

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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CERTIORARI TO SPARTANBURG COUNTY  
Court of Common Pleas

The Honorable J. Mark Hayes, II, Circuit Court Judge

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Appellate Case No. 2012-209540  
Circuit Court Case No. 2010-CP-42-5670

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JEROME CURTIS BUCKSON, 319419,

Respondent,

v.

STATE OF SOUTH CAROLINA,

Petitioner.

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**APPENDIX  
VOLUME 1 OF 2**

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ALAN WILSON  
Attorney General

SUZANNE H. WHITE  
Assistant Attorney General  
State Bar No. 78225

ATTORNEYS FOR PETITIONER  
Post Office Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737

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2 COUNTY OF SPARTANBURG ) IN THE COURT OF GENERAL SESSIONS

3 The State, )  
4 ) TRANSCRIPT OF RECORD  
5 -vs- ) 2006-GS-42-845;846  
6 Jerome Curtis Buckson, )  
7 Defendant. ) January 27 - February 2, 2007  
8 ) Spartanburg, South Carolina  
9 )

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury  
12

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

14 BARRY BARNETTE, ESQUIRE  
15 SARAH GANSS, ESQUIRE  
Attorneys for the State

16 RICHARD WARDER, ESQUIRE  
17 Attorney for the Defendant  
18  
19  
20

21 Linda D. Moffitt  
22 Circuit Court Reporter  
23  
24  
25

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## Jury qualification

1 (Proceedings January 30, 2007)

2 (State's Exhibits 14 and 17 through 81 premarked for  
3 identification by the solicitor's office.)

4 THE COURT: All right. Any matters to address before  
5 the jury is brought around?

6 MR. BARNETTE: None from the state, Your Honor, other  
7 than our -- did you want to deal with our motions now or  
8 after?

9 THE COURT: We will do that after we pick the jury.

10 MR. WARDER: None from the defendant, Your Honor.

11 THE COURT: Bring the jury around.

12 (The following takes place in the presence of the jury  
13 venire.)

14 THE COURT: Good morning, ladies and gentlemen of the  
15 jury panel.

16 We are ready to begin with jury selection in the first  
17 case that's going to require some of your participation.  
18 It's a criminal case. A person is accused of a crime,  
19 actually two crimes.

20 The state alleges by way of documents called  
21 indictments that the defendant in this case, Jerome  
22 Buckson, committed two separate and distinct crimes,  
23 although they are alleged to have arisen out of one  
24 particular event or course of events which the state  
25 alleges occurred back on January the 30th of 2006.

1 And by way of these indictments the state alleges that  
2 Mr. Buckson committed the crimes of burglary in the first  
3 degree and murder.

4 The state alleges that on January the 30th of 2006  
5 that Mr. Buckson did wilfully and intentionally enter a  
6 dwelling that belonged to Tiffany Foggie located at [REDACTED]  
7 [REDACTED] here in the city of Spartanburg, that he  
8 entered that dwelling without her consent and with the  
9 intent to commit some crime therein; and they further  
10 allege that one or more of the following facts are  
11 accurate: That he entered the dwelling in the nighttime,  
12 or that he had a deadly weapon, or that he caused physical  
13 injury to some other person, or he threatened to use a  
14 dangerous instrument, or he displayed what appeared to be a  
15 deadly weapon.

16 They also allege on the same day that he did wilfully  
17 and with malice aforethought kill one Tiffany Loraine  
18 Foggie by shooting her and that she died as a proximate  
19 result of that gunshot wound.

20 Now, as to those allegations and as to each of those  
21 charges the defendant has entered a plea of not guilty, and  
22 that plea of not guilty places upon the state, because  
23 they've brought the charges, the burden of proving the  
24 allegations that are set forth in each of those  
25 indictments, the burden of proving each of the essential

## Jury qualification

1 elements that constitute the crimes of burglary in the  
2 first degree and of murder; and therefore the burden is  
3 upon the state to establish the defendant's guilt to the  
4 satisfaction of 12 jurors beyond a reasonable doubt before  
5 a jury could find the defendant guilty of any crime the  
6 state claims that he committed.

7 And so we're going to be selecting 13 of you. There  
8 will be 12 primary jurors and one alternate juror. And by  
9 way of your participation you're going to be called upon to  
10 simply listen to the testimony presented during the case,  
11 to consider other types of evidence that might be  
12 introduced during the trial. And at the trial's conclusion  
13 when the jury goes back to deliberate you'll be called upon  
14 to carefully examine all of that evidence, to evaluate the  
15 testimony of each witness that has testified.

16 From that evidence you'll determine what you believe  
17 to be the true facts as they relate to these particular  
18 allegations. That is you'll determine what you think  
19 occurred back on January the 30th of 2006 as it relates to  
20 this case.

21 Then once you decide those facts you'll apply the law  
22 that I'll provide you, and in so doing you will determine  
23 whether or not the defendant is guilty of any crime the  
24 state claims that he has committed.

25 So, as I say, we're going to be selecting 13 of you to

1 participate and to render a fair decision in the case.

2 Now, before we begin with jury selection I have got  
3 some questions that I'm going to ask you. The purpose of  
4 these questions is to determine if there is any reason why  
5 any one of you jurors should not be selected to participate  
6 in the trial of this particular case. So as these  
7 questions are asked of you, if you need to respond to them  
8 I'm going to ask you please stand. And I'll address those  
9 matters with you individually in the event that should  
10 become necessary.

11 Now, first of all, as I told you, the defendant in  
12 this case, that is the person who has been accused of these  
13 crimes, is Jerome Curtis Buckson.

14 Mr. Buckson, if you will, stand and face the jury  
15 panel so that they may see who you are.

16 (Whereupon, the defendant stood.)

17 THE COURT: Mr. Buckson will be the gentleman in the  
18 yellow shirt.

19 That other gentleman who stood up in response to that  
20 question was Mr. Richard Warder. Mr. Warder is his lawyer,  
21 and he'll be assisting him in the trial of this case.

22 The person who is alleged to be the victim of these  
23 particular incidents was Tiffany Loraine Foggie. And of  
24 course Mr. Foggie is deceased. But I'm going to ask if  
25 there are any members of her family present, if you will,

## Jury qualification

1 please stand and face the jury panel so that they can see  
2 who you are. And by seeing you they can determine whether  
3 or not they knew Tiffany Loraine Foggie.

4 (Whereupon, the victim's family stood.)

5 THE COURT: Presenting the case on behalf of the state  
6 are Barry Barnette who is the principal deputy solicitor  
7 for the 7th Judicial Circuit and Sarah Ganss who is one of  
8 the assistant circuit solicitors for the 7th Judicial  
9 Circuit.

10 Now, in addition to the defendant, as well as perhaps  
11 some of Ms. Foggie's family members, there are going to be  
12 a number of other persons that are potential witnesses that  
13 might be called upon to testify during the trial of this  
14 case. I'm going to recite a list of those potential  
15 witnesses.

16 Now, the witnesses, this witness list is of some  
17 length. That doesn't mean all of these people will  
18 testify, but they potentially have some knowledge that they  
19 might be called upon to provide during the course of the  
20 trial.

21 So I'm going to provide you a list of all of the  
22 potential witnesses, because I'm going to be asking you  
23 whether or not you know anybody that's involved in this  
24 case.

25 And that includes the defendant; that includes the



1 person alleged to be the victim of these crimes; that  
2 includes the lawyers involved in the trial of the case; and  
3 that includes any potential witness.

4 So as this list of potential witnesses is recited, if  
5 you have any connection with any of these people or you  
6 know them or you've met them or you have some knowledge of  
7 them in some way, I'm going to ask that you please stand so  
8 that we can address that connection and determine whether  
9 or not it would affect your ability to be fair.

10 So this is a recitation of the list. We have C. D.  
11 Roberts; Michael Longshore; Ben Brown; Chris Taylor. And  
12 those that I'm calling out right now are all employed by  
13 and officers with the Spartanburg Public Safety Department.

14 J. E. Gardner; Investigator Russell; Lieutenant Nowak;  
15 Ron Cantrell; Toby Bradley; Officer Head; Kevin Meyer; K.  
16 W. Collins; Steve Lamb. Now those are all of the -- well,  
17 here. We have some more. Ed Guthro; Lou Parris; Courtney  
18 Westfall; Officer James; Officer Reese; Officer Sutton;  
19 Officer Heyde; Officer Russell; Officer Reeves; Officer  
20 Beach; and Officer Edwards. They're all employed with the  
21 Spartanburg Public Safety Department.

22 In addition to them we also have Elliott Canada who is  
23 a resident of Spartanburg; Charlene Ellis, Charlene Denise  
24 Ellis, also a resident of Spartanburg; Sharmarcus Watson,  
25 also a resident of Spartanburg; Dan DeFreeze and John

## Jury qualification

1 Roberts who are employed with the South Carolina Law  
2 Enforcement Division; Captain Jones with the Spartanburg  
3 County Detention Facility.

4 John David Wren, a pathologist with the Spartanburg  
5 Regional Medical Center; Jimmy Carroll, a resident of  
6 Spartanburg; Freddie Thompson, director of emergency  
7 communications; Tasha Allen, a resident of Spartanburg;  
8 Kathy Pearson, a resident of Spartanburg; Susan Bagwell, a  
9 resident of Spartanburg.

10 Sharon Peeler and Rick Gregory, employed by the  
11 circuit solicitor's office; Taffie Williams, a resident of  
12 Gaffney, South Carolina; Brantley Farmer, a resident of  
13 Spartanburg; Lloyd Williams, a resident of Gaffney; Eugene  
14 Foggie, a resident of Atlanta, Georgia; Greg Satterfield, a  
15 deputy with the Spartanburg County sheriff's Department.

16 Jason McClintock, a resident of Spartanburg; Corey  
17 Buckson and Teresa Buckson, residents of Spartanburg;  
18 Anthony Martin. All of these I guess are residents of  
19 Spartanburg. Anthony Martin; Chad Tate, Sr.; Chad [REDACTED]  
20 [REDACTED]; Alvin Martin; Jarvis Peake; Deborah Poteat; Vadale  
21 Brandon Buckson; Desmond [REDACTED]; Lillie Miller; Loraine  
22 Cheeks; Timothy Foggie; Mary Means.

23 And I need to know if any member of the jury panel  
24 knows anyone or if you are a customer of, that is knows  
25 anyone who is employed by Venus Beauty Supply located on

1 East Main Street here in Spartanburg. I need to know also  
2 if you're a customer of the Venus Beauty Supply located  
3 downtown.

4 Now, is there any member of the jury panel that knows  
5 any person who has been identified for your benefit this  
6 morning? If so, please stand.

7 All right. I've got seven standing. Now, I'm going  
8 to go through. I'll start to my right and work across the  
9 room to my left. If you will, please, give me your name --  
10 I have eight standing. Do we have any more? If you  
11 know -- does everybody understand the question? I might  
12 not have made it clear. I thought perhaps I had, but maybe  
13 I didn't.

14 Does any juror know or have you met any person who has  
15 just been identified for your benefit this morning? If so,  
16 I'm going to ask that you please stand.

17 All right. I now have ten. I now have 11. This is  
18 probably the easiest question I'm going to ask. I hope it  
19 is. Okay. Anybody else?

20 All right. I'll start to my right and I will work to  
21 my left. If you will, please, give me your name and your  
22 juror number. And then tell me how that question relates  
23 to you. That is what person you believe that you know and  
24 how you know that person.

25 Yes, sir.

## Jury qualification

1 JUROR NO. 20: Start with me?

2 THE COURT: Yes, sir.

3 JUROR NO. 20: Jerry Childers, Juror 20. I know  
4 Freddie Thompson.

5 THE COURT: And how do you know him?

6 JUROR NO. 20: I'm retired from Bell South. 9-1-1 is  
7 on the third floor of the Bell South building. So I know  
8 Freddie.

9 THE COURT: Okay. All right. Would that connection  
10 have any bearing whatsoever upon your decision in this case  
11 if you were selected as a juror?

12 JUROR NO. 20: No, sir.

13 THE COURT: Thank you. Be seated.

14 Yes, ma'am.

15 JUROR NO. 151: My name is Graciela Munoz, Juror No.  
16 151. I used to work for Inago (sic) Staffing, and I  
17 employed several of the people you named.

18 THE COURT: You employed several of the people that I  
19 named?

20 JUROR NO. 151: Yes, sir.

21 THE COURT: Do you remember some of them?

22 JUROR NO. 151: Last name, Tate was one of them.

23 THE COURT: Okay. Some of the individuals. You  
24 don't, I mean, some of the citizens, not law enforcement  
25 officers.

1 JUROR NO. 151: No.

2 THE COURT: Okay. Would any of that, any of those  
3 connections, in any way interfere with your ability to be  
4 fair and impartial in this case?

5 JUROR NO. 151: No, sir.

6 THE COURT: Now, you said you did know the, or you  
7 believe you knew the Tates.

8 JUROR NO. 151: Uh-huh.

9 THE COURT: All right. What about, do you know any  
10 Bucksons?

11 JUROR NO. 151: No.

12 THE COURT: Any McClintocks?

13 JUROR NO. 151: No.

14 THE COURT: Any Peakes?

15 JUROR NO. 151: Yes, sir.

16 THE COURT: All right.

17 JUROR NO. 151: There was --

18 THE COURT: This is Jarvis Peake. You think you might  
19 know him. Okay. Deborah Poteat, Tiffany Cohen.

20 JUROR NO. 151: I believe that name sounds familiar.

21 THE COURT: Okay. Loraine Cheeks.

22 JUROR NO. 151: Yes, sir.

23 THE COURT: Lillie Miller.

24 JUROR NO. 151: No.

25 THE COURT: Mary Means.

## Jury qualification

1 JUROR NO. 151: Means.

2 THE COURT: Sounds familiar. Okay. Are there any  
3 others that I might have missed?

4 JUROR NO. 151: No.

5 THE COURT: All right. Would that fact, would the  
6 fact that you know them or you have had some contact with  
7 them, would that in any way interfere with your ability to  
8 be fair and impartial in the trial of this case?

9 JUROR NO. 151: I didn't personally know them other  
10 than employed them through our, the agency.

11 THE COURT: Okay. Well, do you think any of those  
12 connections would in any way interfere with your ability to  
13 be fair and impartial?

14 JUROR NO. 151: No, sir.

15 THE COURT: All right. Thank you. You may be seated.  
16 Yes, sir.

17 JUROR NO. 76: My name is Robert Jones. I'm Juror No.  
18 76. I'm employed at Spartanburg Regional. And Dr. Wren,  
19 the pathologist, is also employed at Spartanburg Regional.

20 THE COURT: Okay. Would that have any bearing upon  
21 your decision?

22 JUROR NO. 76: No, sir.

23 THE COURT: Thank you. Be seated.

24 Yes, ma'am.

25 JUROR NO. 95: My name is Beatrice Murphy. I'm Juror

1 No. 95. I know the owner of Venus, also as a customer.  
2 And also know Tiffany Cohen. She's my granddaughter's  
3 mother.

4 THE COURT: Okay. And would any of those connections  
5 or those facts in any way interfere with your ability to be  
6 fair and impartial in this case?

7 JUROR NO. 95: No, sir.

8 THE COURT: All right. Thank you. You may be seated.  
9 Yes, ma'am.

10 JUROR NO. 157: Elizabeth Goforth, Juror No. 157. I  
11 knew Tiffany also.

12 THE COURT: You say 157?

13 JUROR NO. 157: Yes, sir.

14 THE COURT: You know Tiffany Cohen?

15 JUROR NO. 157: Yes, sir.

16 THE COURT: Would that have any bearing upon your  
17 decision in this case?

18 JUROR NO. 157: Yes, sir.

19 THE COURT: You think that it might. We'll excuse you  
20 from service in the case, but don't leave yet.

21 Yes, ma'am.

22 JUROR NO. 162: Christy Causo, Juror 162. And I know  
23 many of the Public Safety Department individuals that you  
24 mentioned.

25 THE COURT: All right. And how do you know them?

## Jury qualification

1 JUROR NO. 162: My husband has served as the fire  
2 chief for the city of Spartanburg for 28 years.

3 THE COURT: All right. And would that fact or those  
4 connections have any bearing upon your decision in this  
5 case?

6 JUROR NO. 162: No, sir.

7 THE COURT: All right. Thank you. You may be seated.

8 JUROR NO. 40: My name is Mike Flynn, Juror No. 40.  
9 I'm employed with Freddie Thompson from the 9-1-1 center in  
10 Spartanburg.

11 THE COURT: Okay. Would that have any bearing upon  
12 your decision in this case?

13 JUROR NO. 40: No, sir. I believe he would be  
14 testifying on the 9-1-1 recordings. I don't believe it  
15 would.

16 THE COURT: Likely.

17 JUROR NO. 40: I also know on a professional level  
18 several of the law enforcement officers but not personally.

19 THE COURT: Would it have any bearing upon your  
20 decision?

21 JUROR NO. 40: No, sir.

22 THE COURT: All right. Thank you. Be seated.

23 Let me get this gentleman. Yes, sir.

24 JUROR NO. 43: Yes. My name is Reginald Foster, Juror  
25 43. I know Ron Cantrell from some years back.



1 THE COURT: Would that have any bearing upon your  
2 decision in the case?

3 JUROR NO. 43: No.

4 THE COURT: All right. Thank you.

5 Next gentleman in the back.

6 JUROR NO. 10: My name is Russell Bradley. I am Juror  
7 No. 10. I know several of the law enforcement individuals,  
8 including Steve Lamb, who in my capacity at Channel Seven,  
9 I covered this case when it first broke.

10 THE COURT: Okay. Would that have any bearing upon  
11 your decision in the case?

12 JUROR NO. 10: No, sir.

13 THE COURT: All right. Thank you. Be seated.

14 Yes, ma'am.

15 JUROR NO. 34: My name is Mary Duesterhaus, Juror No.  
16 34. I only know of Sarah Ganss. She knows my brother in  
17 Greer.

18 THE COURT: Would that have any bearing upon your  
19 decision?

20 JUROR NO. 34: No, sir.

21 THE COURT: Thank you. You may be seated.

22 Yes, ma'am.

23 JUROR NO. 85: Judith Mammoth, Juror No. 85. I know a  
24 J. Tate. That's why it took me a minute to stand up. He  
25 went to Whitlock about eight years ago, but it wouldn't

## Jury qualification

1 have any bearing on my decision.

2 THE COURT: Okay. You know him --

3 JUROR NO. 85: Just as he was a student where I  
4 worked, yes.

5 THE COURT: -- from school, but it wouldn't have any  
6 bearing upon your decision.

7 JUROR NO. 85: No, sir.

8 THE COURT: Okay. Thank you. You may be seated.

9 Now, as I told you, this is an incident that the state  
10 alleges occurred back on January the 20th, excuse me,  
11 January the 30th of 2006. They allege that it occurred at  
12 the residence of Tiffany Foggie located at 2096 East Main  
13 Street here in the city of Spartanburg. And that's out  
14 there right across from what used to be Wal-Mart. It's now  
15 Lowe's. But it's right out in that area.

16 Is there any member of the jury panel who has heard  
17 anything about the facts or circumstances that relate to  
18 this particular case? That is did you see it on the news  
19 or read about it in the paper or hear anything on the radio  
20 or heard any discussions between people talking about the  
21 case itself. If you have been exposed to any type of  
22 information about this case, I'm going to ask that you  
23 please stand.

24 All right. Let me start over here, and I will work  
25 back and cross. Name and juror number, please, sir. And

1 then tell me how you were exposed to information.

2 JUROR NO. 128: David Strouse, Juror 128. I worked  
3 with Freddie Foggie at Wetech, and he's the uncle of the  
4 decedent, I believe.

5 THE COURT: All right. And he was discussing the case  
6 with you or with others?

7 JUROR NO. 128: Yeah.

8 THE COURT: Sir?

9 JUROR NO. 128: He just, you know, came into work and  
10 talked about it.

11 THE COURT: Okay. And is there anything about those  
12 discussions that you had with him that would in any way  
13 interfere with your ability to be fair and impartial to  
14 both sides in the case?

15 JUROR NO. 128: No, sir.

16 THE COURT: In other words, could you put aside  
17 whatever discussions you had or overheard and not allow  
18 those discussions to influence your decision? In other  
19 words, you'd base your decision upon the testimony and the  
20 evidence received during the trial of the case and not  
21 allow those out-of-court discussions to influence that  
22 decision.

23 JUROR NO. 128: Yes, sir.

24 THE COURT: You could do that?

25 JUROR NO. 128: Yes, sir.

## Jury qualification

1 THE COURT: All right. Thank you. Be seated.

2 Yes, ma'am.

3 JUROR NO. 95: I'm Beatrice Murphy, Juror No. 95.

4 Like I said, I knew Tiffany Cohen, and just in general  
5 family discussing her through the situation with her.

6 THE COURT: Okay. And would any of those discussions  
7 that you had or any of the information that you received  
8 from those discussions affect your ability to be fair and  
9 impartial in this case if you were selected?

10 JUROR NO. 95: No. It would not.

11 THE COURT: All right. Thank you. Be seated.

12 Yes, ma'am.

13 JUROR NO. 60: Deann Henderson, Juror No. 60. I live  
14 very close to that area and just remember the media  
15 coverage from that particular event.

16 THE COURT: And do you recall anything specific that  
17 you --

18 JUROR NO. 60: Not with the time span that's occurred.  
19 I don't remember all of the specific details.

20 THE COURT: All right. Well, understanding that if  
21 something were to come back to you, could you put aside  
22 that information and not allow it to influence your  
23 decision?

24 JUROR NO. 60: Yes, sir. I believe I could.

25 THE COURT: All right. Thank you. You may be seated.

1 Yes, sir.

2 JUROR NO. 40: Mike Flynn, Juror No. 40. Part of my  
3 duties at the 9-1-1 center is reporting on the 9-1-1 data.  
4 So it could be possible that I prepared the reports that  
5 may be used in exhibits in this case.

6 I don't personally remember anything about the case.  
7 I just want to make that known.

8 THE COURT: Okay. You say you may have prepared a  
9 report?

10 JUROR NO. 40: Yes, sir. We prepare several hundred  
11 reports a month for cases like this, and I'm one of two or  
12 three people who did do that, so it could be that my name  
13 is on the report.

14 THE COURT: All right. Sure. Well, let me ask the  
15 solicitor. Is there any possibility that this gentleman is  
16 involved in the case?

17 MR. BARNETTE: No, sir.

18 THE COURT: No. Okay. In any event, would any of  
19 that affect your judgment?

20 JUROR NO. 40: No, sir.

21 THE COURT: Okay. Thank you.

22 Yes, sir.

23 JUROR NO. 10: Russ Bradley, Juror No. 10. As I  
24 stated to the Court earlier, I worked the story when it  
25 first broke. I haven't had much contact with the story

## Jury qualification

1 since then. I explained to you I'm a reporter in my  
2 position at Channel Seven. But I did work the story when  
3 it did occur.

4 THE COURT: And did you personally talk to individuals  
5 that had some information about the case?

6 JUROR NO. 10: I talked with public safety and a  
7 public information officer and public safety about the  
8 case.

9 THE COURT: So you talked to people that got  
10 information from other sources, in other words, hearsay  
11 information.

12 JUROR NO. 10: Not hearsay.

13 THE COURT: Well, I mean, if it came from some other  
14 source, that's hearsay.

15 JUROR NO. 10: Well, it came from the public  
16 information officer with the city of Spartanburg who was  
17 commenting about the case.

18 THE COURT: Well, what I am saying is they weren't  
19 witnesses. I mean, they might be witnesses in the case.  
20 But they weren't there when this incident is alleged to  
21 have occurred. So they may have investigated it.

22 JUROR NO. 10: Right.

23 THE COURT: But they gather information from other  
24 sources. So, anyway, would anything that you learned  
25 during the course of that story that you were involved in,

1 would that in any way affect your judgment in the case?

2 JUROR NO. 10: No, Your Honor.

3 THE COURT: Could you put it aside and not allow that  
4 information to influence your decision and allow your  
5 decision to be based upon the information you receive in  
6 court?

7 JUROR NO. 10: Yes, I could, Your Honor.

8 THE COURT: All right. Thank you. You may be seated.

9 Anyone else need to respond to that question about  
10 having been exposed to any type of information about the  
11 case?

12 (No response.)

13 THE COURT: Has any member of the jury panel or any  
14 member of your immediate family -- and I'm going to define  
15 an immediate family member as a parent or a spouse or a  
16 child or a sibling -- a parent, spouse, child or sibling.

17 Have you or any members of your immediate family as I  
18 just defined it ever been the victim of or ever been  
19 accused of, victim of or accused of, any type of violent  
20 crime?

21 Those would include murder, manslaughter, armed  
22 robbery, burglary, criminal sexual conduct, rape, assault  
23 and battery with intent to kill, criminal domestic violence  
24 of a high and aggravated nature or any other similar type  
25 of crime.

## Jury qualification

1       Have you or a family member ever been a victim of such  
2 a crime or ever been accused of having committed such a  
3 crime? If so, please stand.

4       Now, I have got six jurors standing. I have seven  
5 jurors standing. I have eight jurors standing, nine, ten.  
6 Was that question not clear?

7       I need to know if you or an immediate family member  
8 has ever been the victim of any crime as I have just  
9 described or have you or any member of your immediate  
10 family ever been accused of having committed any crime  
11 similar to those that I just described. If so, I need for  
12 you to stand.

13       All right. Now, those that are standing, I'm going to  
14 ask you to give me your name and juror number. And I need  
15 for you to tell me or answer the question.

16       If you prefer not to answer the question where you're  
17 standing and you prefer to come down here and tell me that  
18 information privately, feel free to do so.

19       If you don't mind responding to the question standing  
20 where you are, then I'll just let you respond to it where  
21 you are. But if you want to come down here, you may.

22       Okay. I'll start over here to my right with  
23 Ms. Munoz, I believe.

24       (Bench conference held off the record with Juror No.  
25 151 and attorneys.)



1 THE COURT: All right. Is there anybody else that  
2 wants to come down here?

3 Okay. If you want to come down here, come on down,  
4 please. And those that don't need to come down, just stay  
5 where you are. I'll address yours.

6 (Bench conference held off the record with Juror No.  
7 70 and attorneys.)

8 THE COURT: Next.

9 THE BAILIFF: 117, Your Honor.

10 (Bench conference held off the record with Juror No.  
11 117 and attorneys.)

12 THE COURT: Yes.

13 THE BAILIFF: No. 129.

14 THE COURT: All right.

15 (Bench conference held off the record with Juror No.  
16 129 and attorneys.)

17 THE COURT: Next.

18 THE BAILIFF: No. 56, Your Honor.

19 (Bench conference held off the record with Juror No.  
20 56 and attorneys.)

21 THE BAILIFF: No. 43.

22 (Bench conference held off the record with Juror No.  
23 43 and attorneys.)

24 THE COURT: Next.

25 THE BAILIFF: 156, Your Honor.

## Jury qualification

1 (Bench conference held off the record with Juror No.  
2 156 and attorneys.)

3 THE BAILIFF: No. 35, sir.

4 (Bench conference held off the record with Juror No.  
5 35 and attorneys.)

6 THE BAILIFF: No. 71.

7 (Bench conference held off the record with Juror No.  
8 71 and attorneys.)

9 THE BAILIFF: No. 163.

10 (Bench conference held off the record with Juror No.  
11 163 and attorneys.)

12 THE COURT: All right. Those are all the ones that  
13 want to come down.

14 Okay. I have got one standing. Yes, sir.

15 JUROR NO. 160: Juror No. 160, Rodney Bridges. Back  
16 in 1995, April 20th, 26th, my sister was murdered.

17 THE COURT: Would that have -- was somebody charged  
18 with that?

19 JUROR NO. 160: Yes, sir.

20 THE COURT: And that has been resolved now.

21 JUROR NO. 160: Yes, sir.

22 THE COURT: And would that experience in any way  
23 affect your judgment in this case?

24 JUROR NO. 160: No, sir.

25 THE COURT: Thank you. You may be seated.

1 All right. Now those who have responded to that  
2 question, Jurors 151, 117 and 156, have been excused by the  
3 Court.

4 All right. Is there any member of the jury panel who  
5 is connected to by blood or by marriage, to a law  
6 enforcement officer? That is are you related to a police  
7 officer of any type. If so, please stand.

8 All right. Give me -- let me start with the first one  
9 on the end. Your name and number, please, sir.

10 JUROR NO. 50: Kent Gray, Juror No. 50. My uncle is  
11 retired from the Spartanburg Sheriff's Department.

12 THE COURT: Did you say 50?

13 JUROR NO. 50: Yes, sir.

14 THE COURT: And next to Mr. Gray.

15 JUROR NO. 35: Juror 35, Jason Dunn. My brother is a  
16 law officer in Rutherford County, North Carolina.

17 THE COURT: All right. Yes, sir.

18 JUROR NO. 40: Michael Flynn, Juror No. 40. My wife's  
19 brother is a traffic officer with the city of Spartanburg.

20 THE COURT: City of Spartanburg?

21 JUROR NO. 40: Yes, sir.

22 THE COURT: And what's that person's name?

23 JUROR NO. 40: Matthew Dean.

24 THE COURT: Matthew Dean. Okay. Thank you.

25 JUROR NO. 148: Juror 148, Jack Wright. My uncle is

## Jury qualification

1 Larry Powers.

2 THE COURT: Okay. Thank you.

3 Now, those who just stood in response to that  
4 question, would the fact that you are connected to a law  
5 enforcement officer in any way impair your ability to be  
6 fair in this case? If it would, I'm going to ask that you  
7 please stand.

8 (No response.)

9 THE COURT: Have the record reflect no juror stood.

10 Is there any member of the jury panel who has already  
11 formed an opinion as to what you think the ultimate outcome  
12 of this case ought to be? That is have you made up your  
13 mind in any way. If so, please stand.

14 (No response.)

15 THE COURT: Does any juror know of any reason  
16 whatsoever -- and I'm not going to ask you to stand up and  
17 announce it in front of the audience -- but does any juror  
18 know of any reason whatsoever why you think you could not  
19 be fair and impartial if you were called upon to serve as a  
20 juror in this particular case? If you have such a reason,  
21 I would ask that you please stand.

22 (No response.)

23 THE COURT: Any other questions requested by the  
24 state?

25 MR. BARNETTE: Number eight, Your Honor, on our list.

1 THE COURT: Number what?

2 MR. BARNETTE: Eight.

3 THE COURT: All right. Is there any member of the  
4 jury panel or any member of your immediate family who is  
5 presently being prosecuted by the 7th Judicial Circuit  
6 Solicitor's Office? That is do you or a family member have  
7 a case that's now pending.

8 I want to know whether you are a victim or a witness  
9 in such a case, or you or the family member is being  
10 prosecuted in such a case. That is they brought the case  
11 against you or the family member.

12 In other words, they are either on your side or they  
13 are on opposing side. They're either assisting you or  
14 they're bringing the case against you or an immediate  
15 family member. If so, please stand.

16 (No response.)

17 THE COURT: All right. Appears none. Any others?

18 MR. BARNETTE: No, sir. Thank you, Your Honor.

19 THE COURT: Any other requests by the defense?

20 MR. WARDER: No, Your Honor.

21 THE COURT: All right. We are going to select a jury  
22 now.

23 Each of your names are on a slip of paper. They're  
24 in the drum. And the clerk's going to call those names out  
25 one at a time randomly. And you're going to be asked to

## Jury qualification

1 come forward as that name is called.

2 If you're towards the wall, you can just come around  
3 the desks. If you are -- excuse me. If you're towards the  
4 center, you can just come up the center aisle. But I need  
5 for you to come up. Just stand about two steps past where  
6 the lawyers are seated. Turn and face your fellow jurors.

7 Each side has an opportunity to have you excused from  
8 service in this case or to have you seated. If either side  
9 asks that you be excused, you can simply go back and have a  
10 seat where you are now. If both agree to have you seated  
11 in the case you'll be having a seat in that jury box to  
12 your right and to my left.

13 So if you'll simply come forward as your name is  
14 called you will be instructed if you are to be seated for  
15 service in the case or excused from serving in the case.

16 (Whereupon, a jury was impanelled.)

17 THE COURT: All right. Those who have been selected,  
18 I'll ask you to please go with the bailiff to a jury room.  
19 I'll bring you back in just a few minutes to begin with the  
20 trial of the case.

21 (The following takes place outside the presence of the  
22 jury.)

23 THE COURT: Any matters to be addressed regarding jury  
24 selection by the state?

25 MR. BARNETTE: None from the state, Your Honor.

1 THE COURT: By the defendant?

2 MR. WARDER: None from the defendant, Your Honor.

3 (Whereupon, the remaining members of the jury venire  
4 were excused.)

5 THE COURT: We are going to take ten minutes.

6 (Whereupon, a recess was taken.)

7 THE COURT: All right. We have got some pretrial  
8 motions to address?

9 MR. BARNETTE: Would you like the state first, Your  
10 Honor, or it does it matter?

11 THE COURT: We will go with you first.

12 MR. BARNETTE: Your Honor, I have had three motions I  
13 believe I handed up to the Court. I gave Mr. Warder a copy  
14 of them.

15 The three motions we have initially are motions in  
16 limine, Your Honor.

17 The first one is concerning a letter from Chad Tate,  
18 Chad Tate Sr., plus any testimony he would give concerning  
19 the letter and the information that's involved with that.

20 I have a copy. Can I make that Court's Exhibit 1,  
21 Your Honor?

22 THE COURT: Okay.

23 (Letter marked Court's Exhibit No. 1.)

24 MR. BARNETTE: Your Honor, I have shown Mr. Warder.

25 What I have done is, Your Honor -- may I approach the

1 bench? There is a letter with the in-regards-to I received  
2 from Judge Hayes. The letter was to Judge Hayes concerning  
3 a bond hearing that Mr. Buckson had in front of Judge  
4 Hayes, Mark Hayes. And we feel like it's totally  
5 irrelevant. It's full of hearsay. It's full of stuff  
6 that's not relevant to this case. And even if it was  
7 relevant it would be highly prejudicial to this case.

8 THE COURT: What's the defense's position, Mr. Warder?

9 MR. WARDER: Your Honor, at this time, of course, the  
10 letter will be inadmissible. I would agree with that. I  
11 guess something could develop during the trial that might  
12 then make it, but at this time we have no intention of  
13 introducing it.

14 THE COURT: So right now you don't have any intention  
15 of introducing the letter, nor do you have any intention of  
16 introducing testimony of a witness regarding matters that  
17 are contained in the letter.

18 MR. WARDER: I guess I haven't looked at it in terms  
19 of whether -- I certainly don't intend to develop hearsay  
20 testimony on any matter in the letter. So I couldn't say  
21 that somewhere along the line there wouldn't be something  
22 that is mentioned in the letter or come in through other  
23 testimony. I mean, if you're asking am I going to enter  
24 anything that's in the letter.

25 THE COURT: Well, let me be sure I understand.



1       Mr. Barnette, Mr. Warder apparently is in agreement  
2 that the letter itself shouldn't come in. I mean, there is  
3 all -- there are possibly more than one reason to object to  
4 it. But he's not saying that what's in the letter is not  
5 relevant if an appropriate person were to testify based  
6 upon personal knowledge of the -- of some relevant fact.

7       So are you attempting to exclude not only the letter  
8 but anything that's referenced in the letter, or are you  
9 just attempting to exclude the letter itself based upon  
10 hearsay or some other objection?

11       MR. BARNETTE: Everything in the letter itself too,  
12 Your Honor, that he may testify to.

13       THE COURT: All right. Mr. Warder, do you perceive  
14 that there's something in the letter that if an appropriate  
15 person were to testify to it that it would be relevant and  
16 probative on some issue in the case?

17       MR. WARDER: Yes, sir. Your Honor, in one, two,  
18 three, four -- at the end of the fourth paragraph there he  
19 poses the rhetorical question if -- "Why did Samarius  
20 Watson run if he didn't pull the trigger?"

21       I intend to both argue that an inference from the  
22 conduct will be that Samarius ran because he was guilty.  
23 And I will tend to develop through admissible testimony  
24 some of that line of reasoning.

25       THE COURT: Okay.

1 MR. BARNETTE: Your Honor, I don't have any objection.  
2 Obviously, that's argument, what he's doing from there.  
3 But I don't think Mr. Tate has any personal knowledge or  
4 anything concerning that incident or involvement in it that  
5 he couldn't testify to. Obviously, I know Mr. Warder can  
6 argue it when other witnesses testify to it perhaps.

7 THE COURT: Well, that's the reason I asked. Are you  
8 objecting to it if an appropriate person were to testify as  
9 to some information that's in the letter? You may not have  
10 an objection to that.

11 MR. BARNETTE: Well, I may not because, like I said, I  
12 don't think Mr. Tate's the appropriate person for this  
13 information to come through. That's what I'm saying.

14 THE COURT: All right. So then your objection is you  
15 object to the introduction of the letter and you object to  
16 Mr. Tate being able to testify as to the contents or any  
17 subject matter set forth in the letter because he is not a  
18 person that has personal knowledge of any fact that's in  
19 the letter. He's basing this letter upon information he's  
20 received from some other source or based upon his own  
21 speculation.

22 MR. BARNETTE: Yes, sir.

23 THE COURT: Okay. Well, let's just -- suffice it to  
24 say, that if anything arises during the trial that either  
25 side deems, believes to be relevant in the case but it is

1 set forth in this letter, that we'll address that outside  
2 the jury's presence before any such evidence would be  
3 admissible. How about that?

4 MR. WARDER: Yes, sir.

5 THE COURT: Okay. All right. What's the next motion?

6 MR. BARNETTE: Your Honor, we have a motion in limine  
7 about there was an arrest warrant taken against Mr. Watson  
8 in this case.

9 We don't think it's relevant in this situation from  
10 the standpoint it's obviously highly prejudicial because it  
11 would be an opinion type situation.

12 It would be the same thing if I put a police officer  
13 up and say what -- do you think this did it, yes, basically  
14 saying his opinion on it without stating the facts. And  
15 basically that would be the same thing talking about the  
16 warrant that was issued as well as the dismissal of that  
17 warrant. And I feel like that the motion in limine needs  
18 to be put there.

19 And plus also the third-party motion,  
20 third-party-guilt motion, I have also included that I've  
21 handed up to the Court involving any reference to the  
22 third-party guilty which I make in turn with that motion in  
23 limine.

24 THE COURT: All right. Mr. Warder.

25 MR. WARDER: Your Honor, at this point I don't know

1 that I am going to elect to question about the warrant.  
2 But I would say that I believe that once a person is  
3 charged with a crime it gives them motivation in some cases  
4 to cooperate or give statements or talk to the police in  
5 the hopes of cutting themselves a better deal or taking  
6 care of their criminal charges.

7 That may have provided motivation in this case, but I  
8 don't want to be foreclosed from examining the witness  
9 about was it only after he was charged that he decided to  
10 make this statement and then for the first time he come up  
11 with the story he's told.

12 THE COURT: Well, would it be, would it be your  
13 position, Mr. Warder, that you believe that the solicitor's  
14 motion would be appropriately granted unless Mr. Watson  
15 were to testify in the trial of the case?

16 MR. WARDER: I believe that would be a correct  
17 statement, Your Honor.

18 THE COURT: Okay. In other words, it might be  
19 relevant if he testifies. Otherwise, it's not relevant.

20 MR. WARDER: I would agree with that, Your Honor.

21 THE COURT: Because it just goes towards his bias.

22 MR. WARDER: Yes, sir.

23 THE COURT: Okay. All right. Well, then the state's  
24 motion is agreed to under all circumstances except in the  
25 event Mr. Watson were to testify. Then Mr. Warder may

1 elect to examine him about the fact that he was charged and  
2 the charges were dismissed after he provided law  
3 enforcement with a statement, which I'll see how that  
4 testimony develops. But it would appear to me that that  
5 might be relevant or that examination might be appropriate  
6 and relevant on the issue of Mr. Watson's bias.

7 MR. BARNETTE: Your Honor, may I follow that motion up  
8 with another motion in line with Mr. Watson asked for an  
9 attorney, which everybody has a constitutional right to ask  
10 for that attorney.

11 I don't think that's an appropriate thing to be  
12 discussed at the hearing here, obviously, we're trying to  
13 show indication of guilt on Mr. Watson's standpoint,  
14 because everybody has that right.

15 I would make a motion in limine that he cannot mention  
16 that if he asked for an attorney or talked to an attorney  
17 about that situation.

18 THE COURT: All right. Mr. Warder, do you perceive  
19 any relevance to that line of questioning at the present  
20 time?

21 MR. WARDER: At the present I don't. It might become  
22 relevant depending on what testimony developed at trial.  
23 But I don't see that in itself as having probative value.

24 THE COURT: All right. Then as I understand it, the  
25 motion is agreed to except and unless testimony is

1 developed during the trial of the case that would make that  
2 line of questioning otherwise relevant and probative on  
3 some point.

4 Again, we'll address that outside the jury's presence  
5 if the defense believes that that line of questioning would  
6 be appropriate and probative.

7 What's the next one?

8 MR. BARNETTE: Your Honor, just in line with the  
9 third-party guilt motion or whatever, obviously, I know  
10 they're going to argue different points or whatever. But I  
11 think for them to bring third-party guilt, it has to be  
12 inconsistent with his guilt. And I don't know that they  
13 can prove that it's inconsistent with his guilt concerning  
14 these crimes. And that's another reason for the  
15 third-party motion in this situation.

16 THE COURT: All right. Mr. Warder.

17 MR. WARDER: Your Honor, if you were to grant the  
18 motion in this particular case where the testimony will be  
19 there were three people in a small location at the top of  
20 the stairs, there's some dispute as to who was in the  
21 bedroom at the time of the shooting. There was a statement  
22 given by my client and Mr. Watson each placing the other in  
23 the room at the time of the shooting.

24 If you were to rule my client couldn't testify that  
25 the things he observed at the top of the stairs and that he

1 ran while the other man was shooting, you would take away  
2 the ability to present any defense, because it all  
3 happened. And you couldn't describe what happened up there  
4 without telling it in full detail or it wouldn't make  
5 sense.

6 The only possible way that the events that occurred  
7 could be described and told to the jury would be they would  
8 have to, my client would have to, say, in fact, the other  
9 fellow shot or all of it would make no sense at all.

10 I would respectfully submit that the less -- it's not  
11 appropriate. I would note for Your Honor, as Your Honor is  
12 well aware, the last time it was before the Supreme Court  
13 that case was decided on the fact that the trial judge has  
14 the ability to exclude evidence that is highly prejudicial  
15 and lacks probative value rather than deciding it on  
16 third-party guilt of some doctrine they decided that case  
17 on, the ability of the judge to regulate the trial and  
18 determine the probative value of all evidence against the  
19 prejudice.

20 In this case I would submit that you when you hear the  
21 case develop you'll determine that its probative value is  
22 of the testimony we're going to offer as to who, who  
23 actually did shoot and how we know it, and we observed it  
24 and saw it, and it happened and we ran, would be very  
25 probative and very little judicial value.

1 THE COURT: Well, it's the defense's position that any  
2 evidence of some other person having committed this crime  
3 would be evidence other than just that somebody else had an  
4 opportunity and motive but that, in fact, somebody else was  
5 actually present and committed the offense.

6 MR. WARDER: Yes, sir.

7 THE COURT: How about that, Mr. Barnette?

8 MR. BARNETTE: Your Honor, it did say that you take  
9 the scenario that I'm anticipating the defense to put up.

10 Basically, Mr. Buckson comes to Tiffany Foggie's  
11 residence. He goes through the window. He doesn't have a  
12 key to the residence. He goes through the window.

13 Before that happens he's knocked on the front door,  
14 the back door, back into the back door. Ms. Foggie tells  
15 him basically don't do this, you need to leave you are  
16 waking the kids up.

17 And he has called her seven or eight times immediately  
18 prior to this on the phone hanging up. They have broken  
19 up. They are no longer going together.

20 He goes through the kitchen, goes up the stairs. The  
21 bedroom door is shut. He hits the bedroom door twice and  
22 knocks it open.

23 Even if his version were to be true, which I'm  
24 anticipating he'll do, is he'll say Mr. Watson had the gun  
25 and shot. In that situation what's Mr. Watson guilty of



1 other than defending himself and Ms. Foggie if you take  
2 their scenario at the best? He's not guilty of a crime.  
3 He looks at self-defense, the defense of others in that  
4 situation.

5 He's in that residence. The man that caused this  
6 whole problem is sitting right over there, Mr. Buckson. He  
7 broke into the residence. He even busted through the  
8 bedroom door.

9 So I don't see how their argument holds weight that  
10 they're saying that Mr. Watson's guilty of a crime, because  
11 he's not guilty of a crime in that situation.

12 THE COURT: Well, I don't know if they're necessarily  
13 accusing him of having committed some crime, but I think  
14 what Mr. Warder is saying is that Mr. Buckson is not the  
15 person that fired the shot that resulted in the death of  
16 Ms. Foggie, that it was, in fact, Mr. Watson that fired the  
17 shot under whatever circumstances that might be.

18 Mr. Warder is taking the position that Mr. Buckson, or  
19 perhaps will take the position that Mr. Buckson, did not  
20 fire the shot, he didn't have the weapon, he didn't fire  
21 the shot that resulted in the death.

22 So in that sense while it may be evidence of a third  
23 party having committed some act that resulted in a death, I  
24 don't think it's third-party guilt in the concept that  
25 third-party guilt, except where it gives rise to more than

1 some speculation that some other person has committed a  
2 crime that should it be excluded.

3 So, in any event, I think if it's a person who is  
4 involved in the event or is present at the time of the  
5 event and can be linked to the event, then I think -- I  
6 don't think that's excludable third-party guilt. I think  
7 that's part and parcel of the event itself. It is more or  
8 less just part of the res gestae of the crime if there is a  
9 crime. So in that sense I think it's a, I think it's  
10 likely to be admitted.

11 I'll have to hear the testimony. You never know until  
12 the testimony develops. But it appears to me at the  
13 present based upon the scenario from each of you that I  
14 understand to be the facts of the case that that evidence  
15 would be, would be admissible.

16 So I'm going to deny your motion to exclude that  
17 evidence at the present, but, as I say, the relevance of it  
18 will have to be developed at trial.

19 All right. What's the next motion?

20 MR. BARNETTE: I believe that's the state's motions,  
21 Your Honor.

22 I don't know if the defense has a Jackson vs. Denno or  
23 if they're going to say it is voluntary. I have several  
24 statements made by the defendant on the roadside on 9-1-1  
25 tape, as well as two police officers. It's on video and

1 written-statements form too.

2 THE COURT: All right. Tell me how many different  
3 statements you have.

4 Mr. Warder, are you aware of the number of statements  
5 and the circumstances of that statement that the state  
6 would offer?

7 MR. WARDER: Yes, sir. I'm aware of, first of all I'm  
8 aware of, a formal statement that was reduced to writing  
9 and was on a C. D.

10 Also, there were other statements my client made, and  
11 it started with a statement he made to 9-1-1. He then  
12 would have met the first officer down in the street by  
13 Lowe's and he would have explained what happened and made a  
14 statement to that officer.

15 I can't think where there would have been another  
16 statement given until he got back to it.

17 THE COURT: Let me be sure. Are there three?

18 MR. BARNETTE: There was one -- the first officer  
19 there, and the other officers came. That's really the  
20 statement right there, the first statement. Or actually  
21 the first statement is 9-1-1, like Mr. Warder said.

22 The second statement was when the officer got to the  
23 scene just trying to find out what's going on. Then he was  
24 taken back to the police department. He gave a written  
25 statement. There is also a video tape of the conversation.

1 THE COURT: Basically, three separate occasions where  
2 he has made some statement regarding this event.

3 MR. BARNETTE: There's three. Well, actually there's  
4 four because they brought him back. I think he has a video  
5 tape. He has a video tape of three incidents when they  
6 talk to him. Two of them is involving the first statement,  
7 and I believe they brought him back for one more from  
8 there.

9 THE COURT: You say the first statement. Are you  
10 talking about a written statement?

11 MR. BARNETTE: Yes, sir. Well, they did the video  
12 tape and the written statement at the same time. They did  
13 that. There's really two videos of that. And then there's  
14 a third one where they bring him back after the fact. He  
15 didn't really give a written statement or anything, and  
16 there really is not a whole lot from that third, but there  
17 was a third time or fourth time they talked to him  
18 separately.

19 THE COURT: Well, are you going to offer anything from  
20 that interview?

21 MR. BARNETTE: Not from the fourth one, I don't think,  
22 Your Honor.

23 THE COURT: All right. So we've got a statement made  
24 by Mr. Buckson to 9-1-1; we've got a statement made by  
25 Mr. Buckson to the first interview with officers

1 investigating the event; and we've got an actual written  
2 statement that was video-taped.

3 Mr. Warder, do you or does your client contest that  
4 any of those statements were freely and voluntarily made?

5 MR. WARDER: No. We admit those were freely and  
6 voluntarily given.

7 THE COURT: And do you admit that at the time that he  
8 was in custody that his Miranda warnings were provided and  
9 he understood them and waived them?

10 MR. WARDER: Your Honor, the only time I'm aware of  
11 Miranda warnings was in the formal statement.

12 THE COURT: Well, is that not the only time that he  
13 was actually in custody?

14 MR. WARDER: Yes, sir, probably.

15 THE COURT: Well.

16 MR. WARDER: Clearly the 9-1-1 one wasn't.

17 THE COURT: Right.

18 MR. WARDER: And clearly the other at the station, the  
19 formal statement, was.

20 The exact status of down-the-road, I am not sure that  
21 I in my mind have determined whether he was free to leave  
22 at that time or not, having run down and flagged down a  
23 police car and said -- and so I am not sure.

24 THE COURT: All right. Well, let's just assume for  
25 the moment that -- he flagged down the police?

1 MR. WARDER: Yes, sir.

2 THE COURT: So they didn't, they didn't initiate that  
3 contact. He initiated the contact in order to tell them  
4 what had occurred?

5 MR. WARDER: Yes, sir.

6 THE COURT: All right. Well, let's assume for the  
7 moment that you could interpret at some point during that  
8 interview that he had been taken into custody, that is his  
9 freedom had been deprived some in substantial fashion.

10 Does he contend that any statement he gave to those  
11 officers was the product of any detention by law  
12 enforcement?

13 MR. WARDER: No. He maintains that that was still  
14 truthfully and freely and voluntarily made.

15 THE COURT: And it was freely and voluntarily made by  
16 him without any coercion or duress or pressure.

17 MR. WARDER: Yes, sir.

18 THE COURT: Okay. Let me ask Mr. Buckson.

19 Mr. Buckson, do you agree with your lawyer's  
20 interpretation of the facts in this case? And that is that  
21 whether it be from the time that you provided any statement  
22 to 9-1-1 or at the time that you provided any statement to  
23 any officer investigating the incident -- whether it be  
24 before or after you were taken to the police station -- is  
25 there any time that you discussed this case with or through

1 an interview with law enforcement that you did not  
2 knowingly, intelligently, freely and voluntarily provide  
3 information to a law enforcement officer?

4 THE DEFENDANT: No, sir, Your Honor.

5 THE COURT: Sir?

6 THE DEFENDANT: No, sir, Your Honor.

7 THE COURT: All right. So any statement that you  
8 provided you gave of your own free will and accord?

9 THE DEFENDANT: Yes, sir, Your Honor.

10 THE COURT: Nobody coerced you into it or placed you  
11 under any duress or pressured you in any fashion that  
12 resulted in you giving them a statement.

13 THE DEFENDANT: No, sir.

14 THE COURT: In other words, these statements were  
15 always a product of your own free will and choice?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. Thank you. Be seated.

18 All right. Anything else we need to address before  
19 the jury is brought in?

20 MR. BARNETTE: Nothing from the state, Your Honor.

21 THE COURT: All right. Bring them in and ask  
22 Mr. Elliott to take the foreperson's seat. Mr. Elliott.

23 (The following takes place in the presence of the  
24 jury.)

25 THE COURT: All right. Ladies and gentlemen, thank

1 you for your patience.

2 We are ready to begin with the trial of the case for  
3 which you were selected.

4 And, Mr. Elliott, I'm going to ask you to serve as the  
5 foreperson of this jury. And as the foreperson you'll have  
6 three specific duties that none of the other jurors will  
7 have.

8 Number one, you're going to be asked to serve as the  
9 spokesperson for the jury. And so if during the trial of  
10 this case something arises that you or a fellow juror has  
11 some difficulty or problem or question, if you'll let the  
12 bailiff know, they'll let me know, and I'll try to assist  
13 you in resolving any difficulty or answering any question.

14 Secondly, you're going to be asked to preside over the  
15 jury deliberations when the time comes for those  
16 deliberations. That of course won't be until after the  
17 trial, that is after all of the evidence has been received  
18 and I have instructed you on the law that's applicable in  
19 this case. But when the jury is asked to go back and to  
20 begin jury deliberations at the trial's conclusion you are  
21 asked to preside over that process in the jury room simply  
22 to ensure that those deliberations are carried out in some  
23 orderly fashion.

24 And, thirdly, you'll be asked to actually write the  
25 verdicts or the decisions of the jury. And you'll do that



1 on a verdict form that I'll provide you at the trial's  
2 conclusion on which you will indicate the jury's unanimous  
3 decision.

4 Now, the foreperson has those specific duties that I  
5 have just indicated. That does not however mean that the  
6 foreperson is any more important than any of you other  
7 jurors, because the decision of a jury is the unanimous  
8 consensus opinion of all 12 jurors. And so all of you  
9 jurors will have an equal say and an equal vote in what the  
10 ultimate decisions in this case will be.

11 Someone simply has to be delegated those  
12 responsibilities that I have just indicated, and I have  
13 delegated those to Mr. Elliott in appointing him as the  
14 foreperson of this jury. But all of you jurors are equally  
15 important so far as the ultimate decisions in this case are  
16 concerned, because, as I've stated, the verdicts have to be  
17 unanimous. All of you must be in agreement before any  
18 decision may be returned.

19 Now, Mr. Thompson, you've been selected as an  
20 alternate juror. And the function of an alternate juror is  
21 to take the place of one of the original 12. If during the  
22 trial one of these original 12 cannot continue to serve for  
23 some reason, that is if one becomes ill or an emergency  
24 arises and one cannot continue, then in that event you  
25 would take that person's place. In that event you become

Jury sworn

1 the 12th juror.

2 If however when the time comes for jury deliberations  
3 the original 12 are able to participate your service ends,  
4 and you are not permitted to participate in those  
5 deliberations, because the decision of a jury is that of  
6 12. No more than 12 are permitted to engage in that  
7 deliberation process.

8 But it is important that you pay just as careful  
9 attention during the trial as we ask of all of the jurors  
10 because it does occur from time to time for one reason or  
11 another one of these original 12 may be called away. In  
12 that event you become the 12th.

13 So we do appreciate your participation as an alternate  
14 juror, just as we appreciate the participation of all of  
15 you jurors who have been selected for the purpose of  
16 deciding the verdicts in this particular case.

17 You may swear the jury.

18 (Whereupon, the jury was duly sworn.)

19 THE COURT: All right. Ladies and gentlemen, as you  
20 know, each of you have been selected as jurors to decide  
21 the verdicts in the case of the State vs. Jerome Curtis  
22 Buckson.

23 Mr. Buckson has been accused by the state, that is  
24 through the prosecutor, of having committed two separate  
25 and distinct criminal offenses, although they are alleged

1 to have arisen out of one particular event or course of  
2 events that the solicitor claims occurred back on January  
3 the 30th of 2006.

4 These are criminal cases. And any criminal case  
5 brought into this court is brought by way of a document  
6 called an indictment. The indictments in this case are  
7 those documents that I referred to prior to your selection  
8 to inform you as to what the charges are.

9 The indictments are not evidence however of anything.  
10 The indictments don't prove anything. They're not evidence  
11 of this defendant's commission of some crime.

12 They are simply the means by which a person is brought  
13 into this court and is formally accused of some type of  
14 crime. And of course the indictments serve to provide a  
15 defendant, a person accused of a crime, to put them on  
16 notice as to what crime the state claims they have  
17 committed.

18 In this case, as I told you, the state has brought two  
19 indictments. One charges the defendant with the crime of  
20 burglary in the first degree alleging that the defendant  
21 did wilfully and intentionally enter a dwelling that  
22 belonged to Tiffany Foggie located here in the city of  
23 Spartanburg, and that he entered that dwelling without her  
24 consent, and he entered the dwelling with the intent to  
25 commit a crime therein.

1        They further allege that while in the commission of  
2 that burglary he did either enter in the nighttime, or was  
3 armed with a deadly weapon, or caused physical injury to  
4 some person, or threatened to use a deadly instrument, or  
5 displayed what appeared to be a deadly weapon during the  
6 course of that burglary.

7        They also allege that at the same time he also did  
8 wilfully and with malice aforethought kill one Tiffany  
9 Loraine Foggie by shooting her with a firearm and that she  
10 died as a proximate result of that gunshot wound.

11        Now, as I told you, those are the allegations made by  
12 the state. As to those allegations and as to each of those  
13 charges the defendant has entered a plea of not guilty.

14        As I told you, that plea of not guilty places upon the  
15 state the burden of proving the charges they've brought.  
16 That is they have the burden of proving those allegations.  
17 They have the burden of proving each of the essential  
18 elements of the crimes that are alleged against the  
19 defendant; and therefore they do have the burden of  
20 establishing this defendant's guilt to your satisfaction  
21 beyond a reasonable doubt before any verdict of guilty  
22 could be returned.

23        Any time a person is accused of a crime under the law  
24 they are presumed to be innocent. That's simply a law that  
25 you have to follow. But any time a person is accused of a

1 crime they are presumed to be innocent of that charge,  
2 because anybody can make an accusation. The issue is  
3 whether or not they can prove the accusation.

4 So if you're charged with a crime -- and in this case  
5 Mr. Buckson is presumed to be innocent of any crime the  
6 state claims he committed.

7 That presumption of innocence remains with any  
8 defendant, as it does with Mr. Buckson, from the time that  
9 he's placed under arrest, throughout the course of the  
10 criminal process and even throughout the course of the  
11 actual trial in the case.

12 That presumption of innocence will be with Mr. Buckson  
13 even at the trial's conclusion as you go back to begin with  
14 your deliberations in the case. That presumption of  
15 innocence will be with Mr. Buckson even in that jury room.  
16 And it will remain with him forever unless you 12 jurors  
17 determine that he's no longer entitled to that presumption  
18 of innocence.

19 That is after you've carefully considered all of the  
20 evidence in the case and from that evidence you've decided  
21 the facts, and after deciding the facts you apply the law  
22 that I provide you, if you 12 jurors unanimously determine  
23 beyond a reasonable doubt that he has been proven guilty of  
24 one or both of these crimes, then under those circumstances  
25 you would be permitted under the law to find him guilty.

1       And of course if the state fails to satisfy you beyond  
2 a reasonable doubt of his guilt, your obligation is to  
3 return a verdict of not guilty. But it's only if, unless  
4 and until the state satisfies of the defendant's guilt  
5 beyond a reasonable doubt that the presumption of innocence  
6 would no longer be applicable to a particular defendant.

7       Now, the way the trial will proceed is that in a  
8 moment the lawyers are going to address you in what are  
9 called opening statements.

10       There are two occasions in the trial of a case where  
11 lawyers are permitted to address the jury. And that is at  
12 the beginning of the trial before any evidence has been  
13 introduced and then again at the conclusion of the trial  
14 after all of the evidence has been received.

15       Keep in mind that the lawyers' statements occur  
16 outside of the evidence. And so the lawyers' statements  
17 are not evidence. You can't consider any statement made by  
18 the lawyers as being evidence upon which you will base a  
19 decision.

20       That's because the lawyers aren't witnesses to  
21 anything. They're not going to be telling you anything  
22 about this case that they know of their own personal  
23 knowledge or experience.

24       They're not going to take the witness stand. They'll  
25 not be testifying under oath. They'll not be subjected to

1 direct and cross-examination as witnesses will be. And so  
2 what the lawyers tell you is not evidence in the case. But  
3 you should listen to what they have to say because those  
4 statements do serve a purpose.

5 The opening statements serve to provide you with a  
6 basic understanding as what this case is about so that  
7 you'll have some context in which to place the evidence  
8 that we will be receiving shortly thereafter.

9 After the opening statements are concluded we begin  
10 with the reception of evidence. And after all of the  
11 evidence has been received the lawyers will again address  
12 you in what are called closing statements.

13 Again, those aren't evidence, but it does provide the  
14 lawyers an opportunity to discuss with you the evidence  
15 that you have seen and heard during the trial of the case.  
16 And through that discussion each will have an opportunity  
17 to try to persuade you or to convince you that that  
18 evidence or does not support a particular decision.

19 And, as I've stated, it's between the opening  
20 statements and the closing statements of the lawyers that  
21 we receive the evidence. The state, as I told you, has the  
22 burden of proof. They brought the charges. They've got to  
23 prove them. So they'll go forward first in their  
24 presentation of evidence.

25 After the state has concluded with their presentation

1 of evidence a defendant has the same opportunity to testify  
2 or to present other evidence if he or she chooses to do so.  
3 But, as I told you, the burden is on the state to establish  
4 his guilt beyond a reasonable doubt.

5 The burden is never upon a person accused of a crime  
6 to prove that they are not guilty or to prove that they are  
7 innocent because in some cases that would not even be a  
8 possibility. And that's why the law is, is that the burden  
9 is on the state to establish a defendant's guilt beyond a  
10 reasonable doubt before you can find that person guilty of  
11 anything.

12 However, while a defendant has no obligation to  
13 testify and has no obligation to present evidence, he or  
14 she is afforded that opportunity should the defendant  
15 decide to do so.

16 So after all of that evidence is received and after  
17 you've heard the final summations of the lawyers, I will  
18 then instruct you fully on the law that's applicable in  
19 cases of this nature.

20 Then you'll be asked to go back and begin with your  
21 deliberations in the case. Through that process you 12  
22 jurors are simply called upon through the exercise of good  
23 judgment and common sense conscientiously applied to the  
24 testimony and the evidence in the case to decide the facts,  
25 then apply the law and arrive at a fair and just decision



1 in the case.

2 Now, it's important that you keep an open mind  
3 throughout the course of the trial. And by that I simply  
4 mean that you are not to begin making up your minds or  
5 formulating your opinions as to what you think the ultimate  
6 decisions in this case ought to be until you've heard and  
7 seen all of the evidence, until I have instructed you on  
8 the law and until you've been asked to go back and begin  
9 your deliberations, because that is the process that is  
10 designed for you 12 jurors to arrive at a fair and just  
11 decision in this case.

12 Now, in just about every trial there happens to be  
13 some conflict in testimony. That's not always the case,  
14 but often there is. Otherwise, we wouldn't be here. You  
15 wouldn't be over there having to make a decision. So  
16 oftentimes there's a conflict. That is there is a  
17 difference in the positions, there's a difference in the  
18 testimony, there's a difference in the facts surrounding  
19 the event, depending upon what witnesses are testifying.

20 Now, one of your duties might be very well to evaluate  
21 a witness' testimony. And that's one of your prerogatives.  
22 You have a right to judge each witness' testimony during  
23 the trial of the case.

24 In your assessment as to a witness' credibility or  
25 believability you're permitted to believe everything that a

1 witness testified to or believe none of it. And if you  
2 find it appropriate, you can believe one part of a witness'  
3 testimony and reject some other part of that same witness'  
4 testimony. In a given case you can believe one witness as  
5 against several, or several as against one.

6 But it's important that you give every witness the  
7 same degree of attention as they testify so that when you  
8 go back to begin your deliberations you will be in a proper  
9 position to be able to fairly evaluate and assess each  
10 witness' testimony in light of not only that particular  
11 witness' testimony but in light of all of the other  
12 testimony and other evidence received during the trial.

13 So give every witness the same degree of attention as  
14 they testify so that you'll be in a fair position to  
15 evaluate their testimony when you go back to deliberate.

16 So I do want to thank you in advance for your  
17 participation in this case. I'll also thank you in advance  
18 for your careful attention. I would ask you please give  
19 the lawyers your attention now as they give you their  
20 opening statements.

21 Ms. Ganss.

22 MS. GANSS: Thank you, Your Honor. May it please the  
23 Court.

24 THE COURT: Yes, ma'am.

25 MS. GANSS: Opposing counsel.

1       Tiffany Foggie was alive until the defendant, Jerome  
2 Buckson, broke into her home. Mr. Buckson broke into  
3 Tiffany Foggie's home on January the 30th of 2006, a year  
4 ago from today.

5       He broke into her window and he barged up the  
6 stairway, kicked on the bedroom door, made his way in armed  
7 with a gun and shot at Sharmarcus Watson and Tiffany  
8 Foggie. Sharmarcus Watson fled for his life, got out of  
9 there. Jerome Buckson. He leaves too and leaves behind a  
10 dead Tiffany Foggie.

11       And there are two little boys in the bedroom next to  
12 hers. Those little boys were Tiffany Foggie's boys, Chad  
13 [REDACTED], seven at the time, and Desmond, five. That's  
14 what happened in the early hours of January 30th of 2006  
15 about 3:00 in the morning.

16       The defendant, Jerome Buckson, is charged with two  
17 crimes, burglary in the first degree and murder. And as  
18 the judge just told you, the state, Mr. Barnette and I,  
19 bear the burden of proving the defendant guilty beyond a  
20 reasonable doubt.

21       I tell you we welcome that burden. We have to prove  
22 for you to find the defendant guilty of burglary in the  
23 first -- I want to touch on the law briefly here to give  
24 you a guideline as you go through this trial. But the  
25 judge, he'll instruct you on the law at the end, but just

## Opening statements

1 as a guidepost as we go through this trial, burglary first,  
2 the state has to prove that the defendant entered the  
3 dwelling without permission and he entered this home,  
4 Tiffany Foggie's home, with the intent to commit a crime  
5 therein either at nighttime armed with a deadly weapon or  
6 he caused physical harm to someone.

