they found -- they found some stuff, you know.
Q. Shotgun shells?
A. That what they say, yes sir.
Q. Some drugs?
A. Residue.
Q. Residue?
A. Something like that.
Q. Did they find drugs in the apartment?
A. Found like -- probable shake, a scale or so.
Q. Scales?
A. Yes sir.
Q. Okay. Were you charged with drug possession?
A. No sir.
Q. Okay. Not charged with any weapons violations?
A. No sir.
Q. Was Melissa not charged with anything?
A. No sir.
Q. Jamilla, you knew her fairly well?
A. Yes sir.
Q. Okay. She was doing pretty well in the drug business,

wasn't she?
A. Yes sir.
Q. Okay. Were people mad about how well she was doing?
A. Not that I know of.
Q. Not that you know of. Were you mad about how well she was doing?
A. No sir.
Q. Do you know who Bathsheba is?
A. Bathsheba?
Q. Yes.
A. I know if I probably see her face.
Q. But you don't know the name?
A. I heard of the name.
Q. Okay. You, personally, don't know her? I guess that's the question I'm asking you.
A. I know her if I see her.
Q. Okay. When you talked to Investigator DiLorenzo at the scene on Friday, did you tell him that you had a grudge against Jamilla?
A. Grudge?
Q. A grudge against Jamilla?
A. We had some altercations, but ---
COURT REPORTER: I'm sorry. I couldn't hear you.
A. We had some differences but that was probably -- that was like, probably the second interview, he asked me about

that.

Q. Okay. Whether it was the first or the second, it makes no difference to me, you told him you had a grudge against Jamilla?

A. I ain't never told him I had a grudge against her.

Q. Okay. During the first interview, on the scene, I'm going to play a clip of Mr. Higgins telling Investigator DiLorenzo that he had a grudge against Jamilla.

(AT THIS TIME MR. FREDERICK PLAYED A PORTION OF A TAPE RECORDED STATEMENT GIVEN BY ANTWANN HIGGINS.)

Q. You can't -- that's not a good recording, but was that you at the end?

A. That was me.

Q. Okay. And did you say we had a little grudge?

A. Little gudge, meaning we had little problems.

Q. All right. That's the question I had asked. Did you tell him -- and I believe you said on Direct-Examination -- but did you tell him that the grudge was because you got into a fight with Melissa and Jamilla just got into the middle of it?

A. Yes sir.

Q. Okay. Did you threaten to kill Jamilla?

A. No sir.

Q. During your interview with Investigator DiLorenzo on June the 10th -- this was the next day, your second

interview -- did you tell Investigator DiLorenzo that you threatened Jamilla?

A. Did I tell her that?

Q. Did you tell Investigator DiLorenzo, on June 10th, that you threatened Jamilla?

A. Was I at the annex? No. On June the 10th?

Q. Yes.

A. That was the next day.

Q. Yes, it was. Is your answer yes or no?

A. No.

Q. Okay. During the interview on June 10th ---

(AT THIS TIME MR. FREDERICK PLAYED A PORTION OF A TAPE RECORDED STATEMENT GIVEN BY ANTWANN HIGGINS.)

Q. Do you remember telling Investigator DiLorenzo that you did not threaten her intentionally, but you probably threatened her out of anger?

A. Uh ---

THE COURT: Sir? What was your answer?

A. I don't understand. Repeat that.

Q. What we just heard, was that your voice saying to Investigator DiLorenzo, not intentionally, but I probably threatened her out of anger?

A. I ain't never threatened her out of anger.

Q. My question is, did you say that ---

A. I ain't never threatened her intentionally or none of

that, no.
Q. You didn't say that to DiLorenzo?
A. Intentionally?
Q. Would you like to hear the clip again?
A. You are saying intentionally.
Q. My question ---
MR. RICHARDSON: Your Honor, asked and answered.
THE COURT: I'm going to allow it. Continue on.
Q. ---Was that your voice on the clip?
A. That was my voice on the clip.
Q. Did you hear what was said? It's not the best quality. did you ---
A. I'm sorry. Re-ask your question. I'm asking, what was your question?
Q. My question is, was that your voice on the clip?
A. Yes sir.
Q. And did you hear -- were you able to hear, just now, what was said?
A. Yes sir.
Q. What you heard just now was you saying, not intentionally, you probably threatened her out of anger; is that right?
A. I threatened her. What I want to do that for?
Q. Did you say that?
A. Say what? Tell me what I'm said, threatened her out of

anger? No, I ain't threatened her out of no anger.

MR. FREDERICK: Judge, I would just ask permission to play it one more time.

THE COURT: You may do so.

MR. FREDERICK: Thank you.

(AT THIS TIME MR. FREDERICK PLAYED A PORTION OF A TAPE RECORDED STATEMENT GIVEN BY ANTWANN HIGGINS.)

Q. Did you know that Jamilla was getting drugs on that Thursday, that she was going to re-up that day?

A. No sir.

Q. Did you tell Investigator DiLorenzo, on June the 14th -- that would be your third interview with him -- that you saw Jamilla on Wednesday, dropped her off in the mall, and she didn't have any weed on that day?

A. Yes sir.

Q. Okay. And did you tell the investigators, in the same interview on June 14th, that you knew that she had got weed because she was waiting on the weed man?

A. At the time when she -- we dropped her off?

Q. Yes.

A. She was telling me she was waiting on it.

Q. Okay. And when you were riding in Salena Mann's patrol car did you tell Salena Mann that you knew that the killers got Jamilla's drugs?

A. Yes, because there wasn't nothing there.

Q. Wasn't nothing there?
A. Yes sir.
Q. On June 14th did you tell Investigator Salena Mann that you knew the killers took the stash because some people had told you so? Do you recall that?
A. Some people had told me?
Q. Do you recall that conversation with Salena Mann?
A. The night, June 14th?
Q. Yes.
A. Yes, they told me. There was people coming back before telling me that.
THE COURT: You need to speak up, sir.
MR. FREDERICK: I didn't hear you either.
A. There was people coming back and forth telling me they took it.
Q. Okay. And when you told Salena Mann that do you remember learning that the police had not told anyone about a stash?
A. Huh?
Q. The police had not told anyone about whether there was a stash in the house or not?
A. I don't know about that.
Q. But you saw the briefcase come out of the house?
A. Yes sir.
Q. Who is this?

A. Melissa.
Q. Melissa Gomez?
A. Yes sir.
Q. Y'all still dating?
COURT REPORTER: Excuse me. I can't hear you.
Q. Are y'all still dating?
A. No sir.
Q. Who is this?
A. That's me. Melissa. Me and Melissa.
Q. You and Melissa?
A. Yes sir.
Q. Whose shoes are these?
A. Shoes I was wearing.
COURT REPORTER: I'm sorry. I cannot hear you.
Q. Whose shoes are these?
A. The shoes I was wearing at the time the accident happened.
Q. And whose shoes are these?
A. Melissa's.
MR. FREDERICK: I would ask to publish Defendant's 4, 5, 6, 7, 8 and 9.
THE COURT: Any objection?
MR. RICHARDSON: Without objection, Your Honor.
MR. GARDNER: No objection, Your Honor.
THE COURT: You may do so.

MR. FREDERICK: I have no further questions. Thank you, Your Honor.

THE COURT: All right. Redirect, Solicitor.

MR. RICHARDSON: Ever so briefly, Your Honor.

REDIRECT-EXAMINATION BY MR. RICHARDSON:

Q. Antwann ---

A. Yes sir.

Q. Help educate us a little bit. I believe Mr. Frederick was asking you about drugs or narcotics found at your apartment at Willow Run. You said, maybe some shake or scale. What is shake?

A. Residue.

Q. What's residue?

A. Residue, like crumbs.

Q. You couldn't sell it?

A. No.

Q. Okay. It's leftovers?

A. Yes sir.

Q. And they asked you about the briefcase in the car. Did you drive that car home the night you found Jamilla?

A. No sir.

Q. Who drove that car away?

A. Y'all repossessed it.

Q. The police?

A. Yes, police.

Q. The police took it that night?
A. Uh huh **(indicating positive)** Yes sir.
Q. So you didn't -- did you ever see that briefcase again?
A. No sir.
Q. Did that briefcase ever go to your apartment?
A. No sir.
Q. And the briefcase was in the car?
A. Yes sir.
Q. And the car went to the Police Department?
A. Yes sir.
Q. So the briefcase would have gone to the Police Department?
A. Yes sir.
Q. And they played a little clip about a grudge or whatever. You said there was a grudge when you moved out, right?
A. Yes sir.
Q. And you already told us about that, right?
A. Yes sir.
Q. And you said that Wednesday before the murder you and Jamilla were cool?
A. Yes sir.
Q. And toward the end Mr. Frederick asked you about people told me the stash was gone.
A. Yes sir.

Q. Roy and Melissa told you the stash was gone, correct?
A. Yes sir.
Q. And that's when they looked in the kitchen?
A. Yes sir.
Q. All that was left was bags?
A. Yes sir.
Q. So those are the people that told you the stash was gone?
A. Yes sir.
Q. So it was gone by the time y'all got there?
A. Yes sir.

MR. RICHARDSON: Thank you.

THE COURT: All right. Anything on those questions, Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: Mr. Frederick.

MR. FREDERICK: No, Your Honor.

THE COURT: All right.

Does the State want to release this Defendant from his Subpoena?

MR. RICHARDSON: Yes sir, Your Honor, and we would ask that he be ---

THE COURT: All right. Any objection to him being released from his Subpoena?

MR. FREDERICK: We release him from our Subpoena as

well, Judge.

THE COURT: All right. Very good.

All right. He's returned back to your custody and control.

MR. RICHARDSON: Your Honor, the State would have one final short witness.

THE COURT: All right, sir, if you would call him.

MR. RICHARDSON: Delwyn Smith.

And that is, one final short witness for the day, Your Honor.

DELWYN SMITH, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. RICHARDSON:

Q. Mr. Smith, tell us -- tell us about yourself. Where do you live?

A. I live in Myrtle Beach, [redacted] Pridgen Road.

Q. [redacted] Pridgen Road. Sounds like a silly question, but where is that in relation to [redacted]?

A. It is just -- it's the house just left of [redacted] Pridgen Road.

Q. Okay. And where are you employed?

A. I work for Arby's, 20th Avenue North, in Myrtle Beach.

Q. Always glad to get an advertisement. You live on Pridgen Road. How long have you lived on Pridgen Road?

A. Twenty-four years.

Q. And so you lived on Pridgen Road back in June of 2006?
A. That's correct.
Q. Do you remember hearing about the murders of Jamilla Hightower and Monica Wall?
A. Yes, I do.
Q. And did you know Monica or Jamilla either one?
A. I knew both of them actually. Jamilla and my daughter were classmates.
Q. High school?
A. Yes, high school. Well, all through grade school and high school?
Q. So you knew Jamilla when she moved in?
A. Yes.
Q. And Jamilla and Monica, do you know how long they had lived at [redacted] Pridgen Road?
A. I couldn't actually give you the exact amount of time.
Q. Long period or short period?
A. I would say a short period, which is probably six to eight months I'm about to say, maybe a year.
Q. Is that a guesstimate?
A. That's a good guess.
Q. And with regard to the murders, you made the 911 call, correct?
A. That's correct.
Q. Now, the night before that 911 call, I want everybody

understand, the night before the girls were found murdered, do you recall what you were doing?

A. Yes.

Q. And what was that, sir?

A. I was at work that previous -- that night. I went in at 4 o'clock that afternoon, and we closed at two o'clock -- one o'clock, I think, at that time.

Q. And back in June of 2006, was Arby's a busy place?

A. Yes, it was.

Q. And you worked from four o'clock to one o'clock or so?

A. Yes. It was ---

Q. One -- and that was in the morning?

A. That was in the morning.

Q. And that's a Thursday night on into Friday?

A. That's correct.

Q. And you are a manager there?

A. That's correct.

Q. So I assume you have to be there until y'all leave?

A. I'm the last one to leave.

Q. Okay. So y'all close at one o'clock. You left after one?

A. It was probably about 1:30 by the time we cleaned up and put out the night deposits, and all the duties for that night.

Q. And whenever you left work -- and that's on 23rd

Avenue?

A. That's correct.

Q. 23rd North?

A. 23rd North, down by the Convention Center.

Q. Pridgen Road, what direction do you have to go?

A. I have to travel back south toward the Air Force Base to get home.

Q. And so you leave at about 1:30 or so?

A. That's correct, approximately.

Q. And do you go directly home?

A. Yes.

Q. So about what time do you get home?

A. Probably about one-forty. It takes me about eight to ten minutes at the speed limit to get home.

Q. And what condition are you in at this point?

A. Pretty tired, and ready to go to bed, because I have to be back to work the next morning at eight o'clock again.

Q. The next morning. No rest for the weary. So you get home and you are right beside Jamilla and Monica's house.

A. That's correct.

Q. Did you notice anything unusual?

A. No, I didn't, because normally when I get -- I'm focused on getting home and getting to bed.

Q. You are dog tired?

A. Dead tired.

Q. So you get home, you don't notice anything. You are trying to go -- do you go straight to bed?

A. That's correct.

Q. And you said you had to be back at work at eight o'clock the next morning?

A. Eight o'clock the next morning.

Q. And how late did you have to work ---

THE COURT: Just a second, Solicitor, the Court Reporter has got to switch a tape.

MR. RICHARDSON: Yes sir, Your Honor.

Q. You had to be at work at 8 o'clock?

A. That's correct.

Q. What time did you have to leave the house?

A. Normally I leave about 7:30, usually the thirty minutes before my shift starts.

Q. And did you notice anything unusual when you left the house that morning?

A. No, I didn't.

Q. Take us through the rest of the day. How late did you have to work?

A. I worked until six o'clock. My shift ended at six. Normally I go -- leave the store, go to 21st Avenue to drop off my day deposit at Conway National Bank, and then I normally go straight home, so I got home probably about 6:30.

Q. And what did you do when you got home?

A. I got home and there was a golf tournament on, and I was contemplating -- going to lay across the bed and watch the golf tournament. The next thing I know I was asleep and I heard the doorbell ringing.

Q. So you had drifted off?

A. Drifted right ---

Q. Watching golf?

A. Watching golf.

Q. And the doorbell rang?

A. Yes.

Q. Did you go to answer it?

A. Yes.

Q. And who do you see?

A. Antwann, that used to live nextdoor there.

Q. So Antwann used to be your neighbor?

A. Yes.

Q. And do you know if he is related in any way to Jamilla or Monica?

A. I wasn't aware of it at the time. I didn't have any idea.

Q. You answer the door, Antwann is there. How did he appear to you?

A. He was real frantic, and just screaming for me to call the police, call 911.

Q. Did you see Melissa Gomez, or do you know Melissa

Gomez?

A. Yes. I know Melissa also.

Q. And how do you know Melissa Gomez?

A. Because she -- her and her mom were actually the original tenants at the house, at [redacted].

Q. And did you see Melissa there?

A. Yes, I did.

Q. And what was her demeanor?

A. They were both just screaming and yelling for me to call 911 and call the police because of what had happened nextdoor.

Q. Now I think you said Antwann was frantic, so Melissa too, frantic?

A. Yes.

Q. And what did you do after that, please?

A. I grabbed the phone and I dialed 911, the first time I ever had to -- in a situation like that. I was really nervous myself after they told me what had happened, so I immediately called 911.

Q. I'm going to show you what's been previously marked as State's Exhibit Number 8, for identification. Mr. Smith, do you recognize State's Exhibit 8?

A. Yes, I do.

Q. And how do you recognize it?

A. I had seen it previously, and it says -- the 911 call.

Q. And have you had the opportunity to review this?
A. Yes, I have.
Q. And is it a true and accurate depiction of your telephone call to 911?
A. Yes, it is.
MR. RICHARDSON: At this time the State would seek to introduce State's Exhibit 8 into evidence.
MR. GARDNER: I don't have any objection, Your Honor.
THE COURT: Mr. Frederick.
MR. FREDERICK: I'm not going to object.
THE COURT: All right, sir, so State's 8 is in evidence without objection. All right, sir.
(C.D. ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 8.)
MR. RICHARDSON: Your Honor, the State would seek to publish it at this time as well.
THE COURT: Any objection to publication, Mr. Gardner?
MR. GARDNER: No, Your Honor.
THE COURT: Mr. Frederick?
MR. FREDERICK: No, Your Honor.
THE COURT: All right, you may publish it.
MR. RICHARDSON: Court's indulgence as I plug this in.
THE COURT: Yes sir.
MR. RICHARDSON: And Your Honor, this has five tracks. I will only be playing tracks one through four.

(AT THIS TIME STATE'S EXHIBIT NUMBER 8 IS PUBLISHED TO THE JURY.)

Q. Of, Mr. Smith, you are present during that call?

A. That's correct.

Q. The other voice screaming in the background, who was that?

A. I could hear Antwann at one time, and Melissa -- those were the ones screaming -- and then the other voice I heard after I listened to it, it had to be my daughter, because I was telling her what had happened, because she had just got up, and I told her what had happened and that was her saying, "Oh, my God".

Q. Mr. Smith, that's the extent of your involvement in this case?

A. That's correct.

MR. RICHARDSON: Thank you, sir. Please answer any questions the Defense may have.

MR. GARDNER: No questions, Your Honor.

THE COURT: Mr. Frederick.

MR. FREDERICK: No questions.

THE COURT: All right. Very good, sir.

Do you wish this witness to be excused from his Subpoena?

MR. RICHARDSON: I do, Your Honor.

THE COURT: Any objections?

MR. GARDNER: No objection, Your Honor.

MR. FREDERICK: No objection.

THE COURT: You are released from your Subpoena, sir, and you may go back to your regular work.

A. Thank you.

THE COURT: All right, Solicitor, and Mr. Gardner, Frederick, y'all come talk to me for a second, please.