7 For murder that's the killing of another with malice  
8 aforethought. Those are the elements the state has to  
9 prove, and we're going to do that over the course of today  
10 and tomorrow with testimony and evidence.

11 Over the course of this trial you're going to hear  
12 from Tiffany Foggie's family and friends. They're going to  
13 tell you about her last day, and they're going to start  
14 with events on January 29th and what led up to her death on  
15 January the 30th.

16 You're going to hear from her mom, Taffie Williams,  
17 sitting right there, the lady in black. And she's going to  
18 tell you, yes, her daughter, Tiffany Foggie, had a  
19 relationship with the defendant but that relationship was  
20 over.

21 She's going to tell you, and she will testify, who was  
22 living at [REDACTED] on the night, early  
23 morning, in question. And she will tell you it was her  
24 daughter, Tiffany Foggie, and her grandchildren, Chad, [REDACTED]  
25 and Desmond. And she will tell you that's it. That's all

1 who lived in that apartment. No one else. Not the  
2 defendant.

3 You're also going to hear from a cousin of Tiffany  
4 Foggie, Charlene Ellis. Charlene Ellis is going to tell  
5 you she was over at Tiffany's apartment the night before  
6 she was killed, January 29th.

7 She's going to tell you she was playing spades with  
8 Tiffany and some other folks and people were going in and  
9 out that night. And she's going to tell you the defendant,  
10 Jerome Buckson, comes over that night and he's standing  
11 outside the apartment, outside. And she's going to tell  
12 you she lets him in. He doesn't come in by himself, but  
13 she let him in that evening.

14 Tiffany's mother is going to come up here and take the  
15 witness stand and tell you about when she cleaned out her  
16 daughter's apartment. She's going to talk to you about the  
17 furnishings in it, the clothing that was in it. And she's  
18 going to tell you that it all belonged to her daughter and  
19 her grandchildren, no one else, certainly not the  
20 defendant.

21 In fact, you're going to hear some testimony that  
22 Tiffany Foggie was involved with someone else at the time  
23 of her death. She was seeing a man named Sharmarcus  
24 Watson.

25 Tiffany's cousin, Charlene, is going to tell you how

## Opening statements

1 she introduced the two of them, and she is going to tell  
2 you that he was one of the people over there January the  
3 29th before the murder playing cards. Tiffany Foggie was  
4 seeing someone new.

5       You're going to hear a lot about bills in this case.  
6 Tiffany's mother, Taffie Williams, she's going to tell you  
7 how and who paid for Tiffany Foggie's bills, her rent, her  
8 power bill, her cable bill, her phone bill. She's going to  
9 tell you who paid for where she lived.

10       You're going to hear from members of Spartanburg's law  
11 enforcement community. They're going to tell you about  
12 their investigation and how it took them straight to the  
13 defendant, Jerome Buckson.

14       You're going to hear some testimony about phone calls  
15 the day before Tiffany's murder, January the 29th. And  
16 these aren't just one or two phone calls. You're going to  
17 hear phone calls, a host of them, lots of them, numerous  
18 phone calls, from the defendant's cell phone to Tiffany  
19 Foggie's the night before she was murdered.

20       And, more importantly, you're going to hear from the  
21 new man in Tiffany Foggie's life. You're going to hear  
22 from Sharmarcus Watson, because Sharmarcus Watson was  
23 there. Sharmarcus Watson was in the bedroom with Tiffany  
24 Foggie when this man broke in, went upstairs, banged on the  
25 bedroom door and burst in and fired.

1       The judge mentioned something else, common sense.  
2       That's the one thing throughout this trial I hope you never  
3       divorce yourself from. Bring it to everything you hear, to  
4       everything you see. And common sense would help you bring  
5       back the correct verdict in this case.

6       This trial may last a couple of days, maybe a little  
7       longer. And I want to thank you for your time. But, more  
8       importantly, on behalf of Tiffany Foggie, I want to thank  
9       you for your time. On behalf of Tiffany's family and  
10      friends seated right here, I want to thank you for your  
11      time. On behalf of Spartanburg's law enforcement community  
12      and the state, I want to thank you for listening. We  
13      appreciate your efforts in this trial. Thank you.

14      THE COURT: Mr. Warder.

15      MR. WARDER: Your Honor, ladies and gentlemen of the  
16      jury, like most controversial things there is more than one  
17      side of this. There is more than one verdict.

18      You've just heard what the state's witness, Sharmarcus  
19      Watson, what his testimony will be. Let me tell you about  
20      this case.

21      The evidence that will be presented will show that  
22      this case began at 3:00 o'clock in the morning on  
23      January the 30th, one year ago.

24      At that time there was a call to 9-1-1 from Tiffany  
25      Foggie's cell phone. Nothing was said. A minute and 22

## Opening statements

1 seconds later there's a call from the cell phone of my  
2 client calling 9-1-1. My client relates to 9-1-1 that he  
3 came home and entered the house he's living in with his  
4 girlfriend. He was a live-in boyfriend at her house.

5 That when he got upstairs the bedroom door was locked.  
6 He pushed the door open. And when he did he saw a man with  
7 a gun. And that man shot that gun. And my client relates  
8 that he thought he was shot, and stuff whizzing by.

9 Then he started running. And he ran down in the house  
10 and out the back door telling 9-1-1 that somebody was there  
11 and they had shot him.

12 He runs out the apartment, down the street, over into  
13 the parking lot next to Lowe's and talks on the phone for  
14 four minutes -- four minutes and 30 something seconds, to  
15 9-1-1.

16 When the police car comes down the street he flags a  
17 police car down and tells the officers what's happened.  
18 And as he's standing there with the officers, five minutes  
19 later he notices a gray Lincoln that was at his car pull  
20 out of the parking complex and stop and turn and go down  
21 the street. We now know that was driven by Sharmarcus  
22 Watson with the gun.

23 My client is taken to the law enforcement. He gives a  
24 statement that reveals that indeed, in fact, he came home  
25 and that the apartment had flooded a week or two prior.



1 The locks had been changed. And they left the back door  
2 unlocked, I mean, the back window unlocked. And that's how  
3 he entered until he got his key. He come in, he went up,  
4 and that's when this incident occurred.

5 Sharmarcus Watson is apprehended a day and a half  
6 later, and he for the first time tells this story. And the  
7 only thing that's changed is he says that my client had the  
8 gun and he pulled him into the room and he fled and my  
9 client shot him.

10 This is the case we're trying. I submit to you the  
11 evidence will show that my client was the one that was shot  
12 at, that he immediately notified the authorities and that  
13 he did all he could.

14 Sharmarcus Watson, the evidence will show, a former  
15 Spartanburg police officer, ran and left and didn't call  
16 anybody and a day and a half later claims that he is an  
17 innocent victim.

18 Listen carefully to the testimony. And after you've  
19 heard everything I think you'll agree the correct verdict  
20 in this case is a verdict of not guilty. Thank you very  
21 much.

22 THE COURT: Mr. Barnette.

23 MR. BARNETTE: Thank you, Your Honor. May it please  
24 the Court. I would like to call Officer Satterfield to the  
25 stand, please.

3 DIRECT EXAMINATION BY MR. BARNETTE

6 A I am Deputy Greg Allen Satterfield.

10 Officer Satterfield, where do you work at, sir?

12 Q And what's your position there, sir?

16 A A year and a half.

19 A Yes, I was.

25 A I was at the intersection of Zion Hill and East Main

1 Street at the Ingles.

2 Q That Ingles, is that above the Wal-Mart and Lowe's up  
3 toward the McCracken Junior High?

4 A Yes, sir. It is going towards Cowpens.

5 Q And what kind of BOLO did you receive, sir?

6 A I received a BOLO that a black male had been shot.

7 Q And what did you do once you received that BOLO, sir?

8 A If I'm not mistaken, they gave it for Regency Road. I  
9 was just right on East Main Street and traveled towards  
10 Regency Road.

11 Q And as you traveled down East Main Street, what  
12 happened, sir?

13 A I observed a black male standing right in the middle  
14 of East Main Street right there at Lowe's.

15 Q And did you approach this gentleman?

16 A Yes, sir. I turned on, initiated, my blue lights and  
17 got out with the individual there on 29.

18 Q And do you see that individual in the courtroom here  
19 today?

20 A Yes, sir, I do.

21 Q Can you describe what he is wearing?

22 A Wearing that yellow shirt with the orange in color  
23 tie.

24 MR. BARNETTE: Your Honor, I believe he's indicated  
25 the defendant for the record.

1 THE COURT: It shall reflect that he has identified  
2 the defendant.

3 Q As you approached him did he say anything to you?

4 A Yes, sir. He was repeatedly saying that he had been  
5 shot.

6 Q Did you see any evidence of him being shot?

7 A No, sir. He said he had been shot on his right arm.  
8 There was no indication that he had been shot.

9 Q Did you look at his right arm?

10 A Yes, sir, I did.

11 Q And what else did he say to you? And obviously you  
12 was talking to him. Did you consider him a victim at that  
13 point?

14 A Yes, sir, I did. The thing that he kept repeating was  
15 I can't believe she is fucking another nigger. He kept  
16 repeating and saying that. He was very irate and traveling  
17 back. Actually, had to pull him out of the -- out of the  
18 oncoming traffic. He kept crossing back and just kept  
19 repeating that statement.

20 Q So he repeated that statement over and over again?

21 A Yes, sir.

22 Q Shortly after did other city officers come to the  
23 scene?

24 A Yes, sir.

25 Q And during that time did he say some other things

1 about the incident?

2 A Yes, sir, he did.

3 Q And what did he say, sir?

4 A This time he was stating that he had came home and  
5 observed someone else in the bedroom.

6 Q And what did, and what time of day? Was this like  
7 3:00 o'clock in the morning or something like that?

8 A Yes, sir. It was early in the morning.

9 Q And what did he do to go into his residence, did he  
10 tell?

11 A He stated that he went in through a window. I do not  
12 recall which window that he stated, but he said he did make  
13 entry through a window.

14 Q And did y'all ask him why he went through the window?

15 A Yes, sir. I kept asking him if that was his  
16 residence, and he stated that it was his residence and that  
17 he did have a key. When I asked him to produce a key, he  
18 could not show me a key to that residence.

19 Q Did he ever explain to you why he went through the  
20 window?

21 A The only thing that he stated was that she must have  
22 changed the locks.

23 Q And did he have a key on him?

24 A No, sir, he did not have a key.

25 Q Later on did y'all receive information -- did some of

1 the other city officers go to the apartment?

2 A Yes, sir.

3 Q And did you stay with the suspect the whole time?

4 A I was with the individual the whole time.

5 Q And later on did he go with the city to another  
6 location at a different time?

7 A Yes, sir, he did.

8 Q And the location he was at, is that in Spartanburg  
9 County?

10 A Yes, sir, it is Spartanburg County.

11 Q And it was nighttime, is that right?

12 A Yes, sir.

13 Q And you never did go over to the apartment, is that  
14 right?

15 A No, sir. I stayed actually right on 29 with the  
16 individual.

17 Q Did he talk about -- did he ever mention Tiffany  
18 Foggie or anything about her?

19 A No, sir. I did not recall that name. I do recall him  
20 stating that a gray Lincoln, that the individual left in a  
21 gray Lincoln, and I did observe that vehicle pull out onto  
22 East Main Street headed towards the city.

23 Q But did you all -- when you was talking to him, did  
24 his story make any sense to you?

25 A The fact that he stated that he made entry.

1 Through a window did not make sense to me with him not  
2 able to produce a key.

3 MR. WARDER: Objection.

4 THE COURT: Sustained.

5 Q And did he ever mention the two boys or anything about  
6 her or anything like that?

7 A No, sir. To my -- no knowledge was -- the children  
8 weren't mentioned.

9 MR. BARNETTE: One moment, Your Honor, please.

10 (Pause.)

11 Q Please answer any questions Mr. Warder may have for  
12 you, sir.

13 A Thank you.

14 CROSS-EXAMINATION

15 BY MR. WARDER

16 Q Officer, did the gray Lincoln stop and talk to you?

17 A No, sir. Did not.

18 Q Didn't you -- you were trying to get the Lincoln  
19 stopped?

20 A No, sir. At the time I didn't think it was -- didn't  
21 want to leave the victim right there in the middle of 29.

22 At that time I was the only officer there and did not want  
23 to persue that Town Car and leave the victim there on 29.

24 Q Leave the victim for how long? You didn't want to  
25 pursue the car?

1 A At the time I didn't think that was the best interest  
2 to leave someone claiming that he had been shot there on 29  
3 to pursue a gray Lincoln.

4 Q Well, you could have put that person, you could have  
5 put Mr. Buckson, in your car and then went after the  
6 Lincoln, couldn't you, say get in and went after them?

7 A No, sir. I did not think that would be a wise  
8 decision on my part to do that.

9 Q Okay. And it's clear you didn't have any trouble  
10 finding Mr. Buckson. He was trying to flag you down.

11 A I do not recall him trying to flag me down. After  
12 receiving the BOLO I seen the individual on 29 right there  
13 at Lowe's.

14 Q And how long did you talk to Mr. Buckson before you  
15 saw the Lincoln drive off?

16 A I do not recall an exact timeframe.

17 Q Okay. Was Mr. Buckson talking on his cell phone when  
18 you, you drove up, or had that call ended?

19 A I do not recall that.

20 Q And this would have been a few minutes after 3:00,  
21 would that be correct?

22 A I remember it was early in the morning.

23 Q Where had you been when you received the call?

24 A Had just finished up a traffic stop right there at  
25 Zion Hill and East Main Street, right close to the Ingles



1 there.

2 Q Okay. How far would it have been then to the location  
3 at Bradford Arms Apartments on the east side?

4 A Not more than a couple of miles.

5 Q Did you get there in three or four minutes?.

6 A I do not recall my response time on that. It was a  
7 short time after the BOLO was given.

8 Q And how long did you stay there with Mr. Buckson?

9 A I was there during the whole duration of the time.

10 Q So we know. How long would you have been there with  
11 him -- minutes, hours?

12 A It wouldn't have been hours, but it was there for the  
13 whole time. Never left, left the individual.

14 Q Well, didn't the Lincoln return to the scene?

15 A No, sir. I do not recall seeing the Lincoln again.

16 Q Thank you very much.

17 A Yes, sir.

18 MR. BARNETTE: Just one question on redirect, Your  
19 Honor.

20 REDIRECT EXAMINATION

21 BY MR. BARNETTE

22 Q During the time you was there did he become a suspect  
23 after the other officers went to the scene?

24 MR. WARDER: Objection. Relevance.

25 THE COURT: What's the relevance of that?

Ronald Cantrell  
Direct examination by Mr. Barnette

1 MR. BARNETTE: I will rephrase the question.

2 THE COURT: Okay.

3 Q During the time that you was there was he later  
4 handcuffed?

5 A Yes, sir. He was placed in investigative detention.

6 Q And where was he taken to or taken by?

7 A A city officer transported him to the precinct.

8 Q Thank you.

9 THE COURT: You may step down.

10 MR. BARNETTE: Your Honor, we would ask for this  
11 witness to be excused.

12 THE COURT: He may be.

13 (Whereupon, the witness was excused.)

14 MR. BARNETTE: Your Honor, I would like to call  
15 Sergeant Cantrell to the stand.

16 RONALD CANTRELL, having been  
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. BARNETTE

19 Q If you would, state your full name for the record,  
20 please.

21 A My name is Ronald Cantrell.

22 Q And where do you work at, sir?

23 A I am a patrol sergeant at the Spartanburg city.

24 Q And what's your position there, sir?

25 A I'm sorry. I'm a patrol sergeant.

1 Q And how long have you worked for the Department of  
2 Public Safety, sir?

3 A Fourteen years.

4 Q Back on January 30th of 2006, was you working that  
5 shift, sir?

6 A I was.

7 Q And was that the early morning shift?

8 A Well, 'twas the third shift.

9 Q Third shift?

10 A Yes, sir.

11 Q And did you answer a BOLO that was sent out about an  
12 incident at [REDACTED] -- [REDACTED]?

13 A I did.

14 Q And could you tell the jury when you arrived? Well,  
15 what did you find once you started heading that way, sir,  
16 or what did you do?

17 A Well, I left from around Dean Street and East Main  
18 Street, is where I was when we received the call.

19 We patrolled or responded to [REDACTED].  
20 And Deputy Satterfield was already out with the victim at  
21 the time that we thought, and he had him, assisting him.  
22 We stopped. It was actually another officer arriving with  
23 me at the time, our lieutenant. And we wanted to make sure  
24 to see if he was shot and to see if he needed first aid.

25 Q And did you stop briefly to check on him?

Ronald Cantrell  
Direct examination by Mr. Barnette

1 A Yes, sir, I did briefly. And we proceeded after.

2 I'll let you ask the questions.

3 Q No. You can go ahead.

4 A We, we checked to make sure he was okay. Then one of  
5 our guys came. Obviously we're in the city limits. So we  
6 wanted to make sure one of our officers was on the scene  
7 too. And Officer Longshore arrived and stayed with the  
8 deputy -- with the deputy with Mr. Buckson.

9 He told us that shots had been fired at his apartment.

10 And we proceeded over there to see if there were any  
11 additional victims.

12 Q And which apartment did you go to, sir?

13 A I think it was [REDACTED].

14 Q That's located [REDACTED]?

15 A Yes, sir, it is.

16 Q And could you tell the jury what happened once y'all  
17 arrived there at the apartment?

18 A When we arrived on the scene we secured the apartment  
19 to make sure, and then challenged it. What I mean by  
20 challenged it, we yelled in and told police, was there  
21 anybody in there.

22 At first I was at the front door with Lieutenant Nowak  
23 and Officer Roberts. Officer Ben Brown and Officer Jeff  
24 Head secured the back.

25 While we were challenging the front Officer Brown said

1 the back door was opened. So I went around to the back  
2 door. Being one of the supervisors there I wanted to -- I  
3 went around there with him because the door was ajar. It  
4 was slightly open.

5 We challenged the apartment again and asked was  
6 anybody in there and yelled police. Nobody answered. So  
7 we went in. I went in first and officers Brown and Head  
8 came in behind me.

9 Q And when y'all challenged and everything, was you  
10 making sure it was safe, or making sure?

11 A We were. We wanted to make sure it was safe and check  
12 for any additional victims.

13 Q And please tell the jury what happened after y'all  
14 went into the apartment.

15 A We went into the bottom. Actually when you entered  
16 the apartment from the back you entered the kitchen area.  
17 We checked the kitchen. You go on in. I think we passed a  
18 bathroom. It seems like if I remember correctly, there was  
19 a small bathroom off to the right.

20 Then you go into the living area or the den. And we  
21 checked. We made sure all of that was safe. And on the  
22 right after you checked the kitchen, I'm sorry, the den,  
23 there's a stairwell that goes back up the other way of 180.

24 So we cleared that, and I made my way to the bottom of  
25 the stairs, and I again challenged the apartment and yelled

1 police, is anybody up there, in a pretty loud voice.

2 At that time a small black child poked his head around  
3 the corner. Again, it's dark at the top of the stairwells,  
4 and I'm shining my light. His little head just kinda  
5 popped out. It kinda took me by surprise, because the  
6 brief time that I was with the victim, Mr. Buckson, at the  
7 time he never said anything about children being there. So  
8 it kinda caught me off guard to see a small child.

9 I actually shined my flashlight on me so that he could  
10 see that I was a police officer. I yelled at him. I said  
11 is anybody else up there with you. And he nodded his head  
12 yes. I said bring them down here with you.

13 So he disappeared for a second, again, off to a corner  
14 that I couldn't see. Another child popped his head around  
15 the corner, and I said come on down, just come on down. So  
16 he ran down. And then the first small child, he came back  
17 around. And then he came down also. And we rushed them  
18 out of the apartment to get them out of harm's way.

19 Q And what did you do then, sir?

20 A I then challenged the upstairs again. And I proceeded  
21 about half way up the stairwell. And I could see what  
22 appeared to be legs lying in a bedroom. All I could see  
23 was her legs from the waist down.

24 And I went ahead, and that's at the time I gave over  
25 the radio instructions to my officers to go ahead and

1 secure Mr. Buckson and place him in investigative detention  
2 because I knew then there was something more to it than  
3 just shots fired.

4 MR. WARDER: Objection.

5 THE COURT: Overruled.

6 Q Please continue, sir.

7 A I knew at that time there was more to it than just a  
8 shots-fired call, that there was actually something going  
9 on.

10 We went ahead and proceeded up the stairs, and  
11 officers Head and Brown were behind me. As soon as I  
12 got in the -- the room was dark. You could only see with  
13 my flashlight. I shined my light on the victim, and I  
14 could see that she had an obvious head wound. We continued  
15 to clear the rest of the upstairs.

16 There's a bedroom off to the right at the top of the  
17 stairs where the little boys were, and then there's a  
18 bathroom, I believe if I can remember correctly, between  
19 the two bedrooms, again, but her bedroom is straight up to  
20 the top of the stairs.

21 From her injury I thought she was dead, and, and she  
22 started, she was breathing. I saw her kinda heave up. And  
23 that, again, kinda shocked me a little bit with the wound  
24 that she had. And I have been doing this for a while, so  
25 I've seen those type of wounds.

Ronald Cantrell  
Direct examination by Mr. Barnette

1 But, anyway, we continued to secure the apartment to  
2 make sure there was no suspects or any other victims in the  
3 apartment. And at that time we started rendering first aid  
4 to the victim.

5 Q And obviously y'all secured the scene and everything.

6 A We did.

7 Q And later looked at. What I would like for you to do,  
8 sir, in this residence at [REDACTED] I think,  
9 [REDACTED] is that located in

10 Spartanburg County?

11 A It's in the city of Spartanburg in Spartanburg County,  
12 yes, sir.

13 Q It's also in the city of Spartanburg.

14 A Yes, sir. It is.

15 Q Let me show you what's been marked as State's  
16 Exhibit 14. Is that an aerial shot of the area surrounding  
17 [REDACTED]

18 A Yes, sir, it is.

19 MR. BARNETTE: Your Honor, I would like to enter  
20 State's Exhibit 14 into evidence at this time.

21 MR. WARDER: No objection, Your Honor.

22 THE COURT: It is admitted.

23 (Map marked State's Exhibit No. 14.)

24 Q And is this the area around Bradford -- is that  
25 Bradford Grove Apartments in that area?



1 A Yes, sir. It looks like it.

2 Q And East Main Street, that runs this way, is that  
3 right?

4 A Yes, sir. It's East Main, the yellow.

5 THE COURT: Be careful with the microphone, please.

6 THE WITNESS: Oh, I'm sorry.

7 Q Is that the yellow road-like going, or Highway 29 I  
8 guess it's commonly called too.

9 A Yes, sir.

10 Q And is this the Lowe's across the street?

11 A I believe it is, yes, sir.

12 Q And this is the parking lot, I guess, in front of  
13 Lowe's.

14 A Yes, sir.

15 Q And just to give them some idea, is this a Wal-Mart or  
16 the Wal-Mart building?

17 A That's the new Wal-Mart, yes, sir, on up.

18 Q And Bradford Grove Apartments, like I say, is located  
19 in this area, is that right?

20 A Yes, sir. That does appear to be Bradford Grove.

21 Q And he was found out on Highway 29 right here?

22 A That's where I encountered him, yes, sir.

23 Q And let me go ahead and show you State's Exhibit  
24 No. 16, State's Exhibits 17, 18, 19, 20, 22, 23, 24, 25,  
25 26, 27, 28. Let me go ahead and show those to you, sir,

Ronald Cantrell  
Direct examination by Mr. Barnette

1 and let you look at those and see if those fairly represent  
2 what you saw that night.

3 A Do you want me to describe them or just look at them?

4 Q Just look at them. We will put them on the ELMO so  
5 the jury can see what we are describing. Do those pictures  
6 fairly represent what you saw that night?

7 A Yes, sir, they do.

8 Q And let me show you what's been -- State's Exhibit 31,  
9 32, 33 and 35. Do those pictures fairly represent what you  
10 saw?

11 A Yes, sir, they do.

12 MR. BARNETTE: Your Honor, I would like to enter these  
13 exhibits into evidence at this time.

14 MR. WARDER: Your Honor, if it please the Court. I  
15 have no objection.

16 MR. BARNETTE: Your Honor, do I need to read those  
17 numbers back?

18 THE COURT: 17, 18, 19, 20, 22, 23, 24, 25, 26, 27,  
19 28, 31, 32, 33 and 35.

20 MR. BARNETTE: Yes, sir. May I publish these to the  
21 jury at this time?

22 THE COURT: You may.

23 (Photographs marked State's Exhibits Nos. 17, 18, 19,  
24 20, 22, 23, 24, 25, 26, 27, 28, 31, 32, 33 and 35.)

25 Q If you would, sir, come on down.

1 (Whereupon, the witness left the stand.)

2 Q Let me show you what's marked as State's Exhibit  
3 No. 17. Is this the front of the apartment and the  
4 vehicles located in front of it?

5 A Yes, sir, it does, yes, sir. I do remember that scene  
6 that night, yes, sir, in front of the apartment.

7 Q Let me show you State's Exhibit No. 18. Is this --  
8 where is this picture located at, sir?

9 A That looks like the back of the apartment, the door  
10 that I entered through with the other two officers,

11 

12 Q So this is the back side of it.

13 A Yes, sir. You can see the kitchen and the dining  
14 area.

15 Q Was an upstairs window open when y'all got there?

16 A I don't recall if the window was actually open or not.  
17 I think I opened that window. I know I talked through that  
18 window.

19 Q Was this window open when y'all got there?

20 A I don't remember that window being open.

21 THE COURT: Let me stop you just a minute.

22 Let me ask the bailiff to move that rope so the jurors  
23 can move down and see a little bit better, anyway.

24 Q Let me show you State's Exhibit 19. Is this a picture  
25 of the -- what was that picture taken of, sir?

1 A That looks like, again, the back door of the  
2 apartment.

3 Q And is this the window beside of it?

4 A Yes, sir.

5 Q And 20, is this the open bedroom window that was open  
6 when y'all got there?

7 A That's the window from where the victim was lying,  
8 yes, sir.

9 Q Showing you State's Exhibit No. 22. What is this,  
10 sir?

11 A That appears to be the dining area with the back door  
12 to your right, that we entered through the back door.

13 Q That's the back door you see there.

14 A Yes, sir. That's the kitchen. I'm assuming that's  
15 the kitchen where the picture was taken.

16 Q And let me show you State's Exhibit 23. What's that a  
17 picture of, sir?

18 A That's looking back where the other picture was taken,  
19 the one standing from the kitchen area from the dining  
20 area.

21 Q I show you what's marked as State's Exhibit 24. Can  
22 you tell us what that is, sir?

23 A Yes, sir. That's the view if you're looking in the  
24 den area back to the kitchen area and the back door. And  
25 the stairwell is off to your left.

1 Q So this area back here, this doorway is which door,  
2 again?

3 A That's the back door, the door that I entered through  
4 when we originally entered the apartment.

5 Q And is the front door located in this area?

6 A Yes, sir. It's like right here just to the left of  
7 that picture.

8 Q And State's Exhibit 25. And can you tell us where  
9 that picture was, sir, where that location was?

10 A Again, that's the den area. And your back now is to  
11 the kitchen area. And you're looking at the front door.  
12 Then, again, the stairwell to the right.

13 Q Showing you State's Exhibit No. 26. What is that,  
14 sir?

15 A That appears to be the den area that's off to your  
16 left. The stairwell is to your right. It's off to the  
17 left.

18 Q Let me show you State's Exhibit No. 27. What is that  
19 a picture of, sir?

20 A Again, that appears to be the den area if I remember  
21 correctly.

22 Q Show you State's Exhibit 28. Is that the downstairs  
23 bathroom?

24 A I think it is, yes, sir. It's located just under the  
25 stairwell if I remember correctly.

1 Q Let me show you State's Exhibit No. 31. Can you tell  
2 us what that is, sir?

3 A Yes, sir. That's the stairwell that I was looking up  
4 challenging, yelling police, when the little head popped  
5 off from the right, the little, the little boy. .

6 Q And where is this?

7 A That's the victim's, I'm assuming that's her, bedroom.  
8 That's the bedroom we found her. As a matter of fact, I  
9 know it's her bedroom. I'm sorry.

10 Q And let me show you State's Exhibit 32. What does  
11 that show, sir?

12 A That appears to be looking from the top of the  
13 stairwell down to the front door.

14 Q Let me show you State's Exhibit 33. Can you tell us  
15 what that area is there, sir?

16 A Actually, I can't really tell from that picture. I  
17 think it looks like the victim's bedroom is off to the --  
18 looks like a stairwell to the left. I don't recognize that  
19 picture too well.

20 Q And State's Exhibit No. 35, what is that a picture to,  
21 sir?

22 A That looks like the victim's bedroom is to my back,  
23 and that appears to be the boys' bedroom there. And I  
24 think that's the bathroom off to the left, the stairwell  
25 being off to the right.

1 Q Let me show you some more pictures.

2 A Okay.

3 Q Let me show you State's Exhibits 36, 37, 38, 39, 41,  
4 43, 44, 45, 46, 47, 48, 49. And I realize the victim's  
5 body is not in these pictures. This is after. Does  
6 everything else fairly represent what you saw that night?

7 A Yes, sir, they do.

8 Q Let me let you see 61, 62 and then 63 and see if those  
9 pictures fairly represent what you saw that night.

10 A Yes, sir, they do.

11 MR. BARNETTE: Your Honor, I would like to enter these  
12 into evidence at this time.

13 MR. WARDER: Your Honor, I have no objection.

14 THE COURT: They are admitted.

15 (Photographs marked State's Exhibits Nos. 61, 62 and  
16 63.)

17 MR. BARNETTE: Your Honor, I would like to publish  
18 these to the jury at this time.

19 Q I realize the victim was there when you got there, but  
20 these pictures were taken after she was taken. If you  
21 would, State's Exhibit 36, can you tell us what's that a  
22 picture of, sir?

23 A Yes, sir. That's a picture of the victim's bedroom  
24 with that being the door that we entered through to check  
25 the room. And the red spot would be the blood stain where

1 her body was found.

2 Q Show you State's Exhibit No. 37. What is that a  
3 picture of, sir?

4 A That's looking from the bedroom entrance door to a  
5 spot. Again, the bloody area is where the body was  
6 found -- her.

7 Q Show you State's Exhibit 38.

8 A That's just a little bit closer of a shot of the spot  
9 where the victim was found.

10 Q Let me show you State's Exhibit 39. Are these some  
11 items that were found on the futon?

12 A Yes, sir.

13 Q State's Exhibit 41, can you tell us what that is, sir?

14 A That appears to be the victim's bed and a closet that  
15 we had to clear off to the right.

16 Q Let me show you State's Exhibit No. 43.

17 A That's just a different angle of the futon there on  
18 the right. And her body was found just, just out of sight  
19 of that picture.

20 Q Let me show you State's Exhibit 44. That's what a  
21 picture of, sir?

22 A Again, that's the victim's bedroom with her bed there  
23 on the right. And that's a picture of the open window that  
24 you could see from the outside earlier on the back of the  
25 apartment.



1 Q And let me show you State's Exhibit 45.

2 A That's a closeup of that same window from the inside.

3 Q And State's Exhibit 46, what's that a picture of, sir?

4 A That's the ironing board and, again, another picture  
5 of the window there just to the right.

6 Q Let me show you State's Exhibit 47.

7 A Just a different angle of the same picture with her  
8 bed being off to the right, and, again, the open window  
9 there to the left.

10 Q Let me show you State's Exhibit 48. What's that a  
11 picture of, sir?

12 A That's a picture of the victim's closet where, again,  
13 we had to clear obviously to make sure the apartment was  
14 safe.

15 Q And let me show you State's Exhibit 49. What's that a  
16 picture of, sir?

17 A That's a picture of her headboard and obviously some  
18 type of picture there, again, in her bedroom.

19 Q Let me show you State's Exhibit 61.

20 A I'm sorry.

21 Q I'm sorry. Is that a picture of the upstairs  
22 bathroom?

23 A It does appear to be a picture of the upstairs  
24 bathroom, yes, sir.

25 Q And State's Exhibit 62, what's that a picture of, sir?

1 A That appears to be a picture of the boys' bedroom that  
2 was off to the right of the stairwell.

3 Q And State's Exhibit 63, what's that a picture of, sir?

4 A Just another picture of their bedroom, just a little  
5 bit different angle inside the boys' bedroom.

6 Q Thank you, sir. If you would, have a seat.

7 (Whereupon, the witness returned to the stand.)

8 Q When you did see Mr. Buckson out there on the road,  
9 did you ever see him have a gunshot wound or any damage to  
10 his clothes or anything?

11 A No, sir. I was only with him for a few seconds  
12 because, again, we had a deputy there, and one of our  
13 officers had arrived on the scene. I did not see an  
14 injury, because, again, that was a concern of ours because  
15 he claimed he was shot. And he just did a quick visual.  
16 Myself and Lieutenant Nowak did a quick visual and didn't  
17 see an injury on him.

18 Q And obviously -- did the situation change once you got  
19 to the apartment?

20 A Yes, sir. Again, like I said, when I was half way up  
21 the stairs and saw that we actually had a victim -- we get  
22 shots-fired calls all the time. But when you actually see  
23 a person lying there, we know there's more to it. And at  
24 that time I decided at the very least he needed to be  
25 placed under investigative detention until we cleared the

1 matter up.

2 Q If you would, please answer any questions Mr. Warder  
3 may have for you.

4 A Okay.

5 CROSS-EXAMINATION

6 BY MR. WARDER

7 Q You're with the Spartanburg County or the Spartanburg  
8 City Police Department?

9 A Yes, sir, I am.

10 Q Do you remember Officer Samarious Watson?

11 A I do.

12 Q And how long did you work with him?

13 A It's hard to remember. I want to say he worked with  
14 us maybe a year or two. I really don't remember. But I do  
15 remember him working with us.

16 Q Were you his supervisor or anything?

17 A No, sir.

18 Q You didn't see him out there that night, did you?

19 A No, sir, I did not see Sharmarcus, no, sir.

20 Q Did you see his gray Lincoln come back or drive  
21 through or anything all the time you were there?

22 A No, sir.

23 Q How long were you out there that morning?

24 A The whole time?

25 Q Yes, sir.

1 A A few hours.

2 Q Thank you.

3 MR. BARNETTE: No further questions of this witness,  
4 Your Honor. We would ask he be excused.

5 THE COURT: You may step down. You may also be  
6 excused.

7 (Whereupon, the witness was excused.)

8 THE WITNESS: Thank you, sir.

9 MR. BARNETTE: May we approach, Your Honor?

10 (Bench conference held off the record in the presence  
11 of the jury but out of the hearing of the jury.)

12 THE COURT: All right. Ladies and gentlemen, we are  
13 going to recess for lunch.

14 Let me caution you before you leave that while this  
15 trial is in progress you're not permitted to talk about the  
16 case.

17 In other words, you can't discuss it with your family  
18 or friends. You can't even discuss it among yourselves,  
19 that is with your fellow jurors, until the trial concludes  
20 and you've been asked to begin jury deliberations. So  
21 during the lunch recess do not discuss the case in any  
22 fashion whatsoever with any person whatsoever.

23 Also, you have to base your decision only upon what  
24 you see and hear during the trial of the case. And you're  
25 not to be influenced by any outside or extraneous

1 information.

2       So during the trial you can't allow yourselves to be  
3 exposed to any type of media coverage, whether it be  
4 television or radio or newspaper, and you cannot permit  
5 yourselves to be exposed to any type of discussions that  
6 other people might be having about the case.

7       It's also important that you, as I say, base your  
8 verdict upon what you see and here in the courtroom. And  
9 you're not to supplement the evidence in the case by  
10 conducting any research or doing your own investigation  
11 into any issue that relates to the case.

12       So you can't go on the internet or read newspapers or  
13 conduct any sort of research of any type to assist you in  
14 resolving the matter. So you have to base your verdict  
15 upon what you see and hear during the trial, and you're not  
16 to permit yourselves to be influenced by any outside  
17 consideration.

18       So from now until the end, no discussions, no media  
19 exposure, no investigation, no research.

20       With that, do have a good lunch. Please report back  
21 to your jury room at 2:15 this afternoon, at 2:15 this  
22 afternoon.

23       (The following takes place outside the presence of the  
24 jury.)

25       THE COURT: Court is in recess until 2:15.

Taffie Williams  
Direct examination by Ms. Ganss

1 (Whereupon, a recess was taken.)

2 THE COURT: Are we ready for the jury now?

3 MR. BARNETTE: The state is ready, Your Honor.

4 MR. WARDER: The defendant is ready, Your Honor.

5 THE COURT: Bring them in, please.

6 (The following takes place in the presence of the  
7 jury.)

8 THE COURT: Good afternoon, ladies and gentlemen.

9 As you know, when he recessed for lunch the state had  
10 begun with their presentation of evidence. So we're going  
11 to continue with that presentation this afternoon.

12 Ms. Ganss.

13 MS. GANSS: Thank you, Your Honor. The state calls  
14 Taffie Williams to the stand.

15 TAFFIE WILLIAMS, having been  
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MS. GANSS

18 Q Good afternoon, Ms. Williams.

19 A Good evening.

20 Q Would you please introduce yourself to the jury?

21 A My name is Taffie L. Williams.

22 Q Could you tell us where you live?

23 A Now I live at [REDACTED].

24 Q Is that here in Spartanburg?

25 A Yes. I'm sorry. Spartanburg, South Carolina.

1 Q And can you tell us where you lived a year ago today?

2 A [REDACTED] Gaffney, South Carolina.

3 Q All right. And how -- where do you work?

4 A Wal-Mart at Dorman Center.

5 Q All right. And can you please tell the jury how you  
6 are related to Tiffany Foggie?

7 A Tiffany was my daughter.

8 Q I want to take you back, not a year from today but a  
9 year ago yesterday, January 29th, 2006. Can you tell the  
10 jury what you did that day?

11 A Well, I worked that morning. Later that evening I  
12 went to my daughter's apartment after that, after I got off  
13 from work.

14 Q About what time was that, do you remember?

15 A Between 9:30 and 10:00.

16 Q And where was your daughter living at that time?

17 A [REDACTED] on the east side.

18 Q Is that here in Spartanburg County?

19 A Yes. I'm sorry. Yes. Spartanburg, South Carolina.

20 Q And what happened when you arrived at your daughter's  
21 house that evening?

22 A I noticed the kitchen window was up. When she cooked  
23 normally she would let the window up because it would be so  
24 hot in her apartment. And I have a key. I always had a  
25 key to her apartment. So I unlocked the door and I went

1 in.

2 Q Okay. And when you say a window to her apartment, do  
3 you mean the back?

4 A Yes. The window in the kitchen. The kitchen window  
5 was open.

6 Q All right. And when you let yourself in, can you tell  
7 the jury what happened next?

8 A I don't, I don't remember if I let the window down  
9 before I went in the apartment or after I went in. But I  
10 let the window down and I did not lock it. I wish to God I  
11 would have locked it, but I did not lock it.

12 MR. WARDER: Objection.

13 THE COURT: What was the nature of your objection?

14 MR. WARDER: The opinion of the witness of what she  
15 should have done is something else.

16 THE COURT: No. She just said she wished she had  
17 locked it. Overrule your objection.

18 Q So you said -- did you have a key to let yourself in?

19 A I did.

20 Q And please tell the jury. When did you get that key?

21 A She had the locks changed. And I got the key a couple  
22 of weeks, a couple of weeks ago. I don't know. It's been  
23 a year. It's been within two weeks after she had her locks  
24 changed.

25 Q And after you let yourself into Tiffany's apartment,



1 what happened next?

2 A I did as I always do. I kissed my daughter, and I  
3 hugged her and spoke to everybody in the apartment.

4 Q Do you remember who was there in the apartment with  
5 you?

6 A I do. My niece, Charlene Ellis; Mark and Elliott; and  
7 my two grandsons and Charlene's little girl.

8 Q All right. And when you say Mark and Elliott, can you  
9 be more specific who you're talking about?

10 A They -- Marcus and Elliott was friends of my  
11 daughter's.

12 Q Did you know their last names?

13 A I knew Mark Watson's last name.

14 Q Okay. And why did you say that window was open?

15 A When she cook her apartment is small, and it got so  
16 hot in there.

17 Q When you arrived and all of these people were there,  
18 what happened next?

19 A She, my daughter, told me, she, she had cooked dinner.  
20 And she offered me dinner, and I didn't want anything. I  
21 had just gotten off from work.

22 So it was myself, Charlene, Charlene's little girl.  
23 The two boys were upstairs at the time. And she had told  
24 me had put them -- she had put them in the bed. And I  
25 wanted to go up and speak to them, but it was late. And

1 they had to go to school the next morning. So we just sat  
2 down and talked.

3 Q All right. And did anyone leave that evening?

4 A Yes. Mark and Elliott.

5 Q Okay. What happened while you and Charlene -- is  
6 Charlene related to you?

7 A Yes. That's my niece.

8 Q So what happened as you and your niece Charlene and  
9 your daughter Tiffany and the children are there?

10 A We just -- you have to understand how me and my  
11 daughter was. Me and my daughter was very close. We never  
12 left one another without hugging each other and telling  
13 them we loved them. And we just stood around and talked.  
14 We was sitting in the kitchen. I was sitting with my back  
15 to the door. My niece Charlene was sitting --

16 THE COURT: Excuse me just a minute, ma'am.

17 If you won't -- please don't turn your back to the  
18 court reporter.

19 THE WITNESS: Okay. I'm sorry; I'm sorry.

20 THE COURT: Just speak toward the microphone.

21 THE WITNESS: Okay.

22 A I was sitting with my back to the door. My niece  
23 Charlene was sitting kind of in front of me, and my  
24 daughter was sitting to the side. And we was just sitting  
25 there talking. We were talking about Tiffany had -- her

1 father had just got her -- had went and gotten her a car.  
2 And he had just taken her that Sunday. So we were just  
3 sitting there talking.

4 Q All right. Did anyone come by that evening?

5 A Yes.

6 Q Can you please tell the jury who?

7 A Jay.

8 Q And when you say Jay, who do you mean?

9 A The guy that's sitting over here in the yellow shirt.

10 Q All right.

11 MS. GANSS: Please let the record reflect that the  
12 witness has identified the defendant, Mr. Buckson.

13 THE COURT: It shall.

14 Q Okay. Please tell us or describe for the jury how  
15 Mr. Buckson came by that night.

16 A As I said, we were sitting there talking. And  
17 Charlene had got up to look out the window at Tiffany's  
18 car. And she said -- when she opened the blind it kind of  
19 startled her, because Jay was standing on the outside of  
20 the door. So she, she looked back at Tiffany and said Jay  
21 is out here. And he was saying can I come in. So Charlene  
22 looked back at Tiffany and said, Tiffany, Jay wants to  
23 come --

24 MR. WARDER: Objection to what Charlene looked back  
25 and said to Tiffany as hearsay.

1 THE COURT: Overruled.

2 Q Go ahead.

3 A Jay -- she looked back at Tiffany. And Tiffany said  
4 let him in, I'm not afraid. So at that time Charlene  
5 opened the door. Jay came in. He didn't speak to anybody.  
6 And he went straight upstairs.

7 Q How long was he there?

8 A Two or three minutes at the most.

9 Q Okay. And what happened after those two or three  
10 minutes transpired?

11 A We was just sitting there talking, and then he came  
12 back downstairs and went back out the door.

13 Q Did you see him carrying anything?

14 A No.

15 Q And after Jay left how long did you stay?

16 A I left there between 10:30 and a quarter till 11:00.  
17 I don't know the exact time, but I know I left there  
18 between 10:30 and a quarter till 11:00.

19 Q When you left where did you go?

20 A I went to Gaffney. I went home.

21 Q Did you make any phone calls when you got home?

22 A Not -- yes, I did. I called my daughter and told her,  
23 she said mama -- because I was tired. She said, mama, call  
24 me when you get home. And when I got home I called her and  
25 let her know that I had made it home safely.

1 Q And what did you do after you called your daughter?

2 A I took my bath and got in the bed because my husband  
3 had to get up and go to work at 2:00 o'clock the next  
4 morning. I just got in the bed. I had got my work clothes  
5 together for the next morning.

6 Q Did anything awaken you?

7 A Yes.

8 Q Please tell the jury what that might have been.

9 A My phone rung. I think it was about 3:00 o'clock. My  
10 house phone rung about 3:00 o'clock. And it was Jay on the  
11 other phone. He was on the phone. And he said I just  
12 broke in your daughter's apartment, that nigger was there  
13 and he shot me.

14 Q What happened next?

15 A I hung up the phone.

16 Q What did you do after you hung up the phone?

17 A I didn't even get up because, you know, he was saying  
18 he was shot. You know, I just laid back down. I didn't go  
19 to sleep. I picked my phone up and I called my daughter's  
20 cell phone, and the voice mail came on. And I said,  
21 Tiffany, please call me, I'm worried, please give me a  
22 call, and I love you. And I hung up the phone.

23 Q Did you ever hear back from Tiffany?

24 A No.

25 Q Who did you hear from next?

1 A My sister.

2 MS. GANSS: Permission to approach the witness, Your  
3 Honor.

4 (Pause for the witness crying.)

5 Q Just take your time.

6 A I'm sorry.

7 Q I know it's difficult. But what did you learn from  
8 your sister?

9 A That my daughter had been shot.

10 Q When you learned that your daughter had been shot,  
11 where did you go?

12 A I just grabbed my clothes and I left. I don't know  
13 how I drove to Spartanburg. I just remember getting to the  
14 emergency room.

15 Q What happened when you arrived at the emergency room?

16 A My son was standing on the outside waiting on me. And  
17 he just looked at me. And he took me on the inside in the  
18 emergency room. And they took me back into a waiting room.  
19 And some nurses came. They told me that the doctor would  
20 be out as soon as they could.

21 And during that time the chaplain came. I had family  
22 members up there. And the chaplain came in, and he prayed  
23 with me. And I don't know how long had went by. I don't  
24 know. It just seemed like it was just forever. And the  
25 doctor came in and said -- I remember looking at him, and

1 he told me my baby was dead.

2 Q Thank you, Ms. Williams.

3 Ms. Williams, how old was your daughter when she died?

4 A She was 25.

5 Q I'm going to leave the hospital now and ask you a few  
6 things about Tiffany. Where did Tiffany work?

7 A At Venus Hair Supply Store.

8 Q How long had Tiffany lived at 5-A Bradford Grove?

9 A She had -- see, you have to understand that she had  
10 another apartment at Bradford Grove and it got burned. So  
11 they moved her in [REDACTED] And it was about a year when she  
12 was at that apartment. No. It's been a little bit over a  
13 year when she was at that apartment.

14 Q How long -- explain to this jury if you would. How  
15 long had she been at Bradford Grove, not necessarily [REDACTED]

16 A Oh, a little over two years, about two and a half  
17 years.

18 Q How do you know it was about two and a half years?

19 A Because I went with her when she did the lease signing  
20 and applied for the apartment and all of that.

21 Q Who went with Tiffany Foggie when she applied for her  
22 lease to live at Bradford Grove?

23 A Myself, Tiffany and her two little boys.

24 Q Was the defendant there when you got, when she got  
25 that lease?

1 A No.

2 Q I want to talk to you about the bills associated with  
3 this apartment. First the rent money. Do you know how  
4 Tiffany paid the rent?

5 A Yes.

6 Q Please tell the jury how she paid the rent.

7 A She would always give me the money to pay her rent.  
8 And if she wouldn't have all the money I would pay it for  
9 her and she would give it back to me when she got her  
10 check. But I would always go get her money orders to pay  
11 her rent.

12 Q Why did you use money orders to pay the rent?

13 A Because it had to be money orders or check. And I  
14 just preferred money orders. So no problem about it being  
15 paid.

16 Q Did she have some other bills?

17 A Yes.

18 Q Can you tell the jury about those other bills Tiffany  
19 had?

20 A She had --

21 Q Okay. I'm going to ask to you speak up just a little  
22 louder if you can for the jury, please.

23 A Okay. Sorry. She had a light bill, a phone bill and  
24 a cable bill.

25 Q Let's take those one by one. How was the light bill



1 paid?

2 A With cash money.

3 Q How do you know?

4 A I paid it.

5 Q What about the cable bill?

6 A Cash money. I paid it also for her.

7 Q Did you pay it just once?

8 A No. I paid. I don't like for her bills or my bills  
9 to be late. So I would always get her money, or if she  
10 didn't have it I would go pay it and she would give it back  
11 to me.

12 Q Okay. What about this phone that you mentioned?

13 A It was originally my phone. It was in my name because  
14 she couldn't afford a house phone and a cell phone. So I  
15 was so concerned with the boys with a lot happening I gave  
16 her my cell phone so she could have -- if anything happened  
17 and her phone was not on she would have a phone to call  
18 somebody since I lived in Gaffney.

19 Q Do you remember what her phone number was?

20 A Yes.

21 Q Could you please tell the jury what that number was?

22 A [REDACTED].

23 Q And did you have a cell phone at the time?

24 A I had my son's cell phone.

25 Q Do you know what that number --

1 A I don't remember what it was. I had a house phone,  
2 and I just used that phone if I needed it.

3 Q What is that number?

4 A My house phone is [REDACTED]

5 Q I want to ask you about that car you were talking  
6 about that Tiffany was looking at on that night. Can you  
7 tell us about that car?

8 A Well, myself and my husband had gotten her a car.

9 Q Just a little louder.

10 A Myself and my husband had gotten her a car and it  
11 was -- he had to have it worked on. So that Sunday night  
12 he had brought it to her apartment. The car was in my  
13 name.

14 Q And who paid the insurance for it?

15 A I did.

16 Q I want to show you some pictures. Just a moment,  
17 please.

18 MS. GANSS: Beg the Court's indulgence.

19 (Pause.)

20 Q I'm going to show you some pictures.

21 A Okay.

22 Q They've already been introduced as evidence as  
23 Tiffany's apartment at the time. I'd like to ask you about  
24 the furniture in the apartment. This kitchen table, do you  
25 know whose it was?

- 1 A Yes.
- 2 Q Please tell the jury.
- 3 A It was Tiffany's.
- 4 Q And how did she get it?
- 5 A She purchased it.
- 6 Q Were you with her when she purchased it?
- 7 A Yes.
- 8 Q Thank you. Some of these may be better than others.
- 9 I'm going to show you what's been -- oh, and that exhibit,
- 10 that first exhibit, was State's Exhibit No. 22. I'm going
- 11 to show you what's been entered into evidence as State's
- 12 No. 25. Do you recognize those furnishings?
- 13 A Yes, ma'am.
- 14 Q Whose were they?
- 15 A Tiffany's.
- 16 Q How do you know?
- 17 A Because I was with her when she purchased it.
- 18 Q Thank you. I want to show you State's Exhibit No. 26.
- 19 Do you recognize those furnishings?
- 20 A Yes.
- 21 Q Whose were they?
- 22 A Tiffany. Well, I guess I should say mine because it
- 23 was in my name.
- 24 Q Can you explain that to the jury, please?
- 25 A Yes. When she went to buy her some furniture she

1 didn't have enough credit to buy furniture. So I had to  
2 cosign with her. So I cosigned so she could get furniture.

3 Q Thank you. I show you what's been marked State's  
4 Exhibit No. 36. What about that furniture?

5 A It was also hers.

6 Q How do you know?

7 A Because I was with her when she got it.

8 Q Okay. Thank you. Show you State's Exhibit No. 43.  
9 Do you recognize that furniture?

10 A Yes. That's her entertainment center and her T. V.

11 Q And they were Tiffany's?

12 A Yes.

13 Q How do you know?

14 A I was with her when she got it.

15 Q Thank you. I want to show you State's Exhibit No. 46.  
16 Whose is that?

17 A The ironing board?

18 Q Yes.

19 A It was Tiffany's. I gave her that one.

20 Q Thank you. I'm going to show you State's Exhibit  
21 No. 47. Do you know what that piece of furniture is or  
22 whose it is?

23 A I can't say. That's part of the bedroom suit.

24 Q Okay. And whose was it?

25 A Tiffany's.

1 Q And how do you know?

2 A I was with her when she purchased it.

3 Q Thank you. After Tiffany's death did there come a  
4 time when you had to clean out the apartment?

5 A Yes.

6 Q When did you clean out the apartment?

7 A It was awhile after. It was about two or three weeks  
8 after the police released it.

9 Q I'm going to show you State's Exhibit No. 48. When  
10 you cleaned out Tiffany's apartment, please tell this jury  
11 what you took from Tiffany's apartment.

12 A Her clothes, but they were not hanging up like that.  
13 They was thrown everywhere because when the police went in  
14 they had to look through all her clothes. But I took out  
15 her clothes and her furniture and stuff. I didn't keep. I  
16 threw it away.

17 Q Pardon?

18 A The stuff that I didn't keep, I threw it away.

19 Q All right. Let me show you State's Exhibit No. 62.  
20 Do you recognize this furniture?

21 A Yes.

22 Q Whose is that?

23 A The boys.

24 Q How did the boys get it?

25 A My husband had bought it when their apartment burned.

1 Q Okay. I want to show you this one, what's been marked  
2 State's Exhibit No. 61. And I'm going to ask you to look  
3 at this one real closely. And if you can identify, what  
4 room is this?

5 A Her bathroom.

6 Q Is this upstairs or downstairs?

7 A Upstairs.

8 Q And if you can identify the toiletries that are in  
9 that -- can you make it out?

10 A It's her body wash, her hand lotion and towels and the  
11 tissue and the boys' toothbrush.

12 Q How often were you over at Tiffany's apartment?

13 A I was, I was there a lot. I was at Tiffany's a lot.

14 Q The day before her death how much of the defendant's  
15 items were in her apartment?

16 A Might have been a shirt there. Not a lot. I mean, it  
17 could have been a shirt. I didn't see a lot. It was not a  
18 lot of things there.

19 Q Okay. What about when you cleaned out her apartment?

20 A It was Tiffany's and the boys' stuff and her bed  
21 linens and stuff.

22 Q Anything in there that you found that belonged to a  
23 man or perhaps the defendant?

24 A I found a shirt.

25 Q I'd like to show you what's been marked State's

1 Exhibit No. 6 for identification purposes only. I want to  
2 show you what's been marked State's Exhibit No. 6 for  
3 identification purposes only.

4 A That was my daughter.

5 Q Thank you, Ms. Williams.

6 MS. GANSS: Beg the Court's indulgence one moment,  
7 Your Honor.

8 THE COURT: Yeah.

9 (Pause for the witness crying.)

10 Q Ms. Williams, I'd like to ask you what you know. Who  
11 at the time of her death -- at the time of her death was  
12 your daughter dating anyone?

13 A No.

14 Q Was she living with anyone?

15 A No, only her boys, just her little boys.

16 Q Was she living with the defendant?

17 A No.

18 Q Had she dated the defendant?

19 A Yes.

20 Q Was she dating the defendant at the time of her death?

21 A No.

22 Q How long had your daughter and the defendant been  
23 apart before her death?

24 A A week or so. I think it was about two weeks.

25 MS. GANSS: Beg the Court's indulgence one moment,

1 Your Honor.

2 (Pause.)

3 Q Ms. Williams, that's all the questions I have for you.  
4 Thank so much. Please answer any questions Mr. Warder may  
5 have.

6 A I will.

7 Q Thank you.

8 A You are welcome.

9 CROSS-EXAMINATION

10 BY MR. WARDER

11 Q Ms. Williams, did you make a statement in this case?

12 A I did.

13 Q Okay. Did you make it at the time close to the  
14 incident?

15 A After I had left the hospital and I was at my mom's  
16 house, yes, it was police officers came. I don't know how  
17 far along it was, but I do know they came and they talked  
18 to me.

19 Q When you gave that statement were you truthful?

20 A I was.

21 Q Did you tell the police everything you knew then?

22 A I did.

23 Q And did you try and remember when it was just a few  
24 hours old exactly what was said and what was done?

25 A Did I try to remember? It wasn't that hard to



1 remember.

2 Q Okay. So when you told them what Jerome Buckson said  
3 when you gave your statement it would have been fresh in  
4 your memory and not very hard to remember, is that right?

5 A Will you repeat that, please?

6 Q When you told the police what Jerome Buckson said when  
7 you gave your statement, it would have been fresh in your  
8 mind and not very hard to remember.

9 A Yes. But you have to understand my daughter had just  
10 gotten killed.

11 Q The next day when you told them what Jerome had said  
12 you didn't include when he said he had been shot, what you  
13 did today, did you?

14 A Excuse me. It was not the next day. It was a few  
15 hours later because it was during the next morning.

16 Q Did you change that part of your statement?

17 A No, I did not.

18 Q When you talked to them on that day did you tell them  
19 he said he had broke into your daughter's apartment?

20 A I assume. I really don't. I was at a state of shock.  
21 My daughter had just been killed.

22 Q When you gave your statement to the police did you  
23 include in it what you said today that Jerome Buckson said  
24 he broke into your daughter's apartment?

25 A I don't -- would you like for me to read it and tell

1 you what I said? I don't know what's on that paper.

2 Q Well, do you know whether you told them that?

3 A I know, I know what happened. I know what he told me.

4 Q Well, that certainly would have been an important  
5 thing if he had said that, wouldn't it?

6 A Yes, sir, it would.

7 Q And you would recognize it as an important thing then,  
8 wouldn't you?

9 A I can't say that. You have to understand my daughter  
10 had just gotten killed. I had her two little boys. And I  
11 don't know what -- I was in a frame of mind. I was  
12 distraught. My daughter was dead and had left behind two  
13 little boys.

14 Q When you said in your statement, you said he had  
15 called the house and said he had been shot.

16 A Yes, sir. I did.

17 Q Didn't say that he said he had broke into the house  
18 then, did you?

19 A I know what I told them.

20 Q Well, they didn't write it down?

21 A I can't help what they wrote down, sir.

22 Q That's right. It's their fault and you told it to the  
23 police and they didn't write it down.

24 A No. I -- I don't know. I can't answer that question,  
25 sir.

1 Q So you don't know if you told them, is that right?

2 A I thought I told them. If it's not in there,  
3 apparently I didn't.

4 Q Okay. Now, you told us that your daughter didn't have  
5 a boyfriend, is that right?

6 A No, sir.

7 Q Did you know this, this fellow was staying at her  
8 house that was there, this Samarius Watson?

9 A No, sir. He was not staying at her house. They was  
10 friends.

11 Q So he wasn't staying that night at the house?

12 A Did I say that night or did I say they were friends?

13 Q Well, I asked you if he was staying that night.

14 A You know, sir, I don't know because I don't know. I  
15 went home. When I left that night I left Charlene Ellis,  
16 my two grandsons and Charlene's little girl and my daughter  
17 there.

18 Q You got off of work at 9:25 that day, didn't you?

19 A That's about right, yes, sir.

20 Q And when you got off work at 9:25 did you go straight  
21 to your daughter?

22 A I did.

23 Q How long does that take?

24 A Well, it depends on the traffic.

25 Q At 9:30 on a, at night, how long does it take?

- 1 A About 20 or 25 minutes.
- 2 Q You got to your daughter's house at 10:00 o'clock.
- 3 A Somewhere like that.
- 4 Q Do you know what time you left?
- 5 A Between 10:30 and a quarter till 11:00.
- 6 Q Okay. You were at your daughter's house about 30
- 7 minutes, is that fair?
- 8 A Basically, yes, sir.
- 9 Q During that 30 minutes you were there Jerome Buckson
- 10 came to the house and went upstairs.
- 11 A He came.. He was outside of the apartment, but, yes,
- 12 he did, he didn't.
- 13 Q Did he come to the house and go upstairs?
- 14 A When my niece looked out the door, the back door, he
- 15 had, he asked her could he come in.
- 16 Q Jerome Buckson came to the house and went upstairs, is
- 17 that true?
- 18 A As I said, he came to the apartment. My niece let him
- 19 in.
- 20 Q Did he go upstairs?
- 21 A Yes, he did.
- 22 Q Your daughter then went upstairs.
- 23 A I don't remember.
- 24 Q When you gave your statement back on the 30th did you
- 25 tell the police Jerome Buckson went upstairs and Tiffany

1 went upstairs?

2 A Yes.

3 Q Now, you told us your daughter had cooked. What time  
4 did she cook? Could you tell by looking?

5 A No. I didn't know.

6 Q Had the kitchen been cleaned up?

7 A I don't even know.

8 Q She hadn't been playing cards and watching T. V?

9 A She was not during that when I came to the apartment.

10 Q Okay. And did you come there when these, when  
11 Samarius Watson was still there?

12 A Yes, sir. They was getting ready to leave.

13 Q Okay. And how long were you there with them?

14 A About two minutes.

15 Q Okay. So they left as soon as you got there?

16 A They were leaving at the time when I came up. They  
17 were already getting ready to leave.

18 Q This car you told us about that was in your name, was  
19 it still at the apartment that night when they left?

20 A Actually it had just been brought. It had been  
21 brought to the apartment that night, that day sometime. It  
22 was brought there while I was working.

23 Q Okay. And in response to the question when I asked  
24 you if he was still there when you left, is the answer yes?

25 A Yes.

Charlene Ellis  
Direct examination by Ms. Ganss

1 Q Thank you.

2 MS. GANSS: No redirect, Your Honor.

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

4 MS. GANSS: The state calls Charlene Ellis to the  
5 stand.

6 CHARLENE ELLIS, having been  
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MS. GANSS

9 Q Ms. Ellis --

10 A Yes.

11 Q -- please introduce yourself to the jury.

12 A I'm Charlene Ellis.

13 Q Please tell them where you live and work.

14 A I work, I mean, I live at [REDACTED] the  
15 [REDACTED] I work at Adidas plant for T. F. E.  
16 Corporation.

17 Q And how are you related or are you related to Tiffany  
18 Foggie?

19 A Yes. Taffie is my aunt. Tiffany is my first cousin.

20 Q Can you tell us where you were not a year ago today  
21 but a year ago yesterday on January the 29th of 2006? What  
22 were you doing?

23 A Okay. I went to Tiffany's house, apartment, at about  
24 something after 6:00. And that's where I was, at the  
25 Bradford Grove Apartments, Tiffany's apartment.

1 Q And when you arrived there, was anyone there?

2 A Yes. It was Tiffany, her two boys, Marcus Watson and  
3 Elliott Canada.

4 Q And did you bring any more with you?

5 A My little girl, Sharla [REDACTED]

6 Q And what were y'all doing that evening?

7 A Well, when we got there we talked a little bit. And  
8 then we started playing a game of spades, playing cards.

9 Q And did you play in teams?

10 A Yes.

11 Q And who was on what team?

12 A Well, me and Elliott was on teams, and Marcus and  
13 Tiffany was on teams.

14 Q And what happened while you were playing spades,  
15 anything? Anybody call?

16 A Well, she got a few phone calls. She, you know, get  
17 up and go to the other room when they call because it's  
18 constant calls.

19 Q Did you know who was calling her?

20 MR. WARDER: Objection. No way that person, she could  
21 know who.

22 THE COURT: Sustained.

23 Q After you played spades, what did you do then?

24 A Well, we watched television. We looked at a  
25 basketball game, was on. And then we talked and.

1 conversated in the living room.

2 Q Can you describe Tiffany's mood or behavior that  
3 evening?

4 A Well, she was, Tiffany was, a little jumpy, you know,  
5 like a little edgy like she was like kinda scared about  
6 something because she kept getting phone calls. And she --  
7 I say, you know, I asked her what's wrong, you know. And,  
8 nay, but she acted like she was kind of scared about  
9 something.

10 Q What happened later that evening? Describe, if  
11 anyone, who came and who left.

12 A Okay. Lloyd. That's her stepfather. Well, let me  
13 start right here. We was, you know, I was sitting in the  
14 living room. And we heard someone at the, at the back  
15 door. That's where the kitchen is.

16 And, you know, like they was just, you know, kind of  
17 moving the locks trying to get in, you know. And Tiffany  
18 said sh-sh. And I went what and all.

19 She ran up the steps because upstairs you could look  
20 out the window and see who is outside or something like  
21 that. And so she didn't see nobody.

22 So she came back downstairs. And we heard it at the  
23 front door. And then by that time she got a call on the  
24 phone. And it was her stepdad telling her to open the door  
25 because it was him like. So she was scared, you know.



1 Q And did she open the door for her stepdad?

2 A Yes.

3 Q And how long did he stay?

4 A I'm going to say like at least about 30 minutes,  
5 because he had brought a car over there that him and her  
6 mother had had in the shop. And they had just got it  
7 fixed. And he was bringing it back to show Tiffany, you  
8 know, the car and letting her, you know, that she can have  
9 it now.

10 Q All right. And after he left, what happened?

11 A Well, shortly after then -- well, we was still sitting  
12 around and I was saying -- you know, she was still like she  
13 was kinda scared. I said don't be scared, I say, because  
14 I'm here. I say if somebody comes in here, I say they have  
15 to come through me, because she was thinking about Jay,  
16 which is Jerome.

17 MR. WARDER: Objection, Your Honor. She is now  
18 attributing thoughts to it.

19 THE COURT: You can testify as to what you observed  
20 and what you saw but not what somebody else might have said  
21 unless you are told to answer that question.

22 THE WITNESS: Okay.

23 Q All right. So after you said what you did, someone  
24 would have to come through you, what happened next?

25 A And then, you know, like not long after that we heard

1 somebody at the back door again, which was where the  
2 kitchen was. And it was -- we thought. And I said, oh,  
3 God, not again. But it was Taffie and she had a key and  
4 she left herself in. She was coming from work.

5 Q And Taffie was or is?

6 A Is Tiffany's mother.

7 Q Okay. And so did Taffie come in?

8 A Yes.

9 Q All right. So who was there at this time when Taffie  
10 was there?

11 A It was Mark Watson, Elliott Canada, me, Tiffany, the  
12 boys and my little girl.

13 Q What happened next?

14 A Okay. They was leaving. Marcus and -- Marcus and  
15 Elliott was leaving. But they did, you know, speak to  
16 Taffie and everything. And they at that time about three  
17 minutes -- I am going to say about five minutes, they left.