MR. RICHARDSON: Yes sir, Your Honor.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: All right, ladies and gentlemen, we are going to stop for the evening, and we will resume tomorrow morning at 9:30. I would have you here a little bit earlier but there is some matter that I have to attend to first thing in the morning, so, I want you back in your jury room tomorrow morning at 9:30.

And I'll go into my broken record about telling you, don't talk about the case, don't allow anybody to talk to you about the case. When you go home, see your husband, wife, boyfriend, girlfriend, don't talk about the case, because unintentionally they will give you their opinion about the case. They don't have one. You shouldn't have an opinion about the case because you haven't heard all the facts nor the law which would apply to the facts as you so find them to be.

Don't listen to the radio about the case, don't look at the newspaper, don't watch T.V. about the case. You have to

decide the case based on what you hear in this courtroom, and from no other source.

So with that I will see you back tomorrow morning 9:30.

Thank you very much.

Everyone else remain seated.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right. As to any spectators in the courtroom, you will need to remain in the courtroom for ten minutes. You may not leave the courtroom for ten minutes. Allow the jury to get outside and into their cars.

With that, counsel, I will see y'all back tomorrow morning 9:30. Obviously I'll be here earlier than that. If there are any issues please let me know.

Anything you know of at this point in time, Solicitor?

MR. RICHARDSON: Nothing we know of, Your Honor.

THE COURT: All right. Mr. Gardner.

MR. GARDNER: Nothing, Your Honor.

THE COURT: Mr. Frederick.

MR. FREDERICK: No sir.

THE COURT: Very good. I'll see you back tomorrow morning 9:30. Thank you very much.

(THE FOLLOWING TAKES PLACE ON THE NEXT DAY, FEBRUARY 4, 2009, OUTSIDE THE PRESENCE OF THE JURY.)

MR. RICHARDSON: Yes, Your Honor.

THE COURT: All right. Mr. Gardner.

MR. GARDNER: Yes sir.

THE COURT: Mr. Frederick.

MR. FREDERICK: Yes sir.

THE COURT: All right. Very good. Ask the jury to come in then, sir.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, your next witness, please.

MR. RICHARDSON: Your Honor, at this time the State calls Officer Richard Arroyo.

THE COURT: All right. Please come around to be sworn, sir.

RICHARD ARROYO, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. RICHARDSON:

MR. RICHARDSON: Good morning, Officer Arroyo.

A. Good morning, sir.

Q. Please tell the Court where you are employed, how long, what capacity.

A. I work patrol for the City of Myrtle Beach.

THE COURT: Sir, you are going to need to speak directly into the microphone. Pull that microphone closer to you. All right. Thank you.

A. I work for Myrtle Beach Police Department, working Patrol Division, April will be seven years.
Q. So you were employed back in June, 2006?
A. Yes sir.
Q. And back in June, 2006, what were your duties?
A. I'm sorry.
Q. What were your duties back in June, 2006?
A. I was a patrolman.
Q. And tell us what patrol -- what you actually do.
A. Patrol responds to all kinds of calls. It could be from fireworks to a drowning person, a domestic violence call, to a fight call.
Q. And were you working back on June 9th, 2006?
A. Yes sir.
Q. Back on that date, did you have the opportunity to respond to [redacted] Pridgen Road?
A. I did, sir. I was the primary officer.
Q. You were the primary officer.
A. Yes sir.
Q. And primary officer, is that first responding officer?
A. Yes sir.
Q. And are you familiar with Carolina Cove Apartments?
A. Yes sir.
Q. How far is that away from [redacted] Pridgen Road?
A. Five minute walking distance.

Q. Okay. And what County is [redacted] Pridgen Road located in?
A. Horry.
Q. Located here in Horry County.
Q. Tell us a little bit about your response to [redacted] Pridgen Road. What prompted it, so on and so forth?
A. I was on a hotel overlooking the water. We had a drowning call. It ended up being a turtle. I was making my way down to -- to my patrol car and I got a deceased person call, so I kind of went normal response, and about halfway there, coming up Pridgen Road, it came out -- apparently there was a second phone call made, or some -- further on the first phone, that there was two people supposedly deceased in the house.

At that point it kind of elevates the situation, because usually you have one deceased person it may appear natural. When you have two in the same house something is not right. My level of awareness was kind of heightened, got a little nervous -- you know, it's not your typical call -- and then I arrived.

Q. Upon arrival, who, if anybody, did you encounter?
A. After talking with them later I identified them as Mr. Higgins and Ms. Gomez.
Q. How did they appear to you?
A. Ms. Gomez was extremely upset. She was crying. She was very frantic, and Mr. Higgins was more -- more control. I

could tell he was trying to control himself for her.

Q. Now, I'm going to show you what's been previously marked for identification State's Exhibit Number 74. Do you recognize this item?

A. Yes sir. That's the -- I guess the top view of the house.

Q. Diagram of the house?

A. Yes sir.

Q. Does it fairly and accurately depict the house as you found it that day?

A. Yes sir.

Q. And these items here, what do they identify?

A. Those are the bodies that I found.

Q. And they fairly and accurately depict where the bodies were found?

A. Uh huh **(indicating positive)** Yes sir.

MR. RICHARDSON: Your Honor, at this time the State would seek to introduce State's Number 74 into evidence.

THE COURT: Any objection?

MR. GARDNER: No sir.

MR. FREDERICK: No objection.

THE COURT: All right. State's 74 is in evidence without objection.

(DIAGRAM ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 74.)

MR. RICHARDSON: And the State would seek to publish at this time, Your Honor.

THE COURT: Any objection to publication?

MR. GARDNER: No objection, Your Honor.

MR. FREDERICK: No objection, Your Honor.

THE COURT: You may do so.

(STATE'S EXHIBIT NUMBER 74 IS PUBLISHED TO THE JURY.)

Q. Officer Arroyo, can you come on down off the stand? Now you stated when you arrived you encountered Antwann Higgins, correct, and Melissa Gomez?

A. Yes sir. Yes sir.

Q. Okay. After you -- did you speak -- did you speak to them?

A. Briefly.

Q. To get the detail of what's gone on?

A. Just what they saw, anything that I need to take care of right away, immediately, did they see anybod -- you know, real brief questions.

Q. Okay. If you could, could you take -- what did you do after you spoke with them?

A. There was a gentleman that was hanging around this door right here that apparently had talked to them. I believe he was identified as Mr. Krantz. I used him -- I had no backup with me that day, so I used him to watch this door. I pretty much told him, you can let anybody out, but you can't let

anybody in, and that I was going in.

Q. Okay. This is the door you went in through?

A. Yes sir.

Q. And what was the purpose of you entering that door?

A. When I -- when I respond I do a protective sweep initially to make sure that no one else is in the house. If there is -- I mean, based on the call, if there was anybody alive, anything that I can do as a first responder. I also take a cursory look on what's going on, to see what kind of help, or what kind of equipment I might need, or what -- any type of units I might need.

Also, the supervisor is going to ask me what I saw.

Q. Okay. And you entered through this door. Was it locked, unlocked?

A. It was unlocked.

Q. It was unlocked. If you would, just take us through real briefly exactly the journey you took inside this house, the protective sweep.

A. Okay. Generally stood at this door. I left the door open. I came in. I remember coming in and seeing the couches to my left and to my right. I remember having to step over some cell phones. I remember seeing the T.V., and then once I got to about this point that's when my heart rate started racing, because I knew I was by myself, and I saw the opening here in the kitchen to the left, and the opening to the right,

and then the hallway, so I had a triple kind of way to go, so I immediately came over to this corner right here, checked the kitchen. I was able to look through. I came across to the laundry room, briefly looked into the bathroom, then I came up to the hallway.

Q. And as you came through the hallway, did you notice anything?

A. Well, when I was coming up in the hallway I noticed that both doors were open. I wasn't a big fan that they were across from each other, so I had to commit to one of the rooms, and I committed to the room to the right.

Q. And that was this bedroom right here?

A. Yes sir.

Q. Now, you say you committed to it. What does that mean?

A. Well, I -- obviously I've done a protective sweep with my duty weapon. I see the door to my left, see the door to my right. I try to peek as much as I can to this left, but I'm obviously going to go in this room, so I take the sweep into the room.

Q. When you took the sweep into the room, what did you notice, if anything?

A. Immediately I saw a female body on the floor. There was a pillow on her head. I curled over to the top here because my biggest threat right now was the closet. I was able to look into the closet real quick, and then I kind of

got down just a little bit more. I was still having to watch my -- my left side. I was more worried about noise at this point, because I wanted to make sure that there was no one else in the house.

I briefly touched the pillow to confirm that -- that she wasn't going to wake up. I called out. When I stood up again I could see the blood on the other side of the pillow. I didn't walk to the -- I did not walk past the body. There was like a little bureau and a bed here, so I came to this corner here, took my breath, and then I came across the hallway.

Q. Okay. So you got done in this bedroom, just checked to see if she was alive or not?

A. Uh huh **(indicating positive)**

Q. Did you get any response?

A. No sir.

Q. So you determined she was deceased?

A. Yes sir.

Q. And you left this room. Take us through that trip.

A. Once I stepped out the room, again, I was trying to control my breathing. I took kind of a small break before I entered the hallway again. I wiped my hands because my hands were profusely sweating. Took a couple of deep breaths, and that's when I started noticing a smell of feces in the air. I didn't notice it when I was down here in the hallway.

When I crossed the closet I came to this doorway right

here. I kind of peeked long ways. I really couldn't see anything. I looked this way, and then I start -- you know, I relaxed my gaze, and I saw a little bit of feces in the room before I came in.

I immediately came in and just cleared this closet, looked down here. I checked the door to make sure that the door didn't open on me.

Q. And where is that door located?

A. It's about right here next to the closet. And then I came to this corner right here.

Q. And what was the purpose of checking the door?

A. I wanted to make sure no one could come in behind me, and there was no way for me to -- and the door didn't open, so I relaxed that, and then I came here, and that's when I saw the feet.

Q. You saw the feet of whom?

A. I believe Ms. Wall.

Q. And you saw the feet of Ms. Wall; is that all you saw?

A. Well, I -- that's my -- when I first came to this bureau right here against this wall -- her feet were a little bit more of an angle. When I came in I saw her feet at the door. I lengthened it up. I'm against the wall now, but I could see a little bit more of her body, probably up to right here. When I got closer half her torso was inside the shower stall.

Q. And the shoes you had on that night ---
A. The same boots.
Q. Are those Nikes?
A. No sir. I couldn't tell you the name brand. The City bought them for us.
Q. Okay. But definitely not Nikes?
A. No sir.
Q. So you entered in here and you saw the body. After you saw the body what did you do?
A. I saw the body and I froze a second. I listened again. I took a couple of steps to about right here to make sure that this area was clear, and then pretty much I backed out.
Q. You backed out?
A. Yes sir.
Q. After you backed out did you go all the way out of the house?
A. Yes sir.
Q. And what did you do at that point?
A. Well, as soon as I came to this door I saw Detective Lever approaching, and a medical unit was approaching.
Q. Let me back up. When you saw Monica Wall, how was she clothed?
A. She was nude.
Q. Did she have anything else over her or anything?
A. There was a pillow over to her right side, I believe.

MR. RICHARDSON: If you will resume the stand, please.

Q. Officer Arroyo, I'm going to show you what's been previously marked as State's Exhibit Number 73 for identification.

Do you recognize State's Exhibit Number 73?

A. Yes sir.

Q. And how do you recognize it?

A. We saw the video from the house. Crime scene took that.

Q. Does this fairly and accurately depict the crime scene as you viewed it that night?

A. Yes sir.

MR. RICHARDSON: Your Honor, at this time the State would seek to introduce State's Exhibit Number 73 into evidence.

THE COURT: Any objection?

MR. GARDNER: No objection, Your Honor.

MR. FREDERICK: No objection.

(CD OF CRIME SCENE ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 73.)

MR. RICHARDSON: And we would seek to publish at this time.

THE COURT: Any objection to publication?

MR. GARDNER: No objection.

MR. FREDERICK: No objection.

THE COURT: You may do so. Thank you very much. It's in evidence.

(AT THIS TIME STATE'S EXHIBIT NUMBER 73 WAS PUBLISHED TO THE JURY, DURING WHICH THE FOLLOWING QUESTIONS WERE ASKED.)

Q. That's the door you made entry on? Officer Arroyo, is that the door you made entry ---

A. Yes sir.

(END PUBLICATION OF STATE'S EXHIBIT NUMBER 73.)

THE COURT: All right, Solicitor.

MR. RICHARDSON: Thank you, Your Honor.

Q. Officer Arroyo, I forgot to ask you before. What time did you arrive?

A. I was dispatched around 7:30. Maybe within five minutes, if that.

Q. On that video we saw the time was about 9:30, 9:35.

A. Uh huh **(indicating positive)**

Q. What happened in that in between time?

A. As soon as I left Detective Lever and the E.M.S. person came in. I escorted them in. We were there for E.M.S. to pronounce -- they -- you know, I saw her little -- that little thing. As soon as we came out I secured the residence until crime scene got there.

Q. But no doubt it, that scene was the same when you arrived?

A. From when I was there, absolutely.

Q. Officer Arroyo, I'm going to ask you to take a look at State's 65, 66, 67, 68, 69, and 70, 71, and 72, and see if you recognize those.

A. I do.

Q. And what do you recognize those to be?

A. The first few of the living room, and then definitely the crowd that developed.

Q. So these are pictures taken of the [redacted] Pridgen Road?

A. Yes sir.

Q. Do they fairly and accurately depict the observations you made that night?

A. As far as the house, yes. The angles are different as far as on the road, because I was closer to the house, not from the road.

MR. RICHARDSON: And at this time the State would seek to introduce 65, 66, 67, 68, 69, 70, 71 and 72 into evidence.

THE COURT: Any objection?

MR. GARDNER: No sir.

MR. FREDERICK: No objection, Your Honor.

THE COURT: All right. State's 65 through 72 are in evidence without objection.

(PHOTOS ADMITTED INTO EVIDENCE STATE STATE'S EXHIBIT NUMBERS 65 THROUGH 72.)

Q. Officer Arroyo, I'm going to ask you to take a look at State's 65, 66, and 67. Take a look at those and tell us what

you see there.

A. This is definitely the living room that I entered. I mean, it looks the same from when I came in. I mean, I see T.V.s, I see D.V.D.s and movies, C.D.s, V.C.R., boots.

Q. And what room is that?

A. That's the living room.

MR. RICHARDSON: Your Honor, permission to publish.

THE COURT: Any objection to publication?

MR. FREDERICK: No objection.

THE COURT: Mr. Gardner.

MR. GARDNER: No sir. No sir.

THE COURT: You may do so.

Q. And Officer Arroyo, take a look at State's 68, 69, and 70.

A. Yes sir.

Q. Could you tell us what we are seeing in State's Number 68?

A. 68 is -- when I walked in they were sitting right by the -- almost near the front door. I remember having to step over the cell phones to get through. There is also a ring on the floor, a remote control, and a watch.

Q. That's all over in the living room?

A. Yes sir.

Q. And State's Number 69, what are we seeing here?

A. That is, I guess, some type of counter top, maybe you

could put speakers on it, but it's got D.V.D. players, some type of Sony handheld P.S.P., some disks, more remote controls, and well, D.V.D.s and C.D.s.

Q. State's Number 70.

A. That's -- that was directly in front of me, but the D.V.R. unit, looks like some type of receiver, more D.V.D.s, more C.D.s, and speakers, and stuff like that.

Q. And all these were found at [redacted] Pridgen Road ---

A. Yes sir.

Q. ---Where the dead girls were?

A. Yes sir.

MR. RICHARDSON: Your Honor, permission to publish at this time.

THE COURT: Any objection to publication?

MR. FREDERICK: No objection.

THE COURT: You may do so.

Q. I'm showing what's already been moved into evidence as State's Number 6. Do you recognize that item?

A. Yes sir. That's the living room, leading to the hallway.

Q. And that's what you encountered that night?

A. Yes sir.

Q. And that hallway ---

MR. RICHARDSON: Permission to publish, Your Honor.

THE COURT: Any objection?

MR. GARDNER: No objection, Your Honor.

MR. FREDERICK: No objection.

THE COURT: You may do so.

Q. This hallway, is that the hallway you traveled down to the bedrooms?

A. Yes sir.

MR. RICHARDSON: I believe this has already been to the jury.

Q. I believe these are already in evidence, but I'm going to ask you to take a look at them real quick just to make sure.

Those are State's Number 2 and 10.

A. Yes sir.

Q. And can you tell us what these photographs are?

A. Those of photographs of Jamilla and Ms. Wall.

Q. And this is how you encountered them that night?

A. Yes sir.

Q. Fair and accurate depiction?

A. Yes sir.

MR. RICHARDSON: Your Honor, as protection, the State would seek to move if these have not been moved in, State's Number 2 and 10 into evidence.

COURT REPORTER: They are in.

MR. RICHARDSON: They are in?

THE COURT: They are in evidence.

Thank you.

Q. Officer Arroyo, State's Number 2, can you tell us what that is?

A. That is a picture of Jamilla on the floor. That's her bedroom.

Q. And what's that on Jamilla's back?

A. That -- that is a pillow.

Q. Pillow -- the pillow you found over her head?

A. Yes sir.

Q. And is that how you found Jamilla Hightower that night?

A. That's how I found her.

Q. How about State's Number 10?

A. That's Ms. Wall on the bathroom floor.

Q. And this item on her head?

A. That is a pillow.

Q. The pillow you found on her head?

A. Yes sir.

MR. RICHARDSON: Your Honor, permission to publish.

THE COURT: Any objection?

MR. GARDNER: No sir.

MR. FREDERICK: No objection.

THE COURT: You may do so.

MR. RICHARDSON: Court's indulgence.

THE COURT: Yes sir.

Q. Officer Arroyo, I'm going to show you what's been

entered into evidence as State's 71 and 72. Tell us what you see in there.