18 Q And how long did Taffie stay?

19 A Taffie stayed about, about, probably about 40, about  
20 40 minutes or 45 minutes, something like that.

21 Q While Taffie was there with you did anyone else happen  
22 to come by that night?

23 A Yes.

24 Q Please tell the jury who.

25 A Jerome.

1 Q And by Jerome, how do you mean?

2 A Jay.

3 Q And can you please -- is Jay here in the courtroom  
4 today?

5 A Yes. He is right there with his yellow shirt on with  
6 the red tie, orange tie.

7 MS. GANSS: Please let the record reflect the witness  
8 has identified the defendant.

9 THE COURT: It shall.

10 Q What happened when the defendant came by?

11 A Well, this is how we knew he was at the door, period.  
12 I was, we was, all in the kitchen talking. And Tiffany  
13 seen some car lights through the blind or something. You  
14 know, she was facing the window. And she say that look  
15 like Jay's Jeep or whatever he was driving. I don't know  
16 what she said about the car. But I say huh.

17 And then we waited. You know, we was just sitting  
18 there. We was waiting a few minutes because I thought he  
19 was going to come and knock on the door or something. We  
20 sat there. And we, you know, she, we was thinking maybe it  
21 wasn't him. Okay. We sat there. Then we started, you  
22 know, talking about food.

23 And then we got on the subject of her car. And I  
24 said, yeah, your car out there, saying I'm going to look  
25 out here and look at it again, look over there. I say I

1 like that car.

2       So when I went to the door to peep out the blind I  
3 jumped because Jay was right there in the blind looking  
4 through it like that. And I said, boy, you scared me. And  
5 he said I need to come in, ask Tiffany can I come in, I  
6 left something I think or something or I need to get  
7 something.

8       And I turned around because Tiffany was like on the  
9 corner. And he standing and I'm standing. And I say -- he  
10 say can he come in. And she hesitated for a minute. And  
11 then she said let him in. So I --

12       MR. WARDER: Object to Tiffany said all of this.

13       THE COURT: Overruled.

14 A       Well, he, I opened the door and I let him in. He went  
15 up the steps. He came right back downstairs. Two or three  
16 minutes, he came right back down. When he came in he  
17 didn't say hey. He didn't speak. He didn't speak when he  
18 left. He left right back out the door and that was it.

19 Q       When he left did you notice if he took anything with  
20 him or not?

21 A       He didn't have anything.

22 Q       When you were at Tiffany's apartment that evening did  
23 you get a chance to look around?

24 A       Yeah, I was, yeah, I was there. I went to the  
25 bathroom occasionally.

1 Q To your knowledge, do you know who the furniture in  
2 that apartment belonged to?

3 A Tiffany's. All of it is Tiffany's.

4 Q Did you see anywhere when you were in the apartment a  
5 man's belongings?

6 A No. It was all Tiffany's stuff, was there. It was  
7 Tiffany's and the boys stuff there that I seen.

8 Q I want to ask you about Sharmarcus Watson.

9 A Uh-huh.

10 Q What was he doing there that evening with Tiffany?

11 A They was having fun. They was, we was playing cards.  
12 They was just having fun.

13 Q Let me back up.

14 A Uh-huh.

15 Q Do you know Sharmarcus Watson?

16 A Yes.

17 Q And how do you know him?

18 A I know him for years back when we was little, but I  
19 was working with him at Adidas. He worked at Adidas, him  
20 and Elliott Canada.

21 Q And do you know how it was that Sharmarcus came into  
22 contact with Tiffany?

23 A Yes.

24 Q Please explain what you know to the jury.

25 A We was at work one day. We work on the same line.

1 And her name came up some kind of way -- Tiffany. I say --  
2 me and Mark was talking about it. I say, yeah, Tiffany.  
3 He say -- he gave me his number to give her.

4 When I called Tiffany I told her about Mark's number.  
5 She said yes. She say, yes, she wanted to talk to him.  
6 And I gave her the number. And that's how they started  
7 talking.

8 Q So what did you -- is it fair to say you fixed  
9 Sharmarcus and Tiffany up?

10 A Yes.

11 Q What was your understanding of the time -- at the time  
12 of Tiffany's dating status?

13 A Oh, she wasn't dating. She --

14 MR. WARDER: Objection, Your Honor.

15 THE COURT: Excuse me just a minute.

16 MR. WARDER: Object to her understanding.

17 THE COURT: Sustained.

18 Q Was the defendant -- was Tiffany dating the defendant  
19 at the time?

20 A No, no. She was not.

21 MS. GANSS: Beg the Court's indulgence one moment,  
22 Your Honor.

23 (Pause.)

24 Q I am going to ask you. While you were at, earlier in  
25 the evening while you were at, Tiffany's did you have an

1 occasion to eat?

2 A Yes.

3 Q And how?

4 A She had prepared dinner. She had prepared Sunday  
5 dinner.

6 Q Okay. I'd like to show you. I'm going to show you  
7 what's been marked State's Exhibit No. 29 and State's  
8 Exhibit No. 30.

9 A Uh-huh.

10 Q Do you recognize these items?

11 A Yes.

12 Q Okay. Do they fairly and accurately represent?

13 A The score, the score of the spades game.

14 MS. GANSS: At this time the state would like to move  
15 State's Exhibits No. 9 -- and I'm sorry -- No. 29 and No.  
16 30 into evidence.

17 MR. WARDER: May it please the Court. I have no  
18 objection.

19 THE COURT: They are admitted.

20 MS. GANSS: Thank you.

21 (Photographs marked State's Exhibits Nos. 29 and 30.)

22 MS. GANSS: Permission to publish to the jury.

23 THE COURT: Uh-huh.

24 MS. GANSS: Thank you, Your Honor.

25 Q I'm going to show you what's been marked State's

1 Exhibit No. 29. Please describe to the jury what this is.

2 A It's a score board of the spades games that we was  
3 playing on teams.

4 Q Okay. I'm going to show you State's Exhibit No. 30.

5 And can you tell us, does this tell us who is on what team?

6 A Yes.

7 Q And do you know who is on what team?

8 A Yes.

9 Q Who is on what team there?

10 A Baby and me, that's Elliott and me, and that Sandwich  
11 is Marcus and Tiffany.

12 Q Can you describe, was Tiffany eager to go out with  
13 Sharmarcus?

14 A Very. Happy.

15 Q Ms. Ellis, I have no more questions for you at this  
16 time. Please answer any questions Mr. Warder may have.

17 A I sure will.

18 Q Thank you.

19 CROSS-EXAMINATION

20 BY MR. WARDER

21 Q Now, you told us that Tiffany was nervous and jittery.

22 A Uh-huh.

23 Q And that's when Sharmarcus or Marcus and Elliott were  
24 there, wasn't it?

25 A Yes, uh-huh.



1 Q Okay. Are you dating Elliott?

2 A At the time.

3 Q Okay. So, and that's why baby and me was how you  
4 named your team.

5 A Yes.

6 Q And Elliott is a good friend of Marcus, is not that  
7 right?

8 A At the time.

9 Q So you were trying to get Tiffany to date a good  
10 friend of the fellow you were dating.

11 A No.

12 Q Well.

13 A She was just, she was wanting to herself. She was  
14 happy. She was wanting to because she wasn't dating Jay no  
15 more.

16 Q Well, I know you want to say that, but the question  
17 was you were trying to get her to date. And you said they  
18 wasn't true, is that right?

19 A We was talking, me and Marcus was talking, at work.  
20 And Tiffany's name came up. And I gave Tiffany the number.  
21 And she said when I told her about the number, that Marcus'  
22 number, would you like it, she said yes.

23 Q Now, you were the one that arranged the --

24 A When I gave Tiffany the number it went from there.  
25 They was on their own then.

1 Q Now, you're married, aren't you?

2 A Separated, uh-huh.

3 Q And about the time Tiffany's mother gets there Marcus  
4 and Elliott leave, don't they?

5 A They was fixing to leave anyway. But when she got  
6 there they stayed five minutes to, you know, talk to Tiffie  
7 telling her bye or whatever. And then they left.

8 Q When you made your statement to the police --

9 A Uh-huh.

10 Q -- you told them that you told Tiffany to tell Jerome  
11 to -- that she would leave his stuff outside, is that  
12 right? Do you remember telling that?

13 A To leave his stuff outside?

14 Q Uh-huh. Well, is this your statement, your voluntary  
15 statement?

16 A Yes, that's mine.

17 Q Is that your signature?

18 A Yes, it is.

19 Q Did you sign it?

20 A Okay. But he didn't have anything in there. I  
21 probably made that statement, which at the door, but he  
22 didn't have anything in there.

23 Q But what you said, of course, when you told the police  
24 that was I told her to tell him to leave his stuff outside.

25 A No. She got there. I was saying that if she, if he

1 had something, give it to him outside. I was telling don't  
2 let him in actually. But she was letting him in anyway.  
3 So she told me to open the door, so I opened the door. But  
4 he didn't have anything in there.

5 Q But you didn't say that in the statement of course,  
6 did you, when you --

7 A Well, at the time, at the time it had just happened  
8 and I must have said all, but I said it then. That had  
9 just happened --

10 Q Okay.

11 A -- when I made that statement, uh-huh.

12 Q And the answer was that you could remember what you  
13 told him but you just didn't remember to say he didn't have  
14 anything in there.

15 A He didn't have anything in there, period. He didn't  
16 leave with anything.

17 Q And did you go through the drawers and the bags in the  
18 closet and everything like that?

19 A No, I did not.

20 Q Thank you.

21 MS. GANSS: No further questions from this witness.

22 THE COURT: You may step down.

23 MR. BARNETTE: The state could like to call Jimmy  
24 Carroll.

25

Jimmy Ray Carroll  
Direct examination by Mr. Barnette

1 JIMMY RAY CARROLL, having been  
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. BARNETTE

4 Q Get as close to that mike as you can so the jury --  
5 talk loud enough so the jury can hear you. Give us your  
6 full name for the record, please.

7 A Jimmy Ray Carroll.

8 Q I am going to need for you to talk louder. I know  
9 you're soft-spoken. Would you repeat that again?

10 A Jimmy Ray Carroll.

11 Q Okay. And where do you live at, Mr. Carroll?

12 A I live at [REDACTED] Roebuck, South Carolina.

13 Q And what kind of work do you do, sir?

14 A I'm carpenter, farmer.

15 Q Back on, back in the year of 2005, where did you work  
16 at, sir?

17 A I worked at Bradford Grove Apartments.

18 Q And what did you do for Bradford Grove Apartments?

19 A I was a maintenance man.

20 Q And what kind of work did you do as a maintenance man?

21 A Anywhere from fixing commodes, to sinks, to showers,  
22 to fixing windows, replacing glass in doors, fixing doors.  
23 You name it, I had to do it.

24 Q Did it also include changing locks?

25 A Yes, sir.

1 Q Let me show you a picture that's been marked State's  
2 Exhibit No. 6 just for I. D. purposes. Do you recognize  
3 that picture?

4 A Yes, sir, I do.

5 Q Did you ever do any work on her apartment?

6 A Yes, sir.

7 Q Okay. And was her apartment located in Bradford  
8 Grove?

9 A Yes, sir. It was [REDACTED]  
10 Apartments.

11 Q And can you tell the jury what kind of work you did  
12 for her?

13 A I had to change the front and the back door locks on  
14 the doors.

15 Q And you changed it. And what was, why were they  
16 changed?

17 A Because I got a work order to change them. I mean,  
18 when I get a work order I have to go fix whatever the work  
19 order says.

20 Q Okay. Was she present there at the apartment?

21 A Yes, sir, she was.

22 Q Okay. And when you was changing it was she -- who was  
23 with her when you changed the locks?

24 A Her two kids was upstairs and she was downstairs with  
25 me.

1 Q And when you changed the locks, what was the reason  
2 given for changing the locks?

3 A Well, I changed the front-door lock and moved into the  
4 kitchen to change the back-door lock. And she was sitting  
5 at the kitchen table. And she told me she was having some  
6 problems.

7 MR. WARDER: Objection.

8 THE COURT: Sustained.

9 MR. BARNETTE: May I approach the bench, Your Honor?

10 (Bench conference held off the record in the presence  
11 of the jury but out of the hearing of the jury.)

12 Q About what month was it you changed the locks?

13 A About mid December of 2005.

14 Q And when you changed the locks did you give her a key?

15 A Yes, sir.

16 Q How many keys did she get?

17 A She got one. The office got the other one.

18 Q And you changed the locks on both doors.

19 A Yes, sir.

20 Q If you would, answer any questions Mr. Warder may have  
21 for you. Thank you.

22 CROSS-EXAMINATION

23 BY MR. WARDER

24 Q The locks were identically keyed?

25 A Yes, sir, they was.

1 Q The same lock that would open the front door would  
2 open the back door.

3 A Yes, sir.

4 Q In relation to the flooding in that apartment, how,  
5 what, how did that work? Did the apartment flood before or  
6 after the locks were changed?

7 A That was before.

8 Q Okay. And when we talk about the apartment flooding,  
9 that was when the commode backed up and it went all over  
10 the carpet.

11 A Yes, sir.

12 Q Now, you didn't have to do all of that work, did you?

13 A No, sir, I did not. They called in some people that's  
14 experienced in that.

15 Q Okay. And those people that were called in were given  
16 a key to get in and out of that apartment.

17 A We usually let them in. Maintenance lets them in and  
18 locked after, after they got through cleaning up. One of  
19 our guys, one of our workers there at the apartment  
20 complex, always lets somebody in the apartment. Like if a  
21 carpet had to be cleaned in a certain way like carpet  
22 cleaners, we'd go in with them and let them clean it. When  
23 they come out we would lock the apartment back.

24 Q Maybe I asked my question and maybe you understood  
25 your answer. My question was on this particular occasion

1 when the workmen went in and out, do you remember  
2 specifically whether they were given a key or whether you  
3 went down to let them in?

4 A I am not -- no, I'm not sure on that one right there.  
5 I didn't let them in on that one.

6 Q You didn't let them in.

7 A No, sir, I didn't.

8 Q Okay. When that carpet was changed out they took the  
9 carpet and the padding because they had both become soiled,  
10 is that right?

11 A Yes, sir, they did.

12 Q And they drug them out. And they were laying in the  
13 front yard, is that right?

14 A Yes, sir.

15 Q And they laid there for some time, didn't they, out in  
16 the front yard?

17 A Yes, sir, they did.

18 Q Thank you.

19 A You're welcome.

20 REDIRECT EXAMINATION

21 BY MR. BARNETTE

22 Q Now, did you change the locks on every apartment where  
23 the carpet was changed or anything like that?

24 A No, sir, just on 5-A.

25 Q And did you change the locks -- was the people done



1 with the rugs and stuff like that when you changed the  
2 locks?

3 A They was through with them.

4 Q Okay. And was it because the rugs were changed or  
5 whatever was the reason why she changed the locks?

6 A No, sir, it wasn't. She was having a problem with her  
7 boyfriend, is what she told me.

8 MR. WARDER: Objection.

9 A That's what she told me.

10 THE COURT: Let me ask the jury to please go to your  
11 jury room just a minute.

12 (The following takes place outside the presence of the  
13 jury.)

14 THE COURT: All right. Mr. Warder.

15 MR. WARDER: Your Honor, we approached and had a bench  
16 conference on the exact testimony. Your Honor gave us a  
17 ruling that it wouldn't be admissible.

18 The solicitor has just got up and elicited the same  
19 testimony again. The answer was, was responsive. They  
20 just went around it. They just, you know, ignored it.  
21 It's highly prejudicial.

22 It's -- there's no way to erase it from the minds. It  
23 was deliberately done. I move for a mistrial.

24 THE COURT: All right. Solicitor, do you want to be  
25 heard?

1 MR. BARNETTE: Yes, sir. I was asking based on Mr.  
2 Warder's questions with the carpet and so forth, asked him  
3 was it removed because of the carpet or whatever.

4 THE COURT: Well, I understand. But the carpet and  
5 the flooding had absolutely nothing to do with, as you know  
6 with, why those locks were requested to be changed. We  
7 addressed that issue here at the bench, and I specifically  
8 said that -- well, not only I sustained the objection at  
9 the time that a question was asked, and I specifically  
10 instructed y'all that that was not to be permitted, it was  
11 not admissible, it was not relevant to anything and it  
12 should not be asked. I don't know what else I have to do  
13 in order to sustain an objection and preclude something  
14 from being asked. I mean that's -- all right.

15 Mr. Warder, I'm going to deny your motion to grant a  
16 mistrial in the case.

17 I'm going to instruct the jury they are not to  
18 consider the response given.

19 And the witness is instructed not to again testify to  
20 any statement made by the victim in this case in response  
21 to any question unless I tell you to say so.

22 I previously sustained an objection. You were not to  
23 respond to it. I'm not certain exactly why you did that  
24 after I had sustained that objection to it. But rest  
25 assured if you don't follow my instructions from here on

1 out it will be treated as contempt of court.

2 THE WITNESS: Yes, sir.

3 THE COURT: Do you understand what that means?

4 THE WITNESS: Yes, sir.

5 THE COURT: Good.

6 All right. Bring the jury back.

7 (The following takes place in the presence of the  
8 jury.)

9 THE COURT: Ladies and gentlemen, there are certain  
10 rules that lawyers are required to comply with, rules of  
11 evidence, rules of court and the like. And those rules  
12 have to be followed.

13 Where something is done and there is an objection made  
14 I have to make a determination as to whether or not that is  
15 in compliance with the rules or in violation of the rule,  
16 and that's simply my call. If I'm wrong there are some  
17 judges down the road in Columbia that can correct that, if  
18 I make a mistake as to the law.

19 Sometimes the lawyers think something is admissible  
20 perhaps. They believe that the rule admits it. One side  
21 objects to it. I have to make that determination. That  
22 doesn't mean anybody is trying to pull anything over on you  
23 or anybody is trying to keep anything from you. It's  
24 simply a disagreement on how the rule is applied. And I  
25 have to decide how it is to be applied.

1        Now, there is a rule. I'm certain you've heard it  
2 before, a rule against hearsay testimony. There's a good  
3 reason for a rule against hearsay testimony. And the rule  
4 against hearsay testimony is for the purpose that the other  
5 side doesn't have an opportunity to examine the person who  
6 made the statement. And there are certain exceptions under  
7 certain circumstances, but, generally speaking, if you want  
8 to provide evidence or testimony of what a person said,  
9 then that person comes to court and they say it, because  
10 there's no way to test it otherwise. You can't determine  
11 whether it's reliable or not reliable, because that person  
12 is not subject to being examined on it.

13        So the last question that was asked of this witness  
14 which had previously been ruled by the Court not to be  
15 admitted, it was asked again, and this witness responded to  
16 it. But I have ruled it's not admissible because there's  
17 no way to test the reliability of it.

18        So you are not to consider the last response provided  
19 by this witness to the last question. You must erase it  
20 from your minds. You cannot consider it in any fashion  
21 whatsoever in your deliberations or in your determination  
22 as to the verdict in this case.

23        So you are simply to ignore it, forget about it, put  
24 it aside, put it out of your mind. Do not consider it in  
25 any fashion whatsoever.

1           Okay. You may continue.

2           MR. BARNETTE: No further questions, Your Honor.

3           THE COURT: Okay. Anything else?

4           MR. WARDER: No, Your Honor.

5           THE COURT: All right. Step down.

6           All right. We are going to take a short break. Even  
7 though I have just excused you, we haven't been in a break.  
8 So we'll take a short break. So I'll ask you please go to  
9 your jury room. Do not discuss the case. We'll bring you  
10 back shortly.

11           (The following takes place outside the presence of the  
12 jury.)

13           THE COURT: Who is the next witness?

14           MR. BARNETTE: That would be Sharmarcus Watson, Your  
15 Honor.

16           THE COURT: All right. Court is in recess for 15  
17 minutes.

18           (Whereupon, a recess was taken.)

19           THE COURT: All right. Are we ready for the jury?

20           MR. BARNETTE: The state is ready, Your Honor.

21           MR. WARDER: Yes, Your Honor, we are.

22           THE COURT: All right. Bring them in.

23           (The following takes place in the presence of the  
24 jury.)

25           THE COURT: All right. You may continue.

1 MR. BARNETTE: Thank you, Your Honor. May it please  
2 the Court. I would like to call Sharmarcus Watson to the  
3 stand, please.

4 SHARMARCUS WATSON, having been  
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. BARNETTE

7 Q If you would, sir, state your full name for the  
8 record, please.

9 A My name is Sharmarcus Antonio Watson.

10 Q And where do you live at, sir?

11 A I stay in Greer, South Carolina.

12 Q And where do you work right now, sir?

13 A I work for Bausch and Lomb.

14 Q And back on July or January 30th of 2006, where did  
15 you work at, sir?

16 A I worked at Adidas.

17 Q And at Adidas, who else did you work with at Adidas?

18 A Charlene and Elliott.

19 Q And Charlene Ellis is the one person who testified  
20 just shortly before you here.

21 A Yes.

22 Q And through Ms. Ellis did you meet Ms. Foggie?

23 A Yes.

24 Q And how did you meet Ms. Foggie?

25 A I handed her my phone number to basically give to her

1 and she -- we started calling each other.

2 Q And did you know her before this?

3 A Yes.

4 Q And how did you know her before this?

5 A Her grandmother stayed on the same street that my  
6 grandmother stayed on. So we basically grew up around each  
7 other when they would come to town. I think she stayed in  
8 Gaffney as a little kid. But when they would come to town  
9 we would see them and just knew -- I knew her and her  
10 brother.

11 Q And did you meet her later after you, after you gave  
12 the phone number to Charlene?

13 A Yes, I did.

14 Q And where did y'all first meet?

15 A We met that Wednesday. I picked her up from her  
16 grandmother's house on South Center Street.

17 Q And where did you go from there?

18 A We basically rode around for -- it wasn't that long  
19 because she got a phone call from her mother stating that  
20 she needed to come back and get her kids. I think she told  
21 her that it was -- that basically their bedtime.

22 Q And so you took her back?

23 A Yes, sir.

24 Q When was the next time you saw Tiffany?

25 A We went out the following Friday, the Friday after

1 that Wednesday. We went out that Friday night.

2 Q Okay. And where did y'all go?

3 A Initially, we were going to go to an Applebee's here  
4 in Spartanburg. We decided not to do the Applebee's in  
5 Spartanburg, and we ended up going to Boiling Springs to  
6 the Applebee's there.

7 Due to the fact that she wasn't real comfortable  
8 there, I decided to leave the Boiling Springs Applebee's.  
9 And we went to the Olive Garden in Greenville.

10 Q And so y'all went out that Friday night too?

11 A Yes, sir.

12 Q And after y'all went out that Friday night, when is  
13 the next time you saw her?

14 A I seen her that following Sunday.

15 Q And where did you see her at the following Sunday?

16 A At her apartment.

17 Q Okay. And who went over with you to her apartment?

18 A Elliott rode with me over to her apartment.

19 THE COURT: Let me ask you just to speak out rather  
20 than to keep leaning into the microphone. It changes it  
21 and distorts it. So if you'll just speak out, that  
22 microphone will pick up your testimony.

23 THE WITNESS: Yes, sir.

24 Q Was that Elliott Canada?

25 A Yes, sir.



1 Q When -- what time did you get to Tiffany's apartment?

2 A It was maybe around 7:00 or 8:00 o'clock that night.

3 I'm not -- the timeframe, I wasn't just checking my watch  
4 or nothing, but it was -- night had fallen, and it was  
5 probably around 7:00 or 8:00 o'clock that night.

6 Q And was that January the 29th?

7 A Yes, sir.

8 Q Last year. And when you got there who was there?

9 A Her kids. And I want to say Charlene was there, or  
10 she may have came shortly after we got there.

11 I'm kind of -- I'm not sure if Charlene was there when  
12 we first got there or if she came afterwards. But it was  
13 basically myself, Tiffany, Elliott, Charlene, Charlene's  
14 baby girl and Tiffany's two boys.

15 Q And what did y'all do there at the apartment?

16 A Actually, when I first came in she asked me was I  
17 going to eat dinner. I told her, no, to put the plate in  
18 the microwave, I would take it for lunch the next day when  
19 I went to work. And we sat down and started playing cards,  
20 a game of cards.

21 Q And what kind of game was y'all playing?

22 A We played spades.

23 Q And who was playing in the game?

24 A Tiffany and I were on teams and Elliott and Charlene  
25 was on teams.

1 Q And how long did y'all play?

2 A We may have did two or three games of -- I'm not sure  
3 exactly what number we were going to. But we probably  
4 played two or three games that night.

5 Q Later on did somebody come to the apartment?

6 A Yes, sir.

7 Q And who came to the apartment first?

8 A It was her -- I later found out it was her stepfather.  
9 I initially thought it was her father when he entered the  
10 apartment. But her stepfather came to the apartment. And  
11 he basically was at the back door, came around to the front  
12 door. Tiffany went up the steps. Her cell phone rung.  
13 And she came back down the steps and said that's my  
14 stepdad.

15 Q And how was she acting?

16 A Kind of erate, irate. Excuse me. Nervous. She, like  
17 I say, when the knock came at the back door and the  
18 fidgeting with the doorknob, she bolted up the steps. She  
19 ran up her steps. We were all sitting in the living room  
20 at the time.

21 Q And so did her stepfather come in?

22 A Yes, sir.

23 Q And how long did he stay?

24 A Not too long. He basically told her that he was  
25 bringing the car over. I think her mom was going to come

1 and pick the van or something up that she may have been  
2 driving that day. And they were going to switch out cars  
3 with her. He stayed around and talked to us for not that  
4 long, and then he left.

5 Q Did somebody else come later?

6 A Yes.

7 Q And who was that?

8 A Her mother entered the apartment from the back door,  
9 which would be the kitchen.

10 We were all sitting in the living room at the time.  
11 And we heard a key come in the door. Tiffany kind of got.  
12 She got scared again. I was nervous. And she kind of got  
13 up and went and looked and noticed that there were clothes  
14 and washing powders in the floor. And she was like that's  
15 my mom dropping my clothes off.

16 Her mom basically opened the door, dropped her  
17 clothes, went back out. And then she came back in after  
18 that.

19 Q And how long did you stay after that?

20 A Probably another five to ten minutes maybe. I briefly  
21 talked to her mom, and then Elliott and I left.

22 Q And where did you and Elliott go after that?

23 A I took Elliott home. From there I went to my mother's  
24 house and called Tiffany. No answer to her phone.

25 I was getting ready to go home myself, and my mother's

1 phone rung. And it was her telling me that I could come on  
2 over, that Jay -- she basically, she asked me did I pass  
3 Jay in the parking lot. I was like no. She was like,  
4 well, shortly after y'all left he popped up. I was like,  
5 well, is everything okay. She basically, she told me that,  
6 yes, he came and got the rest of his stuff and I could come  
7 back to the house.

8 Q Okay. And did you drop Elliott off? I mean, did you  
9 go back to her house?

10 A Yes, sir.

11 Q When you went back to her house, what happened?

12 A I knocked at the front door. When I got there we went  
13 up the steps. We watched a little bit of T. V.

14 We started having intercourse. And she set her cell  
15 phone to wake me up to go to work in the morning. And we  
16 went to sleep after that.

17 Q Where was you going to go to work that morning?

18 A At Adidas.

19 Q And what time were you getting up?

20 A If I am not mistaken, my shift started either at  
21 6:00 or 7:00 o'clock that morning.

22 Q And what happened after y'all went to sleep?

23 A I guess it was around 3:00 or five or ten minutes  
24 after 3:00 o'clock her phone started ringing.

25 I actually woke up and thought it was the alarm going

1 off on the phone. When I realized that it was ringing I  
2 awoke her and handed her the phone. She looked at the  
3 number and said it was Jay, laid it on her nightstand and  
4 basically rolled back over to go back to sleep.

5 It stopped ringing. The phone started back ringing.  
6 It maybe ring like -- it would ring and stop and continue  
7 to ring maybe two or three times. In the time that the  
8 phone started ringing someone started knocking at the back  
9 door, beating on the back door, calling her name.

10 From the back door they went to the front door beating  
11 on the front door, pulling at the door. They came back to  
12 the back door and was beating and calling her name.

13 At that time she got up and went to the window and  
14 stated, "Jay, would you please leave, you're going to wake  
15 my boys, they have got to go to school in the morning."

16 Q And where did she tell him that from?

17 A Out from her bedroom windows, upstairs in her bedroom.

18 Q And what happened after that?

19 A The time she said that I could hear him basically  
20 coming into the house. I started telling her to call the  
21 police.

22 She ran over to the door. You could hear him running  
23 up the steps. I was basically getting ready to go out the  
24 window, and he started kicking at the door calling her  
25 name, Tiffany, let me in. And she started screaming, no,

1 Jay, please, don't do this, don't do this.

2 At this time I realized that I didn't want to leave  
3 her. So I pulled my leg back in the window and started to  
4 proceed to the door where she was at.

5 Right as I got on the door it came open. And there  
6 was a young man basically coming into the room with a  
7 handgun in his hand.

8 At that time I was in the, I was in the frame-way of  
9 the door. I basically pushed him into the room. When I  
10 pushed him, I heard a gunshot.

11 I ran down the steps. When I got in the kitchen I  
12 heard another gunshot, which was basically behind me. I  
13 could hear the bullet whiz past me.

14 I ran out of the back door and I kept running. I ran  
15 around a couple of buildings that was to the right of her  
16 building.

17 By that time I looked back and realized that no one  
18 was still chasing me with a handgun shooting at me  
19 basically. I kind of made it back to my car and left, got  
20 in my car and left.

21 Q Now, when you went to the kitchen was the door open or  
22 not?

23 A The door was open when I got -- when I turned to go  
24 through the kitchen to go out of the, go out the back door,  
25 I could see that the door was cracked open when I got ready

1 to run towards the door.

2 Q Did you open it? And then what happened after you  
3 opened it?

4 A It was like all that one time it seemed like. I was  
5 like in the kitchen. I heard another gunshot that was  
6 behind me. I opened the door, kept running. I could hear  
7 the bullet whiz past me. I just kept running.

8 Q And what did you do after you got in your car?

9 A I got in my car. I left the apartment complex. I  
10 left -- I went up East Main coming back towards town. I  
11 made a right, a left into Converse Heights, excuse me, and  
12 basically rode around all night because I knew that -- I  
13 was in another relationship. I had a six, a six-month, my  
14 girlfriend was pregnant at the time with my son. And I  
15 knew I couldn't go home because she was going to wonder  
16 where in the world had I been at that time of the night and  
17 why was I coming in. So I basically rode around until  
18 daybreak to get myself together to go to work that day.

19 Q Why did you run? Why did you leave the apartment  
20 complex?

21 A Why did I leave? Because I was being shot at.

22 Q Who do you think that that person was after?

23 A I feel that he was shooting at me honestly because he  
24 chased me down the steps and was still shooting.

25 Q Did -- why didn't you call 9-1-1?

1 A I hate to say this. It was selfish on my part. I  
2 wasn't hit. I didn't think Tiffany was hurt. And  
3 basically I was trying to save my relationship that was at  
4 home. I didn't really want to get into the legal parts of  
5 why was this guy shooting at you, why were you at this  
6 girl's house from my girlfriend's standpoint neither. So I  
7 was basically trying to save face at home.

8 Q Did you have a gun with you that night?

9 A No, sir, I did not.

10 Q Do you own a gun?

11 A Yes, sir, I do.

12 Q And where was the gun at?

13 A The gun was at my, at my girlfriend's house.

14 Q What kind of gun is it?

15 A I have a .38 revolver.

16 Q Why didn't you go back and get the gun before you went  
17 over to Tiffany's?

18 A Actually I was going to go back and get my gun because  
19 of the events that had happened that night, but I realized  
20 if I'd went and got my gun that I wouldn't have been able  
21 to get back out of the house to go and see Tiffany.

22 Q So while you were rolling, what did you do?

23 A Just rode around. And when day broke I called my mom,  
24 and she stated to me that a shooting had occurred in  
25 Bradford Grove, and I told her that I was there and to



1 basically call my brother. And that was about it.

2 Q And where did you go after that?

3 A I still rode around until my brother came to town and  
4 picked me up. And when he picked me up I spoke with my  
5 girlfriend. She told me that our relationship was over,  
6 for me to drop her keys off at her apartment. I had her  
7 W-2 forms in my car.

8 My brother and I went to my mother's house after he  
9 picked me up and dropped my car off and went to take my  
10 girlfriend's W-2 forms and her house keys. And I placed  
11 them in the mailbox at that time and got ready to leave her  
12 residence.

13 Q After you got ready to leave her residence did  
14 somebody come to see you?

15 A Actually, I was out of the yard getting back in my  
16 brother's vehicle. And Officer Jay Steadman walked around  
17 the house.

18 My brother said, hey, man, there's the police. I got  
19 back out and went over to talk to him. And they told me  
20 that I wasn't under arrest but I needed to come downtown  
21 with them and talk.

22 Q Did you go downtown with them?

23 A Yes, sir, I did.

24 Q When you got to the police station did they serve  
25 something on you?

1 A Yes, sir, they did.

2 Q What did they serve on you, sir?

3 A They served a murder warrant on me.

4 Q Afterwards, what happened?

5 A Once again, it seemed like I was at the county  
6 forever. But a couple of days later, maybe a day and a  
7 half later, the charges were dismissed on me.

8 Q Was you promised anything for those charges being  
9 dismissed?

10 A No, sir, I wasn't.

11 Q Was you offered anything?

12 A No, sir.

13 Q Did you give a statement to law enforcement?

14 A Yes, sir.

15 Q And in that statement did you tell the truth?

16 A Yes, sir, I did.

17 Q And did you give that statement freely and  
18 voluntarily?

19 A Yes, sir, I did.

20 MR. BARNETTE: One moment, Your Honor, please.

21 (Pause.)

22 Q Please answer any questions Mr. Warder may have for  
23 you, sir.

24 A Yes, sir.

25

1 CROSS-EXAMINATION

2 BY MR. WARDER

3 Q Mr. Watson, you were arrested on the 31st, is that  
4 right?

5 A Yes. I believe so.

6 Q And about some 36 hours after this occurred, is that  
7 right?

8 A I guess you may be right. I am not sure to the exact  
9 hour.

10 Q But what I am saying is it wasn't you rode around a  
11 little bit, thought about it and went and put something in  
12 your girlfriend's mailbox and got caught. It was a full  
13 day had elapsed, and then half of another day, hadn't it?

14 A No, sir. I was actually apprehended on that Tuesday.  
15 So basically a day had elapsed.

16 Q Well, it happened, this happened, about 3:00 a.m.  
17 on --

18 A Monday morning, yes, sir.

19 Q Okay. And you were caught about 3:00 p.m. on a  
20 Tuesday.

21 A I'm not sure of the time, but it was sometime that  
22 evening, yes, sir.

23 Q Okay. Twenty-four hours would have been about 3:00  
24 a.m. Tuesday.

25 A Yes, sir.

- 1 Q And another 12 hours would have been 3:00 p.m.  
2 Tuesday.
- 3 A Yes, sir. But, once again, I'm saying I'm not sure of  
4 the time that they apprehended me on that Tuesday.
- 5 Q Thinking about it again, you'd agree with me that it  
6 was pretty close to 36 hours?
- 7 A Yeah.
- 8 Q Now, did you leave the state?
- 9 A No, sir, I didn't.
- 10 Q Where did you spend Tuesday night?
- 11 A Tuesday night?
- 12 Q I mean Monday night.
- 13 A Riding around basically.
- 14 Q Well, you left. You left Monday morning.
- 15 A Yes, sir.
- 16 Q Riding around. And it got daylight.
- 17 A Yes, sir.
- 18 Q You continued to ride around all day?
- 19 A I rode, yes, yes, sir, I did.
- 20 Q And then you rode around all Monday night?
- 21 A Yes, until my brother came into town.
- 22 Q What time did he come to town?
- 23 A I'm not sure. He picked me up from Duncan Park Lake.
- 24 Q Well, was it after midnight?
- 25 A It was that Tuesday morning. I'm not sure of the time

1 that Tuesday.

2 Q So you would have rode around in your car, just drove  
3 around aimlessly, for over 24 hours.

4 A Yes, sir.

5 Q How many times did you fill up with gas driving  
6 around?

7 A I'm not sure. Probably once. I'm not sure.

8 Q Ride around alone?

9 A Yes. I was.

10 Q Didn't show up for work Monday.

11 A No, sir. I didn't.

12 Q Didn't stop. Did you take Elliott to work or did  
13 Elliott take you to work?

14 A Elliott rode with me.

15 Q Okay. Didn't pick Elliott up that morning.

16 A No, sir. I didn't.

17 Q If I understand it right, you used to be a Spartanburg  
18 policeman, is that right?

19 A Yes, sir.

20 Q You spent a little over two years as a Spartanburg  
21 policeman.

22 A Yes, sir.

23 Q Hired December 15th, is that right, in --

24 A I want to say it was December the 20th if I am not  
25 mistaken.

1 Q Of 1996?

2 A Yes, sir.

3 Q And you worked up until sometime in January of '99.

4 A Yes, sir, I did.

5 Q Went to the police academy.

6 A Yes, sir.

7 Q Studied at the police academy, evidence and things  
8 like that.

9 A We didn't get into the real details in basic law  
10 enforcement school for a bunch of evidence. We basically  
11 learned the legal part of the law and how to apprehend  
12 subjects and take reports and stuff.

13 Q Well, did you learn about things like gunshot residue  
14 tests?

15 A No, sir, we didn't learn about gunshot residue tests.  
16 At the city of Spartanburg you have to be in an  
17 investigation position to go back to the schooling for  
18 gunshot residue kits and stuff like that.

19 Q Well, did you learn about gunshot residue in accident  
20 investigation, how it could be gotten off and disappeared?

21 A No, sir, I didn't.

22 Q Did you do anything to clean yourself up in those 36  
23 hours?

24 A No, sir, I didn't.

25 Q And you never stayed in anyone's house or you never

1 went any place and changed clothes.

2 A No, sir.

3 Q Did -- you told us you were going out the window and  
4 you decided that you would come back in the window to help  
5 the victim, is that right?

6 A Yes, sir.

7 Q And it didn't have nothing to do with the fact that  
8 there was nothing under that window and it was on the  
9 second floor.

10 A At the time I wasn't -- I was really thinking about my  
11 safety.

12 Q Okay.

13 A I wasn't, I wasn't thinking about how high I was up or  
14 nothing at the time.

15 Q After you made this noble gesture to come back in and  
16 out to assist the victim, you then ran out the door and  
17 never called the police or any law enforcement to help the  
18 victim and the two children.

19 A Correct, sir. I didn't think the victim -- at the  
20 time I didn't know the victim had been injured.

21 Q Well, you surely knew that before the 36 hours are up,  
22 didn't you?

23 A Yes, sir.

24 Q No place when you were thinking and sorting out what  
25 you were going to do did you ever decide to call the police

1 and tell them this.

2 A Yes, sir, I did. But I know at the time that no one  
3 had been charged. So I basically needed representation to  
4 go and talk to the police.

5 Q Well, is that what you did?

6 A Excuse me?

7 Q You didn't spend 36 hours doing that, did you?

8 A No, sir, I didn't.

9 Q Okay. When you were in police training, what caliber  
10 gun did you learn to use?

11 A If I am not mistaken we were taught with Smith and  
12 Wesson 5906, a 9-millimeter semiautomatic handgun.

13 Q You didn't go to school to learn to shoot .38's.

14 A No, sir.

15 Q Okay. You have a .38, of course.

16 A Yes, sir.

17 Q Did you tell Elliott Canada that you were going to get  
18 your .38?

19 A Yes, sir, I did.

20 Q So you and Elliott leave that night. And you say I  
21 believe I'll go get my old trusty .38.

22 A I didn't actually say it like that. I told him that I  
23 would go get my gun.

24 Q Okay. And is your gun a silver gun?

25 A Yes, sir, it is.



1 Q And when I say silver, I mean is it one of those  
2 nickle-plated ones or chrome-plated, one of the two?

3 A It's silver in color. I'm not sure if it's  
4 nickle-plated or chrome-plated. It's silver in color, sir.

5 Q Okay. And is it one of them that shoots both .357's  
6 and .38's, or does it just shoot .38's?

7 A To my knowledge it only shoots .38 bullets.

8 Q Okay. Now, is it a snub nose, one you can carry?

9 A What do you mean by snub nose? Is it --

10 Q Two-inch barrel.

11 A I'm not sure how long the barrel is, but it's not a  
12 real big handgun.

13 Q Kind of a small, compact one that fits in a pocket?

14 A I don't think it would fit in my pocket, but it's a  
15 small hand -- it's not a huge handgun. It's a small  
16 handgun.

17 Q Okay. Do you keep some hollow-point bullets, jacketed  
18 bullets for it?

19 A Excuse me?

20 Q Do you keep some hollow-point jacketed bullets for it?

21 A I keep rounds in it. I'm not sure if they're hollow  
22 points or not in my gun right now.

23 Q Now, you say that when you were there you started out  
24 the window and come back in the room, is that correct?

25 A Yes, sir.

- 1 Q Said you then went to the door.
- 2 A Yes, sir.
- 3 Q And as you, the door, got almost there, the door came
- 4 open.
- 5 A Yes, sir. It did.
- 6 Q You saw a guy with a gun.
- 7 A Yes, sir.
- 8 Q You drug him into the room and gave him a shove.
- 9 A No, sir. I didn't drag him in the room. I,
- 10 basically -- when he came up with the handgun, I basically
- 11 pushed him into the room. I didn't grab him and drag him
- 12 into the room. No, sir. I pushed past him, is what I did.
- 13 Q Okay. In your voluntary statement you gave some, I
- 14 guess it would have been about three days after your, this
- 15 happened, you said you grabbed him and pushed him into the
- 16 room, is that correct?
- 17 A I don't know if I said I grabbed. Or I know I pushed
- 18 him into the room. I didn't --
- 19 Q This statement was made on February 2nd, is that
- 20 right?
- 21 A If I am not mistaken, yes, sir. If that's the date on
- 22 it, yes, sir.
- 23 Q Okay. And you were arrested on the 31st. And so it
- 24 was made some two days after your arrest.
- 25 A Yes, sir.

1 Q It certainly would have been a lot fresher in your  
2 mind some four days or --

3 A No, sir. It was, that incident was, very fresh in my  
4 mind.

5 Q Okay. When you gave the statement?

6 A Excuse me?

7 Q Very fresh in your mind when you gave the statement.

8 A Yes, sir.

9 Q And did you sign that statement to -- at the bottom?

10 A Yes, sir. That's my handwriting.

11 Q Okay. And you signed it because you were authorizing  
12 and saying that it was true.

13 A Yes, sir.

14 Q Okay. And did you say, "I grabbed him and pushed him  
15 into the bedroom"?

16 A Yes, sir. That's what it says I said.

17 Q Okay. And so when you were just a couple of days away  
18 you weren't pushing past him. You were grabbing him and  
19 pushing him into the bedroom.

20 A The statement says I grabbed him, but it was basically  
21 a push. I didn't grab an arm. I pushed him. I pushed  
22 past him in the bedroom.

23 Q No question he was in the bedroom when the shot went  
24 off.

25 A Yes, sir.

1 Q That gunshot was a shot in the bedroom out to the  
2 outside?

3 A He was actually behind me when I pushed past him and  
4 heard the gunshot. So I'm not sure which way he was  
5 shooting. I felt like he was shooting at me.

6 Q Okay. It says in your statement that, "I heard a  
7 shot, ran and jumped down the steps." Is that right?

8 A Yes, sir.

9 Q So there's no question before you ran and jumped down  
10 the steps you'd already heard the shot.

11 A It was, it was, it was happening so quick it was all  
12 like, like the same. It was happening right back to back  
13 to back to back. It wasn't like it was a timeframe of  
14 minute going on. It was, it was very quick. So all that  
15 was like in reactions.

16 Q Okay. Did you feel a bullet go by you or anything as  
17 you went down the steps?

18 A As I went down the steps, no. But when I got into the  
19 kitchen I heard a bullet whiz by me in the kitchen area.

20 Q Okay. Now, which way did you leave the apartment  
21 complex? Did you go out the drive that's over there by the  
22 mini warehouses?

23 A No, sir.

24 Q You went out the next drive.

25 A Yes, sir.

1 Q And did you see a police car setting there as you went  
2 out and turned right onto Main Street?

3 A No, sir, I didn't.

4 Q You were driving a gray Lincoln Town Car, weren't you?

5 A Yes, sir.

6 Q You didn't see a police car with Jerome Buckson  
7 standing behind it?

8 A No, sir, I didn't.

9 Q That's right. That couldn't have happened because he  
10 was still in the apartment, wasn't he?

11 A I'm not sure where Mr. Buckson was at at the time.

12 Q Well, you went out and got in your car and left,  
13 didn't you?

14 A Yes, sir, I did.

15 Q Right away.

16 A No, sir.

17 Q Well, you ran around.

18 A I ran around some buildings, yes, sir.

19 Q How long did it take you to run around the building?

20 A I wasn't timing it. It was, it seemed quick to me.

21 But I wasn't -- at the time I didn't -- it wasn't on my  
22 mind to check my watch to see how long it took me to get  
23 around the building and back to my car.

24 Q Yes. If you will wait just a minute I will find an  
25 exhibit that will show us a map of this.

1 A Yes, sir.

2 (Pause.)

3 Q Sir, if it isn't too much trouble, I would ask you to  
4 come where you can see that map.

5 (Whereupon, the witness left the stand.)

6 A I wear glasses.

7 Q Can you see that map?

8 A From here, yes, sir.

9 Q Okay. Can you recognize the area there?

10 A From the aerial view, no, sir.

11 Q Okay. If I was to tell you that this would be Lowe's  
12 there, would that orient it so it made any sense to you  
13 about the buildings?

14 A Yes.

15 THE COURT: You are going to need to speak up,  
16 Mr. Watson.

17 THE WITNESS: Oh, I'm sorry.

18 A Yes, sir.

19 Q And you see the apartment buildings going up this side  
20 of it? I'm sorry. I have a pointer here. I didn't  
21 realize it. Do you see these buildings going up there?

22 A Yes, sir.

23 Q And can you recognize that as building five?

24 A No, sir, I cannot.

25 Q Okay. Can you tell which building you were in?

1 A No, sir. If I have seen it, not from this view, I  
2 cannot tell from this view what I am seeing.

3 Q When you say that -- can you show us which building  
4 you would have ran around?

5 A Like I said, again, I do not know exactly which  
6 building I was in but I can basically show --

7 THE COURT: You are going to need to speak up, please.

8 A Okay. I can show you from coming out the back of her  
9 building which way I went at the time.

10 Q Can you take the pointer and tell us?

11 A Yes, sir. This is the building here. When I came out  
12 of the back I ran this way, came across the parking lot.  
13 There was another building here. I ran behind it and came  
14 back around and got into my car.

15 Q Okay. So you would have went around another  
16 apartment, that part of the building and another building,  
17 back to where you were parked.

18 A Yes, sir.

19 Q Okay.

20 A Can I have a seat?

21 Q Yes, sir.

22 (Whereupon, the witness returned to the stand.)

23 Q And after you would have run around that building you  
24 would have went straight to your car?

25 A Yes, sir.

1 Q Okay. And you would have drove straight out the  
2 driveway. It might help just so that there is no  
3 confusion, can you show us the driveway you came out of?

4 A Once again, from the aerial view I can't really tell  
5 how the buildings are set up, but I know there is a  
6 driveway beside a storage building, and I think the Vic  
7 Bailey Volkswagen place, and then there's another  
8 intersection that comes over towards the left if you're  
9 facing it. I came out of that driveway.

10 Q Can you recognize this as the storage?

11 A Is that the storage building? Okay. Then I came out  
12 of this entrance over here, yes, sir.

13 Q Okay. Thank you.

14 (Whereupon, the witness returned to the stand.)

15 Q Now, and I believe that you told us that what you  
16 heard Tiffany say was that, not to do it, that you would  
17 wake up the children.

18 A She told him to go home, to leave, that he was going  
19 to wake her kids up.

20 Q And you're positive there were no more than two shots.

21 A That I heard, yes, sir.

22 Q Okay. If there were any more it had to be after you  
23 left?

24 A Yes, sir.

25 Q And you don't have any -- you cannot accurately



1 estimate the time it took for you to get from the back door  
2 until you left the apartment complex.

3 A No, sir. It was, I think it was, a very quick time.

4 Q Thank you.

5 A Yes, sir.

6 MR. BARNETTE: Just one or two on redirect, Your  
7 Honor.

8 REDIRECT EXAMINATION

9 BY MR. BARNETTE

10 Q When the door was shot where was Tiffany, again?

11 A When the door was shot in her bedroom?

12 Q Bedroom door.

13 A She was at the door.

14 Q And what happened? How did the door open?

15 A Mr. Buckson was kicking and pushing at the door and  
16 basically knocked her off of the door.

17 Q And where was you at when she was knocked back?

18 A I was standing very close to the door, and she ended  
19 up coming back and was basically right beside me or a  
20 little bit behind me maybe. But we were very close. I  
21 could have reached out and touched her. We were close.

22 Q And what did -- what did the gentleman that came in  
23 the room, what happened to him?

24 A When the door opened he comes up with the handgun, and  
25 I basically push past him. When I did that -- where he was

1 pushed into the room, I'm not sure. But all at the same  
2 time I heard bang, and I kept moving.

3 Q But who knocked the door open?

4 A Mr. Buckson.

5 Q And was it dark?

6 A Yes, sir, it was.

7 Q Did you have a gun that night?

8 A No, sir, I didn't.

9 Q Who had the gun?

10 A From my understanding it was Jay. That's what I know  
11 him by -- Jay.

12 Q Thank you, sir.

13 A Yes, sir.

14 RECROSS-EXAMINATION

15 BY MR. WARDER

16 Q Did anyone call 9-1-1 that night?

17 A I didn't. So I can't answer that question.

18 Q Did Tiffany call?

19 A I was telling her to call, and I thought she called,  
20 but I don't know if she called or not.

21 Q And that would have been before this, the door come  
22 open.

23 A Yes, sir.

24 Q Why didn't you just make an anonymous 9-1-1 call  
25 sometime after that happened?

1 A I didn't, I didn't -- at the time it happened I didn't  
2 know anyone was hurt because I felt that Jay was running in  
3 behind me to shoot me. And I knew I had, I, I, I wasn't  
4 hit. So I didn't make a phone call.

5 Q Thank you.

6 A Yes, sir.

7 MR. BARNETTE: No further questions, Your Honor.

8 THE COURT: You may step down.

9 THE WITNESS: Yes, sir.

10 MR. BARNETTE: We would ask the witness be excused.

11 THE COURT: Any objection? Any objection to the  
12 witness being excused?

13 MR. WARDER: Yes, sir.

14 THE COURT: All right. Mr. Watson, you remain under  
15 subpoena. You may have to be recalled.

16 THE WITNESS: Yes, sir.

17 MR. BARNETTE: Your Honor, I would like to call  
18 Captain Jones to the stand, please.

19 (Jail records marked State's Exhibit No. 94 for  
20 Identification.)

21 MIKE JONES, having been first  
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. BARNETTE

24 Q If you would, sir, please state your full name for the  
25 record.

Mike Jones  
Direct examination by Mr. Barnette

- 1 A Captain Mike Jones.
- 2 Q And where do you work at, sir?
- 3 A Spartanburg jail.
- 4 Q And what's your position there, sir?
- 5 A I am a captain there, work support services at the
- 6 jail, detention files and stuff like that.
- 7 Q Are you in charge of records at the jail too?
- 8 A Yes, sir.
- 9 Q And how long have you worked at the jail, sir?
- 10 A Since 1984.
- 11 Q Let me show you what's been marked as State's
- 12 Exhibit 94.
- 13 Do y'all maintain the records on people that's brought
- 14 to the jail?
- 15 A Yes, sir.
- 16 Q And was Jerome Buckson brought to the jail?
- 17 A Yes, sir.
- 18 Q What address did he list?
- 19 A [REDACTED] Wellford, South Carolina.
- 20 Q He did not list [REDACTED] or anything in
- 21 Spartanburg?
- 22 A No, sir.
- 23 Q And is that what his records show?
- 24 A Yes, sir.
- 25 Q Thank you, sir. Please answer any questions Mr.

1 Warder may have for you.

2 CROSS-EXAMINATION

3 BY MR. WARDER

4 Q That only has a place for one address on it?

5 A Yes, sir.

6 Q If somebody has a legal address where they get their  
7 mail and live some place else, you don't take two  
8 addresses?

9 A No, sir.

10 Q Pardon?

11 A No, sir.

12 Q Okay. What you want is where they accept their mail,  
13 where they can get in touch with them.

14 A Yes.

15 Q And that's the address you're looking for.

16 A Yes.

17 Q Thank you.

18 MR. BARNETTE: No further questions of this witness,  
19 Your Honor.

20 THE COURT: Step down.

21 MR. BARNETTE: Your Honor, may we approach for one  
22 second? May the witness be excused?

23 THE COURT: Yes.

24 (Whereupon, the witness was excused.)

25 (Bench conference held off the record in the presence

1 of the jury but out of the hearing of the jury.)

2 MR. BARNETTE: Your Honor, there's going to be two  
3 items that's going to be -- they've been stipulated by both  
4 parties. I'm going to go ahead and mark those as State's  
5 Exhibits, I believe 95, will be Jerome Buckson's phone  
6 records; and then 96 will be -- they're under Taffie  
7 Williams' name but they're actually Tiffany Foggie's phone  
8 records. That will be 96.

9 MR. WARDER: Your Honor, this is correct. And we  
10 stipulate to their admission without the proof of any  
11 custodian of records.

12 THE COURT: All right, sir.

13 (Defendant's phone records marked State's Exhibit No.  
14 95; victim's phone records marked State's Exhibit No. 96.)

15 MR. BARNETTE: Your Honor, I would like to call  
16 Investigator Rick Gregory to the stand.

17 RICK GREGORY, having been  
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE

20 Q Sir, if you would, state your full name for the  
21 record.

22 A Rick Gregory.

23 Q And where do you work at, sir?

24 A At the Spartanburg County Solicitor's Office.

25 Q And how long have you worked there, sir?

1 A Just over two years now.

2 Q And before that where did you work, sir?

3 A At the Spartanburg County Sheriff's Office.

4 Q And how long did you work there, sir?

5 A Approximately 21 years.

6 Q And what positions did you hold there?

7 A I think from a uniform patrol deputy to a homicide  
8 investigator, sergeant of violent crimes, captain of  
9 investigation, captain of uniform patrol.

10 Q And through the investigation and so forth did you  
11 receive State's Exhibits 95 and 96?

12 A Yes, sir.

13 Q And can you tell me what State's Exhibit No. 95 --  
14 would you please tell the jury what that is?

15 A State's Exhibit 95 is a phone record that was  
16 received. It's a phone record from, the customer is Jerome  
17 Buckson, [REDACTED] Wellford, South Carolina.  
18 Phone number [REDACTED].

19 Q Okay. And looking at those records, well, looking at  
20 Tiffany's phone records, what is her phone number? That's  
21 State's Exhibit No. 96.

22 A Yes, sir. State's Exhibit 96, the customer's name is  
23 Taffie Williams, [REDACTED] Gaffney, and the  
24 number is [REDACTED]

25 Q Looking at his records, how many times starting on

1 January 29th did Mr. Buckson call [REDACTED]?

2 A If my calculations are correct, it appeared to be  
3 approximately 31 times.

4 Q And when did the first phone call start on January the  
5 29th?

6 A It looks like it would have been at 2:03 in the  
7 morning on January the 29th.

8 Q Was there one even before that?

9 A I'm sorry. Keep looking. Yes, sir, there was. I'm  
10 sorry. It's actually at 0143 on the 29th.

11 Q And was there phone calls throughout the day that was  
12 made?

13 A Yes, sir, there was.

14 Q And what was the length of most of these phone calls?

15 A Just looking at them, two seconds, 17 seconds, three  
16 seconds, 12 seconds, five seconds. There were a couple  
17 that went past -- that were in the minutes. A majority of  
18 them were just only seconds.

19 Q Let me take you to January the 30th, that morning.

20 How many phone calls was made that morning before 3:00 a.m?

21 A Looks like seven, sir.

22 Q Okay. If you would, bring that up.

23 MR. BARNETTE: May we publish this to the jury, Your  
24 Honor?

25 THE COURT: Yes, sir.



1 Q According to this one right here, let's see. Right  
2 here.

3 A Yes, sir.

4 Q What time is that, was that phone call? Can you see  
5 that?

6 A I think it is 2:52 if I am looking at this angle  
7 correctly.

8 Q And you can come down here if you want to.

9 (Whereupon, the witness left the stand.)

10 A 2:54, I believe.

11 Q And was these phone calls made straight in a row?

12 A Yes, 2:54, the duration is in the far right-hand side.

13 Q And is this the phone number it originated from?

14 A That's correct, sir.

15 Q And whose phone number is that?

16 A That would be originating from Mr. Buckson's phone.

17 Q And whose phone number is this?

18 A The phone number belongs to Taffie Williams.

19 Q Was that the phone that Tiffany Foggie had in her  
20 possession?

21 A Yes, sir, it was.

22 Q So how many calls was made from 2:54 a.m. up to 2:56  
23 or 2:55, or 2:56 a.m, or 2:58? Excuse me.

24 A Seven, I believe.

25 Q Okay. And there was a call made to 9-1-1 at what

1 time?

2 A At 3:02.

3 Q And also the number [REDACTED] is that the number of  
4 the other phone or land line at Taffie Williams' house?

5 A Yes. That belongs to Tiffany's mother.

6 Q And that phone call was made at?

7 A 3:13.

8 Q And, like I say, reviewing these records, he made how  
9 many phone calls within a 24-hour period almost?

10 A Looks like 31.

11 (Whereupon, the witness returned to the stand.)

12 Q At 3:13 a.m. he called the victim's mother.

13 A That's correct.

14 Q And he also called her at least seven times within a  
15 four-minute period before 6:30. I'm sorry.

16 A Just a moment. Yes. From 2:54 a.m. until 2:58 a.m.  
17 he called seven times.

18 Q Thank you, sir. Please answer any questions Mr.  
19 Warder may have for you.

20 CROSS-EXAMINATION

21 BY MR. WARDER

22 Q Sir, on, by using the phone records of Tiffany Foggie  
23 you can see how many calls she received, can't you?

24 A Yes, sir. That's correct.

25 Q Okay. Of those 31 calls she didn't receive near all

1 of them, did she?

2 A I'm sorry? State your question again. I'm not sure.

3 Q You told us that the phone records of my client,  
4 Jerome Buckson, show the number was dialed 31 times, is  
5 that correct?

6 A Yes, sir.

7 Q From the phone records of Tiffany Foggie, how many of  
8 that 31 did she receive?

9 A I would assume she received 31.

10 Q Okay. Would you look at them and see?

11 A Sure. And I'm just basing that upon the duration of  
12 the call.

13 Q I understand it. But if a phone is turned off one  
14 call will show it dialed a number. The call will not be  
15 received. So I want to know of those 31 when you look at  
16 her records, how many of those 31 were received in her  
17 telephone?

18 A And, again, you may be able to show me something I'm  
19 not seeing. I, again, unless you show me something  
20 different, I would say she received 31 of them. She may  
21 not have talked but a second, but I would say 31, sir.

22 Q What happens? What happens when a phone is dialed and  
23 a phone is turned off?

24 A Again, I would say it goes to voice mail. I don't  
25 know. That's what mine does.

1 Q You don't know.

2 A Mine goes to voice mail.

3 MR. BARNETTE: Your Honor, I am going to object. I  
4 don't think he has got the expertise. He's just reading  
5 the records for the jury at this time.

6 MR. WARDER: He is interpreting the records, Your  
7 Honor.

8 THE COURT: Yeah. Overruled.

9 Q When somebody dials a phone and it's turned off do you  
10 have any idea what happens to that call?

11 A No, sir, I don't.

12 Q Okay. And on the other side, how many times did  
13 Tiffany Foggie call Jerome in those times?

14 A The records we have for her during that same time  
15 period looks like ten if I counted correctly, sir.

16 Q Pardon?

17 A It looks like ten if I counted those correctly.

18 Q Ten or 11?

19 A It could be 11. I can try to count again.

20 Q Okay. And how about the duration of the calls where  
21 she called him? Any different?

22 A Yes, sir. They would last more than just seconds,  
23 yes, sir.

24 Q So he was calling a lot of times the voice mail and  
25 she was calling reaching him?

1 A I don't know that, sir.

2 MR. BARNETTE: Both of those phone records are in  
3 evidence, Your Honor.

4 THE COURT: Yes, sir. 95 and 96.

5 Q Thank you.

6 A Yes, sir.

7 MR. BARNETTE: No further questions of this witness,  
8 Your Honor.

9 THE COURT: You may step down.

10 MR. BARNETTE: May we approach, Your Honor?

11 (Bench conference held off the record in the presence  
12 of the jury but out of the hearing of the jury.)

13 THE COURT: All right. Ladies and gentlemen, we are  
14 going to recess for the afternoon.

15 Keep in mind the caution I previously gave you. Don't  
16 discuss the case when you go home tonight with anybody.  
17 Don't discuss it with your fellow jurors. And, as I say,  
18 not with any person at all.

19 Do not permit yourselves to be exposed to any type of  
20 media coverage, no television item, radio item, no  
21 newspaper articles. Do not allow yourselves to be exposed  
22 to that. And don't conduct any research or do your own  
23 investigation into any issue that relates to this case.

24 With that, do have a good evening. And please report  
25 back to your jury room at 9:30 in the morning, 9:30 in the

1 morning. Have a good evening.

2 (The following takes place outside the presence of the  
3 jury.)

4 THE COURT: Court is in recess until 9:30 in the  
5 morning.

6 END OF PROCEEDINGS JANUARY 30, 2007

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1 (Proceedings January 31, 2007)

2 (The following takes place outside the presence of the  
3 jury.)

4 THE COURT: Are there any matters we need to address  
5 before the jury is brought in?

6 MR. BARNETTE: None from the state, Your Honor.

7 MR. WARDER: No, Your Honor.

8 THE COURT: Okay. Bring them in.

9 Who is the next witness going to be?

10 MR. BARNETTE: Susan Bagwell, Your Honor. She is in  
11 the courtroom.

12 (The following takes place in the presence of the  
13 jury.)

14 THE COURT: Good morning, ladies and gentlemen.

15 As you know, when we recessed yesterday the state was  
16 still in the midst of their presentation. So we will  
17 continue with that presentation of evidence this morning.

18 Mr. Barnette.

19 MR. BARNETTE: Thank you, Your Honor. May it please  
20 the Court. I would like to call Susan Bagwell to the  
21 stand.

22 SUSAN BAGWELL, having been  
23 first duly sworn, testified as follows:

24 DIRECT EXAMINATION BY MR. BARNETTE

25 Q Ms. Bagwell, if you would, try to raise your voice up

Susan Bagwell  
Direct examination by Mr. Barnette

1 so the people can hear you in the jury. If you would, give  
2 me your full name for the record.

3 A Susan Denise Bagwell.

4 Q And where do you work at, ma'am?

5 A Spartanburg County Auditor's Office.

6 Q And what's your position there, ma'am?

7 A Administrative assistant.

8 Q And what kind of work do you do there, ma'am?

9 A We register vehicles, handle real estate on property  
10 taxes.

11 Q And are you one of those folks in charge of the  
12 records there, ma'am?

13 A Yes, I am.

14 Q Did you get a request from the solicitor's office to  
15 look on the car information concerning Jerome Buckson?

16 A I did.

17 Q And let me show you State's Exhibit No. 91. Is that  
18 part of the records from about Mr. Buckson's vehicle?

19 A Yes, it is.

20 MR. BARNETTE: Your Honor, the state would like to  
21 enter this record.

22 MR. WARDER: Your Honor, I object to it for relevance.

23 THE COURT: All right. Let me see it.

24 (Bench conference held off the record in the presence  
25 of the jury but out of the hearing of the jury.)



1 Q Do you have another record too that shows?

2 A Do you want that? Right here is the copy of the bill  
3 of sale.

4 (Bench conference held off the record in the presence  
5 of the jury but out of the hearing of the jury.)

6 MR. BARNETTE: Your Honor, I would like to move to  
7 substitute this record, State's Exhibit 91, substitute for  
8 the other record, Your Honor.

9 Q I show you State's --

10 THE COURT: Just a minute. 91 is admitted without  
11 objection?

12 MR. WARDER: Yes, Your Honor.

13 THE COURT: Okay.

14 MR. BARNETTE: Thank you, Your Honor.

15 (Copy of tax records marked State's Exhibit No. 91.)

16 Q Let me show you State's Exhibit No. 91, ma'am. Is  
17 that the tax information concerning the vehicle that was  
18 owned by Jerome Buckson?

19 A It is.

20 Q And what address does it show on that, ma'am?

21 A [REDACTED] Wellford.

22 Q Okay. And what was -- when did he buy that vehicle?

23 A October 28th of 2005.

24 Q And that was the address that he listed.

25 A That was provided from the dealership. And that's the

1 information that we get from the highway department in  
2 order to make the record, his tax bill.

3 Q And can he put any other address on that record?

4 A You can request like a P. O. box, a special mailing  
5 address, if you wanted to go somewhere else, but the  
6 record -- the vehicle has to be registered at your primary  
7 residence.

8 Q Thank you, ma'am. Please answer any questions Mr.  
9 Warder has for you.

10 CROSS-EXAMINATION

11 BY MR. WARDER

12 Q What's the difference between a primary and a  
13 secondary residence?

14 A Some people may have a post office box where they get  
15 their mail at and they request that it go to the post  
16 office. But the law states that their vehicle has to be  
17 registered at your primary residence as to where you're  
18 living.

19 Q And what if you stay and reside somewhere else part of  
20 the year?

21 A If you're claiming South Carolina as your primary  
22 residence, that's where your vehicle has to be registered.  
23 But if you're living somewhere else you can ask that we  
24 mail it to another address.

25 Q What if you live in two different places in the same

1 area?

2 A You have to claim one as your primary residence.

3 Q Can you claim either one?

4 A No. Wherever you're claiming, whatever your driver's  
5 license has, is your primary residence that you're  
6 registering with the highway department.

7 Q But you still could reside someplace else.

8 A Well, you can.

9 Q Thank you.

10 MR. BARNETTE: No further questions, Your Honor. We  
11 would like for this witness to be excused.

12 THE COURT: You may step down. You may also be  
13 excused.

14 (Whereupon, the witness was excused.)

15 MS. GANSS: The state calls Tasha Allen, Your Honor.

16 TASHA ALLEN, having been first  
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. GANSS

19 Q Ms. Allen, good morning. Please introduce yourself to  
20 the jury.

21 A My name is Tasha Michelle Allen.

22 Q And can you tell us where you live?

23 A Bradford Grove Apartments.

24 Q Is that here in Spartanburg County?

25 A Yes, ma'am.

1 Q And what do you do for a living? Where do you work?

2 A I work at Bradford Grove Apartments, and I'm assistant  
3 manager.

4 Q And in your capacity as assistant manager at Bradford  
5 Grove Apartments, what are your duties?

6 A I do move-ins, move-outs, inspections of apartments,  
7 housing inspections, pre-lease the apartments, maintenance  
8 requests.

9 Q And when you say move-ins, does that include leasing?

10 A Yes, ma'am. I do do the leases.

11 Q How long have you been with Bradford Grove Apartments  
12 in this capacity?

13 A Three years February the 1st.

14 Q All right. I would like to show you if I may what's  
15 been marked State's Exhibit 90. Do you recognize this?

16 A Uh-huh.

17 Q What is it?

18 A This is a move-in-move-out inspection report.

19 Q Okay. At this time the state would -- just wanted to  
20 ask you, we only looked at the first page. But if you flip  
21 through them, can you tell us what these are?

22 A Yes. These are leases.

23 Q Okay.

24 A That's her application.

25 Q This is what, now?

1 A And that was the application right there.

2 Q This is the application?

3 A Uh-huh, the original.

4 Q Okay. And what about this?

5 A That's a work order.

6 MR. BARNETTE: At this time we would like, the state  
7 would like, to introduce State's Exhibit No. 90 into  
8 evidence.

9 MR. WARDER: Without objection, Your Honor.

10 THE COURT: It is admitted.

11 MR. BARNETTE: Thank you, Your Honor.

12 (Lease marked State's Exhibit No. 90.)

13 Q Can you tell us looking at State's Exhibit 90, did a  
14 Tiffany Foggie lease an apartment at Bradford Grove?

15 A Yes, ma'am.

16 Q Can you tell us when?

17 A Yes, ma'am. She originally leased [REDACTED] on  
18 March 20th of 2003.

19 Q And on that lease, what names are on that lease?

20 A Her two children, Desmond [REDACTED] and Chad [REDACTED], and  
21 herself only.

22 Q So that was [REDACTED] How long was Ms. Foggie in [REDACTED]

23 A She started residing there March 20th of 2003. Then  
24 she transferred to another unit within Bradford Grove,  
25 which was [REDACTED] And she transferred on that unit,

1 moved out on December 19th of 2003, and also moved into  
2 that unit on the same day, December 19th of 2003.

3 Q And did she have to sign a new lease when she moved?

4 A Yes, ma'am.

5 Q And on that new lease for [REDACTED] what names  
6 are on that lease?

7 A Tiffany Foggie and Desmond [REDACTED] and Chad [REDACTED]

8 Q And are Desmond [REDACTED] and Chad [REDACTED] are those her  
9 children?

10 A Yes, ma'am.

11 Q You said you live at Bradford Grove Apartments too,  
12 correct?

13 A That's correct.

14 Q Did you ever know a man to be living in [REDACTED]  
15 with Tiffany Foggie?

16 A No, ma'am. And if I would have known I would have had  
17 to report it to her caseworker and her housing would have  
18 been terminated immediately.

19 Q Thank you. One moment. Thank you. Just answer any  
20 questions that Mr. Warder may have. All right.

21 CROSS-EXAMINATION

22 BY MR. WARDER

23 Q Can you tell us who paid the rent there?

24 A Tiffany Foggie, I would believe.

25 Q Did she pay it to you?

1 A I'm sure she has personally over the time, I am sure,  
2 but not every time.

3 Q Is there a rule that the money, that it has to be paid  
4 in some form like a money order?

5 A Yes, sir, money order or personal check.

6 Q Or personal check.

7 A Yes, sir.

8 Q How did she pay?

9 A I do not recollect, sir.

10 Q Okay. There has been some testimony that somebody  
11 else paid it so that she wouldn't ever be late. Was, in  
12 fact, she ever late?

13 A No, sir. She would not have been real late because if  
14 she would have been we would have had to file an eviction  
15 on her and then her housing would have automatically been  
16 terminated as well.

17 Q Will you please look at your file?

18 A Yes, sir.

19 Q Okay. And would you start by -- can you tell us if  
20 there is any notices in there that she is late?

21 A Give me just a moment.

22 (Pause.)

23 A I have so far found one as I'm going. Would you like?

24 Q What's the date of that?

25 A This, sir, this is for December 3rd, but our rent is

1 due by the 5th. And this letter states if she has not  
2 brought it in on the 6th, that's when it will be considered  
3 late.

4 Q Do you have a letter of February the 13th of 2004  
5 where she's warned if her unpaid balance of \$960 is not  
6 paid she will be evicted on February 19th of 2004?

7 A You said February 13th is the date, sir?

8 Q Yes, ma'am.

9 A Okay.

10 (Pause.)

11 A Okay. May. There's a letter. I see that letter,  
12 sir.

13 Q Okay. And was \$960 one month's rent?

14 A No, sir, it wouldn't have been.

15 Q How much, how many months was \$960?

16 A That could be two months, sir, with a legal -- with a  
17 late fee added.

18 Q Okay. The notice on October the 4th of 2003.

19 A That's not unusual for people to be late on their  
20 rent. She was never.

21 Q Yes, ma'am. My question was in this particular case  
22 if somebody testified that they kept the rent current  
23 because they didn't want it to be late --

24 MS. GANSS: Objection, Your Honor.

25 THE COURT: What's the nature of the objection?



1 MS. GANSS: Pitting one witness against another, Your  
2 Honor.

3 THE COURT: Oh, well, that is not pitting. Overruled.  
4 He's giving her a precedence. She wasn't here when the  
5 other witness testified. He's just letting her know what  
6 somebody else testified to in order to ask her a question.

7 MS. GANSS: Thank you, Your Honor.

8 Q Okay. And what I really wanted to know is if you can  
9 look at it and tell how many times that rent was --

10 A Sure, sure.

11 (Pause.)

12 A There's three, sir, that would be considered as late  
13 letters only.

14 Q Pardon me?

15 A There are three that would be considered as late  
16 letters, because all the other dates were before the 5th,  
17 and that's just a reminder letter to let them know.

18 Q How many reminder letters?

19 A There's quite a few, but everyone gets those, sir, to  
20 remind them. Everyone.

21 Q Quite a few. She was regularly late.

22 A That's not considered late, sir, until after the 5th,  
23 and these letters are not dated after the 5th except for  
24 three.

25 Q Now, that's government or section eight housing?

1 A Yes, sir.

2 Q And the number of people that are shown on the lease,  
3 does that affect the rent?

4 A Yes, sir. On her housing lease it was only her, Chad  
5 [REDACTED] and Desmond [REDACTED] That was her children that was on  
6 that lease. Anyone else --

7 Q Okay. I'm sorry. You must not have understood my  
8 question.

9 A I'm sorry.

10 Q My question is does it change the rent if she moves  
11 somebody else in, puts somebody else in.

12 A Yes, sir; yes, sir. They would have to get that  
13 approved. And that would definitely. All incomes are  
14 considered.

15 Q Okay. And if she moves somebody in employed and had a  
16 job would that income have to figure in?

17 A Oh, yes, sir. And if I would have known about it she  
18 would have been reported and terminated.

19 Q And if she moved somebody in, then the amount of total  
20 rent would increase.

21 A Yes, sir, or she would not be eligible at all.

22 Q And, in fact, you had to write her one letter about  
23 having an unreported guest on there, didn't you?.

24 A Not that I personally recall, sir.

25 Q How much would a person change the rent? What would

1 the amount that -- is it easy to determine or would you  
2 have to know the amount of income the other person was  
3 making, or how?

4 A The housing authority. Are you talking about for the  
5 apartment complex or for housing?

6 Q Yes.

7 A For the apartment complex?

8 Q For the housing.

9 A For the housing, we have nothing to do with that  
10 determination. They would go to their caseworker, make an  
11 appointment and report any incomes, and then they determine  
12 how much the rent will be.

13 Q Okay. So it's not uncommon for people to change their  
14 household and you find out about it and have to do that.

15 A It's very uncommon on housing because they cannot  
16 change their household, you know, without going through a  
17 very large ordeal. So no one just moves an unauthorized  
18 occupant in to lose their housing they've waited on for  
19 five years.

20 Q Okay. So if there is another person added to the  
21 lease, it will be a very big deal?

22 A Yes, sir, most definitely if they -- you know, most  
23 definitely.

24 Q Thank you.

25

1 REDIRECT EXAMINATION

2 BY MS. GANSS

3 Q Ms. Allen, I just have one question. In your files  
4 there is there any correspondence to you from Mr. Jerome  
5 Buckson?

6 A Correspondence from Jerome Buckson?

7 Q Any documents concerning him?

8 A Oh, no, no, ma'am. I didn't even know who he was.

9 Q Thank you, Ms. Bagwell.

10 THE COURT: You may step down.

11 MR. BARNETTE: May this witness be excused, Your  
12 Honor?

13 THE COURT: She may.

14 (Whereupon, the witness was excused.)

15 MR. BARNETTE: I would like to call Ed Guthro to the  
16 stand, Your Honor.

17 EDGAR VICTOR GUTHRO, having  
18 been first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE

20 Q If you would, sir, please, state your full name for  
21 the record.

22 A Edgar Victor Guthro.

23 Q And where do you work at, sir?

24 A Spartanburg Public Safety Department.

25 Q And how long have you worked with the Department of

1 Public Safety?

2 A A little over 18 years.

3 Q And what positions have you held at the Department of  
4 Public Safety?

5 A Patrol officer, complex officer, criminal investigator  
6 and crime scene technician.

7 Q And your present position right now is what?

8 A The crime scene technician.

9 Q And before that what did you do, sir?

10 A Worked in criminal investigations for approximately  
11 eight years.

12 Q Those type of investigations, what kind of  
13 investigations did you work on?

14 A Everything from the stolen bubblegum machines to  
15 homicides.

16 Q Okay. Back on January the 30th of 2006 was you called  
17 out to a crime scene at [REDACTED]

18 [REDACTED]

19 A I was. I received a call at my residence at roughly  
20 4:00 o'clock in the morning, responded and arrived on that  
21 scene at about, I believe it was, I want to say, 4:38.  
22 That's right.

23 Q And when you arrived there, what did you find, sir?

24 A When I first arrived I spoke to Sergeant Taylor who  
25 was already on the scene. And a warrant had not arrived

1 for that residence yet. And he wanted me to respond to  
2 city hall and collect a G. S. R. kit from Mr. Jerome  
3 Buckson.

4 Q You mean by warrant, you mean search warrant?

5 A Yes, sir.

6 Q So you went back. The search warrant, y'all didn't  
7 have it and y'all went back and you saw Mr. Buckson.

8 A Yes. I responded to city hall and I collected a  
9 gunshot residue kit from Mr. Buckson.

10 Q Let's see here. Let me show you.

11 (G. S. R. kit marked State's Exhibit No. 8 for  
12 Identification.)

13 Q Is this the gunshot residue kit that you collected  
14 from a Mr. Buckson?

15 A Yes, sir.

16 Q Okay.

17 MR. BARNETTE: And, Your Honor, I would like to move  
18 this into evidence at this time.

19 MR. WARDER: May it please the Court. I have no  
20 objection.

21 THE COURT: It's admitted.

22 (G. S. R. kit marked State's Exhibit No. 8.)

23 Q If you would, tell the jury how you collect a G. S. R.  
24 kit or gunshot residue kit.

25 A A gunshot residue kit consists of vials, one for the

1 front and back of each hand. And they have like a sticky  
2 pad on it. And you dab the one that's marked for the back  
3 of the hand, you dab the back of the hand with that. And  
4 the sticky pad collects any gunshot residue particles, bits  
5 of metal, powder, whatever that might be.

6 And then there is also a second part of the test which  
7 is done with Q-tip swabs. And it's an acid solution that  
8 you put on the swab. And the vials are marked the same  
9 way. And it's done second after the first part. And you  
10 swab the back of the hand and the front of the hand, palm  
11 of each hand. And that's pretty much it. All of that's  
12 done while you're wearing gloves that are supplied with the  
13 kit.

14 Q And once you collected that kit, did you seal it in  
15 that envelope?

16 A I did.

17 Q And was that placed in the evidence area for the city  
18 police department?

19 A Yes, sir.

20 Q And after that did you go back to the scene?

21 A Yes.

22 Q And when you went back to the scene, what did you do,  
23 sir?

24 A I returned to the scene. As I was pulling into the  
25 scene I was advised that a set of keys had been found at

1 the end of building four. I pulled up there where those  
2 keys were located, photographed them, marked them with the  
3 evidence placard number one, photographed them again and  
4 then collected those and entered into the taped-off area.

5 Q Let me show you what's been marked as State's  
6 Exhibits 64, 65 and 66. Do those pictures fairly represent  
7 where you saw the keys at?

8 A Yes, sir, they do.

9 MR. BARNETTE: Your Honor, I would like to move these  
10 items into evidence at this time.

11 MR. WARDER: Without objection, Your Honor.

12 THE COURT: They are admitted.

13 (Photographs marked State's Exhibits Nos. 64, 65 and  
14 66.)

15 MR. BARNETTE: I would like to publish these to the  
16 jury, Your Honor.

17 Q Showing you State's Exhibit 64. That may be hard.  
18 But if you would step down for a second, sir, if you would.

19 (Whereupon, the witness left the stand.)

20 Q If you would, talk loud enough so the Court can hear  
21 you and the court reporter can hear you too.

22 Can you show approximately where those keys were found  
23 in the picture?

24 A This is building number four. Building number five  
25 would be in this direction. The keys are located in the



1 little grassy area just off of the sidewalk.

2 Q And you took closer-up pictures of that also, is that  
3 right?

4 A That's correct.

5 Q And let me show you State's Exhibit 64. Is that just  
6 another picture of it?

7 A Yes, it is.

8 Q Let me show you State's Exhibit No. 66. Is that  
9 another closeup picture of it?

10 A Yes, it is.

11 Q Okay. Now, at the scene did you take all the  
12 pictures? I believe the jury has seen some other pictures.

13 Did you take all the pictures at the crime scene that day?

14 A All the photographs, yes, sir.

15 Q And let me show you State's Exhibit 14 which has been  
16 entered into evidence already. Approximately where is

17 [REDACTED] -- building five and building four located  
18 approximately?

19 A That should be building five. The victim's apartment  
20 would be on that end. That's building four. The keys were  
21 located right in there.

22 Q Now, let me show you what's been marked as State's  
23 Exhibit 17. I believe you took this picture.

24 A Yes, sir.

25 Q Was that located in the front of Apartment 5-A?

1 A Correct. And the first -- directly in front of

2 [REDACTED]

3 Q And whose vehicle is that?

4 A Mr. Buckson's.

5 Q Okay. And did those keys that y'all find, did you  
6 check and see if it worked in that vehicle?

7 A Yes, sir. And they do fit that vehicle.

8 Q Were they Mr. Buckson's keys?

9 A Yes, sir.

10 Q And were those returned later back to a family member  
11 or so forth later?

12 A The vehicle was towed to city hall where we processed  
13 it. And then the keys and the vehicle itself was returned  
14 to a family member.

15 Q Thank you, sir.

16 (Whereupon, the witness returned to the stand.)

17 Q Later on did you go into the crime or go into the  
18 apartment?

19 A Yes, sir.

20 Q And before going into the apartment did you check  
21 outside the windows area, the doors and so forth, taking  
22 pictures and processing the windows and so forth?

23 A Yes, yeah. I photographed, started photographing,  
24 from the outside and worked my way in.

25 Q And I believe these are already into evidence too.

1 Let me show you State's Exhibit No. 18. Did you process  
2 the window area back there at the back door?

3 A Yes, sir. I processed it for fingerprints.

4 Q And did you get a fingerprint or fingerprints from  
5 that kitchen?

6 A Yes, sir. The bottom middle pane on that window, I  
7 recovered a fingerprint from that.

8 Q Let me show you what's been marked as State's Exhibit  
9 No. 1. Did you lift that off the back window?

10 A Yes, sir, I did.

11 Q And where was it located at on the window?

12 A In the bottom pane, middle pane, of glass on that  
13 window.

14 Q Was it on the outside or the inside?

15 A On the outside.

16 MR. BARNETTE: Your Honor, I would like to enter  
17 State's Exhibit No. 1 into evidence at this time.

18 MR. WARDER: Your Honor, I guess we object to this.

19 THE COURT: Let me see it.

20 (Bench conference held off the record in the presence  
21 of the jury but out of the hearing of the jury.)

22 THE COURT: Ladies and gentlemen, while we take care  
23 of this issue, let me ask you to please go with a bailiff  
24 to a jury room, and I will bring you back shortly. Don't  
25 talk about the case.

1           (The following takes place outside the presence of the  
2 jury.)

3           MR. BARNETTE: Your Honor, I am going to withdraw the  
4 exhibit. Again, there is argument over discovery and so  
5 forth.

6           THE COURT: Okay. No. 1 is withdrawn?

7           MR. BARNETTE: Yes, sir.

8           THE COURT: Leave that as a court's exhibit.

9           MR. BARNETTE: Yes, sir. Make that Court's Exhibit 2.

10          (Fingerprint previously marked State's Exhibit No. 1  
11 marked Court's Exhibit No. 2.)

12          THE COURT: All right. Are we ready for the jury now?

13          MR. BARNETTE: The state is ready, Your Honor.

14          THE COURT: All right. Bring them back.

15          (The following takes place in the presence of the  
16 jury.)

17 BY MR. BARNETTE

18 Q       Officer Guthro, after you looked at the outside and  
19 everything did you go inside, sir?

20 A       Yes, sir.

21 Q       And when you went inside, where did you go to, sir, or  
22 did you take pictures throughout the whole apartment?

23 A       I did.

24 Q       And on a lot of these pictures, and I am not going to  
25 go back through them with the jury or whatever, but all of

1 these pictures you took inside at night are the ones we saw  
2 earlier with the jury as far as we know.

3 A Yes, sir, as far as I, as far as I know, yes. I took  
4 all of the pictures at the scene that night.

5 Q When you went into -- where was the victim located at?

6 A In the master bedroom at the top of the staircase.

7 Q Okay. And when you got up there, what did you find,  
8 sir?

9 A Actually the victim had already been removed when I  
10 arrived, but that's where the incident had occurred.

11 Q And going through there, what did you find inside the  
12 bedroom?

13 A I entered the bedroom. The first thing that I noticed  
14 is the, there was a large, actually two large, spots of  
15 blood on the carpet that were connected by the drag mark,  
16 which was also blood. And there was a dresser to the right  
17 of the door which was a two-piece dresser that the top had  
18 been kind of shoved askew. It was turned sideways like.  
19 And just searched the room for anything that looked out the  
20 ordinary or anything that would probably be evidence.

21 Q And I believe that's already been marked into evidence  
22 as State's Exhibit 37. Is that a walk-in doorway kind of  
23 picture you saw that night?

24 A That's correct.

25 Q Let me show you these others. I don't think these

1 have been entered into evidence yet.

2 I will let you look at State's Exhibit 21, State's  
3 Exhibit 34, State's Exhibits 40, 42, 50, 51, 52, 53, 54.  
4 Let me do this -- 56, 58, 59, 60. Do those pictures fairly  
5 represent what you saw that night?

6 A Yes, they do.

7 Q And the last three pictures -- 60, 59 and 58 -- were  
8 they taken at a later time?

9 A That's correct.

10 Q And do those fairly represent the way the door looked  
11 that night to you?

12 A Yes, sir, they do.

13 MR. BARNETTE: Your Honor, I would like to move these  
14 into evidence at this time.

15 MR. WARDER: Your Honor, if it would please the Court,  
16 photographs 56, 54, 53, 52, 51, 50, 42, 40, 34 and 21 are  
17 admitted without objection.

18 Your Honor, the defense would object to 58, 59 and 60.

19 THE COURT: And the objection being based upon what?

20 MR. WARDER: They were taken at a different time after  
21 the scene had been altered. And they unfairly and don't  
22 accurately reflect the evidence.

23 THE COURT: Well, do you want to lay a foundation with  
24 this witness?

25 MR. BARNETTE: I can, Your Honor, or whatever from

1 that standpoint.

2 THE COURT: All right.

3 MR. BARNETTE: I understand the other ones are entered  
4 without objection.

5 THE COURT: There is no objection to any of them  
6 except for 58, 59 and 60. Let me see those before you --

7 MR. BARNETTE: Yes, sir.

8 (Photographs marked State's Exhibits Nos. 21, 34, 40,  
9 42, 50, 51, 52, 53, 54, 56.)

10 Q These pictures, they were taken I believe last week,  
11 is that correct?

12 A That's correct.

13 Q Okay. And-but does that door represent the way you  
14 saw it that night?

15 A Yes, sir, it does.

16 Q Has it been altered in any way?

17 A It does not appear to have been, no, sir.

18 Q Except for the door handle, I believe, is not on  
19 there. But anything else that is different from that  
20 night?

21 A No, sir, other than the spatter is no longer there.

22 Q But that's the way you saw it the night that you went  
23 and worked the crime scene.

24 A Yes, sir.

25 MR. BARNETTE: Your Honor, I would move these be moved

1 into evidence at this time.

2 THE COURT: Do you still object or not?

3 MR. WARDER: Yes, sir.

4 THE COURT: All right. They're admitted over  
5 objection.

6 MR. BARNETTE: Thank you, Your Honor.

7 (Photographs marked State's Exhibits Nos. 58, 59 and  
8 60.)

9 Q You took pictures of the closets and everything  
10 throughout the apartment, is that right?

11 A Yes, sir.

12 Q And looking through the closets and everything, like  
13 State's Exhibit 34, I believe this is the closet down the  
14 hallway upstairs.

15 A Yes, sir.

16 Q Did y'all find any men's materials or anything in  
17 those items?

18 A Not that I recall.

19 Q Okay. And looking at State's Exhibit No. 58, could  
20 you tell the jury what this is about the door?

21 A That's the doorway entering the bedroom where the  
22 incident occurred, the light switch to the left.

23 Q Do you want to borrow this? You can. And step down,  
24 sir, if you want.

25 (Whereupon, the witness left the stand.)



1 A This light switch and these holes and vents and stuff  
2 right here was the area of the main spatter pattern from  
3 this incident which is -- I believe I have it identified in  
4 my report as number nine, this area right here. This is  
5 the edge of the doorway which was split.

6 Q Let me show you State's Exhibit No. 60. Is that the  
7 back of the door?

8 A Yes, sir. That would be the inside of the door if you  
9 were in the bedroom.

10 Q Okay. You was talking about the splatter and so  
11 forth. Was it all -- it was throughout the room? Or is  
12 this State's Exhibit No. 50, is this the area you're  
13 talking about?

14 A That is the main area. On the other end of the room  
15 there was one small piece of tissue on the wall at the far  
16 end of the room. And then the bedroom door would have been  
17 opened at the time the shot was fired because there is some  
18 small amount of spatter on what would be the outside of  
19 that door, but it's open, and then of course the blood  
20 around the door.

21 Q And did you make a diagram of this too, sir?

22 A Yes.

23 Q Let me show you what's been marked as State's  
24 Exhibit 89.

25 A Yes.

1 Q Is that your diagram that you made?

2 A It is.

3 MR. WARDER: No objection.

4 THE COURT: It's admitted. That's 89?

5 MR. BARNETTE: Yes, sir.

6 (Crime scene diagram marked State's Exhibit No. 89.)

7 Q And is this the diagram you made, sir?

8 A It is.

9 Q And would you describe to the jury what other items  
10 were located with that? It may be helpful too if I --

11 A Can I hold my own in my hand?

12 Q Yes, sir, you can. I will try to scoop, sir. What's  
13 wrong with number nine? What was found there, sir?

14 A Number nine is this area you were just looking at in  
15 the photograph of the tissue and blood spatter that was on  
16 this wall right here.

17 This is the entry doorway into the bedroom, and this  
18 is where that spatter pattern was located. Number nine was  
19 approximately four and a half, 4'5" from the floor and  
20 seven inches from the door frame.

21 Q I show you State's Exhibit No. 9. Is that what you're  
22 talking about, number nine for that area?

23 A Yes, sir. And those measurements are to the  
24 approximate center of that pattern.

25 Q Was there any bullet fragments in the wall there?

1 A Yes, sir. There were two. One can be seen in this  
2 photograph and the other one was fairly small.

3 Q Did you collect those bullet fragments?

4 A Yes, sir, I did.

5 Q Let me show you what's been marked State's Exhibits 2  
6 and 4. Are those the two fragments you gathered from that  
7 area?

8 A Yes, sir. They're marked with item number nine. Says  
9 two bullet jacket fragments. And I have the date and time  
10 and my name on that.

11 Q And that was sealed by you.

12 A Yes, sir.

13 Q And then placed into evidence.

14 A Yes, sir.

15 MR. BARNETTE: Your Honor, I would like to move  
16 State's Exhibits 3 and 4 -- they're contained in the same  
17 envelope -- at this time.

18 MR. WARDER: Your Honor, we have no objection to them.

19 THE COURT: They are admitted.

20 (Fired bullet jackets marked State's Exhibits Nos. 3  
21 and 4.)

22 Q Going down to, I believe, State's Exhibit 51, actually  
23 shows a little bit closer where you can see actually one of  
24 the bullet fragments.

25 A Yes, sir.

1 Q And where is that located, sir?

2 A Actually that's a piece of the jacket there. And I  
3 know there are two. I'm not sure which one was of the  
4 marks. It's the other piece of fragment.

5 Q These are very small particles, is that right?

6 A Yes, sir.

7 Q And what was number 11, sir?

8 A Oh, number 11 is, this is a dresser that I was talking  
9 about that was two pieces. The top section slid over.  
10 Number 11 is a piece of a lead core of a bullet.

11 Q And you found it. State's Exhibit 53, is that a  
12 picture of the fragment you found or the lead fragment you  
13 found?

14 A Yes, sir. It is located right there.

15 Q Let me show you State's Exhibit No. 2. Is that the  
16 lead bullet fragment you found at the bottom of the  
17 dresser?

18 A It is. The envelope is marked with item number 11.  
19 This lead core bullet also has my name, badge number and  
20 date and time collected on it.

21 MR. BARNETTE: Your Honor, I would like to move this  
22 into evidence at this time.

23 MR. WARDER: Your Honor, without objection.

24 THE COURT: It's admitted.

25 (Lead fragment marked State's Exhibit No. 2.)

1 Q And going to, I believe, item number three, what was  
2 that, sir?

3 A It's a bullet jacket fragment which was located in  
4 the -- virtually in the center of the bed on top of the  
5 covers.

6 Q I show you what's been marked as State's Exhibit 54 in  
7 for evidence. Is that the jacket you found on the bed?

8 A Yes, sir. That's item number three located right  
9 there.

10 Q And that was located approximately somewhere in the  
11 middle of the bed?

12 A Yes, sir, roughly, roughly, but probably not exactly.  
13 It is measured from the corner of her room. It was 6'6'  
14 inches from the corner of the room, which would be closest  
15 to you over this way, and approximately six feet from this  
16 corner.

17 Q Would you show where it is on the diagram again for  
18 the jury, please?

19 A Right there.

20 Q And showing you State's Exhibit 41 which has been put  
21 into evidence, approximately where was that found?

22 A Roughly right in there somewhere.

23 Q And that was a picture you took, a closeup picture, of  
24 it?

25 A Correct.

1 Q Now, was her cell phone in the room also?

2 A Cell phone was item number 12.

3 Q And I believe that's in the pictures too. And where  
4 was the blood stain at?

5 A There was a futon setting here, a pool under the futon  
6 and a pool right here on this drag mark connecting the two.

7 Q Let me show you State's Exhibit No. 37. Can you show  
8 approximately where the phone is in that picture?

9 A Right there.

10 Q In going through this apartment, did you go take a  
11 picture of the closet also?

12 A Yes, sir, I believe I did. This particular picture  
13 where you're talking about?

14 Q Yes, sir.

15 A Yes, sir.

16 Q Show you State's Exhibit No. 48. In looking at that,  
17 did you find any men's clothing in there or saw any men's  
18 clothing in the closet?

19 A None that I recall.

20 Q And I believe you also took a picture of the upstairs  
21 bathroom, is that right?

22 A Yes, sir.

23 Q In the upstairs bathroom, did you see any men's  
24 shaving cream or anything out that looked like a man's  
25 razor or anything like that?

1 A Not that I recall, no, sir.

2 Q I know you have taken that picture, and I've shown it  
3 to the jury. So I'm going to move on from there.

4 Now, did you find -- obviously you found the bullet  
5 fragments. You found some holes around the nine area, is  
6 that correct?

7 A Yes, right here.

8 Q Did y'all go outside down the hallway down in the  
9 stairwell and so forth?

10 A Yeah, searched the entire stairwell, the walls, the  
11 ceiling and everything in the corner down the stairwell.

12 Q And did you take pictures of the stairwell?

13 A I did.

14 Q Okay. Going to State's Exhibit No. 31, did you take  
15 that picture, sir?

16 A Yes.

17 Q Did you find any bullet holes, any fragments, anything  
18 down that hall -- down that stairwell?

19 A No, sir.

20 Q Showing State's Exhibit 32. You took a picture of  
21 that. Is that your picture?

22 A Yes, sir. I did.

23 Q And did you examine down at the floor, the stairs, the  
24 walls and all the way down to the door to see if there was  
25 any bullets?

- 1 A Yes, sir.
- 2 Q Did you find any holes or bullet fragments?
- 3 A No bullets. No indication of anything that a bullet  
4 had struck.
- 5 Q Okay. The only thing -- where was the only place you  
6 found where bullets had struck in that apartment?
- 7 A Inside the apartment. The only place was inside that  
8 bedroom.
- 9 Q And you went through taking pictures and so forth and  
10 looked through the whole thing.
- 11 A Yes, sir.
- 12 Q Was there other officers with you too that looked  
13 also?
- 14 A There were other investigators.
- 15 Q If you would, have a seat, sir.
- 16 (Whereupon, the witness returned to the stand.)
- 17 Q After you worked that scene and so forth did you go  
18 back to city hall, or afterward? Let me rephrase that  
19 question. Later on did you go back to the crime scene?
- 20 A Yes.
- 21 Q And when did you go back to the crime scene?
- 22 A On 2/2 of '06 at about 1406 in the afternoon.
- 23 Q That's February the 2nd?
- 24 A Yes.
- 25 Q And this incident occurred on January the 30th.



1 A Correct.

2 Q Why did you go back to the crime scene?

3 A Investigators had interviewed Mr. Watson and he had  
4 indicated to them that --

5 MR. WARDER: Objection to what he has indicated to  
6 them.

7 MR. BARNETTE: Your Honor, I think he's testifying as  
8 to why he went back out there.

9 THE COURT: Well, let me see y'all just a minute.

10 (Bench conference held off the record in the presence  
11 of the jury but out of the hearing of the jury.)

12 THE COURT: Overrule the objection.

13 Q If you would, continue, sir.

14 A Mr. Watson had indicated to the investigators that had  
15 talked to him that a second shot had been fired at him as  
16 he was running out of the residence, out of the back door  
17 of the residence.

18 So we returned to search more thoroughly, if possible,  
19 the downstairs of the area to make sure we couldn't find an  
20 impact again.

21 Q Did you find an impact of a bullet in that parking  
22 lot?

23 A In the parking lot. After we couldn't find one  
24 downstairs in the residence, we figured maybe the door was  
25 opened when that shot was fired and searched across the

1 parking lot and found where a bullet had impacted a curb on  
2 the other side of the parking lot from her residence. And  
3 from there it traveled and impacted building number four.

4 Q And did you take pictures of those?

5 A Yes, sir, I did.

6 Q And did you do a diagram of that area?

7 A I don't believe I did a diagram of that area. We may  
8 have had traffic come out and use their laser technology on  
9 that.

10 Q Okay. Let me show you what's been marked as State's  
11 Exhibits 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78,  
12 79, 80 and 81. Do those pictures fairly represent what you  
13 saw when you went back out to the scene?

14 A Yes, sir. I took these photographs, and they do  
15 represent what I saw.

16 MR. BARNETTE: Your Honor, I would like to move these  
17 into evidence at this time.

18 MR. WARDER: Your Honor, without objection.

19 THE COURT: They are admitted.

20 (Photographs marked State's Exhibits Nos. 67, 68, 69,  
21 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80 and 81.)

22 MR. BARNETTE: Your Honor, I would like to publish  
23 them to the jury at this time.

24 THE COURT: You may.

25 Q If you would, step down a second, sir.

1 (Whereupon, the witness left the stand.)

2 Q Let me show you what's been marked as State's  
3 Exhibit 67 for evidence in this case. Would you tell the  
4 jury what that is, sir?

5 A That is an impact mark from a bullet where a bullet  
6 struck this curb. It was actually a small piece of lead  
7 from that bullet right here at the bottom of the curb which  
8 I collected.

9 Q And let me show you State's Exhibit No. 68. Is that  
10 the placard you used to mark that area?

11 A It is.

12 Q Is that the same area?

13 A It is the same area.

14 Q Let me show you State's Exhibit No. 69. Tell the jury  
15 what that is.

16 A It's an impact mark on building number four. After  
17 striking that curb the bullet continued on and struck  
18 building number four in a straight line.

19 Q And building four is out the back towards -- behind?

20 A Correct.

21 Q Let me show you what's been marked as State's Exhibit  
22 No. 70. Is that the placard you used to mark that area?

23 A That's correct. Number 32 is a reference number for  
24 that impact mark.

25 Q Let me show you State's Exhibit No. 71. What was

1 this, sir?

2 A That's a bullet jacket fragment which was recovered in  
3 the parking space outside the back door of apartment number  
4 five.

5 Q And did you collect that bullet?

6 A I did.

7 Q And did you secure it and take it into evidence?

8 A Yes, sir.

9 Q And did you seal this envelope?

10 A Yes.

11 Q Let me show you State's Exhibit 72. Is that the  
12 placard you used to mark where you found the fragment or  
13 bullet fragment?

14 A It is.

15 Q Let me show you State's Exhibit 73. Can you tell the  
16 jury what this is?

17 A If you look closely you'll see what looks like a pink  
18 line. What that is is a string which we used to connect  
19 this mark with this mark in a straight line and continue  
20 that straight line. And it goes into Apartment 5-A.

21 Q Let me show you State's Exhibit 74. Can you tell the  
22 jury what that is, sir?

23 A This is, again is, another photograph of the line.  
24 And you can just barely see in the photograph, but it's  
25 connecting these two impact marks to Apartment 5-A,

1 actually into the base of the stairway inside of Apartment  
2 5-A, that area.

3 Q And those are the placards designating the spots, is  
4 that right?

5 A That's correct. Those photographs, I took some at a  
6 slight angle so you can see that the bullet traveled  
7 downward and struck this curb and then back upward, and  
8 that some were taken straight above the line. So you can  
9 see that it was, in fact, a straight line.

10 Q Let me show you State's Exhibit No. 75. Could you  
11 tell the jury what that is, sir?

12 A This is a photograph from the other direction above  
13 you. If you were to follow this line, would be where it  
14 impacted building number four. The impact on the curb,  
15 this photograph was taken at an angle so you can see the --  
16 that there is, in fact, that the bullet went upward after  
17 it hit this curb. And the line continues straight into  
18 this apartment.

19 Q And let me show you State's Exhibit 76. Tell us what  
20 that is, sir.

21 A That is the impact mark on the curb, and there's a rod  
22 being used to hold the string to that impact mark. And  
23 it's connected on the building over here at the impact  
24 mark.

25 Q Let me show you State's Exhibit No. 77. Can you tell

1 the jury what that is, sir?

2 A That's the impact mark and the line traveling from the  
3 impact mark downward.

4 Q Tell the jury. Let me show you State's Exhibit 78,  
5 and to the jury. Can you tell us what that is, sir?

6 A That's a photograph I took standing inside of the  
7 apartment. This right here is the line. There is your  
8 impact on the curb and your impact on the building.

9 Q And if you would, tell the jury what this State's  
10 Exhibit 79, tell the jury what that is, sir.

11 A This is a photograph taken by me directly over the  
12 line and just showing that the line is, in fact, straight.

13 Q Showing you --

14 A The line goes straight there. It's hard to do, but  
15 right there is the end of the poker, and right there is  
16 impact upon the building.

17 Q Okay. I'm going to show you State's Exhibit No. 8,  
18 and that may explain it better to the jury, what you're  
19 talking about.

20 A Again, this photo was taken a slight, a slight angle,  
21 but, again, the line is traveling out of the apartment and  
22 hits this curb and travels up against this building right  
23 here.

24 Q And let me show you State's Exhibit No. 81. If you  
25 could, explain to the jury what that is.

1 A It's, again it's, another photograph of the line.  
2 Your jacket fragment is over here, so another photograph of  
3 the string going into the, leading into the, apartment from  
4 the impacts on that curb and building.

5 Q Let me take you back to State's Exhibit No. 9. Was  
6 that the bullet fragment you gathered at the number 30  
7 placard?

8 A Yes, sir, it is.

9 Q And that's the one you secured and placed in evidence.

10 A Yes, sir.

11 Q And was sealed by you.

12 A Yes, sir.

13 MR. BARNETTE: Your Honor, I would like to move  
14 State's Exhibit No. 9 into evidence at this time.

15 MR. WARDER: Your Honor, without objection.

16 THE COURT: It is admitted.

17 (Fired bullet jacket fragment marked State's Exhibit  
18 No. 9.)

19 Q If you would, have a seat, sir.

20 (Whereupon, the witness returned to the stand.)

21 Q And when y'all went back out to the parking lot did  
22 you go back inside the apartment to look to see if there  
23 was any holes?

24 A Yes, sir. In fact, started out in the apartment,  
25 searching downstairs as thorough as we possibly could

Edgar Victor Guthro  
Direct examination by Mr. Barnette

1 trying to find any place that a bullet had struck or made a  
2 hole, and we were unable to locate anything inside the  
3 apartment.

4 Q Did you check the floor area or the ceiling area in  
5 the kitchen underneath the bedrooms?

6 A Yes, sir.

7 Q Did you see any holes in it?

8 A No, sir.

9 Q And later on did you go to the autopsy? And did  
10 Tiffany Foggie -- did y'all take a G. S. R. kit from her?

11 A Yes, sir. I attended her autopsy and collected a G.  
12 S. R. kit from her.

13 MR. BARNETTE: I believe this can be marked as State's  
14 Exhibit No. 7.

15 Q And that was sealed and collected by you in the same  
16 manner.

17 A Yes, sir.

18 MR. BARNETTE: Your Honor, I would like to move  
19 State's Exhibit No. 7 into evidence at this time.

20 MR. WARDER: Your Honor, without objection.

21 THE COURT: It is admitted.

22 (G. S. R. kit from victim marked State's Exhibit No.  
23 7.)

24 MR. BARNETTE: One moment, Your Honor, please.

25 (Pause.)



1 Q There was one other picture I needed to talk to you  
2 about if I could real quick. Outside the windowsill, was  
3 anything found?

4 A Yes, there was.

5 Q I believe that's State's Exhibit No. 21. And did that  
6 key appear to belong to any of the locks or anything like  
7 that of the house?

8 A No, sir. It did not.

9 Q Let me do this. State's Exhibit 61, the picture of  
10 the bathroom I was trying to find earlier, did you find any  
11 articles inside that bathroom?

12 A No, sir.

13 Q And going through the kids' apartment, I mean 62, you  
14 took that picture. Did you find anything that appeared to  
15 be a man's items inside that room?

16 A No, sir. I don't recall anything that wouldn't belong  
17 to a child in that room.

18 Q As a matter of fact, looking at State's Exhibit  
19 No. 43, did you see anything around the T. V. or in that  
20 area there that belonged to a man or anything of that  
21 nature?

22 A Not that I recall.

23 Q And State's Exhibit 21, let me let you look at that.  
24 I don't know if that's in evidence yet or not.

25 A Yes, sir. I took this photograph.

1 Q Does that fairly represent --

2 A Yes, sir. That's the window to the right of the rear  
3 door of the residence on the window sill was that -- that  
4 key was located there.

5 Q And that key did not belong to any of the locks of  
6 anything.

7 A No, sir, not as I recall.

8 Q And that was the key and where it was found, is that  
9 right?

10 A That's correct.

11 Q And this residence is located in the city of  
12 Spartanburg and in Spartanburg County.

13 A Yes, sir, it is.

14 Q And it was [REDACTED] in Spartanburg, is that right?

15 A That's correct.

16 Q On East Main Street.

17 A Yes, sir.

18 Q Please answer any questions Mr. Warder may have for  
19 you, sir.

20 CROSS-EXAMINATION

21 BY MR. WARDER

22 Q Officer, you told us that -- and I can't remember the  
23 numbers -- 57, 58, 59.

24 MR. BARNETTE: 58, 59, 60.

25 Q 58, 59, 60. And I would ask you when you took those.

1 A I didn't take these at all, sir. These were taken by  
2 another investigator.

3 Q Okay. And you testified that -- so you didn't  
4 photograph them at all.

5 A Those three photographs I did not take.

6 Q You don't know when they were taken.

7 A I know they were taken last week.

8 Q The last week in 2006?

9 A Last week, sir.

10 Q 2007?

11 A Yes, 2007.

12 Q Okay. A year afterwards, pert near.

13 A Yes, sir.

14 Q And your testimony was that these looked substantially  
15 the same.

16 A Yes, sir. That's correct.

17 Q Now, you recognized that all the carpet had been taken  
18 out of the apartment, all the furniture moved out.

19 A Yes, sir.

20 Q Locks taken off the door.

21 A That's correct.

22 Q Do you recognize that picture?

23 MR. BARNETTE: Your Honor, may we approach for a  
24 second?

25 THE COURT: Bring the picture with you. Bring me the

1 picture.

2 (Bench conference held off the record in the presence  
3 of the jury but out of the hearing of the jury.)

4 Q Do you recognize that photograph?

5 A Yes, sir.

6 Q And that's a photograph you took that's already been  
7 admitted into evidence.

8 A Yes, sir.

9 Q Okay. Now, the crack that's shown on State's  
10 Exhibit 60, does it show on that photograph?

11 A No, sir. It would be the other side of that door.

12 Q Okay. Did you examine that door back a year ago?

13 A Yes, sir.

14 Q And when you saw that, did you see that crack on it  
15 and stuff?

16 A Yes, sir.

17 Q And you didn't think it important a year ago to  
18 photograph?

19 A Yes, sir. I thought it was important. Somewhere in  
20 the process I just didn't take it. I thought I had but  
21 apparently did not. There was a couple of hundred  
22 photographs taken in the thing.

23 Q And your testimony would be that crack existed back  
24 then, you just forgot to photograph it.

25 A That's correct. It absolutely existed. I personally

1 saw it but apparently did not photograph it.

2 Q Okay. And that would be on the inside of the door.

3 A That's correct.

4 Q And since that time you notice that all the carpet had  
5 been removed and there had been workmen in there and all of  
6 that sort of thing.

7 A I personally had not been back out there, but in those  
8 photographs I can see that.

9 Q In the photograph.

10 A Yes, sir.

11 Q You testified that the keys were found on the grass at  
12 the end of building four, is that right?

13 A Yeah, at the end of building four. There's a sidewalk  
14 there, and they were right on like the edge of it, I  
15 believe. But I don't know if they are on the concrete or  
16 the grass, but right there at that sidewalk.

17 MR. BARNETTE: Objection, Your Honor.

18 MR. WARDER: Yes, sir.

19 MR. BARNETTE: If he enters it I don't mind. I don't  
20 have an objection. But it hasn't been entered into  
21 evidence yet.

22 Q Do you recognize these?

23 A Yes, sir.

24 MR. BARNETTE: I have no objection, Your Honor. I  
25 don't know what numbers they are, exhibits, though.

1 THE COURT: Well, have they already been admitted?

2 MR. BARNETTE: No, sir. Those have not.

3 THE COURT: Well, they will have to be marked.

4 Q What are these, photographs that you took?

5 A Yes, sir.

6 Q Took them at the scene?

7 A Yes, sir.

8 MR. WARDER: Your Honor, I would offer them into  
9 evidence.

10 MR. BARNETTE: I have no objection to them, Your  
11 Honor.

12 THE COURT: All right.

13 (Photographs marked Defendant's Exhibits Nos. 1  
14 through 8.)

15 Q Can you tell us what is shown in those photographs?

16 A This would be the spatter pattern identified as area  
17 number nine, shows a trajectory rod which I have stuck  
18 through the wall in an attempt to locate a piece of the  
19 bullet that had traveled apparently through the wall but  
20 was never able to locate. And they all appear to be  
21 essentially just opposite sides of that wall.

22 Q Okay. And a trajectory rod is what? Tell the jury.

23 A It's a wooden dowel.

24 Q Okay. And it's used to put between two bullet holes,  
25 one on each side of the wall.

1 A Correct. To show you the probable trajectory that  
2 that bullet was traveling.

3 Q Okay. And did that trajectory rod match anything you  
4 could find, or for a bullet to be?

5 A Did I find anything?

6 Q Yes, sir.

7 A No, sir. I did not find a projectile outside of the  
8 room.

9 Q Outside of the room or inside of the room?

10 A I found several pieces of projectile inside the room.  
11 I did not find anything outside the room.

12 Q Okay. And the -- what angle would the trajectory rod  
13 have pointed outside of the room?

14 A It was at a downward angle.

15 Q And was it accented to the wall of the apartment or to  
16 the hallway in the apartment?

17 A Very slightly towards the bathroom wall, very slightly  
18 as I recall.

19 Q Okay. Away from the stairway and --

20 A Yes, but just barely. There was like a wall at the  
21 top of the stairs to keep people from falling down the  
22 stairs. Almost directly at that wall. I couldn't find a  
23 place where a bullet or a projectile had impacted that.

24 Q You don't know when that was made, whether that was an  
25 old one or whether that had anything to do with this case

1 at all.

2 A It may not have had anything to do with it, that's  
3 correct.

4 Q And that would account for why there wasn't one there.

5 A It could.

6 Q Thank you.

7 MR. BARNETTE: Just one question on follow-up.

8 REDIRECT EXAMINATION

9 BY MR. BARNETTE

10 Q You went twice. So you went out obviously the morning  
11 of this incident, then went back February the 2nd in the  
12 daytime.

13 A Yes, sir.

14 Q So it was brighter. And you didn't find any bullet  
15 holes downstairs, down the stairwell, the front door,  
16 anywhere down. The only other -- where was the other  
17 bullets you found or --

18 A The only other projectile I found was outside the one  
19 that had struck the curb and then struck the building.  
20 Nothing else was found inside the residence outside of the  
21 bedroom where the incident occurred.

22 Q Thank you, sir.

23 THE COURT: You may step down.

24 All right. Ladies and gentlemen, we're going to take  
25 a short break before we go any further.



1       So I'll ask you to please go to your jury room. Do  
2 not discuss the case. We'll bring you back in a few  
3 minutes.

4       (The following takes place outside the presence of the  
5 jury.)

6       THE COURT: Court is in recess for 15 minutes.

7       (Whereupon, a recess was taken.)

8       THE COURT: All right. Who is the next witness?

9       MR. BARNETTE: Be Ms. Starnes, Your Honor.

10      THE COURT: Starnes?

11      MR. BARNETTE: Yes, sir. That's the department of  
12 motor vehicle representative.

13      THE COURT: Okay. Are we ready for the jury?

14      Bring the jury back, please, sir. I have got Kathy  
15 Pearson. Ms. Starnes is here in place of her?

16      MR. BARNETTE: Yes, sir. It just depends on who is  
17 available or what-not, Your Honor.

18      (The following takes place in the presence of the  
19 jury.)

20      THE COURT: All right. Mr. Barnette.

21      MR. BARNETTE: I would like to call Ms. Starnes to the  
22 stand, Your Honor.

23

24

25

Elizabeth Starnes  
Direct examination by Mr. Barnette

1 ELIZABETH STARNES, having been  
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. BARNETTE

4 Q Ma'am, if you would, state your full name for the  
5 record.

6 A Elizabeth Starnes.

7 Q Where do you work at, Ms. Starnes?

8 A The department of motor vehicles.

9 Q How long have you worked there, ma'am?

10 A Since October of 1994.

11 Q And what do you do there, ma'am?

12 A I'm currently the assistant branch manager.

13 Q And are you in charge of maintaining records and  
14 keeping records and working with records there?

15 A Yes, sir.

16 (Copy of D. M. V records marked State's Exhibit No. 92  
17 for Identification; defendant's license plate information  
18 marked State's Exhibit No. 93 for Identification:)

19 Q Did we ask you -- let me show you what's been marked  
20 State's Exhibits 92 and 93 for I. D. purposes. Did we ask  
21 you to check on the record, driving records, of Jerome  
22 Buckson?

23 A Yes, sir.

24 Q And did you do that, ma'am?

25 A Yes, sir.

- 1 Q Did you check his driver's license for us?
- 2 A Yes, sir.
- 3 Q And what was his address on his driver's license?
- 4 A [REDACTED] in Wellford, South Carolina.
- 5 Q And when was that issued to him?
- 6 A 10/19 of 2005.
- 7 Q And did you also check any motor vehicles that was
- 8 registered to him, or license plates?
- 9 A Yes, yes, sir.
- 10 Q And was there a vehicle licensed to him?
- 11 A Yes, sir.
- 12 Q And what driver's license is on that?
- 13 A The license plate is 616 UMC.
- 14 Q Is that 616 UM -- what was the last?
- 15 A "C" as in Charlie.
- 16 Q Charlie. And what address did he have on that vehicle
- 17 license plate?
- 18 A That also shows [REDACTED] in Wellford, South
- 19 Carolina.
- 20 Q And what kind of vehicle was it, ma'am?
- 21 A That is a 1999 Ford.
- 22 Q Thank you, ma'am. And the driver, are they required
- 23 to give the license, I mean, the address of their residence
- 24 for their driver's license?
- 25 A Yes, sir, where they are physically residing.

Frank Dan DeFreeze  
Direct examination by Mr. Barnette

1 Q If you would, please answer any questions Mr. Warder  
2 may have for you.

3 MR. WARDER: I have no questions for this witness.

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

5 MR. BARNETTE: We would ask her to be excused, Your  
6 Honor.

7 THE COURT: She may be.

8 (Whereupon, the witness was excused.)

9 MR. BARNETTE: I would like to call Dan DeFreeze to  
10 the stand, Your Honor.

11 FRANK DAN DEFREEZE, having  
12 been first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. BARNETTE

14 Q If you would, sir, please, state your full name for  
15 the record.

16 A My name is Frank Dan DeFreeze.

17 Q And where do you work at, sir?

18 A I work for the South Carolina Law Enforcement Division  
19 in the forensic services laboratory in Columbia.

20 Q And what do you do there, sir?

21 A I'm assigned to the unit within the laboratory where  
22 we do the identification of firearm and toolmark evidence.  
23 I examine firearms and tool marks.

24 Q And how long have you been there, sir?

25 A For 40 years.

1 Q What training have you received in that area?

2 A Upon my employment I began a course of instruction in  
3 firearm and toolmark identification. That lasted for a  
4 period of approximately two and a half years.

5 I received my principal instruction from Lieutenant  
6 Millard Kate who established the SLED laboratory when SLED  
7 itself was established in 1947.

8 After completing my training I began accepting cases  
9 for examination on my own and testifying as to my results.  
10 I have been doing that since 1969.

11 Q How many cases have you examined or how many cases  
12 have you worked on, sir?

13 A I don't know. I've testified in probably between 600  
14 and 700 cases, and I've examined thousands.

15 Q And you have been qualified in those state courts.

16 A Yes, yes, I have.

17 MR. BARNETTE: Your Honor, I would move him as an  
18 expert in firearms and ballistics at this time.

19 THE COURT: Any objection?

20 MR. WARDER: No, Your Honor.

21 THE COURT: He is so qualified.

22 Q Sir, did you receive -- let me hand you State's  
23 Exhibit 9, State's Exhibit 2, State's Exhibit 5 and State's  
24 Exhibits 3 and 4. Did you receive those items in the  
25 Jerome Buckson case to examine? Let me give you a chance

1 to look at them.

2 (Pause.)

3 A Yes, I did.

4 Q Okay. And did you analyze these bullet fragments that  
5 you received?

6 A I did.

7 Q In looking at the fragments and so forth, was you able  
8 to make any findings concerning those fragments?

9 A Some of the fragments, for instance State's Exhibit 2,  
10 my item two, was a plain lead fragment that was part of a  
11 bullet's core. It was part of what was the center of a  
12 jacketed bullet, and it was a part of the bullet that was  
13 never actually in contact with the barrel of the firearm in  
14 which it was fired. And there were no markings on this  
15 that were suitable for identification with a particular  
16 gun.

17 The size of the base reflected on this fragment is  
18 consistent roughly with that of a .38 caliber which could  
19 mean a .38 caliber, a .357 Magnum caliber or possibly a  
20 9-millimeter firearm.

21 State's Exhibits 3 and 4, which correspond to my  
22 exhibits, my items three and four, consist of two fired  
23 bullet jacket fragments, one of which had some rifling  
24 impressions on it, and the other which didn't.

25 They are both the same kind of material, but one of

1   them actually had impressions present on it which were  
2   suitable for comparison purposes and possibly could -- the  
3   one on State's Exhibit 4 might possibly be suitable for  
4   identification with a particular firearm.

5           State's Exhibit 5 is all of the base of a fired bullet  
6   jacket fragment, and its size is consistent also with that  
7   of a .38 caliber, which would include 38, .357 Magnum and  
8   possibly 9-millimeter.

9           This one had land and groove impressions near the edge  
10   of the base. It had spacing of land and groove impressions  
11   that would be consistent with five lands and grooves.

12           State's Exhibit 9 was also a fired bullet jacket  
13   fragment which also had the base section present. It also  
14   had land and groove impressions consistent with five lands  
15   and grooves. And five lands and grooves with right-hand  
16   twist is a fairly popular rifling specification for .38  
17   Special and .357 Magnum caliber revolvers, especially those  
18   made by Smith and Wesson and Ruger and some other  
19   manufacturers.

20           I attempted to identify the markings on State's  
21   Exhibits 9, 5 and 4. As I said, the one on State's Exhibit  
22   3 was just it simply had none that were suitable for  
23   comparison.

24           I wasn't able to identify the markings on these three  
25   fragments with each other because they were so badly

1 damaged and distorted and because in situations where you  
2 have bullets that are only, bullet fragments that are only,  
3 pieces of bullets you don't know whether you are comparing  
4 the bullets that were all fired by one gun or could have  
5 been fired by more than one gun.

6 From -- while I found the same rifling specifications  
7 present on Exhibits 4, 5 and 9, I couldn't actually say  
8 they were fired by one gun, two guns or more than two guns.

9 And, as I said, State's Exhibit 3 and State's  
10 Exhibit 2 really were not suitable for identification with  
11 any particular gun.

12 If they had all been fired by one gun it might be  
13 possible if I could fire-test bullets from a particular gun  
14 so that I had good specimens for comparison purposes, it  
15 might be possible to identify State's Exhibits 4, 5 and 9  
16 with a particular gun. But comparing them with each other,  
17 I was dealing with specimens that were so badly damaged  
18 that I simply could not tell.

19 Q But they could have been fired from one gun,  
20 consistent for that, but you can't tell if they were fired  
21 from the same gun, is that correct?

22 A Correct. They could have been fired by one gun or  
23 more than one gun.

24 Q And did you prepare a report concerning this, sir?

25 A I did.



1 Q Let me show you what's marked as State's Exhibit No.  
2 95. Is that a copy of your report, sir?

3 A Yes, sir, it is.

4 MR. BARNETTE: Your Honor, I would like to enter  
5 State's Exhibit 95 into evidence at this time.

6 MR. WARDER: No objection.

7 THE COURT: It's admitted.

8 (SLED report marked State's Exhibit No. 95.)

9 Q And in the report I believe it was on the envelopes  
10 and so forth just to help the jury a little bit, your item  
11 two was compared to like your number 11 on the crime scene  
12 diagrams and so forth, is that right, what the crime scene  
13 people did?

14 A Yes, sir. It's lead core bullet number 11 with  
15 Guthro's name on it, on the container. And that's what I  
16 call item two in State's Exhibit 2.

17 Q And like item nine, it has the where-it-was-found  
18 concerning the crime scene diagram.

19 A Right. Item nine would be number 30.

20 Q Their item nine was actually your item three or four.  
21 That's the reason I --

22 A Excuse me. My item nine is their number 30. Their  
23 item nine is my numbers three and four.

24 Q And I just wanted to do that for clarification with  
25 their crime scene.

1 A Right.

2 Q And, like I said, like line three, the same general  
3 rifling characteristics were found on three, five and nine.  
4 So they could have been fired from the same weapon.

5 A Correct.

6 Q So according to the report, found nine on the crime  
7 scene, three, three and 30, was consistent with each other,  
8 is that right, or could have been fired by the same  
9 firearm?

10 A Correct. The Spartanburg numbers three, nine and 30  
11 could have been fired by one gun barrel, or, of course,  
12 since I can't identify them with each other they could have  
13 been fired by more than one. But if they were fired by  
14 more than one they were fired by two different guns that  
15 had exactly the same rifling specifications, not just any  
16 two guns at random.

17 Q So, for example, it couldn't have been fired by a  
18 9-millimeter or any type of weapon like that.

19 A Well, the size of these bullet fragments in diameter  
20 is not inconsistent with 9-millimeter.

21 The jacketed fragments that were suitable for  
22 identification had a crimping cannellure. And crimping  
23 cannellures are generally not put on 9-millimeter caliber  
24 bullets. They're generally put on .38 Special and .357  
25 Magnum caliber cartridges on the bullets loaded into those

1 cartridges to keep the cartridges from backing out under  
2 recoil.

3       So since these had the characteristic cannelure it  
4 made them more consistent with being bullets from a  
5 revolver than bullets, for instance, that you would  
6 customarily fire in a semiautomatic pistol.

7 Q     Going back then what you were talking about earlier  
8 like on your report, the general rifling characteristics  
9 were similar. So they just wasn't aimed too well, at least  
10 had to have --

11 A     They had to be -- they had to have the same five  
12 land-and-groove rifling characteristics of approximately  
13 the same width.

14 Q     And could you explain to the jury what that means?

15 A     Perhaps I should back up a little. Inside the bore  
16 that's the interior surface of the barrel of a rifle  
17 firearm -- and that would include rifles, pistols and  
18 revolvers -- there are a series of spiraling grooves that  
19 are put there for the purpose of gripping the bullet when  
20 the bullet passes down the barrel and out of the gun. And  
21 the grooves cause the bullet to spin in flight.

22       This is done to make the bullet stable and to make it  
23 accurate in flight, and it's done much in the same way that  
24 you would see a quarterback put a spin on a football to  
25 keep the football from tumbling end over end.

1       We found from examining fired bullets that there are  
2 microscopic marks that are left on the bullets fired in a  
3 given firearm, that when the bullet survives in  
4 sufficiently good condition we can identify those  
5 individual markings back to the very gun barrel in which  
6 they were fired.

7       Different manufactures will use differing numbers of  
8 lands and grooves. For every groove you have -- the groove  
9 is the depressed area -- you're going to have a land which  
10 is a raised area. So as a result of this grooving there  
11 are alternate high and low spiraling areas inside of the  
12 barrel.

13       Many manufacturers will use, for instance, six lands  
14 and grooves. And because the bullet has to be spun in one  
15 direction or the other, sometimes the rifling will spin in  
16 the right-hand direction and sometimes in the left-hand  
17 direction.

18       Obviously, if it were just straight down the barrel it  
19 would not impart any spin and wouldn't result in stability.

20       A great many revolvers, for instance Smith and Wesson  
21 revolvers and some of the Ruger double-action revolvers and  
22 some other brands which are mentioned in my report, use  
23 five lands and grooves in a right-hand twist. And that was  
24 the specifications that I found on State's Exhibits 4, 5  
25 and 9. I found the same width.

1           Now, some of the fragments were too badly damaged to  
2 establish a direction of twist, but the width of them would  
3 be consistent with the kind of rifling put into barrels of  
4 guns manufactured by Smith and Wesson, Ruger and the others  
5 mentioned in the report.

6   Q     So, like you said, it could have been fired by one  
7 gun, could have been others, but it had to have the same  
8 general rifling characteristics.

9   A     Correct. Since I can't actually identify all the  
10 fragments with each other because of their damaged  
11 condition, I have to admit the possibility that more than  
12 one gun with the same rifling standards could have fired  
13 them.

14   Q     May I borrow these exhibits real quick? If you would,  
15 come up with me for a second, please, sir.

16           (Whereupon, the witness left the stand.)

17   Q     Taking these out, this is, I believe, your exhibit  
18 number three.

19   A     Spartanburg's number three. My number five.

20   Q     Number five.

21   A     State's Exhibit 5.

22   Q     And then this is your exhibits three and four, and  
23 they're found at No. 9.

24   A     Correct.

25   Q     And this one, next one we are going to show, is your

1 item number two.

2 A Correct. Spartanburg number 11.

3 Q And is that the lead core?

4 A It is.

5 Q And I believe this is -- what exhibit is that of  
6 yours?

7 A It's Spartanburg number 30, State's and my Exhibit  
8 No. 9.

9 Q And this is in the condition you received them in, is  
10 that right?

11 A That's correct.

12 Q And --

13 A Except for the markings which I placed on in  
14 inconspicuous spots so that I could identify them.

15 Q And obviously they're in a damaged condition when you  
16 receive them.

17 A They are damaged.

18 Q Thank you, sir.

19 (Whereupon, the witness returned to the stand.)

20 MR. BARNETTE: Your Honor, just for clarification, I  
21 believe State's Exhibit actually 97, will be the report. I  
22 think we have something else listed 95 and 96. So actually  
23 it's 97. But I would like to make that change for the  
24 record.

25 (SLED report of Dan DeFreeze marked State's Exhibit

1 No. 95 changed to State's Exhibit No. 97.)

2 Q If you would, please, sir, answer any questions Mr.  
3 Warder may have for you.

4 CROSS-EXAMINATION

5 BY MR. WARDER

6 Q Sir, you examined how many total bullets, would all of  
7 that made -- particles and fragments and the pieces?

8 A I had the one core, and then there were two fragments  
9 from one location, another fragment that included the base  
10 and another fragment that included the base of the bullet.  
11 So I examined a total of four bullet jacket fragments and  
12 one bullet core fragment.

13 Q Okay. Of the jacket fragments you examined, was that  
14 one complete bullet jacket if you added all of them  
15 together, or would it have been less than that or --

16 A It had to be at least two bullets. There had to be  
17 two bullets fired to result in what we have here, because  
18 on State's Exhibit 9 and State's Exhibit 5, the base  
19 sections of those bullets are both there.

20 Now, both State's Exhibits 5 and 9 are both missing a  
21 good portion of the sides of the bullet, so that State's  
22 Exhibits 3 and 4 could have come from either one. And of  
23 course the core could have come from either one or from  
24 another bullet. I can't say.

25 Q It's, is it fair to say that you know there were at

1 least two bullets?

2 A There had to be at least two shots fired to produce  
3 what we have. There could have been more than two shots  
4 fired, but there had to be at least two.

5 Q And as to the more proposition, you have no evidence  
6 that would indicate there was any more.

7 A No. But theoretically there could be just as many  
8 shots fired as we have fragments.

9 Q Yes, sir.

10 A But, yeah. I mean, theoretically there could be. I  
11 couldn't say that there weren't that many, but there could  
12 have been all of these fragments produced by no more than  
13 two shots being fired.

14 Q Now, the gun itself that produced those, it would have  
15 produced other things into the air and the surrounding  
16 outside of just the bullets and the jackets.

17 A Correct.

18 Q And that would have been the powder and I guess --  
19 what comes out of a bullet except gunpowder or burned  
20 gunpowder?

21 A Well, coming out of the gun barrel, the first thing is  
22 a jet of air. Then the bullet comes out. And after that  
23 there's combustion byproducts and unburned powder. There  
24 could be some residue that was present in the bore before  
25 the bullet was fired. That would constitute the, all of



1 the, ejecta from the firearm.

2 Q Okay. We're relatively familiar with the bullet  
3 coming out. Does that other stuff come out with any  
4 velocity?

5 A Yes.

6 Q And would it be capable of imbedding in a wall?

7 A If it were close enough potentially.

8 Q Would it -- if assuming that the gun was a .38 or  
9 .357, would that make any difference in how far the stuff  
10 would go?

11 A Well, it could, because both of them are typically  
12 revolvers. And where you have a revolver you have  
13 combustion byproducts that follow the bullet out of the  
14 bore, out of the barrel of the weapon. And you also have a  
15 gap between the cylinder and the back of the barrel so  
16 combustion byproducts can also escape from the barrel  
17 cylinder gap.