A. That's the crowd that was outside the house, on the road.

Q. Was there a crowd there whenever you got there?

A. As soon as I got there it was just Mr. Higgins and Ms. Gomez. When I came out the first time there was already one or two cars there. When I came out the second time there was like four or five cars already there.

Q. Before you left the scene approximately how many people were there?

A. At the end of the night? I mean, they thinned out because I was there the entire time, but I mean, a rough estimate, definitely over fifty, but it wouldn't surprise me if there was closer to a hundred.

Q. Did you see any cell phones out?

A. Absolutely.

Q. So people were making calls?

A. Absolutely.

Q. And State's 72 and 71, they fairly and accurately depict some of the crowd that was there that night?

A. Some of the crowd, yes sir.

MR. RICHARDSON: Permission to publish, Your Honor.

THE COURT: Any objection to publication?

MR. GARDNER: No sir.

MR. FREDERICK: No objection.

THE COURT: You may do so.

Q. Officer Arroyo, on the video in the second bedroom, there was a nightstand. Seemed to be stuff on the floor. Was that the condition you found the house?

A. I -- on the right-hand side or the left-hand side, as soon as I ---

Q. On your left-hand side as you went in, the second bedroom.

A. It was a stereo or something on there.

Q. Did you knock over anything in that bedroom?

A. I did not touch anything along the walls, other than the door.

Q. And we saw a little object in that second bathroom where I believe you identified Ms. Wall was.

A. Yes sir.

Q. Were you able to identify what that was?

A. That was a shell casings from a bullet.

Q. That was a shell casing. Did you do anything to disturb that shell casing?

A. No sir.

Q. So that's exactly where it lay?

A. Yes sir.

Q. We've seen the front of the house, and we've seen the video of the back of the house. How would you describe the

back of the house compared to the front of the house?
A. I mean, are you asking my personal opinion, or just a general observation?
Q. General observation.
A. To me the back -- my personal observation, Jamilla's room was very -- had a lot of stuff in it. The front of the house seemed more organized, nothing out of the ordinary.
Q. So, as I understand your testimony, all the photographs we've seen are fair and accurate depictions ---
A. Yes sir.
Q. ---Of what you encountered?
A. Yes sir.
Q. You found Jamilla Hightower and Monica Wall with pillows over their heads?
A. Yes sir.
Q. Did you see anything on the pillows?
A. My first observation was I -- when I saw her body I saw the small hole in the pillow. After I cleared the closet I got closer, I was able to see the blood.
Q. They had small puncture wounds through the pillow?
A. I didn't see -- I didn't see either one in the back -- I didn't see the hole in the bathroom -- I mean, I didn't see the hole in Ms. Wall's pillow, but I definitely saw the hole in Jamilla's pillow.
Q. And they were face down?

A. Yes sir.
Q. And they were deceased?
A. Yes sir.
MR. RICHARDSON: Officer Arroyo, thank you for your cooperation. If you would just answer any questions the defense may have.
THE COURT: All right, Mr. Gardner.
MR. GARDNER: Thank you, Judge.
CROSS-EXAMINATION BY MR. GARDNER:
Q. Officer Arroyo, none of the information that you have provided today tells us who did these crimes, correct?
A. Not that I know of, no sir.
Q. And back to the people who were outside.
A. Yes sir.
Q. It got a -- there was a lot of people there, correct?
A. Yes sir.
Q. You say at least fifty, maybe a hundred?
A. Toward -- yes, yes sir.
Q. All right. And they had cell phones?
A. Some of them did, yes sir.
Q. Taking pictures and talking to people on the phone?
A. Yes sir.
MR. GARDNER: All right. Thank you, sir.
A. Yes sir.
THE COURT: Mr. Frederick.

MR. FREDERICK: No questions.

THE COURT: All right, sir.

You may step down.

Do you wish this witness to be excused?

MR. RICHARDSON: Your Honor, I would ask that Officer Arroyo be excused.

MR. GARDNER: No objection.

MR. FREDERICK: No objection.

THE COURT: All right, sir. You are excused to go back to your regular duties.

Next witness, please sir.

MR. RICHARDSON: The State would call Officer John Iannone.

THE COURT: Please come around to be sworn, sir.

JOHN IANNONE, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. RICHARDSON:

Q. Tell us where you are employed, how long, and in what capacity.

A. I'm with the City of Myrtle Beach Police Department. I'm in the Crime Scene Unit, and I've been in Myrtle Beach for ten years.

Q. And you were so employed back in June of 2006?

A. Yes sir.

Q. And in what capacity were you employed back in June of

2006?

A. I was in the Crime Scene Unit, and I was the one that processed the crime scene at [redacted] Pridgen Road.

Q. You probably get this question a lot, but Crime Scene Unit, is that like C.S.I. on T.V.?

A. No.

Q. What is the purpose of the Crime Scene Unit?

A. We go ahead and video tape, photograph, and collect any evidence in the scene, collect it. We process fingerprinting, and then and other things that we collect we will send off to S.L.E.D., and have them process.

Q. And you indicated you had the opportunity to respond to [redacted] Pridgen Road.

A. Yes sir.

Q. And when was that?

A. It was on June 9th, 2006.

Q. About what time did you respond?

A. I responded at 7:30 P.M..

Q. And what was the purpose of your response to that address?

A. We had to go -- at first we went there to wait for the search warrant. I initially took photographs of the outside of the perimeter, and then after we got the Search Warrant and was allowed to go in I began to take video taping of the whole scene, photograph everything, and then from there we started

collecting evidence throughout, throughout the whole night.
Q. You talked about obtaining the Search Warrant, so there was some delay between the time you arrived and when you were able to enter?
A. Yes sir. We had to wait.
Q. And your primary purpose was evidence collection?
A. Yes sir.
Q. Could you give us -- how many crime scene officers did respond to that address?
A. There was total of four of us, plus my supervisor, so five altogether.
Q. And I mean, it seems like a silly question, but [redacted] Pridgen Road, what city is that in?
A. The City of Myrtle Beach.
Q. And what county is that?
A. Horry County.
Q. Now, the crime scene officers, could you just give us a real quick summary of what y'all do?
A. Well, I took video tape. I was one of the first ones to go in with the video camera. I went through all the rooms. I then began to take photos of the entire house. After photographs I began to go into one of the rooms where the deceased was, take photos of them, of each of them, then I began to -- we used black silk powder and magnetic powder to collect fingerprints and shoe prints.

We took a gunshot residue kit on each of the victims, which will indicate if a gun was shot in the hand or not.

Everything that was on scene we put yellow markers on it to indicate what was going to be collected, and then we put everything in plastic -- well, in brown paper bags, and go ahead and label each one and secure them.

Q. And you mentioned the term gunshot residue kit. You say that you did them on the victims.

A. Yes sir.

Q. Do you know if gunshot residue tests were performed on anybody else that evening?

A. There was two witnesses on scene that were taking -- that we did take on them, yes.

Q. Do you know of any results on those?

A. I'm not sure what the results were.

Q. How about the crime scene? What condition did you find Jamilla Hightower's house?

A. It was -- well, her room was somewhat ransacked. There was a lot of clothes on the floor.

In Monica's room there was also a table that was -- that had fallen out, with the alarm clock that was off. The radio was still playing. She had some -- Monica's room had her clothes on the ground. There was fecal matter in -- in her bedroom.

Ms. Hightower's room was also sort of messy, with

clothes on the floor. She was laying face down with a pillow over her head.

As long as -- Monica also had a pillow over her head as well.

Q. Let me show you what's previously been marked for identification as State's Number 18 and 19. If you would just take a look at those and see if you recognize those.

A. Yes sir. These are tire marks that were found in the driveway.

Q. I just asked, do you recognize them?

A. Oh yes, yes sir.

Q. And how do you recognize those?

A. These are tire marks that were taken in the driveway outside of the apartment.

Q. Do these fairly and accurately depict what you encountered that night?

A. Yes sir.

MR. RICHARDSON: At this time the State would seek to introduce State's Number 18 and 19 into evidence.

THE COURT: Mr. Gardner.

MR. GARDNER: No objection.

THE COURT: No objection. All right.

MR. FREDERICK: No objection.

THE COURT: All right. They are in evidence without objection.

(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 18 AND 19.)

Q. And you stated these are tire marks?

A. Yes sir.

Q. And this yellow right here, what's that?

A. That's just a scale ruler that we put down to indicate the size of the tire mark.

Q. And Number 19, that's just a bigger picture of it?

A. Yes. It's a close up.

Q. And for what purpose did y'all take tire impressions?

A. Well, we take them so -- in case we do find a match. We'll send it off to S.L.E.D. with the tire, and then they compare it to match it.

Q. So if I understand, you need a tire to compare this to?

A. Yes sir, which -- yes.

Q. Did you have a tire to compare it to?

A. No, we did not.

Q. But you were getting this because you were doing your job?

A. We -- yes. Yes.

Q. Now, let me show you what's been previously marked State's Number 20, 21, and 22, and if you would just take a look at them and see if you recognize them.

A. Okay. Yes, I do.

Q. And are these photographs you took?

A. Yes sir.
Q. And do they fairly and accurately depict what you encountered at [redacted] Pridgen Road?
A. Yes sir.
MR. RICHARDSON: Your Honor, at this time the State would seek to introduce State's 20, 21 and 22 into evidence.
THE COURT: Any objection?
MR. GARDNER: No objection.
MR. FREDERICK: No objection.
THE COURT: They are in evidence without objection.
(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 20, 21 AND 22.)
Q. Officer Iannone, if you could, just take us through -- just give us a summary of what State's 20 through 22 are.
A. What this is is the door, the front door. Well, it was on the side of the house. I believe it was on the -- let me just make sure, look at my notes.
Q. Okay. Do you need a moment to revie ---
A. If I could.
Q. ---Review your notes to refresh your recollection?
A. Yes sir.
MR. GARDNER: No objection.
A. Okay. This would be the north side of the house, and this is where the door was -- mainly where entrance was made. We took these photos because it looked like it had some damage

to it, and I took the photos just to show that damage, but later found out that it was old damage.

Q. How can you tell that's old damage?

A. There was -- there was -- first of all, there wasn't any wood. Where it shows in the picture that looks like there's a lot of wood, that's been taken off near the door knob, and there wasn't any wood shavings or anything on the floor, and the metal that looks like it's scratched, you can tell it's like -- has rust over it, on top of it.

Q. So that indicated it's old damage, not freshly made damage?

A. Yes sir.

Q. Now let me show you State's 23 and 24. If you could just take a look at those and see if you recognize those.

A. Yes sir.

Q. And how do you recognize those?

A. These are the photos I took of the kitchen.

Q. Does that fairly and accurately depict the kitchen at [redacted] Pridgen Road as you found it?

A. Yes sir.

MR. RICHARDSON: At this time the State would seek to introduce Number 23 and 24 into evidence.

MR. GARDNER: No objection.

MR. FREDERICK: No objection.

THE COURT: They are in evidence without objection.

(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 23 AND 24.)

Q. In what condition did you find the kitchen?

A. The kitchen was fairly clean. There were some items on the kitchen table. I believe it was a cell phone box. The garbage was filled, but pretty much it was -- it didn't -- nothing looked out of the ordinary.

Q. Did you find any cookie jars in that kitchen?

A. No sir.

Q. Did you find any contraband in that kitchen?

A. No sir, I did not.

Q. To your knowledge, was that kitchen searched?

A. Yes sir. I did not process the kitchen, I just took photos of it.

Q. Do you have any idea who did process the kitchen?

A. My supervisor, Corporal Allen.

Q. And I'm going to show you what's been marked for identification as State's Number 25. See if you recognize that photograph.

A. Yes sir.

Q. How do you recognize that photograph?

A. This is another photo I took. This is like the cabinet that was in the hallway, with a sawed-off shotgun, with some shells in it, twelve gauge shotgun.

Q. And that was in the hallway?

A. That was in the hallway. There's a small lower cabinet that kind of was flush to the wall, and you just open the cabinet and that was sitting inside there.

MR. RICHARDSON: The State would seek to introduce State's 25 into evidence.

MR. GARDNER: No objection, Your Honor.

MR. FREDERICK: No objection.

THE COURT: It's in evidence without objection.

(PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 25.)

Q. I'm going to show you what's been marked as State's Exhibit 5.

A. Okay.

Q. If you could tell us if you recognize that photograph.

A. Yes sir. This is a photo of Jamilla's room. There's a -- her -- with her facing down, with a shell casing -- what's near a closet, inside a closet.

Q. Is that a photograph you took?

A. Yes sir.

Q. Does it fairly and accurately depict what you saw that night?

A. Yes sir.

Q. Now when you first encountered Jamilla Hightower, was this the condition she was in?

A. No, she wasn't.

Q. What condition?
A. She did have the pillow over her head when I first came in there.
MR. RICHARDSON: The State would seek to introduce State's Number 5 into evidence.
THE COURT: Any objection?
MR. GARDNER: No objection.
MR. FREDERICK: No objection.
THE COURT: It's in evidence without objection.
(PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 5.)
Q. In all those photographs we see a yellow thing with the number four on it. Can you tell us what that is?
A. That would be the shell casing that I located.
Q. But what's that yellow thing?
A. Oh, I'm sorry. That's the yellow indicator that I put down to show where the casing would be at. It's just easy to look at when you put an indicator next to it.
Q. All right. And what is the purpose of that shell casing?
MR. RICHARDSON: Permission to publish, Your Honor.
THE COURT: Any objection to publication?
MR. GARDNER: No objection.
MR. FREDERICK: No objection.
THE COURT: You may do so.

Q. That yellow mark, what's the purpose of that again?
A. It's just for me to put down and indicate that piece of evidence so I can know what it is later on, and it's easy for me to organize the evidence that I collect, so that would have been number four that I put down, and ---
Q. So you can keep an accurate log?
A. Yes sir.
Q. Let me show you State's Number 27, 28, 29, and 30, for identification. If you would just take a moment to take a look at it.
A. Okay. Yep. These are the photos I took of Jamilla's room as well.
Q. And do they fairly and accurately depict the room as you encountered it?
A. Yes sir.
MR. RICHARDSON: At this time the State would seek to introduce State's 27, 28, 29 and 30 into evidence.
THE COURT: Any objection?
MR. GARDNER: No objection.
MR. FREDERICK: No objection.
THE COURT: All right, sir. 27 through 30 are in evidence without objection.
(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 27 THROUGH 30.)
Q. Officer Iannone, would you go through each one of these

MR. RICHARDSON: And permission to publish at the appropriate time.

THE COURT: Any objection to publication?

MR. GARDNER: No objection.

MR. FREDERICK: No objection.

THE COURT: You may do so.

Q. If you will just take us through each, one by one. State's Number 27, could you tell us what we see here?

A. Okay. This is just before I put the number four indicator on there, the yellow indicator. This is where the shot was, just to take and show where the bullet was, where I exactly saw it.

This is -- she had a closet in her room with -- really didn't have any doors to open, so it was kind of open, and it was inside that area, and it was on top of a white blanket.

Q. And State's Number 28.

A. That is just another close shot picture to show that it's number four, of the shell casing on the white blanket.

Q. And State's Number 29.

A. This is showing the opposite side of the room, where the legs are at, where Jamilla's legs are at. It's just showing -- showing how the room was when I came inside and looked at it, and to show that there is no damage in the door or the windows or anything like that.

Q. And did y'all throw the clothes on the bed like this?
A. No sir. That's exactly how we saw it when we came in.
Q. And State's Number 30.
A. This is a hall -- again, this is the closet where the bullet casing is at. The bullet casing would be right here. It's just the wall with a hole in the sheetrock from the door knob. I took photos of that just to show that there was a little damage. I'm not sure if that's from the incident or that was there prior.
Q. So you don't know when this hole occurred?
A. No sir.
Q. But it's right here with the door knob?
A. Yes.
Q. All right. Let me show you State's Number 4, 31, 32 and 33, see if you can recognize these items.
A. Yes sir. These are photos I took.
Q. And where did you take these photos?
A. These would have been in Monica's room, bedroom.
Q. That's the bedroom on the left?
A. That -- right.
Q. And do these fairly and accurately depict photographs you took that night ---
A. Yes sir.
Q. ---As you encountered the crime scene?
A. Yes sir.

MR. RICHARDSON: Your Honor, at this time the State would seek to introduce State's Number 4, 31, 32 and 33 ---

THE COURT: Any objection?

MR. GARDNER: No objection, Your Honor.

MR. FREDERICK: No objection.

THE COURT: All right, sir.

MR. RICHARDSON: ---And would seek leave to publish them at the appropriate time.

THE COURT: Any objection to publication?

MR. GARDNER: No sir.

MR. FREDERICK: No sir.

THE COURT: All right. State's 4, and 31 through 33 are in evidence without objection.

You may publish.

(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 4, 31, 32, AND 33.)

Q. Let's look at State's Number 4. Officer Iannone, could you tell us once again these yellow markers.

A. Okay. Again, these are my yellow markers that I put down to indicate each piece of evidence that was collected.

This would have been the bathroom where Monica would have been. This is her bed. This is where the alarm clock was -- fell off, and her clothes, and again, some fecal matter that started from this area of the door into the bathroom.

Q. And State's 31, could you tell us what that is?

A. This would be her radio, again, right next to the bathroom door. It was still on, playing. The volume was low, but it was still on at the time when we entered the room.
Q. State's Number 32, that's just a smaller picture?
A. That's just another picture, yes sir.
Q. Let's go back to State's Number 4. You said that this is fecal matter?
A. Yes sir.
Q. What's the orange thing right there?
A. That's a blanket, like a towel, bathroom towel.
Q. Towel?
A. Yes.
Q. Dropped right there?
A. Yes sir.
Q. And State's Number 33.
A. That would have been the alarm clock on top of the dresser drawer, with -- there was an ashtray there, with cigarette butts that were on the floor as well.
Q. And that's about where ---
A. It's right between the dresser and the bed.
Q. Number 8 is?
A. Right. Right.
Q. Officer Iannone, I'm going to ask you to take a look at State's Numbers 51 -- or strike that -- 50, 51, and see if you recognize these items.