18 Q And how far would those be propelled?

19 A It's going to vary from situation to situation. And  
20 probably Mr. Roberts who does the gunshot residue  
21 examination would be in a better position to comment on  
22 that than I would.

23 Q You do a great deal. You have dealt with firearms for  
24 years.

25 A Yes, sir.

1 MR. BARNETTE: Your Honor, I am going to impose an  
2 objection at this time. Mr. Roberts is available and he's  
3 qualified in G. S. R. I don't know if this gentleman has  
4 been qualified in G. S. R.

5 THE COURT: Well, I'm satisfied he could be, but I  
6 don't know whether he has been or not. I think this is  
7 within his expertise. Now, he may prefer not to respond  
8 because he doesn't have enough information. And if he  
9 doesn't he can testify to that. He knows how to respond.

10 MR. BARNETTE: Yes, sir.

11 A If you will -- I'm sorry. I forgot the question.

12 Q I was trying to get at where the other debris and  
13 stuff that comes with a bullet, if it would be propelled  
14 with any velocity forward.

15 A It would, and if it were very close to an object it  
16 could actually be propelled into the object.

17 In order to be propelled into an object such as into  
18 your skin or into some other surface, it's going to have to  
19 be very close for that. But for just a random bit of  
20 gunshot residue floating around in the air to settle on  
21 something, that could be done many feet away.

22 Q If I was to fire a gun at you the distance we're  
23 standing, would it be reasonable to assume that you would  
24 also have residue of some kind on you?

25 A If you could detect it chemically, perhaps you would

1 find it. You probably wouldn't find it visibly.

2 Q It would be small enough that you wouldn't just see it  
3 by looking at it.

4 A Correct.

5 Q As for the analysis that you did, if we're trying to  
6 decide who shot the gun that the bullets come from, there  
7 is nothing in your testimony that would help us make that  
8 more probable or less probable?

9 A That's correct. I can't tell by looking at a fragment  
10 of a bullet who fired the gun.

11 Q Thank you very much.

12 A Yes, sir.

13 MR. BARNETTE: No further questions of this witness,  
14 Your Honor. We would ask for him to be excused.

15 THE COURT: You may step down. You may also be  
16 excused.

17 THE WITNESS: Thank you.

18 (Whereupon, the witness was excused.)

19 MR. BARNETTE: Your Honor, the state would like to  
20 call John Roberts to the stand.

21 JOHN ROBERTS, having been  
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. BARNETTE

24 Q Please, sir, give your full name for the record,  
25 please.

1 A My name is John Gray Dodd Roberts.

2 Q And where do you work at, sir?

3 A I currently work at the South Carolina Law Enforcement  
4 Division, also known as SLED.

5 Q And what is your position there, sir?

6 A I am a forensic scientist in the trace evidence  
7 department of SLED. Trace evidence is the study of  
8 evidence. It's a subdiscipline of forensic science that  
9 deals with evidence that you can't see with your naked eye.

10 Quite often we use high powered microscopes and other  
11 instruments to detect or to compare samples that we receive  
12 from various agencies to standards that they also send us.

13 Q And what kind of training have you received in that,  
14 sir?

15 A After receiving my bachelor's of science degree in  
16 chemistry I got employment with SLED. I started my gunshot  
17 residue training underneath my lieutenant. I assisted him  
18 with his case load. We received approximately 2,500 G. S.  
19 R. kits a year. So for the next five months I ran gunshot  
20 residue kits.

21 As has been explained before, gunshot residue kits  
22 come in two parts, particle lifts and swabs. For the most  
23 part we don't do particle lifts. We have to have a certain  
24 threshold met before we do the particle lifts. But we run  
25 all the swabs.

1       My training consisted of receiving evidence, prepping  
2 those swabs for analysis on an instrument, running the  
3 instrument, pulling the data off of it and interpreting the  
4 data.

5       I was also responsible for writing up my supervisor's  
6 reports and in giving them to him so he could sign off and  
7 mail them out.

8   Q     And who was your lieutenant?

9   A     My lieutenant is Joseph Powell who has been with SLED  
10 for not quite as long as Mr. DeFreeze has.

11   Q     And how many cases have you worked all by yourself?

12   A     By myself I would approximate 1,500 G. S. R. kits that  
13 I have put through. If you were to include my training,  
14 it's well over 2,000.

15   Q     And have you been quailed for state court?

16   A     Yes, sir, I have.

17       MR. BARNETTE: Your Honor, I would move him at this  
18 time as an expert in gunpowder residue or G. S. R.

19       THE COURT: Any objection?

20       MR. WARDER: No, Your Honor.

21       THE COURT: He is so qualified.

22   Q     Sir, did you receive two G. S. R. kits involving this  
23 case?

24   A     I did.

25   Q     And let me show you what's been marked, entered into

1 evidence, as State's Exhibits 7 and 8. Was those the two  
2 kits that you received?

3 A These are the kits that I received. They both have my  
4 initials on them indicating that I did the analysis on  
5 them.

6 Q Okay. And when you received them were they sealed and  
7 then you opened them?

8 A Yes, sir; yes, sir, they were.

9 Q If you would, tell the jury about the analysis you did  
10 concerning Mr. Buckson. I think that's State's Exhibit  
11 No. 8.

12 A I received a gunshot residue kit bearing the name  
13 Jerome Buckson on it. As was explained before, G. S. R.  
14 kits come in two parts, particle lifts and swabs.

15 We analyze the swabs first on an instrument that tells  
16 us how much metal is present. When a primer is fired in a  
17 cartridge case it ejects metals, basically lead, barium and  
18 antimony.

19 Based on the level of those metals that we calculate  
20 from this instrument and from the swabs we can give a  
21 varying probability of whether a person has handled a  
22 weapon or fired a weapon or just been near a weapon when  
23 it's been fired.

24 In this case the levels of metals on the right palm  
25 and left palm indicated to me that I needed to take the

1 particle lifts to our second instrument which is a very  
2 powerful microscope.

3 With the microscope we actually look for the particles  
4 themselves. We look for round and nonround gunshot residue  
5 particles, which are composed of lead, barium and antimony.

6 Round gunshot residue particles are unique to gunshot  
7 residue. They don't come just out of the air. They don't  
8 appear on your grill. They're from a gun.

9 We also look for round barium and antimony particles  
10 which are characteristic of gunshot residue. We also look  
11 for round lead particles which are also characteristic of  
12 gunshot residue.

13 In this case the levels of metals I found on his right  
14 palm were indicative of having lead. We found a lot of  
15 lead on the right palm.

16 When I processed the, excuse me, when I processed the  
17 particle lifts I didn't find any round particles of lead.  
18 So I issued an inconclusive. I had a positive on one  
19 instrument but not a positive on my confirmatory  
20 instrument, so I couldn't positively say that I found  
21 gunshot residue or round lead particles on his right palm.

22 On his left palm I found high levels of lead as well,  
23 and I took that lift to the microscope, and I found one  
24 round lead particle. And a round lead particle is a  
25 component of gunshot residue.

1 Q And did you also check his back of his hands?

2 A Yes, I did.

3 Q And what was the results of those?

4 A The back of both of his hands were negative. The lead  
5 levels were not approaching our threshold for taking them  
6 to the microscope for further analysis.

7 Q Let me ask you a question.

8 A Sure.

9 Q If a person, let's say you, had the gun.

10 A Okay.

11 Q And I'm in front of you like this.

12 A Okay.

13 Q And you shot a gun at me, where would the particles  
14 from the gun go?

15 A The majority of particles exit a weapon out of the  
16 muzzle. In some cases, for instance a revolver, as  
17 Mr. DeFreeze has said, they can exit through the cylinder  
18 gap between the cylinder and the barrel.

19 With an automatic they'll come out of the ejector port  
20 as well. However the majority of them come out of the end  
21 of the barrel.

22 Q And if a person were standing in front of, let's say,  
23 a .38 or .357 like this, what would you expect their hands,  
24 especially their palms, to have on them?

25 A If you were standing within that distance which would



1 be approximately three feet, because I'm not going to hold  
2 the gun back here. I'm going to hold the gun out and point  
3 it at you. The distance, approximately three feet. And if  
4 they were holding their hands out, I would expect their  
5 palms to be covered in lead to the point where -- let me  
6 explain.

7 The amount of lead that I found on the right palm was  
8 about 540. I've seen people that we know have stood in  
9 front of a gun barrel with their hands out like this and  
10 been shot, and they're victims, with 28,000 -- 30,000,  
11 covered in lead.

12 Q So the findings that you found from your testing of  
13 Mr. Buckson's G. S. R. kit, would it be more consistent  
14 with him standing in front of the barrel or handling the  
15 gun?

16 A The amount of lead I found on the, I believe it is  
17 the, left palm, the left palm, would indicate that he was  
18 simply handling a weapon rather than standing in front of  
19 it or gripping it by the cylinder or anything like that.

20 Q So it would be more consistent with him handling the  
21 weapon instead of standing in front of it?

22 A That's correct.

23 Q And you also did one, I believe, on Ms. Foggie, is  
24 that correct?

25 A Yes, sir, I did. Her lead levels came back high as

1 well, not high enough to simply call a positive from one  
2 instrument. I also had to take her particle lifts to the  
3 microscope as well. If you will give a moment, I'll look  
4 at her results.

5 (Pause.)

6 A On the two samples I had to take to the microscope,  
7 were the right palm and the right back of Ms. Foggie's  
8 hand, as I said, the levels weren't high enough to simply  
9 call a positive with one instrument. I had to take it to  
10 the microscope for confirmation.

11 I found one round level particle on the palm of her  
12 right hand. One round lead without the first instrument's  
13 positive isn't enough for me to call positive. I had to  
14 call an inconclusive. I just -- it's not enough.

15 However, on the back of her right hand I found four  
16 round lead particles which is more than enough for me to  
17 call a positive for finding round lead on the back of her  
18 right hand.

19 Q So if like a fragment or something had hit the back of  
20 her hand, would that be consistent with that?

21 A That could account for the lead that I found.

22 Q Did you find any on her left hand?

23 A No, sir.

24 Q Let me show you what I believe has been marked as  
25 State's Exhibit 98. Is this a copy of the report that

1 you -- from your examination, sir?

2 A Yes, sir, it is.

3 MR. BARNETTE: Your Honor, I would like to enter  
4 State's Exhibit 98 into evidence at this time.

5 MR. WARDER: Without objection, Your Honor.

6 THE COURT: It is admitted.

7 (SLED report of John Roberts marked State's Exhibit  
8 No. 98.)

9 Q And on the report, item seven is the results of the G.  
10 S. R. kit you did on Ms. Foggie.

11 A Yes, sir.

12 Q And then item eight was the G. S. R. kit you did for  
13 Mr. Buckson.

14 A That's correct.

15 MR. BARNETTE: One moment, Your Honor, please.

16 (Pause.)

17 Q And based off your findings would you say that could  
18 be -- it's more consistent with him handling and firing a  
19 gun -- Mr. Buckson -- or standing in front of the gun?

20 A It's more consistent with him handling a weapon rather  
21 than standing in front of it.

22 I can't say for sure that he fired a weapon. I didn't  
23 see any residue on the backs of his hands. Generally when  
24 you fire a weapon the back of your hand is the most exposed  
25 part of your body. And there was nothing to indicate to me

1 that there was anything on the back of his hands that would  
2 say that he fired a weapon.

3 Q Thank you, sir. Please answer any questions Mr.  
4 Warder may have for you.

5 CROSS-EXAMINATION

6 BY MR. WARDER

7 Q You've told us that the back of a person's hands is  
8 where really we would expect to find gunshot residue from a  
9 shooter, from a person that shoots a gun.

10 A If you had fired a weapon, yes, sir.

11 Q Okay. Can you explain this a little more so we can  
12 understand why the importance of the back of the hand?  
13 What happens when a revolver -- and I want to direct your  
14 attention just to revolvers right now -- when a revolver is  
15 fired?

16 A When a revolver is fired the bullet is present in the  
17 cylinder that's behind the barrel. When it's fired there's  
18 a gap between the cylinder and the barrel. Any primer that  
19 is present can be ejected between that gap. It also comes  
20 out of the barrel.

21 Q Okay. Now, can gas escape from, let's say, the  
22 opening for the trigger to come out?

23 A It can.

24 Q And in some guns can it escape around the gap at the  
25 back of the cylinder?

1 A It could.

2 Q Okay.

3 A I'm reluctant to say that it does, because I don't  
4 know. I know that the front of the cylinder is --

5 Q The big point.

6 A The big point, yes, sir.

7 Q And most of it is ejected out of that minute space  
8 between the barrel and the cylinder.

9 A Most of it is ejected from the muzzle, from the front  
10 of the barrel. However anything that's not, the majority  
11 of it is ejected from the cylinder gap, yes.

12 Q And to some degree it depends on the tightness or the  
13 quality with which the firearm is made as to what's ejected  
14 there.

15 A Sure. If you have, for instance, a target grade  
16 revolver that gap is going to be less than if you have  
17 basically anything else.

18 Q Now, this gas that is ejected, is it ejected as kind  
19 of a cloud or is it something you can see, or what?

20 A Yes, sir, it's a cloud. It comes out in a flume from  
21 the barrel, and it's a cloud from the cylinder gap.

22 Q Okay. If I was to fire a revolver, how big would the  
23 cloud be around my hand? What are we talking about -- a  
24 foot to two feet?

25 A It's hard to say. It depends on the type of revolver,

1 what ammunition you're shooting out of it. It varies, but  
2 I would say that a six-inch cloud is not uncommon. About  
3 that.

4 Q Okay. So my hand if we were to envision it would be  
5 in this six-inch cloud.

6 A Yes, sir.

7 Q And of course it would just be for I guess a very,  
8 very short period of time.

9 A Yes, sir. It doesn't hang in the air for much longer  
10 than a few seconds, I wouldn't think.

11 Q Okay. And I guess that would get on my hand, but it  
12 would also get on my shirt sleeves and stuff.

13 A Yes, sir.

14 Q It isn't just unique to skin. It would --

15 A No, sir. Quite often we get clothes from suspects,  
16 and we're asked to take particle lifts from their jackets  
17 or long-sleeve shirts.

18 Q And truthfully there would be a reasons that you would  
19 not expect to find anything on the palm in a gun-shoot  
20 because it would be more insulated by the grip and stuff.

21 A With the shooter, yeah. You would expect more on the  
22 backs of their hands. However, guns are very rarely not --  
23 very rarely cleaned when you shoot them.

24 If you fire a gun for the first time, it's a brand new  
25 gun, you're probably not going to find much on your palms.

1 If you've fired that gun over and over again that residue  
2 has gotten on the handle of the gun and you can say that  
3 you could get some off of your palm from there.

4 Q Certainly in guns that are old but used seldom and are  
5 carried in suitcases, cars and stuff, that will wipe some  
6 of the residue off.

7 A Yes, sir.

8 Q So a gun could be carried and transported in  
9 conditions that would lessen the likelihood that it would  
10 be on the grips.

11 A That's correct.

12 Q And it also could be the other way, a man that would  
13 shoot a lot and have a lot of gun things around and put his  
14 gun in that box could pick up or add to it.

15 A That's correct.

16 Q Now, in this case, having found none of the what we  
17 would expect the shooter to find and only finding one  
18 particle of the lead, that could have come off other  
19 surfaces outside of a gun?

20 A It's possible. There are a few other places that you  
21 could get round lead particles. It's possible.

22 Q Okay. If a gun had been fired in this area would  
23 there be other things that immediately after that we  
24 touched that we could find a round lead particle on?

25 A If you fired it near that shelf and you left that

1 shelf alone without cleaning it for a while, you could pick  
2 up lead particles or gunshot residue particles off that,  
3 that shelf.

4 Q And how about a more vertical surface like the door  
5 moldings behind you? If a gun was fired in that doorway  
6 could you pick up the particles off those?

7 A If it was close enough to that doorway and that  
8 doorway was -- excuse me -- that doorway was not cleaned,  
9 then, yes, you could pick up gunshot residue particles off  
10 that doorway.

11 Q And how long after the gunshot would it be before you  
12 could pick up particles on the door surface?

13 A If it's close enough, immediately after.

14 Q Okay. So if a gun went off and someone immediately  
15 after touched the wood, the door surface or the right where  
16 it was pointed and went off, they could actually pick up a  
17 particle.

18 A Yes, sir. That's true.

19 Q And that would be consistent with what you found in  
20 this case, one on the palm and none on the hand.

21 A It could be consistent with it, yes, sir.

22 Q Thank you very much.

23 MR. BARNETTE: Just a couple on redirect, Your Honor.  
24  
25



1 REDIRECT EXAMINATION

2 BY MR. BARNETTE

3 Q But the levels that you found on both hands, would  
4 that be consistent with both of those hands touching a  
5 doorframe like Mr. Warder said?

6 A If it had been fired near that door and both hands had  
7 touched it, I would have expected a little bit more as far  
8 as the levels.

9 As far as how many particles I picked up, I can't tell  
10 you. But as far as the levels, if you fire a gun near that  
11 door and then you go and you touch that door, you're going  
12 to pick up a lot, a lot of lead or a lot of residue on your  
13 hands.

14 Q The residue that you found on his hands, are they more  
15 consistent with handling a gun or being in front of a gun?

16 A More consistent with handling a weapon.

17 Q Thank you, sir.

18 RECROSS-EXAMINATION

19 BY MR. WARDER

20 Q And you weren't submitted a test kit for Samarius  
21 Watson, were you?

22 A No, sir.

23 Q Thank you.

24 THE COURT: You may step down.

25 MR. BARNETTE: We would ask for this witness to be

Dr. John David Wren  
Direct examination by Mr. Barnette

1 excused Your Honor.

2 THE COURT: He may be.

3 (Whereupon, the witness was excused.)

4 MR. BARNETTE: Your Honor, we would like to call

5 Dr. Wren next.

6 DR. JOHN DAVID WREN, having  
7 been duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. BARNETTE

9 Q Doctor, if you would, give your full name for the  
10 record, please.

11 A John David Wren.

12 Q And where do you work at, sir?

13 A I'm a pathologist. I work for Spartanburg Pathology  
14 Consultants, but I am the laboratory medical director and  
15 the department chairman at Spartanburg Regional Medical  
16 Center where I work.

17 Q Have you performed autopsies, sir?

18 A Pardon?

19 Q Do you perform autopsies?

20 A Yes. I've been performing coroners' autopsies here  
21 since 1982.

22 Q And how long -- how many autopsies have you performed,  
23 sir?

24 A About 2,500 by now in my career. I do about 160 a  
25 year for the coroner in this county.

1 Q And prior to that did you do autopsies in another part  
2 of the state before that?

3 A I was a resident before I came here at the Medical  
4 University of South Carolina. And from 1980 until early  
5 1983 I was on call one weekend a month where I did all the  
6 cases that were sent to the medical university for autopsy.  
7 I was also the assistant medical examiner of Charleston  
8 County through that time also.

9 Q And where did you receive your medical degree from,  
10 sir?

11 A I graduated from the Medical University of South  
12 Carolina in 1979.

13 Q And how many times have you been qualified as an  
14 expert in forensic pathology, sir?

15 A Between 200 and 250.

16 MR. BARNETTE: Your Honor, at this time I would move  
17 him as an expert in forensic pathology.

18 THE COURT: Any objection?

19 MR. WARDER: No, Your Honor.

20 THE COURT: He is so qualified.

21 MR. BARNETTE: Thank you.

22 Q Dr. Wren, did you perform an autopsy on Tiffany  
23 Foggie?

24 A Yes, sir, I did. I performed an autopsy on Tiffany  
25 Foggie on January the 31st of 2006 in the Spartanburg

1 Regional Medical Center Autopsy Room, beginning that  
2 autopsy at approximately 8:45 a.m.

3 Q And could you tell us what you did during the autopsy,  
4 sir?

5 A What I did?

6 Q Yes, sir.

7 A An autopsy, a forensic autopsy or medical examiner,  
8 the coroner's autopsy, whichever you had rather call it,  
9 consists of obtaining a brief history that I get from  
10 usually the coroner. Sometimes I get it from medical  
11 records and sometimes I get it from other investigative  
12 bodies.

13 I record that just to remind me briefly what happened  
14 when I get ready to completely sign it out.

15 Then I describe the clothing and any evidence that may  
16 be on the clothing.

17 We then remove the clothing and describe the body  
18 completely. If there's blood or, or any trace evidence on  
19 the body, we remove the trace evidence.

20 Then we wash the body, look again for any injuries  
21 that may be present, finish the description.

22 And then I start an autopsy which consists of an  
23 internal description and description of organ systems and  
24 removal of any evidence that may be present internally.

25 Q During the autopsy, what did you find, sir?

1     A     I found she had a -- the only injuries I think that I  
2     saw were a gunshot wound to the left forehead. It appeared  
3     to be distant. It was in the left forehead two and a  
4     quarter inches from the top of the head, two and a quarter  
5     inches to the left of midline. And since the forehead is  
6     curved or the head is curved, it was two and three quarter  
7     inches circumferentially from the midline.

8           This wound was gapping open. It measured 2.3 inches  
9     by 1.6 inches in overall dimensions and it had two  
10    triangular -- she also had two triangular lacerations along  
11    the bridge of the nose, each measuring a little less than  
12    an inch in length. And I considered those to be the  
13    expansion lacerations from the bullet passing into the  
14    skull or diagonally through the calvarium. It's called the  
15    skull cap.

16          The distortion of the expansion as it passes through  
17    will sometimes cause fractures and you can get secondary  
18    lacerations. I thought they were from those because she  
19    had basilar skull fractures, meaning that the base of her  
20    skull was fractured.

21          I resutured that entrance wound, and a portion  
22    centrally appeared to be absent. And there was a small  
23    circular defect along the hairline there that measured  
24    thirty-one hundredths of an inch in diameter and had a  
25    slight abrasion. If you're looking at it with the head at

Dr. John David Wren  
Direct examination by Mr. Barnette

1 12:00 o'clock, that abrasion extended from 9:00 to  
2 3:00 o'clock. That abrasion --

3 (Pause for telephone.)

4 Q Dr. Wren, one second.

5 A Is that mine? I meant to cut it off.

6 THE BAILIFF: We have to get it. Give it to her.

7 THE WITNESS: I apologize. I had gotten a call. I  
8 had cut it off waiting to come in, and I had gotten two  
9 calls and I forgot to cut it back off.

10 Q Please continue, Doctor.

11 A There was a small circular defect that looking at the  
12 top of the head is 12:00 o'clock from 9:00 to 3:00 o'clock  
13 as you would look at a clock, and that's over the top part  
14 of it since I said from 9:00 to 3:00 o'clock.

15 It was -- there was an abrasion there indicating an  
16 entrance wound. I didn't find any bullet or bullet  
17 fragments. And there were, but there were, tiny fragments  
18 of lead present on the x-ray. That's what I found  
19 externally.

20 Q Where was the entrance wound, again, if you could show  
21 the jury, Doctor?

22 A It was in the head in this region.

23 Q Where did it come out at?

24 A Well, it actually entered and came out along a track  
25 that was instead of being an entrance wound and some

1 distance away an exit wound, it was passing tangentially to  
2 the skin and skull. So it didn't go in far enough to have  
3 a separate entrance and exit wound. So the entrance and  
4 exit were basically in the same wound itself.

5 Q And based off that, I think you said she had basilar  
6 skull fractures also.

7 A Yes. The skull fractured, and as it fractured from  
8 the concussion effect of the bullet fracturing the skull  
9 and actually tearing through the skull, it basically broke  
10 the skull and extended into the base of the skull.

11 Q Right after being shot could she possibly move or do  
12 anything after that?

13 A I don't think. I think it would have been -- well,  
14 she could have, I guess. It was not, didn't hit any vital  
15 places.

16 It was what used to be called frontal lobotomies  
17 meaning that at one time in the past people that, persons  
18 that, had some mental problems, they at one time thought  
19 you could remove the front portion of the brain and it  
20 would change a person's personality. And it does. It  
21 makes them less aggressive, makes them less expressive.

22 That's basically what she had. So it didn't hit any  
23 of the places that control movements. She could have moved  
24 after that.

25 Q And obviously the gunshot wound, the basilar

1 fractures, she died shortly from those, afterwards.

2 A Yes. Basilar skull fractures are almost  
3 universally -- even if there's not much brain injury, if  
4 one has a basilar skull fracture it's a place that can't be  
5 easily assessed, and spinal fluid leaks. And one usually  
6 has hemorrhaging to the mouth or the base of the tissues  
7 beneath the skull. And it's almost universally fatal.

8 Q And like Dale Earnhart, would that be an example of a  
9 basilar fracture, what happened to him?

10 A That's as I understand it, yes.

11 Q And what did she -- so did the gunshot wound cause her  
12 death?

13 A That's correct.

14 MR. BARNETTE: One moment, Your Honor, please.

15 (Pause.)

16 Q Please answer any questions Mr. Warder has for you,  
17 sir. Thank you.

18 MR. WARDER: I have no questions of this witness.

19 THE COURT: You may step down.

20 MR. BARNETTE: May we approach?

21 THE COURT: Uh-huh.

22 (Bench conference held off the record in the presence  
23 of the jury but out of the hearing of the jury.)

24 THE COURT: All right. Anything further on behalf of  
25 the state?



1 MR. BARNETTE: Nothing further from the state, Your  
2 Honor.

3 THE COURT: All right. Ladies and gentlemen, that's  
4 the evidence to be offered on behalf of the state.

5 Because of the hour, we are going to recess for lunch  
6 before we go any further. So I'll again remind you of the  
7 caution.

8 You are not to discuss the case in any fashion.  
9 Don't allow yourselves to be exposed to any type of media  
10 coverage that might relate to the case. Do not permit  
11 yourselves to be exposed to any other person's discussions  
12 of the case and don't conduct any investigation or research  
13 into any issue that might arise during the case.

14 With that, you're excused for lunch. I'm going to ask  
15 that you please report back to your jury room at 1:45, at  
16 1:45 this afternoon, a quarter till 2:00. Okay. Have a  
17 good lunch.

18 (The following takes place outside the presence of the  
19 jury.)

20 THE COURT: All right. Solicitor, do you want to  
21 check your exhibits?

22 MR. BARNETTE: Yes, sir.

23 (Pause.)

24 THE COURT: Anything further before we recess for  
25 lunch?

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1 MR. BARNETTE: No, sir. The state does officially  
2 rest. Thank you for giving us the chance to check the  
3 exhibits and everything.

4 THE COURT: Court is in recess until 1:45.

5 (Whereupon, a recess was taken.)

6 THE COURT: All right, sir. The state has rested.

7 Mr. Warder, have you got some motions or other matters  
8 to address?

9 MR. WARDER: Yes, sir, I do.

10 THE COURT: Okay.

11 MR. WARDER: At this time I would move for a directed  
12 verdict on the burglary count.

13 There's no evidence in the record that he was entering  
14 without permission or that there was an illegal entry.

15 The only evidence is by the witness Samarius Watson  
16 that says that he heard some discussion about waking up the  
17 children, that the mother had said you will wake up the  
18 children, go on, don't wake up the children, something to  
19 that effect; and that it's insufficient to submit it to the  
20 jury on.

21 THE COURT: Is that the only ground, the lack of proof  
22 of consent or lack of consent?

23 MR. WARDER: Well, and there is also a lack of proof  
24 that he didn't live at the residence other than he wasn't a  
25 resident. You don't have to own it be a resident or

1 anything else.

2 THE COURT: All right. Any others?

3 MR. WARDER: Just that lack of evidence that he  
4 intended to commit a crime.

5 THE COURT: All right.

6 MR. WARDER: That will be it, Your Honor.

7 THE COURT: All right. Mr. Barnette.

8 MR. BARNETTE: Your Honor, I think the circumstances,  
9 and obviously him going through the window instead of  
10 through the doorway, didn't have a key to the locks, the  
11 locks had been changed, going up and busting open the door,  
12 obviously there is damage done to the door. That's a crime  
13 in itself.

14 Obviously, what he did from the testimony most likely  
15 favorable, or the testimony has been he was the shooter in  
16 the case. This happened at nighttime. Definitely there is  
17 physical injury occurred. I think there is numerous  
18 grounds why a D. V. should be denied at this time.

19 THE COURT: All right. Well, I do think there is some  
20 direct evidence and ample, substantial circumstantial  
21 evidence from which a jury could reasonably infer each of  
22 the essential elements that constitute the crime of  
23 burglary, which is an entry without consent and with the  
24 intent to commit a crime therein. And of course there's  
25 ample direct evidence, as well as circumstantial evidence,

1 as to the fourth factor that would establish burglary in  
2 the first degree.

3 So based upon the existence of that evidence your  
4 motion for a directed verdict is denied.

5 Any other motions you would like to make?

6 MR. WARDER: None at this time, Your Honor.

7 THE COURT: All right. Have you talked to your client  
8 about his right to testify and not testify?

9 MR. WARDER: I hadn't got through that yet.

10 THE COURT: Okay. Well, talk to him about that.

11 (Pause.)

12 MR. WARDER: Okay, Your Honor.

13 THE COURT: You have discussed it with him?

14 MR. WARDER: Yes, I have, Your Honor.

15 THE COURT: And of course you discussed it with him  
16 before today, I would assume.

17 MR. WARDER: Yes, sir.

18 THE COURT: And has he indicated to you now what his  
19 desire is as to whether or not he will testify?

20 MR. WARDER: Yes, he has, Your Honor.

21 THE COURT: What does he tell you?

22 MR. WARDER: He wishes to waive his right against  
23 self-incrimination and testify.

24 THE COURT: Okay. Mr. Buckson, you've heard what your  
25 lawyer just told me.

1 THE DEFENDANT: Yes, sir, Your Honor.

2 THE COURT: Now, have you and he discussed the fact  
3 that any time you're charged a crime you have an absolute  
4 right to remain silent?

5 THE DEFENDANT: Yes, sir, Your Honor.

6 THE COURT: In other words, nobody can make you  
7 testify during this trial. You don't have to make any  
8 statement about this case. You don't have to answer any  
9 questions that relate to these charges.

10 Only you can give that right up. So in this case you  
11 have an absolute right to remain silent and to require the  
12 state to put forth sufficient evidence to establish your  
13 guilt to the satisfaction of this jury beyond a reasonable  
14 doubt. And you never have to assist the state in their  
15 efforts of proving your guilt by taking the witness stand  
16 and testifying and responding to questions that might tend  
17 to prove your own guilt.

18 Now, do you understand you do have that absolute right  
19 to remain silent?

20 THE DEFENDANT: Yes, sir, Your Honor.

21 THE COURT: Do you also understand that if you choose  
22 to testify, that is if you would like to testify, this is  
23 the only opportunity that you would have to do so?

24 THE DEFENDANT: Yes, sir, Your Honor.

25 THE COURT: In other words, the state has rested their

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1 case. And it's now time for you to present any evidence  
2 that you wish to present before this jury.

3 And do you understand that if you take the witness  
4 stand that you're going to have to not only answer  
5 questions that are asked of you by your lawyer but you'll  
6 have to answer questions that are asked of you by the  
7 prosecutor even if the responses to those questions might  
8 tend to prove you guilty of some crime they claim you  
9 committed?

10 THE DEFENDANT: Yes, sir, Your Honor.

11 THE COURT: Now, have you and Mr. Warder had the  
12 opportunity to discuss the advantages and disadvantages of  
13 testifying as well as not testifying?

14 THE DEFENDANT: Yes, sir, Your Honor.

15 THE COURT: And do you appreciate what those  
16 advantages and disadvantages are?

17 THE DEFENDANT: Yes, sir, Your Honor.

18 THE COURT: And does the defendant have any prior  
19 criminal history that the state could use for the purpose  
20 of impeachment?

21 MR. BARNETTE: No, sir.

22 THE COURT: Okay. Have you had plenty of time to  
23 reflect upon your decision as to whether or not you'll  
24 testify?

25 THE DEFENDANT: Yes, sir, Your Honor.

1 THE COURT: And what is your wish?

2 THE DEFENDANT: I will stand trial.

3 THE COURT: You want to stand trial. You're going to  
4 testify?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And is that a decision that you've made of  
7 your own free will and accord?

8 THE DEFENDANT: Yes, sir, Your Honor.

9 THE COURT: Did anybody force you into it?

10 THE DEFENDANT: No, sir, Your Honor.

11 THE COURT: Did anybody pressure you into it?

12 THE DEFENDANT: No, sir, Your Honor.

13 THE COURT: Did anybody suggest that that's what you  
14 ought to do in this case?

15 THE DEFENDANT: No, sir, Your Honor.

16 THE COURT: You made the decision on your own after  
17 ample time to reflect upon it?

18 THE DEFENDANT: Yes, sir, Your Honor.

19 THE COURT: Do you have any questions you need to ask  
20 me about that decision?

21 THE DEFENDANT: No, sir, Your Honor.

22 THE COURT: Do you need to discuss it with your lawyer  
23 any further?

24 THE DEFENDANT: No, sir, Your Honor.

25 THE COURT: And you're satisfied with the decision

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1 you've reached?

2 THE DEFENDANT: Yes, sir, Your Honor.

3 THE COURT: All right. Thank you. You can be seated.

4 Any other matters to address before the jury is  
5 brought back in?

6 MR. BARNETTE: None from the state.

7 MR. WARDER: No, Your Honor.

8 THE COURT: All right. Bring them in.

9 (The following takes place in the presence of the  
10 jury.)

11 THE COURT: Good afternoon, ladies and gentlemen.

12 I apologize for the delay, but I had some matters to  
13 address. Some didn't relate to this case, but I had some  
14 things I had to do. And they took a little bit longer than  
15 I had anticipated.

16 But, as you know, when we recessed for lunch the state  
17 had concluded with their presentation of evidence. So  
18 we're now going to proceed with any to be offered by the  
19 defense.

20 Mr. Warder.

21 MR. WARDER: Thank you, Your Honor. If it please the  
22 Court, the defense would call Chad Tate.

23 THE COURT: Is this senior or junior?  
24  
25



1 CHAD TATE, having been duly  
2 sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. WARDER

4 Q Mr. Tate, sir, where do you live at?

5 A I live on 104 Blithe Street in Gaffney, South  
6 Carolina.

7 Q And how long have you lived in Gaffney?

8 A I lived in Gaffney for 30 odd years.

9 Q Did you know Tiffany Foggie?

10 A Yes, I did.

11 Q And how did you know Ms. Foggie, sir?

12 A I dated her for six and a half years. I got two kids  
13 by her, Chad, [REDACTED] and Desmond [REDACTED]

14 Q And Chad, [REDACTED] and Desmond [REDACTED] where did they live  
15 until last January 30th, a year ago? Where did they live?

16 A They lived on [REDACTED]  
17 Spartanburg, South Carolina.

18 Q And who did they reside with?

19 A Who do they reside with now?

20 Q Then.

21 A Then Tiffany Loraine Foggie.

22 Q And since that time who do they reside with?

23 A Since that happened, me.

24 Q Prior to the death of Ms. Foggie did you have a good  
25 relationship with your sons?

Chad Tate  
Direct examination by Mr. Warder

1 A Yes.

2 Q Did you see them and visit with them often?

3 A Every other weekend.

4 Q Okay. Did you call them on the telephone often?

5 A Every day.

6 Q Okay. And did you call them on the land-line

7 telephone or did you call them on the cell phone?

8 A I called them several times on the land-line telephone

9 and often on the cell, cell phone.

10 Q Who would answer that phone when you would call there

11 for your children?

12 A Usually if Tiffany at work, Jerome Buckson would

13 answer the phone.

14 Q Okay. And when you asked to speak to your children,

15 would he put them on the phone?

16 A Yes, he would.

17 Q Okay. And did that occur along that time, did it

18 occur, did that occur in January of 2005 -- 2006?

19 A Yes, yeah.

20 Q And he was answering the phone most every time.

21 A Yes.

22 Q And he would put your children on the phone when you

23 would ask to speak with them?

24 A Yes.

25 Q Now, when you told us you had weekends, alternate

1 visitation, during that period of time with your children,  
2 does that mean you would come and pick them up at the  
3 residence where Ms. Foggie was?

4 A I would pick them up sometimes and she would bring  
5 them to me sometimes.

6 Q On the occasions in that time frame when you would  
7 pick them up would you see anybody besides Ms. Foggie and  
8 the children at the residence?

9 A Usually I wouldn't even see Ms. Foggie. She would be  
10 at work at Venus. I would usually see Jerome Buckson.

11 Q Okay. He would be with your children at that  
12 residence?

13 A At that residence.

14 Q Okay. And when it came time to return your children,  
15 did you return them to the house?

16 A I would return them to the apartment.

17 Q Okay. And would you have occasion to see Mr. Buckson  
18 on the return?

19 A Yes, I did.

20 Q Okay. And he would get the children from you?

21 A Yeah, he would get the kids from me. He would meet  
22 them at the door.

23 Q Okay. And did they seem fond of him?

24 A They seemed real fond of him.

25 Q Now, when you, back when you, lived with Ms. Foggie,

Chad Tate  
Cross-examination by Mr. Barnette

1 what address did you live with her at?

2 A Once on 106 -- [REDACTED] And  
3 then we moved in 2003 to [REDACTED]

4 [REDACTED]

5 Q Okay. When you lived there were you on the lease?

6 A Na.

7 Q Was she getting what's called section eight housing?

8 A Yes, she was.

9 Q And the section eight housing would list her and the  
10 two children as the residents?

11 A Just her and the two children.

12 Q Thank you. Would you please answer any questions the  
13 state might have?

14 MR. BARNETTE: May it please the Court, Your Honor.

15 THE COURT: Yes.

16 CROSS-EXAMINATION

17 BY MR. BARNETTE

18 Q Mr. Tate, you said that you called her residence.  
19 What phone number would you call it at?

20 A [REDACTED] area code 864.

21 Q You realized that she didn't have a phone in that  
22 apartment.

23 A She --

24 Q You realized she didn't have a phone in that  
25 apartment. Don't you?

- 1 A She did. She had a phone in the apartment.
- 2 Q No. She only used a cell phone, didn't she?
- 3 A Na.
- 4 Q You are telling this jury she did have a phone at that
- 5 apartment.
- 6 A She had a phone at that apartment.
- 7 Q And there was a land line. The number again?
- 8 A [REDACTED] if I ain't, if I'm, if I ain't mistaken.
- 9 Q You called the number every day. You should know it,
- 10 shouldn't you?
- 11 A That's been a year ago.
- 12 Q That's the number you say, and you're swearing that's
- 13 her number.
- 14 A I wouldn't swear to it.
- 15 Q Okay. And you are also telling this jury -- how long
- 16 did you live at 21-G Bradford Grove?
- 17 A I lived there for about six months.
- 18 Q Okay. And when did you leave?
- 19 A I left around June of 2003.
- 20 Q June of 2003. So you're telling this jury you lived
- 21 there six months until June of 2003. When did y'all move
- 22 into that apartment?
- 23 A We moved in there -- I think it was March of 2003.
- 24 Q So it wasn't six months?
- 25 A I ain't very fond with the dates or whatever. I know

1 we moved in that apartment.

2 Q And you left that apartment. She stayed at that  
3 apartment. And you left in June of 2003.

4 A Yes. She stayed at that apartment.

5 Q And she asked you to leave that apartment?

6 A Na.

7 Q Isn't it true that you and her didn't get along very  
8 well?

9 A On occasions.

10 Q Isn't it true that Mr. Buckson was also jealous of  
11 things that you would do?

12 A Most of the time I figured he probably would be  
13 jealous of some of the things I did.

14 Q And you didn't see Jerome Buckson the week before this  
15 happened.

16 A Na. I seen him the week before that. No, I didn't  
17 see him the week before it happened.

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

19 REDIRECT EXAMINATION

20 BY MR. WARDER

21 Q When you lived in that apartment did you bring the  
22 furniture there?

23 A Sir?

24 Q Did you bring furniture to that apartment?

25 A Did I bring furniture? Yes.

1 Q Okay. Is that the furniture that was still in it?

2 A The furniture that was still in it I brought to her  
3 apartment.

4 Q Okay. Did Ms. Williams purchase that furniture that  
5 was in that apartment?

6 A Na, no, sir.

7 Q Who purchased that furniture?

8 A Me and Tiffany. The only thing Ms. Williams did was  
9 sign, cosign, for Tiffany for the comforter set -- the set  
10 that was in the den, the chair and all of that. She  
11 cosigned for Tiffany. Me and Tiffany actually paid on that  
12 furniture.

13 Q Did -- who picked it out?

14 A Who picked it out? Tiffany Foggie.

15 Q Okay. The rest of the things in the bedroom  
16 furniture, who got that?

17 A I purchased it from a cousin of mine, a first cousin.

18 Q She didn't go to the store and pick it out?

19 A Na.

20 Q How about the children's furniture?

21 A Oh, that was gave to them. That furniture, I stayed  
22 at [REDACTED] That was burned down. Was gave to them.

23 Q Was that the furniture in it last January of 2006?

24 A Na, no, sir.

25 Q Where did that furniture come from?

1 A Their step -- their grandpa, Lloyd Williams, purchased  
2 that furniture.

3 Q Okay. What about the kitchen furniture and all of  
4 that? Where did that come from?

5 A Oh, that came from her house.

6 MR. BARNETTE: Your Honor, I am going to object to  
7 this unless he has personal knowledge of where these items  
8 came from.

9 THE COURT: Overruled.

10 Go ahead.

11 Q Do you have personal knowledge of where it came from?

12 A Yes.

13 Q How do you have personal knowledge where it came from?

14 A Because I went, I went, me and Tiffany went together  
15 and bought it. I actually purchased it from Wal-Mart.

16 Q You actually paid Wal-Mart.

17 A I actually paid Wal-Mart and brought it home and  
18 actually put it together myself.

19 Q Was Ms. Williams there when you did that?

20 A No, sir.

21 Q Everything that was in there, was it, did Ms. Williams  
22 pick it out or buy it, or was she with her?

23 A No, sir.

24 Q Were you?

25 A I was with her.



1 Q Who paid for it all?

2 A Me and Tiffany.

3 Q Thank you.

4 MR. BARNETTE: A couple of questions, Your Honor, to  
5 follow up on it.

6 RECROSS-EXAMINATION

7 BY MR. BARNETTE

8 Q The apartment at [REDACTED] which you left in June of  
9 2003 --

10 A Yes.

11 Q -- the furniture burned up, right?

12 A The furniture burned up in the kids' room.

13 Q Okay. And you were with her when she, when you bought  
14 all of this, I mean, the upstairs bedroom, all of that, you  
15 was with her every time she purchased all of that.

16 A Yes, yes.

17 Q Where did you purchase it from?

18 A The bedroom suit she had, she purchased it from a  
19 first cousin of mine.

20 Q Uh-huh.

21 A The bunk beds, my little man, my little boys had, it  
22 was gave to them at that apartment [REDACTED] it was  
23 purchased by their grandpa, Lloyd Williams.

24 Q Was you there when that was purchased?

25 A Na, I wasn't there when that was purchased, not when

1 the bunk beds for my little boys was purchased.

2 Q Well, you left in June of 2003. How do you know about  
3 all of this stuff?

4 A How do I know? Because I done been in there and saw  
5 it. I done been in the apartment and saw it.

6 Q So you just know from going and seeing the apartment  
7 then.

8 A Uh-huh.

9 Q You wasn't with them when they purchased all of this  
10 furniture, was you?

11 A Yes, I was.

12 Q Well, you wasn't even dating Tiffany Foggie or seeing  
13 her, was you?

14 A But it was the same furniture I saw in the slide she  
15 showed.

16 Q You just said. So all of this furniture was there in  
17 21-G.

18 A Yes, it was.

19 Q And you're saying that you know where it was all  
20 purchased and everything.

21 A Yes. I do.

22 Q And it's your furniture.

23 A It's me and Tiffany Foggie's furniture.

24 Q So Ms. Williams could have went with her and bought  
25 some of these items, isn't that right?

1 A Na, no, sir.

2 Q No. I mean, Tiffany could have bought them and she  
3 could have been present.

4 A No.

5 Q So you're saying you went and bought all of that  
6 furniture with her.

7 A Me and Tiffany Foggie went and purchased this  
8 furniture.

9 Q Okay. And where was it all purchased, again?

10 A The bedroom set, Tiffany, in Tiffany's bedroom was  
11 purchased from my first cousin. The dining room set was  
12 purchased at Wal-Mart. The living room set, the couch, the  
13 furniture, the seating material, was purchased at  
14 Kimbrell's, cosigned by Ms. Williams.

15 Q Okay. Where was the -- you said the stuff was bought  
16 from Wal-Mart. Which Wal-Mart was it bought from?

17 A Which Wal-Mart? It was bought from the Wal-Mart off  
18 East Main Street, the Wal-Mart that closed down behind the  
19 Applebee's.

20 Q And Ms. Williams didn't help buy that.

21 A No, sir.

22 Q Where does Ms. Williams work at?

23 A Where Ms. Williams -- Wal-Mart.

24 Q Why wouldn't she buy it at Wal-Mart when she gets a  
25 discount from there?

Teresa Buckson  
Direct examination by Mr. Warder

1 A She just started working at Wal-Mart.

2 MR. BARNETTE: No further questions.

3 THE WITNESS: Yeah.

4 MR. WARDER: Thank you. Come on down.

5 THE COURT: Step down.

6 MR. WARDER: Ms. Buckson.

7 TERESA BUCKSON, having been  
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. WARDER

10 Q Ms. Buckson, how are you related to Jerome?

11 A I am his mother.

12 Q Okay. And are you and him close?

13 A Yes, sir.

14 Q Where does Jerome get all of his mail?

15 A It comes to my house.

16 Q Where is your house?

17 A I stay at [REDACTED] Wellford, South Carolina.

18 Q And how long have you lived at that residence?

19 A Fifteen years.

20 Q Jerome live there?

21 A No, sir.

22 Q Has he lived there?

23 A He has.

24 Q And back in January of 2006 where was he staying at?

25 A He was staying with Tiffany Foggie.

1 Q Okay. When you say he was staying with her, was he  
2 spending every night there?

3 A Yes, sir. That's where he lived.

4 Q And where did his mail come?

5 A His mail came to my house.

6 Q Where did all of his important papers come to?

7 A My house.

8 Q How often did you see your son?

9 A All of the time. Him and Tiffany.

10 Q Tell me about your relationship with Tiffany.

11 A I loved Tiffany. I loved Tiffany like she was my  
12 daughter. We were very close. We talked almost every day.  
13 I even talked to the, talked to her the night, that Sunday  
14 night. She was just like my daughter.

15 Q Did you go places and do things?

16 A Yes, we did.

17 Q What type of things would you go and do?

18 A We would go to the beach together or I would throw  
19 parties, and she would throw parties. We cooked together.  
20 And she would come over and eat, the kids, her and the  
21 boys. Like I said, we got along great.

22 Q There would come a time in December, sometime, anyway,  
23 come a time that the apartment got flooded. Do you  
24 remember that?

25 A Yes. I remember it because she stayed at my house a

1 few times, her and the boys and Jerome.

2 Q Okay. And when they got the new carpet down did you  
3 go over to the house after that to see the carpet?

4 A No, I didn't go over there. She fussed at the rent  
5 lady. She said it took them too long to put it down.

6 Q On 2000 -- I'm sorry. January of 2006 were you and  
7 Tiffany together? Did you see her during the month of  
8 January?

9 A Yes. She stayed at my house because the carpet was  
10 up -- her and the kids and Jerome. We cooked taco salads  
11 two weeks before that. She went and bought the stuff. She  
12 loved for me to make her taco salads. She went and bought  
13 the stuff.

14 We played spades. Her and one of Jerome's friends and  
15 Jerome and her two boys and my 13-year-old, we were all  
16 together. We had a good time. I told her she was welcome  
17 at my house any time.

18 As long as the carpet was -- just like I said, the  
19 rent lady, she was fussing because she said it took them  
20 too long to put her carpet down. And at one point I wanted  
21 to call the rent lady, and she advised me I could not do  
22 that because Jerome's name was not on her lease.

23 Q If you had to talk to Jerome, where did you call him  
24 at?

25 A On his cell phone, or Tiffany.

1 Q Would there be occasions you would call Tiffany to get  
2 in touch with Jerome?

3 A Oh, yeah. She usually had to wake him up when she  
4 could get him awoke.

5 Q Would there be occasions that Tiffany would be looking  
6 for Jerome?

7 A She would be when he was at work or he hadn't come  
8 home yet. She called and asked me had I seen him. And if  
9 he stopped by my house and be on the floor asleep, the  
10 phone would ring, ring, ring. And usually he would get up.  
11 And I'd be like where are you going. I'm going home. It's  
12 Tiffany. I would say, well, okay.

13 Q The weekend that Tiffany got shot, where had you been  
14 that weekend?

15 A I was in the emergency room. I had been having  
16 problems with my blood pressure. So I had went to the E.  
17 R. around 5:00, a little after 5:00 o'clock, that Sunday.

18 And I called Jerome's phone. And he was sitting  
19 beside Tiffany. And I said let me speak to Tiffany,  
20 please. And I said, "Tiffany, send Jerome by the house to  
21 stay with his little brother, I have nobody to stay with  
22 him, I'm in the emergency room." She -- and I said, "Make  
23 sure you make him come because if he laid down he won't get  
24 back up." She said, "Yes, ma'am."

25 Q Now, at that time Jerome had a job where he had to get

1 up very early for.

2 A Sir?

3 Q Jerome had to get up early in the morning.

4 A Yes, sir. He had to go to work.

5 Q Do you know what time he got up and went to work?

6 A I was in the emergency room that Sunday night.

7 Q You don't know what time he usually got up and went to  
8 work.

9 A He had to be there early because he had to travel so  
10 far from her house, so he got up early.

11 Q Did you spend the night in the hospital or did you  
12 come home?

13 A I came home.

14 Q What time did you get home?

15 A I was discharged about 11:00, 11:30. And I made it  
16 home.

17 Q Okay. When you got there was Jerome there?

18 A Yes, sir. He had to stay with his little brother. I  
19 didn't have nobody to stay with him.

20 Q How old was Jerome's little brother?

21 A He was 13 at the time. He was 12.

22 Q And did Jerome stay at your house then after you got  
23 home, or did he leave?

24 A No. He didn't stay with me.

25 Q Okay. What time did he leave your house on that



1 night?

2 A He may have left my house probably about 1:00, maybe  
3 about 1:00 or so. But he made sure I was okay, which I  
4 was. Like I said, I was having a problem with my blood  
5 pressure.

6 Q Just a minute.

7 (Pause.)

8 Q Thank you very much. Would you answer any questions  
9 the solicitor might have?

10 MR. BARNETTE: May it please the Court, Your Honor.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. BARNETTE

14 Q Ms. Buckson, what number did you call Tiffany at?

15 A On Jerome's cell phone.

16 Q You never called her on her cell phone?

17 A No. I called my son. He was sitting beside her.

18 Q No. I meant when you called her. You called her on  
19 her cell phone?

20 A When I talked to her?

21 Q Yes, ma'am.

22 A On the job.

23 Q Did you ever call her on her cell phone?

24 A Yes, sir.

25 Q Okay. And the cell phone is the only phone she had,

Deborah Poteat  
Direct examination by Mr. Warder

1 wasn't it?

2 A She had a house phone earlier, but it was not on.

3 Q She didn't have a house phone, did she?

4 A No, sir.

5 Q Thank you, ma'am.

6 MR. WARDER: Thank you. Come on down.

7 THE COURT: You may step down.

8 THE WITNESS: Your Honor, could I say something?

9 THE COURT: No, ma'am. You can step down.

10 MR. WARDER: Deborah Poteat.

11 DEBORAH POTEAT, having been  
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. WARDER

14 Q Ms. Poteat, you're related to Jerome Buckson.

15 A I'm his aunt.

16 Q How are you related?

17 A I'm his aunt.

18 Q On his?

19 A His mother is my sister.

20 Q Now, do you live close to where Tiffany Foggie and  
21 Jerome lived?

22 A I could get there in ten minutes.

23 Q Where do you live at?

24 A I live at [REDACTED] is where I reside.

25 Q How far is that away?

- 1 A About maybe eight or nine miles away.
- 2 Q Would you stop by the apartment that Jerome and
- 3 Tiffany occupied?
- 4 A Yes.
- 5 Q How frequently would you do that?
- 6 A Whenever Jerome would call me, or if I needed
- 7 something I would go by there if I'm looking for him.
- 8 Q How often would you go by there?
- 9 A I didn't miss a week. I can tell you that. There
- 10 wasn't a week went by that I didn't miss going by there.
- 11 Q When you got there would you go inside?
- 12 A Sometime.
- 13 Q Okay. Did Jerome look like he lived there?
- 14 A Yeah. He lived there.
- 15 Q Would there be occasions you would see Jerome with the
- 16 children there?
- 17 A Yeah. I came by a couple of times and he had the
- 18 kids. As a matter of fact, sometimes he would be asleep
- 19 and the kids would have to wake him up.
- 20 Q Is there any question in your mind but what he was a
- 21 resident there?
- 22 A No. He lived there. He definitely lived there.
- 23 Q Thank you very much. Answer any questions the
- 24 solicitor may have.
- 25 MR. BARNETTE: May it please the Court, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. BARNETTE

3 Q So he lived there and he had his items there, his  
4 clothes and everything like that.

5 A Uh-huh. He had items there that I seen when I went by  
6 there.

7 Q Okay. And he had his items there, you say, clothes, I  
8 guess.

9 A He used to take his clothes over to his mama's house  
10 to wash them and then he would bring them back.

11 Q And did he have his toiletry articles, everything?  
12 You said he lived there.

13 A Yeah. He lived there. Tiffany invited me over to  
14 meet -- him and Tiffany invited me over to meet his mom and  
15 step-mom. That's the first time I'd met them.

16 Q So you said he had items there, his toiletry, his  
17 clothes. He just lived there. So he had everything there.

18 A He had items there, because he even had his school  
19 records there.

20 Q Did he have -- so you say he had all kinds of stuff  
21 there.

22 A He had his clothes there. Whenever he wanted to wash  
23 his clothes, I know, because him and his mom would get in a  
24 little disagreement, why would he bring his clothes to her  
25 house and wash them.

1 Q Thank you, ma'am.

2 MR. WARDER: Call Jerome Buckson.

3 JEROME CURTIS BUCKSON, having  
4 been first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. WARDER

6 Q Jerome, I want you to relax and speak up. It is an  
7 important day for you.

8 Jerome, how did you know Tiffany Foggie?

9 A I was her boyfriend.

10 Q Okay. Well, how did you meet her?

11 A I had met her a long time ago when we was children. I  
12 lived in the Bluffs Apartments which was close to where her  
13 grandmother lived. She would come and visit her  
14 grandmother maybe.

15 Q Can you speak up just a little louder?

16 A I met her awhile back when I lived in the Bluff  
17 Apartments. She would visit her grandmother on occasions,  
18 which was off Center Street. But I knew of her. And that  
19 was maybe when we was ten years old. But we would see each  
20 other throughout the community throughout Spartanburg  
21 but --

22 Q When did you start dating her?

23 A 2005, January.

24 Q And --

25 A I'm sorry. I meant to say 2004. I'm mistaken. A

1 year before the crime happened, took place.

2 Q Okay. When did you, did you start living or staying  
3 at her house?

4 A Probably a month after I met her. She asked me to  
5 move in with her.

6 Q Now, when you say move in, was the house furnished?

7 A Yes, it had already been furnished because she had  
8 already lived there before I came.

9 Q Okay. So when you moved in, you didn't bring anything  
10 with you like furniture or anything like that.

11 A Other than my clothes and my weight-lifting equipment,  
12 that's mainly, that was it.

13 Q Your clothes and your what?

14 A My weight-lifting equipment.

15 Q Your weight-lifting?

16 A Yes. I work out a lot.

17 Q Now, where did you keep your weight-lifting equipment?

18 A At the -- there's a closet up underneath the  
19 stairwell. It's mainly barbells and multiple weights I can  
20 change out.

21 Q Okay. And that was kept in a closet that was under  
22 the stairway?

23 A Yes, sir.

24 Q Okay. And did it always remain there?

25 A Every now and then, my little brother, he would want

1 to use it. And I worked a lot. So I would bring them up  
2 for him to use. He wanted to work out a little bit.

3 Q Okay. So you took that weight equipment back and  
4 forth between your little brother and you.

5 A Yes, sir.

6 Q Okay. And outside of that equipment that would be  
7 there part of the time and not, then the only other thing  
8 you would have is your clothes?

9 A Yeah. I purchased another play station too for my  
10 brother. So I let the kids have that one. But I  
11 considered that the children's.

12 Q Okay. And so you had the play station there that you  
13 had purchased.

14 A Yes, sir.

15 Q And then your clothes.

16 A Yes, sir.

17 Q Now, when you moved in with Tiffany did she have a  
18 closet full of clothes?

19 A Yes. It was filled with her clothes. Mainly, all of  
20 my stuff was in dresser drawers.

21 Q Okay. Your clothes were where?

22 A It would be in like the drawers other than my blue  
23 jeans, other than the items which you can just pull out and  
24 put on, would be in the drawers, in the compartments in the  
25 dressers.

1 Q Okay. On January 30th, 2005, did you have clothes  
2 there?

3 A I had a few things. The lower level had flooded up.  
4 I probably had about six or seven shirts and probably four  
5 pair of blue jeans.

6 Q Okay. And where were they at?

7 A She had washed clothes earlier that day. A lot of  
8 these items, the blue items, the darker colors, they were  
9 folded up in the closet because we dried the blue items.  
10 But the lighter colored items we let air dry. So we'll lay  
11 them on the futon, on the furniture, so they can air dry.

12 Q You were working then.

13 A Yes, sir.

14 Q Where were you working at?

15 A I was working at a metal distribution center in  
16 Greenville, South Carolina.

17 Q And what time did you get up to go to work every day?

18 A I would have to be there at 5:00. So I would have to  
19 get up at around 3:30 a.m. and leave out about 4:00 a.m.

20 Q Okay. And what was the name of the metal  
21 distribution?

22 A We had, they had just changed names. And I had just  
23 previously started working there two -- two months prior.  
24 It was first, it was called Mac Metal and they changed it  
25 to a new name, which, I mean, it just basically occurred to



1 me, you know. I just started working there.

2 Q Okay. It was Mac Metal when you started. And then it  
3 changed to something other than Mac Metal.

4 A Yeah. They changed it. Yeah. Another company bought  
5 them out. A foreign company bought them out.

6 Q Okay. I want to draw your attention to the weekend of  
7 January the 30th. At that time you were still living with  
8 Tiffany.

9 A Of course.

10 Q I want to ask you a little bit about the arrangement  
11 on the keys and the locks there.

12 A Okay.

13 Q Okay. There had been a flood at some time, hadn't  
14 there?

15 A Within the week of January.

16 Q Okay. And what happened with, after the -- was it the  
17 sewer that backed up?

18 A Yes. We was receiving waste from other apartments, in  
19 which it was basically coming from out of the toilet  
20 distributing itself on the flooring and the carpeting.

21 Q Okay. And you would have to move out because of that?

22 A We was asked to vacate the premises because it was  
23 toxic, considered that anyway.

24 Q Okay. And they had taken up all the flooring, I mean,  
25 all the carpeting and all the mats?

1 A Yes, sir, they had.

2 Q And those were laying out in the front yard of the  
3 apartment?

4 A Yeah. They didn't come and pick them up. They just  
5 left them out there for somebody, I guess the garbageman to  
6 pick up.

7 Q And they put down new carpeting and mats?

8 A Yes, sir, they did.

9 We was allowed to come back to the apartment even  
10 though there was no flooring since had they fixed the  
11 toilet. And then they eventually put the carpet down. But  
12 we was probably there for a couple of days before they put  
13 the carpet down.

14 Q Okay. Did anything happen with the door locks after  
15 that?

16 A They changed the door locks. We had asked for them to  
17 change the door locks.

18 Q Why had you asked for them to change the door locks?

19 A We had multiple plumbers and maintenance men entering  
20 and exiting the apartment.

21 Q Okay. When they changed the door locks, how many keys  
22 did they get?

23 A They gave Tiffany one.

24 Q Okay. Did you guys make another key?

25 A We made two copies.

- 1 Q Okay. You made two more keys.
- 2 A Yes, sir.
- 3 Q What did you do with the two keys you made?
- 4 A One was distributed to me, and Tiffany's mother,
- 5 Taffie Williams.
- 6 Q Okay. You had one and Ms. Williams had one.
- 7 A Yes, sir.
- 8 Q What then happened?
- 9 A Later on that week, probably the next day, I got a
- 10 phone call. And Tiffany stated when you get home make sure
- 11 your key works, because Taffie's key wasn't working.
- 12 Q Okay. One of the duplicate keys that had been given
- 13 Ms. Williams didn't work in the lock.
- 14 A Yes, yes, sir.
- 15 Q Okay. Did your key work on the locks?
- 16 A When I got home I checked the lock and it worked in
- 17 the back door.
- 18 Q What then happened to your key?
- 19 A Considering I went to work early and I basically came
- 20 home after most of the people come home except for
- 21 occasions where she would have to work to 7:00 o'clock, my
- 22 key was distributed to her mom. It was given to her mom
- 23 maybe three days before this crime happened.
- 24 Q Okay. So about three days before the 30th you gave it
- 25 to her, to your mother?

1 A I didn't give it to her mother directly. I left it on  
2 the kitchen table, and I told Tiffany that the key was on  
3 the kitchen table.

4 Q Now, tell me about the children. Did you watch the  
5 children?

6 A Yeah, I watched the children. I considered them mine.

7 Q Did -- were they in school?

8 A Yes, sir.

9 Q Where did they go to school?

10 A They both went to -- I forgot the name. It's like  
11 close to Glendale. I want to say Fernwood-Glendale. But  
12 one of them had just came out of Merryland -- Merryland,  
13 the little, the little basically toyland place.

14 Q Okay.

15 A Basically where they babysit the children at until  
16 somebody gets off work. And then both of them would come,  
17 get out of school and come there since we were both  
18 working. Tiffany and I was working. Her mother would come  
19 and pick them up unless I got off work prior to and it was  
20 time for them to pick up. Or I would come and get them.

21 Q Okay. And you picked them up part of the time?

22 A Yes, sir.

23 Q When people wanted to get in touch with you, how would  
24 they do that?

25 A They can either do it two ways, by calling my cell

1 phone or calling Tiffany's cell phone, in which she would  
2 relay the messages to me.

3 Q Did Tiffany have a good relationship with your mother?

4 A Yes, sir.

5 Q The weekend of the 30th, the 30th was on a --

6 A Monday if I am not mistaken.

7 Q The 29th was on a Sunday?

8 A Yes, sir.

9 Q What did you do that weekend?

10 A That weekend I thought I had to go to work, in which I  
11 did come in, but we didn't have to work that day. So I  
12 came back home. That would have been that Saturday. I  
13 came back home, and then I went up to my mom's house.

14 Q What day are we talking about of the week?

15 A This is Saturday.

16 Q Saturday?

17 A Yes, sir.

18 Q Okay. And where did you spend Friday night?

19 A Friday night, I spent it at the apartment.

20 Q Okay. And where did you spend Saturday night?

21 A I stayed at my mom's house Saturday night.

22 Q Okay. Why did you stay at your mom's house the  
23 Saturday night?

24 A She was having health issues and I wanted to look  
25 after them, but I went back to the apartment basically

1 Sunday morning.

2 Q Okay. What did you do Sunday?

3 A Sunday I left my mom's house and went to the apartment  
4 and no one was at home. Tiffany was washing clothes.

5 Q What time was that?

6 A It was around, I would say, 1:00 o'clock.

7 Q In the afternoon?

8 A Yes, sir.

9 Q Okay.

10 THE COURT: Could you get a little bit closer to that  
11 microphone, please?

12 THE WITNESS: I'm sorry.

13 Q I'm sorry. It's hard to hear in here.

14 A I apologize.

15 THE COURT: Don't pull it down. If you pull it down  
16 you won't be speaking into it. So leave it up. .

17 THE WITNESS: All right.

18 Q After 1:00 o'clock, where did you say you went?

19 A I went back to my mom's house.

20 Q Okay. And you spent all Sunday afternoon there?

21 A No. I had to help my friend move his girlfriend out  
22 of her apartment into, into the house that she had just  
23 purchased.

24 Q Okay. How long did that take?

25 A Say maybe two and a half hours.

1 Q Do you know about what time you got through helping  
2 your friend move into an apartment, move his girlfriend  
3 into an apartment?

4 A I want to say about 4:30.

5 Q Okay. What did you do then?

6 A We then -- initially I had drove my vehicle to his  
7 brother's house. And we got the pickup truck. I left my  
8 vehicle at his brother's house. And I also left my phone.

9 By the time we finished, we drove the pickup back to  
10 his brother's house, in which I retrieved my vehicle and  
11 the phone.

12 I checked the messages. A couple of the messages was  
13 from Tiffany and a couple was from my mom. She stated that  
14 she was going to have to go into the hospital, my mother  
15 did. So I went by my mama's house. And basically I sat  
16 with my bother for a minute.

17 Q What contact did you have with Tiffany? Did you  
18 talk -- you couldn't talk with Tiffany when you were moving  
19 because your cellphone wasn't there.

20 A Exactly.

21 Q When did you talk to Tiffany that evening or that  
22 night?

23 A We talked, Tiffany and I talked, from 2:00 a.m. that  
24 morning.

25 Q Okay. Getting up to 2:00 a.m., what did you do until

1 2:00 a.m?

2 A 2:00 a.m.

3 Q Did you go to your mom's house before that?

4 A Yes.

5 Q Okay. And how long did you stay there?

6 A I stayed for a few hours. I just basically checked  
7 in. I wanted to make sure she was okay. She had been  
8 telling me she was getting sick.

9 Q Okay. Were you there when she got home from the  
10 hospital?

11 A Yes.

12 Q And your little brother was there?

13 A I'm sorry?

14 Q Your little brother was there?

15 A Yes, sir.

16 Q Okay. When you left your mom's house where did you  
17 go?

18 A What day are we talking about? Are we talking about  
19 Sunday or Saturday?

20 Q Sunday.

21 A Okay. That night when I left my mom's house?

22 Q What time did --

23 A I mean, I repeatedly came to my mama's house.

24 Q Okay. Your mom got home from the hospital on Sunday  
25 night?



1 A Yes. She got home at around 12:00, somewhere between  
2 12:00 and 12:30.

3 Q And where did you go then?

4 A I went and shot pool with a friend of mine, and then I  
5 went to the apartment around 2:30.

6 Q Where did you go to shoot pool?

7 A The V. F. W. It's a private club, veterans of foreign  
8 war.

9 Q What time did you leave there?

10 A Around 2:30.

11 Q Where did you go when you left the V. F. W. after you  
12 shot pool?

13 A I went to the apartment.

14 Q And when you got to the apartment, what happened?

15 A I pulled up. I had began calling Tiffany to let her  
16 know I was on my way home. I pulled around to the front of  
17 the apartment.

18 Q Okay. When you called Tiffany did you speak to her?

19 A No, I didn't. The phone was off.

20 Q Okay.

21 A I kept on getting her voice mail.

22 Q When was the last time you and Tiffany had talked  
23 prior to you getting to the apartment?

24 A 11:30.

25 Q Okay. You had called her; she had called you?

1 A She called me the last four times.

2 Q Okay. She called you at 11:30?

3 A From basically 10:00 o'clock until 11:30.

4 Q Now, when you got there in the morning, you said you  
5 started calling and you got her voice mail.

6 A Yes, sir.

7 Q How many times did you get her voice mail?

8 A I probably called about seven, I mean, like I'd call  
9 and get the voice mail and hit the send button and call  
10 right back, so I --

11 Q Your phone has a button --

12 A Yes.

13 Q -- that you can push it and it like redials or calls  
14 the last number again?

15 A Yes, sir; yes, sir.

16 Q Okay. Did anybody ever answer the voice mails?

17 A No, sir.

18 Q When you got there, what did you do then?

19 A I pulled up, and I checked to see if the door was  
20 unlocked because I didn't have my key. I knocked on the  
21 door.

22 I went to, from the front door to the back door. And  
23 I checked to see if the door was open. At the same time  
24 simultaneously I was calling her cell phone. And I also  
25 was calling out to her.

1 Q Now, what did you do after you checked the back door  
2 and it wasn't unlocked?

3 A I knew the window remains unlocked at all times. I  
4 mean, it doesn't even have a screen on it because we  
5 sometimes have to go in whenever our parents have our key.

6 Q Now, when you say the window, it's that window beside  
7 the back door?

8 A Yes, sir.

9 Q And there was a bush out in front of it. There is a  
10 big space behind the bush.

11 A Yes, sir.

12 Q And how long had you had occasions that you had to go  
13 in and out the window?

14 A Whenever like Tiffany's mother would need my key or  
15 something or I didn't have my key or one of us didn't have  
16 our key we would -- one of us would pick up the children or  
17 something. And we would come home, and maybe we will sit  
18 the child inside and he'll walk around and open the door.  
19 It was probably about -- I mean, it just happened  
20 throughout occasions. Sometimes it happened and sometimes  
21 it don't.

22 Q That night did you go in the window?

23 A Yes, sir, I did.

24 Q And prior to going in the window that night did you  
25 talk or did Tiffany say anything?

1 A Tiffany came to her window.

2 Q Okay. When she came to her window, what happened?

3 A She leaned out the window. By that time I was  
4 basically half way in the window. And she said, Jay, it's  
5 going to be argument, the children are asleep, just come  
6 back later. And at that aspect I was like what you mean,  
7 come by later. I mean, I was like, Tiffany, I don't  
8 understand what you're saying, come back later, you ain't  
9 never said anything like that before.

10 Q You were still living there.

11 A Yes, sir.

12 Q Okay. What did you do?

13 A I came in. I mean, I have clothing there. I have  
14 items. I have documentation in this house, and which I pay  
15 bills here even though my name is not on the lease. I  
16 financially cannot be a part of -- a participant in paying  
17 bills, I mean, as far as showing on paper.

18 Q Okay. When you say you paid the bills, what do you  
19 mean?

20 A That means I give money to Tiffany and she then  
21 distributes to the bills.

22 Q How much money would you give to her?

23 A We split the bills 50-50, but at the time I got a  
24 better job. So I began paying more of the rent, more of  
25 the light bills, because at one point I was laid off from

1 my old job, and which she basically took care of the home.  
2 But I was staying there, so I compensated for it. I  
3 started paying a majority of the bills.

4 Q Did her mother pay the bills, or did you and Tiffany?

5 A Really it was whoever got to the bills, I mean,  
6 whoever could get to the bills, I mean.

7 Q Did her mother pay part of the bills?

8 A As far as paying herself?

9 Q Well, did she give money?

10 A We gave -- I, mean, I gave my money to Tiffany. And  
11 Tiffany may give her the money to go pay a bill if Tiffany  
12 can't make it to pay the bill. We both worked.

13 Q That night you come in. What do you do?

14 A I came in the window. I closed the window back. I  
15 walked up the steps. Before I got all the way up to the  
16 steps I seen the bedroom door closed. And that was all.

17 Q You seen it close or you seen it was closed?

18 A It was closed.

19 Q Okay. Did go up the stairs and the bedroom door is  
20 shut?

21 A Yes, sir.

22 Q What happens?

23 A I go over to turn the knob. And Tiffany again repeats  
24 herself, Jay, it is going to be argument. I am like,  
25 Tiffany, open the door.

1 Q She didn't say anything except there's going to be an  
2 argument.

3 A She said that children -- you're going to wake the  
4 children, just come back later.

5 Q When you shook the knob, what happened?

6 A The knob was locked. At that time I then basically  
7 stiffed on the door because I didn't want to just come  
8 inside the room and me not knowing what's on the other  
9 side.

10 Q When you say you stiff on it, how do you stiff on it?

11 A It's basically shaking it.

12 (Demonstration by witness.)

13 A I'm sorry. Straight pushing it.

14 Q How many times did you do that?

15 A Twice.

16 Q Okay. What happened to the door?

17 A The first time the door came open, and then it shut.  
18 And I felt like somebody on the other side.

19 Q When you say the door shut, did somebody shut it or  
20 did it shut itself?

21 A Somebody shut it.

22 Q Okay. Somebody was on the other side.

23 A Yes.

24 Q You pushed it open, they pushed it closed.

25 A Yes.

1 Q You pushed it open again.

2 A Yes, sir.

3 Q What happened?

4 A This time when I pushed it open I propped my left foot  
5 against the door, and I held it open with my right arm.

6 At this time Tiffany was still on the other side, in  
7 which I leaned inside the door with my head. And I noticed  
8 the person -- the door was open basically a quart of the  
9 way. And I noticed a person hanging half way out the  
10 window, their upper torso, and which they did not have a  
11 shirt on.

12 Q Okay. What then happened after you seen this person  
13 hanging half out the door without a shirt on?

14 A Tiffany was standing on the opposite side of the door  
15 I was, and she had her arm up trying to block my view.  
16 When I bent down she moved her arm down. By that time I  
17 had already seen him though. And I looked at Tiffany. I  
18 said what's going on. I mean, I probably stated some cuss  
19 words but --

20 Q What did you see the guy do?

21 A The guy, he then came in through the window. I  
22 noticed when he ducked his head back in. I could not see  
23 anything because there was no hall light on and there was  
24 no light on in the bedroom. But I could see his silhouette  
25 from the window.

1 Q Is there lights in the parking lot?

2 A Yes. That's how I seen the silhouette.

3 Q So there would be lights that come in the glass.

4 A Coming inside from the window.

5 Q What did you see the silhouette doing?

6 A He bent down.

7 The window he came in was the one beside the bed. He  
8 began walking from that side of the bed, and he bent down  
9 and picked up something.

10 By this time Tiffany had averted -- seen that I had  
11 averted my eyes from her looking at him. And so she  
12 turned, and basically her left side. She turned and looked  
13 to see him walking toward us.

14 That's when he raised the gun up beside her. When he  
15 raised the gun up beside her, he bumped into her torso.  
16 She had her left hand still on the wall.

17 When he bumped into her torso, that's when she looked  
18 down and basically seen the gun that he had in his hand.  
19 When she looked down she swung her left arm back off the  
20 wall to elbow him back.

21 At that point with her right hand she went to swat the  
22 gun down. At that time the gun disbursed. When the gun  
23 disbursed with me having my right arm holding the door  
24 open, I felt pitter-patters. It felt like a gush of wind  
25 or either rain drops strike my arm.



1 By me seeing the flash of the gun and by me hearing a  
2 pop, I felt something strike my arm. Automatically I'm  
3 assuming I'm shot. I mean, that was the first thing that  
4 came out of my mind -- came out of my mind.

5 Q What did you do when you felt that and thought you had  
6 been shot?

7 A I had, I had to sit back and analyze it. I mean, it  
8 was like run instantly, run. That's what I'm saying.

9 Q Did you instantly run?

10 A It was like it took a split second for it to analyze.  
11 I was like this man just shot a gun in my house. So I  
12 didn't realize I had stepped back when this was occurring.  
13 So I turned around to run. But by the time I turned around  
14 I was already too close to the steps, and I fell down the  
15 steps basically half way -- half way falling. And I hear  
16 him say if you ain't running you're a dead motherfucker.

17 Q Okay. You were running.

18 A I wasn't running. I was basically sliding down the  
19 steps on my back side, but once reaching the bottom --

20 Q You ran?

21 A Yes.

22 Q You went out the door?

23 A I'm sorry?

24 Q You went out of the house?

25 A I went out the, the kitchen door.

1 Q Okay. Was the kitchen door open or closed?

2 A Of course the kitchen door was closed because I came  
3 through the window. It would not have been open.

4 Q Okay. And did you have to open it?

5 A I had to unlock the door and go out. No one went out  
6 the room before me. Therefore the door would be locked.

7 Q When you got out did you go to your car?

8 A No. I was, it was immediate danger. I mean, my  
9 vehicle was parked in front of the front door. And that  
10 front door was parallel with the bedroom door. Basically  
11 the steps and the bedroom and the front door is parallel  
12 with each other.

13 Considering that, you know, I just heard a gunshot and  
14 I'm thinking he's giving chase, I ran around to the kitchen  
15 to gain distance. I know he could basically aim from the  
16 bedroom door straight down to the front door. Therefore I  
17 just, I basically went around to gain distance from him.

18 Q When you got out -- did you hear another gunshot  
19 before you left the house?

20 A Yes. I heard a second gunshot.

21 Q When you went out the door, which way did you run?

22 A I exited out of the kitchen door and I ran to the  
23 right. And then I ran to the left, basically when you come  
24 in at the door, come at the drive entry point --

25 Q Just a minute.

1 A Okay.

2 MR. WARDER: Your Honor, I would like this marked. I  
3 would move it into evidence.

4 MR. BARNETTE: No objection, Your Honor.

5 THE COURT: It is admitted.

6 (Photograph marked Defendant's Exhibit No. 9.)

7 Q Could you come around here?

8 (Whereupon, the witness left the stand.)

9 Q I don't want you to get in the front. It's  
10 important -- I want you to stand to one side. And I want  
11 you with my pen here -- thank you. I want you to first  
12 show us where the building that Tiffany lived at was.

13 A Tiffany lived in this middle building.

14 Q Make sure you're not blocking anybody. Okay. Tiffany  
15 lived in which building?

16 A This middle building.

17 Q Okay.

18 THE COURT: He is going to need to speak up a little  
19 louder than that because he's away from the microphone and  
20 his back to the court report.

21 A Tiffany lived in this building -- I'm sorry. Tiffany  
22 lived in this middle building.

23 Q Okay. And which end of that middle building did she  
24 live in?

25 A If you're facing it from the road, it would be the

1 right end.

2 Q Okay. And point to the right end.

3 (Whereupon, the witness pointed.)

4 Q Okay. And which side of that building did you come  
5 out?

6 A I exited out of this side of the building. My vehicle  
7 would have been parked on this side. I exited out of this  
8 side of the building, the kitchen.

9 Q Okay. And show the jury where you ran.

10 A I then ran to the right. I'm sorry. Yes. To the  
11 right if I'm facing that way. I ran to the right and run  
12 into the road. We have an entry point and an exit point.  
13 I ran --

14 THE COURT: You have to speak up.

15 A You have an entry point and exit point of Bradford  
16 Grove. I ran to the entry point on foot.

17 Q Okay. Have a seat.

18 (Whereupon, the witness returned to the stand.)

19 Q Did you do anything as you ran to the road?

20 A Once I got to East Main Street I called 9-1-1.

21 Q Okay. And tell us about that.

22 A As I was crossing East Main Street, they had picked up  
23 on the second ring as far as I know of.

24 I then explained to them what I just explained to you,  
25 there was a man I found in my home shot a weapon, he was

1 with my girlfriend. They asked me anyone else was in the  
2 room as far as I know of. I'm not so sure if they asked me  
3 or the officer asked me.

4 Q Were you, were you breathing hard from having ran?

5 A I mean, that's basically 200 yards, so, yes.

6 Q Okay. Were you excited?

7 A Yes, sir. There's a man just shot a gun at me.

8 Q Were you scared?

9 A Yes, sir.

10 Q Would the 9-1-1 tape reflect that you had just been  
11 excited and scared and out of breath?

12 A Yes, sir. It should. I haven't heard it.

13 MR. WARDER: Your Honor, I would ask permission to  
14 play the 9-1-1 tape.

15 THE COURT: Let me see y'all just a minute.

16 (Bench conference held off the record in the presence  
17 of the jury but out of the hearing of the jury.)

18 Q Okay. You called 9-1-1. How long did you stay on the  
19 phone?

20 A I would say seven minutes at least until -- I know I  
21 was still on the phone when the police arrived.

22 Q Okay. So you stayed on the phone and talked to them  
23 all the time that the police were -- that it took to get  
24 there.

25 A Yeah. The police arrived probably four minutes after

1 I called.

2 Q Okay. And when the police arrived did you -- when you  
3 got over there, where did you go? Did you go in front of  
4 the Lowe's?

5 A Basically directly in front of where the exit, I mean,  
6 the entry where the apartment at. I ran straight across,  
7 which if you look at it's a big parking lot. Lowe's  
8 connected to the tractor-plus parking lot.

9 Q When the police car, you saw it coming down the  
10 street, did it come with the lights on?

11 A To my memory, I think so.

12 Q Okay. Anyway, did you go out when you saw the car?  
13 What did you do?

14 A Once I seen the car I held my phone up. The display  
15 light from my phone, I mean, I figured they could maybe see  
16 it. And I put the phone back on my head when I seen them  
17 stop. He stopped and --

18 Q You have a phone. You said it lights. Did you have a  
19 phone that has a screen that lights up?

20 A Yes, sir, the display light. I mean, almost every  
21 phone, flip phone, has got one.

22 Q Okay. And you waved that light so the police car  
23 would see that light?

24 A Yes, sir.

25 Q Okay. Did they stop as if they had seen it?

- 1 A Yes. He stopped and turned around.
- 2 Q So he actually went past you on Main Street?
- 3 A Yes. He went past me a little bit.
- 4 Q Okay. And did he back up or did he do a u-turn?
- 5 A He did a u-turn to the left.
- 6 Q Okay. And he came back. So his headlights would be
- 7 headed the direction from whence he originally came.
- 8 A Yes.
- 9 Q When he came up to you, what did you do?
- 10 A I came up to him, his car. He got out of the vehicle.
- 11 He asked me, you stated you been shot. I stated I thought
- 12 I had been shot, I felt something strike my arm but I
- 13 checked myself and didn't feel any pain considering I
- 14 didn't --
- 15 Q Okay. When did you realize that it wasn't pain that
- 16 you --
- 17 A When the operator stated to check myself and see if I
- 18 was bleeding. I checked. She asked me have you been shot.
- 19 And I said I don't know, I don't know how it's supposed to
- 20 feel. I don't know if it's supposed to be numb. I don't
- 21 know. I mean, if it's supposed to burn.
- 22 Q You checked yourself.
- 23 A Yes.
- 24 Q You weren't shot.
- 25 A No, sir.

1 Q Did you stay with the policeman there?

2 A I stayed with the policeman the whole time. In fact,  
3 I have never left there. I am still with the police to  
4 this day.

5 Q Okay. Did -- while you and the policeman were talking  
6 did you see another vehicle?

7 A I pointed to a gray Lincoln Town Car.

8 Q Tell me about the gray Lincoln Town Car you pointed  
9 to.

10 A Upon arriving to the apartment, the back side where  
11 the kitchen at, that's where everybody parks at. I mean,  
12 everybody gets home, you know, they park on the back side.  
13 Then whoever has the parking spaces left over got to park  
14 to the front side.

15 Considering that no one was on the front side except  
16 for my vehicle and another vehicle, which was parked at the  
17 opposite end of the apartment -- Tiffany stayed on the  
18 right end. The vehicle was on the opposite end of the  
19 apartment.

20 Q At those apartments do you get -- do you know the cars  
21 that are there, the residents?

22 A Yes, you, yeah, you pretty much know everybody that  
23 lives around you.

24 Q Was that car an unusual car?

25 A I mean, it wasn't unusual to the fact that it was a



1 different kind of car, but I had never seen it before.

2 Q Okay. Did you point or do anything or motion that car  
3 to the officer? Did you direct him to it?

4 A I pointed the car out to the officer. I said,  
5 officer, I believe that's him. Officer said how do you  
6 know. I said no one has left out of the apartment complex  
7 and considering your other officers has came up the  
8 entryway, basically where, I'm sorry, the exit-way  
9 basically where everybody comes out at, that car is leaving  
10 out of the entryway where everybody is supposed to come in  
11 at. It was leaving out of the wrong, the opposite end of  
12 the apartment. That's what caught my attention.

13 The officer then told me to stand behind his cruiser  
14 just in case he turns to the left, but he turns to the  
15 right and goes toward the city of Spartanburg.

16 Q Okay.

17 A He then got in his vehicle and radioed. I asked the  
18 officer are you going to chase him. He said, no, my, I  
19 'posed to sit here with you, that's what I was told to do.

20 Q And so it just drove away.

21 A Just drove off.

22 Q What then happened?

23 A Excuse me. Then other officers came. One officer  
24 came and said did you call in the gray Lincoln Town Car,  
25 and the officer, I think it was Satterfield, he stated,

1    yeah, I called him in.  He said, well, I had just passed  
2    him right after you called him, I'm sorry, right before you  
3    called it in.

4            So, I mean, at that point I was kind of upset.  And I  
5    was like why y'all didn't chase him.  And they was like  
6    we'll get him, he can't run from the radio.  I was like  
7    okay.

8            The other officers came.  They then asked me was my  
9    name Jay.  They asked me did I have a weapon on me.  I said  
10   he just checked me and, I mean, you're welcome to check me  
11   again if you want to.  They checked me.  And then they said  
12   I'm going to have to put you in the car for a minute.

13   Q      Well, let's -- do you have a weapon?

14   A      No.

15   Q      Do you own a gun?

16   A      No.

17   Q      Did you carry a gun?

18   A      The last gun I ever had, it was a paintball gun in  
19   which we, I played with the manufacturers of B. M. W.  And  
20   that was like in 2003.

21   Q      Okay.  You don't own a .38 or a .357?

22   A      No.

23   Q      Do you know anything about guns?

24   A      I know that if you shoot a gun it leaves gunpowder  
25   residue.  There is no way of getting around it.

1 Q Did the gun you saw, do you know what kind it was?

2 A I could basically -- I know like the sounds of it,  
3 like if it's not like a spec, it's short. If you don't, if  
4 it's a revolver you wouldn't shoot it in rapid succession,  
5 you wouldn't paw, paw, paw. You would try to basically  
6 conserve your bullets.

7 Q What do you know, kind of what you see in the movies  
8 about guns?

9 A Yes. I mean, they --

10 MR. BARNETTE: Objection, Your Honor, to him leading  
11 the witness.

12 THE COURT: Don't lead him.

13 Q What color was the gun you saw in the apartment?

14 A It was either chrome. It flashed before I seen the  
15 fire. So it had to be chrome.

16 Q Okay. Did you go downtown with the policeman?

17 A Yes, I went downtown with him to the detectives'  
18 office, I think it was.

19 Q At this time did you know that Tiffany Foggie had been  
20 shot?

21 A The officer told me that she had been grazed in the  
22 arm.

23 I heard on the radio that she was still breathing.

24 And I asked the officer, what do you mean she's still  
25 breathing. The officer turned his radio, oh, she's grazed

1 in the arm. Like she's okay. It's like, yeah, she'll be  
2 all right.

3 Q Did you go downtown to make a statement?

4 A Yes, I did.

5 Q At some point when you were making a statement did,  
6 what, did the officer leave the room?

7 A The officer left the room. He served a burglary paper  
8 on me, burglary, first degree burglary charge on me. He  
9 then left the room. And I was like I live at this  
10 apartment. I kept on explaining to him I had clothes,  
11 documentation. He was like, well, your name ain't on the  
12 lease. I was like my name ain't got to be on the lease  
13 but --

14 Q What happened when they left you there? Did they  
15 leave you with your cell phone?

16 A Yes, sir, they left me with my cell phone.

17 I called my mother. She stated Tiffany had been shot.  
18 I was like I know, I heard she was grazed, I'm trying to  
19 get in touch with her and she still ain't answering the  
20 phone. She was like, okay, let me check and see if I can  
21 get in touch with her. I then called her brother.

22 Q Called whose brother?

23 A Tiffany's brother, T. Ray Foggie.

24 Q Okay. And when you called him, what did you learn?

25 A I asked T. Ray to let me speak with Tiffany. I told

1 him they trying to charge me with burglary. And he was  
2 like I can't let you speak to Tiffany, she's dead, you  
3 killed her.

4 Q What was your reaction?

5 A At first I wanted to say I didn't kill nobody. And  
6 then I realized what he just said. I'm like do what. And  
7 I broke down and I became hysterical. I'm like, no, no,  
8 no, this can't be happening.

9 Q Okay. Do you know whether that, the receiving of the  
10 news and breaking down and becoming hysterical, was on the  
11 tape that they made at the L. E. C?

12 A They had told me. I'm sorry. I think they wanted me  
13 to remain calm. That's why they did not let me know that  
14 she was shot.

15 Q My question was was that on the tape.

16 MR. BARNETTE: Objection, Your Honor. He is leading  
17 the witness.

18 MR. WARDER: No, sir.

19 THE COURT: Overruled.

20 Q And the question was was that on the tape that they  
21 made at the law enforcement center, you breaking down.

22 A I think it should be.

23 Q Okay.

24 A I know I remained in the room. I don't know if they  
25 had the tape going while they left the room to see my

1 reactions or what.

2 Q Did they tell you they were making a tape of it?

3 A No.

4 Q You found out through the discovery process they did?

5 A Yes.

6 Q And that tape would show your reaction.

7 A Yes, it would.

8 Q Did, did you have the gun that shot Tiffany?

9 A I'm sorry. I can't hear you.

10 Q Did you have the gun that shot Tiffany?

11 A I never had a gun at all. I never disbursed a  
12 firearm.

13 Q You felt for the muzzle and the last -- the spatter  
14 off the shot.

15 (Juror coughing.)

16 THE COURT: Let me ask the jury to please go to your  
17 jury room.

18 (The following takes place outside the presence of the  
19 jury.)

20 THE COURT: Let's take five minutes.

21 Step down. Do not discuss your testimony during this  
22 break.

23 (Whereupon, a recess was taken.)

24 THE COURT: Let me see y'all a minute.

25 (Bench conference held off the record.)

1 THE COURT: All right. Are we ready for the jury now?

2 MR. WARDER: Do you want Mr. Buckson back on the stand  
3 before they come in?

4 THE COURT: Yes, sir.

5 All right. Bring the jury in, please, sir.

6 (The following takes place in the presence of the  
7 jury.)

8 THE COURT: All right. You may continue with the  
9 examination.

10 BY MR. WARDER

11 Q Mr. Buckson, you had some papers and a file at the  
12 house.

13 A Yes, sir. My resumes, legal documentation.

14 Q Let me hand you this and ask you if that's what was at  
15 the apartment that night.

16 A Yes, sir.

17 MR. WARDER: Your Honor, I would offer this into  
18 evidence.

19 MR. BARNETTE: No objection, Your Honor.

20 (Documents marked Defendant's Exhibit No. 10.)

21 THE COURT: Defendant's Exhibit No. 10 consisting of  
22 13 pages is admitted without objection.

23 Q Jerome, Exhibit 10, tell us what that is and why that  
24 was there.

25 A This is basically my resume showing where I worked at;

1 my permanent school records; among other things, clothing  
2 that I have purchased; my, basically it also has like check  
3 stubs and things of that nature.

4 Q Okay. You had a blue file that was there that had  
5 some stuff.

6 A Yes, sir.

7 Q That's the papers when you had a blue file in the  
8 house?

9 A Yes, sir. It was in the bedroom.

10 Q Okay. I just show you and ask you can you identify  
11 it. Do you know what that's a photograph of?

12 A Yes, sir.

13 Q And what is it? And whose stuff is that?

14 A This is a photograph of my vehicle. It is a Ecco  
15 jacket and my work hat.

16 Q Okay.

17 MR. WARDER: I would offer this into evidence.

18 MR. BARNETTE: No objection, Your Honor.

19 THE COURT: It is admitted.

20 (Photograph marked Defendant's Exhibit No. 11.)

21 Q Mr. Buckson, I am going to show you some photographs  
22 that are already into evidence. Can you see that?

23 A May I come down?

24 Q Can you about get the pointer that's right there  
25 behind you and step down in front of that?



1           (Whereupon, the witness left the stand.)

2   Q     Mr. Buckson, does that photograph show your  
3   toothbrush?

4   A     Yes, sir, it does.

5   Q     And what kind of toothbrushes did you and Tiffany  
6   have.

7   A     We had electrical toothbrushes. The children have  
8   little small alligator toothbrushes. The big ones are too  
9   long for their neck. It's a choking hazard.

10  Q     Okay. And you and Tiffany had --

11         THE COURT: Excuse me just a minute.

12         Let me remind the witness that you have got your back  
13  to this court reporter and she can't hear. You're going to  
14  have to speak up much louder.

15  A     As I stated, this is my toothbrush. We have  
16  electrical. I have a gray one; Tiffany has a purple one.  
17  The children has little small toothbrushes because the big  
18  ones are choking hazards.

19  Q     Can you show us where your toothbrush is?

20  A     That's my toothbrush right here.

21  Q     Okay. And just remain there. I have one other  
22  photograph I want to point something out on. Does that  
23  photograph show another toothbrush?

24  A     It shows a white toothbrush with a purple strip on it.  
25  This is Tiffany's.

1 Q And that photograph is already in evidence. You can  
2 have a seat up there right now.

3 (Whereupon, the witness returned to the stand.)

4 Q Was there other articles of yours in the bathroom?

5 A Yes, sir.

6 Q And where were they kept at?

7 A They would be in the vanity mirror or they would be  
8 under the cabinet. I mainly, whatever I use I tend to  
9 leave out. Tiffany would put up for me.

10 Q When you say the vanity mirror, what do you mean?

11 A The mirror which you basically look at over the sink.

12 Q Okay. How do you store things in the mirror?

13 A It's behind the medicine. It's like a medicine  
14 cabinet. It's behind the mirror.

15 Q Okay. The vanity mirror, medicine cabinet, opens up.

16 A Yes, sir.

17 Q Most of your stuff was inside that cabinet.

18 A As far as grooming, yes.

19 Q Okay. That photograph is in evidence. Do you  
20 recognize any of the clothes on the -- I guess it's the  
21 futon?

22 A I recognize the blue shirt because it's an Ecco shirt.  
23 I usually wear Ecco and Polo. The Unlimited is basically  
24 Ecco Unlimited, Marco Ecco. And that's usually the only  
25 kind of clothing I wear.

1 Q And we have admitted into the evidence as Defendant's  
2 Exhibit 11 the picture of the inside of your automobile.  
3 What does it show in that picture?

4 A It shows the jacket I had purchased of Ecco Unlimited,  
5 which you can see on the tag, and it shows my work hat.

6 Q Okay. The label there is Ecco Unlimited?

7 A Yes, sir.

8 Q Thank you. Just a moment.

9 (Pause.)

10 Q Will you please answer any questions the solicitor  
11 might have?

12 A Yes, sir.

13 THE COURT: Mr. Barnette.

14 MR. BARNETTE: May it please the Court, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. BARNETTE

17 Q Mr. Buckson, let me take you back. You was -- I want  
18 to make sure. When you came up to the bedroom door that  
19 night or that morning --

20 A Yes, sir.

21 Q -- tell us what happened again.

22 A When I came to the bedroom door?

23 Q Yes, sir.

24 A At that moment when I went to the steps I came to the  
25 door. I went to open the door. It was locked. I then

1   stiffed on the door, basically pressing it. It came open  
2   and closed.

3           Before that she had stated to me that you're going to  
4   wake the kids, come back at a later time, it's going to be  
5   a big argument.

6   Q    And then what happened then?

7   A    Then I pressed the door open for the second time. I  
8   pushed the door open for the second time, which it came  
9   open a quarter of the way. At that instance when it came  
10  open I put my left foot at the door and basically held it  
11  open with my right arm.

12  Q    Who was holding it open or closed?

13  A    On the back side of the door, I don't know which  
14  person was holding it closed, but Tiffany's view -- came  
15  into view when she put her arm up.

16  Q    Well, didn't you testify that this silhouette is over  
17  at the window?

18  A    I just stated that Tiffany was at the door.

19  Q    No. I'm talking about, was Tiffany or was it the  
20  fellow --

21  A    The silhouette was the person who was out of the  
22  window half way.

23  Q    Right. So if he was out, going out the window, it had  
24  to be her.

25  A    I just stated Tiffany was at the door with her right

1 arm at the door.

2 Q And how could you see it? Well, did you open the  
3 door?

4 A The door was open a quarter of the way.

5 Q Okay. Did you open it and go inside the room?

6 A No.

7 Q So then what? Did you speak to Tiffany?

8 A I basically stated, Tiffany, what's going on. I may  
9 have cursed also.

10 Q So where did Tiffany go when you opened this door?

11 A Tiffany remained at the door with her left arm up.

12 I'm sorry. I have been saying right.

13 Q Well, how could you see through the door to see where  
14 she was? It's a solid door, isn't it?

15 A I'm sorry?

16 Q It is a solid door, right?

17 A As I stated, the door came open a quarter of the way.  
18 When the door came open I put my foot at the, at the base  
19 of the door. Tiffany then was at the door. She appeared  
20 at the door with her left arm up.

21 Q Well, how could you see that through the door, because  
22 you have seen the pictures. I think the jury has seen.  
23 It's a solid door. How can you see through to see where  
24 she is and her where arm, hand is?

25 A The door came through a quarter of the way.

1 Q So you're saying the door came open and she's standing  
2 behind it like this.

3 A Yes, sir.

4 Q Well, how could you see it was her?

5 A I could see her arm. I mean, of course I could see  
6 her face also.

7 Q You could see her face through the door?

8 A Sir, Tiffany was on the opposite side of the door.  
9 The door came open a quarter of the way. I seen basically  
10 half of her -- her body, her face, was hanging out of the  
11 door. I'm saying at the door where she had her arm up.

12 Q So she never was between you and him?

13 A If he was at the window and she was at the door on the  
14 side he was on and I was on the opposite side of the door  
15 basically in the hallway, she was in between both of us.

16 Q Okay. How was she dressed?

17 A At the time the hallway light didn't work and the  
18 light in the bedroom wasn't on. I assume when I seen  
19 basically half of her body -- I seen her leg, in which it  
20 was uncovered, but I didn't really see her shirt.

21 Q Okay. And you're saying that she never was in  
22 between, physically between, you and this other fellow?

23 A As far as him being right there at that moment, she  
24 was basically in front of me, and he was on the back side a  
25 little bit further away because he was at the window.

1 Q Do you remember? You did talk to the police. I think  
2 you told the jury that.

3 A Yes, in which I gave multiple statements. .

4 Q Multiple statements?

5 A Yes, the initial statement. And then as I began to,  
6 you know, time pass, and I gave another statement, which  
7 they asked me to give another statement.

8 Q Okay. Isn't it true that you basically said you hit  
9 the door twice? She asked you to stop. The second time it  
10 busted open and she was standing there buck-naked? That's  
11 what you told the police.

12 A Mr. Taylor interpreted it that way.

13 Q Oh, so he interpreted it that way.

14 A Yes. That means he wrote those statements, in which I  
15 signed it.

16 Q And then you went on. You said she was standing  
17 between us naked and he was naked. You're saying that she  
18 was standing between the two.

19 A Which I stated just a minute ago when he came up and  
20 shot the weapon.

21 Q And you said that she had her left arm trying to hold  
22 him back.

23 A She initially had her left arm up against the door.  
24 When he came up against her he brushed her torso. When he  
25 did that she looked down and immediately went to nudge him

1 with her elbow. When doing so, she also brought her right  
2 arm across her body. At that instant the gun fired.

3 Q Okay. So you're saying that he had the gun. Which  
4 hand did he have the gun in?

5 A Would you mind I stand and show you?

6 Q Sure. I'll be glad to. Please come up there and show  
7 the jury.

8 (Whereupon, the witness left the stand and  
9 demonstrated.)

10 A If you're Tiffany -- you be Tiffany?

11 Q I'll be Tiffany. Are you going to be yourself or --

12 A I will be Mr. Watson.

13 Q Okay. Show me where Tiffany is at.

14 A Tiffany is at the door when I turn -- well, we can  
15 face the jury. Tiffany is at the door. Raise your right,  
16 I mean your left, arm up.

17 Q Okay.

18 A He is coming back. Basically turn a little bit.

19 Q Okay.

20 A I comes back past the bedroom, past the bed, and in  
21 which he comes and walks up to her. When he walks up to  
22 her, the dresser is basically right on the side of the  
23 door. So he can't go around and turn the gun into her. He  
24 has to basically come to the side. And when he did that,  
25 he bumps into her. She looks down.



- 1 Q Okay.
- 2 A At that instance she sees the gun beside her. And she  
3 went to nudge him back with that elbow.
- 4 Q Okay. I'll let you guide it.
- 5 A She swings her right arm to push the gun away.
- 6 Q And she pushed, was pushing it way, is that right?
- 7 A To my knowledge she pushed the gun away. At that  
8 instant it disbursed.
- 9 Q And where, and where was you at during that time?
- 10 A Okay. At that time I was on the opposite side of the  
11 door, my left foot basically holding the door, my right arm  
12 crossing and holding the door at the same time. And he  
13 reached. When he brings the gun up beside her, she smacks  
14 it with her arm and it disbursed. At that time it  
15 disbursed I felt the pitter-patter, felt like rain drops or  
16 a gush of wind strike my arm, and I pulled it back.
- 17 Q And you thought you was shot.
- 18 A Yes. I seen the flash and heard the pop and felt  
19 something strike my arm.
- 20 Q Where did you see the flash down here?
- 21 A It was, I mean, it was covered up basically. I seen  
22 the outline like. If you take a picture and you have a  
23 hand in front of it, you can see the outline of where the  
24 picture is.
- 25 Q And you said you had the door. So you said you was in

1 the doorway with the door pulled open.

2 A Yes, sir. The door was pulled open, which the view is  
3 straight to the window beside the bedroom.

4 Q Okay. So you just had it -- show me how using that.

5 A This would be like --

6 Q Hold on for one second. Go ahead. Can you use that  
7 door? I know the handle is the wrong way on it.

8 A Yeah.

9 Q But if you can, show us how far it was open.

10 A Do you want to be on the inside of the room or on the  
11 outside of the room?

12 Q Be on outside of the room, please.

13 A If they was on the outside of the room going the  
14 opposite direction the door is probably opened that much,  
15 which a direct view to the window beside the bed, the  
16 window that he was half way out of --

17 Q Okay.

18 (Whereupon, the witness returned to the stand.)

19 Q So your testimony is -- I want to make sure I got this  
20 straight -- that she put her arm back. He had the gun  
21 beside her hip basically in this area.

22 A To what I seen, yes.

23 Q And then she was taking her hand and trying to knock  
24 it down.

25 A She swatted at it.

1 Q Swatted at it trying to knock it down or whatever.

2 A Yes, sir.

3 Q And your testimony is that the door was open as far as  
4 you showed the jury there and you had your left foot, I  
5 guess.

6 A Yes, sir.

7 Q And you're holding it like this and you're just  
8 talking to her.

9 A Yes, sir.

10 Q Let me ask you, Mr. Buckson. How did she get shot on  
11 the top of the head if that's the way it happened?

12 A Because there were two shots, sir.

13 Q There was two shots?

14 A Yes, sir.

15 Q In your statement you said there was only one shot.

16 A No. In my statement I said it was two shots.

17 Q You said there was -- well, let's talk about that. In  
18 your statement you said the one shot, that you thought she  
19 was hit. And this is going back to your statement. In  
20 your statement you said that she was in between you and  
21 him, that she was holding back like this and was holding  
22 you back basically like this.

23 A No.

24 Q Well, she was standing with her right arm, left arm  
25 trying to hold him back.

- 1 A Yes. Her left arm.
- 2 Q "I backed up to turn but I fell down the steps."
- 3 A Yes, sir.
- 4 Q "She said don't shoot him." Is that what she said?
- 5 A She was responding to him, I guess.
- 6 Q Okay. And you said, "He shot again. He heard him
- 7 coming down the stairs when he shot again."
- 8 A I stated what?
- 9 Q You stated, "I heard him coming down the stairs when
- 10 he shot again."
- 11 A I stated that I was coming down the steps when I heard
- 12 the second shot.
- 13 Q Okay.
- 14 A He was, Mr. Taylor was, writing it for me. That's why
- 15 he's got, "He heard him," as if third person, basically.
- 16 Q So you're saying this is incorrect.
- 17 A What I'm stating is he took it as -- he wrote it in
- 18 the context as if he was interviewing me.
- 19 Q Okay. And he went through this statement with you,
- 20 didn't he?
- 21 A I read the statement, which I concurred. You got to
- 22 realize this crime had just taken place. That's why I, I
- 23 kept on. They kept on bringing me back to give a statement
- 24 as future events unfolded.
- 25 Q Okay. And so he shot again. There was no shot that

- 1 was downstairs.
- 2 A To my knowledge there was no shot downstairs.
- 3 Q So you're saying all the shooting occurred upstairs.
- 4 A I'm saying when I heard the second shot I was the only  
5 person at the lower level of the steps.
- 6 Q Okay. So you're saying the second shot was down, was  
7 from upstairs, or upstairs, period.
- 8 A I'm stating when I heard the second shot I was the  
9 first person down the steps. I did not see where the shot  
10 went. I cannot tell you where the shot went because I am  
11 not the person who shot the gun.
- 12 Q Okay. Then you said you went to try to get distance  
13 between you and him. Are you running or walking?
- 14 A Sir, I'm running.
- 15 Q Okay. You run. Where do you run from then?
- 16 A At what point?
- 17 Q When did you start running?
- 18 A Basically when I stood up from the fall.
- 19 Q So you're saying you fell down the stairs, and when  
20 you stood up that's when you ran.
- 21 A Yes.
- 22 Q Okay. And you said you ran to the back door.
- 23 A The front door was immediately in front of me, because  
24 the steps is parallel with the bedroom and the steps.
- 25 Q And you went to the, through the, back. You said you

1 opened the back door.

2 A I was the person that opened the back door. See, I  
3 came through the window. The back door wouldn't have been  
4 unlocked or open. If it would have, I would have come  
5 through the back door.

6 Q Well, couldn't you easily just reach and open the door  
7 through the window?

8 A Yes, sir. No. You could. But, I mean, why? I mean,  
9 I wasn't trying to go back outside right then.

10 Q So isn't it easier just to open the door and then just  
11 walk through the door than climbing through the window?

12 A I mean, at the time it was dark. There was a shelf  
13 right there. I just came on inside the door.

14 Q Okay. And you said you have done this.

15 A So I came on inside the window.

16 Q So you have done this several times then.

17 A I have done this previously, in which I have also sat  
18 the kids in and they walked to the door. I mean, the  
19 window stays unlocked just in case, you know, we had to get  
20 in.

21 Q Okay. And didn't you tell -- didn't you actually go  
22 to the back door?

23 A I am sorry?

24 Q Didn't you actually go the back door first?

25 A At what moment?

1 Q When you first got there.

2 A When I first got there I parked my vehicle at the  
3 front door, so automatically I go to the front door. It's  
4 right there. And then I went around to the back door.

5 Q Well, you said everybody parked in the back. Why  
6 didn't you park in the back?

7 A Because, as I stated, where the kitchen at -- what you  
8 calling the back?

9 Q Yes, sir. The back door, where the kitchen is.

10 A Everyone has arrived at the apartment therefore the  
11 parking spaces are filled up. Mostly everyone parks on the  
12 back where the kitchen is. That's where you come in at  
13 most of the time. You bring groceries and stuff in. The  
14 only time you park on the front side is when you arrive  
15 late and there are no more parking spaces left.

16 Q Now, but in your statement you told them you went to  
17 the back door because the window was open, the bedroom  
18 window.

19 A In my statement? Can you show that to me?

20 Q Yes, sir, I can. "I got there. I pulled around to  
21 the front and went to the back because her bedroom door was  
22 open, bedroom, excuse me, bedroom window was open. I  
23 called her name and knocked on the door. And I went to the  
24 front and knocked on the door."

25 A Okay.

1 Q Now, which was it? Did you do that or --

2 A I went to both of the doors.

3 Q Okay.

4 A I mean, I went to the back and to the front. I really  
5 wasn't thinking which way I went first, which one I went to  
6 first.

7 Q And then you said, "I went to the back, around to the  
8 back again."

9 A Okay.

10 Q So did you go to the back door first?

11 A I went to the door. I went to the front door and then  
12 I went to the back door. I may have went to the front door  
13 again or I may have came in. I really, really didn't, I  
14 mean, you got to realize I came home, went to the front  
15 door because it was the closest door, and then I was  
16 running around to the back.

17 Q Okay.

18 A And then I may have came back to the front.

19 Q And all of this time you're calling Tiffany's phone.

20 A Yes, sir, the whole time I was calling her cell phone.

21 Q And you said the window is always open.

22 A Yes, sir.

23 Q Well, Mr. Buckson, if that's the case, you don't have  
24 a key. Why didn't you just go ahead and go to the back  
25 door and open the window and just go in?



1 A Because for one thing it's 3:00 o'clock at night. And  
2 if she is asleep, I'm not just fixing to come in on her,  
3 ya' know what I'm saying, without being announced. But I  
4 figured she has heard me call her. And considering she  
5 came to the window, I went on in.

6 Q Well, don't you think it would look awful strange if  
7 somebody else was watching somebody go through a window at  
8 3:00 o'clock in the morning?

9 A To someone else? It was awfully strange to me that I  
10 could be allowed to come to my home four hours earlier.  
11 And then all a sudden you have another man in this home. I  
12 cannot come inside my home any more.

13 Q Let's get back to when you got to the house there.

14 A Yes, sir.

15 Q Did you have a key to get in the house then?

16 A I did not have my key.

17 Q Isn't it true they had to let you in?

18 A Yes, they let me in. If I was a threat to them I'm  
19 pretty sure they wouldn't have let me in.

20 Q Well, of course no man was there at that time, was he?

21 A Not to my knowledge. I wasn't checking for another  
22 man in my own house.

23 Q Well, obviously you was at 3:00 o'clock that morning,  
24 weren't you?

25 A Obviously, I stay up late because I work early. As

1 Tiffany knowed, she called me and asked me what time I was  
2 coming home.

3 Q Didn't you talk -- when you gave this statement wasn't  
4 you worried about her cheating on you?

5 A At that time I had figured something may have been  
6 wrong because she repeatedly told me, asked me what time  
7 was I coming home. And she called me three times asking me  
8 this.

9 Q Well, didn't you call her 31 times in that period?

10 A No, yes. Things -- we exchanged phone conversations.

11 Q But didn't you actually call her number 31 times?

12 A You got to realize if no one answers the phone all you  
13 had to do was mash send and it will redial the numbers.

14 Q Well, you called her seven times during that time. If  
15 the voice mail picked up, wouldn't you think she was asleep  
16 and you'd just go ahead and go inside the house?

17 A If her voice mail picked up, yes, I would think she  
18 was asleep. But I'm not -- I wasn't just going to just go  
19 in the house. I would have preferred her to be awake.

20 Q And you said you left your key for Taffie Williams?

21 A Yes, sir.

22 Q Isn't it true Taffie Williams had her own key?

23 A At one point she did. But her key did not work. She  
24 tried the locks. She tried the key at one point. It  
25 didn't work.

- 1 Q Well, you said the two copies. They made off the same  
2 key, right?
- 3 A You know just as well as I do sometimes the key  
4 doesn't work once you get copies.
- 5 Q And you said you didn't have a key for three days?
- 6 A Yeah, roughly three days, three or four days.
- 7 Q How did you get back inside the house? How did you  
8 get in and out of the house then?
- 9 A Sometimes the door locks would be unlocked and  
10 sometimes Tiffany would be at home.
- 11 Q Why was you looking through the blinds when you came  
12 home that evening?
- 13 A I wasn't looking through the blinds.
- 14 Q Did you knock on the door?
- 15 A I went to open the door and I felt it was locked.  
16 Charlene Ellis opened the door.
- 17 Q Didn't she look back at Tiffany before she opened the  
18 door?
- 19 A I didn't see.
- 20 Q And did you see some folks there that was at the house  
21 or the apartment before that?
- 22 A What you mean?
- 23 Q Didn't you see other folks that had been in the  
24 apartment before that?
- 25 A I think you're reading her statement. I did not see

1 anyone other than Tiffany, Charlene, Charlene's daughter  
2 and Ms. Williams.

3 Q And you said you went and got some things. What did  
4 you get?

5 A I got two pair of work pants and two pair of work  
6 shirts, because I didn't know if I would have to stay at my  
7 mom's house overnight. I didn't know what time my mom was  
8 coming out of the hospital.

9 Q And you said you had never owned a gun before.

10 A Yes, sir.

11 Q Well, you know a lot about guns from -- I think Mr.  
12 Warder was asking you some questions about it.

13 A I know a lot about guns because for the past year I  
14 have been worrying about a murder case in which I wanted to  
15 find about gunpowder residue.

16 Q Uh-huh. And in your statement didn't you say, "She  
17 finally called me at one point"?

18 A I'm sorry?

19 Q In your statement. You said, "She finally called me."  
20 Isn't that true you had been trying to call her and kept  
21 calling her and she finally called you back after you  
22 called her several times?

23 A I got to read it. Do you mind if I read it?

24 Q You may read it.

25 (Pause.)

1 A My statement, I said, "Tiffany had been calling me all  
2 day. I called her dad's house and he said that" -- can you  
3 read that?

4 Q "He said she was going to eat dinner."

5 A When he said he hadn't spoke to Tiffany and her mom  
6 was supposed to be at work, she finally called me back.  
7 You got to explain to these people at what point those  
8 statements are made.

9 Q Okay. But the problem is, in this statement did you  
10 go to the back door or did you go to the front door first?

11 A What point were you talking about?

12 Q In statement. You keep saying -- I read it to you one  
13 other time.

14 A You keep asking me, and I explained to you I may have  
15 went to the front door first or may have went to the back  
16 door. I wasn't particularly -- you know, my vehicle was  
17 parked in the front. Therefore I probably went to the  
18 front door first. But I just walked around to the back  
19 door considering it was much closer to the bedroom window.

20 Q And you said you didn't have a key.

21 A Exactly. That's why I came through the window.

22 Q Well, why didn't you just come through the window the  
23 first time?

24 A Because, as I answered your question previously, she  
25 was asleep. I wanted her to wake up to acknowledge that I

1 am here at least considering I have been calling her. And  
2 I parked my vehicle at the apartment. I am not trying to  
3 sneak in on her.

4 Q Did -- can you explain why the door was cracked the  
5 way it was --

6 A Which door?

7 Q -- and why it was busted?

8 A As I stated, I stiffed on the door. I don't know if  
9 that may have cracked it. I had not seen it previously  
10 cracked, but, I mean, it may have cracked it.

11 Q And isn't it true when you talked to the police and  
12 everything at first you was more concerned about -- I  
13 apologize to the jury and I apologize to folks in here --  
14 "I can't believe there is a fucking nigger in my house with  
15 my girl"?

16 A Because I was oblivious to the fact that Tiffany had  
17 been shot. You see, I called 9-1-1 never stating Tiffany  
18 was shot. But I called 9-1-1 a minute after this crime  
19 occurred. Why would I call 9-1-1 and tell them go to 5-A,  
20 my Expedition is in front, this is where this occurred?

21 Q Well, isn't it true you couldn't have driven your  
22 Expedition away? Could you?

23 A I'm sorry?

24 Q You couldn't drive your truck away, could you?

25 A Yes, I could have drove my Expedition away.

1 Q Because didn't you lose your keys? How when you lost  
2 your keys?

3 A I lost my keys when I was running. I did not lose my  
4 keys as I exited the house. The keys were lost  
5 approximately a hundred feet away as I was running.

6 Q Didn't you lose your keys and everything when you was  
7 trying to chase down Mr. Watson?

8 A Chase down Mr. Watson? Sir, if I was trying to chase  
9 Mr. Watson I would have got in my vehicle and followed him  
10 if he had left before me.

11 Q Well, didn't you try to shoot Mr. Watson as he was  
12 going out the kitchen door?

13 A No, sir, I didn't.

14 Q Didn't you go chasing him and then you lost your keys?

15 A No, sir, I didn't.

16 Q You didn't call 9-1-1 until after you lost your keys,  
17 did you?

18 A Sir, I was running for my life. I called 9-1-1 when I  
19 was able to turn around and look and make sure he wasn't  
20 chasing me.

21 Q And isn't it true you had no gunshot at all?

22 A As I stated, I checked myself and I didn't find a  
23 gunshot on me. So, yes, I didn't, I wasn't shot.

24 Q You didn't have any gunshot on your clothes either,  
25 did you?

1 A I didn't have any gunpowder residue or gun -- what do  
2 you mean?

3 Q You didn't have where a bullet or whatever on the  
4 sleeve or anything, did you?

5 A What was found on my clothes was hemoglobin, which  
6 belonged to Tiffany.

7 Q Do you realize that hemoglobin -- that there was  
8 nothing positive found on your coat?

9 A Exactly. So you know I didn't shoot a gun. If no  
10 gunpowder was found on my clothes or my hands, in which the  
11 hemoglobin was found on, you know I never changed clothes.  
12 So therefore if I never changed clothes and no gunpowder is  
13 found on it, you know I wasn't the person who shot the gun.

14 Q Well, if you're not in the room and your hands is  
15 behind the door, how does gunpowder residue get on your  
16 left hand then, sir?

17 A The same way the gunpowder -- I'm sorry?

18 Q How does it get on your left hand then?

19 A Sir, it wasn't gunpowder residue. It was a particle,  
20 and which could be familiarized gunpowder.

21 Q Well, how does it get through a door?

22 A I'm sorry?

23 Q You're holding -- you've got this door that you say is  
24 just partially, and you've got your left hand back here.

25 How does the gunpowder residue get through the door?



1 A I didn't ever see where my left hand was. If I was  
2 the person who shot the gun there would be gunpowder on my  
3 skin, in which gun sizzes (sic) into your hand, and it also  
4 gets on your clothes if you're the shooter of the gun. It  
5 was stated to me by Investigator Boyd that if you're the  
6 person who shot the gun it would definitely show up because  
7 they --

8 MR. BARNETTE: I object to this testimony at this  
9 point, Your Honor, as hearsay.

10 THE COURT: Sustained.

11 Q No. If you listen to my question --

12 A Yes, sir.

13 Q You say you got the door a quarter open. And you  
14 showed the jury.

15 A Yes, sir.

16 Q You're standing behind it. You've got your left hand  
17 down here. How does gunpowder residue get through the door  
18 to your hand?

19 A Sir, do you think my left hand remained down the whole  
20 time?

21 Q You testified to that, not me.

22 A No. I testified my right hand was up. I never  
23 testified to where my left hand was.

24 Q Well, you're standing behind the door. Your right  
25 hand is here. Your left hand has to be in this direction,

1 doesn't it?

2 A My left hand is on my left side of my body. If I'm  
3 standing right beside the door, who knows where my left  
4 hand is at? It may be down; it may be up. You tell me  
5 where your hand is going to go when somebody just shoots  
6 the gun.

7 Q Okay. So where was your left hand if you say we don't  
8 know?

9 A Sir, I never explained to these people where my left  
10 hand was because that wasn't a concern to me.

11 Q Where was it?

12 A I'm sorry?

13 Q I'm asking where it was.

14 A You got to realize this crime was committed a year  
15 ago. More than likely my left hand was by my side. Or it  
16 may have risen up after this man shot a gun. You know, the  
17 cloud of dust from a gun disperses.

18 Q I understand. But how does it go through a solid  
19 door?

20 A Because the door was not closed.

21 Q Well, you said it was open this far. That far. I'm  
22 sorry.

23 A And I also stated he reached around to shoot.

24 Q He reached around her.

25 A Yes, sir.

1 Q Off her left hip.

2 A Yes, sir.

3 Q Where she's knocking the gun down.

4 A Yes, sir.

5 Q Well, how did she get shot in the head then,  
6 Mr. Buckson?

7 A As I stated to you, I do not know the directions of  
8 the bullet of the second shot. The first shot, I seen the  
9 gun at her waist-side, in which the gun disbursed. This is  
10 one of the reasons you have a hole in the wall in which you  
11 have fragments in the wall. And then the hole is not up  
12 here where her head would be. The hole is down by the, by  
13 the light, up underneath the light. Now, you tell me. How  
14 did you get a hole beside the light, up under the light, if  
15 she got shot in her head?

16 Q That's my point.

17 A Exactly. So how did she get shot in her head if you  
18 got a hole below the light?

19 Q Isn't it true that when Mr. Watson pulls you through  
20 that you reached back to shoot at him? You're going  
21 through that door as hard as you can, because obviously  
22 she's got another man up there. And you know it, don't  
23 you?

24 A No. I'm not fixing to go through the door as hard as  
25 I can because I don't know who was on the other side of the

1 door with Tiffany. I could assume that it would be another  
2 man considering the door is closed and she's telling me  
3 don't come in this room.

4 Q Well, why are you going up if you don't know who is up  
5 there with her? Why are you going up, to try to find out  
6 who is with her?

7 A You're asking a basic question which you already know  
8 the answer to. If Tiffany has another man in this home, I  
9 would like to find out so I could move on. So the next day  
10 when Tiffany called me, baby, I just was upset with you,  
11 come on back. No, I'm not coming back because you have  
12 another man and you had another man at this house last  
13 night, and which I needed to find out for myself.

14 Q And that's what you went up there to do, find out for  
15 yourself, didn't you?

16 A Find out if she had someone in this home so I could  
17 move on. We could both move on.

18 You got to remember me and Tiffany was together for a  
19 year, not seven years. We did not have children together  
20 and were not married.

21 I'm not fixing to take her life because she wanted to  
22 be infi -- I'm sorry. If she wanted to be with someone  
23 else, of course I would be upset. But, I mean, you got to  
24 realize this was not a just closed-up relationship where  
25 we're married and these children are mine.

1           I mean, Tiffany. It's like this. I'm not going to  
2 take this woman's life and destroy mine in the process.  
3 That's crazy. And I am not just going to shoot recklessly.  
4 Who could have been in the bedroom could have been her  
5 children in the bedroom. I mean, it could have been the  
6 boys in the bedroom with them. I am not just going to  
7 shoot blindly into a bedroom or shoot blindly out of the  
8 bedroom.

9           If you noticed, the hole of the bullet is heading  
10 straight for the children's bedroom. Now, I would know  
11 this. The other person who shot wouldn't.

12 Q       Is that your take on it, it's headed towards the  
13 bedroom with the kids?

14 A       As I seen the hole, I seen the hole in the picture.  
15 You stick -- you stuck a stick through this hole, and which  
16 shows that it's heading towards the bedroom of the  
17 children.

18           Now, it may have not been going straight to the  
19 bedroom, but I know it's headed towards it.

20 Q       Well, you're so concerned about the kids, you didn't  
21 tell Officer Satterfield about the kids, did you?

22 A       Yes, I did tell Officer Satterfield about the  
23 children. In fact, that's how they knew the boys -- how  
24 they knew to call for the boys.

25 Q       No. Isn't it true that the city police went there and

1 found the boys there?

2 A Mr. Satterfield relayed the message to the city  
3 police. That's why he called, is anyone else in this  
4 house.

5 Q I will let the jury remember what that testimony might  
6 be. But you heard Officer Satterfield testify.

7 A I heard Officer Satterfield say that he called, he  
8 looked up and he -- a little head poked out the, out the  
9 door.

10 They may have called back and asked me about the child  
11 after the fact.

12 Q Okay. You realize Officer Satterfield is the officer  
13 at the scene, I mean, with you out on Highway 29.

14 A I'm sorry. The other officer.

15 Q Okay.

16 A The other officer was not alone. He may have not been  
17 the first officer in the house. It was three if I am not  
18 mistaken, two coming in the back door and one coming in the  
19 front.

20 Q And you weren't concerned when you talked with the  
21 police and talked to folks about Tiffany. You didn't tell  
22 them about Tiffany. You didn't tell them about the boys,  
23 did you?

24 A I wasn't concerned? My concern was this man  
25 disbursing a firearm, in which I called 9-1-1 because of

1 this man.

2 Q The biggest thing you was mad about was another man  
3 being in there with your woman, isn't it?

4 A I'm sorry?

5 Q Isn't that all you talked about?

6 A That was because when I was speaking to the officer he  
7 told me Tiffany was grazed. And he turned his radio down  
8 after that. He was trying to keep me calm so I wouldn't  
9 know Tiffany was shot.

10 Q Well, you didn't tell 9-1-1 about Tiffany or the boys,  
11 did you?

12 A The person who asked me about the children and Tiffany  
13 I told them about.

14 Q You didn't tell Officer Satterfield. You didn't tell  
15 9-1-1, did you?

16 A I don't know because I didn't listen to the -- I don't  
17 know what I said on the tape. You got to remember shots  
18 were fired. I'm running. What was said I can't remember.  
19 I can't recall that. But I know at one point I stated  
20 Tiffany is in the home and the two children and as far as I  
21 know of he's still there.

22 Q And isn't it -- well, basically didn't you tell 9-1-1,  
23 you're saying, "I can't believe that she had another man in  
24 there"?

25 A I may have stated I can't believe there's another

1 person in this home, another man.

2 Q Isn't it true that she wanted to end it? She had  
3 ended it and was trying to move on with her life.

4 A If that was the case when I came home the first --  
5 four hours before, all of my things would have been gone  
6 out of this apartment. In fact, she would not have  
7 continued calling me, in which you have records showing she  
8 called up until 11:30.

9 Q Wasn't she just trying to tell you to stay away from  
10 her?

11 A Why would she call me seven times?

12 Q Why would she be scared of you, Mr. Buckson?

13 A Exactly.

14 Q Wasn't she scared of you?

15 A Why would she let me in if she was scared of me?

16 Q Wasn't there other people in there when she let you?

17 A I'm telling you. It's like this. If you got other  
18 people in this house, that's when you stand up, look, I'm  
19 not letting you in, your things is right here at this door,  
20 you need to come and get them, if you do anything I'm going  
21 to call 9-1-1 and my mom is in here also.

22 That's when you let this person know, okay, we're  
23 breaking up, not when the person comes home at 3:00 o'clock  
24 and finds another man in the house. Of course she's going  
25 to say, Jay, I don't want you to come in right now. You



1 have another man in this house.

2 That's like if I have another woman in this house and  
3 she come home, I say, Tiffany, I don't want you to come in  
4 right now.

5 Q I'm sorry.

6 A Go ahead.

7 Q Let me ask you. If you don't go in that apartment  
8 that night, none of this happens, does it?

9 A No. If he doesn't bring a gun to the crime scene none  
10 of this happened that night. I am not responsible for him  
11 bringing a gun into a home with a woman and two children.

12 Q But you went into -- I mean, you go through. You  
13 don't have a key or anything. You go through a window  
14 after going and knocking on both doors at least once or  
15 twice.

16 A Yes.

17 Q After she tells you not to come into the apartment.

18 A So you're blaming me for him shooting?

19 Q You are the one that caused this, that situation.

20 A I'm the one that caused this situation. He's the one  
21 at the apartment with her. I caused her to bring him to  
22 the apartment in which he brings the gun? And so it's my  
23 fault because he decided to use that gun?

24 Q What about using the gun?

25 A What about I didn't? What about you have proof that

1 he did it? What about your forensic investigator stated  
2 .38? What about he stated he had a .38? Coincidence? I  
3 doubt it.

4 Q Uh-huh. And-but you say you've never owned a gun.

5 A No, sir.

6 Q Never in your life.

7 A No, sir.

8 Q And you're telling this jury and this Court on 9-1-1  
9 tapes you were more worried about Tiffany and the boys than  
10 yourself.

11 A Now, you just said the opposite way. You just said I  
12 was more worried about myself. Now you're saying I was  
13 more worried about --

14 Q No, no. That's not what I'm saying. You're not  
15 worried about Tiffany and the boys, are you? You're just  
16 worried about yourself.

17 A No. You just said I was worried about Tiffany and the  
18 boys. You just said. I'm telling the jury I was worried  
19 about Tiffany and the boys. I'm telling the jury that I'm  
20 worried about this man shooting a gun in the apartment in  
21 which we lived in. That is what I am worried about.

22 Q Well, if you lived in that apartment wouldn't you be  
23 more worried about them being there with them?

24 A Yes. That's why I called 9-1-1 immediately after this  
25 crime happened. I didn't drive off and stay missing for 36

1 hours.

2 Q Uh-uh. But you didn't call them until you was -- your  
3 keys was lost. You couldn't use your car.

4 A Sir, if you will look at the phone records you would  
5 see my last call to Tiffany's number was at 2:58. The next  
6 call was to 9-1-1. Guess what time it was. 3:01. That is  
7 two and a half minutes at the most that has passed.

8 Q Who was calling 9-1-1? Which call are you talking  
9 about?

10 A The call I made off my phone.

11 Q Okay. You're not talking about the one she tried to  
12 make?

13 A No.

14 Q I mean, the phone that she is trying to call at the  
15 same time that you're saying that she's doing all of this  
16 other stuff?

17 A How do you know it was her calling 9-1-1 on her phone?  
18 How do you know it wasn't him? No one --

19 Q Well, supposedly he's chasing you.

20 A Supposedly I'm running not knowing if he's giving  
21 chase to me or not. It's obvious that he wasn't chasing me  
22 at the time, because when I turned around he was not behind  
23 me.

24 Q But there was a 9-1-1 call from her phone.

25 A Exactly. And considering she had just got shot in the

1 head, I don't think she was the one who made that phone  
2 call.

3 Q You don't think she was down as you was coming in?

4 A I don't think -- if you listen to the tape on the  
5 9-1-1 phone call there is nothing. So this is probably  
6 after the crime occurred. There was not even a shot on  
7 this tape. You know the 9-1-1 phone call was placed at  
8 3:00 o'clock. My phone call to 9-1-1 was at 3:01. Why  
9 would I use her phone to call 9-1-1 and then use my phone  
10 to call 9-1-1?

11 Q Do you think that somebody -- you don't think she was  
12 trying to call 9-1-1 for help?

13 A I don't know if she was or not. I wasn't the person  
14 who remained in this house.

15 MR. BARNETTE: Your Honor, State's Exhibit will --  
16 Your Honor, I would like to publish State's Exhibit No. 82,  
17 the four 9-1-1 calls, as well as the other phone call from  
18 the other phone.

19 (Pause.)

20 MR. WARDER: Your Honor, no objection if they are  
21 played in chronological order.

22 THE COURT: Is that tape made from or that C. D. made  
23 from the 9-1-1 call?

24 MR. BARNETTE: Yes, sir, it is.

25 THE COURT: So they are in the same order.

1 MR. BARNETTE: Well, I have got the four numbers. I  
2 got to make sure that I have the number of her phone call.  
3 I have got his four here. And I would have to look and  
4 check to make sure.

5 THE COURT: Let me see y'all just a minute.

6 (Bench conference held off the record in the presence  
7 of the jury but out of the hearing of the jury.)

8 MR. BARNETTE: Thank you, Your Honor.

9 THE COURT: All right. It's admitted.

10 (9-1-1 tape marked State's Exhibit No. 82.)

11 MR. BARNETTE: Your Honor, I think I am going to  
12 publish her 9-1-1 call first. I think I can do that.

13 (Whereupon, the C. D. was played for the jury.)

14 MR. BARNETTE: Your Honor, this is the second part of  
15 that call.

16 (Whereupon, the C. D. was played for the jury.)

17 MR. BARNETTE: Your Honor, this is the first call from  
18 Mr. Buckson.

19 (Whereupon, the C. D. was played for the jury.)

20 MR. BARNETTE: That's the second part of that call.

21 Q Let me ask you one question prior to playing the  
22 continuation of that. You didn't even know where you were,  
23 Creek Ridge Apartments or Bradford Grove?

24 A Sir, he suggested Creek Ridge Apartments, in which you  
25 got to realize my heart pace is racing. He just shot at

1 me. I'm running.

2 Q And --

3 A I know exactly where Lowe's is at, and which Bradford  
4 Grove is across the street from it. I used the landmark to  
5 tell you where I was.

6 Q You haven't mentioned Tiffany or any of the boys, have  
7 you?

8 A I just mentioned this man has just shot a gun. As I  
9 stated earlier, I was oblivious to the fact that Tiffany  
10 was shot. At the time I'm basically still running.

11 Q You're basically more worried about her having another  
12 person in your house. I won't repeat what the jury heard  
13 was said.