A. It is just a larger picture of the photos that we just saw. Again, these are the photos I took, with indicators on the -- next to each piece of evidence, on each one.

Q. Slightly different angle?

A. Just at a different angle, yes sir.

Q. And State's Number 51?

A. Number 51 is just a close-up shot of evidence Number 11, which was a -- was some fecal matter ---

Q. And ---

A. ---And the orange -- and the orange blanket.

Q. ---These are -- this is how you encountered these items that night?

A. Yes sir.

Q. Fair and accurate depiction?

A. Yes.

MR. FREDERICK: Judge, we will stipulate to the admission of all State's Exhibits that were pre-marked this morning, and publication.

THE COURT: All right. That's for the Defendant, Stephens; is that correct?

MR. GARDNER: And ---

MR. FREDERICK: Yes sir.

MR. GARDNER: ---Judge.

THE COURT: And for Sessions?

MR. GARDNER: Yes sir.

THE COURT: All right. Very good.

All right, so State's 50 and 51 are in evidence.

(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 50 AND 51.)

THE COURT: What are the other ones that were marked?

MR. RICHARDSON: Your Honor, for this witness, will be State's 34, 35, 38, 39, 41, 32, 33, 44, 45, 46, 47, 48, 49, 63, 64, 56, 55, 57, 58, 59, 60, 61, 62, and we have just a couple more that we didn't even mark. We will get them marked in due course, Your Honor.

THE COURT: All right, so, of those exhibits named, is there any objection from the Defendant, Sessions?

MR. GARDNER: No sir.

THE COURT: From the Defendant, Stephens?

MR. FREDERICK: No objection.

THE COURT: All right, sir. All those as indicated by the Solicitor are in evidence. Those are 34, 35, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 55, 56, 57, 58, 59, 60, 61, 62, 63 and 64, in evidence without objection.

(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 34, 35, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 55, 56, 57, 58, 59, 60, 61, 62, 63 AND 64.)

MR. RICHARDSON: And I believe they indicated permission to publish, without objection.

THE COURT: It's granted.

Q. Let's look at State's 50. You said this is a similar photograph, different angle?
A. Yes sir.
Q. So there's more markers?
A. Yes sir.
Q. And State's Number 51, is an indicator number eleven?
A. Yes sir.
Q. Would you tell us what this shows?
A. Again, this is the orange blanket, and then this would have been some fecal matter that was just near the kitchen -- I'm sorry -- the bathroom door.
Q. Okay. So it's over here near the towel?
A. Right.
Q. Go ahead and finish this set out. State's Number 38 and 39. Identify those and tell us if they fairly and accurately depict the crime scene.
A. Yes sir. Again, it's just another picture, a close-up shot of some of the fecal matter that was on the floor that night.
Q. These are photographs that show that?
A. Yes sir.
MR. RICHARDSON: And permission to publish has been previously granted.
Q. This is a closer shot including market number eleven?
A. Yes sir.

Q. And that's near the fecal matter?
A. Yes. Yes.
Q. And you are saying State's 39, at sixteen, that's fecal matter?
A. Yes sir. It's right between -- just be -- where the bathroom begins.
Q. I'm going to show you what's been previously marked for identification as State's 34 and 35.
A. Okay.
Q. If you can tell us what these photographs are.
A. Yes. These are -- we processed the wall in Monica's room, near the -- it would be near the entrance door of her bedroom, with some partial prints that were taken off the wall.
Q. And you said processed, what does that mean?
A. Well, in this instance, on the wall, we used black magnetic powder. It's just a -- just a powder that we use to use on sheetrock, because it's easy to lift a print off and see the print on the wall. I used magnetic powder because it's easier for me to use it. You can use black silk powder, which is just another, you can use fluorescent powders or anything like that. I prefer black magnetic. It's just -- I just feel like I get a better result from that.
And then -- do you want me to describe ---
Q. Yes. If you will just describe ---

A. What this is is ---

MR. RICHARDSON: And permission to publish, Your Honor.

A. Yes.

THE COURT: I think it was already granted.

MR. RICHARDSON: Yes sir. Yes sir.

THE COURT: All right. Very good. Yes sir.

A. When we do find a partial print on anything ---

MR. RICHARDSON: State's 34.

A. Okay. ---Especially on a wall, or a surface of a wood, we like to use a thing called Micro-seal. It's basically silly putty, if you want to put it in easy terms, and what we do is, we mix it up with some hardener, and we put it on top of the print, and it dries for about, maybe thirty seconds to a minute, and then when you lift it up it will come out -- the print will come up off the -- off the wall.

Q. 35, is that just more of the same?

A. Yes. Yes, it's the same thing. And we would have used the same process on that too.

Q. And that's where you were attempting to lift fingerprints if there were any?

A. Right.

Q. If you will take a look at State's Number 49 and 43, and tell us what this is. First of all, tell me if you recognize those items.

A. Yes. This is exactly how I saw this -- Monica in the

bathroom.

Q. And State's Number 43.

A. 43. And this is the shell casing that was located.

Q. Do these fairly and accurately depict?

A. Yes sir.

MR. RICHARDSON: These are into evidence.

THE COURT: Yes sir.

Q. 49, 33 and as we look through it, right here, on State's Number 49, you said this is how you found Monica ---

A. Yes sir.

Q. ---With that pillow over her head?

A. Yes sir.

Q. And ---

A. There's the shell casing, which is indicator 18, and 17 was showing some more fecal matter that was there.

Q. Number 18?

A. 18 is just a closer shot of the shell casing.

Q. And that's exactly as you found the shell casing?

A. Yes sir.

Q. Now you indicated -- we saw a picture earlier of the shell casing in Jamilla Hightower's room.

A. Yes.

Q. What did you do with that shell casing, if anything?

A. After we photographed it we put it in a paper bag and labeled it as evidence, and secured it.

Q. And by we, do you mean you?
A. Yes sir.
Q. I'm going to show you what's been previously marked as State's Number 55. Could you tell us if you identify that, and there's a split in the bag if you need to pull it out to look at it.
A. Oh, okay. You want me to just tell you where I found this one? Is that what you are trying ---
Q. Yes. Can you identify that item?
A. Yes. This is one of the casings that was located.
Q. And how can you identify that?
A. Because I have it on the paper bag that came out of -- as indicator number 4, in the picture. I always write on my paper bags what indicator it is, so I don't get them mixed up, and I also write down casing from Hightower's room.
Q. And that's a shell casing from Ms. Hightower's room?
A. Yes.
Q. And you took that into custody?
A. Yes sir.
Q. What did you do with it after you took it into custody?
A. After -- well, I had it with me at -- on scene, and then after we were done, cleared the scene, I immediately drive to my crime scene lab and put it in property in evidence, and it is secure, our property in evidence.
Q. Were you able to identify the caliber, if anything?

A. Yes. By looking on the butt of the casing it will indicate what type of casing it is.

Q. And what type of casing was it?

A. It's a .40 caliber.

Q. All right. Now I'm going to show you what's been previously marked as State's Number 56. See if you can identify that.

A. Yes. This is the same way. What I did, I put it on the paper bag. I put number eighteen on there, and I also wrote bathroom on there to, you know, for me to remember and not to get anything mixed up, and did the same thing, secured it, and put it in property in evidence after I was done with it.

Q. And that's your handwriting on the back?

A. Yes sir.

Q. And these are the shell casings you picked up at the scene?

A. Yes sir.

MR. RICHARDSON: Your Honor, at this time the State would seek to move 55 and 56 into evidence, I believe without objection.

MR. GARDNER: Without objection.

MR. FREDERICK: Without objection.

THE COURT: Those are already in evidence.

MR. RICHARDSON: Yes sir. Yes sir.

THE COURT: All right, sir. Very good.

Q. State's Number 41, if you could take a look at that.

A. Okay. You want me to describe it?

Q. Is that a fair ---

A. This is a -- yes, this is exactly how I saw Monica in the bathroom.

Q. Fair and accurate depiction?

A. Yes sir.

Q. 41 is in evidence. And this is how you found Monica?

A. Yes sir. Of course, without the indicator on the pillow, but I put that on there.

Q. That's number 19, so you can keep a log of it?

A. Yes sir.

Q. Officer Iannone, I'm going to ask you to take a look at Number 76, State's 76 for identification. See -- looking at State's Number 41, tell us if you can identify that item.

A. Yes sir. This is the pillow that was on top of Monica when we first saw her on that night.

Q. Okay. And do you know what this brown matter is?

A. That would have been blood.

Q. And can you tell which side was down and which side was up?

A. This would have been on the other side. This -- the other side was -- that's how it was, faced up.

Q. And this?

A. And that would -- that would have been the bullet hole that was -- that you can fairly -- see pretty well from here.

Q. And what did you do with this item -- did you collect this item?

A. I collected it after I photographed it, and put it in a paper bag, and secured it.

Q. Secured it?

A. Uh huh **(indicating positive)**

MR. RICHARDSON: Your Honor, at this time the State would seek to introduce State's Number 76 into evidence.

THE COURT: Any objection?

MR. GARDNER: None, sir.

MR. FREDERICK: No objection.

THE COURT: Into evidence without objection.

(PILLOW ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 76.)

Q. And also State's Number 75, could you tell us what this item is?

A. That would have been the pillow that was over Ms. Hightower's head.

Q. And once again I'll ask you the question. Can you tell which side was down and which side was up?

A. This side was down.

Q. And this side was on her head?

A. Yes sir.

Q. Once again ---
A. Yes. And there's the bullet hole on that side. Yes.
MR. RICHARDSON: Your Honor, at this time ---
Q. And what did you do with this once you collected it?
A. I secured it, and we later put it in the crime scene evidence room to secure it. It's a secure lock room for us.
MR. RICHARDSON: Your Honor, at this time the State would seek to introduce State's Number 75 into evidence.
MR. GARDNER: No objection.
MR. FREDERICK: No objection.
THE COURT: It's in evidence without objection.
(PILLOW ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 75.)
Q. State's Number 42, Officer Iannone, could you look at this and see if you can identify this?
A. Yes sir. This is a photo I took in Monica's bathroom. I put indicator number seventeen, showing fecal matter on the bathroom floor, which also shows like a smear of a -- somebody stepping on it.
Q. Okay.
MR. RICHARDSON: I believe that's into evidence.
Q. Officer Iannone, I'm going to show you what's been marked for identification as State's 82.
A. Okay.
Q. Do you recognize that item?

A. Yes sir. That would be the shell casing in Monica's bathroom before I put any indicators down.

MR. RICHARDSON: That's one that just got marked.

MR. FREDERICK: Your Honor, we will stipulate to admission of all the exhibits that were just marked, and publication.

MR. GARDNER: Yes sir.

THE COURT: All right. So what ---

MR. RICHARDSON: That would be State's 77, 78, ---

COURT REPORTER: 77 through 84.

MR. RICHARDSON: 77 through 84.

THE COURT: 77 through 84 are in evidence without objection.

(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 77, 78, 79, 80, 81, 82, 83, 84.)

MR. RICHARDSON: And permission to publish.

Q. And that's that shell casing ---

A. Yes

Q. ---That you retrieved?

A. Yes.

Q. Now, I'm going to show you State's 63, 64, 77, 78, 79, 80, 81, 82 and 84. If you could just look at these and just tell us if you recognize those items.

A. Yes sir.

Q. And what do you recognize those items to be?

A. These are what we did, shoe prints in the bathroom of Monica -- in Monica's bathroom, after we used black magnetic powder on the floor.

MR. RICHARDSON: And we will just publish them real quick.

A. Okay.

Q. State's Number 63, that's -- the black stuff is?

A. The black stuff is magnetic powder, and the ruler is just a scale to show the size of the actual shoe print that would be lifted.

Q. Is that an accurate scale?

A. Yes sir.

Q. And State's Number 64.

A. That's just a wider picture of the shoe prints that I scaled closer later on.

Q. Same thing on 77?

A. Yes sir, all the same, yes.

Q. And 78?

A. 78 is, again, me just processing the whole floor with black magnetic powder. I used that power throughout the whole bathroom. I did the sink -- not the sink -- the shower and the walls and the floor.

Q. This brown item over here on the ---

A. The brown item I just put there so I wouldn't step in the -- this fecal matter myself.

Q. 79 is the same thing?
A. Yes sir.
Q. 80?
A. 80 is just another scale photo of a shoe print.
Q. 81?
A. The same thing, a scale photo.
Q. 83?
A. Same thing.
Q. 84?
A. Yes.
Q. Now you took scale photos of these -- of the fecal matter and the shoe print. Did you do anything else with those?
A. No sir.
Q. Did you do any further processing on that?
A. Well, to actually get the prints, what I did was, I use a gel lift to lift the print up. Again, it's just another tool that we use. If you lift a fingerprint off a car door we use fingerprint tape. Because of the floor the way it was -- it was kind of rough -- I used gel lifters, because if I use tape it wouldn't lift the whole print up right. It would probably pick up more of dirt and the fecal matter more than the print, so that's why I used the gel lifters, and all the gel lifter is is, again, like I told you before about the micro-seal, it's basically the same thing, except it's already

made for you. You lift up a plastic sheet, you flip it over, and you put it on top of the shoe print and it comes right up, and then you put the plastic piece over it to protect it.

Q. I want to show you State's 62, 61, 60, 57, 58, 59. Take a look at those.

A. Yes sir. These are the gel lifters that I lifted the prints that you saw in the pictures. These are the actual ones that I lifted from the gel lifts, and these are all the -- all the pictures that you saw are the ones that were lifted here.

Q. And how can you identify those as the lifts you did?

A. Because I -- I lifted them myself.

Q. And what did you do with them once they ---

A. Oh. Once I lifted them I secured them, like everything else I do, and secured in our evidence room.

Q. And that's what all these are, they are gel lifts that you took from the bathroom floor?

A. Yes sir.

MR. RICHARDSON: I believe all those items were previously marked, entered into evidence.

I don't know that we called the numbers out, Judge.

THE COURT: All right, sir.

MR. RICHARDSON: We did. Okay. I just wanted to make sure.

Q. And you stated that you -- once you took those gel

lifters you put them in -- put them into evidence?

A. Yes sir.

Q. And did you assist with a Search Warrant at Willow Run Apartments, on Antwann Higgins?

A. I -- yes sir. Yes, I did.

Q. And did you take some items into evidence?

A. I did. Can I refer to my notes? That's ---

MR. RICHARDSON: Well, will referring to your notes help you refresh your recollection?

A. Yes sir, just -- yes.

MR. RICHARDSON: Your Honor, permission to allow the --

-

MR. GARDNER: No objection, Judge.

MR. FREDERICK: No objection.

THE COURT: Any objection to reviewing the notes?

MR. GARDNER: No sir.

MR. FREDERICK: No sir.

Q. Officer Iannone, just take a moment and just review your notes, and I'm going to ask you a couple of questions.

MR. RICHARDSON: These are my last three.

A. Okay.

MR. RICHARDSON: Just hold on.

A. Okay.

MR. RICHARDSON: Your Honor, these would be for identification, State's 85, 86 and 87.

MR. FREDERICK: Judge, the Defense has no objection to any of them, and they may be published.

MR. GARDNER: Yes, put them in. That's good.

THE COURT: All right, sir. And those numbers again are?

MR. RICHARDSON: 85, 86 and 87, Your Honor.

THE COURT: All right. In evidence without objection.

(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 85, 86 AND 87.)

Q. Officer Iannone, I'm going to ask you about 85, 86 and 87, as well as Number 17. Now take a look at these items and tell us if you recognize these.

A. Yes sir.

Q. How do you recognize them?

A. These were taken out of the room, of Antwann Higgins' bedroom.

Q. And you took these out?

A. Yes sir.

Q. And what did you do with them once you took them out?

A. I took -- again, I collected them, secured them, and then later at the lab I took photos of each sneaker, the bottom of the sneaker, as longs **(sic)** of a scale photo of it, with that yellow ruler that you saw before. I did the same thing.

MR. RICHARDSON: And these are in evidence without

objection.

Q. Officer Iannone, you basically did most of the processing on this house, correct?

A. Yes sir.

Q. And you are still in crime scene today, about two and a half years later?

A. Yes sir.

Q. And your purpose for this is to collect anything into evidence that you could?

A. Yes sir.

Q. So you were doing your job?

A. Yes sir.

MR. RICHARDSON: I appreciate the help. If you will just answer any questions Defense may have.

THE COURT: All right, Mr. Gardner.

MR. GARDNER: Thank you, Judge.

CROSS-EXAMINATION BY MR. GARDNER:

Q. Sir, any of that evidence, or anything you did that night, does that tell us who did it?

A. Not that I'm aware of, sir.

Q. All right. And doesn't connect these Defendants at all, does it?

A. I'm not sure.

MR. GARDNER: All right. Nothing further.

THE COURT: Mr. Frederick.

MR. FREDERICK: Yes sir.

CROSS-EXAMINATION BY MR. FREDERICK:

Q. You assisted with the search ---

THE COURT: Just a second. You are having the Court Reporter do something. You need to wait.

MR. FREDERICK: Yes sir.

COURT REPORTER: Defendant's for I.D., Stephens, 16 through 19.

THE COURT: All right.

(PHOTOS MARKED DEFENDANT, STEPHENS, FOR IDENTIFICATION ONLY.)

MR. RICHARDSON: Your Honor, Defendant's 16, 17, 18 and 19 are without objection from the State.

MR. GARDNER: Without objection, Your Honor.

THE COURT: All right. So 16 through 19 are in evidence without objection, as to the Defendant, Stephens.

(PHOTOS ADMITTED INTO EVIDENCE AS DEFENDANT, STEPHENS, 16, 17, 18 AND 19.)

MR. RICHARDSON: No objection to publication, Your Honor.

MR. GARDNER: No objection, Your Honor.

THE COURT: You may do so.