14 A Sir, I'm running. I'm speaking at the same time. I'm  
15 talking to myself what's in my mind.

16 (Whereupon, the remaining portion of the C. D. was  
17 played for the jury.)

18 Q So basically you never mention her and the kids.

19 A I didn't mention it at the moment at the phone call.

20 Q You couldn't even remember where you was living at,  
21 could you?

22 A I couldn't remember the name of it.

23 Q And you lived there how long?

24 A A year, sir, and which the mother stated.

25 Q All you worried about was that guy that was up there

1 in that bedroom.

2 A All I was worried about, this man just shot at me and  
3 I'm getting away from him.

4 Q All you was worried about was going and finding out  
5 who she was with, weren't you?

6 A No. What I did was come home. At the moment when I  
7 was coming home I wasn't concerned about who she was with  
8 because I didn't know she was with anyone.

9 Q And Saturday you stayed at your mom's, right?

10 A I'm sorry?

11 Q Saturday you stayed with your mom.

12 A Spent time at my mom's house.

13 Q And Friday night where were you?

14 A Friday night I came home.

15 Q So you were home.

16 A At one point.

17 Q At what point?

18 A Later on that night.

19 Q While she was out on a date?

20 A From my knowledge she went on a date to four different  
21 restaurants.

22 Q So she went on a date a couple of times, didn't she?

23 A No. He stated she went on a date four different  
24 restaurants in one night.

25 Q Do you know why she kept moving to different

1 restaurants and wanted go to Greenville?

2 A Let's see. She dates someone. She is seeing another  
3 man.

4 Q And you didn't like that, did you?

5 A I didn't know about it.

6 Q Isn't that why you kept calling her and checking on  
7 her?

8 A Sir, I don't follow people.

9 Q You were jealous.

10 A If you look at the phone calls you will see where she  
11 called me throughout the day. Why would she be calling me?  
12 Why would I be calling her? Why would we be exchanging  
13 phone conversations?

14 Q Wouldn't she be telling you to leave her alone?  
15 Wasn't the phone conversations not very long according to  
16 the seconds?

17 A I'm sorry. But if you look on these phone  
18 conversations here and there, like when I called and the  
19 answering machine picks up, that's when it's not long.  
20 It's quoting the seconds.

21 Q Well, which version is true, the version you told the  
22 police that night or the version that you're telling now?

23 A What version of what?

24 Q Of what happened that night.

25 A What do you mean? It's the same version.



1 Q Well, 9-1-1, you just said you walked in the house.

2 A I'm sorry, but I said I came -- I may have said I  
3 walked in. I may have said I came in. I know I told the  
4 officer that I was standing out there when I came through  
5 the window.

6 You got to realize I'm going through this not -- this  
7 not just occurred like a day before and I'm remembering. I  
8 am going through this. This is still happening.

9 Q And you went in to check what was in there, didn't  
10 you?

11 A I went to find out what was going on because this  
12 woman has never told me, Jay, there's going to be argument  
13 if you come in.

14 Q And if you was living there, why didn't you have more  
15 clothes and things there?

16 A Sir, why didn't you document the clothes that was  
17 there?

18 Q We've got pictures.. The jury can see those.

19 A You have pictures of half of a closet. You have --  
20 you don't have pictures of drawers. You have a picture of  
21 a futon. There is no clothes downstairs. There would be  
22 no clothes downstairs because all of our clothes remain  
23 upstairs. The clothes had -- truth be it, the blues are  
24 put up because we washed and dried the blues at the  
25 washerette. The whites, the linens, are the only thing

1 out.

2 Q I want to ask you a question. I thought you just told  
3 this jury and us that your mother did all of your washing.

4 A No. The mother did some washing. And I just didn't  
5 tell the jury that. My aunt did. In fact, my mother had a  
6 problem with it, me coming home and washing my clothes at  
7 her house. That's what my aunt stated.

8 Q And most of these things are from October, aren't  
9 they?

10 A Most of what?

11 Q Most of the bills and stuff here.

12 A That's not a bill.

13 Q Or job referrals, things like that.

14 A That resume was printed up in October.

15 MR. BARNETTE: One moment, Your Honor, please.

16 (Pause.)

17 Q Isn't it true you was talking to Officer Taylor, when  
18 you was checking, "She said she was sleeping. I told her.  
19 She didn't want to say she was sleeping. She said I would  
20 wake up the kids. I figured something was up."

21 A You got to realize, as I stated before, I'm at the  
22 door. There was usually never a problem. She stated,  
23 "Jay, stop knocking, you're going to wake up the kids,"  
24 when she came to the window.

25 Q Well, let's see. You were supposed to be at work at

1 what time, again? What time do you get up to go to work?

2 A I get up at approximately 3:30 or 4:00 o'clock.

3 Q 3:30 or 4:00 o'clock. Your mom lives in Wellford,  
4 right?

5 A Yes, sir.

6 Q You was already at Wellford.

7 A I was in Wellford. But since Tiffany asked me what  
8 time I was coming home -- earlier before this happened  
9 Tiffany was upset because I hadn't been at home all day.  
10 You see what I'm saying. So she asked me. She called me  
11 four or five times, you coming home tonight. I said, "I  
12 don't know, Tiffany. It depends on when my mom gets here."

13 Q Well, and you were supposed to be at work at what  
14 time?

15 A If I had to work that day I would -- as a matter of  
16 fact, I know I had to work that day. It would be I had to  
17 be at work at 5:00. So it would be 4:00 o'clock when I  
18 would leave to go to work.

19 Q Well, why would you come home for half an hour to an  
20 hour and go all the way to the east side of Spartanburg and  
21 then turn around and drive to Greenville? You worked in  
22 Greenville, right?

23 A Yes, sir.

24 Q Where did you work in Greenville?

25 A I worked at a Mac Steel place. It's called Mac Steel,

1 but it changed the name.

2 Q Where is it located at?

3 A White Horse Road.

4 Q So you're telling this jury you would drive all the  
5 way back to the east side of Spartanburg and be there at  
6 approximately a little bit before 3:00 and then turn around  
7 and go back to work and get leave at, get up at, 3:30 or  
8 4:00 and go back to work at 5:00.

9 A I'm sorry. Can you repeat that?

10 Q Why would you drive all the way back to the east side  
11 of Spartanburg when you're at Wellford already? And you  
12 get there a little bit before 3:00, and you've got to get  
13 up at 3:30 or 4:00 to go back to work at Greenville before  
14 5:00.

15 A To my knowledge I may not have had to work the second  
16 shift, I'm sorry, half of third shift, half of first shift.  
17 If I am remembering correctly, I may have changed it, been  
18 able to change to first shift.

19 Q You don't know. But you had to go to work that day.

20 A I had to work that day, yes.

21 Q So you're telling this jury you have been up all day,  
22 all day, that night. And how long of a shift did you work  
23 at work?

24 A Ten to 12.

25 Q You worked ten to 12 hours?

1 A Yes, sir.

2 Q So then you was going to go back to the east side of  
3 Spartanburg, get there at approximately 3:00 o'clock or a  
4 little bit before 3:00. Get up at 3:30 or 4:00 and then go  
5 to work for a ten-or-12 hour shift at 5:00 o'clock in  
6 Greenville.

7 A I've done it before. I don't sleep that much at  
8 night.

9 Q You came over to check to see who was with her, didn't  
10 you?

11 A I came home.

12 Q And you was actually staying with your mom, weren't  
13 you?

14 A No, I wasn't.

15 Q And you wanted to find out who was staying with her.

16 A No, I wasn't.

17 MR. BARNETTE: No further questions, Your Honor.  
18 Thank you.

19 MR. WARDER: No redirect, Your Honor.

20 THE COURT: You may step down.

21 MR. WARDER: If it please the Court, that would be the  
22 defendant's case, Your Honor.

23 THE COURT: Any reply?

24 MR. BARNETTE: I do have one witness in reply, Your  
25 Honor.

Brantley Farmer  
Direct examination by Mr. Barnette

1 THE COURT: Okay.

2 BRANTLEY FARMER, having been  
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. BARNETTE

5 (Enrollment form marked State's Exhibit No. 99 for  
6 Identification.)

7 Q Ms. Farmer, if you would, give your full name for the  
8 record, please.

9 A It's Brantley Dillard Farmer.

10 Q And where do you work at, ma'am?

11 A Merryland Child Development Center.

12 Q And how long have you worked there?

13 A My parents own it, so 15 years.

14 Q You have been there 15 years. And what do you do  
15 there, ma'am?

16 A I am the C. E. O.

17 Q And are you in charge of the records that's kept at  
18 Merryland and so forth?

19 A Yes, sir.

20 Q And do you help with the operations there at  
21 Merryland?

22 A Yes, sir.

23 Q Where is it located at?

24 A 95 Ashley Street on the east side of Spartanburg.

25 Q Okay. And can you tell the jury what it's close to

1 out on the east side?

2 A Quizno's Sandwich Shop, Bank of America, C. V. S.  
3 Pharmacy.

4 Q And is there an Audi across the street, close to  
5 there?

6 A Yes, sir.

7 Q And --

8 THE COURT: Let me ask you to pull that microphone a  
9 little bit more toward you.

10 THE WITNESS: I'm sorry.

11 Q And do you -- and obviously you take care of children,  
12 is that right?

13 A Yes, sir.

14 Q Did you take care of Chad Tate, Jr. as well as Desmond  
15 Tate?

16 A Yes, sir, we did.

17 Q And when y'all keep children there at the Merryland,  
18 do y'all fill out the information, who is able to pick them  
19 up and so forth?

20 A We give the parents an enrollment package and they  
21 list the people that they will allow to pick their children  
22 up.

23 Q And did you get the information filled out who was  
24 allowed to pick up these two children at Merryland?

25 A Yes, sir.

1 Q And who was the people that was allowed to pick up the  
2 children?

3 A Tiffany Foggie, the mother, Timothy Foggie, and Taffie  
4 L. Williams.

5 Q Was Jerome Buckson on that form?

6 A No, sir.

7 Q If Jerome Buckson came to pick up those children,  
8 would they be allowed to take those children?

9 A It is our policy that if they are not on the pickup  
10 list they are not allowed to take the children with them.

11 If for some reason there was an extreme emergency, the  
12 parent may call. We don't typically take phone calls  
13 requesting that because we don't know for sure who is  
14 calling. But if there is an extreme emergency, I would  
15 approve that if I felt like it was warranted.

16 Q Do you know of any extreme emergencies you ever had  
17 with these two children?

18 A No, sir. What we typically do is we will write on the  
19 back of the paper somebody different that has picked up and  
20 have them sign it.

21 Q Did Jerome Buckson ever pick up these children by  
22 himself?

23 A Not to my knowledge.

24 Q Did he ever come to Merryland?

25 A Not to my knowledge.



1 MR. BARNETTE: Your Honor, I would like to enter  
2 State's Exhibit 99 into evidence at this time.

3 MR. WARDER: No objection, Your Honor.

4 THE COURT: It is admitted.

5 (Enrollment form marked State's Exhibit No. 99.)

6 MR. BARNETTE: That would all of this witness, Your  
7 Honor.

8 CROSS-EXAMINATION

9 BY MR. WARDER

10 Q What was the date of that?

11 A I'm not sure.

12 Q What year was that filled out?

13 A I'm not sure.

14 Q The children were three and five.

15 A Yes, sir.

16 Q Children don't go there now, do they?

17 A The children, no, sir.

18 Q How long has it been since the children were there?

19 A Chad left not long after this occurred and Desmond was  
20 there until right when school was out that fall -- that  
21 spring.

22 Q Do you work every day there?

23 A I did up until a year ago.

24 Q Exactly a year or --

25 A Well, I would say it was about February last year that

1 I went on a part-time basis.

2 Q When you were there were you the one that supervised  
3 the picking up of children?

4 A Yes, sir. Well, I was in the office.

5 Q You were in the office. Who actually physically does  
6 that?

7 A We have several teachers. It just depends on the  
8 classroom that the children are in.

9 Q So it's the classroom teacher that does that?

10 A I guess you would say so, yes, sir.

11 Q And you don't supervise that process?

12 A I don't stand -- I don't stand at the door, no, sir.

13 Q Okay. And the only way you would have personal  
14 knowledge of what happened is if there was some problem and  
15 you had to go investigate and see.

16 A Or if I saw. I usually see the parents come in and  
17 out. But, yes, sir, if there was a problem they would call  
18 me or something.

19 Q How many students do you have?

20 A Approximately 150.

21 Q You don't see and speak to 150 parents every day, do  
22 you?

23 A Well, there are a lot of brothers and sisters. So  
24 it's not technically that many families.

25 Q Thank you.

1 MR. BARNETTE: Just a couple on redirect, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. BARNETTE

4 Q Obviously, if somebody else different came to pick up  
5 those kids, would they bring that to your attention?

6 A Yes, sir.

7 Q And would you be dealing with it at that point?

8 A Yes, sir. They are not allowed to release children  
9 unless I approve it.

10 Q And I just want to show one item in evidence up here.  
11 This is a copy obviously.

12 A Yes, sir.

13 Q Was there any notes on the back of the originals or  
14 anything?

15 A No, sir. I'm not sure what that is.

16 Q Okay. You didn't mark that out or anything like that.

17 A No, sir.

18 MR. BARNETTE: That would be all the questions I have.

19 RECROSS-EXAMINATION

20 BY MR. WARDER

21 Q Something is marked out on the back of it, I guess.

22 A I would assume so by the marks.

23 Q Do you know what that is?

24 A No, sir.

25 Q Do you know why that's marked out?

Brantley Farmer  
Redirect examination by Mr. Barnette

1 A No, sir.

2 Q Thank you.

3 MR. BARNETTE: I have just got one thing.

4 REDIRECT EXAMINATION

5 BY MR. BARNETTE

6 Q Is the original at your office?

7 A Yes, sir, the original is. And when I made the copies  
8 for both offices, I don't recall there being anything on  
9 the back.

10 Q Okay. And you made copies for Mr. Warder too.

11 A Yes, sir.

12 Q So he knows what's on the back of the sheet too.

13 A Their office has a copy, yes, sir.

14 Q Thank you very much.

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

16 MR. BARNETTE: May I approach a minute, Your Honor?

17 THE COURT: Yes.

18 (Bench conference held off the record in the presence  
19 of the jury but out of the hearing of the jury.)

20 THE COURT: Anything further in reply?

21 MR. BARNETTE: No, sir.

22 THE COURT: All right. Ladies and gentlemen, that is  
23 all of the testimony and the other evidence to be offered  
24 in the trial of the case.

25 What remains to be done are the lawyers' final

1 summations, after which you will be instructed on the law,  
2 and then you'll begin deliberations.

3 We're not going be able to do that this evening  
4 because I assume y'all have things you need to attend to  
5 this evening.

6 I also understand that there might be a weather  
7 problem tomorrow. So right now it's kind of up in the air  
8 as to when you're going to need to come back. So what I'm  
9 going to ask that you do is the number that you have, that  
10 1-800 number, if you'll call that number in the morning by  
11 8:30, by 8:30, we'll know whether or not the courthouse  
12 will be open or if you and the rest of us will be able to  
13 get back to the courthouse to continue with the case.

14 If for some reason we're not able to resume in the  
15 morning like we ordinarily would, then the message will  
16 tell you not to report at 9:30. But it will likely ask  
17 that you call back, for instance, maybe at 1:00 o'clock or  
18 so to see if we can resume in the afternoon.

19 When you call back in the afternoon if we still cannot  
20 resume with court because of the weather, then you will  
21 need to call back again after 6:00 o'clock tomorrow night  
22 in order to find out that information.

23 If we don't know anything then you will have to call  
24 again on Friday morning to receive information. But  
25 suffice it to say, you're just going to need to call back.

1       You won't need to call back this evening because we  
2 won't know anything tonight. We likely won't know anything  
3 before 7:00 or 8:00 o'clock in the morning.

4       So what I want you to do is call in the morning. But  
5 if for some reason there is no information available, just  
6 call by 8:30. Call by 8:30. That way if we're starting  
7 back at 9:30 or 10:00, that will give everybody time to  
8 report. But just call back before 8:30 in the morning but  
9 probably not before 8:00 o'clock. So probably just between  
10 8:00 and 8:30. Call at that time to find out if we're  
11 going to be able to continue.

12       If we're not going to be able to, then you'll just  
13 follow the instructions. It'll tell you to call back at  
14 some other time. But we'll let you know when you will be  
15 able to come back in order to conclude with the final  
16 summations, the instruction and your deliberations.

17       Now, because of that potential delay it's important of  
18 course that you continue to follow my instruction, and that  
19 is you are not to talk about the case with anybody. If you  
20 get snowed in you can't discuss it with your wife or your  
21 husband or your children. You can't talk about it.

22       Do not permit yourselves to be exposed to any type of  
23 media coverage -- television, radio or newspaper. No  
24 exposure to media coverage that relates to the trial. And  
25 of course do not conduct any research or do your own

1 investigation as to any issue that relates to this case.

2 So with that you are excused for the afternoon.

3 Please call back in the morning between 8:00 o'clock and  
4 8:30 in order to receive reporting instructions. Okay.

5 Have a good afternoon.

6 (The following takes place outside the presence of the  
7 jury.)

8 MR. BARNETTE: Your Honor, we are just going to submit  
9 the clean copy of State's Exhibit No. 99. Our  
10 investigator, Rick Gregory, had made some notes on the back  
11 of the other copy.

12 THE COURT: Exhibit 99 has been replaced with a clean  
13 copy of Exhibit 99. Are you in agreement, Mr. Warder?

14 MR. WARDER: Yes, sir.

15 MR. BARNETTE: Thank you.

16 THE COURT: All right. Anything further before we  
17 recess?

18 MR. BARNETTE: Nothing further from the state, Your  
19 Honor.

20 THE COURT: Do you want to resume, I mean, renew your  
21 motions, Mr. Warder?

22 MR. WARDER: Yes, sir. Same grounds.

23 THE COURT: All right. Motions are renewed based upon  
24 the same grounds. They are denied based upon the previous  
25 reasons given.

1 All right. Anything else we need to address before we  
2 recess?

3 MR. BARNETTE: The only other thing would be -- the  
4 normal charges from the Court is fine for the state. I  
5 don't know exactly what.

6 THE COURT: Let me see y'all back in chambers for just  
7 a few minutes. We'll discuss any instruction requests.

8 All right. Court is in recess until maybe 9:30 in the  
9 morning. That will depend upon whether the courthouse is  
10 open and we are able to come or not.

11 END OF PROCEEDINGS JANUARY 31, 2007

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(Proceedings February 1, 2007)

(Court canceled due to ice and snow.)

1 (Proceedings February 2, 2007)

2 (The following takes place outside the presence of the  
3 jury.)

4 THE COURT: All right. Any matters to address before  
5 the jury is brought in?

6 MR. BARNETTE: None from the state, Your Honor.

7 MR. WARDER: None from the defendant.

8 THE COURT: Okay. Bring the jury in, please, sir.

9 (The following takes place in the presence of the  
10 jury.)

11 THE COURT: Good morning, ladies and gentlemen.

12 As you know, when we recessed on Wednesday all of the  
13 evidence had been received. And what remained to be done  
14 were the lawyers' final summations, after which I'll  
15 instruct you on the law. And then you'll begin with your  
16 deliberations in the case.

17 So I'm going to ask that you please give the lawyers  
18 your attention now as they give you their final summations.

19 Mr. Warder.

20 MR. WARDER: Thank you, Your Honor.

21 Mr. Foreman, ladies and gentlemen of the jury, I  
22 certainly do want to begin of course by thanking you for  
23 being here. I know you spent most of the week with a day  
24 out for snow, and I greatly appreciate the service.

25 This is the only way of course to resolve disputes

1 between citizens and the government, and that's what this  
2 trial is.

3 Now, His Honor will tell you the law at the very end  
4 of the case. He'll give you the law that applies to this  
5 set of facts. I want to just mention briefly a couple of  
6 things about that law.

7 The important thing that I want to bring to your  
8 attention is the presumption of innocence, that every  
9 defendant is proved, is presumed innocent. And he gets the  
10 benefit of that presumption on every element of the crime.

11 So when you're analyzing whether or not a crime has  
12 been committed, you start from the point of this, there's a  
13 presumption that the defendant is innocent of this and  
14 let's look and see what evidence the state has put to carry  
15 its burden of removing all doubt, in other words, removing  
16 the innocent presumption of that and then replacing it with  
17 a guilty -- from guilty evidence.

18 Now, there are two crimes charged in this case.  
19 There's the crime of burglary and the crime of murder.  
20 They are separate, they have separate elements. And I  
21 submit to you in some cases there's testimony that goes  
22 unique to each one.

23 Now, burglary is the unlawful entry of a dwelling in  
24 the nighttime with the intent to commit a crime. And the  
25 important thing is that if it's your residence it isn't a

## Closing arguments

1 burglary to enter it.

2 Now, in that regard Jerome says this is my residence,  
3 this is where I live. The state or Tiffany Williams by the  
4 witness says he didn't live here.

5 I submit to you one of the things you've got to decide  
6 was was he a resident, did he live there. I want to start  
7 with discussing with you what a resident is.

8 A resident of a place is a person that lives there,  
9 that spends the majority of their time at home there. A  
10 resident is not someone necessarily that's on the lease.

11 In this case to these parties it financially cost more  
12 rent if somebody else was on the lease. This was section  
13 eight government subsidized housing, and the rent was  
14 figured on what the household unit was. And if the  
15 household unit had more names on it that were wage earners  
16 the rent went up.

17 Indeed Chad Tate, Sr. testified that when he lived  
18 with Tiffany Foggie and his children he wasn't on the lease  
19 at the same apartment complex. So a resident is somebody  
20 that spends most of their time at home there, not somebody  
21 that necessarily is on the lease.

22 Now, the state went through this testimony that I  
23 submit to you has nothing to do with whether you spend most  
24 of your time there, whether that's where you hang your hat  
25 at night.

1       It doesn't matter whose name anything is in or who  
2 bought the furniture. You can move somebody into your  
3 house, have them live there. They'll become a resident of  
4 that house, and they won't have to purchase a piece of  
5 furniture.

6       When my client, Jerome Buckson, got to that house it  
7 was a fully functioning household. He didn't have to buy a  
8 refrigerator, a T. V. to become a resident. When he moved  
9 in and started spending a majority of his time there that  
10 he wasn't at work when he started, so to speak, hanging his  
11 hat there, putting his boots up under the bed, he was a  
12 resident. And I think if you fairly take the testimony  
13 there's no doubt he was a resident, though they say, well,  
14 they broke up. And Ms. Williams wants you to believe at  
15 some point he stopped becoming a resident.

16       Now, the testimony is from the little fellow that was  
17 a maintenance man, you remember that he said he indeed  
18 changed the locks, that he changed the locks after the  
19 carpet was flooded and that the carpet laid out in front of  
20 the apartment complex, and he fixed that day at the middle  
21 of December.

22       So the question is did Jerome stop being a resident  
23 then. And I think it's fair and I think the evidence shows  
24 he clearly was before, and I submit to you the evidence  
25 showed he clearly was afterwards.

1        Now, in that regard Jerome has said one of those is my  
2 toothbrushes. There's a picture that shows the other  
3 toothbrush. Most of my stuff was in the cabinet and that  
4 her closet was already full when we got there and I had  
5 stuff that we washed, blue stuff, that we folded it up and  
6 my white stuff, and I didn't have it out, but it was in the  
7 drawers and I was there.

8        And the state in carrying its burden of proof, as my  
9 client pointed out when Mr. Barnette was questioning,  
10 didn't inventory the things, didn't break down, didn't open  
11 the drawer and take a picture. They just took pictures and  
12 turned it over to Taffie Williams.

13        Is it surprising to you that she, who is asserting a  
14 position that my client wasn't there, says there wasn't  
15 anything of his there? See if there's evidence that  
16 contradicts that.

17        The very day this happened he came and went upstairs  
18 and changed his boots, I think the testimony is, and left.  
19 Well, everybody at 10:00 o'clock at night. What did he go  
20 upstairs for if it wasn't to deal with his items of  
21 clothing that he needed to change before he left?

22        Was he a resident of the house? Of course. Is there  
23 other things that the very day would indicate he was a  
24 resident? Well, I'd submit to you look at the phone  
25 records. Look at Ms. Foggie's phone record. Ms. Foggie's

1 phone record will show on the very night that this happened  
2 at 11:30 she called him. And she called him, I submit to  
3 you, to decide if he was coming back home that night to his  
4 residence or if he was going to stay the night with his  
5 mother at his mother's house because she was in the  
6 hospital and somebody had to look after the little brother.

7       These are people that weren't split up. These are  
8 people that they say my client dialed her number 31 times  
9 that day. Now, most of those went to voice mail. She  
10 called him 11 times that day. That doesn't sound like  
11 people split up.

12       Now, in making those, in the number of calls, they  
13 want to make it seem like he was somehow making unwanted  
14 calls. And they say, well, 31 calls. And there were six  
15 or seven of them right before this happened. But those  
16 were calls, many of them were calls, that weren't received.

17       You look at Ms. Foggie's phone record, and of course  
18 those calls are on it. They are on Jerome's because they  
19 dialed them and they went to voice mail or something. The  
20 phone was turned off and it didn't go to the phone.

21       There's not a harassing pattern of phone calls. It's  
22 what there is, is the phone calls that go to other than  
23 conversation. And those in duration you'll see are -- went  
24 all the way from two seconds to seven or eight depending on  
25 the traffic and how quick the phone.

1 I don't know whether people notice that, cell phones,  
2 but in the busier time of the day your cell phone pauses  
3 longer before the other number is put on than it does at a  
4 nonbusy. And I submit to you that's because of traffic  
5 along the towers, because of the amount of load switching  
6 that's done.

7 Now, what else does Mr. Buckson tell you? He tells  
8 you that one of these is a picture of his t-shirt. And  
9 indeed on State's Exhibit 39 -- that's okay. If I can, I  
10 am going to need it later. You can get it down now.

11 THE BAILIFF: All right.

12 MR. WARDER: On State's Exhibit 39 there will be a  
13 t-shirt, and that t-shirt will contain the logo of the  
14 brand of Unlimited. And he says that's my blue t-shirts  
15 that was there, that Unlimited is a brand of clothing I  
16 like and I use.

17 Now, I think this thing warms up as it goes. And as  
18 you read upside down that will say Unlimited. And he says  
19 as further support of my contention that that's the brand  
20 of clothing in Defendant's Exhibit 11. We introduced a  
21 picture taken in the back of his pickup, I mean, his  
22 Excursion or his black car that was out in front. And they  
23 took a picture. And of course on his work jacket was the  
24 same level, same label, Ecco Unlimited. So we know at  
25 least some items of clothing were there.



1       He points out his toothbrush. And the things were in  
2 there. These people were contact. And I think it's clear  
3 they lived there until shortly before.

4       And the state points to, well, he didn't have a key at  
5 that time. Jerome testified we had the locks changed, we  
6 had two keys made, one for Ms. Williams, Tiffany's mother,  
7 and one for me, and Tiffany kept one. Ms. Williams didn't  
8 work. I left my key for Tiffany to give to her mother and  
9 we hadn't made another. And we just left the back window  
10 undone, and I come through it on those few occasions that  
11 the door was locked and Tiffany wasn't there.

12       There was no reply testimony. Ms. Williams didn't get  
13 up and say that didn't happen. It's unrefuted.

14       I submit to you there's ample evidence to prove that  
15 Jerome was a resident. But under all circumstances the  
16 state hasn't disproved it and hasn't removed the  
17 presumption of innocence as to that element. And the  
18 burden is upon them to do it.

19       And all of this stuff about he doesn't own the phone  
20 bill, he isn't on the whatever piece of paper they want to  
21 talk about, that isn't required to be a resident. A  
22 resident is who you live with, where you spend most of your  
23 time, your principal residency.

24       Use your common sense. This is not a burglary. This  
25 was Jerome's home. And that's why Tiffany called him at

1 11:30 to see if he was coming back to his home.

2 Now, I want to turn our attention to the murder  
3 charge. The murder charge is, I would submit to you,  
4 basically a charge where you evaluate the testimony of two  
5 witnesses, Slamarius Watson and Jerome Buckson. They tell  
6 a different set of facts.

7 Now, I confess to you this is a case with as little  
8 input from investigation as you will ever find. This is a  
9 case that we've tried without the testimony of a detective,  
10 of a medical personnel. And I guess we're just supposed to  
11 guess at some of the facts.

12 And in that regard the key issue is what happened of  
13 course there at just before 3:00 a.m. And the testimony  
14 shows that what happened just before 3:00 a.m. is my client  
15 arrived. He dialed voice mail. I think it was six times,  
16 but several times. No one answered.

17 He started in the window the way he had got in since  
18 they had given the key to Ms. Foggie's mother. And  
19 somebody hollered out the window. And both Slamarius and  
20 Jerome testified to that. And those conversations out the  
21 window was associated with we're going to argue, you'll,  
22 we'll wake the children up, don't do that.

23 That's a reasonable statement when she is up there in  
24 his house with somebody else. There would likely be an  
25 argument. But what she didn't say is just as significant.

1 She didn't say you don't live here, what are you doing,  
2 stay out of here, this is my house, we are broke up, you  
3 can't come around. That wasn't the conversation. No one  
4 even says that was the conversation. That conversation as  
5 related indicates the presumption that he lived there, and  
6 it sets the stage for the events that happened.

7 We know that Jerome went upstairs, and when he got  
8 upstairs there was a gun and somebody shot it. There was  
9 one exhibit put into evidence by an evidence technician  
10 that shows us the bedroom. And that's important, I think,  
11 in determining the scene, what happened.

12 Now, the evidence shows that the door to the bedroom  
13 was on this side, and that door was closed. And Jerome  
14 went through telling you how he pushed on the door until it  
15 came open and there was somebody on the other side holding  
16 it. And in the shadow of the window he saw Slamarius or  
17 Sharmarcus who informed us he was getting ready to go out  
18 the window. There's the window right there.

19 The door opens back this way. And when the door  
20 cracked, of course the gap you would see through would be a  
21 direct view of the window. This door is hinged backwards  
22 to the way most doors are. The door in the courtroom and  
23 all of those are usually hinged on the right-hand side as  
24 you open it. This one was hinged on the left-hand side.  
25 The door was there.

1        This evidence technician shows us where the splatter  
2 was. He indicates on here splatter. And he puts splatter  
3 on this side of the door and he puts splatter on this side  
4 of the door and he puts splatter out in the hallway through  
5 the door. No. 20. And it's indicated on the chart as  
6 splatter.

7        That's important, because we went through this with  
8 the gunshot residue test. And the gunshot residue test  
9 indicates that on my client's hand, one piece, one particle  
10 of lead was found. I'm sorry. I have it covered up. And  
11 he said that was not consistent with having fired a gun but  
12 was only consistent with having handled the gun or was more  
13 consistent with having handled the gun. That's in response  
14 to Solicitor Barnette's questioning.

15       Remember he hold us about gunshot residue, that  
16 gunshot residue is the stuff that stands on the back of the  
17 hands usually because of this cloud that's formed around  
18 the gun when the trigger is squeezed. And he said that  
19 cloud is about six inches in diameter roughly around the  
20 gun and it will get on your arm and your hands and your  
21 sleeves, where none was found on Mr. Buckson.

22       But it did in the palm find this one. And I  
23 questioned him about, well, could that have come from a  
24 doorjamb, a flat surface like is over there or a flat  
25 surface like would be here and on the door. And he said,

1 yes, if it was freshly fired.

2 And I submit to you the existence of the spatter out  
3 here indicates that something came from within the room in  
4 the path my client would have been and likely something he  
5 come in contact with.

6 And the gunshot residue tests do not indicate gunshot  
7 residue. They indicate only on my client the powder of one  
8 shot, one piece of lead. And the rest of it, it says that,  
9 that the quantities did not indicate the presence of  
10 residue, that they are inconclusive, and that on one hand,  
11 one lead particle was found.

12 And I submit to you that is a particle when they asked  
13 him, well, was that one particle consistent with having  
14 fired a gun or having handled a gun. He said handled a  
15 gun. Another explanation of course is that that particle  
16 was directly in line with the stuff he touched with the  
17 gunshot blast.

18 Now, the question might well come, well, if Jerome  
19 didn't have gunshot residue, who did. And I submit to you  
20 the fellow that did was an expoliceman and he couldn't stay  
21 around to have that test taken, and so he fled and took the  
22 gun they never found with him. There's no explanation for  
23 where it went or why it wasn't there except it had to leave  
24 the scene. And it left in a gray Town Car that pulled out  
25 as my client was standing with the police.

1       What else does the scene indicate? Jerome Buckson  
2 told us that he thought he heard two shots as he fell down  
3 the stairs. As you go through this one piece of lead one  
4 bullet core is found, number 11, right there. See the  
5 number 11.

6       They found a bullet core, and the rest of it was  
7 jacket parts they found. They found jacket parts in the  
8 wall here. They found a jacket part on the bed. They  
9 found -- out there. They found several jacket parts  
10 consistent with one bullet, but obviously that bullet was  
11 in the room.

12       The state didn't put in, because they have no  
13 explanation in their theory, the trajectory rod that was  
14 poked through the wall and the hole it come in.

15       When you examine Defendant's Exhibits 2, 4, '7, 6, 5  
16 and 3, they show us the trajectory of what I submit to you  
17 is the second shot Jerome Buckson heard that went from the  
18 inside of the room to the outside of the room. And there  
19 would be another bullet part somewhere.

20       And there's a look of the inside of the room. That  
21 shows the door where the jamb that closes it against. That  
22 shows the light switch right inside the room, and that  
23 shows right next to the light switch another bullet hole  
24 that would be inconsistent with the testimony of Slamarius  
25 Watson, would be consistent with the testimony of Jerome

1 Buckson and is unaccounted for by this police investigation  
2 and is probably part of the reason there wasn't a detective  
3 or anybody that got up to testify, only the fellow that  
4 came to the scene and took some photographs.

5 I submit to you that as to how many shots were fired  
6 Jerome Buckson told you the truth.

7 Now, I want to talk a little bit about Samarious  
8 Watson's story. Samarious says that he heard somebody  
9 running through the house, up the stairs and he decided to  
10 look, it was time to go out the window. And he says he  
11 started out the window and just couldn't do it. I submit  
12 to you the reason he couldn't do it was he saw how far the  
13 ground was below the window.

14 He then gives you some account where the man at the  
15 door has a gun. And he gave a statement saying he grabbed  
16 and dragged him into the room, or he says pushed past him  
17 and ran.

18 I submit to you that he wants to believe he pushed him  
19 into the room because Samarious knows the shot come from  
20 within the room and he doesn't want to be in there because,  
21 in fact, he's the fellow that shot.

22 And I find it amazing in this case that Samarious  
23 says, well, yes, by chance I have a .38 and, yes, I did  
24 discuss going and getting that before I went over there,  
25 but I didn't get it of course.

1           And some police officer investigating this case hasn't  
2 said, Samarious, bring me your .38 and we went to look at  
3 it and see what bullets match it. We didn't investigate  
4 that. Why would you think that would happen?

5           Is there any sensible reason that if you have a  
6 gunshot and a scene that has .38 or .357 bullets, and I  
7 think he said they could be nine-millimeter too, and one of  
8 the people who is a suspect tells you they have a .38 or a  
9 nine-millimeter or one of those caliber of guns, I would  
10 think you would want to know if they still had it. Might  
11 want to look at the bullets. They might want to send them  
12 down to that Dan DeFreeze fellow and see if he could match  
13 them. We don't do that in this case. We don't do that at  
14 all.

15           This is a case that Tiffany Foggie phoned, dialed  
16 9-1-1. And of course and you will have these back there,  
17 these records, and you can examine them. But it shows she  
18 dialed it at 53 seconds after 3:00 o'clock.

19           Now, why was she dialing 9-1-1? Slamarious says he  
20 told her to. And that, that could be possibly, I guess.  
21 But I submit to you the most probable reason she did it is  
22 she saw Slamarious with the gun and she knew maybe the  
23 fellow that lived in that house was going to get hurt. She  
24 dials that at 53 seconds after.

25           And at two minutes and 15 seconds after 3:00 Jerome



1 Buckson calls 9-1-1, and we hear that panting phone call  
2 with that man, and down there, and that call that he pants.  
3 And it was other traffic come in, and they played it in  
4 three parts because dispatch down there switched to other  
5 traffic and then back. And they played it. And that call  
6 that Jerome, the time is at, lasted four minutes and 29  
7 seconds until the police arrived.

8 Now, the question might be on your mind as to why  
9 would a call dialed by Tiffany Foggie that lasted a minute  
10 and five seconds have no conversation on it. Remember that  
11 call had nothing was said. It was just a call.

12 And I submit to you in the time the button was pushed  
13 to dial that call and that call being received and picked  
14 up by the 9-1-1 equipment a gunshot occurred. And  
15 Slamariious, the guy that shot, just walked out. Jerome had  
16 fled the instant of the shot. And he had just walked away.

17 He started out the window. Now he'd shot a gun and  
18 was in more trouble. And he left, never to call 9-1-1,  
19 never to go to the police. And he was caught 36 hours  
20 later at his girlfriend's in the car that had Georgia  
21 plates with his brother driving it.

22 If you don't know more than that, who do you think is  
23 guilty, the guy that's on the phone within a minute and 22  
24 seconds after the call, and I submit to you the gunshot, or  
25 the guy that shows up 36 hours later after the police had

1 nabbed him?

2 That's what's in this case. That's what this case is  
3 about. Somebody is guilty. Somebody had a gun and shot  
4 it. Somebody got rid of the gun. Was it the fellow that  
5 called the police and run down and flagged them down in  
6 Main Street? Does that make sense?

7 You'll have this in your jury room. Jerome Buckson  
8 says this is the building then. I ran out. I turned to  
9 the right. I ran around this building down here, over  
10 here, saw the police car coming and met it out in the  
11 street. That all took four minutes with the standing down  
12 there and waiting for the police car.

13 Slamarious says I ran out and ran around the building  
14 and back to my car and drove off. If he ran around the  
15 building, I submit to you, it wasn't because he thought  
16 anybody was chasing him. It's because he either chased  
17 somebody or wanted to get rid of something. But I figure  
18 most probably the evidence would reflect that gun drove off  
19 with the clothing that had gunshot residue on it, with the  
20 hands that had gunshot residue on them, with the  
21 expoliceman that knew how the investigation would be  
22 conducted.

23 Why was he gone 36 hours? He would have been gone a  
24 whole lot longer if he could have got, pretty well disguise  
25 himself, except for the police did catch him. He was

1 making sure he was properly scrubbed and clean and had no  
2 gunshot residue. He said he was taking his tax papers over  
3 there. He might have been going to file for a rapid  
4 refund.

5 He accounted for his time by saying, you know, didn't  
6 talk to, didn't see anybody, I just rode around because I  
7 thought my live-in girlfriend would be so mad. Does that  
8 sound like an innocent man? That sounds like somebody that  
9 was hiding and covering something up.

10 In this case I submit to you the fellow that did the  
11 shooting whose gun it was was Slamarious Watson. I submit  
12 to you that in this case the failure to investigate his gun  
13 is unforgivable by the police. That would have cleared my  
14 client and condemn the man that did it. And no one has  
15 given any explanation for why they didn't even try and do  
16 it.

17 You know, this is a case where the common sense tells  
18 you what happened.

19 We need to talk about one other bullet, the bullet  
20 that was found out in the parking lot. That to me  
21 indicates there were actually three shots. And two  
22 individuals account for that differently, account for  
23 leaving the house. Jerome Buckson says I ran downstairs, I  
24 ran to the kitchen and I had to unlock the door and go out.

25 Slamarious Watson says I ran downstairs and the door

1 was open and I ran through it. And that's true. And  
2 Slamarious told you what he actually saw. It's a 40 and  
3 slip kind of thing. But when he got there, when he ran  
4 through the living room into the kitchen, down the hall,  
5 the door was open. The door was open because Jerome  
6 Buckson had just went through it. And in his efforts to  
7 weave the truth with a lie he left that in.

8 When he got there with the gun in the hand Jerome was  
9 gone. The door was open like he said. Jerome had come in  
10 through the window. The door was locked. Jerome had tried  
11 it. Watson saw it open because Jerome would have went  
12 through it first.

13 I ask you in this case to use your common sense; I ask  
14 you in this case to listen to His Honor's charge on the  
15 law; and I ask you to listen for the presumption of  
16 innocence and the burden of proof; and I ask you to  
17 consider whether this is the kind of case that removes  
18 reasonable doubt.

19 I submit to you that in this case the right, the fair  
20 and the just verdict is the verdict of not guilty, not  
21 guilty of burglary for entering a house he lived in and not  
22 guilty of murder for coming home and finding Watson in the  
23 bedroom and fleeing when Watson tried to kill him.

24 You know, in any case like this everybody thinks about  
25 winning and losing, winnings and losings. But this is the

1 kind of case that the people of South Carolina will win if  
2 you return the right verdict, a verdict that will follow  
3 the law, for the people of South Carolina win whenever the  
4 jury system works, whenever jurors conscientiously apply  
5 the facts to the law and give meaning to the constitution,  
6 give meaning to the bill of rights and require the state to  
7 prove guilt and don't find people guilty just because they  
8 are here.

9 If you do your job in this case and return the correct  
10 verdict of not guilty everybody will win. Justice will be  
11 done and Jerome Buckson will finally be set free.

12 This is a case that the verdict sends a message, sends  
13 a message to all, that the cases can't come to court  
14 without an examination of the evidence and an investigation  
15 that begun.

16 You know, there is a diagram here, and it's the  
17 diagram I had my hands on before I dropped everything in  
18 the floor of the room that I showed you, and it shows blood  
19 in the center of it and drag marks. No one testified, no  
20 E. M. S. We will have to speculate about how those spots  
21 got, how the drag marks in between them.

22 I submit to you a fair investigation would not have  
23 left us just to guess at those. The people that were there  
24 would have been put forward. And I submit to you there is  
25 a reason they're not. This is the prosecution that's not

1 necessarily getting out all the information.

2 If I hadn't shown you the other bullet holes and put  
3 those exhibits you would have never known about it. This  
4 is the prosecution that begs for a conviction. I ask you  
5 to do justice. Thank you.

6 THE COURT: Mr. Barnette.

7 MR. BARNETTE: May it please the Court.

8 Mr. Foreman and ladies and gentlemen of the jury,  
9 let's go back to that night when Jerome Buckson said he was  
10 at his mother's house at Wellford staying there.

11 He is supposed to be at work at 5:00 o'clock that  
12 morning on White Horse Road in Greenville. If you're  
13 familiar with Greenville, it's on the far side of  
14 Greenville.

15 He's coming back right before 3:00 o'clock a.m. He  
16 says I normally get up at 3:00 a.m., 3:30, leave at 4:00,  
17 be at work at 5:30, ten-to-12-hour day. He has been up all  
18 day, all morning, and he tells you that I am going home.

19 Now, why would you leave Wellford to drive all the way  
20 on the east side of Spartanburg to get some sleep for half  
21 an hour and drive all the way back to Greenville on the  
22 other side of it?

23 And the other thing that was interesting too, State's  
24 Exhibit No. 11, the argument would be he was going to get  
25 ready for work, get your clothes. If that's the case, I'm

1 glad that this exhibit is in. There's his work clothes  
2 inside of his car. He wasn't taking those inside, was he?  
3 That's his work hat, his overalls, everything he would need  
4 for work.

5 He goes back and tells them. He wants you to believe,  
6 yeah, I'm going to get dressed and get ready for work and I  
7 did all of this. Why did he leave his clothes out there if  
8 he was going to change to go to work?

9 And then he wants you to believe that, you know, I go  
10 through the window all the time. Here's a man. You'll  
11 have his jail record. 240 pounds. He's a big man. Going  
12 to climb through a window at 3:00 o'clock in the morning,  
13 did it all the time. And you could just easily reach  
14 around and unlock the lock and walk right in.

15 He says, he comes with this story about Ms. Williams  
16 getting a key, that they got one key and made two copies.  
17 He got one, Ms. Williams got one. His copy worked;  
18 Ms. Williams' didn't. He said, well, I just give to her  
19 because I can just go through the window.

20 There's a Lowe's right across the street, ladies and  
21 gentlemen. A Wal-Mart is right up the street, Ace Hardware  
22 is right up the street, anywhere you can get a key cut. It  
23 might cost you two or three bucks to go get a key cut.

24 He wants to give you a reason why he didn't, and  
25 that's not the reason, ladies and gentlemen. Those locks

1 were changed. We know that.

2 And then he comes that night at 10:00 o'clock. As a  
3 matter of fact, Slamarius Watson and the other kin had  
4 left. He comes up to the door and he's looking through the  
5 window. Charlene Ellis tells you. He seemed startled.

6 And then he told you how jumpy Tiffany Foggie was that  
7 night at any time anybody came to her door. And he had  
8 asked for permission to come in the house. He had asked to  
9 come into that house.

10 Does that sound like somebody that lives there,  
11 somebody that has permission to be in that house? Why ask  
12 for permission to go in?

13 They said he goes upstairs. He comes back down,  
14 doesn't speak to anybody once he gets inside. And he  
15 leaves. He doesn't have anything with him. He says he  
16 went up to change his boots, shoes.

17 Ladies and gentlemen, where is his stuff at? Where is  
18 his underwear, where is his socks, where is the boots and  
19 the shoes? You can go through these pictures and look.

20 He says, well, they're out in the closet there.  
21 You're not going to -- he says they are in the drawers.  
22 Well, you can look. He says my toiletry articles are in  
23 the drawers. Well, you look through her whole bedroom.  
24 There's articles everywhere. Her hair stuff, stuff that  
25 she uses is everywhere.



1           He talks about his hat. Where is his hat? Where did  
2 he hang his hat at?

3           They had broken up. She wasn't seeing him any more.  
4 And she had moved on and been dating Wednesday, Friday,  
5 Sunday. She even had people over.

6           He wasn't working that day on Sunday. He could have  
7 came in at any time. He could have came in earlier and  
8 obviously saw Sharmarcus Watson. Canada Elliot came in.

9           They want you to think that, well, she just played him  
10 along. He knew he wasn't allowed back in the house because  
11 she told him not to come back into it unless he had her  
12 permission.

13          Going through the window supposedly, 240-pound man  
14 going through the window, which is easily to unlock that  
15 door.

16          And then he talks about coming back. And he said,  
17 well, you know, I call and down and, well, I know I used to  
18 officiate high school football. I used to come in late on  
19 Friday nights. My wife's a nurse. She usually works  
20 weekend. And when I come I tried to be as quiet as I  
21 could. I'm used to coming in, just try not to wake her up  
22 because she has to get up at 6:00 o'clock that morning. I  
23 don't try and announce myself. I don't call before. I  
24 don't knock on the door. I use my key to quietly open the  
25 door and get inside and try not to wake her up.

1           What does he do? He calls, keeps calling seven times.  
2 He called 31 times that day. He knocks on the door beating  
3 it. And the question is, and I don't know which story to  
4 believe. He told the police a different story, and then he  
5 tells a different story the other day.

6           He says he goes to the front door. Well, if he always  
7 goes through the window, why don't he just go to the back  
8 door and go through the window if that's how he gets in and  
9 out? Why go knock on the front door or why, if you believe  
10 the other story, knock on the back door and then the front  
11 door and then go back to the back door?

12           And his story was, well, she didn't tell me not to  
13 come in. She was telling him not to come in there. Then  
14 he goes up.

15           And do you think, there's two things you're going to  
16 be hearing about when you're going through this evidence.  
17 A man that is jealous, a man that's mad, angry and in a  
18 rage.

19           Do you think he quietly went up? Most of the time  
20 when you go into a house you usually turn lights on when  
21 you're going in there too. He didn't turn on a light. He  
22 goes running up the stairs. And he wants to tell you,  
23 well, I just tried to push on the door.

24           You will have this evidence back to you. State's  
25 Exhibits 58, 59 and 60 are where he busted the door open.

1 You see the crack on the side of it and on the back of it.

2 He wants to tell you that he thinks that he just  
3 pushed on it easy. This man is 240 pounds. He lifts  
4 weights.

5 He went up there and he was going to open that door.  
6 He was going to find out, and I apologize for this, who was  
7 that nigger in his bedroom with his woman. So he busted  
8 the door open. And he wants to tell you that he opened it  
9 about that far. And you remember.

10 And one thing I want you to do, ladies and gentlemen.  
11 Please remember the evidence as you heard it in this case  
12 and how you saw it.

13 He says he opened the door that slightly. It's dark.  
14 He says that he sees some man going out the window or  
15 whatever. He said, well, I just stand there and said she's  
16 holding the door, she's got her hand. I can see her leg  
17 and her hand I think he finally said.

18 Of course he had told the police that she was in the  
19 middle buck-naked standing between them trying to keep them  
20 apart when he busted the door open. And he says this  
21 fellow from the back-end, he grabs the bag and pulls the  
22 gun up and comes up beside her and she sees him and then  
23 she comes up and hits him like this and goes like this and  
24 the gun goes off.

25 The problem with that story, there is all kinds of

1 problems. And that's what happened with the police. They  
2 arrested Slarmarcus Watson first. They arrested him for  
3 murder.

4 When you go back and look at the story and the facts  
5 and the evidence in that room it doesn't match anything  
6 that man says right there. He says he knocks the gun down,  
7 or she does for him.

8 Ladies and gentlemen, how does she get shot up here,  
9 and going through and exiting? You heard Dr. Wren. You  
10 heard him describe the wound. I submit to you there is no  
11 way that can happen. There is just absolutely no way.

12 And another thing too. When Slarmarcus was telling  
13 you he went over to try to help, and he didn't go through  
14 the window obviously, coming through, and this man is  
15 busted in the door.

16 And I submit to you he busted the door in. You will  
17 have that evidence back for you. I will pick it up and  
18 show it to you because I know you have seen it. That he  
19 busts that door wide open.

20 He grabs it and he throws him. Can you imagine? He  
21 hits that door so hard to bust it and he's a lot of  
22 momentum. Knocks her back. You remember the testimony of  
23 Mr. Watson.

24 She's also tried to call 9-1-1. There's a 9-1-1 call.  
25 It has to be made before she got shot, or she's in the

1 process of doing it. The phone is right beside of her.  
2 She goes falling back. He says I grabbed her. And I'll  
3 tell you right now, he throws her.

4 And the interesting thing I saw, you will see the  
5 diagram, and I apologize for looking through this being  
6 messed up, showing you State's Exhibit 36. Look at that  
7 dresser. Look at it right there. It has been knocked  
8 sideways when somebody was going by it trying to get by it.

9 Now, if you heard Mr. Buckson's testimony, he never  
10 went into the room if you believe his story. Well, how did  
11 that get like that? Mr. Watson pulled him by him and was  
12 trying to get by him and hit that dresser.

13 And the other thing Slamarious is telling you is, let  
14 me show you State's Exhibit No. 9. How does all of this  
15 splatter get over here if that dresser is setting there?  
16 If that dresser is setting the way it should be setting on  
17 that dresser, which it normally, which it should be, there  
18 is no way that it was not going to, obviously this  
19 occurred, that splatter occurred after the gunshot, after  
20 the, when the gunshot took off and when that dresser had  
21 been moved. The dresser had to be moved before that blood  
22 got in this area or it would have hit the dresser.

23 I'm trying to get a better picture for you. Here is  
24 even a better picture, State's Exhibit 50. And you can see  
25 that splatter going that way. So that dresser had to be

1 moved before, I mean, before this splatter occurred,  
2 because it would have been on that dresser if it didn't.

3 And that's the problem, ladies and gentlemen, with  
4 Mr. Buckson's story. His story doesn't match. What  
5 forensically, what you can see for yourselves, the dresser  
6 being knocked over is consistent with Mr. Watson's story,  
7 the blood splatter being consistent because that dresser  
8 obviously had to be moved for the gunshot.

9 He said the gunshot occurred once he got him by me.  
10 Think about it. As he's pulling this guy by he's got this  
11 weapon. He turns back around to shoot.

12 And what do you think Ms. Tiffany Foggie is trying to  
13 do? She's going to try to get out of there too. He's  
14 pointing back and he's falling back and he's shooting, and  
15 she's in between him and that wall, and she was, and he  
16 shot her. The blood splatter occurred after the dresser  
17 was moved.

18 You have got the fragments of the bullets there, the  
19 holes from them. She fell back. Dr. Wren said that she  
20 could tried to move, could move afterwards, possibly she  
21 had basically a front to bottom. The phone is setting  
22 right beside of her.

23 Mr. Warder tells you that there wasn't anything on her  
24 9-1-1 call. I submit there was. You can hear her moans  
25 when she is laying there dying. Same thing. And you're

1 welcome to listen to that tape over again. As you listen  
2 to it you hear somebody or something on that.

3 Sharmarcus Watson says he run out. The thing I submit  
4 to you is they make a big thing about the door open. I  
5 submit to you what the defendant did, he didn't go through  
6 that window. He just opened the window and just went right  
7 in. He goes running out the back door.

8 The funny thing about Mr. Buckson's story, he said  
9 there's a second gunshot. He told the policeman when he  
10 fell down the stairs he had a second gunshot down. There's  
11 no gunshots, you can look at the evidence, down the  
12 stairwell, up the stairwell. There is none. There is none  
13 in the door down below.

14 They went back and examined. They went back when it  
15 was daylight and examined. But after they arrested  
16 Mr. Watson they went out. He said, well, there was a shot  
17 out the back door.

18 And Mr. Buckson keeps talking about this second shot.  
19 Mr. Watson has no motive to shoot any, I mean, to shoot  
20 her. He's trying to claim this second shot is shot because  
21 of him, that's when he hit there. He's got no motive.  
22 She's trying to call 9-1-1.

23 The second shot occurred while this defendant is  
24 chasing Mr. Watson out the back door. He tells you he shot  
25 me going through the back door. They go out.

1           And you've seen it. Showing you State's Exhibit 80  
2 where the bullet hit straight out of the house, 81. The  
3 forensic evidence matches up what Mr. Watson is telling us,  
4 and that's when the police reevaluated.

5           Let me ask you this question, ladies and gentlemen.  
6 Let's say that a person was with their wife, girlfriend, in  
7 a bedroom and somebody busts open a door. The man gets a  
8 gun to try to protect him and his girlfriend-wife, whoever  
9 is in the bedroom with him, and shoots, and he shoots,  
10 accidentally shoots, the girlfriend or the wife.

11          He's not guilty of murder. He's trying to defend  
12 himself and defend others if you believe their story. The  
13 man that caused that is that man right there because he  
14 couldn't stand for somebody else being with his woman.

15          And you remember the 9-1-1 tape, what he kept saying.  
16 You remember what Officer Satterfield said he said. He  
17 kept repeating it over and over again. I can't believe she  
18 had another nigger up in my bedroom.

19          And he says, well, I told Officer Satterfield about  
20 Tiffany and about the kids, how worried I was about them.  
21 He said, yeah, I told him. Officer Satterfield told he  
22 didn't. I submit to you Officer Satterfield is telling the  
23 truth.

24          He didn't tell 9-1-1 either. And the other strange  
25 thing is at the end of, after 9-1-1, he decides he is going



1 to call Ms. Williams. Now, why do you call Ms. Williams?  
2 Why didn't you call your mom; why didn't you call your  
3 brother; why didn't you call somebody else? Why call  
4 Tiffany Foggie's mother to tell them that he has been shot,  
5 that I had to break into the apartment and got shot?

6 I submit to you he is trying to cover his tracks. He  
7 knew she had been shot. He knew right then. He said I got  
8 to cover my tracks, I have got to make sure people believe  
9 that I was the one shot at and she got hit.

10 And she testified, Ms. Williams. And that's something  
11 a mother shouldn't have to do is testify at a case where  
12 her daughter has been killed, going through the apartment  
13 cleaning out everything in that apartment, things that she  
14 had bought.

15 I know Chad Tate got up here and told you that I  
16 bought all the furniture there, I'm responsible for all the  
17 furniture. Well, if he bought the furniture, ladies and  
18 gentlemen, I submit he would have took it with him. He  
19 wouldn't have left it for her and just tell her to use it.

20 And the other thing, Ms. Williams does work. She  
21 works at Wal-Mart. He said, well, I bought this piece of  
22 furniture at Wal-Mart. Well, if you went to Wal-Mart,  
23 Ms. Williams could get you the discount, employee discount.  
24 He didn't have an answer for that.

25 And he kept talking about I used to call the kids

1 every day at that number, at that land line number. She  
2 don't have a land line. She uses a cell phone. And you  
3 look at all the pictures. There's not a phone in the house  
4 except for the one that was laying beside of her that day.  
5 I submit to you what he told from that standpoint I don't  
6 think carries water here.

7 Ms. Williams told you she went through that house.  
8 And, like I said, you will go through the pictures. They  
9 submit that this shirt that they showed you is their own  
10 evidence. Unlimited comes in female and male items, shirts  
11 and things like that. I know women shop there. Unlimited  
12 is basically, sells women products too.

13 You can't tell from that shirt whose product it is.  
14 But one thing you can say when you look through, there was  
15 just no men's clothes in there.

16 He is talking about this toothbrush. Well, the kids  
17 have two toothbrushes. He keeps saying, well, that's my  
18 toothbrush. Unfortunately, Tiffany Foggie can't tell us  
19 whose toothbrush it is because she's not here today because  
20 of the actions of one man that started it all, that man  
21 right there.

22 Going back to the bullet in the parking lot, there's  
23 damage. We're not putting them up there for you to see the  
24 damage on them.

25 Mr. Dan DeFreeze can testify basically that the

1 bullets, the markings, are consistently from the same type  
2 of guns. It could have been from one gun. There is two  
3 bases. There was one base found upstairs and one base  
4 found downstairs.

5 I submit to you, ladies and gentlemen, they are far  
6 from the same gun. They keep talking about, well, can  
7 bring the .38 or whatever, but they're so badly damaged  
8 they can't hardly be identified. Probably they can't be  
9 matched, much less, you know. I wish he could probably  
10 tell you they was fired from the same gun. He can't do  
11 that, the damage.

12 Talking about the gun residue kit. If you believe  
13 Jerome Buckson's story that he's standing behind a door,  
14 and I apologize. But the door is like this. It would open  
15 this way. And he has got it like this. He couldn't tell  
16 me where his left hand was. It is a solid door. How does  
17 the gunpowder residue get on his hand, left hand, the palm?  
18 It can't with his story. There is no way it could happen.

19 How does the blood splatter get out the doorway? Why  
20 isn't there more on the back of the door if it's just like  
21 that? It's on the front of the door and the front  
22 left-hand corner if you look on the diagram. The forensic  
23 evidence just doesn't match his story. It matches  
24 Mr. Watson's story when you go back to that scene.

25 Another thing that was interesting too, look at

1 State's Exhibit 56. On top of that dresser is a gun  
2 holster right there. Mr. Watson didn't put that holster  
3 there obviously because that was the first night he was  
4 there. And he claimed he got the gun out of a bag or  
5 whatever.

6 Ms. Foggie she's so, she's not tall enough to reach up  
7 there. We know the two small kids wouldn't reached all the  
8 way up there to do it.

9 Who put that holster up there? Who went back that  
10 night to go get something and didn't carry anything back  
11 out with them? Who got a gun they used to kill a person?  
12 I submit to you he didn't mean to kill Tiffany Foggie. He  
13 was after that man right there, the man in that bedroom.  
14 If he couldn't have her, he sure wasn't going to have her.

15 I show you State's Exhibit 14. And you will have this  
16 as well as the other picture back there. They say, well,  
17 where could he have gotten rid of the gun. Well, look  
18 where. There's all kinds of woods, there, there. Anywhere  
19 he could have thrown that gun.

20 You can say, well, it's easy to find a gun. Like  
21 looking for a needle in a haystack if you throw it in the  
22 woods. You can look as much as you can and never see it,  
23 whatever. But he had plenty of opportunity to throw it  
24 anywhere. And he threw the gun.

25 And the other thing too, you got a picture. His keys

1 was found on the ground. I submit to you while he's  
2 running after the person up in that bedroom he drops his  
3 keys. And that's not something you just easily drop. That  
4 is something that dropped out there.

5 He couldn't drive away. He knew he couldn't drive  
6 away because he didn't have the keys. So now he is stuck  
7 there. He's scared that somebody is going to call and I  
8 got to figure out a way to handle this. I've got to figure  
9 out a way to cover myself.

10 So he calls 9-1-1. And he never talks about her. I  
11 don't know anything about it. I know they kept talking  
12 about that Sharmarcus Watson not calling 9-1-1. He did a  
13 cowardly deed and you're selfish when you're doing things.  
14 There's no question that was a cowardly act, leaving and  
15 not calling 9-1-1 and not doing that.

16 He has got a woman at home four and a half months  
17 pregnant. But the thing is he didn't think that nobody was  
18 shot during the time. He thought he was coming after him,  
19 especially from that last shot.

20 He didn't want anybody to know about it, especially  
21 the girlfriend at home. So he goes on hoping it will never  
22 get discovered. Obviously, he keeps going doing the  
23 selfish thing. He's saying I hope nobody knows. Later on  
24 they do. They arrest him and so forth. And he finally  
25 comes forward with the truth.

1           And the problem is the forensics does match what he  
2 says, because there is only two people that knows what  
3 happened that night. They both testified in this  
4 courtroom, but the one thing that doesn't change, they  
5 can't change that forensic evidence that you have seen, the  
6 pictures and last developed.

7           I was coming back to you and talking about the two  
8 things you saw from two different people. You saw from  
9 Slarmarcus Watson here and you imagine a bullet being fired  
10 over your head as you're running out, selfishness, and  
11 running as fast as you can to get away and not calling  
12 anybody. Don't want anybody to know he was there. And  
13 cowardness where you don't make the effort to stand up.

14           That don't make you guilty. You might not be the best  
15 person in this world, but that don't make you guilty  
16 because the system did work. He was charged with it. But  
17 once they went back and saw the evidence they had that  
18 didn't match up with him they go back and look at Mr.  
19 Buckson. And here's the man. Jealousy, anger, rage.

20           And he didn't have any addresses there, and even his  
21 mom said she didn't have a land line there. And the other  
22 interesting thing was even his own mother and aunt said he  
23 slept all the time. People had to wake him up. Here's a  
24 man that says I'm coming back getting ready for work to get  
25 some sleep on half an hour's sleep with his work clothes

1 out in the car. Why didn't he bring his work clothes with  
2 him if he was going to go change to get ready for work?  
3 Maybe he was looking for another reason. We all know what  
4 that was.

5 When he got to that bedroom door he busted it open,  
6 and he busted it wide open pushing her backwards. A woman  
7 has a right to say no, ladies and gentlemen. She can tell  
8 him no, not come in that residence, I'm not going to be  
9 with you any more.

10 Any person has that right. Everybody in Spartanburg  
11 County has that right. If they want to tell them not to  
12 come in their residence, that the relationship is over,  
13 they have that right. But none of this would ever have  
14 happened if that man had stayed outside and never came in  
15 the apartment in the first place checking on his girl,  
16 checking to see what she's doing and who she is doing it  
17 with just like he saw the gun on the way that night.

18 You do send a strong message out, ladies and  
19 gentlemen. I'm asking you to use your common sense. And,  
20 like I say, look at the forensic. Look through the  
21 pictures, look through the diagrams. There's no way it  
22 happened the way that man said. There is no way she could  
23 be shot in the head describing what he told in either  
24 story.

25 He keeps saying, well, the police did me wrong, the

1 police did me wrong. Well, you'll look at the evidence.  
2 You'll weigh what's right and what's not right, what's  
3 credible and what's not credible.

4 The judge will charge you on that. By the way, I do  
5 disagree with Mr. Warder on one thing. He said beyond any  
6 doubt. We can't prove anything beyond any doubt. Beyond a  
7 reasonable doubt.

8 Look at the evidence. Look through all these  
9 pictures. Look through it. Take a look. It doesn't match  
10 his story. Mr. Watson's story matches up. And saying in  
11 Spartanburg we can't have people going in and causing this  
12 kind of situation, especially when the locks have been  
13 changed and he's told not to be there, he needs to ask  
14 permission. And obviously he didn't ask permission that  
15 night.

16 I ask you to return a verdict, ladies and gentlemen,  
17 of guilty on both counts. A verdict speaks the truth.  
18 You're there to tell what happened that night, not what  
19 happened afterwards, not what happened before, what  
20 happened that night. That's what we ask you. That's what  
21 her mom asks you and her family asks you and that's what we  
22 ask you. Thank you very much.

23 THE COURT: Any juror need a short break before I  
24 provide you the law?

25 All right. Ladies and gentlemen, of course you've



1 heard and seen all of the evidence in the case, as well as  
2 the final summations of the lawyers; and therefore now I'm  
3 going to instruct you on the law that's applicable. Then  
4 you're going to be asked to go back, begin with your  
5 deliberations, examine the evidence, decide the facts,  
6 apply the law and arrive at a fair and just decision in the  
7 case.

8 It is your exclusive duty as jurors to determine what  
9 the facts are. You do that through your own common sense  
10 examination and evaluation of all of the testimony and  
11 other evidence received during the trial of this case.

12 You 12 jurors alone will decide what weight, value and  
13 effect to give to any particular testimony or other  
14 evidence in the case. Your sole objective of course is to  
15 simply reach the truth in the matter, and by doing that you  
16 will have fulfilled your obligations as jurors, and that is  
17 to simply give both the state and the defendant a fair and  
18 impartial trial.

19 Now, as you know, in this case the state has charged  
20 the defendant by way of two separate indictments with two  
21 separate and distinct criminal offenses, although they are  
22 alleged to have arisen out of one particular event or  
23 course of events which the state alleges occurred back on  
24 January the 30th of 2006.

25 By way of the indictments Mr. Buckson, the defendant

1 in this case, has been charged with the crimes of burglary  
2 in the first degree and with the crime of murder.

3 As I told you, these indictments are not evidence of  
4 anything. They're not proof of anything. The indictments  
5 will be in the jury room, because it is on the back of each  
6 indictment, Mr. Foreman, that you're going to be asked to  
7 indicate the jury's unanimous decision as to that  
8 particular charge. But other than serving as the verdict  
9 forms the indictments serve no purpose so far as you 12  
10 jurors are concerned.

11 But you are going to be asked to render separate and  
12 distinct verdicts as to each of the separate indictments.  
13 And depending upon your determination of fact and then your  
14 application of the law, your decisions may be the same as  
15 it relates to both indictments or it may be different as it  
16 relates to both indictments. That will simply depend upon  
17 your determination of fact, your application of the law and  
18 then your decision as to whether or not the defendant's  
19 guilt has been proven beyond a reasonable doubt.

20 Now, as to the allegations that are set forth in each  
21 of these indictments and as to the charges that are alleged  
22 in each of the indictments the defendant has entered a plea  
23 of not guilty. And, as I told you, that plea of not guilty  
24 places upon the state the burden of proving the allegations  
25 that they have set forth in those indictments, the burden

1 of proving each of the essential elements that constitutes  
2 the crimes of murder and of burglary in the first degree;  
3 and therefore the burden is upon the state to establish the  
4 defendant's guilt to the satisfaction of you 12 jurors  
5 beyond a reasonable doubt before any verdict could be  
6 returned as to a particular indictment.

7 The burden is never upon a defendant to prove that he  
8 is not guilty or to prove that he is innocent, because as  
9 I've stated, that might not be possible in some cases. The  
10 burden is always upon the state because they bring the  
11 charge against another to establish that person's guilt  
12 beyond a reasonable doubt.

13 You are instructed that it is a vital, important and  
14 cardinal rule of law that every defendant in a criminal  
15 trial, and it doesn't matter how serious the offense might  
16 be for which that person stands charged, a person accused  
17 of a crime is always presumed innocent of that charge.

18 And that presumption of innocence remains with any  
19 defendant, as it does with this defendant, from the time  
20 that he placed under arrest and throughout the course of  
21 the criminal process and even throughout the course of the  
22 actual trial in the case.

23 And, as I told you, that presumption of innocence will  
24 be with Mr. Buckson even as you go back into your jury room  
25 to begin with your deliberations in this case. And that

1 presumption of innocence will be with him in that jury  
2 room, and it will remain with him forever, unless you 12  
3 jurors determine that he's no longer entitled to that  
4 presumption of innocence.

5 That is if after you've carefully considered all the  
6 evidence in the case, from that evidence you've decided the  
7 facts that you believe apply to these allegations, and  
8 after deciding those facts you apply the law that I have  
9 provided you, if you determine that his guilt has been  
10 proven as to some crime beyond a reasonable doubt, then he  
11 would no longer be entitled to that presumption of  
12 innocence. But it's only if, unless and until that you are  
13 satisfied of his guilt beyond a reasonable doubt that that  
14 presumption of innocence would no longer be applicable.

15 Now, while the state does have the burden of proving  
16 the defendant's guilt to your satisfaction beyond a  
17 reasonable doubt, that doesn't mean that the state has to  
18 prove his guilt beyond all doubt or beyond any possible  
19 doubt. But it does require that the state prove his guilt  
20 to your satisfaction beyond a reasonable doubt.

21 The term reasonable doubt should be given its plain  
22 and ordinary meaning. A reasonable doubt is the kind of  
23 doubt that would cause a reasonable person to hesitate to  
24 act upon the information provided.

25 A defendant in a criminal trial is entitled to any

1 reasonable doubt that arises from the evidence or lack of  
2 evidence in a case. And if upon any factual issue  
3 essential to a finding of a verdict of guilty you have some  
4 reasonable doubt as to how that issue should be resolved,  
5 you must always resolve any reasonable doubt in favor of  
6 the defendant. And therefore if upon your consideration of  
7 the whole case you have a reasonable doubt as to the  
8 defendant's guilt as it relates to a particular charge, you  
9 must resolve that reasonable doubt in his favor and return  
10 a verdict of not guilty.

11 And, on the other hand, after you've carefully  
12 considered all of the evidence as it relates to a  
13 particular charge and after deciding the facts and applying  
14 the law, if you have no reasonable doubt as to the  
15 defendant's guilt as it relates to a charge, then of course  
16 it would your corresponding duty to convict the defendant,  
17 that is to find him guilty, of any crime that the state has  
18 proven to your satisfaction beyond a reasonable doubt.

19 Now, the same law that provides that you are the  
20 judges of the facts also provides that I am the judge of  
21 the law. And that simply means that nobody is going to  
22 tell you how to arrive at your determination of fact in  
23 this case.

24 You do that, as I have stated, through a careful  
25 evaluation of all of the testimony and the other evidence

1 in the case and through your applying good judgment and  
2 common sense conscientiously applied to that testimony and  
3 evidence.

4 Under your oaths as jurors however you must accept the  
5 law as I provide it to you as being the law that is  
6 applicable in this particular case. In other words, you're  
7 not to concern yourself with what you thought the law was  
8 before you came to serve as a juror or what you think the  
9 law ought to be in a case.

10 Under your oath as jurors you must simply accept the  
11 law as I provide it as being the law that is applicable in  
12 the case, and then you simply take that law and you apply  
13 it to the facts as you 12 jurors determine those facts to  
14 be based upon your common sense examination and evaluation  
15 of the evidence in the case.

16 Now, because you are the sole judges of the facts in  
17 this case you are therefore necessarily the sole judges of  
18 the credibility, that is the believability, of each witness  
19 that has testified during the trial of this case. You 12  
20 jurors alone will decide what weight, value and effect to  
21 give to any particular witness' testimony or even a portion  
22 of that testimony. And therefore there are a number of  
23 factors which you should consider in arriving at your  
24 assessment as to a witness' credibility, and I'm going to  
25 list those factors for you.

1        You may consider the demeanor of the witness, that is  
2 how the witness appeared to you as the witness testified  
3 from that witness stand. Was the witness straightforward  
4 in responding to questions or was the witness hesitant or  
5 evasive in responding to questions that were asked of that  
6 witness? Simply put, did the witness appear to you to be  
7 telling the truth and to have knowledge of the facts to  
8 which that witness has testified.

9        You may also consider whether or not the testimony of  
10 a witness is consistent, or is it inconsistent with that  
11 witness' own testimony and consistent with any other  
12 statement that witness may have given outside of court, as  
13 well as whether or not the testimony of a witness is  
14 consistent, or is it inconsistent, with other witness'  
15 testimony or other evidence received during the trial of  
16 the case.

17        You may also consider how the witness came to know the  
18 facts to which that witness has testified. That is what  
19 was that particular witness' opportunity and ability to  
20 perceive the existence of those facts to which that witness  
21 has testified by having previously used their senses and  
22 perceived some fact, and then what is their ability to be  
23 able to come into court and to accurately recollect to you  
24 as to what they have previously seen or heard, or felt for  
25 that matter.

1        You may also consider any bias, prejudice or interest  
2        that a witness might have in the outcome of a case. And by  
3        that I simply mean do you find some reason that a  
4        particular witness would come into court and would testify  
5        one way or another to help or to hurt one side or the  
6        other. And you may consider any interest that a witness  
7        might have in the outcome of the case as it bears upon that  
8        witness' believability if you find that a witness does have  
9        such an interest and you further find that that interest  
10       would have a bearing upon that witness' credibility.

11       You may also consider whether or not the testimony of  
12       a witness is strengthened, or is it weakened by other  
13       testimony or other evidence received during the trial of  
14       the case?

15       Now, because you are the finders of the facts and  
16       because you are the judges of the credibility of each  
17       witness that has testified you are permitted to believe as  
18       much or as little of what a witness has testified to as you  
19       deem is appropriate in the exercise of good judgment and  
20       common sense.

21       And therefore you may believe everything that a  
22       witness testified to; you may choose to believe none of it.  
23       You may believe one portion of a witness' testimony and  
24       reject some other portion of that same witness' testimony.

25       And in a given case you could believe one witness as



1 against, or several as against one. But whatever your good  
2 judgment and common sense tells you is the most believable  
3 and credible testimony is the testimony you should accept.  
4 And you should reject any testimony or other evidence that  
5 you find not to be credible or believable. Again, your  
6 sole objective is to simply reach the truth in the matter.  
7 And by doing that you will have fulfilled your obligations  
8 as jurors, and that is to give both the state and the  
9 defendant a fair and impartial trial.

10 Now, while there are various forms of evidence such as  
11 testimony, such as photographs, documents, charts and other  
12 types of physical exhibits, there are really only two types  
13 of evidence. Either or both of those types of evidence may  
14 be used to prove any fact in issue. And those types of  
15 evidence may be used separately or together in order to  
16 prove some fact in issue. But the two types of evidence  
17 are direct evidence and circumstantial evidence.

18 Now, direct evidence is the testimony of a person who  
19 testifies from actual knowledge of a fact. It is testimony  
20 by a person who has perceived the existence of some fact by  
21 using their senses and then they come into court and they  
22 testify as to what they have previously seen or heard or  
23 felt.

24 Circumstantial evidence, on the other hand, is the  
25 proof of some other fact or set of facts which taken either

1 singly or collectively may prove the existence of a fact in  
2 consequence as a necessary -- may prove any fact in issue  
3 as a necessary consequence, that is by an inference.

4 In other words, it's not a fact which is established  
5 by the direct testimony of a witness based upon personal  
6 perception, but it is a fact which is established by the  
7 proof of some other fact or set of facts which would  
8 reasonably warrant your arriving at such a conclusion.

9 In other words, you may infer that a particular fact  
10 exists or that a particular event occurred based upon the  
11 proof of sufficient factual circumstances which would  
12 reasonably warrant your arriving at such a conclusion.

13 Now, the law makes absolutely no distinction between  
14 the weight or value to be given to direct evidence as  
15 opposed to circumstantial evidence, nor is a greater degree  
16 of certainty required of circumstantial evidence as opposed  
17 to direct evidence.

18 Whatever the type of evidence used to prove any fact  
19 in issue, you should consider all of the testimony and  
20 other evidence received during the trial of the case. And  
21 after carefully considering all of that evidence in your  
22 minds if you are not convinced of the guilt of the  
23 defendant as to some crime beyond a reasonable doubt, then  
24 it would your duty to resolve that doubt in his favor and  
25 to return a verdict of not guilty.

1 Now, as you are aware, the defendant is charged with  
2 two separate and distinct criminal offenses. They are both  
3 statutory offenses, and the statute defines to some degree  
4 what constitutes the offense.

5 There is other law that also defines for you that  
6 particular offense. But the two statutes that are involved  
7 in this case are 16-3-11, which is the statute setting  
8 forth burglary in the first degree; and the other statute  
9 is 16-3-10, which is the statute relating to the crime of  
10 murder.

11 I'm going to first define for you the crime as it  
12 relates to the offense of burglary in the first degree.  
13 After that I'll define for you the offense and the law as  
14 it relates to the crime of murder.

15 Section 16-11-311, which is the statutory provision  
16 defining burglary in the first degree, provides that a  
17 person is guilty of burglary in the first degree if the  
18 person enters a dwelling without consent and with the  
19 intent to commit a crime in the dwelling; and further  
20 either that when in effecting entry or while in the  
21 dwelling or in flight from the dwelling he is armed with a  
22 deadly weapon or causes physical injury to a person who is  
23 not one who is aiding and abetting or participating in the  
24 commission of a crime; or he uses or threatens the use of a  
25 dangerous instrument; or he displays what is or appears to

1 be a firearm; or the entering or the remaining occurs in  
2 the nighttime.

3 So based upon that statute as I just read it to you,  
4 before you would be able to return a verdict of guilty  
5 against this defendant as to the crime of burglary in the  
6 first degree it would be necessary that the evidence in  
7 this case has proven to your satisfaction beyond a  
8 reasonable doubt four essential elements.

9 The first element is that the defendant must have  
10 entered a dwelling. Entry is an indispensable element in  
11 the crime of burglary. And entry is defined as the act of  
12 going into the dwelling or into any room or other structure  
13 attached to the dwelling.

14 It is not necessary however that the entire body of a  
15 person shall go into the dwelling or to any room or  
16 structure attached to the dwelling. The least entry is  
17 sufficient. And it may be accomplished by any part of the  
18 body or even by some implement or some instrument at the  
19 direction of the perpetrator.

20 It is also not necessary that actual physical force be  
21 used in order to accomplish an entry in order for burglary  
22 to be made out.

23 Now, the entry must also be into a dwelling. And a  
24 dwelling is defined in the law as a building or a structure  
25 which is used or normally used for sleeping, living or

1 lodging by any person and would include also any structures  
2 or rooms attached thereto or incorporated therein.

3 Secondly, there must be an entry into a dwelling, and  
4 it must be without consent. Entering without consent means  
5 to enter a dwelling without the consent of the owner or the  
6 person otherwise in lawful possession of the premises.

7 Now, consent may be expressed or implied. Consent may  
8 be limited in scope, and it may be granted for some area of  
9 a dwelling but excluded for some other area of the  
10 dwelling.

11 Consent may also be limited as to time, whereby it may  
12 be granted for some period of time but not permitted for  
13 some other period. And of course consent may be revoked  
14 once granted where the person who is in lawful possession  
15 or ownership of the property revokes that consent.

16 Thirdly, there must be an entry of a dwelling without  
17 consent and with the intent to commit a crime in the  
18 dwelling. There must be an intent to commit a crime,  
19 whether or not the crime is actually committed,  
20 accomplished or completed.

21 The mere entering of a dwelling however without an  
22 intent to commit a crime does not constitute the crime of  
23 burglary. It is only when there is an entering of a  
24 dwelling without consent and accompanied with an intent to  
25 commit a crime therein that the crime of burglary is

1 complete. And a crime of any grade or severity is  
2 sufficient to establish this particular element of the  
3 crime of burglary.

4 It is also essential that the intent to commit a crime  
5 exist at the time of the entry into the dwelling. It is  
6 not sufficient that the intent is formed after the entry  
7 has been accomplished.

8 On the other hand, where the intent to commit some  
9 crime exists at the time of the entry, it is no defense to  
10 a charge of burglary that the intent was later abandoned.

11 Intent means the state of a person's mind which  
12 directs his actions toward a specific object or goal.  
13 Therefore the entering of a dwelling without consent and  
14 with the intent to commit a crime therein completes the  
15 crime of burglary.

16 Now, in order for a burglary to be a burglary in the  
17 first degree there is an additional element or fact which  
18 must be established beyond a reasonable doubt. And what  
19 must be established in order for a burglary to be a  
20 burglary in the first degree is that of course there be an  
21 entry of a dwelling without consent and with the intent to  
22 commit a crime therein, and further that when in effecting  
23 entry or while in the dwelling or in flight from the  
24 dwelling it must be shown that the defendant was armed with  
25 a deadly weapon or he caused physical injury to a person

1 who is not an aider, abetter or participant in the crime,  
2 or it must be shown that he used or threatened the use of a  
3 dangerous instrument, or that he displayed what appeared to  
4 be a firearm, or that the entering of the dwelling or the  
5 remaining occurred in the nighttime.

6 Now, in this case the state is alleging that the crime  
7 of burglary in the first -- is alleging that it is the  
8 crime of burglary in the first degree because the burglary  
9 was committed by the defendant, and they allege that the  
10 defendant entered the dwelling in the nighttime, or that he  
11 was armed with a deadly weapon, a firearm, or that he  
12 caused physical injury to a person not a participant in the  
13 crime, or that he used or threatened the use of a dangerous  
14 instrument, or that he displayed what appeared to be a  
15 firearm.

16 Now, in order for any burglary to be burglary in the  
17 first degree it is necessary that the state establish at  
18 least one of those additional factors.

19 It is not necessary that the state prove all of those  
20 additional factors that they allege or that are permitted  
21 under the statute. The evidence may prove all, may prove  
22 none. But in order for any burglary to be burglary in the  
23 first degree it is necessary that at least one of those  
24 additional factors be established.

25 Now, the other indictment that the state has brought

1 against the defendant charges the crime of murder. Now,  
2 murder is defined in Section 16-3-10 as the killing of any  
3 person with malice aforethought, either expressed or  
4 implied.

5 Now, in order for you to find the defendant guilty of  
6 the crime of murder it would be necessary that the evidence  
7 in this case has established to your satisfaction beyond a  
8 reasonable doubt that the defendant did commit some act or  
9 acts which proximately caused the death of Tiffany Loraine  
10 Foggie.

11 And further it must be proven that at the time the  
12 defendant committed those acts that resulted in that  
13 killing that the acts were done by the defendant with  
14 malice aforethought. Malice aforethought is an essential  
15 element of the crime of murder.

16 Now, with regard to the definition of malice you are  
17 instructed that malice is a term connoting an ill will and  
18 an intent to do harm.

19 It is a technical term importing wickedness and  
20 excluding just cause or legal excuse. It is something  
21 which springs from depravity and from a heart devoid of  
22 social duty and fatally bent on mischief.

23 Malice may be likewise defined as a state of mind  
24 which indicates a formed purpose and design to do a  
25 wrongful act under circumstances that exclude any legal



1 right or justification to do it.

2 Now, as I've stated, the state has to prove malice  
3 aforethought either expressed or implied.

4 The words expressed or implied malice do not mean  
5 different kinds of malice but merely the manner in which  
6 malice may be shown to have existed. That is to say either  
7 by direct evidence proving malice or by circumstantial  
8 evidence from which malice might be inferred. And as I've  
9 stated, an inference is simply a deduction of fact which  
10 may logically and reasonably be drawn from the proof of  
11 some other fact or set of facts.

12 Malice may be expressed as where there is an expressed  
13 threat to kill or where there is a lying in wait or where  
14 the circumstances show directly that an intent to kill was  
15 entertained by the killer.

16 Malice may be inferred, though no expressed intent to  
17 kill is proven by direct evidence, where the facts and the  
18 circumstances which have been proven by the evidence in the  
19 case satisfy you beyond a reasonable doubt that malice was  
20 present in the mind of the slayer at the time that any  
21 killing took place.

22 The existence of malice may be inferred from the  
23 circumstances which are shown to have existed at the time  
24 of the event, and you are permitted under the law to infer  
25 the existence of malice from proof of an unlawful and an

## Jury charge

1 intentional killing of another without justification or  
2 legal excuse.

3       You are permitted to infer the existence of malice  
4 from proof of a wrongful intent to injure another person  
5 through the infliction of serious bodily harm indicative of  
6 a wicked or depraved spirit.

7       You are permitted to infer the existence of malice  
8 from proof of the intentional use of a deadly weapon in the  
9 infliction of any harm.

10       You are further permitted to infer malice from the  
11 proof of the intentional commission of an act which is  
12 inherently dangerous to human life.

13       Further, you are permitted to infer the existence of  
14 malice from the intentional killing of another person or  
15 the intentional commission of criminal acts which result in  
16 the death of another committed during the commission of a  
17 felony such as burglary in the first degree where that  
18 felony is one that is dangerous to human life or where the  
19 circumstances of the crime create a substantial foreseeable  
20 risk to human life.

21       You are also permitted to infer the existence of  
22 malice from proof of the commission of some reckless act or  
23 acts which are inherently dangerous to human life and which  
24 are committed so recklessly as to manifest a depravity of  
25 mind signifying an extreme disregard for or an extreme

1 indifference to human life.

2 Now, malice as an essential element of the crime of  
3 murder does not necessarily import an ill will or a hatred  
4 toward the particular individual who is, in fact, actually  
5 killed, nor does it necessarily mean an actual or a  
6 specific intent to take human life, but rather it may be  
7 described as the state of a person's mind signifying a  
8 general malignant recklessness and extreme disregard for or  
9 indifference to human life while committing some act which  
10 results in the death of another.

11 Now, even if the facts proven are sufficient to give  
12 rise to some inference as I have described, that is an  
13 inference of malice, such an inference would simply be an  
14 evidentiary fact to be taken into consideration by you 12  
15 jurors along with all of the other testimony and evidence  
16 in the case.

17 You may give such inferences such weight, if any, that  
18 you determine they should receive, if any. Simply stated,  
19 you are permitted to infer the existence of malice from the  
20 proof of any one or more of those circumstances that I have  
21 just described as well as from any other evidence received  
22 during the trial of the case from which you might  
23 reasonably infer the existence of malice. But you are in  
24 no way required to infer that. You do that based upon your  
25 own exercise of good judgment and common sense.

1       The state is required to prove malice just as it must  
2 prove any other essential element of the crime of murder.  
3 And it is for you 12 jurors to determine whether or not  
4 that element has been proven beyond a reasonable doubt.

5       Now, it's also essential that there exist not only  
6 malice but there also be malice aforethought. Now, the law  
7 does not require that malice must exist for any appreciable  
8 length of time before the commission of any act that  
9 proximately causes a fatal result. Indeed, it might be  
10 conceived at the very moment that the fatal act is  
11 committed.

12       It is sufficient in the law so long as the state has  
13 proven beyond a reasonable doubt both the existence of  
14 malice and the commission of an act or acts by the  
15 defendant which proximately caused the fatal result.

16       Now, while the state must prove beyond a reasonable  
17 doubt that a killing did occur and that that killing was  
18 accompanied by malice aforethought in order to prove the  
19 crime of murder, it is not necessary that the state prove  
20 any motive for any such killing, although there may be  
21 evidence relating to that fact introduced during the trial  
22 of the case.

23       Now, Mr. Foreman and ladies and gentlemen of the jury,  
24 I am not in any way concerned with what your decisions are,  
25 but, as I've told you, the verdicts have to be unanimous.

1 That is all 12 of you must be in agreement before any  
2 verdict may be returned to the Court.

3 And, Mr. Foreman, as I told you, you're going to have  
4 the indictments in the jury room with you. As I've stated,  
5 these indictments are not evidence. They do not prove  
6 anything. The indictments will simply be serving as the  
7 verdict forms in this case.

8 Mr. Foreman, on the back of each indictment in the  
9 lower left-hand corner you'll see a word "verdict" that  
10 appears. And it's beneath that word that you're going to  
11 indicate the jury's unanimous decision.

12 Now, with respect to each of the separate indictments  
13 you have two potential verdict forms. Those two potential  
14 verdict forms are guilty and not guilty. And, as I told  
15 you, any decision has to be unanimous.

16 And as I've also stated, in this case your verdicts  
17 with respect to the two indictments may be the same, they  
18 may be different. That will depend upon your determination  
19 of fact and then your application of the law as I have  
20 provided it to you.

21 But whatever that decision is as it relates to each of  
22 the indictments, Mr. Foreman, indicate that decision in the  
23 space provided, sign your name as the foreperson and place  
24 the applicable date.

25 Now, during deliberations, I've got some, I think

1 three, things to address with you. Number one, if we have  
2 any smokers, you can smoke during deliberations, but you  
3 cannot smoke in the jury room. So if you want to smoke you  
4 let the bailiff know. But they'll have to take you outside  
5 in order to accomplish that purpose.

6 But you are instructed that deliberations may only  
7 take place when all 12 jurors are present in the room. So  
8 if at any time a juror is absent for some authorized  
9 purpose the deliberations must stop, and they may only  
10 resume when all 12 are present.

11 During your deliberations there may come a time where  
12 you have some discussion and you cannot agree as to a fact  
13 or what some testimony was or what the evidence was with  
14 respect to a particular issue.

15 Understand that now that the case is going to be  
16 submitted to you for your deliberations no additional  
17 evidence may be received. So if something were to arise  
18 and you think, well, boy, if we just had that one other  
19 thing we might be able to decide this fact much quicker, no  
20 additional evidence can be received. So if you don't have  
21 it when you go back, you can't get it. It can't be --  
22 nothing else can be submitted.

23 If however during your deliberations you think you're  
24 not certain about what the testimony was or what somebody  
25 testified to with respect to a fact, we can always bring

1 you back to have testimony replayed. There are no  
2 transcripts that are available. I can't send you back a  
3 transcript of some witness' testimony. But if you think it  
4 will benefit you to have testimony replayed in whole or in  
5 part, I can always bring you back into the courtroom to  
6 have that testimony replayed.

7 So if that comes up during your deliberations, Mr.  
8 Foreman, you or your fellow jurors need to have testimony  
9 replayed, let me know. I will have the court reporter  
10 locate that witness' testimony. And we will either start  
11 it at the beginning or we'll try to find whatever portion  
12 you wish to have heard. But, in any event, we can play all  
13 or some portion of it if you wish to.

14 If you have any question about the law that's  
15 applicable, that is you're not certain what I stated as it  
16 relates to a particular portion of the charge or an element  
17 of an offense, if you ever have a question about the law, I  
18 can always answer those questions.

19 So if you're not sure about the law or you need some  
20 additional instruction or explanation or clarification, if  
21 you'll let me know through the bailiff, then I will be  
22 happy to bring you back and provide you with that  
23 additional explanation or clarification.

24 If at any time you have some issue that arises and you  
25 need to direct some question or comment to me, Mr. Foreman,

1 if you'll write it on a piece of paper, give it to the  
2 bailiff, he'll relay that to me and I'll try to answer any  
3 questions or resolve any difficulty.

4 As far as lunch, we will order lunch for you. When  
5 you go back -- I'm going to send you back in just a minute.  
6 You won't be able to start deliberating until I address  
7 some matters with the lawyers and until I send all the  
8 exhibits back and the verdict forms.

9 But as you do go back and await my words as to when to  
10 begin to deliberate, you can discuss whether or not you  
11 want to order lunch. And I am going to send the clerk back  
12 there. If you do want to order lunch, it takes about an  
13 hour for it to be ordered, prepared and brought to the jury  
14 room for your benefit. So just understand it's going to  
15 take us about an hour.

16 So I am going to send the clerk back. If you want to  
17 order lunch she'll take those lunch orders. But don't  
18 begin. You can tell her about your lunch, but don't begin  
19 discussing the case in any fashion until I send you word to  
20 do so by way of the bailiff. And at that time he'll bring  
21 to the jury room all of the exhibits.

22 And to you, Mr. Foreman, he'll also bring the verdict  
23 forms.

24 So with the exception of the alternate, I will ask the  
25 original 12 jurors to please go back to your jury room.



1 But await my instruction as to when to begin deliberating.

2 (Whereupon, the jury retired to deliberate at  
3 11:48 a.m.)

4 (Whereupon, the alternate juror was excused.)

5 THE COURT: Are there any exceptions taken to the  
6 instruction or requests for additions to the instruction by  
7 the state?

8 MR. BARNETTE: None from the state, Your Honor.

9 THE COURT: By the defendant?

10 MR. WARDER: No, Your Honor.

11 THE COURT: Let me ask y'all to verify the exhibits  
12 before they go back, please.

13 (Pause.)

14 THE COURT: All of the exhibits are accounted for?

15 MR. WARDER: Yes, sir, Your Honor. I believe so.

16 MR. BARNETTE: Yes, sir.

17 THE COURT: We will be at ease while the jury is  
18 deliberating.

19 (Whereupon, a recess was taken.)

20 (Questions from the jury marked Court's Exhibits 3 and  
21 4.)

22 MR. BARNETTE: Judge, I think I have got all the  
23 numbers I need on that.

24 THE COURT: All right. Bring the jury in, please,  
25 sir.

1           (Whereupon, the jury returned to the courtroom at  
2 2:07 p.m.)

3           THE COURT: All right. Mr. Foreman, I have your  
4 request that you and your fellow jurors have submitted by  
5 you handing a note to the bailiff.

6           One is to rehear the 9-1-1 recording. So we have that  
7 prepared to play. And so I'm going to ask that they play  
8 that for you first.

9           Then after that's played I'll respond to your  
10 questions about defining the elements of burglary and  
11 defining malice.

12          Now, understand that we've got some difficulty in  
13 allowing equipment and the tape to go back in the jury  
14 room, but it's in evidence. So as many times as you need  
15 to hear anything such as this 9-1-1 recording or anything  
16 else that might have been played for you, if you need to  
17 hear it more than once or however many times it takes, feel  
18 free to ask.

19          I just have to bring you back here because I don't  
20 have the -- we are not equipped to send it back there so  
21 you can go through and try to find it. That C. D. has  
22 other material on it that's unrelated to this case, and so  
23 we can't just send it back or you might not ever be able to  
24 find it.

25          So that's why we brought you back in here to have it

1 replayed. But if you need to have it replayed more than  
2 once let us know. We will play it as many times as you  
3 would like.

4 After we play the 9-1-1 recording, as I say, I will  
5 then respond to these questions. And then you'll go back  
6 and continue deliberating. But if you need to hear it more  
7 than once, you let me know before you leave the courtroom.  
8 We can replay it.

9 All right. We will begin with the 9-1-1 recording.

10 MR. BARNETTE: May it please the Court, Your Honor.

11 (Whereupon, the C. D. was replayed for the jury.)

12 MR. BARNETTE: Your Honor, that's the 9-1-1 tape.

13 THE COURT: Do you need to hear that again at the  
14 present time or is that sufficient?

15 THE FOREMAN: That's all, Your Honor.

16 THE COURT: All right. Now, with regard to your other  
17 question, the question was, first, what are the necessary  
18 elements of first degree burglary.

19 First degree burglary is defined as, number one, the  
20 entry of a dwelling; secondly, without consent; and,  
21 thirdly, with an intent to commit a crime therein; and,  
22 fourthly, one of the following has to be shown to exist:  
23 The defendant was armed with a deadly weapon, or caused  
24 physical injury to a person who was not a participant as an  
25 aider or an abetter in any crime; or the defendant used or

1 threatened the use of a dangerous instrument; or the  
2 defendant displayed what appeared to be a firearm; or the  
3 entering or the remaining occurred in the nighttime.

4       So it's the entry of a dwelling without consent and  
5 with the intent to commit a crime therein and one of the  
6 following: Armed with a deadly weapon, caused physical  
7 injury to another person, used or threatened the use of a  
8 dangerous instrument, displayed what appeared to be a  
9 firearm, or the entry occurred, the burglary occurred, in  
10 the nighttime.

11       The second question was for me to again define the  
12 term malice.

13       Malice is a term connoting an ill will and an intent  
14 to do harm. It is a technical term importing wickedness  
15 and excluding just cause or legal excuse. It is something  
16 which springs from depravity, from a heart devoid of social  
17 duty and fatally bent on mischief.

18       Malice may be likewise defined as a state of mind  
19 which indicates a formed purpose and design to do a  
20 wrongful act under circumstances that exclude any legal  
21 right to do it.

22       Malice may be either expressed or implied. Expressed  
23 malice is where there is an expressed threat to kill, or a  
24 lying in wait, or where the circumstances show directly  
25 that an intent to kill was entertained by the person

1 committing the fatal act.

2 Malice may be inferred, although no expressed intent  
3 to kill is proven by direct evidence, where the facts and  
4 the circumstances which have been proven by the evidence in  
5 the case satisfy you beyond a reasonable doubt that malice  
6 was present in the mind of the slayer at the time any  
7 killing took place. And, as I say, the existence of malice  
8 may be inferred from the circumstances shown to have  
9 existed at the time of the event.

10 Further, malice as an essential element of the crime  
11 of murder does not necessarily import an ill will or a  
12 hatred towards the particular individual who was killed,  
13 nor does it necessarily mean or require that an actual or  
14 specific intent to take human life be shown.

15 But rather it may be described as the state of a  
16 person's mind signifying a general malignant recklessness  
17 and extreme disregard for or indifference to human life.

18 And malice must be aforethought. That is it must  
19 exist before the fatal act is committed, but the law does  
20 not require that malice must exist for any appreciable  
21 length of time before the commission of an act which  
22 proximately causes a fatal result. Indeed, it may be  
23 conceived at the very moment that the fatal act is  
24 committed.

25 It is sufficient in the law so long as the state

1 proves beyond a reasonable doubt both the existence of  
2 malice aforethought and the commission of an act or acts by  
3 the defendant which proximately caused the death of  
4 another.

5 And the last question, I'm not certain. I think I  
6 understand it, but it says are the elements and-or-or. Any  
7 time a person is accused of a crime and there are certain  
8 elements necessary to make up that crime, it's always  
9 necessary that each and every element of that crime be  
10 established beyond a reasonable doubt.

11 It's not sufficient that one or more of those elements  
12 are present. All elements must be proven beyond a  
13 reasonable doubt before a person can be found guilty of the  
14 crime that is alleged against them.

15 Now, the only exception to the and-or-or circumstance  
16 in this particular case would be with regard to the crime  
17 of burglary when I instructed you on what must exist in  
18 order for it to be a burglary in the first degree.

19 The fourth element allows one or a number of things to  
20 be established. All of those things do not have to be  
21 established, but at least one must be established before  
22 the fourth element would be proven. And that's one of the  
23 elements of burglary in the first degree.

24 So, again, to illustrate that, burglary in the first  
25 degree is the entering of a dwelling without consent and

1 with the intent to commit a crime therein. That's  
2 burglary.

3 Burglary in the first degree requires an additional  
4 fact be proven, and that additional fact would be one or  
5 more of the following. And those facts would be either  
6 that the defendant was armed with a deadly weapon, or he  
7 caused physical injury to the person of another, or he used  
8 or threatened the use of a dangerous instrument, or he  
9 displayed what appeared to be a firearm, or the burglary  
10 occurred in the nighttime.

11 So for the fourth element to be established the state  
12 doesn't have to prove each of those. Although the evidence  
13 may establish all, the state only is required to prove one  
14 of those additional facts to satisfy the fourth element of  
15 burglary in the first degree.

16 Is that understood?

17 Okay. Now, I have provided you some additional  
18 instruction that I have provided previously. The reason I  
19 have not given you the complete instruction is because  
20 you've only asked for a specific question and a specific  
21 point of law. So that's what I have provided.

22 But still you must consider this additional  
23 instruction in light of the entire instruction previously  
24 given so that you don't single it out as being any more  
25 important than any of the other instructions I have

1 provided. I'm just simply responding to a question that  
2 you've asked. So all of the other instruction as  
3 previously given is just as applicable as it was at the  
4 time that it was given.

5 All right. I'll ask you if you'll please retire to  
6 your jury room and continue with your deliberations.

7 If for some reason you need an additional explanation  
8 or clarification of the law, let me know. I'll be happy to  
9 provide it.

10 If you need to hear anything additional so far as  
11 evidence is concerned, let us know. We will try to locate  
12 that for you. Okay.

13 (Whereupon, the jury retired to deliberate at  
14 2:24 p.m.)

15 (Question from the jury marked Court's Exhibit No. 5.)

16 THE COURT: Are there exceptions taken to that  
17 additional instruction?

18 MR. BARNETTE: None from the state, Your Honor.

19 MR. WARDER: None from the defendant, Your Honor.

20 THE COURT: All right. We will continue to be at ease  
21 while the jury is deliberating.

22 (Whereupon, a recess was taken.)

23 THE COURT: All right. The jury wants to have some  
24 testimony replayed.

25 Are we ready to bring them back?



1 MR. BARNETTE: The state is ready, Your Honor.

2 MR. WARDER: Yes, sir, Your Honor.

3 MR. BARNETTE: Thank you, Your Honor.

4 THE COURT: All right. Bring them in, please, sir.

5 (Whereupon, the jury returned to the courtroom at  
6 6:50 p.m.)

7 THE COURT: Mr. Foreman, and ladies and gentlemen, I  
8 understand that you wish to have certain testimony  
9 replayed. That is two witnesses, those being Mr. Watson  
10 and Mr. Buckson. So the court reporter has located that  
11 testimony.

12 The first testimony to be replayed will be that of  
13 Mr. Watson. Then followed by him will be Mr. Buckson.

14 We'll start the replay at the beginning of the  
15 testimony. If you wish to hear it in its entirety, then it  
16 will simply be played in its entirety. If you only need to  
17 hear a portion of it, once we get to that spot if you want  
18 to stop at any time, you'll have to tell me to stop the  
19 tape. Otherwise, we'll play it straight through. Okay.  
20 So we will begin with Mr. Watson's testimony.

21 And if you can't hear for some reason, if you have a  
22 problem hearing, raise your hand so we can make  
23 arrangements to make it clearer or louder, whichever the  
24 case might be.

25 (Whereupon, the testimony of Sharmarcus Watson and

1 Jerome Curtis Buckson was replayed for the jury.)

2 THE COURT: Okay. If you will, please return to your  
3 jury room and continue with your deliberations.

4 (Whereupon, the jury retired to deliberate at  
5 9:20 p.m.)

6 THE COURT: We will be at ease while they continue.

7 (Whereupon, a recess was taken.)

8 THE COURT: All right. I am told that the jury has  
9 reached a verdict. Are we ready to receive it?

10 MR. BARNETTE: The state is ready, Your Honor.

11 THE COURT: Okay. Bring them in.

12 (Whereupon, the jury returned to the courtroom at  
13 9:50 p.m.)

14 THE COURT: Mr. Foreman, have you and your fellow  
15 jurors reached a unanimous decision to each of the separate  
16 indictments?

17 THE FOREMAN: Yes, sir, we have, Your Honor.

18 THE COURT: And have you indicated those decisions on  
19 the back of the indictment as requested?

20 THE FOREMAN: Yes, we have, Your Honor.

21 THE COURT: Did you sign your name as the foreperson  
22 and put the appropriate date?

23 THE FOREMAN: Yes, I did, Your Honor.

24 THE COURT: If you will, please, hand those verdict  
25 forms up by way of the bailiff.

1           You may publish the verdicts.

2           THE CLERK:   State of South Carolina, County of  
3   Spartanburg, the State vs. Jerome Buckson, Indictment No.  
4   2006-GS-42-0845, burglary first degree of a dwelling, the  
5   jury finds the defendant guilty. Signed by the foreperson.  
6   Dated 2/2/07.

7           And for Indictment 2006-GS-42-0846, State vs. Jerome  
8   Curtis Buckson, for murder, the jury finds him not guilty.  
9   Signed by the foreperson and dated 2/2/07.

10          Ladies and gentlemen of the jury, is this your verdict  
11   and still your verdict? If so, please raise your right  
12   hand. So say y'all.

13          (Whereupon, all jurors responded in the affirmative.)

14          THE COURT: All right. Does the defendant wish to  
15   have the jury polled?

16          MR. WARDER: Yes, sir.

17          THE COURT: Or does either side wish to have the jury  
18   polled?

19          MR. BARNETTE: The state doesn't, Your Honor.

20          THE COURT: All right. Poll the jury, please, ma'am.

21          THE CLERK: Ladies and gentlemen of the jury, I will  
22   be asking you a question. That question is is this your  
23   verdict and still your verdict.

24          As I call your name, would you please stand and answer  
25   yes or no?

1 Juror No. 146, Jessica (sic) Withrow.  
2 THE JUROR: Yes, ma'am.  
3 THE CLERK: Juror No. 155, Jimmy James.  
4 THE JUROR: Yes, ma'am.  
5 THE CLERK: Juror No. 17, Scott Call.  
6 THE JUROR: Yes, ma'am.  
7 THE CLERK: Juror No. 126, Connie Spencer.  
8 THE JUROR: Yes, ma'am.  
9 THE CLERK: Juror No. 159, Sharon Praytor.  
10 THE JUROR: Yes.  
11 THE CLERK: Juror No. 111, Robin Riede.  
12 THE JUROR: Yes, ma'am.  
13 THE COURT: Juror No. 93, Mary Moore.  
14 THE JUROR: Yes.  
15 THE CLERK: Juror No. 37, William Elliott.  
16 THE JUROR: Yes.  
17 THE CLERK: Juror No. 65, Josh Horton.  
18 THE JUROR: Yes, ma'am.  
19 THE CLERK: Juror No. 158, Sone Kirivong.  
20 THE JUROR: Yes.  
21 THE CLERK: Juror No. 33, Jerry Downen.  
22 THE JUROR: Yes.  
23 THE CLERK: And Juror No. 130, Joseph Sullivan.  
24 THE JUROR: Yes, ma'am.  
25 THE CLERK: So say you all.

1 THE COURT: Let me see the lawyers just a minute.

2 (Bench conference held off the record in the presence  
3 of the jury but out of the hearing of the jury.)

4 THE COURT: Let me make one inquiry for the record.  
5 On one of the verdict forms there has been something that  
6 has been stricken through, and it appears to have the  
7 initials of the foreperson. Is that right, Mr. Elliott?

8 THE FOREMAN: Yes, sir, Your Honor, that's correct.  
9 No problem with it.

10 THE COURT: And on that particular indictment, that's  
11 Indictment 2006-0845, and the verdict that now appears on  
12 that verdict form is that of guilty. Is that the verdict  
13 as to each juror on that indictment for burglary in the  
14 first degree?

15 THE FOREMAN: Yes, sir.

16 THE COURT: And if that is true, please indicate by  
17 raising your right hands.

18 (Whereupon, all jurors responded in the affirmative.)

19 THE COURT: All right. All jurors have responded in  
20 the affirmative.

21 Any other matters to be addressed with the jury  
22 present?

23 MR. BARNETTE: None from the state, Your Honor.

24 MR. WARDER: None from the defendant, Your Honor.

25 (Whereupon, the trial jury was excused.)

1 THE COURT: All right. Any other matters to be  
2 addressed prior to the imposition of sentence?

3 MR. BARNETTE: Your Honor, I do have a sentencing  
4 sheet I would like to hand over to the defense, Your Honor.

5 THE COURT: Okay.

6 MR. WARDER: Your Honor, can we approach the bench?

7 THE COURT: Sure.

8 (Bench conference held off the record.)

9 THE COURT: All right. Anything further on behalf of  
10 the state?

11 MR. BARNETTE: Your Honor, I believe Ms. Foggie, not  
12 Ms. Foggie, Ms. Williams would like to address the Court at  
13 this time.

14 THE COURT: All right. Ms. Williams.

15 TAFFIE WILLIAMS: Judge, I just want to say thank you.  
16 I loved my daughter so much. I don't have her with me any  
17 more. I will have her two little boys part-time. But I  
18 just want to say thank you for everything the Court has  
19 done for me and my family.

20 I can't see my daughter any more. I can just go look  
21 at an empty grounds. Whatever judgment Jay gets, his mama  
22 can still go see him. That's all I want to say.

23 THE COURT: Thank you, ma'am. Good luck to you.

24 THE CHIEF OF POLICE: Your Honor, on behalf of the  
25 public safety department, the citizens of the city of

1 Spartanburg and the men and women who worked so diligently  
2 on this case, we would hope you would consider the maximum  
3 for this offense that so often makes our community feel  
4 unsafe.

5 THE COURT: Thank you.

6 MR. BARNETTE: Thank you. Your Honor, that would be  
7 the state.

8 THE COURT: All right. Anything on behalf of the  
9 defendant?

10 MR. WARDER: Your Honor, after a jury trial we all  
11 accept the verdict of the jury. The jury in this case came  
12 back with a verdict that found my client not guilty of  
13 murder and guilty of first degree burglary.

14 When you look at the evidence presented at trial and  
15 the verdict, the facts that the jury found was that he  
16 shouldn't have went into the house, not that he is guilty  
17 of a murder after he went in.

18 I think this entering arose out of a relationship that  
19 has been described during the trial. There's no testimony  
20 certainly of any violence or abusiveness in the  
21 relationship. My client cared a great deal for Ms. Foggie.  
22 And the fact that she's not with us because of a shooting  
23 that was done by somebody else is a great concern to him.

24 I do not think this is an especially aggravated  
25 burglary first. The conduct the jury found my client

1 guilty of was simply entering that house in the nighttime  
2 with the intent to do some crime therein.

3 I urge the Court to be lenient. I consider any  
4 sentence that you could impose would be a very heavy  
5 punishment. Your Honor listened carefully to the facts. I  
6 urge you to be lenient with my client on the set of facts.

7 THE COURT: All right. Mr. Buckson, anything you want  
8 add to what your lawyer has told me?

9 THE DEFENDANT: I want to address Tiffany's family.

10 THE COURT: You are not able to do that.

11 THE DEFENDANT: No, sir.

12 THE COURT: All right. On Indictment 2006-845, that's  
13 the indictment for burglary in the first degree, wherein  
14 you have been found guilty by a jury of that offense, the  
15 Sentence of the Court is you, Jerome Curtis Buckson, be  
16 confined to the South Carolina Department of Corrections  
17 for a period of 20 years. Court is adjourned.

18 END OF REQUESTED TRANSCRIPT OF RECORD  
19  
20  
21  
22  
23  
24  
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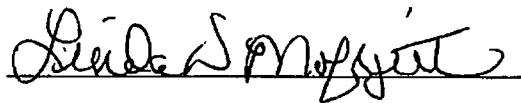


CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 30th and 31st days of January and the 2nd day of February 2007.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

August 31, 2007



Linda D. Moffitt  
Circuit Court Reporter

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

JEROME CURTIS BUCKSON,

APPELLANT

---

FINAL BRIEF OF APPELLANT

---

M. CELIA ROBINSON  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1343

ATTORNEY FOR APPELLANT.

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STATEMENT OF ISSUES ON APPEAL

1. Did the trial judge err in refusing the defense motion for a directed verdict of not guilty on the charge of first degree burglary?
2. Did the trial judge err and abuse his discretion in refusing to grant a mistrial upon the prosecution's eliciting hearsay testimony damaging to the defense despite the judge's sustaining the defense objection to that testimony and in violation of the judge's explicit instructions not to do so?

STATEMENT OF THE CASE

Jerome Curtis Buckson, appellant, was indicted by the Spartanburg County grand jury for murder and first degree burglary. On January 27, 2007, appellant proceeded to trial before the Honorable J. Derham Cole and a jury. The jury returned verdicts of not guilty of murder and guilty of burglary. Appellant was sentenced to twenty years incarceration. This appeal follows.

ARGUMENT

- I. The trial judge erred in refusing the defense motion for a directed verdict of not guilty on the charge of first degree burglary.

The criterion for denying a directed verdict motion in South Carolina is well established. A case should be submitted to the jury if there is any direct evidence or any substantial circumstantial evidence that reasonably tends to prove the guilt of the accused or from which guilt may be fairly and logically deduced. State v. Weston, 367 S.C. 279, 292-93, 625 S.E.2d 641, 648 (2006); State v. Walker, 349 S.C. 49, 53, 562 S.E.2d 313; 315 (2002); State v. Zeigler, 364 S.C. 94, 102, 610 S.E.2d 859, 863 (Ct.App.2005); State v. Al-Amin, 353 S.C. 405, 411, 578 S.E.2d 32, 35 (Ct.App.2003). However, the defendant is entitled to a directed verdict if the state fails to produce evidence of the offense charged. State v. Moore, 374 S.C. 468, 474, 649 S.E.2d 84, 86 (Ct.App.2007); State v. Crawford, 362 S.C. 627, 633, 608 S.E.2d 886, 889 (Ct.App.2005). In ruling on a motion for directed verdict, the trial court is concerned only with the existence or nonexistence of evidence, not its weight. Weston, 367 S.C. at 292, 625 S.E.2d at 648; Sellers v. State, 362 S.C. 182, 188, 607 S.E.2d 82, 85 (2005); State v. Cherry, 361 S.C. 588, 593-94, 606 S.E.2d 475, 478 (2004); State v. Rosemond, 356 S.C. 426, 430, 589 S.E.2d 757, 758-59 (2003).

“A person is guilty of burglary in the first degree if the person enters a dwelling without consent and with intent to commit a crime in the dwelling, and ... the entering or remaining occurs in the nighttime.” S.C.Code Ann. § 16-11-311(A)(3) (2003). Here, the State presented no evidence tending to prove that appellant entered the apartment he shared with Tiffany Foggie with any intent to commit a crime within. A directed verdict

motion should be granted when the evidence merely raises a suspicion of the accused's guilt. State v. Arnold, 361 S.C. 386, 390, 605 S.E.2d 529, 531 (2004); State v. Stanley, 365 S.C. 24, 42, 615 S.E.2d 455, 464 (Ct.App.2005). A directed verdict motion should be granted when the evidence merely raises a suspicion of the accused's guilt. State v. Dantonio, 376 S.C. 594, 658 S.E.2d 337 (Ct. App. 2008); State v. Stanley, *supra*. In this case, if anything, the State's evidence raised only a mere suspicion that appellant entered the apartment he shared with Tiffany Foggie with criminal intent:

Chad Tate dated Tiffany Foggie for six and a half years and he is the father of her children, Chad Jr. and Desmond Tate. (R. p. 271). Chad testified that his sons live with him and his wife but that before her death they lived with their mother. He testified that before Tiffany's death, he saw his boys every other weekend and talked to them every day. Chad testified that he spoke to his sons on the land line and on the cell phone. He testified that if Tiffany was at work, appellant answered the phone and that this pattern continued in January of 2006. (R. p. 272).

Chad testified that, at that point, appellant was answering the phone most every time and that appellant would put the children on the phone. (R. p. 272). He testified that sometimes he picked the children up and sometimes Tiffany would bring them to him. He testified that Tiffany was often at work and that he "usually" saw appellant at the apartment when he picked up and returned his children to the apartment. Chad testified that appellant "would meet them at the door" and that they "seemed real fond of him." (R. p. 273, lines 20-24). Chad testified that he saw appellant at the apartment in that manner the week before Tiffany's death. (R. p. 276, lines 13-18).



Chad Tate testified that when he lived with Tiffany, they lived in Section eight, subsidized government, housing and that he was not on the lease. He testified that the Section eight housing documents listed only Tiffany and the children as residents. (R. p. 274). Chad testified that the furniture in Tiffany's apartment in January of 2006, was, by and large, the same furniture from the apartment he shared with her. Chad testified that this was his and Tiffany's furniture and that he knew the source of the furniture. He explained that Taffy Williams co-signed with Tiffany for the den furniture but that he and Tiffany actually paid on that furniture. He testified that he and Tiffany picked out the furniture from Wal-Mart and that he and Tiffany paid for it. Chad testified that he bought the furniture in the bedroom from his cousin. He testified that the children's furniture came from their grandfather and that the kitchen furniture came "from her house." (R. p. 277-281). Chad Tate and Tiffany broke up in June of 2003. (R. p. 300, lines 2-5)

Teresa Buckson, appellant's mother, testified that 114 Cannon Circle is her address in Wellford, South Carolina. Ms. Buckson testified that in January of 2006, her son was staying with Tiffany Foggie at apartment [REDACTED] (R. p. 282, lines 17-25). She agreed that he was spending every night there: "Yes, sir. That's where he lived." (R. p. 288, lines 1-3). However, Ms. Buckson testified that appellant's mail and important papers came to her address. (R. p., 288). Ms. Buckson testified that she saw appellant and Tiffany "all the time" and that she and Tiffany were very close. (R. p. 288, lines 9-12). Ms. Buckson testified that she talked to Tiffany "almost every day" and that she talked to her on the day of her death. (R. p. 288, lines 12-14). Ms. Buckson described her relationship with Tiffany: "We would go to the beach together or I would throw parties, and she would throw parties. We cooked together. And she would come over and eat, the kids,

her and the boys.” (R. p. 288, lines 18-21). Ms. Buckson testified that when she wanted to talk to appellant, she called him on his cell phone or she called Tiffany. (R. p. 284). She testified that Tiffany had a house phone at one point but that it was not on in January. (R. p. 288). She testified that when she called, Tiffany “usually had to wake him up.” (R. p. 285, lines 1-4). Ms. Buckson testified that Tiffany sometimes called her looking for appellant. She testified, “She would be when he was at work or he hadn’t come home yet. She called and asked me had I seen him. And if he stopped by my house and be on the floor asleep, the phone would ring, ring, ring. And usually he would get up. And I’d be like where are you going. I’m going home. It’s Tiffany.” (R. p. 285, lines 7-12).

Ms. Buckson testified that on the Sunday before the shooting, January 29, 2006, she went to the emergency room at a little after 5:00 for problems with her blood pressure. (R. p. 285, lines 15-17). She testified that she called appellant’s phone, that he was sitting beside Tiffany, and that she asked him to let her speak to Tiffany. (R. p. 285, lines 18-19). Ms. Buckson testified, “And I said, ‘Tiffany, send Jerome by the house to stay with his little brother, I have nobody to stay with him, I’m in the emergency room.’” (R. p. 285, lines 20-24). Ms. Buckson testified that Tiffany answered, “Yes, ma’am.” (R. p. 285, line 24). Ms. Buckson testified that she was released and made it home from the hospital about 11:00 or 11:30. (R. p. 286, lines 15-16). She testified that Appellant was at her house with his brother. She testified that appellant made sure that she was okay before he left at about 1:00 a.m. (R. p. 287).

Ms. Buckson recalled that when their apartment flooded with sewage, Tiffany, appellant, and the boys stayed at her house. Ms. Buckson testified, “She stayed at my house because the carpet was up - - her and the kids and Jerome.” (R. pp. 283-284). Ms. Buckson

testified that two weeks before the shooting, Tiffany, appellant, and the boys were all together at her house and that they had a good time. (R. p. 284, lines 6-17). Ms. Buckson testified that she told Tiffany that they were welcome any time but that Tiffany was “fussing” that it took too long for the lady to get the carpet put down. (R. p. 284, lines 2-20). Ms. Buckson testified that she offered to call the lady about the carpet delay, but that Tiffany told her that she could not make that call because appellant’s name could not be on the lease. (R. p. 304, lines 18-22).

Deborah Poteat is appellant’s aunt. She testified that she went by the apartment occupied by Tiffany and appellant whenever appellant called her, or if she needed something. (R. p. 289, lines 2-7). She testified that there wasn’t a week that went by that she missed going by there. (R. p. 289, lines 9-10). Ms. Poteat testified that there was no question but that appellant resided in the apartment with Tiffany: “He lived there. He definitely lived there.” (R. p. 289, lines 20-22). Ms. Poteat testified that appellant had “items there, because he even had his school records there.” (R. p. 290, lines 3-13). She testified that appellant had toiletries and clothes there although he often took his clothes to his mother’s house to wash. (R. p. 290, lines 9-13).

Appellant and Tiffany Foggie became friends when appellant was ten years old. (R. p. 291, lines 16-19). Appellant testified that they started dating in January of 2004, and that at the time of her death, he was Tiffany’s boyfriend. (R. p. 291, lines 8-9; line 22). Appellant was twenty-six years old when he started living at Tiffany’s apartment at Bradford Grove about a month after they started dating. (R. p. 292, lines 2-5). He testified that the house was furnished and she had a closet full of clothes so that he brought little more than a few of his clothes, personal items, and his weight lifting equipment. (R. p. 292,

lines 6-12). Appellant testified that his toothbrush was in the bathroom, his papers were in the bedroom, and that he also had a Play Station in the apartment, but that he considered that it belonged to the children. (R. p. 293, lines 9-11; p. 325, line 23-p. 326, line 9; p. 327, lines 2-15; p. 328, lines 17-18; . p. 347). He testified that he considered Tiffany's sons his own children. Appellant testified that he watched the children after school. (R. p. 298, lines 4-6).

Appellant testified that after a sewage-induced evacuation, he had only a few things in the apartment, such as six or seven shirts and four pair of blue jeans. (R. p. 294, lines 1-5). Appellant explained that in January, the plumbing in their apartment was flooded with sewage from other apartments, ruining the flooring and the carpet. Appellant testified, "We was asked to vacate the premises because it was toxic, considered that anyway." (R. p. 295, lines 13-23). Appellant testified that they were eventually allowed to go back to the apartment even before the flooring was in and that they were probably there for a couple of days before they put the carpet down. (R. p. 296, lines 9-13). Appellant testified that after this incident, "We had asked for them to change the door locks." (R. p. 296, lines 16-17). He explained, "We had multiple plumbers and maintenance men entering and exiting the apartment." (R. p. 296, lines 18-20). Appellant testified that they had two copies of the new keys made, one for appellant and one for Tiffany's mother, Taffie Williams. (R. p. 296, line 21-p. 297, line 7). However, Appellant testified that Tiffany's mother's copy didn't work in the lock so that his key was given to her mother "maybe three days before this crime happened." (R. p. 297, lines 9-23; p. 344, lines 20-25). Appellant explained, "I didn't give it to her mother directly. I left it on the kitchen table, and I told Tiffany that the key was on the kitchen table." (R. p. 298, lines 1-3). In January of 2006, appellant was working for a metal distribution center in Greenville. (R. p. 294).

Appellant testified that the Friday before the early morning shooting on Monday, he spent the night at the apartment. (R. p. 319). He testified that on Saturday, he stayed at his mother's house because she was having health problems, but that he went back to the apartment on Sunday. (R. p. 319, lines 21-25). Appellant testified that when he went to the apartment on Sunday at about 1:00 in the afternoon, no one was home because Tiffany was washing clothes. (R. p. 300, lines 1-6). Appellant testified that he called Tiffany probably about seven times, explaining, "I mean, like I'd call and get the voice mail and hit the send button and call right back." (R. pp. 303-304; p. 304, lines 8-17). Appellant testified that he went back to his mother's house before going to help a friend move for approximately two and a half hours. (R. p. 300, lines 20-25). Appellant testified that after he helped his friend move, at about 4:30, he retrieved his vehicle and his phone and checked his messages. (R. p. 301, lines 1-11). Appellant testified, "A couple of the messages was from Tiffany and a couple was from my mom." (R. p. 301, lines 12-13). Appellant testified that he went back to his mother's house and stayed with his brother. (R. p. 302).

Appellant testified that Tiffany called him four times from 10:00 o'clock until 11:30. (R. p. 304, lines 1-3). Phone records indicated that Tiffany called appellant ten or eleven times on Sunday. (R. p. 170). Appellant testified that he last spoke to Tiffany on the phone at 11:30, Sunday night. Appellant testified that after his mother got home from the hospital he went to shoot pool at the VFW until around 2:30. (R. p. 303, lines 1-10). Appellant testified that after shooting pool, he went to the apartment. (R. p. 303, lines 11-13). He testified that he had been calling Tiffany to let her know that he was on his way home, but that the phone was off. (R. p. 303, lines 15-17).

Appellant testified that when he arrived home, he went to the front and back doors, checking to see if the door was open because he didn't have his key. He testified that at the same time he was knocking, calling Tiffany's cell phone, and calling out to her. (R. p. 304, lines 22-25). He testified that when he discovered that the back door was not unlocked, he knew the kitchen window was unlocked at all times and that there was no screen because "we sometimes have to go in whenever our parents have our key." (R. p. 305, lines 1-21). He testified, "I had done this previously, in which I have also set the kids in and they walked to the door. I mean, the window stays unlocked just in case, you know, we had to get in." (R. p. 340, lines 17-20). Appellant testified that he went in through the kitchen window. (R. p. 305, lines 22-23). He testified that when he was half way in the window Tiffany came to her bedroom window above, leaned out and said, "Jay, it's going to be argument, the children are asleep, just come back later." (R. p. 306, lines 1-6). Appellant testified that he could not understand what she meant because he was living there, he had clothing, items, and documentation in the apartment. (R. p. 306, lines 6-17). Appellant identified a folder of documents from the bedroom of the apartment, including his resume, his school records, proof of clothing that he had purchased, check stubs and things of that nature. (R. p. 326; Defense Exhibit 10). He identified a picture of his toothbrush and testified that his toiletries were stored in the medicine cabinet. (R. p. 328). Appellant testified that his clothes were in drawers of which no pictures were taken and he identified his clothing from a photo taken of clean clothing on the futon in the apartment; he identified a particular blue Ecco shirt as being his shirt. (R. p. 328, lines 19-25).

Appellant testified, "I have documentation in this house, and which I pay bills here even though my name is not on the lease." (R. p. 306, lines 13-17). Appellant testified that

he and Tiffany split the bills 50/50, but that when he got a better job, he began paying more of the rent and other household bills. He testified that he gave his money to Tiffany and that she paid the bills. (R. p. 306, line 18-p. 307, line 12). Appellant testified, "I gave my money to Tiffany. And Tiffany may give her [mother] the money to go pay a bill if Tiffany can't make it to pay the bill. We both worked." (R. p. 307, lines 10-12).

Appellant testified that after he came in the window, he closed the window and walked up the steps. (R. p. 307, lines 13-17). He testified that when he saw that the bedroom door was closed, "I go over to turn the knob. And Tiffany again repeats herself, 'Jay, it is going to be argument.' I am like, Tiffany, open the door." (R. p. 307, lines 23-25). He testified that he pushed the door and it came open, but then somebody on the other side pulled it shut. Appellant testified that he pushed the door open again, put his left foot in the door, and held it open with his right arm. He testified that when he leaned his head inside the door, he noticed a man's naked torso hanging half way out the bedroom window. (R. p. 308, line 5-p. 309, line 11). Appellant testified he had figured something may have been wrong "because she repeatedly asked me what time was I coming home. And she called me three times asking me this." (R. p. 344, lines 3-8). He testified that once he saw that the bedroom door was closed and Tiffany was telling him not to come in, he thought that it might be another man in the bedroom. (R. pp. 353-354).

Appellant testified that after he saw the man, he looked at Tiffany and asked, "What's going on?" (R. p. 309, lines 14-18). He testified that he then saw the male silhouette coming back in from the window, walking from that side of the room, and bending down to pick something up. (R. p. 310, lines 5-9). Appellant testified that Tiffany turned to see the male walking toward them. He testified, "That's when he raised the gun up

beside her. When he raised the gun up beside her, he bumped into her torso. . . . When he bumped into her torso, that's when she looked down and basically seen the gun that he had in his hand. When she looked down she swung her left arm back off the wall to elbow him back. At that point with her right hand she went to swat the gun down. At that time the gun disbursed. When the gun disbursed with me having my right arm holding the door open, I felt pitter-patters. It felt like a gush of wind or either rain drops strike my arm. By me seeing the flash of the gun and by me hearing a pop, I felt something strike my arm. Automatically, I'm assuming I'm shot. It was like it took a split second for it to analyze. I was like this man just shot a gun in my house. So I didn't realize I had stepped back when this was occurring. So I turned around to run. But by the time I turned around I was already too close to the steps, and I fell down the steps basically half way - - half way falling. And I hear him say if you ain't running you're a dead motherfucker." (R. pp. 310-311). Appellant testified that he heard a second shot as he was coming down the stairs. He testified that he was basically sliding down the steps on his back side and that he ran out the kitchen door. (R. p. 311).

Appellant testified that as he was running to East Main Street, he called 9-1-1 and explained to them that he had been shot in the arm when "there was a man I found in my home shot a weapon, he was with my girlfriend." (R. p. 315). Appellant testified that he stayed on the phone for at least seven minutes, until the police arrived. (R. p. 315, lines 20-21). He testified that he waved the police car down and it stopped and turned around as if the officers had seen him. (R. p. 316, lines 14-25). Deputy Greg Satterfield confirmed that he received a BOLO indicating that a black male had been shot and that as he traveled down East Main Street, he observed appellant standing "right in the middle of East Main Street."



(R. p. 57, lines 11-14). Appellant testified that he told the officer that he came home and found another man in the bedroom with his wife and that the man shot at him, striking him in the arm. However, he testified that he eventually checked himself and realized that he had not been shot. (R. p. 317).

Tiffany Foggie sustained a fatal gunshot wound to the head. (R. p. 259). However, appellant testified that, at first, he did not know that Tiffany had been shot. He testified that he believed that he was the other man's target and that all he was worried about was getting away from the man who shot at him. (R. pp. 364-365). Appellant testified that as he was talking to the officer, he was told that Tiffany had been grazed in the arm but that she was going to be O.K. (R. p. 321, line 21-p. 322, line 2). He testified that while he was talking to the officer, he pointed out a grey Lincoln Town Car pulling out of the apartment complex and said, "Officer, I believe that's him." (R. p. 319, lines 2-5). Officer Satterfield testified that appellant indicated that the shooter left in a grey Lincoln and the officer indicated, "I did observe that vehicle pull out onto East Main Street headed towards the city." (R. p. 60, lines 19-22).

Appellant testified that he was eventually charged with burglary: "He served a burglary paper on me, burglary, first degree burglary charge on me. And I was like, 'I live at this apartment.' I kept on explaining to him I had clothes, documentation. He was like, well your name ain't on the lease." (R. p. 322, lines 7-13). Appellant testified that he called his mother; he testified that he was told that Tiffany had been shot and he was advised to call her brother. Appellant testified that when he called T. Ray Foggie, he was told that Tiffany had died. (R. p. 322, line 17- p. 323, line 8).

Officer Satterfield testified that at first appellant was repeatedly saying that he couldn't believe that his girlfriend was with another man and also repeatedly saying that he thought he had been shot in the arm; however, there was no injury to his arm. Satterfield testified that appellant was crossing back and forth and that at one point he had to pull appellant out of the path of oncoming traffic on East Main Street. (R. p. 58, lines 14-19). Satterfield further testified that appellant also said that he had come home and observed someone else in the bedroom. (R. p. 59, lines 4-5). Satterfield testified that appellant said that that was his residence but he did not have a key with him. (R. p. 59, lines 15-18). Officer Satterfield testified that he did not pursue the grey Lincoln because he was the only officer present and he was dealing with appellant at the time. (R. p. 61, lines 16-23).

Sharmarcus Watson worked at Adidas with Tiffany's cousin, Charlene Ellis. He testified that Charlene introduced him to Tiffany and that they had started calling each other. (R. p. 132, lines 17-25). Watson testified that he and Tiffany went out to dinner on Friday, January 27. (R. p. 134). He further testified that he and his good friend, Elliott Canada, played cards at the apartment on Sunday with Tiffany and Charlene. (R. p. 134, line 14-p. 135, line 20). Watson testified that he and Elliott left in the evening, shortly after Tiffany's mother arrived. (R. p. 137, lines 5-21). However, he testified that he came back later that evening. Watson testified that Tiffany called him to tell him appellant had come to get the rest of his stuff so that Sharmarcus could come back. (R. p. 138, lines 1-7). Watson testified that he did go back and that he and Tiffany watched some television and then started having intercourse. (R. p. 138, lines 11-14). He testified that they were sleeping when Tiffany's phone rang at 3:00. (R. p. 138, lines 22-24). Watson testified that he was the other man in the bedroom and that he first attempted to climb out the window. (R. pp. 139-140). He