Q. Officer Iannone, we are just going to show you these and -- you've already seen some of them.

A. Okay.

Q. But if you could, just briefly, tell us very briefly, what was this one?
A. That would be fecal matter that was on -- in Monica's bathroom floor.
Q. Okay. And this one?
A. That would be a shell casing in Monica's bathroom floor.
Q. Anything else depicted in that photo on the floor?
A. You can see a mat, part of her body, and fecal matter could be right there.
Q. Okay. And this one?
A. Again, that's Monica's bathroom, with a photo of the fecal matter, and the black magnetic powder that I put down, along with the casing, if you can see in there.
Q. Do you recognize this one?
A. Yes. That would have been some paperwork. I believe that was from Monica's room. I would have to look at my notes to double check on that though.
Q. And what is that a photo of, the paperwork?
A. It's a -- it says -- a Santee Cooper, I guess a electric bill.
Q. And in whose name?
A. Melissa Ann Gomez.
Q. Thank you. This is Defendant's Exhibits 1, 2 and 3, which are already in evidence, but do you recognize these?

A. Yes sir. This would have been the white Thunderbird located in the driveway of Monica's and Ms. Hightower's house.
Q. Okay. Same car?
A. Same car.
Q. And ---
A. That would have been the plate that was on the vehicle.
Q. 562 UTX.
A. UTX. Yes sir.
MR. FREDERICK: Thank you.
Q. And you said that you assisted in executing the Search Warrant at Willow Run Apartments?
A. It was apart -- yes sir, apartment 3 -- 37-D.
Q. That was Antwann Higgins' apartment, right?
A. Yes sir.
Q. And in the -- we saw that you took shoes out of that house, right?
A. Yes sir.
Q. You also took some guns?
A. Yes sir.
Q. Ammunition?
A. Yes sir.
Q. Shotgun shells?
A. Yes sir.
Q. Did you find a shotgun?
A. No sir.

Q. Just the shotgun shells?
A. Yes sir.
Q. And there was a small amount of drugs also?
A. Yes.
Q. To your knowledge, was Antwann Higgins charged with anything?
A. I am not aware.
Q. Okay. And was Melissa Gomez his roommate at the time?
A. I believe so.
Q. Okay. Was she charged with anything, as far as you know?
A. I am not sure.
Q. Okay. That white Ford Thunderbird, do you know where it went after that night?
A. I do not. Oh, yes, I'm sorry. It was -- it was towed to our crime scene lab.
Q. Okay. And did you look in the trunk?
A. No, I did not.
Q. Okay. Did you see a safe or a briefcase?
A. No.
Q. And so you didn't open a safe or a briefcase also?
A. No.
Q. Okay.

MR. FREDERICK: No more questions.

THE COURT: Any redirect?

REDIRECT-EXAMINATION BY MR. RICHARDSON:

Q. Officer Iannone, your answer was, you didn't search that car, right?

A. No, I did not.

Q. So you didn't look in the trunk?

A. No.

MR. RICHARDSON: Thank you.

THE COURT: Anything else, Mr. Gardner?

MR. GARDNER: No sir.

THE COURT: All right. Very good.

Do you wish this witness to be excused?

MR. RICHARDSON: I would ask that the witness be excused, Your Honor.

THE COURT: Any objection?

MR. GARDNER: No sir.

MR. FREDERICK: No objection.

THE COURT: All right, sir, you are released from your Subpoena. You may go back to your regular duties.

A. Thank you, sir.

THE COURT: All right, ladies and gentlemen, we are going to take a short break for about ten minutes. If you can go to your jury room and we will call you back out shortly.

Thank you.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right. We will take a short break for about ten minutes, and Solicitor, y'all might see if you can catch up if there's some more exhibits you need to mark, okay.

(THE FOLLOWING TAKES PLACE AFTER A BREAK, AND OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, I understand there is a matter you need to put on the record.

MS. ELDER: Your Honor, I was trying to foresee some of my issues that may come up. Our next witness, Captain Susan Safford, we had a warrant executed on the jail. She is -- the purpose of her testimony is this. She will testify that, upon receipt of that Search Warrant, that she retrieved the personal property of Jimmy Lee Sessions, those being tennis shoes -- that we have marked as -- for identification, State's Exhibit 88 -- and that those shoes were taken from Jimmy Lee while he was at the jail, and they were placed in his personal property where she retrieved them from.

THE COURT: All right. So that -- she will testify that, when he came to be in custody at the Detention Center those were seized from him at that time ---

MS. ELDER: At some time after he arrived at the Detention Center, yes sir.

THE COURT: All right.

MS. ELDER: And we did receive those -- that Search Warrant was executed in December.

THE COURT: All right.

All right, Mr. Gardner.

MR. GARDNER: First I guess I should object as to relevance, Your Honor. I believe these shoes were taken last month, or maybe even in December, for this crime that occurred two and a half years ago. I don't see any direct probative correlation for these shoes as opposed to ---

THE COURT: When did the Defendant come into custody at the Horry County Detention Center?

MS. ELDER: Well, Your Honor, he actually came into custody in Connecticut three months after the homicide. He was then kept in custody and transported by transport, and his property came with him. This was in that property, Your Honor.

THE COURT: All right.

MS. ELDER: In November.

THE COURT: So you -- he was in custody from when now again?

MS. ELDER: September of '06, Your Honor.

THE COURT: September of '06?

MS. ELDER: Yes sir.

THE COURT: And that property was seized from him at that point in time?

MS. ELDER: Yes sir.

THE COURT: All right.

All right, Mr. Gardner, I'll be glad to hear from you.

MR. GARDNER: Judge, may I have a moment. I'm having difficulty ---

THE COURT: Yes sir.

MR. GARDNER: Again, even more so, my objection would be even clearer now, because we don't have any Connecticut folks here, I don't believe, to testify about that.

THE COURT: Well, this is blood. These are shoes.

MR. GARDNER: Well, these are shoes that I believe were taken ---

THE COURT: From the Defendant. Okay. They are the Defendant's shoes that they -- and those are not such that they can be destroyed or diminished like blood or other -- semen, or other articles like that. I understand your objection, but that kind of chain of custody argument does not -- is not to the point as to whether it can be introduced into evidence. You know, it's certainly cross-examination value, but not to -- such that it cannot be introduced into evidence, but continue on.

MR. GARDNER: I -- well, I would just say for the record that we would need to have somebody to say how they got into this chain, and I don't think we have that.

THE COURT: All right, very good. Anything else?

MR. GARDNER: Well, how are we going to go about doing it, because I believe it would be prejudicial then to have the

jailer say, he's in jail.

THE COURT: What do you suggest?

MR. GARDNER: I would suggest that the shoes don't come into evidence.

THE COURT: I understand that, but assuming they are coming into evidence, what do you want -- what do you want the State to say? If you object to them coming into evidence then I'm going to have them present everything that they can regarding this particular matter. If you want to come to some agreement as to their introduction I'll be glad to listen to you, but if you are raising an objection, not only as to the -- the chain, but then objecting, on top of that, as to how they were seized or secured from the Defendant, I don't know how I can help or assist you in that matter since you are raising that objection, then the State has to put in all the evidence it can to get those into evidence.

MR. GARDNER: I guess what I would -- to protect this record, to protect me, I think that I would make this, just as we are, a motion in limine to suppress that. If you have sufficient information to rule then I would take up the next issue about how we would address the introduction.

THE COURT: All right, Solicitor, call the witness, please.

MS. ELDER: Your Honor, it's Captain Susan Safford.

MR. FREDERICK: Judge, and Mr. Sessions is -- I mean,

Mr. Stephens is joining in ---

THE COURT: I'm sorry. What now?

MR. FREDERICK: ---Mr. Gardner's objection.

THE COURT: I did not understand what you were saying.

MR. FREDERICK: Mr. Stephens is joining in Mr. Sessions' objection.

THE COURT: In what way?

MR. FREDERICK: Objecting as to the relevance of the shoes, and as to how they can say that they were, in fact, Mr. Sessions' shoes.

THE COURT: All right. Very good. All right.

SUSAN SAFFORD, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MS. ELDER:

Q. You are Captain Safford; is that correct?

A. Yes, I am.

Q. And where are you employed?

A. J. Reuben Long Detention Center.

Q. In what capacity?

A. I'm a captain.

Q. And some of your responsibilities and duties out at the J. Reuben Long Detention Center, is that to oversee things that go on at the jail?

A. Yes, it is.

Q. And as part of that, do you have access to the personal

property of defendants that are incarcerated at J. Reuben Long?
A. Yes, I do.
Q. And do you know Jimmy Lee Sessions? Is he currently an inmate with you?
A. Yes, he is.
Q. And was he an inmate in December of 2008?
A. Yes, he was.
Q. Do you recall when he came into your custody?
A. I've got his booking card here. Came in November 27th of '06.
Q. And do you -- can you tell by your booking card where he came from?
A. Trans-Corp brought him in, which is an extradition company.
Q. Do you know what state they brought him in from?
A. No, I do not.
Q. Now, did you receive a call from -- from my office?
A. Yes.
Q. Particularly me?
A. Yes.
Q. And did you -- based on my inquiry did you look into the log of the Defendant's personal property out at the jail?
A. I pulled up on the computer what bag number was assigned to him, and then actually went to the property room

and pulled that bag.

Q. And tell me how defendants get assigned bag numbers and things like that out at the jail.

A. When property is taken we place it into a hanging bag. It's put on a conveyor system similar to like at a laundromat, and we assign a specific bag number to that individual. You cannot assign the same bag to two people, so they get their specific bag number and their property is placed in that.

Q. Is it unique to that defendant then?

A. Yes.

Q. And how is property taken from the defendants?

A. Initially, at booking, we take property, any items they are not allowed to have in the back of the facility, we will take at booking and place in the property bag.

Q. And were a pair of shoes -- let me show those to you -- that have been marked as State's Exhibit 88 -- were a pair of shoes -- those pair of shoes in Jimmy Lee Sessions' personal property?

A. Yes, they were.

Q. Are those the shoes you retrieved?

A. Yes.

Q. And do you know how they got into the personal property of Jimmy Lee Sessions?

A. When Jimmy came in we did not take shoes at that time at booking. On May 11th of '07 there was a memo that was

issued -- I apologize. If he came in November, yes, they would have been. They were taken at booking.

Q. They were taken at booking?

A. Yes. They were taken at booking.

Q. So when he arrived in November of '06 they were taken at that time?

A. I'm sorry. He came in November 27th of '06. They were not initially taken. We had a memo that was issued May 11th of '07, that we were no longer going to allow the inmates in the back to have their personal shoes. The memo instructed the officers to begin on the following Sunday collecting them and then placing them in the property bag. I apologize.

MS. ELDER: All right. And was that, in fact, what was done with these shoes from Jimmy Lee Sessions?

A. Yes. The officers would have collected them. They put them in a clear plastic bag, and then they put them in the inmate's property bag.

Q. And they identify to this particular Defendant?

A. Correct.

Q. And let me ask you about control of that property. Can inmate sign that property out to someone else, outside the system?

A. If an inmate wants to release something that's in their property, yes, they can do a property release form, and then we will just get them to sign it. We check the identification

of the person that's going to retrieve the property, and get them to sign for it.

Q. And Mr. Sessions had had that opportunity with these particular shoes? He could have done that at any point?

A. Yes.

Q. And when you retrieved these from Mr. Sessions' property, who did you give them to?

A. Kenneth Davis, an investigator.

Q. With our office?

A. Yes.

Q. Was that pursuant to a Search Warrant?

A. Yes, it was.

MS. ELDER: Your Honor, that would be the extent of her testimony.

THE COURT: Questions, Mr. Gardner.

MR. GARDNER: One moment, Your Honor, please. I apologize.

CROSS-EXAMINATION BY MR. GARDNER:

Q. Ma'am, the reason they issued the memo is because the trustees were swapping and selling shoes; is that right?

A. We issued that memo to prevent contraband from entering the facility. A lot of contraband was coming inside shoes. It's difficult to do a proper search with inserts and soles and things, so the decision was made to no longer allow the inmates to bring the shoes into the facility.

Q. Yes Ma'am. But the people that were already in there that had their shoes.
A. Same thing. It's a way to hide contraband.
Q. Right. And they also had people selling their shoes, and trading their shoes for contraband?
A. I don't know specifically if that took place.
Q. But you have heard, out at the jail, of people trading shoes and selling shoes, right?
A. I'm -- yes, I have heard of people trading shoes.
Q. For cigarettes?
A. I don't know what they traded it for.
Q. But definitely trading shoes. Okay. And we don't have any evidence that these shoes, that are purported to be Jimmy's shoes, were, in fact, traded, do we ---
A. No. I don't have any information.
Q. ---That they weren't traded. All right.

MR. GARDNER: That's all I've got, Judge.

THE COURT: Mr. Frederick.

CROSS-EXAMINATION BY MR. FREDERICK:

Q. The property room, and where the property is kept, other people have access to that room?
A. Our officers have access to that room.
Q. So any officer down there at the J. Reuben Long has access to that room?
A. Correct.

Q. Okay. And you said they are on a hanging -- in a bag on a hanging bag, kind of like in a laundromat?
A. A conveyor belt, yes.
Q. A conveyor belt?
A. Uh huh **(indicating positive)**
Q. Not under lock and key?
A. The room is under lock and key.
Q. Okay. So each individual property is not?
A. No.
Q. So when any person goes into that room then they have access to all of them?
A. Correct.
Q. In November 27th of 2006 Mr. Sessions was transferred to the jail; was that correct?
A. Yes.
Q. And the shoes were not taken at booking; is that correct?
A. Correct. If he came in in November of '06, the memo was not issued until May of '07, so the shoes would not have been taken at booking. It would have been taken once the memo was issued.
Q. Okay. And he was brought to J. Reuben Long from a facility in Connecticut; is that right?
A. I don't know where he came from. The only thing I have is he came in through Trans-Corp, which is an extradition

company.
Q. So he was brought from a facility somewhere, based on that?
A. Correct.
Q. Okay. And six months later, in May of 2007, they took his -- his shoes were taken from the pod where he was being held?
A. Correct.
MR. FREDERICK: That's all the questions I have.
THE COURT: Very good.
All right, Mr. Gardner, your objection, sir.
MR. GARDNER: The same as before, Judge, but right now we don't -- he was out there. We don't even know if these were his. There's no evidence that he couldn't have sold them or traded them. It's not a clear case that we know these are the shoes that Jimmy was wearing when he got there. And back to my original objection on relevance, we certainly have no clue they were the ones that -- when he was taken into custody in Connecticut you -- and then given to this extradition company.
THE COURT: All fine questions that you can ask on cross-examination.
Yes sir, Mr. Frederick.
MR. FREDERICK: Judge, I agree with Mr. Gardner. I don't think that it's appropriate to admit those shoes. We

don't know where they came from. They can't establish that they were his shoes.

THE COURT: Well, they came from him. Now ---

MR. FREDERICK: I don't think they've established that, Judge.

THE COURT: He came -- from the Officer's testimony -- as I understand -- you correct me if I'm wrong -- the Officer's testimony is, he's transported by this transportation company. He comes in November. In May of '07 they have some change of policy. At that point in time they seize from this individual these shoes, so they are his shoes. They seize those shoes from him in May of '07, and then they keep them from -- at that point in time, until they are given over according to the Subpoena, so they are the Defendant's shoes, they are seized from him.

Now, other than that I'm -- y'all have a lot of questions y'all can ask on cross-examination, but there is no question they are the Defendant's shoes, and they were seized from him.

MR. FREDERICK: The other ground for the objection was relevance, Judge, because when they introduce these shoes they are going to say, these are Jimmy Lee Sessions' shoes. They are going to say -- they are going to try to say, these shoes match some of the impressions that were taken at the crime scene, and these were the shoes that Jimmy Lee Sessions was

wearing at the crime scene, and I don't think they've got the right to do that based on what we've seen so far, Judge. I don't think that there is even the threshold of relevance, in addition to our other objection.

THE COURT: All right. I do find that the -- first, that the evidence is relevant, and it's probative value outweighs any prejudice to the Defendant. The issues you raise can be covered on cross-examination of the various witnesses.

Anything else, Mr. Gardner?

MR. GARDNER: Which leads me to my second objection, Judge. The prejudicial value would be -- through this cross-examination, outweighs in -- I mean, it's just too prejudicial for ---

THE COURT: In what way?

MR. GARDNER: Well, for me to go into the lack of chain of custody, the lack of establishing that these weren't, in fact, some other inmate's shoes in exchange for cigarettes or other things. I have to bring those out with Ms. Safford, in front of the jury. By doing that I'm putting him in prison, in the Connecticut prison, in the transportation company, and all that stuff, and that's information that normally wouldn't come out in the State's case-in-chief, and it doesn't come out because it's highly prejudicial.

THE COURT: All right. I respectfully disagree.

Again, in weighing it I do find that the probative value of the evidence outweighs any prejudice to your client, and I'm going to allow it into evidence.

All right. Now, if you want me to, on direct-examination by the State, since the testimony is already in the record, if the -- from the State, that the shoes were seized from the Defendant's possession, and then they were released according to the Subpoena, in some fashion, I'll be glad to restrict the State if you want to suggest some manner, but I don't know the purpose of it if you are going to explore all those issues on cross-examination.

MR. GARDNER: May I have a few moments, Your Honor?

THE COURT: Yes sir.

MR. GARDNER: Judge, I need to -- I believe that this is one of those things that I need to consult with my client and tell him what we are giving up if we make this a compromise, and I apologize for the delay.

THE COURT: All right. All right. We will -- do you want to go in the back and talk to him about that? Would that be easier for you?

MR. GARDNER: That might be easier, Judge.

THE COURT: All right.

MS. ELDER: Your Honor, if we could suggest something. I know Your Honor is very eager to get as many witnesses as we can. We can put up another person from Myrtle Beach P.D. at

this point. They can have the lunch -- if you would rather do it that way -- to talk with their clients, and then I can ask Ms. Safford if she can come back this afternoon.

THE COURT: Is there any problem with that, Mr. Gardner?

MR. GARDNER: No, Judge.

THE COURT: Mr. Frederick?

MR. FREDERICK: No sir.

THE COURT: All right. Very good. Let's do that then. All right, if you would step down, Ma'am, please.

MR. RICHARDSON: Your Honor, we could probably actually cover two short chain witnesses. One would be a bit longer so -- was last time.

THE COURT: All right. Very good.

All right. If you can, Solicitor, real quick, if you would grab those exhibits over there and hand those to the Court Reporter, please.

MS. ELDER: Yes sir.

Your Honor, about the two ---

THE COURT: What time will we come back?

MS. ELDER: Yes sir.

THE COURT: At 2:15.

MR. RICHARDSON: I promise you these will be real quick, Judge.

THE COURT: All right. Ask the jury to come in,

please.

Is that witness in the courtroom, Solicitor?

MS. ELDER: Yes sir, Your Honor.

MR. RICHARDSON: Yes sir, Your Honor.

THE COURT: Very good.

MR. RICHARDSON: Your Honor, he does have a minute portion. I'm just going to ask him if he took custody of these shoes, if he took them from ---

THE COURT: All right, sir.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, your next witness, please.

MR. RICHARDSON: Thank you, Your Honor.

The State would call Officer Bobby Jordon of the Myrtle Beach Police Department.

THE COURT: All right. Please come around.

BOBBY JORDAN, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. RICHARDSON:

Q. Officer Jordan, how are you doing today?

A. Pretty good, sir. How are you?

Q. Doing well.

Could you tell us where you are employed, and in what capacity?

A. Yes sir. I'm with the Crime Scene Unit with the Myrtle Beach Police Department.
Q. And how long have you been employed with Myrtle Beach?
A. Approximately twelve years. Approximately three years with the Crime Scene Unit.
Q. So three -- about three years with the Crime Scene Unit, so you were so employed back in June of 2006?
A. Yes sir, that is correct.
Q. Now, as a member of the Crime Scene Unit for the Myrtle Beach Police Department did you have the opportunity to assist in the investigation of the murders of Jamilla Hightower and Monica Wall?
A. Yes sir.
Q. And could you tell us what, if anything, you did with respect to that investigation?
A. Yes sir. The following day I was called to assist with the execution of the Search Warrant. They were looking for a bullet projectile that was possibly in the house.
Q. And that was the next day, June 10th, 2006?
A. Yes sir, that is correct.
Q. Who else was present with you?
A. Detective Bertang.
Q. Detective Bertang. And were you successful in locating a projectile?
A. Yes sir, I was.

Q. Now I'm going to show you what's been previously marked -- I believe it's without objection ---

MR. GARDNER: That's correct, Your Honor.

Q. ---State's 89, 90 and 91. If you could a look at those, tell me if you recognize those items.

A. Yes sir. That's the bullet projectile I recovered.

Q. And those fairly and accurately reflect what you saw that day?

A. Yes sir.

MR. RICHARDSON: Your Honor, as they are into evidence, that's 89, 90 and 91.

THE COURT: You said no objection, Mr. Gardner?

MR. GARDNER: That's correct, Your Honor.

THE COURT: Any objection, Mr. Frederick?

MR. FREDERICK: No objection.

MR. RICHARDSON: And I believe there is no objection to publication.

MR. GARDNER: That's correct.

MR. FREDERICK: Correct.

THE COURT: All right. So State's 89, 90 and 91 are in evidence without objection.

(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 89, 90 AND 91.)

THE COURT: You may publish.

Q. Let's look at 91, Officer Jordan. What is this here?

A. This was a shower stall that adjoins the master bedroom.
Q. And do you know what the significance of this shower stall was?
A. It was supposedly where Ms. Wall was lying at the time.
Q. That's where you were informed Ms. Wall was lying?
A. Correct.
Q. And this is the shower stall. What's this hole here?
A. I had to create a hole in the shower stall to try to find the bullet projectile.
Q. So the projectile wasn't laying on the floor?
A. No sir. It was located on the concrete foundation underneath the fiberglass floor of the shower stall.
Q. Let's look at State's 89. What is that there?
A. That's the bullet projectile prior to me recovering it.
Q. And that's -- that was as you face it, the left corner of that hole?
A. Yes sir.
Q. And State's 90.
A. That's a bullet projectile with a scale.
Q. What's the purpose of the scale?
A. To show perspective, and just given an idea of the size of it.
Q. Now, what was the condition of that projectile whenever you located it?

A. Although I'm not a firearms expert, it appeared to have minimal deformity, and it looks like it could have been compared by a firearms expert.

Q. I want to show you what has been previously marked as State's 92, and it's -- right now. Do you recognize State's 92?

A. Yes sir.

Q. And how do you recognize that item?

A. By the way it was packaged, and there's a small amount of what appeared to be fiberglass on the back.

Q. And could you tell us what 92 is?

A. It's the bullet projectile I recovered from underneath the shower stall.

MR. RICHARDSON: Your Honor, at this time the State would seek to introduce 92 into evidence, I believe without objection.

MR. GARDNER: Without objection.

MR. FREDERICK: No objection.

THE COURT: In evidence without objection.

(PROJECTILE ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 92.)

Q. Now once you retrieved State's 92, this projectile, that was retrieved from the shower stall, the foundation?

A. Yes sir.

Q. What did you do with State's 92 once you retrieved it?

A. I packaged it for future presentation and analysis.

MR. RICHARDSON: Your Honor, I'll seek to publish State's 92 in just a second.

Q. Okay. Now I'm going to show you State's 88. Just tell me if you recognize this item.

A. Yes sir.

Q. And where did you retrieve this item from?

A. I retrieved those from Investigator Kenneth Davis, with the Fifteenth Judicial Circuit Solicitor's Office.

Q. And once you retrieved State's 88, where did you take that item?

A. Well, they were temporarily secured in our crime scene evidence room where we temporarily store evidence, and the following day it was transported up to South Carolina Law Enforcement Division Forensic Laboratory for analysis by a footwear expert.

Q. And you did that?

A. Yes sir.

Q. Officer Jordan, you didn't locate any kind of pistol at Jamilla's house, did you?

A. No sir, I did not.

Q. And that's the extent of your involvement in this investigation?

A. Yes sir, it is.

MR. RICHARDSON: Thank you. If you will answer any

questions the Defense may have.

THE COURT: All right, Mr. Gardner.

MR. GARDNER: Thank you, Judge.

CROSS-EXAMINATION BY MR. GARDNER:

Q. Sir, nothing you did would tell us who did this crime, would it?

A. No sir.

MR. GARDNER: Thank you, sir.

THE COURT: Mr. Frederick.

MR. FREDERICK: No questions.

THE COURT: You may step down.

MR. RICHARDSON: Your Honor, I ask that Officer Jordan be excused.

THE COURT: Any objection?

MR. GARDNER: No sir.

MR. FREDERICK: No objection.

THE COURT: All right, sir. You are released from your Subpoena. You may be excused to go back to your regular duties.

A. Thank you, Your Honor.

THE COURT: All right. Your next witness, Solicitor.

MR. RICHARDSON: Officer Vincent Dorio.

VINCENT DORIO, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. RICHARDSON:

Q. And it's Detective Dorio, correct?
A. Yes sir.
Q. Detective Dorio, could you tell us where you are employed?
A. City of Myrtle Beach.
Q. And how long have you been working for the Myrtle Beach Police Department?
A. A little over nine years.
Q. Nine years. And in what capacity are you employed currently?
A. Currently I'm a Detective.
Q. How about back in June of 2006?
A. I worked in the Crime Scene Unit.
Q. And what were your duties in Crime Scene?
A. Collect evidence, document the evidence, take photographs.
Q. In the course of your dealings with the Crime Scene Unit at the Myrtle Beach Police Department did you have the opportunity to become involved in the investigation of the murders of Jamilla Hightower and Monica Wall?
A. Yes sir.
Q. And tell us what your duties were specifically with that case.
A. I went to the autopsy of both Jamilla Hightower and Monica Wall.

Q. And do you remember what date that was?
A. No, I don't.
Q. So you went to the autopsy?
A. Yes sir. It was in Charleston.
Q. In Charleston. Now, I'm going to show you some photographs, photographs State's 94, 95 and 96. Just look at these and tell me if you can recognize these items first.
A. Yes sir. I recognize them.
Q. And how do you recognize these photographs?
A. I took the photos of these, and entered them as evidence.

MR. RICHARDSON: Your Honor, I believe these would be entered without objection, State's 94, 95 and 96.

THE COURT: Any objection?

MR. GARDNER: Without objection.

MR. FREDERICK: No objection.

THE COURT: All right. They are in evidence without objection.

(PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 94, 95, AND 96.)

MR. RICHARDSON: And permission to publish.

THE COURT: Any objection?

MR. GARDNER: No sir, no objection.

MR. FREDERICK: No sir.

THE COURT: You may do so.

Q. Start with State's 96. What are we seeing here?
A. That right there is a photograph of the X-ray of Jamilla Hightower's head, with a foreign object inside the head cavity.
Q. And let's look at State's Number 95.
A. That would be the bullet that was removed by the pathologist.
Q. And you saw her remove the bullet?
A. Yes sir.
Q. And State's 94.
A. That's the same bullet. I just took a scaled photo of the bullet.
Q. And what's the purpose of the scale photo?
A. Just to show accurate size of the object.
Q. What was the condition of that projectile?
A. It was slightly damaged from -- from being fired and striking, I would believe, the skull.
Q. Let me show you what's been marked as State's Number 93. Do you recognize State's 93?
A. Yes sir. This is the ---
Q. How do you recognize State's 93?
A. This is the bullet that was removed. I packaged it and dropped it into evidence.
Q. And how can you tell that's the bullet that was removed?

A. My handwriting. Looks like the one from the picture, and I had custody of it from the time that it was collected to the time I dropped it off in property in evidence.

Q. So this is the projectile that was recovered from Jamilla Hightower's head?

A. Yes sir.

MR. RICHARDSON: Your Honor, the State would seek to introduce State's 93 into evidence.

MR. GARDNER: No objection.

MR. FREDERICK: No objection, Your Honor.

THE COURT: It's in evidence without objection.

(PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 93.)

MR. RICHARDSON: And seek permission -- or seek leave to publish at this time, I believe without objection.

MR. GARDNER: No objection.

MR. FREDERICK: No objection.

THE COURT: You may do so.

Q. That's the extent of your involvement in this case?

A. Yes sir.

MR. RICHARDSON: If you will answer any questions Mr. Gardner and Mr. Frederick have.

THE COURT: Mr. Gardner.

MR. GARDNER: I have no questions, Judge.

MR. FREDERICK: No questions.

THE COURT: All right, sir. Do you wish this witness to be excused?

MR. RICHARDSON: Your Honor, I do, please.

THE COURT: Any objection to ---

MR. GARDNER: No sir, no objection.

MR. FREDERICK: No objection.

THE COURT: You are released from your Subpoena. You may go back to your regular duties, sir.

A. Thank you.

THE COURT: All right.

MR. RICHARDSON: Your Honor, if we could approach momentarily.

THE COURT: All right. Y'all come ---

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: All right, your next witness, please.

MR. RICHARDSON: The State would call Detective Carol Allen.

CAROL ANN ALLEN, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MR. RICHARDSON:

Q. Investigator Allen, if you will the jury where you are employed, and in what capacity.

A. I'm employed with the Myrtle Beach Police Department, and I'm assigned to the Investigations Division as a Detective.

Q. And that is currently. How long have you been with the Myrtle Beach Police Department?

A. I've been employed with Myrtle Beach for approximately fifteen years.

Q. Back in June, 2006, were you in the Investigations Unit?

A. I was the Investigations Division, yes.

Q. But what specifically were your duties back in June of 2006?

A. I was the Supervisor over the Crime Scene Unit?

Q. So you were like Grissett on C.S.I.?

A. Similar.

Q. The Crime Scene Unit, is it like C.S.I.?

A. There are some parts of it, yes.

Q. All right. What are the duties of the Crime Scene Unit? You are the Supervisor, if you will just let us know.

A. Basically what we do is, we will respond to all crime scenes, whether it be burglary auto, burglary residences, assaults, violent crimes, up to and including homicides, and basically what we want to do is collect any and all evidence that could possibly link a certain individual, to prove that they committed a certain crime.

Q. Tell us about your training and your experience in crime scene, forensic crime scene analyses or collection.

A. Yes. Basically the type of classes that I took while I

was in crime scene is basic fingerprint course, advance fingerprint course. I'm a certified A.F.I.S. operator, which is in fingerprints, to run the database. I have also had different types of evidence processing courses. Basically what that entails is, how do you go about lifting different types of evidence from crime scene, such as fingerprints, how do you go about collecting other types of evidence, such as D.N.A., hair, fibers, just basic crime scene duties.

Q. And have you trained other officers in forensic evaluation of a crime scene, and evidence collection?

A. Yes, I have.

Q. Now, in your experience as supervisor of the Crime Scene Unit at Myrtle Beach, what type of evidence are you looking for at a crime scene, or a murder scene in particular?

A. You are looking for weapons, any type of weapon that may have been used. You are looking for blood that may have been left behind by victims or suspects, hair fibers, trace evidence, shoe prints, tire tracks. I mean, there's a lot of different types of evidence that we are searching for.

Q. Are you trying to collect it all?

A. Yes.

Q. Now, in your past years as Supervisor of the crime scene unit, did you have the opportunity to respond to [redacted] Pridgen Road?

A. Yes, I did.

Q. When was that?
A. That was June 9th, 2006.
Q. And for what purpose did you respond?
A. I was -- I actually supervised the other crime scene officers that were on scene, and I also took part in the processing portion of the investigation.
Q. And ultimately -- you supervised everything, correct?
A. That's correct.
Q. Could you give us a summary of what your team did at Pridgen Road?
A. Sure. The first person on scene, they photographed the scene, starting at the outward and moved inward, started at the outside of the residence, took photographs and video-taped. Basically why we do this is, we want to capture the scene as we found it when we arrived on scene. Once the scene was photographed and video-taped then we started looking for all the various pieces of evidence that I just told you about. We are looking for fingerprints, D.N.A., blood, hair, fibers, shoe prints, and everything -- you start at one area of the house, and basically go around so everything is done in order, so you can be sure you are not to miss anything.
Q. Did you process any particular areas of that house by yourself?
A. Yes, I did. I processed the kitchen floor, and basically -- what I did with that was, after it was

photographed, of course, I used two different types of powders. One was -- it's a magnetic powder, and I dusted it, the whole floor, and I was able to observe two partial shoe prints, and after I observed them then what I needed to do is lift them off the floor, and what I used is something that we call a Pro-Lift. It's just sort of like a big rectangular piece of scotch tape. It has filament on one side, and then the sticky surface on the other, pull off the back piece, lay it right over the shoe print and the shoe print comes right off, that way it can be used later, you know, for comparisons.

Q. Investigator Allen, I'm going to show you what's been marked for identification as State's Number 52. Please take a look at State's 52 and see if you can identify that.

A. Yes, I can. These are the ---

MR. RICHARDSON: Don't publish it yet.

A. I'm sorry.

Q. Okay. Can you recognize it?

A. Yes, I can.

Q. How can you recognize that?

A. These are the Pro-Lifts that I used on the kitchen floor, and you can see the kitchen floor with the powder over it.

Q. That's what all those dark stains are?

A. That's correct.

MR. FREDERICK: No objection.

MR. GARDNER: No objection.

MR. RICHARDSON: The State would seek to put 52 into evidence, Your Honor.

THE COURT: It's in evidence without objection.

(PHOTO ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 52.)

MR. RICHARDSON: And publish.

THE COURT: Any objection to publication?

MR. GARDNER: No objection.

MR. FREDERICK: No objection.

THE COURT: You may do so.

MR. RICHARDSON: I'm sorry, Your Honor.

THE COURT: That's all right.

Q. Those two rectangular items, those are the Pro-Lifts?

A. Yes sir.

Q. And the rest -- all this dust and everything on the floor, that's the magnetic dust?

A. That's correct.

Q. Now there's a lot of that on the floor, and there's only two -- two lift kits there.

A. Correct.

Q. Were those the only two usable prints you could find?

A. That's correct.

Q. Now I'm going to show you what's been marked for identification as State's 54 and 53. If you will take a look

at those and see if you recognize that.
A. Yes. These are the two lifts from the kitchen floor. It has my handwriting on it, has all the information pertaining to this case on it.
Q. Okay. So you can readily identify those in the lifts you did?
A. That's correct.
Q. And those were done at [redacted] Pridgen Road?
A. Yes, they were.
Q. Now, upon taking those Pro-Lift cards, what did you do with them?
A. After I -- once I got them to where they looked like this, after I lifted the shoe print, what I did is placed them in a evidence bag, and marked them to where the evidence was collected from, and once leaving the scene they were secured in our evidence room.

MR. RICHARDSON: Your Honor, the State would seek to place 54 and 53 into evidence.

MR. GARDNER: No objection.

MR. FREDERICK: No objection.

THE COURT: So 53 and 54 are in evidence without objection.

(PRO-LIFTS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 53 AND 54.)

Q. Investigator Allen, you stated you processed the

kitchen, correct?

A. That's correct.

Q. Do you know -- and you supervised the crime scene and evidence collection, correct?

A. Correct.

Q. To your knowledge, were there any drugs found in the house?

A. Not to my knowledge.

Q. Any large amounts of cash found in the house?

A. Not to my knowledge.

Q. Investigator Allen, as the former head of the Crime Scene Unit in Myrtle Beach, are you familiar with the term fingerprint identification?

A. Yes.

Q. And could you describe for the jury, in detail, any training you have had in fingerprint -- fingerprint analysis or taking fingerprints?

A. Sure. I started off with a basic fingerprint course. Basically what that taught me is how to tell which -- you know, different fingerprints, for their patterns, the ridges that are in your hands. You can always -- it just teaches you what to look for when you are lifting fingerprints. And I've also had basic fingerprint -- advance fingerprint training, comparison analysis. I am certified through the State of South Carolina to operate our automated fingerprint

identification system, which is a database that houses fingerprints.

Q. And approximately how many times have you lifted fingerprints?

A. If I had to guess, probably over a thousand.

Q. And approximately how many times have you done fingerprint analyses?

A. About the same.

Q. Are there any specialized tools or programs you use? I believe you described the database.

A. Yes, the A.F.I.S. database.

Q. How about any tools for actually looking at the photographs -- or looking at the fingerprint? Any kind of tools for that?

A. A magnifying glass.

Q. And have you trained others in the field of fingerprint analyses?

A. Yes, I have. I trained the other officers that were in the Crime Scene Unit, and since then they have been certified to operate the A.F.I.S. also.

Q. And have you testified previously, in General Sessions Court, as an expert in fingerprint analyses?

A. Yes, I have.

MR. RICHARDSON: Your Honor, at this time the State would seek to have Investigator Allen introduced as an expert

in fingerprint analyses.

THE COURT: Do you wish to further question the witness ---

MR. GARDNER: No, Your Honor.

THE COURT: ---Mr. Gardner. Mr. Frederick?

MR. FREDERICK: No, Your Honor.

THE COURT: Do you have any objection to the introduction of this witness to give her opinion in that area?

MR. GARDNER: No, Your Honor.

MR. FREDERICK: None at all.

THE COURT: All right. Very good. The witness is qualified to give your opinion in the field of fingerprint analyses.

Q. We have all heard the term fingerprint. We hear it on all the crime shows. Let's get back and start at the basics. Tell us, what's the science behind fingerprint analyses? How are fingerprints left?

A. Okay. Everybody has some type of oily secretions or perspiration on your hands, okay. Basically what a fingerprint is are friction ridges, and when you touch a surface, or grab an item you are transferring the secretions on the friction ridges over to the item that you are touching. Okay. That's basically how fingerprints are left.

Q. And how are fingerprints used to identify people?

A. Okay. Every person in the world -- everybody has

different fingerprints, okay. There's no two people -- twins do not have the same fingerprints. You have ten different fingerprints on your hands, so when I'm comparing fingerprints and I get a match, like through the database, there is no doubt that that fingerprint came to a certain individual.

Q. Describe for us the term usable. Have you heard of the term usable fingerprint?

A. Yes, I have.

Q. Tell us what that is.

A. Usable fingerprints are fingerprints that contain enough ridge detail to make an actual comparison. Okay. A usable fingerprint would be one where a person maybe just laid their hand on a object and lifted up, and when I'm examining the print you see all the ridges. There's no smear marks. You can see everything, you know, real well.

Q. And you are talking about -- I think you just said, ridges that you can identify, correct?

A. Correct.

Q. If a person touches something, a surface, do they always leave fingerprints?

A. Unfortunately, no. I mean, it would be nice if, when somebody touched a surface they actually rolled the fingerprint on there, but of course that doesn't happen in today's society. When people touch something they are neither, you know, brushing it, and when I look at that later

all I'm seeing is a smear. There's really no ridge detail, and there's no way to compare that with anything, an actual fingerprint.

Q. I think the term used was, for identification you need sufficient ridge detail.

A. That's correct.

Q. How would a struggle affect fingerprints?

A. I'm sorry.

Q. How would a physical struggle affect leaving a fingerprint?

A. Oh, if I was struggling with somebody, all you would find -- let's just say I'm struggling with this book, or I'm struggling with somebody, chances are the fingerprint would be very, very unusable.

Q. Would you been able to get fingerprints off of fabric?

A. I have never been able to do it before, and I've never known anybody that's been able -- to be able to do that.

Q. Is it true that some surfaces are better at attracting fingerprints than others?

A. That's correct.

Q. Give us some examples of items that would be good for attracting fingerprints.

A. Okay. The best type surface that -- surface that we normally get real good fingerprints off of are smooth, non-porous, basically any items that, you know, air can't go

through. This flat surface, even though it's wood, if it has like a painted surface on it, that would be very, very good. This wall back here would be an example of something that probably wouldn't be very good, because it's not smooth. It's rough, and if you try to leave a fingerprint on that -- and you might see a good fingerprint on it, but if you try to lift it or photograph it it's just going to distort it, so a smooth, clear, soft surface -- or non-porous surfaces are the best type.

Q. How about on a body?

A. My opinion, I have not been able to get a fingerprint off of a body before. I heard it can be done. It's very hard because the body is going to be cold, the surface is very poor. I mean, I'm not saying that it can't be done, but in my opinion -- I haven't been able to do it myself, and I have heard very little evidence that people have in the past.

Q. Hypothetical, in your expert opinion, could a person be present in a house, actually physically touched numerous objects, and leave no usable fingerprints?

A. That's correct.

Q. How would the wearing of gloves affect leaving fingerprints?

A. You know, of course the gloves would hide the oily secretions on your hands, so if you are wearing gloves they are not going to leave any fingerprints.

Q. In this present case, did you do anything with regards to fingerprint identification?

A. Yes, I did.

Q. Take us through that. Take us through what you did.

A. Okay. Once we all left the scene, and all the crime scene officers secure all their fingerprints in our evidence room I checked out all the fingerprints and I took them to where our A.F.I.S. station is housed up at the Police Department, and what I immediately did was examined each one, each fingerprint that contained sufficient ridge detail to run through A.F.I.S. I ran through A.F.I.S., and how that works is, you have a scanner. You actually scan the fingerprint and then I have to actually mark all the different minutiae, or all the different ridge endings -- there are several different ridge endings that you mark -- and then you send it to the S.L.E.D. -- their main database. It's all through the computer, and what S.L.E.D. does -- it's automatic -- they will send like twenty different fingerprints back that are similar in nature than the one I sent, then I've got to manually check each one to see if I can get a match.

And once -- say down the line we may have had some suspects identified, then I would go back and compare each fingerprint to the subject's.

Q. Hypothetically, if someone planned a crime, but didn't go in a property, would they leave fingerprints?

A. No.
Q. And you said that if someone is wearing gloves that gloves are not going the leave fingerprints.
A. That's correct.
Q. Now, you said you entered these fingerprints into A.F.I.S..
A. Correct.
Q. And how many usable fingerprints did you get throughout the whole house?
A. I couldn't give you an exact number, maybe ten.
Q. So then possible usable fingerprints out of this whole house?
A. Yes.
Q. Okay. A house that's been lived in for a while?
A. Yes.
Q. And A.F.I.S. is the automated system you feed it through?
A. Correct.
Q. And did you ever get any results from A.F.I.S.?
A. No, I did not.
Q. So the fingerprints didn't come back to anyone?
A. That's correct.
Q. So if I understand your testimony you attempted to run tests on fingerprints given to you, but were unable to identify any particular person. Could you explain how that

might happen?

A. Well it just -- I mean, A.F.I.S. -- I mean, I can only search fingerprints through A.F.I.S. that have enough ridge detail for the computer to pick it up, and the fingerprints that we lift off scene, I mean, they were in general areas, like walls, or common areas. I mean, anybody could have came in the house and left those fingerprints behind.

Q. So you are saying, just because there is a fingerprint in the house doesn't mean that's the killer?

A. Correct.

Q. How long will a fingerprint impression last on a surface?

A. It varies. It varies. I mean, if it's not touched, and the temperature of the room in the house is just right it could last for a long time, or it could disappear over night, depending if -- you know, your furniture -- clean your furniture, you know, often.

Q. In your experience is it unusual to get no usable fingerprints in a case?

A. Oh it's -- it happens all the time.

MR. RICHARDSON: Investigator Allen, thank you for your assistance. If you will just answer any questions Mr. Gardner or Mr. Frederick might have.

THE COURT: All right, Mr. Gardner.

MR. GARDNER: Thank you, Judge.

CROSS-EXAMINATION BY MR. GARDNER:

Q. Nothing that you did connects these two Defendants to this case, correct?

A. Correct.

MR. GARDNER: That's all I have.

THE COURT: All right, Mr. Frederick.

CROSS-EXAMINATION BY MR. FREDERICK:

Q. The fingerprints were compared to Jimmy Lee Sessions and Christopher Stephens?

A. That's correct.

Q. Were they compared to Jamilla Hightower and Monica Wall?

A. Correct.

Q. So, what you are telling the jury is that you found fingerprints in the house, and they are unidentified?

A. That's correct.

MR. FREDERICK: Thank you. No further questions.

THE COURT: Any redirect, Solicitor?

REDIRECT-EXAMINATION BY MR. RICHARDSON:

Q. So the ten prints you found in the house, those didn't belong to either of the victims ---

A. That's correct.

Q. ---And they lived in the house?

A. Yes.

MR. RICHARDSON: Thank you.

THE COURT: Anything else, Mr. Gardner?

MR. GARDNER: No sir.

THE COURT: Mr. Frederick?

MR. FREDERICK: No, Your Honor.

THE COURT: Very good.

Do you wish this witness to be excused?

MR. RICHARDSON: I do, Your Honor.

THE COURT: Any objection?

MR. GARDNER: No sir.

MR. FREDERICK: No objection.

THE COURT: All right, Ma'am, you are released from your Subpoena. You may go back to your regular duties.

Thank you.

A. Thank you, Your Honor.

THE COURT: All right. Solicitor, y'all come up. Gentlemen.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: All right, ladies and gentlemen, there is a matter that the Court has to take up outside your presence, and so I'm going to do that, and then give the lawyers an opportunity to go to lunch, so I'm going to have you be back in your jury room at 2:15, please. Be back in your jury room at 2:15. Thank you very much.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right. Just as a general observation, first, I understand this is cold and flu season, and everybody is having issues with that. I will tell you, any time somebody coughs anywhere in the courtroom it affects the recording of these proceedings, so if you are having some difficulties with that, over lunch time would you please go buy some cough drops, all right.

Secondly, the spectators in the courtroom, as I have done all through this case, if you will wait in the courtroom for ten minutes before you leave the courtroom, to give the jury an opportunity to exit the building.

Gentlemen, and Solicitor, I'll see y'all at 2:15. Thank you very much.

MR. RICHARDSON: Thank you, Your Honor.

(THE FOLLOWING TAKES PLACE AFTER THE LUNCH BREAK, AND OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, do we have any issues before we call the jury in?

MS. ELDER: I -- do we want to take care of the -- that -- the shoe issue, Your Honor?

THE COURT: Yes. Mr. Gardner.

MR. GARDNER: I talked it over with my client, Your Honor, and he wants to contest the shoe issue, so I won't be able to stipulate that the shoes come in.

THE COURT: Very good. All right. All right, so what

we will -- how we will handle it is, obviously, Solicitor, you are going to need to lay as complete a foundation as you believe you can. Obviously, from what I heard, I anticipate I am going to allow into evidence those shoes, but we will hear the testimony in front of the jury, and obviously I will hear again any arguments that you might have, Mr. Gardner.

Obviously, or on -- Mr. Frederick, on behalf of the other Defendant in this matter, and then I will rule on that. If -- I just think it's important that we do -- that you lay that foundation in front of the jury, and then we will make a decision at that point in time, and give y'all a final opportunity to address it.

MR. GARDNER: I think it's equally important that I preserve the record, so at some point in time I need to make the contemporaneous objection that will be ---

THE COURT: Well, you will, I mean, I would assume at the time that -- that -- certainly if there are questions that you think are objectionable you will need to raise that, but I mean, obviously at the time the State attempts to introduce into evidence the shoes, then you -- I would expect that y'all would say that you objected at that point in time, and I'm going to again -- I will just send the jury out and I'll hear from both of y'all at that point in time.

MR. GARDNER: Thank you, Judge.

THE COURT: All right. Great.

Anything else before the jury comes in then?

MR. FREDERICK: No sir.

MS. ELDER: No sir, Your Honor.

THE COURT: All right. Very good.

Ask the jury to come on in, please.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, your next witness, please Ma'am.

MS. ELDER: Thank you, Your Honor. The State would call Captain Susan Safford.

THE COURT: All right. Please come around to be sworn, Ma'am.

SUSAN SAFFORD, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MS. ELDER:

Q. And I believe it's Captain Safford; is that correct?

A. Yes, it is.

Q. Where are you employed?

A. I work for J. Reuben Long Detention Center.

Q. And what do you do there at J. Reuben Long Detention Center?

A. I'm Captain over Operations.

Q. And part of your responsibilities and duties is to oversee the general running of that facility?

A. Different aspects, yes.
Q. I want to ask you a few basic questions first. When an inmate, or a person becomes incarcerated at J. Reuben Long Detention Center, what happens to their personal property?
A. We have property bags that we take the items that the inmates are not permitted to have down in the housing units, and place them in those property bags. Each bag has a specific number that's assigned to that inmate. It is a unique number. One bag cannot be assigned to two inmates.
Q. So every defendant has their own individual bag?
A. Correct.
Q. And is that -- where are those items kept?
A. Once the person is showered out and taken down the hall they will take those property bags into a property room, that's locked, and then place it on a conveyor system similar to what you have at a laundromat.
Q. So you said it was locked. Is it open to other detention officers and the personnel out at J. Reuben Long?
A. That is correct.
Q. But is it open to defendants?
A. No, it is not.
Q. And when a defendant has property in that property -- their personal property, do they have control to sign it out to somebody else?
A. Yes. If they would like to release their property

there is a property release form that they can complete. They list the items that they want released, and the person they want it released to. We then verify identification of the person when they come to pick up the items, and have them sign for those items.

Q. And at some point in time did you have Defendant, Jimmy Lee Sessions, in J. Reuben Long Detention Center?

A. Yes.

Q. And could you tell me when you received custody of him?

A. He was brought in on November 27th of 2006.

Q. And how was he brought in?

A. Trans-Corp, which is an extradition company, brought him in.

Q. And do you know where he was brought from?

A. No, I do not.

Q. If you would give me the date one more time, please.

A. It is November 27th of 2006.

Q. And would he have been processed in the jail at that time?

A. Yes, he would have.

Q. Tell me about, just general, what type of processing that is.

A. Once they take the items that the person is not permitted to have they will shower the person out, place them in one of our inmate uniforms. We will do a booking process

where they gather a lot of different information. They will list the charges, if there's any bonds that need to be entered, personal information, address, phone number, and they will list a property form as well.

Q. And when he would come into the Detention Center, you said he was -- he was from an extradition company; is that correct?

A. Correct.

Q. Was he in custody at that point?

A. He was in custody at some other agency.

Q. Okay. And they delivered him to your custody; is that correct?

A. Correct.

Q. And was he allowed to keep his shoes at the time?

A. Yes, he would have been able to.

Q. And did that change at some point in time after he arrived there at your Detention Center?

A. Yes, it did. On May 11th of 2007 we changed our policy to where the inmates could no longer have their tennis shoes. We put them all in what's similar to like a shower shoe. It's a plastic shoe.

Q. And what was the purpose of that policy change?

A. A lot of contraband can be concealed in tennis shoes, inserts, in the sole of the shoes, and we were trying to reduce the amount of contraband coming into the facility.

Q. What about inmates that were already there that had their shoes?
A. We collected those, put them in plastic bags, and then took them to that property room and placed them in the inmate's property bag.
Q. And would that have been what you would have done with Mr. Sessions as well?
A. Yes.
Q. Captain Safford, if you will take a look at what's been marked as State's Exhibit 88. Do you recognize those?
A. Yes.
Q. And could you tell me what those are?
A. Those are the shoes that were in Jimmy Sessions' property bag.
Q. And how did you come to go to, or pull these shoes from his property bag?
A. I received a call from you requesting that I check his property bag for clothing or anything else that might be in it.
Q. And did you do that?
A. Yes. I went and got the property bag out of the property room and brought it to my office.
Q. And the property bag that you got out of your evidence, or property room, was that assigned to Jimmy Lee Sessions?
A. Yes, it was.

Q. Is that what you pulled?
A. Yes.
Q. And was that his property in there?
A. Yes.
Q. Would that have been taken from him while he was at the facility?
A. Yes.
Q. And you indicated he would have had a number assigned to him.
A. Correct.
Q. Do you have those records?
A. Uh huh **(indicating positive)** He had bag four seventeen.
Q. And that's where you retrieved these from?
A. Yes.

MS. ELDER: Your Honor, at this time I would move State's Exhibit 88 into evidence.

THE COURT: All right. Is there any objection from the Defense? Mr. Gardner?

MR. GARDNER: Yes, Your Honor.

THE COURT: And Mr. Frederick?

MR. FREDERICK: Yes sir.

THE COURT: All right. Do you wish -- may just ask a quick question. Do you want me to take that matter quickly under advisement, and give y'all an opportunity to question

the witness before I make a ruling on your objection?

MR. GARDNER: Yes sir.

THE COURT: All right. Mr. Frederick.

MR. FREDERICK: Yes, Your Honor.

THE COURT: All right. Very good.

I'll allow you to go ahead and -- on that -- on this issue that's before us -- I don't know that the State has actually ---

Are you done questioning the witnesses?

MS. ELDER: Yes, Your Honor.

THE COURT: All right. Very good. Well then go ahead, Mr. Gardner.

MR. GARDNER: Thank you, Judge.

CROSS-EXAMINATION BY MR. GARDNER:

Q. Captain Safford, you didn't personally collect these shoes?

A. No, I did not.

Q. All right. And you don't have personal knowledge about their collection?

A. No, I do not.

Q. All right. When that memo addressing the inmates' footwear, that came out in May of '07; is that right?

A. Correct.

Q. Okay. That memo was also prompted because some of the inmates were selling shoes, and trading shoes for cigarettes;

is that right?
A. To my knowledge the memo was prompted to reduce contraband coming into the facility.
Q. Okay. Well, there was also -- was it that inmates in there selling shoes and trading shoes for cigarettes?
A. I don't have any personal knowledge of inmates selling shoes.
Q. In your capacity -- in your position as an employee, a supervisor at the jail, didn't you have any kind of knowledge that the shoes were being traded and sold for cigarettes?
A. I have heard of them being traded. I haven't heard of them being sold.
Q. Okay. Maybe I used the wrong word. I apologize. Traded, because they don't have money, right? They trade cigarettes?
A. Correct. They don't have money in the facility.
Q. Okay. So they would -- you've heard stories of people swapping shoes in exchange for cigarettes?
A. I don't think that they were exchanging them for cigarettes, no. I do know of inmates trading shoes, yes.
Q. Okay. All right. So inmates were trading shoes and is there any information that we have that might tell us that the shoes that were collected from Jimmy in May, or whatever it was that they did, that those are the shoes that he had when he came to your facility?

A. No, there is not.
Q. No way in the world to tell?
A. No.
Q. All right.
MR. GARDNER: That's all I've got.
THE COURT: Mr. Frederick.
CROSS-EXAMINATION BY MR. FREDERICK:
Q. Do you own a pair of Nike tennis shoes?
A. Do I?
Q. Yes.
A. No.
Q. Okay. Anybody in your family?
MS. ELDER: Objection, Your Honor. I don't know the relevancy.
THE COURT: Sustained.
Q. May 11th, 2007, was six months after he came into the facility?
A. Approximately, yes.
Q. That was when the memo was issued, correct?
Q. Okay. And the shoes, down at the jail, before that memo was issued, and shoes were taken away from the inmates, it's pretty much, for some of the inmates, a form of currency. Would that be a fair description of what they were doing?
A. As far as trading, yes.
Q. Okay. All of the officers, not inmates, but officers

at the jail, have access to the property room?

A. Correct.

Q. And the individual property is not under lock and key?

A. The individual bags, no, are not locked.

MR. FREDERICK: Thank you.

THE COURT: Anything else, questions for this particular witness? Do you have any redirect on those questions?

MS. ELDER: Yes, Your Honor.

THE COURT: All right.

REDIRECT-EXAMINATION BY MS. ELDER:

Q. Captain Safford, these shoes that were taken, I believe in April of '07; is that what your testimony was?

A. May.

Q. I'm sorry, May of '07, were shoes that Jimmy Lee Sessions had on him at the time?

A. Correct.

Q. And part of your responsibilities at the jail is to assure that operations and -- standard operating procedure is assured, and part of that is processing of defendants' property; is that correct?

A. Correct. They were instructed to bag the shoes, but the defendant's name on it, and place it in the inmate's personal property bag in the property room.

Q. And can inmates come in the property room and check

each other's shoes out?

A. No.

Q. Okay.

MS. ELDER: No other questions, Your Honor.

THE COURT: All right, thank you.

All right, ladies and gentlemen of the ---

MR. GARDNER: Just a follow-up to that ---

THE COURT: Yes sir. I'm sorry.

MR. GARDNER: ---Specifically contrast.

RECROSS-EXAMINATION BY MR. GARDNER:

Q. You don't have personal knowledge that the shoes were taken from Jimmy were the shoes ---

A. I did not personally get the shoes, no. The shoes were taken and placed in his property bag.

Q. That's correct.

MR. GARDNER: Thank you, Judge.

THE COURT: Thank you, Ma'am.

All right, ladies and gentlemen of the jury, if you would go to your jury room for a few moments, please.

Thank you.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, Mr. Gardner, I'll be glad to hear from you, sir.

MR. GARDNER: The same objection as before, Judge. We

have evidence from her that we don't know -- no way in the world to tell, and I would ask that it be suppressed. Telling that they are his shoes is what I mean.

THE COURT: All right. Very good.

All right, Mr. Frederick.

MR. FREDERICK: I just concur in the objection. It's -- I think it's relevant **(sic)**, in addition to there not being a foundation established that these are his shoes, because, as we have heard, these shoes were traded as currency, that was, at least in part, the reason that they took all the shoes from the inmates. They were being traded. You know, you get five or six Honey Buns for a pair of good shoes, two Honey Buns for a pair of old shoes, Judge, and there is no way that it could be established that these were, in fact, his shoes, and it hasn't been established.

In addition to that, grounds of relevance. I don't see any way that it can be established that these shoes were worn by Jimmy Lee Sessions in June of 2006.

THE COURT: All right. Thank you.

As to a foundation, I believe the question of admissibility is whether or not the facts and circumstances that had been testified to in regards to these particular shoes supports the position, inference position, that the Defendant was in possession of these shoes, that they were his shoes, and I believe that threshold has been met by the State

of South Carolina. This is a non-fungible item, shoes. It's not like blood or semen, or some kind of bodily fluid or tissue. It's a non-fungible item, and the chain of custody, I do not believe, is as strict for a non-fungible item as it is for a fungible item.

I do believe that the State has shown a proper chain of custody in this particular case. Any arguments that the Defendants have about that, I believe go to issues that can be raised on cross-examination, but do not prevent the admissibility of these particular shoes in this particular matter.

As to it's relevancy, and then balancing that as against any undue prejudice, I do find that the shoes themselves are certainly relevant to the issues at hand, any prejudice to the Defendants is more than outweighed by the probative value regarding this particular piece and type of evidence, and therefore I am going to allow the shoes into evidence.

Now, certainly this ruling does not prevent either Defendant from completely -- and exploring all issues they wish to as to the Defendants' connection to them, any possibilities that they want to suggest regarding that, or time frames. Certainly all those avenues are open to the Defense to explore any and all of those in any way they deem proper and necessary, and I'm not foreclosing that in any way, but I am going to allow those shoes, that is, State's 88, in

evidence over the objection of the Defense.

When I call the jury back in I'm just going to tell them that I have allowed State's 88 into evidence, and we will proceed from there, and I will allow you, Mr. Gardner, then to examine the witness as to any issues you deem necessary, and then I'll obviously turn to you, Mr. Frederick, to examine the witness as to any issues you deem necessary, all right.

Very good. Ask the jury to come back in, please.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

MS. ELDER: Your Honor, it's my understanding that they are going to ask questions again.

THE COURT: Yes Ma'am. I'm going to give them an opportunity because I -- I want to make sure that they -- they may choose not to, but certainly if they have questions that they believe they need to ask, now that I have allowed the shoes into evidence, I'm going to give them, both of them the full opportunity to do so.

MS. ELDER: Yes sir.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right. I'm going to allow into evidence State's Exhibit 88.

(2 NIKE TENNIS SHOES ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 88.)

Any further questions from the State at this point in time?

MS. ELDER: No sir, Your Honor.

THE COURT: All right. Mr. Gardner.

MR. GARDNER: Thank you, Judge.

THE COURT: Yes sir.

RECROSS-EXAMINATION BY MR. GARDNER:

Q. Ma'am, prior to the memo coming out about the shoes in May of '07, you were aware that there were inmates that were the trading shoes among each other, correct?

A. Correct.

Q. All right. And as far as the shoes that are in Exhibit 88, there is no way -- well, let me ask one other question first. I'm sorry. You don't have personal knowledge of the collection of the shoes from the inmates?

A. I was not present when they were collected.

Q. Okay. So we don't have any way in the world of telling whether or not those shoes, in Exhibit 88, were the shoes that Jimmy Lee was wearing when he checked into the facility; is that right?

A. No, we have no way of knowing that these are the ones he wore in, no.

MR. GARDNER: Thank you, Ma'am.

THE COURT: Mr. Frederick.

MR. FREDERICK: No questions.

THE COURT: All right. Further questions?

MS. ELDER: No sir, Your Honor.

We would ask that this witness be excused.

THE COURT: Any objection, Mr. Gardner?

MR. GARDNER: No, Your Honor.

MR. FREDERICK: No objection.

THE COURT: All right. You are excused, Ma'am. You may go back to your regular duties.

All right. Your next witness, please Ma'am.

MS. ELDER: Your Honor, the State would call Investigator Kenny Davis.

THE COURT: Come forward to be sworn, sir. If you would come forward, up here, please.

KENNETH W. DAVIS, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MS. ELDER:

Q. Investigator Davis, where are you currently employed?

A. I'm employed with the Fifteenth Circuit Solicitor's Office.

Q. Is that my office?

A. Yes Ma'am.

Q. And what do you do as an investigator there? What are your general responsibilities and duties?

A. We generally conduct follow-up investigations of assignments that are given to us by Senior Assistants

Solicitor as yourself, and other Assistants in the office, as well as the Solicitor himself.

Q. And did you have an opportunity, after consulting with me and reviewing the case, to obtain a Search Warrant?

A. Yes Ma'am, I did.

Q. What did you obtain a Search Warrant for?

A. Some clothing and some shoes.

Q. And did you, in fact, execute that Search Warrant?

A. I did, Ma'am.

Q. And where did you execute that at?

A. I executed it at the Detention Center.

Q. And what was that -- who, in particular, defendant-wise, was that directed toward?

A. Mr. Sessions.

Q. Did you, in fact, obtain a pair of shoes?

A. I did, Ma'am.

Q. If you will look at what has been marked and admitted as State's Exhibit 88. Do you recognize those?

A. Yes Ma'am, I do.

Q. And how do you recognize those?

A. These are the shoes that I obtained at the Detention Center, and secured.

Q. And who did you obtain them from?

A. Captain Safford, Captain Susan Safford.

Q. And did you, in fact, package them?

A. Yes Ma'am, I did.
Q. And did you seal them?
A. Yes Ma'am, I did.
Q. And who did you hand those off to?
A. These shoes were transferred to Mr. Bobby Jordan with the Myrtle Beach Police Department.

MS. ELDER: I have no further questions, Your Honor.

THE COURT: Mr. Gardner.

MR. GARDNER: No questions, Your Honor.

THE COURT: Mr. Frederick.

MR. FREDERICK: No questions.

THE COURT: All right. You may step down, sir. Do you wish the witness to be excused?

MS. ELDER: Yes sir, Your Honor.

THE COURT: Any objection?

MR. GARDNER: None, sir, no objection.

MR. FREDERICK: No sir.

THE COURT: You may go back to your regular duties, sir.

Thank you.

A. Thank you, Your Honor.

THE COURT: All right. Who is your next witness, please Ma'am?

MS. ELDER: Your Honor, the State would call Agent Thomas Darnell.

THE COURT: Please come around to be sworn, sir.

THOMAS EDWARD DARNELL, being first duly sworn, testifies as follows:

DIRECT-EXAMINATION BY MS. ELDER:

Q. Agent Darnell, where are you currently employed?

A. I'm employed with the State Law Enforcement Division, more commonly referred to as S.L.E.D.. I'm assigned to the Forensic Services Laboratory as Supervisor of the Latent Print Department.

Q. And tell me what the Latent Print Department is.

A. The Latent Print Department, we accept physical evidence that is submitted by local law enforcement agencies, state wide. Within the Department we conduct fingerprint examinations, and we also conduct footwear and tire tread examinations, and upon the finished product, then -- we will then be asked to come to court and then produce our findings for the jury.

Q. And have you received special training, during the course of your career with S.L.E.D., for latent print examination, or footwear impression examination?

A. I have.

Q. Could you briefly describe some of those -- that training, Agent?

A. First of all, I've been in law enforcement for about twenty-seven years, fifteen of which have been in the Forensic

Laboratory. I've taken numerous courses in-state, as well as some courses out of state, with the F.B.I. and so forth, even with latent print processing, some crime scene related courses.

Additionally, I've taken several courses in footwear identification, courses that deal with, not only how to recover footwear evidence at crime scenes, but also how to conduct comparisons when comparing known shoes to unknown shoes.

Q. And is there a standard that you go by in conducting footwear impression examination?

A. When conducting footwear examinations, if I'm given a certain shoe, and I'm asked to compare it to a questioned impression that may have been found at a crime scene, there are certain steps that we do taken when conducting that comparison.

My initial examination is just done visually, just to determine if the shoe is the same design, size and shape, and that sort of thing. I will then -- and if the shoe is the same design, then I will take the shoe and I will make some test impressions of the outsoles of those shoes, to compare that to the questioned impressions submitted from the crime scene.

Q. And is that the standard set for conducting these types of examinations?

A. It is.

MS. ELDER: Your Honor, at this time I would move that Agent Darnell be accepted as a expert in the area of footwear impression examination.

THE COURT: All right. Mr. Gardner, do you wish to examine the witness?

MR. GARDNER: No sir, and no objection.

THE COURT: All right. Mr. Frederick.

MR. FREDERICK: That's fine, Judge.

THE COURT: All right, sir, do -- you have no questions. Do you object to his qualifications?

MR. FREDERICK: No objection. No questions.

THE COURT: Very good. I will qualify the witness to give his opinion in the area of footwear impressions.

Thank you.

Q. Agent Darnell, did you receive some items to be looked at for footwear impression comparison in reference to the case of Jimmy Lee Sessions and Christopher Stephens?

A. I did.

Q. And what type of items did you receive?

A. I received several pairs of shoes, five pairs to be exact, and I also received several questioned impressions, and I was asked to compare those questioned impressions to determine if either of the five pairs of shoes did, in fact, make those impressions.

Q. Did you also -- you said you received some impressions; is that correct?
A. That's correct.
Q. Take a look at what has already been produced as State's 57, 58, 59, 60, 61 and 61.
A. Yes Ma'am. State's 57 through 62 are what I call gel lifters, that were submitted for comparison purposes. Gel lifters are -- were -- these were actually done at the crime scene by the local law enforcement agency here, and then they were submitted to me at the laboratory.
Q. And did you also receive Item 6, marked and introduced into evidence, 53 and 54?
A. I did.
Q. What are those?
A. 53 and 54 are taped lifts of -- from the crime scene, and they also bear numerous footwear impressions.
Q. I want to go to one pair of shoes in particular that you examined. It has been marked and introduced as State's Exhibit 88.
A. State's 88 is one pair of Nike shoes that I received, and I was asked to make test impressions to compare to the unknown impressions that were submitted on the gel lifts, and on the tape lifts, and these shoes bear my initials, as well as the laboratory number that was given to it at S.L.E.D..
Q. And do you do a report, or do you prepare a report when

you do impression evaluations?
A. Yes, I do.
Q. And did you do a report in this particular case?
A. I did.
Q. Do you happen to have a copy of that with you?
A. Yes Ma'am.
Q. On your report I believe you identify certain item numbers. How do they get those item numbers?
A. The item numbers were assigned by the forensic technicians at the S.L.E.D. laboratory. Once those items were brought to S.L.E.D. by, in this case, Myrtle Beach Police Department, our technicians actually gave the numbers as they came in.
Q. And I want to specifically look at Item 66. What is that designated as under your Report?
A. Item 66 is State's Exhibit 88, which is one pair of Nike shoes, size eleven, and they are white in color, with white outsoles.
Q. And do you have them belonging to an individual, or marked as belonging to an individual?
A. Yes, I do.
Q. And who is that?
A. They were identified as having been -- having belonged to a Jimmy Lee Sessions.
Q. Now, you described initially the process that you go

through to compare footwear impressions with prints. Did you, in fact, go to that -- do that process with these particular shoes?

A. I did.

Q. And did you create some things to assist you, or to included explaining your findings here today?

A. Yes Ma'am.

Q. Would you take a look at what's been marked State's Exhibit 97, for identification.

A. State's 97 is a board that I put together. I've got two photographs mounted on the board. One is marked as the bottom of the known shoe, and one is the questioned impression which I compare to the, in this case, the left shoe.

Q. Okay. And those pictures you took.

A. These were photographs that I had taken by our photography laboratory within the S.L.E.D. laboratory.

Q. And would you please take a look at State's Exhibit 88 -- 98 -- I'm sorry -- 98, for identification.

A. State's 98 is a test impression which I made by applying fingerprint powder to the bottoms of the shoes, and simply walking onto this clear film. But State's 98 is the test impression of the left shoe.

Q. Tell me why you do that.

A. The reason I make the test impressions on a clear film is so that I can simply place it on top of the questioned

impression, sort of like just a -- it's just -- essentially what it is is a transparent overlay, and the reason I do that is because I'm trying to make -- I'm trying to see if the -- if this particular shoe lines up with the questioned impression that was submitted to me.

Q. And did you, in fact, do that in this case?

A. I did.

Q. And when you ---

MS. ELDER: I'm sorry. At this time, Your Honor, we would like to introduce -- move into evidence State's Exhibit 97 and 98.

THE COURT: Any objection, Mr. Gardner?

MR. GARDNER: No, Your Honor.

THE COURT: Mr. ---

MR. FREDERICK: No objection.

THE COURT: All right. So State's 97 and 98 are in evidence without objection.

(PHOTO OF SHOE AND FOOTWEAR IMPRESSION ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBERS 97 AND 98.)

MS. ELDER: And allow to publish, Your Honor.

THE COURT: Any objection to publication?

MR. GARDNER: No, Your Honor.

MR. FREDERICK: No objection.

THE COURT: All right. You may do so.

Q. I'm going to hand you back State's Exhibit 97 and 98.

Tell me exactly what you did in this particular -- with these two things.

A. Okay. I'll start with State's 97, which is the left shoe of -- which is the shoe in this bag. I've got the left and right, but this is just the left shoe that I have ---

THE COURT: When you say that bag, what exhibit is that, sir?

A. I'm sorry, Your Honor. This is -- the bag is State's Exhibit 88.

THE COURT: All right, sir.

A. State's 88. The right side of the chart, which is marked known, is the bottoms of the shoe, of the left shoe. The questioned is the -- one of the gel lifts that was submitted to me and asked to compare it to -- to several pairs of shoes.

I then applied fingerprint powder to the bottoms of this shoe, as I did with all the shoes. The shoe was then placed on my foot and actually in this case it was placed on someone else's foot because the size was larger than my foot, so I found someone with the same size foot to be able to wear the shoe, and then I took State's Exhibit 98 and I had the individual step onto this transport film, leaving the photograph, or -- if you will, or just a duplication of the outsole of that shoe. I then took State's Exhibit 98, and in order to begin the examination I would then take State's 98